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*Mandy Harrison*  
Mandy Harrison, Clerk  
McIntosh County, Georgia

**IN THE SUPERIOR COURT OF MCINTOSH COUNTY  
STATE OF GEORGIA**

<b>TROY and TARYN NIXON</b>	)	
	)	
<b>Plaintiffs,</b>	)	<b>CIVIL ACTION NO. SUV2023000081</b>
	)	
<b>v.</b>	)	
	)	
<b>CITY OF DARIEN, GEORGIA</b>	)	
	)	
<b>Defendant.</b>	)	

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**JOINT MOTION AND SUPPORTING MEMORANDUM OF LAW FOR  
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT, PRELIMINARY  
CERTIFICATION OF SETTLEMENT CLASS, APPROVAL OF NOTICE  
PROGRAM AND TO SCHEDULE FINAL APPROVAL HEARING**

Pursuant to O.C.G.A. § 9-11-23, Named Plaintiffs, Troy and Taryn Nixon (hereinafter “Named Plaintiffs”) individually and on behalf of all persons similarly situated and Defendant City of Darien, Georgia (the “City” or the “Defendant”) by and through their respective undersigned attorneys as identified below, file this Joint Motion and Supporting Memorandum of Law for Preliminary Approval of Class Action Settlement, Preliminary Certification of Settlement Class, Approval of Notice Program and to Schedule of Final Approval Hearing (the “Joint Motion”). The Parties request that the Court enter an Order (1) preliminarily approving the proposed settlement as set forth in the [Proposed] Consent Judgment on Aggregate Refund and Order (the “[Proposed] Consent Judgment”); (2) certify the proposed settlement class; (3) designate Named Plaintiffs as Class Representatives; (4) designate Roberts Tate, LLC as Class Counsel; (5) approve the notice program; (6) approve certain forms to be used in the administration of the settlement; and (7) schedule the final approval hearing. A copy of the executed [Proposed] Consent Judgment which memorializes the settlement by the Parties (the “Settlement”) is attached hereto as Exhibit (“Ex”). “A”. In support of this Joint Motion, the Parties show the Court as follows:

## **I. OVERVIEW OF THE LAWSUIT AND PROPOSED SETTLEMENT**

### **A. Factual Background**

The lawsuit alleges that the City assessed and collected ad valorem taxes based on the incorrect application of the City's homestead exemption for taxes for municipal purposes found in House Bill 1197 ("HB 1197") (referred to as the "Homestead Exemption"). A copy of HB 1197 is attached as Exhibit "B". This is a refund class action under O.C.G.A. § 48-5-380 (the "Refund Statute").

The Homestead Exemption provides that "[e]ach resident of the City of Darien is granted an exemption on that person's homestead from City of Darien ad valorem taxes for municipal purposes in an amount equal to the amount by which the current year assessed value of that homestead exceeds the base year assessed value of the homestead." Id. The Homestead Exemption Section 1(a)(2) states that "Base Year" is "the taxable year immediately preceding the taxable year in which the exemption under [the Homestead Exemption] is first granted to the most recent owner of such homestead." Id. at Section 1(a)(2). In short, the Homestead Exemption provides for exemption from ad valorem taxes for municipal purposes on the increase in value of property over the Base Year Value. Upon information and belief, McIntosh County set the Homestead Exemption amount for the City for each year from 2016 through 2022.

Named Plaintiffs are residents of the City of Darien, McIntosh County, Georgia and the owners of City of Darien Tax Parcel Number D011A0024 located at 102 Haven Court, Darien, Georgia 31305 (the "Subject Parcel"). Named Plaintiffs applied for and were granted the Homestead Exemption. Despite the plain language of the Homestead Exemption stating that the "Base Year" should be the tax year "immediately preceding" the tax year that the Homestead Exemption was granted to the most recent owner, the City treated the year the exemption was

granted as the Base Year rather than the immediately preceding year.

The language of the Homestead Exemption is the exact same language as the Glynn County, Georgia homestead exemption for county and school taxes known as the “Scarlett Williams Exemption” enacted May 1, 2000 pursuant to House Bill 1690 (“HB 1690”) and House Bill 1691 (“HB 1691”). A copy of HB 1690 attached as Exhibit “C” and a copy of HB 1691 is attached as Exhibit “D”. Compare HB 1197 Section 1(a)(2) and (b) with HB 1690 Section 1(a)(2) and (b). The Georgia Court of Appeals interpreted the term “Base Year” in the Scarlett Williams Exemption (which is defined exactly the same way as it is defined in HB 1197) and held that “[b]ased on the plain language of the Act, the base year is merely the taxable year immediately preceding the taxable year in which the applicant was the owner of the property on January 1 – in other words, the year prior to the year in which the homestead exemption was granted.” Coleman, et al. v. Glynn County, Georgia, et al., 344 Ga. App. 545, 549, 809 S.E.2d 383, 387 (2018).

The language of the Homestead Exemption is also the exact language as the McIntosh County, Georgia homestead exemption for county taxes found in House Bill 382 (“H.B. 382”) and House Bill 450 (“H.B. 450”) (the “McIntosh County Homestead Exemption”). A true and correct copy of HB 382 is attached as Exhibit “E” and a true and correct copy of HB 450 is attached as Exhibit “F”. Upon information and belief, based at least in part on the Georgia Court of Appeals’ decision in Coleman, the Board of Commissioners of McIntosh County approved a policy to refund taxpayers for the illegal and erroneous assessment of taxes based on the incorrect application of the Base Year by using the year in which the Homestead Exemption was first granted rather than the immediately preceding year. The policy approved for refund by the Board of Commissioners of McIntosh County did not comply with Georgia law, resulting in McIntosh County being sued in a class action lawsuit in 2021 based on McIntosh County’s incorrect application of the term

Base Year. See Mary A. Bailey v. McIntosh County, Georgia, Superior Court of McIntosh County, Civil Action No. SUV2021000009. Ultimately, McIntosh County settled the class action lawsuit in 2022 acknowledging the improper application of the McIntosh County Homestead Exemption and agreeing to refund illegally and erroneously assessed taxes from 2016 through 2020 with the Court granting final approval to the settlement on May 5, 2022. See <http://mcintoshcountyga.com/214/Tax-Refund-Case>.

The Refund Statute provides that “each county ... *shall* refund to taxpayers any and all taxes .... [w]hich are determined to have been erroneously or illegally assessed and collected from the taxpayers ... or [w]hich are determined to have been voluntarily or involuntarily overpaid by the taxpayers.” O.C.G.A. § 48-5-380(a) (emphasis supplied). The Georgia Court of Appeals ruled that the statute of limitation under the Refund Statute is five (5) years. The Court ruled that under O.C.G.A. § 48-5-380(g) the Refund Statute “allows for the filing of a suit against a county ... for a tax refund within five years of the date the disputed taxes were paid.” Hojeij Branded Foods, LLC v. Clayton County, Georgia, et al., 355 Ga. App. 222, 228, 843 S.E.2d 902, 907 (2020) (cert denied Dec. 7, 2020).

#### **B. Settlement Discussions**

After thoroughly investigating the facts of this Lawsuit, filing the Complaint and a First Amended Complaint, the Parties began settlement negotiations. See Affidavit of James L. Roberts, IV, (“Roberts Aff.”) attached hereto as Exhibit “G”, at ¶16. The Parties were able to reach a Settlement quickly in part because McIntosh County was responsible for setting the Homestead Exemption amount for 2016 through 2022 for the City and McIntosh County previously settled the Bailey matter acknowledging the improper application of the McIntosh

Homestead Exemption which contains the same language as the Homestead Exemption in this matter. Id. at ¶17.

**C. Terms of the Proposed Settlement**

The terms of the proposed Settlement are set forth in the [Proposed] Consent Judgment. See Ex. A, [Proposed] Consent Judgment. The direct benefits of the Settlement to the Class Members include the creation of an Aggregate Refund Fund in the amount of \$200,000.00. The Aggregate Refund Fund will be used for the payment of tax refunds to the Class Members, legal fees and expenses, class representatives service payments and administrative costs. Id. at Section C. The City shall pay the Aggregate Refund Fund \$200,000.00 within fourteen (14) days of the final approval of the [Proposed] Consent Judgment. In the event that the City fails to make payment into the Aggregate Refund Fund within fourteen (14) days of the final approval of the [Proposed] Consent Judgment, post judgment interest shall accrue at the rate of 7% per annum as set forth by O.C.G.A. § 7-4-2(a)(1)(A) on said amount until paid in full.

Each Qualified Class Member will receive its pro-rata share of his or her Calculated Refund up to 100% of the total calculated refund due from the Aggregate Refund Fund, less Fees and Expenses (the “Pro-Rata Refund”). “Pro-rata” shall mean the proportion each Qualified Class Member’s Calculated Refund bears to the total Aggregate Refund Fund. This percentage shall be used to calculate each Qualified Class Member’s pro rata share of the Fees and Expenses to be subtracted from the Calculated Refund. Upon identification of all Qualified Class Members and determination of the Pro-Rata Refund for each and determination of all Fees and Expenses, the Aggregate Refund Fund shall be divided by the sum of the Pro-Rata Tax Refund for each Qualified Class Member. The resulting percentage shall be each Qualified Class Member’s portion of the Fees and Expenses (“Pro-Rata Percentage of Fees and Expenses”). The product of the Pro-Rata

Percentage of Fees and Expenses times the Fees and Expenses shall be deducted from the sum of each Qualified Class Member's Pro-Rata Refund and the remainder shall be the amount distributed to each Qualified Class Member as set forth herein. See generally id. at Section J.

Under the [Proposed] Consent Judgment, within thirty (30) days of the later of the expiration of the period for objecting to individual refund amounts or a final ruling by the Special Master on any individual refund calculation, the Administrator shall identify to the Nixon QSF Administrator (see Section D below) the amount of refund due each taxpayer. See generally id. at Section K.

**D. Establishment of the Nixon Qualified Settlement Fund**

Under the [Proposed] Consent Judgment, the Parties consent to the Court establishing a Qualified Settlement Fund under Section 468B of the Internal Revenue Code (the "Nixon QSF"). The Nixon QSF will be identified and established prior to and will be specified in the Final Order. The Nixon QSF will carry out the payment of approved Fees and Expenses of Class Counsel and Class Service Payments and the Refund Payment Process set forth in Sections F and K of the [Proposed] Consent Judgment respectively. The Final Order will appoint an administrator of the Nixon QSF (the "Nixon QSF Administrator"). The costs of the Nixon QSF Administrator shall be paid from the Aggregate Refund Fund. The Aggregate Refund Fund shall be deposited into an interest-bearing bank account (the "Aggregate Refund Fund Account") established by the Nixon QSF Administrator. The Aggregate Refund Fund Account shall have a unique Taxpayer Identifier Number. The Nixon QSF Administrator shall act as a fiduciary with respect to the handling, management and distribution of the Aggregate Refund Fund. Id. at Section C.

Except as set forth in the [Proposed] Consent Judgment, the costs of administering the Class Refunds shall not include any costs incurred by the City related to the webpage used for

notification of Class Members (as further described below) or time devoted by employees of the City in fulfilling the terms of the [Proposed] Consent Judgment. The Aggregate Refund Fund shall be the sole and exclusive source for payment of the Class Refunds and fees and expenses by the City and upon payment in full of the amount of the Aggregate Refund Fund owed it shall be in sole satisfaction of all claims against the City. Under no circumstances shall the City be required to pay an amount greater than the Aggregate Refund Fund amount. Id.

**E. Appointment of the Administrator and Special Master**

The Parties hereby consent to Larry Griggers' appointment as Administrator to identify Class Members (hereinafter referred to as the "Administrator") entitled to refunds based on the City's databases, records and resources and resources of the Tax Commissioner and the McIntosh County Board of Assessors' Office, and to calculate the individual refund amounts, if any, due each Class Member. Id. at Section D.

The Parties hereby agree to Rita Spalding as serving as Special Master. The Special Master will rule on any individual defenses or disputes in the individual refund calculation and administration process. The Special Master's decision shall be final and binding. The fees and expenses of the Special Master shall be paid from the Aggregate Refund Fund. In the event that Rita Spalding cannot serve, a substitute Special Master consented to by the Parties shall be appointed. Id. at Section I.

**F. Proposed Notice Program**

Subject to the Court's approval, the Parties propose to individually notify each Class Member who received the Homestead Exemption in 2016, 2017, 2018, 2019, 2020, 2021 or 2022 by U.S. Mail mailed to their last known address (hereinafter referred to as the "Full Notice"). See

Ex. “A”, [Proposed] Consent Judgment, at Section E. A copy of the proposed Full Notice is attached as Exhibit “H”.

As part of the proposed notice program, the Parties will also place an advertisement in The Darien News (hereinafter referred to as the “Publication Notice”). A copy of the proposed notice to be placed in The Darien News is attached as Exhibit “I”.

The City will also have a webpage on its website where information about the Lawsuit and the [Proposed] Consent Judgment can be found (the “Settlement Webpage”). The URL to the Settlement Webpage will be included in the Full Notice to each Class Member as well as in the Publication Notice in The Darien News. See Ex. “H”, Full Notice and Ex. “I”, Publication Notice.

#### **G. Attorneys’ Fees and Expenses**

Class Counsel will apply to the Court for an award of attorneys’ fees and expenses. Class Members will be notified that for work done through the final approval of this Settlement, Class Counsel will apply to the Court for an award of attorneys’ fees up to 40% of the Aggregate Refund Fund plus documented out of pocket expenses incurred (the “Fee Petition”). The City takes no particular position in favor or against the ultimate amount requested in such Fee Petition and intends to defer such decision to the judgment and discretion of the Court. See Ex. H, Full Notice at Question No. 17.

#### **H. Service Awards**

Class Counsel will apply to the Court for a service award to the Named Plaintiffs (the “Class Service Petition”). Class Members will be notified that Class Counsel will apply to the Court for a service award for the Named Plaintiffs from the Aggregate Refund Fund. The City takes no particular position in favor or against the ultimate amount requested in such Class Service



Petition and intends to defer such decision to the judgment and discretion of the Court. See Ex. A, [Proposed] Consent Judgment at Section F.

**I. Releases**

Named Plaintiffs and Class Members will release the City from claims relating to issues in this Lawsuit. Id. at Section L.

**II. ARGUMENT AND CITATION OF AUTHORITY**

**A. The Proposed Settlement Warrants Preliminary Approval**

O.C.G.A. § 9-11-23 governs class action litigation. Any resolution of class action litigation must be approved by the court. O.C.G.A. §9-11-23(e) provides “[a] class action shall not be dismissed or compromised without the approval of the court and notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs.”

Since its enactment in 1966 Georgia courts have read the statute to track the federal Rule 23 and in 2003 O.C.G.A. §9-11-23 was modified to actually conform to the federal rule. Thus, Georgia courts rely on federal cases interpreting Federal Rule 23(e) when interpreting O.C.G.A. §9-11-23(e). See Sta-Power Indus., Inc., v. Avant, 134 Ga. App. 952-953 (1975) (“Since there are only a few definitive holdings in Georgia on [O.C.G.A. §9-11-23], we also look to federal law to aid us.”).

Approval of a class action settlement is a two-step process. First, the Court must conduct a preliminary review to determine whether the proposed settlement is “within the range of possible approval.” Fresco v. Auto Data Direct, Inc., 2007 WL 2330895, at \*4 (S.D. Fla. May 11, 2007) (internal citations omitted). This is the step we are at in this Lawsuit.

Preliminary approval of the settlement does not involve a determination of the merits of the settlement but is to solely to communicate the proposed settlement to the class, to review and

approve the proposed form of notice to the class and to authorize the manner and form of dissemination of the notice. That is, the proposed settlement should be reviewed to determine if it is fair, reasonable and adequate to the class members. See In re Checking Account Overdraft Litigation, 275 F.R.D. 654 (S.D. Fla. 2011)

“The purpose of this cursory examination is to detect defects in the settlement that would risk making notice to the class, with its attendant expenses ... [a] futile gesture[ ].” In re Electronic Data Sys. Corp., 2005 WL 1875545, at \*4 (E.D. Tex. June 30, 2005) (quoting *Newburg on Class Action*, §11:25 (4<sup>th</sup> ed. 2002)). This preliminary approval “is not tantamount to a finding that the settlement is fair and reasonable. It is at most a determination that there is what might be termed ‘probable cause’ to submit the proposal to class members ...”. In re Traffic Executive Ass’n-E.R.R., 627 F.2d 631, 634 (2d. Cir. 1980). Accordingly, at the preliminary approval step, “the [c]ourt’s duty is to conduct a threshold examination of the overall fairness and adequacy of the settlement in light of the likely outcome and the cost of continued litigation.” In re Inter-Op Hip Prosthesis Liab. Litig., 204 F.R.D. 330, 350 (N.D. Ohio 2001) (citation omitted).

In other words, at the preliminary approval stage, there is no need to “conduct a trial on the merits.” In re Motorsports Merchandise Antitrust Litig., 112 F. Supp. 2d 1329, 1333 (N.D. Ga. 2000). Instead, a court “may rely upon the judgment of experience counsel for the parties ... [and] [a]bsent fraud, collusion, or the like, the ... court should be hesitant to substitute its own judgment for that of counsel.” Nelson v. Mead Johnson & Johnson Co., 484 F. App’x 429, 434 (11<sup>th</sup> Cir. 2012) (internal quotations omitted).

If the settlement appears to be fair and adequate upon a preliminary examination, then the court directs the parties to send out the notices to the class members. See Newberg on Class Actions (5<sup>th</sup> ed.) §13:41 (2018). After receiving any comments and objections from the class

members, the court conducts a final fairness hearing on the settlement approval. Id. It is only at the second step of the process, after notice to the class, that the court decides whether to grant final approval of the settlement as fair and reasonable. See e.g., Bennett, et al. v. Behring Corporation, et al., 737 F.2d 982 (11<sup>th</sup> Cir. 1984).

The law generally encourages the settlement of class actions. Id. at 986. (“[O]ur judgment is informed by the strong judicial policy favoring settlement as well as by the realization that compromise is the essence of settlement.”). See In re US Oil & Gas Litg., 967 F.2d 489, 493 (11<sup>th</sup> Cir. 1992) (citing Cotton v. Hinton, 559 F.2d 1326, 1331 (5<sup>th</sup> Cir. 1977) (“Public policy strongly favors the pretrial settlement of class action lawsuits.”). See also Meyer v. Citizens and Southern Bank, 677 F. Supp. 1196, 1200 (M.D. Ga. 1988). “[S]ettlements are highly favored in the law and will be upheld whenever possible because they are a means of amicably resolving doubts and preventing lawsuits.” McWhorter v. Ocwen Loan Serving, LLC, 2019 WL 9171207, at \*8 (N.D. Ala. Aug 1, 2019) (internal citations omitted). “Settlements conserve judicial resources by avoiding the expense of a complicated and protracted litigation process and are highly favored by the law.” In re Motorsports, 112 F. Supp. 2d at 1333. “Above all, the court must be mindful that inherent in compromise is a yielding of absolutes and an abandoning of highest hopes.” Ass’n for Disabled Ams. v. Amoco Oil Co., 211 F.R.D. 457, 467 (S.D. Fla. 2002). Accordingly, a court has broad discretion in approving a settlement.

When considering whether to grant preliminary approval of class action settlements courts in the Eleventh Circuit use two different standards. Some courts find that preliminary approval is appropriate “where the proposed settlement is the result of the parties’ good faith negotiations, there are no obvious deficiencies and the settlement falls within the range of reason.” In re Checking Account Overdraft Litig., 275 F.R.D. 654, 661 (S.D. Fla. 2011) (internal quotations

omitted). Other courts apply the factors used for final approval of a class action settlement, known as the Bennett factors:

(1) the likelihood of success at trial; (2) the range of possible recovery; (3) the point on or below the range of possible recovery at which a settlement is fair, adequate and reasonable; (4) the complexity, expense and duration of litigation; (5) the substance and amount of opposition to the settlement; and (6) the stage of proceedings at which the settlement was achieved.

Columbus Drywall & Insulation, Inc, et al v. Masco Corp., et al, 258 F.R.D. 545, 558-59 (N.D. Ga. 2007) (quoting Bennett, 737 F.2d at 986). Although O.C.G.A. §9-11-23(e) does not set forth criteria to guide the court at the preliminary approval stage, Federal Rule 23(e) states that, at the preliminary approval stage, the court must determine whether it “will likely be able to: (1) approve the proposal under Rule 23(e)(2); and (ii) certify the class for purposes of judgment on the proposal.” Fed. R. Civ. 23(e)(1)(B). Rule 23(e)(2), in turn, specifies the following factors a court should consider at the final approval stage in determining whether a settlement is fair, reasonable and adequate only after a hearing and after considering the following factors:

- (A) the 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, taking into account:
  - (i) the costs, risks, and delay of trial and appeal;
  - (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
  - (iii) the terms of any proposed award of attorney’s fees, including timing of payment; and
  - (iv) any agreement required to be identified under Rule 23(e)(3) [any agreement made in connection with the settlement]; and
- (D) the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2). A review of the Rule 23(e)(2) factors indicates they are substantively similar to the Bennett factors. The stated goal of Rule 23(e)(2) is to “focus the court ... on the core concerns of procedure and substance that should guide the decision whether to approve the proposal.” Fed. R. Civ. P. 23(e) Advisory Cmte. Note (2018). These factors must be viewed in tandem with the Eleventh Circuit’s guidelines for approval of a settlement. See e.g., Johnson v. Rausch, Sturm, Israel, Enerson & Hornik, LLP, 333 F.R.D. 314, 320 (S.D.N.Y. 2019) (holding that the Rule 23(e)(2) factors must be considered in conjunction with factors that courts used prior to the 2018 amendment). The ultimate decision of whether to approve a proposed class action settlement, is however “committed to the sound discretion of the ... court.” In re US Oil & Gas Litg., 967 F.2d at 493.

The Settlement as set forth in the [Proposed] Consent Judgment warrants preliminary approval under both standards utilized by the Eleventh Circuit as well as under the Federal Rule 23(e)(2) factors.<sup>1</sup>

**1. The Proposed Settlement is the Result of Good Faith Negotiations, is Not Obviously Deficient and Falls within the Range of Reason**

The proposed Settlement was negotiated at arm’s length and without collusion. See Ex. G, Roberts Aff. at ¶19. See e.g. In re Checking Account Overdraft Litig., 275 F.R.D. at 661. This is the Rule 23(e)(B) factor.

