

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
San Francisco Division

BRIGID POLING, on behalf of themselves
and others similarly situated,

Plaintiff,

v.

ARTECH, L.L.C.,

Defendant.

Case No. 20-cv-07630-LB

PRELIMINARY APPROVAL ORDER

Re: ECF No. 36

INTRODUCTION

This is a putative class action under Federal Rule of Civil Procedure 23.¹ The plaintiffs are a class of individuals whose personal information was potentially compromised when a third-party gained unauthorized access to a server owned by the defendant, Artech, L.L.C. They sued Artech for negligence, invasion of privacy, and other violations of state law. The parties settled the case, and the plaintiffs moved for preliminary approval of the class-action settlement.² The court grants the unopposed motion.

¹ Compl. – ECF No. 1. Citations refer to material in the Electronic Case File (ECF); pinpoint citations are to the ECF-generated page numbers at the top of documents.

² Mot. – ECF No. 36.

STATEMENT

1. The Lawsuits

The plaintiffs filed the lawsuit on October 29, 2020 and brought the following claims: (1) negligence; (2) invasion of privacy; (3) unjust enrichment; (4) breach of fiduciary duty; (5) breach of confidence; (6) breach of implied contract; (7) breach of the implied covenant of good faith and fair dealing; (8) violations of California’s Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200–17210; (9) violations of the California Customer Records Act, Cal. Civ. Code §§ 1798.80–1798.84; (10) violations of California’s Consumer Privacy Act, Cal. Civ. Code §§ 1798.100–1798.199.100; and (11) a request for injunctive and declaratory relief to secure their data and fix Artech’s data security vulnerabilities.³

The parties engaged in informal discovery and then agreed to mediation. To prepare for it, the plaintiffs sent a detailed settlement demand to Artech, setting forth a proposed settlement structure to guide their negotiations. The parties had a lengthy mediation with the Honorable Judge Edward A. Infante, a respected mediator and retired judge, and ultimately accepted his mediator’s proposal and settled the majority of the claims on June 28, 2021 (and settled the remaining claims shortly after).⁴ As part of the settlement, they agreed to the filing of a first amended complaint, which added a North Carolina subclass.⁵ The plaintiffs filed the unopposed motion for preliminary approval of the class-action settlement.⁶ The court held a hearing on September 16, 2021. All parties consented to magistrate-judge jurisdiction.⁷

³ Compl. – ECF No. 1 at 20–37.

⁴ Federman Decl. – ECF No. 36-2 at 4–5 (¶¶ 11–12).

⁵ First Am. Compl. – ECF No. 31.

⁶ Mot. – ECF No. 36.

⁷ Consent Forms – ECF Nos. 9, 16, 17, 40. The plaintiff confirmed her consent to magistrate-judge jurisdiction at ECF No. 40.

1 **2. Proposed Settlement**

2 **2.1 Settlement Class**

3 There are approximately 30,720 class members.⁸ The settlement class is defined as follows:

4 All persons in the United States and Overseas Military identified on the Settlement Class
5 List, including all individuals who were sent notification by Artech that their Personal
6 Information may have been accessible during the Cyber Security Event. Excluded from the
7 Settlement Class are (i) Defendant’s trustees, administrators, and attorneys; (ii) all
8 Settlement Class Members who timely and validly request exclusion from and opt-out of
9 the Settlement Class; (iii) the Magistrate Judge to whom the action is assigned and any
10 member of the Magistrate Judge’s staff or immediate family members; (iv) any members
11 or employees of defense counsel; and (v) any other person found by a court of competent
12 jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the
13 criminal activity or occurrence of the Cyber Security Event or who pleads nolo contendere
14 to any such charge.⁹

11 **2.2 Settlement Benefits**

12 The settlement provides for monetary and injunctive relief and the administration of a credit
13 monitoring and identity-theft protection program funded by Artech.

14 **2.2.1 Settlement Amount and Allocation**

15 There is no aggregate cap on the amounts paid to the settlement class. Individual class
16 members may submit a claim for reimbursement of out-of-pocket expenses up to \$80 (for tier one
17 compensation) or \$10,000 (for tier two).

