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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

LESTER I SPIELMAN, individually  
and on behalf of all others similarly  
situated,

Plaintiff,

v.

UNITED SERVICES AUTOMOBILE  
ASSOCIATION,

Defendant.

Case No. 2:19-cv-01359-TJH-MAA

**CLASS ACTION SETTLEMENT  
AGREEMENT**

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**EXHIBITS**

- 1. Preliminary Approval Order**
- 2. Mailed Notice**
- 3. Address Verification Form**
- 4. Final Order and Judgment**

1 This Class Action Settlement Agreement, including Exhibits 1-4  
2 (“Agreement”), is made by and between Lester I. Spielman (“Plaintiff” or “Class  
3 Representative”), on behalf of himself and as the representative of the Settlement Class  
4 defined below, and (2) the USAA Entities (Defendant United Services Automobile  
5 Association (“USAA” or “Defendant”) and USAA Casualty Insurance Company  
6 (“CIC”), USAA General Indemnity Company (“GIC”), and Garrison Property and  
7 Casualty Insurance Company (“Garrison”))). Plaintiff and the USAA Entities are  
8 referred to collectively as “the Parties.”

9 This Agreement effects a full and final settlement and dismissal with prejudice  
10 of all Released Claims against all Released Persons relating to the above-captioned  
11 lawsuit (the “Action”) on the terms and to the full extent set forth below, subject to the  
12 approval of the Court.

13 **I. RECITALS**

14 WHEREAS, on February 22, 2019, Lester Spielman filed a Class Action  
15 Complaint against Defendant USAA in the United States District Court for the Central  
16 District of California, Case No. 2:19-cv-01359;

17 WHEREAS, on January 6, 2020, Lester Spielman and Samantha Leitz filed a  
18 First Amended Class Action Complaint against USAA and CIC;

19 WHEREAS, on February 5, 2020, USAA and CIC filed their Answer to the First  
20 Amended Class Action Complaint;

21 WHEREAS, on March 16, 2020, this Action was reassigned from the calendar  
22 of Judge Andrew Birotte to the calendar of Judge Terry J. Hatter, Jr., for all further  
23 proceedings;

24 WHEREAS, on March 9, 2021, the Parties attended a mediation with the Hon.  
25 Irma Gonzales (ret.);

26 WHEREAS, on May 5, 2021, Samantha Leitz filed a Notice of Voluntary  
27 Dismissal pursuant to Fed. R. Civ. P. 41 and dismissed with prejudice her claims in  
28 this Action against USAA and CIC;

1 WHEREAS, on August 2, 2021, Plaintiff filed his Motion for Class  
2 Certification, which the Court granted on December 9, 2021, certifying a litigation  
3 class, which, pursuant to the Court's January 12, 2022 Order clarifying the litigation  
4 class definition, is defined as follows (the "Litigation Class"):

5 All individuals and entities in California insured by United Services  
6 Automobile Association whose insurance covered or covers a leased  
7 vehicle with private-passenger physical damage coverage, including  
8 collision or physical damage other than collision coverage, who made a  
9 first-party claim, filed within four years of the date the lawsuit was filed  
10 through September 12, 2020, that was adjusted by United Services  
11 Automobile Association or USAA Casualty Insurance Company as a total  
12 loss and who received an actual cash value payment from United Services  
13 Automobile Association or USAA Casualty Insurance Company that did  
14 not include sales tax and/or Vehicle Title and Registration Fees.

15 WHEREAS, on February 25, 2022, the United States Court of Appeals for the  
16 Ninth Circuit denied USAA's petition for permission to appeal the Court's December  
17 9, 2021 order granting class certification;

18 WHEREAS, on March 22, 2022, the Court stayed this Action pending approval  
19 of the Settlement;

20 WHEREAS, the USAA Entities have denied and continue to deny all material  
21 allegations of the Action; deny that they are liable to Plaintiff and the Settlement Class;  
22 maintain that they have numerous meritorious class and merits defenses; maintain that  
23 they have acted in accordance with the insurance policies and all applicable laws and  
24 regulations and abided by all their contractual and statutory obligations, and would  
25 appeal any judgment against them; and deny that the Litigation Class, or any litigation  
26 class, properly could be certified in the Action;

27 WHEREAS, Plaintiff and Class Counsel, while believing that the claims  
28 asserted in the Action are meritorious, have considered the risks associated with the

1 continued prosecution of this complex and time-consuming litigation, the risk  
2 associated with currently-pending appeals on the same or similar issues in other cases,  
3 the relief secured in this Agreement, and believe that, in consideration of all the  
4 circumstances, the Settlement embodied in this Agreement is fair, reasonable,  
5 adequate, and in the best interests of the Settlement Class Members; and

6 WHEREAS, the USAA Entities, while denying wrongdoing of any kind and  
7 without admitting liability, nevertheless agree to enter into this Agreement to avoid  
8 further burden, expense, and risk of protracted litigation and to affect a full and final  
9 settlement of the claims asserted in the Action on the terms set forth below;

10 NOW, THEREFORE, IT IS HEREBY AGREED by and among the Parties,  
11 through their respective counsel, that the Action be settled and compromised by the  
12 Plaintiff, the Settlement Class, and the USAA Entities on the following terms and  
13 conditions, subject to the approval of the Court after hearing:

14 **II. ADDITIONAL DEFINITIONS**

15 In addition to the terms defined elsewhere in this Agreement, the following  
16 terms shall be defined as set forth below:

- 17 a. **“Address Verification Form”** means that form without material  
18 alteration from Exhibit 3, as further provided in Paragraphs 14 and 27.
- 19 b. **“Address Verification Form Deadline”** is the final date by which a  
20 Former Policyholder must send to the Settlement Administrator (whether  
21 by mail or online submission) an Address Verification Form in order to  
22 be eligible to receive a Settlement Claim Payment, as further provided in  
23 Paragraph 27. The deadline for submitting Address Verification Forms  
24 shall be sixty (60) days after the Mailed Notice Date.
- 25 c. **“Attorneys’ Fees and Expenses Award”** means the Court-determined  
26 award of attorneys’ fees, costs, and expenses to Class Counsel, as further  
27 provided in Paragraphs 28-30.
- 28 d. **“California Automobile Insurance Policy”** means a California policy of

1 insurance issued by the USAA Entities in effect during the Class Period  
2 and providing first-party private-passenger automobile physical damage  
3 coverage to a leased vehicle.

4 e. **“Class Counsel”** means the attorneys approved and appointed by the  
5 Court to represent the Settlement Class Members, as further provided in  
6 Paragraph 3.

7 f. **“Class Data”** means certain Settlement Class Member claims data for  
8 Covered Total Loss Claims, as further provided in Paragraphs 9-10.

9 g. **“Class Period”** means the period February 22, 2015, through the date the  
10 Court enters the Preliminary Approval Order.

11 h. **“Confidential Information”** shall have the meaning given such term in  
12 Paragraph 52.

13 i. **“Court”** means the United States District Court for the Central District of  
14 California.

15 j. **“Court-Approved Opt-Out List”** is the Opt-Out List approved by the  
16 Court in the Final Order and Judgment as the list of all Settlement Class  
17 Members who timely and properly requested exclusion from the  
18 Settlement Class, as further set forth in Paragraphs 32-35.

19 k. **“Covered Total Loss Claim”** means any first-party private passenger  
20 auto property damage claim determined to constitute a Total Loss to an  
21 insured automobile that (a) occurred within the Class Period, (b) relates  
22 to a leased vehicle, (c) was determined by one of the USAA Entities or by  
23 a court or arbitrator of competent jurisdiction to be covered by a California  
24 Automobile Insurance Policy issued by one of the USAA Entities, and  
25 (d) resulted in a Total Loss Claim Payment under either the insured’s  
26 comprehensive or collision coverages.

27 l. **“Current Policyholder”** means a Settlement Class Member who, as of  
28 the date the Preliminary Approval Order is entered, is a Policyholder

1 under a California Automobile Insurance Policy.

2 m. **“Effective Date”** means the date when all of the following conditions  
3 have been met:

- 4 (1) This Agreement has been fully executed by the Parties and their  
5 counsel;
- 6 (2) No Party has terminated the Agreement;
- 7 (3) Orders have been entered by the Court preliminarily certifying a  
8 Settlement Class, vacating the Litigation Class, granting  
9 preliminary approval of this Agreement, and approving a form of  
10 notice as provided in this Agreement, as provided in Exhibit 1 and  
11 Paragraph 5;
- 12 (4) The Court has entered the Final Order and Judgment approving this  
13 Agreement and releasing all Released Persons from all Released  
14 Claims, and dismissing the Action with prejudice and without leave  
15 to amend, as provided in this Agreement;
- 16 (5) The Final Order and Judgment has become Final, as provided in  
17 Paragraphs II(s) and 31; and
- 18 (6) To the extent that the Court did not fully resolve any application  
19 made by Class Counsel for an Attorneys’ Fees and Expenses Award  
20 and Service Award in the Final Order and Judgment, including any  
21 separate, contemporaneous order resolving the same, the Court  
22 subsequently has fully resolved any application made by Class  
23 Counsel for an Attorneys’ Fees and Expenses Award and Service  
24 Award and either (i) no appeal relating to the Attorneys’ Fees and  
25 Expenses Award and Service Award has been taken and all times  
26 to appeal therefrom have expired, or (ii) an appeal or other review  
27 proceeding having been commenced, such appeal or other review  
28 is finally concluded and no longer is subject to review by any court,

whether by appeal, petitions for rehearing or reargument, petitions for rehearing *en banc*, petitions for writ of certiorari, or otherwise.

r. **“Fairness Hearing”** means the fairness hearing conducted by the Court to consider final approval of the Settlement.

s. **“Final”** means that (a) the Final Order and Judgment is a final, appealable judgment and (b) either (i) no appeal has been taken from the Final Order and Judgment as of the date on which all times to appeal therefrom have expired, or (ii) an appeal or other review proceeding of the Final Order and Judgment having been commenced, such appeal or other review is finally concluded and no longer is subject to review by any court, whether by appeal, petitions for rehearing or reargument, petitions for rehearing *en banc*, petitions for writ of certiorari, or otherwise, and such appeal or other review has been fully and finally resolved in such manner that affirms the Final Order and Judgment.

t. **“Final Order and Judgment”** means the order from the Court, without material variation from Exhibit 4, that finally approves the Settlement Agreement and Settlement, disposes of all claims asserted in the Action, and settles and releases all claims consistent with the terms of this Agreement, as further provided in Paragraph 31. Final Order and Judgment also includes any order entered separately but contemporaneously with the Final Order and Judgment that determines the amounts, if any for the Attorneys’ Fees and Expenses Award and the Service Award.

u. **“Former Policyholder”** means a Settlement Class Member who, as of the date the Preliminary Approval Order is entered, is not a Policyholder under a California Automobile Insurance Policy.

v. **“Legally Authorized Representative”** means an administrator/administratrix, personal representative, or executor/executrix of a

1           deceased Settlement Class Member's estate; a guardian, conservator, or  
2           next friend of an incapacitated Settlement Class Member; or any other  
3           legally appointed Person or entity responsible for handling the affairs of  
4           a Settlement Class Member.

5           w.    **"Mailed Notice"** means the mailed notice sent to potential Settlement  
6           Class Members, without material change from Exhibit 2, and as further  
7           provided in Paragraph 14.

8           x.    **"Mailed Notice Date"** means the date that the initial mailing of the  
9           Mailed Notice to potential Settlement Class Members as set forth in  
10          Paragraph 11 is completed.

11          y.    **"Opt-Out Deadline"** means the final date by which Settlement Class  
12          Members may exclude themselves from the Settlement pursuant to  
13          Paragraphs 32-35 and the Preliminary Approval Order. The Opt-Out  
14          Deadline shall be 60 days after the Mailed Notice Date.

15          z.    **"Objection Deadline"** means the final date by which a Settlement Class  
16          Member may object to the Settlement or move to intervene in the Action  
17          pursuant to Paragraphs 36-41 of this Agreement and the Preliminary  
18          Approval Order. The Objection Deadline shall be 60 days after the  
19          Mailed Notice Date.

20          aa.   **"Opt-Out List"** means the list of valid and timely requests for exclusion  
21          from the Settlement Class compiled by the Settlement Administrator, as  
22          set forth in Paragraphs 5, 19, and 34.

23          bb.   **"Net Settlement Fund"** means the amount of the Settlement Fund, less  
24          the amount of any Attorneys' Fees and Expenses Award and Service  
25          Award awarded by the Court, and less the costs of notice and settlement  
26          administration as determined by the Court in the Final Order and  
27          Judgment, as further provided in Paragraphs 22-25.

28          cc.    **"Person"** means any natural person, individual, corporation, association,

partnership, trust, or any other type of legal entity.

dd. **“Policyholder”** means any Person who is or was a policyholder under a California Automobile Insurance Policy during the Class Period.

ee. **“Preliminary Approval Order”** means the order preliminarily approving the Settlement, without material variation from Exhibit 1, and as further set forth in Paragraph 5.

ff. **“Qualifying Settlement Class Member”** means a Settlement Class Member who has not submitted an exclusion request and who is otherwise eligible to receive a Settlement Claim Payment as provided in Paragraphs 22-27. To be a Qualifying Settlement Class Member, a Former Policyholder must also timely submit the Address Verification Form.

gg. **“Release”** shall have the meaning given such term in Paragraphs 43-47.

hh. **“Released Claims”** shall have the meaning given such term in Paragraph 45.

ii. **“Releasing Persons”** shall have the meaning give such term in Paragraphs 44.

jj. **“Released Persons”** shall have the meaning given such term in Paragraphs 44.

kk. **“Sales Tax”** means any mandatory sales or use tax collected or assessed by the State of California and any of its counties, cities, or political subdivisions when a vehicle is purchased, leased, or sold.

ll. **“Second Amended Complaint”** means the complaint that Plaintiff will file concurrently with moving for preliminary approval, and which shall be deemed to be filed at preliminary approval, as further described in Paragraph 6.

mm. **“Service Award”** means the potential award, if any, to Plaintiff, as determined by the Court, as further provided in Paragraph 28.

nn. **“Settlement”** means the settlement described in this Agreement.

1 oo. **“Settlement Administrator”** means Epiq, which shall be approved by  
2 the Court and shall perform the tasks set forth in Paragraphs 18-19 of this  
3 Agreement as well as other tasks reasonably necessary for the  
4 administration of the Settlement, as agreed to by the Parties.

5 pp. **“Settlement Class”** means the settlement class, to be certified for  
6 settlement purposes only, defined as follows:

7 All individuals and entities insured by the USAA Entities under a  
8 California automobile policy whose insurance covered or covers a leased  
9 vehicle under private-passenger physical damage coverage, including  
10 collision and physical damage other than collision coverage, and who  
11 made a first-party claim from February 22, 2015 through the date of  
12 preliminary approval, whose leased vehicle was determined by the USAA  
13 Entities to be a Total Loss, and who received a Total Loss Claim Payment  
14 from the USAA Entities for the value of the totaled vehicle that did not  
15 include the full amount of the Sales Tax and/or Vehicle Regulatory Fees.

16  
17 Excluded from the Settlement Class are: (1) all officers, employees, and  
18 agents of the USAA Entities, Class Counsel, and their immediate family  
19 members, and (2) any members of the judiciary assigned to the Action  
20 and their immediate families.

21 qq. **“Settlement Class Member”** means a member of the Settlement Class.

22 rr. **“Settlement Claim Payment”** means the payment that Qualifying  
23 Settlement Class Members are eligible to receive under the Settlement, as  
24 further provided in Paragraphs 21-25.

25 ss. **“Settlement Fund”** means the USAA Entities’  
26 **“Maximum Monetary Obligation,”** as both those terms are described in  
27 Paragraphs 1 and 22.

28 tt. **“Stale Date”** means the date by which the checks for Settlement Claim

1 Payments are no longer valid, which shall be one hundred eighty (180)  
2 days after the date of issuance of the check, as further provided in  
3 Paragraph 25.

4 uu. **“Total Loss”** means an insured vehicle that sustained damage, was the  
5 subject of a covered first-party property damage claim submitted to one  
6 of the USAA Entities under a California Automobile Insurance Policy,  
7 and for which the USAA Entity issued a Total Loss Claim Payment.

8 vv. **“Total Loss Claim Payment”** means a first-party property damage claim  
9 payment made by one of the USAA Entities for a leased vehicle  
10 determined to be a Total Loss.

11 ww. **“Vehicle Regulatory Fees”** means any mandatory fees collected or  
12 assessed by the State of California and any of its counties, cities, or  
13 political subdivisions when a vehicle is purchased, leased, sold, titled, or  
14 registered.

15 xx. **“Website”** means the website created by the Settlement Administrator for  
16 the purposes of publicizing and administering the Settlement, as further  
17 described in Paragraphs 5 and 14.

18 **III. SETTLEMENT CONSIDERATION**

19 1. The maximum total cash consideration to be provided by the USAA  
20 Entities pursuant to the Settlement shall be \$3,050,000.00 (the “Maximum Monetary  
21 Obligation” or “Settlement Fund”), from which will be paid: (1) all Settlement Claim  
22 Payments to Qualifying Settlement Class Members, (2) any Attorneys’ Fees and  
23 Expenses Award awarded by the Court; (3) any Service Award to Plaintiff awarded by  
24 the Court, and (4) all costs and expenses for notice and Settlement administration. The  
25 USAA Entities shall not be responsible for any other payments under this Settlement.  
26 No liability with respect to this Agreement shall attain in favor of Plaintiff, the  
27 Settlement Class, or Class Counsel as against any officer, director, member, agent, or  
28 employee of the USAA Entities, but rather, Plaintiff, the Settlement Class, and Class

1 Counsel shall look solely to the assets of the USAA Entities for satisfaction of this  
2 Agreement.

3         2. In addition, as part of the Settlement, the day following the signing of this  
4 Agreement, the USAA Entities agree to pay applicable Sales Tax and Title and  
5 Registration Fees on total loss vehicles in California without regard to whether the  
6 vehicle is leased or owned. The USAA Entities reserve the right to change their  
7 practices in the event of a change in California law, a change in the State of California's  
8 taxes or fees charged incidental to the transfer of ownership of motor vehicles titled  
9 and/or registered in California, or other changes in taxes and fees, or appropriate  
10 changes in the terms of the applicable insurance policies.

11 **IV. FILING OF SECOND AMENDED COMPLAINT, VACATUR OF**  
12 **LITIGATION CLASS, PRELIMINARY CERTIFICATION OF THE**  
13 **SETTLEMENT CLASS, APPOINTMENT OF A SETTLEMENT**  
14 **ADMINISTRATOR, AND THE PRELIMINARY APPROVAL ORDER**

15         3. Solely for the purpose of implementing this Agreement and effectuating  
16 the Settlement, the USAA Entities stipulate to entry of the Preliminary Approval Order  
17 (without material alteration from Exhibit 1), vacating the Litigation Class and  
18 preliminarily certifying the Settlement Class, appointing Plaintiff as Class  
19 Representative of the Settlement Class, and appointing the following as Class Counsel  
20 for the Settlement Class:

21 Annick Persinger  
22 **TYCKO & ZAVAREEI LLP**  
23 10880 Wilshire Blvd., Suite 1101  
24 Los Angeles, CA 90024  
25 Telephone: (213) 425-3657  
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4. Solely for the purposes of implementing this Agreement and effectuating the Settlement, the Parties stipulate that Epiq shall be the Settlement Administrator.

5. Promptly after execution of this Agreement, Plaintiff shall submit this fully executed Agreement to the Court, and request entry of the Preliminary Approval Order, without material variation from Exhibit 1, and in which the Court specifically:

- a. preliminarily approves this Agreement;
- b. finds that the Court possesses personal jurisdiction over all Settlement Class Members and possesses subject matter jurisdiction to preliminarily approve this Agreement;
- c. vacates the Litigation Class, preliminarily certifies the Settlement Class, approves Plaintiff as Class Representative of the Settlement Class, and appoints Class Counsel as counsel for the Settlement Class;
- d. provides that the USAA Entities shall retain all rights to assert that the Action may not be certified as a class action except for settlement purposes;
- e. finds that the Settlement is sufficiently fair, reasonable, and adequate to warrant providing notice to the Settlement Class;
- f. finds that the Class Action Fairness Act of 2005 Notice (“CAFA

- Notice”) to be made by the Settlement Administrator as directed by the USAA Entities is in full compliance with 28 U.S.C. § 1715;
- g. approves the Mailed Notice, the content of which is without material alteration from Exhibit 2, to be sent to the Persons described in Paragraph 14; directs its mailing by first-class mail to the last-known address for each Person as set forth in Paragraphs 14(c) and, for Mailed Notices returned, directs the Settlement Administrator to follow the procedures set forth in Paragraph 14(d); and finds that these procedures constitute reasonable and the best practicable notice under the circumstances and an appropriate and sufficient effort to locate current addresses for Settlement Class Members such that no additional efforts to do so shall be required;
  - h. approves the Address Verification Form, which shall be without material variation from Exhibit 3, and the deadline for submitting such Form (sixty (60) days after the Mailed Notice Date);
  - i. approves the Settlement Website as described in Paragraph 14, which may be amended during the course of the Settlement as appropriate and agreed to by the Parties, and which shall be maintained for at least 180 days after the Effective Date;
  - j. appoints Epiq as the Settlement Administrator;
  - k. directs the Settlement Administrator to maintain a toll-free IVR/VRU telephone system containing recorded answers to frequently asked questions, along with an option permitting callers to punch through to a live operator (during regular business hours), who will answer Settlement Class Members’ questions using a script agreed upon by the Parties, or to leave a voicemail message;
  - l. approves the payment of \$50,000.00 for the initial costs of settlement notice and administration, as further provided in

Paragraph 24;

- m. determines that the notice provided to potential Settlement Class Members (i) is the best practicable notice under the circumstances; (ii) is reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action and their right to object to or exclude themselves from the Settlement; (iii) constitutes due, adequate, and sufficient notice to all Persons entitled to receive notice; and (iv) meets all applicable requirements of due process, Federal Rule of Civil Procedure 23, California law, and any other applicable rules or laws.
- n. schedules the Fairness Hearing to consider the fairness, reasonableness, and adequacy of the Settlement and whether it should be finally approved by the Court, on a date convenient to the Court and the Parties, and not sooner than 21 days after the Objection Deadline, and also consistent with the requirements of CAFA;
- o. requires the Settlement Administrator to provide Class Counsel and the USAA Entities a copy of the Opt-Out List (which shall be a list of all Persons who timely and properly requested exclusion from the Settlement Class), no later than seven (7) days after the Opt-Out Deadline, and to file proof of completion of the Mailed Notice at least ten (10) days prior to the Fairness Hearing, along with the Opt-Out List and an affidavit attesting to the accuracy of the Opt-Out List;
- p. requires each Settlement Class Member who wishes to exclude himself or herself from the Settlement Class to submit an appropriate, timely request for exclusion, postmarked no later than sixty (60) days after the Mailed Notice Date and which complies

