

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

THOMAS A. FOX, et al., for themselves and
all those similarly situated,

Plaintiffs,

Case No.: 19-cv-11887
Hon. Thomas L. Ludington
Mag. Judge Patricia T. Morris

v.

COUNTY OF SAGINAW, et al.,

CLASS ACTION

Defendants.

_____ /

**PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT**

The undersigned counsel certifies that they communicated with opposing counsel regarding the nature of the relief sought by this motion and sought concurrence in the same. Defendants’¹ counsel do not oppose this motion, and the relief requested herein with the proviso that if anything in this motion or request for relief is inconsistent with the Settlement Agreement, the Settlement Agreement controls.

For the reasons set forth in Plaintiffs’ Brief in Support of their Unopposed Motion for Preliminary Approval of Class Action Settlement, Plaintiffs respectfully request that the Court: (1) grant preliminary approval of the Settlement Agreement; (2) conclude that it will likely be able to certify the Class and Sub-Classes under

¹ Defendants herein refers to Alcona County, by its Board of Commissioners; Alpena County, by its Board of Commissioners; Arenac County, by its Board of Commissioners; Bay County, by its Board of Commissioners; Clare County, by its Board of Commissioners; Crawford County, by its Board of Commissioners; Genesee County, by its Board of Commissioners; Gladwin County, by its Board of Commissioners; Gratiot County, by its Board of Commissioners; Huron County, by its Board of Commissioners; Isabella County, by its Board of Commissioners; Jackson County, by its Board of Commissioners; Lapeer County, by its Board of Commissioners; Lenawee County, by its Board of Commissioners; Macomb County, by its Board of Commissioners; Midland County, by its Board of Commissioners; Montmorency County, by its Board of Commissioners; Ogemaw County, by its Board of Commissioners; Oscoda County, by its Board of Commissioners; Otsego County, by its Board of Commissioners; Presque Isle County, by its Board of Commissioners; Roscommon County, by its Board of Commissioners; Saginaw County, by its Board of Commissioners; Sanilac County, by its Board of Commissioners; St. Clair County, by its Board of Commissioners; and Tuscola County, by its Board of Commissioners. Washtenaw County has not participated in the settlement process but will be considering the settlement at a Board of Commissioners meeting before the hearing on this Motion.

Fed. R. Civ. P. 23(b)(3) in connection with the settlement process; (3) approve the Notice Plan for the Settlement as well as the specific Notice of Class Action and Proposed Settlement (the “Proposed Notice”) and direct distribution of the Proposed Notice; and (4) approve the Claim Form. A proposed order granting this motion is attached as **Exhibit 1**.

August 5, 2025

Respectfully Submitted,

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Case No.: 19-cv-11887
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Mag. Judge Patricia T. Morris

CLASS ACTION

**PLAINTIFFS' BRIEF IN SUPPORT OF PLAINTIFFS'
UNOPPOSED MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT**

STATEMENT OF QUESTION(S) PRESENTED

1. Does it appear that the proposed Class and Sub-Classes will meet Fed. R. Civ. P. 23's requirements for class certification for settlement purposes?

Plaintiffs' Answer: Yes.

2. Based on an initial evaluation, does the proposed Settlement appear fair, adequate, and reasonable, such that notice of the Settlement should be disseminated to the proposed Class and Sub-Classes?

Plaintiffs' Answer: Yes.

3. Does the proposed Notice Plan satisfy the requirements of Fed. R. Civ. P. 23 and Due Process?

Plaintiffs' Answer: Yes.

MOST CONTROLLING AUTHORITIES

- Fed. R. Civ. P. 23
- *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591 (1997)
- *Amgen Inc. v. Connecticut Retirement Plans and Trust Funds*, 133 S. Ct. 1884 (2013)
- *Coulter-Owens v. Time, Inc.*, 308 F.R.D 524 (E.D. Mich. 2015)
- *In re Whirlpool Corp. Front-Loading Washer Prod. Liab. Litig.*, 722 F.3d 838 (6th Cir. 2013)
- *UAW v. Gen. Motors Corp.*, 497 F.3d 615 (6th Cir. 2007)
- *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338 (2011)

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I. INTRODUCTION

The Settlement negotiated by Plaintiffs and Interim Counsel allows those who experienced a tax foreclosure sale of their property to recover the Surplus Proceeds generated by the auction sale of the property. Under the Settlement Agreement, attached as **Exhibit 2**, Defendants have agreed that Class Members who submit an Eligible Claim² will generally receive 125% of their Surplus Proceeds. All Administration Costs will be paid by Defendants, separate from the 125% Surplus Proceeds payment.³ Even after payment of any Court-approved attorneys' fees, most Class Members would receive full recovery.⁴ The Agreement, upon final approval would thus provide meaningful relief to Class Members.

The Agreement is the product of extensive litigation and rigorous arm's-

² Capitalized terms have the same meaning as in the Settlement Agreement. Unless otherwise specified, "¶" refers to a paragraph in the Agreement.

³ As detailed in the Settlement Agreement, there are a handful of recovery limitations. In particular, each county's liability is capped. If the Eligible Claims against given county exceed 90 percent of the aggregate Surplus Proceeds that the County retained from Class Members, then the payment on such claims are reduced *pro rata*. Settlement Agreement ("S.A.") at ¶ 9.2.3. Also, Class Members are generally precluded from making claims if another interest holder in their property uses the alternate statutory claims process instead of this settlement; however, if sufficient properties in a given county are adjudicated under the statutory process, then limited claims will be available under the Settlement with respect to such properties. *Id.*, ¶¶ 1.21, 9.2.2.

⁴ The Settlement Agreement provides that Class Counsel may seek a fee request of up to 20% of the Surplus Proceeds award of 125%. If this maximum fee request is approved by the Court, Class Members would receive 100% of their Surplus Proceeds, even after deduction for attorney's fees ($125\% \times (1-0.20) = 100\%$). *Id.*, ¶ 10.

length negotiations between the Parties, including an all-day mediation session overseen by Lee T. Silver on November 9, 2024. At the conclusion of the all-day session, the Parties agreed to a Term Sheet, and, following months of negotiations and exchanging drafts and edits and an additional mediation session, the Parties finalized the Agreement.

Upon final approval, the relief secured by the Agreement provides fair, reasonable, and adequate relief to the Class, and its terms and notice procedures readily satisfy due process and the procedural requisites of Fed. R. Civ. P. 23.

Accordingly, the prerequisites for granting preliminary approval here are met, and Plaintiffs respectfully request that the Court (1) grant preliminary approval of the Settlement Agreement; (2) indicate the presumptive certification of the Class and Sub-Classes under Fed. R. Civ. P. 23(b)(3); (3) approve the Notice Plan for the Settlement, which will be separately filed with the Court prior to hearing on this motion, as well as the specific Notice of Class Action and Proposed Settlement (the “Proposed Notice”), attached as **Exhibit 3**, and direct distribution of the Proposed Notice; (4) approve the Claim Form attached as **Exhibit 4**; and (5) schedule a final Fairness Hearing for the Court to hear any objections to the Settlement and determine whether the Settlement warrants final approval.

II. BACKGROUND

There is no dispute that Defendants foreclosed on the entirety of Class

Members’ properties in order to satisfy property tax debts smaller than the proceeds generated by the sale of the properties, and that Defendants did not return the difference. The Michigan Supreme Court found that this was a state-law taking. *Rafaeli, LLC v. Oakland Cnty.*, 952 N.W.2d 434, 466 (Mich. 2020).⁵ The United States Supreme Court later found that it was a federal taking as well. *Tyler v. Hennepin Cnty., Minn.*, 598 U.S. 631, 647 (2023) (“The taxpayer must render unto Caesar what is Caesar’s, but no more”). Plaintiffs allege that Defendants did all of this through a common practice that imposed the same injury on every class member. Throughout the hotly-contested litigation here, Defendants have filed numerous dispositive motion and appeals.

This Court previously examined the elements required for certification and certified this case as a class action.⁶ ECF No. 124. Plaintiffs contend that the Court’s earlier conclusions remain valid. From Plaintiffs’ perspective, as before, this is a quintessential class action: class members suffered identical injuries from Defendants’ common course of conduct. Multiple courts have certified analogous cases, either by stipulation or contested motion. *See, e.g., Wayside v. Van Buren Cnty.*, 1:14-cv-01274 (W.D. Mich. Jun. 12, 2024) (ECF No. 555); *Bowles v. Sabree*,

⁵ In *Schafer v. Kent Cnty.*, --- N.W.2d ---, 2024 WL 3573500 (Mich. July 29, 2024), the court confirmed that *Rafaeli* applied retroactively. *Id.* at *14-17.

⁶ The Sixth Circuit directed certification vacated. ECF No. 326. On remand, as permitted by this Court, Plaintiffs filed an amended complaint, addressing the issue by adding county-specific plaintiffs. ECF No. 358.

2:20-cv-12838 (E.D. Mich. Jan. 14, 2022) (ECF No. 47); *Zettel v. Cnty. of Leelanau*, 18-0591-26-CZ (Charlevoix Cir. Ct. Aug. 31, 2020). And while Defendants reserve the right to contest class certification if the Settlement is not approved or otherwise fails, they do not contest certification for purposes of concluding the settlement.

On January 23, 2024, Plaintiffs moved for the appointment of E. Powell Miller and Philip L. Ellison as Interim Counsel. ECF No. 374. On August 16, 2024, this Court appointed E. Powell Miller and Philip L. Ellison as Interim Counsel and directed pre-certification discovery, among other relief. ECF No. 412. Following the Parties' agreement to the Term Sheet, the Court entered a stipulated order staying the case. ECF No. 460.

III. KEY TERMS OF THE SETTLEMENT

Class Definitions. The "Class" is defined as follows:⁷

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in any County which Eligible Property, that during the Class Period (i.e. January 1, 2013 and December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom the County did not refund the Surplus Proceeds.

S.A. ¶ 3.1. Sub-Classes will also be created for each county with the following

⁷ Consistent with Plaintiffs' motion for class recertification, the Agreement encompasses a more limited class than that previously sought in Plaintiffs' earlier-certified class. *See* ECF No. 437, PageID.11105. The settlement does not resolve the claims of putative class members who are excluded from the Agreement's class.

definition (respective County's name to be substituted for "COUNTY NAME"):

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in COUNTY NAME which Property, during the Class Period (i.e. January 1, 2013 and December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom COUNTY NAME did not refund the Surplus Proceeds.

Id., ¶ 3.2. Likewise, the Parties agree to Sub-Class Representatives. *Id.*, ¶ 3.4.

Monetary Relief. Defendants shall pay Eligible Claimants 125% of the Surplus Proceeds arising from the sale of the Eligible Property, with an exception discussed below. *Id.*, ¶ 9.2.1. These payments will be reduced *pro rata* with respect to any given county as to which the sum of its share of Administrative Costs under the Settlement and the Eligible Claims exceed 90 percent of the Surplus Proceeds that the county retained during the Class Period. *Id.*, ¶¶ 9.2.3., 1.22. They are also precluded with respect to properties as to which another person with an interest in the property pursues statutory relief, unless five percent of a county's properties are subject to such motions, in which case a Class Member will be entitled to 125 percent of the difference between the statutory-process recovery by the other person or persons and the surplus proceeds attributable to the Eligible Property. *Id.*, ¶¶ 1.21., 9.2.2. Class Counsel may request as a fee, contingent on Court approval, of no more than 20% of the Surplus Proceeds awarded to Eligible Claimants. *Id.* ¶ 10.1.

Release. In exchange for the Surplus Proceeds payment, Defendants will

receive a full release of all claims arising out of or related to Defendants' conduct as to the Eligible Properties. *See Id.*, ¶¶ 1.30., 5. for full release language.

Notice and Administration Expenses. Defendants will pay the cost of sending the Notice set forth in the Agreement and any other notice as required by the Court, as well as all costs of administration of the Settlement. *Id.*, ¶¶ 1.2., 6.2.

Attorneys' Fees. As part of the Settlement, Class Counsel has agreed to limit its request for fees to 20% of the payments made to Class Members under the Settlement (*id.*, ¶ 10.1.), and may petition for costs up to \$25,000. *Id.*, ¶ 10.4.

IV. THE PROPOSED CLASS IS APPROPRIATE FOR CERTIFICATION FOR SETTLEMENT PURPOSES

Before granting preliminary approval of the proposed Settlement, the Court must determine that the proposed Class is appropriate for certification. *See Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997). Class certification is proper if the proposed class satisfies the numerosity, commonality, typicality, and adequacy of representation requirements. Fed. R. Civ. P. 23(a); *see also Amgen Inc. v. Conn. Ret. Plans and Tr. Funds*, 568 U.S. 455, 460 (2013). Because certification is sought under Fed. R. Civ. P. 23(b)(3), Plaintiffs must demonstrate that common questions of law or fact predominate over individual issues and that a class action is the superior device to adjudicate the claims. *Amchem*, 521 U.S. at 615-16. District courts have broad discretion to determine whether certification is appropriate. *In re Whirlpool Corp. Front-Loading Washer Prod. Liab. Litig.*, 722 F.3d 838, 850 (6th Cir. 2013).

This Court previously examined the elements required for certification and certified this case as a class action. ECF No. 124. The Court's earlier conclusions remain valid. From Plaintiffs' perspective, this is a quintessential class action: class members suffered identical injuries from Defendants' common course of conduct. And while Defendants reserve the right to challenge certification in the future, they do not do so at this point. The Court should thus conclude that it will likely be able to certify the Class and Sub-classes for purposes of final settlement approval.

A. The Numerosity Requirement Is Satisfied

Numerosity is met when joining a large number of plaintiffs in one case would be impracticable. Fed. R. Civ. P. 23(a)(1); *In re Am. Med. Sys., Inc.*, 75 F.3d 1069, 1079 (6th Cir. 1996). Though there is no fixed number determining impracticability, “[i]n most cases, a class in excess of forty members will do.” *Curry v. SBC Commc’ns, Inc.*, 250 F.R.D 301, 310 (E.D. Mich. 2008). Only a reasonable estimate is required. *McDonald v. Asset Acceptance LLC*, 296 F.R.D. 513, 520 (E.D. Mich. 2013), *vacated on other grounds*, 2016 WL 7325655, at *1 (E.D. Mich. Jun. 23, 2016) (granting joint motion to vacate). Plaintiffs have provided summaries of sample information from county public records. ECF No. 331-3. These summaries raise a clear inference that the county-specific subclasses are sufficiently numerous.

Thus, joinder would be impractical and, thus, numerosity is satisfied.⁸

B. The Commonality Requirement Is Satisfied

Commonality is satisfied under Fed. R. Civ. P. 23(a)(2) when there are questions of law or fact common to the class—the resolution of which will bring a class-wide resolution of the claims. *Wal-Mart Stores, Inc. v. Dukes*, 546 U.S. 338, 349 (2011). And even a single question will do. *Id.*, at 359 (internal punctuation omitted); *See also Whirlpool*, 722 F.3d at 582-83. “Cases alleging a single course of wrongful conduct are particularly well-suited to class certification.” *Powers v. Hamilton Cnty. Pub. Defender Comm’n*, 501 F.3d 592, 619 (6th Cir. 2007) (citing *Sterling v. Velsicol Chem. Corp.*, 855 F.2d 1188, 1197 (6th Cir. 1988)). Here, all Class Members’ claims hinge on a common question: whether Defendants’ retention of the Class’s Surplus Proceeds was improper.⁹ The question of whether this is a cognizable constitutional injury is common to all members of the Class. Thus, the commonality requirement is satisfied.

C. The Typicality Requirement Is Satisfied

Typicality requires that a class representative has claims that are typical of

⁸ Plaintiff Fox previously demonstrated, when he initially sought certification, that the class is sufficiently numerous. ECF No. 93, PageID.1294-1295. The Court previously found that Plaintiff had satisfied this criterion. ECF No. 124, PageID.2296-2298. Nothing has happened since 2020 to disturb this conclusion.

⁹ Plaintiff Fox earlier addressed commonality. ECF No. 93, PageID.1295-1297. The Court found he had established commonality. ECF No. 124, PageID.2298-2300.

those of other class members. Fed. R. Civ. P. 23(a)(3). “Typicality determines whether a sufficient relationship exists between the injury to the named plaintiff and the conduct affecting the class, so that the court may properly attribute a collective nature to the challenged conduct.” *In re Am. Med. Sys.*, 75 F.3d at 1082. “Typicality may be presumed when the plaintiff’s claim arises from the same event or practice or course of conduct that gives rise to the claims of other class members.” *Gilkey v. Cent. Clearing Co.*, 202 F.R.D. 515, 524 (E.D. Mich. 2001). In other words, when the basis of the suit is the defendants’ systematic practices towards the named plaintiff and the members of the proposed class, typicality is satisfied.

