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Original Filed

SEP 17 2021

TIMOTHY W. FITZGERALD
SPOKANE COUNTY CLERK

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE**

JAKE MILLER and DOREEN MILLER,)
husband and wife, on behalf of themselves and)
all others similarly situated,)

Plaintiffs,)

vs.)

GUENTHER MANAGEMENT, LLC, a)
Washington limited liability company,)

Defendant.)

Case No.: 20-2-02604-32

**DECLARATION OF KIRK D. MILLER
IN SUPPORT OF UNOPPOSED MOTION
FOR CLASS CERTIFICATION AND
PRELIMINARY APPROVAL OF CLASS
SETTLEMENT**

Kirk D. Miller declares the following under penalty of perjury, as provided for and by the laws of the state of Washington:

1. I am the lead counsel of record for the Plaintiffs in this matter. I am admitted to practice before this Court and am a member in good standing of the bar of the states of Washington. I respectfully submit this declaration in support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement. Except as otherwise noted, I have personal knowledge of the facts set forth in this declaration and could testify competently to them if called upon to do so.

1 2. I founded Kirk D. Miller, P.S. in 2008 and remain the principle of my firm. Since
2 2008, I have actively litigated consumer rights and tenant rights claims, including several class
3 actions.

4 3. As class certification and settlement is now before the Court it is now appropriate
5 to address Plaintiff's motion as to that effect.

6 4. I carry malpractice insurance and my firm is able to carry the financial burden of
7 this class action case through to its resolution.

8 5. I have handled many consumer cases, including consumer and tenant class
9 actions. Some of the cases which I have been found to be acceptable class counsel are: *Cavnar et*
10 *al v. Bounceback, Inc. et al*, 2:14-cv-0235 RMP; *Fleming v. Greystar Management Services*,
11 2:15-cv-0174 SMJ; *Adsit v. Dundrum LLC* 2:17-cv-0110 SMJ; *Ryan Daley & Isaak Curry v.*
12 *Greystar Real Estate Partners, LLC et. al.*, 2:18-cv-00381-SMJ; and *Halvorsen v. Peterson*
13 *Enterprises, Inc.* 17-2-00123-1 (Spokane County Superior Court).

14 6. My firm has no interests that would prevent it from vigorously litigating this
15 claim. My firm has devoted considerable time and resources to the prosecution of the claims at
16 issue in this case and is committed to doing so as necessary.

17 7. I am unaware of any other litigation involving claims against Defendant Guenther
18 Management, LLC, for violations of RCW 59.18.257.

19 8. Since this case was served in June of 2020, Plaintiffs have investigated Defendant
20 Guenther's business practices, engaged in extensive discovery, reviewed and analyzed
21 documents and data to ascertain a reasonable range of damages, and engaged in extensive
22 negotiations with Defendant Guenther's counsel, who also have significant experience in
23 representing class action defendants.
24
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1 9. As a result of parties' settlement negotiations, the parties were able to amicably
2 resolve the matter on the terms memorialized in the parties' Settlement Agreement attached
3 hereto as **Exhibit E**.

4 10. All of the parties' settlement negotiations have been non-collusive and at arm's
5 length. Plaintiff and Class Counsel believe the class-wide settlement reached in this case is fair,
6 adequate, reasonable, and in the best interests of the Class.

7 11. There are 1,805 Class Members according to Defendant Guenther's records. If all
8 class members participate in the settlement (class members must affirmatively opt-out to not
9 receive payment), Defendant Guenther will disburse a total of \$54,150 to the class members,
10 resulting in a distribution of \$30.00 to each of the class members. According to Defendant
11 Guenther's records, all class members either paid a \$20.00 or \$25.00 screening fee.

12 12. As part of the Settlement, Defendant Guenther has also agreed to fully comply
13 with RCW 59.18.257's requirements going forward.

14 13. JND Legal Administration ("JND") estimates that it can carry out the Notice Plan
15 for \$20,865.00 or less, which Defendant Guenther has agreed to pay as part of the Settlement.
16 JND has successfully acted as the class administrator in a number of other class actions filed in
17 the state and federal throughout the United States and was selected after a competitive bidding
18 process. JND will be responsible for: disseminating notice and mail; following up on undelivered
19 notices; establishing and maintaining a settlement website; establishing a toll-free number and
20 responding to settlement class member calls; processing, logging, and reviewing exclusion
21 requests for deficiencies; addressing deficiencies with those requesting exclusion and providing
22 them with an opportunity to cure; administering the settlement fund; disbursing the settlement
23 fund to settlement class members; and providing a report to this Court of the settlement's
24
25

1 success. The Proposed Order for Class Certification and Preliminary Approval of Class
2 Settlement is attached hereto as **Exhibit A**. The proposed class notices are attached hereto
3 **Exhibit B** and **Exhibit C** and the Proposed Final Settlement Order and Final Judgment is
4 attached as **Exhibit D**.


5
6 14. Class Representatives Jake and Doreen Miller's claims are typical of the class's
7 claims and are committed to litigating this matter. They have no interests that are antagonistic to
8 the class and have the class's best interests in mind in reaching this settlement agreement. A
9 combined statutory damage and service award payment in the amount of \$2,500 will be
10 requested for both Mr. Miller and Mrs. Miller, which Guenther has agreed to pay per the
11 Settlement.

12
13 15. Class Counsel plan to request that the Court approve a combined award of litigation
14 expenses and reasonable attorneys' fees of \$50,000, which Guenther has agreed to pay per the
15 Settlement. The motion and supporting documentation will be available on the settlement website
16 for review at least thirty (30) days prior to the objection and opt-out deadline.

17
18 16. If any payments to class members are deemed undeliverable or remain unnegotiated
19 90 days after the check mailing date, the balance of all such payments shall be donated in equal
20 amounts to the Legal Foundation of Washington and Northwest Justice Project as cy pres. If there
21 are any remaining funds from the funds set aside for class administration costs these funds will
22 be disbursed as part of the cy pres. In addition, if the Court does not award the full attorneys' fees
23 and costs or service awards requested, these funds will be disbursed as part of the cy pres, if the
24 class administration costs do not exceed the allocated \$20,865.00. In no event will remaining funds
25 revert to Defendant Guenther.

1 17. The parties have been engaged in this litigation for over a year and have sufficient
2 information to make an informed decision with respect to the settlement.
3

4 RESPECTFULLY SIGNED this ____ day of September, 2021 at SPOKANE, WA.
5

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8 KIRK D. MILLER, WSBA #40025
9 Attorney for Plaintiff
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CERTIFICATE OF SERVICE

I hereby declare under penalty of perjury under the laws of the state of Washington that on the date stated below I served a copy of this document in the manner indicated:

Jeffrey P. Downer
Carinne E. Bannan
LEE SMART, P.S. INC.
1800 One Convention Place
701 Pike Street
Seattle WA 98101

- First Class U.S. Mail
- E-Mail
- Hand Delivery
- Next Day Air

DATED this 17th day of September, 2021.



Teri A. Bracken, Paralegal

EXHIBIT A

*Declaration of Kirk D. Miller in Support of
Unopposed Motion for Class Certification and
Preliminary Approval of Class Settlement*

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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE**

JAKE MILLER and DOREEN MILLER,
husband and wife, on behalf of themselves and
all others similarly situated,

Plaintiffs,

vs.

GUENTHER MANAGEMENT, LLC, a
Washington limited liability company,

Defendant.

Case No.: 20-2-02604-32

**[PROPOSED] ORDER GRANTING
CLASS CERTIFICATION AND
PRELIMINARY APPROVAL OF CLASS
SETTLEMENT**

Plaintiffs Jake and Doreen Miller ("Plaintiffs") have filed an Unopposed Motion for Class Certification and Preliminary Approval of Class Settlement ("Motion"). Having reviewed the Motion and supporting documents, the Court hereby ORDERS, ADJUDGES AND DECREES as follows:

A. Plaintiffs' Counsel and Defendant Guenther Management, LLC (Guenther)'s Counsel have advised the Court that the Parties have agreed, subject to final approval by this Court following notice to the proposed Settlement Class and a hearing, to settle this Action on the terms and conditions set forth in the Settlement Agreement and Release (the "Agreement").

B. The Court has reviewed the Agreement, as well as the files, records, and proceedings to date in this matter. The terms of the Agreement are hereby incorporated as

1 though fully set forth in this Order. Capitalized terms shall have the meanings attributed to them
2 in the Agreement.

3 C. Based upon preliminary examination, it appears that the Agreement is sufficiently
4 fair, reasonable, and adequate to warrant Notice to the proposed Settlement Class; that the
5 Settlement Class should be certified for settlement purposes; and that the Court should hold a
6 hearing after Notice to the Settlement Class to determine whether to enter a Final Approval
7 Order in this action based upon that Agreement.

