

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

SAN ALLEN, INC., et al.)	CASE NO. CV-07-644950
)	
Plaintiffs,)	
)	
v.)	JUDGE RICHARD J. MCMONAGLE
)	
STEPHEN BUEHRER,)	
ADMINISTRATOR, OHIO BUREAU OF)	
WORKERS' COMPENSATION)	<u>CLASS ACTION SETTLEMENT</u>
)	<u>AGREEMENT</u>
Defendant.)	

This Settlement Agreement (“Agreement or “Settlement Agreement”) is entered into by and among the named Plaintiffs, San Allen, Inc. d/b/a Corky and Lenny’s, Timely Advertising Specialty Co. d/b/a S.E. Bennett Company, Cambridge Manufacturing Jewelers, Ltd., D&J Structural Contracting, Inc., Lifecenter Plus, Inc., and Nick Mayer Lincoln-Mercury on behalf of themselves and the Class in this action (the “Plaintiffs”), and Defendant Stephen Buehrer, Administrator, Ohio Bureau of Workers’ Compensation (“Defendant” or “Administrator”). The Plaintiffs and Defendant are collectively referred to herein as the “Parties.” This Settlement Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and release the claims underlying this matter, upon and subject to the terms and conditions of this Settlement Agreement, and subject to the final approval of the Court.

RECITALS

A. On December 18, 2007, Plaintiffs filed this class action against Defendant relating

to workers' compensation premiums allegedly overpaid (the "Action"). On January 31, 2008, Plaintiffs filed their First Amended Class Action Complaint asserting a claim for common law unjust enrichment" alleging violations of Section 2, Article I and Section 35, Article II of the Ohio Constitution, as well as Ohio Revised Code Chapter 4123.

B. On January 12, 2010, the trial court certified a Plaintiff Class of Ohio private employers who, in one or more policy years from 2001-2008: (1) subscribed to the state workers' compensation fund; (2) were not group-rated; and (3) "reported payroll and paid premiums in a manual classification for which the non-group effective base rate was 'inflated' due to application of the group experience rating plan."

C. In August, 2008, the trial court conducted a multiple day trial on the Plaintiffs' claims for injunctive relief. The trial court issued an opinion and order granting the requested injunctive relief in favor of the class, and thereafter dissolved the order granting preliminary injunctive relief.

D. Defendant appealed the order granting class certification to the Eighth District Court of Appeals. The order granting class certification was affirmed in *San Allen, Inc. v. Buehrer*, 8th Dist. No. 94651, 2011-Ohio-1676.

E. The Court conducted a seven day bench trial in this matter beginning on August 20, 2012.

F. On December 28, 2012, the Court issued a Partial Order and Opinion which found in favor of Plaintiffs on certain matters of liability and scheduled a subsequent hearing to determine the amount of the award.

G. On March 20, 2013, following a hearing on the matter, the Court issued a Final Order and Opinion and entered judgment in favor of Plaintiffs in the amount of \$859,440,258.79.

H. Defendant appealed the judgment of the Partial Order and Opinion and Final Order and Opinion to the Eighth District Court of Appeals as Case No. CA-13-099786.

I. On May 15, 2014, the Eighth District Court of Appeals filed a Journal Entry and Opinion affirming this Court's judgment in part, reversing this Court's judgment in part, and remanding the matter so that the amount of Plaintiffs' award could be recalculated to include an offset for certain "subsidy benefits" received by class members during the years within the class period in which they were group rated.

J. On June 27, 2014, the Ohio Attorney General's Office filed a Memorandum in Support of Jurisdiction in the Ohio Supreme Court on behalf of Defendant seeking Ohio Supreme Court review of the May 15, 2014 decision by the Eighth District Court of Appeals.

K. On July 23, 2014, the parties filed with this Court a stipulation of fact regarding offset of benefits received by Class Members in the years in which they were group rated stipulating to an off-set pursuant to the judgment mandate of the Eighth District Court of Appeals on remand, said offset being in the amount of \$208,461,519.97, and thereby reducing the trial court judgment amount to \$650,978,738.82, subject to the terms and conditions of the stipulation.

L. The Parties desire to resolve the Action and resolve all remaining issues and have reached an agreement on the principal terms of a settlement. Given all the above, and considering all other risks and uncertainties of continued litigation and appeals and all factors bearing on the merits of settlement, the Parties are satisfied that the terms and conditions of this Settlement Agreement are fair, reasonable, adequate, and in their respective best interests.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Plaintiffs and Defendant, by and through their respective counsel that, subject to the final

approval of the Court after a hearing or hearings as provided for in this Settlement Agreement, in consideration of the benefits to the Parties from the Settlement Agreement set forth herein, that the Action and the claims by the Plaintiffs shall be finally and fully compromised, settled, and released, and the Action shall be dismissed with prejudice, upon and subject to the terms and conditions of this Agreement.

AGREEMENT

1. SETTLEMENT RELIEF

1.1 Monetary Relief.

(a) **Payments Available to Class Members.** The parties have agreed upon a total settlement amount of Four Hundred Twenty Million Dollars (\$420,000,000.00), which will be distributed according to the following priority:

- i. Court costs; and
- ii. All reasonable out-of-pocket expenses incurred by the BWC and the costs of the services provided by the Special Master and the Settlement Administrator, both as referenced in Section 5.1 below, including but not limited to the cost of producing notice and processing claims; and
- iii. Any fee and expense award made by the Court to Class Counsel; and
- iv. Any incentive compensation made by the Court to the named Plaintiffs; and
- v. Payment to authorized and eligible Class members up to the amount identified on the Appendix 1 spreadsheet, filed with the

Court on electronic CD format, attached hereto and incorporated herein, but subject to pro rata reduction based on the aggregate amount of all eligible claims received pursuant to this Agreement and Court approval at the final approval hearing.