Plaintiffs allege that Defendants have improperly retained the Class’s Surplus Proceeds. Plaintiffs allege this was true for the entire Class – Defendants retained and refused to return the Surplus Proceeds following tax foreclosure sales for every Class Member. Thus, Plaintiffs’ pursuit of their own claims here will necessarily advance the interests of the Class, satisfying the typicality requirement. *See, e.g., Coulter-Owens*, 308 F.R.D. at 534-35; *Strano v. Kiplinger Washington Eds., Inc.*, 649 F. Supp. 3d 546, 554 (E.D. Mich. 2023).

D. The Adequacy Requirement Is Satisfied

Class representatives under Fed. R. Civ. P. 23(a)(4) must fairly and adequately protect the interests of the class. In order to do so, “(1) the representatives must have common interests with unnamed members of the class, and (2) it must appear that

the representatives will vigorously prosecute the interests of the class through qualified counsel.” *Int’l Union v. Ford Motor Co.*, 2006 WL 1984363, at *19 (E.D. Mich. July 13, 2006) (internal quotations and citation omitted). The representative must be part of the class, possess the same interest, have suffered the same injury, and seek the same type of relief as other class members. *See Beattie v. CenturyTel, Inc.*, 511 F.3d 554, 562 (6th Cir. 2007).

In this case, the Complaint alleges that Defendants improperly retained the Class Members’ Surplus Proceeds. Thus, Plaintiffs and Class Members have the exact same interest in recovering the damages to which they are entitled (under *Rafaeli*, *Bowles*, and *Tyler*). As such, Plaintiffs do not have any interest antagonistic to those of the proposed Class and Sub-Classes.

Interim Counsel, for their part, have extensive experience in litigating class actions and tax foreclosure Surplus Proceeds actions. See ECF No. 374. They regularly engage in cases involving constitutional issues, have the resources necessary to prosecute this case, and have frequently been appointed lead class counsel. *Id.* And, this Court has now twice evaluated Interim Counsel and has appointed them both times. ECF Nos. 124, 412. Interim Counsel have devoted substantial resources to the prosecution of this action in this court and in the Sixth Circuit over the last six years, engaging in multiple rounds of motion practice, participating in mediation and multiple meet-and-confers, and ultimately,

negotiating a settlement that provides a full recovery of Surplus Proceeds to each Class Member who makes a claim, despite the substantial litigation risks that were present. In sum, Interim Counsel have vigorously prosecuted this action and will continue to work diligently on behalf of the Class throughout the settlement administration process. ECF No. 374. Because Plaintiffs and Interim Counsel have demonstrated their commitment to representing the Classes and neither have interests antagonistic to the Class, the adequacy requirement is satisfied.

E. The Proposed Class Meets the Fed. R. Civ. P. 23(b)(3) Requirements

After meeting the prerequisites of Fed. R. Civ. P. 23(a), a plaintiff seeking class certification must also show that the action qualifies under at least one of the categories outlined in Rule 23(b). *Merenda v. VHS of Michigan, Inc.*, 296 F.R.D. 528, 538 (E.D. Mich. 2013). Here, Plaintiffs seek certification under Rule 23(b)(3), which requires that (i) common questions of law and fact predominate over individualized ones, and (ii) a class action is superior to the other available methods for the fair and efficient adjudication of the controversy. Fed. R. Civ. P. 23(b)(3).

1. Common Questions Predominate

Fed. R. Civ. P. 23(b)(3)'s predominance requirement focuses on whether the defendant's liability is common enough to be resolved on a class basis, *Dukes*, 564 U.S. at 349-60, and whether the proposed class is "sufficiently cohesive to warrant adjudication by representation." *Amchem*, 521 U.S. at 623. The Fed. R. Civ. P.

23(b)(3) predominance requirement is akin to the commonality requirement Rule 23(a) “in that both require that common questions exist, but [Rule 23](b)(3) contains the more stringent requirement that common issues ‘predominate’ over individual issues.” *Machesney v. Lar-Bev of Howell, Inc.*, 317 F.R.D. 47, 61 (E.D. Mich. 2016) (citation omitted). In other words, where commonality is satisfied when there is a single factual or legal question common to the class, the “predominance requirement is met if this common question is at the heart of the litigation.” *Powers*, 501 F.3d at 619. As such, “[c]ases alleging a single course of wrongful conduct are particularly well-suited to class certification.” *Id.*

Here, Defendants’ undisputed common course of conduct presents a question of law that is central to liability, predominating over any issues affecting individual class members. Defendants engaged in a single course of conduct with respect to all members of the Class so their claims “will prevail or fail in unison”—thus, predominance is met. *Whirlpool*, 722 F.3d at 859 (quotations and citation omitted).

2. A Class Action Is a Superior Mechanism

A class action is also the superior means of adjudicating this case because it “achieve[s] economies of time, effort, and expense, and promote[s] . . . uniformity of decision as to persons similarly situated[.]” *Amchem*, 521 U.S. at 615 (internal quotations and citation omitted). A class action is preferred because it provides a mechanism through which individuals who may not otherwise have the opportunity

to seek redress through litigation. *Young v. Nationwide Mut. Ins. Co.*, 693 F.3d 532, 545 (6th Cir. 2012). Claims alleging a standard course of conduct are particularly well-suited for class certification because they facilitate efficiency and uniformity. *Id.* As held in *Coulter-Owens*, “it makes sense to proceed as a class action and address the issues one time rather than [in] potentially hundreds of separate cases.” 308 F.R.D. at 537. Here, the questions necessary to determine are common to all Class Members. As such, a “class action is the best way to vindicate the Class’s rights” and “superiority is satisfied.” *Strano*, 649 F. Supp. 3d at 556.

F. Consideration of the issues that the Sixth Circuit identified.

When it vacated the previous class certification order, the Sixth Circuit raised multiple issues in *dicta* that it found warranted scrutiny. ECF No. 326. As Plaintiffs have previously argued, consideration of these issues supports certification. ECF No. 437, PageID.11112-11121. Plaintiffs adopt those arguments here as well.

G. Certification is appropriate under *Speerly v. General Motors*.

The Sixth Circuit recently clarified the analysis that the District Court must undertake to establish compliance with the commonality and predominance. “The plaintiffs must... show that the” supposedly common “question ‘affect[s] at least one’ disputed ‘element’ of the class’s claims.” *Speerly v. Gen. Motors, LLC*, No. 23-1940, 2025 WL 1775640, at *5 (6th Cir. June 27, 2025)(quoting *Doster v. Kendall*, 54 F.4th 398, 430 (6th Cir. 2022), *vacated as moot*, --- U.S. ----, 144 S. Ct. 481

(2023) (quotation in *Doster* omitted in *Speerly*)). “To conduct a rigorous analysis, the court must ‘walk through each cause of action, identify the relevant elements, and evaluate which elements, if any, submit to common answers.’” *Id.* (quoting *In re Nissan N. Am., Inc. Litig.*, 122 F.4th 239, 246-47 (6th Cir. 2024)). As to predominance, “[t]he court must” then “‘put the common issues on one side, the individual issues on the other, then qualitatively evaluate which side predominates.’” *Id.* (quoting *Nissan*, 122 F.4th at 252 (quotation in *Nissan* omitted in *Speerly*)).

The Sixth Circuit’s decision in this *Fox* case anticipated *Speerly* by emphasizing the need for an element-by-element analysis. ECF No. 437, PageID.11108-11109 (discussing PageID.7885). Thus, Plaintiffs provided such an analysis when they sought recertification. *See* ECF No. 437, PageID.11109-11112.

V. INTERIM COUNSEL SHOULD BE APPOINTED CLASS COUNSEL

Under Fed. R. Civ. P. 23(g)(1)(B), “a court that certifies a class must appoint counsel ... [to] fairly and adequately represent the interests of the class.” The Court considers proposed class counsel’s: (1) work in identifying or investigating the potential claim, (2) experience in handling class actions, other complex litigation, and the types of claims asserted in the action, (3) knowledge of the applicable law, and (4) resources that it will commit to representing the class. Fed. R. Civ. P. 23(g)(1)(A)(i)-(iv). As discussed above, Interim Counsel have extensive experience in prosecuting class actions in general, and tax foreclosure class actions specifically.

See § IV.D, *supra*. Thus, the Court will find that Interim Counsel will satisfy the requirements of Fed. R. Civ. P. 23(g).

VI. PRELIMINARY SETTLEMENT APPROVAL IS APPROPRIATE

Settlement of class action suits is favored. 4 Alba Conte & Herbert Newberg, *Newberg on Class Actions* § 11.41 (4th ed. 2002) (*Newberg*) (“The compromise of complex litigation is encouraged by the courts and favored by public policy.”). The first step is a “preliminary, pre-notification hearing to determine whether the proposed settlement is within the range of possible approval.” *In re Packaged Ice Antitrust Litig.*, 2010 WL 3070161, at *4 (E.D. Mich. Aug. 2, 2010) (internal quotation and citation omitted). A court makes an “initial evaluation” of the fairness of the proposed settlement. *Manual for Complex Litigation*, § 21.632 (4th ed. 2004).

Fed. R. Civ. P. 23(e)(2) provides factors for a court to determine if a settlement is “fair, reasonable, and adequate,” examining whether: (A) class representatives and class counsel have adequately represented the class; (B) the proposal was negotiated at arm’s length; (C) the relief provided for the class is adequate, reviewing: (i) costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including the processing of class-member claims; (iii) the terms of any proposed attorney’s fee, including timing of payment; and (iv) any agreement required to be identified under Rule 23(e)(2); and (D) the proposal treats class members equitably relative to each other. Fed. R. Civ. P. 23(e)(2).

The Sixth Circuit has also laid out its own factors to consider. *See Int'l Union, UAW v. Gen. Motors Corp.*, 497 F.3d 615, 631 (6th Cir. 2007). They are: “(1) the risk of fraud or collusion; (2) the complexity, expense and likely duration of the litigation; (3) the amount of discovery engaged in by the parties; (4) the likelihood of success on the merits; (5) the opinions of class counsel and class representatives; (6) the reaction of absent class members; and (7) the public interest.” *Id.*

A. The Fed. R. Civ. P. 23(e)(2) Factors Weigh in Favor of Preliminary Approval

This Settlement easily satisfies the Rule 23(e)(2) factors. *First*, Plaintiffs and Interim Counsel have adequately represented the class, securing a full recovery of Surplus Proceeds to each Class Member who makes a claim. *See supra*. *Second*, the Settlement was negotiated at arm's-length through mediator Lee T. Silver, following years of litigation and contentious motion practice. *See* § I.. *Third*, the relief is adequate. The Settlement Agreement generally provides for the payment of 125% of Class Members' Surplus Proceeds. S.A. ¶ 9.2.1. Class Members will be entitled to full recovery, or 100% of their Surplus Proceeds, even upon approval of attorneys' fees. *See supra*; *Id.*, ¶ 10.1. *Fourth*, the Settlement treats Class Members equitably. Nearly every Class Member who is an Eligible Claimant will receive 125% of their Surplus Proceeds under the Settlement. *Id.*, ¶¶ 1.16, 1.17, 9.2.1.¹⁰

¹⁰ As discussed above, the Settlement includes a maximum liability figure for Defendants (90% of the sum of all of the Surplus Proceeds), ¶ 1.22., but even if that

B. The Sixth Circuit’s *UAW* Factors Weigh in Favor of Preliminary Approval

1. There Is No Risk of Fraud or Collusion.

The first *UAW* factor is “the risk of fraud or collusion.” *UAW*, 497 F.3d at 631. “Courts presume the absence of fraud or collusion in class action settlements.” *Leonhardt v. AvrinMeritor, Inc.*, 581 F. Supp. 2d 818, 838 (E.D. Mich. 2008). Here, a non-collusive settlement was reached through arm’s-length negotiations via a neutral, following years of hard-fought advocacy by Plaintiffs and Defendants alike. *See Sheick v. Auto. Component Carrier, LLC*, 2010 WL 3070130, at *13 (E.D. Mich. Aug. 2, 2010) (“[N]egotiations of the Settlement Agreement were conducted at arm’s-length by adversarial parties and experienced counsel, which itself is indicative of fairness, reasonableness, and adequacy.”).

2. Litigation Through Trial Would Be Complex, Costly, and Long.

The second *UAW* factor is “the complexity, expense and likely duration of the litigation.” *UAW*, 497 F.3d at 631. Most class actions are inherently risky, and thus “[t]he obvious costs and uncertainty of such lengthy and complex litigation weigh in favor of settlement.” *UAW*, 2006 WL 891151, at *17.

Here, the Parties have engaged in years of motion practice, in this Court and the Sixth Circuit, have participated in discovery, including conducting multiple

unlikely figure is reached, all Class Members will be treated equitably. ¶ 9.2.3. (explaining the prorated calculation if the Maximum Liability is reached).

depositions, and held a private mediation. Absent a settlement, further discovery, dispositive motions, and depositions would follow. Defendants indicated that they would continue to assert numerous defenses to both class certification and the merits, including that PA 256 is the exclusive source of Surplus Proceeds. Interim Counsel is also aware that Defendants would prepare a competent defense at trial and would appeal any adverse result at trial (and any order certifying a class). As evident by the duration of this litigation to date, continued litigation would be long and expensive.

Rather than continuing to pursue protracted and uncertain litigation, Plaintiffs and their counsel negotiated a Settlement that provides certain and meaningful relief. The second factor weighs in favor of finding the Settlement to be fair, reasonable, and adequate. *See Borcea v. Carnival Corp.*, 238 F.R.D. 664, 674 (S.D. Fla. 2006).

3. Discovery Has Been Adequate.

The third factor is “the amount of discovery engaged in by the parties.” *UAW*, 497 F.3d at 631. Prior to filing this action, Interim Counsel conducted an investigation into the constitutionality of Defendants’ practices and began litigating Surplus Proceeds actions in court throughout Michigan. Following *Knick v. Twp. of Scott*, 588 U.S. 1801 (2019), Plaintiffs initiated this Action.

This is not a fact-intensive case. There is little, if any, dispute as to the facts regarding Defendants’ conduct. The issue is its legality, and potential constraints on plaintiffs’ recoveries. Nonetheless, during formal discovery and in settlement

negotiations, Plaintiffs obtained wide-ranging discovery from Defendants on issues pertaining to class certification. Defendants, for their part, conducted numerous depositions of the proposed class representatives. Interim Counsel's experience in similar cases and the efforts made by counsel on both sides confirm that they are sufficiently well apprised of the facts here and the viability of their respective cases to make an intelligent analysis of the proposed Settlement. Accordingly, the third factor weighs in favor of finding the Settlement fair, reasonable and adequate.

4. Plaintiffs Would Face Real Risks if the Case Proceeded.

The fourth *UAW* factor is “the likelihood of success on the merits.” *UAW*, 497 F.3d at 631. Although Plaintiffs believe their case is strong, it is not without risk. Defendants have made clear that, absent a settlement, they will defend the case vigorously and further pursue motions for summary judgment and oppose class certification. *See* § VI.B.2, *supra*. The Court has not yet certified the proposed Class and the Parties anticipate that such a determination would only be reached after lengthy briefing. Defendants would likely argue that individual questions preclude class certification, that a class action is not a superior method, and that a trial would not be manageable. And even if the Court certified a class, Defendants would likely challenge certification through a Fed. R. Civ. P. 23(f) application and then move to decertify. Moreover, even if Plaintiffs survived all of those obstacles, they faced significant risk in maintain an action against all of the Defendants.

The risks of losing on the merits, of losing class certification, and of maintaining certification through trial, were all significant hurdles to obtaining classwide relief. The Settlement eliminates this risk, as well as the attendant expense and delay. Accordingly, the fourth factor also favors preliminary approval.

5. Interim Counsel and Class Representatives Support the Settlement

The fifth *UAW* factor is “the opinions of class counsel and class representatives.” *UAW*, 497 F.3d at 631. “The endorsement of the parties’ counsel is entitled to significant weight, and supports the fairness of the class settlement.” *UAW*, 2008 WL 4104329, at *26. Here, Interim Counsel supports the settlement as evidenced by this filing; and counsel have discussed the settlement with the Class Representatives and secured their support for the Agreement.