8 Based upon the foregoing, the Court finds and concludes as follows:

9 1. ***Preliminary Approval of Proposed Settlement.*** The Agreement, including all
10 exhibits thereto, is preliminarily approved as fair, reasonable and adequate. The Court finds that
11 (a) the Agreement resulted from extensive arm's-length negotiations, and (b) the Agreement is
12 sufficient to warrant notice thereof to members of the Settlement Class and the Fairness Hearing
13 described below.

14 2. ***Class Certification for Settlement Purposes Only.***

15 (a) Pursuant to CR 23(a) and (b)(3), the Court, for settlement purposes only,
16 conditionally certifies the following Settlement Class:

17
18 All persons who from June 24, 2017, through June 24, 2020, applied to rent at
19 any property in the state of Washington, where the rental property on the date of
application was owned or managed by Guenther Property Management, LLC.

20 The Settlement Class does not include any persons who timely and validly request
21 exclusion from the Settlement Class, nor Guenther, employees of Guenther, any person or entity
22 that has a controlling interest in Guenther, Guenther's current or former directors and officers, as
23 well as the parties' counsel and their immediate families.

24 (b) In connection with the certification, the Court makes the following
25 preliminary findings:

26
27 [PROPOSED] ORDER GRANTING CLASS CERTIFICATION
AND PRELIMINARY APPROVAL OF CLASS
SETTLEMENT - 2

Kirk D. Miller, P.S.
421 W. Riverside Ave., Ste. 660
Spokane, WA 99201
Tel: (509) 413-1494

1 (1) The Settlement Class satisfies CR 23(a)(1) because the Settlement Class
2 appears to be so numerous that joinder of all members is impracticable;

3 (2) The Settlement Class satisfies CR 23(a)(2) because there appears to be
4 questions of law or fact common to the Settlement Class;

5 (3) The Settlement Class satisfies CR 23(a)(3) because the claims of the
6 Plaintiffs named in the caption appear to be typical of the claims being resolved through the
7 proposed settlement;

8 (4) The Settlement Class satisfies CR 23(a)(4) because the Plaintiffs appear to
9 be capable of fairly and adequately protecting the interests of the above-described Settlement
10 Class in connection with the proposed settlement and because counsel representing the
11 Settlement Class are qualified, competent, and capable of prosecuting this action on behalf of the
12 Settlement Class.

13 (5) The Settlement Class satisfies the requirements of CR 23(b)(3) because,
14 for purposes of settlement approval and administration, common questions of law and fact
15 appear to predominate over questions affecting only individual Settlement Class Members and
16 because settlement with the above-described Settlement Class appears to be superior to other
17 available methods for the fair and efficient resolution of the claims of the Settlement Class. The
18 Settlement Class appears to be sufficiently cohesive to warrant settlement by representation.

19 (c) In making the foregoing findings, the Court has exercised its discretion in
20 conditionally certifying a settlement class.

21 3. **Plaintiffs.** For settlement purposes only, the Court hereby appoints Plaintiffs Jake
22 and Doreen Miller, as Class Representative Plaintiffs pursuant to CR 23, and finds that, for
23 settlement purposes only, Mr. and Mrs. Miller have and will fairly and adequately protect the
24 interests of the Settlement Class.

25 4. **Class Counsel.** For settlement purposes only, the Court appoints Kirk D. Miller
26 of Kirk D. Miller, P.S., and Shayne Sutherland of Cameron Sutherland, PLLC as counsel for the

27 [PROPOSED] ORDER GRANTING CLASS CERTIFICATION
AND PRELIMINARY APPROVAL OF CLASS
SETTLEMENT - 3

Kirk D. Miller, P.S.
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1 Settlement Class ("Class Counsel"). For purposes of these settlement approval proceedings, the
2 Court finds that Class Counsel are competent and capable of exercising their responsibilities as
3 Class Counsel.

4 **5. Settlement Administrator.** The Court appoints JND Legal Administration
5 ("JND") as the Settlement Administrator, which shall fulfill the Settlement Administration
6 functions, duties, and responsibilities of the Settlement Administrator as set forth in the
7 Agreement and this Order.

8 **6. Fairness Hearing.** A Fairness Hearing shall be held before this Court on
9 _____, at _____ a.m./p.m., to determine whether the Agreement is fair,
10 reasonable, and adequate and should be given final approval. Papers in support of final approval
11 of the Agreement and Class Counsel's application for an award of attorneys' fees and costs, and
12 for a service award to the Plaintiffs (the "Fee and Expense Application") shall be filed with the
13 Court according to the schedule set forth in Paragraphs 12 and 13, below. The Court may
14 postpone, adjourn, or continue the Fairness Hearing without further notice to the Settlement
15 Class. After the Fairness Hearing, the Court may enter a Final Approval Order in accordance
16 with the Agreement, which will adjudicate the rights of the Settlement Class Members with
17 respect to the claims being settled.

18 **7. Class Notice.** The Court approves the form and content of the notices attached as
19 Exhibits B, and C to the Agreement. The Parties shall comply with the notice requirements of
20 the Agreement. In compliance with that Agreement, beginning no later than thirty (30) days
21 after entry of this Order, the Settlement Administrator shall cause Notice to be delivered in the
22 manner set forth in the Agreement, launch the Settlement website, and provide all notice and
23 claims services as set forth in the Agreement.

24 **8. Findings Concerning Class Notice.** The Court finds that the Class Notice and
25 the manner of its dissemination described in the Agreement constitutes the best practicable
26 notice under the circumstances, including individual notice to all Settlement Class Members who

27 [PROPOSED] ORDER GRANTING CLASS CERTIFICATION
AND PRELIMINARY APPROVAL OF CLASS
SETTLEMENT - 4

Kirk D. Miller, P.S.
421 W. Riverside Ave., Ste. 660
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Tel: (509) 413-1494

1 can be identified through reasonable effort, and is reasonably calculated, under all the
2 circumstances, to apprise Settlement Class Members of the pendency of this action, the terms of
3 the Agreement, and their right to object to or exclude themselves from the Settlement Class. The
4 Court finds that the Notice is reasonable, that it constitutes due, adequate and sufficient notice to
5 all persons entitled to receive notice, and that it meets the requirements of due process, CR 23,
6 and any other applicable laws.

7 **9. Exclusion from Settlement Class.** Settlement Class Members who wish to
8 exclude themselves from the Settlement Class and follow the procedures set forth in this
9 Paragraph shall be excluded. Any potential member of the Settlement Class may mail a written
10 request for exclusion, in the form specified in the Class Notice, to the Settlement Administrator
11 at the address set forth in the Class Notice. In the written request for exclusion, Settlement Class
12 Members must include their full name, address, telephone number, signature, case name (to
13 allow the Settlement Administrator to ensure the exclusion request is for this and not another
14 case administered by the same Settlement Administrator), and a statement that they wish to be
15 excluded from the Settlement Class for purposes of this settlement. A request to be excluded
16 that does not include all of this information, or that is sent to an address other than that
17 designated in the Notice, or that is not postmarked within the time specified, shall be invalid, and
18 the individual who submitted such a request shall be a member of the Settlement Class and shall
19 be bound as a Settlement Class Member by this Agreement. All such written requests must be
20 postmarked no later than sixty (60) days after the date established by the Court for the Settlement
21 Administrator to provide Class Notice. All persons who properly request exclusion from the
22 Settlement Class shall not be Settlement Class Members and shall have no rights with respect to,
23 nor be bound by, the Agreement, should it be finally approved. The names of all such excluded
24 individuals shall be attached as an exhibit to any Final Approval Order.

1 **10. Claims Procedures.** The Court approves the claims procedures set forth in the
2 Agreement. Here, unless Settlement Class Members timely exclude themselves from the
3 Settlement Class, they will receive disbursement of the funds allocated in the Agreement.

4 **11. Costs of Class Notice and Claims Processing.** Guenther shall bear all costs of
5 notice to the Settlement Class of the pendency and settlement of the Action and other Settlement
6 Administration costs as provided in the Agreement, up to \$20,865.00. If costs of class notice and
7 claims processing exceed \$20,865.00, Class Counsel shall be responsible for their payment.

