SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

Department 22, Honorable Beth McGowen Presiding

Farris Bryant, Courtroom Clerk
191 North First Street, San Jose, CA95113
Telephone: (408) 882-2340

To contest a tentative ruling, you must:

1. Call (408) 808-6856 before 4:00 P.M. and leave a voicemail message containing the information described below, and
2. Notify the other side before 4:00 P.M. that you will appear at the hearing to contest the tentative ruling.

In the voicemail message, please state your case name, case number, the name of the attorney, who you represent (Plaintiff or specific defendant) and contact number. It would also be helpful if you could identify the specific portion or portions of the tentative ruling that will be contested.

PLEASE NOTE:

- If you do not notify the Court and/or opposing side as required by California Rule of Court, rule 3.1308(a)(1) and Civil Local Rule 8(E), the Court will not hear argument and the tentative ruling will be adopted even if all parties appear at the hearing.
- Sending an email to the department or to the Complex Clerk will no longer suffice to constitute notice to the Court of the need for a hearing regarding a tentative ruling.

Court Reporters are not provided. Please consult our Court's website, www.scscourt.org, for the rules, policies, and required forms for appointment by stipulation of privately-retained court reporters.

- **Parties can appear either in person or remotely.** All remote appearances must be made through UDC, unless otherwise arranged with the Court. Please go to https://santaclara.courts.ca.gov/online-services/remote-hearings to find the appropriate link. Also, please note that that you must register in advance to appear remotely.
- As a reminder, state and local Court Rules prohibit recording of court proceedings without a Court order. This prohibition applies while in the courtroom and while appearing remotely.

DATE: January 22, 2026 TIME: 1:30 P.M.
PREVAILING PARTY SHALL PREPARE THE ORDER
UNLESS OTHERWISE STATED (SEE RULE OF COURT 3.1312)

LINE #	CASE #	CASE TITLE	RULING
LINE 1	24CV451156	Christian Imperial vs Google, LLC	Hearing: Demurrer is Sustained with leave to amend in part. Ctrl Click (or scroll down) on Line 1 for tentative ruling

LINE 2	23CV412059	Gonzales v. Frontline Asset Strategies, LLC (Class Action)	Motion: Judgment on Pleadings is DENIED. Ctrl Click (or scroll down) on Line 2 for tentative ruling.
LINE 3	20CV365920	Francisco v. Curio Management LLC, et al. (Class Action)	Motion: Final Fairness Hearing is GRANTED. Ctrl Click (or scroll down) on Line 3 for tentative ruling.
LINE 4	18CV328915	Uzair v. Google, LLC	Motion: Preliminary Approval is GRANTED. Ctrl Click (or scroll down) on Line 4 for tentative ruling.
LINE 5	19CV354554	Leedeman v. Midland Credit Management, Inc. (Class Action)	Motion: Preliminary Approval is GRANTED. Ctrl Click (or scroll down) on Line 5 for tentative ruling.
LINE 6			
LINE 7			
LINE 8			
LINE 9			
LINE 10			
LINE 11			
LINE 12			
LINE 13			

Calendar Line 1

Case Name: *Christian Imperial v. Google, LLC.*
Case No.: 24CV451156

This action arises from defendant Google LLC's ("Google" or "Defendant") alleged false and misleading advertising.

Before the Court is Google's demurrer, which is opposed. As discussed below, the Court SUSTAINS Google's demurrer as to the first, second, third, fourth, and fifth causes of action with 20 days leave to amend and it SUSTAINS the demurrer as to the sixth cause of action WITHOUT LEAVE TO AMEND.

I. BACKGROUND

According to the allegations of the operative first amended complaint ("FAC"), Google operates the Google Store, which frequently offers a sales bundle consisting of (1) a physical product; and (2) Google Store credit that can be spent on a later purchase. (FAC, ¶¶ 2, 11-15.) Based on the ads, customers purchase the bundles with the understanding that they are purchasing store credit that they can use later, however, the credit expires before they have a chance to use it. (FAC, ¶ ¶3, 16-17.)

On December 29, 2022, Plaintiff purchased a bundle consisting of a Google Pixel phone and a Google Store credit worth $99.90. (FAC, ¶¶ 5, 32.) When he purchased the store credit, Plaintiff believed the store credit would not expire. (FAC, ¶¶ 5, 33.) However, it expired one year later, before he could use it. (*Ibid*.)

Based on the foregoing, Plaintiff initiated this action on November 6, 2024, with the filing of the complaint and on May 29, 2025, he filed the operative FAC, which asserts the following causes of action: (1) violation of California's Gift Card Law (Civ. Code §§ 1749.45, *et seq*.); (2) violation of California's False Advertising Law (Bus. & Prof. Code §§ 17500 & 17501, *et seq*.); (3) violation of California's Legal Remedies Act ("CLRA"); (4) violation of California's Unfair Competition Law; (5) violation of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (15 U.S.C. § 16931-1); and (6) quasi-contract.

II. REQUEST FOR JUDICIAL NOTICE

Google requests judicial notice of an exemplar email that Google sent to customers following the issuance of Google Store Credit.[1]

Google requests judicial notice of this documents because it was referenced in the original Complaint. The Court is not persuaded by this argument because the FAC is the operative pleading in this matter. (See *State Compensation Ins. Fund v. Super. Ct.* (2010) 184 Cal.App.4th 1124, 1130 [it is well known that an amendatory pleading supersedes the original

[1] This document is Exhibit A attached to the Declaration of Eric Lepetit ("Lepetit Decl.")

one, which ceases to perform any function].) Therefore, the allegation that Google seeks to support is not currently before the Court. Thus, Google's request for judicial notice is DENIED.

III. DEMURRER

Google demurs to each cause of action on the grounds that it fails to state a cause of action upon which relief can be granted. (Code Civ. Proc., § 430.10, subd. (e).)

A. Legal Standard

The function of a demurrer is to test the legal sufficiency of a pleading. (*Trs. Of Capital Wholesale Elec. Etc. Fund v. Shearson Lehman Bros.* (1990) 221 Cal.App.3d 617, 621.) Consequently, "[a] demurrer reaches only to the contents of the pleading and such matters as may be considered under the doctrine of judicial notice." (*South Shore Land Co. v. Petersen* (1964) 226 Cal.App.2d 725, 732, internal citations and quotations omitted; see also Code Civ. Proc., § 430.30, subd. (a).) "It is not the ordinary function of a demurrer to test the truth of the plaintiff's allegations or the accuracy with which he describes the defendant's conduct. … Thus, … the facts alleged in the pleading are deemed to be true, however improbable they may be." (*Align Technology, Inc. v. Tran* (2009) 179 Cal.App.4th 949, 958, internal citations and quotations omitted.)

In ruling on a demurrer, the allegations of the complaint must be liberally construed, with a view to substantial justice between the parties. (*Glennen v. Allergan, Inc.* (2016) 247 Cal.App.4th 1, 6.) Nevertheless, while "[a] demurrer admits all facts properly pleaded, [it does] not [admit] contentions, deductions or conclusions of law or fact." (*George v. Automobile Club of Southern California* (2011) 201 Cal.App.4th 1112, 1120.)444

B. Discussion

Google argues that Plaintiff incorrectly believes that the store credit provided in connection with certain purchases is actually a "gift certificate." (Defendant's Memorandum of Points and Authorities ("MPA"), p. 5:14-16.)

1. First Cause of Action-violation of California's Gift Card Law (Civ. Code § 1749.5)

Civil Code section 1749.5 ("Section 1749.5") provides "[i]t is unlawful for any person or entity to sell a gift certificate to a purchaser that contains any of the following: (1) an expiration date. (2) a service fee, including, but not limited to, a service fee for dormancy, except as provided in subdivision (e)." (Civ. Code § 1749.5, subd. (a).)

Section 1749.5 also provides, "this section does not apply to any of the following gift certificates issued on or after January 1, 1998, provided the expiration date appears in capital letters in at least 10-point font on the front of the gift certificate: (1) Gift certificates that are distributed by the issuer to a consumer pursuant to any awards, loyalty, or promotional program without any money or other thing of value being given in exchange for the gift certificate by the consumer. (2) Gift certificate that are donated or sold below face value at a

volume discount to employers or to nonprofit and charitable organizations for fundraising purposes if the expiration date on those gift certificates is not more than 30 days after the date of sale. (3) Gift certificates that are issued for perishable food products." (Civ. Code § 1749.5, subd. (d).)

Google argues that the store credit at issue falls within the exemption in the Gift Card Law. (MPA, p. 6:7.) Google further argues that the store credit is not the same as a "gift card" and thus, the Gift Card Law and CARD Act are inapplicable. (MPA, p. 6: 8-12.) In opposition, Plaintiff argues the store credits do not fall within the promotional program exception because the expiration date was not stated in at least 10-point font on the front of the gift certificate, and it was not issued pursuant to an awards, loyalty, or promotional program without any money or other things of value being given in exchange for the gift certificate by the consumer. (Plaintiff's Opposition ("Opp."), p. 5:1-6.) Here, there is no allegations or judicially noticeable facts before the Court that the expiration date was stated "in capital letters in at least 10-point font on the front of the gift certificate." Thus, the exemption does not apply.

Nevertheless, the statute requires sale of the gift certificate. While Section 1945.5 does not define "gift certificate", Civil Code section 1749.45 defines "gift certificate" as "including gift cards and electronic gift cards but does not include any gift usable with multiple sellers of goods or services, provided the expiration date, if any, is printed on the card." (Civ. Code § 1745.45, subd. (a).)[2]

Google directs the Court to *Reynolds v. Philip Morris USA, Inc.* (9th Cir. 2009) 332 F. App'x 397 (*Reynolds*), in which the Ninth Circuit acknowledged that the statute does not define "gift certificate." Thus, it looked to the ordinary meaning of "gift certificate,"—stating that it is a "certificate, usually presented as a gift, that entitles the recipient to select merchandise of an indicated cash value at a commercial establishment." (*Id*. at p. 398.) The *Reynolds* court concluded that "Malboro Miles" reward points did not constitute gift certificates because they were "not typically given as gifts, are not certificates, and state no cash value." (*Ibid*.) In opposition, Plaintiff argues that the statute does not include a requirement that the gift certificates be giftable or intend to be given as a gift and if it did, Plaintiff would satisfy the requirement. (Opp., p. 5:19-28.)

