

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

JILL HUBLEY, and
LAURA GUENTHER,

Civil No. A-08-CA-804-JRN

On behalf of themselves and all others
similarly situated,

Plaintiffs,

V.

DELL INC.

Defendant.

SETTLEMENT AGREEMENT

Subject to approval by the United States District Court for the Western District of Texas, Austin Division, this Settlement Agreement (“Settlement Agreement” or “Agreement”) sets forth the full and final terms by which Named Plaintiffs Jill Hubley and Laura Guenther, as representatives of the class described herein, and Dell Inc. (“Defendant” or Dell”), have settled and resolved this matter.

I. NATURE AND RESOLUTION OF THE CASE.

On October 29, 2008, Named Plaintiff Jill Hubley filed her Class Action Complaint against Dell in the United States District Court for the Western District of Texas on behalf of female employees of Dell. Named Plaintiff Laura Guenther was subsequently added as a named plaintiff and class representative. Named Plaintiffs are represented by Class Counsel, who have represented many clients in employment

disputes with Dell. As part of their investigation and prosecution of this Civil Action, Class Counsel interviewed current and former Dell female employees regarding their experiences at Dell, particularly as it related to their compensation, promotion, business opportunities, and career advancement at Dell in comparison to their male counterparts. Class Counsel also reviewed numerous Dell documents relating to these issues.

In an effort to avoid unnecessary litigation, cost and expense, the Parties entered pre-litigation mediation. Dell provided Class Counsel with substantial employment data and information in furtherance of the mediation and the Parties retained a well-known and experienced mediator, skilled in mediation of complex class actions, including national employment discrimination class actions, to assist the Parties in their negotiations. Over the course of several months and multiple mediation sessions, the Parties discussed extensive analyses of the employment data and potential equitable forms of relief to be part of a settlement. Each party retained an expert labor economist to analyze the available employment data and to assist the Parties in negotiating a fair and reasonable settlement. Both Parties and their counsel recognize that, in the absence of an approved settlement, they would face a long litigation course, including motions to dismiss, motions for class certification, formal discovery, motions for summary judgment, and trial and appellate proceedings that would consume time and resources and present each of them with ongoing litigation risks and uncertainties. The Parties wish to avoid these risks and uncertainties, as well as the consumption of time and resources, through settlement pursuant to the terms and conditions of this Agreement. After careful review and consideration, the Class Representatives and Class Counsel are of the opinion

that the settlement set forth in this Agreement is fair, reasonable, adequate, and provides prompt relief for the Class. Class Counsel and the Class Representatives believe that the settlement set forth in this Settlement Agreement is in the best interest of the Class based on all the facts and circumstances, including the risk of significant delay and the uncertainty of achieving class certification that could preclude any recovery for the Class.

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

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

Dell denies all claims as to liability, wrongdoing, damages, penalties, interest, fees, injunctive relief and all other forms of relief, as well as the class allegations asserted in the Civil Action. Dell has agreed to resolve the Civil Action via this Settlement Agreement, but to the extent this Settlement Agreement is deemed void or the Effective Date does not occur, Dell does not waive, but rather expressly reserves, all rights to challenge any and all claims and allegations asserted by the Class Representatives in the Civil Action upon all procedural and substantive grounds, including without limitation the ability to challenge class action treatment on any grounds and to assert any and all other potential defenses or privileges. The Class Representatives and Class Counsel agree that Dell retains and reserves these rights, and they agree not to take a position to the contrary. Specifically, the Class Representatives and Class Counsel agree that, if the

Civil Action were to proceed, they will not argue or present any argument, and hereby waive any argument that, based on the settlement or this Settlement Agreement or any exhibit and attachment hereto, or any act performed or document executed pursuant to or in furtherance of the settlement or this Settlement Agreement, Dell should be barred from contesting class action certification pursuant to Federal Rule of Civil Procedure 23 on any grounds, or from asserting any and all other potential defenses and privileges. This Settlement Agreement shall not be deemed an admission by, or ground for estoppel against Dell that class action treatment pursuant to Federal Rule of Civil Procedure 23 in the Civil Action is proper or cannot be contested on any grounds. Additionally, neither the Settlement Agreement nor the settlement, nor any act performed or document executed pursuant to, or in furtherance of, the Settlement Agreement or the settlement: (a) is or may be deemed to be or may be used as an admission or evidence of the validity of any Released Claim, or of any wrongdoing or liability of the Released Parties, or any of them; or (b) is or may be deemed to be or may be used as an admission or evidence of any fault or omission of the Released Parties, or any of them, in any civil, criminal or administrative proceeding in any court, administrative agency, or other tribunal.

This Settlement Agreement is a compromise and shall not be construed as an admission of liability at any time or for any purpose, under any circumstances, by the Released Parties. The Parties and Class Members further acknowledge and agree that neither this Settlement Agreement nor the settlement shall be used to suggest an admission of liability in any dispute the Parties and Settlement Class may have now or in the future with respect to any person or entity. Neither this Settlement Agreement nor

anything in it, nor any part of the negotiations that occurred in connection with the creation of this settlement, shall constitute evidence with respect to any issue or dispute in any lawsuit, legal proceeding, or administrative proceeding, except for legal proceedings concerning the enforcement or interpretation of this Settlement Agreement.

II. GENERAL TERMS OF THE SETTLEMENT AGREEMENT.

A. Definitions. In addition to terms identified and defined elsewhere in this Settlement Agreement, and as used in this Settlement Agreement, the terms below shall have the following meanings:

1. The “Civil Action” means the above-captioned action.
2. “Claims Administrator” means HEFFLER, RADETICH & SAITTA LLP, 1515 Market Street, Suite 1700, Philadelphia, PA 19102, which has been jointly designated by counsel for the Parties to administer the Settlement Fund pursuant to the provisions set forth herein and orders of the Court.
3. “Class Counsel” means the law firms of Scott, Douglass & McConnico, LLP and Hance Scarborough, LLP approved as Class Counsel by the Court.
4. “Class Representatives” or “Named Plaintiffs” means Jill Hubley and Laura Guenther.
5. “Complaint” means the Complaint filed in this Civil Action on October 29, 2008 and the Amended Complaint filed on March 9, 2009.
6. “Counsel for Dell” means the law firms of Morgan, Lewis & Bockius LLP, Boulette & Golden LLP, and Van Osselaer & Buchanan LLP.

7. The “Court” means the United States District Court for the Western District of Texas, Austin Division.

8. “Effective Date” means the date upon which all of the following have occurred: (1) entry of an order by the Court certifying the Settlement Class; (2) entry of an order or orders by the Court granting final approval to the Settlement Agreement, approving the amount of attorneys’ fees and costs and dismissing the Action, with continuing jurisdiction limited to enforcing the Settlement Agreement; and (3) the appeal period (i.e., 30 days) has run without an appeal of any Court order, or in the event of an appeal, the Parties have received actual notice that the settlement has received final approval after completion of the appellate process and the final resolution of any appeals.

