UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION

IN RE: GENERAC SOLAR POWER SYSTEMS MARKETING, SALES PRACTICES, AND PRODUCTS LIABILITY LITIGATION

This Document Related to All Cases

Case No. 2:23-md-03078

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

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MEMORANDUM OF POINTS AND AUTHORITIES

Plaintiffs Robert Ammon, Marcia Baltimore, Nicole Kibert Basler, John Bettorf, Paul Cartmell, Steve Cothren, Geoff Edwards, Miles Fawcett, Joel Galarza, Melissa Gibson, Daniel Haak, Christopher Helmers, Kevin Hemphill, Albert Kates, Craig Lauder, Kathryn Locatell, Jodi Matas, Dustin Moon, Lori Morse, Adam Plichta, Jason Poston, Anita Richardson, Michael Shirk, Allan Slater, Carolyn Slusher, Rabia Stevenson, Beverly Taylor, Margaret Venema, Kerri Vincent, James Ward, and Mark Wasserman ("Plaintiffs" or "Settlement Class Representatives") respectfully move, pursuant to Rule 23 of the Federal Rules of Civil Procedure, for an order granting Final Approval of the Settlement between Plaintiffs and Defendants Generac Power Systems, Inc. and Generac Holdings, Inc. (collectively "Generac" or "Defendants").

The Settlement Agreement before the Court was made to settle, fully and finally, claims brought by Plaintiffs against Generac involving their purchase and use of PWRcell Systems ("Systems") allegedly defectively designed by Generac. The Settlement, reached after substantial expert investigation, active litigation, and hard-fought negotiations, resolves the core issues raised in this litigation by compensating Settlement Class Members for purchasing Systems with an alleged defect and reimbursing Settlement Class Members for out-of-pocket costs related to the alleged defect as well as lost System production. The Settlement is in the best interest of the Class and satisfies the standards for final approval discussed herein.

Settlement Class Counsel have decades of experience with class actions, regularly resolve cases with similar factual and legal issues, understand the remedies and damages at issue, and know what information is critical in determining class membership. With the litigation ongoing since 2022 (and consolidation of the various cases in 2023), relief for the Settlement Class was far from certain. Absent this Settlement, the Parties would have continued litigating, which would have required further expenditures for expert witnesses for consulting on the case, the completion of fact and expert discovery, briefing class certification and any summary judgment or *Daubert* motions, preparing for and conducting trial, post-trial motions, and likely appeal (with potential interlocutory appeals as well). The risk of non-recovery would be possible at any of those steps, and even if recovery was accomplished after extended litigation, relief would be years away at best. In sum, this case has been resolved at the optimum time to maximize the Class's recovery, appropriately ensuring a sufficient factual record was established to meaningfully assess settlement prospects, balancing the benefit of meaningful relief for the Class now with the risk and cost of continued litigation.

The zealous advocacy of Settlement Class Counsel and enduring commitment of Settlement Class Representatives resulted in monetary and non-monetary benefits for many thousands of consumers who were allegedly harmed by the SnapRS devices (defined below) in their allegedly defective Systems. This Settlement is an excellent result for the Settlement Class and warrants final approval.

I. <u>FACTUAL BACKGROUND</u>

The proposed Settlement delivers an outstanding recovery for consumers who purchased or used Generac's residential solar power systems, the PWRcell System,[1] and should be approved. More specifically, the proposed Settlement provides monetary relief in the amount of $15,000,000, as well as non-monetary relief which benefits all consumers who own or use the PWRcell System, regardless of whether those consumers participate in the Settlement. The non-monetary relief includes: (1) changes to the Limited Warranty for the PWRcell Systems which both extends the Limited Warranty and alters the warranty claims process by eliminating certain requirements that

[1] Unless otherwise defined, all capitalized terms herein shall have the same meaning as set forth in the Parties' Settlement Agreement.

were in place previously for consumers; and (2) educational materials for consumers relating to System errors and corrective measures. S.A. § 3.7.

This case involves the design, manufacture, marketing, and sale of PWRcell Systems which contain allegedly defective rapid shutdown safety components, SnapRS devices ("Snaps" or "Snap devices").[2] Generac allegedly designed, manufactured, and placed into the stream of commerce for purchase by Settlement Class Members the PWRcell Systems without disclosure of the allegedly defective Snaps.[3] Plaintiffs contend that because of the alleged defect, the Snaps become overactive, repeatedly turning off and on, causing them to overheat, bubble, burn, and explode.[4] Plaintiffs further contend that the Snap failures resulted in a loss of energy production from PWRcell Systems and, moreover, that consumers overpaid or would not have purchased the PWRcell Systems at all had they known about the alleged defect at the time of purchase.[5]

II. PROCEDURAL BACKGROUND

The first case regarding the Snap devices was filed in the Middle District of Florida on October 28, 2022.[6] Additional cases were thereafter filed, a Petition for Transfer and Consolidation pursuant to 28 U.S.C. § 1407 was filed on March 3, 2023, and the cases were subsequently consolidated and transferred by the Judicial Panel on Multidistrict Litigation ("JPML") to the Eastern District of Wisconsin before this Court on June 2, 2023.[7]

After initial procedural practice related to appointment of interim Co-Lead Counsel and the entry of other administrative orders, Plaintiffs filed their Consolidated Class Action Complaint

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[2] *See* Consolidated Class Action Complaint (hereinafter "CCAC"), ECF 18, ¶¶ 68, 70, 73, and 75.
[3] *See id.* ¶¶ 13–18.
[4] *See id.* ¶ 10.
[5] *See id.* ¶¶ 11, 18.
[6] *See Haak v. Generac Power Sys., Inc.*, No. 8:22-cv-2470 (M.D. Fla. Oct. 28, 2022).
[7] *See* Transfer Order, ECF 1 (June 2, 2023) and Second Transfer Order, ECF 2 (June 14, 2023).

on September 1, 2023,[8] asserting thirty causes of action on behalf of themselves, a nationwide class, and sixteen state classes.[9] Generac filed a motion to dismiss most counts in the complaint in its entirety on October 31, 2023, which the Parties briefed in full.[10] On May 24, 2024, the Court granted in part and denied in part Generac's motion to dismiss, permitting Plaintiffs' core claims to proceed.[11]

