

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

GREG’S GREATER CHICAGO)	
CHIROPRACTIC, LLC,)	
on behalf of plaintiff and a class,)	
)	
Plaintiff,)	13 C 6400
)	
v.)	Judge Chang
)	Magistrate Judge Kim
MIDWEST NUTRITIONAL SERVICE, INC.,)	
and JOHN DOES 1-10,)	
)	
Defendant.)	

SETTLEMENT AGREEMENT

RECITALS AND DEFINITIONS

1. Parties. Defendant Midwest Nutritional Service, Inc. (“Midwest” or “Defendant”), defendant’s insurer, Frankenmuth Mutual Insurance Company (“Frankenmuth”) and Plaintiff Greg’s Greater Chicago Chiropractic, LLC (“Plaintiff”) individually and as representative of the settlement class defined below (the “Settlement Class”), enter into this Settlement Agreement (“Settlement Agreement”).

2. Nature of Litigation. On September 6, 2013, Plaintiff filed a class action complaint captioned *Greg’s Greater Chicago Chiropractic, LLC v. Midwest Nutritional Service, Inc., et al.*, Case No. 13 C 6400 in the United States District Court for the Northern District of Illinois (the “Litigation”). Plaintiff alleges that Defendant violated the Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq. (“TCPA”), by transmitting unsolicited facsimile advertisements that did not contain an opt out notice in the form required by 47 U.S.C. § 227.

3. Definitions
- a. "Settlement Class Counsel" means Edelman, Combs, Lattuner, & Goodwin LLC and its attorneys.
- b. "Plaintiff" means Greg's Greater Chicago Chiropractic, LLC and its heirs, successor and assigns.
- c. "Released Parties" means, Midwest and its parents, subsidiaries, affiliates, predecessors and successors in interest, and all of those entities' past and current owners, officers, directors, shareholders, partners, members, employees, agents and insurers, including Frankenmuth Mutual Insurance Company, in such capacities as they relate to the actions that are the subject of the Litigation. The Parties expressly agree that all of these persons and entities that are not parties to this Settlement Agreement are intended third-party beneficiaries of this Settlement Agreement.
- d. "Settlement Class" means a class defined as follows: All persons and entities with fax numbers who on or after September 6, 2009 through and including September 6, 2013, were sent faxes by or on behalf of Midwest Nutritional Service, Inc. promoting its goods or services for sale and/or promoting nutritional lectures or seminars, and who were not provided with an opt out notice as described in 47 U.S.C. § 227.
- e. "Settlement Class Member(s)" means Plaintiff and any member of the Settlement Class who is not excluded from the Settlement Class pursuant to the terms of this Settlement Agreement.

f. "Released Claims" means any and all causes of action, suits, claims, or demands, in law or in equity, known or unknown, which Plaintiff and Settlement Class Members now have, did have, or may have in the future against the Released Parties, or any of them, under any legal theory, arising from or in any way relating any faxes sent on or after September 6, 2009 through and including September 6, 2013, by or on behalf of Midwest Nutritional Service, Inc. promoting its goods or services for sale and/or promoting nutritional lectures or seminars, and who were not provided with an opt out notice as described in 47 U.S.C. § 227. This includes, but is not limited to, all claims that were asserted or could have been asserted in the Litigation, including TCPA claims, other federal claims and any state law claims.

4. Denial of Liability. Defendant denies violating the TCPA and any other federal or state law and denies any liability to Plaintiff and the Settlement Class. Defendant is entering into this Settlement Agreement solely to avoid the expense, burden, and uncertainty of further litigation, and to put to rest all Released Claims.

5. Plaintiff's Desire to Settle. Plaintiff, individually and on behalf of the Settlement Class, desires to settle its claims against Defendant, having taken into account through Plaintiff's counsel the risks, delay, and difficulties involved in establishing a right to recovery in excess of the substantial amount to be paid pursuant to this Settlement Agreement and the likelihood that further litigation will be protracted and expensive. Plaintiff represents and warrants that it owned or leased the facsimile machine that received the faxes at issue in the Litigation.

