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Attorneys for Plaintiff

21 **UNITED STATES DISTRICT COURT**
 22 **NORTHERN DISTRICT OF CALIFORNIA**
 23 **SAN FRANCISCO DIVISION**

24 KAMAL BITMOUNI, on behalf of himself)
 25 and all others similarly situated,)

26 Plaintiff,)
 27 vs.)

28 PAYSAFE PAYMENT PROCESSING)
 SOLUTIONS LLC, a Delaware limited)
 liability company,)

Defendant.)

Case No. 3:21-cv-00641-JCS

**PLAINTIFF’S NOTICE OF UNOPPOSED
 RENEWED MOTION AND MOTION
 FOR PRELIMINARY APPROVAL OF
 CLASS ACTION SETTLEMENT**

Date:)
 Time: 2:00 p.m.)
 Courtroom: Courtroom F – 15th Floor)
 Judge: Hon. Joseph C. Spero)

1 **TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE THAT** on ____, 2023, at 2:00 p.m., or as soon thereafter as
3
4 counsel may be heard, before the Honorable Joseph C. Spero, at San Francisco Courthouse,
5 Courtroom F – 15th Floor, 450 Golden Gate Avenue, San Francisco, CA 94102, Plaintiff will
6 and hereby does move this Court, pursuant to Federal Rule of Civil Procedure 23, for an order
7 granting Plaintiff’s Unopposed Renewed Motion for Preliminary Approval of Class Action
8 Settlement.
9

10 Plaintiff bases his Renewed Motion for Preliminary Approval of Class Action Settlement
11 on this Notice; the Memorandum of Law in Support of this Motion; the Joint Declaration of M.
12 Anderson Berry and John A. Yanchunis in Support of Plaintiffs’ Unopposed Renewed Motion
13 for Preliminary Approval of Class Action Settlement (“Joint Decl.”); the Declaration of Jeanne
14 C. Finegan; all other records and papers on file in this action; any oral argument on the Motion;
15 and all other matters properly before the Court.
16

17 Plaintiff seeks an order pursuant to Federal Rule of Civil Procedure 23(b)(3) certifying
18 the Settlement Class more fully described in the Settlement Agreement,; preliminarily approving
19 the Settlement as fair, reasonable, and adequate; directing notice to be disseminated to the
20 Settlement Class in the form and manner proposed by the parties as set forth in the Settlement
21 Agreement and attached to the Motion for Preliminary Approval as exhibits 4 & 6 thereto;
22 appointing Kroll Settlement Administration to serve as the Settlement Administrator; appointing
23 Plaintiff as Class Representative and the undersigned attorneys as Class Counsel; and setting a
24 hearing date and schedule for final approval of the Settlement and consideration of Class
25 Counsel’s forthcoming motion for an award of fees, costs, expenses, and service awards.
26
27
28

1 This Motion is made following the conference of counsel pursuant to L.R. 7-3 which took
2 place on March 3, 2023, and at numerous times and on numerous dates thereafter.

3
4 Date: May 2, 2023

Respectfully Submitted,

5 /s/M. Anderson Berry

6 M. Anderson Berry (SBN 262879)

Gregory Haroutunian (SBN 330263)

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21 *Attorneys for Plaintiff*

22 **UNITED STATES DISTRICT COURT**
23 **NORTHERN DISTRICT OF CALIFORNIA**
24 **SAN FRANCISCO DIVISION**

25 KAMAL BITMOUNI, on behalf of himself) Case Number: 3:21-cv-00641-JCS
26 and all others similarly situated,)
27 Plaintiff,) **PLAINTIFF’S UNOPPOSED RENEWED**
28 vs.) **MOTION FOR PRELIMINARY**
) **APPROVAL OF CLASS ACTION**
29 PAYSAFE PAYMENT PROCESSING) **SETTLEMENT AND MEMORANDUM**
30 SOLUTIONS LLC, a Delaware limited) **IN SUPPORT**
31 liability company,)
32 Defendant.)
33)
34)
35)
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1 On March 3, 2023, the Court held a hearing on Plaintiff’s Unopposed Motion for
2 Preliminary Approval of Class Action Settlement (“Original Motion”). ECF Nos. 89, 90. The
3 Court ordered that Plaintiff Kamal Bitmouni and Defendant Paysafe Payment Processing
4 Solutions LLC (“Paysafe” and together with Plaintiff, the “Parties”) further meet and confer on
5 the terms of the proposed settlement. The Parties have now negotiated modifications to the
6 settlement to address various questions raised by the Court, which are documented in an amended
7 Class Action Settlement Agreement and Release (“Amended Settlement Agreement” or
8 “A.S.A.”), attached hereto as **Exhibit 1** (“A.S.A.”), and in this Renewed Motion for Preliminary
9 Approval of Class Action Settlement (“Renewed Motion”).
10

11 The Parties have agreed to (1) modify the benefits to the Class such that after any Valid
12 Claims¹ for Out-of-Pocket losses and Attested Time are paid, the value of the Net Settlement
13 Fund will be distributed to the Settlement Class on a *pro-rata* basis; (2) increase the amount of
14 Attested Time for which Settlement Class members may be reimbursed; (3) donate any unclaimed
15 or unpaid funds to an organization devoted to the benefit of California residents; (4) make
16 procedural changes to the timing of the opt-out and objection deadlines and to the procedure for
17 making objections; (5) make changes to the Claims and Notice forms to address comments made
18 by the Court; and (6) agree to a cap of \$399,000 for settlement administration and claims costs.
19 Joint Declaration of M. Anderson Berry and John A. Yanchunis in Support of Preliminary
20 Approval of Class Action Settlement (“Decl.”), ¶ 42 (attached as **Exhibit 2**). With these changes,
21 Plaintiff hereby submits the Renewed Motion pursuant to Fed. R. Civ. P. 23(e).
22
23

24 Before filing this Renewed Motion, Plaintiff conferred with Paysafe and determined that
25 the motion is unopposed. The Renewed Motion is supported by the accompanying Memorandum
26 in Support and by the Original Motion and accompanying filings. ECF No. 89.
27
28

PLAINTIFF'S MEMORANDUM IN SUPPORT

I. INTRODUCTION

Plaintiff requests that the Court grant preliminary approval of the Settlement so that notice under Fed. R. Civ. P. 23(e)(2) may be issued to Class members. Plaintiff further requests that the Court enter the Proposed Order, which will: (1) Preliminarily approve the Settlement as fair, reasonable, and adequate for the Class; (2) Conditionally certify the Class; (3) Designate Plaintiff as Settlement Class Representative; (4) Designate M. Anderson Berry and Gregory Haroutunian of Clayeo C. Arnold, A Professional Law Corp., and John A. Yanchunis and Ryan Maxey of Morgan and Morgan as Class Counsel; (5) Designate Kroll Settlement Administration as Claims Administrator; (6) Approve the form, content, and methods of the Long and Short Form Notices; (7) Establish procedures and schedule deadlines for notice to the Class, and for Class members to object and/or opt-out of the Settlement and to submit a Claim Form; (8) Schedule deadlines for the filing of papers in support of final approval, and in support of motions for attorneys' fees and the Settlement Class Representative's Service Award; (9) Schedule a date for the Final Fairness Hearing; and (10) Establish other requirements and procedures to effectuate the Settlement.

II. STATEMENT OF FACTS

Plaintiff refers to and hereby incorporates the Statement of Facts included in the Original Motion. ECF No. 89.

III. PROCEDURAL HISTORY

Plaintiff refers to and hereby incorporates the procedural history recited in the Original Motion (ECF No. 89) and limits his description of the history of this matter to that which is relevant to the instant motion. On January 27, 2021, Plaintiff filed the instant lawsuit. For several months, the Parties informally, and sometimes contentiously, discussed settlement. While the

¹ Capitalized terms not defined herein are stated in the Amended Settlement Agreement.

1 parties agreed to mediate in February 2022, the mediation was rescheduled due to COVID-19,
2 until May 25, 2022. The parties attended an all-day in-person mediation with highly experienced
3 mediator Zela G. Claiborne, Esq. of JAMS in San Francisco. While no settlement was reached,
4 the parties agreed to exchange informal and formal discovery, including depositions, relating to
5 the nature of the Data Security Incident and Paysafe’s response to it, as well as Plaintiff’s claims.
6 On August 30, 2022, the Parties attended a second in-person mediation session with Ms.
7 Claiborne, where the Parties settled in principle. Over the next several months the Parties
8 finalized and executed the original Settlement Agreement on December 27, 2022. (ECF No. 89-1
9 Ex. 1). Following the March 3, 2023 conference with the Court, the Parties negotiated the
10 amended Settlement. Decl., ¶ 17.
11

12 **IV. THE SETTLEMENT TERMS**

13 **A. Proposed Settlement Class**

14 The Amended Settlement provides relief for a Class of “individuals identified on the
15 Settlement Class List, which includes all individuals who were notified by direct notice by
16 Paysafe that their personal information was or may have been compromised in the Data Security
17 Incident.” A.S.A., ¶ 33. The Nationwide Class alleged in the operative Complaint (ECF No. 72, ¶
18 75) is defined as, “[a]ll individuals who are residents of the United States and whose PII was or
19 may have been accessed during the cybersecurity incident referenced in the Notice of Data Breach
20 dated December 16, 2020 that Merchant Services (including CHI Payments, iPayment, and
21 Paysafe) sent to Plaintiff (the ‘Nationwide Class’).” The definition in the A.S.A. is more specific
22 while including the same individuals included in the Complaint, because it includes all 91,706
23 persons who received notice that their PII may have been accessed in the Data Security Incident.
24 The claims released by the Settlement Class are the same as those that would have been released
25 by the Nationwide Class in the Complaint.
26
27
28

1 **B. Settlement Benefits – Monetary Relief**

2 The Settlement provides for a non-reversionary common fund of two-million dollars
3 (\$2,000,000) that affords two forms of monetary relief: (1) reimbursement for Out-of-Pocket
4 Losses and Attested Time up to \$25,000 per Class member; and (2) a residual cash payment to
5 each class member. A.S.A., §§ II–V. This relief addresses the types of damages suffered
6 following a data breach and provides benefits to every Settlement Class Member.
7

8 **1. Out-of-Pocket Losses and Attested Time Cash Payments.**

9 Settlement Class Members may submit claims for unreimbursed Out-of-Pocket Losses
10 related to the Data Security Incident up to \$25,000 per class member. A.S.A., ¶¶ 47. Valid Out-
11 of-Pocket Losses are those that were actually incurred that are fairly traceable to the Data Security
12 Incident. A.S.A., ¶ 48. In assessing what qualifies as “fairly traceable,” the Settlement
13 Administrator will consider:

14 (i) whether the timing of the loss occurred on or after May 1, 2018; and (ii) whether
15 the Personal Information used to commit identity theft or fraud consisted of the type
16 of Personal Information identified in Paysafe’s notices of the Data Security
17 Incident. Costs expended for mitigation measures like credit monitoring services,
18 fraud resolution services, and professional services incurred to address identity theft
19 or fraud on or after May 1, 2018, shall be presumed “reasonably incurred.”

20 Settlement Class Members may also submit claims for reimbursement for time spent
21 remedying issues related to the Data Security Incident (*i.e.*, Attested Time) for up to ten (10)
22 hours at \$25 per hour (\$250 total). A.S.A., ¶ 49. Such payments are included in the \$25,000 cap
23 for Out-of-Pocket Losses. *Id.* If the aggregate value of claims for Out-of-Pocket Losses and
24 Attested Time exceeds \$400,000, the amount of each such claim shall be reduced *pro rata* so that
25 the aggregate value of all such claims equals \$400,000. A.S.A., ¶ 53.

26 **2. Residual Cash Payments.**

27 After payment of all Approved Claims for Out-of-Pocket Losses and Attested Time, all
28 Settlement Class Members are entitled to a cash payment equal to a *pro rata* share of the Net
Settlement Fund. A.S.A., ¶ 52.

1 **3. Unclaimed Property**

2 None of the Settlement Fund shall revert or be repaid to Paysafe after the Effective Date.
 3 Any undistributed funds shall be awarded to the Legal Aid Association of California (“LAAC”).
 4 Several states specifically provide for legal services programs to receive *cy pres* distributions,
 5 including California. *See* Cal. Civ. Code § 384 (2002). The rationale for such a recipient is to
 6 increase access to justice, which makes legal aid organizations appropriate recipients of *cy pres*.²
 7 Here, given that there were certain claims made on behalf of California residents only, the Parties
 8 believe it best to distribute any undistributed funds for the benefit of California residents, and
 9 therefore to the LAAC.
 10

11 **C. Equitable Settlement Terms/Injunctive Relief**

12 In addition to the foregoing benefits, Paysafe agrees to implement or maintain steps to
 13 enhance the security of its systems. *See* A.S.A., ¶ 63. These include remedial and enhanced data
 14 security measures, including cybersecurity training and awareness programs, data security
 15 policies, monitoring and response capabilities, and restrictions on accessing PII. The legacy
 16 website at issue in the Data Security Incident has also been disabled. These measures will benefit
 17 class members whose PII Paysafe still possesses and are valuable benefits that will provide the
 18 class with peace of mind that Paysafe will protect their PII.
 19

20 **D. Comparison of Settlement Benefits Against Full Recovery**

21 The Settlement provides benefits of \$2,000,000 to all class members in the form of:
 22 reimbursement for Out-of-Pocket Losses of up to \$25,000; reimbursement for Attested Time up
 23 to 10 hours at \$25 per hour; and a Residual Cash Payment. The Residual Cash Payment means
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25 _____
 26 ² *See e.g.,* Daniel Blynn, *Cy Pres Distributions: Ethics & Reform*, 25 GEO. J. LEGAL ETHICS
 27 435, 438 (2012); Calvin C. Fayward, Jr. & Charles S. McCowan, Jr., *The Cy Pres Doctrine: “A*
 28 *Settling Concept,”* 58 LA. B.J. 248, 251 (2011); Danny Van Horn & Daniel Clayton, *It Adds Up:*
Class Action Residual Funds Support Pro Bono Efforts, 45 TENN. B.J. 12, 13-14 (2009).

1 every class member is entitled to a *pro-rata* share of the Net Settlement Fund after valid claims
2 are paid. The class is reimbursed for losses and receives cash to compensate them for ongoing
3 damages, which is what they would receive on their best day in court. The Settlement also
4 provides for improving Paysafe’s security and protects PII that Paysafe retains, preventing further
5 loss. At trial, the class would risk getting only some or none of these benefits.

7 **E. Class Notice and Settlement Administration**

8 Notice costs will be paid from the Settlement Fund. The Summary Notice (Exhibit 1 to the
9 A.S.A. will be mailed to each class member at the postal address to which notice of the Data
10 Security Incident was mailed. Declaration of Jeanne C. Finegan (“Finegan Decl.”) (attached as
11 **Exhibit 3**), ¶ 16; Decl., ¶ 32. A Long Notice (also Exhibit 1 to the A.S.A.) will also be posted on
12 the Settlement Website, www.[TBD].com, along with other important documents such as the
13 A.S.A. and the motions for final approval and for attorneys’ fees and expenses. A.S.A., ¶¶ 64, 67.
14 The notice documents are clear and concise, and apprise the class of all information necessary to
15 submit a claim or to opt-out or object to the Settlement. Fed. R. Civ. P. 23(c)(2)(B). A toll-free
16 number with interactive voice response, FAQs, and an option to speak to a live operator will also
17 be made available to address any inquiries. A.S.A., ¶ 67.

19 Plaintiff has retained Kroll Settlement Administration (“Kroll”), a nationally recognized
20 and well-regarded class action settlement administrator, to serve as Claims Administrator, subject
21 to the Court’s approval. *See* Decl., ¶ 29. Kroll has estimated that Notice and Administration
22 Expenses, including a potential media campaign will total \$399,000. Thus, the A.S.A. caps the
23 total cost of settlement administration at \$399,000. A.S.A., ¶ 70.

25 Based on their experience with data breach cases and in consultation with Kroll, Class
26 Counsel anticipates a claims rate of between 1 and 9 percent. The Claim Form (Exhibit 2 to the
27 A.S.A.) is similar to others used in settlements involving data breach incidents and claims for
28

1 Out-of-Pocket Losses and Attested Time rarely exceed 9 percent. Decl., ¶ 25. Class Counsel
 2 recommends the contents of the Claim Form based on their experience in successfully soliciting
 3 claims and allocating settlement benefits in similar class actions.

4 **F. Attorneys’ Fees, Expenses, and Service Award**

5 Class Counsel will seek an award of attorneys’ fees not to exceed 25 percent of the
 6 Settlement Fund (*i.e.*, \$500,000), and reimbursement of litigation costs and expenses not to
 7 exceed \$50,000, which shall be paid from the Settlement Fund. A.S.A., ¶ 86. Class Counsel’s fee
 8 request is well within the range of reasonableness for settlements of this nature and size. “25%
 9 [is] considered the benchmark” in the Ninth Circuit. *Pauley v. CF Entm’t*, No. 2:13-CV-08011-
 10 RGK-CW, 2020 WL 5809953, at *3 (C.D. Cal. July 23, 2020), *citing Powers v. Eichen*, 229 F.3d
 11 1249, 1256 (9th Cir. 2000). The Ninth Circuit has found fee awards of 1/3 of the fund to be
 12 reasonable. *See In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 463 (9th Cir. 2000). To date,
 13 Class Counsel have accrued lodestar of \$620,128.20 with \$27,648.42 in expenses. Decl., ¶ 51.

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 16 Plaintiff has been vital in resolving this matter, providing his personal information,
 17 submitting to a five-hour deposition, and responding to discovery in significant detail about his
 18 private information and experiences. Plaintiff has been involved in and supports the Settlement.
 19 Decl., ¶ 44. Plaintiff will petition the Court for an award of \$15,000 in recognition of the time,
 20 effort, and expense he incurred pursuing claims that benefited the class. *See* A.S.A., § XV. This
 21 amount is reasonable in recognition of Plaintiff’s efforts.³

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 24 ³ *See, e.g., Andrews v. Plains All American Pipeline L.P.*, CV-15-4113-PSG, 2022 WL 4453864,
 25 * 5 (C.D. Cal. Sept. 20, 2022) (awarding \$15,000 for providing facts for the complaint, helping
 26 analyze claims, being deposed, and approving the settlement); *Howell v. Advantage RN, LLC*, 17-
 27 CV-883 JLS (BLM), 2020 WL 5847565, *5 (S.D. Cal. Oct. 1, 2020) (awarding plaintiff \$10,000
 28 despite her not being deposed); *Gomez v. USF Reddaway, Inc.*, LA CV16-05572 JAK (FFMx),
 2020 WL 10964603, *3 (C.D. Cal. Sept. 21, 2020) (awarding \$17,500 and \$7,500 out of a
 settlement of only \$1,500,000); *Ross v. U.S. Bank Nat. Ass’n*, C 07-02951 SI., 2010 WL

1 **G. Release**

2 Upon entry of the Final Approval Order (A.S.A., Ex. 3), Plaintiff and the class will be
3 deemed to have “fully, finally, and forever released, acquitted and discharged Paysafe . . . from
4 any and all Released Claims.” A.S.A., § XIV. “Released Claims” are defined, *inter alia*, as:

5 Any and all claims or causes of action of every kind and description, including any
6 causes of action in law, claims in equity, complaints, suits, or petitions, and any
7 allegations of wrongdoing, demands for legal, equitable or administrative relief
8 (including, but not limited to, any claims for injunction, rescission, reformation,
9 restitution, disgorgement, constructive trust, declaratory relief, compensatory damages,
10 consequential damages, penalties, exemplary damages, statutory damages, punitive
11 damages, attorneys’ fees, costs, interest or expenses) that the Releasing Parties had,
12 have, or may claim now or in the future to have (including, but not limited to, assigned
13 claims and any and all “Unknown Claims” as defined below) that were or could have
14 been asserted or alleged arising out of the same nucleus of operative facts as any of the
15 claims alleged or asserted in the Litigation, including but not limited to the facts,
16 transactions, occurrences, events, acts, omissions, or failures to act that were alleged,
argued, raised, or asserted in any pleading or court filing in the Litigation, including but
not limited to those concerning: 1) the disclosure of the Participating Settlement Class
Members’ personal information in the Data Security Incident; 2) Paysafe’s maintenance
of the Participating Settlement Class Members’ personal information as it relates to the
Data Security Incident; 3) Paysafe’s security policies and practices as it relates to the
Data Security Incident; or 4) Paysafe’s provision of notice to the Participating
Settlement Class Members following the Data Security Incident.

17 A.S.A., ¶ 27. These include Unknown Claims as defined in ¶ 80 of the A.S.A. Released Claims do
18 include the enforcement of the terms of the A.S.A., or the claims of excluded Class members.

19 **V. ARGUMENT**

20 Plaintiff brings this motion pursuant to Fed. R. Civ. P. 23(e). Settlements are highly
21 favored, particularly in class actions and other complex matters where the inherent costs, delays,
22 and risks of continued litigation might otherwise overwhelm any potential benefit the class could
23 hope to obtain. *See Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992) (noting
24 the “strong judicial policy that favors settlements, particularly where complex class action
25 litigation is concerned”); 4 Newberg on Class Actions § 11.41 (4th ed. 2002) (citing cases). Other
26 3833922, *2 (N.D. Cal. Sept. 29, 2010) (awarding \$20,000 for reviewing documents, being
27 deposited, and participating in settlement).
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1 means of handling the claims at issue here, for example, individual litigation, would require huge
2 expenditures of resources, and, given the small value of the claims of the individual Class
3 members, be impracticable. Thus, a settlement—and specifically the A.S.A.—provides the best
4 vehicle for the Class to receive fair, reasonable and adequate relief. The Manual for Complex
5 Litigation (Fourth) advises that the “judge should make a preliminary determination that the
6 proposed class satisfies the criteria” of Rule 23. § 21.632. The evaluation of certification in the
7 context of a class action that has settled is somewhat different than in a case that has not yet
8 settled. *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997). In some ways, the scrutiny is
9 lessened: as no trial is anticipated, case management issues inherent in the class determination
10 need not be confronted. *See id.* Other certification issues, such as “those designed to protect
11 absentees by blocking unwarranted or overbroad class definitions,” require heightened scrutiny in
12 the settlement-only context “for a court asked to certify a settlement class will lack the
13 opportunity, present when a case is litigated, to adjust the class, informed by the proceedings as
14 they unfold.” *Id.* Plaintiff seeks certification of a class consisting of: “the individuals identified on
15 the Settlement Class List, which includes all individuals who were notified by direct notice by
16 Paysafe that their personal information was or may have been compromised in the Data Security
17 Incident.”⁴ A.S.A., ¶ 33. The class contains 91,706 individuals. For the following reasons, the
18 Court should certify the class for settlement purposes and preliminarily approve the Settlement.

21 **A. The Settlement Satisfies Rule 23(a)**

22 Each of the Rule 23(a) requirements is met: numerosity, commonality, typicality, and
23 adequacy. FRCP 23(a); *Ellis v. Costco Wholesale Corp.*, 657 F.3d 970, 979–80 (9th Cir. 2011).

25 ⁴ Excluded from the Class are: (1) the judges presiding over this Litigation, and members of their
26 direct families; (2) the Defendant, its subsidiaries, parent companies, successors, predecessors,
27 and any entity in which the Defendant or its parents have a controlling interest and their current or
28 former officers, directors, and employees; and (3) Settlement Class Members who submit a valid
Request for Exclusion prior to the Opt-Out Deadline. *Id.*

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i. The Class is Sufficiently Numerous.

The numerosity element considers whether there are so many class members that joinder is impracticable. *See* Fed. R. Civ. P. 23(a)(1). Courts generally find numerosity satisfied where a class includes at least 40 members. *Holly v. Alta Newport Hospital*, Case No.2:19-cv-07496 ODW (MRWx), 2020 WL 1853308, at *7 (April 10, 2020), *citing Rannis v. Recchia*, 380 Fed. App’x 646, 651 (9th Cir. 2010); *Celano v. Marriott Int’l Inc.*, 242 F.R.D. 544, 548-49 (N.D. Cal. 2007). With 91,706 individuals, the proposed class easily satisfies the numerosity requirement.

ii. The Class Satisfies the Commonality Requirement.

The class also satisfies commonality, which requires that class members’ claims “depend upon a common contention,” such that “determination of its truth or falsity will resolve an issue that is central to the validity of each [claim] in one stroke.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). Here, common issues “center on [Defendant’s] conduct, satisfying the commonality requirement.” *In re the Home Depot, Inc., Customer Data Sec. Breach Litig.*, No. 1:14-MD-02583-TWT, 2016 WL 6902351, at *2 (N.D. Ga. Aug. 23, 2016). Common questions include, *inter alia*, whether class members’ PII was compromised and whether Paysafe: owed a duty to the class; breached its duty; unreasonably delayed in notifying the class of the Incident; and committed the violations alleged in the Second Amended Complaint. Thus, the commonality requirement is met.

iii. Plaintiff’s Claims are Typical of the Class.

The Settlement satisfies the typicality requirement because Plaintiff’s claims are “reasonably coextensive with those of the absent class members.” *See* Fed. R. Civ. P. 23(a)(3); *Meyer v Portfolio Recovery Associates*, 707 F.3d 943, 1041-42 (9th Cir. 2012) (upholding typicality finding). Because Plaintiff alleges that his and class members’ PII was compromised in

1 the Data Security Incident, they were impacted by the same conduct. *See Just Film, Inc. v. Buono*,
2 847 F.3d 1108, 1118 (9th Cir. 2017) (“[I]t is sufficient for typicality if the plaintiff endured a
3 course of conduct directed against the class.”).

4 **iv. Plaintiff Will Adequately Protect the Interests of the Class.**

5 Adequacy is met where (1) there are no antagonistic interests between plaintiff, their
6 counsel, and the class; and (2) plaintiff and counsel will vigorously prosecute the action on behalf
7 of the class. Fed. R. Civ. P. 23(a)(4); *see also Ellis v. Costco Wholesale Corp.*, 657 F.3d 970, 985
8 (9th Cir. 2011) (*citing Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1020 (9th Cir. 1998)). Plaintiff
9 has no conflicts of interest with the class, and he and his counsel have vigorously prosecuted this
10 case on behalf of the class. Plaintiff is a class member who has the same alleged injuries and
11 seeks, like other class members, compensation for the Data Security Incident. Plaintiff’s interests
12 and the interests of his counsel are consistent with those of the class. Further, counsel for Plaintiff
13 have decades of experience as class action litigators and are well suited to advocate on behalf of
14 the class. *See Decl.* ¶¶ 46, 48. Thus, the adequacy requirement is met.

15 **B. Rule 23(b)(3)’s Requirements Are Met for Purposes of Settlement.**

16 The proposed class also satisfies the requirements of Rule 23(b)(3). The predominance
17 requirement “tests whether proposed classes are sufficiently cohesive to warrant adjudication by
18 representation.” *Amchem*, 521 U.S. at 623 (citing *Wright, et al.*, Fed. Prac. and Proc. § 1777, p.
19 518-19 (2d ed. 1986)). Here, common questions predominate over individual questions and class
20 treatment is superior to other methods for a fair and efficient resolution of the controversy.

21 “If common questions ‘present a significant aspect of the case and they can be resolved for
22 all members of the class in a single adjudication,’ then ‘there is clear justification for handling the
23 dispute on a representative rather than on an individual basis,’ and the predominance test is
24 satisfied.” *See Keegan v. Am. Honda Motor Co.*, 284 F.R.D. 504, 526 (C.D. Cal. 2012) (quoting
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1 *Hanlon*, 150 F.3d at 1022). Predominance is met “where the class is a ‘cohesive group of
2 individuals [who] suffered the same harm in the same way because of the [defendant’s]
3 conduct.” *In re Google LLC St. View Elec. Commc’ns Litig.*, No. 10-MD-02184-CRB, 2020 WL
4 1288377, at *5 (N.D. Cal. Mar. 18, 2020) (quoting *In re Hyundai & Kia Fuel Economy Litig.*, 926
5 F.3d 539, 559 (9th Cir. 2019)). “[C]ommon issues need only predominate, not outnumber
6 individual issues.” *Butler v. Sears, Roebuck & Co.*, 727 F.3d 796, 801 (7th Cir. 2013) (quotations
7 omitted). Plaintiff’s claims center on whether Paysafe used reasonable measures to protect PII.
8 That question can be resolved using the same evidence for all class members, and thus is the type
9 of predominant question that makes class-wide settlement appropriate. *See, e.g., Tyson Foods,*
10 *Inc. v. Bouaphakeo*, 136 S. Ct. 1036, 1045 (2016) (“When ‘one or more of the central issues in
11 the action are common to the class and can be said to predominate, the action may be considered
12 proper under Rule 23(b)(3)’”) (citation omitted).

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15 Rule 23(b)(3) also requires a determination that “a class action is superior to other
16 available methods for the fair and efficient adjudication of the controversy.” In determining that
17 this requirement is satisfied, a court may consider: (1) the interest of members of the class in
18 individually controlling the prosecution or defense of separate actions; (2) the extent and nature
19 of any litigation concerning the controversy already commenced by or against members of the
20 class; (3) the desirability or undesirability of concentrating the litigation of the claims in the
21 particular forum; and (4) the difficulties likely to be encountered in the management of a class
22 action. Fed. R. Civ. P. 23(b)(3).; *Malta v. Federal Home Mortg. Corp.*, 10-CV-1290 BEN (NLS),
23 2013 WL 444619, (S.D. Cal. Feb. 5, 2013) at *3 (superiority is met where “considerations of
24 judicial economy favor litigating a predominant common issue once in a class action instead of
25 many times in separate lawsuits” and where “small individual claims of class members” made it
26 “unlikely that individual actions will be filed”).
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1 A class action is the superior method of adjudicating claims arising from the Data Security
2 Incident—just as in other data breach cases where class-wide settlements have been approved.
3 *See, e.g., In re Yahoo! Inc. Customer Data Sec. Breach Litig.*, No. 5:16-md-02752-LHK (N.D.
4 Cal. July 20, 2019); *Parsons v. Kimpton Hotel & Rest. Group, LLC*, No. 3:16-cv-05387-VC (N.D.
5 Cal. Jan. 9, 2019); *In re Anthem, Inc. Data Breach Litig.*, 327 F.R.D. 299, 316-17 (N.D. Cal.
6 2018). Individual actions are impracticable: the amount in dispute for each of the thousands of
7 class members is small and most lack the resources to pursue their individual claims, the issues
8 involved are complex, and expert testimony and document review will be costly. *See Just Film*,
9 847 F.3d at 1123. No class member has an interest in controlling the prosecution of this action
10 because Plaintiff’s claims are the same as those of the class. Alternatives to a class action are
11 either no recourse for thousands of individuals, or a multiplicity of suits resulting in an inefficient
12 and possibly disparate administration of justice. Class-wide resolution is the only practical
13 method to address these claims. *See Local Joint Exec. Bd. of Culinary/Bartender Trust Fund v.*
14 *Las Vegas Sands, Inc.*, 244 F.3d 1152, 1163 (9th Cir. 2001) (noting that “multiple claims for
15 relatively small individual sums” are well suited to class treatment); *see also Wolin v. Jaguar*
16 *Land Rover N. Am., LLC*, 617 F.3d 1168, 1175 (9th Cir. 2010) (“Where recovery on an individual
17 basis would be dwarfed by the cost of litigating on an individual basis, this factor weighs in favor
18 of class certification.”).

21
22 **C. The Settlement Should Be Preliminarily Approved Pursuant to Rule 23(e).**

23 “[U]nder Rule 23(e)(1), the issue at preliminary approval turns on whether the Court ‘will
24 likely be able to: (i) approve the proposal under Rule 23(e)(2); and (ii) certify the class for
25 purposes of judgment on the proposal.’” *Reyes v. Experian Info. Sols., Inc.*, No. SACV 16-00563
26 AG (AFMx), 2020 WL 466638, at *1 (C.D. Cal. Jan. 27, 2020). Rule 23(e) provides that a class
27 action may be “settled . . . only with the court’s approval.” Moreover, “[t]he parties must provide
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1 the court with information sufficient to enable it to determine whether to give notice of the
2 proposal to the class.” If it is shown that the Court will be able to “approve the proposal” and
3 “certify the class for purposes of judgment on the proposal,” “[t]he court must direct notice in a
4 reasonable manner to all class members who would be bound by the proposal.” Fed. R. Civ. P.
5 23(e). Notice should be given to the class, and preliminary approval should be granted, where the
6 Court “will likely be able to” finally approve the settlement under Rule 23(e)(2) and certify the
7 class. *Id.* “In evaluating a proposed settlement at the preliminary approval stage, some district
8 courts . . . have stated that the relevant inquiry is whether the settlement ‘falls within the range of
9 possible approval’ or ‘within the range of reasonableness.’” *Bykov v. DC Trans. Services, Inc.*,
10 No. 2:18-cv-1691 DB, 2019 WL 1430984, at *2 (E.D. Cal. Mar. 29, 2019). “[P]reliminary
11 approval of a settlement has both a procedural and a substantive component.” *In re Tableware*
12 *Antitrust Litig.*, 484 F. Supp. 2d 1078, 1080 (N.D. Cal. 2007).

15 Procedurally, “a presumption of fairness applies when settlements are negotiated at arm’s
16 length, because of the decreased chance of collusion between the negotiating parties.” *Gribble v.*
17 *Cool Transports Inc.*, No. CV 06-04863 GAF (SHx), 2008 WL 5281665, at *9 (C.D. Cal. Dec.
18 15, 2008). Likewise, “participation in mediation tends to support the conclusion that the
19 settlement process was not collusive.” *Ogbuehi v. Comcast of Cal./Colo./Fla./Or., Inc.*, 303
20 F.R.D. 337, 350 (E.D. Cal. 2014). Substantively, “[a]t this preliminary approval stage, the court
21 need only ‘determine whether the proposed settlement is within the range of possible approval.’”
22 *Murillo v. Pacific Gas & Elec. Co.*, 266 F.R.D. 468, 479 (E.D. Cal. 2010) (*quoting Gautreaux v.*
23 *Pierce*, 690 F.2d 616, 621 n.3 (7th Cir. 1982)). In sum, “the purpose of the preliminary approval
24 process is to determine whether there is any reason not to notify the class members of the
25 proposed settlement and to proceed with a fairness hearing.” *Lucas v. Kmart Corp.*, 234 F.R.D.

1 688, 693 (D. Colo. 2006). While a complete fairness evaluation is unnecessary now, Plaintiff and
2 his counsel strongly believe that the resolution reached here is in the class’s best interests.

3 The Ninth Circuit has identified nine factors to consider in analyzing the fairness,
4 reasonableness, and adequacy of a class settlement:

5 (1) the strength of the plaintiff’s case; (2) the risk, expense, complexity, and likely
6 duration of further litigation; (3) the risk of maintaining class action status throughout
7 the trial; (4) the amount offered in settlement; (5) the extent of discovery completed and
8 the stage of the proceedings; (6) the views of counsel; (7) the presence of a
9 governmental participant; (8) the reaction of the class members to the proposed
settlement and; (9) whether the settlement is a product of collusion among the parties.⁵

10 Rule 23(e) requires a court to consider several additional factors, including whether the class
11 representative and class counsel have adequately represented the class, and whether the settlement
12 treats class members equitably. Fed. R. Civ. P. 23(e). In applying these factors, this Court should
13 be guided by the principle that settlements of class actions are favored. *See Franklin v. Kaypro*
14 *Corp.*, 884 F.2d 1222, 1229 (9th Cir. 1989) (“It hardly seems necessary to point out that there is
15 an overriding public interest in settling and quieting litigation. This is particularly true in class
16 action suits”). Here, the relevant factors support the conclusion that the negotiated settlement is
17 fundamentally fair, reasonable, and adequate, and should be preliminarily approved.

18 **1. The Strength of Plaintiff’s Case**

19 Plaintiff believes he has built a strong case. Plaintiff believes he will be able to offer
20 evidence of Defendant’s negligence in not maintaining reasonable data security programs and
21 practices, which led directly to the exposure of class members’ PII. Decl., ¶ 53. Plaintiff believes
22 his claims are viable and that he has a good chance of proving that Paysafe’s data security was
23 inadequate and, if that is established, that Defendant is likely to be found liable under at least
24 some of the liability theories and claims asserted. In Plaintiff’s view, Defendant faces substantial
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1 liability, including up to \$750 for each of the 15,662 class members who are believed to have
2 resided in California during the Data Security Incident (a total of \$11,746,500). *Id.*, 6. For the
3 very reasons stated *infra* that Plaintiff’s claims face substantial risk (*See* §§ VI(C)(2) and
4 VI(C)(3)), it is practically impossible to calculate Defendant’s likely exposure on the other
5 claims, particularly for negligence. Since no data breach case has been litigated through trial,
6 calculation of Defendant’s potential exposure is inherently speculative; however, Plaintiff alleges
7 that the exposure of class members’ PII has put each of them at a lifetime increased risk of
8 identity theft. Therefore, Defendant’s potential exposure could be measured by the cost of
9 providing identity theft protection to the class. Identity theft protection typically retails for \$60 to
10 \$72 per year, per person. Decl., ¶ 10. Therefore, Defendant’s potential exposure could be
11 estimated to be as much as \$72 per year per class member for a court-approved period of time.
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14 Although Plaintiff believes he has strong claims and would prevail at trial, success is not
15 guaranteed. Plaintiff faces risks given the novel nature of the claims asserted. Paysafe will
16 vigorously defend the reasonableness of its data security measures and contends that there is no
17 evidence that any person’s PII was actually compromised, or that any person has experienced
18 identity theft or other harm arising from the Data Security Incident. Paysafe has also already
19 offered two years’ free credit monitoring and identity theft protection to class members.
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21 Given all of these considerations, it is “plainly reasonable for the parties at this stage to
22 agree that the actual recovery realized, and risks avoided here outweigh the opportunity to pursue
23 potentially more favorable results through full adjudication.” *Dennis v. Kellogg Co.*, No. 09-cv-
24 1786-L(WMc), 2013 WL 6055326, at *3 (S.D. Cal. Nov. 14, 2013). “Here, as with most class
25 actions, there was risk to both sides in continuing towards trial. The settlement avoids uncertainty
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27 ⁵ *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 946 (9th Cir. 2011); *see also Hanlon*,
28 150 F.3d at 1026.

1 for all parties involved.” *Chester v. TJX Cos.*, No. 5:15-cv-01437-ODW(DTB), 2017 WL
2 6205788, at *6 (C.D. Cal. Dec. 5, 2017). In light of these obstacles and risks, including class
3 certification, summary judgment, and trial, the substantial benefits the Settlement provides favor
4 granting preliminary approval of the Settlement. Decl., ¶ 54.

6 **2. The Risk, Expense, Complexity, and Likely Duration of Litigation**

7 While Plaintiff believes his case is strong, all cases are subject to substantial risk. This
8 case involves a proposed class of 91,706 (Paysafe has argued that each would need to establish
9 harm and causation); a complicated factual background; and a motivated Defendant that already
10 has provided some relief to the class. Although nearly all class actions involve significant risk,
11 expense, and complexity—undergirding the strong policy favoring amicable resolutions, *Linney v.*
12 *Cellular Alaska P’ship*, 151 F.3d 1234, 1238 (9th Cir. 1998)—this is a particularly complex class
13 due to the constant standing challenges plaintiffs face in data breach class actions. Data breach
14 cases face substantial hurdles in surviving even the pleading stage. *See, e.g., Hammond v. The*
15 *Bank of N.Y. Mellon Corp.*, No. 08 Civ. 6060 (RMB) (RLE), 2010 WL 2643307, at *1 (S.D.N.Y.
16 June 25, 2010) (collecting cases). Cases impacting broad groups and implicating data more
17 sensitive than that at issue here have been dismissed. *In re U.S. Office of Pers. Mgmt. Data Sec.*
18 *Breach Litig.*, 266 F. Supp. 3d 1, 19 (D.D.C. 2017) (“The Court is not persuaded that the factual
19 allegations in the complaints are sufficient to establish . . . standing.”), *reversed in part*, 928 F.3d
20 42 (D.C. Cir. June 21, 2019) (holding plaintiff had standing).

21
22
23 To the extent the law has accepted this relatively new type of litigation, the path to a class-
24 wide judgment remains unforged, particularly in the area of damages. Data breach cases are
25 among the riskiest of all class actions, making settlement more prudent when there is a reasonable
26 resolution. The damages methodologies, while theoretically sound, are untested in a disputed
27 class certification setting and unproven before a jury. As in any data breach case, establishing
28

1 causation on a class-wide basis is rife with uncertainty. Each risk, by itself, could impede the
2 successful prosecution of these claims at trial and in an appeal—which could result in zero
3 recovery to the class. “Regardless of the risk, litigation is always expensive, and both sides would
4 bear those costs if the litigation continued.” *Paz v. AG Adriano Goldschmeid, Inc.*, No.
5 14CV1372 DMS (DHB), 2016 WL 4427439, at *5 (S.D. Cal. Feb. 29, 2016). Thus, this factor
6 favors approval.
7

8 **3. The Risk of Maintaining Class Action Status Through Trial**

9 Given that this case is in the pleadings stage, the Parties have not briefed, and the Court
10 has not yet certified any class treatment and Defendant would oppose certification if the case
11 proceeds. If the Parties were to litigate their claims through trial, Plaintiff would encounter risks
12 in obtaining and maintaining certification of the class. Plaintiff “necessarily risk[s] losing class
13 action status.” *Grimm v. American Eagle Airlines, Inc.*, No. LA CV 11-00406 JAK(MANx), 2014
14 WL 1274376, at *10 (C.D. Cal. Sept. 24, 2014). Class certification in data breach cases is not
15 common—first occurring in *Smith v. Triad of Ala., LLC*, No. 1:14-CV-324-WKW, 2017 WL
16 1044692, at *13 (M.D. Ala. Mar. 17, 2017), and most recently in *In re Brinker Data Incident*
17 *Litig.*, No. 3:18-CV-686-TJC-MCR, 2021 WL 1405508, at *1 (M.D. Fla. Apr. 14, 2021). While
18 certification of additional data breach classes may well follow, the dearth of direct precedent adds
19 to the risks.
20

21 **4. The Amount Offered in Settlement**

22 The value of the Settlement favors approval. Significant relief is available to the class: a
23 non-reversionary common fund of \$2,000,000. Class members may claim up to \$25,000 in
24 reimbursements and will receive a *pro rata* share of the remainder of the Net Settlement Fund.
25 The settlement is a strong result and is in line with other settlements in similar cases involving
26 data breaches, reflecting that the Settlement is fair. *See Calderon v. Wolf Firm*, No. SACV 16-
27
28

1 1266-JLS(KESx), 2018 WL 6843723, at *7-8 (C.D. Cal. Mar. 13, 2018). In light of the
2 difficulties and expenses class members would face pursuing individual claims, the risks of
3 litigation and the high burden in proving liability, and the likelihood that class members are
4 unaware of their claims, this Settlement is an appropriate discount compared to Defendant’s
5 exposure and represents a fair settlement of the claims. *See id.* The Settlement value per class
6 member here (\$21.80 per Class member (\$2,000,000 / 91,706 Class members) is on par with or
7 exceeds that in other data breach settlements. *See, e.g., In re The Home Depot, Inc., Customer*
8 *Data Sec. Breach Litig.*, No. 1:14-MD-02583-TWT, ECF No. 181-2 (March 7, 2016) (Settlement
9 Agreement); *id.*, 2017 U.S. Dist. LEXIS 221736, at *24 (N.D. Ga. Sept. 22, 2017) (order
10 approving settlement) (\$0.51 per Class member); *In re Target Corp. Customer Data Sec. Breach*
11 *Litig.*, No. MDL 14-2522-PAM, ECF No. 358-1 (D. Minn. March 18, 2015) (Settlement
12 Agreement); *id.*, 2017 WL 2178306, at *9 (D. Minn. May 17, 2017) (order certifying settlement
13 class on remand from the 8th Circuit) (\$0.17 per Class member). These comparisons are not
14 intended to disparage the settlements achieved in those cases, but to show the good resolution
15 here.

