

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

WILLIAM E. BURGES and ROSE M.) Civil Action No. 3:14-cv-01564
BURGES, Individually and on Behalf of All)
Others Similarly Situated,) The Honorable Waverly D. Crenshaw, Jr.
) The Honorable Jeffery S. Frensley
)
) Plaintiffs,)
) CLASS ACTION
)
 vs.)
) STIPULATION OF SETTLEMENT
)
) BANCORPSOUTH, INC., et al.,)
)
) Defendants.)
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)
)

This Stipulation of Settlement, dated March 30, 2018 (the “Stipulation”), is made and entered into by and among the following Settling Parties to the above-captioned litigation (the “Litigation”): (i) the Court-appointed Lead Plaintiff and Class Representative, City of Palm Beach Gardens Firefighters’ Pension Fund (“Class Representative”), by and through Class Counsel; and (ii) BancorpSouth, Inc. (“BancorpSouth” or the “Company”), James D. Rollins, III, William L. Prater, and James V. Kelley (referred to collectively as the “Defendants”), by and through their counsel. The Stipulation is intended by the Settling Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims, upon and subject to the terms and conditions hereof and subject to the approval of the United States District Court for the Middle District of Tennessee (the “Court”).

I. THE LITIGATION

This is an action alleging securities fraud on behalf of a putative class of all persons who purchased or otherwise acquired BancorpSouth common stock between July 12, 2013 and July 21, 2014, inclusive. Class Representative alleges that Defendants violated §§10(b) and 20(a) of the Securities Exchange Act of 1934 (“Exchange Act”) by making materially misleading statements and omissions regarding the Company’s compliance with Anti-Money Laundering (“AML”) and Bank Secrecy Act (“BSA”) regulations, and regarding its fair-lending practices. Defendants deny that they violated the securities laws.

The initial complaint was filed on July 31, 2014. ECF No. 1. On October 22, 2014, City of Palm Beach Gardens Firefighters’ Pension Fund was appointed Lead Plaintiff and its choice of counsel was approved by the Court. ECF No. 31. On January 9, 2015, Lead Plaintiff filed its Complaint for Violations of the Federal Securities Laws (the “Complaint”). ECF No. 39.

On March 10, 2015, Defendants moved to dismiss the Complaint. ECF Nos. 52-54. After the motion was fully briefed and argued, on July 10, 2015, the Court denied in part and granted in

part Defendants' motion to dismiss. ECF Nos. 72-73. Specifically, the Court granted Defendants' motion to dismiss as to statements Defendants had made about the anticipated timing for BancorpSouth to close the announced acquisitions of two regional financial institutions, and about BancorpSouth's expectations regarding receipt of regulatory approval for those mergers, on the grounds that those statements were non-actionable forward-looking statements. However, the Court denied the motion as to Defendants' statements that BancorpSouth was in compliance with all banking laws and had no knowledge of any fact or circumstance which would impede or delay regulatory approval of the mergers.

On October 7, 2015, Class Representative moved to certify the Class, appoint it as Class Representative, and appoint Robbins Geller Rudman & Dowd LLP ("Robbins Geller") as Class Counsel. ECF Nos. 97-99. After Defendants took discovery from Class Representative, and the parties presented expert testimony, briefed, and argued the motion, the Court granted the motion. ECF Nos. 157-158. On May 12, 2016, Defendants petitioned the U.S. Court of Appeals for the Sixth Circuit (the "Court of Appeals") for permission to appeal from the class certification order. *BancorpSouth, Inc. v. Burges*, Case No. 16-505 (6th Cir.), ECF No. 1. On September 6, 2016, the Court of Appeals granted the petition for permission to appeal, vacated the Court's class certification order, and remanded the case for further proceedings. *Id.*, ECF No. 14-2. On June 26, 2017, after additional briefing, the Court again certified the class, appointed City of Palm Beach Gardens Firefighters' Pension Fund as Class Representative, and appointed Robbins Geller as Class Counsel. ECF Nos. 200-201. On July 11, 2017, Defendants again petitioned the Court of Appeals for permission to appeal from the class certification order. *BancorpSouth, Inc. v. City of Palm Beach Gardens Firefighters Pension Fund*, Case No. 17-508 (6th Cir.), ECF No. 2. On September 18, 2017, the Court of Appeals denied Defendants' petition. *Id.*, ECF No. 15. On October 2, 2017, Defendants filed a petition for a rehearing *en banc* of their petition for permission to appeal from the

class certification order. *Id.*, ECF No. 16. That petition for rehearing was pending when the parties reached an agreement in principle for this Settlement.

The parties conducted fact discovery between August 2015 up to the date of Settlement. The parties engaged in numerous meet-and-confer discussions to reach an agreement on the scope of discovery, including numerous negotiations on search terms and custodians for use in collection and production of Defendants' electronically stored information, and engaged in multiple discovery-related disputes. As of the date of Settlement, Defendants had produced approximately 940,000 pages of documents, and approximately 145,000 pages of documents were produced by third parties.

On January 4, 2017, the parties' counsel attended a one-day mediation session in New York with an experienced mediator, but were unable to resolve the Litigation at that session. On December 10, 2017, following further discussions with the parties' counsel (and after additional proceedings in the Litigation), the mediator presented the parties with a Mediator's Proposal. The Mediator's Proposal was ultimately accepted by both parties on December 29, 2017. Following additional negotiations, the parties reached an agreement to resolve the Litigation on the specific terms set forth herein.

II. DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY

Defendants have denied and continue to deny each and all of the claims and contentions alleged by Class Representative in the Litigation and maintain that their conduct was at all times proper and in compliance with all applicable provisions of law. Defendants expressly have denied and continue to deny all charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Litigation. Defendants also have denied, *inter alia*, the allegations that they made a materially false statement or had any intent to make one, the allegations that Class Representative or the Class has suffered damage, the allegation that the price of BancorpSouth stock was artificially inflated by reasons of

alleged misrepresentations, non-disclosures or otherwise, that Class Representative or the Class was harmed by the conduct that was or could have been alleged in the Litigation, or that Defendants have any liability to the Class. In addition, the Defendants maintain that they have meritorious defenses to all claims alleged in the Litigation.

This Stipulation shall in no event be construed or deemed to be evidence of an admission or concession on the part of any Defendant with respect to any claim or of any fault, liability, wrongdoing, or damage whatsoever, or any infirmity in the defenses that Defendants have asserted. Defendants' decision to settle the Litigation was based on the conclusion that further conduct of the Litigation would be protracted and expensive, that it is desirable that the Litigation be fully and finally settled in the manner and upon the terms and conditions set forth in this Stipulation, and that it would be beneficial to avoid the uncertainty and risks inherent in any litigation, especially in complex cases like this Litigation.