6. The Reaction of Absent Class Members.

The sixth *UAW* factor is “the reaction of absent class members.” *UAW*, 497 F.3d at 631. Notice has not yet been disseminated, and the Class has accordingly not yet had an opportunity to voice any opposition to (or support for) the Settlement. Nonetheless, Plaintiffs and Interim Counsel strongly support the Settlement, which they believe is fair, reasonable, and adequate and in the best interest of the Class. Accordingly, the sixth factor weighs in favor of preliminary approval.

7. The Settlement Serves the Public Interest.

The seventh and final *UAW* factor is “the public interest.” *UAW*, 497 F.3d at

631. Settlements may serve the public interest by advancing a statute's goals or by conserving judicial resources. *See In re Cardizem CD Antitrust Litigation*, 218 F.R.D. 508, 530 (E.D. Mich. 2003). The Settlement here accomplishes both.

“[T]here is a strong public interest in encouraging settlement of complex litigation and class action suits because they are notoriously difficult and unpredictable and settlement conserves judicial resources.” *Id.* (internal quotations and citation omitted). “Settling this [14,503]-person class action would further the public interest by providing relief for the entire Class and conserving judicial resources.” *Strano*, 649 F. Supp. 3d at 560. Indeed, judicial resources will be conserved here as settlement of this action relieves federal and circuit courts in Michigan of the obligation of handling litigation resulting from seminal decisions of the Michigan and United States Supreme Courts. The Settlement also serves the public interest by providing full relief to thousands of Michigan citizens who may be facing an acute need for such relief.

VII. THE NOTICE PLAN SHOULD BE APPROVED

“For any class certified under Rule 23(b)(3) . . . the court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B); *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 173 (1974). Further, “[t]he court must direct notice in a reasonable manner to all class members

who would be bound by the proposal[.]” Fed. R. Civ. P. 23(e)(1)(B). The substance of the notice to the Class must describe in plain language the nature of the action, the definition of the class to be certified, the class claims and defenses at issue, that class members may enter an appearance through counsel if so desired, that class members may request to be excluded from the Class, and that the effect of a class judgment shall be binding on all class members. *See* Fed. R. Civ. P. 23(c)(2)(B). Notice is “adequate if it may be understood by the average class member.” *Newberg*, § 11:53 at 167. The proposed Notice, attached as **Exhibit 3**, meets these criteria.

Likewise, the Court should appoint RG/2 as the claims administrator (the “Administrator”). The Parties and the Administrator have agreed upon a notice plan that easily satisfies the requirements of both Fed. R. Civ. P. 23 and Due Process.¹¹ The Administrator is experienced and well-qualified to administer the notice and claim filing process. It will send written notice of the Settlement to each Class Member via regular first-class U.S. mail postage pre-paid. Defendants will provide Class Members’ addresses to the Claims Administrator based on the last-known addresses reflected in the Counties’ records (as provided by Title Check LLC for those Counties for which Title Check has records), and the Counties and Interim Counsel will work to uncover and provide any additional addresses. The

¹¹ As indicated above, a copy of the proposed Notice Plan will be separately filed with the Court before hearing on this motion.

Administrator will run all addresses through the National Change of Address database. It will forward any notice that is returned with a forwarding address to the forwarding address within fourteen (14) days of receiving the returned mail and shall update the Class Member address list with all forwarding addresses. It will also undertake to provide notice by publication of the Summary Notice pursuant to the terms of the Preliminary Approval Order or whatever other manner might be ordered by the Court. *Id.* It will maintain a claims website with pertinent information. *Id.* Finally, the Administrator will provide notice of the Settlement to the appropriate state and federal officials as required by CAFA, 28 U.S.C. § 1715. *Id.*

VIII. THE COURT SHOULD PERMIT COUNTIES TO JOIN THE SETTLEMENT AS THEY APPROVE THE SETTLEMENT.

The Agreement is carefully structured to coordinate the Settlement's administration with the operation of the statutory claims process found at MCL 211.78t (the "78t Process," or just "78t"). The Settlement generally provides for a higher recovery than the 78t Process: 125 percent of Surplus Proceeds, versus 95 percent. But it is not intended to displace 78t for those putative class members who prefer the statutory process.

Deadlines in 78t Process are fast approaching. Class Members who have timely submitted a notice that they intend to use the process may file a motion for the return of Surplus Proceeds. Their deadline to file this motion is October 1, 2025. Class Members can effectively exclude themselves from the Settlement by filing a

78t motion by this statutory deadline and not thereafter withdraw it by October 31, 2025. S.A. ¶ 3.5.2.3. And the counties agree not to pay a statutory recovery based on such a motion until that October 31 date. *Id.*, ¶ 23.5. But the compressed schedule makes it important to issue notice of the settlement to Class Members with enough time for them to make an informed decision.¹² Thus, in order for the proposed settlement to work, it is important to maintain the scheduled August 19 date for the hearing on this motion and render any preliminary approval order expeditiously.

Unfortunately, various defendant counties are unable to formally approve the settlement before this motion's filing, and it is possible that some will be unable to formally approve it before August 19. The counties generally must formally approve the Agreement by a vote of their respective county commissions. Scheduling and noticing a county commission meeting can pose logistical challenges, especially during summer months in which some commissions might not regularly schedule sessions. Accordingly, Plaintiffs respectfully request that the Court preliminarily approve the Settlement as to those Defendants who have approved it as of the date of the decision on this motion, with outstanding counties able to join the settlement – and the preliminary approval order – upon notice to the Court.

Attached as **Exhibit 5** is a list of the Defendant counties, indicating which have approved the settlement as of the date of this motion's filing; which are

¹² The proposed Notice discusses the options with respect to the 78t Process.

scheduled to consider the Motion between the motion's filing and August 19; and which are scheduled to consider it after August 19. The parties will endeavor to supplement the list if more information becomes available before August 19.

The parties do not anticipate that any Defendant counties will fail to approve the Agreement. However, in the event that any decline to join the settlement, the Plaintiffs and the settling Defendants will administer the Settlement as to the settling Defendants. Plaintiffs will continue to litigate against the non-settling counties.

IX. CONCLUSION

For all of these reasons, Plaintiffs request that the Court grant the motion.

Dated: August 5, 2025

Respectfully Submitted,

/s/ E. Powell Miller

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CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2025. I electronically filed the foregoing document using the Court's electronic filing system, which will notify all counsel of record authorized to receive such filings.

/s/ E. Powell Miller

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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

THOMAS A. FOX, et al., for themselves and
all those similarly situated,

Plaintiffs,

v.

COUNTY OF SAGINAW, et al.,

Defendants.

Case No.: 19-cv-11887
Hon. Thomas L. Ludington
Mag. Judge Patricia T. Morris

INDEX OF EXHIBITS

- 1. Proposed Order Preliminarily Approving Settlement, Determining Likely Certification of the Class for Settlement Purposes, Approving Form and Manner of Class Notice, and Setting Date for Final Approval Hearing**
- 2. Settlement Agreement**
- 3. Proposed Class Action Settlement Notice**
- 4. Proposed Paper Claim Form**
- 5. List of Defendant Approvals**

EXHIBIT 1

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

THOMAS A. FOX, et al., for themselves and
all those similarly situated,

Plaintiffs,

Case No.: 19-cv-11887
Hon. Thomas L. Ludington
Mag. Judge Patricia T. Morris

v.

COUNTY OF SAGINAW, et al.,

Defendants.

**ORDER PRELIMINARILY APPROVING SETTLEMENT,
DETERMINING LIKELY CERTIFICATION OF THE CLASS FOR
SETTLEMENT PURPOSES, APPROVING FORM AND MANNER OF
CLASS NOTICE, AND SETTING DATE FOR FINAL APPROVAL
HEARING**

Plaintiffs, on behalf of themselves and the proposed Class and Sub-Classes, seek preliminary approval of the Settlement Agreement in its entirety and approval, without limitation, of the proposed Class and Sub-Classes, the Notice Plan (ECF No.), Notice (Exhibit 3 to the Motion for Preliminary Approval), the proposed Claim Form (Exhibit 4 to the Motion for Preliminary Approval), and the requirements for potential Class Members to either opt-out or object.

This Court, having reviewed the pleadings in the case and the submissions of the parties with respect to preliminary approval of the proposed Settlement Agreement, and for good cause shown;

IT IS HEREBY ORDERED, this ____ day of August, 2025, that pursuant to Federal Rule of Civil Procedure 23(e):

1. This Order incorporates by reference the definitions in the Settlement Agreement (a copy of which is attached to as Exhibit 2 to the Motion for Preliminary Approval), and all capitalized terms used in this Order will have the same meanings as set forth in the Settlement Agreement, unless otherwise defined in this Order.

2. The Settlement Agreement, together with its attached exhibits and/or referenced documents, sets forth the terms and conditions for the proposed settlement and dismissal with prejudice of the Action. The Settlement Agreement was the result of an extensive, arm's length negotiation conducted under the guidance of and with assistance from an experienced and well-regarded third-party mediator over a period of nine months.

3. The Court will direct notice be given to the Class and Sub-Classes because giving notice is justified by Plaintiffs' showing that the Court will likely be able to approve the Settlement Agreement under Rule 23(e)(2) and certify the class for purposes of judgment on the proposed Settlement Agreement. Specifically, the Settlement Agreement preliminarily appears to be (a) fair, reasonable, and adequate considering the relevant factual, legal, practical, and procedural considerations of the Action, (b) free of collusion to the detriment of putative Class Members, and (c) within the range of possible final judicial approval, subject to further consideration

thereof at the Final Approval Hearing as described below. The Class and Sub-Classes appear likely to satisfy the prerequisites of Rule 23(a) and Rule 23(b)(3). Accordingly, the Settlement Agreement and the settlement are sufficient to warrant notice thereof and a full hearing on the settlement.

4. If, for any reason, the Settlement Agreement is not finally approved or does not become effective, this Order, including but not limited to certification of the Class and Sub-Classes, shall be null and void and automatically deemed vacated, and neither the Settlement Agreement nor anything related to the negotiation, consideration, or approval of it shall be used, referred to, proffered, or admissible for any purpose in this Action or any other action or proceeding. In such event, the parties and the putative Class Members shall be returned to the same litigation position that they were in before seeking preliminary approval of the Settlement Agreement, and they shall be free to raise all claims, defenses, and arguments as they would have been able to had they never negotiated or sought approval of the Settlement Agreement, including opposing class certification on any and all grounds (including but not limited to Rule 23(a) and (b)(3)). If the Settlement Agreement is not finally approved or does not become effective, the parties must also promptly

contact the Court to schedule a status conference to establish a new scheduling order for the continuation of the Action.

5. Solely for the purpose of settlement in accordance with the Settlement Agreement, and pursuant to Rule 23(a) and (b)(3), this Court finds that it will likely certify the following Class if the Court gives final approval to the Settlement:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in any County which Property, that during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom the County did not refund the Surplus Proceeds.

6. In addition, solely for the purpose of settlement in accordance with the Settlement Agreement, and pursuant to Rule 23(a) and (b)(3), this Court finds that if the Court gives final approval to the Settlement, it will likely certify Sub-Classes as to each County,¹ with a sub-class definition tied to each County, as described below:

(i) *Alcona County*: The Alcona County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Alcona

¹ County is a defined term in the Settlement Agreement and refers only to those Defendants in this Action who agrees to join the Settlement after appropriate action by the Defendant's Board of Commissioners and, in the case of Macomb County, its County Executive. To the extent that a Sub-Class is identified in Paragraph 6 for a Defendant that has not agreed to the Settlement, the sub-class certification is only effective if and when the Defendant agrees to the Settlement.

County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Alcona County did not refund the Surplus Proceeds.

(ii) *Alpena County*: The Alpena County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Alpena County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Alpena County did not refund the Surplus Proceeds.

(iii) *Arenac County*: The Arenac County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Arenac County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Arenac County did not refund the Surplus Proceeds.

(iv) *Bay County*: The Bay County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Bay County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Bay County did not refund the Surplus Proceeds.

(v) *Clare County*: The Clare County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Clare County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Clare County did not refund the Surplus Proceeds.

(vi) *Crawford County*: The Crawford County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Crawford County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Crawford County did not refund the Surplus Proceeds.

(vii) *Genesee County*: The Genesee County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Genesee County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Genesee County did not refund the Surplus Proceeds.

(viii) *Gladwin County*: The Gladwin County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Gladwin County which Property, during the Class Period (i.e. January 1,

2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Gladwin County did not refund the Surplus Proceeds.

(ix) *Gratiot County*: The Gratiot County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Gratiot County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Gratiot County did not refund the Surplus Proceeds.

(x) *Huron County*: The Huron County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Huron County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Huron County did not refund the Surplus Proceeds.

(xi) *Isabella County*: The Isabella County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Isabella County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Isabella County did not refund the Surplus Proceeds.

(xii) *Jackson County*: The Jackson County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Jackson County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Jackson County did not refund the Surplus Proceeds.

(xiii) *Lapeer County*: The Lapeer County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Lapeer County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Lapeer County did not refund the Surplus Proceeds.

(xiv) *Lenawee County*: The Lenawee County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Lenawee County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Lenawee County did not refund the Surplus Proceeds.

(xv) *Macomb County*: The Macomb County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Macomb County which Property, during the Class Period (i.e. January 1,

2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Macomb County did not refund the Surplus Proceeds.

(xvi) *Midland County*: The Midland County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Midland County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Midland County did not refund the Surplus Proceeds.

(xvii) *Montmorency County*: The Montmorency County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Montmorency County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Montmorency County did not refund the Surplus Proceeds.

(xviii) *Ogemaw County*: The Ogemaw County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Ogemaw County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Ogemaw County did not refund the Surplus Proceeds.

(xix) *Oscoda County*: The Oscoda County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Oscoda County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Oscoda County did not refund the Surplus Proceeds.

(xx) *Otsego County*: The Otsego County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Otsego County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Otsego County did not refund the Surplus Proceeds.

(xxi) *Presque Isle County*: The Presque Isle County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Presque Isle County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Presque Isle County did not refund the Surplus Proceeds.

(xxii) *Roscommon County*: The Roscommon County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Roscommon County which Property, during the Class Period (i.e. January 1,

2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Roscommon County did not refund the Surplus Proceeds.

(xxiii) *Saginaw County*: The Saginaw County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Saginaw County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Saginaw County did not refund the Surplus Proceeds.

(xxiv) *Sanilac County*: The Sanilac County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Sanilac County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Sanilac County did not refund the Surplus Proceeds.

(xxv) *St. Clair County*: The St. Clair County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in St. Clair County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom St. Clair County did not refund the Surplus Proceeds.

(xxvi) *Tuscola County*: The Tuscola County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Tuscola County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Tuscola County did not refund the Surplus Proceeds.

(xxvii) *Washtenaw County*: The Washtenaw County Settlement Sub-Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in Washtenaw County which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom Washtenaw County did not refund the Surplus Proceeds.

7. Consistent with the Settlement Agreement, the following are excluded from the Class and each Sub-Class:

(i) Any Person who has released their claim for Surplus Proceeds against a County after the time of the foreclosure, or who has already resolved their claim for Surplus Proceeds against a County by agreement or by operation of a final judgment entered after the time of foreclosure.

(ii) Notwithstanding the preceding or Paragraph 1.21 of the Settlement Agreement, any Person who would otherwise be a Class Member but for the fact that the Person resolved their claim for Surplus Proceeds against a County after March 31, 2025 and before

November 1, 2025, shall be a Limited Settlement Class Member, as that term is defined in Paragraph 1.21 of the Settlement Agreement.

8. Consistent with the Settlement Agreement, the following will be excluded from the Settlement Class and each Settlement Sub-Class if the Court grants final approval to the Settlement and certifies the Settlement Class:

(i) Any Class Member or Limited Settlement Class Member who has submitted a request to be excluded under Paragraph 7 of the Settlement Agreement and Paragraph 17 of this Order, that is not rejected by the Court, and which is not timely revoked under Paragraph 7.4 of the Settlement Agreement;

(ii) Any Class Member who claims an interest in the Surplus Proceeds arising from a Property as to which any other Class Member claiming an interest in that same Property's Surplus Proceeds has submitted a request to be excluded under Paragraph 7 of the Settlement Agreement, that is not rejected by the Court, and which is not timely revoked under Paragraph 7.4 of the Settlement Agreement;

(iii) Any Class Member who files a Surplus Proceeds Motion, which is not withdrawn by October 31, 2025; and

(iv) Any Class Member who claims an interest in the Surplus Proceeds arising from a Property as to which any other Person claiming an interest in the same Property has filed a Surplus Proceeds Motion. However, if more than 5% of the Properties in a County are subject to Surplus Proceeds Motions filed by Persons who are not Class Members, then any Class Member who has filed a Claim against that County but who would otherwise be excluded from the Settlement Class under this paragraph shall be allowed to proceed as a Limited Settlement Class Member.