In support of his argument that he would satisfy a giftable requirement, Plaintiff relies on *Cody v. SoulCycle, Inc.* (C.D. Cal. Jan. 11, 2016) 2016 U.S. Dist. LEXIS 195821 (*Cody*) and *Hollis v. Audible, Inc.* (W.D, Wash. Sep. 19, 2025) 2025 U.S. Dist. LEXIS 184583 (*Hollis*). *Cody* involved "series certificates" which customers were required to purchase in order to attend SoulCycle classes. (*Cody, supra,* 2016 U.S. Dist. LEXIS 195821 at *2.) The court concluded that the giftability requirement was satisfied because the purchaser had the option to gift the certificates to their friends. (*Id*. at * 31.) Similarly in *Hollis,* the court concluded that the plaintiff sufficiently stated giftability by alleging that the defendant allowed the account holders to gift books to anyone. (*Id*. at *20.) These cases are factually distinguishable from the instant matter because they explicitly permitted gifting to others,

[2] The exemption does not apply to a gift card usable only with affiliated sellers of goods or services.

whereas here, the language explicitly states that the store credits are non-transferrable. (See FAC, ¶ 19.)

While *Reynolds, supra* is not binding, the Court finds it more persuasive. Here, the store credit terms explicitly state that the credits are "non-transferable and not valid for cash or a cash payment." Moreover, as Google points out, the credits were offered in connection with the purchase of the phone at regular price. (See FAC, ¶ 32.) In other words, the purchase of a physical product was required for a consumer to receive the store credit but there was no way for a consumer to purchase the store credit for value on its own, outside of the bundle. Based on the foregoing, it does not appear that the store credits constitute a "gift certificate," under the statute.

Thus, Google's demurrer to Plaintiff's first cause of action is SUSTAINED with 20 days leave to amend.

2. Second Cause of Action-violation of False Advertising Law (Bus. & Prof. §§ 17500, 17501)

The False Advertising Law ("FAL") bars "any advertising device…which is untrue or misleading." (Bus. & Prof. Code § 17500.) "Because this law and the fraudulent prong of the unfair competition law substantively overlap, the plaintiff's burden under these provisions is the same: to prevail on a claim under the [FAL], [he] must show that members of the public are likely to be deceived and must do so as adjudged through the eyes of a reasonable consumer." (*Shaeffer v. Califia Farms, LLC* (2020) 44 Cal.App.5th 1125, 1136.) A plaintiff must also allege that he suffered economic injury caused by the false advertising. (*Id*. at p. 1137.) As a statutory cause of action, false advertising must be alleged with particularity. (*Covenant Care, Inc. v. Superior Court* (2004) 32 Cal.4th 771, 790.)

Here, Plaintiff alleges that Defendant falsely advertised its products because it failed to adequately disclose that the store credits expire. (FAC, ¶ 55.) Plaintiff contends that it was not adequately disclosed. However, the images included in the FAC show that the bundles had specific terms. (See FAC, ¶¶ 12-13.) Moreover, the FAC includes an example of a page shown during the purchase process which states "Google Store credit expires within 1 year of issuance." (FAC, ¶ 19.)

Plaintiff argues that the disclosures were in very small font, hidden in the footnotes, at the bottom of its web pages. (See FAC, ¶ 18.) Plaintiff directs the Court to *People v. JTH Tax, Inc.* (2013) 212 Cal.App.4th 1219 (*JTH Tax*) which states that mandatory disclaimers in advertisements which were "in a very small font, appear[ed] within a mass of other text, and [were] on screen for just a second," violated the FAL and UCL. (*Id.* at p. 1253.) In *JTH Tax*, the court reached its conclusion based on the facts and evidence regarding those specific advertisements, which the Court has not done so here. Moreover, the disclaimers in *JTH Tax* were on screen for a short time whereas here, Plaintiff had the option to see the terms. Therefore, in this Court's view, Plaintiff's decision to proceed without reading the terms does not constitute a misrepresentation or omission by Google. Plaintiff further alleges that Google's representation that the store credit would be available for the consumer's next purchase was a misrepresentation because it expired. However, the expiration does not negate the fact that the store credit was available for Plaintiff's next purchase for the year after his

purchase. The language that Plaintiff relies on to establish a misrepresentation does not state that the purchase could happen at any time or that the store credit would never expire. Plaintiff fails to allege other conduct or statements to establish a representation or omission by Google which constitutes false advertising. Thus, Plaintiff fails to allege sufficient facts to state this claim.

Accordingly, Defendant's demurrer to the second cause of action is SUSTAINED with 20 days leave to amend.

3. Third Cause of Action-violation of California's Legal Remedies Act ("CLRA")

The CLRA targets a class of "unfair methods of competition and unfair or deceptive acts or practices" enumerated in Civil Code section 1770. (Civ. Code, § 1770, subd. (a).) "Any consumer who suffers any damage as a result of the use or employment by any person of" this unlawful conduct may bring an action for damages, restitution of property, and injunctive relief. (Civ. Code, § 1780, subd. (a).) The consumer may also bring a class action on behalf of "other consumers similarly situated." (Civ. Code, § 1781, subd. (a).)

Plaintiff alleges that Google's conduct "constitutes unfair methods of competition and unfair and deceptive acts and practices for the purposes of the CLRA and the conduct was undertaken by Defendant in transactions intended to result in, and which did result in, the sale of goods to consumers." (FAC, ¶ 65.) Plaintiff argues that he states his claim because he alleges that he purchases both the hardware device and the store credit with his money. (Opp., p. 14:7-9.) As the Court stated above, Plaintiff's allegations state that he purchases the phone for the regular price and then received the store credit, however, that is different than purchasing the store credit itself. Plaintiff does not allege any other conduct support this claim. Thus, Plaintiff fails to allege sufficient facts to state this claim.

Accordingly, Google's demurrer to Plaintiff's third cause of action is SUSTAINED with 20 days leave to amend.

4. Fourth Cause of Action-violation of Unfair Competition Law ("UCL")

"Business and Professions Code section 17200 et seq. prohibits unfair competition, including unlawful, unfair, and fraudulent business acts. The UCL covers a wide range of conduct. It embraces anything that can properly be called a business practice and that at the same time is forbidden by law." (*Korea Supply Co. v. Lockheed Martin Corp.* (2003) 29 Cal.4th 1134, 1143.) " "Section 17200 'borrows' violations from other laws by making them independently actionable as unfair competitive practices. In addition, under section 17200, a practice may be deemed unfair even if not specifically proscribed by some other law." (*Ibid.*) "By proscribing unlawful business practices, the UCL borrows violations of other laws and treats them as independently actionable. In addition, practices may be deemed unfair or deceptive even if not proscribed by some other law. Thus, there are three varieties of unfair competition: practices which are unlawful, or unfair, or fraudulent." (*Blakemore v. Superior Court* (2005) 129 Cal.App.4th 36, 48.) The UCL's purpose 'is to protect both consumers and

competitors by promoting fair competition in commercial markets for goods and services.' [Citations.]" (*Kwikset Corp. v. Superior Court* (2011) 51 Cal.4th 310, 322 (*Kwikset*).)

Plaintiff's UCL claim hinges of his other claims. However, the demurrer has been sustained to those claims, thus, this claim cannot survive. (See *Krantz v. BT Visual Images, LLC* (2001) 89 Cal.App.4th 164, 178 [stating that the viability of a UCL claim stands or falls with the antecedent substantive causes of action].)

Accordingly, Google's demurrer to Plaintiff's fifth cause of action is SUSTAINED with 20 days leave to amend.

5. Fifth Cause of Action-violation of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (15 U.S.C. § 16931-1)

The Credit Card Accountability Responsibility and Disclosure Act ("CARD Act"), prohibits the sale of gift certificates and gift cards with expiration dates of less than five years. (15 U.S.C. § 1693l-1, subd. (c)(2)(A).) The CARD Act defines "gift certificate" and "store gift card" as items that are "purchased on a prepaid basis in exchange for payment." (See 15 U.S.C. § 1693l-1, subd. (a)(2)(B)(iii) & (C)(iii).)

As stated above, the store credit does not constitute a gift certificate and Plaintiff did not purchase the store credit. He paid the regular price of the Google Pixel Pro. (See FAC, ¶ 32.) However, that payment did not constitute prepayment for the store credit as it was the cost of the phone. Therefore, Plaintiff fails to allege sufficient facts to state this claim.

Accordingly, Google's demurrer to Plaintiff's fifth cause of action is SUSTAINED with 20 days leave to amend.

6. Sixth Cause of Action- Quasi-Contract

There is no freestanding cause of action for "restitution" in California. *Munoz v. McMillan* (2011) 195 Cal.App.4th 648, 661 (*Munoz*).) Restitution is also not a cause of action but a remedy. (*Levine v. Blue Shield of California* (2010) 189 Cal.App.4th 1117, 1138 (*Levine*).) "Unjust enrichment is not a cause of action, however, or even a remedy, but rather 'a general principle, underlying various legal doctrines and remedies[.]'" (See *McBride v. Boughton* (2004) 123 Cal.App.4th 379, 387 (*McBride*) (internal citations omitted).) Unjust enrichment is synonymous with restitution. (*Levine v. Blue Shield of California* (2010) 189 Cal.App.4th 1117, 1138 (*Levine*).) However, the labeling of a cause of action is not dispositive of whether a cause of action has been stated. (*McBride, supra,* 123 Cal.App.4th at 387.) A court deciding a demurrer must look to the gravamen of the complaint to determine if any cause of action is stated. (*Ibid.*) "The nature and character of a pleading is to be determined from the *facts alleged,* not the name given by the pleader to the cause of action." (*Ananda Church of Self-Realization v. Massachusetts Bay Ins. Co.* (2002) 95 Cal.App.4th 1273, 1281.) Importantly, "[a]s a matter of law, an unjust enrichment claim does not lie where the parties have an enforceable express contract." (*Durell v. Sharp Healthcare* (2010) 183 Cal.App.4th 1350, 1370; *Lance Camper Manufacturing Corp. v. Republic Indemnity Co.* (1996) 44 Cal.App.4th 194, 203.)

As stated above, Plaintiff fails to state a valid claim for the above causes of action. Plaintiff argues that the expiration of the store credits is separate from the contract for the purchase of the phone. (Opp., p. 15:1-2.) This argument is belied by Plaintiff's concession that the disclosure of the expiration date was included in the terms of the purchase. (FAC, ¶¶ 19-23.) Thus, the purchase agreement necessarily covers the expiration of the store credits. Consequently, Plaintiff's quasi contract claim cannot lie. (See *Durell, supra,* 183 Cal.App.4th at p. 1370.)

