

1 Craig C. Marchiando, Esq. (SBN 283829)
Leonard A. Bennett, Esq. (pro hac vice)
2 **CONSUMER LITIGATION ASSOCIATES, P.C.**
Four Embarcadero Center, Suite 1400
3 San Francisco, CA 94111
Telephone: (757) 930-3660
4 Facsimile: (757) 930-3662
Email: lenbennett@clalegal.com
5 Email: craig@clalegal.com

6 Kristi C. Kelly, Esq. (pro hac vice)
KELLY GUZZO, PLC
3925 Chain Bridge Road, Suite 202
7 Fairfax, VA 22030
(703) 424-7572
8 (703) 591-0167 Facsimile
9 Email: kkelly@kellyguzzo.com

Attorneys for Plaintiffs

10 [Additional Counsel on Signature Page]

11
12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
SAN FRANCISCO DIVISION

14 ELETTRA MEEKS, JOSEPH DELACRUZ,
15 STEPHANIE LAGUNA, and AMBER
16 LEONARD, on behalf of themselves and others
similarly situated,

17 Plaintiffs,

18 v.

19 EQUIFAX INFORMATION SERVICES, LLC,

20 Defendants.

Case No.: 3:21-cv-07727-CRB

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR FINAL APPROVAL
OF CLASS ACTION SETTLEMENT**

Date: May 10, 2024
Time: 11:30 a.m.
Judge: Hon. Charles R. Breyer

Date Filed: Oct. 4, 2021
Trial Date: None set

21
22 **TO THE COURT, ALL PARTIES, AND COUNSEL OF RECORD:**

23 **PLEASE TAKE NOTICE** that on **May 10, 2024 at 11:30 a.m.**, or as soon thereafter as this
24 matter may be heard, by videoconference before the Honorable Charles R. Breyer, Plaintiffs Elettra Meeks,
25 Joseph Delacruz, Stephanie Laguna, and Amber Leonard respectfully move this court to finally approve the
26
27

1 Settlement reached in this case, the terms of which are more specifically described in the accompanying
2 Memorandum and Points of Authority filed in support of this Motion.

3 This Motion is based upon this Notice of Motion, the accompanying Memorandum of Points and
4 Authorities, the Settlement Agreement, the Declarations of Leonard Bennett, Kristi Kelly, and Matthew
5 Wessler and exhibits thereto, the pleadings and papers on file in this Action, and any other such evidence
6 and argument as the Court may consider. Defendant Equifax Information Services, LLC, (“Equifax”) does
7 not oppose this Motion.

8 Dated: April 8, 2024

Respectfully submitted,

9 By: /s/ Craig C. Marchiando

10 Craig C. Marchiando (SBN 283829)
11 Leonard A. Bennett (pro hac vice)
12 **CONSUMER LITIGATION ASSOCIATES, P.C.**
13 Four Embarcadero Center, Suite 1400
14 San Francisco, CA 94111
15 Telephone: (757) 930-3660
16 Facsimile: (757) 930-3662
17 Email: lenbennett@clalegal.com
18 Email: craig@clalegal.com

19 Kristi C. Kelly, Esq. (pro hac vice)
20 Andrew Guzzo, Esq. (pro hac vice)
21 **KELLY GUZZO PLC**
22 3925 Chain Bridge Road, Suite 202
23 Fairfax, VA 22030
24 (703) 424-7572
25 (703) 591-0167 Facsimile
26 Email: kkelly@kellyguzzo.com
27 Email: aguzzo@kellyguzzo.com

Matthew Wessler (pro hac vice)
Gupta Wessler PLLC
2001 K Street, NW
Suite 850 North
Washington, DC 20006
Telephone: 202-888-1741
E-mail: matt@guptawessler.com

Attorneys for Plaintiffs

MEMORANDUM OF POINTS AND AUTHORITIES

TABLE OF CONTENTS

1

2

3 I. INTRODUCTION..... 1

4 II. BACKGROUND 2

5 III. THE ADMINISTRATOR SUCCESSFULLY EXECUTED THE NOTICE PLAN..... 4

6 IV. LEGAL STANDARDS FOR FINAL APPROVAL 5

7 V. ARGUMENT AND AUTHORITIES..... 6

8

9 A. Upon Consideration of The Pertinent Factors, The Proposed Settlement Warrants Final

10 Approval..... 7

11 1. The Class Representatives and Class Counsel have adequately represented the Classes..... 7

12 2. The Settlement was negotiated at arm’s length. 8

13 3. The Settlement benefits are more than adequate..... 8

14 4. All Class Members are treated alike, without favoring anyone. 10

15 5. Government participant and Class Member reaction. 11

16 B. The Bluetooth Factors Likewise Favor Final Approval 11

17 VI. CONCLUSION..... 13

18

19

20

21

22

23

24

25

26

27

TABLE OF AUTHORITIES

CASES

Anixter v. Home–Stake Prod. Co.,
77 F.3d 1215 (10th Cir. 1996) 7

Bailes v. Lineage Logistics, LLC,
No. 15-cv-02457-DDC-TJJ, 2016 WL 4415356 (D. Kan. Aug. 19, 2016) 9

Berkey Photo, Inc. v. Eastman Kodak Co.,
603 F.2d 263 (2d Cir.1979)..... 7

Churchill Village, LLC. v. Gen. Elec.,
361 F.3d 566 (9th Cir. 2004) 6

Class Plaintiffs v. City of Seattle,
955 F.2d 1268 (9th Cir. 1992) 6

Destefano v. Zynga, Inc.,
No. 12-cv-04007-JSC, 2016 WL 537946 (N.D. Cal. Feb. 11, 2016) 11

Dreher v. Experian Info. Sols., Inc.,
856 F.3d 337 (4th Cir. 2017) 7

Ebarle v. Lifelock, Inc.,
No. 15-cv-00258-HSG, 2016 WL 5076203 (N.D. Cal. Sept. 20, 2016) 13

Edwards v. Andrews,
846 F. App'x 538 (9th Cir. 2021)..... 6

Edwards v. Nat’l Milk Producers Fed’n,
No. 11-CV-04766-JSW, 2017 WL 3623734 (N.D. Cal. June 26, 2017)..... 6

Estes v. L3 Techs., Inc.,
No. 3:17-cv-02356-H-LL, 2019 WL 141564 (S.D. Cal. Jan. 9, 2019)..... 10

Fla. Educ. Ass’n v. Dep’t of Educ.,
447 F. Supp. 3d 1269 (N.D. Fla. 2020)..... 5

Franco v. Ruiz Food Prod., Inc.,
No. 1:10-cv-02354-SKO, 2012 WL 5941801 (E.D. Cal. Nov. 27, 2012)..... 8

Gibbs v. Centerplate, Inc.,
No. 8:17-cv-02187-EAK-JSS, 2018 WL 6983498 (M.D. Fla. Dec. 28, 2018) 10

Hanlon v. Chrysler Corp.,
150 F.3d 1011 (9th Cir. 1998) 6, 7, 11

In re Bluetooth Headset Prod. Liab. Litig.,
654 F.3d 935 (9th Cir. 2011) 11, 12, 13

1 *In re Online DVD-Rental Antitrust Litig.*,
779 F.3d 934 (9th Cir. 2015) 5

2 *In re Syncor ERISA Litig.*,
3 516 F.3d 1095 (9th Cir. 2008) 6

4 *In re TracFone Unlimited Serv. Plan Litig.*,
112 F. Supp. 3d 993 (N.D. Cal. 2015) 11

5 *In re: Cathode Ray Tube (Crt) Antitrust Litig.*,
6 No. C-07-5944 JST, 2016 WL 3648478 (N.D. Cal. July 7, 2016) 13

7 *Lane v. Facebook, Inc.*,
696 F.3d 811 (9th Cir. 2012) 6

8 *Lengel v. HomeAdvisor, Inc.*,
9 No. 15-2198-KHV, 2017 WL 364582 (D. Kan. Jan. 25, 2017) 9

10 *Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.*,
221 F.R.D. 523 (C.D. Cal. 2004) 6

11 *Officers for Justice v. Civil Serv. Comm'n of San Francisco*,
12 688 F.2d 615 (9th Cir. 1982) 6