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<sup>1</sup> With regard to factor Rule 23(e)(2)(C)(iii) (terms of any proposed award of attorney’s fees), Class Counsel will file a Fee Petition as directed by the Preliminary Approval Order and will seek an award of attorneys’ fees up to 40% of the Aggregate Refund Fund plus documented out of pocket expenses. With regard to factor Rule 23(e)(2)(C)(iv) (any agreement made in connection with the settlement), Class Counsel has confirmed that there are no agreements in connection with the Settlement other than specifically articulated in the [Proposed] Consent Judgment. See Ex. G, Roberts Aff. at ¶24.

The City is represented by extremely capable counsel who mounted vigorous defenses. See Ex. G, Roberts Aff. at ¶¶18, 20. The Settlement was only reached after extensive negotiations concerning the parameters and provision of a fair, reasonable and adequate settlement. Id. at ¶17.

The proposed Settlement is not deficient and is within the range of reason. The Aggregate Refund Fund to be established if the [Proposed] Consent Judgment is approved is \$200,000.00. From the Aggregate Refund Fund, Class Members are eligible to receive their pro-rata share of their calculated tax refund up to 100% of the total calculated refund due less fees and expenses<sup>2</sup> (the “Pro-Rata Refund”). See Ex. A, [Proposed] Consent Judgment, Section J.

There is no evidence of collusion as counsel for both Parties represented the best interests of their clients. See Ex. G, Roberts Aff. at ¶¶18-20. Moreover, Class Counsel believes that the Settlement is fair and reasonable thereby entitling the Settlement to a presumption of fairness. Id. at ¶26. See Slomovics v. All For A Dollar, Inc., 906 F. Supp. 146, 150 (E.D.N.Y. 1995) (Courts give considerable weight to the views of experienced counsel as to the merits of a settlement). Accordingly, preliminary approval of the Settlement reached in the [Proposed] Consent Judgment is warranted since the standard for preliminary approval stated in In re Checking Account Overdraft Litig. has been met.

## **2. Class Members have Received Excellent Representation**

The record shows that the Named Plaintiffs and Class Counsel have provided exceptional representation to the Class Members. This is the Rule 23(e)(2)(A) factor.

To begin, Named Plaintiffs, as the Class Representatives, share the same interests as the absent Class Members and assert claims stemming from the same event – illegal taxation based on

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<sup>2</sup> Class Counsel’s fees and expenses, Class Representatives’ fees and the fees regarding the administration of the Aggregate Refund Fund are collectively referred to as “Fees and Expenses” in the [Proposed] Consent Judgment. See Ex. A, [Proposed] Consent Judgment, at Section F.

an incorrect application of the term “Base Year” in the Homestead Exemption – and accordingly share the same injuries. Named Plaintiffs have no claim and no interest different from or antagonistic to the absent Class Members. See generally Named Plaintiffs’ First Amended Verified Class Action Complaint. Finally, Named Plaintiffs vigorously prosecuted this Lawsuit leading to the proposed Settlement.

Named Plaintiffs retained Class Counsel who is experienced in class action litigation generally and specifically refund class actions. Class Counsel thoroughly researched the legal issues in this Lawsuit. See Ex. G, Roberts Aff. at ¶¶13-14. Furthermore, the facts of this Lawsuit have also been thoroughly researched. Id. at ¶¶9-12.

Lead Class Counsel’s extensive knowledge in complex litigation and tax refund litigation as well as the investigation and early discovery conducted in the Lawsuit allowed Class Counsel to better understand the merits of the Lawsuit and damages of the Named Plaintiffs and Class Members. Id. at ¶¶7-16. This background also prepared Class Counsel for settlement negotiations and successfully positioned Class Counsel to engage in vigorous, arm’s length negotiations. Id. at ¶¶19-20. In light of the foregoing, the Settlement represents an informed, educated and fair resolution of the Lawsuit. Extensive information allowed Class Counsel and Named Plaintiffs to assess their position in great detail and make a reasonable decision on the Settlement. See Mashburn v. Nat’l Healthcare, Inc., 684 F. Supp. 660, 669 (M.D. Ala. 1988) (settlement appropriate given counsel acquired sufficient information “to determine the probability of ... success on the merits, the possible range of recovery, and the likely expense and duration of the litigation.”).

### **3. The Bennett Factors Support Preliminary Approval**

Preliminary approval of the Settlement reached in the [Proposed] Consent Judgment is also warranted under the Bennett factors which courts use to determine if the class action settlement is fair, adequate and reasonable.

#### **i. The Benefits Outweigh the Risks at Trial**

The trial court weighs the first Bennett factor, the likelihood of success at trial, “against the amount and form of relief contained in the settlement.” Saccoccio v. JP Morgan Chase Bank, NA, 297 F.R.D. 683, 692 (S.D. Fla. 2014) (quotation omitted). The first Bennett factor is similar to Rule 23(e)(2)(c)(i). Here, Named Plaintiffs’ Motion to Certify the Suit as Class Action remains pending. Class certification is always challenging and assuming that a class is certified, plaintiffs risk losing on summary judgment, at trial or on appeal. Moreover, if this matter proceeded to trial the outcome could have resulted in relief either greater or less than the Aggregate Refund Fund.

The Settlement reached provides immediate cash refunds for the Class Members up to 100% of the total calculated refund due less fees and expenses. See Ex. A, [Proposed] Consent Judgment, Section J. Therefore, the possibility of a trial producing a more favorable recovery is remote and the Class would risk the many hazards of litigation, such as trial errors and appeals. See In re Motorsports, 112 F. Supp. 2d at 1334 (“[T]he trial process is always fraught with uncertainty.”). The Settlement set forth in the [Proposed] Consent Judgment avoids these uncertainties and provides the Class Members with meaningful and certain relief. See Parsons v. Brighthouse Networks, LLC, 2015 WL 13629647, at \*4 (N.D. Ala. Feb. 5, 2015) (“[C]ontinued litigation would have risked delaying class’s potential recovery for years, further reducing the value of any such recovery. The Settlement resolves the cause without any further delay and will, if finally approved, offer the Settlement Class an immediate and certain recovery, as well as



correcting the practices complained of in this Lawsuit. Thus, this factor also speaks strongly in favor of final approval of the proposed Settlement.”). See also Hall v. Bank of Am., N.A., 2014 WL 7184039, at \*4 (S.D. Fla. Dec. 17, 2014) (nothing that “even if plaintiffs were to prevail, class certification proceeding[s], a class trial and the appellate process could go on for years.”).

**ii. The Settlement is Within the Range of Possible Recoveries and is Fair, Adequate and Reasonable**

The second and third Bennett factors – whether the settlement is within the range of possible recoveries and is fair, adequate and reasonable – can be considered together. See Burrows v. Purchasing Power, LLC, 2013 WL 10167232, at \*6 (S.D. Fla. Oct. 7, 2013). “The Court’s role is not to engage in a claim-by-claim, dollar-by-dollar evaluation, but to evaluate the proposed settlement in its totality.” Lipuma v. American Express Co., 406 F. Supp. 2d 1298, 1323 (S.D. Fla. 2005). “In assessing the settlement, the [c]ourt must determine whether it falls within the range of reasonableness, not whether it is the most favorable possible result in the litigation.” In re Domestic Air Transp. Antitrust Litig., 148 F.R.D. 297, 319 (N.D. Ga. 1993).

As discussed above, the Class Members will receive up to 100% of the total calculated refund due less fees and expenses. See Ex. A, [Proposed] Consent Judgment, Section J. Compare WinSouth Credit Union v. Mapco Express, Inc., No. 3:14-cv-01573 (M.D. Tenn. Jan. 12, 2017) (approving settlement despite arguments that it provided less than 10 percent of the potential recovery). This is an immediate and substantial benefit to the Class Members. See Columbus Drywall, 258 F.R.D. at 559 (On a motion for preliminary approval, finding a settlement fair, adequate and reasonable where there was an immediate and substantial benefit to the class). Therefore, the Settlement is within the range of possible recoveries and is fair, adequate and reasonable.

**iii. Continued Litigation Would be Expensive and Lengthy**

A settlement that “will alleviate the need for judicial exploration of ... complex subjects – [such as class certification and the calculation of the aggregate tax refund amount for individual class members] [] [and] reduce litigation costs ...” merits approval. Lipuma, 406 F. Supp. 2d at 1324. Preliminary approval of the settlement will avoid complex, expensive and continued lengthy litigation, saving resources of the Parties and the Court. Continued litigation would involve extensive discovery, and motion practice, including Named Plaintiffs’ Motion to Certify Suit as Class Action. Trying this Lawsuit to verdict would involve extensive expert involvement, extensive argument and voluminous briefing, and possible Daubert challenges and appeals. Instead of facing uncertainty of a potential award in their favor years from now, the Settlement allows Named Plaintiffs and the Class Members to receive immediate and certain relief.

**iv. The Degree of Opposition to the Settlement**

Courts do not consider this factor until notice has been provided to the class. See Columbus Drywall, 258 F.R.D. at 560. Stated differently, courts do not consider this Bennett factor at the preliminary approval stage.

**v. The Stage of the Proceedings**

The purpose of this final Bennett factor is “to ensure that Plaintiffs had access to sufficient information to adequately evaluate the merits of the case and weigh the benefits of settlement against further litigation.” Lipuma, 406 F. Supp.2d at 1324. Although the settlement was reached at an early stage of the litigation, it is the product of good faith arm’s length negotiations and should be preliminarily approved. See Newberg § 13:14 (“The primary procedural factor courts consider in determining whether to preliminarily approve a proposed settlement is whether the agreement arose out of arms-length-nonocclusive negotiations.”). See also Bennett, 737 F.2d at

987 n.9 (approving settlement where district court had “determined that the settlement ha[d] been achieved in good faith through arms-length negotiations and is not the product of collusion between the parties and/or their attorneys”). Further, “penalizing class counsel for achieving a settlement [early] would work against the interests of the class and undercut the judicial policy favoring early settlement.” In re Equifax Inc. Customer Data Security Breach Litigation, 2020 WL 256132, at \*35 (N.D. Ga. 2020), aff’d in part and remanded by In re Equifax Inc. Customer Data Security Breach Litigation, 999 F.3d 1247 (11<sup>th</sup> Cir. 2021). See also Ressler v. Jacobson, et al., 822 F. Supp. 1551, 1555 (M.D. Fla. 1992) (“The law is clear that early settlements are to be encouraged, and accordingly, only some reasonable amount of discovery should be required to make determinations.”). Where information has been gathered through other means “formal discovery [is not] a necessary ticket to the bargaining table.” In re Corrugated Container Antitrust Litig., 643 F.2d 195, 211 (5<sup>th</sup> Cir. 1981); see also In re Mego Fin. Corp. Sec. Litig., 213 F.3d 454, 459 (9<sup>th</sup> Cir. 2000) (same); Cotton, 559 F.2d at 1332 (finding that “very little formal discovery was conducted and there [was] no voluminous record in this case” but that “the lack of such does not compel the conclusion that insufficient discovery was conducted,” as plaintiffs “achieved the desired quantum of information necessary to achieve a settlement” through investigation and informal discovery).

Before engaging in settlement negotiations, Class Counsel thoroughly investigated the facts and the law of the case. Class Counsel conducted early, informal discovery into this Lawsuit prior to settlement negotiations. See Ex. G, Roberts Aff. at ¶¶9-12. Numerous Open Records Requests were issued to the City for documents. Id. at ¶9. From the documents provided pursuant to the Open Records Requests Class Counsel was able to thoroughly research the facts of this

Lawsuit. Id. at ¶10. For all of the taxpayers who potentially could be entitled to a refund, Class Counsel reviewed property record cards and tax bills. Id. at ¶12.

Class Counsel spent a substantial number of hours investigating the hundreds of potential refund claims in tax years 2016, 2017, 2018, 2019, 2020, 2021 and 2022. Id. at ¶11. See Ressler v. Jacobson, et al., 822 F. Supp. at 1555 (“The law is clear that early settlements are to be encouraged, and accordingly, only some reasonable amount of discovery should be required to make determinations.”).

Moreover, legal issues have been thoroughly researched and Attorney Roberts, as lead counsel, has briefed and argued the same issues in other tax refund and tax appeal matters and is very familiar with the statutory interpretations for homestead exemptions such as the one in this Lawsuit. See Ex. G, Roberts Aff. at ¶13. Significantly, Attorney Roberts was lead counsel in Coleman v. Glynn County, CE12-01785-063, CE13-01480-063; and CE14-00750-063 where the Georgia Court of Appeals interpreted the term “Base Year” in the Glynn County homestead exemption for county and school taxes (known as the “Scarlett Williams Exemption”) which contains the exact same language as the Homestead Exemption. See Ex. G, Roberts Aff. at ¶14. He was also lead counsel in Mary A. Bailey v. McIntosh County, Georgia, Superior Court of McIntosh County, Civil Action No. SUV2021000009 involving the McIntosh Homestead Exemption which contains the exact same language as both the Scarlett Williams Exemption and the Homestead Exemption in this matter. Id.

Based on this, the facts of this Lawsuit have been thoroughly investigated, and in combination with Class Counsel’s litigation experience, Class Counsel can and has adequately analyzed the strengths and weakness of this Lawsuit. Id. at ¶26. Thereafter the Parties reached the Settlement after negotiations. The City is represented by Richard E. Braun, Jr., Esquire and

Samuel G. Oliver, Esquire who are extremely capable counsel. The City's Counsel were a worthy, highly competent and professional adversaries. Id. at ¶18. The Settlement was only reached after extensive negotiations concerning the parameters and provisions of a fair, reasonable and adequate settlement. Id. at ¶20. See Blessing v. Sirius XM Radio, Inc. 507 Fed. Appx. 1, 3 (2d Cir. 2012) (finding that “the district court did not abuse its discretion when it presumed the proposed settlement was fair” where “competent counsel on both sides” and “settlement was reached only after contentious negotiations”).

#### **4. Proposed Method of Distribution**

The Rule 23(e)(2)(C)(ii) factor requires the Court to review the effectiveness of any proposed method of distributing relief to the class. As set forth in the [Proposed] Consent Judgment, all Class Members are treated equally. Courts have concluded that where the settlement terms apply to all Class Members, the “method of distributing relief to the class” will effectively benefit every member of the Class and treat them equitably relative to each other.” Gumm v. Ford, 2019 WL 479506, at \*6 (M.D. Ga. Jan. 17, 2019).

Here, if the Class Member is a Qualified Class Member as defined in the [Proposed] Consent Judgment and still owns the property for which the refund is due, the Class Member needs to take no further action in order to receive his or her refund. See Ex. A, [Proposed] Consent Judgment, Sections I, J and K. There are no claims forms for such Qualified Class Members to complete. If the Class Member is a Qualified Class Member as defined in the [Proposed] Consent Judgment and no longer owns the property for which the refund is due, the Class Member will fill out a claim form (which will be sent to what is believed to be the current address or can be obtained from the Settlement Webpage on the City's website) certifying that he or she is the same taxpayer

for which the refund has been calculated and then the refund will be mailed to such Class Member.  
Id. Under the circumstances this is the best method of distribution possible.

**B. The Settlement Class Should be Certified**

When a settlement is reached before certification, a court must determine whether to certify the settlement class. See e.g., *Manual for Complex Litigation* §21.632 (4<sup>th</sup> ed. 2014); Amchem Products, Inc. v. Windsor, 521 U.S. 591, 613-14 (1997). In determining the propriety of a class action, the Court must determine whether the requirements of O.C.G.A. §9-11-23(a) and one of the requirements under O.C.G.A. §9-11-23(b) have been met. See City of Roswell v. Bible, et al., 351 Ga. App. 828, 830-831, 833 S.E.2d 537, 541 (2019) cert. denied (Ga. Ct. May 4, 2020); Diallo v. American InterContinental Univ., 301 Ga. App. 299, 300, 687 S.E.2d 278 (2009). “In determining the priority of a class action, the first issue to be resolved is not whether the plaintiffs have stated a cause of action or may ultimately prevail on the merits[,] but whether the requirements of O.C.G.A. §9-11-23(a) have been met.” Endochoice Holdings, Inc. et al v. Raczewski, et al., 351 Ga. App. 212, 215, 830 S.E.2d 597, 601 (2019) (internal citation omitted).

The Settlement Class is defined as:

The class is comprised of taxpayers similarly situated, who like Named Plaintiffs, own property in the City of Darien, Georgia who received the Homestead Exemption in the calculation of their tax bill in 2016, 2017, 2018, 2019, 2020, 2021 or 2022 for whom the City of Darien used the year in which the Homestead Exemption was first granted as the Base Year (the “Incorrect Base Year”) rather than the immediately preceding year (the “Correct Base Year”) in calculating the exemption amount under the Homestead Exemption for property tax bills in 2016, 2017, 2018, 2019, 2020, 2021 or 2022 and for whom the value frozen in the year in which the Homestead

Exemption was first granted is greater than the value in the immediately preceding year (hereinafter the “Settlement Class”).

The Court should certify this Settlement Class. Indeed, courts have certified similar classes in other tax refund matters. See e.g., Coleman v. Glynn County, CE12-01785-063, CE13-01480-063; and CE14-00750-063, Superior Court of Glynn County; Altamaha Bluff, LLC, et al. v. Thomas, et al., Superior Court of Wayne County, 14-CV-0376; Old Town Trolley Tours of Savannah, Inc. v. The Mayor and Aldermen of the City of Savannah, Civil Action No. SPCV20-00767-MO, Superior Court of Chatham County; and Bailey v. McIntosh County, Georgia, Civil Action No. SUV2021000009, Superior Court of McIntosh County.<sup>3</sup> See also UNUM Life Ins. Co. of Am. v. Crutchfield, 256 Ga. App. 582, 582-583, 568 S.E.2d 767, 768-769 (2002) (“Certification of a class action is a matter of discretion with the trial judge, and, absent abuse of that discretion, we will not disturb the trial court’s decision.”).

**1. The Settlement Class satisfies the requirements of O.C.G.A. §9-11-23(a).**

The Settlement Class satisfies the four prerequisites under O.C.G.A. §9-11-23(a) for class certification: (1) numerosity; (2) commonality; (3) typicality; and (4) adequacy of representation. See O.C.G.A. §9-11-23(a)(1)-(4). See also Endochoice Holdings, 351 Ga. App. at 215; Liberty Lending Servs. v. Canada, 293 Ga. App. 731, 735-36, 668 S.E.2d 3 (2008).

**i. Numerosity**

Under Georgia law, there is no minimum number of class members required to meet the requirements of O.C.G.A. §9-11-23(a)(1). See Bible, 833 S.E.2d at 543. Named Plaintiffs need only establish that joinder is impracticable through some evidence or reasonable estimate of the

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<sup>3</sup> In addition to the arguments in support of certification of the Settlement Class set forth herein, Named Plaintiffs also incorporates the arguments set forth in its Memorandum of Law in Support of Motion to Certify Suit as Class Action filed on June 1, 2023 as if fully set forth herein.

number of purported prospective class members. See Brenntag Mid South, Inc., v. Smart, 308 Ga. App. 899, 710 S.E.2d 569 (2011). The “impracticability of joinder is generally presumed if the class includes more than 40 members.” American Debt Foundation, Inc. v. Hodzic, 312 Ga. App. 806, 809, 720 S.E.2d 283 (2011). See also Cox v. Am. Cast Iron Pipe Co., 784 F.2d 1546, 1553 (11<sup>th</sup> Cir. 1986) (“[W]hile there is no fixed numerosity rule, generally less than twenty-one is inadequate, more than forty adequate, with numbers between varying according to other factors.”).

The total number of Settlement Class Members for the proposed class exceeds 100 members for each tax year at issue. See Ex. A, [Proposed] Consent Judgment, Exhibit A. Thus, the numerosity requirement is satisfied.

### **ii. Commonality**

Questions of law and fact common to the Named Plaintiffs and Members of the Settlement Class predominate over any individual questions thus satisfying the commonality requirement. A class action is authorized if the members of the class share a common right and common questions of law or fact predominate over individual questions of law or fact. See Fortis Ins. Co. v. Kahn, 299 Ga. App. 319, 322, 683 S.E.2d 4 (2009). Here, the outcome of the litigation turns on one common legal issue applying to the Named Plaintiffs and to all Members of the Settlement Class – whether the City by utilizing the year in which the Homestead Exemption was granted rather than the immediately preceding tax year violated the law.

### **iii. Typicality**

The Named Plaintiffs’ claims are identical to the claims of the prospective class members, satisfying the typicality requirement. The outcome of this litigation for Named Plaintiffs and calculation of any refund or application of any remedy would also uniformly apply to all prospective members of the Settlement Class.



The typicality requirement under O.C.G.A. §9-11-23(a) is satisfied upon a showing that the claims of the Named Plaintiffs are typical of the claims of the members of the class. The Georgia Court of Appeals recently stated that the typicality test is not demanding and “centers on whether other members have the same or similar injury, whether the action is based on conduct which is not unique to the named class plaintiffs, and whether other class members have been injured by the same course of conduct.” Bible, 833 S.E.2d at 544 (internal citations omitted). Importantly, the typicality requirement “may be satisfied even though varying fact patterns support the claims or defenses of individual class members, or there is a disparity in the damages claimed by the representative parties and the other members of the class, so long as the claims or defenses of the class and the class representatives arise from the same events, practice, or conduct and are based on the same legal theories.” Morris, et al. v. PHH Mortgage Corp., et al., 2022 WL 18859412 (S.D. Fla. Dec. 22, 2022) (internal citations and punctuation omitted).

**iv. Adequacy of Representation**

Named Plaintiffs will adequately represent the interests of the Members of the Settlement Class and have no interests divergent from those of the Members of the Settlement Class. Moreover, Named Plaintiffs are represented by experienced and competent class counsel. Consequently, the adequate representation requirement is satisfied.

The facts of this case satisfy the adequacy of representation requirement. First, lead counsel for Named Plaintiffs and the purported class has extensive experience in class action litigation generally and refund class action litigation specifically. See Ex. G, Roberts Aff. at ¶¶6-8. Counsel specializes in property tax law and appeals having handled tax appeals and refund matters for thousands of parcels in over 60 counties in the State of Georgia as Florida, Virginia, Alabama and North Carolina at the administrative, trial court, and appellate court levels. Id. at ¶7.

