

Exhibit B

1 **SIRI & GLIMSTAD LLP**

2 Kyle McLean (SBN #330580)

3 Email: kmclean@sirillp.com

4 Mason Barney (admitted *pro hac vice*)

5 Email: mbarney@sirillp.com

6 Tyler Bean (admitted *pro hac vice*)

7 Email: tbean@sirillp.com

8 745 Fifth Ave, Suite 500

9 New York, NY 10151

10 Telephone: 212-532-1091

11 Facsimile: 646-417-5967

12 Nicholas A. Migliaccio

13 Email: nmigliaccio@classlawdc.com

14 Jason S. Rathod

15 Email: jrathod@classlawdc.com

16 **MIGLIACCIO & RATHOD LLP**

17 412 H. St. NE, Suite 302

18 Washington, DC 20002

19 Telephone: (202-470-3520

20 Facsimile: 202-800-2730

21 Kenneth Grunfeld

22 Email: grunfeld@kolawyers.com

23 **KOPELOWITZ OSTROW FERGUSON**

24 **WEISELBERG GILBERT**

25 One West Las Olas Blvd., Suite 500

26 Fort Lauderdale, Florida 33301

27 Telephone: 954-525-4100

28 *Attorneys for Plaintiffs and the Class*

1 **THE UNITED STATES DISTRICT COURT**
2 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

3
4 Lead Case No. 2:23-cv-07498

5
6 *In re: Vivendi Ticketing US LLC,*
7 *d/b/a See Tickets Data Security*
8 *Incident*

9 **PLAINTIFFS' NOTICE OF**
10 **UNOPPOSED MOTION FOR**
11 **PRELIMINARY APPROVAL OF CLASS**
12 **ACTION SETTLEMENT**

13
14 **DATE:** **June 17, 2024**
15 **TIME:** **1:30 pm**
16 **COURTROOM:** **9 B**
17 **JUDGE:** **Hon. Cormac J. Carney**

1 **TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF**
2 **RECORD:**

3 **PLEASE TAKE NOTICE THAT** on June 17, 2024 at 1:30 p.m., or as soon
4 thereafter as counsel may be heard, before the Honorable Cormac J. Carney, Ronald
5 Reagan Federal Building and United States Courthouse, 411 West Fourth Street,
6 Courtroom 9 B, Santa Ana, CA, 92701-4516, Plaintiffs will and hereby do move
7 this Court, pursuant to Federal Rule of Civil Procedure 23, for an order granting
8 Plaintiffs' Motion for Preliminary Approval of Class Action Settlement.

9 Plaintiffs base their Motion for Preliminary Approval of Class Action
10 Settlement (their "Motion") on: this Notice; the Memorandum of Points and
11 Authorities filed in support thereof; the Settlement Agreement and Release
12 ("Settlement Agreement") and all exhibits attached thereto; the Declaration of
13 Mason A. Barney in Support of Plaintiffs' Motion for Preliminary Approval of the
14 Class Action Settlement; all other records and papers on file in this action; any oral
15 argument on their Motion; and all other matters properly before the Court.

16 Plaintiffs seek an order pursuant to Federal Rule of Civil Procedure 23(b)(3)
17 certifying the Settlement Class more fully described in the Settlement Agreement,
18 filed concurrently herewith; preliminarily approving the settlement as fair,
19 reasonable, and adequate; directing notice to be disseminated to the Settlement
20 Class in the form and manner proposed by the parties as set forth in the Settlement
21 Agreement and attached as Exhibits A and B thereto; appointing Kroll Settlement
22 Administration LLC to serve as the Settlement Administrator; appointing Plaintiffs
23 as Class Representatives and their attorneys as Class Counsel; and setting a hearing
24 date and schedule for final approval of the settlement and consideration of Class
25 Counsel's forthcoming motion for an award of fees, costs, expenses, and service
26 awards.

27 This Motion is made following the conference of counsel pursuant to L.R. 7-
28 3 which took place at the mediation held on March 11, 2024, and during discussions

1 pertaining to the settlement held at numerous times and on numerous dates
2 thereafter. Defendant does not oppose certification of the Settlement Class solely
3 for purposes of settlement.

4
5 DATED: May 24, 2024

Respectfully Submitted,

6 /s/ Mason A. Barney

7 Mason A. Barney (*pro hac vice*)
8 Tyler Bean (admitted *pro hac vice*)
9 Kyle McLean (SBN #330580)

10 **SIRI & GLIMSTAD LLP**

11 745 Fifth Ave, Suite 500
12 New York, NY 10151
13 Telephone: 212-532-1091
14 Facsimile: 646-417-5967

15 Nicholas A. Migliaccio (*pro hac vice*)

16 Jason S. Rathod

17 **MIGLIACCIO & RATHOD LLP**

18 412 H. St. NE, Ste. #302
19 Washington, D.C. 20002
20 Telephone: 202-470-3520
21 Facsimile: 202-800-2730

22 Kenneth Grunfeld (*pro hac vice*)

23 **KOPELOWITZ OSTROW FERGUSON**
24 **WEISELBERG GILBERT**

25 One West Las Olas Blvd., Suite 500
26 Fort Lauderdale, Florida 33301
27 Telephone: 954-525-4100
28 Facsimile: 954-525-4300

