

**East Palestine Train Derailment  
Plan of Distribution**

**Allocation**

<b>Direct Payment</b>	<b>Business Loss</b>	<b>Personal Injury/ Exposure Supplement</b>	<b>Holdback</b>	<b>Fees**</b>	<b>Expenses**</b>	<b>Total</b>
\$265mm	\$25mm	\$120mm	\$10mm	\$162mm	\$18mm	\$600mm

- Settlement establishes a single Settlement Fund of \$600mm. Preliminary assignments to each program are subject to “pour over” provisions and can be re-allocated as necessary to achieve fair, reasonable and adequate compensation of all claims within a given program.
- The preliminary assignments of funds are exclusive of roughly \$25mm in payments previously made by Norfolk Southern, of which reductions and offsets will be applied as set forth below. Data and evidence supporting those payments on a class member-by-class member basis have been provided by Norfolk Southern and shall be used by the Settlement Administrator to calculate and apply reductions or offsets in the manner contemplated by the Plan.

**Program 1 – Direct Payment**

- The Settlement Administrator shall use the information and data collected through the claims process to calculate each eligible class member household’s Direct Payment using the factors and weights described in this Section.
- All eligible class member households start with a “base” of 100 points, which is intended to reflect the “average” family living in the Village of East Palestine at the time of the Derailment.<sup>1</sup> The “base” of 100 points is equivalent to one \$70,000 share of the Direct Payment program. The “base case” is therefore entitled to \$70,000 per household, with other household payments increasing or decreasing from the “base case” depending on the factors presented in their claim forms.

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\*\* Requested

<sup>1</sup> Family of 5 (2 Adults, 3 Children) living in Village of East Palestine on February 3, 2023. The family lives on and owns 1 acre of land. They were displaced from 2/3/23-2/8/23 within 10 miles of the derailment site.

- The factors elicited from the claim form are converted to multipliers that reflect enhancements or detractions based on severity or degree of impact. All multipliers – whether enhancements or detractions – are applied consistently and objectively to the eligible class member household’s “base” award of 100 points. The number of points calculated once all multipliers have been applied is the final gross allocation of the Direct Payment program to an eligible class member household subject to any reductions or offsets discussed below.

*Category 1 – Location Points*

<b>Distance from Derailment Site</b>	Trackside <sup>2</sup>	Village of East Palestine or Out to 2 Miles	2-3 Miles	3-4 Miles	4-5 Miles	5-6 Miles
<b>Multiplier</b>	1.10x	1x	.64x	.57x	.42x	.35x

<b>Distance from Derailment Site</b>	6-7 Miles	7-8 Miles	8-9 Miles	9-10 Miles	10-15 Miles	15-20 Miles
<b>Multiplier</b>	.28x	.21x	.14x	.07x	.0035x	.0014x

*Category 2 – Direction Points*

<b>Direction from Derailment Site<sup>3</sup></b>	200* - 317*	All Other Directions
<b>Multiplier</b>	.50x	1x

**Note: Direction Points are only applicable to claims made outside of the Village of East Palestine or 2 Miles from the Derailment Site.**

*Category 3 – Timing of Physical Presence Points*

<b>Time First Physically Present in Class Area</b>	2/3/23-2/8/23	2/9/23-6/30/23	7/1/23-4/26/24
<b>Multiplier</b>	1x	.50x	.25x

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<sup>2</sup> Defined as the area of the Village of East Palestine, Ohio, bounded by Taggart Street (South); E. Martin Street (North); PA State Line (East); N. James Street (West).

<sup>3</sup> Derailment Site is CenterPoint.

*Category 4 – Nature of Physical Presence Points*

<b>Nature of Physical Presence in Class Area</b>	Live + Own Property	Live + Work Only	Live Only	Own Property Only	Work Only
<b>Multiplier</b>	1x	.90x	.80x	.10x	.05x

