

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

ROBERT LEMATTA, Individually and On  
Behalf of All Others Similarly Situated,

Plaintiff,

v.

CASPER SLEEP, INC., et al.,

Defendants.

Case No. 1:20-cv-02744

Hon. Margo K. Brodie

**STIPULATION OF SETTLEMENT**

This Stipulation and Agreement of Settlement (together with all Exhibits thereto, the “Stipulation”), dated as of June 6, 2024 which is entered into by and among Lead Plaintiff Saleh Doron Gahtan (“Lead Plaintiff,” and together with Class Members, “Plaintiffs”), and Defendants Casper Sleep, Inc. (“Casper” or “the Company”), Philip Krim, Gregory MacFarlane, Neil Parikh, Diane Irvine, Anthony Florence, Jack Lazar, Benjamin Lerer, Karen Katz, Dani Reiss (together with Casper, the “Casper Defendants”), Morgan Stanley & Co. LLC, Goldman Sachs & Co. LLC, Jefferies LLC, BofA Securities, Inc., UBS Securities LLC, Citigroup Global Markets Inc., Piper Sandler & Co., and Guggenheim Securities, LLC (the “Underwriter Defendants,” and together with the Casper Defendants, “Defendants”), by and through their undersigned attorneys, states all of the terms of the settlement and resolution of this matter by Lead Plaintiff and Defendants (together the “Parties,” and each a “Party”) and is intended by the Parties to fully and finally release, resolve, remise, and discharge Released Plaintiffs’ Claims as against Released Defendants’ Parties and Released Defendants’ Claims against Released Plaintiffs’ Parties (all

as defined herein), subject to the approval of the United States District Court for the Eastern District of New York (the “Court”).

WHEREAS, the initial complaint in the above-captioned action (this “Action”) was filed on June 19, 2020 (ECF No. 1) by initial plaintiff Robert Lematta alleging violations of Sections 11 and 15 of the Securities Act of 1933. By minute order dated August 27, 2020 (entry not numbered on ECF), Mr. Gahtan was appointed Lead Plaintiff;

WHEREAS, on October 27, 2020, Lead Plaintiff filed an Amended Complaint (ECF No. 16), which added Claims under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934;

WHEREAS, on December 1, 2020, Defendants moved to stay this action in favor of a state court action asserting violations of the Securities Act of 1933 (ECF No. 21), which motion was subsequently withdrawn on May 12, 2021 (ECF No. 27);

WHEREAS, on June 30, 2021, Lead Plaintiff filed a Second Amended Complaint (ECF No. 29);

WHEREAS, all Defendants thereafter moved to dismiss the Second Amended Complaint on July 30, 2021 (ECF No. 31), which was fully briefed and filed pursuant to the Court’s bundling rule on September 21, 2021 (ECF No. 33). By Order dated September 30, 2022, the Court partially granted and partially denied the motion to dismiss (ECF No. 35);

WHEREAS, on January 18, 2023, the Parties mediated before an experienced mediator familiar with securities class actions, Jed Melnick. This mediation did not resolve the Action, so the Parties returned to litigation;

WHEREAS, Defendants thereafter answered the Complaint, denying any wrongdoing and asserting defenses (ECF Nos. 54-55), the Parties exchanged initial disclosures and engaged in substantial additional written and deposition discovery;

WHEREAS, between party and non-party productions, Lead Plaintiff received and reviewed over 30,000 documents comprising approximately 258,000 pages, and took or participated in 11 depositions, informing him of the strengths and weaknesses of his case;

WHEREAS, in January 2024, the Parties agreed to resume mediation and on April 4, 2024, participated in another mediation session before Mr. Melnick. At the end of the session, the mediator made a mediator's proposal to resolve the Action for a cash payment by Casper of \$3,000,000. The following week, both Parties accepted the mediator's proposal, and on April 24, 2024, the Parties entered into a term sheet outlining the key terms of this Settlement;

WHEREAS, the term sheet calls for the Settlement to be more fully documented in a Stipulation of Settlement;

WHEREAS, Lead Plaintiff believes that the Claims asserted in the Action have merit and that the evidence of the underlying events and transactions alleged in the Second Amended Complaint, developed through its discovery to date, support his Claims. Nonetheless, Lead Plaintiff and his counsel recognize and acknowledge the expense and length of continued prosecution of the Action through trial and any subsequent appeals. Lead Plaintiff and his counsel also have taken into account the uncertain outcome and risks of any litigation, including risk of collecting upon a judgment, and believe that it is desirable that the settlement as set forth in this Stipulation confers substantial benefits upon the Class. Based on their evaluation, Lead Plaintiff and his counsel have concluded that the terms and conditions of this Stipulation are fair, reasonable and adequate to the Class, and that it is in the best interests of the Class to settle the Claims raised in the Action pursuant to the terms and provisions of this Stipulation; and

WHEREAS, Defendants, individually and collectively, have denied and continue to deny all allegations of wrongdoing or liability whatsoever arising out of any of the conduct, statements,

acts or omissions alleged, or that could have been alleged, in the Action. Defendants further deny that Lead Plaintiff or the Class have suffered damages, that the price of Casper common stock was artificially inflated during the periods referenced in the Class definition as the result of any alleged misrepresentations, omissions, or non-disclosures by Defendants, or that any Casper investors were harmed by the conduct alleged in the Second Amended Complaint. In addition, Defendants maintain that they have meritorious defenses to all Claims in this Action. Nonetheless, Defendants recognize the expense, risks and uncertainty inherent in any litigation, and desire to settle the Claims against them so as to avoid the burden and expense of further litigation. Defendants therefore believe that it is desirable to secure releases to the fullest extent permitted by law and fully and finally resolve the Action in the manner and upon the terms and conditions set forth in this Stipulation;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the Parties through their undersigned counsel that, subject to the approval of the Court, in consideration of the benefits flowing to the Parties from the Settlement set forth herein, the Action and the Released Plaintiffs' Claims and Released Defendants' Claims shall be finally and fully compromised, settled and released, and the Action shall be dismissed fully, finally and with prejudice and all Released Claims shall be finally and fully released as against the Released Parties, upon and subject to the terms and conditions of this Stipulation, as follows:

I. Definitions

A. "Action" means the putative consolidated class action captioned *Lematta, et al. v. Casper Sleep, Inc., et al.*, No. 1:20-cv-02744 (E.D.N.Y.).

B. “Authorized Claimant” means any Class Member who is a Claimant and whose claim for recovery has been allowed pursuant to the terms of this Stipulation, the exhibits hereto, and any order of the Court.

C. “Award to Lead Plaintiff” means a request for reimbursement to Lead Plaintiff for his reasonable costs and expenses (including lost wages) directly related to Lead Plaintiff’s representation of the putative class and Class in the Action.

D. “Business Day” means any day except Saturday or Sunday or any other day on which national banks are authorized by law or executive order to close in the State of New York.

E. “Claimant” means any Class Member who files a Proof of Claim in such form and manner, and within such time, as the Court shall prescribe.

F. “Claims” means any and all manner of claims, debts, demands, controversies, obligations, losses, costs, interest, penalties, fees, expenses, rights, duties, judgments, sums of money, suits, contracts, agreements, promises, damages, actions, causes of action and liabilities, of every nature and description in law or equity (including, but not limited to, any claims for damages, whether compensatory, special, incidental, consequential, punitive, exemplary or otherwise, injunctive relief, declaratory relief, rescission or rescissionary damages, interest, attorneys’ fees, expert or consulting fees, costs, or expenses), accrued or unaccrued, known or unknown, arising under federal, state, common, administrative, or foreign law, or any other law, rule, or regulation.

G. “Claims Administrator” means Strategic Claims Services.

H. “Class” means, for the purposes of settlement only, all persons and entities that purchased or otherwise acquired Casper common stock pursuant or traceable to the Company’s February 7, 2020 initial public offering, and/or during the period from March 19, 2020, through

May 12, 2020, both dates inclusive (the “Class”). Excluded from the Class are Defendants, any former or current officer or director of Casper or Durational Capital Management LP, members of their immediate families and their legal representatives, heirs, successors, or assigns, and any entity in which any of the above has or had a majority ownership interest. Also excluded from the Class are any persons and entities who or which submit a request for exclusion from the Class that is accepted by the Court.

I. “Class Counsel” means Pomerantz LLP.

J. “Class Members” means all persons or entities who are members of the Class as defined in ¶ H of this Section I. and who have not validly Opted Out of the Class.

K. “Effective Date” means the date that is five (5) Business Days after the date on which all of the conditions to the Settlement, set forth in Section X.A, are satisfied.

L. “Escrow Account” means an interest-bearing account maintained by the Escrow Agent (as defined below).

M. “Escrow Agent” means Huntington National Bank.

N. “Final” when referring to the Judgment means exhaustion of all possible appeals, meaning (i) if no appeal or request for review is filed, the day after the date of expiration of any time for appeal or review of the Judgment, and (ii) if an appeal or request for review is filed, the day after the date the last-taken appeal or request for review is dismissed, or the Judgment is upheld on appeal or review in all material respects, and is not subject to further review on appeal or by certiorari or otherwise; provided, however, that no order of the Court or modification or reversal on appeal or any other order relating solely to the amount, payment, or allocation of attorneys’ fees and expenses or to the Plan of Allocation shall constitute grounds for cancellation or

termination of this Settlement or affect its terms, including the release in ¶ Z of this Section I, or shall affect or delay the date on which the Judgment becomes Final.

O. “Judgment” means the order and judgment to be entered by the Court finally approving the Settlement and dismissing the Action, materially in the form attached hereto as Exhibit B.

P. “Notice” means the “Notice of Pendency and Proposed Settlement of Class Action,” substantially in the form attached hereto as Exhibit A-1.

Q. “Opt Out” or “Opted Out” means any one of, and “Opt-Outs” means all of, any Persons who otherwise would be “Class Members” means all persons or entities who are members of the Class as defined in ¶ H of this Section I, and who have validly opted out of the Class.

R. “Person” means an individual, corporation, fund, limited liability corporation, professional corporation, limited liability partnership, partnership, limited partnership, 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 their spouses, heirs, predecessors, successors, representatives, or assigns.

S. “Plan of Allocation” means a plan or formula for allocating the Settlement Fund to Authorized Claimants after payment of Settlement Administrative Costs, Taxes and Tax Expenses, and such attorneys’ fees, costs, and expenses as may be awarded by the Court. Any Plan of Allocation is not a condition to the effectiveness of this Stipulation, and Defendants shall have no responsibility or liability with respect thereto.

T. “Postcard Notice” means the postcard form of notice directing Class Members to the Settlement Website for full Notice and other relevant documents, substantially in the form attached hereto as Exhibit A-4.

U. “Preliminary Approval Order” means the proposed order preliminarily approving the Settlement and directing notice thereof to the Class substantially in the form attached hereto as Exhibit A.

V. “Proof of Claim” means the Proof of Claim and Release to be submitted by Claimants, substantially in the form attached hereto as Exhibit A-2.

W. “Released Claims” means Released Plaintiffs’ Claims and Released Defendants’ Claims, including Unknown Claims.

X. “Released Defendants’ Claims” means the release by Defendants, upon the Effective Date, as against Released Plaintiffs’ Parties (as defined herein), of all claims and causes of action of every nature and description, whether known or unknown, including the provisions of California Civil Code § 1542, whether arising under federal, state, common or foreign law, that arise out of, in connection with, or relate to the institution, prosecution, or settlement of the claims against Defendants, except for claims relating to the enforcement of the settlement.

Y. “Released Defendants’ Parties” means Defendants and each of their respective predecessors, successors, parent corporations, sister corporations, past, present, or future subsidiaries, affiliates, principals, assigns, assignors, legatees, devisees, executors, administrators, estates, heirs, spouses, immediate family members, receivers and trustees, settlors, beneficiaries, officers, directors, members, shareholders, employees, independent contractors, servants, agents, partners, representatives, attorneys, legal representatives, auditors, accountants, successors in interest, insurers, and reinsurers.

Z. “Released Plaintiffs’ Claims” means the release, upon the Effective Date, by Lead Plaintiff and all Class Members who have not Opted Out of this Settlement pursuant to the procedures ordered by the Court, together with their successors, assigns, executors, heirs,



administrators, representatives, attorneys, and agents, in their capacities as such (each of the foregoing, the “Released Plaintiffs’ Parties”), as against Released Defendants’ Parties (as defined herein), all causes of action of every nature and description, whatsoever, in law, equity, or otherwise, whether accrued or unaccrued, fixed or contingent, liquid or unliquidated, direct or indirect, known or unknown, including the provisions of California Civil Code § 1542, whether arising under federal, state, local, statutory, common, or foreign law, or any other law, rule or regulation, whether class-based or individual in nature, that were or could have been asserted in the Second Amended Complaint or could in the future be asserted in any forum, whether foreign or domestic, by Plaintiff, any member of the Class, or their successors, assigns, executors, administrators, representatives, attorneys, and agents, whether brought directly or indirectly against any of the Defendants, which (a) arise out of, are based upon, or relate in any way to any of the allegations, acts, transactions, facts, events, matters, occurrences, representations or omissions involved, set forth, alleged or referred to, in this Action, or which could have been alleged in this Action, or (b) arise out of, are based upon, or in any way relate to, directly or indirectly, the purchase, acquisition, holding, sale, or disposition of any Casper securities during the periods referenced in the Class definition. Released Claims in this paragraph shall not include claims related to the enforcement of the Settlement.

AA. “Released Plaintiffs’ Parties” means Plaintiff and all other Class members, and their respective attorneys, insurers, and reinsurers.

BB. “Settlement” means the settlement contemplated by this Stipulation.

CC. “Settlement Administration Costs” means all costs and expenses associated with providing notice of the Settlement to the Class and otherwise administering or carrying out the terms of the Settlement. Such costs may include, without limitation: the costs of publishing the

Summary Notice, the costs of printing and mailing the Postcard Notice and/or Notice and Proof of Claim, as directed by the Court, and the costs of allocating and distributing the Net Settlement Fund (as defined in paragraph III.A) to the Authorized Claimants. Such costs do not include legal fees.

DD. “Settlement Amount” means the sum of \$3,000,000 (Three Million U.S. Dollars). The Settlement Amount is to be paid by Casper in cash compensation to establish the Settlement Fund and includes all Settlement Administration Costs, Class Counsel’s attorneys’ fees and expenses (as allowed by the Court), Award to Lead Plaintiff (as allowed by the Court), Class Member benefits, as well as any other costs, expenses, or fees of any kind whatsoever associated with the Settlement. Casper shall not be responsible for any of Plaintiffs’ attorneys’ fees, expenses, or costs in this Action beyond Casper’s \$3,000,000 payment to establish the Settlement Fund. No other Defendant shall pay, or be liable to pay, any part of the Settlement Amount.

EE. “Settlement Fund” means all funds transferred to the Escrow Account pursuant to this Stipulation and any interest or other income earned thereon.

FF. “Settlement Hearing” means the hearing at or after which the Court will make a final decision pursuant to Rule 23 of the Federal Rules of Civil Procedure as to whether the Settlement contained in the Stipulation is fair, reasonable and adequate, and therefore, should receive final approval from the Court.

GG. “Summary Notice” means the Summary Notice of Pendency and Proposed Settlement of Class Action, substantially in the form attached hereto as Exhibit A-3.

HH. “Supplemental Agreement” means a separate agreement executed between Lead Plaintiff and Defendants, which is incorporated by reference into this Stipulation.

II. “Taxes” means all taxes (including any estimated taxes, interest or penalties) arising with respect to the income earned by the Settlement Fund.

JJ. “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 and expenses relating to filing (or failing to file) the returns described in Section IX hereof.

KK. “Unknown Claims” means and includes any and all claims that Lead Plaintiff and Class Members (with respect to Released Plaintiffs’ Claims) or Defendants (with respect to Released Defendants’ Claims) do not know or suspect to exist at the time of the release. This includes claims which, if known, might have affected the Settlement and Released Plaintiffs’ Claims and Released Defendants’ Claims, including the decision to object or not to object to this Settlement. The Parties expressly acknowledge and shall be deemed to have expressly waived and relinquished any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or any other jurisdiction, or principle of common law that is, or is similar, comparable, or equivalent to California Civil Code ¶ 1542, which provides:

***A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.***

Lead Plaintiff, Class Members, and Defendants may hereafter discover facts, legal theories, or authorities in addition to or different from those known or believed to be true with respect to the subject matter of Released Plaintiffs’ Claims or Released Defendants’ Claims, but they expressly, fully, finally, and forever settle and release, and upon the Effective Date and by operation of the Judgment shall have settled and released, fully, finally, and forever, any and all Released Claims, without regard to the subsequent discovery or existence of such different or additional facts, legal

theories, or authorities. The Parties expressly acknowledge, and each releasing party and Released Party by operation of law shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Released Claims was separately bargained for and a material element of the Settlement.