13 *Ori v. Fifth Third Bank, Fiserv, Inc.*,
No. 08-432, ECF No. 217 (E.D. Wis. Jan. 10, 2012) 9

14 *Pearson v. NBTY, Inc.*,
15 772 F.3d 778 (7th Cir. 2014) 5

16 *Pietras v. Sentry Ins. Co.*,
513 F. Supp. 2d 983 (N.D. Ill. 2007) 9

17 *Reyes v. Experian Info. Sols., Inc.*,
18 No. 20-55909, 2021 WL 1310961 (9th Cir. Apr. 8, 2021) 9

19 *Roberts v. AT&T Mobility LLC*,
No. 15-cv-03418-EMC, 2021 WL 9564449 (N.D. Cal. Aug. 20, 2021) 11

20 *Roe v. IntelliCorp Records, Inc.*,
21 No. 12-2288, ECF No. 139 (N.D. Ohio June 5, 2014) 9

22 *Ryals v. HireRight Sols. Inc.*,
No. 09-625, ECF No. 127 (E.D. Va. Dec. 22, 2011) 9

23 *Serrano v. Sterling Testing Sys., Inc.*,
24 711 F. Supp. 2d 402 (E.D. Pa. 2010) 9

25 *Spann v. J.C. Penney Corp.*,
No. SA CV 12-0215 FMO (KESx), 2016 WL 5844606 (C.D. Cal. Sept. 30, 2016) 13

26 *Speers v. Pre-Employ.com, Inc.*,
27 No. 13-1849, ECF No. 83 (D. Or. Feb. 10, 2016) 9

1 *Tadepalli v. Uber Techs., Inc.*,
No. 15-cv-04348-MEJ, 2016 WL 1622881 (N.D. Cal. Apr. 25, 2016) 13

2 *Trans World Airlines*,
3 409 U.S. 363 (1973) 7

4 *Villafior v. Equifax Info. Servs. LLC*,
No. 09-329, ECF No. 177 (N.D. Cal. May 3, 2011)..... 9

5 RULES

6

7 FED. R. CIV. P. 23(e)..... 6

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

1 **I. INTRODUCTION**

2 Plaintiffs Elettra Meeks, Joseph Delacruz, Stephanie Laguna, and Amber Leonard, individually and
3 on behalf of the proposed Settlement Classes,¹ seek final approval of a proposed Settlement of claims
4 against Defendant Equifax Information Services, LLC. The Settlement Agreement, if approved, will pay
5 each Settlement Class Member who submits a valid claim \$500, resolving the claims of Plaintiffs and
6 Settlement Class Members arising from Equifax’s alleged violations of state and federal law through its
7 reporting of certain defaulted debts stemming from Great Plains, Plain Green, and MobiLoans internet
8 loans. Apart from these cash payments, the Settlement also includes important and valuable nonmonetary
9 consideration, as Equifax has agreed to certain practice changes—both retrospective and prospective in the
10 form of a Court-ordered injunction—relating to the reporting of the loans at issue.

11 Beyond the relief to Settlement Class Members, Equifax will separately pay for notice and
12 administration costs, any Service Awards to the Named Plaintiffs and any attorneys’ fees and costs the
13 Court may approve as part of the settlement. The Parties have agreed on two components of attorneys’
14 fees for Class Counsel, pending Court approval: (1) an award of \$300,000 in attorneys’ fees for the
15 injunctive relief achieved; and (2) a percentage of the total amount of claims paid to Settlement Class
16 Members. Equifax has also agreed, again pending Court approval, to pay Service Awards of up to \$5,000
17 per Named Plaintiff.

18 This valuable relief provided by the Settlement was secured with the assistance of private mediation
19 conducted by retired Judge Diane Welsh of JAMS in Philadelphia, which was supplemented by extensive
20 arms’-length negotiations by experienced and informed counsel. The proposed Settlement terms are fair,
21 reasonable, and adequate. The Settlement provides for adequate compensation to the class considering the
22 litigation and collection risks, maximizes redemption by providing robust notice to Settlement Class
23 Members, including subsequent reminder notices of the need to submit claims, and provides for valuable
24 nonmonetary consideration. Accordingly, Plaintiffs request that the Court (1) finally approve the proposed

25 _____
26
27 ¹ Unless otherwise specifically defined herein, all capitalized terms have the same meanings as those set forth in the parties’ Settlement Agreement (“SA”), attached as Exhibit 1.

1 Settlement and enter the proposed Order Granting Final Approval; (2) enter the agreed Injunctive Relief
2 Order; (3) award Plaintiffs' and Class Counsel's requested attorneys' fees and Class Representative Service
3 Awards; and (4) dismiss Plaintiff's and Class Members' claims with prejudice.

4 **II. Background**

5 This litigation arises from alleged violations of state and federal laws related to Equifax's reporting
6 of information relating to online short-term loans that carried triple-digit interest rates. In the early 2000s, a
7 company called Think Finance began offering usurious and illegal high-interest loans over the internet to
8 consumers throughout the United States. Often, these loans charged around 400% APR—more than 40
9 times the legal limit in states like California. Think Finance employed what has now become known as a
10 “tribal lending model.” It purported to form three lending entities—called Plain Green, Great Plains
11 Lending, and MobiLoans—under the laws of the Chippewa Cree, Otoe-Missouria, and Tunica-Biloxi
12 tribes, and then claimed that all of the lending done through these entities was immune from federal and
13 state laws under tribal sovereign immunity.

14 These companies were in fact little more than fronts. Although the tribal entities received a nominal
15 flat fee from the loans, they had no control over the income, expenses, or day-to-day operations of the
16 business. That control was instead retained by Think Finance, which for nearly eight years operated the
17 entire enterprise and reaped virtually all the profits from the illegal lending operation.

18 Beginning in 2013, however, Think Finance's lending enterprise unraveled. Federal and state
19 regulators independently brought enforcement actions against the companies, alleging that Think Finance
20 and its affiliates ran a common enterprise designed to offer and collect online installment loans that
21 violated state usury laws. See, e.g., *Commonwealth of Penn. v. Think Fin., Inc.*, 2016 WL 183289, at *1 (E.D. Pa.
22 Jan. 14, 2016). And the operation also faced several private enforcement actions as well. See, e.g., *Gingras v.*
23 *Think Fin., Inc.*, 922 F.3d 112 (2d Cir. 2019); *Gibbs v. Haynes Imvs., L.L.C.*, 368 F. Supp. 3d 901 (E.D. Va.
24 2019), *aff'd*, 967 F.3d 332 (4th Cir. 2020); *Brice v. Plain Green, L.L.C.*, 372 F. Supp. 3d 955 (N.D. Cal. 2019);
25 *Gibbs v. Plain Green L.L.C.*, 331 F. Supp. 3d 518 (E.D. Va. 2018).

26 In 2019, Think Finance resolved most of this litigation in a landmark settlement. As part of that
27 settlement, Think Finance and its lenders agreed to (1) repay more than \$53 million in cash, and (2) forgive

1 more than \$380 million of debt owed by consumers who took out loans with these lenders. *See generally*
2 *Gibbs v. Plain Green, LLC*, Case No. 3:17-cv-495 (E.D. Va. Dec. 13, 2019) (granting final approval of the
3 class settlement). In addition to wiping out the debts owed “by more than one million people across the
4 country,” the settlement also required the lenders to “promise[] to remove all mention of those loans—
5 most of them technically in default—from borrowers’ credit reports.” David Rees, Historic settlement sees
6 online lenders wiping out \$380 million in debt. *Virginians led the way*, *The Virginian Pilot* (Dec. 12, 2019),
7 <https://perma.cc/3UTK-HA9Z>.