*Category 5 – Household Composition Points (Adults)*

<b>Adults in Household</b>	1	2	3-4	5+
<b>Multiplier</b>	.75x	1x	1.25x	1.50x

*Category 6 – Household Composition (Children)*

<b>Children in Household</b>	<2	3	4-5	5+
<b>Multiplier</b>	.90x	1x	1.10x	1.20x

*Category 7 – Household Composition (Over the Age of 65)*

<b>Over 65 in Household</b>	1	2+
<b>Multiplier</b>	1.025x	1.05x

*Category 8 – Displacement Points (Duration)*

<b>Duration of Displacement</b>	<4 Days	4 Days – 1 Week	1 Week – 30 Days	31 Days – 60 Days	61 Days – 90 Days	91 Days – 180 Days
<b>Multiplier</b>	.75x or 1x	1x	1.025x	1.05x	1.075x	1.10x

<b>Duration of Displacement</b>	181 Days – 1 Year	Permanent Relocation
<b>Multiplier</b>	1.125x	1.15x

**Note: Displacements less than four days are scored at a .75x multiplier only for those households within the Village of East Palestine or out to 2 miles from the Derailment Site due to Evacuation Orders.**

*Category 9 – Displacement Points (Distance)*

<b>Distance of Displacement</b>	<10 Miles	10-20 Miles	>20 Miles
<b>Multiplier</b>	1x	1.025x	1.05x

*Category 10 – Displacement Points (Lost Work)*

<b>Time Lost from Work</b>	<1 Week	1 Week – 30 Days	31 Days – 90 Days	91 Days – 180 Days	181 Days – 1 Year	Permanent
<b>Multiplier</b>	1x	1.025x	1.05x	1.075x	1.10x	1.125x

*Category 11 –Property Points (Acreage)*

<b>Acreage of Property</b>	<.5 Acres	.5-1 Acre	1-5 Acres	5-10 Acres	10-20 Acres	20-50 Acres
<b>Multiplier</b>	.90x	.95x	1x	1.05x	1.10x	1.15x

<b>Acreage of Property</b>	50-100 Acres	> 100 Acres
<b>Multiplier</b>	1.20x	1.25x

*Category 12 – Property Points (Damage)*

<b>Damage to Property</b>	Fire/Water/Smoke	Confirmed Contamination	Other
<b>Multiplier</b>	1.1x	1.05x	1.025x

<b>Damage to Residence/Structure</b>	Fire/Water/Smoke	Structural	Confirmed Contamination	Other
<b>Multiplier</b>	1.1x	1.1x	1.05x	1.025x

<b>Damage to Personal Property</b>	Fire/Water/Smoke	Confirmed Contamination	Other
<b>Multiplier</b>	1.1x	1.05x	1.025x

**Note: All property within the Class Area is presumed contaminated to varying degrees (reflected in Location and Direction points). Confirmed contamination therefore requires testing, sampling or other corroborating evidence showing elevated chemical levels attributable to the Derailment.**

*Category 13 – Property Points (Additional Owned Properties in Class Area)*

<b>Number of Additional Property</b>	1	2	3+
<b>Multiplier</b>	1.05x	1.10x	1.15x

Sample Applications

- Scenario 1 – Family of 4 (2 Adults, 2 Children) living Trackage in East Palestine on February 3, 2023. They owned their property and were forced to permanently relocate 12 miles away. Their property in East Palestine was roughly .55 acres.

Base Points	Location	Direction	Physical Presence (Time)	Physical Presence (Character)	Household – Adults	Household – Children	Displacement Length	Displacement Distance	Work Lost	Acreage	Total Points	Total Value
100	1.10x	1x	1x	1x	1x	.90x	1.15x	1.025x	1x	.95x	110.86	\$77,602

- Scenario 2 - Family of 6 (3 Adults, 3 Children) living 7.3 miles from the Derailment Site on February 3, 2023. The family lives on and owns 4.2 acres of land. They were not displaced; however, they do live within the plume area.

Base Points	Location	Direction	Physical Presence (Time)	Physical Presence (Character)	Household – Adults	Household – Children	Displacement Length	Displacement Distance	Work Lost	Acreage	Total Points	Total Value
100	.21x	1x	1x	1x	1.25x	1x	1x	1x	1x	1x	26.25	\$18,375

- Scenario 3 – Family of 2 (1 Adult, 1 Child) living in the Village of East Palestine on February 3, 2023. The family rents an apartment on less than 1 acre of land. They were displaced for 45 days, 12 miles away. The adult missed one week of work.