While Plaintiff requests leave to amend all his claims, it does not appear to the Court that he can successfully do so here. (See *Camsi IV v. Hunter Technology Corp*. (1991) 230 Cal.App.3d 1525, 1542 (*Camsi IV*) ["absent an effective request for leave to amend in specified ways," it is an abuse of discretion to deny leave to amend "only if a potentially effective amendment were both apparent and consistent with the plaintiff's theory of the case"]; *Goodman v. Kennedy* (1976) 18 Cal.3d 335, 349 (*Goodman*) ["Plaintiff must show in what manner he can amend his complaint and how that amendment will change the legal effect of his pleading"], quoting *Cooper v. Leslie Salt Co*. (1969) 70 Cal.2d 627, 636 (*Cooper*); *Hendy v. Losse* (1991) 54 Cal.3d 723, 742 (*Hendy*) ["the burden is on the plaintiff… to demonstrate the manner in which the complaint might be amended"].)

Accordingly, Google's demurrer to Plaintiff's sixth cause of action is SUSTAINED WITHOUT LEAVE TO AMEND.

IV. CONCLUSION

Google's demurrer to the first, second, third, fourth, and fifth causes of action is SUSTAINED with 20 days leave to amend and it is SUSTAINED WITHOUT LEAVE TO AMEND as to the sixth cause of action.

The Court will prepare the order.

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Calendar Line 2

Case Name: *Gonzales v. Frontline Asset Strategies, LLC*
Case No.: 23CV412059

This is a consumer class action brought pursuant to the California Rosenthal Fair Debt Collection Practices Act ("RFDCPA"). Plaintiff Connie Gonzales ("Plaintiff"), a senior citizen, alleges that defendants Frontline Asset Strategies, LLC ("FAS") and Radius Global Solutions, LLC[1] ("Radius Global") (collectively, "Defendants") have a routine practice of sending initial written communications which fail to provide the notice required by California Civil Code section 1788.14.5(e)(1) in an attempt to collect time-barred consumer debts.

Before the Court is Radius Global's opposed motion for judgment on the pleadings. For the reasons discussed below, the Court DENIES the motion.

I. Background

On a date unknown to Plaintiff, she incurred a financial obligation in the form of a consumer credit account allegedly owned by Dish Network, LLC ("Dish"). (Complaint, ¶ 13.) The debt to Dish was incurred for personal, family, or household purposes. (*Ibid*.) Thereafter, Plaintiff was unable to pay the debt and defaulted. (*Id*. at ¶ 14.)

On an unknown date, Dish hired or contracted Defendants to collect the debt from Plaintiff on its behalf. (Complaint, ¶ 16.) On November 14, 2022, Defendants sent a collection letter ("Subject Letter") to Plaintiff to collect the debt. (*Id*. at ¶¶ 16, 18.) This letter was the first written communication from Defendants to Plaintiff in connection with the debt and did not include the notice required by Civil Code section 1788.14.5, subdivision (e)(1). (*Id*. at ¶¶ 19, 20.) Specifically, the Subject Letter failed to provide the true name of the debt collector. (*Id*. at ¶ 20.) Plaintiff is informed and believes that Defendants had knowledge that their conduct was directed towards a senior citizen. (*Id*. at ¶ 21.)

On March 9, 2023, Plaintiff filed her class action complaint, asserting a single cause of action for violation of the RFDCPA. Radius Global now moves for judgment on the pleadings.

II. Legal Standard

Code of Civil Procedure section 438 provides the statutory framework for a motion for judgment on the pleadings. (Code Civ. Proc., § 438, subd. (b)(1).) "The motion provided for in this section may only be made on one of the following grounds: . . . (B) If the moving party is a defendant, that either of the following conditions exist: . . . (ii) The complaint does not state facts sufficient to constitute a cause of action against that defendant." (Code Civ. Proc., § 438, subd. (c)(1)(ii).)

A motion for judgment on the pleadings is the functional equivalent of a general demurrer but is made after the time for demurrer has expired. (See *Evans v. California Trailer Court, Inc.* (1994) 28 Cal.App.4th 540, 548; see also *Shea Homes Limited Partnership v. County of Alameda* (2003) 110 Cal.App.4th 1246, 1254 (*Shea*).) "The grounds for the motion must appear on the face of the complaint, and in any matters subject to judicial notice. The court accepts as true all material factual allegations, giving them a liberal construction, but it does not consider conclusions of fact or law, opinions, speculation, or allegations contrary to

[1] On August 19, 2024, Plaintiff filed an amendment to the complaint naming Doe 1 as Radius Global.

law or judicially noticed facts." (*Shea*, *supra*, 110 Cal.App.4th at p. 1254 [citations omitted]; *Kapsimallis v. Allstate Ins. Co.* (2002) 104 Cal.App.4th 667, 672.)

III. Request for Judicial Notice

In support of its motion, Radius Global requests judicial notice of the following:

1) Letter to Plaintiff attached as Exhibit 1 to the Complaint filed March 9, 2023 (Ex. A). Judicial notice of a complaint is unnecessary where it is the pleading under review. (See *Paul v. Patton* (2015) 235 Cal.App.4th 1088, 1091, fn. 1 ["Judicial notice is unnecessary because, in our review of the demurrer ruling, we accept the allegations in the complaint and the facts in the exhibit as true"].) Thus, judicial notice of Exhibit A is DENIED.
2) 2021 Cal. Legis. Serv. Ch. 455 (S.B. 531) (West), Legislative Counsel's Digest, filed with Secretary of State on October 4, 2021 (Ex. B). Judicial notice of Exhibit B is GRANTED. (See *Los Angeles County Dept. of Children & Family Services v. Superior Court* (2008) 162 Cal.App.4th 1408, 1414, fn. 5 [taking judicial notice of Legislative Counsel's Digest].)
3) California Committee Report to 2021 Cal. S.B. 531, Version Date August 31, 2021, Cal. 2021-2022 Regular Session (Ex. C). Judicial notice of Exhibit C is GRANTED. (See *PacifiCare of California v. Bright Medical Associates, Inc.* (2011) 198 Cal.App.4th 1451, 1463, fn. 5 [taking judicial notice of senate committee report]; *Anders v. Superior Court* (2011) 192 Cal.App.4th 579, 590, fn. 3 [stating same].)

IV. Discussion

Radius Global moves for judgment on the pleadings on the ground Plaintiff fails to state facts sufficient to constitute a cause of action. Specifically, it argues that FAS was not required to provide notice under Civil Code section 1788.14.5, subdivision (e)(1) because Plaintiff's debt was charged-off.

The RFDCPA protects consumers against fraudulent or unfair debt collection practices. As relevant here, subdivision (e)(1) of Section 1788.14.5 requires a "debt collector to which delinquent debt has been assigned" to include "in its first written communication with the debtor" a specified statement set forth in the statute. For the purposes of this section, "delinquent debt" is defined as a "consumer debt, other than a mortgage debt, that is past due at least 90 days **and has not been charged off.**" (Civ. Code, § 1788.14.5, subd. (g) [emphasis added].) A "consumer debt," in turn, means "money, property, or their equivalent, due or owing or alleged to be due or owing from a natural person by reason of a consumer credit transaction." (Civ. Code, § 1788.2, subd. (f).)

Radius Global contends that the letter FAS sent to Plaintiff was, as a matter of law, not subject to the notice requirement because the requirement only applies to consumer debts which have not yet been charged off. (Motion, p. 6:16-23.) Radius Global further asserts that the Subject Letter refers to the debt as a "charge-off" debt, not a delinquent debt, and that Plaintiff's own allegations that she was unable to pay the debt and defaulted confirm that the notice requirement is not applicable. (Motion, pp. 6:19-7:2.)

In opposition, Plaintiff argues that because she alleges that FAS was collecting on behalf of Dish, the debt could not have been charged-off. (Opposition, p. 3:1-8.) She further asserts that the complaint does not allege that FAS was a debt buyer and that the language in the Subject Letter indicates that Dish has the right to seek collection of the debt, indicating it

was not charged off. (Opposition, p. 4:12-20 [stating also, "Because the debt is alleged to be due to the original creditor, it follows that the original creditor never charged off the debt and treated it as a loss. If it had done so, it would not have hired [FAS] to collect the debt."].)

In this case, the Subject Letter, attached to the Complaint as Exhibit 1,[2] contains the following language:

> You may request records showing the following: (1) that Dish Network L.l.c. has the right to seek collection of the debt; (2) the debt balance, including an explanation of any interest charges and additional fees; (3) the date of default or the date of the last payment; (4) the **name of the charge-off creditor** and the account number associated with the debt; (5) the name and last known address of the debtor as it appeared in the **charge-off creditor's** or debt buyer's records prior to the sale of the debt, as appropriate; and (6) the names of all persons or entities that have purchased the debt. You may also request from us copy of the contract or other document evidencing your agreement to the debt. A request for these records may be addressed to: 9601 S. Meridian Blvd Englewood CO 80112.

(Complaint, Ex. 1, p. 2 [emphasis added].)

The language found on page 2 of Exhibit 1 is the notice requirement required where a ***debt buyer*** makes a written attempt to a debtor to collect a consumer debt. (See Civ. Code, §1788.52, subd. (d)(1).) The pleading indicates that FAS is a ***debt collector***. (See Complaint, ¶ 9; Ex. 1, p. 1.) Thus, Defendant was required to comply with Civil Code section 1788.14.5, subdivision (e)(1) if Plaintiff's delinquent debt (covered debt, that is at least 90 days past due and has not been charged off) is assigned to it. Accordingly, the remaining issue is whether the pleading alleges the debt was charged off. "'Charged-off consumer debt' means a consumer debt that has been removed from a creditor's books as an asset and treated as a loss or expense." (Civ. Code, § 1788.50, subd. (a)(2).)

Here, the Complaint is devoid of allegations that Plaintiff's debt had been removed from Dish's books as an asset and treated as a loss/expense. As Defendant itself notes, "[f]urther distinguishing 'charge-off' debts, the Committee explained that 'a delinquent debt describes a debt where the consumer has fallen behind on their loan payments,' which 'is a fairly common event and does not necessarily mean the loan will ultimately be charged off, though a loan that remains in delinquent status will eventually be charged off.'" (Motion, p. 5:12-15, citing RJN, Ex. C, p. 5 [emphasis omitted].) Thus, while Plaintiff alleges she fell behind on her payments, it does not mean that the debt had been charged off at the time the Subject Letter was sent.

