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15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA  
17 SAN JOSE DIVISION

18 IN RE: GOOGLE LOCATION HISTORY  
19 LITIGATION

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

20 **SUPPLEMENT IN SUPPORT OF**  
21 **MOTION FOR PRELIMINARY**  
22 **APPROVAL OF CLASS ACTION**  
23 **SETTLEMENT**

24 Dept: Courtroom 4 - 5th Floor  
25 Judge: Hon. Edward J. Davila  
26 Date: October 26, 2023  
27 Time: 9:00 A.M.

(Declaration of Tina Wolfson filed  
concurrently herewith)

1 No opposition has been filed to Plaintiffs’ Motion for Preliminary Approval (ECF 327).  
2 However, Plaintiffs file this supplement to that motion in order to update the Court regarding  
3 submissions received from Proposed *Cy Pres* Recipients, and to disclose relationships Class  
4 Counsel have with any Proposed *Cy Pres* Recipient that may be subject to the Northern District’s  
5 Procedural Guidance for Class Action Settlements.

6 In accordance with Paragraph 41.3 of the proposed Settlement, the Parties plan to identify  
7 for the Court a proposed percentage of the Net Settlement Fund to be distributed to each Approved  
8 *Cy Pres* Recipient when Plaintiffs file a motion for final approval.

9 **1. Proposals Received from Proposed *Cy Pres* Recipients**

10 Proposals from the Proposed *Cy Pres* Recipients, submitted concurrently herewith as  
11 Exhibits A-Q to the Declaration of Tina Wolfson, are summarized as follows:

12 **A. American Civil Liberties Union Foundation (“ACLU”) (Speech, Privacy,  
13 and Technology (SPT) Project).**

14 The SPT Project formalizes the ACLU’s commitment to ensuring that civil liberties are  
15 enhanced by new advances in science and technology. The ACLU has been particularly successful  
16 in its recent work to protect digital and location privacy and is also recognized on other cutting-  
17 edge privacy issues, including facial recognition, biometrics, and various artificial intelligence (AI)  
18 and “big data”-driven surveillance approaches. The ACLU requests a \$9 million *cy pres* award to  
19 support its ongoing and robust internet privacy and security work over three years, including by  
20 hiring additional technologists to work alongside lawyers to advance this work.

21 **B. ACLU of Northern California (Technology and Civil Liberties Program)**

22 The ACLU of Northern California’s Technology and Civil Liberties Program is the first  
23 dedicated ACLU legal program at a state affiliate to defend and promote privacy and support social  
24 justice in the digital age. The ACLU of Northern California seeks *cy pres* funding to support its  
25 work for the following goals and objectives: continue to work on important internet privacy cases  
26 and support new litigation and other legal strategies utilizing California state constitutional law to  
27 better protect internet privacy; create more awareness and understanding about privacy issues and  
28 build stronger intersectional relationships to promote internet privacy; educate the public about how

1 personal information is commonly collected, retained, used, and disclosed and how people can  
2 better protect their internet privacy; and educate businesses about internet privacy issues and  
3 safeguards that can be implemented to better protect privacy rights. The ACLU of Northern  
4 California proposes three possible funding options, ranging from one to three years of *cy pres*  
5 funding, ranging from \$750,000 to \$2,250,000.

6 **C. Berkman Klein Center for Internet & Society at Harvard University**  
7 **(“BKC”)**

8 BKC is a diverse, interdisciplinary community of scholars, practitioners, technologists,  
9 policy experts, and advocates devoted to studying the Internet. BKC has had a perennial focus on  
10 privacy, data autonomy and protection, and surveillance. BKC seeks up to a \$6.5 million *cy pres*  
11 award that will be used over a three-year period to continue and expand its current projects like  
12 Privacy Tools, Youth and Media, and Digital Self Determination are leading research, education,  
13 policy, and development work, combining different methods of social science research, with a  
14 shared commitment to engage in efforts with a real-world impact. For example, Youth and Media  
15 is studying privacy in the context of newer (e.g., AI and generative AI) and more immersive  
16 technologies (e.g., virtual and augmented reality) with the aim of supporting youth, parents,  
17 educators, and policy-makers in better understanding privacy. The Digital Self Determination  
18 project is looking to expand its work on privacy in educational systems and through its participation  
19 in the International Network for Digital Self Determination, to support governments in  
20 understanding approaches and creating policies that support the best use of data for data subjects’  
21 autonomy. By resourcing existing projects more, connecting them with other projects, and creating  
22 new synergies across efforts, BKC will be able to both expand its privacy work and, more  
23 importantly, increase its impact on decision-makers and the public.