18 **5. The Extent of Discovery Completed and the Stage of Proceedings**

19 Before entering into settlement discussions, counsel should have “sufficient information to
20 make an informed decision.” *Linney*, 151 F.3d at 1239. Here, Plaintiff gathered all available
21 information regarding the Data Security Incident—including publicly-available documents
22 concerning the Incident. Decl., ¶ 56. The parties also informally exchanged non-public
23 information concerning the Incident and the size of the class in preparation for mediation; and
24 have further engaged in discovery, including paper discovery and the deposition of Plaintiff and
25 two Fed. R. Civ. Pro. 30(b)(6) depositions of Defendant. This information, together with Class
26 Counsel’s experience in data breach litigation, enabled Class Counsel to represent the class’s
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28

1 interests without expending hundreds of hours and substantial financial resources learning the
2 subject area. *Id.*, ¶ 52. “[T]he efficiency with which the Parties were able to reach an agreement
3 need not prevent this Court from granting . . . approval.” *Hillman v. Lexicon Consulting, Inc.*, No.
4 EDCV 16-01186-VAP(SP_x), 2017 WL 10433869, at *8 (C.D. Cal. April 27, 2017). Thus,
5 Plaintiff is well informed about the strengths and weaknesses of this case.
6

7 **6. The Experience and Views of Counsel**

8 Class Counsel initiated this lawsuit when Paysafe announced the Data Security Incident,
9 which impacted 91,706 individuals. Class Counsel have substantial experience litigating complex
10 class cases of various types, including data breach cases such as this one. *See* Decl., ¶ 50, Exs. A
11 and B. Having worked on behalf of the class since the Incident was announced and having
12 evaluated the dispute and dedicated significant time and money to this litigation, Class Counsel
13 fully endorse the Settlement. *Id.*, ¶ 53. A great weight is accorded to the recommendation of
14 counsel. *See, e.g., Norton v. Maximus, Inc.*, 1:14-0030 WBS, 2017 WL 1424636, at *6 (D. Idaho,
15 April 17, 2017); *Nat’l Rural Telecomm. Coop. v. DirecTV, Inc.*, 221 F.R.D. 523, 528 (C.D. Cal.
16 2004). Thus, this factor supports approval.
17

18 Following this District’s Procedural Guidance for Class Action Settlements, Class Counsel
19 compare this settlement to a recent similar settlement where they participated as counsel for
20 plaintiffs. In *Schellhorn v Timios, Inc.*, No.: 2:21-cv-08661-VAP-(JCx) (C.D. Cal.), over 75,000
21 individuals had their PII stolen in a 2021 data breach. That case was resolved on a claims-made
22 basis. The settlement benefits made available to class members in *Timios* are less than those
23 afforded here in each of the following categories: (1) out-of-pocket expenses reimbursement up to
24 \$500; (2) reimbursement of lost time up to 3 hours at \$20 per hour; (3) extraordinary expenses
25 reimbursement up to \$3,000; and (4) enhancements to defendant’s cybersecurity. While there was
26 a small payment for a California subclass there, there was nothing like the Residual Cash
27
28

1 Payment here, benefitting the entire class. That court granted preliminary approval in *Timios* on
 2 May 10, 2022, and final approval on November 10, 2022. The Settlement forged for the class here
 3 provides benefits far greater than those that were approved in *Timios*. Plaintiff respectfully
 4 requests that the Court grant preliminary approval of class action settlement in this case.
 5

6 **7. Governmental Participants.**

7 There is no governmental participant in this matter. This factor is neutral.

8 **8. The Reaction of the Class Members to the Proposed Settlement**

9 This factor is not yet implicated; however, Plaintiff supports the Settlement. Decl., ¶ 48.

10 **9. Lack of Collusion Among the Parties**

11 The Parties negotiated a substantial Settlement, and, at the Court's suggestion,
 12 renegotiated the Settlement to address various issues. The Parties did not negotiate attorneys' fees
 13 until agreement on the substance of the class resolution had been reached, and both the class
 14 portion of the resolution and the attorneys' fees were negotiated at arm's-length. Counsel are
 15 well-versed in data breach actions and fully understand the values recovered in similar cases.
 16 Additionally, the parties participated in two contentious in -person mediation sessions with an
 17 experienced private mediator, Zela Claiborne, Esq. of JAMS, and were only able to reach a
 18 settlement in principle during the second session after having conducted substantial discovery.
 19 *See G. F. v. Contra Costa Cty.*, No. 13-cv-03667-MEJ, 2015 WL 4606078, at *13 (N.D. Cal. July
 20 30, 2015) (“[T]he assistance of an experienced mediator in the settlement process confirms that
 21 the settlement is non-collusive.”) (internal quotation marks and citation omitted); *see also Cohorst*
 22 *v. BRE Props.*, No. 3:10-CV-2666-JM-BGS, 2011 WL 7061923, at *12 (S.D. Cal. Nov. 9, 2011)
 23 (“We put a good deal of stock in the product of arms-length, non-collusive, negotiated
 24 resolution.”). The Court can be assured that the negotiations were not collusive.
 25

26 **10. The Settlement Treats Settlement Class Members Equitably**

27 Finally, Rule 23(e)(2)(D) requires the Court to confirm that the settlement treats the class
 28

1 equitably. Courts should consider “whether the apportionment of relief among class members
2 takes appropriate account of differences among their claims, and whether the scope of the release
3 may affect class members in different ways that bear on the apportionment of relief.” Fed. R. Civ.
4 P. 23(e), advisory comm.’s note (2018). In determining whether this factor weighs in favor of
5 approval, a Court must determine whether the settlement “improperly grant[s] preferential
6 treatment to class representatives or segments of the class.” *Hudson v. Libre Technology Inc.*, No.
7 3:18-cv-1371-GPC-KSC, 2020 WL 2467060, *9 (S.D. Cal. May 13, 2020) (quoting *In re*
8 *Tableware Antitrust Litig.*, 484 F. Supp. 2d 1078, 1079 (N.D. Cal. 2007)). This Settlement “does
9 not improperly discriminate among the class, as the whole class is entitled to the same relief. Each
10 class member has the opportunity to make a claim for up to \$25,000 in reimbursements, and every
11 class member is entitled to a Residual Cash Payment. Furthermore, as will be explained in detail
12 in Plaintiff’s Fees Motion, an award of \$15,000 for one class representative is in line with awards
13 in similar cases, is presumptively reasonable, and does not call into question Plaintiff’s adequacy
14 or the validity of the Settlement.⁶ This factor also weighs in favor of approval.

17 **D. The Court Should Approve the Proposed Notice Program**

18 Before final approval, the “court must direct notice in a reasonable manner to all class
19 members who would be bound by the proposal.” FRCP 23(e)(1)(B). For Rule 23(b)(3) classes,
20 “the court must direct to class members the best notice that is practicable under the circumstances,
21 including individual notice to all members who can be identified through reasonable effort.” Fed.
22

23
24 ⁶ See e.g. *Roe v. Frito-Lay, Inc.*, No. 14-cv-00751-HSG, 2017 WL 1315626, at *8 (N.D. Cal. Apr.
25 7, 2017) (noting a \$5,000 Service Award is presumptively reasonable in the Ninth Circuit); *In re*
26 *Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 947-48 (9th Cir. 2015) (service awards of
27 \$5,000); *Presley v. Carter Hawley Hale Profit Sharing Plan*, No. C9704316SC, 2000 WL 16437,
28 at *2 (N.D. Cal. 2000) (\$25,000 service awards); *In re McKesson HBOC, Inc. ERISA Litig.*, 391
F. Supp. 2d 844, 851 (N.D. Cal. 2005) (\$5,000 service awards); *In re Sorbates Direct Purchaser*
Antitrust Litig., No. 99-1358MMC, 2002 WL 31655191, at *3 (N.D. Cal. Nov. 15, 2002) (\$7,500

1 R. Civ. P. 23(c)(2)(B). The best notice practicable means “individual notice to all members who
2 can be identified through reasonable effort.” *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 173
3 (1974). Notice to class members must be reasonably calculated to apprise Class members of the
4 action and afford them a chance to object. Fed. R. Civ. P. 23(c)(2); *Phillips Petroleum Co. v.*
5 *Shutts*, 472 U.S. 797, 812 (1985). Notices must also present information about a settlement
6 simply, neutrally, and understandably. *In re Hyundai & Kia Fuel Econ. Litig.*, 926 F.3d 539, 567
7 (9th Cir. 2019). Notice is adequate if it describes the terms of the settlement sufficiently to alert
8 those with adverse viewpoints to investigate, and to come forward and be heard. *Id.*

9
10 After a competitive bid process, the parties have agreed to a robust notice program to be
11 administered by Kroll, which will use all reasonable efforts to provide direct, individual notice to
12 each class member via mail. Decl., ¶ 29; Finegan Decl., ¶¶ 14-18. The Notice and Claim Forms
13 negotiated by the Parties are clear and concise and inform the class of their rights and options
14 under the Settlement, including detailed instructions on how to make a claim, object to the
15 Settlement, or opt-out of the Settlement. Decl., ¶ 34; A.S.A., Exs. 1 & 2. Kroll will also establish
16 a dedicated Settlement Website and will update the website throughout the Claims Period, with
17 the forms of Summary Notice, Long Notice, and Claim Form approved by the Court, as well as
18 the Settlement Agreement. Finegan Decl., ¶ 20; A.S.A., Exs. 1, 2. Kroll will also establish a toll-
19 free line staffed with live operators available to provide Class members with additional
20 information about the settlement. *Id.*, ¶ 21.

21
22
23 Plaintiff has negotiated a notice program that is reasonably calculated to apprise class
24 members of the pendency of the action and afford them an opportunity to present their objections.
25 Class members provided Defendant with their contact information, and this is not suspected of

26
27 service award); *Williams v. Costco Wholesale Corp.*, 02cv2003 IEG (AJB), 2010 WL 2721452, at
28 *7 (S.D. Cal. July 7, 2010) (\$5,000 award in an case settling for \$440,000).

1 being a particularly transient class. Thus, direct notice via mail, with a potential media campaign
 2 if necessary, is the best practicable notice. *Compare Roes 1-2 v. SFBSC Management LLC*, 944
 3 F.3d 1035, 1046 (9th Cir. 2019); *see e.g. In re Online DVD-Rental Antitrust Litigation*, 779 F. 3d
 4 934, 946 (9th Cir. 2015). Since the notice plan ensures that the class’s due process rights are
 5 protected, the Court should approve it. *See Hartranft v. TVI, Inc.*, No. SACV 15-01081-CJC-
 6 DFM, 2019 WL 1746137, at *3 (C.D. Cal. Apr. 18, 2019)⁷; *see also Spencer v. #1 A LifeSafer of*
 7 *Ariz., LLC*, No. CV-18-02225-PHX-BSB, 2019 WL 1034451, at *3 (D. Ariz. Mar. 4, 2019)
 8 (Bade, J.) (preliminarily approving class action settlement and finding “that the proposed notice
 9 program is clearly designed to advise the Class Members of their rights”).

11 **E. Appointment of the Settlement Administrator**

12 In connection with implementing the notice program and administration of the settlement,
 13 the Parties request that the Court appoint Kroll to serve as Claims Administrator. Kroll has a
 14 proven track record of supporting thousands of class action settlements, with over 50 years of
 15 legal administration experience. Finegan Decl., ¶¶ 7-12. Notice and administration is capped at
 16 \$399,000 and will be paid from the Settlement Fund. Decl., ¶ 31.

18 **F. Appointment of Settlement Class Counsel**

19 “[A] court that certifies a class must appoint class counsel [who must] fairly and
 20 adequately represent the interests of the class.” Fed. R. Civ. P. 23(g)(1)(B). Courts often consider
 21 the following: the proposed class counsel’s (1) work in identifying or investigating potential
 22 claims, (2) experience in handling class actions or other complex litigation, and the types of
 23 claims asserted in the case, (3) knowledge of the applicable law, and (4) resources committed to
 24

25 ⁷ “The Court finds that the Class Notice and the manner of its dissemination described in
 26 Paragraph 7 above and Section VIII of the Agreement constitutes the best practicable notice
 27 under the circumstances and is reasonably calculated, under all the circumstances, to apprise
 28 Settlement Class Members of the pendency of this action, the terms of the Agreement, and their
 right to object to or exclude themselves from the Settlement Class.”)

1 representing the class. Fed. R. Civ. P. 23(g)(1)(A)(i-iv). Proposed Class Counsel has extensive
 2 experience prosecuting class actions and other complex cases, and specifically data breach cases.
 3 See Decl. ¶ 50, Exs. A and B. Accordingly, Plaintiff respectfully requests that the Court appoint
 4 M. Anderson Berry and Gregory Haroutunian of Clayeo C. Arnold, A Professional Law
 5 Corporation, and John Yanchunis and Ryan Maxey of Morgan & Morgan as Class Counsel.
 6

7 **VI. CONCLUSION**

8 Plaintiff has negotiated a fair, adequate, and reasonable Settlement that will provide class
 9 members with significant monetary benefits and equitable relief. The Settlement is likely to be
 10 approved, and as such, Notice should be ordered to issue to the class. Thus, Plaintiff respectfully
 11 requests that this Court grant Plaintiff's Unopposed Renewed Motion for Preliminary Approval of
 12 Class Action Settlement.

13 Date: May 2, 2023

Respectfully Submitted,

14 /s/M. Anderson Berry

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Attorneys for Plaintiff

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

This Class Action Settlement Agreement and Release (“Settlement Agreement” or “Agreement”) is entered into by and between Kamal Bitmouni, (“Plaintiff”), individually and on behalf of Participating Settlement Class Members (as defined in Paragraph 24), and (2) Paysafe Payment Processing Solutions, LLC (“Defendant” or “Paysafe”) (collectively the “Parties”), in the action pending in the United States District Court for the Northern District of California, Case No. 3:21-cv-00641-JCS (the “Litigation”). This Agreement shall supersede and replace the Settlement Agreement executed on December 27, 2022.

RECITALS

WHEREAS, the Litigation, a proposed class action lawsuit, was filed on January 27, 2021, in the United States District Court for the Northern District of California, relating to a data security incident disclosed by Paysafe on or about December 16, 2020, potentially affecting certain sensitive personally identifiable information of people who enrolled for merchant accounts with Paysafe’s affiliates.

WHEREAS, on October 11, 2021, Plaintiff filed an Amended Class Action Complaint.

WHEREAS, on March 30, 2022, Plaintiff filed a Second Amended Class Action Complaint.

WHEREAS Paysafe continues to deny: (a) the allegations and all liability with respect to any and all facts and claims alleged in the Litigation; (b) that the class representative in the Litigation and the classes he purports to represent have suffered any damage; and (c) that the Litigation satisfies the requirements to be tried as a class action under Federal Rule of Civil Procedure 23.

WHEREAS Paysafe provided certain information requested by counsel for Plaintiff.

NOW, THEREFORE, in exchange for the mutual promises and valuable consideration provided for in this Agreement, and without any admission or concession by either Party, the Parties agree to a full, complete, and final settlement and resolution of the Litigation, subject to Court approval, on the following terms and conditions:

I. DEFINITIONS

In addition to terms defined at various points within this Agreement, the following defined terms shall have the meanings set forth below:

1. “Approved Claim” means the timely submitted Claim Form by a Participating Settlement Member that has been approved by the Settlement Administrator.
2. “Attested Time” means time spent remedying issues related to the Data Security Incident, as provided in Section IV of this Agreement.

3. “Claim Form” or “Claim” means the form(s) Participating Settlement Class Members must submit to be eligible for reimbursement of Out-of-Pocket Losses and Attested Time under the terms of the Settlement, which is attached hereto as Exhibit 2.

4. “Claims Deadline” means the last day to submit a timely Claim Form(s), which will occur ninety (90) days after the Notice Deadline.

5. “Claims Period” means the period of time during which Settlement Class Members may submit Claim Forms to receive Settlement benefits, which will end on the Claims Deadline.

6. “Class Counsel” means Michael Anderson Berry, Gregory Haroutunian, John A. Yanchunis, and Ryan D. Maxey.

7. “Court” means the Honorable Joseph C. Spero, or such other judge to whom the Litigation may hereafter be assigned.

8. “Data Security Incident” means the data security incident initially disclosed by Paysafe in or around December 2020.

9. “Effective Date” means one business day following the latest of: (i) the date upon which the time expires for filing or noticing any appeal of the Final Approval Order and Judgment; or (ii) if any appeal, petition, request for rehearing, or other review has been filed, the Final Approval Order and Judgment is affirmed without material change or the appeal is dismissed or otherwise disposed of, no other appeal, petition, rehearing, or other review is pending, and the time for further appeals, petitions, requests for rehearing, or other review has expired.

10. “Fee Application” means any motion for an award of attorneys’ fees, Litigation Costs and Expenses, and Service Award Payments to be paid from the Settlement Fund, as set forth in Paragraphs 83 and 85.

11. “Fee Award and Costs” means the amount of attorneys’ fees and reimbursement of Litigation Costs and Expenses awarded by the Court to Class Counsel.

12. “Final Approval Order and Judgment” means an order and judgment that the Court enters after the Final Approval Hearing, which finally approves the Settlement Agreement, certifies the Settlement Class, dismisses the Litigation with prejudice, entering judgment in accord with the terms of this Settlement Agreement, and otherwise satisfies the settlement-related provisions of Federal Rule of Civil Procedure 23, and is consistent with all material provisions of this Settlement Agreement. The Parties agree to the Court entering a Final Approval Order and Judgment consistent with the proposed Final Approval Order and Judgment attached hereto as Exhibit 3.

13. “Final Approval Hearing” means the hearing to be conducted by the Court to determine the fairness, adequacy, and reasonableness of the Settlement pursuant to Federal Rule of Civil Procedure 23 and whether to issue the Final Approval Order and Judgment.

14. “Litigation” means the class action lawsuit captioned *Kamal Bitmouni v. Paysafe Payment Processing Solutions, LLC*, Case No. 3:21-cv-00641-JCS pending in the United States District Court for the Northern District of California.

15. “Litigation Costs and Expenses” means costs and expenses incurred by counsel for Plaintiff in connection with commencing, prosecuting, and settling the Litigation.

16. “Net Settlement Fund” means the amount of funds that remain in the Settlement Fund after funds are paid from or allocated for payment from the Settlement Fund for the following: (i) Notice and Administrative Expenses, (ii) Taxes and Tax-Related Expenses; (iii) Service Awards Payments approved by the Court, and (v) Fee Award and Costs approved by the Court.

17. “Non-Profit Residual Recipient” means a non-profit organization approved by the Court following distribution of Settlement payments for Approved Claims.

18. “Notice” means notice of the proposed class action Settlement to be provided to Settlement Class Members pursuant to the Preliminary Approval Order, substantially in the form attached hereto as Exhibit 1.

19. “Notice Deadline” means the last day by which Notice must issue to the Settlement Class Members, which will occur thirty (30) days after entry of the Preliminary Approval Order.

20. “Notice and Administrative Expenses” means all of the expenses incurred in the administration of this Settlement, including, without limitation, all expenses or costs associated with providing Notice to the Settlement Class, locating Settlement Class Members, processing claims, determining the eligibility of any person to be a Settlement Class Member, and administering, calculating and distributing the Settlement Fund to Participating Settlement Class Members. Administrative Expenses also includes all reasonable third-party fees and expenses incurred by the Settlement Administrator in administering the terms of this Agreement.

21. “Objection Deadline” is the last day on which a Settlement Class Member may file an objection to the Settlement or Fee Application, which will be ninety (90) days after the Notice Deadline.

22. “Opt-Out Deadline” is the last day on which a Settlement Class Member may file a Request for Exclusion from the Settlement Class, which will be ninety (90) days after the Notice Deadline.

23. “Out-of-Pocket Losses” means documented out-of-pocket costs or expenditures that a Settlement Class Member actually incurred that are fairly traceable to the Data Security Incident, and that have not already been reimbursed by a third party. Out-of-Pocket Losses may include, without limitation, unreimbursed costs associated with investigating or remediating fraud or identity theft, including professional fees such as attorneys’ fees and accountants’ fees, fees for credit repair services, and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges, and costs for obtaining credit monitoring or other mitigative services, that were incurred on or between May 1, 2018 and the Notice Deadline.

24. “Participating Settlement Class Member” means a Settlement Class Member who does not submit a valid Request for Exclusion prior to the Opt-Out Deadline.

25. “Paysafe’s Counsel” means Debevoise & Plimpton LLP.

26. “Preliminary Approval Order” means an order directing issuance of Notice to Settlement Class Members, determining that the Court will likely be able to approve the Settlement under Federal Rule of Civil Procedure 23(e)(2), and determining that the Court will likely be able to certify the Settlement Class for purposes of judgment, that is consistent with all material provisions of this Settlement Agreement.

27. “Released Claims” means any and all claims or causes of action of every kind and description, including any causes of action in law, claims in equity, complaints, suits, or petitions, and any allegations of wrongdoing, demands for legal, equitable or administrative relief (including, but not limited to, any claims for injunction, rescission, reformation, restitution, disgorgement, constructive trust, declaratory relief, compensatory damages, consequential damages, penalties, exemplary damages, statutory damages, punitive damages, attorneys’ fees, costs, interest or expenses) that the Releasing Parties had, have, or may claim now or in the future to have (including, but not limited to, assigned claims and any and all “Unknown Claims” as defined below) that were or could have been asserted or alleged arising out of the same nucleus of operative facts as any of the claims alleged or asserted in the Litigation, including but not limited to the facts, transactions, occurrences, events, acts, omissions, or failures to act that were alleged, argued, raised, or asserted in any pleading or court filing in the Litigation, including but not limited to those concerning: 1) the disclosure of the Participating Settlement Class Members’ personal information in the Data Security Incident; 2) Paysafe’s maintenance of the Participating Settlement Class Members’ personal information as it relates to the Data Security Incident; 3) Paysafe’s security policies and practices as it relates to the Data Security Incident; or 4) Paysafe’s provision of notice to the Participating Settlement Class Members following the Data Security Incident.

28. “Request for Exclusion” is the written communication by or on behalf of a Settlement Class Member in which he or she requests to be excluded from the Settlement Class in the form and manner provided for in the Notice.

29. “Residual Cash Payment” is the payment made to all Participating Settlement Class Members on a *pro rata* basis from what remains of the Net Settlement Fund after all valid claims for Out-of-Pocket losses and Attested Time have been deducted from it.

30. “Service Award Payment” means compensation awarded by the Court and paid to the Settlement Class Representative in recognition of their role in this litigation.

31. “Settlement” means the settlement of the Litigation by and between the Parties, and the terms thereof as stated in this Settlement Agreement.

32. “Settlement Administrator” means the administrator chosen by Class Counsel. Class Counsel and Paysafe’s Counsel may, by agreement, substitute a different Settlement Administrator, subject to Court approval.

33. “Settlement Class” means the individuals identified on the Settlement Class List, which includes all individuals who were notified by direct notice by Paysafe that their personal information was or may have been compromised in the Data Security Incident. Excluded from the Settlement Class are: (1) the judges presiding over this Litigation, and members of their direct families; (2) the Defendant, its subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and their current or former officers, directors, and employees; and (3) Settlement Class Members who submit a valid Request for Exclusion prior to the Opt-Out Deadline.

34. “Settlement Class List” means the list generated by Paysafe containing the full names, current or last known addresses where known, for all persons who fall under the definition of the Settlement Class, which Paysafe shall provide to the Settlement Administrator within twenty-one (21) days of entry of the Preliminary Approval Order.

35. “Settlement Class Member” means an individual who falls within the definition of the Settlement Class.

36. “Settlement Class Representative” means Kamal Bitmouni.

37. “Settlement Fund” means two million dollars and zero cents (\$2,000,000.00) to be paid by Paysafe or its insurance carrier as specified in Paragraphs 41–46, including any interest accrued thereon after payment.

38. “Settlement Payment” or “Settlement Check” means the payment to be made electronically via Zelle, Venmo, or PayPal, or mailed in the form of a check to a Participating Settlement Class Member pursuant to Paragraphs 54–61.

39. “Settlement Website” means the website that the Settlement Administrator will establish as soon as practicable following entry of the Preliminary Approval Order, but prior to the mailing of the Notice, as a means for Settlement Class Members to obtain notice of and information about the Settlement and relevant case documents and deadlines. The Settlement Website shall contain relevant documents, including, but not limited to, the Notice, this Agreement, Plaintiffs’ motion for preliminary approval of the Settlement, the Preliminary Approval Order, Plaintiffs’ Fee Application, and the operative complaints in the Litigation. The Settlement Website shall also include a toll-free telephone number, e-mail address, and mailing address through which Settlement Class Members may contact the Settlement Administrator directly. The Settlement Website shall not include any advertising and shall remain operational until at least sixty (60) days after all Settlement Payments have been distributed.

40. “Taxes and Tax-Related Expenses” means any and all applicable taxes, duties, and similar charges imposed by a government authority (including any estimated taxes, interest or penalties) arising in any jurisdiction, if any, with respect to the income or gains earned by or in respect of the Settlement Fund, including, without limitation, any taxes that may be imposed upon Paysafe with respect to any income or gains earned by or in respect of the Settlement Fund for any period while it is held in the Settlement Fund.

II. SETTLEMENT FUND

41. **Establishment of Settlement Fund.** Within twenty-one (21) days of the Effective Date, Paysafe will pay to the Claims Administrator the Settlement Fund minus the amounts advanced for notice and claims administration costs as described in the next sentence. Within thirty (30) days of entry of the Preliminary Approval Order, Paysafe will pay \$100,000.00 from the Settlement Fund to the Claims Administrator to defray the actual expenses of notice and claims administration. To the extent this Settlement Agreement is not finally approved, Paysafe will be entitled to the return of any amounts not already incurred by the Claims Administrator in connection with Settlement Administration.

42. **Non-Reversionary.** The Settlement Fund is non-reversionary. As of the Effective Date, all rights of Paysafe in or to the Settlement Fund shall be extinguished, except in the event this Settlement Agreement is terminated, as described in Paragraph 76.

43. **Qualified Settlement Fund.** The Parties agree that the Settlement Fund is intended to be maintained as a qualified settlement fund within the meaning of Treasury Regulation § 1.468 B-1, and that the Settlement Administrator, within the meaning of Treasury Regulation § 1.468 B-2(k)(3), shall be responsible for filing tax returns and any other tax reporting for or in respect of the Settlement Fund and paying from the Settlement Fund any Taxes and Tax-Related Expenses owed with respect to the Settlement Fund. The Parties agree that the Settlement Fund shall be treated as a qualified settlement fund from the earliest date possible and agree to any relation-back election required to treat the Settlement Fund as a qualified settlement fund from the earliest date possible. Any and all funds held in the Settlement Fund shall be held in an interest-bearing account insured by the Federal Deposit Insurance Corporation. Funds may be placed in a non-interest-bearing account as may be reasonably necessary during the check clearing process. The Settlement Administrator shall provide an accounting of any and all funds in the Settlement Fund, including any interest accrued thereon and payments made pursuant to this Agreement, upon request of any of the Parties.

44. **Custody of Settlement Fund.** The Settlement Fund shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the entirety of the Settlement Fund is distributed pursuant to this Settlement Agreement or the balance returned to those who paid the Settlement Fund in the event this Settlement Agreement is terminated in accordance with Paragraph 76.

45. **Use of the Settlement Fund.** As further described in this Agreement, the Settlement Fund shall be used by the Settlement Administrator to pay for the following: (i) Notice and Administrative Expenses; (ii) Taxes and Tax-Related Expenses; (iii) Service Award Payment approved by the Court; (iv) Fee Award and Costs; (v) reimbursement for Out-of-Pocket Losses and Attested Time; (vi) Residual Cash Payments, and (vii) payments to the Non-Profit Residual Recipient, if relevant. No amounts may be withdrawn from the Settlement Fund unless expressly authorized by this Agreement or approved by the Court.

46. **Taxes and Representations.** Taxes and Tax-Related Expenses relating to the Settlement Fund shall be considered Notice and Administrative Expenses and shall be timely paid by the Settlement Administrator out of the Settlement Fund without prior order of the Court.

Further, the Settlement Fund shall indemnify and hold harmless the Parties and their counsel for Taxes and Tax-Related Expenses (including, without limitation, taxes payable by reason of any such indemnification payments). The Parties and their respective counsel have made no representation or warranty with respect to the tax treatment by any Settlement Class Representative or any Settlement Class Member of any payment or transfer made pursuant to this Agreement or derived from or made pursuant to the Settlement Fund. Each Settlement Class Representative and Participating Settlement Class Member shall be solely responsible for the federal, state, and local tax consequences to him, her or it of the receipt of funds from the Settlement Fund pursuant to this Agreement.

III. REIMBURSEMENT FOR OUT-OF-POCKET LOSSES AND ATTESTED TIME

47. **Reimbursement for Out-of-Pocket Losses.** All Settlement Class Members may submit a claim for up to \$25,000.00 for reimbursement of Out-of-Pocket Losses. To receive reimbursement for Out-of-Pocket Losses, Settlement Class Members must submit a valid Claim Form that includes the following: (i) third party documentation supporting the loss; and (ii) a brief description of the documentation describing the nature of the loss, if the nature of the loss is not apparent from the documentation alone. Third-party documentation can include receipts or other documentation not “self-prepared” by the Settlement Class Member that documents the costs incurred. Self-prepared documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity or support other submitted documentation. A legal guardian for a Settlement Class Member who is under the age of eighteen (18) at the time of claim submission may submit a Minor Claim Form seeking reimbursement of Out-of-Pocket Losses on the minor’s behalf.

48. **Assessing Claims for Out-of-Pocket Losses.** The Settlement Administrator shall verify that each person who submits a Claim Form is a Settlement Class Member. The Settlement Administrator shall have the sole discretion and authority to determine whether and to what extent documentation for Out-of-Pocket Losses reflects valid Out-of-Pocket Losses actually incurred that are fairly traceable to the Data Security Incident but may consult with Class Counsel in making individual determinations. In assessing what qualifies as “fairly traceable,” the Settlement Administrator will consider (i) whether the timing of the loss occurred on or after May 1, 2018; and (ii) in the case of Out-of-Pocket Losses associated with fraud or identity theft, whether the Personal Information used to commit identity theft or fraud consisted of the type of Personal Information identified in Paysafe’s notices of the Data Security Incident. Costs expended for mitigation measures such as credit monitoring services, fraud resolution services, and professional services incurred to address fraud or identity theft on or after May 1, 2018, shall be presumed “reasonably incurred.” The Settlement Administrator is authorized to contact any Settlement Class Member (by e-mail, telephone, or U.S. mail) to seek clarification regarding a submitted claim prior to making a determination as to its validity.

49. **Reimbursement for Attested Time.** All Settlement Class Members may submit a claim for reimbursement of Attested Time up to ten (10) hours at twenty-five dollars (\$25) per hour. To receive reimbursement for Attested Time, Settlement Class Members must submit a valid Claim Form that includes a brief description of the actions taken in response to the Data Security Incident and the time associated with each action. Claims for Attested Time are capped at \$250.00 per individual. A claim for Attested Time may be combined with reimbursement for

Out-of-Pocket Losses but in no circumstance will a Settlement Class Member be eligible to receive more than the \$25,000.00 individual cap for Out-of-Pocket Losses.

50. **Assessing Claims for Attested Time.** The Settlement Administrator shall have sole discretion and authority to determine whether the prerequisites have been met in order to award payments of Attested Time but may consult with Class Counsel in making individual determinations. The Settlement Administrator is authorized to contact any Settlement Class Member (by e-mail, telephone, or U.S. mail) to seek clarification regarding a submitted claim prior to making a determination as to its validity.

51. **Disputes.** To the extent the Settlement Administrator determines a claim for Out-of-Pocket Losses or Attested Time is deficient in whole or part, within a reasonable time of making such a determination, the Settlement Administrator shall notify the Settlement Class Member of the deficiencies and give the Settlement Class Member twenty-one (21) days to cure the deficiencies. Such notifications shall be sent via e-mail, unless the claimant did not provide an e-mail address, in which case such notifications shall be sent via U.S. mail. If the Settlement Class Member attempts to cure the deficiencies but, at the sole discretion and authority of the Settlement Administrator, fails to do so, the Settlement Administrator shall notify the Settlement Class Member of that determination within ten (10) days of the determination. The Settlement Administrator may consult with Class Counsel in making such determinations.

IV. RESIDUAL CASH PAYMENTS

52. **Residual Cash Payments.** All Participating Settlement Class Members are entitled to receive a cash payment in an amount equal to a *pro rata* share of any funds remaining in the Net Settlement Fund after payment of all Approved Claims for Out-of-Pocket Losses and Attested Time.

V. PRO RATA ADJUSTMENTS

53. **Pro Rata Adjustments Downward for All Claims.** If the aggregate value of Approved Claims for Out-Of-Pocket Losses and Attested Time exceeds \$400,000, the amount of each such claim shall be reduced *pro rata* so that the aggregate value of all such claims equals \$400,000, and Residual Cash Payments will be made from the remaining Net Settlement Fund.

VI. PAYMENTS TO PARTICIPATING SETTLEMENT CLASS MEMBERS

54. **Payment Timing for Out-of-Pocket Losses and Attested Time.** Settlement Payments for Out-of-Pocket Losses and Attested Time shall be made as soon as practicable after the approval and allocation of Claims by the Settlement Administrator following the Effective Date, and shall be issued in the form of an electronic payment via Zelle, Venmo, or PayPal, or mailed in the form of a check to a Participating Settlement Class Member by the Settlement Administrator pursuant to Paragraphs 55–62.

55. **Expiration of Checks for Out-of-Pocket Losses and Attested Time.** Settlement Checks for Out-of-Pocket Losses and Attested Time shall bear in the legend that they expire if not negotiated within ninety (90) days of their date of issue. If a Settlement Check payable for Out-of-Pocket Losses or Attested Time is not cashed within sixty (60) days after the date of

issue, the Settlement Administrator is authorized to send an e-mail and/or place a telephone call to that Participating Settlement Class Member reminding him/her of the deadline to cash such check.

56. **Uncashed Checks for Out-of-Pocket Losses and Attested Time.** To the extent that a Settlement Check payable for Out-of-Pocket Losses or Attested Time is not cashed within ninety (90) days after the date of issue, the Settlement Administrator shall undertake the following actions: (1) attempt to contact the Participating Settlement Class Member by e-mail and/or telephone to discuss how to obtain a reissued check; (2) if those efforts are unsuccessful, make reasonable efforts to locate an updated address for the Participating Settlement Class Member using advanced address searches or other reasonable methods; and (3) reissue a check or mail the Participating Settlement Class Member a postcard (either to an updated address if located or the original address if not) providing information regarding how to obtain a reissued check. Any reissued Settlement Checks issued to Participating Settlement Class Members shall remain valid and negotiable for sixty (60) days from the date of their issuance and will thereafter automatically be canceled if not cashed by the Participating Settlement Class Members within that time.

57. **Payment Timing for Residual Cash Payments.** Settlement Checks for Residual Cash Payments shall be issued as soon as practicable after payment of all Approved Claims for Out-of-Pocket Losses and Attested Time and following the expiration period for any uncashed Settlement Checks issued in connection therewith pursuant to Paragraphs 55–56, and shall be mailed in the form of a check to a Participating Settlement Class Member by the Settlement Administrator pursuant to Paragraphs 58–62.

58. **Expiration of Checks for Residual Cash Payments.** Settlement Checks for Residual Cash Payments shall bear in the legend that they expire if not negotiated within ninety (90) days of their date of issue.

59. **Uncashed Checks for Residual Cash Payments.** Settlement Checks for Residual Cash Payments shall be void if not cashed within ninety (90) days after the date of issue.

60. **Unclaimed Property.** No portion of the Settlement Fund shall revert or be repaid to Paysafe after the Effective Date. Any undistributed funds shall be awarded to the Non-Profit Residual Recipient, which acts for the benefit of residents of California, in recognition of the statutory rights being released by California Settlement Subclass members, subject to the Court's approval.

61. **Payments to Deceased Class Members.** If the Settlement Administrator is notified that a Participating Settlement Class Member is deceased, the Settlement Administrator is authorized to reissue the Settlement Payment to the Participating Settlement Class Member's estate upon receiving proof that the Participating Settlement Class Member is deceased and after consultation with Class Counsel.

VII. CLAIM SUBMISSION

62. **Submission of Electronic and Hard Copy Claims.** Participating Settlement Class Members may submit Claim Forms for Out-of-Pocket Losses and Attested Time to the

Settlement Administrator electronically via a claims website or physically by mail to the Settlement Administrator. Claim Forms must be submitted electronically or postmarked during the Claims Period and on or before the Claims Deadline. Paysafe shall not be entitled to access information regarding which Participating Settlement Class Members submitted a Claim Form or otherwise participated in the Settlement, except that Paysafe's Counsel may obtain this information on a showing of good cause, including but not limited to any disputes arising out of the claims process.

VIII. BUSINESS PRACTICE COMMITMENTS

63. **Business Practice Changes.** Paysafe has agreed to implement and/or maintain certain reasonable steps to enhance the security of its systems and environments, including certain remedial measures and enhanced data security measures, including cybersecurity training and awareness programs, data security policies, monitoring and response capabilities, and restrictions on accessing PII. In addition, the legacy website involved in the Data Security Incident has been disabled.

IX. SETTLEMENT CLASS NOTICE

64. **Notice.** Within twenty-one (21) days of entry of the Preliminary Approval Order, Paysafe shall provide the Settlement Class List to the Settlement Administrator. The Settlement Administrator shall execute a Business Associate Agreement, including an agreement to maintain the confidentiality of the Settlement Class List, to implement appropriate safeguards to prevent unauthorized access to the Settlement Class List, and to use the Settlement Class List strictly for the business purpose of administering the Settlement. The Settlement Administrator shall not provide the Settlement Class List to Class Counsel. Within nine (9) days after receipt of the Settlement Class List, the Settlement Administrator shall disseminate Notice to the members of the Settlement Class. Notice shall be disseminated via U.S. mail to all Settlement Class Members. Class Counsel may direct the Settlement Administrator to send reminder notices to Settlement Class Members at any time prior to the Claims Deadline.

X. OPT-OUTS AND OBJECTIONS

65. **Opt-Outs.** The Notice shall explain the procedure for Settlement Class Members to exclude themselves or "opt-out" of the Settlement by submitting a Request for Exclusion to the Settlement Administrator postmarked no later than ninety (90) days after the Notice Deadline. The Request for Exclusion must include the name of the proceeding, the individual's full name, current address, personal signature, and the words "Request for Exclusion" or a comparable statement that the individual does not wish to participate in the Settlement at the top of the communication. The Notice must state that any Settlement Class Member who does not file a timely Request for Exclusion in accordance with this Paragraph will lose the opportunity to exclude himself or herself from the Settlement and will be bound by the Settlement.

66. **Objections.** The Notice shall explain the procedure for Settlement Class Members to object to the Settlement or Fee Application by either appearing at the Final Approval Hearing via Zoom and/or by submitting written objections to the Court no later than ninety (90) days after the Notice Deadline. The written objection must include: (i) the case name

and number; (ii) the Settlement Class Member's full name, current mailing address, and telephone number; (iii) a statement of the specific grounds for the objection, as well as any documents supporting the objection; (iv) a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class; (v) the identity of any attorneys representing the objector; (vi) a statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear at the Final Approval Hearing; and (vii) the signature of the Settlement Class Member or the Settlement Class Member's attorney. The Notice must set forth the date and time of the Final Approval Hearing (subject to change) and instructions on how to access it remotely, and a statement that any Settlement Class Member can elect to object at the Final Approval Hearing regardless of whether they have submitted a timely written objection.

