

1 JOHN A. YANCHUNIS (*pro hac vice*)  
jyanchunis@forthepeople.com  
2 RYAN J. MCGEE (*pro hac vice*)  
rmcgee@forthepeople.com  
3 **MORGAN & MORGAN**  
4 **COMPLEX LITIGATION GROUP**  
201 N. Franklin Street, 7th Floor  
5 Tampa, Florida 33602  
Telephone: (813) 223-5505  
6 Facsimile: (813) 223-5402

7 *Counsel for Plaintiffs Matt Matic and*  
8 *Zak Harris*

9 FRANKLIN D. AZAR (*pro hac vice*)  
azarf@fdazar.com  
10 MARGEAUX R. AZAR (*pro hac vice*)  
azarm@fdazar.com  
11 **FRANKLIN D. AZAR & ASSOCIATES, P.C.**  
12 14426 East Evans Avenue  
Aurora, Colorado 80014  
13 Telephone: (303) 757-3300  
14 Facsimile: (720) 213-5131

15 *Counsel for Plaintiffs Charles Olson and*  
16 *Eileen M. Pinkowski*

Clayeo C. Arnold, SBN 65070  
carnold@justice4you.com  
Joshua H. Watson, SBN 238058  
jwatson@justice4you.com  
**CLAYEO C. ARNOLD**  
**A PROFESSIONAL LAW**  
**CORPORATION**  
865 Howe Avenue  
Sacramento, California 95825  
Telephone: (916) 777-7777  
Facsimile: (916) 924-1829

17  
18 **UNITED STATES DISTRICT COURT**  
19 **NORTHERN DISTRICT OF CALIFORNIA**  
20 **SAN JOSE DIVISION**

21 IN RE GOOGLE PLUS PROFILE  
LITIGATION

Case No. 5:18-cv-06164-EJD (VKD)

**ORDER GRANTING FINAL  
APPROVAL OF CLASS  
SETTLEMENT, AWARDING  
REASONABLE ATTORNEYS'  
FEES, COSTS AND SERVICE  
AWARDS; AND ENTERING FINAL  
JUDGMENT**

1 **INTRODUCTION**

2 This matter came before the Court for hearing on November 19, 2020 and January 7, 2021,  
3 pursuant to the Court’s Preliminary Approval Order dated June 10, 2020, (ECF No. 71), and on the  
4 Plaintiffs’ Motion for Final Approval of Class Action Settlement, dated October 15, 2020, (ECF No.  
5 95) seeking final approval of the Settlement Agreement (the “Settlement”), entered into by the parties,  
6 and Plaintiffs’ Omnibus Response in Opposition to Objections to Proposed Settlement, dated  
7 November 5, 2020, (ECF No. 99). The Court has also considered Class Counsel’s Motion for  
8 Attorneys’ Fees, Costs, and Expenses and Service Awards, dated September 28, 2020. (ECF No. 88).  
9 Due and adequate notice having been given to the Class Members of the proposed Settlement and the  
10 pending motions, as directed by the Court’s Preliminary Approval Order, and upon consideration of  
11 all papers filed and proceedings had herein, and good cause appearing, **IT IS HEREBY ORDERED,**  
12 **ADJUDGED AND DECREED** as follows:<sup>1</sup>  
13

14 **PROCEDURAL HISTORY**

15  
16 This case concerns the alleged exposure of Google+ users’ Profile Information as a result of  
17 software bugs that Google, LLC (“Google”) announced on October 8, 2018, and December 10, 2018.  
18 Following briefing from the parties on dismissal, the parties mediated this case with Mr. Randall W.  
19 Wulff, an experienced mediator, reaching a settlement after significant arms-length negotiations.  
20 (Dkt. 71, ¶ 6). The parties then memorialized the settlement into the Settlement Agreement (the  
21 “Settlement”) and moved for preliminary approval on January 6, 2020, which this Court granted on  
22 June 10, 2020, after a hearing on Plaintiffs’ Motion for Preliminary Approval of Class Action  
23  
24

25 \_\_\_\_\_  
26 <sup>1</sup> Capitalized terms not otherwise defined herein shall have the same meaning as set forth in the  
27 Settlement.  
28