III. CLAIMS OF CLASS REPRESENTATIVE AND BENEFITS OF SETTLEMENT

Class Representative believes that the claims asserted in the Litigation have merit and that the evidence developed to date supports those claims. Class Counsel, however, recognizes and acknowledges the expense and length of continued proceedings necessary to prosecute the Litigation against Defendants through trial, potential post-trial proceedings sought by Defendants, and appeals. Class Representative also has taken into account the uncertain outcome and the risk of any litigation, especially in complex actions such as this Litigation, as well as the difficulties and delays inherent in such litigation. Class Representative also is mindful of the inherent problems of proof and possible defenses to the violations asserted in the Litigation. Class Counsel believes that the Settlement set forth in this Stipulation confers substantial benefits upon the Class. Based on their evaluation, Class Representative and Class Counsel have determined that the Settlement set forth in this Stipulation is

in the best interests of the Class, and that the Settlement provided for herein is fair, reasonable and adequate.

IV. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Class Representative (for itself and on behalf of the Class Members) and the Defendants, by and through their respective counsel of record, that, subject to the approval of the Court, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, the Litigation and the Released Claims shall be finally and fully compromised, settled, and released, and the Litigation shall be dismissed with prejudice, upon and subject to the terms and conditions of the Stipulation, as follows:

1. Definitions

As used in the Stipulation the following terms have the meanings specified below:

1.1 “Authorized Claimant” means any Class Member whose claim for recovery has been allowed pursuant to the terms of the Stipulation.

1.2 “BancorpSouth” or the “Company” means both BancorpSouth, Inc. and its successor BancorpSouth Bank.

1.3 “Claims Administrator” means the firm of Gilardi & Co. LLC.

1.4 “Class” means all persons who purchased or otherwise acquired the publicly traded common stock of BancorpSouth, Inc. between July 12, 2013 and July 21, 2014, inclusive. Excluded from the Class are Defendants, executives who were members of the Management and Senior Staff Committees, and directors of BancorpSouth during the Settlement Class Period, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which Defendants have or had a controlling interest. Also excluded from the Class are those Persons who properly exclude themselves by timely and validly requesting exclusion from the Class pursuant to the Notice of Proposed Settlement of Class Action to be sent to Class Members pursuant to the

Preliminary Approval Order. BancorpSouth or any entity in which BancorpSouth has or had a controlling interest (for purposes of this paragraph, together a “BancorpSouth-Controlled Entity”) are excluded from the Class only to the extent that such BancorpSouth-Controlled Entity itself purchased a proprietary (*i.e.*, for its own account) interest in the Company’s common stock. To the extent that a BancorpSouth-Controlled Entity purchased BancorpSouth stock in a fiduciary capacity or otherwise on behalf of any third-party client, account, fund, trust, employee or employee benefit plan that otherwise falls within the Class, or an employee benefit plan sponsored by a BancorpSouth-Controlled Entity, or an employee through such an employee benefit plan, purchased BancorpSouth stock, neither such BancorpSouth-Controlled Entity nor the third-party client, account, fund, trust, employee or employee benefit plan shall be excluded from the Class with respect to such BancorpSouth stock.

1.5 “Class Counsel” means Robbins Geller Rudman & Dowd LLP or its successor(s).

1.6 “Class Member” or “Member of the Class” means any Person who falls within the definition of the Class as set forth in ¶1.4 of this Stipulation.

1.7 “Class Representative” means City of Palm Beach Gardens Firefighters’ Pension Fund.

1.8 “Class Representative’s Counsel” means Class Counsel, Liaison Counsel and Sugarman & Susskind, which firms have appeared for Class Representative in the Litigation.

1.9 “Defendants” means BancorpSouth, James D. Rollins, III, William L. Prater, and James V. Kelley.

1.10 “Effective Date” means the first date by which all of the events and conditions specified in ¶7.1 of the Stipulation have been met and have occurred.

1.11 “Escrow Agent” means Robbins Geller Rudman & Dowd LLP or its successor(s).

1.12 “Final” means when the last of the following with respect to the Order and Final Judgment, substantially in the form of Exhibit B attached hereto, shall occur: (i) the expiration of three (3) business days after the time for the filing of any motion to alter or amend the Order and Final Judgment under Federal Rule of Civil Procedure 59(e) without any such motion having been filed; (ii) the expiration of the time for the filing or noticing of any appeal from the Order and Final Judgment without any appeal having been filed; and (iii) if such motion to alter or amend is filed or if an appeal is filed or noticed, then immediately after the determination of that motion or appeal so that the Order and Final Judgment is no longer subject to any further judicial review or appeal whatsoever, whether by reason of affirmance by court of last resort, lapse of time, voluntary dismissal of the appeal or otherwise, and in such a manner as to permit the consummation of the Settlement in accordance with the terms and conditions of this Stipulation. For purposes of this paragraph, an appeal shall include any petition for a writ of certiorari or other writ that may be filed in connection with the approval or disapproval of this Settlement, but shall not include any appeal that concerns only the issue of attorneys’ fees and expenses, payment of Class Representative’s time and expenses or the Plan of Allocation of the Settlement Fund. Any proceeding or order, or any appeal or petition for a writ of certiorari pertaining solely to any plan of distribution and/or application for attorneys’ fees, costs, or expenses and/or Class Representative’s request for payment of time and expenses, shall not in any way delay or preclude the Order and Final Judgment from becoming Final.

1.13 “Final Approval Hearing” means the hearing to determine whether the proposed Settlement embodied by this Stipulation is fair, reasonable, and adequate to the Class, and whether the Court should: (1) enter the Order and Final Judgment approving the proposed Settlement; (2) approve the Plan of Allocation of Settlement proceeds; and (3) assess Class Counsel’s petition

for attorneys' fees and expenses to Class Representative's Counsel and Class Representative's request for payment of time and expenses.

1.14 "Liaison Counsel" means Barrett Johnston Martin & Garrison, LLC or its successor(s).

1.15 "Order and Final Judgment" means the judgment to be rendered by the Court, in the form attached hereto as Exhibit B. The Order and Final Judgment may issue no earlier than ninety (90) days after completion of the provision of notice pursuant to 28 U.S.C. §1715.

1.16 "Person" means a natural person, individual, corporation, limited liability corporation, professional corporation, limited liability partnership, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity and all of their respective spouses, heirs, beneficiaries, executors, administrators, predecessors, successors, representatives, or assignees.