8 **12. Objections and Appearances.**

9 **(a) Written Objections.** Any Settlement Class Member who has not timely
10 submitted a written request for exclusion from the Settlement Class, and thus is a Settlement
11 Class Member, may object to the fairness, reasonableness, or adequacy of the Agreement or the
12 Fee and Expense Application. Any Settlement Class Member who wishes to object to the
13 Agreement or the Fee and Expense Application must file with the Court and deliver to Class
14 Counsel and Guenther's counsel a written objection. The written objection, which the objecting
15 Settlement Class Member must personally sign, must state: (i) the objector's full name, address,
16 and current telephone number; (ii) an explanation of the reason why the objector claims to be a
17 Settlement Class Member; (iii) all grounds for the objection, including any documents, evidence,
18 and citations; (iv) the name and contact information of any and all attorneys representing,
19 advising, or in any way assisting the objector in connection with the preparation or submission of
20 the objection or who may profit or otherwise benefit from the pursuit of the objection; and (v)
21 whether the objector intends to appear at the Fairness Hearing on their own behalf or through
22 counsel. If a Settlement Class Member or any Objecting Attorney has objected to any class
23 action settlement where the objector or the Objecting Attorneys asked for or received any
24 payment in exchange for dismissal of the objection, or any related appeal, without any
25 modification to the settlement, then the objection must include a statement identifying each such
26 case by full case caption. Any documents that the objector wants the Parties and the Court to

27 [PROPOSED] ORDER GRANTING CLASS CERTIFICATION
AND PRELIMINARY APPROVAL OF CLASS
SETTLEMENT - 6

Kirk D. Miller, P.S.
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Tel: (509) 413-1494

1 consider must also be attached to the written objection. The written objection and any
2 supporting papers must be filed with the Court and delivered to Class Counsel and Guenther's
3 counsel no later than sixty (60) days after the date on which Class Notice is first transmitted.
4 Any objection not timely made in this manner shall be waived and forever barred.

5 (b) *Appearance at Fairness Hearing.* Objectors who timely and fully
6 comply with the requirements above may appear at the Fairness Hearing, either in person or
7 through an attorney hired at their own expense, to object to the fairness, reasonableness, or
8 adequacy of this settlement. Any Settlement Class Member who does not timely deliver a
9 written objection and notice of intention to appear by sixty (60) days from the date for delivery
10 of the Class Notice as set forth in Paragraph 7 above, in accordance with the requirements of this
11 Order, shall not be permitted to object or appear at the Settlement Hearing, except for good cause
12 shown, and shall be bound by all proceedings, orders and judgments of the Court.

13 (c) *Fees and Expense Application.* Class Counsel shall file their Fee and
14 Expense Application, together with all supporting documentation, no later than thirty (30)
15 calendar days prior to the Objection and Exclusion deadline, sufficiently in advance of the
16 expiration of the objection period that any Settlement Class Member will have sufficient
17 information to decide whether to object and, if applicable, to make an informed objection.

18 (d) *Motion for Final Approval and Responses to Objections.* Class Counsel
19 shall file with the Court their Motion for Final Approval of the Settlement and any responses to
20 any filed objections to the Agreement or the Fee and Expense Application, together with all
21 supporting documentation, no later than fourteen (14) days before the Fairness Hearing.

22 **13. *Dates of Performance.*** In summary, the dates of performance are as follows:

23 (a) Guenther shall provide contact and location information for Class
24 Members to Settlement Administrator on or before _____, i.e., no later than fifteen (15)
25 days after entry of this Order;

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1 (b) Guenther shall provide to the Settlement Administrator all costs necessary
2 for class administration, claims payments, Class Counsel's attorneys' fees and costs, and Service
3 Awards, in the amounts set forth in the Settlement Agreement to the Settlement Administrator on
4 or before _____, i.e., no later than twenty-one (21) days after entry of this Order;

5 (c) The Settlement Administrator shall send the Class Notice to potential
6 Settlement Class Members beginning on or before _____, i.e., within fifteen (15) days
7 after receiving the Class Member contact and location information from Guenther;

8 (d) Class Counsel's Fee and Expense Application, and all supporting
9 materials, shall be filed no later than _____, i.e., no later than thirty (30) days after entry of
10 this Order;

11 (e) Settlement Class Members who desire to be excluded shall mail requests
12 for exclusion postmarked by _____, i.e., no later than sixty (60) days after the date in
13 subsection (c) above;

14 (f) All objections to the Settlement, Agreement or the Fee and Expense
15 Application shall be filed with the Court and delivered to the Parties' counsel no later than
16 _____, i.e., the same date as in subsection (e) above;

17 (g) Plaintiffs' final approval motion, any Parties' responses to objections, and
18 all supporting materials, shall be filed by _____, i.e., at least fourteen (14) days before
19 the date in subsection (i) below;

20 (h) If objections are received by the Parties' counsel and / or filed with the
21 Court after the objection deadline, any Party may file a response at any time prior to the Fairness
22 Hearing;

23 (i) The Fairness Hearing shall be held on _____, at _____
24 a.m./p.m.;

25 (j) The Settlement Administrator shall distribute payments to Class Members
26 by _____, i.e., no later than fifteen (15) days after the date in subsection (i) above; and

1 (k) The Settlement Administrator shall provide its report to the Court
2 verifying its compliance with the parties Agreement, by _____, i.e., no later than thirty
3 (30) days after the date in subsection (i) above.

4 **14. Effect of Failure to Approve the Agreement.** In the event the Court does not
5 approve the Agreement, or for any reason the Parties fail to obtain a Final Approval Order as
6 contemplated in the Agreement, or the Agreement is terminated pursuant to its terms for any
7 reason, then the following shall apply:

8 (a) All orders and findings entered in connection with the Agreement shall
9 become null and void and have no further force and effect, shall not be used or referred to for
10 any purposes whatsoever, and shall not be admissible or discoverable in any other proceeding;

11 (b) The conditional certification of the Settlement Class pursuant to this Order
12 shall be vacated automatically, and the case shall return to its status as it existed before entry of
13 this Order;

14 (c) Nothing contained in this Order is, or may be construed as, any admission or
15 concession by or against Plaintiffs or Guenther on any point of fact or law, including, but not
16 limited to, factual or legal matters relating to any effort to certify this case as a class action for
17 purposes of considering settlement approval; and

18 (d) Nothing in this Order or pertaining to the Agreement shall be used as evidence
19 in any further proceeding in this case, including, but not limited to, motions or proceedings
20 pertaining to treatment of this case as a class action.

21 **15. Discretion of Counsel.** Counsel are hereby authorized to take all reasonable steps
22 in connection with approval and administration of the Settlement not materially inconsistent with
23 this Order or the Agreement, including, without further approval of the Court, making minor
24 changes to the content of the Class Notice that they jointly deem reasonable or necessary.

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1 Presented by:

2 KIRK D. MILLER, P.S.
3 Attorney for Plaintiffs

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6 Kirk D. Miller, WSBA #40025
421 W. Riverside Avenue, Ste. 660
7 Spokane, WA 99201
Telephone: (509) 413-1494
8 Email: kmiller@millerlawspokane.com

9

10 CAMERON SUTHERLAND, PLLC
Attorney for Plaintiffs

11

12

13

14 Shayne J. Sutherland, WSBA #44593
421 W. Riverside Avenue, Ste. 660
Spokane, WA 99201
15 Telephone: (509) 315-4507
16 Email: ssutherland@cameronsutherland.com

17

18 LEE SMART, P.S., INC.
Attorneys for Defendant

19

20

21 Jeffrey P. Downer, WSBA #12625
Carinne E. Bannan, WSBA #52564
701 Pike St., Suite 1800
22 Seattle WA 98101
Telephone: (206) 624-7990
23 Email: ceb@leesmart.com

24

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[PROPOSED] ORDER GRANTING CLASS CERTIFICATION
AND PRELIMINARY APPROVAL OF CLASS
SETTLEMENT - 11

Kirk D. Miller, P.S.
421 W. Riverside Ave., Ste. 660
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CERTIFICATE OF SERVICE

I hereby declare under penalty of perjury under the laws of the state of Washington that on the date stated below I served a copy of this document in the manner indicated:

Jeffrey P. Downer
Carinne E. Bannan
LEE SMART, P.S. INC.
1800 One Convention Place
701 Pike Street
Seattle WA 98101

- First Class U.S. Mail
- E-Mail
- Hand Delivery
- Next Day Air

DATED this ____ day of September 2021.

Teri A. Bracken, Paralegal

EXHIBIT B

*Declaration of Kirk D. Miller in Support of
Unopposed Motion for Class Certification and
Preliminary Approval of Class Settlement*

If You Applied to Rent From Guenther Management Between June 24, 2017, And June 24, 2020, You Could Be Entitled To Benefits Under A Class Action Settlement.

A proposed settlement of a class action lawsuit relates to Defendant Guenther Management, LLC's alleged illegal action of failing to provide required screening disclosures prior to obtaining information on prospective tenants. The case is known as *Jake Miller and Doreen Miller, on behalf of themselves and all others similarly situated v. Guenther Management LLC*, 20-2-02604-32 (Spokane Superior Court) ("Action").

