

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

**ST. CLARE ROSENBERG, WAYNE  
ANDERSON, CHARLES  
WASHINGTON, and EDWARD  
ANDERSON, individually and on behalf  
of a class of all other persons similarly  
situated**

Plaintiffs,

v.

**IKON OFFICE SOLUTIONS, INC.**

Defendant

Civil Action No. 05-CV-9131 (PAC)

**SETTLEMENT AGREEMENT**

This Settlement Agreement and Release (“Agreement”) is entered into between Plaintiffs St. Clare Rosenberg, Wayne Anderson, Charles Washington, and Edward Anderson (the “Named Plaintiffs”), as well as Levone Sonee-Myricks (“Mr. Sonee-Myricks”) (the Named Plaintiffs and Mr. Sonee-Myricks are hereafter collectively referred to for purposes of this Settlement Agreement as “Class Representatives”), as representatives of the plaintiff class described herein, all of whom are represented by their attorneys Sanford, Wittels & Heisler, LLP, and defendant IKON Office Solutions, Inc. (“IKON” or “the Defendant”), which is represented by its attorneys Morgan, Lewis & Bockius LLP.

**I. DEFINITIONS**

The terms set forth below shall have the meanings defined in this Section wherever used in this Agreement and in all of its exhibits, including the Notice of Settlement and Opportunity to Participate or Opt-out and the Claim Form.

1.1 The “Civil Action” means the above-captioned action.

1.2 For purposes of this Agreement, the class is defined as all African-American individuals employed by the Defendant between January 1, 2001 and December 31, 2005 (the "Relevant Period") in the Legal Document Services ("LDS") or IKON Management Services ("IMS") business units in New York State (together the "Proposed Class Members" and each a "Proposed Class Member"). The Class Representatives and the Defendant (the "Parties") agree that they will prepare and agree upon a list of all Proposed Class Members. Any dispute as to the content of the list will be resolved by the Court.

1.3 "Claims Administrator" means RG/2 Claims Administrator LLC, which has a Philadelphia office at 30 South 17th Street, Philadelphia, PA 19103, phone: 215.979.1620, fax: 215.979.1695.

1.4 The "Court" means the U.S. District Court for the Southern District of New York.

1.5 "Class Counsel" means the law firm of Sanford, Wittels & Heisler, LLP.

1.6 "Class Representatives" means St. Clare Rosenberg, Wayne Anderson, Charles Washington, Edward Anderson, and Levone Sonee-Myricks.

1.7 "Counsel for IKON" or "Counsel for Defendant" means the law firm of Morgan, Lewis & Bockius LLP.

1.8 "Covered Position" means any position in IKON's Legal Document Services ("LDS") or IKON Management Services ("IMS") business units located in New York State.

1.9 "Defendant" and the "Company" mean IKON Office Solutions, Inc.

1.10 "Effective Date" means the date upon which all of the following have occurred: (1) entry of an order by the Court certifying the Settlement Class, (2) entry of an order or orders by the Court granting final approval to the Agreement, approving the amount of attorneys' fees and costs and dismissing this action in accordance with its terms, (3) the appeal period (i.e., 30 days) has run without an appeal of any Court order, or in the event of an appeal, the Parties have received actual notice that the settlement has received final approval after the completion of the appellate process, and (4) the period for IKON to withdraw from the Agreement (i.e., 30 days

from the Claims Administrator's receipt of all timely and complete requests for exclusion submitted by a Class Representative and/or Proposed Class Member has run.

1.11 "Named Plaintiffs" means St. Clare Rosenberg, Wayne Anderson, Charles Washington, and Edward Anderson.

1.12 The "Parties" means the Class Representatives and Defendant.

1.13 The "Plan of Allocation" means the pro rata allocation of the Settlement Fund to Qualified Claimants in accordance with: (1) the number of months in a Covered Position during the Relevant Time Period and (2) the terms of this Agreement.

1.14 The "Preliminary Approval Order" means the Order entered by this Court preliminarily approving the terms of this Agreement and the Plan of Allocation, certifying the Settlement Class, approving the payments of attorneys' fees, attorneys' costs, the Service Payment, and the Supplemental Payment as set forth in this Agreement, scheduling a fairness hearing, and directing the mailing to the Settlement Class of the Notices of Settlement and Opportunity to Participate or Object and the Claim Forms.

1.15 "Released Claims" means any and all race discrimination claims of whatever nature against IKON, which a Settlement Class Member may have against any of the Released Parties, whether known or unknown, as a result of actions or omissions during the period from January 1, 2001 through and including the date of Final Approval by the Court of the Settlement Agreement, whether under federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law (including but not limited to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000(e), et seq., 42 U.S.C. § 1981, New York Human Rights Law, New York Executive Law § 296, subd. 1(a), and New York City Administrative Code §8-107, subd.1(a)), including but not limited to any and all claims for discrimination, harassment and retaliation, interest, attorneys' fees, injunctive relief, or penalties related to any and all alleged unlawful discrimination.