## **II. Settlement Consideration**

A. In consideration of the full and final release, settlement and discharge of all Released Plaintiffs’ Claims, exchange for settlement and release of all Claims, Casper shall provide cash compensation of \$3,000,000 to establish the Settlement Fund for the benefit of the Class (including the payment of attorneys’ fees and expenses as approved by the Court, as well as costs incurred in connection with the notice, administration and distribution of the Settlement, as approved by the Court). Casper shall not be responsible for any of Plaintiffs’ attorneys’ fees, expenses, or costs in this Action beyond Casper’s cash compensation of \$3,000,000 to establish the Settlement Fund. No other Defendant shall pay, or be liable to pay, any part of the Settlement Amount. Casper agrees to transfer the Settlement Amount as follows by wire to an interest-bearing Escrow Account in a financial institution designated by Plaintiffs’ counsel that will act as the Escrow Agent:

1. \$500,000 within seven (7) calendar days following preliminary approval;
  2. \$500,000 within twenty (20) calendar days following the first payment;
  3. \$500,000 within twenty (20) calendar days following the second payment;
  4. \$500,000 within twenty (20) calendar days following the third payment;
  5. \$500,000 within twenty (20) calendar days following the fourth payment;
- and
6. \$500,000 within twenty (20) calendar days following the fifth payment.

No payment shall become due until Plaintiff's Counsel has provided Casper's Counsel with wire instructions and a Form W-9 for the Settlement Fund. Upon the Effective Date, Defendants shall also release all of Released Defendants' Claims.

B. Under no circumstances will Casper or its insurers be required to pay, or cause payment of, more than the Settlement Amount pursuant to this Stipulation and the Settlement, including, without limitation, as compensation to any Class Member, as payment of Plaintiffs' attorneys' fees and expenses awarded by the Court, in payment of any fees or expenses incurred by any Class Member or Class Counsel, or as interest on the Settlement Amount of any kind and relating to any time period (including prior to the payment of the Settlement Amount into the Escrow Account).

### **III. The Escrow Account**

A. The Escrow Account, including any interest earned thereon net of any Taxes on the income thereof, shall be used to pay: (i) Class Counsel's attorneys' fees and expenses; (ii) Taxes and Tax Expenses; (iii) Settlement Administration Costs, and (iv) Award to Lead Plaintiff. The balance of the Escrow Account shall be the Net Settlement Fund and shall be distributed to the Authorized Claimants as set forth in the Plan of Allocation. Plaintiffs and Class Members shall look solely to the Net Settlement Fund for payment and satisfaction of any and all Released Claims.

B. All funds and instruments held by the Escrow Agent shall be deemed *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 pursuant to the Stipulation and/or further orders of the Court.

C. Escrow Agent shall invest the Settlement Fund exclusively in instruments or accounts backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, including a U.S. Treasury Fund or a bank

account that is either (a) fully insured by the Federal Deposit Insurance Corporation (“FDIC”) or (b) secured by instruments backed by the full faith and credit of the United States Government. The Escrow Agent shall reinvest the proceeds of these instruments or accounts as they mature in similar instruments or accounts at their then-current market rates.

D. Prior to the Effective Date, the Escrow Agent shall not disburse the Settlement Fund except as provided in this Stipulation, by order of the Court, or with the prior written agreement of Class Counsel and Defendants’ counsel.

E. After the Effective Date, Defendants shall have no interest in the Settlement Fund or in the Net Settlement Fund.

F. The Escrow Agent shall be authorized to execute only such transactions as are consistent with the terms of this Stipulation and the order(s) of the Court. Defendants and Defendants’ counsel shall have no responsibility for, interest in, or liability whatsoever with respect to any action, omission, transaction or determination of the Escrow Agent or agents or designees thereof.

#### **IV. The Notice and Administration Account**

A. The Settlement Administrator shall establish and administer the Notice and Administration Account. The Notice and Administration Account shall be established using funds in the Settlement Fund and shall be used only for the payment of necessary and reasonable Settlement Administration Costs.

B. The Escrow Agent is authorized to transfer up to \$250,000 from the Settlement Fund to the Notice and Administration Account for Settlement Administration Costs without further approval. No further amounts may be transferred prior to final approval of the Settlement, except by Court order.

C. Plaintiffs, Class Counsel, Defendants, and Defendants' counsel shall not bear any liability for Settlement Administration Costs.

D. Casper shall provide within ten (10) Business Days after the Court's entry of an order preliminarily approving the Settlement, and at no cost to the Settlement Fund, Lead Plaintiff, the Class, Class Counsel, or the Claims Administrator, reasonably available lists of shareholders of record for the period beginning with its initial public offering and extending six months thereafter. Except for Casper's obligation to produce the above transfer records for purposes of providing Notice to the Class, Defendants shall not bear any cost or responsibility for Class Notice, administration, or the allocation of the Settlement Amount among Class members.

E. Casper shall no later than ten (10) calendar days following the filing of this Stipulation with the Court serve or cause to be served proper notice of the proposed Settlement upon those who are entitled to receive notice pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. §1715, et seq. ("CAFA"). Casper is solely responsible for the costs of the CAFA notice and administering the CAFA notice.

F. The Parties shall request that after notice is given and not earlier than ninety (90) calendar days after the later of the dates on which the appropriate Federal official and the appropriate State officials are provided with notice pursuant to CAFA as set forth in paragraph E of this Section, the Court hold a Final Approval Hearing and approve the Settlement of the Litigation as set forth herein. At or after the Final Approval Hearing, the Parties will request that the Court approve the proposed Plan of Allocation and Class Counsel will request that the Court approve the Fee and Expense Application.

**V. Preliminary Approval Order**

A. The Parties shall submit this Stipulation together with its exhibits to the Court, and Plaintiffs shall apply for entry of a Preliminary Approval Order substantially in the form and content of Exhibit A attached hereto, requesting, *inter alia*, the preliminary approval of the Settlement as set forth in the Stipulation, preliminary certification of the Class for settlement purposes only, and approval of forms of notice to be disseminated on the Settlement website and emailed (either as an attachment or link) to all potential Class Members whose email address can be identified with reasonable effort (the “Notice”), to be mailed to all other potential Class Members who can be identified with reasonable effort (the “Postcard Notice”), and to be published (the “Summary Notice”), substantially in the forms and contents of Exhibits A-1, A-3, and A-4 hereto. The Notice shall include a Proof of Claim, substantially in the form of Exhibit A-2 attached hereto, the general terms of the Settlement set forth in the Stipulation, and shall set forth the procedure by which Persons who otherwise would be members of the Class may request to be excluded from the Class.

B. The Parties shall request that, after the Postcard Notice and Notice have been mailed and emailed and the Summary Notice published, in accordance with this Stipulation, the Court hold the Settlement Hearing and finally approve the Settlement of the Action with respect to the Parties.

**VI. Final Approval of the Settlement**

A. Plaintiffs shall move consistent with the schedule to be set by the Court for final approval of the Settlement, including entry of the Judgment, as defined herein. At the Settlement Hearing, the Parties shall jointly request entry of the Judgment.



B. In the Judgment, the Class shall be certified for purposes of this Settlement only, but in the event that the Judgment does not become Final or the Settlement fails to become effective for any reason, all Parties reserve all their rights on all issues, including class certification. For purposes of this Settlement only, in connection with the Judgment, Defendants shall consent to (i) the appointment of Plaintiff as the class representative, (ii) the appointment of Pomerantz LLP as Class Counsel, and (iii) the certification of the Class pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure.

#### **VII. Attorneys' Fees and Expenses**

A. Class Counsel may submit an application or applications (the "Fee and Expense Application") for distributions from the Settlement Fund for: (a) an award of attorneys' fees not to exceed one-third of the Settlement Fund (including both the initially deposited Settlement Amount and any interest earned thereon); plus (b) reimbursement of actual litigation costs and expenses and consultants, incurred in connection with prosecuting the Action plus any interest thereon at the same rate and for the same periods as earned by the Settlement Fund (until paid) as may be awarded by the Court. Class Counsel reserves the right to make additional applications for expenses incurred, if necessary.

B. Immediately after the Court enters an order awarding Class Counsel fees and expenses ("Fee Award"), the amounts awarded by the Court shall be released from escrow and wired as directed by Class Counsel. These payments shall be subject to Class Counsel's obligation to make appropriate refund or repayment within seven (7) days of the date that any condition to establishing the Effective Date has not occurred and shall not occur, or if the Court or any appellate court enters an order reversing or reducing any award of attorneys' fees or litigation expenses.

C. The procedure for and allowance or disallowance by the Court of any application for Class Counsel attorneys' fees and expenses are not part of the Settlement set forth in this Stipulation and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in this Stipulation. Any order or proceedings relating to the Fee and Expense Application, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to modify, terminate, or cancel this Stipulation, or affect or delay the finality of the Judgment approving this Stipulation and the Settlement of the Action.

D. Class Counsel may apply to the Court to authorize the payment of an Award to Lead Plaintiff for the time and expenses expended by Plaintiffs in assisting Class Counsel in the litigation of this Action. Any Award to Lead Plaintiff shall be payable after the Effective Date, and from the Settlement Fund only.

E. Except as provided in Section II, Defendants shall have no responsibility for, or liability with respect to, any payment to Lead Plaintiff, Class Members, Class Counsel or any other Plaintiffs' counsel and/or any other Person who receives payment from the Settlement Fund.

#### **VIII. Administration of Net Settlement Fund**

A. Each Class Member wishing to participate in the Settlement shall be required to submit a Proof of Claim in the form annexed hereto as Exhibit A-2, signed under penalty of perjury by the beneficial owner(s) of the stock or by someone with documented authority to sign for the beneficial owner(s), and supported by such documentation as specified in the instructions accompanying the Proof of Claim.

B. All Proofs of Claim must be received within the time prescribed in the Preliminary Approval Order unless otherwise ordered by the Court. Any Class Member who fails to submit a

properly completed Proof of Claim within such period as shall be authorized by the Court shall be forever barred from receiving any payments pursuant to this Stipulation or from the Net Settlement Fund, but will in all other respects be subject to the provisions of this Stipulation and the Judgment, including, without limitation, the release of the Released Claims and dismissal of the Action with prejudice.

C. The Settlement Administrator shall administer the Settlement subject to such approvals by the Court as circumstances may require.

D. Each Proof of Claim shall be submitted to the Settlement Administrator who shall determine, in accordance with this Stipulation and the Plan of Allocation to be formulated by Class Counsel for approval by the Court, the extent, if any, to which each claim shall be allowed, subject to appeal to the Court.

E. The Settlement Administrator shall administer and calculate the Claims submitted by Class Members, determine the extent to which Claims shall be allowed, and oversee distribution of the Net Settlement Fund subject to appeal to, and jurisdiction of, the Court. Neither Class Counsel, its designees or agents, Plaintiffs, Defendants' counsel, nor Defendants shall have any liability arising out of such determination.

F. The administrative determination of the Settlement Administrator accepting and rejecting Claims shall be presented to the Court, on notice to the Defendants' counsel, for approval by the Court.

G. Following the Effective Date and upon application to the Court by Class Counsel, the Net Settlement Fund shall be distributed to Authorized Claimants by the Settlement Administrator. The Net Settlement Fund shall be distributed to the Authorized Claimants

substantially in accordance with the terms of this Stipulation and a Plan of Allocation to be approved by the Court, subject to and in accordance with paragraphs G-P of this Section.

H. Any such Plan of Allocation is not a part of this Stipulation and it is not a condition of this Settlement that any particular Plan of Allocation be approved.

I. No funds from the Net Settlement Fund shall be distributed to Authorized Claimants until after the Effective Date.

J. Each Class Member who claims to be an Authorized Claimant shall be required to submit to the Settlement Administrator a completed Proof of Claim signed under penalty of perjury and supported by such documents as specified in the Proof of Claim and as are reasonably available to such Class Member.

K. Except as otherwise ordered by the Court, all Class Members who fail to timely submit a Proof of Claim within such period as may be ordered by the Court or otherwise allowed shall be forever barred from receiving any payments pursuant to the Stipulation and the Settlement set forth herein, but shall in all other respects be subject to and bound by the provisions of the Stipulation, the releases contained herein, and the Judgment.

L. All Persons who fall within the definition of the Class and who do not timely and validly request to be excluded from the Class in accordance with the instructions set forth in the Notice (as defined in Section V.A, above) shall be subject to and bound by the provisions of this Stipulation, the releases contained herein, and the Judgment with respect to all Released Plaintiffs' Claims, regardless of whether such Persons seek or obtain by any means, including, without limitation, by submitting a Proof of Claim or any similar document, any distribution from the Settlement Fund or the Net Settlement Fund.

M. Neither Defendants nor their counsel shall have any 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 distribution of the Net Settlement Fund, or any losses incurred in connection with any such matters.

N. This is not a claims made settlement. There will be no reversions to Defendants or their insurers.

O. Defendants shall have no involvement in the solicitation or review of Proofs of Claim, or involvement in the administration process, which will be conducted by the Settlement Administrator in accordance with this Stipulation.

P. Any change in the allocation of the Net Settlement Fund ordered by the Court shall not affect the validity or finality of this Settlement.

Q. No Person shall have any claim against Plaintiffs or Class Counsel, the Settlement Administrator, Defendants, or Defendants' counsel based on investments or distributions made substantially in accordance with this Stipulation and the Settlement contained herein, the Plan of Allocation or further orders of the Court.

#### **IX. Tax Treatment**

A. The Parties, their counsel, the Court, and the Escrow Agent shall treat the Escrow Account as being at all times a "qualified settlement fund" within the meaning of Treas. Reg. § 1.468B-1 for all periods on and after the date of the Court order preliminarily approving this Stipulation. The Parties, their counsel, the Court and the Escrow Agent agree to take no action inconsistent with the treatment of the Escrow Account in such manner. In addition, the Settlement Administrator, Escrow Agent, and as necessary, Defendants, shall make the "relation back election" (as defined in Treas. Reg. § 1.468B-1(j)) back to the earliest permitted date. Such

elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Settlement Administrator 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. All provisions of this Stipulation shall be interpreted in a manner that is consistent with the Escrow Account being a “qualified settlement fund” within the meaning of Treas. Reg. § 1.468B-1.

B. For the purpose of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “administrator” shall be the Settlement Administrator. The Settlement Administrator shall satisfy the administrative requirements imposed by Treas. Reg. § 1.468B-2 by, e.g., (i) obtaining a taxpayer identification number, (ii) timely and properly satisfying any information reporting or withholding requirements imposed on distributions from the Escrow Account, and (iii) timely and properly filing or causing to be filed on a timely basis, all federal, state, local and foreign tax returns and other tax related statements necessary or advisable with respect to the Escrow Account (including, without limitation, all income tax returns, all informational returns, and all returns described in Treas. Reg. § 1.468B-2(1)), and (iv) timely and properly paying any Taxes imposed on the Escrow Account. Such returns and statements (as well as the election described in IX.A hereof) shall be consistent with this IX.B and in all events shall reflect that all Taxes on the income earned by the Escrow Account shall be paid out of the Escrow Account as provided in IX.C hereof.

C. All (i) Taxes arising with respect to the income earned by the Escrow Account, and (ii) Tax Expenses, shall be paid out of the Escrow Account. Further, Taxes and the Tax expenses shall be treated as, and considered to be, a cost of administration of the Settlement and shall be timely paid by the Escrow Agent out of the Escrow Account without prior order from the Court,

and the Escrow Agent shall be obligated (notwithstanding anything herein to contrary) to withhold from distribution to Authorized Claimants any funds necessary to pay such amounts (as well as any amounts that may be required to be deducted or withheld under Treas. Reg. § 1.468B-2(1)(2)). All Parties and their tax attorneys and accountants shall to the extent reasonably necessary carry out the provisions of paragraphs A-C of this Section.

D. Defendants shall have no responsibility to make any filings relating to the Escrow Account and will have no responsibility to pay Taxes on any income earned by the Escrow Account. In the event this Stipulation is canceled or terminated and funds from the Settlement Fund are returned, Defendants shall be responsible for the payment of Taxes (including any interest or penalties), if any, accrued but not yet paid from the returned funds.

**X. Settlement Conditions and Termination**

A. The Effective Date of the Settlement shall be deemed to occur when all of the following conditions are satisfied:

1. Counsel for Plaintiffs and Defendants have executed this Stipulation;
2. The Court enters the Preliminary Approval Order, as provided in Section V;
3. Defendants shall have timely funded and/or caused to be funded the Settlement Fund with the Settlement Amount;
4. The Court has approved the Settlement as described herein following Notice to the Class, and has entered the Judgment, as provided in Section VI;
5. The time within which Defendants may exercise their option to terminate this Stipulation in accordance with the terms of the Supplemental Agreement shall have expired without the exercise of that option; and
6. The Judgment has become Final.