- vi.** If the aggregate sum of all claim amounts timely and properly submitted by Class members exceeds the balance remaining available in the settlement fund after priority distributions set forth in Section 1.1(a)(i)-(iv) above, then each Class member will receive a pro rata share of their claim amount. The pro rata share will be calculated as a percentage of each claim, with that percentage determined by dividing the balance remaining available in the settlement fund after distributions set forth in Section 1.1(a)(i)-(iv) above (the “numerator”) by the total monetary amount of all timely and properly submitted claims (the “denominator”). The pro rata reduction in claims amounts to be received by Class members will only be required in the event that the total amount of all timely and properly submitted claims exceeds the amount of the balance remaining available in the settlement fund after distributions set forth in Section 1.1(a)(i)-(iv) above.
- vii.** Under no circumstances shall the amount paid by Defendant pursuant to this Settlement Agreement exceed Four Hundred Twenty Million Dollars (\$420,000,000.00).

(b) Eligibility for Cash Payment and Claims Forms. To be eligible to be considered for a payment, the Class member must timely submit a properly completed, notarized and accurate Claim Form as referenced in Section 4.1 below, containing:

- i. The business name under which Ohio BWC coverage was in force during class period.**
- ii. The correct BWC policy number for the business entity in (i) above.**
- iii. A statement certifying that the listed business is currently in good standing in the state where its incorporation and/or business organization was obtained.**
- iv. A statement including the name of the submitter and a certification that the submitter is authorized to submit the claim on behalf of the business as an officer, owner, bankruptcy trustee or other authorized representative.**
- v. A statement that no part of the claim has been assigned, factored, transferred and/or otherwise alienated to any other person, firm or entity, and further stating that no other claim is being submitted in this matter for that employer and that policy number. No claims may be submitted by third party servicers, consolidators, factors, or other claims agents.**
- vi. Notice to the submitter that payment is conditioned upon meeting all requirements including postmarking the claim form on or before September 22, 2014, and payment will not be**

made until and is contingent upon the trial Court's final approval of the settlement and the completion of all proceedings on any objections or appeals.

vii. An attached and properly completed IRS form W-9 for the claimant.

viii. A conspicuous warning that providing false information or making a false claim is a crime which may be prosecuted to the fullest extent of the law.

To be eligible to make a claim to receive restitution, complete and accurate Claim Forms must be postmarked no later than September 22, 2014. Class members entitled to receive less than \$10.00 are not eligible for payment pursuant to this Agreement.

(c) **Settlement Administrator to Determine all Claims.** The Settlement Administrator shall review each claim submitted pursuant to this Agreement and the Court's orders and verify that:

1. the business is a class member listed on Appendix 1 of this Agreement; and

2. each claim form is properly notarized and is otherwise in accordance with the terms of Section 5.3 of this Agreement; and

3. each claim form is signed by an officer, owner, bankruptcy trustee or other authorized representative of the Class Member; and

4. each claim form is submitted with the claimant's fully completed IRS Form W-9; and

5. each claim form is postmarked on or before September 22, 2014.

The Settlement Administrator shall notify the Parties and Court in writing of the approved claim form amounts for each class member at least fourteen (14) days prior to the Final Approval Hearing.

(d) **Payment of Interest.** The fund shall accrue interest at the rate of 3% per annum commencing thirty (30) days from the date payment is due under section 1.1(f) below.

(e) **Remaining or Unclaimed Funds.** Any funds not distributed under Section 1.1(a) above shall revert to Defendant and/or otherwise remain in the State Insurance Fund.

(f) **Time and Manner of Payment.** Payment shall be due and Defendant shall issue payment to eligible Class Members and Class Counsel as approved by the Court in writing at the final hearing within 30 days of the last of the following events:

i. the date upon which the time expires for filing or noticing any appeal of the Court's Final Judgment approving the Settlement Agreement;

ii. if there is an appeal or appeals, the date of completion, in a manner that finally affirms and leaves in place the Final Judgment without any material modification, of all proceedings arising out of the appeal or appeals (including, but not limited to, the expiration of all deadlines for motions for reconsideration or petitions for review, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal or appeals following decisions on remand); or

iii. the date of final dismissal of any appeal and expiration of time for any further appeal.

(g) **Payment Method.** All payments to be made to Class Members hereunder shall be made by check issued directly by the BWC, payable to the business entity and account

number provided by the Class Member on their claim form. Any checks not negotiated within sixty (60) days shall be void. The Settlement Administrator shall attempt to contact any Class Member whose check is not negotiated within sixty (60) days and shall re-issue the aforementioned Class Member's check one (1) time if the Class Member can be contacted. Thereafter, any re-issued check that is not negotiated within sixty (60) days shall be void and the amount thereof shall revert to Defendant and/or otherwise remain in the State Insurance Fund in accordance with Section 1.1(e) above.

2. RELEASES

2.1 The obligations incurred pursuant to this Settlement Agreement shall be a full and final disposition of the Action.

2.2 Upon the entry of the Final Judgment, Plaintiffs shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged any and all actual, potential, filed, known or unknown, fixed or contingent, claimed or unclaimed, suspected or unsuspected, disclosed or undisclosed, claims, demands, liabilities, rights, judgments, liens, losses, debts, guarantees, penalties, indemnities, actions, causes of action, contracts or agreements, extracontractual claims, damages, punitive, exemplary or multiplied damages, expenses, costs, attorneys' fees and or obligations, whether in law or in equity, accrued or unaccrued, direct, individual or representative, of every nature and description whatsoever, based on any federal, state, local, statutory, constitutional, common law, equitable principle, or any other law, rule or regulation, against Defendant Administrator and the BWC, including its Board of Directors, divisions or other related entities, associates, employees, agents, consultants, independent contractors, vendors, insurers, directors, officers, fiduciaries, attorneys, accountants, financial or other advisors, legal representatives, or any other representatives of any

of these persons and entities arising out of, concerning, or in connection with the Action and any of the facts, transactions, events, matters, occurrences, acts, disclosures, statements, misrepresentations, omissions, or failures to act that were or could have been alleged, asserted, or argued in the Action, belonging to any and all Plaintiffs.