1 Settlement. (Dkts. 57, 71). The Court approved the program for disseminating notice to Settlement  
2 Class Members as set forth in the Settlement and exhibits A and B attached thereto (the “Notice  
3 Program”). (Dkts. 57-2, 71). The Court appointed Plaintiffs Matt Matic, Zak Harris, Charles Olson,  
4 and Eileen M. Pinkowski as class representatives for the Class. (Dkt. 71, ¶ 7). The Court also  
5 appointed as Class Counsel attorneys John A. Yanchunis and Ryan J. McGee of Morgan Complex  
6 Litigation Group; Clayeo C. Arnold and Joshua H. Watson of Clayeo C. Arnold Professional Law  
7 Corporation; and Franklin D. Azar and Margeaux R. Azar of Franklin D. Azar & Associates, PC.  
8 (Dkt. 71, ¶ 8).

10 **SUMMARY OF SETTLEMENT TERMS**

11 Under the Settlement, Google stipulated to a nationwide settlement for the following Class:

12 All persons residing within the United States who (1) had a consumer Google+  
13 account for any period of time between January 1, 2015 and April 2, 2019; and (2)  
14 had their non-public Profile Information exposed as a result of the software bugs  
Google announced on October 8, 2018 and December 10, 2018.

15 (the “Settlement Class”). Google agreed to a non-reversionary \$7,500,000.00 Settlement Fund to  
16 cover all costs associated with the Notice Program, monetary benefits to members of the Settlement  
17 Class, incentive awards for the class representatives, and Class Counsel’s attorneys’ fees, costs, and  
18 expenses. The Settlement represents a fair resolution of the claims asserted on behalf of the Plaintiffs  
19 and the Settlement Class Members in this Action and released by the Settlement, and fully and finally  
20 resolves all such claims. Google, Plaintiffs, and the Settlement Class Members shall be bound by the  
21 Settlement, including the Release provisions set forth in Sections 7.1 to 7.6 of the Settlement, which  
22 is incorporated by reference herein, and by this Order and the Final Judgment entered in connection  
23 with this Order.  
24  
25  
26  
27

**LEGAL STANDARD**

1  
2 A class action may not be settled without court approval. Fed. R. Civ. P. 23(e). “If the proposal  
3 would bind class members, the court may approve it only after a hearing and on finding that it is fair,  
4 reasonable, and adequate.” *Id.* When the parties to a putative class action reach a settlement  
5 agreement prior to class certification, “courts must peruse the proposed compromise to ratify both the  
6 propriety of the certification and the fairness of the settlement.” *Staton v. Boeing Co.*, 327 F.3d 938,  
7 952 (9th Cir.2003). “[J]udges have the responsibility of ensuring fairness to all members of the class  
8 presented for certification.” *Id.*

9  
10 The law favors the compromise and settlement of class action suits. *See, e.g., Churchill Vill.,*  
11 *LLC v. Gen. Elec.*, 361 F.3d 566, 576 (9th Cir.2004); *Class Plaintiffs v. City of Seattle*, 955 F.2d  
12 1268, 1276 (9th Cir.1992); *Officers for Justice v. Civil Serv. Comm'n*, 688 F.2d 615, 625 (9th  
13 Cir.1982). “[T]he decision to approve or reject a settlement is committed to the sound discretion of  
14 the trial judge because he is exposed to the litigants and their strategies, positions, and proof.” *Hanlon*  
15 *v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir.1998).

16  
17 First, the district court must assess whether a class exists under Federal Rule of Civil  
18 Procedure 23(a) and (b). “Such attention is of vital importance, for a court asked to certify a settlement  
19 class will lack the opportunity, present when a case is litigated, to adjust the class, informed by the  
20 proceedings as they unfold.” *Amchem Prods. Inc. v. Windsor*, 521 U.S. 591, 620 (1997). Second, the  
21 district court must carefully consider “whether a proposed settlement is fundamentally fair, adequate,  
22 and reasonable” pursuant to Federal Rule of Civil Procedure 23(e), recognizing that “[i]t is the  
23 settlement taken as a whole, rather than the individual component parts, that must be examined for  
24 overall fairness.” *Hanlon*, 150 F.3d at 1026 (citations omitted).