8 Over the course of several years, Named Plaintiffs and the putative Class Members obtained payday
9 loans from one of Think Finance’s lenders. Despite the groundbreaking 2019 settlement, non-parties
10 Consumer Adjustment Company, Inc. (“CACi”) and Midwest Recovery Systems, LLC continued to
11 attempt to collect these unlawful debts, including from the Named Plaintiffs and putative Class Members.
12 These collection efforts included reporting the debts to consumer-reporting agencies like Equifax, even
13 though the loans were, as Plaintiffs allege, obsolete and cancelled by the participants in the Think Finance
14 settlement. Plaintiffs further allege that Equifax impermissibly allowed Midwest to “re-age” the debt,
15 meaning it changed the date of first delinquency of the debt to make it appear more recent and thus eschew
16 some of the protections of the Fair Credit Reporting Act (“FCRA”). (ECF 1 ¶ 1.) The Named Plaintiffs
17 alleged that Equifax’s conduct in allowing CACi and Midwest to report the debts violated several aspects of
18 credit-reporting laws, including the FCRA and California’s Consumer Credit Reporting Agencies Act
19 (“CCRAA”). Equifax has denied the Named Plaintiffs’ allegations and that its conduct violated any laws.

20 After the case was filed, the Parties engaged in meaningful discovery, in which Equifax responded
21 to written discovery and produced documents. After the initial production, the Parties engaged in
22 significant meet-and-confer efforts, which resulted in supplemental discovery responses and document
23 production by Equifax. This robust exchange of information fully informed the Parties as to each side’s
24 litigation positions and revealed that Named Plaintiffs would face significant opposition to their claims
25 because of the strength of Equifax’s defenses. The Parties engaged in settlement discussions, and after
26 several months of negotiations, attended private mediation supervised by retired Judge Welsh. After
27

1 concessions by both sides, the Parties reached a settlement in principle, which was later memorialized in
2 the attached Settlement Agreement.

3 The Settlement Agreement provides important injunctive and monetary relief to Class Members,
4 which were achieved despite the significant difficulties that Named Plaintiffs would have faced obtaining a
5 class-action judgment. Although Class Counsel was certainly prepared to continue to litigate rather than
6 accept a settlement that was not in Named Plaintiffs' and the Settlement Classes' best interests, Equifax
7 presented strong arguments in opposition to Plaintiffs' claims. That Settlement was a reasonable strategic
8 decision by Named Plaintiffs is further supported by the fact that the Settlement was negotiated under the
9 supervision and with the assistance of retired Magistrate Judge Welsh and was conducted by experienced
10 class counsel.

11 On August 18, 2023, the Court granted preliminary approval to the proposed class action
12 settlement, in accordance with Federal Rule of Civil Procedure 23. As part of that preliminary approval, the
13 Court: (1) preliminarily approved the proposed Settlement, (2) certified the Settlement Class for settlement
14 purposes, (3) appointed Plaintiffs Elettra Meeks, Joseph Delacruz, Stephanie Laguna, and Amber Leonard
15 as Class Representatives, (4) appointed Kristi Kelly, Andrew Guzzo, and Casey Nash of Kelly Guzzo, PLC,
16 Matthew Wessler of Gupta Wessler, PLC, and Leonard A. Bennett and Craig Marchiando of Consumer
17 Litigation Associates, P.C. as Class Counsel, (5) appointed Continental DataLogix, LLC as the Settlement
18 Administrator, (6) ordered that Class Notice be distributed to the Settlement Class, and (7) scheduled the
19 Final Approval Hearing.

20 Plaintiffs now seek final approval of the proposed class action settlement. The final approval
21 hearing is scheduled for May 10, 2024. This memorandum supports their motion for final approval, laying
22 out in detail the reasons why the proposed settlement is indeed reasonable, fair, and adequate, and should
23 be fully approved by the Court.

24 **III. THE ADMINISTRATOR SUCCESSFULLY EXECUTED THE NOTICE PLAN.**

25 Frank Barkan, a partner at Continental DataLogix LLC, outlined the process of CAFA Notice
26 Implementation in his declaration (ECF 61 Ex. 1.) Notices were sent via USPS Certified Mail to most of
27 the officials, with exceptions made for the Office of the Nevada Attorney General, where the notice was

1 sent via email, and the U.S. Department of Justice and the Consumer Financial Protection Bureau, which
2 received their notices via UPS. (*Id.* ¶¶ 6-8.)

3 The contents of the CAFA Notice Packages were comprehensive, including the Class Action
4 Complaint, the Motion for Preliminary Approval of Class Action Settlement, the proposed Claim Form
5 and Long Form Notice, the Settlement Agreement and Release, and various supporting declarations and
6 proposed orders. (*Id.* ¶ 9.) This ensured CAFA compliance and that the notified officials were well-
7 informed of the settlement’s details, facilitating their review and any necessary actions on their part.

8 Response to the Settlement by Class Members has been extraordinary. As of April 1, 2024, over
9 one-third of the Class Members have responded with valid claims.² More specifically, Equifax provided
10 Continental with a mailing list containing names and mailing addresses for 14,662 unique Class Members.
11 14,499 (98.9%) are presumed to receive some form of notice. 4,919 claims have been identified as valid and
12 submitted within the designated timeframe. There were 10 late submissions and one exclusion, specifically
13 #10860.³ Additionally, there were 12 deficient claims from individuals on the class list and 256 from those
14 not on the class list alongside 145 duplicate claims. (Ex. 1, Declaration of Craig C. Marchiando ¶¶ 5–7.)

15 **IV. LEGAL STANDARDS FOR FINAL APPROVAL.**

16 A class action may be settled only with the Court’s approval. FED. R. CIV. P. 23(e). “Approval
17 under 23(e) involves a two-step process in which the Court first determines whether a proposed class
18 action settlement deserves preliminary approval and then, after notice is given to class members, whether

21 ² Claims rates typically average 10% and, thus, the rate in this case is three times the typical rate. *Fla. Educ.*
22 *Ass’n v. Dep’t of Educ.*, 447 F. Supp. 3d 1269, 1275 (N.D. Fla. 2020) (noting that “in consumer class
23 actions,” the “claims filing rates average 10% of the class”) (citing Federal Trade Commission, *Consumers*
24 *and Class Actions: A Retrospective and Analysis of Settlement Campaigns*, at 11 (2019)); see also *Pearson v. NBTY, Inc.*,
25 772 F.3d 778, 782 (7th Cir. 2014) (noting that “in consumer class actions” that “the percentage of class
26 members who file claims is often quite low,” such as the “.0025” percent in the settlement before the
27 court); *Sullivan v. DB Invs., Inc.*, 667 F.3d 273, 329 n.60 (3d Cir. 2011) (*en banc*) (noting evidence that claims
rates in consumer class settlements “rarely” exceed 7%, “even with the most extensive notice campaigns”);
In re Online DVD-Rental Antitrust Litig., 779 F.3d 934, 944–45 (9th Cir. 2015) (approving 35 million-member
settlement class when only 1.183 million—less than 4%—filed claims; “settlements have been approved
where less than five percent of class members file claims”).

³ Class Counsel proposes, with Court approval, that these ten late submissions be paid \$500 each from
Class Counsel’s award of attorneys’ fees. Equifax has agreed to this proposal.

1 final approval is warranted.” *Nat’l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 525 (C.D. Cal.
 2 2004). At the final approval stage, the primary inquiry is whether the proposed settlement “is fundamentally
 3 fair, adequate, and reasonable.” *Lane v. Facebook, Inc.*, 696 F.3d 811, 818 (9th Cir. 2012); *Hanlon v. Chrysler*
 4 *Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998). “It is the settlement taken as a whole, rather than the individual
 5 component parts, that must be examined for overall fairness.” *Hanlon*, 150 F.3d at 1026 (citing *Officers for*
 6 *Justice v. Civil Serv. Comm’n of San Francisco*, 688 F.2d 615, 628 (9th Cir. 1982)).

7 In conducting its analysis, the Court should be mindful that the Ninth Circuit favors the
 8 compromise and settlement of class actions. *See, e.g., In re Syncor ERISA Litig.*, 516 F.3d 1095, 1101 (9th Cir.
 9 2008); *Churchill Village, LLC. v. Gen. Elec.*, 361 F.3d 566, 576 (9th Cir. 2004); *Class Plaintiffs v. City of Seattle*,
 10 955 F.2d 1268, 1276 (9th Cir. 1992); *Officers for Justice*, 688 F.2d at 625. Ultimately, the decision to approve a
 11 class action settlement falls within the Court’s discretion. *Edwards v. Nat’l Milk Producers Fed’n*, No. 11-CV-
 12 04766-JSW, 2017 WL 3623734, at *8 (N.D. Cal. June 26, 2017), *aff’d sub nom. Edwards v. Andrews*, 846 F.
 13 App’x 538 (9th Cir. 2021).