3. PRELIMINARY APPROVAL PROCEDURE

3.1 Preliminary Approval. Promptly after execution of this Agreement, Class Counsel shall submit this Agreement to the Court and shall apply for entry of a Preliminary Approval Order preliminarily approving this Agreement and providing for the dissemination of the Class Notice and Claims Form attached hereto as Exhibits "A" and "B". Class Counsel shall also request that, after Notice is given, the Court schedule and conduct a Final Approval and Fairness Hearing and approve the settlement of the Action as set forth herein, award attorney fees and costs to Class Counsel, award incentive compensation, and direct distribution of the Settlement Fund as described herein.

4. NOTICE TO THE CLASS

4.1 No later than fourteen (14) days from the date of the entry of a Preliminary Approval Order, the Settlement Administrator shall send by ordinary mail to each class member listed by policy number on Appendix 1 at their last known address, the Notice and Claim Form attached hereto as Exhibits "A" and "B," with address updating by the National Change of Address service.

4.2 Any Notices and Claims Forms which cannot be delivered to a known address, or are unclaimed or returned after mailing, shall be remailed one (1) time if a change of address is received. The Settlement Administrator shall maintain a list of all such Notices and Claims Forms and the date(s) each was mailed to the Class Member and a record of the outcome of such

mailing.

4.3 Within fourteen (14) days after the entry of the Preliminary Approval Order, Notice shall be provided on a website, which shall be operated and administered by the Settlement Administrator. The Notice on the website shall be substantially in the form of Exhibit "A" attached hereto.

4.4 The Settlement Administrator shall also cause Publication Notice to be issued, no earlier than fifteen (15) days after the entry of the Preliminary Approval Order, at 1/8 page in the First or Metro Sections of the following newspapers of general circulation one time, to-wit: *Cleveland Plain Dealer, Akron Beacon-Journal, Columbus Dispatch, Cincinnati Enquirer, Toledo Blade, Dayton Daily News, Canton Repository, Youngstown Vindicator, Sandusky Register, Lorain Morning Journal, Lima News, Zanesville Times Recorder, Marietta Times, Portsmouth Daily News, and Athens News*. The Publication Notice will advise persons of this Settlement Agreement, the Court's Preliminary Approval Order, the rights of Class members to receive payment pursuant to the Settlement Agreement or object, and the method for Class members to receive payment or to otherwise submit a claim for payment.

4.5 The Notice shall advise Class members of the size of the settlement fund, the percentage of attorneys' fees requested by Class Counsel and the means to make a claim and/or method to object to the Settlement Agreement or its terms. The Notice will specify that any objection to this Settlement Agreement by a Class Member, and any papers, briefs, arguments, evidence and any other material to be offered in support of said objection ("Supporting Materials"), will be considered by the Court at the Final Approval Hearing, only if, on or before September 22, 2014 as specified in the website and the Notice, the Class Member making an objection files notice of their intention to do so and at the same time files copies of such

Supporting Materials with the Clerk of the Court, and properly serves by the same date copies of same to both Settlement Class Counsel and Defendant's Counsel.

4.6 Any Class Member that objects to this Settlement Agreement must include in the objection or attached thereto: a) their business name and policy number; b) the name of the officer, owner, bankruptcy trustee, or other authorized representative of that business making the objection; c) all arguments, citations, and Supporting Materials; d) a statement that the objector is a Class Member; and e) a statement whether the objector intends to appear at the Final Approval Hearing with or without counsel. Any Class Member failing to timely file and serve on Class Counsel and Defense Counsel its written objection with the Court, or whose objection does not accurately contain items (a) through (e) of this Section 4.6 shall not be permitted to object to this Settlement. Any Class Member timely filing and serving their objection accurately containing items (a) through (e) of this Section 4.6, but without notice of intent to appear at the Final Approval Hearing in accordance with the terms of this Section and as detailed in the Notice, shall not be permitted to appear or argue at the Final Approval Hearing, and their objection will be considered on the Supporting Materials only. Only those arguments contained in a timely filed and served objection, which accurately contains items (a) through (e) of this Section 4.6, will be considered by the court. Any Class Member that does not timely file its objection, or does not accurately include items (a) through (e) of this Section 4.6 in the objection, is foreclosed from seeking any review of this Settlement Agreement by appeal or other means and shall be deemed to have waived its, their, or his or her objections and is forever barred from making any such objections in the Action or any other action or proceeding.

5. SETTLEMENT ADMINISTRATION

5.1 Special Master and Settlement Administrator. The Parties agree that the Court

shall name a Special Master who shall oversee the activities of the Settlement Administrator and who shall be paid in an amount approved by the Court as set forth above from the Settlement Fund as provided in Section 1.1(a). The Special Master's and Settlement Administrator's combined fees shall not exceed two million dollars (\$2,000,000.00), subject to Court-approved hourly rates, cost reimbursement rates and fee application reports. If the Special Master's and Settlement Administrator's combined fees are less than two million dollars (\$2,000,000.00), any funds not paid to the Special Master and/or Settlement Administrator shall revert to Defendant and/or otherwise remain in the State Insurance Fund in accordance with Section 1.1(e) above.