24 **D. Center for Democracy & Technology (“CDT”)**

25 CDT seeks to expand its Privacy & Data Program to better protect consumers’ privacy  
26 through legislation, regulation, and improved company practices. CDT requests *cy pres* funds in  
27 the amount of \$3 million over three years to support the salaries of key personnel, with some  
28 additional budget for travel and events. Such funds would allow CDT to scale up and expand work:

1 (i) to secure robust privacy protections for location information and other sensitive data by  
2 advancing comprehensive privacy legislation and effective regulations; (ii) to push companies to  
3 improve their data policies, practices, and designs through direct advocacy and public interest  
4 leadership in the multi-stakeholder for a where industry best practices and norms are set; and (iii)  
5 to support the growth & adoption of an online advertising ecosystem that moves away from  
6 pervasive tracking and respects users' privacy.

#### 7 **E. ConnectSafely**

8 ConnectSafely provides educational materials and programs to parents and children through  
9 guides, blog posts, videos, animations, podcasts and other media, including TV and radio  
10 appearances, newspaper and magazine stories, speeches and presentations. It operates a website,  
11 ConnectSafely.org, that reached more than 1.6 million unique visitors in 2022. ConnectSafely  
12 requests a total of \$1.5 million to be used over at least four years to support its goal to continue to  
13 provide parents, youth, and educators with practical information on how to protect young people in  
14 their use of connected technology regarding safety, security and privacy, including location sharing,  
15 digital civility, protection from scams as well as misinformation and disinformation. The initial  
16 year will be used for staffing and website development costs. Subsequent years will be used to  
17 operate the program, update materials, maintain the website and engage in ongoing education,  
18 including providing funds to educators and community organizations for local education programs.

#### 19 **F. Data & Society Research Institute**

20 The Data & Society Research Institute was founded in 2014 to advance strategies for change  
21 in how data-centric technologies are understood and governed in society. Data & Society seeks to  
22 leverage its research and engagement expertise to focus on the concept of “collective” or  
23 “networked” privacy. Data & Society’s goal is to explore collective privacy as both a social concept  
24 and a usable governance framework. Its work will help determine the gaps in our shared  
25 understanding of internet privacy for both individuals and groups, as well as potential remedies to  
26 address harms when they occur. Data & Society seeks a \$5 million *cy pres* award that will be used  
27 to sustain and greatly increase the organization’s capacity for dedicated research and engagement  
28

1 on internet privacy, including new research into the undertheorized area of collective privacy as  
2 well as direct collaborations with policymakers and government leaders.

### 3 **G. Electronic Frontier Foundation (“EFF”)**

4 EFF conducts ground-breaking investigations into privacy-invading technology, advocates  
5 for meaningful policy change in both the private and public sectors, creates privacy-enhancing  
6 tools, and educates the public on how to protect themselves from unnecessary surveillance. EFF  
7 seeks support for its work to promote the protection of internet privacy and requests \$9 million for  
8 general operating support over three years. EFF’s ongoing/long-term goals are to: pass  
9 comprehensive data privacy legislation by educating the public and decision-makers; support  
10 solutions that protect individual digital privacy and human rights by identifying and educating the  
11 public and decision-makers about emerging threats and best practices; and push standards among  
12 technology developers that center user privacy, including through creation of public interest  
13 technology and protocols. EFF’s goals the next one to two years are to: push for the phasing out of  
14 third party tracking cookies, while preventing the implementation of other equally invasive  
15 technologies that may emerge; educate the public on vulnerabilities in electronic health records  
16 systems; call for more transparency in data collection and universal opt-out tools for internet-  
17 connected devices (such as cars) and guide the development of new privacy standards; promote  
18 student privacy and access to information by addressing problematic content blockers and rapidly  
19 evolving artificial intelligence (AI) tools; and to achieve ten or more legal and legislative victories  
20 organization-wide each year.

