

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

EMMANUEL LLAMAS, an individual and California resident, on behalf of himself and all others similarly situated,

Plaintiff,

v.

TRUEFIRE, LLC, and TRUEFIRE, INC.

Defendants.

Case No.: 8:20-cv-00857-WFJ-CPT

Plaintiff's Unopposed Motion and Memorandum in Support of Preliminary Approval of Class Action Settlement and Certification of Settlement Class

Plaintiff, Emmanuel Llamas (“Plaintiff” or “Class Representative”), respectfully moves for preliminary approval of the Settlement and for certification of the Settlement Class.¹

I. INTRODUCTION

On or about February 13, 2020 and March 10, 2020, Defendants disclosed that a credit card scraping attack resulted in the disclosure of the names, addresses, payment card numbers, CVV security codes, and credit card expiration dates (“personally identifiable information” or “PII”) of TrueFire customers who purchased online guitar lessons from the TrueFire website between August 3, 2019 and January 14, 2020 (the “Data Breach”). On April 14, 2020, Plaintiff filed his Class Action Complaint against Defendants in the United States District Court for the Middle District of Florida. (Dkt. No. 1). Plaintiff asserted claims for negligence, invasion of privacy, negligence *per se*, unjust enrichment, declaratory judgment, violation of Florida’s Deceptive and Unfair Trade Practices Act, violations of California’s Unfair Competition Law, and violation of the California Consumer Privacy Act. (Dkt. No. 1). On May 8, 2020, the parties jointly moved to

¹ Unless otherwise noted, all capitalized terms are defined in the Settlement Agreement and Release, which is being filed concurrently herewith.

stay litigation and explore class-wide resolution through mediation. (Doc. No. 15).

The proposed Settlement was reached following a day-long mediation conducted by Bennett G. Picker, a mediator with significant experience in mediating complex cases, including in data breach class litigation. The parties now wish to fully and finally resolve their dispute on a class-wide basis, pursuant to terms that were proposed and negotiated between them beginning at the mediation with Mr. Picker and finalized by the parties in the weeks following. Pursuant to the terms of the Stipulation and Agreement of Settlement, which are set forth fully below, and is attached hereto as **Exhibit 1** (“Settlement Agreement” or “SA”). This Settlement Agreement provides for the resolution of all claims and causes of action asserted, or that could have been asserted, against Defendants and the Released Parties (as defined in the Settlement Agreement and provided below) relating to the Data Breach, by and on behalf of the Plaintiff and Settlement Class Members (as defined in the Settlement Agreement and provided below), and any other such actions by and on behalf of any other consumers and putative classes of consumers originating, or that may originate, in jurisdictions in the United States against Defendants relating to the Data Breach.

Defendants will provide the following relief as part of the Settlement, as described in further detail below: monetary benefits, including nine months of complimentary subscription to TrueFire All Access, reimbursement for time spent remediating the effects of the Data Breach, and CCPA damages for California Sub-Class Members; non-monetary relief, which includes Defendants’ adoption and maintenance of certain enhanced data security practices; and additional class benefits, which include Defendants’ agreement to pay, separately from and in addition to all other consideration and relief provided or offered by Defendants as part of the Settlement, the costs of administration of the Settlement and Class Notice, as well as any Fee and Expense Award approved for and awarded to Settlement Class Counsel. The Settlement Agreement offers complete

recovery and is an excellent result for the members of the class.

For the reasons stated below, Plaintiff respectfully requests that the Court grant an order:

(1) preliminarily approving the proposed settlement; (2) preliminarily certifying the Settlement Class; (3) appointing Emmanuel Llamas as Settlement Class Representative; (4) appointing John A. Yanchunis, Ryan J. McGee, and M. Anderson Berry as Settlement Class Counsel; (5) approving the proposed Notice Program and authorizing its dissemination to the Class; (6) appointing Angeion Group (“Angeion”), to serve as the Settlement Administrator; (7) approving the procedures for exclusion from the Settlement and objecting to the Settlement or Fee and Expense Award; (8) retaining jurisdiction over all claims relating to the Settlement; (9) maintaining the stay of this Action pending Final Approval of the Settlement; and (10) setting a schedule for the final approval process including Settlement Class Counsel’s motion for attorneys’ fees, costs, and expenses.

A. SUMMARY OF THE LITIGATION

This class action case was filed against Defendants in April 14, 2020 following Defendants’ alleged unauthorized disclosure of Plaintiff’s and Class Members’ personally identifiable information to unauthorized third parties. As a result of Defendants’ alleged failure to implement and follow industry standard security practices, Plaintiff’s and Class Members’ personally identifiable information was potentially accessed by unauthorized third parties. (Doc. No. 1, ¶ 2). Plaintiff, Emmanuel Llamas, asserted claims for negligence, invasion of privacy, negligence *per se*, unjust enrichment, declaratory judgment, violation of Florida’s Deceptive and Unfair Trade Practices Act, violations of California’s Unfair Competition Law, and violation of the California Consumer Privacy Act (the “CCPA”). (Doc. No. 1, ¶¶ 68–165).

On May 8, 2020, the parties moved to stay this litigation and explore class-wide resolution

through mediation. (Doc. No. 15). Through an informal exchange of information leading up to the mediation, as well as the parties' breadth of experience litigating data breaches nationwide, in this District, and before this Court, the parties were informed of the pertinent information necessary to engage in and conduct a meaningful mediation to bring resolution to Settlement Class Members.

B. INFORMATION ABOUT THE SETTLEMENT

The parties agreed on and retained Bennett G. Picker, a highly experienced mediator, to assist the parties with settlement negotiations. Declaration of John A. Yanchunis, attached as **Exhibit 2** ("Yanchunis Decl."), ¶ 16. The parties briefed their respective positions on the facts, claims, defenses, and assessments of the risk of litigation. The parties also submitted a draft settlement term sheet that was prepared by Plaintiff and that was then used at the mediation. *Id.*

On September 16, 2020, the parties had a full-day mediation session with Mr. Picker, exceeding seven hours. *Id.*, ¶ 16. The negotiations were hard-fought throughout and the settlement process was conducted at arm's length. *Id.* Through the negotiations, Mr. Picker was able to assist the parties in reaching an agreement on the substantive terms of the Settlement. *Id.* The subject of attorneys' fees, costs, and expenses, subject to Court approval, was negotiated only after all substantive terms of the Settlement were agreed upon by the parties. *Id.*, ¶ 21.

Based on Plaintiff's counsel's independent investigation of the relevant facts and applicable law, experience with many other data breach cases, including data breach cases in this District and before this Court, and the information provided by Defendants, Plaintiff's counsel has determined that the Settlement is fair, reasonable, adequate, and in the best interest of the Settlement Class. Consequently, the parties worked together to prepare a comprehensive set of settlement documents, which are embodied in the Settlement Agreement and the exhibits attached thereto.

C. THE TERMS OF THE SETTLEMENT AGREEMENT

1. The Settlement Class

The proposed Settlement Class is defined as:

All persons residing in the United States whose personally identifiable information was compromised as a result of the Data Breach first announced by TrueFire on February 13, 2020 (the “National Class”). SA, ¶ 4.1(a).

All persons residing in California whose personally identifiable information was compromised in the Data Breach first announced by TrueFire on February 13, 2020 (the “California Sub-class”). SA, ¶ 4.1(b).

Excluded from the Settlement Class is the judge presiding over this matter and any members of her judicial staff, the officers and directors of either of the Defendants, and persons who timely and validly request exclusion from the Settlement Class.

2. The Settlement Benefits

a. Monetary Remedies

Under the Settlement, subject to its terms and conditions and subject to Court approval,

Settlement Class Members are eligible to receive the following monetary benefits:

1. Nine (9) months of complimentary TrueFire All Access Subscription Offering;
2. Reimbursement of Time Spent Remediating Payment Card Issues; and
3. \$50.00 per California Sub-class Member for damages under the CCPA.

SA, ¶¶ 5.1–5.3.2.

The aggregate amount of total potential monetary claims under the Settlement Agreement for the Nationwide Class exceeds \$1,200,000.00. First, \$881,770.05 in monetary compensation is available based on the nine months of TrueFire All Access Subscription Offering for all 4,911 Settlement Class Members. SA ¶¶ 5.1–5.1.1. Also, each of the 4,911 Settlement Class Members could, if they qualify, recover up to \$60.00 in reimbursement time, totaling \$294,660.00. SA ¶¶ 5.2–5.2.4. Further, the California Sub-class Members are also eligible to recover approximately

\$50.00 per member, with 733 members, totaling approximately \$36,650.00. SA ¶¶ 5.3–5.3.2.

Finally, subject to Court approval, Defendants have agreed separately to pay the costs associated with settlement, including Notice and Settlement Administration. SA ¶ 5.5. Defendants have also agreed separately to pay the requested amount of attorneys' fees, costs, and expenses, which will not exceed \$156,500.00. SA ¶ 10.1. Following expiration of the Election Deadline and after the Settlement Administrator determines which Claims are valid and permissible, and the amounts properly payable for such Claims, Defendants shall provide to the Settlement Administrator all funds necessary to pay the valid and permissible claims.

b. Injunctive Relief

In addition to the monetary compensation provided to class members by the Settlement Agreement and to ensure that the information of Settlement Class Members is secure from future cyber threats, Defendants have implemented, and/or have agreed to implement, and agree to maintain enhanced security measures for five years following approval of the Settlement, including: (1) maintaining current Payment Card Industry compliant status; (2) migrating hosting to Amazon Web Services (“AWS”); (3) engaging an outside vendor to perform two rounds of penetration testing; (4) implementing password handling, requirements, and encryption in line with industry best practices; (5) implementing protections against SQL injection and Cross Site Scripting attacks; (6) implementing security measures in how employees access systems and administration tools; (7) enabling firewall enhancements; (8) enabling enhancements for Payment Card Industry compliance; (9) enabling management of AWS infrastructure, network and accounts to be in line with security best practices; and (10) staff two senior personnel resources with job responsibilities including the security and stability of Defendants' technology. SA ¶¶ 5.6–5.6.10.

Thus, through both the opportunity to receive monetary payments from Defendants for

time spent addressing and remediating the Data Breach, payments for California Sub-class Members under the CCPA, the ability to enroll in nine months of TrueFire All Access, and Defendants' enhanced information security posture resulting from this litigation, Settlement Class Members benefit by the proposed Settlement Agreement in a substantive and substantially meaningful way.

3. Proposed Notice Program

Pursuant to the Settlement Agreement, the parties propose Angeion to be appointed as Settlement Administrator. Angeion is a nationally recognized class action notice and administration firm that has designed a class notice program for this case, which the parties and Angeion believe is an effective program.

Subject to Court approval, this Notice Program involves direct notice to the approximately 4,911 Settlement Class Members for whom physical addresses or email addresses are available. For the remaining Settlement Class Members, notice will be provided through the Settlement Website and Telephone Hotline. A declaration from Mr. Steven Weisbrot with additional details about the Notice Program is attached hereto as **Exhibit 3** ("Weisbrot Decl.").

Finally, Angeion will also establish a settlement website in the form agreed to by the parties and the Court. The parties respectfully and specifically request the URL <http://www.TrueFireDataBreachSettlement.com> ("Settlement Website") be so designated. In addition to the notices, the website will include information about the Settlement, related case documents, and the Settlement Agreement. Settlement Class Members will be able to submit claims electronically.

Notice of the Settlement will be given to the Settlement Class no later than forty five (45) days from the date of the Court's Preliminary Approval Order, a proposed draft of which is

attached to the Settlement Agreement as Exhibit F (hereinafter, “1-F”). Pursuant to the Notice Program, there will be two forms of notice, a Summary Notice and Long Form Notice (the “Notices”), which are attached as Exhibits A and B to the Settlement Agreement, respectively (hereinafter “1-A” and “1-B”). The Notices inform Settlement Class Members of the nature of the action, the litigation background, the terms of the agreement (including the definition of the Nationwide Settlement Class and the California Sub-class, which are collectively referred to as the “Settlement Class” and the members are “Settlement Class Members”), the relief provided by the Settlement Agreement, Settlement Class Counsel’s request for fees, costs, and expenses, and the scope of the release and the binding nature of the Settlement on Settlement Class Members. The Notices also describe the procedure for objecting to the Settlement; advise Settlement Class Members that they have the right to opt out of the Settlement and describes the consequences for opting out; and state the date and time of the final approval hearing (subject to this Court’s scheduling), advising that the date may change and how to check the Settlement Website.

Defendants agree to pay all costs associated with providing Class Notice and Settlement Administration, including disbursement of the Settlement benefits. Such payment will be in addition to and not affect the amount of Class Settlement consideration available to Settlement Class Members. SA ¶ 5.5.

4. Exclusion and Objection Procedures

The Notice Program will advise Settlement Class Members of their rights to object or opt out of the Settlement and direct Settlement Class Members to the Settlement Website for more information. The Long-Form Notice (available on the Settlement Website) provides instructions for Settlement Class Members to exclude themselves from the Settlement Class. The Long-Form Notice also provides instructions for Settlement Class Members to object to the Settlement and/or

to Plaintiff's Counsel's application for attorneys' fees, costs, and expenses. SA, ¶¶ 8.1–8.10.2.

5. Attorneys' Fees, Costs, and Expenses

Defendants have agreed that Settlement Class Counsel is entitled to seek an award of reasonable attorneys' fees, costs, and expenses for prosecuting this action and will not object to Settlement Class Counsel's petition for fees and expenses not to exceed \$156,500.00, inclusive of costs and expenses. Notably, the parties did not negotiate this agreement or any other issue with respect to attorneys' fees, costs, and expenses until the mediator had informed the parties that they had reached an agreement on Class relief. Yanchunis Decl., ¶¶ 16, 21. In addition, the award of fees, costs, and expenses does not reduce or otherwise affect the amount of compensation available to Settlement Class Members. This motion will be filed at least thirty (30) days prior to the deadline for objecting to the proposed settlement, providing ample notice to Settlement Class Members.

6. Release of Claims

Under the Settlement Agreement, each Settlement Class Member will be deemed to have released any and all liabilities, rights, claims, actions, causes of action, demands, damages, penalties, costs, attorneys' fees, losses, and remedies, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, that result from, arise out of, are based upon, or relate to the Data Breach, and conduct that was alleged or could have been alleged in the Action, including, without limitation, any claims, actions, causes of action, demands, damages, penalties, losses, or remedies relating to, based upon, resulting from, or arising out of (1) the unauthorized access of Settlement Class Member personally identifiable information as a result of the Data Breach; (2) TrueFire's maintenance of Settlement Class Members' personally identifiable information; (3) TrueFire's information security policies or practices; (4) TrueFire's provision of notice to Settlement Class Members following the Data

Breach; and (5) any event, matter, dispute, or thing that in whole or in part, directly or indirectly, relates to or arises out of the Data Breach and (1) through (4) above. SA, ¶ 9.1.

II. ARGUMENT

A. Certification of the Settlement Class is Appropriate

Prior to granting preliminary approval of a proposed settlement, the Court should first determine the proposed Settlement Class is appropriate for certification. *See* MANUAL FOR COMPLEX LITIG., § 21.632 (4th ed. 2004); *Amchem Prods. Inc. v. Windsor*, 521 U.S. 591, 620 (1997). Class certification is proper if the proposed class, proposed class representative, and proposed class counsel satisfy the numerosity, commonality, typicality, and adequacy of representation requirements of Rule 23(a). Fed. R. Civ. P 23(a)(1)–(4); *see also Fabricant v. Sears Roebuck*, 202 F.R.D. 310, 313 (S.D. Fla. 2001). Additionally, where (as in this case) certification is sought under Rule 23(b)(3), the plaintiff must demonstrate that common questions of law or fact predominate over individual issues and that a class action is superior to other methods of adjudicating the claims. Fed. R. Civ. P. 23(b)(3); *Amchem*, 521 U.S. at 615–16. District courts are given broad discretion to determine whether certification of a class action lawsuit is appropriate. *Walco Investments, Inc. v. Thenen*, 168 F.R.D. 315, 323 (S.D. Fla. 1996).

A court in a sister district has stated that “[a] class may be certified ‘solely for purposes of settlement where a settlement is reached before a litigated determination of the class certification issue.’” *Burrows v. Purchasing Power, LLC*, No. 1:12-CV-22800, 2013 WL 10167232, at *1 (S.D. Fla. Oct. 7, 2013) (quoting *Lipuma v. American Express Co.*, 406 F. Supp. 2d 1298, 1314 (S.D. Fla. 2005)). “Confronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems . . . for the

proposal is that there be no trial.” *Amchem*, 521 U.S. at 620. This case meets all of the Rule 23(a) and (b)(3) prerequisites, and for the reasons set forth below, certification is appropriate.

1. The Proposed Settlement Class Meets the Requirements of Rule 23(a).

a. Numerosity.

Numerosity requires “the class [be] so numerous that joinder of all members is impractical.” Fed. R. Civ. P. 23(a)(1). “While ‘mere allegations of numerosity are insufficient,’ Fed. R. Civ. P. 23(a)(1) imposes a ‘generally low hurdle,’ and ‘a plaintiff need not show the precise number of members in the class.’” *Manno v. Healthcare Revenue Recovery Grp., LLC*, 289 F.R.D. 674, 684 (S.D. Fla. 2013) (citation omitted). Courts require only that plaintiffs provide “some evidence of the number of members in the purported class, or at least a reasonable estimate of that number.” *Leszczynski v. Allianz Ins.*, 176 F.R.D. 659, 669 (S.D. Fla. 1997).

Here, Defendants identified approximately 4,911 people in the Settlement Class. Thus, the numerosity requirement is easily satisfied.

b. Commonality.

The second prerequisite to class certification is commonality, which “requires the plaintiff to demonstrate that the class members ‘have suffered the same injury,’” and the plaintiff’s common contention “must be of such a nature that it is capable of classwide resolution—which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke.” *Wal-Mart Stores, Inc. v. Dukes*, 131 S. Ct. 2541, 2545 (2011) (citation omitted). The commonality requirement presents a low hurdle, as commonality does not require that all questions of law and fact raised be common. *Muzuco v. Re\$ubmitIt, LLC*, 297 F.R.D. 504, 514 (S.D. Fla. 2013). “[F]or purposes of Rule 23(a)(2) ‘[e]ven a single [common] question’ will do.” *Dukes*, 131 S. Ct. at 2556. Rule 23(a)(2) requires “only that there be at least one issue whose

resolution will affect all or a significant number of the putative class members.” *Sharf v. Fin. Asset Resolution, LLC*, 295 F.R.D. 664, 669 (S.D. Fla. 2014) (internal citations omitted); *Williams v. Mohawk Indus., Inc.*, 568 F.3d 1350, 1355 (11th Cir. 2009); *James D. Hinson Elec. Contr. Co. v. BellSouth Telecomms., Inc.*, 275 F.R.D. 638, 642 (M.D. Fla. 2011) (citing *Williams*, 568 F.3d at 1355). Here, the commonality requirement of Rule 23(a)(2) is readily satisfied.

In this case, the Settlement Class Members are joined by the common questions of law and fact that arise from the same event—the Data Breach. *See Manno*, 289 F.R.D. at 685. Specifically, Plaintiff has alleged that the following questions of fact and law are common to the Class:

- a. Whether and when Defendants actually learned of the Breach and whether their response was adequate;
- b. Whether Defendants owed a duty to the Classes to exercise due care in collecting, storing, safeguarding and/or obtaining their PII;
- c. Whether Defendants breached that duty;
- d. Whether Defendants implemented and maintained reasonable security procedures and practices appropriate to the nature of storing Plaintiff’s and Class Members’ PII;
- e. Whether Defendants acted negligently in connection with the monitoring and/or protecting of Plaintiff’s and Class Members’ PII;
- f. Whether Defendants knew or should have known that they did not employ reasonable measures to keep Plaintiff’s and Class Members’ PII secure and prevent loss or misuse of that PII;
- g. Whether Defendants adequately addressed and fixed the vulnerabilities which permitted the Breach to occur;
- h. Whether Defendants caused Plaintiff and Class Members damages;
- i. Whether Defendants violated the law by failing to promptly notify Class Members that their PII had been compromised;
- j. Whether Plaintiff and the other Class Members are entitled to credit monitoring and other monetary relief;
- k. Whether Defendants violated Florida’s Deceptive and Unfair Trade Practices Act (Florida Statute § 501.203, *et seq.*);
- l. Whether Defendants violated the California Unfair Competition Law (Business & Professions Code § 17200, *et seq.*);
- m. Whether Defendants violated the California Consumer Privacy Act (Cal. Civ. Code § 1798.100, *et seq.* (§ 1798.150(a)).

These common issues all center on Defendants’ conduct, satisfying the commonality requirement. *See, e.g., In re Countrywide Fin. Corp. Cust. Data Sec. Breach Litig.*, No. 3:08-MD-

01998, 2009 WL 5184352, at *3 (W.D. Ky. Dec. 22, 2009) (“All class members had their private information stored in Countrywide’s databases at the time of the data breach”); *In re Heartland Payment Sys., Inc. Cust. Data Sec. Breach Litig.*, 851 F.Supp.2d 1040, 1059 (S.D. Tex. 2012) (“Answering the factual and legal questions about Heartland’s conduct will assist in reaching classwide resolution.”).

c. Typicality.

The next prerequisite to certification, typicality, “measures whether a significant nexus exists between the claims of the named representative and those of the class at large.” *Hines v. Widnall*, 334 F.3d 1253, 1256 (11th Cir. 2003); Fed. R. Civ. P. 23(a)(3). A class representative’s claims are typical of the claims of the class if they “arise from the same event or pattern or practice and are based on the same legal theory.” *Kornberg v. Carnival Cruise Lines, Inc.*, 741 F.2d 1332, 1337 (11th Cir. 1984); *see also Cooper v. S. Co.*, 390 F.3d 695, 714 (11th Cir. 2004) (“Neither the typicality nor the commonality requirement mandates that all putative class members share identical claims, and . . . factual differences among the claims of the putative members do not defeat certification.”). Simply put, when the same course of conduct is directed at both the named plaintiff and the members of the proposed class, the typicality requirement is met. *Kennedy v. Tallant*, 710 F.2d 711, 717 (11th Cir. 1983).

Here, the typicality requirement is satisfied for the same reasons that Plaintiff’s claims meet the commonality requirement. Specifically, Plaintiff’s claims are typical of those of other Settlement Class Members because they arise from the Data Breach. They are also based on the same legal theory, i.e., that Defendants had a legal duty to protect Plaintiff’s and Settlement Class Members’ PII. Because there is a “sufficient nexus” between the Plaintiff’s claims and the claims of Settlement Class Members, the typicality requirement is satisfied. *Hines*, 334 F.3d at 1256.

d. Adequacy.

Rule 23(a)(4) requires that the class representative “not possess interests which are antagonistic to the interests of the class.” 1 NEWBERG ON CLASS ACTIONS § 3:21. Additionally, the class representative’s counsel “must be qualified, experienced, and generally able to conduct the litigation.” *Id.*; *Amchem*, 521 U.S. at 625–26. At the preliminary stage of the approval process, there is nothing to suggest that this requirement has not been satisfied. Plaintiff is a member of the Settlement Class and does not possess any interests antagonistic to the Settlement Class. He provided his PII to Defendants and alleges his PII was compromised as a result of the Data Breach, as the PII of the Settlement Class was also allegedly compromised. Indeed, Plaintiff’s claims coincide identically with the claims of the Settlement Class, and Plaintiff and the Settlement Class desire the same outcome of this litigation. Because of this, Plaintiff has prosecuted this case for the benefit of all Settlement Class Members.

In addition, proposed Settlement Class Counsel are experienced in class action litigation and have submitted their skills and experience in handling class litigation around the country and in this District. Yanchunis Decl., ¶¶ 3–12. Because Plaintiff and his counsel have devoted substantive time and resources to this litigation, the adequacy requirement is satisfied.

2. The Predominance and Superiority Requirements of Rule 23(b)(3) Are Met.

In addition to meeting the prerequisites of Rule 23(a), the proposed Settlement Class must also meet one of the three requirements of Rule 23(b). *In re Checking Account Overdraft Litig.*, 275 F.R.D. 654, 660 (S.D. Fla. 2011). Here, Plaintiff seeks certification under Rule 23(b)(3), which requires that: (1) questions of law and fact common to members of the class predominate over any questions affecting only individuals; and (2) the class action mechanism is superior to other available methods for the fair and efficient adjudication of the controversy. Fed. R. Civ. P.

23(b)(3). “It is not necessary that all questions of fact or law be common, but only that some questions are common and that they predominate over individual questions.”” *BellSouth Telecomms., Inc.*, 275 F.R.D. at 644 (quoting *Klay v. Humana, Inc.*, 382 F.3d 1241, 1254 (11th Cir. 2004)). The “inquiry into whether common questions predominate over individual questions is generally focused on whether there are common liability issues which may be resolved efficiently on a class-wide basis.” *Agan*, 222 F.R.D. at 700. The Settlement Class readily meets these requirements.

a. Predominance.

Rule 23(b)(3)’s predominance requirement focuses primarily on whether a defendant’s liability is common enough to be resolved on a class basis, *see Dukes*, 131 S. Ct. at 2551–57, and whether the proposed class is “sufficiently cohesive to warrant adjudication by representation,” *Amchem*, 521 U.S. at 623. Common issues of fact and law predominate in a case “if they have a direct impact on every class member’s effort to establish liability and on every class member’s entitlement to injunctive and monetary relief.” *BellSouth Telecomms., Inc.*, 275 F.R.D. at 644 (citing *Klay*, 382 F.3d at 1255); *see also Sacred Heart Health Sys., Inc. v. Humana Military Healthcare Servs., Inc.*, 601 F.3d 1159, 1179 (11th Cir. 2010) (noting that “[t]he relevant inquiry [is] whether questions of liability to the class . . . predominate over . . . individual issues relating to damages. . . .”). Predominance does not require that all questions of law or fact be common, but rather, that a significant aspect of the case “can be resolved for all Settlement Class Members of the class in a single adjudication.” *In re Checking*, 275 F.R.D. at 660. “When ‘one or more of the central issues in the action are common to the class and can be said to predominate, the action may be considered proper under Rule 23(b)(3) even though other important matters will have to be tried separately, such as damages or some affirmative defenses peculiar to some individual class

members.”” *Tyson Foods, Inc. v. Bouaphakeo*, 136 S. Ct. 1036, 1045 (2016) (quoting 7AA C. Wright, A. Miller, & M. Kane, *Federal Practice and Procedure* § 1778, 123–124 (3d ed. 2005)).

Common issues readily predominate here because the central liability question in this case—whether Defendants failed to safeguard Plaintiff’s PII, like that of every other Class member—can be established through generalized evidence. *See Klay*, 382 F.3d at 1264 (“When there exists generalized evidence which proves or disproves an element on a simultaneous, class-wide basis, since such proof obviates the need to examine each class member’s individual position, the predominance test will be met.”). Several case-dispositive questions could be resolved identically for all members of the Settlement Class, such as whether Defendants had a duty to exercise reasonable care in safeguarding, securing, and protecting the PII of Plaintiff and Settlement Class Members and whether Defendants breached that duty. The many common questions of fact and law that arise from Defendants’ conduct predominate over any individualized issues. Other courts have recognized that these types of common issues arising from a data breach predominate over individualized issues. *See, e.g., Countrywide*, 2009 WL 5184352, at *6–7 (finding predominance where proof would focus on data breach defendant’s conduct both before and during the theft of class members’ personal information); *Heartland*, 851 F. Supp. 2d at 1059 (finding predominance where “several common questions of law and fact ar[ose] from a central issue: Heartland’s conduct before, during, and following the data breach, and the resulting injury to each class member from that conduct”).

Because the claims are being certified for purposes of settlement, there are no issues with manageability, and resolution of thousands of claims in one action is far superior to individual lawsuits and promotes consistency and efficiency of adjudication. *Amchem*, 521 U.S. at 620 (“Confronted with a request for settlement-only certification, a district court need not inquire

whether the case, if tried, would present intractable management problems . . . for the proposal is that there be no trial.”).

b. Superiority.

