

1 ROBBINS GELLER RUDMAN  
& DOWD LLP  
2 SHAWN A. WILLIAMS (213113)  
JOHN H. GEORGE (292332)  
3 One Montgomery Street, Suite 1800  
San Francisco, CA 94104  
4 Telephone: 415/288-4545  
415/288-4534 (fax)  
5 shawnw@rgrdlaw.com  
jgeorge@rgrdlaw.com

EDELSON PC  
JAY EDELSON (*pro hac vice*)  
BENJAMIN RICHMAN (*pro hac vice*)  
ALEXANDER G. TIEVSKY (*pro hac vice*)  
350 North LaSalle Street, 14th Floor  
Chicago, IL 60654  
Telephone: 312/589-6370  
312/589-6378 (fax)  
jedelson@edelson.com  
brichman@edelson.com  
atievsky@edelson.com

6 LABATON SUCHAROW LLP  
7 MICHAEL P. CANTY (*pro hac vice*)  
CORBAN S. RHODES (*pro hac vice*)  
8 140 Broadway  
New York, NY 10005  
9 Telephone: 212/907-0700  
212/818-0477 (fax)  
10 mcanty@labaton.com  
crhodes@labaton.com

11  
12 *Attorneys for Plaintiffs*

13 [Additional counsel appear on signature page.]

14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA  
16 SAN FRANCISCO DIVISION

16 In re FACEBOOK BIOMETRIC )  
17 INFORMATION PRIVACY LITIGATION )

Master File No. 3:15-cv-03747-JD

) CLASS ACTION

18 This Document Relates To: )

19 ALL ACTIONS. )

) PLAINTIFFS' NOTICE OF MOTION AND  
) AMENDED MOTION FOR FINAL  
) APPROVAL OF CLASS ACTION  
) SETTLEMENT; MEMORANDUM OF  
20 POINTS AND AUTHORITIES IN SUPPORT  
21 THEREOF

22  
23  
24  
25  
26  
27  
28

**TABLE OF CONTENTS**

		<b>Page</b>
1		
2		
3		
4	<b>I. ISSUES TO BE DECIDED.....</b>	<b>1</b>
5	<b>II. MEMORANDUM OF POINTS AND AUTHORITIES .....</b>	<b>1</b>
6	<b>III. BACKGROUND AND CASE HISTORY .....</b>	<b>2</b>
7	<b>IV. NOTICE SATISFIED DUE PROCESS AND PRODUCED A HIGH CLAIMS RATE ..</b>	<b>2</b>
8	<b>A. The Court Approved Notice Plan was Successfully Implemented. ....</b>	<b>2</b>
9	<b>B. The Objections to the Sufficiency of the Notice Should be Overruled.....</b>	<b>6</b>
10	<b>C. More Than 1.5 Million Class Members Have Submitted Claims.....</b>	<b>8</b>
11	<b>V. THE SETTLEMENT MERITS FINAL APPROVAL .....</b>	<b>8</b>
12	<b>A. Class Counsel and the Class Representatives Have Protected</b>	
13	<b>the Class’s Interests and Support the Settlement. ....</b>	<b>9</b>
14	<b>B. The Settlement was Negotiated at Arm’s Length. ....</b>	<b>10</b>
15	<b>C. The Amount Offered by the Settlement Supports Final Approval. ....</b>	<b>10</b>
16	<b>i. Projected recovery per claiming class member is unprecedented</b>	
17	<b>for a privacy settlement. ....</b>	<b>11</b>
18	<b>ii. The conduct remedy here provides “meaningful” relief. ....</b>	<b>13</b>
19	<b>iii. The risks inherent in further litigation demonstrate the</b>	
20	<b>adequacy of the relief. ....</b>	<b>14</b>
21	<b>iv. The objections to the adequacy of relief are meritless.....</b>	<b>15</b>
22	<b>D. The High Claims Rate Shows the Effectiveness of the Method</b>	
23	<b>of Distribution of Funds to the Class. ....</b>	<b>19</b>
24	<b>VI. OBJECTIONS TO THE PROPOSED SERVICE AWARD ARE MERITLESS .....</b>	<b>21</b>
25	<b>A. Service Awards are Permitted in Class Actions.....</b>	<b>21</b>
26	<b>B. The Proposed Service Awards are Appropriate. ....</b>	<b>23</b>
27	<b>VII. THE OBJECTIONS TO CLASS COUNSEL’S FEE REQUEST SHOULD</b>	
28	<b>BE OVERRULED .....</b>	<b>23</b>

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

IX. CONCLUSION.....25

**TABLE OF AUTHORITIES**

		<b>Page</b>
1		
2		
3	<b>U.S. Supreme Court Cases:</b>	
4	<i>Alyeska Pipeline Serv. Co. v. Wilderness Soc’y</i> ,	
5	421 U.S. 240 (1975).....	25
6	<i>Eisen v. Carlisle &amp; Jacquelin</i> ,	
7	417 U.S. 156, 173 (1974).....	3
8	<i>Fid. Bank &amp; Trust Co. v. Kehoe</i> ,	
9	547 U.S. 1051 (2006).....	19
10	<i>St. Louis, Iron Mountain, &amp; S. R. Co. v. Williams</i> ,	
11	251 U.S. 63 (1919).....	18
12	<i>Trustees v. Greenough</i> ,	
13	105 U.S. 527 (1881).....	22
14	<b>U.S. Circuit Court of Appeals Cases:</b>	
15	<i>Churchill Vill., L.L.C. v. Gen. Elec.</i> ,	
16	361 F.3d 566 (9th Cir. 2004) .....	8, 21
17	<i>Hanlon v. Chrysler Corp.</i> ,	
18	150 F.3d 1011 (9th Cir. 1998) .....	15, 16
19	<i>In re Bluetooth Headset Prod. Liab. Litig.</i> ,	
20	654 F.3d 935 (9th Cir. 2011) .....	8, 10
21	<i>In re Online DVD-Rental Antitrust Litig.</i> ,	
22	779 F.3d 934 (9th Cir. 2015) .....	3, 23, 24
23	<i>In re Washington Public Power Supply System Securities Litigation</i> ,	
24	19 F.3d 1291 (9th Cir. 1994) .....	24
25	<i>Johnson v. NPAS Solutions, LLC</i> ,	
26	975 F.3d 1244 (11th Cir. 2020) .....	21, 22
27	<i>Juris v. Inamed Corp.</i> ,	
28	685 F.3d 1294 (11th Cir. 2012) .....	3
	<i>Lane v. Facebook, Inc.</i> ,	
	696 F.3d 811 (9th Cir. 2012) .....	13

1

2 *Melito v. Experian Mktg. Sols., Inc.*,  
923 F.3d 85 (2d Cir. 2019).....22

3

4 *Mullins v Direct Digital LLC*,  
795 F.3d 654 (7th Cir. 2015) .....3

5

6 *Officers for Justice v. Civil Serv. Comm’n of City & Cnty. of S.F.*,  
688 F.2d 615 (9th Cir. 1982) .....3, 9, 12, 18

7

8 *Patel v. Facebook, Inc.*,  
932 F.3d 1264 (9th Cir. 2019) .....14

9

10 *Rodriguez v. West Publ’g Corp.*,  
563 F.3d 948 (9th Cir. 2009) .....21, 22

11

12 *Staton v. Boeing Co.*,  
327 F.3d 938 (9th Cir. 2003) .....25

13

14 *United States v. Dish Network LLC*,  
954 F.3d 970 (7th Cir. 2020) .....18

15

16 *Vizcaino v. Microsoft Corp.*,  
290 F.3d 1043 (9th Cir. 2002) .....24

17 **U.S. District Court Cases:**

18

19 *Bailey v. Kinder Morgan GP*,  
No. 18-cv-03424, 2020 WL 5748721 (N.D. Cal. Sept. 25, 2020).....20

20

21 *Corzine v. Whirlpool Corp.*,  
No. 15-cv-05764, 2019 WL 7372275 (N.D. Cal. Dec. 31, 2019).....21

22

23 *Cotter v. Lyft, Inc.*,  
193 F. Supp. 3d 1030 (N.D. Cal. 2016) .....9

24

25 *Delgado v. MarketSource, Inc.*,  
No. 17-cv-07370, 2019 WL 4059850 (N.D. Cal. Aug. 28, 2019) .....15

26

27 *Fraley v. Facebook, Inc.*,  
966 F. Supp. 2d 939 (N.D. Cal. 2013) .....15

28

29 *Hashw v. Dept. Stores Nat’l Bank*,  
182 F. Supp. 3d 935 (D. Minn. Apr. 26, 2016).....11

30 *Hefler v. Wells Fargo & Co.*,  
No. 16-cv-05479-JST, 2018 WL 6619983 (N.D. Cal. Dec. 18, 2018).....2, 23

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

*In re Anthem, Inc. Data Breach Litig.*,  
327 F.R.D. 299 (N.D. Cal. 2018).....12, 20

*In re Apple Inc. Device Performance Litigation*,  
No. 18-md-2827 (N.D. Cal. Oct. 5, 2020) .....7

*In re Capital One Telephone Consumer Protection Act Litig.*,  
80 F. Supp. 3d 781 (N.D. Ill. 2015) .....11

*In re Equifax, Inc. Customer Data Security Breach Litigation*,  
No. 17-md-2800, 2020 WL 256132 (N.D. Ga.).....5, 11, 12

*In re Google LLC Street View Elec. Commc’ns Litig.*,  
No. 10-md-02184-CRB, 2020 WL 1288377 (N.D. Cal. Mar. 18, 2020).....2, 13

*In re LinkedIn User Privacy Litig.*,  
309 F.R.D. 573 (N.D. Cal. 2015).....16

*In re Nexus 6P Prods. Liab. Litig.*,  
No. 17-cv-02185, 2019 WL 6622842 (N.D. Cal. Nov. 12, 2019) .....20, 21

*In re Target*,  
No. 14-cv-2522, 2017 WL 2178306 (D. Minn.).....20

*In re TFT-LCD (Flat Panel) Antitrust Litig.*,  
No. 07-cv-1827, 2013 WL 1365900 (N.D. Cal. Apr. 3, 2013).....24

*In re Vizio, Inc., Consumer Privacy Litigation*,  
No. 16-ml-02693-JLS-KES (C.D. Cal.).....12, 20

*In re Yahoo! Inc. Customer Data Security Breach Litig.*,  
No. 16-md-02752, 2020 WL 4212811 (N.D. Cal. July 22, 2020) .....6, 12, 17

*Kehoe v. Fidelity Fed. Bank & Tr.*,  
No. 03-cv-80593 (S.D. Fla. Nov. 17, 2006) .....12

*Moore v. Verizon Commc’ns Inc.*,  
No. 09-cv-1823 SBA, 2013 WL 4610764 (N.D. Cal. Aug. 28, 2013) .....6

*Nunez v. BAE Sys. San Diego Ship Repair Inc.*,  
292 F. Supp. 3d 1018 (S.D. Cal. 2017).....16

*Satchell v. Fed. Exp. Corp.*,  
Nos. 03-cv-2659-SI, 03-cv-2878-SI, 2007 WL 1114010 (N.D. Cal. Apr. 13, 2007).....10

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

*Schuchardt v. Law Office of Rory W. Clark*,  
314 F.R.D. 673 (N.D. Cal. 2016).....10

*Sugarman v. Ducati N. Am., Inc.*,  
No. 10-cv-05246, 2012 WL 113361 (N.D. Cal. Jan. 12, 2012).....21

*Uschold v. NSMG Shared Servs. LLC*,  
No. 18-cv-01039, 2020 WL 3035776 (N.D. Cal. June 5, 2020).....9, 12, 15

*Walters v. Target Corp.*,  
No. 16-cv-1678, 2020 WL 6277436 (S.D. Cal. Oct. 26, 2020).....9

**State Court Cases:**

*Berlak v. Villa Scalabrini Home for the Aged, Inc.*,  
284 Ill. App. 3d 231 (1996) .....25

*Crème de la Crème*,  
No. 17 CH 1624 (Ill. Cir. Ct. Cook Cnty.) .....13

*Prelipceanu v. Jumio Corp.*,  
No. 2018 CH 15883 (Ill. Cir. Ct., Cook Cnty.) .....12, 20

*Sekura v. L.A. Tan Enterprises, Inc.*,  
No. 15 CH 16694 (Ill. Cir. Ct., Cook Cnty.) .....12, 20

*Young v. Alden Gardens of Waterford, LLC*,  
2015 IL App (1st) 131887.....25

**Rules and Statutory Provisions:**

740 ILCS 14..... *passim*

15 U.S.C. § 78u.....22

18 U.S.C. § 2710.....12

Fed. R. Civ. P. 23..... *passim*

**Other Authorities:**

5 William B. Rubenstein, NEWBERG ON CLASS ACTIONS  
§ 17:8 (5th ed., June 2020 update).....23

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

Ally Marotti, *A massive Facebook privacy settlement just got bigger. Illinois users could split \$650 million*, CHICAGO TRIBUNE (July 24, 2020), available at <https://perma.cc/X826-MMVQ>.....5

*Deadline Approaches for Illinois Facebook Users to File Claim for Payouts in \$650M Settlement*, NBC 5 CHICAGO (Nov. 6, 2020) available at <https://perma.cc/6R4Y-FSW9>.....5

Federal Judicial Center, *Judges’ Class Action Notice & Claims Process Checklist & Plain Language Guide* (2010) available at <https://perma.cc/9BBX-9TNV> .....3

Jeff John Roberts, *Facebook adds \$100 million to landmark facial recognition settlement payout*, FORTUNE (July 23, 2020), available at <https://perma.cc/P7EH-NMSL>.....5

Lorraine Swanson, *Clock Ticking For Illinois Facebook Users To File Claims*, PATCH.COM (Nov. 11, 2020), available at <https://perma.cc/U2RC-82PY> .....5

Natasha Singer and Mike Isaac, *Facebook to Pay \$550 Million to Settle Facial Recognition Suit*, N.Y. TIMES (Jan. 29, 2020), available at <https://perma.cc/X99S-743P> .....5

Riley O’Neil, *Illinois Facebook Users Have 2 Weeks Left To Apply For Settlement*, WROK 1440, available at <https://perma.cc/86H4-97PU> .....6



1 PLEASE TAKE NOTICE that on January 7, 2021 at 10:00 a.m., Carlo Licata, Nimesh  
2 Patel, and Adam Pezen (“Plaintiffs”) will move this Court for an Order granting final approval to  
3 the class action settlement. (Dkt. 468) This Motion is supported by the following memorandum,  
4 the Declaration of Class Counsel (dkt. 499-1), the Declaration of Lana Lucchesi (Exhibit A), and  
5 the Second Expert Declaration of William Rubenstein (Exhibit B).

6 **I. ISSUES TO BE DECIDED**

- 7 1. Whether the notice provided to the class satisfies Rule 23 and due process.
- 8 2. Whether the proposed Settlement is fair, reasonable, and adequate.
- 9 3. Whether the objections should be overruled.

10 **II. MEMORANDUM OF POINTS AND AUTHORITIES**

11 After an initial hearing where this Court set forth its concerns with the initial settlement,  
12 the parties returned with both answers to the Court’s questions and several improved Settlement  
13 terms. The Court then held a second hearing which included the presentation of live testimony on  
14 issues of notice, the settlement’s relationship to the FTC consent decree, and the conduct remedy.  
15 Afterward, the Court found that “the \$650 million that will be awarded to the Illinois class is  
16 impressive both as an absolute number and relative to other class actions settlements in privacy  
17 cases.” (Dkt. 474 at 5.) As evidenced in the bi-weekly submissions, the notice plan has been  
18 successfully implemented and any issues that arose were promptly addressed. This robust notice,  
19 combined with a newsworthy, historic settlement, and Class Counsel’s independent efforts to  
20 ensure that Class members had the information they needed has paid off: more than 1.5 million  
21 Class members have submitted claims, around 22% of the Class. By contrast, only 107  
22 individuals have opted out (0.01% of the Class). If Class Counsel’s fee request is approved in full,  
23 and including administration costs, claiming Class members will recover approximately \$342,  
24 right in line with Class Counsel’s projections at preliminary approval. A claims rate of around  
25 22% is a remarkable figure in consumer class actions generally, particularly for classes of this  
26 size, and exceeds claims rates in the handful of other consumer settlements under the Biometric  
27 Information Privacy Act (“BIPA”). By contrast, the Settlement has drawn just three objections  
28 that repeat issues already raised by the Court or the parties—one from an apparently conflicted

1 *pro se* felon; another from “John Pentz, a[] serial meritless objector[],” *Hefler v. Wells Fargo &*  
 2 *Co.*, No. 16-cv-05479-JST, 2018 WL 6619983, at \*16 n.19 (N.D. Cal. Dec. 18, 2018) (Tigar, J.)  
 3 (rejecting nearly identical objections made by Pentz); and one that has already been withdrawn in  
 4 large part based on the objector’s renewed understanding of the Settlement.

5         Given the Settlement’s substantial relief, perhaps none of this should have been much of a  
 6 surprise. The Settlement, which was reached only after “fierce [litigation] for over five years, with  
 7 no legal pebble left unturned,” (Dkt. 474 at 2), months of negotiations with former Ambassador  
 8 Jeffrey L. Bleich, and the critical guidance of this Court, is an exemplar in the privacy space.  
 9 Indeed, the substantial monetary relief provided here stands in stark contrast to many recent  
 10 privacy settlements against large technology companies. For instance, Judge Breyer recently  
 11 approved a *cy pres*-only settlement in a case alleging that Google had invaded certain statutorily  
 12 guaranteed privacy rights. *In re Google LLC Street View Elec. Commc’ns Litig.*, No. 10-md-  
 13 02184-CRB, 2020 WL 1288377, at \*11-14 (N.D. Cal. Mar. 18, 2020). And just this November,  
 14 Judge Alsup granted preliminary approval to a class-action settlement against Facebook that  
 15 surrendered data-security claims in exchange only for injunctive relief. *Adkins v. Facebook, Inc.*,  
 16 No. 18-cv-05982-WHA, Dkt. 314 (N.D. Cal. Nov. 15, 2020).

17         As the Court previously found, the Settlement, reached after an adversarial class  
 18 certification decision affirmed on appeal, is “the product of serious, informed, and noncollusive  
 19 negotiations.” (Dkt. 474 at 4.) The claims process has demonstrated that the Class is extremely  
 20 satisfied with those efforts. The Court should therefore grant final approval to the Settlement.

### 21 **III. BACKGROUND AND CASE HISTORY**

22         The Court is deeply familiar with the procedural history of this case and the settlement  
 23 terms. In accordance with the *Procedural Guidance for Class Action Settlements* Plaintiffs  
 24 incorporate by reference, but do not repeat, that history or the terms here. (Dkts. 499, 499-1),

### 25 **IV. NOTICE SATISFIED DUE PROCESS AND PRODUCED A HIGH CLAIMS RATE**

#### 26 **A. The Court-Approved Notice Plan was Successfully Implemented.**

27         Granting final approval requires the Court consider whether the Class received “the best  
 28 notice that is practicable under the circumstances, including individual notice to all members who

1 can be identified through reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B); *accord Eisen v. Carlisle*  
2 *& Jacquelin*, 417 U.S. 156, 173 (1974). “The class must be notified of a proposed settlement in a  
3 manner that does not systematically leave any group without notice.” *Officers for Justice v. Civil*  
4 *Serv. Comm’n of City & Cnty. of S.F.*, 688 F.2d 615, 624 (9th Cir. 1982) (citation omitted). “The  
5 rule does not insist on actual notice to all class members in all cases.” *Mullins v Direct Digital*  
6 *LLC*, 795 F.3d 654, 665 (7th Cir. 2015); *see also Juris v. Inamed Corp.*, 685 F.3d 1294, 1321  
7 (11th Cir. 2012) (noting that “even in Rule 23(b)(3) class actions, due process does not require  
8 that class members actually receive notice” and collecting cases). Although what constitutes the  
9 “best notice practicable” is case-specific, a notice campaign that reaches 70% of a class is often  
10 reasonable. Federal Judicial Center, *Judges’ Class Action Notice & Claims Process Checklist &*  
11 *Plain Language Guide*, at 3 (2010). The Notice must also accurately describe the Settlement. *See*  
12 *Fed. R. Civ. P. 23(e)(1)(A)*; *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 946 (9th Cir.  
13 2015). Along with the Court, Plaintiffs sought through the notice “to achieve a high claims rate  
14 and payout to class members . . . [and] establish best practices for online notice.” (Dkt. 474 at 7.)

15 As the Court and Class Counsel recognized after the Class was certified, reaching a class  
16 composed of entirely online users alleging online privacy violations was going to require  
17 primarily online notice. Over Facebook’s objections at that stage, the Court-ordered certification  
18 notice was to be directed to the class via Class members’ Facebook newsfeed channel, via jewel  
19 notices, direct email notice, and a web page dedicated to the lawsuit. (*See* Dkts. 402, 474.) The  
20 Settlement notice includes all these methods plus a second round of emails, targeted internet  
21 banner ads, print publication, and required CAFA notice to government officials. But the right  
22 methods are only part of a successful notice campaign: the notice also needs to effectively alert  
23 class members to their rights and get them to exercise those rights. Per the Court’s instructions,  
24 after the first preliminary approval hearing, the parties, with the assistance of Facebook’s media  
25 team and an email designer, reworded and redesigned the entire notice program to make it eye-  
26 catching and easily understandable. The parties also ensured that the claim form is easy to  
27 understand and so Class members could file a claim in less than two minutes. The Court approved  
28 the methods and the retooled notice finding that “together they constitute the best practicable

1 notice to individual class members under the circumstances of this case.” (Dkt. 474 at 6.)

2 As set out in the bi-weekly status reports, the notice plan has been successfully completed,  
3 any hiccups have been identified and remedied, and the resultant claims rate is among the highest  
4 of any consumer class action (and the highest of one this size). The two methods of direct notice  
5 were successful. First, as Facebook has explained, it “has complied with this Court’s order and  
6 provided the approved Newsfeed and jewel notice to the class by the September 23 notice date.”  
7 (Dkt. 492.) And as Facebook representative Gary McCoy testified at the preliminary approval  
8 hearing, this was the best and common method by which Facebook would seek to communicate  
9 important information to its user base. As of the Claims Deadline, the separately filed declaration  
10 of Jake Webb states that the Jewel and Newsfeed notices created approximately 9.1 million  
11 unique impressions, with 30.47% of those recipients engaging with the notice.

12 The Settlement Administrator (Gilardi & Co.) also successfully implemented several  
13 additional forms of notice. For direct notice, Gilardi sent emails to each email address associated  
14 with a person on the Class List. It turns out, for some of the records in the Class List, the data  
15 contained multiple distinct email addresses associated with the same record such that there were  
16 15,372,906 emails associated with 12,340,049 accounts. (Lucchesi Decl. ¶ 7.) Gilardi sent the  
17 email notice to each of these addresses because the Parties believed that the benefits of providing  
18 Class members notice to the email address they actually monitor far outweighed the minimal  
19 downside of sending duplicate emails to Class members who actively use multiple addresses.  
20 Gilardi also determined that 2,608,319 of the emails provided were no longer valid address (*i.e.*,  
21 out-of-date school or work accounts). (*Id.*) For the first round, 10,295,502 emails were  
22 successfully delivered to at least one of the email addresses associated with an account. (*Id.* ¶ 9.)

23 As the parties reported, Class Counsel discovered from Class members that around 5.7  
24 million emails associated with a Gmail address were routed to users’ spam folders. (Dkt. 492  
25 ¶ 11.) Class Counsel reached out to outside and inside counsel for Google and was able to  
26 coordinate a follow up email to those Gmail users of which 99.9% were successfully delivered  
27 and no issues were reported of those emails being routed as spam. (Lucchesi Decl. ¶ 11.)

28

1 A “reminder” campaign was initiated as the Claims Deadline was approaching with  
 2 notices being sent to 12,888,208 emails. 9,956,299 of those emails were successfully delivered.  
 3 (*Id.* ¶¶ 12-13.) Ultimately, of the 34,036,599 total emails that were sent, 25,336,835 (74.4%)  
 4 were successfully delivered. Delivery of at least one email was successful to 11,326,353 of the  
 5 12,340,049 accounts on the Class List that was associated with an email (91.8%). (*Id.* ¶ 14.)

6 In an effort to reach Class members who may not have received the Facebook-provided  
 7 notice or Gilardi’s multiple emails, two forms of publication notice were provided: print ads in  
 8 the September 23 editions of the *Chicago Tribune* and *Chicago Sun Times* and a Google Display  
 9 Network internet banner ad campaign that ran from September 23 to October 23. (*Id.* ¶ 15.)<sup>1</sup> The  
 10 Google campaign generated 27,907,627 impressions running banner ads on high-quality sites  
 11 typically visited by the target audience of Illinois Facebook users over 18 and Illinois residents  
 12 aged 25-54 generally. (*Id.* ¶ 16.) This exceeded the goal of 27.1 million impressions.

13 In addition, the Settlement received significant favorable press attention. Many articles  
 14 highlighted the changes made to the Settlement in light of the Court’s concerns about the initial  
 15 agreement. And many articles praised the ultimate benefits provided. For instance, an article on  
 16 *Fortune*’s website noted that “The case represents one of the biggest payouts for privacy  
 17 violations to date, and contrasts sharply with other settlements such as that for the notorious data  
 18 breach at Equifax—for which victims are expected to receive almost nothing.” An article in the  
 19 *New York Times* similarly noted that the Settlement here “dwarfs” the *Equifax* settlement. Articles  
 20 such as that featured in the *Chicago Tribune* undoubtedly helped spread the word about the  
 21 Settlement. And local news articles throughout the state encouraged Illinoisans to submit claims.<sup>2</sup>

22 \_\_\_\_\_  
 23 <sup>1</sup> As previously reported, Class Counsel paid for the short-form notice to be published in *The*  
*Pantagraph* and *The Southern Illinoisan*, two daily regional newspapers. (Dkt. 501.)