Moreover, the argument that the Subject Letter "explicitly refers to the debt as a 'charge-off' debt" is not well taken. (Motion, p. 6:24-25.) The language "charge-off debt" is not found within the Subject Letter. Instead, the Subject Letter includes the notice required by Civ. Code, §1788.52, subd. (d)(1), not applicable here, that refers generally to a "charge-off creditor." (Complaint, Ex. 1, p. 2.) Further, the Subject Letter indicates that Dish has a right to seek collection of the debt and that FAS is collecting the debt that is still owed to Dish. (*Id.* at p. 2.) Accordingly, the Court does not find that the Complaint alleges the debt was charged off and Defendant was required to comply with section 1788.14.5, subdivision (e)(1)'s notice requirement. (See *Alcorn v. Anbro Engineering, Inc.* (1970) 2 Cal.3d 493, 496 [court reviewing

[2] See *Freeman v. San Diego Assn. of Realtors* (1999) 77 Cal.App.4th 171, 178, fn. 3 [on a pleading motion, the court disregards allegations that are contradicted by the express terms of an exhibit incorporated into the complaint].)

propriety of ruling on demurrer is not concerned with the "plaintiff's ability to prove . . . allegations, or the possible difficulty in making such proof"].)

Based on the foregoing, the motion for judgment on the pleadings is DENIED.

V. Conclusion and Order

The motion for judgment on the pleadings is DENIED in its entirety.

The Court will prepare the final order.

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Case Name: Calendar Line 3

Case Name: *Teodoro S. Francisco v. Curio Management LLC, et al.*
Case No.: 20CV365920

This is a putative class and Private Attorneys General Act ("PAGA") action. Plaintiff Teodoro S. Francisco alleges defendants Curio Management LLC, Hilton Management LLC, Hilton Domestic Operating Company, Inc. and Does 1 through 50 (collectively, "Defendants") violated the Labor Code and Unfair Competition Law ("UCL") and seek PAGA penalties on this basis.

Before the Court is Plaintiff's motion for final approval of settlement, which is unopposed. As discussed below, the Court GRANTS the motion.

V. BACKGROUND

According to the allegations of the operative first amended complaint ("FAC"), Plaintiff was employed by Defendants as a non-exempt, hourly paid employee from May 19, 2004, through April 19, 2020 and he worked in the Juniper Hotel Cupertino, Curio Collection by Hilton. (FAC, ¶ 10.) Defendants failed to: timely pay all wages owed; provide meal period or compensation in lieu thereof; maintain accurate itemized records.

Based on the foregoing, Plaintiff initiated this action on April 1, 2020, with the filing of the Complaint and on June 5, 2020, he filed the operative FAC, which asserts claims for the following: (1) failure to pay lawful wages owed; (2) failure to provide lawful meal periods or compensation in lieu thereof; (3) failure to timely pay wages; (4) knowing and intentional failure to comply with itemized employee wage statement provisions; (5) violations of the UCL; (6) civil penalties under PAGA. On July 28, 2025, the Court issued its order granting preliminary approval Joint Stipulation of Class and Representative Action Settlement and Release ("Settlement").

Plaintiff moves for an order: granting final approval of the Settlement; approving the settlement amount; approving the individual settlement payments to participating Class members and PAGA members; allocation $10,000 for Plaintiff's Class Representative Service award; approving PAGA penalties; approving costs for settlement administration Simpluris, Inc. ("Simpluris"); and approving attorneys' fees and cost.

VI. MOTION FOR FINAL APPROVAL

A. Legal Standard

i. Class Action

Generally, "questions whether a [class action] settlement was fair and reasonable, whether notice to the class was adequate, whether certification of the class was proper, and whether the attorney fee award was proper are matters addressed to the trial court's broad discretion." (*Wershba v. Apple Computer, Inc*. (2001) 91 Cal.App.4th 224, 234–235

(*Wershba*), disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260.)

> In determining whether a class settlement is fair, adequate and reasonable, the trial court should consider relevant 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, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.

(*Wershba, supra*, 91 Cal.App.4th at pp. 244–245, internal citations and quotations omitted.)

In general, the most important factor is the strength of the plaintiffs' case on the merits, balanced against the amount offered in settlement. (See *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130 (*Kullar*).) But the trial court is free to engage in a balancing and weighing of relevant factors, depending on the circumstances of each case. (*Wershba, supra*, 91 Cal.App.4th at p. 245.) The trial court must examine the "proposed settlement agreement 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." (*Ibid.*, citation and internal quotation marks omitted.) The trial court also must independently confirm that "the consideration being received for the release of the class members' claims is reasonable in light of the strengths and weaknesses of the claims and the risks of the particular litigation." (*Kullar, supra*, 168 Cal.App.4th at p. 129.) Of course, before performing its analysis the trial court must be "provided with basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise." (*Id.* at pp. 130, 133.)

B. PAGA

Labor Code section 2699, subdivision (l)(2) provides that "[t]he superior court shall review and approve any settlement of any civil action filed pursuant to" PAGA. The court's review "ensur[es] that any negotiated resolution is fair to those affected." (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 549.) Seventy-five percent of any penalties recovered under PAGA go to the Labor and Workforce Development Agency (LWDA), leaving the remaining twenty-five percent for the aggrieved employees. (*Iskanian v. CLS Transportation Los Angeles, LLC* (2014) 59 Cal.4th 348, 380, overruled on other grounds by *Viking River Cruises, Inc. v. Moriana* (2022) 596 U.S. 639 , 2022 U.S. LEXIS 2940.)

Similar to its review of class action settlements, the Court must "determine independently whether a PAGA settlement is fair and reasonable," to protect "the interests of the public and the LWDA in the enforcement of state labor laws." (*Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 76–77.) It must make this assessment "in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws." (*Id.* at p. 77; see also *Haralson v. U.S. Aviation Servs. Corp*. (N.D. Cal. 2019) 383 F. Supp. 3d 959, 971 ["when a PAGA claim is settled, the relief provided for under the PAGA [should] be genuine and meaningful, consistent with the underlying purpose of the statute to benefit the public …."], quoting LWDA guidance discussed in *O'Connor v. Uber Technologies, Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110 (*O'Connor*).)

The settlement must be reasonable in light of the potential verdict value. (See *O'Connor, supra,* 201 F.Supp.3d at p. 1135 [rejecting settlement of less than one percent of the potential verdict].) But a permissible settlement may be substantially discounted, given that courts often exercise their discretion to award PAGA penalties below the statutory maximum even where a claim succeeds at trial. (See *Viceral v. Mistras Group, Inc.* (N.D. Cal., Oct. 11, 2016, No. 15-CV-02198-EMC) 2016 WL 5907869, at *8–9.)

C. Settlement Class

Plaintiff requests certification of the following Class for settlement purposes.

> All current and former non-exempt employees employed by Defendants in the State of California to work in the Juniper Hotel Cupertino, Curio Collection by Hilton during the Class Period.

Rule 3.769(d) of the California Rules of Court states that "[t]he court may make an order approving or denying certification of a provisional settlement class after [a] preliminary settlement hearing." California Code of Civil Procedure Section 382 authorizes certification of a class "when the question is one of a common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court …."

Section 382 requires the plaintiff to demonstrate by a preponderance of the evidence: (1) an ascertainable class and (2) a well-defined community of interest among the class members. (*Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326, 332 (*Sav-On Drug Stores*).) "Other relevant considerations include the probability that each class member will come forward ultimately to prove his or her separate claim to a portion of the total recovery and whether the class approach would actually serve to deter and redress alleged wrongdoing." (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.) The plaintiff has the burden of establishing that class treatment will yield "substantial benefits" to both "the litigants and to the court." (*Blue Chip Stamps v. Superior Court* (1976) 18 Cal.3d 381, 385.)

In the settlement context, "the court's evaluation of the certification issues is somewhat different from its consideration of certification issues when the class action has not yet settled." (*Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 93.) As no trial is anticipated in the settlement-only context, the case management issues inherent in the ascertainable class determination need not be confronted, and the court's review is more lenient in this respect. (*Id.* at pp. 93–94.) But considerations designed to protect absentees by blocking unwarranted or overbroad class definitions require heightened scrutiny in the settlement-only class context, since the court will lack the usual opportunity to adjust the class as proceedings unfold. (*Id.* at p. 94.)

At preliminary approval, the Court provisionally certified the above-described class, determining that Plaintiff demonstrated by a preponderance of the evidence (1) an ascertainable class, (2) a well-defined community of interest among the class members and (3) that a class action provides substantial benefits to both litigants and the Court. Consequently, the Court will certify the Class for settlement purposes as requested.

D. Terms and Administration of Settlement

The non-reversionary gross settlement amount is $605,000. Attorneys' fees up to 35% of the gross settlement, which is $211,750, litigation costs of up to $30,000, and administrative costs of up to $7,000. $25,000 will be allocated to PAGA penalties, 75% of which ($18,750) will be paid to the LWDA, with the remaining 25% ($6,250) dispensed, on a pro rata basis, to "PAGA Members", who are defined as "Class Members employed by Defendants in the State of California to work in Juniper Hotel Cupertino, Curio Collection by Hilton during the PAGA Period who constitute the allegedly Aggrieved Employees within the meaning of PAGA in this action."[1] Plaintiff will seek a class representative service award of $10,000.

The net settlement amount-estimated to be-$329,017.38- will be allocated to members of the Class. For tax purposes, 20% of the individual settlement payments will be allocated to wages and 80% will be allocated to interest and penalties. Funds associated with checks uncashed after 180 days will be transmitted to California's Unclaimed Property Fund in the individual's name.

In exchange for settlement, Class Members who do not opt out will release:

> [A]ll claims under state, federal, or local law , whether statutory or based in common law, arising out of the claims expressly pleaded in the Action and all other claims that could have been pleaded based on the facts pleaded in the Action including but not limited to failure to pay wages owed, including minimum and overtime wages; failure to provide compliant meal periods and associated meal break premiums; failure to timely pay all wages dur to discharged or quitting employees; failure to provide accurate wage statements; alleged violation of Business and Profession Code section 17200 based on the alleged Labor Code violations; alleged violations of the IWC Wage Orders based on the claims alleged; any claims for injunctive relief; liquidated damages penalties, interests, fees, and costs; and all other claims and allegations made or that could have been made in the Action based on the facts and alleged in the Action and expressly excluding all other claims, including claims for vested benefits, wrongful terminations, unemployment insurance, disability, social security, workers' compensation, and class claims of any kind outside of the Class Period.