1.16 "Relevant Period" or "Relevant Time Period" means January 1, 2001 to December 31, 2005.

1.17 “Released Parties” means the Defendant IKON Office Solutions, Inc., its subsidiaries and affiliated companies, and, in the case of all such companies, their respective owners, representatives, officers, directors, employees, attorneys, agents, shareholders, members, predecessors, successors and assigns, and insurers.

1.18 “Qualified Claimant” means each member of the Settlement Class who is entitled to receive a Settlement Share.

1.19 “Settlement Class” means all African-American individuals employed by Defendant in Covered Positions between January 1, 2001 to December 31, 2005, who do not timely opt-out of the settlement pursuant to the terms of the Preliminary Approval Order (together the “Settlement Class Members” and individually each a “Settlement Class Member”).

1.20 “Settlement Fund” means the amount of One Million Two Hundred Seventy Five Thousand Dollars (\$1,275,000.00).

1.21 “Settlement Share” means each Qualified Claimant’s total share of the Settlement Fund based upon the terms of this Agreement and the Plan of Allocation.

## **II. RECITALS**

2.1 On October 26, 2005, a complaint was filed by St. Clare Rosenberg and Wayne Anderson IKON in the United States District Court for the Southern District of New York. On August 3, 2006, a First Amended Complaint was filed by St. Clare Rosenberg, Wayne Anderson, Charles Washington, and Edward Anderson (the “Named Plaintiffs”) against IKON (hereafter the “Civil Action”). In the action the Named Plaintiffs sought injunctive relief, reinstatement, wage adjustments, compensatory damages, punitive damages, back pay, front pay, and job benefits for themselves and similarly situated employees.

2.2 On or around February 13, 2007, Levone Sonee-Myricks (“Mr. Sonee-Myricks”) filed a charge with the Equal Employment Opportunity Commission (“EEOC”), alleging that he was denied promotional opportunities, and was subjected to retaliation and racial harassment. Mr. Sonee-Myricks and the Named Plaintiffs are collectively referred to as the “Class Representatives.”

2.3 After extensive analysis and deliberation, the Class Representatives and Class Counsel are of the opinion that the settlement set forth in this Agreement is fair, reasonable, and adequate and is in the best interest of the Settlement Class in light of all known facts and circumstances, including the risk of significant delay, defenses asserted by Defendant, and potential appellate issues.

2.4 It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge all disputes and claims arising from or related to the Civil Action which exist between them.

2.5 It is the intention of the Parties that this Agreement shall constitute a full and complete settlement and release of all Released Claims against all Released Parties.

2.6 Defendant denies any liability or wrongdoing of any kind associated with the claims alleged in the Civil Action.

2.7 This Agreement is a compromise and shall not be construed as an admission of liability at any time or for any purpose, under any circumstances, by the Parties or the Released Parties. The Parties further acknowledge and agree that neither this Agreement nor the Settlement shall be used to suggest an admission of liability in any dispute the Parties may have now or in the future with respect to any person or entity. Neither this Agreement nor anything in it, nor any part of the negotiations that occurred in connection with the creation of this Settlement, shall constitute evidence with respect to any issue or dispute in any lawsuit, legal proceeding, or administrative proceeding, except for legal proceedings concerning the enforcement or interpretation of this Agreement.

### **III. THE SETTLEMENT FUND**

3.1 To settle all claims on behalf of the Class Representatives and Settlement Class Members, IKON shall establish a settlement fund in the amount of One Million Two Hundred Seventy Five Thousand Dollars (\$1,275,000.00) for payment of claims to Qualified Claimants, subject to the provisions in this Section 3.1 and the terms of this Agreement. The Claims Administrator shall distribute the Settlement Fund pursuant to the provisions, and on the time

schedule of, Sections IV, V and VIII and the orders of the Court. Specifically, attorneys' fees and expenses; the Service Payments and Supplemental Payments to the Class Representatives; and up to Fifteen Thousand Dollars (\$15,000.00) of the Claims Administration costs shall be paid directly from the Settlement Fund, and these payments will reduce the Settlement Fund awarded to the Settlement Class.

**IV. ATTORNEYS' FEES, LITIGATION COSTS, CLAIMS ADMINISTRATION COSTS, AND SERVICE PAYMENTS.**

4.1 Within ten (10) business days of the Effective Date, Defendant will pay Class Counsel attorneys' fees and expenses in the amount of Four Hundred Thirty-Six Thousand Five Hundred dollars (\$436,500.00), provided the Court approves such payment. Defendant shall pay the attorneys' fees and costs directly from the Settlement Fund, and the payment will reduce the Settlement Fund awarded to the Settlement Class. At least seven days prior to the date of payment, Class Counsel will provide Defendant with the tax-payer identification numbers for Class Counsel and an executed Form W-9.