1 with the requirements in Paragraphs 32-35, including requiring that  
2 any exclusion be exercised individually by a Settlement Class  
3 Member, not as or on behalf of a group, class, or subclass, except  
4 that such exclusion requests may be submitted by a Settlement  
5 Class Member's Legally Authorized Representative;

6 q. orders that any Settlement Class Member who does not submit a  
7 timely, written request for exclusion from the Settlement Class in  
8 accordance with this Agreement will be bound by all proceedings,  
9 orders, and judgments in the Action, even if such Settlement Class  
10 Member never received actual notice of the Action or this  
11 Settlement and even if the Settlement Class Member has previously  
12 initiated or subsequently initiates individual litigation or other  
13 proceedings encompassed by the Released Claims;

14 r. requires each Settlement Class Member who does not submit a  
15 timely request for exclusion from the Settlement Class and wishes  
16 to object to the fairness, reasonableness, or adequacy of this  
17 Agreement or any term of the Settlement or to intervene in the  
18 Action, to file with the Court no later than Objection Deadline a  
19 statement of the objection or motion to intervene, as well as the  
20 specific legal and factual reasons for each objection or motion to  
21 intervene, including any support the Settlement Class Member  
22 wishes to bring to the Court's attention and all evidence the  
23 Settlement Class Member wishes to introduce in support of his or  
24 her objection or motion, or be forever barred from objection or  
25 motion to intervene, as provided in Paragraphs 36-41;

26 s. requires any attorney hired by, representing, or assisting (including,  
27 but not limited to, by drafting or preparing papers for a Settlement  
28 Class Member) a Settlement Class Member for the purpose of

1 objecting to any term or aspect of this Agreement or to the proposed  
2 Settlement or intervening in the Action to file with the Clerk of the  
3 Court a notice of appearance no later than sixty (60) days after the  
4 Mailed Notice Date, as further provided in Paragraphs 38-41;

5 t. provides that all objections to the Settlement shall be signed by the  
6 Settlement Class Member (or his or her Legally Authorized  
7 Representative), even if the Settlement Class Member is  
8 represented by counsel;

9 u. provides that the right to object to the Settlement or to intervene  
10 must be exercised individually by a Settlement Class Member or  
11 his or attorney, and not as a member of a group, class, or subclass,  
12 except that such objections and motions to intervene may be  
13 submitted by a Settlement Class Member's Legally Authorized  
14 Representative;

15 v. directs the Settlement Administrator to rent a post office box to  
16 which requests for exclusion and any other Settlement-related  
17 communication may be sent, and provides that only the Settlement  
18 Administrator, Class Counsel, the USAA Entities, the USAA  
19 Entities' counsel, the Court, the Clerk of the Court, and their  
20 designated agents shall have access to this post office box, except  
21 as otherwise expressly provided in this Agreement;

22 w. directs the Settlement Administrator to provide to Class Counsel  
23 and counsel for the USAA Entities copies of all objections, requests  
24 for exclusion, motions to intervene, notices of intention to appear  
25 within one (1) business day of receipt, and also to provide promptly  
26 to Class Counsel and counsel for the USAA Entities any other  
27 communications that come into its possession;

28 x. provides that certification and all actions associated with

- certification are undertaken on the condition that the certification and designations shall be automatically vacated if this Agreement is terminated or is disapproved in whole or in part by the Court, any appellate court, or any other court of review, or if the agreement to settle is revoked pursuant to Paragraphs 49-51, and elsewhere in the Agreement, or if the Settlement does not become Final in any way;
- y. provides that in the event the Settlement does not become Final, the Parties shall be returned to the *status quo ante* as of May 17, 2022, as provided in Paragraphs 8 and 31 of the Agreement;
- z. provides that this Agreement and the fact that it was entered into shall not be offered, received, or construed as an admission or as evidence for any purpose, including but not limited to an admission by any Party of liability or non-liability or of any misrepresentation or omission in any statement or written document approved or made by any Party, or of the certifiability of the Litigation Class, or any litigation class, as further provided in this Agreement;
- aa. preliminarily enjoins all Settlement Class Members and their Legally Authorized Representatives, unless and until they have submitted a timely request for exclusion from the Settlement Class, (i) from filing, commencing, prosecuting, intervening in, or participating as plaintiff, claimant, or class member in any other lawsuit or administrative, regulatory, arbitration, or other proceeding in any jurisdiction based on the Released Claims; (ii) from filing, commencing, or prosecuting a lawsuit or administrative, regulatory, arbitration, or other proceeding as a class action on behalf of any Settlement Class Members (including by seeking to amend a pending complaint to include class allegations or seeking class certification in a pending action), based

1 on the Released Claims; and (iii) from attempting to effect an  
2 optout of a group, class, or subclass of individuals in any lawsuit or  
3 administrative, regulatory, arbitration, or other proceeding based on  
4 the Released Claims;

5 bb. allows the filing of the Second Amended Complaint; provides that  
6 the USAA Entities are not obligated to answer or otherwise respond  
7 to the Second Amended Complaint; provides that the Second  
8 Amended Complaint shall be withdrawn if this Settlement does not  
9 become Final, and the First Amended Complaint shall be the  
10 operative complaint (except that CIC shall remain dismissed from  
11 this Action), as further set forth in Paragraphs 6-8; and provides  
12 that the Second Amended Complaint shall not be offered, received,  
13 or construed as an admission or as evidence for any purpose,  
14 including but not limited to an admission by the USAA Entities of  
15 liability or of the truth of the allegations of the Second Amended  
16 Complaint or of the certifiability of the Litigation Class or any  
17 litigation class;

18 cc. stays all proceedings in the Action until further order of the Court,  
19 except that the Parties may conduct proceedings necessary to  
20 implement the Settlement or effectuate the terms of this Agreement;  
21 and

22 dd. contains any additional provisions agreeable to the Parties that  
23 might be necessary to implement the terms of this Agreement and  
24 the Settlement.

25 6. Concurrently with seeking preliminary approval, and solely for the  
26 purposes of implementing this Agreement and effectuating the Settlement, Class  
27 Counsel shall file a motion for leave to amend with a proposed Second Amended  
28 Complaint to be deemed filed at preliminary approval, approved in advance by the

1 USAA Entities, but such approval shall not be deemed to be an admission of the truth  
2 of the allegations of the Second Amended Complaint. The Second Amended  
3 Complaint shall conform to the terms of this Settlement (including amending the class  
4 definition to conform to the Settlement Class definition, limiting the class claims as  
5 consistent with the Settlement, adding CIC, GIC, and Garrison as defendants, and other  
6 terms). The USAA Entities shall not be obligated to respond to the Second Amended  
7 Complaint.

8 7. Upon the preliminary approval of this Agreement and the proposed  
9 Settlement, all proceedings in the Action shall be stayed until further order of the Court;  
10 provided, however, that the Parties may conduct such limited proceedings as may be  
11 necessary to implement the proposed Settlement or to effectuate the terms of this  
12 Agreement.

13 8. In the event that the Settlement does not become Final for any reason,  
14 whether due to a termination of this Agreement in accordance with its terms, a failure  
15 or refusal of the Court to approve the proposed Settlement, or a reversal or modification  
16 of the Court's approval of the proposed Settlement on appeal, or for any other reason,  
17 then (a) the Settlement Class shall be vacated and the Litigation Class shall  
18 automatically be re-certified; (b) the Second Amended Complaint shall be vacated and  
19 the First Amended Complaint shall become the operative pleading (except that CIC  
20 shall remain dismissed from the Action); (c) all orders entered regarding the Settlement  
21 shall be vacated; and (d) the Parties shall be restored to the *status quo ante* as of May  
22 17, 2022. In such case, (aa) the Parties and their attorneys shall proceed as though the  
23 Agreement had never been entered, and the Parties and their Counsel shall not cite nor  
24 reference this Agreement except as necessary to inform the Court, and (bb) nothing in  
25 this Agreement and/or the fact that it was entered into shall be offered, received, or  
26 construed as an admission or as evidence for any purpose in any proceeding, as further  
27 provided in Paragraphs 49-51.

1 **V. DATA PRODUCTION RELATING TO THE CLASS**

2 9. Within forty-five (45) days after the Court's entry of the Preliminary  
3 Approval Order, the USAA Entities shall produce the Class Data to Class Counsel  
4 and/or the Settlement Administrator. For each Settlement Class Member, the USAA  
5 Entities shall (1) provide the Settlement Class Member's name, mailing address, and  
6 California Automobile Insurance Policy number; (2) identify whether the Settlement  
7 Class Member is a Current Policyholder or a Former Policyholder; and (3) provide the  
8 data fields from the USAA Entities' databases from which the Settlement Class  
9 Member's Total Loss Claim Payment may be calculated (to the extent possible using  
10 those fields).

11 10. Class Counsel and Defendant have engaged in significant discovery  
12 related to liability and damages, including the production of data relating to putative  
13 Settlement Class Members' claims. Accordingly, no further confirmatory discovery is  
14 necessary or shall be taken.

15 **VI. CLASS NOTICE**

16 11. All notice and administration costs shall be paid out of the Settlement  
17 Fund.

18 12. Epiq will serve as the Settlement Administrator, subject to approval by  
19 the Court.

20 13. The Settlement Administrator shall send appropriate notice (notices, if  
21 appropriate) pursuant to CAFA to the applicable federal and state officials, in the form  
22 and manner directed by the USAA Entities.

23 14. The Mailed Notice shall be without material variation to Exhibit 2 and  
24 shall be sent to potential Settlement Class Members as follows:

- 25 a. The USAA Entities shall make a reasonable search of their  
26 computer/electronic databases to ascertain the name and last-  
27 known address of each potential Settlement Class Member. Within  
28 45 days after entry of the Preliminary Approval Order, the USAA

1 Entities shall provide to the Settlement Administrator a list of  
2 putative Settlement Class Members to whom the Mailed Notice  
3 shall be sent, and the Class Data, as further described in Paragraph  
4 9.

5 b. Prior to sending the Mailed Notice, the Settlement Administrator  
6 shall run the mailing addresses once through the National Change  
7 of Address Database (“NCOA”) to attempt to obtain a more-current  
8 name and/or mailing addresses for each potential Settlement Class  
9 Member. The Settlement Administrator may also perform such  
10 further reasonable search for a more-current name and/or mailing  
11 address for the potential Settlement Class Member, including  
12 potentially a search of the Lexis/Nexis name and address database  
13 or other database, as agreed to by the Parties.

14 c. The Settlement Administrator shall mail the Mailed Notice  
15 (including the Address Verification Form to Former Policyholders)  
16 to potential Settlement Class Members by first-class mail within  
17 fifteen (15) days after receipt of the information provided by the  
18 USAA Entities, as set forth in Paragraph 14(a). Upon request, the  
19 Settlement Administrator shall make available the Mailed Notice  
20 and Address Verification Forms in Spanish and shall also post  
21 Spanish versions of these documents on the settlement Website.

22 d. Other than the Website and the Mailed Notice, the USAA Entities  
23 shall not be obligated to provide any additional notice of this  
24 proposed Settlement. The USAA Entities shall not be obligated to  
25 provide additional notice to any counsel who previously  
26 represented or currently represents a Settlement Class Member with  
27 regard to the issues raised by the Action.  
28

- 1           e.     If any Mailed Notice mailed to any potential Settlement Class  
2           Member in accordance with Paragraph 14(c) is returned to the  
3           Settlement Administrator as undeliverable, the Settlement  
4           Administrator will promptly log each such Mailed Notice and  
5           provide copies of the log to the USAA Entities and Class Counsel  
6           as requested. If the mailing is returned to the Settlement  
7           Administrator with a forwarding address, the Settlement  
8           Administrator shall forward the mailing to that address. For the  
9           remaining returned mailings, if a non-NCOA database search was  
10          not previously conducted for those mailings as set forth in  
11          Paragraph 14(b), such a search shall be conducted and those  
12          mailings shall be forwarded to any new address obtained through  
13          such a search, as agreed to by the Parties. In the event that any  
14          Mailed Notice is returned as undeliverable a second time, no further  
15          mailing shall be required. It is agreed by the Parties that the  
16          procedures set forth in Paragraph 14 constitute reasonable and the  
17          best practicable notice under the circumstances and an appropriate  
18          and sufficient effort to locate current addresses for Settlement Class  
19          Members such that no additional efforts to do so shall be required.
- 20          f.     The Settlement Administrator shall create and maintain the Website  
21          ([www.SpielmanTotalLossClassAction.com](http://www.SpielmanTotalLossClassAction.com)), to be agreed on by  
22          the Parties, and shall post the Agreement, Mailed Notice, Address  
23          Verification Form, Preliminary Approval Order, preliminary  
24          approval papers and fee petitions, important dates, and frequently  
25          asked questions. The Website shall also provide for online  
26          submissions of Address Verification Forms. The Settlement  
27          Administrator shall also post the Motion for Final Approval after it  
28          is filed, and also post the Final Order and Judgment and any other

1 significant orders relating to the Settlement. The website shall go  
2 “live” on the Mailed Notice Date. The Website may be amended  
3 from time to time as agreed to by the Parties. The Website shall also  
4 contain Spanish translations of the home page, frequently asked  
5 questions, and Mailed Notice and Address Verification Form. The  
6 Settlement Administrator shall maintain the Website for at least  
7 180 days after the Effective Date. The Settlement Website shall not  
8 include any advertising and shall not bear or include the USAA  
9 Entities’ logo or trademarks.

10 g. The Settlement Administrator shall set up a live call center during  
11 regular business hours to answer Settlement Class Members’  
12 questions, using a script agreed upon by the Parties. In addition,  
13 the Settlement Administrator shall set up an IVR/VRU call system  
14 containing recorded answers to frequently asked questions, along  
15 with an option permitting callers to speak to live operators or to  
16 leave messages in a voicemail box, as agreed upon by the Parties.

17 h. The Settlement Administrator shall retain and record of all such  
18 notice procedures and provide periodic updates to the Parties.

19 15. The Opt-Out Deadline and Objection Deadline shall be 60 days after the  
20 Mailed Notice Date.

21 16. The Settlement Administrator shall rent a post office box to be used for  
22 receiving requests for exclusion, objections, notices of intention to appear and/or  
23 intervene, and any other Settlement-related communications. Only the Settlement  
24 Administrator, Class Counsel, the USAA Entities, counsel for the USAA Entities, the  
25 Court, the Clerk of the Court, and their designated agents shall have access to this post  
26 office box, except as otherwise expressly provided in this Agreement.

1           17. The Fairness Hearing date and time shall be set at the convenience of the  
2 Court and Parties, shall be no earlier than 21 days after the Opt-Out Deadline and  
3 Objection Deadline, and shall be consistent with the requirements of CAFA.

4 **VII. SETTLEMENT ADMINISTRATOR**

5           18. The Parties agree to the appointment of Epiq as Settlement Administrator  
6 to perform the services described herein. The costs of Settlement notice, claims  
7 administration, and any other fees and costs relating to the effectuation of the  
8 Settlement shall be paid solely out of the Settlement Fund and handled in accordance  
9 with Paragraphs 22 and 24.

10           19. The Settlement Administrator shall assist with the various administrative  
11 tasks set forth herein and any others necessary to implement the terms of this  
12 Agreement and the Settlement as preliminarily approved, including (i) mailing the  
13 Mailed Notice and submitting to the Parties and Court an affidavit offering proof  
14 thereof; (ii) handling mail returned as not delivered and making additional mailings  
15 required under the terms of the Agreement; (iii) responding, as necessary, to inquiries  
16 from Settlement Class Members; (iv) providing to the Parties, within one (1) business  
17 day of receipt, copies of all objections, motions to intervene, notices of intention to  
18 appear, and requests for exclusion from the Settlement Class; (v) preparing a list of all  
19 Persons who timely requested exclusion from the Settlement Class and submitting to  
20 the Court the Opt-Out List and supporting affidavit ten (10) days before the Fairness  
21 Hearing scheduled by the Court; (vi) preparing a list of all Persons who submitted  
22 objections to the settlement and submitting an affidavit testifying to the accuracy of  
23 that list; and (vii) promptly responding to requests for information and documents from  
24 Class Counsel, the USAA Entities, and/or the USAA Entities' counsel.

25 **VIII. CLASS ACTION FAIRNESS ACT NOTICE**

26           20. Pursuant to 28 U.S.C. § 1715(b), within 10 days after this Agreement is  
27 filed with the Court, the Settlement Administrator, as directed by the USAA Entities,  
28

1 will give notice to the appropriate regulatory officials, including serving on them the  
2 documents described in 28 U.S.C. § 1715(b)(1) through (8), as applicable.

3 **IX. SETTLEMENT FUND, SETTLEMENT CLAIM PAYMENTS, AND**  
4 **DISTRIBUTION**

5 21. In exchange for the mutual promises and covenants in this Agreement,  
6 including, without limitation, the Releases and the dismissal with prejudice of the  
7 Action, the USAA Entities shall pay Qualifying Settlement Class Members their  
8 Settlement Claim Payments, as set forth in this Agreement.

9 22. The USAA Entities will make a Settlement Fund of \$3,050,000.00 (the  
10 “Maximum Monetary Obligation”) available for this Settlement, from which will be  
11 paid (1) all Settlement Claim Payments to Qualifying Settlement Class Members,  
12 (2) any Attorneys’ Fees and Expenses Award awarded by the Court; (3) any Service  
13 Award to Plaintiff awarded by the Court, and (4) all costs and expenses for notice and  
14 settlement administration. In no event shall the USAA Entities be liable under the  
15 Settlement for payment of any amount in excess of the Maximum Monetary  
16 Obligation.

17 23. Settlement Class Members who do not submit a timely and valid opt out  
18 (i.e., those who are not identified on the Court-Approved Opt-Out List that shall be  
19 appended to the Final Order and Judgment) shall be eligible for a *pro rata* portion of  
20 the Net Settlement Fund as calculated based on the value of their covered leased vehicle  
21 as determined by the most recent CCC valuation used in adjusting the claim, reduced  
22 by any amounts already paid for Sales Tax and/or Vehicle Regulatory Fees (insofar as  
23 such amounts may be determined from the USAA Entities’ Class Data) in accordance  
24 with the distribution plan detailed below in Paragraph 24.

25 24. The Parties agree that the funding of the Settlement Fund shall be as  
26 follows:

- 27 a. Within fourteen (14) days after entry of the Preliminary Approval  
28 Order, the USAA Entities shall mail a check to the Settlement

1 Administrator in the amount of \$50,000.00, which amount is to be  
2 used to pay for the initial costs of settlement notice, CAFA notice,  
3 and settlement administration (up through the Effective Date).

4 b. If the Settlement does not become Final for any reason, and the  
5 Settlement Administrator has not used all of the \$50,000 payment  
6 identified above for Settlement-related costs and fees by that point,  
7 the Settlement Administrator shall promptly return to the USAA  
8 Entities any unused amounts.

9 c. If the Settlement does become Final, within fourteen (14) days after  
10 the Effective Date, the USAA Entities shall mail a check to the  
11 Settlement Administrator in the amount of \$3,000,000.00 (i.e., the  
12 remainder of the USAA Entities' Maximum Monetary Obligation),  
13 which amount shall be used to pay for the Attorneys' Fees and  
14 Expenses Award, any Service Award, the Settlement Claim  
15 Payments to Qualifying Settlement Class Members, and any  
16 additional amounts for settlement administration.

17 d. Other than the \$50,000 payment identified above in Paragraph  
18 24(a), the USAA Entities shall have no obligation to make any  
19 monetary payments under the Settlement until after the Effective  
20 Date, as outlined above.

21 e. Class Counsel and/or the Settlement Administrator shall be solely  
22 responsible for calculating Settlement Claims Payments.

23 25. The Settlement Administrator and Class Counsel will use their best efforts  
24 to mail checks to Qualifying Settlement Class Members within thirty (30) days after  
25 the Effective Date. Checks will be issued and mailed by the Settlement Administrator  
26 with an appropriate legend, in a form approved by Class Counsel and the USAA  
27 Entities, to indicate that the check is from the Settlement. The accompanying letter  
28 shall also state that the amount of the Settlement Claim Payment is final, binding, and

1 nonappealable. Checks shall be valid for 180 days. Timely negotiation of checks is a  
2 condition of any Settlement Class Member's right to a Settlement Claim Payment.

3 26. There shall be no *cy pres* award in this Settlement, except that the amounts  
4 of checks for Settlement Claim Payments that are not cashed by the time of the Stale  
5 Date shall, with the approval of the Court, be part of a *cy pres* award to a charitable  
6 organization, the Tragedy Assistance Program for Survivors, Inc., to be approved by  
7 the Court; provided, however, that exceptions may be made for checks that are not  
8 cashed by the time of the Stale Date for service members who are then deployed.

9 27. Qualifying Settlement Class Members who are Current Policyholders  
10 shall receive their Settlement Payments by check mailed by the Settlement  
11 Administrator, without further action. Qualifying Settlement Class Members who are  
12 Former Policyholders shall be eligible for a Settlement Payment if they submit a valid  
13 and timely Address Verification Form (i.e., postmarked and mailed to the Settlement  
14 Administrator sixty (60) days after the Mailed Notice Date, or submitted online within  
15 sixty (60) days after the Mailed Notice Date).

16 **X. ATTORNEYS' FEES AND EXPENSES AWARD AND SERVICE**  
17 **AWARD**

18 28. Class Counsel's entitlement, if any, to an Attorneys' Fees and Expenses  
19 Award, and Plaintiff's entitlement, if any, to a Service Award, will be determined by  
20 the Court. The terms of any such awards, fees, costs, or expenses were not negotiated  
21 until after all material elements of the Settlement were resolved, and the terms of this  
22 Settlement are not conditioned upon any maximum or minimum Attorneys' Fees and  
23 Expenses Award or Service Award.

24 29. Within fourteen (14) days after the Mailed Notice Date, Class Counsel  
25 will file a Petition for Attorneys' Fees and Costs, in which Class Counsel agree not to  
26 seek more than \$1,016,565.00 in attorneys' fees and the amount of the actual out-of-  
27 pocket costs at the time the petition is filed (in an amount no more than \$30,000). The  
28 amount owed and/or paid to Settlement Class Members will not be adjusted or reduced

1 at all as a result of any payments made for the Attorneys' Fee and Expenses Award,  
2 Service Award, or the costs of administration and notice.

3 30. Any Attorneys' Fees and Expense Award or Service Award made by the  
4 Court will be paid from the Settlement Fund, as further provided in Paragraphs 22 and  
5 30.