14 The Court’s final-approval analysis requires the balancing of several factors:

15 (A) the class representatives and class counsel have adequately represented the class;

16 (B) the proposal was negotiated at arm’s length;

17 (C) the relief provided for the class is adequate, taking into account:

18 (i) the costs, risks, and delay of trial and appeal;

19 (ii) the effectiveness of any proposed method of distributing relief to the class,
 20 including the method of processing class-member claims;

21 (iii) the terms of any proposed award of attorney’s fees, including timing of
 payment; and

22 (iv) any agreement required to be identified under Rule 23(e)(3); and

23 (D) the proposal treats class members equitably relative to each other.

24 FED. R. CIV. P. 23(e).

25 V. ARGUMENT AND AUTHORITIES.

26 The Court has considered many of the Rule 23(e) factors already in granting preliminary approval
 27 to the Settlement. Nothing is different now, and nothing has happened since the Court’s grant of

1 preliminary approval should cause it to question that decision. Plaintiff therefore briefly recaps the *Hanlon*
2 factors.

3 **A. Upon Consideration of The Pertinent Factors, The Proposed Settlement Warrants**
4 **Final Approval.**

5 **1. The Class Representatives and Class Counsel have adequately represented**
6 **the Classes.**

7 Nothing can meaningfully be said that this factor is not met. Plaintiffs and their Counsel maintain
8 confidence in the strength of their case, but at the same time are also pragmatic and recognize the risks
9 inherent in litigation. After the initial production, the Parties engaged in significant meet-and-confer efforts,
10 which resulted in supplemental discovery responses and document production by Equifax. This robust
11 exchange of information fully informed the Parties as to each side's litigation positions, and revealed that
12 Named Plaintiffs would face significant opposition to their claims because of the strength of Equifax's
13 defenses. The Parties engaged in settlement discussions, and after several months of negotiations, attended
14 a private mediation supervised by retired Judge Welsh. After concessions by both sides, the Parties reached
15 a settlement in principle, which was later memorialized in the previously filed Settlement Agreement.

16 The relief attained here is significant. The first benefit is a cash payment to every Class Member
17 who submits a valid claim. That payment, \$500, is half the \$100 to \$1,000 range of statutory damages the
18 FCRA permits courts to award for willful violations. 15 U.S.C. § 1681n. Second, the Settlement provides
19 injunctive relief for all consumers for whom Equifax reported Plain Green, Great Plains, or MobiLoans
20 debts. Equifax has agreed to scrub these loans from consumers' credit files, relief that will not only likely
21 improve their credit standing, but that will also likely eliminate any negative impact from such reporting of
22 these void debts. While there is always the ability to refuse to settle and continue to litigate in hopes of a
23 better recovery, Plaintiffs and their Counsel also know that success at a trial can be short-lived, as there is
24 genuine uncertainty on appeal. *See, e.g., Dreber v. Experian Info. Sols., Inc.*, 856 F.3d 337, 340 (4th Cir. 2017)
25 (vacating a class judgment of approximately \$12 million and dismissing the case); *Anixter v. Home-Stake*
26 *Prod. Co.*, 77 F.3d 1215 (10th Cir. 1996) (overturning plaintiffs' verdict obtained after two decades of
27 litigation); *Berkey Photo, Inc. v. Eastman Kodak Co.*, 603 F.2d 263 (2d Cir.1979) (reversing \$87 million
judgment after trial); *Hughes Tool Co. v. Trans World Airlines, Inc.*, 409 U.S. 363 (1973) (reversing \$145 million

1 judgment after years of appeals and on a theory that defendant had not raised, or argued). And even if
2 Named Plaintiffs were successful on appeal, it would cause a several-year delay for the relief to make it to
3 Class Members. The Settlement avoids these risks and provides real and meaningful relief to the Settlement
4 Classes almost immediately. *See Franco v. Ruiz Food Prod., Inc.*, No. 1:10-cv-02354-SKO, 2012 WL 5941801,
5 at *12 (E.D. Cal. Nov. 27, 2012) (noting that “unless the settlement is clearly inadequate, its acceptance and
6 approval are preferable to lengthy and expensive litigation with uncertain results”).

7 Moreover, the Class has received notice of the Settlement, and no one made a substantive
8 comment about any shortcomings by Plaintiffs or their Counsel, or objected to any aspect of the
9 Settlement. (Ex. 1, Marchiando Decl. ¶¶ 7–9.) Without any genuine reason to doubt that the representation
10 has been adequate, the Court should conclude that it was. This factor thus favors final approval.

11 **2. The Settlement was negotiated at arm’s length.**

12 There is likewise nothing to undermine the integrity of the negotiation process. The Parties
13 negotiated the settlement through private mediation conducted by retired Judge Diane Welsh of JAMS in
14 Philadelphia, and followed-up those discussions extensive, contentious negotiations by experienced and
15 informed counsel. There is no suggestion of collusion, nor can there be.

16 **3. The Settlement benefits are more than adequate.**

17 As described above, discovery and the Parties’ early settlement discussions revealed the potential
18 difficulties both sides faced if the litigation continued. Yet, one of Class Counsel’s chief goals in bringing
19 this case was to end the reporting of these long-extinguished debts. And while it is no easy road to certify a
20 class alleging claims for violations of Section 1681e(b) of the FCRA because of the core requirement that
21 Plaintiffs show the reporting of inaccurate information, 15 U.S.C. § 1681e(b), Class Counsel nonetheless
22 believed that this case was an exception to that general notion. Given Equifax’s opposition arguments, the
23 Named Plaintiffs focused part of their negotiating effort on obtaining injunctive relief for each of these
24 consumers that would stop the reporting of the allegedly illegal loans, which in turn alleviates the myriad of
25 problems that accompanies that reporting, such as the use of it as leverage by debt collectors.

26 This negotiation led to Equifax agreeing to adopt significant procedure changes. In a Court-ordered
27 injunction, Equifax will delete any accounts pertaining to Plain Green, Great Plains, or MobiLoans debts

1 that were furnished to Equifax by CACi or Midwest, and will delete any account relating to those loans
2 after a consumer disputes them to Equifax. (Settlement Agmt. § 4.1.) This injunctive relief stops the
3 conduct that led to this litigation and will prevent similar harm from occurring again.

4 Beyond injunctive relief, Equifax has agreed to pay Class Members who submit valid and timely
5 claims \$500 each. (Settlement Agmt. § 4.2.) 4,919 Class Members submitted valid claims, thereby requiring
6 Equifax to pay almost \$2.5 million dollars directly to these 4,919 Class Members. The \$500 per class
7 member payment is an extraordinary result. *See Roe v. IntelliCorp Records, Inc.*, No. 12-2288, ECF No. 139
8 (N.D. Ohio June 5, 2014) (final approval of settlement of alleged inaccurate reporting, and other FCRA
9 claims, providing for \$50–\$270 net per class member); *Ryals v. HireRight Sols. Inc.*, No. 09-625, ECF No. 127
10 (E.D. Va. Dec. 22, 2011) (final approval of settlement involving § 1681e(b) claims, providing \$15–
11 \$200 *gross* per class member recovery); *Ori v. Fifth Third Bank, Fiserv, Inc.*, No. 08-432, ECF No. 217 (E.D.
12 Wis. Jan. 10, 2012) (final approval of settlement of alleged inaccurate mortgage loan reporting, claims-
13 made, each claimant receiving approximately \$55); *Speers v. Pre-Employ.com, Inc.*, No. 13-1849, ECF No. 83
14 (D. Or. Feb. 10, 2016) (final approval of settlement of failure to maintain strict procedures when reporting
15 adverse public record information, resulting in approximately \$153 net per class member); *Villaflor v.*
16 *Equifax Info. Servs. LLC*, No. 09-329, ECF No. 177 (N.D. Cal. May 3, 2011) (final approval of settlement of
17 § 1681e(b) claims, providing credit monitoring for class members with a retail value of \$155); *Reyes v.*
18 *Experian Info. Sols., Inc.*, No. 20-55909, 2021 WL 1310961, at *1 (9th Cir. Apr. 8, 2021) (noting that the
19 proposed settlement resulted in class members receiving “at least \$270 after deductions” in a § 1681e(b)
20 case); *Serrano v. Sterling Testing Sys., Inc.*, 711 F. Supp. 2d 402, 416 (E.D. Pa. 2010) (approving an FCRA
21 settlement where “Plaintiffs have secured a result which comes close to the minimum range of [statutory]
22 damages without any risk”); *Lengel v. HomeAdvisor, Inc.*, No. 15-2198-KHV, 2017 WL 364582, at *9 (D. Kan.
23 Jan. 25, 2017) (approving, with modifications, a settlement where “each settlement class member will
24 receive at least \$50”); *Pietras v. Sentry Ins. Co.*, 513 F. Supp. 2d 983, 985 (N.D. Ill. 2007) (citing “eighteen
25 cases, which settled for an average of \$34.59 per class member”); *Bailes v. Lineage Logistics, LLC*, No. 15-cv-
26 02457-DDC-TJJ, 2016 WL 4415356, at *6 (D. Kan. Aug. 19, 2016) (approving an FCRA settlement for
27 \$149,205 for a class of 3,430, which correlates to \$43.50 per person); *Estes v. L3 Techs., Inc.*, No. 3:17-cv-