Finally, a class action is superior to other methods available to fairly, adequately, and efficiently resolve the claims of the proposed Settlement Class. As courts have historically noted, “[t]he class action fills an essential role when the plaintiffs would not have the incentive or resources to prosecute relatively small claims in individual suits, leaving the defendant free from legal accountability.” *In re Checking*, 286 F.R.D. at 659. At its most basic, “[t]he inquiry into whether the class action is the superior method for a particular case focuses on ‘increased efficiency.’” *Agan*, 222 F.R.D. at 700 (quoting *Sikes v. Teleline, Inc.*, 281 F.3d 1350, 1359 (11th Cir. 2002)). Factors the Court may consider are: (1) the interests of members of the class in individually controlling the prosecution or defense of separate actions; (2) the extent and nature of any litigation concerning the controversy already commenced by or against members of the class; (3) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and (4) the difficulties likely to be encountered in the management of a class. As noted earlier, any perceived difficulties managing the Settlement Class need not be considered in this settlement context. *Amchem*, 521 U.S. at 620; *Sullivan v. DB Invs., Inc.*, 667 F.3d 273, 302–03 (3d Cir. 2011) (holding that potential variances in different states’ laws would not defeat certification of a settlement-only class because trial management concerns were not implicated by a settlement-only class, as opposed to a litigated class). A class action settlement is superior to other means of resolution because a settlement affording Settlement Class Members an opportunity to receive compensation benefits *all* parties.

Here, resolution of numerous claims in one action is far superior to individual lawsuits,

because it promotes consistency and efficiency of adjudication. *See Fed. R. Civ. P.* 23(b)(3). Indeed, absent class treatment in the instant case, each Settlement Class Member will be required to present the same or essentially the same legal and factual arguments, in separate and duplicative proceedings, the result of which would be a multiplicity of trials conducted at enormous expense to both the judiciary and the litigants. Moreover, there is no indication that Settlement Class Members have an interest in individual litigation or an incentive to pursue their claims individually, given the amount of damages likely to be recovered, relative to the resources required to prosecute such an action. *See In re Terazosin Hydrochloride Antitrust Litig.*, 220 F.R.D. 672, 700 (S.D. Fla. 2004) (class actions are “particularly appropriate where . . . it is necessary to permit the plaintiffs to pool claims which would be uneconomical to litigate individually”). Additionally, the proposed Settlement will give the parties the benefit of finality, and because this case has now been settled, pending Court approval, the Court need not be concerned with issues of manageability relating to trial. *See Amchem*, 521 U.S. at 620 (“[c]onfronted with a request for settlement-only class certification, a district court need not inquire whether the case . . . would present intractable management problems. . . .”).

The Court respectfully should certify the Settlement Class, as the superiority requirement is satisfied, along with all other Rule 23 requirements.

B. Plaintiff’s Counsel Should Be Appointed as Settlement Class Counsel.

Under Rule 23, “a court that certifies a class must appoint class counsel . . . [who] must fairly and adequately represent the interests of the class.” Fed. R. Civ. P. 23(g)(1)(B). In making this determination, the court must consider the proposed class counsel’s: (1) work in identifying or investigating potential claims; (2) experience in handling class actions or other complex litigation and the types of claims asserted in the case; (3) knowledge of the applicable law; and (4)

resources committed to representing the class. Fed. R. Civ. P. 23(g)(1)(A)(i)-(iv).

As discussed above, and as fully explained in Mr. Yanchunis' Declaration, proposed Settlement Class Counsel have extensive experience prosecuting similar class actions and other complex litigation. Further, proposed Settlement Class Counsel have diligently investigated and prosecuted the claims in this matter, have dedicated substantive resources to the investigation and litigation of those claims, and have successfully negotiated the Settlement of this matter to the benefit of Plaintiff and the Settlement Class. *Id.* Accordingly, the Court should appoint John A. Yanchunis, Ryan J. McGee, and M. Anderson Berry as Settlement Class Counsel.

C. The Settlement Is Fair, Reasonable, and Adequate.

After determining that a proposed settlement class is appropriate for certification, courts consider whether the proposed settlement itself warrants preliminary approval. Under Rule 23(e), “the Court will approve a class action settlement if it is ‘fair, reasonable, and adequate.’” *Burrows*, 2013 WL 10167232, at *5 (quoting Fed. R. Civ. P. 23(e)(2)). The procedure for review of a proposed class action settlement is a well-established two-step process. ALBA & CONTE, 4 NEWBERG ON CLASS ACTIONS, § 11.25, at 38–39 (4th ed. 2002). The first step is a preliminary, pre-notification hearing to determine whether the proposed settlement is “within the range of possible approval.” *Id.* (quoting MANUAL FOR COMPLEX LITIG., § 30.41 (3rd ed. 1995)); *Fresco v. Auto Data Direct, Inc.*, No. 03-cv-61063, 2007 WL 2330895, at *4 (S.D. Fla. May 14, 2007). “Preliminary approval is appropriate where the proposed settlement is the result of the parties’ good faith negotiations, there are no obvious deficiencies and the settlement falls within the range of reason.” *Smith v. Wm. Wrigley Jr. Co.*, No. 09-cv-60646, 2010 WL 2401149, at *2 (S.D. Fla. Jun. 15, 2010). Moreover, settlement negotiations that involve arm’s length, informed bargaining with the aid of experienced counsel support a preliminary finding of fairness. See MANUAL FOR

COMPLEX LITIG. at § 30.42. (“A presumption of fairness, adequacy, and reasonableness may attach to a class settlement reached in arm’s-length negotiations between experienced, capable counsel after meaningful discovery.”) (internal quotation marks omitted).

Further, it must be noted there is a strong judicial and public policy favoring the voluntary conciliation and settlement of complex class action litigation. *In re U.S. Oil & Gas Litig.*, 967 F.2d 489, 493 (11th Cir. 1992) (“Public policy strongly favors the pretrial settlement of class action lawsuits”); *Warren v. City of Tampa*, 693 F. Supp. 1051, 154 (M.D. Fla. 1998). This is because class action settlements ensure class members a benefit, as opposed to the “mere possibility of recovery at some indefinite time in the future.” *In re Domestic Air Transp.*, 148 F.R.D. 297, 306 (N.D. Ga. 1993); *see also, e.g., Ass’n for Disabled Americans, Inc. v. Amoco Oil Co.*, 211 F.R.D. 457, 466 (S.D. Fla. 2002) (finding that the policy favoring settlement is especially relevant in class actions and other complex matters, where the inherent costs, delays and risks of continued litigation might otherwise overwhelm any potential benefit the class could hope to obtain). Thus, while district courts have discretion in deciding whether to approve a proposed settlement, deference should be given to the consensual decision of the parties. *Warren*, 693 F. Supp. at 1054 (affording “great weight to the recommendations of counsel for both parties, given their considerable experience in this type of litigation”).

Here, there should be no question that the proposed Settlement is “within the range of possible approval.” To start, the process used to reach the Settlement was exceedingly fair. That is, the Settlement is the result of intensive, arm’s length negotiations between experienced attorneys who are familiar with class action litigation and with the legal and factual issues in these cases. As discussed above, the parties engaged in formal in-person mediation with an experienced and respected mediator, Bennett G. Picker. *See Perez v. Asurion Corp.*, 501 F. Supp. 2d 1360,

1384 (S.D. Fla. 2007) (concluding that class settlement was not collusive in part because it was overseen by “an experienced and well-respected mediator”); *Lipuma*, 406 F. Supp. 2d at 318–19. In addition, but for the resolution of this case as a class , it is highly unlikely that any one consumer would have filed and pursued a case individually based on the significant cost of the litigation, particularly when considering the damages any one consumer would have been able to recover from an individual suit.

Given the various forms of relief offered under the Settlement, coupled with the robust Notice Program, Settlement Class Counsel believe the results achieved are well within the range of possible approval. Nevertheless, and despite the strength of the Settlement, Plaintiff and Settlement Class Counsel are pragmatic in their awareness of the various defenses available to Defendants, as well as the risks inherent to continued litigation. Defendants have consistently denied the allegations raised by Plaintiff and made clear at the outset that they would vigorously defend this case.

D. The Proposed Class Notice Satisfies Rule 23.

“Rule 23(e)(1)(B) requires the court to direct notice in a reasonable manner to all class members who would be bound by a proposed settlement, voluntary dismissal, or compromise regardless of whether the class was certified under Rule 23(b)(1), (b)(2), or (b)(3).” MANUAL FOR COMPL. LITIG. § 21.312 (internal quotation marks omitted). The best practicable notice is that which is “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). To satisfy this standard, “[n]ot only must the substantive claims be adequately described but the notice must also contain information reasonably necessary to make a decision to remain a class member and be bound by the final

judgment or opt out of the action.” *Twigg v. Sears, Roebuck & Co.*, 153 F.3d 1222, 1227 (11th Cir. 1998) (internal quotation marks omitted).

The Notice Program here satisfies all of these criteria and is designed to provide the best notice practicable. Foremost, the Notice Program is reasonably calculated under the circumstances to apprise the Settlement Class of the pendency of the case, class certification (for settlement purposes), the terms of the Settlement, Settlement Class Counsel’s request for Fee and Expense Award, Settlement Class Members’ rights to opt-out of or object to the Settlement, as well as the other information required by Fed. R. Civ. P. 23(c)(2)(B). Additionally, the Notice Program is comprised of: (1) a Summary Notice sent by email for whom Defendants have email addresses; (2) a Summary Notice sent by mail for Settlement Class Members with known or ascertainable addresses; and (3) a Long-Form Notice posted to the Settlement Website. SA, ¶¶ 1.22, 8.1–8.10.2.

The form of the Preliminarily Approval Order, Exhibit 1-F, has been drafted and approved by counsel for Plaintiff and counsel for Defendants. The proposed claims forms, Exhibits 1-C (subscription election), 1-D (reimbursement for time spent remediating the Data Breach), and 1-E (\$50.00 CCPA damages), likewise satisfy all of the above criteria. The Notice Program provides for direct, individual notice via U.S. Mail. Skip tracing will be performed for returned mail and direct mail notice as needed. Also, notice will be provided to Settlement Class Members online through the dedicated Settlement Website that Angeion will maintain, which will satisfy due process and is presented to the Court as set forth in the Declaration of Steven Weisbrot. **Ex. 3.** Finally, Defendants will provide the notification required by the Class Action Fairness Act, 28 U.S.C. § 1715, to the Attorneys General of each U.S. State in which Settlement Class Members reside, the Attorney General of the United States, and any other required government officials.

Therefore, the Notices and Notice Program satisfy all applicable requirements of the law, including, but not limited to, Rule 23 of the Federal Rules of Civil Procedure and Due Process. The Court should therefore approve the Notice Program and the form and content of the claim form and Notices attached hereto as Exhibits 1-A, 1-B, 1-C, 1-D, and 1-E.

E. The Court Should Schedule a Final Approval Hearing.

The last step in the preliminary approval process is to schedule a Final Approval Hearing, at which the Court will hear evidence and argument necessary to make its final evaluation of the Settlement. The Court will determine at or after the Final Approval Hearing whether the Settlement should be approved; whether to enter a Final Approval Order under Rule 23(e); and whether to approve Settlement Class Counsel's request for Fee and Expenses Award. Plaintiff and Settlement Class Counsel request that the Court schedule the Final Approval Hearing at a date convenient for the Court, not fewer than sixty (60) days following the Objection Deadline, and in compliance with the Class Action Fairness Act of 2005, 28 U.S.C. § 1715. Settlement Class Counsel will file the motion for Final Approval no later than 30 days after the Notice Deadline.

III. CONCLUSION

Based on the foregoing, Plaintiff respectfully requests that the Court enter an order: (1) certifying, for settlement purposes, the proposed Settlement Class, pursuant to Rules 23(a), (b)(3) and (e) of the Federal Rules of Civil Procedure; (2) granting Preliminary Approval of the Settlement; (3) approving the Notice Program set forth in the Settlement and the form and content of the Notices and claim forms attached as Exhibits 1-A through 1-E hereto; (4) approving and ordering the opt-out and objection procedures set forth in the Settlement; (5) appointing Plaintiff Emmanuel Llamas as Settlement Class Representative; (6) appointing John A. Yanchunis, Ryan J. McGee, and M. Anderson Berry as Settlement Class Counsel; (7) staying all proceedings in this

litigation unrelated to the Settlement, pending Final Approval; and (8) scheduling a Final Approval Hearing at a date convenient for the Court, and in compliance with the provisions of the Class Action Fairness Act of 2005, 28 U.S.C. § 1715. A Proposed Order Preliminarily Approving Class Settlement and Certifying Settlement Class is attached as Exhibit F to the Settlement Agreement.

Local Rule 3.01(g) Certification

In accord with Local Rule 3.01(g), Plaintiff conferred with Defendants regarding the relief requested in this motion and Defendants do not object to the relief sought herein but only in connection with the proposed settlement of this case. In the event the Settlement is not approved, the Settlement Agreement is terminated for any reason, or the Effective Date, as defined in the Settlement Agreement, does not occur for any reason, Defendants reserve all defenses in the case and specifically reserve the right to object to this case proceeding on a class-wide basis for any purpose.

Dated: December 4, 2020

Respectfully submitted,

/s/ John A. Yanchunis
JOHN A. YANCHUNIS
jyanchunis@ForThePeople.com
RYAN J. MCGEE
rmcgee@ForThePeople.com
MORGAN & MORGAN
COMPLEX LITIGATION
GROUP
201 N. Franklin Street, 7th Floor
Tampa, Florida 33602
Telephone: (813) 223-5505
Facsimile: (813) 223-5402

M. ANDERSON BERRY (*Pro Hac Vice*)
aberry@justice4you.com
LESLIE GUILLOON (*Pro Hac Vice*)
lguillon@justice4you.com
CLAYEO C. ARNOLD
A PROFESSIONAL LAW
CORPORATION

865 Howe Avenue
Sacramento, CA 95825
Telephone: (916) 777-7777
Facsimile: (916) 924-1829

*Attorneys for Plaintiff and the
Proposed Classes*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 4, 2020, a true and correct copy of the foregoing was electronically filed with the Clerk of Court using CM/ECF. Copies of the foregoing document will be served upon counsel via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ *John A. Yanchunis*

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

EMMANUEL LLAMAS, an individual and California resident, on behalf of himself and all others similarly situated,

Plaintiff,

v.

TRUEFIRE, LLC, and TRUEFIRE, INC.

Defendants.

Case No.: 8:20-cv-00857-WFJ-CPT

JUDGE WILLIAM F. JUNG

STIPULATION AND AGREEMENT OF SETTLEMENT

This Stipulation and Agreement of Settlement, as of the date of execution below (the “Settlement Agreement,” “Settlement,” “Agreement,” or “Stipulation”), is made and entered into by and among the following settling parties (“Parties”): (i) Emmanuel Llamas (“Plaintiff” or “Settlement Class Representative”), individually and on behalf of the Settlement Class (defined below); and (ii) TrueFire, LLC, and TrueFire, Inc. (collectively, “TrueFire” or “Defendants”), and subject to preliminary and final Court approval as required by Rule 23 of the Federal Rules of Civil Procedure. In consideration of the promises and covenants set forth in this Agreement and upon entry by the Court of a final approval order and judgment, all claims of the Settlement Class against Defendants in the Action shall be settled and compromised upon the terms and conditions contained herein. This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, release, and settle all of Plaintiff’s Released Claims (defined below), upon and subject to the terms and conditions thereof.

RECITALS

WHEREAS, Plaintiff asserts that on or about March 9, 2020, TrueFire disclosed that it was the victim of a credit card scraping attack resulting in the disclosure of the names, addresses, payment card numbers, CVV security codes, and credit card expiration dates (“personally identifiable information”) of TrueFire customers who purchased online guitar lessons from the TrueFire website between August 3, 2019 and January 14, 2020 (the “Data Breach”);

WHEREAS, TrueFire notified affected United States residents of the Data Breach between approximately February 13, 2020 and March 10, 2020;

WHEREAS, on April 14, 2020, Plaintiff Emmanuel Llamas filed his initial Class Action Complaint against TrueFire (ECF No. 1) in the United States District Court for the Middle District of Florida, Case No.: 8:20-cv-00857-WFJ-CPT (the “Action”). The Class Action Complaint asserts claims for negligence, invasion of privacy, negligence *per se*, unjust enrichment, declaratory judgment, violation of Florida’s Deceptive and Unfair Trade Practices Act, violations of the California Unfair Competition Law, and violation of the California Consumer Privacy Act;

WHEREAS, on April 14, 2020, the Action was assigned to the Honorable William F. Jung and Magistrate Judge Christopher P. Tuite;

WHEREAS, TrueFire denies (a) the allegations and all liability with respect to any and all facts and claims alleged in the Action, (b) that Plaintiff and the class he purports to represent have suffered any damage, (c) that the Action satisfies the requirements to be tried as a class action under the Federal Rules of Civil Procedure, and (d) that the Action states a claim for any relief;

WHEREAS, the Parties agreed to attempt to mediate a resolution to the dispute;

WHEREAS, on September 16, 2020, the Parties attended a full-day, arm’s-length mediation negotiation supervised by Bennett G. Picker, Esq. of Stradley Ronon Stevens & Young,

LLP;

WHEREAS, throughout their mediation session, the Parties engaged in an extensive evaluation and discussion of the relevant facts and law, and the Parties carefully considered the risk and uncertainties of continued litigation and all other factors bearing on the merits of settlement;

WHEREAS, Settlement Class Counsel have fully investigated the facts and law relevant to the subject matter of the Action, and have concluded, based upon their investigation, and taking into account the risks, uncertainties, burdens, and costs of further prosecution of the Action, and taking into account the substantial benefits to be received pursuant to this Agreement as set forth below, and for the purpose of putting to rest all controversies with the Defendants that were alleged in the operative Complaint, that a resolution and compromise on the terms set forth herein is fair, reasonable, adequate, and in the best interests of the Plaintiff and the Settlement Class;

WHEREAS, TrueFire, despite its belief that it has valid and complete defenses to the claims asserted against it, has nevertheless agreed to enter into this Agreement to reduce and avoid the further expense, burden, inconvenience, and uncertainty of continuing to litigate the Action, and without any admission of liability or wrongdoing whatsoever, desires to enter into this Agreement; and

WHEREAS, the Parties now agree to settle the Action in its entirety, without any admission of liability by TrueFire, with respect to all Released Claims (defined below) of the Settlement Class. The Parties intend this Agreement to bind Plaintiff, TrueFire, and all members of the Settlement Class who do not timely and properly exclude themselves from the Settlement.

NOW THEREFORE, in light of the foregoing, for good and valuable consideration, the receipt of which is hereby mutually acknowledged, the Parties agree, subject to approval by the

Court, as follows:

1. DEFINITIONS

In addition to the terms defined at various points within this Agreement, the following defined terms apply throughout this Agreement:

- 1.1. “Action” means *Emmanuel Llamas v. TrueFire, LLC v. TrueFire, Inc.*, Case No. 8:20-cv-00857-WFJ-CPT (M.D. Fla.).
- 1.2. “Administrative Costs” means all costs and expenses associated with providing notice of the Settlement to the Settlement Class and administering and carrying out the terms of the Settlement.
- 1.3. “Agreement” or “Settlement Agreement” means this agreement.
- 1.4. “Attorneys’ Fees and Expense Award” means such funds as may be awarded by the Court to Class Counsel to compensate Class Counsel for their fees and expenses in connection with the Action.
- 1.5. “Claim” or “Claims” means a written request, in electronic or paper form, by a Settlement Class Member, consistent with the provisions of this Agreement, seeking Settlement Consideration as set forth in Paragraph 5 below.
- 1.6. “Claimant” means a Settlement Class Member who submits a Claim.
- 1.7. “Claims Determination Notice” means notice provided to the Parties by the Claims Administrator that includes a final accounting of all Claims to be paid and instructions to TrueFire to fund the Settlement Administration Account.
- 1.8. “Claims Period” means the period for submitting Monetary Payment Claims and Reimbursement Claims ending sixty (60) days after the Effective Date.
- 1.9. “Court” refers to the Honorable William F. Jung, United States District Court

Judge for the Middle District of Florida, or any other such judge to whom the Action may hereafter be assigned.

1.10. “Data Breach” means the unauthorized access to TrueFire customer names, addresses, payment card numbers, CVV security codes, and credit card expiration dates by an unauthorized individual between August 3, 2019 and January 14, 2020.

1.11. “Effective Date” means the date on which the Judgment entered pursuant to this Settlement Agreement becomes final.

1.12. “Election Deadline” means the last day for Settlement Class Members to submit the Election Form to receive the settlement offering of nine (9) month subscription to TrueFire All Access ending sixty (60) days after the Effective Date.

1.13. “Election Form” means the TrueFire All Access Election Form attached as Exhibit C to this Agreement.

1.14. “Fee Application” means any application by Settlement Class Counsel for an award of attorneys’ fees and reimbursements of costs and expenses, as set forth in Paragraph 10.

1.15. “Final” means, with respect to any judicial ruling or order, that: (1) if no appeal, motion for re-argument, motion for rehearing, petition for *writ of certiorari*, or other writ has been filed, the time has expired to file such an appeal, motion for re-argument, motion for rehearing petition for *writ of certiorari*, or other writ; or (2) if an appeal, motion for re-argument, motion for rehearing, petition for a *writ of certiorari*, or other writ has been filed, the judicial ruling or order has been affirmed with no further right of review, or such appeal, motion, petition, or writ has been denied or dismissed with no further right of review. Any proceeding or order, or any appeal or petition for a *writ of certiorari* pertaining solely to any application for attorneys’ fees or expenses will not in any way delay or preclude the Judgment from becoming Final.

1.16. “Final Approval Order” and “Judgment” mean the order finally approving the terms of this Agreement and a separate judgment to be entered by the Court, pursuant to Federal Rule of Civil Procedure 58(a), dismissing the Action with prejudice. In the event that the Court enters separate orders addressing the matters constituting final approval, then “Final Approval Order” includes all such orders.

1.17. “Monetary Payment Claim” means any claim for a direct payment of \$50.00 per California Sub-class Member.

1.18. “Monetary Payment Deadline” means the last day for a California Sub-class Member to submit the Monetary Payment Claim Form for a direct payment of \$50.00 ending sixty (60) days after the Effective Date.

1.19. “Monetary Payment Claim Form” means the form attached as Exhibit E to this Agreement used to submit a Monetary Payment Claim.

1.20. “Notice” means the notices of proposed class action settlement that the Parties will ask the Court to approve in connection with Preliminary Approval of the Settlement.

1.21. “Notice Date” means the deadline to disseminate Notice to the Settlement Class, which is forty-five (45) days after the Court issues the Preliminary Approval order.

1.22. “Notice Program” means the methods for providing Notice of this Settlement to the Settlement Class Members, including: (1) a Summary Notice sent by e-mail (“E-mail Notice”) to each Settlement Class Member for whom TrueFire can ascertain an e-mail address from its records with reasonable effort; (2) a Summary Notice sent by mail (“Postcard Notice”) to each Settlement Class Member for whom TrueFire and the Settlement Administrator do not have record of a valid e-mail address but can ascertain a mailing address from its records with reasonable effort or for whom the Settlement Administrator can determine an address by completing a standard skip trace

or by other means; and (3) the posting of a Long-Form Notice on the Settlement Website (“Long-Form Notice”). The forms of Notice shall be substantially in the forms attached as Exhibits A–B to this Agreement and approved by the Court. The Notice Program shall be effectuated in substantially the manner provided in Paragraph 8.

1.23. “Objection Deadline” means the last day of the Objection Period.

1.24. “Objection Period” means the period during which the Settlement Class Member may file an objection to the Settlement or the Fee Application, which shall expire forty-five (45) days following the Notice Date, subject to Court approval. The deadline for filing an objection to the Settlement or the Fee Application shall be set forth clearly in the Notice.

1.25. “Opt-Out Deadline” means the last day of the Opt-Out Period.

1.26. “Opt-Out Period” means the period during which a Settlement Class Member may file a request to be excluded from the Settlement Class, which period shall expire forty-five (45) days following the Notice Date, subject to Court approval. The deadline for filing a request for exclusion shall be set forth clearly in the Notice.

1.27. “Preliminary Approval” means an order, providing for, among other things, preliminary approval of the Settlement.

1.28. “Reimbursement Claim” means any claim for reimbursement of time spent remediating issues related to payment card issues fairly traceable to the Data Breach.

1.29. “Reimbursement Deadline” means the last day for Settlement Class Members to submit the Reimbursement Form for reimbursement of time spent remediating payment card issues ending sixty (60) days after the Effective Date.

1.30. “Reimbursement Form” means the form attached as Exhibit D to this Agreement used to submit a Reimbursement Claim.

1.31. “Released Claims” means all claims to be released as specified in Paragraph 9.

1.32. “Released Parties” means those persons or entities released as specified in Paragraph 9.

1.33. “Releases” means all the releases specified in Paragraph 9.

1.34. “Releasing Parties” means Plaintiff and all Settlement Class Members who do not timely and properly exclude themselves from the Settlement, and each of their respective heirs, executors, administrators, representatives, agents, partners, successors, attorneys, and assigns.

1.35. “Settlement” means the settlement of the Action, between and among the Plaintiff, on behalf of himself and the Settlement Class, and TrueFire, as set forth and reflected in this Agreement.

1.36. “Settlement Administration” means the responsibilities, duties, and other activities described in Paragraph 7 below.

1.37. “Settlement Administration Account” means the bank account created by the Settlement Administrator to maintain funds for the payment of Claims.

1.38. “Settlement Administrator” means, subject to approval by the Court, Angeion Group, a nationally recognized and experienced class-action claims administrator.

1.39. “Settlement Class” means all persons who fall into either the Nationwide Settlement Class or the California Sub-class to be certified pursuant to Paragraph 4.1.

1.40. “Settlement Class Counsel” or “Class Counsel” means John A. Yanchunis and Ryan J. McGee of Morgan & Morgan Complex Litigation Group, and M. Anderson Berry of Clayeo C. Arnold, A Professional Law Corporation.

1.41. “Settlement Class Members” means members of the Settlement Class.

1.42. “Settlement Class Representative” or “Plaintiff” refers to Emmanuel Llamas.

1.43. “Settlement Consideration” means that consideration set forth in Paragraph 5.

1.44. “Settlement Website” means the website that the Settlement Administrator will establish, as provided for in Paragraph 7.2.4.

2. DENIAL OF WRONGDOING AND LIABILITY

2.1. TrueFire denies the material factual allegations and legal claims asserted by the Plaintiff in the Action, including any and all charges of wrongdoing or liability arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Action. Similarly, this Agreement provides for no admission of wrongdoing or liability by any of the Released Parties. This Agreement is entered into solely to eliminate the uncertainties, burdens, and expenses of protracted litigation.

3. THE BENEFITS OF THE SETTLEMENT

3.1. Settlement Class Counsel believes that the proposed settlement set forth in this Settlement Agreement confers substantial and immediate benefits upon the Settlement Class without having to undergo protracted and expensive litigation.

3.2. Settlement Class Counsel and Plaintiff recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Action against TrueFire through trial and appeal.

3.3. Settlement Class Counsel also has taken into account the uncertain outcome and the risk of any litigation, especially in complex actions such as this Action, as well as the difficulties and delays inherent in such litigation. Settlement Class Counsel is mindful of possible defenses related to the claims asserted in the Action and the pursuit of certification under Fed. R. Civ. P. 23, defending certification on appeal, and even against possible attempts to decertify the class during trial. Based on their evaluation of all of these factors, Plaintiff and Settlement Class

Counsel have determined that the Settlement is in the best interests of Plaintiff and the Settlement Class.

4. SETTLEMENT CLASS CERTIFICATION

4.1. For purposes of settlement only, Plaintiff shall seek, and TrueFire shall not oppose, certification of the Settlement Class, pursuant to Fed. R. Civ. P. 23(b)(3), defined as follows:

(a) **Nationwide Class.** All persons residing in the United States whose personally identifiable information was compromised as a result of the Data Breach first announced by TrueFire on February 13, 2020; and

(b) **California Sub-class.** All persons residing in California whose personally identifiable information was compromised in the Data Breach first announced by TrueFire on February 13, 2020.