4.2 Defendant will also pay each of the Named Plaintiffs (in addition to their Settlement Share) for their services on behalf of the class (the "Service Payment"), provided the Court approves such payment, and provided they do not opt-out of the Settlement, as follows: (1) St. Clare Rosenberg: Seventy Thousand Dollars (\$70,000); (2) Wayne Anderson: Forty-five Thousand Dollars (\$45,000); (3) Charles Washington: Forty-five Thousand Dollars (\$45,000); and (4) Edward Anderson: Seventy Thousand Dollars (\$70,000). Defendant will pay the aforementioned Service Payment to each Named Plaintiff within five (5) business days after the Effective Date. Each Named Plaintiff shall also be entitled to receive his Settlement Share of the Settlement Fund provided he does not opt-out of the Settlement. Defendant shall pay the Service Payment directly from the Settlement Fund, and such payment will reduce the Settlement Fund awarded to the Settlement Class. If any Named Plaintiff declines to join the Settlement, he will not be eligible to receive a Service Payment. If any Named Plaintiff declines to join the Settlement, or requests to be excluded from the Settlement, then IKON shall have the absolute

right to withdraw in writing from the Agreement, subject to the provisions of paragraph 10.2 of this Agreement.

4.3 Defendant will also pay Mr. Sonee-Myricks (in addition to his Settlement Share) Thirty-Five Thousand Dollars (\$35,000.00) for his services on behalf of the class (the "Supplemental Payment"), provided the Court approves such payment, that his employment with IKON is terminated, and that he does not opt-out of the Settlement. Defendant will pay the Supplemental Payment to Mr. Sonee-Myricks within five (5) business days after the Effective Date. Mr. Sonee-Myricks shall also be entitled to receive his Settlement Share of the Settlement Fund provided he does not opt-out of the Settlement. Defendant shall pay the Supplemental Payment directly from the Settlement Fund, and such payment shall reduce the Settlement Fund awarded to the Settlement Class. If Mr. Sonee-Myricks declines to join the Settlement, he will not be eligible to receive a Supplemental Payment. If Mr. Sonee-Myricks declines to join the Settlement, or requests to be excluded from the Settlement, then IKON shall have the absolute right to withdraw in writing from the Agreement, subject to the provisions of paragraph 10.2 of this Agreement. Irrespective of the above provisions, if Mr. Sonee-Myricks signs a release that is acceptable to IKON in exchange for the moneys identified above, then he will immediately resign from his employment with IKON upon execution of the release, and he will receive payment of the moneys identified above (to be taken from the Settlement Fund) within 20 days after he resigns.

4.4 Defendant will put the total amount of Forty Thousand Dollars (\$40,000.00), provided the Court approves such payment, in escrow to cover the reasonable costs of the Notice and of the administration of this Settlement (the "Claims Administration costs"). The first Fifteen Thousand Dollars (\$15,000.00) of the Claims Administration costs shall be paid directly from the Settlement Fund, and shall reduce the Settlement Fund awarded to the Settlement Class. Defendant will pay any remaining Claims Administrations costs, above and beyond Fifteen Thousand Dollars (\$15,000.00), separately from the Settlement Fund, and such additional payment shall not act to reduce the Settlement Fund in any way. Should there remain any

residual from the Forty Thousand Dollars after all payments are made for the costs of the Notice and of the administration of this Settlement, the unused amount will be returned to Defendant.

4.5 Except for the fees, costs and other expenses set forth in this Section, and except as provided in paragraphs 4.1, 4.2, 4.3, and 4.4 herein, the Parties shall bear responsibility for their own fees, costs and expenses incurred by them or arising out of this litigation and will not seek reimbursement thereof from any party to this Agreement or the Released Parties.

**V. ALLOCATION AND PAYMENT OF THE SETTLEMENT FUND**

5.1 Each Qualified Claimant shall be paid a pro rata portion of the Settlement Fund based on: (a) the number of months employed in a Covered Position during the Relevant Time Period and (b) the terms of this Agreement.

5.2 For each member of the Settlement Class, the number of months employed as defined in Section 5.1(a) above will be calculated from Defendant's records and will be reflected on each individual Claim Form that each member of the Settlement Class receives. Defendant's records concerning number of months of employment in Covered Positions in the Relevant Time Period will be conclusively presumed to be correct and will be controlling with respect to the calculation of each Settlement Class Member's potential settlement payment.

5.3 Except for the Service Payments described above to be paid to the Named Plaintiffs, as well as the Supplemental Payment described above to be paid to Mr. Sonee-Myricks, fifty percent of all settlement payments to Qualified Claimants will be reported as, and to be withheld upon as, wages for tax purposes. The remainder (fifty percent) will be considered emotional distress damages and will be subject to an IRS Form 1099. Qualified Claimants will receive an IRS Form W-2 for their settlement payment. The Named Plaintiffs also will receive an IRS Form 1099 for their Service Payments, and Mr. Sonee-Myricks will receive an IRS Form 1099 for his Supplemental Payment. The Settlement Share payable to each Qualified Claimant will be calculated pursuant to the Plan of Allocation, after withholding for taxes and subject to section 8.4 below.