XI. DUTIES OF THE SETTLEMENT ADMINISTRATOR

67. **Duties of Settlement Administrator.** The Settlement Administrator shall perform the functions and duties necessary to effectuate the Settlement and as specified in this Agreement, including, but not limited to, the following:

- a. Creating, administering, and overseeing the Settlement Fund;
- b. Obtaining the Settlement Class List for the purpose of disseminating Notice to Settlement Class Members;
- c. Providing Notice to Settlement Class Members via U.S. mail;
- d. Establishing and maintaining the Settlement Website;
- e. Establishing and maintaining a toll-free telephone line for Settlement Class Members to call with Settlement-related inquiries, and answering the questions of Settlement Class Members who call with or otherwise communicate such inquiries within one (1) business day;
- f. Responding to any mailed or emailed Settlement Class Member inquiries within one (1) business day;
- g. Reviewing, determining the validity of, and processing all Claims submitted by Participating Settlement Class Members;
- h. Receiving Requests for Exclusion from Settlement Class Members and providing Class Counsel and Paysafe's Counsel a copy thereof no later than three (3) days following the deadline for submission of the same. If the Settlement Administrator receives any Requests for Exclusion or other requests from Settlement Class Members after the Opt-Out and Objection Deadlines, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and to Paysafe's Counsel;
- i. After the Effective Date, processing and transmitting Settlement Payments to Participating Settlement Class Members;

- j. Providing weekly or other periodic reports to Class Counsel and Paysafe's Counsel that include information regarding the number of Settlement Payments sent or Settlement Checks mailed and delivered, Settlement Checks cashed, undeliverable information, and any other requested information relating to Settlement Payments. The Settlement Administrator shall also, as requested by Class Counsel or Paysafe's Counsel and from time to time, provide the amounts remaining in the Net Settlement Fund;
- k. In advance of the Final Approval Hearing, preparing a sworn declaration to submit to the Court that: (i) attests to implementation of Notice in accordance with the Preliminary Approval Order; and (ii) identifies each Settlement Class Member who timely and properly submitted a Request for Exclusion; and
- l. Performing any function related to Settlement administration at the agreed-upon instruction of Class Counsel or Paysafe's Counsel, including, but not limited to, verifying that Settlement Payments have been distributed.

68. **Limitation of Liability.** The Parties, Class Counsel, and Paysafe's Counsel shall not have any liability whatsoever with respect to: (i) any act, omission or determination of the Settlement Administrator, or any of its respective designees or agents, in connection with the administration of the Settlement or otherwise; (ii) the management, investment or distribution of the Settlement Fund; (iii) the formulation, design or terms of the disbursement of the Settlement Fund; (iv) the determination, administration, calculation or payment of any claims asserted against the Settlement Fund; (v) any losses suffered by or fluctuations in the value of the Settlement Fund; or (vi) the payment or withholding of any Taxes and Tax-Related Expenses.

69. **Indemnification.** The Settlement Administrator shall indemnify and hold harmless the Parties, Class Counsel, and Paysafe's Counsel for: (i) any act or omission or determination of the Settlement Administrator, or any of Settlement Administrator's designees or agents, in connection with the Notice Plan and the administration of the Settlement; (ii) the management, investment or distribution of the Settlement Fund; (iii) the formulation, design or terms of the disbursement of the Settlement Fund; (iv) the determination, administration, calculation or payment of any claims asserted against the Settlement Fund; (v) any losses suffered by, or fluctuations in the value of the Settlement Fund; or (vi) the payment or withholding of any Taxes and Tax-Related Expenses.

70. **Expenses.** The total amount of to be paid to the Settlement Administrator shall be limited to a maximum of \$ 399,000, subject to Court approval.

XII. PRELIMINARY APPROVAL, FINAL APPROVAL, AND JURISDICTION

71. **Certification of the Settlement Class.** For purposes of this Settlement only, the Parties stipulate to the certification of the Settlement Class, which is contingent upon the Court entering the Final Approval Order and Judgment of this Settlement and the occurrence of the Effective Date.

72. **Preliminary Approval.** Following execution of this Agreement, Class Counsel shall file a motion for preliminary approval no later than May 3, 2023.

73. **Final Approval.** Class Counsel shall move the Court for a Final Approval Order and Judgment of this Settlement, to be issued following the Final Approval Hearing, within a reasonable time after the Notice Deadline, Objection Deadline, and Opt-Out Deadline.

74. **Jurisdiction.** The Court shall retain exclusive jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain exclusive jurisdiction over all parties to this Action and the Settlement Class for the purpose of consummating, implementing, administering, and enforcing all terms of the Agreement. The Court shall also retain exclusive jurisdiction over all questions and/or disputes related to the Notice and the Settlement Administrator. As part of its agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose. From and after the entry of the Preliminary Approval Order, all Class Members who have not opted out are barred and enjoined from filing, commencing, continuing, prosecuting, intervening in, or participating as class members in any other suit, action, proceeding, case, controversy, or dispute in any jurisdiction against any or all of the Released Parties based on or relating to the Agreement or the matters, claims, or causes of action, or the facts and circumstances relating thereto in this Litigation, that are to be released upon entry of the Final Approval Order and Judgment pursuant to the Agreement, except as required by law or as required to effectuate this Agreement. Furthermore, all persons are enjoined from filing, commencing, prosecuting, litigating, or continuing a lawsuit in any jurisdiction on behalf of Settlement Class Members who have not timely excluded themselves, that is based on or relating to the claims and causes of action, or the facts and circumstances relating thereto, in this Litigation.

XIII. MODIFICATION AND TERMINATION

75. **Modification.** The terms and provisions of this Agreement may be amended, modified, or expanded by written agreement of the Parties and approval of the Court; provided, however, that, after entry of the Preliminary Approval Order, the Parties may, by written agreement, effect such amendments, modifications, or expansions of this Agreement and its implementing documents (including all exhibits hereto) without further notice to the Settlement Class or approval by the Court if such changes are consistent with the Court's Preliminary Approval Order and do not materially alter, reduce, or limit the rights of Settlement Class Members under this Agreement.

76. **Decertification of the Settlement Class if Settlement Not Approved.** If: (1) the Court does not issue the Preliminary Approval Order or Final Approval Order and Judgment; or (2) the Effective Date does not occur, the certification of the Settlement Class shall be void. Paysafe reserves the right to contest class certification for all other purposes. Any orders preliminarily or finally approving the certification of any class contemplated by the Settlement shall be null, void, and vacated, and shall not be used or cited thereafter by any person or entity in support of claims or defenses or in support or in opposition to a class certification motion. In addition, the fact that Paysafe did not oppose certification of a class under the Settlement shall not be used or cited thereafter by any person or entity, including in a contested proceeding relating to class certification.

77. **Termination.** Settlement Class Representative and Defendant shall have the right to terminate this Agreement by providing written notice of their or its election to do so (“Termination Notice”) within seven (7) days of: (1) the Court’s refusal to issue the Preliminary Approval Order; or (2) within fourteen (14) days of any of the following: (i) the Court’s refusal to enter the Final Approval Order and Judgment, or (ii) the date upon which the Final Approval Order and Judgment is modified or reversed in any material respect by any appellate or other court.

78. **Effect of Termination.** In the event of a termination as provided in Paragraph 76, this Agreement and the Settlement shall be considered null and void; all of the Parties’ obligations under the Agreement shall cease to be of any force and effect and the Parties shall return to the status quo ante in the Litigation as if the Parties had not entered into this Agreement or the Settlement. In addition, in the event of such a termination, all of the Parties’ respective pre-Settlement claims and defenses will be preserved.

XIV. RELEASES

79. **The Release.** Upon the Effective Date, and in consideration of the Settlement benefits described herein, each of the Settlement Class Representative and Participating Settlement Class Members, and each of their respective heirs, executors, administrators, representatives, agents, partners, successors, attorneys, and assigns, present and former (“Releasing Parties”), shall be deemed to have fully, finally, and forever released, acquitted, and discharged Paysafe and its present and former predecessors, successors, assigns, parents, subsidiaries, divisions, affiliates, departments, and any and all of their past, present, and future officers, directors, employees, stockholders, partners, servants, agents, successors, attorneys, advisors, consultants, representatives, insurers, reinsurers, subrogees and the predecessors, successors, and assigns of any of the foregoing (collectively, the “Released Persons”) from any and all Released Claims. This release expressly includes Paysafe’s insurer with respect to all obligations under any part of the insurance policy applicable to the Released Claims, and from any and all claims arising out of the investigation, handling, adjusting, defense, or settlement of the claim including, without limitation, any claims for negligence, invasion of privacy, violations of California’s Unfair Competition Law (cal. Bus. & Prof. Code § 17200, et seq.), and violations of California’s Consumer Privacy Act (Cal. Civ. Code § 1798.150).

80. **Unknown Claims.** The Released Claims include the release of Unknown Claims. “Unknown Claims” means claims that could have been raised in the Litigation and that any of the Settlement Class Representative or Participating Settlement Class Members, and each of their respective heirs, executors, administrators, representatives, agents, partners, successors, attorneys, and assigns, does not know or suspect to exist, which, if known by him, her, or it, might affect his, her, or its agreement to release Paysafe and its present and former predecessors, successors, assigns, parents, subsidiaries, divisions, affiliates, departments, and any and all of their past, present, and future officers, directors, employees, stockholders, partners, servants, agents, successors, attorneys, advisors, consultants, representatives, insurers, reinsurers, subrogees and the predecessors, successors, and assigns of any of the foregoing, or the Released Claims, or might affect his, her, or its decision to agree, object, or not to object to the Settlement. Upon the Effective Date, each of the Settlement Class Representative and Participating Settlement Class Members, and each of their respective heirs, executors, administrators,

representatives, agents, partners, successors, attorneys, and assigns shall be deemed to have, and shall have, waived any and all provisions, rights, and benefits conferred by any law of any state, the District of Columbia or territory of the United States, by federal law, or principle of common law, or the law of any jurisdiction outside of the United States. Specifically, the Settling Parties stipulate and agree that upon the Effective Date, the Representative Plaintiff and Participating Settlement Class Members expressly shall have and by operation of the Final Approval Order and Judgment shall have, released any and all Released Claims, including Unknown Claims, and waived the provisions, rights, and benefits conferred by California Civil Code § 1542, and also any and all provisions, rights, and benefits conferred by any law of any state, province, or territory of the United States which 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.

The Settlement Class Representative and Participating Settlement Class Members, and each of their respective heirs, executors, administrators, representatives, agents, partners, successors, attorneys, and assigns acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of the release, but that it is their intention to finally and forever settle and release the Released Claims, including but not limited to any Unknown Claims they may have, as that term is defined in this Paragraph.

81. **Release of Class Representative and Class Counsel.** Upon the Effective Date, Paysafe and its representatives, officers, agents, directors, affiliates, employees, insurers, and attorneys shall be deemed to have released, acquitted, and forever discharged the Settlement Class Representative and Class Counsel from any and all claims or causes of action of every kind and description, including any causes of action in law, claims in equity, complaints, suits or petitions, and any allegations of wrongdoing, demands for legal, equitable, or administrative relief (including, but not limited to, any claims for injunction, rescission, reformation, restitution, disgorgement, constructive trust, declaratory relief, compensatory damages, consequential damages, penalties, exemplary damages, punitive damages, attorneys' fees, costs, interest or expenses), whether known or unknown, that arise out of, are based upon, or relate to prosecution of the Litigation, the Settlement Agreement, or the Settlement claims process (provided, however, that this release and discharge shall not include claims relating to the enforcement of the terms of the Settlement or this Agreement).

82. **Bar to Future Suits.** Upon entry of the Final Approval Order and Judgment, the Settlement Class Representative and other Participating Settlement Class Members shall be enjoined from prosecuting any claim they have released in the preceding Paragraphs in any proceeding against any of the Released Parties or based on any actions taken by any of the Released Parties that are authorized or required by this Agreement or by the Final Approval Order and Judgment. Likewise, Paysafe and its representatives, officers, agents, directors, affiliates, employees, insurers, and attorneys shall be enjoined from prosecuting any claim they have released in the preceding Paragraphs in any proceeding against Settlement Class

Representative and Class Counsel or based on any actions taken by Settlement Class Representative and Class Counsel that are authorized or required by this Agreement or by the Final Approval Order and Judgment. It is further agreed that the Settlement may be pleaded as a complete defense to any claim or proceeding described in this Section.

83. **Satisfaction of Judgment.** Once all obligations in this Settlement Agreement have been satisfied, the Parties agree to file a satisfaction of judgment with the Court.

XV. SERVICE AWARD PAYMENT

84. **Service Award Payment.** At least thirty-five (35) days before the Opt-Out and Objection Deadlines, Class Counsel will file a Fee Application that will include a request for a Service Award Payment for the Settlement Class Representative in recognition of his contributions to this Litigation. Paysafe agrees not to oppose Class Counsel's request for a service award not to exceed \$15,000.00. The Settlement Administrator shall make the Service Award Payment to the Settlement Class Representative from the Settlement Fund. Such Service Award Payment shall be paid by the Settlement Administrator, in the amount approved by the Court, no later than thirty (30) days after the Effective Date.

85. **No Effect on Agreement.** In the event the Court declines to approve, in whole or in part, the Service Award Payment in the amount requested, the remaining provisions of this Agreement shall remain in full force and effect. No decision by the Court, or modification or reversal or appeal of any decision by the Court, concerning the amount of the Service Award Payment, shall constitute grounds for termination of this Agreement.

XVI. ATTORNEYS' FEES, COSTS, EXPENSES

86. **Attorneys' Fees and Costs and Expenses.** At least thirty-five (35) days before the Opt-Out and Objection Deadlines, Class Counsel will file a Fee Application for an award of attorneys' fees and Litigation Costs and Expenses to be paid from the Settlement Fund. Class Counsel will request an award of attorneys' fees not to exceed twenty five percent (25%) of the Settlement Fund and reimbursement of litigation costs and expenses not to exceed \$50,000. Prior to the disbursement or payment of the Fee Award and Costs under this Agreement, Class Counsel shall provide to Paysafe and the Settlement Administrator a properly completed and duly executed IRS Form W-9. Fee Award and Costs (plus any interest accrued thereon) shall be paid by the Settlement Administrator, in the amount approved by the Court, no later than thirty (30) days after the Effective Date.

87. **Allocation.** Unless otherwise ordered by the Court, Class Counsel shall have the sole and absolute discretion to allocate any approved Fee Award and Costs amongst Plaintiffs' counsel and any other attorneys for Plaintiff. Paysafe shall have no liability or other responsibility for allocation of any such attorneys' fees and costs.

XVII. NO ADMISSION OF LIABILITY

88. **No Admission of Liability.** The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with

this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgment or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever.

89. **No Use of Agreement.** Neither the Settlement Agreement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (i) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by Plaintiff; or (ii) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission by Paysafe in the Litigation or in any proceeding in any court, administrative agency, or other tribunal.

XVIII. MISCELLANEOUS

90. **Integration of Exhibits.** The exhibits to this Agreement and any exhibits thereto are a material part of the Settlement and are incorporated and made a part of the Agreement.

91. **Entire Agreement.** This Agreement, including all exhibits hereto, shall constitute the entire Agreement among the Parties with regard to the subject matter hereof and shall supersede any previous agreements, representations, communications, and understandings among the Parties. This Agreement may not be changed, modified, or amended except in writing signed by all Parties, subject to Court approval. The Parties contemplate that, subject to Court approval or without such approval where legally permissible, the exhibits to this Agreement may be modified by subsequent Agreement of counsel for the Parties prior to dissemination of the Settlement Class Notice to the Settlement Class.

92. **Deadlines.** If any of the dates or deadlines specified herein falls on a weekend or legal holiday, the applicable date or deadline shall fall on the next business day. All reference to “days” in this agreement shall refer to calendar days unless otherwise specified.

93. **Construction.** For the purpose of construing or interpreting this Agreement, the Parties agree that this Agreement is to be deemed to have been drafted equally by all Parties hereto and shall not be construed strictly for or against any Party.

94. **Cooperation of Parties.** The Parties to this Agreement agree to cooperate in good faith to prepare and execute all documents, to seek Court approval, defend Court approval, and to do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

95. **Obligation to Meet and Confer.** Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other in good faith prior to seeking Court intervention.

96. **Governing Law.** The Agreement shall be construed in accordance with, and be governed by, the laws of the state of California, without regard to the principles thereof regarding choice of law.

97. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all signatories do not sign the same counterparts. Original signatures are not required. Any signature submitted electronically through e-mail of an Adobe PDF shall be deemed an original.

98. **Notices.** All notices to Class Counsel provided for herein, shall be sent by overnight mail and email to:

M. Anderson Berry (SBN 262879)
Gregory Haroutunian (SBN 330263)
CLAYEO C. ARNOLD,
A PROFESSIONAL LAW CORP.
865 Howe Avenue
Sacramento, CA 95825
Telephone: (916) 777-7777
Facsimile: (916) 924-1829
aberry@justice4you.com
gharoutunian@justice4you.com

John A. Yanchunis
Ryan D. Maxey
MORGAN & MORGAN
COMPLEX LITIGATION GROUP
201 N. Franklin Street, 7th Floor
Tampa, Florida 33602
(813) 223-5505
jyanchunis@ForThePeople.com
rmaxey@ForThePeople.com

All notices to Paysafe provided for herein, shall be sent by overnight mail and email to:

Jim Pastore
Kristin D. Kiehn
DEBEVOISE AND PLIMPTON
919 Third Avenue
New York, NY 10022
212-909-6000
jjpastore@debevoise.com
kdkiehn@debevoise.com

The notice recipients and addresses designated above may be changed by written notice.

99. **Authority.** Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.

By: Philip J. Ragona

Date: May 1, 2023

Printed Name: Philip J. Ragona
Title: SVP and Deputy General Counsel
on behalf of Paysafe Payment Processing Solutions, LLC

Its: _____

By: _____

Date: _____

Jim Pastore
Debevoise & Plimpton LLP

By: _____

Date: _____

Kristin D. Kiehn
Debevoise & Plimpton LLP

Counsel for Paysafe

By: _____

Date: _____

Ryan D. Maxey
MORGAN & MORGAN

By: _____

Date: _____

M. Anderson Berry
ARNOLD LAW FIRM

By: _____

Date: _____

John A. Yanchunis
MORGAN & MORGAN

By: _____

Date: _____

Gregory Haroutunian
ARNOLD LAW FIRM

Counsel for Plaintiff and the Settlement Class

By: _____

Date: _____

Printed Name: _____

On behalf of Paysafe

Its: _____

By: 

Jim Pastore
Debevoise & Plimpton LLP

Date: May 1, 2023

By: 

Kristin D. Kiehn
Debevoise & Plimpton LLP

Date: 5-1-23

Counsel for Paysafe

By: _____

Date: _____

Ryan D. Maxey
MORGAN & MORGAN

By: _____

Date: _____

M. Anderson Berry
ARNOLD LAW FIRM

By: _____

Date: _____

John A. Yanchunis
MORGAN & MORGAN

By: _____

Date: _____

Gregory Haroutunian
ARNOLD LAW FIRM

Counsel for Plaintiff and the Settlement Class

By: _____

Date: _____

Printed Name: _____

On behalf of Paysafe

Its: _____

By: _____

Date: _____

Jim Pastore

Debevoise & Plimpton LLP

By: _____

Date: _____

Kristin D. Kiehn

Debevoise & Plimpton LLP

Counsel for Paysafe

By:  _____

Date: MAY 2, 2023

Ryan D. Maxey

MORGAN & MORGAN

By:  _____

Date: May 1, 2023

M. Anderson Berry

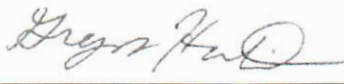
ARNOLD LAW FIRM

By:  _____

Date: MAY 2, 2023

John A. Yanchunis

MORGAN & MORGAN

By:  _____

Date: May 1, 2023

Gregory Haroutunian

ARNOLD LAW FIRM

Counsel for Plaintiff and the Settlement Class

EXHIBIT 1

Long Notice

Kamal Bitmouni v. Paysafe Payment Processing Solutions, LLC
Case No. 3:21-cv-00641-JCS (N.D. Cal.)

Notice of Paysafe Data Security Incident Class Action Settlement

*A California federal court has authorized this Notice. This is not a solicitation from a lawyer.
 Please read this Notice carefully and completely.*

THIS NOTICE MAY AFFECT YOUR RIGHTS. PLEASE READ IT CAREFULLY.

Para una notificación en Español, llamar 1-888-888-8888 o visitar nuestro sitio web [www.\[website\].com](http://www.[website].com).

- A Settlement has been proposed in a class action lawsuit against Paysafe Payment Processing Solutions, LLC (“Paysafe”), relating to a data security incident that Paysafe initially disclosed in or around December 2020 (the “Data Security Incident”). The Data Security Incident occurred from May 2018 to October 2020, during which time a legacy server under Paysafe’s custody or control may have been accessed without authorization. As a result, Personal Information of thousands of individuals who enrolled for merchant services with Paysafe’s affiliate(s) may have been accessed by unauthorized persons. The Personal Information obtained may have included name, contact details, Social Security number, and bank account information. If your Personal Information may have been compromised as a result of the Data Security Incident, you are included in this Settlement as a member of the Settlement Class.
- Under the Settlement, Paysafe has agreed to establish a \$2.0 million Settlement Fund to: (1) reimburse Class Members for up to \$25,000 in Out-Of-Pocket Losses and/or Attested Time; and (2) provide cash payments equal to a *pro rata* share of what remains in the Net Settlement Fund after payment of all valid claims for Out-of-Pocket Losses and Attested Time and other fees and expenses (“Residual Cash Payment”). The Settlement Fund will also be used to pay for the costs of the settlement administration, a court-approved Service Award for the named Plaintiff, and attorneys’ fees and costs. In addition, Paysafe has agreed to undertake certain remedial measures and enhanced data security measures.
- Your legal rights will be affected whether you act or do not act. You should read this entire Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
<p>FILE A CLAIM FORM</p> <p>EARLIEST DEADLINE: [XXXX XX, 202X]</p>	<p>Submitting a Claim Form is the only way that you can receive reimbursement for Out-of-Pocket Losses and/or Attested Time.</p> <p>If you submit a Claim Form, you will give up the right to sue Paysafe and certain related parties in a separate lawsuit about the legal claims this Settlement resolves.</p> <p>You do not need to submit a Claim Form to receive a Residual Cash Payment.</p>
<p>EXCLUDE YOURSELF FROM THIS SETTLEMENT</p> <p>DEADLINE: [XXXX XX, 202X]</p>	<p>This is the only option that allows you to sue, continue to sue, or be part of another lawsuit against Paysafe, or certain related parties, for the claims this Settlement resolves.</p> <p>If you exclude yourself, you will give up the right to receive any Settlement Benefits from this Settlement.</p>
<p>OBJECT TO OR COMMENT ON THE SETTLEMENT</p> <p>DEADLINE: [XXXX XX, 202X]</p>	<p>You may object to the Settlement by writing to the Court and informing it why you do not think the Settlement should be approved. You can also write the Court to provide comments or reasons why you support the Settlement. You may also object to the Settlement by appearing at the Final Approval Hearing via Zoom.</p> <p>If you object, you may still file a Claim Form to receive reimbursement for Out-of-Pocket Losses and/or Attested Time and you will still be entitled to receive a Residual Cash Payment, but you will give up the right to sue Paysafe in a separate lawsuit about the legal claims this Settlement resolves.</p>
<p>GO TO THE “FINAL APPROVAL” HEARING</p> <p>DATE: [XXXX XX, 202X]</p>	<p>You may attend the Final Approval Hearing via Zoom where the Court will hear arguments about whether to approve the Settlement. You are <u>not</u> required to attend the Final Approval Hearing.</p>
<p>DO NOTHING</p>	<p>If you do nothing, you will receive a Residual Cash Payment and you will give up your rights to sue Paysafe and certain related parties for the claims this Settlement resolves.</p>

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. No Settlement Benefits or payments will be provided unless the Court approves the Settlement and it becomes final.

This Settlement affects your legal rights even if you do nothing.
Questions? Go to [www.\[website\].com](http://www.[website].com) or call 1-888-888-8888.

BASIC INFORMATION

1. Why did I get this Notice?

The United States District Court for the Northern District of California authorized this Notice because you have the right to know about the proposed Settlement of this class action lawsuit and about all of your rights and options before the Court decides whether to grant final approval of the Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Honorable Joseph C. Spero of the U.S. District Court for the Northern District of California is overseeing this class action. The case is known as *Kamal Bitmouni v. Paysafe Payment Processing Solutions, LLC*, Case No. 3:21-cv-00641-JCS (the “Action”). The person who filed this lawsuit is called the “Plaintiff” and the entity he sued, Paysafe Payment Processing Solutions, LLC (“Paysafe”), is called the “Defendant.” The Plaintiff and the Defendant agreed to this Settlement.

2. What is this lawsuit about?

On or about November 6, 2020, Paysafe discovered that an unauthorized actor may have accessed a legacy server under Paysafe’s custody or control from May 2018 to October 2020. As a result, Personal Information of approximately 91,706 individuals who enrolled for merchant services with Paysafe’s affiliate(s) may have been accessed. Impacted Personal Information may have included name, contact details, Social Security number, and bank account information.

The Plaintiff claims that Paysafe failed to adequately protect his and other Class Members’ Personal Information and that he and other Class Members were injured as a result. Paysafe denies any wrongdoing, and no court or other entity has made any judgment or other determination of any wrongdoing or that the law has been violated. Paysafe denies these and all other claims made in the Action. By entering into the Settlement, Paysafe is not admitting that it did anything wrong.

3. Why is this a class action?

In a class action, one or more people called the Class Representatives sue on behalf of all people who have similar claims. Together all of these people are called a Class or Class Members. One court resolves the issues for all Class Members, except for those Class Members who exclude themselves from the Class.

The Settlement Class Representative in this case is Kamal Bitmouni.

4. Why is there a Settlement?

The Settlement Class Representative and Paysafe do not agree about the claims made in this Action. The Action has not gone to trial and the Court has not decided in favor of the Settlement Class Representative or Paysafe. Instead, the Settlement Class Representative and Paysafe have agreed to settle the Action. The Class Representative and the attorneys for the Class (“Class Counsel”) believe the Settlement is best for all Class Members because of the risks and uncertainty associated with continued litigation and the nature of the defenses raised by Paysafe.

WHO IS INCLUDED IN THE SETTLEMENT

5. How do I know if I am part of the Settlement?

The Court has decided that everyone who fits the following description is a member of the Settlement Class:

All individuals who were notified by direct notice by Paysafe that their personal information was or may have been compromised in the Data Security Incident.

If you received Notice of this Settlement, you have been identified by the Settlement Administrator as a Settlement Class Member. More specifically, you are a Settlement Class Member, and you are affected by this Settlement.

You may contact the Settlement Administrator if you have any questions as to whether you are a Settlement Class Member.

6. Are there exceptions to individuals who are included as Class Members in the Settlement?

Yes, the Settlement does not include: (1) the judges presiding over this Litigation, and members of their direct families; (2) the Defendant, its subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and their current or former officers, directors, and employees; and (3) Settlement Class Members who submit a valid Request for Exclusion prior to the Opt-Out Deadline.

7. What if I am still not sure whether I am part of the Settlement?

If you are still not sure whether you are a Class Member, you may go to the Settlement Website at [www.\[website\].com](http://www.[website].com), or call the Settlement Administrator’s toll-free number at 1-888-888-8888.

**Questions? Go to [www.\[website\].com](http://www.[website].com) or call 1-888-888-8888.
This Settlement affects your legal rights even if you do nothing.**

THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

8. What does the Settlement provide?

As a Class Member, you are eligible to submit a claim for one or more of the following:

- **Reimbursement for Out-of-Pocket Losses:** all Class Members may submit a claim for up to \$25,000 for reimbursement of Out-of-Pocket Losses fairly traceable to the Data Security Incident, which must be accompanied by (i) third-party documentation supporting the loss; and (ii) a brief description of the documentation describing the nature of the loss if not apparent from the documentation alone. A claim for Out-of-Pocket Losses may be combined with a claim for reimbursement for Attested Time but in no circumstance will a Settlement Class Member be eligible to receive more than \$25,000 for such reimbursements combined. A claim for Out-of-Pocket Losses may be reduced *pro rata* if the aggregate value of all claims exceeds \$400,000.
- **Reimbursement for Attested Time:** all Class Members may submit a claim for reimbursement of Attested Time up to ten (10) hours at \$25 per hour for time spent remedying issues related to the Data Security Incident, which must be supported by a brief description of the actions taken in response to the Data Security Incident and the time associated with each action. A claim for Attested Time may be combined with a claim for reimbursement for Out-of-Pocket Losses but in no circumstance will a Settlement Class Member be eligible to receive more than \$25,000 for such reimbursements combined. A claim for Attested Time may be reduced *pro rata* if the aggregate value of all claims exceeds \$400,000.

All Class Members are entitled to receive a Residual Cash Payment equal to a *pro rata* share of the Net Settlement Fund after payment of all Valid Claims for reimbursement for Out-of-Pocket Losses and Attested Time and other fees and expenses.

In addition, Paysafe has agreed to take certain remedial measures and enhanced security measures as a result of this Action.

9. Reimbursement for Out-of-Pocket Losses.

You may elect to submit a Claim Form for reimbursement of Out-of-Pocket Losses. If you spent money remedying or addressing identity theft and fraud that was more likely than not related to the Data Security Incident or you spent money to protect yourself from future harm because of the Data Security Incident, and this amount was not otherwise recoverable through insurance, you may submit a claim for Out-of-Pocket Losses for reimbursement of up to \$25,000.

Out-of-Pocket Losses consist of unreimbursed losses incurred on or after May 1, 2018, that were related to identity theft and fraud and are more likely than not a result of the Data Security Incident, as well as any expenses related to the Data Security Incident. For example, credit card or debit card cancellation or replacement fees, late fees, declined payment fees, overdraft fees, returned check fees, customer service fees, credit-related costs associated with purchasing credit reports, credit monitoring or identity theft protection, costs to place a freeze or alert on credit reports, costs to replace a Social Security number, professional services, and out-of-pocket expenses for notary, fax, postage, delivery, copying, mileage, and long-distance telephone charges. Other losses or costs related to the Data Security Incident that are not insurance reimbursable may also be eligible for reimbursement. To protect the Settlement Fund and valid claims, all Claim Forms that seek payment related to credit or debit card fraudulent transactions will be carefully scrutinized by the Settlement Administrator.

Claims for Out-of-Pocket Losses must be supported by third party documentation. Third party documentation means written documents supporting your claim, such as credit card statements, bank statements, invoices, telephone records, and receipts.

A claim for Out-of-Pocket Losses may be reduced *pro rata* if the aggregate value of all claims exceeds \$400,000.

To receive reimbursement for Out-of-Pocket Losses, you must submit a completed Claim Form electing to receive reimbursement for Out-of-Pocket Losses. If you file a Claim Form for Out-of-Pocket Losses and it is rejected by the Settlement Administrator and you do not correct it, you will not be eligible for reimbursement of Out-of-Pocket Losses.

10. Reimbursement for Attested Time

In addition to Reimbursement for Out-of-Pocket Losses, you may elect to submit a Claim Form for reimbursement of Attested Time. If you lost time related to your efforts undertaken to prevent or mitigate fraud and identity theft following announcement of the Data Security Incident, or to otherwise respond to the Data Security Incident, you may make a claim for Reimbursement for Attested Time for up to ten (10) hours of lost time at a rate of \$25 per hour, for a maximum of \$250.

A claim for Attested Time may be reduced *pro rata* if the aggregate value of all claims exceeds \$400,000.

To receive reimbursement for Attested Time you must submit a completed Claim Form electing to receive reimbursement for Attested Time. If you file a Claim Form for Attested Time and it is rejected by the Settlement Administrator and you do not correct it, you will not be eligible for reimbursement of Attested Time.

11. Residual Cash Payment.

Questions? Go to [www.\[website\].com](http://www.[website].com) or call 1-888-888-8888.
This Settlement affects your legal rights even if you do nothing.

All Participating Settlement Class Members are entitled to receive a Residual Cash Payment consisting of a *pro rata* share of the Net Settlement Fund after payment of all Valid Claims for reimbursement of Out-of-Pocket Losses and Attested Time and other fees and expenses.

You are not required to submit a Claim Form to receive a Residual Cash Payment. All Settlement Class Members who do not exclude themselves from the Settlement will be mailed a Residual Cash Payment.

12. How will Settlement Benefits be paid?

Court-awarded attorneys' fees up to a maximum of 25% of the \$ 2.0 million Settlement Fund (*i.e.*, \$500,000.00), reasonable costs and expenses incurred by attorneys for the Class up to \$50,000, Administrative Expenses for costs of the settlement administration, and a Service Award of up to \$15,000 to the Class Representative will be deducted from the Settlement Fund before making payments to Class Members. The Court may award less than these amounts. The remainder of the Settlement Fund (the "Net Settlement Fund") will be distributed to Participating Settlement Class Members.

In the event that the aggregate value of all claims for reimbursement of Out-of-Pocket Losses and Attested Time exceeds \$400,000, then the value of such payments shall be reduced on a *pro rata* basis, such that the aggregate value of all claims equals \$400,000. All funds in the Net Settlement Fund that remain after payment of all Valid Claims for reimbursement of Out-of-Pocket Losses and Attested Time will be distributed by mail to all Participating Settlement Class Members on a *pro rata* basis as a Residual Cash Payment. If any unclaimed funds remain in the Net Settlement Fund 90 days after the Residual Cash Payments are made, the excess funds shall be awarded to _____, a qualified charitable recipient that has been approved by the Court. All *pro rata* determinations shall be performed by the Settlement Administrator.

13. Tell me more about Paysafe's remedial measures and enhanced security measures.

Paysafe has agreed to implement and/or maintain certain reasonable steps to enhance the security of its systems and environments, including certain remedial measures and enhanced data security measures, including cybersecurity training and awareness programs, data security policies, monitoring and response capabilities, and restrictions on accessing PII. In addition, the legacy website involved in the Data Security Incident has been disabled.

14. What is the total value of the Settlement?

The Settlement provides a \$2.0 million Settlement Fund and remedial actions to be taken by Paysafe for the benefit of the Class. Any court-approved attorneys' fees, costs, and expenses, Service Award to the Class Representative, taxes due on any interest earned by the Settlement Fund, if necessary, and any notice and settlement administration expenses will be paid out of the Settlement Fund, and the balance ("Net Settlement Fund") will be used to pay for the above Settlement Benefits. Any costs associated with Paysafe's remedial and enhanced security measures will be paid by Paysafe in addition to the Settlement Fund.

15. What am I giving up to get a Settlement Benefit or stay in the Class?

Unless you exclude yourself, you are choosing to remain in the Class as a Participating Settlement Class Member. If the Settlement is approved and becomes final, all of the Court's orders will apply to you and legally bind you. You will not be able to sue, continue to sue, or be part of any other lawsuit against Paysafe and related parties about the legal issues in this Action, resolved by this Settlement, and released by the Class Action Settlement Agreement and Release. The specific rights you are giving up are called Released Claims (*see* next question).

16. What are the Released Claims?

In exchange for the Settlement, each of the Settlement Class Representatives and Participating Settlement Class Members, and each of their respective heirs, executors, administrators, representatives, agents, partners, successors, attorneys, and assigns, present and former ("Releasing Parties"), shall be deemed to have fully, finally, and forever released, acquitted, and discharged Paysafe and its present and former predecessors, successors, assigns, parents, subsidiaries, divisions, affiliates, departments, and any and all of their past, present, and future officers, directors, employees, stockholders, partners, servants, agents, successors, attorneys, advisors, consultants, representatives, insurers, reinsurers, subrogees and the predecessors, successors, and assigns of any of the foregoing (collectively, the "Released Persons") from any and all Released Claims. This release expressly includes Paysafe's insurer with respect to all obligations under any part of the insurance policy applicable to the Released Claims, and from any and all claims arising out of the investigation, handling, adjusting, defense, or settlement of the claim including, without limitation, any claims for negligence, invasion of privacy, violations of California's Unfair Competition Law (cal. Bus. & Prof. Code § 17200, et seq.), and violations of California's Consumer Privacy Act (Cal. Civ. Code § 1798.150).

"Released Claims" means any and all claims or causes of action of every kind and description, including any causes of action in law, claims in equity, complaints, suits, or petitions, and any allegations of wrongdoing, demands for legal, equitable or administrative relief (including, but not limited to, any claims for injunction, rescission, reformation, restitution, disgorgement, constructive trust, declaratory relief, compensatory damages, consequential damages, penalties, exemplary damages, statutory damages, punitive damages, attorneys' fees, costs, interest or expenses) that the Releasing Parties had, have, or may claim now or in the future to have (including, but not

**Questions? Go to [www.\[website\].com](http://www.[website].com) or call 1-888-888-8888.
This Settlement affects your legal rights even if you do nothing.**

limited to, assigned claims and any and all “Unknown Claims” as defined below) that were or could have been asserted or alleged arising out of the same nucleus of operative facts as any of the claims alleged or asserted in the Litigation, including but not limited to the facts, transactions, occurrences, events, acts, omissions, or failures to act that were alleged, argued, raised, or asserted in any pleading or court filing in the Litigation, including but not limited to those concerning: 1) the disclosure of the Participating Settlement Class Members’ personal information in the Data Security Incident; 2) Paysafe’s maintenance of the Participating Settlement Class Members’ personal information as it relates to the Data Security Incident; 3) Paysafe’s security policies and practices as it relates to the Data Security Incident; or 4) Paysafe’s provision of notice to the Participating Settlement Class Members following the Data Security Incident.

The Released Claims include the release of Unknown Claims. “Unknown Claims” means claims that could have been raised in the Litigation and that any of the Settlement Class Representative or Participating Settlement Class Members, and each of their respective heirs, executors, administrators, representatives, agents, partners, successors, attorneys, and assigns, does not know or suspect to exist, which, if known by him, her, or it, might affect his, her, or its agreement to release Paysafe and its present and former predecessors, successors, assigns, parents, subsidiaries, divisions, affiliates, departments, and any and all of their past, present, and future officers, directors, employees, stockholders, partners, servants, agents, successors, attorneys, advisors, consultants, representatives, insurers, reinsurers, subrogees and the predecessors, successors, and assigns of any of the foregoing, or the Released Claims, or might affect his, her, or its decision to agree, object, or not to object to the Settlement. Upon the Effective Date, each of the Settlement Class Representative and Participating Settlement Class Members, and each of their respective heirs, executors, administrators, representatives, agents, partners, successors, attorneys, and assigns shall be deemed to have, and shall have, waived any and all provisions, rights, and benefits conferred by any law of any state, the District of Columbia or territory of the United States, by federal law, or principle of common law, or the law of any jurisdiction outside of the United States. Specifically, the Settling Parties stipulate and agree that upon the Effective Date, the Representative Plaintiffs and Settlement Class Members expressly shall have and by operation of the Judgment shall have, released any and all Released Claims, including Unknown Claims, and waived the provisions, rights, and benefits conferred by California Civil Code § 1542, and also any and all provisions, rights, and benefits conferred by any law of any state, province, or territory of the United States which 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.

The Settlement Class Representative and Participating Settlement Class Members, and each of their respective heirs, executors, administrators, representatives, agents, partners, successors, attorneys, and assigns acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of the Release, but that it is their intention to finally and forever settle and release the Released Claims, including but not limited to any Unknown Claims they may have, as that term is defined in this Paragraph.

More information is provided in the Class Action Settlement Agreement and Release which is available at [www.\[website\].com](http://www.[website].com).

HOW TO GET SETTLEMENT BENEFITS

17. How do I submit a claim for Out-of-Pocket Losses or Attested Time?

You may submit a claim for reimbursement for Out-of-Pocket Losses and/or Attested Time by submitting a Claim Form on the Settlement Website, or by downloading, printing, and completing a Claim Form and mailing it to the Settlement Administrator.

You must complete and submit a Claim Form online by **xxxx xx, 202X**, 11:59 pm Pacific Time, or via mail so the form is postmarked by **xxxx xx, 202X**. Claim Forms may be submitted online at [www.\[website\].com](http://www.[website].com), or printed from the website and mailed to the Settlement Administrator at the address on the form. Claim Forms are also available by calling 1-**888-888-8888** or by writing to Paysafe Data Breach Settlement, P.O. Box _____, _____, _____. The quickest way to file a claim is online.

Use your Class Member ID contained on your Notice to file your Claim Form. If you lost or do not know your Class Member ID, please call 1-**888-888-8888** to obtain it. Further instructions on submitting claims are provided below.

18. How do I submit a claim for a reimbursement of Out-of-Pocket Losses?

To file a claim for reimbursement of Out-of-Pocket Losses of up to \$25,000, you must submit a valid Claim Form electing to receive reimbursement for Out-of-Pocket Losses.

The Claim Form requires that you sign an attestation regarding the information you provided and that you include third party documentation, such as credit card statements, bank statements, invoices, telephone records, or receipts.

Questions? Go to [www.\[website\].com](http://www.[website].com) or call 1-888-888-8888**.
This Settlement affects your legal rights even if you do nothing.**

If your claim for reimbursement of Out-of-Pocket Losses is rejected by the Settlement Administrator and you do not correct it, and you will not be eligible for reimbursement of Out-of-Pocket Losses.

Instructions for filling out a claim for reimbursement of Out-of-Pocket Losses are included on the Claim Form. You may access the Claim Form at [www.\[website\].com](http://www.[website].com).

The deadline to file a Claim Form for reimbursement of Out-of-Pocket Losses is **xxxx xx, 202X**. Claims must be submitted to the Settlement Website or postmarked by this deadline.

19. How do I make a claim for reimbursement of Attested Time?

To file a claim for reimbursement of Attested Time of up to \$250, you must submit a valid Claim Form electing to receive reimbursement for Attested Time.

The Claim Form requires that you indicate the number of hours (up to 10) lost to efforts undertaken to prevent or mitigate fraud or identity theft following the announcement of the Data Security Incident or to otherwise respond to the Data Security Incident. The Claim Form also requires that you sign an attestation regarding the information you provide.

Instructions for filling out a claim for reimbursement of Attested Time are included on the Claim Form. You may access the Claim Form at [www.\[website\].com](http://www.[website].com).

The deadline to file a Claim Form for reimbursement of Attested Time is **xxxx xx, 202X**. Claims must be submitted to the Settlement Website or postmarked by this deadline.

20. How do I get a Residual Cash Payment?

You do not need to do anything in order to receive a Residual Cash Payment. So long as you are on the Settlement Class list and do not exclude yourself from the Settlement you will be mailed a Residual Cash Payment.

21. What happens if my contact information changes after I submit a claim?

If you change your mailing address or email address after you submit a Claim Form, it is your responsibility to inform the Settlement Administrator of your updated information. You may notify the Settlement Administrator of any changes by calling 1-888-888-8888 or by writing to:

Paysafe Data Breach Settlement Administrator
P.O. Box XXXX
XXXXXX, XX XXXXX

22. When and how will I receive the Settlement Benefits?

Payments for Valid Claims for Out-of-Pocket Losses and/or Attested Time and Residual Cash Payments will be issued by the Settlement Administrator after the Settlement is approved by the judge and becomes final. You may elect to receive payment for Valid Claims for Out-of-Pocket Losses and/or Attested Time via Zelle, Venmo, PayPal, or by check by submitting the appropriate information with your Claim Form filed through the Settlement Website. Anyone who does not elect to receive payment via Zelle, Venmo, or PayPal will receive their payment via check sent through U.S. Mail. Residual cash payments will be made through checks sent through U.S. Mail.