6. Investigation. Plaintiff's counsel has investigated the facts and the applicable law. Based on this investigation, and upon an analysis of the substantial benefits afforded by this Settlement Agreement, Plaintiff's counsel considers it to be in the best interest of the Settlement Class to enter into this Settlement Agreement.

7. Agreement. In consideration of the foregoing, Plaintiff, Plaintiff's counsel and Defendant agree to settle the claims of the Plaintiff and the Settlement Class, subject to the Court's approval, on the following terms and conditions.

TERMS

1. Incorporation of Recitals and Definitions. The recitals and definitions set forth above are incorporated into this Settlement Agreement.

2. Effective Date. This Settlement Agreement shall become effective (hereinafter the "Effective Date") upon the expiration of five (5) business days from the date upon which the Final Approval Order becomes final, which shall be (1) the date on which any and all appeals of the Final Approval Order are resolved in a manner that upholds the Final Approval Order, or (2) if no appeal of the Final Approval Order is filed, the expiration of five (5) business days after the last date by which an appeal of the Final Approval Order could have been commenced. If there is an appeal from the Final Approval Order, Plaintiff's and Defendant's obligations under this Settlement Agreement, including, without limitation, payments to Settlement Class Members and payment of any award of attorneys' fees, costs, and expenses shall not commence unless and until all appellate proceedings are fully and finally resolved in a manner that upholds the Final Approval Order and this Settlement Agreement becomes effective.

3. Certification of Settlement Class. Solely for the purposes of settlement, the parties stipulate to the certification of the Settlement Class. Plaintiff shall be appointed class representative and Daniel A. Edelman and Heather Kolbus of Edelman, Combs, Lattuner &

Goodwin, LLC shall be appointed Settlement Class Counsel. The Settlement Class shall be certified pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure. Defendant does not consent to certification of the Settlement Class for any purpose other than to effectuate this settlement of the Litigation. If this Settlement Agreement is not approved by the Court or is terminated pursuant to its terms or for any other reason, or is disapproved in a final order by any court of competent jurisdiction, (a) any order certifying the Settlement Class and all preliminary and/or final findings or stipulations regarding certification of the Settlement Class shall be automatically vacated upon notice to the Court of this Settlement Agreement's termination or disapproval; (b) this Litigation will proceed as though the Settlement Class had never been certified and any related findings or stipulations had never been made and neither this Settlement Agreement, nor any of its Exhibits, nor any other associated settlement document may be used in seeking class certification; and (c) Defendant reserves all procedural or substantive rights as of the date of execution of this Settlement Agreement.

4. Identification of Settlement Class Members. Midwest engaged a third party, j2 Global, Inc. ("j2") to transmit the facsimiles that are subject to this Agreement. The parties engaged in discovery, including third-party discovery from j2, and Midwest has conducted a reasonable investigation and was able to obtain information from both Midwest's records and j2 that reasonably identifies a list of facsimile numbers that Midwest believes would include all facsimile numbers that were sent the faxes at issue in this Litigation. Based on the foregoing information, Midwest estimates that there are approximately 1,613 unique fax numbers ("Fax List"). Defendant will provide to the Fax List to the Class Administrator. The total number of successful transmissions sent to Settlement Class Members is unknown.

5. Relief to Plaintiff and the Settlement Class. The following relief shall be provided to Plaintiff and the Settlement Class, subject to the Court's approval:

- a. Defendant and its insurer, Frankenmuth, shall collectively fund a \$105,000.00 Settlement Fund ("Settlement Fund") no later than fourteen (14) days after the Effective Date. The Settlement Fund shall be distributed as set forth below;
- b. \$4,000.00 shall be paid from the Settlement Fund to Plaintiff as an incentive award in recognition of its services as Class Representative;
- c. Settlement Class Counsel shall request 1/3 of the Settlement Fund for attorney's fees after deduction of notice and administration expenses;
- d. all notice and administration expenses will be paid from the Settlement Fund. Reasonable notice and administration expenses up to a maximum of \$5,000 will be advanced by Defendant to Settlement Class Counsel or the Class Administrator within ten (10) business days after entry of the Preliminary Approval Order, and Defendant shall be given a credit on the payment of the Settlement Fund in an amount equal to the amount advanced by Defendant; and
- e. each Settlement Class Member who submits a valid claim form will receive a check for its pro rata share of the Settlement Fund, after the amounts set forth in subsections (b), (c), (d) and any award of costs are paid. Each Settlement Class Member may recover a maximum of \$500 per unique fax number. Any amounts in the Settlement Fund in excess of

\$500 per unique fax number shall be considered Undistributed Settlement Funds pursuant to Paragraph 10 of this Settlement Agreement.