24 <sup>2</sup> See Jeff John Roberts, *Facebook adds \$100 million to landmark facial recognition settlement*  
 25 *payout*, FORTUNE (July 23, 2020), available at <https://perma.cc/P7EH-NMSL> Natasha Singer and  
 26 Mike Isaac, *Facebook to Pay \$550 Million to Settle Facial Recognition Suit*, N.Y. TIMES (Jan.  
 27 29, 2020), available at <https://perma.cc/X99S-743P>; *Deadline Approaches for Illinois Facebook*  
 28 *Users to File Claim for Payouts in \$650M Settlement*, NBC 5 CHICAGO (Nov. 6, 2020) available  
 at <https://perma.cc/6R4Y-FSW9>; Ally Marotti, *A massive Facebook privacy settlement just got*  
*bigger. Illinois users could split \$650 million*, CHICAGO TRIBUNE (July 24, 2020), available at  
<https://perma.cc/X826-MMVQ>; Lorraine Swanson, *Clock Ticking For Illinois Facebook Users*

1 The Settlement was also the subject of a virtual town hall meeting by several supportive  
 2 Illinois legislators on November 16, 2020. Representative Ann Williams called the Settlement  
 3 “historic” and noted that it would “result in a substantial amount of money for Illinois Facebook  
 4 users,” an amount she later termed “unheard of.” A lawyer at Edelson PC was on hand to provide  
 5 attendees information on how they could submit a claim, and to answer any questions.

6 Finally, Class Counsel responded to hundreds of inquiries and worked directly with  
 7 several Class members to help them with any questions they had about membership in the class or  
 8 filing claims. In addition, Edelson PC also responded to requests from members of the Class who  
 9 are incarcerated providing the materials they needed to submit claims. Class Counsel was also  
 10 required to protect the Class from opportunists who through misleading advertising sought to  
 11 solicit class member opt-outs. (Dkts. 477; 494; 496 ¶ 6.)

12 Ultimately, all of this notice and press coverage resulted in over 6.2 million visits to the  
 13 Settlement website. (Lucchesi Decl. ¶ 17.) And as explained below, over 1.5 million Class  
 14 members have submitted claims. (*Id.* ¶ 19.) To achieve these impressive notice results, Gilardi has  
 15 incurred \$1,828,009.89 in costs, which should be approved by the Court. (*Id.* ¶ 22.)

16 **B. The Objections to the Sufficiency of Notice Should be Overruled.**

17 Two of the three objections, the joint objection on behalf of Dawn Frankforther and Cathy  
 18 Flanagan and Kara Ross (who has since withdrawn her objection on this point), raise undeveloped  
 19 concerns that the notice plan failed to comply with Due Process.<sup>3</sup> Objector Ross, for instance,

20  
 21 

---

 22 *To File Claims*, PATCH.COM (Nov. 11, 2020), available at <https://perma.cc/U2RC-82PY>; Riley O’Neil, *Illinois Facebook Users Have 2 Weeks Left To Apply For Settlement*, WROK 1440, available at <https://perma.cc/86H4-97PU>.

23 <sup>3</sup> The objection of Kara Ross—prepared with the assistance of counsel who is also her  
 24 husband—is deficient. First, it does not state whether it is being filed individually or on behalf of  
 25 some group of class members. Fed. R. Civ. P. 23(e)(5)(A.) Second, it fails to provide information  
 26 required of the objectors as listed in the Court-approved notice, including: an address, email or  
 27 telephone number associated with her Facebook account, an explanation of why she believes she  
 28 is a class member, and any citation to legal authority. The Court can overrule it on these grounds  
 alone. *In re Yahoo! Inc. Customer Data Security Breach Litig.*, No. 16-md-02752, 2020 WL  
 4212811, at \*14 (N.D. Cal. July 22, 2020) (“The Court need not consider . . . noncompliant  
 objections.”); *Moore v. Verizon Commc ’ns Inc.*, No. 09-cv-1823 SBA, 2013 WL 4610764, at \*12

1 claims to know personally (but does not identify) members of the Class who supposedly did not  
 2 receive individual notice, and asks the Court to require Class Counsel to “disclose its method of  
 3 identifying class members.” (Dkt. 506-1 at 2.) But Class Counsel already has informed the Court  
 4 of how the Class List was constructed—that only Facebook users in Illinois for more than 6  
 5 months with a template are Class members—and the Court found that comported with its earlier  
 6 rulings and with Due Process. (Dkt. 474 at 4-7.) When this was conveyed to Ms. Ross’s counsel,  
 7 he immediately withdrew that objection. Moreover, even if Ms. Ross was correct about her  
 8 withdrawn objection, due process not require that every class member receive the notice.<sup>4</sup>

9 Objectors Frankfother and Flanagan contend that the notice plan here was inadequate, but  
 10 they develop no evidence or argument along those lines. (Dkt. 504 at 7, 10.)<sup>5</sup> In fact, the only  
 11 “evidence” of inadequate notice appears to be what they consider to be a low claims rate. Putting  
 12 aside that these objectors fail to meet their burden to substantiate their objection, the 22% claims  
 13 rate here is anything but low and is squarely within the projected range provided to the Court (as  
 14 required by the Northern District Guidelines) during the preliminary approval process. (Dkt. 445  
 15 at 11-12.) Given the hard evidence that nearly the entire Class received individual notice more  
 16 than once, there is no basis to find that notice failed to satisfy Due Process.

17 \_\_\_\_\_  
 18 (N.D. Cal. Aug. 28, 2013) (overruling objections “for failing to comply with the procedural  
 19 requirements for objecting to the Settlement.”).

20 <sup>4</sup> Objector Ross has also withdrawn her objection to the requirement that a class member’s opt  
 21 out request be personally signed after Class Counsel and Facebook agreed to not contest her  
 22 counsel (husband)’s opting out of 17 other family members on his word that they had agreed.  
 Regardless, a signature is a standard requirement (it prevents opt outs from being filed without  
 the class member’s knowledge), and no other opt outs appeared hindered by the requirement.

23 <sup>5</sup> As described in Plaintiff’s motion to issue discovery, Frankfother and Flanagan are  
 24 represented by John J. Pentz, a well-known serial for-profit objector. *See* dkts. 507 & 514  
 (quoting several judicial opinions describing Pentz’s objection history).

25 Pentz’s co-counsel, Kendrick Jan, has appeared as co-counsel to Pentz before, filing an  
 26 objection in *In re Apple Inc. Device Performance Litigation*, that is practically identical to the  
 27 objection they lodge here. *See* Objection, *In re Apple Inc. Device Performance Litig.*, No. 18-  
 28 md-2827, Dkt. 512 (N.D. Cal. Oct. 5, 2020). Indeed, it appears that Mr. Jan got admitted to  
 practice in this Court on September 30, 2020 precisely so that he could sponsor the *pro hac vice*  
 admission of Mr. Pentz in the *Apple Device* case and in this case. The objection in *Apple Device*  
 was filed for Sarah Feldman, who is related to Pentz, and Hondo Jan.

1 **C. More Than 1.5 Million Class Members Have Submitted Claims.**

2 Given the breadth of the notice plan and the amount of publicity this Settlement has  
 3 received, it should come as no surprise that the Class’s reaction has been overwhelmingly  
 4 favorable. Back in July this Court noted that this Settlement presents an “opportunity to move the  
 5 marker” in terms of class member participation. (7/23/20 Tr. at 31:11-16.) The parties heeded that  
 6 advice and, at the suggestion of a behavioral scientist, subtly altered the claim flow to encourage  
 7 more claims. (Dkt. 476 at 1-2.) These efforts, combined with the robust notice plan, have paid off:  
 8 more than 1.5 million Class members have submitted claims, around 22% of the Class. By  
 9 contrast, only 109 individuals have opted out, representing less than 0.02% of the Class.  
 10 Assuming *arguendo* that Counsel’s fee request is approved in full (Dkt. 499), and based upon  
 11 projections from Gilardi for the cost of administering the Settlement, claiming Class members  
 12 stand to recover around \$342, in line with the projections at preliminary approval. As explained  
 13 further below, this claim rate dwarfs what is typical in any consumer class action.

14 **V. THE SETTLEMENT MERITS FINAL APPROVAL**

15 To approve the settlement of a certified class as fair, reasonable, and adequate, Rule 23(e)  
 16 requires Court to consider “whether (A) the class representatives and class counsel have  
 17 adequately represented the class; (B) the proposal was negotiated at arm’s length; (C) the relief  
 18 provided for the class is adequate, taking into account: (i) the costs, risks, and delay of trial and  
 19 appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including  
 20 the method of processing class-member claims; (iii) the terms of any proposed award of  
 21 attorney’s fees, including timing of payment; and (iv) any agreement required to be identified  
 22 under Rule 23(e)(3); and (D) the proposal treats class members equitably relative to each other.”  
 23 These factors largely encompass those identified by the Ninth Circuit for evaluating a class  
 24 settlement. *See In re Bluetooth Headset Prod. Liab. Litig.*, 654 F.3d 935, 946 (9th Cir. 2011)  
 25 (quoting *Churchill Vill., L.L.C. v. Gen. Elec.*, 361 F.3d 566, 575 (9th Cir. 2004)).<sup>6</sup> Relevant Ninth  
 26

27 <sup>6</sup> The *Churchill* factors are: (1) the strength of the plaintiff’s case; (2) the risk, expense,  
 28 complexity, and likely duration of further litigation; (3) the risk of maintaining class action status



1 Circuit factors are often reviewed alongside those identified by Rule 23. *See, e.g., Walters v.*  
 2 *Target Corp.*, No. 16-cv-1678, 2020 WL 6277436, at \*5 (S.D. Cal. Oct. 26, 2020).

3 The Court has already given the Settlement here a hard look, initially denying preliminary  
 4 approval, based on concerns about the relief afforded to Class members under the agreement, the  
 5 scope of the release, potential overlap with the 2019 FTC Consent Decree, the manner of notice,  
 6 and the dry, legalistic language used in both the notice and claim form. (Dkt. 456.) The Court  
 7 gave the revised Settlement similarly close scrutiny, determining that amendments to the  
 8 Settlement, including greater monetary relief, and revisions to the language of the release and to  
 9 the substance of the notice documents, had sufficiently addressed its concerns. (Dkt. 474 at 1.)  
 10 The Court also heard the testimony and asked questions of a Facebook witness (Gary McCoy) as  
 11 to how the Settlement’s conduct remedy is not redundant with the company’s agreement with the  
 12 government. (*Id.* at 6.) Further developments, specifically the overwhelmingly positive reaction of  
 13 the Class and minimal objections of little substance, confirm the Court’s preliminary findings. *See*  
 14 *Cotter v. Lyft, Inc.*, 193 F. Supp. 3d 1030, 1036-37 (N.D. Cal. 2016) (when district court conducts  
 15 a “rigorous inquiry” at preliminary approval stage and “identif[ies] any flaws” in a settlement and  
 16 “allows the parties to decide how to respond to those flaws,” final approval should focus on  
 17 potential flaws identified by objectors or exposed by “further factual development”); *see also*  
 18 *Uschold v. NSMG Shared Servs. LLC*, No. 18-cv-01039, 2020 WL 3035776, at \*9 (N.D. Cal.  
 19 June 5, 2020) (adhering to preliminary analysis about settlement value because “there is nothing  
 20 in the final approval materials that changes the Court’s analysis on that score”). Class Counsel  
 21 examines the fairness factors identified in Rule 23(e) and by the Ninth Circuit below, mindful that  
 22 objections require a “reasoned response.” *Officers for Justice*, 688 F.2d at 624.

23 **A. Class Counsel and the Class Representatives Have Protected the Class’s**  
 24 **Interests and Support the Settlement.**

25 As the Court has previously found, Class Counsel and the class representatives have  
 26 adequately represented the class throughout the five years they fiercely litigated this case. (Dkt.

27 \_\_\_\_\_  
 28 throughout the trial; (4) the amount offered in settlement; (5) the extent of discovery completed  
 and the stage of the proceedings; (6) the experience and views of counsel; (7) the presence of a  
 governmental participant; and (8) the reaction of the class members of the proposed settlement.

1 474.) This zealous representation has continued during the notice and claims process where Class  
2 Counsel have spoken with hundreds of Class members, watched for and resolved issues with the  
3 email notice, and identified misleading communications being provided that necessitated the  
4 filing of a TRO. (Dkt. 499-1 ¶¶ 133-38.) The Court should confirm that finding.

5 Class Counsel’s support of the Settlement can be considered and also favors approval. *In*  
6 *re Bluetooth*, 654 F.3d at 946. Here, Class Counsel have extensive experience litigating consumer  
7 class actions, including in the privacy space. It is their considered judgment that the Settlement  
8 represents an outstanding result for the Certified Class. (Dkt. 499-1 ¶ 122.) “Given Class  
9 Counsel’s extensive experience in this field, and their assertion that the settlement is fair,  
10 adequate, and reasonable, this factor supports final approval of the Settlement Agreement.”  
11 *Schuchardt v. Law Office of Rory W. Clark*, 314 F.R.D. 673, 685 (N.D. Cal. 2016). It is also  
12 notable that experienced lawyers at Cooley LLP recommend approval of the Settlement.

13 **B. The Settlement was Negotiated at Arm’s Length.**

14 This Court has already found “that the proposed settlement was the product of serious,  
15 informed and noncollusive negotiations” and lacked a clear sailing agreement. (Dkt. 474.) That  
16 conclusion remains correct. The parties mediated three separate times at different stages of the  
17 proceedings, reaching a settlement only after Facebook’s *en banc* petition to the Ninth Circuit had  
18 been denied. (Dkt. 499-1 ¶¶ 109-112.) And during the final attempt at resolution, even after  
19 reaching an agreement in principle, the parties repeatedly had to engage with Ambassador Bleich  
20 to resolve differences that arose between them as to the open terms. (*Id.* at 113-18.) *See Satchell*  
21 *v. Fed. Exp. Corp.*, Nos. 03-cv-2659-SI, 03-cv-2878-SI, 2007 WL 1114010, at \*4 (N.D. Cal. Apr.  
22 13, 2007) (“The assistance of an experienced mediator in the settlement process confirms that the  
23 settlement is non-collusive.”). Nor does the Settlement suffer from any of the warning signs that  
24 the Ninth Circuit has instructed district courts to watch out for. *See In re Bluetooth*, 654 F.3d at  
25 946-47 (identifying “clear sailing” arrangements and reversionary funds may suggest the presence  
26 of collusion or bad faith).

27 **C. The Amount Offered by the Settlement Supports Final Approval.**

28 Next, the relief afforded to Class members by the Settlement here is extraordinary. As

1 explained below, the relief available to Class members under the Settlement go beyond what has  
2 been offered by any comparator settlement. This factor weighs heavily in favor of final approval  
3 of the Settlement, especially in light of the costs and risk of a trial and further appeals.

4 **i. Projected recovery is unprecedented for a privacy settlement.**

5 The monetary relief awarded to claiming Class members remains unprecedented. As  
6 Professor Rubenstein lays out, the size of the Settlement here is the largest privacy settlement on  
7 record, and when compared to the size of the Class, provides substantially more relief than any  
8 privacy settlement. (Dkt. 499-3, Tables 1 & 2.) Indeed, the \$650 million recovery outpaces every  
9 other privacy settlement by at least \$144.5 million. But the runner-up, the settlement in *In re*  
10 *Equifax, Inc. Customer Data Security Breach Litigation*, No. 17-md-2800, 2020 WL 256132  
11 (N.D. Ga.), compensated a class of around 147 million Americans, or about 21 times larger than  
12 the Class here. Other large privacy settlements provide even more lopsided comparisons. As  
13 Professor Rubenstein shows, on a gross per class member basis, the Settlement here is easily  
14 record-breaking. Indeed, of the 20 largest privacy settlements since 2014, “fifteen of these cases  
15 return less than \$15 per member, while this Settlement returns close to \$100.” (Dkt. 499-3 ¶ 18.)

16 Moreover, the awards to claiming Class members further show that the relief provided by  
17 the Settlement is fair. Class members will receive around \$342, an amount that is unheard of in a  
18 class action privacy settlement. Given that Class members stood to recover \$1,000 only if  
19 successful in a trial that was rife with significant risks, this figure represents a modest discount for  
20 the Class, consistent with the potential delay and risks that lay ahead at trial and on appeal.

21 Such a gentle discount is rare in class action privacy settlements where statutory damages  
22 are available. For example, large class actions under the Telephone Consumer Protection Act,  
23 which provides for \$500 in statutory damages, typically settle for less than \$40 per person. *See,*  
24 *e.g., In re Capital One Telephone Consumer Protection Act Litig.*, 80 F. Supp. 3d 781, 787 (N.D.  
25 Ill. 2015) (providing \$34.60 to each claiming class member); *Hashw v. Dept. Stores Nat’l Bank*,  
26 182 F. Supp. 3d 935, 940, 944-45 (D. Minn. Apr. 26, 2016) (providing class members who  
27 received over 100 calls in violation of the TCPA a single \$33.20 payment). Many other statutory  
28 class actions result in similar recoveries. A large privacy case under the Drivers’ Privacy

1 Protection Act provided for a \$50 million cash settlement fund that afforded about 600,000 class  
2 members \$160 of the \$2,500 they might have been entitled to after trial. *Kehoe v. Fidelity Fed.*  
3 *Bank & Tr.*, No. 03-cv-80593, Dkt. 215 at 7 (S.D. Fla. Nov. 17, 2006). And in *In re Vizio, Inc.*,  
4 *Consumer Privacy Litigation*, No. 16-ml-02693-JLS-KES (C.D. Cal.), the plaintiffs alleged that  
5 defendant’s smart TVs collected viewing history and transmitted that data, along with personally  
6 identifiable information, to third parties in violation of the Video Privacy Protection Act, 18  
7 U.S.C. § 2710, which allows for recovery of \$2,500, *id.* § 2710(c)(1)-(2). From the resulting \$17  
8 million settlement, claiming class members received about \$18 per television purchased. *See In re*  
9 *Vizio*, Dkt. 347-1 at 2. These cases are consistent with decision from this district, which has  
10 approved settlements embodying similar discounts across a range of subject matter. *See, e.g.*,  
11 *Uschold*, 2020 WL 3035776, at \*9 (approving a 12% recovery); *see also Officers for Justice*, 688  
12 F.2d at 628 (“It is well-settled law that a cash settlement amounting to only a fraction of the  
13 potential recovery will not per se render the settlement inadequate or unfair.”).

14         The relief available to claiming Class members also dwarfs the relief available to class  
15 members in all privacy class actions of remotely comparable size. For instance, when compared  
16 to *Equifax* on numbers alone, this Settlement provides over 27 times more value per Class  
17 member—\$94.20 in cash compared to \$3.44 of restricted benefits. In order to be comparable in  
18 terms of dollars available per class member, the *Equifax* settlement would have had to have  
19 created \$13 billion all-cash, non-reversionary fund. The same is true for other large privacy  
20 settlements. *See, e.g., In re Anthem, Inc. Data Breach Litig.*, 327 F.R.D. 299, 324 (N.D. Cal.  
21 2018) (explaining that only \$13 million of the \$115 million fund was available for cash payments,  
22 with the rest being reserved to purchase credit monitoring services); *In re Yahoo! Inc.*, 2020 WL  
23 4212811, at \*22 (cash relief made available to class members with existing credit monitoring,  
24 out-of-pocket losses, and who paid for premium services).

25         The individual class member recovery here also far outstrips other consumer BIPA  
26 settlements. In *Prelipceanu v. Jumio Corp.*, No. 2018 CH 15883 (Ill. Cir. Ct., Cook Cnty.), the  
27 final check amount was \$262. In another consumer BIPA action, *Sekura v. L.A. Tan Enterprises,*  
28 *Inc.*, No. 15 CH 16694 (Ill. Cir. Ct., Cook Cnty.), class members received around \$170. And in a  
NOTICE OF MOTION AND MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS’ MOTION  
FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT - 3:15-cv-03747-JD

1 third consumer BIPA settlement, *Carroll v. Crème de la Crème*, No. 17 CH 1624 (Ill. Cir. Ct.  
2 Cook Cnty.), class members received only credit monitoring.<sup>7</sup>

3 The substantial monetary relief also is remarkable in light of the fact that many privacy  
4 class actions settle for mere *cy pres* relief, or other non-monetary relief, like the settlement in  
5 *Crème de la Crème*, which provided only credit monitoring for class members. In fact, Judge  
6 Alsop of this district recently preliminarily approved a class-action settlement in *Adkins v.*  
7 *Facebook, Inc.*, a case arising from a hack of Facebook, that included only injunctive relief. *See*  
8 Order Granting Preliminary Settlement Approval, *Adkins*, No. 18-cv-05982 WHA, Dkt. 314.  
9 Indeed, class-action settlements providing no monetary benefit to the settlement class are fairly  
10 common in cases against Facebook, and other so-called “tech giants.” *See, e.g., Lane v.*  
11 *Facebook, Inc.*, 696 F.3d 811, 820–22 (9th Cir. 2012); *In re Google LLC Street View*, 2020 WL  
12 1288377, at \*11-14 (approving *cy pres* only settlement despite availability of statutory damages).

13 In other words, the per class member recovery here in a case of this size is peerless.  
14 Whether viewed through the lens of BIPA specifically, of other massive privacy settlements, of  
15 other settlements where statutory damages were available, or of settlements against large  
16 technology companies, class member recovery here is extraordinary. This is particularly so in  
17 light of the very real risk of nonpayment presented by the impending trial, as the Court has  
18 outlined in previous orders. (Dkt. 474 at 5; Dkt. 404 at 3.)

19 **ii. The conduct remedy here provides “meaningful” relief.**

20 First, as the Court previously found, the conduct remedy agreed to by the parties provides  
21 “meaningful” relief to Class members. (Dkt. 474 at 6.) This remains true. The Settlement requires  
22 Facebook to turn off Face Recognition and then delete the biometric data it collected about Class  
23 members unless they provide informed consent to turn it back on and for Facebook to continue to  
24 retain that data. No BIPA settlement offers any more significant non-monetary relief. And

25 \_\_\_\_\_  
26 <sup>7</sup> As previously noted, several BIPA lawsuits by employees against their employer have settled  
27 for more than \$1,000 per class member. (Dkt. 445 at 17 n.8.) Professor Rubenstein finds these  
28 settlements are a poor comparison because they involve small classes (settlements are typically  
for the cost of defense) and involve legal issues not present here. (*See* Dkt. 499-3 ¶ 19(b).)

1 consumer settlements frequently offer less relief. In the settlement of the *Preliceanu* action  
2 referenced above, which received final approval after Plaintiffs had submitted their preliminary  
3 approval papers, the defendant agreed only to “obtain through commercially reasonable methods  
4 BIPA-compliant consent,” along with pledges to follow the law. It’s unclear what “commercially  
5 reasonable” means and the no pledge to turn off or delete data unless consent is obtained. By  
6 contrast, here, Facebook will turn Face Recognition off and obtain consent with clear language  
7 and delete data if a Class member does not consent or is inactive for several years.

8           One objector, Kevin C. Williams, appears to take issue with the conduct relief here,  
9 arguing generally that Facebook users should demand “more privacy [and] more protection . . .  
10 based on the wrongs perpetrated on Facebook on its users.” (Dkt. 497 at 2.) But this suit, under a  
11 single state’s law regarding a specific type of privacy violation, is not the vehicle to make  
12 sweeping changes to Facebook’s governance model or change what the Illinois General Assembly  
13 requires of those who collect biometrics. Given the context of this lawsuit, the non-monetary  
14 relief provided by the Settlement is outstanding.

15                   **iii. The risks in further litigation demonstrate the adequacy of the relief.**

16           As the Court has observed, the Settlement was reached on the eve of trial. (Dkt. 474 at 2.)  
17 In fact, trial preparations had begun in earnest in 2018. Class Counsel spent a week with Rodney  
18 Jew, an experienced trial consultant formulating a trial strategy, and the parties had exchanged  
19 proposed motions *in limine*. (See Dkt. 499-1 ¶¶ 83-86.) Those preparations were temporarily put  
20 on hold by Facebook’s interlocutory appeal of this Court’s class certification order. While that  
21 appeal ultimately put to rest one of Facebook’s principal contentions, i.e., that class members  
22 lacked standing to sue (*see Patel v. Facebook, Inc.*, 932 F.3d 1264, 1275 (9th Cir. 2019)),  
23 numerous critical factual disputes remained for trial. For instance, the Ninth Circuit’s order left  
24 the door open for Facebook to pursue arguments about extraterritoriality, and basic liability  
25 disputes “about whether Facebook’s facial recognition technology collects a ‘scan of face  
26 geometry’ as required under BIPA, and whether Facebook had a good-faith reason for acting as it  
27 did with respect to Illinois users” remained for the jury to resolve. (Dkt. 474 at 5; *see id.* at 4-5  
28 (noting that these “specific disputes of fact . . . the jury’s resolution of which was uncertain . . .

1 could have had far-reaching impacts on Facebook’s liability”).) There have been no developments  
2 (such as new binding precedent from Illinois courts) which could upset the Court’s earlier  
3 findings in this regard. Further, in addition to the uncertainty of a trial, even if Plaintiffs prevailed  
4 before the jury, a second lengthy and complex appeal was in the offing, challenging not just the  
5 Court’s trial orders, but also certain earlier decisions, such as the Court’s resolution of Facebook’s  
6 choice-of-law argument, and Facebook’s invocation of the “photograph” exception, as well as a  
7 constitutional challenge to the size of any ultimate verdict. (See Dkt. 445-1 ¶ 8.) A lengthy appeal  
8 (and possible remand) also would have left open the door for perhaps the greatest risk to recovery  
9 that the Class was facing: an amendment to the BIPA which might have gutted the Class’s claims.