1 An objector to a proposed settlement agreement bears the burden of proving any assertions  
2 they raise challenging the reasonableness of a class action settlement. *United States v. State of*  
3 *Oregon*, 913 F.2d 576, 581 (9th Cir.1990). The court iterates that the proper standard for approval of  
4 the proposed settlement is whether it is fair, reasonable, adequate, and free from collusion—not  
5 whether the class members could have received a better deal in exchange for the release of their  
6 claims. *See Hanlon*, 150 F.3d at 1027 (“Settlement is the offspring of compromise; the question we  
7 address is not whether the final product could be prettier, smarter or snazzier, but whether it is fair,  
8 adequate and free from collusion.”).

## 10 ANALYSIS

### 11 **A. The Settlement is Fair, Adequate, and Reasonable, and is therefore Finally Approved**

12 A court may approve a proposed class action settlement of a certified class only “after a  
13 hearing and on finding that it is fair, reasonable, and adequate after considering whether: (A) the class  
14 representatives and class counsel have adequately represented the class; (B) the proposal was  
15 negotiated at arm's length; (C) the relief provided for the class is adequate, taking into account: (i)  
16 the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of  
17 distributing relief to the class, including the method of processing class-member claims; (iii) the terms  
18 of any proposed award of attorney's fees, including timing of payment; and (iv) any agreement  
19 required to be identified under Rule 23(e)(3); and (D) the proposal treats class members equitably  
20 relative to each other.” Fed. R. Civ. P. 23(e)(2). In reviewing the proposed settlement, the Court need  
21 not address whether the settlement is ideal or the best outcome, but determines only whether the  
22 settlement is fair, free of collusion, and consistent with plaintiff's fiduciary obligations to the  
23 class. *See Hanlon v. Chrysler Corp.*, 150 F.3d at 1027.  
24  
25  
26  
27  
28



1 length by the parties and their experienced counsel, with the assistance of a highly-capable mediator,  
2 Mr. Randall W. Wulff, and is free of any evidence of collusion. *See In re Bluetooth Headset Prod.*  
3 *Liab. Litig.*, 654 F.3d 935, 946 (9th Cir. 2011). The Court further finds, pursuant to Federal Rule of  
4 Civil Procedure 23(e)(2), that the Plaintiffs and Class Counsel have adequately represented the Class;  
5 the Settlement here was negotiated at arms-length; the settlement benefits provided under the  
6 Settlement are adequate in relation to the scope of the claims released; and that the Settlement treats  
7 the Settlement Class Members equitably relative to each other.

9 The parties and Settlement Administrator are hereby directed to implement the Settlement in  
10 accordance with the terms and provisions thereof.

11 **B. Response to Class Notice**

12 The Court finds that the notice provisions set forth under the Class Action Fairness Act, 28  
13 U.S.C. § 1715, were complied with in this matter. The Court further finds that the program for  
14 disseminating notice to the Settlement Class Members provided for in the Settlement, and previously  
15 approved and directed by the Court (hereinafter, the “Notice Program”), has been implemented by  
16 the Settlement Administrator and the Parties, and that such Notice Program, including the approved  
17 forms of notice, is reasonable and appropriate and satisfies all applicable due process and other  
18 requirements, and constitutes notice reasonably calculated under the circumstances to apprise  
19 Settlement Class Members of the pendency of the Action, the terms of the Settlement, their right to  
20 object to the Settlement, and their right to appear at the Final Approval Hearing.

23 Approximately 1,820,549 individuals submitted timely claim forms under the terms of the  
24 Settlement. The Court provided objectors up to and including October 8, 2020, to submit timely  
25 objections, (Dkt. 71), which resulted in 761 objections.