5.2 Special Master Scope of Services. The specific duties of the Special Master shall be defined by the Court and are limited to overseeing the activities of the Settlement Administrator under this Agreement and any subsequent order(s) of the Court.

5.3 Settlement Administrator Scope of Services. The duties of the Settlement Administrator include those duties and obligations set forth in this Agreement, any required by the Court, as well as any other duties and obligations necessary to properly, responsibly and efficiently administer the settlement process agreed to by the Parties.

5.4 Claims administration. The Settlement Administrator shall approve or deny any timely claim using the following criteria; all of which must be met and certified under oath or the claim shall be denied:

- 1) The Claim form is submitted in the correct name of a business which is identified by policy number in Appendix 1, and the Class Member is entitled to claim an amount of \$10 or more.
- 2) The BWC policy number is submitted and is the correct policy number for the business in (1), above.

3) The claim form contains a statement by the submitter certifying that the listed business is currently in good standing in the state where its incorporation and/or business organization was obtained.

4) The claim form contains a statement by the submitter certifying that the person submitting the form is an officer, owner, bankruptcy trustee, or other authorized representative of the business.

5) The claim form contains a statement by the submitter certifying that the person submitting the claim is authorized to submit the claim on behalf of the business and that the submitter is not a third-party, claims service, consolidator, factor, or any other type of claim agent.

6) The claim form contains a statement by the submitter that no part of the claim has been assigned, factored, transferred or otherwise alienated to any other person, firm or entity, and further stating that no other claim is being submitted in this matter for that business and that BWC policy number.

7) The claim form contains a statement by the submitter that it is understood and agreed that payment is conditioned upon meeting all requirements including timeliness of the claim form, and payment will not be made until, and is contingent upon, the trial court's final approval of the settlement and the completion of all proceedings on any objections or appeals.

8) The claim form is postmarked no later than September 22, 2014.

9) The claim form contains the bank name and bank account number for the account into which the restitution is to be paid, and said account is in the name of the submitting Class Member with the same E.I.N. or Social Security number as provided in the W-9 which is required to be submitted with the claim form.

10) The BWC policy number for the entity submitting the Claim Form is listed on Appendix 1 and no other claim has been made for that entity and BWC policy number.

11) The claim form contains a statement that the claimant is a member of the class as defined by the Court.

12) The claim contains a properly completed IRS form W-9 for the business submitting the claim.

5.5 Record of Payment. Defendant shall provide to the Class Administrator a record indicating for each check sent to a Class member, whether it was cashed, and, for any check not cashed, a statement whether the Defendant received any communication from anyone regarding the check, with a description of such communication including a copy of all correspondence or related communications.

5.6 Settlement Administrator's Final Report. The Special Master and the Settlement Administrator shall prepare and submit to the Court, within the time ordered by the Court, with a copy to Defendant, their "Final Report," which shall confirm that they have discharged all responsibilities imposed upon them by Order(s) of this Court, confirm that Defendant has discharged all responsibilities imposed upon it by Order(s) of this Court, and confirm that there are no outstanding claims, objections, or disputes. Upon receipt of said "Final Report," the Court will be requested to review the Special Master and Settlement Administrator's final fee applications, and issue an Entry deeming all obligations of the Settlement Administrator, Special Master and Defendant fully satisfied and discharged in this matter, and the case closed.

6. FINAL APPROVAL ORDER

6.1 After Notice is given, and pursuant to the Court's order(s), the Parties shall request and obtain from the Court a Final Judgment. The Parties will request that the Final Judgment

include the following provisions:

6.1.1 approval of the Settlement Agreement and the proposed settlement and the amount thereof and the payments to the Class Members thereunder as fair, reasonable and adequate as to, and in the best interests of, the members of the Class; directing the Parties and their counsel to implement and consummate the Settlement Agreement according to its terms and provisions; and declaring the Settlement Agreement to be binding on, and have *res judicata* and preclusive effect in all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and all members of the Class, and their heirs, executors and administrators, successors and assigns;

6.1.2 a finding that the processes for issuance of Notice and Claim Forms implemented pursuant to the Settlement Agreement (1) constitute the best practicable notice under the circumstances, (2) constitute notice that is reasonably calculated, under the circumstances, to apprise members of the Class of the Settlement, their right to object to the proposed Agreement, to appear at the Final Approval Hearing and to request payment pursuant to the Agreement, (3) are reasonable and constitute due, adequate and sufficient notice to all persons entitled to receive notice, and (4) meet all applicable requirements of the Ohio Rules of Civil Procedure, the Due Process Clause of the Ohio Constitution and the rules of the Court;

6.1.3 a finding that the Class Representatives and Class Counsel adequately represented the Class for purposes of entering into and implementing the Agreement, and a determination of counsel fees and costs;

6.1.4 dismissal of the Action (including all individual claims and claims of the Class presented thereby) on the merits and with prejudice, without fees or costs to any party except as provided in the Settlement Agreement;

6.1.5 incorporation of the releases set forth above, making the releases effective and forever discharging the Defendant as set forth herein;

6.1.6 a permanent bar and injunction against all members of the Class who have not opted-out from filing, commencing, prosecuting, intervening in, or participating in any lawsuit or other action in any jurisdiction based on the claims set forth in the Action;

6.1.7 an authorization for the Parties, without further approval from the Court, to agree to and adopt such written amendments, modifications and expansions of the Settlement Agreement and its implementing documents (including all exhibits to this Agreement) as (1) shall be consistent in all material respects with the Final Judgment, or (2) do not limit the rights of members of the Class;

6.1.8 without affecting the finality of the Final Judgment for purposes of appeal, a determination to retain jurisdiction as to all matters relating to administration, consummation, enforcement and interpretation of the Settlement Agreement and the Final Judgment, and for any other necessary purpose; and

6.1.9 incorporation of any other provisions as the Court deems necessary and just.

