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Appointed Class Counsel

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

STEPHEN ADKINS, an individual and Michigan resident, on behalf of himself and all others similarly situated,
 	
              Plaintiffs,
 	
     v.
 	
FACEBOOK, INC.,
 	
              Defendant.
	No. C 18-05982 WHA (JSC)
	
	PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL AND TO DIRECT NOTICE OF SETTLEMENT
	
	Date: March 19, 2020
	Time: 8:00 am
	Courtroom: 12, 19th Floor
	Hon. William Alsup

NOTICE OF MOTION AND MOTION

1

2   PLEASE TAKE NOTICE THAT on March 19, 2020, at 8:00 a.m., or on a date selected by

3   the Court, Plaintiff will and hereby does respectfully move the Court, in the courtroom of the

4   Honorable William Alsup, Courtroom 12, 19th Floor of the United States District Court for the

5   Northern District of California, located at 450 Golden Gate Avenue, San Francisco, CA 94102, for

6   an order preliminarily approving the proposed class action settlement and directing notice of

7   settlement.

8   This motion is based on the notice of motion and motion for preliminary approval and

9   permitting notice of the proposed settlement to the class, the following memorandum of points and

10   authorities, the attached declarations and exhibits, the arguments of counsel, and any other matters in

11   the record or that properly come before the Court.

12   Dated: February 7, 2020   _/s/ Andrew N. Friedman_____

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27
                                                  Appointed Class Counsel
28

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MOTION FOR PRELIMINARY APPROVAL AND TO DIRECT NOTICE OF SETTLEMENT
No. C 18-05982 WHA (JSC)

<u>TABLE OF AUTHORITIES</u>

I.   INTRODUCTION

After a year of intense litigation, and this Court's certification of a class pursuant to Fed. R. Civ. P. 23(b)(2),[1] the parties, with the assistance and under the supervision of Chief Magistrate Judge Joseph C. Spero, have: (i) negotiated a settlement to fully resolve this certified class action; and (ii) finalized a proposed Settlement Agreement setting forth the terms of the settlement. Plaintiff presents the Settlement Agreement to the Court for preliminary approval of an injunctive relief settlement. Further, though not required under Rule 23(b)(2), the parties seek to provide notice to the class to apprise them of the result and permit an opportunity to object.

This action was initiated after Defendant Facebook, Inc. ("Facebook") experienced a data breach and millions of Facebook users' personal information was stolen by attackers. Plaintiff alleges that Facebook's negligence caused the breach in two ways. First, Plaintiff alleges that Facebook failed to address known risks related to coding vulnerabilities and security risks relating to access tokens— essentially, key cards that allow users to access their accounts. Second, Plaintiff alleges that after the attack became visible, Facebook did not timely escalate the suspicious activity seen by "growth" engineers to security personnel. Facebook adamantly denies any negligence or fault in either respect, and strongly maintains that the breach was a result of an unknown and unforeseeable vulnerability and that the company responded quickly to the attack.

While Plaintiff believes that the facts and the law ultimately favor his position, the proposed Settlement is posed to deliver meaningful relief without requiring further delay and expense. From the onset of this case, one of Plaintiff's primary goals has been to ensure that Facebook has improved its security practices in response to the attack in order to better protect against future data breaches involving consumers' personal information, and to independently assess Facebook's implementation of those security improvements. Plaintiff has achieved these goals: Facebook has committed to making concrete improvements to its security practices that specifically address risks relevant to the attack, and to undergo annual independent third-party assessments to ensure compliance with these

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[1] *See* ECF No. 260, at 14–16.

1 | commitments. This relief will help to protect not only the four million U.S. class members implicated

2 | in this suit, but most of Facebook's estimated 2.38 billion users.[2]

3 | In support of this motion, Plaintiff attaches a copy of the parties' Settlement Agreement. *See*

4 | Exhibit A; *see also* Exhibit B (Joint Declaration of Class Counsel John A. Yanchunis, Andrew N.

5 | Friedman, and Ariana J. Tadler) ("Joint Decl."), at ¶ 15. The Settlement was reached after significant

6 | adversarial proceedings, and arm's-length negotiations. Specifically, prior to any settlement

7 | negotiations, the parties engaged in extensive discovery and dispositive motion practice—including a

8 | motion to dismiss and a successful motion for class certification of an injunctive relief litigation class

9 | pursuant to Fed. R. Civ. P. 23(b)(2). The parties reached their agreement in principle during a formal

10 | settlement conference before Chief Magistrate Judge Spero, and left the matter of a service award and

11 | attorneys' fees, costs, and expenses to the discretion of the Court. As explained below, the significant

12 | injunctive relief (which includes a broad range of measures designed to prevent and detect security

13 | issues relating to access tokens, and regular assessments of compliance by a third-party vendor

14 | acceptable to both parties) provided by the Settlement is an excellent result for the Settlement Class—

15 | especially in light of the risks of further litigation—and warrants preliminary approval.

II.   HISTORY OF THE LITIGATION

A.   Factual Background

On September 28, 2018 Facebook disclosed a data breach ("Breach") affecting the personal

information of an estimated 29 million people. *See* First Amended Consolidated Complaint, ECF No.

263, at ¶¶ 6, 93; ECF No. 97 (Declaration of Facebook's Christopher Bream), ¶ 9. The compromised

information included names, birthdates, current cities, hometowns, and other data points. *See* ECF No.

263, at ¶ 102; ECF No. 97, at ¶ 11. Attackers exploited vulnerabilities in Facebook's software that

allowed them to generate and use highly-permissioned access tokens. ECF No. 263, at ¶ 95; ECF No.

97, at ¶ 9. Facebook's access tokens are digital credentials that can be used to query data from a user's

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[2] *See, e.g.,* Andrew Hutchinson, *Facebook Reaches 2.38 Billion Users, Beats Revenue Estimates in Latest Update*, Social Media Today, (Apr., 24, 2019), https://www.socialmediatoday.com/news/facebook-reaches-238-billion-users-beats-revenue-estimates-in-latest-upda/553403/.

2

account without reentering their username and password. ECF No. 263, at ¶¶ 95, 97; ECF No. 97, at ¶¶ 10, 17 n.8.

B.   The Complaints and Rule 12 Motion Practice

After Facebook announced the Breach, several plaintiffs filed suit in this Court. On January 9, 2019, at this Court's request, the parties held a tutorial to educate the Court and the public about the technical issues in this case. Joint Decl., at ¶ 4; *see* ECF Nos. 29, 38, 71. On January 10, 2019, the Court consolidated over a dozen actions, with February 7, 2019 as the date for Plaintiffs to file a Consolidated Amended Complaint ("CAC"). ECF No. 67.[3]

On February 7, 2019, Plaintiff Stephen Adkins, along with four other plaintiffs, filed the CAC. ECF No. 76. The CAC alleged causes of action for breach of express contract, implied contract, implied covenant of good faith and fair dealing, and quasi-contract; negligence and negligence per se; violation of California's Unfair Competition Law ("UCL") and California Consumer Legal Remedies Act ("CLRA"); breach of confidence; and for declaratory judgment. *Id.* On March 14, 2019, Facebook filed a Motion to Dismiss under Rules 12(b)(1) and 12(b)(6). ECF No. 96. In the interim, several plaintiffs voluntarily dismissed their case, leaving Plaintiff Stephen Adkins and Plaintiff William Bass as the proposed class representatives. ECF Nos. 87–94. On June 21, 2019, the Court granted Facebook's Motion to Dismiss in part, and denied it in part, with leave to amend. ECF No. 153. Among other things, the Court found that Plaintiff Adkins experienced an injury in fact (and thus standing) through plausible allegations of the increased risk of future identity theft and his loss of time, ECF No. 153, at 9–12, and denied Facebook's Motion to Dismiss Plaintiff's claims for negligence and declaratory judgment. *Id.* at 16–17, 19.

On July 18, 2019, pursuant to the June 21 Order, Plaintiff Adkins moved to amend and file a First Amended Consolidated Complaint ("FACC") to replead some of the claims rejected by the Court. ECF No. 160. On August 9, 2019, the Court granted in part and denied in part Plaintiff's Motion to

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[3] Although the Court had yet to appoint interim lead counsel, the lawyers whom the Court ultimately appointed to serve in this capacity on behalf of the plaintiffs, Ariana J. Tadler, John A. Yanchunis, and Andrew N. Friedman led the charge in the Tutorial and in drafting and filing the CAC. Specifically, Mr. Yanchunis, Ms. Tadler, and Mr. Friedman (as well as lawyers from their respective firms) worked with experts Mary Frantz and Matt Strebe to present the Tutorial to the Court. Joint Decl., at ¶ 4; *see* ECF No. 71.

3

1   Amend and file the FACC, again permitting the negligence and declaratory relief claims to go forward.

2   ECF Nos. 185, 263.

3   **C.   Discovery**

4   During and after the Rule 12 motion practice the parties engaged in extensive discovery

5   pursuant to a rigorous schedule with trial scheduled for May 2020. To prepare class members' claims

6   for certification and trial, Plaintiff engaged in an independent investigation; negotiated with Facebook

7   as to the early production of certain core documents; and served 90 requests for production and four

8   interrogatories. Joint Decl., at ¶ 5. Moreover, Plaintiff's counsel reviewed tens of thousands of

9   documents (totaling over 139,000 pages) and took 16 depositions of current and former Facebook

10   employees, as well as two expert depositions. *Id*. Plaintiff's counsel also retained four experts to assist

11   with establishing liability and damages, whose efforts culminated in four declarations, three expert

12   reports and four depositions. *Id*. Both sides actively pursued discovery and brought disputes to the

13   Magistrate Judge when necessary. *Id.* at ¶ 7; ECF Nos. 151, 170, 178.

14   Plaintiff developed a robust record of Facebook's practices before, leading up to, and following

15   the Breach. Joint Decl., at ¶ 8. Plaintiff used this information to assert in his class certification motion

16   that Facebook employees failed to correct coding vulnerabilities and security risks, and did not react

17   quickly enough once the attack became visible. ECF No. 268.

18   **D.   Class Certification and *Daubert***

19   Between August 29, 2019 and October 10, 2019, Plaintiff fully briefed Plaintiff's motion for

20   class certification pursuant to Rules 23(b)(3) (seeking a damages class for lost PII value and credit

21   monitoring); issue certification under 23(c)(4) (regarding common liability issues); and 23(b)(2)

22   (regarding injunctive relief on a host of Facebook's security procedures and authentication

23   infrastructure). Joint Decl., at ¶ 9; ECF No. 268. Facebook responded by opposing all class

24   certification, disputing Plaintiff's factual assertions, and revisiting its argument that Mr. Adkins lacked

25   Article III standing, and moving to strike two damage experts (Jim Van Dyke and Ian Ratner), but not

26   security expert, Mary Frantz. *Id.*; ECF Nos. 213-214, 242, 262, 264-267.[4] Due to the sensitive and

27   ─────────────
[4] Ms. Frantz is the Founder and Managing Partner of Enterprise Knowledge Partners, LLC which
28   specializes in eDiscovery, Forensics, Cyber Security and Enterprise Architecture. A description of her
     qualifications can be found at ECF No. 268-2 at ¶¶ 8-13.

private nature of much of the evidence submitted in the class certification briefing, Plaintiff filed accompanying administrative motions to seal portions of the record. On November 6, 2019, the Court held oral arguments on class certification and the *Daubert* motions. ECF No. 253. On November 26, 2019 this Court granted Facebook's motion to exclude Plaintiff's expert Jim Van Dyke, denied the motion to exclude Ian Ratner, and certified an injunctive relief only class pursuant to Fed. R. Civ. P. 23(b)(2). Joint Decl., at ¶ 10; ECF No. 260. On December 19, 2019, the parties filed a joint motion to modify the November 26 Order to narrow the certified class to US users only and alter the notice requirement to remove the requirement of first-class mail notification. ECF No. 270. On January 6, 2020, the Court granted the parties' motion. Joint Decl., at ¶ 10; ECF No. 271.

E.   Settlement Negotiations

On March 18, 2019, in compliance with this Court's rule, ECF No. 26, governing settlement prior to class certification, an initial mediation session was scheduled by the Court with Chief Magistrate Judge Spero for December 11, 2019. ECF No. 100. The December date was adjourned to January 8, 2020 to accommodate the Court's and the parties' respective schedules. ECF No. 258. With a class certified, and trial scheduled to begin on May 18, 2020, ECF No. 69, the parties engaged in preliminary settlement discussions, with Plaintiff sending a proposed term sheet. Joint Decl., at ¶ 11. After submitting to Chief Magistrate Judge Spero and exchanging mediation papers, the parties attended a settlement conference in San Francisco on January 8, 2020. *Id.* at ¶ 12. Mediated by Chief Magistrate Judge Spero, the parties discussed potential security commitments Facebook could make as part of a settlement of the case. *Id.* Based on these discussions, and with the assistance of Plaintiff's expert Mary Frantz, Plaintiff negotiated a set of security commitments that comprehensively address the security risks exposed in the Breach and provide strong protection against the risk of any similar attack in the future. *Id.* at ¶ 13. On January 17, 2020, the parties filed a joint motion for a continuance, ECF No. 276, in light of reaching an agreement in principle, with a detailed term sheet approved by the parties and signed by counsel. *Id.* at ¶ 14. Fact depositions continued in California and London while settlement discussions continued consistent with the Court's scheduling order. *Id.* The formal Settlement Agreement, now before the Court, is the result of extensive arm's length negotiations,

expert input, and cooperative efforts to finalize the terms, develop a notice plan, and prepare and finalize the exhibits and this motion. *Id*. at ¶ 15; *see* Exhibit A.

III.   MATERIAL TERMS OF THE SETTLEMENT AGREEMENT

A.   Proposed Settlement Class

As noted in the Settlement Agreement, the proposed settlement class is comprised of "All current Facebook users residing in the United States whose personal information was compromised in the data breach announced by Facebook on September 28, 2018." ECF No. 271, at 1; *see* Exhibit A § 1.24.

B.   Benefit to the Class

Under the Settlement Agreement, Facebook will certify that the vulnerability exploited in the attack at issue has been eliminated, that it is no longer possible to generate access tokens in the manner that was done in the attack, and that all access tokens generated through the vulnerability have been invalidated. Further, the Settlement Agreement requires Facebook to adopt, implement, and/or maintain a detailed set of security commitments, which are laid out in Exhibit A-1 to the Settlement Agreement. These include, inter alia, increased checks of user activity designed to detect access token compromise, additional monitoring for suspicious patterns of user activity involving access tokens, and improved logging to facilitate investigation of suspicious activity involving access tokens. These commitments are designed to prevent any similar attacks in the future.

Facebook's compliance with the Security Commitments in the Settlement Agreement will be assessed annually by an independent third-party vendor for 5 years, the results of which will be provided to Class Counsel and a third-party expert to verify Facebook's compliance with the foregoing terms. Exhibit A § 2.3. A material term of the Settlement Agreement is that in the event that technological or industry developments, or intervening changes in law, render any of the provisions in the Agreement obsolete or make compliance unreasonable or technically impractical, Facebook will notify Class Counsel. Exhibit A § 2.5. The parties will then either jointly petition the Court to eliminate or modify such provision or, if the parties fail to reach an agreement, Facebook may petition the Court and Class Counsel may offer its opposition. *Id.*

C.   Notice

1   Because this proposed Class Settlement would be certified under Rule 23(b)(2) (and not Rule

2   23(b)(3)), the parties *are not required* to provide the right to "opt out" to class members, nor are the

3   parties required to provide notice. *See Stathakos v. Columbia Sportswear Co.*, No. 4:15-CV-04543-

4   YGR, 2018 WL 582564, at *3 (N.D. Cal. Jan. 25, 2018) ("In injunctive relief only class actions

5   certified under Rule 23(b)(2), federal courts across the country have uniformly held that notice is not

6   required.") (collecting cases); *see also Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 362 (2011) (Rule

7   23 "provides no opportunity for (b)(1) or (b)(2) class members to opt out, and does not even oblige

8   the District Court to afford them notice of the action."). Nevertheless, notice may alert any potential

9   claimants impacted by the September 2018 Breach that this proposed settlement will not resolve any

10   damages claims. Notice also provides any potential objector an opportunity to address the Court

11   regarding the proposed settlement. Thus, as per this Court's January 6, 2020 Order, ECF No. 271, the

12   parties have included a proposed notice plan in their Settlement Agreement. The parties have selected

13   Angeion Group as the Notice Administrator. Joint Decl., at ¶ 16; Exhibit A-3 (Declaration of Steven

14   Weisbrot, notice administrator and accompanying notice plan). The class notice program includes the

15   following methods of notification:

16   1. Electronic mail campaigns (using the email addresses that Facebook has for substantially

17   most of the certified class members);

18   2. Reverse phone look-ups which allow identification of electronic mail addresses for the

19   relatively small number of users who did not input into Facebook their electronic mail

20   address;

21   3. A dedicated website;

22   4. Social media campaigns including Google and Facebook;

23   5. Internet banner advertisements; and

24   6. Traditional media campaigns to achieve broad and effective notice.

25   *Id.* The email notice will be staggered and sent in waves to avoid "volume triggers" on spam filters

26   that might otherwise stop class members from getting notice. Weisbrot Decl. at ¶ 15 (explaining the

27   need for 45 days to disseminate email notice).

28   **D.   Limited Release of Class Members' Claims**

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Class members will *only* release claims for injunctive relief and declaratory relief against Facebook. Exhibit A §§ 8.1–8.2. Plaintiff Adkins will additionally release all claims for monetary damages against Facebook. *Id.* § 8.3. However, the Settlement Agreement does not release Facebook or any other party from any individual claims for damages that have been or may be brought on behalf of individuals other than attorneys' fees, costs, and expenses (for achieving injunctive relief) and Plaintiff Adkins's service award. *Id.*

E.   Terms Regarding Attorneys' Fees and Costs, and Representative's Service Award

Facebook agrees to pay a reasonable service award to Plaintiff Adkins as the Class Representative, which Class Counsel recommends be $5,000. *Id.* § 6.1. The Settlement Agreement does not expressly specify an amount for attorneys' fees and costs, leaving both at the sound discretion of this Court. *See id* § 7. Facebook may object to the reasonableness of the requested attorneys' fees, costs and expenses—there is no "clear sailing" agreement. *Id.* § 7.2.

IV.   THE SETTLEMENT AGREEMENT MERITS PRELIMINARILY APPROVAL

A court will direct notice of a proposed settlement to class members only if it: (i) approves the proposal under Rule 23(e)(2); and (ii) certifies the class for purposes of judgment on the proposal. Fed. R. Civ. P. 23(e)(1)(B). Here, the Court has already certified a 23(b)(2) class. ECF Nos. 260, 271. Thus, the only outstanding question is whether the proposed Settlement Agreement merits approval under Rule 23(e)(2), which provides a checklist of factors to consider when assessing whether a proposed settlement is fair, reasonable, and adequate. *See* Fed. R. Civ. P. 23(e)(2).[5] As detailed below, the Rule 23(e)(2) factors weigh in favor of approving the settlement.

A.   Plaintiff and His Counsel Have Adequately Represented the Class

---

[5] "The central concern in reviewing a proposed class-action settlement is that it be fair, reasonable, and adequate. Courts have generated lists of factors to shed light on this concern. Overall, these factors focus on comparable considerations, but each circuit has developed its own vocabulary for expressing these concerns. In some circuits, these lists have remained essentially unchanged for thirty or forty years. **The goal of this amendment is not to displace any factor, but rather to focus the court and the lawyers on the core concerns of procedure and substance that should guide the decision whether to approve the proposal.**" *Advisory Committee Notes on Rules – 2018 Amendment, Subdivision (e)(2).* (Emphasis added.)

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Under Rule 23(e)(2)(A), the first factor to be considered is the adequacy of representation by the class representatives and attorneys. This analysis includes "the nature and amount of discovery" undertaken in the litigation. Fed. R. Civ. P. 23(e)(2)(A), Advisory Committee's Notes.

i.   The Class Representative

Plaintiff Adkins has adequately represented the class. In the last year, Mr. Adkins responded to extensive discovery: he has answered 24 interrogatories, 56 requests for production, and 63 requests for admission. Joint Decl., at ¶ 6. He has also had his deposition taken twice and prepared extensively with Plaintiff's counsel both times. *Id.* Moreover, Mr. Adkins has produced a total of 7,142 pages of documents, which involved collecting records from third parties and considerable follow up. *Id.* Finally, Mr. Adkins attended the January 8, 2020 mediation. *Id.*

ii.   Class Counsel

Class Counsel have also adequately represented the class. Before the case was even consolidated, Class Counsel independently investigated the facts and law, coordinated with other plaintiffs' counsel who had filed complaints, and retained experts well in advance of and to conduct the January 9, 2019 Tutorial for the Court, to elucidate, from the onset, the technical aspects at issue in this case. Joint Decl., at ¶ 4. Class Counsel, with the assistance of other Plaintiffs' counsel, went on to vigorously prosecute this case, briefing a motion to dismiss, two discovery motions, class certification, and two *Daubert* motions—and in the end, successfully obtained certification of a Rule 23(b)(2) class. *Id.* at ¶¶ 4, 7–10; ECF Nos. 96, 108, 113, 122, 135, 153, 160, 173, 180, 185 (motion to dismiss and motion to amend briefing and Orders); 151, 155, 170, 178 (discovery dispute briefing and hearings); 213, 214, 231, 242, 260, 262, 264-268, (class certification and *Daubert* briefings, and Order). Given the sensitive nature of certain information addressed in the various motions, most motions were subject to motions to seal. Class Counsel engaged in extensive discovery, taking a total of 18 depositions (16 fact-based and 2 expert-based), and reviewing more than 139,000 of pages of documents. Joint Decl., at ¶ 5. Class Counsel engaged the services of four experts who wrote a total of four declarations and three expert reports. *Id.* As part of these efforts, Class Counsel have advanced hundreds of thousands of dollars in litigation expenses on behalf of the class, with no assurance that those expenses would be reimbursed. *Id.*

Class Counsel's efforts with respect to defensive discovery were not limited to the current class representative. Starting in January 2019, Plaintiffs served initial disclosures for twenty plaintiffs based on the Case Management Order entered in the case. *See* ECF No. 67. Five of these plaintiffs were included in the CAC. *See* ECF No. 76. Before the Motion to Dismiss was decided, Class Counsel coordinated responses to 41 requests for production and 4 interrogatories for the five named plaintiffs.[6]

B.   The Parties Negotiated the Proposed Settlement At Arm's Length

The second Rule 23(e)(2) factor asks the Court to confirm that the proposed settlement was negotiated at arm's length. Fed. R. Civ. P. 23(e)(2)(B). As with the preceding factor, this can be "described as [a] 'procedural' concern[], looking to the conduct of the litigation and of the negotiations leading up to the proposed settlement." Fed. R. Civ. P. 23(e)(2)(A) and (B) Advisory Committee's Notes. Courts typically scrutinize the negotiated settlement "not only for explicit collusion, but also for more subtle signs that class counsel have allowed pursuit of their own self-interests and that of certain class members to infect the negotiations." *Haralson v. U.S. Aviation Servs. Corp.*, 383 F. Supp. 3d 959, 966 (N.D. Cal. 2019) (quoting *In re Bluetooth Headsets Litig.*, 654 F.3d 935, 946–47 (9th Cir. 2011)).

i.   Courts Do Not Apply the Collusion Analysis to (b)(2) Settlements

Where, as here, the settlement is for injunctive relief purposes only and class members do not release any monetary claims, the collusion analysis does not apply. *Moreno v. San Francisco Bay Area Rapid Transit Dist.,* No. 17-CV-02911-JSC, 2019 WL 343472, at *3 n.2 (N.D. Cal. Jan. 28, 2019); *see also Campbell v. Facebook, Inc.*, No. 13-CV-05996-PJH, 2017 WL 3581179 at *5 (N.D. Cal. Aug. 18, 2017) ("Arguably, [the] *Bluetooth* [collusion analysis] is not even applicable to this settlement because it does not involve a Rule 23(b)(3) damages class" because "there is no common fund, 'constructive' or otherwise: the certified class is injunctive-relief-only, and monetary damages claims are not at issue").

ii.   To the Extent the Collusion Analysis Applies, the Negotiations Were At Arm's Length

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[6] Aside from Mr. Adkins, four other plaintiffs were deposed and produced voluminous documents in advance: plaintiff Bass produced 1,464 pages of documents; and plaintiff Brown-Wells produced 222 pages of documents. Dr. Schmidt was not deposed but produced 1,179 pages of documents.

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To the extent scrutiny is applied to this type of injunctive relief settlement, the Court can be confident of the arm's length nature of the negotiation process.

First, extensive discovery and motion practice are indicia of an arm's length process. *Wannemacher v. Carrington Mortg.*, No. 12-cv-2016, 2014 WL 12586117, at *8 (C.D. Cal. Dec. 22, 2014) (finding no signs of collusion where "significant … discovery [was] conducted"; "plaintiffs had already drafted a class certification brief"; and before "exploring settlement, the parties litigated the case for a year"); *see also Moreno*, 2019 WL 343472, at *5 (that the parties engaged in substantial motion practice and thus have had an opportunity to evaluate the strength and weaknesses of the relative claims and defenses weighs in favor of settlement approval). Settlement agreements that occur after class certification are also less likely to involve collusion. *Contra In re Volkswagen "Clean Diesel" Mktg., Sales Practices, & Prod. Liab. Litig.*, 895 F.3d 597, 610–11 (9th Cir. 2018) (where the settlement is negotiated prior to class certification, there is a greater chance of breach of fiduciary duty by class counsel and thus the district court should undertake an additional search for signs of collusion). Here, per the Court's standing rules, the parties did not begin negotiations until *after* the Court certified a litigation class and they well understood the strengths and weaknesses of their respective positions. Joint Decl., at ¶ 11. Indeed, by the time the parties reached agreement, they had engaged in significant pretrial motion practice, conducted extensive discovery, worked with experts, and certified a litigation class under Rule 23(b)(2). The parties were preparing for a trial scheduled to begin on May 18, 2020. *Id.*; *see* ECF No. 69.[7]

Second, "[t]he involvement of a neutral or court-affiliated mediator or facilitator in [the parties'] negotiations may bear on whether they were conducted in a manner that would protect and further the class interests." Rule 23(e)(2)(B) Advisory Committee's Note; *accord Pederson v. Airport Terminal Servs.*, No. 15-cv-02400, 2018 WL 2138457, at *7 (C.D. Cal. April 5, 2018) (the oversight "of an experienced mediator" reflected non-collusive negotiations). Here, the parties conducted mediation under Chief Magistrate Judge Spero's guidance and supervision on January 8, 2020 and

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[7] Indeed, in January 2020, per the Court's Order (ECF No. 67) the parties identified the experts anticipated for trial and Plaintiff served on Facebook three expert reports. Joint Decl. at ¶ 5.

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were able to reach an understanding on the contours of an agreement, which was later finalized in a term sheet on January 17, 2020. Joint Decl., at ¶¶ 12, 14.

Finally, none of the potential warning signs of collusion are present. The Settlement Agreement states only that Class Counsel will file a motion for an award of attorneys' fees, costs and expenses, which Facebook may oppose. There is no "clear sailing" arrangement whereby Facebook has agreed not to contest the fee motion. *See* Exhibit A § 7.2. Nor is there a settlement fund from which unawarded money will revert to Facebook. *See generally* Exhibit A.

C.   The Quality of Relief to the Class Weighs in Favor of Approval

Next, courts must consider whether "the relief provided for the class 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 to the class, including the method of processing class-member claims; (iii) the terms of any proposed award of attorney's fees, including timing of payment; and (iv) any agreement required to be identified under Rule 23(e)(3)." Fed. R. Civ. P. 23(e)(2)(C). Under this factor, the relief "to class members is a central concern." Fed. R. Civ. P. 23(e)(2)(C), Advisory Committee's Notes.

i.   The Settlement Provides Meaningful Injunctive Relief for the Class

There is no "particular formula by which th[e] outcome must be tested." *Rodriguez v. W. Publ'g Corp.*, 563 F.3d 948, 965 (9th Cir. 2009). Rather, the Court's assessment of the likelihood of success is "nothing more than an amalgam of delicate balancing, gross approximations and rough justice." *Id.* at 965 (internal quotation marks and citation omitted). Factors considered include "the likelihood of a plaintiffs' or defense verdict, the potential recovery, and the chances of obtaining it, discounted to a present value." *Id.* "In most situations, unless the settlement is clearly inadequate, its acceptance and approval are preferable to lengthy and expensive litigation with uncertain results." *Nat'l Rural Telecomm's Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 526 (C.D. Cal. 2004) (quotation marks and citation omitted).

Courts routinely approve settlements for injunctive relief only. *kos*, 2018 WL 582564, at *4 (N.D. Cal. Jan. 25, 2018) (collecting cases granting final approval in injunctive relief only settlements). At least one court in this District has approved a settlement for injunctive relief where "[t]hrough the work of class counsel, the class has obtained essentially all of

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1   declaratory and injunctive relief that they sought" even though "much of the relief obtained for the

2   class was the result of [defendant's] changes in business practice in response to the litigation, rather

3   than a result of the Settlement Agreement per se." *Campbell*, 2017 WL 3581179, at *4. Yet another

4   court approved a settlement which "stop[ped] the allegedly unlawful practices, bar[red] Defendant

5   from similar practices in the future, and d[id] not prevent the class members from seeking legal

6   recourse." *Kim v. Space Pencil, Inc.*, No. C. 11-03796 LB, 2012 WL 5948951, at *6 (N.D. Cal. Nov.

7   28, 2012).

8   Here, the Settlement merits approval because Facebook has agreed to meaningful injunctive

9   relief, including a broad range of sophisticated and detailed measures designed to prevent and detect

10   security issues relating to access tokens, and regular assessments of compliance by an independent

11   third party for 5 years, *inter alia*, all subject to confirmation by this Court and Class Counsel. Exhibit

12   A at § 2.3. Without a doubt, Plaintiff's litigation helped prompt Facebook to improve its security

13   practices meaningfully and expeditiously. Joint Decl., at ¶ 19; *see Campbell*, 2017 WL 3581179, at

14   *4. Furthermore, although class members do not receive monetary relief as a result of the settlement,

15   they remain free to bring individual damages claims. *See* Exhibit A at § 8.1; *see Kim*, 2012 WL

16   5948951, at *6. Thus, the Class will receive substantial injunctive relief without releasing any claims

17   for damages.

18   Additionally, Courts in this Circuit have recognized that Class Counsel's endorsement weighs

19   in favor of approving the settlement. *See, e.g., In re Omnivision*, 559 F. Supp. 2d 1036, 1043 (N.D.

20   Cal. 2008) ("The recommendations of plaintiffs' counsel should be given a presumption of

21   reasonableness.") (internal quotation marks and citations omitted); *Rodriguez*, 563 F.3d at 967

22   ("[P]arties represented by competent counsel are better positioned than courts to produce

23   a settlement that fairly reflects each party's expected outcome in litigation[.]") (internal quotation

24   marks and citations omitted). This is especially true where, as here, there is no indicia of collusion.