1.17 "Plan of Allocation" means a plan or formula of allocation of the Settlement Fund whereby the Settlement Fund shall be distributed to Authorized Claimants after payment of expenses of notice and administration of the Settlement, Taxes and Tax Expenses, and such attorneys' fees, costs, expenses (including expenses awarded to Class Representative), and interest as may be awarded by the Court. Any Plan of Allocation is not part of the Stipulation, and Defendants and their Related Parties shall have no responsibility or liability with respect thereto.

1.18 "Preliminary Approval Order" means the order described in ¶3.1 hereof.

1.19 "Related Parties" means, with respect to each Defendant, present and former parents, subsidiaries, affiliates, predecessors, successors, joint venturers, assigns, officers, directors, employees, partners, controlling shareholders, principals, trustees, attorneys, auditors, accountants, investment bankers, underwriters, consultants, agents, insurers, re-insurers, spouses, estates, related

or affiliated entities, any entity in which a Defendant has a controlling interest, any members of any Defendants' immediate family, any trust of which any Defendant is the settlor or which is for the benefit of any Defendant and/or member(s) of his family, and each of the heirs, executors, administrators, predecessors, successors, and assigns of the foregoing.

1.20 "Released Claims" means any and all actions, claims, causes of action, rights, suits, violations, obligations, debts, demands, judgments, agreements, promises, liabilities, damages, losses, controversies, costs, expenses or attorney fees, of every nature and description whatsoever, whether direct or indirect, now known or unknown, suspected or unsuspected, whether arising under federal, state, local, statutory, common or foreign law, or any other law, rule or regulation, which now exists or heretofore has existed, whether contingent or absolute, accrued or unaccrued, liquidated or unliquidated, at law or in equity, mature or unmature, whether class, representative, or individual in nature, that Class Representative or any other Member of the Class asserted in the Litigation or could have asserted in any forum that arise out of or are based upon or related in any way to both (i) the purchase, acquisition or sale of BancorpSouth common stock, and (ii) the acts, facts, transactions, events, occurrences, disclosures, statements, omissions, or failures to act that were alleged, may have been alleged, or could have been alleged in the Litigation, including, without limitation, any matters referenced in or related to ECF No. 170 in this Litigation. "Released Claims" includes "Unknown Claims" as defined in ¶1.31 hereof. Notwithstanding the foregoing, "Released Claims" does not include claims relating to the enforcement of the Settlement.

1.21 "Released Persons" means each and all of the Defendants and each and all of their Related Parties.

1.22 "Settled Defendants' Released Claims" means all actions, claims, debts, demands, liabilities, losses, matters, rights, suits and causes of action of any nature whatsoever, known or unknown, contingent or absolute, mature or immature, discoverable or undiscoverable, whether

concealed or hidden, suspected or unsuspected, whether based in law or equity, arising under federal, state, common or foreign law, or any other law, rule or regulation, which now exist or heretofore have existed, that have been or could have been asserted in the Litigation or any forum by the Released Persons or any of them against Class Representative, Class Members, or Class Representative's Counsel, that arise out of or relate in any way to the institution, prosecution, or settlement, of the claims against the Released Persons, except for claims related to the enforcement of the Settlement.

1.23 "Settlement" means the settlement of the Litigation as set forth in this Stipulation.

1.24 "Settlement Amount" means the principal amount of Thirteen Million Dollars (\$13,000,000), to be paid pursuant to ¶2.1 of this Stipulation. Neither Defendants nor their Related Parties shall have any obligation whatsoever to pay any amount over and above the principal amount of Thirteen Million Dollars (\$13,000,000). Such amount is paid as consideration for full and complete settlement of all the Released Claims.

1.25 "Settlement Class Period" means the period commencing on July 12, 2013 and ending on July 21, 2014, inclusive.

1.26 "Settlement Fund" means the Settlement Amount plus all interest and accretions thereto after being transferred to an account controlled by the Escrow Agent, and which may be reduced by payments or deductions as provided for herein or by court order.

1.27 "Settling Parties" means, collectively, each of the Defendants and Class Representative on behalf of itself and each of the Class Members.

1.28 "Stipulation" means this Stipulation of Settlement, including the recitals and Exhibits hereto.

1.29 "Tax Expenses" means expenses and costs incurred in connection with the calculation and payment of taxes or the preparation of tax returns and related documents, including, without

limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs relating to filing (or failing to file) the returns described in ¶2.8.

1.30 “Taxes” means all taxes (including any estimated taxes, interest or penalties) arising with respect to the income earned by the Settlement Fund as described in ¶2.8.

1.31 “Unknown Claims” means any of the Released Claims which Class Representative or any Class Member does not know or suspect to exist in such party’s favor at the time of the release of the Released Persons, and any of the Settled Defendants’ Released Claims that the Released Persons do not know or suspect to exist in his, her or its favor at the time of the release of Class Representative, each and all of the Class Members and Class Representative’s Counsel, which, if known by such party, might have affected such party’s settlement with and release of the Released Persons or Class Representative, each and all of the Class Members and Class Representative’s Counsel, or might have affected such party’s decision not to object to this Settlement or seek exclusion. Unknown Claims include those Released Claims in which some or all of the facts comprising the claim may be suspected, or even undisclosed or hidden. With respect to any and all Released Claims and the Settled Defendants’ Released Claims, upon the Effective Date, Class Representative and Defendants shall expressly, and each of the Class Members and Released Persons shall be deemed to have, and by operation of the Order and Final Judgment shall have, expressly waived to the fullest extent permitted by law, the provisions, rights, and benefits of California Civil Code §1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Class Representative and Defendants shall expressly, and each of the Class Members and Released Persons shall be deemed to have, and by operation of the Order and Final Judgment, shall have expressly waived any and all provisions, rights, and benefits conferred by any law of any state or

territory of the United States, or principle of common law, which is similar, comparable or equivalent to California Civil Code §1542. Class Representative, Class Members and the Released Persons may hereafter discover facts in addition to or different from those which such party now knows or believes to be true with respect to the subject matter of the Released Claims and the Settled Defendants' Released Claims, but Class Representative and Defendants shall expressly, and each of the Class Members and Released Persons, upon the Effective Date, shall be deemed to have, and by operation of the Order and Final Judgment shall have, fully, finally, and forever settled and released any and all Released Claims, or the Settled Defendants' Released Claims, as the case may be, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, reckless, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts, whether or not previously or currently asserted in any action. Class Representative and Defendants acknowledge, and the Class Members and Released Persons shall be deemed by operation of the Order and Final Judgment to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement of which this release is a part.