9. As set forth in Paragraph 23 of the Settlement Agreement:

(i) Nothing in the Settlement Agreement or this Order shall affect (positively or negatively) Defendants' administration of or conduct with respect to Public Act 256 of 2020, MCL 211.78t, or any other statute governing, or practice with respect to, real property taxation,

foreclosures, or auction proceeds except as otherwise specified herein and in the Settlement Agreement.

(ii) The Counties will not assert the failure of any Person to file a notice of intent to claim surplus proceeds by March 31, 2025, as a basis for denying a Surplus Proceeds Motion.

(iii) Nothing in the Settlement Agreement or this Order shall prevent a Class Member from pursuing the post-judgment process for claiming “any applicable remaining proceeds from the transfer or sale of foreclosed property” set forth at MCL 211.78t, except that consistent with Paragraphs 3.5.2, if any “claimant” under MCL 211.78t(1) submits a Surplus Proceeds Motion, then all Class Members who claim an interest in that Property are excluded from the Settlement Class with respect to that Property unless such motion is withdrawn by October 31, 2025.

(iv) No County shall pay Surplus Proceeds to any Person who has filed a Surplus Proceeds Motion relating to a Property or consent to an order requiring such a payment before October 31, 2025. If a hearing is scheduled before October 31, 2025 on any Surplus Proceeds motion, the affected County shall undertake reasonable efforts to adjourn the hearing until after October 31, 2025, including informing the applicable court of the Settlement Agreement and the right of Persons to withdraw a Surplus Proceeds Motion to participate in the Settlement.

10. Solely for the purpose of Settlement, if the Court gives final approval to the Settlement, it will likely appoint Thomas A. Fox as the representative of the Class, and the individuals listed below as the class representative for each Sub-Class. Alternative proposed class and sub-class representatives may be substituted by stipulation of the Parties or by further order of this Court before the entry of any Final Approval Order in this case.

Alcona County: Robert Mackenzie, Trustee

Alpena County: Nancy Lambert

Arenac County: James Grosso

Bay County: Brian Scherzer

Clare County: Timothy Widener

Crawford County: Anna Pence

Genesee County: Jeffrey Cantor

Gladwin County: William Beck

Gratiot County: Thomas Fox

Huron County: Kenneth McNeil

Isabella County: Donna Sinclair

Jackson County: Gloria Doty

Lapeer County: Cynthia Zak

Lenawee County: Colby Smith

Macomb County: Albert Moore, Jr.

Midland County: Robert Mackenzie, Trustee

Montmorency County: Lisa Dufore

Ogemaw County: Robert Mackenzie, Trustee

Oscoda County: Eugene Causley, Jr.

Otsego County: Randall Frank, Trustee

Presque Isle County: Karen Kamyszek

Roscommon County: Herold Reno, Jr.

Saginaw County: Nicole Vedrode

Sanilac County: Shalene Pope

St. Clair County: Lawrence and Brenda Edwards

Tuscola County: Bandacar Enterprises, Inc.

Washtenaw County: Jonathan Alexander

11. RG/2 Claims Administration, LLC is hereby appointed as Claims Administrator to provide Notice to Potential Claimants as described in the Notice Plan and to administer the process of soliciting, receiving, reviewing, approving or denying claims, and distributing funds.

12. The proposed form, content, and procedures of notice to the Potential Claimants are approved. The Parties have discretion to jointly make non-material revisions to the Notice before dissemination. The Notice to be provided to the Potential Claimants clearly, concisely, and in plain language advises them of, among other things, the nature of the Action, the proposed Settlement Agreement, the definition of the Class and Sub-Classes, the claims the Class members and Sub-Class members would release, the consideration the Class and Sub-Classes would receive, Interim Counsel's intended application for appointment as Class Counsel and for attorneys' fees and expenses, putative Class Members' right to participate individually or through an attorney and object to the Settlement Agreement or any portion of it, putative Class Members' right to opt out and exclude themselves from the Settlement Agreement, and the binding nature of the Settlement Agreement if it

is ultimately approved. The Notice to be provided to Class and Sub-Class members is the best notice practicable under the circumstances and constitutes sufficient notice of the proposed Settlement Agreement and this Order to all persons affected by and/or entitled to participate in the settlement, in full compliance with the notice requirements of Rule 23 and due process.

13. The form of the Claim Form is approved. The Parties have discretion to jointly make non-material revisions to the Claim Form before dissemination including revisions to format the Claims Form for use on the Claims Administrator's website.

14. Within 14 days of entry of this Order, the Claims Administrator shall begin providing notice of the Settlement Agreement and the Final Approval Hearing to Potential Claimants in the Notice Plan.

15. As set forth in the Settlement Agreement, the Counties shall pay all Administration Costs.

16. The deadline for Class Members to submit a claim is 194 calendar days after entry of this Order.

17. No later than 120 calendar days after entry of this Order or 30 days following the filing with the Court of a Fee Petition by Plaintiffs' counsel, whichever is later, any putative Class Member wishing to be excluded from the Class and any Sub-Class shall mail an opt-out request to the Claims Administrator conforming in

all respects to the terms and provisions of the Notice. Those who timely and properly do so shall neither participate in the settlement nor release their claims, and they forego (a) all the benefits they might otherwise receive because of the settlement and (b) their standing to participate in the Final Approval Hearing or object to the proposed Settlement Agreement or any portion of it. A putative class member may revoke a request for exclusion within the time for making a request for exclusion; such revocation shall be in writing and submitted to the Claims Administrator. Failure to opt out in strict compliance with the time and manner requirements set forth in the Notice shall result in waiver of the right to opt out. All potential Class Members who either do not attempt to or fail to properly and timely opt out shall remain part of the Class and any applicable Sub-Classes and, to the extent the Settlement Agreement is ultimately approved, shall be bound by the settlement.

18. The Notice shall designate the Claims Administrator as the entity to whom opt-out requests shall be sent. The Claims Administrator shall be responsible for the receipt of all responses from putative Class Members and shall preserve all opt-out requests and all other written communications from putative Class Members or any other person in response to the Notice until administration of the Settlement is complete or pursuant to further Order of this Court. All written communications received from putative Class Members and all written responses to inquiries by them relating to the Settlement Agreement and settlement shall be available at all

reasonable times for inspection and copying by counsel for Plaintiffs and Defendants, subject to further order of the Court if issues of privilege or confidentiality arise.

19. Any Class Member who does not attempt to or fails to properly and timely opt out of the Class and any applicable Sub-Classes may, but is not required to, enter an appearance either *pro se* or through counsel of that Class Member's own choosing and expense. Class Members who are in favor of the proposed Settlement need not appear at the Final Approval Hearing or take any other action to indicate their approval.

20. Any Class Member who will challenge or object to the fairness, reasonableness, or adequacy of the Settlement Agreement or any portion of the settlement, including without limitation the amount of Interim Counsel's requested fees and expenses if appointed Class Counsel, must remain part of the Class and any applicable Sub-Classes and must serve on the Parties a timely and valid statement of Objection that complies with the Objection procedure described in the Notice. Any Objection must be filed with the Clerk of Court and postmarked no later than 120 calendar days after entry of this Order or 30 days following the filing with the Court of a Fee Petition by Plaintiffs' counsel, whichever is later. Interim Counsel shall file all such Objections with the Court at least 14 days before the Final Approval Hearing. Any objecting Class Member may appear at the Final Approval Hearing in

person, with or without such Class Member's separate counsel. The scope of any objector's presentation of evidence or argument at the Final Approval Hearing shall be limited to such objector's written objection. Any Class Member who fails to file and serve an objection in strict compliance with the deadlines and procedures, and containing the information required by the Notice, shall be deemed to have forever waived and forfeited the right to object to the Settlement Agreement or any part of the settlement or to raise or pursue an objection at the Final Approval Hearing or at any point thereafter, including through appeal or as part of a separate proceeding.

21. Within ten days of the filing of the Motion for Preliminary Approval, the Claims Administrator shall cause notice to be sent to the United States Attorney General and the Attorney General for the State of Michigan. Each such notice shall contain all the information required under 28 U.S.C. § 1715. At least seven days before the Final Approval Hearing, Defendants' counsel shall file a report with the Court confirming that these notices were timely sent.

22. All other events contemplated under the Settlement Agreement to occur after this Order and before the Settlement Fairness Hearing described in this Order shall occur as proposed in the Motion for Preliminary Approval, to the extent not inconsistent herewith.

23. The motion for final approval and the motion for attorneys' fees and expenses shall be filed at least 56 days before the Settlement Fairness Hearing;

response briefs shall be filed at least 28 days before the Settlement Fairness Hearing, and all reply briefs must be filed no later than 14 calendar days before the Settlement Fairness Hearing.

24. A Settlement Fairness Hearing shall be held before the undersigned at [REDACTED] on [REDACTED], 2026 in the United States District Court for the Eastern District of Michigan, Northern Division, 1000 Washington Ave., Bay City, Michigan 48707, to consider the fairness, reasonableness, and adequacy of the proposed Settlement Agreement, the entry of any final order or judgment in the action, any application for attorneys' fees and costs, and other related matters. The Settlement Fairness Hearing may be postponed, adjourned, conducted virtually or continued by further order of this Court without further notice to the putative Class and Sub-Classes.

25. All proceedings in the action other than such as may be necessary to carry out the terms and conditions of the Settlement Agreement or the responsibilities related or incidental thereto are stayed and suspended until further notice of this Court.

26. The order is applicable to the following defendants, which have approved and joined the settlement agreement: [REDACTED]. The remaining defendants may immediately join the settlement and consent to be bound by this order through the filing of a notice, which shall only be effective if signed by the

Counties' counsel, the defendant seeking to join the settlement's counsel, and Interim Counsel.

SO ORDERED.

The Honorable Thomas L. Ludington

EXHIBIT 2

SETTLEMENT AGREEMENT

As a result of mediation, the Settling Parties have reached this Settlement Agreement which sets forth the terms and conditions under which the Counties and the settling Plaintiffs have agreed to seek to resolve certain of the claims asserted in the case of Fox, et al. v. Saginaw, County of, by its Board of Commissioners, et al., Eastern District of Michigan Case No. 19-cv-11887, along with other related matters.

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RECITALS

In 2019, the Plaintiff Thomas Fox initiated this putative class action against 27 Michigan counties, those counties' treasurers, and some former treasurers. Fox alleged, *inter alia*, that the Defendants violated his civil rights and those of similarly situated individuals contrary to 42 U.S.C. § 1983 and Michigan law by failing to pay to former property owners the proceeds from the sale of the tax-foreclosed properties formerly owned by them that exceeded the unpaid taxes, fees, and other costs associated with those properties. These claims have become known as "surplus-proceeds claims."

The Court initially certified a class consisting of certain individuals whose properties were foreclosed by the Defendants. The Defendants appealed the class-certification ruling, and the Sixth Circuit vacated the class-certification ruling because of its reliance on the juridical-link doctrine to certify a class represented by a single plaintiff against all of the Defendant counties.

On remand, Plaintiff Fox obtained the Court's approval to file an Amended Complaint that included at least one plaintiff whose property had been sold by each Defendant after tax foreclosure for more than the unpaid taxes, fees, and other costs owed on the property. The Court later appointed Interim Counsel under Rule 23(g)(3).

The Parties' counsel agreed to a potential settlement to the dispute via mediation. On November 9, 2024, Interim Counsel and Defendants' counsel (except counsel for Washtenaw County) participated in a mediation that resulted in a settlement framework. Since that time, the Parties' counsel negotiated the additional terms necessary to complete this Settlement Agreement and returned to mediation in March 2025 to resolve additional disputes.

The Settling Parties are aware of various risks. These include the appropriate statute of limitations and the application thereof; the proper measure of damages or other remedies; how surplus proceeds are to be distributed among competing claimants where more than one person held an interest in a property; how to equitably address the claims asserted by lienholders and others who held an interest in a property at the time of foreclosure; and whether the Legislature's 2020 amendments to the foreclosure-and-sale process establish the exclusive state-law mechanism for claiming surplus proceeds. These unresolved issues and others create uncertainty for the Parties.

The Settling Parties were able to reach this Settlement which accounts for the various risks identified above while providing for meaningful recovery for the Class.

AGREEMENT

1. **Definitions.** Unless otherwise defined throughout the document, capitalized terms shall have the meanings provided below:

- 1.1. “Action” means the class action captioned *Fox, et al. v. Saginaw, County of, by its Board of Commissioners, et al.*, pending in the Court with the Case No. 1:19-cv-11887.
- 1.2. “Administration Costs” refer to the costs of the Claims Administrator, the costs associated with the Class Notice, and up to \$25,000.00 in court-approved costs incurred by Class Counsel.
- 1.3. “Agreement” means this Settlement Agreement.
- 1.4. “Bundled Properties” means Eligible Properties that a County aggregated and sold together at auction in a single transaction.
- 1.5. “Claim” means a completed and executed claims form that has been timely submitted to the Claims Administrator in accordance with this Settlement and any requirements established by the Court.
- 1.6. “Claims Administrator” means RG2 Claims Administration LLC.
- 1.7. “Class” refers to all Persons who are included in the class definition in Paragraph 3.1 and who are not excluded under Paragraph 3.5.1, and “Settlement Class” refers to all Persons who are included in the class definition in Paragraph 3.1 and who are not excluded under Paragraph 3.5.2.
- 1.8. “Class Member” means a person who is included in the Class, and “Settlement Class Member” means a person who is a member of the Settlement Class that is certified by the Court.
- 1.9. “Class Period” refers to the time for each County during which that County acted as a foreclosing governmental unit between January 1, 2013 and December 31, 2020, inclusive.
- 1.10. “Class Representative” means the person identified pursuant to Paragraph 3.3.
- 1.11. “County” refers to any Defendant that agrees to this Settlement.

- 1.12. “County-Related Persons” means the Counties’ predecessors, successors, assigns, and subsidiaries, as well as former and current affiliates, administrators, employees, elected officials (including, but not limited to, county treasurers), insurers, members, officers, directors, managers, employees, agents, servants, contractors (including, but not limited to, Title Check LLC), representatives, attorneys, associates, commissioners, trustees, and volunteers.
- 1.13. “Court” means the United States District Court for the Eastern District of Michigan.
- 1.14. “Defendants” refers to Alcona County, by its Board of Commissioners; Alpena County, by its Board of Commissioners; Arenac County, by its Board of Commissioners; Bay County, by its Board of Commissioners; Clare County, by its Board of Commissioners; Crawford County, by its Board of Commissioners; Genesee County, by its Board of Commissioners; Gladwin County, by its Board of Commissioners; Gratiot County, by its Board of Commissioners; Huron County, by its Board of Commissioners; Isabella County, by its Board of Commissioners; Jackson County, by its Board of Commissioners; Lapeer County, by its Board of Commissioners; Lenawee County, by its Board of Commissioners; Macomb County, by Executive as authorized by its Board of Commissioners; Midland County, by its Board of Commissioners; Montmorency County, by its Board of Commissioners; Ogemaw County, by its Board of Commissioners; Oscoda County, by its Board of Commissioners; Presque Isle County, by its Board of Commissioners; Roscommon County, by its Board of Commissioners; Saginaw County, by its Board of Commissioners; Sanilac County, by its Board of Commissioners; St. Clair County, by its Board of Commissioners; Tuscola County, by its Board of Commissioners; and Washtenaw County, by its Board of Commissioners.
- 1.15. “Effective Date” is the date identified in Paragraph 11.
- 1.16. “Eligible Claim” means a claim submitted by a Class Member to the Claims Administrator during the Claims Period that the Claims Administrator has approved as valid pursuant to the terms of the Settlement and any order of the Court and which has not been rejected by the Court.
- 1.17. “Eligible Property” means Property as to which no Surplus Proceeds Motion has been paid and as to which no Person with an interest in the Surplus

Proceeds generated by the post-foreclosure sale of the Property has been excluded from the Class under Paragraph 3.5.1 or the Settlement Class under Paragraph 3.5.2.