18 Tier one compensation is available to class members who, as of the time they submit their
19 claim form, do not submit evidence that they experienced identity theft, fraud, or misuse of their
20 information as a “fairly traceable” result of the cyber security event. Tier one compensation
21 entitles class members to receive compensation for up to three hours of lost time at a rate of
22 \$26.67 per hour (not to exceed \$80) if documentation is provided showing the time was spent on
23 addressing the cyber security event. It does not include time spent submitting claim forms.¹⁰

24 Tier two compensation is available (in addition to tier one compensation) to class members
25 who demonstrate they have suffered injury that is “fairly traceable” to the cyber security event,

26 _____
27 ⁸ Federman Decl. – ECF No. 36-2 at 6 (¶ 19).

28 ⁹ Settlement Agreement – ECF No. 36-1 at 6 (¶ 31).

¹⁰ *Id.* at 7 (¶ 39).

1 and who provide to the settlement administrator evidence of out-of-pocket expenses related to the
2 event (not to exceed \$10,000). The submitted evidence must prove the following:

- 3 a. The loss is an actual, documented, and unreimbursed monetary loss as shown by (i) third
4 party documentation supporting the loss; and (ii) a brief description of the documentation
5 describing the nature of the loss, if the nature of the loss is not apparent from the
6 documentation alone. Third-party documentation can include receipts or other
7 documentation not “self-prepared” by the Participating Settlement Class Member that
8 documents the costs incurred. Self-prepared documents such as handwritten receipts are,
9 by themselves, insufficient to receive reimbursement, but can be considered to add clarity
10 or support other submitted documentation.
- 11 b. The loss was more-likely-than-not caused by identity theft or other fraud or misuse of
12 their Personal Information fairly traceable to the Cyber Security Event.
- 13 c. The loss occurred after January 5, 2020.
- 14 d. The Settlement Class Member made reasonable efforts to avoid or seek reimbursement
15 for the loss, including but not limited to exhaustion of all available credit monitoring
16 insurance and identity theft insurance.¹¹

17 Out-of-pocket expenses are defined as follows:

18 Documented out-of-pocket costs or expenditures that a Participating Settlement Class
19 Member actually incurred between January 5, 2020 and the Notice Deadline that are fairly
20 traceable to the Cyber Security Event, and that have not already been reimbursed by a third
21 party. Out-of-Pocket Losses may include, without limitation: costs associated with credit
22 monitoring or identity theft insurance purchased directly by the claimant, provided that the
23 product was purchased primarily as a result of the Cyber Security Event; costs associated
24 with requesting a credit report, provided that the claimant requested the report primarily as a
25 result of the Cyber Security Event; costs associated with a credit freeze, provided that the
26 claimant requested the freeze primarily as a result of the Cyber Security Event; costs
27 associated with cancelling a payment card and/or obtaining a replacement payment card,
28 provided that the claimant’s request for the cancellation and/or replacement was primarily
the result of the Cyber Security Event; costs associated with closing a bank account and/or
opening a new bank account, provided that the claimant’s request to close and/or open a
bank account was primarily the result of the Cyber Security Event; postage, long-distance
phone charges, express mail and other incidental expenses, provided that the claimant
provides documentation of the charges and that they were fairly traceable to the Cyber
Security Event; overdraft and/or overdraft protection fees, provided that the fees were
incurred as a result of the Cyber Security Event; late and/or missed payment fees and/or
charges, provided that the fees and/or charges were incurred as a result of the Cyber Security
Event; the increase in interest on credit cards or other loans caused by a late or missed
payment that was a result of the Cyber Security Event; and damage to credit and costs
associated with a decreased credit score if fairly traceable to the Cyber Security Event.¹²

¹¹ *Id.* at 7–8 (¶ 40).

¹² *Id.* at 4–5 (¶ 22).

1 Settlement checks will be mailed as soon as practicable after the allocation and distribution of
 2 funds are calculated by the settlement administrator. The checks are valid for 90 days. Funds from
 3 checks that expire or are returned as undeliverable will be reissued, and the reissued checks are
 4 valid for 60 days.¹³

