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

RENEE GALLOWAY, et al., Plaintiffs, v. JUSTIN MARTORELLO, et al., Defendants.	Case No. 3:19-cv-00314-REP

PLAINTIFFS' RESPONSE TO THE OBJECTION
TO THE CLASS SETTLEMENT FILED BY CURTIS HENRY JOHNSON

Plaintiffs, by counsel, hereby submit this response to the Objection to the Class Settlement filed by Curtis Henry Johnson (ECF 672).

INTRODUCTION

Out of the 626,171 class members, only one has objected to the settlement. *See* ECF 672. The cursory objection filed by Curtis Henry Johnson objects to the settlement on several grounds, none of which should give the Court pause in approving the settlement. Each objection is addressed in turn.[1]

I. Objection #1

Mr. Johnson's first objection states: "First, in light of the harm suffered by members of the class and the extent of the defendant's wrongdoings to me, the proposed settlement is not fair, reasonable, and/or adequate." ECF 672 at 1. This conclusory statement fails to provide a

[1] Prior to filing this response, undersigned counsel spoke with Mr. Johnson in an attempt to resolve the objection. During this conversation, it became apparent that Mr. Johnson primarily wants a service award. Because Mr. Johnson did not participate in the litigation in any fashion, a service award would be improper.

meaningful challenge to the settlement. It also fails to comply with the Court's Preliminary Approval Order, which requires an objector to provide "the reasons for his or her objection, accompanied by any legal or factual support for the objection." ECF 662 at 8. Because Mr. Johnson failed to provide any legal or factual support for this objection, it should be denied.

Furthermore, Plaintiffs note that the proposed settlement is the second largest ever obtained against a participant in the tribal lending industry. And it surpasses the cash funds of multiple other settlements—in cases filed after this case—approved by this Court in other tribal lending cases. *See, e.g., Gibbs v. TCV, V, LLP*, No. 3:19-cv-00789, ECF 95 (E.D. Va. Mar. 29, 2021) (granting final approval of a class settlement resulting in the creation of a settlement fund in the amount of $50,050,000.00 by *three* separate contributors); *Gibbs v. Plain Green, LLC*, No. 3:17-cv-495, ECF 141 (E.D. Va. Dec. 13, 2019) (granting final approval of a class settlement resulting in the creation of a settlement fund in the amount of $53 million by *seven* separate contributors); *Gibbs v. Stinson*, Case No. 3:18-cv-676 (E.D. Va. Aug. 16, 2022) (approving settlement with cash fund of $44.5 million by multiple defendants); *Turner v. Zest Finance, Inc.*, Case No. 3:19-cv-00293 (E.D. Va.), ECF 114 (approving settlement with cash fund of $18.5 million by a single company); *Hengle v. Asner*, No. 3:19-cv-250-DJN (E.D. Va.), ECF 230 (approving settlement with cash fund of $39 million by multiple defendants); *Blackburn v. A.C. Israel Enterprises*, Case No. 3:22-cv-146 (E.D. Va. Mar. 2, 2024), ECF 228 (approving settlement with cash fund of $39 million by multiple defendants).

Plaintiffs further attach a declaration from the settlement administrator, American Legal Claims Services, LLC ("ALCS"). As indicated in this declaration, Mr. Johnson borrowed $750.00 from Big Picture Loans, LLC, and only repaid $566.88. Ex. 1 at ¶ 3. Because Mr. Johnson did not even repay the full balance of his loan, it is not apparent how the defendants caused any

wrongdoing to Mr. Johnson. Furthermore, for those who do not receive a payment, they release only their potential right "to bring a class action, collective action, or mass action against Released Parties based on any and all claims, causes of action, suits, obligations, debts, demands, agreements, promises, liabilities, damages, losses, controversies, costs, expenses, and attorneys' fees of any nature whatsoever, whether arising under federal law, state law, common law or equity, tribal law, foreign law, territorial law, contract, rule, regulation, any regulatory promulgation (including, without limitation, any opinion or declaratory ruling), or any other law, including Unknown Claims, whether suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated, punitive or compensatory, as of the date of the Preliminary Approval Order[.]" ECF 649-1. at § 2.18. In other words, Mr. Johnson retains the right to proceed against all defendants for any purported damages.

