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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE: GOOGLE LOCATION HISTORY
LITIGATION

Case No. 5:18-cv-05062-EJD

**[PROPOSED] FINAL APPROVAL
ORDER**

Dept: Courtroom 4 - 5th Floor
Judge: Hon. Edward J. Davila

Date Filed: November 2, 2018

1 Plaintiffs Napoleon Patacsil, Michael Childs, and Noe Gamboa (“Plaintiffs” or “Settlement
2 Class Representatives”), on behalf of themselves and the Settlement Class as defined below, and
3 Defendant Google LLC (“Defendant”) (collectively, the “Parties”) entered into a Settlement
4 Agreement (Dkt. 328-1), which sets forth the terms and conditions for a proposed settlement of this
5 Consolidated Action and for its dismissal with prejudice upon the terms and conditions set forth
6 therein. This matter is now before the Court on (1) Plaintiffs’ Motion for Final Approval of Class
7 Action Settlement, and (2) Plaintiffs’ Motion for Attorneys’ Fees and Expenses, and for Class
8 Representative Service Awards. The Court held a Final Approval Hearing on April 18, 2024.
9 Having carefully considered the Motions and the proposed Settlement Agreement (Dkt. 328-1), all
10 documents filed in support thereof, arguments set forth at the Final Approval Hearing, the relevant
11 law, and all other files, records, and proceedings in this Consolidated Action,

12 **THE COURT HEREBY FINDS AND ORDERS AS FOLLOWS:**

13 1. For purposes of this Order, the Court adopts and incorporates by reference the terms
14 and definitions set forth in the Settlement Agreement.

15 2. The Court finds that it has personal jurisdiction over all Settlement Class Members,
16 that the Court has subject-matter jurisdiction over the claims asserted in the Consolidated Action
17 and Related Actions, and that venue is proper. The Class Representatives have Article III standing
18 to bring the claims resolved in this Settlement.

19 3. The Court-approved Notice Plan to the Class was the best practicable under the
20 circumstances and included substantial Internet advertising and a website comprehensively
21 detailing the pendency of the Consolidated Action, the terms of the proposed Settlement, and
22 Settlement Class Members’ right to object to the Settlement and/or Lead Class Counsel’s motion
23 for attorneys’ fees and expenses and Service Awards to the Class Representatives, their rights to
24 exclude themselves from the Settlement Class; and their rights to appear at the Final Approval
25 Hearing. The Notice Plan was successfully implemented and satisfies the requirements of Due
26 Process and Federal Rule of Civil Procedure 23.

27 4. The Court finds that the Settlement Administrator properly and timely notified the
28 appropriate state and federal officials to alert them to the Settlement, pursuant to the Class Action

1 Fairness Act of 2005, 28 U.S.C. § 1714 (“CAFA”). The Court reviewed the substance of this notice
2 and accompanying materials and finds that they complied with all necessary CAFA requirements.

3 **Certification of the Settlement Class**

4 5. The Court finds that, for purposes of the Settlement only, all prerequisites for
5 maintenance of a class action set forth in Federal Rules of Civil Procedure 23(a) and (b)(3) are
6 satisfied. The Court certifies the following Settlement Class for purposes of Settlement only:

7 All natural persons residing in the United States who used one or more
8 mobile devices and whose Location Information was stored by Google
9 while “Location History” was disabled at any time during the Class Period
(January 1, 2014 through December 4, 2023).

10 Excluded from the Settlement Class are: (a) all persons who are directors, officers, employees, or
11 agents of Defendant or its subsidiaries and affiliated companies; (b) the Court, the Court’s
12 immediate family, and Court staff, as well as any appellate court to which this matter is ever
13 assigned, and its immediate family and staff; and (c) eligible persons who submit a timely and valid
14 Request for Exclusion from the Settlement Class.

15 6. Plaintiffs have adequately represented the interests of the Settlement Class, and are
16 hereby appointed, for settlement purposes, as Settlement Class Representatives for purposes of
17 Federal Rule of Civil Procedure 23.

18 7. Ahdoot & Wolfson, PC and Lieff Cabraser Heimann & Bernstein, LLP have
19 adequately represented the interests of the Settlement Class, and are hereby appointed as Lead Class
20 Counsel for the Settlement Class pursuant to Federal Rule of Civil Procedure 23(g).