Since that time, the Parties have been actively engaged in extensive discovery, including party and third-party discovery, and expert investigation and analysis.[12] The Parties agreed to numerous discovery protocols, including a Protective Order,[13] an ESI Protocol,[14] an Inspection Protocol,[15] and a Preservation Protocol,[16] each approved by the Court. The Parties also exchanged initial disclosures as well as interrogatories and requests for production of documents, and corresponding written responses.[17] Such written discovery and document productions required extensive meet and confer discussions between the Parties—in writing, by Zoom, and telephonically—to narrow and resolve numerous discovery disputes as well as identify potential document custodians and search terms. As a result, Plaintiffs responded to written discovery on an omnibus basis and on behalf of each of the thirty-one (31) Named Plaintiffs and collected, reviewed, and produced responsive documents on behalf of each of the Named Plaintiffs. In addition, Plaintiffs' counsel reviewed and analyzed Generac's written discovery responses and

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[8] *See* CCAC, ECF 18 (Sept. 1, 2023).
[9] *See* CCAC ¶ 167.
[10] *See* Motion to Dismiss the Consolidated Class Action Complaint, ECF 32 (Oct. 31, 2023).
[11] *See* Decision and Order, ECF 37 and 38 (May 24, 2024).
[12] Chalos Decl. ¶ 12.
[13] *See* Joint Stipulated Motion for Protective Order, ECF 16 (Sept. 1, 2023).
[14] *See* Stipulation for Order re: Protocol for Production of Documents, ECF 22 (Sept. 6, 2023).
[15] *See* Stipulation for Order re: Inspection Protocol, ECF 28 (Oct. 13, 2023).
[16] *See* Stipulation for Order re: Joint Protocol for Preservation of SnapRS Components, ECF 62 (Jan. 31, 2025).
[17] *See* Chalos Decl. ¶ 12.

Generac's production consisting of tens of thousands of pages of non-custodial and custodial documents.[18]

As written and document-related discovery continued, the Parties moved forward with in-person inspections of each Named Plaintiff's System.[19] In total, the extensive process to plan, coordinate, and execute thirty-one, cross-country site inspections, as well as secure, ship, and store any evidence from Plaintiffs' Systems for future destructive testing, took eight months and the expenditure of significant resources.[20]

A core dispute in this case was the alleged failure rate of the Snaps.[21] To provide Plaintiffs' experts with as many data points as possible, among other relevant information, Plaintiffs' counsel and experts traveled to Portland, Maine on June 12, 2025, to inspect field-returned (and other) Snaps in Generac's possession and select exemplars to take into custody for subsequent joint inspection and destructive testing.[22] In addition, the Parties met and conferred on numerous occasions to discuss the treatment of ongoing warranty service provided through Generac's dealers, installers, and service technicians to determine how to preserve Snaps from putative Class Members for purposes of litigation.[23]

Further, Plaintiffs took two Rule 30(b)(6) depositions covering several of the noticed areas of inquiries, including Generac's data collection, management, and retention policies to facilitate Plaintiffs' understanding of Generac's document productions to date and drive resolution of

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[18] *See id.*
[19] *See id.* ¶ 13.
[20] *See id.*
[21] *See* Decision and Order, ECF 58 (Dec. 2, 2024); *see also* the Parties' briefing on Plaintiffs' Motion for Sanctions, ECF 46–51 and 53–57.
[22] *See* Chalos Decl. ¶ 14.
[23] *See id.* ¶ 15.

disputes over outstanding document requests.[24] Moreover, Plaintiffs served subpoenas and requests for documents on and met and conferred with several of Generac's third-party manufacturers, product testing companies, and installers.[25]

Due to the complexity of the case, Plaintiffs utilized both an electrical engineer for purposes of analyzing the circuitry of the Snaps as well as a mechanical engineer who had decades of experience analyzing solar system components and installations.[26] Both experts attended the cross-country inspections of Named Plaintiffs' Systems.[27] In addition, there was an extended meet-and-confer process focused on the various protocols governing inspections and the preservation of evidence, which were informed by Plaintiffs' experts.[28] Plaintiffs' experts assisted in the preparation of written discovery and reviewed key documents concerning Plaintiffs' theory of the case.[29] Plaintiffs' experts also conducted independent investigations, testing, and analyses of the Snaps to understand the alleged defect as well as to develop further protocols for joint expert examinations and testing.[30]

Following mediation and after extensive discussions and negotiations to finalize the proposed Settlement, Plaintiffs moved for,[31] and the Court granted, preliminary approval of the Settlement Agreement.[32] Therein, the Court held that the Settlement was within the realm of

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[24] *See id.*
[25] *See id.* ¶ 12 n.2.
[26] *See id.*
[27] *See id.*
[28] *See id.* ¶ 18.
[29] *See id.*
[30] *See id.* ¶ 17.
[31] *See* Plaintiffs' Motion for Preliminary Approval of Class Action Settlement ("Preliminary Approval Motion"), ECF 76 (Jan. 9, 2026).
[32] *See* Order Granting Plaintiffs' Motion for Preliminary Approval of Class Action Settlement ("Preliminary Approval Order"), ECF 81 (Jan. 13, 2026).

reasonableness, subject to further consideration at the final approval stage.[33] For settlement purposes only, the Court certified the Settlement Class as defined in the Settlement Agreement.[34] In so doing, the Court found that the Rule 23 requirements (numerosity, commonality, typicality, adequacy, predominance, and superiority) as well as the Seventh Circuit standard were satisfied for purposes of effectuating the Settlement.[35] The Court also held that the Settlement was fair, reasonable, and adequate for purposes of effectuating the Settlement.[36] Further, the Court appointed as Settlement Class Representatives each named Plaintiff, and as Settlement Class Counsel Ian J. Barlow, Mark P. Chalos, Scott C. Harris, James J. Rosemergy, and Harper T. Segui.[37] Lastly, the Court approved the proposed Notice Plan.[38] Notably, the Court stated that "[t]he method of distributing the benefits of the Settlement Agreement appears likely to be effective and will treat Settlement Class Members equitably."[39] Additionally, the Court emphasized that Settlement Class Counsel's significant experience and the discovery and expert investigation conducted to date weighed in favor of preliminary approval.[40]