- 1.18. “Fee Petition” means motion seeking approval of the Court of the payment of fees and costs to Class Counsel from the Settlement Fund for their services in this Action.
- 1.19. “GPTA” means the Michigan General Property Tax Act, Michigan Compiled Laws § 211.78 et seq.
- 1.20. “Interim Counsel” means The Miller Law Firm PC and Outside Legal Counsel PLC.
- 1.21. “Limited Settlement Class Member” means a Class Member who has an interest in the Surplus Proceeds arising from a Property that is subject to a Surplus Proceeds Motion filed by another Person in a County where more than 5% of the total Properties are subject to Surplus Proceeds Motions filed by Persons who are not, and have never been, Class Members. There are no Limited Class Members as to Counties where qualifying Surplus Proceeds Motions do not exceed the 5% threshold. A Class Member who obtains a state court order requiring a County to pay any portion of the Surplus Proceeds to that Class Member is not a Limited Settlement Class Member.
- 1.22. “Maximum Liability” means, as to each County, 90% of the sum of the Surplus Proceeds arising from the sale of all Eligible Properties during the Claims Period plus that County’s share of the Administration Costs.
- 1.23. “Minimum Sale Price” means the sum of all delinquent taxes, interest, penalties, fees, costs, and estimated pro rata expenses of administering the sale of a Property as calculated at the time of sale by the County.
- 1.24. “Notice” refers to the written document informing Putative Class Members of their rights, opportunities, and obligations under this settlement and discussed in Paragraph 6.4.
- 1.25. “Original Plaintiff” refers to Thomas A. Fox.
- 1.26. “Parties” refers collectively to the Plaintiffs and the Defendants. “Party” means any one of the Parties.

- 1.27. “Person” means an individual, corporation, limited liability company, professional corporation, partnership of any kind, association, joint venture, estate, legal representative, trust, trustee, or any legal entity.
- 1.28. “Plaintiffs” are those persons who are identified in the Second Amended Complaint, and include Thomas A. Fox; Robert MacKenzie, Chapter 7 Trustee for Home Opportunity, LLC; Nancy Lambert; James Grosso; Brian Scherzer; Timothy Widener; Anna Pence, Personal Representative for the Estate of Troy Pence; Jeffrey Cantor, Personal Representative for the Estate of Amy Cantor; Michael Blaszcak; Kenneth McNeil; Donna Sinclair; Gloria Doty; Cynthia Zak; Colby Smith; Albert Moore, Jr.; Lisa Dufore; Eugene Causley, Jr., Personal Representative for the Estate of Eugene Causley, Sr.; Randall Frank, Chapter 7 Trustee for Bonnie Gottleber; Karen Kamyszek; Harold Reno, Jr.; Nicole Vedrode; Shalene Pope; Lawrence and Brenda Edwards; Bandacar Enterprises, Inc.; and Gina Love; and any persons substituted for the preceding individuals as approved by the Court.
- 1.29. “Property” means a parcel of real property foreclosed during the Class Period by a County Treasurer for the non-payment of real-property taxes and sold during the Class Period by a County Treasurer for an amount greater than the Minimum Sale Price.
- 1.30. “Released Claims” means, collectively, any and all claims, demands, rights, liabilities, suits, debts, obligations, and causes of action of every nature and description whatsoever, known or unknown, in law or in equity, based on state or federal law, the United States Constitution, or the Michigan Constitution that the Class Representative, Sub Class Representatives, or any other Class Members asserted or could have asserted in the Action against any County or County-Related Persons in any way relating to or arising from any Eligible Property, the General Property Tax Act, or the forfeiture, foreclosure, or sale of real property, relating to the collection of unpaid property taxes.
- 1.31. “Settlement” means this Settlement Agreement and the resolution of the dispute between the Settlement Class and the Counties contained herein.
- 1.32. “Settlement Fund” means an interest-bearing account administered by the Settlement Administrator funded by each County’s Settlement Payment.

- 1.33. "Settlement Payment" means, as to each County, the lesser of (1) the Maximum Liability minus the County's share of the Administration Costs, or (2) 125% of the sum of the Surplus Proceeds arising from the sale of all Eligible Properties as to which there is at least one Eligible Claim made during the Claims Period.
- 1.34. "Sub-Classes" means the sub-classes identified in Paragraph 3.2.
- 1.35. "Settling Parties" means the Counties and the Class and Sub-Class Representatives. "Settling Party" means any one of the Settling Parties.
- 1.36. "Sub-Class Representative" means the persons identified pursuant to Paragraph 3.4.
- 1.37. "Summary Notice" refers to the abbreviated version of the Notice to be prepared by the Parties' counsel in consultation with the Claims Administrator to be used in print media or in a postcard mailing.
- 1.38. "Surplus Proceeds" refers to the difference between a Property's actual sale price and the Minimum Sale Price. "Surplus Proceeds" do not include interest from the date of the sale.
- 1.39. "Surplus Proceeds Motion" means a timely filed motion to claim remaining proceeds from the sale of a Property under Michigan Compiled Laws § 211.78t.

2. **Data from Counties.** The Counties shall provide to Interim Counsel and the Claims Administrator the following information for each Class Member: the Class Member's name; Property address; Property parcel number; Minimum Sale Price; auction sale price; Surplus Proceeds; the Class Member's last known address; and any known contact information for the Class Member (including e-mail address and telephone number). The Counties shall also provide to Interim Counsel a list of all Class Members who have submitted a notice of intent to seek the return of remaining proceeds under Michigan Compiled Laws § 211.78t and the properties with respect to which each such notice has been submitted.

3. **Settlement Class.** The Settling Parties agree for settlement purposes only that certification of a class is appropriate in the Action. For purposes of this Settlement only, the Settling Parties agree to the certification of a settlement class and settlement subclasses as to each County, pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3) as provided below:

3.1. Class Definition. The Class means:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in any County which Property, that during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom the County did not refund the Surplus Proceeds.

3.2. Sub-Class Definitions. The Settling Parties agree to settlement sub-classes with the following definition as to each County with the County's name to be substituted for "COUNTY NAME" in the definition:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in COUNTY NAME which Property, during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom COUNTY NAME did not refund the Surplus Proceeds.

3.3. Class Representatives. The Settling Parties agree to the appointment of Thomas A. Fox as the class representative for the Class. If Gratiot County is not a Settling Party, then the Settling Parties agree to the appointment as the class representative of the Class any one of the Sub-class Representatives identified below who is an individual and a Settling Party.

3.4. Sub-class Representatives. The Settling Parties agree to the appointment of the following as the class representatives for each Sub-Class and any persons substituted for the following individuals as approved by the Court, except that the provisions of this paragraph shall not apply as to any sub-class asserted against a Defendant which is not a Settling Party:

3.4.1. *Alcona County:* Robert Mackenzie, Trustee.

3.4.2. *Alpena County:* Nancy Lambert.

3.4.3. *Arenac County:* James Grosso.

3.4.4. *Bay County:* Brian Scherzer.

- 3.4.5. *Clare County*: Timothy Widener.
- 3.4.6. *Crawford County*: Troy Pence.
- 3.4.7. *Genesee County*: Amy Cantor.
- 3.4.8. *Gladwin County*: Michael Blaszczyk.
- 3.4.9. *Gratiot County*: Thomas Fox.
- 3.4.10. *Huron County*: Kenneth McNiel.
- 3.4.11. *Isabella County*: Donna Sinclair.
- 3.4.12. *Jackson County*: Gloria Doty.
- 3.4.13. *Lapeer County*: Cynthia Zak.
- 3.4.14. *Lenawee County*: Colby Smith.
- 3.4.15. *Macomb County*: Albert Moore, Jr..
- 3.4.16. *Midland County*: Robert Mackenzie, Trustee.
- 3.4.17. *Montmorency County*: Lisa Dufore.
- 3.4.18. *Ogemaw County*: Robert Mackenzie, Trustee.
- 3.4.19. *Oscoda County*: Eugene Causley, Jr..
- 3.4.20. *Otsego County*: Randall Frank, Trustee.
- 3.4.21. *Presque Isle County*: Karen Kamyszek.
- 3.4.22. *Roscommon County*: Herold Reno, Jr..
- 3.4.23. *Saginaw County*: Nicole Vedrode.
- 3.4.24. *Sanilac County*: Shalene Pope.
- 3.4.25. *St. Clair County*: Lawrence and Brenda Edwards.
- 3.4.26. *Tuscola County*: Bandacar Enterprises, Inc.
- 3.4.27. *Washtenaw County*: Jonathan Alexander.

3.5. Exclusions.

3.5.1. The following will be excluded from the Class and each Sub-Class:

3.5.1.1. Any Person who has released their claim for Surplus Proceeds against a County after the time of the foreclosure, or who has already resolved their claim for Surplus Proceeds against a County by agreement or by operation of a final judgment entered after the time of foreclosure.

3.5.1.2. Notwithstanding the preceding subparagraph or Paragraph 1.21, any Person who would otherwise be a Class Member but for the fact that the Person resolved their claim for Surplus Proceeds against a County after March 31, 2025 and before the date identified in Paragraph 3.5.2.3, shall be a Limited Settlement Class Member.

3.5.2. The following, while included in the Class, will be excluded from the Settlement Class and each Sub-Class thereof:

3.5.2.1. Any Class Member or Limited Settlement Class Member who has submitted a request to be excluded under Paragraph 7, that is not rejected by the Court, and which is not timely revoked under Paragraph 7.4.

3.5.2.2. Any Class Member who claims an interest in the Surplus Proceeds arising from a Property as to which any other Class Member claiming an interest in that same Property's Surplus Proceeds has submitted a request to be excluded under Paragraph 7, that is not rejected by the Court, and which is not timely revoked under Paragraph 7.4.

3.5.2.3. Any Class Member who files a Surplus Proceeds Motion, which is not withdrawn by October 31, 2025.

3.5.2.4. Any Class Member who claims an interest in the Surplus Proceeds arising from a Property as to which any other Person claiming an interest in the same Property has filed a Surplus Proceeds Motion. However, if more than 5% of the Properties in a County are subject to Surplus Proceeds Motions filed by Persons who are not Class Members, then any Class Member who has filed a Claim against that County but who would otherwise be excluded from the

Settlement Class under this paragraph shall be allowed to proceed as a Limited Settlement Class Member.

3.6. Class Counsel. Interim Counsel will seek appointment by the Court as counsel for the Settlement Class and the Settlement Sub-Classes.

3.7. Certification for Settlement Purposes Only. The Settlement Class shall be certified only with respect to this Settlement, and only upon entry of the Final Approval Order. The Settling Parties agree that the Settlement Class shall be dissolved if Judgment contemplated by this Settlement Agreement is not entered by the Court or is reversed or vacated; if the Effective Date does not occur; or if the Settlement is terminated. The Settling Parties further agree that the Sub-Class as to any County shall be dissolved if Judgment contemplated by this Settlement Agreement is not entered by the Court as to that County or is reversed or vacated as to that County; if the Effective Date does not occur as to that County; or if the Settlement is terminated as to that County. If the events identified in the preceding sentence occur, the Settlement Class and Settlement Sub-Classes shall not be dissolved as to any other County. Nothing in this Settlement Agreement shall serve in any fashion, either directly or indirectly, as evidence of or support for certification of a class in this Action or any other action, other than for this Settlement. The Settling Parties intend that the provisions herein concerning certification of the Settlement Class and Settlement Sub-Classes shall have no effect whatsoever as to any Defendant that does not approve the Settlement. Each County expressly reserves the right to contest class certification if the Settlement is terminated as to that County, or the Effective Date does not occur as to that County for any other reason.

4. No Concessions. No Party or Settling Party admits or concedes any point in dispute in this Action, including but not limited to whether a class could be certified; whether Plaintiffs would prevail on the merits; the appropriate statute of limitations for any claims asserted by Plaintiffs; whether the Amended Complaint relates back to the original filing of the Action as to any County; and whether (and how much) Plaintiffs could recover in damages. If this Settlement is not finally approved, the Settlement is terminated, or the Effective Date does not occur for any reason, the Parties retain whatever rights they may have to prosecute their claims and defenses, and the Defendants, Counties, and each County individually, expressly reserve their rights to contest class certification, the applicable statute of limitations, the relation-back of any amended pleadings, and the effect of Section 211.78t of the GPTA.

5. **Releases and Bar Order.**

- 5.1. Upon the Effective Date, each Settlement Class Member including each Class and Sub-Class Representative, and each Limited Settlement Class Member, for themselves and on behalf of each of their respective spouses, heirs, executors, beneficiaries, administrators, successors, assigns and any other person claiming (now or in the future) through or on behalf of any of them directly or indirectly, shall have released, waived, and discharged each and all of the Released Claims against the Counties and the County-Related Persons without regard to whether the Settlement Class Member, Class Representative, Sub-Class Representative, ever asserts or seeks to assert a Claim. The foregoing release and waiver includes any rights and benefits of § 1542 of the California Civil Code, which the Settling Parties agree was separately bargained for and is a material element of this Settlement of which the release and waiver in this paragraph is a part.
- 5.2. Upon the Effective Date, each Settlement Class Member, including each Class and Sub-Class Representative, and each Limited Settlement Class Member shall have covenanted not to sue the Counties and the County-Related Persons with respect to any of the Released Claims.
- 5.3. Upon the Effective Date, each Settlement Class Member and each Limited Settlement Class Member (including, without limitation, spouses, heirs, beneficiaries, administrators, successors, and assigns) shall be permanently barred, enjoined, and restrained from commencing, asserting, maintaining, prosecuting, or otherwise pursuing, either directly or indirectly, any of the Released Claims against the Counties and the County-Related Persons in the Action or in any other action or any proceeding, in any state court, federal court, arbitration, administrative forum, or other forum of any kind.
- 5.4. Each Class and Sub-Class Representative represents and warrants that each has not assigned, conveyed, transferred, or otherwise granted or given any interest in the Released Claims, or any one of them, to any other Person.

6. **Notice/Claims Administration.** The Claims Administrator shall administer the Settlement Fund and undertake the following actions consistent with any Court orders. The Claims Administrator's actions shall be subject to the jurisdiction of the Court.

6.1. Claims Administrator.

6.1.1. Subject to the supervision of the Settling Parties and the jurisdiction of the Court, the Claims Administrator shall administer the process of issuing notices required by this Settlement and the Court, including the Notice, receiving, reviewing, approving or denying claims, and distributing funds.

6.1.2. The Settling Parties will not engage in *ex parte* communications with the Claims Administrator except regarding the payment of the Claims Administrator's fees by the Counties.

6.1.3. If the Settling Parties cannot agree regarding any issue arising from the supervision of the Claims Administrator, the Settlement Parties will submit the issue(s) for mediation by Lee T. Silver. If mediation is not successful, then Mr. Silver will resolve the dispute as the arbitrator and his decisions shall be final and binding on the Settling Parties. The decision of Mr. Silver may be entered and enforced by the Court.

6.2. Administration Costs. The Counties shall pay all Administration Costs.

6.3. Apportionment of Costs Among Counties. The Administration Costs shall be apportioned among the Counties pursuant to the Intercounty Apportionment Agreement.

6.4. Class Notice. The Parties will cooperate in causing the Claims Administrator to administer a Notice Plan, which Notice Plan shall be submitted for the Court's approval as part of the Motion for Preliminary Approval of this settlement.

6.5. Claim Form. The claim form shall be submitted to the Court for approval. That form approved by the Court shall require sufficient information for the Claims Administrator and the parties to assess whether the person submitting the claim is a Class Member. The claim form shall identify the Released Claims.

6.6. Claims Period.

- 6.6.1. Class Members shall have 194 days to submit a Claim or until the date ordered by the Court to submit a completed claims form to the Claims Administrator. If the former 194-day period applies, then the claims period applicable to any given Claim shall begin on the date this Settlement Agreement is preliminarily approved by the Court as to the County or Counties against which a Class Member is entitled to assert a Claim.
- 6.6.2. The deadline for filing claims shall be identified in the Notice and the Summary Notice.
- 6.6.3. Any Settlement Class Member or Limited Settlement Class Member who fails to submit a Claim by the date identified in the Notice shall be barred from receiving any distribution or payment from the Settlement Fund but shall in all other respects be subject to and bound by all the terms and provisions of this Settlement.
- 6.6.4. A Claim shall be deemed to be submitted on the earliest of the date that it is received by the Claims Administrator, or the date when it was posted, if received with a postmark indicated on the envelope and if mailed by first-class mail or a comparable delivery service and properly addressed.
- 6.6.5. Each Class Member submitting a Claim shall be deemed to have submitted to the jurisdiction of the Court with respect to their Claim, and the Claim will be subject to investigation and discovery by the Settling Parties and the Claims Administrator under the Federal Rules of Civil Procedure, provided that such investigation and discovery shall be limited to that Class Member's status as a Class Member and the validity and amount of the Claimant's Claim. No discovery shall be allowed on the merits of this Action or this Settlement in connection with the processing of Claims.