5 2.2.2 Injunctive Relief

6 Artech will adopt or continue the following business practices for three years following the
 7 Effective Date:

- 8 a. Artech has conducted baseline penetration testing through a well-established third- party
 9 IT security vendor, and will continue to conduct substantially equivalent penetration testing
 10 at least annually. Defendant has included sufficient funds in its IT security budget to
 11 accomplish annual penetration testing as outlined in this subparagraph for 2021, and will
 12 reauthorize sufficient funds in its IT budget for each subsequent year through 2024 to utilize
 13 the same or any comparably-priced improved testing technology as may be available.
- 14 b. Artech shall continue to ensure that anti-malware software resides on all its servers, and
 15 that its VPN appliance is updated as soon as practicable after security updates become
 16 available, but in no instance less often than monthly.
- 17 c. Artech is implementing a company-wide encryption protocol wherein all Personal
 18 Information is segregated by its employees and encrypted daily.
- 19 d. Artech is testing its IT security for NIST compliance, and has achieved compliance with
 20 many NIST requirements, with the remainder to be addressed through SIEM software.
 21 Defendant will provide a declaration or certification of such compliance on or before
 22 December 21, 2022.
- 23 e. Artech is currently evaluating several Security Information and Event Management
 24 (“SIEM”) software options, and shall deploy SIEM software on or before December 31, 2022.
- 25 f. Artech currently provides IT security and Personal Information training to all of its
 26 personnel during onboarding, and on a quarterly basis thereafter, which will continue. This
 27 training includes directions about how to handle suspicious communications and documents
 28 and encourages personnel to report any concerns about Artech’s information security systems.
- g. Artech has developed and implemented a formal written Personal Information policy,
 which it will continue to maintain with appropriate updates.
- h. Artech is developing a suite of testing and auditing tools through a third-party vendor
 designed to locate Personal Information located outside Artech’s encrypted environment,
 which will be implemented on or before December 31, 2021. Artech shall provide to the
 Court a certification from its third-party vendor that all Personal Information located during
 the auditing process has been either destroyed or moved to Artech’s encrypted environment.
- i. Artech shall continue to provide employees and former employees a means requesting their
 Social Security numbers and dates of birth be deleted after such information is no longer

¹³ *Id.* at 9 (¶¶ 44–47).

needed to fulfill Artech's corporate mission, and will delete such information upon request.¹⁴

2.2.3 Credit Monitoring and Identity Theft Protection Program

All class members have three months following the Final Approval hearing to request access or extension of their access to credit monitoring and identity protection services provided by Kroll and paid for by Artech. The monitoring and protection period will last for three years, starting on the date of each class member's enrollment or the Claims deadline, whichever is later.¹⁵

2.3 Release

The releases are, in short, a release of all class claims under federal or state law for all claims that were pleaded or could have been pleaded under the facts alleged in the complaint, and a general release by the named plaintiffs.¹⁶

2.4 Administration

KCC Class Action Services, LLC will administer the settlement with an estimated preliminary budget of up to \$54,199.¹⁷ It will send the class notice by mail and email, calculate the settlement payments, calculate all payroll taxes, withholdings, and deductions, and issue the payments to class members, counsel, the class representatives, and applicable state and federal tax authorities. It will prepare and file all tax returns and reporting. It will establish a toll-free call center for any questions by members and a settlement website that will have the class, collective, and class/collective notices (in generic form), the settlement agreement, and all papers filed to obtain preliminary and final approval of the settlement.¹⁸ Other administration procedures — including notice, administration, procedures for exclusion, and procedures for objections — are set forth in the settlement agreement.¹⁹

¹⁴ *Id.* at 10–11 (¶ 51).

¹⁵ *Id.* at 7 (¶ 38).

¹⁶ *Id.* at 15–17 (¶¶ 68–71).

¹⁷ Federman Decl. – ECF No. 36-2 at 10 (¶ 42).

¹⁸ Settlement Agreement – ECF No. 36-1 at 13–14 (¶ 57).

¹⁹ *Id.* at 12 (¶¶ 54–56).

ANALYSIS**1. Jurisdiction**

The court has diversity jurisdiction under CAFA. 28 U.S.C. 1332(d).

2. Conditional Certification of Settlement Class

The court reviews the propriety of class certification under Federal Rule of Civil Procedure 23(a) and (b). When parties enter into a settlement before the court certifies a class, the court “must pay ‘undiluted, even heightened, attention’ to class certification requirements” because the court will not have the opportunity to adjust the class based on information revealed at trial. *Staton v. Boeing Co.*, 327 F.3d 938, 952–53 (9th Cir. 2003) (quoting *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997)); *Espinosa v. Ahearn (In re Hyundai and Kia Fuel Econ. Litig.)*, 926 F.3d 539, 557 (9th Cir. 2019) (en banc).