PAGA Members, who consistent with the statute will not be able to opt out of the PAGA portion of the settlement, will release:

> [A]ll claims for civil penalties, attorneys' fees, and costs arising out of the Labor Code claims and allegations expressly pleaded in the PAGA Notice and the Action, and all other Labor Code claims that could have been asserted based on the facts and allegations pleaded in the PAGA Notice and the Action, including but not limited to: failure to pay wages owed, including minimum and overtime wages; failure to provide compliant meal periods and associated meal break premiums; failure to timely pay all wages due to discharged or quitting employees; and failure to provide accurate wage statements, and expressly excluding all other claims, including claims for vested benefits, wrongful

[1] The PAGA Period is April 1, 2019, through July 31, 2024.

termination, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside of the PAGA Period.

The notice period has now been completed. Michael Bui ("Bui"), a Director of Client Services for settlement administrator Simpluris submitted a declaration in support of the instant motion. Bui states that on September 3, 2025, Simpluris received the approved Class notice. On November 12, 2025, defense counsel provided Simpluris with a Class list, which included the names, last known mailing addresses, social security numbers, and email addresses for Class and PAGA members. The mailing addresses were processed and updated using the National Change of Address Database maintained by the U.S Postal Service. On December 2, 2025, the Class notice was mailed out to three hundred twenty (320) Class members and one hundred ninety-three Aggrieved Employees.

The deadline to respond was January 16, 2026. As of the date of Bui's supplemental declaration, which was submitted on January 5, 2026, prior to the deadline to respond, Simpluris received 0 requests for exclusion, 0 objections, and 0 workweek disputes. [2] Consequently, there are 320 Class members. Based on this number, the average payment will be approximately $1,028.18, the highest payment will be approximately $5,651.61, and the lowest payment will be approximately $13.75. The average PAGA payment will be approximately $32.38, the highest PAGA payment will be approximately $127.63, and the lowest PAGA payment will be $0.97.

The settlement provides for administration costs for up to $7,000, which is supported by Bui's declaration. Thus, the amount is approved.

At the preliminary approval, the Court found that the proposed settlement provides a fair and reasonable compromise to Plaintiff's claims. It finds no reason to depart from these findings now, especially considering that there are no objections. Therefore, the Court finds that the settlement is fair and reasonable for the purposes of final approval.

E. Attorneys' Fees, Litigation Costs, and Plaintiffs' Service Award

Class Counsel seeks a fee award of $211,750, or thirty-five (35%) of the gross settlement amount, which is not an uncommon contingency fee in a wage and hour class action. Class Counsel provide a lodestar figure of $164,250, which is based on 210 hours of work at billing rates ranging from $220 to $1,000 per hour, resulting in a multiplier of 1.28. This is within the range of multipliers that courts typically approve. (See *Wershba, supra*, 91 Cal.App.4th at p. 255 ["[m]ultipliers can range from 2 to 4 or even higher"]; *Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1051, fn. 6 [stating that multipliers ranging from one to four are typical in common fund cases and citing the court's own survey of large settlements funding a range of 0.6-19.6, with most (20 to 24, or 83%) from 1.0-4.0 and a bare majority (13 of 24, or 54%) in the 1.5-3.0 range"].)

"While the percentage method has been generally approved in common fund cases, courts have sought to ensure the percentage fee is reasonable by refining the choice of a

[2] Class Counsel failed to submit a supplemental declaration from Bui. It would be more efficient for Class Counsel to file their motion after the response deadline has passed as it would eliminate the need for a supplemental declaration.

percentage or by checking the percentage result against the lodestar-multiplier calculation." (*Laffitte v. Robert Half Intern, Inc.* (2016) 1 Cal.5th 480, 495 (*Laffitte*).) Applying the latter approach,

> [T]he percentage-based fee will typically be larger than the lodestar based fee. Assuming that one expects rough parity between the results of the percentage method and the lodestar method, the difference between the two computed fees will be attributable solely to a multiplier that has yet to be applied. Stated another way, the ratio of the percentage-based fee to the lodestar-based fee implies a multiplier, and that implied multiplier can be evaluated for reasonableness. If the implied multiplier is reasonable, then the cross-check confirms the reasonableness of the percentage-based fee; if the implied multiplier is unreasonable, the court should revisit its assumptions.

(*Laffitte, supra,* 1 Cal.5th at p. 496, quoting Walker & Horwich, *The Ethical Imperative of a Lodestar Cross-check: Judicial Misgivings About "Reasonable Percentage" Fees in Common Fund Cases* (2005) 18 Geo. J. Legal Ethics 1453, 1463.) As described by the California Supreme Court, "[i]f the multiplier calculated by means of a lodestar crosscheck is extraordinarily high or low, the trial court should consider whether the percentage used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the court is not necessarily required to make such an adjustment." (*Laffitte, supra,* 1 Cal.5th at 505.)

Here, the multiplier sought by Class Counsel is within the range of modifiers typically approved by courts, is supported by the percentage cross-check as well as Class Counsel Anthony L. Draper's ("Draper") declaration. Thus, the Court finds Class Counsel's requested fee award is reasonable.

Class Counsel also seeks $22,232.62 in litigation costs, which is lower than the $30,000 allowed for in the Settlement. The request is supported by Draper's declarations. This amount is reasonable and thus, it is approved.

Plaintiff requests a service payment award of $10,000.

> The rationale for making enhancement or incentive awards to named plaintiffs is that they should be compensated for the expense or risk they have incurred in conferring a benefit on other members of the class. An incentive award is appropriate if it is necessary to induce an individual to participate in the suit. Criteria courts may consider in determining whether to make an incentive award include: 1) the risk to the class representative in commencing suit, both financial and otherwise; 2) the notoriety and personal difficulties encountered by the class representative; 3) the amount of time and effort spent by the class representative; 4) the duration of the litigation and; 5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation. These "incentive awards" to class representatives must not be disproportionate to the amount of time and energy expended in pursuit of the lawsuit.

(*Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1394-1395, internal punctuation and citations omitted.) Incentive awards are particularly appropriate where a plaintiff undertakes a significant reputational risk in bringing an action against an employer. (*Covillo v. Specialty's Café* (N.D. Cal. 2014) 2014 U.S.Dist.LEXIS 29837, at *29.)

At preliminary approval, the Court concluded that Plaintiff's request was adequately supported by his declaration. The Court does not see any reason to depart from that ruling. Thus, Plaintiff's request for a $10,000 service award is approved.

VII. CONCLUSION

In accordance with the above, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

Plaintiff's motion for final approval is GRANTED. The following Class is certified for settlement purposes only:

> All current and former non-exempt employees employed by Defendants in the State of California to work in the Juniper Hotel Cupertino, Curio Collection by Hilton during the Class Period.

Judgment will be entered through the filing of this order and judgment. (Code Civ. Proc., § 668.5.) Plaintiffs and the members of the Class will take from the FAC only the relief set forth in the settlement agreement and this order and judgment. Pursuant to Rule 3.769(h) of the California Rules of Court, the Court will retain jurisdiction over the parties to enforce the terms of the settlement agreement and the final order and judgment.

The Court sets a compliance hearing for **September 24, 2026 at 2:30 P.M**. in Department 22. At least ten court days before the hearing, class counsel and the settlement administrator shall submit a summary accounting of the net settlement fund identifying distributions made as ordered herein; the number and value of any uncashed checks; amounts remitted pursuant to Code of Civil Procedure section 384, subdivision (b); the status of any unresolved issues; and any other matters appropriate to bring to the Court's attention. Counsel shall also submit an amended judgment as described in Code of Civil Procedure section 384, subdivision (b). Counsel may appear at the compliance hearing remotely.

The Court will prepare the order.

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Case Name: Calendar Line 4

Case Name: *Uzair, et al. v. Google LLC*
Case No.: 18CV3328915

This is a class action rising from the automatic renewal of subscriptions for digital content through Defendant Google LLC's ("Google" or "Defendant") Google Play service.

Before the Court is Plaintiff Salvador De La O's motion for preliminary approval, which is unopposed.[3] As discussed below, the Court GRANTS the motion.

VIII. BACKGROUND

A. Google Play

Google develops and operates Google Play as the official software application or "App" store for the Android operating system, allowing consumers to browse and download Android Apps published by both Google and third-party developers. (First Amended Complaint ("FAC"), ¶¶ 23–25.) Google uses Google Play to offer digital products (including, for example, songs, movies, television shows, and periodicals) through paid subscriptions that are automatically renewed at the end of a definite term for a subsequent term, or that continue until the consumer cancels. (FAC, ¶ 26.) Plaintiffs refer to subscriptions purchased through Google Play as "In-App Subscriptions."

To make purchases through Google Play, whether for Google's or third parties' applications, consumers use Google Play's payment system, formerly known as Google Wallets and currently called Google Payments. (FAC, ¶ 27.) For its own apps and for third-party apps, Google enrolls subscribers, processes payments, and delivers the In-App subscriptions. Third-party developers never receive subscribers' payment information. (FAC, ¶ 28.)

To subscribe, consumers must have a Google Account with a Google ID and password and are required to set up a Google Payments Account by providing their payment information. (FAC, ¶ 29.) During this process, consumers must state that they agree to the Google Play Terms of Service and the Google Payments Terms of Service ("Legal Agreements"), the current versions of which are attached to the FAC. (*Ibid.*) Consumers accept the Google Play Terms of Service when first using the Google Play Store App and when making a new purchase after the Terms have been updated. (FAC, ¶ 33.) Consumers do not agree to the Google Play Terms of Service prior to each and every purchase. (*Ibid.*) Rather, when Google Play offers consumers an In-App Subscription, small text at the bottom of the screen states: "By tapping 'subscribe," you agree to the Terms of Service – Android (US)," with a hyperlink to the Google Payments Terms of Service. (*Ibid.*)

B. Plaintiffs' General Allegations

[3] Abdullah Uzair, Angel Chavez, and Nicolas Joel Luskin are also named Plaintiffs but they are not Class Representatives. The Court will refer to them collectively as "Plaintiffs."

Plaintiffs allege that Google's "subscription flow," including an initial pop up screen summarizing the subscription offer and an expanded summary that may also be viewed by the user, does not disclose that subscriptions will automatically renew until the consumer affirmatively acts to cancel the subscription and does not disclose that any cancellation is not effective until the end of the current billing period. This, in Plaintiffs' view, violates Business & Professions Code sections 17600–17604, which govern automatic renewal and continuous service offers to consumers in California (the "Automatic Renewal Law" or "ARL"). (FAC, ¶¶ 37–43.)