5.4 The Claims Administrator shall distribute the remainder of the Settlement Fund to the Qualified Claimants no later than forty-five (45) days after the Effective Date. The face of each check sent to Qualified Claimants shall clearly state that the check must be cashed within ninety (90) calendar days. The back of each check will contain a legend stating: "By negotiating this check and accepting payment I agree that I have waived and released the Released Parties from all Released Claims as defined in the Settlement Agreement and in the Notice in this matter." Qualified Claimants must sign the check in the space following the legend, provided that the release of claims shall still be enforceable if any Qualified Claimant is permitted to negotiate a check without a signature.

5.5 Payments made under this Agreement are not intended to and will not: (1) form the basis for additional contributions to, benefits under, or any other monetary entitlement under; (2) count as earnings or compensation with respect to; or (3) be considered to apply to, or be applied for purposes of, Defendant's bonus, pension, any 401(k) and/or other retirement plans or similar programs, including but not limited to the IKON Office Solutions, Inc. Retirement Savings Plan and the IKON Office Solutions, Inc. Pension Plan. Defendant retains the right, if necessary, to modify the language of its benefit plans and pension, bonus and other programs, if necessary, to make clear that any amounts paid pursuant to this Agreement are not for hours worked, hours paid or any similar measuring term as defined by any plans and programs for purposes of eligibility, vesting, benefit accrual or any other purpose.

5.6 The Claims Administrator shall be responsible for remitting to the tax authorities Defendant's share of payroll taxes for the settlement payments. Defendant shall remit to the Claims Administrator payment for its share of payroll taxes for settlement purposes; such payments shall not act in any way to reduce the Settlement Fund.

## **VI. SETTLEMENT CLAIM FORM REVIEW**

6.1 The Parties have agreed to the appointment of RG/2 Claims Administration LLC to perform the duties of Claims Administrator, including but not limited to mailing the Notice forms, mailing reminder postcards, responding to Proposed Class Members' inquiries, receiving

and independently reviewing the Notice forms and Claims Forms, verifying the amounts due to Qualified Claimants as set forth in this Agreement, distributing checks to the Qualified Claimants, withholding the Qualified Claimants' share of taxes, paying all appropriate taxes to taxing authorities, and performing such other duties as the parties may direct. The Claims Administrator shall report to the Parties, in summary or narrative form, on all of the actions it takes. Defendant will provide the Claims Administrator with information on the Proposed Class Members' names, last known address and telephone number, social security number, employee ID number, and number of months employed in Covered Positions during the Relevant Period. All disputes relating to the Claims Administrator's ability and need to perform its duties shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Agreement, until all payments and obligations contemplated by the Agreement have been fully carried out. The Claims Administration costs shall be paid by IKON subject to the conditions of Sections 4.4 and 10.4. In no event shall the Claims Administrator be construed as the agent of the Proposed Class Members or of the Class Representatives or of Class Counsel or of IKON or Counsel for IKON.

## **VII. NOTICE TO THE SETTLEMENT CLASS**

7.1 Defendant shall provide by \_\_\_\_\_, 2007, to the Claims Administrator and Class Counsel, a list of all Proposed Class Members, including last known address and telephone number, social security number, employee ID number, and number of months employed in Covered Positions during the Relevant Period. Defendant agrees to provide this information in a format reasonably acceptable to the Claims Administrator. The Claims Administrator will maintain this list in the strictest confidence and not disclose any information contained in the list to the Class Representatives or to any other individual or entity, except for the purpose of locating any individual for whom a Notice is returned as undeliverable.

7.2 A Notice of Settlement and Opportunity to Participate or Opt-out (the "Notice") in substantively the form attached hereto as Exhibit "A," and as approved by the Court, shall be sent by the Claims Administrator to Proposed Class Members, by first class mail, within thirty

(30) calendar days of the entry of the Preliminary Approval Order. Attached to the Notice will be a Claim Form, in substantively the form attached hereto as Exhibit "B," and as approved by the Court. If envelopes from the mailing of the Notice are returned with forwarding addresses, the Claims Administrator will re-mail the Notice and the Claim Form to the new address.

7.3 Class Counsel shall provide the Court, at least five (5) calendar days prior to the final fairness hearing, a declaration by the Claims Administrator of due diligence and proof of mailing with regard to the mailing of the Notices and Claim Forms. If any Settlement Class Members cannot be located through the Claims Administrator's reasonable efforts, the Claims Administrator may, in its discretion, retain the services of a private investigator who will attempt to locate such Settlement Class Member. The reasonable costs of the private investigator's services as to each Settlement Class Member shall be deducted from the Settlement Share of each Settlement Class Member.