6 **XI. FINAL APPROVAL OF THE SETTLEMENT**

7 31. Within seven (7) days after the Opt-Out Deadline and Exclusion Deadline,  
8 Class Counsel will file a motion, subject to the USAA Entities' prior review and  
9 comment, seeking the Court's final approval of the Settlement at the Fairness Hearing  
10 to be held at a time, date, and location as set by the Court and that will be stated in the  
11 Mailed Notice. The Motion shall request, at minimum, the Court to enter the Final  
12 Order and Judgment, without material variation from Exhibit 4, that, among other  
13 things:

- 14 a. grants final approval of the certification of the Settlement Class for  
15 settlement purposes only;
- 16 b. reconfirms that the Court has personal jurisdiction over all  
17 Settlement Class Members and subject matter jurisdiction to  
18 approve this Agreement;
- 19 c. gives final approval to the Settlement and directs the Parties and  
20 counsel to comply with and consummate the terms of the  
21 Agreement;
- 22 d. finds that Class Counsel and Plaintiff adequately represented the  
23 Settlement Class;
- 24 e. finds that the terms of this Agreement are fair, reasonable, and  
25 adequate to the Settlement Class Members;
- 26 f. finds that the notice set forth in this Agreement, including the  
27 Mailed Notice and Website, (i) constituted the best practicable  
28 notice under the circumstances; (ii) was reasonably calculated to

1 apprise potential Settlement Class Members of the pendency of the  
2 Action, their right to object to or exclude themselves from the  
3 Settlement, and to appear at the Fairness Hearing; (iii) constituted  
4 due, adequate, and sufficient process and notice to all Persons  
5 entitled to receive notice; and (iv) met all applicable requirements  
6 of due process, Federal Rule of Civil Procedure 23, California law,  
7 and any other applicable rules or law;

8 g. finds that the CAFA Notice provided by the Settlement  
9 Administrator on behalf of the USAA Entities complied with 28  
10 U.S.C. § 1715;

11 h. approves the distribution plan set forth in Paragraphs 24 and  
12 specifies the amounts by which the Settlement Fund will be reduced  
13 by the Attorneys' Fees and Expenses Award, the Service Award,  
14 and the costs of notice and settlement administration to yield the Net  
15 Settlement Fund, from which Settlement Claim Payments will be  
16 made to Qualifying Settlement Class Members;

17 i. without affecting the finality of the Final Order and Judgment for  
18 purposes of appeal, reserves jurisdiction over the USAA Entities,  
19 Plaintiff, and the Settlement Class as to all matters relating to the  
20 administration, consummation, enforcement, and interpretation of  
21 the terms of the Settlement and the Final Order and Judgment, and  
22 for any other necessary purposes;

23 j. approves the Opt-Out List and determines that the Opt-Out List is a  
24 complete list of all Settlement Class Members who have timely  
25 requested exclusion from the Settlement Class and, accordingly,  
26 shall neither share in nor be bound by the Final Order and Judgment  
27 (the "Court-Approved Opt-Out List");  
28

1 k. provides that as of the Effective Date, Plaintiff, all Settlement Class  
2 Members who have not been excluded from the Settlement Class as  
3 provided in the Court-Approved Opt-Out List, and their heirs,  
4 estates, trustees, executors, administrators, principals, beneficiaries,  
5 representatives, agents, assigns, successors, employees, employers,  
6 companies, partnerships, corporations, professional services  
7 corporations, limited liability companies, members, owners,  
8 officers, directors, partners, joint venturers, managing agents,  
9 affiliates, subsidiaries, predecessors, successors, and/ or anyone  
10 claiming through them or acting or purporting to act for them or on  
11 their behalf, regardless of whether they have received actual notice  
12 of the proposed Settlement and regardless of whether they  
13 previously initiated or subsequently initiate individual litigation or  
14 other proceedings encompassed by the Released Claims, have  
15 conclusively compromised, settled, discharged, and released all  
16 Released Claims against the USAA Entities and the Released  
17 Persons, and are bound by the provisions of this Agreement, as  
18 further provided in Paragraphs 43-47;

19 l. declares this Agreement and the Final Order and Judgment to be  
20 binding on, and have res judicata and preclusive effect in, all  
21 pending and future lawsuits or other proceedings encompassed by  
22 the Released Claims maintained by or on behalf of Plaintiff and all  
23 other Settlement Class Members who have not been excluded from  
24 the Settlement Class as provided in the Court-Approved Opt-Out  
25 List, their heirs, estates, trustees, executors, administrators,  
26 principals, beneficiaries, representatives, agents, assigns, assignees,  
27 assignors, successors, employees, employers, companies,  
28 partnerships, corporations, professional services corporations,

1 limited liability companies, members, owners, officers, directors,  
2 partners, joint venturers, managing agents, affiliates, subsidiaries,  
3 predecessors, and/or anyone claiming through them or acting or  
4 purporting to act for them or on their behalf, regardless of whether  
5 they have received actual notice of the proposed Settlement and  
6 regardless of whether they previously initiated or subsequently  
7 initiate individual litigation or other proceedings encompassed by  
8 the Released Claims, as set forth in Paragraphs 43-47;

9 m. dismisses the Action (including all individual and class claims  
10 presented thereby) on the merits and with prejudice, and without  
11 fees or costs except as provided herein, and entering final judgment  
12 thereon;

13 n. determines the amount of the Attorneys' Fees and Expenses Award  
14 to Class Counsel, and the Service Award to Plaintiff; and

15 o. reconfirms the appointment of Epiq as the Settlement Administrator  
16 and finds that Epiq has complied with its duties under the  
17 Settlement;

18 p. determines that the Agreement and the Settlement provided for  
19 herein, and any proceedings taken pursuant thereto, are not, and  
20 should not in any event be offered, received, or construed as  
21 evidence of, a presumption, concession, or an admission by any  
22 Party of liability or non-liability or of the certifiability or non-  
23 certifiability of the Litigation Class, or any litigation class, or of any  
24 misrepresentation or omission in any statement or written document  
25 approved or made by any Party; provided, however, that reference  
26 may be made to this Agreement and the Settlement provided for  
27 herein in such proceedings as may be necessary to effectuate the  
28 provisions of this Agreement, as further set forth in this Agreement;

- 1 q. permanently enjoins Plaintiff, and all other Settlement Class  
2 Members who have not been excluded from the Settlement Class as  
3 provided in the Court-Approved Opt-Out List, from (i) filing,  
4 commencing, prosecuting, intervening in, or participating (as class  
5 members or otherwise) in any other lawsuit or administrative,  
6 regulatory, arbitration, or other proceeding in any jurisdiction based  
7 on the Released Claims and (ii) organizing Settlement Class  
8 Members into a separate group, class, or subclass for purposes of  
9 pursuing as a purported class action any lawsuit or administrative,  
10 regulatory, arbitration, or other proceeding (including by seeking to  
11 amend a pending complaint to include class allegations, or seeking  
12 class certification in a pending action) based on the Released  
13 Claims;
- 14 r. orders that the certification of the Settlement Class and final  
15 approval of the Settlement, and all actions associated with them, are  
16 undertaken on the condition that they shall be vacated if the  
17 Agreement is terminated or disapproved in whole or in part by the  
18 Court, or any appellate court and/or other court of review, or if any  
19 of the Parties invokes the right to withdraw from the Settlement as  
20 provided in Paragraphs 49-51 of the Agreement, in which event the  
21 Agreement and the fact that it was entered into shall not be offered,  
22 received, or construed as an admission or as evidence for any  
23 purpose, including but not limited to an admission by any Party of  
24 liability or non-liability or of any misrepresentation or omission in  
25 any statement or written document approved or made by any Party,  
26 or of the certifiability of the Litigation Class, or any litigation class,  
27 as further provided in Paragraph 51;  
28

- s. approves the termination and withdrawal procedures in Paragraphs 49-51, and orders that if the Settlement does not become Final, the Parties shall be returned to the *status quo ante* as of May 17, 2022, as provided in Paragraph 8; and
- t. authorizes the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications, and expansions of this Agreement and all Exhibits hereto as (i) shall be consistent in all material respects with the Final Order and Judgment and (ii) do not limit the rights of Settlement Class Members.

## **XII. REQUESTS FOR EXCLUSION AND OBJECTIONS**

32. Settlement Class Members who wish to exclude themselves from the Settlement Class must submit timely and written requests for exclusion. To be effective, such a request must include the Settlement Class Member's name and address, an unequivocal statement that the Settlement Class Member wishes to be excluded from the Settlement Class, and the signature of the Settlement Class Member or the Legally Authorized Representative of the Settlement Class Member. The request must be mailed to the Settlement Administrator at the address provided in the Mailed Notice postmarked no later than sixty (60) days after the Mailed Notice Date. Requests for exclusion must be exercised individually by the Settlement Class Member and are only effective as to the individual Settlement Class Member requesting exclusion, and may not be on behalf of a group, class, or subclass.

33. Plaintiff shall not elect or seek to opt out or exclude himself from the Settlement Class, and any such attempt will be deemed a breach of this Agreement and sufficient to permit the USAA Entities to terminate the Agreement.

34. The Settlement Administrator shall promptly log and prepare a list of all Persons who properly requested exclusion from the Settlement Class and shall submit an affidavit to the Court which includes and attests to the accuracy of the Opt-Out List no later than ten (10) days prior to the Fairness Hearing set by the Court.

1           35. The Settlement Administrator, in its sole discretion, shall determine  
2 whether a request for exclusion was timely submitted. The Settlement Administrator's  
3 decision on this issue shall be final, binding, and nonappealable.

4           36. All Settlement Class Members who do not timely and properly exclude  
5 themselves from the Settlement Class shall be bound by this Agreement, and this  
6 Action shall be dismissed with prejudice and all Settlement Class Members' Released  
7 Claims shall be released as provided for herein, even if they never received actual  
8 notice of the Action or this proposed Settlement and regardless of whether they  
9 previously initiated or subsequently initiate individual litigation or other proceedings  
10 encompassed by the claims in the Action. Settlement Class Members who do not  
11 request exclusion from the Settlement Class may object to the Settlement or move for  
12 leave to intervene in the Action. Settlement Class Members who choose to object to  
13 the Settlement must do so in writing. The objection or motion to intervene must contain  
14 the specific legal and factual reasons, if any, for each objection or motion, including  
15 any support the Settlement Class Member wishes to bring to the Court's attention and  
16 all evidence the Settlement Class Member wishes to introduce in support of the  
17 objection or motion to intervene, or be forever barred from objection or intervention.

18           37. If a Settlement Class Member files a timely written objection, the  
19 Settlement Class Member may, but is not required to, appear at the Fairness Hearing,  
20 either in person or through the Settlement Class Member's own attorney. If a  
21 Settlement Class Member appears through his or her own attorney, the Settlement  
22 Class Member is responsible for hiring and paying that attorney.

23           38. Objections must provide the name, address, and signature of the  
24 Settlement Class Member filing the objection, and must contain the name, address, bar  
25 number, and telephone number of the objecting Settlement Class Member's counsel, if  
26 any. All written objections and supporting papers must be sent to the Settlement  
27 Administrator and (a) clearly identify the case name and number; (b) be submitted to  
28 the Court either by mailing them to the Class Action Clerk, United States District Court

1 for the Northern District of California, Oakland Division, or by filing them in person  
2 at any location of the United States District Court for the Northern District of  
3 California; (c) be filed or postmarked on or before sixty (60) days after the Mailed  
4 Notice Date; and (d) contain (i) a statement of the specific legal and factual basis for  
5 each objection or intervention argument, (ii) a statement whether the objecting or  
6 intervening Settlement Class Member intends to appear at the Fairness Hearing, either  
7 in person or through counsel, (iii) a description of any and all evidence the objecting  
8 Settlement Class Member may offer at the Fairness Hearing, including but not limited  
9 to the names, addresses, and expected testimony of any witnesses, all exhibits intended  
10 to be introduced at the Fairness Hearing, and a list of other cases in which the objector  
11 or intervenor or counsel for the objector or intervenor has appeared either as an objector  
12 or counsel for an objector in the last five years. All objections shall be signed by the  
13 objecting Settlement Class Member (or his or her Legally Authorized Representative),  
14 even if the Settlement Class Member is represented by counsel. Any motion to  
15 intervene must further comply with the Federal Rules of Civil Procedure and any other  
16 rules and requirements of the Court. Furthermore, all objectors shall make themselves  
17 available to be deposed by any Party in the county of the objector's residence within  
18 seven (7) days of service of his, her, or its timely written objection.

19 39. The right to object to the Settlement or to intervene in the Action must be  
20 exercised individually by a Settlement Class Member or his or her attorney or Legally  
21 Authorized Representative, and not as a member of a group, class, or subclass.

22 40. Any Settlement Class Member who does not file a timely notice of intent  
23 to object in accordance with this Agreement shall waive the right to object or to be  
24 heard at the Fairness Hearing and shall be forever barred from making any objection  
25 to the proposed Settlement, subject to the Court's discretion to hear such objections.  
26 Settlement Class Members who object to the proposed Settlement shall remain  
27 Settlement Class Members, and shall be deemed to have voluntarily waived their right  
28 to pursue an independent remedy against the USAA Entities. To the extent any

1 Settlement Class Member objects to the proposed Settlement, and such objection is  
2 overruled in whole or in part, such Settlement Class Member will be forever bound by  
3 the Final Order and Judgment.

4 41. In the event that any Settlement Class Member objects to or opposes this  
5 proposed Settlement, or attempts to intervene in or otherwise enter the Action, the  
6 Parties agree to use their best efforts to cooperate in the defense of the Settlement.  
7 Notwithstanding the foregoing, it shall be Class Counsel's sole responsibility to  
8 respond to any objections made with respect to any application for the Attorneys' Fees  
9 and Expenses Award and Service Award.

10 **XIII. NO ADMISSION OF LIABILITY**

11 42. The USAA Entities have denied and continue to deny all material  
12 allegations of the Action; deny that they are liable to Plaintiff and the Settlement Class;  
13 maintain that they have numerous meritorious class and merits defenses; maintain that  
14 they have acted in accordance with the insurance policies and all applicable laws and  
15 regulations and abided by all their contractual and statutory obligations, and would  
16 appeal any judgment against them; and deny that the Litigation Class, or any litigation  
17 class, properly could be certified in the Action.

18 As a result of the foregoing, the USAA Entities enter into this Agreement  
19 without admitting, conceding, or acknowledging any fault, liability, or wrongdoing of  
20 any kind on the part of the Released Persons, or the propriety of certifying the  
21 Litigation Class, or any litigation class. This Agreement shall not be construed as an  
22 admission or concession of the truth of any of the allegations in the Action, or of any  
23 liability, fault, or wrongdoing of any kind, or of the validity of certification of the  
24 Litigation Class or any litigation class. The terms of this Agreement are material to the  
25 USAA Entities' decision to settle this Action notwithstanding their belief that their  
26 defenses are meritorious and their chances of success are significant. This Agreement  
27 and the Settlement, and the proceedings taken pursuant thereto, are not and shall not  
28 be offered, received, or construed as evidence in any action or proceeding in any court,

1 administrative proceeding, or other tribunal as an admission or concession of liability  
2 or wrongdoing on the part of the USAA Entities or the Released Persons, or as an  
3 admission or concession that the Action or any other action could properly be certified  
4 as a litigation class action; provided, however, that reference may be made to the  
5 Settlement Agreement and the Settlement provided for herein in such proceedings as  
6 may be necessary to effectuate the provisions of this Agreement, and further provided  
7 that the Released Persons shall be free to use the Settlement Agreement, all Orders of  
8 this Court regarding the Settlement, and any related documents in any action or claim  
9 that may be brought against them in order to support a defense or counterclaim based  
10 on res judicata, collateral estoppel, release, settlement, accord, judgment bar or  
11 reduction, or any other theory relating to this Settlement.

12 **XIV. DISMISSAL OF ACTION AND RELEASE OF CLAIMS**

13 43. Plaintiff, and all Settlement Class Members who have not been excluded  
14 from the Settlement Class as provided in the Court-Approved Opt-out List, shall be  
15 bound by this Agreement, and all of their claims, as provided under this Agreement,  
16 shall be dismissed with prejudice and released, even if they never received actual notice  
17 of the Action or the Settlement.

18 44. Upon the Effective Date, Plaintiff, all Settlement Class Members who  
19 have not been excluded from the Settlement Class as provided in the Court-Approved  
20 Opt-Out List, and their heirs, estates, trustees, executors, administrators, principals,  
21 beneficiaries, representatives, agents, assigns, successors, employees, employers,  
22 companies, partnerships, corporations, professional services corporations, limited  
23 liability companies, members, owners, officers, directors, partners, joint venturers,  
24 managing agents, affiliates, subsidiaries, predecessors, and/or anyone claiming through  
25 them or acting or purporting to act for them or on their behalf, regardless of whether  
26 they received actual notice of the proposed Settlement and regardless of whether they  
27 previously initiated or subsequently initiate individual litigation or other proceedings  
28 encompassed by the Released Claims (the "Releasing Persons"), will be bound by the

1 Final Order and Judgment and shall be conclusively deemed to have fully released and  
2 discharged the USAA Entities and all of the USAA Entities' (a) past, present, and  
3 future parents, subsidiaries, divisions, and affiliates, and (b) past, present, and future  
4 officers, directors, members, agents, employees, servants, stockholders, insurers,  
5 attorneys, representatives, successors, assigns, and independent contractors of the  
6 entities in part (a) above (the "Released Persons"), of and from all Released Claims,  
7 and agree that they shall not now or hereafter initiate, maintain, or assert any Released  
8 Claims against the Released Persons in any other court action or before any  
9 administrative body (including any state department of insurance or other regulatory  
10 entity or organization), tribunal, arbitration panel, or other adjudicating body. Without  
11 in any way limiting the scope of the Release described in Paragraphs 43-47, this  
12 Release covers, without limitation, any and all claims for attorneys' fees, costs, or  
13 disbursements incurred by Class Counsel or any other counsel representing Plaintiff or  
14 Settlement Class Members, or by the Plaintiff or Settlement Class Members, or any of  
15 them, in connection with or related in any manner to the Action, the settlement of the  
16 Action, the administration of such Settlement, and/or the Released Claims except to  
17 the extent otherwise specified in the Agreement.

18 45. "Released Claims" means and includes any and all known and unknown  
19 claims, rights, actions, suits or causes of action of whatever kind or nature, whether *ex*  
20 *contractu* or *ex delicto*, statutory, common law or equitable, including but not limited  
21 to breach of contract, bad faith, extracontractual claims or claims for statutory  
22 violations, and claims for punitive or exemplary damages, or prejudgment or  
23 postjudgment interest, arising from or relating in any way to the USAA Entities'  
24 alleged failure to pay sufficient Sales Tax and/or Vehicle Regulatory Fees to Plaintiff  
25 and the Settlement Class Members. Released Claims do not include any claim for  
26 enforcement of this Agreement and/or the Final Order and Judgment. Released Claims  
27 do not include any claims, actions, or causes of action alleging that the USAA Entities  
28 failed to properly calculate the base or adjusted value of total loss vehicles except to

1 the extent that such claims, actions, or causes of action relate to failure to pay sufficient  
2 Sales Tax and/or Vehicle Regulatory Fees.

3 46. Without in any way limiting the scope of the Release described in  
4 Paragraphs 43-47, Plaintiff, and all Settlement Class Members who have not been  
5 excluded from the Settlement Class as provided in the Court-Approved Opt-Out List,  
6 also acknowledge that they are familiar with the principles of law such as Section 1542  
7 of the Civil Code of the State of California and laws of other states, which provide:

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

13 To the extent that, notwithstanding the choice of law provisions in the Agreement,  
14 another state's law may be applicable, Plaintiff, and the Settlement Class Members  
15 who have not been excluded from the Settlement Class as provided in the Court-  
16 Approved Opt-Out List, hereby expressly agree that the provisions, rights, and benefits  
17 of Section 1542 of the Civil Code of the State of California and all similar federal or  
18 state laws, rights, rules, or legal principles of any other jurisdiction which may be  
19 applicable herein are hereby knowingly and voluntarily waived and relinquished by  
20 Plaintiff and the Settlement Class Members to the fullest extent permitted by law solely  
21 in connection with Unknown Claims constituting Released Claims, and Plaintiff and  
22 the Settlement Class Members hereby agree and acknowledge that this is an essential  
23 term of this Release. In connection with this Release, Plaintiff and the Settlement Class  
24 Members acknowledge that they are aware that they may hereafter discover claims  
25 presently unknown or unsuspected, or facts in addition to or different from those which  
26 they now know or believe to be true with respect to the matters released herein.  
27 Nevertheless, Plaintiff and the Settlement Class Members acknowledge that a portion  
28 of the consideration received herein is for a Release with respect to future damages and  
complaints, whether resulting from known injuries and consequences or from unknown

1 injuries or unknown consequences of known or unknown injuries, and state that it is  
2 the intention of Plaintiff and the Settlement Class Members in executing this Release  
3 fully, finally, and forever to settle and release all matters, known or otherwise, and all  
4 claims relating thereto, which exist, hereafter may exist, or might have existed (whether  
5 or not previously or currently asserted in any action) relating in any respect, without  
6 limitation, to the Released Claims.

7 47. Upon entry of the Final Order and Judgment, the Action will be dismissed  
8 with prejudice as to the USAA Entities, Plaintiff, and all Settlement Class Members  
9 who have not been excluded from the Settlement Class as provided in the Court-  
10 Approved Opt-Out List, and will release all Released Persons from Released Claims.

11 **XV. RETENTION OF RECORDS**

12 48. The Settlement Administrator (and Class Counsel and the USAA Entities,  
13 to the extent they are sent copies of the following documents) shall retain copies or  
14 images of all returned Notices (and/ or data resulting therefrom) and correspondence  
15 relating thereto, for a period of up to two (2) years after the Effective Date. After this  
16 time, upon written request by counsel for the USAA Entities, Class Counsel and the  
17 Settlement Administrator shall destroy any documentary records in their possession.  
18 Except as expressly stated above, nothing in this Agreement shall be construed to  
19 require the USAA Entities to retain records beyond their discretionary record retention  
20 policies.

21 **XVI. WITHDRAWAL FROM SETTLEMENT; FAILURE OF SETTLEMENT**  
22 **TO BECOME EFFECTIVE**

23 49. Within fifteen (15) days of the occurrence of any of the following events,  
24 and upon written notice to counsel for the other Party, any Party shall have the right to  
25 withdraw from the Settlement

26 (a) if the Court fails to approve the Agreement, or if on appeal the Court's  
27 approval is reversed or modified in a material respect; or

28 (b) if the Court or any court materially alters any of the terms of the

1 Agreement; or

- 2 (c) if the Preliminary Approval Order, or the Final Order and Judgment, is  
3 not entered by the Court, or is reversed or modified on appeal in any  
4 material respect, or otherwise fails for any reason.

5 Notwithstanding the foregoing, Plaintiff may not terminate this Agreement because of  
6 the amount of the Attorneys' Fees and Expenses Award or Service Award approved  
7 by the Court or any appellate court(s), or the failure of the Court or any appellate  
8 court(s) to approve any provision of Paragraphs 28-30 of this Agreement.

9 50. The USAA Entities shall have the right to withdraw from the Settlement  
10 if (i) Plaintiff attempt to exclude himself from the Settlement, (ii) one or more  
11 overlapping litigation classes are certified over the USAA Entities' objection in other  
12 cases at any time before the Effective Date of the settlement, or (iii) if the number of  
13 Settlement Class Members who exclude themselves from the Settlement Class equals  
14 or exceeds 50 potential Settlement Class Members. If the USAA Entities choose to  
15 exercise this right, they must do so within fifteen (15) days of such class  
16 certification(s), or within five (5) days of receipt of the Opt-Out List by the Settlement  
17 Administrator, by providing written notice to Class Counsel. The USAA Entities will  
18 promptly provide Class Counsel with notice of any lawsuits with one or more  
19 overlapping Subclasses.