Base Points	Location	Direction	Physical Presence (Time)	Physical Presence (Character)	Household – Adults	Household – Children	Displacement Length	Displacement Distance	Work Lost	Acreage	Total Points	Total Value
100	1x	1x	1x	.80x	.75x	.90x	1.05x	1.025x	1x	.90x	52.31	\$36,617

- Scenario 4 – Family of 4 (2 Adults, 2 Children) living 4.1 miles from the Derailment Site on February 3, 2023. The family owns their property, which is 8.4 acres. They were not displaced, and they live southwest of the Derailment Site.

Base Points	Location	Direction	Physical Presence (Time)	Physical Presence (Character)	Household – Adults	Household – Children	Displacement Length	Displacement Distance	Work Lost	Acreage	Total Points	Total Value
100	.42x	.5x	1x	1x	1x	.90x	1x	1x	1x	1.05x	19.85	\$13,895

- Scenario 5 – Family of 7 (2 Adults, 5 Children) living 13.8 miles from the Derailment Site on February 3, 2023. The family owns their property, which is 24.3 acres. They were not displaced; however, they do live within the plume area.

Base Points	Location	Direction	Physical Presence (Time)	Physical Presence (Character)	Household – Adults	Household – Children	Displacement Length	Displacement Distance	Work Lost	Acreage	Total Points	Total Value
100	.0035x	1x	1x	1x	1x	1.1x	1x	1x	1x	1.15x	.443	\$310

Reductions and Offsets

- Inconvenience Payments
  - Dollar-for-Dollar to Household from Total Gross Direct Payment.
    - Example - Household Accepted 4 Inconvenience Payments; \$4,000 Deducted from Entire Direct Payment
- Displacement or Other Reimbursements
  - Total Amount Deducted from Points Allocated for Specific Category of Reimbursement **Only**
    - Example – Household received a multiplier translating to 25 points for Displacement totaling \$17,000<sup>4</sup>. Household previously received \$15,000 in reimbursement for housing and food due to evacuation. \$15,000 is subtracted from the \$17,000 allotted for Displacement **only**. The remainder of points and Direct Payment is unaffected.
    - Example – Household received a multiplier translating to 25 points for Damage totaling \$17,000<sup>5</sup>. The household previously received \$20,000 in reimbursement for cleanings, new HVAC filters, etc. The entire \$17,000 allotted for Damage is subtracted **only**. The net difference of \$3,000 is waived. The remainder of points and Direct Payment is unaffected.
- Incarcerated Individuals
  - Incarcerated individuals are any eligible class members who were confined for any reason during the Class Period. Any incarcerated individual submitting a claim shall receive a 90% reduction (.10x) reflective of their confinement, given the Direct Payment program is designed, in part, to compensate property-based torts like trespass, nuisance, loss of use and enjoyment of property, inconvenience, and disruption.

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<sup>4</sup> Point value to be determined; for illustrative purposes only.

<sup>5</sup> Point value to be determined; for illustrative purposes only.

- In all cases, funds from reductions and offsets pour back into the Direct Payment assignment to be redistributed to the Class, including in supplemental payments, if any.

**Program 2 – Voluntary Exposure Supplement (a/k/a Voluntary Personal Injury Program)**

- The Settlement Administrator shall use the information and data collected through the claims process to calculate each eligible class member’s Voluntary Exposure Supplement (also referred to as Personal Injury Payment) payment using the factors and weights described in this Section.
- All eligible class members start with a “base” of 100 points, which is intended to reflect the “average” individual living in the Village of East Palestine at the time of the Derailment.<sup>6</sup> The “base” of 100 points is equivalent to one \$25,000 share of the Voluntary Exposure Supplement program. The “base case” is therefore entitled to \$25,000 per person, with other individuals’ payments increasing or decreasing from the “base case” depending on the factors presented in their claim forms.
- The factors elicited from the claim form are converted to multipliers that reflect enhancements or detractions based on severity or degree of impact. All multipliers – whether enhancements or detractions – are applied consistently and objectively to the eligible class member’s “base” award of 100 points. The number of points calculated once all multipliers have been applied is the final gross allocation of the Voluntary Exposure Supplement program to an eligible class member subject to any reductions or offsets discussed below.

