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U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

KAREN SOLBERG, NANCY MORIN, and NARISHA
BONAKDAR, on their own behalf and on behalf
of others similarly situated,

Plaintiffs,

v.

VICTIM SERVICES, INC., d/b/a
CorrectiveSolutions, NATIONAL CORRECTIVE
GROUP, INC., d/b/a CorrectiveSolutions,
AMERICAN JUSTICE SOLUTIONS, INC., d/b/a
CorrectiveSolutions, BIRCH GROVE HOLDINGS,
INC., MATS JONSSON and KARL THOMAS
JONSSON,

Defendants.

Case No. 3:14-cv-05266-VC

**PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Honorable Vince Chhabria

CLASS ACTION

DEMAND FOR TRIAL BY JURY

DATE: August 19, 2021
TIME: 2 p.m.
LOCATION: Zoom video conference

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TO: THE CLERK OF THE COURT; and

TO: DEFENDANTS VICTIM SERVICES, INC., d/b/a CorrectiveSolutions, NATIONAL CORRECTIVE GROUP, INC., d/b/a CorrectiveSolutions, AMERICAN JUSTICE SOLUTIONS, INC., d/b/a CorrectiveSolutions, BIRCH GROVE HOLDINGS, INC., MATS JONSSON and KARL THOMAS JONSSON, AND ITS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on August 19, 2021, at 2:00 p.m., via videoconference, Plaintiffs will move for final approval of class action settlement. The motion will be based on this notice of motion, the memorandum of points and authorities, the declarations of Blythe H. Chandler and Jennifer M. Keough, the records and file in this action, and such other matters as may be presented before or at the hearing of the motion.

RESPECTFULLY SUBMITTED AND DATED this 5th day of August, 2021.

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Class Counsel

I. INTRODUCTION

Plaintiffs Karen Solberg, Nancy Morin, and Narisha Bonakdar move for final approval of their settlement with Defendants. The Settlement Administrator, JND Class Action Administration, executed the Notice Plan approved by the Court, reaching 94% of the Classes by email or first class mail. Class Members have now had an opportunity to consider the settlement and choose whether to file a claim form to receive a portion of the settlement fund or to opt out. The initial deadline for claims, objections, and opt out requests was July 9, 2021. At the parties' request, the Court extended the deadline for claims, objections, and opt out requests to August 16 for 116 Class Members whose notices were re-mailed to corrected addresses on July 16. As of this filing, no Class Member has objected to the settlement, and only two individuals opted out. The Settlement Administrator is continuing to receive and review claims but, as of August 3, has received 2,533 claim forms, 568 of which it is still processing. Plaintiffs will supplement this motion before the Final Approval Hearing with updated information about claims submitted, objections and opt outs as well as the average payments that Class Members who filed valid claim forms will receive from the \$1,100,000 Settlement Fund.

All the factors that courts consider support granting final approval of the settlement. Continued litigation is risky given the challenges Plaintiffs face in proving their remaining claims. The settlement ensures that Class Members are compensated and eliminates the risk and delay of trial and an inevitable appeal. Having litigated through fulsome discovery, class certification, and two rounds of summary judgment motions, the parties are well apprised of the strengths and weaknesses of the claims and defenses. Class Counsel, who have successfully litigated consumer protection and debt collection cases, support the settlement. That no Class Members objected to the settlement further supports final approval of the settlement.

Plaintiffs request that the Court approve the settlement as fair, reasonable, and adequate.

II. BACKGROUND

A. The litigation and settlement negotiations.

Plaintiffs Karen Solberg, Kevin Breazeale, and Kevin Hiep Vu filed this class action lawsuit against defendants NCG, VSI, and Mats Jonsson on December 1, 2014, seeking damages and injunctive relief on behalf of classes of similarly situated persons. Dkt. No. 1. Nancy Morin and Narisha Bonakdar joined the case as Plaintiffs in a First Amended Complaint filed on February 6, 2015. Dkt. No. 8. Plaintiffs added defendants American Justice Solutions, Inc., an entity that runs the day-to-day operations of the bad check programs as well as other private probation businesses operated by Defendants, Birch Grove Holdings, Inc., the corporate parent of VSI and AJS, and Karl Thomas Jonsson, the son of Defendant Mats Jonsson and an employee of Birch Grove, and removed Mr. Breazeale and Mr. Vu as named plaintiffs in a Second Amended Complaint filed on May 25, 2018. Dkt. No. 216.

Plaintiffs asserted claims for violations of the Fair Debt Collection Practices Act and the California Unfair Competition Law. Plaintiffs alleged that Defendants are private debt collectors that sent false, deceptive, and misleading letters on the letterhead of district attorneys to collect dishonored checks on behalf of retail merchants in California and other states. Among other things, Plaintiffs alleged that Defendants demanded fees that were not authorized by law and operated without district attorney oversight, as required by state and federal law. *See* Dkt. Nos. 1, 8, 216.

Defendants filed several procedural motions and appealed the Court's denials of them. Defendants moved to strike Plaintiffs' state law claims as barred under California Code of Civil Procedure section 425.16, contending that this case was a strategic lawsuit against public participation, or SLAPP suit. Dkt. No. 37. Defendants also moved to dismiss Plaintiffs' claims, arguing that Plaintiffs failed to state a claim upon which relief could be granted and the Court lacked jurisdiction over the claims. Dkt. No. 38. Following briefing and a hearing, the Court denied both motions. Dkt. Nos. 47-52, 62-63. Defendants appealed. Dkt. No. 65.

VSI then moved to compel individual arbitration of Ms. Bonakdar's claims. Dkt. No. 92. Plaintiffs opposed, arguing that there was no valid contract formed between Ms. Bonakdar and VSI and that the arbitration agreement is unconscionable. Dkt. No. 106. Following further briefing at the Court's request, Dkt. Nos. 120, 123, 131, 135-137, the Court denied VSI's motion, holding that the FAA did not apply and California law does not allow arbitration of a dispute arising out of the exercise of the government's criminal law enforcement powers. Dkt. No. 140. VSI appealed. Dkt. No. 144.

The Ninth Circuit consolidated the two appeals and, following oral argument, issued its decision on January 8, 2018. The Ninth Circuit concluded that it lacked jurisdiction to consider the Court's denial of Defendants' motion to strike and affirmed the Court's denial of VSI's motion to compel arbitration because the purported agreement was not a private contract subject to the FAA. Dkt. No. 187. The Ninth Circuit denied Defendants' petition for rehearing or rehearing en banc. Dkt. No. 209.