20 51. In the event of a withdrawal pursuant to Paragraphs 49-51, this  
21 Agreement, all settlement negotiations, and all proceedings that have taken place with  
22 regard to this Agreement shall be without prejudice to the rights and contentions of the  
23 Parties with respect to the Action. Furthermore, in the event of a withdrawal pursuant  
24 to Paragraphs 49-51, all Orders entered in connection with the Settlement, including  
25 the certification of the Settlement Class, shall be vacated without prejudice to any  
26 Party's position on the issue of class certification or any other issue, in the Action, or  
27 any other action; the Litigation Class shall be automatically re-certified; Plaintiff shall  
28 withdraw the Second Amended Complaint, and the First Amended Complaint shall be

1 the operative complaint (except that CIC shall remain dismissed from this Action); and  
2 the Parties shall be restored to their litigation positions existing on May 17, 2022.  
3 Furthermore, in the event of a withdrawal pursuant to Paragraphs 49-51, the fact of this  
4 Agreement or settlement having been made shall not be admissible or entered into  
5 evidence for any purpose; this Agreement and all documents, orders, and other  
6 evidence relating to the Agreement and settlement shall not be offered, received, or  
7 construed as evidence of a presumption, concession, or an admission by any Party of  
8 liability or non-liability, of the certifiability or non-certifiability of the Litigation Class,  
9 or any litigation class, or of any misrepresentation or omission in any statement or  
10 written document approved or made by any Party; and all of the Parties' obligations  
11 under this Agreement shall cease to be of any force and effect (provided, however, that  
12 the USAA Entities shall be liable to pay the Settlement Administrator for all notice and  
13 settlement administration costs incurred before the withdrawal). Furthermore, in the  
14 event of a withdrawal by the USAA Entities, Plaintiff and Class Counsel agree that the  
15 USAA Entities shall retain the right to assert any and all defenses and claims in the  
16 Action (including all defenses and appellate rights to certification of a litigation class)  
17 and that Plaintiff and Class Counsel shall not argue that the USAA Entities are barred  
18 from asserting those defenses or claims due to waiver, estoppel, or similar arguments.

19 **XVII. CONFIDENTIAL INFORMATION AND DISCOVERY**

20 52. The following constitutes Confidential Information: (a) the names,  
21 addresses, policy and/or member numbers, and other data concerning potential  
22 Settlement Class Members compiled by the USAA Entities and/or the Settlement  
23 Administrator in effectuating the proposed Settlement; (b) the electronic data  
24 processing and other recordkeeping procedures and materials to be utilized by the  
25 USAA Entities and/or the Settlement Administrator in identifying the potential  
26 Settlement Class Members and effectuating the USAA Entities' other obligations  
27 under the proposed Settlement; and (c) the documents and information designated as  
28 confidential by the Parties during the course of the litigation of the Action. The

1 confidentiality of all Confidential Information shall be protected from disclosure by  
2 Class Counsel, Plaintiffs, and the USAA Entities and their counsel to any Persons other  
3 than those described in Paragraph 53.

4 53. No Persons other than the USAA Entities' counsel and  
5 clerical/administrative personnel employed by the USAA Entities, Class Counsel and  
6 clerical/administrative personnel employed by Class Counsel, the Settlement  
7 Administrator, and any clerical/administrative personnel employed by him, the Court  
8 and such other Persons as the Court may order, after hearing on notice to all counsel  
9 of record, shall be allowed access to the Confidential Information defined in  
10 Paragraphs 52(a) and 52(b).

11 54. Within thirty (30) days after the Effective Date, Class Counsel and/or  
12 other attorneys for Plaintiff and/or the Settlement Class in the Action, and counsel for  
13 the USAA Entities, shall return to the producing party all Confidential Information  
14 defined in Paragraph 52(c) and also shall deliver a letter to the other party certifying  
15 their compliance with this Paragraph and, in the event that Confidential Information  
16 has already been destroyed, confirming that the Confidential Information was  
17 destroyed. All other discovery produced to Plaintiff (including, but not limited to, data,  
18 deposition testimony, and written discovery) in the Action will be returned to the  
19 USAA Entities' outside counsel or destroyed within 15 days of a written request.  
20 Further, the Parties agree that neither Class Counsel nor counsel for the USAA Entities,  
21 nor any one employed with, retained by, or otherwise associated with their firms, shall  
22 use any of this Confidential Information or confidential material in any other litigation,  
23 current or future, unless independently obtained through discovery or other procedures  
24 in such other litigation.

25 55. Within thirty (30) days after the Settlement Administrator mails the  
26 Settlement Claim Payments as set forth above, Class Counsel shall return to counsel  
27 for the USAA Entities all remaining Confidential Information in Paragraph 52 and also  
28 shall deliver a letter to counsel for the USAA Entities certifying compliance with this

1 Paragraph and, in the event the Confidential Information has already been destroyed,  
2 confirming that the Confidential Information was destroyed.

3 56. The Parties agree that Class Counsel or anyone associated with Class  
4 Counsel's firms shall not use of any of the Confidential Information in any other  
5 litigation, whether pending or future, unless independently obtained through discovery  
6 or other procedures in that litigation. This material may not be used in any other  
7 actions. Further, Plaintiff and his counsel agree not to use any discovery (including  
8 data) produced in the Action to solicit in any way potential new class representatives.

9 **XVIII. MISCELLANEOUS PROVISIONS**

10 57. Each Party to this Agreement warrants that he, she, or it is fully  
11 authorized to enter into this Agreement, and is acting upon his, her, or its independent  
12 judgment and upon the advice of his, her, or its counsel and not in reliance upon any  
13 warranty or representation, express or implied, of any nature or kind by any other party,  
14 other than the warranties and representations expressly made in this Agreement.

15 58. The headings and captions contained in this Agreement are for reference  
16 purposes only and in no way define, extend, limit, describe, or affect the scope, intent,  
17 meaning, or interpretation of this Agreement.

18 59. Unless otherwise noted, all references to "days" in this Agreement shall  
19 be to calendar days. In the event any date or deadline set forth in this Agreement falls  
20 on a weekend or federal or state legal holiday, such date or deadline shall be on the  
21 first business day thereafter.

22 60. Except as otherwise provided in a subsequent written amendment  
23 executed by the Parties and their counsel, this Agreement contains the entire agreement  
24 of the Parties hereto with respect to the Settlement and supersedes any prior agreements  
25 or understandings between them. The Parties further agree that this Agreement  
26 contains the entire understanding between the Parties with respect to the transaction  
27 contemplated herein, that there is no representation, agreement or obligation regarding  
28 the Settlement which is not expressly set forth in this Agreement, and that no

1 representation, inducement, promise, or agreement not expressly set forth in the text of  
2 this Agreement shall be of any force or effect. All terms of this Agreement shall be  
3 construed as if drafted by all Parties hereto. The terms of this Agreement are and shall  
4 be binding upon each of the Parties and their agents, attorneys, employees, successors,  
5 and assigns, and upon all other Persons claiming any interest in the subject matter  
6 hereof through any of the Parties hereto, including any Settlement Class Member.

7         61. This Agreement may be amended or modified only by a written  
8 instrument signed by all Parties.

9         62. This Agreement shall be subject to, governed by, construed, and enforced  
10 pursuant to the laws of the State of California, without regard to principles of conflicts  
11 of law.

12         63. The Exhibits to this Agreement are integral parts of the Settlement and are  
13 hereby incorporated and made parts of this Agreement.

14         64. To the extent permitted by law, this Agreement may be pleaded as a full  
15 and complete defense to any action, suit, or other proceeding which may be instituted,  
16 prosecuted, or attempted in breach of this Agreement.

17         65. This Agreement shall be deemed to have been executed upon the last date  
18 of execution by all the undersigned Parties and/ or counsel.

19         66. Class Counsel agree that representations, encouragements, solicitations,  
20 or other assistance to any Person seeking exclusion from the Settlement Class or any  
21 other Person seeking to litigate with Released Persons over any of the Released Claims  
22 in this matter could place Class Counsel in a conflict of interest with the Settlement  
23 Class. Accordingly, Class Counsel and their respective firms agree not to represent,  
24 encourage, solicit, or assist any Person in requesting exclusion from the Settlement  
25 Class. Nothing in this paragraph shall preclude or prevent Class Counsel from  
26 answering inquiries from any potential Settlement Class Member.

27         67. No Party or counsel (including counsel's law firms) is allowed to  
28 communicate with the press/media/reporters/journalists, etc. or on social media

1 regarding the settlement other than to say no comment or make a statement agreed to  
2 by the Parties.

3 68. The Mailed Notice shall list the address, telephone number, e-mail  
4 address, Website address, and other contact information of the Settlement  
5 Administrator and Class Counsel. Other than as provided in this Agreement,  
6 communications with Settlement Class Members relating to the Action or this  
7 Settlement shall be handled through Class Counsel and the Settlement Administrator;  
8 provided, however, that nothing in this Agreement shall be construed to prevent the  
9 USAA Entities from communicating orally, electronically, or in writing with  
10 Settlement Class Members in the ordinary course of business.

11 69. The Court shall retain jurisdiction with respect to implementation and  
12 enforcement of the terms of this Settlement Agreement, and all Parties and Settlement  
13 Class Members shall submit to the jurisdiction of the Court for purposes of  
14 implementing and enforcing the Settlement embodied herein.

15 70. This Settlement Agreement is deemed to have been prepared by counsel  
16 for all Parties, as a result of arms'-length negotiations among the Parties with the aid  
17 of a neutral mediator. Whereas all Parties have contributed substantially and materially  
18 to the preparation of this Settlement Agreement, it shall not be construed more strictly  
19 against one Party than another.

20 71. This Agreement may be signed in counterparts, each of which shall  
21 constitute a duplicate original, but all of which together shall constitute one and the  
22 same instrument.

23 72. The Parties hereto shall execute all documents and perform all acts  
24 necessary and proper to effectuate the terms of this Agreement.

25 73. The Parties reserve the right, subject to the Court's approval, to make any  
26 reasonable extensions of time that might be necessary to carry out any of the provisions  
27 of this Agreement. Such extensions must be in writing to be enforceable.  
28

1 **By the Named Plaintiff:**

2 DATED: June 30, 2022

*Les Spielman*

Lester Spielman

4  
5 **By Counsel for the Named Plaintiff:**

6 DATED: June 30, 2022

*Scott Edelsberg*

Scott Edelsberg (CA Bar No. 330990)

**EDELSBERG LAW, PA**

8  
9 DATED: June 30, 2022

*[Signature]*  
Annick Persinger (Jun 30, 2022 17:01 PDT)

Annick M. Persinger (CA Bar No. 272996)

**TYCKO & ZAVAREEI**

11  
12 DATED: June 30, 2022

*[Signature]*  
Jason H. Alperstein (Jun 30, 2022 20:04 EDT)

Jason H. Alperstein

**KOPELOWITZ OSTROW**

**FERGUSON WEISELBERG GILBERT**

14  
15 DATED: June 29, 2022

*Andrew Shamis*

Andrew John Shamis

**SHAMIS & GENTILE, P.A.**

17  
18 **By the USAA Entities:**

19 DATED: June 30, 2022

*Peter Beverage*

Peter J. Beverage

Senior Attorney, Enterprise Litigation

21  
22 **By Counsel for the USAA Entities:**

23  
24 DATED: June 30, 2022

*[Signature]*  
Jay Williams

**ArentFox Schiff LLP**

# **EXHIBIT 1**

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

LESTER I SPIELMAN, individually and  
on behalf of all others similarly situated,

Plaintiff,

v.

UNITED SERVICES AUTOMOBILE  
ASSOCIATION, USAA CASUALTY  
INSURANCE COMPANY, USAA  
GENERAL INDEMNITY COMPANY,  
and GARRISON PROPERTY AND  
CASUALTY INSURANCE COMPANY,

Defendants.

Case No. 2:19-cv-01359-TJH-MAA

**[PROPOSED] ORDER  
PRELIMINARILY APPROVING  
CLASS ACTION SETTLEMENT**

1 Plaintiff Lester I. Spielman (the “Named Plaintiff”), individually and as  
2 representative of the Settlement Class defined in Paragraph 21 below (collectively,  
3 “Plaintiffs”), and Defendants United Services Automobile Association (“USAA”), USAA  
4 Casualty Insurance Company (“CIC”), USAA General Indemnity Company (“GIC”), and  
5 Garrison Property and Casualty Insurance Company (“Garrison”) (collectively, the  
6 “USAA Entities”) have entered into a Class Action Settlement Agreement, including  
7 Exhibits 1-4 incorporated therein (the “Settlement Agreement”), to settle the above-  
8 captioned lawsuit (the “Action”).<sup>1</sup> The Settlement Agreement sets forth the terms and  
9 conditions for a proposed settlement and dismissal with prejudice of the Action.

10 The Court has carefully considered the Motion for Preliminary Approval and  
11 related papers, the Settlement Agreement, and the record in this case. The Court hereby  
12 gives its preliminary approval to the Settlement and the Settlement Agreement; finds that  
13 the Settlement and Settlement Agreement are sufficiently fair, reasonable, and adequate to  
14 allow dissemination of notice of the Settlement to the Settlement Class and to hold a Final  
15 Approval Hearing; orders that notice be sent to the Settlement Class in accordance with  
16 the Settlement Agreement; and schedules a Final Approval Hearing to determine whether  
17 the proposed Settlement is fair, reasonable, and adequate.

18 **BACKGROUND**

19 1. Lester I. Spielman filed this Action on February 22, 2019. He alleges that  
20 the USAA Entities failed to pay the full amount of sales/use tax and vehicle regulatory  
21 fees to people who insured their leased vehicles under a California Automobile Insurance  
22 Policy issued by the USAA Entities, who submitted a claim for physical damage under  
23 their comprehensive or collision coverage, and whose leased vehicles were determined to

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24 <sup>1</sup> The Settlement Agreement is hereby incorporated by reference in this Order, and all  
25 terms and phrases used in this Order shall have the same meaning as in the Settlement  
26 Agreement.

1 be a total loss. The Named Plaintiff has brought claims for breach of contract (Count I)  
2 and declaratory relief (Count II). The USAA Entities deny these allegations and maintain  
3 that they fully complied with their obligations under California law and their auto  
4 insurance policies.<sup>2</sup>

5 2. The Parties vigorously litigated this Action for nearly three years, including  
6 engaging in extensive written discovery and depositions and conducting expert discovery.  
7 In addition, USAA produced to Class Counsel extensive data regarding the putative class  
8 members' claims. The parties also participated in a mediation before the Hon. Irma  
9 Gonzales (ret.). The parties extensively briefed class certification, and the Court certified  
10 a Litigation Class as described in Paragraph 3 below. Furthermore, Class Counsel have  
11 litigated many similar class actions across the country and have detailed their expertise in  
12 representing plaintiffs and class members in these type of suits. Accordingly, Class  
13 Counsel are sufficiently informed of the nature of the Settlement Class Members' claims  
14 to be able to evaluate the benefits and risks of settlement and continued litigation, and to  
15 determine whether the proposed Settlement is fair, reasonable, and adequate to Settlement  
16 Class Members.

17 3. On December 9, 2021, the Court certified a litigation class and later clarified  
18 the class definition pursuant to a January 12, 2022 Order (the "Litigation Class").<sup>3</sup> The

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19 <sup>2</sup> On January 6, 2020, Samantha Leitz joined this Action as a plaintiff in the First Amended  
20 Class Action Complaint against USAA and CIC, her insurer. Mr. Spielman leased the  
21 vehicle at issue in this Action, and Ms. Leitz owned her vehicle, On May 5, 2021, Ms. Leitz  
22 filed a Notice of Voluntary Dismissal and dismissed with prejudice her claims against  
23 USAA and CIC. (The Action since then has involved leased vehicles only.) CIC has been  
brought back into this Action for purposes of the Settlement.

24 <sup>3</sup> The Litigation Class was defined as follows:

25 All individuals and entities in California insured by United Services Automobile  
26 Association whose insurance covered or covers a leased vehicle with private-  
27 passenger physical damage coverage, including collision or physical damage other

1 Ninth Circuit subsequently denied USAA's Rule 23(f) petition. Notice was not sent to  
2 the Litigation Class because the Parties informed the Court that they were attempting to  
3 settle the Action. The Settlement Class is broader than the Litigation Class, so all Persons  
4 who were members of the Litigation Class are Settlement Class Members.

5 **OVERVIEW OF PROPOSED SETTLEMENT**

6 4. The proposed Settlement provides, among other things, for a Settlement  
7 Fund of \$3,050,000, from which will be paid (1) the Court-approved Attorneys' Fees and  
8 Expenses Award (up to a maximum of \$1,016,565.00), plus expenses of up to a maximum  
9 of \$30,000; (2) any Service Award to the Named Plaintiff, up to a maximum of \$5,000.00;  
10 (3) the reasonable costs of settlement notice and administration, including the CAFA  
11 Notice(s) (see Paragraph 35 below), up to a maximum of \$80,000; and (4) Settlement  
12 Claim Payments to Qualifying Class Members. The amounts in items (1)-(3) above shall  
13 be finally determined by the Court in the Final Approval Order (should the Court finally  
14 approve the Settlement). The Settlement Claim Payments will be calculated based on the  
15 Net Settlement Fund—i.e., the Settlement Fund reduced by the amounts of the payments  
16 of items (1)-(3) above as set forth in the Final Approval Order. Qualifying Settlement  
17 Class Members (as described below) will receive their pro rata share of the Net Settlement  
18 Fund based on the value of the Qualifying Settlement Class Member's leased vehicle at  
19 the time of the total loss (as reflected in the USAA Entities' records) and reduced by any  
20 amounts already paid for Sales Tax and/or Vehicle Regulatory Fees.

21 5. This is not a claims-made settlement. Qualifying Settlement Class Members

22 \_\_\_\_\_  
23 than collision coverage, who made a first-party claim, filed within four years of the  
24 date the lawsuit was filed through September 12, 2020, that was adjusted by United  
25 Services Automobile Association or USAA Casualty Insurance Company as a total  
26 loss and who received an actual cash value payment from United Services  
Automobile Association or USAA Casualty Insurance Company that did not  
include sales tax and/or Vehicle Title and Registration Fees.

1 can be either Current Policyholders or Former Policyholders.<sup>4</sup> Current Policyholders who  
2 do not exclude themselves from the Settlement will automatically receive a Settlement  
3 Claim Payment as described above (in the form of a check from the Settlement  
4 Administrator), without having to submit a claim form. Former Policyholders qualify for  
5 a Settlement Claim Payment (in the form of a check from the Settlement Administrator)  
6 if they do not exclude themselves from the Settlement and if they timely submit an  
7 Address Verification Form, as described below. The Address Verification Form is  
8 designed to ensure that Settlement Claim Payments are sent to the current addresses of  
9 Former Policyholders and will reach those Former Policyholders. (The USAA Entities  
10 already have the current mailing addresses of Current Policyholders.) There is no other  
11 difference in how Settlement Claim Payments are calculated or paid with respect to  
12 Current Policyholders and Former Policyholders.

13         6. The Settlement does not provide for a reversion to the USAA Entities. The  
14 Settlement also does not provide for a *cy pres* award, except that the amounts of checks for  
15 Settlement Claim Payments that are not cashed by the time of the Stale Date (180 days  
16 after issuance) shall, with the approval of the Court in the Final Order and Judgment, be  
17 part of a *cy pres* award to a charitable organization that assists military veterans (the Parties  
18 recommend the Tragedy Assistance Program for Survivors); provided, however, that  
19 exceptions may be made for checks that are not cashed by the time of the Stale Date for  
20 service members who are then deployed.

21         7. The Settlement Release is tailored to encompass the claims at issue in this

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22  
23 <sup>4</sup> A Current Policyholder is a Settlement Class Member who, as of the date this Preliminary  
24 Approval Order is entered, is a Policyholder under a California Automobile Insurance  
25 Policy issued by one of the USAA Entities. A Former Policyholder is a Settlement Class  
26 Member who, as of the date this Preliminary Approval Order is entered, is not a  
27 Policyholder under a California Automobile Insurance Policy issued by one of the USAA  
28 Entities.

1 Action. (*See* Settlement Agreement ¶¶ 43-47.)

2 8. Individual Mailed Notices, based on the form and content recommended by  
3 the Federal Judicial Center, will be sent to all Settlement Class Members. (The Mailed  
4 Notice to Former Policyholders shall also include an Address Verification Form.) All  
5 Settlement Class Members have 60 days after notice is mailed in which to exclude  
6 themselves from or object to the Settlement. Former Policyholders have 60 days after  
7 notice is mailed in which to submit Address Verification Forms. Furthermore, Class  
8 Counsel will file their petition for an award of attorneys' fees and costs and related papers  
9 no later than \_\_\_\_\_ (14 days after the Mailed Notice Date) to allow sufficient  
10 time for Settlement Class Members to evaluate their request.

11 9. The Settlement also provides for the creation of a content-neutral Settlement  
12 Website, maintained by the Settlement Administrator, with all relevant materials and  
13 information (including a mechanism for online submission of Address Verification  
14 Forms). In addition, the Settlement Administrator will set up an IVR/VRU telephone  
15 system containing recorded answers to frequently asked questions, along with an option  
16 permitting Settlement Class Members to speak to live operators during regular business  
17 hours or leave messages in a voicemail box.

18 10. In addition, as part of the Settlement, the USAA Entities have agreed to pay  
19 applicable Sales Tax and Title and Registration Fees on total loss vehicles in California  
20 without regard to whether the vehicle is leased or owned. The USAA Entities reserve the  
21 right to change their practices in the event of a change in California law, a change in the  
22 State of California's taxes or fees charged incidental to the transfer of ownership of motor  
23 vehicles titled and/or registered in California, or other changes in taxes and fees, or  
24 appropriate changes in the terms of the applicable insurance policies.

1           **FINDINGS AND CONCLUSIONS**

2           11. This Court has personal jurisdiction over all Settlement Class Members. The  
3 Court has subject matter jurisdiction to approve the Settlement Agreement and subject  
4 matter jurisdiction over this Action pursuant to the Class Action Fairness Act of 2005.  
5 There is CAFA diversity (the Named Plaintiff is a citizen of California, and the USAA  
6 Entities are all citizens of Texas); there are more than 100 class members; and the amount  
7 in controversy exceeds \$5,000,000, exclusive of interest and costs. *See* 28 U.S.C. § 1332(d).

8           12. The Court preliminarily approves the Settlement Agreement and finds that  
9 the proposed Settlement, including but not limited to the Settlement Fund and Net  
10 Settlement Fund, the calculation of Settlement Claim Payments, the distribution of  
11 payments to Qualifying Settlement Class Members, the Mailed Notice, the Address  
12 Verification Form for Former Policyholders, the Settlement Website, the requirements  
13 for exclusions and objections, the Release, the Attorneys' Fees and Expenses Award, and  
14 the Service Award, is sufficiently fair, reasonable, and adequate to warrant preliminary  
15 approval.

