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18 *Class Counsel*

19 UNITED STATES DISTRICT COURT
20 FOR THE NORTHERN DISTRICT OF CALIFORNIA
21 OAKLAND DIVISION

22 ABANTE ROOTER AND PLUMBING,
23 INC., MARK HANKINS, and PHILIP J.
24 CHARVAT, individually and on behalf of all
25 others similarly situated,

26 Plaintiffs,

v.

ALARM.COM INCORPORATED, and
ALARM.COM HOLDINGS, INC.,

Defendants.

NO. 4:15-cv-06314-YGR

**PLAINTIFFS' NOTICE OF MOTION
AND MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

JURY TRIAL DEMAND

Complaint Filed: December 30, 2015

Honorable Yvonne Gonzalez Rogers

DATE: November 27, 2018
TIME: 2:00 p.m.
LOCATION: Oakland Courthouse
Courtroom 1 - 4th Floor

1 TO: THE CLERK OF THE COURT; and

2 TO: DEFENDANTS ALARM.COM INCORPORATED, and ALARM.COM
3 HOLDINGS, INC., AND THEIR ATTORNEYS OF RECORD:

4 PLEASE TAKE NOTICE that on November 27, 2018, at 2:00 p.m., in Courtroom 1, 4th
5 Floor, of the Oakland Courthouse for the U.S. District Court for the Northern District of
6 California, 1301 Clay Street, Oakland, California, 94612, Plaintiffs will move for preliminary
7 approval of a class action settlement.

8 This motion will be based on: this Notice of Motion, the Memorandum of Points and
9 Authorities, the Declarations of Beth Terrell, John Barrett, Edward Broderick, Matthew P.
10 McCue, Carla Peak, Fred Heidarpour, Mark Hankins, and Philip J. Charvat, the records and file
11 in this action, and on such other matter as may be presented before or at the hearing of the
12 motion.
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I. INTRODUCTION

1
2 Plaintiffs Abante Rooter and Plumbing, Inc., Mark Hankins, and Philip J. Charvat have
3 reached a Settlement with Defendants Alarm.com, Inc. and Alarm.com Holdings, Inc.
4 (collectively “Alarm.com”) in this class action brought under the Telephone Consumer
5 Protection Act. Alarm.com has agreed to pay \$28,000,000 to establish a non-reversionary
6 Settlement Fund for the benefit of Plaintiffs and proposed Settlement Class Members.¹ The
7 amount of the Settlement Fund approximates publicly-traded Alarm.com’s entire net income in
8 its best year ever in the Class Period (2017, when its net income was \$29.2 million) and exceeds
9 its net income in all preceding years. Alarm.com will also make changes to its practices that will
10 benefit all members of the Settlement Class regardless of whether they submit a claim. Among
11 other things, Alarm.com will no longer allow Alliance Security, Inc., the entity that made the
12 telemarketing calls at issue in this case, to market or activate new accounts for Alarm.com, and
13 has implemented changes to its practices to increase TCPA awareness among its employees.

14 The proposed Settlement Class is broader than the classes the Court previously certified
15 but narrower than the classes pled in Plaintiffs’ complaint. It relates entirely to the
16 Alarm/Alliance relationship in that it includes calls made by all of Alliance’s agents in addition
17 to calls made by Alliance itself, as well as calls made by Alliance’s subagents to residential
18 numbers using an artificial or prerecorded voice and to cell phones. As this litigation involved
19 Alarm.com’s relationship with Alliance, this Settlement Class definition is tightly tied to the
20 allegations at issue and reasonable to both the Settlement Class and the Defendant. While
21 Plaintiffs were unable to obtain the evidence necessary to prove at trial the claims of all
22 Settlement Class Members due in part to the recordkeeping of Alliance subagents, working
23 closely with the proposed Settlement Administrator, the parties have developed a Notice Plan
24 that will use the calling data Plaintiffs obtained in discovery to send notice directly to the
25 approximately 1,215,993 Settlement Class Members who have been identified from the calling

26

¹ Capitalized terms have the same definitions as in the Settlement Agreement. Terrell Decl.,
Ex. 1.

1 records and include a comprehensive media program that will reach over 70 percent of
2 Settlement Class members. The Notice Plan complies with Rule 23 and due process.

3 All Settlement Class Members who submit a simple claim form will receive an equal
4 cash payment from the Settlement Fund after payment of administrative costs, service awards,
5 attorneys' fees and litigation costs approved by the Court. Plaintiffs estimate that the
6 administrative costs will not exceed \$1,825,000, and intend to request Court approval of service
7 awards of \$10,000 to each of the three Class Representatives, an attorneys' fee award of up to
8 30% of the Settlement Fund (or \$8,400,000), and reimbursement of litigation costs of
9 approximately \$300,000. If the Court approves these requests, \$17,445,000 will be used to pay
10 cash awards to Settlement Class Members who file claims. The amount each claimant will
11 receive depends upon the number of claims submitted. For example, if 10% of the identified
12 Settlement Class Members file claims, each will receive approximately \$143. Based on their
13 experience with claims rates in TCPA and other class settlements, Class Counsel estimate that
14 the claims rate will be 10–15% and each claimant will receive between \$95 and \$143.

15 The proposed Settlement was negotiated weeks before trial after more than two and a half
16 years of hard-fought litigation. It is fair, reasonable, and adequate, and the estimated per-
17 claimant payments are well in line with TCPA settlements approved across the country. Plaintiffs
18 request that the Court grant their motion for preliminary approval, preliminarily certify the
19 proposed Settlement Class, and approve the proposed Notice Plan.

20 **II. BACKGROUND**

21 **A. Plaintiffs' complaint.**

22 Following an investigation, Plaintiffs filed a class action complaint on December 30,
23 2015, alleging that Alarm.com was liable under the TCPA for four types of calls made on its
24 behalf: (1) to cell phones using an ADTS and a prerecorded voice, in violation of 47 U.S.C.
25 § 227(b)(1)(A); (2) to residential lines using an artificial or prerecorded voice, in violation of
26 § 227(b)(1)(B)); (3) to numbers on the National Do Not Call list, in violation of § 227(c)(5); and

1 (4) in violation of the internal Do Not Call regulations, 47 C.F.R. § 64.1200(c). Plaintiffs alleged
2 that Alarm.com hired Alliance to make calls to market Alarm.com's security services and
3 products. Plaintiffs each received multiple calls made by Alliance or one of Alliance's agents on
4 Alarm.com's behalf.

