

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

GLEN ELLYN PHARMACY, INC.,)	
Individually and on behalf of all others)	
similarly situated,)	Case No. 1:14-cv-08132
)	
Plaintiff,)	Hon. Judge Rebecca R. Pallmeyer
)	
v.)	Hon. Magistrate Judge Sidney L. Schenkier
)	
EXP PHARMACEUTICAL SERVICES)	
CORP., and JOHN DOES 1-10,)	
)	
Defendant.)	

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

IT IS HEREBY STIPULATED AND AGREED by and among Glen Ellyn Pharmacy, Inc. (“Plaintiff” or “Class Representative”), individually and on behalf of all others similarly situated, with the assistance and approval of Class Counsel, on the one hand, and EXP Pharmaceutical Services Corp. (“EXP” or “Defendant”), with the assistance of their counsel, on the other hand, as set forth below:

INTRODUCTION

This Settlement Agreement is made for the sole and exclusive purpose of consummating settlement of the Lawsuit (as this term and all other capitalized terms are defined in Section 1 below) on a class-wide basis. This Settlement Agreement is made in full compromise and release of all disputed claims in the Lawsuit.

NOW, THEREFORE, IT IS HEREBY FURTHER STIPULATED AND AGREED by and among the Class Representative (for itself and the Settlement Class Members) and Defendant, with the assistance of their respective counsel, that, as among the Settling Parties, and all Settlement Class Members, the Lawsuit and the Released Claims shall be finally and fully

compromised, settled and released, and the Lawsuit shall be dismissed with prejudice, as to each of the Settling Parties, upon and subject to the terms and conditions set forth herein.

RECITALS

WHEREAS, on October 17, 2014, the Lawsuit, captioned as *Glen Ellyn Pharmacy, Inc. v. EXP Pharmaceutical Services Corp.*, United States District Court, Northern District of Illinois, Eastern Division, docket no. 14-cv-8132, was filed by Plaintiff, individually and on behalf of all others similarly situated, and is currently pending before the Hon. Judge Rebecca R. Pallmeyer and is unresolved among the Settling Parties;

WHEREAS, in the Lawsuit, Plaintiff alleges that Defendant violated the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (“TCPA”) as well as committed common law conversion by sending or causing to be sent unsolicited facsimile advertisements;

WHEREAS, in the Lawsuit, Plaintiff seeks damages on behalf of the Settlement Class defined as: all persons and entities who were subscribers to fax numbers that were sent faxes by or on behalf of EXP between October 17, 2010 and October 18, 2014, promoting the commercial availability or quality of its property, goods or services and which do not contain an opt out notice as described in 47 U.S.C. § 227;

WHEREAS, Defendant denies Plaintiff’s claims, denies any liability to Plaintiff and the putative class, and denies any wrongdoing of any kind regarding the allegations asserted in the Lawsuit;

WHEREAS, Plaintiff represents and warrants that it owned or leased its facsimile machine which received the faxes at issue in the Litigation at the time the faxes were received.

WHEREAS, the Settling Parties have engaged in extensive arms-length settlement negotiations, and Class Counsel represent that they have otherwise conducted a thorough study and investigation of the law and the facts relating to the claims that have been or might have been asserted in the Lawsuit and have concluded, taking into account the benefits that Plaintiff and any Settlement Class Members will receive as a result of this Settlement Agreement and the risks and delays of further litigation, that this Settlement Agreement, upon the terms and conditions set forth below, is fair, reasonable and adequate and in the best interests of Plaintiff and the Settlement Class Members;

DEFINITIONS

As used in all parts of this Settlement Agreement, the following terms have the meanings specified below:

1.1 “Claim Deadline” means the date sixty (60) days after entry of a Preliminary Approval Order or, if such date is not acceptable to the Court, the date set by the Court as the deadline for Settlement Class Members to submit claims.