25   *See* Section IV.B, *infra.* Class Counsel have significant experience in litigating some of the most

26   significant data breach class actions to date, successfully resolving many of those in this District, and

27   have brought that experience and knowledge to bear on behalf of the Class. Joint Decl., at ¶ 20; Exhibit

28

1   C (resumes of appointed class counsel). Class Counsel have also demonstrated that they are well

2   informed of the facts, claims, and defenses in this action, as well as the risks of proceeding to trial.

3   **ii.**   **Continued Litigation Would Entail Substantial Cost, Risk, and Delay**

4   Almost all class actions involve high levels of cost, risk, and lengthy duration, which supports

5   the Ninth Circuit's "strong judicial policy that favors settlements, particularly where complex class

6   action litigation is concerned." *Linney v. Cellular Alaska P'ship*, 151 F.3d 1234, 1238 (9th Cir. 1998).

7   Approval of a class settlement is appropriate when plaintiffs must overcome significant barriers to

8   make their case and risk losing relief. *Chun–Hoon v. McKee Foods Corp.*, 716 F. Supp. 2d 848, 851

9   (N.D. Cal. 2010); *see also Lilly v. Jamba Juice Co.*, No. 13-CV-02998-JST, 2015 WL 2062858, at *3-

10   4 (N.D. Cal. May 4, 2015) (approval warranted because without a settlement, Plaintiffs would face

11   further litigation that would not be certain to result in injunctive relief).

12   Here, had the parties not settled, the litigation would have been risky, protracted, and costly—

13   especially in light of the time and labor required to prepare for trial, set to begin on May 18, 2020.

14   Plaintiff acknowledges that the case faced significant challenges. The Court had previously dismissed

15   prior plaintiffs and all but two of Plaintiff's claims (negligence and declaratory relief). ECF Nos. 153,

16   185. The Court then declined to certify a Rule 23(b)(3) class, holding that neither the cost of a credit

17   monitoring service nor the diminished value of PII stolen in the Breach represents a cognizable injury

18   in a negligence claim. ECF No. 260, at 10–13. Facebook would likely have sought summary judgment

19   on Mr. Adkins' claims.

20   Given the uncertainty of the recovery of injunctive relief at trial, this factor weighs in favor of

21   approval.

22   **iii.**   **The Attorneys' Fees and Service Award Terms Also Support Approval**

23   As discussed in Section III.E, *supra*, Class Counsel may seek a Service Award for the

24   Settlement Class Representative not to exceed $5,000, but, of course, the decision to award any such

25   Service Award—and the amount thereof—is at the discretion of the Court. The Settlement Agreement

26   does not include a "clear sailing" provision, but states only that Class Counsel may file a motion for

27   an award of attorneys' fees, costs, and expenses. Exhibit A at § 7.2. As of December 31, 2019, Class

28   Counsel and those firms assisting class counsel have accrued a lodestar of approximately $7.3 million

<div align="center">14</div>

1   (at historical rates). Joint Decl., at ¶ 17. That number will increase due to time spent litigating and

2   settling the case in January and February, 2020. *Id*. Further, Class Counsel's lodestar will increase

3   while securing final approval of settlement and then monitoring settlement compliance for up to five

4   years. *Id.*, *see* also Exhibit A at § 2.2. Class Counsel will be seeking a lodestar multiplier but will

5   request the Court for a fee of no more than $16 million. Class Counsel will also be seeking no more

6   than $1.7 million in expenses (which includes expert's costs). *Id.*

7   Facebook is aware of, but has not agreed to, these requests. *Id.* at ¶ 18. Under the Settlement

8   Agreement, Facebook may object to the reasonableness of those requested fees, costs and expenses.

9   Exhibit A at § 7. Since there is no agreement on fees and expenses, and these amounts are left to the

10   Court's discretion, the Agreement is not suggestive of collusion between the parties. *In re Hyundai*

11   *& Kia Fuel Econ. Litig.,* 926 F.3d 539, 569 (9th Cir. 2019) (noting the absence of a clear sailing or

12   kicker clause, and ability of defendant to litigate a reduction in fees contradicted any indicia of

13   collusion).

14   **iv.   The Parties Have No Other Agreements Pertaining to the Settlement**

15   The Court also must evaluate any agreement made in connection with the proposed settlement.

16   *See* Fed. R. Civ. P. 23(e)(2)(C)(iv), (e)(3). Here, the Settlement Agreement before the Court is the

17   only existing agreement.

18   **D.   The Settlement Treats All Class Members Equitably**

19   The final Rule 23(e)(2) factor turns on whether the proposed settlement "treats class members

20   equitably relative to each other." Fed. R. Civ. P. 23(e)(2)(D). "Matters of concern could include

21   whether the apportionment of relief among class members takes appropriate account of differences

22   among their claims, and whether the scope of the release may affect class members in different ways

23   that bear on the apportionment of relief." Fed. R. Civ. P. 23(e)(2)(D), Advisory Committee's Notes.

24   Here, the Settlement treats all class members the same. It provides only for a request of $5,000

25   as a service award for Mr. Adkins (who produced thousands of pages of documents, sat for two

26   depositions, and took time off from work to attend the mediation). Exhibit A § 6.1. Mr. Adkins also

27   fully releases any potential damages claims. *Id.* § 8.3. Otherwise, the Settlement does not provide

28   preferential treatment to any individual class member. As discussed above, the Settlement provides

1 uniform injunctive relief that applies equally to every Class Member such that each class member will

2 receive identical benefits—concrete and significant improvement of Facebook's security practices,

3 subject to third-party oversight, that will in turn protect class members' PII. In fact, the benefits of

4 increased cybersecurity will inure to the benefit of all of Facebook's billions of users.

5 ## V. THE COURT SHOULD SET A SCHEDULE FOR FINAL APPROVAL

6 Once the Court directs notice of the settlement to the class, the next steps in the settlement

7 approval process are to schedule a final approval hearing, allow time for notice to be sent to the class.

8 Since the class has been certified under Rule 23(b)(2), there is no right to opt out. *Dukes*, 564 U.S. at

9 362. In light of this, Plaintiff proposes the following schedule:

Deadline for disseminating class notice by Notice Administrator	Not later than 45 days following preliminary approval ("Notice Date")
Deadline for disseminating class notice by Defendant, pursuant to CAFA:	Within 10 days of filing motion for preliminary approval (February 17, 2020)
Deadline to object to the Settlement ("Objection Deadline"):	60 days after the "Notice Date"
Deadline for filing Motion for Final Approval:	No more than 40 days after the Notice Date
Deadline for filing any motion for a service award and/or attorneys' fees, costs, and expenses:	No more than 40 days after the Notice Date
Deadline for filing of affidavit attesting that notice was disseminated as ordered:	At least 15 days before the Final Approval Hearing
Replies in Support of Final Approval and Fee Application:	No later than 20 days after the Objection Deadline
Final Approval hearing:	To be set by Court, but no earlier than 146 days from the date of Preliminary Approval

25 ## VI. CONCLUSION

26 For the foregoing reasons, Plaintiff respectfully requests that the Court enter the accompanying

27 proposed order directing notice of the proposed settlement to the class and setting a hearing for the

28 purpose of deciding whether to grant final approval of the settlement.

1   DATED: February 7, 2020   Respectfully submitted,

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17
                                                Appointed Class Counsel
18

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MOTION FOR PRELIMINARY APPROVAL AND TO DIRECT NOTICE OF SETTLEMENT
No. C 18-05982 WHA (JSC)

Exhibit A

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

STEPHEN ADKINS, an individual and Michigan resident, on behalf of himself and all others similarly situated,
 	
               Plaintiff,
 	
     v.
 	
 FACEBOOK, INC.,
 	
               Defendant.
	No. C 18-05982 WHA (JSC)
	
	 The Honorable William Alsup

SETTLEMENT AGREEMENT AND RELEASE

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Exhibit List

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SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Settlement Agreement" or "Agreement") is made as of February 7, 2020, by and between, as hereinafter defined, (a) Settlement Class Representative Stephen Adkins (hereinafter "Adkins"), on behalf of himself and the Settlement Class, and (b) Defendant Facebook, Inc. (hereinafter "Facebook"), collectively, the "Parties." This Agreement fully and finally resolves and settles any and all claims that are, were, or could have been asserted in the litigation styled *Adkins, et al. v. Facebook, Inc.*, Case No. C 18-05982 WHA (JSC).

RECITALS

WHEREAS, on September 28, 2018, Facebook announced that it had been the target of a criminal cyberattack in which the attackers exploited a vulnerability in the Facebook website (the "Vulnerability") to gain unauthorized access to user access tokens (the "Attack").

WHEREAS, as a result of the Attack, 11 lawsuits were filed against Facebook, alleging that Facebook had inadequate data security and failed to properly safeguard users' accounts.

WHEREAS, those actions were consolidated before the Honorable William Alsup in the United States District Court for the Northern District of California.

WHEREAS, on January 9, 2019, pursuant to the Court's invitation to counsel to conduct a public tutorial on the information generally related to this case, including subjects of data privacy and the technology used to both protect and attack it, the Parties made expert presentations to the Court on the requested subjects.

WHEREAS, on February 7, 2019, five named plaintiffs filed a consolidated class action complaint.

WHEREAS, on February 14, 2019, the Court appointed John Yanchunis of Morgan & Morgan Complex Litigation Group, Ariana Tadler of Milberg Tadler Phillips Grossman LLP (subsequently of Tadler Law LLP), and Andrew Friedman of Cohen Milstein Sellers & Toll, PLLC as Interim Lead Counsel, representing then-Plaintiffs and putative class Members ("Interim Class Counsel").

WHEREAS, on March 14, 2019, Facebook moved to dismiss the consolidated class action complaint.

WHEREAS, on May 30, 2019, three of the five named plaintiffs voluntarily dismissed their claims without prejudice to participating in a class recovery, if any.

WHEREAS, on June 21, 2019, the Court granted in part and denied in part Facebook's motion to dismiss the consolidated class action complaint, dismissing one plaintiff for lack of standing and dismissing seven of the ten claims alleged by remaining plaintiff Adkins.

WHEREAS, on July 18, 2019, Interim Class Counsel filed a motion for leave to amend plaintiff Adkins's claims, which was granted in part and denied in part on August 9, 2019.

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WHEREAS, on August 16, 2019, Interim Class Counsel filed an Amended Consolidated Class Action Complaint on behalf of Adkins and the putative class.

WHEREAS, on August 29, 2019, Interim Class Counsel filed a motion for class certification ("Class Certification Motion") pursuant to Federal Rule of Civil Procedure 23.

WHEREAS, on November 26, 2019, the Court granted in part and denied in part the Class Certification Motion, certifying only an injunctive class under Rule 23(b)(2). The Court also appointed John Yanchunis of Morgan & Morgan Complex Litigation Group, Ariana Tadler of Tadler Law LLP, and Andrew Friedman of Cohen Milstein Sellers & Toll, PLLC as class counsel ("Class Counsel").

WHEREAS, pursuant to the Court's Notice and Order Re Putative Class Actions and Factors to be Evaluated for Any Proposed Class Settlement ("Class Settlement Order"), counsel for the Parties did not discuss settlement prior to class certification, and only began engaging in settlement discussions after extensive discovery on the merits and the Court's order certifying the injunctive relief class under Rule 23(b)(2).

WHEREAS, on January 6, 2020, the Court granted the Parties' joint motion to limit the definition of the certified class and certified the class as follows: "All current Facebook users residing in the United States whose personal information was compromised in the data breach announced by Facebook on September 28, 2018" (the "Class").

WHEREAS, the Parties engaged in extensive fact and expert discovery over the course of the above-captioned litigation. Class Counsel have expended significant time investigating the facts relating to the Attack with the assistance of experts in cybersecurity and identity theft, analyzing the evidence adduced during pretrial discovery, researching the applicable law with respect to Plaintiff's claims against Facebook and the potential defenses thereto, including the motions described above, reviewing 139,000 pages of documents, taking fourteen (14) percipient witness and 30(b)(6) depositions, defending six named Plaintiff depositions, and defending four expert depositions.

WHEREAS, the Parties engaged in an arm's-length, in-person mediation session in San Francisco on January 8, 2020, facilitated by the Honorable Joseph C. Spero (the "Mediator").

WHEREAS, following the January 8, 2020 settlement conference, the Parties also engaged in additional communications in furtherance of settlement, including the negotiation and finalization of a proposed notice plan and settlement term sheet.

WHEREAS, Facebook denies any wrongdoing whatsoever, and this Agreement shall in no event be construed or deemed to be evidence of or an admission or concession on the part of Facebook with respect to any claim of any fault or liability or wrongdoing or damage whatsoever, any infirmity in the defenses that Facebook has asserted or would assert, or any requirements of Federal Rule of Civil Procedure 23 or Cal. Civ. P. Code § 382 or whether Plaintiff satisfies those requirements.

WHEREAS, based upon their substantial investigation and pretrial discovery as set forth above, Class Counsel have concluded that the terms and conditions of this Agreement are fair,

reasonable and adequate to Settlement Class Representative and Settlement Class Members (defined below) and are in their best interests, and have agreed to settle the claims that were asserted or could have been asserted in the above-captioned litigation pursuant to the terms and provisions of this Agreement after considering: (a) the substantial benefits that Settlement Class Members will receive from the Settlement; (b) the uncertain outcome and attendant risks of litigation; (c) the delays inherent in litigation; and (d) the desirability of permitting the settlement of this litigation to be consummated as provided by the terms of this Agreement.

WHEREAS, it is the intention of the Parties to resolve the disputes and claims which they have between them on the terms set forth below.

NOW, THEREFORE, in consideration of the promises, covenants, and agreements herein described and for other good and valuable consideration acknowledged by each of them to be satisfactory and adequate, and intending to be legally bound, the Parties do hereby mutually agree, as follows:

1. DEFINITIONS

As used in this Agreement, the following terms shall be defined as follows:

1.1   "Action" means the consolidated action captioned *Adkins, et al. v. Facebook, Inc.*, Case No. C 18-05982 WHA (JSC), pending in the United States District Court for the Northern District of California.

1.2   The Action is presided over by Judge William Alsup of the Northern District of California (hereinafter the "Court").

1.3   "Settlement Class Representative" means Stephen Adkins, an individual and Michigan resident, who brings the above-captioned class action on behalf of himself and the Class (hereinafter "Settlement Class Members").

1.4   "Facebook" is a company incorporated in Delaware, with its principal place of business in Menlo Park, California.

1.5   "Adkins" and "Facebook" are each individually referred to herein as a "Party." "Parties" means the Settlement Class Representative, on behalf himself and the Settlement Class, and Facebook.

1.6   "Class Counsel" and "Lead Settlement Class Counsel" mean John Yanchunis of Morgan & Morgan Complex Litigation Group, Ariana Tadler of Tadler Law LLP, and Andrew Friedman of Cohen Milstein Sellers & Toll PLLC.

1.7   The "Attack" refers to the cybersecurity attack on Facebook announced on September 28, 2018, that is the subject of the above-captioned lawsuit.

1.8   The "Vulnerability" refers to the vulnerability in the Facebook website that was used to perpetrate the Attack.

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1.9   "Administrative Expenses" means all of the expenses incurred by the Settlement Administrator in the administration of this Settlement, including, without limitation, all expenses or costs associated with the Notice Plan and providing Notice to the Settlement Class. Administrative Expenses also include all reasonable third-party fees and expenses incurred by the Settlement Administrator in administering the terms of this Agreement.

1.10   "Agreement" or "Settlement Agreement" means this Settlement Agreement, including all exhibits.

1.11   "Business Days" means Monday, Tuesday, Wednesday, Thursday, and Friday, excluding holidays observed by the federal government.

1.12   "Effective Date" means the date upon which the Settlement contemplated by this Agreement shall become effective as set forth in Section 9.1.

1.13   The term "Expert" has the same meaning as defined in Section 2.6 of the March 25, 2019 Protective Order filed in this matter.

1.14   "Final Approval Order and Judgment" means an order and judgment that the Court enters after the Final Approval Hearing, which finally approves the Settlement and dismisses the claims against Facebook with prejudice and without material change to the Parties' agreed-upon proposed final approval order and judgment attached hereto as Exhibit 5.

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

1.16   "Notice" means notice of the proposed class action settlement to be provided to Settlement Class Members pursuant to the Notice Plan approved by the Court in connection with preliminary approval of the Settlement, substantially in the forms attached hereto as Exhibits 4a and 4b.

1.17   "Notice Plan" means the settlement notice program developed by the Settlement Administrator substantially in the form attached hereto as Exhibit 3, as approved by the Court.

1.18   "Notice Date" means forty-five (45) days after the Preliminary Approval Order when notice is to be disseminated to the Class.

1.19   "Preliminary Approval Order" means an order by the Court that preliminarily approves the Settlement (including but not limited to the forms and procedure for providing Notice to the Settlement Class), permits Notice to the proposed Settlement Class, establishes a procedure for Settlement Class Members to object to the Settlement, and sets a date for the Final Approval Hearing, without material

change to the Parties' agreed-upon proposed preliminary approval order attached hereto as Exhibit 2.

1.20   "Released Claim" means any claim, liability, right, demand, suit, obligation, damage, including consequential damage, loss or cost, punitive damage, attorneys' fee and cost, action or cause of action, of every kind or description—whether known or Unknown (as the term "Unknown Claims" is defined herein), suspected or unsuspected, asserted or unasserted, liquidated or unliquidated, legal, statutory, or equitable—that is released pursuant to the mutual releases set forth in Section 8.

1.21   "Service Award" means the amount awarded and paid to the Settlement Class Representative in recognition of his role in this litigation, as set forth in Section 6.1.

1.22   "Settlement" means the settlement of the Action by and between the Parties, and the terms thereof as stated in this Settlement Agreement.

1.23   "Settlement Administrator" means Angeion Group. Class Counsel and Facebook may, by agreement, substitute a different Settlement Administrator, subject to Court approval.

1.24   "Settlement Class" or "Class" means those Persons certified as a class under Federal Rule of Civil Procedure 23(b)(2), from which exclusions shall not be permitted, consisting of all current Facebook users residing in the United States whose personal information was compromised in the Attack; provided, however, that the following are excluded from the Settlement Class: (i) Facebook's officers, directors, legal representatives, successors, subsidiaries, and assigns; and (ii) any judge, justice, or judicial officer presiding over this matter and the members of their immediate families and judicial staff.

1.25   "Settlement Website" means a website established by the Settlement Administrator to provide information about the Settlement. At a minimum, the following information shall be posted on the Settlement Website: (i) a copy of the redacted version of the Amended Consolidated Class Action Complaint publicly available through PACER; (ii) Plaintiff's Motion for Preliminary Approval of Class Action Settlement; (iii) Notice; and, (iv) after filing, Plaintiff's Motion for Attorneys' Fees, Expenses, the Service Award, and Plaintiff's Motion for Final Approval of the Settlement. The Settlement Website, in addition to being in English, will contain translations in Spanish.

1.26   "Unknown Claims" means any and all Released Claims that Facebook or Settlement Class Representative or Settlement Class Member does not know or suspect to exist in his, her, or its favor as of the Effective Date and which, if known by him, her, or it, might have materially affected his, her, or its decision(s) with respect to the Settlement. With respect to any and all Released Claims, the Parties stipulate and agree that upon the Effective Date, Facebook, Settlement Class Representative and Settlement Class Members shall have waived any and all provisions, rights, and benefits conferred by any law of any state of the United

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States, or principle of common law or otherwise, which is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

> **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

Settlement Class Representative and Class Counsel acknowledge, and each Settlement Class Member by operation of law shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Claims was separately bargained for and was a key element of the Settlement Agreement.

2.   SECURITY COMMITMENTS

2.1   Facebook shall certify, to a reasonable degree of certainty, that the Vulnerability exploited in the Attack has been eliminated, that it is no longer possible to generate access tokens in the manner that was done in the Attack, and that all access tokens generated through the Vulnerability have been invalidated.

2.2   Facebook shall adopt, implement, and/or maintain the security commitments designed to prevent similar attacks set forth in **Exhibit 1**, attached hereto, for a period of five years from the Effective Date.

2.3   Following the Effective Date, Facebook's compliance with the agreed-upon security commitments set forth in **Exhibit 1** shall be assessed annually by an unbiased, independent third-party vendor selected by Facebook, subject to agreement by Lead Settlement Counsel, which will not be unreasonably withheld. Facebook shall provide Lead Settlement Counsel with the results of the annual third-party assessments on a confidential basis within 30 days of completion of each assessment. Lead Settlement Counsel may share the results of the annual third-party assessment, on a confidential basis, with a third-party Expert of their choosing (subject to approval by Facebook, which will not be unreasonably withheld), at their own expense, to verify Facebook's compliance with the terms in this Section 2.3.

2.4   To the extent permitted by the Court, **Exhibit 1** shall be filed under seal because it contains sensitive information about Facebook's cybersecurity practices that could harm Facebook, current users, and Settlement Class Members if made public. The Parties agree to keep confidential any matters relating to the security commitments described in **Exhibit 1** to the extent it is filed under seal, and not to disclose such

matters to any other person or entity, pursuant to section 13.1 of the Parties' Settlement Agreement.

2.5   The Parties acknowledge that technical requirements for securing a large online service evolve and change dynamically. In the event that technological or industry developments, or intervening changes in law render any of the provisions set forth herein obsolete or make compliance by Facebook with any provision unreasonable or technically impractical, Facebook will provide notice to Class Counsel within ten (10) days and propose a modification thereof. If the Parties reach a mutual agreement that the elimination or modification of a provision is appropriate, they may jointly petition the Court to eliminate or modify such provision. If the Parties fail to reach an agreement, Facebook may petition the Court to eliminate or modify such provision. Under any circumstances, to the extent Class Counsel believe that Facebook is not complying with any of the provisions noted in this section, they will first meet and confer with Facebook under the Local Rules for the Northern District of California prior to seeking relief from the Court.

3.   PRELIMINARY APPROVAL

3.1   By February 7, 2020, Settlement Class Representative and Class Counsel will file a motion for preliminary approval of the Settlement and Notice Plan with the Court.

3.2   Class Counsel shall apply to the Court for entry of the [Proposed] Preliminary Approval Order attached hereto as **Exhibit 2**. The [Proposed] Preliminary Approval Order shall include approval of the form of notice to be provided to Settlement Class Members.

4.   CLASS NOTICE AND OBJECTIONS

4.1   Notice shall be disseminated pursuant to the Court's Preliminary Approval Order.

4.2   The Settlement Administrator is responsible for distributing and disseminating the Notice in accordance with the Notice Plan, attached hereto as **Exhibit 3**.

4.3   Facebook shall provide the Settlement Administrator with the names and last known email addresses provided by Settlement Class Members to Facebook, to the extent reasonably available, no later than ten (10) Business Days after the date on which the Court enters the Preliminary Approval Order. For any Settlement Class Member who has not provided Facebook with an email address, Facebook shall instead provide the Settlement Administrator with the names and last known phone number provided by such Settlement Class Member to Facebook, to the extent reasonably available, no later than ten (10) Business Days after the date on which the Court enters the Preliminary Approval Order. Facebook shall also cooperate with the Settlement Administrator to assist in verifying the identity of putative Settlement Class Members to whom emailed notice is not sent, but who respond to either publication notice and/or the Settlement Website.

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4.4   Class Counsel shall provide the Settlement Administrator with the names and last known email addresses of the Settlement Class Representative and any other putative Class Member who has reported updated identifying information to Class Counsel, no later than five (5) Business Days after the date on which the Court enters the Preliminary Approval Order.

4.5   Because this Settlement Agreement is reached under Fed. R. Civ. P. 23(b)(2) only, Settlement Class Members may not exclude themselves from the Settlement. Any Settlement Class Member may object to this Settlement Agreement by filing a valid objection pursuant to Section 4.6 of this Settlement Agreement.

4.6   The Notice shall explain the procedure for Settlement Class Members to object to the Settlement by submitting written objections to the Court, the Settlement Administrator, and Class Counsel no later than sixty (60) calendar days after the Notice Date. The written objection must include the objector's name, address, personal signature, a statement of grounds for the objection, a statement indicating the basis for the objector's belief that he or she is a Member of the Settlement Class (to the extent the objector did not receive Notice), a statement identifying the number of class action settlements objected to by the Settlement Class Member in the last three years, a statement whether the objector intends to appear at the Final Approval Hearing, either in person or through counsel, and if through counsel, identifying counsel by name, address, and telephone number. In addition to the foregoing, if the Settlement Class Member is represented by counsel and such counsel intends to speak at the Final Approval Hearing, the written objection must include a detailed statement of the specific legal and factual basis for each and every objection and a detailed description of any and all evidence the objecting Settlement Class Member may offer at the Final Approval Hearing, including copies of any and all exhibits that the objecting Settlement Class Member may introduce at the Final Approval Hearing. The Notice will also state that any Settlement Class Member who does not file a timely and adequate notice of intent in accordance with this Section waives the right to object or to be heard at the Final Approval Hearing.

4.7   Facebook will serve the notice required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, no later than ten (10) days after this Agreement is filed with the Court.

5.   DUTIES OF SETTLEMENT ADMINISTRATION

5.1   The Settlement Administrator shall perform the functions specified in this Agreement and **Exhibit 1**, which include:

(a)   Obtaining from Facebook, pursuant to Section 4.3, the names and last known email addresses, to the extent reasonably available, of Settlement Class Members for the purpose of sending email Notice to Settlement Class Members;

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(b)   For Settlement Class Members for whom Facebook does not have reasonably available email addresses, obtaining from Facebook, pursuant to Section 4.3, the names and last known phone numbers, to the extent reasonably available, of such Settlement Class Members for the purpose of sending Notice to Settlement Class Members;

(c)   Obtaining updated email addresses for Settlement Class Members via reverse phone look-ups, as needed;

(d)   To the extent any individuals to whom email notice is not sent respond to either publication notice and/or the Settlement Website, obtaining information from Facebook, pursuant to Section 4.3, to the extent reasonably available, necessary to establish a reasonably practical procedure to verify the identities of such putative Settlement Class Members;

(e)   Effectuating the Notice Plan in accordance with the procedures set forth in Section 4, including the operation of social media campaigns and internet banner advertisements;

(f)   Establishing and maintaining a post office box for mailed written objections to the Settlement;

(g)   Establishing and maintaining the Settlement Website;

(h)   Establishing and maintaining a toll-free telephone line for Settlement Class Members to call with Settlement-related inquiries, and answering the questions of Settlement Class Members who call with or otherwise communicate such inquiries;

(i)   Responding to any mailed or emailed Settlement Class Member inquiries;

(j)   Mailing to Settlement Class Members who request paper copies of the Notice Form;

(k)   Providing weekly reports and, no later than ten (10) days after the deadline for Settlement Class Members to object to the Settlement, provide a final report to Class Counsel and Facebook's counsel that summarizes the number of inquiries from the Class and that status of the implementation of the Notice Plan, and other pertinent information as requested by Class Counsel and Facebook's counsel;

(l)   In advance of the Final Approval Hearing, preparing affidavits to submit to the Court that attest to implementation of the Notice Plan in accordance with the Preliminary Approval Order;

(m)   Performing any function related to Settlement administration at the agreed-upon instruction of both Class Counsel and Facebook's counsel.

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5.2   The Administrative Expenses incurred by the Settlement Administrator shall be paid by Facebook.

6.   SERVICE AWARD

6.1   The Parties agree that Settlement Class Representative and Class Counsel may seek a Service Award to the Settlement Class Representative not to exceed $5,000. Any requests for such an award must be filed at least 20 days before the deadline for filing objections to the Settlement.

6.2   Facebook shall pay the Service Award approved by the Court to the Settlement Class Representative. The Service Award shall be paid in the amount approved by the Court within thirty (30) Business Days of the later of the Effective Date or the date on which the Settlement Class Representative and/or Class Counsel has provided Facebook with all information and documentation reasonably necessary for Facebook to process the payment, including but not limited to wire or other payment instructions, tax identification number, and a completed Form W-9.

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

7.   ATTORNEYS' FEES, COSTS, AND EXPENSES

7.1   Facebook agrees that Class Counsel is entitled to an award of reasonable attorneys' fees, costs, and expenses.

7.2   The Parties agree that Class Counsel may file a motion for an award of attorneys' fees, costs, and expenses, which Facebook may oppose. Nothing in this section shall restrict or otherwise limit Facebook's ability to object to the reasonableness of those attorneys' fees, costs, and expenses.

7.3   The motion for attorneys' fees, costs, and expenses must be filed at least 20 days before the deadline for filing objections to the Settlement.

7.4   Facebook shall pay the attorneys' fees, costs, and expenses awarded by the Court to Class Counsel. Such attorneys' fees, costs, and expenses shall be paid in the amount approved by the Court within thirty (30) Business Days of the later of: (a) the date the Court enters its order awarding such attorneys' fees, costs, and expenses; or (b) the date on which Class Counsel has provided Facebook with all information and documentation reasonably necessary for Facebook to process the payment, including but not limited to wire or other payment instructions, tax identification number(s), and completed Form(s) W-9.

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7.5   In the event the Court's Final Order approving attorneys' fees, costs, and expenses is reversed, vacated, or modified on motion for reconsideration, or on appeal such that the amount of attorneys' fees, costs, and expenses are reduced or the Settlement is not approved as set forth in this Agreement, Class Counsel shall be liable to refund the excess award previously paid within ten (10) Business Days of the event that results in reduction of the award.

7.6   Facebook shall have no responsibility for, interest in, or liability whatsoever with respect to any allocation among Class Counsel of attorneys' fees, costs, and expenses awarded by the Court.

7.7   The finality or effectiveness of the Settlement will not be dependent on the Court awarding Class Counsel any particular amount of attorneys' fees, costs, and expenses. In the event the Court declines to approve, in whole or in part, the payment of the attorneys' fees, costs, and expenses in the amounts requested, the remaining provisions of this Agreement shall remain in full force and effect. No decision by the Court, or modification or reversal or appeal of any decision by the Court, concerning the amount of attorneys' fees, costs, and expenses shall constitute grounds for cancellation or termination of this Agreement.

8.   MUTUAL RELEASES

8.1   Pursuant to Section 4 of the Court's Class Settlement Order, the Parties agree that because this Settlement concerns only injunctive relief under Fed. R. Civ. P. 23(b)(2), and does not affect or otherwise impair an individual from pursuing monetary damages (except as provided in Section 8.3), the releases in this Settlement shall extinguish injunctive claims for all Settlement Class Members.

8.2   As of the Effective Date, the Settlement Class Representative and all Settlement Class Members, on behalf of themselves, their heirs, assigns, executors, administrators, predecessors, and successors, and any other person purporting to claim on their behalf, release and discharge all claims for injunctive and declaratory relief, including Unknown Claims, against Facebook (and its respective agents, directors, officers, attorneys and employees acting on its behalf) and agree to refrain from instituting, directing or maintaining any contested matter, adversary proceeding, or miscellaneous proceeding, or participating in any contested matter, miscellaneous proceeding, or adversary proceeding by a third party against Facebook that relates in any way to the claims for injunctive or declaratory relief made in the above-captioned matter.