In addition, Google's subscription flow does not satisfy the ARL's requirement of an affirmative consent to the agreement containing the automatic renewal offer terms, at least according to Plaintiffs. And while Google sends confirmation emails to customers, Google supposedly fails to provide an acknowledgement that includes the terms, cancellation policy, and information on how to cancel in a manner capable of being retained by the subscriber and that describes a timely, cost-effective, and easy-to-use mechanism for cancellation. (FAC, ¶¶ 50-53.) Finally, Plaintiffs allege that Google fails to allow subscribers to cancel before payment as required by the statute. (*Ibid*.)

Moreover, while these terms are disclosed in the Google Payments Terms of Service, they do not appear until consumers have scrolled through 29–30 screens of information within that document. (FAC, ¶ 44.) The terms consequently are not "clear and conspicuous" or in "visual proximity" to the subscription offer, as required by the ARL. (*Ibid.*)

Plaintiffs further allege that the Legal Agreements also violate the ARL in that they do not disclose: (1) the recurring charges that will be charged to the payment method information as part of the automatic renewal plan; (2) the length of the automatic renewal term or that the service is continuous where the length of the term is not chosen by the consumer; or (3) that there is a minimum purchase obligation. Moreover, according to Plaintiffs, whatever disclosures the Legal Agreement contain are not clear and conspicuous or in visual proximity to the subscription offer. (FAC, ¶¶ 47-49.)

C. Named Plaintiffs' Specific Allegations

Plaintiff Abdullah Uzair resides in California and purchased a family plan subscription to Google Play Music from defendant on March 16, 2016. (FAC, ¶ 9.)

> Because Defendant failed to clearly and conspicuously disclose the automatic renewal offer terms in visual proximity to the request for Plaintiff's consent to the offer, Plaintiff was not informed prior to purchase that the subscription would renew automatically until cancelled or that any cancellation would not be effective until the next period. Had Defendant made these disclosures, Plaintiff would not have subscribed to Google Play Music at the time he did so.

(*Ibid.*) Since March 16, 2016, Google has continued to charge Mr. Uzair $14.99 per month on a recurring basis for this Google Play Music subscription. (*Ibid.*) Three other plaintiffs—Angel Chavez, Nicholas Joel Luskin, and Salvador De La O—signed up for free trials to services offered by Google that they would not have subscribed to had Google disclosed that the subscription would renew automatically until cancelled and that any cancellation would not be effective until the next period. (FAC, ¶¶ 10–12.)

Based on the foregoing, Plaintiff Uzair initiated this action on May 30, 2018, with the filing of the Complaint, which asserted the following causes of action: (1) violation of Automatic Renewal Law (Bus. & Prof. Code §§ 17600-17604); (2) UCL violations (Bus. & Prof. Code §§ 17200-17204); (3) injunctive relief and restitution (Bus. & Prof. Code § 17535); (4) violation of Consumer Legal Remedies Act (Civ. Code §§ 1750, *et seq*.); (5) common count for money had and received; and (6) declaratory relief (Code Civ. Proc., § 1060).

Plaintiff Salvador De La O now seeks an order: preliminarily approving the Class Action Settlement (the "Settlement"); provisionally certifying the Class for settlement purposes; directing the Class to be notified; affirming the appointment of Plaintiff De La O as the Class Representative; affirming the appointment of Laura L. Ho, James Kan, Katharine Trabucco of Dardarian Ho Kan & Lee and Julian Hamond, Polina Brandler, Ari Cherniak of HammondLaw, P.C. as Class Counsel; appointing Vertia Global LLC ("Verita") as the Settlement Administrator; staying all proceedings until the Court renders a final decision on approval of the Settlement; and scheduling a hearing for final approval.

IX. LEGAL STANDARDS FOR SETTLEMENT APPROVAL

C. Class Action

Generally, "questions whether a [class action] settlement was fair and reasonable, whether notice to the class was adequate, whether certification of the class was proper, and whether the attorney fee award was proper are matters addressed to the trial court's broad discretion." (*Wershba v. Apple Computer, Inc*. (2001) 91 Cal.App.4th 224, 234–235 (*Wershba*), disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260.)

> In determining whether a class settlement is fair, adequate and reasonable, the trial court should consider relevant 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, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.

(*Wershba, supra*, 91 Cal.App.4th at pp. 244–245, internal citations and quotations omitted.)

In general, the most important factor is the strength of the plaintiffs' case on the merits, balanced against the amount offered in settlement. (See *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130 (*Kullar*).) But the trial court is free to engage in a balancing and weighing of relevant factors, depending on the circumstances of each case. (*Wershba, supra*, 91 Cal.App.4th at p. 245.) The trial court must examine the "proposed settlement agreement 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." (*Ibid.*, citation and internal quotation marks omitted.) The trial court also must independently confirm that "the consideration being received for the release of the class members' claims is reasonable in light of the strengths and weaknesses of the claims and the risks of the particular litigation."

(*Kullar, supra*, 168 Cal.App.4th at p. 129.) Of course, before performing its analysis the trial court must be "provided with basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise." (*Id.* at pp. 130, 133.)

X. SETTLEMENT PROCESS

Plaintiff Uzair initiated this action on May 30, 2018 and Google filed a demurrer in response. On February 1, 2019, the Court (Hon. Walsh) issued its order sustaining the demurrer on one claim and overruling as to the remaining claims. Around that time, Class Counsel began discovery which spanned from February 2019 through October 2024.

On February 5, 2020, the parties participated in mediation with the Honorable Read Ambler (Ret.), but they were not able to reach a settlement. On May 20, 2020, Plaintiff Uzair filed the operative FAC and added Plaintiffs Chavez, Luskin, and De La O as named Plaintiffs. Through the discovery process, Google produced more than 7,000 pages of documents and 3,600 data files with approximately 34 million rows of order-level class member subscription data. Plaintiffs responded to Google's form interrogatories, special interrogatories, requests for production, and subpoenas—they produced over 2,000 pages of documents.

On May 19, 2021, Plaintiffs filed their first motion for class certification and on August 5, 2021, the Court granted certification of a class but did not certify it for the claims for declaratory relief or based on the theory that Google violated the ARL by failing to disclose the possibility of price increases and did not certify a class of purchasers of apps sold through Google Play by third-party developers. Plaintiff De La O was appointed as the Class Representative.[4] Google filed a petition for writ of mandate, which was denied by the Sixth District Court of Appeal. On March 29, 2023, Google filed its first motion to decertify the Class, which was denied by the Court. On July 27, 2023, Google filed its second motion to decertify which is partially granted. On Marh 28, 2024, Plaintiff De La O filed a renewed motion for Class certification, which was granted.

In May 2025, the parties scheduled a second mediation with Jill R. Sperber. The mediation was continued to allow in coordination with the mediation in a related matter. On September 18, 2025, after an all-day mediation, the parties reached a settlement agreement in principle. Over the next several weeks, the parties negotiated the detailed terms of the Settlement.

XI. SETTLEMENT PROVISIONS

The non-reversionary gross settlement amount is $5,000,000. Attorneys' fees in the amount of $2,250,000 and litigation costs of up to $180,000, and administrative costs of up to $75,000.

[4] The Court determined that Plaintiffs Luskin and Chavez were not adequate Class Representatives and Plaintiff Uzair was not put forth as a Class Representative and Class Counsel subsequently withdrew from representing him.

The net settlement amount-estimated to be $2,487,500-will be allocated to Class members. The average individual payment will be $5.85.[5] After 195 days, "undeliverable" funds will be transmitted to the Justice Gap Fund. Plaintiff De La O will seek a service award of up to $5,000 and Plaintiff Chavez will seek a service award of up to $2,500.

In exchange for settlement, Class Members who do not opt out will release:

> [A]ll manner of claims arising during the Class Period (a) as they were alleged in the complaints, including those based on alleged violations of the Automatic Renewal Law, Unfair Competition Law, Consumer Legal Remedies Act, money had and received, and declaratory and injunctive relief, or (b) that arise from the factual allegations in the operative First Amended Complaint.

The foregoing release is appropriately tailored to the allegations at issue. (See *Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 537.)

XII. FAIRNESS OF SETTLEMENT

Plaintiff De La O states this settlement is the product of lengthy arm's-length negotiations. Class Counsel considered the pros and cons of the negotiated settlement. Class Counsel's judgement is informed by their experience litigating similar ARL claims, the substantial discovery record developed over years of litigation, and their understanding of the facts and legal issues unique to this case. While Plaintiff is confident in the merits of his case, he acknowledges that continuing to litigate through summary judgment/adjudication, trial, and appeal carried non-trivial risks of minimal or no recovery. Google disputes Plaintiffs' claims and believes it would have prevailed at trial.

Overall, the Court finds the Settlement is fair and reasonable. It provides for some recovery for each Class members and eliminates the risk and expense of further litigation.

XIII. PROPOSED SETTLEMENT CLASS

Plaintiff requests that the following settlement class be provisionally certified:

> All persons in California who paid for at least one renewal term or a Google subscription through a Google Play checkout screen (or "Buy Cart") billed through Google Play billing from May 30, 2024, to October 27, 2019, for personal, family, or household purposes, excluding subscriptions for Google Drive, subscriptions that were cancelled during a free trial, and subscriptions that were fully refunded by Google.[6]

A. Legal Standard for Certifying a Class for Settlement Purposes

Rule 3.769(d) of the California Rules of Court states that "[t]he court may make an order approving or denying certification of a provisional settlement class after [a] preliminary

[5] The Settlement does not require a claims process, instead each participating Class Member shall automatically receive their pro rata share of the net settlement fund.

[6] The Settlement Class excludes Class Counsel, any employees of their firms, Google employees, employees of Wilson, Sonsini, Goodrich & Rosati, the Court and the Court's staff.

settlement hearing." California Code of Civil Procedure Section 382 authorizes certification of a class "when the question is one of a common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court …."

Section 382 requires the plaintiff to demonstrate by a preponderance of the evidence: (1) an ascertainable class and (2) a well-defined community of interest among the class members. (*Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326, 332 (*Sav-On Drug Stores*).) "Other relevant considerations include the probability that each class member will come forward ultimately to prove his or her separate claim to a portion of the total recovery and whether the class approach would actually serve to deter and redress alleged wrongdoing." (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.) The plaintiff has the burden of establishing that class treatment will yield "substantial benefits" to both "the litigants and to the court." (*Blue Chip Stamps v. Superior Court* (1976) 18 Cal.3d 381, 385.)