What is the lawsuit about? In the Action, the Plaintiffs claimed, among other things, that Defendant Guenther charged tenant screening fees without first providing required disclosures to prospective tenants, in violation of Washington State law. Defendant Guenther claims it has abided by all state and federal laws, and that the Action is not well grounded in law or fact. As part of the proposed settlement, Defendant Guenther does not admit to any wrongdoing, maintains its compliance with the law, and continues to deny the allegations against it.

Who is included? You are a Class Member if between June 24, 2017, and June 24, 2020, you applied to rent at any property in the state of Washington, where the rental property on the date of application was owned or managed by Guenther Property Management, LLC.

What does the settlement provide? Defendant Guenther have agreed to pay a total settlement amount of \$130,015.00 which will be used to create a Settlement Fund to pay cash awards to Settlement Class Members who do not timely exclude themselves from the Settlement, pay Class Counsel's attorneys' fees and costs, pay an incentive award to the Plaintiffs, and pay the costs and expenses of settlement administration.

What are your options?

Do Nothing: If you do nothing, you will be eligible to receive the benefits allocated to class members and will be bound by the terms of the Settlement Agreement and Final Judgment.

Opt-Out or Object: If you opt-out, you will retain your rights to sue Defendant Guenther separately, however, you will not be eligible to receive any benefits. You must submit a request for exclusion. An example exclusion form is available at the Settlement Website. Requests for exclusion must be **postmarked on or before MM DD, 2021**. Detailed instructions are available on the Settlement Website.

You may also object to any part of this Settlement. Details about how to object are available at the Settlement Website. Objections must be filed with or mailed to the Court **on or before MM DD, 2021**.

Has the Court approved the Settlement? No. The Court will hold a Fairness Hearing at _____ on _____, at the Spokane County Superior Court, 1116 W. Broadway Ave., Spokane, Washington, 99260. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge Moreno will listen to people who have asked to speak at the hearing. The Court will also consider whether to approve the requested attorneys' fees, costs, and Service Award. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

How Do You Get More Information?

This notice is only a summary. To obtain a detailed Notice of Class Action Settlement, find answers to common questions about the settlement plus other information, including a copy of the Settlement Agreement, visit www.SettlementWebsite.com.

www.website.com (555) 555-5555

EXHIBIT C

*Declaration of Kirk D. Miller in Support of
Unopposed Motion for Class Certification and
Preliminary Approval of Class Settlement*

THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF SPOKANE

If you applied to rent from Guenther Management between June 24, 2017, and June 24, 2020, you could be entitled to benefits under a class action settlement.

*The Spokane County Superior Court authorized this Notice.
This is not a solicitation from a lawyer.*

- A proposed settlement of a class action lawsuit relates to Defendant Guenther Management, LLC's alleged illegal action of failing to provide required screening disclosures prior to obtaining information on prospective tenants. The case is known as *Jake Miller and Doreen Miller, on behalf of themselves and all others similarly situated v. Guenther Management LLC*, 20-2-02604-32 (Spokane Superior Court) ("Action").
- Defendant Guenther denies all allegations of wrongdoing in the lawsuit. Defendant Guenther claims it has abided by all state and federal laws, and that the Action is not well grounded in law or fact. As part of the proposed settlement, Defendant Guenther does not admit to any wrongdoing, maintains its compliance with the law, and continues to deny the allegations against it.
- The proposed settlement provides for a \$130,015.00 fund for Settlement Class Members (persons who qualify under the definition of the class) who do not timely exclude themselves from the Settlement. The fund will also be used to pay the costs and expenses of settlement administration, an incentive award to the Plaintiffs, and Class Counsel's attorneys' fees and costs.
- Your legal rights are affected whether you act or don't act. Please read this notice carefully.

YOUR RIGHTS AND OPTIONS	DEADLINE	
DO NOTHING	You will receive payment under the settlement and will be giving up your rights to assert any claims about the legal claims in the case against Defendant Guenther.	Month XX, 2021
EXCLUDE YOURSELF	Get no payment under the settlement. This is the only option that allows you to be part of any other lawsuit against Defendant Guenther about the legal claims in the case.	Month XX, 2021
OBJECT	Write to the Court and the Parties' Counsel about why you don't like the settlement. You can do this only if you don't exclude yourself.	Month XX, 2021
GO TO THE HEARING	Ask to speak in Court about the fairness of the settlement. You can do this only if you don't exclude yourself.	Month XX, 2021

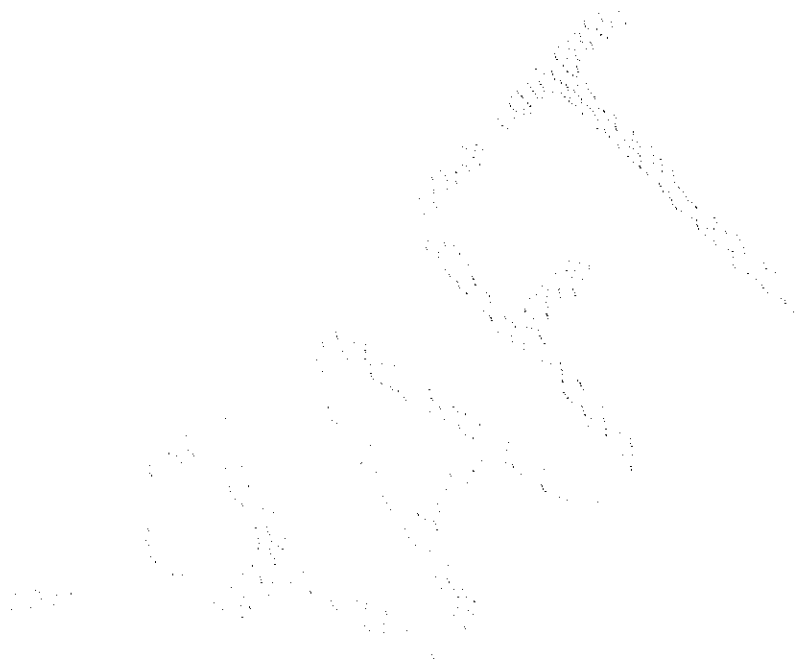
- This Notice explains these rights and options—**and the deadlines to exercise them.**
- The Court must decide whether to approve the settlement as part of the process described in this Notice. Payments will be sent only if the Court approves the settlement.

QUESTIONS? VISIT WWW. _____ .COM
Page 1 of 8

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Page

[INSERT]



Basic Information

1. Why did I get a Notice?

You received postcard notice if Defendant Guenther's records show that you might be a class member. The postcard notice referred you to an informational website which included this more detailed Notice.

The Court ordered that a Notice be sent to you because you have a right to know about a proposed settlement of the class action against Defendant Guenther and about your options before the Court decides whether to approve the settlement. If the Court approves it and you submit a valid Claim Form, an administrator appointed by the Court will provide the Claim Payment that the settlement allows.

This Notice explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. Please read this Notice carefully.

The Spokane County Superior Court has jurisdiction over this proposed settlement. The persons who sued are called the Plaintiffs, and the company they sued is called the Defendant.

2. What is the lawsuit about?

Plaintiffs filed a proposed class action lawsuit (the "Action") against Defendant Guenther.

In the Action, the Plaintiffs claimed, among other things, that Defendant Guenther received rental applications and charged tenant screening fees without first providing required disclosures to prospective tenants, in violation of Washington State law. Defendant Guenther claims it has abided by all state and federal laws, and that the Action is not well grounded in law or fact. As part of the proposed settlement, Defendant Guenther does not admit to any wrongdoing, maintains its compliance with the law, and continues to deny the allegations against it.

3. Why is this a class action?

In a class action, one or more people, called Class Representatives, sue on behalf of people who have similar claims. In this case, the Class Representatives are Jake and Doreen Miller. One court resolves the issues for all class members, except those who exclude themselves from the Class. The Honorable Maryann Moreno for the Spokane Superior Court for the State of Washington has jurisdiction over the case in which the parties have submitted this settlement for approval.

4. Why is there a settlement?

The Court did not decide in favor of Plaintiffs or Defendant Guenther. Instead, both sides agreed to a settlement. That way, they avoid the cost of a trial, and settlement benefits go to the class members. The class representative and her attorneys think the settlement is best for the class members.

Who Is in the Settlement?

To see if you are eligible to receive a Claim Payment and otherwise benefit from this settlement, you first have to determine whether you are a class member.

5. How do I know if I am part of the settlement?

For the purposes of this settlement, everyone who fits this description is a class member:

QUESTIONS? VISIT WWW. _____ .COM

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MILLER DECL EXH C - 0020

You are a Class Member if from June 24, 2017, through June 24, 2020, you applied to rent at any property in the state of Washington, where the rental property on the date of application was owned or managed by Guenther Property Management, LLC.