The court approval process may take time. Please be patient and check [www.\[website\].com](http://www.[website].com) for updates.

23. What happens if money remains after all of the Settlement Claims are paid?

None of the money in the \$2.0 million Settlement Fund will be paid back to Paysafe. If any money remains in the Settlement Fund 90 days after the distribution of Residual Cash Payments to Participating Settlement Class Members, the excess funds shall be awarded to _____, a mutually agreed-upon and qualified charitable recipient that has been approved by the Court.

THE LAWYERS REPRESENTING YOU

24. Do I have a lawyer in this case?

Yes, the Court has appointed Michael Anderson Berry and Gregory Haroutunian of Clayco C. Arnold, PLC and John A. Yanchunis and Ryan D. Maxey of Morgan & Morgan Complex Litigation Group, as Class Counsel to represent you and the Class for the purposes of this Settlement. You may hire your own lawyer at your own cost and expense if you want someone other than Class Counsel to represent you in this Action.

25. How will Class Counsel be paid?

Class Counsel will file a motion asking the Court to award them attorneys' fees of up to a maximum of 25% of the \$2.0 million Settlement Fund (*i.e.*, \$500,000.00), plus reasonable costs and expenses up to \$50,000. They will also ask the Court to approve up to \$15,000 as a

**Questions? Go to [www.\[website\].com](http://www.[website].com) or call 1-888-888-8888.
This Settlement affects your legal rights even if you do nothing.**

Service Award to the Class Representatives for participating in this Action and for his efforts in achieving the Settlement. If awarded, these amounts will be deducted from the Settlement Fund before making payments to Class Members. The Court may award less than these amounts.

Class Counsel's application for attorneys' fees and expenses, and the Service Award, will be made available on the Settlement Website at [www.\[website\].com](http://www.[website].com) before the deadline for you to comment on or object to the Settlement. You can also request a copy of the application by contacting the Settlement Administrator, at 1-888-888-8888.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you are a Class Member and want to keep any right you may have to sue or continue to sue Paysafe on your own based on the claims raised in this Action or released by the Released Claims, then you must take steps to get out of the Settlement. This is called excluding yourself from – or “opting out” of – the Settlement.

26. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must complete and sign a Request for Exclusion. The Request for Exclusion must be in writing and identify the case name *Kamal Bitmouni v. Paysafe Payment Processing Solutions, LLC, Case No. 3:21-cv-00641-JCS*; state the name, address, and telephone number of the Class Members seeking exclusion; be physically signed by the Person(s) seeking exclusion; and must also contain a statement to the effect that “I/We hereby request to be excluded from the proposed Settlement Class in *Kamal Bitmouni v. Paysafe Payment Processing Solutions, LLC, Case No. 3:21-cv-00641-JCS*.” The Request for Exclusion must be (i) submitted electronically on the Settlement Website, or (ii) postmarked or received by the Settlement Administrator at the address below no later than **xxxx xx, 202X**:

Paysafe Data Breach Settlement Administrator
P.O. Box XXXX
XXXXXXXX, XX XXXXX

You cannot exclude yourself by telephone or by e-mail.

27. If I exclude myself, can I still get a Settlement Payment?

No. If you exclude yourself, you are telling the Court that you do not want to be part of the Settlement. You can only get a cash payment if you stay in the Settlement.

28. If I do not exclude myself, can I sue Paysafe for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Paysafe and Released Parties for the claims that this Settlement resolves. You must exclude yourself from this Action to start or continue with your own lawsuit or be part of any other lawsuit against Paysafe or any of the Released Parties. If you have a pending lawsuit, speak to your lawyer in that case immediately.

OBJECT TO OR COMMENT ON THE SETTLEMENT

29. How do I tell the Court that I do not like the Settlement?

You can ask the Court to deny approval of the Settlement by filing an objection. You cannot ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.

Objections to the proposed settlement may be submitted in writing. If you file a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney. All written objections and supporting papers must (a) clearly identify the case name and number (*Kamal Bitmouni v. Paysafe Payment Processing Solutions, LLC, Case No. 3:21-cv-00641-JCS*); (b) state your full name, current mailing address, and telephone number; (c) contain a signed statement that you believe you are a member of the Settlement Class; (d) identify the specific grounds for the objection; (e) include all documents or writings that you desire the Court to consider; (f) contain a statement regarding whether you (or counsel of your choosing) intend to appear at the Final Approval Hearing; (g) be submitted to the Court either by filing them with the Court or mailing them to the United States District Court for the Northern District of California, San Francisco Courthouse, Courtroom F – 15th Floor, 450 Golden Gate Avenue, San Francisco, CA 94102; and (h) be filed with the Court or postmarked on or before **xxxx xx, 202X**.

You may also object verbally at the Final Approval Hearing by appearing via Zoom whether or not you have submitted a written objection.

30. What is the difference between objecting and requesting exclusion?

Questions? Go to [www.\[website\].com](http://www.[website].com) or call 1-888-888-8888.
This Settlement affects your legal rights even if you do nothing.

Objecting is telling the Court you do not like something about the Settlement. You can object only if you stay in the Class (that is, do not exclude yourself). If the Court approves the Settlement, you are still entitled to Settlement Benefits. Requesting exclusion is telling the Court you do not want to be part of the Class or the Settlement. If you exclude yourself, you cannot object to the Settlement because it no longer affects you and you will not receive any Settlement Benefits.

THE FINAL APPROVAL HEARING

31. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing on **xxxx xx, 202X** at **: 0 .m.** before the Honorable Joseph C. Spero, United States District Court for the Northern District of California. Remote access to the Final Approval Hearing is available via Zoom at <https://cand.uscourts.zoomgov.com/j/1619260804?pwd=RE5qWDhGOTdWWTZUOFIOKzhNc3pjZz09>

The date and time of the Final Approval Hearing is subject to change without further notice to the Settlement Class. Class Members should monitor the Settlement Website or the Court's PACER site (see Question 36) to confirm whether the date for the Final Approval Hearing has changed.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, and will decide whether to approve: the Settlement; Class Counsel's application for attorneys' fees, costs and expenses; and the Service Award to the Class Representative. If there are objections, the Court will consider them. The Court will also listen to people who have asked to speak at the hearing.

32. Do I have to come to the Final Approval Hearing?

No. Class Counsel will answer any questions the Court may have. However, you are welcome to appear via Zoom. If you send a written objection, you do not have to appear at the hearing to talk about it. As long as you mail your written objection on time, the Court will consider it.

33. May I speak at the Final Approval Hearing?

Yes. If you make a written objection, you must indicate whether you intend to appear and speak at the Final Approval Hearing (see Question 29). Your objection must state that it is your intention to appear at the Final Approval Hearing and must identify any witnesses you may call to testify or exhibits you intend to introduce into evidence at the Final Approval Hearing. If you plan to have your attorney speak for you at the Final Approval Hearing, your objection must also include your attorney's name, address, and phone number. You may also choose to attend and speak at the Final Approval Hearing and make an oral objection even if you have not submitted a written objection.

IF YOU DO NOTHING

34. What happens if I do nothing at all?

If you are a Class Member and you do nothing, you will receive a Residual Cash Payment. You will also give up certain rights, including your right to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Paysafe or any of the Released Parties about the legal issues in this Action and released by the Class Action Settlement Agreement and Release.

GETTING MORE INFORMATION

35. How do I get more information?

This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Class Action Settlement Agreement and Release available at [www.\[website\].com](http://www.[website].com), or by contacting Class Counsel (see below), or by accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>.

If you have questions about the proposed Settlement or anything in this Notice, you may contact Class Counsel at:

**Questions? Go to [www.\[website\].com](http://www.[website].com) or call 1-888-888-8888.
This Settlement affects your legal rights even if you do nothing.**

<p>M. Anderson Berry Clayeo C. Arnold, A Professional Law Corp. 865 Howe Avenue Sacramento, CA 95825 (916) 777-7777 Fax: (916) 924-1829 Email: aberry@justice4you.com</p>	<p>Gregory Haroutunian Clayeo C. Arnold, A Professional Law Corporation 865 Howe Avenue Sacramento, CA 95825 (916) 777-7777 Fax: (916) 924-1829 Email: gharoutunian@justice4you.com</p>	<p>John A. Yanchunis Morgan and Morgan, P.A. 201 N. Franklin Street, 7th Floor Tampa, FL 33602 (813) 275-5272 Email: jyanchunis@forthepeople.com</p>	<p>Ryan D. Maxey Morgan and Morgan Complex Litigation Group 201 N. Franklin Street, 7th FL Tampa, FL 33602 813-223-5505 Email: rmaxey@forthepeople.com</p>
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PLEASE DO NOT CONTACT THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

**Questions? Go to www.legalrights.com or call 1-888-888-8888.
This Settlement affects your legal rights even if you do nothing.**

EXHIBIT 1

Short Notice

Court Approved Legal Notice

Case No. 3:21-cv-00641-JCS

**If You Were Subject to the
PAYSAFE PAYMENT
PROCESSING SOLUTIONS DATA
SECURITY INCIDENT, You Could
be Eligible for a Payment.**

*A California federal court has authorized this Notice.
This is not a solicitation from a lawyer.*

**Complete and Return the Claim Form
by **Month XX, 202X.****

www.[website].com

1-888-888-8888

*Para una notificación en Español, llamar 1-888-888-
8888 o visitar nuestro sitio web [www.\[website\].com](http://www.[website].com).*

*Kamal Bitmouni v. Paysafe Payment Processing Solutions,
LLC*

P.O. Box _____
_____, _____

Forwarding Service Requested



Postal Service: Please do not mark barcode
Claim No.:

[CLAIMANT INFO]

A proposed Settlement for a data security incident has been reached with Paysafe Payment Processing Solutions, LLC (“Paysafe”). On November 6, 2020, Paysafe discovered that an unauthorized actor may have accessed a legacy server under Paysafe’s custody or control. As a result, Personal Information of approximately 91,706 individuals who enrolled for merchant services with Paysafe’s affiliate may have been accessed, including name, contact details, Social Security number, and bank account information.

Who is Included? If you received this Notice, records indicate you are included in the Settlement. The Court decided that Settlement Class Members include individuals identified on the Settlement Class List, which includes all individuals who were notified by direct notice by Paysafe that their personal information was or may have been compromised in the data security incident initially disclosed by Paysafe on or about December 16, 2020.

What does the Settlement Provide? The Settlement establishes a \$2.0 million Settlement Fund to be used to pay for reimbursement of Out-of-Pocket Losses and/or Attested Time and Residual Cash Payments; costs of notice and administration; Service Award to the Class Representative; and attorneys’ fees, costs, and expenses. Paysafe has also agreed to undertake certain remedial measures and enhanced data security measures. Claimants may submit a claim for reimbursement for Out-of-Pocket Losses and/or Attested Time and will still receive a Residual Cash Payment.

Reimbursement of Out-of-Pocket Losses – all Class Members may submit a claim for up to \$25,000 for reimbursement of Out-of-Pocket Losses, which may be combined with reimbursement for Attested Time. A claim for Out-of-Pocket Losses may be reduced *pro rata* depending on the number of claims and funds available.

Reimbursement of Attested Time – all Class Members may submit a claim for reimbursement of Attested Time up to ten (10) hours at \$25 per hour, which may be combined with reimbursement for Out-of-Pocket Losses. A claim for Attested Time may be reduced *pro rata* depending on the number of claims and funds available.

Residual Cash Payment – all Class Members are entitled to receive a Residual Cash Payment equaling a *pro rata* share of what remains in the Net Settlement Fund after payment of all Valid Claims for reimbursement of Out-of-Pocket Losses and Attested Time.

How To Get Benefits: If you do nothing you are still entitled to receive a Residual Cash Payment. To submit a claim for Reimbursement of Out-of-Pocket Losses and/or Attested Time, you must complete and file a Claim Form online or by mail postmarked by **Month XX, 202X**, including required documentation. You can file your claim online at [www.\[website\].com](http://www.[website].com). You may also get a paper Claim Form at the website, or by calling the toll-free number, and submit by mail.

Your Other Options. If you do not want to be legally bound by the Settlement, you must exclude yourself by **Month XX, 202X**. If you do not exclude yourself, you will release any claims you may have against Paysafe or related parties related to the Paysafe Data Security Incident, as more fully described in the Settlement Agreement, available at the settlement website. If you do not exclude yourself, you may still object to the Settlement in writing by **Month XX, 202X**, or verbally at the Final Approval Hearing.

The Final Approval Hearing. The Court has scheduled a hearing in this case (*Kamal Bitmouni v. Paysafe Payment Processing Solutions, LLC, Case No. 3:21-cv-00641-JCS*) for **Month XX, 2022**, to consider whether to approve the Settlement, Service Award, and attorneys’ fees and expenses, and to consider any objections. You or your attorney may attend via Zoom, but you are not required to do so. Instructions on how to attend the hearing can be found at [www.\[website\].com](http://www.[website].com).

More Information. Complete information about your rights and options, as well as the Claim Form, the Long Form Notice, and Settlement Agreement are available at [www.\[website\].com](http://www.[website].com), or by calling toll free 1-888-888-8888.

Email Notice

If You Were Subject to the PAYSAFE DATA SECURITY INCIDENT, You Could Be Eligible for a Payment.

The United States District Court for the Northern District of California has authorized this Notice. This is not a solicitation from a lawyer.

Para una notificación en Español, llamar 1-888-888-8888 o visitar nuestro sitio web [www.\[website\].com](http://www.[website].com).

Click here to file a claim by **Month XX, 202X.**

A proposed Settlement for a data security incident has been reached with Paysafe Payment Processing Solutions, LLC (“Paysafe”). On or about November 6, 2020, Paysafe discovered that an unauthorized actor may have accessed a legacy server under Paysafe’s custody or control. As a result, Personal Information of approximately 91,706 individuals who enrolled for merchant services with Paysafe’s affiliate may have been accessed, including name, contact details, Social Security number, and bank account information.

Who is Included? If you received this Notice, records indicate you are included in the Settlement. The Court decided that Settlement Class Members include individuals identified on the Settlement Class List, which includes all individuals who were notified by direct notice by Paysafe that their personal information was or may have been compromised in the data security incident initially disclosed by Paysafe on or about December 16, 2020.

What does the Settlement Provide? The Settlement establishes a \$2.0 million Settlement Fund to be used to pay for reimbursement of Out-of-Pocket Losses and/or Attested Time and Residual Cash Payments; costs of notice and administration; Service Award to the Class Representative; and attorneys’ fees, costs, and expenses. Paysafe has also agreed to undertake certain remedial measures and enhanced data security measures. Claimants may submit a claim for reimbursement for Out-of-Pocket Losses and/or Attested Time and will still receive a Residual Cash Payment.

Reimbursement of Out-of-Pocket Losses – all Class Members may submit a claim for up to \$25,000 for reimbursement of Out-of-Pocket Losses, which may be combined with reimbursement for Attested Time. A claim for Out-of-Pocket Losses may be reduced *pro rata* depending on the number of claims and funds available.

Reimbursement of Attested Time – all Class Members may submit a claim for reimbursement of Attested Time up to ten (10) hours at \$25 per hour, which may be combined with reimbursement for Out-of-Pocket Losses. A claim for Attested Time may be reduced *pro rata* depending on the number of claims and funds available.

Residual Cash Payment – all Class Members are entitled to receive a Residual Cash Payment equaling a *pro rata* share of what remains in the Net Settlement Fund after payment of all Valid Claims for Reimbursement of Out-of-Pocket Losses and Attested Time.

How To Get Benefits: If you do nothing you are still entitled to receive a Residual Cash Payment. To submit a claim for reimbursement of Out-of-Pocket Losses and/or Attested Time, you must complete and file a Claim Form online or by mail postmarked by **Month XX, 202X**, including

required documentation. You can file your claim online at [www.\[website\].com](http://www.[website].com). You may also get a paper Claim Form at the website, or by calling the toll-free number, and submit by mail.

Your Other Options. If you do not want to be legally bound by the Settlement, you must exclude yourself by **Month XX, 202X**. If you do not exclude yourself, you will release any claims you may have against Paysafe or related parties related to the Paysafe Data Security Incident, as more fully described in the Settlement Agreement, available at the settlement website. If you do not exclude yourself, you may still object to the Settlement in writing by **Month XX, 202X**, or verbally at the Final Approval Hearing.

The Final Approval Hearing. The Court has scheduled a hearing in this case (Kamal Bitmouni v. Paysafe Payment Processing Solutions, LLC, Case No. 3:21-cv-00641-JCS) for **Month XX, 202X**, to consider whether to approve the Settlement, Service Award, attorneys' fees and expenses, and to consider any objections. You or your attorney may attend via Zoom, but you are not required to do so. Instructions on how to attend the hearing can be found at [www.\[website\].com](http://www.[website].com).

More Information. Complete information about your rights and options, as well as the Claim Form, the Long Form Notice, and Settlement Agreement are available at [www.\[website\].com](http://www.[website].com), or by calling toll free 1-**888-888-8888**.

EXHIBIT 2

CLAIM FORM FOR PAYSAFE DATA SECURITY INCIDENT BENEFITS

USE THIS FORM TO MAKE A CLAIM FOR REIMBURSEMENT OF OUT-OF-POCKET LOSSES AND/OR ATTESTED TIME.

Para una notificación en Español, llamar 1-888-888-8888 o visitar nuestro sitio web [www.\[website\].com](http://www.[website].com).

The DEADLINE to submit this Claim Form is [XXXX XX, 202X] (either on-line or postmarked: [XXXX XX, 202X])

I. GENERAL INSTRUCTIONS

If you are an individual who received notice that your Personal Information may have been compromised as a result of a data security incident that occurred from May 2018 to October 2020 when an unauthorized actor may have accessed a legacy server under the custody or control of Paysafe Payment Processing Solutions, LLC (“Paysafe”) (the “Data Security Incident”) you are a Class Member. The legacy server contained the personal information of individuals who enrolled for merchant services with Paysafe’s affiliate(s).

As a Class Member, you are eligible to make a claim for **one or more of the following**:

- **Reimbursement for Out-of-Pocket Losses:** all Class Members may submit a claim for up to \$25,000 for reimbursement of Out-of-Pocket Losses, which must be accompanied by (i) third-party documentation supporting the loss; and (ii) a brief description of documentation describing the nature of the loss if not apparent from the documentation alone. A claim for Out-of-Pocket Losses may be combined with a claim for reimbursement for Attested Time, but in no circumstance will a Settlement Class Member be eligible to receive more than \$25,000 for such reimbursements combined. A claim for Out-of-Pocket Losses may be reduced *pro rata* if the aggregate value of all claims exceeds \$400,000.
- **Reimbursement for Attested Time:** all Class Members may submit a claim for reimbursement of Attested Time up to ten (10) hours at \$25 per hour, which must be supported by a brief description of the actions taken in response to the Data Security Incident and the time associated with each action. A claim for Attested Time may be combined with a claim for reimbursement for Out-of-Pocket Losses, but in no circumstance will a Settlement Class Member be eligible to receive more than \$25,000 for such reimbursements combined. A claim for Attested Time may be reduced *pro rata* if the aggregate value of all claims exceeds \$400,000.

Regardless of whether you submit a claim for Out-of-Pocket Losses or Attested Time, all Class Members are entitled to receive a Residual Cash Payment which will represent a *pro rata* share of the Net Settlement Fund after payment of all Valid Claims for Out-of-Pocket Losses and/or Attested Time and other fees and expenses.

Complete information about the Settlement and its benefits are available at [www.\[website\].com](http://www.[website].com).

This Claim Form may be submitted online at [www.\[website\].com](http://www.[website].com) or completed and mailed to the address below. Please type or legibly print all requested information in blue or black ink. You may mail your completed Claim Form, including any supporting documentation, by U.S. mail to:

**Paysafe Data Security Incident Settlement Administrator
PO Box XXXX**

Questions? Go to [www.\[website\].com](http://www.[website].com) or call 1-XXXXXXXX.

XXXXXX, XX XXXXXX

II. CLAIMANT INFORMATION

The Settlement Administrator will use this information for all communications regarding this Claim Form and the Settlement. If this information changes prior to distribution of cash payments, you must notify the Settlement Administrator in writing at the address above.

First Name M.I. Last Name [Grid]

Alternative Name(s) [Grid]

Mailing Address, Line 1: Street Address/P.O. Box [Grid]

Mailing Address, Line 2: [Grid]

City: State: Zip Code: [Grid]

Telephone Numbers (Cell) Telephone Numbers (Home) [Grid]

Email Address [Grid]

Date of Birth (mm/dd/yyyy) Unique ID Number Provided on mailed Notice (if known) [Grid]

You may only select one of the following options:

III. CLASS MEMBERSHIP

Please check this box if you received a notice related to this Class Action and provide your Unique ID Number in Section II above.

Please check this box if you have **not** received a notice but believe that you should be included in the Class. You must provide Reasonable Documentation demonstrating that you were impacted by the Data Security Incident.

IV. REIMBURSEMENT FOR OUT-OF-POCKET LOSSES

Please check off this box for this section if you are electing to seek reimbursement for up to \$25,000 of Out-of-Pocket Losses you incurred that are more likely than not traceable to the Data Security Incident and are not otherwise reimbursable from insurance. Out-of-Pocket Losses include unreimbursed losses and consequential expenses that are more likely than not related to the Data Security Incident and incurred on or after May 1, 2018.

In order to make a claim for Reimbursement of Out-of-Pocket Losses, **you must** (i) fill out the information below and/or on a separate sheet submitted with this Claim Form; (ii) sign the attestation at the end of this Claim Form (section VIII); and (iii) include third party documentation supporting each claimed cost along with this Claim Form. Out-of-Pocket Losses need to be deemed more likely than not due to the Data Security Incident by the Settlement Administrator based on the documentation you provide and the facts of the Data Security Incident. **Failure to meet the requirements of this section may result in your claim being rejected by the Settlement Administrator.**

Cost Type (Fill all that apply)	Approximate Date of Loss	Amount of Loss	Description of Supporting Reasonable Documentation (Identify what you are attaching and why)
○ Unreimbursed fraud losses or charges	<input type="text"/> / <input type="text"/> / <input type="text"/> (mm/dd/yy)	\$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<i>Examples: Account statement with unauthorized charges highlighted; Correspondence from financial institution declining to reimburse you for fraudulent charges</i>
○ Professional fees incurred in connection with identity theft or falsified tax returns	<input type="text"/> / <input type="text"/> / <input type="text"/> (mm/dd/yy)	\$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<i>Examples: Receipt for hiring service to assist you in addressing identity theft; Accountant bill for re-filing tax return</i>
○ Lost interest or other damages resulting from a delayed state and/or federal tax refund in connection with fraudulent tax	<input type="text"/> / <input type="text"/> / <input type="text"/> (mm/dd/yy)	\$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<i>Examples: Letter from IRS or state about tax fraud in your name; Documents reflecting length of time you waited to receive your tax refund and the amount</i>

Questions? Go to [www.\[website\].com](http://www.[website].com) or call 1-XXXXXXXX.

Cost Type (Fill all that apply)	Approximate Date of Loss	Amount of Loss	Description of Supporting Reasonable Documentation (Identify what you are attaching and why)
return filing			
<input type="radio"/> Credit freeze	<input type="text"/> / <input type="text"/> / <input type="text"/> (mm/dd/yy)	\$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> . <input type="text"/> <input type="text"/>	<i>Examples: Notices or account statements reflecting payment for a credit freeze:</i>
<input type="radio"/> Credit monitoring that was ordered on or after May 1, 2018	<input type="text"/> / <input type="text"/> / <input type="text"/> (mm/dd/yy)	\$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> . <input type="text"/> <input type="text"/>	<i>Example: Receipts or account statements reflecting purchases made for credit monitoring services</i>
<input type="radio"/> Miscellaneous expenses such as notary, fax, postage, copying, mileage, and long- distance telephone charges	<input type="text"/> / <input type="text"/> / <input type="text"/> (mm/dd/yy)	\$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> . <input type="text"/> <input type="text"/>	<i>Example: Phone bills, gas receipts, postage receipts; detailed list of locations to which you traveled (i.e. police station, IRS office), indication of why you traveled there (i.e. police report or letter from IRS re: falsified tax return) and number of miles you traveled to remediate or address issues related to the Paysafe Data Security Incident.</i>
<input type="radio"/> Other (provide detailed description)	<input type="text"/> / <input type="text"/> / <input type="text"/> (mm/dd/yy)	\$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> . <input type="text"/> <input type="text"/>	<i>Please provide detailed description below or in a separate document submitted with this Claim Form:</i>

If you do not submit third party documentation supporting a Reimbursement for Out-of-Pocket Losses, or your claim for a Reimbursement for Out-of-Pocket Losses claim is rejected by the Settlement Administrator for any reason and you do not cure the defect, you will not be eligible to receive reimbursement for such losses.

V. REIMBURSEMENT FOR ATTESTED TIME

Please check off this box for this section if you are electing to seek reimbursement for Attested Time you undertook to prevent or mitigate fraud and identity theft following the announcement of the Data Security Incident. Class Members who elect to submit a Claim for reimbursement of Attested Time may claim up to ten (10) hours of lost time at a rate of \$25 per hour, for a maximum of \$250.

Please indicate below how much time (round to the nearest hour and check only one box) that you spent to prevent or mitigate fraud and identity theft following the announcement of the Data Security Incident:

- 1 Hour
- 2 Hours
- 3 Hours
- 4 Hours
- 5 Hours
- 6 Hours
- 7 Hours
- 8 Hours
- 9 Hours
- 10 Hours

Questions? Go to [www.\[website\].com](http://www.[website].com) or call 1-XXXXXXX.

Examples: Select "1 Hour" if you spent at least one full hour calling customer service lines, writing letters or emails, or on the Internet trying to get unauthorized charges reversed or reimbursed. Please note that the time it takes to fill out this Claim Form is not reimbursable and should not be included in the total number of hours claimed.

VI. METHOD OF PAYMENT

You can elect to receive payment for any approved claims either electronically by Zelle, Venmo, PayPal, or ACH or by check mailed to you. If you do not make an election, payment will be made via check mailed to you.

Which method of payment do you prefer? (**CHOOSE ONE**)

- Zelle - Zelle email or mobile number: _____
- Venmo - Venmo username: _____
- PayPal - PayPal email address: _____
- Check - mailing address _____

VII. CERTIFICATION

By submitting this Claim Form, I certify that I am eligible to make a claim in this settlement and that the information provided in this Claim Form and any attachments are true and correct. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. I understand that this claim may be subject to audit, verification, and Court review and that the Settlement Administrator may require supplementation of this Claim or additional information from me. I also understand that all claim payments are subject to the availability of settlement funds and may be reduced in part or in whole, depending on the type of claim and the determinations of the Settlement Administrator.

Signature

Date: _____

Print Name

**VIII. ATTESTATION
(REQUIRED FOR REIMBURSEMENT OF OUT-OF-POCKET EXPENSES AND ATTESTED TIME CLAIMS)**

I, _____, declare that I suffered the Attested Time and/or incurred Out-of-Pocket Losses claimed above.

[Name]

I also attest that the Attested Time and/or incurred Out-of-Pocket Losses claimed above are accurate and were not otherwise reimbursable by insurance.

I declare under penalty of perjury under the laws of California and of the United States of America that the foregoing is true and correct. Executed on _____, in _____, _____.
[Date] [City] [State]

[Signature]

EXHIBIT 3

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO DIVISION

KAMAL BITMOUNI, on behalf of himself) Case No. 3:21-cv-00641-JSC
and all others similarly situated,)
)
Plaintiff,) **[PROPOSED] FINAL APPROVAL**
) **ORDER AND JUDGMENT**
vs.)
)
PAYSAFE PAYMENT PROCESSING)
SOLUTIONS, LLC, a Delaware limited)
Liability company,)
)
Defendant.)
)
)
)
)
)

WHEREAS, the Court, having considered the Settlement Agreement filed [InsertFilingDate] (the “Settlement”) between and among Named Plaintiff and Class Representative Kamal Bitmouni (“Plaintiff” or the “Settlement Class Representative”), individually and on behalf of the Settlement Class, and Defendant Paysafe Payment Processing Solutions, LLC (“Paysafe” or “Defendant”) (collectively, the “Settling Parties”), having considered the Court’s Order Granting Preliminary Approval of Class Action Settlement Agreement and Conditionally Certifying Settlement Class for Settlement Purposes Only (“Preliminary Approval Order”), having held a Final Approval Hearing on [InsertHearingDate], having considered all of the submissions and arguments with respect to the Settlement, and otherwise being fully informed, and good cause appearing therefor;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. Plaintiff’s Motion for Final Approval of Class Action Settlement Agreement and Award of Attorneys’ Fees, Costs, and Expenses, and Class Representative Service Award is GRANTED.
2. This Order and Judgment incorporates herein and makes a part hereof, the Settlement (including its exhibits) and the Preliminary Approval Order. Unless otherwise provided herein, the terms

1 defined in the Settlement and Preliminary Approval Order shall have the same meanings for purposes of
2 this Order and Judgment.

3 3. The Court has personal jurisdiction over Plaintiff, the Settlement Class Members, and
4 Defendant for purposes of this settlement, and has subject matter jurisdiction over this matter including,
5 without limitation, jurisdiction to approve the Settlement, confirm certification of the Settlement Class
6 for settlement purposes only, to settle and release all claims released in the Settlement, and to dismiss
7 the Action with prejudice.
8

9 **I. CERTIFICATION OF THE SETTLEMENT CLASS**

10 4. Based on its review of the record, including the Settlement, all submissions in support of
11 the Settlement, and all prior proceedings in the Action, the Court finally certifies the following
12 “Settlement Class” for settlement purposes only:

13 “The individuals identified on the Settlement Class List, which includes all
14 individuals who were notified by direct notice by Paysafe that their personal
15 information was or may have been compromised in the Data Security Incident
16 “

17 5. Excluded from the Settlement Class are: (1) the judges presiding over this Litigation, and
18 members of their direct families; and (2) Defendant, its subsidiaries, parent companies, successors,
19 predecessors, and any entity in which the Defendant or its parents have a controlling interest and their
20 current or former officers, directors, and employees.

21 6. Also excluded from the Settlement Class are those persons identified in Exhibit A hereto,
22 each of whom submitted a timely and valid Request for Exclusion from the Settlement Class prior to the
23 Opt-Out Deadline. Such persons shall not receive the benefits of the Settlement and shall not be bound
24 by this Order and Judgment.

25 7. For settlement purposes only, with respect to the Settlement Class, the Court
26 confirms that the prerequisites for a class action pursuant to Federal Rule of Civil Procedure 23 have
27 been met, in that: (a) the Settlement Class is so numerous that joinder of all individual Settlement Class
28

1 members in a single proceeding is impracticable; (b) questions of law and fact common to all members
2 of the Settlement Class predominate over any potential individual questions; (c) the claims of Plaintiff
3 are typical of the claims of the Settlement Class; (d) Plaintiff and proposed Class Counsel will fairly and
4 adequately represent the interests of the Settlement Class; and (e) a class action is the superior method to
5 fairly and efficiently adjudicate this controversy. Any objections to the Settlement have been considered
6 and are hereby overruled.

7
8 **II. NOTICE TO THE SETTLEMENT CLASS**

9 8. The Court finds that Notice has been given to the Settlement Class in the manner
10 directed by the Court in the Preliminary Approval Order. The Court finds that such Notice: (i) was
11 reasonable and constituted the best practicable notice under the circumstances; (ii) was reasonably
12 calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the
13 Action, the terms of the Settlement including its Releases, their right to exclude themselves from
14 the Settlement Class or object to all or any part of the Settlement, their right to appear at the Final
15 Approval Hearing (either on their own or through counsel hired at their own expense), and the
16 binding effect of final approval of the Settlement on all persons who do not exclude themselves
17 from the Settlement Class; (iii) constituted due, adequate, and sufficient notice to all persons or
18 entities entitled to receive notice; and (iv) fully satisfied the requirements of the United States
19 Constitution (including the Due Process Clause), and any other applicable law.
20

21 9. Furthermore, the Court finds that notice under the Class Action Fairness Act was
22 effectuated within the time required by 28 U.S.C. § 1715, and that ninety (90) days has passed without
23 comment or objection from any governmental entity.
24

25 **III. FINAL APPROVAL OF THE SETTLEMENT**

26 10. The Court finds that the Settlement resulted from arm's-length negotiations between Class
27 Counsel and Defendant.
28

1 11. The Court hereby finally approves in all respects the Settlement as fair, reasonable,
2 and adequate, and in the best interest of the Settlement Class.

3 12. The Court finds that Plaintiff and Class Counsel fairly and adequately
4 represented the interests of Settlement Class Members in connection with the Settlement.

5 13. The Settling Parties shall consummate the Settlement in accordance with the terms
6 thereof. The Settlement, and each and every term and provision thereof, including its Releases, shall be
7 deemed incorporated herein as if explicitly set forth herein and shall have the full force and effect of an
8 order of this Court.
9

10 **IV. DISMISSAL OF CLAIMS AND RELEASE**

11 14. The Action is hereby dismissed with prejudice as to all Parties including the
12 Settlement Class and without cost to any party, except as otherwise provided herein or in the
13 Settlement.

14 15. Upon the Effective Date, and in consideration of the benefits set forth in the Settlement,
15 each of the Settlement Class Representative and Participating Settlement Class Members, and each of
16 their respective heirs, executors, administrators, representatives, agents, partners, successors, attorneys,
17 and assigns, present and former (“Releasing Parties”), shall be deemed to have fully, finally, and forever
18 released, acquitted, and discharged Paysafe and its present and former predecessors, successors, assigns,
19 parents, subsidiaries, divisions, affiliates, departments, and any and all of their past, present, and future
20 officers, directors, employees, stockholders, partners, servants, agents, successors, attorneys, advisors,
21 consultants, representatives, insurers, reinsurers, subrogees and the predecessors, successors, and assigns
22 of any of the foregoing (collectively, the “Released Persons”) from any and all Released Claims. This
23 release expressly includes Paysafe’s insurer with respect to all obligations under any part of the insurance
24 policy applicable to the Released Claims, and from any and all claims arising out of the investigation,
25 handling, adjusting, defense, or settlement of the claim including, without limitation, any claims for
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1 negligence, invasion of privacy, violations of California’s Unfair Competition Law (cal. Bus. & Prof.
2 Code § 17200, et seq.), and violations of California’s Consumer Privacy Act (Cal. Civ. Code § 1798.150).

3 16. For purposes of this Final Approval Order and Judgment, “Released Claims” means any
4 and all claims or causes of action of every kind and description, including any causes of action in law, claims
5 in equity, complaints, suits, or petitions, and any allegations of wrongdoing, demands for legal, equitable or
6 administrative relief (including, but not limited to, any claims for injunction, rescission, reformation,
7 restitution, disgorgement, constructive trust, declaratory relief, compensatory damages, consequential
8 damages, penalties, exemplary damages, statutory damages, punitive damages, attorneys’ fees, costs, interest
9 or expenses) that the Releasing Parties had, have, or may claim now or in the future to have (including, but
10 not limited to, assigned claims and any and all “Unknown Claims” as defined below) that were or could have
11 been asserted or alleged arising out of the same nucleus of operative facts as any of the claims alleged or
12 asserted in the Litigation, including but not limited to the facts, transactions, occurrences, events, acts,
13 omissions, or failures to act that were alleged, argued, raised, or asserted in any pleading or court filing in the
14 Litigation, including but not limited to those concerning: 1) the disclosure of the Participating Settlement
15 Class Members’ personal information in the Data Security Incident; 2) Paysafe’s maintenance of the
16 Participating Settlement Class Members’ personal information as it relates to the Data Security Incident; 3)
17 Paysafe’s security policies and practices as it relates to the Data Security Incident; or 4) Paysafe’s provision
18 of notice to the Participating Settlement Class Members following the Data Security Incident.
19
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21 17. Upon entry of this Final Approval Order and Judgment, the Settlement Class
22 Representative and other Participating Settlement Class Members are enjoined from prosecuting any
23 Released Claims in any proceeding against any of the Released Parties or based on any actions taken by
24 any of the Released Parties that are authorized or required by the Settlement or by this Final Approval
25 Order and Judgment. Likewise, Paysafe and its representatives, officers, agents, directors, affiliates,
26 employees, insurers, and attorneys shall be enjoined from prosecuting any claim they have released in
27 the Settlement in any proceeding against the Settlement Class Representative and Class Counsel or based
28

1 on any actions taken by the Settlement Class Representative and Class Counsel that are authorized or
2 required by the Settlement or by this Final Approval Order and Judgment. The Settlement may be pleaded
3 as a complete defense to any claim or proceeding described in this Paragraph.

4 **V. ATTORNEYS' FEES, COSTS, AND EXPENSES AND REPRESENTATIVE**
5 **PLAINTIFF'S SERVICE AWARD**

6 18. The Court awards attorneys' fees of \$[TBD] and reimbursement of costs and expenses in
7 the amount of \$[TBD], totaling \$[TBD], and payment of a service award in the amount of \$[TBD] to
8 Plaintiff. The Court directs the Settlement Administrator to pay such amounts in accordance with the
9 terms of the Settlement. Class Counsel, in their sole discretion to be exercised reasonably, shall allocate
10 and distribute the attorneys' fees, costs, and expenses awarded by the Court among Plaintiff's counsel of
11 record in the Action.
12

13 **VI. OTHER PROVISIONS**

14 19. Without affecting the finality of this Final Approval Order and Judgment in any way, the
15 Court retains continuing and exclusive jurisdiction over the Settling Parties and the Settlement Class for
16 the purpose of consummating, implementing, administering, and enforcing all terms of the Settlement.
17

18 20. Nothing in this Final Approval Order and Judgment, the Settlement, or any documents or
19 statements relating thereto, is or shall be deemed or construed to be an admission or evidence of any
20 violation of any statute or law or of any liability or wrongdoing by Defendant.

21 21. In the event the Effective Date does not occur, this Final Approval Order and Judgment
22 shall be rendered null and void and shall be vacated and, in such event, as provided in the Settlement,
23 this Order and Judgment and all orders entered in connection herewith shall be vacated and null and void,
24 the Settling Parties shall be restored to their respective positions in the Action, all of the Parties'
25 respective pre-Settlement claims and defenses will be preserved, and the terms and provisions of the
26 Settlement shall have no further force and effect with respect to the Settling Parties and shall not be used
27
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1 in the Action or in any other proceeding for any purpose, and any judgment or order entered by the Court
2 in accordance with the terms of the Settlement shall be treated as vacated, *nunc pro tunc*.

3 **IT IS SO ORDERED.**

4 Dated:

5 MAGISTRATE JUDGE JOSEPH C. SPERO
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1 M. Anderson Berry (SBN 262879)
2 Gregory Haroutunian (SBN 330263)
3 **CLAYEO C. ARNOLD,**
4 **A PROFESSIONAL LAW CORPORATION**
5 865 Howe Avenue
6 Sacramento, CA 95825
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9 aberry@justice4you.com
10 gharoutunian@justice4you.com

11 John A. Yanchunis (Pro Hac Vice)
12 Ryan D. Maxey (Pro Hac Vice)
13 **MORGAN & MORGAN**
14 **COMPLEX LITIGATION GROUP**
15 201 N. Franklin Street, 7th Floor
16 Tampa, FL 33602
17 Telephone: (813) 559-4908
18 Facsimile: (813) 223-5402
19 jyanchunis@ForThe People.com
20 rmaxey@ForThe People.com

21 *Attorneys for Plaintiff*

22 **UNITED STATES DISTRICT COURT**
23 **NORTHERN DISTRICT OF CALIFORNIA**
24 **SAN FRANCISCO DIVISION**

25 KAMAL BITMOUNI, on behalf of himself
26 and all others similarly situated,

27 Plaintiff,

28 vs.

29 PAYSAFE PAYMENT PROCESSING
30 SOLUTIONS LLC, a Delaware limited
31 liability company,

32 Defendant.

33) Case No. 3:21-cv-00641-JCS
34)
35) **JOINT DECLARATION OF M.**
36) **ANDERSON BERRY AND JOHN A.**
37) **YANCHUNIS IN SUPPORT OF**
38) **PLAINTIFF’S UNOPPOSED RENEWED**
39) **MOTION FOR PRELIMINARY**
40) **APPROVAL OF CLASS ACTION**
41) **SETTLEMENT**
42)
43) Date: _____, 2023
44) Time: 2 PM
45) Courtroom: Courtroom F – 15th Floor
46) Judge: Hon. Joseph C. Spero

1
2 We, M. Anderson Berry and John A. Yanchunis, pursuant to section 1746 of title 28 of
3 the United States Code, declare as follows:

4 1. I, M. Anderson Berry, am the head of the complex litigation group at Clayco C.
5 Arnold, A Professional Law Corporation (the “Arnold Law Firm”), one of the firms representing
6 Plaintiff Kamal Bitmouni (“Plaintiff”). I submit this declaration in support of Plaintiff’s
7 Unopposed Renewed Motion for Preliminary Approval of Class Action Settlement. I make this
8 declaration based on my own personal knowledge, and if called to do so, could and would testify
9 to the matters contained herein.

10 2. I, John A. Yanchunis, am an attorney at law licensed to practice in the state of
11 Florida since 1981 and admitted to practice in Texas in 1980. I lead the Class Action Department
12 at Morgan & Morgan, the largest Plaintiff’s, contingency-only law firm in the country, with over
13 800 lawyers in more than 50 offices throughout the United States, and one of the firms
14 representing Plaintiff Kamal Bitmouni (“Plaintiff”). I submit this declaration in support of
15 Plaintiff’s Unopposed Renewed Motion for Preliminary Approval of Class Action Settlement. I
16 make this declaration based on my own personal knowledge, and if called to do so, could and
17 would testify to the matters contained herein.

18 3. The Settlement Agreement (“S.A.” or “Agreement”) was executed by the parties
19 on December 27, 2022.¹ The Amended Settlement Agreement was executed by the parties on
20 May 2, 2023.

21 4. Attached to Plaintiff’s Unopposed Renewed Motion for Preliminary Approval of
22 Class Action Settlement (the “Motion”) is the following exhibit, the form and substance of
23 which has been agreed to by the parties and is submitted with the Motion for the Court’s
24
25

26 _____
27 ¹ Unless otherwise noted, capitalized terms have the meaning ascribed to them in the Amended
28 Settlement Agreement and Release executed May 2, 2022 (“Amended Settlement Agreement”
or “ASA”).