Following the Court's order granting preliminary approval, Eisner Advisory Group ("EAG"), the Court-appointed Settlement Administrator, began the process of preparing the Notice Plan in accordance with the Court's order.[41] During the course of EAG preparing notice, Plaintiffs'

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[33] *Id.* ¶ 2.
[34] *Id.* ¶ 3.
[35] *Id.* ¶¶ 6–7.
[36] *Id.* ¶ 7.
[37] *Id.* ¶¶ 4–5.
[38] *Id.* ¶ 9.
[39] *Id.* ¶ 7.
[40] *Id.*
[41] *See Generally* Declaration of Ryan Aldridge Regarding Implementation of the Notice Program, Claims Administration, Requests for Exclusion, and Objections in Support of Final Approval of Class Action Settlement ("Aldridge Decl."), ECF 106 (Sept. 15, 2026).

counsel came to understand that certain individuals who did not outright pay for their Systems, but instead were able to take advantage of the United States Department of Energy grant program, fell within the definition of the Settlement Class as originally drafted.[42] Upon this discovery, the Parties agreed to exclude these individuals from the Class.[43] To do so, the Parties amended the Settlement Agreement by addendum and submitted a proposed amended order granting preliminary approval,[44] which the Court entered on April 21, 2026.[45]

Thereafter, the Notice Plan was implemented in accordance with the Settlement Agreement and the Court's orders.[46] On July 2, 2026—more than two weeks in advance of the Objection and Exclusion deadline—Plaintiffs timely filed their Motion for Award of Attorneys' Fees, Costs and Expenses, and Representative Plaintiff Service Awards,[47] which was then posted to the Settlement Website. Settlement Class Members therefore had a full opportunity to evaluate the fee request before making a decision as to whether to object or exercise exclusion. See Fed R. Civ. P. 23(h). At the conclusion of the claims period, 8,564 claims were submitted,[48] and there were 282 exclusions[49] out of 38,464 Settlement Class Members.[50] Moreover, only two objections were filed, on behalf of 15 class members.[51]

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[42] *See* Chalos Decl. ¶ 23.
[43] *See id.*
[44] *See* Stipulation to Amend Settlement Agreement Deadlines, Exclusion, and Administrative Cost Provisions, ECF 88 (Apr. 20, 2026).
[45] *See* Amended Order Granting Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement, ECF 89 (Apr. 21, 2026).
[46] *See Generally* Aldridge Decl.
[47] *See* ECF 90 (July 2, 2026).
[48] *See* Aldridge Decl. ¶ 17.
[49] *See id.* ¶ 18.
[50] *See id.* ¶ 16.
[51] *See* Objection of Andrew Lohr, Jason and Teresa Taylor, Benjamin Kopf, Jennifer Warmann, Billy and Lisa Thompson, Mary Combs, Dustin Wickliff, Amber and Justin Harkey, Hemes Hernandez, Ronnie Bath, Timothy Troup, and Barry Taylor to Proposed Settlement, ECF 93

Upon review of the objections, the Parties' counsel met and conferred with the objectors' counsel to address the concerns raised in the objections.[52] The Parties agreed to a second modification to the Settlement Agreement, specifically related to the scope of the Settlement Release.[53] The modification still releases Generac from its liability but has been revised out of an abundance of caution to further clarify that any derivative claims that may flow, for example, to institutions which financed the Systems, are not intended to be released and are otherwise preserved for Settlement Class Members to pursue, even if such derivative claims may encompass the allegedly defective SnapRS components.[54] To whatever extent these claims were previously preserved or released, counsel for the objectors now agree with the Parties that these claims are expressly not released. Objectors, through counsel, have represented that this revision resolves all of their objections.[55]

Even before the two objections were filed, Parties' counsel was engaged in similar discussions with certain Attorneys General offices relating to their investigations and litigation concerning solar energy system sales practices. The Attorneys General raised questions about the scope of the release and its potential impact on their investigations and cases. After a series of Zoom calls and email communications, the Parties agreed to modified release language to avoid any inadvertent impact on the states' pending investigations and litigation. The Attorneys General also asked extensive questions about the context, background, and terms of the proposed Settlement. The Parties had already agreed to modify the release with substantively similar

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(July 20, 2026); Notice of Lodging of Objection Delivered to the Court by Mail, ECF 97 (July 23, 2026).

[52] *See* Chalos Decl. ¶ 24.

[53] *See id.* ¶ 23.

[54] *See id.* ¶ 24.

[55] *See id.* ¶ 25.

revisions prior to the filing of any objections based upon the discussions with the Attorneys General.[56]

Given the modified release, the Parties believed that Settlement Class Members who previously excluded themselves from or objected to the Settlement should receive notice of the modified language, and otherwise have an opportunity to submit claims in light of the amended language. On September 14, 2026, the Court approved the amended release and ordered supplemental notice to those Settlement Class Members who previously requested exclusion or objected. [ECF 102]. Based upon the timing of the modification, Plaintiffs intend to supplement their Final Approval briefing with updated claim submission numbers in advance of the Fairness Hearing.[57]

III. <u>SUMMARY OF MATERIAL SETTLEMENT TERMS</u>

A. <u>Settlement Class Definitions</u>

A proposed Settlement Class Member is:

> … any person or entity who qualifies under the definition of "Settlement Class," excluding: (1) Defendants, their subsidiaries and affiliates, officers, directors, and employees; (2) the judge to whom these cases are or have been assigned and any member of the judge's immediate family; (3) any persons who timely exclude themselves from the Settlement Class in accordance with the procedures set forth in Section 6; (4) Class Counsel and counsel for Defendants; and (5) Owners or Primary Users of systems provided by Generac through grants awarded by the U.S. Department of Energy, with respect to such systems.[58]

Settlement Agreement ("S.A.") § 1.57. The proposed **Settlement Class** consists of "**all current <u>Owners</u> and <u>Primary Users</u> of Generac PWRcell Systems purchased in the United States prior to the Execution Date of this Agreement**." *Id.* § 1.56.

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[56] *See id.* ¶ 26.
[57] *See id.* ¶ 27.
[58] This definition is consistent with the definition approved by the Court in its Amended Order Granting Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement. *See* ECF 89 (Apr. 21, 2026), ¶ 3.

An "Owner" is "any natural person or entity that holds contractual ownership rights to a PWRcell System" and "may, but need not, be the Primary User." *Id.* § 1.34.