While the appeals preceded, the parties commenced discovery. Over several years, Plaintiffs took thorough discovery of Defendants and third parties. The parties took more than 20 depositions. Chandler Decl. ¶ 10. Plaintiffs served subpoenas on several major creditors that submitted unpaid checks to Defendants for processing. *Id.* The parties engaged in many meet and confer sessions and some of the disputes required rulings from the Court. *Id.*

In mid-2018, Plaintiffs moved for class certification and Defendants moved to dismiss Plaintiffs' Second Amended Complaint. Dkt. Nos. 225-32, 243-44, 237-38, 259-62, 266-67. The Court heard argument on the motions on November 1, 2018, and advised the parties that the Defendants' motions to dismiss would be denied except that the Court was inclined to find that Plaintiffs lacked Article III standing to pursue injunctive relief and to certify a class of persons who received letters from Defendants before the date on which Defendants modified the challenged program as required by a consent order between Defendants and the CFPB. Defendants modified their program consistent with the CFPB consent requirements as of May 8, 2015. Dkt. No. 284 at 1.

The Court granted Plaintiffs' class certification motion "in large part" on December 12, 2018, certifying two litigation classes. Dkt. No. 297 at 1. The FDCPA Class consists of persons in California to whom Defendants sent a demand in connection with a returned check attempting to collect money for checks written for personal, family, or household purposes from December 1, 2013, to May 7, 2015. *Id.* The UCL class consists of persons in California to whom Defendants sent an initial collection demand in connection with a returned check at any time from September 1, 2011, to May 7, 2015, and then paid any fees to Defendants in response. *Id.* at 4. The Court found that Plaintiffs lacked standing to seek injunctive relief because they were unlikely to bounce checks again the future or, if they did, to "then be pulled into the diversion program." *Id.* at 3. The UCL Class members were therefore limited to seeking restitution of the fees the paid to Defendants. The Ninth Circuit denied the Rule 23(f) petition. Dkt. No. 313.

Plaintiffs retained JND Class Action Administration to disseminate notice of the Court's class certification order to the Classes. At the direction of Class Counsel, JND sent the Court-approved Initial Class Notice—consisting of a postcard notice and email notice, with a more detailed notice posted on the www.CheckDiversionClassAction.com website—to Class members on February 13, 2019. Dkt. No. 393 ¶ 4; Dkt. Nos. 303, 308.

The parties filed cross-motions for summary judgment between April and June 2019. Dkt. Nos. 314-24, 329-30. The Court granted in part and denied in part both motions on November 20, 2019. Dkt. No. 348. The Court held that VSI is not exempt from the FDCPA's coverage but that Defendants' form letters were not misleading. *Id.* at 1-2, 4-22, 27. The Court granted summary judgment to Defendants on Plaintiffs' fraudulent and negligent misrepresentation claim and partial summary judgment to Defendants on the "fraudulent" and "unfair" prongs of the UCL. *Id.* at 25-26. The Court found it could not determine whether Defendants violated the FDCPA and California law by charging unauthorized fees. *Id.* at 22-25.

The parties briefed the issue of the legality of the fees Defendants collected in a second round of cross-motions for summary judgment. Defendants also moved for decertification, judgment on the pleadings, and to dismiss for failure to join required parties, and Plaintiffs

opposed. Dkt. Nos. 356-60, 364-65. The Court had not ruled on these motions when the parties negotiated the settlement.

The parties first mediated in September 2016 with the assistance of Bruce Friedman, Esq. of JAMS but were unsuccessful. Chandler Decl. ¶ 11. The parties mediated again with Mr. Friedman's assistance in April 2018 and in June 2019 without reaching a resolution. *Id.*

At the parties' request, the Court referred the case to Magistrate Judge Laurel Beeler for a settlement conference. The parties provided Judge Beeler with a candid summary of the remaining issues and the challenges for settlement. At the conclusion of the November 19, 2020 conference, Judge Beeler proposed a settlement. Dkt. No. 385. After further discussions, the parties accepted the proposal and reached an agreement on November 30. Dkt. No. 386.

B. Preliminary approval and notice.

Plaintiffs moved for approval to disseminate notice of the settlement to the Classes on January 29, 2021. Dkt. Nos. 390-393. On March 2, 2021, the Court issued an order requiring supplemental briefing on the strengths and weaknesses of the remaining claims and the record for Defendants' financial condition. Dkt. No. 396. Plaintiffs filed a supplemental brief on March 12, 2021, addressing the two issues the Court raised, supported by declarations from Defendants Mats Jonsson and Karl Jonsson. Dkt. Nos. 397-401. After a hearing on March 18, the parties filed an Amendment to the Settlement Agreement that revised the language of the release and requires a proposal for a second distribution of the Settlement Fund after the period for cashing checks has closed and revised notices. Dkt. No. 405. On March 31, the Court granted Plaintiffs' motion. Dkt. No. 406.

The Court approved JND to serve as the Settlement Administrator. Dkt. No. 406 ¶ 5. JND executed the Court-approved settlement notice program, as discussed below. After the initial notice was mailed, and as a result of inquiries from absent class members, Class Counsel identified 2,405 Class Member records that were inadvertently omitted from the initial settlement notice list. Chandler Decl. ¶ 14. JND sent notice to these Class Members by mail or

email on June 14, 2021. Keough Decl. ¶¶ 9, 14. Within the final week of the claims period, JND received via return mail a total of 196 undeliverable notices from the second notice set, of which 116 had new addresses. *Id.* ¶ 15 In response to the parties' joint request, the Court continued the final approval hearing to allow JND to send new notice to the 116 Class Members and allow Class Members an additional 30 days from re-mailing, or until August 16, to submit a claim, exclusion request, or objection. Dkt. No. 415.

Within 21 days after distribution of the settlement funds, Class Counsel will file a Post-Distribution Accounting, as described in the Northern District's Procedural Guidance for Class Action Settlements and the Court's Standing Order for Civil Cases, to inform the Court about the administration of the settlement. JND will post the Post-Distribution Accounting on the Settlement Website.

III. SETTLEMENT TERMS

The terms of the settlement are memorialized in the parties' Settlement Agreement and Release and Amendment to Settlement Agreement and Release attached as Exhibit 1 to the Chandler Declaration.

A. The Settlement Classes

The Settlement Classes are defined as:

FDCPA Class: All persons in California to whom the defendants sent a collection demand in connection with a returned check from whom the defendants attempted to collect or collected money for checks written for personal, family, or household purposes, from December 1, 2013, to May 7, 2015.

UCL Class: All persons in California to whom the defendants sent an initial collection demand in connection with a returned check at any time from September 1, 2011, to May 7, 2015, and who subsequently paid any fees to the defendants in response to that letter.

Settlement Agreement § II.2. These Settlement Classes are identical to the litigation classes the Court previously certified (*see* Dkt. No. 297 at 1, 4), and do not include any person who

excluded himself or herself from those classes during the opt-out periods following mailing of the class notice and settlement notice.

B. Monetary Relief

Defendants' insurers will pay \$1,100,000 into a Settlement Fund to be allocated to Settlement Awards, administrative expenses, statutory damages and service awards to Plaintiffs, and attorneys' fees and costs, subject to approval by the Court. If the Court awards less than the amounts Class Counsel request for statutory damages, administrative expenses, service awards, or attorneys' fees and costs, the difference will be allocated to the Actual Damages Settlement Fund to pay Settlement Awards. No part of the Settlement Fund will revert to Defendants. Settlement Agreement § III.1.

