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SUPERIOR COURT FOR THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

ERIC CRAIN. *for himself and on behalf of all others similarly situated*,

Plaintiff,

v.

INTELIFI, INC.,

Defendant.

Case No.: 23STCV11103
(Assigned to Judge Carolyn B. Kuhl)

PLAINTIFF'S NOTICE OF MOTION AND UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT AND CERTIFICATION OF SETTLEMENT CLASS

DATE: September 18, 2025
TIME: 10:30 a.m.
DEPT: 12

Complaint Filed: May 16, 2023

TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on September 18, 2025 at 10:30 AM , or as soon thereafter as that matter may be heard in Department 12, of the above entitled Court located at 312 North Spring Street, Los Angeles, California 90012, Plaintiff, ERIC CRAIN ("Plaintiff") will and does hereby move this Court for and Order:

- Preliminarily approving the proposed Stipulation of Class Action Settlement;
- Certifying the settlement class;
- Appointing Plaintiff as the Class Representative;
- Appointing Marc R. Edelman and Craig C. Marchiando as Class Counsel;
- Approving the Notice of Class Action Settlement;
- Appointing American Legal Claims Services LLC as Settlement Administrator;
- Directing the notice be mailed to the settlement class;
- Scheduling a hearing date for the Motion for Final Approval of Class Action Settlement.

Plaintiff's motion is filed pursuant to California Rules of Court 3.769 and based upon this Notice of, and Motion, the accompanying Memorandum of Points and Authorities, the Declaration of Eric Crain, exhibits attached thereto, argument of counsel, the documents filed in this action and any other matters as may be properly presented on or before the hearing on this motion.

Dated: July 18, 2025

CONSUMER LITIGATION ASSOCIATES, P.C.

By: */s/Craig C. Marchiando, Esq.*
Craig C. Marchiando, Esq.
Marc R. Edelman, Esq.
Leonard Bennett, Esq.
Conal Doyle, Esq.
Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff ERIC CRAIN ("Plaintiff") respectfully requests that this Court conditionally certify the below-defined Settlement Class for settlement purposes pursuant to Code of Civil Procedure § 382, preliminarily approve the Stipulation of Class Action Settlement (the "Settlement") with Defendant INTELIFI, INC., ("Defendant" or "Intelifi"), direct that notice be disseminated to class members, and schedule a final fairness and approval hearing.

The Settlement is an excellent result for the class which provides a payment to each class member of more than 5X the minimum $100 statutory penalty. The Settlement Fund shall be disbursed as follows: an equal payment to each member of the Settlement Class, subject to reduction for (a) attorneys' fees and costs not in excess of thirty percent (30%) of the Settlement Fund, as awarded by the Court; (b) a service award to the Named Plaintiff in the amount of Two Thousand and Five Hundred Dollars ($2,500.00), subject to Court approval; (c) the cost of Notice and Settlement Administration. (Settlement, ¶ 2.5.1.)

To arrive at this Settlement, Plaintiff engaged in arm's-length negotiations with Defendant, including a day-long mediation session with a respected mediator knowledgeable in FCRA claims, retired Judge Craig Karlan, through ADR Services, Inc. Although Plaintiff was prepared to litigate this case through class certification and ultimately to trial, there were risks in going forward with litigation, and the Settlement represents a fair, adequate, and reasonable compromise in view of those risks. It guarantees a generous recovery for the Class commensurate with the likely recovery at trial should liability be established and is plainly within the range of reasonableness for preliminary approval while avoiding the expense and uncertainty of litigation. Accordingly, the Court should grant preliminary approval and order that notice be sent to the Class.

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II. STATEMENT OF FACTS AND PROCEDURAL HISTORY

A. OVERVIEW OF THE LITIGATION

Defendant, Intelifi, Inc., is a consumer reporting agency as defined by 15 U.S.C. § 1681a(f) and sells employment purposed consumer reports. Plaintiff was employed by the Hermitage Hotel, in Nashville Tennessee. As a condition of employment, Plaintiff was required to undergo a background check. Defendant sold Plaintiff's consumer report information to Superior Occupational Solutions, who in turn sold it to the Hermitage Hotel. The report falsely depicted Plaintiff as a convicted sex offender.