*Attorneys for Plaintiffs and
the Proposed Classes*

1 **SIRI & GLIMSTAD LLP**

2 Kyle McLean (SBN #330580)

3 Email: kmclean@sirillp.com

4 Mason Barney (admitted *pro hac vice*)

5 Email: mbarney@sirillp.com

6 Tyler Bean (admitted *pro hac vice*)

7 Email: tbean@sirillp.com

8 745 Fifth Ave, Suite 500

9 New York, NY 10151

10 Telephone: 212-532-1091

11 Facsimile: 646-417-5967

12 Nicholas A. Migliaccio

13 Email: nmigliaccio@classlawdc.com

14 Jason S. Rathod

15 Email: jrathod@classlawdc.com

16 **MIGLIACCIO & RATHOD LLP**

17 412 H. St. NE, Suite 302

18 Washington, DC 20002

19 Telephone: (202-470-3520

20 Facsimile: 202-800-2730

21 Kenneth Grunfeld

22 Email: grunfeld@kolawyers.com

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24 **WEISELBERG GILBERT**

25 One West Las Olas Blvd., Suite 500

26 Fort Lauderdale, Florida 33301

27 Telephone: 954-525-4100

28 *Attorneys for Plaintiffs and the Class*

**THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

Lead Case No. 2:23-cv-07498

*In re: Vivendi Ticketing US LLC,
d/b/a See Tickets Data Security
Incident*

**PLAINTIFFS’ MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF PLAINTIFFS’
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

DATE: June 17, 2024
TIME: 1:30 p.m.
COURTROOM: 9 B
JUDGE: Hon. Cormac J. Carney

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1 **I. INTRODUCTION**

2 Plaintiffs, Mandi Peterson, Scott Fitzgerald, Zachary Richmond, Tom
3 Loughead, Mason Verderame, Katie Jezierny, Rian Bodner, Christopher Aragon,
4 and Candice Zinner (collectively “Plaintiffs”) submit this Unopposed Motion for
5 Preliminary Approval of Class Action Settlement and Memorandum in Support.
6 Defendant Vivendi Ticketing US LLC d/b/a See Tickets (“See Tickets” or
7 “Defendant”) does not oppose certification of the Settlement Class and the
8 California Settlement Sub-Class solely for purposes of settlement.¹ For the reasons
9 discussed below, the settlement is fair, reasonable, and adequate, and the Court
10 should preliminarily approve it so that notice may be issued to the Class.

11 **II. STATEMENT OF FACTS**

12 This matter concerns a putative class action arising out of an alleged Data
13 Security Incident that See Tickets discovered in or around May 2023. *See*
14 Consolidated Class Action Complaint (“CCAC”), ECF No. 22, ¶ 4. Plaintiffs assert
15 that See Tickets learned that an unknown third party obtained unauthorized access
16 to its customer data between February 28, 2023 and July 2, 2023 through a
17 “skimmer” program injected on the See Tickets website. *Id.* Skimmer programs are
18 brief JavaScript codes injected into website checkout pages primarily to steal
19 buyers’ payment card details. *Id.* This was See Tickets’ second such data breach,
20 with the previous breach occurring between June 25, 2019, and January 8, 2022.

21 Plaintiffs allege that because of the Data Security Incident, unauthorized
22 users accessed their and Class Members’ personal identifying information (“PII”),
23 including names, addresses, and payment card information. *See* CCAC ¶¶ 2, 7, 22,
24 27. On or around September 6, 2023, See Tickets sent notice of the Data Security
25

26
27 ¹ Capitalized terms have the same definitions as in the Settlement Agreement and Release, dated
28 May 22, 2024 (the “Settlement Agreement” or “SA”), attached to the Declaration of Mason A. Barney in Support of the Motion for Preliminary Approval of Class Action Settlement (“Barney Decl.”) as Exhibit 1.

1 Incident to approximately 323,498² individuals whose PII was subject to
2 unauthorized access. *See* Barney Decl., ¶ 11.

3 **III. PROCEDURAL HISTORY**

4 As noted, *See Tickets* previously suffered a similar data breach. That first
5 data breach was the subject of a prior litigation in this Court entitled *Carter v.*
6 *Vivendi Ticketing US LLC d/b/a See Tickets*, Case No. 8:22-cv-01981-CJC-DFM
7 (C.D. Cal.) (“*See Tickets I*”), which affected 437,310 individuals. *See Tickets I*,
8 ECF No. 38-7 ¶¶ 5-10. This Court entered an order granting final approval of a
9 settlement in *See Tickets I* on October 30, 2023. *See Tickets I*, ECF No. 53.

10 Just a month earlier, Plaintiff Mandi Peterson filed her Complaint in the
11 instant action on September 11, 2023. ECF No. 1. An additional four complaints
12 were later filed, and on October 2, 2023, the Court consolidated all five cases. ECF
13 No. 12. Plaintiffs filed the CCAC on December 1, 2023. This Court granted *See*
14 *Tickets* additional time to respond to the CCAC in order to permit the Parties time
15 to explore mediation. ECF Nos. 26-27, 29-30. The Parties selected Bob Meyer of
16 JAMS, a well-regarded private mediator, to conduct the mediation. Barney Decl.
17 ¶ 4. Prior to the March 11, 2024, mediation, the Parties exchanged informal
18 discovery and mediation briefs. Barney Decl. ¶¶ 5, 9. At the mediation, the Parties
19 spent the entire day negotiating the material terms of a resolution of the class
20 claims, at the end of which, the Parties reached agreement on all material terms of
21 this settlement. *Id.* ¶ 5. The Parties quickly apprised the Court of the settlement.
22 *See* ECF No. 31.

23 **IV. THE SETTLEMENT TERMS**

24 **A. Proposed Settlement Classes**

25 The settlement will provide relief for the following Settlement Class
26 represented by Plaintiffs:

27 _____
28 ² *See Tickets* sent direct notice to 311,978 individuals, and utilized substitute notice for the
remaining 11,520 individuals.

1
2 All individuals in the United States whose information
3 was accessed in the Data Security Incident and who
4 received notice of the Data Security Incident from See
5 Tickets.

6 SA § II. B. The settlement also provides for a California Settlement Sub-Class
7 represented by Plaintiff Christopher Aragon defined as follows:

8 All individuals residing in California as of the Notice Date
9 whose information was accessed in the Data Security
10 Incident and who received notice of the Data Security
11 Incident from See Tickets.

12 *Id.* § II. B. Collectively, the foregoing are referred to herein as the “Settlement
13 Classes” and collectively the members of those classes are the “Members of the
14 Settlement Classes” or “Settlement Class Members.”