- 1.2 “Claim Form” means the form attached hereto as **Exhibit 1**.
- 1.3 “Class Action Complaint” means the complaint filed by Plaintiff on October 17, 2014.
- 1.4 “Class Administrator” means the class settlement administrator mutually agreed upon by the Parties.
- 1.5 “Class Counsel” means Cathleen M. Combs, Dulijaza Clark, James O. Lattuner, and Daniel A. Edelman of Edelman, Combs, Lattuner & Goodwin LLC.
- 1.6 “Class Notice” means the notice to be approved by the Court as set forth in paragraph 2.5.
- 1.7 “Class Representative” means Plaintiff.
- 1.8 “Class Recovery” means the relief set forth below at paragraph 2.2(b) that will be distributed to each Settlement Class Member who submits a Valid Claim Form.
- 1.9 “Court” means the United States District Court for the Northern District of Illinois.
- 1.10 “Defendant” means EXP Pharmaceutical Services Corp.
- 1.11 “Defendant Affiliate” means any and all of the present or past predecessors, successors, subsidiaries, and affiliated companies of EXP Pharmaceutical Services Corp.
- 1.12 “Effective Date” means the date on which the Final Approval Order becomes Final.
- 1.13 “Fairness Hearing” means a hearing set by the Court for the purpose of: (i) determining the fairness, adequacy and reasonableness of the Settlement Agreement and associated settlement pursuant to class action procedures and requirements; and (ii) entering the Final Approval Order.
- 1.14 “Fax List” means the list of facsimile numbers at which the Settlement Class Members received the facsimile transmissions at issue.
- 1.15 “Final” means the later of: (i) the date the Final Approval Order is entered by the Court if no objection(s) is filed; or (ii) the date of expiration of the time for noticing a valid appeal from the Final Approval Order if an objection(s) is filed and an appeal is not noticed; or (iii) the date of final affirmation or dismissal of the last pending appeal if an appeal is noticed.
- 1.16 “Final Approval Order” means an order to be entered by the Court entitled “Final Approval Order,” substantially in the form attached hereto as **Exhibit 4**.
- 1.17 “Lawsuit” means the following lawsuit currently pending in the Court: *Glen Ellyn Pharmacy, Inc. v. EXP Pharmaceutical Services Corp.*, United States District Court, Northern

District of Illinois, Eastern Division, docket no. 14-cv-8132, which was filed on October 17, 2014.

1.18 “Net Settlement Fund” means the amount remaining in the Settlement Fund after notice and administration expenses and Class Counsel’s legal fees and costs are deducted.

1.19 “Objection Deadline” means sixty (60) consecutive days from the Settlement Notice Date.

1.20 “Opt-Out Deadline” means sixty (60) consecutive days from the Settlement Notice Date.

1.21 “Plaintiff” means Glen Ellyn Pharmacy, Inc.

1.22 “Preliminary Approval Date” means the date on which the Court enters the Preliminary Approval Order.

1.23 “Preliminary Approval Order” means an order to be entered by the Court, entitled “Preliminary Approval Order,” substantially in the form attached hereto as **Exhibit 3**.

1.24 “Released Claims” means any and all causes of action, suits, claims, rights or demands, in law or in equity, known or unknown at this time, which any Settlement Class Member now has, did have, or may have in the future against the Released Parties, or any of them, under any legal theory, whether or not alleged, related to or arising from the transmission of unsolicited facsimile advertisements by or on behalf of EXP to Settlement Class Members during the Settlement Class Period.

1.25 “Released Parties” means EXP and its affiliated entities (if any); its predecessors and successors in interest (including, but not limited to, Inmar, Inc.) and their present, former, and future affiliates, and the past and current officers, directors, shareholders, partners, members, employees, agents and insurers of the foregoing persons or entities in such capacities as they relate to the actions that are the subject of the Litigation.

1.26 “Settlement Agreement” means this Settlement Agreement and all of its attachments and exhibits, which the Settling Parties understand and agree sets forth all material terms and conditions of the settlement among them and which is subject to Court approval.

1.27 “Settlement Class” means the conditional class that the Settling Parties have consented to for purposes of settlement only, as identified in paragraph 2.1.

1.28 “Settlement Class Members” means a person who is a member of the Settlement Class as identified in paragraph 2.1.

1.29 “Settlement Class Period” means October 17, 2010 to October 18, 2014.

1.30 “Settlement Fund” means the \$35,000 nonreversionary fund created by Defendant, and distributed in the manner set forth in paragraph 2.2.

1.31 “Settlement Notice Date” means the date that the notice is first distributed pursuant to paragraph 2.7.

1.32 “Settling Parties” or “Parties” means Plaintiff and Defendant.

1.33 “Valid Claim Form” means a Claim Form that is: (a) completed; (b) represented to be truthful and correct to the best of the Settlement Class Member’s knowledge; (c) returned to Class Counsel postmarked by the Claim Deadline; and (d) determined to be eligible for the recovery set forth in paragraph 2.2(B).

TERMS AND CONDITIONS

2.1 Conditional Certification of the Settlement Class.

A. The Settling Parties stipulate to the conditional certification of the following class for settlement purposes only:

All persons and entities who were subscribers to fax numbers that were sent faxes by or on behalf of EXP between October 17, 2010 and October 18, 2014, promoting the commercial availability or quality of its property, goods or services and which do not contain an opt out notice as described in 47 U.S.C. § 227.