Second, Named Plaintiffs' interest in this action is the same as the prospective members of the Settlement Class. Named Plaintiffs do not stand to benefit under any circumstances where the prospective members of the Settlement Class they represent would not also benefit for the same reasons.

**2. Class Certification is proper under O.C.G.A. §9-11-23(b)(1) and (3).**

Once the prerequisites for class certification have been satisfied, the Court must determine whether the proposed action satisfies one of the three categories set forth under 9-11-23(b). Here, certification is proper under O.C.G.A. § 9-11-23(b)(1) and (3).

**i. Certification is appropriate under O.C.G.A. §9-11-23(b)(1).**

Certification is proper under O.C.G.A. § 9-11-23(b)(1). Certification is proper if:

[t]he prosecution of separate actions by or against individual members of the class would create a risk of [i]nconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class or [a]djudications with respect to individual members of the class which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

O.C.G.A. § 9-11-23(b)(1).

Particularly significant to this litigation, the United States Supreme Court in Amchem Products, Inc. v. Windsor held that Federal Rule of Civil Procedure 23(b)(1)(B) “takes in cases where the party is obliged by law to treat the members of the class alike” such as “a government imposing a tax.” 521 U.S. 591, 614 (1997). Here, prosecution or the lack of prosecution of separate actions by prospective members of the Settlement Class would create the risk of inconsistent or varying treatment and adjudication among the class as a whole.

Moreover, because of the relatively small amount of refund owed per class member compared to the cost of litigation, it is unlikely that other property owners would pursue refunds

of erroneously assessed taxes. Such a practical impediment would result in the refund of taxes to Named Plaintiffs and the members of the Settlement Class pursuing their own actions while other prospective class members who present the same factual and legal issues would not. Even if Named Plaintiffs prevail, in the absence of class certification there is no mechanism requiring the City to refund taxes to other Members of the Settlement Class.

**ii. Certification is appropriate under O.C.G.A. §9-11-23(b)(3).**

Class certification is proper under O.C.G.A. 9-11-23(b)(3) as questions of law and fact common to the Members of the Settlement Class predominate over individual issues and a class action is superior to other methods of adjudication. O.C.G.A. § 9-11-23(b)(3).

**a. Questions of law and fact common to the class predominate over any questions affecting only individual members.**

A plaintiff may satisfy the predominance requirement by showing that “issues subject to class-wide proof predominate over issues requiring proof that is unique to the individual prospective class members.” Brenntag Mid South, Inc., 308 Ga. App. at 906 citing In re Tri-State Crematory Litigation, 215 F.R.D. 660 (N.D. Ga. 2003). “Where the Defendant’s liability can be determined on a class-wide basis because . . . of a single course of conduct which is identical for each of the plaintiffs, a class action may be the best suited vehicle to resolve such a controversy.” Id. (quoting Sterling v. Velsicol Chemical Corp., 855 F.2d 1188, 1197 (6<sup>th</sup> Cir. 1988)). See also Bible, 833 S.E.2d at 542.

In the instant action, liability can be determined on a class wide basis. If use of the incorrect application of the Base Year by using the year in which the Homestead Exemption was first granted rather than the immediately preceding year resulted in illegal taxation for Named Plaintiffs, then the same is true for the Members of the Settlement Class.

The Georgia Supreme Court has held that class actions can be brought for tax refunds and for refunds under O.C.G.A. § 48-5-380 in particular. City of Atlanta v. Barnes, 276 Ga. 449, 451-452, 578 S.E.2d 110 (2003) (“Barnes I”) (superseded by statute on other grounds in Sawnee Electrical Membership Corp. v. Georgia Dept. of Revenue, 279 Ga. 22, 603 S.E.2d 611 (2005)). In Barnes, Named Plaintiff sought a refund of taxes based on an allegedly unlawful occupation tax which was certified as to all taxpayers who had been subjected to the tax within the period allowed by O.C.G.A. § 48-5-380. Barnes v. City of Atlanta, 281 Ga. 256, 260, 637 S.E.2d 4 (2006) (“Barnes II). The Barnes II court writes:

[i]n our prior opinion, however, we held that OCGA § 48-5-380 does not ‘provide for the form of action to be utilized. By participating as a plaintiff in a class action that includes a claim for a tax refund, a taxpayer is unquestionably bringing an action for a refund, which is what the statute permits.’ Barnes I, supra at 452(3), 578 S.E.2d 110. Compare Sawnee Elec. Membership Corp. v. Ga. Dept. of Revenue, 279 Ga. 22, 25(3) fn. 1, 608 S.E.2d 611 (2005) (former OCGA § 48-2-35(b)(5), now designated subsection (c)(5), **superseded Barnes I only as to refund claims against the State**).

Id. at 257 (emphasis added).

After Barnes II the Georgia Court of Appeals had the opportunity to analyze the ability to maintain a class action for refund under O.C.G.A. §48-5-380 in Glynn County v. Coleman, et al, 334 Ga. App. 559, 779 S.E.2d 753 (2015). The Coleman court held that “[b]ased upon Barnes II and the General Assembly’s failure to preclude class actions under O.C.G.A. §48-5-380 following the Supreme Court’s decision in Barnes I, we conclude that a class action for a tax refund can be maintained under O.C.G.A. §48-5-380.” Coleman, 334 Ga. App. at 564.

Similar to Barnes I and Coleman, here, Named Plaintiffs seek certification of a class that has been uniformly subjected to tax bills and the voluntary or involuntary payment taxes based on the use of the incorrect application of the term “Base Year” in the Homestead Exemption. Accordingly, common issues predominate. See also Mary A. Bailey v. McIntosh County, Georgia,

Superior Court of McIntosh County, Civil Action No. SUV2021000009 (May 5, 2022) (Court found common issues predominate).

**b. A class action is the superior method for resolving the claims of the Members of the Settlement Class.**

In order to determine whether a class action is the superior method, the court must balance the merits of a class action against alternative methods of adjudication.<sup>4</sup> Brenntag, at 906. Factors to be considered include:

(A) [t]he interest of members of the class in individually controlling the prosecution or defense of separate actions; (B) [t]he extent and nature of any litigation concerning the controversy already commenced by or against members of the class; (C) [t]he desirability or undesirability of concentrating the litigation of the claims in the particular forum; and (D) [t]he difficulties likely to be encountered in the management of a class action.

O.C.G.A. § 9-11-23(b)(3).

These factors weigh in favor of class certification. Given the common set of facts and legal issues presented by the claims of Named Plaintiffs and the Members of the Settlement Class, no legitimate interest exists for the Members of the Settlement Class to individually control separate actions. See Sacred Heart Health Systems, Inc. v. Humana Military Healthcare Services, Inc., 601 F.3d 1159, 1184 (11th Cir. 2010) (when common issues predominate over individual issues a class action is the more desirable vehicle).

No other litigation concerning this controversy has been commenced by Named Plaintiffs or the Members of the Settlement Class. As the taxes at issue were paid to the City and all properties which such taxes were levied on are located in McIntosh County, it is the natural and

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<sup>4</sup> For completeness the analysis of a class action being a superior method for resolving the instant claims of the Class Members is included here. However, since the Settlement, if approved, would obviate the need to a trial, the Court need not consider the manageability of a potential trial in its analysis of deciding whether to certify the Settlement Class. See Amchem Products, Inc., 521 U.S. at 620.

only appropriate venue for the action. Finally, given the readily available records of the City necessary to identify the class and the location of all the Members of the Settlement Class and the overarching legal issues requiring resolution by the Court, the instant action presents a straight forward easily managed class action.

Here, the facts and claims presented are uniquely appropriate for class certification. These refund claims, would not be economical to pursue outside of the class framework. Moreover, the number of claims if pursued by all Members of the Settlement Class would over one hundred for each tax year at issue burdening the Superior Court of McIntosh County. See Schorr v. Countrywide Home Loans, Inc., 287 Ga. 570, 572, 697 S.E.2d 827 (2010) (“[T]he modern class action is designed to avoid, rather than encourage, unnecessary filing of repetitious papers and motion.”). (Citations and punctuation omitted).

### **C. The Proposed Notice Program Should be Approved**

O.C.G.A. §9-11-23(e) provides “notice of the proposed ... compromise shall be given to all members of the class in such manner as the court directs.” Due process likewise requires that class members be given notice and an opportunity to be heard. See Phillips Petroleum v. Shutts, 472 U.S. 797, 812 (1985). “To satisfy due process requirements, the notice must be the best practicable, reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” Morgan v. Public Storage, 301 F. Supp.3d 1237, 1261 (S.D. Fla. 2016) (internal citation and punctuation omitted). As the Morgan Court explained, “best practicable” notice does not require that every class member actually receive notice. “The relevant question is not whether every absent class member actually receives notice, but whether the notice that the court orders is reasonably calculated to reach the absent members. The fact that some class members may not actually

receive timely notice does not render the notice inadequate as long as the class as a whole had adequate notice.” Id. (Internal citation and punctuation omitted).

The method and manner of the notice process is “left to the discretion of the court subject only to the broad ‘reasonableness’ standards imposed by due process.” Grunin v. Int’l House of Pancakes, 513 F.2d 114, 121 (8<sup>th</sup> Cir. 1975), cert. denied, 423 U.S. 864 (1975); see also O.C.G.A. §9-11-23(e). There is no single way in which the notice must be transmitted. However, “mail is the preferred means for notifying identified members of a class.” *Newberg on Class Actions*, §8:28 (5<sup>th</sup> ed. 2013). Mail is sufficient when the class members are known. Wright & A. Miller, Federal Practice and Procedure, §1797.6 (3<sup>rd</sup> ed. 2005).

Therefore, as part of the notice program, the Parties propose to individually notify each Member of the Settlement Class via the U.S. Postal Service at the last known address as determined from the City’s business records and the records of the McIntosh County Tax Commissioner. This is the Full Notice proposed by the Parties. The Parties believe that in providing notice in this manner they will give actual, individual notice to every taxpayer who can be located that may be entitled to a refund under the issues raised in this Lawsuit.

The Full Notice is written in plain English; describes the Lawsuit, the claims that were raised and the terms of the proposed Settlement. The Full Notice also informs the Members of the Settlement Class about the deadlines and their rights to object and instructions for doing so. It also informs the Members of the Settlement Class that Class Counsel will apply to the Court for an award of attorney’s fees not to exceed 40% of the Aggregate Refund Fund and for a service award for Named Plaintiffs and about the final fairness hearing and their right to appear. Finally, the Full Notice provides instructions on how the Members of the Settlement Class can obtain more information about the Lawsuit and the Settlement if they desire to do so. See Ex. H, Full Notice.

In addition to this actual, individual notice, the City will place a settlement webpage on its website. This is the Settlement Webpage proposed by the Parties. On the Settlement Webpage the Members of the Settlement Class will be able to view and download selected copies of pleadings, orders and documents related to the Settlement.

Finally, a Publication Notice will be placed in The Darien News containing information about the Lawsuit and directing the Members of the Settlement Class to the Settlement Webpage. This is the Publication Notice proposed by the Parties. See Exhibit I, Publication Notice.

This notice program clearly satisfies the requirements of O.C.G.A. § 9-11-23 as well as due process. Therefore, the Court should approve the proposed notice program and direct that the notices be sent out to the Members of the Settlement Class. See e.g., Holman v. Student Loan Xpress, Inc., 2009 WL 4015573, at \*6 (M.D. Fla. November 19, 2009) (approving notice by first class mail to most recent known address).

#### **D. Claim Forms and Forms to be Used in the Administration of the Settlement**

The Parties seek Court approval for five (5) claim forms that will be used in the claim administration for this Settlement.

##### **1. Members of the Settlement Class Who No Longer Own the Property**

The first claim form will be used for Settlement Class Members who no longer own the property for which the refund is due i.e., the Category 2 Class Members as defined in the [Proposed] Consent Judgment. A copy of the Claim Form for Category 2 Class Members is attached as Exhibit “J”. The Parties respectfully request that the Claim Form for Category 2 Class Members be approved for use in the administration of this Settlement.



**2. Missing Settlement Class Member**

The second claim form will be used for taxpayers who believe that they are entitled to a refund but are not listed as a Settlement Class Member. A copy of the Claim Form for Missing Class Member is attached as Exhibit “K”. The Parties respectfully request that the Claim Form for Missing Class Member be approved for use in the administration of this Settlement.

**3. Objection Form for Class Member**

Under the [Proposed] Consent Judgment the City and the individual taxpayers have the right to object to the calculation of any individual refund calculations made by the Administrator. See Ex. A, [Proposed] Consent Judgment, Section E. A copy of the proposed Objection Form for Class Member is attached hereto as Exhibit “L”. The Parties respectfully request that the Objection Form for Class Member be approved for use in the administration of the Settlement.

**4. Address Update**

The fourth claim form is for a Class Member to provide the Administrator with an updated address. A copy of the proposed Address Update Form is attached hereto as Exhibit “M”. The Parties respectfully request that the Address Update Form be approved for use in the administration of the Settlement.

**5. Notice of Completion**

Under the [Proposed] Consent Judgment the Nixon QSF Administrator shall file a notice of completion of administration (“Notice of Completion”) with the Court within thirty (30) days of completion of the administration and return of any remaining funds from the Aggregate Refund Fund Account to the City. See Ex. A, [Proposed] Consent Judgment, Section K. A copy of the proposed Notice of Completion is attached hereto as Exhibit “N”. The Parties respectfully request that the Notice of Completion be approved for use in the administration of the Settlement.

## CONCLUSION

For the reasons set forth herein, the Parties jointly request that the Court grant their Joint Motion to (1) preliminarily approve the proposed Settlement; (2) certify the proposed Settlement Class; (3) designate Named Plaintiffs as Class Representatives; (4) designate Roberts Tate, LLC as Class Counsel; (5) approve the notice program; (6) approve certain forms to be used in the administration of the Settlement; and (7) schedule the final approval hearing.

Respectfully submitted this the 8<sup>th</sup> day of September, 2023.

ROBERTS TATE, LLC

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ATTORNEY FOR DEFENDANT

**IN THE SUPERIOR COURT OF MCINTOSH COUNTY  
STATE OF GEORGIA**

<b>TROY and TARYN NIXON</b>	)	
	)	
<b>Plaintiffs,</b>	)	<b>CIVIL ACTION NO. SUV2023000081</b>
	)	
<b>v.</b>	)	
	)	
<b>CITY OF DARIEN, GEORGIA</b>	)	
	)	
<b>Defendant.</b>	)	

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**CERTIFICATE OF SERVICE**

I, Jason M. Tate, of Roberts Tate, LLC do hereby certify that, on this date, I served a copy of the foregoing **JOINT MOTION AND SUPPORTING MEMORANDUM OF LAW FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT, PRELIMINARY CERTIFICATION OF SETTLEMENT CLASS, APPROVAL OF NOTICE PROGRAM AND TO SCHEDULE FINAL APPROVAL HEARING** upon the following parties, by U.S. Mail and/or electronic mail with proper postage affixed, to:

Richard E. Braun, Jr. CPM  
City Manager/City Attorney  
Richard.braun@cityofdarienga.com  
ATTORNEYS FOR DEFENDANT

Samuel G. Oliver, Esquire  
Georgia Bar No. 552590  
200 Walnut Street  
P.O. Box 495  
Darien, GA 31305  
ATTORNEYS FOR DEFENDANT

This 8th day of September, 2023.

/s/ James L. Roberts, IV  
James L. Roberts, IV

# Exhibit “A”

**IN THE SUPERIOR COURT OF MCINTOSH COUNTY  
STATE OF GEORGIA**

<b>TROY and TARYN NIXON</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>CIVIL ACTION NO. SUV2023000081</b>
	)	
<b>v.</b>	)	
	)	
<b>CITY OF DARIEN, GEORGIA</b>	)	
	)	
	)	
<b>Defendant.</b>	)	

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**[PROPOSED] CONSENT JUDGMENT ON AGGREGATE REFUND AND ORDER**

Plaintiffs Troy and Taryn Nixon (“Plaintiffs” or “Class Representatives”) having filed the instant class action lawsuit (the “Lawsuit”) pursuant to O.C.G.A. § 48-5-380 on behalf of themselves and all taxpayers similarly situated seeking refunds for taxes that were overpaid based on Defendant City of Darien’s (the “City” or the “Defendant”) incorrect application of the City of Darien local homestead exemption for municipal purposes found in House Bill 1197 (“HB 1197”) enacted on January 1, 2007 (referred to herein as the “Homestead Exemption”) and this Court having read and considered the various motions and responses thereto and the Parties stipulating to the amount of the aggregate refund fund;

THEREFORE, IT IS ORDERED as follows:

**A. The Homestead Exemption and Plaintiffs and Class Members Refund Claims**

The Homestead Exemption provides that:

Each resident of the City of Darien is granted an exemption on that person’s homestead from City of Darien ad valorem taxes for municipal purposes in an amount equal to the amount by which the current year assessed value of that homestead exceeds the base year assessed value of the homestead.

The Homestead Exemption Section 1(a)(2) states that “Base Year” is “the taxable year

immediately preceding the taxable year in which the exemption under [the Homestead Exemption] is first granted to the most recent owner of such homestead.” See HB 1197 at Section 1(a)(2). Plaintiffs applied for and were granted the Homestead Exemption. Despite the plain language of the Homestead Exemption stating that the “Base Year” should be the tax year “immediately preceding” the tax year that the Homestead Exemption was granted to the most recent owner, the City treated the year of the exemption was granted as the Base Year rather than the immediately preceding year. Upon information and belief, McIntosh County set the Homestead Exemption value for the City for each year from 2016 through 2022.

The language of the Homestead Exemption is the exact same language as the Glynn County, Georgia homestead exemption for county and school taxes known as the “Scarlett Williams Exemption” enacted May 1, 2000 pursuant to House Bill 1690 (“HB 1690”) and House Bill 1691 (“HB 1691”). Compare HB 1197 Section 1(a)(2) and (b) with HB 1690 Section 1(a)(2).

The Georgia Court of Appeals interpreted the term “Base Year” in the Scarlett Williams Exemption (which is defined exactly the same way as it is defined in HB 1197) and held that “[b]ased on the plain language of the Act, the base year is merely the taxable year immediately preceding the taxable year in which the applicant was the owner of the property on January 1 – in other words, the year prior to the year in which the homestead exemption was granted.” Coleman, et al. v. Glynn County, Georgia, et al., 344 Ga. App. 545, 549, 809 S.E.2d 383, 387 (2018) (hereinafter “Coleman” or the “Coleman Rulings”).

The language of the Homestead Exemption is also the exact language as the McIntosh County, Georgia homestead exemption for county taxes found in House Bill 382 (“H.B. 382”) and House Bill 450 (“H.B. 450”) (the “McIntosh County Homestead Exemption”). Upon information and belief, based at least in part on the Georgia Court of Appeals’ decision in Coleman, the Board

of Commissioners of McIntosh County approved a policy to refund taxpayers for the illegal and erroneous assessment of taxes based on the incorrect application of the Base Year by using the year in which the Homestead Exemption was first granted rather than the immediately preceding year. The policy approved for refund by the Board of Commissioners of McIntosh County did not comply with Georgia law, resulting in McIntosh County being sued in a class action lawsuit in 2021 based on McIntosh County's incorrect application of the term Base Year. See Mary A. Bailey v. McIntosh County, Georgia, Superior Court of McIntosh County, Civil Action No. SUV2021000009. Ultimately, McIntosh County settled the class action lawsuit in 2022 with the Court granting final approval to the settlement on May 5, 2022 resolving claims for the improper application of the McIntosh County Homestead Exemption for 2016 through 2022. See <http://mcintoshcountyga.com/214/Tax-Refund-Case>.

Accordingly, for the reasons set forth in Coleman, Plaintiff and all others similarly situated are entitled to tax refunds under O.C.G.A. § 48-5-380 for 2016 through 2019 based on the use of the incorrect Base Year under the Homestead Exemption.

**B. Class Certification**

Plaintiffs and Defendant hereby stipulate to the certification of a class pursuant to O.C.G.A. § 9-11-23(b)(1) and the Court finds that such certification is appropriate. The Class shall consist of the City of Darien property owners who received the Homestead Exemption in the calculation of their tax bill in 2016, 2017, 2018, 2019, 2020, 2021 or 2022 for whom the City of Darien used the year in which the Homestead Exemption was first granted as the Base Year (the "Incorrect Base Year") rather than the immediately preceding year (the "Correct Base Year") in calculating the exemption amount under the Homestead Exemption for property tax bills in 2016, 2017, 2018, 2019, 2020, 2021 or 2022 and for whom the value frozen in the year in which the Homestead

Exemption was first granted is greater than the value in the immediately preceding year (hereinafter the “Class”). “Class Member” or “Class Members” means a member or members of the Class. The Court specifically finds that class certification is appropriate because:

- 1) The potential class members are so numerous that joinder of all members is impractical, satisfying the requirements of O.C.G.A. § 9-11-23(a)(1);
- 2) There are questions of law or fact common to each class member, satisfying the requirements of O.C.G.A. § 9-11-23(a)(2);
- 3) The claims of the representative parties are typical of the claims of class members, satisfying the requirements of O.C.G.A. § 9-11-23(a)(3);
- 4) Class Representatives will fairly and adequately protect the interests of the class members, satisfying the requirements of O.C.G.A. § 9-11-23(a)(4);
- 5) Certification of the class is appropriate under O.C.G.A. § 9-11-23(b)(1) as the prosecution of separate actions by or against individual class members would create a risk of inconsistent or varying adjudications with respect to individual class members which would establish incompatible standards of conduct for the party opposing the class or adjudications with respect to individual class members which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests;<sup>1</sup>

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<sup>1</sup> Additionally, while the Court has elected to only certify the Class under 9-11-23(b)(1), the Court also finds that certification under 9-11-23(b)(3) would be appropriate as questions of law or fact common to the members of the class predominate over questions affecting only individual members, satisfying the requirements of O.C.G.A. § 9-11-23(b)(3) and a class action is superior to other methods available for the fair and efficient adjudication of this controversy satisfying the requirements of O.C.G.A. § 9-11-23(b)(3).



- 6) The law firm of Roberts Tate, LLC will fairly and adequately represent the interests of the class as Class Counsel; and
- 7) The action is manageable as a class action.