4.2. For the avoidance of doubt, for purposes of determining eligibility for the Settlement Consideration as set forth in Paragraph 5, an individual who is a member of the Nationwide Class and the California Sub-class will be treated as one claimant and may only make one claim for TrueFire All Access, time-spent remediating payment card issues resulting from the Data Breach, and Monetary Payment.

4.2. For settlement purposes only, Plaintiff shall also seek, and TrueFire shall not oppose, appointment of Settlement Class Counsel, and appointment of Plaintiff as Settlement Class Representative to represent the Settlement Class.

4.3. TrueFire does not consent to certification of the Settlement Class (or to the propriety of class treatment) for any purpose other than to effectuate the settlement of this Action. TrueFire's agreement to provisional certification does not constitute an admission of wrongdoing, fault, liability, or damage of any kind to Plaintiff or any of the provisional Settlement Class

Members. TrueFire reserves the right to contest any motion to certify a class for any purpose other than settlement of the Action.

4.4. If this Settlement Agreement is terminated pursuant to its terms, disapproved by any court (including any appellate court), and/or not consummated for any reason, or the Effective Date for any reason does not occur, the order certifying the Settlement Class for purposes of effectuating the Settlement, and all preliminary and/or final findings regarding that class certification order, shall be automatically vacated upon notice of the same to the Court, the Action shall proceed as though the Settlement Class had never been certified pursuant to this Settlement Agreement and such findings had never been made, and the Action shall return to its procedural posture as of September 17, 2020, in accordance with this paragraph. Neither Party nor counsel shall refer to or invoke the vacated findings and/or order relating to class settlement or Rule 23 of the Federal Rules of Civil Procedure if this Settlement Agreement is not consummated and the Action is later litigated and contested by Defendant under Rule 23 of the Federal Rules of Civil Procedure.

5. SETTLEMENT CONSIDERATION

In consideration for the releases provided in this Settlement Agreement, TrueFire will provide the following relief to the Settlement Class:

5.1. **TrueFire All Access Subscription Offering.** Settlement Class Members who are existing TrueFire All Access subscribers may elect to have their current subscriptions extended by a period of nine (9) months. The remaining Settlement Class Members who are not existing TrueFire All Access subscribers and do not timely submit a request for exclusion from the Settlement Class shall have the option to receive a subscription to TrueFire All Access for a period of nine (9) months. If a Settlement Class Member elects to receive the nine (9) month subscription

to TrueFire All Access, he or she must make that election by the Election Deadline. Settlement Class Members shall make their TrueFire All Access election pursuant to the Election Form, which is attached hereto as Exhibit C. To the extent there is any ambiguity with respect to the election to receive the nine (9) month subscription to TrueFire All Access, and the Settlement Administrator cannot resolve the ambiguity, the ambiguous Election Form shall default to an election to receive the nine (9) month subscription to TrueFire All Access.

5.1.1. Timing of Provision of TrueFire All Access. The Settlement Administrator shall collect and process all Election Forms and shall submit the necessary information to TrueFire. The Settlement Administrator shall distribute subscription activation codes for TrueFire All Access as follows:

- (a) For Settlement Class Members who have submitted valid and approved Election Forms by the Effective Date, the Settlement Administrator will, within forty-five (45) days after the Effective Date, issue subscription activation codes for the TrueFire All Access service for a nine (9) month period to such Settlement Class Members.
- (b) For Settlement Class Members who have submitted valid and approved Election Forms after the Effective Date but by the Election Deadline, the Settlement Administrator will, within forty-five (45) days after the Election Deadline, issue activation codes for the TrueFire All Access service for a nine (9) month period to such Settlement Class Members.
- (c) For deficiencies, the Settlement Administrator shall ask the Settlement Class Member within twenty-one (21) days after the Election Deadline to cure the deficiency, and in doing so, may use its discretion to determine the most efficient

and most effective means of communicating with the Settlement Class Member, whether by e-mail, telephone, or mail. Settlement Class Members shall have twenty-one (21) days from the date of the Settlement Administrator's notice to correct all deficiencies in their Election Forms. If a Settlement Class Member fails to correct all deficiencies within that time, the Settlement Administrator shall deny the Settlement Class Member's request for the TrueFire All Access services. For Settlement Class Members who cure all deficiencies within that time, the Settlement Administrator will, within sixty (60) days after the Election deadline, issue activation codes for the TrueFire All Access service for a nine (9) month period to such Settlement Class Members.

5.2. Reimbursement of Time Spent Remediating Payment Card Issues. Any Settlement Class Member may submit one Claim for reimbursement for time spent remediating fraudulent charges on their payment card as a result of the Data Breach for an amount of \$20.00 per hour that is capped at a maximum of three (3) hours per Claimant. Reimbursement Claims must be submitted pursuant to the Reimbursement Form attached as Exhibit D and in accordance with the reimbursement terms under the provisions of this Agreement. All Reimbursement Claims must be submitted to the Settlement Administrator on or before the Reimbursement Deadline and must be verified in writing and attested-to by the Claimant.

5.2.1. Settlement Class Members who wish to make a timely and properly supported Reimbursement Claim must provide to the Settlement Administrator the information required to evaluate the claim, including: (a) the Claimant's name and current address; (b) a written accounting of the tasks associated with remediating any fraudulent charges on their payment card as a result of the Data Breach; and (c) a statement signed under penalty of perjury indicating that:

(i) the individual performed the tasks associated with remediating the fraudulent charges on their payment card; and (ii) the fraudulent charges on their payment card are fairly traceable to the Data Breach.

5.2.2. Adjudication of Reimbursement Claims. The Settlement Administrator shall verify that each person who submits a Reimbursement Claim is a Settlement Class Member and shall determine whether, and to what extent, the Reimbursement Claim reflects a valid claim for time spent remediating fraudulent charges on the Settlement Class Member's payment card that are fairly traceable to the Data Breach. The Settlement Administrator shall determine whether a Claimant's supporting materials are sufficient to support a compensable Reimbursement Claim and the amount of such a Reimbursement Claim, and shall use reasonable procedures to screen Reimbursement Claims for abuse, fraud, duplication, or ineligibility. Within twenty-one (21) days after the Reimbursement Deadline, the Settlement Administrator shall send a written notice to Settlement Class Members whose Reimbursement Forms were rejected as incomplete. Settlement Class Members shall have twenty-one (21) days from the date of the Settlement Administrator's notice to correct all deficiencies in their Reimbursement Forms. If a Settlement Class Member fails to correct all deficiencies within twenty-one (21) days from receiving the written notice, the Settlement Administrator shall deny the Settlement Class Member's Reimbursement Claim. The Settlement Administrator shall determine whether the Settlement Class Member has corrected the deficient claim such that it reflects a valid Reimbursement Claim for time spent remediating fraudulent charges on the Settlement Class Member's payment card that are fairly traceable to the Data Breach;

5.2.3. Claims for time spent remediating fraudulent charges on the Settlement Class Member's payment card shall be deemed fairly traceable to the Data Breach if: (i) the tasks

were undertaken on or after February 13, 2020; (ii) the Settlement Class Member signs a statement signed under penalty of perjury indicating that the claimed time spent remediating the fraudulent charges on their payment card is related to the Data Breach, and (iii) the tasks associated with the claimed time spent remediating fraudulent charges on their payment card is reasonable and necessary under the circumstances, and (iv) the Settlement Administrator determines by a preponderance of evidence that it is related to the Data Breach.

5.2.4. No decisions by the Settlement Administrator shall be deemed to constitute a finding, admission, or waiver by TrueFire as to any matter of fact, law, or evidence having any collateral effect on any Claim hereunder or in any other proceeding or before any other forum or authority. Further, such decisions shall not be submitted to or admissible in any other proceeding or before any other forum or authority.

5.3. **Monetary Payment to California Sub-class.** All members of the California Sub-class are eligible to receive a direct payment of \$50.00 per California Sub-class Member. Monetary Payment Claims must be submitted pursuant to the Monetary Payment Claim Form attached as Exhibit E and in accordance with the terms under the provisions of this Agreement. All Monetary Payment Claims must be submitted to the Settlement Administrator on or before the expiration of the Monetary Payment Deadline and must be verified in writing and attested-to by the Claimant.

5.3.1. California Sub-class Members who wish to make a timely and properly supported Monetary Payment Claim must provide to the Settlement Administrator the information required to evaluate the claim, including: (a) the Claimant's name and current address; and (b) a statement signed under penalty of perjury indicating that the Claimant was a resident of the state of California at the time of the Data Breach.

5.3.2. Within twenty-one (21) days after the Monetary Payment Deadline, the Settlement Administrator shall send a written notice to California Sub-class Members whose Monetary Payment Claim Forms were rejected as incomplete. California Sub-class Members shall have twenty-one (21) days from the date of the Settlement Administrator's notice to correct all deficiencies in their Monetary Payment Claim Forms. If a California Sub-class Member fails to correct all deficiencies within twenty-one (21) days from receiving the written notice, the Settlement Administrator shall deny the California Sub-class Member's Monetary Payment Claim. The Settlement Administrator shall determine whether the California Sub-class Member has corrected the deficient claim such that it reflects a valid Monetary Payment Claim.

5.4. **Payment on Claims.** The Settlement Administrator shall establish an account for payment of Claims (the "Settlement Administration Account"). Once the Settlement Administrator has made final determinations on all Claims submitted during the Claims Period, the Settlement Administrator shall provide notice to the Parties (the "Claims Determination Notice"), including a final accounting of all Claims to be paid and instructions to TrueFire to fund the Settlement Administration Account. The Settlement Administrator shall issue the Claims Determination Notice within sixty (60) days after the Claims Period. TrueFire shall then cause funds to be deposited into the Settlement Administration Account for the payment of Claims within forty-five (45) days of receiving the Claims Determination Notice. Upon TrueFire's funding of the Settlement Administration Account, the Settlement Administrator shall promptly make payment to Claimants.

5.5. **Payment of Costs Associated with Settlement.** In consideration for this settlement, TrueFire agrees to pay the costs of Notice and Settlement Administration.

5.6. **Non-Monetary Relief.** The Parties acknowledge that technical requirements for

security are evolving and change dynamically. In the event that technological or industry developments, or intervening changes in law render any of the provisions set forth in Sections 5.6.1.1-5.6.1.10, *infra*, obsolete or make compliance by TrueFire with any provision unreasonable or technically impractical, TrueFire will provide notice to Class Counsel within fourteen (14) days and propose a modification. 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, TrueFire may petition the Court to eliminate or modify such provision.

5.6.1. TrueFire agrees that it has or will implement and maintain the following data security practices:

- 5.6.1.1. Maintain its current Payment Card Industry compliant status for a period of five (5) years;
- 5.6.1.2. Migrate hosting to Amazon Web Services (“AWS”);
- 5.6.1.3. Engage an outside vendor to perform two (2) rounds of penetration testing;
- 5.6.1.4. Implement password handling, requirements, and encryption in line with industry best practices for a period of five (5) years;
- 5.6.1.5. Implement protections against SQL injection and Cross Site Scripting attacks for a period of five (5) years;
- 5.6.1.6. Implement security measures in how employees access systems and administration tools for a period of five (5) years;
- 5.6.1.7. Enable firewall enhancements for a period of five (5) years;
- 5.6.1.8. Enable enhancements for Payment Card Industry compliance for a

period of five (5) years;

5.6.1.9. Enable management of AWS infrastructure, network and accounts to be in line with security best practices for a period of five (5) years; and

5.6.1.10. Staff two senior personnel resources with job responsibilities including the security and stability of technology for a period of five (5) years.

6. SUBMISSION OF THE SETTLEMENT TO THE COURT FOR REVIEW AND PRELIMINARY AND FINAL APPROVAL

6.1. **Preliminary Approval.** As soon as practicable, but no later than fourteen (14) days following the full execution of this Agreement by all Parties, Settlement Class Counsel shall promptly move the Court for entry of a Preliminary Approval Order. A proposed Preliminary Approval Order shall be attached to the motion and shall be substantially in the form set forth in Exhibit F. The motion for Preliminary Approval shall request that the Court, among other things:

6.1.1. Approve the terms of the Settlement as within the range of fair, adequate, and reasonable;

6.1.2. Preliminarily certify the Settlement Class pursuant to Federal Rule of Civil Procedure 23(b)(3), appoint Plaintiff as the Settlement Class Representative of the Settlement Class and appoint Settlement Class Counsel as counsel for the Settlement Class;

6.1.3. Approve the Notice Program set forth in Paragraph 8 and the Exhibits attached hereto, and provide that following the Preliminary Approval Order, TrueFire shall, at its own expense, cause the Notice to be provided in accordance with the procedures set forth in Paragraph 8.1 within forty-five (45) days of Preliminary Approval;

6.1.4. Approve the procedures set forth in Paragraph 8.3 and Paragraph 8.9 for Settlement Class Members to exclude themselves from the Settlement Class or to object to the Settlement or Fee Application;

6.1.5. Find that the Court will retain jurisdiction over all claims relating to this Agreement;

6.1.6. Maintain the stay of the Action pending Final Approval of the Settlement;

6.1.7. Stay and/or enjoin, pending Final Approval of the Settlement, any actions brought by Settlement Class Members concerning Released Claims;

6.1.8. Schedule the Final Approval Hearing at a time and date mutually convenient for the Court, Settlement Class Counsel, and counsel for TrueFire, at which time the Court will conduct an inquiry into the fairness of the Settlement, whether it was made in good faith and should be finally approved, and whether to approve Settlement Class Counsel's application for attorneys' fees, costs, and expenses ("Final Approval Hearing" or "Fairness Hearing"). The Final Approval Hearing shall be scheduled no earlier than at least sixty (60) days after the Objection Deadline and Opt-Out Deadline;

6.1.9. Provide that all Settlement Class Members will be bound by the Final Approval Order and Judgment dismissing the Action with prejudice;

6.1.10. Establish dates by which the Parties shall file and serve all papers in support of the application for final approval of the Settlement and Settlement Class Counsel's Fee Application;

6.1.11. Appoint Angeion Group as the Settlement Administrator; and

6.1.12. Within ten (10) days of the filing of the motion for Preliminary Approval, TrueFire shall, at its own cost, serve or cause to be served a notice of the proposed Settlement in accordance with the requirements of the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1715(b).

6.2. **Final Approval.** The Final Approval Hearing shall be scheduled no earlier than ninety (90) days after the CAFA notices are mailed to ensure compliance with 28 U.S.C. § 1715. By no later than fourteen (14) days prior to the Final Approval Hearing, the Parties shall file any responses to any objections and any briefs in support of final approval of the Settlement and/or Settlement Class Counsel's application for attorneys' fees, costs, and expenses. In the Court's discretion, the Court also will hear argument at the Final Approval Hearing from any Settlement Class Members (or their counsel) who object to the Settlement or to the fees, costs, and expenses, provided the objectors filed timely objections that met all of the requirements listed in Paragraph 8.10.

6.2.1. At or following the Final Approval Hearing, the Court will determine whether to enter the Final Approval Order granting Final Approval of the Settlement and whether to approve Settlement Class Counsel's request for attorneys' fees, costs, and expenses. The proposed Final Approval Order that will be filed with the motion for Final Approval shall be in a form agreed upon by Class Counsel and TrueFire. Such proposed Final Approval Order shall, among other things;

- (a) Determine that the Settlement is fair, adequate, and reasonable and approve the Settlement pursuant to Rule 23 of the Federal Rules of Civil Procedure;
- (b) Finally certify the Settlement Class for settlement purposes only;
- (c) Determine that the Notice provided satisfied due process requirements;
- (d) Dismiss the Action with prejudice;
- (e) Bar and enjoin the Releasing Parties from asserting any of the Released Claims, as set forth in Paragraph 9, including during the pendency of any appeal from the Final Approval Order;

- (f) Release TrueFire and the Released Parties from the Released Claims, as set forth in Paragraph 9; and
- (g) Reserve the Court's continuing and exclusive jurisdiction over TrueFire and all Settlement Class Members (including all objectors) to administer, supervise, construe, and enforce this Agreement in accordance with its terms.

7. SETTLEMENT ADMINISTRATOR

7.1. The Settlement Administrator shall administer various aspects of the Settlement as described in this Agreement and perform such other functions as are specified for the Settlement Administrator elsewhere in this Agreement, including, but not limited to, providing the Notice to Settlement Class Members as described in Paragraph 8; establishing and operating the Settlement Website and toll-free number; and administering the provision of TrueFire All Access subscription services and the Claims process as described in Paragraphs 5.1, 5.2, and 5.3.

7.2. The duties of the Settlement Administrator, in addition to other responsibilities that are described in this Agreement, include the following:

7.2.1. Obtaining from TrueFire the name, last known e-mail address, and last known mailing or other address information for Settlement Class Members (to the extent it is reasonably available) and verifying and updating the e-mail and mailing addresses received, through the National Change of Address database or other similar data source, for the purpose of sending the Summary Notice to Settlement Class Members;

7.2.2. Establishing and maintaining a post office box for mailed written notifications of exclusion from the Settlement Class;

7.2.3. 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;

7.2.4. Establishing and maintaining a Settlement Website as an additional means for Settlement Class Members to obtain notice of and information about the Settlement through and including hyperlinked access to this Agreement; the Notice; the order preliminarily approving the Settlement; the Final Approval Order; Election Forms; Reimbursement Forms, Monetary Payment Forms; and such other documents as Class Counsel and TrueFire agree to post or that the Court orders posted. These documents shall remain on the Settlement Website at least until expiration of the Election Deadline, the Reimbursement Deadline, and Monetary Payment Deadline. The URL of the Settlement Website will be agreed upon in writing by TrueFire and Class Counsel. The Settlement Website shall not include any advertising and shall not bear or include the TrueFire logo or TrueFire trademarks.

7.2.5. Responding to any mailed or e-mailed Settlement Class Member inquiries;

7.2.6. Processing all written notifications of exclusion from the Settlement Class;

7.2.7. Providing reports and, no later than ten (10) days after the Opt-Out Deadline, a final report to Class Counsel and TrueFire, that summarize the total number of written notifications of exclusion received;

7.2.8. Providing reports to Settlement Class Counsel and TrueFire that set forth the number of Election Forms received since the prior reporting period, and the total number of Election Forms received to date;

7.2.9. Providing reports to Class Counsel and TrueFire that set forth the

number and amount of Reimbursement Forms received since the prior reporting period, the total number and amount of Reimbursement Forms received to date, and Reimbursement Forms permitted, and the number rejected;

7.2.10 Providing reports to Class Counsel and TrueFire that set forth the number and amount of Monetary Payment Forms received since the prior reporting period, the total number and amount of Monetary Payment Forms received to date, and Monetary Payment Forms permitted, and the number rejected;

7.2.11. In advance of the Final Approval Hearing, preparing a declaration to submit to the Court that: (i) attests to implementation of the Notice Program in accordance with the Preliminary Approval Order; (ii) identifies each Settlement Class Member who timely and properly provided written notification of exclusion from the Settlement Class; and (iii) provides information on the number of Settlement Class Members who requested TrueFire All Access subscriptions, and total number of Settlement Class Members who submitted Reimbursement Claims; and the total number of California Sub-class Members who submitted Monetary Payment Claims;

7.2.12. Receiving and processing all Election Forms submitted by Settlement Class members pursuant to the criteria set forth in Paragraph 5.1.1, as well as distributing activation codes to Settlement Class Members for TrueFire All Access subscriptions based on Election Forms pursuant to the criteria set forth in Paragraph 5.1.1;

7.2.13. Reviewing, determining the validity of, and responding to Reimbursement Forms submitted by Settlement Class Members pursuant to the criteria set forth in Paragraph 5.2;

7.2.14 Reviewing, determining the validity of, and responding to Monetary Payment Claims submitted by California Sub-class Members pursuant to the criteria set forth in Paragraph 5.3;

7.2.14. After the close of the Claims Period, processing and transmitting distributions to Settlement Class Members in accordance with Paragraph 5.4;

7.2.15. Performing any other function related to Settlement administration at the agreed-upon instruction of both Settlement Class Counsel and TrueFire.

7.3. The Settlement Administrator's determination regarding Settlement Class Members' eligibility for TrueFire All Access, payment to California Sub-class and/or reimbursement for Claims related to time spent remediating payment card issues resulting from the Data Breach is final.

7.4. The Parties, the Released Parties, and their respective counsel shall have no responsibility or liability whatsoever for the Settlement Administrator's conduct, omissions, or actions.

7.5. TrueFire shall be solely responsible for paying the Settlement Administrator for its Settlement Administration services related to the Settlement.

8. NOTICE, OPT-OUTS, AND OBJECTIONS

8.1. Within forty-five (45) days the Preliminary Approval Order, the Settlement Administrator shall distribute the Summary Notice activate the Settlement Website, and otherwise implement the Notice Program provided herein, using the forms of Notice substantially in the form attached as Exhibits A–B, as approved by the Court in the Preliminary Approval Order. The Notice shall include, among other information: (i) a description of the material terms of the Settlement; (ii) a date by which Settlement Class Members may exclude themselves from or “opt out” of the

Settlement Class; (iii) a date by which Settlement Class Members may object to the Settlement; (iv) the date upon which the Final Approval Hearing is scheduled to occur; (v) a description of the Settlement Consideration; (vi) a description of the process for submitting Election Forms; (vii) a description of the process for submitting Reimbursement Forms; (viii) a description of the process for submitting Monetary Payment Forms; (ix) the Election Deadline; (x) the Reimbursement Deadline; (xi) the Monetary Payment Deadline; and (xii) the Internet address of the Settlement Website at which Settlement Class Members may access this Agreement and other related documents and information. Class Counsel and TrueFire shall insert the correct dates and deadlines in the Notice before the Notice Program commences, based upon those dates and deadlines set by the Court in the Preliminary Approval Order. Notices provided under or as part of the Notice Program shall not bear or include the TrueFire logo or trademarks or the return address of TrueFire, or otherwise be styled to appear to originate from TrueFire.

8.2. The Notice shall include information about the benefits of the Settlement and the following information:

8.2.1. Election Forms are available at the Settlement Website, providing the URL for the applicable webpage and, in the E-mail Notice, a hyperlink to said page;

8.2.2. Elections Forms to receive TrueFire All Access Services must be submitted by the Election Deadline;

8.2.3. Reimbursement Forms are available on the Settlement Website, providing the URL for the applicable webpage and, in the E-mail Notice, a hyperlink to said page;

8.2.4. Reimbursement Forms must be submitted by the Reimbursement Deadline;

8.2.5. Monetary Payment Forms are available on the Settlement Website, providing the URL for the applicable webpage and, in the E-mail Notice, a hyperlink to said page; and

8.2.6. Monetary Payment Forms must be submitted by the Monetary Payment Deadline.

8.3. The Notice shall include the procedure for Settlement Class Members to exclude themselves from the Settlement Class by providing written notice to the Settlement Administrator in conformance with Paragraph 8.9. Such written notification must be postmarked no later than the Opt-Out Deadline, as specified in the Notice. The Settlement Administrator shall provide the Parties with copies of all completed opt-out notifications, and a final list of all Settlement Class Members who have timely and validly excluded themselves from the Settlement Class. Any Settlement Class Member who does not timely and validly exclude himself or herself shall be bound by the terms of this Agreement.

8.4. The Notice shall include the procedure for Settlement Class Members to object to the Settlement and/or the Fee Application. Objections to the Settlement and/or Fee Application must comply with the procedures set forth in Section 8.10.

8.4.1 For an objection to be considered by the Court, the objection must conform to the specifications set forth in Paragraph 8.10.

8.5. Notice shall be provided to the Settlement Class by E-mail Notice to each Settlement Class Member for whom TrueFire or the Settlement Administrator can ascertain an e-mail address, by Postcard Notice to each Settlement Class Member whose E-mail Notice was undeliverable and for whom TrueFire or the Claims Administrator can ascertain a mailing address with reasonable effort or by implementing a standard skip trace, and by posting the Long-Form

Notice on the Settlement Website, pursuant to the terms of Paragraph 8. Notice shall be provided substantially in the forms attached as Exhibits A-B to this Agreement.

8.6. TrueFire shall, within ten (10) days of the Preliminary Approval Order, provide the Settlement Administrator with data files containing the identity, last known mailing address, last known e-mail address, or other addresses of the Settlement Class Members (to the extent reasonably available). The Settlement Administrator shall perform an e-mail append to confirm the e-mail addresses provided by TrueFire and to determine the e-mail address for any other Settlement Class Member. The Settlement Administrator shall also run the mailing addresses through the National Change of Address Database or other similar data source, and shall send the Summary Notice to Settlement Class Members at the identified U.S. Mail and e-mail addresses.

8.7. The Settlement Administrator shall perform reasonable address traces, such as a standard skip trace, for all Summary Notices sent by U.S. mail that are returned as undeliverable. The Settlement Administrator shall promptly complete the re-mailing of Summary Notices by U.S. Mail to those Settlement Class Members for whom an updated address can be located through address traces.

8.8. By no later than twenty-one (21) days after the date of the Preliminary Approval Order, the Settlement Administrator shall establish a dedicated post office box address and the toll-free telephone number contemplated in Paragraphs 7.2.2-7.2.3.

8.9. Opt-Out Procedures

8.9.1. Each Settlement Class Member desiring to exclude herself or himself from the Settlement and Settlement Class shall timely submit, by U.S. Mail, written notice of such intent to the designated Post Office box established for said purpose as set forth in the Notice. The written notice must clearly manifest the intent to be excluded from the Settlement Class and must be signed

by the Settlement Class Member. A request for exclusion may not request exclusion of more than one member of the Settlement Class. Mass opt-outs are not permitted. To be effective, the written notice must be postmarked by the last date of the Opt-Out Period.

8.9.2. All Settlement Class Members who submit valid and timely notices of their intent to be excluded from the Settlement shall not receive any benefits of the Settlement, including, but not limited to, a nine (9) month subscription to TrueFire All Access, reimbursement for any time spent remediating payment card issues resulting from the Data Breach, or California Sub-class payment (as described in Paragraph 5), nor be bound by the terms of this Agreement. Settlement Class Members who do not request to be excluded from the Settlement in the manner set forth in Paragraph 8.9.1 above, except as otherwise ordered by the Court, shall be bound by the terms of this Agreement and Judgment entered thereon.

8.9.3. Any Settlement Class Member who opts out of the Settlement shall not have standing to object to the Settlement.

8.10. Objection Procedures

8.10.1. Any Settlement Class Member who does not elect to opt-out of the Settlement and who desires to object to the Settlement or the Fee Application shall file and serve such objections on or before the expiration of the Objection Period, in the form provided in the Notice. Mailed objections must be filed or postmarked on or before the expiration of the Objection Period. Such objections must set forth:

- the name of the Action;
- the objector's full name, address, telephone number, and e-mail address;
- a statement of the basis on which the objector claims to be a Settlement Class Member;

- a written statement of all grounds for the objection, accompanied by any legal support for the objection, and any evidence the objecting Settlement Class Member wishes to introduce in support of the objection;
- a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing and the identification of any counsel representing the objector who intends to appear at the Final Approval Hearing;
- a list of any persons who will be called to testify at the Final Approval Hearing in support of the objection; and
- the objector's signature signed under oath and penalty of perjury or, if legally incapacitated, the signature of their duly authorized representative (along with documentation setting forth such legal incapacitation and representation) (an attorney's signature is not sufficient).

8.10.2. Except as otherwise ordered by the Court, any Settlement Class Member who fails to comply with the provisions of Paragraph 8.10.1 shall waive and forfeit any and all rights the Settlement Class Member may have to appear separately and/or to object to the Settlement or Fee Application, and shall be bound by all the terms of the Agreement and by all proceedings, orders, and judgments in the Action.

