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Class Counsel

U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

KAREN SOLBERG, NANCY MORIN, and NARISHA
BONAKDAR, on their own behalf and on behalf
of others similarly situated,

Plaintiffs,

v.

VICTIM SERVICES, INC., d/b/a
CorrectiveSolutions, NATIONAL CORRECTIVE
GROUP, INC., d/b/a CorrectiveSolutions,
AMERICAN JUSTICE SOLUTIONS, INC., d/b/a
CorrectiveSolutions, BIRCH GROVE HOLDINGS,
INC., MATS JONSSON and KARL THOMAS
JONSSON,

Defendants.

NO. 3:14-cv-05266-VC

**PLAINTIFFS' UNOPPOSED MOTION FOR
APPROVAL OF NOTICE OF PROPOSED
CLASS ACTION SETTLEMENT**

Honorable Vince Chhabria

CLASS ACTION

DEMAND FOR TRIAL BY JURY

Date: February 18, 2021

Time: 10:00 a.m.

Location: Videoconference

TO: THE CLERK OF THE COURT; and

TO: DEFENDANTS VICTIM SERVICES, INC., d/b/a CorrectiveSolutions, NATIONAL CORRECTIVE GROUP, INC., d/b/a CorrectiveSolutions, AMERICAN JUSTICE SOLUTIONS, INC., d/b/a CorrectiveSolutions, BIRCH GROVE HOLDINGS, INC., MATS JONSSON and KARL THOMAS JONSSON, AND ITS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on February 18, 2021, at 10:00 a.m., via videoconference, Plaintiffs will move for preliminary approval of a class action settlement. The motion will be based on this notice of motion, the memorandum of points and authorities, the declaration of Beth E. Terrell, the declaration of Jennifer M. Keough, and the declaration of Mats Jonsson, the records and file in this action, and such other matter as may be presented before or at the hearing of the motion.

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I. INTRODUCTION

It is a bit of a cliché for counsel to characterize litigation as “prolonged” and “hard fought” when they seek approval of a class settlement, but that characterization is truly appropriate in this case. In the more than six years since Plaintiffs filed their initial complaint in December 2014, the parties have briefed numerous motions, including multiple motions to dismiss, a motion to compel arbitration, class certification, two rounds of cross-motions for summary judgment, and even two appeals and a Rule 23(f) petition. Discovery encompassed the Defendants named in the initial complaint as well as those subsequently added to the case, as well as several district attorneys’ offices and other third parties with relevant information. The parties also periodically discussed potential resolution without success.

With the Court poised to hear argument on the parties’ cross-motions for summary judgment and some frank exchanges about Plaintiffs’ ability to collect a judgment against Defendants, the parties were well positioned to consider and ultimately accept Magistrate Judge Laurel Beeler’s settlement proposal. Defendants’ insurers will establish a \$1.1 million Settlement Fund to pay Settlement Awards, administrative expenses, statutory damages and service awards to Plaintiffs, and attorneys’ fees and costs. To make this settlement happen in light of the insurer’s defenses to coverage, Defendants are buying out their insurance policies and foregoing insurance coverage for any future covered claims.

Members of the Settlement Classes, which are identical to the Classes the Court previously certified, will have the opportunity to submit a simple claim form to receive a Settlement Award. JND estimates the administrative expenses to be no more than \$106,000 (including the costs of class certification notice) and Class Counsel intend to request Court approval of attorneys’ fees of 25% of the Settlement Fund, or \$275,000, reimbursement of \$135,000 in litigation costs, and statutory damages and service awards of \$3,000 for each Plaintiff. If the Court approves these requests, \$555,000 will be used to pay the Settlement Awards. Of this amount, \$20,000 will be allocated to FDCPA statutory damages and

distributed equally to all FDCPA Class members. The remaining \$535,000 (the Actual Damages Settlement Fund) will be distributed to FDCPA and UCL Class members who paid fees to Defendants in proportion to the amount of fees they paid. None of the Settlement Fund will revert to Defendants.

The proposed settlement is a fair resolution of Plaintiffs' claims given the significant risk of no recovery at all regardless of the Court's ruling on the pending cross-motions for summary judgment. Absent a settlement, the remaining issue for the Court's resolution is whether the fees Defendants collected or attempted to collect from Class members in connection with check diversion programs are unlawful. If the Court finds that the fees are allowed by California law and grants summary judgment for Defendants, Class members will recover nothing. If the Court finds the fees are unlawful, Class members will have a judgment they most likely could not collect because of Defendants' financial condition and their insurer's defenses to coverage. The settlement provides Class members with cash payments they would likely never receive if the parties continue to litigate. Plaintiffs request that the Court grant their motion so Settlement Class members may receive notice of the settlement.

II. BACKGROUND

A. Plaintiffs' claims and Defendants' motions to dismiss and strike

Plaintiffs Karen Solberg, Kevin Breazeale, and Kevin Hiep Vu filed this class action lawsuit against defendants NCG, VSI, and Mats Jonsson on December 1, 2014, seeking damages and injunctive relief on behalf of classes of similarly situated persons. Dkt. No. 1. Nancy Morin and Narisha Bonakdar joined the case as Plaintiffs in a First Amended Complaint filed on February 6, 2015. Dkt. No. 8. Plaintiffs added defendants American Justice Solutions, Inc., an entity that runs the day-to-day operations of the bad check programs as well as other private probation businesses operated by Defendants, Birch Grove Holdings, Inc., the corporate parent of VSI and AJS, and Karl Thomas Jonsson, the son of Defendant Mats Jonsson and an employee of Birch Grove, and removed Mr. Breazeale and Mr. Vu as named plaintiffs

in a Second Amended Complaint filed on May 25, 2018. Dkt. No. 216.

Throughout the litigation, Plaintiffs asserted claims for violations of the Fair Debt Collection Practices Act and the California Unfair Competition Law. Plaintiffs alleged that Defendants are private debt collectors that sent false, deceptive, and misleading letters on the letterhead of district attorneys to collect dishonored checks on behalf of retail merchants in California and other states. Among other things, Plaintiffs alleged that Defendants demanded fees that were not authorized by law and operated without district attorney oversight, as required by state and federal law. *See* Dkt. Nos. 1, 8, 216.