16           13. The Court therefore finds that notice is justified because the Parties have  
17 shown that the Court likely will be able to approve the Settlement under Rule 23(e)(2) and  
18 to certify the Settlement Class for purposes of judgment.<sup>5</sup> Because the Court previously

19           <sup>5</sup> Rule 23(e)(2) provides:

20           (2) Approval of the Proposal. If the proposal would bind class members, the court  
21 may approve it only after a hearing and only on finding that it is fair, reasonable,  
22 and adequate after considering whether:

23           (A) the class representatives and class counsel have adequately represented the class;

24           (B) the proposal was negotiated at arm's length;

25           (C) the relief provided for the class is adequate, taking into account:

26                   (i) the costs, risks, and delay of trial and appeal;

27                   (ii) the effectiveness of any proposed method of distributing relief to the  
28 class, including the method of processing class-member claims;

                  (iii) the terms of any proposed award of attorney's fees, including timing of

certified the Litigation Class, the “higher standard of fairness” and “more probing inquiry than may normally be required under Rule 23(e),” *see, e.g., Dennis v. Kellogg Co.*, 697 F.3d 858, 864 (9th Cir. 2012), does not apply. Nevertheless, the Court has applied this higher standard of review to determine whether the Settlement should be preliminarily approved.

14. The Settlement (1) appears to be the product of serious, informed, non-collusive negotiations; (2) does not grant improper preferential treatment to class representatives or other segments of the class; (3) falls within the range of possible approval; and (4) has no obvious deficiencies. *See, e.g., Patrick v. Volkswagen Grp. of Am.*, No. 8:19-cv-01908-MCS-ADS, 2021 WL 3616105, at \*1 (C.D. Cal. March 10, 2021).

15. First, the Settlement was the product of nearly three years of litigation. Furthermore, Class Counsel believe, based on their familiarity with the extensive production of documents and data spreadsheets relevant to this Action, the significant fact and expert discovery, and their institutional knowledge and experience related to total loss class action claims and the strengths and weaknesses thereof, that the settlement is fair, reasonable, and adequate.

16. Second, the Settlement does not grant preferential treatment to the Class Representative or other Members of the Settlement Class. Although the Named Plaintiff requests a Service Award of up to \$5,000, the Court is not obligated to award this amount, or any amounts, and will make that determination at final approval based on the evidence presented. Moreover, the Settlement treats all Settlement Class Members equally; the Settlement Claim Payments will be calculated based on the value of their vehicles, which is reasonably related to the amounts alleged to be owed for taxes and fees. The only difference in treatment among Settlement Class Members is that Former Policyholders

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payment; and  
(iv) any agreement required to be identified under Rule 23(e)(3); and  
(D) the proposal treats class members equitably relative to each other.

1 must submit a simple Address Verification Form to help ensure that Settlement Claim  
2 Payments reach their current addresses. The Address Verification Form may be submitted  
3 by mail (a copy will be sent with the Mailed Notice to all Former Policyholders, and will  
4 also be available online) or online on the Settlement Website, and Former Policyholders  
5 have 60 days in which to do so. The Court finds that the Address Verification Form  
6 imposes no appreciable burden on Former Policyholders, and its use is justified to attempt  
7 to ensure that Settlement Claim Payments are mailed to Former Policyholders' current  
8 addresses so that they will receive them.

9 17. Third, the Settlement falls well within the range of possible approval.  
10 Settlement Class Members who do not exclude themselves are entitled to payments  
11 without having to submit a claim form. Furthermore, there is no reversion of the  
12 Settlement Fund to the USAA Entities; all of the Settlement Fund will go to pay for  
13 Settlement Claim Payments, after payments of fees and expenses, and the only potential  
14 for a *cy pres* award is with respect to uncashed checks. Class Counsel has sufficiently  
15 justified the amounts noted in Paragraph 4 for purposes of preliminary approval.

16 18. Finally, the Court finds that there are no obvious deficiencies in the  
17 Settlement. Among other things, the Settlement provides for robust individual notice,  
18 based on the model forms of the Federal Judicial Center; provides ample opportunity for  
19 Settlement Class Members to exclude themselves from or object to any element of the  
20 Settlement; and the Release is narrowly tailored to the Settlement Class Members' claims.

21 19. Accordingly, notice of the proposed Settlement shall be provided to the  
22 Settlement Class as set forth herein and in the Settlement Agreement.

23 **IT IS HEREBY ORDERED:**

24 20. The Court hereby vacates the Litigation Class and certifies the Settlement  
25 Class as set forth in Paragraph 21 below. Should this Settlement not become Final, the  
26 Parties will be returned to the *status quo ante* as of May 17, 2022, including that the Litigation  
27

1 Class shall automatically be recertified, as provided in Paragraph 49 below and the  
2 Settlement Agreement.

3 21. The Court preliminarily certifies, for settlement purposes only, the following  
4 Settlement Class pursuant to Federal Rules of Civil Procedure 23(b)(3) and (e):

5 All individuals and entities insured by the USAA Entities under a California  
6 automobile policy whose insurance covered or covers a leased vehicle under  
7 private-passenger physical damage coverage, including collision and physical  
8 damage other than collision coverage, and who made a first-party claim from  
9 February 22, 2015 through the date of preliminary approval, whose leased vehicle  
10 was determined by the USAA Entities to be a Total Loss, and who received a Total  
11 Loss Claim Payment from the USAA Entities for the value of the totaled vehicle  
12 that did not include the full amount of the Sales Tax and/or Vehicle Regulatory  
13 Fees.

14 Excluded from the Settlement Class are: (1) all officers, employees, and  
15 agents of the USAA Entities, Class Counsel, and their immediate family members,  
16 and (2) any members of the judiciary assigned to the Action and their immediate  
17 families.

18 22. The USAA Entities and the Released Persons shall retain all rights to assert  
19 that the Action may not be certified as a class action except for settlement purposes.

20 23. In accordance with the Settlement, the Named Plaintiff has moved for leave  
21 to file a Second Amended Complaint. The Court grants the motion. The USAA Entities  
22 are not obligated to answer or otherwise respond to the Second Amended Complaint. If  
23 the Settlement does not become Final, the Second Amended Complaint shall be  
24 withdrawn as further set forth in Paragraph 8 of the Settlement Agreement; the First  
25 Amended Complaint shall become the operative complaint (except that CIC shall remain  
26 dismissed from this Action, as provided in the May 5, 2021 Notice of Voluntary Dismissal,  
27 *see supra* note 2); and the Parties shall be returned to the *status quo ante* as of May 17, 2022.  
28 The Second Amended Complaint shall not be offered, received, or construed as an  
admission or as evidence by any Person for any purpose (in this Action or any other  
proceeding), including but not limited to an admission by the USAA Entities of liability  
or the truth of the allegations of the Second Amended Complaint or of the certifiability

1 of the Litigation Class or any litigation class.

2       24. The Court appoints Lester I. Spielman as Class Representative. The Court  
3 finds that Spielman will fairly and adequately represent the interests of the Settlement  
4 Class.

5       25. The Court appoints the following as Class Counsel:

6 Annick Persinger  
7 **TYCKO & ZAVAREEI LLP**  
8 10880 Wilshire Blvd., Suite 1101  
9 Los Angeles, CA 90024  
Telephone: (213) 425-3657  
Email: apersinger@tzlegal.com

10 Jason H. Alperstein  
11 Jeff Ostrow  
12 Jonathan Streisfeld  
13 **KOPELOWITZ OSTROW**  
14 **FERGUSON WEISELBERG GILBERT**  
15 One West Las Olas, Suite 500  
Fort Lauderdale, FL 33301  
Telephone: (954) 525-4100  
Email: alperstein@kolawyers.com  
ostrow@kolawyers.com  
streisfeld@kolawyers.com

16 Scott Edelsberg  
17 **EDELSBERG LAW, PA**  
18 20900 NE 30<sup>th</sup> Ave., Suite 417  
Aventura, FL 33180  
Telephone: (305) 975-3320  
Email: scott@edelsberglaw.com

19 Andrew J. Shamis  
20 **SHAMIS & GENTILE, P.A.**  
21 14 NE 1st Avenue, Suite 400  
22 Miami, FL 33132  
Telephone: (305) 479-2299  
Email: ashamis@shamisgentile.com

23 The Court finds that Class Counsel will fairly and adequately represent the interests of the  
24 Settlement Class. Class Counsel have demonstrated extensive knowledge of the facts and  
25 legal issues in this case, and have served as Class Counsel in many other similar class action  
26 suits across the country.

1        26. As noted above, the Court previously certified the Litigation Class. The  
2 Court finds, for purposes of preliminary approval and for settlement purposes only, that  
3 (a) Members of the Settlement Class are so numerous as to make joinder of all Settlement  
4 Class Members impracticable; (b) there are questions of law or fact common to Members  
5 of the Settlement Class; (c) the claims of the Named Plaintiff are typical of the claims of  
6 the Settlement Class Members; (d) the Named Plaintiff and Class Counsel will fairly and  
7 adequately protect the interests of the Settlement Class Members, and their interests are  
8 not in conflict with those of the Settlement Class Members; (e) questions of law or fact  
9 common to the Settlement Class Members predominate over questions affecting only  
10 individual Settlement Class Members; and (f) a class action is superior to other available  
11 methods for the fair and efficient adjudication of the controversy.

12        27. The Court appoints Epiq as the Settlement Administrator, which shall  
13 administer the Settlement in accordance with the terms and conditions of this Order and  
14 the Settlement Agreement.

15        28. Within fourteen (14) days after entry of this Preliminary Approval Order, the  
16 USAA Entities shall mail a check to Epiq in the amount of \$50,000.00 to cover the initial  
17 costs of settlement notice, the CAFA Notice(s), and settlement administration up through  
18 the Effective Date. This \$50,000 payment shall reduce the remaining Maximum Monetary  
19 Obligation of the USAA Entities to \$3,000,000. (In other words, the USAA Entities'  
20 Maximum Monetary Obligation under this Settlement shall never be any greater than  
21 \$3,050,000.) If the Settlement does not become Final for any reason, and the Settlement  
22 Administrator has not used all of the \$50,000 payment identified above for Settlement-  
23 related costs and fees by that point, the Settlement Administrator shall promptly return to  
24 the USAA Entities any unused amounts.

25        29. The Court has reviewed and approves the form and content of the Mailed  
26 Notice, which shall be without material alteration from Exhibit 2 to the Settlement  
27

1 Agreement.

2       30. The Court has reviewed and approves the Address Verification Form  
3 (Exhibit 3 to the Settlement Agreement) to be mailed to Former Policyholders along with  
4 the Mailed Notice. To be considered timely, an Address Verification Form must be  
5 submitted by the Former Policyholder or that Settlement Class Member's Legally  
6 Authorized Representative so that it is postmarked and mailed to the Settlement  
7 Administrator by no later than \_\_\_\_\_ (60 days after the  
8 Mailed Notice Date) or submitted online on the Settlement Website by that date. Any  
9 Address Verification Form postmarked or submitted after this date shall be untimely and  
10 invalid, and the Former Policyholder will not be eligible for a payment under the  
11 Settlement.

12       31. The Court approves the Settlement's notice plan as set out in Paragraphs 11-  
13 14 of the Settlement Agreement. The Court finds that the notice plan constitutes  
14 reasonable and the best practicable notice under the circumstances and an appropriate and  
15 sufficient effort to locate current addresses for Settlement Class Members such that no  
16 additional efforts to do so shall be required.

17       32. As soon as practicable after entry of this Preliminary Approval Order, the  
18 USAA Entities shall make a reasonable search of their computer/electronic databases to  
19 ascertain the name and last-known address of each potential Settlement Class Member.  
20 Within forty-five (45) days after entry of this Order, the USAA Entities shall provide the  
21 Settlement Administrator and Class Counsel with a list of the names and addresses of the  
22 potential Settlement Class Members, as well as the Class Data described in Paragraphs 9-  
23 10 of the Settlement Agreement. Before mailing the Mailed Notice, the Settlement  
24 Administrator shall follow the procedures for updating the addresses as set out in  
25 Paragraph 14 of the Settlement Agreement. The Settlement Administrator may also  
26 perform such further reasonable search for a more-current name and/or address for the  
27

1 potential Settlement Class Member, as set out in Paragraph 14 of the Settlement  
2 Agreement.

3 33. The Settlement Administrator shall send a copy of the Mailed Notice by first-  
4 class mail to each potential Settlement Class Member identified as a result of the above-  
5 mentioned search(es). If any Mailed Notice mailed to any potential Settlement Class  
6 Member is returned to the Settlement Administrator as undeliverable, the Settlement  
7 Administrator shall follow the procedures in Paragraph 14 of the Settlement Agreement.  
8 In the event that any Mailed Notice is returned as undeliverable a second time, no further  
9 mailing shall be required.

10 34. The Settlement Administrator shall use its best efforts to complete the  
11 mailing of the Mailed Notice to potential Settlement Class Members within sixty (60) days  
12 after entry of the Preliminary Approval Order  
13 (\_\_\_\_\_) (the "Mailed Notice Date"). Other  
14 than the Website and the Mailed Notice, the USAA Entities shall not be obligated to  
15 provide any additional notice of this Settlement. The USAA Entities shall not be obligated  
16 to provide additional notice to any counsel who previously represented or currently  
17 represents a Settlement Class Member with regard to the claims at issue in this Settlement.

18 35. The Court finds that the Class Action Fairness Act of 2005 Notice(s) (the  
19 "CAFA Notice(s)") to be sent by the Settlement Administrator as directed by the USAA  
20 Entities are in full compliance with 28 U.S.C. § 1715.

21 36. The Court directs the Settlement Administrator to establish the Website as  
22 described in Paragraph 14 of the Settlement Agreement. The Website shall include, at a  
23 minimum, copies of the Settlement Agreement, the Mailed Notice, the Address  
24 Verification Form (including a mechanism for online submission of the Address  
25 Verification Form), the preliminary approval motion and related papers, and this Order;  
26 shall identify important deadlines and provide answers to frequently asked questions; and  
27

1 may be amended as appropriate during the course of the Settlement administration. Class  
2 Counsel's fee petition and related papers shall be promptly posted on the Website after  
3 they are filed. The Website shall be maintained for at least one hundred eighty (180) days  
4 after the Effective Date.

5 37. The Court finds that the notice to be provided to Settlement Class Members  
6 (i) is the best practicable notice under the circumstances; (ii) is reasonably calculated under  
7 the circumstances to apprise Settlement Class Members of the pendency of the Action  
8 and of their right to object to or exclude themselves from the proposed Settlement; (iii) is  
9 reasonable and constitutes due, adequate, and sufficient notice to all Persons entitled to  
10 receive notice; and (iv) meets all applicable requirements of Federal Rule of Civil  
11 Procedure 23, due process, California law, and any other applicable rules or laws.

12 38. The Court directs the Settlement Administrator to maintain a toll-free  
13 VRU/IVR telephone system containing recorded answers to frequently asked questions,  
14 along with an option permitting Settlement Class Members to speak to live operators  
15 during regular business hours or leave messages in a voicemail box, as provided in  
16 Paragraph 14 of the Settlement Agreement.

17 39. The Court approves the procedures set forth in the Settlement Agreement  
18 and the Mailed Notice for exclusions from and objections to the Settlement.

19 40. Any Settlement Class Members who wish to exclude themselves from the  
20 Settlement Class must comply with the terms set forth in the Settlement Agreement and  
21 the Mailed Notice. To be considered timely, a request for exclusion must be mailed to  
22 the Settlement Administrator postmarked no later than  
23 \_\_\_\_\_ (60 days after the Mailed Notice Date).

24 Requests for exclusion must be exercised individually by a Settlement Class Member, not  
25 as or on behalf of a group, class, or subclass, except that exclusion requests may be  
26 submitted on behalf of an individual Settlement Class Member by that Settlement Class  
27

1 Member's Legally Authorized Representative.

2 41. The Settlement Administrator shall provide Class Counsel and the USAA  
3 Entities a copy of the Opt-Out List (which shall be a list of all Persons who timely and  
4 properly requested exclusion from the Settlement Class), no later than seven (7) days after  
5 the Opt-Out Deadline. The Settlement Administrator shall also file proof of completion  
6 of the Mailed Notice at least ten (10) days before the Final Approval Hearing, along with  
7 the Opt-Out List and an affidavit attesting to the accuracy of the Opt-Out List.

8 42. Any Settlement Class Member who does not submit a timely, written request  
9 for exclusion from the Settlement Class will be bound by all proceedings, orders, and  
10 judgments in the Action, even if the Settlement Class Member has previously initiated or  
11 subsequently initiates individual litigation or other proceedings encompassed by the  
12 Released Claims, and even if such Settlement Class Member never received actual notice  
13 of the Action or the proposed Settlement.

14 43. Each Settlement Class Member who has not submitted a timely request for  
15 exclusion from the Settlement Class and who wishes to object to the fairness,  
16 reasonableness, or adequacy of the Settlement Agreement or any term or aspect of the  
17 proposed Settlement, or to intervene in the Action, must provide to the Settlement  
18 Administrator (who shall forward it to Class Counsel and counsel for the USAA Entities)  
19 and file with the Court no later than \_\_\_\_\_ (60  
20 days after the Mailed Notice Date) a statement of the objection or motion to intervene, as  
21 well as the specific legal and factual reasons for each objection or motion to intervene,  
22 including any support the Settlement Class Member wishes to bring to the Court's  
23 attention and all evidence the Settlement Class Member wishes to introduce in support of  
24 his or her objection or motion, or be forever barred from objection or motion to  
25 intervene. The objection shall comply with the Settlement Agreement and Mailed Notice  
26 and contain at least the following: (1) a heading that refers to the Action by case name

1 and case number; (2) a statement of the specific legal and factual basis for each objection  
2 or intervention argument; (3) a statement whether the objecting or intervening Settlement  
3 Class Member intends to appear at the Final Approval Hearing, either in person or  
4 through counsel and, if through counsel, a statement identifying that counsel by name,  
5 bar number, address, and telephone number; (4) a description of any and all evidence the  
6 objecting Settlement Class Member may offer at the Final Approval Hearing, including  
7 but not limited to the names, addresses, and expected testimony of any witnesses; all  
8 exhibits intended to be introduced at the Final Approval Hearing; and documentary proof  
9 of the objecting Settlement Class Member's membership in the Settlement Class; and (5)  
10 a list of other cases in which the objector or intervenor or counsel for the objector or  
11 intervenor has appeared either as an objector or counsel for an objector in the last five  
12 years. Furthermore, any motion to intervene must comply with the Federal Rules of Civil  
13 Procedure and the Local Rules of the Court. All objectors shall make themselves available  
14 to be deposed by any Party in the county of the objector's residence within seven (7) days  
15 of service of his or her timely written objection.

16       44. Any attorney hired by, representing, or assisting (including, but not limited  
17 to, by drafting or preparing papers for a Settlement Class Member) a Settlement Class  
18 Member for the purpose of objecting to any term or aspect of the Settlement Agreement  
19 or to the proposed Settlement or intervening in the Action to provide to the Settlement  
20 Administrator (who shall forward it to Class Counsel and Counsel for the USAA Entities)  
21 and to file with the Clerk of the Court a notice of appearance no later than  
22 \_\_\_\_\_ (60 days after the Mailed Notice Date).

23       45. All objections to the proposed Settlement shall be signed by the Settlement  
24 Class Member (or his or her Legally Authorized Representative), even if the Settlement  
25 Class Member is represented by counsel. The right to object to the proposed Settlement  
26 or to intervene must be exercised individually by a Settlement Class Member and his or  
27

her, and not as a member of a group, class, or subclass, except that such objections and motions to intervene may be submitted by a Settlement Class Member's Legally Authorized Representative.

46. Class Counsel shall file their petition for an award of attorneys' fees and costs and related papers no later than \_\_\_\_\_ (fourteen (14) days after the Mailed Notice Date) to allow sufficient time for Settlement Class Members to evaluate their request.

47. The Court preliminarily enjoins all Settlement Class Members and their Legally Authorized Representatives, unless and until they have submitted a timely request for exclusion from the Settlement Class, (i) from filing, commencing, prosecuting, intervening in, or participating as plaintiff, claimant, or class member in any other lawsuit or administrative, regulatory, arbitration, or other proceeding in any jurisdiction based on the Released Claims; (ii) from filing, commencing, or prosecuting a lawsuit or administrative, regulatory, arbitration, or other proceeding as a class action on behalf of any Settlement Class Members (including by seeking to amend a pending complaint to include class allegations or seeking class certification in a pending action), based on the Released Claims; and (iii) from attempting to effect an optout of a group, class, or subclass of individuals in any lawsuit or administrative, regulatory, arbitration, or other proceeding based on the Released Claims.

48. The Court directs the Settlement Administrator to rent a post office box to be used for receiving objections, notices of intention to appear, and any other settlement-related communications. Only the Settlement Administrator, Class Counsel, the USAA Entities, the USAA Entities' counsel, the Court, the Clerk of the Court, and their designated agents shall have access to this post office box, except as otherwise expressly provided in the Settlement Agreement. The Settlement Administrator shall promptly (within one business day of receipt) furnish Class Counsel and Counsel for the USAA

1 Entities copies of any and all objections, motions to intervene, notices of intention to  
2 appear, and other communications that come into its possession (except as otherwise  
3 expressly provided in the Settlement Agreement).

4       49. The Court orders that the preliminary certification of the Settlement Class  
5 and the preliminary approval of the proposed Settlement, and all actions associated with  
6 them, are undertaken on the condition that the certification and designations shall be  
7 automatically vacated if the Settlement Agreement is terminated or is disapproved in  
8 whole or in part by the Court, any appellate court, or any other court of review, or if the  
9 Settlement Agreement is revoked pursuant to Paragraphs 49-51 of the Settlement  
10 Agreement, or if the Settlement does not become Final in any way. If the Settlement does  
11 not become Final, the Parties shall be returned to the *status quo ante* as of May 17, 2022, as  
12 provided in the Settlement Agreement.

13       50. The Court further orders that the Settlement Agreement and the fact that it  
14 was entered into shall not be offered, received, or construed as an admission or as evidence  
15 for any purpose, including but not limited to an admission by any Party of liability or non-  
16 liability or of any misrepresentation or omission in any statement or written document  
17 approved or made by any Party, or of the certifiability of the Litigation Class or any  
18 litigation class, or otherwise be used by any Person for any purpose whatsoever, other  
19 than an action to enforce the Settlement Agreement, in the Actions or any other  
20 proceeding, as further provided in the Settlement Agreement.

21       51. The Court stays all proceedings in the Action until further order of Court,  
22 except that the Parties may conduct such limited proceedings as may be necessary to  
23 implement the proposed settlement or to effectuate the terms of the Settlement  
24 Agreement.