6. Any award of attorney's fees and costs and any incentive award to Plaintiff will be distributed within twenty-eight (28) days following the Effective Date. Within forty-five (45) days following the Effective Date, Settlement Class Counsel or the Class Administrator shall distribute the Settlement Fund in accordance with Paragraphs 5 and 10 of this Settlement Agreement, unless this deadline is extended pursuant to Paragraph 16 of this Settlement Agreement. In the event that (i) the Settlement Agreement is terminated pursuant to its terms; (ii) Defendant withdraws from the Settlement Agreement; (iii) the Settlement Agreement does not become effective; or (iv) the Final Approval Order is reversed, vacated, or modified in any material respect which is not mutually acceptable to the Parties, then Plaintiff's Counsel or the Class Administrator shall return \$105,000, less any reasonable costs not exceeding \$5,000, that were incurred by Settlement Class Counsel to issue notice to the Class Members of the Settlement Agreement, to counsel of record for Defendant, within three business days of that event.

7. After entry of the Preliminary Approval Order, Settlement Class Members shall have at least sixty (60) days after the date on which notice of the proposed settlement is sent to the Settlement Class to submit a claim, request exclusion from the Settlement Class or object to the Settlement Agreement.

8. Costs associated with notice, claims administration and distribution of settlement checks shall be paid from the Settlement Fund.

9. Checks issued to Settlement Class Members for payment of claims under this Settlement Agreement will be void after sixty (60) days from the date of issuance. Any

Settlement Class Member who does not negotiate the settlement check issued to them within sixty (60) days of the date of issuance agrees that they rescind and withdraw their claim for monetary compensation under this Settlement Agreement but remain a member of the Settlement Class and are bound by the terms of this Agreement.

10. Undistributed Settlement Funds. Within thirty (30) days after the last void date of all settlement checks issued to Settlement Class Members, the Settlement Class Administrator will report to the Parties if there are any uncashed checks or unclaimed or undistributed amounts remaining in the Settlement Fund. Any such unclaimed or undistributed amounts remaining in the Settlement Fund after all payments required under this Settlement Agreement have been made shall be distributed to the Legal Assistance Foundation of Metropolitan Chicago (“LAF”) as a *cy pres* recipient, subject to Court approval and the right of the Court to select another alternative *cy pres* recipient without effecting the enforceability of this Agreement.

11. Release. Upon the Effective Date, Plaintiff and all Settlement Class Members who have not been excluded from the Settlement Class shall be deemed to have fully and finally waived and released the Released Claims.

12. This Settlement Agreement may be pleaded as a full and complete defense to any action, suit or other proceeding that may be instituted or prosecuted with respect to the Released Claims.

13. If this Settlement Agreement is not approved by the Court or for any reason does not become effective, it shall be deemed null and void and shall be without prejudice to the rights of the parties hereto and shall not be used in any subsequent proceedings in this or any other litigation, or in any manner whatsoever.

14. Attorneys' Fees, Notice Costs and Related Matters. Settlement Class Counsel or the Class Administrator will administer the Settlement Fund for the benefit of the Settlement Class and will pay the reasonable costs of notice and settlement administration out of the Settlement Fund. Settlement Class Counsel must seek approval from the Court to withdraw from the Settlement Fund any amount greater than \$5,000 for costs related to notice and administration. Settlement Class Counsel will not request any fees or costs from Defendant or the Settlement Class other than as set forth in this Settlement Agreement. Defendant agrees not to oppose an award of fees to Settlement Class Counsel of no more than one third (33.33%) of the Settlement Fund. Defendant agrees not to oppose payment from the Settlement Fund of reasonable expenses incurred in sending notice to the Settlement Class and in administering the Settlement Fund pursuant to the terms of this Settlement Agreement. Settlement Class Counsel shall file a petition for attorney's fees 30 days prior to the deadline to submit claims, opt out or object to the settlement.