9. RELEASES AND DISMISSAL OF ACTION

9.1. As of the Effective Date, the Releasing Parties, each on behalf of himself or herself and on behalf of his or her respective heirs, assigns, beneficiaries, and successors, shall

automatically be deemed to have fully and irrevocably released and forever discharged TrueFire and each of its present and former parents, subsidiaries, divisions, affiliates, predecessors, successors, and assigns, and the present and former directors, officers, employees, agents, insurers, shareholders, attorneys, advisors, consultants, representatives, partners, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, and the predecessors, successors, and assigns of each of them (collectively, the “Released Parties”), of and from any and all liabilities, rights, claims, actions, causes of action, demands, damages, penalties, costs, attorneys’ fees, losses, and remedies, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, that result from, arise out of, are based upon, or relate to the Data Breach, and conduct that was alleged or could have been alleged in the Action, including, without limitation, any claims, actions, causes of action, demands, damages, penalties, losses, or remedies relating to, based upon, resulting from, or arising out of (1) the unauthorized access of Settlement Class Member personally identifiable information as a result of the Data Breach; (2) TrueFire’s maintenance of Settlement Class Members’ personally identifiable information; (3) TrueFire’s information security policies or practices; (4) TrueFire’s provision of notice to Settlement Class Members following the Data Breach; and (5) any event, matter, dispute, or thing that in whole or in part, directly or indirectly, relates to or arises out of the Data Breach and (1) through (4) above (the “Released Claims”), provided that nothing in this Release is intended to, does or shall be deemed to release any claims not arising out of, based upon, resulting from, or related to the Data Breach.

9.1.1. For the avoidance of doubt, the Released Claims include any claims that a Releasing Party may have under the law of any jurisdiction, including, without limitation, those arising under state or federal law of the United States (including, without limitation, any causes of

action under any data breach statutes, consumer protection statutes, or consumer or data privacy statutes in effect in the United States or in any states in the United States; causes of action under the common or civil laws of any state in the United States, including but not limited to unjust enrichment, negligence, bailment, conversion, negligence *per se*, breach of express contract, breach of implied contract, breach of fiduciary duty, breach of implied covenant of good faith and fair dealing, misrepresentation (whether fraudulent, negligent, or innocent), fraudulent concealment or nondisclosure, invasion of privacy, public disclosure of private facts, and misappropriation of likeness and identity; any causes of action based on privacy rights provided for under the constitutions of the United States or of any states in the United States; and also including, but not limited to, any and all claims in any state or federal court of the United States, for damages, injunctive relief, restitution, disgorgement, declaratory relief, equitable relief, attorneys' fees and expenses, pre-judgment interest, credit monitoring services, identity theft insurance, statutory penalties, restitution, the appointment of a receiver, and any other form of relief). The Released Claims do not include any claims by the Parties hereto to enforce the terms of the Settlement.

9.2. Upon the Effective Date, and to the fullest extent permitted by law, each Releasing Party, including Plaintiff, shall, either directly, indirectly, representatively, as a member of or on behalf of the general public, or in any capacity, be permanently barred and enjoined from commencing, prosecuting, or participating in any recovery in any action in this or any other forum (other than the participation in the Settlement as provided herein) in which any of the Released Claims are asserted.

9.3. As of the Effective Date, TrueFire and all Released Parties agree to fully, completely, finally, and forever release, relinquish, and discharge Plaintiff and Class Counsel from

all claims, known or unknown, arising out of or relating to the institution, prosecution, settlement, or resolution of the Action (provided, however, that this release, relinquishment, and discharge shall not include claims by the Parties hereto to enforce the terms of the Settlement).

9.4. Plaintiff and/or any Releasing Party may hereafter discover facts other than or different from those that he/she knows or believes to be true with respect to the subject matter of the claims released pursuant to the terms of Paragraphs 9.1–9.3, or the law applicable to such claims may change. Nonetheless, each of those individuals expressly agrees that, as of the Effective Date, he/she shall have automatically and irrevocably waived and fully, finally, and forever settled and released any known or unknown, suspected or unsuspected, asserted or unasserted, liquidated or unliquidated, contingent or non-contingent claims with respect to all of the matters described in or subsumed by this Paragraph and Paragraphs 9.1–9.3.

10. ATTORNEYS' FEES, COSTS, AND EXPENSES

10.1. Class Counsel may file a Fee Application seeking an award of attorneys' fees, costs, and expenses of no more than \$156,500.00, all of which shall, if approved by the Court, be paid by TrueFire wholly separate and apart from and without any affect upon or reduction of the Settlement Consideration.

10.2. TrueFire will not oppose any motion by Class Counsel for an award of attorneys' fees, costs, and expenses of up to \$156,500.00. TrueFire agrees that it has no right to appeal the amount of any award of attorneys' fees, costs, and expenses so long as the amount awarded does not exceed \$156,500.00. TrueFire reserves the right to object to a fee request that exceeds the terms outlined in this paragraph.

10.3. Class Counsel must file the Fee Application, if at all, at least thirty (30) days prior to the Objection Deadline.

10.4. Within thirty (30) business days after the Effective Date, TrueFire shall pay or cause to be paid to Class Counsel the Fee and Expense Award, if approved by the Court, if TrueFire receives written wire instructions and IRS Form W-9 from Class Counsel at least thirty (30) days before the payment deadline.

10.5. **No Additional Amounts Due.** TrueFire shall not be liable for any additional attorneys' fees and expenses of Settlement Class Counsel or the Settlement Class Representative in the Action.

11. TERMINATION OF SETTLEMENT

11.1 This Settlement may be terminated by either Plaintiff or TrueFire by serving on counsel for the opposing Party and filing with the Court a written notice of termination within fourteen (14) days (or such longer time as may be agreed between Class Counsel and TrueFire) after any of the following occurrences:

11.1.1. Settlement Class Counsel and TrueFire agree to termination before the Effective Date;

11.1.2. The Court refuses to grant Preliminary Approval of this Agreement in any material respect;

11.1.3. The Court refuses to grant final approval of this Agreement in any material respect;

11.1.4. The Court of Appeals or Supreme Court modifies the Final Judgment or reverses it in any material respect; or

11.1.5. The Effective Date does not occur.

11.2. TrueFire shall also have the right to terminate the Settlement by serving on Class Counsel and filing with the Court a notice of termination within fourteen (14) days of its receipt

from the Settlement Administrator of the final report specified in Paragraph 7.2.7, if more than two hundred forty-five (245) Settlement Class Members submit valid written notifications to exclude themselves from the Settlement Class. Any exercise of termination under this provision must be provided to Class Counsel no later than thirty (30) days prior to the Final Approval hearing.

12. CONDITIONS OF SETTLEMENT

12.1. This Settlement Agreement is expressly conditioned on and subject to each of the following conditions and, except as provided in Paragraph 11, shall be null and void and of no force and effect, cancelled and terminated unless:

- 12.1.1. The Court enters a Final Approval Order and Judgment; and
- 12.1.2. The Final Approval Order and Judgment becomes Final.

13. EFFECT OF A TERMINATION

13.1. The grounds upon which this Agreement may be terminated are set forth in Paragraph 11. In the event of a termination as provided therein, this Agreement shall be considered null and void; all of TrueFire's obligations under the Agreement shall cease to be of any force and effect, the amounts in the Settlement Administration Account, if any, shall be returned to TrueFire; and the Parties shall return to the *status quo ante* in the Action as if the Parties had not entered into this Agreement. Either party may, at any time after the termination of this Agreement, move the Court to lift the stay of proceedings. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement claims and defenses will be preserved, including, but not limited to, Plaintiff's right to seek class certification and TrueFire's right to oppose class certification.

- 13.1.1. In the event of a termination as provided in Paragraph 11, the Settlement

Administrator shall return the balance, if any, of the Settlement Administration Account to TrueFire within seven (7) days of receiving notice of the termination.

13.1.2. In the event the Settlement is terminated in accordance with the provisions of Paragraph 11, any discussions, offers, or negotiations associated with this Settlement shall not be discoverable or offered into evidence or used in the Action or any other action or proceeding for any purpose. In such event, all Parties to the Action shall stand in the same position as if this Agreement had not been negotiated, made, or filed with the Court.

13.1.3. The Settlement shall become effective on the Effective Date unless earlier terminated in accordance with the provisions of Paragraph 11.

15. DISMISSAL OF THE ACTION

15.1. Plaintiff, on behalf of himself and the Settlement Class Members, consents to the dismissal of this Action with prejudice upon the Court's final approval of this Agreement.

16. MISCELLANEOUS PROVISIONS

16.1. **Entire Agreement.** This Stipulation and the Exhibits constitute the entire agreement among the Parties and supersede any prior agreements among the Parties with respect to the subject matter hereof. All of the Exhibits referred to herein shall be incorporated by reference as though fully set forth herein. No representations, warranties, or inducements have been made to, or relied upon, by any Party concerning this Stipulation or its Exhibits, other than the representations, warranties, and covenants expressly set forth in such documents.

16.2. **Singular and Plurals.** As used in this Agreement, all references to the plural shall also mean the singular and to the singular shall also mean the plural whenever the context so indicates.

16.3. **Binding Effect.** This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Releasing Parties and the Released Parties.

16.4. **Jurisdiction.** The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation, and enforcement of the Agreement and shall retain jurisdiction for the purpose of enforcing all terms of the Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice Program and the Settlement Administrator. As part of its agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose.

16.5. **Amendment.** This Stipulation may be amended, modified, or waived only by a written instrument signed by counsel for all Parties hereto or their successors in interest or their duly authorized representatives.

16.6. **Obligation To Meet And Confer.** Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other and certify to the Court that they have consulted.

16.7. **Deadlines.** If any deadline set forth in this Agreement or the Exhibits hereto falls on a Saturday, Sunday, or legal holiday, that deadline will be continued to the next business day.

16.8. **No Conflict Intended.** Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

16.9. **Confidentiality.** To the extent permitted by law and any applicable Court rules, all agreements made and orders entered during the course of the Action relating to the confidentiality of documents or information shall survive this Stipulation and the Effective Date.

16.10. **Destruction of Confidential Information.**

16.10.1. If applicable, within three (3) days after Claims payments are funded, Settlement Class Counsel shall destroy all confidential, non-public information obtained in connection with the Action and Agreement, and certify the same.

16.10.2. Within a year of the end of the Reimbursement Deadline, the Settlement Administrator shall destroy the Class List and all information obtained or compiled from the Action or the settlement, and provide written verification to Defendants' Counsel.

16.11. **Waiver.** The waiver by any Party of any breach of this Stipulation by any other Party shall not be deemed a waiver of that or any other prior or subsequent breach of any provision of this Stipulation by any other Party.

16.12. **Notices.** Notices in relation to this Agreement shall be provided as follows:

16.12.1. All notices to Settlement Class Counsel provided for herein, shall be sent by e-mail and overnight mail to:

John A. Yanchunis
Ryan J. McGee
Morgan & Morgan, PA
One Tampa City Center Ste 700
201 N Franklin Street
Tampa, FL 33602-5157
jyanchunis@forthepeople.com
rmcgee@forthepeople.com

M. Anderson Berry
Leslie Guillou
Clayeo C. Arnold, PLC
865 Howe Avenue
Sacramento, CA 95825
aberry@justice4you.com
lguillon@justice4you.com

16.12.2. All notices to TrueFire, provided for herein, shall be sent by overnight mail and e-mail to:

Claudia D. McCarron
Mullen Coughlin LLC
426 W. Lancaster Avenue, Suite 200
Devon, PA 19333
cmccarron@mullen.law

16.12.3. The notice recipients and addresses designated above may be changed by written notice. Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filings received as a result of the Notice Program.

17. REPRESENTATIONS AND WARRANTIES

17.1. No Additional Persons with Financial Interest. TrueFire 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 individually, other than what is expressly provided for in this Agreement. Settlement Class Counsel agree to hold TrueFire harmless from any claim that the term "Settlement Class Counsel" (as defined in section 1.40 of this Agreement) fails to include any counsel, person, or firm who claims that they are entitled to a share of any attorneys' fees awarded to Settlement Class Counsel in this lawsuit.

17.2. Parties Authorized to Enter into Agreement. Settlement Class Representative and TrueFire represent and warrant that they are fully authorized to enter into this Agreement and to carry out the obligations provided for herein. Each person executing this Agreement on behalf of a Settlement Class Representative or TrueFire covenants, warrants, and represents that he or she is and has been fully authorized to do so by the Settlement Class Representative or TrueFire. Each Settlement Class Representative and TrueFire hereto further represent and warrant that they intend to be bound fully by the terms of this Agreement.

Plaintiff and Settlement Class Counsel represent and warrant that Plaintiff is a Settlement Class Member and that none of the Plaintiff's claims or causes of action that is or could have been asserted in the Action have been assigned, encumbered, or otherwise transferred in any manner in whole or in part.

17.3. Arm's-Length Negotiations. The Parties represent and agree that the terms of the Settlement were negotiated at arm's-length and in good faith by the Parties, and reflect a settlement that was reached voluntarily based upon adequate information and sufficient discovery and after consultation with experienced legal counsel.

17.4. Best Efforts. The Parties and their respective counsel of record agree that they will use their reasonable best efforts to obtain (and, if necessary, defend on appeal) all necessary approvals of the Court required by this Stipulation (including, but not limited to, using their best efforts to resolve any objections raised to the Settlement); provided, however, that Defendant shall have no obligation to file briefs or otherwise advocate in favor of the Fee Application referenced in Paragraph 10, and, pursuant to the terms in Paragraph 10.2, Defendant shall take no position as to the Fee Application.

17.5. Independent Investigation and Decision to Settle. The Parties understand and acknowledge that they: (a) have performed an independent investigation of the allegations of fact and law made in connection with this Action; and (b) that even if they may hereafter discover facts in addition to, or different from, those they now know or believe to be true with respect to the subject matter of the Action as reflected in this Agreement, that will not affect or in any respect limit the binding nature of this Agreement. It is the Parties' intention to resolve their disputes in connection with this Action pursuant to the terms of this Agreement now and thus, in furtherance of their intentions, the Agreement shall remain in full force and effect notwithstanding the

discovery of any additional facts or law, or changes in any substantive or procedural law, and this Agreement shall not be subject to rescission or modification by reason of any changes or differences in facts or law or changes in any substantive or procedural law, subsequently occurring or otherwise.

17.6. Receipt of Advice of Counsel. Each Party acknowledges, agrees, and specifically warrants that he, she, or it has fully read this Agreement and the Releases contained in Paragraph 9, received independent legal advice with respect to the advisability of entering into this Agreement and the Releases, and the legal effects of this Agreement and the Releases, and fully understands the effect of this Agreement and the Releases.

17.7. Time Periods. The time periods and dates described in this Agreement with respect to the giving of notices and hearings are subject to Court approval and modification by the Court or by written stipulation of Settlement Class Counsel and TrueFire's Counsel.

17.8. Governing Law. This Agreement is intended to and shall be governed by the laws of the State of Florida without regard to its choice of law principles.

17.9. No Construction Against Drafter. This Agreement shall be deemed to have been drafted by the Parties, and any rule that a document shall be interpreted against the drafter shall not apply to this Agreement.

17.10. Press. Except as required by law or any other disclosure obligations, the Parties, and the Parties' counsel, shall not issue any press releases or make any media statements about this case or the Settlement.

17.11. Agreement Binding on Successors in Interest. This Stipulation shall be binding upon and shall inure to the benefit of the Parties and the Class (and, in the case of the releases, all Released Parties) and the respective legal representatives, heirs, executors, administrators,

transferees, successors, and assigns of all such foregoing Persons and upon any corporation, partnership, or other entity into or with which any party may merge, consolidate, or reorganize.

17.12. Enforcement. Any disagreement and/or action to enforce this Agreement shall be commenced and maintained only in the Court in which this Action is pending.

17.13. Execution in Counterparts. This Agreement shall become effective upon its execution by the Plaintiff, an authorized representative of the Defendant, and all of the Parties' attorneys. The signatories may execute this Agreement in counterparts. Each counterpart shall be deemed to be an original, and execution of counterparts shall have the same force and effect as if all signatories had signed the same instrument.

17.14. Signatures. Each person executing this Agreement warrants that such person has the full authority to do so. Signatures sent in PDF format by e-mail will constitute sufficient execution of this Agreement.

IN WITNESS WHEREOF, each of the Parties hereto has caused this Agreement to be executed on its behalf by its duly authorized counsel of record, all as of the day set forth below:

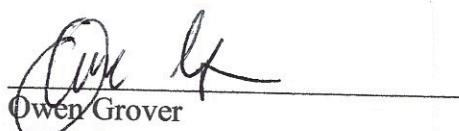
Dated: _____, 2020

Class Counsel


John A. Yanchunis
Morgan & Morgan, PA

Dated: _____, 2020

*Duly Authorized Signatory for
TrueFire, LLC and TrueFire, Inc.*


Owen Grover
Chief Executive Officer,
TrueFire Studios

Dated: December 4 _____, 2020

Dated: DEC. 3rd _____, 2020

Class Counsel

Ryan J. McGee
Morgan & Morgan, PA

Dated: 12/3/2020, 2020

Class Counsel

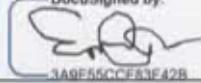
M. Anderson Berry
Clayeo C. Arnold, PLC

Attorney for Defendant

Claudia D. McCarron
Mullen Coughlin, LLC

Dated: 12/3/2020, 2020

Plaintiff

DocuSigned by:

3A0E55CCFB3E42B

Emmanuel Llamas

Exhibit A

Summary Notice

Emmanuel Llamas v. TrueFire, LLC and TrueFire, Inc., Case No. 8:20-cv-00857-WFJ-CPT (M.D. Fla.)

You may be entitled to receive benefits under this class action settlement.

A federal court authorized this Notice. It is not a solicitation from a lawyer.

A proposed settlement has been reached in a lawsuit entitled *Emmanuel Llamas v. TrueFire, LLC and TrueFire, Inc.*, Case No. 8:20-cv-00857-WFJ-CPT, pending in the United States District Court for the Middle District of Florida. The lawsuit alleges that between August 3, 2019 and January 14, 2020, TrueFire was the victim of a data skimming attack that resulted in the disclosure of payment card information belonging to individuals who made purchases on the TrueFire website during that time period (the “Data Breach”). TrueFire maintains that it had meritorious defenses, and it was prepared to vigorously defend the lawsuit. The settlement is not an admission of wrongdoing or an indication that TrueFire has violated any laws, but rather the resolution of disputed claims. TrueFire encourages all persons who qualify as members of the Settlement Class to participate in the Settlement.

Who Is Included? TrueFire’s records indicate you are included in the settlement as a Settlement Class Member because you made a purchase on the TrueFire website using a payment card between August 3, 2019 and January 14, 2020.

What Benefits are Included in the Settlement?

- Settlement Class Members currently enrolled in TrueFire All Access may elect to have their subscription extended for an additional nine (9) months for no additional fee.
- All other Settlement Class Members shall have the option to receive a subscription to TrueFire All Access for a period of nine (9) months.
- Any Settlement Class Member may submit one Claim for reimbursement for time spent remediating fraudulent charges on their payment card as a result of the Data Breach for an amount of \$20.00 per hour that is capped at a maximum of three (3) hours per Claimant.
- All California Sub-class Members who make claims are eligible to receive \$50.00 per Claimant.

How Do I Receive Settlement Benefits? To receive the nine (9) month TrueFire All Access subscription, Settlement Class Members must submit an Election Form to the Settlement Administrator by **DATE**. To file a claim for Reimbursement of Time Spent Remediating Payment Card Issues related to the Data Breach, a Settlement Class Members must submit a Reimbursement Claim Form to the Settlement Administrator by **DATE**. To submit a claim for a Monetary Payment of \$50.00, a California Sub-class Member must submit a Monetary Payment Claim Form by **DATE**. These three forms are available at www.INSERTWEBSITE.com, by calling **1-PHONE NUMBER**, or by writing to the Settlement Administrator at **ADDRESS**. Each form may be

submitted through the Settlement Website or by mail to the Settlement Administrator.

What Are My Options? You can do nothing, submit an Election Form, Reimbursement Claim Form or Monetary Payment Claim Form, or exclude yourself from the settlement. If you do nothing or submit an Election Form, Reimbursement Claim Form or Monetary Payment Claim Form, your rights will be affected. You will not be able to sue TrueFire in a future lawsuit about the claims addressed in the settlement. If you exclude yourself, you will not receive the listed settlement benefits—but you will keep your right to sue TrueFire in a separate lawsuit concerning the issues covered by the settlement. You must contact the Settlement Administrator by mail to exclude yourself. If you do not exclude yourself, you can object to the settlement, Class Counsel's request for fees and expenses. *All Requests for Exclusion and Objections must be postmarked or filed in person by [exclusion/objection deadline].*

The Final Approval Hearing. The Court will hold a Final Approval Hearing at [TIME], on [DATE], at the Tampa Courthouse, 801 North Florida Avenue, Tampa, Florida 33602. At the Final Approval Hearing, the Court will consider whether the proposed settlement is fair, reasonable, and adequate. The Court may also consider Settlement Class Counsel's request for attorneys' fees, costs, and expenses of up to \$156,500. If there are objections, the Court will consider them.

Getting More Information. More information, including the Settlement Agreement and other related documents, is available at www.INSERTWEBSITE.com.

Exhibit B

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA

Notice of Class Action and Proposed Settlement

You may be entitled to receive benefits under this class action settlement.

This notice summarizes the proposed settlement reached in a lawsuit entitled *Emmanuel Llamas v. TrueFire, LLC and TrueFire, Inc.*, No. 8:20-cv-00857-WFJ-CPT (M.D. Fla.), pending in the United States Federal District Court, Middle District of Florida (“Lawsuit”). For the precise terms and conditions of the settlement, please see the settlement agreement available at www.WEBSITE.com, by contacting the Settlement Administrator at [REDACTED], by accessing the Court docket in this case through the Court’s Public Access to Court Electronic Records (PACER) system at <https://www.flmd.uscourts.gov/cmeef>, or by visiting the office of the Clerk of the Court for the United States District Court for the Middle District of Florida, United States Courthouse, 801 North Florida Avenue, Tampa, Florida 33602 between 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

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

This notice may affect your rights – please read it carefully.

*A federal court authorized this notice. This is **not** a solicitation from a lawyer.*

- The lawsuit alleges that between August 3, 2019 and January 14, 2020, TrueFire was the victim of a data skimming attack that resulted in the disclosure of payment card information belonging to individuals who made purchases on the TrueFire website during that time period (the “Data Breach”). TrueFire maintains that it had meritorious defenses, and it was prepared to vigorously defend the lawsuit. The settlement is not an admission of wrongdoing or an indication that TrueFire has violated any laws, but rather the resolution of disputed claims.
- If you made a purchase on the TrueFire website using a payment card between August 3, 2019 and January 14, 2020, you are a Settlement Class Member.
- The Settlement provides that Settlement Class Members who are currently enrolled in TrueFire All Access may elect to have their subscription extended for an additional nine (9) months for no additional fee by submitting the Election Form by the Election Deadline and following the additional enrollment instructions to activate the plan as instructed.
- The Settlement provides that all other Settlement Class Members shall have the option to receive a subscription to TrueFire All Access for a period of nine (9) months by submitting the Election Form by the Election Deadline and following the additional enrollment instructions to activate the plan as instructed.
- The Settlement provides that California Sub-Class Members who make a claim are eligible to receive \$50.00 per Claimant. To be eligible you must have been a resident of the State of

California at the time of the Data Breach, and complete and submit the Monetary Payment Claim Form. The Deadline to submit a claim for \$50.00 is [Monetary Payment Deadline].

- The Settlement also provides for reimbursement for time spent remediating fraudulent charges on payment cards as a result of the Data Breach for an amount of \$20.00 per hour that is capped at a maximum of three (3) hours per Claimant. To be eligible for reimbursement, you must submit sufficient evidence of your time spent remediating fraudulent charges on your payment card and satisfy additional requirements. The deadline to submit a claim is **[Reimbursement Deadline]**.

SUBMIT AN ELECTION FORM DEADLINE: [DATE]	This is the only way for Settlement Class Members to enroll in the TrueFire All Access Settlement Offering provided by TrueFire. If you submit an Election Form, you will give up the right to sue TrueFire in a separate lawsuit about the claims this Settlement resolves.
SUBMIT A REIMBURSEMENT CLAIM FORM DEADLINE: [DATE]	This is the only way for Settlement Class Members to request reimbursement for time spent remediating fraudulent charges on payment cards as a result of the Data Breach. If you submit a Reimbursement Claim Form, you will give up the right to sue TrueFire in a separate lawsuit about the claims this Settlement resolves.
SUBMIT A MONETARY PAYMENT CLAIM FORM DEADLINE: [DATE]	This is the only way for California Sub-class Members to request direct payment of the Monetary Payment Claim. If you submit Monetary Payment Claim Form, you will give up the right to sue TrueFire in a separate lawsuit about the claims this Settlement resolves.
DO NOTHING	Unless you exclude yourself, you are automatically part of this Settlement. If you do nothing, you will still give up the right to sue, continue to sue, or be part of another lawsuit against TrueFire about the legal claims resolved by this Settlement.
EXCLUDE YOURSELF	You will not receive any benefits from the Settlement, but you will not be bound by the terms of the Settlement, if

DEADLINE: [45 DAYS FOLLOWING NOTICE]	approved by the Court.
OBJECT: DEADLINE: [45 DAYS FOLLOWING NOTICE]	If you do not exclude yourself from the Settlement Class, you may object to the Settlement or to Class Counsel's or the Class Representatives' requests for Class Counsel fees.
GO TO A HEARING ON [DATE]	You may object to the Settlement and ask the Court permission to speak at the Fairness Hearing about your objection.

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court still must decide whether to approve the Settlement. No benefits will be provided, or payments made until after the Court grants final approval of the Settlement and all appeals, if any, are resolved.

QUESTIONS? READ ON AND VISIT WWW.INSERTWEBSITE.COM

TABLE OF CONTENTS

	PAGE
BASIC INFORMATION	

- Why is this Notice being provided?
- What is this lawsuit about?
- Why is this a class action?
- Why is there a Settlement?

WHO IS IN THE SETTLEMENT

- How do I know if I am part of the Settlement?
- Are there exceptions to being included in the Settlement?
- What if I am not sure whether I am included in the Settlement?

THE SETTLEMENT BENEFITS

- What benefits does the Settlement provide?
- Tell me more about how to enroll in TrueFire All Access.
- Tell me more about reimbursement for time spent remediating payment card issues.
- Tell me more about the \$50.00 monetary payment for California Sub-class Members.

HOW TO GET SETTLEMENT BENEFITS

- How can I enroll in TrueFire All Access?
- How do I obtain reimbursement of time spent remediating payment card issues related to the Data Breach?
- How do I obtain a monetary payment of \$50.00 if I am a California Sub-class member?
- When will I receive my reimbursement payment under the Settlement?
- What am I giving up as part of the Settlement?

THE LAWYERS REPRESENTING YOU

- Do I have a lawyer in the case?
- How will the lawyers be paid?

EXCLUDING YOURSELF FROM THE SETTLEMENT

- What does it mean to exclude myself from the Settlement?
- If I exclude myself, can I get anything from this Settlement?
- If I do not exclude myself, can I sue later?
- How do I exclude myself from the Settlement?

OBJECTING TO THE SETTLEMENT

- How do I tell the Court if I do not like the Settlement?

- What is the difference between objecting and asking to be excluded?

FINAL APPROVAL HEARING

- When and where will the Court decide whether to approve the Settlement?
- Do I have to come to the hearing?
- May I speak at the hearing?

IF YOU DO NOTHING

- What happens if I do nothing at all?

GETTING MORE INFORMATION

- How do I get more information about the proposed Settlement?

BASIC INFORMATION

This Class Notice is provided pursuant to an order issued by the Court to inform you of the proposed Settlement and the Final Approval Hearing to be held by the Court to consider, among other things, (a) whether the Settlement is fair, reasonable and adequate and should be approved; and (b) Class Counsel's request for Class Counsel Fees and Expenses. This Class Notice explains the nature of the lawsuit, the general terms of the proposed Settlement (including the benefits available), and your legal rights and obligations. This Class Notice is not an expression of any opinion by the Court as to the merits of the claims or defenses asserted in the Action.