*Category 1 – Location Points*

<b>Distance from Derailment Site</b>	Trackside <sup>7</sup>	Village of East Palestine or Out to 2 Miles	2-3 Miles	3-4 Miles	4-5 Miles	5-6 Miles
<b>Multiplier</b>	1.10x	1x	.60x	.50x	.40x	.20x

<b>Distance from Derailment Site</b>	6-7 Miles	7-8 Miles	8-9 Miles	9-10 Miles
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<sup>6</sup> 1 adult living in Village of East Palestine on February 3, 2023. The individual reports exposure to chemicals and symptoms, including respiratory distress. The adult does not seek medical care or receive a formal diagnosis.

<sup>7</sup> Defined as the area of the Village of East Palestine, Ohio, bounded by Taggart Street (South); E. Martin Street (North); PA State Line (East); N. James Street (West).

<b>Multiplier</b>	.14x	.08x	.06x	.04x
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*Category 2 – Direction Points*

<b>Direction from Derailment Site<sup>8</sup></b>	200* - 317*	All Other Directions
<b>Multiplier</b>	.50x	1x

**Note: Direction Points are only applicable to claims made outside of the Village of East Palestine or 2 Miles from the Derailment Site.**

*Category 3 – Timing of Physical Presence Points*

<b>Time First Physically Present in Class Area</b>	2/3/23-2/8/23	2/9/23-6/30/23	7/1/23-4/26/24
<b>Multiplier</b>	1x	.50x	.25x

*Category 4 – Age Points (At Time of Derailment)*

<b>Age at Time of Derailment</b>	Minor	Over 65	All Others
<b>Multiplier</b>	1.10x	.90x	1.0x

*Category 5 – Exposure and/or Symptom Points (Existence)*

<b>Claimed Exposure and/or Symptoms</b>	Yes	No
<b>Multiplier</b>	1x	.75x

*Category 6 – Exposure and/or Symptom Points (Nature)*

<b>Nature of Claimed Symptoms</b>	Ambiguous Symptoms	Transient Symptoms	Significant Disease
<b>Multiplier</b>	.90x	1x	1.25x

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<sup>8</sup> Derailment Site is CenterPoint.

**Note: Only applies if Class Member noted exposure and symptoms.**

**Note: Ambiguous Symptoms – Runny Nose, Eye Irritation, Headaches, Sore Throat, Etc.  
 Transient Symptoms – Respiratory Distress, Burning Lungs, Rash, Etc.  
 Significant Disease – Pneumonia, COPD, Chemical Bronchitis, Heart Attack, Etc.**

*Category 7 – Medical Treatment*

<b>Nature of Medical Treatment</b>	None	Office Visit	Diagnostic Testing (Blood Work/Imaging/Etc.	Prescription Medication	Hospitalization	Multiple or Extended Hospitalization
<b>Multiplier</b>	1x	1.05x	1.10x	1.10x	1.20x	1.25x

*Category 8 – Formal Diagnosis*

<b>Formal Diagnosis</b>	Yes	No
<b>Multiplier</b>	1.05x	1x

Sample Applications

- Scenario 1 – A person aged 35 living 1.5 miles from the Derailment Site on February 6, 2023. Reports symptoms of headaches and sore throat; however, did not seek medical treatment and did not receive a formal diagnosis.

Base Points	Location	Direction	Physical Presence (Time)	Child	Elderly	Exposure/Symptoms	Nature of Symptoms	Treatment	Diagnosis	Total Points	Total Value
100	1x	1x	1x	Null	Null	1x	.90x	1x	1x	90	\$22,500

- Scenario 2 – Child aged ten living 3.4 miles from the Derailment Site on February 3, 2023. Reports no symptoms or treatment.

Base Points	Location	Direction	Physical Presence (Time)	Child	Elderly	Exposure/Symptoms	Nature of Symptoms	Treatment	Diagnosis	Total Points	Total Value
100	.5x	1x	1x	1.10	Null	.75x	Null	Null	Null	45.375	\$11,343.75

- Scenario 3 – A person aged 67 living in the Village of East Palestine on February 3, 2023. Reports chemical bronchitis and COPD diagnoses. Also reports inpatient hospitalization and is still under the care of a pulmonologist.