On May 16, 2023, Plaintiff filed a Complaint in the California Superior Court for the County of Los Angeles, Case No. 23-STCV11103 (the "Action"). The action was removed to federal court. Over Defendant's objection, the action was remanded back to this Court on November 6, 2023 [Dkt. 27]. Plaintiff's Complaint alleged several claims for FCRA class relief. Through discovery, it was determined only one claim is suitable for a class resolution.[1] In addition to the one claim being resolved on a class basis, Plaintiff also has a common law defamation claim and a claim alleging Defendant violated the FCRA's "reasonable investigation" requirement in compiling his consumer report information. On April 17, 2025, the Parties participated in mediation conducted by retired Judge Craig Karlan via ADR Services, Inc. The mediation resulted in an agreement on terms to resolve the Action, subject to court approval. The Parties fully executed the Settlement.

B. SUMMARY OF RELEVANT LAW

1. The Fair Credit Reporting Act ("FCRA")

Pursuant to 15 U.S.C. 1681b(b)(1)(A)(i)-(ii), of the FCRA, no consumer report may be issued by a consumer reporting agency for employment purposes unless the user of the consumer

[1] Plaintiff is withdrawing Counts IV and V of his Complaint. Through discovery, it was determined the allegations were unsupported by the evidence. Relatedly, Plaintiff has agreed to resolve Counts I and II, for defamation and for falsely reporting him as a sex offender in violation of 15 U.S.C. § 1681e(b). Upon the Court's request, Plaintiff will disclose the terms of his individual settlement.

report has certified it has provided the consumer a "clear and conspicuous disclosure . . .in a document that consists solely of the disclosure," obtained the consumer's written authorization to procure the consumer report, and will provide the consumer with pre-adverse action notice, if applicable. See 15 U.S.C. §§ 1681b(b)(2)(A)(i)-(ii),(3)(A). A plaintiff may be entitled to statutory and punitive damages when a defendant has willfully violated the provisions of the FCRA. 15 U.S.C. § 1681n(a)(1)(A): "any person who willfully fails to comply with any requirement imposed under this subchapter with respect to any consumer is liable to that consumer in an amount equal to the sum of . . . damages of not less than $100 and not more than $1,000 . . . [and] such amount of punitive damages as the court may allow."

C. INVESTIGATION AND DISCOVERY

While exploring potential claims against his former employer, Plaintiff discovered Defendant had issued the report that led to his termination. Plaintiff filed the instant action. Through discovery, Plaintiff obtained sufficient information to fully understand the strength and weaknesses of his claims in advance of the mediation. Ultimately, Plaintiff determined the only claim suitable for a class resolution was Count III, for Defendant's alleged failure to obtain the FCRA-required certifications from user of the consumer report information.

D. SETTLEMENT NEGOTIATIONS AND SETTLEMENT

The proposed Settlement was the culmination of protracted discussions between the Parties following a thorough analysis of the pertinent facts and law at issue. An all-day mediation session with Judge Craig Karlan on the claims at issue in this Action was held on April 17, 2025.

III. DESCRIPTION OF THE SETTLEMENT

A. THE PROPOSED SETTLEMENT CLASS

The Settlement Class consists of "All natural persons residing in the United States (including all territories and other political subdivisions of the United States) who were the subject of a consumer report furnished by Intelifi to Superior Occupational Solutions for employment purposes between May 16, 2018, and the present, whose report contained a criminal history of misdemeanor or higher. The Class consists of approximately 167 members." Excluded from the Class are the judge and any judicial staff assigned to this case, Defendant's officers and

directors, Class Counsel and its employees, any person who timely requests exclusion as approved by the Court.