9. “External Advisor” means the individual retained by Dell, with the approval of Class Counsel, to perform the duties set forth herein with respect to this Agreement.

10. “Final Approval” means the order or orders entered by the Court granting final approval of the Settlement Agreement.

11. “Final Approval Date” means the date of entry of the Final Approval order or orders.

12. “Internal Compliance Panel” means the internal compliance panel established by Dell described within this Settlement Agreement whose members are responsible for ensuring that Dell complies with the terms of this Settlement Agreement.

13. "Notice" means the Notice of a Proposed Class Action Settlement substantially in the form attached hereto as Exhibit A, which is to be mailed directly to Class Members following preliminary Court approval of this Agreement.

14. The "Parties" means the Named Plaintiffs and Dell.

15. "Preliminary Approval" means the order or orders entered by the Court preliminarily approving the terms of this Settlement Agreement, certifying the Settlement Class and approving the form of Notice to be sent to Class Members.

16. "Preliminary Approval Date" means the date of entry of the Preliminary Approval order or orders.

17. "Released Claims" means any and all claims for injunctive and/or equitable relief of whatever nature, known or unknown, including but not limited to, all claims for back pay, front pay, liquidated damages or other make whole relief, that the Named Plaintiffs and Settlement Class Members may have against Dell, its subsidiaries and affiliated companies, and in the case of all such entities, their respective past and present owners, representatives, officers, directors, attorneys, agents, employees, insurers, successors and assigns (collectively referred to as the "Released Parties"), arising out of the same transactions, series of connected transactions, occurrences or nucleus of operative facts that form the basis of the claims that were or could have been asserted in *Huble et. al v. Dell Inc. Co.*, A-08-CA-804-JRN. This release includes and covers without limitation all actions or omissions occurring through the Final Approval date as defined and all claims known or unknown for prior or past discriminatory actions outside any liability period, subject to the provisions set forth herein. Specifically included in

this release are any and all employment discrimination claims or benefits claims or claims for losses caused by any unpaid wages or compensation arising out of the same transactions, series of connected transactions, occurrences or nucleus of operative facts that form the basis of the claims that were or could have been asserted in *Hublely et. al v. Dell Inc. Co.*, A-08-CA-804-JRN, including but not limited to, claims of alleged employment discrimination or benefits claims under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e, et seq. (“Title VII”), the Equal Pay Act, the Age Discrimination in Employment Act, 29 U.S.C. §§ 621 et seq. (“ADEA”), the Texas Labor Code, and the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001, et seq. (“ERISA”) (except for vested benefits otherwise entitled), and any other federal, state, or local statutes, common law, or regulation. Furthermore, this Release includes all claims for injunctive, declaratory or equitable relief, including all claims for back pay, front pay, liquidated damages or other make whole relief, and costs and attorneys’ fees, whether arising under Title VII, the Equal Pay Act or under any other federal, state, local or common laws or regulations relating to or arising out of the same transactions, series of connected transactions, occurrences or nucleus of operative facts that form the basis of the claims that were or could have been asserted in *Hublely et. al v. Dell Inc. Co.*, A-08-CA-804-JRN.

18. “Settlement Agreement” or “Agreement” means this Agreement and all Exhibits attached to it.

19. “Settlement Hearing” means the hearing at which the Court will consider final approval of this Settlement Agreement and related matters.

B. Duration of the Settlement. The programmatic relief embodied in this Settlement Agreement shall remain binding on the Parties and their agents and successors for a three (3) year period following the Effective Date.

C. Cooperation. The Parties agree that they will cooperate to effectuate and implement all terms and conditions of this Settlement Agreement, and exercise good faith efforts to accomplish the terms and conditions of this Settlement Agreement.

D. Persons Covered by this Settlement Agreement.

1. Definition of "Settlement Class," "Class," "Class Members." Solely for purposes of settlement and judicial approval of this Settlement Agreement, the Parties stipulate to the certification of the following Settlement Class:

All women employed by Dell in the United States for at least one day in a C1 through D3 grade level positions or their equivalents between February 14, 2007 and December 31, 2008, excluding any former employee who previously executed a complete release as part of any prior litigation or settlement agreement (but not a severance agreement) and further excluding any current or former employee who filed a complaint of discrimination with a state or federal agency.

Your individual status for evaluating whether you are a Class Member was determined based on a review of available records as of July 17, 2009.

2. Certification. The Settlement Class will be certified pursuant to Fed. R. Civ. P. 23(b)(2).

III. COURT APPROVAL, NOTICE AND FAIRNESS HEARING.

A. Jurisdiction and Venue. The Parties agree that the Court has jurisdiction over the Parties and the subject matter of this Civil Action and that venue is proper. The

Court shall retain jurisdiction of this Civil Action solely relating to compliance with the terms of this agreement, if necessary.

B. Preliminary Approval.

1. Prior to execution of this Settlement Agreement, the Parties have agreed upon a form for written Notice of this Settlement Agreement to Class Members, subject to Court approval.

2. Within twenty (20) days after the execution of this Settlement Agreement, the Parties shall petition the Court for:

(a) Preliminary Approval; and

(b) an order that, pending Final Approval, preliminarily enjoins each member of the Settlement Class from commencing, prosecuting or maintaining in any court other than this Court any claim, action or other proceeding that challenges or seeks review of or relief from any order, judgment, act, decision or ruling of this Court in connection with this Settlement Agreement.

C. Notice, Objections and Settlement Hearing.

1. Within ten (10) days after Preliminary Approval, Dell will identify all Class Members and will provide to the Claims Administrator the name, social security number and last known address of each Class Member. The Claims Administrator shall utilize Class Members' social security numbers only if necessary for the purpose of locating and identifying Class Members and shall keep those social security numbers confidential.

2. Within twenty (20) days after Preliminary Approval, the Claims Administrator will mail by United States first class mail, postage prepaid, the Notice in

substantively the form attached hereto as **Exhibit A**, and as approved by the Court, to each Class Member.

3. If envelopes from the mailing of the Notice are returned with forwarding addresses, the Claims Administrator will re-mail the Notice of Class Action Settlement to the new address within three (3) business days.

4. Class Counsel shall provide the Court, at least five (5) calendar days prior to the Settlement Hearing, a declaration by the Claims Administrator of due diligence and proof of mailing with regard to the mailing of the Notice of Class Action Settlement to Proposed Class Members.

5. In the event that a Notice of Class Action Settlement is returned to the Claims Administrator by the United States Postal Service because the address of the recipient is no longer valid, i.e., the envelope is marked "Return to Sender," the Claims Administrator shall perform a standard skip trace in an effort to attempt to ascertain the current address of the particular Proposed Class Member in question and, if such an address is ascertained, the Claims Administrator will re-send the Notice within three (3) business days of receiving the newly ascertained address; if no updated address is obtained for that Proposed Class Member, the Notice of Class Action Settlement shall be sent again to the Proposed Class Member's last known address. In either event, the Notice of Class Action Settlement shall be deemed received once it is mailed for the second time. With respect to envelopes marked "Return to Sender," the Claims Administrator may also call any identified last known telephone numbers (and telephone

numbers updated through public and proprietary databases) of Proposed Class Members to obtain their current addresses.