Class Members had the opportunity to seek Settlement Awards by submitting a complete Claim Form online or by mail. A Claim Form was deemed complete if it included information sufficient to permit the Settlement Administrator to distribute a settlement payment to the Class Member and there is no reason to doubt its authenticity. Settlement Agreement § III.3.

If the Court approves the settlement, each Claimant will be paid a single Settlement Award calculated as follows:

- Members of the FDCPA Class will receive a pro rata share of the amount of the \$20,000 portion of the Settlement Fund allocated to FDCPA statutory damages.
- Members of the FDCPA Class who paid fees to Defendants and members of the UCL Class will receive a pro rata share of the Actual Damages Settlement Fund calculated based on the percentage paid by the Claimant of the total amount paid to Defendants in fees by all Claimants.

Settlement Agreement § III.4.

Settlement Award checks that are not cashed within 90 days after the issue date on the check will be voided. Amendment to Settlement Agreement § III.5. Class Counsel and the Settlement Administrator will submit a proposal to the Court regarding the feasibility of a second distribution after the period for cashing first distribution checks has closed. Amendment to Settlement Agreement.

If there are undistributed amounts remaining in the Settlement Fund after the check-cashing period described in the preceding paragraph and a second distribution is not administratively feasible, the parties agree that these amounts will be paid to cy pres recipient East Bay Community Law Center, subject to approval by the Court. Settlement Agreement § III.6.

Class Counsel filed a motion for an award of reasonable attorneys' fees of 25% of the Settlement Fund and reimbursement of \$130,151.66 in litigation expenses to be paid from the Settlement Fund. Class Counsel also requested Court approval of statutory damages and service awards in the amount of \$3,000 each (\$1,000 in statutory damages and \$2,000 service awards) for their time and effort in prosecuting this case on behalf of the Classes. Dkt. Nos. 408-412. Defendants were free to oppose Class Counsel's motion but did not. Dkt. No. 413. The Settlement Administrator posted Class Counsel's motion for an award of fees, costs, and service and statutory damage awards on the Settlement Website promptly after Plaintiffs filed on June 10. If approved, the attorneys' fees, litigation expenses, and statutory damages and service award payments will be paid from the Settlement Fund. The settlement is not contingent on the amount of attorneys' fees, litigation expenses, or statutory and service payments awarded. Settlement Agreement § IV.2.

JND is continuing to review claim forms and will provide the Court with a declaration attesting to the total costs for administering the Notice Plan before the Final Approval Hearing. Keough Decl. ¶¶ 26-27. In addition, Class Counsel incurred \$46,768.68 in costs for JND's administration of the class certification notice program. Chandler Decl. ¶ 13. If approved, the administration costs will be paid from the Settlement Fund. Settlement Agreement § VII.2.

C. Release

In exchange for the settlement benefits, Settlement Class Members will release only those claims based on the same set of facts (i.e., the identical factual predicate) that gave rise to the FDCPA and UCL claims certified by the Court for class treatment against Released Parties NCG, VSI, Birch Grove Holdings, Inc., American Justice Solutions, Inc., Mats Jonsson, and Karl Thomas Jonsson, as well as present, former and future direct and indirect parent companies, partnerships, entities, affiliates, subsidiaries, agents, principals, insurers, members, managers, successors, predecessors in interest (including without limitation Levine Leichtman Capital Partners, LLC, Levine Leichtman Capital Partners, Inc. and Levine Leichtman Capital Partners III, L.P.), spouses, heirs, executors, administrators, representatives, attorneys, general partners, limited partners, and/or any persons or entities that may hold or have held any interest in the operation or ownership of any of the Defendants, and all of the aforementioned's respective officers, directors, employees, members, managers, attorneys, consultants, shareholders, general partners, limited partners, agents, vendors and assigns. The factual bases for the FDCPA and UCL claims certified by the Court for class treatment are the check diversion program letters Defendants sent to Californians from September 1, 2011, to May 7, 2015, or the fees Defendants charged Californians in connection with Defendants' check diversion programs. Settlement Agreement §§ II.15, XII & Amendment to Settlement Agreement. The release is narrowly tailored to the claims at issue and does not release other potential claims.

IV. STATEMENT OF ISSUES

Whether the Court should grant final approval of the settlement as fair, reasonable, and adequate.

V. AUTHORITY AND ARGUMENT

A. The settlement should be approved as fair, reasonable, and adequate.

Proposed class action settlements are not effective unless approved by the Court. Fed. R. Civ. P. 23(e). When evaluating a class settlement, courts consider (1) the strength of the plaintiff's case; (2) the risk, expense, complexity, and likely duration of further litigation; (3) the

risk of maintaining class action status throughout the trial; (4) the amount offered in settlement; (5) the extent of discovery completed and the stage of the proceedings; (6) the experience and views of counsel; (7) the presence of a governmental participant; and (8) the reaction of the class members of the proposed settlement. *In re Bluetooth Headset Prod. Liab. Litig.*, 654 F.3d 935, 946 (9th Cir. 2011) (quoting *Churchill Village, L.L.C. v. Gen. Elec.*, 361 F.3d 566, 575 (9th Cir. 2004)).

In addition to the *Churchill* factors, the amendments to Rule 23 require courts consider whether: (A) the class representatives and class counsel have adequately represented the class; (B) the proposal was negotiated at arm's length; (C) the relief provided for the class is adequate, taking into account: (i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims; (iii) the terms of any proposed award of attorney's fees, including timing of payment; and (iv) any agreement required to be identified under Rule 23(e)(3); and (D) the proposal treats class members equitably relative to each other. Fed. R. Civ. P. 23(e)(2).

Despite this "lengthy but non-exhaustive list of factors that a district court may consider when weighing a proposed settlement," "there are few, if any hard-and-fast rules about what makes a settlement 'fair' or 'reasonable.'" *In re Volkswagen "Clean Diesel" Mktg., Sales Pracs., & Prod. Liab. Litig.*, 895 F.3d 597, 610 (9th Cir. 2018). "The district court's task in reviewing a settlement is to make sure it is 'not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.'" *Id.* at 617 (quoting *Officers for Justice v. Civil Service Comm'n of City and County of San Francisco*, 688 F.2d 615, 625 (9th Cir. 198)). "Deciding whether a settlement is fair is ultimately 'an amalgam of delicate balancing, gross approximations and rough justice,' best left to the district judge, who has or can develop a firsthand grasp of the claims, the class, the evidence, and the course of the proceedings—the whole gestalt of the case. Accordingly, 'the decision to approve or reject a settlement is committed to the sound

discretion of the trial judge.” *Id.* at 611 (citations omitted). Consideration of the relevant factors and “the whole gestalt of the case” confirms that the settlement is fair, reasonable, and adequate.

1. The relief provided by the settlement favors approval, taking into account the strength of Plaintiffs’ case and the risk, cost, and delay of trial and appeal.