In the settlement context, "the court's evaluation of the certification issues is somewhat different from its consideration of certification issues when the class action has not yet settled." (*Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 93.) As no trial is anticipated in the settlement-only context, the case management issues inherent in the ascertainable class determination need not be confronted, and the court's review is more lenient in this respect. (*Id.* at pp. 93–94.) But considerations designed to protect absentees by blocking unwarranted or overbroad class definitions require heightened scrutiny in the settlement-only class context, since the court will lack the usual opportunity to adjust the class as proceedings unfold. (*Id.* at p. 94.)

B. Ascertainable Class

A class is ascertainable "when it is defined in terms of objective characteristics and common transactional facts that make the ultimate identification of class members possible when that identification becomes necessary." (*Noel v. Thrifty Payless, Inc.* (2019) 7 Cal.5th 955, 980 (*Noel*).) A class definition satisfying these requirements.

> puts members of the class on notice that their rights may be adjudicated in the proceeding, so they must decide whether to intervene, opt out, or do nothing and live with the consequences. This kind of class definition also advances due process by supplying a concrete basis for determining who will and will not be bound by (or benefit from) any judgment.

(*Noel*, *supra,* 7 Cal.5th at p. 980, citation omitted.)

"As a rule, a representative plaintiff in a class action need not introduce evidence establishing how notice of the action will be communicated to individual class members in order to show an ascertainable class." (*Noel*, *supra,* 7 Cal.5th at p. 984.) Still, it has long been held that "[c]lass members are 'ascertainable' where they may be readily identified … by reference to official records." (*Rose v. City of Hayward* (1981) 126 Cal. App. 3d 926, 932, disapproved of on another ground by *Noel, supra,* 7 Cal.5th 955; see also *Cohen v. DIRECTV, Inc.* (2009) 178 Cal.App.4th 966, 975-976 ["The defined class of all HD Package subscribers is precise, with objective characteristics and transactional parameters, and can be determined by DIRECTV's own account records. No more is needed."].)

Here, there is an estimated 425,370 Class members who are readily identifiable based on Google's record and the settlement class is appropriately defined based on objective characteristics. The Court finds that the settlement Class is numerous, ascertainable, and appropriately defined.

C. Community of Interest

The "community-of-interest" requirement encompasses three factors: (1) predominant questions of law or fact, (2) class representatives with claims or defenses typical of the class, and (3) class representatives who can adequately represent the class. (*Sav-On Drug Stores, supra*, 34 Cal.4th at pp. 326, 332.)

For the first community of interest factor, "[i]n order to determine whether common questions of fact predominate the trial court must examine the issues framed by the pleadings and the law applicable to the causes of action alleged." (*Hicks v. Kaufman & Broad Home Corp.* (2001) 89 Cal.App.4th 908, 916 (*Hicks*).) The court must also examine evidence of any conflict of interest among the proposed class members. (See *J.P. Morgan & Co., Inc. v. Superior Court* (2003) 113 Cal.App.4th 195, 215.) The ultimate question is 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 good for the judicial process and to the litigants. (*Lockheed Martin Corp. v. Superior Court* (2003) 29 Cal.4th 1096, 1104–1105 (*Lockheed Martin*).) "As a general rule if the defendant's liability can be determined by facts common to all members of the class, a class will be certified even if the members must individually prove their damages." (*Hicks*, *supra,* 89 Cal.App.4th at p. 916.)

Here, common legal and factual issues predominate. Plaintiffs' claims all arise from Google's automatic renewal billing policies and practices.

As for the second factor,

> The typicality requirement is meant to ensure that the class representative is able to adequately represent the class and focus on common issues. It is only when a defense unique to the class representative will be a major focus of the litigation, or when the class representative's interests are antagonistic to or in conflict with the objectives of those, she purports to represent that denial of class certification is appropriate. But even then, the court should determine if it would be feasible to divide the class into subclasses to eliminate the conflict and allow the class action to be maintained.

(*Medrazo v. Honda of North Hollywood* (2008) 166 Cal. App. 4th 89, 99, internal citations, brackets, and quotation marks omitted.)

Like the other members of the proposed class, Plaintiffs experienced the conduct at issue. The anticipated defenses are not unique to Plaintiff, and there is no indication that Plaintiffs' interests are otherwise in conflict with those of the proposed class.

Finally, adequacy of representation "depends on whether the plaintiff's attorney is qualified to conduct the proposed litigation and the plaintiff's interests are not antagonistic to the interests of the class." (*McGhee v. Bank of America* (1976) 60 Cal.App.3d 442, 450.) The

class representative does not necessarily have to incur all of the damages suffered by each different class member in order to provide adequate representation to the class. (*Wershba, supra,* 91 Cal.App.4th at p. 238.) "Differences in individual class members' proof of damages [are] not fatal to class certification. Only a conflict that goes to the very subject matter of the litigation will defeat a party's claim of representative status." (*Ibid*., internal citations and quotation marks omitted.)

Plaintiffs have the same interest in maintaining this action as any Class member would have. Further, they have has hired experienced counsel. Plaintiffs sufficiently demonstrated adequacy of representation.

D. Substantial Benefits of Class Certification

"[A] class action should not be certified unless substantial benefits accrue both to litigants and the courts. . . ." (*Basurco v. 21st Century Ins.* (2003) 108 Cal.App.4th 110, 120, internal quotation marks omitted.) The question is whether a class action would be superior to individual lawsuits. (*Ibid.)* "Thus, even if questions of law or fact predominate, the lack of superiority provides an alternative ground to deny class certification." (*Ibid.*) Generally, "a class action is proper where it provides small claimants with a method of obtaining redress and when numerous parties suffer injury of insufficient size to warrant individual action." (*Id*. at pp. 120–121, internal quotation marks omitted.)

Here, there are an estimated 425,370 Class Members. It would be inefficient for the Court to hear and decide the same issues separately and repeatedly for each class member. Further, it would be cost prohibitive for each class member to file suit individually, as each member would have the potential for little to no monetary recovery. It is clear that a class action provides substantial benefits to both the litigants and the Court in this case.

XIV. NOTICE

The content of a class notice is subject to court approval. (Cal. Rules of Court, rule 3.769(f).) "The notice must contain an explanation of the proposed settlement and procedures for class members to follow in filing written objections to it and in arranging to appear at the settlement hearing and state any objections to the proposed settlement." (*Ibid.*) In determining the manner of the notice, the court must consider: "(1) The interests of the class; (2) The type of relief requested; (3) The stake of the individual class members; (4) The cost of notifying class members; (5) The resources of the parties; (6) The possible prejudice to class members who do not receive notice; and (7) The res judicata effect on class members." (Cal. Rules of Court, rule 3.766(e).)

Here, the notice, which will be provided in English, informs the Class Members of the nature of the lawsuit and their rights under the terms of the Settlement and applicable law. It includes: a detailed explanation of the case, including the basic contentions or denials of the Parties and the basic terms of the Settlement; a statement that the court will exclude the member from the class if they request so by a specified date; a procedure for the member to follow in requesting exclusions from the class; an explanation that members of the Class can participate in the Settlement by doing nothing; a statement that the judgment, whether favorable or not, will bind all members who do not request exclusion; and a statement that any member who does not request exclusion may, if the member so desires, enter an appearance

through counsel. Class Members are given 60 days to exclude themselves or object. The form of notice is approved.

Regarding appearances at the final fairness hearing, the notice shall be modified to instruct class members as follows:

> Although class members may appear in person, the judge overseeing this case encourages remote appearances. Class members who wish to appear remotely should contact class counsel at least three days before the hearing if possible. Remote appearances must be made through UDC, unless otherwise arranged with the Court. Please go to https://santaclara.courts.ca.gov/online-services/remote-hearings to find the appropriate link. Also, please note that that you must register in advance to appear remotely.

Turning to the notice procedure, as articulated above, the parties have selected Verita as the settlement administrator. No later than thirty (30) days after preliminary approval, Google will provide the Class data (contact information) to Verita. Within forty-five (45) days of preliminary approval, Verita will create and operate a publicly accessible website, send email notice to Class members, and secure and operate a toll-free automated telephone support system. Verita will conduct a skip trace for any email notice that is returned, and it will immediately resend the notice if a new or different address is found. Class members will have sixty (60) days to object or file a request for exclusion. These notice procedures are appropriate and are approved.

XV. SERVICE AWARD, FEES, AND COSTS

Plaintiff De La O requests a service award of $5,000 and Plaintiff Chavez requests a service award of $2,500.

> The rationale for making enhancement or incentive awards to named plaintiffs is that they should be compensated for the expense or risk they have incurred in conferring a benefit on other members of the class. An incentive award is appropriate if it is necessary to induce an individual to participate in the suit. Criteria courts may consider in determining whether to make an incentive award include: 1) the risk to the class representative in commencing suit, both financial and otherwise; 2) the notoriety and personal difficulties encountered by the class representative; 3) the amount of time and effort spent by the class representative; 4) the duration of the litigation and; 5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation. These "incentive awards" to class representatives must not be disproportionate to the amount of time and energy expended in pursuit of the lawsuit.

(*Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1394-1395, internal punctuation and citations omitted; see also *Covillo v. Specialty's Café* (N.D. Cal. 2014) 2014 U.S.Dist.LEXIS 29837, at *29 [incentive awards are particularly appropriate where a plaintiff undertakes a significant "reputational risk" in bringing an action against an employer].)

Plaintiff De La O states he reviewed documents, located records, assisted Class Counsel in providing discovery responses, attended his deposition and reviewed the transcript, and made himself available for the mediation. (De La O Declaration ("Decl."), ¶¶ 8-16.) He

further states he has spent at least 30 hours in this litigation. (De La O Decl., ¶ 19.) He also states he considered the risk of serving as named Plaintiff. (De La O Decl., ¶ 5.)

Plaintiff Chavez states he communicated with Class Counsel, reviewed documents, searched through his records, helped Class Counsel in providing discovery responses, prepared and attended his deposition, and reviewed his deposition testimony. (Chavez Decl., ¶¶ 8-9.) He states he has spent approximately 28-30 hours on this action. (Chavez Decl., ¶ 10.)

Applying the relevant factors, the Court finds that Plaintiffs are entitled to service awards. Thus, the $5,000 for Plaintiff De La O and $2,500 for Plaintiff Chavez is preliminarily approved.