15. Notice. Within five (5) days after entry of the Preliminary Approval Order, Defendant or Defendant's Counsel shall provide to the Class Administrator the Fax List in Excel format. Within thirty-five (35) days after entry of the Preliminary Approval Order, the Class Administrator shall cause actual Notice in the form of Exhibit 1 and a Claim Form in the form of Exhibit 2, to be sent to the facsimile numbers identified on the Fax List. Settlement Class Members shall have at least sixty (60) days after this first date on which actual Notice is sent to the facsimile numbers identified on the Fax List to submit a Claim Form, request exclusion from the Settlement Agreement, or object to the Settlement Agreement. The Class Administrator shall make at least two attempts to transmit the Notice by facsimile to those numbers where the initial transmission fails.

Within twenty-one (21) days after the date that the Notice was first sent by facsimile, the Class Administrator shall send the Notice and Claim Form either by facsimile and/or U.S. Mail (if addresses are ascertainable) to each Settlement Class Member identified on the Fax List who did not submit a Claim Form or otherwise respond to the Notice by that date. In the event notice is sent by facsimile, the Class Administrator shall make at least two attempts to transmit the Notice by facsimile to those numbers where the initial transmission fails. In the event notice is sent by U.S. Mail to addresses provided by Defendant, the addresses shall be run through a National Change of Address database prior to being mailed. The postage rate selected for the mailing of the Notice shall provide for notification of forwarding addresses. If the Notices are returned by the Postal Service as undeliverable, Settlement Class Counsel or the Class Administrator may undertake further reasonable efforts to locate that person or entity to re-send the Notice to that Settlement Class Member. If the Notice is returned by the Postal Service with a forwarding address or other error that can be ascertained and corrected, then Settlement Class Counsel or the Class Administrator shall re-send the Notice by first class mail to that new address within five (5) days.

Settlement Class Counsel will also post the Notice in the form of Exhibit 1, excluding the Claim Form, and this Settlement Agreement (excluding exhibits), on their firm's website. Settlement Class Counsel or the Class Administrator shall provide a copy of the Notice and Claims Form to any Settlement Class Member who contacts either of them and requests a copy of the Notice or Claim Form.

The Class Administrator may create a website which allows for electronic submission of Claim Forms. Any website created by the Class Administrator may also post the Notice, Claim Form, Preliminary Approval Order, and Settlement Agreement (excluding exhibits).

Settlement Class Counsel and/or the Class Administrator shall retain all documents and records generated during the administration of the settlement, including records of notice given to Settlement Class Members, confirmations of transmittals of such notices by facsimile, unconfirmed facsimile transmissions, records of undelivered mail, claim forms, and payment to Settlement Class Members, for a period of one year following the Effective Date. Settlement Class Counsel or the Class Administrator shall provide Defendant's Counsel with copies of any such documents to inspect, upon reasonable request by counsel for Defendant. The Fax List and all other documents and records generated during the administration of the settlement shall be used for purposes consistent with notice and administration of this Settlement Agreement and for no other purpose.

16. Claim Validation. The Class Administrator shall match the fax number provided by the Settlement Class Member on a returned Claim Form to a fax number on the Fax List. If the fax number does not match, then Settlement Class Counsel or the Class Administrator shall follow-up with the Settlement Class Member and inquire if they employed other fax numbers during the Class Period (to ascertain if any different fax number is a number on the Fax List), in an effort to determine whether the claim is a valid claim.

If the fax number or fax numbers provided on a Claim Form do not match the list, and the follow-up with the Settlement Class Member has not resolved the issue, Settlement Class Counsel or the Class Administrator shall disallow the claim. If a claim is deemed disallowed by the Class Administrator, the Class Administrator must communicate that disallowance of the claim to the Settlement Class Member and Settlement Class Counsel and allow Settlement Class Counsel an opportunity to investigate the basis for disallowing the claim. Settlement Class Counsel shall advise Defendant's Counsel of all claim disallowances. In the event the Parties

disagree as to the validity of any Claim Form or whether to disallow a claim, then Settlement Class Counsel will present the disputed claim to the Court for resolution.