5 **B. Plaintiffs engage in discovery and work with experts to analyze calling data.**

6 The parties initially focused on targeted discovery. They served and responded to written
7 discovery requests and produced and reviewed tens of thousands of pages of documents.
8 Plaintiffs took seven depositions of Alarm.com and Alarm.com deposed the three Plaintiffs.
9 Terrell Decl. ¶ 3. Plaintiffs issued third party subpoenas to Alliance and to Alliance's agent,
10 Nationwide Alarms, Inc., to obtain records of telemarketing calls made to class members and
11 other documents. Plaintiffs retained an expert, Anya Verkhovskaya, to process and analyze the
12 records to identify the telephone numbers of potential members of the National Do-Not-Call
13 Class. *Id.* ¶ 4. Plaintiffs were able to obtain an affidavit from Nationwide's principle, Joseph
14 Moretti, who stated that Nationwide used a dialing system called "Ytel" to contact Settlement
15 Class members. *See* ECF No. 89. Plaintiffs analyzed the Nationwide data to identify the cell
16 phone and residential numbers Nationwide contacted using the Ytel calling system. *See*
17 *generally* ECF No. 87.

18 **C. The Court grants class certification and modifies its order after further discovery.**

19 Plaintiffs moved for class certification in March 2017. ECF No. 85. Following a hearing,
20 the Court granted the motion and certified a Cell Phone Class, Residential Class, and National
21 Do-Not-Call Class. ECF No. 126.²

22 The parties resumed discovery. In an effort to identify class members, Plaintiffs sent
23 subpoenas to 38 companies they understood operated as Alliance's subdealers requesting calling
24 data for calls placed on behalf of Alliance and Alarm.com. Plaintiffs received no calling data in
25 response to any of the subpoenas. Terrell Decl. ¶ 7. Plaintiffs obtained permission to use
26

² Plaintiffs did not seek certification of an internal Do Not Call Class.

1 documents and data that Alliance produced in the MDL litigation against Monitronics
2 (N.D.W.V. Case No. 13-md-2943) that they thought might include calling data for class
3 members. *Id.* Plaintiffs also took several additional depositions, including depositions of
4 Alliance's corporate officers, Nationwide's principal, Mr. Moretti. *Id.*

5 After completing discovery and their expert's analysis of the Monitronics calling data,
6 Plaintiffs filed a motion requesting that the Court modify its class certification order to (1) limit
7 the Cell Phone class to individuals who were called by Nationwide because they did not have
8 authenticated data of calls made by Alliance's other subdealers; (2) decertify the Residential
9 Class because there was no way to tell from the available calling data whether a class member
10 received a pre-recorded message, raising individualized issues; and (3) modify the National Do-
11 Not-Call Class definition to correct a clerical error. The Court granted the motion. ECF No. 176.

12 Notice of class certification was disseminated to approximately 415,817 class members in
13 accordance with the Court-approved notice plan. *See* ECF No. 178.

14 **D. The Court denies summary judgment motions and motion to strike experts.**

15 The parties exchanged expert disclosures and deposed each other's experts in early 2018.
16 Terrell Decl. ¶ 9. Alarm.com moved for summary judgment in May 2018, arguing that it was not
17 liable for calls made by Alliance on its behalf. ECF No. 195. Alarm.com also filed a motion to
18 strike Plaintiffs' experts. ECF No. 198. Plaintiffs opposed both motions and filed a cross-motion
19 for summary judgment. ECF Nos. 205 & 211. Following a hearing, the Court denied the
20 summary judgment motions and the motion to exclude Plaintiffs' experts. ECF. No. 242.

21 **E. The parties prepare for trial and negotiate the settlement.**

22 Trial was set for October 9, 2018. After the summary judgment ruling, the parties
23 prepared and exchanged exhibit lists, deposition designations, trial stipulations, jury instructions,
24 and motions in limine. Terrell Decl. ¶ 11.

25 The parties engaged in settlement negotiations in December 2016 with Judge James F.
26 Holderman of JAMS Chicago and in November 2017 with Judge Morton Denlow, also of JAMS

1 Chicago. Neither was successful. With trial fast approaching, the parties reopened their
2 discussions. This time, the parties were able to reach agreement on the terms of a settlement. *Id.*

3 ¶ 12. The parties notified the Court of the Settlement on August 30, 2018. ECF No. 261.

4 III. SETTLEMENT TERMS

5 The terms of the Settlement are memorialized in the parties' Class Action Settlement
6 Agreement, referred to as the "Settlement" and attached as Exhibit 1 to the Terrell Declaration.

7 A. The proposed Settlement Class.

8 The proposed Settlement Class is defined as:

9 All persons who, from December 30, 2011 through the date of Final Approval,
10 received a telemarketing call made by Alliance Security, Inc. or any of
11 Alliance's sub-dealers, independent business operators, vendors, lead
12 generators, or agents (defined as "Alliance") either promoting Alarm.com's
13 goods or services or that could have resulted in the installation of a security
14 system that could use or include any Alarm.com product or service: (a) to a
15 cellular telephone number through the use of an automatic telephone dialing
16 system or an artificial or prerecorded voice, (b) to a residential telephone line
17 using an artificial or prerecorded voice, or (c) to a cellular or residential
18 telephone number registered on the national Do Not Call Registry and who
19 received more than one such call within any twelve-month period.

20 Settlement § 1.28, 1.15. The proposed Settlement Class is broader than the previously certified
21 classes because it includes calls made by all of Alliance's agents in addition to calls made by
22 Alliance and Nationwide. It also includes calls made to residential numbers using an artificial or
23 prerecorded voice. And it expands the class period for calls made to cell phones, which
24 previously started on October 15, 2013. Persons who (1) provided their telephone numbers to
25 Alarm.com prior to receiving calls from Alliance or (2) previously excluded themselves from the
26 Settlement Class are not Settlement Class Members. *Id.* at 1.28.

Plaintiffs' expert has been able to identify approximately 1,215,993 Settlement Class
Members from the calling data Plaintiffs obtained in discovery. Plaintiffs believe there are
additional persons who fall within the Settlement Class definition, but Plaintiffs were unable to
identify them despite their best efforts. Terrell Decl. ¶ 30.