26 **1. Exclusions**

1 The Court has reviewed the list of Settlement Class Members requesting exclusion. (Dkt. 96-  
2 1). The Court also notes that Objections 56, 70, 116, 208, 235, 237, 275, 532, 737, and 793 are also  
3 requests for exclusion, rather than objections. All of these individuals (*i.e.*, the submitted list and the  
4 enumerated objections) were timely requests for exclusion, therefore, the Court excludes these  
5 individuals from the Settlement and all relief provided therein, including any release.  
6

## 7 **2. Objections**

8 First, the Court notes objections were submitted after the objection deadline of October 8,  
9 2020. The Court has reviewed those objections and deems them untimely, and these objectors  
10 presented no legal basis for an extension of exception to their late filings. Therefore, all untimely  
11 objections are overruled. Fed. R. Civ. P. 23(c)(2)(B)(vi), (e).  
12

13 Next, as stated at the hearing, the Court has carefully reviewed and considered all timely  
14 submitted objections. Objections 97, 103, 256, 368, 403, 464, 458, 547, 574, 602, and 763, as well as  
15 Dkt. 73, lack standing. These individuals represented that they did not have Google+ accounts, did  
16 not include private information in their accounts, or live outside of the United States. “It is well-  
17 settled that only class members may object to a class action settlement.” *Moore v. Verizon Comm.,*  
18 *Inc.*, No. C09-1823 SBA 2013 WL 4610764, \*9 (N.D. Cal. Aug. 28, 2013) (citing *Gould v. Alleco,*  
19 *Inc.*, 883 F.2d 281, 284 (4th Cir. 1989); Fed. R. Civ. P. 23(e)(5)). Therefore, because these individuals  
20 are not Settlement Class Members by virtue of their very admissions, the Court overrules these  
21 objections. *Id.* (citing *Californians for Disability Rights v. Cal. Dept. of Transp.*, 2010 WL 2228531,  
22 at \*8 (N.D. Cal. 2010).  
23

24 Some objectors objected to the Notice Program. *See, e.g.*, Objections 13, 54, 279, 555, 510,  
25 570, and 780. The Court carefully reviewed the Notice Program prior to its implementation, and  
26 found it to comply with all requirements under Federal Rule of Civil Procedure 23. These objections  
27



1 do not alter the Court’s analysis, and are therefore overruled. Similarly, Objection 356 questions  
2 whether the Court has jurisdiction to resolve a nationwide class. Google is based in California and  
3 this Court has jurisdiction to approve a national class pursuant to the Settlement. The Court overrules  
4 this objection.

5         Some objectors requested that any settlement amount be sent via check instead of received by  
6 PayPal or ACH transfer. *See, e.g.*, Objections 118, 221, 228, 244, 246, 305, 320, 378, 384, 446, 545,  
7 554, 623, 652, 789, as well as Dkt. 81). The Court overrules these objections, but directs the  
8 Settlement Administrator to determine whether sufficient information is available for any such  
9 objector and, if that objector made a claim under the Settlement, to provide monetary payment to said  
10 objector via check, sent via U.S. Mail.

11         Some individuals failed to state a valid basis for objection. *See, e.g.*, Objections 163, 330,  
12 443, 467, 569, 678, 755, 759, and 794). These objections both failed to state a valid basis for not  
13 approving the Settlement and therefore fail to comply with the procedures set forth in the Notice  
14 Program, *Hendricks v. StarKist Co.*, No. 13-cv-00729-HSG, 2016 WL 5462423, at \*8 (N.D. Cal. Sep.  
15 29, 2016), and failed to carry their burden of proving any assertions raised in challenging the  
16 reasonableness of the Settlement. *United States v. Oregon*, 913 F.2d 576, 581 (9th Cir. 1990);  
17 *Schechter v. Crown Life Ins. Co.*, No. 13-cv-5596, 2014 WL 2094323, at \*2 (C.D. Cal. May 19,  
18 2014). The Court overrules these objections.

19         Some individuals stated that Google should not have any liability in this case. *See, e.g.*,  
20 Objections 10, 12, 22, 24, 26, 33, 71, 87, 103, 107, 112, 119, 121, 128, 133, 150, 151, 155,  
21 176, 225, 229, 234, 260, 265, 283, 286, 300, 302, 320, 324, 325, 327, 331, 332, 335, 337, 351,  
22 354, 358, 362, 366, 367, 371, 372, 373, 419, 488, 493, 496, 511, 538, 546, 562, 572, 575, 577,  
23 581, 586, 589, 590, 607, 643, 650, 657, 662, 764, and 795. “[T]he purpose of Rule 23(e)’s final  
24 25 26 27

1 approval process is the protection of absent class members, and not the defendant.” *In re TD*  
2 *Ameritrade*, 2011 WL 4079226, \*12 (citing *Officers for Justice v. Civil Service Com’n of City and*  
3 *County of San Francisco*, 688 F.2d 615, 624 (9th Cir. 1982)). These objections are not germane to  
4 the issue of whether the Settlement is fair, therefore the Court overrules these objections.