6.7. Eligible Claims.

- 6.7.1. The Claims Administrator shall receive Claims and process them in accordance with this Settlement Agreement and any applicable Court order. The Settling Parties shall reasonably cooperate with

the Claims Administrator to provide information necessary for the Claims Administrator to validate or reject claims. The Claims Administrator shall undertake reasonable efforts to assess whether each Claim is valid pursuant to the terms of this Settlement Agreement and any applicable Court orders. As to each Claim asserting an unrecorded interest in an Eligible Property, the Claims Administrator may require the person submitting such claim to submit an affidavit or declaration setting forth all the factual and legal bases for the asserted unrecorded interest. If a Claim is substantially compliant with the Claim Form but suffers from an immaterial defect, or if additional information is required to validate a claim, then the person submitting such claim shall have a reasonable amount of time to correct such immaterial defect or provide such additional information.

6.7.2. Any Settling Party may seek a determination from the Court as to the validity and/or amount of any Eligible Claim approved by the Claims Administrator against that County. Any Settlement Class Member or Limited Settlement Class Member may dispute the disposition or amount of his, her, their, or its Claim. If the affected Settlement Class Member(s), County/Counties, and Claims Administrator cannot resolve the dispute, then the Court shall resolve it.

6.7.3. The approval and denial of Claims is a matter separate and apart from the Settlement between the Counties and the Plaintiffs, and any decision by the Claims Administrator, the Court, or any appellate court concerning the approval or denial of a Claim shall not affect the validity or finality of the Settlement.

6.8. List of Eligible Claims. The Claims Administrator shall maintain and update a list of Eligible Claims and provide the list to Interim Counsel and the Counties within a reasonable period of the deadline for the submission of Claims and thereafter as may be reasonably requested by the Counties, Interim Counsel, or Class Counsel, or as ordered by the Court.

6.9. Distributions.

6.9.1. No funds from the Settlement Fund shall be distributed until after the Effective Date.

6.9.2. The Settlement Fund shall be used to pay (i) Eligible Claims as provided in Paragraph 9; and (ii) attorney fees as provided by Paragraph 10.

7. Requests for Exclusion.

7.1. Time for Requesting Exclusion. Unless another date is ordered by the Court, Class Members shall have the greater of (a) 120 days from the date of the Court's entry of the preliminary approval order, or (b) 30 days following the filing with the Court of a Fee Petition by Plaintiffs' counsel to be excluded from the Class.

7.2. Information Required. Class Members requesting exclusion from the Class shall be asked to provide the following information to the Claims Administrator in the manner described in the Notice: (i) name; (ii) current mailing address; (iii) telephone number; (iv) address, parcel number, and/or legal description of the Property; (v) County in which the Property is located; (vi) year of post-foreclosure sale of Property (if known); and (vii) a statement that the Class Member wishes to be excluded from the Class. Any request for exclusion must be signed by the person or entity requesting exclusion. Copies of all requests for exclusion received by the Claims Administrator, together with copies of all written revocations, shall be delivered to the Counties and Interim Counsel within three business days of receipt by the Claims Administrator.

7.3. Effect of Exclusion. Class Members who submit valid and timely requests for exclusion in the manner set forth in the previous paragraph shall have no rights under the Settlement, shall not receive any distribution under the Settlement, shall not be bound by the Settlement or any final judgment, and are no longer Class Members from the date the Settlement Administrator receives the request for exclusion.

7.4. Revocation of Exclusion Request. A Person may revoke a request for exclusion within the time provided in Paragraph 7.1 above. Such revocation shall be in writing and submitted to the Claims Administrator.

8. **Objections.** Any Class Member may object to the Settlement by filing with the Court and submitting to Interim Counsel and the County's counsel written objections

postmarked no later than the time provided in Paragraph 7.1. Any objection must be in writing and (1) contain the title of the Lawsuit: “*Fox v. Saginaw County et al.*” with the case number; (2) contain the full name, current address, and telephone number of the person objecting and the address of the Eligible Property at issue; (3) state the reasons for the objection; (4) be accompanied by evidence, briefs, motions, or other materials the Putative Class Member(s) intend(s) to offer in support of the objection; and (5) be signed by the Putative Class Member(s). Any Objection filed by a Class Member who later files a request for exclusion under Paragraph 7 shall be deemed withdrawn.

9. **Settlement Payment.** In consideration for the Settlement and the release and bar order contained in Paragraph 5, each of the Counties shall pay that County’s Settlement Payment into the Settlement Fund. Each County’s Settlement Payment shall be used solely for paying Claims (and associated attorneys’ fees) arising from Eligible Properties located in that County.

9.1. **Timing.** As to each County, the Settlement Payment shall be made within 30 days of the Effective Date.

9.2. **Payments to Class Members.**

9.2.1. *Amount.* Subject to Paragraph 9.2.3, a Settlement Class Member shall be paid an amount equal to 125% of the Surplus Proceeds arising from the sale of an Eligible Property as to which the Settlement Class Member submitted an Eligible Claim during the Claims Period, less any attorney fee awarded by the Court.

9.2.2. *Amount for Limited Settlement Class Members.* Subject to Paragraph 9.2.3, a Limited Settlement Class Member shall be paid an amount equal to 125% of the difference between the Surplus Proceeds arising from sale of a Property as to which the Limited Settlement Class Member submitted a Claim and the amount paid by the County to satisfy the court-ordered payment to any Persons claiming an interest in that Property. A Limited Settlement Class Member shall be deemed to have an Eligible Claim in the amount set forth in this paragraph.

The formula for calculating the Limited Settlement Class Member’s payment can be stated as follows:

1.25 multiplied by (Surplus Proceeds minus court-ordered payments to Persons) equals payment amount

For purposes of illustration, consider the following: A Limited Class Member files a Claim seeking the Surplus Proceeds from a Property that is subject to a Surplus Proceeds Motion. The Surplus Proceeds attributable to the Property total \$100,000. A court rules that the person who brought the Surplus Proceeds Motion is entitled to \$70,000. The payment to the Limited Class Member would be 125% of \$30,000, or \$37,500.

As a formula, the example can be represented as follows:

$$1.25 \times (\$100,000 - \$70,000) = \$37,500$$

9.2.3. *Alternative Amount.* If an Eligible Claim is asserted against a County as to which sum of 125% of Surplus Proceeds arising from Eligible Claims against that County and the Administrative Expenses attributable to that County exceed the County's Maximum Liability, the amount payable to a Settlement Class Member or Limited Settlement Class Member shall be the difference between the County's Maximum Liability and the County's share of the Administrative Expenses, multiplied by a fraction where the numerator is the amount of the Eligible Claim submitted by the Settlement Class Member and the denominator is the sum of the Surplus Proceeds from all Eligible Properties in the County as to which at least one Eligible Claim has been filed.

As a formula, the alternative amount calculation can be stated as follows:

(County's Maximum Liability minus Administration Expenses) multiplied by (Eligible Claim divided by Sum of the Surplus Proceeds for all Eligible Claims) equals Payment

For purposes of illustration, consider the following: A County's Maximum Liability is \$330,000. Its share of the Administration Expenses is \$30,000, and the sum of 125% of all the Surplus Proceeds from all Eligible Properties as to which at least one Eligible Claim was filed is \$400,000. A Settlement Member holds an Eligible Claim for \$100,000. The payment to the Settlement Member would be \$75,000.

As a formula, the example can be represented as follows:

$$(\$330,000 - \$30,000) \times \$100,000 / \$400,000 = \$75,000$$

9.2.4. *Bundled Properties.* An Eligible Claimant whose Claim seeks Surplus Proceeds generated by the sale of Bundled Properties shall hold an Eligible Claim in the amount of the pro rata portion of Surplus Proceeds generated by the sale of the Bundled Properties where the amount of the Claim is multiplied by a fraction where the numerator is the number of Eligible Properties in the Bundled Properties from which the Claim arises, and the denominator is the total number of Eligible Properties in the Bundled Properties.

As a formula, the Bundled Properties calculation can be stated as follows:

Surplus Proceeds multiplied by (Number of Bundled Properties giving rise to Claim divided by Total Number of Eligible Properties that were part of the particular Property Bundle) equals the Eligible Claim's Value

For purposes of illustration, if an Eligible Claimant owned two properties that were sold by a County in a bundle of seven properties generating Surplus Proceeds of \$70,000, the Eligible Claimant would be paid \$20,000.

As a formula, the example can be represented as follows:

$$\$70,000 \times 2/7 = \$20,000$$

9.2.5. *Multiple Owners.* If multiple Class Members jointly owned an Eligible Property when a County foreclosed upon it, any such Class Member may submit a Claim. Payment will be made to all joint-owning Class Members with respect to such Eligible Property through a check made out jointly to all the joint-owning Class Members.

9.2.6. *Heirs.* If a Class Member has died before the Claims Deadline, a Claim can be submitted on behalf of the deceased Class Member subject to Michigan Compiled Laws § 700.3701. Any such claim shall only be made payable to the deceased Class Member's probate estate (unless the claim is properly paid to another Class Member with survivorship rights). If, however, a Petition and Assignment has been entered by a Probate Court, the deceased Class Members claim shall be made payable to the persons or entities designated by the Probate Court in the Order of Assignment.

9.2.7. *Deceased Joint Owners.* If multiple Class Members jointly owned an Eligible Property when a County foreclosed upon it, and one or more of them has died before the Claims Deadline, then Paragraph 9.2.5 shall

apply, except that any deceased joint-owner's probate estate will replace the deceased joint owner unless it is apparent from the face of the governing deed or by the ordinary operation of real property or family law that one or more of the surviving joint owners had survivorship rights with respect to the deceased joint owner's interest in the property, in which case the claims shall be paid accordingly. The Court shall retain jurisdiction to resolve any disputes that arise in the administration of this paragraph.

9.3. Claims Made. The Settling Parties have agreed to a claims-made settlement; any amount of any of the Counties' Settlement Payment which goes undistributed (e.g., unclaimed amounts and uncashed checks) for two years after the Effective Date will revert to the County to which the Settlement Payment is attributable.

10. Attorney Fees and Costs. The Plaintiffs' counsel intend to file a Fee Petition seeking an award of attorney fees and costs, contingent upon Plaintiffs' counsel being appointed Class Counsel.

10.1. Timing. Any Fee Petition must be filed at least 75 days before the end of the Claims Period.

10.2. Payment from Settlement Fund. Any attorneys' fees that are awarded by the Court shall be paid to Class Counsel from the Settlement Fund in accordance with any distribution order entered by the Court.

10.3. Attorney Fees. The Fee Petition shall not seek attorney fees for Class counsel in an amount greater than 20% of the amount to be paid under this Settlement to each Class Member. The attorneys' fees shall be deducted from each Settlement Class Member and Limited Class Member's distribution.

For purposes of illustration, if a Settlement Class Member is entitled to a payment of \$100,000 and the Court approves a 20% attorney fee for Class Counsel, the Settlement Class Member would receive \$80,000, and Class Counsel would receive \$20,000.

10.4. Costs. Plaintiffs' counsel will include in their Fee Petition a request for an award of up to \$25,000 for costs recoverable under federal law. Any costs up to \$25,000 awarded by the Court will be included in the Administration

Costs and shall be paid to Class Counsel by the Counties consistent with Paragraph 9.1.

10.5. Effect of Judicial Action. Failure by the Court to either rule on or approve attorneys' fees and costs in an amount other than that requested in the Fee Petition shall not be grounds for any Party to withdraw from the Settlement, shall not delay the Settlement becoming final, and shall not delay the Effective Date of the releases described above.

11. Effective Date. The Settlement shall be effective only when all the following have occurred:

(1) the Court has entered the preliminary approval order;

(2) the Court has entered the final approval order;

(2) the Court has entered a final judgment and order of dismissal; and

(3) the final judgment and order of dismissal have become final, meaning that the time for appeal or appellate review of the Judgment and Order (and any interlocutory orders merged into the Judgment) has expired or, if there has been an appeal, (a) that the appeal has been decided without causing a material change in the Judgment or the Order of Dismissal, and (b) the Judgment or Order of Dismissal is no longer subject to appellate review by further appeal or writ of certiorari.

12. Termination.

12.1. Court Does Not Approve. If the Court (a) enters an order declining to enter the preliminary approval order in any material respect; (b) refuses to approve this Settlement or any material part of it; (c) declines to enter a Judgment that conforms in all respects the material provisions of this Settlement; or (d) enters the Judgment, but after appellate review, the Judgment is vacated or modified or reversed in any material respect, and further appellate review has either been denied or the time for seeking further appeal has expired; then the Settling Parties each shall have the right to terminate their participation in the Settlement within thirty days of the receipt of such ruling by providing written notice to the other Settling Parties of the election to terminate. Any decision with respect to an application for attorneys' fees or the allocation of the Settlement Fund shall not be considered material to the Settlement and shall not be grounds for termination.

- 12.2. Court-Required Changes to the Settlement Agreement. The preceding paragraph notwithstanding, if the Court conditions its preliminary or final approval of this Settlement on certain changes to the Settlement, the Settling Parties shall consider in good faith such changes and consent to such changes if they do not substantively alter the obligation of the Settling Party. Changes that shall be deemed to substantively change the obligation of a Settling Party include, but are not limited to, changes that affect (a) the requirement that there be a named plaintiff as a class representative for each County; (b) the amount of the Settlement Payment; (c) the scope of the release to be granted; or (d) a provision expressly noted as material in this Settlement. A change shall not be deemed to substantively change the obligation of a Settling Party if it merely alters the wording or appearance of any notice or order or if it reasonably modifies the timing of any contemplated event.
- 12.3. Exclusion Threshold. Any County may terminate its participation in the settlement if Class Members who would otherwise be entitled to participate in the settlement exclude themselves under Paragraph 7 thereby causing either (1) 15% of the total number of that County's Properties to be excluded from the Settlement, or (2) Properties as to which the attributable Surplus Proceeds equal 20% or more of the total Surplus Proceeds received by that County during the Class Period to be excluded from the Class.
- 12.4. Effect of Termination. If the Settlement is terminated in whole, or as to any Plaintiff, County, or Defendant:
- 12.4.1. The Parties (including Sub-Class Representatives) affected by the termination of the Settlement shall be deemed to have reverted to their respective status in this Action as of the date of the filing of the motion for preliminary approval, with all of their respective claims and defenses preserved as they existed on that date, except that all members of the Class shall have been considered to have submitted a notice of intent to make a claim under Michigan Compiled Laws § 211.78t, with the deadline for filing a motion regarding such claim having been tolled during the Settlement's pendency as to all affected parties;
- 12.4.2. As to the terminating parties, except as otherwise expressly provided in this Settlement, the terms of this Settlement shall be null and void and shall have no further force or effect, and neither

the existence nor the terms of this Settlement nor any acts performed pursuant to, or in furtherance of, this Settlement shall be used in this Action or in any other proceeding for any purpose; and

- 12.4.3. Any judgment or order entered by the Court in accordance with the terms of this Settlement shall be treated as vacated *nunc pro tunc* as to the terminating parties.

13. **Amended Complaint.** The Settling Parties stipulate to allow the Plaintiffs here to file an amended complaint to further the implementation of this Settlement. Within 45 days of the execution of this Agreement by the Settling Parties, the Original Plaintiffs shall file a stipulated motion for leave to file an Amended Complaint naming the Sub-Class Representatives as to each County as Plaintiffs.

14. **Additional Parties.** After the stipulated motion in Paragraph 13, the Parties may stipulate to the filing of a revised or further amended complaint adding or removing Plaintiffs to facilitate the inclusion of Persons to serve as Sub-Class Representatives.

15. **Waiver of Service.** The Counties agree to waive service of the Amended Complaint in Paragraph 13 pursuant to Federal Rule of Civil Procedure 4(d). Interim Counsel shall promptly file the waivers of service.

16. **Preliminary Approval.** Within 28 days of the filing of the Amended Complaint, the Parties shall cooperatively facilitate the filing of a non-contested motion for the Court to enter the Preliminary Approval Order giving preliminarily approval to this Settlement; scheduling a hearing for the final approval of this Settlement by the Court; approving the form of notices to the Class; and setting deadlines for requests for exclusion and objections to the Settlement.

17. **Litigation Bar.** Concurrently with the motion for preliminary approval, the Parties will jointly move the Court for an order preliminarily enjoining all Class Members and all persons with actual notice of the injunctive order from participating as class members in any lawsuit in any forum, or otherwise filing, intervening in, commencing, prosecuting, continuing and/or litigating any lawsuit in any forum against any County which falls within the scope of the release in Paragraph 5, except as provided in Paragraph 23.