1 **B. Monetary relief.**

2 The proposed Settlement requires Alarm.com to pay \$28,000,000 into a “Settlement
3 Fund.” Subject to Court approval, the Settlement Fund will be used to make payments to all
4 Settlement Class Members who submit timely and valid claims; pay the Settlement
5 Administrator the costs of notice and Settlement Administration Expenses in an amount capped
6 at \$1,825,000; pay Service Awards in the amount of \$10,000 to each Class Representative; and
7 pay Class Counsel’s attorneys’ fees in an amount not to exceed \$8,400,000 and litigation costs
8 and expenses of up to \$300,000. Settlement §§ 2.1, 8.

9 The Settlement Fund is non-reversionary. If any amounts remain in the Settlement Fund
10 after the deadline for cashing checks, the Settlement Administrator will make a second
11 distribution of funds if it is administratively feasible to do so. Settlement § 2.3(d). If any amounts
12 remain in the Settlement Fund after distribution is complete, including any second distribution,
13 the parties request that the Court direct those funds to be disbursed *cy pres* to the National
14 Consumer Law Center (NCLC). *Id.* NCLC is a non-profit organization dedicated to protecting
15 consumers, including consumers harassed by unlawful telemarketing calls. Terrell Decl. ¶ 15.

16 1. Payments to Settlement Class Members.

17 After payment of Court-approved administrative expenses, attorneys’ fees and expenses,
18 and service awards, the Settlement Fund will be distributed equally to Settlement Class Members
19 who submit timely and valid claims. Settlement §§ 2.3(b) & 5.3. To participate, each Settlement
20 Class Member will only have to complete a simple Claim Form with his or her name, contact
21 information, the telephone number that received the allegedly unlawful calls, and an affirmation
22 that he or she received the allegedly unlawful calls at the designated telephone number.
23 Settlement, Ex. 1. Settlement Class Members whose telephone numbers appear in the calling
24 data will be able to look up the number of calls the data shows they received by visiting the
25 Settlement Website and following the directions. Settlement § 5.3.

1 2. Settlement Administration Expenses.

2 The Settlement Agreement provides that any Settlement Administration Expenses will be
3 paid from the Settlement Fund. Settlement § 2.1. The parties propose to retain Kurtzman Carson
4 Consultants LLC (“KCC”) as the Settlement Administrator, subject to Court approval. KCC has
5 substantial experience in administering class settlements, including developing and executing
6 notice plans and processing claims. Peak Decl. ¶¶ 4-8. KCC developed the proposed Notice Plan
7 and will be responsible for disseminating notice by mail and email as well as the proposed media
8 campaign. KCC will also be responsible for following up on undelivered notices, establishing
9 and maintaining a Settlement Website and a toll-free number and responding to Settlement Class
10 Member inquiries; processing, logging, and reviewing exclusion requests for deficiencies; and
11 addressing deficiencies with those requesting exclusion and providing them with an opportunity
12 to cure; processing, logging, and reviewing claims for deficiencies and/or fraud, and addressing
13 deficiencies with claimants providing them with an opportunity to cure; preparing and delivering
14 the Class Action Fairness Act notice to the appropriate federal and state officials, administering
15 the Settlement Fund, disbursing the attorneys’ Fee Award and Service Awards, and distributing
16 the Settlement Fund to Settlement Class Members who file timely and valid Claim Forms.
17 Settlement §§ 6.1-6.5. KCC estimates its costs will not exceed \$1,825,000. Peak Decl. ¶ 35.

18 3. Service Awards and attorneys’ fees and costs.

19 Plaintiffs will request Service Awards in the amount of \$10,000 each in recognition of
20 their service to the Settlement Class. Settlement § 8.4.

21 The Settlement Agreement provides that Class Counsel may request that the Court
22 approve an award of attorneys’ fees and litigation expenses. Settlement § 8.1. Class Counsel will
23 file a motion requesting an attorneys’ fee award not to exceed 30% of the Settlement Fund and
24 reimbursement of approximately \$300,000 in out-of-pocket costs. The Settlement Agreement is
25 not contingent on the amount of attorneys’ fees or costs awarded.

1 **C. Prospective relief.**

2 Alarm.com has agreed that Alliance Security, Inc. will no longer be permitted to market
3 or activate new accounts with Alarm.com products or services. Settlement § 2.4. Alarm.com is
4 also in the process of implementing changes to its practices to increase awareness of TCPA
5 compliance, including increased TCPA training for Alarm.com employees, changes to its
6 contractual arrangement with service providers, and raising TCPA awareness among its service
7 providers. *Id.* This prospective relief, which is separate and apart from the monetary relief, will
8 benefit Settlement Class Members because it will help promote TCPA compliance.

9 **D. Release.**

10 In exchange for the Settlement benefits, Settlement Class Members will release claims
11 against Alarm.com and other Released Parties, which include Alarm.com's parents, subsidiaries,
12 predecessors, successors, officers, directors, shareholders, employees, insurers, and attorneys.
13 Settlement §§ 1.23, 1.24, 3.1. The release is tailored to the claims at issue. For example, it does
14 not include claims relating to debt collection calls or internal do-not-call claims.

15 **E. Notice Plan.**

16 The parties propose a Notice Plan including mailed notice to Settlement Class Members
17 who can be identified and a Publication Notice program that will reach over 70% of Settlement
18 Class members. Settlement § 4.2. The Notice Plan is described below.

19 **IV. AUTHORITY AND ARGUMENT**

20 The Court's role at preliminary approval is to determine whether it is appropriate to
21 provide notice of the proposed settlement to the class. Because the proposed Settlement Class is
22 broader than the classes the Court previously certified, Plaintiffs first address certification of the
23 Settlement Class. Plaintiffs then address the merits of the proposed Settlement. Finally, Plaintiffs
24 discuss the proposed Notice Plan.

1 **A. The Settlement Class should be preliminarily certified.**

2 The Settlement Class satisfies the requirements of Rule 23(a) and (b)(3).³ The Rule 23(a)
3 requirements are numerosity, commonality, typicality and adequacy. Rule 23(b)(3) requires
4 plaintiffs to establish “that the questions of law or fact common to class members predominate
5 over any questions affecting only individual members, and that a class action is superior to other
6 available methods for fairly and efficiently adjudicating the controversy.”

7 1. The Settlement Class satisfies the requirements of Rule 23(a).