8.3   As of the Effective Date, Adkins, on behalf of himself, his heirs, assigns, executors, administrators, predecessors, and successors, and any other person purporting to claim on his behalf, additionally releases all claims for monetary damages, including Unknown Claims, against Facebook (and its respective agents, directors, officers, attorneys and employees acting on its behalf) and agrees to refrain from instituting, directing or maintaining any contested matter, adversary proceeding, or miscellaneous proceeding, or participating in any contested matter, miscellaneous

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proceeding, or adversary proceeding by a third party against Facebook that relates in any way to the allegations made in the above-captioned matter.

8.4 As of the Effective Date, Facebook, as well as its respective agents, directors, officers, attorneys, and employees, affiliates, parents, subsidiaries, divisions, successors, assigns, releases all claims for any damages or other relief, including Unknown Claims, against the Settlement Class Representative, his counsel, Lead Settlement Counsel and their heirs, assigns, executors, administrators, predecessors, successors, and any other person purporting to claim on their behalf, and agrees to refrain from instituting, directing, or maintaining any contest matter, adversary proceeding, or miscellaneous proceeding, or participating in any contested matter, miscellaneous proceeding, or adversary proceeding by a third party against the Settlement Class Representative, his counsel, Lead Settlement Counsel and their heirs, assigns, executors, administrators, predecessors, successors, and any other person purporting to claim on their behalf.

8.5 The Parties understand that if the facts upon which this Agreement is based are found hereafter to be different from the facts now believed to be true, each Party expressly assumes that risk of such possible difference in facts, and agrees that this Agreement shall remain effective notwithstanding such difference in facts. The Parties agree that in entering this Agreement, it is understood and agreed that each Party relies wholly upon its own judgment, belief, and knowledge and that each Party does not rely on inducements, promises or representations made by anyone other than those embodied herein.

8.6 Notwithstanding any other provision of this Agreement (including, without limitation, this Section), nothing in this Agreement shall be deemed to in any way impair, limit, or preclude the Parties' rights to enforce any provision of this Agreement, or any court order implementing this Agreement, in a manner consistent with the terms of this Agreement.

9. EFFECTIVE DATE AND TERMINATION

9.1 The Effective Date of the Settlement shall be the first Business Day after all of the following conditions have occurred:

(a) Facebook and Class Counsel execute this Agreement;

(b) The Court enters the Preliminary Approval Order, without material change to the Parties' agreed-upon proposed preliminary approval order attached hereto as **Exhibit 2**;

(c) Notice is provided to the Settlement Class consistent with the Preliminary Approval Order;

(d) The Court enters the Final Approval Order and Judgment, without material change to the Parties' agreed-upon proposed final approval order and judgment attached hereto as **Exhibit 5**; and

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(e)   The Final Approval Order and Judgment has become final because: (i) the time for appeal, petition, rehearing or other review has expired; or (ii) if any appeal, petition, request for rehearing or other review has been filed, the Final Approval Order and Judgment is affirmed without material change or the appeal is dismissed or otherwise disposed of, no other appeal, petition, rehearing or other review is pending, and the time for further appeals, petitions, requests for rehearing or other review has expired.

9.2   In the event that the Court declines to enter the Preliminary Approval Order as specified in Section 1.19, declines to enter the Final Approval Order and Judgment as specified in Section 1.14, or the Final Approval Order and Judgment does not become final as specified in Section 1.14 , Facebook may at its sole discretion terminate this Agreement on five (5) Business Days written notice from counsel for Facebook to Class Counsel. For avoidance of doubt, Facebook may not terminate this Agreement while an appeal from an order granting final approval is pending.

9.3   In the event the terms or conditions of this Settlement Agreement are materially modified by any court, any Party in its sole discretion to be exercised within fourteen (14) days after such modification may declare this Settlement Agreement null and void. For purposes of this Section 9.3, modifications include any modifications to the definitions of the Settlement Class, or Released Claims, any modifications to the terms of the Settlement consideration described in Section 2 and/or Exhibit 1, and/or any requirement of notice to the Settlement Class. In the event of a material modification by any court, and in the event the Parties do not exercise their unilateral options to withdraw from this Settlement Agreement pursuant to this Section 9.3, the Parties shall meet and confer within seven (7) days of such ruling to attempt to reach an agreement as to how best to effectuate the court-ordered modification.

9.4   Except as otherwise provided herein, in the event the Settlement is terminated, the Parties to this Agreement, including Settlement Class Members, shall be deemed to have reverted to their respective status in the Action immediately prior to the execution of this Agreement, and, except as otherwise expressly provided, the Parties shall proceed in all respects as if this Agreement and any related orders had not been entered. In addition, the Parties agree that in the event the Settlement is terminated, any orders entered pursuant to the Agreement shall be deemed null and void and vacated and shall not be used in or cited by any person or entity in support of claims or defenses.

10.   NO ADMISSION OF WRONGDOING OR LIABILITY

10.1   This Agreement, whether or not consummated, any communications and negotiations relating to this Agreement or the Settlement, and any proceedings taken pursuant to the Agreement:

(a)   shall not be offered or received against Facebook as evidence of or construed as or deemed to be evidence of any presumption, concession, or

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admission by Facebook with respect to the truth of any fact alleged by any Plaintiff or the validity of any claim that has been or could have been asserted in the Action or in any litigation, or the deficiency of any defense that has been or could have been asserted in the Action or in any litigation, or of any liability, negligence, fault, breach of duty, or wrongdoing of Facebook;

(b)   shall not be offered or received against Facebook as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document approved or made by Facebook;

(c)   shall not be offered or received against Facebook as evidence of a presumption, concession or admission with respect to any liability, negligence, fault, breach of duty, or wrongdoing, or in any way referred to for any other reason as against Facebook, in any other civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Agreement; provided, however, that if this Agreement is approved by the Court, the Parties may refer to it to effectuate the liability protection granted them hereunder;

(d)   shall not be construed against Facebook as an admission or concession that the consideration to be given hereunder represents the relief that could be or would have been awarded after trial; and

(e)   shall not be construed as or received in evidence as an admission, concession or presumption against the Settlement Class Representative or any Settlement Class Member that any of their claims are without merit, or that any defenses asserted by Facebook have any merit.

11.   REPRESENTATIONS

11.1   Each Party represents that: (i) such Party has full legal right, power and authority to enter into and perform this Agreement, subject to Court approval; (ii) the execution and delivery of this Agreement by such Party and the consummation by such Party of the transactions contemplated by this Agreement have been duly authorized by such Party; (iii) this Agreement constitutes a valid, binding and enforceable agreement; and (iv) no consent or approval of any person or entity is necessary for such Party to enter into this Agreement.

12.   NOTICE

12.1   All notices to Class Counsel provided for in this Agreement shall be sent by email and First Class mail to the following:

> John A. Yanchunis
> MORGAN & MORGAN
> COMPLEX LITIGATION GROUP

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201 N. Franklin Street, 7th Floor
Tampa, Florida 33602
jyanchunis@ForThePeople.com

Ariana J. Tadler
TADLER LAW LLP
One Penn Plaza
New York, NY 10119
atadler@tadlerlaw.com

Andrew N. Friedman
COHEN MILSTEIN SELLERS & TOLL PLLC
1100 New York Avenue NW, Suite 500
Washington, D.C. 20005
afriedman@cohenmilstein.com

12.2   All notices to Facebook or counsel to Facebook provided for in this Agreement shall be sent by email and First Class mail to the following:

Andrew B. Clubok
Andrew.clubok@lw.com
Susan E. Engel
Susan.engel@lw.com
LATHAM & WATKINS LLP
555 Eleventh Street NW, Suite 1000
Washington, D.C. 20004

Elizabeth L. Deeley
Elizabeth.deeley@lw.com
Michael H. Rubin
Michael.rubin@lw.com
Melanie M. Blunschi
Melanie.blunschi@lw.com
LATHAM & WATKINS LLP
505 Montgomery Street, Suite 2000
San Francisco, CA 94111

Serrin Turner
Serrin.turner@lw.com
LATHAM & WATKINS LLP
885 Third Avenue
New York, NY 10022

12.3   All notices to the Settlement Administrator provided for in this Agreement shall be sent by email and First Class mail to the following:

Angeion Group

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1650 Arch Street, #2210
Philadelphia, PA 19103

12.4   The notice recipients and addresses designated in this Section may be changed by written notice.

13.   CONFIDENTIALITY

13.1   <u>Confidentiality</u>. The Parties agree to keep confidential any matters relating to the discussions leading to the Parties' Settlement Agreement, and not to disclose such matters to any other person or entity, except Experts subject to the confidentiality order in this matter, or as may be required in order to obtain approval for the Settlement Agreement or to comply with an order of a court of competent jurisdiction, or any direction from a regulatory agency.

13.2   <u>Limitations on Use</u>. Each Party agrees that all information and materials received from the other Party in the course of this matter—including all document productions, discovery responses, testimony, and expert reports—may only be used for prosecuting, defending, attempting to settle, and/or settling this litigation and shall be destroyed in accordance with Section 15 of the Stipulated Protective Order in this matter, as ordered.

14.   MISCELLANEOUS PROVISIONS

14.1   <u>Further Steps and Best Efforts</u>. The Parties agree to cooperate in good faith and use their best efforts to effectuate all their respective obligations under the Agreement and to undertake any required steps to effectuate the purposes and intent of this Agreement, including obtaining preliminary and final settlement approval, and all steps that may be necessary in order to reach the Effective Date, and to do so as quickly and efficiently as practicable.

14.2   <u>Representation by Counsel</u>. The Settlement Class Representative and Facebook represent and warrant that they have been represented by, and have consulted with, the counsel of their choice regarding the provisions, obligations, rights, risks, and legal effects of this Agreement and have been given the opportunity to review independently this Agreement with such legal counsel and agree to the particular language of the provisions herein.

14.3   <u>Contractual Agreement</u>. The Parties understand and agree that all terms of this Agreement, including the Exhibits thereto, are contractual and are not a mere recital, and each signatory warrants that he, she, or it is competent and possesses the full and complete authority to execute and covenant to this Agreement on behalf of the Party that they or it represents.

14.4   <u>Integration</u>. This Agreement constitutes the entire agreement among the Parties and no representations, warranties or inducements have been made to any Party concerning this Agreement other than the representations, warranties and covenants contained and memorialized herein.

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14.5   Communications with Settlement Class Members. Facebook reserves the right to continue any and all ordinary-course-of-business communications with Settlement Class Members.   Should it become evident in the course of any such communication with Facebook that a Settlement Class Member is inquiring regarding the settlement memorialized in this Agreement, Facebook shall refer the inquiry to Class Counsel.

14.6   Authorization to Enter Agreement. The Parties warrant and represent that they are authorized to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement, to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Settlement Class Representative further warrants and represents that he has not designated, hypothecated, transferred, or otherwise granted any interest in the Released Claims to any other person or entity. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of the Settlement embodied in this Agreement, the Parties shall mediate the disagreement before Judge Joseph C. Spero. The Parties shall not seek the Court's intervention until they have exhausted the mediation process.

14.7   No Additional Persons with Financial Interest. Facebook shall not be liable for any additional attorneys' fees and expenses of any Settlement Class Members' counsel, including any potential objectors or counsel representing a Settlement Class Member, other than what is expressly provided for in this Agreement.

14.8   Drafting. The Parties agree that no single Party shall be deemed to have drafted this Agreement, or any portion thereof, for purpose of the invocation of the doctrine of *contra proferentum*. This Settlement Agreement is a collaborative effort of the Parties and their attorneys that was negotiated on an arm's-length basis between parties of equal bargaining power. Accordingly, this Agreement shall be neutral, and no ambiguity shall be construed in favor of or against any of the Parties. The Parties expressly waive the presumption of California Civil Code section 1654 that uncertainties in a contract are interpreted against the party who caused the uncertainty to exist.

14.9   Waiver of Objections by Settlement Class Representative. The Settlement Class Representative agrees not to object to any of the terms of this Agreement.

14.10   Modification or Amendment. This Agreement may not be modified or amended, nor may any of its provisions be waived, except by a writing signed by the Persons who executed this Agreement or their successors-in-interest.

14.11   Waiver. The failure of a Party hereto to insist upon strict performance of any provision of this Agreement shall not be deemed a waiver of such Party's rights or remedies or a waiver by such Party of any default by another Party in the

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performance or compliance of any of the terms of this Agreement. In addition, the waiver by one Party of any breach of this Agreement by any other Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

14.12   Severability. Should any part, term or provision of this Agreement be declared or determined by any court or tribunal to be illegal or invalid, the Parties agree that the Court may modify such provision to the extent necessary to make it valid, legal and enforceable. In any event, such provision shall be separable and shall not limit or affect the validity, legality or enforceability of any other provision hereunder.

14.13   Successors. This Settlement Agreement shall be binding upon and inure to the benefit of the heirs, successors and assigns of the Parties thereto.

14.14   Survival. The Parties agree that the terms set forth in this Agreement shall survive the signing of this Agreement.

14.15   Governing Law. All terms and conditions of this Agreement shall be governed by and interpreted according to the laws of the State of California, without reference to its conflict of law provisions, except to the extent the federal law of the United States requires that federal law governs.

14.16   Interpretation.

   (a)   Definitions apply to the singular and plural forms of each term defined.

   (b)   Definitions apply to the masculine, feminine, and neuter genders of each term defined.

   (c)   Whenever the words "include," "includes" or "including" are used in this Agreement, they shall not be limiting but rather shall be deemed to be followed by the words "without limitation."

14.17   No Precedential Value. The Parties agree and acknowledge that this Agreement carries no precedential value.

14.18   Fair & Reasonable. The Parties and their counsel believe this Agreement is a fair and reasonable compromise of the disputed claims, in the best interest of the Parties, and have arrived at this Agreement as a result of arm's-length negotiations.

14.19   Retention of Jurisdiction. The administration and consummation of the Settlement as embodied in this Agreement shall be under the authority of the Court, and the Court shall retain jurisdiction over the Settlement and the Parties for the purpose of enforcing the terms of this Agreement.

14.20   Headings. Any headings contained herein are for informational purposes only and do not constitute a substantive part of this Agreement. In the event of a dispute concerning the terms and conditions of this Agreement, the headings shall be disregarded.

14.21 <u>Exhibits</u>. The Exhibits to this Agreement are expressly incorporated by reference and made part of the terms and conditions set forth herein.

14.22 <u>Counterparts</u>. This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the Parties to this Agreement shall exchange among themselves original signed counterparts.

14.23 <u>Facsimile and Electronic Mail</u>. Transmission of a signed Agreement by facsimile or electronic mail shall constitute receipt of an original signed Agreement by mail.

14.24 <u>No Assignment</u>. Each Party represents and warrants that such Party has not assigned or otherwise transferred (via subrogation or otherwise) any right, title or interest in or to any of the Released Claims.

14.25 <u>Non-Disparagement</u>. Settlement Class Representative, Facebook, and the Parties' respective counsel may issue press releases in connection with filings in this matter. Settlement Class Representative, Facebook, and the Parties' respective counsel agree not to make any statements, written or verbal, or to cause or encourage any other Person to make any statements, written or oral, that defame, disparage or in any way criticize the personal or business reputation, practices, or conduct of the Parties and their respective counsel concerning all Released Claims, as well as the litigation of this Action, the Settlement, this Agreement, and any discussions, interactions, or negotiations of the Settlement by the Parties and their counsel.

14.26 <u>Compliance with Ethical Obligations</u>. Settlement Class Representative, Class Counsel, Facebook, and Facebook's counsel agree that, throughout the course of the Action, each of them complied with the provisions of Rule 11 of the Federal Rules of Civil Procedure.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their duly authorized counsel:

LEAD SETTLEMENT CLASS COUNSEL ON BEHALF OF THE SETTLEMENT CLASS

   /s/Andrew N. Friedman
John A. Yanchunis (Pro Hac Vice)
MORGAN & MORGAN COMPLEX
LITIGATION GROUP
jyanchunis@ForThePeople.com
201 N. Franklin Street, 7th Floor
Tampa, Florida 33602
Telephone: +1.813.223.5505
Facsimile: +1.813.223.5402

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Washington, DC 20005
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DEFENSE COUNSEL, ON BEHALF OF FACEBOOK, INC.

/s/ Andrew B. Clubok_____
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LATHAM & WATKINS LLP
andrew.clubok@lw.com
Susan E. Engel (appearance *pro hac vice*)
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T: +1.212.906.1200/F: +1.212.751.4864

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COUNSEL FOR FACEBOOK, INC.

/s/ Ian Chen
Ian Chen

Exhibit A-1
Filed Under Seal

Exhibit A-2

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UNITED STATES DISTRICT COURT FOR THE

4

NORTHERN DISTRICT OF CALIFORNIA

5

SAN FRANCISCO DIVISION

6

7   STEPHEN ADKINS, an individual and   No. C 18-05982 WHA (JSC)
     Michigan resident, on behalf of himself and all
8   others similarly situated,

9   Plaintiff,   **[PROPOSED] ORDER GRANTING
                                                    PLAINTIFF'S MOTION FOR
                                                    PRELIMINARY APPROVAL OF CLASS
10   v.   ACTION SETTLEMENT**

11   FACEBOOK, INC.,

12   Defendant.

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2634251 v1

1   This matter is before the Court on Plaintiff's Motion for Preliminary Approval of the Class

2 Action Settlement ("Motion"). Plaintiff, individually and on behalf of the class certified by the Court

3 on November 26, 2019, ECF No. 260, has entered into a Settlement Agreement and Release

4 ("Settlement Agreement") with Defendant Facebook, Inc. ("Facebook"), dated February 7, 2020.

5 Capitalized terms herein shall have the same meaning ascribed to them in the Settlement Agreement.

6   The Court, having reviewed the Motion, its accompanying memorandum, the Settlement

7 Agreement and exhibits thereto, and the file, hereby finds that the Motion should be **GRANTED**.

8 **NOW, THEREFORE, THE COURT FINDS AND ORDERS**:

9   **PRELIMINARY APPROVAL OF THE SETTLEMENT**

10   1.   The Settlement Agreement is hereby preliminarily approved, including the releases

11 contained therein, as being fair, reasonable, and adequate pursuant to Rule 23 of the Federal Rules of

12 Civil Procedure, subject to final Court approval following the Final Approval Hearing described

13 below. The Court finds that the Settlement Agreement was entered into at arm's length by

14 experienced counsel, including through an in-person mediation supervised by the Honorable Joseph

15 C. Spero, and is sufficiently within the range of reasonableness that notice of the Settlement

16 Agreement should be given to the members of the class as provided in this Order.

17   **CERTIFICATION OF THE SETTLEMENT CLASS**

18   2.   On November 26, 2019, the Court granted in part and denied in part Plaintiff's Motion

19 for Class Certification, certifying a class for injunctive purposes but denying certification of any class

20 for money damages. ECF No. 260, at 15. The parties subsequently filed a joint motion to modify the

21 certified class from a worldwide class to a nationwide class, which the Court approved. ECF No.

22 271. The Settlement Agreement applies to the same class certified by the Court. Accordingly, for all

23 the same reasons that supported certification of the litigation class, the Court finds the Rule 23(b)(2)

24 requirements met and hereby certifies the following class for settlement purposes (the "Settlement

25 Class"):

26   All current Facebook users residing in the United States whose personal
      information was compromised in the data breach announced by Facebook on
27   September 28, 2018; provided, however, that the following are excluded from
      the Settlement Class: (i) Facebook's officers, directors, legal representatives,
28   successors, subsidiaries, and assigns; and (ii) any judge, justice, or judicial

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1   officer presiding over this matter and the members of their immediate families
     and judicial staff.

2   Because the Settlement Class is certified under Rule 23(b)(2) only, Settlement Class Members may

3   not exclude themselves from the Settlement.

4   3.   The Court hereby appoints Stephen Adkins, who currently serves as the Court-

5   appointed class representative for the litigation class, as the Settlement Class Representative.

6   4.   The Court hereby appoints Andrew Friedman of Cohen Milstein Sellers & Toll PLLC,

7   John Yanchunis of Morgan & Morgan Complex Litigation Group, and Ariana J. Tadler of Tadler

8   Law LLP, who currently serve as Court-appointed class counsel for the litigation class, as counsel for

9   the Settlement Class ("Settlement Class Counsel"), having determined that the requirements of Rule

10   23(g) of the Federal Rules of Civil Procedure are fully satisfied by this appointment.

11   **NOTICE TO CLASS MEMBERS**

12   5.   The Court approves the form, substance and requirements of the (a) Long Form Notice

13   and (b) Short Form Notice, which are set forth as Exhibits A-4a and A-4b to the Settlement

14   Agreement.

15   6.   The Notice Plan set forth as Exhibit A-3 to the Settlement Agreement is preliminarily

16   approved.

17   7.   Settlement Class Counsel has the authority to enter into the Settlement Agreement on

18   behalf of the Settlement Class and is authorized to act on behalf of the Settlement Class with respect

19   to all acts or consents required by or that may be given pursuant to the Settlement Agreement or such

20   other acts that are reasonably necessary to consummate the Settlement Agreement.

21   8.   The Court approves Angeion Group as the Settlement Administrator.

22   9.   In accordance with the above, the Court adopts the following schedule:

23   a.   Within 10 business days of entry of this Order, Facebook and Class Counsel

24   shall provide the Settlement Administrator with certain contact information for

25   the Settlement Class Members, as set forth in the Settlement Agreement at

26   Section 4.

27   b.   Within 45 days of entry of this Order, Notice in the form of Exhibits 4a and 4b

28   to the Settlement Agreement shall be disseminated by the Settlement

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[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT
No. C18-05982 WHA (JSC)

2634251 v1

1   Administrator ("Notice Date").

2   c.   The deadline for any request by Settlement Class Counsel for attorneys' fees,

3   costs and expenses or by Settlement Class Representative for a Service Award,

4   shall be no more than 40 days after the Notice Date. The hearing on any such

5   motion shall be concurrent with the Final Approval Hearing.

6   d.   Each Settlement Class Member shall be given a full opportunity to object to the

7   proposed Settlement and any request by Settlement Class Counsel for an award

8   of attorneys' fees, costs and expenses or for a Service Award to Settlement

9   Class Representative, and to participate at the Final Approval Hearing. The

10   deadline to object to the Settlement shall be 60 calendar days after the Notice

11   Date.

12   e.   To be valid, the written objection must contain the following:

13   i.   The objector's full name, mailing address and email address or telephone

14   number;

15   ii.   A detailed explanation of why the objector believes he or she is a Settlement

16   Class Member (to the extent the objector did not receive Notice);

17   iii.   A detailed explanation of the specific legal and factual basis for each and

18   every objection (in other words, all reasons for the objector's objection or

19   comment);

20   iv.   A statement identifying the number of class action settlements to which the

21   objector has objected in the last three years;

22   v.   A statement whether the objector intends to appear and/or testify at the Final

23   Approval Hearing, either in person or through counsel;

24   vi.   A statement whether the objector intends to offer any evidence at the Final

25   Approval Hearing, including a detailed description of that evidence, and

26   providing copies of that evidence to the Court, Class Counsel, and Facebook;

27   vii.   The name and contact information of any and all attorneys representing,

28   advising, or assisting the objector, including any counsel who may be entitled

3

[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT
No. C18-05982 WHA (JSC)

2634251 v1

1   to compensation for any reason related to the objector's objection or

2   comment;

3   viii.   Whether any attorney will appear on the objector's behalf at the Final

4   Approval Hearing, and if so the identity of that attorney, including the name,

5   physical address, email address, and telephone number of that attorney;

6   ix.   The identity of any persons who wish to be called to testify at the Final

7   Approval Hearing; and

8   x.   Your handwritten or electronically-imaged written (e.g., DocuSign) signature.

9   An attorney's signature, or a typed signature, is not sufficient.

10   f.   At least 15 days before the Final Approval Hearing, the Settlement

11   Administrator shall provide a final report to counsel concerning the number of

12   inquiries from the Settlement Class and the status of the Notice Plan, as set

13   forth in the Settlement Agreement.

14   g.   Plaintiff shall file a Motion for Final Approval no later than 40 days after the

15   Notice Date.

16   h.   Any replies in support of final approval and fees must be filed no later than 20

17   days after the Objection Deadline.

18   i.   The Final Approval Hearing shall be held on [●] at [●] in Courtroom 12 of

19   the above-referenced Court.

20   10.   Pending the Final Approval Hearing, all proceedings in this action other than those

21   necessary to carry out and enforce the terms and conditions of the Settlement Agreement and this

22   Order, are stayed. Additionally, the Court enjoins all Settlement Class Members from asserting or

23   maintaining any claims to be released by the Settlement Agreement until the date of the Final

24   Approval Hearing.

25   **IT IS SO ORDERED.**

26   Dated: _____   _____

27   William Alsup
                                 United States District Judge

28

4

[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT
No. C18-05982 WHA (JSC)

2634251 v1

Exhibit A-3

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

STEPHEN ADKINS, an individual and Michigan resident, on behalf of himself and all others similarly situated, 　　　　　　　Plaintiff, v. FACEBOOK, INC., 　　　　　　　Defendant.	Case No: 3:18-cv-05982 WHA **DECLARATION OF STEVEN WEISBROT RE: NOTICE PROGRAM**

I, Steven Weisbrot, Esq., declare under penalty of perjury as follows:

1.　　I am a partner at the class action notice and settlement administration firm Angeion Group, LLC ("Angeion"). I am fully familiar with the facts contained herein based upon my personal knowledge.

2.　　I have been responsible in whole or in part for the design and implementation of hundreds of court-approved notice and administration programs including some of the largest and most complex notice plans in recent history. I have taught numerous accredited Continuing Legal Education courses on the Ethics of Legal Notification in Class Action Settlements, using Digital Media in Due Process Notice Programs, as well as Claims Administration, generally. I am the author of multiple articles on Class Action Notice, Claims Administration, and Notice Design in publications such as Bloomberg, BNA Class Action Litigation Report, Law360, the ABA Class Action and Derivative Section Newsletter, and I am a frequent speaker on notice issues at conferences throughout the United States and internationally.

3.　　I was certified as a professional in digital media sales by the Interactive Advertising Bureau ("IAB") and I am co-author of the Digital Media section of Duke Law's *Guidelines and Best Practices—Implementing 2018 Amendments to Rule 23*.

4.　　I have given public comment and written testimony to the Judicial Conference Committee on Rules of Practice and Procedure on the role of direct mail, email, broadcast media, digital

media and print publication, in effecting Due Process notice, and I have met with representatives of the Federal Judicial Center to discuss the 2018 amendments to Rule 23 and suggest an educational curriculum for the judiciary concerning notice procedures.

5.   Prior to joining Angeion's executive team, I was employed as Director of Class Action services at Kurtzman Carson Consultants, an experienced notice and settlement administrator. Prior to my notice and claims administration experience, I was employed in private law practice.

6.   My notice work comprises a wide range of settlements that include product defect, data breach, mass disasters, false advertising, employment, antitrust, tobacco, banking, firearm, insurance, and bankruptcy cases.

7.   Courts have repeatedly recognized my work in the design of class action notice programs. For example, on February 24, 2017, The Honorable Ronald B. Rubin in *James Roy et al. v. Titeflex Corporation et al.*, No. 384003V (Md. Cir. Ct.), noted when granting preliminary approval to the settlement for a class certified under Rule 23(b)(3):

> What is impressive to me about this settlement is in addition to all the usual recitation of road racing litanies is that there is going to be a) public notice of a real nature and b) about a matter concerning not just money but public safety and then folks will have the knowledge to decide for themselves whether to take steps to protect themselves or not. And that's probably the best thing a government can do is to arm their citizens with knowledge and then the citizens can make a decision. To me that is a key piece of this deal. ***I think the notice provisions are exquisite.*** (Emphasis added).

A comprehensive summary of judicial recognition Angeion has received is attached hereto as **Exhibit 1**.

8.   By way of background, Angeion is an experienced class action notice and claims administration company formed by a team of executives that have had extensive tenures at five other nationally recognized claims administration companies. Collectively, the management team at Angeion has overseen more than 2,000 class action settlements and distributed over $12 billion to class members. The executive profiles as well as the company overview are available at http://www.angeiongroup.com/our_team.htm.

9.   This declaration will describe the notice program that we will implement in this matter,

including the considerations that informed the development of the plan.

SUMMARY OF THE NOTICE PROGRAM

10.   Because this class was certified pursuant to Fed. R. Civ. P. 23(b)(2) for injunctive relief only, notice is not required; instead, it is within the Court's discretion. The Notice Program outlined below fully comports with the Court's January 6, 2020, Order Granting Joint Motion to Modify Certified Class and Class Notice (EFC No. 721) and exceeds any requirement for notice under due process, Fed. R. Civ. P. 23, and the Northern District's Procedural Guidance for Class Action Settlements. Here, the proposed Notice Program provides individual notice to all potential Settlement Class Members who can be identified in the Defendant's records, combines a robust media campaign consisting of state-of-the-art targeted internet banner notice, print publication notice, and an advanced custom social media campaign. The Notice Program also includes a dedicated website and toll-free telephone line where Settlement Class Members can learn more about their rights in the litigation. In short, the Notice Program is the best notice that is practicable under the circumstances and exceeds many notice campaigns routinely approved in similar settlements.

EMAIL NOTICE

11.   The direct notice effort in this matter will consist of sending individual email notice to all potential Settlement Class Members who have provided email addresses or phone numbers to Defendant.

12.   Angeion has been advised that the Defendant will provide approximately 3,600,000 records with email addresses and approximately 400,000 records with phone numbers only. For the 400,000 records with phone numbers only, Angeion will cause a reverse lookup ("append") to be performed to attempt to locate email addresses for those records.

13.   The append search utilizes data garnered from available first-party and third-party data providers to match the mobile telephone numbers and other available data points as a validity check to identify email addresses associated with those mobile numbers provided by the

Defendant. Angeion will update the Class List with Class Member email addresses obtained via the append process.

14.   As an initial matter, Angeion designs the email notice to avoid many common "red flags" that might otherwise cause a potential Settlement Class Members' spam filter to block or identify the email notice as spam. For instance, Angeion does not include the Long Form Notice as an attachment to the email notice, because attachments are often interpreted by various Internet Service Providers ("ISP") as spam. Rather, in accordance with industry best practices, Angeion includes a link to all operative documents so that Settlement Class Members can easily access this information.

15.   To avoid a "volume trigger" on spam filters, Angeion would disseminate the email notice in waves. This is why the proposed Preliminary Approval order provides a Notice Date deadline of 45 days after preliminary approval.

16.   Angeion also accounts for the real-world reality that some emails will inevitably fail to be delivered during the initial delivery attempt. Therefore, after the initial noticing campaign is complete, Angeion, after an approximate 24-72-hour rest period—which allows any temporary block at the ISP level to expire—causes a second round of email noticing to continue to any email addresses that were previously identified as soft bounces and not delivered. In our experience, this minimizes emails that may have erroneously failed to deliver due to sensitive servers and optimizes delivery.

17.   In summary, the direct notice effort in this matter is robust.

ONLINE NOTICE

18.   In addition to the direct notice efforts described above, the Notice Program includes a robust digital media campaign focused on reaching the prototypical individual Settlement Class Member.