B. Upon the Effective Date, Lead Plaintiff and the Class Members, on behalf of themselves, and to the fullest extent permitted by law, their heirs, executors, administrators, personal representatives, attorneys, agents, partners, successors and assigns, and any other Person claiming (now or in the future) to have acted through or on behalf of them, shall hereby be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever, released, relinquished, settled and discharged the Released Plaintiffs' Claims and shall be permanently barred and enjoined from instituting, commencing, or prosecuting any Released Plaintiffs' Claim against any Released Party, directly or indirectly, whether or not such members of the Class execute and deliver a Proof of Claim to the Settlement Administrator. Defendants also release and shall be permanently barred and enjoined from instituting, commencing, or prosecuting any of Released Defendants' Claims.

C. If the conditions specified in paragraph A of this Section are not met, then this Stipulation shall be canceled and terminated, unless Class Counsel and Defendants' counsel mutually agree in writing to proceed with the Settlement.

D. If either (a) the Effective Date does not occur, (b) this Stipulation is canceled or terminated pursuant to its terms, or (c) this Stipulation does not become final for any reason, then the Settlement Fund and all interest earned on the Settlement Fund while held in escrow (less Settlement Administration Costs paid or incurred), plus any amount then remaining in the Notice and Administration Account, including both interest paid and accrued (less expenses and costs which have not yet been paid but which are properly chargeable to the Notice and Administration Account), shall be refunded by the Settlement Administrator and/or the Escrow Agent to Defendants as directed by Defendants' counsel within seven (7) days of such cancellation or termination, and the Parties shall retain all rights, Claims, defenses, and arguments available to



them prior to the execution of the Settlement Agreement..

E. Upon the occurrence of all of the events specified in paragraph A of this Section, the obligation of the Settlement Administrator and/or the Escrow Agent to return funds from the Settlement Fund to Defendants pursuant to paragraph D of this Section, shall be absolutely and forever extinguished.

F. If either (a) the Effective Date does not occur, (b) this Stipulation is canceled or terminated pursuant to its terms, or (c) this Stipulation does not become final for any reason, all of the Parties to this Stipulation shall be deemed to have reverted to their respective status as of April 24, 2024, and counsel shall meet and confer on an appropriate schedule to propose to the Court, and they shall proceed in all respects as if this Stipulation had not been executed and the related orders had not been entered, preserving in that event all of their respective Claims and defenses in the Action. Notwithstanding the foregoing language, the following provisions of this Stipulation shall survive any termination or cancellation of the Settlement: this Section X.F; Section X.C; Section XI; and, to the extent applicable, Section XII.

G. Notwithstanding any other provision, section, or paragraph in this Stipulation, Defendants may, in accordance with the terms set forth in the Parties' Supplemental Agreement, and in its sole discretion, elect in writing to terminate the Settlement and this Stipulation if the opt-out threshold defined in the Supplemental Agreement is exceeded and not cured in accordance with the terms of the Supplemental Agreement. Unless otherwise directed by the Court, the Supplemental Agreement will not be filed with the Court.

#### **XI. No Admissions**

A. The Parties hereto intend the Settlement as described herein to be a final and complete resolution of all disputes between them with respect to the Action and entry in this

Settlement shall not be deemed an admission by any Plaintiff or any Defendant as to the merits of any claim or defense or any allegation made in the Action.

B. Neither this Stipulation nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of this Stipulation or the Settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity or infirmity of any Released Claim, of any allegation made in the Action, or of any wrongdoing or liability by any Defendant ; (b) is or may be deemed to be or may be used as an admission of, or evidence of, any liability, fault or omission of any Defendant in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal; or (c) is or may be deemed to be or may be used as an admission or evidence that Plaintiffs would have received less than the Settlement Amount had the Action been prosecuted to conclusion. Neither this Stipulation nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of this Stipulation or the Settlement shall be admissible in any proceeding for any purpose, except to enforce the terms of the Settlement, and except that Defendants may file this Stipulation and/or the 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.

## **XII. Miscellaneous Provisions**

A. Within forty-five (45) days after the Effective Date, and subject to commercially reasonable efforts, Plaintiffs shall either return or destroy all designated Confidential Information and copies thereof. However, Plaintiffs shall not be required to locate, isolate, or destroy/return emails generated in connection with legal representation in this Action (including attachments to emails) that may include Confidential Information, or Confidential Information contained in

memoranda or draft or final expert reports. Nothing in this paragraph requires any party, its counsel, or their respective consultants, vendors or other affiliates, to delete or destroy data which may reside on one or more backup tapes or other media maintained for the purpose of disaster recovery, business continuity or other reasons, or requires more than reasonable and practical actions to locate, identify, or destroy any other electronic data. Defendants shall also at such time, and subject to commercially reasonable efforts, return or destroy all designated Confidential Information and copies thereof they have received from Lead Plaintiff or any third-party.

B. Notwithstanding the requirements of paragraph A of this Section, counsel may retain (1) attorney work product, including an index that refers or relates to Confidential Information; (2) draft or final expert reports, including exhibits thereto; and (3) one complete set of all documents filed with the Court, including any filed under seal. Any retained Confidential Information shall continue to be protected under the Confidentiality Protective Order entered by the Court.

C. At all times prior to and following the filing of this Stipulation with the Court, all of the Parties, including all of their respective attorneys and representatives, shall be prohibited from making public comments intended to disparage any other Party regarding the Claims and defenses asserted in the Action by any other Party. Nothing in this paragraph shall limit Defendants' ability to continue to publicly state that they believe that the Lead Plaintiff's Claims lack merit and that they deny wrongdoing as well as any liability for the Claims made against them. Nothing in this paragraph shall limit Lead Plaintiff or its counsel from making statements or expressing their belief concerning: (i) the merits of the Claims or defenses in the (ii) the terms and conditions, amount, benefits, or favorable nature of the Settlement; or (iii) the reasons and support for the Settlement, Plan of Allocation, and any application or applications described in

Section VII above. The Parties reserve their right to rebut, in a manner that such party determines to be appropriate (while protecting from disclosure confidential communications made in furtherance of settlement), any contention made in any public forum regarding the Action, including that the Action was brought or defended in bad faith or without a reasonable basis.

D. The Parties hereto: (a) acknowledge that it is their intent to consummate the Settlement contemplated by this Stipulation; (b) agree to cooperate to the extent necessary to effectuate and implement all terms and conditions of this Stipulation; and (c) agree to exercise their best efforts and to act in good faith to accomplish the foregoing terms and conditions of the Stipulation.

E. All counsel who execute this Stipulation represent and warrant that they have authority to do so on behalf of their respective clients.

F. All of the exhibits attached hereto are hereby incorporated by reference as though fully set forth herein.

G. This Stipulation may be amended or modified only by a written instrument signed by counsel for all Parties hereto or their successors in interest.

H. This Stipulation, exhibits attached hereto, and the Supplemental Agreement constitute the entire agreement between Plaintiffs on the one hand, and Defendants on the other hand, and supersede any and all prior agreements, written or oral, between the Parties. No representations, warranties or inducements have been made concerning this Stipulation or its exhibits other than the representations, warranties and covenants contained and memorialized in such documents.

I. This Stipulation may be executed in one or more original, photocopied or facsimile counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument.

J. This Stipulation shall be binding upon, and inure to the benefit of the successors, assigns, executors, administrators, affiliates (including parent companies), heirs and legal representatives of the Parties hereto. No assignment shall relieve any Party hereto of obligations hereunder.

K. All terms of this Stipulation and all exhibits hereto shall be governed and interpreted according to the internal laws of the State of New York without regard to its conflicts of law rules and in accordance with the laws of the United States.

L. All Parties hereby irrevocably submit to the jurisdiction of the Court with respect to enforcement of the terms of this Stipulation and for any suit, action, proceeding or dispute arising out of or relating to this Stipulation or the applicability of this Stipulation. In any action to enforce the terms of this Stipulation, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

M. The Parties to this Stipulation intend the Settlement to be a final and complete resolution of all disputes asserted or which could be asserted by the Class Members against the Released Defendants' Parties with respect to the Released Plaintiffs' Claims, and any potential counterclaims or cross-claims any Defendant could have asserted against Released Plaintiffs' Parties with respect to Released Defendants' Claims. Accordingly, Plaintiffs and Defendants agree not to assert in any forum that the litigation was brought by Plaintiffs or Class Counsel, or defended by Defendants, or their respective counsel, in bad faith or without a reasonable basis. The Parties hereto shall assert no Claims of any violation of Rule 11 of the Federal Rules of Civil

Procedure relating to the prosecution, defense, or settlement of the Action. The Parties agree that the amount paid and the other terms of the Settlement were negotiated at arm's-length and in good faith by the Parties, and reflect a settlement that was reached voluntarily after consultation with experienced legal counsel, and with the assistance of an experienced mediator, Jed Melnick.

N. 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 Parties, it being recognized that this Stipulation is the result of arm's-length negotiations between the Parties and all Parties have contributed substantially and materially to its preparation.

O. Except as otherwise provided herein, each Party shall bear its own fees and costs.

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

Q. The headings herein are used for the purpose of convenience and are not intended to have legal effect.

R. Notices required or permitted by this Stipulation shall be submitted either by overnight mail or, if expressly agreed and receipt acknowledged, by email as follows:

**To Plaintiffs:**

Joshua B. Silverman  
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10 South LaSalle Street  
Suite 3505  
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jbsilverman@pomlaw.com

**To Defendants:**

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New York, NY 10022  
stefan.atkinson@kirkland.com

Charles D. Cording  
WILKIE FARR & GALLAGHER  
LLP  
787 Seventh Avenue  
New York, NY 10019  
ccording@willkie.com

IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound.

**POMERANTZ LLP**



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Joshua B. Silverman  
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*Attorneys for Lead Plaintiff  
and the Class*

**KIRKLAND & ELLIS, LLP**



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*Attorneys for Casper Defendants*

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ccording@willkie.com

*Attorneys for Underwriter  
Defendants*

IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound.

**POMERANTZ LLP**

---

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*Attorneys for Lead Plaintiff  
and the Class*

**KIRKLAND & ELLIS, LLP**

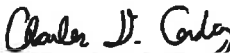
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ccording@willkie.com

*Attorneys for Underwriter  
Defendants*



WHEREAS, Lead Plaintiff Saleh Doron Gahtan (“Lead Plaintiff” or “Plaintiff”), on behalf of himself and the Class; and Defendants Casper Sleep, Inc. (“Casper” or “the Company”), Philip Krim, Gregory MacFarlane, Neil Parikh, Diane Irvine , Anthony Florence, Jack Lazar, Benjamin Lerer, Karen Katz, Dani Reiss (together with Casper, the “Casper Defendants”), Morgan Stanley & Co. LLC, Goldman Sachs & Co. LLC, Jefferies, LLC, BofA Securities, Inc., UBS Securities LLC, Citigroup Global Markets, Inc., Piper Sandler & Co., and Guggenheim Securities, LLC (the “Underwriter Defendants,” and together with the Casper Defendants, “Defendants,” and together with Lead Plaintiff, the “Parties” and each a “Party”), entered into the Stipulation of Settlement dated June 6, 2024 (the “Stipulation”) which is subject to review under Rule 23 of the Federal Rules of Civil Procedure, and which, together with the exhibits attached thereto, sets forth the

terms and conditions for the proposed settlement and dismissal of the above-captioned class action pending before the Court (the “Action”); and the Court having considered the Stipulation and the exhibits thereto, and Plaintiff’s motion and supporting papers, and finding that substantial and sufficient grounds exist for entering this Order;

NOW, THEREFORE, IT IS HEREBY ORDERED, this \_\_\_\_ day of \_\_\_\_\_, 202\_, that:

1. Capitalized terms used herein have the meanings defined in the Stipulation.
2. Pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure and for the purposes of the Settlement only, the Action is hereby preliminarily certified as a class action on behalf of all persons and entities that purchased or otherwise acquired Casper common stock pursuant or traceable to the Company’s February 7, 2020 initial public offering, and/or during the period from March 19, 2020, through May 12, 2020, both dates inclusive (the “Class”). Excluded from the Class are Defendants, any former or current officer or director of Casper or Durational Capital Management LP, members of their immediate families and their legal representatives, heirs, successors, or assigns, and any entity in which any of the above has or had a majority ownership interest. Also excluded from the Class are any persons and entities who or which submit a request for exclusion from the Class that is accepted by the Court.
3. This Court finds, preliminarily and for purposes of this Settlement only, that the prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (a) the number of Class Members is so numerous that joinder of all members of the Class is impracticable; (b) there are questions of law and fact common to the Class; (c) the Plaintiff’s claims are typical of the claims of the Class he seeks to represent; (d) Plaintiff fairly and adequately represents the interests of the Class; (e) questions of law and fact common to the Class predominate over any questions affecting only individual members of the Class; and

(f) a class action is superior to other available methods for the fair and efficient adjudication of the Action.

4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, preliminarily and for the purposes of this Settlement only, Plaintiff is certified as the Class Representative and his counsel, previously selected by Plaintiff and appointed by the Court during lead plaintiff proceedings, is hereby appointed as Class Counsel.

5. The Court finds that (a) the Stipulation resulted from good faith, arm's length negotiations, and (b) the Stipulation is sufficiently fair, reasonable and adequate to the Class Members to warrant providing notice of the Settlement to Class Members and holding a Settlement Hearing.

6. The Court hereby preliminarily approves the Settlement, subject to further consideration at a hearing ("Settlement Hearing") pursuant to Federal Rule of Civil Procedure 23(e), which is hereby scheduled to be held before the Court **[by Zoom] [in Courtroom 6F, 225 Cadman Plaza East Brooklyn New York 11201]** on \_\_\_\_\_ 202\_ at \_\_:\_\_\_ .m. for the following purposes:

- (a) to determine finally whether the applicable prerequisites for class action treatment under Federal Rules of Civil Procedure 23(a) and (b) are satisfied;
- (b) to determine finally whether the Settlement is fair, reasonable, and adequate, and should be approved by the Court;
- (c) to determine finally whether to approve the Settlement as provided under the Stipulation, entering the Final Approval Order and dismissing the Action on the merits and with prejudice, and to determine, among other things, whether the release of the Released Claims as against the Released Parties, as set forth in

the Stipulation, should be ordered, along with a permanent injunction barring efforts to prosecute any of the Released Claims extinguished by the release against any of the Released Parties, as also set forth in the Stipulation;

- (d) to determine finally whether the proposed Plan of Allocation for the distribution of the Net Settlement Fund is fair and reasonable and should be approved by the Court;
- (e) to consider any application of Class Counsel for an award of fees and reimbursement of litigation expenses, or an application for an Award to Lead Plaintiff;
- (f) to consider Class Members' objections to the Settlement, if any, whether submitted previously in writing or presented orally at the Settlement Hearing by Class Members (or by counsel on their behalf) provided that they gave proper notice that they intend to appear at the Settlement Hearing; and
- (g) to rule upon such other matters as the Court may deem appropriate.

7. The Court reserves the right to adjourn the Settlement Hearing to a later date and to approve the Settlement without modification, or with such modifications as may be agreed to by the Parties, and with or without further notice of any kind. The Court further reserves the right to finally approve the Settlement and dismiss the Action, on the merits and with prejudice, regardless of whether it has approved the Plan of Allocation or awarded fees or expenses.

8. The Court approves the form, substance, and requirements of (a) the Notice, (b) the Postcard Notice, (c) the Summary Notice, and (d) the Proof of Claim form, all of which are exhibits to the Settlement Stipulation.

9. Class Counsel has the authority to enter into the Settlement on behalf of the Class

and has the authority to act on behalf of the Class with respect to all acts or consents required by or that may be given pursuant to the Stipulation or such other acts that are reasonably necessary to consummate the Settlement.

10. For settlement purposes only, Strategic Claims Services is appointed and approved as the Settlement Administrator to supervise and administer the notice procedure as well as the processing of claims. Up to \$250,000 in notice and administration costs, as approved by Class Counsel, may be paid to the Settlement Administrator without further order of this Court.

11. Within sixteen (16) calendar days of the entry of this Order, Class Counsel, through the Settlement Administrator, shall either (a) email the Notice and Proof of Claim (or a link thereto) to Class Members for whom the Settlement Administrator is able to obtain email addresses, substantially in the form annexed to the Stipulation as Exhibits A-1 and A-4 or (b) cause the Postcard Notice directing Class Members to the Notice and Proof of Claim, substantially in the form annexed to the Stipulation as Exhibit A-2 to be mailed, by first-class mail, postage prepaid, to Class Members who can be identified with reasonable effort by Class Counsel, through the Settlement Administrator.