25       52. The Final Approval Hearing shall be held at \_\_\_\_\_.m. on \_\_\_\_\_,  
26 \_\_\_\_\_, 2022, for the purposes of determining (a) whether the Settlement

1 is fair, reasonable, and adequate and should be finally approved by the Court; (b) the merit  
2 of any objections to the Settlement; (c) the requested Attorneys' Fees and Expenses Award  
3 to Class Counsel; (d) the requested Service Award to the Named Plaintiff; and (e) entry of  
4 the Final Approval Order and Judgment approving the Settlement.

5 53. The Court may, for good cause, extend any deadlines set forth in this Order  
6 without further notice to the Settlement Class.

7 Dated: \_\_\_\_\_

8 Judge Terry J. Hatter, Jr.  
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## **EXHIBIT 2**

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

**If You Insured a Leased Vehicle Under a USAA California Auto Insurance Policy and Did Not Receive Payment for Sales Tax and Vehicle Regulatory Fees After the Vehicle Was Totaled, you may be eligible for a payment under a class action settlement.**

*A court authorized this Notice. This is not a solicitation from a lawyer. You are not being sued.*

**If you are a Class Member, your legal rights are affected whether you act or don't act.**

**PLEASE READ THIS NOTICE CAREFULLY**

- This Notice provides information about a proposed Settlement of a class action lawsuit regarding the payment of California sales/use tax and vehicle regulatory fees for leased vehicles that were totaled and were insured under a California Automobile Insurance Policy issued by a USAA company. The lawsuit generally alleges that the USAA companies failed to pay the full amount of sales/use tax and vehicle regulatory fees on leased vehicles. This case does NOT involve vehicles that are owned by the USAA policyholder.
- The USAA companies deny any wrongdoing and maintain that they have complied with and exceeded their obligations under California law and their insurance policies. The Court has not ruled on the merits of the claims.
- Under the Settlement, there will be a \$3.05 million Settlement Fund. If the Court approves the Settlement, "Current Policyholders" will be eligible for a payment based on their share of the Settlement Fund, after the payment of attorneys' fees and expenses, any Class Representative service award, and the costs of notice and settlement administration. "Former Policyholders" are eligible for a payment if they return an Address Verification Form. (This process is explained in more detail in Questions 8-14 below.) The exact amount each Class Member will be paid cannot be calculated until the Court approves the Settlement, and the fees, expenses, and total number of participating Class Members are determined.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
<b>EXCLUDE YOURSELF</b>	Get no payment. This is the only option that allows you to ever be a part of any other lawsuit against the USAA companies about the legal claims in this case.
<b>OBJECT</b>	Write to the Court about why you don't like the Settlement.
<b>GO TO A HEARING</b>	Ask to speak in Court about the fairness of the Settlement.
<b><u>CURRENT</u> POLICYHOLDERS: DO NOTHING</b>	Get a share of the Settlement Fund. Current Policyholders do not need to do anything to receive such a payment.
<b><u>FORMER</u> POLICYHOLDERS: DO NOTHING</b>	Get no payment. Give up rights. If you are a Class Member, the terms of the Settlement will still apply to you. To be eligible for a payment, you must return an Address Verification Form (see Question 9 below).
<b><u>FORMER</u> POLICYHOLDERS: SUBMIT AN ADDRESS VERIFICATION FORM</b>	If you are a Former Policyholder and submit a timely Address Verification Form, you will be eligible for a share of the Settlement Fund.

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve this Settlement. Payments will be made if the Court approves the Settlement and after any appeals are resolved. Please be patient.

QUESTIONS? CALL 1-\_\_\_\_-\_\_\_\_-\_\_\_\_ TOLL-FREE, OR VISIT [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

PARA UNA NOTIFICACIÓN EN ESPAÑOL, LLAMAR 1-\_\_\_\_-\_\_\_\_-\_\_\_\_,  
O VISITAR [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

## WHAT THIS NOTICE CONTAINS

### BASIC INFORMATION .....

1. Why did I get this Notice?
2. Who are the Parties?
3. What is this lawsuit about?
4. Why is this a class action? What is a class action?
5. Why is there a Settlement?

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### THE SETTLEMENT BENEFITS—WHAT YOU GET .....

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18. Do I have a lawyer in this case?
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### OBJECTING TO THE SETTLEMENT .....

20. How do I tell the Court that I don't like the Settlement?
21. What's the difference between objecting and excluding yourself?

### THE COURT'S FINAL APPROVAL HEARING .....

22. When and where will the Court decide whether to approve the Settlement?
23. Do I have to come to the Final Approval Hearing?
24. May I speak at the Final Approval Hearing?

QUESTIONS? CALL 1-\_\_\_\_-\_\_\_\_-\_\_\_\_ TOLL-FREE, OR VISIT [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

PARA UNA NOTIFICACIÓN EN ESPAÑOL, LLAMAR 1-\_\_\_\_-\_\_\_\_-\_\_\_\_,  
O VISITAR [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

**IF YOU DO NOTHING .....**\_\_\_\_\_

25. What happens if I do nothing at all?

**GETTING MORE INFORMATION.....**\_\_\_\_\_

26. How do I get more information about the Settlement?

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QUESTIONS? CALL 1-\_\_\_\_-\_\_\_\_-\_\_\_\_ TOLL-FREE, OR VISIT [www.\\_\\_\\_\\_\\_.com](http://www._____.com).  
PARA UNA NOTIFICACIÓN EN ESPAÑOL, LLAMAR 1-\_\_\_\_-\_\_\_\_-\_\_\_\_,  
O VISITAR [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

## BASIC INFORMATION

### 1. Why did I get this Notice?

The Court authorized sending you this Notice because you are a possible Class Member. You have a right to know about a proposed Settlement of a class action, and about all of your options, before the Court decides whether to give “final approval” to the Settlement. If the Court approves the Parties’ Class Action Settlement Agreement, and after any objections and appeals are resolved, an administrator appointed by the Court will make the payments that the Settlement allows.

This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available under the Settlement, who is eligible for them, and how to get them.

The Court in charge of the case is the United States District Court for the Central District of California, Judge Terry J. Hatter, Jr. More information on the lawsuit is in Question 3 below.

### 2. Who are the Parties?

The person who sued is called the “Plaintiff,” and the companies he sued are called “Defendants.” The Plaintiff in this case is Lester I. Spielman. The Defendants are United Services Automobile Association (“USAA”), USAA Casualty Insurance Company (“USAA CIC”), USAA General Indemnity Company (“USAA GIC”), and Garrison Property and Casualty Insurance Company (“Garrison”). These USAA companies are also sometimes called “Defendants” or the “USAA Entities.”

### 3. What is this lawsuit about?

This case is *Lester I. Spielman v. United Services Automobile Association, et al.*, Case No. 2:19-cv-01359 (U.S. District Court for the Central District of California).

The lawsuit alleges that the USAA companies failed to pay the full amount of sales/use tax and vehicle regulatory fees to people who insured their leased vehicles under a California Automobile Insurance Policy, who submitted a claim for physical damage under their comprehensive or collision coverage, and whose leased vehicle was determined to be a total loss, from February 22, 2015 to [date of preliminary approval].

The Court previously certified a litigation class in December 2021, but did not order notice to be sent. That litigation class is narrower than the Settlement Class, so anyone who was a member of the litigation class (which has now been vacated as part of this Settlement) is a member of the Settlement Class. For more information on the Settlement Class definition, see Question 6 below.

The USAA companies deny that they did anything wrong, and maintain that they have complied with and exceeded their obligations under California law and their insurance policies. The Parties, however, have agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of continued litigation.

### 4. Why is this a class action? What is a class action?

In a class action lawsuit, one or more people, called “Class Representatives,” sue on behalf of people who have similar claims. All these people together are a “Class” or “Class Members.” One court resolves the issues for all Class Members, except for those who choose to exclude themselves from the Class.

### 5. Why is there a settlement?

The Court did not decide in favor of Plaintiff or Defendants. Instead, both sides agreed to a settlement to avoid the cost, delay, and uncertainty of further litigation, and the people affected will get compensation. The USAA companies have denied all liability in the lawsuit. The Class Representative and Class Counsel think that the Settlement is in the

QUESTIONS? CALL 1-\_\_\_\_-\_\_\_\_-\_\_\_\_ TOLL-FREE, OR VISIT [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

PARA UNA NOTIFICACIÓN EN ESPAÑOL, LLAMAR 1-\_\_\_\_-\_\_\_\_-\_\_\_\_,  
O VISITAR [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

best interests of Class Members.

## WHO IS IN THE SETTLEMENT

To see if you are affected by the proposed Settlement, you first have to determine if you are a Class Member.

### 6. How do I know if I am part of the Settlement? What is the Class definition?

If you were sent this Notice postmarked on \_\_\_\_\_, 2022, that means that the USAA companies' records show that you are a Settlement Class Member.

The Settlement Class is defined as follows:

All individuals and entities insured by the USAA Entities under a California automobile policy whose insurance covered or covers a leased vehicle under private-passenger physical damage coverage, including collision and physical damage other than collision coverage, and who made a first-party claim from February 22, 2015 through [the date of preliminary approval], whose leased vehicle was determined by the USAA Entities to be a Total Loss, and who received a Total Loss Claim Payment from the USAA Entities for the value of the totaled vehicle that did not include the full amount of the Sales Tax and/or Vehicle Regulatory Fees.

Excluded from the Settlement Class are: (1) all officers, employees, and agents of the USAA Entities, Class Counsel, and their immediate family members, and (2) any members of the judiciary assigned to the Action and their immediate families.

"Total Loss" means an insured vehicle that sustained damage, was the subject of a covered first-party property damage claim submitted to one of the USAA Entities under a California Automobile Insurance Policy, and for which the USAA Entity issued a Total Loss Claim Payment.

"Total Loss Claim Payment" means a first-party property damage claim payment made by one of the USAA Entities for a leased vehicle determined to be a Total Loss.

"Sales Tax" means any mandatory sales or use tax collected or assessed by the State of California and any of its counties, cities, or political subdivisions when a vehicle is purchased, leased, or sold.

"Vehicle Regulatory Fees" means any mandatory fees collected or assessed by the State of California and any of its counties, cities, or political subdivisions when a vehicle is purchased, leased, sold, titled, or registered.

If you are still not sure whether you are included, you can get free help. You can call the Settlement Administrator toll-free at 1-\_\_\_\_-\_\_\_\_; send an e-mail to \_\_\_\_\_; or visit the website, www.\_\_\_\_\_ for more information. You may also contact any of the Class Counsel listed in Question 18 below. You are not required to pay anyone to assist you in obtaining information about or a payment from the Settlement.

### 7. I'm still not sure if I am included.

If you are still not sure whether you are included, you can get free help. You can call the Settlement Administrator toll-free at 1-\_\_\_\_-\_\_\_\_; send an e-mail to \_\_\_\_\_; or visit the website, www.\_\_\_\_\_ for more information. You may also contact any of the Class Counsel listed in Question 18 below. You are not required to pay anyone to assist you in obtaining information about or a payment from the Settlement.

## THE SETTLEMENT BENEFITS—WHAT YOU GET

### 8. What does the proposed Settlement provide?

There will be a \$3.05 million (\$3,050,000) Settlement Fund. "Current Policyholders" will be eligible for a

QUESTIONS? CALL 1-\_\_\_\_-\_\_\_\_ TOLL-FREE, OR VISIT www.\_\_\_\_\_.com.

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O VISITAR www.\_\_\_\_\_.com.

payment based on their “*pro rata* share” of the Settlement Fund after payment has been made for attorneys’ fees and expenses, any Class Representative service award, and the costs of notice and settlement administration. (See Question 9 for an explanation of those terms and Question 19 for an explanation of the amounts Plaintiff proposes for attorneys’ fees and expenses, the service award, and the costs of notice and settlement administration.) “Former Policyholders” are eligible for a payment if they return an Address Verification Form. See Question 9 for more information. A Class Member’s *pro rata* share will be calculated based on the value of the Class Member’s leased vehicle at the time of the total loss (as reflected in the USAA Entities’ records) and reduced by any amounts already paid for Sales Tax and/or Vehicle Regulatory Fees.

In addition, the Settlement provides that the USAA Entities agree to pay applicable Sales Tax and Title and Registration Fees on total loss vehicles in California without regard to whether the vehicle is leased or owned. In other words, leased vehicles will be treated as owned vehicles for purposes of the payment of these taxes and fees on total loss vehicles. The USAA Entities reserve the right to change their practices in the event of a change in California law, a change in the State of California’s taxes or fees charged incidental to the transfer of ownership of motor vehicles titled and/or registered in California, or other changes in taxes and fees, or appropriate changes in the terms of the applicable insurance policies.

If the Settlement becomes final, the lawsuit will be dismissed with prejudice, and the USAA companies will receive a complete release and discharge of the claims asserted in the lawsuit. (See Question 14 below for more details.)

**9. Who is a “Current Policyholder”? Who is a “Former Policyholder”? What do they need to do to participate in the Settlement?**

A “Current Policyholder” is Settlement Class Member who, as of \_\_\_\_\_ [the date the Preliminary Approval Order is entered] is a policyholder under a California Automobile Insurance Policy issued by one of the USAA companies. A “Former Policyholder” is a Settlement Class Member who, as of \_\_\_\_\_ [the date the Preliminary Approval Order is entered], is not a Policyholder under a California Automobile Insurance Policy issued by one of the USAA companies. There is no difference in the amount of the Settlement payments for Current Policyholders and Former Policyholders, or how those payments are calculated. The only difference is what the Settlement Class Member needs to do to receive a payment under this Settlement.

The USAA Entities’ records identified who is a Current Policyholder and who is a Former Policyholder.

A Current Policyholder does not need to do anything to be eligible to get a payment under the Settlement. If you are a Current Policyholder, you were not sent an Address Verification Form with this Notice, and you should not attempt to submit that Form.

If you are a Former Policyholder, you received an Address Verification Form with this Notice. To get a payment under the Settlement, you must submit an Address Verification Form by \_\_\_\_\_. There are two ways to submit the Address Verification Form: (1) mail it to the Settlement Administrator at the address in Question 15 so that it is *postmarked* by \_\_\_\_\_, or (2) submit your Form online at the settlement website, [www.\\_\\_\\_\\_\\_.com](http://www._____.com), by \_\_\_\_\_. If you do not submit an Address Verification Form by \_\_\_\_\_, you will not be eligible to receive a payment.

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

At this time we don’t know what your individual payment will be. Payments will be calculated as set forth in Question 8 above. We will know more when the amounts by which the Settlement Fund are reduced by the payment of fees and expenses, and the number of qualifying Class Members, are determined.

## HOW YOU GET A PAYMENT

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

Current Policyholders who do not exclude themselves from the Settlement will receive their payments without having to do anything more. Former Policyholders must submit a timely Address Verification Form to be eligible to receive a payment. See Question 9 for more details.

### 12. What is a “Legally Authorized Representative”?

A Legally Authorized Representative means an administrator/administratrix, personal representative, or executor/executrix of a deceased Class Member’s estate; a guardian, conservator, or next friend of an incapacitated Class Member; or any other legally appointed person or entity responsible for handling the business affairs of a Class Member. A Legally Authorized Representative of a Class Member can, for example, submit an Address Verification Form (see Question 9 above), an exclusion request (see Questions 15-17 below), or an objection (see Questions 20-21 below) on behalf of the Class Member.

### 13. When will I get my payment?

The exact date that qualifying Class Members will receive payment is not known at this time. Payments will be made after the Court grants “final approval” of the Settlement and any appeals are resolved.

The Court will hold a hearing on \_\_\_\_\_ at \_\_\_\_\_ **.m. (Pacific time)** to decide whether to approve the Settlement. If the Court approves the Settlement (see the section “The Court’s Final Approval Hearing,” below), there may be appeals. It’s always uncertain whether these appeals can be resolved, and resolving them can take time. Please be patient. Please check the Settlement website, [www.\\_\\_\\_\\_\\_.com](http://www._____.com), for updates and other important information about the Settlement, or call 1-\_\_\_\_-\_\_\_\_ toll-free or send an e-mail to \_\_\_\_\_ to learn the status of the Settlement.

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

Unless you exclude yourself from the Settlement, you are staying in the Class, and that means that you can’t sue or be part of any other lawsuit against the USAA companies about the legal issues in this case. It also means that all of the Court’s orders will apply to you and legally bind you.

If you stay in the Class, you will agree to “release and discharge” the USAA companies and the “Released Persons” from all “Released Claims,” as described in Paragraphs 43-47 of the Settlement Agreement. You can get a copy of the Settlement Agreement on the Settlement website or by contacting the Settlement Administrator.

The Settlement Agreement specifically describes the Released Claims in legal terminology. Talk to Class Counsel (see the section on “The Lawyers Representing You”) or your own lawyer if you have questions about the Released Claims or what they mean.

## EXCLUDING YOURSELF (“OPTING OUT”) FROM THE SETTLEMENT

If you don’t want a payment from the Settlement, and instead you want to keep the right to sue the USAA companies on your own about the legal issues in the case, then you must take steps to get out of the Settlement. This is called excluding yourself—or is sometimes referred to as “opting out” of the Class.

### 15. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must mail a letter to the Settlement Administrator with a clear statement that you want to be excluded from the *Spielman v. USAA Settlement*.

QUESTIONS? CALL 1-\_\_\_\_-\_\_\_\_ TOLL-FREE, OR VISIT [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

PARA UNA NOTIFICACIÓN EN ESPAÑOL, LLAMAR 1-\_\_\_\_-\_\_\_\_,  
O VISITAR [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

Be sure to include your name, address, and signature. If you are sending the request to be excluded as the “Legally Authorized Representative” of a Class Member (see Question 12 above for the definition of that term), you must include any information or documents that confirm your appointment or status as a Legally Authorized Representative. Requests for exclusion must be submitted individually by a Class Member or his or her Legally Authorized Representative, and not on behalf of a group or class of persons. If you have a personal lawyer, your lawyer may assist you with your exclusion request, but you must sign the exclusion request, unless the lawyer is also your Legally Authorized Representative.

You must mail your exclusion request **postmarked no later than** \_\_\_\_\_ to the following:

[ADDRESS OF Epiq]

You can’t exclude yourself on the phone, by e-mail, or on the website. If you ask to be excluded, you will not get any money from the Settlement, and you cannot object to the Settlement or intervene in the case. You will not be legally bound by anything that happens in this lawsuit. You may be able to sue (or continue to sue) the USAA companies. If you have a pending lawsuit against the USAA companies involving the same legal issues in the Settlement, speak to your lawyer in that case immediately.

**16. If I don’t exclude myself, can I sue the USAA companies for the same thing later?**

No. Unless you exclude yourself from the Settlement, you give up any right to sue the USAA companies for the claims that are resolved by Settlement. If you have a pending lawsuit, speak to your lawyer in that lawsuit immediately.

Remember, the exclusion deadline is \_\_\_\_\_.

**17. If I exclude myself, can I get a payment from the Settlement?**

No. If you exclude yourself, you will not be able to get any money from the Settlement, and you cannot object to the Settlement. You will not be legally bound by anything that happens in the Settlement.

**THE LAWYERS REPRESENTING YOU**

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

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

Annick Persinger  
Glenn E. Chappell  
**TYCKO & ZAVAREEI LLP**  
10880 Wilshire Blvd., Suite 1101  
Los Angeles, CA 90024  
Telephone: (213) 425-3657  
Email: apersinger@tzlegal.com  
gchappell@tzlegal.com

Jason H. Alperstein  
**KOPELOWITZ OSTROW  
FERGUSON WEISELBERG GILBERT**  
One West Las Olas, Suite 500  
Fort Lauderdale, FL 33301  
Telephone: (954) 525-4100  
Email: alperstein@kolawyers.com

Scott Edelsberg  
**EDELSBERG LAW, PA**  
20900 NE 30<sup>th</sup> Ave., Suite 417  
Aventura, FL 33180  
Telephone: (305) 975-3320  
Email: scott@edelsberglaw.com

Andrew J. Shamis  
**SHAMIS & GENTILE, P.A.**  
14 NE 1st Avenue, Suite 400  
Miami, FL 33132  
Telephone: (305) 479-2299  
Email: ashamis@shamisgentile.com

These lawyers are called Class Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense.

QUESTIONS? CALL 1-\_\_\_\_-\_\_\_\_-\_\_\_\_ TOLL-FREE, OR VISIT [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

PARA UNA NOTIFICACIÓN EN ESPAÑOL, LLAMAR 1-\_\_\_\_-\_\_\_\_-\_\_\_\_,  
O VISITAR [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

### 19. How will the lawyers be paid? What is the Class Representative's Service Award?

Class Counsel will ask the Court to approve a payment of up to \$1,016,565.00 for attorneys' fees, plus reimbursement of up to \$30,000 in out-of-pocket costs. If the Court approves those payments, they will be paid out of the \$3.05 million Settlement Fund. Class Counsel will also ask for a payment of up to \$5,000 to Lester Spielman for his services as Class Representative (the "Class Representative Service Award"), to be paid from the Settlement Fund. The Court may award less than these amounts. The Court will also decide how much to deduct from the Settlement Fund for notice and settlement administration costs; currently, Class Counsel estimate that the maximum amount of notice and settlement administration will be approximately \$80,000, but the Court will need to finally approve the amount. Class Counsel will file papers seeking awards of these fees and expenses by \_\_\_\_\_.

## OBJECTING TO THE SETTLEMENT

If you are a Class Member and do not exclude yourself, you can tell the Court that you don't agree with the Settlement or some part of it. You can't ask the Court for a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no settlement payments will be sent out, and the lawsuit will continue. If that is what you want to happen, you must object.

### 20. How do I tell the Court that I don't like the Settlement?

If you're a Class Member (or a Class Member's Legally Authorized Representative), you can object to the Settlement if you don't like it, or you may try to intervene in the case. However, you cannot object if you have excluded yourself from the Settlement. In other words, you must stay in the case as a Class Member in order to object to or intervene in the Settlement.

You can object if you don't like any part of the proposed Settlement, including but not limited to the payments to Class Members, the request for the Attorneys' Fees and Expenses Award, the request for Service Award to the Class Representative, or any other part of the Settlement. You can give reasons why you think the Court should not approve any or all of these items. The Court will consider your views if you comply with the requirements for objecting.

To object, you must (a) **mail** your objection to the Settlement Administrator **and** (b) **file** it with the Court. To be timely, your objection must be mailed to the Settlement Administrator so that it is **postmarked** by \_\_\_\_\_, and must be **filed** with the Court by no later than \_\_\_\_\_, at the following addresses:

**Address of Settlement Administrator:**

LIST

**Address of Court:**

LIST

Note: You may mail your objection to the Court, but it must be **received** by the Court **and filed** by \_\_\_\_\_. See [www.\\_\\_\\_\\_\\_.com](http://www._____.com) for more information on how to object to or intervene in the Settlement. You may also file your objection at the courthouse or submit your objection electronically on the Court's docket via "PACER" (see Question 26 below).