1 approval: Exhibit 1: Amended Settlement Agreement²

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3
4 **I. THE LITIGATION AND SETTLEMENT NEGOTIATIONS**

5 5. This matter concerns a putative class action arising out of a Data Incident (as
6 defined below) suffered by Paysafe Payment Processing Solutions, LLC (“Paysafe”) from 2018
7 through 2020. Plaintiff alleges that in October 2020, Paysafe identified a series of unauthorized
8 SQL queries made by unauthorized parties to databases on its server. Plaintiff further alleges
9 Paysafe later learned that these queries potentially exposed the private information of 91,706
10 current and former customers of Paysafe (the “Data Incident”). Plaintiff further alleges that, as a
11 result of the Data Incident, the unauthorized parties gained access to Plaintiff’s and other victims’
12 personal information, including without limitation, first and last names, contact information,
13 Social Security numbers, and financial account information (“PII”).

14 6. Paysafe notified approximately 91,706 individuals of the Data Incident, 15,622 of
15 whom are believed to have resided in California during the Data Security Incident. Paysafe
16 offered these individuals two years of free credit monitoring.

17 7. Individuals, including Plaintiff, received their notices in or around December
18 2020. On January 27, 2021, Plaintiff filed a lawsuit asserting claims against Paysafe relating to
19 the Data Incident. The case is titled *Bitmouni v. Paysafe Payment Processing Solutions, LLC*,
20 Case No. 3:21-cv-00641-JSC (N.D. Cal.) (the “Litigation”).

21 8. Plaintiff brought this action on behalf of all persons whose PII was compromised
22 as a result of Paysafe’s failure to: (i) adequately protect PII; (ii) warn of its inadequate information
23 security practices; and (iii) effectively monitor its network for security vulnerabilities and
24

25 _____
26 ² Attached to the Amended Settlement Agreement are the following sub-exhibits: Exhibit 1:
27 Summary Notice and Long Form Notice; Exhibit 2: Claim Form; and Exhibit 3: Proposed Final
28 Approval Order.

1 incidents. Plaintiff alleges that Paysafe’s conduct amounts to negligence and violates federal and
2 state statutes. Plaintiff and Class Members have suffered injury as a result of Paysafe’s conduct.
3 These injuries include: (i) lost or diminished value of PII; (ii) out-of-pocket expenses associated
4 with the prevention, detection, and recovery from identity theft, tax fraud, and/or unauthorized
5 use of their PII; (iii) lost opportunity costs associated with attempting to mitigate the actual
6 consequences of the Data Breach, including but not limited to lost time; and (iv) the continued
7 and certainly an increased risk to their PII, which remains in Paysafe’s possession and is subject
8 to further unauthorized disclosures so long as Paysafe fails to undertake appropriate and adequate
9 measures to protect the PII.

10 9. The Second Amended Complaint alleges four (4) claims and was filed on behalf
11 of named plaintiff Kamal Bitmouni.

12 10. Based on our experience, the cheapest effective Identity Theft protection can be
13 purchased for between \$60 to \$72 per year. Given the nature of the PII exposed in the Data
14 Security Incident we believe the cost of providing such protection to all Class members
15 represents a reasonable metric to gauge Defendant’s potential exposure under the claims raised
16 by Plaintiff.

17 11. Over the course of several months, the parties engaged in informal, arm’s-length,
18 settlement negotiations, including two in-person mediation sessions, with substantial discovery
19 taken, including three depositions. These depositions included the deposition of Plaintiff Kamal
20 Bitmouni and two (2) Fed. R. Civ. Pro. 30(b)(6) depositions of corporate representatives of
21 Paysafe. The parties continued to rigorously pursue settlement negotiations and were able to
22 reach a settlement in principle during the second day-long mediation session.

23 12. Both mediation sessions, the first on May 25, 2022 and the second, on August 30,
24 2022 occurred in-person at JAMS in San Francisco, California with highly respected and
25 experienced Mediator Zela “Zee” Claiborne, Esq.
26
27

1 13. The parties then took several months to finalize the full scope of the settlement
2 agreement, including all particulars. The parties executed the Settlement Agreement on
3 December 27, 2022.

4 14. Though cordial and professional, the settlement negotiations were adversarial,
5 arm’s-length and non-collusive in nature.

6 15. The initial Settlement was reached after extensive investigation (including
7 vigorously gathering all of the information that was available regarding Paysafe and the Data
8 Incident—including publicly-available documents concerning announcements of the Data
9 Incident and notice of the Data Incident to its customers), substantial paper discovery, three
10 depositions, and other research, and a thorough evaluation of Plaintiff’s claims in light of such
11 information.

12 16. On March 3, 2023 the Court denied Plaintiff’s original Unopposed Motion for
13 Preliminary Approval of Class Action Settlement and directed the parties to address specific
14 concerns the Court had regarding the structure of the Settlement.

15 17. Subsequent to March 3, 2023, and over the course of nearly two months, the
16 Parties have negotiated the Amended Settlement Agreement in order to address the Court’s
17 concerns.

18 18. We believe that the Amended Settlement Agreement satisfies the Court’s
19 concerns raised at the March 3, 2023 hearing.

20 **II. THE SETTLEMENT**

21 **A. The Settlement Class**

22 19. The Settlement addresses the types of repercussions and injuries arising from an
23 incident of the type at issue here and provide relief for the following Settlement Class: “the
24 individuals identified on the Settlement Class List, including all individuals who were notified,
25 by direct notice by Paysafe, that their personal information was or may have been compromised
26 in the Data Security Incident. Excluded from the Settlement Class are: (1) the judges presiding
27 over this Litigation, and members of their direct families; (2) the Defendant, its subsidiaries,
28

1 parent companies, successors, predecessors, and any entity in which the Defendant or its parents
2 have a controlling interest and their current or former officers, directors, and employees; and (3)
3 Settlement Class Members who submit a valid Request for Exclusion prior to the Opt-Out
4 Deadline.” A.S.A., ¶ 33.

5 20. The Settlement Class contains approximately 91,706 individuals.

6 **B. The Settlement Consideration**

7 21. In The Settlement negotiated on behalf of the Class provides for a non-
8 reversionary common fund of \$2,000,000 from which two separate forms of monetary relief will
9 be paid to the class after the costs of settlement administration, attorneys’ fees and expenses, and
10 the service award for Plaintiff are provided for: (1) reimbursement of out-of-pocket losses and
11 lost time (at a rate of \$25 per hour for up to 10 hours) up to \$25,000 per Class Member; (2) A
12 residual cash payment providing each Class member with a *pro-rata* share of the Net Settlement
13 Fund after all Valid Claims have been paid. A.S.A., ¶¶ 45, 47, 49, 52.

14 22. The first category of payments is designed to provide reimbursement for all out-
15 of-pocket expenses related to the Data Incident and to compensate Class Members for time spent
16 dealing with the effects of the Data Incident. Out-of-pocket expense reimbursements can be
17 claimed at up to \$25,000 per Class Member and \$400,000 in total. *Id.*, ¶¶ 47, 53

18 23. This category of reimbursements specifically includes up to 10 hours of lost time
19 spent dealing with any effects of the Data Incident, compensated at \$25 per hour. A.S.A., ¶ 49.

20 24. The second category provides for all Class members to receive a *pro-rata* share
21 of the remainder of the Net Settlement Fund after all payments for reimbursement for out-of-
22 pocket expenses and lost time have been made. A.S.A., ¶ 52.

23 25. In litigating and settling numerous class actions arising from a data breach,
24 including most of the largest data breach class actions filed, the money available through the
25 settlement will be able to pay the claims filed by class members. This assessment is based on our
26 experience in reviewing the results from the administration of settlement of class actions of the
27 type at issue here. We anticipate a claims rate from 1 to 9 percent.

1 26. If after all settlement administration and notice expenses, all attorneys' fees and
2 expenses, all Valid Claims, and all Residual Cash Payments have been paid, there remains any
3 funds in the Settlement Fund those unclaimed funds shall be paid to the Legal Aid Association
4 of California. A.S.A., ¶ 60,

5 27. If the total amount of claims for reimbursement of Out-of-Pocket expenses and
6 lost time exceeds \$400,000, all Valid Claims shall be decreased *pro rata* such that the amount
7 paid to the Class equals \$400,000. A.S.A., ¶ 53.

8 28. In addition to the foregoing settlement benefits, Paysafe agrees to implement
9 and/or maintain certain reasonable steps to adequately secure its systems and environments,
10 including taking the steps listed in Exhibit 1 to the Motion. A.S.A., ¶ 63. Based upon undersigned
11 counsels' independent research and previous experience, these changes will benefit those
12 members of the Settlement Class whose information remains in Paysafe's possession, and also
13 other customers who do business with Paysafe in the future.

14 **III. NOTICE AND CLAIMS ADMINISTRATION**

15 29. Proposed Class Counsel propose the appointment of Kroll Settlement
16 Administration ("Kroll"), a nationally recognized and well-regarded class action settlement
17 administrator, as the Claims Administrator.

18 30. Proposed Class Counsel have proposed notice forms and a notice program that
19 comports with due process and provides the best notice practicable to Class Members.

20 31. Notice will be paid for by Defendant, from the aggregate settlement fund.

21 32. Notice will be given to the Settlement Class via individual notice, which will be
22 given primarily by mailing the Summary Notice (Exhibit 1 to the Settlement Agreement) to the
23 email and postal addresses associated with the accounts of Class Members.

24 33. A Long Notice (Exhibit 1 to the Settlement Agreement) will also be posted on the
25 settlement website, www.[TBD].com, along with other important documents such as the
26 Settlement Agreement and the motions for final approval and for attorneys' fees and expenses.
27 A.S.A., ¶ 67.

1 34. The notice documents are clear and concise and directly apprise Class Members of
2 all the information they need to know to make a claim or to opt-out or object to the Settlement.
3 Fed. R. Civ. P. 23(c)(2)(B).

4 35. Furthermore, a toll-free number with interactive voice response, FAQs, and an
5 option to speak to a live operator will be made available to address Class Members' inquiries.
6 A.S.A., ¶ 67.

7 36. The proposed Notices advise Settlement Class Members of the pendency of the
8 action, including: the nature of the action and a summary of the claims; the essential terms of
9 the Settlement; the rights of Settlement Class Members to share in the recovery or to request
10 exclusion from the Class; the rights of Settlement Class Members to object to the Settlement and
11 to appear before the Court at the Final Approval Hearing; and will provide the date, time, and
12 place of the Final Approval Hearing. The Notices inform Class Members that the Final Approval
13 Hearing date and time might change without further direct notice to them. If the Final Approval
14 Hearing is continued, we will ensure that the settlement website is updated with the new Final
15 Approval Hearing information. The Notices also contain information regarding Plaintiff's
16 anticipated application for an award of attorneys' fees, reimbursement of expenses and
17 Representative Plaintiff's Service Award as well as the claims process.

18 37. The timing of the Claims Process is structured to ensure that all Class Members
19 have adequate time to review the terms of the Settlement Agreement, compile documents
20 supporting their claim, and decide whether they would like to opt-out or object.

21 38. Class Members will have ninety (90) days from the deadline for completion of the
22 Notice mailing to submit their Claim Form to the Claims Administrator, either by mail
23 (postmarked on or before the Claims Deadline) or online. A.S.A., ¶¶ 5, 62.

24 39. The Claims Administrator is given the authority to assess the validity of claims and
25 to ask for additional documentation. A.S.A., ¶¶ 48, 50, 67. The Claims Administrator's
26 determination of the validity or invalidity of any such claims shall be binding, subject to a dispute
27 resolution process the claimant can pursue. A.S.A., ¶ 51. Electronic payments via Zelle, Venmo,
28

1 or PayPal, or physical payments in the form of checks for approved claims and for residual cash
2 payments will be distributed to all claimants as soon as practicable after the allocation and
3 distribution of funds are determined by the Settlement Administrator following the Effective
4 Date. S.A., ¶ 57.

5 40. Any Class Member who wishes to opt-out of the Settlement will have until ninety
6 (90) days after the Notice Deadline to provide written notice that they would like to be excluded
7 from the Settlement Class. A.S.A., ¶ 65.

8 41. Similarly, Class Members who wish to object to the terms of the Settlement
9 Agreement may do so in writing, and file such writing with the clerk of Court within ninety (*0)
10 days after the Notice Deadline. Class Members may also choose to object verbally at the Final
11 Approval Hearing. A.S.A., ¶ 66.

12 42. The estimated cost of notice and administration is \$399,000 if a supplemental media
13 campaign is necessary to ensure the maximum number of Class Members who can reasonably
14 be noticed receive notice. Based upon our experience, these costs are reasonable to effectively
15 administer the settlement in this case.

16 43. On March 3, 2023 the Court directed that the Parties propose a “cap” on Claims
17 Administration expenses. Based on the above described estimated cost of notice, the parties
18 propose a cap on Claims Administration of \$399,000. This amount looks to the estimated cost
19 of notice and administration and provides a small additional sum to allow for the possibility of
20 unanticipated additional expenses, such as higher than expected re-mailing and/or media notice
21 rates.

22 44. Kroll was selected after the Parties solicited blind, competitive bids from three
23 claims administrators. Kroll has a trusted and proven track record of supporting thousands of
24 class action administrations, with over 50 years of legal administration experience.

25 45. The parties did not discuss the payment of attorneys’ fees, costs, expenses and/or
26 service awards to Class Representative Plaintiff until after the substantive terms of the Settlement
27 had been agreed upon; other than that Plaintiff would submit a request to the Court for attorneys’
28

1 fees, costs, expenses, and service awards to be paid out of the Settlement Fund.

2 46. Defendant, in conjunction with Kroll, will pay the cost of serving notices under the
3 Class Action Fairness Act of 2005, 28 U.S.C. § 1715, within the timelines specified by 28 U.S.C.
4 § 1715(b).

5 47. Proposed Class Counsel also anticipate applying for a Representative Plaintiff
6 Service Award in the amount of \$15,000 for Representative Plaintiff in recognition of the time
7 and effort he expended pursuing claims that benefited the Settlement Class. *See* A.S.A., ¶ 84.

8 48. Representative Plaintiff has been vital in litigating this matter, including providing
9 his personal information to Proposed Class Counsel; providing his personal documents and
10 information for paper discovery, including multiple sets of interrogatories, requests for
11 production, and requests for admissions; preparing for his deposition; and undergoing a five (5)
12 hour long deposition that probed deeply into his private affairs. Furthermore, the Representative
13 Plaintiff has no conflicts with the Settlement Class; has participated actively in the case; and is
14 represented by attorneys experienced in class action litigation, including data breach cases. The
15 Representative Plaintiff has been personally involved in the case and supports the Settlement.

16 49. If the Court approves the Settlement, the parties request that the Court enter the
17 Final Approval Order and Judgment, releasing all claims that were or could have been asserted
18 against Defendant in this litigation. The proposed Order Granting Plaintiff's Renewed Motion
19 for Preliminary Approval of Class Action Settlement and providing for notice is attached to the
20 Motion as Exhibit 5.

21 **IV. RECOMMENDATION OF PROPOSED CLASS COUNSEL**

22 50. The Arnold Law Firm and Morgan & Morgan and the lawyers from those firms
23 who worked on this case each have considerable experience in class action litigation, including
24 the prosecution and resolution of consumer class actions and substantial experience with data
25 breach litigation. Our respective law firm resumes are attached hereto as Exhibits A and B.

26 51. To date, Class Counsel have accrued lodestar totaling \$620,128.20, with expenses
27 totaling \$27,648.42, including the drafting and filing of these preliminary approval filings.

1 52. Proposed Class Counsel’s collective decades of experience in similar types of
2 privacy and data protection practices provided substantive knowledge on the subject to enable
3 Proposed Class Counsel to represent Plaintiff’s and Class Members’ interests without expending
4 hundreds of hours and enormous financial resources to come up to speed on the subject area.

5 53. Proposed Class Counsel believe Plaintiff has a strong case for liability. With
6 respect to Plaintiff’s negligence claim, Proposed Class Counsel believe they will ultimately be
7 able to offer evidence that Defendant was negligent in failing to maintain reasonable and current
8 data security programs and practices, which led directly to the loss of Plaintiff’s and the Class’s
9 PII.

10 54. Proposed Class Counsel believe Plaintiff’s claims are viable and that Plaintiff has
11 a reasonably good chance of proving that Paysafe’s data security was inadequate and that, if he
12 establishes that central fact, Paysafe is likely to be found liable under at least some of the liability
13 theories and statutory and common law claims Plaintiff pled in his Complaint. While Plaintiff
14 believes he has strong claims and would be able to prevail, his success is not guaranteed. It is
15 “plainly reasonable for the parties at this stage to agree that the actual recovery realized and risks
16 avoided here outweigh the opportunity to pursue potentially more favorable results through full
17 adjudication.” *Dennis v. Kellogg Co.*, No. 09-cv-1786-L(WMc), 2013 WL 6055326, at *3 (S.D.
18 Cal. Nov. 14, 2013). “Here, as with most class actions, there was risk to both sides in continuing
19 towards trial. The settlement avoids uncertainty for all parties involved.” *Chester v. TJX Cos.*,
20 No. 5:15-cv-01437-ODW(DTB), 2017 WL 6205788, at *6 (C.D. Cal. Dec. 5, 2017). Given the
21 heavy obstacles and inherent risks Plaintiff faces with respect to the novel claims in data breach
22 class actions, including class certification, summary judgment, and trial, the substantial benefits
23 the Settlement provides favors preliminary approval of the Settlement.

24 55. The Settlement here more likely than not provides relief that will equal 100
25 percent of the compensable losses sustained by a Class Member who submits a Valid Claim.
26 Based on Proposed Class Counsel’s experience in prior similar cases, and with the claims rates
27 in those cases, the relief obtained should be sufficient to recompense the valid individual claims

1 filed by Class Members. Moreover, every Class Member will also receive a Residual Cash
2 Payment representing a *pro-rata* share of the Net Settlement Fund after all Valid Claims are
3 paid. Therefore, given the risks and uncertainties inherent with continued litigation, Proposed
4 Class Counsel believes this is an excellent result and provides a substantial benefit to the
5 Settlement Class.

6 56. Proposed Class Counsel, on behalf of Plaintiff, vigorously and aggressively
7 gathered all of the information that was available regarding Paysafe and the Data Incident—
8 including publicly-available documents concerning announcements of the Data Incident and
9 notice of the Data Incident to its customers. The parties also informally exchanged non-public
10 information concerning the Data Incident and the size of the Class in preparation for a successful
11 mediation. The parties also formally exchanged paper discovery including voluminous
12 documents and conducted three depositions, that of Plaintiff, and two 30(b)(6) depositions of
13 corporate representatives of Defendant addressing how the data breach occurred and was
14 discovered and also what steps Paysafe took to address the Data Incident.

15 57. In negotiating this Amended Settlement, Class Counsel have considered the
16 relative benefits of settlement in relation to the risks of litigation. We have also negotiated this
17 Amended Settlement to comply in all respects with the relevant case law and the Federal Rules
18 of Civil Procedure. Having worked on behalf of the putative class since the Data Incident was
19 first announced, evaluated the legal and factual disputes, and dedicated significant time and
20 monetary resources to this litigation, Proposed Class Counsel endorse the Settlement without
21 reservation. We believe that, considering the relative benefits of settlement at this time on the
22 terms offered in comparison to the risk of a less favorable outcome, taking into account the
23 considerable risk, expense and delay involved in obtaining an order certifying a consumer class
24 action such as this one, and the prospects of prevailing on a motion to compel arbitration and
25 dismiss, at trial and on appeal, the proposed Settlement meets the standards for preliminary
26 approval in that the Court will likely be able to approve the Settlement as fair, reasonable
27

1 adequate and certify the class for purposes of settlement. We respectfully request that the Court
2 grant preliminary approval so that notice can be issued to the Settlement Class.

3 We declare under penalty of perjury under the laws of the United States of America that
4 the foregoing is true and correct.

5 Executed this 2nd day of May, 2023, at Sacramento, California.

6
7 By: 
8 M. ANDERSON BERRY (SBN 262879)

9 Executed this 2nd day of May, 2023, at Tampa, Florida.

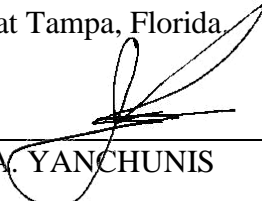
10
11 By: 
12 JOHN A. YANCHUNIS

EXHIBIT A



Arnold Law Firm Biography

Sacramento Office

865 Howe Avenue
Sacramento, CA 95825
916-777-7777
916.239.4778 (d)
415.595.3302 (c)

Los Angeles Office

6200 Canoga Ave, Ste 375,
Woodland Hills, CA 91367
Phone: 747.777.7748

justice4you.com



Founded in 1975 by Clayeo C. Arnold, the Arnold Law Firm is a litigation-oriented practice in Sacramento, California. In keeping with its founding principles, our firm consciously works for the interests of individual people and small businesses — not for large corporations or insurance companies.

The Arnold Law Firm prosecutes class action, mass tort, *qui tam*, product defect, employment, and personal injury cases. We pride ourselves on being a practice of trial lawyers, typically trying a minimum of ten cases per year to verdict. In addition to our practice throughout the state of California in both state and federal courts, we pursue class action, *qui tam* and multi-district litigation claims on a nationwide basis.

Our team of nine attorneys collectively encompass a broad, diverse professional background, including plaintiff contingency work, public entity representation, criminal defense, and civil defense. We have current and past board members of Capital City Trial Lawyers Association, as well as members of numerous prestigious professional organizations, including the American Board of Trial Advocates, American Association for Justice, Association of Trial Lawyers of America, and Consumer Attorneys of California.

Our firm's operating structure is based on teams directed towards specific practice areas. These teams regularly and intentionally collaborate and exchange information between their practice areas to improve the quality of representation for all of our clients.



Arnold Law Firm Biography

(continued)

Over four decades the Arnold Law Firm has developed a respected and extensive network of co-counsel and experienced contract counsel to rapidly expand our capabilities as necessary on an *ad hoc* basis (e.g., document review). We employ a robust staff of highly qualified, experienced assistants and paralegals to ensure that attorney time is spent in the most efficient manner possible.

The Arnold Law Firm employs technology to increase productivity, resulting in lower hourly billing, even though adverse parties eventually pay those bills. The firm increases efficiencies by using template software, client management software, and secure internet-based client management for mass tort or multi-plaintiff litigation. We also invest in appropriate billing and tracking software for contemporaneous hourly record keeping.

The Arnold Law Firm places substantial value on representing clients in a manner that is both effective and courteous. Integrity with clients, the courts, and adverse counsel are all considered to be as indispensable as successful results.

Our highly accomplished counsel has a long history of successfully handling class actions across a range of industries, including data breach cases.



M. Anderson Berry Biography



The Arnold Law Firm has a proven track record of success and the ability to work efficiently and cooperatively with others. In addition, our firm has the availability and resources necessary to litigate complex class actions.

M. Anderson Berry

M. Anderson Berry heads the data breach complex litigation and *qui tam* practices for the Arnold Law Firm. He brings substantial experience in complex litigation matters with a history of litigating in an efficient and practical manner, including Lead Class Counsel, Co-Lead Class Counsel, and Plaintiff's Executive Committee.

Mr. Berry has an extensive background in privacy and consumer/government fraud litigation, actively participating in a currently sealed False Claims Act case involving widespread cybersecurity fraud upon the United States, and the class action litigations filed in federal courts across the nation, set out below.

Mr. Berry was first selected as the Northern California Super Lawyers Rising Star in 2015 in the field of complex civil litigation.

Before joining the Arnold Law Firm in 2017, Mr. Berry worked as an Assistant United States Attorney for the Eastern District of California. As part of the Affirmative Civil Enforcement unit, Mr. Berry handled a wide variety of complex cases, recovering millions of dollars for the United States.

Before working for the Department of Justice, Mr. Berry practiced at one of the world's largest law firms, Jones Day, where he represented clients in international arbitration and complex commercial litigation, including defending class action allegations.



M. Anderson Berry Biography

(continued)

Mr. Berry attended the University of California, Berkeley, where he majored in English and graduated with highest honors. Anderson was inducted into the Phi Beta Kappa Honor Society and served as President of the English Undergraduate Associate.

After working as a private investigator for both criminal and civil investigations in the San Francisco Bay Area, Anderson graduated from U.C. Berkeley School of Law, where he was a Senior Editor for both the *Berkeley Journal of Criminal Law* and *Berkeley Journal of International Law*.

He was admitted to the California Bar in 2009 and is admitted to practice in the Northern, Eastern, Southern and Central Districts of California. Mr. Berry is also admitted to practice in the Northern District of Illinois, the Eastern District of Michigan and the Southern District of Indiana.

Mr. Berry was raised in Moraga, California.

Select Data Breach Cases

In Re: Snap Finance Data Breach, 2:22-cv-00761-TS-JCB
(D.UT.) (Co-Lead Counsel)

Holmes v. Elephant Insurance Company, et al., 3:22-cv-
00487-JAG (E.D. VA.) (Co-Lead Counsel);

In Re: Arthur J. Gallagher Data Breach Litigation, 1:21-cv-
-04056 (N.D.Ill.) (Co-Lead Counsel);

In Re: CaptureRx Data Breach Litigation, 5:21-cv-00523
(W.D.TX.)(Co-Lead Counsel) (settled);

Rossi v. Claire's Stores, 1:20-cv-05090 (N.D. Ill.) (Co-Lead
Counsel) (settled);

Desue v. 20/20 Eye Care Network, Inc. et al., 0:21-cv-
61275 (S.D. Fla.) (Executive Comm.);

*In re: Mednax Services, Inc. Customer Data Security
Breach Litigation*, 21-MD-02994 (S.D. Fl.) (Executive
Comm.);



**M. Anderson Berry
Biography**

(continued)

Hashemi et al. v. Bosley, Inc., 2:21-cv-00946 (CD. Cal.) (Class Counsel) (settled);

Heath et al. v. Insurance Technologies Corp et al., 3:21-cv-01444 (N.D. Tex.) (Class Counsel) (settled);

Gilbert v. AFTRA Retirement Fund et al, 1:20-cv-10834-ALC (S.D.N.Y.) (Co-Lead Counsel);

Carrera Aguallo et al. v. Kemper Corporation et al., 1:21-cv-01883 (N.D. Ill.) (Class Counsel) (settled);

Ahn et al. v. Herff Jones, LLC, 1:21-cv-01381 (S.D. Ind.) (settled);

Bitmouni v. Paysafe Limited, 3:21-cv-00641-JCS (N.D. Cal.);

Edke v. Belden, Inc., 2021CH00047 (E.D.Mo.);

Marcaurel et al. v. USA Waste-Management Resources, LLC et al., 4:21-cv-02027 (S.D. Tex.) (settled).

Gaston v. FabFitFun, Inc., 2:20-cv-09534 (C.D. Cal.) (Class Counsel) (settled);

Hamid et al. v. Canon, U.S.A., Inc. et al. 1:20-cv-06380-AMD-SJB (E.D.N.Y.);

In Re: Ambry Genetics Data Breach Litigation, 8:20-cv-00791 (C.D. Cal.) (settled);

In Re: Hanna Andersson and Salesforce.com Data Breach Litigation, 3:20-cv-00812-EMC (N.D. Cal.) (Co-Lead Class Counsel) (settled);

In Re: Morgan Stanley Data Security Litigation, 1:20-cv-05914 (S.D.N.Y.) (settled);

Pfeiffer et al. v. RadNet, Inc., 2:20-cv-09553-RGK-SK (C.D. Cal.)(Class Counsel) (settled);

Thomsen v. Morley Companies, Inc., 1:22-cv-10271-TLL (E.D. Mi.) (settled);

In re Lakeview Loan Servicing Data Breach Litigation, 1:22-cv-20955-DPG (S.D. Fl.);

Myron Schellhorn et al v. Timios, Inc., 2:21-cv-08661-VAP-JC (C.D. Ca.) (settled).

EXHIBIT B



Morgan & Morgan is a leading civil trial law firm representing consumers and commercial clients nationwide. With over 800 lawyers, and more than 3,000 non-lawyer employees, Morgan & Morgan is the largest plaintiffs' firm in the nation. Morgan & Morgan maintains over offices throughout the United States. Among its lawyers are former state attorney generals and present and former members of various state legislatures.

Morgan & Morgan has a dedicated Complex Litigation Group staffed with lawyers, paralegals, and retired FBI agents serving as investigators committed to representing consumers in complex litigation, MDL proceedings and class action cases throughout the country. It has achieved many remarkable results in class litigation, including the settlement of *In re Black Farmers Discrimination Litigation*, no. 08-0511 (D.C. Oct. 27, 2017), where one of its partners served as co-lead. The case resulted in a settlement with the United States Government in the amount of \$1.2 billion for African American farmers who had been systematically discriminated against on the basis of race, in violation of the Fifth Amendment to the United States Constitution, the Equal Credit Opportunity Act, Title VI of the Civil Rights Act, and the Administrative Procedure Act. Morgan & Morgan has assembled a talented team of lawyers:

John A. Yanchunis leads the class action section of the law firm. His practice—which began after completing a two-year clerkship with United States District Judge Carl O. Bue, Jr., S. D. Tex.—has concentrated on complex litigation and spans over 40 years, including consumer class actions for more than two-thirds of that time. As a result of his extensive experience in class litigation, including privacy and data-breach litigation, he regularly lectures nationally and internationally at seminars and symposiums regarding class litigation and privacy litigation.

He has served as lead, co-lead, and class counsel in numerous national class actions, including multi-district litigation, involving a wide range of subjects affecting consumers, including antitrust, defective products, life insurance, annuities, and deceptive and unfair acts and practices. In 2014, he was recognized by the National Law Journal as a trailblazer in the area of privacy litigation, and in 2020, he was recognized by LAW 360 for the second year in a row as one of 4 MVPs in the United States in the area of privacy and cyber security litigation. For his work in the area of privacy litigation, he was awarded lawyer of the year in the state of Florida

by The Daily Business Review.

As a result of his experience in insurance and complex litigation, beginning in 2005, he was selected by Tom Gallagher, the Chief Financial Officer for the state of Florida and a member of the Florida Cabinet, to serve as lead counsel for the Florida Department of Financial Services and the Florida Department of Insurance Regulation (the insurance regulators of Florida) in their investigations of the insurance industry on issues concerning possible antitrust activity and other possible unlawful activities regarding the payment of undisclosed compensation to insurance brokers. He served as lead regulator counsel and worked with a core group of state Attorneys General from the National Association of Attorneys General, which were selected to conduct the investigations. The insurance regulator for Florida was the only insurance regulator in the group. The litigation that was filed and the related investigations netted millions of dollars in restitution for Florida consumers and resulted in significant changes in the way commercial insurance is sold in Florida and across the country.

During his career, he has tried numerous cases in state and federal courts, including one of the largest and longest insurance coverage cases in U.S. history, which was filed in 1991 by the Celotex Corporation and its subsidiary, Carey Canada, Inc. During the seventeen years the case pended, he served as lead counsel for several insurance companies, regarding coverage for asbestos and environmental claims. The case was tried in three phases over several years beginning in 1992. He was also lead counsel for these parties in the subsequent appeals that followed a judgment in favor of his clients.

Mr. Yanchunis began his work in privacy litigation in 1999 with the filing of *In re Doubleclick Inc. Privacy Litigation*, 154 F. Supp. 2d 497 (S.D.N.Y. 2001), alleging privacy violations based on the placement of cookies on hard drives of internet users. Beginning in 2003, he served as co-Lead Counsel in the successful prosecution and settlement of privacy class action cases involving the protection of privacy rights of more than 200 million consumers under the Driver's Protection Privacy Act (DPPA) against the world's largest data and information brokers, including Experian, R.L. Polk, Acxiom, and Reed Elsevier (which owns Lexis/Nexis). See *Fresco v. Automotive Directions, Inc.*, No. 03-61063-JEM (S.D. Fla.), and *Fresco v. R.L. Polk*, No. 07-cv-60695-JEM (S.D. Fla.). Subsequently, I also served as co-Lead Counsel in the DPPA class cases, *Davis v. Bank of America*, No. 05-cv-80806 (S.D. Fla.) (\$10 million class settlement), and *Kehoe v. Fidelity Fed. Bank and Trust*, No. 03-cv-80593 (S.D. Fla.) (\$50 million class settlement).

He has been appointed and served in leadership positions a number of multidistrict litigation in the area of privacy and data breaches: *In re: Capital One Consumer Data Security Breach Litigation*, No. 1:19-MD-2915-AJT (E.D. Va.) (settlement for \$190,000,000 preliminarily

approved) *In re Yahoo! Inc. Customer Data Security Breach Litigation*, No. 5:16-MD-02752-LHK (N.D. Cal.) (“Yahoo”) (Lead Counsel) (Court approved \$117,500,000.00 common fund settlement for approximately 194 million US residents and 270,000 Israeli citizens); *In re The Home Depot, Inc. Consumer Data Sec. Data Breach Litig.*, No. 1:14-md-02583-TWT (N.D. Ga.) (co-Lead Counsel) (final judgment entered approving a settlement on behalf of a class of 40 million consumers with total value of \$29,025,000); *In Re: Equifax, Inc. Customer Data Security Breach Litigation*, 1:17-md-2800-TWT (N.D. Ga.) (member of the Plaintiffs’ Steering Committee) (final judgment entered approving \$380.5 million fund for 145 million consumers); *In re: U.S. Office of Personnel Management Data Security Breach Litigation*, 1:15-mc-01394-ABJ (D.D.C.) (“OPM”) (member of the Executive Committee) (motion for preliminary approval of a \$60,000,000 common fund); *In re Target Corp. Customer Data Sec. Breach Litig.*, MDL No. 2522 (D. Minn.) (Executive Committee member) (final judgment approving a settlement on behalf of a class of approximately 100 million consumers).

His court-appointed leadership experience in non-MDL, data breach class actions is likewise significant, and to just name a few : *Schmidt, et al., v. Facebook, Inc.*, No. 3:18-cv-05982 (N.D. Cal.) (Co-Lead Counsel) (“Facebook”) (class certified for 8 million residents , subsequently settlement of the class was approved by the court); *Walters v. Kimpton Hotel & Restaurant*, No. 3:16-cv-05387 (N.D. Cal.) (“Kimpton”) (Lead Counsel) (class action settlement final approval order entered July 11, 2019); and *In re: Arby’s Restaurant Group, Inc. Data Security Litigation*, Nos. 1:17-cv-514 and 1:17-cv-1035 (N.D. Ga.) (co-Liaison Counsel) (final approval of a class settlement entered June 6, 2019); and *Jackson, et al., v. Wendy’s International, LLC*, No. 6:16-cv-210-PGB (M.D. Fla.) (final approval of a class settlement entered February 26, 2019); *Henderson v. Kalispell Regional Healthcare*, No. CDV-19-0761 (Montana Eighth Judicial Court – Cascade County) (final approval of class settlement entered January 5, 2021); *In re: Citrix Data Breach Litigation*, No. 19-cv-61350 (S.D. Fla.) (preliminary approval of class action settlement entered on January 26, 2021); *Kuss v. American HomePatient, Inc.*, et al., 18-cv-2348 (M.D. Fla.) (final approval of class action settlement entered on August 13, 2020); *Fulton-Green v. Accolade, Inc.*, 18-cv-274 (E.D. Pa.) (final approval of class action settlement entered September 23, 2019); *Nelson v. Roadrunner Transportation Systems, Inc.*, 18-cv-7400 (N.D. Ill.) (final approval of class action settlement entered September 15, 2020).

His experience in these major data breach matters extends far beyond simply briefing threshold issues and negotiating settlements. Rather, he has personally deposed dozens of corporate representatives, software engineers, cyber professionals and CISOs in major data breach cases such as Capital One, Yahoo, Kimpton, and Facebook. In addition, he has defended experts used in these cases and also deposed defense liability and damage experts.

Presently he leads his firm’s efforts in two major class cases pending against Google for

data misuse.

As result of his experience in the area of class litigation and ethics, he has served as an expert for The Florida Bar on ethical issues arising in class action litigation. He is a frequent lecturer on privacy and class litigation nationally and internationally, including at international conferences, having presented at the University of Haifa's 2019 Class Action Conference, in Haifa, Israel, attended by lawyers, judges and law professors from around the world. In 2020 he lectured on data privacy in Mexico, and in November 2020 and 2021 he presented on class action issues to an international group of lawyers, judges and professors at a symposium in London sponsored by the London Law Society. He is schedule to speak on class action issues in 2022 at two different symposiums in Amsterdam, and two seminars on privacy and cyber security issues in the United States .

While at the University of Florida Mr. Yanchunis was a member of Florida Blue Key and Omicron Delta Kappa. He received his Juris Doctor degree from the South Texas College of Law in 1980, where he graduated magna cum laude. During law school, Mr. Yanchunis was a member of the Order of the Lytae, Associate Editor-in-Chief and Technical Editor of the South Texas Law Journal.

Michael F. Ram. Mr. Ram is a consumer class action lawyer with 40 years of experience. He graduated cum laude from Harvard Law School in 1982. He has co-tried several class action trials and frequently lectures on class trials. In 1992 he was a co-recipient of the Trial Lawyer of the Year Award given by Trial Lawyers for Public Justice for *National Association of Radiation Survivors v. Walters* No. 83-c-1861 (N.D. Cal.) (tried to class-wide judgment on remand from Supreme Court).

From 1993 through 1997, Mr. Ram was a partner with Lief, Cabraser, Heimann and Bernstein where he represented plaintiffs in several major class actions, including: *Cox v. Shell*, Civ. No 18,844 (Obion County Chancery Court, Tenn.) national class of six million owners of property with defective polybutylene plumbing systems; *In re Louisiana-Pacific Inner-Seal Litigation*, No. 95-cv-879 (D. Oregon) (co-lead counsel) national class of homeowners with defective siding; *ABS Pipe Litigation*, Cal. Judicial Council Coordination Proceeding No. 3126 (Contra Costa County) national class of homeowners.

In 1997, Mr. Ram founded Levy, Ram & Olson which became Ram & Olson and then Ram, Olson, Cereghino & Kopczynski. He was co-lead counsel in many consumer class actions including a national class of half a million owners of dangerous glass pane gas fireplaces in *Keilholtz et al. v. Superior Fireplace Company*, No. 08-cv-00836 (N.D. Cal. 2008). He was co-lead counsel for plaintiffs in *Chamberlan v. Ford Motor Company*, No. 03-cv-2628 (N.D. Cal.), a

class action involving defective intake manifolds that generated four published opinions, including one by the Ninth Circuit, 402 F.3d at 950, and settled one court day before the class trial. He was also co-counsel for plaintiffs in a number of other consumer class actions, including: *In re General Motors Corp. Product Liability Lit.* MDL No. 1896 (W.D. Wash.) (defective speedometers); *Richison v. American Cemwood Corp.*, San Joaquin Superior Court Case No. 005532 (defective Cemwood Shakes); *Williams v. Weyerhaeuser*, San Francisco Superior Court Case No. 995787 (defective hardboard siding); *Naef v. Masonite*, Mobile County, Alabama Circuit Court Case No. CV-94-4033 (defective hardboard siding on their homes); *Hanlon v. Chrysler Corp.*, 150 F.3d 1011 (9th Cir. 1998) (approving class action settlement); *McAdams v. Monier, Inc.* (2010) 182 Cal. App. 4th 174 (reversing denial of class certification in consumer class action involving roof tiles); *Gardner v. Stimson Lumber Co.* (King County Wash. No. 2-17633-3-SEA) (defective siding); *Rosenberg v. U-Haul* (Santa Cruz Superior Ct. No. CV-144045 (certified consumer class action for false and deceptive conduct; tried successfully to judgment); *In re Google Buzz User Privacy Litigation*, No. 10-cv-00672-JW (N.D. Cal. 2011) (international class action settlement for false and deceptive conduct); *Whitaker v. Health Net of California, Inc., and International Business Machines Corp.*, No. 2:11-cv-0910 KJM DAD (E.D. Cal.) (electronic privacy class action under the California Confidentiality of Medical Information Act); and *In re Kitec Plumbing System Products Liab. Litigation MDL No 2098*, N.D. Texas, No. 09-MD-2098 (MDL class action involving claims concerning defective plumbing systems).

From 2017 to 2020, Mr. Ram was a partner at Robins Kaplan LLP. In August, 2020, Mr. Ram joined Morgan & Morgan to open a San Francisco office for them. He is currently co-lead counsel in numerous consumer class actions, including *Gold v. Lumber Liquidators*, N.D. Cal. No. 14-cv-05373-RS, a certified multistate class action involving bamboo floors, and *Fowler v. Wells Fargo*, N.D. Cal. No. 3:17-cv-02092-HSG, a class action involving interest charges that settled for \$30 million. In addition, he is also currently serving on the Plaintiffs' Steering Committee in the *In re Philips CPAP MDL Litigation*, where he is co-chair of the Law and Briefing Committee.

Jean Sutton Martin. Ms. Martin presently serves by appointment as interim co-lead counsel in *In re Morgan Stanley Data Security Litigation*, 1:20-cv-05914 (S.D.N.Y.) (\$68 million settlement for 15 million class members), *Combs, et al. v. Warner Music Group*, Case No. 1:20-cv-07473-PGG (S.D.N.Y.), *In Re: Ambry Genetics Data Breach Litigation*, No. 20-cv-00791 (C.D. Cal.), and *Johnson, et al. v. Yuma Regional Medical Center*, 2:22-cv-01061-SMB (D. Ariz.). She also serves as a member of the Plaintiffs' Steering Committee for the cases proceeding against LabCorp, Inc. in *In re: American Medical Collection Agency Data Breach Litigation*, 19-md-2904 (D. N.J.). She is a member of the Plaintiffs' Steering Committee in *In re: Smith & Nephew Birmingham Hip Resurfacing (BHR) Hip Implant Products Liability Litigation*, No. 17-md-2775 (D. Md.) and *In re: Allergan Biocell Textured Breast Implant Products Liability Litigation*, No. 19-md-2921 (D. N.J.).

In a case in which she serves as interim co-lead counsel, Ms. Martin argued a motion for class certification which resulted in the first order in the country granting Rule 23(b)(3) certification in a consumer payment card data breach. *In re Brinker Data Incident Litig.*, No. 3:18-CV-686-TJC-MCR, 2021 WL 1405508 (M.D. Fla. Apr. 14, 2021).