The Honorable Judge William F. Jung of the United States District Court for the Middle District of Florida is overseeing this action, which is known as *Emmanuel Llamas v. TrueFire, LLC and TrueFire, Inc.*, Case No. 8:20-cv-00857-WFJ-CPT (the "Action"). The individual who filed the lawsuit is called the "Plaintiff." TrueFire, LLC and TrueFire, Inc. (collectively, "TrueFire") is the "Defendant."

Plaintiff in this matter claims that on or about March 9, 2020, TrueFire disclosed that it was the victim of a data skimming attack that resulted in the disclosure of payment card information belonging to individuals who made purchases on the TrueFire website during that time period between August 3, 2019 and January 14, 2020 (the "Data Breach").

TrueFire began notifying potentially impacted individuals of the Data Breach on or around February 13, 2020.

Plaintiff claims that TrueFire did not adequately protect his personal information, and that he was injured as a result of the Data Breach. TrueFire denies any wrongdoing, and no court or other entity has made any judgment or other determination of any wrongdoing or that any law has been violated.

In a class action, one or more people called "class representatives" sue on behalf of themselves and other people with similar claims. The Plaintiff (the class representative here), together with the people they represent, are called Settlement Class Members. One court resolves the issues for all Settlement Class Members, except for those people who timely exclude themselves from the Settlement Class. In this case, the Class Representative is Emmanuel Llamas.

The Court has not decided in favor of the Plaintiff or TrueFire. Instead, both sides agreed to a settlement. Settlement avoids the costs and uncertainty of trial and related appeals, while providing benefits to members of the Settlement Class. The Class Representatives and attorneys for the Settlement Class ("Settlement Class Counsel") believe the Settlement is in the best interests of the Settlement Class Members.

WHO IS IN THE SETTLEMENT

You are included in the Settlement Class if you are a member of one of the following classes of individuals:

All persons residing in the United States whose personally identifiable information was compromised as a result of the Data Breach first announced by TrueFire on February 13, 2020.

or

All persons residing in California whose personally identifiable information was compromised in the Data Breach first announced by TrueFire on February 13, 2020.

If you are not sure whether you are in the Class, or have any other questions about the Settlement, call the toll-free number, 1-800-PHONENUMBER. You also may write with questions to: **INSERT SETTLEMENT ADMINISTRATOR INFO AND ADDRESS** or go to www.INSERTWEBSITE.com.

THE SETTLEMENT BENEFITS

TrueFire will provide Settlement Class Members the following benefits if elected under the Settlement: (1) TrueFire All Access for a period of nine (9) months at no fee, (2) reimbursement for time spent remediating payment card issues related to the Data Breach for an amount of \$20.00 per hour up to \$60.00 per Settlement Class Member which are: (a) related to the Data Breach; (b) supported by required documentation; and (c) that meet all requirements set forth in the Reimbursement Form and the Settlement Agreement; and (3) payment of \$50.00 to each California Sub-class Member who makes a claim.

Complete details regarding the settlement benefits are available in the Settlement Agreement, which is available at www.INSERTWEBSITE.com.

TrueFire All Access

All Settlement Class Members who are existing TrueFire All Access subscribers may elect to have their current subscriptions extended by a period of nine (9) months. The remaining Settlement Class Members who do not submit a timely request for exclusion from the Settlement Class shall have the option to receive a subscription to TrueFire All Access for a period of nine (9) months. If a Settlement Class Member elects to receive the nine (9) month subscription to TrueFire All Access, he or she must make that election by the Election Deadline.

Reimbursement for Time Spent Remediating Payment Card Issues

Any Settlement Class Member may submit one Claim for reimbursement for time spent remediating fraudulent charges on their payment card as a result of the Data Breach for an amount of \$20.00 per hour that is capped at a maximum of three (3) hours per Claimant. Claims may be

submitted electronically or in paper format using a Reimbursement Form. Claims must be submitted by the Reimbursement Deadline.

Settlement Class Members who wish to make a timely and properly supported Reimbursement Claim must provide to the Settlement Administrator the information required to evaluate the claim, including: (a) the Claimant's name and current address; (b) a written accounting of the tasks associated with remediating any fraudulent charges on their payment card as a result of the Data Breach that includes time spent performing such tasks calculated in fifteen (15) minute increments; and (c) a statement signed under penalty of perjury indicating that: (i) the individual performed the tasks associated with remediating the fraudulent charges on their payment card; and (ii) the fraudulent charges on their payment card are fairly traceable to the Data Breach.

Monetary Payment of \$50 for California Sub-class Members

All members of the California Sub-class who make claims are eligible to receive \$50 per Claimant.

California Sub-class Members who wish to make a timely and properly supported Monetary Payment Claim must provide to the Settlement Administrator the information required to evaluate the claim, including: (a) the Claimant's name and current address; and (b) a statement signed under penalty of perjury indicating that the Claimant was a resident of the state of California at the time of the Data Breach.

HOW TO GET SETTLEMENT BENEFITS

To enroll in, or extend, the nine (9) month TrueFire All Access Subscription offered by TrueFire, Settlement Class Members must submit an Election Form by mail or through the Settlement Website by **DATE**. The Settlement Administrator will notify you of any deficiencies with respect to your Election Form, and you will have 21 days after such notice is sent to correct these deficiencies.

An Election Form is available at www.INSERTWEBSITE.com or by calling 1-800-PHONENUMBER. Election Forms are also available by writing to the Settlement Administrator at [SETTLEMENT ADMININISTRATOR INFORMATION AND ADDRESS].

For reimbursement for time spent remediating fraudulent charges on payment cards as a result of the Data Breach for an amount of \$20.00 per hour and that is capped at a maximum of three (3) hours per Claimant, you must complete and submit a Reimbursement Form(s) and provide documentation proving the time spent as described above. You can get the Reimbursement Form at www.INSERTWEBSITE.com or by calling 1-800-PHONENUMBER. For each Reimbursement Form, you must read the instructions carefully, fill out the form completely, attach the required documentation, and either submit the form and documentation through the Settlement Website, or mail the form postmarked no later than **DATE**, to:

Settlement Administrator
ADDRESS
ADDRESS

If you have questions about how to file a claim, call 1-800-PHONENUMBER or go to www.INSERTWEBSITE.com.

If you file a timely and valid Reimbursement Form and submit required documentation, the Settlement Administrator will evaluate your claim to confirm your eligibility and calculate your payment amount. The Settlement Administrator will notify you of any deficiencies with respect to your claim, and you will have twenty-one (21) days after such notice is sent to correct these deficiencies. The Settlement Administrator will then issue a final decision on your claim.

Payments for valid claims will not be made until after the Settlement is finally approved and all appeals and other reviews have been exhausted.

If you are a California Sub-class Member and you file a timely and valid Monetary Payment Claim Form, the Settlement Administrator will evaluate your claim to confirm your eligibility to receive payment of the Monetary Payment Claim. The Settlement Administrator will notify you of any deficiencies with respect to your claim, and you will have twenty-one (21) days after such notice is sent to correct these deficiencies. The Settlement Administrator will then issue a final decision on your claim.

Unless you exclude yourself, you cannot sue TrueFire or be part of any lawsuit against TrueFire about any of the issues in this Action. Unless you exclude yourself, all of the decisions by the Court will bind you. The specific claims you are giving up are described in Paragraph 9 of the Settlement Agreement. You will be releasing your claims against TrueFire and all related people as described in Paragraph 9.

The Settlement Agreement is available at www.INSERTWEBSITE.com or by calling 1-800-PHONENUMBER. The Settlement Agreement describes the released claims with specific descriptions, so please read it carefully. If you have any questions about what this means, you can talk to Settlement Class Counsel, or you can talk to your own lawyer at your own expense.

THE LAWYERS REPRESENTING YOU

The Court appointed the law firms of Morgan & Morgan, PA and Clayeo C. Arnold, A Professional Law Corporation to represent you and the Settlement Class. These firms are called "Settlement Class Counsel." You will not be charged by these lawyers for their work on this case. If you want to be represented by your own lawyer, you may hire one at your own expense.

Class Counsel will ask the Court for TrueFire to pay for reasonable attorneys' fees and expenses of up to \$156,500.00. The Court will decide the amount of attorneys' fees, and expenses. Any attorneys' fees, costs, and expenses approved will be paid by TrueFire and will not reduce the benefits provided to you or the other Settlement Class Members under the proposed Settlement.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you want to keep the right to sue or continue to sue TrueFire about the legal claims in this case, you must take steps to exclude yourself from the Settlement Class. Excluding yourself is also called “opting out” of the Settlement.

If you exclude yourself, you cannot get anything from the Settlement. If you exclude yourself, you may not apply for any benefits under the proposed Settlement and you cannot object to the proposed Settlement.

If you do not exclude yourself, you cannot sue later. Unless you exclude yourself, you give up the right to sue TrueFire for all of the claims that this proposed Settlement resolves.

To exclude yourself from the proposed Settlement, you must timely submit, by U.S. Mail, written notice of your intent to opt-out of the Settlement to the Settlement Administrator’s designated address established for opt-outs. The written notice must clearly manifest your intent to be excluded from the Settlement Class in *Emmanuel Llamas v. TrueFire, LLC and TrueFire, Inc.*, No. 8:20-cv-00857-WFJ-CPT, and must be signed by you. You can only request exclusion for yourself: you cannot request to exclude any other member of the Settlement Class. Mass opt-outs are not permitted.

To be effective, written notice must be postmarked by [REDACTED] and mailed to:

INSERT ADDRESS

You cannot ask to be excluded on the phone, by email, or on the website.

OBJECTING TO THE SETTLEMENT

If you are a Settlement Class Member, you can object to or comment on the Settlement, Settlement Class Counsel’s request for attorneys’ fees, costs, and expenses. To object, you must state in writing that you object to the Settlement, and include the following information in your written objection:

1. The name of the Action;
2. Your full name, mailing address, telephone number, and e-mail address;
3. A statement of the basis on which you claim to be a Settlement Class Member;
4. A written statement of all grounds for your objection, accompanied by any legal support for the objection, and any evidence you wish to introduce in support of the objection;
5. The identity of all counsel, if any, representing you, including any former or current counsel who may claim entitlement to compensation for any reason related to the objection to the Settlement or the Fee Application;

6. A statement confirming whether you intend to personally appear and/or testify at the Final Approval Hearing and the identification of any counsel representing you who intends to appear at the Final Approval Hearing;
7. A list of any persons who will be called to testify at the Final Approval Hearing in support of the objection; and
8. Your signature signed under oath and penalty of perjury or, if legally incapacitated, the signature of your duly authorized representative (along with documentation setting forth such legal incapacitation and representation) (an attorney's signature is not sufficient).

Failure to include this information may be grounds for the Court to disregard your objection.

To submit an objection, send a letter the Court either by: (a) mailing it to the Clerk of the Court, United States District Court for the Middle District of Florida, United States Courthouse, 801 North Florida Avenue, Tampa, FL 33602, or; (b) filing the objection in person at any location of the United States District Court for the Middle District of Florida. Mailed objections must be filed or postmarked on or before the Objection Deadline, which is [Objection Deadline].

You can object to the Settlement when you wish to remain a Settlement Class Member and be subject to the Settlement but disagree with some aspect of the Settlement. An objection allows your views to be heard in Court.

Excluding yourself from the Settlement Class means that you are no longer a Settlement Class Member and do not want the Settlement to apply to you. Once you are excluded, you lose the right to receive any benefits from the Settlement or to object to any aspect of the Settlement because the case no longer affects you.

FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing at _____ a.m., on _____, at the Tampa Courthouse, Courtroom _____, 801 North Florida Avenue, Tampa, FL 33602. At the Final Approval Hearing, the Court will consider whether the proposed Settlement is fair, reasonable, and adequate. The Court may also consider Class Counsel's request for attorneys' fees, costs, and expenses. If there are objections, the Court will consider them. After the Final Approval Hearing, the Court will decide whether to approve the proposed Settlement and how much to award to Class Counsel as fees, costs, and expenses.

The Final Approval Hearing may be moved to a different date or time without additional notice, so it is recommended that you periodically check www.INSERTWEBSITE.com and the Court docket in this case through the Court's Public Access to Electronic Records (PACER) system at <https://www.flmd.uscourts.gov/cmecf> to confirm the date of the Final Approval Hearing.

You do not have to attend the hearing. Class Counsel will answer any questions the Court may have. However, you are welcome to attend the hearing at your own expense. If you submit a written objection, you do not have to come to the Fairness Hearing to raise your objection. As long as you

timely mailed your written objection, the Court will consider it. You also may pay your own lawyer to attend the Final Approval Hearing, but their attendance is not necessary.

You may speak at the hearing. If you would like to do so, you must indicate your intent to personally appear and/or testify at the Final Approval Hearing, and identify any counsel representing you who intends to appear at the Final Approval Hearing, when providing written notice of your objection as noted above regarding how to object to the Settlement. You cannot speak at the hearing if you exclude yourself from the Settlement.

IF YOU DO NOTHING

If you are a Settlement Class Member and you do nothing, you will be legally bound by the Settlement, but you will not receive the nine (9) month subscription to TrueFire All Access, reimbursement for time spent remediating payment card issues related to the Data Breach, or the California Sub-class monetary payment (if applicable). You will not be able to bring a lawsuit, continue a lawsuit, or be a part of any other lawsuit against TrueFire about the claims in this case.

If you would like to request benefits under the Settlement, you must follow the instructions described above.

GETTING MORE INFORMATION

This notice summarizes the proposed Settlement. More details are included in the Settlement Agreement. You can get a copy of the Settlement Agreement at www.INSERTWEBSITE.com. You also may write with questions to the Settlement Administrator, at EMAIL ADDRESS OR REAL [ADDRESS]. You can access Reimbursement and Election Forms and review additional documents on the Settlement Website. You can also request to receive Reimbursement and Election Forms, a copy of the Settlement Agreement, and a detailed notice by mail by calling the toll-free number, 1-800-PHONENUMBER.

Exhibit C

Emmanuel Llamas v. TrueFire, LLC and TrueFire, Inc., No. 8:20-cv-00857-WFJ-CPT
(M.D. Fl.)

TrueFire All Access Election Form
Submission Deadline: DATE

You may quickly and easily file your Election Form online at
www.INSERTWEBSITE.com

The Settlement Class is defined as all persons residing in the United States whose personally identifiable information was compromised as a result of the Data Breach first announced by TrueFire on February 13, 2020. You may submit this Election Form only if you are a Settlement Class Member in the above action.

As a member of the Settlement Class, if you do not submit a timely request for exclusion from the Settlement Class, you are entitled to obtain either a nine (9) month subscription to TrueFire All Access, or a nine (9) month extension of your subscription to TrueFire All Access at TrueFire's cost.

To elect to receive the nine (9) month subscription to TrueFire All Access, please mark the appropriate selection and provide the following information:

I want to **ELECT** to receive TrueFire All Access for a period of nine (9) months at TrueFire's cost.

I want to **ELECT** to extend my existing TrueFire All Access subscription for a period of nine (9) months at TrueFire's cost.

I declare under penalty of perjury that I am a Settlement Class Member and that the information provided below is true and accurate.

First Name: _____ MI: _____ Last Name: _____

Address: _____

E-Mail: _____ Phone Number: _____

Signature: _____ Date: _____

The deadline to submit this form is **DATE** online at www.INSERTWEBSITE.com or by mail to
ANGEION GROUP, ADDRESS.

Exhibit D

Emmanuel Llamas v. TrueFire, LLC and TrueFire, Inc., No. 8:20-cv-00857-WFJ-CPT
SETTLEMENT ADMINISTRATOR
P.O. Box XXXXX
City, State XXXXX-XXXX

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA

Emmanuel Llamas v. TrueFire, LLC and TrueFire, Inc., No. 8:20-cv-00857-WFJ-CPT

REIMBURSMENT FORM

Any Settlement Class Member may submit one Claim for reimbursement for time spent remediating fraudulent charges on their payment card as a result of the Data Breach for an amount of \$20.00 per hour that is capped at a maximum of three (3) hours per Claimant. Reimbursement Claims must be submitted using this Reimbursement Form in accordance with the reimbursement terms under the provisions of this Agreement.

Additional information is contained in the Notice and the Settlement Agreement, both of which are available at www.INSERTWEBSITE.com or by calling 1-PHONENUMBER.

Settlement Class Members who wish to make a timely and properly supported Reimbursement Claim must provide to the Settlement Administrator the information required to evaluate the claim, including: (a) the Claimant's name and current address; (b) a written accounting of the tasks associated with remediating any fraudulent charges on their payment card as a result of the Data Breach that includes time spent performing such tasks calculated in fifteen (15) minute increments; and (c) a statement signed under penalty of perjury indicating that: (i) the individual performed the tasks associated with remediating the fraudulent charges on their payment card; and (ii) the fraudulent charges on their payment card are fairly traceable to the Data Breach.

Settlement Class Members must submit this documentation along with the form required below through the Settlement Website, or by mailing it to the following address:

ANGEION GROUP
ADDRESS
ADDRESS

If you have any questions, call 1-PHONE NUMBER or go to www.INSERTWEBSITE.com for more information.

Deadline: All Claims must be submitted to the Settlement Administrator on or before **DATE**.

CLAIMANT INFORMATION
Please Type or Print in the Boxes Below

First Name

MI

Last Name

Mailing Address (Street, PO Box, Suite or Office Number)

City

State

Zip Code

Additional Information

Email Address (optional)

Telephone Number (optional)

I declare under penalty of perjury that the time spent remediating payment card issues claimed on this form is related to the Data Breach.

You may submit one reimbursement request and your request cannot exceed an \$60.

Amount Requested:

\$.

Documentary proof must be submitted to support your exact claim amount.

Please provide a brief description of time spent remediating payment card issues related to the Data Breach requested in this Claim calculated in fifteen (15) minute increments, as well as an explanation of how such activities are related to the Data Breach. (You may attach additional pages if necessary).

Signature: _____	Date: _____
Print Name: _____	<p>Your claim will be submitted to the Settlement Administrator for review. If your Reimbursement Form is incomplete, untimely, or contains false information, it may be rejected by the Settlement Administrator. If your claim is approved, you will be mailed a check at the street address you provide. This process takes time; please be patient.</p>

**REIMBURSEMENT FORMS MUST BE POSTMARKED NO LATER THAN DATE TO BE
ELIGIBLE FOR PAYMENT. FILE ONLINE AT www.INSERTWEBSITE.com OR MAIL
THIS CLAIM FORM TO ANGEION GROUP, ADDRESS.**

Exhibit E

Emmanuel Llamas v. TrueFire, LLC and TrueFire, Inc., No. 8:20-cv-00857-WFJ-CPT
SETTLEMENT ADMINISTRATOR
P.O. Box XXXXX
City, State XXXXX-XXXX

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA

Emmanuel Llamas v. TrueFire, LLC and TrueFire, Inc., No. 8:20-cv-00857-WFJ-CPT

MONETARY PAYMENT CLAIM FORM

All members of the California Sub-class are eligible to a direct payment of \$50 per Claimant. California Sub-class Monetary Payment Claims must be submitted pursuant to this Monetary Claim Form and in accordance with the reimbursement terms under the provisions of this Agreement. All Monetary Payment Claims must be submitted to the Settlement Administrator on or before the expiration of the Monetary Payment Deadline and must be verified in writing and attested-to by the Claimant.

Additional information is contained in the Notice and the Settlement Agreement, both of which are available at www.INSERTWEBSITE.com or by calling 1-PHONENUMBER.

California Sub-class Members who wish to make a timely and properly supported Monetary Payment Claim must provide to the Settlement Administrator the information required to evaluate the claim, including: (a) the Claimant's name and current address; and (b) a statement signed under penalty of perjury indicating that the Claimant was a resident of the state of California at the time of the Data Breach.

California Sub-class Members must submit this form required below through the Settlement Website, or by mailing it to the following address:

ANGEION GROUP
ADDRESS
ADDRESS

If you have any questions, call 1-PHONE NUMBER or go to www.INSERTWEBSITE.com for more information.

Deadline: All Claims must be submitted to the Settlement Administrator on or before DATE.

CLAIMANT INFORMATION
Please Type or Print in the Boxes Below

First Name

MI

Last Name

Mailing Address (Street, PO Box, Suite or Office Number)

City

State

1

Zip Code

Additional Information

Email Address (optional)

Telephone Number (optional)

The image consists of three separate groups of three rectangular boxes. Each group is aligned horizontally. The boxes are empty and have black outlines, designed for children to draw or write in.

I declare under penalty of perjury that at the time of the Data Breach, I was a resident of the state of California residing at the address provided below.

Signature: _____	Date: _____
Print Name: _____	<p>Your claim will be submitted to the Settlement Administrator for review. If your Monetary Payment Claim Form is incomplete, untimely, or contains false information, it may be rejected by the Settlement Administrator. If your claim is approved, you will be mailed a check at the street address you provide. This process takes time; please be patient.</p>

**MONETARY PAYMENT CLAIM FORMS MUST BE POSTMARKED NO LATER THAN
DATE TO BE ELIGIBLE FOR PAYMENT. FILE ONLINE AT www.insertwebsite.com
OR MAIL THIS CLAIM FORM TO ANGEION GROUP, ADDRESS.**

Exhibit F

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

EMMANUEL LLAMAS, an individual and California resident, on behalf of himself and all others similarly situated,

Plaintiff,

v.

TRUEFIRE, LLC, and TRUEFIRE, INC.

Defendants.

Case No.: 8:20-cv-00857-WFJ-CPT

JUDGE WILLIAM F. JUNG

**[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT AND APPROVING NOTICE PROGRAM**

WHEREAS, a class action is pending before the Court entitled *Emmanuel Llamas v. TrueFire, LLC and TrueFire, Inc.*, Case No. 8:20-cv-00857-WFJ-CPT;

WHEREAS, Emmanuel Llamas (also referred to as “Plaintiff” or “Settlement Class Representative” for purposes of the Settlement Agreement), for himself and on behalf of the Settlement Class, and TrueFire, LLC and TrueFire, Inc. (collectively “TrueFire” or “Defendant”), have agreed to settle Plaintiff’s claims related to a payment card scraping attack perpetrated against TrueFire (the “Data Breach”);

WHEREAS, the Parties’ Stipulation and Agreement of Settlement (“Settlement Agreement”), together with the exhibits attached thereto, sets forth the terms and conditions for a proposed settlement and dismissal of the Action with prejudice as to TrueFire for the claims of the Settlement Class upon the terms and conditions set forth in the Settlement Agreement,

and the Court having read and considered the Settlement Agreement and exhibits attached thereto;

This matter coming before the Court upon the agreement of the Parties and the motion of Plaintiff seeking preliminary approval of the Settlement Agreement, good cause being shown, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED, DECREED, AND ADJUDGED AS FOLLOWS:

1. Terms and phrases in this order shall have the same meaning as set forth in the Settlement Agreement.

2. The Court has jurisdiction over the subject matter of the Action, the Plaintiffs, the Settlement Class Members, and TrueFire, and venue is proper in this District.

Settlement Class Certification.

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court preliminarily certifies, for settlement purposes only, Settlement Classes consisting of the following:

- a. **Nationwide Class:** All persons residing in the United States whose personally identifiable information was compromised as a result of the Data Breach first announced by TrueFire on February 13, 2020; and
- b. **California Sub-class:** All persons residing in California whose personally identifiable information was compromised in the Data Breach first announced by TrueFire on February 13, 2020.

4. Excluded from the Settlement Class are Defendant, its officers and directors during the Settlement Class Period, the members of their immediate families, and their respective representatives, heirs, successors, and assigns. Also excluded from the Settlement Class are those Persons who otherwise satisfy the above requirements for membership in the Settlement Class, but who timely and validly request exclusion from the Settlement Class

pursuant to the Notice to be sent to Settlement Class Members.

5. The Court hereby appoints Plaintiff Emmanuel Llamas as Settlement Class Representative.

6. The Court hereby appoints Morgan & Morgan, PA and Clayeo C. Arnold, A Professional Law Corporation, as Settlement Class Counsel.

Preliminary Approval

7. Plaintiff has moved the Court for an order approving the settlement of the Action in accordance with the Settlement Agreement, which, together with the documents incorporated therein, sets forth the terms and conditions for a proposed settlement and dismissal of the Action with prejudice against TrueFire. The Court, having read and considered the Settlement Agreement and having heard the Parties' arguments in support of the Settlement Agreement, hereby preliminarily approves the Settlement Agreement in its entirety subject to the Final Approval Hearing referred to in Paragraph 20 of this order.

8. The Court finds that, subject to the Final Approval Hearing, the Settlement Agreement falls within the range of possible approval as fair, reasonable, adequate, and in the best interests of the Settlement Class as to their claims against TrueFire. The Court further finds that the Settlement Agreement substantially fulfills the purposes and objectives of the class action, and provides beneficial relief to the Settlement Class. The Court also finds that the Settlement Agreement: (a) is the result of serious, informed, non-collusive arms' length negotiations involving experienced counsel familiar with the legal and factual issues of this case and made with the assistance of the Bennett G. Picker, Esq. of Stradley Ronon Stevens & Young, LLP; (b) is sufficient to warrant notice of the settlement and the Final Approval Hearing to the Settlement Class; (c) meets all applicable requirements of law, including Federal Rule of Civil Procedure 23 and the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1715; and (d) is not a finding or admission of liability by TrueFire.

Notice and Administration

9. Angeion Group is hereby appointed as Settlement Administrator and shall perform all the duties of the Settlement Administrator as set forth in the Settlement Agreement and this order.

10. The Court finds that the notice plan and all forms of Notice to the Class as set forth in the Settlement Agreement and Exhibits A and B thereto (the “Notice Program”) is reasonably calculated to, under all circumstances, apprise the members of the Settlement Class of the pendency of this action, the certification of the Settlement Class, the terms of the Settlement Agreement, and the right of members to object to the settlement or to exclude themselves from the Class. The Notice Program is consistent with the requirements of Rule 23 and due process, and constitutes the best notice practicable under the circumstances.

11. The Court thus hereby approves the Notice Program, including the proposed Notice documents attached as Exhibits A and B to the Settlement Agreement. The Court also approves the plan for Claims administration, including the Election Form, Reimbursement Form, and California Sub-class Monetary Payment Claim Form attached as Exhibits C, D, and E to the Settlement Agreement. The Parties may, by agreement, revise the Notice, Election Form, Reimbursement Form, or California Sub-class Monetary Payment Claim documents in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting.

12. Pursuant to the Settlement Agreement, within thirty (30) calendar days after the entry of the Preliminary Approval Order (the “Notice Date”), and subject to the requirements of the Settlement Agreement and this Preliminary Approval Order, TrueFire shall coordinate with the Settlement Administrator to provide Notice pursuant to the Notice Program as follows:

- a. Within forty-five (45) days of entry of the Preliminary Approval Order, the Settlement Administrator shall send E-mail Notice to each Settlement Class Member for whom TrueFire or the Settlement Administrator can ascertain an email address;
- b. With respect to Settlement Class Members for whom TrueFire and the Settlement Administrator cannot ascertain an email address, the Settlement Administrator shall send Postcard Notice to Settlement Class Members' mailing addresses, as ascertained by TrueFire's records or through the National Change of Address Database or other similar data source;
- c. The Settlement Administrator shall perform reasonable address traces for all initial Postcard Notices that are returned as undeliverable. The Settlement Administrator shall complete the re-mailing of the Summary Notice by US mail to Settlement Class Members whose new addresses were identified as of that time through address traces; and
- d. The Settlement Administrator shall publish, on or before the Notice Date, the Long-Form Notice on the Settlement Website in accordance with the requirements set forth in the Settlement Agreement.

13. Settlement Class Members who wish to receive benefits under the Settlement Agreement must complete and submit a valid Election Form for a nine (9) month TrueFire All Access subscription, and/or a valid Reimbursement Form for reimbursement of time spent remediating payment card issues related to the Data Breach. California Sub-class Members who wish to receive a \$50.00 monetary payment must complete and submit a valid California Monetary Payment Claim Form. All Election Forms must be postmarked or received by the Settlement Administrator not later than _____. All Reimbursement Forms must be postmarked or received by the Settlement Administrator not later than _____. All California Monetary Payment Claim Forms must be postmarked or received by the Settlement Administrator not later than _____.