Base Points	Location	Direction	Physical Presence (Time)	Child	Elderly	Exposure/Symptoms	Nature of Symptoms	Treatment	Diagnosis	Total Points	Total Value
100	1x	1x	1x	Null	.90x	Null	1.25x	1.2x	1.05x	141.75	\$35,437.50

- Scenario 4 – A person aged 48 living 7.3 miles from the Derailment Site. Reports exposure but no symptoms.

Base Points	Location	Direction	Physical Presence (Time)	Child	Elderly	Exposure/Symptoms	Nature of Symptoms	Treatment	Diagnosis	Total Points	Total Value
100	.08x	1x	1x	Null	Null	.75x	Null	Null	Null	6	\$1,500

- Scenario 5 – A person aged 55 living 3.6 miles from the Derailment Site in the southwest direction. Reports exposure and runny nose; however, no medical treatment or formal diagnosis.

Base Points	Location	Direction	Physical Presence (Time)	Child	Elderly	Exposure/Symptoms	Nature of Symptoms	Treatment	Diagnosis	Total Points	Total Value
100	.5x	.5x	1x	Null	Null	Null	.90x	Null	Null	22.5	\$5,625

Reductions and Offsets

- Medical Payments or Other Reimbursements
  - Total Amount Deducted from Points Allocated for Specific Category of Reimbursement **Only**
    - Example – An individual received a multiplier that translated to 5 points for medical treatment, totaling \$3,000<sup>9</sup>. Individual previously received \$1,500 in reimbursement for x-rays and blood testing. \$1,500 is subtracted from the \$3,000 allotted for Medical Treatment **only**. Remainder of points and Voluntary Exposure Supplement payment is unaffected.

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<sup>9</sup> Point value to be determined; for illustrative purposes only.

- Example – An individual received a multiplier that translates to 5 points for medical treatment, totaling \$3,000<sup>10</sup>. An individual previously received \$5,000 in reimbursement for X-rays and blood testing. The entire \$3,000 allotted for Medical Treatment is subtracted **only**. The net difference of \$2,000 is waived. The remainder of points and Voluntary Exposure Supplement payment are unaffected.
- In all cases, funds from reductions and offsets pour back into Voluntary Exposure Supplement assignment to be redistributed to the Class, including in supplemental payments, if any.

### **Program 3 – Actual Net Business Loss**

- Class member businesses are compensated from the Actual Net Business Loss program on a dollar-for-dollar basis for those documented net business losses shown to be caused by the Derailment. To the extent that claims rates exhaust the Settlement Fund such that dollar-for-dollar payments cannot be made, all businesses will receive the same pro rata reduction (e.g., 90 cents for every dollar of loss).
- To ensure that class member businesses receive appropriate consideration given their unique industries and circumstances, the Settlement Administrator shall not apply a general or blanket percentage of loss to all businesses. Rather, the Settlement Administrator shall conduct an individualized review of the supporting documentation provided by the class member business to include, at a minimum, federal income tax returns for 2022 and 2023. Based on the supporting documentation, the Settlement Administrator shall:
  - Provide the class member business with a preliminary calculation of the actual net business loss attributable to the Derailment; and/or
  - Request additional documentation or other supporting materials sufficient to establish the actual net business loss attributable to the Derailment, if any.
- The Settlement Administrator shall have the discretion to accept or reject any documentation or other supporting material provided by the class member business substantiating its actual net business losses provided that any documentation or other supporting material accepted by the Settlement Administrator is, in its view, sufficiently legitimate, authentic and otherwise reliable as a basis from which to calculate and award a payment under the Actual Net Business Loss program.

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<sup>10</sup> Point value to be determined; for illustrative purposes only.

### Reductions and Offsets

- Reimbursements from Any Source (Norfolk Southern, Insurance, Forgivable Loans, Etc.)
  - Total Amount Deducted from gross Actual Net Business Loss calculated by the Settlement Administrator.
    - Example – Class member business submits evidence of an actual net business loss of \$25,000 as a result of the Derailment. Norfolk Southern had previously paid the class member business \$15,000 for lost profits in the year following the Derailment. The \$15,000 prior payment would be subtracted from the \$25,000 calculation for a payment of \$10,000 under the Actual Net Business Loss program.
- In all cases, funds from reductions and offsets pour back into Actual Net Business Loss assignment to be redistributed to the Class, including in supplemental payments, if any.