12. The Settlement Administrator shall provide the Notice and Postcard Notice to nominees and custodians, and such nominees and custodians shall, within ten (10) calendar days of receipt, either: (i) request copies of the Postcard Notice sufficient to send to beneficial owners for whom they are nominee or custodian; or (ii) request an electronic link to Notice and Proof of Claim (“Notice and Claim Link”), and within ten (10) calendar days after receipt thereof, email the Notice and Claim Link to such beneficial owners for whom valid email addresses are available; or (iii) provide the Settlement Administrator with lists of the names, last known addresses, and email addresses to the extent known of such beneficial owners, in which event the Settlement

Administrator shall promptly deliver a Notice and Claim Link electronically, or mail a Postcard Notice, to such beneficial owners. Copies of the Postcard Notice and Notice and Claim Links shall be made available to any nominee or custodian requesting the same for the purpose of distribution to beneficial owners. Nominees or custodians (other than the Underwriter Defendants herein) who elect to send the Postcard Notice or Notice and Claim Link to their beneficial owners shall confirm in writing to the Settlement Administrator that the mailing or emailing has been made as directed. The Settlement Administrator shall, if requested, reimburse nominees or custodians out of the Settlement Fund solely for their reasonable out-of-pocket expenses, incurred in providing notice to beneficial owners, which expenses would not have been incurred except for the providing names and addresses up to \$0.05 per name (with address and email address) provided to the Settlement Administrator; up to \$0.05 per Postcard Notice plus postage at the rate used by the Settlement Administrator; or up to \$0.05 per Notice and Claim Link sent by email, and subject to further order of this Court with respect to any dispute concerning such reimbursement. Those expenses will be paid upon request and submission of appropriate supporting documentation.

13. Class Counsel shall, at least seven (7) calendar days before the Settlement Hearing, serve upon counsel for Defendants and file with the Court proof of the mailing and emailing, respectively, of the Postcard Notice and Notice and Claim Link, as required by this Order.

14. Class Counsel, through the Settlement Administrator, shall cause the Stipulation and its exhibits, this Order, and a copy of the Notice and Proof of Claim to be posted on the Settlement website within sixteen (16) calendar days after entry of this Order.

15. Class Counsel, through the Settlement Administrator, shall cause the Summary Notice to be published electronically once on a national newswire within ten (10) calendar days

after the Postcard Notice mailing or Notice and Claim Link emailing. Class Counsel shall, at least seven (7) calendar days before the Settlement Hearing, serve upon counsel for Defendants and file with the Court proof of publication of the Summary Notice.

16. The forms and methods set forth herein of notifying Class Members of the Settlement and its terms and conditions meet the requirements of due process, Rule 23 of the Federal Rules of Civil Procedure, and Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. §78u-4(a)(7), as amended by the Private Securities Litigation Reform Act of 1995; constitute the best notice practicable under the circumstances; and constitute due and sufficient notice to all Persons entitled thereto. No Class Member will be relieved from the terms and conditions of the Settlement, including the releases provided for therein, based upon the contention or proof that such Class Member failed to receive actual or adequate notice.

17. In order to be entitled to participate in recovery from the Net Settlement Fund after the Effective Date, each Class Member shall take the following action and be subject to the following conditions:

- (a) A properly completed and executed Proof of Claim and Release Form must be submitted to the Settlement Administrator: (a) electronically through the Settlement website, \_\_\_\_\_ by 11:59 p.m. Eastern Time on \_\_\_\_\_, 202\_\_; or (b) at the Post Office Box indicated in the Notice, postmarked no later than \_\_\_\_\_, 202\_\_ (thirty (30) calendar days prior to the Settlement Hearing). This deadline may be further extended by Order of the Court. Each Proof of Claim shall be deemed to have been submitted when: (a) the claim receives a confirmation notice from Strategic Claims Services for electronic submissions; or (b) legibly postmarked (if properly addressed and mailed by

first-class mail) provided such Proof of Claim is actually received before the filing of a motion for an Order of the Court approving distribution of the Net Settlement Fund. Any Proof of Claim submitted in any other manner shall be deemed to have been submitted when it was actually received by the Settlement Administrator at the address designated in the Notice.

- (b) the Proof of Claim submitted by each Class Member must satisfy the following conditions: (i) it must be properly completed, signed, and submitted in a timely manner in accordance with the provisions of the preceding subparagraph; (ii) it must be accompanied by adequate supporting documentation for the transactions reported therein, in the form of broker confirmation slips, broker account statements, an authorized statement from the broker containing the transactional information found in a broker confirmation slip, or such other documentation as is deemed adequate by the Settlement Administrator or Class Counsel; (iii) if the Person executing the Proof of Claim is acting in a representative capacity, a certification of his current authority to act on behalf of the Class Member must be provided with the Proof of Claim; and (iv) the Proof of Claim must be complete and contain no material deletions or modifications of any of the printed matter contained therein and must be signed under penalty of perjury. The Settlement Administrator or Class Counsel may request additional documentation of any claim they deem to be insufficiently documented.
- (c) Once the Settlement Administrator has considered a timely submitted Proof of Claim, it shall determine whether such claim is valid, deficient, or rejected. For



each claim determined to be either deficient or rejected, the Settlement Administrator shall send a deficiency letter or rejection letter as appropriate, describing the basis on which the claim was so determined. Persons who timely submit a Proof of Claim that is deficient or otherwise rejected shall be afforded a reasonable time (at least ten (10) calendar days) to cure such deficiency if it shall appear that such deficiency may be cured. If any Claimant whose claim has been rejected in whole or in part wishes to contest such rejection, the Claimant must, within ten (10) calendar days after the date of mailing of the notice, serve upon the Settlement Administrator a notice and statement of reasons indicating the Claimant's ground for contesting the rejection along with any supporting documentation, and requesting a review thereof by the Court. If an issue concerning a claim cannot be otherwise resolved, Class Counsel shall thereafter present the request for review to the Court.

- (d) As part of the Proof of Claim, each Class Member shall submit to the jurisdiction of the Court with respect to the claim submitted, and shall, upon the Effective Date, release all claims as provided in the Stipulation. No discovery shall be allowed on the merits of the Action or the Settlement in connection with the processing of the Proof of Claim and Release Forms, including any discovery aimed at any Party hereto.

18. All Class Members who do not submit valid and timely Proofs of Claim will be forever barred from receiving any payments from the Net Settlement Fund, but will in all other respects be subject to and bound by the provisions of the Stipulation and the Final Approval Order, if entered.

19. Class Members shall be bound by all determinations and judgments in this Action whether favorable or unfavorable, unless such Persons request exclusion from the Class in a timely and proper manner, as hereinafter provided. A Class Member wishing to make such request for exclusion shall mail it by first-class mail, postage prepaid, or otherwise deliver it, so that it is received no later than \_\_\_\_\_, 202\_\_ (twenty-one (21) calendar days prior to the Settlement Hearing) (“Exclusion Deadline”), to the address listed in the Notice. In order to be valid, such request for exclusion (A) must clearly indicate the name and address and phone number and email contact information (if any) of the Person seeking exclusion, and state that the sender specifically “requests to be excluded from the Settlement and Class in *Lematta v. Casper Sleep, Inc., et al.*, Case No. 20-cv-02744 (E.D.N.Y.)” and (B) state the date, number of shares and dollar amount of each Casper securities purchase or acquisition pursuant or traceable to the Company’s February 7, 2020 initial public offering, and/or during the period from March 19, 2020, through May 12, 2020, both dates inclusive, and any sale transactions, as well as the number of Casper shares held by the Person as of March 19, 2020 and May 12, 2020. In order to be valid, such request for exclusion must be submitted with documentary proof: (i) of each purchase or acquisition and, if applicable, sale of Casper securities during the Class Period; and (ii) demonstrating the Person’s status as a beneficial owner of the Casper securities. Any such request for exclusion must be signed and submitted by the beneficial owner under penalty of perjury. The request for exclusion shall not be effective unless it provides the required information, is legible, and is made within the time stated above, or the exclusion is otherwise accepted by the Court. Class Counsel may contact any Person filing a request for exclusion, or their attorney if one is designated, to discuss the request for exclusion.

20. The Settlement Administrator shall provide all requests for exclusion and supporting documentation submitted therewith (including untimely requests and revocations of requests) to counsel for the Parties (by email) as soon as possible and no later than the Exclusion Deadline or upon the receipt thereof (if later than the Exclusion Deadline). The Class will not include any Person who delivers a valid and timely request for exclusion.

21. Any Person that submits a request for exclusion may thereafter submit to the Settlement Administrator a written revocation of that request for exclusion, provided that it is received no later than two (2) business days before the Settlement Hearing, in which event that Person will be included in the Class.

22. All Persons who submit a valid, timely, and unrevoked request for exclusion will be forever barred from receiving any payments from the Net Settlement Fund.

23. The Court will consider comments and/or objections to the Settlement, the Plan of Allocation, or any application for an award of fees or reimbursement of expenses, provided, however, that no Class Member or other Person shall be heard or entitled to contest the approval of the terms and conditions of the proposed Settlement or, if approved, the Final Approval Order, or any other order relating thereto, unless that Person has served copies of any objections, papers, and briefs to the following counsel at least twenty-one (21) calendar days prior to the Settlement Hearing Date:

**To Plaintiff:**

Joshua B. Silverman  
POMERANTZ LLP  
10 South LaSalle Street  
Suite 3505  
Chicago, IL 60603  
jbsilverman@pomlaw.com

**To Defendant:**

Stefan Atkinson, P.C.  
KIRKLAND & ELLIS LLP  
601 Lexington Avenue  
New York, NY 10022  
stefan.atkinson@kirkland.com

Charles D. Cording  
WILKIE FARR & GALLAGHER LLP

787 Seventh Avenue  
New York, NY 10019  
ccording@willkie.com

To be valid, any such objection must contain the Person's: (1) name, address, and telephone number; (2) a list of all purchases and sales of Casper securities pursuant or traceable to the Company's February 7, 2020 initial public offering, and/or during the period from March 19, 2020, through May 12, 2020, both dates inclusive, in order to show membership in the Class; (3) all grounds for the objection, including any legal support known to the Class Member and/or his, her, or its counsel; and (4) the name, address and telephone number of all counsel who represent the Class Member, including former or current counsel who may be entitled to compensation in connection with the objection. Attendance at the Settlement Hearing is not necessary but Persons wishing to be heard orally in opposition to the approval of the Settlement Stipulation, the Plan of Allocation, and/or application for an award of fees or reimbursement of expenses are required to indicate in their written objection (or in a separate writing that is submitted in accordance with the deadline and after instruction pertinent to the submission of a written objection) that they intend to appear at the Settlement Hearing and identify any witnesses they may call to testify or exhibits they intend to introduce into evidence at the Settlement Hearing. Class Members do not need to appear at the Settlement Hearing or take any other action to indicate their approval.

24. Any Settlement Class Member or other Person who does not object in the manner prescribed above shall be deemed to have waived all such objections and shall forever be foreclosed from making any objection to the fairness, adequacy, or reasonableness of the Settlement, the Final Approval Order to be entered approving the Settlement, the Plan of Allocation, and/or any application for an award of fees or reimbursement of expenses, unless

otherwise ordered by the Court; shall be bound by all the terms and provisions of the Stipulation and by all proceedings, orders, and judgments in the Action; and shall also be foreclosed from appealing any judgment or order entered in this Action.

25. The Court reserves the right to adjourn the Settlement Hearing or to conduct it remotely without any further notice other than entry of an Order on the Court's docket, and to approve the Settlement without further notice to the Class.

26. All papers in support of the Settlement, the Plan of Allocation and/or any application for an award of fees or reimbursement of expenses shall be filed and served no later than twenty-eight (28) calendar days before the Settlement Hearing.

27. Any submissions filed in response to any objections or in further support of the Settlement, the Plan of Allocation and/or any application for an award of fees or reimbursement of expenses any application for an award of fees or reimbursement of expenses shall be filed no later than seven (7) calendar days prior to the Settlement Hearing.

28. Defendants and their counsel shall have no responsibility for, or liability with respect to, the Plan of Allocation or any application for attorneys' fees and interest, or expenses or payments to the Lead Plaintiff submitted by Class Counsel, and such matters will be considered separately from the fairness, reasonableness, and adequacy of the Settlement.

29. Pending final determination of whether the Settlement should be approved, Lead Plaintiff and all Class Members shall be enjoined from commencing, prosecuting, or attempting to prosecute any Released Claims against any Released Party in any court or tribunal or proceeding (including in the Action), unless and until the Stipulation is cancelled and terminated pursuant to the Stipulation.

30. All funds held in the Escrow Account shall be deemed and considered to be in the custody 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 Settlement Stipulation and Plan of Allocation and/or further order(s) of the Court.

31. All funds held in the Escrow Account shall be deemed and considered to be in the custody 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 Plan of Allocation and/or further order(s) of the Court.

32. Neither the Stipulation, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, nor this Order shall be construed as an admission or concession by Defendants, their counsel or any of the other Released Parties of the truth of any of the allegations in the Action, or of any liability, fault, or wrongdoing of any kind and shall not be construed as, or deemed to be evidence of or an admission or concession that Plaintiff or any Class Members have suffered any damages, harm, or loss. Moreover, neither the Stipulation, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, nor this Order shall be construed as, or argued to be, a waiver of any defenses in the Action. Further, neither the Stipulation, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, nor this Order shall be construed as an admission or concession by Plaintiff of the validity of any factual or legal defense or of the infirmity of any of the claims or facts alleged in this Action.

33. In the event the Settlement is not consummated in accordance with the terms of the Stipulation, then the Stipulation and this Order (including any amendment(s) thereof, and except as expressly provided in the Stipulation or by order of the Court) shall be null and void, of no

further force or effect, and without prejudice to any Party, and may not be introduced as evidence or used in any action or proceeding by any Person against the Parties or the Released Parties, and each Party shall be restored to his, her or its respective litigation positions as they existed prior to the execution date of the Stipulation, pursuant to the terms of the Stipulation.

34. The Court reserves the right to alter the time or the date or manner of the Settlement Hearing without further notice to the Class Members, provided that the Settlement Hearing shall not be set at a time or date earlier than the time and date set forth in ¶6 above. The Court retains jurisdiction to consider all further matters relating to the administration and enforcement of the Settlement.

Dated: \_\_\_\_\_, 202\_\_

\_\_\_\_\_  
Hon. Margo K. Brodie  
UNITED STATES DISTRICT JUDGE

**Exhibit A-1**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

ROBERT LEMATTA, Individually and On Behalf of All Others Similarly Situated,	)	
	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:20-cv-02744
	)	
	)	Hon. Margo K. Brodie
	)	
CASPER SLEEP, INC., et al.,	)	
	)	
	)	
Defendants.	)	
	)	
	)	

**NOTICE OF PENDENCY AND SETTLEMENT OF CLASS ACTION**

**TO: ALL PERSONS AND ENTITIES THAT PURCHASED OR OTHERWISE ACQUIRED CASPER COMMON STOCK PURSUANT OR TRACEABLE TO THE COMPANY’S FEBRUARY 7, 2020 INITIAL PUBLIC OFFERING, AND/OR DURING THE PERIOD FROM MARCH 19, 2020, THROUGH MAY 12, 2020, BOTH DATES INCLUSIVE (THE “CLASS”).**

EXCLUDED FROM THE CLASS ARE DEFENDANTS, ANY FORMER OR CURRENT OFFICER OR DIRECTOR OF CASPER OR DURATIONAL CAPITAL MANAGEMENT LP, MEMBERS OF THEIR IMMEDIATE FAMILIES AND THEIR LEGAL REPRESENTATIVES, HEIRS, SUCCESSORS, OR ASSIGNS, AND ANY ENTITY IN WHICH ANY OF THE ABOVE HAS OR HAD A MAJORITY OWNERSHIP INTEREST. ALSO EXCLUDED FROM THE CLASS ARE ANY PERSONS AND ENTITIES WHO OR WHICH SUBMIT A REQUEST FOR EXCLUSION FROM THE CLASS THAT IS ACCEPTED BY THE COURT.

***PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED BY LEGAL PROCEEDINGS IN THIS LITIGATION. IF YOU ARE A MEMBER OF THE CLASS DESCRIBED HEREIN, YOU MAY BE ENTITLED TO RECEIVE A PAYMENT PURSUANT TO THE PROPOSED SETTLEMENT DESCRIBED BELOW.***

**CLASS RECOVERY:** This Notice has been sent to you pursuant to an Order of the United States District Court for the Eastern District of New York (the “Court”) in the above-captioned action (the “Action”). This is not a solicitation from a lawyer. One of the purposes of this Notice is to inform you of the proposed Settlement of the Action for \$3,000,000 (Three Million U.S.



Dollars). Lead Plaintiff Saleh Doron Gahtan (“Plaintiff”) estimates that approximately 8.4 million shares of Casper may have been impacted. If all such shares were impacted, and all holders are eligible to and elect to participate in the Settlement, the average recovery per share could be \$0.35, before deduction of any fees, expenses, costs, and awards described herein. The actual amount disbursed to members of the Class who participate in the Settlement may be more or less than this figure.

**POTENTIAL OUTCOME OF THE CASE:** The parties vigorously disagree on both liability and damages, and do not agree on what damages per share would be recoverable if Plaintiff prevailed on each claim alleged under the Securities Act of 1933 and the Securities Exchange Act of 1934. The issues on which the parties disagree include, but are not limited to: (a) whether Defendants made any material misrepresentations or omissions; (b) whether Defendants acted with the requisite state of mind (*scienter*); (c) the materiality of the allegedly false and misleading statements; and (d) the effect, if any, of those statements on the price of Casper’s common stock. Defendants deny that they are liable to the Plaintiff or the Class, and the Settlement is not an admission of wrongdoing or liability.