1 02356-H-LL, 2019 WL 141564, at *2 (S.D. Cal. Jan. 9, 2019) (granting final approval of class settlement of
2 “FCRA claims” where “each of the 764 FCRA Class members receives \$75”). As one court has noted:

3 [A]fter conducting a review of similar FCRA class actions, the Court concludes that the per-
4 class member gross recovery of \$100.00 obtained in this case is an *excellent result*[.]

5 *Gibbs v. Centerplate, Inc.*, No. 8:17-cv-02187-EAK-JSS, 2018 WL 6983498, at *8 (M.D. Fla. Dec. 28, 2018)
6 (emphasis added), *report & recommendation adopted*, 2019 WL 1093441 (M.D. Fla. Jan. 7, 2019).

7 Plaintiffs asserted class claims under three sections of the FCRA, 1681c(a), 1681e(a), and 1681e(b),
8 as well as one claim under the CCRAA seeking injunctive relief. (ECF 1 ¶¶ 86–87, 101–02, 118–19, 134–
9 35.) Had Plaintiffs succeeded in certifying their putative classes and prevailed at trial, including establishing
10 liability and willfulness, and the jury awarded the maximum statutory damages available, they would have
11 recovered \$3,000 per Class Member as well as injunctive relief prohibiting the reporting of the loans at
12 issue. Class Counsel believes the amount achieved in settlement is justifiable in light of the significant risks
13 Equifax’s defenses present, particularly that it has no liability at all because, in its view, the debts are valid
14 or, alternatively, it is not required to wade into the question of whether they are valid and may rely on
15 representations from CACi and Midwest that the debts are indeed valid. Against that risky backdrop, Class
16 Counsel and Named Plaintiffs agree that a settlement that pays money now, albeit less than could have
17 been achieved with a complete victory at trial, is appropriate.

18 **4. All Class Members are treated alike, without favoring anyone.**

19 All class members receive equitable treatment with each individual who submits a valid claim being
20 awarded a cash payment of \$500. This uniform cash disbursement ensures that every class member benefits
21 consistently from the settlement, adhering to the principles of fairness and equity. The settlement also
22 includes significant injunctive relief for all consumers for whom Equifax reported certain debts, with
23 Equifax agreeing to remove all references to such loans from the class members' credit files and to
24 implement procedures to prevent similar occurrences in the future.

25 Additionally, the named plaintiffs, who served as class representatives, are proposed to receive
26 Service Awards of \$5,000 each. These awards are separate from the benefits provided to the general class
27

1 members and are intended to compensate the named plaintiffs for their role in the litigation and the
2 responsibilities they undertook on behalf of the class. This near-identical treatment of Class Members
3 under the Settlement further supports a grant of final approval.

4 **5. Government participant and Class Member reaction.**

5 Though not mentioned as a factor under Rule 23(e), Class Counsel believes it should inform the
6 Court regarding governmental participants and Class Member reaction to the Settlement. Equifax sent the
7 notice required by the Class Action Fairness Act to all state and Washington D.C. attorneys general on July
8 24, 2023. (ECF 61 Ex. 1 ¶ 7) None of these officials voiced any objection to nor commented on the terms
9 of the Settlement, which the Court may consider as positive support for the Settlement. *See Roberts v.*
10 *AT&T Mobility LLC*, No. 15-cv-03418-EMC, 2021 WL 9564449, at *3 (N.D. Cal. Aug. 20, 2021)
11 (addressing multiple factors as supporting final approval, including the absence of a government objector
12 following CAFA notice). As noted above, only one Class Member excluded themselves from the
13 Settlement and no objections were made to any aspect of the Settlement.

14 **B. The Bluetooth Factors Likewise Favor Final Approval.**

15 In addition to the analysis from *Hanlon*, the Ninth Circuit requires that when a settlement
16 agreement is negotiated before a grant of class certification over defendant's opposition, courts must also
17 satisfy themselves that the settlement did not result from collusion among the parties. *Destefano v. Zynga,*
18 *Inc.*, No. 12-cv-04007-JSC, 2016 WL 537946, at *8 (N.D. Cal. Feb. 11, 2016) (citing *In re Bluetooth Headset*
19 *Prod. Liab. Litig.*, 654 F.3d 935, 946-47 (9th Cir. 2011)). Thus, the Court must examine the settlement for
20 three potential "warning signs" of collusion: "(1) whe[ther] class counsel receives a disproportionate
21 distribution of the settlement, or [] the class receives no monetary distribution but counsel is amply
22 awarded[;] (2) whe[ther] the parties negotiate a 'clear sailing' arrangement providing for the payment of
23 attorneys' fees separate and apart from class funds without objection by the defendant . . . [;] and (3)
24 whe[ther] the parties arrange for fees not awarded to revert to defendants rather than to be added to the
25 class fund." *Destefano*, 2016 WL 537946, at *9. Even where one or more of the signs exists, however, "the
26 presence of these factors is in no way dispositive." *In re TracFone Unlimited Serv. Plan Litig.*, 112 F. Supp. 3d
27 993, 1007 (N.D. Cal. 2015), (granting final approval to this settlement despite the presence of two of

1 *Bluetooth*'s three warning signs). Instead, "the *Bluetooth* factors are merely 'warning signs' that indicate the
2 *potential* for collusion" and "the Court is merely obligated to assure itself that the fees awarded in the
3 agreement were not unreasonably high in light of the results obtained for class members." *Id.* (emphasis in
4 original).

5 Here, the first factor—whether Class Counsel receives a disproportionate distribution of the
6 settlement—cannot be deemed problematic. That is because Class Counsel receives no distribution of the
7 Settlement. Equifax will pay attorneys' fees above and beyond what Class Members receive. The allocation
8 of \$300,000 for securing the injunctive relief and an additional \$812,130—equivalent to one-third of the
9 \$2,461,000 allocated for valid claims—is both reasonable and aligned with the guidelines established by the
10 Ninth Circuit. *Powers v. Eichen*, 229 F.3d 1249, 1256 (9th Cir. 2000); see *Rodriguez v. D.M. Camp & Sons, No.*
11 *1:09-cv-00700-AWI-JLT*, 2013 WL 2146927, at *13 (E.D. Cal. May 15, 2013) ("In the Ninth Circuit, the
12 typical range of acceptable attorneys' fees is 20% to 33 1/3% of the total settlement value, with 25%
13 considered the benchmark" and granting fee request of 30% of \$675,000 common fund); see *McMorrow v.*
14 *Mondelez Int'l, Inc.*, No. 17-cv-02327-BAS-JLB, 2022 WL 1056098, at *7 (S.D. Cal. Apr. 8, 2022), *appeal*
15 *dismissed sub nom. McMorrow v. Huang*, No. 22-55475, 2022 WL 3226187 (9th Cir. June 6, 2022) (awarding
16 attorneys' fees in the amount of one-third of common fund); *Greer v. Dick's Sporting Goods, Inc.*, No. 2:15-cv-
17 01063-KJM/CKD, 2020 WL 5535399, at *8 (E.D. Cal. Sept. 15, 2020) (approving attorney's fees of 33
18 percent in a class-action settlement); see also *Laffitte v. Robert Half Int'l Inc.*, 231 Cal. App. 4th 860, 871 (Cal.
19 Ct. App. 2014) ("33 1/3 percent of the common fund is consistent with, and in the range of, awards in
20 other class action lawsuits"); *Chavez v. Netflix, Inc.*, 162 Cal. App 4th 43, 66 n.11 (Cal Ct. App. 2008)
21 ("Empirical studies show that, regardless whether the percentage method or the lodestar method is used,
22 fee awards in class actions average around one-third of the recovery."). Notably, this compensation for
23 Class Counsel is structured to not diminish the individual \$500 payments designated for Settlement Class
24 Members, but rather comes as an added amount paid by Equifax, ensuring the total settlement fund
25 remains intact at \$2,461,000.