Class certification requires the following: (1) the class must be so numerous that joinder of all members individually is “impracticable;” (2) there must be questions of law or fact common to the class; (3) the claims or defenses of the class representatives must be typical of the claims or defenses of the class; and (4) the person representing the class must be able to fairly and adequately protect the interests of all class members. Fed. R. Civ. P. 23(a); *In re Hyundai and Kia*, 926 F.3d at 556. Also, the common questions of law or fact must predominate over any questions affecting only individual class members, and the class action must be superior to other available methods for fairly and efficiently adjudicating the controversy. Fed. R. Civ. P. 23(b)(3).

The court finds preliminarily (and for settlement purposes only) that the Rule 23(a) factors — numerosity, commonality, typicality, and adequacy — support the certification of the class. It also finds preliminarily under Rule 23(b)(3) (and for settlement purposes only) that the common questions predominate over any questions affecting only individual members, and a class action is superior to other available methods.

First, the class is numerous. *Nelson v. Avon Prods.*, No. 14-cv-02276-BLF, 2015 WL 1778326, at *5 (N.D. Cal. Apr. 17, 2015).

1 Second, there are questions of law and fact common to the classes that predominate over
2 individual issues. The class members were all affected by the cyber security event. Common
3 questions include whether Artech failed to implement and maintain reasonable and adequate data
4 security practices, whether Artech owed and breached any duty to the class to keep their PII secure,
5 and what damage was caused by the cyber security event.²⁰ Because the claims arise from Artech's
6 practice before and after the cyber security event, liability can be determined on a class-wide basis.
7 *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 349–50 (2011); *Betorina v. Ranstad US, L.P.*, No. 15-
8 cv-03646-EMC, 2017 WL 1278758, at *4 (N.D. Cal. Apr. 6, 2017).

9 Third, the claims of the representative plaintiffs are typical of the claims of their respective
10 subclasses. The representative plaintiffs and all class members allege the same claims based on
11 similar facts. They possess the same interest and suffer from the same injury. *Betorina*, 2017 WL
12 1278758, at *4.

13 Fourth, the representative plaintiffs fairly and adequately protect the interests of their classes.
14 The factors relevant to a determination of adequacy are (1) the absence of potential conflict
15 between the named plaintiffs and the class members, and (2) counsel chosen by the representative
16 party who is qualified, experienced, and able to vigorously conduct the litigation. *In re Hyundai*
17 *and Kia*, 926 F.3d at 566 (citing *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1020 (9th Cir. 1998)).
18 The factors exist here: the named plaintiffs have shared claims and interests with their classes (and
19 no conflicts of interest) and have retained qualified and competent counsel who have prosecuted
20 the case vigorously. *Id.*; *Local Joint Exec. Bd. of Culinary/Bartender Tr. Fund v. Las Vegas*
21 *Sands, Inc.*, 244 F.3d 1152, 1162 (9th Cir. 2001); *Hanlon*, 150 F.3d at 1021–22.

22 Finally, a class action is superior to other available methods for fairly and efficiently
23 adjudicating the controversy. The class members have relatively small monetary claims, and the
24 class action resolves many substantially identical claims efficiently, avoiding a waste of resources,
25 to advance the individual members' interests.

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²⁰ Mot. – ECF No. 74 at 39–41.

1 In sum, the prerequisites of Fed. R. Civ. P. 23(a) and (b)(3) are met. The court conditionally
2 certifies the class under Federal Rule of Civil Procedure 23(b)(3) for settlement purposes only and for
3 the purpose of giving the classes notice of the settlement and conducting a final approval hearing.

4 5 **3. Preliminary Approval of Settlement**

6 The approval of a class-action settlement has two stages: (1) the preliminary approval, which
7 authorizes notice to the class; and (2) a final fairness hearing, where the court determines whether
8 the parties should be allowed to settle the class action on the agreed-upon terms.