6. The Claims Administrator shall provide to Class Counsel a list of those Class Members who have not been located and the Claims Administrator may engage third party vendors, who shall also keep Class Members' social security numbers confidential, to locate Class Members. The Claims Administrator will maintain a log of its and any third party vendors' activities undertaken pursuant to this section.

7. Class Member objections to this Settlement Agreement must be submitted in writing, and must include a detailed description of the basis of the objection. Objections must be filed with the Court, with copies served on Class Counsel and Counsel for Dell, within thirty-five (35) days after the Notice is mailed to Class Members. No one may appear at the Settlement Hearing for the purpose of objecting to this Agreement without first having filed and served her objection(s) in writing within thirty-five (35) days after the Notice was mailed to Class Members.

8. Upon Preliminary Approval, a briefing schedule and Settlement Hearing date will be requested to be set at the Court's convenience. The Parties' Motion for Final Approval and for Certification of the Settlement Class will be due no later than twenty-one (21) days following the close of the objection period, and the Settlement Hearing will be held no earlier than thirty (30) days following the close of the objection period.

IV. MONETARY RELIEF.

A. **Settlement Fund.** No later than ten (10) days after Final Approval, Dell shall, by wire transfer, provide to the Claims Administrator the amount of Five Million,

Six Hundred Thousand Dollars (\$5,600,000) (the "Settlement Fund"). The \$5.6 million will be placed in an interest-bearing account approved by Class Counsel (the "Settlement Fund Account") with a unique Tax Payer Identifier Number. The Settlement Fund Account will constitute a qualified settlement fund and it will be created, managed and disbursed by the Claims Administrator under the supervision of the Parties. Except as provided herein, Dell will have no responsibilities with respect to the administration of the Settlement Fund Account, including any distribution therefrom. The Settlement Fund shall be divided as follows, provided the Court finally approves the Settlement:

(1) a total gross amount of Four Million, Five Hundred Thousand Dollars (\$4,500,000) plus interest, the sum of which will be allocated for the payment of all individual monetary awards to Class Members, including individual monetary awards to Named Plaintiff Jill Hubley of Fifty Thousand Dollars (\$50,000.00) and Named Plaintiff Laura Guenther of Twenty-Five Thousand Dollars (\$25,000.00) for their service to the class; and

(2) a total gross amount of One Million, One Hundred Thousand Dollars (\$1,100,000) to pay Class Counsel's attorneys' fees and costs, including those fees and costs in connection with seeking Court approval of the Settlement, the claims process and monitoring of the Settlement Agreement.

B. Pay Equity Settlement Fund No later than ten (10) days after Final Approval, Dell shall reserve a total gross amount of Three Million, Five Hundred Thousand Dollars (\$3,500,000) (the "Pay Equity Settlement Fund") to be allocated within a reasonable period of time, but no later than March 31, 2010, as base pay adjustments

pursuant to the pay equity review and salary adjustment analysis set forth in Section V.C. for Class Members who are current employees, grade level positions C1 through D3 or their equivalents. Dell agrees that, except as provided in Section V.C.2., to the extent recommended by the Labor Economist conducting the pay equity analysis as set forth in Section V.C., it shall utilize the full Pay Equity Settlement Fund to make pay adjustments. If the Labor Economist determines that the required pay adjustments are less than the Pay Equity Settlement Fund set aside to make adjustments, then the remaining funds shall be expended in one of the following ways: (1) subject to the terms of Section V.C.2, if Dell utilizes less than 85% of the Pay Equity Settlement Fund for the base pay adjustments pursuant to the Labor Economist's recommendations, then the remaining funds shall be distributed to current employees on a pro rata basis; (2) subject to the terms of Section V.C.2, if Dell utilizes at least 85%, but less than 100% of the Pay Equity Settlement Fund for the base pay adjustments pursuant to the Labor Economist's recommendations, then the remaining funds shall be utilized to implement the specific programmatic relief provisions set forth in Section V. benefiting all current employees. Dell shall provide an accounting of the use of such funds to the External Advisor.

C. Administrative Expenses. Dell agrees to pay all administrative expenses of this Settlement Agreement, including the fees and costs of the Claims Administrator and the costs of Notice (the "Administrative Expenses").

D. Allocation. The \$5.6 million transferred into the Settlement Fund Account, the \$3.5 million reserved by Dell for the Pay Equity Settlement Fund, and the Administrative Expenses shall, with the additional Employer Payroll Tax Payment

described below, constitute the total cash outlay by Dell in connection with (1) the resolution of this matter; (2) this Settlement Agreement (and attachments); and (3) the dismissal of this Civil Action. Except as provided herein, these sums are inclusive of payment for (a) all amounts paid to Class Members, including Named Plaintiffs, which are to be distributed pursuant to this Settlement Agreement; (b) all Class Counsel's attorneys' fees and costs as set forth in Section IV.A.2. above; and (c) applicable federal, state and local income taxes, and federal and state unemployment taxes required to be withheld and/or paid by Dell. However, the \$4.5 million paid for Class Members into the Settlement Fund does not include Dell's share of taxes or contributions (i.e., FICA, FUTA, SUTA and Medicare), which will be paid separately by Dell to the Claims Administrator. Dell shall, upon notice from the Claims Administrator as required in Section IV.F.1. below, remit any required tax payment to the Claims Administrator.

E. Administration by the Claims Administrator. The Claims Administrator shall serve as trustee of the Settlement Fund and shall act as a fiduciary with respect to the handling, management and distribution of the Settlement Fund. The Claims Administrator shall act in a manner necessary to qualify the Settlement Fund as a "Qualified Settlement Fund" under Section 468B of the Internal Revenue Code.

F. Allocation and Distribution of Individual Awards.

1. Within thirty (30) days after the Effective Date, the Claims Administrator will pay the portion of the Settlement Fund allocated for individual Class Member monetary awards. Prior to this date, the Claims Administrator will provide notice to Dell of Dell's required share of taxes or contributions referenced in Section IV.D. Each Class

Member shall receive an individual award in accordance with the following distribution formula:

Subject to a minimum payment of \$250.00 (e.g., for persons who worked only limited time within the Class Period), the funds are distributed proportionately based on the number of months worked by each employee and the number of months worked in each of the job grades (C1 to D3) based on the following weighting:

Job Grade	Weight
C1	1.0
C2	1.4
C3	1.8
D1	2.3
D2	2.9
D3	3.3

Any employee whose employment was terminated and who signed a severance agreement and accepted severance will receive the minimum payment of \$250.00.