10 All of this provides ample reason to settle now rather than risk trial and subsequent appeal  
11 at a chance for a larger payout, particularly given that the larger payout is by no means guaranteed  
12 even if the Class prevails on the merits, as any verdict could be reduced on account of Due  
13 Process. *See, e.g., Uschold*, 2020 WL 3035776, at \*9 (“The challenges Plaintiffs would face  
14 should this case move forward instead of settling, in contrast to the finality and speed of recovery  
15 under the parties’ agreement, weighs in favor of approving the settlement.”). Particularly given  
16 the relief provided by the Settlement, the strength of the Plaintiffs case, balanced against the risks  
17 inherent at trial, and presented by lengthy and complex appeals here, supports final approval of  
18 the Settlement. *See Delgado v. MarketSource, Inc.*, No. 17-cv-07370, 2019 WL 4059850, at \*5  
19 (N.D. Cal. Aug. 28, 2019) (finding that “both sides had a well-developed sense of the risks and  
20 benefits of continued litigation” which “weighs in favor of approval”).

21 **iv. The objections to the adequacy of relief are meritless.**

22 Despite the facial reasonableness of the relief and the Court’s determination at preliminary  
23 approval that the \$650 million fund was an “impressive result,” all three objections raise concerns  
24 with the size of the Settlement Fund. These objections should be overruled. As the Ninth Circuit  
25 observed in *Hanlon*, “settlement is the offspring of compromise; the question . . . is not whether  
26 the final product could be prettier, smarter or snazzier, but whether it is fair, adequate and free  
27 from collusion.” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir. 1998); *see also Fraley*  
28 *v. Facebook, Inc.*, 966 F. Supp. 2d 939, 948 (N.D. Cal. 2013) (finding that objections seeking

1 more relief did not show that settlement was unfair or inadequate). In arguing that the Settlement  
2 relief is inadequate, the objectors “bear the burden of proving any assertions they raise  
3 challenging the reasonableness of a class action settlement.” *In re LinkedIn User Privacy Litig.*,  
4 309 F.R.D. 573, 592 (N.D. Cal. 2015). The objectors fail to meet this burden.

5 Objector Williams claims that the Settlement is too small because Facebook could afford  
6 to pay more. (Dkt. 497 at 2.) But this undeveloped argument ignores the substantial nature of the  
7 relief actually secured.<sup>8</sup> This Settlement is record-breaking when it comes to monetary relief  
8 made available in a consumer settlement. Williams’s unsubstantiated assertion “is insufficient to  
9 rebut the Parties’ evidence and argument that the settlement was negotiated at arms’ length  
10 between experienced counsel and a respected mediator who actually evaluated the case.” *Nunez v.*  
11 *BAE Sys. San Diego Ship Repair Inc.*, 292 F. Supp. 3d 1018, 1042 (S.D. Cal. 2017).

12 Objector Ross appears to believe that the case should have settled for no less than \$5,000  
13 per class member, or, in other words, full relief after a finding of willfulness. (Dkt. 506-1 at 1-2.)  
14 Ross argues that Facebook acted willfully by “caus[ing] class members’ private activities and  
15 whereabouts to become known to violent ex-husbands, to stalkers, as well as to jealous and  
16 spiteful in-laws and acquaintances.” (*Id.* at 1.) Such wild accusations, signed by counsel, have  
17 nothing do with the facial recognition claims under BIPA at issue here. Beyond these claims  
18 Ross’s contention that the parties should have settled for more just won’t do. *See Hanlon*, 150  
19 F.3d at 1027; *Nunez*, 292 F. Supp. 3d at 1042

20 Objectors Frankfother and Flanagan spill the most ink on their opposition to the amount  
21 offered in Settlement, ultimately arguing that the case should have settled for no less than \$5  
22 billion. Indeed, their central point—that the Settlement Fund is not big enough—was central to  
23 the Court’s earlier refusal to grant preliminary approval to the Settlement. (Dkt. 456 at 1.) In light  
24 of those and other concerns the parties returned to the negotiating table, and produced a revised  
25

---

26  
27 <sup>8</sup> Williams also may have an ulterior motive for objecting: As a result of a conviction for money  
28 laundering, he owes restitution of nearly \$1.9 million including the proceeds of any judgment. *See*  
*Judgment, United States v. Williams*, No. 4:13-cr-40019-JPG, Dkt. 40 (S.D. Ill. Nov. 15, 2013).



1 Settlement that increased the Settlement Fund to \$650 million. (Stipulation ¶ 1.30) The Court  
2 found that this addition “substantially allay[ed]” its concerns and was “an impressive result.”  
3 (Dkt. 474 at 5.) The gist of Frankfother and Flanagan’s objection is that the Court was wrong, and  
4 that only a \$5 billion settlement would have been sufficient. But the relief available to claiming  
5 Class members here is extraordinary, and the size of the Settlement Fund fairly reflects the type of  
6 compromises that are the very essence of settlement. *See In re Yahoo! Inc.*, 2020 WL 4212811, at  
7 \*14 (rejecting objections to the amount of monetary relief available for “fail[ing] to adequately  
8 take into account the risks and delays” that would face the class).

9 In disagreeing with the Court’s earlier findings, Frankfother and Flanagan proceed from  
10 two false or misleading premises. First, they say that the class is 10 million individuals. (Dkt. 504  
11 at 6-7.) That is incorrect, it’s about 7 million as has been repeatedly explained. (*See, e.g.*, Dkt. 255  
12 at 6.) Second, they assert that “all significant legal questions had been resolved in favor of the  
13 Plaintiffs.” (Dkt. 504 at 8.) This is, at best, highly misleading. As this Court has found, significant  
14 factual questions remained open for the jury to resolve. (Dkt. 474 at 5.) The objectors attempt to  
15 downplay these very real trial risks by arguing that Facebook’s argument about the type of data it  
16 collects is “frivolous.” (Dkt. 504 at 6 n.4.) That statement lacks any basis in the record. In fact, on  
17 this issue specifically the parties had marshaled competing expert testimony which this Court  
18 concluded created a genuine issue of fact for trial. (Dkt. 372 at 2-6 (noting the parties “unleash  
19 volleys of competing evidence.”) Facebook’s position was well-supported by evidence and  
20 certainly was not “frivolous.” Indeed, the objectors’ support for the idea that this position is  
21 frivolous is the FTC’s recent settlement with Facebook, but this merely confirms that they have  
22 no idea what they are talking about. (See Dkt. 504 at 6 n.4 (“Facebook would never have agreed  
23 to pay \$5 billion through an FTC consent decree if there were any question about its use of facial  
24 geometry in its collection of biometric data.”).) The FTC settlement had almost nothing to do with  
25 Facebook’s face scanning practices (it was focused on privacy failures highlighted by the  
26 Cambridge Analytica scandal), and even the small slice concerning Tag Suggestions had nothing  
27 to do with whether Facebook was complying with BIPA.

1 Frankfother and Flanagan also contend that “Facebook’s voluntary \$5 billion payment in  
2 the FTC action would appear to undermine any argument that a \$10 billion verdict for violation of  
3 BIPA constitutes a violation of due process.” (*id.* at 8.) Again, the FTC settlement was concerned  
4 with a far broader range of conduct, including failure to abide by an earlier settlement with the  
5 FTC. In any event, the argument is legally mistaken. Frankfother and Flanagan appear to believe  
6 that Facebook’s ability to pay is either the sole or principal basis for a reduction of an award  
7 under Due Process. But that is wrong. *See United States v. Dish Network LLC*, 954 F.3d 970, 980  
8 (7th Cir. 2020) (“Normally the legal system bases civil damages and penalties on harm done, not  
9 on the depth of the wrongdoer’s pocket.”). The Due Process Clause asks whether the verdict is  
10 “so severe and oppressive as to be wholly disproportioned *to the offense* or obviously  
11 unreasonable.” *St. Louis, Iron Mountain, & S. R. Co. v. Williams*, 251 U.S. 63, 67 (1919)  
12 (emphasis added). The FTC settlement is therefore not a reasonable guidepost here, because it  
13 says little about the types of harms alleged. Moreover, the FTC settlement was national in scope,  
14 as opposed to the single-state class here. If the instant Settlement were national, to make the  
15 comparison with the FTC settlement more straightforward, it would amount to over \$17 billion.  
16 In other words, if the FTC settlement shows anything, it shows that the relief here is outstanding.

17 Based on these misunderstandings, the objectors argue that any settlement here should  
18 have been at least \$5 billion. But aside from the misunderstandings already laid out above, “the  
19 very essence of a settlement is compromise, a yielding of absolutes and an abandoning of highest  
20 hopes.” *Officers for Justice*, 688 F.2d at 624 (quotations omitted). This Court has already found  
21 that the Class faced significant risks at trial which could have left them with nothing. (Dkt. 474 at  
22 5.) Class Counsel appropriately took those risks into account when deciding to settle, and to settle  
23 for less than full relief. Frankfother and Flanagan omit *any* discussion of the many other  
24 landmines that lay ahead for the Class. As discussed in detail at preliminary approval papers, even  
25 plaintiffs prevailed at trial, a second appeal loomed, at which Facebook would have the  
26 opportunity to contest certain of the Court’s earlier rulings including its contentions about  
27 extraterritoriality. (See Dkt. 445 at 20-21, 23; Dkt. 465 at 3-16.) There also existed the possibility  
28 that Facebook might successfully petition the Supreme Court for certiorari, further delaying

1 payment to the Class. *See Fid. Bank & Trust Co. v. Kehoe*, 547 U.S. 1051 (2006) (Scalia, J.,  
2 concurring in the denial of certiorari) (“This enormous potential liability . . . is a strong factor in  
3 deciding whether to grant certiorari.”). Class Counsel was entitled to account for these risks and  
4 the potential for delay in determining what constitutes a reasonable settlement for the Class.

5 Even then, beyond the demand for a \$5 billion settlement fund, it is hard to see exactly  
6 what the objectors’ issue with the Settlement is. The objectors acknowledge that a 50% discount  
7 would be appropriate. (Dkt. 504 at 7.) As it happens, claiming Class members stand to recover  
8 around \$342, which amounts to nearly half the relief the objectors demand. When one adjusts for  
9 the objectors’ misunderstandings, and accounts for the risks they ignore, the relief available to  
10 claiming Class members is right in line with what the objectors ask for.

11 **D. The High Claims Show the Effective Distribution of Funds to the Class.**

12 Rule 23(e)(2) directs the Court to consider whether the relief is adequate in light of “the  
13 effectiveness of [the] proposed method of distributing relief to the class.” The Committee Notes  
14 explain that this factor concerns the claims process, which should not be “unduly demanding” but  
15 which should “deter or defeat unjustified claims.” The high claims rate in this action is clear  
16 evidence that the claims process was easily navigated. Indeed, the on-line claim process was  
17 exceptionally simple to use, allowing most Class members to submit claims in less than two  
18 minutes and without the need to hunt down any extraneous information—the only information  
19 that most Class members needed was their contact information, the email or phone number they  
20 used to sign up with Facebook, and how they wanted to receive their payment. Individuals not on  
21 the Class List also were permitted to submit claims so long as they provided their address in  
22 Illinois during the class period and a statement that they uploaded a picture of their face. All told,  
23 only about 164,000 individuals of the over 1.5 million claimants took this latter route. Of those,  
24 only around 15,000 claims did not provide sufficient information.

25 As for distribution, the claim form asked Class members how they would like to be paid  
26 from the Settlement Fund. Class members could choose from several online options, or to receive  
27 a paper check. These options were selected to maximize convenience to Class members. Again,  
28 there have been no objections to this manner of distributing relief, which is substantially effective.

1 Finally, the overwhelmingly positive reaction of the Class favors final approval.  
2 Approximately 22% of the Class has submitted claims. This is an enormous number, particularly  
3 in light of the size of the Class, and persuasive evidence that the Class believes the Settlement  
4 provides valuable relief. *See Bailey v. Kinder Morgan GP*, No. 18-cv-03424, 2020 WL 5748721,  
5 at \*6 (N.D. Cal. Sept. 25, 2020) (“The absence of a large number of objections to a proposed class  
6 action settlement raises a strong presumption that the terms of a proposed class settlement action  
7 are favorable to the class members.”) (quotations omitted). As Professor Rubenstein explains, the  
8 typical claims rate for a class of this size is around 5%. The claims rate here is *at least* four times  
9 higher, and sixteen times the average claims rate for a class of this size. (2d Rubenstein Decl. ¶ 5.)  
10 The claims rate here also outperforms historical norms even when considering the amount of  
11 relief offered by the Settlement. As Professor Rubenstein explains, the claims rate here is about  
12 two to two-and-a-half times the historical claims rates for settlements offering this much relief per  
13 class member. (*Id.* ¶ 6.)

14 The claims rate here also compares favorably to rates in similar cases. For instance, the  
15 claims rate here outpaces other consumer BIPA settlements. The claims rate in *Jumio* is not  
16 known, but it is believed to be around 8%. The claims rate in *Sekura* was around 12%. When  
17 taking into account that the Class here was much larger than in those actions, it is clear that the  
18 claims rate here is truly a cut above. *See In re Nexus 6P Prods. Liab. Litig.*, No. 17-cv-02185,  
19 2019 WL 6622842, at \*7 (N.D. Cal. Nov. 12, 2019) (deeming an 18% claims rate “substantial”).

20 And again, extending this comparison to other privacy cases involving large classes or the  
21 potential for large statutory damage awards only confirms that class member participation weighs  
22 overwhelmingly in favor of settlement approval. For instance, in *In re Equifax*, which received  
23 publicity from several national news outlets and prominent national political figures, the claims  
24 rate was just slightly over 10%. *See* 2020 WL 256132, at \*4. Other large data breach settlements  
25 featured even less class member participation. *See In re Target*, No. 14-cv-2522, 2017 WL  
26 2178306, at \*1-2 (D. Minn.) (225,000 claims in class of over 100 million); *In re Anthem*, 327  
27 F.R.D. at 321 (1.8% claims rate). Statutory damages cases are similar. For instance, in the *Vizio*  
28 action, the claims rate was around 4%. *See In re Vizio*, No. No. 16-ml-02693, Dkt. 337 at 9. And

1 in cases under Michigan’s Preservation of Personal Privacy Act, where a potential \$5,000  
 2 statutory damages award was settled on a classwide basis, claims rates tended to range from 11%  
 3 in *Coulter-Owens v. Rodale*, No. 14-cv-12688-RHC-RSW (E.D. Mich.), to 16% in *Raden v.*  
 4 *Martha Stewart Living Omnimedia, Inc.*, No. 16-cv-12808 (E.D. Mich.).

5 Not only is the claims rate here high, but only 109 Class members opted out (0.02% of  
 6 the Class) and there are just three objections to the Settlement. Courts in this district have found  
 7 that a class’s reaction to a settlement was positive despite much higher opt-out and objection  
 8 rates. *See, e.g., Corzine v. Whirlpool Corp.*, No. 15-cv-05764, 2019 WL 7372275, at \*6 (N.D.  
 9 Cal. Dec. 31, 2019) (finding that 18 objections and 199 opt outs from a class of around 1 million  
 10 reflected the class’s “favorable view” of the settlement); *In re Nexus 6P*, 2019 WL 6622842, at  
 11 \*10 (31 opt outs in class of 511,000 “confirms that the settlement is fair and reasonable”);  
 12 *Sugarman v. Ducati N. Am., Inc.*, No. 10-cv-05246, 2012 WL 113361, at \*3 (N.D. Cal. Jan. 12,  
 13 2012) (finding a “positive response” from the class when the court received 28 objections and 42  
 14 opt outs from a class of less than 39,000); *see also Rodriguez v. West Publ’g Corp.*, 563 F.3d 948,  
 15 967 (9th Cir. 2009) (concluding that the district court “had discretion to find a favorable reaction”  
 16 when 54 of 376,301 class members objected to settlement); *Churchill Village*, 361 F.3d at 577  
 17 (affirming approval of class-action settlement where 45 of 90,000 class members objected). That  
 18 only three meritless objections have been filed speaks volumes to the Settlement’s fairness.

19 **VI. OBJECTIONS TO THE PROPOSED SERVICE AWARDS ARE MERITLESS**

20 Objectors Frankfother and Flanagan argue that the proposed \$7,500 service awards to the  
 21 named plaintiffs are either not allowed as a matter of equity, or so high that they demonstrate  
 22 inadequate representation of the Class. (Dkt. 504 at 13-15.) On this point, Objector Williams  
 23 appears to believe that the Class Representatives should actually receive *more* for their service to  
 24 the Class. (Dkt. 497 at 2.) In any event, Frankfother and Flanagan’s argument goes nowhere.

25 **A. Service Awards are Permitted in Class Actions.**

26 First, relying on a recent Eleventh Circuit opinion, *Johnson v. NPAS Solutions, LLC*, 975  
 27 F.3d 1244 (11th Cir. 2020), Objectors contend that all incentive awards are barred under equitable  
 28 principles. (Dkt. 504 at 13-14.) As they acknowledge, however, there is ample Ninth Circuit

1 authority upholding service awards. *See Rodriguez*, 563 F.3d at 958 (noting that “incentive  
2 awards are fairly typical in class action cases” and “are discretionary”). Regardless of what the  
3 Eleventh Circuit has held, this Ninth Circuit precedent is binding here. Moreover, the Second  
4 Circuit has rejected precisely the same arguments that were accepted in *Johnson*. *See Melito v.*  
5 *Experian Mktg. Sols., Inc.*, 923 F.3d 85, 96 (2d Cir. 2019).

6 In any event, *Johnson* is unpersuasive. *Johnson* relied principally on *Trustees v.*  
7 *Greenough*, a nineteenth-century Supreme Court decision concluding that a representative  
8 plaintiff could not recover an award for “personal services and private expenses” incurred while  
9 litigating on behalf of a class of bondholders. 105 U.S. 527, 537 (1881). *Johnson* concludes that  
10 service awards are akin to the award for “personal services and private expenses” decreed in  
11 *Greenough*. 975 F.3d at 1258-59. But *Johnson*’s analogy to *Greenough* is strained. The plaintiff  
12 in *Greenough*, Vose, sought an award of “\$2,500 a year for ten years of personal services” plus  
13 interest of \$9,625, as well as another \$15,003.35 for “railroad fares and hotel bills.” 105 U.S. at  
14 530. Adjusted to 2020 dollars, Vose asked for a salary of around \$66,000/year for litigating the  
15 case, as well as expenses of around \$400,000, amounting to a total award of around \$1.3 million.  
16 This preposterous request simply cannot be analogized in good faith to service awards of just a  
17 few thousand dollars. The representatives here do not seek a salary, or for reimbursement of  
18 hundreds of thousands of dollars of expenses. Instead, they seek an award for reasons the Ninth  
19 Circuit has recognized as legitimate: “for work done on behalf of the class, to make up for  
20 financial or reputational risk undertaken in bringing the action, and . . . to recognize their  
21 willingness to act as a private attorney general.” *Rodriguez*, 563 F.3d at 958-59.

22 Moreover, Congress or the Rules Committee have recognized the legitimacy of service  
23 awards. For instance, Congress has specifically outlawed them in federal private securities  
24 litigation. *See* 15 U.S.C. § 78u-4(a)(2)(A)(vi). It would make no sense for Congress to have taken  
25 this step if it thought that incentive awards were impermissible as a general matter.

26 And recent amendments to Rule 23 also cover the awarding of service awards. Rule  
27 23(e)(2)(D) now requires district courts to ensure that a class action settlement “treats class  
28 members equitably relative to each other.” This provision easily covers service awards. Such

1 awards are made by virtue of a settlement, so a court would need to ensure that this proposed  
 2 additional allocation of funds to a class representative is sufficiently justified that the settlement  
 3 “treats class members equitably relative to each other.” Indeed, the crux of Frankfother and  
 4 Flanagan’s argument with respect to the size of the award is that it is inequitable.

5 **B. The Proposed Service Awards are Appropriate.**

6 With respect to the size of the award, Frankfother and Flanagan’s arguments again fail.  
 7 They suggest that the size of the award divorces the interests of the representatives from those of  
 8 the Class. (Dkt. 504 at 14.) The argument is not well developed, but Frankfother and Flanagan  
 9 claim that the Class Representatives sold out the Class to obtain a modest service award.

10 There is no evidence or authority to support this argument. As to the law, the Ninth Circuit  
 11 rejected a nearly identical argument in *In re Online DVD-Rental*, holding that because the awards  
 12 were left to the discretion of the district court they did not “create an impermissible conflict  
 13 between class members and their representatives.” 779 F.3d at 943. As to the facts, the record is  
 14 clear that the Class Representatives have selflessly served the Class at every turn, and were  
 15 preparing to offer trial testimony before the interlocutory appeal, and then again before the case  
 16 settled. (Dkts. 499-7, 499-8, 499-9.) The behavior is inconsistent with the idea that they sold out  
 17 the Class for a few thousand dollars. Moreover, Objectors’ argument makes no sense: the  
 18 proposed \$7,500 service award is on the low side. *See* 5 William B. Rubenstein, NEWBERG ON  
 19 CLASS ACTIONS § 17:8 (5th ed., June 2020 update). The Class Representatives easily could have  
 20 obtained the same award by settling earlier in the case or for a smaller amount.

21 **VII. OBJECTIONS TO THE FEE REQUEST SHOULD BE OVERRULED**

22 Two objections argue that Class Counsel’s fee request of 20% of the initial \$550 million  
 23 settlement, or 16.9% of the final Settlement, is excessive. These objections should be overruled.

24 Objectors Frankfother and Flanagan contend that because this is a so-called “megafund”  
 25 case, Counsel’s fee should be “substantially less” than the Ninth Circuit’s 25% benchmark. (Dkt.  
 26 504 at 9.) Of course, Counsel’s fee request *is* substantially less than the Circuit benchmark. *Cf.*  
 27 *Hefler*, 2018 WL 6619983, at \*13 (finding an award of 20% of a \$480 million fund to be  
 28 reasonable). As *Hefler* noted, the “median” award “in cases with large settlements over \$100

1 million,” is 19% to 22.3%. *Id.* Class Counsel’s fee request is right in line with these awards.

2 In any event, Frankfother’s and Flanagan’s argument ignores critical Ninth Circuit case  
3 law as well as virtually all of the authority and experts reports in Plaintiff’s petition for fees. First,  
4 the Ninth Circuit has acknowledged the 25% figure as a benchmark in a megafund case. *See*  
5 *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1048 (9th Cir. 2002). *Vizcaino* itself makes clear that  
6 the Ninth Circuit has “*not* adopt[ed]” a categorical rule that the percentage of an award must  
7 “decrease[] as the amount of the fund increases.” *Id.* at 1047 (emphasis added). Instead, the  
8 question in any case, megafund or no, is whether the proposed award “is proper and fair in light  
9 of the amount and quality of the work done by the attorneys.” *In re TFT-LCD (Flat Panel)*  
10 *Antitrust Litig.*, No. 07-cv-1827, 2013 WL 1365900, at \*8 (N.D. Cal. Apr. 3, 2013) (awarding  
11 28.6% of \$1.08 billion fund and rejecting objectors’ argument to “reduce the award or use a  
12 sliding scale model . . . to avoid a windfall for the attorneys”).

13 Frankfother and Flanagan argue that *In re Washington Public Power Supply System*  
14 *Securities Litigation*, 19 F.3d 1291 (9th Cir. 1994), controls here. But the lesson of *WPPSS* is  
15 simply that a district court must consider “all the circumstances of the case” when settling on a  
16 reasonable fee. *Id.* at 1297-98. That’s consistent with other Ninth Circuit precedent establishing  
17 that “mechanical” application of any fee calculation method may be an abuse of discretion. *In re*  
18 *Online DVD-Rental*, 779 F.3d at 949. Class Counsel does not ask for a mechanical fee  
19 calculation, but a specific fee based on the circumstances of this case. (Dkt. 499.) Beyond that  
20 basic teaching, *WPPSS* does not set forth a rule specific to so-called megafunds.

21 Next, Frankfother’s and Flanagan argue that the fee award should be based on a lodestar,  
22 rather than a percentage-of-the-fund analysis. (Dkt. 504 at 11-13.) Class Counsel’s fee petition  
23 and accompanying declaration of Professor Fitzpatrick discuss in depth why the percentage-of-  
24 the-fund method should prevail here. Frankfother and Flanagan do raise one point worth  
25 discussing, however: Objectors contend that a lodestar analysis is preferable because it would  
26 have been required had the case gone to trial, so to use a percentage analysis here gives Class  
27 Counsel a windfall. (Dkt 504 at 11-12.) But Frankfother’s and Flanagan’s legal premise is  
28 incorrect. It is true that BIPA contains a fee-shifting provision. But a fee shifting provision does



1 not limit a court's equitable power to award fees from a common fund. *See Staton v. Boeing Co.*,  
2 327 F.3d 938, 968 (9th Cir. 2003). As the Supreme Court has held, fee shifting statutes do not  
3 "interfer[e] with the historic power of equity to permit the trustee of a fund or property, or a party  
4 preserving or recovering a fund for the benefit of others in addition to himself, to recover his  
5 costs, including his attorneys' fees, from the fund or property itself or directly from the other  
6 parties enjoying the benefit." *Alyeska Pipeline Serv. Co. v. Wilderness Soc'y*, 421 U.S. 240, 257  
7 (1975). And, under Illinois law, the existence of a statutory fee-shifting provision is not intended  
8 to curtail a court's ability to compensate counsel or to foreclose consideration of a percentage-  
9 based contingent fee. *See Young v. Alden Gardens of Waterford, LLC*, 2015 IL App (1st) 131887,  
10 ¶ 100; *Berlak v. Villa Scalabrini Home for the Aged, Inc.*, 284 Ill. App. 3d 231, 241 (1996). Thus,  
11 it is simply not true that this was necessarily a "fee shifting" case before it settled.