7. CLASS REPRESENTATIVES

7.1 Incentive Compensation. The named Plaintiffs will request that the Court award them incentive compensation as follows:

- (a) San Allen, Inc., d/b/a Corky and Lenny's the amount of \$50,000;
- (b) Timely Advertising Specialty Co., d/b/a S.E. Bennett Company the amount of \$25,000;
- (c) Nick Mayer Lincoln-Mercury the amount of \$25,000;

- (d) Cambridge Manufacturing Jewelers, Ltd. the amount of \$25,000;
- (e) D&J Structural Contracting, Inc. the amount of \$25,000; and
- (f) Lifecenter Plus, Inc. the amount of \$25,000

8. CLASS COUNSEL'S ATTORNEYS' FEES

8.1 Pursuant to Class Counsel's fee agreements with the named Plaintiffs, Class Counsel intends to request a Fee Award for attorneys' fees and expenses expended in this Action. Class Counsel's request for a Fee Award must be approved by the Court. Subject to Court approval, Class Counsel's Fee Award will be paid to Class Counsel as set forth above from the Settlement Fund as provided in Section 1.1(a). As Class Counsel's request for a Fee Award is based upon the agreements between Class Counsel and their clients and will ultimately be determined by the Court, Defendant acknowledges that the determination of Class Counsel's attorneys' fees and a fair reimbursement of their expenses is a matter solely between Class Counsel, their clients and the Court in which the Defendant will not participate.

9. MISCELLANEOUS PROVISIONS

9.1 The Parties (a) acknowledge that it is their intent to consummate this Settlement Agreement; and (b) agree, subject to their fiduciary and other legal obligations, to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Agreement and to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of this Agreement. Class Counsel and Defendant's Counsel agree to cooperate with one another in seeking Court approval of the Preliminary Approval Order, the Settlement Agreement, and the Final Judgment, and promptly to agree upon and execute all such other documentation as may be reasonably required to obtain final approval of the Agreement.

9.2 The Parties intend this Settlement Agreement to be a final and complete resolution of all disputes between them with respect to the claims asserted by Plaintiffs and the Class against the Defendant.

9.3 Nothing in this Settlement Agreement shall be construed as an admission of liability on the part of Defendant, which liability Defendant expressly denies.

9.4 The Parties have relied upon the advice and representation of counsel, selected by them, concerning their respective legal liability for the claims hereby released. The Parties have read and understand fully the above and foregoing agreement and have been fully advised as to the legal effect thereof by counsel of their own selection and intend to be legally bound by the same.

9.5 Neither this Agreement nor the settlement contained herein, nor any act performed or document executed pursuant to or in furtherance of this Agreement or the settlement is, may be deemed, or shall be used, offered or received against Defendant as an admission, concession or evidence of, the validity of any claims, the truth of any fact alleged by the Plaintiffs, the deficiency of any defense that has been or could have been asserted in the Action, the violation of any law or statute, the reasonableness of the settlement amount or the fee award, or of any alleged wrongdoing, liability, negligence, or fault of the Defendant.

9.6 The Parties acknowledge that Defendant's jurisdictional appeal is pending before the Supreme Court of Ohio, docketed as Supreme Court Case No. 2014-1086. If the Supreme Court of Ohio rules on jurisdiction, the Parties will continue to be bound by the terms of this Settlement Agreement. Within ten (10) days of the execution of this Agreement, the Parties shall jointly move the Supreme Court of Ohio to stay consideration of Defendant's jurisdictional appeal pending final approval of this Agreement and the expiration of the last deadline set forth

in Section 1.1(f).

9.7 The headings used herein are used for the purpose of convenience only and are not meant to have legal effect.

9.8 The waiver by one party of any breach of this Agreement by any other party shall not be deemed as a waiver of any other prior or subsequent breaches of this Agreement.

9.9 All of the exhibits to this Settlement Agreement are material and integral parts thereof and are fully incorporated herein by this reference.

9.10 This Agreement and its Exhibits set forth the entire agreement and understanding of the Parties with respect to the matters set forth herein, and supersede all prior negotiations, agreements, arrangements and undertakings with respect to the matters set forth herein. No representations, warranties or inducements have been made to any party concerning this Settlement Agreement or its exhibits other than the representations, warranties and covenants contained and memorialized in such documents. This Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors in interest.

9.11 Court costs will be paid pursuant to Section 1.1(a)(i) above.

9.12 It is expressly acknowledged and agreed that neither Plaintiffs nor Defendant will institute, encourage, or assist any appeal from an order implementing this Settlement Agreement; provided, however, that Plaintiffs and Defendant have the right to appeal an order that is in any way different from the material terms of this Settlement Agreement or that materially alters the consideration to be given by or to any party.

9.13 Each party will not directly or indirectly encourage or discourage anyone from making a claim in this matter, or from objecting to this Settlement, by way of any concerted

outreach program by any person or entity. Any inquiries to BWC from Class Members about this matter will be referred immediately to the Settlement Administrator.

9.14 The Parties may desire to issue a press release regarding the settlement of this matter. Each Party shall exchange with the other Party any press release or advisory that it intends to release to the media or general public announcing the settlement of this matter. Each Party shall be provided with an opportunity to review and comment on any press release or advisory that the other Party intends to release to the media or general public announcing the settlement of this matter prior to the dissemination, publication, or release of said press release or advisory.

9.15 Plaintiffs represent and warrant that they have not assigned any claim or right or interest therein as against Defendant to any other person or party and that they are fully entitled to release the same.