B. THE SETTLEMENT BENEFITS TO THE CLASS

Under the Settlement, all Class Members who do not opt out will receive settlement funds to be disbursed as follows: an equal payment to each member of the Settlement Class, subject to reduction for (a) attorneys' fees and costs not in excess of thirty percent (30%) of the Settlement Fund, as awarded by the Court; (b) a service award to the Named Plaintiff in the amount of Two Thousand and Five Hundred Dollars ($2,500.00), subject to Court approval; (c) the cost of Notice and Settlement Administration.

C. A NARROW RELEASE

Upon entry of Final Approval Order and Judgment, Plaintiff and all other Participating Class Members in the FCRA Class shall be deemed to have released their respective Released Claims against the Released Parties as follows:

> Release of Claims: FCRA Class. All class action and individual claims under 15 U.S.C. §§ 1681b(b)(1)(A) against Defendant (including against Defendant's insurers) arising from the issuance of consumer reports used for employment purposes. Plaintiff and all Class Members release their right to bring a class action or individual action as well as actual, statutory and punitive damages and any other remedy based upon such Released Claims**.**
> 1.

"Released Parties" refers to Defendant, Intelifi, Inc., and its current and former parents, subsidiaries, affiliates, divisions, associates, agents, successors, assignors, assignees, and/or assigns and their respective subsidiaries, affiliates, divisions, associates, agents, successors, assignors, assignees and/or assigns, and each of their respective present, former or future officers, directors, shareholders, agents, control persons, advisors, employees, representatives, consultants, insurers and reinsurers, accountants, attorneys, and any representative of the above. "Defendant" does not include any employer, user or subscriber of Intelifi's or Superior Occupational Solutions' consumer information, or any reseller of such information from Intelifi's or any provider of such information unless such person is also affiliated by common ownership**.**

This release is narrowly and appropriately tailored to the class allegations asserted by Plaintiff in this Complaint.

CLASS MEMBERS WHO DO NOT OPT OUT WILL BE PAID AUTOMATICALLY

Class members who do not opt-out of the Settlement will be paid without any further action required on their part.

D. THE PROPOSED NOTICE TO THE SETTLEMENT CLASS

Within fourteen (14) business days after receiving the Class Information from Defendant as provided in the Parties' Settlement Agreement, the Settlement Administrator shall send a postcard via regular First-Class U.S. Mail. The Settlement Administrator shall perform a search based on the National Change of Address database maintained by the United States Postal Service to update and correct any known or identifiable address changes prior to mailing. The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Settlement Class Member and will only send mail notice to individuals with an address of medium or higher reliability. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the most current mailing address for each Settlement Class Member. The Parties agree that this procedure for notice provides the best notice practicable to Settlement Class Members and fully complies with due process.

E. ATTORNEY'S FEES, LITIGATION EXPENSES, AND SERVICE AWARDS

Plaintiff will seek reasonable attorneys' fees in an amount calculated as thirty percent (30%) of the Settlement Fund of $83,500.00, a fee award of up to $27,805.00. In addition, subject to court approval, Class Counsel shall be entitled to an award of reasonable costs associated with Class Counsel's prosecution of the Action, which are properly documented in Class Counsel's billing statements. Class counsel , currently estimates that the litigation costs in this matter will not exceed $12,000.00. Plaintiff will also seek an enhancement award based upon his service and role in this matter as Class Representative in the amount of $2,500.

F. IMPLEMENTATION SCHEDULE

The Response Deadline, i.e., to opt out of the Class or object to the Settlement, is 60 days after the Class Notice is mailed. To the extent any mailed postcard is returned as undeliverable,

such person shall be permitted at least forty-five (45) calendar days from any re-mailing of the postcard to submit their objection or request to opt out, but in no event later than thirty (30) calendar days after the close of the Response Deadline. Plaintiff will file a brief in support of Final Approval of the Settlement, including all fees, costs, and enhancement awards prior to the final approval hearing.