In April 2015, Defendants moved to strike Plaintiffs' state law claims as barred under California Code of Civil Procedure section 425.16, contending that this case was a strategic lawsuit against public participation, or SLAPP suit. Dkt. No. 37. Defendants also moved to dismiss Plaintiffs' claims, arguing that they failed to state a claim upon which relief could be granted and that the Court lacked jurisdiction over the claims. Dkt. No. 38. Following briefing, Dkt. Nos. 47-52, and a hearing, Dkt. No. 62, the Court denied both motions. Dkt. No. 63.

B. Defendants' first appeal

Defendants appealed the Court's denial of their motion to strike. Dkt. No. 65. Plaintiffs moved to certify the appeal as frivolous and the Defendants moved to stay proceedings pending the appeal. Dkt. Nos. 72, 74, 76-81. The Court denied both motions. Dkt. No. 83.¹ The parties completed briefing the appeal in March 2016.

C. VSI's motion to compel arbitration

In October 2015, VSI moved to compel individual arbitration of Ms. Bonakdar's claims. Dkt. No. 92. Plaintiffs opposed, arguing that there was no valid contract formed between Ms. Bonakdar and VSI and that the arbitration agreement is unconscionable. Dkt. No. 106. The Court requested further briefing on the question of whether it is appropriate for disputes that

¹ At the Court's request, the parties briefed the issue of whether a district court may rule on the merits of a plaintiff's claim prior to class certification or class notice, since Rule 23 generally prohibits so-called "one-way intervention." Dkt. Nos. 85, 95, 98, 100.

arise between a private company that assists in the operation of the criminal justice system and citizens to be resolved through arbitration. Dkt. No. 120; *see also* Dkt. Nos. 123, 131. The East Bay Community Law Center, Southern Center for Human Rights, and a group of professors of arbitration, contracts, and consumer law filed a brief as *amicus curiae* encouraging the Court to deny VSI's motion to compel arbitration. Dkt. No. 124. The Court invited further briefing on the application of the FAA to the dispute. Dkt. No. 135; *see also* Dkt. Nos. 136, 137. Ultimately, the Court denied VSI's motion, holding that the FAA did not apply and that California law does not allow arbitration of a dispute arising out of the exercise of the government's criminal law enforcement powers. Dkt. No. 140.

D. Defendants' second appeal and the Ninth Circuit's ruling on both appeals.

VSI appealed the Court's arbitration ruling. Dkt. No. 144. The parties completed briefing in July 2017. The Ninth Circuit consolidated the two appeals and held oral argument on September 13, 2017. On January 8, 2018, the Ninth Circuit issued its decision, concluding that it lacked jurisdiction to consider the Court's denial of Defendants' motion to strike and affirming the Court's denial of VSI's motion to compel arbitration because the purported agreement was not a private contract subject to the FAA. Dkt. No. 187. The Ninth Circuit denied Defendants' petition for rehearing or rehearing *en banc*. Dkt. No. 209.

E. The parties' comprehensive targeted discovery

The parties commenced discovery while the appeals proceeded. Spanning several years, the discovery process in this case was targeted but thorough. Defendants and third parties produced thousands of documents and the parties took more than 20 depositions, including Rule 30(b)(6) depositions of the Placer, Alameda, Orange, El Dorado, and Riverside County district attorneys' offices. Terrell Decl. ¶ 3. Plaintiffs served document subpoenas on several major creditors that submitted unpaid checks to Defendants for processing. *Id.* The course of discovery did not always run smoothly. The parties engaged in many meet and confer sessions and some of the disputes required rulings from the Court.

F. Plaintiffs' class certification motion, Defendants' motions to dismiss, and Plaintiffs' motion to amend the scheduling order

In June 2018 Plaintiffs moved for class certification. Dkt. Nos. 225-32. Defendants opposed (Dkt. No. 243) and filed a motion to deny class certification (Dkt. No. 244). The Court struck the motion to deny certification as redundant and improperly filed and ordered Defendants to show cause why they should not be sanctioned. Dkt. No. 252. The Court lifted its show cause order after Defendants' response. Dkt. Nos. 254, 263. Plaintiffs filed a reply to their motion for class certification in July 2018. Dkt. Nos. 257-58.

While the class certification motion was pending, Defendants moved to dismiss Plaintiffs' Second Amended Complaint, arguing that the Court lacked subject matter jurisdiction and Plaintiffs did not state a claim upon which relief could be granted, and a motion to dismiss under Rule 12(b)(7) or to require joinder of the district attorneys' offices who are parties to the contracts with Defendants. Dkt. Nos. 237-38. Plaintiffs opposed the motions and Defendants filed replies. Dkt. Nos. 259-62, 266-67.

Having learned that Defendants were handling many accounts from third-party Global Payments Services, Plaintiffs moved to reopen discovery. Dkt. Nos. 235-36. Plaintiffs sought to complete discovery of Global Payment Services, as well as the newly-added defendants, BGH, AJS, and Karl Thomas Jonsson. *Id.*

The Court heard argument on Plaintiffs' motion for class certification and motion to amend the scheduling order and reopen discovery and on Defendants' motions to dismiss on November 1, 2018. The Court advised the parties that the Defendants' motions to dismiss would be denied except that the Court was inclined to find that Plaintiffs lacked Article III standing to pursue injunctive relief and to certify a class of persons who received letters from Defendants before the date on which Defendants modified the challenged program as required by a consent order between Defendants and the CFPB. Defendants modified their program consistent with the CFPB consent requirements as of May 8, 2015. Dkt. No. 284 at 1.

The Court granted Plaintiffs' motion "in large part" on December 12, 2018, certifying two litigation classes. Dkt. No. 297 at 1. The FDCPA Class consists of persons in California to whom Defendants sent a demand in connection with a returned check attempting to collect money for checks written for personal, family, or household purposes from December 1, 2013, to May 7, 2015. *Id.* The UCL class consists of persons in California to whom Defendants sent an initial collection demand in connection with a returned check at any time from September 1, 2011, to May 7, 2015, and then paid any fees to Defendants in response. *Id.* at 4. The Court found that Plaintiffs lacked standing to seek injunctive relief because they were unlikely to bounce checks again the future or, if they did, to "then be pulled into the diversion program." *Id.* at 3. The UCL Class members were therefore limited to seeking restitution of the fees the paid to Defendants.

The Ninth Circuit denied Defendants' Rule 23(f) petition for review of the Court's certification order. Dkt. No. 313.

Plaintiffs retained JND Class Action Administration to disseminate notice of the Court's class certification order to the Classes. At the direction of Class Counsel, JND sent the Court-approved Initial Class Notice—consisting of a postcard notice and email notice, with a more detailed notice posted on the www.CheckDiversionClassAction.com website—to Class members on February 13, 2019. Keough Decl. ¶ 4; Dkt. Nos. 303, 308.