The \$1,100,000 settlement is a solid result for Class Members, who were unlikely to recover any of the fees they paid to Defendants without this litigation. It also ensures that Class Members recover a portion of the fees they paid to Defendants in the face of a very real risk of no recovery at all should litigation continue.

a. Class Members risked losing on the merits and recovering nothing.

The Court’s ruling on the parties’ first round of cross-motions for summary judgment eliminated many theories underlying Plaintiffs’ claims. The Court held that the form letters Defendants sent to Class Members were not misleading, which left for resolution only the question whether Defendants collected or attempted to collect fees that are not authorized by California law. This unsettled issue of state law was the subject of the parties’ second round of cross-motions for summary judgment. Both sides appreciated the risk presented by these motions, which the Court had not yet ruled on when the parties negotiated this settlement.

Plaintiffs’ remaining claims turn on whether Defendants’ fees are authorized by California’s Bad Check Diversion Act, Cal. Penal Code § 1001.60 *et seq.*, or any other law. Plaintiffs’ position is that the FDCPA requires that fees be explicitly authorized by state law and Defendants cite no law authorizing them to collect a fee of \$185 for a financial responsibility class, a \$10 credit/debit card fee, a \$25 class rescheduling fee, and a \$10 late fee. *See* Dkt. No. 359 at 18-31; Dkt. No. 365 at 3-4. Defendants’ position is that Plaintiffs fail to meet their burden of proving the fees Defendants collected are illegal because Plaintiffs do not cite any case or statute that prohibits them. *See* Dkt. No. 364 at 17-18. The parties’ dispute over this novel issue extends even to the applicable burden of proof.

The Court previously found that the counties could have authorized the collection of user fees in addition to those explicitly authorized by the BCDA¹ “through at least one appropriate procedural mechanism.” Dkt. No. 348 at 23-25. Plaintiffs contend that none of the counties followed the specific procedures required to enact user fees. Dkt. No. 359 at 29-31; Dkt. No. 365 at 6-8. Defendants maintain that the county boards of supervisors made appropriate findings approving the fees, and quoted at length from letters four district attorneys directed to their respective county boards. Dkt. No. 364 at 18-22.

Defendants also claim that Plaintiffs concede the legality of the fees by not characterizing the fees as an illegal tax. *Id.* at 22-25; *see also* Dkt. No. 248 at 23–24 (Court’s questions regarding legality of the fees). According to Defendants, “if a fee is not a tax, the inquiry ends.” *Id.* at 22. Defendants contend that the fees are “regulatory” because they are voluntary and confer a benefit on program participants. *Id.* at 24-25. Plaintiffs respond to this argument by explaining why the fees are not in fact “regulatory” and that labeling them that way does not allow Defendants to circumvent the requirements for imposing user fees. Dkt. No. 359 at 20-26; Dkt. No. 365 at 5-6. Moreover, even if the fees could be considered regulatory, the counties did not follow the procedures required to impose them, which includes findings that the fees “bear a reasonable relationship” to the costs of the regulatory program. Dkt. No. 359 at 26-28; Dkt. No. 365 at 6-7.

Defendants also argued that the Court should dismiss Plaintiffs’ claims under the comity doctrine or the Tax Injunction Act because the claims interfere with state taxation matters. Dkt. No. 356 at 2-14; Dkt. No. 364 at 8-12. Plaintiffs responded that neither comity nor the TIA provides a basis for dismissal because the fees are not taxes, and Plaintiffs do not contend they are. Dkt. No. 359 at 10-14; Dkt. No. 365 at 8-11. Defendants also resurrected their argument that Plaintiffs’ claims should be dismissed because the counties are required parties under Rule 19(a) and joinder is not feasible. Dkt. No. 356 at 14-21; Dkt. No. 12-16. Plaintiffs pointed out

¹ The BCDA authorizes a processing fee of up to \$50 per check and a fee of up to \$15 per check for bank charges incurred by the victim. Cal. Penal Code § 1001.65(a).

that none of the counties has ever claimed an interest in the case or shown a desire to participate and, even if they had, joining them is feasible. Dkt. No. 359 at 14-18.

Finally, Defendants argued that they were entitled to partial summary judgment on Plaintiffs' UCL claim because UCL Class Members "do not lack an adequate remedy at law" under *Sonner v. Premier Nutrition Corp.*, 962 F.3d 1072 (9th Cir. 2020), amended and superseded on denial of rehearing, 962 F.3d 1072 (9th Cir. 2020). Dkt. No. 364 at 1-8. According to Defendants, the Ninth Circuit's holding in *Sonner* that a plaintiff cannot seek an equitable remedy like restitution under the UCL when she has an adequate remedy at law for past harm precludes Ms. Bonakdar and members of the UCL Class from recovering the same fees they seek as damages under the FDCPA. *Id.* Plaintiffs respond that Defendants' overly broad reading of *Sonner* ignores the Ninth Circuit's confirmation (after *Sonner*) that the argument that a plaintiff "cannot seek equitable relief under the UCL" because another statute may provide "an adequate legal remedy" is "foreclosed by statute." *Moore v. Mars Petcare US, Inc.*, 966 F.3d 1007, 1021 n.13 (9th Cir. 2020). District courts have resolved this issue in favor of defendants. *See, e.g., Sharma v. Volkswagen AG*, No. 20-cv-02394-JST, 2021 WL 912271, at *7-8 (N.D. Cal. Mar. 9, 2021).

The applicability of *Sonner* poses an additional risk to the UCL Class that could result in another appellate issue: if the UCL claim is dismissed, Class Members who received a collection demand from September 1, 2011 through November 30, 2013 or who did not write checks for personal, family, or household purposes will recover nothing.

With greatly narrowed claims that turn on the resolution of unsettled law, Class Members faced a significant risk that they would not recover anything through further litigation. This risk supports approval of the settlement. *See In re Yahoo Mail Litig.*, No. 13-cv-4980-LHK, et al., 2014 WL 4474612, at *6 (N.D. Cal. Aug. 25, 2016) (finding a settlement "strengthened by the fact that the instant action raises ... novel legal issues" that were at issue in pending cross-motions for summary judgment when the parties settled and where "the Court's initial analysis suggested some vulnerability in Plaintiffs' case").

b. The cost and delay of trial and appeal support approval of the settlement.

After more than eight years of extremely hard-fought litigation, Plaintiffs found themselves in the position of potentially losing on the merits and collecting nothing for the Classes or prevailing and still collecting nothing because Defendants are unable to pay a judgment and their insurance is unlikely to cover a judgment for unlawful fees. Continued litigation would only add to the litigation costs and further delay any potential recovery. Delay has very real consequences in this case because not only will more of the insurance money be diverted to defense of the lawsuit, Class Members are likely to become more difficult to locate. In contrast to this significant risk of no recovery, the settlement provides prompt and certain relief for Class Members. *See Rodriguez v. West Publ'g Corp.*, 563 F.3d 948, 966 (9th Cir. 2009); *Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 526 (C.D. Cal. 2004) (“The Court shall consider the vagaries of litigation and compare the significance of immediate recovery by way of the compromise to the mere possibility of relief in the future, after protracted and expensive litigation.” (citation omitted)).

c. Class Members' recoveries equal or exceed those in similar settlements.