8 The proposed Settlement Class has at least 1,215,993 members, which satisfies the
9 numerosity requirement. *See Celano v. Marriott Int’l Inc.*, 242 F.R.D. 544, 548-49 (N.D. Cal.
10 2007) (numerosity is generally satisfied when a class has at least 40 members).

11 The Settlement Class also satisfies the commonality requirement, which requires that
12 class members’ claims “depend upon a common contention,” of such a nature that
13 “determination of its truth or falsity will resolve an issue that is central to the validity of each
14 [claim] in one stroke.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). As the Court
15 recognized in its class certification order, there are several common questions in this case,
16 including whether Alarm.com is vicariously liable for calls made on its behalf, whether Alliance
17 and its agents called numbers on the DNC registry, and whether Alliance and its agents called
18 cell and residential numbers using an ATDS or prerecorded message. ECF No. 126 at 10. The
19 answers to these questions turn on common evidence and can be fairly resolved for all class
20 members at once. *See, e.g., Kristensen v. Credit Payment Servs.*, 12 F. Supp. 3d 1292, 1306 (D.
21 Nev. 2014) (finding that questions of vicarious liability satisfied commonality); *Whitaker v.*
22 *Bennett Law, PLLC*, No. 13-3145, 2014 WL 5454398, at *5 (S.D. Cal. Oct. 27, 2014) (finding
23 commonality satisfied where the central issue was whether the defendant used an ATDS or
24 prerecorded or artificial voice to make calls).

25
26 ³ For settlement purposes only, Alarm.com does not dispute this characterization. If the proposed
Settlement is not approved, Alarm.com reserves its right to contest class certification.

1 Typicality is satisfied if “the claims or defenses of the representative parties are typical of
2 the claims or defenses of the class.” Fed. R. Civ. P. 23(a)(3). Plaintiffs’ claims are typical of the
3 claims of Settlement Class members because they arise from the same course of alleged conduct:
4 telemarketing calls placed to cell phones and residential lines promoting Alarm.com’s goods and
5 services. *See, e.g., Whitaker*, 2014 WL 5454398, at *5 (finding typicality satisfied because each
6 class member’s claim “revolves exclusively around [the defendant’s] conduct as it specifically
7 relates to the alleged violations of the TCPA”); *Agne v. Papa John’s Int’l, Inc.*, 286 F.R.D. 559,
8 569 (W.D. Wash. 2012) (finding typicality satisfied where the plaintiff’s claims, “like all class
9 members’ claims, arise from text marketing campaigns commissioned by Papa John’s
10 franchisees and executed by the same marketing vendor”).

11 Finally, the adequacy requirement is satisfied when the class representatives will “fairly
12 and adequately protect the interests of the class.” Fed. R. Civ. P. 23(a)(4). To make this
13 determination, “courts must resolve two questions: ‘(1) do the named plaintiffs and their counsel
14 have any conflicts of interest with other class members and (2) will the named plaintiffs and their
15 counsel prosecute the action vigorously on behalf of the class?’” *Ellis v. Costco Wholesale*
16 *Corp.*, 657 F.3d 970, 985 (9th Cir. 2011) (citation omitted). The Court previously found that
17 Plaintiffs have no conflicts of interest with the other proposed class members and have
18 demonstrated their commitment to the class by actively participating in the litigation. ECF No
19 126 at 14-15. Nothing has changed. Plaintiffs and their counsel have continued to vigorously
20 represent the class and have no conflicts of interest with any Settlement Class Members.

21 2. The Settlement Class satisfies the requirements of Rule 23(b)(3).

22 Class certification is appropriate under Rule 23(b)(3) when “questions of law or fact
23 common to the members of the class predominate over any question affecting only individual
24 members, and ... a class action is superior to other available methods for the fair and efficient
25 adjudication of the controversy.” Both requirements are satisfied here, just as the Court ruled
26 they were in the context of contested class certification. *See* ECF No. 126 at 10-13, 15-16.

1 Common questions predominate over any questions affecting only individual members.
2 The question common to all Settlement Class members is whether Alarm.com is vicariously
3 liable for the calls placed on its behalf. This question can be resolved using the same evidence
4 for all class members and is exactly the kind of predominant common issue that makes class
5 certification appropriate. *See Tyson Foods, Inc. v. Bouaphakeo*, 136 S. Ct. 1036, 1045 (2016)
6 (“When ‘one or more of the central issues in the action are common to the class and can be said
7 to predominate, the action may be considered proper under Rule 23(b)(3)’” (citation
8 omitted)). There are additional common questions, as the Court recognized in its class
9 certification order, including whether Alliance’s agents used an ATDS or prerecorded message
10 to place calls to cell and residential phones, and whether Alliance and its agents called numbers
11 on the DNC registry.

12 Courts have certified TCPA claims where common issues predominate over individual
13 issues. *See, e.g., Ikuseghan v. Multicare Health Sys.*, No. C14-5539 BHS, 2015 WL 4600818, at
14 *8 (W.D. Wash. July 29, 2015); *Krakauer v. Dish Network L.L.C.*, 311 F.R.D. 384, 400
15 (M.D.N.C. 2015); *Booth v. Appstack, Inc.*, No. C13-1533 JLR, 2015 WL 1466247, at *13 (W.D.
16 Wash. Mar. 30, 2015). Here the Court has already found that common issues predominated over
17 any individualized issues. ECF No. 126 at 10-13. In fact, Alarm.com moved for summary
18 judgment on these very issues, seeking a ruling that would apply to all certified class members.
19 *See* ECF No. 195.

20 Class certification is also “superior to other available methods for fair and efficient
21 adjudication of the controversy.” Fed. R. Civ. P. 23(b)(3). Classwide resolution is the only
22 practical method of addressing the alleged telemarketing violations at issue in this case. There
23 are millions of class members with modest individual claims, most of whom likely lack the
24 resources necessary to seek individual legal redress. *See Local Joint Exec. Bd. of Culinary/
25 Bartender Trust Fund v. Las Vegas Sands, Inc.*, 244 F.3d 1152, 1163 (9th Cir. 2001) (cases
26 involving “multiple claims for relatively small individual sums” are particularly well suited to

1 class treatment); *see also Wolin v. Jaguar Land Rover N. Am., LLC*, 617 F.3d 1168, 1175 (9th
 2 Cir. 2010) (“Where recovery on an individual basis would be dwarfed by the cost of litigating on
 3 an individual basis, this factor weighs in favor of class certification.”).