IV. ARGUMENT

A. THE COURT SHOULD CONDITIONALLY CERTIFY THE SETTLEMENT CLASS BECAUSE IT MEETS ALL THE REQUIREMENTS FOR CLASS CERTIFICATION FOR SETTLEMENT PURPOSES ONLY UNDER CODE OF CIVIL PROCEDURE SECTION 382

Under Code of Civil Procedure § 382, class certification is warranted so long as there is "a numerous and ascertainable class with a well-defined community of interest among its members" and a "class action proceeding is superior to other means for a fair and efficient adjudication of the litigation." *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326, 332. "The certification question is 'essentially a procedural one that does not ask whether an action is legally or factually meritorious.'" *Id*. at 326 (quoting *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 439-440). Indeed, the certification question simply asks whether the theory of recovery advanced by the plaintiff is likely to prove amenable to class treatment. *E.g*., *Jaimez v. Daiohs USA, Inc.* (2010) 181 Cal.App.4th 1286, 1298. In ruling on a certification motion, a trial court's task is to determine "whether…the issues which may be jointly tried, when compared with those requiring separate adjudication, are so numerous or substantial that the maintenance of a class action would be advantageous to the judicial process and to the litigants." *Id*.

As shown below, this Settlement and the Settlement Class easily meet all of the requirements for certification for settlement purposes.

1. Objectively Ascertainable and Sufficiently Numerous Class

A class is ascertainable when it may be readily identified via an objectively stated definition without unreasonable expense or time by reference to official records. *Rose v. City of*

Hayward (1981) 126 Cal.App.3d 926, 932. No set number of class members is required to maintain a class action. *Hebbard v. Colgrove* (1972) 28 Cal.App.3d 1017, 1030. The California Supreme Court has upheld a class of as few as ten members. *Bowles v. Super. Ct.* (*Nickel, Jr.*) (1955) 44 Cal.2d 574, 577-81. Here, the Settlement Class is made up of about 167 individuals, all of whom may be readily ascertained by reference to Defendant's records and files. (Settlement, ¶ 2.) Thus, the Settlement Class is not only ascertainable, but also sufficiently numerous.

2. Predominance of Common Questions

A question of law or fact is common to the members of a class if it may be resolved through common proof. *See Jaimez, supra*, 181 Cal.App.4th at 1305. As for predominance, it "is a comparative concept, and 'the necessity for class members to individually establish eligibility and damages does not mean individual fact questions predominate.'" *Sav-on*, *supra*, 34 Cal.4th at 334 (*quoting Reyes v. San Diego Cty. Bd. of Supervisors* (1979) 196 Cal.App.3d 1263, 1278). Thus, "[i]ndividual issues do not render class certification inappropriate so long as such issues may effectively be managed." *Id*.

In this case, the Settlement Class meets these requirements. Defendant's liability arises from the same set of facts and legal questions that apply to and are answered equally as to all Class Members. Here, each Class Member was the subject of a consumer report issued for employment purposes to Superior Occupational Solutions that contained criminal history, without identification of the end-user. One single common question resolves the dispute: whether Defendant willfully violated the law by issuing these reports. The Court accordingly should certify the Settlement Class for purposes of settlement under C.C.P. § 382 and Rule of Court 3.769(c).

3. Typicality of Plaintiff's Claims

Typicality "requires a showing that the class representative has claims or defenses typical of the class." *See, e.g.*, *Fireside Bank v. Super. Ct. (Gonzalez)* (2007) 40 Cal.4th 1069, 1090. This focuses on "the nature of the claim or defense of the class representative, and not to the specific facts from which it arose or the relief sought." *Hanon v. Dataproducts Corp.* (9th Cir.

1992) 976 F.2d 497, 508 (internal citations omitted). "The test of typicality 'is whether other members have the same or similar injury, whether the action is based on conduct which is not unique to the named plaintiffs, and whether other class members have been injured by the same course of conduct.'" *Id.* (*quoting Schwartz v. Harp* (C.D. Cal. 1985) 108 F.R.D. 279, 282; *accord Classen v. Weller* (1983) 145 Cal.App.3d 27, 46 ("it has never been the law in California that the class representative must have *identical* interest with the class members.").