15 **B. Settlement Benefits to Settlement Class Members**

16 The settlement agreed to here is structurally similar to the settlement
17 previously approved in the *See Tickets I* matter. *See See Tickets I*, ECF No. 31-3.
18 Among the notable differences between the instant settlement and the settlement in
19 *See Tickets I* is the size of the common fund. Even though the instant matter
20 concerns more than 100,000 fewer individuals than were involved in *See Tickets I*
21 (323,498 individuals here verses 437,310 individuals in *See Tickets I*), *See Tickets*
22 has agreed to create a larger common fund here. *See See Tickets I*, ECF No. 53 at
23 p. 2. In *See Tickets I* the company created a \$3 million fund, but the instant
24 settlement requires *See Tickets* to create a \$3,250,000 settlement fund. SA § II.E.2.
25 The larger fund and smaller class means that the per-person value of the instant
26 settlement is more than \$3 higher than the settlement in *See Tickets I* (\$6.86 in *See*
27 *Tickets I* versus \$10.04 in the instant settlement).

28 The instant settlement first provides reimbursement to those who lost money

1 as a result of the Data Security Incident by: (1) reimbursing for documented,
2 ordinary and unreimbursed out-of-pocket expenses up to \$2,000 per Class Member;
3 and (2) reimbursement of extraordinary expenses up to \$5,000 per Class Member.
4 *Id.* § II.H.2.b.(i)-(ii). Second, it provides a California Statutory Award benefit of
5 \$100 per California Settlement Sub-Class Member. *Id.* § II.H.2.a. Attorneys’ fees,
6 costs and expenses, and a service award for Plaintiffs, along with administrative
7 costs, will also be paid for out of the Settlement Fund. *Id.* § II.E.2.

8 Third, Settlement Class Members may choose between (1) 36 months of
9 three-bureau credit reporting, *or* (2) a cash payment equal to a *pro rata* distribution
10 of the remainder of the settlement fund, up to \$100 per person. *Id.* § II.H.2.b.(iii).
11 To the extent additional funds remain after calculating payment of the above
12 distributions, a second cash distribution on a *pro rata* basis may be added to the
13 payment to every claimant, so long as it will not be *de minimis*. *Id.* § II.H.2.c. Any
14 remaining money will be distributed as a *cy pres* award. *Id.* § II.H.3.

15 **C. Remedial Measures**

16 See Tickets has also agreed to implement the following security measures:
17 (a) creation of a position responsible for information security with a person qualified
18 for the position (“CISO”), who will lead the information security program with
19 responsibility to coordinate and be responsible for See Tickets’ program(s) to protect
20 the security of its customers’ payment card data and PII, including See Tickets’
21 compliance with PCI DSS; (b) performance of a security assessment for the
22 organization based on an established industry standard conducted at least annually
23 by an independent third party; (c) a company-wide encryption policy that provides
24 for encryption of customer payment card data to include encryption and tokenization
25 of payment card data at rest and in movement; (d) a firewall on all See Tickets US
26 websites; (e) retention of an established third-party IT security vendor to conduct
27 penetration testing at least twice a year; (f) endpoint protection and anti-malware
28 software or tools on all servers and employee laptops with monitoring, reporting,

1 and alerts for malware; (g) implementation of multi-factor authentication for
2 employee access to corporate systems or other systems containing payment card
3 data; (h) training for all employees regarding safe cyber security practices, provided
4 twice a year; (i) encouraging personnel to report any concerns about See Tickets’
5 information security systems to the CISO or some other designated employee of the
6 company; and (j) reviewing and updating the company’s data retention policy
7 annually. *Id.* § II.E.3. The cost of these security measures will be borne by See
8 Tickets separate from the settlement fund. *Id.* These security improvements are in
9 addition to, and different from, the security measures See Tickets already agreed to
10 implement in the *See Tickets I* matter (which Plaintiffs understand had not been fully
11 implemented at the time of the instant Security Incident), and are intended to ensure
12 that the company does not suffer another similar data breach. *See Tickets I*, ECF
13 Nos. 31-3 ¶ II.E.3, 53 p. 4.

14 **D. Class Notice and Settlement Administration**

15 Notice will be given to the Settlement Classes via individual notice, which
16 will be primarily via emailing the Class Notice, attached to the Settlement
17 Agreement as Exhibit A, to all Settlement Class Members. The Class Notice will
18 provide a link to the Claim Form, which is attached to the Settlement Agreement
19 as Exhibit C. SA § II.J.2; *see also* Declaration of Scott M. Fenwick of Kroll
20 Settlement Administration LLC in Connection with Preliminary Approval of
21 Settlement, which is attached as Exhibit 2 to the Barney Decl. (the “Fenwick
22 Decl.”). If any emails are returned as undeliverable, or the email addresses are
23 otherwise unusable, or if Plaintiffs’ Counsel and the Settlement Administrator
24 agree that additional mailing notice is necessary, then the Settlement Administrator
25 may provide notice to some class members by U.S. mail in substantially the form
26 of the Class Notice. SA § II.J.2.

27 At least 65 days after the Notice Date, the Settlement Administrator will
28 issue a reminder notice by email, in the form attached to the Settlement Agreement

1 as Exhibit A with appropriate edits showing that it is a reminder (as agreed to by
2 the Parties). SA § II.J.2. This reminder notice will serve to assist class members in
3 remembering to fill out a claim form.

4 The online Claim Form, which is attached to the Settlement Agreement as
5 Exhibit C, will also be on the Settlement Website, along with the Long Form
6 Notice, attached to the Settlement Agreement as Exhibit B. The Settlement
7 Agreement and Plaintiffs’ eventual motions for attorneys’ fees and expenses and
8 final approval will also be on the Settlement Website. *Id.* § II.G. Furthermore, a
9 toll-free number and P.O. Box will be available to address inquiries. *Id.*

10 Consistent with Fed. R. Civ. P. 23(c)(2)(B), the Notice is clear and concise
11 and directly apprises Settlement Class Members of the information needed to make
12 a claim, opt out, or object. *See* SA §§ II.J., II.K., II.L., and Exs. A & B.