Plaintiffs Troy and Taryn Nixon shall serve as class representatives for the class as defined herein.

The law firm of Roberts Tate, LLC is appointed as Class Counsel for the Class certified herein.

**C. Consent Judgment on the Aggregate Refund Amount**

Plaintiffs and Defendant hereby stipulate that the aggregate refund amount in this Lawsuit is Two Hundred Thousand (\$200,000.00) (hereinafter the “Aggregate Refund Fund”). The Court hereby approves and ENTERS A CONSENT JUDGMENT pursuant to O.C.G.A. § 48-5-380 in favor of Plaintiffs in the amount of \$200,000.00.

Defendant the City of Darien shall pay the Aggregate Refund Fund within fourteen (14) days of final approval of this Consent Judgment. In the event that Defendant the City of Darien fails to make the payment into the Aggregate Refund Fund as provided above, post judgment interest shall accrue at the rate of 7.0% per annum as set by O.C.G.A. § 7-4-2(a)(1)(A) on said amount until paid in full.

The Aggregate Refund Fund shall be the sole source used to pay: (i) all tax refunds and interest owed to Class Members as set forth herein (the “Class Refunds”); (ii) Plaintiffs’ Counsel for attorneys’ fees and expenses as set forth herein and as approved by the Court; (iii) Class Representative Service Payments as set forth herein and as approved by the Court; and (iv) the costs of administering the Aggregate Refund Fund including the cost and expenses of the Administrators and the costs of notice to the Class Members as described herein, the costs and

expenses of the Special Master, and the direct costs and expenses for the distribution and mailing of refunds to Class Members.

The Aggregate Refund Fund shall be paid to a Qualified Settlement Fund under Section 468B of the Internal Revenue Code to be identified and established prior to and to be specified in the Final Order (the “Nixon QSF”) to carry out the payment of approved Fees and Expenses of Class Counsel and Class Service Payment set forth in Section F and the Refund Payment Process set forth in Section K herein. The Final Order will appoint an administrator of the Nixon QSF (the “Nixon QSF Administrator”). The costs of the Nixon QSF Administrator shall be paid from the Aggregate Refund Fund. The Aggregate Refund Fund shall be deposited into an interest-bearing bank account (the “Aggregate Refund Fund Account”) established by the Nixon QSF Administrator. The Aggregate Refund Fund Account shall have a unique Taxpayer Identifier Number.

Except as set forth above, the costs of administering the Class Refunds shall not include any costs incurred by Defendant related to the webpage used for notification of Class Members or time devoted by employees of Defendant to fulfilling the terms of this Consent Judgment. The Aggregate Refund Fund shall be the sole and exclusive source for payment of the Class Refunds and fees and expenses by Defendant and upon payment in full of the amount of the Aggregate Refund Fund owed by each shall be in sole satisfaction of all claims against Defendant.

**D. Appointment of Administrator**

Larry Griggers is appointed Administrator (hereinafter referred to as the “Administrator”) to identify the Class Members entitled to refunds based on the City’s databases, digests, records and resources of the Tax Commissioner and of the McIntosh County Board of Assessors’ Office (the “BOA”) and to calculate the individual refund amounts, if any, due each Class Member. The

Administrator is to be given full access to the records of the City and the City shall take all actions necessary to make all relevant records of the McIntosh County Tax Commissioner and the BOA available to the Administrator to perform his duties as outlined herein. In the event that Larry Griggers cannot serve, a substitute Administrator consented to by the Parties shall be appointed.

The Administrator's fees will be paid from the Aggregate Refund Fund. The Administrators will be paid the hourly rate of \$150 per hour for his services and \$50 per hour for administrative personnel hired to assist him. Upon completion of the Administrator's work he shall submit an accounting of all charges and expenses to Plaintiffs' Counsel and Defendant's Counsel at least fifteen (15) days prior to submission of such charges and expenses to the Nixon QSF Administrator for payment. Plaintiffs' Counsel and Defendant's Counsel shall notify the Administrator of any objections to his charges and expenses within five (5) days of receipt. The Nixon QSF Administrator will pay the Administrator's charges and expenses within ten (10) days of submission provided there are no unresolved objections. Any unresolved objections shall be submitted to the Special Master as set forth below for resolution and whose decision shall be binding.

**E. Preliminary Approval of Proposed Consent Judgment and Order, Notification of Class and Objection Procedure**

Plaintiffs and Defendant shall promptly move the Court for an Order granting preliminary approval of this [Proposed] Consent Judgment (the "Preliminary Approval Order"). The proposed Preliminary Approval Order that will be attached to the motion shall be in a form agreed upon by Plaintiffs' Counsel and Defendant's Counsel. The Motion for Preliminary Approval shall request that the Court: (i) approve the [Proposed] Consent Judgment as set forth herein as being within the range of fair, adequate and reasonable; (ii) approve the Notice program as overviewed herein and as set forth in more detail in the Motion for Preliminary Approval including the form and content

of the Notices which will be attached to the Motion for Preliminary Approval; and (iii) schedule a Final Approval hearing for a time and date mutually convenient for the Court, Plaintiffs' Counsel and Defendant's Counsel, at which time the Court will conduct an inquiry into the fairness of the [Proposed] Consent Judgment, determine whether it was made in good faith, and determine whether to approve the [Proposed] Consent Judgment and Plaintiffs' Counsel's application for attorneys' fees, costs and expenses for any Service Award to Class Representatives (the "Final Approval Hearing").

Notice of the [Proposed] Consent Judgment shall be sent to all those who received the Homestead Exemption in 2016, 2017, 2018, 2019, 2020, 2021 or 2022. The proposed notice to the Class Members shall include, among other information; a description of the material terms of the [Proposed] Consent Judgment; a description of the administration process; the timing of the calculation of individual refund amounts; a date by which the Class Members may object to the fee, expense and service award motion; a date by which the Class Members may object to the calculation of individual refund amounts; the address of the website page contained on the City's website where Class Members may access this [Proposed] Consent Judgment and other related documents and information; the date that the Final Approval Hearing will occur; and the procedure for the Class Members to object (the "Notice"). A form of Notice to be sent to the Class will be submitted to the Court as an Exhibit to the Motion for Preliminary Approval. Notice will be provided by U.S. Mail to the last known address for each taxpayer who received the Homestead Exemption during the relevant period. An advertisement will be placed in The Darien News containing the information provided in the Notice and directing taxpayers to the webpage on the City's website.

Objections to the [Proposed] Consent Judgement or to the Fee Petition and Service Awards must be mailed to the Clerk of Court, Plaintiffs' Counsel and Defendant's Counsel. For an objection to be considered by the Court, the objection must be received by the Court, Plaintiffs' Counsel and Defendant's Counsel at least ten (10) days prior to the Final Approval Hearing. For an objection to be considered by the Court, the objection must also set forth:

- a. The name of the Lawsuit;
- b. The objector's full name, address and telephone number;
- c. An explanation of the basis upon which the objector claims to be a Class Member;
- d. All grounds for the objection, accompanied by any legal support for the objection known to the objector or the objector's counsel;
- e. The number of times the objector has objected to a class action settlement within the five (5) years preceding the date on which the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders or opinions to or ruling upon the objector's prior such objections that were issued by any court in each listed case;
- f. The identity of all counsel who represented the objector, including any former or current counsel who may be entitled to any compensation for any reason related to the objection to the Consent Judgment or to Fee Petition, and Service Awards;
- g. The number of times the objector counsel and/or counsel's law firm have objected to a class action settlement within the last five (5) years preceding the date the objector files the objection, the caption of each case in which the counsel or the

firm has made such objection, and a copy of any order or opinions related to or ruling upon counsel or the firm's prior such objections that were issued by any court in each listed case;

- h. Any and all agreements that relate to the objection or the process of objecting – whether written or verbal – between the objector or objector's counsel and any other person or entity;
- i. The identity of all counsel representing the objector who will appear at the Final Approval Hearing;
- j. A list of all persons which will be called to testify at the Final Approval Hearing in support of the objection;
- k. A statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and
- l. The objector's signature (an attorney's signature is not sufficient).

The Court, in its discretion, may determine which, if any, Class Member(s) who objected and who requested to appear at the Final Approval Hearing will be entitled to appear and be heard. Any Class Member who fails to object in the manner set forth in this Section shall be deemed to have forever waived his or her objections and forfeit any and all rights the Class Member may otherwise have to appear separately and/or to object, and shall be bound by all the terms of this [Proposed] Consent Judgment and by all proceedings, orders and judgments in the Lawsuit.

**F. Fees and Expenses**

Class Counsel intends to file a motion for attorneys' fees and expenses to be awarded as well as a motion for a class service payment to the Class Representatives at least twenty (20) days prior to the Final Approval Hearing. Class Counsel intends to seek the payment of attorneys' fees from the Aggregate Refund Fund of 40% of the Aggregate Refund Fund plus documented out of pocket costs and expenses for prosecuting this action ("Fee Petition"). Any award of attorneys' fees, costs and expenses to Class Counsel shall be payable solely out of the Aggregate Refund Fund and is subject to Court approval. Defendant takes no particular position in favor or against the ultimate amount requested in such Fee Petition and intends to defer such decision to the judgment and discretion of the Court.

Additionally, Class Counsel intends to file on behalf of the Class Representatives a petition for class service payment from the Aggregate Refund Fund ("Class Service Petition"). Defendant takes no particular position in favor or against the ultimate amount requested in such Class Service Petition and intends to defer such decision to the judgment and discretion of the Court.

Not more than thirty-five (35) days following the date of notice to the Class as described below, the Court, if necessary, will hold a hearing to resolve any objections and pending motions and will determine the amount of fees and expenses to be paid to Class Counsel and fees to be paid to the Class Representatives. Class Counsel's fees and expenses, Class Representatives' fees and fees regarding the administration of the Aggregate Refund Fund are collectively referred to as "Fees and Expenses". Fees and Expenses are to be paid from the Aggregate Refund Fund.

The Attorney's Fees and Expenses and Service Payments shall be paid to a Qualified Settlement Fund under Section 468B of the Internal Revenue Code to be identified and established prior to and to be specified in the Final Order.

Fees and expenses awarded by the Court to Class Counsel shall be payable from the Aggregate Refund Fund upon award and shall be paid by the Nixon QSF Administrator within fifteen (15) days from the date of the Court Order approving same, subject to the availability of sufficient funds in the Aggregate Refund Fund with any remaining fees and expenses owed to be paid at such time as additional funds are placed into the Aggregate Refund Fund sufficient to satisfy the award of fees and expenses to Class Counsel. Fees and expenses awarded to Class Counsel shall be paid notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the award or this [Proposed] Consent Judgment or any part thereof, subject to Class Counsel's obligation to make appropriate refunds or repayments to the Aggregate Refund Fund plus accrued interest at the same net rate as is earned by the Aggregate Refund Fund, if and when, as a result of any appeal and/or further proceedings on remand, or successful collateral attack, the fee or expense award is reduced or reversed.

**G. Final Approval Order and Entry of Consent Judgment**

Plaintiffs shall file their Motion for Final Approval of Consent Judgment, the Fee Petition and the Class Service Petition no later than seven (7) days prior to the date of the Final Approval Hearing. The Court, if necessary, will hold a hearing to resolve any objections properly submitted and enter the Consent Judgment and award attorneys' fees and expenses and service awards for Class Representatives. The Motion for Final Approval of the Consent Judgment will contain a proposed Final Order in a form agreed to by Plaintiffs' Counsel and Defendant's Counsel. Such Final Order shall, among other things:

- a. Determine that the [Proposed] Consent Judgment is fair, adequate and reasonable;
- b. Determine that the Class has been fairly and adequately represented;
- c. Determine that the Notice Provided satisfies Due Process requirements;



- d. Enter a final order and judgment giving effect to the terms of this [Proposed] Consent Judgment;
- e. Rule on the Fee Petition and award Attorneys' Fees and Expenses Payment as may be determined to be fair, adequate, and reasonable in the discretion of the Court;
- f. Rule on the Class Service Petition and award Class Service Payment as may be determined to be fair, adequate, and reasonable in the discretion of the Court;
- g. Bar and enjoin Plaintiffs and all Class Members from asserting any of the Released Claims;
- h. Release Defendant and Released Parties as set forth in Section L(1);
- i. Reserve the Court's continuing and exclusive jurisdiction over the Parties to this [Proposed] Consent Judgment, to administer, supervise, construe and enforce this [Proposed] Consent Judgment in accordance with its terms.

#### **H. Identification of Class Members and Calculation of Individual Refunds**

Following Final Approval of the Consent Judgment, the Administrator is directed to identify the Class and Class Members and confirm and calculate the individual refund amounts. "Class" means the City of Darien property owners receiving the Homestead Exemption in the calculation of their tax bills in 2016, 2017, 2018, 2019, 2020, 2021 or 2022 for whom Defendant used the Incorrect Base Year rather than the Correct Base Year in calculating the exemption amount under the Homestead Exemption for property tax bills in 2016, 2017, 2018, 2019, 2020 or 2021 and for whom the value frozen in the year in which the Homestead Exemption was first granted is greater than the value in the immediately preceding year. "Class Member" or "Class

Members” means a member or members of the Class. The Administrator will identify the Class Members who are entitled to refunds as follows:

The Administrator shall be given full access to the records of and full cooperation by Defendant’s departments including, but not limited to, Information Technology and tax commissioner and Defendant shall take all steps necessary to provide the Administrator with access to the records of the McIntosh County BOA’s Office and Tax Commissioner’s Office in order to confirm the identity of Class Members.

The Administrator will remove as ineligible for any refund all taxpayers for whom the Correct base year or base value was used. To accomplish this the Administrator will:

1. Determine what should be the Base Year by subtracting one (1) year from the effective date of the Exemption (“Effective Date”<sup>2</sup>) which reflects the Correct Base Year under the Court of Appeals’ decision in Coleman (i.e., the year immediately preceding the year in which the Exemption was first granted);
2. Remove taxpayers where the City used the Correct Base Year; and
3. Remove taxpayers where the City used the Incorrect Base Year but used the correct frozen amount in calculating the taxes.

For those taxpayers that remain, the City may have used an incorrect base value to calculate the Exemption. From this remaining group of taxpayers, the Administrator will determine if there are any other reasons that would preclude a taxpayer from receiving a refund or reasons that would reduce the amount of the refund.

To accomplish this, the Administrator will:

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<sup>2</sup> The “Effective Date” is the date that the application was actually filed.

1. Remove those taxpayers where the total value of the property in the year at issue is less than or equal to the base value as determined by the Court of Appeals in Coleman;
2. Remove those taxpayers where the current year base value used by the City is less than or equal to the base value determined by the Court of Appeals in Coleman; and
3. Remove those taxpayers where the original base value used by the City is less than or equal to the base value as determined by the Court of Appeals in Coleman.

For the remaining taxpayers, the Administrator will calculate an individual Class Member refund amounts. To accomplish this, the Administrator will:

1. Take the lesser of the applicable refund year value, the current year frozen value and the frozen value established in the year the exemption was granted and subtract the valuation in the year prior to the year in which the Homestead Exemption was first granted (the Base Year valuation under the Coleman Ruling) and multiply times the county and school millage rate.
2. Where the current year frozen value exceeds the frozen value established in the year the exemption was granted, the Administrator shall determine the proper adjusted base value by subtracting the frozen value in the year the exemption was originally granted from the current year frozen value, then adding the result to the Correct Base Year valuation in order to account for additions and improvements to the homestead after year the Base Year and multiply times the county and school millage rate.
3. For all taxpayers receiving additional exemptions that reduce the amount of the refund owed, the Administrator will make adjustments to the refund calculation for those taxpayers

receiving other exemptions that reduce the overpayment of taxes as a result of use of the Incorrect Base Year.

4. For all taxpayers where there was construction between the year immediately preceding the year in which the Homestead Exemption was first granted and the year used by the City as the base year, the Administrator will determine the proper frozen value in the year immediately preceding the year in which the Homestead Exemption was first granted (Base Year value under the Coleman Ruling), add the value of any improvements added to the property between the based year under the Coleman Ruling and the base year used by the City and subtract this amount from the frozen value used by the City and multiply times the county and school millage rate.

5. The Administrator will calculate interest on the calculated refund from the date of overpayment through the date of final approval of this [Proposed] Consent Judgment and add this amount to the calculated refund for each Class Member.

6. The resulting calculation shall be the refund owed to each Class Member (the “Calculated Refund”).

7. The process described above will produce a refund amount for each Class Member for a single year and will be repeated for each applicable refund year.

8. The Administrator will only use the taxable year immediately preceding the taxable year in which the Homestead Exemption was first granted to the most recent owner of such homestead as the base year in calculating refunds.

9. The amount of refunds already paid to any Class Member shall be deducted from the Calculated Refund.

10. The identification of Class Members entitled to refunds and the amount of the individual refunds due to such Class Members is to be completed within 180 days of final approval of the [Proposed] Consent Judgement.

The City and any Class Member shall have the right to object to the calculation of any individual refund calculations made by the Administrator including the City's ability to assert any individual defenses to such individual's entitlement to the refund or the amount thereof. Such objection shall be filed with the Special Master as defined below within forty-five (45) days of the Administrator's notice of completion of the individual refund calculation.

Finally, the page on the City's website will provide a claim form for any taxpayers not identified as Class Members by the Administrator to submit in the event they believe they are entitled to a refund with a time limit of forty-five (45) days from the posting of the individual refund calculation on the City's website. The Administrator shall review any such claims by additional taxpayers and determine whether they are in fact entitled to any refund, submit his conclusions to the taxpayer and Defendant who shall have fifteen (15) days to object to the Administrator's findings. Any such objections shall be heard by the Special Master as defined below. The Special Master's ruling is final and binding, except as to questions of law, which are subject to review by the Judge and/or any appellate court of this state with jurisdiction over the subject matter.

#### **I. Administration of the Class**

The Calculated Refund amounts for each individual Class Member for each applicable refund year will be posted on a page on the City's website along with information about how a Class Member can object to individual refund amounts.

After the Administrator identifies the Class Members entitled to refunds and calculate the individual refunds amounts, the Administrator will divide the Class Members into the following categories for purposes of distributing the refunds to the Class Members:

- Class Members residing at the same location for which the refund is due (hereinafter “Category 1 Class Members”).
- Class Members who no longer live at the same location for which the refund is due (hereinafter “Category 2 Class Members”).

A claim form for collection of individual refunds for Category 2 Class Members will be submitted to the Court for approval along with the Motion for Preliminary Approval (the “Claim Form”). Additionally, a page will be created on the City’s website providing the information contained in the Claim Form for the collection individual refunds.

For Category 2 Class Members, the Claim Form will be sent to what is believed to be the current mailing address with a form requiring that the taxpayer certify that he or she is the same taxpayer for which the refund has been calculated. The taxpayer shall have sixty (60) days to return the certification. The refund shall be mailed in accordance with the timing procedures set forth below.

Rita Spalding is appointed Special Master to rule on any individual defenses or disputes in the individual refund calculation and administration process. The Special Master’s decision shall be final and binding. The fees and expenses of the Special Master shall be paid from the Aggregate Refund Fund. In the event that Rita Spalding cannot serve, a substitute Special Master consented to by the Parties shall be appointed.

All Category 1 Class Members and those Category 2 Class Members who returned a properly executed Claim Form shall be the “Qualified Class Members” to whom refunds shall be

paid as set forth below. The individual refund amounts shall be mailed to the Class Members in accordance with the timing procedures set forth below.

**J. Qualified Class Member Refunds**

Each Qualified Class Member will receive his or her pro-rata share of his or her Calculated Refund up to 100% of the total calculated refund due from the Aggregate Refund Fund, less Fees and Expenses (the “Pro-Rata Tax Refund”). “Pro rata” shall mean the proportion each Qualified Class Member’s Calculated Refund bears to the total Aggregate Refund Fund. This percentage shall be used to calculate each Qualified Class Member’s pro rata share of the Fees and Expenses to be subtracted from the Calculated Refund. Upon identification of all Qualified Class Members and determination of the Pro-Rata Tax Refund for each and determination of all Fees and Expenses, the Aggregate Refund Fund shall be divided by the sum of the Pro-Rata Tax Refund for each Qualified Class Member. The resulting percentage shall be each Qualified Class Member’s portion of the Fees and Expenses (“Pro-Rata Percentage of Fees and Expenses”). The product of the Pro-Rata Percentage of Fees and Expenses times the Fees and Expenses shall be deducted from the sum of each Qualified Class Member’s Pro-Rata Tax Refund and the remainder shall be the amount distributed to each Qualified Class Member as set forth herein.

**K. Refund Payment Process**

Within thirty (30) days of the later of the expiration of the period for objecting to individual refund amounts or a final ruling by the Special Master on any individual refund calculation, the Administrator shall identify to the Nixon QSF Administrator the amount of refund due each taxpayer and the address to which the refund is to be mailed the Category 1 Class Members. The Nixon QSF Administrator shall issue refund checks from available funds in the Aggregate Refund Fund to the Category 1 Class Members within thirty (30) days of receipt of such notice.

Within thirty (30) days following the expiration of the period to submit Claims Forms, the Administrator shall identify to the Nixon QSF Administrator Category 2 Class Members who have properly filled out and returned claim forms, the amount of refund due each taxpayer and the address to which the refund is to be mailed. The Nixon QSF Administrator shall issue refund checks from available funds in the Aggregate Refund Fund to the Category 2 Class Members within thirty (30) days of receipt of such notice.

Any and all checks returned or uncashed after one hundred and twenty (120) days from issuance shall be canceled by the Nixon QSF Administrator (the “Expiration Date”). Following the Expiration Date, all monies remaining in the Aggregate Refund Fund after all payments have been made as outlined herein shall be returned to the City.

The Nixon QSF Administrator shall maintain accurate accounting records of all deposits and payments from the Aggregate Refund Fund Account and shall provide such accounting to Plaintiffs’ Counsel and Defendants’ Counsel upon request. The Nixon QSF Administrator shall file a notice of completion of administration (“Notice of Completion”), the form of which shall be included in the Motion for Final Approval, with the Court within thirty (30) days of completion of the administration and return of any remaining funds from the Aggregate Refund Fund Account to the City.