26 The second factor likewise presents no barrier to final approval. The Parties' Agreement does not
27 contain a "clear sailing" provision. "The dominant risk with clear sailing provisions is that defendants

1 might persuade class counsel to accept a lower payment to the class in exchange for a promise not to object
2 to a (presumably higher) fee.” *In re: Cathode Ray Tube (Crt) Antitrust Litig.*, No. C-07-5944 JST, 2016 WL
3 3648478, at *10 (N.D. Cal. July 7, 2016). The lack of a clear sailing provision ensures that attorneys’ fee
4 negotiations are separate from class settlement amounts, upholding transparency and fairness. This
5 safeguard prioritizes class members’ interests and prevents their compensation from being undermined for
6 attorneys’ fees, aligning with the core principles necessary for class action settlement approval.

7 Lastly, the agreement does not include a “kicker” provision that would allow unclaimed funds to
8 revert to Equifax. *See, e.g., Ebarle v. Lifelock, Inc.*, No. 15-cv-00258-HSG, 2016 WL 5076203, at *11 (N.D.
9 Cal. Sept. 20, 2016) (noting that “[u]nlike in *In re Bluetooth Headset*, the \$68 million fund is nonreversionary”
10 and “[b]ecause there is no ‘kicker’ contained in the agreement, remaining money in the Settlement Fund
11 does not revert to Defendant and instead is redistributed on a pro rata basis to the Class”); *Spann v. J.C.*
12 *Penney Corp.*, No. SA CV 12-0215 FMO (KESx), 2016 WL 5844606, at *10 (C.D. Cal. Sept. 30, 2016)
13 (noting that “the entire settlement amount will be distributed, and no funds will revert to defendant”);
14 *Tadepalli v. Uber Techs., Inc.*, No. 15-cv-04348-MEJ, 2016 WL 1622881, at *9 (N.D. Cal. Apr. 25, 2016) (“The
15 absence of a “kicker provision” in the parties’ settlement and the fact that the class is receiving 100% of the
16 fees incurred reduces the likelihood that the parties colluded to confer benefits on each other at the
17 expense of class members”); *Larsen v. Trader Joe’s Co.*, No. 11-cv-05188-WHO, 2014 WL 3404531, at *8
18 (N.D. Cal. July 11, 2014), “As to the third factor, the Settlement Agreement provides that unclaimed fees
19 do not revert to Trader Joe’s, but will be distributed to class members through a product distribution in
20 Trader Joe’s stores”). Here again, this factor does not raise any issues that should stand in the way of final
21 approval of the Settlement.

22 VI. CONCLUSION.

23 This is an excellent settlement. No one disagrees by objection and only one Class Member excluded
24 themselves from the Settlement. The benefits are real and meaningful, and nothing since the Court’s grant
25 of preliminary approval supports a reconsideration of that decision. The Court therefore should not.

26 For the foregoing reasons, Plaintiffs respectfully request that the Court (1) finally approve the
27 Settlement; (2) enter the Final Approval Order; (3) enter the Injunctive Relief Order (4) affirm the

1 appointment of the Named Plaintiffs as Class Representatives and Plaintiffs' attorneys as Class Counsel; (5)
2 grant the requested awards of attorneys' fees and Class Representative Service Awards; and (6) dismiss this
3 action with prejudice.

4 Dated: April 8, 2024

Respectfully submitted,

5 By: /s/ Craig C. Marchiando

6 Craig C. Marchiando, Esq., (SBN 283829)
7 Leonard A. Bennett, Esq., (pro hac vice)
8 **CONSUMER LITIGATION ASSOCIATES, P.C.**
9 Four Embarcadero Center, Suite 1400
10 San Francisco, CA 94111
11 Telephone: (757) 930-3660
12 Facsimile: (757) 930-3662
13 Email: lenbennett@clalegal.com
14 Email: craig@clalegal.com

15 Kristi C. Kelly, Esq. (pro hac vice)
16 Andrew Guzzo, Esq. (pro hac vice)
17 **KELLY GUZZO PLC**
18 3925 Chain Bridge Road, Suite 202
19 Fairfax, VA 22030
20 (703) 424-7572
21 (703) 591-0167 Facsimile
22 Email: kkelly@kellyguzzo.com
23 Email: aguzzo@kellyguzzo.com

24 Matthew Wessler (pro hac vice)
25 Gupta Wessler PLLC
26 2001 K Street, NW
27 Suite 850 North
Washington, DC 20006
Telephone: 202-888-1741
E-mail: matt@guptawessler.com

Attorneys for Plaintiffs and the Class

Craig C. Marchiando, Esq., (SBN 283829)
Leonard A. Bennett, Esq., (*pro hac vice*)
CONSUMER LITIGATION ASSOCIATES, P.C.
Four Embarcadero Center, Suite 1400
San Francisco, CA 94111
Telephone: (757) 930-3660
Facsimile: (757) 930-3662
Email: lenbennett@clalegal.com
Email: craig@clalegal.com

Attorneys for Plaintiffs and the Class
[Additional Counsel on Signature Page]

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

ELETTRA MEEKS, JOSEPH DELACRUZ,
STEPHANIE LAGUNA, and AMBER
LEONARD, *on behalf of themselves and others similarly
situated,*

Plaintiffs,

v.

EQUIFAX INFORMATION SERVICES, LLC,
Defendant.

Case No.: 3:21-cv-07727-CRB

**DECLARATION OF CRAIG C.
MARCHIANDO IN SUPPORT OF
PLAINTIFFS' NOTICE OF MOTION AND
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: May 10, 2024
Time: 11:30 a.m.
Judge: Hon. Charles R. Breyer

Date Filed: Oct. 4, 2021
Trial Date: None set

I, Craig C. Marchiando, hereby declare:

1. My name is Craig C. Marchiando. I am over the age of eighteen, of sound mind, and capable of executing this Declaration. All of the facts stated herein are of my own personal knowledge, and they are all true and correct.

2. I submit this Declaration in support of Plaintiff's Notice of Motion and Motion for Final Approval of Class Action Settlement in the above captioned matter.

3. As counsel for Plaintiffs, I have been actively involved in all stages of this litigation, from the filing of the complaint through discovery, settlement negotiations, and the preparation of the final approval motion.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ELETTRA MEEKS, JOSEPH DELACRUZ,
STEPHANIE LAGUNA, AMBER LEONARD,
and BECKY WITT, *on behalf of themselves and
others similarly situated,*

Case No.: 3:21-cv-07727-CRB

INJUNCTIVE RELIEF ORDER

Plaintiffs,

v.

EQUIFAX INFORMATION SERVICES, LLC,

Defendant.

On _____, 2024, the Court entered its Order Granting Final Approval of Class Action Settlement and Certifying Settlement Class. (ECF No. ____.) Prior to and on that date, the Court received argument in support of this Injunctive Relief Order. After consideration of the argument and factual detail provided and upon the Court’s own determination, pursuant to that Order and Section 4.1 of the Settlement Agreement and Release, dated July 14, 2023 (the “Settlement Agreement”), the Court enters this Injunctive Relief Order.