Under the circumstances, the settlement provides adequate relief to the Classes. Defendants have acknowledged collecting more than \$6 million in fees from Class Members. Dkt. No. 320-41 ¶¶ 10-12. After excluding the \$50 administrative fee the Court held was authorized by the Bad Check Diversion Act, the parties agree that Defendants collected a total of \$4,549,444 in fees from Class members. Dkt. No. 324 ¶¶ 8-9. The statutory damages Plaintiffs seek under the FDCPA—\$1,000 for each plaintiff plus 1% of Defendants' net worth, 15 U.S.C. § 1692k(a)—do not increase the potential damages by much. The companies' combined net worth is currently a negative amount (less than zero). Dkt. No. 392 ¶ 6.

If the Court approves the settlement, awards attorneys' fees of 25% of the Settlement Fund (or \$275,000) and approves reimbursement of \$135,000 in litigation expenses, \$9,000 in statutory damages and service awards to Plaintiffs, and \$106,000 in administration costs, a

total of \$555,000 will be available to pay Settlement Awards to Class members. After setting aside the \$20,000 allocated to FDCPA statutory damages, an Actual Damages Settlement Fund of \$535,000 will be distributed to Class members who paid fees to Defendants and file valid claims. The Actual Damages Settlement Fund is 11.75% of the \$4,549,444 fees that Class members paid and could recover if they prevailed on summary judgment or at trial. This settlement also follows the Defendants' settlement with the CFPB and reimbursement of more than \$6 million to California residents who paid fees to Defendants between July 21, 2011 and March 30, 2015. Dkt. No. 244 at 3-4. Nearly all Settlement Class members have therefore already received some compensation related to the claims asserted against Defendants in this case.

Class Members' recoveries equal or exceed similar settlements approved by other courts. *See In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 459 (9th Cir. 2000) (considering the total settlement amount before subtracting fees, costs, service awards, and administrative costs and finding the gross settlement fund "of almost \$2 million was roughly one-sixth of the potential recovery, which, given the difficulties in proving the case, [was] fair and adequate"); *Bailey v. Kinder Morgan G.P., Inc.*, No. 18-CV-03424-TSH, 2020 WL 5748721, at *4 (N.D. Cal. Sept. 25, 2020) (a recovery of 12% of potential damages "is on the lower end" but that "amounts similar to or even less than that amount have been found adequate and fair by courts in this Circuit"); *In re MyFord Touch Consumer Litig.*, No. 13-CV- 03072-EMC, 2019 WL 1411510, at *10 (N.D. Cal. Mar. 28, 2019) (approving a settlement of 5.7% of the class's potential recovery because of the risk plaintiffs faced in proving their claims and damages); *Viceral v. Mistras Group, Inc.*, No. 15-CV-02198-EMC, 2016 WL 5907869, at *7-8 (N.D. Cal. Oct. 11, 2016) (approving settlement for 8.1% of potential damages because of the "daunting" risks plaintiffs faced in proving their claims and because "a deeply discounted recovery is better than the substantial likelihood of recovering nothing").

2. The extent of discovery, stage of proceedings, and recommendation of experienced counsel favor approval.

The parties had a thorough understanding of the strengths and weaknesses of their positions when they negotiated this settlement. Having completed substantial discovery, briefed numerous legal and factual issues, and obtained rulings from the Ninth Circuit, the parties were well positioned to weigh the risks of continued litigation. Class Counsel, who are experienced in litigating and resolving class action cases, strongly support the settlement. Chandler Decl. ¶ 15; *see also Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998) (“the extent of discovery completed and the stage of the proceedings” as well as “the experience and views of counsel” are relevant to approval of settlement); *Slezak v. City of Palo Alto*, No. 16-cv-3224-LHK, 2017 WL 2688224, at *4 (N.D. Cal. June 22, 2017) (“So long as the parties have ‘sufficient information to make an informed decision about settlement,’ this factor will weigh in favor of approval.” (quoting *Linney v. Cellular Alaska P’ship*, 151 F.3d 1234, 1239 (9th Cir. 1998))).

3. Class Members’ response favors approval.

In all, 94% of Class Members received direct notice of the settlement. Keough Decl. ¶ 18. No Class Members objected and only two individuals opted out. *Id.* ¶¶ 22 & 24. A positive class response to a settlement—as evidenced by a small percentage of opt outs and objections—supports final approval. *See In re Anthem, Inc. Data Breach Litig.*, 327 F.R.D. 299, 320-21 (N.D. Cal. 2018) (finding that low rates of objections and opt outs are ‘indicia of the approval of the class’” (citation omitted)); *Tadepalli v. Uber Techs., Inc.*, No. 15-CV-04348-MEJ, 2016 WL 1622881, at *8 (N.D. Cal. Apr. 25, 2016) (observing “the absence of a large number of objections to a proposed class action settlement raises a strong presumption that the terms of a proposed class settlement action are favorable to the class members” (citation omitted)).

A total of 2,533 Class Members submitted claims as of August 3, 2021, or 5% of the Classes. Keough Decl. ¶ 26. JND continues to receive and review Claim Forms, *id.* ¶¶ 26-27, and Plaintiffs will provide the Court with updated claims information before the Final Approval

Hearing. *Id.* ¶ 27. Plaintiff hoped a greater number of claims would be filed but, as one court explained, the number of claims made is “irrelevant to the underlying issue; to wit, whether the proposed settlement agreement is fair, reasonable, and adequate.” *Casey v. Citibank, N.A.*, No. 12-cv-00820, 2014 WL 4120599, at *2 (N.D.N.Y. Aug.21, 2014). The Ninth Circuit has “approved class action settlements ‘where less than five percent of class members file claims.’” *In re Hyundai & Kia Fuel Economy Litig.*, 926 F.3d 539, 568 (9th Cir. 2019) (quoting *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 945 (9th Cir. 2015)). And courts have approved settlements with similar claims rates. *See, e.g., In re Online DVD*, 779 F.3d at 944-45 (affirming approval of settlement where 1,183,444 of 35 million class members—less than 3.4%—filed claims); *Poertner v. Gillette Co.*, 618 F. App’x 624, 625-26, 630-31 (11th Cir. 2015) (affirming approval of settlement where only 55,346 of 7.26 million class members—less than 1%—filed claims); *Moore v. Verizon Commc’n Inc.*, No. C 09–1823 SBA, 2013 WL 4610764, at *8 (N.D. Cal. Aug. 28, 2013) (granting final approval of class action settlement with 3% claims rate); *Touhey v. United States*, No. EDCV 08-01418-VAP (RCx), 2011 WL 3179036, at *7-8 (C.D. Cal. July 25, 2011) (approving a settlement with a 2% claims rate); *Perez v. Asurion Corp.*, 501 F. Supp. 2d 1360, 1377, 1384 (S.D. Fla. 2007) (approving settlement where 118,663 out of approximately 10.3 million class members submitted claims, for a claim rate of approximately 1.2%); *see also Keil v. Lopez*, 862 F.3d 685, 696-97 (8th Cir. 2017) (“a claim rate as low as 3 percent is hardly unusual in consumer class actions and does not suggest unfairness”).