G. The parties' first round of cross-motions for summary judgment

The parties filed cross-motions for summary judgment between April and June 2019. Dkt. Nos. 314-24, 329-30. The Court granted in part and denied in part both parties' motions on November 20, 2019. Dkt. No. 348. The Court held that VSI is not exempt from the FDCPA's coverage but that the form letters Defendants sent to Class members were not misleading. *Id.* at 1-2, 4-22, 27. The Court granted summary judgment to Defendants on Plaintiffs' fraudulent and negligent misrepresentation claim and partial summary judgment to Defendants on the "fraudulent" and "unfair" prongs of the UCL. *Id.* at 25-26. The Court found it could not resolve

the question of whether Defendants violated the FDCPA and California law by charging unauthorized fees. *Id.* at 22-25.

H. The parties' second round of cross-motions for summary judgment

The parties briefed the issue of the legality of the fees Defendants collected in a second round of cross-motions for summary judgment. Dkt. Nos. 356-60, 364-65. Defendants also moved for decertification, judgment on the pleadings, and to dismiss for failure to join required parties, and Plaintiffs opposed. *Id.* The Court has not ruled on these motions.

I. Settlement negotiations

The parties first mediated in September 2016 with the assistance of Bruce Friedman, Esq. of JAMS but were unsuccessful. Terrell Decl. ¶ 4. The parties mediated again with Mr. Friedman's assistance in April 2018 and in June 2019 without reaching a resolution. *Id.*

At the parties' request, the Court referred the case to Magistrate Judge Laurel Beeler for a settlement conference. The parties provided Judge Beeler with a candid summary of the remaining issues and the challenges for settlement. At the conclusion of the November 19, 2020 conference, Judge Beeler proposed a settlement. Dkt. No. 385. After further discussions, the parties accepted the proposal and reached an agreement on November 30. Dkt. No. 386.

III. SETTLEMENT TERMS

The terms of the settlement are memorialized in the parties' Settlement Agreement and Release, attached as Exhibit 1 to the Terrell Declaration.

A. The Settlement Classes

The Settlement Classes are defined as:

FDCPA Class: All persons in California to whom the defendants sent a collection demand in connection with a returned check from whom the defendants attempted to collect or collected money for checks written for personal, family, or household purposes, from December 1, 2013, to May 7, 2015.

UCL Class: All persons in California to whom the defendants sent an initial collection demand in connection with a returned check at any time from

September 1, 2011, to May 7, 2015, and who subsequently paid any fees to the defendants in response to that letter.

Settlement Agreement § II.2. These Settlement Classes are identical to the litigation classes the Court previously certified (*see* Dkt. No. 297 at 1, 4), and do not include any person who excluded himself or herself from those classes during the previous opt-out period or who excludes himself or herself during the opt-out period following mailing of settlement notice.

B. Monetary Relief

Defendants' insurers will pay \$1,100,000 into a Settlement Fund to be allocated to Settlement Awards, administrative expenses, statutory damages and service awards to Plaintiffs, and attorneys' fees and costs, subject to approval by the Court. If the Court awards less than the amounts Class Counsel request for statutory damages, administrative expenses, service awards, or attorneys' fees and costs, the difference will be allocated to the Actual Damages Settlement Fund to pay Settlement Awards. No part of the Settlement Fund will revert to Defendants. Settlement Agreement § III.1.

1. Settlement Awards

Class Members will have the opportunity to seek Settlement Awards by submitting a complete Claim Form within 60 days after the Settlement Notice Date. Claims forms may be submitted online or by mail. A Claim Form will be deemed complete if it includes information sufficient to permit the Settlement Administrator to distribute a settlement payment to the Class Member and there is no reason to doubt its authenticity. Settlement Agreement § III.3.

Each Claimant will be paid a single Settlement Award calculated as follows:

- Members of the FDCPA Class will receive a pro rata share of the amount of the \$20,000 portion of the Settlement Fund allocated to FDCPA statutory damages.
- Members of the FDCPA Class who paid fees to Defendants and members of the UCL Class will receive a pro rata share of the Actual Damages Settlement Fund calculated based on the percentage paid by the Claimant of the total amount paid to Defendants in fees by all Claimants.

Settlement Agreement § III.4.

Settlement Award checks that are not cashed within 90 days after the issue date on the check will be voided. If a second distribution to Claimants who cashed checks is administratively feasible, the Settlement Administrator will mail each Claimant who cashed their first check a second award check, which will be calculated in the same manner as the Settlement Awards. If the amount of unclaimed funds is below \$40,000, a second distribution will not be administratively feasible. Settlement Agreement § III.5.

If there are undistributed amounts remaining in the Settlement Fund after the check-cashing period described in the preceding paragraph and a second distribution is not administratively feasible, the parties agree that these amounts shall be paid to *cy pres* recipient East Bay Community Law Center. Settlement Agreement § III.6.

2. Service Awards and Statutory Damages

Plaintiffs will request Court approval of statutory damages and service awards in the amount of \$3,000 each (\$1,000 in statutory damages and \$2,000 service awards) for their time and effort in prosecuting this case on behalf of the Classes. Settlement Agreement § IV.1. The settlement is not contingent on the amount of the awards to Plaintiffs.

3. Attorneys' Fees and Litigation Expenses

Class Counsel will move the Court for an award of reasonable attorneys' fees of 25% of the Settlement Fund and reimbursement of up to \$135,000 in litigation expenses to be paid from the Settlement Fund. Class Counsel will file their motion for an award of attorneys' fees, litigation costs, and service and statutory damages awards to Plaintiffs within 30 days of the Settlement Notice Date. Defendants are free to oppose Class Counsel's motion. The Settlement Administrator will post Class Counsel's motion for an award of fees, costs, and service and statutory damage awards on the Settlement Website within one business day after it is filed with the Court. The settlement is not contingent on the amount of attorneys' fees or litigation expenses awarded. Settlement Agreement § IV.2.