4 **B. The proposed Settlement should be preliminarily approved.**

5 While courts agree that their role at preliminary approval is to determine whether it is
 6 appropriate to send notice of a proposed settlement to the class, they do not always use the same
 7 standard to make that determination. In the past, courts have focused only on whether the
 8 proposed agreement appears to be non-collusive, is free of “obvious deficiencies,” and generally
 9 falls within the range of “possible” approval. *See, e.g., In re Tableware Antitrust Litig.*, 484 F.
 10 Supp. 2d 1078, 1079-80 (N.D. Cal. 2007). Recently, some courts in this district have applied the
 11 factors set forth in *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998), and *Churchill*
 12 *Village, L.L.C. v. General Electric*, 361 F.3d 566, 575-76 (9th Cir. 2004), which are used by
 13 courts to determine whether a settlement is fair, adequate, and reasonable at the final approval
 14 stage.⁴ The amendments to Rule 23(e)(2) that will go into effect on December 1, 2018, provide
 15 additional guidance, requiring parties to provide courts with sufficient information to determine
 16 that it will likely be able to approve the settlement as fair, reasonable and adequate.⁵ Plaintiffs
 17 will address the factors outlined by all three standards, many of which overlap.

18
 19
 20 ⁴ These factors include: (1) the strength of Plaintiffs’ case; (2) the risk, expense, complexity, and
 21 likely duration of further litigation; (3) the risk of maintaining class action status through trial;
 22 (4) the amount offered in settlement; (5) the extent of discovery completed and the stage of the
 23 proceedings; (6) the experience and views of counsel; (7) the presence of a governmental
 24 participant; (8) the reaction of the class members to the proposed settlement; and (9) whether the
 25 settlement is a product of collusion among the parties.

26 ⁵ The considerations are whether (A) the class representatives and class counsel have adequately
 represented the class; (B) the proposal was negotiated at arm’s length; (C) the relief provided by
 the settlement is adequate, taking into account: (i) the costs, risks, and delay of trial and appeal;
 (ii) the effectiveness of any proposed method of distributing relief including the method of
 processing class-member claims, if required; (iii) the terms of any proposed award of attorneys’
 fees, including timing of payment; and (iv) any agreement required to be identified under Rule
 23(e)(3) made in connection with the proposed settlement; and (D) the proposal treats class
 members equitably relative to each other.

1 1. The Settlement is the result of arm's-length, non-collusive negotiations.

2 This case has been hard fought since the beginning. The parties were at all times
3 adversarial, including during settlement discussions. “An initial presumption of fairness is
4 usually involved if the settlement is recommended by class counsel after arm's-length
5 bargaining.” *Harris v. Vector Mktg. Corp.*, No. C-08-5198 EMC, 2011 WL 1627973, at *8 (N.D.
6 Cal. Apr. 29, 2011) (citation omitted); *see also Rodriguez v. W. Publishing*, 563 F.3d 948, 965
7 (9th Cir. 2009) (“We put a good deal of stock in the product of an arms-length, non-collusive,
8 negotiated resolution.”). The parties commenced the settlement discussions that led to this
9 agreement just weeks before trial was set to begin, and after class certification and cross motions
10 for summary judgment were resolved.

11 The Ninth Circuit has identified “red flags” that it says may suggest that plaintiffs’
12 counsel allowed pursuit of their own self-interest to infect settlement negotiations, including
13 when counsel receive a disproportionate portion of the settlement, the parties agree to a “clear
14 sailing” arrangement providing for the payment of attorneys’ fees separate and apart from class
15 funds, or the parties agree that any fees not awarded will revert to defendants rather than be
16 added to the class fund. *In re Bluetooth Headset Products Liab. Litig.*, 654 F.3d 935, 947 (9th
17 Cir. 2011). None is present in this settlement. Because Class Counsel will be paid from the same
18 Settlement Fund as Settlement Class Members, they were incentivized to negotiate the largest
19 fund possible. The Court will, of course, have ultimate discretion over the amount of the
20 attorneys’ fee award after reviewing Class Counsel’s motion. None of the Settlement Fund will
21 revert to Alarm.com; any requested fees or Service Awards not approved by the Court will be
22 distributed to Settlement Class Members who submit valid Claim Forms. Settlement § 8.1.

23 2. The relief provided by the Settlement is adequate taking into account the strength
24 of Plaintiffs’ case and the risk, cost, and delay of trial and appeal.

25 Alarm.com has agreed to pay \$28 million to settle Plaintiffs’ and Settlement Class
26 Members’ TCPA claims. The Settlement Fund will be used to pay the costs of notice and
settlement administration, attorneys’ fees, costs and expenses, and Service Awards to the

1 Plaintiffs. Once those amounts are paid, the remainder of the Settlement Fund—approximately
2 \$17,445,000—will be distributed to Settlement Class Members who timely file a claim form.

3 Plaintiffs believe they have a case for liability. They believe the evidence supports
4 Alarm.com’s vicarious liability for the calls placed by Alliance and its agents, as discussed at
5 length in Plaintiffs’ response to Alarm.com’s motion for summary judgment. Alarm.com’s dealer
6 agreements show that Alarm.com had the ability to control and monitor its dealer’s marketing
7 techniques and activities. Until the summer of 2017, Alliance was required to exclusively sell
8 Alarm.com products and services. *See* ECF No. 205 at 4. And Alarm.com was on notice of a
9 *Today Show* report concerning Alliance’s telemarketing violations. *Id.* at 5-6.

10 But success on this score was certainly not guaranteed. Alarm.com denies liability for
11 Plaintiffs’ claims. Settlement, Recitals § G. Alarm.com asserted fifty affirmative defenses, *see*
12 ECF No. 35, and continues to deny that it can be held vicariously liable for Alliance’s alleged
13 telemarketing violations. Proving vicarious liability can be challenging in TCPA cases. *See*
14 *Kristensen v. Credit Payment Servs. Inc.*, 879 F.3d 1010, 1014-15 (9th Cir. 2018) (affirming
15 summary judgment of TCPA claims where plaintiff failed to provide sufficient evidence of
16 vicarious liability); *Jones v. Royal Admin. Servs., Inc.*, 887 F.3d 443, 453 (9th Cir. 2018) (same);
17 *Thomas v. Taco Bell Corp.*, 879 F. Supp. 2d 1079, 1086 (C.D. Cal. 2012) (dismissing TCPA
18 claims because the plaintiff failed to show the defendant controlled franchisee’s telemarketing
19 activity), *aff’d*, 879 F. App’x 678 (9th Cir. 2014); *Makaron v. GE Security Mfg. Co.*, No. CV-14-
20 1274-GW (AGRx), 2015 WL 3526253, at *10 (C.D. Cal. May 18, 2015) (granting defendant’s
21 motion for summary judgment because plaintiff failed to prove manufacturer vicariously liable
22 for dealers’ telemarketing violations); *In re Monitronics*, 223 F. Supp. 3d 514, 520 (N.D. W. Va.
23 2016) (same), *aff’d sub nom Hodgin v. UTC Fire & Sec. Ams. Corp.*, 885 F.3d 243, 252 (4th Cir.
24 2018). And different jurors may in their own minds require different or more conclusive types of
25 evidence to be convinced. Although Plaintiffs defeated Alarm.com’s summary judgment motion
26 on the vicarious liability issue, they still needed to convince a jury at trial.