13 The Parties retained Kroll Settlement Administration LLC (“Kroll”), a
14 nationally recognized class action settlement administrator, to serve as Settlement
15 Administrator. SA § II.G. Kroll estimates that notice and administration costs will
16 total approximately \$140,000.00. Fenwick Decl. ¶ 18.

17 **E. Attorneys’ Fees and Expenses**

18 Plaintiffs will seek an award of attorneys’ fees. Under the Settlement
19 Agreement, Plaintiffs must apply for attorneys’ fees no later than one week prior
20 to the deadline for objections. SA § II.F.1. Plaintiffs intend to seek no more than
21 25% of the \$3,250,000 Settlement Fund, *i.e.*, \$812,500, to cover their fees and
22 expenses. *See* Barney Decl. ¶ 7. *Sypherd v. Lazy Dog Rests., LLC*, No. 5:20-cv-
23 00921-FLA (KKx), 2023 US Dist LEXIS 23257, at *12 (C.D. Cal. Feb. 10, 2023)
24 (“the Ninth Circuit has established 25% of the total recovery as a benchmark award
25 for attorneys’ fees.”).

26 **F. Named Plaintiffs Service Payments**

27 Plaintiffs have been vital in litigating this matter, including by providing
28 their personal information and documents to counsel, and now support the

1 Settlement. *See* Barney Decl. ¶ 8. Plaintiffs also intend to petition the Court for a
2 service award of no more than \$2,500 each. *See* SA § II.F.2.

3 **G. Release**

4 Upon entry of the Final Approval Order, the Settlement Class Members will
5 be deemed to have fully and finally released See Tickets. SA § II.I. The “Released
6 Claims,” as defined in the Settlement Agreement, are limited to claims “arising out
7 of or relating to actual or alleged facts, transactions, events, matters, occurrences,
8 acts, disclosures, statements, representations, omissions or failures to act relating
9 to the Data Security Incident[.]” *Id.* § II.A.33. The Release shall not include the
10 claims of Settlement Class Members who timely exclude themselves.

11 **V. LEGAL ARGUMENT**

12 Plaintiffs bring this motion pursuant to Fed. R. Civ. P. 23(e) under which
13 court approval is required to finalize a class action settlement. Courts in this Circuit
14 endorse a three-step procedure for approval of class action settlements:
15 (1) preliminary approval of the proposed settlement, followed by (2) dissemination
16 of court-approved notice to the class, and (3) a final fairness hearing at which class
17 members may be heard regarding the settlement and at which evidence may be
18 heard regarding the settlement’s fairness, adequacy, and reasonableness. Manual
19 for Complex Litig. (Fourth) (2004) § 21.63.

20 Plaintiffs request that the Court take the first step and grant preliminary
21 approval of the proposed Settlement Agreement. Federal courts strongly favor and
22 encourage settlements, particularly in class actions and other complex matters
23 where the inherent costs, delays, and risks of continued litigation might otherwise
24 overwhelm any potential benefit the class could hope to obtain. *See Class Plaintiffs*
25 *v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992) (noting the “strong judicial
26 policy that favors settlements”).

27 The Manual for Complex Litigation (Fourth) advises that in cases presented
28 for both preliminary approval and class certification, the “judge should make a

1 preliminary determination that the proposed class satisfies the criteria.” § 21.632.
2 Because the court is evaluating class certification here only in the context of
3 settlement, the court’s evaluation is different than in a case that has not yet settled.
4 *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997). In some ways, the
5 court’s review of certification of a settlement-only class is lessened: as no trial is
6 anticipated in a settlement-only class case, case management issues need not be
7 addressed. *See id.*

8 Plaintiffs seek certification of a Settlement Class of approximately 323,498
9 individuals consisting of all those within the above class definition. *Supra* p. 3; SA
10 § II.A.31. In addition, Plaintiffs seek certification of a California Settlement Sub-
11 Class of approximately 66,722 individuals fitting the definition provided earlier.
12 *Supra* p. 3; SA § II.A.7.

13 **A. The Settlement Satisfies Rule 23(a).**

14 The Court should first confirm that the underlying Settlement Classes meet
15 the requirements of Rule 23(a). *See Amchem*, 521 U.S. at 620. The requirements
16 are well established: numerosity, commonality, typicality, and adequacy—each of
17 which is met here. Fed. R. Civ. P. 23(a); *Ellis v. Costco Wholesale Corp.*, 657 F.3d
18 970, 979–80 (9th Cir. 2011).

19 **1. The Settlement Classes are Sufficiently Numerous.**

20 Courts find numerosity where there are so many class members as to make
21 joinder impracticable. *See* Fed. R. Civ. P. 23(a)(1). Generally, courts will find
22 numerosity is satisfied where a class includes at least 40 members. *Holly v. Alta*
23 *Newport Hospital, Inc.*, 2020 WL 1853308, at *7 (C.D. Cal. Apr. 10, 2020). The
24 proposed Settlement Class and California Settlement Sub-Class both easily satisfy
25 Rule 23’s numerosity requirement.

26 **2. The Settlement Classes Satisfy the Commonality**
27 **Requirement.**

28 The Settlement Classes also satisfy the commonality requirement, which

1 requires that class members’ claims “depend upon a common contention” of such
2 a nature that “determination of its truth or falsity will resolve an issue that is central
3 to the validity of each [claim] in one stroke.” *Wal-Mart Stores, Inc. v. Dukes*, 564
4 U.S. 338, 350 (2011). As in most data breach cases, “[t]hese common issues all
5 center on [defendant’s] conduct, satisfying the commonality requirement.” *In re*
6 *the Home Depot, Inc.*, 2016 U.S. Dist. LEXIS 200113, at *30 (N.D. Ga. Aug. 23,
7 2016). Here, common questions include, *inter alia*, whether See Tickets engaged
8 in the wrongful conduct alleged; whether Settlement Class Members’ PII was
9 compromised in the Data Security Incident; whether See Tickets breached its duties
10 to Class Members; and whether See Tickets violated the common law and
11 applicable state statutes alleged in the CCAC. Thus, Plaintiffs meet the
12 commonality requirement of Rule 23(a).