Under these standards, Plaintiff's claims are typical of those of the Class Members. (Like Settlement Class Members, Plaintiff was the subject of a consumer report that was sold by Defendant to Superior Occupational Solutions that contained criminal history information. (*Id.*); *see Classen, supra*, 145 Cal.App.3d at 46 (representative plaintiffs need not have all claims or identical interests with class members; they need only have claims that are "typical of the class"); *see also B.W.I. Custom Kitchen v. Owens-Illinois, Inc.* (1987) 191 Cal.App.3d 1341, 1347 (representative plaintiffs need not suffer all of the exact same damages as every class member). Accordingly, Plaintiff pursues claims typical of the Class she seeks to represent.

4. Adequacy of Plaintiff and Class Counsel to Represent the Classes

The adequacy requirement is met where the named plaintiff is represented by counsel qualified to conduct the litigation and the plaintiff's interest in the litigation is not antagonistic to the class's interests. *McGhee v. Bank of America* (1976) 60 Cal.App.3d 442, 450-51. In other words, where the named plaintiff has adequate counsel, s/he may represent the entire class absent any disabling conflicts of interest that might hinder the named plaintiff's ability to represent the class.

In this case, Plaintiff has no conflict of interest with absent Class Members and has agreed to place the Class's interests above his own. *See Global Minerals, supra,* 113 Cal.App.4th at 851 (the inquiry into the adequacy of a class representative is intended to uncover any conflicts between the plaintiff and the class he or she seeks to represent). Plaintiff's counsel, Morgan and Morgan, P.A. and Consumer Litigation Associates, are experienced in FCRA class action litigation and have no conflicts of interest with absent Settlement Class Members. Thus, this

Court should appoint Plaintiff as Class Representative and appoint Morgan and Morgan, P.A. and Consumer Litigation Associates as Class Counsel.

B. STANDARD FOR GRANTING PRELIMINARY SETTLEMENT APPROVAL

Cases brought as class actions may only be settled upon court approval and then only after a determination that the settlement is fair, adequate, and reasonable is made. *In re Microsoft I-V Cases* (2006) 135 Cal.App.4th 706, 723. Courts have broad discretion to make this determination and consider factors, such as the strength of Plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, and the reaction of the class members to the proposed settlement. *Id.*; *Dunk, supra,* 48 Cal.App.4th at 1800- 01; *Reed v. United Teachers Los Angeles* (2012) 208 Cal.App.4th 322, 336. "[A] presumption of fairness exists where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small." *Dunk,* 48 Cal.App.4th at 1802; *see also Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 52.

In deciding whether to grant preliminary approval, courts are to give "due regard" to "what is otherwise a private consensual agreement between the parties." *Sutter Health Uninsured Pricing Cases* (2009) 171 Cal.App.4th 495, 505. When approving a settlement, "the court need not 'reach any ultimate conclusions on the contested issues of fact and law which underlie the merits of the dispute, for it is the very uncertainty of the outcome in litigation and avoidance of wasteful and expensive litigation that induce consensual settlements.'" *Class Plaintiffs v. City of Seattle* (9th Cir. 1992) 955 F.2d 1268, 1291 (quoting *Officers for Justice v. Civil Serv. Comm'n* (9th Cir. 1982) 688 F.2d 615, 625).[3] The court's inquiry must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by,

or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned. *Id.*

C. THE COURT SHOULD PRELIMINARILY APPROVE THE SETTLEMENT BECAUSE IT IS A FAIR, ADEQUATE, AND REASONABLE COMPROMISE OF A DISPUTED FCRA CLAIM IN VIEW OF DEFENDANT'S POTENTIAL LIABILITY EXPOSURE AND THE RISKS OF CONTINUED LITIGATION

1. The Settlement Was Reached Via Arm's-Length Negotiations of Experienced Counsel and an Experienced Mediator with Sufficient Information to Intelligently Negotiate a Fair Settlement