19.   Angeion utilizes advanced targeting, machine learning, and a known and verifiable target audience profile, to ensure that members of the target audience are reached online. Through this "programmatic" approach, Angeion will be able to focus solely on reaching the prototypical

individual Settlement Class Member. Purchasing display and mobile inventory programmatically provides the highest reach, allows for numerous advanced targeting layers, and offers the most cost-efficient rates to reach potential Settlement Class Members.

20.   Multiple targeting layers will be implemented into the programmatic buy to help ensure delivery to the most appropriate users. Inventory will run on desktop and mobile devices to reach the most qualified audience.

21.   The internet banner notice portion of the notice program will be implemented using a three-week desktop and mobile campaign, utilizing banner ads in standard IAB sizes (160x600, 300x250, 728x90, 300x600, 320x50 and 300x50).

22.   To combat the possibility of non-human viewership of the digital advertisements and to verify effective unique placements, Angeion utilizes Integral Ad Science ("IAS"), the leading ad verification company to prevent fraudulent activity.[1] IAS has received the Media Rating Council "MRC"[2] accreditation for Sophisticated Invalid Traffic (SIVT) detection for desktop and mobile web traffic. Angeion also employs Lotame, a demand management platform ("DMP"), to learn more about the online audiences that are being reached.

TARGETED SOCIAL MEDIA NOTICE

23.   The Notice Program also includes a customized Facebook campaign in which Angeion will upload known Settlement Class Member email addresses directly to Facebook. Where email addresses are used as the primary log-on email address for a Facebook account, Angeion will deliver ads displayed via the Facebook platform, whether on mobile device, tablet or computer, effectively targeting verified Settlement Class Members.

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[1] Integral Ad Science (IAS) is a global technology and data company that builds verification, optimization, and analytics solutions to empower the advertising industry to effectively influence consumers everywhere, on every device. They solve the most pressing problems for brands, agencies, publishers, and technology companies by verifying that every impression has the opportunity to be effective, optimizing towards opportunities to consistently improve results, and analyzing digital's impact on consumer actions. Built on data science and engineering, IAS is headquartered in New York with global operations in ten countries.

[2] The Media Rating Council was established in the early 1960's at the behest of the US congress. The objective or purpose to be promoted or carried on by Media Rating Council is: To secure for the media industry and related users audience measurement services that are valid, reliable and effective. To evolve and determine minimum disclosure and ethical criteria for media audience measurement services. To provide and administer an audit system designed to inform users as to whether such audience measurements are conducted in conformance with the criteria and procedures developed.

PUBLICATION NOTICE

24.   To further disseminate notice of the Settlement, the notice program utilizes print media to reach potential Settlement Class Members.

25.   One ½ page B&W insertion in *USA Today* is recommended and will be distributed on a national level, including the digital e-Edition.

RESPONSE MECHANISMS

26.   The Notice Program will also implement the creation of a case-specific website, where Settlement Class Members can easily view general information about this class action litigation, review relevant Court documents, and view important dates and deadlines pertinent to the litigation. The website will be designed to be user-friendly and make it easy for Settlement Class Members to find information about the settlement. The website will also have a "Contact Us" page whereby Settlement Class Members can send an email with any additional questions to a dedicated email address.

27.   A toll-free telephone line devoted to this case will be implemented to further apprise Settlement Class Members of the rights and options in the litigation. The toll-free telephone line will utilize an interactive voice response ("IVR") system to provide Settlement Class Members with responses to frequently asked questions and provide essential information regarding the litigation. This telephone line will be accessible 24 hours a day, 7 days a week.

PLAIN LANGUAGE NOTICE DESIGN

28.   The proposed Notice forms used in this matter are designed to be "noticed," reviewed, and—by presenting the information in plain language—understood by Settlement Class Members. The design of the notices follows principles embodied in the Federal Judicial Center's illustrative "model" notices posted at www.fjc.gov. The notice forms contain plain-language summaries of key information about Settlement Class Members' rights and options pursuant to the litigation. Consistent with normal practice, prior to being delivered and published, all notice documents will undergo a final edit for accuracy.

29.   Rule 23(c)(2) of the Federal Rules of Civil Procedure requires class action notices to be

written in "plain, easily understood language." Angeion Group maintains a strong commitment to adhering to this requirement, drawing on its experience and expertise to craft notices that effectively convey the necessary information to Settlement Class Members in plain language.
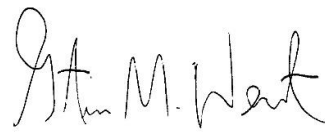
CONCLUSION

30.   The Notice Program outlined above includes direct notice to all reasonably identifiable potential Settlement Class Members. Further, the Notice Program includes a robust media campaign comprised of internet banner ad notice, print publication and a targeted social media campaign, coupled with the implementation of a dedicated website and toll-free hotline to further inform Settlement Class Members of their rights and options in the litigation.

31.   In my opinion, the Notice Plan will provide full and proper notice to Settlement Class Members before the objection and any other applicable deadlines. Moreover, it is my opinion that Notice Program fully comports with the Court's January 6, 2020, Order Granting Joint Motion to Modify Certified Class and Class Notice (EFC No. 721) and exceeds any requirement for notice under due process, Fed. R. Civ. P. 23, and the Northern District's Procedural Guidance for Class Action Settlements. After the Notice Plan has concluded, Angeion will provide a final report verifying its effective implementation.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Dated: February 7, 2020

STEVEN WEISBROT

Exhibit A-4

Notice of Facebook Data Breach Class Action Settlement

Adkins, et al. v. Facebook, Inc., Case No. C 18-05982 WHA (JSC)
(N.D. Cal.)

This is a Court approved Legal Notice. This is not an advertisement.

<u>Important Information – Read Carefully.</u>

A Class Action Settlement has been proposed in litigation against Facebook, Inc. ("Facebook"), arising out of a cyberattack on the Facebook platform that was announced on September 28, 2018 (the "Data Breach"). If you are a Facebook user residing in the United States whose personal information was compromised in the Data Breach, you are a "Settlement Class Member."

Facebook denies any wrongdoing, and no court or other entity has made any judgment or other determination that Facebook has done anything wrong. Instead, both sides have agreed to a settlement.

Under the terms of the Settlement, Facebook has agreed to certain security commitments related to safeguarding users' personal information. In exchange, Settlement Class Members will release any and all claims for injunctive and declaratory relief they may have against Facebook regarding the Data Breach.

If approved, the proposed Settlement will resolve the litigation entitled *Adkins, et al. v. Facebook, Inc.*, Case No. C 18-05982 WHA (JSC) (N.D. Cal.), before Judge William Alsup in the U.S. District Court for the Northern District of California. The Court must decide whether to finally approve the Settlement.

Your legal rights are affected even if you do nothing.

This Settlement affects your legal rights even if you do nothing.
Questions? Go to www.facebookdatabreach.com

Please read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT		
OBJECT OR COMMENT ON THE SETTLEMENT	You may object to the Settlement by writing to the Court and informing it why you don't think the Settlement should be approved. You can also write the Court to provide comments or reasons why you support the Settlement. For detailed information about how to object to or comment on the Settlement, see Question 11.	Deadline: [●]
GO TO THE FINAL APPROVAL HEARING	You may, but are not required to, attend the Final Approval Hearing where the Court may hear arguments concerning the approval of the Settlement. If you wish to speak at the Final Approval Hearing, you must make a request to do so in your written objection or comment in advance of the Final Approval Hearing and by no later than the deadline.	Deadline: [●]
DO NOTHING	If you do nothing, and the Settlement is approved, you will not be able to sue Facebook for claims for injunctive and declaratory relief related to the Data Breach. The Settlement will not affect your rights to sue Facebook for monetary damages.	No deadline

This Settlement affects your legal rights even if you do nothing.

This Settlement affects your legal rights even if you do nothing.
Questions? Go to www.facebookdatabreach.com
US-DOCS\113779947.6

What this Notice Contains

This Settlement affects your legal rights even if you do nothing.
Questions? Go to www.facebookdatabreach.com

This Settlement affects your legal rights even if you do nothing.
Questions? Go to www.facebookdatabreach.com

BACKGROUND INFORMATION

1.	Why is there a notice?

A Court authorized this notice to inform you about a proposed Settlement that may affect your rights relating to injunctive and declaratory relief. This notice explains the nature of the litigation, the general terms of the proposed Settlement, and how it may affect you. The Settlement will not affect your rights to sue Facebook for monetary damages.

2.	What is this litigation about?

On September 28, 2018, Facebook announced that it had been the subject of a cyberattack resulting in the compromise of certain information that users had provided to Facebook. The attack affected approximately 4 million users in the United States. The attackers gained access to names and email addresses or phone numbers of all affected users. In addition, for a portion of the affected users, the attackers gained access to other information, consisting of (a) fields of information found in the "About" section of the user's Profile, to the extent the users had filled out those Profile fields, namely, username, first name, last name, full name, gender and date of birth, and, to the extent the fields were populated, workplace, education, relationship status, religious views, hometown, self-reported current city, and website and certain other information from the user's Profile, namely the locale/language setting used to determine the display language for the page; the types of device(s) used by the user to access Facebook; the last 10 places the user "checked into" or was "tagged" in on Facebook, if any; the people or pages on Facebook followed by the user, if any; and the user's 15 most recent searches using the Facebook search bar, if any.

The lawsuit was brought against Facebook on behalf of a class of U.S. users whose data was compromised in the Data Breach, based on the plaintiff's claim that Facebook failed to adequately protect users' personal information. The lawsuit originally sought on behalf of the class both monetary damages as well as injunctive relief (*i.e.*, a court order) requiring changes to Facebook's practices regarding data security. Although the Court concluded that a class could not be certified for damages because the plaintiff had not demonstrated a cognizable injury under the law that could support the plaintiff's claim for damages on behalf of the class, the Court certified a class for injunctive relief. Facebook denies any wrongdoing, and no court or other entity has made any judgment or other determination that Facebook has done anything wrong. The current complaint filed in this litigation, which describes the specific legal claims alleged by the plaintiff, the alleged facts giving rise to the lawsuit, and the relief sought in litigation, is available at: www.facebookdatabreach.com

3.	Who is the defendant in the lawsuit?

The defendant is Facebook, Inc.

This Settlement affects your legal rights even if you do nothing.
Questions? Go to www.facebookdatabreach.com

4.   What is a class action?

Even if you have not filed your own lawsuit against Facebook regarding the Data Breach, you will benefit from the commitments provided by this Settlement because the litigation is proceeding as a class action. In a class action, one or more people file a lawsuit to assert legal claims on behalf of themselves and other persons who have experienced the same or similar circumstances.

In November 2019, the U.S. District Court for the Northern District of California determined that it could not certify the case as a class action for damages, because the plaintiff had not shown any injury cognizable under the law that could support a damages claim on behalf of a class. However, the Court certified a class for purposes of seeking injunctive relief. The Court appointed the plaintiff as class representative to represent not only his own personal interests but the interests of all members of the class, and that same class representative is the "Settlement Class Representative" now.

5.   Why is there a settlement?

Settlements avoid the costs and uncertainty of a trial and related appeals, while providing benefits to Settlement Class Members when the Settlement becomes final. The Court has not decided the case in favor of any party. Instead, both sides have agreed to a settlement. The Settlement Class Representative, who represents the interests of all Settlement Class Members, and the attorneys for the Settlement Class ("Class Counsel," *see* Question 7) believe that the Settlement is in the best interests of the Settlement Class Members.

SETTLEMENT CLASS MEMBERSHIP

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

You are a Settlement Class Member, and you are affected by this Settlement, if:

You are a Facebook user residing in the United States whose personal information was compromised in the Data Breach announced by Facebook on September 28, 2018.

However, the following entities and individuals are **not** Settlement Class Members:

- Facebook, any entity in which Facebook has a controlling interest, and Facebook's officers, directors, legal representatives, successors, subsidiaries, and assigns; and
- Any judge, justice, or judicial officer presiding over this matter and the members of their immediate families and judicial staff.

If you have received an email Notice of this Settlement, you have been identified by the Settlement Administrator as a Settlement Class Member.

If you are still not sure whether you are a Settlement Class Member, you may go to the Settlement website at www.facebookdatabreach.comor call the Settlement Administrator toll free number at 800-XXX-XXXX, to inquire about whether you are a Settlement Class Member.

This Settlement affects your legal rights even if you do nothing.
Questions? Go to www.facebookdatabreach.com

THE LAWYERS FOR SETTLEMENT CLASS MEMBERS

7.	**Do I have a lawyer in the case?**

Yes. The Court appointed as "Class Counsel" John A. Yanchunis of Morgan & Morgan Complex Litigation Group, Ariana J. Tadler of Tadler Law LLP, and Andrew N. Friedman of Cohen Milstein Sellers & Toll, PLLC, to represent you and the other Settlement Class Members. If you want to be represented by your own lawyer, you may hire one at your own expense.

8.	**How will Class Counsel be paid?**

Class Counsel will make an application for reasonable attorneys' fees, costs, and expenses, which must be approved by the Court before they will be paid.

Class Counsel will also ask the Court to approve a Service Award of up to $5,000 to compensate the Settlement Class Representative.

The Court will decide the amount of attorneys' fees, costs, and expenses, and the amount of any Service Award to be awarded. Facebook has not agreed to any amount. Any attorneys' fees, costs, and expenses or Service Award awarded will be paid by Facebook. Class Counsel intends to request a fee of no more than $16,000,000 and to be reimbursed expenses of no more than $1,700,000. Class Counsel's application for an award of attorneys' fees, costs, and expenses, is due [●]. This application will be made available on the Settlement website at www.facebookdatabreach.com before the deadline for you to comment or object to the Settlement.

BENEFITS FOR SETTLEMENT CLASS MEMBERS

9.	**What benefits does the Settlement provide?**

The Settlement provides a number of security commitments by Facebook designed to prevent attacks similar to the Data Breach. These commitments relate to, among other things, Facebook's tools, processes, and systems for detecting suspicious activity and account compromise, authenticating users, and responding to and containing a security incident. In addition, Facebook will commit to obtaining certain outside assessments related to product security and vulnerability management controls, and to continue employing at least one senior security executive with direct reporting authority and obligations to Facebook's Board of Directors.

Facebook's compliance with these commitments will be assessed annually by an independent third-party expert for a period of five years.

Facebook will also certify that the vulnerability that was exploited in the Data Breach has been eliminated, that it is no longer possible to generate access tokens in the manner that was done in the Data Breach, and that all access tokens generated through the vulnerability that was exploited have been invalidated.

In the event that technological or industry developments, or intervening changes in law render any part of the security commitments obsolete or make compliance by Facebook unreasonable or

This Settlement affects your legal rights even if you do nothing.
Questions? Go to www.facebookdatabreach.com

technically impractical, Facebook will provide notice to Class Counsel within ten (10) days and propose a modification. If Facebook, Class Counsel, and Class Counsel's expert agree that the elimination or modification of the business practice is appropriate, they will jointly seek permission from the Court to eliminate or modify the business practice. If they fail to reach an agreement, Facebook may seek permission from the Court, and Class Counsel may oppose that request.

LEGAL RIGHTS RESOLVED THROUGH THE SETTLEMENT

10.	**How does the Settlement affect my rights?**

If the Settlement becomes final, you will release all claims for declaratory or injunctive relief against Facebook related to the Data Breach. You will no longer have any right to file a lawsuit against Facebook seeking a declaratory judgment or injunction related to the Data Breach—whether or not you are currently aware of any such claims. This Settlement does *not* release any claims you may have against Facebook for money damages related to the Data Breach.

All of the Court's orders will apply to you and legally bind you. You can access the Settlement Agreement and read the specific details of the legal claims being released at www.facebookdatabreach.com

OBJECTING TO OR COMMENTING ON THE SETTLEMENT

11.	**How do I tell the Court that I like the Settlement, or that I don't like the Settlement?**

You can comment on, or object to, the Settlement, Class Counsel's request for attorneys' fees, costs, and expenses, and/or the request for Service Award for the Settlement Class Representative.

You object to the Settlement when you disagree with some aspect of the Settlement and think the Court should not give Final Approval to the Settlement. An objection, like a comment, allows your views to be heard in Court.

Filing an objection means you are asking the Court to deny approval to the Settlement, Class Counsel's request for attorneys' fees, costs, and expenses, or the Settlement Class Representative's request for a Service Award. You can't ask the Court to order a different settlement—it can only approve or deny the Settlement that has been reached. If the Court denies approval of the Settlement, the lawsuit will continue. If that is what you want to happen, you may so state in an objection.

If you choose to make an objection or comment, it must be in writing and contain the following:

  a.   The name and case number of this lawsuit (*Adkins, et al. v. Facebook, Inc.*, Case No. C 18-05982 WHA (JSC));

  b.   Your full name and mailing address, and email address or telephone number;

  c.   A detailed explanation of why you believe you are a Settlement Class Member;

This Settlement affects your legal rights even if you do nothing.
Questions? Go to www.facebookdatabreach.com

d.   A detailed explanation of the specific legal and factual basis for each and every objection you intend to make (in other words, all reasons for your objection or comment);

e.   A statement identifying the number of class action settlements you have objected to in the last three years;

f.   A statement whether you intend to personally appear and/or testify at the Final Approval Hearing, either in person or through counsel;

g.   A statement whether you intend to offer any evidence at the Final Approval Hearing, including a detailed description of that evidence, and providing copies of that evidence to the Court, Class Counsel, and Facebook;

h.   The name and contact information of any and all attorneys representing, advising, or assisting you, including any counsel who may be entitled to compensation for any reason related to your objection or comment;

i.   Whether any attorney will appear on your behalf at the Final Approval Hearing, and if so the identity of that attorney, including the name, physical address, email address, and telephone number of that attorney;

j.   The identity of any persons who wish to be called to testify at the Final Approval Hearing; and

k.   Your handwritten or electronically imaged written (e.g. "DocuSign") signature. An attorney's signature, or a typed signature, is not sufficient.

To be considered by the Court, your objection must be either (1) filed at any location of the United States District Court for the Northern District of California on or before ___[●]____, or (2) mailed, postmarked no later than _____[●]____, to the following recipients at these addresses:

THE COURT
The Hon. William Alsup United States District Judge San Francisco Courthouse, Courtroom 12 – 19th Floor 450 Golden Gate Avenue, San Francisco, CA 94102

THE SETTLEMENT ADMINISTRATOR
Adkins et al. v. Facebook, Inc. ATTN: OBJECTIONS P.O. Box 58220 Philadelphia, PA 19102

CLASS COUNSEL		
Ariana J. Tadler	John A. Yanchunis	Andrew N. Friedman

This Settlement affects your legal rights even if you do nothing.
Questions? Go to www.facebookdatabreach.com

TADLER LAW LLP	MORGAN & MORGAN	COHEN MILSTEIN
One Penn Plaza 36th Floor New York, NY 10119 Telephone: (212) 946-9453 Facsimile: (212) 273-4375	COMPLEX LITIGATION GROUP 201 N. Franklin St., 7th Floor Tampa, FL 33602 Telephone: (813) 223-5505 Facsimile: (813) 223-5402	SELLERS & TOLL PLLC 1100 New York Ave. NW, Fifth Floor Washington, DC 20005 Telephone: (202) 408-4600 Facsimile: (202) 408-4699

12.   Can I exclude myself from the settlement?

No, under Federal Rule of Civil Procedure 23(b)(2) and the applicable law, it is not possible to opt out of the Settlement.

FINAL APPROVAL HEARING

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

The Court will hold the Final Approval Hearing at [●] on [●]**, 2020** in Courtroom 12 of the United States Courthouse, 450 Golden Gate Avenue, 19th Floor, San Francisco, CA 94102. The hearing may be postponed to a different date or time or location without notice. Please check or Judge William Alsup's Calendar https://www.cand.uscourts.gov/judges/alsup-william-wha/ for any updates about the Settlement or the Final Approval Hearing. If the date or time of the Final Approval Hearing changes, an update to the Settlement Website or the Court's Calendar will be the only way you will be informed of the change.

At the Final Approval Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court may listen to people who appear at the hearing and who have provided notice of their intent to appear at the hearing (see Question 11). The Court may also consider any application by Settlement Class Counsel for attorneys' fees, costs, and expenses, as well as a separate Service Award for the Settlement Class Representative. Any motions for attorney fees, costs, and expenses will be posted on the website after they are filed, and not later than 10 days before the Final Approval Hearing. At or after the hearing, the Court will decide whether to approve the Settlement.

14.   Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. You may attend at your own expense if you wish. If you submit a written objection, you do not have to come to Court to talk about it. As long as you submitted your written objection on time, that is sufficient for the Court to consider it. You may also pay your own lawyer to attend, but it is not required.

15.   May I speak at the hearing?

At the hearing, the Court, at its discretion, will hear any objections and arguments concerning the fairness of the Settlement.

This Settlement affects your legal rights even if you do nothing.
Questions? Go to www.facebookdatabreach.com

US-DOCS\113779947.6

You may attend, but you do not have to. As described above in response to Question 11, you may speak at the Final Approval Hearing if (a) you have filed or mailed your written comment or objection to the appropriate recipient on or before the postmark or filing deadline and included the necessary information stated in Section 11 above, and (b) stated in your comment or objection that you intend to appear at the Final Approval Hearing.

DOING NOTHING

16.	What happens if I do nothing?

If you do nothing, and the Settlement is approved, you will not be eligible to sue Facebook for claims for injunctive and declaratory relief related to the Data Breach. The Settlement will ***not*** affect your rights to sue Facebook for monetary damages.

GETTING MORE INFORMATION

17.	How do I get more information?

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement itself. You can get a copy of the Settlement Agreement, view other case documents, and get additional information and updates by visiting www.facebookdatabreach.com. All of the case documents that have been filed publicly in this case are also available online through the Court's Public Access to Court Electronic Records (PACER) system at https://ecf.cand.uscourts.gov. This case is called *Adkins, et al. v. Facebook, Inc.*, and is case number is 18-05982-WHA. You may obtain case documents by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, San Francisco Division, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

You can also get additional information or request a copy of the Settlement Agreement by emailing at info@facebookdatabreach.com, or writing to the Settlement Administrator at

Adkins, et al. v. Facebook, Inc.
Settlement Administrator
1650 Arch Street, Suite 2210
Philadelphia, PA 19103

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

This Settlement affects your legal rights even if you do nothing.
Questions? Go to www.facebookdatabreach.com

Exhibit A-4(b)

**If your Facebook account was impacted by
the cyberattack Facebook experienced September 2018,
a pending class action settlement may affect you.**

Adkins, et al. v. Facebook, Inc., Case No. C 18-05982 WHA (JSC) (N.D. Cal.)

A Class Action Settlement has been proposed in litigation against Facebook, Inc. ("Facebook"), arising out of a cyberattack on the Facebook platform that was announced on September 28, 2018 (the "Data Breach"). Facebook denies any wrongdoing, and no court or other entity has made any judgment or other determination that Facebook has done anything wrong. Instead, both sides have agreed to a settlement.

Am I included?

You are a Settlement Class Member, and you are affected by this Settlement, if you are a Facebook user residing in the United States whose personal information was compromised in the Data Breach. *[FOR AD VERSION:* If you received an email Notice of this Settlement, you have been identified by the Settlement Administrator as a Settlement Class Member.]

     [FOR EMAIL VERSION: If you are receiving this email Notice, you have been identified by the Settlement Administrator as a Settlement Class Member.]

What does the Settlement provide?

The Settlement provides a number of security commitments by Facebook related preventing attacks similar to the Data Breach. Facebook will also certify that the vulnerability that was exploited in the Data Breach has been eliminated. Facebook's compliance with the Settlement will be assessed by an independent third-party expert for a period of five years. This is only a summary of the benefits. For complete information, dates, and details on the benefits, visit the settlement website at www.facebookdatabreach.com, or call 800-XXX-XXXX.

What are my options?

You may object to the Settlement by writing to the Court and explaining why you do not think the Settlement should be approved. You can also write to the Court to support the Settlement. You are not required to do anything. Whether you object, comment, or do nothing, if the Settlement is approved, you will benefit from the commitments outlined in the Settlement, however you will not be eligible to sue Facebook for claims for injunctive and declaratory relief related to the Data Breach. The Settlement will not affect your rights to sue Facebook for monetary damages. The deadline to object is [●].

Class Counsel have a deadline of [●] to file a petition for fees and expenses. Counsel anticipate requesting no more than $16,000,000 in fees and $1,700,000 in expenses. Any awards are to be determined by the Court and to be paid by Facebook. Class Counsel's fee and expense petition will be posted on the settlement website.

The Court has scheduled a hearing in this case at [●] on [●]**, 2020** in Courtroom 12 of the United States Courthouse, 450 Golden Gate Avenue, 19th Floor, San Francisco, CA 94102. At the hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, as well Class Counsel's application for attorneys' fees, costs, and expenses and for a Service Award for the Settlement Class Representative. If there are objections, the Court will consider them. You may attend the hearing, or ask to speak at the hearing, but you do not have to do either to benefit from the Settlement.

THIS IS ONLY A SUMMARY OF THE FULL NOTICE AND SETTLEMENT AGREEMENT,
WHICH CONTAIN MORE DETAILED INFORMATION THAT YOU SHOULD READ.
THE FULL NOTICE AND THE SETTLEMENT AGREEMENTS ARE AVAILABLE AT
www.facebookdatabreach.com.

Exhibit A-5

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

STEPHEN ADKINS, an individual and Michigan resident, on behalf of himself and all others similarly situated,
 	
                              Plaintiff,
 	
        v.
 	
FACEBOOK, INC.,
 	
                              Defendant.
	No. C 18-05982 WHA (JSC)
	
	[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR FINAL APPROVAL AND JUDGMENT OF CLASS ACTION SETTLEMENT

1   This matter is before the Court on Plaintiffs' Motion for Final Approval of the Class Action

2 Settlement and entry of final judgment ("Motion"). Plaintiff, individually and on behalf of the

3 proposed Settlement Class, has entered into a Settlement Agreement and Release ("Settlement

4 Agreement") with Defendant Facebook, Inc. ("Facebook"), dated February 7, 2020. ECF No.

5 [●].

6   The Court granted preliminary approval of the Settlement Agreement on [●], and

7 appointed Angeion Group as the notice administrator. ECF No. [●]. [●] provided notice

8 calculated to reach the class nationwide via [●], as outlined in the Settlement Agreement. ECF

9 No. [●]. Plaintiff now moves for final approval of the Settlement Agreement. ECF No. [●]. By

10 separate motion, Plaintiff also seeks attorneys' fees, costs, and expenses, which the Court will

11 address by separate order.

12   The Court, having reviewed the Motion, its accompanying memorandum, the Settlement

13 Agreement and exhibits thereto, and the file, hereby finds that the Motion should be **GRANTED**.

14 **NOW, THEREFORE, THE COURT FINDS AND ORDERS**:

15   1.   Unless otherwise defined herein, all terms that are capitalized herein shall have

16 the same meaning ascribed to those terms in the Settlement Agreement.

17   2.   The Court has jurisdiction over the subject matter of this litigation, the parties and

18 Settlement Class Members, and any party to any agreement that is part of or related to the

19 Settlement Agreement.

20   **FINAL SETTLEMENT AGREEMENT APPROVAL**

21   3.   The Court must now evaluate the fairness of the proposed settlement. While there

22 is a "strong judicial policy that favors settlements, particularly where complex class action

23 litigation is concerned," *Linney v. Cellular Alaska P'ship*, 151 F.3d 1234, 1238 (9th Cir. 1998), a

24 settlement of any class claims requires approval from the Court. Fed. R. Civ. P. 23(e). This

25 analysis must be performed because "[i]ncentives inhere in class-action settlement negotiations

26 that can, unless checked through careful district court review of the resulting settlement, result in

27 a decree in which the rights of class members, including the named plaintiffs, may not be given

28 due regard by the negotiating parties." *Staton v. Boeing Co.*, 327 F.3d 938, 959 (9th Cir. 2003).

1   4.   Pursuant to Federal Rule of Civil Procedure 23(e)(1), the Court must first find that

2 the parties provided information to the Court sufficient to enable this Court to determine whether

3 to give notice to the class, and if necessary, direct notice in a reasonable manner to all class

4 members who would be bound by the proposal if giving notice is justified by the parties'

5 showing that the Court will likely be able to: (i) approve the proposal under Rule 23(e)(2); and

6 (ii) certify the class for purposes of judgment on the proposal.

7   5.   Here, although optional under Rule 23, the parties provided the Court with

8 sufficient information to direct notice in a reasonable manner to all class members who would be

9 bound by the proposal the parties now ask this Court to approve and certify a class for the

10 purposes of judgment on the proposal. The notice plan was robust, including notice via Exhibit

11 A-3 (the "Notice Plan"), and this Notice Plan provided ample notice and time for any objections

12 to the Settlement Agreement.

13   6.   Further, pursuant to Federal Rule of Civil Procedure 23(e)(2), the Court must

14 "determine whether a proposed settlement is fundamentally fair, adequate, and reasonable."

15 *Staton*, 327 F.3d at 959. The Advisory Committee Notes on the 2018 Amendments, Subdivision

16 (e)(2) note that "[t]he goal of this amendment is not to displace any factor, but rather to focus the

17 court and the lawyers on the core concerns of procedure and substance that should guide the

18 decision whether to approve the proposal." The Court may consider the following factors in

19 evaluating the Settlement Agreement under this standard: "the strength of plaintiffs' case; the

20 risk, expense, complexity, and likely duration of further litigation; the risk of maintaining class

21 action status throughout the trial; the amount offered in settlement; the extent of discovery

22 completed and the stage of proceedings; the experience and views of counsel; the presence of a

23 governmental participant; and the reaction of the class members to the proposed settlement." *Id.*

24 (citation and quotation marks omitted).

25   7.   Upon consideration of the factors expressed in *Staton*, the Court finds that the

26 Settlement Agreement is fair, adequate, and reasonable.

27   8.   First, the Settlement reflects the relative strength of Plaintiff's case as well as

28 Facebook's position. This Court has been "'exposed to the litigants and their strategies, positions

1 and proof,'" *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1988) (quoting *Officers for*

2 *Justice*, 688 F.2d at 626), and finds that the judicial policy favoring the compromise and

3 settlement of class action suits is applicable here. *See Class Plaintiffs v. City of Seattle*, 955 F.2d

4 1268, 1276 (9th Cir. 1992). Through a motion to dismiss and an opposition to Plaintiffs' motion

5 to amend the Complaint (which raised issues which were dispositive of some of the underlying

6 claims), Facebook challenged this class action on standing grounds and the sufficiency of the

7 causes of action pled. Settlement Class Counsel also engaged in extensive discovery, including

8 deposing 14 percipient Facebook current and former security and software engineers, executives,

9 and corporate representatives, reviewing thousands of documents, retaining multiple relevant

10 experts, defending five depositions of former named plaintiffs and the now-current Settlement

11 Class Representative. Through this work, Settlement Class Counsel were eventually able to

12 present a thorough evidentiary record resulting in certification of a highly contested class.