7.4 The Claims Administrator shall provide to Counsel for IKON and Class Counsel, at least ten (10) calendar days prior to the final fairness hearing, a list of Settlement Class Members to whom notices were returned as undeliverable and for whom efforts to obtain an alternative address failed.

#### **VIII. CLAIM PROCESS**

8.1 Each Claim Form will list the name of the Proposed Class Member, and will set forth the number of months in which Defendant's records show each Proposed Class Member was employed by IKON in a Covered Position during the Relevant Time Period. In order to receive payments and to be bound by the Settlement and associated release of claims, each Proposed Class Member must sign and return the Claim Form to the Claims Administrator by \_\_\_\_\_.

8.2 The Claims Administrator shall keep a log of any interaction with individual Proposed Class Members. If the Claims Administrator cannot adequately assist a Proposed Class Member who asks for assistance, the Claims Administrator will refer the Proposed Class Member to Class Counsel for further assistance.

8.3 Class Counsel shall have the right in their discretion to take appropriate steps to assist Proposed Class Members in filling out Claim Forms.

8.4 If completed, all original Claim Forms shall be sent directly to the Claims Administrator at the address indicated on the Claim Form. Such Claim Forms shall be analyzed consistent with the process described in paragraph 5.2 above. The Claims Administrator shall review the Claim Forms and provide copies of the Claim Forms to Counsel for IKON and Class Counsel. The Claims Administrator will make any calculations of payments to be distributed as described above by reviewing the Forms and documentation associated with the number of months Settlement Class Members were employed in any Covered Positions during the Relevant Time Period. The Claims Administrator is responsible for issuing the payments, calculating and withholding for all required state, federal and local taxes, calculating Defendant's share of taxes, and remitting all taxes and withholding to the appropriate taxing authorities. Upon completion of its calculation of payments, the Claims Administrator shall provide Class Counsel and Counsel for IKON with a report listing the amount of the payments to be made to each Qualified Claimant. The Claims Administrator will supply Class Counsel and Counsel for IKON with an updated address list for the Qualified Claimants, reflecting any updates discovered by the Claims Administrator over the course of administering notice to the class and receipt of the Claim Forms. A declaration of payment will be provided to Class Counsel and Counsel for IKON by the Claims Administrator within ten (10) calendar days of making payments to Qualified Claimants.

8.5 In the event a Claim Form is submitted in a timely manner but is deficient in one or more aspects, the Claims Administrator shall return the Claim Form to the Settlement Class Member with a letter explaining the deficiencies. The Settlement Class Member will be informed that he or she shall have ten (10) calendar days from the date of the deficiency notice to correct the deficiencies and resubmit the Claim Form. A copy of the deficiency notice will be simultaneously mailed by the Claims Administrator to Counsel for IKON and Class Counsel. The envelope containing the resubmitted Claim Form must be postmarked (or received, if by

courier) within ten (10) calendar days of the date of the deficiency notice to be considered timely unless there is a showing of good cause for additional time as determined by the Claims Administrator. No Settlement Class Member will be provided a second notice of deficiency, except upon a showing of good cause as determined by the Claims Administrator. Any Qualified Claimant who fails to timely submit a Claim Form will be deemed to have waived irrevocably any right to in or claim to a Settlement Share. However, the Agreement and the Release contained therein will be binding upon such Claimant.

8.6 Qualified Claimants shall have ninety (90) calendar days after mailing of the settlement checks to them by the Claims Administrator to cash their settlement checks. On the date that is 45 days after mailing of the settlement checks, the Claims Administrator shall send a follow-up letter to each claimant reminding him or her that the settlement checks will become void 90 days after mailing. If any Qualified Claimant does not cash his/her check within that 90-day period, such checks will be void and a stop-pay notice will be placed. In such event, those claimants will be deemed to have waived irrevocably any right in or claim to a Settlement Share, but this Agreement, and the Release contained herein, nevertheless will be binding upon them.

8.7 Should there remain any residual from the Settlement Fund after all payments are made under this Agreement (for example, if Proposed Class Members either file a timely request for exclusion pursuant to section K of the Notice of Settlement and Opportunity to Participate or Opt-out), the unclaimed amounts related to the filing of requests for exclusion will be returned to the Defendant, and all other unclaimed amounts shall be held in escrow by the Claims Administrator for one year after the Effective Date and then, to the extent unclaimed amounts remain, returned to the Defendant.

## **IX. RELEASES**

9.1 Upon the negotiation of a settlement check, or upon the Effective Date whether or not a settlement check has been negotiated, whichever is earlier, each member of the Settlement Class shall be deemed to, and shall have, released and discharged all Released Parties with respect to all Released Claims.