9 Settlement is a strongly favored method for resolving disputes, particularly “where complex class
10 action litigation is concerned.” *In re Hyundai and Kia*, 926 F.3d at 556. A court may approve a
11 proposed class-action settlement “only after a hearing and only on finding that it is fair, reasonable,
12 and adequate.” Fed. R. Civ. P. 23(e)(2). The court need not ask whether the proposed settlement is
13 ideal or the best possible; it determines only whether the settlement is fair, free of collusion, and
14 consistent with the named plaintiffs’ fiduciary obligations to the class. *Hanlon*, 150 F.3d at 1026–27
15 (9th Cir. 1998). In *Hanlon*, the Ninth Circuit identified factors relevant to assessing a settlement
16 proposal: “[(1) the strength of the plaintiff’s case; [(2) the risk, expense, complexity, and likely
17 duration of further litigation; [(3) the risk of maintaining class-action status throughout trial; [(4) the
18 amount offered in settlement; [(5) the extent of discovery completed and the stage of the proceeding;
19 [(6) the experience and views of counsel; [(7) the presence of a government participant; and [(8)
20 the reaction of the class members to the proposed settlement.” *Id.* at 1026 (cleaned up).

21 When parties “negotiate a settlement agreement before the class has been certified, “settlement
22 approval requires a higher standard of fairness and a more probing inquiry than may normally be
23 required under Rule 23(e).” *Roes, 1–2 v. SFBSC Mgmt.*, 944 F.3d 1035, 1043 (9th Cir. 2019)
24 (cleaned up). “Specifically, such settlement agreements must withstand an even higher level of
25 scrutiny for evidence of collusion or other conflicts of interest than is ordinarily required under
26 Rule 23(e) before securing the court’s approval as fair.” *Id.* at 1049 (cleaned up).

27 The court has evaluated the proposed settlement agreement for overall fairness under the *Hanlon*
28 factors and concludes that preliminary approval is appropriate. Overall, the settlement appears fair.

1 The settlement agreement was the result of an adversarial, non-collusive, and arms-length negotiation
 2 process.²¹ It provides good value, given the risks of litigation, the parties' disputes about damages,
 3 and the value of money to the plaintiffs now. As discussed above, the parties reached the settlement
 4 only after obtaining discovery and conducting a robust damages assessment.²²

5 The court will address attorney's fees at the final fairness hearing. *Hanlon*, 150 F.3d at 1029
 6 (25 percent is a benchmark in common-fund cases); *cf. Vizcaino v. Microsoft Corp.*, 290 F.3d
 7 1043, 1048 (9th Cir. 2002) (25-percent benchmark, though a starting point for analysis, may be
 8 inappropriate in some cases; fees must be supported by findings).

9

10 **4. Appointment of Class Representatives, Class Counsel, and Claims Administrator**

11 The court provisionally appoints the plaintiffs Brigid Poling and Dwight Jenkins as the class
 12 representatives for their respective classes. The plaintiffs are an adequate representative of the
 13 other members of their subclasses and have claims that are typical of the other members' claims.

14 The court provisionally appoints Federman & Sherwood as counsel for settlement purposes
 15 only. *See* Fed. R. Civ. P. 23(a) & (g)(1). They have the requisite qualifications, experience, and
 16 expertise in prosecuting class actions.

17 The court approves the retention of KCC Class Action Services as the settlement administrator.
 18 It will administer the settlement in accordance with the terms in the settlement agreement.

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20 **5. Class Notice**

21 The court approves the class notice and plan. The court finds that the class notice provides the
 22 best notice practicable, satisfies the notice requirements of Rule 23, adequately advises class
 23 members of their rights under the settlement agreement, and meets the requirements of due
 24 process. *In re Hyundai and Kia*, 926 F.3d at 567 ("Notice is satisfactory if it generally describes
 25 the terms of the settlement in sufficient detail to alert those with adverse viewpoints to investigate
 26

27 ²¹ Federman Decl. – ECF No. 36-2 at 4–5 (¶¶ 12, 15–16).

28 ²² *Id.* at 7–9 (¶¶ 24–33).

1 and to come forward and be heard.”) (cleaned up) (quoting *Rodriguez*, 563 F.3d at 962). The
 2 notice fairly, plainly, accurately, and reasonably provide class members with all required
 3 information, including (among other things): (1) a summary of the lawsuit and claims asserted; (2)
 4 a clear definition of the classes; (3) a description of the material terms of the settlement, including
 5 the estimated payment; (4) a disclosure of the release of the claims should they remain class
 6 members; (5) an explanation of class members’ opt-out rights, a date by which they must opt out,
 7 and information about how to do so; (6) the date, time, and location of the final fairness hearing;
 8 and (7) the identity of class counsel and the provisions for attorney’s fees, costs, and class-
 9 representative service awards.²³