13   9.   The risks, expense, and complexity of further litigation also support approval of

14 the Settlement. After substantial discovery typically conducted over years of litigation but

15 accomplished in less than one year here, Plaintiff moved to certify certain classes pursuant to

16 Federal Rule of Civil Procedure 23, which the Court granted in part and denied in part. ECF No.

17 260. The Court certified only an injunctive class under Rule 23(b)(2) while denying certification

18 of any damage class under 23(b)(3). Plaintiff would have faced substantial risk on his claim for

19 injunctive relief at summary judgment, trial, and on appeal. Now, however, Plaintiff and

20 Settlement Class Counsel have achieved significant injunctive relief for a five-year period to

21 oversee and review Facebook's security commitments, achieving considerable relief for a

22 substantial period of time to benefit Settlement Class Members.

23   10.   The extent of discovery also supports approval. During fact discovery, Facebook

24 produced to Class Counsel over 135,000 pages of documents, and Class Counsel took 14

25 depositions of percipient and 30(b)(6) witnesses and three depositions of Facebook's experts,

26 and defended five depositions of Plaintiff and former Plaintiffs and four depositions of Plaintiff's

27 proffered experts. Class Counsel also had the assistance and guidance of a number of

28 cybersecurity and identity theft experts. The parties have had ample information with which to

1   weigh the relative merits of settlement and continued litigation.

2   11.   The opinions of Class Counsel, who are experienced in litigating and settling data

3   breach and privacy class actions, also weigh in favor of final approval. *See Linney*, 1997 WL

4   450064, at *5. Class Counsel endorse the Settlement as fair, adequate, and reasonable.

5   12.   The Court further finds the Settlement Agreement was reached after arm's-length

6   negotiations by experienced and capable counsel, aided by an experienced mediator, and that it

7   was not the product of fraud, overreaching, or collusion among the parties. The key terms of the

8   settlement were reached during an in-person mediation session on January 8, 2020, in San

9   Francisco under the direction of the Honorable Joseph C. Spero. Following the settlement

10   conference, the parties engaged in additional communications in furtherance of settlement,

11   including the negotiation and finalization of a notice plan, a settlement term sheet, a further

12   telephonic conference with Judge Spero, and ultimately the Settlement Agreement.

13   13.   Because this is an injunctive class, and no monetary relief is offered or foreclosed

14   for any Settlement Class Members, there is no monetary relief for the Court to consider.

15   14.   Finally, the remaining two factors, government participation and the reaction of

16   Settlement Class Members, do not militate against approval of the Settlement Agreement.

17   15.   The Court, therefore, finds that the Settlement Agreement is in the best interests

18   of Settlement Class Members, and is fair, reasonable, and adequate within the meaning of

19   Federal Rule of Civil Procedure 23. Accordingly, the Court **GRANTS** final approval of the

20   Settlement Agreement and all of the terms and conditions contained therein. The Settling Parties

21   are ordered to implement each and every obligation set forth in the Settlement Agreement in

22   accordance with the terms and provisions of the Settlement Agreement.

APPROPRIATE NOTICE

24   16.   The Court finds that the Notice Plan the Court previously approved has been

25   satisfactorily implemented. The Class Members have received notice of: (i) the pendency of this

26   class action; (ii) the terms of the proposed Settlement, including the Release; (iii) their rights

27   under the proposed Settlement; (iv) their right to object to any aspect of the proposed Settlement;

28   (v) their right to appear at the Final Approval Hearing; (vi) information concerning attorneys'

1 fees and expenses and the Settlement Class representative service award that would be applied

2 for at the Final Approval Hearing, including how to review those applications in advance of the

3 deadlines to object; and (vii) the binding effect of the Final Approval Order and Judgment in this

4 Litigation. The Court appointed Angeion Group as the Settlement Administrator to fulfill the

5 duties set forth in the Notice Plan.

6   17.   In addition, the notice given by Defendant to state and federal official pursuant to

7 28 U.S.C. § S 1715 fully and timely satisfied the requirements of that statute.

8   **FINAL CERTIFICATION OF SETTLEMENT CLASS**

9   18.   The Court preliminarily found class certification appropriate under Federal Rule

10 of Civil Procedure 23(b)(2). ECF No. 260, at 15. The parties subsequently filed a joint motion to

11 modify the certified class from a worldwide class to a nationwide class, which the Court

12 approved. ECF No. 271. The Settlement Class is the same as the litigation class. Thus, for the

13 same reasons, the Court finds final certification of the settlement class appropriate as well.

14 Accordingly, the Court finally certifies, for settlement purposes, the following Settlement Class:

15   All current Facebook users residing in the United States whose personal
16   information was compromised in the data breach announced by Facebook on
           September 28, 2018; provided, however, that the following are excluded from
17   the Settlement Class: (i) Facebook's officers, directors, legal representatives,
           successors, subsidiaries, and assigns; and (ii) any judge, justice, or judicial
18   officer presiding over this matter and the members of their immediate families
           and judicial staff.

19 Pursuant to Rule 23(g), the Court confirms the appointment of Court-appointed class counsel

20 Andrew N. Friedman, Ariana J. Tadler and John A. Yanchunis as Settlement Class Counsel and

21 the appointment of Court-appointed class representative Stephen Adkins as Settlement Class

22 Representative. Because the Settlement Class is certified under Rule 23(b)(2) only, Settlement

23 Class Members may not exclude themselves from the Settlement.

24   **NO ADMISSION OF LIABILITY**

25   19.   This Order shall not be offered or received against Facebook as evidence of or

26 construed as a presumption, concession or admission by Facebook with respect to the truth of

27 any fact alleged by Plaintiff or the validity of any claim that has been or could have been asserted

28 in this Action or any litigation, or the deficiency of any defense that has been or could have been

1 asserted in the Action or any litigation, or of any liability, negligence, fault, breach of duty or

2 wrongdoing by Facebook.

3   20.   This Order shall not be used for any purpose in this or any other matter or

4 proceeding other than as may be necessary to enforce the terms of the Settlement Agreement or

5 this final approval order and judgment.

6 **DISMISSAL AND RELEASE**

7   21.   By operation of this Final Order and Judgment, as of the Effective Date, the

8 Releases set forth in Section 8 of the Settlement Agreement shall be given full effect. Upon the

9 Effective Date, this Action is dismissed with prejudice. Facebook shall bear its own attorneys'

10 fees, costs and expenses, and this Court will address the award of Settlement Class Counsel's

11 application for attorneys' fees, costs, and expenses by separate order. All Settlement Class

12 Members shall be bound by the terms of the Settlement Agreement upon entry of this Order.

13 **TERMINATION**

14   **22.**   In the event that the Settlement Agreement is terminated pursuant to the terms of

15 the Settlement Agreement, (a) the Settlement Agreement and this Order shall become void, shall

16 have no further force or effect, and shall not be used in any action or other proceedings for any

17 purpose other than as may be necessary to enforce the terms of the Settlement Agreement that

18 survive termination; (b) this matter will revert to the status that existed before execution of the

19 Settlement Agreement; and (c) no term or draft of the Settlement Agreement or any part of the

20 Parties' settlement discussions, negotiations or documentation (including any briefs filed in

21 support of preliminary or final approval of the Settlement) shall (i) be admissible into evidence

22 for any purpose in any action or other proceeding other than as may be necessary to enforce the

23 terms of the Settlement Agreement that survive termination, (ii) be deemed an admission or

24 concession by any Party regarding the validity of any Released Claim or the propriety of

25 certifying any class against Facebook, or (iii) be deemed an admission or concession by any

26 Party regarding the truth or falsity of any facts alleged in the Action or the availability or lack of

27 availability of any defense to the Released Claims.

28

JURISDICTION

23.   Without affecting the finality of the Court's judgment, the Court retains jurisdiction over the implementation, administration, effectuation, and enforcement of the Settlement Agreement and its terms. The Court also has the jurisdiction and authority to enforce the provisions of this Order and the Court's judgment.

ENTRY OF FINAL JUDGMENT

24.   The Court finds there is no just reason for delay and **DIRECTS** the Clerk to enter judgment pursuant to Federal Rule of Civil Procedure 54 immediately.

IT IS SO ORDERED.

Dated: _____, 2020

_____
The Honorable William Alsup
U.S. District Judge

Exhibit B

Andrew N. Friedman (*pro hac vice*)
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Attorneys for Plaintiff

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

STEPHEN ADKINS, an individual and Michigan resident, on behalf of himself and all others similarly situated,
 	
          Plaintiffs,
 	
    v.
 	
FACEBOOK, INC.,
 	
          Defendant.
	No. C 18-05982 WHA (JSC)
	
	JOINT DECLARATION OF CLASS COUNSEL IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF THE SETTLEMENT
	
	Date: March 19, 2020
	Time: 8:00 am
	Court: Courtroom 12, 19th Floor
	Hon. William Alsup

1   Class Counsel John A. Yanchunis, Andrew N. Friedman, and Ariana J. Tadler jointly declare as

2 follows:

3   1.   John A. Yanchunis is an attorney duly licensed to practice law in the state of Florida and

4 admitted *pro hac vice* in this court. He is a partner with the law firm of Morgan & Morgan Complex

5 Litigation Group, and counsel of record for the Plaintiff and the certified class in the above-captioned

6 matter. The Court appointed Mr. Yanchunis as Interim Class Counsel on February 14, 2019, ECF No.

7 79, and then as Class Counsel on November 26, 2019, ECF No. 260. He has personal knowledge of

8 the facts set forth below and, if called as a witness in a court of law, could and would testify

9 competently hereto.

10   2.   Andrew N. Friedman is an attorney duly licensed to practice law in Washington, D.C. and

11 the State of New York and admitted *pro hac vice* in this court. He is a partner with the law firm of

12 Cohen Milstein Sellers & Toll PLLC, and counsel of record for the Plaintiff and the certified class in

13 the above-captioned matter. The Court appointed Mr. Friedman as Interim Class Counsel on February

14 14, 2019, ECF No. 79, and then as Class Counsel on November 26, 2019, ECF No. 260. He has

15 personal knowledge of the facts set forth below and, if called as a witness in a court of law, could and

16 would testify competently hereto.

17   3.   Ariana J. Tadler is an attorney duly licensed to practice law in the state of New York and

18 admitted *pro hac vice* in this court. She is a partner with the law firm of Tadler Law LLP and counsel

19 of record for the Plaintiff and the certified class in the above-captioned matter. The Court appointed

20 Ms. Tadler as Interim Class Counsel on February 14, 2019, ECF No. 79, and then as Class Counsel

21 on November 26, 2019, ECF No. 260. She has personal knowledge of the facts set forth below and, if

22 called as a witness in a court of law, could and would testify competently hereto.

23   4.   On September 28, 2018, Facebook announced that it experienced a data breach ("Breach")

24 that is the subject of this litigation. Subsequently, a number of plaintiffs filed suit in this Court. On

25 January 9, 2019, at this Court's request, the parties held a tutorial to educate the Court and the public

26 about the technical issues in this case. ECF Nos. 29, 38, 71. The related cases were then consolidated

27 (ECF No. 67), and Plaintiff's counsel filed a consolidated class action complaint (ECF No. 76).

28 Motion to dismiss practice ensued (ECF Nos. 96, 108, 113, 122, 135, 153), and Plaintiff's counsel

1

1   subsequently moved to amend and filed an amended consolidated complaint (ECF Nos. 160, 173,

2   180, 185, 263).

3   5.   To prepare class members' claims for certification and trial, Plaintiff's counsel engaged in

4   an independent investigation; negotiated with Facebook as to the early production of certain core

5   documents; and served 90 requests for production and four interrogatories. In litigating this case,

6   Plaintiff's counsel reviewed tens of thousands of documents (totaling over 139,000 pages), and took

7   16 depositions of current and former Facebook employees, as well as two expert depositions.

8   Plaintiff's counsel also retained four experts to assist with establishing liability and damages, whose

9   efforts culminated in four declarations and three expert reports, and four depositions. As part of these

10 efforts, Class Counsel have advanced hundreds of thousands of dollars in litigation expenses on

11 behalf of the class, with no assurance that those expenses would be reimbursed.

12   6.   For his part, Plaintiff and Class Representative Stephen Adkins diligently responded to

13 extensive discovery from Facebook, answering 24 interrogatories, 56 requests for production, and 63

14 requests for admission. He has also had his deposition taken twice and prepared extensively with

15 counsel both times. Moreover, Mr. Adkins has produced a total of 7,142 pages of documents, which

16 involved collecting records from third parties and considerable follow up. Finally, Mr. Adkins

17 attended the January 8, 2020 mediation with Class Counsel.

18   7.   Both sides actively pursued substantial discovery, engaged in extensive communications

19 and negotiations regarding discovery and, to the extent they were unable to resolve disputes through

20 extensive meet and confers, defended their respective objections in discovery motion practice.

21   8.   Although the Court denied certain of Plaintiff's discovery motions, Plaintiff still

22 developed a robust record of Facebook's practice before, leading up to, and following the Breach.

23 This record enabled Plaintiff, his counsel, and his experts, to develop a deep and detailed

24 understanding of the timeline, actions, and inactions permitting the Breach to occur, as reflected in

25 Plaintiff's Response in Opposition to Facebook's Motion to Dismiss, ECF No. 108, Plaintiff's

26 Motion to Amend the Consolidated Complaint, ECF No. 160, and Plaintiff's Motion for Class

27 Certification, ECF No. 268.

28   9.   Between August 29, 2019 and October 10, 2019, the parties fully briefed Plaintiff's

1   motion for class certification pursuant to Rules 23(b)(3) (seeking a damages class for lost PII value

2   and credit monitoring); issue certification under 23(c)(4) (regarding common liability issues); and

3   23(b)(2) (regarding injunctive relief on a host of Facebook's security procedures and authentication

4   infrastructure). The parties also briefed two *Daubert* motions, in which Facebook sought to exclude

5   Plaintiff's experts Jim Van Dyke and Ian Ratner. (ECF Nos. 213-215, 242, 247, 264-268).

6   10.   On November 26, 2019 this Court granted Facebook's motion to exclude Plaintiff's expert

7   Jim Van Dyke, denied the motion to exclude Plaintiff's expert Ian Ratner, and certified an injunctive

8   relief only class pursuant to Fed. R. Civ. P. 23(b)(2). ECF No. 260. On January 6, 2020, the Court

9   modified the November 26 Order to narrow the certified class to US users only and alter the notice

10   requirement to remove the requirement of first-class mail notification. ECF No. 271.

11   11.   Per the Court's standing rules, the parties did not begin negotiations until *after* the Court

12   certified a litigation class and they well understood the strengths and weaknesses of their respective

13   positions. The parties were preparing for a trial scheduled to begin on May 18, 2020. ECF No. 69.

14   However, once a class was certified, the parties engaged in preliminary settlement discussions, with

15   Plaintiff sending a proposed term sheet, while continuing to adhere to case deadlines and the pursuit

16   of discovery.

17   12.   After submitting to Chief Magistrate Judge Spero and exchanging mediation papers, the

18   parties attended a settlement conference in San Francisco on January 8, 2020. Mediated by Chief

19   Magistrate Judge Spero, the parties discussed potential security commitments Facebook could make

20   as part of a settlement of the case.

21   13.   Based on these discussions, and with the assistance of Plaintiff's expert Mary Frantz,

22   Plaintiff negotiated a set of security commitments that comprehensively address the security risks

23   exposed in the Breach and provide strong protection against the risk of any similar attack in the

24   future.

25   14.   On January 17, 2020, the parties filed a joint motion for a continuance, ECF No. 276, in

26   light of reaching an agreement in principle, with a detailed term sheet approved by the parties and

27   signed by counsel. The parties requested February 14, 2020. The Court set the deadline for filing for

28   Preliminary Approval to February 7, 2020. ECF No. 278. Meanwhile, fact depositions continued in

1 California and London while settlement discussions continued consistent with the Court's scheduling

2 order.

3   15.   The formal Settlement Agreement, now before the Court, is the result of extensive arm's-

4 length negotiations, expert input, and cooperative efforts to finalize the terms, develop a notice plan,

5 and prepare and finalize the exhibits and this motion as well as the completion of a critical deposition

6 in London. Attached to the Motion for Preliminary Approval as **Exhibit A** is a true and correct copy

7 of the parties' Settlement Agreement.

8   16.   The parties have selected Angeion Group as the Notice Administrator. Attached to the

9 Motion for Preliminary Approval as **Exhibit A-3** is a true and correct copy of the Notice

10 Administrator's Declaration.

11   17.   The Settlement Agreement permits Plaintiff to seek an order for fees, costs, and expenses

12 from the Court. Ex. A at § 7.2. Facebook may oppose the reasonableness of those requested items.

13 Class Counsel has reviewed time and expenses for all plaintiffs' counsel associated with this action

14 from inception to December 31, 2019. Class Counsel and those firms who worked on this matter have

15 incurred approximately $7.3 million in lodestar through December 31, 2019 based on historic billing

16 rates. That number will increase due to time spent in January and February, including to complete the

17 settlement negotiations and the necessary papers for submission to the Court as well as the

18 completion of certain discovery, including a deposition in London. Further, total expenses through

19 December 31, 2019 are approximately $1.2 million, with a significant portion of that amount related

20 to experts and depositions. Class Counsel anticipates incurring further lodestar and expenses related

21 to obtaining final approval of the proposed settlement and monitoring compliance over the five-year

22 term in the agreement by Facebook. Ex. A at § 2.2. Class Counsel anticipates seeking a multiplier of

23 their lodestar, but will be requesting a total fee of no more than $16 million, and costs of no more

24 than $1.7 million.

25   18.   On February 6, 2020, Class Counsel informed Facebook's Counsel of Plaintiff's intended

26 fee and expense request. Facebook did not indicate how it would respond to such a motion.

27   19.   The Security Commitments that Facebook will provide are significant and lasting. See

28 Ex. A-1. In short, Facebook has assured that the vulnerability exploited in the September 2018

1 Breach has been eliminated, and alerts and escalation procedures have been improved. Plaintiff's

2 expert, Mary Frantz, has reviewed the Security Commitments, and found them significant. Without a

3 doubt, Plaintiff's litigation helped prompt Facebook to improve its security practices meaningfully

4 and expeditiously. She will provide a declaration to accompany Plaintiff's Motion for Final Approval

5 of the Settlement.

6   20.   Attached to the Motion for Preliminary Approval as **Exhibit C** is a true and correct copy

7 of the Class Counsel's firm resumes (Cohen Milstein Sellers & Toll PLLC, Morgan & Morgan

8 Complex Litigation Group, and Tadler Law LLP).

9   Class Counsel John A. Yanchunis, Andrew N. Friedman, and Ariana J. Tadler jointly declare

10 under penalty of perjury under the laws of the United States of America that the foregoing is true

11 and correct.

12   EXECUTED on February 7, 2020, in Tampa, FL.

13

14   */s/ John A. Yanchunis*

                            John A. Yanchunis (*pro hac vice*)

                            jyanchunis@forthepeople.com

15   **MORGAN & MORGAN**

                            COMPLEX LITIGATION GROUP

16   201 N. Franklin St., 7th Floor

17   Tampa, FL 33602

                            Telephone: (813) 223-5505

18   Facsimile: (813) 223-5402

19   EXECUTED on February 7, 2020, in Washington, DC.

20   */s/ Andrew N. Friedman*

21   Andrew N. Friedman (*pro hac vice*)

                            afriedman@cohenmilstein.com

22   **COHEN MILSTEIN SELLERS & TOLL PLLC**

                            1100 New York Ave. NW, Fifth Floor

23   Washington, DC 20005

                            Telephone: (202) 408-4600

24   Facsimile: (202) 408-4699

25   EXECUTED on February 7, 2020, in New York, NY.

26   */s/ Ariana J. Tadler*

27   Ariana J. Tadler (*pro hac vice*)

                            atadler@tadlerlaw.com

28   **TADLER LAW, LLP**

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One Penn Plaza
36th Floor
New York, NY 10119
Telephone: (212) 946-9453
Facsimile: (212) 273-4375

6

Exhibit C

COHENMILSTEIN

www.cohenmilstein.com

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COHEN MILSTEIN SELLERS & TOLL PLLC

For decades, Cohen Milstein Sellers & Toll PLLC has represented individuals, small businesses, institutional investors, and employees in many of the major class action cases litigated in the United States for violations of the antitrust, securities, consumer protection, civil rights/discrimination, ERISA, employment, and human rights laws. Cohen Milstein is also at the forefront of numerous innovative legal actions that are expanding the quality and availability of legal recourse for aggrieved individuals and businesses both domestic and international. Over its history, Cohen Milstein has obtained many landmark judgments and settlements for individuals and businesses in the United States and abroad. The firm's most significant successes include:

- New Jersey Carpenters Health Fund v. Royal Bank of Scotland Group PLC et al. No. 1:08-cv-05310-DAB-HBP (S.D.N.Y.): On March 8, 2019, the Honorable Deborah A. Batts granted final approval to a $165 million all-cash settlement, bringing this lawsuit, the last of 11 MBS class actions Cohen Milstein successfully handled, to conclusion. Cohen Milstein was lead counsel in this certified MBS class action.

- In re Lidoderm Antitrust Litigation No. 3:14-md-02521 (N.D. Cal.): Plaintiffs allege that Endo and Teikoku, manufacturers of the Lidoderm patch, paid Watson Pharmaceuticals to delay its generic launch. The case settled on the eve of trial and on September 20, 2018, plaintiffs obtained final approval of a $104.75 million settlement – more than 40% of plaintiffs' best-case damages estimate. This case was ranked by Law360 as "The Biggest Competition Cases Of 2017 So Far" (July 7, 2017).

- In re Domestic Drywall Antitrust Litigation No. 2:13-md-02437 (E.D. Pa.): Cohen Milstein served as co-lead counsel for a class of direct purchasers of drywall against drywall manufacturers for price-fixing. The court approved settlements that total more than $190 million. The court commented that it had sided with plaintiffs because of counsel's "outstanding work," and that plaintiffs' counsel had a "sophisticated and highly professional approach." It complemented the attorneys as "highly skilled" and noted that their performance on class action issues was "imaginative." It also stated, "Few cases with no government action, or investigation, result in class settlements as large as this one."

- In re Anthem Data Breach Litigation No. 15-MD-02617-LHK (N.D. Cal.): On August 16, 2018, the Honorable Lucy H. Koh in the U.S. District Court for the Northern District of California granted final approval to a $115 million settlement – the largest data breach settlement in U.S. history – ending claims that Anthem Inc., one of the nation's largest for-profit managed health care companies, put 78.8 million customers' personal information, including social security numbers and health date, at risk in a 2015 data breach. Cohen Milstein was co-lead counsel.

- Moody's Litigation: Represented the co-lead state Mississippi and represented New Jersey in the $864 million consumer fraud settlement achieved in January 2017 by 22 states and the U.S. Department of Justice with Moody's Corporation, Moody's Investors Service, Inc., and Moody's Analytics, Inc. Together with the S&P settlement, these cases against the nation's two largest credit rating agencies produced key industry reforms that provide greater transparency for consumers and that divested the credit rating agencies of more than $2.2 billion for their conduct contributing to the national housing crisis and the Great Recession.

- S&P Litigation: Represented co-lead state Mississippi in the $1.375 billion-dollar consumer fraud settlement achieved in 2015 by 20 states and the U.S. Department of Justice with Standard & Poor's. Together with the Moody's settlement, these cases against the nation's two largest credit rating agencies produced key industry reforms that provide greater transparency for consumers and that divested the credit rating agencies of more than $2.2 billion for their conduct contributing to the national housing crisis and the Great Recession.

- <u>In re BP Securities Litigation</u> No. 4:10-MD-02185 (S.D. Tex.): Cohen Milstein represented the New York State Common Retirement Fund as co-lead plaintiff in a securities class action filed in 2010, alleging that BP injured investors by intentionally downplaying the severity of the Deepwater Horizon oil spill and preventing investors from learning the magnitude of the disaster. After successfully arguing for class certification to the district court, Cohen Milstein presented plaintiffs' defense of that court's decision to the U.S. Court of Appeals for the Fifth Circuit, which affirmed the class. The case settled for $175 million a few weeks before trial was set to begin.

- <u>In re Animation Workers Litigation</u> No. 5:14-cv-04062 (N.D. Cal.): Cohen Milstein served as co-lead counsel representing a class of animation and visual effects workers who allege that Pixar, Lucasfilm, DreamWorks and other studios conspired to suppress their pay. The court granted final approval of $168.5 million in settlements. To our knowledge, this is the most successful no-poach case ever filed in U.S. history, achieving an average recovery per class member of nearly $14,000.

- <u>HEMT MBS Litigation</u> No. 1:08-cv-05653 (S.D.N.Y.): On May 10, 2016, U.S. District Judge Paul A. Crotty finally approved a $110 million settlement in the mortgage-backed securities class action brought by investors against Credit Suisse AG and its affiliates. This settlement ends claims brought by the New Jersey Carpenters Health Fund and other investors who claimed that the offering documents for the mortgage-backed securities at issue violated the Securities Act as they contained false and misleading misstatements concerning compliance with underwriting standards.

- <u>In re Urethane Antitrust Litigation (Polyether Polyol Cases)</u> MDL No: 1616 (D. Kan.): Cohen Milstein served as co-lead counsel on behalf of a class of direct purchasers of chemicals used to make many everyday products, from mattress foam to carpet cushion, who were overcharged as a result of a nationwide price-fixing conspiracy. On February 25, 2016, Cohen Milstein reached an agreement with The Dow Chemical Company to settle the case against Dow for $835 million. Combined with earlier settlements obtained from Bayer, Huntsman, and BASF, the Dow settlement pushed the total settlements in the case to $974 million. The settlement was approved on July 29, 2016.

- <u>RALI MBS Litigation</u> No. 08-8781 (S.D.N.Y.): On July 31, 2015, Judge Katherine Failla gave final approval to a $235 million settlement with underwriters Citigroup Global Markets Inc., Goldman Sachs & Co., and UBS Securities LLC. She also approved a plan for distribution to investors of those funds as well as the previously approved $100 million settlement with RALI, its affiliates, and the individual Defendants that was reached in in 2013. This global settlement marks an end to a long and complicated class action over MBS offerings that RALI and certain of its affiliates issued and sold to the New Jersey Carpenters Health Fund and other investors from 2006 through 2007. The case took seven years of intense litigation to resolve.

- <u>In re: Bear Stearns Mortgage Pass-Through Certificates Litigation</u> No. 08-08093 (S.D.N.Y.): On May 27, 2015, U.S. District Judge Laura Taylor Swain finally approved a class action settlement with JPMorgan Chase & Co., which agreed to pay $500 million and up to an additional $5 million in litigation-related expenses to resolve claims arising from the sale of $27.2 billion of mortgage-backed securities issued by Bear Stearns & Co. during 2006 and 2007 in 22 separate public offerings.

- <u>Harborview MBS Litigation</u> No. 08-5093 (S.D.N.Y.): In February 2014, Cohen Milstein reached a settlement with the Royal Bank of Scotland (RBS) in the Harborview MBS Litigation, resolving claims that RBS duped investors into buying securities backed by shoddy home loans. The $275 million settlement is the fifth largest class action settlement in a federal MBS case. This case is one of eight significant MBS actions that Cohen Milstein has been named lead or co-lead counsel by courts and one of three that were nearly thrown out by the court, only to be revived in 2012.

- <u>In Re Electronic Books Antitrust Litigation</u> No. 11-md-02293 (S.D.N.Y.): In August 2014, a New York federal judge approved a $400 million antitrust settlement in the hotly contested ebooks price-fixing suit against Apple Inc.

Combined with $166 million in previous settlements with five defendant publishing companies, the final settlement totaled more than $560 million. The settlement resolves damages claims brought by a class of ebook purchasers and attorneys general from 33 U.S. states and territories.

- <u>Countrywide MBS Litigation</u> No. 2:10-cv-00302 (C.D. Cal.): In April 2013, plaintiffs in the landmark mortgage-backed securities (MBS) class action litigation against Countrywide Financial Corporation and others, led by Lead Plaintiff, the Iowa Public Employees' Retirement System (IPERS), agreed to a $500 million settlement. It is the nation's largest MBS-federal securities class action settlement. The settlement was approved in December 2013 and brings to a close the consolidated class action lawsuit brought in 2010 by multiple retirement funds against Countrywide and other defendants for securities violations involving the packaging and sale of MBS. The settlement is also one of the largest (top 20) class action securities settlements of all time.

- <u>In re Beacon Associates Litigation</u> No. 09-cv-0777 (S.D.N.Y): Class action settlement of $219 million for trustees and participants in ERISA-covered employee benefit plans whose assets were lost through investments made on their behalf by Beacon Associates LLC I & II in the investment schemes of Bernard Madoff.

- <u>In re Plasma-Derivative Protein Therapies Antitrust Litigation</u> No. 09 C 7666 (N.D Ill.): After four years of litigation, in October of 2013, CSL Limited, CSL Behring LLC, CSL Plasma, Inc. (collectively, "CSL"), and the Plasma Protein Therapeutics Association ("PPTA") agreed to pay $64 million dollars to settle a lawsuit brought by the University of Utah Hospital and other health care providers alleging that CSL, the PPTA, and Baxter agreed between 2003-2009 to restrict the supply of immunoglobulin and albumin and thereby increase the prices of those therapies. Two months later, Baxter International Inc. and Baxter Healthcare Corp. (collectively "Baxter") agreed to pay an additional $64 million to settle these claims – bringing the total recovery to the class to $128 million.

- <u>Keepseagle v. Vilsack</u> Civil Action No. 1:99CV03119 (D.D.C.): A class of Native American farmers and ranchers allege that they have been systematically denied the same opportunities to obtain farm loans and loan servicing that have been routinely afforded white farmers by the USDA. A class was certified in 2001 by Judge Emmet Sullivan, District Judge for the U.S. District Court for the District of Columbia, and the D.C. Circuit declined USDA's request to review that decision. On October 19, 2010, the case reached a historic settlement, with the USDA agreeing to pay $680 million in damages to thousands of Native American farmers and ranchers and forgive up to $80 million worth of outstanding farm loan debt.

- <u>In re Parmalat Securities Litigation</u> No. 1:04-md-1653 (S.D.N.Y.): Cohen Milstein, as co-lead counsel, successfully negotiated several settlements totaling approximately $90 million, including two settlements with Parmalat's outside auditors. Judge Lewis A. Kaplan remarked that plaintiffs' counsel "did a wonderful job here for the class and were in all respects totally professional and totally prepared. I wish I had counsel this good in front of me in every case." Parmalat's bankruptcy filing was the biggest corporate bankruptcy in Europe, and in December 2003, the U.S. Securities and Exchange Commission filed a suit charging Parmalat with "one of the largest and most brazen corporate financial frauds in history." During the litigation, the company subsequently emerged from bankruptcy, as a result we added "New Parmalat" as a defendant because of the egregious fraud committed by the now-bankrupt old Parmalat. New Parmalat strenuously objected and Judge Kaplan of the Southern District of New York ruled in the class plaintiffs' favor, a ruling which was affirmed on appeal. This innovative approach of adding New Parmalat enabled the class to obtain an important additional source of compensation, as we subsequently settled with New Parmalat for shares worth approximately $26 million.