2. The Settlement

a. The Settlement Fund

2.1 In consideration of the terms of this Stipulation, Defendants shall pay, or cause to be paid, the Settlement Amount into the Escrow Account, no later than ten (10) business days after the later of: (i) entry of the Preliminary Approval Order, as defined in ¶3.1 herein; and (ii) the provision to counsel for Defendants of payment instructions and a W-9 providing the tax identification number

for the Escrow Agent. The Escrow Agent shall deposit the Settlement Amount, plus any accrued interest, in a segregated escrow account (“Escrow Account”) maintained by the Escrow Agent.

2.2 The deposit of the Settlement Amount is the only payment to be made by or on behalf of Defendants and their Related Parties in connection with this Settlement. As set forth below, all fees, costs, and expenses incurred by or on behalf of Class Representative and the Class associated with the Settlement, including, but not limited to, Taxes, Tax Expenses, administrative costs and costs of providing notice of the Settlement to the Class Members, any award of attorneys’ fees and expenses of Class Representative’s Counsel, or Class Representative shall be paid from the Settlement Fund, and in no event shall Defendants or their Related Parties bear any additional responsibility for any such fees, costs or expenses.

b. The Escrow Agent

2.3 The Escrow Agent will invest the Settlement Fund created pursuant to ¶2.1 hereof only in instruments backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, and will reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. All costs and risks related to the investment of the Settlement Fund in accordance with the guidelines set forth in this paragraph shall be borne by the Settlement Fund and neither Defendants nor their Related Parties shall have any responsibility for, interest in, or liability whatsoever with respect to the funds held in the Escrow Account, including with respect to investment decisions or the actions of the Escrow Agent, or any transactions executed by the Escrow Agent. The Escrow Agent hereby accepts all fiduciary and other obligations of an escrow agent, including, but not limited to, the duty to safeguard the funds held in escrow and the duty to release any funds in a manner consistent with this Stipulation and as approved by the Court.

2.4 The Escrow Agent shall not disburse the Settlement Fund except as provided by: (i) the Stipulation; (ii) an order of the Court; or (iii) prior written agreement of counsel for Defendants.

2.5 Subject to further order(s) and/or directions as may be made by the Court, or as provided in the Stipulation, the Escrow Agent is authorized to execute such transactions on behalf of the Class Members as are consistent with the terms of the Stipulation. The Released Persons shall have no responsibility for, interest in, or liability whatsoever with respect to, the actions of the Escrow Agent, or any transaction executed by the Escrow Agent.

2.6 All funds held by the Escrow Agent shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed or returned pursuant to the Stipulation and/or further order(s) of the Court.

2.7 Notwithstanding the fact that the Effective Date has not yet occurred, the Escrow Agent may pay from the Settlement Fund the costs and expenses reasonably and actually incurred in connection with providing notice to Members of the Class, mailing the Notice and Proof of Claim and Release form and publishing notice (such amount shall include, without limitation, the actual costs of publication, printing and mailing the Notice, and reimbursement to nominee owners for forwarding notice to their beneficial owners), soliciting Class claims, assisting with the filing of claims, administering and distributing the Net Settlement Fund to Authorized Claimants, processing Proof of Claim and Release forms, and paying escrow fees and costs, if any, and the administrative expenses incurred and fees charged by the Claims Administrator in connection with providing notice and processing the submitted claims, up to \$400,000 (“Notice and Administration Costs”). Before the Effective Date, payment of any Notice and Administration Costs exceeding \$400,000 shall require notice to and agreement from the Defendants, through Defendants’ counsel, which agreement shall not be unreasonably refused. After the Effective Date, without further approval by

Defendants or the Court, the Settlement Fund may be used by Class Counsel to pay all reasonable and necessary Notice and Administration Costs. In the event that the Settlement does not become final, any money paid or incurred for the above purposes, including any related fees, shall not be returned or repaid to Defendants or their insurers.

c. Taxes

2.8 (a) The Settling Parties and the Escrow Agent agree that the Settlement Fund is intended to be and should be treated as being at all times a “qualified settlement fund” within the meaning of Treas. Reg. §1.468B-1. In addition, the Escrow Agent shall timely make such elections as necessary or advisable to carry out the provisions of this ¶2.8, including the “relation-back election” (as defined in Treas. Reg. §1.468B-1(j)(2)) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such Treasury regulations promulgated under §1.468B of the Internal Revenue Code of 1986, as amended (the “Code”). It shall be the responsibility of the Escrow Agent to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

(b) For the purpose of §1.468B of the Code and the Treasury regulations promulgated thereunder, the Escrow Agent shall be designated as the “administrator” of the Settlement Fund. The Escrow Agent shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including, without limitation, the returns described in Treas. Reg. §1.468B-2(k)). Such returns (as well as the election described in ¶2.8(a) hereof) shall be consistent with this ¶2.8 and in all events shall reflect that all Taxes as defined in ¶1.30 hereof (including any estimated Taxes, interest, or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided in ¶2.8(c) hereof.

(c) All: (a) Taxes (including any estimated Taxes, interest, or penalties) arising with respect to the income earned by the Settlement Fund, including any Taxes or tax detriments that may be imposed upon Defendants or their Related Parties with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a “qualified settlement fund” for federal or state income tax purposes; and (b) Tax Expenses, and costs incurred in connection with the operation and implementation of this ¶2.8 (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in this ¶2.8), shall be paid out of the Settlement Fund. In no event shall Defendants or their Related Parties have any responsibility for or liability with respect to the Taxes or the Tax Expenses. The Escrow Agent shall indemnify and hold each of the Defendants and their Related Parties harmless for Taxes and Tax Expenses (including, without limitation, Taxes payable by reason of any such indemnification). Further, Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Settlement Fund and shall be timely paid by the Escrow Agent out of the Settlement Fund without prior order from the Court, and the Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to Authorized Claimants any funds necessary to pay such amount, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treas. Reg. §1.468B-2(l)(2)); neither Defendants nor their Related Parties are responsible therefor nor shall they have any liability with respect thereto. The Settling Parties hereto agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this ¶2.8.

(d) Neither Defendants nor their Related Parties are responsible for Taxes, Tax Expenses, or Notice and Administration Costs, nor shall they be liable for any claims with respect thereto.

d. Termination of Settlement

2.9 In the event that the Stipulation is not approved, or is terminated, canceled, or fails to become effective for any reason, including, without limitation, in the event the Order and Final Judgment is reversed or vacated following any appeal taken therefrom, or is successfully collaterally attacked, the Settlement Fund (including accrued interest and income), less Notice and Administration Costs, Taxes or Tax Expenses paid in connection with the Settlement provided for herein, incurred or due and owing, shall be refunded in accordance with the instructions to be provided by counsel for Defendants no later than ten (10) business days from the termination event or as otherwise agreed upon in writing by counsel for Defendants.