21 **Final Approval of the Settlement**

22 8. In evaluating a proposed class action settlement under Federal Rule of Civil
23 Procedure 23(e), the standard is whether the settlement is fundamentally “fair, adequate, and
24 reasonable.” Pursuant to Federal Rule of Civil Procedure 23(e), the Court hereby grants final
25 approval of the Settlement and finds that the Settlement is fair, reasonable, and adequate and in the
26 best interests of the Settlement Class Members based on the following factors:

27 a. The Settlement Class Representatives and Class Counsel have adequately
28 represented the Class. Fed. R. Civ. P. 23(e)(2)(A).

1 b. The Settlement is the result of extensive arm’s-length negotiations over
2 many months, including three full-day mediation sessions with a respected mediator. Fed. R. Civ.
3 P. 23(e)(2)(B). *See, e.g., Officers for Justice v. Civil Serv. Comm’n*, 688 F.2d 615, 625 (9th Cir.
4 1982); *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 948 (9th Cir. 2011) (presence of
5 a neutral mediator is a factor weighing in favor of a finding of non-collusiveness). There is no fraud
6 or collusion underlying this Settlement. The Settlement is not reversionary, does not include a clear
7 sailing arrangement regarding Class Counsel’s attorneys’ fees, and does not otherwise secure a
8 disproportionate distribution of the Settlement Fund to Class Counsel.

9 c. The \$62 million non-reversionary Settlement Fund, and the Settlement’s
10 non-monetary terms, present a fair, reasonable, and adequate resolution of the Action, in light of
11 all relevant factors. Fed. R. Civ. P. 23(e)(2)(C). The Court specifically finds as follows:

12 i. The costs, risks, and delay presented by further litigation, trial, and appeal
13 favor settlement—which provides meaningful benefits on a much shorter
14 time frame than otherwise possible—on behalf of the Settlement Class
15 Members. *See, e.g., Lane v. Facebook, Inc.*, 696 F.3d 811, 820 (9th Cir.
16 2012) (affirming the district court’s approval of a settlement where class
17 counsel “reasonably concluded that the immediate benefits represented by
18 the Settlement outweighed the possibility—perhaps remote—of obtaining a
19 better result at trial”); *Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276
20 (9th Cir. 1992) (the Ninth Circuit has a “strong judicial policy that favors
21 settlements, particularly where complex class action litigation is
22 concerned”). Based on the stage of the proceedings—including multiple
23 Rule 12 motions and forthcoming class certification briefing—and the
24 amount of investigation and discovery conducted, the Parties have
25 developed a perspective on the strengths and weaknesses of their respective
26 cases in order to “make an informed decision about settlement.” *In re Mego*
27 *Fin. Corp. Sec. Litig.*, 213 F.3d 454, 459 (9th Cir. 2000) (quoting *Linney v.*
28 *Cellular Alaska P’ship*, 151 F.3d 1234, 1239 (9th Cir. 1998)).

- 1 ii. The Settlement’s non-monetary terms provide meaningful benefits to the
- 2 Settlement Class that would not be available but for this Settlement.
- 3 iii. The proposed method of distributing relief to the Settlement Class supports
- 4 approval. The settlement is non-distributable such that distribution of the Net
- 5 Settlement Fund via *cy pres* is appropriate and provides effective relief to
- 6 the Settlement Class Members. Each of the Approved Cy Pres Recipients
- 7 has a direct and substantial nexus to the interests of absent class members
- 8 and the claims at issue in this litigation, and the geographic scope of the work
- 9 of the Approved Cy Pres Recipients adequately represents the geographic
- 10 diversity of the Settlement Class.
- 11 iv. The Settlement provides that any attorneys’ fees shall be paid from the
- 12 Settlement Fund in an amount authorized by the Court, and does not contain
- 13 any clear-sailing or reverter agreement. These terms support approval.
- 14 v. No agreements have been identified by the parties that influenced the terms
- 15 of the settlement by trading away possible advantages for the class in return
- 16 for advantages for others. This factor supports approval.
- 17 d. The Settlement, including its for *cy pres* distributions, treats all Settlement
- 18 Class Members equally with respect to one another, as all will benefit from the work of the *cy pres*
- 19 entities. Fed. R. Civ. P. 23(e)(2)(D).