1 Plaintiffs had additional hurdles to clear before they would ever recover any damages.
2 They would not only have to prevail at trial, but also retain any favorable judgment through the
3 appellate process. Litigating this case to trial and through any appeals would be expensive and
4 time-consuming and would present risk to both parties. Some members of Class Counsel tried a
5 TCPA case last year in *Krakauer v. Dish Network, L.L.C.*, M.D.N.C. Civil Action No. 1:14-CV-
6 333, and can attest to the time and cost involved; among other things, the case involved more
7 than 45 motions between class certification and trial. Since trial, the defendant has continued to
8 contest judgment administration issues, and has filed an appeal. Barrett Decl. ¶ 7. This
9 Settlement, by contrast, provides prompt and certain relief. *See Nat’l Rural Telecommc’ns Coop.*
10 *v. DIRECTV, Inc.*, 221 F.R.D. 523, 526 (C.D. Cal. 2004) (“The Court shall consider the vagaries
11 of litigation and compare the significance of immediate recovery by way of the compromise to
12 the mere possibility of relief in the future, after protracted and expensive litigation.”).

13 Even if Plaintiffs prevailed at trial and on any appeal, the damages available under the
14 TCPA in a class action with more than a million class members are so significant that they make
15 it hard for any company to bond an appeal and satisfy the judgment. A judgment on behalf of the
16 approximately 1,215,993 Settlement Class Members whose telephone numbers have been
17 identified from calling data would total more than \$607,996,500, which could then be subject to
18 trebling up to \$1.8 billion.⁶ As Alarm.com stated in its most recent quarterly filing with the SEC,
19 “should we decide to appeal an adverse verdict, we would be required to post a bond in the
20 amount of that verdict to stay execution of the judgment while the appeal is pending, which may
21 not be available on reasonable terms, if at all.” Thus, in addition to the risk of a loss at trial, even
22 a verdict for Plaintiffs posed a substantial risk that the judgment would never be paid. At the
23 same time, the Settlement Fund is a very significant payment for Alarm.com in that it
24 approximates Alarm.com’s entire net income of \$29.2 million in 2017, and exceeds its annual
25 net income in all preceding years. Terrell Decl. ¶ 32. Thus, securing a \$28 million settlement
26

⁶ Calculated as a single violation for each telephone number (1,215,993 x \$500).

1 now with certainty of payment will provide significant relief to Settlement Class Members who
2 submit claims and exacts a significant payment from Alarm.com's perspective, particularly in a
3 case where the calls at issue were not made by Alarm.com itself but by a third party.

4 3. The Settlement compares favorably to other TCPA class settlements.

5 The estimated per-claim payment of \$95 to \$143 is equal to or exceeds payments in other
6 TCPA settlements approved in California and across the country. *Steinfeld v. Discover Fin.*
7 *Servs.*, No. C 12-01118, Dkt. No. 96 at ¶ 6 (N.D. Cal. Mar. 10, 2014) (claimants received
8 \$46.98); *Adams v. AllianceOne Receivables Mgmt., Inc.*, No. 3:08-cv-00248-JAH-WVG, Dkt.
9 No. 137 (S.D. Cal. Sept. 28, 2012) (claimants received \$40); *Kramer v. Autobytel, Inc., et al.*,
10 No. 10-cv-2722, Dkt. 148 (N.D. Cal. 2012) (approving TCPA settlement providing for a cash
11 payment of \$100 to each class member); *Estrada v. iYogi, Inc.*, No. 2:13-01989 WBS CKD,
12 2015 WL 5895942, at *7 (E.D. Cal. Oct. 6, 2015) (granting preliminary approval to TCPA
13 settlement where class members estimated to receive \$40); *Malta v. Fed. Home Loan Mortg.*
14 *Corp.*, 10-CV-1290-BEN (S.D. Cal.) (after final approval, each of the 120,547 claimants that
15 made a timely and valid claim as well as the 103 claimants that made a late claim received the
16 sum of \$84.82); *Kramer v. B2Mobile*, 10-CV2722-CW (N.D. Cal.) (in TCPA settlement each
17 claimant was to be paid \$100), *Rose v. Bank of Am. Corp.*, 2014 WL 4273358, at *10 (N.D. Cal.,
18 2014) (approving TCPA settlement where claimants were estimated to receive \$20 to \$40);
19 *Desai v. ADT Sec. Servs., Inc.*, Case No. 1:11-cv-01925, Dkt. No. 229 (N.D. Ill. Feb. 14, 2013)
20 (estimating payments between \$50 and \$100); *Rinky Dinky v. Elec. Merchant Sys.*, No. C13-
21 1347-JCC, Dkt. No. 151 (W.D. Wash. Apr. 19, 2016) (\$97 payments); *In re Capital One Tel.*
22 *Consumer Prot. Act Litig. (In re Capital One)*, 80 F. Supp. 3d 781, 787 (N.D. Ill. 2015)
23 (approving settlement where each class member received \$34.60 per claimant).

24 The Settlement also includes valuable prospective relief that will benefit all Settlement
25 Class Members, even those who do not make a claim. Plaintiffs have argued that Alliance is one
26 of the most notorious telemarketing violators in the country, causing millions of unwanted calls

1 to be placed each year to consumers across the country. Many alarm monitoring and
2 manufacturing companies terminated their relationship with Alliance years ago. As part of this
3 settlement, Alarm.com has agreed that Alliance Security, Inc. may not market or activate new
4 accounts with Alarm.com products or services in the future. Alarm.com also has changed its
5 corporate practices to increase awareness of TCPA compliance by enhancing TCPA training of
6 Alarm.com employees, changing contractual arrangements with service providers, and increasing
7 TCPA awareness among service providers. Settlement § 2.4.