A "Primary User" is "the homeowner or other occupant of the premises at which a PWRcell System is installed who is financially responsible for the electric service on the premises" and "may, but need not, be the Owner." *Id.* § 1.43.

B. Monetary Relief

Under the proposed Settlement Agreement, Generac will pay $15,000,000 into a non-reversionary Settlement Fund to cover all of its obligations under the Settlement, including "for the administration of the settlement by the Settlement Administrator, the Notice Plan, Service Awards, the Fee Award, Valid Claims, and any other administrative fees and expenses in connection with this Agreement." *Id.* § 3.1.

C. Plan of Allocation for Monetary Relief

The Net Settlement Fund[59] will be allocated to Claimants on a per-PWRcell System basis, such that there will be a single Settlement Award attributable to each PWRcell System in an amount determined pursuant to the Plan of Allocation described herein and in the Settlement Agreement, or any other allocation plan that the Court approves. *Id.* § 3.11. As described more fully below, the total Settlement Award associated with a PWRcell System shall be the sum of the System Claim, any amounts allocated from the Cash Recovery Fund, and any amounts allocated from the Extraordinary Damages Fund. *Id.* § 3.11(A)(6).

The System Claim is a baseline award available to all qualifying Claimants who can demonstrate ownership or use (as a Primary User) of a qualifying system. *Id.* § 1.61. It is intended to compensate *all* Settlement Class Members for alleged lost system value, short-term loss of use

[59] "Net Settlement Fund" is the "Settlement Fund net of any Notice and Administrative Costs, Service Awards, and Fee Awards." S.A. § 1.27.

or reduced power generation, and other economic loss not otherwise covered by an Out of Pocket Expense Claim or extended Loss of Power Generation Claim.

The value of a particular System Claim is determined based on points to account for differences between the size and cost of impacted systems. *Id.* § 3.11(A)(3). Claimants will be allocated 10 Points for each Snap device connected to their PWRcell System. Claimants who first installed their PWRcell System in or after May 2022 will receive a 50% deduction on the Point total. This is intended to recognize Generac's release of the updated SnapRS 802 model and its implementation of the Snap Replacement Program. *Id.* Once all Points have been allocated, the Settlement Administrator shall determine the total number of allocated Points and then divide the amount of the System Claim Fund by the total number of allocated Points to determine the per-Point Value. *Id.* § 3.11(A)(4). The per-Point Value shall be multiplied by each System Claim's Point Allocation to determine the monetary value of a System Claim. *Id.* § 3.11(A)(5). Significantly, Settlement Class Members identified on the Settlement Class List will be prequalified for a System Claim (based on their purchase or use of a PWRcell System) and will not need to provide additional proof of eligibility to recover under this claim category. *Id.* § 3.11(C)(1)(a). The System Claim Fund is determined by remaining amounts available after payments from the Cash Recovery and Extraordinary Damage Funds, described below. *Id.* § 1.62.

The Settlement Agreement also calls for $2,000,000 to be allocated from the Settlement Fund for the creation of a Cash Recovery Fund. *Id.* §§ 1.3 and 3.11(A)(1). The Cash Recovery Fund will be used to compensate Claimants who submit valid Out of Pocket Expense Claims, Loss of Power Generation Claims, and Miscellaneous Cost Claims. *Id.* §§ 1.3. Such claims are intended to compensate Settlement Class Members who demonstrate they have, for example, incurred actual or projected hard expenses and other costs (such as for System removal), or suffered extended power outages or reduction, due to the alleged Snap defect. *Id.* § 3.11(A)(1). If the Cash Recovery Fund is insufficient to pay all such claims in their entirety, Claimants will receive a pro rata share of the Cash Recovery Fund. *Id.* § 3.11(A)(1). Any funds remaining after all valid Out of Pocket Expense Claims, Loss of Power Generation Claims, and Miscellaneous Cost Claims are satisfied will be reallocated to the System Claim Fund. *Id.* § 3.11(A)(1).

In addition, to account for unexpected but disproportionate circumstances and the risk those circumstances may pose to the Cash Recovery Fund, the Settlement Agreement earmarks $500,000 from the Settlement Fund for an Extraordinary Damage Fund. *Id.* §§ 1.20, 3.11(A)(2). The Extraordinary Damage Fund will be used to provide additional compensation for Claimants who submit valid Claims but whose Settlement Awards would exceed the Maximum Individual Award (of $20,000), or for whom the traditional valuation methodology is otherwise deemed insufficient to adequately compensate them for their demonstrated loss (for example, the Extraordinary Damage Fund may be used to fully compensate named Plaintiffs who were unable to address System issues during the pendency of the litigation to avoid evidence spoliation at the direction of counsel). *Id.* § 3.11(A)(2). If the Extraordinary Damage Fund is insufficient to pay all such claims in their entirety, Claimants will receive a pro rata share of the Extraordinary Damage Fund. Any funds remaining after all valid Claims are compensated are reallocated to the System Claim Fund. *Id.* § 3.11(A)(2).

D. <u>Non-Monetary Relief</u>

In addition to the $15,000,000 non-reversionary Settlement Fund, Generac has agreed to two sets of non-monetary relief for Owners and Primary Users of PWRcell Systems: (1) modifications to the Limited Warranty; and (2) educational materials to improve users' understanding of their Systems. *Id.* § 3.7. All Settlement Class Members will enjoy these benefits regardless of whether a particular Settlement Class Member opts out from the Settlement. *Id.*

First, Generac has agreed to make multiple modifications to the Limited Warranty. *Id.* § 3.7(A). The first modification to the Limited Warranty constitutes an extension of the Limited Warranty. For Systems originally including SnapRS 801 or 801A components, the start date of the 25-year warranty for SnapRS 802 devices will be calculated from the replacement date of 801 or 801A or installation of RS802s. *Id.* § 3.7(A)(1). Generac also agreed to modify its warranty claim requirements. *Id.* § 3.7(A)(2). Valid claims under the Limited Warranty previously required for the PWRcell System to be registered with Generac and connected to the internet. *Id.* As part of this Settlement, Generac has agreed to eliminate these requirements for Snap RS warranty claims for PWRcell systems. *Id.* §§ 3.7(A)(2)–(3). These changes constitute material enhancements to the Limited Warranty and confer significant benefits to the Settlement Class. The Limited Warranty modifications are attached as Exhibit 7 to the Settlement Agreement.