5  
6 Some individuals objected to the per-claimant value of the Settlement. *See, e.g.*, Objections  
7 9, 11, 16, 28, 32, 34, 37, 43, 44, 45, 46, 55, 60, 61, 66, 67, 68, 69, 72, 73, 74, 76, 81,  
8 82, 83, 84, 85, 86, 88, 90, 94, 96, 98, 99, 104, 106, 110, 111, 115, 117, 122, 123, 124, 125, 126, 129,  
9 134, 136, 137, 138, 145, 167, 169, 170, 173, 177, 179, 181, 182, 207, 209, 210, 211, 212, 213, 216,  
10 217, 219, 220, 227, 229, 230, 235, 237, 238, 245, 248, 249, 255, 261, 277, 285, 287, 288, 289, 291,  
11 292, 293, 298, 303, 308, 311, 319, 321, 323, 325, 326, 334, 353, 355, 357, 363, 370, 375, 377, 379,  
12 381, 385, 390, 391, 394, 396, 397, 398, 399, 400, 402, 404, 405, 406, 407, 408, 409, 412, 413, 414,  
13 415, 416, 420, 421, 422, 426, 427, 429, 433, 434, 435, 436, 437, 442, 444, 446, 447, 450, 453, 454,  
14 459, 460, 461, 462, 465, 470, 473, 482, 483, 485, 491, 505, 509, 510, 516, 517, 518, 522, 533, 539,  
15 540, 542, 543, 548, 550, 552, 555, 561, 563, 568, 570, 578, 580, 583, 584, 585, 588, 595, 598, 600,  
16 603, 606, 608, 612, 617, 621, 622, 636, 637, 638, 640, 641, 642, 646, 649, 653, 655, 664, 673, 675,  
17 676, 677, 682, 684, 693, 720, 734, 738, 739, 743, 744, 745, 756, 765, 769, 789, 780, 782, 785, as well  
18 as Dkts. 77, 82, and 92. These objections fail to comply with the procedures set forth in the Notice  
19 Program, *Hendricks*, 2016 WL 5462423, at \*8 (N.D. Cal. Sep. 29, 2016), and failed to carry their  
20 burden of proving the per-claimant value of the Settlement is unfair. *United States v. Oregon*, 913  
21 F.2d at 581; *Schechter*, 2014 WL 2094323, at \*2. Class Counsel provided a range of values for the  
22 information at issue in this case, spanning from \$0.20 to \$29.60, with an average of \$2.50 per  
23 individual. (Dkt. 57, p.14; Dkt. 57-5, ¶¶ 30–31). These objections provide no expert testimony, nor  
24 any persuasive argument to the contrary, and the Court overrules these objections. *Edwards v.*  
25  
26  
27

1 *National Milk Producers Federation*, No. 11-cv-04766-JSW, 2017 WL 3616638, \*2 (N.D. Cal. June  
2 26, 2017) (overruling objections despite a conflict in expert valuations, and noting that “it is the  
3 parties themselves, as opposed to the court or the objectors, who are in the best position to assess  
4 whether a settlement fairly reflects their expected outcome in litigation.”). That a settlement does not  
5 provide full compensation is not a basis for rejecting a settlement, considering the risks of proceeding  
6 to trial, recovering nothing, “must be weighed against the uncertainty of recovering something.” *In*  
7 *re TD Ameritrade Account Holder Litig.*, No. C 07-2852 SBA, 2011 WL 4079226, \*12 (N.D. Cal.  
8 Sep. 13, 2011).