6. Who is not included in the Class?

The Class does *not* include Defendant Guenther, employees of Guenther, any person or entity that has a controlling interest in Defendant Guenther, Guenther's current or former directors and officers, as well as the Parties' Counsel and their immediate families. The Class also does not include any persons who validly request exclusion from the Class.

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

If you are still not sure whether you are included, you can visit the settlement website, www._____.com, for more information.

The Settlement Benefits—What You Get

8. What does the settlement provide?

Defendant Guenther have agreed to pay a total settlement amount of \$130,015.00 which will be used to create a Settlement Fund to pay cash awards to Settlement Class Members who do not timely exclude themselves from the Settlement, pay Class Counsel's attorneys' fees and costs, pay an incentive award to the Plaintiffs, and pay costs and expenses of settlement administration.

The Settlement Administrator will determine whether you are a Settlement Class Member or have validly excluded yourself.

How You Get a Claim Payment – Submitting a Claim Form

9. How can I receive a payment?

If you receive this notice and do not validly exclude yourself from the Settlement Class within sixty (60) days you are eligible to receive payment. The Court will hold a hearing on _____, to decide whether to approve the Settlement. If the Settlement is approved, payments will be mailed from the Settlement Administrator within fifteen (15) days of the Court entering a final order approving the Settlement.

10. When do I get my payment?

The Court will hold a hearing on _____, to decide whether to approve the Settlement ("Fairness Hearing"). If the Court approves the Settlement after that, there may be appeals. It is always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. Please be patient and check the website for any updates. However, if the Settlement is approved, and there are no appeals. Payments will be mailed from the Settlement Administrator within fifteen (15) days of the Court entering a final order approving the Settlement.

11. What am I giving up if I remain in the Class?

Unless you exclude yourself, you stay in the Class, and that means that you can't sue, continue to sue, or be part of any other lawsuit against Defendant Guenther about the legal issues in this case. If the settlement is approved and becomes final and not subject to appeal, then you and all class members release all "Released Claims" against all "Released Parties."

QUESTIONS? VISIT WWW._____.COM

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“Released Claims” means all actions, claims, demands, rights, suits, or causes of action, including without limitation all claims that arise from, involve, or in any way relate to Guenther and its related entities, or that arise from or relate to the allegations made or conduct described in the Lawsuit including but not limited to allegations related to violations of RCW 59.18.257. This release covers, without limitation, any and all claims for attorneys’ fees, costs, or disbursements incurred by Counsel for Plaintiff and the Settlement Class Members or any other counsel representing Plaintiffs or Settlement Class Members in connection with or related in any manner to this Agreement or the Lawsuit, the settlement of the Lawsuit, the administration of this Agreement and the settlement contemplated thereunder, Settlement and/or the Settled Claims. Plaintiffs and the Settlement Class Members expressly waive and fully, finally, and forever settle and release any known or unknown, suspected or unsuspected, contingent or non-contingent claims with respect to the Settled Claims, whether or not concealed or hidden, without regard to any subsequent discovery or existence of different or additional facts.

“Released Parties” means Defendant Guenther, and all affiliates, parents, subsidiaries, insurers, agents, lawyers, officers and directors, members, managers, servants, employees, and marital communities of any such released persons.

Additionally, with respect to any and all Released Claims, you and your respective agents, successors, heirs, assigns, and any other person who can claim by or through you in any manner, shall be deemed to have waived, and by operation of the judgment of the Court shall have expressly waived, any and all claims, rights, or benefits they may have under California Civil Code § 1542 and any similar federal or state law, right, rule, or legal principle that may be applicable. California Civil Code § 1542 provides as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Excluding Yourself from the Settlement

If you don’t want anything from this settlement, and you want to keep any right you may have to sue or continue to sue Defendant Guenther or other Released Parties on your own about the Released Claims, then you must take steps to remove yourself from the Class. This is called excluding yourself and is sometimes referred to as “opting out” of the Class.

12. How do I get out of the settlement?

To exclude yourself from the settlement, you must send a signed letter by mail stating that you “want to opt out of the Jake and Doreen Miller v. Guenther Management, LLC Settlement.” Please be sure to include your name, address, telephone number, and your signature. You must mail your exclusion request **postmarked no later than _____**, to:

Jake and Doreen Miller v. Guenther Management, LLC
Settlement Administrator
P.O. Box _____,
CITY, ST ZIP

You can’t exclude yourself on the phone or by fax or email.

QUESTIONS? VISIT WWW. _____ .COM

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13. What is the effect if I exclude myself from this settlement?

If you ask to be excluded, you will not receive any payment from this settlement. Also, you cannot object to the settlement. You will not be legally bound by anything that happens in the Action. You may be able to sue (or continue to sue) Defendant Guenther in the future about the legal issues in this case.

14. If I don't exclude myself, can I sue Defendant Guenther for the same thing later?

No. Unless you exclude yourself, you give up your right to sue Defendant Guenther and the other Released Parties for the claims that this settlement resolves. You must exclude yourself from *this* Class to pursue your own lawsuit. Remember, your exclusion request must be postmarked on or before _____.

15. If I exclude myself, can I get a payment from this settlement?

No. However, if you exclude yourself, you may exercise any right you may have to sue, continue to sue, or be part of a different lawsuit against Defendant Guenther and the other Released Parties.

The Lawyers Representing You

16. Do I have a lawyer in the case?

The Court appointed Kirk D. Miller, P.S. and Cameron Sutherland, PLLC to represent the Class. These lawyers are called Class Counsel. You will not be charged for these lawyers. The Court will determine the amount of Class Counsel's fees and costs, which Defendant Guenther will pay as part of the settlement. If you want to be represented by your own lawyer, you may hire one at your own expense.

17. How will the lawyers be paid?

Class Counsel will request from the Court an award of attorneys' fees and out-of-pocket litigation costs up to \$50,000.00. Class Counsel will also request up to a \$2,500.00 Service Award for each of the two Representative Plaintiffs for serving as the class representatives. These payments, along with the costs of administering the Settlement, will be made out of the Settlement Fund. You have the right to object to the requested attorneys' fees and costs, and Service Award.

Class Counsel will file their papers in support of final approval of the settlement and their application for attorneys' fees and reimbursement of costs, and for the Service Award, by no later than _____ and _____, respectively. These papers will also be posted on the Settlement Website (www._____.com).

Objecting to the Settlement

You can tell the Court that you don't agree with the settlement or some part of it.

18. How do I tell the Court if I don't like the settlement?

If you are a class member, you can object to the settlement if you don't like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must file with the Court and deliver to Class Counsel and Defendant Guenther's counsel a signed letter saying you object to the proposed settlement in *Jake Miller and Doreen Miller, on behalf of themselves and all others similarly situated v. Guenther Management LLC, 20-2-02604-32*. Be sure to include your name, address, telephone number, a statement indicating that you are a class member, your

QUESTIONS? VISIT WWW._____.COM

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signature, and the reasons why you object to the settlement. Your objection and any supporting papers must be postmarked by and mailed to Class Counsel at the following address no later than [DATE]:

Spokane County Superior Court
Clerk's Office
1116 W. Broadway Ave., Room 300
Spokane, WA 99260

Your objection and any supporting papers must also be delivered to Class Counsel and Defendant Guenther's counsel at the following addresses **no later than [60 days after Class Notice deadline]**:

Kirk D. Miller
Kirk D. Miller, P.S.
421 W. Riverside Avenue, Ste. 660
Spokane, WA 99201
Class Counsel

Carinne Bannan
Lee Smart, P.S., Inc.
701 Pike Street, Suite 1800
Seattle, WA 98101-3929
Counsel for Defendant Guenther

19. What's the difference between objecting and excluding?

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you don't want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

The Court's Fairness Hearing

The Court will hold a fairness hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but you don't have to.

20. When and where will the Court decide whether to approve the settlement?

The Court will hold a Fairness Hearing at _____ on _____, at the Spokane County Superior Court, 1116 W. Broadway Ave., Spokane, Washington, 99260. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge Moreno will listen to people who have asked to speak at the hearing. The Court will also consider whether to approve the requested attorneys' fees, costs, and Service Award. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

21. Do I have to come to the hearing?

No. Class Counsel will answer questions Judge Moreno may have. You are welcome to come at your own expense. If you send an objection, you don't have to come to Court and talk about it. As long as your written objection is postmarked by _____, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

22. May I speak at the hearing?

QUESTIONS? VISIT WWW. _____ .COM

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You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intention to Appear" in "*Jake Miller and Doreen Miller v. Guenther Management LLC*, 20-2-02604-32." Be sure to include your name, address, telephone number, that you are a class member, a list of any documents you want the Court to consider, the names of any witnesses who you want to testify and your signature. Your Notice of Intention to Appear must be postmarked and sent to the Court's, Class Counsel's, and Defendant Guenther's Counsel's addresses in Question 18, **no later than 60 days after the postcard notice was sent to you**. You cannot speak at the hearing if you exclude yourself.