12 Frankfother and Flanagan raise some other arguments, questioning the inclusion some of  
13 the hours in Class Counsel's lodestar calculation and the total multiplier. These assertions can be  
14 dealt with quickly as they wholly ignore the evidence submitted in support of the fee award. As to  
15 the multiplier, as Professor Rubenstein opined, Class Counsel worked extremely efficiently to  
16 achieve the result here, and the success achieved amply supports the requested multiplier of 5.31.  
17 (*See* Dkt. 499-3 ¶¶ 25-54.) Frankfother's and Flanagan's argument that the Court should exclude  
18 all hours related to Class Counsel's legislative efforts to protect BIPA from being gutted by  
19 amendment ignores the realities of modern litigation. (*See* Dkt. 499 at 15.) Defending a novel  
20 large statutory class action today includes a budget for legislative efforts to change the law and  
21 escape liability; Class Counsel must meet those actions which as part of their obligations in  
22 litigating such a case. Frankfother and Flanagan also claim that any lodestar calculation should  
23 exclude all hours attributable to Class Counsel's paralegals and other litigation support team  
24 members (or at a minimum it is their hourly wages that should be charged). But the inclusion of  
25 time from those involved in such necessary parts of litigation is routine and the rates charged are  
26 in-line with what comparable defense firms charge their clients.

## 27 **IX. CONCLUSION**

28 The Court should grant final approval to the Settlement and overrule the objections.

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

DATED: December 14, 2020

Respectfully submitted,

/s/ Jay Edelson

EDELSON PC  
JAY EDELSON\*  
BENJAMIN RICHMAN\*  
ALEXANDER G. TIEVSKY\*  
350 North LaSalle Street, 14th Floor  
Chicago, IL 60654  
Telephone: 312/589-6370  
312/589-6378 (fax)

EDELSON PC  
RAFEY BALABANIAN  
J. AARON LAWSON  
LILY HOUGH  
123 Townsend Street, Suite 100  
San Francisco, CA 94107  
Telephone: 415/212-9300  
415/373-9435 (fax)

ROBBINS GELLER RUDMAN  
& DOWD LLP  
PAUL J. GELLER  
STUART A. DAVIDSON  
CHRISTOPHER C. GOLD  
120 East Palmetto Park Road, Suite 500  
Boca Raton, FL 33432  
Telephone: 561/750-3000  
561/750-3364 (fax)

ROBBINS GELLER RUDMAN  
& DOWD LLP  
PATRICK J. COUGHLIN  
ELLEN GUSIKOFF STEWART  
LUCAS F. OLTS  
RANDI D. BANDMAN  
655 West Broadway, Suite 1900  
San Diego, CA 92101  
Telephone: 619/231-1058  
619/231-7423 (fax)

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

ROBBINS GELLER RUDMAN  
& DOWD LLP  
SHAWN A. WILLIAMS  
JOHN H. GEORGE  
Post Montgomery Center  
One Montgomery Street, Suite 1800  
San Francisco, CA 94104  
Telephone: 415/288-4545  
415/288-4534 (fax)

LABATON SUCHAROW LLP  
MICHAEL P. CANTY\*  
CORBAN S. RHODES\*  
140 Broadway  
New York, NY 10005  
Telephone: 212/907-0700  
212/818-0477 (fax)

*Attorneys for Plaintiffs*

*\* appearance pro hac vice*

**CERTIFICATE OF SERVICE**

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

I hereby certify that on December 14, 2020, I served the above and foregoing Notice of Amended Motion and Memorandum of Law in Support of Plaintiffs’ Motion for Final Approval of a Class Action Settlement by causing true and accurate copies of such paper to be filed with the Court’s CM/ECF system, which will send e-mail notification of such filing to counsel for all parties. Although they are not parties, I have also caused a copy of the foregoing to be emailed to Objectors Kara Ross (through her counsel) and Kevin C. Williams, at the email addresses they provided on their objections.

s/ Jay Edelson

# EXHIBIT A

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

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN RE FACEBOOK BIOMETRIC  
INFORMATION PRIVACY LITIGATION

Case No. 15-cv-03747-JD

CLASS ACTION

**DECLARATION OF LANA LUCCHESI  
RE: NOTICE PROCEDURES AND CAFA  
MAILING**

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

I, Lana Lucchesi, declare and state as follows:

1. I am a Director with Gilardi & Co. LLC and KCC Class Action Services, LLC (collectively “Gilardi”), located in San Rafael, California. Pursuant to the Order Granting Preliminary Approval of Class Action Settlement (the “Preliminary Approval Order”) dated August 19, 2020, the Court appointed Gilardi as the Claims Administrator in connection with the proposed Settlement of the above-captioned Action.<sup>1</sup> I have personal knowledge of the matters stated herein and, if called upon, could and would testify thereto.

**CAFA NOTIFICATION**

2. In compliance with the Class Action Fairness Act (“CAFA”), 28 U.S.C. Section 1715, Gilardi compiled a CD-ROM containing the following documents: Class Action Complaint and Demand for Jury Trial filed by Carlo Licata in the Circuit of Cook County, Illinois County Department, Chancery Division (Case No. 1:15-cv-04022), Class Action Complaint filed by Adam Pezen in the Northern District of Illinois, Eastern Division (Case No. 1:15-cv-03484), Class Action Complaint for Violations of the Illinois Biometric Information Privacy Act filed by Nimesh Patel in the Northern District of Illinois, Eastern Division (Case No. 3:15-cv-03747-JD), Consolidated Class Action Complaint filed in the Northern District of California, San Francisco Division (Case No. 3:15-cv-03747-JD), Plaintiffs’ Unopposed Notice of Motion and Motion for Preliminary Approval of Class Action Settlement; Memorandum of Points and Authorities in Support Thereof, Declaration of Jay Edelson, [Proposed] Order Granting Motion for Preliminary Approval of Class Action Settlement, Claim Form, Email Notice, Jewel Notice, News Feed Notice, Publication Notice, Long Form Notice, and Stipulation of Class Action Settlement, which accompanied a cover letter (collectively, the “CAFA Notice Packet”). A copy of the cover letter is attached hereto as Exhibit A.

3. On May 18, 2020, Gilardi caused fifty-eight (58) CAFA Notice Packets to be

---

<sup>1</sup> All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Amended Stipulation of Class Action Settlement, dated July 22, 2020 (the “Amended Stipulation”) and/or the Preliminary Approval Order.

1 mailed via Priority Mail from the U.S. Post Office in Memphis, Tennessee to the parties listed on  
2 Exhibit B, i.e., the U.S. Attorney General, the Attorneys General of each of the 50 States and the  
3 District of Columbia, the Attorneys General of the 5 recognized U.S. Territories, as well as  
4 parties of interest to this Action.

5 4. In further compliance with the Class Action Fairness Act (“CAFA”), 28 U.S.C.  
6 Section 1715, Gilardi compiled a supplemental CD-ROM containing the following documents:  
7 Notice of Amended Stipulation of Class Action Settlement (as filed on July 22, 2020, Dkt. No.  
8 468), Amended Stipulation of Class Action Settlement (as filed on July 22, 2020, as Exhibit A to  
9 Notice of Amended Stipulation of Class Action Settlement), Claim Form (as filed on July 22,  
10 2020, as Exhibit A to Amended Stipulation of Class Action Settlement), Jewel Notice (as filed on  
11 July 22, 2020, as Exhibit B to Amended Stipulation of Class Action Settlement), Publication  
12 Notice (as filed on July 22, 2020, as Exhibit C to Amended Stipulation of Class Action  
13 Settlement), News Feed Notices (as filed on July 22, 2020, as Exhibits D and E to Amended  
14 Stipulation of Class Action Settlement), Email Notice (as filed on July 22, 2020, as Exhibit F to  
15 Amended Stipulation of Class Action Settlement), Long Form Notice (as filed on July 22, 2020,  
16 as Exhibit G to Amended Stipulation of Class Action Settlement), and Banner Ad Notices (as  
17 filed on July 22, 2020, as Exhibit H to Amended Stipulation of Class Action Settlement), which  
18 accompanied a cover letter (collectively, the “Supplemental CAFA Notice Packet”). A copy of  
19 the cover letter is attached hereto as Exhibit C.

20 5. On July 28, 2020, Gilardi caused fifty-eight (58) CAFA Notice Packets to be  
21 mailed via Priority Mail from the U.S. Post Office in Memphis, Tennessee to the parties  
22 identified in Exhibit B.

23 6. As of the date of this declaration, Gilardi has received no response to either the  
24 CAFA Notice Packet or Supplemental CAFA Notice Packet from any of the recipients identified  
25 in paragraph 3 above.

26 **CLASS LIST**

27 7. On August 31, 2020, Gilardi received from Defendant a list of 16,741,162 records  
28



1 identified as the Class List. The Class List included names, email addresses, phone numbers, and  
2 whether Facebook’s record indicated there was a face template. For several records in the Class  
3 List, the data contained multiple distinct email addresses associated with the same record. The  
4 Parties instructed Gilardi to send notice to each of these email addresses. Gilardi entered the Class  
5 List information into its proprietary database and prepared a data file for the initial emailing. Prior  
6 to emailing, Gilardi caused the 18,197,758 total emails in the Class List to be run through an  
7 email cleanse in order to confirm the validity of the addresses. This process resulted in a total of  
8 15,372,960 emails to be sent the initial email notice associated with 12,340,049 accounts. This  
9 process also identified a total of 2,608,319 emails that were no longer a valid address.

10 **EMAILED NOTICE AND REMINDER NOTICE**

11 8. From September 18, 2020 through September 23, 2020, Gilardi caused the Email  
12 Notice to be emailed to the 15,372,960 addresses in the Class List. A true and correct copy of the  
13 Email Notice is attached hereto as Exhibit D.

14 9. Of the 15,372,960 Email Notices that were sent, 10,295,502 emails were  
15 successfully delivered to at least one of the email addresses associated with an account.

16 10. On October 6, 2020, Gilardi was instructed by the Parties to initiate resends to  
17 Gmail email addresses only. From October 7, 2020 through October 8, 2020, Gilardi caused the  
18 Email Notice to be re-sent via email to the 5,775,431 Gmail addresses.

19 11. Of the 5,775,431 Email Notices that were re-sent, 5,774,687 were successfully  
20 delivered and 744 were undeliverable.

21 12. From November 3, 2020 through November 9, 2020, Gilardi caused a follow-up  
22 email reminder campaign (the “Reminder Email Notice”) to be emailed to 12,888,208 addresses  
23 in the Class List. A true and correct copy of the Reminder Email Notice is attached hereto as  
24 Exhibit E.

25 13. Of the 12,888,208 Reminder Email Notices that were sent, 9,956,299 were  
26 successfully delivered and 2,931,909 were undeliverable.

27 14. Ultimately, of the 34,036,599 total emails that were sent, 25,336,835 (74.4%) were  
28

1 successfully delivered. Delivery of at least one email was successful to 11,326,353 of the  
2 12,340,049 accounts on the Class List that was associated with an email (91.8%).

3 **PUBLICATION OF THE SUMMARY NOTICE**

4 15. Gilardi caused the Summary Notice to be published in the September 23, 2020  
5 editions of the *Chicago Tribune* and *Chicago Sun-Times*. A true and correct copy of the Summary  
6 Notice as it appeared in each newspaper is attached hereto as Exhibit F.

7 16. In addition, Gilardi purchased 27,100,000 impressions to be distributed via the  
8 Google Display Network. The impressions appeared on both mobile and desktop devices from  
9 September 23, 2020 through October 23, 2020. A total of 27,907,627 impressions were delivered,  
10 resulting in an additional 807,627 impressions at no extra charge. Confirmation of the digital  
11 notices as they appeared on a variety of websites is attached hereto as Exhibit G.

12 **SETTLEMENT WEBSITE**

13 17. On September 18, 2020, Gilardi established a website  
14 [[www.facebookbipaclassaction.com](http://www.facebookbipaclassaction.com)] dedicated to this matter to provide information to the Class  
15 Members and to answer frequently asked questions. The website URL was set forth in the Email  
16 Notice, Reminder Email Notice, Long-Form Class Notice (English and Spanish versions), and the  
17 Summary Notice. Visitors of the website can download copies of the Long-form Class Notice in  
18 English or Spanish, Claim Form, and other case-related documents. In addition, on October 16,  
19 2020, the Plaintiffs' Motion for Attorneys' Fees, Expenses, and Incentive Awards was posted to  
20 the settlement website. A true and correct copy of the Long-Form Class Notice (English and  
21 Spanish versions) and the paper Claim Form are attached hereto as Exhibit H. Visitors can also  
22 submit claims online. As of December 1, 2020, the website has received 6,230,922 visits.

23 **TELEPHONE HOTLINE**

24 18. Gilardi established and continues to maintain a toll-free telephone number (1-844-  
25 799-2417) for potential Class Members to call and obtain information about the Settlement,  
26 request a Notice Packet, and/or seek assistance from a live operator during regular business hours.  
27  
28

1 The telephone hotline became operational on September 17, 2020, and is accessible 24 hours a  
2 day, 7 days a week. As of December 1, 2020, Gilardi has received a total of 5,063 calls to the  
3 telephone hotline.

4  
5 **CLAIM FORMS**

6 19. The postmark deadline for Class Members to file claims in this matter was  
7 November 23, 2020. To date, Gilardi has received 1,571,608 timely-filed claim forms and 487  
8 claims received after the deadline. Gilardi expects additional timely-filed paper claim forms to  
9 arrive over the next few weeks.

10 **REPORT ON EXCLUSION REQUESTS RECEIVED TO DATE**

11 20. The Notice informs Class Members that requests for exclusion from the Class  
12 must be postmarked no later than November 23, 2020. As of the date of this declaration, Gilardi  
13 has received 110 requests for exclusion. Of these, one was received after the deadline and is  
14 considered late. A list of the 109 Class Members timely requesting to be excluded is attached  
15 hereto as Exhibit I.

16  
17 **OBJECTIONS TO THE SETTLEMENT**

18 21. The postmark deadline for Class Members to object to the settlement was  
19 November 23, 2020. As of the date of this declaration, Gilardi has not received any objections to  
20 the settlement.

21  
22 **ADMINISTRATION COSTS**

23 22. As of December 1, 2020, Gilardi estimates its total cost of administration to be  
24 \$1,828,009.89. This amount includes costs to date as well as through the completion of this  
25 matter.

26 23. Gilardi's estimated fees and charges are based on certain information provided to  
27 Gilardi by the parties as well as significant assumptions. Accordingly, the estimate is not  
28

1 intended to limit Gilardi's actual fees and charges, which may be less or more than estimated due  
2 to the scope of actual services or changes to the underlying facts or assumptions.

3  
4 I declare under penalty of perjury under the laws of the United States of America that the  
5 foregoing is true and correct.

6 Executed on this 3<sup>rd</sup> day of December 2020 at San Rafael, California

7  
8   
9 \_\_\_\_\_  
10 Lana Lucchesi

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# Exhibit A



May 18, 2020

VIA PRIORITY MAIL

«First» «Last»  
«Company»  
«Address\_1»  
«Address\_2»  
«City», «State» «Zip»

Re: Notice of Proposed Class Action Settlement Pursuant to 28 U.S.C. § 1715

Dear «First» «Last»:

COOLEY LLP represents Facebook, Inc. (“Facebook”) in a consolidated class action lawsuit entitled *In re Facebook Biometric Information Privacy Litigation*, Case No. 3:15-cv-03747-JD. The lawsuit is pending before the Honorable James Donato in the United States District Court for the Northern District of California, San Francisco Division. This letter is to advise you that Plaintiffs filed a Motion for Preliminary Approval of Class Action Settlement in connection with this class action lawsuit on May 8, 2020.

**Case Name:** *In re Facebook Biometric Information Privacy Litigation*

**Case Number:** 3:15-cv-03747-JD

**Consolidated with:** 3:15-cv-03748  
3:15-cv-03749

**Jurisdiction:** United States District Court,  
Northern District of California, San Francisco Division

**Date Settlement**

**Filed with Court:** May 8, 2020

Facebook denies any wrongdoing or liability whatsoever, but has decided to settle this action solely in order to eliminate the burden, expense, and uncertainties of further litigation. In compliance with 28 U.S.C. § 1715(b), the following documents referenced below are included on the CD that is enclosed with this letter:



«First» «Last»

May 18, 2020

Page 2

1. **28 U.S.C. § 1715(b)(1) – Complaint and Related Materials:** Copies of the *Class Action Complaint and Demand for Jury Trial* filed by Carlo Licata in the Circuit of Cook County, Illinois County Department, Chancery Division (Case No. 1:15-cv-04022), *Class Action Complaint* filed by Adam Pezen in the Northern District of Illinois, Eastern Division (Case No. 1:15-cv-03484), *Class Action Complaint for Violations of the Illinois Biometric Information Privacy Act* filed by Nimesh Patel in the Northern District of Illinois, Eastern Division (Case No. 3:15-cv-03747-JD), and *Consolidated Class Action Complaint* filed in the Northern District of California, San Francisco Division (Case No. 3:15-cv-03747-JD) are included on the enclosed CD.
2. **28 U.S.C. § 1715(b)(2) – Notice of Any Scheduled Judicial Hearing:** As of May 18, 2020, the Court has not yet scheduled a final fairness hearing in this matter. Plaintiffs filed *Plaintiffs’ Unopposed Notice of Motion and Motion for Preliminary Approval of Class Action Settlement; Memorandum of Points and Authorities in Support Thereof* requesting that the Honorable James Donato preliminarily approve the proposed Settlement. Copies of *Plaintiffs’ Unopposed Notice of Motion and Motion for Preliminary Approval of Class Action Settlement; Memorandum of Points and Authorities in Support Thereof, Declaration of Jay Edelson, and [Proposed] Order Granting Motion for Preliminary Approval of Class Action Settlement* are included on the enclosed CD.
3. **28 U.S.C. § 1715(b)(3) – Notification to Class Members:** Copies of the *Claim Form, Email Notice, Jewel Notice, News Feed Notice, Publication Notice, and Long Form Notice* to be provided to the class are included on the enclosed CD.
4. **28 U.S.C. § 1715(b)(4) – Class Action Settlement Agreement:** A copy of the *Stipulation of Class Action Settlement* is included on the enclosed CD.
5. **28 U.S.C. § 1715(b)(5) – Any Settlement or Other Agreement:** As of May 18, 2020, no other settlement or agreement has been entered into by the parties to this Action with each other, either directly or by and through their respective counsel.
6. **28 U.S.C. § 1715(b)(6) – Final Judgment:** No Final Judgment has been reached as of May 18, 2020, nor have any Notices of Dismissal been granted at this time.
7. **28 U.S.C. § 1715(b)(7)(A)-(B) – Names of Class Members/Estimate of Class Members:** While Facebook and KCC Class Action Services, LLC are in the process of gathering information on this issue, pursuant to 28 U.S.C. § 1715(b)(7)(A), at this time a complete list of names of class members as well as each State of residence is not available, because the parties do not presently know the names or current addresses of all the proposed settlement class members. In response to 28 U.S.C. § 1715(b)(7)(B), the entirety of the payments to be made under the settlement are intended to be made to current or former Illinois



«First» «Last»

May 18, 2020

Page 3

residents. As referenced in the Memorandum of Points and Authorities in Support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement (Dkt. No. 446), "Facebook does not possess data that would allow it to precisely determine the number of people actually in the class." Facebook also does not possess data that would allow it to precisely determine the number of class members who might currently reside in states other than Illinois.

8. **28 U.S.C. § 1715(b)(8) – Judicial Opinions Related to the Settlement:** As the proposed Settlement is still pending final approval by the Court, there are no other opinions available at this time. As of May 18, 2020, there has been no written judicial opinion related to the settlement.

If for any reason you believe the enclosed information does not fully comply with 28 U.S.C. § 1715, please contact the undersigned immediately at either (415) 798-5969 or [jchernila@kcellc.com](mailto:jchernila@kcellc.com) so that Facebook can address any concerns or questions you may have.

Thank you.

Sincerely,

/s/

Jeanne M. Chernila  
Project Manager

Enclosure – CD Rom



# **Exhibit B**

Last	First	Company	Address 1	Address 2	City	State	Zip
Barr	William P.	Attorney General of the United States	United States Department of Justice	950 Pennsylvania Avenue, NW	Washington	DC	20530-0001
Clarkson	Kevin	Office of the Alaska Attorney General	P.O. Box 110300		Juneau	AK	99811
Marshall	Steve	Office of the Alabama Attorney General	501 Washington Avenue	PO Box 300152	Montgomery	AL	36130-0152
Rutledge	Leslie	Arkansas Attorney General Office	323 Center Street, Suite 200		Little Rock	AR	72201-2610
Brnovich	Mark	Office of the Arizona Attorney General	2005 N. Central Avenue		Phoenix	AZ	85004
CAFA Coordinator		Office of the Attorney General	Consumer Law Section	455 Golden Gate Ave., Suite 11000	San Francisco	CA	94102
Weiser	Phil	Office of the Colorado Attorney General	Ralph L. Carr Colorado Judicial Center	1300 Broadway, 10th Floor	Denver	CO	80203
Tong	William	State of Connecticut Attorney General's Office	55 Elm Street		Hartford	CT	06106
Racine	Karl A.	District of Columbia Attorney General	441 4th Street, NW, Suite 1100S		Washington	DC	20001
Jennings	Kathy	Delaware Attorney General	Carvel State Office Building	820 N. French Street	Wilmington	DE	19801
Moody	Ashley	Office of the Attorney General of Florida	The Capitol, PL-01		Tallahassee	FL	32399-1050
Carr	Chris	Office of the Georgia Attorney General	40 Capitol Square, SW		Atlanta	GA	30334-1300
Connors	Clare	Office of the Hawaii Attorney General	425 Queen Street		Honolulu	HI	96813
Miller	Tom	Iowa Attorney General	Hoover State Office Building	1305 E. Walnut Street	Des Moines	IA	50319
Wasden	Lawrence	State of Idaho Attorney General's Office	700 W. Jefferson Street, Suite 210	P.O. Box 83720	Boise	ID	83720-0010
Raoul	Kwame	Illinois Attorney General	James R. Thompson Center	100 W. Randolph Street	Chicago	IL	60601
Hill, Jr.	Curtis T.	Indiana Attorney General's Office	Indiana Government Center South	302 West Washington Street, 5th Floor	Indianapolis	IN	46204
Schmidt	Derek	Kansas Attorney General	120 S.W. 10th Ave., 2nd Floor		Topeka	KS	66612-1597
Beshear	Andy	Office of the Kentucky Attorney General	700 Capitol Ave	Capitol Building, Suite 118	Frankfort	KY	40601
Landry	Jeff	Office of the Louisiana Attorney General	P.O. Box 94095		Baton Rouge	LA	70804-0995
Healey	Maura	Office of the Attorney General of Massachusetts	1 Ashburton Place	20th Floor	Boston	MA	02108-1518
Frosh	Brian	Office of the Maryland Attorney General	200 St. Paul Place		Baltimore	MD	21202-2202
Frey	Aaron	Office of the Maine Attorney General	State House Station 6		Augusta	ME	04333
Nessel	Dana	Office of the Michigan Attorney General	P.O. Box 30212	525 W. Ottawa Street	Lansing	MI	48909-0212
Keith Ellison	Attorney General	Attention: CAFA Coordinator	445 Minnesota Street	Suite 1400	St. Paul	MN	55101-2131
Schmitt	Eric	Missouri Attorney General's Office	Supreme Court Building	207 W. High Street	Jefferson City	MO	65101
Hood	Jim	Mississippi Attorney General's Office	Department of Justice	P.O. Box 220	Jackson	MS	39205
Fox	Tim	Office of the Montana Attorney General	Justice Bldg., 3rd Floor	215 N. Sanders Street	Helena	MT	59620-1401
Stein	Josh	Office of the North Carolina Attorney General	Department of Justice	9001 Mail Service Center	Raleigh	NC	27602-0629
Stenehjem	Wayne	North Dakota Office of the Attorney General	State Capitol	600 E. Boulevard Avenue	Bismarck	ND	58505-0040
Peterson	Doug	Office of the Nebraska Attorney General	2115 State Capitol	P.O. Box 98920	Lincoln	NE	68509-8920
MacDonald	Gordon	New Hampshire Attorney General	Hew Hampshire Department of Justice	33 Capitol Street	Concord	NH	03301-6397
Grewal	Gurbir S.	Office of the New Jersey Attorney General	Richard J. Hughes Justice Complex	25 Market Street, P.O. Box 080	Trenton	NJ	08625
Balderas	Hector	Office of the New Mexico Attorney General	P.O. Drawer 1508		Santa Fe	NM	87504-1508
Ford	Aaron	Nevada Attorney General	Old Supreme Ct. Bldg.	100 North Carson Street	Carson City	NV	89701
James	Letitia	Office of the New York Attorney General	Dept. of Law - The Capitol	2nd Floor	Albany	NY	12224
Yost	Dave	Ohio Attorney General	State Office Tower	30 E. Broad Street	Columbus	OH	43266-0410
Hunter	Mike	Oklahoma Office of the Attorney General	313 NE 21st Street		Oklahoma City	OK	73105
Rosenblum	Ellen F.	Office of the Oregon Attorney General	Justice Building	1162 Court Street, NE	Salem	OR	97301
Shapiro	Josh	Pennsylvania Office of the Attorney General	1600 Strawberry Square		Harrisburg	PA	17120
Noranha	Peter F.	Rhode Island Office of the Attorney General	150 South Main Street		Providence	RI	02903
Wilson	Alan	South Carolina Attorney General	Rembert C. Dennis Office Bldg.	P.O. Box 11549	Columbia	SC	29211-1549
Ravnsborg	Jason	South Dakota Office of the Attorney General	1302 East Highway 14, Suite 1		Pierre	SD	57501-8501
Slatery, III	Herbert H.	Tennessee Attorney General and Reporter	P.O. Box 20207		Nashville	TN	37202-0207
Paxton	Ken	Attorney General of Texas	Capitol Station	P.O. Box 12548	Austin	TX	78711-2548
Reyes	Sean	Utah Office of the Attorney General	P.O. Box 142320		Salt Lake City	UT	84114-2320
Herring	Mark	Office of the Virginia Attorney General	202 North Ninth Street		Richmond	VA	23219
Donovan	TJ	Office of the Attorney General of Vermont	109 State Street		Montpelier	VT	05609-1001
Ferguson	Bob	Washington State Office of the Attorney General	1125 Washington St SE	P.O. Box 40100	Olympia	WA	98504-0100
Kaul	Josh	Office of the Wisconsin Attorney General	Dept of Justice, State Capitol	RM 114 East P.O. Box 7857	Madison	WI	53707-7857
Morrissey	Patrick	West Virginia Attorney General	State Capitol Complex, Bldg 1	Room E-26	Charleston	WV	25305
Hill	Bridget	Office of the Wyoming Attorney General	2320 Capitol Avenue		Cheyenne	WY	82002
Ale	Talauaga Eleasalo V.	American Samoa Gov't	Exec. Ofc. Bldg		Utulei	AS	96799
Camacho	Leevin Taitano	Office of the Attorney General, ITC Building	590 S. Marine Corps Drive	Suite 901	Tamuning	Guam	96913
Manibusan	Edward	Northern Mariana Islands Attorney General	Administration Building	PO Box 10007	Saipan	MP	96950-8907
Longo Quinones	Dennise N.	Puerto Rico Attorney General	P.O. Box 902192		San Juan	PR	00902-0192
George	Denise N.	Virgin Islands Attorney General, Department of Justice	34-38 Kronprindsens Gade	GERS Bldg, 2nd Floor	St. Thomas	VI	00802
Somvichian	Whitty	Cooley LLP	101 California Street	5th Floor	San Francisco	CA	94111-5800

# Exhibit C



3301 Kerner Boulevard  
San Rafael, CA 94901

July 28, 2020

VIA USPS PRIORITY MAIL

«First» «Last»  
«Company»  
«Address\_1»  
«Address\_2»  
«City», «State» «Zip»

Re: Notice of Class Action Settlement

Dear «First» «Last»:

This letter supplements prior correspondence sent to you on or around May 18, 2020, with respect to a consolidated class action lawsuit entitled *In re Facebook Biometric Information Privacy Litigation*, Case No. 3:15-cv-03747-JD (consolidated with 3:15-cv-03748, and 3:15-cv-03749). COOLEY LLP represents Facebook, Inc. in that consolidated suit.