Second, Generac has prepared materials to educate Settlement Class Members on Snap-related System errors and corrective measures. Specifically, Generac has prepared a notice that educates Settlement Class Members on the reasons for certain Snap-related error codes, any dangers associated with them, and corrective measures available for addressing them. *Id.* § 3.7(B) and Exhibit 8 attached to the Settlement Agreement ("Error Code Notice"). The Error Code Notice was disseminated[60] as part of the Settlement Notice program. *Id.* § 3.7(B).

E. <u>Limitations on Release of Claims</u>

The Settlement release is narrowly tailored. It releases only Generac and, in limited respects, its dealers, distributors, aligned contractors, installers, and other non-Defendant persons while expressly preserving certain downstream derivative claims related to the Systems or claims

[60] *See* Aldridge Decl. ¶ 8.

for personal and/or bodily injury, wrongful death, or property damage. *Id.* § 1.46 ("Released Claims"), as amended by the Parties' second addendum as approved at ECF 102. Specifically:

> "Released Claims" means any and all past and existing claims, demands, actions, causes of action, lawsuits, arbitrations, damages, or liabilities, direct or indirect, known or unknown, and whether in law or in equity or for money damages, punitive damages, exemplary damages, injunctive or other equitable relief, attorneys' fees, or costs that arise out of or relate to the SnapRS consumer or product liability claims and related consumer or product liability litigation involving the purchase, sale, or use of a solar energy system with allegedly defective SnapRS devices designed, supplied, sold by or otherwise attributable to Defendants. The Released Claims exclude claims for personal and/or bodily injury, wrongful death, and property damage to property other than the claimant's PWRcell System(s). With respect to dealers, distributors, aligned contractors, and installers, Released Claims includes only claims that are solely and directly related to the allegedly defective SnapRS devices. For the avoidance of doubt, notwithstanding the inclusion of dealers, distributors, aligned contractors, installers, and other non-Defendant persons or entities in the definition of Releasees, Released Claims do not include:
>
> (i) any claim against any non-Defendant Releasee (Releasees other than the named Defendants) or other non-party to the extent the claim is based on any non-Defendant Releasee's or other non-party's own alleged marketing, sales, financing, installation, servicing, or other non-Defendant conduct;
>
> (ii) any claim seeking to impose derivative or assignee liability on a financing source, assignee, or holder of a consumer credit contract based on conduct described in clause (i), including under the FTC Holder Rule or analogous doctrines; or
>
> (iii) any claim based on the conduct described in clauses (i) or (ii) brought by State Attorneys General or other public enforcement authorities for violation of state consumer protection acts, home solicitation sales acts, the Consumer Financial Protection Act (12 U.S.C. § 5481, et seq.), or analogous federal or state law.
>
> The foregoing exclusions apply even if the claim also involves allegations concerning the overall performance of a claimant's solar energy system or PWRcell System. Nothing in this paragraph preserves any claim against any Defendant, narrows the release of any Released Claim as to any Defendant, affects any limitation otherwise applicable to the definition of Releasees, or creates any claim, admission, agency relationship, derivative liability, or right to duplicative recovery.

IV. THE PROPOSED SETTLEMENT WARRANTS FINAL APPROVAL

A. Legal Standard

Class action settlements are strongly favored as a matter of public policy. *See Donovan v. Estate of Fitzsimmons*, 778 F.2d 298, 307 (7th Cir. 1985) ("'There is an overriding public interest in favor of settlement' of class action suits." (quoting *Cotton v. Hinton*, 559 F.2d 1326, 1331 (5th Cir. 1977))). The Seventh Circuit has confirmed that approval of a class action settlement under Rule 23 of the Federal Rules of Civil Procedure is permitted only when the settlement is "fair, reasonable, and adequate;" that determination is guided by consideration of several factors:

> (A) the class representatives and class counsel have adequately represented the class;
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> (B) the proposal was negotiated at arm's length;
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> (C) the relief provided for the class is adequate, taking into account:
>
>> (i) the costs, risks, and delay of trial and appeal;
>>
>> (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
>>
>> (iii) the terms of any proposed award of attorney's fees, including timing of payment; and
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>> (iv) any agreement required to be identified under Rule 23(e)(3); and
>
> (D) the proposal treats class members equitably relative to each other.

In re Clearview AI, Inc. Consumer Privacy Litig., 181 F. 4th 785, 791 (7th Cir. 2026) (discussing the 2018 amendment to Rule 23 in relation to the longstanding factors identified in *Wong v. Accretive Health, Inc.* and indicating that "courts may now, going forward, find it most helpful to frame their analysis in terms of the factors as set forth in Rule 23(e).").

B. Final Certification of the Settlement Class

In the Amended Preliminary Approval Order, the Court conditionally certified the Settlement Class for settlement purposes, and nothing has arisen that would give cause for the Court to depart from its original conclusion.[61] For the reasons set forth previously in Plaintiffs' motion seeking preliminary approval, the Settlement Class satisfies the numerosity, commonality, typicality, and adequacy requirements under Rule 23(a), as well as the predominance and superiority requirements under Rule 23(b)(3) and thus final certification of the Settlement Class is warranted.[62] *See In re Advocate Aurora Health Pixel Litig.*, 740 F. Supp. 3d 745 (N.D. Ill. 2024) (granting final certification for settlement purposes because the Court had "no independent basis to question whether final certification of the class as previously defined or appointment of Plaintiffs as class representatives is appropriate. Accordingly, the Court does not disturb its earlier finding."). While Plaintiffs incorporate the detailed arguments in their Preliminary Approval Motion, they briefly summarize those arguments below, confirming that the Rule 23 elements continue to be met.

Numerosity: As identified by EAG, there are 38,464 Settlement Class Members,[63] which plainly satisfies numerosity. *See Mulvania v. Sheriff of Rock Island Cnty.*, 850 F.3d 849, 859 (7th Cir. 2017) ("[A] forty–member class is often regarded as sufficient to meet the numerosity requirement.").

Commonality/Predominance: Taken together, commonality and predominance seek "whether the common, aggregation-enabling, issues in the case are more prevalent or important than the non-common, aggregation-defeating, individual issues." *Berglund v. Matthews Senior*

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[61] Preliminary Approval Order ¶ 3.
[62] *See generally* Preliminary Approval Motion.
[63] *See* Aldridge Decl. ¶ 16.