She has served in leadership positions in many consumer class actions and consolidated proceedings in federal courts around the country, including *inter alia*: *Aguallo, et al. v. Kemper Corp., et al.*, Case No.: 1:21-cv-01883 (N.D. Ill.) (data breach settlement valued at over \$17.5 million) (co-lead counsel); *Gordon, et al. v. Chipotle Mexican Grill, Inc.*, No. 17-cv-01415 (D. Colo.) (data breach) (co-lead counsel); *Linnins v. HAECO Americas, Inc., et al.*, No. 16-cv-486 (M.D.N.C.) (employee data disclosure) (co-lead counsel); *Torres v. Wendy's International, LLC*, No. 6:16-cv-210 (M.D. Fla.) (data breach) (class counsel); *Fuentes, et al. v. UniRush, LLC, et al.*, No. 1:15-cv-08372 (S.D.N.Y.) (disruption in servicing of financial accounts) (co-lead counsel); *Lewis, et al., v. Green Dot Corp., et al.*, No. 2:16-cv-03557 (C.D. Cal.) (disruption in servicing of financial accounts) (class counsel); *Brady, et al. v. Due North Holdings, LLC, et al.*, No. 1:17-cv-01313 (S.D. Ind.) (employee data disclosure) (class counsel); *Foreman v. Solera Holdings, Inc.*, No. 6:17-cv-02002 (M.D. Fla.) (employee data disclosure) (class counsel); *In Re: Outer Banks Power Outage Litigation*, No. 4:17-cv-141 (E.D.N.C.) (extended island power outage due to defective construction practices) (class counsel); and, *McCoy v. North State Aviation, LLC, et al.*, No. 17-cv-346 (M.D.N.C.) (WARN Act violations) (class counsel).

In addition to consumer class actions, Ms. Martin has practiced in the areas of mass tort and catastrophic personal injury litigation. Prior to joining Morgan and Morgan, Ms. Martin ran her own law firm concentrating in consumer class actions and mass tort litigation. She also has served as an adjunct professor at Wake Forest University School of Law.

Ms. Martin received her Juris Doctor degree from Wake Forest University School of Law in 1998, where she served as Editor-in-Chief of the *Wake Forest Law Review*. She obtained eDiscovery certification from the eDiscovery Training Academy at Georgetown Law Center in 2017. Ms. Martin graduated from Wake Forest University with a Bachelor of Science in Mathematical Economics in 1989. She earned a Master of International Business from the University of South Carolina in 1991.

Ms. Martin has been honored with the prestigious “AV” rating by Martindale-Hubbell. In 2016, Ms. Martin was selected by her peers as the foremost Litigation attorney in the State of North Carolina for *Business North Carolina Magazine's Legal Elite*, gaining membership in the *Legal Elite* Hall of Fame. In 2015, she was inducted as a Fellow of the Litigation Counsel of America, a prestigious trial lawyer honorary society comprised of less than one-half of one percent of American lawyers. Fellows are selected based upon excellence and

accomplishment in litigation, both at the trial and appellate levels, and superior ethical reputation. For upholding the highest principles of the legal profession and for outstanding dedication to the welfare of others, Ms. Martin has also been selected as a Fellow of the American Bar Foundation, an honorary legal organization whose membership is limited to one third of one percent of lawyers in each state. Since 2012, she has been selected to the Super Lawyers list for North Carolina in the areas of mass torts and class actions, with repeated selection to the Top 50 Women North Carolina.

Before entering law school, Ms. Martin worked with the sales finance team of Digital Equipment Company in Munich, Germany developing sales forecasts and pricing models for the company's expansion into the Eastern European market after the fall of the Berlin wall. She also worked as a practice management consultant for a physician consulting group and as a marketing manager for an international candy manufacturer where her responsibilities included product development, brand licensing, market research, and sales analysis.

Ms. Martin has been a presenter on a variety of topics related to class actions including: *Fantasy Gaming Webinar: FanDuel and DraftKings Litigation*, AAJ (December 2015); *Thinking Outside the Black Box: Drug Cases in the Class Context*, Mass Torts Made Perfect (October 2019); *Mass Torts and MDLs*, Western Alliance Class Action Forum (March 2020); *Consumer Class Actions*, Western Alliance Class Action Forum (March 2022); *How to Maximize Efficiency in Document Production and Review*, Mass Torts Made Perfect (April 2022).

Ms. Martin is a member of the North Carolina bar, having been admitted in 1998. She is also admitted to practice before the United States Supreme Court, the United States Court of Federal Claims, the United States Court of Appeals for the Fourth Circuit, the Western, Middle, and Eastern Districts of North Carolina, and the United States District Court of Colorado.

Marcio Valladares. Mr. Valladares was born in Managua, Nicaragua and immigrated to the United States during Nicaragua's civil war. In 1990, Marcio obtained a Bachelor of Science degree in psychology from the University of Florida. In 1993, he obtained his Juris Doctor degree, *magna cum laude*, from Florida State University. He is pursuing a Masters in Law (LL.M.) degree from Columbia University, focusing on federal and comparative law.

Before joining Morgan & Morgan, Marcio worked in both the public and private sectors. He served as a judicial law clerk to the Honorable Steven D. Merryday, United States District Judge, Middle District of Florida, and then served as a judicial law clerk to the Honorable Susan H. Black, United States Circuit Court Judge, Court of Appeals for the Eleventh Circuit. Marcio served as an Assistant United States Attorney for the Middle District of Florida. In the private sector, Marcio practiced commercial litigation and insurance defense at Holland & Knight LLP.

Marcio also worked as in-house counsel for the Mayo Clinic. Marcio is fluent in English and Spanish.

Marie Noel Appel. Ms. Appel has dedicated her career to representing consumers in both individual and class action cases involving claims under consumer protection laws and other statutory and common law claims. She earned a B.A. in French from San Francisco State University in 1992 and graduated from University of San Francisco School of Law in 1996.

For most of her career, Ms. Appel has been in private practice litigating class claims related to defective products, mortgage fraud/Truth in Lending violations, unfair business practices relating to manufactured home sales, interest overcharges by the United States on military veterans' credit accounts, and statutory violations by the United States relating to offset of debts beyond the limitations period.

From 2012 to 2019, Ms. Appel left private practice to become the Supervising Attorney of the Consumer Project at the Justice & Diversity Center of the Bar Association of San Francisco which provides free legal services to low-income persons facing consumer issues.

In April 2019, Ms. Appel returned to private practice as Counsel at Robins Kaplan, LLP, then joined Morgan & Morgan in August 2020 where she focuses on class action litigation.

In addition to her legal practice, Ms. Appel is an Adjunct Professor at Golden Gate University School of Law in San Francisco where she teaches legal research and writing, and from 2011 to 2018 supervised students at the Consumer Rights Clinic, in which students performed legal work at the Justice & Diversity Center's Consumer Debt Defense and Education Clinics.

Ms. Appel has a long history of pro bono involvement and currently is a regular volunteer at the Community Legal Assistance Saturday Program, a monthly free legal clinic sponsored by the Alameda County Bar Association. Ms. Appel provides trainings to San Francisco Bay Area legal aid attorneys regarding consumer collection defense and related matters, focusing recently on defense of lawsuits against low-income individuals for unpaid back rent resulting during the COVID-19 pandemic. In the past, Ms. Appel has provided pro bono representation for numerous low-income consumers facing debt collection lawsuits, and volunteered regularly at free legal clinics through the Justice & Diversity Center in San Francisco which, on multiple years, designated her as one of the Outstanding Volunteers in Public Service.

Ms. Appel is admitted to practice in the Ninth Circuit Court of Appeals, and United States District Courts in the Central District of California; the Eastern District of California; the Northern District of California; and the Southern District of California.

Kenya Reddy. Ms. Reddy represents consumers in class action litigation. She graduated from Duke University in 1997 with a degree in political science. In 2000, she received her law degree from the University of Virginia School of Law. Prior to joining Morgan & Morgan, Ms. Reddy was a shareholder at Carlton Fields, P.A., where her primary areas of practice were antitrust, complex civil litigation, class action defense, and business litigation. She also has experience in including labor and employment, products litigation, ERISA and employee benefits law, insurance, healthcare, and securities litigation.

Ms. Reddy has served as a law clerk for the Honorable Charles R. Wilson, United States Circuit Court Judge, Court of Appeals for the Eleventh Circuit, the Honorable Anne C. Conway, former Chief Judge of the United States District Court for the Middle District of Florida, the Honorable Mary S. Scriven, United States District Judge, Middle District of Florida, and the Honorable Karla R. Spaulding, United States Magistrate Judge, Middle District of Florida.

Ms. Reddy was a guest speaker in January 2019 at HarrisMartin's Marriott Data Breach Litigation Conference on the topic of standing in data breach cases. In October 2019, she presented on the topic of third-party litigation funding at the Mass Torts Made Perfect Conference.

Ms. Reddy is admitted to practice in the Northern, Middle, and Southern Districts of Florida.

Ryan Maxey. Mr. Maxey grew up in Tampa, Florida. He attended the University of South Florida, where he obtained Bachelors Degrees in Computer Science and Philosophy. During and after his undergraduate education, Mr. Maxey developed software and databases for Amalie Oil Company, an automotive lubricant manufacturer located in the Port of Tampa. Mr. Maxey later attended law school at the University of Florida, graduating *order of the coif* in 2008.

From 2008 to 2011, Mr. Maxey served as a judicial law clerk to the Honorable Elizabeth A. Jenkins, United States Magistrate Judge, University of Florida. Mr. Maxey then worked at one of the country's largest law firms, Greenberg Traurig, for four years. In 2015, Mr. Maxey joined Morgan & Morgan's Business Trial Group as a lead attorney handling a variety of business litigation matters. Mr. Maxey later started his own law practice, litigating claims related to breach of contract, trade secret misappropriation, the FLSA, the FDCPA, and premises liability.

Mr. Maxey was admitted to the Florida Bar in 2008 and is also admitted to practice in the

Middle District of Florida and the Southern District of Florida.

Ryan J. McGee. Mr. McGee was born and raised in Tampa, Florida. He studied business economics and history at the University of Florida, where he was a teaching assistant for technology classes in the business school, and received his law degree from Stetson University College of Law, where he was an editor on the *Stetson Law Review*, a research assistant for antitrust and consumer protection laws, and a teaching assistant for Stetson's trial advocacy program.

Ryan began his legal career as a state-appointed prosecutor, where he tried over 50 jury trials to verdict, mostly felonies, as well as a special prosecutor appointed to investigate police officers' deadly use-of-force and corruption within various law enforcement agencies. Ryan also served as a law clerk for two years for the Honorable Elizabeth A. Kovachevich, the former Chief United States District Judge, Middle District of Florida. Before joining Morgan & Morgan, Ryan's practice involved complex business disputes, antitrust, trade secret, data security, and class action investigations and defense-side litigation in state and federal courts across the country.

Since shifting his focus entirely to consumer class action representation, Ryan has been selected as a Florida Super Lawyer Rising Star in 2018 and 2019 in the field of Class Actions, and has extensive privacy and consumer fraud class action experience, having actively participated in the following litigations: *Brown v. Google LLC*, No. 4:20-cv-03664-YGR (N.D. Cal.); *Rodriguez v. Google LLC*, No. 3:20-cv-4688-RS (N.D. Cal.); *In re Morgan Stanley Data Security Litigation*, 1:20-cv-05914 (S.D.N.Y.); *In re: Capital One Consumer Data Security Breach Litigation*, No. 1:19-MD-2915-AJT (E.D. Va.); *Schmidt, et al., v. Facebook, Inc.*, No. 3:18-cv-05982 (N.D. Cal.); *In re Google Plus Profile Litigation*, No. 5:18-cv-06164 EJD (N.D. Cal.); *Kuss v. American HomePatient, Inc., et al.*, No. 8:18-cv-02348 (M.D. Fla.); *In re Equifax, Inc. Customer Data Sec. Breach Litigation*, No. 1:17-md-02800 (N.D. Ga.); *Morrow v. Quest Diagnostics, Inc.*, No. 2:17-cv-0948(CCC)(JBC) (D.N.J.); *In re Yahoo! Inc. Customer Data Sec. Breach Litig.*, No. 16-md-02752-LHK (N.D. Cal.); *In re: U.S. Office of Personnel Management Data Security Breach Litigation*, 1:15-mc-01394-ABJ (D.C.);

Ryan was admitted to the Florida Bar in 2009 and is also admitted to practice in the Northern, Middle, and Southern Districts of Florida.

Patrick Barthle. Mr. Barthle was born and raised in Dade City, Florida. He attended the University of Florida where he was admitted to the Honors Program and graduated, *cum laude*, with a double major in History and Criminology in 2009. While at UF, Patrick was inducted into the Phi Beta Kappa Honor Society and served as President of the Catholic Student Center. Patrick attended Washington and Lee University School of Law, graduating *summa cum laude* in 2012; where he was a Lead Articles Editor for the Wash. & Lee Law Review, a member of the Order of

the Coif and the Phi Delta Phi Legal Honor Society, and President of the W&L Law Families organization.

Before joining Morgan & Morgan in 2015, Patrick worked at one of the country's largest law firms, Greenberg Traurig, LLP, and then served as a judicial law clerk for two years to the Honorable Mary S. Scriven, United States District Judge, Middle District of Florida. Patrick has extensive privacy and consumer fraud class action experiencing, having actively participated in the following litigations: *In re: Capital One Consumer Data Security Breach Litigation*, No. 1:19-MD-2915-AJT (E.D. Va.); *In re: U.S. Office of Personnel Management Data Security Breach Litigation*, 1:15-mc-01394-ABJ (D.C.); *Torres v. Wendy's International, LLC*, No. 6:16-cv-210 (M.D. Fla.); *Morrow v. Quest Diagnostics, Inc.*, No. 2:17-cv-0948 (Dist. NJ); *In Re: Equifax, Inc. Customer Data Security Breach Litigation*, 1:17-md-2800-TWT (N.D. Ga.); *In re The Home Depot, Inc. Customer Data Security Data Breach Litigation*, No. 1:14-md-02583-TWT (N.D. Ga.); *In re Yahoo! Inc. Customer Data Sec. Breach Litig.*, 16-md-02752-LHK (N.D. Cal.); and *Finerman v. Marriott Ownership Resorts, Inc.*, Case No.: 3:14-cv-1154-J-32MCR (M.D. Fla.).

Patrick was selected as a Florida Super Lawyer Rising Star in 2019 in the field of Class Actions. He is also active in speaking on privacy and class action topics, having spoken in June 2018, at the NetDiligence Cyber Risk Summit on the topic of Unauthorized Use of Personal Data; in November 2018 at the American Association for Justice's Advanced 30(b)(6) Seminar, on the topic of 30(b)(6) Depositions in in Data Breach Cases; and in January 2019 at HarrisMartin's Marriott Data Breach Litigation Conference on that topics of damage models and settlements in data breach cases; and Rule 23(c)(4) classes at the Mass Torts Made Perfect conference.

Mr. Barthle was admitted to the Florida Bar in 2012 and is also admitted to practice in the Middle District of Florida, the Southern District of Florida, and the District of Colorado.

Francesca Kester. Ms. Kester was born and raised in Scranton, Pennsylvania. She attended Marywood University, where she graduated with a major in English Literature, and The Pennsylvania State University's Dickinson School of Law, where she received her Juris Doctor degree in 2017. While at Dickinson, Ms. Kester competed in the American Bar Association's National Appellate Advocacy Competition, where she was awarded the highest honor for her legal brief writing, and the Texas Young Lawyer's National Trial Competition, where she finished as a regional finalist. Ms. Kester also served as Executive Chair of the Dickinson Law Moot Court Board, Founder of the Dickinson Law partnership with Big Brothers Big Sisters, and Student Director of the Bethesda Mission Men's Shelter legal clinic. At graduation, she was honored with the D. Arthur Magaziner Human Services Award for outstanding academic achievement and service to others, the Joseph T. McDonald Memorial Scholarship for excellence in trial advocacy, and the peer-selected Lee Popp Award for her devotion to the legal field.

Ms. Kester interned as a judicial clerk to United States Magistrate Judge Martin C. Carlson while in law school. After graduation, she served for two years as a law clerk to the Honorable James M. Munley in the United States District Court for the Middle District of Pennsylvania. Ms. Kester is a member of the Lackawanna County Bar Association, the Pennsylvania Bar Association, the American Association for Justice, and Order of the Barristers. In 2018 and 2019, she served as the attorney advisor for her alma mater's high school mock trial team, coaching them to a first place finish in the state and ninth in the nation.

Ms. Kester is admitted to practice law in both Pennsylvania and Florida.

Ra O. Amen. Mr. Amen was raised in both the California Bay Area and Massachusetts. In 2005, Ra graduated from Stanford University with a B.A. in Economics. After graduating, Ra worked as a Peace Corps volunteer in Morocco teaching English as a second language and business skills to local artisans. Before entering law school, Ra worked for several years in education and in business development for a mobile technology startup. In 2017, he obtained his Juris Doctor degree with Honors from Emory University School of Law. While at Emory Law, he was a Managing Editor of the Bankruptcy Developments Journal, interned at a consumer fraud law practice, and worked in-house with one of the globe's leading metals companies assisting in a diverse array of legal issues ranging from corporate restructuring to international tax and contract disputes. Before joining Morgan & Morgan in 2020, Mr. Amen worked at one of the nation's largest defense law firms in the nation where he specialized in representing clients in complex commercial, administrative, and ecclesiastical disputes.

Ra speaks both English and Spanish, and is an avid guitar player.

Ra was admitted to the Georgia Bar in 2017.

David Reign. Mr. Reign is the former Assistant Special Agent in Charge of the Tampa FBI Field office, with nearly 25 years of investigative experience. He has investigated and managed some of the FBI's most complex white-collar crime cases, with an emphasis on health care fraud, public corruption, and financial crimes. As Deputy Chief of the Enron Task Force, he led a team of investigators and analysts in the successful investigation and prosecution of several executives of the Enron Corporation. He received the Attorney General's Award for Exceptional Service for his work on the Enron matter.

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3
4 KAMAL BITMOUNI, individually and on
5 behalf of all others similarly situated,

6 Plaintiffs,

7 V.

8 PAYSAFE PAYMENT PROCESSING
9 SOLUTIONS, LLC,

10 Defendant.

Case No. 3:21-cv-00641-JCS

**DECLARATION OF
JEANNE C. FINEGAN, APR OF KROLL
SETTLEMENT ADMINISTRATION
LLC IN CONECTION WITH
PRELIMINARY APPROVAL**

11 I, JEANNE C. FINEGAN, hereby declare:

12 1. I am the Managing Director and Head of Kroll Notice Media Solutions (“Kroll
13 Media”),¹ a business unit of Kroll Settlement Administration LLC (“Kroll”), the proposed Claims
14 Administrator in the above-captioned case. This declaration (the “Declaration”) is based upon my
15 personal knowledge as well as information provided to me by my associates and staff, including
16 information reasonably relied upon in the fields of advertising media and communications.

17
18 2. Kroll has been designated by the Parties as the proposed Claims Administrator to,
19 among other tasks, provide administrative services and to develop and implement a proposed
20 Notice Plan as part of the Parties’ proposed class action settlement (the “Settlement”) in the above
21 captioned case, as reflected in that certain Class Action Settlement Agreement and Release (the
22 “Settlement Agreement”).
23

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28 ¹ Capitalized terms used but not defined herein have the meanings given to them in the Settlement Agreement (as defined below).

1 3. Kroll has extensive experience in class action matters, having provided services in
2 class action settlements involving antitrust, securities, labor and employment, consumer and
3 government enforcement matters.

4 4. The notice provisions of the Settlement Agreement as expected to be implemented
5 by Kroll (the “Notice Plan”), as more fully described below, contemplates a robust Settlement
6 Class List that will allow for direct notice to the vast majority of Settlement Class Members
7 through direct mail. Kroll will monitor the results of the direct mail notice and, as necessary to
8 reach additional Settlement Class Members, employ supplemental publication notice outreach,
9 which may employ one or more tactics including print, online display ads, key word search, and/
10 or social media. This approach ensures that at least 70 percent of Settlement Class Members will
11 be reached. Rule 23 of the Federal Rules of Civil Procedure requires “the best notice that is
12 practicable under the circumstances, including individual notice to all members who can be
13 identified through reasonable effort. The notice may be by one or more of the following: United
14 States mail, electronic means, or other appropriate means.” Fed. R. Civ. P. 23(c)(2)(B). The
15 parties anticipate that, through incorporating best practices, direct mail will provide actual notice
16 to an overwhelming majority of Settlement Class Members, consistent with Rule 23 and Federal
17 Judicial Center Guidelines.²

18 5. The Federal Judicial Center states that a notice plan that reaches over 70% of
19 targeted class members is considered a high percentage.
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27 ² FED. JUD. CTR., Judges’ Class Action Notice and Claims Process Checklist and Plain Language Guide (2010),
28 available at <https://www.fjc.gov/sites/default/files/2012/NotCheck.pdf>. The guide suggests that the minimum
threshold for adequate notice is 70%. See id. at pp. 1, 3.

1 10. I have provided testimony before the United States Congress on issues of notice.³
2 I have lectured, published, and been cited extensively on various aspects of legal noticing, product
3 recall, and crisis communications. I have served the Consumer Product Safety Commission
4 (“CPSC”) as an expert to determine ways in which the CPSC can increase the effectiveness of its
5 product recall campaigns. Additionally, I have published and lectured extensively on various
6 aspects of legal noticing and taught continuing education courses for Jurists and lawyers alike on
7 best practice methods for providing notice in various contexts.
8

9 11. I worked with the Special Settlement Administrator’s team to assist with the
10 outreach strategy for the historic Auto Airbag Settlement. *In re Takata Airbag Prods. Liab. Litig.*,
11 No. 15-MD-2599-FAM (S.D. Fla.). I was the notice section lead contributing author for
12 “Guidelines and Best Practices Implementing 2018 Amendments to Rule 23 Class Action
13 Settlement Provisions” published by Duke University School of Law.
14

15 12. Among others, my relevant experience includes *In re: Yahoo! Inc. Customer Data*
16 *Security Breach Litigation*, Case No. 5:16-MD-02752 (N.D. Cal. 2016). Further, I have been
17 recognized as being at the forefront of modern notice practices,⁴ and I was one of the first notice
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22 ³ See, e.g., Report on the Activities of the Committee on the Judiciary of the House of Representatives: “Notice”
23 Provision in the *Pigford v. Glickman* Consent Decree: Hearing Before Subcommittee on the Constitution, 108th
24 Cong. 2nd Sess. 805 (2004) (statement of Jeanne C. Finegan); *Pigford v. Glickman & U.S. Dep’t of Agric.*, 185
25 F.R.D. 82, 102 (D.D.C. Apr. 14, 1999) (J. Finegan provided live testimony and was cross-examined before Congress
26 in connection with a proposed consent decree settling a class action suit against the U.S. Department of Agriculture.
27 In the court opinion that followed, the Honorable Paul L. Friedman approved the consent decree and commended
the notice program, stating, “The [c]ourt concludes that class members have received more than adequate notice . . .
the timing and breadth of notice of the class settlement was sufficient . . . The parties also exerted extraordinary
efforts to reach class members through a massive advertising campaign in general and African American targeted
publications and television stations.”)

28 ⁴ See, e.g., Deborah R. Hensler et al., *Class Action Dilemmas, Pursuing Public Goals for Private Gain*, RAND
(2000).

1 experts to integrate digital media,⁵ social media and influencers⁶ into court-approved legal notice
2 programs. My work includes:

3 a. ***In re: Yahoo! Inc. Customer Data Security Breach Litigation***, No. 5:16-MD-
4 02752 (N.D. Cal. 2019). In the Order of Preliminary Approval, dated July 20, 2019, para 21,
5 the Honorable Lucy Kho stated:
6

7 “The Court finds that the Approved Notices and Notice Plan set forth in the
8 Amended Settlement Agreement satisfy the requirements of due process and
9 Federal Rule of Civil Procedure 23 and provide the best notice practicable under
10 the circumstances.”
11

12 b. ***Hill’s Pet Nutrition, Inc., Dog Food Products Liability Litigation***, Case No. 19-
13 MD-2887 (D. Kan. 2021). In the Preliminary Approval Transcript, February 2, 2021, p. 28-
14 29, the Honorable Julie A. Robinson stated:

15 “I was very impressed in reading the notice plan and very educational, frankly to
16 me, understanding the communication, media platforms, technology, all of that
17 continues to evolve rapidly and the ability to not only target consumers, but to
18 target people that could rightfully receive notice continues to improve all the
19 time.”
20
21

22 c. ***In re Purdue Pharma L.P.***, No. 19-23649 (Bankr. S.D.N.Y. 2019). Omnibus Hearing,
23 Motion Pursuant to 11 U.S.C. §§ 105(a) and 501 and Fed. R. Bankr. P. 2002 and 3003(c)(3) for
24 Entry of an Order (I) Extending the General Bar Date for a Limited Period and (II) Approving the
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28 ⁵ See *In re Louisiana-Pacific Inner-Seal Siding Litig.*, Nos. 879-JE, 1453-JE (D. Or. 1995).

⁶ See *In Re: PG&E Corporation*, No. 19-30088 Bankr. (N.D. Cal. 2019).

1 Form and Manner of Notice Thereof, June 3, 2020, transcript p. 88:10, the Honorable Robert
2 Drain stated:

3 “The notice here is indeed extraordinary, as was detailed on page 8 of Ms.
4 Finegan’s declaration in support of the original bar date motion and then in her
5 supplemental declaration from May 20th in support of the current motion, the
6 notice is not only in print media, but extensive television and radio notice,
7 community outreach, -- and I think this is perhaps going to be more of a trend,
8 but it's a major element of the notice here -- online, social media, out of home,
9 i.e. billboards, and earned media, including bloggers and creative messaging.
10 That with a combined with a simplified proof of claims form and the ability to
11 file a claim or first, get more information about filing a claim online -- there was
12 a specific claims website -- and to file a claim either online or by mail. Based on
13 Ms. Finegan’s supplemental declaration, it appears clear to me that that process
14 of providing notice has been quite successful in its goal in ultimately reaching
15 roughly 95 percent of all adults in the United States over the age of 18 with an
16 average frequency of message exposure of six times, as well as over 80 percent
17 of all adults in Canada with an average message exposure of over three times.”
18

19
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21 d. ***In Re: PG&E Corporation***, No. 19-30088 Bankr. (N.D. Cal. 2019). Hearing
22 Establishing, Deadline for Filing Proofs of Claim, (II) establishing the Form and Manner of
23 Notice Thereof, and (III) Approving Procedures for Providing Notice of Bar Date and Other
24 Information to all Creditors and Potential Creditors PG&E. June 26, 2019, Transcript of
25 Hearing pp. 21:1, 201:20, the Honorable Dennis Montali stated:
26

27 “...the technology and the thought that goes into all these plans is almost
28

1 incomprehensible... Ms. Finegan has really impressed me today...”

2 e. *Carter v. Forjas Taurus S.S., Taurus International Manufacturing, Inc.*, Case
3 No. 1:13-CV-24583- PAS (S.D. Fla. 2016). In her Final Order and Judgment Granting
4 Plaintiffs’ Motion for Final Approval of Class Action Settlement, the Honorable Patricia Seitz
5 stated:
6

7 “The Court considered the extensive experience of Jeanne C. Finegan and the
8 notice program she developed. . . There is no national firearms registry and
9 Taurus sale records do not provide names and addresses of the ultimate
10 purchasers... Thus, the form and method used for notifying Class Members of
11 the terms of the Settlement was the best notice practicable. . . . The court-
12 approved notice plan used peer-accepted national research to identify the optimal
13 traditional, online, mobile, and social media platforms to reach the Settlement
14 Class Members.”
15

16 f. Additionally, in the January 20, 2016, Transcript of Class Notice Hearing, p. 5,
17 Judge Seitz noted:
18

19 “I would like to compliment Ms. Finegan and her company because I was quite
20 impressed with the scope and the effort of communicating with the Class.”
21

22 **SUMMARY OF NOTICE PROGRAM**

23 13. To provide outreach to potential Settlement Class Members, the proposed Notice
24 Plan includes the following components:

- 25 • Direct notice via postcards to all identified Settlement Class Members
26 previously noticed of the Data Security Incident;
27 • CAFA Notice to appropriate state and federal government officials;
28 • As needed, supplemental online display banner advertising specifically

1 targeted to reach Settlement Class Members;

- 2 • As needed, supplemental social media through Facebook, Instagram;
- 3 • Settlement Website; and
- 4 • Toll-free information line.

5 **ACTUAL NOTICE TO SETTLEMENT CLASS MEMBERS**

6 14. It is Kroll's understanding that it will be provided with a Settlement Class List that
7 will contain names and last known addresses for 91,000 Settlement Class Members covered under
8 the Settlement Agreement. I have been informed by Class Counsel that this represents the entirety
9 of the affected Class.

10
11 15. In preparation for disseminating Notices by First-Class Mail, Kroll will work with
12 Class Counsel and Payscale's Counsel (collectively, "Counsel") to format the Notice for mailing.
13 Upon approval, Kroll will coordinate the preparation of proofs of the Notice for Counsel to review
14 and approve.

15
16 16. As required under Section 64 of the Settlement Agreement, postcard⁷ Notices will
17 be sent by First-Class Mail to all last known physical addresses of Settlement Class Members. In
18 preparation for the Notice mailing, Kroll will send the Settlement Class List through the United
19 States Postal Service's ("USPS") National Change of Address ("NCOA") database. The NCOA
20 process will provide updated addresses for Settlement Class Members who have submitted a
21 change of address with the USPS in the last 48 months, and the process will also standardize the
22 addresses for mailing. Kroll will then prepare a mail file of Settlement Class Members that are to
23 receive the Notice via First-Class Mail.
24

25
26
27 ⁷ Postcards are noted for effectively capturing attention and presenting important content quickly. Postcards provide
28 several key benefits: 1) recipients can quickly scan information without having to open the mail; 2) the smaller size
of a postcard makes it stand out among other forms of mail; 3) a longer lasting recall and emotional effect, and 4)
nearly 50% of recipients say they find postcards useful. See: www.postgrid.com/postcard-marketing-guide.

1 17. Mailed Notices returned by the USPS with a forwarding address will be
2 automatically re-mailed to the updated address provided by the USPS.

3 18. Mailed Notices returned by the USPS undeliverable as addressed without a
4 forwarding address will be sent through an advanced address search process in an effort to find a
5 more current address for the record. If an updated address is obtained through the advanced search
6 process, Kroll will re-mail the Notice to the updated address.
7

8 **SUPPLEMENTAL NOTICE PLAN**

9 19. In the event the direct mail results are less than 70%, Kroll will implement a
10 supplemental notice plan (the “Supplemental Notice Plan”). The Supplemental Notice Plan will
11 be scaled as necessary to maintain an overall reach consistent with the FJC Guidelines of between
12 70% and 90%. Depending on the scale needed, the Supplemental Notice Plan may employ one or
13 more tactics to build reach including online display and/ or social media advertising. The media
14 selection and costs will be approved by the Parties, prior to deploying the Supplemental Notice
15 Plan. The Supplemental Notice Plan will target small business owners. The Supplemental Notice
16 Plan will target small business owners. A full report on the implementation of the Supplemental
17 Notice Plan (if any) will be reported to the Court upon completion. of s Supplemental Notice Plan.
18
19

20 **SETTLEMENT WEBSITE**

21 20. Kroll will work with counsel to create a dedicated Settlement Website. The
22 Settlement Website URL will be determined and approved by Counsel. The Settlement Website
23 will contain a summary of the Settlement, will enable online claim filing, will allow Settlement
24 Class Members to contact the Settlement Administrator with any questions or changes of address,
25 provide notice of important dates, such as the Final Approval Hearing, Claims Deadline,
26 Objection Deadline, and Opt-Out Deadline, and provide Participating Settlement Class Members
27
28

1 who file Claim Forms online the opportunity to select an electronic payment method, including
2 Venmo, Zelle, PayPal, e-Mastercard, or ACH, as well as payment by check. The Settlement
3 Website will also contain relevant case documents, including, but not limited to, the Notice, the
4 Settlement Agreement, Plaintiffs’ motion for preliminary approval of the Settlement, the
5 Preliminary Approval Order, Plaintiffs’ Fee Application, and the operative complaints in the
6 Litigation. Lastly, the Settlement Website will contain the Kroll privacy policy, including the
7 policy for California Consumer Privacy Act (“CCPA”).
8

9
10 **TOLL-FREE NUMBER**

11 21. Kroll has established a toll-free number for the Settlement, which will allow
12 Settlement Class Members to call and obtain information about the Settlement through an
13 interactive voice response system and/or by being connected to a live agent. The toll-free number
14 (833.910.3608) will be available twenty-four hours a day, seven days a week.
15

16 **REMINDER NOTICES**

17 22. As required under Section 64 of the Settlement Agreement, if directed by Class
18 Counsel, Kroll will send reminder notices. The reminder notice will be sent to Settlement Class
19 Members who have not yet submitted a Claim Form and have not opted out of the Settlement.
20 The reminder notice will be sent in the same manner as the initial Notices were sent and delivered.
21

22 **THE SETTLEMENT ADMINISTRATOR WILL TAKE THE FOLLOWING STEPS:**

23 23. Kroll will send out Claim Forms and process all claims for Out-of-Pocket Losses
24 and losses for Attested Time. After the Claims Period expires (assuming a filing rate greater than
25 3%) the Settlement Administrator will validate claims and distribute checks with a check cashing
26 period of 90 days for all valid claims that suffered Out of Pocket losses and losses for Attested
27 Time. After the check cashing period of 90 days expires, the Settlement Administrator will divide
28

1 any remaining funds pro rata between the entire Settlement Class to ensure that every member of
2 the Settlement Class receives a benefit from the Settlement, without requiring the completion of
3 a Claim Form.

4
5 **DATA USE LIMITATION**

6 23. Kroll will solely use Settlement Class Member data for notice and Settlement
7 administration, award calculations, and issuing Settlement Payments to Participating Settlement
8 Class Members.

9 **TECHNICAL CONTROLS, DATA SECURITY**

10 24. Kroll is an industry leader in data security. Kroll is CCPA, HIPAA, and GDPR
11 compliant and maintains numerous industry certifications related to data security, including
12 SOC2 and ISO 2700 certification. Kroll has technical, physical, and procedural protocols and
13 safeguards in place to ensure the security and privacy of Settlement Class Member data. These
14 include standards related to data retention and document destruction; firewalls; complex
15 passwords; multi-factor authentication; data encryption; key management for access to encrypted
16 databases; fully redundant environmental systems and redundant storage; regular internal and
17 external audits; and documented plans for both incident and crisis response, including breach
18 protocols and physical controls. Kroll's information security program includes vulnerability
19 management, compliance, security monitoring and security engineering supported by a team of
20 information security professionals, including a Chief Information Security Officer and Chief
21 Privacy Officer.
22
23
24

25 **BUSINESS/LIABILITY INSURANCE**

26 25. Kroll maintains standard business insurance, including professional liability
27 insurance, cyber insurance, and crime insurance.
28

ADMINISTRATIVE AND ETHICAL POLICIES

1
2 26. Kroll has employee administrative and ethical polices that all employees are
3 required to follow. These include, but are not limited to:

- 4 • Pre-hire background checks and security screenings;
- 5 • Controls for accessing systems, data and applications both on site and remotely,
6 along with processes for assigning access, along with automatic termination of
7 access upon the cessation of employment;
- 8 • Annual Code of Ethics training and certification;
- 9 • Annual Information Security training and certification; and
- 10 • HIPAA training for all staff.

11
12 **CRISIS AND RISK MANAGEMENT**

13 27. Kroll has defined and tested incident response and disaster recovery plans that it
14 employs across the organization. Should an incident occur, Kroll will take immediate action,
15 which will include notification to clients and claimants of the incident consistent with applicable
16 privacy laws and regulations, or as otherwise provided in any contractual agreements with its
17 clients. Kroll also has detailed vendor on-boarding and management policies that determine and
18 define requirements to manage risk associated with outsourcing.

19
20 **PHYSICAL ACCESS CONTROLS**

21 28. Security keycard access is required to enter Kroll’s facilities, and access is logged.
22 Additionally, keycard access is required for employees to use the facility elevators and to enter
23 Kroll’s office spaces. Kroll’s offices are equipped with alarm systems and CCTV recording
24 systems, and security guards monitor and help control physical access to restricted spaces.

25
26 **DATA COLLECTION, RETENTION AND DESTRUCTION**

27 29. Kroll only requires the collection of data necessary to effectively administer the
28 Settlement. If personally identifiable information (“PII”) (e.g., Social Security Numbers, account

1 information, dates of birth, etc.) are not necessary for administration, Kroll will not request such
2 PII. Kroll does not and will not share Settlement Class Member data with third parties unless
3 authorized or directed to do so by the parties or the Court. Internally, access to data is limited to
4 only those employees working on the particular matter. In addition, Kroll has standard practices
5 for data retention and destruction. However, to the extent there are data retention and destruction
6 requirements specific to the Settlement that differ from Kroll's standard policies, Kroll will follow
7 the Settlement guidelines. Kroll uses an outside vendor to assist the shredding of physical media
8 and has locked shred bins available at Kroll's offices.

9
10
11 **CONCLUSION**

12 30. In my opinion, the Notice Plan reflects a particularly appropriate, highly targeted,
13 and contemporary way to provided notice to Settlement Class Members. Importantly, it adheres
14 to Federal Rule of Civil Procedure 23, it follows the guidance set forth by the Federal Judicial
15 Center, the Manual for Complex Litigation 4th Ed., and complies with the Northern District of
16 California's guidelines related to class action settlements. At the conclusion of the notice program,
17 and in conjunction with consideration of final approval of the Settlement, Kroll will submit a
18 declaration confirming that it has implemented the Notice Plan and will provide any other
19 information requested by the Court. Based on the scope of work currently contemplated, the costs
20 of settlement administration and the notice plan will not exceed \$399,000.

21
22
23 31. I declare under penalty of perjury under the laws of the United Sates that the above
24 is true and correct to the best of my knowledge.

25
26 Executed on May 2, 2023, in Tigard, Oregon.

27 
28 _____
Jeanne C. Finegan

Exhibit A

JEANNE C. FINEGAN, APR



Jeanne Finegan, APR, is the Managing Director and Head of Kroll Notice Media. She is a member of the Board of Directors for the prestigious Alliance for Audited Media (AAM) and was named by *Diversity Journal* as one of the “Top 100 Women Worth Watching.” She is a distinguished legal notice and communications expert with more than 30 years of communications and advertising experience.

She was a lead contributing author for Duke University's School of Law, "*Guidelines and Best Practices Implementing Amendments to Rule 23 Class Action Settlement Provisions.*" And more recently, she has been involved with New York School of Law and The Center on Civil Justice (CCJ) assisting with a class action settlement data analysis and comparative visualization tool called the *Aggregate Litigation Project*, designed to help judges make decisions in aggregate cases on the basis of data as opposed to anecdotal information. Moreover, her experience also includes working with the Special Settlement Administrator's team to assist with the outreach strategy for the historic Auto Airbag Settlement, In re: *Takata Airbag Products Liability Litigation* MDL 2599.

During her tenure, she has planned and implemented over 1,000 high-profile, complex legal notice communication programs. She is a recognized notice expert in both the United States and in Canada, with extensive international notice experience spanning more than 170 countries and over 40 languages.

Ms. Finegan has lectured, published and has been cited extensively on various aspects of legal noticing, product recall and crisis communications. She has served the Consumer Product Safety Commission (CPSC) as an expert to determine ways in which the Commission can increase the effectiveness of its product recall campaigns. Further, she has planned and implemented large-scale government enforcement notice programs for the Federal Trade Commission (FTC) and the Securities and Exchange Commission (SEC).

Ms. Finegan is accredited in Public Relations (APR) by the Universal Accreditation Board, which is a program administered by the Public Relations Society of America (PRSA), and is also a recognized member of the Canadian Public Relations Society (CPRS). She has served on examination panels for APR candidates and worked *pro bono* as a judge for prestigious PRSA awards.

Ms. Finegan has provided expert testimony before Congress on issues of notice, and expert testimony in both state and federal courts regarding notification campaigns. She has conducted numerous media audits of proposed notice programs to assess the adequacy of those programs under Fed R. Civ. P. 23(c)(2) and similar state class action statutes.

She was an early pioneer of plain language in notice (as noted in a RAND study,¹) and continues to set the standard for modern outreach as the first notice expert to integrate social and mobile media into court approved legal notice programs.

In the course of her class action experience, courts have recognized the merits of, and admitted expert testimony based on, her scientific evaluation of the effectiveness of notice plans. She has designed legal notices for a wide range of class actions and consumer matters that include product liability, construction defect, antitrust, medical/pharmaceutical, human rights, civil rights, telecommunication, media, environment, government enforcement actions, securities, banking, insurance, mass tort, restructuring and product recall.

¹ Deborah R. Hensler et al., CLASS ACTION DILEMAS, PURSUING PUBLIC GOALS FOR PRIVATE GAIN. RAND (2000).



JUDICIAL COMMENTS AND LEGAL NOTICE CASES

In evaluating the adequacy and effectiveness of Ms. Finegan's notice campaigns, courts have repeatedly recognized her excellent work. The following excerpts provide some examples of such judicial approval.

In re Purdue Pharma L.P., No. 19-23649 (Bankr. S.D.N.Y. 2019). Omnibus Hearing, Motion Pursuant to 11 U.S.C. §§ 105(a) and 501 and Fed. R. Bankr. P. 2002 and 3003(c)(3) for Entry of an Order (I) Extending the General Bar Date for a Limited Period and (II) Approving the Form and Manner of Notice Thereof, June 3, 2020, transcript p. 88:10, the Honorable Robert Drain stated:

"The notice here is indeed extraordinary, as was detailed on page 8 of Ms. Finegan's declaration in support of the original bar date motion and then in her supplemental declaration from May 20th in support of the current motion, the notice is not only in print media, but extensive television and radio notice, community outreach, -- and I think this is perhaps going to be more of a trend, but it's a major element of the notice here -- online, social media, out of home, i.e. billboards, and earned media, including bloggers and creative messaging. That with a combined with a simplified proof of claims form and the ability to file a claim or first, get more information about filing a claim online -- there was a specific claims website -- and to file a claim either online or by mail. Based on Ms. Finegan's supplemental declaration, it appears clear to me that that process of providing notice has been quite successful in its goal in ultimately reaching roughly 95 percent of all adults in the United States over the age of 18 with an average frequency of message exposure of six times, as well as over 80 percent of all adults in Canada with an average message exposure of over three times."