13 **3. Plaintiffs’ Claims and Defenses are Typical.**

14 Plaintiffs satisfy the typicality requirement of Rule 23 because Plaintiffs’
15 claims are “reasonably coextensive with those of the absent class members.” *See*
16 *Fed. R. Civ. P. 23(a)(3); Meyer v. Portfolio Recovery Assocs.*, 707 F.3d 1036, 1042
17 (9th Cir. 2012). Plaintiffs allege that their PII was compromised and that they were
18 impacted by the same allegedly inadequate data security that harmed the rest of the
19 Settlement Class. *See Just Film, Inc. v. Buono*, 847 F.3d 1108, 1118 (9th Cir. 2017).

20 **4. Plaintiffs are Adequate Representatives of the Settlement**
21 **Classes.**

22 The adequacy requirement is satisfied where (1) there are no antagonistic or
23 conflicting interests between Plaintiffs and their counsel and the absent class
24 members; and (2) Plaintiffs and their counsel will vigorously prosecute the action
25 on behalf of the class. *Fed. R. Civ. P. 23(a)(4); see also Ellis*, 657 F.3d at 985.

26 Here, Plaintiffs have no conflicts of interest with other Settlement Class
27 Members, are subject to no unique defenses, and they and their counsel have
28 vigorously prosecuted this case on behalf of the Class. Plaintiffs are members of
the Settlement Class who experienced the same injuries and seek compensation

1 from See Tickets. As such, Plaintiffs’ interests and those of their counsel are
2 consistent with those of the Settlement Class. Likewise, Plaintiff Aragon is a
3 member of the California Settlement Sub-Class, who experienced the same injuries
4 and seeks compensation from See Tickets, and as such his interests are consistent
5 with those of the California Settlement Sub-Class.

6 Further, Plaintiffs’ counsel has substantial experience vigorously litigating
7 class actions, including consumer class actions and data breach class actions, and
8 are well suited to advocate on behalf of the Class. *See* Barney Decl. ¶ 12 & Exs. 3-
9 5.

10 **B. The Requirements of Rule 23(b)(3) Are Met for Purposes of**
11 **Settlement.**

12 “In addition to meeting the conditions imposed by Rule 23(a), the parties
13 seeking class certification must also show that the action is maintainable under Fed.
14 R. Civ. P. 23(b)(1), (2) or (3).” *Hanlon*, 150 F.3d at 1022. Here, Plaintiffs allege
15 that the Settlement Classes are maintainable for purposes of settlement under Rule
16 23(b)(3), as common questions predominate over any questions affecting only
17 individual members and class resolution is superior to other available methods for
18 a fair and efficient resolution of the controversy. *Id.* In determining whether the
19 “superiority” requirement is satisfied, a court may consider: (1) the interest of class
20 members in individually controlling the prosecution or defense of separate actions;
21 (2) the extent and nature of any litigation concerning the controversy already
22 commenced by or against class members; (3) the desirability or undesirability of
23 concentrating the litigation of the claims in the particular forum; and (4) the
24 difficulties likely to be encountered in the management of a class action. Fed. R.
25 Civ. P. 23(b)(3).

26 Plaintiffs’ claims depend, first and foremost, on whether See Tickets used
27 reasonable data security measures to protect consumers’ PII. That question can be
28 resolved, for purposes of settlement, using the same evidence for all Members of

1 the Settlement Classes, and thus is precisely the type of predominant question that
2 makes a class-wide settlement worthwhile. *See, e.g., Tyson Foods, Inc. v.*
3 *Bouaphakeo*, 136 S. Ct. 1036, 1045 (2016).

4 Additionally, for purposes of settlement, a class action is the superior method
5 of adjudicating consumer claims arising from the Data Security Incident—just as
6 in other data breach cases where class-wide settlements have been approved. *See,*
7 *e.g., In re Yahoo! Inc. Customer Data Sec. Breach Litig.*, No. 5:16-md-02752-LHK
8 (N.D. Cal. July 20, 2019) ECF No. 497. Adjudicating individual actions here is
9 impracticable: the amount in dispute for individual Members of the Settlement
10 Classes is too small, the technical issues involved are too complex, and the required
11 expert testimony and document review is too costly. *See Just Film*, 847 F.3d at
12 1123.

13 Also, because Plaintiffs seek to certify a class in the context of a settlement,
14 this Court “need not inquire whether the case, if tried, would present intractable
15 management problems . . . for the proposal is that there be no trial.” *Amchem*
16 *Prods.*, 521 U.S. at 620. The settlement therefore meets the requirements of Rule
17 23(b)(3).

18 **C. The Court Should Preliminarily Approve the Settlement.**

19 Rule 23(e) provides that a proposed class action may be “settled, voluntarily
20 dismissed, or compromised only with the court’s approval.” “[U]nder Rule
21 23(e)(1), the issue at preliminary approval turns on whether the Court ‘will likely
22 be able to: (i) approve the proposal under Rule 23(e)(2); and (ii) certify the class
23 for purposes of judgment on the proposal.’ *Reyes v. Experian Info. Sols., Inc.*, 2020
24 WL 466638, at *1 (C.D. Cal. Jan. 27, 2020). If the Parties make a sufficient
25 showing that the Court will likely be able to “approve the proposal” and “certify
26 the class for purposes of judgment on the proposal,” “[t]he court must direct notice
27 in a reasonable manner to all class members who would be bound by the proposal.”
28 Fed. R. Civ. P. 23(e).