4. The Rule 23(e)(2) considerations favor approval.

The considerations outlined in Rule 23(e)(2) also support final approval of the settlement. The first consideration is the adequacy of Plaintiffs’ and their counsel’s representation of the Classes. In granting class certification, the Court concluded that Plaintiffs were adequate class representatives and that Class Counsel adequately represented the Classes. Dkt. No. 297 at 2. Class Counsel have devoted more than 3,500 hours and substantial

resources to representing Class Members and negotiating a favorable settlement of their claims. This consideration therefore supports approval.

The second consideration also supports approval because the settlement was negotiated at arms' length with the assistance of Magistrate Judge Beeler. The Court is aware of the hard-fought nature of this litigation, which involved disputed discovery issues and motions, and the parties approached settlement discussions in the same way. None of the "red flags" of potential collusion the Ninth Circuit has identified exist in this case. *See In re Bluetooth*, 654 F.3d at 947 (noting that plaintiffs' counsel may have allowed pursuit of their own self-interest to infect settlement negotiations when they receive a disproportionate portion of the settlement, the parties agree to a "clear sailing" arrangement providing for the payment of attorneys' fees separate and apart from class funds, or the parties agree that any fees not awarded will revert to defendants rather than be added to the class fund).

The third consideration also supports settlement. As discussed above, the \$1.1 million Settlement Fund is more than adequate to warrant approval, particularly in light of the costs, risks and delay of trial and appeal. Plaintiffs address the reasonableness of the requested attorneys' fees in the motion they filed on June 10, 2021, which was 30 days before the initial July 9 deadline for Settlement Class Members to file a claim, opt out, or object, in compliance with *In re Mercury Interactive Corp.*, 618 F.3d 988, 994 (9th Cir. 2010). Dkt. No. 408. The Court has ultimate discretion over the amount of the attorneys' fee award after reviewing Class Counsel's motion. Any requested fees, litigation costs, or service awards not approved by the Court will be distributed to Settlement Class Members.

The claims and distribution process is effective and fair. A claims process is appropriate and necessary in this case because there is no current record of Class Members' contact information. The case involves conduct that occurred more than six years ago, between September 1, 2011, and May 7, 2015. JND and Class Counsel attempted to obtain updated contact information for Class members when disseminating notice of the class certification order in February 2019, but a large number of postcard and email notices nonetheless

undeliverable. This case is similar to *In re Uber FCRA Litigation*, where the court found a claims process to be necessary even though the defendant had contact information for all potential class members because the contact information was not “verifiably current.” No. 14-cv-05200-EMC, 2017 WL 2806698, at *8 (N.D. Cal. June 29, 2017). A claims process ensures that settlement funds are not sent out before this verification has occurred. It would be inefficient to direct mail checks without a claims process to verify that the contact information is reliable. *See In re Educ. Testing Serv. Praxis Principles of Learning & Teaching, Grades 7-12*, MDL No. 1643, 2006 WL 3332829, at *2 (E.D. La. Nov. 15, 2006) (“The only cost to the class members of the process is the requirement that participants complete a one-page, check-the-box form, and the benefit is greater accountability and reduced long-term administrative expenses.”); *see also Braynen v. Nationstar Mortg., LLC*, No. 14-CV-20726, 2015 WL 6872519, at *14 (S.D. Fla. Nov. 9, 2015) (“A direct payment structure without the Claim Form providing current addresses risks fraud and waste in administering the Settlement.”). The Court-approved Claim Form is simple and straightforward and was deemed complete if it included information sufficient to permit the Settlement Administrator to distribute a settlement payment to the Class Member and there was no reason to doubt its authenticity. Settlement Agreement § III.3; Keough Decl. Ex. D.

The final consideration also supports approval. The distribution plan ensures that Settlement Class Members will be treated equitably relative to each other. *See Radcliffe v. Hernandez*, 794 F. App’x 605, 607 (9th Cir. 2019) (“Rule 23’s flexible standard allows for the unequal distribution of settlement funds so long as the distribution formula takes account of legitimate considerations and the settlement remains “fair, reasonable, and adequate.” (quoting Fed. R. Civ. P. 23(e)(2)), *cert. denied sub nom. Radcliffe v. Experian Info. Sols., Inc.*, 141 S. Ct. 87 (2020). Settlement Class Members who paid fees to Defendants during the class period will receive a pro rata share of the Actual Damages Settlement Fund calculated based on the percentage of fees they paid. Settlement Agreement § III.4.b. The \$20,000 portion of the Settlement Fund allocated to FDCPA statutory damages will be distributed equally to all FDCPA

Class members. Settlement Agreement § III.4.a. This allocation tracks the proportion of any judgment Class Members would recover if they prevailed on summary judgment or at trial.

B. The Notice Plan complied with Rule 23 and due process.

The Notice Plan approved by the Court and implemented by JND satisfied the requirements of Rule 23 and due process. Rule 23 provides that “[t]he court must direct notice in a reasonable manner to all class members who would be bound by the proposal.” Fed. R. Civ. P. 23(e)(1). When the class is certified under Rule 23(b)(3), the notice must also be the “best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B). To comply with constitutional due process standards, the notice must be “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

The Court-approved Notice Plan satisfied these requirements. The Notices provided Class Members with information about the litigation, the Classes, the claims and defenses, how to object, opt out, and appear at the Final Approval Hearing, and the binding effect of a class judgment. Exs. A, B & C; *see also* Fed. R. Civ. P. 23(c)(2)(B); *In re Hyundai & Kia Fuel Econ. Litig.*, 926 F.3d 539, 567 (9th Cir. 2019) (“settlement notices must ‘present information about a proposed settlement neutrally, simply, and understandably’” (citation omitted)). The Notices gave Class Members “enough information so that those with adverse viewpoints could investigate and come forward and be heard.” *In re Hyundai*, 926 F.3d at 568.

JND sent the Email Notice to 28,833 Class Members using email addresses available in the records produced by Defendants or obtained by JND as a result of the Initial Class Notice sent in this matter. Keough Decl. ¶¶ 7-11. For any Class member whose email address was not available or whose email bounced back, JND sent a Postcard Notice by U.S. Mail using the most recent address in the records produced by Defendants, provided to Class Counsel, or identified

through address correction services. JND sent a Postcard Notice to 37,043 Class Members. *Id.* ¶¶ 12-17. In total, 47,212 Class Members, or 94% of the Classes, received direct notice by email or U.S. mail. *Id.* ¶ 18; *see also Edwards v. Andrew*, 846 F. App'x 538, 539 (9th Cir. 2021) (finding “that the plaintiffs’ class notice satisfied Federal Rule of Civil Procedure 23 and due process because, among other things, the plaintiffs’ expert opined that at least 75 percent of the class received notice”).