In Re: PG&E Corporation Case No. 19-30088 Bankr. (N.D. Cal. 2019). Hearing Establishing, Deadline for Filing Proofs of Claim, (II) establishing the Form and Manner of Notice Thereof, and (III) Approving Procedures for Providing Notice of Bar Date and Other Information to all Creditors and Potential Creditors PG&E. June 26, 2019, Transcript of Hearing p. 21:1, the Honorable Dennis Montali stated:

...the technology and the thought that goes into all these plans is almost incomprehensible. He further stated, p. 201:20 ... Ms. Finegan has really impressed me today...

Yahoo! Inc. Customer Data Security Breach Litigation, Case No. 5:16-MD-02752 (ND Cal 2016). In the Order Preliminary Approval, dated July 20, 2019, the Honorable Lucy Kho stated, para 21, *"The Court finds that the Approved Notices and Notice Plan set forth in the Amended Settlement Agreement satisfy the requirements of due process and Federal Rule of Civil Procedure 23 and provide the best notice practicable under the circumstances."*

Hill's Pet Nutrition, Inc., Dog Food Products Liability Litigation, Case No. 19-MD-2887 (U.S. District Court, District Kansas 2021). In the Preliminary Approval Transcript, February 2, 2021 p. 28-29, the Honorable Julie A. Robinson stated:

"I was very impressed in reading the notice plan and very educational, frankly to me, understanding the communication, media platforms, technology, all of that continues to evolve rapidly and the ability to not only target consumers, but to target people that could rightfully receive notice continues to improve all the time."

In re: The Bank of New York Mellon ADR FX Litigation, 16-CV-00212-JPO-JLC (S.D.N.Y. 2019). In the Final Order and Judgement, dated June 17, 2019, para 5, the Honorable J. Paul Oetkin stated:

"The dissemination of notice constituted the best notice practicable under the circumstances."

Simerlein et al., v. Toyota Motor Corporation, Case No. 3:17-cv-01091-VAB (District of CT 2019). In the Ruling and Order on Motion for Preliminary Approval, dated January 14, 2019, p. 30, the Honorable Victor Bolden stated:

"In finding that notice is sufficient to meet both the requirements of Rule 23(c) and due process, the Court has reviewed and appreciated the high-quality submission of proposed Settlement Notice Administrator Jeanne C. Finegan. See Declaration of Jeanne C. Finegan, APR, Ex. G to Agrmt., ECF No. 85-8."



Fitzhenry- Russell et al., v. Keurig Dr. Pepper Inc., Case No. :17-cv-00564-NC, (ND Cal). In the Order Granting Final Approval of Class Action Settlement, Dated April 10, 2019, the Honorable Nathanael Cousins stated:

“...the reaction of class members to the proposed Settlement is positive. The parties anticipated that 100,000 claims would be filed under the Settlement (see Dkt. No. 327-5 ¶ 36)—91,254 claims were actually filed (see Finegan Decl ¶ 4). The 4% claim rate was reasonable in light of Heffler’s efforts to ensure that notice was adequately provided to the Class.”

Pettit et al., v. Procter & Gamble Co., Case No. 15-cv-02150-RS ND Cal. In the Order Granting Final Approval of the Class Action Settlement and Judgement, Dated March 28, 2019, p. 6, the Honorable Richard Seeborg stated:

“The Court finds that the Notice Plan set forth in the Settlement Agreement, and effectuated pursuant to the Preliminary Approval Order, constituted the best notice practicable under the circumstances and constituted due and sufficient notice to the Settlement Class. ...the number of claims received equates to a claims rate of 4.6%, which exceeds the rate in comparable settlements.”

Carter v Forjas Taurus S.S., Taurus International Manufacturing, Inc., Case No. 1:13-CV-24583 PAS (S.D. Fl. 2016). In her Final Order and Judgment Granting Plaintiffs Motion for Final Approval of Class Action Settlement, the Honorable Patricia Seitz stated:

“The Court considered the extensive experience of Jeanne C. Finegan and the notice program she developed. ...There is no national firearms registry and Taurus sale records do not provide names and addresses of the ultimate purchasers... Thus the form and method used for notifying Class Members of the terms of the Settlement was the best notice practicable. ...The court-approved notice plan used peer-accepted national research to identify the optimal traditional, online, mobile and social media platforms to reach the Settlement Class Members.”

Additionally, in January 20, 2016, Transcript of Class Notice Hearing, p. 5 Judge Seitz, noted:

“I would like to compliment Ms. Finegan and her company because I was quite impressed with the scope and the effort of communicating with the Class.”

Cook et. al., v. Rockwell International Corp. and the Dow Chemical Co., No. 90-cv-00181- KLK (D.Colo. 2017)., aka, Rocky Flats Nuclear Weapons Plant Contamination. In the Order Granting Final Approval, dated April 28, 2017, p.3, the Honorable John L. Kane said:

The Court-approved Notice Plan, which was successfully implemented by [HF Media- emphasis added] (see Doc. 2432), constituted the best notice practicable under the circumstances. In making this determination, the Court finds that the Notice Plan that was implemented, as set forth in Declaration of Jeanne C. Finegan, APR Concerning Implementation and Adequacy of Class Member Notification (Doc. 2432), provided for individual notice to all members of the Class whose identities and addresses were identified through reasonable efforts, ... and a comprehensive national publication notice program that included, inter alia, print, television, radio and internet banner advertisements. ...Pursuant to, and in accordance with, Rule 23 of the Federal Rules of Civil Procedure, the Court finds that the Notice Plan provided the best notice practicable to the Class.

In re: Domestic Drywall Antitrust Litigation, MDL. No. 2437, in the U.S. District Court for the Eastern District of Pennsylvania. For each of the four settlements, Finegan implemented and extensive outreach effort including traditional, online, social, mobile and advanced television and online video. In the Order Granting Preliminary Approval to the IPP Settlement, Judge Michael M. Baylson stated:

“The Court finds that the dissemination of the Notice and summary Notice constitutes the best notice practicable under the circumstances; is valid, due, and sufficient notice to all persons... and complies fully with the requirements of the Federal rule of Civil Procedure.”



Warner v. Toyota Motor Sales, U.S.A. Inc., Case No 2:15-cv-02171-FMO FFMx (C.D. Cal. 2017). In the Order Re: Final Approval of Class Action Settlement; Approval of Attorney's Fees, Costs & Service Awards, dated May 21, 2017, the Honorable Fernando M. Olguin stated:

Finegan, the court-appointed settlement notice administrator, has implemented the multiprong notice program. ...the court finds that the class notice and the notice process fairly and adequately informed the class members of the nature of the action, the terms of the proposed settlement, the effect of the action and release of claims, the class members' right to exclude themselves from the action, and their right to object to the proposed settlement. (See Dkt. 98, PAO at 25-28).

Michael Allagas, et al., v. BP Solar International, Inc., et al., BP Solar Panel Settlement, Case No. 3:14-cv-00560- SI (N.D. Cal., San Francisco Div. 2016). In the Order Granting Final Approval, Dated December 22, 2016, The Honorable Susan Illston stated:

Class Notice was reasonable and constituted due, adequate and sufficient notice to all persons entitled to be provided with notice; and d. fully satisfied the requirements of the Federal Rules of Civil Procedure, including Fed. R. Civ. P. 23(c)(2) and (e), the United States Constitution (including the Due Process Clause), the Rules of this Court, and any other applicable law.

Foster v. L-3 Communications EOTech, Inc. et al (6:15-cv-03519), Missouri Western District Court.

In the Court's Final Order, dated July 7, 2017, The Honorable Judge Brian Wimes stated: "The Court has determined that the Notice given to the Settlement Class fully and accurately informed members of the Settlement Class of all material elements of the Settlement and constituted the best notice practicable."

In re: Skechers Toning Shoes Products Liability Litigation, No. 3:11-MD-2308-TBR (W.D. Ky. 2012). In his Final Order and Judgment granting the Motion for Preliminary Approval of Settlement, the Honorable Thomas B. Russell stated:

... The comprehensive nature of the class notice leaves little doubt that, upon receipt, class members will be able to make an informed and intelligent decision about participating in the settlement.

Brody v. Merck & Co., Inc., et al, No. 3:12-cv-04774-PGS-DEA (N.J.) (Jt Hearing for Prelim App, Sept. 27, 2012, transcript page 34). During the Hearing on Joint Application for Preliminary Approval of Class Action, the Honorable Peter G. Sheridan acknowledged Ms. Finegan's work, noting:

Ms. Finegan did a great job in testifying as to what the class administrator will do. So, I'm certain that all the class members or as many that can be found, will be given some very adequate notice in which they can perfect their claim.

Quinn v. Walgreen Co., Wal-Mart Stores Inc., 7:12 CV-8187-VB (NYSJ) (Jt Hearing for Final App, March. 5, 2015, transcript page 40-41). During the Hearing on Final Approval of Class Action, the Honorable Vincent L. Briccetti stated:

"The notice plan was the best practicable under the circumstances. ... [and] "the proof is in the pudding. This settlement has resulted in more than 45,000 claims which is 10,000 more than the Pearson case and more than 40,000 more than in a glucosamine case pending in the Southern District of California I've been advised about. So the notice has reached a lot of people and a lot of people have made claims."

In Re: TracFone Unlimited Service Plan Litigation, No. C-13-3440 EMC (ND Ca). In the Final Order and Judgment Granting Class Settlement, July 2, 2015, the Honorable Edward M. Chen noted:

"...[D]epending on the extent of the overlap between those class members who will automatically receive a payment and those who filed claims, the total claims rate is estimated to be approximately 25-30%. This is an excellent result..."



In Re: Blue Buffalo Company, Ltd., Marketing and Sales Practices Litigation, Case No. 4:14-MD-2562 RWS (E.D. Mo. 2015), (Hearing for Final Approval, May 19, 2016 transcript p. 49). During the Hearing for Final Approval, the Honorable Rodney Sippel said:

It is my finding that notice was sufficiently provided to class members in the manner directed in my preliminary approval order and that notice met all applicable requirements of due process and any other applicable law and considerations.

DeHoyos, et al., v. Allstate Ins. Co., No. SA-01-CA-1010 (W.D.Tx. 2001). In the Amended Final Order and Judgment Approving Class Action Settlement, the Honorable Fred Biery stated:

[T]he undisputed evidence shows the notice program in this case was developed and implemented by a nationally recognized expert in class action notice programs. ... This program was vigorous and specifically structured to reach the African American and Hispanic class members. Additionally, the program was based on a scientific methodology which is used throughout the advertising industry and which has been routinely embraced routinely [sic] by the Courts. Specifically, in order to reach the identified targets directly and efficiently, the notice program utilized a multi-layered approach which included national magazines; magazines specifically appropriate to the targeted audiences; and newspapers in both English and Spanish.

In Re: Reebok Easytone Litigation, No. 10-CV-11977 (D. MA. 2011). The Honorable F. Dennis Saylor IV stated in the Final Approval Order:

The Court finds that the dissemination of the Class Notice, the publication of the Summary Settlement Notice, the establishment of a website containing settlement-related materials, the establishment of a toll-free telephone number, and all other notice methods set forth in the Settlement Agreement and [Ms. Finegan's] Declaration and the notice dissemination methodology implemented pursuant to the Settlement Agreement and this Court's Preliminary Approval Order... constituted the best practicable notice to Class Members under the circumstances of the Actions.

Bezdek v. Vibram USA and Vibram FiveFingers LLC, No 12-10513 (D. MA) The Honorable Douglas P. Woodlock stated in the Final Memorandum and Order:

...[O]n independent review I find that the notice program was robust, particularly in its online presence, and implemented as directed in my Order authorizing notice. ...I find that notice was given to the Settlement class members by the best means "practicable under the circumstances." Fed.R.Civ.P. 23(c)(2).

Gemelas v. The Dannon Company Inc., No. 08-cv-00236-DAP (N.D. Ohio). In granting final approval for the settlement, the Honorable Dan A. Polster stated:

In accordance with the Court's Preliminary Approval Order and the Court-approved notice program, [Ms. Finegan] caused the Class Notice to be distributed on a nationwide basis in magazines and newspapers (with circulation numbers exceeding 81 million) specifically chosen to reach Class Members. ... The distribution of Class Notice constituted the best notice practicable under the circumstances, and fully satisfied the requirements of Federal Rule of Civil Procedure 23, the requirements of due process, 28 U.S.C. 1715, and any other applicable law.

Pashmova v. New Balance Athletic Shoes, Inc., 1:11-cv-10001-LTS (D. Mass.). The Honorable Leo T. Sorokin stated in the Final Approval Order:

The Class Notice, the Summary Settlement Notice, the web site, and all other notices in the Settlement Agreement and the Declaration of [Ms Finegan], and the notice methodology implemented pursuant to the Settlement Agreement: (a) constituted the best practicable notice under the circumstances; (b) constituted notice that was reasonably calculated to apprise Class Members of the pendency of the Actions, the terms of the Settlement and their rights under the settlement ... met all applicable requirements of law, including, but not limited to, the Federal Rules of Civil Procedure, 28 U.S.C. § 1715, and the Due Process Clause(s) of the United States Constitution, as well as complied with the Federal Judicial Center's illustrative class action notices.



Hartless v. Clorox Company, No. 06-CV-2705 (CAB) (S.D.Cal.). In the Final Order Approving Settlement, the Honorable Cathy N. Bencivengo found:

The Class Notice advised Class members of the terms of the settlement; the Final Approval Hearing and their right to appear at such hearing; their rights to remain in or opt out of the Class and to object to the settlement; the procedures for exercising such rights; and the binding effect of this Judgment, whether favorable or unfavorable, to the Class. The distribution of the notice to the Class constituted the best notice practicable under the circumstances, and fully satisfied the requirements of Federal Rule of Civil Procedure 23, the requirements of due process, 28 U.S.C. §1715, and any other applicable law.

McDonough et al., v. Toys 'R' Us et al, No. 09:-cv-06151-AB (E.D. Pa.). In the Final Order and Judgment Approving Settlement, the Honorable Anita Brody stated:

The Court finds that the Notice provided constituted the best notice practicable under the circumstances and constituted valid, due and sufficient notice to all persons entitled thereto.

In re: Pre-Filled Propane Tank Marketing & Sales Practices Litigation, No. 4:09-md-02086-GAF (W.D. Mo.) In granting final approval to the settlement, the Honorable Gary A. Fenner stated:

The notice program included individual notice to class members who could be identified by Ferrellgas, publication notices, and notices affixed to Blue Rhino propane tank cylinders sold by Ferrellgas through various retailers. ... The Court finds the notice program fully complied with Federal Rule of Civil Procedure 23 and the requirements of due process and provided to the Class the best notice practicable under the circumstances.

Stern v. AT&T Mobility Wireless, No. 09-cv-1112 CAS-AGR (C.D.Cal. 2009). In the Final Approval Order, the Honorable Christina A. Snyder stated:

[T]he Court finds that the Parties have fully and adequately effectuated the Notice Plan, as required by the Preliminary Approval Order, and, in fact, have achieved better results than anticipated or required by the Preliminary Approval Order.

In re: Processed Egg Prods. Antitrust Litig., MDL No. 08-md-02002 (E.D.P.A.). In the Order Granting Final Approval of Settlement, Judge Gene E.K. Pratter stated:

The Notice appropriately detailed the nature of the action, the Class claims, the definition of the Class and Subclasses, the terms of the proposed settlement agreement, and the class members' right to object or request exclusion from the settlement and the timing and manner for doing so.... Accordingly, the Court determines that the notice provided to the putative Class Members constitutes adequate notice in satisfaction of the demands of Rule 23.

In re Polyurethane Foam Antitrust Litigation, 10- MD-2196 (N.D. OH). In the Order Granting Final Approval of Voluntary Dismissal and Settlement of Defendant Domfoam and Others, the Honorable Jack Zouhary stated:

The notice program included individual notice to members of the Class who could be identified through reasonable effort, as well as extensive publication of a summary notice. The Notice constituted the most effective and best notice practicable under the circumstances of the Settlement Agreements, and constituted due and sufficient notice for all other purposes to all persons and entities entitled to receive notice.

Rojas v Career Education Corporation, No. 10-cv-05260 (N.D.E.D. IL) In the Final Approval Order dated October 25, 2012, the Honorable Virginia M. Kendall stated:

The Court Approved notice to the Settlement Class as the best notice practicable under the circumstance including individual notice via U.S. Mail and by email to the class members whose addresses were obtained from each Class Member's wireless carrier or from a commercially reasonable reverse cell phone number look-up service, nationwide magazine publication, website publication, targeted on-line advertising, and a press release. Notice has been successfully implemented and satisfies the requirements of the Federal Rule of Civil Procedure 23 and Due Process.



Golloher v Todd Christopher International, Inc. DBA Vogue International (Organix), No. C 1206002 N.D. CA. In the Final Order and Judgment Approving Settlement, the Honorable Richard Seeborg stated:
The distribution of the notice to the Class constituted the best notice practicable under the circumstances, and fully satisfied the requirements of Federal Rule of Civil Procedure 23, the requirements of due process, 28 U.S.C. §1715, and any other applicable law.

Stefanyshyn v. Consolidated Industries, No. 79 D 01-9712-CT-59 (Tippecanoe County Sup. Ct., Ind.). In the Order Granting Final Approval of Settlement, Judge Randy Williams stated:
The long and short form notices provided a neutral, informative, and clear explanation of the Settlement. ... The proposed notice program was properly designed, recommended, and implemented ... and constitutes the "best practicable" notice of the proposed Settlement. The form and content of the notice program satisfied all applicable legal requirements. ... The comprehensive class notice educated Settlement Class members about the defects in Consolidated furnaces and warned them that the continued use of their furnaces created a risk of fire and/or carbon monoxide. This alone provided substantial value.

McGee v. Continental Tire North America, Inc. et al, No. 06-6234-(GEB) (D.N.J.).

The Class Notice, the Summary Settlement Notice, the web site, the toll-free telephone number, and all other notices in the Agreement, and the notice methodology implemented pursuant to the Agreement: (a) constituted the best practicable notice under the circumstances; (b) constituted notice that was reasonably calculated to apprise Class Members of the pendency of the Action, the terms of the settlement and their rights under the settlement, including, but not limited to, their right to object to or exclude themselves from the proposed settlement and to appear at the Fairness Hearing; (c) were reasonable and constituted due, adequate and sufficient notice to all persons entitled to receive notification; and (d) met all applicable requirements of law, including, but not limited to, the Federal Rules of Civil Procedure, 20 U.S.C. Sec. 1715, and the Due Process Clause(s) of the United States Constitution, as well as complied with the Federal Judicial Center's illustrative class action notices.

Varacallo, et al. v. Massachusetts Mutual Life Insurance Company, et al., No. 04-2702 (JLL) (D.N.J.). The Court stated that:

[A]ll of the notices are written in simple terminology, are readily understandable by Class Members, and comply with the Federal Judicial Center's illustrative class action notices. ... By working with a nationally syndicated media research firm, [Finegan's firm] was able to define a target audience for the MassMutual Class Members, which provided a valid basis for determining the magazine and newspaper preferences of the Class Members. (Preliminary Approval Order at p. 9). ... The Court agrees with Class Counsel that this was more than adequate. (Id. at § 5.2).

In Re: Nortel Network Corp., Sec. Litig., No. 01-CV-1855 (RMB) Master File No. 05 MD 1659 (LAP) (S.D.N.Y.). Ms. Finegan designed and implemented the extensive United States and Canadian notice programs in this case. The Canadian program was published in both French and English, and targeted virtually all investors of stock in Canada. See www.nortelsecuritieslitigation.com. Of the U.S. notice program, the Honorable Loretta A. Preska stated:

The form and method of notifying the U.S. Global Class of the pendency of the action as a class action and of the terms and conditions of the proposed Settlement ... constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

Regarding the B.C. Canadian Notice effort: *Jeffrey v. Nortel Networks*, [2007] BCSC 69 at para. 50, the Honourable Mr. Justice Groberman said:

The efforts to give notice to potential class members in this case have been thorough. There has been a broad media campaign to publicize the proposed settlement and the court processes. There has also been a direct mail campaign directed at probable investors. I am advised that over 1.2 million claim packages were mailed to persons around the world. In addition, packages



have been available through the worldwide web site nortelsecuritieslitigation.com on the Internet. Toll-free telephone lines have been set up, and it appears that class counsel and the Claims Administrator have received innumerable calls from potential class members. In short, all reasonable efforts have been made to ensure that potential members of the class have had notice of the proposal and a reasonable opportunity was provided for class members to register their objections, or seek exclusion from the settlement.

Mayo v. Walmart Stores and Sam's Club, No. 5:06 CV-93-R (W.D.Ky.). In the Order Granting Final Approval of Settlement, Judge Thomas B. Russell stated:

According to defendants' database, the Notice was estimated to have reached over 90% of the Settlement Class Members through direct mail. The Settlement Administrator ... has classified the parties' database as 'one of the most reliable and comprehensive databases [she] has worked with for the purposes of legal notice.'... The Court thus reaffirms its findings and conclusions in the Preliminary Approval Order that the form of the Notice and manner of giving notice satisfy the requirements of Fed. R. Civ. P. 23 and affords due process to the Settlement Class Members.

Fishbein v. All Market Inc., (d/b/a Vita Coco) No. 11-cv-05580 (S.D.N.Y.). In granting final approval of the settlement, the Honorable J. Paul Oetken stated:

"The Court finds that the dissemination of Class Notice pursuant to the Notice Program...constituted the best practicable notice to Settlement Class Members under the circumstances of this Litigation ... and was reasonable and constituted due, adequate and sufficient notice to all persons entitled to such notice, and fully satisfied the requirements of the Federal Rules of Civil Procedure, including Rules 23(c)(2) and (e), the United States Constitution (including the Due Process Clause), the Rules of this Court, and any other applicable laws."

Lucas, et al. v. Kmart Corp., No. 99-cv-01923 (D.Colo.), wherein the Court recognized Jeanne Finegan as an expert in the design of notice programs, and stated:

The Court finds that the efforts of the parties and the proposed Claims Administrator in this respect go above and beyond the "reasonable efforts" required for identifying individual class members under F.R.C.P. 23(c)(2)(B).

In Re: Johns-Manville Corp. (Statutory Direct Action Settlement, Common Law Direct Action and Hawaii Settlement), No 82-11656, 57, 660, 661, 665-73, 75 and 76 (BRL) (Bankr. S.D.N.Y.). The nearly half-billion dollar settlement incorporated three separate notification programs, which targeted all persons who had asbestos claims whether asserted or unasserted, against the Travelers Indemnity Company. In the Findings of Fact and Conclusions of a Clarifying Order Approving the Settlements, slip op. at 47-48 (Aug. 17, 2004), the Honorable Burton R. Lifland, Chief Justice, stated:

As demonstrated by Findings of Fact (citation omitted), the Statutory Direct Action Settlement notice program was reasonably calculated under all circumstances to apprise the affected individuals of the proceedings and actions taken involving their interests, Mullane v. Cent. Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950), such program did apprise the overwhelming majority of potentially affected claimants and far exceeded the minimum notice required. . . The results simply speak for themselves.

Pigford v. Glickman and U.S. Department of Agriculture, No. 97-1978. 98-1693 (PLF) (D.D.C.). This matter was the largest civil rights case to settle in the United States in over 40 years. The highly publicized, nationwide paid media program was designed to alert all present and past African-American farmers of the opportunity to recover monetary damages against the U.S. Department of Agriculture for alleged loan discrimination. In his Opinion, the Honorable Paul L. Friedman commended the parties with respect to the notice program, stating;

The parties also exerted extraordinary efforts to reach class members through a massive advertising campaign in general and African American targeted publications and television



stations. . . The Court concludes that class members have received more than adequate notice and have had sufficient opportunity to be heard on the fairness of the proposed Consent Decree.

In Re: Louisiana-Pacific Inner-Seal Siding Litig., Nos. 879-JE, and 1453-JE (D.Or.). Under the terms of the Settlement, three separate notice programs were to be implemented at three-year intervals over a period of six years. In the first notice campaign, Ms. Finegan implemented the print advertising and Internet components of the Notice program. In approving the legal notice communication plan, the Honorable Robert E. Jones stated:

The notice given to the members of the Class fully and accurately informed the Class members of all material elements of the settlement...[through] a broad and extensive multi-media notice campaign.

Additionally, with regard to the third-year notice program for Louisiana-Pacific, the Honorable Richard Unis, Special Master, commented that the notice was:

...well formulated to conform to the definition set by the court as adequate and reasonable notice. Indeed, I believe the record should also reflect the Court's appreciation to Ms. Finegan for all the work she's done, ensuring that noticing was done correctly and professionally, while paying careful attention to overall costs. Her understanding of various notice requirements under Fed. R. Civ. P. 23, helped to insure that the notice given in this case was consistent with the highest standards of compliance with Rule 23(d)(2).

In Re: Expedia Hotel Taxes and Fees Litigation, No. 05-2-02060-1 (SEA) (Sup. Ct. of Wash. in and for King County). In the Order Granting Final Approval of Class Action Settlement, Judge Monica Benton stated:

The Notice of the Settlement given to the Class ... was the best notice practicable under the circumstances. All of these forms of Notice directed Class Members to a Settlement Website providing key Settlement documents including instructions on how Class Members could exclude themselves from the Class, and how they could object to or comment upon the Settlement. The Notice provided due and adequate notice of these proceeding and of the matters set forth in the Agreement to all persons entitled to such notice, and said notice fully satisfied the requirements of CR 23 and due process.

Thomas A. Foster and Linda E. Foster v. ABTco Siding Litigation, No. 95-151-M (Cir. Ct., Choctaw County, Ala.). This litigation focused on past and present owners of structures sided with Abitibi-Price siding. The notice program that Ms. Finegan designed and implemented was national in scope and received the following praise from the Honorable J. Lee McPhearson:

*The Court finds that the Notice Program conducted by the Parties provided individual notice to all known Class Members and all Class Members who could be identified through reasonable efforts and constitutes the best notice practicable under the circumstances of this Action. This finding is based on the overwhelming evidence of the adequacy of the notice program. ... The media campaign involved broad national notice through television and print media, regional and local newspapers, and the Internet (see *id.* ¶¶9-11) The result: over 90 percent of Abitibi and ABTco owners are estimated to have been reached by the direct media and direct mail campaign.*

Wilson v. Massachusetts Mut. Life Ins. Co., No. D-101-CV 98-02814 (First Judicial Dist. Ct., County of Santa Fe, N.M.). This was a nationwide notification program that included all persons in the United States who owned, or had owned, a life or disability insurance policy with Massachusetts Mutual Life Insurance Company and had paid additional charges when paying their premium on an installment basis. The class was estimated to exceed 1.6 million individuals. www.insuranceclassclaims.com. In granting preliminary approval to the settlement, the Honorable Art Encinias found:

[T]he Notice Plan [is] the best practicable notice that is reasonably calculated, under the circumstances of the action. ...[and] meets or exceeds all applicable requirements of the law, including Rule 1-023(C)(2) and (3) and 1-023(E), NMRA 2001, and the requirements of federal and/or state constitutional due process and any other applicable law.



Sparks v. AT&T Corp., No. 96-LM-983 (Third Judicial Cir., Madison County, Ill.). The litigation concerned all persons in the United States who leased certain AT&T telephones during the 1980's. Ms. Finegan designed and implemented a nationwide media program designed to target all persons who may have leased telephones during this time period, a class that included a large percentage of the entire population of the United States. In granting final approval to the settlement, the Court found:

The Court further finds that the notice of the proposed settlement was sufficient and furnished Class Members with the information they needed to evaluate whether to participate in or opt out of the proposed settlement. The Court therefore concludes that the notice of the proposed settlement met all requirements required by law, including all Constitutional requirements.

In Re: Georgia-Pacific Toxic Explosion Litig., No. 98 CVC05-3535 (Ct. of Common Pleas, Franklin County, Ohio). Ms. Finegan designed and implemented a regional notice program that included network affiliate television, radio and newspaper. The notice was designed to alert adults living near a Georgia-Pacific plant that they had been exposed to an air-born toxic plume and their rights under the terms of the class action settlement. In the Order and Judgment finally approving the settlement, the Honorable Jennifer L. Bunner stated:

[N]otice of the settlement to the Class was the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The Court finds that such effort exceeded even reasonable effort and that the Notice complies with the requirements of Civ. R. 23(C).

In Re: American Cyanamid, No. CV-97-0581-BH-M (S.D.AI.). The media program targeted Farmers who had purchased crop protection chemicals manufactured by American Cyanamid. In the Final Order and Judgment, the Honorable Charles R. Butler Jr. wrote:

The Court finds that the form and method of notice used to notify the Temporary Settlement Class of the Settlement satisfied the requirements of Fed. R. Civ. P. 23 and due process, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all potential members of the Temporary Class Settlement.

In Re: First Alert Smoke Alarm Litig., No. CV-98-C-1546-W (UWC) (N.D.AI.). Ms. Finegan designed and implemented a nationwide legal notice and public information program. The public information program ran over a two-year period to inform those with smoke alarms of the performance characteristics between photoelectric and ionization detection. The media program included network and cable television, magazine and specialty trade publications. In the Findings and Order Preliminarily Certifying the Class for Settlement Purposes, Preliminarily Approving Class Settlement, Appointing Class Counsel, Directing Issuance of Notice to the Class, and Scheduling a Fairness Hearing, the Honorable C.W. Clemon wrote that the notice plan:

...constitutes due, adequate and sufficient notice to all Class Members; and (v) meets or exceeds all applicable requirements of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), the Alabama State Constitution, the Rules of the Court, and any other applicable law.

In Re: James Hardie Roofing Litig., No. 00-2-17945-65SEA (Sup. Ct. of Wash., King County). The nationwide legal notice program included advertising on television, in print and on the Internet. The program was designed to reach all persons who own any structure with JHBP roofing products. In the Final Order and Judgment, the Honorable Steven Scott stated:

The notice program required by the Preliminary Order has been fully carried out... [and was] extensive. The notice provided fully and accurately informed the Class Members of all material elements of the proposed Settlement and their opportunity to participate in or be excluded from it; was the best notice practicable under the circumstances; was valid, due and sufficient notice to all Class Members; and complied fully with Civ. R. 23, the United States Constitution, due process, and other applicable law.

Barden v. Hurd Millwork Co. Inc., et al, No. 2:6-cv-00046 (LA) (E.D.Wis.)



"The Court approves, as to form and content, the notice plan and finds that such notice is the best practicable under the circumstances under Federal Rule of Civil Procedure 23(c)(2)(B) and constitutes notice in a reasonable manner under Rule 23(e)(1)."

Altieri v. Reebok, No. 4:10-cv-11977 (FDS) (D.C.Mass.)

"The Court finds that the notices ... constitute the best practicable notice...The Court further finds that all of the notices are written in simple terminology, are readily understandable by Class Members, and comply with the Federal Judicial Center's illustrative class action notices."

Marenco v. Visa Inc., No. CV 10-08022 (DMG) (C.D.Cal.)

"[T]he Court finds that the notice plan...meets the requirements of due process, California law, and other applicable precedent. The Court finds that the proposed notice program is designed to provide the Class with the best notice practicable, under the circumstances of this action, of the pendency of this litigation and of the proposed Settlement's terms, conditions, and procedures, and shall constitute due and sufficient notice to all persons entitled thereto under California law, the United States Constitution, and any other applicable law."

Palmer v. Sprint Solutions, Inc., No. 09-cv-01211 (JLR) (W.D.Wa.)

"The means of notice were reasonable and constitute due, adequate, and sufficient notice to all persons entitled to be provide^{3d} with notice."

In Re: Tyson Foods, Inc., Chicken Raised Without Antibiotics Consumer Litigation, No. 1:08-md-01982 RDB (D. Md. N. Div.)

"The notice, in form, method, and content, fully complied with the requirements of Rule 23 and due process, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons entitled to notice of the settlement."

Sager v. Inamed Corp. and McGhan Medical Breast Implant Litigation, No. 01043771 (Sup. Ct. Cal., County of Santa Barbara)

"Notice provided was the best practicable under the circumstances."

Deke, et al. v. Cardservice Internat'l, Case No. BC 271679, slip op. at 3 (Sup. Ct. Cal., County of Los Angeles)

"The Class Notice satisfied the requirements of California Rules of Court 1856 and 1859 and due process and constituted the best notice practicable under the circumstances."

Levine, et al. v. Dr. Philip C. McGraw, et al., Case No. BC 312830 (Los Angeles County Super. Ct., Cal.)

"[T]he plan for notice to the Settlement Class ... constitutes the best notice practicable under the circumstances and constituted due and sufficient notice to the members of the Settlement Class ... and satisfies the requirements of California law and federal due process of law."

In re: Canadian Air Cargo Shipping Class Actions, Court File No. 50389CP, Ontario Superior Court of Justice, Supreme Court of British Columbia, Quebec Superior Court

"I am satisfied the proposed form of notice meets the requirements of s. 17(6) of the CPA and the proposed method of notice is appropriate."

Fischer et al v. IG Investment Management, Ltd. et al, Court File No. 06-CV-307599CP, Ontario Superior Court of Justice.

In re: Vivendi Universal, S.A. Securities Litigation, No. 02-cv-5571 (RJH)(HBP) (S.D.N.Y.).

In re: Air Cargo Shipping Services Antitrust Litigation, No. 06-MD-1775 (JG) (VV) (E.D.N.Y.).

Berger, et al., v. Property ID Corporation, et al., No. CV 05-5373-GHK (CWx) (C.D.Cal.).



Lozano v. AT&T Mobility Wireless, No. 02-cv-0090 CAS (AJWx) (C.D.Cal.).

Howard A. Engle, M.D., et al., v. R.J. Reynolds Tobacco Co., Philip Morris, Inc., Brown & Williamson Tobacco Corp., No. 94-08273 CA (22) (11th Judicial Dist. Ct. of Miami-Dade County, Fla.).

In re: Royal Dutch/Shell Transport Securities Litigation, No. 04 Civ. 374 (JAP) (Consolidated Cases) (D. N.J.).

In re: Epson Cartridge Cases, Judicial Council Coordination Proceeding, No. 4347 (Sup. Ct. of Cal., County of Los Angeles).

UAW v. General Motors Corporation, No: 05-73991 (E.D.MI).

Wicon, Inc. v. Cardservice Intern'l, Inc., BC 320215 (Sup. Ct. of Cal., County of Los Angeles).

In re: SmithKline Beecham Clinical Billing Litig., No. CV. No. 97-L-1230 (Third Judicial Cir., Madison County, Ill.).

Ms. Finegan designed and developed a national media and Internet site notification program in connection with the settlement of a nationwide class action concerning billings for clinical laboratory testing services.

MacGregor v. Schering-Plough Corp., No. EC248041 (Sup. Ct. Cal., County of Los Angeles).

This nationwide notification program was designed to reach all persons who had purchased or used an aerosol inhaler manufactured by Schering-Plough. Because no mailing list was available, notice was accomplished entirely through the media program.

In re: Swiss Banks Holocaust Victim Asset Litig., No. CV-96-4849 (E.D.N.Y.).

Ms. Finegan managed the design and implementation of the Internet site on this historic case. The site was developed in 21 native languages. It is a highly secure data gathering tool and information hub, central to the global outreach program of Holocaust survivors. www.swissbankclaims.com.

In re: Exxon Valdez Oil Spill Litig., No. A89-095-CV (HRH) (Consolidated) (D. Alaska).

Ms. Finegan designed and implemented two media campaigns to notify native Alaskan residents, trade workers, fisherman, and others impacted by the oil spill of the litigation and their rights under the settlement terms.

In re: Johns-Manville Phenolic Foam Litig., No. CV 96-10069 (D. Mass).

The nationwide multi-media legal notice program was designed to reach all Persons who owned any structure, including an industrial building, commercial building, school, condominium, apartment house, home, garage or other type of structure located in the United States or its territories, in which Johns-Manville PFRI was installed, in whole or in part, on top of a metal roof deck.

Bristow v Fleetwood Enters Litig., No Civ 00-0082-S-EJL (D. Id).

Ms. Finegan designed and implemented a legal notice campaign targeting present and former employees of Fleetwood Enterprises, Inc., or its subsidiaries who worked as hourly production workers at Fleetwood's housing, travel trailer, or motor home manufacturing plants. The comprehensive notice campaign included print, radio and television advertising.

In re: New Orleans Tank Car Leakage Fire Litig., No 87-16374 (Civil Dist. Ct., Parish of Orleans, LA) (2000).

This case resulted in one of the largest settlements in U.S. history. This campaign consisted of a media relations and paid advertising program to notify individuals of their rights under the terms of the settlement.



Garrja Spencer v. Shell Oil Co., No. CV 94-074(Dist. Ct., Harris County, Tex.).

The nationwide notification program was designed to reach individuals who owned real property or structures in the United States, which contained polybutylene plumbing with acetyl insert or metal insert fittings.

In re: Hurd Millwork Heat Mirror™ Litig., No. CV-772488 (Sup. Ct. of Cal., County of Santa Clara).

This nationwide multi-media notice program was designed to reach class members with failed heat mirror seals on windows and doors, and alert them as to the actions that they needed to take to receive enhanced warranties or window and door replacement.

Laborers Dist. Counsel of Alabama Health and Welfare Fund v. Clinical Lab. Servs., Inc., No. CV-97-C-629-W (N.D. Ala.)

Ms. Finegan designed and developed a national media and Internet site notification program in connection with the settlement of a nationwide class action concerning alleged billing discrepancies for clinical laboratory testing services.

In re: StarLink Corn Prods. Liab. Litig., No. 01-C-1181 (N.D. Ill)

Ms. Finegan designed and implemented a nationwide notification program designed to alert potential class members of the terms of the settlement.

In re: MCI Non-Subscriber Rate Payers Litig., MDL Docket No. 1275, 3:99-cv-01275 (S.D.Ill.).

The advertising and media notice program, found to be "more than adequate" by the Court, was designed with the understanding that the litigation affected all persons or entities who were customers of record for telephone lines presubscribed to MCI/World Com, and were charged the higher non-subscriber rates and surcharges for direct-dialed long distance calls placed on those lines. www.rateclaims.com.

In re: Albertson's Back Pay Litig., No. 97-0159-S-BLW (D.Id.).

Ms. Finegan designed and developed a secure Internet site, where claimants could seek case information confidentially.

In re: Georgia Pacific Hardboard Siding Recovering Program, No. CV-95-3330-RG (Cir. Ct., Mobile County, Ala.)

Ms. Finegan designed and implemented a multi-media legal notice program, which was designed to reach class members with failed G-P siding and alert them of the pending matter. Notice was provided through advertisements, which aired on national cable networks, magazines of nationwide distribution, local newspaper, press releases and trade magazines.

In re: Diet Drugs (Phentermine, Fenfluramine, Dexfenfluramine) Prods. Liab. Litig., Nos. 1203, 99-20593.

Ms. Finegan worked as a consultant to the National Diet Drug Settlement Committee on notification issues. The resulting notice program was described and complimented at length in the Court's Memorandum and Pretrial Order 1415, approving the settlement.

Ms. Finegan designed the Notice programs for multiple state antitrust cases filed against the Microsoft Corporation. In those cases, it was generally alleged that Microsoft unlawfully used anticompetitive means to maintain a monopoly in markets for certain software, and that as a result, it overcharged consumers who licensed its MS-DOS, Windows, Word, Excel and Office software. The multiple legal notice programs designed by Jeanne Finegan and listed below targeted both individual users and business users of this software. The scientifically designed notice programs took into consideration both media usage habits and demographic characteristics of the targeted class members.

In re: Florida Microsoft Antitrust Litig. Settlement, No. 99-27340 CA 11 (11th Judicial Dist. Ct. of Miami-Dade County, Fla.).



In re: Montana Microsoft Antitrust Litig. Settlement, No. DCV 2000 219 (First Judicial Dist. Ct., Lewis & Clark Co., Mt.).

In re: South Dakota Microsoft Antitrust Litig. Settlement, No. 00-235(Sixth Judicial Cir., County of Hughes, S.D.).

In re: Kansas Microsoft Antitrust Litig. Settlement, No. 99C17089 Division No. 15 Consolidated Cases (Dist. Ct., Johnson County, Kan.)

“The Class Notice provided was the best notice practicable under the circumstances and fully complied in all respects with the requirements of due process and of the Kansas State. Annot. §60-22.3.”

In re: North Carolina Microsoft Antitrust Litig. Settlement, No. 00-CvS-4073 (Wake) 00-CvS-1246 (Lincoln) (General Court of Justice Sup. Ct., Wake and Lincoln Counties, N.C.).

In re: ABS II Pipes Litig., No. 3126 (Sup. Ct. of Cal., Contra Costa County).

The Court approved regional notification program designed to alert those individuals who owned structures with the pipe that they were eligible to recover the cost of replacing the pipe.

In re: Avenue A Inc. Internet Privacy Litig., No: C00-1964C (W.D. Wash.).

In re: Lorazepam and Clorazepate Antitrust Litig., No. 1290 (TFH) (D.C.C.).

In re: Providian Fin. Corp. ERISA Litig., No C-01-5027 (N.D. Cal.).

In re: H & R Block., et al Tax Refund Litig., No. 97195023/CC4111 (MD Cir. Ct., Baltimore City).

In re: American Premier Underwriters, Inc, U.S. Railroad Vest Corp., No. 06C01-9912 (Cir. Ct., Boone County, Ind.).

In re: Sprint Corp. Optical Fiber Litig., No: 9907 CV 284 (Dist. Ct., Leavenworth County, Kan).

In re: Shelter Mutual Ins. Co. Litig., No. CJ-2002-263 (Dist.Ct., Canadian County. Ok).

In re: Conseco, Inc. Sec. Litig., No: IP-00-0585-C Y/S CA (S.D. Ind.).

In re: Nat’l Treasury Employees Union, et al., 54 Fed. Cl. 791 (2002).

In re: City of Miami Parking Litig., Nos. 99-21456 CA-10, 99-23765 – CA-10 (11th Judicial Dist. Ct. of Miami-Dade County, Fla.).

In re: Prime Co. Incorporated D/B/A/ Prime Co. Personal Comm., No. L 1:01CV658 (E.D. Tx.).