II. Objection #2

Mr. Johnson's second objection states: "I am aware of procedural flaws in the settlement process," and that his "consent to arm's length negotiations or exchange of information ever took place." ECF 672 at 1. Here again, this conclusory statement fails to provide a meaningful challenge to the settlement, and it also fails to comply with the Court's Preliminary Approval Order. ECF 662 at 8. Because Mr. Johnson failed to provide any legal or factual support for this objection, it should be denied.

Although it is unclear, Mr. Johnson's mention of arm's length negotiations and exchange of information appears to relate to the second factor of Rule 23(e)(2)(B), which examines whether the settlement "was negotiated at arm's length." Fed. R. Civ. P. 23(e)(2)(B); *see also Flint Water Cases*, 571 F. Supp. 3d at 780 (explaining that the second factor requires courts to "consider whether the negotiations were conducted at arm's length with no evidence of collusion or fraud").

Here, there is no evidence suggesting the presence of collusion or fraud between the parties—as evidenced by the seven years of litigation and multiple failed mediation attempts during this time.

Further, to help confirm that the negotiations were arm's length, courts have looked at several other factors, including the presence of a mediator. As the leading class action treatise explains: "There appears to be no better evidence of [a truly adversarial bargaining process] than the presence of a third-party mediator." Conte & Newberg, *supra*, § 13:48; *see also Flint Water Cases*, 571 F. Supp. 3d at 780 ("highly experienced mediators" provided "ample protections in their roles"). Here, Plaintiffs and Defendants had lengthy negotiations and worked with United States Magistrate Judge Mark Colombell to help finalize the terms of their agreement through multiple rounds of negotiations. *See* Ex. 2, Kelly Decl. ¶ 26. Judge Colombell has extensive experience in settling cases, and his involvement in this settlement further establishes that there was no collusion among the parties.

Additionally, "[c]onsidering the posture of the case at the time of settlement allows the Court to determine whether the case has progressed far enough to dispel any wariness of 'possible collusion among the settling parties.'" *Brown v. Transurban USA, Inc.*, 318 F.R.D. 560, 571 (E.D. Va. 2016). As reflected by the dockets, these cases have resulted in extensive litigation such that no one could seriously claim that there was collusion between the parties. Collectively, the three cases before this Court have generated almost **3,000** docket entries. In addition to the litigation before this Court, the proposed settlement also resolves the extensive litigation that has been ongoing in the United States District Court for the District of Massachusetts, the United States District Court for the District of Oregon, and the United States Bankruptcy Court for the Northern District of Texas. *Duggan v. Martorello*, 596 F. Supp. 3d 158, 165 (D. Mass. 2022); *Smith v.*

Martorello, No. 3:18-CV-1651-AC, 2021 WL 981491, at *1 (D. Or. Mar. 16, 2021); *In Re: Eventide Credit Acquisitions, LLC*, Case No. 23-90007-mxm11 (N.D. Tex. Bankr.).

In light of the foregoing, Mr. Johnson's vague assertions of procedural flaws, lack of arm's length negotiations, and lack of information are without merit.

II. Objection #3

Mr. Johnson's third objection claims that "the terms of the settlement and details are not readily available online" making it "impossible for class members to understand what they're being asked to agree to." ECF 672 at 1. This is simply inaccurate. The details of the settlement—and more—were available throughout the notice period (and remain available) on the settlement website, https://www.bplsettlement.com. This website includes a homepage explaining key parts of the settlement, the important court documents (the settlement agreement, preliminary approval order, memorandum in support of motion for final approval, the CAFA notice, the class notice, and a state rate chart), the key dates of the settlement, and a frequently asked questions page. *See generally id*. Thus, Mr. Johnson's third objection is entirely inaccurate.

II. Objection #4

Mr. Johnson's fourth objection states that there are "intra-class conflicts," and the proposed settlement is "farcically low." ECF 672 at 1. Here again, this conclusory statement fails to provide a meaningful challenge to the settlement, and it also fails to comply with the Court's Preliminary Approval Order. ECF 662 at 8. Because Mr. Johnson failed to provide any legal or factual support for this objection, it should be denied. Moreover, there are no intra-class conflicts for the reasons explained in the preliminary and final approval motions.

In this paragraph, Mr. Johnson also claims that he has "no personal knowledge of the fees awarded," but "from the face of the settlement those proposed awarded fees are extremely high."