Hous. LLC, No. 21-cv-108-pp, 2023 WL 6847696, at *4 (E.D. Wis. Oct. 17, 2023) (quoting *Tyson Foods, Inc. v. Bouaphakeo*, 577 U.S. 442, 453 (2016)). The allegedly defective Snap devices, the materiality of the alleged defect to System purchasers, Generac's knowledge of the alleged defect and alleged concealment thereof, and Generac's uniform warranty provisions, are central to the litigation and constitute common issues that predominate over any individualized issues of fact and law[64] which are routinely found sufficient to satisfy predominance and commonality for purposes of settlement.[65]

Typicality: Typicality is satisfied when plaintiffs' claims "arise[] from the same event or practice or course of conduct that gives rise to the claims of other class members and . . . [is] based on the same legal theory." *Giasson v. MRA–The Mgmt. Ass'n., Inc.*, No. 24-CV-839-JPS, 2026 WL 972949, at *3 (E.D. Wis. Apr. 10, 2026) (internal citation omitted). Plaintiffs' claims are typical in that Plaintiffs, like all Settlement Class Members, purchased Systems that were designed, manufactured, marketed, and sold by Generac with allegedly defective Snap devices and as a result, each suffered injury in the form of economic loss at the time of purchase.[66]

Adequacy: The adequacy requirement assesses "the adequacy of the named plaintiff's counsel, and the adequacy of the representation provided in protecting the different, separate, and distinct interest' of the class members." *Giasson*, 2026 WL 972949, at *4 (internal citation omitted). Settlement Class Representatives have no interests antagonistic to the Settlement Class;

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[64] *See* Chalos Decl. ¶ 20.

[65] *See, e.g., In re Navistar MaxxForce Engines Mktg., Sales Pracs. & Prods. Liab. Litig.*, No. 1:14-cv-10318, 2020 WL 2477955, at *2 (N.D. Ill. Jan. 21, 2020), *aff'd sub nom. Matter of Navistar MaxxForce Engines Mktg., Sales Pracs. & Prods. Liab. Litig.*, 990 F.3d 1048 (7th Cir. 2021) ("Common issues in the Litigation, such as the existence of a defect, Defendants' knowledge of that defect, and the materiality of that defect to reasonable consumers, predominate over individual issues.")

[66] *See* Chalos Decl. ¶ 10.

their claims arise from the same alleged defect and are compensated under the same Plan of Allocation as other members of the Settlement Class. Plaintiffs, as well as their counsel, have dedicated significant time and effort to this litigation, and are committed to continued time and effort as necessary and to the benefit of the Settlement Class. [67]

Superiority: Superiority requires that "the proposed class will be manageable" as well as that certification "will also be the most efficient way to resolve Plaintiffs' claims." *In re AT & T Mobility Wireless Data Servs. Sales Litig.*, 270 F.R.D. 330, 345 (N.D. Ill. 2010). Settlement of this complex, expert-intensive case on a nationwide basis is the most efficient outcome as it will save the expenditure of substantial resources that would otherwise be spent litigating cases individually while avoiding the possibility of inconsistent judgments. The superiority requirement is satisfied.[68]

C. <u>Adequacy of Notice</u>

Notice under Rules 23(c)(2)(B) and 23(e)(1) is adequate if it "provided to the class the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort." *In re TikTok, Inc., Consumer Privacy Litig.*, 617 F. Supp. 3d 904, 927 (N.D. Ill. 2022) (cleaned up). In the Preliminary Approval Order, the Court previously found that the Notice Plan was the "best notice practicable under the circumstances," and now that notice has been effectuated, nothing should alter the Court's prior determination. [69]

In accordance with the Preliminary Approval Order and the Notice Plan, EAG, the court-appointed settlement administrator, effectuated the Notice Plan.[70] EAG implemented direct notice with resounding success. EAG delivered direct notice via email to 93% of the Settlement Class,

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[67] *See id.* ¶ 19.
[68] *See id.* ¶ 31.
[69] ECF 81 (Jan. 13, 2026) ¶ 8.
[70] The full extent of EAG's compliance with the Notice Plan, as ordered, is detailed in Mr. Aldridge's declaration.

and to 88% of the Settlement Class through traditional mail.[71] Considered collectively and as detailed in Mr. Aldridge's declaration filed in support of this Motion, greater than 99% of the Settlement Class was reached through direct notice.[72] This far exceeds generally-accepted thresholds for ensuring due process. *See In re TikTok, Inc., Consumer Privacy Litig.*, 617 F. Supp. 3d at 928 (referencing the Federal Judicial Center's 70% threshold for purposes of determining the adequacy of notice). EAG also implemented an indirect notice program, including the digital media campaign described in the Notice Plan, rounding out an exceptionally robust notice program.

The net result of the Parties' remarkable settlement and the successful implementation of the comprehensive Notice Plan is an exceedingly strong claims rate. Presently, 8,564 claims were submitted, which is approximately *22%* of the Settlement Class.[73] That rate far exceeds the claims rates typical of consumer class actions. *Pearson v. NBTY, Inc.*, 772 F.3d 778, 782 (7th Cir. 2014) (explaining that in consumer class actions "the percentage of class members who file claims is often quite low").

In addition to a substantial number of claims, only 282 individuals excluded themselves from the Settlement Class.[74] These 282 individuals represent 0.73% of the overall Settlement Class, and 0.74% of the number of Settlement Class Members who received direct notice. In addition, only two objections were filed.[75] The modest rate of exclusions and objections is overwhelmingly supportive of the overall fairness, reasonableness, and adequacy of the Settlement. *See In re TikTok, Inc., Consumer Priv. Litig.*, 617 F. Supp. 3d at 937 ("The relative

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[71] *See* Aldridge Decl. ¶ 16.
[72] *See id.*
[73] *Id.* ¶ 17.
[74] *Id.* ¶ 18.
[75] ECF 93, 97.

dearth of opposition to the settlement and the reaction of class members weighs in favor of approval as well.").