Excluded from the Settlement Class are Defendant and Defendant Affiliates, their respective officers, employees, and attorneys.

B. For settlement purposes only, the Parties agree that, as part of the Preliminary Approval Order, the Court may make preliminary findings and enter an order granting provisional certification of the Settlement Class subject to final findings and certification in the Final Approval Order, and appointing Plaintiff as class representatives and appointing Class Counsel as Settlement Class Counsel. For settlement purposes only, the Settlement Class is certified pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure. EXP does not consent to certification of the Settlement Class for any purpose other than to effectuate the class-wide settlement of the Litigation as contemplated by this Agreement. 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: (i) the 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; (ii) this Action 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 other associated settlement document may be used in seeking class certification; and (iii) EXP reserves all procedural or substantive rights as of the date of execution of this Settlement Agreement.

C. Defendant represents that, based its investigation, including a review of its records that were provided to Plaintiff’s counsel, approximately 409 unique fax numbers were identified to have been sent facsimiles similar to those attached as an exhibit to the

Class Action Complaint. These faxes were sent by or on behalf of EXP during the Settlement Class Period. EXP will provide to Class Counsel and/or the Class Administrator the Fax List. Some Settlement Class Members may have been sent more than one EXP facsimile, but in no event were more than 481 faxes in total sent to the Settlement Class Members.

2.2 **Disbursement of the Settlement Fund**. The Settlement Fund shall be distributed as follows, subject to the Court's approval:

A. Costs of class notice and administration shall be paid from the Settlement Fund; and

B. After the notice and administrative expenses are deducted, as well as Class Counsel's legal fees and costs (as provided below) from the Settlement Fund, the remaining Net Settlement Fund shall be apportioned as follows, subject to court approval:

i. \$2,000 from the Net Settlement Fund shall be paid to plaintiff Glen Ellyn Pharmacy, Inc. as an incentive award in recognition of their services as class representatives; and

ii. Each Settlement Class Member who submits a Valid Claim Form will receive a check for its pro rata share of the Net Settlement Fund up to the maximum statutory damages permitted under 47 U.S.C. § 227(b)(3), after the amounts set forth in subparagraphs (a) and (b)(i) are distributed.

C. No amount of money remaining in the Net Settlement Fund shall revert to EXP.

D. Any uncashed settlement checks or undistributed settlement funds remaining in the Net Settlement Fund after the distribution of monies to the Settlement Class Members in Subparagraph 5(c)(ii), shall be distributed via *cy pres* to an entity agreed upon between the Parties and approved by the Court.

E. Within fourteen (14) days of the Effective Date, EXP shall deliver the Settlement Fund to the Class Counsel to be held in trust for distribution to the Settlement Class. Within thirty (30) days following the Effective Date, the Class Administrator and/or Class Counsel shall distribute the Settlement Fund in accordance with this Agreement.

F. Following entry of an order preliminarily approving the settlement (in a form substantially as attached as Exhibit 3 hereto) by the Court, each member of the Settlement Class shall have sixty (60) days to submit a claim form, to opt out, or object to the proposed settlement, after Notice (Exhibit 1 hereto) of the proposed settlement is sent to the Settlement Class as set forth in paragraph 15.

G. Costs associated with notice, claims administration and distribution of settlement checks shall be paid from the Settlement Fund. Administrative expenses include any work that the Class Administrator may perform as is deemed necessary by

agreement of the parties. The Parties, through their counsel, shall mutually agree upon the Class Administrator. Plaintiff and Defendant shall exchange estimates or bids from Class Administrators. Notice and administrative expenses shall not exceed \$1,000.

H. The settlement checks issued to the Settlement Class Members for payment of claims under this Agreement will be void after sixty (60) days from the date of issuance. Any Settlement Class Member who does not negotiate the claim payment check issued to them within sixty (60) days of the date of issuance of the settlement claim payment check, agrees that they rescind and withdraw their claim for monetary compensation under this Settlement Agreement but remain a Settlement Class Member and are bound by the terms of this Settlement Agreement.

I. Defendant shall not be responsible for any payments or obligations other than those specified in this Agreement.

2.3 **Undistributed Settlement Funds.** Within thirty (30) days following the last void date of the checks issued to Settlement Class Members for payment of claims, the Settlement Class Administrator will report to the Parties if there are any uncashed checks or unclaimed or undistributed settlement funds. In the event that there are undistributed funds in the Settlement Fund after all payments required under this Agreement are made, the Parties may make proposals to the Court for equal distribution of such remaining funds to a *cy pres* recipient.