ECF 672 at 1. As detailed in Plaintiffs' Memorandum in Support of the Motion for Final Approval of the Class Settlement (ECF 674 at pg. 24-28), the percentage method is overwhelmingly preferred by the district courts in this circuit. *See Galloway III* 2020 WL 7482191, at *5 (noting that "Nevertheless, over time, certain customs have developed, both in the Fourth Circuit and across the country; for example, the favored method for calculating attorneys' fees in common fund cases is the percentage of the fund method."); *Thomas v. FTS USA, LLC*, No. 3:13-cv-825, 2017 WL 1148283, at *3 (E.D. Va. Jan. 9, 2017) ("District Courts within this Circuit have also favored the percentage of the fund method." (citations omitted)), *report and recommendation adopted,* No. 3:13-cv-825, 2017 WL 1147460 (E.D. Va. Mar. 27, 2017); *see also Kelly v. Johns Hopkins Univ.*, No. 1:16-cv-2835, 2020 WL 434473, at *2 (D. Md. Jan. 28, 2020); *Seaman v. Duke Univ.*, No. 1:15-cv-462, 2019 WL 4674758, at *2 (M.D.N.C. Sept. 25, 2019); *Cox v. Branch Banking & Tr. Co.*, No. 5:16-cv-10501, 2019 WL 164814, at *5 (S.D. W. Va. Jan. 10, 2019) (collecting cases and stating, "In sum, there is a clear consensus among the federal and state courts, consistent with Supreme Court precedent, that the award of attorneys' fees in common fund cases should be based on a percentage of the recovery. This consensus derives from the recognition that the percentage of fund approach is the better-reasoned and more equitable method of determining attorneys' fees in such cases."); *Krakauer v. Dish Network, L.L.C.*, No. 14-333, 2018 WL 6305785, at *2 (M.D.N.C. Dec. 3, 2018); *Phillips v. Triad Guar. Inc.*, No. 1:09-cv-71, 2016 WL 2636289, at *2 (M.D.N.C. May 9, 2016); *Archbold v. Wells Fargo Bank, N.A.*, No. 13-24599, 2015 WL 4276295, at *5 (S.D. W. Va. July 14, 2015) ("[T]he Court concludes that there is a clear consensus . . . that the award of attorneys' fees in common fund cases should be based on a percentage of the recovery.").

Class Counsel's request amount is well within the 25-to-40-percent range that courts within the Fourth Circuit have held appropriate.[2] It is also within the appropriate range found by the recent comprehensive study of attorneys' fees in class action cases. Theodore Eisenberg & Geoffrey P. Miller, *Attorney Fees in Class Action Settlements: An Empirical Study*, 1 J. Empirical Legal Studies 27, 31, 33 (2004) (noting "a remarkable uniformity in awards between roughly 30% to 33% of the settlement amount.").

And finally, Class Counsel has incurred a total of $17,853,135.70 in fees and costs. If the full requested fee is awarded, it would amount to a modest multiplier of 1.21—without even considering the post-approval hours that will be required. The benefits of the settlement, coupled with the seven years invested by counsel, reflect that a modest multiplier of 1.21 is reasonable. *Berry v. Schulman*, 807 F.3d 600, 617 n.9 (4th Cir. 2015) (noting that using the lodestar method, "the district court multiplies the number of hours worked by a reasonable hourly rate. And it can then "adjust the lodestar figure using a 'multiplier' derived from a number of factors, such as the benefit achieved for the class and the complexity of the case").

V. Objection #5

In the fifth paragraph, Mr. Johnson again says there are "intra-class conflicts" and the class representatives are not adequate, citing *Schlaud v. Snyder*, 785 F.3d 1119 (6th Cir. 2015). In *Schlaud*, there was a "clear conflict" between the named plaintiffs, "who objected to the payment of [union] fees under the collective bargaining agreement," and the substantial portion of the class members, "who voted in favor of the collective bargaining agreement" without objection. 785 F.3d

[2] Indeed, "empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in the class actions average around one-third of the recovery." 4 Newberg *on Class Actions* § 14:6 (4th ed.); *see also In re Rite Aid Corp. Sec. Litig.*, 146 F. Supp. 2d 706, 735 (E.D. Pa. 2001) (review of 289 class action settlements shows "average attorney's fees percentage [of] 31.31%" with a median value that "turns out to be one-third.").

at 1125. There is no similar conflict between the Plaintiffs and Settlement Class members in this case, all of whom were subject to Defendants' loan practices, and who therefore share an interest in obtaining monetary relief from Defendants and preventing them from collecting any outstanding balances on their loans.