9.16 Each counsel or other Person executing this Settlement Agreement, any of its Exhibits, or any related settlement documents on behalf of any party hereto hereby warrants and represents that such Person has the full authority to do so and has the authority to take appropriate action required or permitted to be taken pursuant to the Agreement to effectuate its terms.

9.17 This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the Parties to this Agreement all exchange original signed counterparts. A complete set of original executed counterparts shall be filed with the Court if the Court so requests.

9.18 This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto.

9.19 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Agreement, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in this Agreement.

9.20 This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

9.21 When this Settlement Agreement requires notice to the Parties, such notice shall be sent to the undersigned counsel: Robert A. Hager, Brennan, Manna & Diamond, LLC, 75 East Market Street, Akron, OH 44135; and James A. DeRoche, Garson Johnson, LLC, 101 W. Prospect Avenue, Midland Building, Suite 1610, Cleveland, OH 44115.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK. SIGNATURE PAGE
FOLLOWS.]

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed, by their duly authorized attorneys.

Dated: _____

SAN ALLEN, INC. d/b/a CORKY AND LENNY'S

By K. Bennett

Title President

Dated: _____

TIMELY ADVERTISING SPECIALTY CO. d/b/a
S.E. BENNETT COMPANY

By _____

Title _____

Dated _____

NICK MAYER LINCOLN-MERCURY

By _____

Title _____

Dated: _____

CAMBRIDGE MANUFACTURING JEWELERS,
LTD.

By _____

Title _____

Dated: _____

D&J STRUCTURAL CONTRACTING, INC.

By _____

Title _____

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed, by their duly authorized attorneys.

Dated: _____

SAN ALLEN, INC. d/b/a CORKY AND LENNY'S

By _____

Title _____

Dated: July 23, 2014

TIMELY ADVERTISING SPECIALTY CO. d/b/a
S.E. BENNETT COMPANY

By Thomas Lee Williams

Title President

Dated: _____

NICK MAYER LINCOLN-MERCURY

By _____

Title _____

Dated: _____

CAMBRIDGE MANUFACTURING JEWELERS,
LTD.

By _____

Title _____

Dated: _____

D&J STRUCTURAL CONTRACTING, INC.

By _____

Title _____

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed, by their duly authorized attorneys.

Dated: _____

SAN ALLEN, INC. d/b/a CORKY AND LENNY'S

By _____

Title _____

Dated: _____

TIMELY ADVERTISING SPECIALTY CO. d/b/a
S.E. BENNETT COMPANY

By _____

Title _____

Dated: 7/23/14

NICK MAYER LINCOLN-MERCURY

By Nick Mayer

Title President

Dated: _____

CAMBRIDGE MANUFACTURING JEWELERS,
LTD.

By _____

Title _____

Dated: _____

D&J STRUCTURAL CONTRACTING, INC.

By _____

Title _____

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed, by their duly authorized attorneys.

Dated: _____ SAN ALLEN, INC. d/b/a CORKY AND LENNY'S
By _____
Title _____

Dated: _____ TIMELY ADVERTISING SPECIALTY CO. d/b/a
S.E. BENNETT COMPANY
By _____
Title _____

Dated _____ NICK MAYER LINCOLN-MERCURY
By _____
Title _____

Dated 23 Jul 14 CAMBRIDGE MANUFACTURING JEWELERS
LTD
By Olivia Hoke
Title General Partner

Dated _____ DEJ STRUCTURAL CONTRACTING, INC.
By _____
Title _____

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed, by their duly authorized attorneys.

Dated: _____ SAN ALLEN, INC. d/b/a CORKY AND LENNY'S
By _____
Title _____

Dated: _____ TIMELY ADVERTISING SPECIALTY CO. d/b/a
S.E. BENNETT COMPANY
By _____
Title _____

Dated: _____ NICK MAYER LINCOLN-MERCURY
By _____
Title _____

Dated: _____ CAMBRIDGE MANUFACTURING JEWELERS,
LTD.
By _____
Title _____

Dated: 7-23-14 D&J STRUCTURAL CONTRACTING, INC.
By  _____
Title President

Dated: 7/23/14

LIFECENTER PLUS, INC.

By [Signature]

Title President

Dated: _____

STEPHEN BUEHRER, ADMINISTRATOR,
OHIO BUREAU OF WORKERS'
COMPENSATION

By _____

Title _____

IT IS SO STIPULATED:

Dated: _____

Garson Johnson LLC
Counsel for Plaintiffs

By _____

James A. DeRoche

Dworken & Bernstein Co., L.P.A.
Counsel for Plaintiffs

By _____

Patrick J. Perotti

Dated: _____

MICHAEL DEWINE
ATTORNEY GENERAL OF OHIO

By **Brennan, Manna & Diamond, LLC**
Special Counsel for Defendant

By _____

Robert A. Hager

Dated: _____

LIFECENTER PLUS, INC.

By _____

Title _____

Dated: 7-23-14

STEPHEN BUEHRER, ADMINISTRATOR,
OHIO BUREAU OF WORKERS'
COMPENSATION

By Stephen Buehrer

Title Administrator/CEO

IT IS SO STIPULATED:

Dated: _____

Garson Johnson LLC
Counsel for Plaintiffs

By _____
James A. DeRoche

Dworken & Bernstein Co., L.P.A.
Counsel for Plaintiffs

By _____
Patrick J. Perotti

Dated: _____

MICHAEL DEWINE
ATTORNEY GENERAL OF OHIO

By Brennan, Manna & Diamond, LLC
Special Counsel for Defendant

By Robert A. Hager
Robert A. Hager

Dated: _____

LIFECENTER PLUS, INC.