2.4 **Release.**

A. Plaintiff and the Settlement Class Members, hereby fully release and discharge the Released Parties from any and all liability for the Released Claims.

B. Plaintiff and each Settlement Class Member, hereby fully release and discharge the Released Parties from any and all liability for any and all causes of action, suits, claims, or demands, in law or in equity, known or unknown at this time, which each such Settlement Class member now has or ever had against the Released Parties, or any of them, under any legal theory, whether or not alleged, related to the Released Claims.

C. 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 claims released herein. Without admitting that California law or the laws of any other state apply to this Agreement or that the release provided by Plaintiff and the Settlement Class is a general release, the Parties agree that upon the Effective Date, the Settlement Class shall be deemed to have waived and shall have expressly waived the provisions and benefits of California Civil Code §1542, which provides that a general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her, must have materially affected his or settlement with the debtor. Further, Plaintiff and the Settlement Class Members, expressly waive any and all provisions and rights or benefits which may be conferred upon them by any law, statute, ordinance or regulation which is similar, comparable or equivalent to California Civil Code §1542.

2.5 **Effects of Non-Approval of Settlement.** 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.

2.6 **Attorneys' Fees, Notice Costs and Related Matters.** The Class Administrator and/or Class Counsel will administer the Settlement Fund for the benefit of the Settlement Class Members. Class Counsel will request approval from the Court for attorneys' fees and costs in an amount not to exceed 1/3 of the Settlement Fund. Class Counsel will not request additional fees or costs from Defendant or the Settlement Class Members other than the above-referenced sums. Class Counsel shall file their fee petition twenty-eight (28) days prior to the deadline to submit objections, as set forth in paragraph 2.9.

2.7 **Class Notice.**

A. Within five (5) days of entry of the Preliminary Approval Order, EXP's Counsel shall provide Class Counsel and/or the Class Administrator with the Fax List in MS Word or Excel format. Within thirty-five (35) days of entry of the Preliminary Approval Order, Class Counsel and/or the Class Administrator shall cause a Notice in the form of Exhibit 1 which includes a Claim Form to be faxed to each Settlement Class Member on the Fax List. The Class Administrator shall make at least two attempts to transmit the Notice by fax to those numbers where the initial transmission failed.

B. Within twenty-one (21) days of the date that the Notice was first sent by fax, Class Counsel and/or the Class Administrator may send the Notice and Claim Form by fax and/or U.S. Mail to each Settlement Class Member who did not submit a Claim form or otherwise respond to the Class Notice by that date. If notice is sent by fax, the Class Administrator shall make at least two attempts to transmit the Notice by fax to those numbers where the initial transmission failed.

C. Class Counsel will also post the Notice in the form of Exhibit 2, excluding a Claim Form, and this Settlement Agreement (excluding exhibits) on their firm's website. Class Counsel or the Class Administrator shall provide any Settlement Class Member who contacts either of them, and requests a copy, a copy of the Notice or Claim Form with the Notice.

D. 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 Class Members, confirmations of transmittals of such notices by email, records of undelivered email, claim forms, and payment to Class Members for a period of one year following the issuance of the Final Approval Order, and the expiration of all deadlines for appeal therefrom. 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 and for no other purpose.

2.8 **Claim Validation.**

A. Class Counsel shall attempt to 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 Class Counsel shall follow-up with the Settlement Class Member and inquire if they were a subscriber to 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.

B. 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, Class Counsel shall disallow the claim. Plaintiff and Defendant shall have the right to review the eligibility determinations made and, if either Party challenges any eligibility determination, it shall apprise the other Party of the challenge, and the Parties, through their respective counsel, shall meet and confer in good faith in an attempt to resolve any challenged claim. If the Parties are unable to resolve such a challenge, the Parties shall submit the challenge to the Court for resolution. The Settling Parties shall each bear their own respective costs associated with any such challenge.

C. Settlement Class Members submitting Valid Claim Forms shall be paid a pro rata share of the Settlement Fund in accordance with this Agreement.

2.9 **Opt-Out/Exclusion/Right to Object/Participation.**

A. **Opt-Out/Exclusion.** All Class Members who properly file a written request for exclusion from the Settlement Class by the Opt-Out Deadline 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 the 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 to Class Counsel at the address provided in the Notice and postmarked or received by Class Counsel on such date as set by the Court. 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 Class Counsel 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 the Settlement Agreement, if approved. Class Members shall have at least sixty (60) days from the date that Notice is sent to opt out of the settlement set forth in this Settlement Agreement.