For Class Members, the Claims Administrator will withhold all applicable taxes under federal, state and/or local laws. The Claims Administrator will ensure that such monies withheld are paid to the appropriate authorities for each Class Member who receives an individual award and will issue IRS Forms W-2 for the amounts reportable on the form.

2. The Claims Administrator shall distribute individual payments under the terms of this Settlement Agreement to the Class Members no later than thirty (30) days after the Effective Date. The face of each check sent to Class Members shall clearly state that the check must be cashed within one hundred twenty (120) calendar days. All payments distributed by the Claims Administrator must be accompanied by a cover letter stating words in bold to the effect that “the check must be cashed within one hundred and

twenty (120) calendar days or it will become void.” The back of each check will contain a legend stating: “By negotiating this check and accepting payment, I agree that I have waived and released the Released Parties from all Released Claims as defined in the Settlement Agreement and in the Notice in this matter.” Class Members must sign the check in the space following the legend, provided that the release of claims shall still be enforceable if any Class Members are permitted to negotiate a check without a signature.

3. All Named Plaintiffs, as a condition of receiving a monetary payment in conjunction with this Settlement Agreement, will be required to execute and deliver to Dell via Class Counsel a Named Plaintiff Release in the form agreed to by counsel for the Parties.

4. Payments made under this Settlement Agreement, except for pay equity adjustment payments, are not intended to and will not: (1) form the basis for additional contributions to, benefits under, or any other monetary entitlement under; (2) count as earnings or compensation with respect to; or (3) be considered to apply to, or be applied for purposes of, Dell’s bonus, pension, Executive Compensation, Long Term Incentive, and any 401(k) and/or other retirement plans or similar programs. Dell retains the right to modify the language of its benefit plans and pension, bonus and other programs, if necessary, to make clear that any amounts paid pursuant to this Settlement Agreement are not for hours worked, hours paid or any similar measuring term as defined by any plans and programs for purposes of eligibility, vesting, benefit accrual or any other purpose.

V. PROGRAMMATIC RELIEF.

A. Commitment to Non-Discrimination. Dell shall maintain and enforce its existing non-discrimination and anti-retaliation policies designed to ensure equal employment opportunity for its employees.

1. In accordance with the above-referenced policies and its obligations under state and federal law, Dell shall enforce its policy of not knowingly maintaining or enacting any policy or practice that has the purpose or effect of unlawfully discriminating against any Class Member or employee on the basis of gender.

2. In accordance with the above-referenced anti-retaliation policies and its obligations under federal and state law, Dell shall not retaliate against any Class Member or other female employee because she (1) complained of or opposed discrimination on the basis of gender at Dell; (2) testified, furnished information or participated in any investigation, proceeding, or hearing, whether in connection with this lawsuit or any other complaint of gender discrimination at Dell; or (3) sought and/or received monetary and/or non-monetary relief pursuant to this Settlement Agreement.

B. Industrial Psychologist and Policy Review.

1. Dell agrees to retain an Industrial Psychologist with a Ph.D., with the approval of Class Counsel (who shall first review the qualifications of this individual, and who agrees not to unreasonably withhold or delay consent), based on a reasonable budget, to work in conjunction with Dell to assist it in reviewing, developing and recommending policies and practices with regard to compensation, performance evaluations, hiring, promotions and job assignments. Class Counsel shall have an

opportunity to meet in person with the Industrial Psychologist as part of the Industrial Psychologist's review of Dell's policies and procedures.

2. Dell, in conjunction with the Industrial Psychologist, shall, with respect to employees in grade level positions C1 through D3 or their equivalents, evaluate and develop processes and procedures, or improve existing processes and procedures, to govern the promotion, hiring (external and internal), hiring classification and lateral transfer process that are designed to be consistent with a policy of promoting equal opportunity for all employees and a prohibition on unlawful discrimination or unlawful disparate treatment in any of Dell's processes and procedures.

3. Dell, in conjunction with the Industrial Psychologist, also shall, with respect to employees in grade level positions C1 through D3 or their equivalents, evaluate and develop processes and procedures, or improve existing processes and procedures, relating to accountability, internal oversight and monitoring of individual managerial decisions regarding promotions, hires (both external and internal) and transfers, including decisions to classify or retain an employee in a particular grade level.

4. Dell, in conjunction with the Industrial Psychologist, also shall, with respect to employees in grade level positions C1 through D3 or their equivalents, evaluate and develop processes and procedures, or improve existing processes and procedures, relating to the employee development process, including criteria for promotion, participation in special projects and transfers that are designed to be consistent with a policy of promoting equal opportunity for all employees and a prohibition on unlawful discrimination or unlawful disparate treatment in any of Dell's processes and procedures.

5. Dell, in conjunction with the Industrial Psychologist, also shall, with respect to employees in grade level positions C1 through D3 or their equivalents, evaluate and develop or improve existing managerial training on how to make decisions regarding promotions, hires (external and internal) and transfers, and provide managers with instruction on the proper utilization of compensation tools and guidelines designed to ensure that all employees are classified in the appropriate grade level, and receive equitable compensation (with respect to merit salary increases, bonuses, stock grants and stock option allocations).

6. Consistent with the principles and purposes of this Agreement, Dell agrees to consider and implement the recommendations of the Industrial Psychologist; provided, however, that Dell shall have the right to, in good faith, reject, in whole or in part, the recommendations of the Industrial Psychologist. Dell agrees to communicate in writing to the Industrial Psychologist, the Internal Compliance Panel, the External Advisor, and Class Counsel its reasons for rejecting any recommendations.

7. In the event that the External Advisor and/or Class Counsel is not satisfied with Dell's stated reasons for not implementing any of the recommendations of the Industrial Psychologist, Class Counsel and/or the External Advisor may suggest an alternative recommendation and the Parties shall meet and confer in a good faith effort to consider the recommendation and/or alternatives.

8. After implementing any recommendations of the Industrial Psychologist, Dell shall monitor and evaluate the effectiveness of any such changes and shall discuss such results with the External Advisor and the Internal Compliance Panel. Dell shall

provide data on an annual basis to the External Advisor and the Internal Compliance Panel tracking and measuring Dell's progress on the hiring, promotion and retention of women in grade level positions C1 through D3 or their equivalents.

9. The recommendations of the Industrial Psychologist and changes implemented and rejected by Dell as a result of the analysis of the Industrial Psychologist shall be shared with the Internal Compliance Panel, the External Advisor and Class Counsel.

10. The recommendations of the Industrial Psychologist, all summaries of such recommendations, any decisions by Dell with respect to the recommendations and any changes implemented by Dell as a result of the recommendations shall be confidential and not disclosed, except as provided herein to resolve any disputes regarding Dell's compliance with the terms of this Agreement or to enforce Dell's compliance with the terms of this Agreement.