If You Do Nothing

23. What happens if I do nothing at all?

If you do nothing, and the Court approves the Settlement, you will receive a payment and you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendant Guenther or the Released Parties about the legal issues resolved by this Settlement.

Getting More Information

24. Are there more details about the settlement?

This Notice summarizes the proposed Settlement. More details appear in the Settlement Agreement and Release of Claims (the "Agreement"). Copies of the Agreement and the pleadings and other documents relating to the case are on file at the Spokane County Superior Court, 1116 W. Broadway Ave., Room 300, Spokane, WA 99260, and may be examined and copied at any time during regular office hours at the Court. The Settlement Agreement is also available at the settlement website, www._____.com.

25. How do I get more information?

You can visit the settlement website at www._____.com, where you will find answers to common questions about the settlement, plus other information, including a copy of the Settlement Agreement. You may also write to:

Jake Miller and Doreen Miller v. Guenther Management LLC
Settlement Administrator
P.O. Box _____, CITY, ST ZIP.

You should not direct questions to the Court.

Dated: _____, 2021

By Order of the Court
CLERK OF THE COURT

QUESTIONS? VISIT [WWW._____.COM](http://www._____.com)

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EXHIBIT D

*Declaration of Kirk D. Miller in Support of
Unopposed Motion for Class Certification and
Preliminary Approval of Class Settlement*

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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE**

JAKE MILLER and DOREEN MILLER,
husband and wife, on behalf of themselves and
all others similarly situated,

Case No.: 20-2-02604-32

Plaintiffs,

**[PROPOSED] SETTLEMENT ORDER
AND FINAL JUDGMENT**

vs.

GUENTHER MANAGEMENT, LLC, a
Washington limited liability company,

Defendant.

THIS MATTER came before the Court on Plaintiffs' Unopposed Motion for Final Approval of the Proposed Class Settlement (the "Settlement") and Class Counsel's application for attorneys' fees and expenses, and service award to the Plaintiffs ("Fee and Expense Application"). The Court has considered all papers filed and proceedings in this matter and is fully informed regarding the facts surrounding the proposed Settlement. Based upon this information, the Court has determined the proposed Settlement as fair, reasonable, and adequate. The Court hereby enters this Settlement Order and Final Judgment ("Final Judgment"), which constitutes a final adjudication on the merits of all claims of the Settlement Class.

On _____, 202__, this Court granted preliminary approval to the proposed Settlement between Plaintiffs and Defendant Guenther Management, LLC ("Guenther"). The proposed Settlement resolves all of the Settlement Class's claims against Guenther in exchange for Guenther's agreement to provide certain monetary and non-monetary consideration to

[PROPOSED] SETTLEMENT ORDER
AND FINAL JUDGMENT - 1

Kirk D. Miller, P.S.
421 W. Riverside Ave., Ste. 660
Spokane, WA 99201
Tel: (509) 413-1494

1 Settlement Class Members as set forth in the Settlement Agreement and Release (the
2 "Agreement"). On _____, 202__, this Court held a Fairness Hearing to consider
3 whether to grant final approval to the Settlement and to consider Class Counsel's Fee and
4 Expense Application. The Court heard from counsel [and others who elected to appear to voice
5 their support for, or objection to, the Settlement and/or the Fee and Expense Application].

6 Having read, reviewed and considered the papers filed in support of [and in opposition
7 to] final approval of the Settlement, including supporting declarations; oral arguments of counsel
8 [and presentations by members of the Settlement Class who appeared at the hearing]; Class
9 Counsel's Fee and Expense Application; the Agreement; and the pleadings, the Court finds and
10 concludes as follows:

11 1. **Definitions.** The definitions and provisions of the Agreement are incorporated in
12 this Final Judgment as though fully set forth herein.

13 2. **Jurisdiction.** This Court has jurisdiction over the subject matter of the
14 Agreement with respect to and over all parties to the Agreement, including Plaintiffs and all
15 members of the Settlement Class. That Settlement Class is as Certified in the Court's Order
16 Granting Preliminary Approval of Class Action Settlement ("Preliminary Approval Order"):

17 All persons who from June 24, 2017, through June 24, 2020, applied to rent at
18 any property in the state of Washington, where the rental property on the date of
19 application was owned or managed by Guenther Property Management, LLC.

20 The Settlement Class does not include any persons who timely and validly request
21 exclusion from the Settlement Class, nor Guenther, Guenther's employees, any person or entity
22 that has a controlling interest in Guenther, Guenther's current or former directors and officers, as
23 well as the parties' counsel and their immediate families.

24 3. **Settlement Approval.** The Court hereby grants final approval to the Settlement
25 and finds the Settlement is, in all respects, fair, reasonable, and adequate, and in the best interests
26 of the Settlement Class. The Court finds the Settlement is within the authority of the parties and
27 the result of extensive arm's length negotiations with the guidance of an experienced mediator.

[PROPOSED] SETTLEMENT ORDER
AND FINAL JUDGMENT - 2

Kirk D. Miller, P.S.
421 W. Riverside Ave., Ste. 660
Spokane, WA 99201
Tel: (509) 413-1494

1 **4. Class Certification.** This Court confirms the proposed Settlement Class satisfies
2 the requirements of CR 23, as the Court found in the Preliminary Approval Order. Accordingly,
3 this Court makes final the conditional class certification set forth in the Preliminary Approval
4 Order.

5 **5. Exclusion from Settlement Class.** Certain members of the Settlement Class have
6 timely and properly requested to be excluded from the Settlement Class and the Settlement.
7 **Exhibit A**, attached hereto, lists the Settlement Class Members who timely and properly
8 requested exclusion from the Settlement Class. Accordingly, this Final Judgment shall not bind
9 or affect Settlement Class Members listed on **Exhibit A**.

10 **6. Appointment of Class Counsel and Plaintiffs.** The Court confirms the
11 appointment of Kirk D. Miller, P.S. and Cameron Sutherland, PLLC, as Class Counsel. The
12 Court confirms the appointment of Jake and Doreen Miller as representatives of the Settlement
13 Class.

14 **7. Objections Overruled.** The Court has considered and hereby overrules all
15 objections brought to the Court's attention, whether properly filed or not.

16 **8. No Admission.** Neither this Final Judgment nor the Agreement is an admission or
17 concession by Guenther of the validity of any claims or of any liability or wrongdoing or of any
18 violation of law. This Final Judgment and the Agreement do not constitute a concession and
19 shall not be used as an admission or indication of any wrongdoing, fault or omission by Guenther
20 or any other person in connection with any transaction, event or occurrence, and neither this
21 Final Judgment nor the Agreement nor any related documents in this proceeding, nor any reports
22 or accounts thereof, shall be offered or received in evidence in any civil, criminal, or
23 administrative action or proceeding, other than such proceedings as may be necessary to
24 consummate or enforce this Final Judgment, the Agreement, and all releases given thereunder, or
25 to establish the affirmative defenses of *res judicata* or collateral estoppel barring the pursuit of
26 claims released in the Agreement.

27
[PROPOSED] SETTLEMENT ORDER
AND FINAL JUDGMENT - 3

Kirk D. Miller, P.S.
421 W. Riverside Ave., Ste. 660
Spokane, WA 99201
Tel: (509) 413-1494

1 **9. Dismissal with Prejudice.** This Court hereby dismisses with prejudice all claims
2 of Settlement Class Members against Guenther within the scope of the Released Claims defined
3 by the Settlement Agreement.

4 **10. Release.** Plaintiffs, for themselves and as representatives of the Settlement Class,
5 and on behalf of each Settlement Class Member who has not timely opted out and each of their
6 respective agents, successors, heirs, assigns, and any other person who can claim by or through
7 them in any manner, fully, finally, and forever irrevocably release, relinquish, and forever
8 discharge with prejudice all Released Claims against the Released Parties.

9 **11. Injunction Against Asserting Released Claims.** Plaintiffs, all Settlement Class
10 Members, and any person or entity allegedly acting on behalf of Settlement Class Members,
11 either directly, representatively or in any other capacity, are permanently enjoined from
12 asserting, commencing, or prosecuting against the Released Parties in any action or proceeding
13 in any court, tribunal, or other forum any of the Released Claims, provided, however, that this
14 injunction shall not apply to individual claims of any Settlement Class Members listed in
15 **Exhibit A** who timely and properly requested exclusion from the Settlement Class. This
16 injunction is necessary to protect and effectuate the settlement, this Order, and the Court's
17 flexibility and authority to effectuate this settlement and to enter judgment when appropriate, and
18 is ordered in aid of the Court's jurisdiction and to protect its judgments.