1 Preliminary approval “has both a procedural and a substantive component.”
2 *In re Tableware Antitrust Litig.*, 484 F. Supp. 2d 1078, 1080 (N.D. Cal. 2007). As
3 to the former, “a presumption of fairness applies when settlements are negotiated
4 at arm’s length, because of the decreased chance of collusion between the
5 negotiating parties.” *Gribble v. Cool Transports Inc.*, 2008 WL 5281665, at *9
6 (C.D. Cal. Dec. 15, 2008). Likewise, “participation in mediation tends to support
7 the conclusion that the settlement process was not collusive.” *Ogbuehi v. Comcast*
8 *of Cal./Colo./Fla./Or., Inc.*, 303 F.R.D. 337, 350 (E.D. Cal. 2014). With respect to
9 the latter, “[a]t this preliminary approval stage, the court need only determine
10 whether the proposed settlement is within the range of possible approval.” *Murillo*
11 *v. Pacific Gas & Elec. Co.*, 266 F.R.D. 468, 479 (E.D. Cal. 2010) (internal quote
12 omitted).

13 The Ninth Circuit has identified nine factors to consider in analyzing the
14 fairness, reasonableness, and adequacy of a class settlement: (1) the strength of the
15 plaintiff’s case; (2) the risk, expense, complexity, and likely duration of further
16 litigation; (3) the risk of maintaining class action status throughout the trial; (4) the
17 amount offered in settlement; (5) the extent of discovery completed and the stage
18 of the proceedings; (6) the views of counsel; (7) the presence of a governmental
19 participant; (8) the reaction of the class members to the proposed settlement and;
20 (9) whether the settlement is a product of collusion among the parties. *In re*
21 *Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 946 (9th Cir. 2011); *see also*
22 *Hanlon*, 150 F.3d at 1026. Rule 23(e) requires a court to consider several additional
23 factors, including that the class representative and class counsel have adequately
24 represented the class, and that the settlement treats class members equitably relative
25 to one another. Fed. R. Civ. P. 23(e).

26 In applying these factors, this Court should be guided foremost by the
27 “overriding public interest in settling and quieting litigation[,]” which “is
28 particularly true in class action suits . . .” *Franklin v. Kaypro Corp.*, 884 F.2d

1 1222, 1229 (9th Cir. 1989). Here, the relevant factors support the conclusion that
2 the negotiated settlement is fundamentally fair, reasonable, and adequate, and
3 should be preliminarily approved.

4 **1. The Strength of Plaintiffs’ Case**

5 Plaintiffs believe they have built a strong case for liability. With respect to
6 their negligence claim, Plaintiffs believe they would ultimately be able to offer
7 evidence that Defendant was negligent in failing to maintain reasonable and current
8 data security programs and practices, which led directly to the loss of Plaintiffs’
9 and the Class’s PII. Barney Decl. ¶ 11. Plaintiffs likewise contend that Defendant
10 is liable for its negligent, unfair, and unlawful conduct under common law tort
11 theories, as well as various state consumer protection statutes claims which courts
12 have frequently upheld. *Id. See, e.g., Huynh v. Quora, Inc.*, 508 F. Supp. 3d 633,
13 650 (N.D. Cal. 2020) (“time and money [plaintiff] spent on credit monitoring in
14 response to the Data Breach is cognizable harm to support her negligence claim”).
15 Plaintiff Aragon also asserts claims on behalf of the California State Sub-Class
16 pursuant to the California Consumer Privacy Act and California Consumer Legal
17 Remedies Act. *See* CCAC ¶¶ 266-284.

18 Plaintiffs believe they have a reasonable chance of proving See Tickets’ data
19 security was inadequate and that the company is likely to be found liable under at
20 least some of the liability theories Plaintiffs pleaded in the CCAC. Barney Decl.
21 ¶ 11. This is especially true in light of the fact that this is See Tickets’ second major
22 data breach reported in “less than a year’s time.” CCAC ¶ 13.

23 Nevertheless, Plaintiffs recognize success is not guaranteed. It is “plainly
24 reasonable for the parties at this stage to agree that the actual recovery realized and
25 risks avoided here outweigh the opportunity to pursue potentially more favorable
26 results through full adjudication.” *Dennis v. Kellogg Co.*, 2013 WL 6055326, at *3
27 (S.D. Cal. Nov. 14, 2013). “Here, as with most class actions, there was risk to both
28 sides in continuing towards trial. The settlement avoids uncertainty for all parties

1 involved.” *Chester v. TJX Cos.*, 2017 WL 6205788, at *6 (C.D. Cal. Dec. 5, 2017).
2 Given the heavy obstacles and risks inherent in data breach class actions, including
3 class certification, summary judgment, and trial, the substantial benefits the
4 settlement provides favor preliminary approval of the settlement. Barney Decl.
5 ¶ 11.

6 **2. The Risk, Expense, Complexity, and Likely Duration of** 7 **Further Litigation**

8 Even though Plaintiffs believe that their case is strong, all cases, including
9 this one, are subject to substantial risk. This case involves a proposed class of
10 approximately 323,498 individuals, a complicated and technical factual overlay,
11 and a Defendant with the resources to litigate through trial if necessary. Barney
12 Decl. ¶ 11.

13 Although nearly all class actions involve a high level of risk, expense, and
14 complexity—undergirding the strong judicial policy favoring amicable resolutions,
15 *Linney v. Cellular Alaska P’ship*, 151 F.3d 1234, 1238 (9th Cir. 1998)—this is an
16 especially complex case in an especially risky arena. Historically, data breach cases
17 face substantial hurdles in surviving even the pleading stage. *See, e.g., Hammond*
18 *v. The Bank of N.Y. Mellon Corp.*, 2010 WL 2643307, at *1-2 (S.D.N.Y. June 25,
19 2010) (collecting cases). Even cases of similar widespread notoriety and
20 implicating data more sensitive than at issue here have been found wanting at the
21 district court level. *In re U.S. Office of Pers. Mgmt. Data Sec. Breach Litig.*, 266 F.
22 Supp. 3d 1, 19 (D.D.C. 2017). As one federal district court recently observed in
23 finally approving a data breach settlement with similar class relief: “Data breach
24 litigation is evolving; there is no guarantee of the ultimate result.” *Fox v. Iowa*
25 *Health Sys.*, 2021 WL 826741, at *5 (W.D. Wis. Mar. 4, 2021) (citing *Gordon v.*
26 *Chipotle Mexican Grill, Inc.*, 2019 WL 6972701, at *1 (D. Colo. Dec. 16, 2019)
27 (“Data breach cases . . . are particularly risky, expensive, and complex.”)).