VI. Objection #6

Mr. Johnson further objects that the settlement was negotiated without his consent and says that "class members should have the same voice and rights" as the class representatives. By objecting to the settlement, Mr. Johnson has exercised his right as a class member to have his voice heard, an important part of class action jurisprudence. *See* 4 Newberg & Rubenstein on Class Actions § 13:20 (6th ed. June 2024 update); Fed. R. Civ. P. 23(e)(5)(A); *see also Haney v. Genworth Life Ins. Co.,* No. 3:22CV55, 2022 WL 17586016, at *8 (E.D. Va. Dec. 12, 2022), as amended, 2023 WL 2213420, at *2 (E.D. Va. Jan. 6, 2023) ("Class members, of course, have a right to object to the proposed settlement terms; and, thus, they are entitled to present their objections before the court decides whether to approve the proposed settlement.").

Class actions are, of course, "a form of representative litigation" in which "[o]ne or more representatives litigate on behalf of many absent class members," 1 Newberg § 1:1, and class members like Mr. Johnson are not involved in the day-to-day work and decision-making of the case. Class actions therefore allow the efficient litigation of many consumers' claims at once against large and often well-funded defendants like the Defendants in this case, and allows absent class members to benefit from a judgment or settlement without contributing financially to the litigation or taking personal risk. Absent class members' rights are protected by the court's oversight and determination of whether a class action is appropriate mechanism for resolving the proposed class members' claims, as well as by the requirement of reasonable notice of a settlement

and opportunity to object to its terms. 1 Newberg § 1:5. As the Supreme Court explained, "an absent class-action plaintiff is not required to do anything. He may sit back and allow the litigation to run its course, content in knowing that there are safeguards provided for his protection." *Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 810 (1985).

Here, other than vague assertions of a lack of a voice, Mr. Johnson has not provided any explanation of how this settlement treats him unfairly—especially when considering the fact that he borrowed $750.00 from Big Picture Loans, LLC, and only repaid $566.88. Ex. 1 at ¶ 3.

VII. Objection # 7

Mr. Johnson's seventh objection contends that Defendants "racially discriminated against class members[.]" ECF 672 at 1. Here again, this conclusory statement fails to provide a meaningful challenge to the settlement, and it also fails to comply with the Court's Preliminary Approval Order. ECF 662 at 8. Because Mr. Johnson failed to provide any legal or factual support regarding his claim of racial discrimination, this objection should be overruled. Moreover, as explained above, Mr. Johnson has not released any claim related to racial discrimination under the terms of the settlement.

Mr. Johnson further claims that defendants "fraudulently made checks and withdrew funds from my account after a stop payment." ECF 672 at 2. This conclusory statement fails to provide a meaningful challenge to the settlement, and it also fails to comply with the Court's Preliminary Approval Order. ECF 662 at 8. Furthermore, the standard terms of the Big Picture contract provide: "Remotely Created Check: . . . Notwithstanding anything to the contrary in this Agreement and even if you have not provided a separate Remotely Created Check Authorization to Us, if You have elected to make payments via ACH Debit Authorization and We are unable to process any of Your ACH debits for any reason or You otherwise default on a payment, You hereby authorize Us

to create Remotely Created Check(s) for such amounts." *See* Ex. 2. Mr. Johnson, in other words, consented to *Big Picture's* creation of the remote checks. And in any event, such conduct is not covered by the settlement as Big Picture is not a released party.

VIII. Objection # 8

Finally, Mr. Johnson claims that "defendants have damaged me emotionally and financially to the point where I had to close that particular account and open a new account to changing financial institutions altogether." ECF 672 at 2. This conclusory statement fails to provide a meaningful challenge to the settlement. And, of course, Mr. Johnson's individualized circumstances and damages should not be grounds for the denial of a class settlement for 626,171 class members, especially where: (1) the settlement provides an opportunity for Mr. Johnson to exclude himself; and (2) he has not released these claims. Mr. Johnson, in other words, retains the right to seek compensation for his claims and Johnson is familiar with the court system and legal process, having previously appealed an adverse judgment to the United States Supreme Court. *See Johnson v. Benton*, 333 So.3d 51 (Miss. Ct. App. 2021) (affirming trial court's grant of petition for contempt against Mr. Johnson, who appeared pro se, for trespassing on his neighbor's property and denial of Mr. Johnson's motion to dismiss on grounds of tribal immunity), *cert. denied*, 332 So.3d 1292 (Miss. 2022), *and cert. denied*, 142 S. Ct. 2743 (2022).