14. Within ten (10) days of the filing of the motion for preliminary approval, TrueFire shall, at its own cost, serve or cause to be served a notice of the proposed Settlement in accordance with the requirements of the Class Action Fairness Act, 28 U.S.C. § 1715(b).

Exclusion

15. Settlement Class Members who wish to exclude themselves from the Settlement Class for purposes of this Settlement may do so by submitting a request for exclusion to the Settlement Administrator not later than forty-five (45) days following the Notice Date. The request for exclusion must comply with the exclusion procedures set forth in the Settlement Agreement. Each Settlement Class Member desiring to exclude him or herself from the Settlement Class shall timely submit, by U.S. Mail, written notice of such intent to the designated address set forth in the Notice. The written notice must clearly manifest the intent to be excluded from the Settlement Class and must be signed by the Settlement Class Member. A request for exclusion may not request exclusion of more than one member of the Settlement Class. Mass opt-outs are not permitted.

16. Any member of the Settlement Class who timely requests exclusion consistent with these procedures may not file an objection to the Settlement and shall be deemed to have waived any rights or benefits under this Settlement. Settlement Class Members who fail to submit a valid and timely request for exclusion shall be bound by all terms of the Settlement Agreement and the Final Judgment.

Objections

17. Any member of the Settlement Class who has not timely filed a request for exclusion may object to the granting of final approval to the settlement. Settlement Class Members may object on their own or may do so through separate counsel at their own expense.

18. Any written objection to the Settlement must include: (i) the name of the Action; (ii) the objector's full name, address, telephone number, and e-mail address; (iii) a

statement of the basis on which the objector claims to be a Settlement Class Member; (iv) a written statement of all grounds for the objection, accompanied by any legal support for the objection, and any evidence the objecting Settlement Class Member wishes to introduce in support of the objection; (v) the identity of all counsel, if any, representing the objector, including any former or current counsel who may claim entitlement to compensation for any reason related to the objection to the Settlement or the Fee Application; (vi) a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing and the identification of any counsel representing the objector who intends to appear at the Final Approval Hearing; (vii) a list of any persons who will be called to testify at the Final Approval Hearing in support of the objection; (viii) the objector's signature signed under oath and penalty of perjury or, if legally incapacitated, the signature of their duly authorized representative (along with documentation setting forth such legal incapacitation and representation) (an attorney's signature is not sufficient); and (ix) must be submitted to the Court either by: (a) mailing it to the Clerk of the Court, United States District Court for the Middle District of Florida, United States Courthouse, 801 North Florida Avenue, Tampa, FL 33602, or; (b) filing the objection in person at any location of the United States District Court for the Middle District of Florida. Mailed objections must be filed or postmarked on or before the expiration of the Objection Period, which occurs forty-five (45) days following the Notice Date.

19. Any member of the Settlement Class who fails to file and serve a timely written objection in compliance with the requirements of this Order and the Settlement Agreement shall be deemed to have waived any objections and shall be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement.

Fairness Hearing

20. A fairness hearing (the “Final Approval Hearing” or “Fairness Hearing”) shall be held before this Court on _____ in Courtroom ____ of the Tampa Courthouse 801 North Florida Avenue, Tampa, FL 33602 to consider: (a) whether the proposed settlement of the Action on the terms and conditions provided for in the Settlement Agreement is fair, reasonable and adequate and should be given final approval by the Court; (b) whether a final judgment should be entered; and (c) whether to award payment of attorneys’ fees, costs, and expenses to Class Counsel and in what amount. The Court may adjourn the Fairness Hearing without further notice to Settlement Class Members.

21. By no later than thirty (30) days prior to the Objection Deadline, papers supporting the Fee and Expense Application shall be filed with the Court.

22. Papers in support of final approval of the Settlement Agreement shall be filed with the Court no later than fourteen (14) days prior to the Fairness Hearing.

Monetary Payment Fund

23. Once the Settlement Administrator has made final determinations on all Claims submitted during the Claims Period, the Settlement Administrator shall provide the Parties with a Claims Determination Notice that includes a final accounting of all Claims to be paid and instructions to TrueFire to fund the Settlement Administration Account. The Settlement Administrator shall issue the Claims Determination Notice within sixty (60) days after the Claims Period. TrueFire shall then cause funds to be deposited into the Settlement Administration Account for the payment of Claims within forty-five (45) days of receiving the Claims Determination Notice. Upon TrueFire’s funding of the Settlement Administration Account, the Settlement Administrator shall promptly make payment to Claimants.

Attorney Fees, Costs, and Expenses

24. Within thirty (30) business days after the Effective Date, TrueFire shall pay or

cause to be paid \$156,500.00 to Class Counsel as a Fee and Expense Award, if approved by the Court, and if TrueFire receives written wire instructions and an IRS Form W-9 from Class Counsel at least thirty (30) days before the payment deadline.

Miscellaneous Provisions

25. To protect its jurisdiction to consider the fairness of the Settlement Agreement and to enter a final order and judgment having binding effect on all Settlement Class Members, the Court hereby enjoins all members of the Settlement Class, and anyone who acts or purports to act on their behalf, from pursuing all other proceedings in any state or federal court that seeks to address rights or claims of any Released Party or Settlement Class Member relating to, or arising out of, any of the Released Claims.

26. Settlement Class Members shall be bound by all determinations and judgments concerning the Action and/or Settlement Agreement, whether favorable or unfavorable.

27. All case deadlines are stayed and suspended until further notice from the Court, except for such actions as are necessary to implement the Settlement Agreement and this Order.

28. In the event that this Settlement Agreement is terminated pursuant to its terms, disapproved by any court (including any appellate court), and/or not consummated for any reason, or the Effective Date for any reason does not occur, the order certifying the Settlement Class for purposes of effectuating the Settlement, and all preliminary and/or final findings regarding that class certification order, shall be automatically vacated upon notice of the same to the Court, the Action shall proceed as though the Settlement Class had never been certified pursuant to this Settlement Agreement and such findings had never been made, and the Action shall return to the procedural posture on September 17, 2020, in accordance with this paragraph. Neither party, nor counsel shall refer to or invoke the vacated findings and/or order relating to class settlement or Rule 23 of the Federal Rules of Civil Procedure if this Settlement Agreement is not consummated and the Action is later litigated and contested by Defendant under Rule 23

of the Federal Rules of Civil Procedure.

IT IS ORDERED.

Dated: _____, _____

Honorable William F. Jung

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

EMMANUEL LLAMAS, an individual and California resident, on behalf of himself and all others similarly situated,

Plaintiff,

v.

TRUEFIRE, LLC, and TRUEFIRE, INC.

Case No.: 8:20-cv-00857-WFJ-CPT

Defendants.

I, John A. Yanchunis, declare pursuant to 28 U.S.C. § 1746, as follows:

1. I have been licensed to practice law in the state of Florida since 1981.

2. I am one of the attorneys for the Plaintiff and the proposed Settlement Class in this case. I submit this declaration in support of the Motion for Preliminary Approval of the Class Action Settlement. The facts herein stated are true of my own personal knowledge, and if called to testify to such facts, I could and would do so competently.

3. I lead the Class Action Department at Morgan & Morgan. Morgan & Morgan is the largest Plaintiff's, contingency-only law firm in the country, with approximately 700 lawyers in more than 50 offices throughout the United States. Its depth as a trial firm, and its self-funded financial resources, allow it to undertake the largest and most significant cases throughout the country.

4. My practice—which began after completing a two-year clerkship with United States District Judge Carl O. Bue, Jr., Southern District of Texas, Houston Division—has concentrated on complex litigation and spans over 38 years, including consumer class actions for more than two-thirds of that time. I have represented consumers in numerous successful class actions involving a wide variety of claims and topics from anti-trust, securities, civil rights,

defective products, deceptive and unfair trade practices, common law fraud, and the protection of the privacy rights of consumers.

5. I was appointed co-lead counsel in the successful prosecution of the two largest class action cases in the United States: *Fresco v. Automotive Directions, Inc.*, Case No. 03-61063-JEM, and *Fresco v. R.L. Polk*, Case 0:07-cv-60695-JEM (Southern District of Florida). These cases were filed against the world's largest data and information brokers—Experian, R.L. Polk, Acxiom, Reed Elsevier (which owns Lexis-Nexis) and others—to protect the important privacy rights of consumers.

6. I presently serve, or have served in the past, as lead, co-lead, or class counsel in numerous multi-district litigations across the country in a wide variety of areas affecting consumers. For example and to name only a few cases in which I have served in leadership, I presently serve as co-lead counsel in the case of *In re: Capitol One Consumer Data Sec. Breach Litig.*, No. 1:19-md-02915 (E.D. Va.). I have also served as co-lead of the *Home Depot Data Breach*, a member of the five-member overall Executive Committee in the *Target Data Breach*, No. 0:14-md-02522-PAM (Dist. Minn.), a member of the five-member Plaintiffs' Steering Committee in *In re: U.S. Office Personnel Mgmt Data Security Breach Litig.*, 1:15-cv-01321-ABJ (D.D.C.), and a member of the Plaintiffs' Steering Committee in *In re Equifax, Inc. Customer Data Security Breach Litigation*, 1:17-md-2800-TWT (N.D. Ga.). I also served as lead counsel in *In re Yahoo! Inc. Customer Data Sec. Breach Litig.*, 16-MD-02752-LHK (N.D. Cal.), a case involving a data breach of over 2.9 billion users of Yahoo's email service. The court in that case recently entered final judgment and approved the settlement of the claims of a class of consumers in the United States and Israel.

7. As a result of my experience in litigation against the insurance industry, including class litigation, I served as lead counsel for the insurance regulators for the state of Florida in connection with their investigations of a number of insurance companies and brokers of allegations of price fixing, bidding rigging, undisclosed compensation and other related conduct, and negotiated a number of settlements with insurance companies and brokers who were the subject of

those investigations. These investigations resulted in the recovery of millions of dollars for Florida policyholders and the implementation of changes to the way insurance is sold in Florida and throughout the United States.

8. During my career, I have 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, I 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. I was also lead counsel for these parties in the subsequent appeals that followed a judgment in favor of my clients.

9. As result of my experience in the area of class litigation and ethics, I have served as an expert for The Florida Bar on ethical issues arising in class action litigation.

10. I am currently a member in good standing of The Florida Bar, and of all the bars to which I have been admitted, including the United States Supreme Court, the United States Court of Appeals for the Third, Fifth, Ninth, and Eleventh Circuits, and the United States District Courts of the Southern District of Texas, Northern District of Texas, Western District of Texas, Eastern District of Wisconsin, Middle District of Florida, Southern District of Florida, Northern District of Florida, Eastern District of Michigan, Central District of Illinois and Northern District of Illinois.

11. Plaintiff requests that the Court appoint myself and Ryan J. McGee of my firm, and M. Anderson Berry of Clayeo C. Arnold, A Professional Law Corporation, as Settlement Class Counsel (collectively, “Class Counsel”). Class Counsel have invested considerable time and resources into the investigation of the facts underlying the claims, including the interviews of numerous class members who contacted Class Counsel, and the prosecution of this action. Since the outset of this litigation, the firms have cooperatively and effectively collaborated to prosecute, and ultimately resolve, this case on behalf of their clients and the Class. They have performed work critical to achieving benefits for the Class, including by investigating the facts surrounding the data breach, researching and analyzing legal claims under state and federal law and common

law, preparing and filing the Complaint, participating in meetings with defense counsel to discuss the Parties' respective positions, negotiating the proposed Settlement, and drafting this motion for preliminary approval.

12. As noted above, and as reflected in our respective resumes and biographies attached hereto as **Composite Exhibit 1**, Class Counsel are qualified, experienced, and able prosecute this litigation. Class Counsel have a wealth of experience in litigating complex class action lawsuits similar to this one and have extensive knowledge of the applicable law and sufficient resources to commit to the Settlement Class.

13. Throughout the pendency of this case, my co-counsel and I have maintained regular contact with the Plaintiff to discuss with them the prosecution of the case. With the assistance of counsel, Plaintiff has been at the helm of this case and continue to be focused on the advancement of the interests and claims of the Class over his own interests. He has always been concerned about obtaining a result that was best for the Class. Plaintiff is an adequate class representative with no conflicts of interest.

14. This Action was initiated following Defendants disclosure that a credit card scraping attack resulted in the disclosure of the names, addresses, payment card numbers, CVV security codes, and credit card expiration dates ("personally identifiable information" or "PII") of TrueFire customers who purchased online guitar lessons from the TrueFire website between August 3, 2019 and January 14, 2020 (the "Data Breach").

15. On April 14, 2020, Plaintiff filed his Class Action Complaint against Defendants in the United States District Court for the Middle District of Florida asserting claims for negligence, invasion of privacy, negligence *per se*, unjust enrichment, declaratory judgment, violation of Florida's Deceptive and Unfair Trade Practices Act, violations of California's Unfair Competition Law, and violation of the California Consumer Privacy Act. (Doc. No. 1). On May 8, 2020, the parties jointly moved to stay litigation and explore class-wide resolution through mediation. (Doc. No. 15). Immediately upon learning of the Data Breach, Class Counsel worked vigorously to remedy the harms imposed on the Settlement Class.

16. The proposed Settlement was reached following a day-long mediation conducted by Bennett G. Picker of Stradley Ronon Stevens & Young, LLP, on September 16, 2020. Mr. Pickert was selected as a mediator based upon his reputation and skills in resolving complex cases, including privacy cases of the type at issue here. Prior to his selection in this case, Mr. Picker has successfully mediated to date a breach class cases that my firm had filed. The parties now wish to fully and finally resolve their dispute on a class-wide basis, pursuant to terms that were proposed and negotiated between them beginning at the mediation with Mr. Picker and finalized by the parties in the weeks following. I can attest that the negotiations between the parties were hard fought, always arms length and were noncollusive .

17. This Settlement Agreement provides for the resolution of all claims and causes of action asserted, or that could have been asserted, against Defendants and the Released Parties (as defined in the Settlement Agreement and provided below) relating to the Data Breach, by and on behalf of the Plaintiff and Settlement Class Members (as defined in the Settlement Agreement and provided below), and any other such actions by and on behalf of any other consumers and putative classes of consumers originating, or that may originate, in jurisdictions in the United States against Defendants relating to the Data Breach.

18. Under the Settlement, subject to its terms and conditions and subject to Court approval, Settlement Class Members are eligible to receive nine (9) months of complimentary TrueFire All Access Subscription Offering, reimbursement of up to \$60.00 (3 hours at \$20.00 per hour) for Time Spent Remediating Payment Card Issues; and \$50.00 per California Sub-class Member for damages under the CCPA.

19. In addition to the monetary compensation provided to class members by the Settlement Agreement, Defendants have implemented, and/or have agreed to implement, and agree to maintain enhanced security measures for five years following approval of the Settlement, including: (1) maintaining current Payment Card Industry compliant status; (2) migrating hosting to Amazon Web Services (“AWS”); (3) engaging an outside vendor to perform two (2) rounds of penetration testing; (4) implementing password handling, requirements, and encryption in line with

industry best practices; (5) implementing protections against SQL injection and Cross Site Scripting attacks; (6) implementing security measures in how employees access systems and administration tools; (7) enabling firewall enhancements; (8) enabling enhancements for Payment Card Industry compliance; (9) enabling management of AWS infrastructure, network and accounts to be in line with security best practices; and (10) staff two senior personnel resources with job responsibilities including the security and stability of Defendants' technology.

20. Defendants agree to pay all costs associated with providing Class Notice and Settlement Administration, including disbursement of the Settlement benefits.

21. The parties negotiated Class Counsel's attorneys' fees, costs, and expenses separately and only after the parties had reached an agreement on the benefits afforded to the Settlement Class by the Settlement

22. Defendants have agreed that Settlement Class Counsel is entitled to seek an award of reasonable attorneys' fees, costs, and expenses for prosecuting this action and will not object to Settlement Class Counsel's petition for fees and expenses not to exceed \$156,500.00, inclusive of costs and expenses.

23. After investigating the facts and carefully considering applicable law, Plaintiff and Class Counsel have concluded that it is in the best interests of the Settlement Class Members to enter into the Settlement in order to avoid the uncertainties of litigation and to assure meaningful and timely benefits to the Settlement Class Members. I, along with the Plaintiff and Class Counsel, respectfully submit that the terms and conditions of this Settlement are fair, reasonable, adequate, and in the best interests of all Settlement Class Members.

24. Throughout the settlement process, my co-counsel and I carefully weighed with the Plaintiff: (1) the benefits to the Class under the terms of this Settlement Agreement, which provides significant relief to the Class; (2) the relatively small damages which might have been sustained by the Class, the likelihood that in the absence of a class action consumers would not pursue individual claims, particularly due to the high cost and expense, including the cost of cyber and damage experts to litigate these claims if pursued in individual litigation, and the fact that the small

damages would not justify the retention of an attorney, either on an hourly or contingent basis, to pursue the claims individually; (3) the difficulty in proving and calculating those damages; (4) the attendant risks and uncertainty of litigation, as well as the difficulties and delays inherent in such litigation including the challenges to certification of a class; (5) Defendants' vigorous defense of the litigation and continued denial of the claims contained in the Complaint; (6) the desirability of consummating the present Settlement Agreement to ensure that the Class receives a fair and reasonable Settlement; and (7) providing Settlement Class Members prompt relief.

25. In particular, it is my opinion that the present Settlement Agreement provides significant benefits to Class Members.

26. The relief provided by the Settlement is reasonable and adequate, particularly in light of the risks and delay trial and associated appeals. At bottom, Plaintiff faced difficult hurdles certifying a class.

27. Further, the proposed Settlement Class is functionally equivalent to that alleged in the Complaint. The proposed Settlement Class is defined as:

All persons residing in the United States whose personally identifiable information was compromised as a result of the Data Breach first announced by TrueFire on February 13, 2020 (the "Nationwide Class"). SA, ¶ 4.1(a).

All persons residing in California whose personally identifiable information was compromised in the Data Breach first announced by TrueFire on February 13, 2020 (the "California Sub-class"). SA, ¶ 4.1(b).

Excluded from the Settlement Class is the judge presiding over this matter and any members of her judicial staff, the officers and directors of either of the Defendants, and persons who timely and validly request exclusion from the Settlement Class.

28. Given my experience in class actions generally, I expect that the Notice Program in this case will produce a positive claims rate. The Notice Program involves direct notice to the approximately 4,911 Settlement Class Members for whom physical addresses or email addresses are available, and best practices for identifying additional means of contact information, such as

skip traces, will be employed. For the remaining Settlement Class Members, notice will be provided through the Settlement Website and Telephone Hotline established by the Settlement Administrator.

29. Plaintiff seeks certification of a Nationwide Class and California Sub-class. All members of the proposed Nationwide Class are entitled to the same benefits; all members of the proposed California Sub-class (of which Plaintiff is a member) are also entitled to the same benefits. All Settlement Class Members who do not exclude themselves from the Settlement will be eligible to submit claims. The dollar amounts of these reimbursements may vary, but those differences reflect the differing amounts of losses that Settlement Class Members incurred as a result of the Data Breach. Thus, each Settlement Class Member who submits a valid claim will be paid proportionate to the harm they suffered.

30. Although formal discovery did not occur, the Parties exchanged information which provided Class Counsel—along my prior experience in similar litigation and communications with many consumers in these cases and the one before the Court—with the ability to make a well informed decision about the litigation risks and the benefits of the Settlement.

31. Given my extensive experience with class action settlements, it is my informed opinion that the Notice Program, with all attendant forms and as outlined in the Settlement, makes every effort to ensure that Class Members will be made aware of their right to a recovery under the Settlement.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 4, 2020 at Tampa, Florida.

By:

John A. Yanchunis, Esq.



Morgan & Morgan is a leading civil trial law firm representing consumers and commercial clients nationwide. With over 700 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 Lycae, 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

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 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.

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.

Michael F. Ram. Mr. Ram is a consumer class action lawyer with 38 years of experience. He graduated cum laude from Harvard Law School in 1982. He has co-tried several class action trials and frequently lectures on class trials. In 1992 he was a co-recipient of the Trial Lawyer of the Year Award given by Trial Lawyers for Public Justice for *National Association of Radiation Survivors v. Walters* No. 83-c-1861 (N.D. Cal.) (tried to class-wide judgment on remand from Supreme Court).

From 1993 through 1997, Mr. Ram was a partner with Lieff, Cabraser, Heimann and Bernstein where he represented plaintiffs in several major class actions, including:

Cox v. Shell, Civ. No 18,844 (Obion County Chancery Court, Tenn.) national class of six million owners of property with defective polybutylene plumbing systems; *In re Louisiana-Pacific Inner-Seal Litigation*, No. 95-cv-879 (D. Oregon) (co-lead counsel) national class of homeowners with defective siding; *ABS Pipe Litigation*, Cal. Judicial Council Coordination Proceeding No. 3126 (Contra Costa County) national class of homeowners.

In 1997, Mr. Ram founded Levy, Ram & Olson which became Ram & Olson and then Ram, Olson, Cereghino & Kopczynski. He was co-lead counsel in many consumer class actions including a national class of half a million owners of dangerous glass pane gas fireplaces in *Keilholtz et al. v. Superior Fireplace Company*, No. 08-cv-00836 (N.D. Cal. 2008). He was co-lead counsel for plaintiffs in *Chamberlan v. Ford Motor Company*, No. 03-cv-2628 (N.D. Cal.), a class action involving defective intake manifolds that generated four published opinions, including one by the Ninth Circuit, 402 F.3d at 950, and settled one court day before the class trial. He was also co-counsel for plaintiffs in a number of other consumer class actions, including:

- *Falk v GM* 496 F. Supp. 2d 1088 (2007) which became *In re General Motors Corp. Product Liability Lit.* MDL. No. 1896 (W.D. Wash.) involving defective speedometers.
- *Richison v. American Cemwood Corp.*, San Joaquin Superior Court Case No. 005532. multistate class of tens of thousands of owners of homes with defective Cemwood Shakes
- *Williams v. Weyerhaeuser*, San Francisco Superior Court Case No. 995787. National class of hundreds of thousands of owners of homes and other structures with defective Weyerhaeuser hardboard siding.
- *Naef v. Masonite*, Mobile County, Alabama Circuit Court Case No. CV-94-4033. A nationwide class of homeowners with defective hardboard siding on their homes.
- *Hanlon v. Chrysler Corp.*, 150 F.3d 1011 (9th Cir. 1998) (approving class action settlement).
- *McAdams v. Monier, Inc.* (2010) 182 Cal. App. 4th 174 (reversing denial of class certification in consumer class action). Tried to verdict. Prevailed on appeal. Mr.

Ram represents a class of consumers who allege that the defendant/manufacturer affirmatively represented that its roof tiles had a 50-year lifetime, that their color was permanent, and that they were maintenance-free. *Id.* In reversing the denial of class certification, the Court of Appeal held that an inference of common reliance was adequate to show causation as to each class member.

- *Gardner v. Stimson Lumber Co.* (King County Wash. No. 2-17633-3-SEA) (nationwide consumer class action involving defective siding).
- *Rosenberg v. U-Haul* (Santa Cruz Superior Ct. No. CV-144045 (certified consumer class action for false and deceptive conduct; tried successfully to judgment)(co-lead counsel)).
- *In re Google Buzz User Privacy Litigation*, No. 10-cv-00672-JW (N.D. Cal. 2011) (international class action settlement for false and deceptive conduct) (liaison counsel).
- *Whitaker v. Health Net of California, Inc., and International Business Machines Corp*, No. 2:11-cv-0910 KJM DAD (E.D. Cal.) (electronic privacy class action under the California Confidentiality of Medical Information Act)
- *Milligan v. Toyota Motor Sales, U.S.A., Inc.*, United States District Court, N.D. Cal. Case No. C09-05418-RS. national class of 235,000 owners of Toyota RAV-4 vehicles for defects in the transmission and electronic control modules
- *In re Kitec Plumbing System Products Liab. Litigation MDL No 2098*, N.D. Texas, No. 09-MD-2098. co-lead counsel for a multi-national MDL class action involving claims concerning defective Kitec plumbing systems in more than 225,000 homes in the United States and Canada.
- *Ehret v. Uber Techs., Inc.*, 148 F. Supp. 3d 884 (N.D. Cal. Judge Chen)

From 2017 to 2020, Mr. Ram was a partner at Robins Kaplan LLP. In August, 2020, Mr. Ram joined Morgan & Morgan to open a San Francisco office for them. He is currently co-lead counsel in numerous consumer class actions, including *Gold v. Lumber Liquidators*, N.D. Cal. No. 14-cv-05373-RS, a certified multistate class action involving bamboo floors, and *Fowler v. Wells Fargo*, N.D. Cal. No. 3:17-cv-02092-HSG, a class action involving interest charges that settled for \$30 million.

Marie Noel Appel. Ms. Appel has dedicated her career to representing consumers in both individual and class action cases involving claims under consumer protection laws and other statutory and common law claims. She earned a B.A. in French from San Francisco State University in 1992 and graduated from University of San Francisco School of Law in 1996.

For most of her career, Ms. Appel has been in private practice litigating class claims related to defective products, mortgage fraud/Truth in Lending violations, unfair business practices relating to manufactured home sales, interest overcharges by the United States on military veterans' credit accounts, and statutory violations by the United States relating to offset of debts beyond the limitations period.

From 2012 to 2019, Ms. Appel left private practice to become the Supervising Attorney of the Consumer Project at the Justice & Diversity Center of the Bar Association of San Francisco which provides free legal services to low-income persons facing consumer issues.

In April 2019, Ms. Appel returned to private practice as Counsel at Robins Kaplan, LLP, then joined Morgan & Morgan in August 2020 where she focuses on class action litigation.

In addition to her legal practice, Ms. Appel is an Adjunct Professor at Golden Gate University School of Law in San Francisco where she teaches legal research and writing, and from 2011 to 2018 supervised students at the Consumer Rights Clinic, in which students performed legal work at the Justice & Diversity Center's Consumer Debt Defense and Education Clinics.

Ms. Appel is admitted to practice in United States District Courts in the Central District of California; the Eastern District of California; the Northern District of California; and the Southern District of California.

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.

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.

Kenya Reddy. Ms. Reddy represents consumers in class action litigation. She graduated from Duke University in 1997 with a degree in political science. In 2000, she received her law degree from the University of Virginia School of Law. Prior to joining Morgan & Morgan, Ms. Reddy was a shareholder at Carlton Fields, P.A., where her primary areas of practice were antitrust, complex civil litigation, class action defense, and business litigation. She also has experience in including labor and employment, products litigation, ERISA and employee benefits law, insurance, healthcare, and securities litigation.

Ms. Reddy has served as a law clerk for the Honorable Charles R. Wilson, United States Circuit Court Judge, Court of Appeals for the Eleventh Circuit, the Honorable Anne C. Conway, former Chief Judge of the United States District Court for the Middle District of Florida, the Honorable Mary S. Scriven, United States District Judge, Middle District of Florida, and the Honorable Karla R. Spaulding, United States Magistrate Judge, Middle District of Florida.

Ms. Reddy was a guest speaker in January 2019 at HarrisMartin's Marriott Data Breach Litigation Conference on the topic of standing in data breach cases. In October 2019, she presented on the topic of third-party litigation funding at the Mass Torts Made Perfect Conference.

Ms. Reddy is admitted to practice in the Northern, Middle, and Southern Districts of Florida.