C. Equity Review and Salary Adjustments.

1. Dell agrees to retain with the approval of Class Counsel (who shall first review the qualifications of this individual, and who agrees not to unreasonably withhold or delay consent), subject to a reasonable budget, a Labor Economist/Statistician to conduct a pay equity analysis of existing compensation and recommend any pay adjustments for all current female employees in C1 through D3 grade level positions or their equivalents. Class Counsel shall have an opportunity to meet with the Labor Economist/Statistician prior to the Labor Economist/Statistician's beginning the analysis. Upon completion of the analysis, the Labor Economist/Statistician shall deliver a report

summarizing his/her analysis and recommendations and deliver copies of the report to the appropriate individuals at Dell, the Internal Compliance Panel, the External Advisor and Class Counsel.

2. Consistent with the principles and purposes of this Agreement, Dell agrees to consider and implement the recommendations of the Labor Economist/Statistician and Industrial Psychologist regarding pay adjustments. While Dell shall have the right to accept or reject in good faith, in whole or in part, the recommendations of the Labor Economist/Statistician as to individual employees, Dell agrees that it is its intention to use the full Pay Equity Settlement Fund to make pay adjustments pursuant to the pay equity process set forth in this Section. The Parties agree that any pay adjustments implemented pursuant to this Section shall be retroactive to May 31, 2009 and shall be valued on an annual basis. For example, if Employee X receives a base pay adjustment of \$1,000 per month retroactive to May 31, 2009, the value of that adjustment on an annual basis is \$12,000. The Parties further agree, however, that the full annual value of the adjustment shall not be credited against the portion of the funds allocated for these adjustments in Section IV.B. to the extent an affected employee is terminated pursuant to a reduction-in-force prior to May 31, 2010 and actually does not receive the full annual adjustment. On the one year anniversary date of the Retroactive Adjustment Date for implementation of the adjustments, Dell shall calculate the value of any such adjustments for the purpose of determining whether the funds allocated in Section IV.B. above for pay adjustments have been fully utilized in order to reach the 85% standard described in Section IV.B.

3. The Parties anticipate that, as a result of the pay equity adjustments to be implemented by Dell pursuant to this Settlement Agreement, the earnings of female employees in grade level positions C1 through D3 at Dell will increase over the period of the Settlement Agreement by at least \$12.6 million.

4. With respect to any recommendations of the Labor Economist/Statistician regarding pay equity adjustments that Dell rejects, Dell shall provide written business reasons for its decision to the Internal Compliance Panel, the External Advisor and Class Counsel.

5. Consistent with the principles and purposes of this Agreement, Dell agrees that, with respect to the recommendations of Labor Economist/Statistician for pay adjustments which it has agreed to implement, Dell will implement those adjustments effective May 31, 2009 (the "Retroactive Adjustment Date").

6. In the event that the External Advisor and/or Class Counsel is not satisfied with Dell's stated reasons for not implementing any of the recommendations for pay adjustments, Class Counsel and/or the External Advisor may suggest an alternative recommendation and the Parties shall meet and confer in a good faith effort to consider the recommendation and/or alternatives.

7. The recommendations of the Labor Economist/Statistician shall be subject to the Confidentiality provisions of this Agreement, except as provided herein to resolve any disputes regarding Dell's compliance with the terms of this Agreement or to enforce Dell's compliance with the terms of this Agreement.

D. Expert Access to Information. Dell agrees that, subject to an appropriate confidentiality agreement, Dell will provide the selected Industrial Psychologist and Labor Economist/Statistician with reasonable access to all records, documents, data and other sources of information, including interviews of company personnel, necessary or appropriate to fulfill his/her responsibilities as stated in this Agreement.

E. Candidate Slate Consideration. For any grade level position D3 and above, Dell agrees to make all reasonable efforts to ensure that it interviews a diverse slate of candidates for such positions inclusive of female candidates. If Dell does not obtain a diverse slate of final candidates for a particular position, Dell will document and maintain a brief explanation for why there was not a diverse slate of candidates. Dell shall provide data to the External Advisor on an annual basis regarding the composition of candidate slates, including data regarding the diversity of the slates.

F. Internal Compliance Panel. Within thirty (30) days of the Final Approval Date, Dell shall establish an Internal Compliance Panel to ensure compliance with this Agreement. The Internal Compliance Panel shall be comprised of the Human Resources Center of Excellence Committee, currently comprised of the Vice-President of Global Talent Management, Vice-President of Global Compensation and Benefits, Vice-President of Global Corporate Responsibility and Vice-President of Global Ethics and Compliance. In the event any of the above leave or resign from the Committee, they shall be replaced by at least a Vice-President-level employee within the Human Resources area. The Internal Compliance Panel shall meet semi-annually, or more frequently if necessary, to review progress on the status of implementing this Agreement

and shall provide an annual progress report to the External Advisor on compliance with this Agreement. The Internal Compliance Panel shall be charged with responsibility for ensuring that Dell complies with the terms of this Agreement.

G. External Advisor. Within ninety (90) days of the Final Approval Date, Dell shall retain an External Advisor, approved by Class Counsel, to serve as a resource to the Executive Leadership Team and Chief Executive Officer concerning equal employment opportunity and diversity initiatives and to assist with and ensure compliance with this Settlement Agreement. Class Counsel shall have an opportunity to meet in person with the External Advisor within sixty (60) days of retention by Dell. The External Advisor will meet semi-annually or more frequently as necessary with the Internal Compliance Panel to review progress reports on the status of implementing the terms of this Settlement Agreement including the effectiveness of the recommendations of the Industrial Psychologist, the pay equity analysis, and general equal employment opportunity and diversity issues. The External Advisor shall further prepare an Annual Compliance Report regarding Dell's compliance with the terms of this Settlement Agreement to be submitted to the Executive Leadership Team, Dell's Internal Compliance Panel and Class Counsel which shall include, among other items, information regarding the effectiveness of any recommendations of the Industrial Psychologist implemented by Dell. The External Advisor shall have reasonable access to Dell's records, data, documents and other sources of information necessary or appropriate for the exercise of his/her authority. The External Advisor shall be charged with ensuring

Dell's implementation of and compliance with the provisions of this Settlement Agreement.

H. Implementation and Communication of Commitment to Diversity and Equal Employment Opportunity. No later than thirty (30) days after the Final Approval Date, Dell shall provide to each of its current employees an electronic or written communication that reflects Dell's commitment to diversity and equal employment opportunity. The communication will be issued by the Chief Executive Officer.

I. Reporting.

1. In addition to the reports and information outlined above, Dell will provide an annual report to Class Counsel relating to its compliance with the terms of this Agreement. The report shall include information regarding Dell's compliance with all facets of this Agreement.

2. If the External Advisor believes there is an issue with Dell's compliance with the terms of this Agreement, the External Advisor shall have the right to contact a mediator mutually agreed upon by the Parties to seek a resolution of the compliance issue. The mediator shall meet with Dell and the External Advisor to resolve the dispute. If the dispute is not resolved, the mediator may contact Class Counsel. Dell, Class Counsel and the External Advisor shall attempt to resolve the compliance dispute with the assistance of the mediator.