After further negotiations, the Parties have revised their stipulation of settlement previously submitted to the Court. On July 22, 2020, the Parties jointly filed a *Notice of Amended Stipulation of Class Action Settlement*, with accompanying documentation.

In further compliance with 28 U.S.C. § 1715(b), the following document(s) referenced below are included on the CD that is enclosed with this letter:

1. *Notice of Amended Stipulation of Class Action Settlement* (as filed on July 22, 2020, Dkt. No. 468);
2. *Amended Stipulation of Class Action Settlement* (as filed on July 22, 2020, as Exhibit A to *Notice of Amended Stipulation of Class Action Settlement*);
3. *Claim Form* (as filed on July 22, 2020, as Exhibit A to *Amended Stipulation of Class Action Settlement*);
4. *Jewel Notice* (as filed on July 22, 2020, as Exhibit B to *Amended Stipulation of Class Action Settlement*);
5. *Publication Notice* (as filed on July 22, 2020, as Exhibit C to *Amended Stipulation of Class Action Settlement*);
6. *News Feed Notices* (as filed on July 22, 2020, as Exhibits D and E to *Amended Stipulation of Class Action Settlement*);
7. *Email Notice* (as filed on July 22, 2020, as Exhibit F to *Amended Stipulation of Class Action Settlement*);



«First» «Last»

July 28, 2020

Page 2

8. *Long Form Notice* (as filed on July 22, 2020, as Exhibit G to *Amended Stipulation of Class Action Settlement*);
9. *Banner Ad Notices* (as filed on July 22, 2020, as Exhibit H to *Amended Stipulation of Class Action Settlement*).

Please contact me at either [jchernila@kccllc.com](mailto:jchernila@kccllc.com) or (415) 798-5969 if you require any additional materials or need any further information concerning this matter.

Thank you.

Sincerely,

/s/

Jeanne Chernila  
Project Manager

Enclosure – CD ROM

# Exhibit D

**From:** [Facebook Biometric Information Privacy Litigation Settlement Administrator](#)  
**To:** [mail@domain.com](mailto:mail@domain.com)  
**Subject:** [iPost TEST 4] In re Facebook Biometric Information Privacy Litigation Class Action Notice  
**Date:** Monday, September 14, 2020 12:15:03 PM

Official Notice from the United States District  
Court for the Northern District of California

[Español](#)

## Facebook users in Illinois may be entitled to payment if their face appeared in a picture on Facebook after June 7, 2011

Don't worry, you are not being sued. This is an official court notice, not an ad for a lawyer.

Facebook, Inc. has settled a class action that claimed Facebook violated Illinois law by collecting and storing biometric data of Facebook users in Illinois without the proper notice and consent, as part of its "Tag Suggestions" feature and other features involving facial recognition technology. Facebook denies it violated any law. You can fill out a short claim form and potentially get an estimated \$200 - \$400 by clicking below.

[Claim Now](#)

### Am I A Class Member?

The Court decided that all people who fit this definition are included in the Class: "Facebook users located in Illinois for whom Facebook created and stored a face template after June 7, 2011." Facebook's records show that you are likely a class member.

To file a valid claim under the Settlement, you must have lived in the State of Illinois for a period of at least 183 days (6 months). Time spent traveling or taking a vacation outside of Illinois can be included in this time period and does not make you ineligible.

For more information, please visit [www.facebookbipaclassaction.com](http://www.facebookbipaclassaction.com).

### What can I get?

If you believe you are a class member you can fill out a short claim form and potentially receive approximately \$200 to \$400 from a \$650 million Settlement Fund. The amount you receive may be less than or greater than this amount depending on the number of valid claims filed. This fund will also be used to pay the costs of notifying people about the settlement, the lawyers' fees, award payments to the users who helped bring the lawsuit, and certain taxes.

The Settlement also requires Facebook to turn "off" the Facial Recognition setting and delete face templates for most Class Members unless they turn it back "on."

### How do I get my money?

You have to fill out a short claim form by **November 23, 2020**. You can fill one out now by clicking [here](#). Or, you may submit one online at

[www.facebookbipaaction.com](http://www.facebookbipaaction.com). Submitting a claim online is easy, secure, and completely free. You can also get a claim form by calling toll-free, **1-844-799-2417**.

### What are my other options?

If you are part of the Class but do not want money from the Settlement and want to keep your right to file your own lawsuit against Facebook for any of the issues or claims in the case, you must exclude yourself from the Class no later than **November 23, 2020**.

If you stay in the Class, you may object to any aspect of the Settlement, including the requests for attorneys' fees, costs, expenses, and awards to the Class Representatives.

You and/or your lawyer also have the right to appear before the Court. Your written objection must be filed no later than **November 23, 2020**. Specific instructions about how to object or exclude yourself from the Class are available at [www.facebookbipaaction.com](http://www.facebookbipaaction.com).

If you do nothing, and the Court approves the Settlement, you will receive no money, but will be bound by all orders of the Court and judgments in this case. In addition, you will no longer be able to file your own lawsuit against Facebook for any of the issues or claims in the case.

### Do I have a lawyer?

The Court has appointed lawyers from the firms Edelson PC ("Edelson"), Robbins Geller Rudman & Dowd LLP ("Robbins Geller"), and Labaton Sucharow LLP ("Labaton Sucharow") to represent the Class as "Class Counsel." You do not have to pay Class Counsel or anyone else to participate. Class Counsel intend to request that the Court award them attorneys' fees from the original (\$550 million) settlement not to exceed 20%, plus litigation costs and expenses. If you want to be represented by your own lawyer in this case, you may hire one at your expense. Adam Pezen, Nimesh Patel, and Carlo Licata are Class Members like you and the Court appointed them as the "Class Representatives." They will request awards not to exceed \$7,500 each for their service on behalf of the Class.

### When will the court consider the proposed settlement?

The Court has scheduled a hearing on the fairness of Settlement at 10:00 am on January 7, 2021 at the Philip Burton Federal Building and Courthouse, 450 Golden Gate Avenue, Courtroom 11, 19th floor, San Francisco, CA 94102. The Court will consider whether to approve the Settlement, any objections, and the requests for awards to the Class Representatives, and attorneys' fees, costs and expenses to Class Counsel. The briefs and declarations in support of these requests will be posted on the website on October 15, 2020. You may ask to appear at the hearing but you do not have to. The date, time and location of the hearing may change. Please review the website for any updated information regarding the final hearing.

### How do I get more information?

**This notice is only a summary.** For more information about the case and the Settlement, visit [www.facebookbipaaction.com](http://www.facebookbipaaction.com) or contact the administrator at 1-844-799-2417, write to *In re Facebook Biometric Information Privacy Litigation* Settlement Administrator, P.O. Box 43401, Providence, RI 02940-3401, or call Class Counsel Edelson 1-866-354-3015, Robbins Geller 1-800-449-4900, and Labaton Sucharow 1-888-219-6877.



PLEASE DO NOT CALL OR WRITE THE COURT OR FACEBOOK FOR INFORMATION OR  
ADVICE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS

If you believe you have received this message in error, please [click here](#) to unsubscribe.

# **Exhibit E**

**From:** Facebook Biometric Information Privacy Litigation Settlement Administrator  
**To:** mail@domain.com  
**Subject:** Deadlines Approaching - In re Facebook Biometric Information Privacy Litigation  
**Date:** Tuesday, November 3, 2020 8:30 PM

---

Official Notice from the United States District  
Court for the Northern District of California

[Español](#)

## Facebook users in Illinois may be entitled to payment if their face appeared in a picture on Facebook after June 7, 2011

Don't worry, you are not being sued. This is an official court notice, not an ad for a lawyer.

Facebook, Inc. has settled a class action that claimed Facebook violated Illinois law by collecting and storing biometric data of Facebook users in Illinois without the proper notice and consent, as part of its "Tag Suggestions" feature and other features involving facial recognition technology. Facebook denies it violated any law. You can fill out a short claim form and potentially get an estimated \$200 - \$400 by clicking below.

[Claim Now](#)

### Am I A Class Member?

The Court decided that all people who fit this definition are included in the Class: "Facebook users located in Illinois for whom Facebook created and stored a face template after June 7, 2011." Facebook's records show that you are likely a class member.

To file a valid claim under the Settlement, you must have lived in the State of Illinois for a period of at least 183 days (6 months). Time spent traveling or taking a vacation outside of Illinois can be included in this time period and does not make you ineligible.

For more information, please visit [www.facebookbipaclassaction.com](http://www.facebookbipaclassaction.com).

### What can I get?

If you believe you are a class member you can fill out a short claim form and potentially receive approximately \$200 to \$400 from a \$650 million Settlement Fund. The amount you receive may be less than or greater than this amount depending on the number of valid claims filed. This fund will also be used to pay the costs of notifying people about the settlement, the lawyers' fees, award payments to the users who helped bring the

lawsuit, and certain taxes.

The Settlement also requires Facebook to turn "off" the Facial Recognition setting and delete face templates for most Class Members unless they turn it back "on."

### **How do I get my money?**

You have to fill out a short claim form by **November 23, 2020**. You can fill one out now by clicking [here](#). Or, you may submit one online at [www.facebookbipaaction.com](http://www.facebookbipaaction.com). Submitting a claim online is easy, secure, and completely free. You can also get a claim form by calling toll-free, **1-844-799-2417**.

### **What are my other options?**

If you are part of the Class but do not want money from the Settlement and want to keep your right to file your own lawsuit against Facebook for any of the issues or claims in the case, you must exclude yourself from the Class no later than **November 23, 2020**.

If you stay in the Class, you may object to any aspect of the Settlement, including the requests for attorneys' fees, costs, expenses, and awards to the Class Representatives. You and/or your lawyer also have the right to appear before the Court. Your written objection must be filed no later than **November 23, 2020**. Specific instructions about how to object or exclude yourself from the Class are available at [www.facebookbipaaction.com](http://www.facebookbipaaction.com).

If you do nothing, and the Court approves the Settlement, you will receive no money, but will be bound by all orders of the Court and judgments in this case. In addition, you will no longer be able to file your own lawsuit against Facebook for any of the issues or claims in the case.

### **Do I have a lawyer?**

The Court has appointed lawyers from the firms Edelson PC ("Edelson"), Robbins Geller Rudman & Dowd LLP ("Robbins Geller"), and Labaton Sucharow LLP ("Labaton Sucharow") to represent the Class as "Class Counsel." You do not have to pay Class Counsel or anyone else to participate. Class Counsel intend to request that the Court award them attorneys' fees from the original (\$550 million) settlement not to exceed 20%, plus litigation costs and expenses. If you want to be represented by your own lawyer in this case, you may hire one at your expense. Adam Pezen, Nimesh Patel, and Carlo Licata are Class Members like you and the Court appointed them as the "Class Representatives." They will request awards not to exceed \$7,500 each for their service on behalf of the Class.

### **When will the court consider the proposed settlement?**

The Court has scheduled a hearing on the fairness of Settlement at 10:00 am on January 7, 2021 at the Philip Burton Federal Building and Courthouse, 450 Golden Gate Avenue, Courtroom 11, 19th floor, San Francisco, CA 94102. The Court will consider whether to approve the Settlement, any objections, and the requests for awards to the Class Representatives, and attorneys' fees, costs and expenses to Class Counsel. The briefs and declarations in support of these requests will be posted on the website on October 15, 2020. You may ask to appear at the hearing but you do not have to. The date, time

and location of the hearing may change. Please review the website for any updated information regarding the final hearing.

### How do I get more information?

**This notice is only a summary.** For more information about the case and the Settlement, visit [www.facebookbipaaction.com](http://www.facebookbipaaction.com) or contact the administrator at 1-844-799-2417, write to *In re Facebook Biometric Information Privacy Litigation* Settlement Administrator, P.O. Box 43401, Providence, RI 02940-3401, or call Class Counsel Edelson 1-866-354-3015, Robbins Geller 1-800-449-4900, and Labaton Sucharow 1-888-219-6877.

PLEASE DO NOT CALL OR WRITE THE COURT OR FACEBOOK FOR INFORMATION OR  
ADVICE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS

If you believe you have received this message in error, please [click here](#) to unsubscribe.



# Exhibit F

TAKE NOTICES

TO: Unknown Heirs and Legatees of William Bodie a/k/a Willie L. Bodie, William C. Gresham, The City of Evanston, c/o City Manager's Office; OCCUPANT: KAREN A. YARBROUGH, COUNTY CLERK; Persons or tenants in actual occupancy or possession of said property...

TAKE NOTICES

TO: Frank Loggioco, Illinois Dept. of Revenue; Illinois Attorney General, Occupant; KAREN A. YARBROUGH, COUNTY CLERK; Persons or tenants in actual occupancy or possession of said property...

TAKE NOTICES

TO: James Zarza a/k/a Jaime Zarga; Occupant; 4337 W. Lyndale Ave., Melrose Park, IL 60164; Bertha A. Wright, Camilo Praxedes; Occupant; KAREN A. YARBROUGH, COUNTY CLERK; Persons or tenants in actual occupancy or possession of said property...

TAKE NOTICES

TO: Chicago Title Land Trust Co. Suctr to Manufacturers Affiliated Trust Company Suctr to Affiliated Bank/Western National F/K/A Western National Bank of Cicero A/T/U/I/A/D 1/7/86 A/K/A/T/N 9717; Chicago Title Land Trust Co. Suctr to Manufacturers Affiliated Trust Company Suctr to Affiliated Bank/Western National Bank of Cicero A/T/U/I/A/D 1/7/86 A/K/A/T/N 9717...

TAKE NOTICES

TO: Chicago Title Land Trust Co. Suctr to Manufacturers Affiliated Trust Company Suctr to Affiliated Bank/Western National F/K/A Western National Bank of Cicero A/T/U/I/A/D 1/7/86 A/K/A/T/N 9717; Chicago Title Land Trust Co. Suctr to Manufacturers Affiliated Trust Company Suctr to Affiliated Bank/Western National Bank of Cicero A/T/U/I/A/D 1/7/86 A/K/A/T/N 9717...

TAKE NOTICES

TO: Chicago Title Land Trust Co. Suctr to Manufacturers Affiliated Trust Company Suctr to Affiliated Bank/Western National F/K/A Western National Bank of Cicero A/T/U/I/A/D 1/7/86 A/K/A/T/N 9717; Chicago Title Land Trust Co. Suctr to Manufacturers Affiliated Trust Company Suctr to Affiliated Bank/Western National Bank of Cicero A/T/U/I/A/D 1/7/86 A/K/A/T/N 9717...

TO: Arnoldo Chaidze; Socorro Chaidze; Occupant, 2941 Haber Ave., Melrose Park, IL 60164; Scott Allen Hall, Susan Marie Hall, Brenda J. Hall, Occupant; KAREN A. YARBROUGH, COUNTY CLERK; Persons or tenants in actual occupancy or possession of said property...

TO: Miramar Real Estate Corp. a/k/a Miramar Real Estate; Miramar Real Estate Corp. a/k/a Miramar Real Estate, c/o Ronald B. Kaplan, Reg. Agt.; Miramar Real Estate Corp. a/k/a Miramar Real Estate, c/o Ronald B. Passmore, President; City of Chicago, c/o Anna M. Valencia, City Clerk; Occupant; 3107 Derrough Avenue, Melrose Park, IL 60164; KAREN A. YARBROUGH, COUNTY CLERK; Persons or tenants in actual occupancy or possession of said property...

TO: Paul Wilson a/k/a Paul H. Wilson; Occupant, 5036 N. Mobile Ave., Chicago, IL 60630; KAREN A. YARBROUGH, COUNTY CLERK; Persons or tenants in actual occupancy or possession of said property...

TO: Chicago Title Land Trust Co. Suctr to Manufacturers Affiliated Trust Company Suctr to Affiliated Bank/Western National F/K/A Western National Bank of Cicero A/T/U/I/A/D 1/7/86 A/K/A/T/N 9717; Chicago Title Land Trust Co. Suctr to Manufacturers Affiliated Trust Company Suctr to Affiliated Bank/Western National Bank of Cicero A/T/U/I/A/D 1/7/86 A/K/A/T/N 9717...

TO: Chicago Title Land Trust Co. Suctr to Manufacturers Affiliated Trust Company Suctr to Affiliated Bank/Western National F/K/A Western National Bank of Cicero A/T/U/I/A/D 1/7/86 A/K/A/T/N 9717; Chicago Title Land Trust Co. Suctr to Manufacturers Affiliated Trust Company Suctr to Affiliated Bank/Western National Bank of Cicero A/T/U/I/A/D 1/7/86 A/K/A/T/N 9717...

TO: Mark Fedyk; Occupant, 102 50th Ave., Bellwood, IL 60108; KAREN A. YARBROUGH, COUNTY CLERK; Persons or tenants in actual occupancy or possession of said property...

Get response at great rates! Call 312-222-2222 to place an ad. Chicago Tribune

Safety First. Find a watch dog in our Pets category. Chicago Tribune

Reach more Chicagoans than any other paper, everyday of the week! To advertise call 312-222-2222. Chicago Tribune

LEGAL NOTICES. Facebook Users in Illinois may be entitled to a payment if their face appeared in a picture on Facebook after June 7, 2011. Facebook, Inc. has settled a class action that claimed Facebook violated Illinois law by collecting and storing the biometric data of Facebook users in Illinois without the proper notice and consent...

LEGAL NOTICES. AM I A CLASS MEMBER? The Court decided that all people who fit this definition are included in the Class: "Facebook users located in Illinois for whom Facebook created and stored a face template after June 7, 2011." To file a valid claim under the Settlement, you must have lived in the State of Illinois for a period of at least 183 days (6 months).

LEGAL NOTICES. WHAT CAN PEOPLE GET FROM THE SETTLEMENT? If you believe you are a Class Member, you can fill out a short Claim Form and potentially receive approximately \$200 to \$400 from a \$650 million Settlement Fund. The amount you receive may be less than or greater than this amount depending on the number of valid claims filed.

Garage/Moving Sales. Naperville, Thurs Sept 24th-Sat Sept 26th. Royal Protocol Dr. 9am-5pm. Tamarack Fairways Sub Div. Huge Bi-Annual Multi Family Garage Sale! Too much great stuff to list!

The course has lifted. Buy Cubs tickets in our Merchandise category. Call 312-222-2222. Chicago Tribune

LEGAL NOTICES. Court Ordered Legal Notice. Facebook Users in Illinois may be entitled to a payment if their face appeared in a picture on Facebook after June 7, 2011. Facebook, Inc. has settled a class action that claimed Facebook violated Illinois law by collecting and storing the biometric data of Facebook users in Illinois without the proper notice and consent...

**NATION/WORLD**

# WITH MITT ON BOARD, SENATE GOP PUTS COURT PICK ON FAST TRACK

Republicans plan preelection vote on RBG replacement

**BY LISA MASCARO, ZEKE MILLER AND MARY CLARE JALONICK**  
Associated Press

WASHINGTON — Votes in hand, Senate Republicans are charging ahead with plans to confirm President Donald Trump's pick to fill the late Justice Ruth Bader Ginsburg's Supreme Court seat before the Nov. 3 election, launching a divisive fight over Democratic objections before a nominee is even announced.

Trump said Tuesday he will name his choice Saturday, confident of support. Democrats say it's too close to the election, and the winner of the presidency should name the new justice. But under GOP planning, the Senate could vote Oct. 29.

"I guess we have all the votes we're going to need," Trump told WJBX FOX 2 in Detroit. "I think it's going to happen."

Republicans believe the court fight will energize voters for Trump, boosting the party and potentially deflating Democrats who cannot stop the lifetime appointment for a conservative justice. The Senate is controlled by Republicans, 53-47, with a simple majority needed for confirmation. The one remaining possible Republican holdout, Mitt Romney of Utah, said Tuesday he supports taking a vote.

It is one of the quickest confirmation efforts in recent times. No court nominee in U.S. history has been considered so close to a presidential election.

During a private lunch meeting Tuesday at Senate GOP campaign headquarters, several Republican senators spoke up in favor of voting before the election. None advocated a delay.

Elsewhere, as tributes poured in for Ginsburg with vigils and flowers at the court's steps, Democrats led by presidential nominee Joe Biden vowed a tough fight. The Senate Democratic leader, Chuck Schumer, said "we should honor her dying wish," which was that her seat not be filled until the man who wins the presidential election is installed, in January.

But that seemed no longer an option. So far, two Republicans have said they oppose taking up a nomination at this time, but no others are in sight. Under Senate rules, Vice President Mike Pence could break a tie vote.

While not all Republican senators have



**Sen. Mitt Romney, R-Utah, said Tuesday that he supports taking a vote on whomever President Donald Trump nominates to fill Ruth Bader Ginsburg's seat on the Supreme Court.** J. SCOTT APPLEWHITE/AP

said they will support the eventual pick, few appear willing to stand in the way of a top party priority.

Hearings could start as soon as Oct. 12 by the Senate Judiciary Committee, with a vote in the full Senate by Oct. 29, according to a GOP aide granted anonymity to discuss deliberations.

Democrats point to hypocrisy in Republicans trying to rush through a pick so close to the election after Senate Majority Leader Mitch McConnell led the GOP in refusing to vote on a nominee of President Barack Obama in February 2016, long before that year's election.

Romney, the GOP's 2012 presidential nominee, dismissed that argument, saying "it was not unfair" for Republicans to refuse to consider Obama's choice of Merrick Garland.

The Utah Republican backed up his decision by saying it's not "written in the stars" that the court should have a liberal bent. He said Trump's pick will tip the court to become more conservative, and he said that is appropriate "for a nation which is, if you will, center right, to have a court which reflects a center right point of view."

**MORE NEWS: U.S. CORONAVIRUS DEATH TOLL TOPS 200,000 PAGE 35**

## FACEBOOK USERS IN ILLINOIS MAY BE ENTITLED TO A PAYMENT IF THEIR FACE APPEARED IN A PICTURE ON FACEBOOK AFTER JUNE 7, 2011

Facebook, Inc. has settled a class action that claimed Facebook violated Illinois law by collecting and storing the biometric data of Facebook users in Illinois without the proper notice and consent, as part of its "Tag Suggestions" feature and other features involving facial recognition technology. Facebook denies it violated any law. For more information, please visit [www.facebookbipaclaimaction.com](http://www.facebookbipaclaimaction.com).

### AM I A CLASS MEMBER?

The Court decided that all people who fit this definition are included in the Class: "Facebook users located in Illinois for whom Facebook created and stored a face template after June 7, 2011." To file a valid claim under the Settlement, you must have lived in the State of Illinois for a period of at least 183 days (6 months).