Your objection should (a) contain a heading which includes the name of the case and case number (*Spielman v. United Services Automobile Association, et al.*, Case No. 2:19-cv-01359); (b) provide your full name, address, telephone number, and signature; (c) indicate the specific reasons why you object to the Settlement; (d) contain the name, address, bar number, and telephone number of your counsel, if you're represented by an attorney; if you are represented by an attorney, he or she must comply with all applicable laws and rules for filing documents; (e) provide a list of other cases in which you or your counsel has appeared either as an objector or counsel for an objector in the last five years; and (f) state whether you intend to appear at the Final Approval Hearing, either in person or through counsel. All objections must be signed by the objecting Class Member (or his or her Legally Authorized Representative), even if the Class Member is represented by counsel.

If you intend to appear at the Final Approval Hearing to object to the Settlement, you must also provide with your

QUESTIONS? CALL 1-\_\_\_\_-\_\_\_\_-\_\_\_\_ TOLL-FREE, OR VISIT [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

PARA UNA NOTIFICACIÓN EN ESPAÑOL, LLAMAR 1-\_\_\_\_-\_\_\_\_-\_\_\_\_,  
O VISITAR [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

written objection a detailed statement of the specific legal and factual basis for each objection, a list of any witnesses you will call at the Hearing with each witness' address and summary of the witness' testimony, a description of all evidence you will offer at the Hearing with copies of the exhibits attached, and documentary proof of your membership in the Class. You or your lawyer may appear at the Final Approval Hearing if you have filed a written objection as provided above. (See the section on the "Court's Final Approval Hearing" below.) If you have a lawyer file an objection for you, he or she must follow all rules, and you must list the attorney's name, address, bar number, and telephone number in the written objection filed with the Court.

If you want to intervene as a party to the case, you must file a motion to intervene with the Court by \_\_\_\_\_ so that the Parties can respond to the motion.

Please note that any objections or motions must be submitted by an individual Class Member or his, her, or its attorney, not as a member of a group, class, or subclass. The only exception is that an objection may be submitted on behalf of a Class Member by the Legally Authorized Representative (see Question 12 above for a definition of that term).

## 21. What's the difference between objecting and excluding yourself?

Objecting is simply telling the Court that you don't like something about the Settlement. You can object to the Settlement only if you stay in the Settlement. Excluding yourself is telling the Court that you don't want to be part of the Settlement. If you exclude yourself, you have no basis to object, because the case no longer affects you. If you object, and the Court approves the Settlement anyway, you will still be legally bound by the result.

## THE COURT'S FINAL APPROVAL HEARING

The Court will hold a hearing called a "Final Approval Hearing" (also known as a "Fairness Hearing") to decide whether to approve the Settlement. If you haven't excluded yourself from the Settlement, you may attend the Final Approval Hearing and may ask to speak to the Court, but you don't have to.

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

The Court will hold a Final Approval Hearing to decide whether to finally approve the proposed Settlement. You may attend and you may ask to speak, but you don't have to do either one.

The Final Approval Hearing will be on \_\_\_\_\_, at \_\_\_\_\_.m. (Pacific time) before Judge Terry J. Hatter, Jr. [AS APPLICABLE: PLEASE NOTE that due to the COVID-19 pandemic, the Court may conduct the Final Approval Hearing by video conference. Please check the Settlement website, the Court's PACER website, or call the Settlement Administrator for current information. Also, the Final Approval Hearing may be moved to a different date or time without additional notice, so you should check the Settlement website, the Court's PACER website, or call the Settlement Administrator before making travel plans.

At the Hearing, the Court will consider whether the proposed Settlement and all of its terms are adequate, fair, and reasonable. If there are objections, the Court will consider them. The Court may listen to people who have asked for permission to speak at the Hearing. The Court may also decide how much to award Class Counsel for fees and expenses for representing the Class (the Attorneys' Fees and Expense Awards) and whether and how much to award the Class Representative for representing the Class (the Service Awards).

At or after the Final Approval Hearing, the Court will decide whether to finally approve the proposed Settlement. There may be appeals after that. There is no set timeline for either the Court's final approval decision, or for any appeals that may be brought from that decision, so it is impossible to know exactly when the Settlement will become final.

The Court may change deadlines listed in this Notice without further notice to the Class. To keep up on any changes in the deadlines, please contact the Settlement Administrator, the Settlement website, or the Court's docket via PACER.

QUESTIONS? CALL 1-\_\_\_\_-\_\_\_\_-\_\_\_\_ TOLL-FREE, OR VISIT [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

PARA UNA NOTIFICACIÓN EN ESPAÑOL, LLAMAR 1-\_\_\_\_-\_\_\_\_-\_\_\_\_,  
O VISITAR [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

### 23. Do I have to come to the Final Approval Hearing?

No. Class Counsel will answer any questions asked by the Court. But you are welcome to come at your own expense. If you intend to have a lawyer appear on your behalf at the Final Approval Hearing, your lawyer must enter a written notice of appearance of counsel with the Clerk of the Court no later than \_\_\_\_\_, and you must comply with all of the requirements explained in Question 20 above.

If you send an objection, you don't have to come to Court to talk about it. So long as you mailed your written objection on time and complied with the other requirements for a proper objection, the Court will consider it. You may also pay another lawyer to attend, but it's not required.

### 24. May I speak at the Final Approval Hearing?

Yes. If you submitted a proper written objection to the Settlement, you or your lawyer acting on your behalf may speak at the Final Approval Hearing. To do so, you must send a Notice of Intention to Appear and follow the procedures set out in Question 20 above. Your Notice of Intention to Appear must be mailed to the Settlement Administrator so that it is **postmarked no later than** \_\_\_\_\_, and it must be **filed** with the Clerk of the Court by that same date. See Question 20 above for the addresses of the Settlement Administrator and the Court. You cannot speak at the Final Approval Hearing if you excluded yourself.

## IF YOU DO NOTHING

### 25. What happens if I do nothing at all?

Unless you exclude yourself, you will be part of the Class and this settlement, and you won't be able to sue, continue to sue, or be part of any other lawsuit against Defendants about the legal issues in this case, ever again.

If you are a Current Policyholder, and you do not exclude yourself, you do not have to do anything to receive a payment. You will receive a payment automatically. (See Question 9 for more details.)

If you are a Former Policyholder, and you do not exclude yourself, you'll get no money from this settlement unless you send an Address Verification Form, as explained in Question 9.

## GETTING MORE INFORMATION

### 26. How do I get more information about the Settlement?

This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement, which is available at [www.\\_\\_\\_\\_\\_.com](http://www._____.com); the Settlement website also contains additional information about the Settlement. You may also get information by contacting the Settlement Administrator as noted below; by contacting Class Counsel (see Question 18); by accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system available at [https://\\_\\_\\_\\_\\_.gov](https://_____.gov); or by visiting the office of the Clerk of the Court, as noted below.

- Class Counsel: See Question 18 for contact information.
- Settlement Administrator: Call toll-free at 1-\_\_\_\_-\_\_\_\_-\_\_\_\_; email at \_\_\_\_\_; or write to the Settlement Administrator at the address listed in Question 20.
- Clerk of the Court: You may review legal documents that have been filed with the Clerk of Court at the address noted in Question 20 during regular office hours (\_\_\_\_). [AS APPLICABLE] Please note that due to the COVID-19 pandemic, you may need to make other arrangements to view court documents. Please contact the Clerk's Office for information on accessing court documents, but the Clerk will NOT answer questions about the Settlement.

QUESTIONS? CALL 1-\_\_\_\_-\_\_\_\_-\_\_\_\_ TOLL-FREE, OR VISIT [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

PARA UNA NOTIFICACIÓN EN ESPAÑOL, LLAMAR 1-\_\_\_\_-\_\_\_\_-\_\_\_\_,  
O VISITAR [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

**PLEASE DO NOT CALL THE JUDGE OR THE COURT CLERK TO ASK QUESTIONS ABOUT THE LAWSUIT, THE SETTLEMENT, OR THIS NOTICE.**

**THE COURT WILL NOT RESPOND TO LETTERS OR TELEPHONE CALLS. IF YOU WISH TO ADDRESS THE COURT, YOU MUST FILE AN APPROPRIATE PLEADING OR MOTION WITH THE CLERK OF THE COURT IN ACCORDANCE WITH THE COURT'S USUAL PROCEDURES.**

**PLEASE DO NOT CONTACT USAA ABOUT THIS SETTLEMENT.**

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QUESTIONS? CALL 1-\_\_\_-\_\_\_-\_\_\_ TOLL-FREE, OR VISIT [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

PARA UNA NOTIFICACIÓN EN ESPAÑOL, LLAMAR 1-\_\_\_-\_\_\_-\_\_\_,  
O VISITAR [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

## **EXHIBIT 3**

## ADDRESS VERIFICATION FORM

**If you received this Address Verification Form with the Notice mailed to you on \_\_\_\_\_, it means that USAA’s records show that you are a “Former Policyholder” of one of the USAA companies.**

A “Former Policyholder” is someone who did not have an active California Auto Insurance Policy with a USAA company as of \_\_\_\_\_[date of preliminary approval].

**If you are a Former Policyholder and you want to be eligible to receive a payment from this settlement, YOU MUST FILL OUT THIS FORM.** Please fill out this form and mail it to the Settlement Administrator so that it is postmarked by [ ] and mailed to the following address:

INSERT

Alternatively, you may fill out an Address Verification Form on the settlement website, [www.settlement.com](http://www.settlement.com), by [AVF@settlement.com](mailto:AVF@settlement.com).

If you are a Former Policyholder's Legally Authorized Representative (which is explained in the attached Notice), please fill out the form below, and also provide your information on the next page.

**Last Name of Class Member:**

[illegible]

First Name:

[illegible]

**Middle Initial:**

**Current Mailing Address of Class Member:**[illegible]

City:

[illegible]

**State:**

--	--

**Zip Code:**

--	--	--	--	--

**Contact Phone Number of Class Member:**

$$\boxed{\phantom{0}}\boxed{\phantom{0}}\boxed{\phantom{0}} - \boxed{\phantom{0}}\boxed{\phantom{0}}\boxed{\phantom{0}} - \boxed{\phantom{0}}\boxed{\phantom{0}}\boxed{\phantom{0}}\boxed{\phantom{0}}$$

**Class Member's USAA Member Number (if known):**

[illegible]

Fill out this page only if you are filling out the Address Verification Form on behalf of a Former Policyholder Class Member.

Yes 0      No 0

A diagram illustrating the division of a 2x2 grid into four 1x1 cells. The grid is divided into four equal squares, and a slash (/) is placed between the first and second squares, indicating division.

Yes 0      No 0

Yes 0      No 0

Last Name

[illegible][illegible][illegible][illegible]

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**IMPORTANT:** If you are submitting this Address Verification Form on behalf of the Former Policyholder, please also submit with this Form documents to prove that you are authorized to submit this Form on behalf of that Former Policyholder (for example, estate documents, powers of attorney, death certificates, etc.).

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

LESTER I SPIELMAN, individually  
and on behalf of all others similarly  
situated,

Plaintiff,

v.

UNITED SERVICES AUTOMOBILE  
ASSOCIATION, USAA CASUALTY  
INSURANCE COMPANY, USAA  
GENERAL INDEMNITY COMPANY,  
and GARRISON PROPERTY AND  
CASUALTY INSURANCE  
COMPANY,

Defendants.

Case No. 2:19-cv-01359-TJH-MAA

**[PROPOSED] FINAL ORDER AND  
JUDGMENT APPROVING CLASS  
ACTION SETTLEMENT**

1 This matter is before the Court on the Motion for Final Order and Judgment  
2 Approving Class Action Settlement. The matter came before the Court on  
3 \_\_\_\_\_, 2022, for a hearing pursuant to Federal Rule of Civil Procedure  
4 23(e) (the “Final Approval Hearing”) as to the fairness, reasonableness, and adequacy  
5 of the Parties’ proposed Settlement of this Action preliminarily approved by the Court  
6 on \_\_\_\_\_, 2022. All interested Persons were provided with  
7 notice and the opportunity to be heard regarding the proposed Settlement.

8 The Court has again reviewed the Settlement Agreement (including Exhibits)  
9 (the “Settlement Agreement”) and all papers submitted in connection with the proposed  
10 Settlement, and has considered all arguments of counsel. The Court finds that the  
11 Parties have demonstrated full compliance with the Preliminary Approval Order, and  
12 that there are substantial and sufficient grounds for entering this Final Order and  
13 Judgment Approving Class Action Settlement (“Order” or “Final Order and  
14 Judgment”). The Court therefore directs the Parties and their counsel to implement  
15 and consummate the Settlement Agreement and directs the administration of the  
16 Settlement in accordance with the terms and provisions of the Settlement.<sup>1</sup>

17 **BACKGROUND**

18 1. On \_\_\_\_\_, 2022, this Court entered the Preliminary  
19 Approval Order. (Dkt. \_\_\_\_.) This Final Order and Judgment incorporates the  
20 provisions, findings, and conclusions in the Preliminary Approval Order unless  
21 specifically stated otherwise in this Order.

22 2. After entry of the Preliminary Approval Order, the Parties proceeded to  
23 implement the terms of the Preliminary Approval Order and the Settlement.

24 \_\_\_\_\_  
25 <sup>1</sup> The Settlement Agreement is hereby incorporated by reference in this Order, and all  
26 terms and phrases used in this Order shall have the same meaning as in the Settlement  
27 Agreement.

1           3.     On \_\_\_\_\_, 2022, the Settlement Administrator, Epiq, mailed  
2 the Mailed Notice to all Settlement Class Members after updating the mailing  
3 addresses provided by the USAA Entities, in accordance with the terms of the  
4 Preliminary Approval Order and Settlement Agreement. In the initial mailing, Epiq  
5 mailed \_\_\_\_\_ Notices. \_\_\_\_\_ Mailed Notices were returned as undeliverable.  
6 With respect to those returned Mailed Notices with a forwarding addresses, Epiq  
7 remailed such Mailed Notices to those forwarding addresses; with respect to returned  
8 Mailed Notices without a forwarding address, Epiq attempted to obtain a current  
9 mailing address using the methods specified in the Settlement Agreement. In all, \_\_\_\_\_  
10 of the \_\_\_\_\_ Mailed Notices were mailed and not returned as undeliverable, and  
11 therefore are presumed delivered, representing a \_\_\_\_\_% “reach rate.”<sup>2</sup>

12           4.     In addition, Epiq established a Settlement Website, also in accordance  
13 with the Settlement Agreement and Preliminary Approval Order. The Website  
14 provided pertinent information on the Settlement, including Important Dates,  
15 Frequently Asked Questions, and relevant documents, as well as an online option for  
16 Former Policyholders to submit their Address Verification Forms.

17           5.     Epiq also set up a 24-hour IVR/VRU telephone system, which provided  
18 answers to frequently asked questions. The IVR/VRU also permitted callers to “punch  
19 through” to a live Call Center during regular business hours.

20           6.     The Website, IVR/VRU, and Call Center went “live” on the Mailed  
21 Notice Date.

22           7.     Settlement Class Members were given until \_\_\_\_\_, or 60  
23 days after the Mailed Notice Date, in which to exclude themselves or object to the  
24 \_\_\_\_\_

25 <sup>2</sup> The affidavit of the Settlement Administrator provides detailed information regarding  
26 the course and scope of post-Preliminary Approval Order notice and settlement  
27 administration activities.

1 Settlement. Former Policyholders were also given until \_\_\_\_\_ in which to  
2 submit an Address Verification Form (whether by mail or online on the Website).

3 8. On \_\_\_\_\_, Class Counsel filed their petition for an  
4 Attorneys' Fees and Expenses Award (up to a maximum of \$\_\_\_\_\_) and for a  
5 Service Award to the Named Plaintiff, up to a maximum of \$5,000.

6 9. On \_\_\_\_\_, the Settlement Administrator submitted an  
7 Affidavit detailing the notice and settlement administration activities, and also  
8 submitted for the Court's consideration the Opt-Out List, which is the list of all  
9 Settlement Class Members who timely excluded themselves from the Settlement.

10 10. \_\_\_\_\_ Settlement Class Members are on the Opt-Out List.

11 11. \_\_\_\_\_ Former Policyholders submitted a timely Address Verification  
12 Form and are therefore entitled to their share of the Net Settlement Fund. All other  
13 Former Policyholders are not eligible for a Settlement Claims Payment, but are bound  
14 by the terms of the Settlement and this Final Order and Judgment, including the  
15 Releases.

16 12. [Note and discuss any objections.]

17 **FINDINGS AND CONCLUSIONS**

18 13. This Court re-confirms that it has personal jurisdiction over all Settlement  
19 Class Members, and subject matter jurisdiction over this Action and to approve the  
20 Settlement Agreement under the Class Action Fairness Act of 2005, 28 U.S.C.  
21 § 1332(d).

22 14. The Court approves the Settlement Agreement and finds that the proposed  
23 Settlement, including but not limited to the Settlement Fund and Net Settlement Fund,  
24 the calculation of Settlement Claim Payments, the distribution of payments to  
25 Qualifying Settlement Class Members, the Mailed Notice, the Address Verification  
26 Form for Former Policyholders, the Settlement Website, the requirements for  
27

1 exclusions and objections, the Release, the Attorneys' Fees and Expenses Award, and  
2 the Service Award, is sufficiently fair, reasonable, and adequate to warrant entry of this  
3 Final Order and Judgment. The Court gives final approval to the Settlement and finds  
4 that the Settlement is fair, reasonable, and adequate as to each of the Parties and the  
5 Settlement Class Members, and consistent and in compliance with all requirements of  
6 Federal Rule of Civil Procedure 23, due process, and all other applicable laws as to,  
7 and in the best interests of, the Settlement Class Members. The Court further finds that  
8 the Settlement is the result of good-faith, non-collusive, and arm's-length negotiations  
9 by the Parties. The Court directs the Parties and their counsel to implement and  
10 consummate the Settlement Agreement in accordance with its terms and provisions.

11 15. The Court confirms its previous findings in the Preliminary Approval  
12 Order that, for settlement purposes only, all requirements of Federal Rule of Civil  
13 Procedure 23(a) and (b)(3) have been satisfied.

14 16. Rule 23(e)(2) sets out the criteria for final approval of a class action  
15 settlement:

16 (2) Approval of the Proposal. If the proposal would bind class members, the  
17 court may approve it only after a hearing and only on finding that it is fair,  
18 reasonable, and adequate after considering whether:

19 (A) the class representatives and class counsel have adequately represented the  
20 class;

21 (B) the proposal was negotiated at arm's length;

22 (C) the relief provided for the class is adequate, taking into account:

23 (i) the costs, risks, and delay of trial and appeal;

24 (ii) the effectiveness of any proposed method of distributing relief to the  
25 class, including the method of processing class-member claims;

26 (iii) the terms of any proposed award of attorney's fees, including timing  
27 of payment; and

28 (iv) any agreement required to be identified under Rule 23(e)(3); and

(D) the proposal treats class members equitably relative to each other.

17. This Settlement satisfies all these requirements.

1           18. The Court confirms its findings in the Preliminary Approval Order that  
2 Class Counsel and the Named Plaintiff have adequately represented the Settlement  
3 Class. Under Rule 23, “class counsel . . . must fairly and adequately represent the  
4 interests of the class.” Fed. R. Civ. P. 23(g)(1)(B). In making this determination, the  
5 Court has considered consider Class Counsel’s (1) work in identifying or investigating  
6 potential claims; (2) experience in handling class actions or other complex litigation,  
7 and the types of claims asserted in the case; (3) knowledge of the applicable law; and  
8 (4) resources committed to representing the class. *See* Fed. R. Civ. P. 23(g)(1)(A(i-iv)).

9           19. The Court finds that Class Counsel have diligently investigated the claims  
10 of the Settlement Class and through the vigorous prosecution of this Action obtained  
11 class certification. Class Counsel also have demonstrated an in-depth knowledge of the  
12 law, having been appointed class counsel in numerous analogous consumer class  
13 actions, including many other automotive total loss cases. In addition, as noted below,  
14 the amounts sought by Class Counsel for their Attorneys’ Fees and Expenses Award  
15 are fair and reasonable given the work that Class Counsel have devoted to the Action  
16 as well as the results obtained for the Settlement Class.

17           20. The Court further finds that Mr. Spielman has adequately represented the  
18 Settlement Class. The Court reaffirms its findings in the Litigation Class Order that  
19 Mr. Spielman does not have a conflict of interest with the class, and that he has  
20 vigorously prosecuted this Action on behalf of the class. The Court finds that  
21 Plaintiff’s request for a Service Award of \$\_\_\_\_\_ is fair and justified, given Mr.  
22 Spielman’s work on the case from its inception. The Named Plaintiff shall also be  
23 entitled to receive a Settlement Claim Payment on the same terms as any other  
24 Qualified Settlement Class Member.

25           21. The Court also reaffirms its findings in the Preliminary Approval Order  
26 that the Settlement does not grant preferential treatment to Mr. Spielman, and that the  
27

1 Settlement treats Settlement Class Members equally. The Settlement Claim Payments  
2 will be calculated based on the value of the Settlement Class Members' vehicles, which  
3 is reasonably related to the amounts alleged to be owed for taxes and fees. The only  
4 difference in treatment among Settlement Class Members is that Former Policyholders  
5 must submit a simple Address Verification Form to help ensure that Settlement Claim  
6 Payments reach their current addresses. The Address Verification Form may be  
7 submitted by mail (a copy was sent with the Mailed Notice to all Former Policyholders,  
8 and was also available online) or online on the Settlement Website, and Former  
9 Policyholders had 60 days in which to do so. The Court finds that the Address  
10 Verification Form imposed no appreciable burden on Former Policyholders, and its use  
11 was justified to attempt to ensure that Settlement Claim Payments will be mailed to  
12 Former Policyholders' current addresses so that they will receive them.

13         22. The Court further confirms its findings in the Preliminary Approval  
14 Order that the Settlement was negotiated at arm's length and was not collusive.

15         23. The Court finds that the relief provided to the Settlement Class is more  
16 than fair, reasonable, and adequate, taking into account the costs, risks, and delays of  
17 trial and appeal; the effectiveness of the proposed relief and the manner of distributing  
18 the relief to the Settlement Class, including the method for allocating the Net  
19 Settlement Fund among Qualifying Settlement Class Members; and the timing and  
20 payment of the Attorneys' Fees and Expenses Award and the Service Award.

21         24. The Settlement is not a claims-made settlement; nor is there any reversion  
22 to the USAA Entities. All of the \$3,050,000 Settlement Fund will go to the payment  
23 of Settlement Claim Payments to Qualifying Settlement Class Members, after  
24 deduction for the reasonable fees and expenses of Class Counsel, the Named Plaintiff,  
25 and the Settlement Administrator. There is also no *cy pres* award, except for the  
26 amount of uncashed checks after a 180-day Stale Date, as noted below.