18. **Other Litigation.** Upon the execution of this Agreement by the Settling Parties, Interim Counsel representing individual plaintiffs in *Proctor v. Saginaw County*

Board of Commissioners, Morris v. County of Montmorency, and *Joanne Smith v. County of Washtenaw*, all pending in the Michigan Court of Appeals, shall promptly file a motion to stay the proceedings in those cases pending final approval of the Settlement. Upon the Effective Date, Interim Counsel representing the plaintiffs in those cases shall promptly obtain the dismissal of those actions. If, however, any of the Counties of Montmorency, Saginaw, or Washtenaw shall not be among the Settling Parties or the Agreement is terminated as to any of those Counties, then this paragraph shall not apply to the respective case pending against that County.

19. **CAFA Notice.** In addition, within 10 days of the motion for preliminary approval of this Settlement being filed with the Court, the Settling Parties shall ensure that notice is given by the Claims Administrator to the Attorney General of the United States and the Michigan Attorney General consistent with 28 U.S.C. § 1715. All relevant approval and court filing dates will be scheduled to ensure compliance with the Class Action Fairness Act. Plaintiffs will cooperate reasonably with the Counties to ensure compliance so that the release described herein is fully enforceable.

20. **Terms of the Judgment.** If this Settlement is approved by the Court, the Settling Parties shall request that the Court enter a Judgment that (a) approves the terms of this Settlement as fair, reasonable, and adequate; (b) provides for the implementation of the terms and provisions of the Settlement; (c) finds that the parties have complied with the requirements of the Class Action Fairness Act of 2005, 28 U.S.C. § 1711 *et seq.*; (e) dismisses the claims of the Plaintiffs and the Settlement Class with prejudice and without costs; (f) permanently enjoins all Settlement Class Members from participating as class members in any lawsuit in any forum, or otherwise filing, intervening in, commencing, prosecuting, continuing and/or litigating any lawsuit in any forum based on the claims released in Paragraph 5; and (g) severs the claims by any Plaintiff against any Defendant that is not a County (i.e. has not joined the Settlement) and any County as to whom the Settlement has been terminated, and severing the claims of any plaintiff in the Action that is not a Class Member if and to the extent such claims have not already been severed at such time.

21. **Release of Attorney's Lien.** Except as otherwise provided in this Settlement, Plaintiffs' counsel waive, discharge, and release the Counties, including the County-Related Persons, from any and all claims for attorney's fees, by lien or otherwise, for legal services rendered by Plaintiffs' counsel related to this Action.

22. **Indemnification by Class Counsel.** If any of Plaintiffs' counsel shall be appointed Class Counsel by the Court, then Class Counsel shall indemnify the

Counties up to \$25,000 for the Counties' actual attorney fees and costs arising from any objection based on Interim Counsel or Class Counsel's communications with Class Members. In the interest of clarity, the total possible liability of Class Counsel to the Settling Counties, in aggregate, is \$25,000 under this paragraph. If there are multiple bases for an objection or multiple objections not all of which trigger Class Counsel's indemnification obligation, Class Counsel is only responsible for fees that are expressly documented as incurred to address the objection triggering Class Counsel's indemnification obligation.

23. Public Act 256 of 2020.

- 23.1. Settlement's Lack of Effect on Statutory Process. Nothing in this Settlement shall affect (positively or negatively) Defendants' administration of or conduct with respect to Public Act 256 of 2020, MCL 211.78t, or any other statute governing, or practice with respect to, real property taxation, foreclosures, or auction proceeds (the "Revised Foreclosure Statutes") except as otherwise specified herein.
- 23.2. Waiver of Notice Deadline. The Counties will not assert the failure of any Person to file a notice of intent to claim surplus proceeds by March 31, 2025, as a basis for denying a Surplus Proceeds Motion.
- 23.3. Class Members' Statutory Claims. Nothing in this Settlement shall prevent a Class Member from pursuing the post-judgment process for claiming "any applicable remaining proceeds from the transfer or sale of foreclosed property" set forth at MCL 211.78t, except that consistent with Paragraphs 3.5.2, if any "claimant" under MCL 211.78t(1) submits a Surplus Proceeds Motion, then all Class Members who claim an interest in that Property are excluded from the Settlement Class with respect to that Property unless such motion is withdrawn before the deadline set forth in Paragraph 3.5.2.3.
- 23.4. Interim Counsel's Challenges in Other Litigation. This Settlement is made without prejudice to any person's arguments with respect to the Revised Foreclosure Statutes in any other fora. Defendants acknowledge that Interim Counsel may make arguments with respect to the Revised Foreclosure Statutes in other cases, including arguments that the Revised Foreclosure Statutes violate the Constitutions of the United States or Michigan; that such arguments, if successful, could impact Defendants' conduct with respect to the Revised Foreclosure Statutes; and that this

Settlement does not impact Interim Counsel's ability to make such arguments in any respect.

23.5. No Payments before October 31, 2025. No County shall pay Surplus Proceeds to any Person who has filed a Surplus Proceeds Motion relating to a Property or consent to an order requiring such a payment before October 31, 2025. If a hearing is scheduled before October 31, 2025 on any Surplus Proceeds motion, the affected County shall undertake reasonable efforts to adjourn the hearing until after October 31, 2025, including informing the applicable court of this class-action settlement and the right of Persons to withdraw a Surplus Proceeds Motion to participate in this Settlement.

24. **Counsel to Prepare Additional Documents.** In lieu of the Settling Parties including as exhibits to this Agreement the various motions, notices, orders, and claims form identified in this Agreement, the Settling Parties delegate to their respective counsel the authority to prepare, negotiate, and approve those documents on behalf of the Settling Parties with any disagreements that the parties cannot resolve among themselves to be submitted for resolution by the Court or, if the Settling Parties' counsel agree, to Mr. Silver in a manner consistent with the settlement administrator issue in Paragraph 6.1.3.

25. **Miscellaneous Provisions.**

25.1. Final & Complete Resolution. The Parties intend this Settlement to be a final and complete resolution of all of Plaintiffs' Released Claims against all Counties. Except as otherwise provided in this Settlement, each Party shall bear its own costs.

25.2. Modification & Waiver. This Settlement, including any exhibits attached to this Settlement, may not be modified or amended, nor may any of its provisions be waived, except by a writing signed by or on behalf of all Parties or by the Court as otherwise provided herein. The waiver by any Party of any breach of this Settlement by any other Party shall not be deemed a waiver of that breach by any other Party, nor shall it be deemed a waiver of any other breach of this Settlement by that Party or any other Party.

25.3. Extensions. Without further order of the Court, the Parties may agree to reasonable extensions of time to carry out any of the provisions of this Settlement.

- 25.4. Paragraph Headings. The paragraph headings in this Settlement are used for the purpose of convenience only and are not meant to have any legal effect upon the construction or interpretation of any part of this Settlement.
- 25.5. Court Retains Jurisdiction. The administration and consummation of this Settlement shall be under the authority of the Court, and the Court shall retain jurisdiction for the purpose of implementing and enforcing the Settlement including, without limitation, the Plaintiffs' releases and any awards of attorneys' fees to Class Counsel. The Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing this Settlement. To the extent the Court lacks jurisdiction to enforce this Settlement for any reason, an action to enforce the Settlement may be brought in the circuit court for any County which is seeking to enforce the Settlement or against which enforcement is sought.
- 25.6. Integration. This Settlement and any attached exhibits constitute the entire agreement among the Parties concerning this Settlement. No representations, warranties, or inducements have been made by or to any Party concerning this Settlement and any attached exhibits other than those contained and memorialized in the Settlement and any attached exhibits. This Settlement supersedes any and all earlier statements, representations, promises or other agreements, written or oral, with respect to the subject matter of this Settlement.
- 25.7. Assumption of Risk. It is understood by the Parties that, except for the matters expressly represented herein, the facts or law with respect to which this Settlement is entered into may turn out to be other than or different from the facts and law now known to each Party or believed by such Party to be true. Accordingly, each Party assumes the risk of the facts or law turning out to be different and agrees that this Settlement shall be in all respects effective and not subject to termination by reason of any such different facts or law except as otherwise expressly provided herein.
- 25.8. Severance. If any provision of this Settlement is held to be unenforceable for any reason, the unenforceability thereof shall not affect any other provisions of this Settlement except as provided in Paragraph 12.
- 25.9. Counterparts. This Settlement may be executed in one or more original or electronic counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Counsel for each Party will

maintain their own respective original signature pages. A complete set of executed counterparts shall be filed with the Court.

25.10. Governing Law. This Settlement shall be governed by the laws of the State of Michigan without regard to conflicts of laws except to the extent that federal law requires that federal law govern.

25.11. Construction. This Settlement shall not be construed more strictly against any Party than another merely because the Settlement, or any part of it, may have been prepared by counsel for the Party.

25.12. Authority. All counsel and any other person executing this Settlement and any exhibits attached to this Settlement warrant and represent that they have the full authority to do so and that they have the authority to take the appropriate action required or permitted to be taken pursuant to the Settlement to effectuate its terms.

25.13. Cooperation. The Parties agree to cooperate fully in seeking Court approval of the preliminary approval order and the Settlement, and to use reasonable efforts to promptly agree upon and execute all such other documentation as may be reasonably required to obtain final approval by the Court of the Settlement.

25.14. Notice. If any Party is required to give notice to other Parties under this Settlement, such notice shall be in writing and shall be deemed to be duly given upon receipt by hand delivery or electronic mail. Notice shall be provided to counsel indicated on the signature block below.

The Parties have caused this Settlement to be executed by their duly authorized representatives.

EXHIBIT 3

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

Fox et al. v. County of Saginaw et al., Case No. 1:19-CV-11887

Hon. Thomas L. Ludington, United States District Judge

CLASS ACTION SETTLEMENT NOTICE

**A FEDERAL COURT AUTHORIZED THIS NOTICE. THIS IS NOT A
LAWYER'S SOLICITATION.**

Date of Notice:

**Because You Have Had Property Foreclosed Upon for Non-Payment of
Property Taxes in One of the Following Counties:**

**Alcona, Alpena, Arenac, Bay, Clare, Crawford, Genesee, Gladwin,
Gratiot, Huron, Isabella, Jackson, Lapeer, Lenawee, Macomb, Midland,
Montmorency, Ogemaw, Oscoda, Otsego, Presque Isle, Roscommon,
Saginaw, Sanilac, St Clair, Tuscola, and Washtenaw,**

**You Have Been Identified as a Potential Member of a Class Action and
You May be Entitled to Payment from a Settlement**

- A settlement (the “Settlement”) has been proposed in the class-action lawsuit referenced above pending in the United States District Court for the Eastern District of Michigan (the “Federal District Court” or simply the “Court”). The plaintiffs and all those similarly situated are the “Plaintiffs” and Saginaw County and the other Counties are the “Defendants” or the “Counties.”
- This class action alleges that the Counties violated Plaintiffs’ rights by failing to give Plaintiffs the proceeds from the sale of the tax-foreclosed properties formerly owned by Plaintiffs that exceeded the unpaid taxes, fees, and other costs associated with those properties. These claims have become known as “surplus-proceeds claims.”

- The Counties deny that they have done anything wrong in part because the Michigan statute that governed property taxes under which the properties were foreclosed did not authorize the Counties to return the surplus funds. The Counties have defended themselves.
- The Court has not decided who is right. Both sides have agreed to settle the dispute to avoid further burdensome and costly litigation. The Settlement offers settlement payments to members of the Settlement Class who file claims.
- The proposed Class consists of the following:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in any County which Property, that during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom the County did not refund the Surplus Proceeds.

- You are being sent this Notice as a potential Class Member or heir of a potential Class Member and may be entitled to participate in the proposed Settlement. Your rights and options are identified in this Notice, along with deadlines to act.
- The Court has appointed “Interim Counsel” who negotiated the settlement for the Plaintiffs and who are available to help you, as detailed below.
- Further information regarding the Class, the Class Action, and this Notice may be obtained by contacting the Claims Administrator, RG2 Claims Administration, LLC by visiting the class-action website at **INSERT** or by telephone at **INSERT**.
- **Your legal rights are affected whether you act or not. Read this Notice carefully.**

YOUR LEGAL RIGHTS AND OPTIONS	
SUBMIT A CLAIM FORM BY DATE	If you are a member of the Class or an heir to a Class Member, you must submit a completed Claim to be eligible to receive a Settlement Payment. You may do so online at INSERT .
EXCLUDE YOURSELF BY DATE	You may request to be excluded from the Settlement, and if you do, you will not receive a Settlement Payment. The deadline to exclude yourself from the Settlement is DATE , with the possibility of an extension beyond that date as detailed below. Excluding yourself from the Settlement is usually the only way to retain your right to sue Defendants on your own over the claims alleged in the lawsuit.
EXCLUDE YOURSELF BY FILING A SURPLUS PROCEEDS MOTION BY OCTOBER 1, 2025	If you are a member of the Class, then you also have the right to pursue a claim for surplus proceeds in the Michigan court case where the property you owned was foreclosed. You may do so by filing a surplus-proceeds motion by October 1, 2025, using the Michigan Supreme Court approved motion form CC 541. If you file a surplus-proceeds motion and do not withdraw it before October 31, 2025, you will not receive a Settlement Payment under this Settlement (but you may receive surplus proceeds in the Michigan state court case). For more information, see the discussion of Public Act 256 proceedings below.
OBJECT BY DATE	You may write to the Court and comment on the Settlement. If you object, you are still eligible to file a claim for benefits under the Settlement. Instructions on how to object to the Settlement are contained later in this Notice.

GO TO THE FAIRNESS HEARING	The Court has scheduled a hearing to evaluate the fairness of the Settlement and Lead Counsel’s request for attorneys’ fees and reimbursement of costs to take place on DATE , at xx:00 a/p.m. (the “Fairness Hearing”). You may attend the hearing at your own expense, but it is not necessary. You may ask to speak in court about the fairness of the Settlement if you did not exclude yourself as detailed below.
DO NOTHING	You will not receive a Settlement Payment if you fail to timely submit an Eligible Claim and you will give up your right to bring your own lawsuit about the claims in this case, but you will still be bound by all decisions the Court makes in this matter addressing these claims.

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Federal District Court in charge of this case still must decide whether to approve the Settlement. If it does, and after any appeals are resolved, Settlement Payments will be distributed to those who submit Eligible Claims. Please be patient.

IMPORTANT INFORMATION

1. Why did I receive this Notice?

The Court authorized this Notice because you have a right to know about a proposed Settlement of a class action lawsuit. You have legal rights and options that you may exercise before the Court decides whether to give final approval to the Settlement, as described below.

2. What is this lawsuit about?

Thomas Fox and others (the “Plaintiffs”) allege that Defendants violated their rights by failing to give Plaintiffs the proceeds from the sale of the tax-foreclosed properties formerly owned by Plaintiffs that exceeded the unpaid taxes, fees, and other costs associated with those properties. These claims have become known as “surplus-proceeds claims.” Defendants have contested Plaintiffs’ allegations.

3. Are filed papers in this lawsuit available?

This Notice does not fully describe all the claims, contentions, and defenses of the parties. For additional information about the claims, arguments, and history of the case, you may view the pleadings and other important documents filed in the case at **INSERT**. The complete docket or court file can be reviewed via the Court’s electronic docket known as PACER at www.mied.uscourts.gov, but you must register for an account and pay fees to review filings. You may also review the docket online for free by visiting any of the Court’s locations. The addresses and rules governing courthouse entry are also available at mied.uscourts.gov. The title of this case is *Thomas A. Fox v. County of Saginaw, by its Board of Commissioners, et al.*, No. 1:19-CV-11887.

4. Why is this a class action?

In a class action, one or more people called “class representatives” sue on behalf of a group of people who may have similar claims. The people together are a “class” or “class members.” The individuals who sue—and

all the class members like them—are called the plaintiffs. The entities that they sue (in this case, 27 counties in the eastern half of Michigan’s lower peninsula) are called the “Defendants.” In a class action, the Court resolves the issues for all class members, except for those who exclude themselves from the class.

The Court has determined that it is likely that the Court will be able to permit this case to be “certified” as a class action to put the settlement into effect.

The Defendants are the following counties: Alcona, Alpena, Arenac, Bay, Clare, Crawford, Genesee, Gladwin, Gratiot, Huron, Isabella, Jackson, Lapeer, Lenawee, Macomb, Midland, Montmorency, Ogemaw, Oscoda, Otsego, Presque Isle, Roscommon, Saginaw, Sanilac, St Clair, Tuscola, and Washtenaw.