**L. General Provisions**

**1. Released Claims**

Plaintiffs and Class Members agree to release and forever discharge, and by this Agreement do, for themselves, their heirs, executors and administrators, release and forever discharge Defendant, its past, present and future parent and affiliate corporations, offices and departments, and their respective past, present and future divisions, subsidiaries, affiliates and related



governmental entities and their successors, assigns, directors, officers, employees, attorneys, agents and representatives, personally and as directors, officers, employees, attorneys, agents, or representatives (collectively, the “Releasees”), of and from all manner of action and actions, causes and causes of action, sums of money, covenants, contracts, controversies, agreements, promises, damages (including, but not limited to, attorneys fees), claims and demands that were or could have been asserted in the Lawsuit related to or arising out of any and all claims for overpayment of taxes or tax refunds for the use of the year in which the Homestead Exemption was first granted as the Base Year rather than the immediately preceding year in the calculation of property tax payments from 2016 through 2022, whether in law or in equity, which he/she ever had, may have had, now has or which his/her heirs, executors or administrators hereinafter can, shall or may have as a result of any act or omission by the Releasees, whether known or unknown, asserted or unasserted, suspected or unsuspected (the “Released Claims”). Released Claims shall not include claims for tax refunds for any reason other than the use of the Incorrect Base Year.

## **2. Effect of Failure to Grant Final Approval**

In the event that the Court fails to enter an Order granting Final Approval to this [Proposed] Consent Judgment, the Lawsuit shall resume, this [Proposed] Consent Judgment and any Order granted pursuant to this [Proposed] Consent Judgment, including but not limited to the Preliminary Approval Order shall have no res judicata or collateral estoppel effect and shall be of no force or effect, and the Parties’ rights and defenses shall be restored without prejudice as if this [Proposed] Consent Judgment had never been entered into unless either: (1) Plaintiffs and Defendant agree in writing to a modification of the [Proposed] Consent Judgment and obtain approval of the [Amended Proposed] Consent Judgment with such agreed to modification, or (2) Plaintiffs and

Defendant successfully obtain reversal of the decision denying entry of the Order granting Final Approval to this [Proposed] Consent Judgment after reconsideration or appellate review.

**3. Continuing Jurisdiction**

The Court shall retain jurisdiction over the interpretation and implementation of this [Proposed] Consent Judgment, as well as any matters arising out of, or related to, the interpretation or implementation of this [Proposed] Consent Judgment.

SO ORDERED. This \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Judge

I HAVE READ THIS [PROPOSED] CONSENT JUDGMENT CAREFULLY AND FULLY UNDERSTAND AND AGREE TO SAME ON BEHALF OF ALL CLASS MEMBERS.

ROBERTS TATE, LLC

*James Roberts*

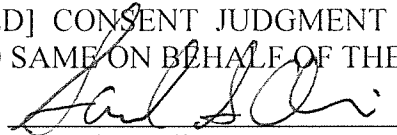
\_\_\_\_\_  
James L. Roberts, IV  
Georgia Bar No. 608580  
[jroberts@robertstate.com](mailto:jroberts@robertstate.com)

Marsha Flora Schmitter  
Georgia Bar No. 202453  
[mflora@robertstate.com](mailto:mflora@robertstate.com)

ATTORNEYS FOR PLAINTIFFS

Post Office Box 21828  
St. Simons Island, Georgia 31522  
(912) 638-5200  
(912) 638-5300 – Fax

I HAVE READ THIS [PROPOSED] CONSENT JUDGMENT CAREFULLY AND FULLY UNDERSTAND AND AGREE TO SAME ON BEHALF OF THE CITY OF DARIEN.



Samuel G. Oliver  
Georgia Bar No. 552590  
[Sam@samoliver.com](mailto:Sam@samoliver.com)

ATTORNEY FOR DEFENDANT

200 Walton Street  
Darien, GA 31305

# Exhibit “B”

House Bill 1197 (AS PASSED HOUSE AND SENATE)

By: Representative Lane of the 167<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To provide for a homestead exemption from City of Darien ad valorem taxes for municipal  
2 purposes in an amount equal to the amount by which the current year assessed value of a  
3 homestead exceeds the base year assessed value of such homestead; to provide for  
4 definitions; to specify the terms and conditions of the exemption and the procedures relating  
5 thereto; to provide for a referendum, effective dates, and automatic repeal; to repeal  
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 SECTION 1.

9 (a) As used in this Act, the term:

10 (1) "Ad valorem taxes for municipal purposes" means all municipal ad valorem taxes for  
11 municipal purposes levied by, for, or on behalf of the City of Darien, including, but not  
12 limited to, ad valorem taxes to pay interest on and to retire municipal bonded  
13 indebtedness.

14 (2) "Base year" means the taxable year immediately preceding the taxable year in which  
15 the exemption under this Act is first granted to the most recent owner of such homestead.

16 (3) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of  
17 the O.C.G.A., as amended.

18 (b) Each resident of the City of Darien is granted an exemption on that person's homestead  
19 from City of Darien ad valorem taxes for municipal purposes in an amount equal to the  
20 amount by which the current year assessed value of that homestead exceeds the base year  
21 assessed value of that homestead. This exemption shall not apply to taxes assessed on  
22 improvements to the homestead or additional land that is added to the homestead after  
23 January 1 of the base year. If any real property is added to or removed from the homestead,  
24 the base year assessed value shall be adjusted to reflect such addition or removal and the  
25 exemption shall be recalculated accordingly. The value of that property in excess of such  
26 exempted amount shall remain subject to taxation.

1 (c) A person shall not receive the homestead exemption granted by subsection (b) of this  
2 section unless the person or person's agent files an application with the governing authority  
3 of the City of Darien, or the designee thereof, giving such information relative to receiving  
4 such exemption as will enable the governing authority of the City of Darien, or the designee  
5 thereof, to make a determination regarding the initial and continuing eligibility of such owner  
6 for such exemption. The governing authority of the City of Darien, or the designee thereof,  
7 shall provide application forms for this purpose.

8 (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of  
9 the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year  
10 as long as the owner occupies the residence as a homestead. After a person has filed the  
11 proper application as provided in subsection (c) of this section, it shall not be necessary to  
12 make application thereafter for any year and the exemption shall continue to be allowed to  
13 such person. It shall be the duty of any person granted the homestead exemption under  
14 subsection (b) of this section to notify the governing authority of the City of Darien, or the  
15 designee thereof, in the event that person for any reason becomes ineligible for that  
16 exemption.

17 (e) The exemption granted by subsection (b) of this section shall not apply to or affect state  
18 ad valorem taxes, county ad valorem taxes for county purposes, or county or independent  
19 school district ad valorem taxes for educational purposes. The homestead exemption granted  
20 by subsection (b) of this section shall be in addition to and not in lieu of any other homestead  
21 exemption applicable to municipal ad valorem taxes for municipal purposes.

22 (f) The exemption granted by subsection (b) of this section shall apply to all taxable years  
23 beginning on or after January 1, 2007.

24 **SECTION 2.**

25 Unless prohibited by the federal Voting Rights Act of 1965, as amended, the municipal  
26 election superintendent of the City of Darien shall call and conduct an election as provided  
27 in this section for the purpose of submitting this Act to the electors of the City of Darien for  
28 approval or rejection. The municipal election superintendent shall conduct that election on  
29 the date of the state-wide general election in 2006, and shall issue the call and conduct that  
30 election as provided by general law. The municipal election superintendent shall cause the  
31 date and purpose of the election to be published once a week for two weeks immediately  
32 preceding the date thereof in the official organ of McIntosh County. The ballot shall have  
33 written or printed thereon the words:

1    " YES   Shall the Act be approved which provides a homestead exemption from City  
2                         of Darien ad valorem taxes for municipal purposes in an amount equal to  
3     NO    the amount by which the current year assessed value of a homestead  
4                         exceeds the base year assessed value of such homestead?"

5 All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring  
6 to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on  
7 such question are for approval of the Act, Section 1 of this Act shall become of full force and  
8 effect on January 1, 2007. If the Act is not so approved or if the election is not conducted  
9 as provided in this section, Section 1 of this Act shall not become effective and this Act shall  
10 be automatically repealed on the first day of January immediately following that election  
11 date. The expense of such election shall be borne by the City of Darien. It shall be the  
12 municipal election superintendent's duty to certify the result thereof to the Secretary of State.

13

**SECTION 3.**

14 Except as otherwise provided in Section 2 of this Act, this Act shall become effective upon  
15 its approval by the Governor or upon its becoming law without such approval.

16

**SECTION 4.**

17 All laws and parts of laws in conflict with this Act are repealed.

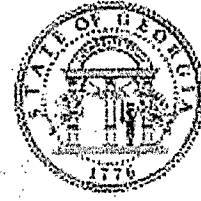
# Exhibit “C”





[Legislation](#) [Clerk's Office](#) [Members](#) [Committees](#) [Meetings](#) [Home](#) [Senate](#)

## Georgia House of Representatives



### HB 1690 - Glynn County; homestead exemption

Scarlett, Stephen G (174th) Tillman, Eugene C (173rd)

Status Summary HC: LLeg SC: SLGO FR: 03/07/00 LA: 05/01/00 Signed by Governor

### First Reader Summary

A BILL to provide for a homestead exemption from certain Glynn County ad valorem taxes for county purposes in an amount equal to the amount by which the current year assessed value of that homestead exceeds the base year assessed value of that homestead; and for other purposes.

Page Numbers: 1 2 3

House	Action	Senate
3/7/00	Read 1st Time	3/13/00
3/8/00	Read 2nd Time	
3/9/00	Favorably Reported	3/15/00
3/9/00	Read 3rd Time	
3/9/00	Passed/Adopted	3/15/00
3/27/00	Sent to Governor	
5/1/00	Signed by Governor	
890	Act/Veto Number	
5/1/00	Effective Date	

Version by LC Number  
LC 18 0108 As Introduced

HB 1690

LC 18 0108

A BILL TO BE ENTITLED  
AN ACT

1- 1 To provide for a homestead exemption from certain Glynn  
1- 2 County ad valorem taxes for county purposes in an amount  
1- 3 equal to the amount by which the current year assessed value  
1- 4 of that homestead exceeds the base year assessed value of  
1- 5 that homestead; to provide for definitions; to specify the  
1- 6 terms and conditions of the exemption and the procedures  
1- 7 relating thereto; to provide for applicability; to provide  
1- 8 for a referendum, effective dates, and automatic repeal; to  
1- 9 repeal conflicting laws; and for other purposes.

1-10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

1-11 SECTION 1.

1-12 (a) As used in this Act, the term:

1-13 (1) "Ad valorem taxes for county purposes" means all ad  
1-14 valorem taxes for county purposes levied by, for, or on  
1-15 behalf of Glynn County, including, but not limited to,  
1-16 any taxes to pay interest on and to retire county bonded  
1-17 indebtedness.

1-18 (2) "Base year" means the taxable year immediately  
1-19 preceding the taxable year in which the exemption under  
1-20 this Act is first granted to the most recent owner of  
1-21 such homestead.

1-22 (3) "Homestead" means homestead as defined and qualified  
1-23 in Code Section 48-5-40 of the O.C.G.A., with the  
1-24 additional qualification that it shall include only the  
1-25 primary residence and not more than five contiguous  
1-26 acres of land immediately surrounding such residence.

1-27 (b) Each resident of Glynn County is granted an exemption on  
1-28 that person's homestead from all Glynn County ad valorem  
1-29 taxes for county purposes in an amount equal to the amount  
1-30 by which the current year assessed value of that homestead  
1-31 exceeds the base year assessed value of that homestead. This  
1-32 exemption shall not apply to taxes assessed on improvements  
1-33 to the homestead or additional land that is added to the

-1-

2- 1 homestead after January 1 of the base year. If any real  
2- 2 property is removed from the homestead, the base year  
2- 3 assessed value shall be adjusted to reflect such removal and  
2- 4 the exemption shall be recalculated accordingly. The value  
2- 5 of that property in excess of such exempted amount shall  
2- 6 remain subject to taxation.

2- 7 (c) A person shall not receive the homestead exemption  
2- 8 granted by subsection (b) of this section unless the person  
2- 9 or person's agent files an application with the tax  
2-10 commissioner of Glynn County giving such information  
2-11 relative to receiving such exemption as will enable the tax  
2-12 commissioner to make a determination as to whether such  
2-13 owner is entitled to such exemption.

2-14 (d) The tax commissioner of Glynn County shall provide  
2-15 application forms for the exemption granted by subsection  
2-16 (b) of this section which shall require such information as  
2-17 may be necessary to determine the initial and continuing

2-18 eligibility of the owner for the exemption.

2-19 (e) The exemption shall be claimed and returned as provided  
 2-20 in Code Section 48-5-50.1 of the O.C.G.A. The exemption  
 2-21 shall be automatically renewed from year to year as long as  
 2-22 the owner occupies the residence as a homestead. After a  
 2-23 person has filed the proper application as provided in  
 2-24 subsection (c) of this section, it shall not be necessary to  
 2-25 make application thereafter for any year and the exemption  
 2-26 shall continue to be allowed to such person. It shall be  
 2-27 the duty of any person granted the homestead exemption under  
 2-28 subsection (b) of this section to notify the tax  
 2-29 commissioner of the county or the designee thereof in the  
 2-30 event that person for any reason becomes ineligible for that  
 2-31 exemption.

2-32 (f) The exemption granted by this Act shall not apply to or  
 2-33 affect state ad valorem taxes, county school district ad  
 2-34 valorem taxes for educational purposes, or municipal ad  
 2-35 valorem taxes for municipal purposes. The homestead  
 2-36 exemption granted by subsection (b) of this section shall be  
 2-37 in addition to and not in lieu of any other homestead  
 2-38 exemption applicable to county ad valorem taxes for county  
 2-39 purposes.

2-40 (g) The exemption granted by subsection (b) of this section  
 2-41 shall apply to all taxable years beginning on or after  
 2-42 January 1, 2001.

-2-

3- 1 SECTION 2.

3- 2 Unless prohibited by the federal Voting Rights Act of 1965,  
 3- 3 as amended, the election superintendent of Glynn County  
 3- 4 shall call and conduct an election as provided in this  
 3- 5 section for the purpose of submitting this Act to the  
 3- 6 electors of Glynn County for approval or rejection. The  
 3- 7 election superintendent shall conduct that election on the  
 3- 8 date of the November, 2000, state-wide general election and  
 3- 9 shall issue the call and conduct that election as provided  
 3-10 by general law. The superintendent shall cause the date and  
 3-11 purpose of the election to be published once a week for two  
 3-12 weeks immediately preceding the date thereof in the official  
 3-13 organ of Glynn County. The ballot shall have written or  
 3-14 printed thereon the words:

3-15 " ( ) YES Shall the Act be approved which provides a  
 3-16 homestead exemption from certain Glynn County  
 3-17 ( ) NO ad valorem taxes for county purposes in an  
 3-18 amount equal to the amount by which the  
 3-19 assessed value of that homestead for the

- 3-20 current year exceeds the base year assessed  
3-21 value of that homestead?"
- 3-22 All persons desiring to vote for approval of the Act shall  
3-23 vote "Yes," and those persons desiring to vote for rejection  
3-24 of the Act shall vote "No." If more than one-half of the  
3-25 votes cast on such question are for approval of the Act,  
3-26 Section 1 of this Act shall become of full force and effect  
3-27 on January 1, 2001. If the Act is not so approved or if the  
3-28 election is not conducted as provided in this section,  
3-29 Section 1 of this Act shall not become effective and this  
3-30 Act shall be automatically repealed on the first day of  
3-31 January immediately following that election date.
- 3-32 The expense of such election shall be borne by Glynn County.  
3-33 It shall be the election superintendent's duty to certify  
3-34 the result thereof to the Secretary of State.
- 3-35 SECTION 3.
- 3-36 Except as otherwise provided in Section 2 of this Act, this  
3-37 Act shall become effective upon its approval by the Governor  
3-38 or upon its becoming law without such approval.
- 3-39 SECTION 4.
- 3-40 All laws and parts of laws in conflict with this Act are  
3-41 repealed.

# Exhibit “D”



Legislation Clerk's Office Members Committees Meetings Home Senate

# Georgia House of Representatives



## HB 1691 - Glynn County; homestead exemption

Scarlett, Stephen G (174th) Tillman, Eugene C (173rd)

Status Summary HC: LLeg SC: SLGO FR: 03/07/00 LA: 05/01/00 Signed by Governor

### First Reader Summary

A BILL to provide for a homestead exemption from certain Glynn County School District ad valorem taxes for educational purposes in an amount equal to the amount by which the current year assessed value of a homestead exceeds the base year assessed value of such homestead; and for other purposes.

Page Numbers: 1 2 3

House	Action	Senate
3/7/00	Read 1st Time	3/13/00
3/8/00	Read 2nd Time	
3/9/00	Favorably Reported	3/15/00
3/9/00	Read 3rd Time	
3/9/00	Passed/Adopted	3/15/00
4/4/00	Sent to Governor	
5/1/00	Signed by Governor	
891	Act/Veto Number	
5/1/00	Effective Date	

Version by LC Number  
LC 18 0109 As Introduced

HB 1691

LC 18 0109

### A BILL TO BE ENTITLED AN ACT

- 1- 1 To provide for a homestead exemption from certain Glynn
- 1- 2 County School District ad valorem taxes for educational
- 1- 3 purposes in an amount equal to the amount by which the
- 1- 4 current year assessed value of a homestead exceeds the base
- 1- 5 year assessed value of such homestead; to provide for
- 1- 6 definitions; to specify the terms and conditions of the
- 1- 7 exemption and the procedures relating thereto; to provide
- 1- 8 for applicability; to provide for a referendum, effective
- 1- 9 dates, and automatic repeal; to repeal conflicting laws; and
- 1-10 for other purposes.

1-11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

1-12 SECTION 1.

1-13 (a) As used in this Act, the term:

1-14 (1) "Ad valorem taxes for educational purposes" means  
1-15 all ad valorem taxes for educational purposes levied by,  
1-16 for, or on behalf of the Glynn County School District,  
1-17 including but not limited to taxes to pay interest on  
1-18 and to retire school bond indebtedness.

1-19 (2) "Base year" means the taxable year immediately  
1-20 preceding the taxable year in which the exemption under  
1-21 this Act is first granted to the most recent owner of  
1-22 such homestead.

1-23 (3) "Homestead" means homestead as defined and qualified  
1-24 in Code Section 48-5-40 of the O.C.G.A., with the  
1-25 additional qualification that it shall include only the  
1-26 primary residence and not more than five contiguous  
1-27 acres of land immediately surrounding such residence.

1-28 (b) Each resident of the Glynn County School District is  
1-29 granted an exemption on that person's homestead from all  
1-30 Glynn County School District taxes for educational purposes  
1-31 in an amount equal to the amount by which the current year  
1-32 assessed value of that homestead exceeds the base year  
1-33 assessed value of the homestead. This exemption shall not

-1-

2- 1 apply to taxes assessed on improvements to the homestead or  
2- 2 additional land that is added to the homestead after January  
2- 3 1 of the base year. If any real property is removed from  
2- 4 the homestead, the base year assessed value shall be  
2- 5 adjusted to reflect such removal and the exemption shall be  
2- 6 recalculated accordingly. The value of that property in  
2- 7 excess of such exempted amount shall remain subject to  
2- 8 taxation.

2- 9 (c) A person shall not receive the homestead exemption  
2-10 granted by subsection (b) of this section unless the person  
2-11 or person's agent files an application with the tax  
2-12 commissioner of Glynn County giving such information  
2-13 relative to receiving such exemption as will enable the tax  
2-14 commissioner to make a determination as to whether such  
2-15 owner is entitled to such exemption.

2-16 (d) The tax commissioner of Glynn County shall provide  
2-17 application forms for the exemption granted by subsection  
2-18 (b) of this section which shall require such information as  
2-19 may be necessary to determine the initial and continuing  
2-20 eligibility of the owner for the exemption.

2-21 (e) The exemption shall be claimed and returned as provided  
2-22 in Code Section 48-5-50.1 of the O.C.G.A. The exemption  
2-23 shall be automatically renewed from year to year as long as  
2-24 the owner occupies the residence as a homestead. After a

2-25 person has filed the proper application as provided in  
 2-26 subsection (c) of this section, it shall not be necessary to  
 2-27 make application thereafter for any year and the exemption  
 2-28 shall continue to be allowed to such person. It shall be  
 2-29 the duty of any person granted the homestead exemption under  
 2-30 subsection (b) of this section to notify the tax  
 2-31 commissioner of the county or the designee thereof in the  
 2-32 event that person for any reason becomes ineligible for that  
 2-33 exemption.

2-34 (f) The exemption granted by this Act shall not apply to or  
 2-35 affect state ad valorem taxes, county ad valorem taxes for  
 2-36 county purposes, or municipal ad valorem taxes for municipal  
 2-37 purposes. The homestead exemption granted by subsection (b)  
 2-38 of this section shall be in addition to and not in lieu of  
 2-39 any other homestead exemption applicable to county school  
 2-40 district ad valorem taxes for educational purposes.

2-41 (g) The exemption granted by subsection (b) of this section  
 2-42 shall apply to all taxable years beginning on or after  
 2-43 January 1, 2001.

-2-

3- 1

SECTION 2.

3- 2 Unless prohibited by the federal Voting Rights Act of 1965,  
 3- 3 as amended, the election superintendent of Glynn County  
 3- 4 shall call and conduct an election as provided in this  
 3- 5 section for the purpose of submitting this Act to the  
 3- 6 electors of the Glynn County School District for approval or  
 3- 7 rejection. The election superintendent shall conduct that  
 3- 8 election on the date of the November, 2000, state-wide  
 3- 9 general election and shall issue the call and conduct that  
 3-10 election as provided by general law. The superintendent  
 3-11 shall cause the date and purpose of the election to be  
 3-12 published once a week for two weeks immediately preceding  
 3-13 the date thereof in the official organ of Glynn County. The  
 3-14 ballot shall have written or printed thereon the words:

3-15 " ( ) YES Shall the Act be approved which provides a  
 3-16 homestead exemption from certain Glynn County  
 3-17 ( ) NO School District taxes for educational purposes  
 3-18 in an amount equal to the amount by which the  
 3-19 assessed value of a homestead for the current  
 3-20 year exceeds the base year assessed value of  
 3-21 such homestead?"