Francesca Kester. Ms. Kester was born and raised in Scranton, Pennsylvania. She attended Marywood University, where she graduated with a major in English Literature, and The Pennsylvania State University's Dickinson School of Law, where she received her Juris Doctor degree in 2017. While at Dickinson, Ms. Kester competed in the American Bar Association's National Appellate Advocacy Competition, where she was awarded the highest honor for her legal brief writing, and the Texas Young Lawyer's National Trial Competition, where she finished as a regional finalist. Ms. Kester also served as Executive Chair of the Dickinson Law Moot Court Board, Founder of the Dickinson Law partnership with Big Brothers Big Sisters, and Student Director of the Bethesda Mission Men's Shelter legal clinic. At graduation, she was honored with the D. Arthur Magaziner Human Services Award for outstanding academic achievement and service to others, the Joseph T. McDonald Memorial Scholarship for excellence in trial advocacy, and the peer-selected Lee Popp Award for her devotion to the legal field.

Ms. Kester interned as a judicial clerk to United States Magistrate Judge Martin C. Carlson while in law school. After graduation, she served for two years as a law clerk to the Honorable James M. Munley in the United States District Court for the Middle District of Pennsylvania. Ms. Kester is a member of the Lackawanna County Bar Association, the

Pennsylvania Bar Association, the American Association for Justice, and Order of the Barristers. In 2018 and 2019, she served as the attorney advisor for her alma mater's high school mock trial team, coaching them to a first place finish in the state and ninth in the nation.

Ms. Kester is admitted to practice law in both Pennsylvania and Florida.

Ra O. Amen. Mr. Amen was raised in both the California Bay Area and Massachusetts. In 2005, Ra graduated from Stanford University with a B.A. in Economics. After graduating, Ra worked as a Peace Corps volunteer in Morocco teaching English as a second language and business skills to local artisans. Before entering law school, Ra worked for several years in education and in business development for a mobile technology startup. In 2017, he obtained his Juris Doctor degree with Honors from Emory University School of Law. While at Emory Law, he was a Managing Editor of the Bankruptcy Developments Journal, interned at a consumer fraud law practice, and worked in-house with one of the globe's leading metals companies assisting in a diverse array of legal issues ranging from corporate restructuring to international tax and contract disputes. Before joining Morgan & Morgan in 2020, Mr. Amen worked at one of the nation's largest defense law firms in the nation where he specialized in representing clients in complex commercial, administrative, and ecclesiastical disputes.

Ra speaks both English and Spanish, and is an avid guitar player.

Ra was admitted to the Georgia Bar in 2017.

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.



Arnold Law Firm Biography

Sacramento Office

865 Howe Avenue
Sacramento, CA 95825
916-777-7777

Long Beach Office

111 W. Ocean Blvd.
Fourth Floor
Long Beach, CA 90802
562-216-8270

justice4you.com



Founded in 1975 by Clayeo C. Arnold, the Arnold Law Firm is a litigation-oriented practice in Sacramento, California. In keeping with its founding principles, our firm consciously works for the interests of individual people and small businesses — not for large corporations or insurance companies.

The Arnold Law Firm prosecutes class action, mass tort, *qui tam*, product defect, employment, and personal injury cases. We pride ourselves on being a practice of trial lawyers, typically trying a minimum of ten cases per year to verdict. In addition to our practice throughout the state of California in both state and federal courts, we pursue class action, *qui tam* and multi-district litigation claims on a nationwide basis.

Our team of nine attorneys collectively encompass a broad, diverse professional background, including plaintiff contingency work, public entity representation, criminal defense, and civil defense. We have current and past board members of Capital City Trial Lawyers Association, as well as members of numerous prestigious professional organizations, including the American Board of Trial Advocates, American Association for Justice, Association of Trial Lawyers of America, and Consumer Attorneys of California.

Our firm's operating structure is based on teams directed towards specific practice areas. These teams regularly and intentionally collaborate and exchange information between their practice areas to improve the quality of representation for all of our clients.

Over four decades, the Arnold Law Firm has developed a respected, extensive network of co-counsel and experienced contract counsel to rapidly expand our capabilities as necessary on an *ad hoc* basis (e.g.,



Arnold Law Firm Biography

(continued)

document review). We employ a robust staff of highly qualified, experienced assistants and paralegals to ensure that attorney time is spent in the most efficient manner possible.

The Arnold Law Firm employs technology to increase productivity, resulting in lower hourly billing, even though adverse parties eventually pay those bills. The firm increases efficiencies by using template software, client management software, and secure internet-based client management for mass tort or multi-plaintiff litigation. We also invest in appropriate billing and tracking software for contemporaneous hourly record keeping.

The Arnold Law Firm places substantial value on representing clients in a manner that is both effective and courteous. Integrity with clients, the courts, and adverse counsel are all considered to be as indispensable as successful results.

Our highly accomplished counsel has a long history of successfully handling class actions across a range of industries, including data breach cases:

In Re: Matt Matic, et al. v. Google, Inc. and Alphabet, Inc.,
5:18-cv-06164-EJD (N.D. Cal.); (data breach);

In Re: Kirk Keiholtz, et al. v. Lennox Hearth Products, Inc.,
4:08-cv-00836-CW (N.D. Cal.); (product);

In Re: Rodney Harmon v. Hilton Group, et al., 3:11-cv-03677-JCS (N.D. Cal.); (fraudulent billing);

The Arnold Law Firm has a proven track record of success and the ability to work efficiently and cooperatively with others. In addition, our firm has the availability and resources necessary to litigate complex class actions.



M. Anderson Berry Biography



M. Anderson Berry heads the data breach complex litigation practice for the Arnold Law Firm. He brings substantial experience in complex litigation matters with a history of litigating in an efficient and practical manner to his class action leadership roles, including Lead Class Counsel, Co-Lead Class Counsel, and Plaintiff's Executive Committee.

Mr. Berry holds an extensive background in privacy and consumer/government fraud litigation, actively participating in a currently sealed False Claims Act case involving widespread cybersecurity fraud upon the United States, and the following class action litigations filed in 2020:

Julia Rossi, et al. v. Claire's Stores, Inc. et al., Case No.: 1:20-cv-05090 (N.D. Ill.) (Co-Lead Counsel)

In Re: Hanna Andersson and Salesforce.com Data Breach Litigation, 3:20-cv-00812-EMC (N.D. Cal.);

Llamas v. Truefire, LLC, et al., 8:20-cv-857-T-02CPT (M.D. Fla.);

Levi Combs, et al. v. Warner Music Group Corp., 1:20-cv-07473 (S.D.N.Y.) (Executive Committee);

Alex Pygin v. Bombas, LLC and Shopify, et al., 3:20-cv-04412 (N.D. Cal.) (Co-lead Counsel);

In Re: Ambry Genetics Data Breach Litigation, 8:20-cv-00791 (C.D. Cal.);

Sylvia Tillman, et al. v. Morgan Stanley Smith Barney LLC, Case No. 1:20-cv-05914 (S.D.N.Y.);

William Riggs v. Kroto, Inc. et al., 3:20-cv-04705 (N.D. Ill.);

Michael Warshawsky, et al., v. cbdMD, Inc., et al., 3:20-cv-00562 (E.D. Va.);

Jason Money, et al., v. Inova Health Systems, 1:20-cv-01218 (W.D.N.C.);

In re: Zoom Video Comm., Inc. Privacy Litigation, 5:20-cv-02939 (N.D. Cal.);

Cheryl Gaston v. Fabfitfun, Inc., 2:20-cv-09534 (C.D. Cal.).

Donna Horowitz et. al. v. RadNet Inc., Case No. 2:20-cv-10328 (C.D. Cal.)



M. Anderson Berry Biography

(continued)

Mr. Berry was first selected as the Northern California Super Lawyers Rising Star in 2015 in the field of complex civil litigation.

Prior to joining the Arnold Law Firm in 2017, Mr. Berry worked as an Assistant United States Attorney for the Eastern District of California. As part of the Affirmative Civil Enforcement unit, Mr. Berry handled a wide variety of complex cases, recovering millions of dollars for the United States.

Before working for the Department of Justice, Mr. Berry practiced at one of the world's largest law firms, Jones Day, where he represented clients in international arbitration and complex commercial litigation, including defending class action allegations.

Mr. Berry attended the University of California, Berkeley, where he majored in English and graduated with highest honors. Anderson was inducted into the Phi Beta Kappa Honor Society and served as President of the English Undergraduate Associate.

After working as a private investigator for both criminal and civil investigations in the San Francisco Bay Area, Anderson graduated from U.C. Berkeley School of Law, where he was a Senior Editor for both the *Berkeley Journal of Criminal Law* and *Berkeley Journal of International Law*.

He was admitted to the California Bar in 2009 and is admitted to practice in the Northern, Eastern and Central Districts of California.

M. Anderson Berry was raised in Moraga, California.



Leslie Sindelar Guillon Biography



Leslie Sindelar Guillon practices in the data breach complex litigation practice for the Arnold Law Firm.

Ms. Guillon has experience in privacy and consumer/government fraud litigation, actively participating in a currently sealed False Claims Act case involving widespread cybersecurity fraud upon the United States. She also participates in the following class action litigations: *In Re: Hanna Andersson and Salesforce.com Data Breach Litigation*, 3:20-cv-00812-EMC (N.D. Cal.) (Lead Class Counsel); *Llamas v. Truefire, LLC, et al.*, 8:20-cv-857-T-02CPT (M.D. Fla.); *Cercas, et al. v. Ambry Genetics Corp.*, 8:20-cv-00791-CJC-KES (C.D. Cal.); and *Barajas Torres v. Caglia Environmental, LLC, et al.*, MCV078838 (California Superior Court, Madera)(Lead Counsel).

Ms. Guillon joined the Arnold Law Firm in 2016. Her legal career began with a large Los Angeles defense firm before returning to the Sacramento area to represent plaintiffs, specializing in whistleblower law. Thereafter, for three years she focused on elder abuse and personal injury cases. She has practiced law continuously in California since 2002 and became a member of the Illinois Bar in 2003.

Ms. Guillon was born and raised outside of Chicago in the River Forest/Oak Park area, known for its historical connections with architect Frank Lloyd Wright and author Ernest Hemingway. She moved to the west coast for undergraduate studies at the University of Southern California in Los Angeles, where she graduated with a Business Administration degree and a minor in Music Industry in 1998.

Ms. Guillon briefly worked for the American Society of Composers, Authors and Publishers (ASCAP), before deciding to follow in the footsteps of her father, a patent attorney, and head to law school.

Ms. Guillon was awarded an academic scholarship at the



**Leslie Sindelar Guillon
Biography**

(continued)

McGeorge School of Law, University of the Pacific, graduating in 2002 and receiving the Witkin Award in Legal Process. While at McGeorge, she was Assistant Comment Editor for the *Transnational Lawyer Law Journal* and published "Not so Fair After All --- International Aspects of the Fairness in Music Licensing Act of 1998."

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

Case No.: 8:20-cv-00857-WFJ-CPT

EMMANUEL LLAMAS, an individual and California resident, on behalf of himself and all others similarly situated,

Plaintiff,

v.

TRUEFIRE, LLC, and TRUEFIRE, INC.

Defendants.

**DECLARATION OF STEVEN WEISBROT, ESQ. OF ANGEION GROUP LLC
RE: THE PROPOSED NOTICE PLAN**

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

1. I am a partner at the class action notice and claims 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 suggested 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 class actions that include product defect, data breach, mass disasters, false advertising, employment, antitrust, tobacco, banking, firearm, insurance, and bankruptcy cases.

7. I have been at the forefront of infusing digital media, as well as big data and advanced targeting, into class action notice programs. For example, the Honorable Sarah Vance stated in her December 31, 2014 Order in *In Re: Pool Products Distribution Market Antitrust Litigation*, MDL No. 2328:

To make up for the lack of individual notice to the remainder of the class, the parties propose a print and web-based plan for publicizing notice. The Court welcomes the inclusion of web-based forms of communication in the plan.... The Court finds that the proposed method of notice satisfies the requirements of Rule 23(c)(2)(B) and due process.

The direct emailing of notice to those potential class members for whom Hayward and Zodiac have a valid email address, along with publication of notice in print and on the web, is reasonably calculated to apprise class members of the settlement.

As detailed below, courts have repeatedly recognized my work in the design of class action notice programs:

- (a) 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:

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).

- (b) Likewise, on July 21, 2017, The Honorable John A. Ross in *In Re Ashley Madison Customer Data Security Breach Litigation*, MDL No. 2669 (E.D. Mo.), stated in the Court's Order granting preliminary approval of the settlement:

The Court further finds that the method of disseminating Notice, as set forth in the Motion, the Declaration of Steven Weisbrot, Esq. on Adequacy of Notice Program, dated July 13, 2017, and the Parties' Stipulation—including an extensive and targeted publication campaign composed of both consumer magazine publications in People and Sports Illustrated, as well as serving 11,484,000 highly targeted digital banner ads to reach the prospective class members that will deliver approximately 75.3% reach with an average frequency of 3.04—***is the best method of notice practicable under the circumstances and satisfies all requirements provided in Rule 23(c)(2)(B) and all Constitutional requirements including those of due process.*** (Emphasis added).

The Court further finds that the Notice fully satisfies Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process; provided, that the Parties, by agreement, may revise the Notice, the Claim Form, and other exhibits to the Stipulation, in ways that are not material or ways that are appropriate to update those documents for purposes of accuracy.

(c) In the *In Re Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practices, and Products Liability Litigation*, Case No. 17-md-02777-EMC (N.D. Cal.), in the Court's February 11, 2019 Order, the Honorable Edward M. Chen ruled:

[In addition] the Court finds that the language of the class notices (short and long-form) is appropriate and that the means of notice – which includes mail notice, electronic notice, publication notice, and social media “marketing” – is the “best notice . . . practicable under the circumstances.” Fed. R. Civ. P. 23(c)(2)(B); see also Proc. Guidance for Class Action Sett. ¶¶ 3-5, 9 (addressing class notice, opt-outs, and objections). The Court notes that the means of notice has changed somewhat, as explained in the Supplemental Weisbrot Declaration filed on February 8, 2019, so that notice will be more targeted and effective. See generally Docket No. 525 (Supp. Weisbrot Decl.) (addressing, *inter alia*, press release to be distributed via national newswire service, digital and social media marketing designed to enhance notice, and “reminder” first-class mail notice when AEM becomes available).

(d) On June 26, 2018, in his Order granting preliminary approval of the settlement in *Mayhew v. KAS Direct, LLC, et al.*, Case No. 16-cv-6981 (VB) (S.D.N.Y.), The Honorable Vincent J. Briccetti ruled:

In connection with their motion, plaintiffs provide the declaration of Steven Weisbrot, Esq., a principal at the firm Angeion Group, LLC, which will serve as the notice and settlement administrator in this case. (Doc. #101, Ex. F: Weisbrot Decl.) According to Mr. Weisbrot, he has been responsible for the design and implementation of hundreds of class action administration plans, has taught courses on class action claims administration, and has given testimony to the Judicial Conference Committee on Rules of Practice and Procedure on the role of direct mail, email, and digital media in due process notice. Mr. Weisbrot states that the internet banner advertisement campaign will be responsive to search terms relevant to “baby wipes, baby products, baby care products, detergents, sanitizers, baby lotion, [and] diapers,” and will target users who are currently browsing or recently browsed categories “such as parenting, toddlers, baby care, [and] organic products.” (Weisbrot Decl. ¶ 18). According to Mr. Weisbrot, the internet banner advertising campaign will reach seventy percent of the proposed class members at least three times each. (Id. ¶ 9). Accordingly, the Court approves of the manner of notice proposed

by the parties as it is reasonable and the best practicable option for confirming the class members receive notice.

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

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 \$15 billion to class members. The executive profiles as well as the company overview are available at www.angeiongroup.com/our_team.htm.

9. As a class action administrator, Angeion has regularly been approved by both federal and state courts throughout the United States and abroad to provide notice of settlement and claims processing services.

10. Angeion has extensive experience in class action administrations involving data breaches. Notable data breach cases that Angeion has administered include the following:

Case	No.	Court
<i>In re: Google Plus Profile Litigation</i>	5:18-cv-06164	N.D. Cal.
<i>Cotter v. Checkers Drive-In Restaurants Inc.</i>	8:19-cv-01386	M.D. Fla.
<i>In re: Citrix Data Breach Litigation</i>	0:19-cv-61350	S.D. Fla.
<i>In re: 21st Century Oncology Customer Data Security Breach Litigation</i>	8:16-md-02737	M.D. Fla.
<i>In re: Ashley Madison Customer Data Security Breach Litigation</i>	4:15-md-02669	E.D. Mo.
<i>Clark v. Experian Information Solutions, Inc.</i>	3:16-cv-00032	E.D. Va.
<i>Fiske v Bonnier Corporation</i>	2:16-cv-12799	E.D. Mich.
<i>In re: Home Depot, Inc., Customer Data Security Breach Litigation</i>	1:14-md-02583	N.D. Ga.
<i>Remijas et al. v. Neiman Marcus Group LLC</i>	1:14-cv-01735	N.D. Ill.
<i>Sackin, et al. v. TransPerfect Global, Inc.</i>	1:17-cv-01469	S.D.N.Y.
<i>Pagoaga v Stephens Institute d/b/a Academy of Art University</i>	CGC 16-551952	Cal. Super.
<i>Rivera v Aimbridge Hospitality, LLC</i>	2018-CA-7870	Fla. 13th Cir. Ct
<i>McKenzie v Allconnect Inc.</i>	5:18-cv-00359	E.D. Ky.

11. This declaration will describe the Notice Program that we will implement in this matter, including the considerations that informed the development of the plan and why it will provide

Due Process of Law to the Class.

SUMMARY OF THE NOTICE PROGRAM

12. In my professional opinion, the Notice Program detailed below is the best notice that is practicable under the circumstances and fully comports with due process and Fed. R. Civ. P. 23. The Notice Program provides individual direct notice to all reasonably identifiable Class Members, coupled with a dedicated website and toll-free telephone line to further provide awareness and diffuse news of the Settlement to Class Members.

DIRECT NOTICE

Email Notice

13. Angeion has been informed that it will be provided with approximately 4,911 Class Member email addresses. Angeion will cause notice of the Settlement to be sent to all valid email addresses it receives.

14. As an initial matter, Angeion designs the email notice to avoid many common “red flags” that might otherwise cause a Class Members’ spam filter to block or identify the email notice as spam. For instance, Angeion does not include the Claim Form or 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 Class Members can easily access this information.

15. 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.

16. At the completion of the email campaign, Angeion will report to the Court concerning the rate of delivered emails accounting for any emails that are blocked at the ISP level.

Mailed Notice

17. Angeion will cause a postcard notice of the Settlement to be mailed to each Class Member for whom Angeion is provided with a physical mailing address and where: (1) the Class Member did not have a valid email address and could not be sent notice via email; or (2) the Class Member's email notice bounced back and could not be delivered. The postcard notice will be sent via the United States Postal Service ("USPS") first-class mail, postage prepaid.

18. In administering the Notice Program in this action, Angeion will employ the following best practices to increase the deliverability rate of the mailed Notices. Angeion will cause the mailing address information for members of the Settlement Class to be updated utilizing the National Change of Address ("NCOA") database, which provides updated address information for individuals or entities who have moved during the previous four years and filed a change of address with the USPS.

19. Notices returned to Angeion by the USPS with a forwarding address will be re-mailed to the new address provided by the USPS and the class member database will be updated accordingly.

20. Notices returned to Angeion by the USPS without forwarding addresses will be subjected to an address verification search (commonly referred to as "skip tracing") utilizing a wide variety of data sources, including public records, real estate records, electronic directory assistance listings, etc., to locate updated addresses.

21. For any Class Members where a new address is identified through the skip trace process, the class member database will be updated with the new address information and a Notice will be re-mailed to that address.

RESPONSE MECHANISMS

22. The Notice Program will also implement the creation of a case-specific website, where Class Members can easily view general information about this class action Settlement, review relevant Court documents, and view important dates and deadlines pertinent to the Settlement. The website will be designed to be user-friendly and make it easy for Class Members to find

information about the case. The website will also have a “Contact Us” page whereby Class Members can send an email with any additional questions to a dedicated email address.

23. Class Members will also be able to submit a claim form online via the Settlement Website.

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

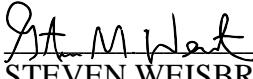
CONCLUSION

25. The Notice Program outlined above includes direct notice to all reasonably identifiable Class Members, combined the implementation of a dedicated settlement website and toll-free hotline to further inform Class Members of their rights and options in the Settlement.

26. In my professional opinion, the Notice Program will provide full and proper notice to Class Members before the claims, opt-out and objection deadlines. Moreover, it is my opinion that the Notice Program is the best notice that is practicable under the circumstances, fully comports with due process and Fed. R. Civ. P. 23. After the Notice Program has concluded, Angeion will provide a final report verifying its effective implementation.

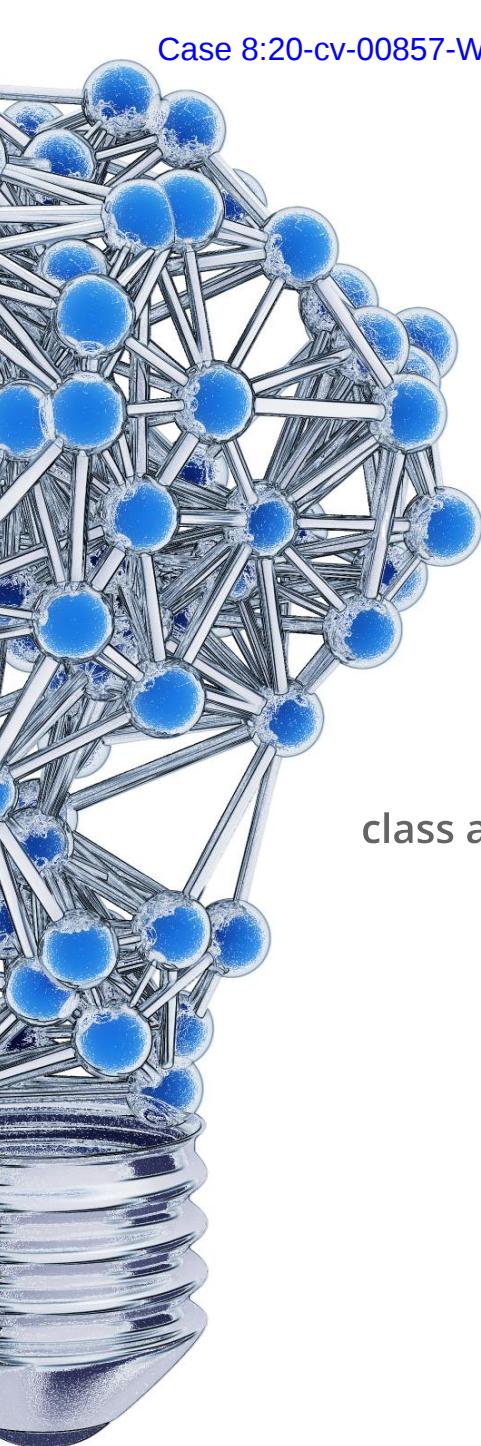
I hereby declare under penalty of perjury that the foregoing is true and correct.

Dated: December 2, 2020



STEVEN WEISBROT

Exhibit A



INNOVATION

IT'S PART OF OUR DNA

class action | mass tort | legal noticing | litigation support



Judicial Recognition

JUDICIAL RECOGNITION



IN RE: APPLE INC. DEVICE PERFORMANCE LITIGATION

Case No. 5:18-md-02827

The Honorable Edward J. Davila, United States District Court, Northern District of California (May 7, 2020): The Court approves the Claim Form, Class Notice, and Summary Notice, which are attached to the Settlement Agreement as Exhibits A, B, and C, respectively, and finds that their dissemination substantially in the manner and form set forth in the Settlement Agreement meets the requirements of Federal Rule of Civil Procedure 23 and due process, constitutes the best notice practicable under the circumstances, and is reasonably calculated, under the circumstances, to apprise members of the Settlement Class of the pendency of the Actions, the effect of the proposed Settlement (including the releases contained therein), the anticipated Motion for Attorneys' Fees and/or Expenses and for Service Awards, and their rights to participate in, opt out of, or object to any aspect of the proposed Settlement.

IN RE: GOOGLE PLUS PROFILE LITIGATION

Case No. 5:18-cv-06164

The Honorable Edward J. Davila, United States District Court, Northern District of California (June 10, 2020): The Court approves the program for disseminating notice to Class Members set forth in the Agreement and Exhibits A and B thereto (herein, the "Notice Program"). The Court approves the form and content of the proposed forms of notice, in the forms attached as Exhibits A and B to the Agreement. (Doc. 57-2). The Court finds that the proposed forms of notice are clear and readily understandable by Class Members. The Court finds that the Notice Program, including the proposed forms of notice, is reasonable and appropriate and satisfies any applicable due process and other requirements, and is the only notice to the Class Members of the Settlement that is required.

MARINO ET AL. v. COACH INC.

Case No. 1:16-cv-01122

The Honorable Valerie Caproni, United States District Court, Southern District of New York (August 24, 2020): The Court finds that the form, content, and method of giving notice to the Settlement Class as described in paragraph 8 of this Order: (a) will constitute the best practicable notice; (b) are reasonably calculated, under the circumstances, to apprise the Settlement Class Members of the pendency of the Action, the terms of the proposed Settlement, and their rights under the proposed Settlement, including but not limited to their rights to object to or exclude themselves from the proposed Settlement and other rights under the terms of the Settlement Agreement; (c) are reasonable and constitute due, adequate, and sufficient notice to all Settlement Class Members and other persons entitled to receive notice; and (d) meet all applicable requirements of law, including but not limited to 28 U.S.C. § 1715, Rule 23(c) and (e), and the Due Process Clause(s) of the United States Constitution. The Court further finds that all of the notices are written in plain language, are readily understandable by Settlement Class Members, and are materially consistent with the Federal Judicial Center's illustrative class action notices.

BENTLEY ET AL. v. LG ELECTRONICS U.S.A., INC.

Case No. 2:19-cv-13554

The Honorable Madeline Cox Arleo, United States District Court, District of New Jersey (August 19, 2020): The Court approves the Notice substantially in the forms attached as Exhibit 2(a) and 2(b) to the Settlement Agreement. The proposed Notice Plan as set forth in the Settlement

JUDICIAL RECOGNITION



Agreement, which includes direct and publication notice, will provide the best notice practicable under the circumstances. The Notice Plan and the proposed Settlement Notice as set forth in the Settlement Agreement are reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Litigation...constitute due, adequate and sufficient notice to Settlement Class Members; and satisfy the requirements of Rule 23 of the Federal Rules of Civil Procedure, due process, and all other applicable laws and rules.

BROWN v. DIRECTV, LLC

Case No. 2:13-cv-01170

The Honorable Dolly M. Gee, United States District Court, Central District of California (July 23, 2020): Given the nature and size of the class, the fact that the class has no geographical limitations, and the sheer number of calls at issue, the Court determines that these methods constitute the best and most reasonable form of notice under the circumstances.

IN RE: SSA BONDS ANTITRUST LITIGATION

Case No. 1:16-cv-03711

The Honorable Edgardo Ramos, United States District Court, Southern District of New York (July 15, 2020): The Court finds that the mailing and distribution of the Notice and the publication of the Summary Notice substantially in the manner set forth below meet the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process and constitute the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all Persons entitled to notice.

KJESSLER ET AL. v. ZAAPPAAZ, INC. ET AL.

Case No. 4:18-cv-00430

The Honorable Nancy F. Atlas, United States District Court, Southern District of Texas (July 14, 2020): The Court also preliminarily approves the proposed manner of communicating the Notice and Summary Notice to the putative Settlement Class, as set out below, and finds it is the best notice practicable under the circumstances, constitutes due and sufficient notice to all persons and entities entitled to receive such notice, and fully satisfies the requirements of applicable laws, including due process and Federal Rule of Civil Procedure 23.

CLAY ET AL. v. CYTOSPORT INC.

Case No. 3:15-cv-00165

The Honorable M. James Lorenz, United States District Court, Southern District of California (June 17, 2020): The Court approves the proposed Notice Plan for giving notice to the Settlement Class through publication, both print and digital, and through the establishment of a Settlement Website, as more fully described in the Agreement and the Claims Administrator's affidavits (docs. no. 222-9, 224, 224-1, and 232-3 through 232-6). The Notice Plan, in form, method, and content, complies with the requirements of Rule 23 and due process, and constitutes the best notice practicable under the circumstances.