5. Why is there a Settlement?

The Court has not found in favor of Plaintiffs or Defendants. Instead, the Parties have agreed to a Settlement. By agreeing to the Settlement, the Parties avoid the costs and uncertainty of a trial, and if the Settlement is approved by the Court, the Settlement Class will receive the benefits described in this Notice. Defendants contest Plaintiffs’ claims in this case but are settling to avoid the uncertainties and costs attendant with litigation.

6. Who is included in the Class?

As noted above, the Court has certified a Class consisting of former property owners, defined by the Court as follows:

All Persons, and the estate of such persons if they are bankrupt or deceased, that owned a Property in fee simple in any County which Property, that during the Class Period (i.e. January 1, 2013 through December 31, 2020), was foreclosed through a real property tax foreclosure and sold at tax auction for more than the Minimum Sale Price, and to whom the County did not refund the Surplus Proceeds.

In lay terms, you are probably a member of the class if, between the beginning of 2013 and the end of 2020, one of the participating counties foreclosed on property that you owned because you did not pay all of the property taxes due on the property and sold it for more than you owed in taxes and associated fees.

The counties participating in the proposed settlement are Alcona, Alpena, Arenac, Bay, Clare, Crawford, Genesee, Gladwin, Gratiot, Huron, Isabella, Jackson, Lapeer, Lenawee, Macomb, Midland, Montmorency, Ogemaw, Oscoda, Otsego, Presque Isle, Roscommon, Saginaw, Sanilac, St Clair, Tuscola, and Washtenaw.

Again, you are receiving this notice because public records indicate that you are a class member.

If you are still not sure whether you are included in the Class, you may ask for help. Please contact the Claims Administrator at **INSERT**.

THE SETTLEMENT BENEFITS

7. What does the Settlement provide?

Each Class Member who submits a valid claim will usually receive 125% of the surplus proceeds from the sale of the property less the amount the court awards to cover attorney's fees and costs.

This payment may be reduced under certain circumstances. For example, as discussed below, if someone else with an interest in the property you owned before the foreclosure pursues relief under Public Act 256, you might receive nothing under the settlement and be required to seek any compensation through the Public Act 256 process. Under some circumstances, though, even if someone else with an interest in your former property files a motion to claim surplus proceeds under Public Act 256, you might still be able to recover a limited amount under this settlement. So, if you want to participate in the Settlement, it will usually make sense for you to make a settlement claim even if you know that someone else is bringing a Public Act 256 claim with respect to your former property.

If an unexpectedly large volume of claims are made against the county that foreclosed on your former property, your recovery may be reduced.

In exchange for whatever settlement payment you receive, you will give up any rights to seek further money from the county regarding the issues in this case.

8. How do I file a claim?

To qualify for a Settlement Payment, you must complete and submit a Claim. You can file your Claim online at **INSERT** send it by U.S. Mail to: **TIME** on **DATE**.

If you decide to submit a claim, please read the claim form carefully and provide all the information required.

9. When will I receive my Settlement Payment?

Settlement Payments to Class Members will be made only after the Court grants final approval to the Settlement and after any appeals are resolved (see “Fairness Hearing” below). If there are no appeals, the process of providing notice, reviewing claims, obtaining final court approval, and distributing the settlement proceeds will take at least nine

months. If there are any appeals, resolving them will take additional time. Please be patient.

EXCLUDING YOURSELF FROM THE SETTLEMENT

10. How do I get out of the Settlement?

If you do not wish to be eligible for a Settlement Payment, and you want to keep the right to sue Defendants on your own about the legal issues in this case, then you must take steps to get out of the Settlement. This is called excluding yourself – or it is sometimes referred to as “opting-out” of the Class.

There are two ways that you can exclude yourself from the Settlement. *First*, you can exclude yourself from the Settlement by sending a timely letter by mail to: [REDACTED].

Your request to be excluded from the Settlement must include the following: (i) name; (ii) current mailing address; (iii) telephone number; (iv) address, parcel number, and/or legal description of the Property; (v) County in which the Property is located; (vi) year of post-foreclosure sale of Property (if known); and (vii) a statement that you wish to be excluded from the Class.

It is likely that your exclusion request must be postmarked by **DATE**. However, if Interim Counsel asks the Court to award it attorneys' fees and/or expense reimbursements after **DATE MINUS 30 DAYS**, then your deadline will be extended until the date 30 days after Interim Counsel files its request; you should review the website **INSERT** to see when the request is filed.

Second, you can exclude yourself by filing a motion to claim surplus proceeds under Public Act 256. The motion must be filed in the Michigan circuit court case where the property you owned was foreclosed upon. You

must file your motion by no later than October 1, 2025 and serve a copy on the county treasurer.

If you file a surplus-proceeds motion and decide that you would rather participate in the Settlement, you must withdraw your motion before October 31, 2025.

For more information about surplus-proceeds motions, see the discussion of Public Act 256 proceedings below.

You cannot ask to be excluded on the phone, by email, or at the website. Opt-outs must be made individually and cannot be made on behalf of other members of the Class.

Unless you exclude yourself or “opt-out” you will likely be a member of the Settlement Class.

11. If I do not exclude myself, can I sue the Defendants for the same thing?

No. Unless you exclude yourself, you give up the right to sue Defendants for the claims that the Settlement resolves. You must exclude yourself from this Settlement to pursue your own lawsuit.

12. What am I giving up by staying in the Class?

Unless you opt-out of the Settlement, you cannot sue or be part of any other lawsuit against Defendants about the issues in this case, including any existing litigation, arbitration, or proceeding. Unless you exclude yourself, all of the decisions and judgments by the Court will bind you.

The Settlement Agreement is available at **INSERT**. The Settlement Agreement provides more detail regarding the Release and describes the Released Claims with specific descriptions in necessary, accurate legal terminology, so read it carefully.

13. If I exclude myself, can I still get a Settlement Payment?

No. You will not get a Settlement Payment from the Settlement if you exclude yourself from the Settlement.

THE LAWYERS

14. Do I have a lawyer who can help me in the case?

Yes. The Court has approved the appointment of E. Powell Miller of The Miller Law Firm, P.C. and Philip L. Ellison of Outside Legal Counsel PLC as Interim Counsel. Throughout this Notice, they are referred to as “Interim Counsel.” Interim Counsel negotiated the proposed settlement on behalf of the Plaintiffs.

You may contact Interim Counsel by email at Class-Action@TaxEquity.net or by telephone at 1-800-706-5790.

15. Should I get my own lawyer?

You are not required to hire your own lawyer. If you want to hire your own lawyer, you certainly can, but you will have to pay that lawyer yourself. If you do hire your own lawyer, they may enter an appearance for you and represent you individually in this case.

16. How will the lawyers be paid?

You do not have to pay Interim Counsel, or anyone else, out of pocket to participate in the settlement. Instead, Interim Counsel intend to apply to the Court for a fee award, which amount shall be deducted from each Settlement Class Member’s distribution. Interim Counsel intends to seek a fee in the amount of 20 percent, plus reimbursement for the costs they have incurred up to a total of \$25,000. The costs will be paid by the Defendants and not deducted from each Class Member’s distribution.

OBJECTING TO THE SETTLEMENT

17. How do I tell the Court if I do not like the Settlement?

If you are a member of the Class (and do not exclude yourself from the Class), you can object to any part of the Settlement by sending a timely letter by mail to: [REDACTED] or by filing it directly with the Court.

Any objection must be in writing and include the following

- (1) The title of the Lawsuit: "*Fox v. Saginaw County et al.*";
- (2) Your full name, current address, and telephone number;
- (3) The address of the Eligible Property you formerly owned;
- (4) The reasons for the objection;
- (5) Any evidence, briefs, motions, or other materials you intend to offer in support of the objection; and
- (6) be signed by you or your counsel.

The applicable Federal Rule of Civil Procedure, Rule 23, may impose additional requirements for objections.

Any objection must be postmarked by [REDACTED].

18. What is the difference between objecting and asking to be excluded?

Objecting is telling the Court that you do not like something about the Settlement. You can object to the Settlement only if you do not exclude yourself. Excluding yourself is telling the Court that you do not want to be part of the Settlement. If you exclude yourself, you have no basis to object to the Settlement because it no longer affects you. If you submit an objection, and then later exclude yourself from the settlement, your objection will be deemed withdrawn.

THE FAIRNESS HEARING

19. When and where will the Court decide whether to approve the Settlement?

The Court has scheduled a Fairness Hearing at **TIME** on **DATE**, at the United States District Court for the Eastern District of Michigan, Northern Division, 1000 Washington Ave., Bay City, MI 48708.

The hearing may be moved to a different date or time without additional mailed notice, so it is a good idea to check **INSERT** for updates periodically.

At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will also consider the requests by Interim Counsel for attorneys' fees and costs. If there are objections, the Court will consider them at that time. After the hearing, the Court will decide whether to approve the Settlement. It is unknown how long the Court will deliberate before it issues these decisions.

20. Do I have to attend the hearing?

No. Interim Counsel will answer any questions the Court may have. You are welcome to attend the hearing at your own expense.

21. May I speak at the hearing?

If you attend the Fairness Hearing, you may ask the Court for permission to speak if you have timely objected and you so choose. However, you cannot speak at the hearing if you exclude yourself from the Settlement.

22. Public Act 256

In December 2020, Michigan enacted a new law called Public Act 256 of 2020, or "Public Act 256." It provides a procedure by which you may be able to recover the surplus proceeds generated by the sale of the property you formerly owned. The specific statute governing the motion process to

make a claim for surplus proceeds in Michigan Compiled Laws § 211.78t(6).

Under Public Act 256, any person with an interest in a property at the time that it was foreclosed can claim the surplus proceeds. Public Act 256 provides that a claimant can recover up to 95% of the proceeds from the sale of a tax-foreclosed property that exceed the unpaid taxes, fees, and other costs.

To make a claim for surplus proceeds under Public Act 256, you need to file a motion in the Michigan circuit court action in which your property was foreclosed. You can obtain the case name, case number, and a link to the state-court approved motion form from the County Treasurer's office in the county where the property you formerly owned is located.

If you are pursuing a Public Act 256 claim, you might want to hire your own lawyer at your own expense. Interim Counsel will not pursue a Public Act 256 claim for you.

If you decide to pursue the recovery of surplus proceeds through the Public Act 256 process, you must file your motion by no later than October 1, 2025.

If the court grants the motion for surplus proceeds and there are no appeals, distribution of the surplus proceeds will take at least two months. If there are any appeals, resolving them will take additional time.

23. Can I pursue the Public Act 256 process and get paid under the Settlement?

No. If you file a motion to claim surplus proceeds under Public Act 256 and do not withdraw that motion by October 31, 2025, you will be excluded from the Settlement.

24. If I have already filed a motion under Public Act 256, can I switch to participate in the Settlement?

Yes. If you have begun the Public Act 256 process, you can switch to making a claim under the settlement. If you have filed a motion for Public Act 256 proceeds, you will need to withdraw it by October 31, 2025 to make a claim under this Settlement. Otherwise, you will be treated as if you have opted out of the Settlement. Interim Counsel can assist you with this process if you are not already represented by counsel.

IF YOU DO NOTHING

25. What happens if I do nothing at all?

If you are a member of the Class and do nothing, meaning you do not file a timely Claim, you will **not** get a Settlement Payment. Further, unless you exclude yourself, you will be bound by the judgment entered by the Court.

OTHER ISSUES

26. What if the owner of the property at the time of the foreclosure is deceased?

If person who owned the property at the time of the foreclosure is deceased, his or her probate estate may be eligible to receive any distribution that the Court requires be paid by Defendants.

GETTING MORE INFORMATION

27. How do I get more information?

To obtain more information, contact the Claims Administrator toll-free at 1- or write to the Claims Administrator at . For a complete, definitive statement of the Settlement terms, refer to the Settlement Agreement at INSERT.

Please do not contact the Court with questions. Any questions regarding the Class Action or this Notice should be directed to Interim Counsel.

EXHIBIT 4

CLAIM FORM

Thomas Fox; et al. (and others) v. County of Saginaw, et al. (and others)
United States District Court for the Eastern District of Michigan
Case No. 19-cv-11887

**THIS FORM MUST BE POSTMARKED OR SUBMITTED ONLINE AT
WWW. [REDACTED] NO LATER THAN CLAIM DEADLINE.**

1. Contact Information

First Name / Entity Name MI Last Name

Address Line 1

Address Line 2

City State Zip

Telephone Number

Email Address

Unique ID (found on your notice)

2. Foreclosed Property Information

Address Line 1

Address Line 2

City State Zip

County

Foreclosure Year

Tax Identification Number

3. Claim Type

Which statement best describes your claim?

☐ I held an ownership interest in a property foreclosed upon for nonpayment of real property taxes between January 1, 2013 and December 31, 2020.

☐ I held a joint ownership interest in a property foreclosed upon for nonpayment of real property taxes between January 1, 2013 and December 31, 2020. The other joint owner(s) is/are:

First Name / Entity Name

MI

Last Name

Address Line 1

Address Line 2

City

State

Zip

Telephone Number

Email Address

First Name / Entity Name

MI

Last Name

Address Line 1

Address Line 2

City

State

Zip

Telephone Number

Email Address

Please attach additional pages if necessary.

☐ I am the heir to a person, now deceased, that held an ownership interest in a property foreclosed upon for nonpayment of real property taxes between January 1, 2013 and December 31, 2020; I am authorized to act on behalf of such an owner or such an owner's estate (for example, I am a bankruptcy trustee, conservator, guardian *ad litem*, or I am acting under a power of attorney); or I am otherwise the successor to such an owner. If you select this, please provide the legal name of the Person that held the interest below and your relationship to that Person below.

First Name

MI

Last Name

Relationship to Property Owner

4. Previous Names

Previous names that you have used that may be associated with your property:

First Name

MI

Last Name

First Name

MI

Last Name

5. Other

- Please attached any documents that show proof of your interest in the property at the time of foreclosure, such as deeds, tax bills, mortgages, and utility bills.
- If the property was owned by a trust, a Certificate of Trust must be enclosed.
- If you are submitting this claim on behalf of a deceased person, the person submitting the claim must be a beneficiary or heir of the deceased person.
- If you are a court-appointed designee such as a bankruptcy trustee, receiver, conservator, or guardian *ad litem*, please identify the court that appointed you and provide a case number.
- If you are acting under a power of attorney, please attach it.

6. What if I have questions about the Settlement or this claim form?

To obtain more information, contact the Claims Administrator toll free at XXX-XXX-XXXX or write to the Claims Administrator at ADDRESS. For a complete, definitive statement of the Settlement terms, refer to the Settlement Agreement at www.taxequity.net.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THE SETTLEMENT OR THE CLAIM PROCESS.

7. Is there a deadline for submitting this claim form?

Yes. Claim forms must be postmarked no later than CLAIM DEADLINE.

8. Where do I submit my completed claim form?

Complete claim forms and all additional documentary information should be mailed, post prepaid, or hand delivered to:

NAME
ADDRESS

In the alternative, you may complete a version of this form online, and submit the necessary documents, at the website www..

Please keep a complete copy of your claim form for your records.

9. Released Claims

Unless you exclude yourself from the settlement, you are releasing the following “released claims” you may have against the county that foreclosed your property which are: “any

and all claims, demands, rights, liabilities, suits, debts, obligations, and causes of action of every nature and description whatsoever, known or unknown, in law or in equity, based on state or federal law, the United States Constitution, or the Michigan Constitution that the Class Representative, Sub Class Representatives, or any other Class Members asserted or could have asserted in the Action against any County or County-Related Persons in any way relating to or arising from any Eligible Property, the General Property Tax Act, or the forfeiture, foreclosure, or sale of real property, relating to the collection of unpaid property taxes.”

10. Verification

I declare under the penalties of perjury pursuant to the laws of the United States and the laws of my state of residence that the information supplied in this claim is true and correct to the best of my knowledge and that this claim was executed on the date set forth below. I understand that I may be asked to provide additional information before my claim will be considered.

Signature

Date

Printed Name

EXHIBIT 5

DEFENDANT APPROVALS
As of August 5, 2025

Already Approved

1. Alpena
2. Gladwin
3. Lapeer
4. Macomb
5. Tuscola
6. Clare

Scheduled Before August 19

1. Alcona
2. Bay
3. Crawford
4. Genessee
5. Huron
6. Isabella
7. Jackson
8. Lenawee
9. Montmorency
10. Ogemaw
11. Oscoda
12. Otsego
13. Presque Isle
14. Roscommon
15. Saginaw
16. Sanilac
17. St. Clair
18. Washtenaw

Scheduled For August 19

1. Gratiot
2. Midland