19 **12. General Release Acknowledgement.** By operation of this Final Judgment,
20 Plaintiffs and Guenther expressly waive, and each Settlement Class Member is deemed to have
21 waived, any and all claims, rights, or benefits they may have under California Civil Code § 1542
22 and any similar federal or state law, right, rule, or legal principle that may apply. California
23 Civil Code § 1542 provides as follows:

24 A general release does not extend to claims which the creditor or
25 releasing party does not know or suspect to exist in his or her favor
26 at the time of executing the release and that, if known by him or her,
27 would have materially affected his or her settlement with the debtor
 or released party.

1 **13. Class Notice.** JND Legal Administration (“JND”), the Settlement Class
2 Administrator approved by the Court, completed the delivery of Class Notices according to the
3 terms of the Agreement. The Class Notice given by the Settlement Class Administrator to the
4 Settlement Class, which set forth the principal terms of the Agreement and other matters, was the
5 best practicable notice under the circumstances, including individual notice to all Settlement
6 Class Members who could be identified through reasonable effort. The Class Notice program
7 prescribed by the Agreement was reasonable and provided due and adequate notice of these
8 proceedings and of the matters set forth therein, including the terms of the Agreement, to all
9 parties entitled to such notice. The Class Notice given to the Settlement Class Members satisfied
10 the requirements of CR 23 and the requirements of constitutional due process. The Class Notice
11 was reasonably calculated under the circumstances to apprise Settlement Class Members of the
12 pendency of this Action, all material elements of the Settlement, and their opportunity to exclude
13 themselves from, object to, or comment on the Settlement and appear at the Final Approval
14 Hearing. The Court has afforded a full opportunity to all Settlement Class Members to be heard.
15 Accordingly, the Court determines that all members of the Settlement Class, except those who
16 timely and properly excluded themselves from the Settlement Class, are bound by this Final
17 Judgment.

18 **14. Continuing Jurisdiction.** Without affecting the finality of this Final Judgment,
19 the Court retains continuing jurisdiction over (a) implementation of the Agreement, distribution
20 of the settlement Vouchers, incentive award, and attorneys’ fees and costs contemplated by the
21 Agreement, and processing of the claims permitted by the Agreement, until each and every act
22 agreed to be performed pursuant to the Agreement has been performed, and (b) all parties to this
23 Action and members of the Settlement Class for the purpose of enforcing and administering the
24 Agreement.

25 **15. Service Award.** As a service payment in compensation for the time, effort, and
26 risk they undertook as representative of the Settlement Class, the Court hereby awards
27 \$_____ each to Jake and Doreen Miller to be paid by the terms of Settlement Agreement.

[PROPOSED] SETTLEMENT ORDER
AND FINAL JUDGMENT - 5

Kirk D. Miller, P.S.
421 W. Riverside Ave., Ste. 660
Spokane, WA 99201
Tel: (509) 413-1494

1 **16. Class Counsel Fee and Cost Award.** The Court hereby awards attorneys' fees
2 and costs to compensate Class Counsel for their time incurred and expenses advanced. The
3 Court has concluded that: (a) Class Counsel achieved a favorable result for the Settlement Class
4 by obtaining Guenther's agreement to make available to Settlement Class Members certain
5 monetary and non-monetary consideration; (b) Class Counsel devoted substantial effort to pre-
6 and post-filing investigation, legal analysis, and litigation; (c) Class Counsel prosecuted the
7 Settlement Class's claims on a contingent-fee basis, investing significant time and accumulating
8 costs with no guarantee that they would receive compensation for their services or recover their
9 expenses; (d) Class Counsel employed their knowledge of and experience with class action
10 litigation in achieving a valuable settlement for the Settlement Class, in spite of Guenther's
11 possible legal defenses and their experienced and capable counsel; (e) Plaintiffs have reviewed
12 the Agreement and has been informed of the Fee and Expense Application and has approved; (f)
13 the Class Notice informed Settlement Class Members of Class Counsel's fee and cost request
14 under the Agreement; and (g) Class Counsel filed and posted their Fee and Expense Application
15 in time for Settlement Class Members to make a meaningful decision whether to object to it. For
16 these reasons, the Court hereby approves Class Counsel's Fee and Expense Application and
17 awards to Class Counsel fees and costs in the total amount of \$_____, to be paid in
18 accordance with the Settlement Agreement. All such fees are in lieu of statutory or other fees
19 that Plaintiffs and/or the Settlement Class might otherwise have been entitled to recover.

20 **17. Payment of Settlement Administrator Costs and Disbursement of Funds to**
21 **Settlement Class Members Who Did Not Exclude Themselves.** Guenther has paid the
22 Settlement Administrator all reasonable costs and fees incurred for all costs of notice and claims
23 administration incurred for this Action, up to \$20,865.00, according to the Agreement. The
24 Settlement Administrator shall also cause the distributions to Settlement Class Members and Cy
25 Pres recipients as required by the Agreement.

26
27

[PROPOSED] SETTLEMENT ORDER
AND FINAL JUDGMENT - 6

Kirk D. Miller, P.S.
421 W. Riverside Ave., Ste. 660
Spokane, WA 99201
Tel: (509) 413-1494

1 **18. Payment Timing.** Class Counsel and the service award to Plaintiffs shall be
2 issued the distributions afforded to them in this Order, in accordance with and at the times
3 prescribed by the Agreement.

4 **IT IS SO ORDERED.**

5 ENTERED: _____

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HONORABLE MARYANN MORENO

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Presented by:

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KIRK D. MILLER, P.S.
Attorney for Plaintiffs

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[PROPOSED] SETTLEMENT ORDER
AND FINAL JUDGMENT - 7

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[PROPOSED] SETTLEMENT ORDER
AND FINAL JUDGMENT - 8

Kirk D. Miller, P.S.
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EXHIBIT E

*Declaration of Kirk D. Miller in Support of
Unopposed Motion for Class Certification and
Preliminary Approval of Class Settlement*

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

THIS SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS ("Agreement") is made this 19 day of April, 2021, by and between (1) Plaintiffs Jake Miller and Doreen Miller ("Plaintiffs"), on behalf of all others similarly situated ("Settlement Class Members"), and (2) Defendant Guenther Management, LLC ("Guenther") (Plaintiffs, Settlement Class Members, and Guenther are collectively the "Settling Parties"), who are all parties in the lawsuit filed in Spokane County Superior Court as cause number 20-2-02604-32 ("Lawsuit").

This Agreement contains all material terms of the settlement in this action, and the Settling Parties intend for it to be binding to the fullest extent of the law, and it shall remain so unless superseded by a more detailed written agreement signed by all parties to this agreement, as contemplated below. The Agreement shall be subject only to the terms set forth below, binding court approval, and class notice.

I. RECITALS

1. Plaintiffs submitted applications for tenancy to Guenther. Plaintiffs are proposed class representatives of a class of all prospective tenants who provided Guenther with information and paid a screening fee without receiving adequate disclosures under RCW 59.18.257.

2. Plaintiffs alleged Guenther violated RCW 59.18.257 by failing to provide prospective tenants with all required disclosures prior to receiving information and a screening fee from prospective tenants. Guenther denied Plaintiffs' claims and asserted affirmative defenses that it would pursue if this case were to proceed in litigation.

3. Counsel for Plaintiffs and Guenther engaged in arm's-length negotiations to resolve the case without the need for further litigation. As part of the negotiation process, Plaintiffs' Counsel requested and Guenther provided data and other information, and Plaintiffs' Counsel has investigated the information provided. Based on the information in Plaintiffs' possession, Plaintiffs have concluded that it would be in the best interests of Plaintiffs and the Settlement Class Members to enter into this Agreement to avoid the uncertainties of litigation, and to provide to Plaintiffs and the Settlement Class Members a benefit that is fair and reasonable. Similarly, Guenther has concluded that, despite its belief that it is not liable for the claims asserted and has good defenses thereto, and without admission of any wrongdoing of any kind, it will enter into this Agreement in order to avoid the time, expense and uncertainty of protracted litigation.

4. While Guenther believes that the Agreement can and should be approved to avoid the time, expense, and uncertainty of protracted litigation, in the event that the Agreement does not receive final and binding approval from the Court or is terminated according to its terms, Guenther expressly reserves the right to challenge class certification and reserves all other defenses.

5. In light of the investigations undertaken and conclusions reached by the Settling Parties and discussed above, Plaintiffs and Guenther have agreed, pursuant to the terms set forth

below, and subject to approval by the Court, to fully and finally compromise, settle, extinguish, and to dismiss with prejudice all claims asserted in the Lawsuit.