In addition, as a result of the recent modifications to the Settlement Agreement, Plaintiffs anticipate that the exclusion numbers will significantly decrease.[76] The individuals who excluded themselves from the Settlement Class or objected will receive additional notice of the amended language and the opportunity to submit claims. Objectors agreed that the modifications to the release addressed their objections and that they would be withdrawn so long as the Court approves the amended language.[77] The Court entered an order approving the Parties' Joint Motion to Amend the Settlement Agreement, consisting of the updated release language, on September 14, 2026. ECF 102. Notably, the amendment to the release does not reduce any benefit available to members of the Settlement Class; to the contrary, it confirms that derivative claims against financing sources and other third-parties are preserved.

D. <u>Compliance with the Class Action Fairness Act</u>

EAG, on Defendants' behalf, served notice of the proposed Settlement on the Attorney General of the United States and on the Attorneys General of every state and territory in accordance with 28 U.S.C. § 1715(b) and the Amended Preliminary Approval Order. (ECF 89 ¶ 10.) More than ninety days will have elapsed between that service and entry of the proposed Final Order and Judgment, as 28 U.S.C. § 1715(d) requires. Class Counsel have met with numerous state attorneys general, answered questions about the settlement, facilitated changes to the scope of the settlement agreement in light of those questions, and have otherwise complied with CAFA's requirements.

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[76] *See* Chalos Decl. ¶ 26.
[77] *See id.*

As of the date of this filing, the undersigned have been advised that those state attorneys general do not endorse the Settlement but otherwise have further questions regarding the Settlement.[78]

E. <u>The Proposed Settlement is Fair, Reasonable, and Adequate under Rule 23(e)(2)</u>

Adequate representation of the Class: Settlement Class Representatives and Settlement Class Counsel have adequately represented the proposed Settlement Class by zealously prosecuting this litigation. As described above, Settlement Class Counsel's advocacy included extensive investigation and research in advance of filing the Consolidated Class Action Complaint, successfully opposing Generac's motion to dismiss, and significant time and resources expended on discovery, all of which was performed with the aid of and to further expert analysis of the underlying alleged defect.[79] The Settlement was reached only after a full-day mediation with Robert Meyer, a respected and experienced third-party neutral.[80] Settlement Class Counsel also have extensive experience handling complex class actions, including multidistrict litigation and product defect class actions.[81] Settlement Class Counsel's sustained efforts over several years achieved the substantial benefits for the proposed Settlement Class pending before the Court. *See In re Forefront Data Breach Litig.*, No. 21-CV-887, 2023 WL 6215366 at *2, *4 (E.D. Wis. Mar. 22, 2023) (finding class counsel adequately represented class following two years of litigation and all-day mediation). Moreover, Settlement Class Representatives demonstrated genuine commitment to this litigation, including by permitting Generac's counsel and experts to spend entire days at their homes inspecting their Systems, responding to discovery, and dedicating substantial time to accomplishing the proposed Settlement pending before the Court. *See In re*

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[78] *See id.*
[79] *Supra* § I–II.
[80] *See* Chalos Decl. ¶¶ 21–22.
[81] *See id.* ¶¶ 36–53.

Lawnmower Engine Horsepower Mktg. & Sales Pracs. Litig., 733 F. Supp. 2d 997, 1016 (E.D. Wis. 2010) (noting effort class representatives undertook in participating in litigation). Further, and as the Court is aware, the Parties litigated Plaintiffs' concerns about spoliation and preservation during the course of discovery.[82] Settlement Class Representatives forewent technical service on their Systems in order to preserve System error information for purposes of discovery and to benefit the Class as a whole, which is a notable sacrifice.[83]

Arm's length negotiations: As described, above the Settlement was at all times negotiated at arm's length.[84] The Parties mediated with Robert Meyer, a respected third-party neutral.[85] The Parties continued to negotiate settlement terms and language for an additional five months prior to Plaintiffs filing their Preliminary Approval Motion.[86] Even after the Preliminary Approval Order was issued, the Parties continued to negotiate as various issues arose, first with respect to class members who owned Systems pursuant to a Department of Energy grant program, and then with respect to the release.[87] Throughout, Settlement Class Counsel and Settlement Class Representatives acted as zealous representatives seeking the best possible outcome for the Settlement Class.

Adequate relief in light of costs, risks, and delay; effectiveness of proposed distribution method; and proposed attorneys' fees: The Settlement represents an excellent result for the Settlement Class while avoiding substantial delay. *See In re Forefront*, 2023 WL 6215366, at *5 (finding relief adequate where class members could claim between $125 and $10,000). Each

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[82] ECF 46, 53, 56.
[83] *See* Chalos Decl. ¶ 55.
[84] *Supra* § II.
[85] *See* Chalos Decl. ¶ 21.
[86] *See id.* ¶ 22.
[87] *See* ECF 88.

Settlement Class Member who submitted a claim will be compensated for their alleged economic injury concerning their purchase of Systems with allegedly defective SnapRS components. Settlement Agreement § 3.11. Additional compensation will be provided based on out-of-pocket costs and lost energy production related to the allegedly defective SnapRS components. *Id.* The non-reversionary $15,000,000 Settlement Fund addresses each of these categories of compensation, with the bulk of the Settlement Fund allocated for alleged economic injury at the point of purchase.

In addition, the Settlement includes important non-monetary relief. The Settlement provides for the distribution of educational materials about the System to assist System Owners and Primary Users with troubleshooting, as well as a warranty extension. *Id.* § 3.7. This relief is a substantial benefit to the Settlement Class.

The costs, risks, and delay of continued litigation are greatly outweighed by the immediate and significant benefits available under the proposed Settlement. The proposed Settlement results in immediate and substantial monetary and non-monetary relief which is not guaranteed absent the Settlement.[88] While Plaintiffs believe they would prevail on the merits, there are substantial risks inherent to moving forward with litigation, particularly due to the complex nature of product defect class actions. *See In re Forefront*, 2023 WL 6215366, at *6 (finding settlement benefits outweigh risk of additional litigation). The additional fact and expert discovery as well as the briefing required for class certification, anticipated summary judgment and *Daubert* motions, trial and then anticipated appeals each require substantial time and resources, and success is not guaranteed. *See generally id.* The Settlement pending before the Court avoids those risks while delivering real relief in an expeditious manner prior to incurring drastically higher costs associated with continued

[88] *See* Chalos Decl. ¶ 31.

litigation, trial, and appeals. Indeed, for the System Claims alone, it is estimated that the average claimant will recover on average between $827.00 and $1,076.00 for System claims.