9.2 Every Settlement Class Member, as defined above, shall be deemed to and shall have knowingly and voluntarily waived, released, discharged and dismissed the Released Claims, with full knowledge of any and all rights they may have, and they hereby assume the risk of any mistake in fact in connection with the true facts involved, or with regard to any facts which are now unknown to them.

9.3 Nothing in this Settlement Agreement shall be construed to bar any claims of members of the Settlement Class or the Class Representatives of monetary relief based on or arising out of events occurring after the date of the Final Approval by the Court of the Settlement Agreement.

**X. OPTING OUT OF THE SETTLEMENT AND IKON'S RIGHT TO WITHDRAW**

10.1 Any person who does not wish to participate in the Settlement, i.e., who wants to opt-out of the Settlement, may file a timely request for exclusion pursuant to section K of the Notice of Settlement and Opportunity to Participate or Opt-out. The request for exclusion must be signed under penalty of perjury, must contain the statements set forth in section K of the Notice of Settlement and Opportunity to Participate or Opt-out, and must be sent by mail or courier to the Claims Administrator so that it is actually postmarked (or received, if by courier) within thirty (30) days after it was mailed by the Claims Administrator. Any person who timely submits such a request for exclusion shall be barred from participation in the Settlement, and shall receive no benefit from the Settlement. Such person's portion of the Settlement Fund based on the Claim Form sent to such person, as calculated on a pro rata basis, shall be returned to Defendant.

10.2 If any of the Class Representatives submits a timely and complete request for exclusion that is in compliance with paragraph 10.1 above, IKON shall have the absolute right, in its sole discretion and notwithstanding any other provisions of this Agreement, but subject to all the provisions and time limits of this paragraph 10.2, to withdraw in writing from this Agreement, or to modify this Agreement through further negotiations with Class Counsel. If IKON does withdraw in conformity with the provisions and time limits of this paragraph 10.2,

the Agreement will be null and void for all purposes and may not be used or introduced in further litigation except to determine whether IKON is entitled to withdraw from the Agreement and has validly done so. The Claims Administrator shall each calendar week notify counsel for IKON and Class Counsel by fax or email of the number of individuals who have to that date submitted timely and complete requests for exclusion that are in compliance with paragraph 10.1 above, and at the same time shall send to said counsel by fax or by overnight delivery copies of all the timely and complete requests for exclusion which Class Counsel has received. IKON shall have thirty (30) calendar days after the expiration of all Proposed Class Members' deadlines in paragraph 10.1 above to withdraw from (or modify through negotiation) this Agreement.

10.3 In addition, if a total of fifteen (15) or more Proposed Class Members submit timely and complete requests for exclusion that are in compliance with paragraph 10.1 above, IKON shall have the absolute right, in its sole discretion and notwithstanding any other provisions of this Agreement, but subject to all the provisions and time limits of this paragraph 10.3, to withdraw in writing from this Agreement, or to modify this Agreement through further negotiations with Class Counsel. If IKON does withdraw in conformity with the provisions and time limits of this paragraph 10.3, the Agreement will be null and void for all purposes and may not be used or introduced in further litigation except to determine whether IKON is entitled to withdraw from the Agreement and has validly done so. The Claims Administrator shall each calendar week notify counsel for IKON and Class Counsel by fax or email of the number of individuals who have to that date submitted timely and complete requests for exclusion that are in compliance with paragraph 10.1 above, and at the same time shall send to said counsel by fax or by overnight delivery copies of all the timely and complete requests for exclusion which Class Counsel has received. IKON shall have thirty (30) days after the expiration of all Proposed Class Members' deadlines in paragraph 10.1 above to withdraw from (or modify through negotiation) this Agreement.

10.4 This Settlement provides for a claims process requiring IKON to make payments of a specific sum on each timely claim submitted, subject to the limitations of the opt-out

provisions of Section 10.1. The maximum payments under the Settlement if all Proposed Class Members file claims (based on IKON's records), and including attorneys' fees and costs, all payments to Class Representatives, and Fifteen Thousand Dollars (\$15,000.00) of the Claims Administration costs will not exceed One Million Two Hundred And Seventy Five Thousand Dollars (\$1,275,000). If the total payments required by this settlement exceed One Million Two Hundred And Seventy Five Thousand Dollars (\$1,275,000), IKON shall have the absolute right, in its sole discretion and notwithstanding any other provisions of this Agreement, but subject to all the provisions and time limits of this paragraph 10.4, to make a *pro rata* adjustment per Qualified Claimant to ensure that the total amount paid by IKON (including attorneys' fees, Fifteen Thousand Dollars (\$15,000.00) of the Claims Administration costs, and Class Representative payments) does not exceed One Million Two Hundred And Seventy Five Thousand Dollars (\$1,275,000.00). IKON shall have thirty (30) calendar days after the expiration of all Proposed Class Members' deadlines in paragraph 10.1 to modify this Agreement in accordance with the terms of this paragraph 10.4.