- <u>Dukes v. Wal-Mart Stores, Inc.</u> No. C-01-2252 (N.D. Cal.): Cohen Milstein is co-lead counsel in this sex discrimination case. In 2004, the U.S. District Court certified a nationwide class action lawsuit for all female employees of Wal-Mart who worked in U.S. stores any time after December 26, 1998. This was the largest civil rights class action ever certified against a private employer, including approximately 1.5 million current and former female employees. That ruling was appealed, and while affirmed by the Ninth Circuit, was reversed by the Supreme Court in June 2011. Cohen Milstein argued the case for the plaintiffs-respondents in the Supreme Court.

Since then, the *Dukes* action has been amended to address only the Wal-Mart regions that include stores in California, and other regional class cases have been or are soon to be filed. This litigation to resolve the merits of the claims – whether Wal-Mart discriminates against its female retail employees in pay and promotions – continues.

- <u>Rubin v. MF Global, Ltd.</u> No. 08-CV-02233 (S.D.N.Y.): Acting as co-lead counsel in this class action, the Firm represented the Central States, Southeast and Southwest Areas Pension Fund which was one of the co- lead plaintiffs in the case.   In September 2010, as a result of Plaintiffs' decision to appeal, the U.S. Second Circuit Court of Appeals vacated in part the lower court's dismissal of the case and remanded the case for further proceedings. In overturning the District Court decision, the Second Circuit issued a decision which differentiated between a forecast or a forward-looking statement accompanied by cautionary language -- which the Appellate Court said would be insulated from liability under the bespeaks caution doctrine -- from a factual statement, or non-forward-looking statement, for which liability may exist. Importantly, the Second Circuit accepted Plaintiffs' position that where a statement is mixed, the court can sever the forward-looking aspect of the statement from the non-forward-looking aspect. The Court further stated that statements or omissions as to existing operations (and present intentions as to future operations) are not protected by the bespeaks caution doctrine. Mediation followed this decision and resulted in a settlement comprised of $90 million in cash.

- <u>Hughes v. Huron Consulting Group</u> No. 09-CV-04734 (N.D. Ill.): Cohen Milstein represented lead plaintiffs the Public School Teachers' Pension & Retirement Fund of Chicago and the Arkansas Public Employees Retirement System ("APERS") in this case against Huron Consulting Group, founded by former Arthur Anderson personnel following its collapse in the wake of the Enron scandal.   In August 2010, the District Court for the Northern District of Illinois denied defendants' motions to dismiss <u>in their entirety</u> and upheld plaintiffs' allegations that defendants intentionally improperly accounted for acquisition- related payments, which allowed plaintiffs to move forward with discovery. The case was settled for $40 million, comprised of $27 million in cash and 474,547 shares in Huron common stock, with an aggregate value at the time of final approval in 2011 of approximately $13 million.

- <u>In re Lucent Technologies Securities Litigation</u> No. 00-621 (D.N.J.): A settlement in this massive securities fraud class action was reached in late March 2003.   The class portion of the settlement amounts to over $500 million in cash, stock and warrants and ranks as the second largest securities class action settlement ever completed. Cohen Milstein represented one of the co-lead plaintiffs in this action, a private mutual fund.

- <u>Nate Pease, et al. v. Jasper Wyman & Son, Inc., et al.</u> No. 00-015 (Knox County Superior Court, Me.): In 2004, a state court jury from Maine found three blueberry processing companies liable for participating in a four-year price-fixing and non-solicitation conspiracy that artificially lowered the prices defendants paid to approximately 800 growers for wild blueberries. The jury ordered defendants Cherryfield Foods, Inc., Jasper Wyman & Son, Inc., and Allen's Blueberry Freezer, Inc. to pay $18.68 million in damages, the amount which the growers would have been paid absent the defendants' conspiracy. After a mandatory trebling of this damage figure under Maine antitrust law, the total amount of the verdict for the plaintiffs is just over $56 million. The Firm served as co-lead counsel.

- <u>In re StarLink Corn Products, Liability Litigation</u> MDL No. 1403 (N.D. Ill.): Cohen Milstein successfully represented U.S. corn farmers in a national class action against Aventis CropScience USA Holding and Garst Seed Company, the manufacturer and primary distributor of StarLink corn seeds. StarLink is a genetically modified corn variety that the United States government permitted for sale as animal feed and for industrial purposes, but never approved for human consumption.   However, StarLink was found in corn products sold in grocery stores across the country and was traced to widespread contamination of the U.S. commodity corn supply.   The Firm, as co-lead counsel, achieved a final settlement providing more than $110 million for U.S. corn farmers, which was approved by a federal district court in April 2003. This settlement was the first successful resolution of tort claims brought by farmers against the manufacturers of genetically modified seeds.

- <u>Snyder v. Nationwide Mutual Insurance Company</u> No. 97/0633 (Sup. Ct. N.Y. Onondaga Cty.). Cohen Milstein served as one of plaintiffs' principal counsel in this case on behalf of persons who held life insurance policies issued by Nationwide through its captive agency force. The action alleged consumer fraud and misrepresentations. Plaintiffs obtained a settlement valued at more than $85 million. The judge praised the efforts of Cohen Milstein and its co-counsel for having done "a very, very good job for all the people." He complimented "not only the manner" in which the result was arrived at, but also the "time … in which it was done."

- <u>Oncology & Radiation Associates, P.A. v. Bristol Myers Squibb Co., et al.</u> No. 1:01CV02313 (D.D.C.): Cohen Milstein has been co-lead counsel in this case since its inception in 2001. Plaintiffs alleged that Bristol-Myers Squibb unlawfully monopolized the United States market for paclitaxel, a cancer drug discovered and developed by the United States government, which Bristol sells under the brand name Taxol. Bristol's scheme included a conspiracy with American BioScience, Inc., a generic manufacturer, to block generic competition. Cohen Milstein's investigation and prosecution of this litigation on behalf of direct purchasers of Taxol led to a settlement of $65,815,000 that was finally approved by U.S. District Judge Emmet G. Sullivan on August 14, 2003 and preceded numerous Taxol-related litigations brought by the Federal Trade Commission and State Attorneys General offices.

- <u>Kruman v. Christie's International PLC, et al.</u> No. 01-7309 (S.D.N.Y.): A $40 million settlement on behalf of all persons who bought or sold items through Christie's or Sotheby's auction houses in non-internet actions was approved in this action. Cohen Milstein served as one of three leading counsel on behalf of foreign plaintiffs. The Court noted that approval of the settlement was particularly appropriate, given the significant obstacles that faced plaintiffs and plaintiffs' counsel in the litigation.   The settlement marked the first time that claims on behalf of foreign plaintiffs under U.S. antitrust laws have been resolved in a U.S. court, a milestone in U.S. antitrust jurisprudence.

- <u>Roberts v. Texaco, Inc.</u> 94-Civ. 2015 (S.D.N.Y.): Cohen Milstein represented a class of African-American employees in this landmark litigation that resulted in the then-largest race discrimination settlement in history ($176 million in cash, salary increases and equitable relief). The Court hailed the work of class counsel for, *inter alia,* "framing an imaginative settlement, that may well have important ameliorative impact not only at Texaco but in the corporate context as a whole …".

- <u>Trotter v. Perdue Farms, Inc.</u> No. 99-893 (D. Del.): This suit on behalf of hourly workers at Perdue's chicken processing facilities – which employ approximately 15,000 people – forced Perdue to pay employees for time spent "donning and doffing," that is, obtaining, putting on, sanitizing and removing protective equipment that they must use both for their own safety and to comply with USDA regulations for the safety of the food supply. The suit alleged that Perdue's practice of not counting donning and doffing time as hours worked violated the Fair Labor Standards Act and state law. In a separate settlement with the Department of Labor, Perdue agreed to change its pay practices. In addition, Perdue is required to issue retroactive credit under one of its retirement plans for "donning and doffing" work if the credit would improve employees' or former employees' eligibility for pension benefits. Cohen Milstein was co-lead counsel.

Awards & Recognition

- In 2020, *Law360* recognized Cohen Milstein as a 2019 **"Practice Group of the Year"** in two categories: Benefits and Consumer Protection.
- In 2019, **Law360** named Cohen Milstein's Sharon K. Robertson a 2019 **"Life Sciences – MVP"** for her extensive work on cutting-edge "pay for delay" antitrust class actions in the Life Sciences industry.
- In 2019, *Law360* named Cohen Milstein's Karen L. Handorf a 2019 **"Benefits – MVP"** for succeeded in getting a U.S. Supreme Court petition accepted and negotiating a $100 million Employee Retirement Income Security Act class action settlement.
- In 2019, Lawdragon named Cohen Milstein's Agnieszka Fryszman and Steve Toll to **"Lawdragon Legends,"** a list consisting of 30 of the "nation's elite lawyers" who have been recognized among the Lawdragon 500 for at least ten years.
- In 2019, ALM and *The National Trial Lawyers* named seven of Cohen Milstein's practice areas to its **"Elite Trial Lawyer – Finalist"** list and recognized Karen L. Handorf Recognized as one of its **"Elite Women of the Plaintiffs Bar"** (2020).
- In 2019, the Seven Hills School awarded Cohen Milstein's Kalpana Kotagal with the **"Norma Martin Goodall Distinguished Alumni Award."**
- In 2019, the *Chicago Business Journal* named Cohen Milstein's Carol V. Gilden a 2019 **"Woman of Influence."**
- In 2019, the American Antitrust Institute honored Cohen Milstein's Jessica Weiner with an **"Outstanding Antitrust Litigation Achievement Award."**
- In 2019, Lawdragon named 15 Cohen Milstein lawyers to is 2019 **"500 Leading Plaintiff Financial Lawyers"** list.
- In 2019, *Law360* named Cohen Milstein's Mary Bortscheller a **"Rising Star."**
- In 2019, *The Best Lawyers in America* named 12 Cohen Milstein attorneys to its 2020 **"Best Lawyers in America"** list.
- In 2019, *The Best Lawyers in America* named Cohen Milstein's Karen L. Handorf as **"ERISA Litigation Lawyer of the Year – Washington, DC."**
- In 2019, *The Best Lawyers in America* named Cohen Milstein's Stephan A. LeClainche **"Medical Malpractice Lawyer of the Year – West Palm Beach, FL."**
- In 2019, Public Justice Foundation named Cohen Milstein one of five finalists for the **"Trial Lawyer of the Year Award."**
- In 2019, Cohen Milstein's Environmental Toxic Tort practice was named a winner of The National Law Journal's **"Elite Trial Lawyers" Award,** and Cohen Milstein's Agnieszka Fryszman and Sharon Robertson were named winners of *The National Law Journal's* **"Elite Women of the Plaintiffs Bar" Award.**
- In 2019, six of Cohen Milstein lawyers were named among the **"Lawdragon 500 Leading Plaintiff Consumer Lawyers."**
- In 2019, Cohen Milstein's Carol V. Gilden received Lawyer Monthly Magazine's **"Women in Law Award."**
- In 2019, four of Cohen Milstein partners were named to Benchmark Litigation's **"40 & Under Hot List."**
- In 2019, Cohen Milstein's Christine E. Webber received the Washington Lawyers' Committee for Civil Rights and Urban Affairs' **"Roderic V.O. Boggs Award."**
- In 2019, Cohen Milstein's Nicholas C. Johnson and Poorad Razavi were named to Florida Trend's **"Legal Elite."**
- In 2019, Cohen Milstein's Nicholas C. Johnson was appointed to serve on the **AAJ Board of Governors.**
- In 2019, *The National Law Journal* named Cohen Milstein an **"Elite Trial Lawyer"** finalist in five practice areas and named Agnieszka Fryszman and Sharon Robertson **"Elite Women of the Plaintiffs Bar."**

- In 2019, *Law360's* 2019 Glass Ceiling Report named Cohen Milstein among **"The Best Law Firms for Female Attorneys."**

- In 2019, *The Legal 500* recognized Cohen Milstein's Antitrust, Civil Rights & Employment, Products Liability, and Securities Litigation practices as **"Leading Practices,"** and named seven Cohen Milstein attorneys among their **"Leading Lawyers," "Next Generation Lawyers,"** and **"Rising Stars."**

- In 2019, Cohen Milstein was named to *The National Law Journal's* **"Pro Bono Hot List."**

- In 2019, 21 Cohen Milstein attorneys were recognized as **"Super Lawyers,"** and nine Cohen Milstein attorneys were recognized as **"Rising Stars."**

- In 2019, Cohen Milstein's Takisha D. Richardson was named a **Florida Bar Association's Wm. Reece Smith, Jr. Leadership Academy Fellow.**

- In 2019, six of Cohen Milstein's Civil Rights & Employment Litigation lawyers were named among the **"Lawdragon 500 Leading Plaintiff Employment Lawyers 2019."**

- In 2019, the *Daily Business Review* honored Cohen Milstein with three Professional Excellence Awards, including Theodore J. Leopold, **DBR's 2019 "Distinguished Leaders" award,** Nicolas C. Johnson, **DBR's 2019 "On the Rise" award,** and the firm's Sexual Abuse, Sex Trafficking, and Domestic Violence Litigation team, **DBR's 2019 "Innovative Practice Areas" award.**

- In 2019, four Cohen Milstein lawyers received **"The Burton Awards' Law360 Distinguished Legal Writing Award - Law Firm."**

- In 2019, nine Cohen Milstein lawyers were named among the **"Lawdragon 500 Leading Lawyers in America."**

- In 2018, *The National Law Journal* and *Trial Lawyer Magazine,* named Steven J. Toll and Betsy A. Miller among **"America's 50 Most Influential Trial Lawyers."**

- In 2018, *Law360* named Cohen Milstein **"Practice Group of the Year"** in two categories: Consumer Protection and Environmental.

- In 2018, *Law360* named three partners MVP in the respective practices, including: Theodore J. Leopold as *Law360's* **Environmental MVP,** Andrew N. Friedman as *Law360's* **Cybersecurity and Privacy MVP**, and Kalpana Kotagal as *Law360's* **Employment MVP.**

- In 2018, The *National Law Journal* named Cohen Milstein winner of **"Elite Trial Lawyer of the Year"** in four categories, including Consumer Protection, Counterterrorism, Immigration, and Financial Products, and finalist in five other categories, including Antitrust, Civil Rights, Disability Rights, Employment Rights, and Racial Discrimination.

- In 2018, *The National Law Journal* named Kalpana Kotagal, Betsy A. Miller, and G. Julie Reiser – **"Elite Women of the Plaintiffs Bar."**

- In 2018 the *Daily Business Review* named Stephan A. LeClainche and Diana L. Martin as one of its **"Most Effective Lawyers"** for Medical Malpractice and Pro Bono, respectively.

- In 2018, A Better Balance presented Kalpana Kotagal with **"A Better Balance: The Work & Family Legal Center's Distinguished Public Service Award."**

- In 2018, the American Antitrust Institute honored Sharon K. Robertson with its **"Outstanding Antitrust Litigation Achievement Award."**

- In 2018, the NAACP honored Cohen Milstein with its **"Foot Soldier in the Sand Award,"** in recognition of the firm's outstanding commitment to providing pro bono legal services.

- In 2018, *The Best Lawyers in America* recognized eleven Cohen Milstein attorneys as among the **Best Lawyers in America (2019),** in their respective areas of law.

- In 2018, *The Best Lawyers in America* singled out and named Joseph M. Sellers **"The Best Lawyers in America 2019, Labor Law Lawyer of the Year – Washington, D.C."**

- In 2018, *The Best Lawyers in America* singled out and named Milstein's Leslie M. Kroeger **"The Best Lawyers in America 2019, Mass Tort Litigation / Class Actions "Lawyer of the Year – West Palm Beach, FL."**

- In 2018, *Palm Beach Illustrated* named seven Cohen Milstein attorneys to its ""**Top Lawyers" List."**
- In 2018, *Benchmark Litigation* named four Cohen Milstein attorneys to its **"40 & Under Hot List."**
- In 2018, *Florida Trend* named five Cohen Milstein attorneys to its list of **"Florida's Legal Elite."**
- In 2018, Lawdragon 500 named five Cohen Milstein attorneys to **"Leading Plaintiff Employment Lawyers."**
- In 2018, *Crain's* named Carol V. Gilden one of Chicago's **"Notable Women Lawyers."**
- In 2018, Harvard Law School named Kalpana Kotagal a **"Wasserstein Fellow."**
- In 2018, *Chambers USA Women in Law* honored Kalpana Kotagal with its **"Outstanding Contribution to the Community in Advancing Diversity Award."**
- In 2018, the *New York Law Journal* named Sharon K. Robertson to its list of **"New York Rising Stars."**
- In 2018, *The Legal 500: Guide to the US Legal Profession* listed Cohen Milstein's **Antitrust**, **Employment Disputes**, and **Securities Litigation** practices among its **"Leading Practices."**
- In 2018, the *Daily Business Review* named Leslie M. Kroeger a **"Distinguished Leader."**
- In 2018, *Law360* named Steven J. Toll a 2018 **"Titan of the Plaintiffs Bar."**
- In 2018, Leslie M. Kroeger was sworn-in as President-Elect to the Florida Justice Association.
- In 2018, Lawdragon named seven Cohen Milstein attorneys to the 2018 **"Lawdragon 500,"** an annual list of the **500 Leading Lawyers in America**.
- In 2018, Theodore J. Leopold was recognized as an **"Energy and Environmental Trailblazer"** by *The National Law Journal.*
- In 2018, *Super Lawyers* recognized 20 Cohen Milstein attorneys as **"2018 Super Lawyers"** and 12 Cohen Milstein attorneys as **"Super Lawyer Rising Stars."**
- In 2017, *Law360* named Cohen Milstein a **"Practice Group of the Year: Privacy."**
- In 2017, Steven J. Toll was named a *Law360* **"MVP – Class Action."**
- In 2017, the *Daily Business Review* named Theodore J. Leopold a **"Most Effective Lawyer of 2017: Class Action**."
- In 2017, Joel Laitman, Christopher Lometti, Betsy Miller, and Victoria Nugent were named *The National Law Journal's* **"Plaintiffs' Lawyers Trailblazers**."
- In 2017, *The Best Lawyers in America* recognized seven Cohen Milstein partners as among the "**Best Lawyers in America"** for their respective practices of law.
- In 2017, *Law360* named Cohen Milstein partners, S. Douglas Bunch and Kalpana Kotagal as **"Rising Stars."**
- In 2017, *The Legal 500* named Cohen Milstein a **Leading Firm** in "Antitrust: Civil Litigation / Class Actions" and "Dispute Resolution: Securities Litigation – Plaintiff."
- In 2017, *The Legal 500* named Richard A. Koffman to its **"Legal 500 Hall of Fame."**
- In 2017, *Legal 500* named Sharon K. Robertson and Brent W. Johnson as **"Legal 500 Next Generation Lawyer"** in the area of Antitrust: Civil Litigation/Class Actions.
- In 2017, *Super Lawyers* named Brent W. Johnson as a **"Rising Star"** and a **"Top Rated Antitrust Litigation Attorney in Washington, DC."**
- In 2017, *Super Lawyers* named Leslie M. Kroeger, Stephan A. Le Clainche, and Theodore J. Leopold **"Florida Super Lawyers"** and Nicholas C. Johnson and Adam J. Langino **"Florida Rising Stars."**
- In 2017, the Coalition for Independent Living Options Inc. presented Michael Dolce a Special Acknowledgment Award for his **"Commitment to Ending Sex Crimes against People with Disabilities."**
- In 2017, Adam J. Langino was elected American Association for Justice's Newsletter Chair for the Product Liability Section.
- In 2017, *Florida Trend* named Manuel J. Dominguez a **"Legal Elite."**
- In 2017, Nicholas C. Johnson was elected President of the F. Malcolm Cunningham, Sr. Bar Association.

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- In 2017, Leslie M. Kroeger was elected Treasurer to the Florida Justice Association.

- In 2017, *South Florida Legal Guide* named Theodore J. Leopold as a **"Top Lawyer,"** and Diana L. Martin and Adam Langino a **"Top Up and Comer."**

- In 2016, *Law360* selected Cohen Milstein as a **"Competition Practice Group of the Year"** and a **"Class Action Practice Group of the Year."**

- In 2016, Women in Wealth Awards selects Carol V. Gilden Selected as **"Best in Securities Litigation Law - Illinois & Excellence Award for Investor Protection Law."**

- In 2016, Richard A. Koffman was named a *Law360* **"MVP – Competition Law."**

- In 2016, Martha Geer was selected as a "**North Carolina Leaders in the Law Honoree."**

- In 2016, the Washington Lawyers' Committee for Civil Rights and Urban Affairs named Cohen Milstein a recipient of its **"Outstanding Achievement Award."**

- In 2016, for the eighth consecutive year, Cohen Milstein was recognized by *The Legal 500* as one of the leading plaintiff class action antitrust firms in the United States.

- In 2016, Agnieszka Fryszman, Joel Laitman, Chris Lometti, Kit Pierson, Joe Sellers and Steve Toll were named to the **2016 Lawdragon 500 Leading Lawyers in America.**

- In 2016, *Law360* named Julie Goldsmith Reiser one of the **"25 Most Influential Women in Securities Law."**

- In 2016, Cohen Milstein is named to *The National Law Journal's* **"Plaintiffs Hot List"** for the fifth time in six years.

- In 2016, *Law360* named Cohen Milstein as one of the top firms for female attorneys.

- In 2015, *Law360* named Cohen Milstein as the sole plaintiffs firm to be selected in two **"Practice Groups of the Year"** categories and one of only five class action firms recognized.

- In 2015, Cohen Milstein was named an **"Elite Trial Lawyer Firm"** by *The National Law Journal* for the second year in a row.

- In 2015, Steven J. Toll named a *Law360* **"MVP – Securities Law."**

- In 2015, Cohen Milstein was selected as a **"Most Feared Plaintiffs Firm"** by *Law360* for the third year in a row.

- In 2015, Richard Koffman was named, for the fifth consecutive year, in *The Legal 500* **"Leading Lawyers"** in **"Litigation - Mass Tort and Class Action: Plaintiff Representation – Antitrust."**

- In 2015, Theodore J. Leopold, Leslie M. Kroeger, and Stephan A. LeClainche were selected as **"Florida Super Lawyers"** and Adam J. Langino was selected as a **"Florida Rising Star."**

- In 2015, Andrew Friedman, Agnieszka Fryszman, Karen Handorf, Kit A. Pierson, Julie Reiser, Joseph M. Sellers, Daniel A. Small, Daniel S. Sommers, Steven J. Toll and Christine E. Webber were selected as **"Washington DC Super Lawyers."**

- In 2015, Monya Bunch, S. Douglas Bunch, Johanna Hickman, Kalpana Kotagal, and Emmy Levens were selected as "**Washington DC Rising Stars"** by *Super Lawyers.*

- In 2015, for the fourth time in five years, Cohen Milstein was selected to *The National Law Journal "*Plaintiffs' Hot List."**

- In 2015, Carol V. Gilden was selected as **"Pension Funds Litigation Attorney of the Year in Illinois"** for the second year in a row by the Corporate INTL Legal Awards.

- In 2014, Cohen Milstein's Antitrust Practice was selected as a "**Practice Group of the Year"** by *Law360.*

- In 2014, Cohen Milstein Partner Kit Pierson was selected as an **"Antitrust MVP"** by *Law360.*

- In 2014, Cohen Milstein was named a "**Most Feared Plaintiffs Firm**" by *Law360* for the second year in a row. In 2014, Cohen Milstein was selected as an **Elite Trial Lawyer** firm by *The National Law Journal.*

- Cohen Milstein Partners Steven J. Toll, Joseph M. Sellers, Kit A. Pierson, and Agnieszka M. Fryszman Selected to the **2014 Lawdragon 500**.

- Released in 2015, Joseph M. Sellers, Theodore J. Leopold, and Leslie M. Kroeger listed in "**Best Lawyers in America."**
- Released in 2014, the 2013 SCAS 50 Report on Total Securities Class Action Settlements ranked Cohen Milstein as a top firm.
- In 2014, Cohen Milstein's Theodore J. Leopold was named among the "**Top 100" Florida Super Lawyers**, Leslie M. Kroeger was named to the **"Florida Super Lawyers,"** and Diana L. Martin was named a "**Florida Rising Star."**
- In 2014, Cohen Milstein attorneys Leslie M. Kroeger and Adam J. Langino were recognized in **Florida Trend's "Florida Legal Elite**." Kroeger is recognized as Legal Elite and Langino is listed as an Up-and-Comer.
- In 2014, Cohen Milstein was selected to the selected to the **National Law Journal's Midsize Hot List**.
- In 2014, Cohen Milstein was recognized as a "**Highly Recommended Washington, DC Litigation Firm**" by
- Benchmark Plaintiff: The Definitive Guide to America's Leading Plaintiff Firms and Attorneys.
- In 2014, Cohen Milstein was ranked as a **Leading Plaintiff Class Action Antitrust Firm in the United States by the Legal 500** for the sixth year in a row.
- In 2014, Partner Richard Koffman was named, for the fourth consecutive year, in the Legal 500 United States "**Leading Lawyers**" list under the category of "Litigation - Mass Tort and Class Action: Plaintiff Representation - Antitrust".
- In 2014, Cohen Milstein attorneys Agnieszka Fryszman, Julie Goldsmith Reiser, Joseph Sellers, Daniel Sommers, and Steven Toll were recognized **as Local Litigation Stars** by Benchmark Plaintiff: The Definitive Guide to America's Leading Plaintiff Firms and Attorneys.
- In 2014, Cohen Milstein attorneys R. Joseph Barton, Andrew Friedman, Agnieszka Fryszman, Karen Handorf, Kit A. Pierson, Julie Reiser, Joseph M. Sellers, Daniel A. Small, Daniel S. Sommers, Steven J. Toll and Christine E. Webber were selected as **Washington DC Super Lawyers**.
- In 2014, Cohen Milstein attorneys Monya Bunch, S. Douglas Bunch, Jeffrey Dubner, Johanna Hickman, Joshua Kolsky, Kalpana Kotagal, Emmy Levens, and Michelle Yau were selected as **Washington DC Rising Stars** by Super Lawyers.
- In 2014, Cohen Milstein Partner Carol V. Gilden was selected as the Illinois Pension Fund Attorney of the Year.
- In 2014, Best Lawyers named Cohen Milstein Partner Joseph Sellers D.C. Litigation - Labor & Employment Lawyer of the Year.
- In 2013, for the third-year in a row, Cohen Milstein was selected to the *National Law Journal* **Plaintiffs' Hot List**.
- In 2013, Cohen Milstein was named a "**Most Feared Plaintiffs Firm**" by Law360.
- In 2013, Cohen Milstein was ranked as a Leading Plaintiff Class Action Antitrust Firm in the United States by the Legal 500 for the fifth year in a row.
- In 2013, Cohen Milstein attorneys Joseph Barton, Andrew Friedman, Agnieszka Fryszman, Karen Handorf, Kit A. Pierson, Julie G. Reiser, Joseph M. Sellers, Daniel A. Small, Daniel S. Sommers, Steven J. Toll, and Christine E. Webber were selected as **Washington DC Super Lawyers**.
- In 2013, Cohen Milstein attorney Michelle Yau was selected as **Washington DC Rising Stars** by Super Lawyers. In 2013, Cohen Milstein Partner Carol V. Gilden was selected as a **2013 Illinois Super Lawyer**. She has been selected every year since 2005.
- In 2012, for the second-year in a row, Cohen Milstein was selected to the *National Law Journal* **Plaintiffs' Hot List**.
- In 2012, Cohen Milstein was the recipient of the Judith M. Conti Pro Bono Law Firm of the Year Award from the Employment Justice Center.
- In 2012, Cohen Milstein was recognized as a "Highly Recommended Washington, DC Litigation Firm" by
- Benchmark Plaintiff: The Definitive Guide to America's Leading Plaintiff Firms and Attorneys.
- In 2012, Cohen Milstein was ranked as a top firm by the 2011 SCAS Report on Total Securities Class Action Settlements.
- In 2012, Cohen Milstein was ranked as a Leading Plaintiff Class Action Antitrust Firm in the United States by the Legal 500 for the fourth year in a row.
- In 2012, Partner Joseph M. Sellers was selected as a **Washington DC Super Lawyer**. Mr. Sellers was also selected for this prestigious award in 2007, 2008, 2009, 2010, and 2012.

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- In 2012, Partner Steven J. Toll was selected as a **Washington DC Super Lawyer**. Mr. Toll was also selected for this prestigious award in 2007, 2009, 2010, and 2011.
- In 2012, Partner Daniel S. Sommers was selected as a **Washington DC Super Lawyer**. Mr. Sommers was also selected for this prestigious award in 2011.
- In 2012, Partner Christine E. Webber was selected as a **Washington DC Super Lawyer**. Ms. Webber was also selected for this prestigious award in 2007.
- In 2012, Partner Agnieszka M. Fryszman was selected as a **Washington DC Super Lawyer**. In 2012, Partner Kit A. Pierson was selected as a **Washington DC Super Lawyer**.
- In 2012, Partner Carol V. Gilden was selected as an **Illinois Super Lawyer**. Ms. Gilden was also selected for this prestigious award in 2005, 2006, 2007, 2008, 2009, 2010, and 2011.
- In 2011, Cohen Milstein was selected to the *National Law Journal* **Plaintiffs' Hot List**.
- In 2011, Partner Joseph M. Sellers was selected as a **"Visionary"** by The *National Law Journal.*
- In 2011, Partner J. Douglas Richards, Of Counsel Joel Laitman, and Of Counsel Christopher Lometti were selected as **New York - Metro Super Lawyers**.
- In 2011, Partner Joseph M. Sellers and the *Keepseagle v. Vilsack* team were selected as a finalist for the **2011**
- **Trial Lawyer of the Year Award** from the Public Justice Foundation.
- In 2011, **Cohen Milstein was ranked as a Leading Plaintiff Class Action Antitrust Firm in the United States** by the Legal 500 for the third year in a row.
- In 2011, Partners Steven Toll, Joseph Sellers, and Daniel Sommers were selected as **Washington DC Super Lawyers**. Partner J. Douglas Richards, Of Counsel Joel Laitman and Christopher Lometti were selected as **New York - Metro Super Lawyers**. Partner Carol Gilden was selected as an **Illinois Super Lawyer**.
- In 2011, Cohen Milstein was a recipient of The *National Law Journal's* **Pro Bono Award**. The Firm was named one of the "six firms that best reflect the pro bono tradition."
- In 2010, Partner Joseph M. Sellers was selected as one of "**The Decade's Most Influential Lawyers**" by *The National Law Journal*.
- In 2010, Partner Steven J. Toll was named one of Law360's "**Most Admired Attorneys**". In 2010, Partner Andrew N. Friedman was selected as a **Washington DC Super Lawyer**.
- In 2010, Partner Agnieszka M. Fryszman was selected as a finalist for the **Trial Lawyer of the Year Award** from the Public Justice Foundation.
- In 2010, Partners Joseph M. Sellers and Agnieszka M. Fryszman were both selected as one of the **Lawdragon 500 Leading Lawyers in America**.
- In 2010, Cohen Milstein was once again ranked as a **Leading Plaintiff Class Action Antitrust Firm in the United States** by the Legal 500.