20 9. The Releases set forth in Section VI of the Settlement Agreement are expressly

21 incorporated herein in all respects. The Releases are effective as of the Effective Date. Accordingly,

22 the Court orders pursuant to this Order, as of the Effective Date of the Settlement Agreement, and

23 as provided in the Settlement Agreement, that Settlement Class Representatives and all Settlement

24 Class Members (and each of their heirs, estates, trustees, principals, beneficiaries, parents,

25 guardians, executors, administrators, representatives, agents, attorneys, partners, successors,

26 predecessors-in-interest, and assigns and/or anyone claiming through them or acting or purporting

27 to act for them or on their behalf) (“Releasing Parties”) release all claims, demands, rights,

28 damages, arbitrations, liabilities, obligations, suits, debts, liens, and causes of action pursuant to

1 any theory of recovery (including, but not limited to, those based in contract or tort, common law
2 or equity, federal, state, or local law, statute, ordinance, or regulation) of every nature and
3 description whatsoever, including without limitation claims that were or could have been asserted
4 by a parent or guardian on behalf of a minor child or ward, ascertained or unascertained, suspected
5 or unsuspected, existing or claimed to exist, including unknown claims as of the Notice Date by all
6 of the Releasing Parties that are based on, or arise from, one or more of the same factual predicates
7 or theories of liability as alleged in the Consolidated Action or the Related Actions during the Class
8 Period, including but not limited to the collection, use, or disclosure of data identifying, comprising,
9 approximating, estimating, inferring, revealing, or relating to the Releasing Parties' location(s)
10 (collectively, the "Released Claims") against the Released Parties.

11 10. The Court received one objection on behalf of three objectors. (Dkt. 354.) The
12 objection is overruled for at least the following reasons. First, the *cy pres* distribution provides
13 substantial benefits to the Settlement Class. Objectors' arguments based upon the contention that
14 *cy pres* relief does not benefit the Settlement Class are rejected. Second, considering the size of the
15 Settlement, the Settlement Class size, and the administrative costs of a claims process, the *cy pres*
16 distribution is the appropriate next-best solution to distribute a non-distributable Settlement Fund.
17 Third, the *cy pres* distribution does not constitute compelled speech in violation of the First
18 Amendment because approval of a class action settlement is not state action and no speech was
19 compelled because Settlement Class Members were entitled to opt out of the Settlement Class.
20 Fourth, the record amply supports a finding that the requisite nexus exists between the Approved
21 *Cy Pres* Recipients and the interests of Class Members. Fifth, no close preexisting relationships
22 between either Plaintiffs, Defendant, or their respective counsel on the one hand, and the Approved
23 *Cy Pres* Recipients on the other undermines the fairness of the *cy pres* distribution. Sixth, the
24 Settlement Class meets the criteria for class certification for settlement purposes set forth in Federal
25 Rule 23(a) and (b), and the fact that the Net Settlement Fund would be distributed via *cy pres* does
26 not defeat the showing supported by the record that the representative parties have fairly and
27 adequately represented the interests of the Settlement Class and that a class action is the superior
28 means of adjudicating this controversy. Seventh, the attorneys' fee award sought (and awarded on

1 the terms set forth below) is reasonable in light of the diligent efforts Class Counsel and the
2 exceptional outcome, particularly with respect to the size of the Settlement Fund given the fact that
3 no claims for statutory penalties survived a motion to dismiss. Eighth, the Settlement's non-
4 monetary terms provide meaningful benefits to the Settlement Class that would not be available but
5 for this Settlement.

6 10. The individuals identified in **Exhibit A** attached hereto and incorporated by this
7 reference, submitted timely and valid Requests for Exclusion. As explained further in the
8 Settlement Agreement, these individuals shall not: (a) be bound by any orders or judgments entered
9 in connection with the Settlement; (b) be entitled to any relief under, or be affected by, the
10 Agreement; (c) gain any rights by virtue of the Settlement Agreement; or (d) be entitled to object
11 to any aspect of the Settlement.

12 11. Pursuant to the Settlement, the Net Settlement Fund shall be allocated to the
13 Approved *Cy Pres* Recipients identified in **Exhibit B** attached hereto. The Settlement
14 Administrator shall distribute the proceeds of the Net Settlement Fund in the percentages set forth
15 in Exhibit B within 60 days of the Effective Date.