#### **XI. DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL**

11.1 Promptly upon execution of this Agreement, but by no later than \_\_\_\_\_ the Parties shall apply to the Court for the entry of an order (the "Preliminary Approval Order"):

(a) Scheduling a fairness hearing as soon as practicable on the question of whether the proposed settlement should be finally approved as fair, reasonable and adequate as to the members of the class;

(b) Approving as to form and content the proposed Notice;

(c) Approving as to form and content the proposed Claim Form;

(d) Directing the mailing of the Notice and Claim Form by first class mail to the Proposed Class Members;

(e) Preliminarily approving the Agreement and Plan of Allocation, as well as the payment of attorneys' fees, costs, the Supplemental Payment, and Service Payments set forth in this Agreement;



(f) Certifying the Settlement Class.

11.2 In computing any period of time prescribed or allowed by this Settlement Agreement, unless otherwise stated, such computation or calculation shall be made consistent with the Federal Rule of Civil Procedure 6(a) as it exists at the time at issue.

**XII. DUTIES OF THE PARTIES FOLLOWING FINAL COURT APPROVAL**

12.1 In connection with the final approval by the Court of the Agreement, Class Counsel and Counsel for Defendant will submit a proposed final order and judgment:

(a) Granting final approval to the Agreement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions; and

(b) Dismissing the Civil Action with prejudice and permanently barring all members of the Settlement Class including the Named Plaintiffs from prosecuting against any Released Parties any of the Released Claims; and

(c) Dismissing the EEOC charge filed by Levone Sonee-Myricks and permanently barring Mr. Sonee-Myricks from prosecuting against any Released Parties any of the Released Claims;

(d) Retaining jurisdiction to enforce the terms of the Agreement.

12.2 In connection with the final approval by the Court of the Agreement, IKON agrees, that, within thirty (30) days of the Effective Date, IKON shall redistribute, to all of its employees, its written policies on Equal Employment Opportunity and a Harassment Free workplace. The distribution shall be accompanied by a written statement reiterating the Company's commitment to and support of these policies.

**XIII. PARTIES' AUTHORITY**

13.1 The signatories hereby represent that they are fully authorized to enter into this Agreement and to bind the Parties hereto to the terms and conditions hereof.

13.2 All of the Parties acknowledge that they have been represented by competent, experienced counsel throughout all negotiations which preceded the execution of this

Agreement, and this Agreement is made with the consent and advice of counsel who have jointly prepared this Agreement.

**XIV. MUTUAL FULL COOPERATION**

14.1 The Parties agree to use their best efforts and to fully cooperate with each other to accomplish the terms of this Agreement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement and effectuate the terms of this Agreement.

**XV. NOTICES**

15.1 Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

To the Class Representatives or to any Settlement Class member:

SANFORD, WITTELS & HEISLER, LLP  
Jeremy Heisler, Esq.  
950 Third Avenue, 10th Floor  
New York, NY 10022

To the Defendant:

MORGAN, LEWIS & BOCKIUS LLP  
Michael S. Burkhardt, Esq.  
Theresa J. Chung, Esq.  
1701 Market Street  
Philadelphia, PA 19103-2921

**XVI. MODIFICATION**

16.1 This Agreement and its attachments may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court.

**XVII. ENTIRE AGREEMENT**

17.1 This Agreement and its attachments constitute the entire agreement between the Parties concerning the subject matter hereof. No extrinsic oral or written representations or terms shall modify, vary or contradict the terms of this Agreement. In the event of any conflict

between this Agreement and any other Settlement-related document, the Parties intend that this Agreement shall be controlling.

**XVIII. CHOICE OF LAW/JURISDICTION**

18.1 This Agreement shall be subject to, governed by, construed, enforced, and administered in accordance with the laws of the State of New York, both in its procedural and substantive aspects, and shall be subject to the continuing jurisdiction of the United States District Court for the Southern District of New York. This Agreement shall be construed as a whole according to its fair meaning and intent, and not strictly for or against any party, regardless of who drafted or who was principally responsible for drafting this Agreement or any specific term or condition thereof.

**XIX. COUNTERPARTS**

19.1 This Agreement may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Agreement, which shall be binding upon and effective as to all Parties.