8 4. Counsel are well informed of the strengths and weaknesses of the claims and
9 defenses and support the Settlement.

10 This Settlement was negotiated mere weeks before trial. The parties understood the
11 strengths and weaknesses of their evidence, witnesses, and legal positions. They briefed class
12 certification, cross-motions for summary judgment, and *Daubert* motions. They engaged in
13 comprehensive class, merits, expert, and third-party discovery. It is with this foundation that
14 Class Counsel, who have substantial experience in litigating TCPA class actions (including trial),
15 endorse the Settlement. The recommendation of experienced counsel weighs in favor of granting
16 final approval and creates a presumption of reasonableness. *See Bellinghausen v. Tractor Supply*
17 *Co.*, 306 F.R.D. 245, 257 (N.D. Cal. 2015) (“The trial court is entitled to, and should, rely upon
18 the judgment of experienced counsel for the parties.” (citation omitted)).

19 5. The Settlement will be fairly distributed to Settlement Class Members.

20 The method for distributing the Settlement Fund to Settlement Class Members is simple,
21 straightforward, and equitable. To obtain a payment, a Settlement Class Member will only have
22 to complete a simple claim form with his or her name, contact information, the telephone number
23 on which he or she received the allegedly unlawful calls, and an affirmation that he or she
24 received the allegedly unlawful calls at the designated telephone number. The claim process is
25 necessary to deter fraud and ensure that claimants are in fact Settlement Class Members. Peak
26 Decl. ¶ 37. However, the claims process is also consumer friendly, since the claim can be filed
using paper or electronically and the electronic claims forms will “pre-populate” with

1 information in the calling data Class Counsel obtained in discovery. *Id.* ¶ 35. Claim forms will be
2 processed by the Settlement Administrator in accordance with the Settlement Agreement.

3 Settlement Class Members will be treated equitably relative to each other. Each
4 Settlement Class Member who submits a valid claim form will receive an equal share of the
5 Settlement Fund after Court-approved deductions for administrative costs, attorneys' fees, costs,
6 and Service Awards. On the Settlement Website, Settlement Class Members whose names
7 appear in the calling data will be able to learn the number of calls the data shows they received
8 so they can make an informed decision about whether to opt out and pursue individual claims.

9 The three Plaintiffs intend to request Court approval of Service Awards of \$10,000 each.
10 The Ninth Circuit has explained that service awards that are "intended to compensate class
11 representatives for work undertaken on behalf of a class 'are fairly typical in class action cases.'" *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 943 (9th Cir. 2015) (quoting *Rodriguez*,
12 563 F.3d at 958-59). The factors courts consider include the class representative's actions to
13 protect the interests of the class, the degree to which the class has benefitted from those actions,
14 the time and effort the class representative expended in pursuing the litigation, and any risk the
15 class representative assumed. *Staton v. Boeing Co.*, 327 F.3d 938, 977 (9th Cir. 2003). Plaintiffs
16 devoted significant time assisting Class Counsel in this case over the past three years, including
17 assisting with development of the case, responding to discovery, and being deposed. *See*
18 *Declarations of Fred Heidarpour, Mark Hankins, and Philip J. Charvat. Service Awards of*
19 *\$10,000 are reasonable and in line with awards approved by federal courts in California and*
20 *elsewhere. See, e.g., In re Nat'l Collegiate Athletic Ass'n*, No. 4:14-md-2541-CW, 2017 WL
21 6040065, at *11 (N.D. Cal. Dec. 6, 2017) (awarding \$20,000 incentive awards to each of four
22 class representatives and collecting cases approving similar awards); *Pelletz v. Weyerhaeuser*
23 *Co.*, 592 F. Supp. 2d 1322, 1329-30 & n.9 (W.D. Wash. 2009) (collecting cases approving
24 awards ranging from \$5,000 to \$40,000).
25
26

1 No agreements have been made in connection with the proposed Settlement other than
2 the Settlement Agreement. *See* Fed. R. Civ. P. 23(e)(3).

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

4 Class Counsel intend to request an award of up to 30% of the Settlement Fund, or
5 \$8,400,000, in reasonable attorneys' fees, as well as reimbursement for the approximately
6 \$300,000 in out-of-pocket costs they incurred. The Ninth Circuit has recognized that the
7 percentage-of-the-fund method is the appropriate method for calculating fees when counsel's
8 effort has created a common fund. *See, e.g., In re Bluetooth*, 654 F.3d at 942. The Ninth Circuit
9 benchmark is 25%, with common fund fees typically ranging from 20% to 30% of the fund. *In re*
10 *Coord. Pretrial Proceedings in Petroleum Prods. Antitrust Litig.*, 109 F.3d 602, 607 (9th Cir.
11 1997) (citation omitted). Factors bearing on the reasonableness of the award, and any departure
12 from the benchmark include (1) the results achieved, (2) the risk of litigation, (3) the skill
13 required and quality of work, and (4) the contingent nature of the fee and the financial burden
14 carried by the plaintiffs. *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1048-50 (9th Cir. 2002);
15 *see also Gutierrez-Rodriguez v. R.M. Galicia, Inc.*, Case No.: 16-CV-00182-H-BLM, 2018 WL
16 1470198 (March 26, 2018) (approving award of fees and costs of 30%, based on excellent results
17 achieved, risks of litigation, high quality of work and contingency basis). Class Counsel's
18 lodestar may also be considered in evaluating the reasonableness of a percentage award.
19 *Vizcaino*, 290 F.3d at 1050-51.

20 As of this filing, Class Counsel have devoted almost 5,000 hours and incurred over \$2.3
21 million in lodestar. Class Counsel will file a motion for attorneys' fees, costs, and expenses
22 addressing the factors courts consider when awarding attorneys' fees in class action cases and
23 explaining why an upward adjustment from the benchmark is warranted in this case. In
24 connection with their motion, Class Counsel will provide the Court with their detailed time
25 records. The motion will also detail the costs incurred, which include the over \$300,000 that
26 Class Counsel paid to their experts to analyze the calling data, notice costs, and general litigation

1 expenses such as travel to depositions, transcript costs, and mediation expenses. The Settlement
2 Administrator will pay the Court-approved fee award to Class Counsel from the Settlement Fund
3 within 30 days of the Effective Date of the Settlement. Settlement § 2.3.