4. Administrative Expenses

Class Counsel propose to retain JND Legal Administration to serve as the Settlement Administrator. JND administered the class certification notice program and is therefore familiar with the case and with the Classes. JND has substantial experience in administering class settlements. Keough Decl. ¶¶ 2-3, Ex. A. JND will be responsible for disseminating notice, maintaining the Settlement Website and toll-free number, responding to Class member inquiries, processing claim forms and opt-out requests, and administering the Settlement Fund. JND estimates its costs will not exceed \$60,000. *Id.* ¶ 6, Ex. B. In addition, Class Counsel incurred \$46,768.68 in costs for JND's administration of the class certification notice program. Terrell Decl. ¶ 10. The total estimated administration costs for the notice program are therefore no more than \$106,000. The administration costs will be paid from the Settlement Fund. Settlement Agreement § VII.2.

C. Release

In exchange for the settlement benefits, Settlement Class Members will release claims against Released Parties NCG, VSI, Birch Grove Holdings, Inc., American Justice Solutions, Inc., Mats Jonsson, and Karl Thomas Jonsson, as well as present, former and future direct and indirect parent companies, partnerships, entities, affiliates, subsidiaries, agents, principals, insurers, members, managers, successors, predecessors in interest (including without limitation Levine Leichtman Capital Partners, LLC, Levine Leichtman Capital Partners, Inc. and Levine Leichtman Capital Partners III, L.P.), spouses, heirs, executors, administrators, representatives, attorneys, general partners, limited partners, and/or any persons or entities that may hold or have held any interest in the operation or ownership of any of the Defendants, and all of the aforementioned's respective officers, directors, employees, members, managers, attorneys, consultants, shareholders, general partners, limited partners, agents, vendors and assigns, from the FDCPA and UCL claims certified by the Court for class treatment based on the check diversion program letters Defendants sent to Californians from

September 1, 2011, to May 7, 2015, or the fees Defendants charged Californians in connection with Defendants' check diversion programs. Settlement Agreement §§ II.15, XII. The release is narrowly tailored to the claims at issue and does not release other potential claims. The notice is clear that Class members are releasing only the FDCPA and UCL claims at issue, consistent with the Court's civil standing order.

D. Notice Plan

The parties propose a Notice Plan consisting of emailed and mailed notice to Settlement Class Members. Settlement Agreement § VII.4. The Notice Plan is described below.

IV. STATEMENT OF ISSUES

Whether the Court should grant preliminary approval of the proposed settlement so Settlement Class members may receive notice of its terms.

V. AUTHORITY AND ARGUMENT

A. The proposed settlement should be preliminarily approved.

In determining whether to grant preliminary approval of a class settlement, courts consider "whether (A) the class representatives and class counsel have adequately represented the class; (B) the proposal was negotiated at arm's length; (C) the relief provided by the settlement is adequate, taking into account: (i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief including the method of processing class-member claims, if required; (iii) the terms of any proposed award of attorneys' fees, including timing of payment; and (iv) any agreement required to be identified under Rule 23(e)(3) made in connection with the proposed settlement; and (D) the proposal treats class members equitably relative to each other." Fed. R. Civ. P. 23(e)(2). The Northern District's Procedural Guidance for Class Action Settlements adds considerations of "[t]he anticipated recovery under the settlement, the potential class recovery if plaintiffs had fully prevailed on each of their claims, and an explanation of the factors bearing on the amount of the compromise," as well as "the proposed allocation plan for the settlement fund"

and information about the claim form to be used, including “an estimate of the number and/or percentage of class members who are expected to submit a claim in light of the experience of the selected claims administrator and/or counsel from other recent settlements of similar cases, the identity of the examples used for the estimate, and the reason for the selection of those examples,” and whether any part of the settlement fund designated for class recovery will revert to any defendant.

Consideration of these factors supports preliminary approval of this settlement.

1. Plaintiffs and their counsel have adequately represented the Classes.

The Court found that Plaintiffs and Class Counsel adequately represented the Classes when it certified the Classes in December 2018. Dkt. No. 297 at 2. At that time, Plaintiffs had defeated two motions to dismiss, a motion to compel arbitration, and a motion to strike under California’s anti-SLAPP law, as well as Defendants’ appeals of the arbitration and anti-SLAPP rulings. Plaintiffs also engaged in substantial discovery of Defendants and third parties. Since the Court’s class certification ruling, Plaintiffs and Class Counsel defeated Defendants’ Rule 23(f) petition, disseminated notice to the Classes, briefed two rounds of cross-motions for summary judgment, and negotiated this settlement. For more than six years, Plaintiffs and Class Counsel fought to obtain necessary discovery, identify and include the appropriate defendants, and field Defendants’ many efforts to terminate the litigation on procedural and substantive grounds. Plaintiffs have no conflicts of interest with other Class members and have demonstrated their commitment to zealously representing the Classes.

2. The settlement is the result of arm’s-length, non-collusive negotiations.

The parties negotiated the settlement at arm’s length with the assistance of Magistrate Judge Beeler, and ultimately accepted Judge Beeler’s settlement proposal. This negotiation process favors approval of the settlement. *See In re Hyundai & Kia Fuel Economy Litig.*, 926 F.3d 539, 570 (9th Cir. 2019) (“[W]e put a good deal of stock in the product of an arms-length, non-collusive, negotiated resolution” (quoting *Rodriguez v. W. Publ’g Corp.*, 563

F.3d 948, 965 (9th Cir. 2009)); *Schofield v. Delta Air Lines, Inc.*, No. 18-cv-00382-EMC, 2019 WL 955288, at *6 (N.D. Cal. Feb. 27, 2019) (“The assistance of an experienced mediator in the settlement process confirms that the settlement is non-collusive.” (citation omitted)). Courts “may presume that through negotiation, the Parties, counsel, and mediator arrived at a reasonable range of settlement by considering Plaintiff’s likelihood of recovery.” *Garner v. State Farm Mut. Auto. Ins. Co.*, No. 08-cv-1365-CW, 2010 WL 1687832, at *9 (N.D. Cal. Apr. 22, 2010) (citing *Rodriguez*, 563 F.3d at 965). Having litigated for many years, the parties are well informed of the strengths and weaknesses of their positions. And none of the “red flags” the Ninth Circuit has identified as suggesting collusion—when counsel receive a disproportionate portion of the settlement, a “clear sailing” arrangement providing for the payment of attorneys’ fees separate from class funds, or reversion of any funds to the defendant—is present here. *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 947 (9th Cir. 2011).

3. The relief provided by the settlement is adequate taking into account the strength of Plaintiffs’ case and the risk, cost, and delay of trial and appeal.