### WHAT CAN PEOPLE GET FROM THE SETTLEMENT?

If you believe you are a Class Member, you can fill out a short Claim Form and potentially receive approximately \$200 to \$400 from a \$650 million Settlement Fund. The amount you receive may be less than or greater than this amount depending on the number of valid claims filed. This fund will also be used to pay the costs of notifying people about the Settlement, the lawyers' fees, award payments to the users who helped bring the lawsuit, and certain taxes. The Settlement also requires Facebook to turn "off" the Facial Recognition setting and delete face templates for most Class Members unless they turn it back "on."

### WHAT ARE MY RIGHTS & OPTIONS?

**File a claim.** The only way to get money is to fill out a short Claim Form. If the Court approves the Settlement, you will be bound by all orders and judgments in the case. **Do Nothing.** You will get no money, but will be bound by all orders and judgments in the case. **Exclude Yourself.** If you do not want money from the Settlement and want to keep your right to file your own lawsuit against Facebook for any of the issues or claims in the case, you must exclude yourself from the Class. **Object.** You can also object to the Settlement and Class Counsel's request for attorneys' fees and expenses if you disagree with them. All claims, requests for exclusion, and objections must be postmarked by November 23, 2020. The Court has appointed lawyers from the firms Edelson PC, Robbins Geller Rudman & Dowd LLP, and Labaton Sucharow LLP to represent you as "Class Counsel." The lawyers will request to be paid from the Settlement Fund. You can hire your own lawyer, but you'll need to pay your own legal fees.

The Court will hold a final hearing on the Settlement of this case at 10:00 a.m. on January 7, 2021, at the Philip Burton Federal Courthouse, 450 Golden Gate Ave, Courtroom 11, 19th floor, San Francisco, CA 94102. You can go to this hearing, but you do not have to. The Court will hear any objections, determine if the Settlement is fair, and consider Class Counsels' request for attorneys' fees of up to 20% of the original settlement fund (\$550 million) plus expenses, and an incentive award to the Class Representatives. Any money not awarded will stay in the Settlement Fund to pay Class Members who file valid claims. Class Counsels' request for fees, expenses, and an incentive award will be posted on the settlement website after they are filed.

### HOW DO I GET MORE INFORMATION?

This notice is only a summary. For information, including the Settlement other legal documents, visit [www.facebookbipaclaimaction.com](http://www.facebookbipaclaimaction.com) or contact the administrator at 1-844-799-2417. Please do not contact the Court or Facebook.

## NOTICE OF PROPOSED PROPERTY TAX LEVY FOR ALSIP, HAZELGREEN AND OAK LAWN SCHOOL DISTRICT NUMBER 126

I. A public hearing to approve a proposed property tax levy for Alsip, Hazelgreen and Oak Lawn School District Number 126, Cook County, Illinois for 2020 will be held on October 1, 2020 at 7:00 p.m. at Prairie Junior High School, 11910 South Kostner Avenue, Alsip, IL 60803.

Any person desiring to appear at the public hearing and present testimony to the taxing district may contact Craig Gwaltney, Superintendent, School District #126, 11900 S. Kostner, Alsip, IL 60803, (708) 3891900.

II. The corporate and special purpose property taxes extended or abated for 2019 were \$23,630,977.

The proposed corporate and special purpose property taxes to be levied for 2020 are \$24,808,000. This represents a 4.98% increase over the previous year.

III. The property taxes extended for debt service and public building commission leases for 2019 were \$0.00.

The estimated property taxes to be levied for debt service and public building commission leases for 2020 are \$0.00. This represents no change from the previous year.

IV. The total property taxes extended or abated for 2019 were \$23,630,977. The total property taxes to be levied for 2020 are \$24,808,000. This represents a 4.98% increase over the previous year.

Lori Pierce  
Secretary, Board of Education  
School District Number 126  
Cook County, Illinois



# Exhibit G

*In re Facebook Biometric Info.  
Privacy Litig.*

Digital Media Screenshots

One of Editor & Publisher's '10 That Do It Right 2020' | Tuesday, September 29, 2020

Log In | Try 1 month for \$1

# CHICAGO SUN★TIMES

Subscribe

News ▾ Sports ▾ More ▾

Twitter Facebook YouTube Instagram Search

FACEBOOK USERS LOCATED IN ILLINOIS WHO APPEARED IN A PICTURE UPLOADED TO FACEBOOK AFTER JUNE 7, 2011 MAY BE ENTITLED TO A PAYMENT FROM A CLASS ACTION SETTLEMENT

[Learn More](#)

FacebookBIPAcClassaction.com



CITY HALL

## Lightfoot debuts sweeping



CORONAVIRUS

### Chicago to ease capacity restrictions on restaurants, allow drinking inside bars

The changes, taking effect Thursday, also increase the size of exercises classes and after-school programs to 15, up from 10. And salon services that require removing a mask, such as facials and shaves, will be allowed.

By Adam Mahoney



CORONAVIRUS

### N95 mask shortage scares health care workers ahead of projected COVID-19 spike

With another wave of coronavirus cases possible this fall and winter, hospitals are trying to stock up on N95 respirators, considered the best Personal Protective Equipment. But they haven't gotten enough help from the Trump Administration, critics say.

By Brett Chase

**POLITICS**

**ELECTIONS**  
Illinois 2020 Election Voting Guide

**ELECTIONS**  
How to watch the first presidential debate between Donald Trump and Joe Biden

**NEWS**  
State groups bemoan stop-and-go decisions affecting the census deadline

**SPRINGFIELD**  
Ex-ComEd VP set to plead guilty to corruption charges — right before Madigan committee meets

**NEWS**  
**Madigan opts not to sit in the hot seat, but will legislative panel make him feel any heat?**  
Advancing a charge to a disciplinary committee would take at least one of the Democrats siding with the three Republicans — and if the past few weeks are any indication, that's not likely.

**FACEBOOK USERS LOCATED IN ILLINOIS WHO APPEARED IN A PICTURE UPLOADED TO FACEBOOK AFTER JUNE 7, 2011 MAY BE ENTITLED TO A PAYMENT FROM A CLASS ACTION SETTLEMENT**

[Learn More](#)

FacebookBIPClassaction.com

---

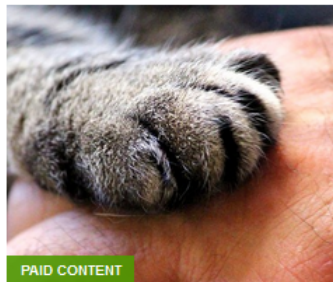
**SPORTS**

**CUBS**  
Long shots? The Cubs don't give a [blank]. Sometimes, it's better to be an underdog

**MLB**  
Cubs, Sox did a lot well on their way to playoffs

**WHITE SOX**  
Where to watch the White Sox

TOP STORIES



**3 Toxic Foods For Cats: The One Meat You Should Never Feed Your Cat**

PAID CONTENT BY DR. MARTY



**When could the IRS send more stimulus checks and who might get them first?**

BY CLIFFORD COLBY



LATEST STORIES [All news](#)

**JUST IN Second stimulus check: The 7 biggest takeaways you should know right now**  
The route to a new round of stimulus payments keeps twisting and turning. We'll keep it simple.



**JUST IN Win Prime Day with these 6 essential tips**  
CNET's resident cheapskate has the inside scoop.



**JUST IN Audi's cellular vehicle-to-everything communications tech will save road**  
"C-V2X" communication is the future and Audi is pushing it forward.



**JUST IN Best espresso machine for 2020: Mr. Coffee, Breville, Cuisinart, Breville and**  
To learn what espresso machines are the best we tested many popular models from Breville, Nespresso,...



**JUST IN Coffee makers starting at \$15 for National Coffee Day**  
Some of the best coffee deals of the year are going on right now.



**JUST IN Microsoft may have new Surfaces coming this week**  
A new Surface Laptop Go and Pro X may be coming on Thursday.



**22 MIN AGO Prime Day deal: 5 ways to spend \$10 at Amazon and get \$10 from Amazon**  
Shop in physical stores and you can score up to \$50 in Prime Day credits.



**29 MIN AGO Motorola Razr arrives Oct. 2 with discounts up to \$700 off**  
The new Razr normally costs \$1,400, but starting Friday you can buy one for as little as \$700.



The screenshot shows the HowStuffWorks website homepage. At the top, there is a navigation bar with the HowStuffWorks logo, social media icons for Facebook, Twitter, Instagram, and YouTube, and a search bar. Below the navigation bar, there is a main article titled "Cyanosis: Why Your Fingers Turn Blue" by Alia Hoyt, dated Sep 29, 2020. The article features a photograph of a person's hands, one of which is blue. Below the article, there is an advertisement for Startpage Search Engine, titled "Protect Your Online Financial Activity" with a "Search Privately" button. To the right of the Startpage ad, there is another advertisement titled "Facebook Users Located in Illinois Who Appeared in a Picture Uploaded to Facebook After June 7, 2011 May Be Entitled to a Payment from a Class Action Settlement" with a "Learn More" button and the website FacebookBIPaclassaction.com. Below the Startpage ad, there are two article thumbnails: "Crafty Wartime Spies Put Codes Right Into Their Knitting" by Nathan Chandler and "How Yom Kippur Works" by Katherine Neer. At the bottom, there is a "WE WERE WONDERING" section with three article thumbnails: "Why Do We Scratch Our Heads When We're Thinking?", "Why Do We Say We're 'In a Pickle'?", and "Is Stainless Steel Really Impossible to Stain?".



Is krokodil really a flesh-eating zombie drug?

How does the brain create an uninterrupted view of the world?

How Sand Dunes Work



From Slave to Millionaire Philanthropist: The Biddy Mason Story

The Tragic Life and Curious Death of Howard Hughes

How the United Nations Works



Top 10 Animal vs. Aircraft Stories

Shark Finning - The Big Picture of a Big Problem

DNA Database Helps Nab Rhinoceros Poachers

Advertisement

Get Access to Un-Profiled News

Startpage

Search Privately



FACEBOOK USERS LOCATED IN ILLINOIS WHO APPEARED IN A PICTURE UPLOADED TO FACEBOOK AFTER JUNE 7, 2011 MAY BE ENTITLED TO A PAYMENT FROM A CLASS ACTION SETTLEMENT

FacebookBIPAcassaction.com

Learn More

## PUZZLES

Try a free puzzle based on our content. How fast can you solve it?




## Say What?!

"The people in Missouri say, 'Well, Frankfort thinks that they've got the body of Daniel Boone. They got his large bones. But we got his heart still here in Missouri.'" — Sam Compton, President, The Boone Society


Explore more in Explorer Daniel Boone Blazed a Trail to the American West

Advertisement


EXPLORE **Southern Living** Q Your Account ▼ Login Sweepstakes **SUBSCRIBE**



**DINNER**  
**45 Comforting Dinners To Kick Off Fall**  
There's nothing like a cozy supper to welcome fall.




**HOME DECOR IDEAS**  
**Fall Decorating Ideas for a Beautiful Season**





**HOW-TO**  
**How To Season A Cast-Iron Skillet**  
Learn how to season this Southern kitchen staple in five easy steps.


**ADVERTISEMENT**


**FACEBOOK USERS LOCATED IN ILLINOIS WHO APPEARED IN A PICTURE UPLOADED TO FACEBOOK AFTER JUNE 7, 2011 MAY BE ENTITLED TO A PAYMENT FROM A CLASS ACTION SETTLEMENT**  
FacebookBIPAclassaction.com [Learn More](#)

**BISCUITS & JAM**  
Gladys Knight On Music, Singing In The Kitchen... 

**TRAVEL**  
Have You Ever Wondered Why the Blue Ridge... 

**HOW-TO**  
This is The Very Best Way to Freeze Peaches 

**BISCUITS & JAM**  
Willie Nelson Has the Secret to Staying Positive 

**SOUTHERN CULTURE**  
Our Favorite Southern Grandma Names 



Tuesday, 29 September 2020

# USWEEKLY

Search Powered by Google Search >

Today's news World U.S. National Politics Business Technology Sports Entertainment Beauty & Health Living & Travel Science Weather Odd news Shopping

## Armenia says its fighter jet 'shot down by Turkey'



**World news**

**Armenia says its fighter jet 'shot down by Turkey'**



Armenia says its fighter jet was shot down by Turkey in Armenian air space, a claim Turkey denies.

Source: [www.bbc.co.uk](http://www.bbc.co.uk)

**From one death to one million: Pandemic milestones**



**COVID-19: Work from Home Boon or Bane?**

## 'Not much of a break': Crews struggle with deadly wildfires racing through Northern California, wine country



California fire crews battled two ferocious blazes, including one in wine country, that destroyed homes and forced at least 70,000 people to flee

Source: [rssfeeds.usatoday.com](http://rssfeeds.usatoday.com)

**South Carolina woman's heartwarming obituary for beloved golden retriever goes viral**



## Today's news

### Kristin Cavallari says she contemplated divorce from Jay Cutler 'every single day for over two years'



- Republican women's group makes new round of House endorsements
- Rep. Kevin Brady calls for probe into whether Trump's tax information release was 'illegal'
- Portland unrest sends police sergeant to hospital; officers doused in chemicals, 24 arrested
- Utah pumpkin growers break record with 8 gourds over 1,000 pounds
- David Shulkin: VA needs to secure relief for burn pit veterans
- Trump camp seeks extra debate rule: Third party inspectors to look for electronic devices in candidates' ears
- Mismarked absentee ballots in NYC lead to 'mass confusion,' official says
- NASA launch may be visible along much of the East Coast
- Kuwait's Emir Sheikh Al Ahmed Al Sabah dies at 91, half brother to take over duties

advertising

**FACEBOOK USERS LOCATED IN ILLINOIS WHO APPEARED IN A PICTURE UPLOADED TO FACEBOOK AFTER JUNE 7, 2011 MAY BE ENTITLED TO A PAYMENT FROM A CLASS ACTION SETTLEMENT**

[FacebookBIPAClassAction.com](https://www.facebook.com/BIPAClassAction.com) [Learn More](#)

## Entertainment

### Duchess Kate toasts marshmallows with Scouts during visit to praise their pandemic work



- Meghan McCain welcomes first child, reveals newborn's patriotic name
- Meghan McCain welcomes baby girl: 'The View'

# **Exhibit H**

Official Notice from the United States District Court for the Northern District of California

## **Facebook users in Illinois may be entitled to payment if their face appeared in a picture on Facebook after June 7, 2011**

**Don't worry, you are not being sued. This is an official court notice, not an ad for a lawyer.**

Facebook, Inc. has settled a class action that claimed Facebook collected and stored the biometric data of Facebook users in Illinois without the proper notice and consent in violation of Illinois law as part of its "Tag Suggestions" feature and other features involving facial recognition technology.

You are included in the Settlement if you are or were a Facebook user located in Illinois and Facebook created and stored a face template for you after June 7, 2011.

Included users can fill out a short Claim Form and receive approximately \$200 to \$400 per person from a \$650 million Settlement Fund. This fund will also be used to pay the costs of notifying people about the Settlement, the lawyers' fees, awards to the users who helped bring the lawsuit, and certain taxes.

The Settlement also requires Facebook to turn "off" its Facial Recognition setting and delete face templates for most users unless they turn it back "on."

If you are included, your legal rights are affected whether you act or do not act. Read this Notice carefully.

The Court in charge of this case hasn't decided if the Settlement is fair yet. Payments will be made only if the Court decides the Settlement is fair and approves the Settlement.

### **Your Legal Rights and Options in this Lawsuit**

#### **1. Fill Out a Claim Form.**

The only way to get a payment. You must submit a valid Claim Form either online or by mail postmarked by November 23, 2020.

#### **2. Object.**

Write to the Court about why you do not like something about the Settlement by November 23, 2020.

#### **3. Ask to be excluded from the Class.**

If you don't want to be a part of the Settlement, you must send a written request to be excluded. You won't get any money or other benefits, but you will keep any rights to sue Facebook yourself for the same legal issues in this lawsuit.

#### **4. Go to a hearing on January 7, 2021.**

You can ask to speak to the Court about your opinion of the Settlement, including the amount of lawyers' fees. Written requests to speak must be received by the Court by November 23, 2020.

**5. Do nothing.**

You won't get any money and you will lose any rights to sue Facebook yourself for the same legal issues in this lawsuit.

**Basic Information**

**6. Why should I read this Notice?**

This Notice explains the lawsuit, the Settlement, your rights, what payments are available, and how to get them.

The Hon. James Donato of the United States District Court for the Northern District of California is in charge of this class action. The lawsuit is known as *In re Facebook Biometric Information Privacy Litigation*, Case No. 3:15-CV-03747-JD.

**7. What is this lawsuit about?**

Facebook users in Illinois sued Facebook claiming that its "Tag Suggestions" feature and other features involving facial recognition technology violated the Illinois Biometric Information Privacy Act ("BIPA"). That law says companies can't collect, store, or give out "biometric data," which includes things like face or fingerprint scans, without first giving notice and getting consent. This case alleges that Facebook used facial recognition technology to create face templates—unique templates that can be used to identify users in photos, that these templates are covered by BIPA, and that Facebook did this without the proper notice and consent. Facebook denies all allegations of wrongdoing and liability.

**8. What is a class action and who is involved?**

In a class action lawsuit, one or more people called "Class Representatives" sue on behalf of other people who have similar claims. These people together are a "Class" or "Class Members." One court resolves the issues in the case for everyone in the Class—except for those people who choose to exclude themselves from the Class. In this case, the Court appointed Nimesh Patel, Adam Pezen, and Carlo Licata as the Class Representatives. These individuals are each from Illinois and claim that they had face templates created and stored by Facebook.

**9. Why is there a Settlement?**

Facebook and the Class Representatives spent more than five years in Court fighting this case. Shortly before trial, both sides agreed to a settlement. The Settlement gives Class Members guaranteed payments now whereas in a trial, Class Members might get nothing or might get payments only years from now. Because there is a settlement, the Court has not decided who should win the case.

**Who Is Included in the Settlement**

To see if you can get a payment, you first need to determine whether you are included in this lawsuit.

**10. Am I Included as part of the Class?**

The Court decided that all people who fit this definition are included in the Class: "Facebook users located in Illinois for whom Facebook created and stored a face template after June 7, 2011."

To receive money under the Settlement, you must have lived in the State of Illinois for a period of at least 183 days (6 months) after June 7, 2011. Time spent traveling or taking a vacation outside Illinois can be included in this time period and does not make you ineligible.

Facebook's records were used to identify certain Class Members who should have received Notice through email or on Facebook. If you didn't get a Notice and think you're included, you might be part of the Class if you are a current or former Facebook user in Illinois who uploaded a photograph of yourself or were "tagged" in a photograph on Facebook after June 7, 2011. Not everybody in Illinois who uses Facebook is included. If photographs of you that were uploaded to Facebook (by yourself or others) after June 7, 2011 did not result in the creation of a face template while you lived in Illinois, you are not part of the Class. For more information, please visit [www.facebookbipaaction.com](http://www.facebookbipaaction.com).

#### **11. Are there exceptions to being included?**

Some users are excluded because they work for Facebook or are related to the judges or lawyers in the case. The Settlement Agreement has a list of the categories of people who are excluded. Of course, users who request to be excluded (this process is explained below) aren't included either.

#### **12. I'm still unsure if I am included.**

If you are still not sure whether you are included, you can get free help at [www.facebookbipaaction.com](http://www.facebookbipaaction.com), by calling the Settlement Administrator at 1-844-799-2417 or by calling the lawyers appointed to represent Class Members in this case, Edelson PC ("Edelson") of Chicago, Illinois 1-866-354-3015, Robbins Geller Rudman & Dowd LLP ("Robbins Geller") of San Francisco, California 1-800-449-4900, and Labaton Sucharow LLP ("Labaton Sucharow") of New York, New York 1-888-219-6877. Please do not contact the Court or Facebook.

### **The Settlement Benefits**

#### **13. What does the Settlement provide?**

Facebook will pay \$650 million to settle this case. That money will go into a "Settlement Fund" to pay for everything related to the Settlement. Most of the money will go to Class Members who submit valid Claim Forms (more about that in the question below). The rest will be used to pay the costs of notifying people about the Settlement, the lawyers' fees, awards to the Class Representatives who helped bring the lawsuit, and certain taxes.

Facebook will also turn "off" its Face Recognition feature for most Class Members. If those Class Members don't turn Face Recognition back on, Facebook will delete all existing face templates for those users.

Some Class Members who already turned Face Recognition back "on" for themselves, including Class Members who recently signed up for Facebook, won't have their Face Recognition setting turned off.

Finally, Facebook will delete any face templates of any Class Members who have had no activity on Facebook for a period of three years.

#### **14. How much will my payment be?**

Payments will likely be approximately \$200 to \$400 per person. We can't give you an exact number right now because the payment amounts depend on how many Class Members file valid claims and the amount of fees, costs, expenses, and awards deducted from the Settlement Fund. The Settlement Website will periodically be updated to provide the estimated payment amount based on the number of participating Class Members.

### **15. How can I get a payment?**

To get a payment you have to complete and submit a valid Claim Form **no later than November 23, 2020**. Please file your claim electronically on **www.facebookbipaaction.com**. Not only is submitting online easier and more secure, but it is completely free and takes only minutes. You can get payment by a check or electronically through Zelle, PayPal, and direct deposit.

If you want to get a paper copy of the Claim Form, you can go to **www.facebookbipaaction.com** or call toll-free, 1-844-799-2417.

### **16. When will I get my payment?**

We can't give you a date yet. Payments will be made about two months after the Court approves the Settlement. The Court will consider final approval of the Settlement on January 7, 2021. Even if the Court approves the Settlement, there may be appeals. It is always uncertain whether and when appeals can be resolved, and resolving them can take more than a year.

All checks will expire and become void 90 days after they are issued. If there is any money left because of uncashed checks or returned electronic payments, you may get a second payment if you filed a valid claim. If there is money left after the second payments, that money may be donated to the American Civil Liberties Union of Illinois to be used for their efforts protecting biometric privacy rights.

The Settlement Website will be updated to inform Class Members of the progress of the Settlement. Please be patient.

## **What happens if you remain in the Settlement**

### **17. What am I giving up if I stay in the Class?**

Unless you exclude yourself, you are staying in the Class. That means that if the Court approves the Settlement, you are giving up the right to file your own lawsuit against, or seek further money from, Facebook for any of the issues or claims in the case—whether or not you are currently aware of those claims.

The specific scope of the claims you are releasing is in paragraph 1.25 of the Settlement Agreement, which is available through the “Court Documents” link on the Settlement Website. If you have any questions, you can talk to the lawyers listed in Question 19 for free, or you can, of course, talk to your own lawyer if you have questions about what the release means.

### **18. What happens if I do nothing at all?**

If you are a Class Member and do nothing (meaning you don't submit a Claim Form and don't exclude yourself), you will not get anything from this Settlement and you will release your claims as explained above.

## **The Lawyers Representing you**

### **19. Do I have a lawyer in this case?**

The Court has appointed the law firms of Edelson 1-866-354-3015, Robbins Geller 1-800-449-4900, and Labaton Sucharow 1-888-219-6877 to represent you and all Class Members. These firms are called “Class Counsel.” The law firms are experienced in handling similar class action cases. More information about Edelson, Robbins Geller, and Labaton Sucharow, their practices, and their lawyers' experience is available at [www.edelson.com](http://www.edelson.com), [www.rgrdlaw.com](http://www.rgrdlaw.com), and [www.labaton.com](http://www.labaton.com).

They believe, after fighting with Facebook in Court for several years, that the Settlement Agreement is fair, reasonable, and in the best interests of the Class. You will not be separately charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

**20. How will the lawyers be paid?**

The Court will determine how much Class Counsel will be paid for attorneys' fees, costs, and expenses in this case. The amounts will be paid from the \$650 million Settlement Fund. Class Counsel will apply for an attorneys' fees award of no more than twenty percent of the original \$550 million settlement fund, plus costs and expenses. Labaton Sucharow will use money from its share of what is awarded to pay the Offices of Norman Rifkind.

Class Counsel will also ask the Court to approve awards of up to \$7,500 each to compensate the Class Representatives for their services on behalf of the Class.

Class Counsel's application for an award of attorneys' fees, costs, and expenses and the Class Representative awards will be made available on the "Court Documents" page at [www.facebookbipaaction.com](http://www.facebookbipaaction.com) on October 15, 2020.

**Excluding Yourself from the Class**

**21. How do I get out of the Settlement?**

To exclude yourself from the Class, and no longer be part of the Settlement, you must mail, email, or deliver a letter stating that you want to be excluded from the Class in *In re Facebook Biometric Information Privacy Litigation*, Case No. 3:15-cv-03747-JD. Your request for exclusion must include your name, address, email address, and your signature. If your email address is different than the email address associated with your Facebook account, please also include an email address associated with your account or a mobile phone number associated with your account. You must mail or email your exclusion request **no later than November 23, 2020**, to:

***In re Facebook Biometric Information Privacy Litigation Settlement Administrator***  
P.O. Box 43401  
Providence, RI 02940-3401  
[admin@facebookbipaaction.com](mailto:admin@facebookbipaaction.com)

**22. If I do not exclude myself, can I sue Facebook for the same thing later?**

No. Unless you exclude yourself, you give up any right to sue Facebook for the claims being resolved by this Settlement. If you have a pending case against Facebook, please speak with your attorney immediately.

**23. If I exclude myself, can I still get anything from the Settlement?**

No. If you exclude yourself, you should not submit a Claim Form to ask for a payment because you will no longer be eligible for any.