Alesa Veneer v. State of Oregon A.A., No. 88C-11289-88C-11300.



INTERNATIONAL EXPERIENCE

In re Purdue Pharma L.P., No. 19-23649 (Bankr. S.D.N.Y. 2019).

Imerys Talc America, Inc. No. 19-10289 Bankr. D.Del 20201

Bell v. Canadian Imperial Bank of Commerce, et al, Court File No.: CV-08-359335 (Ontario Superior Court of Justice); (2016).

In re: Canadian Air Cargo Shipping Class Actions (Ontario Superior Court of Justice, Court File No. 50389CP, Supreme Court of British Columbia.

In re: Canadian Air Cargo Shipping Class Actions (Québec Superior Court).

Fischer v. IG Investment Management LTD., No. 06-CV-307599CP (Ontario Superior Court of Justice).

In Re Nortel I & II Securities Litigation, Civil Action No. 01-CV-1855 (RMB), Master File No. 05 MD 1659 (LAP) (S.D.N.Y. 2006).

Frohlinger v. Nortel Networks Corporation et al., Court File No.: 02-CL-4605 (Ontario Superior Court of Justice).

Association de Protection des Épargnants et Investisseurs du Québec v. Corporation Nortel Networks, No.: 500-06-0002316-017 (Superior Court of Québec).

Jeffery v. Nortel Networks Corporation et al., Court File No.: S015159 (Supreme Court of British Columbia).

Gallardi v. Nortel Networks Corporation, No. 05-CV-285606CP (Ontario Superior Court).

Skarstedt v. Corporation Nortel Networks, No. 500-06-000277-059 (Superior Court of Québec).

SEC ENFORCEMENT NOTICE PROGRAM EXPERIENCE

SEC v. Vivendi Universal, S.A., et al., Case No. 02 Civ. 5571 (RJH) (HBP) (S.D.N.Y.).
The Notice program included publication in 11 different countries and eight different languages.

SEC v. Royal Dutch Petroleum Company, No.04-3359 (S.D. Tex.)

FEDERAL TRADE COMMISSION NOTICE PROGRAM EXPERIENCE

FTC v. TracFone Wireless, Inc., Case No. 15-cv-00392-EMC.

FTC v. Skechers U.S.A., Inc., No. 1:12-cv-01214-JG (N.D. Ohio).

FTC v. Reebok International Ltd., No. 11-cv-02046 (N.D. Ohio)

FTC v. Chanery and RTC Research and Development LLC [Nutraquest], No :05-cv-03460 (D.N.J.)

BANKRUPTCY EXPERIENCE



Ms. Finegan has designed and implemented hundreds of domestic and international bankruptcy notice programs. A sample case list includes the following:

In Re: PG&E Corporation Case No. 19-30088 Bankr. N.D. Cal. 2019). Hearing Establishing, Deadline for Filing Proofs of Claim, (II) establishing the Form and Manner of Notice Thereof, and (III) Approving Procedures for Providing Notice of Bar Date and Other Information to all Creditors and Potential Creditors PG&E. *June 26, 2019, Transcript of Hearing p. 21:1*, the Honorable Dennis Montali stated:

...the technology and the thought that goes into all these plans is almost incomprehensible. He further stated, p. 201:20 ... Ms. Finegan has really impressed me today...

Imerys Talc America, Inc. No. 19-10289 Bankr. D.Del 20201.

In re AMR Corporation [American Airlines], et al., No. 11-15463 (SHL) (Bankr. S.D.N.Y.)
"due and proper notice [was] provided, and ... no other or further notice need be provided."

In re Jackson Hewitt Tax Service Inc., et al., No 11-11587 (Bankr. D.Del.) (2011).

The debtors sought to provide notice of their filing as well as the hearing to approve their disclosure statement and confirm their plan to a large group of current and former customers, many of whom current and viable addresses promised to be a difficult (if not impossible) and costly undertaking. The court approved a publication notice program designed and implemented by Finegan and the administrator, that included more than 350 local newspaper and television websites, two national online networks (24/7 Real Media, Inc. and Microsoft Media Network), a website notice linked to a press release and notice on eight major websites, including CNN and Yahoo. These online efforts supplemented the print publication and direct-mail notice provided to known claimants and their attorneys, as well as to the state attorneys general of all 50 states. The *Jackson Hewitt* notice program constituted one of the first large chapter 11 cases to incorporate online advertising.

In re: Nutraquest Inc., No. 03-44147 (Bankr. D.N.J.)

In re: General Motors Corp. et al, No. 09-50026 (Bankr. S.D.N.Y.)

This case is the 4th largest bankruptcy in U.S. history. Ms. Finegan and her team worked with General Motors restructuring attorneys to design and implement the legal notice program.

In re: ACandS, Inc., No. 0212687 (Bankr. D.Del.) (2007)

"Adequate notice of the Motion and of the hearing on the Motion was given."

In re: United Airlines, No. 02-B-48191 (Bankr. N.D Ill.)

Ms. Finegan worked with United and its restructuring attorneys to design and implement global legal notice programs. The notice was published in 11 countries and translated into 6 languages. Ms. Finegan worked closely with legal counsel and UAL's advertising team to select the appropriate media and to negotiate the most favorable advertising rates. www.pd-ual.com.

In re: Enron, No. 01-16034 (Bankr. S.D.N.Y.)

Ms. Finegan worked with Enron and its restructuring attorneys to publish various legal notices.

In re: Dow Corning, No. 95-20512 (Bankr. E.D. Mich.)

Ms. Finegan originally designed the information website. This Internet site is a major information hub that has various forms in 15 languages.

In re: Harnischfeger Inds., No. 99-2171 (RJW) Jointly Administered (Bankr. D. Del.)

Ms. Finegan designed and implemented 6 domestic and international notice programs for this case. The notice was translated into 14 different languages and published in 16 countries.

In re: Keene Corp., No. 93B 46090 (SMB), (Bankr. E.D. MO.)



Ms. Finegan designed and implemented multiple domestic bankruptcy notice programs including notice on the plan of reorganization directed to all creditors and all Class 4 asbestos-related claimants and counsel.

In re: Lamonts, No. 00-00045 (Bankr. W.D. Wash.)

Ms. Finegan designed and implemented multiple bankruptcy notice programs.

In re: Monet Group Holdings, Nos. 00-1936 (MFW) (Bankr. D. Del.)

Ms. Finegan designed and implemented a bar date notice.

In re: Laclede Steel Co., No. 98-53121-399 (Bankr. E.D. MO.)

Ms. Finegan designed and implemented multiple bankruptcy notice programs.

In re: Columbia Gas Transmission Corp., No. 91-804 (Bankr. S.D.N.Y.)

Ms. Finegan developed multiple nationwide legal notice notification programs for this case.

In re: U.S.H. Corp. of New York, et al. (Bankr. S.D.N.Y.)

Ms. Finegan designed and implemented a bar date advertising notification campaign.

In re: Best Prods. Co., Inc., No. 96-35267-T, (Bankr. E.D. Va.)

Ms. Finegan implemented a national legal notice program that included multiple advertising campaigns for notice of sale, bar date, disclosure and plan confirmation.

In re: Lodgian, Inc., et al., No. 16345 (BRL) Factory Card Outlet – 99-685 (JCA), 99-686 (JCA) (Bankr. S.D.N.Y.).

In re: Internat'l Total Servs, Inc., et al., Nos. 01-21812, 01-21818, 01-21820, 01-21882, 01-21824, 01-21826, 01-21827 (CD) Under Case No: 01-21812 (Bankr. E.D.N.Y.).

In re: Decora Inds., Inc. and Decora, Incorp., Nos. 00-4459 and 00-4460 (JJF) (Bankr. D. Del.).

In re: Genesis Health Ventures, Inc., et al, No. 002692 (PJW) (Bankr. D. Del.).

In re: Tel. Warehouse, Inc., et al, No. 00-2105 through 00-2110 (MFW) (Bankr. D. Del.).

In re: United Cos. Fin. Corp., et al, No. 99-450 (MFW) through 99-461 (MFW) (Bankr. D. Del.).

In re: Caldor, Inc. New York, The Caldor Corp., Caldor, Inc. CT, et al., No. 95-B44080 (JLG) (Bankr. S.D.N.Y.).

In re: Physicians Health Corp., et al., No. 00-4482 (MFW) (Bankr. D. Del.).

In re: GC Cos., et al., Nos. 00-3897 through 00-3927 (MFW) (Bankr. D. Del.).

In re: Heilig-Meyers Co., et al., Nos. 00-34533 through 00-34538 (Bankr. E.D. Va.).

MASS TORT EXPERIENCE AND PRODUCT RECALL

In Re: PG&E Corporation Case No . 19-30088 Bankr. N.D. Cal. 2019).

In re Purdue Pharma L.P., No. 19-23649 (Bankr. S.D.N.Y. 2019).

Imerys Talc America, Inc. No. 19-10289 Bankr. D.Del 2021.



Reser's Fine Foods. Reser's is a nationally distributed brand and manufacturer of food products through giants such as Albertsons, Costco, Food Lion, WinnDixie, Ingles, Safeway and Walmart. Ms. Finegan designed an enterprise-wide crisis communication plan that included communications objectives, crisis team roles and responsibilities, crisis response procedures, regulatory protocols, definitions of incidents that require various levels of notice, target audiences, and threat assessment protocols. Ms. Finegan worked with the company through two nationwide, high profile recalls, conducting extensive media relations efforts.

Gulf Coast Claims Facility Notice Campaign. Finegan coordinated a massive outreach effort throughout the Gulf Coast region to notify those who have claims as a result of damages caused by the Deep Water Horizon Oil spill. The notice campaign included extensive advertising in newspapers throughout the region, Internet notice through local newspaper, television and radio websites and media relations. The Gulf Coast Claims Facility (GCCF) was an independent claims facility, funded by BP, for the resolution of claims by individuals and businesses for damages incurred as a result of the oil discharges due to the Deepwater Horizon incident on April 20, 2010.

City of New Orleans Tax Revisions, Post-Hurricane Katrina. In 2007, the City of New Orleans revised property tax assessments for property owners. As part of this process, it received numerous appeals to the assessments. An administration firm served as liaison between the city and property owners, coordinating the hearing schedule and providing important information to property owners on the status of their appeal. Central to this effort was the comprehensive outreach program designed by Ms. Finegan, which included a website and a heavy schedule of television, radio and newspaper advertising, along with the coordination of key news interviews about the project picked up by local media.

ARTICLES/ SOCIAL MEDIA

Interview, "How Marketers Achieve Greater ROI Through Digital Assurance," Alliance for Audited Media ("AAM"), white paper, January 2021.

Tweet Chat: Contributing Panelist #Law360SocialChat, A live Tweet workshop concerning the benefits and pit-falls of social media, Lextalk.com, November 7, 2019.

Author, "Top Class Settlement Admin Factors to Consider in 2020" Law360, New York, (October 31, 2019, 5:44 PM ET).

Author, "Creating a Class Notice Program that Satisfies Due Process" Law360, New York, (February 13, 2018 12:58 PM ET).

Author, "3 Considerations for Class Action Notice Brand Safety" Law360, New York, (October 2, 2017 12:24 PM ET).

Author, "What Would Class Action Reform Mean for Notice?" Law360, New York, (April 13, 2017 11:50 AM ET).

Author, "Bots Can Silently Steal your Due Process Notice." Wisconsin Law Journal, April 2017.

Author, "Don't Turn a Blind Eye to Bots. Ad Fraud and Bots are a Reality of the Digital Environment." LinkedIn article March 6, 2107.

Co-Author, "Modern Notice Requirements Through the Lens of *Eisen* and *Mullane*" – Bloomberg - BNA Class Action Litigation Report, 17 CLASS 1077, (October 14, 2016).



Author, "Think All Internet Impressions Are The Same? Think Again" – Law360.com, New York (March 16, 2016, 3:39 ET).

Author, "Why Class Members Should See an Online Ad More Than Once" – Law360.com, New York, (December 3, 2015, 2:52 PM ET).

Author, 'Being 'Media-Relevant' — What It Means and Why It Matters - Law360.com, New York (September 11, 2013, 2:50 PM ET).

Co-Author, "New Media Creates New Expectations for Bankruptcy Notice Programs," ABI Journal, Vol. XXX, No 9, (November 2011).

Quoted Expert, "Effective Class Action Notice Promotes Access to Justice: Insight from a New U.S. Federal Judicial Center Checklist," Canadian Supreme Court Law Review, (2011), 53 S.C.L.R. (2d).

Co-Author, with Hon. Dickran Tevrizian – "Expert Opinion: It's More Than Just a Report...Why Qualified Legal Experts Are Needed to Navigate the Changing Media Landscape," BNA Class Action Litigation Report, 12 CLASS 464, May 27, 2011.

Co-Author, with Hon. Dickran Tevrizian, Your Insight, "Expert Opinion: It's More Than Just a Report -Why Qualified Legal Experts Are Needed to Navigate the Changing Media Landscape," ¹¹_{SEP} TXLR, Vol. 26, No. 21, May 26, 2011.

Quoted Expert, "Analysis of the FJC's 2010 Judges' Class Action Notice and Claims Process Checklist and Guide: A New Roadmap to Adequate Notice and Beyond," BNA Class Action Litigation Report, 12 CLASS 165, February 25, 2011.

Author, Five Key Considerations for a Successful International Notice Program, BNA Class Action Litigation Report, April, 9, 2010 Vol. 11, No. 7 p. 343.

Quoted Expert, "Communication Technology Trends Pose Novel Notification Issues for Class Litigators," BNA Electronic Commerce and Law, 15 ECLR 109 January 27, 2010.

Author, "Legal Notice: R U ready 2 adapt?" BNA Class Action Report, Vol. 10 Class 702, July 24, 2009.

Author, "On Demand Media Could Change the Future of Best Practicable Notice," BNA Class Action Litigation Report, Vol. 9, No. 7, April 11, 2008, pp. 307-310.

Quoted Expert, "Warranty Conference: Globalization of Warranty and Legal Aspects of Extended Warranty," Warranty Week, warrantyweek.com/archive/ww20070228.html/ February 28, 2007.

Co-Author, "Approaches to Notice in State Court Class Actions," For The Defense, Vol. 45, No. 11, November, 2003.

Citation, "Recall Effectiveness Research: A Review and Summary of the Literature on Consumer Motivation and Behavior," U.S. Consumer Product Safety Commission, CPSC-F-02-1391, p.10, Heiden Associates, July 2003.

Author, "The Web Offers Near, Real-Time Cost Efficient Notice," American Bankruptcy Institute, ABI Journal, Vol. XXII, No. 5., 2003.

Author, "Determining Adequate Notice in Rule 23 Actions," For The Defense, Vol. 44, No. 9 September, 2002.

Author, "Legal Notice, What You Need to Know and Why," Monograph, July 2002.



Co-Author, "The Electronic Nature of Legal Noticing," The American Bankruptcy Institute Journal, Vol. XXI, No. 3, April 2002.

Author, "Three Important Mantras for CEO's and Risk Managers," - International Risk Management Institute, irmi.com, January 2002.

Co-Author, "Used the Bat Signal Lately," The National Law Journal, Special Litigation Section, February 19, 2001.

Author, "How Much is Enough Notice," Dispute Resolution Alert, Vol. 1, No. 6. March 2001.

Author, "Monitoring the Internet Buzz," The Risk Report, Vol. XXIII, No. 5, Jan. 2001.

Author, "High-Profile Product Recalls Need More Than the Bat Signal," - International Risk Management Institute, irmi.com, July 2001.

Co-Author, "Do You Know What 100 Million People are Buzzing About Today?" Risk and Insurance Management, March 2001.

Quoted Article, "Keep Up with Class Action," Kentucky Courier Journal, March 13, 2000.

Author, "The Great Debate - How Much is Enough Legal Notice?" American Bar Association – Class Actions and Derivatives Suits Newsletter, winter edition 1999.

SPEAKER/EXPERT PANELIST/PRESENTER

Chief Litigation Counsel Association (CLCA)	Speaker, "Four Factors Impacting the Cost of Your Class Action Settlement and Notice," Houston TX, May 1, 2019
CLE Webinar	"Rule 23 Changes to Notice, Are You Ready for the Digital Wild, Wild West?" October 23, 2018, https://bit.ly/2RIRvZq
American Bar Assn.	Faculty Panelist, 4 th Annual Western Regional CLE Class Actions, "Big Brother, Information Privacy, and Class Actions: How Big Data and Social Media are Changing the Class Action Landscape" San Francisco, CA June, 2018.
Miami Law Class Action Faculty & Complex Litigation Forum	Panelist, "Settlement and Resolution of Class Actions," Miami, FL December 2, 2016.
The Knowledge Group	Faculty Panelist, "Class Action Settlements: Hot Topics 2016 and Beyond," Live Webcast, www.theknowledgegroup.org , October 2016.
ABA National Symposium	Faculty Panelist, "Ethical Considerations in Settling Class Actions," New Orleans, LA, March 2016.
S.F. Banking Attorney Assn.	Speaker, "How a Class Action Notice can Make or Break your Client's Settlement," San Francisco, CA, May 2015.
Perrin Class Action Conf.	Faculty Panelist, "Being Media Relevant, What It Means and Why It Matters – The Social Media Evolution: Trends, Challenges and Opportunities," Chicago, IL May 2015.
Bridgeport Continuing Ed.	Speaker, Webinar "Media Relevant in the Class Notice Context." July, 2014.



Bridgeport Continuing Ed.	Faculty Panelist, "Media Relevant in the Class Notice Context." Los Angeles, California, April 2014.
CASD 5 th Annual	Speaker, "The Impact of Social Media on Class Action Notice." Consumer Attorneys of San Diego Class Action Symposium, San Diego, California, September 2012.
Law Seminars International	Speaker, "Class Action Notice: Rules and Statutes Governing FRCP (b)(3) Best Practicable... What constitutes a best practicable notice? What practitioners and courts should expect in the new era of online and social media." Chicago, IL, October 2011. *Voted by attendees as one of the best presentations given.
CASD 4 th Annual	Faculty Panelist, "Reasonable Notice - Insight for practitioners on the FJC's <i>Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide</i> . Consumer Attorneys of San Diego Class Action Symposium, San Diego, California, October 2011.
CLE International	Faculty Panelist, Building a Workable Settlement Structure, CLE International, San Francisco, California May, 2011.
CASD	Faculty Panelist, "21 st Century Class Notice and Outreach." 3 rd Annual Class Action Symposium CASD Symposium, San Diego, California, October 2010.
CASD	Faculty Panelist, "The Future of Notice." 2 nd Annual Class Action Symposium CASD Symposium, San Diego California, October 2009.
American Bar Association	Speaker, 2008 Annual Meeting, "Practical Advice for Class Action Settlements: The Future of Notice In the United States and Internationally – Meeting the Best Practicable Standard." Section of Business Law Business and Corporate Litigation Committee – Class and Derivative Actions Subcommittee, New York, NY, August 2008.
Women Lawyers Assn.	Faculty Panelist, Women Lawyers Association of Los Angeles "The Anatomy of a Class Action." Los Angeles, CA, February, 2008.
Warranty Chain Mgmt.	Faculty Panelist, Presentation Product Recall Simulation. Tampa, Florida, March 2007.
Practicing Law Institute.	Faculty Panelist, CLE Presentation, 11 th Annual Consumer Financial Services Litigation. Presentation: Class Action Settlement Structures – Evolving Notice Standards in the Internet Age. New York/Boston (simulcast), NY March 2006; Chicago, IL April 2006 and San Francisco, CA, May 2006.
U.S. Consumer Product Safety Commission	Ms. Finegan participated as an invited expert panelist to the CPSC to discuss ways in which the CPSC could enhance and measure the recall process. As a panelist, Ms Finegan discussed how the CPSC could better motivate consumers to take action on recalls and how companies could scientifically measure and defend their outreach efforts. Bethesda, MD, September 2003.



Weil, Gotshal & Manges	Presenter, CLE presentation, "A Scientific Approach to Legal Notice Communication." New York, June 2003.
Sidley & Austin	Presenter, CLE presentation, "A Scientific Approach to Legal Notice Communication." Los Angeles, May 2003.
Kirkland & Ellis	Speaker to restructuring group addressing "The Best Practicable Methods to Give Notice in a Tort Bankruptcy." Chicago, April 2002.
Georgetown University Law	Faculty, CLE White Paper: "What are the best practicable methods to Center Mass Tort Litigation give notice? Dispelling the communications myth – A notice Institute disseminated is a notice communicated," Mass Tort Litigation Institute. Washington D.C.
American Bar Association	Presenter, "How to Bullet-Proof Notice Programs and What Communication Barriers Present Due Process Concerns in Legal Notice," ABA Litigation Section Committee on Class Actions & Derivative Suits. Chicago, IL, August 6, 2001.
McCutchin, Doyle, Brown	Speaker to litigation group in San Francisco and simulcast to four other McCutchin locations, addressing the definition of effective notice and barriers to communication that affect due process in legal notice. San Francisco, CA, June 2001.
Marylhurst University	Guest lecturer on public relations research methods. Portland, OR, February 2001.
University of Oregon	Guest speaker to MBA candidates on quantitative and qualitative research for marketing and communications programs. Portland, OR, May 2001.
Judicial Arbitration & Mediation Services (JAMS)	Speaker on the definition of effective notice. San Francisco and Los Angeles, CA, June 2000.
International Risk Management Institute	Past Expert Commentator on Crisis and Litigation Communications. www.irmi.com .
The American Bankruptcy Institute Journal (ABI)	Past Contributing Editor – Beyond the Quill. www.abi.org .

BACKGROUND

Ms. Finegan's past experience includes working in senior management for leading Class Action Administration firms including The Garden City Group (GCG) and Poorman-Douglas Corp., (EPIQ). Ms. Finegan co-founded Huntington Advertising, a nationally recognized leader in legal notice communications. After Fleet Bank purchased her firm in 1997, she grew the company into one of the nation's leading legal notice communication agencies.

Prior to that, Ms. Finegan spearheaded Huntington Communications, (an Internet development company) and The Huntington Group, Inc., (a public relations firm). As a partner and consultant, she has worked on a wide variety of client marketing, research, advertising, public relations and Internet programs. During her tenure at the Huntington Group, client projects included advertising (media planning and buying), shareholder meetings, direct mail, public relations (planning, financial communications) and community outreach programs. Her past client list includes large public and privately held companies: Code-A-Phone Corp., Thrifty-Payless Drug Stores, Hyster-Yale, The Portland Winter Hawks Hockey Team, U.S. National Bank, U.S. Trust Company, Morley Capital Management, and Durametal Corporation.



Prior to Huntington Advertising, Ms. Finegan worked as a consultant and public relations specialist for a West Coast-based Management and Public Relations Consulting firm.

Additionally, Ms. Finegan has experience in news and public affairs. Her professional background includes being a reporter, anchor and public affairs director for KWJJ/KJIB radio in Portland, Oregon, as well as reporter covering state government for KBZY radio in Salem, Oregon. Ms. Finegan worked as an assistant television program/promotion manager for KPDX directing \$50 million in programming. She was also the program/promotion manager at KECH-22 television.

Ms. Finegan's multi-level communication background gives her a thorough, hands-on understanding of media, the communication process, and how it relates to creating effective and efficient legal notice campaigns.

MEMBERSHIPS, PROFESSIONAL CREDENTIALS

APR Accredited. Universal Board of Accreditation Public Relations Society of America

- **Member of the Public Relations Society of America**
- **Member Canadian Public Relations Society**

Board of Directors - Alliance for Audited Media

Alliance for Audited Media ("AAM") is the recognized leader in cross-media verification. It was founded in 1914 as the Audit Bureau of Circulations (ABC) to bring order and transparency to the media industry. Today, more than 4,000 publishers, advertisers, agencies and technology vendors depend on its data-driven insights, technology certification audits and information services to transact with trust.

SOCIAL MEDIA

LinkedIn: www.linkedin.com/in/jeanne-finegan-apr-7112341b

1 M. Anderson Berry (SBN 262879)
2 Gregory Haroutunian (SBN 330263)
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21 *Attorneys for Plaintiff*

22 **UNITED STATES DISTRICT COURT**
23 **NORTHERN DISTRICT OF CALIFORNIA**
24 **SAN FRANCISCO DIVISION**

25 KAMAL BITMOUNI, on behalf of himself
26 and all others similarly situated,

27 Plaintiff,

28 vs.

PAYSAFE PAYMENT PROCESSING
SOLUTIONS LLC, a Delaware limited
liability company,

Defendant.

) Case No. 3:21-cv-00641-JCS

) **[PROPOSED] ORDER GRANTING**
) **PLAINTIFF’S UNOPPOSED RENEWED**
) **MOTION FOR PRELIMINARY**
) **APPROVAL OF CLASS-ACTION**
) **SETTLEMENT**

) Date: _____, 2023

) Time: 2:00 p.m.

) Courtroom: Courtroom F – 15th Floor

) Judge: Hon. Joseph C. Spero

1 This case is before the Court on Plaintiff Kamal Bitmouni’s (“Plaintiff”) Unopposed
2 Renewed Motion for Preliminary Approval of the Class Action Settlement (the “Motion”). The
3 Court, having considered the Motion, the supporting brief, the parties’ Amended Settlement
4 Agreement fully executed May 2, 2022 (the “A.S.A.” or “Amended Settlement Agreement”); the
5 proposed Summary and Long Notices (Exhibit 1 to the A.S.A.); the proposed Claim Form
6 (Exhibit 2 to the A.S.A.), the pleadings and other papers filed in this Action; and the statements
7 of counsel and the Parties, and for good cause shown.
8

9 **IT IS HEREBY ORDERED** as follows:

10 **Preliminary Approval of Amended Settlement Agreement**

11 1. Unless otherwise defined herein, all terms that are capitalized herein shall have the
12 meanings ascribed to those terms in the Amended Settlement Agreement.
13

14 2. This Court has jurisdiction over the Litigation, Plaintiff, all Settlement Class
15 Members, Defendant Paysafe Payment Processing Solutions, LLC (“Paysafe”), and any party to
16 any agreement that is part of or related to the Settlement.
17

18 3. The Court finds that the proposed Settlement set forth in the Amended Settlement
19 Agreement is fair, reasonable and adequate such that it is hereby preliminarily approved and
20 notice of the settlement should be provided to the Settlement Class Members and that a hearing
21 should be held as set forth below.
22

23 4. The Court preliminarily finds that this Settlement complies with the Northern
24 District of California’s *Procedural Guidance for Class Action Settlements*.

25 **Class Certification**

26 5. Solely for purposes of the Settlement, the Court conditionally certifies the
27 following Settlement Class pursuant to Fed. R. Civ. P. 23(a) and (b)(3):
28

1 **Settlement Class:** All individuals identified on the Settlement Class List,
2 including all individuals who were notified by direct notice by Paysafe, that their
3 personal information was or may have been compromised in the Data Security
4 Incident.
5

6 6. Excluded from the Settlement Class are: (1) the judges presiding over this
7 Litigation, and members of their direct families; (2) the Defendant, its subsidiaries, parent
8 companies, successors, predecessors, and any entity in which the Defendant or its parents have a
9 controlling interest and their current or former officers, directors, and employees; and (3)
10 Settlement Class Members who submit a valid Request for Exclusion prior to the Opt-Out
11 Deadline.
12

13 7. Subject to final approval of the Settlement, the Court finds and concludes for
14 settlement purposes only that the prerequisites to a class action, set forth in Fed. R. Civ. P. 23(a)
15 and (b), are satisfied in that:
16

- 17 a. the Settlement Class is so numerous that joinder of all members is
- 18 impracticable;
- 19 b. there are questions of law or fact common to the Settlement Class;
- 20 c. Plaintiff and Class Counsel (as defined below) have and will fairly and
- 21 adequately represent the Settlement Class;
- 22 d. the claims of Plaintiff are typical of those of Settlement Class Members;
- 23 e. common issues predominate over any individual issues affecting the
- 24 members of the Settlement Class;
- 25
- 26

27 ///

1 f. Plaintiff fairly and adequately protects and represents the interests of all
2 members of the Settlement Class, and Plaintiff’s interests are aligned with
3 the interests of all other members of the Settlement Class; and

4 g. settlement of the Litigation on a class-action basis is superior to other
5 means of resolving this matter.
6

7 8. The Court appoints M. Anderson Berry and Gregory Haroutunian of Clayco C.
8 Arnold, A Professional Law Corp., and John Yanchunis and Ryan Maxey of Morgan & Morgan
9 as Settlement Class Counsel, having determined that the requirements of Rule 23(g) of the Federal
10 Rules of Civil Procedure are fully satisfied by this appointment.

11 9. The Court hereby appoints Plaintiff Kamal Bitmouni as the Class Representatives
12 for settlement purposes only on behalf of the Settlement Class.
13

14 **Notice to Settlement Class Members**

15 10. Pursuant to Federal Rule of Civil Procedure 23(e), the Court approves the
16 Summary Notice and Long Notice (the “Notices”), Exhibit 1 to the Amended Settlement
17 Agreement, and finds that the dissemination of the Notices substantially in the manner and form
18 set forth in Sections IX-XI of the Amended Settlement Agreement (“Notice Plan”) complies fully
19 with the requirements of the Federal Rule of Civil Procedure 23 and due process of law, and is
20 the best notice practicable under the circumstances.
21

22 11. The Court further approves the Claim Form which will be available both on the
23 Settlement Website and by request.
24

25 12. The notice procedures described in the Notice Plan are hereby found to be the best
26 means of providing notice under the circumstances and, when completed, shall constitute due and
27 sufficient notice of the proposed Amended Settlement Agreement and the Final Approval Hearing
28

1 to all persons affected by and/or entitled to participate in the Amended Settlement Agreement, in
2 full compliance with the notice requirements of Rule 23 of the Federal Rules of Civil Procedure
3 and due process of law.

4 13. The Court hereby orders that, within twenty-one (21) days of entry of this Order,
5 Paysafe shall provide to the Claims Administrator the contact information of all Settlement Class
6 Members, including names, email addresses (where available), and physical addresses, that are
7 currently in Paysafe's possession.

8 14. No later than twenty-eight (28) days from the date of this Order preliminarily
9 approving the Amended Settlement, Settlement Class Counsel shall cause the Claims
10 Administrator to send the Summary Notice to each Settlement Class Member via mail and email;
11 and shall cause to be published the Long Form Notice available to the rest of the Class as stated
12 in the proposed Notice Plan. Contemporaneously with seeking Final Approval of the Settlement,
13 Settlement Class Counsel and Paysafe shall cause to be filed with the Court an appropriate
14 affidavit or declaration from the Claims Administrator with respect to complying with the Notice
15 Plan.
16

17 15. All costs incurred in disseminating and otherwise in connection with the
18 Settlement Notices shall be paid from the Settlement Fund pursuant to the Settlement Agreement.
19

20 16. The Settlement Notices and Claim Form satisfy the requirements of due process
21 and of Rule 23(e) of the Federal Rules of Civil Procedure and thus are approved for dissemination
22 to the Settlement Class. The Claim Form shall be made available to the Settlement Class as set
23 forth on the Notice Plan and shall be made available to any potential Class Member that requests
24 one.
25

26
27 ///
28

Responses by Settlement Class Members and the Scheduling of a Final Approval Hearing

17. Settlement Class Members may opt-out or object up to ninety (90) days after the Notice Deadline (the “Opt-Out Date”).

18. Any member of the Settlement Class who or that wishes to be excluded (“opt out”) from the Settlement Class must send a written request to the designated Post Office box established by the Claims Administrator postmarked on or before the Opt-Out Date. Members of the Settlement Class may not opt-out of the Settlement by submitting requests to opt-out as a group or class, but must in each instance individually and personally submit an opt-out request. All Settlement Class Members that opt-out of the Settlement will not be eligible to receive any benefits under the Settlement, will not be bound by any further orders or judgments entered for or against the Settlement Class, and will preserve their ability to independently pursue any claims they may have against Paysafe.

19. Any member of the Settlement Class who does not properly and timely opt-out of the Settlement shall, upon entry of the Order and Final Judgment, be bound by all the terms and provisions of the Settlement Agreement and Release, whether or not such Settlement Class Member objected to the Settlement and whether or not such Settlement Class Member received consideration under the Settlement Agreement.

20. The Court adopts the following schedule for the remaining events in this case, which ensures that the appropriate state and federal officials are served with the notification required by the Class Action Fairness Act:

Event	Date
Paysafe to Cause CAFA Notice to be Provided to Appropriate Governmental Officials (“CAFA Notice”)	Within 10 days of filing Unopposed Motion for Preliminary Approval of Class-Action Settlement

Event	Date
Paysafe to Provide to Settlement Administrator Contact Information for Settlement Class Members	Within 21 days after entry of Preliminary Approval Order
Notice Program Commences	Within 30 days after entry of Preliminary Approval Order
Compliance with CAFA Waiting Period under 28 U.S.C. § 1715(d)	90 days after the appropriate governmental officials are served with CAFA Notice
Deadline for Plaintiff's Motion for Attorneys' Fees, Expenses, and Service Awards	Within 55 days after Notice Commencement Date
Deadline for Plaintiff's Motion for Final Approval of the Class-Action Settlement Agreement	Within 120 days after Notice Commencement Date
Postmark Deadline for Request of Exclusion (Opt-Out) or Objections	Within 90 days after Notice Commencement Date
Postmark / Filing Deadline for Submitting Claims	Within 90 days after Notice Commencement Date
Deadline for Plaintiff to File any Response to Objections or Supplement to Motion for Final Approval	Not later than 7 days prior to the Final Approval Hearing
Deadline for Parties to File, if Necessary, Supplemental Declaration from Settlement Administrator	At least 5 days prior to the Final Approval Hearing
Final Approval Hearing	At a date and time to be set by the Court

21. A hearing on the Settlement (the "Final Approval Hearing") shall be held before this Court on a date to be set by the Court.

22. At the Final Approval Hearing, the Court will consider (a) the fairness, reasonableness, and adequacy of the proposed class Settlement and whether the Settlement should be granted final approval by the Court; (b) dismissal with prejudice of the Litigation; (c) entry of an order including the Release; (d) entry of the Final Approval Order; and (e) entry of final

1 judgment in this Litigation. Settlement Class Counsel’s application for award of attorney’s fees
2 and costs, and request for the Court to award a service award to the named Plaintiffs, shall also
3 be heard at the time of the hearing.

4 23. The date and time of the Final Approval Hearing shall be subject to adjournment
5 by the Court without further notice to the members of the Settlement Class, other than that which
6 may be posted by the Court. Should the Court adjourn the date for the Final Approval Hearing,
7 that shall not alter the deadlines for mailing and publication of notice, the Opt-Out Date, or the
8 deadlines for submissions of settlement objections, claims, and notices of intention to appear at
9 the Final Approval Hearing unless those dates are explicitly changed by subsequent Order. The
10 Court may also decide to hold the hearing via zoom or telephonically. Instructions on how to
11 appear at the Final Approval Hearing will be posted on the Settlement Website.

12 24. Any person or entity who or which does not elect to be excluded from the
13 Settlement Class may, but need not, enter an appearance through its own attorney. Settlement
14 Class Members that do not timely object or opt out and that do not have an attorney enter an
15 appearance on their behalf will be represented by Settlement Class Counsel.

16 25. Any person or entity who or which does not elect to be excluded from the
17 Settlement Class may object to the proposed Settlement. Any Settlement Class Member may
18 object to, among other things, (a) the proposed Settlement, (b) entry of Final Approval Order and
19 the judgment approving the Settlement, (c) Class Counsel’s application for fees and expenses, or
20 (d) the service award request, by mailing a written objection to the Court, with a postmark date
21 no later than forty (90) days after the Notice Deadline. Any Settlement Class Member can elect
22 to object at the Final Approval Hearing regardless of whether they have submitted a timely written
23 objection.

24 26. Any Settlement Class Member making the written objection (an “Objector”) must
25 sign the objection personally or through Objector’s counsel. A written objection must state: (i)
26 the name of the proceedings (*Bitmouni v. Paysafe Payment Processing Solutions, LLC*, Case No.
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1 3:21-cv-00641-JCS (N.D. Cal.)); (ii) the Settlement Class Member's full name, current mailing
2 address, and telephone number; (iii) a statement of the specific grounds for the objection, as well
3 as any documents supporting the objection; (iv) a statement as to whether the objection applies
4 only to the Objector, to a specific subset of the class, or to the entire class; (v) the identity of any
5 attorneys representing the objector; (vi) a statement regarding whether the Settlement Class
6 Member (or his/her attorney) intends to appear at the Final Approval Hearing; and (vii) the
7 signature of the Settlement Class Member or the Settlement Class Member's attorney. The Notice
8 must set forth the time and place of the Final Approval Hearing (subject to change), as well as
9 how to access the Final Approval Hearing electronically and state that any Settlement Class
10 Member who does not file a timely and adequate written objection in accordance with this
11 Paragraph may still object or to be heard at the Final Approval Hearing.

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13 27. Any Settlement Class Member who does not timely file and serve an objection in
14 writing in accordance with the procedure set forth in the Settlement Notices and mandated in this
15 Order, and does not object at the Final Approval Hearing shall be deemed to have waived any
16 objection to (a) the Settlement; (b) the Release; (c) entry of Final Approval Order or any
17 judgment; (d) Class Counsel's application for fees, costs, and expenses; and/or (e) the service
18 award request for the named Plaintiff, whether by appeal, collateral attack, or otherwise.

19 28. Settlement Class Members need not appear at the hearing or take any other action
20 to indicate their approval.

21 29. Upon entry of the Order and Final Judgment all members of the Settlement Class
22 that have not personally and timely requested to be excluded from the Settlement Class will be
23 enjoined from proceeding against Paysafe with respect to all of the Released Claims.

24 30. Paysafe shall prepare and send, at Paysafe's expense, all notices that are required
25 by the Class Action Fairness Act of 2005 ("CAFA") as specified in 28 U.S.C. § 1715. Class
26 Counsel and Counsel for Paysafe shall cooperate promptly and fully in the preparation of such
27 notices, including providing Paysafe with any and all information in their possession necessary
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1 for the preparation of these notices. Paysafe shall provide courtesy copies of the notices to Class
2 Counsel for the purpose of implementing the Settlement. Paysafe shall provide notice to Class
3 Counsel of compliance with the CAFA requirements within ten (10) days of providing notice to
4 Attorneys General under CAFA.

5 **Administration of the Settlement**

6 31. The Court hereby appoints the administrator proposed by the parties, Kroll
7 Settlement Administration (the “Settlement Administrator”). The Settlement Administrator shall
8 perform the functions and duties necessary to effectuate the Settlement and as specified in the
9 section XI of the Settlement Agreement, including the following: (a) Creating, administering, and
10 overseeing the Settlement Fund; (b) Obtaining the Settlement Class List for the purpose of
11 disseminating Notice to Settlement Class Members; (c) Providing Notice to Settlement Class
12 Members via U.S. mail and e-mail; (d) Establishing and maintaining the Settlement Website; (e)
13 Establishing and maintaining a toll-free telephone line for Settlement Class Members to call with
14 Settlement-related inquiries, and answering the questions of Settlement Class Members who call
15 with or otherwise communicate such inquiries within one (1) business day; (f) Responding to any
16 mailed or emailed Settlement Class Member inquiries within one (1) business day; (g) Reviewing,
17 determining the validity of, and processing all claims submitted by Participating Settlement Class
18 Members; (h) Receiving Requests for Exclusion from Settlement Class Members and providing
19 Class Counsel and Paysafe’s Counsel a copy thereof no later than three (3) days following the
20 deadline for submission of the same. If the Settlement Administrator receives any Requests for
21 Exclusion, or other requests from Settlement Class Members after the Opt-Out and Objection
22 Deadlines, the Settlement Administrator shall promptly provide copies thereof to Class Counsel
23 and to Paysafe’s Counsel; (i) After the Effective Date, processing and transmitting Settlement
24 Payments to Participating Settlement Class Members; (j) Providing weekly or other periodic
25 reports to Class Counsel and Paysafe’s Counsel that include information regarding the number of
26 Settlement Payments sent or Settlement Checks mailed and delivered, Settlement Checks cashed,
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1 undeliverable information, and any other requested information relating to Settlement Payments.
2 The Settlement Administrator shall also, as requested by Class Counsel or Paysafe’s Counsel and
3 from time to time, provide the amounts remaining in the Net Settlement Fund; (k) In advance of
4 the Final Approval Hearing, preparing a sworn declaration to submit to the Court that: (i) attests
5 to implementation of Notice in accordance with the Preliminary Approval Order; and (ii)
6 identifies each Settlement Class Member who timely and properly submitted a Request for
7 Exclusion; and (l) Performing any function related to Settlement administration at the agreed-
8 upon instruction of Class Counsel or Paysafe’s Counsel, including, but not limited to, verifying
9 that Settlement Payments have been distributed.

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11 32. In the event the Settlement Agreement and the proposed settlement are terminated
12 in accordance with the applicable provisions of the Settlement Agreement, the Settlement
13 Agreement, the proposed Settlement, and all related proceedings shall, except as expressly
14 provided to the contrary in the Settlement Agreement, become null and void, shall have no further
15 force and effect, and Settlement Class Members shall retain all of their current rights to assert any
16 and all claims against Paysafe and any other Released Person, and Paysafe and any other Released
17 Persons shall retain any and all of their current defenses and arguments thereto (including but not
18 limited to arguments that the requirements of Fed. R. Civ. P. 23(a) and (b)(3) are not satisfied for
19 purposes of continued litigation). The Litigation shall thereupon revert forthwith to its respective
20 procedural and substantive status prior to the date of execution of the Settlement Agreement and
21 shall proceed as if the Settlement Agreement and all other related orders and papers had not been
22 executed.

23 33. Neither this Order nor the Settlement Agreement nor any other settlement-related
24 document nor anything contained herein or therein or contemplated hereby or thereby nor any
25 proceedings undertaken in accordance with the terms set forth in the Settlement Agreement or
26 herein or in any other settlement-related document, shall constitute, be construed as or be deemed
27 to be evidence of or an admission or concession by Paysafe as to the validity of any claim that
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1 has been or could have been asserted against it or as to any liability by it as to any matter set forth
2 in this Order, or as to the propriety of class certification for any purposes other than for purposes
3 of the current proposed settlement.
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5 Dated: _____

6 The Honorable Joseph C. Spero
7 United State Magistrate Judge
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