6. This Agreement is for settlement purposes only, and neither the fact of, nor any provision contained in, this Agreement, nor any negotiations or proceedings related thereto, nor any action taken hereunder shall constitute, or be construed as, any admission of the validity of any claim or any fact alleged by Plaintiffs or of any wrongdoing, fault, violation of law, or liability of any kind on the part of Guenther or any admission by Guenther of any claim or allegation made in any action or proceeding against Guenther or as a waiver of any applicable defense, including, without limitation, any applicable statute of limitations. This Agreement and its exhibits shall not be offered or be admissible in evidence in any action or proceeding in any forum for any purpose whatsoever, except any action or proceeding brought to enforce its terms.

7. Should the Court determine that any additional settlement memorandum is required, Plaintiffs and Guenther agree to take steps to finalize such an agreement within 30 days or as otherwise ordered by the Court.

II. AGREEMENT

In consideration of the foregoing and the mutual promises, terms, conditions, payments, covenants, and agreements hereinafter set forth, the Parties agree as follows:

1. **Settlement Payment.** Plaintiffs and Guenther have agreed on a total settlement amount of one hundred thirty thousand fifteen dollars (\$130,015.00) ("Settlement Amount"). Upon preliminary approval of the settlement, Guenther or its insurance carriers shall pay the Settlement Amount to the Settlement Administrator pursuant to paragraph 3 below. The Settlement Administrator shall then pay to the Plaintiffs and the Settlement Class Members the Settlement Amount less attorneys' fees, costs (including costs of providing notice to the class members), and service awards. Guenther shall not be liable for any payment of any kind beyond the Settlement Amount.

2. **Court Approval.** Within 30 days of the execution of this Agreement, Plaintiffs will move the Court to preliminarily approve this settlement. This Agreement is subject to court approval. If the Court does not preliminarily approve this settlement, this Agreement will terminate and have no legal force or effect.

3. **Escrow.** Within 21 days of preliminary approval of the settlement, Guenther shall pay to the Settlement Administrator the Settlement Amount of \$130,015.00.

4. **Class Settlement Administration.** Plaintiffs' Counsel has the right to choose the class Settlement Administrator, which shall be a professional firm with experience in this field. Guenther shall have the right to approve Plaintiffs' choice of Settlement Administrator. Such approval shall not be withheld unreasonably.

5. **Distribution of Monies to Plaintiffs.** The Settlement Administrator will distribute monies to the Plaintiffs and the Settlement Class Members approximately pro rata based on a reasonable and fair formula approved by the Court.

6. **Other Material Terms.** Plaintiffs and Guenther have agreed that Plaintiffs will seek approval for an opt-out class. Any unclaimed payment by Settlement Class Members (cy pres) shall be split evenly between the Legal Foundation of Washington and Northwest Justice Project. Guenther agrees that Plaintiffs are entitled to their attorneys' fees, subtracted from the Settlement Amount, and will not contest a claim for attorneys' fees of \$50,000.00 or less. Guenther also agrees that it will not contest class representative incentive fees of \$2,500.00 per Plaintiff, with the awards to be subtracted from the Settlement Amount.

7. **Scope of Release.** As of the Effective Date of this Agreement, Plaintiffs and the Settlement Class Members hereby expressly agree that they shall fully and irrevocably release and discharge all Settled Claims, as defined below in this paragraph. Plaintiffs and the Settlement Class Members settle and forever release all actions, claims, demands, rights, suits, or causes of action, including without limitation all claims that arise from, involve, or in any way relate to Guenther and its related entities, or that arise from or relate to the allegations made or conduct described in the Lawsuit including but not limited to allegations related to violations of RCW 59.18.257 (the "Settled Claims"). Plaintiffs and the Settlement Class Members shall dismiss with prejudice the class action Lawsuit. Plaintiffs and the Settlement Class Members release and discharge Guenther, and all affiliates, parents, subsidiaries, insurers, agents, lawyers, officers and directors, members, managers, servants, employees, and marital communities of any such released persons (collectively "Defendant Releasees") in regard to any claim that relates in any way to Guenther. This release covers, without limitation, any and all claims for attorneys' fees, costs, or disbursements incurred by Counsel for Plaintiff and the Settlement Class Members or any other counsel representing Plaintiffs or Settlement Class Members in connection with or related in any manner to this Agreement or the Lawsuit, the settlement of the Lawsuit, the administration of this Agreement and the settlement contemplated thereunder, Settlement and/or the Settled Claims. Plaintiffs and the Settlement Class Members expressly waive and fully, finally, and forever settle and release any known or unknown, suspected or unsuspected, contingent or non-contingent claims with respect to the Settled Claims, whether or not concealed or hidden, without regard to any subsequent discovery or existence of different or additional facts.

8. **Entire Agreement.** This Agreement constitutes the entire agreement between the Settling Parties hereto with respect to settlement of the Lawsuit and release of the Defendant Releasees, and supersedes all prior agreements, understandings, negotiations, and/or discussions, whether oral or written, of the Settling Parties. There are no representations or agreements between the Settling Parties in connection with settlement of the Lawsuit and release of the Defendant Releasees except as specifically set forth herein. No supplement, modification, waiver, or termination of this Agreement shall be binding unless executed in writing by the party to be bound thereby. No delay or omission on the part of either party in exercising any right in this Agreement shall operate as a waiver of such right or any other right. A waiver on one occasion shall not be construed as a bar to or waiver of any right on any further occasion.

9. **Governing Law.** The Settling Parties hereby agree that the validity, construction, and interpretation of this Agreement shall be governed by the laws of the State of Washington.

10. **Binding Agreement.** This Agreement shall be binding upon and shall inure to the benefit of the Settling Parties and the Defendant Releasees and their representatives, parents, affiliates, subsidiaries, servants, attorneys, agents, insurers, experts, consultants, heirs, successors, officers, directors, partners, administrators, trustees, receivers, employees, executors, and assigns, and any legal or personal representative, whether past, present or future.

11. **Warranty of Authorization.** The undersigned persons warrant and represent that they have authority to enter into this Agreement and to bind the party who is represented by the signing person

12. **Benefit of Counsel.** The Settling Parties acknowledge that they have consulted with their respective attorneys of record herein concerning the terms of this Agreement, and have been fully advised by their respective attorneys with respect to the rights and obligations contained herein. The settlement which forms the basis of the Agreement has been arrived at after thorough bargaining and negotiation and represents a final agreement.

13. **Construction.** All Settling Parties have been represented in the negotiation and preparation of this Agreement, and each party has had an opportunity to participate in the drafting to the extent that she or it desires. Accordingly, this Agreement shall be construed according to its plain meaning and not strictly for or against any party.

14. **Execution in Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimile or photocopy signatures shall be binding as though original.

15. **Attorneys' Fees for Breach.** In any action that is brought upon to enforce this Agreement, the prevailing party shall be entitled to recover its reasonable costs, including attorney fees, incurred to enforce the Agreement.

I HAVE COMPLETELY READ THIS RELEASE AND FULLY UNDERSTAND AND VOLUNTARILY ACCEPT IT FOR THE PURPOSE OF FINAL RESOLUTION AND SETTLEMENT OF ANY AND ALL CLAIMS, DISPUTED OR OTHERWISE, MADE AGAINST THE SETTLING PARTIES BEING RELEASED FOR THE EXPRESS PURPOSE OF PRECLUDING FOREVER ANY OTHER CLAIMS ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE LAWSUIT ABOVE-MENTIONED, INsofar AS SUCH CLAIMS MAY BE MADE AGAINST THE RELEASED SETTLING PARTIES, THEIR EMPLOYEES, AGENTS OR REPRESENTATIVES.

I ACKNOWLEDGE THAT MY INFORMATION REGARDING THE CLAIM MADE IN THIS MATTER IS SUFFICIENT TO ENTER INTO THIS RELEASE AND EXPRESSLY WAIVE ANY CLAIM THAT THIS RELEASE IS NOT FAIRLY AND KNOWINGLY MADE.

[SIGNATURE PAGE FOLLOWS]

SO AGREED:

I declare under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct to the best of my knowledge. IN WITNESS WHEREOF, I have caused this Settlement Agreement and Mutual Release to be executed at Spokane, WA.

Dated: 5/20/21

Jake Miller
Jake Miller, plaintiff

I declare under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct to the best of my knowledge. IN WITNESS WHEREOF, I have caused this Settlement Agreement and Mutual Release to be executed at _____, WA.

Dated: 5/20/21

Doreen Miller
Doreen Miller, plaintiff

I declare under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct to the best of my knowledge. IN WITNESS WHEREOF, I have caused this Settlement Agreement and Mutual Release to be executed at Spokane, WA.

Dated: 4-19-2021

Sergey Kholostov
Sergey Kholostov
On behalf of Guenther Management, LLC