3. Preliminary Approval Order and Final Approval Hearing

3.1 Promptly after execution of the Stipulation, Class Representative shall submit the Stipulation together with its Exhibits to the Court and Class Counsel shall apply for entry of an order substantially in the form and content of Exhibit A attached hereto (the “Preliminary Approval Order”), requesting, *inter alia*, the preliminary approval of the Settlement set forth in the Stipulation, approval for the mailing of the Notice of Proposed Settlement of Class Action (the “Notice”) and the Proof of Claim and Release form, substantially in the forms of Exhibits A-1 and A-2 attached hereto, and approval of the publication of a Summary Notice, substantially in the form of Exhibit A-3 attached hereto, or such other substantially similar form agreed to by the Settling Parties.

3.2 Class Representative will request that the Court hold the Final Approval Hearing and finally approve the Settlement of the Litigation as set forth herein. At or after the Final Approval Hearing, Class Counsel also will request that the Court approve the proposed Plan of Allocation and the Fee and Expense Application.

4. Releases

4.1 Upon the Effective Date, as defined in ¶1.10 hereof, Class Representative, and each and all of the Class Members and anyone claiming through or on behalf of any of them, including, but not limited to, their predecessors, agents, representatives, attorneys, affiliates, heirs, executors, administrators, successors, and assigns, shall be deemed to have, and by operation of the Order and Final Judgment shall have, fully, finally, and forever waived, released, relinquished, and discharged all Released Claims (including, without limitation, Unknown Claims), as well as any claims arising out of, relating to, or in connection with, the defense, settlement, or resolution of the Litigation or the Released Claims, against the Released Persons, regardless of whether such Class Member executes and delivers a Proof of Claim and Release form, except that claims relating to the enforcement of the Settlement shall not be released.

4.2 Upon the Effective Date, as defined in ¶1.10 hereof, Class Representative, each and all of the Class Members and anyone claiming through or on behalf of any of them, including, but not limited to, their predecessors, agents, representatives, attorneys, affiliates, heirs, executors, administrators, successors, and assigns, are forever barred and enjoined from commencing, instituting, asserting, maintaining, enforcing, prosecuting, or continuing to prosecute any action or proceeding in any forum (including, but not limited to, any state or federal court of law or equity, any arbitral forum, any tribunal, administrative forum, or the court of any foreign jurisdiction, or any other forum of any kind), any of the Released Claims (including, without limitation, Unknown Claims), as well as any claims arising out of, relating to, or in connection with, the defense, settlement or resolution of the Litigation or the Released Claims, against any or all of the Released Persons, regardless of whether such Class Member executes and delivers a Proof of Claim and Release form, except that claims relating to the enforcement of the Settlement shall not be released.

4.3 The Proof of Claim and Release to be executed by Class Members shall release all Released Claims against the Released Persons and shall be substantially in the form contained in Exhibit A-2 attached hereto.

4.4 Upon the Effective Date, as defined in ¶1.10 hereof, each of the Released Persons shall be deemed to have, and by operation of the Order and Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged Class Representative, each and all of the Class Members, and Class Representatives' Counsel from all Settled Defendants' Released Claims, and shall forever be enjoined from prosecuting such claims, except for claims relating to the enforcement of the Settlement.

5. Administration and Calculation of Claims, Final Awards, and Supervision and Distribution of Settlement Fund

5.1 The Claims Administrator, subject to such supervision and direction of the Court and/or Class Counsel as may be necessary or as circumstances may require, shall administer and calculate the claims submitted by Class Members and shall oversee distribution of the Net Settlement Fund (defined below) to Authorized Claimants.

5.2 The Settlement Fund shall be applied as follows:

- (a) to pay all Notice and Administration Costs;
- (b) to pay the Taxes and Tax Expenses;
- (c) to pay Class Representative's Counsel's attorneys' fees and expenses with interest thereon (the "Fee and Expense Award") and Class Representative's time and expenses pursuant to 15 U.S.C. §78u-4(a)(4), if and to the extent allowed by the Court; and
- (d) after the Effective Date, to distribute the balance of the Settlement Fund (the "Net Settlement Fund") to Authorized Claimants as allowed by the Stipulation, the Plan of Allocation, or the Court.

5.3 Upon the Effective Date and thereafter, and in accordance with the terms of the Stipulation, the Plan of Allocation, or such further approval and further order(s) of the Court as may be necessary or as circumstances may require, the Net Settlement Fund shall be distributed to Authorized Claimants, subject to and in accordance with the following:

(a) Each Class Member shall be required to submit a Proof of Claim and Release form, substantially in a form approved by the Court, supported by such documents as are designated therein, including proof of the transactions claimed, or such other documents or proof as the Claims Administrator, in its discretion, may deem acceptable;

(b) All Proof of Claim and Release forms must be submitted by the date specified in the Notice unless such period is extended by Court order. Any Class Member who fails to submit a Proof of Claim and Release form by such date shall be forever barred from receiving any payment pursuant to this Stipulation, but shall in all other respects be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Order and Final Judgment to be entered in the Litigation and the releases provided for herein, and will be barred from bringing any action against the Released Persons concerning the Released Claims. A Proof of Claim and Release form shall be deemed to have been submitted when posted, if received with a postmark indicated on the envelope and if mailed by first-class mail and addressed in accordance with the instructions thereon. In all other cases, the Proof of Claim and Release form shall be deemed to have been submitted when actually received by the Claims Administrator. Notwithstanding the foregoing, Class Counsel shall have the discretion (but not the obligation) to accept for processing late-submitted claims so long as the distribution of the Net Settlement Fund to Authorized Claimants is not materially delayed thereby. No person shall have any claim against Class Representative, Class Counsel or the Claims Administrator by reason of the decision to exercise or not exercise such discretion;

(c) Each Proof of Claim and Release form shall be submitted to and reviewed by the Claims Administrator, who shall determine in accordance with this Stipulation and the approved Plan of Allocation the extent, if any, to which each claim shall be allowed, subject to review by the Court pursuant to subparagraph (e) below;

(d) Proof of Claim and Release forms that do not meet the submission requirements may be rejected. Prior to rejection of a Proof of Claim and Release form, the Claims Administrator shall communicate with the claimant in order to attempt to remedy the curable deficiencies. The Claims Administrator shall notify, in a timely fashion and in writing, all claimants whose Proof of Claim and Release forms it proposes to reject in whole or in part, setting forth the reasons therefor, and shall indicate in such notice that the claimant whose claim is to be rejected has the right to a review by the Court if the claimant so desires and complies with the requirements of subparagraph (e) below;