Attorney Profiles – Partners

Andrew N. Friedman

Andrew N. Friedman is a Partner at Cohen Milstein and the Co-Chair of the firm's Consumer Protection practice group.

Practicing in the class action field since 1985, Mr. Friedman is a nationally recognized leader in the area of complex, multi-state class action lawsuits against manufacturers and consumer service providers, such as banks, insurers, credit card companies, and others, who is ready to take litigation all the way through trial.

In 2018, Mr. Friedman was named Law360's "MVP – Data Privacy and Security," an award recognizing only five lawyers in the United States in this emergent area of law. In addition, under his leadership, Cohen Milstein's Consumer Protection practice has received numerous industry awards, including Law360's "Practice Group of the Year – Consumer Protection" (2018) and The National Law Journal's "Elite Trial Lawyers – Consumer" award (2018), as well as Law360's "Practice Group of the Year – Privacy" (2017).

Over the years, Mr. Friedman has been court-appointed Lead or Co-Lead Counsel in numerous high-profile and often precedent-setting class actions, bringing relief to millions of consumers and recovering hundreds of millions of dollars in class actions, including:

- In April 2019, Mr. Friedman was appointed Consumer Plaintiffs' Co-Lead Counsel in In re: Marriott International Inc. Customer Data Security Breach Litigation (D. Md) and in February 2019, he was appointed Co-Lead Interim Class Counsel in the Facebook 2018 Data Breach Litigation (N.D. Cal.).
- Mr. Friedman was Co-Lead Counsel in In re Anthem Data Breach Litigation (N.D. Cal.), a data breach class action involving the theft of personal identification and health information of more than 78 million customers of Anthem, the second largest health insurance company in the nation. The lawsuit involved novel claims and cutting-edge damage theories, resulting in a $115 million settlement – at the time, the largest data breach settlement in history.
- Mr. Friedman also litigated a lawsuit against Symantec, Corp. and Digital River, Inc. (D. Minn.), a four-year long nationwide class action battle related to the marketing of a re-download service in conjunction with the sale of Norton software. The case settled in a $60 million all-cash deal one month before the case was about to go to trial – one of the most significant consumer settlements in years.
- He also was one of the principal counsel in cases against Nationwide (N.D.N.Y.) and Country Life (Cook Cty. Ill. Cir. Ct.), which asserted sales marketing abuses in the marketing of so-called "vanishing premium policies," where insurance agents sold insurance policies to unsuspecting consumers promising that after a relatively short time the dividends generated from the policy would be so high as to be able to fully pay the premiums. In fact, the calculations of the policies were based on unrealistic interest rate projections and, therefore, the premiums never "vanished." Nationwide resulted in a settlement valued at between $85 million and $103 million, while a settlement with Country Life made $44 million in benefits available to policyholders.
- Mr. Friedman was Co-Lead Counsel in Keithly v. Intelius, Inc. (W.D. Wash.), where he negotiated two nationwide settlements with Intelius, Inc., relating to negative option programs and improper post-transaction marketing. The combined settlements made $12 million in cash available to the Class.
- Mr. Friedman was a member of the Plaintiffs' Steering Committee representing financial institutions in the Home Depot Data Breach Litigation (N.D. Ga.) and headed the expert committee. This class action lawsuit arose out of the Home Depot data breach, a cyber-attack that affected hundreds of financial institutions and more than 40 million consumers who used their debit and credit cards to patronize Home Depot. On September 22, 2017, the court granted final approval of a $25 million settlement.
- Mr. Friedman was one of the principal counsel in the HCA Litigation (M.D. Fla.), a state-wide consumer class action in Florida federal court. Plaintiffs alleged that post-car accident emergency room patients were billed inflated fees for emergency radiology services, in excess of the amount allowed by law, covered in part by their mandatory Florida Personal Injury Protection (PIP) insurance. In December 2018, the Court granted final approval of an injunctive relief settlement of $220 million.

Mr. Friedman has also litigated important consumer product lawsuits, including one against Thomson Consumer Electronics, which resulted in a settlement that made up to $100 million available for persons who paid for unreimbursed repairs to defective televisions. In addition, Mr. Friedman was one of the principal counsel in the Dex-Cool Litigation, a nationwide lawsuit alleging that General Motors sold millions of cars with defective coolant that gummed up and caused corrosion to engines. GM settled ahead of trial, offering relief of cash payments of up to $800 per repair.

Prior to his current role as Co-Chair of the Consumer Protection group, Mr. Friedman was a member of Cohen Milstein's Securities Litigation & Investor Protection practice, litigating many important matters, including Globalstar Securities Litigation in which he served as one of the lead trial counsel. The case settled for $20 million during the second week of the trial. In addition, Mr. Friedman served as Co-Lead or principal counsel in Norman Frank et al. v. David L. Paul (a recovery of over $18 million); In re Jiffy Lube Securities Litigation (D. Md.) (a recovery of over $12 million); and In re Immunex Securities Litigation (W.D. Wash.) (a recovery of $14 million).

Currently, Mr. Friedman is litigating such notable matters as:

- In re: Marriott International Inc. Customer Data Security Breach Litigation (D. Md.): On April 29, 2019, the Court appointed Mr. Friedman Consumer Plaintiffs' Co-Lead Counsel to oversee a putative nationwide class action related to the data breach of personal information of nearly 400 million customers of Starwood-branded hotels, subsequently acquired by Marriott in 2016, making it one of the largest data breaches in U.S. history.
- Facebook 2018 Data Breach Litigation (N.D. Cal.): On February 14, 2019, the Court appointed Mr. Friedman Co-Interim Class Counsel in a putative nationwide class action against Facebook for breach of personal data. According to Facebook, the data breach was the result of a software vulnerability that existed for over a year (July 2017 – September 2018).
- In re Equifax, Inc., Customer Data Security Breach Litigation (N.D. Ga.): Mr. Friedman is a member of the Plaintiffs' Steering Committee and is Co-Chair of the Expert Committee in this data privacy breach class action against Equifax, a leading credit-reporting company that safeguards some of the most sensitive financial and personal information of over 147 million individuals across the United States, for its failure to inform the public of a massive data breach and theft of client data. On July 22, 2019, a settlement was preliminarily approved. If granted final approval, the settlement – which will consist of a record-breaking cash fund and credit monitoring for class members and require Equifax to spend $1 billion to upgrade its security and technology – would resolve this litigation, as well as state and federal investigations.

Mr. Friedman is a noted speaker who has appeared on numerous panels for legal education seminars and institutional investor conferences on the issues of consumer and securities class actions. In 2011, LawDragon named him one of the Leading Plaintiffs' Lawyers. His work has been cited in the media and he was profiled in the April 14, 2000, Washington Business Journal.

Prior to joining Cohen Milstein, Mr. Friedman served as an attorney with the U.S. Patent and Trademark Office.

Mr. Friedman attended Tufts University, graduating magna cum laude and was elected Phi Beta Kappa, with a B.A. in Psychology. He earned his J.D. from the National Law Center, George Washington University.

Geoffrey Graber

Geoffrey Graber is a Partner at Cohen Milstein and a member of the firm's Consumer Protection practice, where he specializes in representing consumers in complex class action litigation involving issues of false advertising, fraud, data privacy theft and other forms of unfair business practices at the hands of banks, insurance, health care companies, and other consumer providers.

Mr. Graber also represents whistleblowers in qui tam litigation under the False Claims Act and whistleblower programs under the U.S. Securities Exchange (SEC), U.S. Department of Transportation (DOT), and U.S. Department of Defense (DOD). Often these lawsuits involve Foreign Corrupt Practices Act allegations.

Prior to joining Cohen Milstein in 2015, Mr. Graber had a distinguished career at the U.S. Department of Justice (DOJ), serving as Deputy Associate Attorney General and Director of the Residential Mortgage-Backed Securities (RMBS) Working Group at the DOJ, where he oversaw the DOJ's nationwide investigation into the packaging and sale of mortgage-backed securities (MBS), leading up to the financial crisis. He supervised more than 100 DOJ prosecutors, lawyers, investigators and analysts and worked closely with senior officials from the SEC, Department of Housing and Urban Development (HUD), Inspector General's Office for the Federal Finance Agency and more than 10 state attorneys general offices.

The DOJ investigations overseen by Mr. Graber ultimately recovered more than $36 billion. These recoveries include the record-breaking $16.65 billion settlement reached in August 2014 with Bank of America – the largest settlement with a single entity in U.S. history – as well as settlements with Citigroup ($7 billion) and JP Morgan ($13 billion).

Earlier in his tenure at the DOJ, Mr. Graber served as Counsel in the Civil Division, where he proposed and then led the three-year investigation (2004 – 2007) of Standard & Poor's (S&P) and its ratings of structured finance products. Mr. Graber oversaw the investigation and supervised a team of more than 50 prosecutors, DOJ lawyers, investigators and analysts. The investigation, which made groundbreaking use of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), resulted in the largest enforcement action filed by the United States concerning the financial crisis (United States v. Standard & Poor's). As a result of his successful work on S&P, Mr. Graber earned the Attorney General's Distinguished Service Award in 2015.

In 2014, while at the DOJ, Mr. Graber also received the Attorney General's Distinguished Service Award for his work relating to the $13 billion settlement with JP Morgan – including, at the time, the largest FIRREA penalty recovered by the DOJ.

Mr. Graber's distinguished background and experience has proven invaluable to clients. He is currently litigating the following high-profile matters:

- Singer, et al. v. Facebook (N.D. Cal.): Mr. Graber serves as lead counsel representing a putative class of advertisers who claim that Facebook's key advertising metrics (Potential Reach and Estimated Daily Reach) are false and misleading due to systemic inflation of Facebook's user base.
- Ariza v. Luxottica Retail North America (LensCrafters) (E.D.N.Y.): Mr. Graber represents a putative class of purchasers of LensCrafters' Accufit Digital Measurement System (Accufit) services, who allege that LensCrafters used false, misleading advertising and deceptive sales practices about Accufit being "five times more accurate" in measuring pupillary distance than traditional methods, to induce customers to purchase LensCrafters higher-priced prescription lens products.
- LLE One, LLC v. Facebook (N.D. Cal.): Mr. Graber serves on the co-lead counsel team representing a class of advertising purchasers who claim Facebook breached its implied duty to perform with reasonable care and violated California's Unfair Competition Law by intentionally miscalculating and inflating metrics related to its video advertisement and monitoring services. If not for these miscalculations, plaintiffs claim, they would not have purchased more video advertisements and at a higher price than they otherwise would have paid. On June 12, 2019, the parties announced that they had reached a class-wide settlement, which is set for preliminary approval in November 2019.

Mr. Graber's recent successes include:

- In re Anthem, Inc. Data Breach Litigation (N.D. Cal.): Cohen Milstein was co-lead counsel in a certified class action involving the 2015 cyberattack and massive data breach of Anthem, Inc., one of the nation's largest for-profit managed health care companies, which resulted in the theft of personal identification and health information of

78.8 million insureds. On August 16, 2018 the Court granted final approval to a $115 million settlement in this class action – the largest data breach settlement in U.S. history. Mr. Graber was involved in all aspects of the litigation.

Before joining the DOJ, Mr. Graber was an associate at a top-tier defense law firm, where he defended Fortune 500 companies and their officers and directors in securities and derivative suits, consumer class actions and government investigations. Mr. Graber also devoted substantial time to pro bono representation of indigent individuals and families in civil rights actions against local law enforcement.

Mr. Graber received his undergraduate degree in Philosophy from Vassar College, and earned his law degree from the University of Southern California Law School, where he served as the Managing Articles Editor on Southern California Law Review.

Douglas J. McNamara

Douglas J. McNamara is a Partner at Cohen Milstein, and a member of the firm's Consumer Protection practice group. In that role, Mr. McNamara specializes in litigating complex, multi-state class action lawsuits against manufacturers and consumer service providers such as banks, insurers, credit card companies and others. He has helped litigate precedent-setting cases, including Salud Services, Inc. v. Caterpillar, Inc. He is a hands-on litigator who takes pleasure in the details, facts, and documents of each case. Mr. McNamara is a highly regarded speaker who has presented at several forums on such topics as federal preemption, class certification and civil litigation, and is the author of scholarly articles focusing on emerging legal issues.

Mr. McNamara has worked on numerous cases involving dangerous pharmaceuticals and medical devices, light cigarettes, defective consumer products, and environmental torts. He litigated and resolved the class action lawsuit against Philips Electronics North America Corp., which alleged that certain Philips and Magnavox flat-panel TVs suffer from a defect that causes their capacitors to fail prematurely and renders the TVs inoperable.

Mr. McNamara is currently litigating the following notable matters:

- Lumber Liquidators Litigation: Cohen Milstein is co-lead counsel in the consumer class action lawsuit In re: Lumber Liquidators Chinese-Manufactured Flooring Products, Sales Practice and Product Liabilities Litigation, alleging the nationwide retailer sold Chinese-made laminate flooring containing hazardous levels of the carcinogen formaldehyde while falsely labeling their products as meeting or exceeding California emissions standards, a story that was profiled twice on 60 Minutes in 2015.
- Symantec Litigation: Cohen Milstein is lead counsel in Khoday et al. v. Symantec Corp. et al., a nationwide class action battle involving the marketing to consumers of a re-download service in conjunction with the sale of Norton software. The case settled in a $60 million all-cash deal a month before the case was to go to trial – one of the most significant consumer settlements in years. Mr. McNamara was involved in all aspects of the case, from managing the litigation to overseeing a staff of contract attorneys to settlement discussions.
- Rooms to Go Litigation: Cohen Milstein represents a putative class in Hankinson et al. v. R.T.G. Furniture Corp., d/b/a Rooms to Go, alleging that the furniture retailer misled consumers as to the application of its ForceField stain protection plan. Mr. McNamara is engaged in all aspects of the litigation, including discovery and working with expert witnesses.
- Caterpillar Litigation: Cohen Milstein is lead counsel in Salud Services, Inc. v. Caterpillar, Inc., a class action lawsuit against Caterpillar alleging that bus engines designed to meet 2002 federal emissions standards are failing, leaving passengers stranded and bus companies eating the costs of countless repairs and towing fees. The Firm succeeded in beating back the defendant's argument that the Clean Air Act preempted the plaintiff's claims since the claims related to emissions standards. Mr. McNamara was the architect of that opposition and is involved in all aspects of the product liability litigation.

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Prior to joining Cohen Milstein in 2001, Mr. McNamara was a litigation associate at an international law firm, specializing in pharmaceutical and product liability cases. He started his career at New York City's Legal Aid Society, defending indigent criminal defendants at trial and on appeal.

He has been the lead author on three law review articles: "Buckley, Imbler and Stare Decisis: The Present Predicament of Prosecutorial Immunity and An End to Its Absolute Means,: 59 Albany Law Review, 1135 (1996); "Sexual Discrimination and Sexual Misconduct: Applying New York's Gender-Specific Sexual Misconduct Law to Minors," 14 Touro Law Review, 477 (Winter 1998), and most recently, Douglas McNamara, et al, "Reexamining the Seventh Amendment Argument Against Issue Certification," 34 Pace Law Review, 1041 (2014). He is presently teaching a course on environmental and toxic torts as an adjunct at George Washington University School of Law.

Mr. McNamara graduated summa cum laude from SUNY Albany with a major in Political Science, and earned his J.D. from New York University School of Law.

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Attorney Profiles – Of Counsel & Associates

Brian E. Johnson

Brian E. Johnson is an Associate at Cohen Milstein and a member of the Consumer Protection practice group, where he assists in the development of potential cases and provides support in all aspects of current litigation.

Prior to joining Cohen Milstein, Mr. Johnson was an Associate at a Missouri-based law firm where he represented consumers in financial lawsuits involving the Fair Debt Collection Practices Act, Fair Credit Reporting Act and the Telephone Consumer Protection Act. Following law school, Mr. Johnson served as a Law Clerk for the Honorable Margaret L. Sauer and the Honorable Janette K. Rodecap, 16th Circuit Court of Jackson County, Missouri.

Mr. Johnson is a graduate of Missouri State University, where he received a dual B.A., magna cum laude, in History and German in 2005. He earned his J.D. from the George Washington University Law School in 2012. Mr. Johnson also studied at Webster University in Vienna, Austria, earning a M.A. in International Relations in 2007.

Eric A. Kafka

Eric A. Kafka is an Associate at Cohen Milstein and a member of the firm's Consumer Protection practice group.

Mr. Kafka is a tireless advocate for consumers. Since joining Cohen Milstein in 2015, Mr. Kafka has represented plaintiffs in a wide range of consumer class actions, including product liability, false advertising, and data breach class actions.

Mr. Kafka is also an active member of the Plaintiffs' Bar. He is a member of both the American Association for Justice (AAJ) and Public Justice. Mr. Kafka serves on Public Justice's Class Action Preservation Committee.

Currently, Mr. Kafka is litigating the following notable matters:

- LLE One, LLC v. Facebook (N.D. Cal.): Cohen Milstein represents a putative class of advertising purchasers, who claim that Facebook intentionally inflated key metrics regarding their paid video advertisements' performance. Plaintiffs allege that the inflated metrics caused them to buy more video advertisements and to pay a higher price than they otherwise would have paid.
- Johannessohn, et al. v. Polaris (D. Minn.): Cohen Milstein represents a putative class of purchasers of Polaris Sportsman four-wheel all-terrain vehicles (ATVs) who allege that their Sportsman ATV's have a defect where it emits excess exhaust heat, which can burn riders and melt ATV components. Plaintiffs allege that Polaris violated state consumer protection laws by failing to disclose the exhaust heat defect.
- In re: Marriott International Inc. Customer Data Security Breach Litigation (D. Md.): In April 2019, the Court appointed Cohen Milstein the Consumer Plaintiffs' Co-Lead Counsel to oversee a class action related to the data breach that compromised the personal data of nearly 400 million customers, making it one of the largest data breaches in U.S. history.

Mr. Kafka was actively involved in the following concluded matters:

- In re Anthem, Inc. Data Breach Litigation (N.D. Cal.): Cohen Milstein was Co-Lead Counsel on behalf of a putative class of 78.8 million insureds, whose personal data and health information was stolen as a result of a massive data breach of Anthem, Inc., one of the nation's largest for-profit health care companies. In August 2018, the Court granted final approval of a $115 million settlement – the largest data breach settlement in history.
- HCA Litigation (M.D. Fla.): Cohen Milstein was Lead Counsel in a class action, alleging that emergency room patients were billed unreasonably high fees for emergency radiology services, in excess of the amount allowed by

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their mandatory Florida Personal Injury Protection (PIP) insurance. In December 2018, the Court granted final approval of a $220 million injunctive relief settlement.

Prior to attending law school, Mr. Kafka worked on multiple political campaigns, including President Obama's 2008 presidential campaign.

Mr. Kafka earned his J.D. from Columbia Law School, where he was a Harlan Fiske Stone Scholar. He received his B.A. from Yale University.

Karina G. Puttieva

Karina G. Puttieva is an Associate at Cohen Milstein and a member of the firm's Consumer Protection practice. Ms. Puttieva's practice focuses on litigating class actions on behalf of consumers who have been misled, deceived or harmed by large corporations.

Prior to joining Cohen Milstein, Ms. Puttieva was a litigation associate at a highly regarded national defense firm, where she focused on consumer data privacy issues, government investigations and criminal litigation, and civil litigation in the areas of antitrust, consumer fraud, and the misappropriation of intellectual property.

Ms. Puttieva earned her B.A., magna cum laude, from Haverford College. She received her J.D. from University of California, Berkeley, School of Law, where she was the Submissions Editor and Associate Editor of the Berkeley Journal of Criminal Law.

While attending law school, Ms. Puttieva was a judicial extern for the Honorable Christina A. Snyder of United States District Court for the Central District of California and was a law clerk for the United States Attorney's Office for the Northern District of California.

Prior to law school, Ms. Puttieva worked as a victim/witness coordinator at the Family Violence/Sexual Assault Unit of the Philadelphia District Attorney's Office.

Paul Stephan

Paul Stephan is an Associate at Cohen Milstein and a member of the firm's Consumer Protection practice. Mr. Stephan's practice focuses on litigating class actions on behalf of consumers who have been misled, deceived or harmed by large corporations.

Prior to joining Cohen Milstein, Mr. Stephan was a law clerk for the Honorable Anne E. Thompson of the United States District Court for the District of New Jersey.

Mr. Stephan earned his B.A., summa cum laude and Phi Beta Kappa, from University at Buffalo, The State University of New York. Mr. Stephan received his J.D., magna cum laude, Order of the Coif, from University of Pennsylvania Law School, where he was a Comments Editor of the University of Pennsylvania Law Review.

While attending law school, Mr. Stephan was also a law clerk for the U.S. Government Accountability Office, Office of General Counsel.

Mr. Stephan is admitted only in New Jersey. He is applying for admission to the District of Columbia Bar and is currently working under the close supervision of the partners of the firm who are admitted to practice in the District of Columbia.

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Morgan & Morgan is a leading civil trial law firm representing consumers and commercial clients nationwide. With over 500 lawyers, and more than 2,000 non-lawyer employees, Morgan & Morgan is the largest plaintiffs' firm in the state of Florida and one of the largest if not the largest in the nation. Morgan & Morgan maintains over 50 offices in multiple states including Alabama, Arkansas, California, Florida, Georgia, Indiana, Illinois, Kentucky, Massachusetts, Michigan, Mississippi, New York, Pennsylvania, and Tennessee. Among its lawyers are a former Cabinet member of President Clinton's administration, a former United States Congressman, a former state attorney general and present and former members of state legislatures.

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

Mr. Yanchunis leads the class action section of the law firm. His practice—which began after completing a two-year clerkship with United States District Judge Carl O. Bue, Jr., S. D. Tex.—has concentrated on complex litigation and spans over 35 years, including consumer class actions for more than two-thirds of that time. As a result of his extensive experience in privacy and data-breach litigation, he regularly lectures at seminars regarding privacy litigation.

Alongside his experience in the area of privacy, he also served as lead, co-lead, and class counsel in numerous national class actions, including multi-district litigation, involving a wide range of subjects affecting consumers, including antitrust, defective products, life insurance, annuities, and deceptive and unfair acts and practices.

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

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

As result of his experience in the area of class litigation and ethics, he has served as an expert for The Florida Bar on ethical issues arising in class action litigation.

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

Jean Sutton Martin. For more than 20 years, Ms. Martin has concentrated her practice on complex litigation, including consumer protection and defective products class action. She has served in leadership positions in many consumer class actions and consolidated proceedings in federal courts around the country, including *inter alia*: *In re Brinker Data Incident Litigation*, No. 18-cv-686 (M.D. Fla.) (interim co-lead counsel); *Gordon, et al. v. Chipotle Mexican Grill, Inc.*, No. 17-cv-01415 (D. Colo.) (data breach) (co-lead counsel)(preliminary approval granted); *In re: Smith & Nephew Birmingham Hip Resurfacing (BHR) Hip Implant Products Liability Litigation*, No. 17-md-2775 (D. Md.) (defective hip implant) (member of Plaintiffs' Steering

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Committee and bellwether trial team) *Linnins v. HAECO Americas, Inc., et al.*, No. 16-cv-486 (M.D.N.C.) (employee data disclosure) (co-lead counsel); *Torres v. Wendy's International, LLC*, No. 6:16- cv-210 (M.D. Fla.) (data breach) (class counsel); *Fuentes, et al. v. UniRush, LLC, et al.,* No. 1:15- cv-08372 (S.D.N.Y.) (disruption in servicing of financial accounts) (co-lead counsel); *Lewis, et al., v. Green Dot Corp., et al.*, No. 2:16-cv-03557 (C.D. Cal.) (disruption in servicing of financial accounts) (class counsel); *Brady, et al. v. Due North Holdings, LLC, et al.*, No. 1:17-cv-01313 (S.D. Ind.) (employee data disclosure) (class counsel); *Foreman v. Solera Holdings, Inc.*, No. 6:17-cv-02002 (M.D. Fla.) (employee data disclosure) (class counsel); *In Re: Outer Banks Power Outage Litigation*, No. 4:17-cv-141 (E.D.N.C.) (extended island power outage due to defective construction practices) (class counsel); and, *McCoy v. North State Aviation, LLC, et al.*, No. 17- cv-346 (M.D.N.C.) (WARN Act violations) (class counsel).

Ms. Martin received her Juris Doctor degree from Wake Forest University School of Law, where she served as Editor-in-Chief of the *Wake Forest Law Review*. She obtained eDiscovery certification from the eDiscovery Training Academy at Georgetown Law Center in 2017. Ms. Martin graduated from Wake Forest University with a Bachelor of Science in Mathematical Economics in 1989. She earned a Master of International Business from the University of South Carolina in 1991. She interned with the sales finance team of Digital Equipment Company in Munich, Germany and was tasked with compiling the sales figures for European operations as well as determining sales forecasts and pricing models for sales to universities and other educational institutions for the company's expansion into the Eastern European market after the fall of the Berlin wall. Before heading back to law school, Ms. Martin worked as a marketing manager for an international candy manufacturer where her responsibilities included product development, brand licensing, market research, and sales analysis.

Ms. Martin has been honored with the prestigious "AV" rating by Martindale-Hubbell. In 2015, she was inducted as a Fellow of the Litigation Counsel of America, a prestigious trial lawyer honorary society comprised of less than one-half of one percent of American lawyers. Fellows are selected based upon excellence and accomplishment in litigation, both at the trial and appellate levels, and superior ethical reputation. For upholding the highest principles of the legal profession and for outstanding dedication to the welfare of others, Ms. Martin has also been selected as a Fellow of the American Bar Foundation, an honorary legal organization whose membership is limited to one third of one percent of lawyers in each state. In 2016, Ms. Martin was selected by her peers as the foremost Litigation attorney in the State of North Carolina for *Business North Carolina Magazine's Legal Elite*, gaining membership in the *Legal Elite* Hall of Fame. Since 2012, she has been selected to the Super Lawyers list for North Carolina in the areas of mass torts and class actions, with selection to the Top 50 Women North Carolina list since 2014. Additionally, Ms. Martin has been named by

National Trial Lawyers to the Top 100 Trial Lawyers, Top 50 Class Action Lawyers, and Top 50 Mass Torts Lawyers for North Carolina.

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

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

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

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

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

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

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

Since shifting his focus entirely to consumer class action representation, Ryan has been selected as a Florida Super Lawyer Rising Star in 2018 and 2019 in the field of Class Actions, and has extensive privacy and consumer fraud class action experiencing, having actively participated in the following litigations: *In re Yahoo! Inc. Customer Data Sec. Breach Litig.*, No. 16-md-02752-LHK (N.D. Cal.); *In re Equifax, Inc. Customer Data Sec. Breach Litigation*, No. 1:17-md-02800 (N.D. Ga.); *Morrow v. Quest*, No. 2:17-cv-0948(CCC)(JBC) (D.N.J.); *In re Google Plus Profile Litigation*, No. 5:18-cv-06164 EJD (N.D. Cal.); *Kuss v. American HomePatient, Inc., et al.*, No. 8:18-cv-02348 (M.D. Fla.); *Richardson, et al. v. Progressive Am. Ins. Co., et al.*, No. 2:18-cv-00715 (M.D. Fla.); *Hymes, et al. v. Earl Enterprises Holdings, Inc.*, No. 6:19-cv-00644 (M.D. Fla.); *Orange v. Ring, LLC, et al.*, No. 2:19-cv-10899 (C.D. Cal.).

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

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

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

Jonathan Cohen (since departed the firm after initial settlement was reached)*.* Mr. Cohen focuses on consumer class action litigation. Before joining Morgan & Morgan in 2013, Mr. Cohen was a partner at James, Hoyer, Newcomer & Smiljanich, P.A., a firm specializing in the prosecution of nationwide consumer class actions and whistleblower (*qui tam*) complaints. Mr. Cohen has prosecuted a number of state and federal consumer class actions, including cases against banks, mortgage companies and insurance companies alleging violations of the Florida Deceptive and Unfair Trade Practices Act, the Fair Credit Reporting Act and the forced-placement of insurance. He has also prosecuted class actions against for-profit colleges alleging deceptive trade practices, against counties alleging the improper taxation of landowners and against major corporations alleging employment discrimination. Mr. Cohen was appointed by the court as class counsel in the case of *Ownby, et al. v. Citrus County, Florida, et al*., Case No. 2004-CA-1840 (Florida 5th Circuit Court, Citrus County). He also served as counsel for the court-appointed receiver in the matter of *Wiand v. Wells Fargo Bank, et al.*, Case No. 8:12-cv-557-T-27EAJ (Middle District of Florida).

Mr. Cohen earned his Bachelor of Arts degree in Journalism from Indiana University in 1996. He attended Stetson University College of Law and earned his Juris Doctor degree in 2005. During his tenure at Stetson, Mr. Cohen was an intern for the State Attorney's Office (Economic Crimes Unit), the Thirteenth Judicial Circuit, Hillsborough County (2004), and for the Honorable David A. Demers, Sixth Judicial Circuit of Florida (2004).

Angela Mirabole. Ms. Mirabole is a staff attorney with the Morgan and Morgan Complex Litigation Group meaning she handles discrete projects at the firm but is not a full- time associate of the firm or eligible for partnership. She primarily handles discovery tasks and document review assignments for the class actions and mass torts sections. Ms. Mirabole attended the University of Florida, graduating in 1999 with a degree in Sociology, awarded with Honors. Ms. Mirabole also attended law school at the University of Florida, and received her law degree with Honors in 2003. While in law school, Ms. Mirabole obtained a Certificate in Intellectual Property and published an article in the UCLA Entertainment Law Review.

Brian Brownsell. Mr. Brownsell graduated magna cum laude from Stetson College of Law in 1992. Prior to attending Stetson, Mr. Brownsell obtained a Masters in Science from Marquette University in Environmental engineering and a B.S. from the University of Washington in civil engineering where he was also a Bechtel Foundation scholar and granted magna cum laude. For several years, Mr. Brownsell has been employed on a contract basis by the class action section of the Morgan and Morgan Complex Litigation Group, devoted solely to document review and coding work.

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

Lee Walters. Mr. Walters is a former FBI Supervisory Special Agent with more than 24 years of experience conducting investigations for the FBI, including several years in the top-secret TacOps-Electronic Access Group. He worked on a variety of white-collar crime matters including healthcare and bank fraud, public corruption, and violations of the Foreign Corrupt Practices Act. He was also one of the first agents assigned to the Whitewater investigation of Bill & Hillary Clinton. Mr. Walters spent 23 years as a Firearms Instructor and Defensive Tactics Instructor and 14 years in the Special Weapons & Tactics (SWAT) program as an Observer/Sniper. He was deployed as a SWAT member to the Branch Davidian siege in Waco, Texas, during the Los Angeles riots after the Rodney King verdict, and participated in numerous other high-risk operations.

Emily Lockwood. Ms. Lockwood is a paralegal with more than 15 years of experience. She began working as a legal assistant with the Office of the Public Defender in Tampa, Florida in 2000. She attended Pensacola State College and completed her AAS in medical office administration and certified medical transcription. She assisted the attorneys with document preparation, court filings, preparing deposition materials, electronic discovery materials, mediation materials and other clerical tasks.