The parties reached this settlement at a time when the risk of continuing to litigate was clear to all. The issues were narrowed throughout the course of the litigation, culminating in the parties’ pending cross-motions for summary judgment on the issue of whether Defendants collected unauthorized fees in violation of the FDCPA and UCL. In its prior summary judgment ruling, the Court recognized that California’s Bad Check Diversion Act authorizes certain fees—including a “processing fee” not to exceed \$50 and a “bank charge” not to exceed \$25—but does not mention several of the fees Plaintiffs contend are unlawful, including a fee of \$185 for a financial responsibility class, a \$10 credit/debit card fee, a \$25 class rescheduling fee, and a \$10 late fee. Dkt. No. 348 at 22. The Court concluded that the legality of the fees turns on factual questions about whether the fees are a reasonable cost to the counties and the counties’ procedures for authorizing the fees. *Id.* at 25. The Court also noted that if these questions are “not amenable to resolution on a statewide basis,” the Court

may have to revisit its class certification ruling. *Id.* at 25 n.10. The parties' pending cross-motions for summary judgment address the legality of the fees, as well as Defendants' contention that the Classes should be decertified and that the case should be dismissed for failure to join the counties as necessary parties.

Continued litigation therefore presents a risk to Plaintiffs of losing on the merits *and* of decertification of the Classes. Plaintiffs would not only have to prevail on the pending motions (or at trial if the Court determines it cannot resolve all issues on summary judgment) but also maintain the judgment through the appellate process—or obtain a reversal on appeal if the Court granted summary judgment for Defendants. *See In re Yahoo Mail Litig.*, No. 13-cv-4980-LHK, *et al.*, 2014 WL 4474612, at *6 (N.D. Cal. Aug. 25, 2016) (finding a settlement “strengthened by the fact that the instant action raises ... novel legal issues” that were at issue in pending cross-motions for summary judgment when the parties settled and where “the Court’s initial analysis suggested some vulnerability in Plaintiffs’ case”). Further litigation would therefore be time-consuming, costly, and risky. *See Nat’l Rural Telecommc’ns Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 526 (C.D. Cal. 2004) (“The Court shall consider the vagaries of litigation and compare the significance of immediate recovery by way of the compromise to the mere possibility of relief in the future, after protracted and expensive litigation.”).

If Plaintiffs were to succeed in obtaining a classwide judgment and maintaining it through the appellate process, they would face another considerable hurdle: collecting from Defendants. Class Counsel have investigated Defendants’ financial conditions, both through the discovery process and in the context of the parties’ settlement negotiations and post-settlement examination. Terrell Decl. ¶ 5. Because the Defendants’ combined net worth is negligible (and decreasing due to the adverse impact of the COVID-19 pandemic on the companies’ bottom lines), the only readily available source for recovery for the Classes is Defendants NCG’s and Birch Grove’s insurance policies. Jonsson Decl. ¶¶ 2-6. Defendants retained separate coverage counsel to negotiate directly with the insurers about coverage

matters and engaged in years of disputes and mediations with the insurers. *Id.* ¶ 8. The insurers have identified significant coverage issues that they maintain eliminate any potential recovery for this case. *Id.* Not merely relying on CHUBB's arguments, Plaintiffs retained expert insurance counsel and concluded that the insurers' defenses had some merit. Terrell Decl. ¶ 5.

Plaintiffs are thus in the position of potentially losing on the merits and collecting nothing for the Classes or prevailing and still collecting nothing because Defendants are unable to pay a judgment and their insurance is unlikely to cover a judgment for unlawful fees. The parties have not only arrived at an opportune juncture for settlement, they made the most of this opportunity by devoting the necessary time and resources to the negotiations and, ultimately, accepting Judge Beeler's proposal. To make this settlement happen, Defendants are taking on the risk of buying out the insurance policies—potentially foregoing millions of dollars in remaining coverage for any future claims—to persuade the insurers to fund the \$1.1 settlement. Jonsson Decl. ¶ 8.

This settlement also follows the Defendants' settlement with the CFPB and reimbursement of more than \$6 million to California residents who paid fees to Defendants between July 21, 2011 and March 30, 2015. Dkt. No. 244 at 3-4. Nearly all Settlement Class members have therefore already received some compensation related to the claims asserted against Defendants in this case.

Under these circumstances, the settlement provides adequate relief to the Classes. Defendants have acknowledged collecting more than \$6 million in fees from Class members. Dkt. No. 320-41 ¶¶ 10-12. After excluding the \$50 administrative fee the Court held was authorized by the Bad Check Diversion Act, the parties agree that Defendants collected a total of \$4,549,444 in fees from Class members. Dkt. No. 324 ¶¶ 8-9. The statutory damages Plaintiffs seek under the FDCPA—\$1,000 for each plaintiff plus 1% of Defendants' net worth, 15 U.S.C. § 1692k(a)—do not increase the potential damages by much. The companies' combined net worth is currently a negative amount (less than zero). Jonsson Decl. ¶ 6.

If the Court approves the settlement, awards attorneys' fees of 25% of the Settlement Fund (or \$275,000) and approves reimbursement of \$135,000 in litigation expenses, \$9,000 in statutory damages and service awards to Plaintiffs, and \$106,000 in administration costs, a total of \$555,000 will be available to pay Settlement Awards to Class members. After setting aside the \$20,000 allocated to FDCPA statutory damages, an Actual Damages Settlement Fund of \$535,000 will be distributed to Class members who paid fees to Defendants and file valid claims. The Actual Damages Settlement Fund is 11.75% of the \$4,549,444 fees that Class members paid and could recover if they prevailed on summary judgment or at trial.

While Plaintiffs hoped to recover more for Class members, the risk of no recovery is substantial regardless of whether Plaintiffs prevail on their claims. "It is well-settled law that a cash settlement amounting to only a fraction of the potential recovery does not per se render the settlement inadequate or unfair." *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 459 (9th Cir. 2000) (citation omitted). Courts have found settlements with similar or even lower recoveries to be fair and adequate when the risks of continued litigation are significant. *See, e.g., id.* (considering the total settlement amount before subtracting fees, costs, service awards, and administrative costs and finding the gross settlement fund "of almost \$2 million was roughly one-sixth of the potential recovery, which, given the difficulties in proving the case, [was] fair and adequate"); *Bailey v. Kinder Morgan G.P., Inc.*, No. 18-CV-03424-TSH, 2020 WL 5748721, at *4 (N.D. Cal. Sept. 25, 2020) (a recovery of 12% of potential damages "is on the lower end" but that "amounts similar to or even less than that amount have been found adequate and fair by courts in this Circuit"); *In re MyFord Touch Consumer Litig.*, No. 13-CV-03072-EMC, 2019 WL 1411510, at *10 (N.D. Cal. Mar. 28, 2019) (approving a settlement of 5.7% of the class's potential recovery because of the risk plaintiffs faced in proving their claims and damages); *Viceral v. Mistras Group, Inc.*, No. 15-CV-02198-EMC, 2016 WL 5907869, at *7-8 (N.D. Cal. Oct. 11, 2016) (approving settlement for 8.1% of potential damages because of the "daunting" risks plaintiffs faced in proving their claims and because "a deeply

discounted recovery is better than the substantial likelihood of recovering nothing”).