Settlement Class Members submitting a valid Claim Form pursuant to the fax and/or mail Notice shall be paid a pro rata share of the Settlement Fund up to a maximum of \$500 per unique fax number in accordance with the terms of Paragraph 5.e. of this Settlement Agreement. Settlement Class Members may submit Claim Forms for more than one fax number.

If a Settlement Class Member is entitled to receive more than \$599.99 as its total pro rata share, then such Settlement Class Member will be required to submit a W-9 form. The W-9 forms will be issued to Settlement Class Members as required after entry of the Final Approval Order and before any settlement checks are issued. Settlement Class Members will have thirty (30) days to respond to a request to complete a W-9 form. Submission of a W-9 form is a condition precedent to receiving a settlement check in excess of \$599.99. If Settlement Class Members do not submit a W-9 form, taxes will be withheld by the Class Administrator from their Settlement Check. If W-9 forms need to be collected, certain dates set forth in Paragraphs 6, 9, and 10 are reset and calculated as follows: within thirty (30) days following the expiration of time for class members to complete a W-9 form, Settlement Class Counsel or the Class Administrator shall distribute the Settlement Fund to the Settlement Class Members who have submitted valid claims in accordance with Paragraph 16; settlement checks to the Settlement Class Members will be void sixty (60) days from date of issuance; and within thirty (30) days following the void date on the Settlement Class Members' checks, any uncashed checks or unclaimed or undistributed funds, the disposition of which will be determined by the Court, will be distributed to a *cy pres* recipient pursuant as set forth in Paragraph 10 of this Settlement Agreement. A Settlement Class Member who is entitled to receive more than \$599.99 and fails

to submit a completed and valid W-9 form with the Claim Form, shall have their taxes withheld from their Settlement check by the Class Administrator.

17. Right to Object. Any Settlement Class Member may object to this Settlement Agreement. The deadline to object shall be set by the Court in the Preliminary Approval Order and the Parties shall propose that it be at least sixty (60) days after the entry of the Preliminary Approval Order. Any Settlement Class Member may object to the Settlement Agreement by filing their objection with the Court and mailing a copy of the objection to Plaintiff's Counsel and Defendant's Counsel. Any objection must include: (a) the name, address, and facsimile phone number of the person(s) or entity objecting to the Settlement Agreement; (b) a statement of the objection to the Settlement Agreement; (c) an explanation of the legal and factual basis for the objection; and (d) documentation, if any, to support the objection. Objecting Settlement Class Members may also appear and be heard at the hearing held by the Court to consider final approval of this Settlement Agreement, personally or through counsel, at their own expense.

18. Right of Exclusion. All Settlement Class Members who properly file a timely written request for exclusion from the Settlement Class shall be excluded from the Settlement Class and shall have no rights as Settlement Class Members pursuant to this Settlement Agreement. A request for exclusion must be in writing and state the name, address, and facsimile phone number (to which a fax was sent) of the person(s) or entity seeking exclusion. Each request must also contain a signed statement providing that: "I/we hereby request that I/we be excluded from the proposed Settlement Class in the Litigation." The request must be mailed or faxed to Settlement Class Counsel or the Class Administrator at the address or fax number provided in the Notice and postmarked or received by Settlement Class Counsel or

the Class Administrator on or before the deadline for requests for exclusion set by the Court. Settlement Class Counsel shall provide copies of all requests for exclusion to counsel for the Defendant. A request for exclusion that does not include all of the foregoing information, or that is sent to an address other than the one designated in the Notice, or that is not postmarked or received by Settlement Class Counsel or the Class Administrator within the time specified, shall be invalid and the person(s) serving such a request shall remain a Settlement Class Member and shall be bound by the terms of this Settlement Agreement, if approved. Settlement Class Members shall have at least sixty (60) days from the date of entry of the Preliminary Approval Order to submit requests for exclusion.