Jennifer Cabezas. Ms. Cabezas is a paralegal with more than 15 years of experience. She obtained her Associates in Arts, paralegal studies from Keiser University in 2007, and later obtained her Bachelors in Arts in Criminal Justice from Florida International University in Miami, Florida. She assisted the attorneys with document preparation, court filings, preparing deposition

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materials, electronic discovery materials, mediation materials and other clerical tasks.

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Tadler Law LLP is a woman-owned litigation boutique law firm that represents consumers, investors, and businesses in complex and class action litigation nationwide. The firm's lawyers are regularly recognized as leaders in the plaintiffs' bar by the National Law Journal, Legal 500, Chambers USA, and Super Lawyers, among other ranking organizations. Partners Ariana J. Tadler and A.J. de Bartolomeo were just recently recognized as Top Lawyers in America in the 2020 U.S. News & World Report Best Lawyers list.

LEADERS IN COMPLEX AND CLASS ACTION LITIGATION

Data Breach and Privacy Litigation: Our lawyers have extended the breadth of their respective practices on behalf of consumers and made their mark litigating class actions alleging massive data breaches and other violations of consumers' personal and data privacy. Our attorneys have spearheaded numerous highly technical cases and have successfully advanced novel legal theories to protect consumers from ever-evolving cybersecurity and data privacy threats. Representative matters include *In Re: Marriott International, Inc. Custom Data Security Breach Litigation*, MDL Case No. 19-md-2879 (D. Md.) (Plaintiffs' Steering Committee ("PSC")); *Adkins, et al. v. Facebook, Inc.*, No. C 18-05982 (N.D. Cal.) (appointed Class Counsel); *In re Equifax, Inc. Customer Data Breach Litigation*, 17-md-02800 (N.D. Ga.) (PSC) (settlement approved in January 2020 in excess of $380 million for affected consumers, plus potential for $125 million more for out-of-pocket expenses and credit monitoring); *In re Yahoo! Inc. Customer Data Security Breach Litigation*, No. 5:16-MD-02752 (N.D. Cal.) (PEC; $117.5 million settlement pending court approval; Order Granting Preliminary Approval of Settlement issued July 20, 2019); *In re Target Corporation Customer Data Security Breach Litig.*, No. 14-md-2522 (D. Minn.) (PSC; $10 million settlement); *Torres, et al. v. Wendy's International, LLC*, 16-cv-00210 (M.D. Fla.) (class counsel; $3.4 million settlement); *Fero v. Excellus Health Plan*, No. 6:16-cv-06569 (W.D.N.Y.) (special discovery counsel to lead counsel); *In re Anthem, Inc. Data Breach*, No. 15-MD-02617 (N.D. Cal.) (plaintiffs' counsel; settlement created a $115 million non-reversionary cash fund, delivered more than $500 million in value to the class, and required extensive injunctive relief to prevent a future breach); *In re Premera Blue Cross Customer Data Breach Litig.*, No. 3:15-md-2633-SI (D. Or.) (plaintiffs' counsel); *Carandang v. Google, Inc.* CGC-12-518415 (Cal. Super., San Francisco Cty.) (plaintiff's counsel; reached confidential resolution); *Ung, et al. v. Facebook, Inc.,* 1-12-CV-217244 (Cal. Super., Santa Clara Cty.) (former plaintiff's counsel; case pending).

Consumer Litigation: Our lawyers have long been leaders in protecting consumers from fraudulent and deceptive practices. Among other types of cases, our lawyers have led class actions challenging the use of "natural" labeling on food products made from bioengineered crops (GMOs). *E.g.*, *In re Conagra Foods, Inc* No. 11-05379 (C.D. Cal.) (Class counsel; multi-state class certified; class certification affirmed by Ninth Circuit; petition for *writ of certiorari* denied by U.S. Supreme Court; settlement received final approval; appeal pending); *Frito-Lay North America, Inc. "All Natural" Litigation,* No. 12-MD-02413 (E.D.N.Y) (settled); *In re General Mills, Inc. Kix Cereal Litigation*, Case No. 2:12-cv-00249 (KM)(JBC)(D.N.J.) (Court-appointed Interim Co-Lead Class Counsel; case currently stayed).

Other representative consumer matters include: *In re Apple, Inc. Device Performance Litigation*, 5:18-MD-02827-EJD (N.D. Cal.) (class action alleging Apple throttled the performance of certain devices, including iPhones, with degraded batteries; Ms. Tadler is a member of the court-appointed Plaintiffs'

Executive Committee ("PEC") and Melissa Ryan Clark is a key member of the Offensive Discovery Team); *Correa v. Sensa Products, LLC.*, No. BC476808 (Cal. Super. Court, Los Angeles Cty.) ($9 million settlement; alleging that the defendant, manufacturer of a weight-loss product, lacked a sufficient scientific basis for certain of its marketing claims). Additionally, Partner A.J. de Bartolomeo is an acting member of the Plaintiffs' Steering Committee in *In Re Avandia Marketing, Sales Practices and Products Liability Litigation*, MDL 1871, a case concerning the fraudulent misrepresentation and concealment of safety risks associated with the drug Avandia.

Equal Pay Litigation: Tadler Law is currently representing the United States Women's National Soccer Team's ("WNT") former goalkeeper Hope Solo in her gender-based employment discrimination lawsuit against the United States Soccer Federation ("the Federation"). *Solo v. United States Soccer Federation*, No. 3:18-cv-05215-DMR (N.D.Cal.). Partner A.J. de Bartolomeo recently joined Solo's legal team to allege that significant pay disparities exist between the U.S. Men's National Soccer Team ("MNT") and the WNT. According to the suit, contrary to the assertions of the Federation, there are no legitimate, non-discriminatory reasons for this gross disparity of wages, nor can it be explained away by any bona fide seniority, merit or incentive system, or any other factor other than sex. Together with co-counsel, Tadler Law has worked diligently to expose these unsustainable defenses, highlighting the fact that the Federation in Fiscal Year 2017 projected a net profit from the WNT of approximately $5 million, while projecting a net loss of nearly $1 million for the MNT. Despite this and other clear indicators of success, the Federation refuses to compensate the WNT players at the same rate or better than that which it pays the MNT players. This is an inexcusable violation of the Equal Pay Act and Title VII.

Across many industries, evidence has shown that men tend to have higher wages than female workers for the same work. As a result, women's economic security is endangered, most severely for women of color, disabled women, elderly women, and women who face barriers to education. A women-owned complex and class action litigation boutique, Tadler Law lawyers understand the importance of wage equity, and they hold employers accountable for pay discrimination, whether it is on behalf of a public figure, or private individuals, through counseling, negotiating terms of compensation, and, if necessary, through litigation.

E-Discovery: Ariana J. Tadler pioneered the development of an e-Discovery Practice Group at a plaintiffs' firm while at a prior firm with which she was affiliated for 23 years. She assembled and trained a dedicated team to meet the e-Discovery demands of complex litigation and developed some of the most exceptional e-Discovery capabilities among U.S. law firms. Established more than 15 years ago, that e-Discovery practice grew extensively and today, Tadler Law offers clients the ability to go toe-to-toe with adversaries in the fast-evolving e-Discovery climate. This multidisciplinary group offers clients a full array of counsel services relating to discovery strategy, data preservation, data collection and storage, sophisticated data search and analysis, production, and computer forensic investigation, as well as training on e-Discovery issues, including application of the latest amendments to the Federal Rules of Civil Procedure, local rules, and state law. All Tadler Law lawyers are trained and experienced in the field of e-Discovery and are regularly called on by attorneys and courts to oversee complex discovery in high-stakes litigation. *E.g., In Re: Marriott International, Inc. Custom Data Security Breach Litigation*, MDL Case No. 19-md-2879 (D. Md.) (appointed to PSC and lead offensive discovery); *Adkins, et al. v. Facebook, Inc.*, No. C 18-05982 (N.D. Cal.) (Interim Class Counsel and lead discovery); *In re Apple, Inc. Device Performance Litigation*, 5:18-MD-02827-EJD (N.D. Cal.) (appointed to PEC and responsible for ESI and offensive discovery); *In re Equifax, Inc. Customer Data Breach Litigation*, 17-md-02800 (N.D. Ga.) (appointed to PSC and responsible for offensive discovery); *In re Yahoo! Inc. Customer Data Security Breach Litigation*, No. 5:16-MD-02752 (N.D. Cal.) (appointed to PEC and responsible for leading discovery); *In re Target Corporation Customer Data Security Breach Litig.*, No. 14-md-2522 (D. Minn.) (appointed to the PEC and charged with leading discovery); *Fero v. Excellus Health Plan*, No. 6:16-cv-06569 (W.D.N.Y.) (special discovery counsel to lead counsel); *In re: Juul Labs, Inc. Marketing,*

Sales Practices & Prods. Liab. Litigation, No. 3:19-md-2913 (N.D. Cal.) (managing e-Discovery and other coordinated discovery).

Antitrust Litigation: Tadler Law's team is well versed in litigating national antitrust matters in various industries, including the pharmaceutical industry. To that end, Partner A.J. de Bartolomeo and Senior Counsel Brian Morrison are both actively litigating a pharmaceutical antitrust class action in *In re Glumetza Antitrust Litigation*, No. 3:19-cv-5822 (N.D. Cal.), a case alleging that defendants violated federal antitrust laws by engaging in a scheme to charge supracompetitive prices for the diabetes prescription drug Glumetza. Both Ms. de Bartolomeo and Mr. Morrison also litigated other large antitrust matters in other industries at their prior firms, including consumer electronics and financial services.

THE TADLER LAW TEAM

ARIANA J. TADLER has extensive experience litigating and managing complex securities and consumer class actions, including high profile, fast-paced cases and data breach litigations. After more than 20 years working at Milberg LLP and then Milberg Tadler Phillips Grossman LLP, Ms. Tadler and her core team established Tadler Law LLP, a complex and class action litigation boutique firm.

Ms. Tadler is recognized as one of the nation's preeminent leading authorities on electronic discovery and pioneered the establishment of an e-Discovery Practice group within a plaintiffs' firm structure. Ms. Tadler is regularly invited to speak on a variety of litigation and discovery-related topics and has authored numerous articles and developed and promoted best practice tips and tools, including *The Jumpstart Outline*, now in its third edition, published by The Sedona Conference®.

Ms. Tadler and her team have actively litigated numerous highly publicized data breach litigations. Ms. Tadler was recently appointed to serve on the PSC in the multidistrict litigation in *In Re: Marriott International, Inc. Custom Data Security Breach Litigation,* MDL Case No. 19-md-2879 (D. Md.); and serves as appointed class counsel in *Adkins, et al. v. Facebook, Inc.*, No. C 18-05982 (N.D. Cal.). Other representative matters include *In re Equifax, Inc. Customer Data Breach Litigation*, 17-md-02800 (N.D.

Ga.) (relating to the credit bureau's data breach, which exposed the financial information of more than 145 million consumers; appointed to PSC; final approval granted on January 13, 2010, with $380+ million settlement for affected consumers plus a potential additional $125 million for out-of-pocket losses and free credit monitoring for class members); *In re Yahoo! Inc. Customer Data Security Breach Litigation*, No. 5:16-MD-02752 (N.D. Cal.) (class action arising from a breach affecting approximately 194 million user accounts; appointed to PEC; $117.5 million common fund settlement pending; Order Granting Preliminary Approval, issued July 20, 2019); *In re Target Corporation Customer Data Security Breach* Litigation, No. 14-md-2522 (D. Minn.) (representing consumers in a class action alleging that Target Corp. failed to protect customers from a massive data breach during the holiday shopping season; appointed to PSC; achieved a $10 million settlement).

Ms. Tadler is also currently serving on the PEC in the multidistrict litigation *In re Apple Inc. Device Performance Litigation,* No. 5:18-md-02827-EJD (N.D. Cal.). The *Apple* litigation arises from a December 2017 admission by Apple that it had released iOS updates designed to slow down the performance of certain iPhones and iPads. The case alleges that Apple throttled the performance of these devices to conceal problems with their batteries. Ms. Tadler serves as Co-Chair of the Offensive Discovery

and ESI Coordination Committee.

Ms. Tadler is currently serving as lead counsel and settlement class counsel in a number of consumer cases involving the mislabeling of products that contained GMOs as "natural," including *In re ConAgra Foods, Inc.*, No. 11-05379 (C.D. Cal.) in which a multi-state class was certified by the district court, affirmed by the Court of Appeals for the Ninth Circuit and successfully survived Defendants' petition for a writ of *certiorari* to the United States Supreme Court. A settlement of that matter was approved in 2019, which is now pending appeal.

Ms. Tadler has been recognized for her ability to manage particularly large, complex, fast-paced litigations. Ms. Tadler's accomplishments include litigation of three cases in the Eastern District of Virginia (a/k/a the "Rocket Docket") in less than four years, including *In re MicroStrategy Securities Litigation*, a federal securities litigation, in which plaintiffs' counsel negotiated settlements valued at more than $150 million. Ms. Tadler served on the PEC and as plaintiffs' liaison counsel in the *Initial Public Offering Securities Litigation* in which the court approved a $586 million cash settlement. Among the thousands of defendants in this coordinated action were 55 prominent investment banks and more than 300+ corporate issuers.

Ms. Tadler also has been retained as Special Discovery Counsel in complex litigation and class actions. She represented the government of Colombia as Special Discovery Counsel in its pursuit of claims alleging smuggling and illegal sales of alcohol by several international companies for violation of United States RICO statutes and other common law claims. The engagement encompassed identifying relevant information responsive to defendants' requests, confirming and guiding preservation practices, and interviewing and collecting data from more than 100 custodians in 23 Colombian Departments (Colombia's equivalent to our States in the U.S.). The team also reviewed and produced data in the litigation and was tasked with ensuring compliance with the various privacy laws of Colombia and the United States with regard to personal data, controlled data and the transfer of sensitive information. Lawyers from other firms faced with e-Discovery challenges seek out Ms. Tadler for her guidance and counsel.

Appointed by United States Supreme Court Chief Justice Roberts, Ms. Tadler serves on the Federal Civil Rules Advisory Committee. Additionally, she has been appointed by Committee Chair Judge John D. Bates to the subcommittee tasked with reviewing and considering potential civil rules for multidistrict litigation (MDL) cases.

Ms. Tadler has completed her service on The Sedona Conference®'s Board of Directors and, after five years as Chair, serves as Chair Emeritus of the Steering Committee for Working Group 1 on Electronic Document Retention and Production, the preeminent "think tank" on e-discovery. In addition, she serves on the Advisory Board of Georgetown University Law Center's Advanced E-discovery Institute where she educates federal judges and lawyers on e-Discovery issues and serves on the Bloomberg Law Litigation Innovation Board. Ms. Tadler also recently completed her service as Executive Director for the Board of Advisors of the Benjamin N. Cardozo School of Law's Data Law Initiative.

Ms. Tadler continues to be recognized for her litigation prowess by prominent legal industry rating organizations. Ms. Tadler's recent accolades include: repeated Band 1 (highest) recognition by Chambers and Partners' for E-Discovery; selection by Super Lawyers (2010-2019); New York Metro Super Lawyers (2010-2019); Super Lawyers "Top 100 Lawyers in New York Metro Area" (2015-2019); Super Lawyers "Top 50 Women Lawyers in New York Metro Area" (2015-2019); Who's Who Legal Litigation: Leading Practitioner-E-Discovery (2017); Who's Who

Legal Litigation (2015-2018); Top 50: 2014 Women New York; and AV® Preeminent rating from Martindale Hubbell. The Legal 500 2016 rankings stated: "'Consummate professional' Ariana Tadler, who leads the E-Discovery unit [then at her former firm], is 'exceptional, clear and forceful, a giant in her field' … 'able to navigate technical discovery issues at a very high level.'"

Ms. Tadler is a member of several legal industry associations, including: American Bar Association; American Bar Foundation (Fellow); American Association for Justice (Legal Affairs Committee); Federal Bar Council; New York State Bar Association; National Association of Women Lawyers; New York Women's Bar Association; and The New York Inn of Court. Ms. Tadler is a fellow of the Litigation Counsel of America, an invitation-only trial lawyer honorary society that recognizes the country's top attorneys. She is also involved in various community and not-for-profit organizations and has served for 15+ years on the board of Mobilization for Justice.

Ms. Tadler commits countless hours to mentoring others in their educational and professional pursuits. She is particularly focused on fostering education and career opportunities for women and underprivileged youth.

Ms. Tadler is also a Founding Principal in Meta-e Discovery LLC, an independent data hosting, management and consulting company, which is the result of the 2015 spin-off of Milberg LLP's prior Litigation Support and Data Hosting services division that Ms. Tadler spearheaded.

Ms. Tadler graduated from Hamilton College in 1989 and received her J.D. from Fordham University School of Law in 1992.

A.J. DE BARTOLOMEO has nearly 30 years of experience prosecuting class actions and complex matters in courts throughout the United States. She has served in court-appointed leadership roles in numerous MDL mass tort and class action lawsuits.

Ms. de Bartolomeo served on the PSCs for *In re Yaz and Yasmin Birth Control Litigation*, *In re Actos Products Liability Litigation*, and *In re Pradaxa Products Liability Litigation*. Ms. de Bartolomeo has also served on Law and Briefing committees and has been involved with Daubert briefings in a number of cases, including *Yaz*, *Actos* and *Pradaxa*. She previously served on the PSC for *In re Transvaginal Mesh Litigation*. She also served as Co-Lead Counsel representing over 300 individuals (including minors) who used the Fitbit Force™ Wireless Activity + Sleep Wristband and suffered personal injuries and permanent scarring, achieving a 2017 settlement in aggregate matrix formula for a confidential amount.

In class action matters, she received Co-Lead position appointments in *In re Literary Works in Electronic Database Copyright Litigation*, MDL No. 1379 (S.D.N.Y.), *In re Motors Liquidation Company, et al., f/k/a General Motors Corp., et al.* (Bankruptcy Litigation) (S.D.N.Y.), *In re American Express Financial Advisors Securities Litigation* (S.D.N.Y.), and *CalSTRS v. Qwest Communications, et al.* (N.D. Cal.). She was appointed lead counsel in *Powers v. Cable & Wireless, Inc.* (D. Mass and then settled in Delaware Bankruptcy Court.) and *Telstar v. MCI, Inc.*, achieving a settlement of more than $2.8 million in cash on behalf of class of commercial subscribers alleging FCA violations for unfair billing practices. Ms. de Bartolomeo currently serves as an active member on the Plaintiffs' Steering Committee in *In Re Avandia Marketing, Sales Practices and Products Liability Litigation*, MDL 1871.

Ms. de Bartolomeo is in the forefront of advancing opportunities for women in the law. A former Chair of the Women's Trial Lawyer Caucus of the American Association of Justice, she oversaw the caucus's work in leadership training, student scholarship, membership, and

political outreach.

Ms. de Bartolomeo received an AV®Preeminent rating by Martindale Hubbell in 2009 and has been recognized by her peers as a Northern California Super Lawyer every year since 2013.

Other awards and recognition include the Above and Beyond Award, American Association for Justice, 2018; Top 50 Women Lawyers in Northern California, 2017; Distinguished Service Award, American Association for Justice, 2016; and Top Women Attorneys in Northern California for 2014.

A frequent guest speaker and conference presenter, Ms. de Bartolomeo has addressed subjects of ethical procedures for client and case management, best settlement practices and procedures in complex litigation, pharmaceutical fraud, *Daubert* challenges, Fed. R. Civ. Pro. 37(e), corporate litigation risk management and compliance procedures, and class action notice and settlement administration.

Past and present memberships and directorships include Member, American Bar Association; Member of ABA Sections on Litigation, and on Antitrust Law and Tort and Insurance Practice; Member, American Association for Justice; Member of the AAJ Executive Committee (2016-Present); Board of Governors (2016-Present); Executive Committee Member for Women's Trial Lawyer Caucus (2016-Present); Chair of Women's Trial Lawyer Caucus (2015-2016); Former Member, National Association of Public Pension Attorneys, Task Force on Securities Litigation and Damage Calculation; Former Member, American Bankruptcy Institute.

MELISSA RYAN CLARK has spent more than a decade litigating complex and class action privacy, financial, and consumer cases.

She has a broad range of class action experience, having represented consumers in data privacy, data breach, and consumer fraud cases against data and tech giants like Facebook, Inc., Google, Apple, Inc., Equifax Inc., and RCN Corp., as well as corporations in other industries, such as Wendy's International, LLC. Ms. Clark also has a strong background in securities fraud litigation and has represented investors in class actions against publicly traded companies like ARIAD Pharmaceuticals, Inc. and Virgin Mobile USA.

Ms. Clark's legal work experience also includes judicial externships with the Honorable Jerry Brown, Chief Judge of the United States Bankruptcy Court, Eastern District of Louisiana and the Honorable Jay C. Zainey of the United States District Court, Eastern District of Louisiana, as well as a clerkship for the San Francisco District Attorney's Office.

In addition to her legal work, Ms. Clark has experience teaching legal research, writing, and management communication skills as a Senior Fellow at Tulane Law School and an Adjunct Writing Instructor at Tulane University's Freeman School of Business.

She is an active member of the New York State Bar Association, where she serves on the Law, Youth & Citizenship Committee and Mock Trial subcommittee, and the American Bar Association, where she serves on the Professional Liability Committee as co-editor of the newsletter.

Ms. Clark received her B.S. from Florida State University in 2004 and her J.D. from Tulane University in 2007. She also attended UC Berkeley-Boalt Hall for a semester, where she received high honors in Securities & Class Action Litigation and was a member of the *California Law Review*.

Ms. Clark has been recognized as a New York Super Lawyers "Rising Star" each year since 2011 and was named to the Benchmark Litigation 40 & Under Hot List in 2018.

BRIAN R. MORRISON is Senior Counsel with Tadler Law LLP. Brian focuses on prosecuting class actions and other complex litigation on behalf of consumers and small businesses. He has a strong working knowledge of consumer and product liability laws across various jurisdictions and industries, and he is well versed in handling class certification issues and the creation and administration of multidistrict litigation.

Before joining Tadler Law, Brian worked at several nationally recognized law firms, including one of the nation's leading class action and litigation firms. He has worked on some of the largest antitrust and consumer protection class actions in recent history, including the Takata airbag multidistrict litigation, the generic pharmaceutical pricing antitrust litigation, and several billion-dollar financial fraud matters. Additionally, he has consulted closely with state attorneys general and local governments to investigate potential recoveries as part of the opioid epidemic.

Brian previously served as a judicial law clerk for the Honorable Jaynee LaVecchia of the Supreme Court of New Jersey, where he worked on a variety of novel and complex legal issues. He also founded and co-chaired the Young Lawyers Division of the Association of the Federal Bar of New Jersey and served as a founding member of the New Jersey Law Journal Young Lawyers Advisory Board. Brian has worked vigorously to expand pro bono opportunities at his previous firms, serving as a member of his firm's *pro bono* committees.

Brian earned a J.D., *magna cum laud*e, from Rutgers Law School and a B.A. in Business Administration with a concentration in Finance from Georgetown University. While in law school, he was a Notes and Comments Editor for the Rutgers Law Journal and co-founded the Rutgers Business Law Association. He also served as a legal intern for the Honorable Theodore McKee, U.S. Court of Appeals for the Third Circuit, the Honorable Reggie Walton, U.S. District Court for the District of Columbia, the Honorable Jack Sabatino, Superior Court of New Jersey—Appellate Division, and the Honorable Carol Higbee, Superior Court of New Jersey.

UNITED STATES DISTRICT COURT FOR THE

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

STEPHEN ADKINS, an individual and Michigan resident, on behalf of himself and all others similarly situated,
 	
                     Plaintiff,
 	
       v.
 	
FACEBOOK, INC.,
 	
                     Defendant.
	No. C 18-05982 WHA (JSC)
	
	[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT
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This matter is before the Court on Plaintiff's Motion for Preliminary Approval of the Class Action Settlement ("Motion"). Plaintiff, individually and on behalf of the class certified by the Court on November 26, 2019, ECF No. 260, has entered into a Settlement Agreement and Release ("Settlement Agreement") with Defendant Facebook, Inc. ("Facebook"), dated February 7, 2020. Capitalized terms herein shall have the same meaning ascribed to them in the Settlement Agreement.

The Court, having reviewed the Motion, its accompanying memorandum, the Settlement Agreement and exhibits thereto, and the file, hereby finds that the Motion should be **GRANTED**. **NOW, THEREFORE, THE COURT FINDS AND ORDERS**:

<u>**PRELIMINARY APPROVAL OF THE SETTLEMENT**</u>

1.   The Settlement Agreement is hereby preliminarily approved, including the releases contained therein, as being fair, reasonable, and adequate pursuant to Rule 23 of the Federal Rules of Civil Procedure, subject to final Court approval following the Final Approval Hearing described below. The Court finds that the Settlement Agreement was entered into at arm's length by experienced counsel, including through an in-person mediation supervised by the Honorable Joseph C. Spero, and is sufficiently within the range of reasonableness that notice of the Settlement Agreement should be given to the members of the class as provided in this Order.

<u>**CERTIFICATION OF THE SETTLEMENT CLASS**</u>

2.   On November 26, 2019, the Court granted in part and denied in part Plaintiff's Motion for Class Certification, certifying a class for injunctive purposes but denying certification of any class for money damages. ECF No. 260, at 15. The parties subsequently filed a joint motion to modify the certified class from a worldwide class to a nationwide class, which the Court approved. ECF No. 271. The Settlement Agreement applies to the same class certified by the Court. Accordingly, for all the same reasons that supported certification of the litigation class, the Court finds the Rule 23(b)(2) requirements met and hereby certifies the following class for settlement purposes (the "Settlement Class"):

> All current Facebook users residing in the United States whose personal information was compromised in the data breach announced by Facebook on September 28, 2018; provided, however, that the following are excluded from the Settlement Class: (i) Facebook's officers, directors, legal representatives, successors, subsidiaries, and assigns; and (ii) any judge, justice, or judicial

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1   officer presiding over this matter and the members of their immediate families
     and judicial staff.

2   Because the Settlement Class is certified under Rule 23(b)(2) only, Settlement Class Members may

3   not exclude themselves from the Settlement.

4   3.   The Court hereby appoints Stephen Adkins, who currently serves as the Court-

5   appointed class representative for the litigation class, as the Settlement Class Representative.

6   4.   The Court hereby appoints Andrew Friedman of Cohen Milstein Sellers & Toll PLLC,

7   John Yanchunis of Morgan & Morgan Complex Litigation Group, and Ariana J. Tadler of Tadler

8   Law LLP, who currently serve as Court-appointed class counsel for the litigation class, as counsel for

9   the Settlement Class ("Settlement Class Counsel"), having determined that the requirements of Rule

10   23(g) of the Federal Rules of Civil Procedure are fully satisfied by this appointment.

11   **<u>NOTICE TO CLASS MEMBERS</u>**

12   5.   The Court approves the form, substance and requirements of the (a) Long Form Notice

13   and (b) Short Form Notice, which are set forth as Exhibits A-4a and A-4b to the Settlement

14   Agreement.

15   6.   The Notice Plan set forth as Exhibit A-3 to the Settlement Agreement is preliminarily

16   approved.

17   7.   Settlement Class Counsel has the authority to enter into the Settlement Agreement on

18   behalf of the Settlement Class and is authorized to act on behalf of the Settlement Class with respect

19   to all acts or consents required by or that may be given pursuant to the Settlement Agreement or such

20   other acts that are reasonably necessary to consummate the Settlement Agreement.

21   8.   The Court approves Angeion Group as the Settlement Administrator.

22   9.   In accordance with the above, the Court adopts the following schedule:

23   a.   Within 10 business days of entry of this Order, Facebook and Class Counsel

24   shall provide the Settlement Administrator with certain contact information for

25   the Settlement Class Members, as set forth in the Settlement Agreement at

26   Section 4.

27   b.   Within 45 days of entry of this Order, Notice in the form of Exhibits 4a and 4b

28   to the Settlement Agreement shall be disseminated by the Settlement

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1   Administrator ("Notice Date").

2   c.   The deadline for any request by Settlement Class Counsel for attorneys' fees,

3   costs and expenses or by Settlement Class Representative for a Service Award,

4   shall be no more than 40 days after the Notice Date. The hearing on any such

5   motion shall be concurrent with the Final Approval Hearing.

6   d.   Each Settlement Class Member shall be given a full opportunity to object to the

7   proposed Settlement and any request by Settlement Class Counsel for an award

8   of attorneys' fees, costs and expenses or for a Service Award to Settlement

9   Class Representative, and to participate at the Final Approval Hearing. The

10   deadline to object to the Settlement shall be 60 calendar days after the Notice

11   Date.

12   e.   To be valid, the written objection must contain the following:

13   i.   The objector's full name, mailing address and email address or telephone

14   number;

15   ii.   A detailed explanation of why the objector believes he or she is a Settlement

16   Class Member (to the extent the objector did not receive Notice);

17   iii. A detailed explanation of the specific legal and factual basis for each and

18   every objection (in other words, all reasons for the objector's objection or

19   comment);

20   iv.   A statement identifying the number of class action settlements to which the

21   objector has objected in the last three years;

22   v.   A statement whether the objector intends to appear and/or testify at the Final

23   Approval Hearing, either in person or through counsel;

24   vi.   A statement whether the objector intends to offer any evidence at the Final

25   Approval Hearing, including a detailed description of that evidence, and

26   providing copies of that evidence to the Court, Class Counsel, and Facebook;

27   vii. The name and contact information of any and all attorneys representing,

28   advising, or assisting the objector, including any counsel who may be entitled

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1   to compensation for any reason related to the objector's objection or

2   comment;

3   viii.   Whether any attorney will appear on the objector's behalf at the Final

4   Approval Hearing, and if so the identity of that attorney, including the name,

5   physical address, email address, and telephone number of that attorney;

6   ix.   The identity of any persons who wish to be called to testify at the Final

7   Approval Hearing; and

8   x.   Your handwritten or electronically-imaged written (e.g., DocuSign) signature.

9   An attorney's signature, or a typed signature, is not sufficient.

10   f.   At least 15 days before the Final Approval Hearing, the Settlement

11   Administrator shall provide a final report to counsel concerning the number of

12   inquiries from the Settlement Class and the status of the Notice Plan, as set

13   forth in the Settlement Agreement.

14   g.   Plaintiff shall file a Motion for Final Approval no later than 40 days after the

15   Notice Date.

16   h.   Any replies in support of final approval and fees must be filed no later than 20

17   days after the Objection Deadline.

18   i.   The Final Approval Hearing shall be held on [●] at [●] in Courtroom 12 of

19   the above-referenced Court.

20   10.   Pending the Final Approval Hearing, all proceedings in this action other than those

21   necessary to carry out and enforce the terms and conditions of the Settlement Agreement and this

22   Order, are stayed. Additionally, the Court enjoins all Settlement Class Members from asserting or

23   maintaining any claims to be released by the Settlement Agreement until the date of the Final

24   Approval Hearing.

25   **IT IS SO ORDERED.**

26   Dated: _____   _____

27   William Alsup
                      United States District Judge

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