Courts also recognize that evidence defendants could not pay a larger settlement or judgment, as here, supports approval. *See Reickborn v. Velti PLC*, No. 13-cv-03889-WHO, 2015 WL 468329, at *6 (N.D. Cal. Feb. 3, 2015) (defendants’ financial condition “highlights the reasonableness of the settlement amount”); *see also Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1295 (9th Cir. 1992) (one factor courts consider when evaluating a settlement is whether the defendant can pay a large judgment or even a larger settlement); *In re Cathode Ray Tube (Crt) Antitrust Litig.*, No. C-07-5944 JST, 2015 WL 9266493, at *5 (N.D. Cal. Dec. 17, 2015) (recognizing that “[c]ollectability is a valid concern in determining whether to approve a class settlement” and citing difficulty in collecting a judgment as supporting a settlement for 0.4875% of the class’s potential recovery); *Rinky Dink, Inc. v. World Business Lenders, LLC*, No. C14-0268-JCC, 2016 WL 3087073, at *2 (W.D. Wash. May 31, 2016) (approving settlement providing class members a fraction of their statutory damages where class counsel reviewed financial documents before concluding defendants could not fund a greater settlement).

The amount Class members will recover depends on the number of claims filed. Of the 48,212 members of the Settlement Classes, 26,992 paid fees to Defendants. Dkt. No. 324 ¶ 6. These Class members will be paid an award from the \$535,000 Actual Damages Settlement Fund that is proportional to the amount of fees they paid to Defendants. If 2% of these Class members file claims, the average payment will be \$991.03; if 6% file claims, the average payment will be \$330.34; if 10% file claims, the average payment will be \$198.21; and if 15% file claims, the average payment will be \$132.14. All members of the FDCPA Class who file valid claims will receive an equal portion of the \$20,000; FDCPA Class members who paid fees to Defendants will receive this amount in addition to their portion of the Actual Damages Settlement Fund. There are 29,531 members of the FDCPA Class. Dkt. No. 342 ¶ 6. If 2% of FDCPA Class members file claims, they will each receive \$33.86; if 6% file claims, they will each receive \$11.29; if 10% file claims, they will each receive \$6.77; and if 15% file claims, they will

each receive \$4.52.

4. The settlement will be fairly distributed to Settlement Class members.

The settlement allocation is fair and reasonable because Settlement Class Members who paid fees to Defendants during the class period will receive a pro rata share of the Actual Damages Settlement Fund calculated based on the percentage of fees they paid. Settlement Agreement § III.4.b. The \$20,000 portion of the Settlement Fund allocated to FDCPA statutory damages will be distributed equally to all FDCPA Class members. Settlement Agreement § III.4.a. This allocation tracks the proportion of any judgment Class members would recover if they prevailed on summary judgment or at trial.

The parties have agreed that Settlement Awards will be distributed to Class members who submit a valid claim form. Submitting a claim will require minimal effort. The form is intentionally simple, requesting only the claimant's first and last name, address, telephone number, email address, and signature, in addition to the assigned Claimant ID. Settlement Agreement Ex. D. The claim may be submitted online or mailed to the Settlement Administrator, and it will be deemed complete if it includes information sufficient to permit the Settlement Administrator to distribute a settlement payment to the Class Member and there is no reason to doubt its authenticity. Settlement Agreement § III.3.

A claims process is appropriate and necessary in this case because there is no current record of Class members' contact information. The case involves conduct that occurred more than six years ago, between September 1, 2011, and May 7, 2015. JND and Class Counsel attempted to obtain updated contact information for Class members when disseminating notice of the class certification order in February 2019, but a large number of postcard and email notices nonetheless undeliverable. Terrell Decl. ¶ 6. This case is similar to *In re Uber FCRA Litigation*, where the court found a claims process to be necessary even though the defendant had contact information for all potential class members because the contact information was not "verifiably current." No. 14-cv-05200-EMC, 2017 WL 2806698, at *8 (N.D.

Cal. June 29, 2017). A claims process ensures that settlement funds are not sent out before this verification has occurred. It would be inefficient to direct mail checks without a claims process to verify that the contact information is reliable. As one court put it:

The Court-appointed disbursing agent testified that, without a claims process, the chances of fraud increased. Recovering money from individuals who fraudulently cashed settlement checks requires significant time and effort from the disbursing agent at the expense of the settlement fund. The Special Master further testified that sending unsolicited checks to unverified addresses can end up ‘cost[ing] a ton of money.’ In such situations, administrators ‘get to the point where you never close the case.’ For these reasons, the notice administrator, the Court-appointed disbursing agent, and the Special Master agreed that the expedited claims process was a relatively simple administrative device designed to lower costs without unduly burdening the claimants. The only cost to the class members of the process is the requirement that participants complete a one-page, check-the-box form, and the benefit is greater accountability and reduced long-term administrative expenses.

In re Educ. Testing Serv. Praxis Principles of Learning & Teaching, Grades 7-12, MDL No. 1643, 2006 WL 3332829, at *2 (E.D. La. Nov. 15, 2006) (internal citations omitted); *see also Braynen v. Nationstar Mortg., LLC*, No. 14-CV-20726, 2015 WL 6872519, at *14 (S.D. Fla. Nov. 9, 2015) (“A direct payment structure without the Claim Form providing current addresses risks fraud and waste in administering the Settlement.”).