11 **6. Service Awards**

12 District courts must evaluate proposed awards individually, using relevant factors that include
 13 “the actions the plaintiff has taken to protect the interests of the class, the degree to which the class
 14 has benefitted from those actions, . . . [and] the amount of time and effort the plaintiff expended in
 15 pursuing the litigation.” *Staton*, 327 F.3d at 977 (cleaned up). “Such awards are discretionary . . .
 16 and are intended to compensate class representatives for work done on behalf of the class, to make
 17 up for financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize
 18 their willingness to act as a private attorney general.” *Rodriguez*, 563 F.3d at 958–59 (cleaned up).
 19 The Ninth Circuit has “noted that in some cases incentive awards may be proper but [has] cautioned
 20 that awarding them should not become routine practice” *Radcliffe v. Experian Info. Solutions*
 21 *Inc.*, 715 F.3d 1157, 1163 (9th Cir. 2013) (discussing *Staton*, 327 F.3d at 975–78). The Ninth
 22 Circuit also has emphasized that district courts “must be vigilant in scrutinizing all incentive awards
 23 to determine whether they destroy the adequacy of the class representatives.” *Id.* at 1164.

24 The court defers consideration of the awards until the final approval hearing.

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28 ²³ Settlement Notice, Ex. 3 to Mot. – ECF No. 36-3 at 2–6.

1 **7. Compliance with Class Action Fairness Act**

2 “The Class Action Fairness Act of 2005 (CAFA) added an additional component to settlement
3 notice, namely that certain government officials — whether or not themselves class members —
4 must receive notice of any class action settled in federal court.” *Newberg on Class Actions*, § 8:18.
5 The parties will provide notice of the settlement — which is deemed filed as of the date of this
6 order — and other information showing compliance with the Class Action Fairness Act of 2005,
7 28 U.S.C. § 1715, to the appropriate federal and state officials. Any final settlement approval will
8 be more than 90 days after service as required by 28 U.S.C. § 1715.

9
10 **8. Procedures for Final Approval Hearing**

11 The court incorporates by this reference paragraph 17 from the proposed order. It is part of this
12 order as if it were fully set forth in it. The following are the deadlines, which are from the
13 proposed order and the motion.²⁴

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<u>Event</u>	<u>Date</u>
Preliminary Approval Order Filed	September 30, 2021
Last day for Settlement Administrator to mail Class Notice to Settlement Class Members	No later than 30 calendar days after the entry of this order
Last day for Class Members to submit claim forms	No later than 90 calendar days after the Notice Deadline
Last day to object to or opt out of the settlement	No later than 40 calendar days after the Notice Deadline
Last day to submit motion for attorney’s fees, costs, and service or incentive awards	No later than 35 calendar days before the opt-out and objection deadlines
Last day to object or comment on the settlement	No later than 40 calendar days after the Notice Deadline
Last day to submit requests for exclusion	No later than 40 calendar days after the Notice Deadline

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28 ²⁴ Proposed Order – ECF No. 37 at 9–10 (¶ 17); Mot. – ECF No. 36 at 28–29.

United States District Court
Northern District of California

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Last day to file replies in support of final approval, service awards, and fee requests	No later than 7 calendar days prior to the Final Approval Hearing
Final Approval Hearing	December 9, 2021 at 9:30 a.m. (which is at least 30 days after the Notice Deadline)

CONCLUSION

The court grants the plaintiffs’ motion and (1) conditionally certifies the class for settlement purposes only, preliminarily approves the settlement, and authorizes the notice (as set forth in this order) and the procedures for objections and the claims process (as set forth in the settlement agreement and proposed order at ECF No. 37, (2) approves KCC Class Action Services, LLC as the settlement administrator, (3) provisionally appoints the plaintiffs Brigid Poling and Dwight Jenkins as class representatives and provisionally appoints Federman & Sherwood as class counsel, (4) orders the procedures in this order (including all dates in the chart), and (5) orders the parties and the settlement administrator to carry out their obligations in the settlement agreement.

The court adopts by this reference paragraphs 13 and 14 of the proposed order providing that this order has no effect if the settlement agreement is terminated or if final judgment is not entered.

This disposes of ECF No. 36.

IT IS SO ORDERED.

Dated: September 30, 2021



LAUREL BEELER
United States Magistrate Judge