(e) If any claimant whose claim has been rejected in whole or in part desires to contest such rejection, the claimant must, within twenty (20) days after the date of mailing of the notice required in subparagraph (d) above, serve upon the Claims Administrator a notice and statement of reasons indicating the claimant's grounds for contesting the rejection, along with any supporting documentation, and requesting a review thereof by the Court. If a dispute concerning a claim cannot be otherwise resolved, Class Counsel shall thereafter present the request for review to the Court;

(f) Each claimant who submits a Proof of Claim and Release shall be deemed to have submitted to the jurisdiction of the Court with respect to the claimant's claim, including, but not limited to, all releases provided for herein and in the Order and Final Judgment, and the claim will be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided that such investigation and discovery shall be limited to the claimant's status as a Class Member and

the validity and amount of the claimant's claim. In connection with processing the Proofs of Claim and Release, no discovery shall be allowed from any party on the merits of the Litigation or the Settlement; and

(g) The Claims Administrator shall calculate the claims of Authorized Claimants in accordance with the Plan of Allocation. Following the Effective Date, the Claims Administrator shall send to each Authorized Claimant his, her or its *pro rata* share of the Net Settlement Fund. No distributions will be made to Authorized Claimants who would otherwise receive a distribution of less than \$10.00.

5.4 Except for their obligation to pay or cause payment of the Settlement Amount as set forth herein, Defendants and their Related Parties shall have no responsibility for, interest in, or liability whatsoever with respect to the investment or distribution of the Settlement Fund, the Plan of Allocation, the determination, administration, or calculation of claims, the payment or withholding of Taxes or Tax Expenses, or any losses incurred in connection therewith.

5.5 No Person shall have any claim of any kind against the Defendants, their Related Parties, or counsel for Defendants with respect to the matters set forth in this Section 5.

5.6 No Person shall have any claim against Class Representative, the Escrow Agent, Class Representative's Counsel or any claims administrator based on distributions made in accordance with this Stipulation and the Settlement contained herein, the Plan of Allocation, or further order(s) of the Court.

5.7 Defendants shall not have a reversionary interest in the Net Settlement Fund. The Net Settlement Fund shall be distributed to the Authorized Claimants in accordance with the Plan of Allocation set forth in the Notice and approved by the Court. The Claims Administrator will make reasonable and diligent efforts to have Class Members who are entitled to participate in the distribution of the Net Settlement Fund cash their distributions. If there is any balance remaining in

the Net Settlement Fund at least six (6) months after the initial distribution of the Net Settlement Fund (whether by reason of tax refunds, uncashed checks, or otherwise), Class Counsel, shall, if feasible, reallocate a *pro rata* basis among Authorized Claimants who negotiated the checks sent to them in the initial distribution and who would receive a minimum of \$10.00. These reallocations shall be repeated until the balance remaining in the Net Settlement Fund is *de minimis* and any remainder shall thereafter be donated to the Legal Aid Society of Middle Tennessee.

5.8 It is understood and agreed by the Settling Parties that any proposed Plan of Allocation of the Net Settlement Fund, including, but not limited to, any adjustments to an Authorized Claimant's claim set forth therein, is not a part of this Stipulation and is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in the Stipulation, and any order or proceeding relating to the Plan of Allocation shall not operate to terminate or cancel the Stipulation or affect the finality of the Court's Order and Final Judgment approving the Stipulation and the Settlement set forth therein, or any other orders entered pursuant to the Stipulation.

5.9 Class Members and Defendants shall be bound by the terms of this Stipulation, irrespective of whether the Court disapproves or modifies the Plan of Allocation. The time to appeal from approval of the Settlement shall commence upon the Court's entry of the Order and Final Judgment regardless of whether a Plan of Allocation has been approved.

6. Class Representative's Counsel's Attorneys' Fees and Expenses

6.1 Class Counsel may submit an application or applications (the "Fee and Expense Application") for: (a) an award of attorneys' fees; and (b) payment of expenses in connection with prosecuting the Litigation; and (c) any interest on such attorneys' fees and expenses at the same rate and for the same periods as earned by the Settlement Fund (until paid). Any and all such fees, expenses, charges and costs awarded by the Court shall be payable solely out of the Settlement Fund.

In addition, Class Representative may seek payment from the Settlement Fund pursuant to 15 U.S.C. §78u-4(a)(4) for time and expenses incurred in representing the Class. Class Counsel reserves the right to make additional applications for fees and expenses incurred.

6.2 The attorneys' fees and expenses, as awarded by the Court (the "Fee and Expense Award"), shall be paid to Class Counsel from the Settlement Fund, as ordered, immediately upon execution of an order awarding such fees and expenses, notwithstanding the existence of any timely filed objection thereto, any appeal or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof. Class Counsel may thereafter allocate the attorneys' fees among other Class Representative's Counsel, if any, in a manner which it, in good faith, believes reflects the contributions of such counsel to the initiation, prosecution, and resolution of the Litigation.

6.3 In the event that the Effective Date does not occur, or the Order and Final Judgment or Fee and Expense Award is reversed or modified, or the Stipulation is canceled or terminated for any other reason, and such reversal, modification, cancellation or termination becomes final and not subject to review, and in the event that the Fee and Expense Award has been paid to any extent, then such of Class Representative's Counsel who have received any portion of the Fee and Expense Award shall within ten (10) business days from receiving notice from the Defendants' counsel or from a court of appropriate jurisdiction, refund to the Settlement Fund such fees and expenses previously paid to them from the Settlement Fund plus the interest earned thereon at the same rate as earned on the Settlement Fund consistent with such reversal or modification. Any refunds required pursuant to this ¶6.3 shall be the joint and several obligations of Class Counsel receiving fees or expenses to make appropriate refunds or repayments to the Settlement Fund. Defendants shall take no position with respect to the fees sought or disbursement thereof in the Fee and Expense Application.

6.4 The procedure for and the allowance or disallowance by the Court of the Fee and Expense Application, or Class Representative's expenses to be paid out of the Settlement Fund, are not part of the Settlement, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement. Any order or proceeding relating to the Fee and Expense Application or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel the Settlement, or affect or delay the finality of the Order and Final Judgment approving this Stipulation and the Settlement of the Litigation.

6.5 Any fees and expenses awarded by the Court shall be paid solely from the Settlement Fund. No Released Persons shall have any responsibility for any payment of any kind apart from payment of the Settlement Fund pursuant to ¶2.1.