JND estimates that approximately 6% of Class members will submit a claim. Keough Decl. ¶ 6. This estimate is based on JND’s experience with claims processes generally and in similar cases. *Id.* The settlement website and toll-free number available to Class members will encourage the filing of claims, as will the simplicity of the claim form and minimal effort required to submit a claim. *Id.*; *see also Abante Rooter & Plumbing, Inc. v. Pivotal Payments Inc.*, No. 3:16-cv-05486-JCS, 2018 WL 8949777, at *7 (N.D. Cal. Oct. 15, 2018). The Ninth Circuit has “approved class action settlements ‘where less than five percent of class members file claims.’” *In re Hyundai & Kia Fuel Economy Litig.*, 926 F.3d 539, 568 (9th Cir. 2019) (quoting *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 945 (9th Cir. 2015)).

Plaintiffs will request Court approval of a \$1,000 statutory damages award and a \$2,000 service award for each Plaintiff, or \$9,000 total. Plaintiffs are entitled to statutory damages under the FDPCA. 15 U.S.C. § 1692k. The Ninth Circuit has explained that service awards that are “intended to compensate class representatives for work undertaken on behalf of a class ‘are fairly typical in class action cases.’” *In re Online DVD-Rental*, 779 F.3d at 943 (quoting *Rodriguez*, 563 F.3d at 958-59). “Service awards recognize the effort class representatives expend, the financial or reputational risk they undertake, and their willingness to act as private attorneys general.” *Abante Rooter & Plumbing, Inc. v. Pivotal Payments Inc.*, No. 3:16-cv-05486-JCS, 2018 WL 8949777, at *6 (N.D. Cal. Oct. 15, 2018) (quoting *Rodriguez*, 563 F.3d at 958-59). The factors courts consider include the class representative’s actions to protect the interests of the class, the degree to which the class has benefitted from those actions, the time and effort the class representative expended in pursuing the litigation, and any risk the class representative assumed. *Staton v. Boeing Co.*, 327 F.3d 938, 977 (9th Cir. 2003). Plaintiffs devoted significant time to assisting Class Counsel with this case for the benefit of all Class members, including developing the claims, responding to discovery, and being deposed. Terrell Decl. ¶ 8. Plaintiffs agreed to be the public face of the case despite having to disclose their financial circumstances and respond to Defendants’ questioning about sensitive topics. Service awards of \$2,000 are appropriate in this case and below the Ninth Circuit benchmark of \$5,000. *In re Yahoo Mail Litig.*, No. 13-CV-4980-LHK, 2016 WL 4474612, at *11 (N.D. Cal. Aug. 25, 2016); *see also Online DVD*, 779 F.3d at 942 (rejecting argument that \$5,000 service award created a conflict where settlement provided for \$12 individual awards).

5. Class Counsel will request approval of a fair and reasonable fee.

Class Counsel will file a motion for an award of attorneys’ fees, reimbursement of litigation costs, and approval of service awards 30 days before the deadline for Settlement Class members to file claims, object, or opt out of the settlement. *See In re Mercury Interactive Corp. Sec. Litig.*, 618 F.3d 988, 995 (9th Cir. 2010) (holding that class members

must have an adequate opportunity to consider and oppose class counsel's fee motion). Class Counsel anticipate requesting a fee equal to 25% of the Settlement Fund, or \$275,000. The Ninth Circuit has recognized that the percentage-of-the-fund method is the appropriate method for calculating fees when counsel's effort has created a common fund. *See, e.g., In re Bluetooth*, 654 F.3d at 942 ("Because the benefit to the class is easily quantified in common-fund settlements, we have allowed courts to award attorneys a percentage of the common fund in lieu of the often more time-consuming task of calculating the lodestar."). The Ninth Circuit has instructed that 25% is "a proper benchmark figure," with common fund fees typically ranging from 20% to 30% of the fund. *In re Coord. Pretrial Proceedings*, 109 F.3d 602, 607 (9th Cir. 1997) (citation omitted); *see also In re Bluetooth*, 654 F.3d at 942 ("[C]ourts typically calculate 25% of the fund as the 'benchmark' for a reasonable fee award, providing adequate explanation in the record of any 'special circumstances' justifying a departure.").

In their fee motion, Class Counsel will explain in detail why a fee award at the Ninth Circuit's benchmark is justified. This is not a "mega fund" case and Plaintiff's counsel do not seek a windfall. *See In re Bluetooth*, 654 F.3d at 942-43 (finding courts should adjust the benchmark percentage where awarding 25% of a mega fund "would yield windfall profits for class counsel in light of the hours spent on the case"). Without any guarantee that they would ever be paid, Class Counsel devoted more than 3,500 hours to litigating this case over more than six years before the parties reached a settlement. Terrell Decl. ¶ 9. A fee of \$275,000 is far less than Class Counsel's lodestar, which is over \$1.5 million. Class Counsel will provide the Court with detailed information about their lodestar in their fee motion.

Class Counsel will also request reimbursement of \$135,000 in litigation costs, which includes \$39,150 in expert fees, \$14,750 in mediation costs, and over \$21,000 in court reporting costs. Terrell Decl. ¶ 10. In their fee motion, Class Counsel will show that these out-of-pocket expenses were reasonably, necessary, and directly related to the work performed on behalf of the Settlement Classes. *See Vincent v. Hughes Air W.*, 557 F.2d 759, 769 (9th Cir.

1977); see *Corson v. Toyota Motor Sales U.S.A., Inc.*, No. CV 12-8499-JGB, 2016 WL 1375838, at *9 (C.D. Cal. Apr. 4, 2016) (“Expenses such as reimbursement for travel, meals, lodging, photocopying, long-distance telephone calls, computer legal research, postage, courier service, mediation, exhibits, documents scanning, and visual equipment are typically recoverable”); *Hopkins v. Stryker Sales Corp.*, No. 11-CV-02786-LHK, 2013 WL 496358, at *6 (N.D. Cal. Feb. 6, 2013) (awarding costs for document review, depositions, and experts).

6. No part of the Settlement Fund will revert to Defendants and any undistributed amounts will be paid to an appropriate *cy pres* awardee.

No part of the Settlement Fund will revert to Defendants. Settlement Agreement § III.1. Instead, if administratively feasible, a second distribution will be made to claimants who cashed checks using the same calculation as the initial distribution. If the amount of unclaimed funds is below \$40,000, the parties have agreed to pay the remaining funds to *cy pres* recipient East Bay Community Law Center, which offers services related to the debt collection issues in this case. EBCLC is a nonprofit organization located in Berkeley, California that provides legal services and policy advocacy responsive to the needs of low-income communities. More information about EBCLC can be found on its website, ebclc.org. Counsel have no relationship with EBCLC, and the decision to name EBCLC as a *cy pres* recipient is unrelated to its filing of an amicus brief encouraging the Court to deny VSI’s motion to compel arbitration early in the case. Terrell Decl. ¶ 7.