3. The External Advisor, Dell and Class Counsel shall meet at least once every year regarding compliance, and may confer more frequently at their discretion or as dictated by information either side gathers.

J. **Support Staff, Funds and Resources.** Dell shall provide such support staff, funds and other resources as may be reasonably necessary to discharge Dell's obligations under this Settlement Agreement.

VI. ENFORCEMENT.

A. **No Third Parties.** Enforcement of this Settlement Agreement shall be prosecuted by Class Counsel or Counsel for Dell only, not third Parties. Class Counsel shall meet and confer with Counsel for Dell prior to commencement of any enforcement proceedings.

B. **Dispute Resolution.** The Parties will work diligently and in good faith to resolve all disputes, including any disputes that may arise with Dell's compliance under the terms of this Settlement Agreement or that may arise during the term of this Settlement Agreement concerning the rights, obligations and duties of the Parties to this Settlement Agreement. In the event the Parties cannot agree on compliance with the Settlement, the Parties will first attempt to resolve the dispute with the facilitation of the mediator used by the Parties to resolve this matter before presenting the dispute to the Court. The Parties shall split 50-50 the fees and expenses of the mediator in the event of such a dispute.

VII. ATTORNEYS' FEES AND EXPENSES OF CLASS COUNSEL.

Following Final Approval, including the approval of Class Counsel's attorneys' fees and costs, and within thirty (30) days after the Effective Date, the Claims Administrator will pay Class Counsel the amount of One Million, One Hundred Thousand Dollars (\$1,100,000) as attorneys' fees and costs, directly from the Settlement Fund. At least seven days prior to the date of payment, Class Counsel will provide the Claims Administrator with taxpayer identification numbers for Class Counsel and executed Forms W-9.

VIII. PARTIES' AUTHORITY.

The Named Plaintiffs hereby represent that they are fully authorized to enter into this agreement and to bind the Parties and the Class Members to the terms and conditions hereof.

IX. NOTICES.

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

To the Class Representatives or to any Settlement Class member:

HANCE SCARBOROUGH, LLP
Geoffrey D. Weisbart
111 Congress Ave, Suite 500
Austin, Texas 78701

and

SCOTT DOUGLASS & MCCONNICO, LLP
Julie A. Springer
600 Congress Ave., Suite 1500
Austin, Texas 78701

To the Defendant:

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

X. MODIFICATION.

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

XI. ENTIRE AGREEMENT.

This Settlement Agreement and its attachments constitute the entire agreement and supersede all prior agreements between the Parties and the Settlement Class concerning the subject matter hereof. No extrinsic oral or written representations or terms shall modify, vary or contradict the terms of this Agreement. In the event of any conflict between this Settlement Agreement and any other settlement-related document, the Parties and Class Members intend that this Settlement Agreement shall be controlling.

XII. CHOICE OF LAW/JURISDICTION.

This Settlement Agreement shall be subject to, governed by, and construed, enforced, and administered in accordance with the laws of the State of Texas, both in its procedural and substantive aspects, and shall be subject to the continuing jurisdiction of the Court. This Settlement Agreement shall be construed as a whole according to its fair meaning and intent, and not strictly for or against any party, regardless of who drafted or

who was principally responsible for drafting this Settlement Agreement or any specific term or condition thereof.

XIII. COUNTERPARTS.

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

XIV. CONFIDENTIALITY.

1. All proprietary and confidential documents or information that have previously been provided to either Dell or Class Counsel as of the date this Settlement Agreement is executed, or which are produced by Dell, pursuant to the Confidentiality Agreement previously executed by the Parties or any provision of this Settlement Agreement shall, unless otherwise agreed, be treated as, and thereafter remain, confidential. Said documents and information shall not be disclosed to anyone other than the mediator or the Court in connection with any proceeding to enforce any provision of this Settlement Agreement. If such disclosure is deemed necessary by Class Counsel or Dell, Class Counsel or Dell shall identify and disclose to the other Party such documents and information deemed necessary to disclose at least ten (10) business days prior to filing such documents with the Court, and, if a Party so requests, shall seek permission to file said documents with this Court under seal.

2. After the expiration of the three (3) year term of this Settlement Agreement, all proprietary and confidential documents or information provided to Class Counsel by Dell and designated as "Confidential" or a similar designation pursuant to this Settlement Agreement or the prior Confidentiality Agreement executed by the Parties, or that have been produced in confidence pursuant to any provision of this Settlement Agreement, and all copies of such documents or information shall, upon request, be returned to Counsel for Dell or be destroyed within thirty (30) days of the expiration of the three (3) year term of this Settlement Agreement. Certification of such destruction shall be provided to Counsel for Dell.

3. Nothing in the preceding paragraphs shall preclude any party from responding to a lawful discovery request, subpoena, or court order; provided, however, that the Party against whom such discovery is sought or such subpoena or order is directed agrees to provide immediate notice and a copy of same to counsel for the other Parties to this Settlement Agreement.

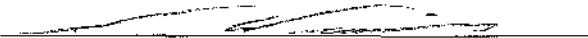
4. Other than necessary disclosures made to the Court, the fact of Settlement, the contents of this Agreement and the attachments hereto, the Parties' settlement negotiations and all related information shall be held strictly confidential by Dell, Counsel for Dell, Class Counsel, Class Representatives and Settlement Class Members, and shall not be disclosed to any third parties (including the media), subject only to the following exceptions: (a) Class Counsel and the Class Representatives may communicate with Settlement Class Members for purposes of implementing, administering and enforcing the Settlement as provided herein, and Class Counsel may

respond to inquiries they respectively receive from Settlement Class Members; (b) Dell may communicate with those persons, including Dell employees, necessary for the administration, implementation, and enforcement of the Settlement, and may inform its employees of the Settlement; and (c) Class Counsel, Class Representatives, Settlement Class Members and Dell agree to issue a mutually agreed upon press release regarding the settlement of the claims related to this matter which will set forth the reasons why settlement is in the best interests of the Settlement Class Members. If Dell, Class Counsel, any of the Class Representatives or a Settlement Class Member (after Final Approval) is contacted by the media thereafter, she/he shall only respond in a manner that is consistent with the mutually agreed upon press release referenced above. The Parties agree that the mutually agreed upon press release will be issued when Notice is mailed to Class Members by the Claims Administrator. If Dell, Class Counsel, or any of the Class Representatives is contacted by the media prior to Notice being sent following preliminary approval, she/he shall respond that it is the Parties' intent to issue a joint statement when notice is sent to individual Class Members.