## Objecting to or Commenting on the Settlement

### 24. How do I object or comment on the Settlement or the request for attorneys' fees, costs, expenses, and incentive awards?

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

You can ask the Court to deny approval of the Settlement. You cannot ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no payments will be made now, and the litigation will continue. If that is what you want to happen, you must object.

Any objection to the proposed Settlement must be in writing. If you file a written objection before the deadline, you may, but don't have to, appear at the Final Approval Hearing. If you want to appear, you can do so yourself or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney.

All written objections must contain the following:

- The name and case number of this lawsuit (*In re Facebook Biometric Information Privacy Litigation*, Master File No. 3:15-CV-03747-JD);
- Your full name, mailing address, email address, and telephone number;
- If you use a different email address or telephone number for your Facebook account please also provide that information;
- An explanation of why you believe you are a Class Member;
- A statement that identifies whether you are objecting only on your own behalf, on behalf of a subsection of the Class, or on behalf of the Class as a whole;
- All reasons for your objection or comment, including all citations to legal authority and evidence supporting the objection;
- Whether you intend to personally appear and/or testify at the Final Approval Hearing (either personally or through counsel), and what witnesses you will ask to speak;
- The name and contact information of any and all attorneys representing, advising, and/or assisting you, including any counsel who may be entitled to compensation for any reason related to your objection or comment, who must make an appearance with the Court in accordance with the Local Rules; and
- Your handwritten or electronically imaged signature. An attorney's signature, or typed signature, is not sufficient.

To be considered by the Court, your comment or objection must be received by the Court either by mailing it to the Class Action Clerk, United States District Court for the Northern District of California, Phillip Burton Federal Building & U.S. Courthouse, 450 Golden Gate Avenue, San Francisco, CA 94102, or by filing it in person at any location of the United States District Court for the Northern District of California. To be considered, your comment or objection must be filed or postmarked **on or before November 23, 2020**.



**25. What is the difference between objecting and excluding myself from the Class?**

Objecting means that you disagree with some aspect of the Settlement and think the Court should not approve the Settlement. An objection, or a comment, allows your views to be heard in court. You can object only if you stay in the Class.

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

**The Court’s Final Approval Hearing**

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

The Court is scheduled to hold the Final Approval Hearing on January 7, 2021 at 10:00 a.m. in Courtroom 11 of the United States Courthouse, 450 Golden Gate Ave., 19th Floor, San Francisco, CA. The hearing may be rescheduled to a different date or time or location without another Notice to Class Members. Especially given the national health emergency, the date, time and location of the hearing may be subject to change, as will the manner in which Class Members might appear at the hearing. Please review the Settlement Website for any updated information regarding the Final Approval Hearing.

At the Final Approval Hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. If there are objections, the Court will consider them. The Court may listen to people who appear at the hearing and who have provided notice of their intent to appear at the hearing. The Court may also consider Class Counsel’s application for attorneys’ fees, costs and expenses and for awards to Class Representatives.

**27. Do I have to come to the Final Approval Hearing?**

No. Class Counsel will answer any questions the Court may have. You may attend at your own expense if you wish. If you submit a written objection or comment, you do not have to come to the Court to talk about it. As long as you submit your written objection or comment on time, and follow the requirements above, the Court will consider it. You may also pay your own attorney to attend, but it is not required.

**28. May I speak at the Final Approval Hearing?**

Yes. You may ask the Court for permission to speak at the Final Approval Hearing. At the hearing, the Court may hear any objections and arguments concerning the fairness of the Settlement and/or Class Counsel’s request for attorneys’ fees, costs, expenses, and incentive awards.

To do so, you must include in your objection or comment a statement saying that it is your “Notice of Intent to Appear in *In re Facebook Biometric Information Privacy Litigation*, Case No. 3:15-cv-03747-JD”. It must include your name, address, email, telephone number and signature as well as the name and address of your lawyer, if one is appearing for you. Your submission and notice of intent to appear must be filed with the Court and be received no later than November 23, 2020.

You cannot speak at the hearing if you exclude yourself from the Class.

## Getting More Information

### 29. How do I get more information?

This Notice summarizes the proposed Settlement. More details are in the Stipulation of Class Action Settlement, in the Court's orders, and other relevant documents, which are available online at [www.facebookbipaclassaction.com](http://www.facebookbipaclassaction.com).

You can also get information about this case by accessing the Court docket, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at [www.cand.uscourts.gov](http://www.cand.uscourts.gov), or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, San Francisco Courthouse, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

You may also contact the Settlement Administrator at 1-844-799-2417 or write to *In re Facebook Biometric Information Privacy Litigation* Settlement Administrator, P.O. Box 43401, Providence, RI 02940-3401, or call Class Counsel Edelson (1-866-354-3015), Robbins Geller (1-800-449-4900), and Labaton Sucharow (1-888-219-6877).

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

All questions regarding the Settlement or claims process should be directed to the Settlement Administrator or to Class Counsel.

By order of the United States District Court for the Northern District of California

Aviso Oficial del Tribunal de Distrito de Estados Unidos por el Distrito Norte de California

## **Los usuarios de Facebook en Illinois pueden tener derecho a un pago si su cara apareció en una foto en Facebook después del 7 de junio de 2011**

**No se preocupe, usted no está siendo demandado. Esto es un aviso oficial del tribunal, no un anuncio de un abogado.**

Facebook, Inc. ha resuelto una demanda colectiva que alega que Facebook recopiló y almacenó datos biométricos de los usuarios de Facebook en Illinois sin el debido aviso y consentimiento infringiendo la ley de Illinois como parte de su función “Sugerencias de Etiqueta” y otras funciones que implican la tecnología de reconocimiento facial.

Usted está incluido en el Acuerdo si es o era usuario de Facebook ubicado en Illinois y Facebook creó y almacenó una plantilla de cara para usted después del 7 de junio de 2011.

Los usuarios incluidos pueden rellenar un breve Formulario de Reclamación y recibir aproximadamente de \$200 a \$400 por persona procedente del Fondo del Acuerdo de \$650 millones. Este fondo también se utilizará para pagar los costos de notificar a las personas sobre el Acuerdo, los honorarios de los abogados, las adjudicaciones a los usuarios que ayudaron a presentar la demanda, y ciertos impuestos.

El Acuerdo también solicita que Facebook “desactive” su configuración de Reconocimiento Facial y elimine las plantillas de rostros para la mayoría de los usuarios, a menos que ellos la vuelvan a “activar”.

Si usted está incluido, sus derechos legales se ven afectados independientemente de si actúa o no. Lea este Aviso detenidamente.

El Tribunal a cargo de este caso aún no ha decidido si el Acuerdo es justo. Los pagos solamente se efectuarán si el Tribunal decide que el Acuerdo es justo y lo aprueba.

### **Sus Derechos Legales y Opciones en esta Demanda**

#### **1. Rellenar un Formulario de Reclamación.**

La única manera de obtener un pago. Usted tiene que presentar un Formulario de Reclamación válido ya sea en línea o por correo con matasellos de no más tarde del 23 de noviembre de 2020.

#### **2. Objetar.**

Escriba al Tribunal sobre por qué no le agrada algo del Acuerdo no más tarde del 23 de noviembre de 2020.

#### **3. Solicitar ser excluido de la Clase.**

Si no desea formar parte del Acuerdo, tiene que enviar una solicitud por escrito para ser excluido. No recibirá ningún dinero ni otros beneficios, pero mantendrá cualquier derecho a demandar a Facebook usted mismo por los mismos asuntos legales en esta demanda.

#### **4. Asistir a una audiencia el 7 de enero de 2021.**

Usted puede solicitar hablar en el Tribunal sobre su opinión del Acuerdo, incluyendo el monto de los honorarios de abogados. Las solicitudes por escrito para hablar tienen que ser recibidas por el Tribunal no más tarde del 23 de noviembre de 2020.

## **5. No hacer nada.**

No recibirá dinero y perderá cualquier derecho a demandar a Facebook usted mismo por los mismos asuntos legales en esta demanda.

## **Información Básica**

### **6. ¿Por qué debería leer este Aviso?**

Este Aviso explica la demanda, el Acuerdo, sus derechos, los pagos disponibles, y cómo obtenerlos.

El Hon. James Donato del Tribunal de Distrito de Estados Unidos por el Distrito Norte de California está a cargo de esta demanda colectiva. La demanda se conoce como *In re Facebook Biometric Information Privacy Litigation*, N.º de caso 3:15-CV-03747-JD.

### **7. ¿De qué trata esta demanda?**

Los usuarios de Facebook en Illinois demandaron a Facebook alegando que su función de “Sugerencia de Etiqueta” y otras funciones relacionadas con la tecnología de reconocimiento facial infringió la Ley de Privacidad de Información Biométrica de Illinois (“BIPA” por sus siglas en inglés). Esa ley dice que las empresas no pueden recopilar, almacenar, o dar “datos biométricos”, que incluyen cosas como escaneos faciales o de huellas dactilares, sin antes dar aviso y obtener consentimiento. Este caso alega que Facebook utilizó tecnología de reconocimiento facial para crear plantillas de rostros—plantillas únicas que se pueden utilizar para identificar a los usuarios en fotos, que estas plantillas están cubiertas por BIPA, y que Facebook lo hizo sin el debido aviso y consentimiento. Facebook niega todas las alegaciones de irregularidades y responsabilidad.

### **8. ¿Qué es una demanda colectiva y quién participa?**

En una demanda colectiva, una o más personas llamadas “Representantes de la Clase” demandan en nombre de otras personas que tienen reclamaciones similares. Estas personas juntas forman una “Clase” o son “Miembros de la Clase”. Un tribunal resuelve los asuntos en el caso para todas las personas de la Clase (excepto para aquellas personas que decidan excluirse de la Clase). En este caso, el Tribunal nombró a Nimesh Patel, Adam Pezen y Carlo Licata como Representantes de la Clase. Estas personas son de Illinois y alegan que Facebook tenía plantillas de rostro creadas y almacenadas de ellos.

### **9. ¿Por qué hay un Acuerdo?**

Facebook y los Representantes de la Clase pasaron más de cinco años en el Tribunal litigando este caso. Poco antes del juicio, ambas partes llegaron a un acuerdo. El Acuerdo otorga a los Miembros de la Clase pagos garantizados ahora, mientras que en un juicio, los Miembros de la Clase podrían no recibir nada o podrían obtener pagos dentro de unos años. Como hay un acuerdo, el Tribunal no ha decidido quién debería ganar el caso.

## **Quién está Incluido en el Acuerdo**

Para ver si puede obtener un pago, primero necesita determinar si está incluido en esta demanda.

### **10. ¿Estoy incluido como parte de la Clase?**

El Tribunal decidió que todas las personas que se ajustan a esta definición están incluidas en la Clase: “Los usuarios de Facebook ubicados en Illinois para los que Facebook creó y almacenó una plantilla de rostro después del 7 de junio de 2011”.

Para recibir dinero conforme al Acuerdo, tiene que haber vivido en el estado de Illinois durante un periodo de al menos 183 días (6 meses) después del 7 de junio de 2011. El tiempo que pasara viajando o de vacaciones fuera de Illinois se puede incluir en este periodo de tiempo y no lo hace inelegible.

Los registros de Facebook se utilizaron para identificar a ciertos Miembros de la Clase que deberían haber recibido un Aviso por correo electrónico o en Facebook. Si usted no recibió un Aviso y cree que está incluido, podría formar parte de la Clase si es un usuario actual o anterior de Facebook en Illinois que subió una fotografía de sí mismo o fue “etiquetado” en una fotografía en Facebook después del 7 de junio de 2011. No todas las personas en Illinois que utilizan Facebook están incluidas. Si las fotografías suyas que fueron subidas a Facebook (por usted u otros) después del 7 de junio de 2011 no resultaron en la creación de una plantilla de rostro mientras vivía en Illinois, no forma parte de la Clase. Para obtener más información, visite [www.facebookbipaaction.com](http://www.facebookbipaaction.com).

### **11. ¿Hay excepciones para estar incluido?**

Algunos usuarios quedan excluidos porque trabajan para Facebook o están relacionados con los jueces o abogados en este caso. El Acuerdo de Resolución tiene una lista de las categorías de personas que están excluidas. Por supuesto, los usuarios que soliciten ser excluidos (este proceso se explica más adelante) tampoco están incluidos.

### **12. Todavía no estoy seguro de si estoy incluido.**

Si todavía no está seguro de si está incluido, puede obtener ayuda gratuita en [www.facebookbipaaction.com](http://www.facebookbipaaction.com), llamando al Administrador del Acuerdo al 1-844-799-2417 o llamando a los abogados designados para representar a los Miembros de la Clase en este caso, Edelson PC (“Edelson”) de Chicago, Illinois 1-866-354-3015, Robbins Geller Rudman & Dowd LLP (“Robbins Geller”) de San Francisco, California 1-800-449-4900, y Labaton Sucharow LLP (“Labaton Sucharow”) de New York, New York 1-888-219-6877. Por favor, no se ponga en contacto con el Tribunal o Facebook.

## **Los Beneficios del Acuerdo**

### **13. ¿Qué dispone el Acuerdo?**

Facebook pagará \$650 millones para resolver este caso. Ese dinero se ingresará en un “Fondo del Acuerdo” para pagar todo lo relacionado con el Acuerdo. La mayor parte del dinero se destinará a los Miembros de la Clase que presenten Formularios de Reclamación válidos (más detalles en la siguiente pregunta). El resto se utilizará para pagar los costos de notificar a las personas sobre el Acuerdo, los honorarios de los abogados, las adjudicaciones a los Representantes de la Clase que ayudaron a presentar la demanda, y ciertos impuestos.

Facebook además “desactivará” su función de Reconocimiento Facial para la mayoría de los Miembros de la Clase. Si esos Miembros de la Clase no vuelven a activar el Reconocimiento Facial, Facebook eliminará todas las plantillas de rostros existentes para dichos usuarios.

Algunos Miembros de la Clase que ya han vuelto a “activar” el Reconocimiento Facial ellos mismos, incluyendo los Miembros de la Clase que se hayan registrado recientemente en Facebook, no tendrán la función de Reconocimiento Facial desactivada.

Por último, Facebook eliminará cualquier plantilla de rostro de cualquier Miembro de la Clase que no haya tenido actividad en Facebook por un periodo de tres años.

#### **14. ¿De cuánto será mi pago?**

Los pagos probablemente serán de aproximadamente \$200 a \$400 por persona. No podemos darle un número exacto en este momento porque los montos de pago dependen de cuántos Miembros de la Clase presenten reclamaciones válidas y los montos de honorarios, costos, gastos, y adjudicaciones deducidas del Fondo del Acuerdo. El sitio web del Acuerdo se actualizará periódicamente para proporcionar el monto estimado del pago basado en el número de Miembros participantes de la Clase.

#### **15. ¿Cómo puedo obtener un pago?**

Para obtener un pago tiene que completar y enviar un Formulario de Reclamación válido **no más tarde del 23 de noviembre de 2020**. Por favor, presente su reclamación electrónicamente en **www.facebookbipaclassaction.com**. No es solamente más fácil y más seguro, sino que es completamente gratis y toma solo unos minutos. Puede obtener el pago mediante un cheque o electrónicamente a través de Zelle, PayPal, y depósito directo.

Si desea obtener una copia en papel del Formulario de Reclamación, puede dirigirse a **www.facebookbipaclassaction.com** o llamar al número gratuito 1-844-799-2417.

#### **16. ¿Cuándo recibiré mi pago?**

Todavía no podemos darle una fecha. Los pagos se efectuarán aproximadamente dos meses después de que el Tribunal apruebe el Acuerdo. El Tribunal considerará la aprobación definitiva del Acuerdo el 7 de enero de 2021. Incluso si el Tribunal aprueba el Acuerdo, puede que haya apelaciones. Nunca se sabe si las apelaciones pueden ser resueltas o para cuándo, y resolverlas puede llevar más de un año.

Todos los cheques caducarán y se anularán a los 90 días de su emisión. Si queda dinero debido a los cheques no cobrados o los pagos electrónicos devueltos, puede recibir un segundo pago si presentó una reclamación válida. Si queda dinero después de los segundos pagos, dicho dinero puede ser donado a la American Civil Liberties Union of Illinois para ser utilizado a los esfuerzos para proteger los derechos de privacidad biométricos.

El sitio web del Acuerdo se actualizará para informar a los Miembros de la Clase del progreso del Acuerdo. Por favor, sea paciente.

### **Qué sucede si permanece en el Acuerdo**

#### **17. ¿A qué estoy renunciando si permanezco en la Clase?**

A menos que se excluya, usted permanece en la Clase. Eso significa que, si el Tribunal aprueba el Acuerdo, está renunciando al derecho de presentar su propia demanda contra Facebook, o solicitar más dinero, por cualquiera de los asuntos o reclamaciones en el caso—independientemente de si usted está o no al tanto de dichas reclamaciones.

El alcance específico de las reclamaciones que está liberando se encuentra en el párrafo 1.25 del Acuerdo de Resolución, que está disponible a través del enlace “Documentos del Tribunal” en el sitio web del Acuerdo. Si tiene alguna pregunta, puede hablar con los abogados listados en la Pregunta 19 de forma gratuita, o puede, por supuesto, hablar con su propio abogado si tiene preguntas en cuanto a lo que significa la liberación.

#### **18. ¿Qué sucede si no hago nada en absoluto?**

Si usted es un Miembro de la Clase y no hace nada (lo que significa que no envía un Formulario de Reclamación y no se excluye), no recibirá nada de este Acuerdo y liberará sus reclamaciones como se explicó anteriormente.

## Los Abogados que le representan

### 19. ¿Tengo un abogado en este caso?

El Tribunal ha nombrado a los bufetes de abogados de Edelson 1-866-354-3015, Robbins Geller 1-800-449-4900, y Labaton Sucharow 1-888-219-6877 para representarle a usted y a todos los Miembros de la Clase. A estos bufetes se les denomina “Abogados de la Clase”. Los bufetes de abogados tienen experiencia en gestionar casos de demandas colectivas similares. Más información sobre Edelson, Robbins Geller, y Labaton Sucharow, sus prácticas, y la experiencia de sus abogados está disponible en [www.edelson.com](http://www.edelson.com), [www.rgrdlaw.com](http://www.rgrdlaw.com), y [www.labaton.com](http://www.labaton.com).

Ellos creen que, después de pleitear con Facebook en el tribunal durante varios años, el Acuerdo de Resolución es justo, razonable y para el mejor beneficio de la Clase. No se le cobrará por separado por estos abogados. Si desea estar representado por su propio abogado en este caso, puede contratar uno a su cargo.

### 20. ¿Cómo se les pagará a los abogados?

El Tribunal determinará cuánto se pagará a los Abogados de la Clase por los honorarios de abogados, costos y gastos en este caso. Los montos se pagarán del Fondo del Acuerdo de \$650 millones. Los Abogados de la Clase solicitarán una adjudicación de honorarios de abogados de no más del veinte por ciento de los \$550 millones originales del fondo del acuerdo, más los costos y gastos. Labaton Sucharow utilizará su parte de lo que se le adjudique para pagar a las Oficinas de Norman Rifkind.

Los Abogados de la Clase también solicitarán al Tribunal que apruebe adjudicaciones de hasta \$7,500 cada una para compensar a los Representantes de la Clase por sus servicios en nombre de la Clase.

La solicitud de los Abogados de la Clase para una adjudicación de honorarios de abogados, costos y gastos y las adjudicaciones a los Representantes de la Clase estarán disponibles en la página “Documentos del Tribunal” en [www.facebookbipaclassaction.com](http://www.facebookbipaclassaction.com) el 15 de octubre de 2020.

## Excluirse de la Clase

### 21. ¿Cómo me salgo del Acuerdo?

Para excluirse de la Clase, y ya no formar parte del Acuerdo, tiene que enviar por correo postal, correo electrónico o entregar una carta indicando que desea ser excluido de la Clase en *In re Facebook Biometric Information Privacy Litigation*, N.º de caso 3:15-cv-03747-JD. Su solicitud de exclusión tiene que incluir su nombre, dirección, correo electrónico y su firma. Si su dirección de correo electrónico es distinta a la dirección de correo electrónico asociada a su cuenta de Facebook, incluya también una dirección de correo electrónico asociado con su cuenta o un número de teléfono móvil asociado a su cuenta. Tiene que enviar por correo postal o correo electrónico su solicitud de exclusión **no más tarde del 23 de noviembre de 2020** a:

***In re Facebook Biometric Information Privacy Litigation Settlement Administrator***  
P.O. Box 43401  
Providence, RI 02940-3401  
[admin@facebookbipaclassaction.com](mailto:admin@facebookbipaclassaction.com)

**22. Si no me excluyo, ¿puedo demandar a Facebook por el mismo asunto más adelante?**

No. A menos que se excluya, usted renuncia a cualquier derecho a demandar a Facebook por las reclamaciones que se resuelven en este Acuerdo. Si tiene un caso pendiente contra Facebook, por favor, hable con su abogado inmediatamente.

**23. Si me excluyo, ¿puedo todavía obtener algo del Acuerdo?**

No. Si se excluye, no debe enviar un Formulario de Reclamación para solicitar un pago porque ya no es elegible para ninguno.

### **Objetar o Comentar el Acuerdo**

**24. ¿Cómo objeto o hago un comentario sobre el Acuerdo o la solicitud de los honorarios de abogados, costos, gastos y adjudicaciones de incentivo?**

Usted puede comentar u oponerse al Acuerdo, la solicitud de los Abogados de la Clase para los honorarios de abogados, costos y gastos, y/o la solicitud de las adjudicaciones para los Representantes de la Clase.

Puede solicitar al Tribunal que deniegue la aprobación del Acuerdo. No puede solicitar al Tribunal que ordene un acuerdo diferente; el Tribunal solamente puede aprobar o rechazar el Acuerdo. Si el Tribunal deniega la aprobación, no se efectuará ningún pago en este momento, y el litigio continuará. Si eso es lo que desea que ocurra, tiene que objetar.

Cualquier objeción al Acuerdo propuesto tiene que ser por escrito. Si presenta una objeción por escrito antes de la fecha límite, puede, pero no tiene que hacerlo, comparecer en la Audiencia de Aprobación Final. Si desea comparecer, puede hacerlo usted mismo o mediante su propio abogado. Si comparece mediante su propio abogado, usted es responsable de contratar y pagar a ese abogado.

Todas las objeciones por escrito tienen que incluir lo siguiente:

- El nombre y el número de caso de esta demanda (*In re Facebook Biometric Information Privacy Litigation*, Master File No. 3:15-CV-03747-JD);
- Su nombre completo, dirección de correo postal, correo electrónico, y número de teléfono;
- Si utiliza una dirección de correo electrónico o número de teléfono diferente al de su cuenta de Facebook, también proporcione esa información;
- Una explicación de por qué cree que es un Miembro de la Clase;
- Una declaración que identifique si está objetando solamente en su nombre, en nombre de una subsección de la Clase, o en nombre de la Clase en su conjunto;
- Todas las razones de su objeción o comentario, incluyendo todas las citaciones a la autoridad legal y pruebas que respalden la objeción;
- Si tiene intención de comparecer personalmente y/o testificar en la Audiencia de Aprobación Final (ya sea en persona o mediante abogado), y a qué testigos pedirá hablar;



- El nombre y la información de contacto de todos y cada uno de los abogados que le representen, asesoren, y/o ayuden, incluyendo a cualquier abogado que pueda tener derecho a una compensación por cualquier razón relacionada con su objeción o comentario, que deba hacer una comparecencia ante el Tribunal de acuerdo con las Normas Locales; y
- Su firma manuscrita o firma electrónica. La firma de un abogado, o firma mecanografiada, no es suficiente.

Para ser considerado por el Tribunal, su comentario u objeción tiene que ser recibida por el Tribunal ya sea por correo enviándolo a Class Action Clerk, United States District Court for the Northern District of California, Phillip Burton Federal Building & U.S. Courthouse, 450 Golden Gate Avenue, San Francisco, CA 94102, o presentándolo en persona en cualquier ubicación del Tribunal de Distrito de Estados Unidos por el Distrito Norte de California. Para ser considerado, su comentario u objeción tiene que ser presentado o llevar matasellos de **no más tarde del 23 de noviembre de 2020**.

## **25. ¿Cuál es la diferencia entre objetar y excluirse de la Clase?**

Objetar significa que no está de acuerdo con algún aspecto del Acuerdo y piensa que el Tribunal no debe aprobar el Acuerdo. Una objeción, o un comentario, permite que sus puntos de vista sean escuchados en el tribunal. Puede objetar solamente si permanece en la Clase.

Excluirse de la Clase significa que usted ya no es Miembro de la Clase y no desea que el Acuerdo le aplique. Si se excluye, pierde cualquier derecho a recibir pagos o beneficios del Acuerdo o a objetar al Acuerdo porque el caso ya no le afecta.

## **La Audiencia de Aprobación Final del Tribunal**

### **26. ¿Cuándo y dónde decidirá el Tribunal si aprueba el Acuerdo?**

El Tribunal tiene previsto celebrar la Audiencia de Aprobación Final el 7 de enero de 2021, a las 10:00 a.m., en la Sala 11 del Palacio de Justicia de Estados Unidos, 450 Golden Gate Ave., 19th Floor, San Francisco, CA. La audiencia puede ser aplazada a una fecha, lugar u hora diferentes sin más aviso a los Miembros de la Clase. Dada especialmente la emergencia sanitaria nacional, la fecha, hora y lugar de la audiencia pueden estar sujetos a cambios, al igual que la forma en que los Miembros de la Clase puedan presentarse en la audiencia. Por favor, revise el sitio web del Acuerdo para obtener información actualizada sobre la Audiencia de Aprobación Final.