Mr. Johnson also claims that his credit is "ruined" and that he had "insufficient funds causing other bills to be unpaid," including the repossession of a vehicle. ECF 672 at 2. But here again, Mr. Johnson's individualized circumstances and damages should not be grounds for the denial of a class settlement for 626,171 class members, especially when considering that Mr. Johnson borrowed $750.00 from Big Picture Loans, LLC, and only repaid $566.88. Ex. 1 at ¶ 3. While Mr. Johnson may have unique damages consideration that warrant excluding himself from

the settlement, he is being fairly treated vis-à-vis class members—many of whom repaid hundreds or thousands of dollars in unlawful amounts. Further, none of the Defendants in this case report information to the credit bureaus. If Big Picture is reporting any information about Mr. Johnson (who did not attach any proof of this claim), the reporting is grounds for claims against other entities who are not parties to this settlement.

Respectfully submitted,
PLAINTIFFS

Date: October 14, 2024

/s/

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing will be sent by email and certified mail to the foregoing:

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
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RENEE GALLOWAY, et al., on behalf of themselves and all individuals similarly situated, Plaintiffs, v. JUSTIN MARTORELLO., et al., Defendants.	Case No. 3:19-cv-00314-REP

DECLARATION OF AMERICAN LEGAL CLAIM SERVICES, LLC REGARDING LOAN DETAILS OF CURTIS JOHNSON

I, Jeffrey Pirrung, declare as follows:

1. I am a competent adult, over the age of eighteen, and this declaration is based on my personal knowledge.

2. I am a Managing Director for American Legal Claim Services, LLC ("ALCS").

3. Loan level data for Curtis Johnson, whose address is 24988A Highway 17, Bophumpacreek, MS, 39095, shows one loan with a principal amount of $750.00 and total paid amount of $566.88.

I declare under penalty of perjury pursuant to the laws of the State of Florida that the foregoing is true and correct to the best of my knowledge. Executed on October 10, 2024, in Jacksonville, Florida.

Jeffrey Pirrung

entry to Your Bank Account for an amount consistent with this Agreement on or before the Effective Date regardless of the payment You choose. You also agree that We may electronically debit Your Bank Account in the amount of any funds We credited to Your Bank Account if We determine that the funds were obtained from Us fraudulently, regardless of the repayment method you choose.

ACH DEBIT: You may repay Your Loan using this option by submitting a separate ACH Debit Authorization to Us which You agree will become part of this Agreement. If You authorize repayment of Your loan by ACH Debit, loan proceeds will be sent by ACH credit to Your Bank Account in an amount consistent with this Agreement on or before the Effective Date. If You revoke Your ACH debit authorization before We initiate the ACH credit for the loan proceeds, then We will not be able to initiate the ACH credit entry for the loan proceeds into Your Bank Account. By providing a separate ACH Debit Authorization, You agree that We will initiate ACH debit entries on each Due Date or thereafter for the scheduled amount on the Payment Schedule, or any other amount You owe including additional charges such as late fees or returned payment fees, due under the Agreement. You also agree that We may electronically debit Your Bank Account in the amount of any funds We credited to Your account if We determine that the funds were obtained from Us fraudulently. You also agree to print or electronically save a copy of Your ACH Debit Authorization after You complete it and before Your first payment is due.

You understand and agree that revoking any ACH Debit Authorization does not relieve You of Your obligation to pay Your loan pursuant to the terms of this Agreement. You agree that the option to repay your Loan by ACH Debit Authorization is provided for Your convenience, that You have been made aware that You may repay Your indebtedness through other means, and that any authorization you give Us for repayment of Your loan by ACH debits is voluntarily. If You revoke any such ACH Debit Authorization you have given Us, You acknowledge that You are still obligated to pay Your loan and will provide Us with another acceptable form of payment as described in this Agreement.