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

Dated: July 22, 2009

HANCE SCARBOROUGH, LLP

By: 
Geoffrey D. Weisbart
111 Congress Ave., Suite 500
Austin, Texas 78701
Tel: (512) 479-8888
Fax: (512) 482-6891


SCOTT DOUGLASS & MCCONICO, LLP

By:  *For E-Rel CV Authorization For Julie Springer, Esq.*
Julie Springer, Esq.
600 Congress Ave., Suite 1500
Austin, Texas 78701
Tel: (512) 495-6300
Fax: (512) 474-0731

Counsel for Class Representatives and
Class Members

Dated: July 22, 2009

MORGAN, LEWIS & BOCKIUS LLP

By: 
Michael S. Burkhardt, Esq.
1701 Market St
Philadelphia, PA 19103
Tel: (215) 963-5130
Fax: (215) 963-5001

Dated: July 22, 2009

Counsel for Defendant Dell

EXHIBIT “A”

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

JILL HUBLEY and LAURA	§	Civil No. A-08-CA-804-JRN
GUENTHER, On behalf of themselves	§	
and all others similarly situated,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	CLASS ACTION
	§	
DELL INC.,	§	JURY TRIAL DEMAND
	§	
Defendant.	§	

**THIS IS A NOTICE OF A PROPOSED CLASS ACTION SETTLEMENT
FROM THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

PLEASE READ THIS NOTICE CAREFULLY.

THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS.

DATE OF MAILING: _____, 2009

This Notice is being sent to you, as ordered by the United States District Court for the Western District of Texas (the "Court"), to advise you of the preliminary approval of the settlement of an employment discrimination class action against Dell Inc. ("Dell").

You have received this Notice because Dell's records reflect that you are or were a woman employed by Dell in the United States in a C1 through D3 grade level position or their equivalent between February 14, 2007 and December 31, 2008, are not a former employee who previously executed a complete release as part of any prior litigation or settlement agreement (other than a severance agreement), and have not filed a separate complaint of discrimination with a state or federal agency. Therefore, you may be a Class Member in the lawsuit. Your individual status for evaluating whether you are a Class Member was determined based on a review of available records as of July 17, 2009. The

purpose of this Notice is to provide you with a summary of the proposed settlement, and to advise you of your rights with respect to the proposed settlement.

I. Important Deadlines

- To participate in the monetary relief portion of the settlement, you do not have to do anything. All Class Members are automatically entitled to a monetary payment.
- As set forth in Section VI, below, you have the right to object to the proposed settlement. However, if you want to object to the settlement, or some part of the settlement, you must mail or file your pleading with the Court setting forth your written objection(s). The pleading must be filed with the Court or mailed to the Court and postmarked by [date of mailing plus 35 days]_____, 2009. A copy of your pleading must also either be mailed or hand delivered to Class Counsel and to Counsel for Dell by the same date. You may object and still participate in the settlement.

II. Litigation and Settlement Background

In 2008, Plaintiff Jill Hubley filed a charge of discrimination against Dell with the United States Equal Employment Opportunity Commission. Thereafter, Ms. Hubley filed this lawsuit, alleging that Dell engaged in a pattern and practice of gender discrimination with respect to compensating and promoting female employees. Dell denied and continues to deny any liability or wrongdoing of any kind associated with the claims alleged in this lawsuit. Plaintiff Laura Guenther also filed a charge of discrimination, and joined the lawsuit as a second class representative.

Thereafter, the parties agreed to first engage in Alternative Dispute Resolution (“ADR”) and retained a highly regarded and nationally known mediator who specializes in class action employment discrimination litigation to assist them in negotiations. The parties then exchanged documents and substantial data, which Plaintiffs had analyzed by a prominent labor economist and statistician. The parties later disclosed the results of their statistical investigation of the employment data and had detailed discussions about the statistical analyses and results. Ms. Hubley and Ms. Guenther (the “Named Plaintiffs”) were very much involved in this process and analysis of the evidence, and they also provided background information to Class Counsel, attended and fully participated in mediations,

provided guidance, assistance and direction to Class Counsel, and regularly responded to requests for information from Class Counsel and Dell.

In December 2008, the parties began settlement discussions through the ADR process. Numerous face-to-face negotiations, including many with the mediator, and dozens of telephone negotiating sessions took place during December 2008 through June 2009. The Named Plaintiffs were integrally involved in the negotiations and approved of all of the settlement offers and rejected responses. Ultimately, the parties agreed to settle the litigation on the terms set forth below.

Based upon their investigation and the risk of litigation, including the potential that a class would not be certified, Class Counsel and the Named Plaintiffs have concluded that the terms of the settlement are fair, reasonable, adequate, and in the best interests of the Class. In reaching this conclusion, Class Counsel and the Named Plaintiffs have analyzed the benefits of the settlement and the risk of an unfavorable outcome (i.e., losing), as well as the expense and length of continued proceedings necessary to prosecute this action. Dell does not admit any wrongdoing or liability by entering into this settlement, and has agreed to these settlement terms because it wishes to avoid further costly, disruptive, and time-consuming litigation, and desires to obtain complete and final settlement of the claims of the Named Plaintiffs and Class Members.

III. Programmatic and Monetary Relief -- Summary of Employment Practices Affected by the Proposed Settlement with Dell

As part of the negotiations, the Named Plaintiffs sought agreement from Dell in the area of Programmatic Relief. Dell, as part of the settlement, has agreed to the following:

- A. Commitment to Non-Discrimination. Dell has committed to maintain and enforce its non-discrimination policies and anti-retaliation policies. Dell has also specifically agreed, among other things, that it shall not retaliate against any Class Member who seeks or receives monetary and/or non-monetary relief pursuant to the Settlement Agreement.
- B. Industrial Psychologist and Policy Review. Dell has agreed to retain an Industrial Psychologist with a Ph.D., approved by Class Counsel, to work with

Dell to evaluate and improve Dell's processes and procedures governing the Class concerning the hiring (external and internal), promotion, hiring classification, and lateral transfer process to make sure they are consistent with a policy of promoting equal opportunity for all employees. The Industrial Psychologist will also, with respect to the Class, evaluate and develop processes and procedures, or improve existing policies and procedures, relating to accountability, internal oversight and monitoring of individual managerial decisions regarding promotions, hires (both external and internal) and transfers. Dell has also agreed, in conjunction with the Industrial Psychologist, to evaluate and develop or improve existing managerial training on how to make decisions regarding promotions, hires (external and internal) and transfers. Class Counsel and an External Advisor retained to monitor Dell's compliance with the Settlement Agreement will have the continuing authority to question and raise issues if Dell does not implement the Industrial Psychologist's recommendations.

- C. Candidate Slate Consideration. Dell has agreed for any grade level position D3 and above to make all reasonable efforts to ensure that it interviews a diverse slate of candidates for such positions inclusive of females.
- D. Equity Review and Salary Adjustments. Dell has agreed to retain, with Class Counsel approval, a labor economist/statistician (the "Labor Economist") to conduct a pay equity analysis of existing compensation and recommend any pay equity adjustments for all current female employees in C1 through D3 grade level positions or their equivalents. The Labor Economist's recommendation will be utilized by Dell in paying those female employees adjustments pursuant to the Pay Equity Settlement Fund, which allocates Three Million Five Hundred Thousand Dollars (\$3,500,000.00) for such adjustments. The pay equity adjustments will be retroactive to May 31, 2009. The total earnings increase for female employees in grade level positions C1

through D3 at Dell over the three-year period of the Settlement Agreement is estimated to be at least \$12.6 million.