A settlement is presumptively fair where it is reached through arm's-length bargaining, based on sufficient discovery and investigation to allow counsel and the court to act intelligently, counsel is experienced in similar litigation, and the percentage of objectors is small. *Dunk, supra,* Cal.App.4th at 1802. In deciding whether to approve a proposed settlement, a trial court has broad powers to determine if the settlement is fair under the circumstances of the case. *Mallick v. Superior Court* (1979) 89 Cal.App.3d 434, 438. In exercising these powers, the overriding concern is to ensure that a proposed settlement is "fair, adequate, and reasonable." *Dunk*, 48 Cal.App.4th at p. 1801 [internal quotations omitted]. Relevant factors for that determination, include, but are not limited to:

> [T]he complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the state of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.

These factors require balancing, are non-exhaustive, and, as such, trial courts should tailor the factors consider to each case and give due regard to "what is otherwise a private consensual agreement between the parties."

"In the context of a settlement agreement, the test is not the maximum amount plaintiffs might have obtained at trial on the complaint, but rather whether the settlement is reasonable under all of the circumstances." *Wershba, supra,* 91 Cal.App.4th at 250. Because settlements

inherently involve compromise, even settlements providing for substantially narrower relief than likely would be obtained if the suit were successfully litigated can be reasonable because "the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation." *Id.* (quoting *Air Line Stewards, etc., Local 550 v. Am. Airlines, Inc.* (7th Cir. 1972) 455 F.2d 101, 109). In addition, courts review the discovery process and information received through it to aid them in assessing whether the parties sufficiently developed the claims and their supporting factual bases before reaching settlement. *See Kullar v. Foot Locker Retail Inc.* (2008) 168 Cal.App.4th 116, 129-131.

Here, the Settlement resulted from thorough, arm's-length negotiations between experienced counsel, with the assistance of a highly regarded mediator, after sufficient information was exchanged to assess the relative strengths and weaknesses of Plaintiff's claims, both on their merits and for purposes of class certification, and Defendant's estimated exposure.

Plaintiff was represented by experienced class action counsel possessing significant experience in class action matters, including experience in FCRA cases. Combined, the two firms have been appointed Class Counsel in well over fifty FCRA class action cases.

Likewise, Defendant's counsel, Clausen Miller, P.C., is an experienced firm that represents management in employment law matters, including FCRA class actions.

2. Defendant's Estimated Liability Exposure

The FCRA's damages provision limits recovery when it is shown that a defendant's actions are willful to between $100 and $1,000 or actual damages, whichever is greater. With approximately 167 class members, the FCRA statutory damages, if liability were proven, would be a maximum of $167,000.00. It is reasonable to assume that a jury in this case would enter less than the maximum damages, since the violation alleged was not based on an inaccuracy *and* the Class Members all have criminal records. In this context, a recovery of $500.00, half of the maximum allowable damages allowed, is an excellent outcome.

There are no known jury verdicts for similar claims. However, Plaintiff's claims can be compared to FCRA stand-alone disclosure claim. Multiple district courts have approved FCRA standalone disclosure settlements where the settlements were far lower and in most cases class

members were required to submit claims to receive a payment. *See, e.g.*, *Rhom v. Thumbtack, Inc.* (N.D. Cal. 2017) 2017 WL 4642409 (granting final approval in a case involving a claims-made, albeit non-reversionary, settlement where 66,676 class members shared in a $225,000 settlement or a gross recovery of $3.30 per class member)

3. Risks in Going Forward with Litigation

With a class size of 167 consumers, the risk far outweighed the reward. There is the risk that this Court, a jury, or a reviewing court would find that Defendant's conduct was not willful. The FCRA is not a strict liability statute. *Dalton v. Capital Associated Indus*. (4th Cir. 2001) 257 F.3d 409, 417. A FCRA plaintiff can recover statutory damages only where the defendant has acted willfully. 15 U.S.C. § 1681n(a)(1). Defendant contends that its conduct must have been objectively unreasonable based on clearly established law at the time of the alleged violation to be willful. *Safeco Ins. Co. of Am. v. Burr* (2007) 551 U.S. 47 ("a company subject to FCRA does not act in reckless disregard of it unless the action is not only a violation under a reasonable reading of the statute's terms, but shows that the company ran a risk of violating the law substantially greater than the risk associated with a reading that was merely careless."). A finding of a mere negligent violation would not permit Plaintiff or the putative class to obtain statutory damages, and Plaintiff and class members who were hired likely could not seek actual damages – the only type of damages available for a mere negligent violation.