JUDICIAL RECOGNITION



GROGAN v. AARON'S INC.

Case No. 1:18-cv-02821

The Honorable J.P. Boulee, United States District Court, Northern District of Georgia (May 1, 2020): The Court finds that the Notice Plan as set forth in the Settlement Agreement meets the requirements of Fed. R. Civ. P. 23 and constitutes the best notice practicable under the circumstances, including direct individual notice by mail and email to Settlement Class Members where feasible and a nationwide publication website-based notice program, as well as establishing a Settlement Website at the web address of www.AaronsTCPASettlement.com, and satisfies fully the requirements the Federal Rules of Civil Procedure, the U.S. Constitution, and any other applicable law, such that the Settlement Agreement and Final Order and Judgment will be binding on all Settlement Class Members.

CUMMINGS v. BOARD OF REGENTS OF THE UNIVERSITY OF NEW MEXICO, ET AL.

Case No. D-202-CV-2001-00579

The Honorable Carl Butkus, Second Judicial District Court, County of Bernalillo, State of New Mexico (March 30, 2020): The Court has reviewed the Class Notice, the Plan of Allocation and Distribution and Claim Form, each of which it approves in form and substance. The Court finds that the form and methods of notice set forth in the Agreement: (i) are reasonable and the best practicable notice under the circumstances; (ii) are reasonably calculated to apprise Settlement Class Members of the pendency of the Lawsuit, of their rights to object to or opt-out of the Settlement, and of the Final Approval Hearing; (iii) constitute due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) meet the requirements of the New Mexico Rules of Civil Procedure, the requirements of due process under the New Mexico and United States Constitutions, and the requirements of any other applicable rules or laws.

SCHNEIDER, ET AL. v. CHIPOTLE MEXICAN GRILL, INC.

Case No. 4:16-cv-02200

The Honorable Haywood S. Gilliam, Jr., United States District Court, Northern District of California (January 31, 2020): Given that direct notice appears to be infeasible, the third-party settlement administrator will implement a digital media campaign and provide for publication notice in People magazine, a nationwide publication, and the East Bay Times. SA § IV.A, C; Dkt. No. 205-12 at ¶¶ 13-23. The publication notices will run for four consecutive weeks. Dkt. No. 205 at ¶ 23. The digital media campaign includes an internet banner notice implemented using a 60-day desktop and mobile campaign. Dkt. No. 205-12 at ¶ 18. It will rely on "Programmatic Display Advertising" to reach the "Target Audience," Dkt. No. 216-1 at ¶ 6, which is estimated to include 30,100,000 people and identified using the target definition of "Fast Food & Drive-In Restaurants Total Restaurants Last 6 Months [Chipotle Mexican Grill]," Dkt. No. 205-12 at ¶ 13. Programmatic display advertising utilizes "search targeting," "category contextual targeting," "keyword contextual targeting," and "site targeting," to place ads. Dkt. No. 216-1 at ¶¶ 9-12. And through "learning" technology, it continues placing ads on websites where the ad is performing well. Id. ¶ 7. Put simply, prospective Class Members will see a banner ad notifying them of the settlement when they search for terms or websites that are similar to or related to Chipotle, when they browse websites that are categorically relevant to Chipotle (for example, a website related to fast casual dining or Mexican food), and when they browse websites that include a relevant keyword (for example, a fitness website with ads comparing fast casual choices). Id. ¶¶ 9-12. By using this technology, the banner notice is "designed to result in serving approximately 59,598,000 impressions." Dkt. No. 205-12 at ¶ 18.

JUDICIAL RECOGNITION



The Court finds that the proposed notice process is “reasonably calculated, under all the circumstances,’ to apprise all class members of the proposed settlement.” Roes, 944 F.3d at 1045 (citation omitted).

HANLEY v. TAMPA BAY SPORTS AND ENTERTAINMENT LLC

Case No. 8:19-cv-00550

The Honorable Charlene Edwards Honeywell, United States District Court, Middle District of Florida (January 7, 2020): The Court approves the form and content of the Class notices and claim forms substantially in the forms attached as Exhibits A-D to the Settlement. The Court further finds that the Class Notice program described in the Settlement is the best practicable under the circumstances. The Class Notice program is reasonably calculated under the circumstances to inform the Settlement Class of the pendency of the Action, certification of a Settlement Class, the terms of the Settlement, Class Counsel’s attorney’s fees application and the request for a service award for Plaintiff, and their rights to opt-out of the Settlement Class or object to the Settlement. The Class notices and Class Notice program constitute sufficient notice to all persons entitled to notice. The Class notices and Class Notice program satisfy all applicable requirements of law, including, but not limited to, Federal Rule of Civil Procedure 23 and the Constitutional requirement of Due Process.

CORCORAN, ET AL. v. CVS HEALTH, ET AL.

Case No. 4:15-cv-03504

The Honorable Yvonne Gonzalez Rogers, United States District Court, Northern District of California (November 22, 2019): Having reviewed the parties’ briefings, plaintiffs’ declarations regarding the selection process for a notice provider in this matter and regarding Angeion Group LLC’s experience and qualifications, and in light of defendants’ non-opposition, the Court APPROVES Angeion Group LLC as the notice provider. Thus, the Court GRANTS the motion for approval of class notice provider and class notice program on this basis.

Having considered the parties’ revised proposed notice program, the Court agrees that the parties’ proposed notice program is the “best notice that is practicable under the circumstances.” The Court is satisfied with the representations made regarding Angeion Group LLC’s methods for ascertaining email addresses from existing information in the possession of defendants. Rule 23 further contemplates and permits electronic notice to class members in certain situations. See Fed. R. Civ. P. 23(c)(2)(B). The Court finds, in light of the representations made by the parties, that this is a situation that permits electronic notification via email, in addition to notice via United States Postal Service. Thus, the Court APPROVES the parties’ revised proposed class notice program, and GRANTS the motion for approval of class notice provider and class notice program as to notification via email and United States Postal Service mail.

PATORA v. TARTE, INC.

Case No. 7:18-cv-11760

The Honorable Kenneth M. Karas, United States District Court, Southern District of New York (October 2, 2019): The Court finds that the form, content, and method of giving notice to the Class as described in Paragraph 9 of this Order: (a) will constitute the best practicable notice; (b) are reasonably calculated, under the circumstances, to apprise the Settlement Class Members of

JUDICIAL RECOGNITION



the pendency of the Action, the terms of the Proposed Settlement, and their rights under the Proposed Settlement, including but not limited to their rights to object to or exclude themselves from the Proposed Settlement and other rights under the terms of the Settlement Agreement; (c) are reasonable and constitute due, adequate, and sufficient notice to all Settlement Class Members and other persons entitled to receive notice; and (d) meet all applicable requirements of law, including but not limited to 28 U.S.C. § 1715, Rule 23(c) and (e), and the Due Process Clauses of the United States Constitution. The Court further finds that all of the notices are written in simple terminology, are readily understandable by Settlement Class Members, and are materially consistent with the Federal Judicial Center's illustrative class action notices.

CARTER, ET AL. v. GENERAL NUTRITION CENTERS, INC., and GNC HOLDINGS, INC.

Case No. 2:16-cv-00633

The Honorable Mark R. Hornak, United States District Court, Western District of Pennsylvania (September 9, 2019): The Court finds that the Class Notice and the manner of its dissemination described in Paragraph 7 above and Section VII of the Agreement constitutes the best practicable notice under the circumstances and is reasonably calculated, under all the circumstances, to apprise proposed Settlement Class Members of the pendency of this action, the terms of the Agreement, and their right to object to or exclude themselves from the proposed Settlement Class. The Court finds that the notice is reasonable, that it constitutes due, adequate and sufficient notice to all persons entitled to receive notice, and that it meets the requirements of due process, Rule 23 of the Federal Rules of Civil Procedure, and any other applicable laws.

CORZINE v. MAYTAG CORPORATION, ET AL.

Case No. 5:15-cv-05764

The Honorable Beth L. Freeman, United States District Court, Northern District of California (August 21, 2019): The Court, having reviewed the proposed Summary Notice, the proposed FAQ, the proposed Publication Notice, the proposed Claim Form, and the proposed plan for distributing and disseminating each of them, finds and concludes that the proposed plan will provide the best notice practicable under the circumstances and satisfies all requirements of federal and state laws and due process.

MEDNICK v. PRECOR, INC.

Case No. 1:14-cv-03624

The Honorable Harry D. Leinenweber, United States District Court, Northern District of Illinois (June 12, 2019): Notice provided to Class Members pursuant to the Preliminary Class Settlement Approval Order constitutes the best notice practicable under the circumstances, including individual email and mail notice to all Class Members who could be identified through reasonable effort, including information provided by authorized third-party retailers of Precor. Said notice provided full and adequate notice of these proceedings and of the matter set forth therein, including the proposed Settlement set forth in the Agreement, to all persons entitled to such notice, and said notice fully satisfied the requirements of F.R.C.P. Rule 23 (e) and (h) and the requirements of due process under the United States and California Constitutions.

JUDICIAL RECOGNITION



GONZALEZ v. TCR SPORTS BROADCASTING HOLDING LLP, ET AL.

Case No. 1:18-cv-20048

The Honorable Darrin P. Gayles, United States District Court, Southern District of Florida (May 24, 2019): The Court finds that notice to the class was reasonable and the best notice practicable under the circumstances, consistent with Rule 23(e)(1) and Rule 23(c)(2)(B).

ANDREWS ET AL. v. THE GAP, INC., ET AL.

Case No. CGC-18-567237

The Honorable Richard B. Ulmer Jr., Superior Court of the State of California, County of San Francisco (May 10, 2019): The Court finds that (a) the Full Notice, Email Notice, and Publication constitute the best notice practicable under the circumstances, (b) they constitute valid, due, and sufficient notice to all members of the Class, and (c) they comply fully with the requirements of California Code of Civil Procedure section 382, California Rules of Court 3.766 and 3.769, the California and United States Constitutions, and other applicable law.

COLE, ET AL. v. NIBCO, INC.

Case No. 3:13-cv-07871

The Honorable Freda L. Wolfson, United States District Court, District of New Jersey (April 11, 2019): The record shows, and the Court finds, that the Notice Plan has been implemented in the manner approved by the Court in its Preliminary Approval Order. The Court finds that the Notice Plan constitutes: (i) the best notice practicable to the Settlement Class under the circumstances; (ii) was reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of this..., (iii) due, adequate, and sufficient notice to all Persons entitled to receive notice; and (iv) notice that fully satisfies the requirements of the United States Constitution (including the Due Process Clause), Fed. R. Civ. P. 23, and any other applicable law.

DIFRANCESCO, ET AL. v. UTZ QUALITY FOODS, INC.

Case No. 1:14-cv-14744

The Honorable Douglas P. Woodlock, United States District Court, District of Massachusetts (March 15, 2019): The Court finds that the Notice plan and all forms of Notice to the Class as set forth in the Settlement Agreement and Exhibits 2 and 6 thereto, as amended (the "Notice Program"), is reasonably calculated to, under all circumstances, apprise the members of the Settlement Class of the pendency of this action, the certification of the Settlement Class, the terms of the Settlement Agreement, and the right of members to object to the settlement or to exclude themselves from the Class. The Notice Program is consistent with the requirements of Rule 23 and due process, and constitutes the best notice practicable under the circumstances.

IN RE: CHRYSLER-DODGE-JEEP ECODIESEL MARKETING, SALES PRACTICES, AND PRODUCTS LIABILITY LITIGATION

Case No. 3:17-md-02777

The Honorable Edward M. Chen, United States District Court, Northern District of California (February 11, 2019): Also, the parties went through a sufficiently rigorous selection process to select a settlement administrator. See Proc. Guidance for Class Action Sett. ¶ 2; see also Cabraser Decl. ¶¶ 9-10. While the settlement administration costs are significant – an estimated \$1.5 million – they are adequately justified given the size of the class and the relief being provided.

JUDICIAL RECOGNITION



In addition, the Court finds that the language of the class notices (short and long-form) is appropriate and that the means of notice – which includes mail notice, electronic notice, publication notice, and social media “marketing” – is the “best notice...practicable under the circumstances.” Fed. R. Civ. P. 23(c)(2)(B); see also Proc. Guidance for Class Action Sett. ¶¶ 3-5, 9 (addressing class notice, opt-outs, and objections). The Court notes that the means of notice has changed somewhat, as explained in the Supplemental Weisbrot Declaration filed on February 8, 2019, so that notice will be more targeted and effective. See generally Docket No. 525 (Supp. Weisbrot Decl.) (addressing, inter alia, press release to be distributed via national newswire service, digital and social media marketing designed to enhance notice, and “reminder” first-class mail notice when AEM becomes available).

Finally, the parties have noted that the proposed settlement bears similarity to the settlement in the Volkswagen MDL. See Proc. Guidance for Class Action Sett. ¶ 11.

RYSEWYK, ET AL. v. SEARS HOLDINGS CORPORATION and SEARS, ROEBUCK AND COMPANY

Case No. 1:15-cv-04519

The Honorable Manish S. Shah, United States District Court, Northern District of Illinois (January 29, 2019): The Court holds that the Notice and notice plan as carried out satisfy the requirements of Rule 23(e) and due process. This Court has previously held the Notice and notice plan to be reasonable and the best practicable under the circumstances in its Preliminary Approval Order dated August 6, 2018. (Dkt. 191) Based on the declaration of Steven Weisbrot, Esq. of Angeion Group (Dkt. No. 209-2), which sets forth compliance with the Notice Plan and related matters, the Court finds that the multi-pronged notice strategy as implemented has successfully reached the putative Settlement Class, thus constituting the best practicable notice and satisfying due process.

MAYHEW, ET AL. v. KAS DIRECT, LLC, and S.C. JOHNSON & SON, INC.

Case No. 7:16-cv-06981

The Honorable Vincent J. Briccetti, United States District Court, Southern District of New York (June 26, 2018): In connection with their motion, plaintiffs provide the declaration of Steven Weisbrot, Esq., a principal at the firm Angeion Group, LLC, which will serve as the notice and settlement administrator in this case. (Doc. #101, Ex. F: Weisbrot Decl.) According to Mr. Weisbrot, he has been responsible for the design and implementation of hundreds of class action administration plans, has taught courses on class action claims administration, and has given testimony to the Judicial Conference Committee on Rules of Practice and Procedure on the role of direct mail, email, and digital media in due process notice. Mr. Weisbrot states that the internet banner advertisement campaign will be responsive to search terms relevant to “baby wipes, baby products, baby care products, detergents, sanitizers, baby lotion, [and] diapers,” and will target users who are currently browsing or recently browsed categories “such as parenting, toddlers, baby care, [and] organic products.” (Weisbrot Decl. ¶ 18). According to Mr. Weisbrot, the internet banner advertising campaign will reach seventy percent of the proposed class members at least three times each. (Id. ¶ 9). Accordingly, the Court approves of the manner of notice proposed by the parties as it is reasonable and the best practicable option for confirming the class members receive notice.

JUDICIAL RECOGNITION



IN RE: OUTER BANKS POWER OUTAGE LITIGATION

Case No. 4:17-cv-00141

The Honorable James C. Dever III, United States District Court, Eastern District of North Carolina (May 2, 2018): The court has reviewed the proposed notice plan and finds that the notice plan provides the best practicable notice under the circumstances and, when completed, shall constitute fair, reasonable, and adequate notice of the settlement to all persons and entities affected by or entitled to participate in the settlement, in full compliance with the notice requirements of Fed. R. Civ. P. 23(c)(2)(B) and due process. Thus, the court approves the proposed notice plan.

GOLDEMBERG, ET AL. v. JOHNSON & JOHNSON CONSUMER COMPANIES, INC.

Case No. 7:13-cv-03073

The Honorable Nelson S. Roman, United States District Court, Southern District of New York (November 1, 2017): Notice of the pendency of the Action as a class action and of the proposed Settlement, as set forth in the Settlement Notices, was given to all Class Members who could be identified with reasonable effort, consistent with the terms of the Preliminary Approval Order. The form and method of notifying the Class of the pendency of the Action as a class action and of the terms and conditions of the proposed Settlement met the requirements of Rule 23 of the Federal Rules of Civil Procedure, due process, and any other applicable law in the United States. Such notice constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

HALVORSON v. TALENTBIN, INC.

Case No. 3:15-cv-05166

The Honorable Joseph C. Spero, United States District Court, Northern District of California (July 25, 2017): The Court finds that the Notice provided for in the Order of Preliminary Approval of Settlement has been provided to the Settlement Class, and the Notice provided to the Settlement Class constituted the best notice practicable under the circumstances, and was in full compliance with the notice requirements of Rule 23 of the Federal Rules of Civil Procedure, due process, the United States Constitution, and any other applicable law. The Notice apprised the members of the Settlement Class of the pendency of the litigation; of all material elements of the proposed settlement, including but not limited to the relief afforded the Settlement Class under the Settlement Agreement; of the res judicata effect on members of the Settlement Class and of their opportunity to object to, comment on, or opt-out of, the Settlement; of the identity of Settlement Class Counsel and of information necessary to contact Settlement Class Counsel; and of the right to appear at the Fairness Hearing. Full opportunity has been afforded to members of the Settlement Class to participate in the Fairness Hearing. Accordingly, the Court determines that all Final Settlement Class Members are bound by this Final Judgment in accordance with the terms provided herein.

IN RE: ASHLEY MADISON CUSTOMER DATA SECURITY BREACH LITIGATION

MDL No. 2669/Case No. 4:15-md-02669

The Honorable John A. Ross, United States District Court, Eastern District of Missouri (July 21, 2017): The Court further finds that the method of disseminating Notice, as set forth in the Motion, the Declaration of Steven Weisbrot, Esq. on Adequacy of Notice Program, dated July 13, 2017, and the Parties' Stipulation—including an extensive and targeted publication campaign

JUDICIAL RECOGNITION



composed of both consumer magazine publications in People and Sports Illustrated, as well as serving 11,484,000 highly targeted digital banner ads to reach the prospective class members that will deliver approximately 75.3% reach with an average frequency of 3.04—is the best method of notice practicable under the circumstances and satisfies all requirements provided in Rule 23(c)(2)(B) and all Constitutional requirements including those of due process.

The Court further finds that the Notice fully satisfies Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process; provided, that the Parties, by agreement, may revise the Notice, the Claim Form, and other exhibits to the Stipulation, in ways that are not material or ways that are appropriate to update those documents for purposes of accuracy.

TRAXLER, ET AL. v. PPG INDUSTRIES INC., ET AL.

Case No. 1:15-cv-00912

The Honorable Dan Aaron Polster, United States District Court, Northern District of Ohio (April 27, 2017): The Court hereby approves the form and procedure for disseminating notice of the proposed settlement to the Settlement Class as set forth in the Agreement. The Court finds that the proposed Notice Plan contemplated constitutes the best notice practicable under the circumstances and is reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action and their right to object to the proposed settlement or opt out of the Settlement Class in full compliance with the requirements of applicable law, including the Due Process Clause of the United States Constitution and Rules 23(c) and (e). In addition, Class Notice clearly and concisely states in plain, easily understood language: (i) the nature of the action; (ii) the definition of the certified Settlement Class; (iii) the claims and issues of the Settlement Class; (iv) that a Settlement Class Member may enter an appearance through an attorney if the member so desires; (v) that the Court will exclude from the Settlement Class any member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3).

IN RE: THE HOME DEPOT, INC., CUSTOMER DATA SECURITY BREACH LITIGATION

Case No. 1:14-md-02583

The Honorable Thomas W. Thrash Jr., United States District Court, Northern District of Georgia (March 10, 2017): The Court finds that the form, content, and method of giving notice to the settlement class as described in the settlement agreement and exhibits: (a) constitute the best practicable notice to the settlement class; (b) are reasonably calculated, under the circumstances, to apprise settlement class members of the pendency of the action, the terms of the proposed settlement, and their rights under the proposed settlement; (c) are reasonable and constitute due, adequate, and sufficient notice to those persons entitled to receive notice; and (d) satisfy the requirements of Federal Rule of Civil Procedure 23, the constitutional requirement of due process, and any other legal requirements. The Court further finds that the notice is written in plain language, uses simple terminology, and is designed to be readily understandable by settlement class members.

ROY v. TITEFLEX CORPORATION t/a GASTITE and WARD MANUFACTURING, LLC

Case No. 384003V

The Honorable Ronald B. Rubin, Circuit Court for Montgomery County, Maryland (February 24, 2017): What is impressive to me about this settlement is in addition to all the usual recitation of

JUDICIAL RECOGNITION



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 decision. To me that is a key piece of this deal. ***I think the notice provisions are exquisite*** [emphasis added].

IN RE: LG FRONT LOADING WASHING MACHINE CLASS ACTION LITIGATION

Case No. 2:08-cv-00051

The Honorable Madeline Cox Arleo, United States District Court, District of New Jersey (June 17, 2016): This Court further approves the proposed methods for giving notice of the Settlement to the Members of the Settlement Class, as reflected in the Settlement Agreement and the joint motion for preliminary approval. The Court has reviewed the notices attached as exhibits to the Settlement, the plan for distributing the Summary Notices to the Settlement Class, and the plan for the Publication Notice's publication in print periodicals and on the internet, and finds that the Members of the Settlement Class will receive the best notice practicable under the circumstances. The Court specifically approves the Parties' proposal to use reasonable diligence to identify potential class members and an associated mailing and/or email address in the Company's records, and their proposal to direct the ICA to use this information to send absent class members notice both via first class mail and email. The Court further approves the plan for the Publication Notice's publication in two national print magazines and on the internet. The Court also approves payment of notice costs as provided in the Settlement. The Court finds that these procedures, carried out with reasonable diligence, will constitute the best notice practicable under the circumstances and will satisfy.

FENLEY v. APPLIED CONSULTANTS, INC.

Case No. 2:15-cv-00259

The Honorable Mark R. Hornak, United States District Court, Western District of Pennsylvania (June 16, 2016): The Court would note that it approved notice provisions of the settlement agreement in the proceedings today. That was all handled by the settlement and administrator Angeion. The notices were sent. The class list utilized the Postal Service's national change of address database along with using certain proprietary and other public resources to verify addresses. the requirements of Fed.R.Civ.P. 23(c)(2), Fed.R.Civ.P. 23(e) (l), and Due Process....

The Court finds and concludes that the mechanisms and methods of notice to the class as identified were reasonably calculated to provide all notice required by the due process clause, the applicable rules and statutory provisions, and that the results of ***the efforts of Angeion were highly successful and fulfilled all of those requirements*** [emphasis added].

FUENTES, ET AL. v. UNIRUSH, LLC d/b/a UNIRUSH FINANCIAL SERVICES, ET AL.

Case No. 1:15-cv-08372

The Honorable J. Paul Oetken, United States District Court, Southern District of New York (May 16, 2016): The Court approves, as to form, content, and distribution, the Claim Form attached to the Settlement Agreement as Exhibit A, the Notice Plan, and all forms of Notice to the Settlement Class as set forth in the Settlement Agreement and Exhibits B-D, thereto, and finds that such Notice is the best notice practicable under the circumstances, and that the Notice complies fully

JUDICIAL RECOGNITION



with the requirements of the Federal Rules of Civil Procedure. The Court also finds that the Notice constitutes valid, due and sufficient notice to all persons entitled thereto, and meets the requirements of Due Process. The Court further finds that the Notice is reasonably calculated to, under all circumstances, reasonably apprise members of the Settlement Class of the pendency of the Actions, the terms of the Settlement Agreement, and the right to object to the settlement and to exclude themselves from the Settlement Class. The Parties, by agreement, may revise the Notices and Claim Form in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting for publication.

IN RE: WHIRLPOOL CORP. FRONTLOADING WASHER PRODUCTS LIABILITY LITIGATION

MDL No. 2001/Case No. 1:08-wp-65000

The Honorable Christopher A. Boyko, United States District Court, Northern District of Ohio (May 12, 2016): The Court, having reviewed the proposed Summary Notices, the proposed FAQ, the proposed Publication Notice, the proposed Claim Form, and the proposed plan for distributing and disseminating each of them, finds and concludes that the proposed plan for distributing and disseminating each of them will provide the best notice practicable under the circumstances and satisfies all requirements of federal and state laws and due process.

SATERIALE, ET AL. v. R.J. REYNOLDS TOBACCO CO.

Case No. 2:09-cv-08394

The Honorable Christina A. Snyder, United States District Court, Central District of California (May 3, 2016): The Court finds that the Notice provided to the Settlement Class pursuant to the Settlement Agreement and the Preliminary Approval Order has been successful, was the best notice practicable under the circumstances and (1) constituted notice that was reasonably calculated, under the circumstances, to apprise members of the Settlement Class of the pendency of the Action, their right to object to the Settlement, and their right to appear at the Final Approval Hearing; (2) was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (3) met all applicable requirements of the Federal Rules of Civil Procedure, Due Process, and the rules of the Court.

FERRERA, ET AL. v. SNYDER'S-LANCE, INC.

Case No. 0:13-cv-62496

The Honorable Joan A. Lenard, United States District Court, Southern District of Florida (February 12, 2016): The Court approves, as to form and content, the Long-Form Notice and Short- Form Publication Notice attached to the Memorandum in Support of Motion for Preliminary Approval of Class Action Settlement as Exhibits 1 and 2 to the Stipulation of Settlement. The Court also approves the procedure for disseminating notice of the proposed settlement to the Settlement Class and the Claim Form, as set forth in the Notice and Media Plan attached to the Memorandum in Support of Motion for Preliminary Approval of Class Action Settlement as Exhibits G. The Court finds that the notice to be given constitutes the best notice practicable under the circumstances, and constitutes valid, due, and sufficient notice to the Settlement Class in full compliance with the requirements of applicable law, including the Due Process Clause of the United States Constitution.

JUDICIAL RECOGNITION



IN RE: POOL PRODUCTS DISTRIBUTION MARKET ANTITRUST LITIGATION

MDL No. 2328/Case No. 2:12-md-02328

The Honorable Sarah S. Vance, United States District Court, Eastern District of Louisiana (December 31, 2014): To make up for the lack of individual notice to the remainder of the class, the parties propose a print and web-based plan for publicizing notice. The Court welcomes the inclusion of web-based forms of communication in the plan. The Court finds that the proposed method of notice satisfies the requirements of Rule 23(c)(2)(B) and due process. The direct emailing of notice to those potential class members for whom Hayward and Zodiac have a valid email address, along with publication of notice in print and on the web, is reasonably calculated to apprise class members of the settlement. Moreover, the plan to combine notice for the Zodiac and Hayward settlements should streamline the process and avoid confusion that might otherwise be caused by a proliferation of notices for different settlements. Therefore, the Court approves the proposed notice forms and the plan of notice.

SOTO, ET AL. v. THE GALLUP ORGANIZATION, INC.

Case No. 0:13-cv-61747

The Honorable Marcia G. Cooke, United States District Court, Southern District of Florida (June 16, 2015): The Court approves the form and substance of the notice of class action settlement described in ¶ 8 of the Agreement and attached to the Agreement as Exhibits A, C and D. The proposed form and method for notifying the Settlement Class Members of the settlement and its terms and conditions meet the requirements of Fed. R. Civ. P. 23(c)(2)(B) and due process, constitute the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons and entities entitled to the notice. The Court finds that the proposed notice is clearly designed to advise the Settlement Class Members of their rights.

OTT v. MORTGAGE INVESTORS CORPORATION OF OHIO, INC.

Case No. 3:14-cv-00645

The Honorable Janice M. Stewart, United States District Court, District of Oregon (July 20, 2015): The Notice Plan, in form, method, and content, fully complies with the requirements of Rule 23 and due process, constitutes the best notice practicable under the circumstances, and is due and sufficient notice to all persons entitled thereto. The Court finds that the Notice Plan is reasonably calculated to, under all circumstances, reasonably apprise the persons in the Settlement Class of the pendency of this action, the terms of the Settlement Agreement, and the right to object to the Settlement and to exclude themselves from the Settlement Class.