The proposed method for the distribution of relief under the Settlement is effective and weighs in favor of final approval. First, the proposed non-monetary relief goes into effect after Final Approval and requires no action on the part of Settlement Class Members. *See* S.A. § 3.7. Second, the Settlement Fund is distributed based on a reasonable methodology that takes into account the relative value of (and thus, damages to) different sized systems while also addressing various forms of damages suffered by the Settlement Class regardless of system size, including out of pocket repairs, lost energy, system removal, and other consequential damages flowing from system ownership. *See id.* § 3.1.

The method of distribution is fair, straightforward, and efficient. Compensation for Owners or Primary Users takes into account several variables based on System size and risks borne by the Owner and Primary User utilizing a points-based system. *See id.* § 3.11(A)(3). The vast majority of Settlement Class Members are *pre-qualified* because their Systems are registered with Generac. Otherwise, proving ownership, usage and System size is not difficult. System sizes can readily be determined by counting the number of SnapRS components on the System, which correlate to the number of solar panels attached to the System.[89] *See In re Lawnmower Engine Horsepower*, 733 F. Supp. 2d 997, at 1010 (finding it appropriate for class members to provide serial number to recover from settlement agreement). The total amount paid on these "System" claims will consist of the amount in the Net Settlement Fund after "Out-of-Pocket" and "Loss of Power Generation" claims are paid.

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[89] *See* Chalos Decl. ¶ 32.

Additionally, $2,000,000 has been specifically allocated to a Cash Recovery Fund specifically for "Out-of-Pocket" and "Loss of Power Generation" claims. *See* S.A. § 1.3. If the claim amounts from this fund exceed $2,000,000, payments will be reduced on a *pro rata* basis. *See id.* § 3.11(A)(1). Both "Out-of-Pocket" and "Loss of Power Generation" require Settlement Class Members to demonstrate their ascertainable losses or otherwise attest to their losses. Although this process has a higher evidentiary burden, Settlement Class Members will be reimbursed on a dollar-for-dollar basis up to $2,000,000. *See id.* §§ 3.11(C)(2)–(3). Further, the Settlement provides for a standalone Extraordinary Damage Fund to account for claims with extraordinary circumstances. *See id.* § 1.20. Such a fund helps ensure that an anticipated small number of Claimants with disproportionately large Cash Recovery Claims do not draw a disproportionate share from the Cash Recovery fund after reaching their Maximum Individual Award. *See id.* § 3.11(A)(2). Any residual amount remaining after all distributions from the Settlement Fund will be included as a *Cy Pres* Payment to the designated Residual Cy Pres Recipient. *See id.* §§ 1.11, 3.12.

The requested attorneys' fees weigh in favor of final approval. As briefed in full in Plaintiffs' Motion for Award of Attorneys' Fees, Costs and Expenses, and Representative Plaintiff Service Awards,[90] the requested attorneys' fees, one-third of the Settlement Fund, are reasonable in contingency fee cases. *See, e.g., In re Forefront Data Breach Litig.*, No. 21-CV-887, 2023 WL 6215366, at *8 (E.D. Wis. Mar. 22, 2023) (explaining that in the Seventh Circuit, "a typical contingent fee is between 33 and 40 percent"). These requested fees are warranted based in part on Settlement Class Counsel's vigorous advocacy spanning more than three years of hard-fought litigation which culminated in a $15,000,000 Settlement for the Settlement Class. Settlement Class

[90] *See* ECF 90 (July 2, 2026).

Counsel received no compensation for their work during the pendency of this litigation and bore the cost of failure, which included thousands of hours of work and costly expert work which was necessary to litigate this complex class action. Taken together, the avoidance of additional costs, risk, and delays, the effectiveness of the distribution method, and the reasonableness of the requested fees show that the Settlement is not only adequate, but is an outstanding result for the Settlement Class warranting final approval.

Class Counsel has carefully considered and evaluated, *inter alia*, the relevant legal authorities and evidence pertaining to the claims asserted against Generac and the defenses Generac has raised, the likelihood of prevailing on the claims, and the risk, expense, and duration of continued litigation, including through trial and any appeals. Class Counsel strongly supports the Settlement and endorses it without reservation.[91]

Equitable treatment: As reflected in the Plan of Allocation, the Settlement treats Settlement Class Members equitably relative to each other while taking into account relevant variables and contexts, such as differences in System size, purchase date, out of pocket expenses, and periods of downtime. *See id.* § 3.11. The Plan of Allocation's two principal line-draws are likewise rational. Systems first installed in or after May 2022 receive a 50% Point reduction because Systems from that period forward were supplied with the redesigned SnapRS 802 device and so carry materially reduced exposure to the alleged defect. See id. §§ 3.7(A), 3.11(A)(3). Where an Owner and a Primary User both claim on the same System, the Settlement presumes an equal division of the System Claim, rebuttable by evidence of contractual entitlement. See id. § 3.11(B)(2)(a). The Plan of Allocation also provides Claimants with their share of the Settlement Fund based on their proportionate recognized losses. *See id.* § 3.11. Indeed, the Court also made

[91] *See* Chalos Decl. ¶ 30.

these determinations in its Preliminary Approval Order and there have been no contrary developments in the wake of those findings.[92]

V. CONCLUSION

For the reasons described above, the proposed Settlement is fair, reasonable, and adequate, and provides significant benefits to the Settlement Class as a whole. Plaintiffs respectfully request that the Court enter the accompanying [Proposed] Order and Final Judgment finally certifying the Settlement Class, granting Final Approval of the Settlement between Plaintiffs and Defendants, approving the Plan of Allocation, overruling any objection not withdrawn, dismissing the Action with prejudice, retaining jurisdiction over implementation of the Settlement, and in all other respects granting Plaintiffs' unopposed Motion for Final Approval.

Dated: September 15, 2026

Respectfully submitted,

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[92] ECF 81 (Jan. 13, 2026) ¶ 7.

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CERTIFICATE OF SERVICE

I hereby certify that on September 15, 2026, the foregoing was filed using the Court's CM/ECF service, which will send notification of such filing to all counsel of record.

/s/ *Harper T. Segui*
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