The court also has an independent right and responsibility to review the requested attorney fees and only award so much as it determines reasonable. (See *Garabedian v. Los Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-128.) Class Counsel will seek attorney fees of up to forty-five (45%) percent of the gross settlement amount (currently estimated to be $2,250,000, and litigation costs for up to $180,00). Class Counsel states it will file a noticed motion for attorneys' fees, litigation costs, and the service awards.

XVI. CONCLUSION

Plaintiff De La O's motion for preliminary approval is GRANTED.

The final approval hearing shall take place on **July 23, 2026** at 1:30 in Department 22. The following class is preliminarily certified for settlement purposes:

> All persons in California who paid for at least one renewal term or a Google subscription through a Google Play checkout screen (or "Buy Cart") billed through Google Play billing from May 30, 2024, to October 27, 2019, for personal, family, or household purposes, excluding subscriptions for Google Drive, subscriptions that were cancelled during a free trial, and subscriptions that were fully refunded by Google.

The Court will prepare the order.

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Calendar Line 5

Case Name: *Leedeman v. Midland Credit Management, Inc.*
Case No.: 19CV254554

This is a class action alleging unlawful debt collection practices by defendant Midland Credit Management, Inc. ("MCM" or "Defendant") in connection with consumer credit accounts.

Before the Court is the parties' joint motion for preliminary approval. As discussed below, the Court GRANTS the motion.

XVII. BACKGROUND

According to the allegations of the operative first amended complaint ("FAC"), Plaintiff Peggy Irene Leedeman incurred a financial obligation in the form of a consumer credit account issued by Capital One Bank (USA) N.A. ("Capital One"). (FAC, ¶ 12.) Plaintiff denies she owes any debt on this account. (*Ibid*.) On or about March 15, 2019, Capital One sold the alleged debt to MCM for collection. (FAC, ¶ 14.)

MCM sent Plaintiff an initial collection letter on April 10, 2019, which included an insert. (FAC, ¶¶ 16-19.) She alleges that the insert violated Civil Code section 1788.52, subdivision (d)(1), because it failed to provide the true name of the debt buyer and was printed in less than 12-point type. (FAC, ¶ 20.) These alleged violations are part of MCM's standard policy when sending initial collection communications. (FAC, ¶ 23.) Leedeman brings this class action on behalf of herself and other consumers who received such communications from MCM, in connection with debt originally owed to Capital One. (FAC, ¶¶ 24-26.)

Based on the foregoing allegations, Plaintiff initiated this action with the filing of the complaint asserting a single cause of action under the California Fair Debt Buying Practices Act ("CFDBPA"), Civil Code sections 1788.50-1788.64. On February 25, 2021, Plaintiff filed her FAC, which asserts the same claim.

The parties now seek an order: preliminarily approving the class action settlement (the "Settlement"); granting approval of the form and method of the long form notice and the short form notice/post card; establishing deadline for the Settlement Administrator to distribute the class notice and for class members to respond; scheduling a final approval motion and setting filing deadlines; granting approval of the parties' chosen Settlement Administrator; staying all proceedings in this action pending final approval; and granting such other and further relief as the Court deems just and proper.

XVIII. LEGAL STANDARD FOR SETTLEMENT APPROVAL OF A CLASS ACTION

Generally, "questions whether a [class action] settlement was fair and reasonable, whether notice to the class was adequate, whether certification of the class was proper, and whether the attorney fee award was proper are matters addressed to the trial court's broad discretion." (*Wershba v. Apple Computer, Inc*. (2001) 91 Cal.App.4th 224, 234–235

(*Wershba*), disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260.)

> In determining whether a class settlement is fair, adequate and reasonable, the trial court should consider relevant 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, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.

(*Wershba, supra*, 91 Cal.App.4th at pp. 244–245, internal citations and quotations omitted.)

In general, the most important factor is the strength of the plaintiffs' case on the merits, balanced against the amount offered in settlement. (See *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130 (*Kullar*).) But the trial court is free to engage in a balancing and weighing of relevant factors, depending on the circumstances of each case. (*Wershba, supra*, 91 Cal.App.4th at p. 245.) The trial court must examine the "proposed settlement agreement 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." (*Ibid.*, citation and internal quotation marks omitted.) The trial court also must independently confirm that "the consideration being received for the release of the class members' claims is reasonable in light of the strengths and weaknesses of the claims and the risks of the particular litigation." (*Kullar, supra*, 168 Cal.App.4th at p. 129.) Of course, before performing its analysis the trial court must be "provided with basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise." (*Id.* at pp. 130, 133.)

XIX. SETTLEMENT PROCESS

On September 12, 2019, Plaintiff initiated this Action the filing of the complaint asserting a single cause of action under the CFDBPA and on February 25, 2021, Plaintiff filed her FAC, which asserts the same claim. The parties have exchanged extensive discovery and motion work including multiple rounds of written discovery, several informal discovery conferences, Plaintiff's class certification motion, a summary judgment motion, and other litigation activity.

On August 22, 2022, the Court issued its order which granted Plaintiff's motion for class certification, denied MCM's motion for summary judgment, and denied MCM's motion to strike Plaintiff's expert's declarations as moot. Accordingly, on September 21, 2023, members of the Class were sent legal notice postcards. The parties engaged in settlement negotiations and two mediations before Honorable Roert D. McGuiness (Ret.). The parties reached a settlement in principle and memorialized the Settlement, which the parties fully executed on September 22, 2025.

XX. SETTLEMENT PROVISIONS

The non-reversionary gross settlement amount is 671,000. Attorneys' fees and costs not to exceed $260,000 and administration costs not to exceed $87,000. Plaintiff will seek a service award of $6,000. The net settlement amount is $318,000 will be allocated to members of the Class who are defined as "[a]ll persons with addresses in California to whom MIDLAND CREDIT MANAGEMENT, INC., sent or caused to be sent, an initial written communication in the form of Exhibits "1" and "2" to the First Amended Class Action Complaint for Statutory Damages herein an attempt to collect a charged-off consumer debt originally owed to Capital One Bank (USA), N.A. which was sold or resold to MIDLAND CREDIT MANAGEMENT, INC., on or after January 1, 2014, which were not returned as undeliverable by the U.S. Post Office during the period one year prior to the date of filing this action through the date of class certification." Funds associated with checks uncashed after 90 days will be transmitted to East Bay Community Law Center in Berkley, Housing and Economic Rights Advocates in Oakland; and Community Legal Services in East Palo Alto, as equal cy pres recipients.

In exchange for settlement, Class Members who do not opt out will release:

> [A]ny and all claims, debts, liabilities, obligations, costs, expenses, attorneys' fees, damages, rights or equitable, legal or administrative relief, of any basis or source, whether known or unknown, actually alleged or that could have been alleged, based upon, arising from, or relating to, allegations asserted or that could have been asserted in the First Amended Class Action Complaint for Statutory Damages filed in the Action.

The foregoing release is appropriately tailored to the allegations at issue. (See *Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 537.)

XXI. FAIRNESS OF SETTLEMENT

The parties assert the settlement is the product of lengthy arm's-length negotiations. The parties state settlement was reached only after an extensive exchange of information. Plaintiff believes the claims in this action present a reasonable probability of a favorable determination on behalf of the Class but acknowledges that settling this case avoids significant litigation risk. Defendant disputes Plaintiff's claims and believes it would have prevailed at trial and any subsequent appeal.

Overall, the Court finds the Settlement is fair and reasonable. It provides for some recovery for each Class member and eliminates the risk and expense of further litigation.

XXII. NOTICE

The content of a class notice is subject to court approval. (Cal. Rules of Court, rule 3.769(f).) "The notice must contain an explanation of the proposed settlement and procedures for class members to follow in filing written objections to it and in arranging to appear at the settlement hearing and state any objections to the proposed settlement." (*Ibid.*) In determining the manner of the notice, the court must consider: "(1) The interests of the class; (2) The type of relief requested; (3) The stake of the individual class members; (4) The cost of notifying class members; (5) The resources of the parties; (6) The possible prejudice to class members

who do not receive notice; and (7) The res judicata effect on class members." (Cal. Rules of Court, rule 3.766(e).)

Here, the notice will be posted online and mailed in short form/as a post card, which will contain information as well as a link to the long form of the notice posted online. It will be provided in English, inform the Class Members of the nature of the lawsuit and their rights under the terms of the Settlement and applicable law. It includes: a detailed explanation of the case, including the basic contentions or denials of the Parties and the basic terms of the Settlement; a statement that the court will exclude the member from the class if they request so by a specified date; a procedure for the member to follow in requesting exclusions from the class; an explanation that members of the Class can participate in the Settlement by doing nothing; a statement that the judgment, whether favorable or not, will bind all members who do not request exclusion; and a statement that any member who does not request exclusion may, if the member so desires, enter an appearance through counsel. Class Members are given 60 days to object.

The form of notice is generally adequate but must be modified to instruct Class Members that they may opt out of or object to the settlement simply by providing their name, without the need to provide their phone number or other personal information.

Regarding appearances at the final fairness hearing, the notice shall be modified to instruct class members as follows:

> Although class members may appear in person, the judge overseeing this case encourages remote appearances. Class members who wish to appear remotely should contact class counsel at least three days before the hearing if possible. Remote appearances must be made through UDC, unless otherwise arranged with the Court. Please go to https://santaclara.courts.ca.gov/online-services/remote-hearings to find the appropriate link. Also, please note that that you must register in advance to appear remotely.

Turning to the notice procedure, as articulated above, the parties have selected CPT Group, Inc. ("CPT") as the Settlement administrator. No later than thirty (30) days after preliminary approval, CPT will mail the notice packet updating Class members' addresses using the National Change of Address Database. Any returned notices will be re-mailed to any forwarding address provided. These notice procedures are appropriate and are approved.

XXIII. SERVICE AWARD, ATTORNEYS FEES, AND COSTS

Plaintiff requests a service award not to exceed $6,000. Prior to the final approval hearing, Plaintiff shall submit a declaration detailing her efforts in this matter, including the amount of time spent.

The court also has an independent right and responsibility to review the requested attorney fees and only award so much as it determines reasonable. (See *Garabedian v. Los Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-128.) Plaintiff's counsel will seek attorney fees and costs of up to $260,000). Prior to any final approval hearing, Plaintiff's counsel shall submit lodestar information (including hourly rate and hours worked) as well as evidence of actual litigation costs incurred.

XXIV. CONCLUSION

The parties' motion for preliminary approval is GRANTED.

The final approval hearing shall take place on **July 23, 2026** at 1:30 in Department 22.

The Court will prepare the order.

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