In light of these risks, as well as the hazards and expenses of carrying the case through trial, Plaintiff's counsel is of the opinion that the Settlement represents an excellent bargain for the Class. At this juncture, the Settlement would entitle each Settlement Class Member to a significant recovery. In contrast, if the case would continue in litigation, even if Plaintiff prevailed on a class certification motion, any appeal by Defendant would prolong already protracted litigation and delay remedies to the Class.

D. THE PROPOSED METHOD OF ALLOCATING THE SETTLEMENT FUND AMONG SETTLEMENT CLASS MEMBERS IS FAIR, ADEQUATE, AND REASONABLE

Each Class Member is paying a *pro rata* share of the Settlement-related attorney's fees, settlement administration costs, and Plaintiff's service award, and each is receiving a *pro rata* share of the amount remaining in the Settlement Fund. This satisfies the requirement.

E. THE PROPOSED SERVICE AWARD TO PLAINTIFF IS FAIR, ADEQUATE, AND REASONABLE

Courts routinely approve incentive awards to compensate named plaintiffs for the services they provide and the risks they incur during class action litigation, often in much higher amounts than that sought here. *See, e.g, Bell v. Farmers Ins. Exchange* (2004) 115 Cal.App.4th 715, 726 (upholding "service payments" to named plaintiffs for their efforts in the case); *Van Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 295 (approving $50,000 enhancement award).Here, under the Settlement, Plaintiff may seek an enhancement award of up to $2,500. This is entirely reasonable given Plaintiff's efforts in this case and the risks undertaken by Plaintiff on behalf of the Class. Any Settlement Class Member who feels the requested amounts are not warranted will have an opportunity to object under the terms of the Settlement.

F. THE PROPOSED AWARD OF ATTORNEYS' FEES AND COSTS IS FAIR, ADEQUATE, AND REASONABLE

"The primary basis of the fee award remains the percentage method." *Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1050. "Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around thirty percent (30%) of the recovery." *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 47 fn. 11. This is also consistent with Class Counsel's experience in these types of cases. In the present case, Class Counsel intends to request attorneys' fees of up to thirty percent (30%) of the Settlement Fund (or, $25,050.00 at present) and actual reasonable costs. In any event, any Settlement Class Member who feels that the attorneys' fees or costs awards are unfair will have an opportunity to object under the terms of the Settlement.

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G. THE PROPOSED PAYMENT TO THE CLAIMS ADMINISTRATOR IS FAIR, ADEQUATE, AND REASONABLE

In deciding whether to approve a proposed settlement, a trial court has broad powers to determine if the proposed settlement is fair under the circumstances of the case. *Mallick, supra,* 89 Cal.App.3d at 438. In exercising these powers, the overriding concern is to ensure that a proposed settlement is "fair, adequate, and reasonable." *Dunk*, *supra*, 48 Cal.App.4th at 1801 (internal quotations omitted). The Parties have estimated that the Settlement Administrator will perform the services set forth in the Settlement for not more than $4,750. Apex is an experienced administrator whose principals have managed many class action settlements, and Apex has estimated its costs for administration of this Settlement will not exceed a maximum of $4,750. Based on the knowledge and experience of Class Counsel in similar FCRA class actions with a similar number of employees, the estimate is a fair, adequate, and reasonable amount for settlement administration fees in this case.