JND also updated the Settlement Website with detailed information about the Settlement, including the Settlement Notice, the Email and Postcard Notice, the Second Amended Complaint, the Settlement Agreement, the Claim Form, an opt-out form, the Preliminary Approval Order, and Class Counsel’s motion for an award of attorneys’ fees, costs and service awards. Keough Decl. ¶ 19. Class Members are also able to look up the amount they previously paid Defendants on the “Fee Payment Lookup” page of the Settlement Website. *Id.* The Settlement Website had 27,688 views as of July 29, 2021. *Id.* ¶ 20. The Postcard Notice, Website Notice, and Settlement Website also provided contact information for Class Counsel and the Settlement Administrator. *Id.* Exs. A, B & C.

Because the Notice Plan approved by the Court was faithfully executed by JND and complies with Rule 23 and due process, the settlement should be approved.

VI. CONCLUSION

Plaintiffs request that the Court approve the settlement as fair, reasonable, and adequate.

RESPECTFULLY SUBMITTED AND DATED this 5th day of August, 2021.

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Class Counsel

CERTIFICATE OF SERVICE

I, Blythe H. Chandler, hereby certify that on August 5, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification to all registered CM/ECF users:

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DATED this 5th day of August, 2021.

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[Additional Counsel Omitted]

Class Counsel

U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

KAREN SOLBERG, NANCY MORIN, and NARISHA
BONAKDAR, on their own behalf and on behalf
of others similarly situated,

Plaintiffs,

v.

VICTIM SERVICES, INC., d/b/a
CorrectiveSolutions, NATIONAL CORRECTIVE
GROUP, INC., d/b/a CorrectiveSolutions,
AMERICAN JUSTICE SOLUTIONS, INC., d/b/a
CorrectiveSolutions, BIRCH GROVE HOLDINGS,
INC., MATS JONSSON and KARL THOMAS
JONSSON,

Defendants.

NO. 3:14-cv-05266-VC

[PROPOSED] FINAL APPROVAL ORDER

Honorable Vince Chhabria

CLASS ACTION

DEMAND FOR TRIAL BY JURY

The Court previously entered an order approving notice to the two certified Classes of a proposed class action settlement between Plaintiffs Karen Solberg, Nancy Morin, and Narisha Bonakdar and Defendants Victim Services, Inc., d/b/a CorrectiveSolutions, National

Corrective Group, Inc., d/b/a CorrectiveSolutions, American Justice Solutions, Inc., d/b/a CorrectiveSolutions, Birch Grove Holdings, Inc., Mats Jonsson, and Karl Thomas Jonsson. The terms of the settlement are set forth in the Settlement Agreement and Release attached as Exhibit 1 to the Declaration of Blythe H. Chandler in support of Plaintiffs' motion for final approval of class action settlement.

The Court has read and considered the Settlement Agreement, the exhibits attached thereto, and the briefing submitted in support of final approval of the settlement and is fully advised. All capitalized terms not otherwise defined in this Order shall have the same meaning as defined in the Settlement Agreement

THEREFORE, THE COURT FINDS AND CONCLUDES AS FOLLOWS:

1. This Court has jurisdiction over the subject matter of this Action and personal jurisdiction over the Parties and the Classes.

2. The Court previously certified the following Classes under Rule 23(b)(3):

FDCPA Class: All persons in California to whom the defendants sent a collection demand in connection with a returned check from whom the defendants attempted to collect or collected money for checks written for personal, family, or household purposes, from December 1, 2013, to May 7, 2015.

UCL Class: All persons in California to whom the defendants sent an initial collection demand in connection with a returned check at any time from September 1, 2011, to May 7, 2015, and who subsequently paid any fees to the defendants in response to that letter.

Dkt. No. 297 at 1, 4.

3. The Court finds that the notice given to Class Members pursuant to the terms of the Settlement Agreement fully and accurately informed Class Members of all material elements of the Settlement and constituted valid, sufficient, and due notice to all Class Members. The notice fully complied with due process, Rule 23 of the Federal Rules of Civil Procedure, and with all other applicable law.

4. Those who timely submitted valid requests for exclusion are excluded from the Classes and are not bound by this Final Approval Order.

5. The settlement requires Defendants' insurers to pay \$1,100,000 into a Settlement Fund that will be used to make payments to all Settlement Class Members who submit timely and valid claims; pay the Settlement Administrator the costs of notice and Settlement Administration Expenses in the amount of \$_____ ; pay Service Awards in the amount of \$_____ to each Class Representative; and pay Class Counsel's attorneys' fees in the amount of \$_____ and litigation costs of \$_____. The Settlement Fund is non-reversionary.

6. Absent any appeal, the Effective Date of the Settlement will be September 23, 2021. Service Awards to Plaintiffs, administration costs, litigation costs, and all but 10% of the attorneys' fees awarded will be paid by September 27, 2021. Checks will be mailed to all Claimants within twenty-one (21) days after the Effective Date, not later than October 14, 2021. Checks will be valid for 90 days from issuance. The check cashing date will be not later than January 14, 2020.

7. Within 21 days after distribution of the settlement funds (not later than February 4, 2022), Class Counsel will file a Post-Distribution Accounting, as described in the Northern District's Procedural Guidance for Class Action Settlements, to inform the Court about the administration of the settlement. The Post-Distribution Accounting will state when payments were made to Settlement Class Members, the number of Settlement Class Members who were sent payments, the total amount of money paid to Settlement Class Members, the average and median recovery per Settlement Class Member, the largest and smallest amounts paid to Settlement Class Members, the number and value of cashed and uncashed checks, the number of Settlement Class Members who could not be contacted, the number of objections and opt outs, any significant or recurring concerns communicated by Settlement Class Members to the Settlement Administrator and Class Counsel since final

approval, any other issues in settlement administration since final approval, and how any concerns or issues were resolved. If appropriate, Class Counsel and the Settlement Administrator will submit a proposal to the Court regarding the feasibility of a second distribution from the Settlement Fund and any cy pres distribution in the Post-Distribution Accounting. The Settlement Administrator shall post the Post-Distribution Accounting on the Settlement Website.