**REASONS FOR SETTLEMENT:** Plaintiff believes that the proposed Settlement is fair, reasonable, adequate, and in the best interests of, the Class. Plaintiff and his counsel have reached this conclusion after investigating and considering, among other things, the strengths and weaknesses of Plaintiff’s claims, including Defendants’ contentions that the Class’s claims are without merit and have not been adequately pled, the uncertainties of this complex litigation, the legal and factual defenses available to Defendants, and the concrete benefits provided by the Settlement to the members of the Class. The Settlement was entered into after extended mediation proceedings. Without admitting any wrongdoing or liability whatsoever, Defendants are nevertheless willing to settle to avoid the continuing burden, expense, and inconvenience of this Action, as well as to avoid the cost, delay, and risk of continuing the Action, provided that all of the claims of the Class are settled and compromised.

**ATTORNEYS’ FEES AND COSTS SOUGHT:** As Class Counsel, Pomerantz LLP, has not received any payment for its services in conducting this litigation on behalf of Plaintiff and Class Members, nor has it been reimbursed for its out-of-pocket expenditures. If the Settlement is approved by the Court, Class Counsel will apply to the Court for attorneys’ fees not to exceed 33 1/3% of the Settlement Amount, and reimbursement of expenses not to exceed \$280,000, and a compensatory award to Plaintiff not to exceed \$15,000. If Class Counsel applies for awards in the maximum amount referenced, and the Court grants such awards, the total average cost per share would be \$0.154.

**NOTICE AND ADMINISTRATION COSTS:** The Court has authorized and the parties have agreed that no more than \$250,000 of the Settlement Amount may be expended to cover the costs related to the publication and mailing of Notice to the Class and Administration of all claims filed by Class Members without further approval. Any amount expended in excess of \$250,000 for Settlement Administration costs must be approved by the Court.

**IDENTIFICATION OF PLAINTIFF’S COUNSEL:** Requests for further information regarding the Action and this Notice may be directed to Class Counsel: Joshua B. Silverman, Esq., Pomerantz LLP, 10 South LaSalle St., Suite 3505, Chicago, IL 60603, 312-377-1181, jbsilverman@pomlaw.com.

## **I. THE CLASS INVOLVED IN THE PROPOSED SETTLEMENT**

The proposed Settlement affects the rights of Class Members. The Class consists of:

**All persons and entities that purchased or otherwise acquired Casper common stock pursuant or traceable to the Company's February 7, 2020 initial public offering, and/or during the period from March 19, 2020, through May 12, 2020, both dates inclusive.**

Excluded from the Class are Defendants, any former or current officer or director of Casper or Durational Capital Management LP, members of their immediate families and their legal representatives, heirs, successors, or assigns, and any entity in which any of the above has or had a majority ownership interest. Also excluded are any persons and entities who timely requested exclusion in compliance with the procedures described in Section IV.

*The sending of this Notice should not be construed as any indication of the Court's view as to the merits of any claims or defenses asserted by any party to this Action.*

## **II. THE LITIGATION**

### **Summary**

This Action was initiated on June 19, 2020, asserting that Casper, certain of its executives, and the underwriters of Casper's initial public offering ("IPO") misled investors in violation of Sections 11 and 15 of the Securities Act of 1933 and/or Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 about Casper's profitability, profit trends and distribution network.

On August 27, 2020, Mr. Gahtan was appointed lead plaintiff, and Pomerantz approved as lead counsel. On October 27, 2020, Plaintiff filed an Amended Complaint. Following the withdrawal of a motion to stay proceedings in favor of parallel state court actions, Plaintiff filed a Second Amended Complaint on June 30, 2021. The parties thereafter briefed a motion to dismiss. On September 30, 2022, the Court largely denied Defendants' motion to dismiss, and upheld Plaintiff's most significant claims about profitability and distribution. On March 27, 2023, Defendants answered the Second Amended Complaint. The Parties then commenced discovery.

### **Investigation and Discovery Conducted by Counsel**

Prior to filing the Amended Complaint, Class Counsel performed an extensive investigation into the merits of the Action, including consultation with experts concerning the amount of damages suffered by the Class; interviews of more than a dozen confidential witnesses who previously worked at Casper; detailed reviews of all relevant public filings, SEC filings, press releases, court filings in related state actions, and other public statements; review of analyst reports; and research of the applicable law with respect to the claims asserted in the complaints filed in the Action, and the potential defenses thereto.

From March 2023 through January 2024, counsel for Plaintiff and Defendants completed extensive fact discovery. Plaintiff and Defendants each propounded requests for production of documents upon the opposing party and Defendants propounded interrogatories upon Plaintiff.

Plaintiff also served third-party subpoenas for production of documents on Casper's logistics provider and an investment firm affiliated with Casper's CEO. Over the course of the approximately 10-month discovery period, Class Counsel reviewed and analyzed over 258,000 pages of documents produced by Defendants and third parties. During that same timeframe, Plaintiff produced documents to Defendants and responded to Defendants' interrogatories. Plaintiff further took or participated in eleven depositions of key witnesses.

### **Proposed Settlement**

Class Counsel and Defendants' Counsel participated in protracted negotiations including two mediation sessions on March 9, 2023 and April 4, 2024 before Jed Melnick, Esq., an experienced mediator affiliated with JAMS ADR. During these negotiations, the parties discussed, among other things, the respective claims and defenses, damage analyses, legal analyses, the evidence to be offered by the parties at trial, structures for a possible settlement, and other important factual and legal issues.

After a second mediation session on April 4, 2024, the Parties accepted a mediator's proposal to settle this Action for a cash payment by Casper of \$3,000,000, and further documented in the Stipulation and Agreement of Settlement executed on June 6, 2024 ("Stipulation"). Class Counsel believe that the claims asserted in the Action have merit and that the evidence developed to date in the action supports the claims asserted therein. By entering the Settlement, Defendants do not concede the truth of any of the claims against them and continue to deny any wrongdoing.

Class Counsel recognize the expense and length of continued proceedings, trial, and appeals, and have taken into account the uncertain outcome and the risk of any litigation, especially complex securities fraud class actions as here, as well as the risks of collection. In light of these risks, Class Counsel believe that the Settlement set forth in the Stipulation confers a meaningful benefit upon the Class. Based on their evaluation, Class Counsel have determined that the Settlement is in the best interests of the Class.

### **The Release**

In consideration for the payment of the Settlement Amount to the Settlement Fund, Class Members who do not file for exclusion from the Class will release, discharge, and dismiss with prejudice all Plaintiffs' Released Claims, without costs to any party except as provided herein, upon the Effective Date. Plaintiff and all other Class Members, whether or not any such Person submits a Proof of Claim and Release Form ("Proof of Claim") or shares in the Net Settlement Fund, on behalf of themselves and each of their predecessors, successors, parents, subsidiaries, affiliates, custodians, agents, assigns, representatives, heirs, executors, trustees and administrators, will be deemed by this Settlement on the Effective Date to release and forever discharge any and all of the Plaintiffs' Released Claims.

On the Effective Date, all Class Members, and anyone claiming through or on behalf of any of them, will be forever barred and enjoined from commencing, instituting, prosecuting, or continuing to prosecute any action or other proceedings asserting Plaintiffs' Released Claims in any court of law or equity, arbitration tribunal, or administrative forum. Defendants have also released claims against Plaintiff, Class Counsel, Class Members, and their related persons arising out of the prosecution of this Action.

### **III. PROPOSED PLAN OF ALLOCATION**

The Settlement Fund less taxes, approved costs, fees, and expenses (the “Net Settlement Fund”) shall be distributed to members of the Class who submit valid Proofs of Claim (“Authorized Claimants”).

The Plan of Allocation is a matter separate and apart from the proposed Settlement, and any decision by the Court concerning the Plan of Allocation shall not affect the validity or finality of the proposed Settlement. The Court may approve the Plan of Allocation with or without modifications agreed to among the Parties, or another plan of allocation, without further notice to Class Members. Any orders regarding a modification of the Plan of Allocation will be posted to the Settlement website, [www.strategicclaims.net/casper/](http://www.strategicclaims.net/casper/).

The Claims Administrator shall determine each Authorized Claimant’s pro rata share of the Net Settlement Fund based upon each Authorized Claimant’s “Recognized Loss.” The Recognized Loss formula is not intended to be an estimate of the amount of what a Class Member lost or might have been able to recover after a trial; nor is it an estimate of the amount that will be paid to Authorized Claimants pursuant to the Settlement. The Recognized Loss formula is simply the basis upon which the Net Settlement Fund will be proportionately allocated to Authorized Claimants. To the extent there are sufficient funds in the Net Settlement Fund, each Authorized Claimant will receive an amount equal to the Authorized Claimant’s Recognized Loss and subject to the provisions in the preceding paragraph. If, however, the amount in the Net Settlement Fund is not sufficient to permit payment of the total Recognized Loss of each Authorized Claimant, then each Authorized Claimant shall be paid the percentage of the Net Settlement Fund that each Authorized Claimant’s Recognized Loss bears to the total Recognized Losses of all Authorized Claimants and subject to the provisions in the preceding paragraph.

If any funds remain in the Net Settlement Fund by reason of uncashed checks, or otherwise, after the Claims Administrator has made reasonable and diligent efforts to have Authorized Claimants who are entitled to participate in the distribution of the Net Settlement Fund cash their distribution checks, then any balance remaining in the Net Settlement Fund six (6) months after the initial distribution of such funds shall be used: (i) first, to pay any amounts mistakenly omitted from the initial distribution to Authorized Claimants; (ii) second, to pay any additional Notice and Administration Costs incurred in administering the Settlement; and (iii) finally, to make a second distribution to Authorized Claimants who cashed their checks from the initial distribution and who would receive at least \$20.00 from such second distribution, after payment of the estimated costs or fees to be incurred in administering the Net Settlement Fund and in making this second distribution, if such second distribution is economically feasible.

The Plan of Allocation takes into consideration the limitation on damages provision of the Private Securities Litigation Reform Act (“PSLRA”), 15 U.S.C. § 78u-4(e) which incorporates a 90-day lookback period, the advice of Plaintiff’s experts, and the principles of economic loss articulated by the Supreme Court in *Dura Pharmaceuticals, Inc. v. Broudo*, 544 U.S. 336 (2005). For purposes of this Settlement, the Recognized Loss shall be calculated as follows:

### **The Basis For Calculating Your Recognized Loss**

The \$3,000,000 settlement amount and any interest earned thereon shall be the Settlement Fund. The Settlement Fund less taxes, approved costs, fees and expenses (the “Net Settlement Fund”) shall be distributed to members of the Class who submit valid Proofs of Claim (“Authorized Claimants”).

The Claims Administrator shall determine each Authorized Claimant’s *pro rata* share of the Net Settlement Fund based upon each Authorized Claimant’s “Recognized Loss.” The Recognized Loss formula is not intended to be an estimate of the amount of what a Class Member lost or might have been able to recover after a trial; nor is it an estimate of the amount that will be paid to Authorized Claimants pursuant to the Settlement. The Recognized Loss formula is simply the basis upon which the Net Settlement Fund will be proportionately allocated to Authorized Claimants.

The Plan of Allocation takes into consideration the Limitation on Damages provision of the PSLRA, 15 U.S.C. § 78u-4(e), the advice of Plaintiffs’ experts, and the principles of economic loss articulated by the Supreme Court in *Dura Pharmaceuticals, Inc. v. Broudo*, 544 U.S. 336 (2005). For purposes of this Settlement, the Recognized Loss shall be calculated as follows:

1. **For Casper Common Stock purchased between February 7, 2020 and March 18, 2020, and sold on or before June 18, 2020**, the Recognized Loss per share is *the lesser of* (but not less than zero):
  - a. \$12 (the IPO offer price) *minus* the sale price; or
  - b. the purchase price *minus* the sale price.
2. **For Casper Common Stock purchased between February 7, 2020 and March 18, 2020, and held through at least June 19, 2020**, the Recognized Loss per share is *the lesser of* (but not less than zero):
  - a. \$12 (the IPO offer price) *minus* the greater of the sale price or \$8.78 (the closing price on June 19, 2020); or
  - b. the purchase price *minus* the sale price.
3. **For Casper Common Stock purchased between March 19, 2020 and May 11, 2020, inclusive, and sold on or before May 11, 2020**, the Recognized Loss per share is *the lesser of* (but not less than zero):
  - a. \$12 (the IPO offer price) *minus* the sale price; or
  - b. the purchase price *minus* the sale price.
4. **For Casper Common Stock purchased between March 19, 2020 and May 11, 2020, inclusive, and held or sold between May 12, 2020 and June 19, 2020**, the

Recognized Loss per share is equal to the *greater of* (but not less than zero):

- a. the *lesser of* (i) \$12 *minus* the sale price, or if held through June 18, 2020, \$12 *minus* the *greater of* the sale price or \$8.78 (the closing price on June 19, 2020) or (ii) the purchase price *minus* the sale price; and
- b. the *lesser of* \$1.53 per share, or the purchase price *minus* the “90-day lookback value” on the date of sale provided in Table 1 below; and

5. **For Casper Common Stock purchased on or after May 12, 2020 and before June 19, 2020**, the Recognized Loss per share is *the lesser of* (but not less than zero):

- a. \$12 (the IPO offer price) *minus* the sale price, or if held through June 18, 2020, \$12 *minus* the greater of the sale price or \$8.78 (the closing price on June 19, 2020); or
- b. the purchase price *minus* the sale price.



Table 1					
Sale / Disposition Date	90-Day Lookback Value	Sale / Disposition Date	90-Day Lookback Value	Sale / Disposition Date	90-Day Lookback Value
5/12/2020	\$6.37	6/11/2020	\$7.37	7/13/2020	\$8.01
5/13/2020	\$6.54	6/12/2020	\$7.40	7/14/2020	\$8.01
5/14/2020	\$6.47	6/15/2020	\$7.45	7/15/2020	\$8.01
5/15/2020	\$6.50	6/16/2020	\$7.50	7/16/2020	\$8.01
5/18/2020	\$6.52	6/17/2020	\$7.58	7/17/2020	\$8.00
5/19/2020	\$6.52	6/18/2020	\$7.64	7/20/2020	\$8.00
5/20/2020	\$6.53	6/19/2020	\$7.68	7/21/2020	\$7.99
5/21/2020	\$6.58	6/22/2020	\$7.72	7/22/2020	\$7.99
5/22/2020	\$6.61	6/23/2020	\$7.76	7/23/2020	\$7.98
5/26/2020	\$6.68	6/24/2020	\$7.80	7/24/2020	\$7.96
5/27/2020	\$6.72	6/25/2020	\$7.83	7/27/2020	\$7.97
5/28/2020	\$6.74	6/26/2020	\$7.85	7/28/2020	\$7.98
5/29/2020	\$6.76	6/29/2020	\$7.88	7/29/2020	\$8.00
6/1/2020	\$6.80	6/30/2020	\$7.91	7/30/2020	\$8.02
6/2/2020	\$6.84	7/1/2020	\$7.94	7/31/2020	\$8.04
6/3/2020	\$6.93	7/2/2020	\$7.96	8/3/2020	\$8.04
6/4/2020	\$7.00	7/6/2020	\$7.99	8/4/2020	\$8.04
6/5/2020	\$7.12	7/7/2020	\$8.00	8/5/2020	\$8.05
6/8/2020	\$7.25	7/8/2020	\$8.02	8/6/2020	\$8.06
6/9/2020	\$7.32	7/9/2020	\$8.02	8/7/2020	\$8.07
6/10/2020	\$7.36	7/10/2020	\$8.03	N/A	N/A

**General Provisions:**

1. There shall be no Recognized Loss attributed to any Casper securities other than Casper Common Stock.
2. The date of a purchase or sale of Casper Common Stock is the “trade” date, and not the “settlement” date. The date of purchase for shares purchased in the IPO is February 7, 2020.
3. The first-in, first-out basis (“FIFO”) will be applied to both purchases and sales.
4. The date of covering a “short sale” is deemed to be the date of purchase of Casper Common Stock; and the date of a “short sale” is deemed to be the date of sale of Casper Common Stock. Shares originally sold short will have a Recognized Loss of zero.
5. Exercise of option contracts into Casper Common Stock will be considered to be purchases or sales of Casper Common Stock as of the date of the exercise.

6. No cash payment will be made on a claim where the potential distribution amount is less than \$20. Please be advised that if you did not incur a Recognized Loss as defined in the Plan of Allocation you will not receive a cash distribution from the Net Settlement Fund, but you will be bound by all determinations and judgments of the Court in connection with the Settlement, including being barred from asserting any of the Released Claims against the Released Parties.