### 21 **H. Fordham University Center on Law and Information Policy (“CLIP”)**

22 CLIP brings together scholars, the bar, the business community, technology experts, the  
23 policy community, students, and the public to address and assess policies and solutions for cutting-  
24 edge issues that affect the evolution of the information economy. CLIP requests a *cy pres* award up  
25 to \$2,022,927.16, which it will use to support the following four projects: 1) *Privacy Educators*  
26 *Program*: a revision and expansion of an existing CLIP-developed curriculum designed to educate  
27 elementary and middle school students about online privacy; 2) *Educating Educators About*  
28 *Privacy-by-Design*: A new program aimed at training K-12 educators and administrators about

1 privacy concepts as they design or purchase education and monitoring tools that may access or  
2 collect data about students; 3) *Making Data Breach Notifications Work: A Large Language Model*  
3 *Approach to Safeguarding Consumer Privacy*: A new project that will leverage advancements in  
4 machine learning and natural language processing to translate complex data breach notifications  
5 into simple language, and evaluate how effective simplified notifications are in encouraging people  
6 to take remedial action in the event of a breach; and 4) *Global South Privacy Researcher*  
7 *Fellowship*: A new program that will allow CLIP to host internet privacy scholars from regions in  
8 the Global South for academic-year-long research fellowships.

9 **I. The Future of Privacy Forum Education & Innovation Foundation**  
10 **(“FPF”)**

11 FPF brings together experts and thought leaders from industry, academia, and government  
12 to explore the challenges posed by emerging technologies and develop privacy protections, ethical  
13 norms, and workable best practices. FPF publishes original research and analysis, educates  
14 stakeholders, and convenes thought leaders to identify pragmatic steps that improve internet  
15 privacy. FPF seeks an award of *cy pres* funds in the amount of \$2,999,214 to support a three-year  
16 project that will: 1) identify and analyze the privacy risks associated with the collection and use of  
17 sensitive personal data - with a particular focus on location data - by organizations; 2) identify  
18 pragmatic strategies that can mitigate those risks; and 3) promote technical, legal, and policy tools  
19 that can implement the mitigation strategies.

20 **J. The Internet Archive**

21 The Internet Archive works with libraries and allied organizations (e.g., local governments,  
22 universities, nonprofits) to support everyday people throughout the United States as they navigate  
23 internet privacy challenges. The Internet Archive requests a total of \$2,997,415 to launch the Center  
24 for Next Generation Data Literacy, which will: convene multi-sector privacy experts (e.g.,  
25 academic, government, NGO, private) and community representatives to determine primary  
26 privacy challenges and opportunities; produce openly accessible, expert-informed privacy  
27 education materials and policy work that supports delivery of free training and events for a diverse  
28 set of affected communities throughout the United States; and deliver 250-300 free privacy

1 workshops and events in partnership with Regional Data Privacy Coalitions (West, Midwest, South,  
2 East). At least 5,000-6,000 individuals will have participated in in-person or virtual workshops.  
3 Workshop participants will come from all 50 States. Launching the Center for Next Generation  
4 Data Literacy will bring together the strengths of the library community and allied organizations in  
5 order to educate and empower individuals to protect their privacy online.

#### 6 **K. The Markup**

7 The Markup is a nonprofit newsroom with the motto “Big Tech Is Watching You. We’re  
8 Watching Big Tech.” The Markup uses its expertise in tech to investigate tech and internet privacy  
9 in a time of rapid, unchecked innovation. Among the Markup’s goals are to create work that is  
10 actionable and drives real-world impact, to launch evidence- and people-driven investigations that  
11 hold technologies and their decision-makers to account, and to tell investigative, journalistic stories  
12 in ways that instill a feeling of agency among readers. The Markup requests an award of up to \$6  
13 million to be used over a two-year period. Resources from a *cy pres* award will be used to  
14 investigate, report on, and create tools to address issues of internet privacy and security, and what  
15 the public can do to protect itself.

#### 16 **L. MIT Internet Policy Research Initiative (“IPRI”)**

17 IPRI has established a track record of technology policy leadership and government  
18 engagement on issues such as encryption and surveillance, AI governance, cybersecurity, and  
19 privacy since its founding in 2015. IPRI requests a total of \$2,467,500 to launch a new MIT Privacy  
20 Engineering Action Lab (PEAL)—a coordinated package of computer science research, user  
21 education and professional development materials that will provide new technical accountability  
22 measures, quantitatively rigorous user studies that identify both new dark patterns and  
23 recommended affirmative design practices, and new educational approaches for computer science  
24 undergraduates as well as professional development education for a developing new job category,  
25 Privacy Engineers, who will contribute to much of the technical privacy environment for users in  
26 the future.