1           25. In addition, as part of the Settlement, the USAA Entities have agreed to  
2 pay applicable Sales Tax and Title and Registration Fees on total loss vehicles in  
3 California without regard to whether the vehicle is leased or owned. The USAA  
4 Entities reserve the right to change their practices in the event of a change in California  
5 law, a change in the State of California's taxes or fees charged incidental to the transfer  
6 of ownership of motor vehicles titled and/or registered in California, or other changes  
7 in taxes and fees, or appropriate changes in the terms of the applicable insurance  
8 policies.

9           26. The Court also has considered the Settlement Class Members' expected  
10 recovery balanced against the value of the Settlement. The Court agrees with Class  
11 Counsel's analysis that the Settlement provides significant relief to Settlement Class  
12 Members for claims that have uncertain prospects of success, particularly given the  
13 fact that no California state or federal court has held that insureds who lease a vehicle  
14 are entitled, upon an insurer's total loss determination, to full payment of sales tax  
15 notwithstanding that the sales tax necessary to lease a vehicle is different—and less—  
16 than sales tax necessary to purchase a vehicle.

17           27. The Court further finds that Class Counsel's request for the Attorneys'  
18 Fees and Expenses Award is fair and reasonable, given the significant work that Class  
19 Counsel have devoted to this Action (including the Settlement).

20           28. The Court finds that the costs of notice and settlement administration to  
21 be awarded to Epiq (\$\_\_\_\_\_) are fair and reasonable given the work the Settlement  
22 Administrator has performed. The Court finds that Epiq has performed all its duties  
23 under the Settlement.

24           29. The Court also finds that the notice to the Settlement Class complied with  
25 all requirements of Rule 23 and due process. The Mailed Notice was consistent with  
26 the form and content of the Federal Judicial Center's models and clearly and accurately  
27

1 conveyed to Settlement Class Members all material terms of the Settlement.  
2 Furthermore, the individual Mailed Notice reached \_\_\_\_% of the Settlement Class  
3 Members, which is more than sufficient to meet all legal requirements.

4 30. The Settlement Website, IVR/VRU telephone system, and the Call Center  
5 also supplemented the Mailed Notice provided to Settlement Class Members. The  
6 Website relevant materials and information (including a mechanism for online  
7 submission of Address Verification Forms). The IVR/VRU telephone system  
8 contained recorded answers to frequently asked questions, along with an option  
9 permitting Settlement Class Members to speak to live operators during regular business  
10 hours or leave messages in a voicemail box. In short, the notice provided to Settlement  
11 Class Members in this matter was robust, accurate, readily understandable, and  
12 comprehensive.

13 31. Accordingly, the Court finds that the Parties have implemented and  
14 complied with the notice plan as provided in the Preliminary Approval Order. The  
15 Court finds that the Mailed Notice, Website notice, and the notice methodology  
16 implemented pursuant to the Settlement Agreement (i) constituted the best practicable  
17 notice; (ii) constituted notice that was reasonably calculated, under the circumstances,  
18 to apprise Settlement Class Members of the pendency of the Action, and their right to  
19 exclude themselves from or object to the proposed Settlement and to appear at the Final  
20 Approval Hearing; (iii) were reasonable and constituted due, adequate, and sufficient  
21 notice to all Persons entitled to receive notice; and (iv) met all applicable requirements  
22 of Federal Rule of Civil Procedure 23, due process, and any other applicable rules or  
23 law.

24 32. The Settlement also provided ample opportunity for Settlement Class  
25 Members to exclude themselves from or object to any element of the Settlement.

26 33. Furthermore, the Release is narrowly tailored to the Settlement Class  
27

1 Members' claims.

2 34. The Court also finds that the Class Action Fairness Act Notice provided  
3 by the Settlement Administrator on behalf of the USAA Entities complied with 28  
4 U.S.C. § 1715.

5 **IT IS HEREBY ORDERED:**

6 35. The Motion for Final Order and Judgment Approving Class Action  
7 Settlement is granted. The Court grants final approval to the Parties' Settlement, as set  
8 forth in the Settlement Agreement.

9 36. The Court gives final approval to the Settlement and finds that the  
10 Settlement is fair, reasonable, and adequate as to each of the Parties and the Settlement  
11 Class Members, and consistent and in compliance with all requirements of due process,  
12 federal law, and any other applicable law, as to, and in the best interests of, the  
13 Settlement Class Members. The Court further finds that the Settlement is the result of  
14 good-faith, non-collusive, and arm's-length negotiations by the Parties, including a  
15 mediation session before the Honorable Irma Gonzalez (ret.). The Court directs the  
16 Parties and their counsel to implement and consummate the Settlement Agreement in  
17 accordance with its terms and provisions.

18 37. The Court grants final approval of the certification of the Settlement  
19 Class, for settlement purposes only, and confirms its previous certification of the  
20 following Settlement Class:

21 All individuals and entities insured by the USAA Entities under a  
22 California automobile policy whose insurance covered or covers a leased  
23 vehicle under private-passenger physical damage coverage, including  
24 collision and physical damage other than collision coverage, and who  
25 made a first-party claim from February 22, 2015 through [the date of  
26 preliminary approval], whose leased vehicle was determined by the  
USAA Entities to be a Total Loss, and who received a Total Loss Claim  
Payment from the USAA Entities for the value of the totaled vehicle that  
did not include the full amount of the Sales Tax and/or Vehicle Regulatory  
Fees.

1 Excluded from the Settlement Class are: (1) all officers, employees,  
2 and agents of the USAA Entities, Class Counsel, and their immediate  
3 family members, and (2) any members of the judiciary assigned to the  
4 Action and their immediate families.

5 38. The USAA Entities and the Released Persons shall retain all rights to  
6 assert that the Action may not be certified as a class action except for settlement  
7 purposes.

8 39. No liability with respect to the Settlement shall attain in favor of the  
9 Named Plaintiff, the Settlement Class, or Class Counsel as against any officer, director,  
10 member, agent, or employee of the USAA Entities, but rather, the Named Plaintiff, the  
11 Settlement Class, and Class Counsel shall look solely to the assets of the USAA  
12 Entities for satisfaction of the Settlement.

13 40. The Court re-confirms the appointment of Epiq as Settlement  
14 Administrator and finds that Epiq has complied with its duties under the Preliminary  
15 Approval Order and the Settlement Agreement. The Court approves the payment of  
16 \$\_\_\_\_\_ to Epiq from the Settlement Fund as the reasonable costs of notice and  
17 settlement administration.

18 41. The Court dismisses the Action on the merits as to the USAA Entities  
19 with prejudice and without fees or costs except as provided in this Final Order and  
20 Judgment.

21 42. The Court approves the Opt-Out List submitted by the Settlement  
22 Administrator (Exhibit 1 hereto) (the "Court-Approved Opt-Out List") and determines  
23 that the Court-Approved Opt-Out List is the complete list of all Settlement Class  
24 Members who have timely requested exclusion from the Settlement Class and,  
25 accordingly, shall neither share in nor be bound by the Final Order and Judgment. All  
26 other Settlement Class Members shall be bound by the terms of the Settlement.

27 43. The Court approves the distribution plan set forth in Paragraphs 22-24 of

1 the Settlement Agreement. The following amounts shall be paid from the \$3,050,000  
2 Settlement to yield the Net Settlement Fund, from which the Settlement Claim  
3 Payments shall be calculated and processed:

4 Attorneys Fees' and Expenses Award: \$\_\_\_\_\_.

5 Service Award: \$\_\_\_\_\_.

6 Payment to Epiq: \$\_\_\_\_\_.

7 44. Epiq and Class Counsel shall use their best efforts to mail Settlement  
8 Claim Payment checks to Qualifying Settlement Class Members within thirty (30) days  
9 after the Effective Date.

10 45. Without affecting the finality of the Final Order and Judgment for  
11 purposes of appeal, the Court reserves jurisdiction over the USAA Entities, the Named  
12 Plaintiff, and the Settlement Class as to all matters relating to the administration,  
13 consummation, enforcement, and interpretation of the terms of the Settlement and the  
14 Final Order and Judgment, and for any other necessary purposes.

15 46. The Court finds and adjudges that, as of the Effective Date, the Named  
16 Plaintiff, all Settlement Class Members who have not been excluded from the  
17 Settlement Class as provided in the Court-Approved Opt-Out List, and their heirs,  
18 estates, trustees, executors, administrators, principals, beneficiaries, representatives,  
19 agents, assigns, successors, employees, employers, companies, partnerships,  
20 corporations, professional services corporations, limited liability companies, members,  
21 owners, officers, directors, partners, joint venturers, managing agents, affiliates,  
22 subsidiaries, predecessors, successors, and/ or anyone claiming through them or acting  
23 or purporting to act for them or on their behalf, regardless of whether they have  
24 received actual notice of the proposed Settlement and regardless of whether they  
25 previously initiated or subsequently initiate individual litigation or other proceedings  
26 encompassed by the Released Claims, have conclusively compromised, settled,

1 discharged, and released all Released Claims against the USAA Entities and the  
2 Released Persons, and are bound by the provisions of the Settlement Agreement, as  
3 further provided in Paragraphs 43-47 of the Settlement Agreement.<sup>3</sup>

4 <sup>3</sup> The Release is defined in the Settlement Agreement as follows:

5  
6 43. Plaintiff, and all Settlement Class Members who have not been excluded  
7 from the Settlement Class as provided in the Court-Approved Opt-out List, shall  
8 be bound by this Agreement, and all of their claims, as provided under this  
9 Agreement, shall be dismissed with prejudice and released, even if they never  
10 received actual notice of the Action or the Settlement.

11  
12 44. Upon the Effective Date, Plaintiff, all Settlement Class Members who  
13 have not been excluded from the Settlement Class as provided in the Court-  
14 Approved Opt-Out List, and their heirs, estates, trustees, executors,  
15 administrators, principals, beneficiaries, representatives, agents, assigns,  
16 successors, employees, employers, companies, partnerships, corporations,  
17 professional services corporations, limited liability companies, members,  
18 owners, officers, directors, partners, joint venturers, managing agents, affiliates,  
19 subsidiaries, predecessors, and/or anyone claiming through them or acting or  
20 purporting to act for them or on their behalf, regardless of whether they received  
21 actual notice of the proposed Settlement and regardless of whether they  
22 previously initiated or subsequently initiate individual litigation or other  
23 proceedings encompassed by the Released Claims (the “Releasing Persons”),  
24 will be bound by the Final Order and Judgment and shall be conclusively deemed  
25 to have fully released and discharged the USAA Entities and all of the USAA  
26 Entities’ (a) past, present, and future parents, subsidiaries, divisions, and  
27 affiliates, and (b) past, present, and future officers, directors, members, agents,  
28 employees, servants, stockholders, insurers, attorneys, representatives,  
successors, assigns, and independent contractors of the entities in part (a) above  
(the “Released Persons”), of and from all Released Claims, and agree that they  
shall not now or hereafter initiate, maintain, or assert any Released Claims  
against the Released Persons in any other court action or before any  
administrative body (including any state department of insurance or other  
regulatory entity or organization), tribunal, arbitration panel, or other  
adjudicating body. Without in any way limiting the scope of the Release  
described in Paragraphs 43-47, this Release covers, without limitation, any and  
all claims for attorneys’ fees, costs, or disbursements incurred by Class Counsel

1 or any other counsel representing Plaintiff or Settlement Class Members, or by  
2 the Plaintiff or Settlement Class Members, or any of them, in connection with or  
3 related in any manner to the Action, the settlement of the Action, the  
4 administration of such Settlement, and/or the Released Claims except to the  
5 extent otherwise specified in the Agreement.

6 45. “Released Claims” means and includes any and all known and unknown  
7 claims, rights, actions, suits or causes of action of whatever kind or nature,  
8 whether *ex contractu* or *ex delicto*, statutory, common law or equitable,  
9 including but not limited to breach of contract, bad faith, extracontractual claims  
10 or claims for statutory violations, and claims for punitive or exemplary damages,  
11 or prejudgment or postjudgment interest, arising from or relating in any way to  
12 the USAA Entities’ alleged failure to pay sufficient Sales Tax and/or Vehicle  
13 Regulatory Fees to Plaintiff and the Settlement Class Members. Released Claims  
14 do not include any claim for enforcement of this Agreement and/or the Final  
15 Order and Judgment. Released Claims do not include any claims, actions, or  
16 causes of action alleging that the USAA Entities failed to properly calculate the  
17 base or adjusted value of total loss vehicles except to the extent that such claims,  
18 actions, or causes of action relate to failure to pay sufficient Sales Tax and/or  
19 Vehicle Regulatory Fees.

20 46. Without in any way limiting the scope of the Release described in  
21 Paragraphs 43-47, Plaintiff, and all Settlement Class Members who have not  
22 been excluded from the Settlement Class as provided in the Court-Approved  
23 Opt-Out List, also acknowledge that they are familiar with the principles of law  
24 such as Section 1542 of the Civil Code of the State of California and laws of  
25 other states, which provide:

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

31 To the extent that, notwithstanding the choice of law provisions in the  
32 Agreement, another state’s law may be applicable, Plaintiff, and the Settlement  
33 Class Members who have not been excluded from the Settlement Class as  
34 provided in the Court-Approved Opt-Out List, hereby expressly agree that the  
35 provisions, rights, and benefits of Section 1542 of the Civil Code of the State of  
36 California and all similar federal or state laws, rights, rules, or legal principles  
37 of any other jurisdiction which may be applicable herein are hereby knowingly  
38 and voluntarily waived and relinquished by Plaintiff and the Settlement Class

1           47. The Court declares the Settlement Agreement and this Final Order and  
2 Judgment to be binding on, and have res judicata and preclusive effect in, all pending  
3 and future lawsuits or other proceedings encompassed by the Released Claims  
4 maintained by or on behalf of Plaintiff and all other Settlement Class Members who  
5 have not been excluded from the Settlement Class as provided in the Court-Approved  
6 Opt-Out List, their heirs, estates, trustees, executors, administrators, principals,  
7 beneficiaries, representatives, agents, assigns, assignees, assignors, successors,  
8 employees, employers, companies, partnerships, corporations, professional services  
9 corporations, limited liability companies, members, owners, officers, directors,  
10 partners, joint venturers, managing agents, affiliates, subsidiaries, predecessors, and/or  
11 anyone claiming through them or acting or purporting to act for them or on their behalf,  
12 regardless of whether they have received actual notice of the proposed Settlement and  
13 regardless of whether they previously initiated or subsequently initiate individual  
14 litigation or other proceedings encompassed by the Released Claims, as set forth in

15  
16           Members to the fullest extent permitted by law solely in connection with  
17 Unknown Claims constituting Released Claims, and Plaintiff and the Settlement  
18 Class Members hereby agree and acknowledge that this is an essential term of  
19 this Release. In connection with this Release, Plaintiff and the Settlement Class  
20 Members acknowledge that they are aware that they may hereafter discover  
21 claims presently unknown or unsuspected, or facts in addition to or different  
22 from those which they now know or believe to be true with respect to the matters  
23 released herein. Nevertheless, Plaintiff and the Settlement Class Members  
24 acknowledge that a portion of the consideration received herein is for a Release  
25 with respect to future damages and complaints, whether resulting from known  
26 injuries and consequences or from unknown injuries or unknown consequences  
27 of known or unknown injuries, and state that it is the intention of Plaintiff and  
28 the Settlement Class Members in executing this Release fully, finally, and  
forever to settle and release all matters, known or otherwise, and all claims  
relating thereto, which exist, hereafter may exist, or might have existed (whether  
or not previously or currently asserted in any action) relating in any respect,  
without limitation, to the Released Claims.

47. Upon entry of the Final Order and Judgment, the Action will be dismissed  
with prejudice as to the USAA Entities, Plaintiff, and all Settlement Class  
Members who have not been excluded from the Settlement Class as provided in  
the Court-Approved Opt-Out List, and will release all Released Persons from  
Released Claims.

1 Paragraphs 36 and 43-47 of the Settlement Agreement.

2 48. Accordingly, upon the Effective Date, the Named Plaintiff, and all  
3 Settlement Class Members who have not been excluded from the Settlement Class as  
4 provided in the Court-Approved Opt-Out List, and all Persons claiming through them  
5 or acting or purporting to act for them or on their behalf, shall be barred from asserting  
6 any Released Claims against the USAA Entities and the other Released Persons, and  
7 such Settlement Class Members shall have released any and all Released Claims as  
8 against the USAA Entities and the other Released Persons, as provided in the  
9 Settlement Agreement.

10 49. The Court hereby awards the following for the Attorneys' Fees and  
11 Expenses Award, to be paid from the Settlement Fund: \$\_\_\_\_\_.

12 50. The Court hereby awards the following for the Service Award, to be paid  
13 from the Settlement Fund: \$\_\_\_\_\_.

14 51. The Court approves the cy pres provisions in the Settlement Agreement.  
15 Accordingly, if there are checks for Settlement Claim Payments that are uncashed after  
16 the 180-day Stale Date, the uncashed amounts shall become part of the cy pres awarded  
17 to the Tragedy Assistance Program for Survivors, an organization that provides  
18 services and compassionate care to those grieving the death of a military loved one;  
19 provided, however, that exceptions may be made for checks that are not cashed by the  
20 time of the Stale Date for service members who are then deployed.

21 52. The Settlement Agreement and the Settlement provided for therein, and  
22 any proceedings taken pursuant thereto, are not, and should not in any event be offered,  
23 received, or construed as evidence of, a presumption, concession, or an admission by  
24 any Party of liability or non-liability or of the certifiability or non-certifiability of the  
25 Litigation Class, or any litigation class, or of any misrepresentation or omission in any  
26 statement or written document approved or made by any Party; provided, however, that

1 reference may be made to the Settlement Agreement and the Settlement provided for  
2 therein in such proceedings as may be necessary to effectuate the provisions of the  
3 Settlement Agreement, as further set forth in that Agreement.

4         53. The Court permanently enjoins the Named Plaintiff, and all other  
5 Settlement Class Members who have not been excluded from the Settlement Class as  
6 provided in the Court-Approved Opt-Out List, from (i) filing, commencing,  
7 prosecuting, intervening in, or participating (as class members or otherwise) in any  
8 other lawsuit or administrative, regulatory, arbitration, or other proceeding in any  
9 jurisdiction based on the Released Claims and (ii) organizing Settlement Class  
10 Members into a separate group, class, or subclass for purposes of pursuing as a  
11 purported class action any lawsuit or administrative, regulatory, arbitration, or other  
12 proceeding (including by seeking to amend a pending complaint to include class  
13 allegations, or seeking class certification in a pending action) based on the Released  
14 Claims.

15         54. The Court orders that certification of the Settlement Class and final  
16 approval of the Settlement, and all actions associated with them, are undertaken on the  
17 condition that they shall be vacated if the Settlement Agreement is terminated or  
18 disapproved in whole or in part by the Court, or any appellate court and/or other court  
19 of review, or if any of the Parties invokes the right to withdraw from the Settlement as  
20 provided in Paragraphs 49-51 of the Settlement Agreement, in which event the  
21 Agreement and the fact that it was entered into shall not be offered, received, or  
22 construed as an admission or as evidence for any purpose, including but not limited to  
23 an admission by any Party of liability or non-liability or of any misrepresentation or  
24 omission in any statement or written document approved or made by any Party, or of  
25 the certifiability of the Litigation Class, or any litigation class, as further provided in  
26 Paragraph 51 of the Settlement Agreement.

1           55. The Court approves the termination and withdrawal procedures in  
2 Paragraphs 49-51 of the Settlement Agreement. If the Settlement does not become  
3 Final for any reason (whether due to a termination of the Settlement Agreement in  
4 accordance with its terms, a failure or refusal of the Court to approve the proposed  
5 Settlement, or a reversal or modification of the Court's approval of the proposed  
6 Settlement on appeal, or for any other reason), the Parties shall be returned to the status  
7 *quo ante* as of May 17, 2022, as further provided in Paragraph 8 of the Settlement  
8 Agreement. In that event, (a) the Settlement Class shall be vacated and the Litigation  
9 Class shall automatically be re-certified without prejudice to any Party's position on  
10 the issue of class certification, the merits of any claims or defenses, or any other issue,  
11 in this Action or any other action; (b) the Second Amended Complaint shall be vacated  
12 and the First Amended Complaint shall become the operative pleading (except that  
13 CIC shall remain dismissed from the Action); (c) all orders entered regarding the  
14 Settlement shall be vacated; (d) the Parties and their attorneys shall proceed as though  
15 the Settlement Agreement had never been entered, and the Parties and their Counsel  
16 shall not cite nor reference that Agreement except as necessary to inform the Court,  
17 and nothing in the Agreement and/or the fact that it was entered into shall be offered,  
18 received, or construed as an admission or as evidence for any purpose in any  
19 proceeding, as further provided in Paragraphs 48-51 of the Settlement Agreement;  
20 (e) all of the Parties' obligations under the Settlement shall cease to be of any force  
21 and effect; provided, however, that the USAA Entities shall remain liable for all  
22 reasonable notice and settlement administration costs incurred before the withdrawal  
23 or termination; but further provided that the Settlement Administrator shall promptly  
24 reimburse the USAA Entities for any amounts not used for reasonable notice and  
25 settlement administration costs from the initial \$50,000 payment made by the USAA  
26 Entities pursuant to Paragraph 24(a) of the Settlement Agreement); (f) the Named

1 Plaintiff and Class Counsel shall not argue that the USAA Entities are barred from  
2 asserting defenses on the merits and as to class certification as a result of the proposed  
3 Settlement; and (g) nothing in the Settlement may be used as an admission or offered  
4 into evidence in any proceeding involving the USAA Entities whatsoever, as further  
5 provided in the Settlement Agreement. Furthermore, in the event of a withdrawal  
6 pursuant to Paragraphs 49-51, the fact of this Agreement or settlement having been  
7 made shall not be admissible or entered into evidence for any purpose; this Agreement  
8 and all documents, orders, and other evidence relating to the Agreement and settlement  
9 shall not be offered, received, or construed as evidence of a presumption, concession,  
10 or an admission by any Party of liability or non-liability, of the certifiability or non-  
11 certifiability of the Litigation Class, or any litigation class, or of any misrepresentation  
12 or omission in any statement or written document approved or made by any Party.  
13 Furthermore, in the event of a withdrawal by the USAA Entities, the Named Plaintiff  
14 and Class Counsel agree that the USAA Entities shall retain the right to assert any and  
15 all defenses and claims in the Action (including all defenses and appellate rights to  
16 certification of a litigation class) and that the Named Plaintiff shall not argue that the  
17 USAA Entities are barred from asserting those defenses or claims due to waiver,  
18 estoppel, or similar arguments.

19         56. The Court approves the confidentiality provisions in Paragraphs 52-56 of  
20 the Settlement Agreement and orders the Parties to proceed in accordance with those  
21 provisions regarding the Confidential Information.

22         57. The Court authorizes the Parties, without further approval from the Court,  
23 to agree to and adopt such amendments, modifications, and expansions of the  
24 Settlement Agreement and all Exhibits thereto as (i) shall be consistent in all material  
25 respects with the Final Order and Judgment and (ii) do not limit the rights of Settlement  
26 Class Members.

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Dated: \_\_\_\_\_  
Judge Terry J. Hatter, Jr.