7. The Court has reserved jurisdiction to allow, disallow or adjust the claim of any Class Member on equitable grounds.

8. No person shall have any claim against Class Counsel, the Claims Administrator or other agent designated by Class Counsel, or any Defendant or any Defendants' Counsel based on the distribution made substantially in accordance with the Stipulation and this Plan of Allocation, or further orders of the Court.

9. Class members who do not submit valid Proofs of Claim will not share in the settlement proceeds. Class members who do not either submit a Request for Exclusion or submit a valid Proof of Claim will nevertheless be bound by the settlement and the Order and Final Judgment of the Court dismissing this Action.

#### **IV. REQUESTING EXCLUSION FROM THE CLASS**

##### **IF YOU ARE A MEMBER OF THE CLASS, YOU MAY BE ELIGIBLE TO SHARE IN THE BENEFITS OF THIS SETTLEMENT AND WILL BE BOUND BY ITS TERMS UNLESS YOU EXCLUDE YOURSELF FROM THE CLASS.**

Each member of the Class shall be bound by all determinations and judgments of the Court in connection with the Settlement, whether favorable or unfavorable, unless such Class Member shall mail, by first-class mail, sufficient postage prepaid, a written request for exclusion from the Class, received no later than \_\_\_\_\_, 202\_\_, addressed to the Claims Administrator at:

Lematta v. Casper Sleep, Inc., et al.  
c/o Strategic Claims Services  
P.O. Box 230  
600 N. Jackson Street, Suite 205  
Media, PA 19063

Such request for exclusion shall be in a form that sufficiently identifies (1) the name and address, phone number, and email contact information (if any) of the person(s) or entity seeking exclusion, (2) a list of all transaction(s) involving Casper securities during the period from February 7, 2020 through May 12, 2020, including the number of shares, principal amount and trade date of each purchase and sale; and (3) specifically state that the person(s) "requests to be excluded from the Settlement and Class in *Lematta v. Casper Sleep, Inc., et al.*, No. 20-cv-02744 (E.D.N.Y.)." A request for exclusion shall not be effective unless submitted within the time and in the form and manner provided for herein. **You cannot exclude yourself by telephone, email, or fax.**



In order to be valid, such request for exclusion must be submitted with documentary proof: (i) of each purchase or acquisition and, if applicable, sale of Casper securities pursuant or traceable to the Company's February 7, 2020 initial public offering, and/or during the period from March 19, 2020, through May 12, 2020, both dates inclusive; and (ii) demonstrating the person's status as a beneficial owner of the Casper securities. Any such request for exclusion must be signed and submitted by the beneficial owner under penalty of perjury.

**If a person or entity who is a member of the Class duly and timely requests to be excluded from the Class, such person or entity will not be bound by any orders or judgments entered in respect of the Settlement and shall not be entitled to receive any benefits provided by the Settlement in the event it is finally approved by the Court.**

If a judgment approving the Settlement provided for in the Stipulation is finally entered, all members of the Class who have not requested exclusion shall conclusively be deemed to have released and shall thereafter be barred from asserting any of the Plaintiff's Released Claims.

#### **V. STATEMENT OF ATTORNEYS' FEES AND COSTS SOUGHT**

If the proposed Settlement is approved, Class Counsel intend to apply to the Court for an award of attorneys' fees and reimbursement of expenses from the Settlement Fund. Class Counsel will seek no more than 33 1/3% of the Settlement Amount (and any interest earned thereon) as fees, plus reimbursement for the litigation expenses and costs actually incurred in prosecuting the action not to exceed \$280,000, and any interest earned thereon. Class Counsel believe their intended fee request to be fair and reasonable. Class Counsel have litigated this Action on a wholly contingent basis and have received no compensation during the period the Action has been pending, while expending considerable time and funds during the Action. Had the Action not been successful, Class Counsel would have sustained a considerable financial loss.

In addition, Class Counsel intend to apply to the Court on behalf of Plaintiff for reimbursement from the Settlement Fund for his reasonable time, costs, and expenses directly relating to his representation of the Class, not to exceed \$15,000.

#### **VI. THE SETTLEMENT HEARING**

The Settlement Hearing shall be held before Honorable Margo K. Brodie, on \_\_\_\_\_, 202\_, at \_\_\_\_\_ .m., in the United States District Court for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York 11201 or remotely as the Court shall order to determine: (1) whether a Class should be certified for purposes of the Settlement and whether Plaintiff and Class Counsel have adequately represented the Class Members; (2) whether the Settlement of the Class's claims for \$3,000,000 cash payment by Casper, should be approved as fair, reasonable, and adequate; (3) whether the proposed Plan of Allocation is fair, just, reasonable, and adequate; (4) whether the Court should permanently enjoin the assertion of any claims that arise from or relate to the subject matter of the Action; (5) whether the Action should be dismissed with prejudice, as set forth in the Stipulation filed with the Court; (6) whether the application by Class Counsel for an award of attorneys' fees and expenses should be approved; and (7) whether Plaintiff's application for reimbursement of costs and expenses should be granted.

***The Settlement Hearing may be adjourned or continued from time to time by the Court without further notice to the Class other than an announcement at such Settlement Hearing or at any adjournment or continuance thereof, or notice on the official docket available for inspection at the Court or via the Court's PACER system.***

Any Class Member who does not timely and validly request exclusion from the Class and who objects to the Settlement, the adequacy of the representation, the proposed Plan of Allocation of the Net Settlement Fund, the Final Order and Judgment contemplated by the Stipulation, the application for attorneys' fees and reimbursement of expenses, and/or the application for reimbursement of the reasonable time, costs, and expenses of Plaintiff, or who otherwise wishes to be heard with respect to any of the foregoing, may appear in person or by attorney (or via any video platform designated by the Court) at the Settlement Hearing, at his or her own expense, and present any evidence or argument that may be proper and relevant. However, no person shall be heard, and no papers, briefs, pleadings, or other documents submitted by any such person shall be considered by the Court unless, **no later than \_\_\_\_\_, 202\_\_**, (1) a notice of the person's intention to appear, (2) a statement of such person's objections to any matter before the Court, including a statement specifying whether the objection applies to the objector, to a specific subset of the class, or to the entire class, and (3) the grounds for such objections or the reason for such person's request to appear and to be heard, as well as the information requested in Section IV herein and all other documents and writings which such person desires the Court to consider, shall be filed by such person with the Clerk of the Court (see address in section IX below), and, on or before such filing, shall be delivered by hand, overnight mail or by certified mail, return-receipt requested, sufficient postage prepaid, upon each of the following counsel of record:

**To Plaintiff:**

Joshua B. Silverman  
POMERANTZ LLP  
10 South LaSalle Street  
Suite 3505  
Chicago, IL 60603

**To Defendants:**

Stefan Atkinson  
KIRKLAND & ELLIS LLP  
601 Lexington Avenue  
New York, NY 10022

Charles D. Cording  
WILKIE FARR & GALLAGHER  
LLP  
787 Seventh Avenue  
New York, NY 10019

Any person or entity who fails to object in the manner prescribed in the paragraph immediately above shall be deemed to have waived any objections that person or entity may have and shall be barred from raising such objections in this Action or any other action or proceeding. Objections directed solely to the proposed Plan of Allocation, attorneys' fees and expenses, or awards to Plaintiff will not affect the finality of either the Settlement or the Judgment to be entered pursuant thereto, if the Settlement is approved by the Court.

All members of the Class who do not request exclusion therefrom, in the manner provided herein, will be represented by Class Counsel in connection with the Settlement, but may, if they so desire, also enter an appearance through counsel of their own choice and at their own expense.

## **VII. PROOF OF CLAIM AND RELEASE FORM**

***To be eligible to receive a cash distribution from the Settlement Fund, you must timely complete, sign, and file a Proof of Claim.*** A Proof of Claim is attached to this Notice. You may receive more than one copy of this Notice and the Proof of Claim, but you should **submit only one Proof of Claim** for each differently named account or ownership, such as an individual account, an IRA account, a joint account, a custodial account, etc.

The Proof of Claim (1) **must** be completed in accordance with the Instructions on the Proof of Claim, (2) **must** enclose all documentation required by the Instructions, and (3) **must be postmarked on or** \_\_\_\_\_, **202**\_\_ and addressed to:

Lematta v. Casper Sleep, Inc., et al.  
c/o Strategic Claims Services  
P.O. Box 230  
600 N. Jackson Street, Suite 205  
Media, PA 19063  
Fax: (610) 565-7985  
info@strategicclaims.net

A Proof of Claim will be deemed filed when mailed via first-class mail, sufficient postage prepaid. Members of the Class who do not exclude themselves from the Class and who fail to submit a valid and timely Proof of Claim will nevertheless be bound by the Settlement if finally approved, and all orders and judgments entered by the Court in connection therewith.

By Order of the Court, the Proof of Claim provides for and requires a release of all Plaintiff's Released Claims as described in Section II, above. The release will become effective on the Effective Date of the Settlement.

Each person or entity submitting a Proof of Claim thereby submits to the jurisdiction of the Court for purposes of the Action, the Settlement and any proceedings relating to such Proof of Claim, and agrees that such a filed Proof of Claim will be subject to review and further inquiry as to such person's or entity's status as a member of the Class and the allowable amount of the claim.

If you would like acknowledgment of the receipt of your Proof of Claim by \_\_\_\_\_, 202\_\_ please send it by certified mail, return requested, or its equivalent. No other formal acknowledgment will be provided.

## **VIII. SPECIAL NOTICE TO BROKERS AND OTHER NOMINEES**

Brokerage firms, banks, financial institutions, and other nominees ("Nominees") who, pursuant or traceable to the Company's February 7, 2020 initial public offering, and/or during the period from March 19, 2020, through May 12, 2020, both dates inclusive, purchased Casper securities in the name of the Nominees on behalf of beneficial owners who may be members of the Class, **must** within ten (10) days after you receive the letter, either: (1) send a copy of the Postcard Notice by First-Class Mail to all such Persons or email the Notice and Proof of Claim link; or (2) provide a list of the names, email addresses, and physical addresses of such Persons to:

Lematta v. Casper Sleep, Inc., et al.  
c/o Strategic Claims Services  
P.O. Box 230  
600 N. Jackson Street, Suite 205  
Media, PA 19063

The Claims Administrator will then cause a link to the Notice and Proof of Claim to be emailed, or a Postcard Notice directing such Persons to the website containing the Notice and Proof of Claim to be mailed, promptly to such beneficial owners.

If you choose to email the Notice and Proof of Claim or mail the Postcard Notice yourself, you may obtain from the Claims Administrator (without cost to you) as many additional copies of these documents as you will need to complete the emailing or mailing. Regardless of whether you choose to complete the emailing or mailing yourself or elect to have the emailing or mailing performed for you, you may obtain reimbursement from the Settlement Fund of your reasonable out-of-pocket expenses actually incurred in connection with the foregoing a maximum of \$0.05 for providing names, addresses, and email addresses to the Claims Administrator; up to a maximum of \$0.05 per Postcard Notice mailed by you, plus postage at the current pre-sort rate used by the Claims Administrator; or \$0.05 per link to Notice and Proof of Claim sent by email. Those expenses will be paid upon request and submission of appropriate supporting documentation.

#### **IX. FURTHER INFORMATION**

This Notice merely provides a brief summary of the Action and the proposed Settlement and is qualified by and subject in all respects to the full terms and conditions in the Stipulation. For a more detailed statement of the matters involved in the Action, you should refer to the pleadings, the Stipulation, and the orders entered by the Court and to the other papers filed in the Action. You may examine and/or copy the records in the Action, subject to customary copying fees, at the Clerk of the Court, United States District Court for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York 11201, at any time it is open to the general public. In addition, all of the Settlement documents, including the Stipulation, this Notice, the Proof of Claim and proposed Judgments may be obtained by viewing the website at [www.strategicclaims.net/casper/](http://www.strategicclaims.net/casper/), or contacting the Claims Administrator at:

Lematta v. Casper Sleep, Inc., et al.  
c/o Strategic Claims Services  
P.O. Box 230  
600 N. Jackson Street, Suite 205  
Media, PA 19063

In addition, you may contact Joshua B. Silverman, Esq., Pomerantz LLP, 10 South LaSalle Street, Suite 3505, Chicago, IL 60603, (312) 377-1181, [jbsilverman@pomlaw.com](mailto:jbsilverman@pomlaw.com) if you have any questions about the Action or the Settlement.

**INQUIRIES SHOULD NOT BE DIRECTED TO THE COURT, THE  
CLERK'S OFFICE, DEFENDANTS, OR DEFENDANTS' COUNSEL**

Dated: \_\_\_\_\_, 202\_\_

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**Exhibit A-2**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

ROBERT LEMATTA, Individually and On Behalf	)	
of All Others Similarly Situated,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:20-cv-02744
	)	
	)	Hon. Margo K. Brodie
	)	
CASPER SLEEP, INC., et al.,	)	
	)	
Defendants.	)	
	)	
	)	
	)	
	)	

**PROOF OF CLAIM AND RELEASE FORM**

**Deadline for Submission:** \_\_\_\_\_, 202\_\_

IF YOU PURCHASED OR OTHERWISE ACQUIRED CASPER COMMON STOCK PURSUANT OR TRACEABLE TO THE COMPANY’S FEBRUARY 7, 2020 INITIAL PUBLIC OFFERING, AND/OR DURING THE PERIOD FROM MARCH 19, 2020, THROUGH MAY 12, 2020, BOTH DATES INCLUSIVE (“CLASS PERIOD”), YOU ARE A “CLASS MEMBER” AND YOU MAY BE ENTITLED TO SHARE IN THE SETTLEMENT PROCEEDS. EXCLUDED FROM THE CLASS ARE DEFENDANTS, ANY FORMER OR CURRENT OFFICER OR DIRECTOR OF CASPER OR DURATIONAL CAPITAL MANAGEMENT LP, MEMBERS OF THEIR IMMEDIATE FAMILIES AND THEIR LEGAL REPRESENTATIVES, HEIRS, SUCCESSORS, OR ASSIGNS, AND ANY ENTITY IN WHICH ANY OF THE ABOVE HAS OR HAD A MAJORITY OWNERSHIP INTEREST. ALSO EXCLUDED FROM THE CLASS ARE ANY PERSONS AND ENTITIES WHO OR WHICH SUBMIT A REQUEST FOR EXCLUSION FROM THE CLASS THAT IS ACCEPTED BY THE COURT.

IF YOU ARE A CLASS MEMBER, YOU MUST COMPLETE AND SUBMIT THIS PROOF OF CLAIM AND RELEASE FORM (“PROOF OF CLAIM”) IN ORDER TO BE ELIGIBLE FOR ANY SETTLEMENT BENEFITS.

YOU MUST COMPLETE AND SIGN THIS PROOF OF CLAIM AND MAIL IT BY FIRST CLASS MAIL, POSTMARKED NO LATER THAN \_\_\_\_\_, 202\_\_ TO THE CLAIMS ADMINISTRATOR, AT THE FOLLOWING ADDRESS:

Lematta v. Casper Sleep, Inc., et al.  
c/o Strategic Claims Services  
P.O. Box 230  
600 N. Jackson Street, Suite 205  
Media, PA 19063

YOUR FAILURE TO SUBMIT THIS PROOF OF CLAIM BY \_\_\_\_\_, 202\_\_ WILL SUBJECT YOUR CLAIM TO REJECTION AND PRECLUDE YOU FROM RECEIVING ANY MONEY IN CONNECTION WITH THE SETTLEMENT OF THIS ACTION. DO NOT MAIL OR DELIVER YOUR CLAIM TO THE COURT OR TO ANY OF THE PARTIES OR THEIR COUNSEL AS ANY SUCH CLAIM WILL BE DEEMED NOT TO HAVE BEEN SUBMITTED. SUBMIT YOUR CLAIM ONLY TO THE CLAIMS ADMINISTRATOR AT THE ADDRESS ABOVE. IF YOU ARE A CLASS MEMBER AND DO NOT SUBMIT A PROPER PROOF OF CLAIM, YOU WILL NOT SHARE IN THE SETTLEMENT BUT YOU NEVERTHELESS WILL BE BOUND BY THE ORDER AND FINAL JUDGMENT OF THE COURT UNLESS YOU EXCLUDE YOURSELF.

SUBMISSION OF A PROOF OF CLAIM DOES NOT ASSURE THAT YOU WILL SHARE IN THE PROCEEDS OF THE SETTLEMENT.