- E. Monetary Relief. In addition to expending the funds necessary to implement the Programmatic Relief and pay equity adjustments described above, Dell has also agreed to pay \$4,425,000.00 to be distributed to Class Members to resolve the Class Action. The \$4,425,000.00 will be paid to Class Members by the Class Administrator, who is approved by the Court, pursuant to a formula agreed to by the parties and set forth in the Settlement Agreement. Class Members do not need to take any action to participate in the Settlement Fund. The Claims Administrator will mail Class Members their allocated payments within thirty days of the Effective Date of the Settlement. The Claims Administrator, under the Settlement Agreement, will pay \$50,000.00 to Jill Hubley and \$25,000.00 to Laura Guenther for their service, efforts and dedication to advancing the interests of the Class. Both Ms. Hubley and Ms. Guenther have spent countless hours working on this case, working with Class Counsel as well as attending and participating in the mediations that brought about this settlement. Dell is also paying to reimburse Class Counsel's legal fees and expenses in the amount of \$1,100,000.00, which approximates the amount of legal fees and expenses incurred and expended, and to be incurred and expended, by Class Counsel.

IV. Taxes on Amounts Paid to Class Members

The Claims Administrator will withhold from each payment to Class Members and the Class Representatives all applicable taxes under federal, state and/or local laws. The Claims Administrator will ensure that such monies withheld are paid to the appropriate authorities for each Class Member and Class Representative and will issue IRS Forms W-2 for the amounts reportable on each Form. Dell's share of taxes or contributions will be paid separately by Dell.

V. Release of Claims

If the Court grants final approval of the Settlement, then all Class Members will release certain claims against Dell pursuant to Paragraph II.A.17 of the Settlement Agreement. Specifically, all Class Members will release Dell for the following:

Any and all claims for injunctive and/or equitable relief of whatever nature, known or unknown, including but not limited to, all claims for back pay, front pay, liquidated damages or other make whole relief, that the Named Plaintiffs and Settlement Class Members may have against Dell, its subsidiaries and affiliated companies, and in the case of all such entities, their respective past and present owners, representatives, officers, directors, attorneys, agents, employees, insurers, successors and assigns (collectively referred to as the "Released Parties"), arising out of the same transactions, series of connected transactions, occurrences or nucleus of operative facts that form the basis of the claims that were or could have been asserted in *Hublely et. al v. Dell Inc.*, A-08-CA-804-JRN. This release includes and covers without limitation all actions or omissions occurring through the Final Approval date as defined and all claims known or unknown for prior or past discriminatory actions outside any liability period, subject to the provisions set forth herein. Specifically included in this release are any and all employment discrimination claims or benefits claims or claims for losses caused by any unpaid wages or compensation arising out of the same transactions, series of connected transactions, occurrences or nucleus of operative facts that form the basis of the claims that were or could have been asserted in *Hublely et. al v. Dell Inc.*, A-08-CA-804-JRN, including but not limited to, claims of alleged employment discrimination or benefits claims under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e, et seq. ("Title VII"), the Equal Pay Act, the Age Discrimination in Employment Act, 29 U.S.C. §§ 621 et seq. ("ADEA"), the Texas Labor Code, and the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001, et seq. ("ERISA") (except for vested benefits otherwise entitled), and any other federal, state, or local statutes, common law, or regulation. Furthermore, this Release includes all claims for injunctive, declaratory or equitable relief, including all claims for back pay, front pay, liquidated damages or other make whole relief, and costs and attorneys' fees, whether arising under Title VII, the Equal

Pay Act or under any other federal, state, local or common laws or regulations relating to or arising out of the same transactions, series of connected transactions, occurrences or nucleus of operative facts that form the basis of the claims that were or could have been asserted in *Hubley et. al v. Dell Inc.*, A-08-CA-804-JRN.

When claims are “released,” that means that a person covered by the release cannot sue Dell for any of the claims that are covered by the release. Nothing in the Settlement will be construed to release claims of Class Members that may not be legally waived, that post-date the Final Approval by the Court of the Settlement Agreement, or that are not covered by the release.

VI. The Settlement Process and Final Fairness Hearing

Every class action must be approved by the court that presided over the class action lawsuit. Thus far, the Court has only decided that the proposed settlement may be fair and, therefore, justifies the distribution of this Notice. In order to decide whether to give final approval to the proposed settlement, the Court will consider related papers and comments submitted by the parties or others and hold a hearing in open court. A Final Fairness Hearing will be held on _____, 2009, at _____, in the Courtroom of United States District Judge James R. Nowlin, United States District Court, Western District of Texas, 200 West 8th Street, Austin, TX 78701. You may, but are not required to, attend this hearing. You may also enter an appearance in the case, individually or through your own attorney, if you so desire. You may also submit any objections to the proposed settlement in writing as noted herein. For any such written objections to be considered, the objection must be filed with the Court or mailed to the Court and postmarked by [date of mailing plus 35 days]_____, with copies mailed or hand delivered to Class Counsel and Counsel for Dell. Please do not send any comments directly to the Judge or attempt to reach the Judge in person.

You may review a copy of the Settlement Agreement at the Clerk’s Office at the Court (200 West 8th Street, Austin, TX 78701) or online at www.heffler.com. You may also contact the Claims Administrator or Class Counsel to obtain a copy of the full Settlement Agreement, and they will e-mail or mail it to you upon request.

VII. Contact Information

Claims Administrator:

HEFFLER, RADETICH & SAITTA LLP
1515 Market Street, Suite 1700
Philadelphia, PA 19102
Main: 215.665.8870
Fax: 215.665.0613
www.heffler.com

Class Counsel:

JULIE A. SPRINGER, ESQ.
(jspringer@scottdoug.com)
SCOTT DOUGLASS & McCONNICO, L.L.P.
600 Congress Avenue, Suite 1500
Austin, Texas 78701
(512) 495-6300

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(gweisbart@hslawmail.com)
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Austin, Texas 78701
(512) 479-8888

Counsel for Dell:

MICHAEL S. BURKHARDT, ESQ.
(mburkhardt@morganlewis.com)
MORGAN LEWIS & BOCKIUS, L.L.P.
1701 Market Street
Philadelphia, PA 19103
(215) 963-5130

The Court:

U.S. District Clerk's Office
Western District of Texas – Austin Division
200 West 8th Street, Room 130
Austin, Texas 78701
(512) 916-5896

PLEASE DO NOT CONTACT THE COURT (except as referenced herein).