28 To the extent courts have gradually accepted this relatively new type of

1 litigation, the path to a class-wide monetary judgment remains unforged. For now,
2 data breach cases are among the riskiest and most uncertain of all class action
3 litigations, making settlement the more prudent course where, as here, a reasonable
4 one can be reached. The damages methodologies, while theoretically sound in
5 Plaintiffs' view, remain largely untested in a disputed class certification setting and
6 unproven in front of a jury. As in any data breach case, establishing causation on a
7 class-wide basis is rife with uncertainty. Thus, this factor favors approval.

8 **3. The Risk of Maintaining Class Action Status Through Trial**

9 While Plaintiffs' case is still in the pleadings stage, the Parties have not
10 briefed, and the Court has not yet certified, any class treatment of this case. If the
11 case were to proceed through trial, Plaintiffs would encounter risks in obtaining
12 and maintaining certification of the class. Defendant would undoubtedly oppose
13 certification if the case were to proceed. Thus, Plaintiffs "necessarily risk losing
14 class action status." *Grimm v. Am. Eagle Airlines, Inc.*, 2014 WL 12746376, at *10
15 (C.D. Cal. Sept. 24, 2014). Class certification regarding contested consumer data
16 breaches is uncommon—first occurring in *Smith v. Triad of Ala., LLC*, 2017 WL
17 1044692, at *16 (M.D. Ala. Mar. 17, 2017), and recently in *In re Brinker Data*
18 *Security Incident Litig.*, 2021 WL 1405508, at *1 (M.D. Fla. Apr. 14, 2021). While
19 certification of additional consumer data breach classes may follow, the dearth of
20 direct precedent adds to the risks posed by continued litigation.

21 **4. The Amount Offered in Settlement**

22 In light of the risks presented, the value of the settlement favors approval.
23 The settlement *immediately* makes significant relief available to Settlement Class
24 Members from the \$3,250,000 settlement fund. Each Settlement Class Member is
25 eligible to claim up to \$2,000 in reimbursements for ordinary expenses and lost
26 time, and up to \$5,000 in reimbursements for extraordinary expenses for identity
27 theft related to the Data Security Incident, and California Settlement Sub-class
28 members are entitled to \$100 as a statutory damages award. Moreover, all Members

1 of the Settlement Classes will be eligible to enroll in 3 years of three-bureau credit
2 monitoring *or* receive an alternative cash payment of up to \$100. And on top of all
3 these benefits, they may receive an additional distribution if there is money left
4 over in the Settlement Fund after these distributions and payment of the
5 administration costs, attorneys' fees and expenses and service awards are made.

6 This settlement is a strong result for the Settlement Class and is in line with
7 or exceeds other settlements in cases involving data breaches of similar scope. *See,*
8 *e.g., Cochran et al. v. The Kroger Company et al.*, Case No. 5:21-cv-01887-EJD
9 (N.D. Cal.), ECF No. 31 (settlement providing cash payments of less than \$100
10 assuming a 2% claims rate, two years of three bureau credit monitoring, *or*
11 documented loss reimbursement of up to \$5,000). Because the settlement amount
12 here is similar to or better than other settlements approved in similar cases, this
13 factor reflects that the settlement is fair. *See Calderon v. Wolf Firm*, 2018 WL
14 6843723, at *7-8 (C.D. Cal. Mar. 13, 2018) (comparing class settlement with
15 settlements in similar cases). In light of the difficulties and expenses Settlement
16 Class Members would face to pursue individual claims, the \$3,250,000 settlement
17 fund is appropriate.

18 Moreover, the settlement value per Settlement Class Member here is on par
19 with or exceeds other data breach settlements. In common fund settlements, a
20 useful metric when comparing case values is to hypothetically divide the dollar
21 value of the fund between all the class members to come up with a "per head"
22 value. In the instant settlement, the \$3,250,000 Settlement Fund, if equally divided
23 among the 323,498 Settlement Class Members, would provide approximately
24 \$10.04 per Settlement Class Member. By way of comparison, the consideration
25 paid by Home Depot to settle a data breach class action was approximately \$0.51
26 per class member. *In re The Home Depot, Inc., Customer Data Sec. Breach Litig.*,
27 No. 1:14-MD-02583-TWT, ECF No. 181-2 (March 7, 2016) (Settlement
28 Agreement); *id.*, 2017 U.S. Dist. LEXIS 221736, at *24 (N.D. Ga. Sept. 22, 2017)

1 (order approving settlement). The Target data breach class action resolved with
2 Target paying the equivalent of \$0.17 per class member. *See In re Target Corp.*
3 *Customer Data Sec. Breach Litig.*, No. MDL 14-2522-PAM, ECF No. 358-1 (D.
4 Minn. March 18, 2015) (Settlement Agreement).

5 The instant class settlement also compares favorably even when compared
6 to more recent settlements with comparable class sizes, including *See Tickets I* in
7 which this Court granted final approval for a settlement involving this same
8 Defendant for roughly \$6.86 per class member. *See Tickets I*, ECF No. 48-1 p. 26.
9 Additionally, in *Kostka v. Dickey's Barbecue Restaurants Inc.*, another payment
10 card data breach, the consideration to be paid to the approximately 725,000 class
11 members totaled \$2.35 million, or about \$3.24 per class member. No. 3:20-cv-
12 03424-K, 2022 U.S. Dist. LEXIS 188186 (N.D. Tex. Oct. 14, 2022). Moreover, in
13 *Nelson v. Bagsley & Kiener, L.L.P.*, No. 2021CH06274, the 274,115 class members
14 divided \$900,000, which was just \$3.28 per class member. And finally, in *In re:*
15 *Southern Ohio Health Systems Data Breach Litigation*, No. A2101886, the
16 company created a \$1.95 million settlement fund in response to a data breach
17 involving approximately 420,000 individuals, resulting in a per class member
18 recovery of \$4.75. Each of these class action settlements were preliminarily and/or
19 finally approved, thus underscoring the strength of the resolution Plaintiffs have
20 secured here.