B. The proposed Notice Plan complies with Rule 23(e) and due process.

Rule 23(e)(1) states that “[t]he court must direct notice in a reasonable manner to all class members who would be bound by” a proposed settlement, voluntary dismissal, or compromise. Class members are entitled to the “best notice that is practicable under the circumstances” of any proposed settlement before it is finally approved by the Court. Fed. R. Civ. P. 23(c)(2)(B). Rule 23(c)(2)(B) provides that “notice may be by one or more of the following: United States mail, electronic means, or other appropriate means.” To comply with due process, notice must be “the best notice practicable under the circumstances, including

individual notice to all members who can be identified through reasonable effort.” *Amchem Prods. v. Windsor*, 521 U.S. 591, 617 (1997). The notice must state in plain, easily understood language: (i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues, or defenses; (iv) that a class member may enter an appearance through an attorney if the member so desires; (v) that the court will exclude from the class any member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3). Fed. R. Civ. P. 23(c)(2)(B).

The proposed Notice Plan requires JND to send an Email Notice to Class members for whom an email address is available in the records produced by Defendants or obtained by JND as a result of the Initial Class Notice sent in this matter. For any Class member whose email address is not available or whose email bounces back, JND will send a Postcard Notice by U.S. Mail. JND will use the most recent address in the records produced by Defendants, provided to Class Counsel, or identified through address correction services and corrected through the National Change of Address or similar database. For each Postcard Notice that is returned undeliverable, JND will complete at least one advanced address search or skip trace. Settlement Agreement § VII.4.a & Ex. A. In addition, JND will also update the current website for the case with detailed information about the Settlement, including the Settlement Notice, the Email and Postcard Notice, the Second Amended Complaint, the Settlement Agreement, the Claim Form, an opt-out form, and the Preliminary Approval Order. When available, Class Counsel’s motion for an award of attorneys’ fees, costs and service awards and the post-distribution accounting chart described in section XI of the Settlement Agreement will also be displayed on the Settlement Website. Settlement Agreement § VII.4.b & Ex. B, D.

The Email and Postcard Notice, attached as Exhibit A to the Settlement Agreement, and the Settlement Website Notice, attached as Exhibit B, are drafted in plain English so they will be easy to understand. *See In re Hyundai*, 926 F.3d at 567 (“settlement notices must ‘present information about a proposed settlement neutrally, simply, and understandably’”

(quoting *Rodriguez*, 563 F.3d at 962)). They are drafted in plain English and based on the Federal Judicial Center's model notices. *See id.* ("Notice is satisfactory if it generally describes the terms of the settlement in sufficient detail to alert those with adverse viewpoints to investigate and to come forward and be heard." (quoting *Rodriguez*, 563 F.3d at 926)). The Notices include key information about the Settlement, including the deadline to file a claim, the deadline to request exclusion or object to the Settlement, and the date of the Final Approval Hearing (and that the hearing date may change without further notice). The Notices include information about opting out and objecting required by the Northern District of California's Procedural Guidance for Class Action Settlements, as well as language suggested in the Court's Standing Order for Civil Cases. The Notices also state the amount of the fee and cost award Class Counsel will request, the amount of the service awards and statutory damages Plaintiffs will request, and the anticipated administration expenses, and how the Settlement Fund will be distributed to Settlement Class Members if they do not request exclusion. The Notices direct Settlement Class Members to the Settlement Website for further information and provide Class Counsel's contact information and instructions for accessing the case docket via PACER or in person at any of the court's locations.

Settlement Class Members will have 60 days from the date JND commences dissemination of notice by sending emails and postcards to submit a claim, object to the Settlement, or request exclusion from the Settlement. Settlement Agreement §§ II.3, II.11, II.12, III.3, IX. 1. JND will post Class Counsel's motion for attorneys' fees on the Settlement Website at least thirty days before this deadline in accordance with *In re Mercury Interactive*, 618 F.3d 988. Settlement Agreement § IV.2. Settlement Class Members who previously had an opportunity to exclude themselves will have a new opportunity to request exclusion.

The manner and content of the proposed Notice Plan complies with Rule 23 and due process, as well as the District's Procedural Guidance for Class Action Settlements. Similar notice plans are commonly used in class actions like this one and constitute the best notice

practicable under the circumstances. *See, e.g., Cabiness v. Educ. Fin. Sols., LLC*, No. 16-cv-01109-JST, 2019 WL 1369929, at *3-4 (N.D. Cal. Mar. 26, 2019) (notice program consisting of email and postcard notices satisfied due process); *In re Uber FCRA Litig.*, 2018 WL 2047362, at *1 (notice was given to class via email, U.S. mail or online through the settlement website).

C. A proposed schedule for final approval.

The next steps in the settlement approval process are to schedule a Final Approval Hearing, notify Settlement Class Members of the Settlement and hearing, and provide Settlement Class Members with the opportunity to submit Claim Forms and object, opt out, or comment on the Settlement. The parties propose the following schedule:

EVENT	DATE
CAFA Notice to be given (Settlement Agreement § VII.3)	10 days after entry of preliminary approval order
Case website to be updated (Settlement Agreement § VII.4.b)	14 days after entry of preliminary approval order
Notice to be disseminated (Settlement Notice Date) (Settlement Agreement § VII.4)	45 days after entry of preliminary approval order
Class Counsel to file motion for attorneys' fees (Settlement Agreement § IV.2)	30 days after Settlement Notice Date
Deadline for Settlement Class Members to file claims, object, and request exclusion (Settlement Agreement § III.3, VIII, IX)	60 days after Settlement Notice Date
Class Counsel to file motion for final approval and response to objections	No later than 14 days before the Final Approval Hearing
Final Approval Hearing	not less than 210 days after entry of preliminary approval order

VI. CONCLUSION

Plaintiffs request that the Court grant their motion for preliminary approval of the settlement and enter a schedule for final approval.

RESPECTFULLY SUBMITTED AND DATED this 29th day of January, 2021.

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Class Counsel

PLAINTIFFS' UNOPPOSED MOTION FOR APPROVAL OF NOTICE OF PROPOSED

CLASS ACTION SETTLEMENT - 26

CASE NO. 3:14-cv-05266-VC

CERTIFICATE OF SERVICE

I, Beth E. Terrell, hereby certify that on January 29, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification to all registered CM/ECF users:

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