### CLAIMANT'S STATEMENT

1. I (We) acquired Casper common stock pursuant or traceable to Casper's February 7, 2020 initial public offering, and/or during the period from March 19, 2020, through May 12, 2020, both dates inclusive. (Do not submit this Proof of Claim and Release Form if you did not acquire Casper common stock during the Class Period.) For purposes of the Settlement only, shares purchased through June 19, 2020 will be presumed traceable to the IPO.
2. By submitting this Proof of Claim, I (we) state that I (we) believe in good faith that I am (we are) a Class Member(s) as defined above and in the Notice of Pendency and Settlement of Class Action (the "Notice"), or am (are) acting for such person(s); that I am (we are) not a Defendant in the Action or anyone excluded from the Settlement Class; that I (we) have read and understand the Notice; that I (we) believe that I am (we are) entitled to receive a share of the Net Settlement Fund, as defined in the Notice; that I (we) elect to participate in the proposed Settlement described in the Notice; and that I (we) have not filed a request for exclusion. (If you are acting in a representative capacity on behalf of a Class Member [e.g., as an executor, administrator, trustee, or other representative], you must submit evidence of your current authority to act on behalf of that Class Member. Such evidence would include, for example, letters testamentary, letters of administration, or a copy of the trust documents.)
3. I (We) consent to the jurisdiction of the Court with respect to all questions concerning the validity of this Proof of Claim. I (We) understand and agree that my (our) claim may be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided that such investigation and discovery shall be limited to my (our) status as a Class Member(s) and the validity and amount of my (our) claim. No discovery shall be allowed on the merits of the Action or Settlement in connection with the processing of the Proof of Claim.
4. I (We) have set forth where requested below all relevant information with respect to 1) each acquisition of Casper common stock pursuant or traceable to Casper's February 7, 2020 initial public offering, and/or during the period from March 19, 2020, through May 12, 2020, both dates inclusive, and 2) each sale, if any, of Casper common stock pursuant or traceable to Casper's February 7, 2020 initial public offering, and/or during the period from March 19, 2020, through May 12, 2020, both dates inclusive. I (We) agree to furnish additional information to the Claims Administrator to support this claim if requested to do so.
5. I (We) have enclosed photocopies of the stockbroker's confirmation slips, stockbroker's statements, or other documents evidencing each acquisition and sale of Casper common stock listed below pursuant or traceable to Casper's February 7, 2020 initial public offering, and/or during the period from March 19, 2020, through May 12, 2020, both dates inclusive, in support of my (our) claim. It is necessary to provide purchase and sale information through August 7, 2020, even though this is beyond the Class Period, because the federal securities laws require such information in calculating losses. (IF ANY SUCH DOCUMENTS ARE NOT IN YOUR POSSESSION, PLEASE OBTAIN A COPY OR EQUIVALENT DOCUMENTS FROM YOUR BROKER OR TAX ADVISOR BECAUSE THESE DOCUMENTS ARE NECESSARY TO PROVE AND PROCESS YOUR CLAIM.)
6. I (We) understand that the information contained in this Proof of Claim is subject to such verification as the Claims Administrator may request or as the Court may direct, and I (we) agree to cooperate in any such verification. (The information requested herein is designed to provide the minimum amount of information necessary to process most simple claims. The Claims Administrator may request additional information as required to efficiently and reliably calculate your Recognized Loss. In some cases, the Claims Administrator may condition acceptance of the claim based upon the production of additional information, including, where applicable, information concerning transactions in any derivatives securities such as options.)
7. I (We) understand that there shall be no Recognized Loss attributed to any Casper securities other than common stock. I (We) understand that the exercise of option contracts into Casper common stock will be considered to be purchases or sales of Casper common stock as of the date of the exercise.
8. Upon the occurrence of the Court's approval of the Settlement, as detailed in the Notice, I (we) agree and acknowledge that my (our) signature(s) hereto will release, discharge, and dismiss with prejudice all Plaintiff's Released Claims, without costs to any party except as provided herein, upon the Effective Date. Upon the occurrence of the Court's approval of the Settlement, as detailed in the Notice, I (we) acknowledge that I (we) and each of my (our) predecessors, successors, parents, subsidiaries, affiliates, custodians, agents, assigns, representatives, heirs, executors, trustees and administrators, will be deemed by this Settlement on the Effective Date to release and forever discharge any and all of the Plaintiff's Released Claims, as those terms are defined in the Stipulation and Agreement of Settlement (the "Stipulation").
9. Upon the occurrence of the Court's approval of the Settlement, as detailed in the Notice, I (we) agree and acknowledge that my (our) signature(s) hereto shall effect and constitute a covenant by me (us) and my (our) predecessors, successors, parents, subsidiaries, affiliates, custodians, agents, assigns, representatives, heirs,



executors, trustees and administrators (or, if I am (we are) submitting this Proof of Claim on behalf of a corporation, a partnership, estate or one or more other persons, by it, him, her or them, and by its, his, her or their heirs, executors, administrators, predecessors, successors, and assigns) that I (we) will be forever barred and enjoined from commencing, instituting, prosecuting, or continuing to prosecute any action or other proceedings asserting Plaintiff's Released Claims in any court of law or equity, arbitration tribunal, or administrative forum.

10. "Effective Date" has the meaning laid out in the Stipulation.
11. "Recognized Loss" has the meaning laid out in the Plan of Allocation.
12. "Released Claims" has the meaning laid out in the Stipulation.
13. "Released Parties" has the meaning laid out in the Stipulation.
14. "Unknown Claims" has the meaning laid out in the Stipulation.
15. I (We) acknowledge that the inclusion of "Unknown Claims" in the definition of claims released pursuant to the Stipulation was separately bargained for and is a material element of the Settlement of which this release is a part.
16. NOTICE REGARDING INSTITUTIONAL FILERS: Representatives with the authority to file on behalf of (a) accounts of multiple Persons and/or (b) institutional accounts with large numbers of transactions ("Representative Filers") must submit information regarding their clients' transactions in the approved electronic spreadsheet format, which is available by request to the Claims Administrator at Lematta v. Casper Sleep, Inc. et al. c/o Strategic Claims Services, P.O. Box 230, 600 N. Jackson Street, Suite 205, Media, PA 19063 or by visiting the website [www.strategicclaims.net](http://www.strategicclaims.net) or by emailing [efile@strategicclaims.net](mailto:efile@strategicclaims.net). One spreadsheet may contain the information for multiple Persons and institutional accounts who constitute distinct legal entities ("Legal Entities"), but all Representative Filers MUST also submit a manually signed Proof of Claim, as well as proof of authority to file (see Item 2 of the Claimant's Statement) along with the electronic spreadsheet. The transactions and holdings in Casper common stock should be reported in the electronic file so that each resulting Claim corresponds to a single Legal Entity, regardless of the number of individually managed accounts the Legal Entity has, as only one Claim will be processed per Legal Entity (e.g. a Representative Filer reporting the transactions for a fund with multiple sub-accounts should report one total holding at the start of the Class Period, one total holding at the end of the Class Period, and a single set of transactions that includes all transactions made by the Legal Entity across their sub-accounts; this would constitute and be processed a single Claim). The Claims Administrator reserves the right to combine a Legal Entity's accounts into a single Claim prior to processing in the event that a Legal Entity's accounts are divided across multiple Claims when submitted by a Representative Filer. The Claims Administrator also reserves the right to request additional documentary proof regarding a Legal Entity's transactions and holdings in Casper common stock to prove and accurately process the Claim.
17. NOTICE REGARDING ONLINE FILING: Claimants who are not Representative Filers may submit their claims online using the electronic version of the Proof of Claim hosted at [www.strategicclaims.net/casper/](http://www.strategicclaims.net/casper/). If you are not acting as a Representative Filer, you do not need to contact the Claims Administrator prior to filing; you will receive an automated e-mail confirming receipt once your Proof of Claim has been submitted. If you are unsure if you should submit your claim as a Representative Filer, please contact the Claims Administrator toll-free at (866) 274-4004 or visiting their website at [www.strategicclaims.net](http://www.strategicclaims.net) or by emailing [info@strategicclaims.net](mailto:info@strategicclaims.net). If you are not a Representative Filer, but your claim contains a large number of transactions, the Claims Administrator may request that you also submit an electronic spreadsheet showing your transactions to accompany your Proof of Claim.

**I. CLAIMANT INFORMATION**

Beneficial Owner Name		
Address		
City	State	ZIP
Foreign Province	Foreign Country	
Day Phone	Evening Phone	
Email		
Social Security Number (for individuals):	OR	Taxpayer Identification Number (for estates, trusts, corporations, etc.):

**SCHEDULE OF TRANSACTIONS IN CASPER COMMON STOCK**

**THE DATE OF A PURCHASE, ACQUISITION, OR SALE OF CASPER COMMON STOCK IS THE “TRADE” DATE, AND NOT THE “SETTLEMENT” DATE. THE DATE OF PURCHASE FOR SHARES PURCHASED IN THE IPO IS FEBRUARY 7, 2020.**

**Purchases/Acquisitions:**

- A. Separately list each and every purchase or acquisition of Casper common stock between February 7, 2020 and August 7, 2020, both dates inclusive, and provide the following information (*must be documented*):

Trade Date (List Chronologically) (Month/Day/Year)	Number of Shares Purchased	Price per Share	Total Cost (Excluding Commissions, Taxes, and Fees)

**Sales:**

- B. Separately list each and every sale of Casper common stock between February 7, 2020 and August 7, 2020, both dates inclusive, and provide the following information (*must be documented*):

Trade Date (List Chronologically) (Month/Day/Year)	Number of Shares Sold	Price per Share	Amount Received (Excluding Commissions, Taxes, and Fees)


**Ending Holdings:**

C. State the total number of shares of Casper common stock held at the close of trading on August 7, 2020 (*must be documented*).

--

**If additional space is needed, attach separate, numbered sheets, giving all required information, substantially in the same format, and print your name and Social Security or Taxpayer Identification number at the top of each sheet.**

**IV. SUBSTITUTE FORM W-9**

Request for Taxpayer Identification Number:

Enter taxpayer identification number below for the Beneficial Owner(s). For most individuals, this is your Social Security Number. The Internal Revenue Service ("I.R.S.") requires such taxpayer identification number. If you fail to provide this information, your claim may be rejected.

Social Security Number (for individuals)	or	Taxpayer Identification Number (for estates, trusts, corporations, etc.)

**V. CERTIFICATION**

I (We) submit this Proof of Claim under the terms of the Stipulation described in the Notice. I (We) also submit to the jurisdiction of the United States District Court for the Eastern District of New York, with respect to my (our) claim as a Class Member(s) and for purposes of enforcing the release and covenant not to sue set forth herein. I (We) further acknowledge that I am (we are) bound by and subject to the terms of any judgment that may be entered in this Action. I (We) have not submitted any other claim covering the same purchases, acquisitions, or sales of Casper common stock during the Class Period and know of no other Person having done so on my (our) behalf.

I (We) certify that I am (we are) NOT subject to backup withholding under the provisions of Section 3406(a)(1)(c) of the Internal Revenue Code because: (a) I am (We are) exempt from backup withholding; or (b) I (We) have not been notified by the I.R.S. that I am (we are) subject to backup withholding as a result of a failure to report all interest or dividends; or (c) the I.R.S. has notified me (us) that I am (we are) no longer subject to backup withholding.

NOTE: If you have been notified by the I.R.S. that you are subject to backup withholding, please strike out the language that you are not subject to backup withholding in the certification above.

UNDER THE PENALTIES OF PERJURY UNDER THE LAWS OF THE UNITED STATES, I (WE) CERTIFY THAT ALL OF THE INFORMATION I (WE) PROVIDED ON THIS PROOF OF CLAIM IS TRUE, CORRECT, AND COMPLETE.

Signature of Claimant (If this claim is being made on behalf of Joint Claimants, then each must sign):

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Capacity of person(s) signing, e.g. beneficial purchaser(s), executor, administrator, trustee, etc.)

☐ Check here if proof of authority to file is enclosed.  
(See Item 2 under Claimant's Statement)

Date: \_\_\_\_\_

**THIS PROOF OF CLAIM MUST BE POSTMARKED NO LATER THAN \_\_\_\_\_, 202\_\_ AND MUST BE MAILED TO:**

Lematta v. Casper Sleep, Inc., et al.  
c/o Strategic Claims Services  
P.O. Box 230  
600 N. Jackson Street, Suite 205  
Media, PA 19063

A Proof of Claim received by the Claims Administrator shall be deemed to have been submitted when postmarked, if mailed by \_\_\_\_\_, 202\_\_ and if a postmark is indicated on the envelope, it is mailed first class, and it is addressed in accordance with the above instructions. In all other cases, a Proof of Claim shall be deemed to have been submitted when actually received by the Claims Administrator.

You should be aware that it will take a significant amount of time to process fully all of the Proof of Claim and to administer the Settlement. This work will be completed as promptly as time permits, given the need to investigate and tabulate each Proof of Claim. Please notify the Claims Administrator of any change of address.

#### **REMINDER CHECKLIST**

- Please be sure to sign this Proof of Claim on page \_\_. If this Proof of Claim is submitted on behalf of joint claimants, then each claimant must sign.
- Please remember to attach supporting documents. Do NOT send any stock certificates. Keep copies of everything you submit.
- Do NOT use highlighter on the Proof of Claim or any supporting documents.
- If you move or change your address, telephone number or email address, please submit the new information to the Claims Administrator, as well as any other information that will assist us in contacting you. NOTE: Failure to submit updated information to the Claims Administrator may result in the Claims Administrator's inability to contact you regarding issues with your claim or to deliver payment to you.

**Exhibit A-3**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

ROBERT LEMATTA, Individually and On Behalf of All Others Similarly Situated,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:20-cv-02744
	)	
	)	Hon. Margo K. Brodie
	)	
CASPER SLEEP, INC., et al.,	)	
	)	
Defendants.	)	
	)	
	)	

**SUMMARY NOTICE OF PENDENCY AND SETTLEMENT OF CLASS ACTION**

**TO: ALL PERSONS AND ENTITIES THAT PURCHASED OR OTHERWISE ACQUIRED CASPER COMMON STOCK PURSUANT OR TRACEABLE TO THE COMPANY'S FEBRUARY 7, 2020 INITIAL PUBLIC OFFERING, AND/OR DURING THE PERIOD FROM MARCH 19, 2020 THROUGH MAY 12, 2020, BOTH DATES INCLUSIVE (THE "CLASS").**

**THIS NOTICE WAS AUTHORIZED BY THE COURT. IT IS NOT A LAWYER SOLICITATION. PLEASE READ THIS SUMMARY NOTICE CAREFULLY AND IN ITS ENTIRETY. PLEASE REVIEW THE NOTICE OF PENDENCY AND SETTLEMENT OF CLASS ACTION ("NOTICE") POSTED AT [WWW.STRATEGICCLAIMS.NET/CASPER/](http://WWW.STRATEGICCLAIMS.NET/CASPER/) FOR ADDITIONAL DETAILS AND INSTRUCTIONS.**

YOU ARE HEREBY NOTIFIED that a hearing will be held in the above-captioned action (the "Action") on \_\_\_\_\_, 202\_\_, at \_:\_ .m., before the Honorable Margo K. Brodie in Courtroom 6F of the United States District Court for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York 11201 or via Microsoft Teams or some other video platform to determine: (1) whether a Class should be certified for purposes of the Settlement and whether Plaintiff and Class Counsel have adequately represented the Class Members; (2) whether the Settlement of the Class's claims against Defendants for \$3 million cash should be approved as fair, reasonable, and adequate; (3) whether the proposed Plan of Allocation is fair, just, reasonable, and adequate; (4) whether the Court should permanently enjoin the assertion of any claims that arise from or relate to the subject matter of the Action; (5) whether the Action should be dismissed with prejudice against Defendants, as set forth in the Stipulation and Agreement of Settlement

(“Stipulation”) filed with the Court; (6) whether the application by Class Counsel for an award of attorneys’ fees and expenses should be approved; and (7) whether Plaintiff’s application for reimbursement of costs and expenses should be granted.

IF YOU PURCHASED OR OTHERWISE ACQUIRED CASPER COMMON STOCK PURSUANT OR TRACEABLE TO THE COMPANY’S FEBRUARY 7, 2020 INITIAL PUBLIC OFFERING, AND/OR DURING THE PERIOD FROM MARCH 19, 2020 THROUGH MAY 12, 2020, YOUR RIGHTS MAY BE AFFECTED BY THE SETTLEMENT OF THIS ACTION.

To share in the distribution of the Net Settlement Fund, you must establish your rights by submitting a Proof of Claim and Release Form (“Proof of Claim”), postmarked or delivered to the Claims Administrator no later than \_\_\_\_, 202\_\_. Your failure to submit your Proof of Claim by \_\_\_\_, 202\_\_, will subject your claim to rejection and preclude your receiving any of the recovery in connection with the Settlement of the Action. If you are a Class Member and do not request exclusion, you will be bound by the Settlement and any judgment and release entered in the Action, including, but not limited to, the Judgment, whether or not you submit a Proof of Claim.