9  
10 Some individuals objected to the deterrent relief, essentially that Google will not learn any  
11 lessons because the value of the Settlement is not sufficient and has no lasting impact. *See, e.g.*,  
12 Objections 17, 25, 104, 114, 115, 137, 154, 171, 173, 185, 211, 227, 233, 253, 271, 274,  
13 287, 295, 304, 311, 321, 328, 329, 364, 391, 397, 406, 408, 409, 427, 435, 447, 456, 462, 479,  
14 482, 497, 504, 513, 535, 551, 557, 558, 565, 583, 587, 593, 606, 612, 621, 636, 637, 642, 646,  
15 660, 668, 684, 696, 720, 734, 736, 743, 745, 769, 770, 781, and 782. To the contrary, Google has  
16 shuttered its consumer social media platform. The objections provide no expert testimony, nor any  
17 persuasive argument to suggest this Settlement is unfair, unreasonable, or should be rejected, and the  
18 Court overrules these objections. *Edwards*, 2017 WL 3616638, \*2; *In re TD Ameritrade Account*  
19 *Holder Litig.*, 2011 WL 4079226, \*12.  
20  
21

22 At the hearings on final approval on November 19, 2020, and January 7, 2020, the Court also  
23 heard from objectors Steven Davis, Edward Orr, and Paul Cammerena, and heard from Class Counsel  
24 as to why their objections should be overruled. The Court overrules these objections.

### 25 3. Service Awards

26  
27  
28

1 The district court must evaluate named plaintiffs' awards individually, using relevant factors  
2 including “the actions the plaintiff has taken to protect the interests of the class, the degree to which  
3 the class has benefitted from those actions, . . . [and] the amount of time and effort the plaintiff  
4 expended in pursuing the litigation.” *Staton v. Boeing Co.*, 327 F.3d 938, 977 (9th Cir. 2003). “Such  
5 awards are discretionary . . . and are intended to compensate class representatives for work done on  
6 behalf of the class, to make up for financial or reputational risk undertaken in bringing the action,  
7 and, sometimes, to recognize their willingness to act as a private attorney general.” *Rodriguez v. West*  
8 *Publishing Corp.*, 563 F.3d 948, 958-959 (9th Cir. 2009). The Ninth Circuit has emphasized that  
9 district courts must “scrutiniz[e] all incentive awards to determine whether they destroy the adequacy  
10 of the class representatives.” *Radcliffe v. Experian Info. Solutions*, 715 F.3d 1157, 1163 (9th Cir.  
11 2013). Here Plaintiffs are seeking service awards of \$1,500 each. The Court finds these service  
12 awards are reasonable given Plaintiffs’ protection of the Settlement Class’ interests, the benefits from  
13 the Settlement, and the efforts of Plaintiffs in pursuing this case, and hereby awards service awards  
14 of \$1,500 each, to Plaintiffs Matt Matic, Zak Harris, Charles Olson, and Eileen M. Pinkowski, to  
15 compensate them for their commitments and efforts on behalf of the Settlement Class Members.  
16 Google shall pay such amounts pursuant to the terms of the Settlement. The Court finds that the  
17 requested service awards are reasonable, appropriate, and justified by the circumstances of the  
18 Plaintiffs’ efforts and commitments on behalf of the Class. The Court overrules the objections to  
19 service awards. *See, e.g.*, Objections 697 and 787; *Rodriguez v. West Publ’g Corp.*, 563 F.3d 948 (9th  
20 Cir. 2003); *Hadix v. Johnson*, 322 Fo.3d 895 (6th Cir. 2003).

#### 24 4. Attorneys’ Fees and Costs

25 Class Counsel requests a fee award of \$1,875,000.00 in attorneys’ fees and costs. Google does  
26 not oppose the fee request. The record is undisputed that the settlement negotiation was overseen by  
27

1 an experienced mediator and negotiated only after all relief was obtained for the Settlement Class and  
2 therefore free from any collusion. *See, e.g., In re Volkswagen “Clean Diesel” Marketing, Sales*  
3 *Practices, and Products Liability Litigation*, 2017 WL 1047834, at \*4 (N.D. Cal., Mar. 17, 2017  
4 (“Volkswagen's agreement not to oppose the application does not evidence collusion and was not  
5 obtained by Class Counsel to Class Members' detriment.”); *G. F. v. Contra Costa Cty.*, 2015 WL  
6 4606078, at \*13 (N.D. Cal. July 30, 2015) (noting that “[t]he assistance of an experienced mediator  
7 in the settlement process confirms that the settlement is non-collusive”).