16 12. The Court finds that an award of attorneys' fees in the total amount of
17 \$ _____ and reimbursement of \$ _____ in litigation expenses to Lead Class
18 Counsel is fair and reasonable and therefore approves such award. Lead Class Counsel has the sole
19 and absolute discretion to allocate this award among Lead Class Counsel and any other counsel that
20 represented Plaintiffs in the Consolidated Action or the Related Actions. Defendant shall have no
21 liability or other responsibility for allocation of any such Attorneys' Fees and Expenses Award.

22 13. The Court finds that a Service Award in the amount of \$ _____ to each
23 Settlement Class Representative is fair and reasonable and therefore approves such payment. Such
24 amounts shall be paid to the Settlement Class Representatives pursuant to and consistent with the
25 terms of the Settlement Agreement.

26 14. The Settlement Administrator shall be paid its final fees and costs from the
27 Settlement Fund, in the amount of \$ _____.

28

1 15. The Settlement’s non-monetary terms, as set forth in Exhibit C to the Settlement,
2 shall be implemented by Google in accordance with the terms of the Settlement Agreement.

3 16. The Consolidated Action and Related Actions, and all claims asserted in the actions,
4 are dismissed on the merits with prejudice.

5 17. The Parties, without further approval from the Court, are permitted to agree and
6 adopt such amendments or modifications of the Settlement Agreement and its implementing
7 documents so long as they are consistent in all material respects with the Settlement Agreement
8 and this Order.

9 18. The Parties are authorized to implement the terms of the Settlement.

10 19. The Settlement Agreement and the Settlement provided therein, and any
11 proceedings taken pursuant thereto, are not, and should not in any event be offered, received, or
12 construed as evidence, a presumption, a concession, or an admission by any Party of liability or
13 nonliability or of the certifiability or non-certifiability of a litigation class, or of any
14 misrepresentation or omission in any statement or written document approved or made by any
15 Party; provided, however, that reference may be made to the Settlement Agreement and the
16 Settlement provided for therein in such proceedings as may be necessary to effectuate the
17 provisions of the Settlement Agreement, as further set forth in that Agreement.

18 20. The Court shall retain jurisdiction relating to the administration, consummation,
19 enforcement, and interpretation of this Settlement Agreement, the Final Approval Order and Final
20 Judgment, any final order approving the Attorneys’ Fees and Expenses Award and Service Awards,
21 and for any other necessary purpose.

22
23 **IT IS SO ORDERED.**

24
25 Dated:

HON. EDWARD J. DAVILA
U.S. DISTRICT COURT JUDGE

Exhibit A



Exclusion Report
Google Location History

Number	First Name	Last Name
1	ALEXANDER	ZAJAC
2	MICHELLE	ZAJAC
3	KRISTINA	MARTIROSYAN
4	KESHREEYAJI	OSWAL
5	MATHEW	ALTWEGG
6	JUDY	STROUD
7	STAN	HUANG
8	CHRIS	LAND
9	CHARLES	STIMPERT

Exhibit B

EXHIBIT B*Cy Pres* Allocation

Pursuant to the Settlement, the Net Settlement Fund shall be allocated to the Approved *Cy Pres* Recipients identified below. The Settlement Administrator shall distribute the proceeds of the Net Settlement Fund in the percentages set forth in below within 60 days of the Effective Date:

Organization Name	
Berkman Klein Center for Internet & Society at Harvard	4%
MIT Internet Policy Research Initiative	4%
New York University's Information Law Institute	1%
Yale Law School's Information Society Project	4%
Fordham University Center on Law and Information Policy	2%
Center on Privacy & Technology at Georgetown Law	4%
UCLA Institute for Technology, Law & Policy	4%
The Markup	7%
Internet Archive	5%
ACLU Speech, Privacy, and Technology Project	14%
ACLU of N. Cal. Tech. & Civil Liberties Program	4%
Center for Democracy & Technology	6%
ConnectSafely	1%
Electronic Frontier Foundation	14%
FPF Education & Innovation Foundation	4%
Free Press	4%
Privacy Rights Clearinghouse	1%
Data & Society Research Institute	4%
National Cybersecurity Alliance	1%
Electronic Privacy Information Center (EPIC)	4%
Rose Foundation	13%
Total:	100%