Copies of the Notice, which more completely describes the Settlement and your rights thereunder (including your right to object to the Settlement or exclude yourself from the Settlement), a Proof of Claim, and the Stipulation (which, among other things, contains definitions for the defined terms used in this Summary Notice) may be obtained online at [www.strategicclaims.net/casper/](http://www.strategicclaims.net/casper/) or from the Claims Administrator at:

Lematta v. Casper Sleep, Inc., et al.  
c/o Strategic Claims Services  
P.O. Box 230  
600 N. Jackson Street, Suite 205  
Media, PA 19063  
Toll-free: (866) 274-4004  
Fax: (610) 565-7985  
[info@strategicclaims.net](mailto:info@strategicclaims.net)

Inquiries should NOT be directed to Defendants, the Court, or the Clerk of Court. Inquiries may also be made to Class Counsel:

Joshua B. Silverman, Esq.  
POMERANTZ LLP  
10 S. LaSalle St., Ste. 3505  
Chicago, IL 60603  
Telephone: (312) 377-1181

IF YOU DESIRE TO BE EXCLUDED FROM THE CLASS, YOU MUST SUBMIT A REQUEST FOR EXCLUSION SUCH THAT IT IS RECEIVED NO LATER THAN \_\_\_\_, 202\_\_, IN THE MANNER AND FORM EXPLAINED IN THE NOTICE. ALL CLASS MEMBERS WHO HAVE NOT REQUESTED EXCLUSION FROM THE SETTLEMENT CLASS WILL BE BOUND BY THE JUDGMENT ENTERED IN THE ACTION EVEN IF THEY DO NOT FILE A TIMELY PROOF OF CLAIM.

IF YOU ARE A CLASS MEMBER, YOU HAVE THE RIGHT TO OBJECT TO THE SETTLEMENT, THE PLAN OF ALLOCATION, ANY REQUEST FOR AN AWARD OF ATTORNEYS FEES AND EXPENSES, OR ANY REQUEST FOR A COMPENSATORY AWARD TO LEAD PLAINTIFF BY \_\_\_\_\_, 202\_\_, IN THE MANNER AND FORM EXPLAINED IN THE NOTICE.

Dated: \_\_\_\_\_, 202\_\_

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

Exhibit A-4

PRESORTED  
FIRST-CLASS  
MAIL U.S.  
POSTAGE PAID

**Court-Ordered Legal Notice  
Forwarding Service Requested**

*Important Notice about a Securities  
Class Action Settlement*

*You may be entitled to a payment.  
This Notice may affect your legal  
rights.*

*Please read it carefully.*

Lematta v. Casper Sleep Inc., et al.  
c/o Strategic Claims Services  
600 N. Jackson Street, Suite 205  
Media, PA 19063

Case No. 20-cv-02744 (E.D.N.Y.)

Case Pending in the United States District Court for the  
Eastern District of New York

[NAME 1]

[NAME 2]

[NAME 3]

[ADDRESS 1]

[ADDRESS 2]



*Lematta v. Casper Sleep Inc., et al., No. 20-cv-02744 (E.D.N.Y.)*  
*THIS CARD PROVIDES ONLY LIMITED INFORMATION ABOUT THE SETTLEMENT. PLEASE VISIT*  
*WWW.STRATEGICCLAIMS.NET/CASPER/ OR CALL 866-274-4004 FOR MORE INFORMATION.*

The United States District Court for the Eastern District of New York ("Court") has preliminarily approved a proposed Settlement of claims against Casper Sleep, Inc., Philip Krim, Gregory MacFarlane, Neil Parikh, Diane Irvine, Anthony Florence, Jack Lazar, Benjamin Lerer, Karen Katz, Dani Reiss, Morgan Stanley & Co. LLC, Goldman Sachs & Co. LLC, Jefferies, LLC, BofA Securities, Inc., UBS Securities LLC, Citigroup Global Markets Inc., Piper Sandler & Co. and Guggenheim Securities, LLC ("Defendants"). The proposed Settlement resolves claims against Defendants in a class action lawsuit alleging that, in violation of the federal securities laws, Defendants made misrepresentations and/or omissions of material fact in various public statements to investors. Defendants deny the allegations.

You received this notice because you may have purchased or otherwise acquired Casper common stock pursuant or traceable to the Company's February 7, 2020 initial public offering, and/or during the period from March 19, 2020, through May 12, 2020, both dates inclusive, and you may be a Settlement Class Member. The Settlement provides that, in exchange for the dismissal and release of claims against Defendants, a fund consisting of \$3,000,000, less fees and expenses, will be divided among Settlement Class Members who timely submit a valid Proof of Claim and Release Form ("Proof of Claim"). For a full description of the Settlement and your rights and to make a claim, please view the Stipulation and Agreement of Settlement and obtain a copy of the Notice of Pendency and Settlement of Class Action ("Notice") and Proof of Claim by visiting the website: [www.strategicclaims.net/casper/](http://www.strategicclaims.net/casper/). You may also request copies of the Notice and Proof of Claim from the Claims Administrator through any of the following ways: (1) mail: *Lematta v. Casper Sleep, Inc., et al.*, c/o Strategic Claims Services, P.O. Box 230, 600 N. Jackson Street, Suite 205, Media, PA 19063; (2) call toll free: (866) 274-4004 or (3) through the website: [www.strategicclaims.net/casper/](http://www.strategicclaims.net/casper/).

To qualify for payment, you must submit a Proof of Claim, which can be found on the website [www.strategicclaims.net/casper/](http://www.strategicclaims.net/casper/). PROOFS OF CLAIM ARE DUE BY \_\_\_\_\_, 202\_\_ TO *LEMATTA V. CASPER SLEEP, INC., ET AL.*, C/O STRATEGIC CLAIMS SERVICES, P.O. BOX 230, 600 N. JACKSON STREET, SUITE 205, MEDIA, PA 19063. If you do not want to be legally bound by the Settlement, you must exclude yourself by \_\_\_\_\_, 202\_\_. If you exclude yourself, you cannot get money from this Settlement. If you stay in the Settlement, you may object to it by \_\_\_\_\_, 202\_\_. The Notice explains how to exclude yourself or to object.

The Court will hold a hearing in this case on \_\_\_\_\_, 202\_\_ at \_\_\_\_:\_\_\_\_m. at the United States District Court for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York 11201 to consider whether to approve the Settlement, the Plan of Allocation, and a request by Class Counsel for an award of attorneys' fees up to one-third of the Settlement Amount, up to \$280,000 reimbursement for expenses incurred in litigating the case, and a compensatory award to Lead Plaintiff not to exceed

*Lematta v. Casper Sleep Inc., et al., No. 20-cv-02744 (E.D.N.Y.)*  
*THIS CARD PROVIDES ONLY LIMITED INFORMATION ABOUT THE SETTLEMENT. PLEASE VISIT*  
*WWW.STRATEGICCLAIMS.NET/CASPER/ OR CALL 866-274-4004 FOR MORE INFORMATION.*

\$15,000. You may, but do not have to, attend the hearing and ask to be heard by the Court. For more information, call toll-free (866) 274-4004, or visit the website [www.strategicclaims.net/casper/](http://www.strategicclaims.net/casper/).

**Exhibit B**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

ROBERT LEMATTA, Individually and On Behalf of All Others Similarly Situated,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:20-cv-02744
	)	
	)	Hon. Margo K. Brodie
	)	
CASPER SLEEP, INC., et al.,	)	
	)	
Defendants.	)	
	)	
	)	

**[PROPOSED] ORDER AND FINAL JUDGMENT**

On the \_\_\_\_ day of \_\_\_\_\_, 2024 a hearing having been held before this Court to determine: (1) whether the terms and conditions of the Stipulation of Settlement dated \_\_\_\_\_, 2024 (“Stipulation”) are fair, reasonable, and adequate for the Settlement of all claims asserted by the Class in this Action, including the release of the Released Claims against the Released Parties, and should be approved; (2) whether judgment should be entered dismissing this Action with prejudice; (3) whether to approve the proposed Plan of Allocation as a fair and reasonable method to allocate the Net Settlement Fund among Class Members; (4) whether and in what amount to award attorneys’ fees to Class Counsel; (5) whether and in what amount to award Class Counsel reimbursement of litigation expenses; and (6) whether and in what amount to award compensation to Lead Plaintiff.

The Court having considered all matters submitted to it at the hearing and otherwise; and

it appearing in the record that the Summary Notice substantially in the form approved by the Court in the Court's Preliminary Approval Order dated \_\_\_\_\_, 2024 was published; the Postcard Notice directing recipients to the full Notice and Proof of Claim were mailed, or the Notice and Proof of Claim were emailed to all reasonably identifiable Class Members, and the Notice, Proof of Claim, and other settlement documents were posted to the Settlement website; all in accordance with the Preliminary Approval Order and the specifications of the Court; and

**NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

1. This Order and Final Judgment incorporates by reference the definitions in the Stipulation, and all capitalized terms used herein shall have the same meanings as set forth therein.
2. The Court has jurisdiction over the subject matter of the Action.
3. The Court finds that, for settlement purposes only, the prerequisites for a class action under Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that:
  - (a) the number of Class Members is so numerous that joinder of all members thereof is impracticable;
  - (b) there are questions of law and fact common to the Class;
  - (c) the claims of Lead Plaintiff are typical of the claims of the Class he seeks to represent;
  - (d) Lead Plaintiff and Class Counsel fairly and adequately represent the interests of the Class;
  - (e) questions of law and fact common to the members of the Class predominate over any questions affecting only individual members of the Class; and

(f) a class action is superior to other available methods for the fair and efficient adjudication of this Action, considering:

- i. the interests of Class Members in individually controlling the prosecution of the separate actions;
- ii. the extent and nature of any litigation concerning the controversy already commenced by Class Members;
- iii. the desirability or undesirability of concentrating the litigation of these claims in this particular forum; and
- iv. the difficulties likely to be encountered in the management of the class action.

The Class is being certified for settlement purposes only.

4. The Court hereby finally certifies this action as a class action for purposes of the Settlement, pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure, on behalf of all Persons and entities: that purchased or otherwise acquired Casper common stock pursuant or traceable to the Company's February 7, 2020 initial public offering, and/or during the period from March 19, 2020, through May 12, 2020, both dates inclusive (the "Class"). Excluded from the Class are Defendants, any former or current officer or director of Casper or Durational Capital Management LP, members of their immediate families and their legal representatives, heirs, successors, or assigns, and any entity in which any of the above has or had a majority ownership interest. Also excluded from the Class are any persons and entities who or which submit a request for exclusion from the Class that is accepted by the Court.

5. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, for the purposes of this Settlement only, Lead Plaintiff is certified as the class representative on behalf of the Class

and Class Counsel previously selected by him and appointed by the Court is hereby appointed as counsel for the Class.

6. In accordance with the Court's Preliminary Approval Order, the Court hereby finds that the forms and methods of notifying the Class of the Settlement and its terms and conditions met the requirements of due process, Rule 23 of the Federal Rules of Civil Procedure, and Section 21D(a)(7) of the Exchange Act, 15 U.S.C. § 78u-4(a)(7), as amended by the Private Securities Litigation Reform Act of 1995; constituted the best notice practicable under the circumstances; and constituted due and sufficient notice of these proceedings and the matters set forth herein, including the Settlement and Plan of Allocation, to all Persons entitled to such notice. No Class Member is relieved from the terms and conditions of the Settlement, including the releases provided for in the Stipulation, based upon the contention or proof that such Class Member failed to receive actual or adequate notice. A full opportunity has been offered to the Class Members to object to the proposed Settlement and to participate in the hearing thereon. The Court further finds that the notice provisions of the Class Action Fairness Act, 28 U.S.C. § 1715, were fully discharged. Thus, it is hereby determined that all Class Members are bound by this Order and Final Judgment except those Persons listed on Exhibit A to this Order and Final Judgment.

7. The Settlement is approved as fair, reasonable, and adequate under Rule 23 of the Federal Rules of Civil Procedure, and in the best interests of the Class. This Court further finds that the Settlement set forth in the Stipulation is the result of good faith, arm's-length negotiations between experienced counsel representing the interests of Lead Plaintiff, Class Members, and Defendants. The Parties are directed to consummate the Settlement in accordance with the terms and provisions of the Stipulation.

8. The Action and all claims contained therein, as well as all of the Released Plaintiffs' Claims, are dismissed with prejudice as against Defendants and the Released Defendants' Parties. The Parties are to bear their own costs, except as otherwise provided in the Stipulation.

9. Lead Plaintiff and Class Members, on behalf of themselves, their successors, assigns, executors, heirs, administrators, representatives, attorneys, and agents, in their capacities as such, regardless of whether any such Person ever seeks or obtains by any means, including without limitation by submitting a Proof of Claim, any disbursement from the Settlement Fund, shall be deemed to have, and by operation of this Order and Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Plaintiffs' Claims against the Released Defendants' Parties. Plaintiff and Class Members shall be deemed to have, and by operation of this Order and Final Judgment shall have, covenanted not to sue the Released Defendants' Parties with respect to any and all Released Plaintiffs' Claims in any forum and in any capacity. Plaintiff and Class Members shall be and hereby are permanently barred and enjoined from asserting, commencing, prosecuting, instituting, assisting, instigating, or in any way participating in the commencement or prosecution of any action or other proceeding, in any forum, asserting any Released Plaintiffs' Claim, in any capacity, against any of the Defendants' Released Parties. Defendants similarly release and are permanently barred and enjoined from pursuing Released Defendants' Claims against the Released Plaintiffs' Parties. Nothing contained herein shall, however, bar any Plaintiff or Defendant from bringing any action or claim to enforce the terms of the Stipulation or this Order and Final Judgment.

10. The Court hereby finds that the proposed Plan of Allocation is a fair and reasonable method to allocate the Net Settlement Fund among Class Members, and Class Counsel and the

Settlement Administrator are directed to administer the Plan of Allocation in accordance with its terms and the terms of the Stipulation.

11. The Court awards fees to Class Counsel in the amount of \_\_\_\_\_% of the Settlement Amount, or \$\_\_\_\_\_, and any interest accrued thereon, and reimbursement of expenses to Class Counsel in the amount of \$\_\_\_\_\_, and any interest accrued thereon, all to be paid from the Settlement Fund. The Court also awards Lead Plaintiff a compensatory award in the amount of \$\_\_\_\_\_, also to be paid from the Settlement Fund.

12. The Court finds that the Parties and their counsel have complied with all requirements of Rule 11 of the Federal Rules of Civil Procedure and the Private Securities Litigation Record Act of 1995 as to all proceedings herein.

13. Neither this Order and Final Judgment, the Stipulation (nor the Settlement contained therein), nor any of its terms and provisions, nor any of the negotiations, documents or proceedings connected with them:

(a) is or may be deemed to be, or may be used as an admission, concession, or evidence of, the validity or invalidity of Released Plaintiffs' Claims, the truth or falsity of any fact alleged by Lead Plaintiff, the sufficiency or deficiency of any defense that has been or could have been asserted in the Action, or of any wrongdoing, liability, negligence or fault of Defendants or the Released Defendants' Parties;

(b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or misrepresentation or omission with respect to any statement or written document attributed to, approved or made by Defendants or the Released



Defendants' Parties in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal;

(c) is or may be deemed to be or shall be used, offered, or received against Lead Plaintiff, any Class Member, Defendants, the Released Plaintiffs' Parties or the Released Defendants' Parties, as an admission, concession or evidence of the validity or invalidity of the Released Claims, the infirmity or strength of any claim raised in the Action, the truth or falsity of any fact alleged by the Plaintiff or the Class, or the availability or lack of availability of meritorious defenses to the claims raised in the Action;

(d) is or may be deemed to be or shall be construed as or received in evidence as an admission or concession against Lead Plaintiff, any Class Member, Defendants, the Released Plaintiffs' Parties or the Released Defendants' Parties, that any of the claims in this Action are with or without merit, that a litigation class should or should not be certified, that damages recoverable in the Action would have been greater or less than the Settlement Fund or that the consideration to be given pursuant to the Stipulation represents an amount equal to, less than or greater than the amount which could have or would have been recovered after trial.

14. Except as otherwise provided herein or in the Stipulation, all funds held by the Escrow Agent shall be deemed to be *in custodia legis* and shall remain subject to the jurisdiction of the Court until such time as the funds are distributed or returned pursuant to the Stipulation and/or further order of the Court.

15. Without affecting the finality of this Order and Judgment in any way, this Court hereby retains continuing exclusive jurisdiction regarding the administration, interpretation,

effectuation, or enforcement of the Stipulation and this Order and Final Judgment, and including any application for fees and expenses incurred in connection with administering and distributing the Settlement proceeds to the Class Members.

16. Without further order of the Court, Defendants and Lead Plaintiff may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

17. The finality of this Order and Final Judgment is not contingent on rulings that the Court may make on any application in the Action for fees or expenses to Class Counsel, or compensatory awards to Lead Plaintiff.

18. If the Settlement is not consummated in accordance with the terms of the Stipulation, then the Stipulation and this Order and Final Judgment shall be null and void, of no further force or effect, and without prejudice to any Party, and may not be introduced as evidence or used in any action or proceeding by any Person against the Parties or the Released Defendants' Parties or Released Plaintiffs' Parties, and each Party shall be restored to his, her or its respective litigation positions as they existed prior to April 24, 2024, pursuant to the terms of the Stipulation.

DATED:

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