**XX. CONFIDENTIALITY AND PUBLIC COMMENT**

20.1 Defendant, the Class Representatives, and Class Counsel agree that, other than filing this Agreement with the Court, and as otherwise provided herein, they shall keep strictly confidential the terms of this Agreement, will not disclose, make known, discuss or relay orally, or in writing, electronically or otherwise, the terms of this Agreement, any information concerning this Agreement, or any of the discussions leading up to this Agreement, the facts and allegations underlying the claims in the Complaint, and Defendant's defenses to such claims. If asked about the case, the Parties and/or their counsel will merely say that the case has been amicably resolved. The Defendant, Class Representatives, and Class Counsel further agree that they will not publicize or disclose the terms of this Agreement, the negotiations with respect thereto, or other matters relating to the Civil Action, either directly or indirectly, that is, through agents, attorneys, or accountants, or any other person or entity, either in specific or as to general

content, to the media, the public generally, or any individual or entity. Notwithstanding the foregoing, nothing in this Agreement restricts, or is intended to restrict, communications between Class Counsel and individual Settlement Class Members regarding the action or the terms of this Agreement. Moreover, this paragraph 20.1 does not prohibit the Class Representatives from disclosing information concerning this Agreement to members of their respective immediate families, and Class Counsel from disclosing information concerning this Agreement to their employees and agents to the extent necessary to effectuate the terms of the Agreement. Moreover, this paragraph does not prohibit Defendant from disclosing information concerning this Agreement to its employees and agents to the extent necessary to effectuate the terms of this Agreement or who otherwise have a need to know the terms. The Defendant, Class Representatives, and Class Counsel may also disclose information concerning this Agreement to their respective counsel and tax advisors who have first agreed to keep said information confidential and to not disclose it to others. The foregoing shall not prohibit or restrict such disclosure as is required by law or as may be necessary for the prosecution of claims relating to the performance or enforcement of this Agreement, or prohibit or restrict the Defendant, Class Representatives, and Class Counsel from responding to any inquiry about this settlement or its underlying facts and circumstances by any governmental agency, or any regulatory or self-regulatory organization. To the extent permitted by law, with respect to any such disclosure pursuant to the foregoing sentence, the Defendant, Class Representatives, and Class Counsel shall provide the other Party with as much notice as possible of any request to make any above-described disclosure, and will use best efforts to ensure that if such disclosure occurs it will occur in a manner designed to maintain the confidentiality of this Agreement to the fullest extent possible.

20.2 The Notice to Class Members and list of Class Members to receive the Notice will provide confidential contact information to Class Counsel. The Parties and Class Counsel agree that the Notice shall be the exclusive method of mass communication, and that they will not publish or distribute any information in any mass mailings, including electronic mailings, or

publish or post any information on the Internet. Irrespective of the provisions above, from the date that the Court approves the Agreement and notice is issued, through the date for Proposed Class Members to object to the Settlement or opt-out of the Settlement under this Agreement, Class Counsel may post the following statement on its website: “the Rosenberg, et al. v. IKON Civil Action has been resolved, and any class members may contact Class Counsel through this website for information.” Class Counsel agrees that the afore-mentioned statement contains the only language that Class Counsel will post on its website regarding the Civil Action.

20.3 Class Counsel agrees to use the contact information for Settlement Class Members that is provided to it by the Claims Administrator and Class Counsel solely for purposes of communicating regarding this action and implementing this Agreement and for no other purpose, at any time, or for any reason. Nothing in this Agreement restricts, or is intended to restrict, communications between Class Counsel and individual Settlement Class Members regarding this action or the terms of the Agreement.

20.4 The Parties and their counsel agree that they will not issue any press release or participate in any communication or contact with the media regarding this settlement or any other matter related to this litigation. If the Parties and/or their counsel are contacted by the media, they will merely inform them that the case has been amicably resolved, and refer them to the public filings.

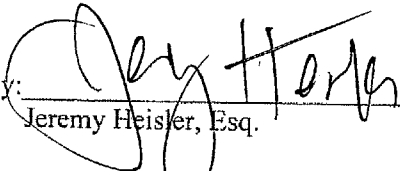
## **XXI. VOIDING THE AGREEMENT**

21.1 In the event this Agreement, or any amended version agreed upon by the Parties does not obtain judicial approval for any reason, this Agreement shall be null and void in its entirety, unless expressly agreed in writing by all Parties. In the event this Agreement becomes null and void for any reason, the Defendant, the Class Representatives, and Class Counsel agree that they shall keep strictly confidential the terms of the Agreement, the existence of the Agreement, any information concerning the Agreement, or any of the discussions and or negotiations regarding the Agreement.

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the date indicated below:

Dated: 25, 2007

SANFORD, WITTELS & HEISLER, LLP

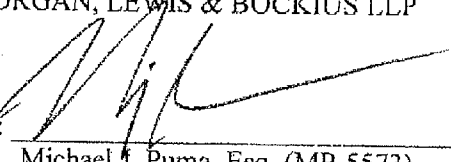
By:   
Jeremy Heisler, Esq.

950 Third Avenue, 10th Floor  
New York, NY 10022  
Phone: (646) 723-2947  
Fax: (646) 723-2948

Counsel for Class Representatives and Settlement Class Members

Dated: \_\_\_\_\_, 2007

MORGAN, LEWIS & BOCKIUS LLP

By:   
Michael J. Puma, Esq. (MP-5573)

101 Park Avenue  
New York, New York 10178-0060  
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Attorneys for Defendant  
IKON Office Solutions, Inc.