7. Conditions of Settlement, Effect of Disapproval, Cancellation or Termination

7.1 The Effective Date of the Stipulation shall be conditioned on the occurrence of all of the following events:

- (a) execution of this Stipulation and such other documents as may be required to obtain final Court approval of the Stipulation in a form satisfactory to the Settling Parties;
- (b) the Settlement Amount has been deposited in the Escrow Account, as required by ¶2.1 above;
- (c) the Court has entered the Preliminary Approval Order, as required by ¶3.1 hereof;
- (d) the Defendants have not exercised their option to terminate the Stipulation pursuant to ¶7.4 hereof;

(e) the Court has approved this Stipulation, following notice to the Class Members and the Final Approval Hearing, as prescribed by Rule 23 of the Federal Rules of Civil Procedure;

(f) the Court has entered the Order and Final Judgment in the form of Exhibit B attached hereto; and

(g) the Order and Final Judgment has become Final, as defined in ¶1.12 hereof.

7.2 This is not a claims-made settlement. As of the Effective Date, Defendants, their insurance carriers, and/or any such Persons or entities funding the Settlement on the Defendants' behalf, shall not have any right to the return of the Settlement Fund or any portion thereof for any reason. Upon the occurrence of all of the events referenced in ¶7.1 hereof, any and all remaining interest or right of Defendants in or to the Settlement Fund, if any, shall be absolutely and forever extinguished. If all of the conditions specified in ¶7.1 hereof are not met, then this Stipulation shall be cancelled and terminated subject to ¶7.5 hereof unless Class Counsel and counsel for Defendants mutually agree in writing to proceed with the Settlement.

7.3 The Settling Parties shall have the right to terminate the Settlement and this Stipulation by providing written notice of their election to do so ("Termination Notice") to all other parties hereto within thirty (30) days of: (a) the Court's declining to enter a Preliminary Approval Order substantively identical to the Preliminary Approval Order submitted by the parties; (b) the Court's refusal to approve this Stipulation or a substantively identical Stipulation; (c) the Court's declining to enter the Order and Final Judgment, or substantively identical document; (d) the Order and Final Judgment being modified or reversed by the Court of Appeals or the Supreme Court in any manner that results in a document that is not substantively identical to the document submitted by the parties; (e) as otherwise set forth in the Settling Parties' Supplemental Agreement, as provided below; or (f) the Effective Date not otherwise occurring. No order of the Court or modification or

reversal on appeal of any order of the Court concerning the Plan of Allocation or the amount of any attorneys' fees, costs, expenses, and interest awarded by the Court to Class Counsel, Liaison Counsel, Class Representative, or Class Representative's Counsel shall constitute grounds for cancellation or termination of the Settlement.

7.4 Notwithstanding any other provision or paragraph of this Stipulation, Defendants shall have the option (which option must be exercised collectively) to terminate the Settlement in the event that Persons who purchased or acquired in the aggregate more than a certain number of shares of BancorpSouth common stock during the Settlement Class Period, and who otherwise would be Class Members, choose to exclude themselves from the Class, as set forth in a separate agreement (the "Supplemental Agreement") executed between Class Counsel and Defendants' counsel. The Supplemental Agreement will not be filed with the Court unless requested by the Court or unless a dispute among the Settling Parties concerning its interpretation or application arises, and in that event, the Settling Parties will use their reasonable best efforts to file the Supplemental Agreement for the Court's *in camera* review and/or under seal.

7.5 In the event that the Stipulation is not approved by the Court or the Settlement set forth in the Stipulation is terminated or fails to become effective in accordance with its terms, the Settling Parties shall not forfeit or waive any factual or legal defense or contention in the Litigation and shall be restored to their respective positions in the Litigation as of December 29, 2017. In such event, the terms and provisions of the Stipulation, with the exception of §§2.6, 2.9, 6.3, 7.5-7.6, and 9.4-9.6 hereof, shall have no further force and effect with respect to the Settling Parties and shall not be used in the Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Stipulation shall be treated as vacated, *nunc pro tunc*. No order of the Court or modification or reversal on appeal of any order of the Court concerning the Plan of Allocation or the amount of any attorneys' fees, costs, expenses, and interest

awarded by the Court to Class Representative, Class Counsel, Liaison Counsel, or Class Representative's Counsel shall constitute grounds for cancellation or termination of the Stipulation.

7.6 If the Effective Date does not occur, or if the Stipulation is terminated pursuant to its terms, neither Class Representative nor Class Representative's Counsel shall have any obligation to repay any amounts actually and properly disbursed from the Settlement Fund for the Notice and Administration Costs of the Settlement pursuant to ¶2.7 hereof. In addition, any expenses already incurred and properly chargeable to the Settlement Fund for the Notice and Administration Costs of the Settlement pursuant to ¶2.7 hereof at the time of such termination or cancellation, but which have not been paid, shall be paid by the Escrow Agent in accordance with the terms of the Stipulation prior to the balance being refunded in accordance with ¶2.9 hereof.

8. No Admission of Wrongdoing

8.1 Defendants' execution of this Stipulation does not constitute an admission by any Defendant or their Related Parties: (i) of any wrongdoing, violation of law, or liability whatsoever; or (ii) that recovery could be had in any amount should the action not be settled. Defendants deny any wrongdoing and liability and maintain that their conduct at all times was legal and proper. Neither this Stipulation, nor any term hereof, may be offered into evidence in any proceeding or used in any manner as an admission or implication of liability or fault on the part of Defendants or any other Person.

8.2 Class Representative's execution of this Stipulation does not constitute an admission by Class Representative: (i) of the lack of any wrongdoing, violation of law, or liability on behalf of any Defendant whatsoever; or (ii) that recovery could not be had should the action not be settled. Neither this Stipulation, nor any term hereof, may be offered or received into evidence in any proceeding or used in any manner as an admission or concession by Class Representative that

Defendants have not engaged in any wrongdoing or that their conduct was at all times legal and proper.

9. Miscellaneous Provisions

9.1 The Settling Parties (a) acknowledge that it is their intent to consummate this agreement; and (b) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of the Stipulation and to exercise their best efforts to accomplish the foregoing terms and conditions of the Stipulation expeditiously.

9.2 This Stipulation, the Exhibits attached hereto, and the Supplemental Agreement constitute the entire agreement between the Settling Parties as to the subject matter hereof and supersede any prior or contemporaneous written or oral agreements or understandings between the Settling Parties. No representations, warranties, or inducements have been made to any party concerning the Stipulation, its Exhibits, or the Supplemental Agreement other than the representations, warranties, and covenants contained and memorialized in such documents.