B. **Objection.** Any Settlement Class Member may object to the Settlement Agreement and appear in person or through counsel, at his, her or its own expense. The Objection Deadline 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 Notice is sent. Any Settlement Class Member may object to the Settlement Agreement by filing with the Court and mailing a copy of the objection to Plaintiff's Counsel and Defendant's

Counsel. Any objection must include: (i) the name, address, and facsimile phone number of the person(s) or entity objecting to the Settlement Agreement; (ii) a statement of the objection to the Settlement Agreement; (iii) an explanation of the legal and factual basis for the objection; and (iv) documentation, if any, to support the objection.

2.10 **Preliminary Approval Order.** As soon as practicable after the execution of this Settlement Agreement, and only after review by Defendant's counsel, 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 which is mutually acceptable to the Parties.

2.11 **Final Approval Order.** Class Counsel shall, only after review by Defendant's counsel, file a memorandum in support of final approval of the Settlement, prior to the date the Court sets for the final approval hearing. Prior to the filing of the Final Approval Memorandum, Class Counsel shall file a petition for an award of attorneys' fees and costs. Class Counsel shall request the Court to 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 CAFA, the Final Approval Order shall not be entered until the expiration of at least ninety (90) days from the date the preliminary approval order was entered. 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 fully 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 Agreement shall be null and void and is rescinded.

2.12 **Nonsubstantive Changes.** The fact that the Court may require non-substantive changes to documents attached as Exhibits 1 through 4 does not invalidate this Settlement Agreement.

2.13 **Release of Attorney's Lien.** In consideration of this Settlement Agreement, upon the Parties' releases set forth in paragraph 2.4 becoming effective, Class Counsel hereby waive, discharge and forever release Defendants from any and all claims for attorneys' fees, by lien or otherwise, for legal services rendered by Class Counsel in connection with the Lawsuit. If any Party or his/her/its counsel is compelled to prosecute any further proceedings to obtain compliance with this Settlement Agreement, and the Party that initiated the proceedings to obtain such compliance prevails in such proceedings, that Party shall be entitled to reasonable attorneys' fees and costs related to any such proceedings.

2.14 **Dismissal Order.** At the hearing on Final Approval of the Settlement, Class Counsel shall present an Order or Stipulation of Dismissal dismissing the claims of Plaintiff and the Settlement Class Members, except those who have opted out of or have been excluded from the Settlement, against EXP with prejudice and without costs, except as those provided by the parties' agreement.

2.15 **Applicable Law.** This Settlement Agreement shall be governed by and interpreted in accordance with the state law of the State of Illinois without regard to conflicts of law principles.

2.16 **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 the Released Parties are intended third-party beneficiaries of this Settlement Agreement.

2.17 **Right to Set Aside Settlement Agreement.** EXP shall have the right, but not the obligation, to set aside or to rescind this Settlement Agreement, if more than 25 Settlement Class members submit non-duplicative, timely and valid requests for exclusion from this Settlement Class. EXP must timely exercise its right to rescind the Agreement by filing a Notice of Rescission with the Clerk of the Court prior to the entry of a Final Approval Order by the Court.

2.18 **Miscellaneous Provisions.**

A. **No Admission of Liability.** 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 EXP of any liability or wrongdoing whatsoever.

B. **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.

C. **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.

D. **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 email shall be deemed legal and binding for all purposes.

E. **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 the same.

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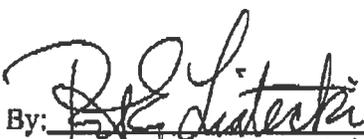
IN WITNESS WHEREOF, the Parties have caused this Settlement Agreement to be duly executed and delivered by their duly authorized representatives on the date last written below:

PLAINTIFF

DEFENDANT

Glen Ellyn Pharmacy, Inc.

EXP Pharmaceutical Services Corp.

By: 
ROBERT E. LISTECK
Its: PRESIDENT

By: _____
Its: _____



Daniel A. Edelman
Cathleen M. Combs
James O. Lattuner
✓ Dulijaza (Julie) Clark
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Facsimile: (312) 499-6301

Counsel for EXP Pharmaceutical Services Corp.

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

Glen Ellyn Pharmacy, Inc.

By: _____

Its: _____

Daniel A. Edelman
Cathleen M. Combs
James O. Lattuner
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Counsel for Glen Ellyn Pharmacy, Inc.

DEFENDANT

EXP Pharmaceutical Services Corp.

By: *Frederick A. Jorgensen*
Frederick A. Jorgensen

Its: *EXP - General Counsel & Secretary*

[Signature] *4/8/15*

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