En la Audiencia de Aprobación Final, el Tribunal considerará si el Acuerdo es justo, razonable y adecuado. Si hay objeciones, el Tribunal las considerará. El Tribunal puede escuchar a las personas que comparezcan en la audiencia y que han proporcionado aviso de su intención de comparecer en la audiencia. El Tribunal también puede considerar la solicitud de los Abogados de la Clase por los honorarios de abogados, costos y gastos, y por las adjudicaciones a los Representantes de la Clase.

### **27. ¿Tengo que acudir a la Audiencia de Aprobación Final?**

No. Los Abogados de la Clase responderán a cualquier pregunta que el Tribunal pueda tener. Usted puede asistir por su cuenta si lo desea. Si presenta una objeción o comentario por escrito, no tiene que acudir al Tribunal para hablar de ello. Siempre y cuando presente su objeción o comentario por escrito a tiempo, y siga los requisitos anteriores, el Tribunal lo considerará. También puede pagar a su propio abogado para que asista, pero no es necesario.

## 28. ¿Puedo hablar en la Audiencia de Aprobación Final?

Sí. Puede solicitar permiso al Tribunal para hablar en la Audiencia de Aprobación Final. En la audiencia, el Tribunal puede escuchar objeciones y argumentos en cuanto a la equidad del Acuerdo y/o la solicitud de los Abogados de la Clase por los honorarios de abogados, costos, gastos, y las adjudicaciones de incentivo.

Para hacerlo, en su objeción o comentario tiene que incluir una declaración diciendo que es su “Aviso de Intención de Comparecer en *In re Facebook Biometric Information Privacy Litigation*, N.º de caso 3:15-cv-03747-JD”. Tiene que incluir su nombre, dirección, correo electrónico, número de teléfono y firma, así como el nombre y la dirección de su abogado, si éste comparece en su nombre. Su presentación y aviso de intención de comparecer tiene que ser presentado ante el Tribunal y ser recibido no más tarde del 23 de noviembre de 2020.

Usted no puede hablar en la audiencia si se excluye de la Clase.

## Obtener más Información

### 29. ¿Cómo obtengo más información?

Este Aviso resume el Acuerdo propuesto. Puede encontrar más detalles en la Estipulación del Acuerdo de Demanda Colectiva, en las órdenes del Tribunal, y otros documentos relevantes, que están disponibles en línea en [www.facebookbipaaction.com](http://www.facebookbipaaction.com).

También puede obtener información sobre este caso accediendo al expediente del Tribunal, con cargo, mediante el sistema de Acceso Público del Tribunal a Registros Electrónicos del Tribunal (PACER) en [www.cand.uscourts.gov](http://www.cand.uscourts.gov), o visitando la oficina del Secretario del Tribunal del Tribunal de Distrito de Estados Unidos por el Distrito Norte de California, Palacio de Justicia de San Francisco, entre las 9:00 a.m. y 4:00 p.m., de lunes a viernes, excluyendo los días festivos del Tribunal.

También puede ponerse en contacto con el Administrador del Acuerdo llamando al 1-844-799-2417 o escribiendo a *In re Facebook Biometric Information Privacy Litigation* Settlement Administrator, P.O. Box 43401, Providence, RI 02940-3401, o llamando a los Abogados de la Clase Edelson (1-866-354-3015), Robbins Geller (1-800-449-4900), y Labaton Sucharow (1-888-219-6877).

## **POR FAVOR, NO LLAME POR TELÉFONO AL TRIBUNAL O A LA OFICINA DEL SECRETARIO DEL TRIBUNAL PARA HACER CONSULTAS SOBRE ESTE ACUERDO O EL PROCESO DE RECLAMACIONES.**

Todas las preguntas relacionadas con el Acuerdo o el proceso de reclamaciones deben dirigirse al Administrador del Acuerdo o a los Abogados de la Clase.

Por orden del Tribunal de Distrito de Estados Unidos por el Distrito Norte de California

***In re Facebook Biometric Information Privacy Litigation***  
**Settlement Administrator**  
 P.O. Box 43401  
 Providence, RI 02940-3401



**FBY**

*In re Facebook Biometric Information Privacy Litig.*

U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

Case No. 3:15-cv-03747-JD (N.D. Cal.)

**Must Be Postmarked  
 By November 23, 2020**

**Claim Form**

Instructions. You may be eligible for a payment as part of the settlement of this case. You may submit only one Claim and duplicate claims will be rejected. To submit a claim for payment, provide all the information requested, and select how you would like to receive your payment. You must mail your Claim Form so it is postmarked by **November 23, 2020**.

**1. Basic Information**

<input type="text"/>	<input type="text"/>	<input type="text"/>
First Name	M.I.	Last Name
<input type="text"/>		
Address		
<input type="text"/>		
Address (continued)		
<input type="text"/>	<input type="text"/>	<input type="text"/>
City	State	ZIP Code
<input type="text"/>		
Email address associated with your Facebook account		
or		
<input type="text"/>	-	<input type="text"/>
Phone number associated with your Facebook account		

**2. Payment Method. Payment will be issued by check and will be mailed to the address above.**



FOR CLAIMS PROCESSING ONLY	OB <input type="text"/>	CB <input type="text"/>	<input type="radio"/> DOC <input type="radio"/> LC <input type="radio"/> REV	<input type="radio"/> RED <input type="radio"/> A <input type="radio"/> B
----------------------------------	-------------------------	-------------------------	--	---

3. **Claim Information.** Provide the approximate dates and addresses where you lived in Illinois between June 7, 2011 and August 19, 2020.

\_\_\_\_ / \_\_\_\_ / \_\_\_\_ to \_\_\_\_ / \_\_\_\_ / \_\_\_\_  
Date (mm/dd/yy) Date (mm/dd/yy)

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State ZIP Code

\_\_\_\_ / \_\_\_\_ / \_\_\_\_ to \_\_\_\_ / \_\_\_\_ / \_\_\_\_  
Date (mm/dd/yy) Date (mm/dd/yy)

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State ZIP Code

\_\_\_\_ / \_\_\_\_ / \_\_\_\_ to \_\_\_\_ / \_\_\_\_ / \_\_\_\_  
Date (mm/dd/yy) Date (mm/dd/yy)

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State ZIP Code

4. **Affirmation.** By signing and submitting this Claim Form you affirm under penalty of perjury that, to the best of your knowledge: (1) between June 7, 2011 and August 19, 2020, you lived in the State of Illinois for a period of at least 183 days (6 months) and had a Facebook account during that time; (2) during the time I lived in Illinois, I uploaded at least one Facebook profile picture that included my face or was tagged in at least one photo with my face; and (3) all of the information I provided in this Claim Form is true and accurate.

Signature: \_\_\_\_\_ Date (mm/dd/yyyy): \_\_\_\_\_

Print Name: \_\_\_\_\_

Mail your completed Claim Form to:  
***In re Facebook Biometric Information Privacy Litigation Settlement Administrator***  
P.O. Box 43401  
Providence, RI 02940-3401

Your Claim Form must be mailed and postmarked by **November 23, 2020.**



# Exhibit I

**Facebook Biometric Information Privacy Litigation  
Exclusion Report**



**Count**  
**109**

ClaimID	Last Name	First Name
103459188001	ADAMS	KEVIN
114034489301	AILLON	CHRISTIAN
104607777001	ALPER	JULIETTE
112236976801	AMMANN	SONIA
116672278101	ANG	JAMIE
106632532101	ANN	GINA
111208278801	BAKER	CINDY
600236542701	BARLEY	JOAN
104658907001	BOEKELOO	MEGAN
110766572101	BRODERICK	ADRIANA
114512946801	BYAMBAJAV	PUREVSUREN
114034578301	CAMARENA	ALEX
109412346001	CAMARENA	PAUL
109054235901	CAO	SABRINA
108618077501	CHABOT	JEFF
104905031801	CHEN	JESSIE
108096096401	CHIRINOS	JULIAN
111832237401	COWLEY	VALERIE
112191449501	CROSS	ALEXANDRA
102168316901	CUNNINGHAM	DANIELLE
103947540101	DAZZLINGEVENTS	CLEO
113232297501	DEDRICK	TYLER
115462691801	DITTBENNER	AMY
108461433101	DOMALEWSKI	JAMES R
109408101001	EDIYE	NIKKY
106834386701	ESPARZA	ADRIAN
114550276501	FICKERT	MEGAN
109809700101	GARCIA	SANDRA
101720002401	GAREL	AARON
104507795701	GHOSHAL	ABHIJEET
116704089001	GRANDT	SUE
111780849401	GRAY	KELLY
113269676001	GREENBERG	REBECCA
108883860301	GRZEGOREK	KAITLYN
100202572501	Guerrero	Nicholas
105877551501	GUERRERO	DANIEL
111654091001	Guerrero	DAVID
103925281501	GUIDO	JOE
101973330001	HABIB	RABAIL
600380485801	JUNG	GAYEON

112395505201	KLINGELSCMITT	JOHN
108192984601	KLOTZ	JENNIFER
116055241901	KORN	RACHEL
102474837301	KOWALSKI	LYDIA
110787706001	KUKEC	SARAH
106688905401	LANGE	CRISTOBAL
115562659301	LEE	ELIZABETH
102224689501	LEWIS	KEVIN
113580890701	LI	SHU
113347673701	LIN	CODY
115452323401	LOPETRONE	AMANDA
115996425901	MANDZIARA	CINDY
109731053301	MARICI	SALVATORE
102424672801	MCDERMOTT	MARY
109066379401	MCKAY	BROOKE
104808576901	MELL	DUMITRESCU
105403547001	MTJOY	LIZ
103038816001	MUGNOLO	ALEXIS
114314211501	MUSTAFA	HANNAH
102405779101	NGUYEN	THU
111801910601	ORMUZ	GLORIA
110930913801	ORR	JASON
116164437401	PALM	JEANNINE
108133556801	PARK	HYUNBIN
600004132201	PARKER	GARRETT
113267359401	PATEL	SHITESHBHAI
109321674801	PENNINGTON-FLAX	NIGEL
100288310501	PHAN	VI
108992297501	PHILLIPS	DONNA
107738029601	PINEDA	EDITH
114204338801	PRATHER	DANIEL
104820036801	RATLIFF	JASON
108264309901	RENNAKER	RYAN
110852287601	RODENHISER	JOHN
102576203001	RUIZ	ALICE
109229822601	SAO	ELIJAH
111743915001	SIZZLEDICK	MATT
107588187001	SMITH	COURTNEY
108446395001	SOLOMON	ZACHARY
108686342801	SOTIROPOULOS	PETER
100586333001	SPENCER	DARRELL
110314703301	SRIVASTAVA	RITA
102480140001	STUFFINGS	ALAN
111519965701	SUKHIJA	AKASH SUNIL
111757534101	SULAIMAN	AHMAD
112008600401	TANNEHILL	ROBERT
900001801	Terry	Kirsten

102495257301	TRAN	OLIVIA
106473007801	TRUONG	TRISHA
108985144701	VERA	MARIANA
100248092501	VERA	FRANK
101371136001	Vera	Elizabeth
105845479201	VERA	GISELLE
900007001	Vera	Richard
101566731701	VERA	ALICE
109534992401	VERA	GUADLAUPE
104977018001	WEISS	MOLLY
103110713101	WOJSLAW	COREY
108252327901	WYER	ROBERT
114615478801	XU	YUANHAN
107835756201	YANG	JINGDI
111620620401	YOUNG	RACHEL
104993627101	YUN	SUSAN
113992651901	ZAK	SCOTT
108067153701	ZEWE	GEORGE
116438305101	ZEWE	DEBBIE
108913220301	ZHAO	QIAN
116595741801	ZHUANG	CONRAD
113797698001	ZOTTNICK	KELSEY



# EXHIBIT B

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

---

IN RE: FACEBOOK BIOMETRIC  
INFORMATION PRIVACY LITIGATION

Case No. 15-CV-03747-JD

THIS DOCUMENT RELATES TO:  
  
ALL ACTIONS

---

**SECOND EXPERT DECLARATION OF  
PROFESSOR WILLIAM B. RUBENSTEIN**

1. Class Counsel have informed me that roughly 1.5 million of the approximately 6.9 million class members in this matter – or about 22% – have filed claims and they have asked for my expert opinion as to how this level of claiming compares with claims rates in class actions generally.

2. My credentials are set forth in my initial Declaration herein, ECF No. 499-3 at ¶¶ 3–12. There, I reported that I maintain a database containing information on more than 1,000 class action settlements or judgments. *Id.* at ¶ 9.

3. My database enables me to calculate claims-rate information in more than 300 class action cases.<sup>1</sup> Specifically, for about a third of the cases in the database, I have data points

---

<sup>1</sup> This is likely the largest collection of data on claims rates. Before I had collected this data, I had published a study, with the RAND Corporation, lamenting the absence of available data on claims rates. See Nicholas M. Pace & William Rubenstein, *Shedding Light on Outcomes in Class Actions*, in CONFIDENTIALITY, TRANSPARENCY, AND THE U.S. CIVIL JUSTICE SYSTEM 20, 20–22, 28–32 (Joseph W. Doherty, Robert T. Reville & Laura Zakaras eds., 2012). As the Court

for (a) the gross amount of the settlement fund; (b) the estimated total class size; and (c) the number of class members who filed claims. These data points enable me to make two pertinent calculations. *First*, by dividing the number of class members filing claims by the total class size, I can calculate a case’s “claims rate.” Because I have the total class size data, I can then gauge how claims rates change as class size increases. *Second*, because I have the total fund size, I can divide that number by the class size to get the average expected class member recovery for a case, or “claim size.” I can then gauge how claims rates change as claim size increases.

4. Applying these two approaches to the expected claims rate in this case enables me to draw two conclusions, both of which strongly support the conclusion that the claims rate in this case is robust.

5. *First*, for a class of nearly 7 million members, a 22% claims rate is at least 4 times – and as high as about 16 times – above what my data would have predicted. Specifically, my data show that claims rates are highest in very small classes and then decrease as class size grows, with large amorphous classes such as this one having the lowest levels of claiming. These data make intuitive sense, as the small-class cases tend to reflect small cohesive groups – such as the workers in a particular employment setting – who each have more investment in the particular case and are more likely to file a claim than a faceless class member in a million-

---

may be aware, this District has adopted a number of the recommendations we made in that study. *Compare, e.g., id.* at 51–56 (recommending mechanisms for increased transparency of claims rates) with U.S. District Court for the Northern District of California, *Procedural Guidance for Class Actions Settlements* at ¶ 11 (available at: <https://www.cand.uscourts.gov/forms/procedural-guidance-for-class-action-settlements/>) (requiring parties seeking approval of proposed class action settlements to file information concerning claims rates in prior comparable settlements). These guidelines will, in time, helpfully enable the development of further data on claims rates and other related class action issues.

person class. Graph 1, below, provides a snapshot of this data, with the red trendline visually demonstrating the manner in which claims rates decrease as class sizes increase.

**GRAPH 1  
CLAIMS RATE BY CLASS SIZE**

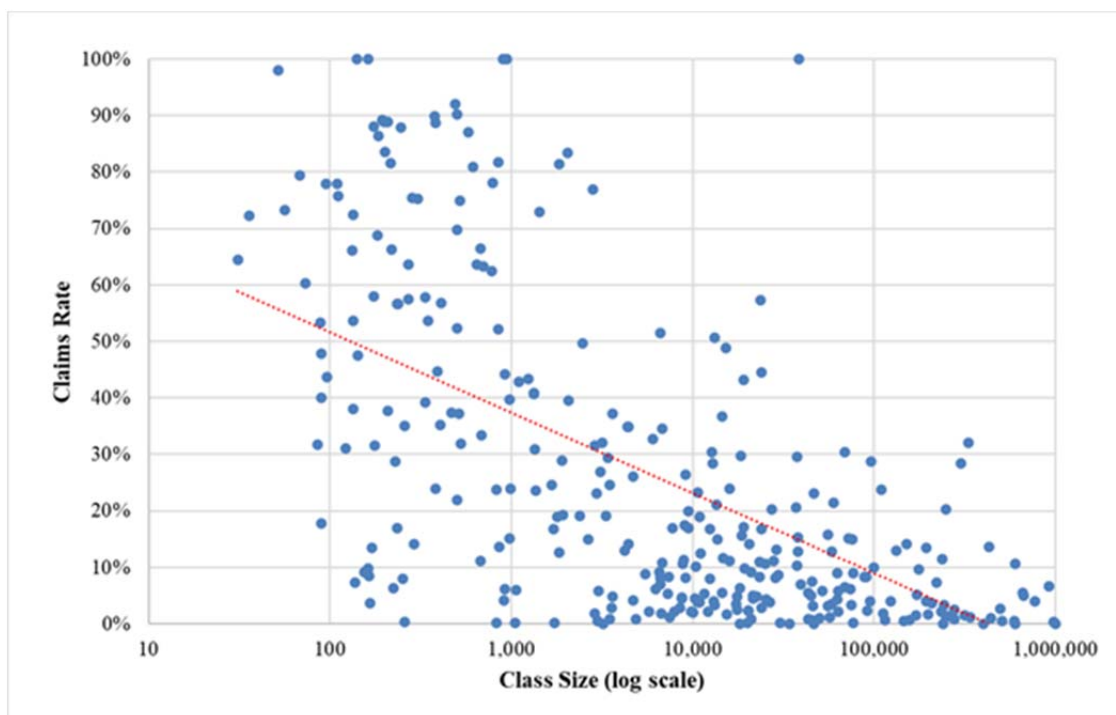


Table 1 presents the underlying data in 10 equally sized tranches according to class size. It shows that in the 33 cases with the smallest classes (fewer than 184 members) claims rates are over 50% (53.2%), but that in the 33 cases with the largest classes (more than 286,493 members) claims rates are less than 6% (5.7%).

**TABLE 1**  
**CLAIMS RATE BY CLASS SIZE**

<b>Class Size Decile</b>	<b>N</b>	<b>Avg. Claims Rate</b>
Less than 184	33	53.2%
184 to 494	33	54.3%
494 to 1,209	32	46.2%
1,209 to 3,617	33	28.4%
3,617 to 9,170	33	14.0%
9,170 to 17,956	32	14.2%
17,956 to 37,256	33	12.3%
37,256 to 76,319	32	12.0%
76,319 to 286,493	33	6.6%
More than 286,493	33	5.7%
	<b>327</b>	<b>24.67%</b>

These data show that the average claims rate for the largest sized classes is 5.7%. Thus, the 22% claims rate in this case is nearly four times what the data would have predicted. Since that top tranche begins with classes of 286,493, but this class is close to 7 million, a further breakdown of the top tranche provides data closer in range to this case. Thus, taking those top 33 cases and further dividing them into 5 tranches provides the data points set forth in Table 2, below:

**TABLE 2**  
**CLAIMS RATE BY CLASS SIZE**

<b>Top Class Size Decile Breakdown</b>	<b>N</b>	<b>Avg. Claims Rate</b>
286,493 to 437,457	6	12.8%
437,457 to 664,840	7	3.0%
664,840 to 1,116,059	6	3.4%
1,116,059 to 2,682,347	7	7.7%
2,682,347 to 12,000,000	7	1.4%
	<b>33</b>	

Though the “n” is small (7 cases) these data show that the average claims rate in a class with more than 2.7 million members is 1.4%. By that metric, the 22% claims rate here is nearly 16 times what the data would have predicted.

6. *Second*, for a claim of about \$94, a 22% claims rate is about 2.5 times above what my data would have predicted. I use \$94 as the claim value here although class members are likely to receive far more – the class notice estimates \$200-\$400. I use \$94 however because the definition of “claim value” for these empirical purposes is simply the product of dividing the total fund by the total class size. Using that metric enables simple cross-case comparisons. Moreover, it is impossible to ascertain the average of what class members actually received in any given case because that data is not known until the class size is fixed and fees and costs are extracted. Finally, since the inquiry seeks to determine whether claim filing varies with claim size, the pre-distribution claim level is a more pertinent fact than the final (post *pro rata* distribution) net recovery. Using this specific definition of “claim value,” my data show that claiming rates are lowest when the claim value is low and then increase as the claim value increases. Again, there is an intuitive logic to this effect: individuals are more likely to make the effort to file a claim the larger their expected recovery. Graph 2, below, provides a snapshot of this data, with the red trendline visually demonstrating the manner in which claims rates increase as claim sizes increase.

**GRAPH 2**  
**CLAIMS RATE BY CLAIM SIZE**

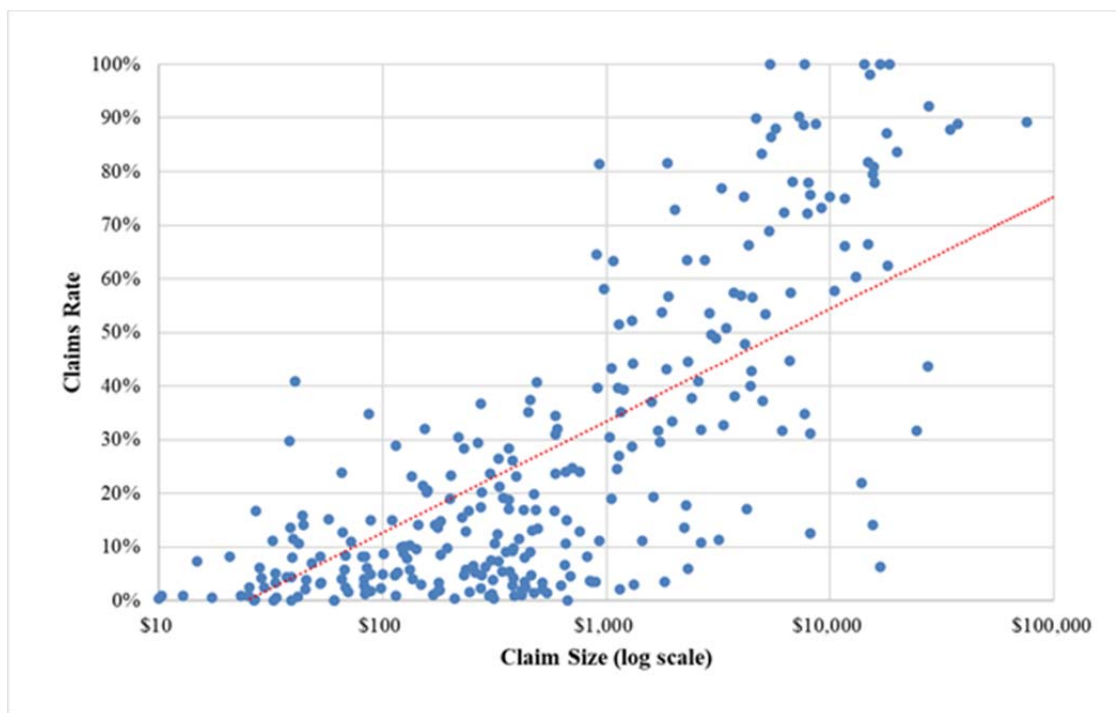


Table 3 presents the underlying data in 10 equally sized tranches according to claim size. It shows that in the 31 cases with the smallest claim size (less than \$33) claims rates are under 4% (3.3%), but that in the 29 cases with the largest claim size (more than \$8,115) claims rates are over 67% (67.8%).

**TABLE 3**  
**CLAIMS RATE BY CLAIM SIZE<sup>2</sup>**

Claim Size Decile	N	Avg. Claim Rate
< \$33	31	3.3%
\$33 to \$69	30	8.8%
\$69 to \$137	30	8.7%
\$137 to \$266	30	12.2%
\$266 to \$387	30	12.9%
\$387 to \$658	30	14.2%
\$658 to \$1,322	30	29.3%
\$1,322 to \$3,690	29	37.7%
\$3,690 to \$8,115	31	64.3%
More than \$8,115	29	67.8%
	<b>300</b>	<b>25.9%</b>

These data show that the average claims rate for a claim of this size (\$94) is 8.7%. Thus, the 22% claims rate in this case is more than 2.5 times what the data would have predicted. Notably, even at the class members' likely recovery here of \$200-\$400, the 22% claims rate is still nearly twice the 12.2%/12.9% rates associated with recoveries at that level in Table 3. But as explained above, using \$200-\$400 for this case and comparing it to the numbers in Table 3 is not an apples-to-apples comparison because all of the comparative numbers in the Table are simply a function of dividing the total fund size by the total class size. Put differently, all of the cases in the band of Table 3 I employ as the comparison (\$69-\$137) also likely returned amounts in the \$200-\$400 range to class members at the end of the claims period.

\* \* \*

---

<sup>2</sup> There are 27 fewer cases in Table 2 than Table 1 as we lacked information on the size of the settlement fund in these cases and could not, therefore, calculate the average claim size.



7. Since December 1, 2018, Rule 23(e)(2)(C) has required a court assessing a proposed settlement to ensure that the “relief provided for the class is adequate,” Fed. R. Civ. P. 23(e)(2)(C), and directed that in making that assessment, the court consider “the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims,” Fed. R. Civ. P. 23(e)(2)(C)(ii). Similarly, one of the eight factors that courts in the Ninth Circuit consider in assessing a proposed settlement is “the reaction of the class members to the proposed settlement.” *Campbell v. Facebook, Inc.*, 951 F.3d 1106, 1121 (9th Cir. 2020) (quoting *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998)).

8. The empirical evidence I have presented provides strong support for the conclusions (a) that the class notice and fund distribution methods are robust and working well and (b) that the class members’ reaction to the proposed settlement is very favorable: class members have filed claims at rates far (anywhere from 4-16 times) above the average for a class of this size and significantly (2.5 times) above the average for a settlement of this value. These data argue strongly in support of final approval of the proposed settlement.



---

William B. Rubenstein

December 3, 2020