3-22 All persons desiring to vote for approval of the Act shall  
 3-23 vote "Yes," and those persons desiring to vote for rejection  
 3-24 of the Act shall vote "No." If more than one-half of the  
 3-25 votes cast on such question are for approval of the Act,  
 3-26 Section 1 of this Act shall become of full force and effect  
 3-27 on January 1, 2001. If the Act is not so approved or if the  
 3-28 election is not conducted as provided in this section,  
 3-29 Section 1 of this Act shall not become effective and this  
 3-30 Act shall be automatically repealed on the first day of  
 3-31 January immediately following that election date.



- 3-32 The expense of such election shall be borne by Glynn County.  
3-33 It shall be the election superintendent's duty to certify  
3-34 the result thereof to the Secretary of State.

3-35

SECTION 3.

- 3-36 Except as otherwise provided in Section 2 of this Act, this  
3-37 Act shall become effective upon its approval by the Governor  
3-38 or upon its becoming law without such approval.

3-39

SECTION 4.

- 3-40 All laws and parts of laws in conflict with this Act are  
3-41 repealed.

-3-■

---

*Clerk of the House  
Robert E. Rivers, Jr., Clerk  
Last Updated on 05/04/00*

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# Exhibit “E”

House Bill 382 (AS PASSED HOUSE AND SENATE)

By: Representative Lane of the 167<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To provide for a homestead exemption from McIntosh County ad valorem taxes for county  
2 purposes in an amount equal to the amount by which the current year assessed value of a  
3 homestead exceeds the base year assessed value of such homestead; to provide for  
4 definitions; to specify the terms and conditions of the exemption and the procedures relating  
5 thereto; to provide for applicability; to provide for a referendum, effective dates, and  
6 automatic repeal; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 SECTION 1.

9 (a) As used in this Act, the term:

10 (1) "Ad valorem taxes for county purposes" means all ad valorem taxes for county  
11 purposes levied by, for, or on behalf of McIntosh County, including, but not limited to,  
12 any ad valorem taxes to pay interest on and to retire county bonded indebtedness.

13 (2) "Base year" means the taxable year immediately preceding the taxable year in which  
14 the exemption under this Act is first granted to the most recent owner of such homestead.

15 (3) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of  
16 the O.C.G.A., as amended.

17 (b) Each resident of McIntosh County is granted an exemption on that person's homestead  
18 from McIntosh County ad valorem taxes for county purposes in an amount equal to the  
19 amount by which the current year assessed value of that homestead exceeds the base year  
20 assessed value of the homestead. This exemption shall not apply to taxes assessed on  
21 improvements to the homestead or additional land that is added to the homestead after  
22 January 1 of the base year. If any real property is added to or removed from the homestead,  
23 the base year assessed value shall be adjusted to reflect such addition or removal and the  
24 exemption shall be recalculated accordingly. The value of that property in excess of such  
25 exempted amount shall remain subject to taxation.

- 1 (c) A person shall not receive the homestead exemption granted by subsection (b) of this  
 2 section unless the person or person's agent files an application with the tax commissioner of  
 3 McIntosh County giving such information relative to receiving such exemption as will enable  
 4 the tax commissioner to make a determination regarding the initial and continuing eligibility  
 5 of such owner for such exemption. The tax commissioner of McIntosh County shall provide  
 6 application forms for this purpose.
- 7 (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of  
 8 the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year  
 9 so long as the owner occupies the residence as a homestead. After a person has filed the  
 10 proper application as provided in subsection (c) of this section, it shall not be necessary to  
 11 make application thereafter for any year and the exemption shall continue to be allowed to  
 12 such person. It shall be the duty of any person granted the homestead exemption under  
 13 subsection (b) of this section to notify the tax commissioner of the county in the event that  
 14 person for any reason becomes ineligible for that exemption.
- 15 (e) The exemption granted by subsection (b) of this section shall not apply to or affect state  
 16 ad valorem taxes, county or independent school district ad valorem taxes for educational  
 17 purposes, or municipal ad valorem taxes for municipal purposes. The homestead exemption  
 18 granted by subsection (b) of this section shall be in addition to and not in lieu of any other  
 19 homestead exemption applicable to county ad valorem taxes for county purposes.
- 20 (f) The exemption granted by subsection (b) of this section shall apply to all taxable years  
 21 beginning on or after January 1, 2006.

22

**SECTION 2.**

23 Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election  
 24 superintendent of McIntosh County shall call and conduct a special election as provided in  
 25 this section for the purpose of submitting this Act to the electors of McIntosh County for  
 26 approval or rejection. The election superintendent shall conduct that election on the Tuesday  
 27 after the first Monday in November in 2005 and shall issue the call and conduct that election  
 28 as provided by general law. The election superintendent shall cause the date and purpose of  
 29 the election to be published once a week for two weeks immediately preceding the date  
 30 thereof in the official organ of McIntosh County. The ballot shall have written or printed  
 31 thereon the words:

- 32 "( ) YES Shall the Act be approved which provides a homestead exemption from  
 33 McIntosh County ad valorem taxes for county purposes in an amount equal  
 34 ( ) NO to the amount by which the current year assessed value of a homestead  
 35 exceeds the base year assessed value of such homestead?"

1 All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring  
2 to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on  
3 such question are for approval of the Act, Section 1 of this Act shall become of full force and  
4 effect on January 1, 2006. If the Act is not so approved or if the election is not conducted  
5 as provided in this section, Section 1 of this Act shall not become effective and this Act shall  
6 be automatically repealed on the first day of January immediately following that election  
7 date. The expense of such election shall be borne by McIntosh County. It shall be the  
8 election superintendent's duty to certify the result thereof to the Secretary of State.

9 **SECTION 3.**

10 Except as otherwise provided in Section 2 of this Act, this Act shall become effective upon  
11 its approval by the Governor or upon its becoming law without such approval.

12 **SECTION 4.**

13 All laws and parts of laws in conflict with this Act are repealed.

House Bill 450 (AS PASSED HOUSE AND SENATE)

By: Representative Lane of the 167<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To provide for a homestead exemption from McIntosh County School District ad valorem  
2 taxes for educational purposes in an amount equal to the amount by which the current year  
3 assessed value of a homestead exceeds the base year assessed value of such homestead; to  
4 provide for definitions; to specify the terms and conditions of the exemption and the  
5 procedures relating thereto; to provide for applicability; to provide for a referendum,  
6 effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 SECTION 1.

9 (a) As used in this Act, the term:

10 (1) "Ad valorem taxes for educational purposes" means all ad valorem taxes for  
11 educational purposes levied by, for, or on behalf of the McIntosh County School District,  
12 including, but not limited to, any ad valorem taxes to pay interest on and to retire county  
13 school district bonded indebtedness.

14 (2) "Base year" means the taxable year immediately preceding the taxable year in which  
15 the exemption under this Act is first granted to the most recent owner of such homestead.

16 (3) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of  
17 the O.C.G.A., as amended.

18 (b) Each resident of the McIntosh County School District is granted an exemption on that  
19 person's homestead from McIntosh County School District ad valorem taxes for educational  
20 purposes in an amount equal to the amount by which the current year assessed value of that  
21 homestead exceeds the base year assessed value of the homestead. This exemption shall not  
22 apply to taxes assessed on improvements to the homestead or additional land that is added  
23 to the homestead after January 1 of the base year. If any real property is added to or removed  
24 from the homestead, the base year assessed value shall be adjusted to reflect such addition  
25 or removal and the exemption shall be recalculated accordingly. The value of that property  
26 in excess of such exempted amount shall remain subject to taxation.

- 1 (c) A person shall not receive the homestead exemption granted by subsection (b) of this  
2 section unless the person or person's agent files an application with the tax commissioner of  
3 McIntosh County giving such information relative to receiving such exemption as will enable  
4 the tax commissioner to make a determination regarding the initial and continuing eligibility  
5 of such owner for such exemption. The tax commissioner of McIntosh County shall provide  
6 application forms for this purpose.
- 7 (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of  
8 the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year  
9 so long as the owner occupies the residence as a homestead. After a person has filed the  
10 proper application as provided in subsection (c) of this section, it shall not be necessary to  
11 make application thereafter for any year and the exemption shall continue to be allowed to  
12 such person. It shall be the duty of any person granted the homestead exemption under  
13 subsection (b) of this section to notify the tax commissioner of the county in the event that  
14 person for any reason becomes ineligible for that exemption.
- 15 (e) The exemption granted by subsection (b) of this section shall not apply to or affect state  
16 ad valorem taxes, county ad valorem taxes for county purposes, municipal ad valorem taxes  
17 for municipal purposes, or independent school district taxes for educational purposes. The  
18 homestead exemption granted by subsection (b) of this section shall be in addition to and not  
19 in lieu of any other homestead exemption applicable to county school district ad valorem  
20 taxes for educational purposes.
- 21 (f) The exemption granted by subsection (b) of this section shall apply to all taxable years  
22 beginning on or after January 1, 2006.

23 **SECTION 2.**

24 Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election  
25 superintendent of McIntosh County shall call and conduct an election as provided in this  
26 section for the purpose of submitting this Act to the electors of the McIntosh County School  
27 District for approval or rejection. The election superintendent shall conduct that election on  
28 the Tuesday after the first Monday in November in 2005 and shall issue the call and conduct  
29 that election as provided by general law. The election superintendent shall cause the date and  
30 purpose of the election to be published once a week for two weeks immediately preceding  
31 the date thereof in the official organ of McIntosh County. The ballot shall have written or  
32 printed thereon the words:

1     YES      Shall the Act be approved which provides a homestead exemption from  
2                             McIntosh County School District ad valorem taxes for educational  
3     NO      purposes in an amount equal to the amount by which the current year  
4                             assessed value of a homestead exceeds the base year assessed value of  
5                             such homestead?"

6    All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring  
7    to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on  
8    such question are for approval of the Act, Section 1 of this Act shall become of full force and  
9    effect on January 1, 2006. If the Act is not so approved or if the election is not conducted  
10   as provided in this section, Section 1 of this Act shall not become effective and this Act shall  
11   be automatically repealed on the first day of January immediately following that election  
12   date. The expense of such election shall be borne by McIntosh County. It shall be the  
13   election superintendent's duty to certify the result thereof to the Secretary of State.

14

**SECTION 3.**

15 Except as otherwise provided in Section 2 of this Act, this Act shall become effective upon  
16 its approval by the Governor or upon its becoming law without such approval.

17

**SECTION 4.**

18 All laws and parts of laws in conflict with this Act are repealed.



# Exhibit “F”

House Bill 450 (AS PASSED HOUSE AND SENATE)

By: Representative Lane of the 167<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To provide for a homestead exemption from McIntosh County School District ad valorem  
2 taxes for educational purposes in an amount equal to the amount by which the current year  
3 assessed value of a homestead exceeds the base year assessed value of such homestead; to  
4 provide for definitions; to specify the terms and conditions of the exemption and the  
5 procedures relating thereto; to provide for applicability; to provide for a referendum,  
6 effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 (a) As used in this Act, the term:

10 (1) "Ad valorem taxes for educational purposes" means all ad valorem taxes for  
11 educational purposes levied by, for, or on behalf of the McIntosh County School District,  
12 including, but not limited to, any ad valorem taxes to pay interest on and to retire county  
13 school district bonded indebtedness.

14 (2) "Base year" means the taxable year immediately preceding the taxable year in which  
15 the exemption under this Act is first granted to the most recent owner of such homestead.

16 (3) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of  
17 the O.C.G.A., as amended.

18 (b) Each resident of the McIntosh County School District is granted an exemption on that  
19 person's homestead from McIntosh County School District ad valorem taxes for educational  
20 purposes in an amount equal to the amount by which the current year assessed value of that  
21 homestead exceeds the base year assessed value of the homestead. This exemption shall not  
22 apply to taxes assessed on improvements to the homestead or additional land that is added  
23 to the homestead after January 1 of the base year. If any real property is added to or removed  
24 from the homestead, the base year assessed value shall be adjusted to reflect such addition  
25 or removal and the exemption shall be recalculated accordingly. The value of that property  
26 in excess of such exempted amount shall remain subject to taxation.

1 (c) A person shall not receive the homestead exemption granted by subsection (b) of this  
2 section unless the person or person's agent files an application with the tax commissioner of  
3 McIntosh County giving such information relative to receiving such exemption as will enable  
4 the tax commissioner to make a determination regarding the initial and continuing eligibility  
5 of such owner for such exemption. The tax commissioner of McIntosh County shall provide  
6 application forms for this purpose.

7 (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of  
8 the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year  
9 so long as the owner occupies the residence as a homestead. After a person has filed the  
10 proper application as provided in subsection (c) of this section, it shall not be necessary to  
11 make application thereafter for any year and the exemption shall continue to be allowed to  
12 such person. It shall be the duty of any person granted the homestead exemption under  
13 subsection (b) of this section to notify the tax commissioner of the county in the event that  
14 person for any reason becomes ineligible for that exemption.

15 (e) The exemption granted by subsection (b) of this section shall not apply to or affect state  
16 ad valorem taxes, county ad valorem taxes for county purposes, municipal ad valorem taxes  
17 for municipal purposes, or independent school district taxes for educational purposes. The  
18 homestead exemption granted by subsection (b) of this section shall be in addition to and not  
19 in lieu of any other homestead exemption applicable to county school district ad valorem  
20 taxes for educational purposes.

21 (f) The exemption granted by subsection (b) of this section shall apply to all taxable years  
22 beginning on or after January 1, 2006.

23

## **SECTION 2.**

24 Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election  
25 superintendent of McIntosh County shall call and conduct an election as provided in this  
26 section for the purpose of submitting this Act to the electors of the McIntosh County School  
27 District for approval or rejection. The election superintendent shall conduct that election on  
28 the Tuesday after the first Monday in November in 2005 and shall issue the call and conduct  
29 that election as provided by general law. The election superintendent shall cause the date and  
30 purpose of the election to be published once a week for two weeks immediately preceding  
31 the date thereof in the official organ of McIntosh County. The ballot shall have written or  
32 printed thereon the words:

1 "( ) YES Shall the Act be approved which provides a homestead exemption from  
 2 McIntosh County School District ad valorem taxes for educational  
 3 ( ) NO purposes in an amount equal to the amount by which the current year  
 4 assessed value of a homestead exceeds the base year assessed value of  
 5 such homestead?"

6 All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring  
 7 to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on  
 8 such question are for approval of the Act, Section 1 of this Act shall become of full force and  
 9 effect on January 1, 2006. If the Act is not so approved or if the election is not conducted  
 10 as provided in this section, Section 1 of this Act shall not become effective and this Act shall  
 11 be automatically repealed on the first day of January immediately following that election  
 12 date. The expense of such election shall be borne by McIntosh County. It shall be the  
 13 election superintendent's duty to certify the result thereof to the Secretary of State.

14 **SECTION 3.**

15 Except as otherwise provided in Section 2 of this Act, this Act shall become effective upon  
 16 its approval by the Governor or upon its becoming law without such approval.

17 **SECTION 4.**

18 All laws and parts of laws in conflict with this Act are repealed.

# Exhibit “G”

**IN THE SUPERIOR COURT OF MCINTOSH COUNTY  
STATE OF GEORGIA**

<b>TROY and TARYN NIXON</b>	)	
	)	
<b>Plaintiffs,</b>	)	<b>CIVIL ACTION NO. SUV2023000081</b>
	)	
<b>v.</b>	)	
	)	
<b>CITY OF DARIEN, GEORGIA</b>	)	
	)	
	)	
<b>Defendant.</b>	)	

---

**AFFIDAVIT OF JAMES L. ROBERTS, IV**

STATE OF GEORGIA     )  
COUNTY OF GLYNN    )

PERSONALLY APPEARED before me, an officer duly authorized by law to administer oaths, JAMES L. ROBERTS, IV, who after first being duly sworn states:

1.

My name is JAMES L. ROBERTS, IV, and I am competent in all respects to testify regarding the matters set forth herein. I have personal knowledge of the facts stated herein and know them to be true. This Affidavit is given voluntarily.

2.

This Affidavit is given in support of the Joint Motion and Supporting Memorandum of Law for Preliminary Approval of Class Action Settlement, Preliminary Certification of Settlement Class, Approval of Notice Program and to Schedule Final Approval Hearing (the “Joint Motion”) in the above referenced class action (the “Lawsuit”).

3.

I am a founding member and partner in the law firm of Roberts Tate, LLC. I am the primary and supervising attorney in this Lawsuit.

4.

I am an experienced litigator, and I am intimately familiar with this Lawsuit.

5.

I have been practicing law since 2001. Prior to forming Roberts Tate, LLC I was a partner with the law firm of Gilbert, Harrell, Sumerford & Martin, P.C. and prior to that I served as Law Clerk to the late Judge Anthony A. Alaimo.

6.

As part of my practice, I litigate large class action cases and in addition to serving as Class Counsel in this Lawsuit I have served as class counsel in numerous class and collective action cases including, but not limited to, the following: Vanover et al v. West Telemarketing, Southern District of Georgia, 2:06CV0098; Clairday v. Tire Kingdom, Inc., et al, Southern District of Georgia, 2:07cv0020; Kerce v. West Telemarketing Corp, et al, Southern District of Georgia 2:07cv0081; Hamilton v. Montgomery County, Superior Court of Montgomery County, Superior Court of Montgomery County, 13CV159; Altamaha Bluff, LLC, et al. v. Charlton County, Superior Court of Wayne County, 14-CV-0376; Coleman v. Glynn County, CE12-01785-063, CE13-01480-063; and CE14-00750-063, Superior Court of Glynn County; Toledo Manufacturing Company, et al. v. Charlton County, Civil Action No. SUCV201900232, Superior Court of Charlton County; Old Town Trolley Tours of Savannah, Inc. v. The Mayor and Aldermen of the City of Savannah, Civil Action No. SPCV20-00767-MO, Superior Court of Chatham County; Mary A. Bailey v. McIntosh County, Georgia, Superior Court of McIntosh County, Civil Action

No. SUV2021000009; and VTAL Real Estate, LLC v. Mayor and Aldermen of the City of Savannah, Civil Action Number SPCV21-00789-CO, Superior Court of Chatham County.

7.

I have extensive experience in property tax law and litigation having handled tax appeals and tax refund matters for thousands of parcels in over 60 counties in the State of Georgia as well as Florida, Virginia, Alabama and North Carolina at the administrative, trial court, and appellate court levels. I serve on the Board of Governors of the State Bar of Georgia, am a past President of the Glynn County Bar Association and rated "Preeminent", the highest legal rating available from the leading legal rating service, Martindale Hubbell. I was named a Rising Star by in 2006, 2009-2011 and 2014-2016 and a Super Lawyer for 2017-2023 by Super Lawyers Magazine.

8.

I regularly provide advice and counsel to clients on matters related to the valuation of property for taxation, exemption and special use valuation programs.

9.

Our firm conducted early, informal discovery into this Lawsuit including investigation of facts, the law and extensive analysis and calculation of the damages and refund potentially owed. We issued numerous Open Records Requests to the City of Darien (the "City") for documents.

10.

From the documents provided pursuant to the Open Records Requests we thoroughly researched the facts of this Lawsuit.

11.

We spent a substantial number of hours investigating the hundreds of potential refund claims in tax years 2016, 2017, 2018, 2019, 2020, 2021 and 2022.



12.

For all of the taxpayers who potentially could be entitled to a refund, we reviewed property record cards and tax bills.

13.

Legal issues have been thoroughly researched and I have briefed and argued the same issues in other tax refund and tax appeal matters. I am very familiar with the statutory requirements for refund matters under O.C.G.A. §48-5-380 (the “Refund Statute”).

14.

I was lead counsel in Coleman v. Glynn County, CE12-01785-063, CE13-01480-063; and CE14-00750-063 where the Georgia Court of Appeals interpreted the term “Base Year” in the Glynn County homestead exemption for county and school taxes (known as the “Scarlett Williams Exemption”) which contains the exact same language as the homestead exemption in this matter (the “Homestead Exemption”). I was also lead counsel in Mary A. Bailey v. McIntosh County, Georgia, Superior Court of McIntosh County, Civil Action No. SUV2021000009 involving the McIntosh Homestead Exemption which contains the exact same language as both the Scarlett Williams Exemption and the Homestead Exemption in this matter.

15.

McIntosh County settled the Bailey matter in 2022 acknowledging the improper application of the McIntosh Homestead Exemption and agreeing to refund illegally and erroneously assessed taxes from 2016 through 2020 with the Court granting final approval to the settlement on May 5, 2022.

16.

After thoroughly investigating the facts of this Lawsuit, filing the Complaint and a First Amended Complaint, Parties began settlement negotiations.

17.

The Parties were able to reach a settlement (the “Settlement”) quickly in part because McIntosh County was responsible for setting the Homestead Exemption amount for 2016 through 2022 for the City and McIntosh County previously settled the Bailey matter acknowledging the improper application of the McIntosh Homestead Exemption which contains the same language as the Homestead Exemption in this matter. The Settlement by the Parties is memorialized in the [Proposed] Consent Judgment on Aggregate Refund and Order (the “[Proposed] Consent Judgment”) which is attached as Exhibit “A” to the Joint Motion.

18.

The City is represented by Richard E. Braun, Jr., Esquire and Samuel G. Oliver, Esquire who are extremely capable counsel and were worthy, highly competent and professional adversaries.

19.

The Settlement was negotiated at arm’s length and without collusion.

20.

The Settlement was reached after negotiations concerning the parameters and provisions of a fair, reasonable, and adequate settlement.

21.

We respectfully request that Roberts, Tate, LLC be appointed Class Counsel as we will fairly and adequately represent the interest of the Class as Class Counsel.

22.

The attorneys representing Named Plaintiffs and the purported class have extensive experience in complex class and collective actions.

23.

Based on this experience, Roberts, Tate, LLC will fairly and adequately represent Named Plaintiffs and the purported Class as Class Counsel.

24.

The Parties have no agreements in connection with the Settlement other than the [Proposed] Consent Judgment.

25.


As set forth in the proposed notice to the Class (attached to the Joint Motion as Exhibit “H” (the “Full Notice”)) Class Counsel will apply for an award of attorney’s fees not to exceed 40% of the Aggregate Refund Fund as described in the [Proposed] Consent Judgment plus documented out of pocket expenses. Class Counsel will file an Application for Attorney’s Fees and Expenses as directed by the Preliminary Approval Order.

26.