8. The Court finally approves this Settlement, and finds that it is in all respects fair, reasonable, and adequate and in the best interest of Settlement Class Members. The Parties dispute the validity of the claims in the Action, and their dispute underscores not only the uncertainty of the outcome but also why the Court finds the Settlement Agreement to be fair, reasonable, and adequate. Had they continued to litigate, Class Members risked losing on the merits because their remaining claims turn on the resolution of the unsettled legal question of whether Defendants' fees are authorized by California's Bad Check Diversion Act, Cal. Penal Code § 1001.60 *et seq.*, or any other law. The claims and distribution process is effective and fair, and a claims process is appropriate and necessary as the case involves conduct that occurred more than six years ago and there is no current record of Class Members' contact information. The settlement was negotiated at arms' length with the assistance of Magistrate Judge Beeler. Class Counsel find the settlement to be in the best interest of Class Members. No Class Member objected to the settlement and only two individuals opted out. And none of the "red flags" of potential collusion the Ninth Circuit has identified exist in this case. *In re Bluetooth Headset Prod. Liab. Litig.*, 654 F.3d 935, 947 (9th Cir. 2011). In addition, the Court finds that Plaintiffs and Class Counsel adequately represented the Settlement Class Members. For all these reasons, the Court finds that the uncertainties of continued litigation in both the trial and appellate courts, as well as the expense associated with it, weigh in favor of approving the settlement. In making this determination, the court has considered the Northern District of California Procedural

Guidance for Class Action Settlements, the criteria set forth in Federal Rule of Civil Procedure 23E, and the factors outlined in *In re Bluetooth Headset Prod. Liab. Litig.*, 654 F.3d 935, 946 (9th Cir. 2011), and *Churchill Village, L.L.C. v. General Electric*, 361 F.3d 566, 575-76 (9th Cir. 2004).

9. The Parties, their counsel, and the Settlement Administrator shall fulfill their obligations and duties under the Settlement Agreement.

10. The Settlement Administrator executed the Notice Plan according to the terms of the Settlement Agreement. The notices apprised Class Members of the pendency of the litigation; of all material elements of the proposed settlement, including but not limited to the relief afforded the Class under the Settlement Agreement; of the res judicata effect on Class Members and of their opportunity to object to, comment on, or opt out of, the settlement; of the identity of Class Counsel and Class Counsel's contact information; and of the right to appear at the Final Approval Hearing. The Notice Plan prescribed by the Settlement Agreement was reasonable and provided due and adequate notice of these proceedings and of the matters set forth therein, including the terms of the Settlement Agreement, to all parties entitled to such notice. The notice given to Class Members satisfied the requirements of Federal Rule of Civil Procedure 23 and the requirements of constitutional due process. The Court has afforded a full opportunity to all Class Members to be heard. Accordingly, the Court determines that all Class Members, except those who timely excluded themselves from the Classes, are bound by this Final Approval Order.

11. Within ten days after the filing of the proposed Settlement Agreement in the Court, a notice of the proposed settlement was served upon the appropriate state official of each State in which a Class Member resides and upon the Attorney General of the United States. The Court finds that the notice provided satisfied the requirements of 28 U.S.C. § 1715(b) and that more than 90 days have elapsed since the required notice was provided, as required by 28 U.S.C. § 1715(d).

12. The Court approves payment of attorneys' fees in the amount of \$_____ and reimbursement of litigation costs to Class Counsel in the amount of \$_____. These amounts shall be paid from the Settlement Fund pursuant to the terms of the Settlement Agreement. The Court finds these amounts to be appropriate and reasonable in light of the work performed by Class Counsel and the benefits obtained by Class Members. The Settlement Administrator shall withhold 10% of the awarded attorneys' fees until after the Post-Distribution Accounting has been filed and the Court has entered an order releasing the remainder of the fees.

13. The Court approves service award payments of \$_____ for each Class Representative and finds the amount to be reasonable in light of the services performed by the Class Representatives for the Classes. This amount shall be paid from the Settlement Fund in accordance with the terms of the Settlement Agreement.

14. Neither this Final Approval Order nor the Settlement Agreement is an admission or concession by Defendants or any of the other Released Parties of the validity of any claims or of any liability or wrongdoing or of any violation of law. This Final Approval Order and the Settlement Agreement do not constitute a concession and shall not be used as an admission or indication of any wrongdoing, fault or omission by Defendants or any of the other Released Parties or any other person in connection with any transaction, event or occurrence, and neither this Final Approval Order nor the Settlement Agreement nor any related documents in this proceeding, nor any reports or accounts thereof, shall be offered or received in evidence in any civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to consummate or enforce this Final Approval Order, the Settlement Agreement, and all releases given thereunder, or to establish the affirmative defenses of *res judicata* or collateral estoppel barring the pursuit of claims released in the Settlement Agreement. This Final Approval Order also does not constitute any opinion or position of the Court as to the merits of the claims and defenses related to this Action,

15. The Court dismisses with prejudice this Action, the Released Claims, and the Released Parties, and adjudges that Plaintiffs and Settlement Class Members are deemed to have fully, finally, completely, and forever released, relinquished, and discharged the Released Claims against the Released Parties.

16. If the Effective Date does not occur because this Order is reversed on appeal or for any other reason, the Parties shall be returned to the status quo ex ante, for all litigation purposes, as if no settlement had been negotiated or entered into and thus this Final Approval Order and all other findings or stipulations regarding the settlement shall be automatically void, vacated, and treated as if never filed.

17. The Court retains jurisdiction to consider all further matters arising out of or connected with the settlement, including the implementation, interpretation, and enforcement of the Settlement Agreement.

18. The Court finds that no justifiable reason exists for delaying entry of this Final Approval Order and, good cause appearing, it is expressly directed that this Final Approval Order and separate Judgment be entered as final and appealable and the case dismissed with prejudice.

IT IS SO ORDERED.

DATED this _____ of _____, 2021.

VINCE CHHABRIA
United States District Judge

CERTIFICATE OF SERVICE

I, Blythe H. Chandler, hereby certify that on August 5, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification to all registered CM/ECF users:

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Attorneys for Defendants

DATED this 5th day of August, 2021.

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[Additional Counsel Appear on Signature Page]

Class Counsel

U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

KAREN SOLBERG, NANCY MORIN, and NARISHA
BONAKDAR, on their own behalf and on behalf
of others similarly situated,

Plaintiffs,

v.

VICTIM SERVICES, INC., d/b/a
CorrectiveSolutions, NATIONAL CORRECTIVE
GROUP, INC., d/b/a CorrectiveSolutions,
AMERICAN JUSTICE SOLUTIONS, INC., d/b/a
CorrectiveSolutions, BIRCH GROVE HOLDINGS,
INC., MATS JONSSON and KARL THOMAS
JONSSON,

Defendants.

NO. 3:14-cv-05266-VC

[PROPOSED] JUDGMENT

Honorable Vince Chhabria

CLASS ACTION

This certified class action is hereby DISMISSED with prejudice and judgment is entered in accordance with the Order Granting Final Approval of Class Action Settlement (Dkt. No. ____). Without affecting the finality of this Judgment, the Court reserves jurisdiction over the Class Representatives, the Settlement Classes, and Defendants as to all matters concerning administration, consummation, and enforcement of the Settlement Agreement.

IT IS SO ORDERED.

DATED this _____ day of _____, 2021.

VINCE CHHABRIA
United States District Judge

CERTIFICATE OF SERVICE

I, Blythe H. Chandler, hereby certify that on August 5, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification to all registered CM/ECF users:

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Attorneys for Defendants

DATED this 5th day of August, 2021.

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Class Counsel