9       Where a settlement involves a common fund, courts typically award attorneys' fees based on  
10 a percentage of the total settlement. *See State of Fla. v. Dunne*, 915 F.2d 542, 545 (9th Cir. 1990); *In*  
11 *re Pac. Enters. Sec. Litig.*, 47 F.3d 373, 379 (9th Cir. 1995) (affirming attorney's fee award of 33%  
12 of the recovery); *Morris v. Lifescan, Inc.*, 54 F. App'x 663, 664 (9th Cir. 2003) (affirming attorney's  
13 fee award of 33% of the recovery). When determining the value of the settlement, courts consider  
14 both the monetary and non-monetary benefits conferred under the settlement terms. *See, e.g., Staton*  
15 *v. Boeing Co.*, 327 F.3d 938, 972-74 (9th Cir. 2003); *Hartless v. Clorox Co.*, 273 F.R.D. 630, 645  
16 (S.D. Cal. 2011), *aff'd*, 473 F. App'x. 716 (9th Cir. 2012).

18       In the Ninth Circuit, the benchmark for an attorney fee is 25% of the total settlement value,  
19 including the monetary and non-monetary recovery. *See Six Mexican Workers*, 904 F.2d at 1311; *see*  
20 *also Staton*, 327 F.3d at 974 (“[W]here the value to individual class members of benefits deriving  
21 from injunctive relief can be accurately ascertained ... courts [may] include such relief as part of the  
22 value of a common fund for purposes of applying the percentage method ....”). The benchmark  
23 percentage “can then be adjusted upward or downward to account for any unusual circumstances  
24 involved in the case.” *Paul, Johnson, Alston & Hunt v. Graulty*, 886 F.2d 268, 272 (9th Cir. 1989).  
25 Many cases have found that between 30% and 50% of the common fund is an appropriate range when  
26  
27

1 the settlement fund is less than ten million. *See Van Vranken v. Atl. Richfield Co.*, 901 F. Supp. 294,  
2 297-98 (N.D. Cal. 1995) (collecting cases); *see also Johnson v. Gen. Mills, Inc.*, 2013 WL 3213832,  
3 at \*6 (C.D. Cal. June 17, 2013) (awarding a fee award of 30% of the settlement fund in a food labeling  
4 class action). Here Class Counsel’s fee request amounts to 25% of the monetary value of the  
5 settlement, which is the benchmark under Ninth Circuit law, and this Court finds no basis to deviate  
6 from that benchmark here. The Court overrules the objections to the Class Counsel’s attorneys’ fees.  
7 *See, e.g.*, Objections 11, 21, 22, 23, 27, 79, 115, 116, 125, 137, 149, 168, 173, 174, 184, 211, 213,  
8 216, 218, 227, 245, 273, 283, 291, 297, 298, 302, 311, 322, 323, 325, 355, 357, 363, 369, 371, 377,  
9 385, 391, 397, 402, 406, 408, 409, 410, 413, 415, 427, 434, 435, 442, 444, 446, 447, 452, 459, 461,  
10 462, 465, 470, 472, 484, 489, 503, 505, 519, 522, 523, 540, 541, 552, 564, 571, 575, 583, 585, 589,  
11 596, 600, 606, 636, 641, 642, 646, 664, 671, 672, 680, 684, 732, 734, 739, 743, 769, 778, 782, as well  
12 as Dkt. 82. These objections fail to carry the burden of demonstrating how the fee award is  
13 unreasonable. *See, e.g., In re TFT-LCD (Flat Panel) Antitrust Litig.*, No. M 07-1827 SI, 2013 WL  
14 1365900, \*10 (N.D. Cal. April 3, 2013).