9.3 Except as otherwise provided for herein, each party shall bear his, her or its own costs.

9.4 The Settling Parties intend this Settlement to be a final and complete resolution of all disputes between them with respect to the Litigation. The Settlement compromises all claims that were contested and shall not be deemed an admission by any Settling Party as to the merits of any claim or defense. Pursuant to 15 U.S.C. §78u-4(c)(1), the Settling Parties agree and the Order and Final Judgment will contain a statement that, during the course of the Litigation, the Settling Parties and their respective counsel at all times complied with the requirements of Federal Rule of Civil Procedure 11. The Settling Parties agree that the amount paid to the Settlement Fund and the other terms of the Settlement were negotiated in good faith by the Settling Parties, and reflect a settlement that was reached voluntarily after consultation with competent legal counsel. The Settling Parties

reserve their right to rebut, in a manner that such party determines to be appropriate, any contention made in any public forum that the Litigation was brought or defended in bad faith or without a reasonable basis.

9.5 This Stipulation, whether or not consummated, and any negotiations, discussions, or proceedings in connection herewith shall not be:

(a) offered against any Defendant or their Related Parties as evidence of or construed as or deemed to be evidence of any presumption, concession, or admission by any Defendant or their Related Parties of the truth of any fact alleged by the Class Members, the validity of any claim that has been or could have been asserted in the Litigation, the deficiency of any defense that has been or could have been asserted in the Litigation, or of any liability, negligence, fault, or wrongdoing of Defendants or their Related Parties;

(b) offered against any Defendant or their Related Parties as evidence of a presumption, concession, admission of any fault, misrepresentation, or omission with respect to any statement or written document approved or made by any Defendant or their Related Parties;

(c) offered against any Defendant or their Related Parties as evidence of a presumption, concession, or admissibility of any liability, negligent, fault, or wrongdoing, or in any way referred to for any other reason as against any of the parties to the Stipulation, in any other civil, criminal, or administrative action or proceeding other than such proceedings as may be necessary to effectuate the provisions of this Stipulation; provided, however, that Defendants or their Related Parties may file the Stipulation and/or the Order and Final Judgment in any action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim. In addition, nothing contained in this paragraph shall prevent this Stipulation (or any agreement or order relating

thereto) from being used, offered, or received in evidence in any proceeding to approve, enforce, or otherwise effectuate the Stipulation (or any agreement or order relating thereto) or the Order and Final Judgment, or to enforce or effectuate provisions of this Settlement, the Final Judgment, or the Proofs of Claim and Release as to Defendants and their Related Parties; or

(d) construed against Defendants or their Related Parties as an admission or concession that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial.

9.6 Except as otherwise provided for herein, all agreements made and orders entered during the course of the Litigation relating to the confidentiality of information shall survive this Stipulation.

9.7 This Stipulation shall be construed and interpreted to effectuate the intent of the Settling Parties, which is to resolve completely those claims and disputes, including in this Litigation, and as more fully described herein. If any provision of this Stipulation shall be determined to be invalid, void, or illegal, such provision shall be construed and amended in a manner that would permit its enforcement, but in no event shall such provision affect, impair, or invalidate any other provision hereof.

9.8 All of the Exhibits to the Stipulation are material and integral parts hereof and are fully incorporated herein by this reference.

9.9 The Stipulation may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest.

9.10 Neither the Class Members nor Defendants shall be bound by the Stipulation if the Court modifies any terms thereof, provided, however, that it shall not be a basis for Class Members to terminate the Settlement if the Court modifies any proposed Plan of Allocation or criteria for allocation of the Net Settlement Fund amongst Authorized Claimants, or the Plan of Allocation is

modified on appeal. Nor shall it be a basis to terminate the Stipulation if the Court disapproves of or modifies the terms of this Stipulation with respect to attorneys' fees or expenses or the distribution of the Net Settlement Fund. Notwithstanding any such modification of the terms or Plan of Allocation or the Stipulation with respect to attorneys' fees or expenses, Defendants and Defendants' insurers shall be entitled to all benefits of the Settlement and shall not, under any circumstances, be called upon to contribute additional funds to the Settlement Fund.

9.11 Class Representative and Class Counsel represent and warrant that none of the Class Representative's claims or causes of action referred to in this Litigation or this Stipulation has been assigned, encumbered, or in any manner transferred in whole or in part.

9.12 Each counsel or other Person executing the Stipulation or any of its Exhibits on behalf of any party hereto hereby warrants that such Person has the full authority to do so.

9.13 All notices, requests, demands, claims, and other communications hereunder shall be in writing and shall be deemed duly given: (i) when delivered to the recipient; (ii) five (5) business days after being sent to the recipient by reputable overnight courier service (charges prepaid); or (iii) eight (8) business days after being mailed to the recipient by certified or registered mail, return receipt requested, and postage prepaid, and addressed to the intended recipient as set forth below:

If to Class Representative or to Class Counsel:

Darren J. Robbins
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If to Defendants or to Defendants' counsel:

Amy J. Eldridge
K&L Gates LLP
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9.14 The Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of executed counterparts shall be filed with the Court. Signatures sent by facsimile or PDF via email shall be deemed originals.

9.15 The Stipulation shall be binding upon, and inure to the benefit of, the heirs, successors and assigns of the Settling Parties.

9.16 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Stipulation, and the Settling Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in the Stipulation.

9.17 The waiver by one party of any breach of this Stipulation by any other party shall not be deemed a waiver by any other party or a waiver of any other prior or subsequent breach of this Stipulation.

9.18 Pending approval of the Court of the Stipulation and its Exhibits, all proceedings in this Litigation shall be stayed and all Class Members shall be barred and enjoined from prosecuting any of the Released Claims against any of the Released Persons.

9.19 The Stipulation and the Exhibits attached hereto and the Supplemental Agreement shall be considered to have been negotiated, executed, and delivered, and to be wholly performed, in the State of Tennessee, and the rights and obligations of the parties to the Stipulation shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of Tennessee without giving effect to that State's choice-of-law principles.

9.20 The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

9.21 This Stipulation shall not be construed more strictly against one party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Settling Parties, it being recognized that it is the result of arm's-length negotiations between the Settling Parties and the Settling Parties have contributed substantially and materially to the preparation of this Stipulation.

IN WITNESS WHEREOF, the parties hereto have caused the Stipulation to be executed, by their duly authorized attorneys dated March 30, 2018.



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Attorneys for Defendants BancorpSouth, Inc.,
James D. Rollins, III, James V. Kelley and
William L. Prater

CERTIFICATE OF SERVICE

I hereby certify that on March 30, 2018, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I caused to be mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on March 30, 2018.

s/ Christopher M. Wood
CHRISTOPHER M. WOOD

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Mailing Information for a Case 3:14-cv-01564 Burges et al v. BancorpSouth, Inc. et al

Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

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