19. Preliminary Approval. As soon as practicable after execution of this Settlement Agreement, Settlement Class Counsel shall file a Motion for Preliminary Approval of this Settlement Agreement and shall present such motion to the Court requesting the entry of a Preliminary Approval Order substantially in the form of Exhibit 3 or in such other form as is mutually acceptable to the Parties.

20. Final Approval. Settlement Class Counsel shall file a memorandum in support of final approval of this Settlement Agreement, which shall include Settlement Class Counsel's request for an award of attorney's fees and costs, prior to the date the Court sets for the final approval hearing. The Parties shall request that the Court enter a Final Approval Order substantially in the form of Exhibit 4, or in another form which is mutually acceptable to the Parties. Pursuant to the Class Action Fairness Act of 2005 ("CAFA") within ten (10) days after entry of the Preliminary Approval Order, Defendant's Counsel shall provide notice of the proposed settlement to the Attorney General of the United States and the attorneys general of every State in which Settlement Class Members reside, including the information required by 28

U.S.C. § 1715(b). The Final Approval Order shall not be entered until the expiration of at least ninety (90) days from the latest date on which such notice is provided. Entry of a Final Approval Order substantially in the form of Exhibit 4 or in another form which is mutually acceptable to the Parties is a condition precedent to this Settlement Agreement becoming effective. In the event a Final Approval Order substantially in the form of Exhibit 4 or in another form which is mutually acceptable to the Parties is not entered then this Settlement Agreement shall be null and void and is rescinded.

21. The fact that the Court may require non-substantive changes to documents attached as Exhibits 1 through 4 shall not invalidate this Settlement Agreement.

22. Dismissal Order. At the hearing on Final Accounting of the settlement, Plaintiff shall present an Order or file a Stipulation of Dismissal dismissing the claims of the Plaintiff and the Class Members with prejudice, except those who have opted out of the settlement against Defendant and without costs.

23. Dismissal of the Declaratory Judgment Action. After this Settlement has received the Court's final approval, Frankenmuth Mutual Insurance Company shall dismiss its insurance declaratory judgment action, *Frankenmuth Mutual Insurance Company v. Midwest Nutritional Service, Inc., and Greg's Greater Chicago Chiropractic, LLC*, 13 C 8545 (N.D. Ill.).

24. Release of Attorneys' Lien. In consideration of this Settlement Agreement, Settlement Class Counsel hereby waives, discharges and releases the Released Parties of and from any and all claims for attorneys' fees, by lien or otherwise, for legal services rendered by Settlement Class Counsel in connection with this Litigation.

25. Applicable Law. This Settlement Agreement shall be governed by and interpreted in accordance with the internal laws of the State of Illinois.

26. Miscellaneous Provisions. The parties and their attorneys agree to cooperate fully with one another in seeking approval of this Settlement Agreement, and to use their best efforts to effect the consummation of this Settlement Agreement and the settlement provided for herein. Whether or not this Settlement Agreement and the settlement contemplated hereunder are consummated, this Settlement Agreement and the proceedings had in connection herewith shall in no event be construed as, or be deemed to be, evidence of an admission or concession on the part of Defendant of any liability or wrongdoing whatsoever.

27. Benefit of this Settlement Agreement. This Settlement Agreement shall be binding upon and inure to the benefit of the Plaintiff, the Released Parties and Settlement Class Members, and each of their respective successors and personal representatives, predecessors, affiliates, heirs, executors and assigns. It is expressly understood by the Parties that all Released Parties who are not parties to this Settlement Agreement are intended third-party beneficiaries of this Settlement Agreement.

28. Authority. The Parties hereby represent to one another that they have full power and authority to enter into this Settlement Agreement and carry out their obligations.

29. Right to Set Aside Settlement Agreement. Defendant shall have the right, but not the obligation, to terminate or withdraw from this Settlement Agreement, if more than 50 Settlement Class Members submit non-duplicative, timely and valid requests for exclusion from the Settlement Class or if there is an objection to the Settlement by either a federal or state government agency or official. Defendant must timely exercise its right to rescind the Settlement Agreement by filing a Notice of Termination with the Clerk of the Court within 7 days prior to the entry of a Final Approval Order by the Court.