1                   **M. National Cybersecurity Alliance (“NCA”)**

2           NCA stands for the safe and secure use of all technology. In 2004, NCA partnered with the  
3 Department of Homeland Security for the first Cyber Security Awareness Month to raise public  
4 knowledge of best cyber practices. NCA leads the United States’ Data Privacy Day efforts. NCA  
5 expanded this initiative to Data Privacy Week in 2021. NCA requests \$500,000 to support its Data  
6 Privacy Week Awareness Campaign. NCA’s goal is twofold: to help citizens understand that they  
7 have the power to manage their data and to help organizations understand why it is important that  
8 they respect their users’ data. Funds will be used to continue and enhance the scope of NCA’s Data  
9 Privacy Week Campaign efforts. Specifically, additional funding can expand the reach of this  
10 campaign to the general public, involve more private sector companies, and build specialized  
11 materials for privacy officers at companies. PSA’s, personalized relationship building to foster  
12 collaboration and connections between sectors, additional events, and more can be added with  
13 additional funding.

14                   **N. New York University Information Law Institute (“ILI”)**

15           ILI is an interdisciplinary academic center for the study of law, policy, and digital  
16 technology. The ILI seeks an award of \$404,970, and proposes to use *cy pres* funds to support the  
17 core programs of the ILI by offering two two-year ILI Fellowships, with administrative support, to  
18 postdoctoral researchers who submit outstanding proposals to conduct research on personal data  
19 privacy online, and by organizing two workshops to convene privacy experts at NYU. In particular,  
20 ILI seeks one fellow with a technical degree (e.g., computer science, data science, information  
21 science) and one with a degree in law, policy, or another related field, who would complement each  
22 other’s expertise while working on independent and, potentially, collaborative projects.

23                   **O. Privacy Rights Clearinghouse (“PRC”)**

24           PRC promotes the protection and advancement of internet privacy through each of its  
25 programs. PRC’s work is intended to advance internet privacy by providing access to information  
26 about data privacy rights for individuals and community organizations, creating data-privacy-  
27 centered resources to inform public policy and privacy research, and advancing access to privacy  
28 rights for all people. PRC requests \$1,950,000 to accomplish the following over a three-year period:



1) PRC seeks to enhance educational content and outreach capacity by expanding and updating published consumer education materials on [privacyrights.org](http://privacyrights.org), dedicating more resources to building strong relationships with community-based organizations, and improving website content design and development; 2) PRC seeks to support and enhance consumer and policy advocacy by advocating for strong privacy protections and improved data practices and offering paid internships; and 3) PRC seeks to improve existing research tools and create new tools and reports by maintaining and improving PRC’s Chronology of Data Breaches and Data Broker Directory, and possibly developing new tools and databases based on identified needs during the funding period, as well as publishing new reports and update existing reports on an annual basis.

**P. The Rose Foundation for Communities and the Environment**

The Rose Foundation specializes in distributing *cy pres* funds for a wide range of charitable work that has a direct nexus with the class action settlement. The Rose Foundation utilizes its grant-making experience and deep knowledge of privacy issues and consumer education to conduct a public, competitive, and transparent national grant-making process designed to identify appropriate recipients whose work has a direct nexus to the interests of class members and the goals of the underlying litigation. The Rose Foundation’s goal for this *cy pres* opportunity would be to reach out to hundreds of privacy organizations throughout the country and to solicit proposals squarely aimed at the on-line privacy and data security nexus in this matter. The Rose Foundation envisions awarding funds in a series of national grantmaking opportunities and proposes three possible funding options ranging from \$3 million \$10 million, as the Court may deem appropriate.