## 17 **5. Litigation Expenses**

18 Class Counsel are also entitled to reimbursement of reasonable out-of-pocket expenses. Fed.  
19 R. Civ. P. 23(h); *see Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994) (holding that attorneys may  
20 recover reasonable expenses that would typically be billed to paying clients in non-contingency  
21 matters.); *Van Vranken v. Atl. Richfield Co.*, 901 F. Supp. 294, 299 (N.D. Cal. 1995) (approving  
22 reasonable costs in class action settlement). Costs compensable under Rule 23(h) include “nontaxable  
23 costs that are authorized by law or by the parties’ agreement.” Fed. R. Civ. P. 23(h).  
24  
25  
26  
27

1 Here, Class Counsel seek reimbursement of current litigation costs of \$64,558.23<sup>2</sup> and  
2 anticipated future litigation costs of \$5,000.00, for a total of \$69,558.23. The Court finds Class  
3 Counsel's submissions support the award of current and anticipated future litigation costs, and  
4 therefore awards Class Counsel \$69,558.23 in litigation costs. Any objections to this award are  
5 overruled.

6  
7 **C. Cy Pres Awards**

8 The Settlement provided for a distribution to cy pres recipients in the event any Residual  
9 Settlement Payments remained. Based on the response from Settlement Class Members for claims  
10 made, there will be no Residual Settlement Payments, therefore this Court need not opine on any cy  
11 pres awards.

12  
13 **D. Compliance with the Class Action Fairness Act**

14 The record establishes that the required notices under the Class Action Fairness Act of 2005,  
15 28 U.S.C. § 1715 were served, with the documentation required by 28 U.S.C. § 1715(b)(1-8). The  
16 record further establishes that no objections were received from any state attorneys general or other  
17 government entities.

18  
19 **E. Releases**

20 As of the Effective Date, Releasing Named Plaintiffs and the Releasing Class Members shall  
21 waive, release, forever discharge, and will not in any manner pursue the Released Claims as defined  
22 and set forth in Section 1.37 of the Settlement against Google, its affiliates, and their respective  
23 officers, directors, employees, members, agents, attorneys, administrators, representatives, insurers,  
24

25 \_\_\_\_\_  
26 <sup>2</sup> The Court notes that Class Counsel sought \$64,603.23; however, during the final approval hearing, it was clarified that  
27 a scrivener's error resulted in the \$45 difference. The Court, therefore, considers the amount of \$64,558.23, which is  
28 supported by Class Counsel's detailed declarations in support of their request. (Dkts. 88-1, 88-2, and 88-3).

1 beneficiaries, trustees, shareholders, investors, contractors, joint venturers, predecessors, successors,  
2 assigns, transferees, and all other individuals and entities acting on Google's behalf in connection  
3 with the Released Claims..

4 **F. Other Effects of This Order**

5 The Court hereby dismisses this Action with prejudice, and without fees or costs except as  
6 provided in the Settlement and this Order. Nothing in this Order or the Final Judgment entered in  
7 connection with this Order shall preclude any action to enforce the terms of the Settlement. Without  
8 affecting the finality of this Order or the Final Judgment entered in connection with this Order in any  
9 way, the Court hereby retains continuing jurisdiction over:  
10

- 11 a. all matters relating to the modification, interpretation, administration, implementation,  
12 effectuation and enforcement of the Settlement; and  
13  
14 b. the Parties, Class Counsel, and Settlement Class Members for the purpose of  
15 administering, supervising, construing and enforcing this Order and the Settlement in  
16 accordance with its terms.

17 Neither this Order (nor the Final Judgment entered in connection with this Order), the  
18 Settlement, nor any action taken to carry out this Order or the Final Judgment entered in connection  
19 with this Order shall be construed or used against Google or the Released Parties as an admission,  
20 concession, or evidence of the validity of any claim or defense or any actual or potential fault,  
21 wrongdoing, or liability whatsoever. Without further order of the Court, the Parties may agree to  
22 reasonably necessary extensions of time to carry out any of the provisions of the Settlement and to  
23 make other nonmaterial modifications, in implementing the Settlement, that are not inconsistent with  
24 this Order.  
25  
26  
27  
28



1           The Clerk of the Court shall enter Final Judgment pursuant to Rule 58 of the Federal Rules of  
2 Civil Procedure.

3 **IT IS SO ORDERED** this 25th day of January, 2021.

4 

5 \_\_\_\_\_  
6 HON. EDWARD J. DAVILA  
7 UNITED STATES DISTRICT JUDGE  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28