For purposes of this Injunctive Relief Order, any capitalized terms have the same definitions and meanings as provided in the Settlement Agreement. The terms of this Injunctive Relief Order reflect the Injunctive Relief provisions in the Settlement Agreement.

INJUNCTIVE RELIEF

The Court hereby orders that Defendant comply as follows:

1. No later than 45 days after the Effective Date of the Settlement, Equifax will delete any accounts currently reporting on U.S. consumers’ Equifax credit files that pertain to a Tribal Loan and were furnished to Equifax by Midwest Recovery and/or CACI.

2. No later than 45 days after the Effective Date of the Settlement, Equifax will implement internal procedures reasonably designed to delete any account pertaining to a Tribal Loan reporting

United States District Court
Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 on a U.S. consumer’s credit file upon receipt by Equifax of a dispute made by a consumer in
2 accordance with the FCRA.

3 3. In addition, no later than 90 days after the Effective Date, Equifax shall take reasonable
4 steps to implement internal procedures reasonably designed to prevent accounts pertaining to Tribal
5 Loans from being added to or reported on U.S. consumers’ Equifax credit files.

6 **COURT’S JURISDICTION**

7 The Court reserves continuing and exclusive jurisdiction over the Parties with respect to all
8 matters relating to this Injunctive Relief Order, including its administration, interpretation,
9 effectuation, and the enforcement of its provisions. None of the Parties, including any Settlement Class
10 Representative or Settlement Class Member, shall be entitled to the recovery of attorneys’ fees, costs
11 or other expenses other than as expressly provided in the Settlement Agreement or herein in connection
12 with any efforts to monitor or enforce compliance with this Injunctive Relief Order.

13 **It is SO ORDERED.**

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: _____
Hon. Charles R. Breyer
United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ELETTRA MEEKS, JOSEPH DELACRUZ,
STEPHANIE LAGUNA, AMBER LEONARD,
and BECKY WITT, *on behalf of themselves and
others similarly situated,*

Plaintiffs,

v.

EQUIFAX INFORMATION SERVICES, LLC,

Defendant.

Case No.: 3:21-cv-07727-CRB

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND CERTIFYING
SETTLEMENT CLASS**

Plaintiffs Elettra Meeks, Joseph Delacruz, Stephanie Laguna, and Amber Leonard, individually and on behalf of the preliminarily certified Settlement Class, have submitted to the Court a Motion for Final Approval of the Settlement Agreement and Final Certification of the Settlement Class (ECF No. _____ or “Final Approval Motion”).

This Court has reviewed the papers filed in support of the Final Approval Motion, including the Settlement Agreement filed with Plaintiffs’ Preliminary Approval Motion, the memoranda and arguments submitted on behalf of the Settlement Class, and all supporting exhibits and declarations thereto, as well as the Court’s Preliminary Approval Order. The Court held a Final Fairness Hearing on _____, 2024, at which time the Parties and other interested persons were given an opportunity to be heard in support of and in opposition to the proposed settlement. Based on the papers filed with the Court and the presentations made at the Final Fairness Hearing, the Court finds that the Settlement Agreement is fair, adequate, and reasonable, and grants final approval to the Settlement.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

1. This Final Approval Order incorporates herein and makes a part hereof the Settlement Agreement and the Preliminary Approval Order. Unless otherwise provided herein, the capitalized terms used herein shall have the same meanings and definitions given to them in the Preliminary

United States District Court
Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 Approval Order and Settlement Agreement, as submitted to the Court with Plaintiffs' Preliminary
2 Approval Motion.

3 2. This Court has jurisdiction over matters relating to the Settlement, including, without
4 limitation, the administration, interpretation, effectuation and enforcement of the Settlement, the
5 Settlement Agreement, this Final Approval Order, and the accompanying Injunctive Relief Order.

6 **CERTIFICATION OF THE SETTLEMENT CLASS AND APPOINTMENT OF CLASS**
7 **COUNSEL AND CLASS REPRESENTATIVES**

8 3. In the Preliminary Approval Order, this Court previously certified, for settlement
9 purposes only, a Rule 23(b)(3) Settlement Class defined as follows:

10 All persons located in the United States identified by Equifax as having (i) an
11 account pertaining to a Tribal Loan, which was furnished to Equifax by Midwest
12 Recovery and/or CACI, reporting on their Equifax credit file at any time during the
13 Class Period and (ii) had a hard inquiry on their Equifax credit file by a third party
during the Class Period and at a time when such an account was reporting on their
Equifax credit file.

14 Excluded from the Settlement Class are (i) Equifax, any entity in which Equifax has
15 a controlling interest, and Equifax's officers, directors, legal representatives,
16 Successors, Subsidiaries, and assigns; (ii) any judge, justice, or judicial officer
presiding over the Lawsuit and the members of their immediate families and judicial
staff; and (iii) any individual who timely and validly opts out of the Settlement Class.

17 4. Certification of the Rule 23(b)(3) Settlement Class is hereby reaffirmed as a final
18 Settlement Class under Federal Rule of Civil Procedure 23(b)(3). For the reasons set forth in the
19 Preliminary Approval Order, this Court finds, on the record before it, that this action may be
20 maintained as a class action on behalf of the Settlement Class.

21 5. In the Preliminary Approval Order, this Court previously appointed Plaintiffs Meeks,
22 Delacruz, Laguna, and Leonard as Settlement Class Representatives for the Settlement Class, and
23 hereby reaffirms that appointment, finding, on the record before it, that Plaintiffs have and continue
24 to adequately represent Settlement Class Members.

25 6. In the Preliminary Approval Order, this Court previously appointed the law firms of
26 Consumer Litigation Associates, P.C., Kelly Guzzo PLC, and Gupta Wessler PLLC as Class Counsel
27 for settlement purposes only and hereby reaffirms that appointment, finding, on the record before it,
28 that Class Counsel have and continue to adequately and fairly represent Settlement Class Members.

1 compliance with all applicable requirements of the Federal Rules of Civil Procedure, the Due Process
2 Clause, and the Class Action Fairness Act. Accordingly, the Settlement shall be consummated in
3 accordance with the terms and provisions of the Settlement Agreement, with each Settlement Class
4 Member (except for the ones listed in Exhibit 1) bound by the Settlement Agreement, including any
5 releases therein.

6 11. Specifically, the Court finds that the Settlement is fair, reasonable, and adequate given
7 the following factors, among other things:

- 8 a. This Lawsuit was complex and time consuming and would have continued to be so
9 through summary judgment, class certification, or trial if it had not settled;
- 10 b. Class Counsel had a well-informed appreciation of the strengths and weaknesses of the
11 Lawsuit while negotiating the Settlement;
- 12 c. The relief provided for by the Settlement is well within the range of reasonableness in
13 light of the best possible recovery and the risks the Parties would have faced if the case
14 had continued to verdicts as to liability and damages;
- 15 d. The Settlement was the result of arm's-length, good faith negotiations and exchange of
16 information by experienced counsel;
- 17 e. The reaction of the class to the Settlement has been positive, with no objections.

18 12. Accordingly, the Settlement shall be consummated in accordance with the terms and
19 provisions of the Settlement Agreement.

20 **BENEFITS TO THE CLASS**

21 13. In addition to the monetary benefits provided to Settlement Class Members under the
22 Settlement, the Court is contemporaneously entering the Injunctive Relief Order, in accordance with
23 Section 4.1 of the Settlement, requiring Equifax to implement the changes and procedures stated
24 therein.

25 **DISMISSAL OF CLAIMS AND RELEASES**

26 14. This Lawsuit and all Released Claims of Settlement Class Members are hereby
27 dismissed with prejudice and, except as otherwise provided herein or in the Settlement Agreement,
28 without costs to any party.

1 15. Under the Settlement Agreement, as of the Effective Date of this Settlement, all
2 Settlement Class Representatives and all Settlements Class Members, on behalf of themselves, their
3 heirs, assigns, executors, administrators, predecessors, and Successors, and any other person
4 purporting to claim on their behalf, hereby expressly, generally, absolutely, and unconditionally
5 release and discharge any and all Released Claims against the Released Parties, and any of their
6 current, former, and future Affiliates, Parents, Subsidiaries, representatives, officers, agents, directors,
7 employees, contractors, vendors, insurers, Successors, assigns, and attorneys, except for claims
8 relating to the enforcement of the Settlement or the Settlement Agreement.