**Q. Yale Law School Information Society Project (“ISP”)**

The ISP is a community of interdisciplinary scholars—comprised of resident fellows, visiting fellows, student fellows, and Yale University faculty—exploring cutting-edge issues at the intersection of law, technology, and society. The ISP requests a \$2,639,646 *cy pres* award to support its work to address privacy and related rights. Funds will be used to support two research fellows per year who will focus on privacy and related questions in the algorithmic society. The ISP fellowship has a long and successful history of producing highly influential scholars and scholarship. Funds will also be used to support the Tech Accountability Project (TAP) which is part

1 of the larger Media Freedom and Information Access Clinic (MFIA); it focuses on the regulation  
2 of social media companies and digital platforms. The Clinical Director and clinical fellows are  
3 experienced lawyers who work with law students on drafting legislation, producing comments for  
4 administrative agencies, drafting amicus briefs, and litigation. Funding and resources would permit  
5 MFIA to take on more cases and policy projects that focus on privacy and algorithmic justice.

## 6 **2. Class Counsel’s Relationship with Any Proposed Cy Pres Recipient**

7 Guideline 8 of the Northern District of California’s Procedural Guidance for Class Action  
8 Settlements requires the parties to “identify any relationship they or their counsel have with the  
9 proposed cy pres recipients.”

10 Lief Cabraser Heimann & Bernstein, LLP (“LCHB”) makes the following disclosures:

- 11 • American Civil Liberties Union (“ACLU”). LCHB from time to time collaborates with  
12 the ACLU and its affiliated entities, including the ACLU of Northern  
13 California. LCHB, including co-lead counsel in this matter Michael W. Sobol, co-  
14 counseled with the ACLU in prosecuting a mortgage lending discrimination case filed  
15 in 2012 and resolved in 2017: *Adkins v. Morgan Stanley*, 12-cv-7667 (S.D.N.Y.). LCHB  
16 did not represent the specific ACLU project (the Speech, Privacy, and Technology  
17 Project) proposed as a cy pres recipient in this settlement. While counsel did not identify  
18 other past co-counsel relationships to disclose, LCHB will likely explore future  
19 collaborations as co-counsel with the ACLU and its affiliated entities.
- 20 • Fordham University Center on Law and Information Privacy. LCHB partner Douglas I.  
21 Cuthbertson has served on the organization’s Board of Advisors since late 2020. Mr.  
22 Cuthbertson has not appeared in this matter, and was not involved in the selection of  
23 Fordham University as a proposed cy pres recipient.
- 24 • Center for Democracy & Technology. LCHB partner Nicholas Diamand served on the  
25 organization’s Advisory Board from approximately 2014 to 2019, when he terminated  
26 his service as a member of the Advisory Board.
- 27 • LCHB attorneys of record in this matter have appeared on behalf of the class in the  
28 following cases, identified by the specified Proposed Cy Pres Recipients, from which

1 they previously received *cy pres* funds in recent years: *In re Google LLC Street View*  
2 *Electronic Communications Litigation*, No. 10-md-2184 (N.D. Cal. 2023); American  
3 Civil Liberties Union Foundation, MIT Internet Privacy Research Initiative; *In re Plaid*  
4 *Inc. Privacy Litigation*, No. 4:20-cv-03056-DMR (N.D. Cal. 2023)); Privacy Rights  
5 Clearinghouse.

6 Ahdoot & Wolfson, PC (“Ahdoot Wolfson”) has served as class counsel in the following  
7 case, identified by the specified Proposed Cy Pres Recipient, from which it previously received *cy*  
8 *pres* funds:

- 9 • *Lanchester v. Washington Mutual Bank*, No. 429754 (San Francisco Sup. Ct. 2012):  
10 Berkman Klein Center for Internet & Society at Harvard University.

11 Plaintiffs stand ready to answer any questions the Court may have, and continue to request  
12 that the Court grant the motion for preliminary approval in its entirety and preliminarily approve  
13 the proposed Settlement.

14  
15 Respectfully submitted,

16 Dated: October 24, 2023

/s/ Tina Wolfson  
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25 Dated: October 24, 2023

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**SIGNATURE ATTESTATION**

I am the ECF User whose identification and password are being used to file the foregoing Supplement in Support of Motion for Preliminary Approval of Proposed Class Action Settlement; Memorandum of Points and Authorities in Support Thereof. Pursuant to L.R 5-1(i)(3) regarding signatures, I, Tina Wolfson attest that concurrence in the filing of this document has been obtained.

DATED: October 24, 2023

/s/ Tina Wolfson  
Tina Wolfson