It is my opinion, as lead counsel for the Named Plaintiffs, that the Settlement achieved in this Lawsuit is fair, reasonable and adequate under the circumstances. For all of the reasons cited above and more, I recommend preliminary approval of this Settlement.

FURTHER AFFIANT SAITH NOT.

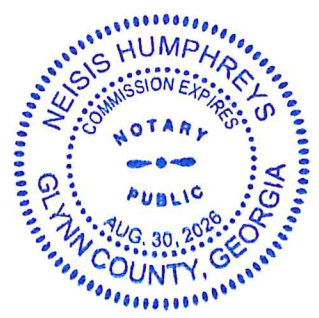
This 8<sup>th</sup> day of September, 2023.

  
\_\_\_\_\_  
James L. Roberts, IV

This 8<sup>th</sup> day of September, 2023:

Neis Humphreys  
Notary Public

My Commission Expires 8/30/24  
(NOTARIAL SEAL)



# Exhibit “H”

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

*A court authorized this notice. This is not a solicitation from a lawyer.*

*Troy and Taryn Nixon v. City of Darien, Georgia*

**If you applied for and received the local homestead exemption provided for in House Bill (“HB”) 1197 (the Homestead Exemption”) for tax years 2016, 2017, 2018, 2019, 2020, 2021 or 2022 and paid property taxes to the City of Darien, Georgia, you may be a Class Member.**

Please read this Notice carefully, as it affects your legal rights. You can also visit:

*[INSERT URL OF WEBPAGE ON CITY SITE]* (the “Settlement Webpage”)

Or Call Class Counsel at:

(912) 638-5200

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>Do Nothing</b>	After the Settlement has been approved by the Court, if you still own the property for which the refund is determined to be owed, you will not be required to do anything to receive your refund. After the Settlement has been approved by the Court, you will receive your refund as explained in this Notice.
<b>Submit a Claim</b>	If you no longer own the property for which the refund is determined to be owed, after the Settlement has been approved by the Court, you will receive a Claim Form. Follow the instructions on the Claim Form and in this Notice to submit the Claim Form.
<b>Object</b>	Write to the Court and counsel about the fairness of the Settlement.
<b>Go to the Hearing</b>	Ask to speak in Court about the fairness of the Settlement after you have submitted a written objection.

- **These rights and options – and the deadlines and instructions for exercising them – are explained in this Notice.**
- The Court in charge of this case still has to decide whether to grant final approval of this Settlement. No refund will be made until after the Court grants final approval of the Settlement, after all appeals, if any, are resolved and after the individual refund determination for each class member is made.

## WHAT THIS NOTICE CONTAINS

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## **Basic Information**

### **1. What is the purpose of this Notice?**

The purpose of this Notice is to inform you of (a) the existence of a class action lawsuit; and (b) the [Proposed] Consent Judgment on Aggregate Refund and Order (the “[Proposed] Consent Judgment”) which settles the lawsuit (the “Settlement”). The Court authorized this Notice because you have a right to know about the [Proposed] Consent Judgment which settles this class action lawsuit before the Court decides whether to give “final approval” to the Settlement. This Notice explains the nature of the lawsuit that is subject of the Settlement and your legal rights and options.

The class action lawsuit is pending in the Superior Court of McIntosh County, Georgia, known as *Troy and Taryn Nixon v. City of Darien, Georgia* (the “Lawsuit”). Judge Robert Russell, III, Superior Court Judge, McIntosh County is presiding over this Lawsuit.

### **2. What is this Lawsuit about?**

This Lawsuit alleges that Defendant City of Darien, Georgia (the “City” or the “Defendant”) assessed and collected ad valorem taxes based on the incorrect application of the City’s Homestead Exemption for taxes for municipal purposes found in HB 1197. The Homestead Exemption provides “[e]ach resident of the City of Darien is granted an exemption on that person’s homestead from City of Darien ad valorem taxes for municipal purposes in an amount equal to the amount by which the current year assessed value of that homestead exceeds the base year assessed value of the homestead.” The Homestead Exemption Section 1(a)(2) states that “Base Year” is “the taxable year immediately preceding the taxable year in which the exemption under [the Homestead Exemption] is first granted to the most recent owner of such homestead.” In short, the Homestead Exemption provides for exemption from ad valorem taxes for municipal purposes on the increase in value of property over the Base Year Value.

The Lawsuit alleges that the Base Year should be the tax year “immediately preceding” the tax year that the Homestead Exemption was granted to the most recent owner. However, the City treated the year in which the Homestead Exemption was first granted as the Base Year rather than the immediately preceding year.

The language of the Homestead Exemption is the exact same language as the Glynn County, Georgia homestead exemption for county and school taxes known as the “Scarlett Williams Exemption” enacted May 1, 2000 pursuant to House Bill 1690 (“HB 1690”) and House Bill 1691 (“HB 1691”). The Georgia Court of Appeals interpreted the term “Base Year” in the Scarlett Williams Exemption (which is defined exactly the same way as it is defined in HB 1197) and held that “[b]ased on the plain language of the Act, the base year is merely the taxable year immediately preceding the taxable year in which the applicant was the owner of the property on January 1 – in other words, the year prior to the year in which the homestead exemption was granted.” Coleman, et al. v. Glynn County, Georgia, et al., 344 Ga. App. 545, 549, 809 S.E.2d 383, 387 (2018).

The language of the Homestead Exemption is also the exact language as the McIntosh County, Georgia homestead exemption for county taxes found in House Bill 382 (“H.B. 382”) and House Bill 450 (“H.B. 450”) (the “McIntosh County Homestead Exemption”). Upon information and belief, based at least in part on the Georgia Court of Appeals’ decision in Coleman, the Board of Commissioners of McIntosh County approved a policy to refund taxpayers for the illegal and erroneous assessment of taxes based on the incorrect application of the Base Year by using the year in which the Homestead Exemption was first granted rather than the immediately preceding year. The policy approved for refund by the Board of Commissioners of McIntosh County did not comply with Georgia law, resulting in McIntosh County being sued in a class action lawsuit in 2021 based on McIntosh County’s incorrect application of the term Base Year. See Mary A. Bailey v. McIntosh County, Georgia, Superior Court of McIntosh County, Civil Action No. SUV2021000009. Ultimately, McIntosh County settled the class action lawsuit in 2022 acknowledging the improper application of the McIntosh County Homestead Exemption and agreeing to refund illegally and erroneously assessed taxes from 2016 through 2020 with the Court granting final approval to the settlement on May 5, 2022. See <http://mcintoshcountyga.com/214/Tax-Refund-Case.led>

Named Plaintiffs filed this Lawsuit on behalf of themselves and all taxpayers similarly situated who applied for and received the Homestead Exemption seeking refunds for taxes paid for 2016 through 2022.

### **3. Why is this Lawsuit a class action?**

In a class action, one or more people called class representatives or representative plaintiffs sue on behalf of all people who have similar claims. Together, all of these people are called a class and the individuals are called class members. One court resolves the issues for all class members.

### **4. Why is there a Settlement?**

The Court has not decided in favor of Named Plaintiffs or the City of Darien. Instead, both sides have agreed to a Settlement. By agreeing to the Settlement, the Parties avoid the costs and uncertainty of a trial and related appeals and Class Members receive the benefits described in this Notice. The “Class Representatives” appointed to represent the Class and the attorneys for the Class (“Class Counsel”, see Question No. 15) think that the Settlement is best for all Class Members.

### **Who is in the Settlement?**

### **5. Am I part of the Class?**

You are a member of the Class if you are or were a City of Darien property owner receiving the Homestead Exemption in the calculation of your tax bills for 2016, 2017, 2018, 2019, 2020, 2021 or 2022 and for whom the City of Darien used the year in which the Homestead Exemption was first granted as the base year rather than the immediately preceding year in calculating the Homestead Exemption amount for property tax bills for 2016, 2017, 2018, 2019, 2020, 2021 or 2022 and for

whom the value frozen in the year in which the Homestead Exemption was first granted is greater than the value in the immediately preceding year.

**6. What if I am still not sure if I am included in the Class?**

After the Administrator calculates the individual refunds for the Class Members, the Class Members' names who are determined to be entitled to refunds along with the refund each will receive will be posted on the Settlement Webpage on the City of Darien's website as described in Question No. 25. You can visit the Settlement Webpage on the City of Darien's website (***FILL IN URL OF WEBPAGE***) where you can search for your name and/or property for which you believe you may be entitled to a refund.

You can also call Class Counsel at (912) 638-5200 to get help.

**The Proposed Settlement**

**7. What are the Settlement Benefits?**

If the Settlement is approved by the Court at or after the Fairness Hearing described in Question No. 20, the City of Darien has agreed to create an Aggregate Refund Fund in the amount of \$200,000.00 (the "Aggregate Refund Fund").

If the Court finally approves this Settlement and if you are entitled to a refund for taxes paid for any of the tax years 2016, 2017, 2018, 2019, 2020, 2021 or 2022 you will receive a refund calculated as explained in Question No. 11.

The money in the Aggregate Refund Fund will only be distributed if the Court finally approves this Settlement.

**8. How do I receive my refund?**

Following the Final Approval of the [Proposed] Consent Judgment settling this Lawsuit (described in Question No. 20), the Administrator will calculate the individual refund amounts. After the Administrator calculates the individual refunds for the Class Members, the Class Members' names along with the refund each will receive will be posted on the Settlement Webpage on the City of Darien's website along with information about how a Class Member can object to individual refund amounts. As deemed appropriate by the Court appointed Administrator, updates as to timing of the individual Class Member refund calculation and payment will also be posted on the Settlement Webpage on the City of Darien's website.

The Administrator will divide the Class Members into the following categories for purposes of distributing the refunds:

Category 1 Class Members: Class Members reside at the same location for which a refund is determined to be owed.

Category 2 Class Members: Class Members who no longer live at the location for which a refund is determined to be owed.

If you are a Category 1 Class Member the refund will be mailed without the need for you to take any action. (See Question No. 14 for more information). If you are a Category 2 Class Member you will be sent a Claim Form at what is believed to be your current mailing address or you can be obtain the Claim Form from the Settlement Webpage on the City of Darien's Website. If you receive a Claim Form or are listed as a Category 2 Class Member, you will need to follow the directions on the Claim Form, certifying that you are the same taxpayer for which the refund has been calculated. You will have sixty (60) days to return the Claim Form. (See Question No. 14 for more information).

**9. What if I receive a Claim Form and do not follow the instructions or do not timely return the form?**

Only Category 2 Class Members (Class Members who no longer live at the location for which the refund is determined to be owed) are required to submit a Claim Form. If you fail to follow the instructions on the Claim Form and do not submit it on or before the date provided on the Claim Form you will not receive your refund. Sending in a Claim Form late will be the same as failing to send in the required Claim Form.

**10. What if I am not listed on the Settlement Webpage as a Class Member?**

As explained in Question No. 8, following the Final Approval of the [Proposed] Consent Judgment settling this Lawsuit (described in Question No. 20), the Administrator will calculate the individual refund amounts and post the Class Members and the refunds each will receive on the Settlement Webpage on the City of Darien's website. There will be a Claim Form on that webpage for any taxpayer not identified as a Class Member by the Administrator to download, complete and submit according to the directions provided. The Administrator will review the claim and notify the taxpayer of their findings. The taxpayer will have fifteen (15) days to object to the Administrator's findings. Objections will be heard by a Special Master. The Special Master's findings will be final and binding.

**11. How are the refunds calculated?**

Following Final Approval of the [Proposed] Consent Judgment, the Administrator is directed to identify the Class and Class Members and confirm and calculate the individual refund amounts. "Class" means the City of Darien's property owners receiving the Homestead Exemption in the calculation of their tax bills in 2016, 2017, 2018, 2019, 2020, 2021 or 2022 for whom Defendant used the Incorrect Base Year" rather than the Correct Base Year in calculating the exemption amount under the Homestead Exemption for property tax bills in 2016, 2017, 2018, 2019, 2020, 2021 and 2022 and for whom the value frozen in the year in which the Homestead Exemption was first granted is greater than the value in the immediately preceding year. "Class Member" or "Class Members" means a member or members of the Class. The Administrator will identify the Class Members who are entitled to refunds as follows:

The Administrator shall be given full access to the records of and full cooperation by Defendant's departments including, but not limited to, Information Technology, the BOA's Office and Tax Commissioner's Office in order to confirm the identity of Class Members.

The Administrator will remove as ineligible for any refund all taxpayers for whom the Correct base year or base value was used. To accomplish this the Administrator will:

1. Determine what should be the Base Year by subtracting one (1) year from the effective date of the Homestead Exemption ("Effective Date"<sup>1</sup>) which reflects the Correct Base Year under the Court of Appeals' decision in Coleman, et al, 344 Ga. App. 545 (i.e., the year immediately preceding the year in which the Exemption was first granted);
2. Remove taxpayers where the City used the Correct Base Year; and
3. Remove taxpayers where the City used the Incorrect Base Year but used the correct frozen amount in calculating the taxes.

For those taxpayers that remain, the City may have used an incorrect base value to calculate the Exemption. From this remaining group of taxpayers, the Administrator will determine if there are any other reasons that would preclude a taxpayer from receiving a refund or reasons that would reduce the amount of the refund.

To accomplish this, the Administrator will:

1. Remove those taxpayers where the total value of the property in the year at issue is less than or equal to the base value as determined by the Court of Appeals in Coleman, et al, 344 Ga. App. 545;
2. Remove those taxpayers where the current year base value used by the City is less than or equal to the base value determined by the Court of Appeals in Coleman, et al, 344 Ga. App. 545; and
3. Remove those taxpayers where the original base value used by the City is less than or equal to the base value as determined by the Court of Appeals in Coleman, et al, 344 Ga. App. 545.

For the remaining taxpayers, the Administrator will calculate individual Class Member refund amounts. To accomplish this, the Administrator will:

1. Take the lesser of the applicable refund year value, the current year frozen value and the frozen value established in the year the exemption was granted and subtract the valuation in the year prior to the year in which the Homestead Exemption was first granted (the Base Year

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<sup>1</sup> The "Effective Date" is the date that the application was actually filed.

valuation under the Court of Appeals Ruling in Coleman, et al., 344 Ga. App. 545) and multiply times the county and school millage rate.

2. Where the current year frozen value exceeds the frozen value established in the year the exemption was granted, the Administrator shall determine the proper adjusted base value by subtracting the frozen value in the year the exemption was originally granted from the current year frozen value, then adding the result to the Correct Base Year valuation in order to account for additions and improvements to the homestead after year the Base Year and multiply times the county and school millage rate.

3. For all taxpayers receiving additional exemptions that reduce the amount of the refund owed, the Administrator will make adjustments to the refund calculation for those taxpayers receiving other exemptions that reduce the overpayment of taxes as a result of use of the Incorrect Base Year.

4. For all taxpayers where there was construction between the year immediately preceding the year in which the Homestead Exemption was first granted and the year used by the City as the base year, the Administrator will determine the proper frozen value in the year immediately preceding the year in which the Homestead Exemption was first granted (Base Year value under the Court Appeals ruling in Coleman, et al., 344 Ga. App. 545), add the value of any improvements added to the property between the base year under the Court of Appeals Coleman, et al., 344 Ga. App. 545 ruling and the base year used by the City and subtract this amount from the frozen value used by the City and multiply times the county and school millage rate.

5. The Administrator will calculate interest on the calculated refund from the date of overpayment through the date of final approval of this [Proposed] Consent Judgment and add this amount to the calculated refund for each Class Member.

6. The resulting calculation shall be the refund owed to each Class Member (the "Calculated Refund").

7. The process described above will produce a refund amount for each Class Member for a single year and will be repeated for each applicable refund year.

8. The Administrator will only use the taxable year immediately preceding the taxable year in which the Homestead Exemption was first granted to the most recent owner of such homestead as the base year in calculating refunds.

9. The amount of refunds already paid to any Class Member shall be deducted from the Calculated Refund.

## **12. How much will my refund be?**

If you are entitled to a refund, your refund will be calculated as explained in Question No. 11. At this time, it is not known how much each individual refund will be. The Administrator will calculate the individual refund amounts after the Final Approval Hearing (see Question No. 20)

and after the Court finally approves the Settlement. See Question No. 14 regarding timing of payment.

**13. What am I giving up as part of the Settlement?**

If the Settlement is finally approved by the Court after the Final Approval Hearing, you will give up your right to sue the City of Darien and other persons (“Releasees”) as to all claims arising out of any and all claims for overpayment of taxes or tax refunds for the use of the year in which the Homestead Exemption was first granted as the Base Year rather than the immediately preceding year in the calculation of property tax payments from 2016 through 2022, whether in law or in equity (the “Released Claims”).

The full text of the of the Release is set forth in Question No. 26. Additionally, a copy of the [Proposed] Consent Judgment can be found on the Settlement Webpage on the City of Darien’s website. *You should carefully read the Release and if you have any questions about the release you may contact Class Counsel at (912) 638-5200.*

**14. When will I get paid?**

On \_\_\_\_\_, the Court will hold a hearing to decide whether to approve the Settlement. If the Court approves the Settlement, the Administrator will begin to verify the individual Class Members who are entitled to refunds and determine the individual amount of the refund to be paid to each Class Member.

The Administrator will endeavor to complete the individual Settlement Class Member refund calculations within 180 days of the entry of the Final Order after the Final Approval Hearing described in Question No. 20.

The Aggregate Refund Fund shall be paid to a Qualified Settlement Fund under Section 468B of the Internal Revenue Code to be identified and established prior to and to be specified in the Final Order (the “Nixon QSF”) to carry out the payment of refunds to individual Class Members. The Final Order will appoint an administrator of the Nixon QSR (the “Nixon QSR Administrator”).

Within thirty (30) days of the later of the expiration of the period for objecting to individual refund amounts or a final ruling by the Special Master on any individual refund calculation, the Administrator shall identify to the Nixon QSF Administrator the amount of refund due each Qualified Class Member (as that term is defined in the [Proposed] Consent Judgment) and the address to which the refund is to be mailed. The Nixon QSF Administrator shall issue refund checks to each Qualified Class Member from available funds in the Aggregate Refund Fund within thirty (30) days of receipt of notice from the Administrator.

Please note that there is often a delay after a Settlement like this is approved. For example, there may be appeals of the Court’s Order approving the Settlement. The relief to the Class Members provided for by this Settlement may not be implemented until appeals are finished and

the Court's Order finally approving this Settlement is upheld. Because of this there could be a delay in payment of the individual refund amounts as provided for in the Settlement.

Please be patient. Updates as deemed necessary will be posted on the Settlement Webpage on the City of Darien's website.

### **The Lawyers Representing You**

#### **15. Do I have a lawyer in this Lawsuit?**

Yes. The Court decided that the law firm of Roberts Tate, LLC is qualified to serve as Class Counsel and to represent you and all Class Members.

#### **16. Should I get my own lawyer?**

You do not need to hire your own lawyer because Class Counsel is working on your behalf. But if you want your own lawyer, you may hire one at your own cost.

#### **17. How will the lawyers get paid and will there be incentive payments?**

Class Counsel has not received any fees for the lawyer and professional time it has devoted to this Lawsuit, nor have they received any reimbursement for any of the out of pocket expenses incurred. For work done through the final approval of this Settlement, Class Counsel will apply to the Court for an award of attorneys' fees not to exceed 40% of the Aggregate Refund Fund plus documented out of pocket expenses incurred from the Aggregate Refund Fund (the "Fee Petition"). The City of Darien takes no position on the Fee Petition, will not oppose the Fee Petition and intends to defer such decision to the judgment and discretion of the Court.

In addition, Class Counsel will ask the Court to award to the Named Plaintiffs, Troy and Taryn Nixon, a class service payment from the Aggregate Refund Fund in recognition of their efforts on behalf of the Class (the "Class Service Petition"). Named Plaintiffs were prepared to appear and testify at trial on behalf of the Class. The City of Darien takes no position on the Class Service Petition, will not oppose the Class Service Petition and intends to defer such decision to the judgment and discretion of the Court.

The amounts to be awarded as attorney's fees, expenses and Named Plaintiffs' service award must be approved by the Court. Class Counsel will file the Fee Petition and the Class Service Petition at least twenty (20) days prior to the Final Approval Hearing. You can object to the Fee Petition and the Class Service Petition in compliance with the instruction in Question No. 18.

A copy of the Fee Petition and the Class Service Petition will be posted on the Settlement Webpage on City of Darien's website the same day that it is filed with the Court.



**Supporting or Objecting to the Settlement**

**18. How do I tell the Court that I like or do not like the Settlement?**

If you are a Class Member, you can tell the Court that you like the Settlement or you can tell the Court that you do not agree with the Settlement or some part of the Settlement. You can object to the entire Settlement or any part of the Settlement. You can give reasons why you do not think that the Court should approve the Settlement. You can also object to the Fee Petition or the Class Service Petition. You can give reasons for the objection and why you think the Court should not approve the Fee Petition or the Class Service Petition.

In order for the Court to consider your written comments or objections, all objections to the [Proposed] Consent Judgement settling this Lawsuit or to the Fee Petition or the Class Service Petition must be mailed to the Clerk of Court, Plaintiffs' Counsel and Defendant's Counsel. For an objection to be considered by the Court, the objection must be postmarked on or before \_\_\_\_\_ (ten (10) days prior to the Final Hearing) and sent to the Court, Class Counsel and Counsel for Defendant at the following addresses:

<b>Court</b>	Clerk of the Superior Court of McIntosh County 310 North Way Darien, GA 31305
<b>Class Counsel</b>	James L. Roberts, IV, Esquire Roberts Tate, LLC Post Office Box 21828 St. Simons Island, Georgia 31522
<b>Counsel for Defendant</b>	Richard Braun, Jr., CRM City Manager/City Attorney Darien City Hall 106 Washington Street Darien, GA 31305  Samuel G. Oliver, Esquire 200 Walnut Street P.O. Box 495 Darien, GA 31205

Additionally, for an objection to be considered by the Court, the objection must also set forth:

- a. The name of the Lawsuit;

- b. Your full name, address and telephone number;
- c. An explanation of the basis upon which you claim to be a Class Member;
- d. All grounds for the objection, accompanied by any legal support for the objection known to you or your counsel;
- e. The number of times the you have objected to a class action settlement within the five (5) years preceding the date on which you file the objection, the caption of each case in which you have made such objection, and a copy of any orders or opinions to or ruling upon your prior such objections that were issued by any court in each listed case;
- f. The identity of all counsel who represented you, including any former or current counsel who may be entitled to any compensation for any reason related to the objection to the Consent Judgment settling this Lawsuit or to Fee Petition and Class Service Petition;
- g. The number of times your counsel and/or counsel's law firm have objected to a class action settlement within the last five (5) years preceding the date you file the objection, the caption of each case in which the counsel or the firm has made such objection, and a copy of any order or opinions related to or ruling upon counsel or the firm's prior such objections that were issued by any court in each listed case;
- h. Any and all agreements that relate to the objection or the process of objecting – whether written or verbal – between you or your counsel and any other person or entity;
- i. The identity of all counsel representing you who will appear at the Final Approval Hearing;
- j. A list of all persons which will be called to testify at the Final Approval Hearing in support of the objection;
- k. A statement confirming whether you intend to personally appear and/or testify at the Final Approval Hearing; and
- l. Your signature (your attorney's signature is not sufficient).