9 16. “Released Claims” means any and all claims, defenses, demands, actions, causes of
10 action, rights, obligations, offsets, setoffs, suits, damages, lawsuits, costs, relief for contempt, losses,
11 attorneys’ fees, expenses, or liabilities of any kind whatsoever, in law or in equity, for any relief
12 whatsoever, including monetary sanctions or damage for contempt, injunctive or declaratory relief,
13 rescission, general, compensatory, special, liquidated, indirect, incidental, consequential, statutory,
14 or punitive damages, as well as any and all claims for treble damages, penalties, interest, attorneys’
15 fees, costs, or expenses, whether a known or Unknown Claim, suspected or unsuspected, contingent
16 or vested, accrued or not accrued, liquidated or unliquidated, matured or unmatured, that in any way
17 concern, arise out of, or relate to (i) Equifax’s inclusion of information relating to a Tribal Loan in
18 a consumer’s Equifax credit file or (ii) Equifax’s providing of information about a consumer relating
19 to a Tribal Loan to a third party, the facts alleged in the Lawsuit, or any theories of recovery that
20 were, or could have been, raised at any point in the Lawsuit. However, notwithstanding the
21 foregoing, Released Claims shall not include any claim for damages (i) asserted under 15 U.S.C. §
22 1681i (or any state law equivalent) and (ii) brought solely in an individual capacity (i.e., not on
23 behalf of a putative class or in any other representative capacity).

24 17. The release shall not pertain to claims relating to conduct occurring or actions taken by
25 any Released Party after the Effective Date.

26 18. The release in the Settlement Agreement may be raised as a complete defense and bar
27 to any Released Claim and any action or demand brought in contravention of the Settlement
28 Agreement. The Settlement Class Representatives and Settlement Class Members are hereby barred

1 and enjoined (including during the pendency of any appeal taken from this Final Approval Order)
2 from commencing, pursuing, maintaining, enforcing, or prosecuting, either directly or indirectly, any
3 Released Claim in any judicial, administrative, arbitral, or other forum. This permanent bar and
4 injunction is necessary to protect and effectuate the Settlement Agreement, this Final Approval Order,
5 and this Court's authority to effectuate the Settlement Agreement, and is ordered in aid of this Court's
6 jurisdiction and to protect its judgments.

7 **AWARD OF ATTORNEYS' FEES AND COSTS AND SERVICE AWARDS**

8 19. Under Federal Rule of Civil Procedure 23(h), on March 4, 2024, Class Counsel applied
9 to the Court for an award of attorneys' fees, costs, and service awards for the Named Plaintiffs with
10 regard to the Settlement. (ECF Nos. 67, 67-1, 67-2.) Pursuant to the Settlement Agreement, Class
11 Counsel requested reasonable attorneys' fees of \$811,635 (or the equivalent of 33.33 percent of the
12 total claims to be paid by Equifax). Class Counsel has separately requested an award of \$300,000 in
13 attorneys' fees for procuring the injunctive relief on behalf of the Class, to be paid separately by
14 Equifax. The amount of the Service Awards that Plaintiffs requested is \$5,000 per Settlement Class
15 Representatives, and it is to be paid separately by Equifax. The Court also approves Class Counsel's
16 proposal that it pay the ten late-submitted claims \$500 each from its award of attorneys' fees.

17 20. No Settlement Class Member or Government entity has objected to Class Counsel's
18 request.

19 21. The Court, having reviewed the declarations, exhibits, and points and authorities
20 submitted in support of Class Counsel's request for attorneys' fees and reimbursement of costs,
21 approves an award of attorneys' fees to Class Counsel in the amount of \$1,111,635. The Court finds
22 that this amount is reasonable and appropriate under all of the circumstances presented.

23 22. However, Equifax shall withhold from this payment 10% of the award of attorneys'
24 fees, \$111,163.50, pending the filing by Class Counsel of a Post-Judgment Accounting within 21 days
25 after the settlement funds have been fully distributed to Class Members (but before any *cy pres*
26 distribution). The Post-Distribution Accounting shall contain:

27 23. A statement of when payments were made to Class Members, and the number of
28 members who were sent payments;

- 1 a. The total amount of money paid out to members, including the average and median
- 2 recovery per Class Member;
- 3 b. The largest and smallest amount paid to Class Members;
- 4 c. The number and value of cashed and uncashed checks;
- 5 d. The number of members who could not be contacted;
- 6 e. The amount to be distributed to each *cy pres* recipient;
- 7 f. Any significant or recurring concerns communicated by members to the settlement
- 8 administrator and counsel since final approval; and
- 9 g. Any other issues in settlement administration since final approval, and how any
- 10 concerns or issues were resolved.

11 24. The Court finds that the requested Service Awards are reasonable and within the range
12 of awards granted by courts in this and other circuits. Moreover, the Service Awards are justified by
13 the time and effort expended by Settlement Class Representatives on behalf of the Settlement Class
14 Members and the risk they assumed in bringing this action. Accordingly, the Court finds that Plaintiffs
15 Meeks, Delacruz, Laguna, and Leonard shall be awarded \$5,000 each for their efforts, to be paid by
16 Equifax.

17 25. The Court further notes that information about the requested attorneys' fees, the
18 reimbursement of costs, and the Service Awards was included in the notice materials disseminated to
19 the Settlement Class.

20 26. Subject to Paragraph 22 above, the attorneys' fees and Service Award shall be paid by
21 Equifax within ten (10) days after the Effective Date, but only after receipt of payment instructions
22 from Class Counsel and receipt of W9 forms completed by Class Counsel and the Named Plaintiffs,
23 and otherwise subject to the requirements in the Settlement Agreement.

24 **OTHER PROVISIONS**

25 27. The Court has jurisdiction to enter this Final Approval Order. Without in any way
26 affecting the finality of this Final Approval Order, this Court expressly retains exclusive and
27 continuing jurisdiction over the Settlement and the Settlement Agreement, including all matters
28 relating to the administration, consummation, validity, enforcement, and interpretation of the

1 Settlement Agreement or the Final Approval Order, including, without limitation, for the purpose of:

- 2 a. enforcing the terms and conditions of the Settlement Agreement and resolving any
3 disputes, claims or causes of action that, in whole or in part, are related to or arise out
4 of the Settlement Agreement or the Final Approval Order (including, whether a person
5 or entity is or is not a Settlement Class Member);
- 6 b. entering such additional orders, if any, as may be necessary or appropriate to protect or
7 effectuate the Final Approval Order or the Settlement Agreement, or to ensure the fair
8 and orderly administration of the Settlement; and
- 9 c. entering any other necessary or appropriate orders to protect and effectuate this Court's
10 retention of continuing jurisdiction over the Settlement Agreement or the Final
11 Approval Order.

12 28. The Parties are hereby directed to carry out their obligations under the Settlement
13 Agreement.

14 29. Without further order of the Court, the Parties may agree to reasonably necessary
15 extensions of time to carry out any of the provisions of the Settlement Agreement. Likewise, the Parties
16 may, without further order of the Court or notice to the Settlement Class, agree to and adopt such
17 amendments to the Settlement Agreement (including exhibits) as are consistent with this Final
18 Approval Order and that do not limit the rights of Settlement Class Members under the Settlement
19 Agreement.

20 30. In the event that the Settlement becomes null and void, certification of the Settlement
21 Class shall be automatically vacated and this Final Approval Order, as well as all other orders entered
22 and releases delivered in connection with the Settlement Agreement, shall be vacated and shall become
23 null and void, shall be of no further force and effect, and the Parties' rights and defenses shall be
24 restored, without prejudice, to their respective positions as if the Settlement Agreement had never been
25 executed.

26 31. This Final Approval Order is final for purposes of appeal and may be appealed
27 immediately.

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

It is SO ORDERED.

DATED: _____

Hon. Charles R. Breyer
United States District Judge