### **Claims for Extraordinary Loss, Damage or Injury**

- Class members across all three programs are eligible to submit claims for extraordinary loss, damage or injury.
- A claim for extraordinary loss, damage or injury is a claim that, in the Settlement Administrator’s sole discretion, is so different in degree from that which the majority of other class members experienced that the Plan of Distribution would not otherwise provide fair, reasonable and adequate compensation.
  - To determine whether a claim is truly extraordinary, the Settlement Administrator will be guided by the nature and character of all other claims submitted by class members, drawing comparisons or distinctions as necessary to conclude whether the class members’ circumstances are, in fact, exceptional or rare.
  - In all cases, the Settlement Administrator’s decision that a claim for loss, damage or injury is exceptional shall be supported by corroborating documentation or other materials provided by the class member and individually reviewed by the Settlement Administrator.
- In the event a class member submits a claim for extraordinary loss, damage or injury, and the Settlement Administrator rejects the same in its sole discretion, the class member remains eligible, and will be considered for, any other programs or payments that may apply.

### **Minor and Protected Persons Compromises**

- The Settlement Administrator shall not issue any individual payment on behalf of a minor or other protected person unless and until such individual has obtained all approvals needed under governing law.

General Procedures

- To ensure that all payments to minors and other protected persons comply with governing law, the Settlement Administrator shall engage in outreach to all such Class Members or their legal guardians/representatives to secure necessary information, including dates of birth and social security numbers.
- Once, after reasonable efforts, all necessary information has been obtained and deficiencies in the claims process cured, the Settlement Administrator shall compile a list of all Class Members receiving an individual payment who are either minors or other protected persons. These lists shall be provided to the financial institution managing the Qualified Settlement Fund, which will in turn create individual accounts, as necessary, for each such Class Member bearing any restrictions or other conditions required by governing law.
- To the extent the Court or any Probate Court having jurisdiction over minors and other protected persons' compromises revises, amends or otherwise changes the procedures set forth below, the Settlement Administrator shall in all respects fully comply with such revisions, amendments and/or changes before causing any funds to be distributed into the individual accounts as set forth above.

Minors and Protected Persons in Ohio

- Once the Settlement Administrator has compiled the list of all Class Members receiving an individual payment who are either minors or other protected persons, Class Counsel shall file with the Court a Motion for Entry of a Recommendation that such compromise payments are fair, reasonable and adequate. The Motion shall specifically include a schedule of all Ohio minors and other protected persons, their dates of birth, social security numbers and the amount of any individual payments. Class Counsel shall take all necessary steps to ensure such schedule is filed under seal and not otherwise made publicly accessible.
- Upon the Court granting the Motion and entering a recommendation that the compromise payments are fair, reasonable and adequate, Class Counsel shall then file omnibus petitions for approval of the minors or other protected persons' compromises with the appropriate Probate Court in either Columbiana or Mahoning County, Ohio, for further consideration, approval and action as required by Ohio law.
- Only upon any approval by the Probate Court shall the Settlement Administrator cause the financial institution managing the Qualified Settlement Fund to distribute individual payments to the minors or other protected persons' individual accounts consistent with the terms and conditions of any such approval.

Minors and Protected Persons in Pennsylvania<sup>11</sup>

- Once the Settlement Administrator has compiled the list of all Class Members receiving an individual payment who are either minors or other protected persons, Class Counsel shall file with the Court a Motion for Approval of Minors or Other Protected Persons' Compromise requesting an order finding that such compromise payments are fair, reasonable and adequate. The Motion shall specifically include a schedule of all Pennsylvania minors and other protected persons, their dates of birth, social security numbers and the amount of any individual payments. Class Counsel shall take all necessary steps to ensure such schedule is filed under seal and not otherwise made publicly accessible.
- Only upon any approval by the Court – exercising its jurisdiction and authority pursuant to 231 Pa. Code § 2039 – shall the Settlement Administrator cause the financial institution managing the Qualified Settlement Fund to distribute individual payments to the minors or other protected persons' individual accounts consistent with the terms and conditions of any such approval.

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<sup>11</sup> To the extent minors or other protected persons from the state of West Virginia make eligible claims, the Settlement Administrator and Class Counsel shall implement a similar process ensuring compliance with the laws of West Virginia.