H. THE PROPOSED SETTLEMENT ADMINISTRATION PLAN COMPLIES WITH RULE OF COURT 3.766(e)

In determining the manner of the notice, the court must consider: the interests of the class; the type of relief requested; the stake of the individual class members; the cost of notifying class members; the resources of the parties; the possible prejudice to class members who do not receive notice; and the *res judicata* effect on class members. Rule of Court 3.766(e).

Plaintiff requests that the Court approve the proposed plan for giving notice to the Class and administering the Settlement. For class claims "for money damages or similar relief at law, notice sent by first class mail to the last known address of each member of the plaintiff class is sufficient." *Phillips Petroleum Co. v. Shutts* (1985) 472 U.S. 797, 811. Here, the proposed notice process ensures that as many Settlement Class members as practicable receive actual notice of the Settlement and have sufficient time to exercise their rights.

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I. THE PROPOSED CLASS NOTICE COMPLIES WITH RULE 3.766(d) AND (e)

Rule 3.766(d) provides that the Court must approve class notice. If class members are given the right to exclude themselves – which the Parties here agree is appropriate – the notice must include: (1) a brief explanation of the case, including the basic contentions or denials of the parties; (2) a statement that the Court will exclude the members from the Class, if the member so requests by a specific date; (3) a procedure for the member to follow in requesting exclusion from the Class; (4) a statement that the judgment, whether favorable or not, will bind all members who do not request exclusion; and (5) a statement that any member who does not request exclusion may, if the member so desires, enter an appearance through counsel.

Accordingly, the Notice describes the Settlement with sufficient clarity and specificity to explain to Settlement Class Members what this case is about, their rights under the Settlement, and how to exercise those rights.

V. CONCLUSION

For all the foregoing reasons, because the Class meets the requirements for certification under CCP § 382, because the Settlement bears all requisite indicia of fairness, reasonable and because the proposed notice procedure and related forms comport with Rule 3.766 and principles of due process, this Court should grant this Motion for Preliminary Approval in its entirety, adopt the [Proposed] Order Granting Preliminary Approval of Class Action Settlement, and schedule a Final Fairness Hearing approximately 100 days after the date that preliminary approval is granted.

Dated: July 18, 2025

CONSUMER LITIGATION ASSOCIATES, P.C.

By: */s/Craig C. Marchiando, Esq.*
Craig C. Marchiando, Esq.
Marc R. Edelman, Esq.
Leonard Bennett, Esq.
Conal Doyle, Esq.
Attorneys for Plaintiff

PROOF OF SERVICE

State of California)
County of Los Angeles)

I am over the age of eighteen years, and not a party to the within action. My business address is 280 S. Beverly Drive, Penthouse, Beverly Hills, California 90212. On July 18, 2025, I served the within document(s):

PLAINTIFF'S NOTICE OF MOTION AND UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT AND CERTIFICATION OF SETTLEMENT CLASS

by placing a true copy thereof in sealed envelopes as stated on the attached mailing list.

[ ] **BY FACSIMILE TRANSMISSION** I transmitted said document(s) via facsimile machine pursuant to C.R.C. rule 2.306 to fax number FACSIMILE NUMBER. The facsimile machine I used complied with rule 2.306 and no error was reported by the machine. Pursuant to rule 2.306, I caused the machine to print a transmission record of the transmission, a copy of which is attached to this declaration.

[ ] **BY MAIL** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice a true copy would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

[ ] **BY PERSONAL SERVICE** I caused personal delivery by ATTORNEY SERVICE of said document(s) to the offices of the addressee(s) as set forth on the attached mailing list.

[ ] **BY OVERNIGHT DELIVERY SERVICE** I caused such envelope to be deposited with an overnight delivery service (Overnite Express/Federal Express) for delivery the next court day, or at most, within two court days of the above date.

[XX] **BY E-MAIL OR ELECTRONIC TRANSMISSION**. Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons VIA CASEANYWHERE at the e-mail addresses listed on the service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

[XX] (State) I declare under penalty of perjury under the laws of the State of California thatthe above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on July 18, 2025, at Beverly Hills, California.

Eloise Perez

Eloise Perez

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