By _____

Title _____

Dated: _____

STEPHEN BUEHRER, ADMINISTRATOR,
OHIO BUREAU OF WORKERS'
COMPENSATION

By _____

Title _____

IT IS SO STIPULATED:

Dated: _____

Garson Johnson LLC
Counsel for Plaintiffs

By 
James A. DeRoche

Dworken & Bernstein Co., L.P.A.
Counsel for Plaintiffs

By 
Patrick J. Perotti

Dated: _____

MICHAEL DEWINE
ATTORNEY GENERAL OF OHIO

By Brennan, Manna & Diamond, LLC
Special Counsel for Defendant

By _____
Robert A. Hager

*COURT ORDERED NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT
COURT OF COMMON PLEAS, CUYAHOGA COUNTY, OHIO*

IF YOU PAID WORKERS' COMPENSATION PREMIUMS TO THE OHIO BUREAU OF WORKERS' COMPENSATION AS A NON-GROUP RATED EMPLOYER FOR POLICY YEARS 2001-2008, PLEASE READ THIS NOTICE CAREFULLY BECAUSE IT COULD AFFECT YOUR RIGHTS.

A class actions ettlement has beenr eached ina lawsuit regardingt he Ohio Bureau of Workers' Compensation (BWC) premium charges to private Ohio employers who paid premiums as non-group rated employers in certain occupational classifications for policy years 2001-2008 *San Allen, Inc., et al. vs. Stephen Buehrer, Administrator, Ohio Bureau of Workers' Compensation*, Cuyahoga County Court of Common Pleas Case No. CV-07-644950.

Background of the Lawsuit. On December 18, 2007, Plaintiffs filed this class action against Defendant relating to workers' compensation premiums allegedly overpaid. On January 31, 2008, Plaintiffs filed their First Amended Class Action Complaint asserting a claim for common law unjust enrichment alleging violations of Section 2, Article I and Section 35, Article II of the Ohio Constitution, as well as R.C. 4123.29. January 12, 2010, the trial court certified a Plaintiff Class of Ohio private employers who, in one or more policy years from 2001-2008: (1) subscribed to the state workers' compensation fund; (2) were not group-rated; and (3) reported payroll and paid premiums in a manual classification for which the non-group effective base rate was inflated due to application of the group experience rating plan. The Court conducted a seven day bench trial in this matter beginning on August 20, 2012. On December 28, 2012, the Court issued a Partial Order and Opinion which found in favor of Plaintiffs on certain matters of liability and scheduled a subsequent hearing to determine the amount of the award. On March 20, 2013, the trial court entered a judgment for the plaintiff class of \$859,440,258.79. That judgment was overturned in part and affirmed in part by the Eighth District Court of Appeals on May 15, 2014, in a ruling that had the effect of reducing the judgment amount to \$650,978,738.82.

The BWC contests that liability in full, and has asked the Ohio Supreme Court to review the case, arguing among other matters that the trial court lacked jurisdiction over the case, that the BWC violated no statutory prohibitions, that there was no unjust enrichment, and that the trial court improperly denied a motion to decertify the class. Plaintiffs dispute those points. The lawsuit claims that BWC inflated the premium charges to non-group rated private employers during those years due to the effects of the group rating program. BWC

**COURT ORDERED NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT
COURT OF COMMON PLEAS, CUYAHOGA COUNTY, OHIO**

denies they violated any law, but has agreed to the settlement to avoid the uncertainties and expenses associated with continuing the case. The Court has granted preliminary approval to the settlement and has directed the issuance of this notice.

Am I a Class Member? The Court decided that private non-group rated employers who, in one or more policy years from 2001-2008: (1) subscribed to the state workers' compensation fund; (2) were not group-rated; and (3) reported payroll and paid premiums in a manual classification for which the non-group effective base rate was 'inflated' due to application of the group experience rating plan, are members of the Class. Those employers who were also group rated in some of the years in the class period are subject to a reduction for benefits received as group rated employers.

What Can I Get? BWC has agreed to create a Settlement Fund for the benefit of Class members in the gross amount of \$420,000,000. Class members are required to file a claim form as a precondition to being considered to receive a payment from the Settlement Fund. The claims of those Class members who submit eligible claims will be paid on a pro rata basis from the Settlement Fund less costs and Court-approved Class Counsel attorneys' fees and incentive payments to named class representatives. Class counsel will not seek an award of fees of more than a one-third contingency of the settlement fund, even though their fee agreement may entitle them to a larger percentage. Information about claim eligibility is available at XXXXX accessed through your BWC Policy number.

How Do I Get a Payment? Class members are required to fully and accurately complete the claim form appended to this notice and timely submit it postmarked by September 22, 2014 to the Claims Administrator in order to be eligible to be considered to receive any payment from the Settlement Fund. Claims must be timely submitted to:

[NAME AND ADDRESS OF CLAIMS ADMINISTRATOR]

The Claims Administrator will issue payment to eligible Class members only after the Court orders final approval of the settlement and only after all appeals have been exhausted and rights to appeal have expired.

What are My Other Options? You may object to the settlement. Your written objection must be filed no later than [deadline] and must comply with the requirements of the Court's preliminary approval order. If you do nothing, and the Court issues final approval of the settlement, you will be bound by all of the Court's orders and judgments. In addition, your claims in this case against the Defendant will be fully and finally resolved and released.

*COURT ORDERED NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT
COURT OF COMMON PLEAS, CUYAHOGA COUNTY, OHIO*

Who Represents Me? The Court has appointed lawyers from Garson Johnson, LLC and Dworken & Bernstein Co. L.P.A. to represent the Class. These attorneys are called Class Counsel and you will not be charged out of pocket for these lawyers, and you may hire an attorney to represent you at your own expense, but do not need to do so.