The filing of an objection may allow Class Counsel or Counsel for the City of Darien to notice the objecting party to take his or her deposition at an agreed upon location before the Final Approval Hearing, and to seek any documentary evidence or other tangible things that are relevant to the objection. Failure of the objector to comply with the discovery requests may result in the Court striking the objector's objection and otherwise denying that person the opportunity to make an objection or be further heard. The Court reserves the right to tax the costs of any such discovery to the objector or the objector's counsel should the Court determine that the objection is frivolous or is made for an improper purpose.

Any Class Member who fails to object in the manner set forth above will be deemed to have forever waived his or her objections.

#### **19. Can I call the Court or the Judge's office about my objections?**

No. If you have questions, you may visit the Settlement Webpage on the City of Darien's website (*INSERT URL OF WEBPAGE*) for more information about the settlement. You may also call Class Counsel.

**20. When and where will the Court decide to approve the Settlement?**

The Court will hold a Final Approval Hearing at \_\_\_\_:00 \_\_.m. on \_\_\_\_\_ at the McIntosh County Courthouse. After the Final Approval Hearing the Court will decide whether to finally certify the Settlement Class and whether to approve the Settlement. The Court may also decide how much to pay Class Counsel and whether to award a class service payment to Named Plaintiffs. Additionally, if no objections are filed, the Court may elect to conduct the hearing telephonically or virtually without further notice to the Class. We do not know how long it will take the Court to make its decision.

*Important!* The time and date of the Final Approval Hearing may change without additional mailed or published notice.

**21. Why is there a hearing?**

At the Final Approval Hearing the Court will consider whether to finally certify the Settlement Class and whether the Settlement is fair, reasonable and adequate. If there are objections that were properly submitted (see Question No. 18) the Court will consider them. At its discretion, the Court may listen to people who have properly filed objections (see Question No. 18) and have asked to speak at the hearing.

**22. Do I have to come to the hearing?**

No. Class Counsel will present the [Proposed] Consent Judgment settling this Lawsuit to the Court. You or your own lawyer are welcome to attend at your expense, but you are not required to do so. If you make an objection, you do not have to come to Court to talk about it. As long as you mailed or otherwise submitted your written objection according to the instructions (including the deadlines) in Question No. 18, including all of the information required, the Court will consider it.

**23. May I speak at the hearing?**

You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must mail or otherwise submit an objection according to the instructions (including the deadlines) in Question No. 18. The Court, in its discretion, may determine which, if any, of the Class Members who properly submitted an objection and requested to be heard at the Final Approval Hearing will be entitled to appear and be heard.

If you wish to present evidence at the Final Approval Hearing you must identify any witnesses you may call to testify and any exhibits you intend to introduce as evidence at the Final Approval Hearing in your written objection (see Question No. 18).

**24. Can I exclude myself from the Settlement?**

No. You do not have the right to exclude yourself from the Settlement, but you do have the right to object to the Settlement in writing (see Question No. 18).

### **Getting More Information about the Settlement**

#### **25. How do I get more information?**

Visit the Settlement Webpage on the City of Darien's website at ***FILL IN URL OF WEBPAGE*** where you can find claim forms, information on the Lawsuit and the Settlement, and documents such as the Complaint and the [Proposed] Consent Judgment.

You may also call Class Counsel at (912) 638-5200 or write Class Counsel at:

James L. Roberts, IV, Esquire  
ROBERTS TATE, LLC  
Post Office Box 21828  
St. Simons Island, Georgia 31522

PLEASE DO NOT CALL OR WRITE TO THE JUDGE CONCERNING THIS LAWSUIT OR THE SETTLEMENT. PLEASE DO NOT CALL THE CLERK OF COURT. EXCEPT FOR SUBMITTING OBJECTIONS IN ACCORDANCE WITH THE INSTRUCTIONS PROVIDED IN QUESTION NO. 18, PLEASE DO NOT WRITE TO THE CLERK OF COURT CONCERNING THIS LAWSUIT OR THE SETTLEMENT.

### **Full Text of the Settlement**

#### **26. What is the full text of the Release for the Settlement?**

##### **A. Released Claims**

Plaintiffs and Class Members agree to release and forever discharge, and by this Agreement do, for themselves, their heirs, executors and administrators, release and forever discharge Defendant, its past, present and future parent and affiliate corporations, offices and departments, and their respective past, present and future divisions, subsidiaries, affiliates and related governmental entities and their successors, assigns, directors, officers, employees, attorneys, agents and representatives, personally and as directors, officers, employees, attorneys, agents, or representatives (collectively, the "Releasees"), of and from all manner of action and actions, causes and causes of action, sums of money, covenants, contracts, controversies, agreements, promises, damages (including, but not limited to, attorneys fees), claims and demands that were or could have been asserted in the Lawsuit related to or arising out of any and all claims for overpayment of taxes or tax refunds for the use of the year in which the Homestead Exemption was first granted as the Base Year rather than the immediately preceding year in the calculation of property tax payments from 2016 through 2022, whether in law or in equity, which he/she ever had, may have had, now has or which his/her heirs, executors or administrators hereinafter can, shall or may have as a result of any act or omission by the Releasees, whether known or unknown, asserted or

unasserted, suspected or unsuspected (the “Released Claims”). Released Claims shall not include claims for tax refunds for any reason other than the use of the Incorrect Base Year.

**B. Effect of Failure to Grant Final Approval**

In the event that the Court fails to enter an Order granting Final Approval to this [Proposed] Consent Judgment, the Lawsuit shall resume, this [Proposed] Consent Judgment and any Order granted pursuant to this [Proposed] Consent Judgment, including but not limited to the Preliminary Approval Order shall have no res judicata or collateral estoppel effect and shall be of no force or effect, and the Parties’ rights and defenses shall be restored without prejudice as if this [Proposed] Consent Judgment had never been entered into unless either: (1) Plaintiffs and Defendant agree in writing to a modification of the [Proposed] Consent Judgment and obtain approval of the [Amended Proposed] Consent Judgment with such agreed to modification, or (2) Plaintiffs and Defendant successfully obtain reversal of the decision denying entry of the Order granting Final Approval to this [Proposed] Consent Judgment after reconsideration or appellate review.

**C. Continuing Jurisdiction**

The Court shall retain jurisdiction over the interpretation and implementation of this [Proposed] Consent Judgment, as well as any matters arising out of, or related to, the interpretation or implementation of this [Proposed] Consent Judgment.

# Exhibit “I”

*Troy and Taryn Nixon v. City of Darien, Georgia*

**IN THE SUPERIOR COURT OF MCINTOSH COUNTY  
STATE OF GEORGIA**

**TO: CITY OF DARIEN PROPERTY OWNERS RECEIVING THE HOMESTEAD EXEMPTION (“HOUSE BILL (“HB”) 1197 (i.e., THE “EXEMPTION”) IN THE CALCULATION ON YOUR TAX BILL FOR 2016, 2017, 2018, 2019, 2020, 2021 OR 2022.**

**PLEASE READ THIS NOTICE CAREFULLY. A COURT AUTHORIZED THIS NOTICE.**

A Settlement has been preliminarily approved by the Superior Court of McIntosh County, Georgia in the class action lawsuit (the “Lawsuit”) listed above. If the Settlement is approved by the Court at or after the Fairness Hearing described below, the City of Darien has agreed to the create an Aggregate Refund Fund in the amount of \$200,000.00 (the “Aggregate Refund Fund”). Individual Class Member refunds will be calculated pursuant to the terms of the [Proposed] Consent Judgment on Aggregate Refund and Order (“[Proposed] Consent Judgment”).

You are a member of the Class if you are or were a City of Darien property owner receiving the Exemption in the calculation of your tax bills in 2016, 2017, 2018, 2019, 2020, 2021 or 2022 and for whom the City of Darien used the year in which the Exemption was first granted as the base year rather than the immediately preceding year in calculating the exemption amount under H.B. 1197 for property tax bills in 2016, 2017, 2018, 2019, 2020, 2021 or 2022 and for whom the value frozen in the year in which the Exemption was first granted is greater than the value in the immediately preceding year.

A Final Approval Hearing will be held on \_\_\_\_\_ at \_\_\_\_\_ .m. in Courtroom \_\_\_ at the McIntosh County Courthouse before the Honorable Robert Russell, III to determine among other things: (1) whether to finally certify the Settlement Class; (2) whether the proposed Settlement should be granted final approval; (3) whether Class Counsel’s request for an award of attorneys’ fees, expenses and service award to Class Representatives should be approved; and (4) whether the Lawsuit and the Class Members’ claims against the City of Darien should be dismissed and final judgment entered. If no objections are filed, the Court may elect to hold the hearing telephonically or virtually.

If you are a member of the Class as defined above, your rights may be affected by the proposed Settlement as set forth in the [Proposed] Consent Judgment.

**You do not have the right to exclude yourself from the Settlement in this Lawsuit, but you do have the right to object in writing.** Any objection by a Class Member must postmarked on or before \_\_\_\_\_ **and must comply with the requirements stated in the [Proposed] Consent Judgment, Section E which can be found at [INSERT URL].**

After the Settlement has been approved by the Court, if you still own the property for which a refund is determined to be owed, you will not be required to do anything to receive your refund. If you no longer own the property for which a refund is determined to be owed, after the Settlement has been approved by the Court, you will receive a Claim Form. The Claim Form will be sent to your current address or your last known address. If you receive a Claim Form you will need to complete and return it as instructed on the Claim Form in order to receive the refund.

If you are a member of the Class and have not yet received the Full Notice of this Settlement, or if you want more information regarding anything in the Publication Notice, you may obtain such information by visiting [INSERT URL], calling Class Counsel at (912) 638-5200 or writing Class Counsel at ROBERTS TATE, LLC, Post Office Box 21828, St. Simons Island, Georgia 31522.

**DO NOT CONTACT THE COURT, THE CLERK'S OFFICE OR THE JUDGE REGARDING THIS NOTICE. THEY WILL NOT BE ABLE TO ANSWER YOUR QUESTIONS.**



# Exhibit “J”

**IN THE SUPERIOR COURT OF MCINTOSH COUNTY  
STATE OF GEORGIA**

<b>TROY and TARYN NIXON</b>	)	
	)	
<b>Plaintiffs,</b>	)	<b>CIVIL ACTION NO. SUV2023000081</b>
	)	
<b>v.</b>	)	
	)	
<b>CITY OF DARIEN, GEORGIA</b>	)	
	)	
	)	
<b>Defendant.</b>	)	

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**CLAIM FORM FOR CATEGORY 2 CLASS MEMBERS**

The Administrator in the above referenced class action Lawsuit has identified you as a Class Member no longer owning the property for which a tax refund is due. In order to receive your refund, you are required to complete the attached Claim Form.

You need to follow the directions on the attached Claim Form and mail it to the address indicated on the Claim Form. If you fail to follow the instructions on the Claim Form and do not submit it on or before the date provided on the Claim Form you will not receive your refund. Sending in a Claim Form late will be the same as failing to send in the required Claim Form.

Class Member Name \_\_\_\_\_

Property for which the Refund is Due \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Amount of Refund \_\_\_\_\_

**IN THE SUPERIOR COURT OF MCINTOSH COUNTY  
STATE OF GEORGIA**

<b>TROY and TARYN NIXON</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>CIVIL ACTION NO. SUV2023000081</b>
	)	
<b>v.</b>	)	
	)	
<b>CITY OF DARIEN, GEORGIA</b>	)	
	)	
	)	
<b>Defendant.</b>	)	

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**CLAIM FORM FOR CATEGORY 2 CLASS MEMBERS**

You may be entitled to a refund of ad valorem taxes paid as a result of a resolution in the above referenced class action (the “Lawsuit”). Additional information can about the Lawsuit and the resolution can be obtained by visiting: [INSERT URL OF WEBPAGE ON CITY SITE] or by calling Class Counsel at (912) 638-5200.

You will need to complete this Claim Form and mail your completed and signed Claim Form **within sixty (60) days from [ADMINISTRATOR FILL IN DATE CLAIM FORM MAILED]** to the Administrator at:

**Larry Griggers, Administrator  
City of Darien Class Action Settlement  
121 Salem Drive  
Lyons, GA 30436**

**CLASS MEMBER IDENTIFICATION**

**Please Type or Print**

<b>Name:</b>
<b>Current Address:</b>  Street Address: _____  _____

<p>City: _____</p> <p>State: _____</p> <p>Zip Code: _____</p>
<p><b>Address where refund is to be mailed (if different from current address):</b></p> <p>Street Address: _____</p> <p>_____</p> <p>City: _____</p> <p>State: _____</p> <p>Zip Code: _____</p>
<p><b>Area Code and Phone number (day):</b></p>
<p><b>Area Code and Phone number (evening):</b></p>
<p><b>Email:</b></p>

**If you need additional space, attach the required information on separate, numbered sheets in the same format as above and print your name at the top of each additional sheet.**

**CERTIFICATION**

**I/We certify that I/we formerly owned and paid ad valorem property taxes for the property located at [ADMINSTRATOR FILL IN THE PROPERTY ADDRESS].**

I/We declare and affirm under penalties of perjury that the foregoing information contained herein is true, correct and complete to the best of my/our knowledge, information and belief, and that this Claim Form was executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Signature of Joint Property Owner, if any

\_\_\_\_\_  
(Print your name here)

\_\_\_\_\_  
(Print your name here)

# Exhibit “K”

**IN THE SUPERIOR COURT OF MCINTOSH COUNTY  
STATE OF GEORGIA**

<b>TROY and TARYN NIXON</b>	)	
	)	
<b>Plaintiffs,</b>	)	<b>CIVIL ACTION NO. SUV2023000081</b>
	)	
<b>v.</b>	)	
	)	
<b>CITY OF DARIEN, GEORGIA</b>	)	
	)	
	)	
<b>Defendant.</b>	)	

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**CLAIM FORM FOR MISSING CLASS MEMBER**

If you believe that you may be entitled to a refund of ad valorem taxes paid as a result of a resolution in the above referenced class action (the “Lawsuit”) but your name is not listed as a Class Member on the Settlement Webpage at: **[FILL IN URL OF CITY WEBSITE]** you need to complete this Claim Form **within forty-five (45) days from the date the individual refund calculations are posted on the Settlement Webpage.**

You will need to mail your completed and signed Claim Form to the Administrator at:

**Larry Griggers, Administrator  
City of Darien Class Action Settlement  
121 Salem Drive  
Lyons, GA 30436**

The Administrator will review your Claim Form and respond to you with their findings. **You will have fifteen (15) days to object to the Administrator’s findings.** Objections will be considered and ruled upon by the Special Master appointed by the Court. **The Special Master’s ruling is final and binding.**

**PERSONAL IDENTIFICATION**

**Please Type or Print**

<b>Name:</b>

**Current Address:**

Street Address: \_\_\_\_\_

\_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip Code: \_\_\_\_\_

**Address or Parcel Number for which you believe a refund is owed:**

Street Address: \_\_\_\_\_

\_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip Code: \_\_\_\_\_

Parcel No.: \_\_\_\_\_

**Area Code and Phone number (day):**

**Area Code and Phone number (evening):**

**Email:**

**If you need additional space, attach the required information on separate, numbered sheets in the same format as above and print your name at the top of each additional sheet.**



**TAX YEARS FOR WHICH YOU BELIEVE YOU ARE ENTITLED TO A REFUND**

Please list all of the tax years for which you believe you are entitled to a refund:

\_\_\_\_\_.

**SUPPORTING DOCUMENTATION**

You may attach to this Claim Form any documentation that you believe supports your claim that you are entitled to a refund. Make sure each page of such documentation is clearly labeled with your name.

**CERTIFICATION**

**I/We certify that I/we currently or formerly own(ed) and paid ad valorem property taxes for the property located at (fill in address of property for which you believe a refund is due).**

I/We declare and affirm under penalties of perjury that the foregoing information contained herein and documents attached here to, if any, are true, correct and complete to the best of my/our knowledge, information and belief, and that this Claim Form was executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Signature of Joint Property Owner, if any

\_\_\_\_\_  
(Print your name here)

\_\_\_\_\_  
(Print your name here)

# Exhibit “L”

**IN THE SUPERIOR COURT OF MCINTOSH COUNTY  
STATE OF GEORGIA**

<b>TROY and TARYN NIXON</b>	)	
	)	
<b>Plaintiffs,</b>	)	<b>CIVIL ACTION NO. SUV2023000081</b>
	)	
<b>v.</b>	)	
	)	
<b>CITY OF DARIEN, GEORGIA</b>	)	
	)	
	)	
<b>Defendant.</b>	)	

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**OBJECTION FORM FOR CLASS MEMBER**

If you have an objection to an individual refund amount as shown on either of the Class List posted on the Class Member Webpage at: **[FILL IN URL FOR CITY WEBSITE]**, or if you have any disputes about the individual refund calculation and administration process, you must file an objection with the Special Master **within forty-five (45) days from the date the individual refund calculations were posted on the Settlement Webpage.** Use this Objection Form to file an objection using your preferred format.

You will need to mail your objection to both the Administrator and the Special Master at the following addresses:

**Administrator Larry Griggers  
City of Darien Class Action Settlement  
121 Salem Drive  
Lyons, GA 30436**

**Rita Spalding  
City of Darien Class Action Settlement  
Special Master  
1522 Richmond Street  
Brunswick, Georgia 31520**

The Administrator will review your objection and provide his findings to the Special Master. Objections will be considered and ruled upon by the Special Master appointed by the Court. The Special Master's decisions are final and binding.

**PERSONAL IDENTIFICATION**

**Please Type or Print**

<b>Name:</b>
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**Current Address:**

Street Address: \_\_\_\_\_

\_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip Code: \_\_\_\_\_

**Address for which you believe a refund is owed (if different from current address):**

Street Address: \_\_\_\_\_

\_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip Code: \_\_\_\_\_

**Area Code and Phone Number (day):**

**Area Code and Phone Number (evening):**

**Email:**

**If you need additional space, attach the required information on separate, numbered sheets and print your name at the top of each additional sheet.**

**OBJECTION TO INDIVIDUAL REFUND AMOUNTS**

Please provide your reason for objecting to the individual refund amount shown on the Class List, including the specific tax years to which you are objecting and what you believe the correct refund amount should be:

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**SUPPORTING DOCUMENTATION**

You may attach to this Objection Form any documentation that you believe supports your objection to the individual refund amount shown on the Class List. Make sure each page of such documentation is clearly labeled with your name.

**CERTIFICATION**

**I/We certify that I/We currently or formerly owned(ed), reside(ed) and paid ad valorem property taxes for the property located at *(fill in address of property for which you believe a refund is due)*:**

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I/We declare and affirm under penalty of perjury that the foregoing information contained herein and documents attached hereto, if any, are true, correct and complete to the best of my/our knowledge, information and belief, and that this Objection Form was executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Signature of Joint Property Owner, if any

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(Print your name here)

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(Print your name here)

# Exhibit “M”

**IN THE SUPERIOR COURT OF MCINTOSH COUNTY  
STATE OF GEORGIA**

<b>TROY and TARYN NIXON</b>	)	
	)	
<b>Plaintiffs,</b>	)	<b>CIVIL ACTION NO. SUV2023000081</b>
	)	
<b>v.</b>	)	
	)	
<b>CITY OF DARIEN, GEORGIA</b>	)	
	)	
	)	
<b>Defendant.</b>	)	

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**ADDRESS UPDATE FOR CLASS MEMBER**

If you are a Class Member in the above referenced class action matter and need to update your address, use this form.

Mail completed form to:

**Larry Griggers, Administrator  
City of Darien Class Action Settlement  
121 Salem Drive  
Lyons, GA 30436**

**CLASS MEMBER IDENTIFICATION**

**Please Type or Print**

<b>Name:</b>	
<b>Current Address:</b>	
Street Address:	_____
	_____
City:	_____
State:	_____
Zip Code:	_____



**Address where refund is to be mailed (if different from current address):**

Street Address: \_\_\_\_\_

\_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip Code: \_\_\_\_\_

**Address for which you believe a refund is owed (if different from current address):**

Street Address: \_\_\_\_\_

\_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip Code: \_\_\_\_\_

**Area Code and Phone number (day):**

**Area Code and Phone number (evening):**

**Email:**

**If you need additional space, attach the required information on separate, numbered sheets in the same format as above and print your name at the top of each additional sheet.**

# Exhibit “N”

**IN THE SUPERIOR COURT OF MCINTOSH COUNTY  
STATE OF GEORGIA**

<b>TROY and TARYN NIXON</b>	)	
	)	
<b>Plaintiffs,</b>	)	<b>CIVIL ACTION NO. _____</b>
	)	
<b>v.</b>	)	
	)	
<b>CITY OF DARIEN, GEORGIA</b>	)	
	)	
	)	
<b>Defendant.</b>	)	

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**NOTICE OF COMPLETION**

I, \_\_\_\_\_, am the Nixon QSF Administrator in the above referenced class action matter. I hereby give notice of the completion of the administration of the Settlement in this matter. [There were not any remaining funds from the Aggregate Refund Account to return to the City of Darien as set forth in Section K of the Consent Judgment. *OR* Remaining funds from the Aggregate Refund Account in the amount of \_\_\_\_\_ were returned to the City of Darien as set forth in Section K of the Consent Judgment].

Respectfully submitted this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Nixon QSF Administrator