PAYMENT BY CHECK OR MONEY ORDER: If You elect to mail Your payments by check or money order (i) all payments must be mailed to: Big Picture Loans, LLC, P.O. Box 704, Watersmeet, MI 49969 and (ii) payment must reach this address by the scheduled Due Date. We do not accept post-dated checks. Post-dated checks received by Us for payment on Your account will be returned and may cause Your account to become delinquent. We reserve the right to refuse Your personal checks as payment on Your loan at any time during Your repayment period in Our sole discretion. Please contact Us at 1-800-584-4880 for other payment methods that may be available. You also agree that if You elect to repay Your loan using this option, loan proceeds will be sent by ACH credit to Your Bank Account in an amount consistent with this Agreement on or before the Effective Date. You also agree that We may electronically debit Your Bank Account in the amount of any funds We credited to Your Bank Account if We determine that the funds were obtained from Us fraudulently. By choosing this repayment method **You hereby consent to the default provisions below including, but not limited to, the Payment Authorization Upon Default or Demand.**

REMOTELY CREATED CHECK: You may repay Your Loan using this option by submitting a separate Remotely Created Check Authorization which you agree will become part of this Agreement. You also agree that if You elect to repay Your loan using this option, loan proceeds will be sent by ACH credit to Your Bank Account in an amount consistent with this Agreement on or before the Effective Date. You also agree that We may electronically debit Your Bank Account in the amount of any funds We credited to Your Bank Account if We determine that the funds were obtained from Us fraudulently.

Please note: repayment by RCC may not be available in all locations but You will have other repayment options available to You including non-electronic funds transfer repayment options, including payment by check or money order. Notwithstanding anything to the contrary in this Agreement and even if You have not provided a separate Remotely Created Check Authorization to Us, if You have elected to make payments via ACH Debit Authorization and We are unable to process any of Your ACH debits for any reason or You otherwise default on a payment, You hereby authorize Us to create Remotely Created Check(s) for payment of such amounts.

PAYMENT VERIFICATION: You also authorize Us to verify all of the information that You have provided to Us in connection with the loan payment method You select, including past and current information from whatever source. If there is any missing or erroneous information in or with Your loan application regarding your Bank Account, or any bank account You have selected for preauthorized debit entries or remotely created checks to make Your loan payments, then You authorize Us to verify and correct such information. If any loan payment cannot be made by the method You elect, You acknowledge and agree that You remain responsible for such payment and any resulting fees under this Agreement.

ERROR RESOLUTION: In the event (i) You have a question about a debit or credit entry related to Your loan or if (ii) You find an error in a debit or credit entry, please contact Big Picture Loans by calling 1-800-584-48€0, emailing Support@BigPictureLoans.com (mailto:Support@BigPictureLoans.com), or mailing Big Picture Loans, LLC, P.O. Box 704, Watersmeet, MI 49969. We will review Your request and respond as soon as possible.

ELECTRONIC CHECK RE-PRESENTMENT POLICY: In the event You pay with a check and the check is returned unpaid for insufficient or uncollected funds, We may re-present the check electronically as described in the Check Conversion Notification below. In the ordinary course of business, Your original check will not be available for receipt with Your bank statement, but a copy of the electronic check can be retrieved by contacting Your financial institution.

CHECK CONVERSION NOTIFICATION: If You provide a check as payment, You authorize Us, Our servicers or agents to Use information from Your check to make a one-time electronic fund transfer from Your account in certain circumstances, such as for technical or processing reasons, or We may process the payment as a check transaction. When We use information from Your check to make an electronic funds transfer, funds may be withdrawn from Your account as soon as the same day We receive Your payment, and You will not receive Your original check back from Your financial institution.

RETURNED PAYMENT FEE: We do not currently charge a returned payment fee.

LATE FEE: If Your scheduled payment is late more than ten (10) days after the Due Date, You may incur a late fee of 0 for each occurrence. You authorize Us to debit Your Bank Account or any other bank account you have selected for preauthorized debit entries or remotely created checks to collect this late fee. A late fee will be collected only once on any delinquent scheduled payment.

DEFAULT: You will be in default under this Agreement if: (a) You provide Us false or misleading information about Yourself, Your financial condition (including Your Bank Account), or any other matter prior to entering this Agreement, (b) You fail to make a scheduled payment by the scheduled Due Date or if Your payment is returned to Us unpaid for any reason, (c) You agree to make alternative payment arrangements and fail to make those