4 **C. The Notice Plan complies with Rule 23(e) and due process.**

5 Rule 23(e)(1) states that “[t]he court must direct notice in a reasonable manner to all class
6 members who would be bound by” a proposed settlement, voluntary dismissal, or compromise.
7 Class members are entitled to the “best notice that is practicable under the circumstances” of any
8 proposed settlement before it is finally approved by the Court. Fed. R. Civ. P. 23(c)(2)(B). The
9 amendments to Rule 23(c)(2)(B) provide that “notice may be by one or more of the following:
10 United States mail, electronic means, or other appropriate means.” To comply with due process,
11 notice must be “the best notice practicable under the circumstances, including individual notice
12 to all members who can be identified through reasonable effort.” *Amchem Prods. v. Windsor*,
13 521 U.S. 591, 617 (1997). The notice must state in plain, easily understood language: (i) the
14 nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues, or
15 defenses; (iv) that a class member may enter an appearance through an attorney if the member so
16 desires; (v) that the court will exclude from the class any member who requests exclusion;
17 (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class
18 judgment on members under Rule 23(c)(3). Fed. R. Civ. P. 23(c)(2)(B).

19 The parties have developed a Notice Plan with Settlement Administrator KCC’s
20 assistance that will include direct mail or email notice to Settlement Class Members with known
21 addresses supplemented by Publication Notice designed to reach over 70% of Settlement Class
22 members. *See* Peak Decl. ¶¶ 11-34. Class Counsel have provided KCC with the list of telephone
23 numbers associated with potential Settlement Class Members as well as names, postal addresses
24 and email addresses they obtained for those numbers. Peak Decl. ¶ 14. The media campaign will
25 include print notices in *People* and *Better Homes and Gardens*, as well as a 60 day internet media
26 campaign on desktop and mobile devices nationwide via the Google Display Network (GDN),

1 Facebook and YouTube. Peak Decl. ¶¶ 24-27. In addition, KCC will maintain a Settlement
2 Website with detailed information about the Settlement, and a toll-free number that Settlement
3 Class Members can call to obtain more information. *Id.* ¶¶ 28-29.

4 All of the notices, attached as Exhibits 1(a), 2, 4, 5 & 7 to the Settlement Agreement, are
5 drafted in plain English so they will be easy to understand. They include key information about
6 the Settlement, including the deadline to file a claim, the deadline to request exclusion or object
7 to the Settlement, and the date of the Final Approval Hearing (and that the hearing date may
8 change without further notice). The notices state the amount of the fee and cost award Class
9 Counsel will request, the amount of the Service Awards Plaintiffs will request, and the maximum
10 Administrative Expenses, and provide an estimate of the cash payment Settlement Class
11 Members will receive if they do not request exclusion. The notices disclose that, by participating
12 in the Settlement, Settlement Class Members give up the right to sue to receive between \$500
13 and \$1,500 per call. The notices direct Settlement Class Members to the Settlement Website for
14 further information, where copies of the notices, the Settlement Agreement, the complaint and
15 answer, and motions and orders relating to the Settlement will be posted. Settlement § 4.2(e).
16 The notices provide contact information for Class Counsel to answer questions and instructions
17 on how to access the case docket via PACER or in person at any of the court's locations.

18 Settlement Class Members will have 60 days from the date KCC commences
19 dissemination of notice by sending emails and postcards and publishing the online notices to
20 submit a claim, object to the Settlement, or request exclusion from the Settlement. Settlement
21 §§ 1.18, 1.2. KCC will post Class Counsel's motion for attorneys' fees on the Settlement
22 Website at least thirty days before the deadline to object in accordance with *In re Mercury*
23 *Interactive Corp. Securities Litigation*, 618 F.3d 988 (9th Cir. 2010). Settlement § 8.2. In
24 accordance with the amendments to Rule 23, Settlement Class Members who previously had an
25 opportunity to exclude themselves will have a new opportunity to request exclusion.
26

1 The manner and content of the proposed Notice Plan complies with Rule 23 and due
 2 process, as well as the District’s Procedural Guidance for Class Action Settlements. Similar
 3 notice plans are commonly used in class actions like this one and constitute the best notice
 4 practicable under the circumstances. *See, e.g., Spann v. J.C. Penney Corp.*, 314 F.R.D. 312, 330
 5 (C.D. Cal. 2016) (approving a settlement notice program of emails and postcards to class
 6 members with known addresses as well as publication in magazines and on the internet); *In re*
 7 *Cathode Ray Tube (Crt) Antitrust Litig.*, No. C-07-05944 JST, 2015 WL 6871439, at *1-2 (N.D.
 8 Cal. Nov. 9, 2015) (approving notice plan of mailing to class members identified by defendants,
 9 publication in two newspapers, and posting on the internet); *see also* 3 Newberg on Class
 10 Actions § 8:29 (5th ed. June 2018) (“While notice by mail is generally preferred for class
 11 members who have been identified, notice by publication has traditionally served an important
 12 supplemental role.”). A similar notice plan with the same reach was approved by the court in *In*
 13 *re: Monitronics Int’l, Inc., TCPA Litigation*, No. 1:13-md-02493-JPB-MJA (N.D. W. Va.).

14 **D. The schedule for final approval.**

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

EVENT	DATE
Notice to be disseminated	60 days after entry of preliminary approval order
Class Counsel to file motion for attorneys’ fees	30 days before objection/exclusion deadline
Deadline for Settlement Class Members to file claims, object, and request exclusion	60 days after notice is sent

EVENT	DATE
Class Counsel to file motion for final approval and response to objections	110 days after notice is sent
Final Approval Hearing	not less than 210 days after entry of preliminary approval order

V. CONCLUSION

Plaintiffs request that the Court enter an order that: (1) certifies the proposed Settlement Class for settlement purposes only; (2) grants preliminary approval of the proposed Settlement; (3) directs notice to be disseminated to Settlement Class Members in the form and manner proposed by the parties; (4) appoints KCC to serve as the Settlement Administrator; and (5) sets a schedule and hearing date for final approval of the Settlement and related deadlines.

RESPECTFULLY SUBMITTED AND DATED this 25th day of October, 2018.

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I, Jennifer Rust Murray, hereby certify that on October 25, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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