30. Entire Agreement. Any and all prior understandings and agreements between the Parties with respect to the subject matter of this Settlement Agreement are merged into and with this Settlement Agreement, which fully and completely expresses the entire agreement and understanding of the Parties with respect to the subject matter hereof. This Settlement Agreement may be amended, modified or changed only by a written instrument or instruments executed by duly authorized officers or other representatives of the Parties expressly amending, modifying or changing this Settlement Agreement and may not be amended, modified or changed orally.

31. Counterparts. This Settlement Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute the same instrument. Signatures provided by facsimile or e-mail shall be deemed legal and binding for all purposes.

32. Headings. The headings in this Settlement Agreement are for convenience of reference only and are not to be taken to be a part of the provisions of this Settlement Agreement, nor to control or affect meanings, constructions or the effect of this Settlement Agreement.

IN WITNESS WHEREOF, the Parties have caused this Settlement Agreement to be duly executed and delivered by their duly authorized representatives on the date last written below.

PLAINTIFF:

Greg's Greater Chicago Chiropractic, LLC

By: *Greg Anderson D.C.*

Its: *owner/chiropractor*

DEFENDANT:

Midwest Nutritional Service, Inc.

By: _____

Its: _____

DEFENDANT'S INSURER:

Frankenmuth Mutual Insurance Company

By: _____

Its: _____

PLAINTIFF:

Greg's Greater Chicago Chiropractic, LLC

By: _____

Its: _____

DEFENDANT:

Midwest Nutritional Service, Inc.

By:  _____

Its: PRESIDENT _____

DEFENDANT'S INSURER:

Frankenmuth Mutual Insurance Company

By: _____

Its: _____

PLAINTIFF:

Greg's Greater Chicago Chiropractic, LLC

By: _____

Its: _____

DEFENDANT:

Midwest Nutritional Service, Inc.

By: _____

Its: _____

DEFENDANT'S INSURER:

Frankenmuth Mutual Insurance Company

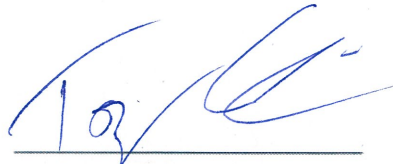
By: Lee Galagan

Its: Litigation Services

Approved as to form:



Daniel A. Edelman
Heather Kolbus
EDELMAN, COMBS, LATTURNER
& GOODWIN, LLC
20 S. Clark Street, Suite 1500
Chicago, IL 60603
(312) 739-4200
(312) 419-0379 (FAX)
Counsel for Plaintiff and the Class




Anthony Eliseuson
DENTONS US LLP
233 S. Wacker Drive
Suite 7800
Chicago, IL 60606
(312) 876-8000
(312) 876-7934 (FAX)
*Counsel for Defendant Midwest Nutritional
Service, Inc.*

John D. Dalton
Jennifer E. Simms
Emily R. Norris
BAUGH, DALTON, CARLSON,
& RYAN, LLC
135 S. LaSalle Street, Suite 2100
Chicago, IL 60603
(312) 759-1400
(312) 759-0402 (FAX)
*Counsel for Frankenmuth Mutual
Insurance Company*

Approved as to form:

Daniel A. Edelman
Heather Kolbus
EDELMAN, COMBS, LATTURNER
& GOODWIN, LLC
20 S. Clark Street, Suite 1500
Chicago, IL 60603
(312) 739-4200
(312) 419-0379 (FAX)
Counsel for Plaintiff and the Class

Anthony Eliseuson
DENTONS US LLP
233 S. Wacker Drive
Suite 7800
Chicago, IL 60606
(312) 876-8000
(312) 876-7934 (FAX)
*Counsel for Defendant Midwest Nutritional
Service, Inc.*



John D. Dalton
Jennifer E. Simms
Emily R. Norris
BAUGH, DALTON, CARLSON,
& RYAN, LLC
135 S. LaSalle Street, Suite 2100
Chicago, IL 60603
(312) 759-1400
(312) 759-0402 (FAX)
*Counsel for Frankenmuth Mutual
Insurance Company*