When Will the Court Consider the Proposed Settlement? The Court will hold the Final Approval Hearing at [date and time] at the Cuyahoga County Justice Center, Courtroom 16-D, 1200 Ontario Street, Cleveland, Ohio 44113-1678. At that hearing, the Court will hear any timely and properly submitted objections, and determine the fairness of the settlement and the fee request.

How Do I Get More Information? More information is available at [insert Administrator's website and court docket].

SWORN PROOF OF CLAIM

Re: San Allen, Inc. v. Stephen Buehrer, Adm. Ohio Bureau of Workers' Compensation, Case No. CV-07-644950,
Cuyahoga County Court of Common Pleas

Dear Class Member:

With this Proof of Claim, you have received a "Notice of Class Action and Proposed Settlement." As set forth in the Notice, in order for you to be potentially eligible to receive a settlement payment, subject to pro rata reduction, you must fully complete this Proof of Claim, sign it before a notary under penalty of perjury, and timely submit it along with a completed IRS Form W-9 (form and instructions available at <http://www.irs.gov/pub/irs-pdf/fw9.pdf>). **Your fully completed and signed Proof of Claim and completed and executed IRS Form W-9 must be postmarked no later than September 22, 2014, and be mailed to [NAME AND ADDRESS OF SETTLEMENT ADMINISTRATOR].**

If you have any questions about completing this Proof of Claim, write to [NAME AND ADDRESS OF SETTLEMENT ADMINISTRATOR]. **Do not contact the Court or Defendant for advice or information about this Settlement.** It is your responsibility to make sure your Proof of Claim is received, as the parties and their attorneys cannot assume responsibility for Proof of Claims that are not received. You should keep a copy of your completed Proof of Claim for your records. **Proof of Claims that do not comply with all requirements will be invalid and the class member will not be eligible to be considered to receive payment from the Settlement Fund.** *Note: No claims may be submitted by third parties, claims services, consolidators, factors, or other claims agents.*

STEP ONE: The class member seeking to have their claim considered for payment must provide all of the information required below. The information MUST match the Ohio BWC records.

(Business Name under which Ohio BWC coverage was obtained)

(Ohio BWC Policy Number)

(Present City, State and Zip Code)

(Present Street Address)

(Names of individual submitting claim form for class member)

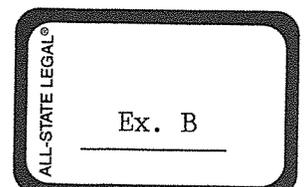
(Position with class member of individual submitting claim)

(Business telephone number)

(Email address)(optional)

If the current address or telephone number changes at any time after you submit a Proof of Claim, you MUST write to the class administrator [NAME AND ADDRESS OF SETTLEMENT ADMINISTRATOR], and provide the class member name and policy number, the past and current addresses, and the past and current telephone number, and refer to the name of the case: *San Allen, Inc. v. Stephen Buehrer, Adm. Ohio Bureau of Workers' Compensation.*

STEP TWO: You must also confirm that the following information is true and accurate. Your notarized signature on this form certifies that the information on this Proof of Claim is true and accurate UNDER PENALTY OF PERJURY.



1. The class member, to the extent that it is a legal entity and not a sole proprietorship, is an existing legal entity in good standing under the laws of the State of formation. _____ (WRITE yes or no)
2. The individual submitting this claim form on behalf of the class member is duly authorized to execute this claim, and the class member has validly authorized this claim to be submitted, and no other claim is being submitted in this matter for that business and that BWC policy number. _____ (WRITE yes or no)
3. The class member has not assigned any interest in the claim to a third party, and no part of the claim has been assigned, factored, transferred or otherwise alienated to any other person, firm or entity. _____ (WRITE yes or no)
4. The class member understands and agrees that any payment of this claim is contingent upon final approval of the settlement by the Court and the expiration of any appeals from the final approval order. _____ (WRITE yes or no).
5. TO PREVENT FRAUD, your payment will be made to the following bank account, matching the name and W-9 information submitted for the class member: _____ (insert bank name and account number). THIS INFORMATION MUST MATCH THE W-9 INFORMATION, AND MUST MATCH THE BWC'S E.I.N. OR SOCIAL SECURITY NUMBER FOR THAT BUSINESS.

STEP THREE: Read and agree to the following language, sign and date this form, and have your signature notarized. An authorized representative of the class member must sign this Proof of Claim before a notary public for the class member to participate in the Settlement and be eligible to be considered to receive a Settlement Payment:

I understand that, by remaining a class member and/or submitting a claim, I am releasing the Defendant in the above captioned action from those claims that are provided in the Settlement Agreement and described in the Notice of Class Action and Proposed Settlement. **WARNING: By signing this Proof of Claim, I hereby further certify, under penalty of perjury, that all the information contained hereon and submitted herewith is true and accurate. FURTHER NOTE THAT SUBMITTING A FALSE STATEMENT IS A CRIME WHICH MAY BE PROSECUTED TO THE FULLEST EXTENT OF THE LAW.**

SIGNED: _____

PRINT: _____

DATED: _____

Instructions for Notary Public: The signator MUST show you identification (including photo I.D.) which MUST match their name. Do not notarize this document without reviewing the identification of the person signing.

SWORN TO AND SUBSCRIBED BEFORE ME THIS ____ DAY OF _____, 2014.

Notary Public

REMINDER: THIS PROOF OF CLAIM MUST BE SIGNED BEFORE A NOTARY PUBLIC AND TOGETHER WITH A COMPLETED IRS FORM W-9 (form and instructions available at <http://www.irs.gov/pub/irs-pdf/fw9.pdf>) SENT TO [NAME AND ADDRESS OF SETTLEMENT ADMINISTRATOR], AND MUST BE POSTMARKED NO LATER THAN **September 22, 2014. INCOMPLETE, FALSE OR LATE FILED CLAIMS WILL NOT BE PAID.**