21 **5. The Extent of Discovery Completed and the Stage of**
22 **Proceedings**

23 Before entering into settlement discussions on behalf of class members,
24 counsel should have “sufficient information to make an informed decision.”
25 *Linney*, 151 F.3d at 1239. Here, Plaintiffs vigorously and aggressively gathered all
26 the information that was available regarding *See Tickets* and the Data Security
27 Incident—including publicly-available documents concerning announcements of
28 the Data Security Incident and notice of the Data Security Incident *See Tickets* sent

1 to impacted customers. Barney Decl. ¶ 9. In preparation for a successful mediation,
2 the Parties also informally exchanged non-public information concerning the Data
3 Security Incident, the size and makeup of the Settlement Class, and the
4 circumstances that led to the Data Security Incident. *Id.* ¶ 9. Plaintiffs also
5 researched and compared the instant settlement with other similar data breach
6 settlements and concluded that it compares very favorably. *Id.* Additionally,
7 Defendant has committed to providing confirmatory discovery in order for
8 Plaintiffs to verify the scope of the Data Security Incident and to confirm that all
9 of the remedial measures being undertaken are properly responsive and will prevent
10 future data breaches. This confirmatory discovery will happen soon, and well ahead
11 of the final approval hearing. Barney Decl. ¶ 10.

12 Although the Parties have not engaged in formal discovery, Class Counsel’s
13 substantial experience in similar types of privacy and data protection class actions
14 provides knowledge that enables them to represent Plaintiffs’ and the Settlement
15 Class’s interests without expending hundreds of hours to get up to speed. Barney
16 Decl. ¶ 9. Plaintiffs are well-informed about the strengths and weaknesses of this
17 case, thus “the efficiency with which the Parties were able to reach an agreement
18 need not prevent this Court from granting . . . approval.” *Hillman v. Lexicon*
19 *Consulting, Inc.*, 2017 WL 10433869, at *8 (C.D. Cal. Apr. 27, 2017).

20 **6. The Experience and Views of Counsel**

21 Class Counsel have substantial experience litigating complex class cases of
22 various types, including data breach cases such as this one. *See* Barney Decl. ¶ 9 &
23 Exs. 3-5. Having worked on behalf of the putative class since the Data Security
24 Incident was first announced, evaluated the legal and factual disputes, and
25 dedicated significant time and monetary resources to this litigation, proposed Class
26 Counsel endorse the Settlement without reservation. *Id.* A great deal of weight is
27 accorded to the recommendation of counsel, who are most closely acquainted with
28 the facts of the underlying litigation. *See, e.g., Norton v. Maximus, Inc.*, 2017 WL

1 1424636, at *6 (D. Idaho Apr. 17, 2017); *Nat'l Rural Telecomm. Coop. v. DirecTV,*
2 *Inc.*, 221 F.R.D. 523, 528 (C.D. Cal. 2004). Thus, this factor supports approval.

3 **7. Governmental Participants.**

4 There is no governmental participant in this matter. This factor is neutral.

5 **8. The Reaction of the Settlement Classes to the Settlement**

6 Because notice has not yet been given, this factor is not yet implicated.
7 However, Plaintiffs support the Settlement. Barney Decl. ¶ 9.

8 **9. Lack of Collusion Among the Parties**

9 The Parties negotiated a substantial settlement through mediation, as
10 outlined above. The resolution was negotiated at arm's length under the direction
11 of the Parties' mutually agreed-upon mediator, Robert Meyer of JAMS, who has
12 extensive experience in mediating and managing multiparty and multifaceted
13 cases. The Court can rest assured that the negotiations were not collusive. *See G.*
14 *F. v. Contra Costa Cnty.*, 2015 WL 4606078, at *13 (N.D. Cal. July 30, 2015)
15 (“[T]he assistance of an experienced mediator in the settlement process confirms
16 that the settlement is non-collusive.”(internal quotations omitted)).

17 **10. The Settlement Treats Members of the Settlement Classes**
18 **Equitably**

19 Finally, Rule 23(e)(2)(D) requires that this Court confirm that the settlement
20 treats all class members equitably. In determining whether this factor weighs in
21 favor of approval, the Court considers whether the settlement “improperly grant[s]
22 preferential treatment to class representatives or segments of the class.” *Hudson v.*
23 *Libre Technology Inc.*, 2020 WL 2467060, at *9 (S.D. Cal. May 13, 2020) (internal
24 quotations omitted).

25 Here, the Settlement does not improperly discriminate between any
26 segments of the Settlement Class because all Settlement Class Members are entitled
27 to the same relief. Every Settlement Class Member can make a claim for up to
28 \$2,000 in reimbursements for ordinary expenses and time spent, and up to \$5,000

1 in reimbursements for extraordinary expenses. All Settlement Class Members may
2 also claim the three years of three-bureau credit monitoring *or* the alternative cash
3 payment. Thus all Settlement Class Members are eligible for an additional cash
4 payment, even though the California Settlement Sub-Class is entitled to a separate
5 \$100 statutory award that “takes appropriate account of differences [in] their claims
6 . . . that bear on the apportionment of relief” Fed. R. Civ. P. 23(e), advisory comm.’s
7 note (2018). This is due to the existence of the California Settlement Sub-Class’s
8 unique California statutory claims. *See also, e.g., Carter*, 2023 U.S. Dist. LEXIS
9 210744, at *36 (finally approving data breach settlement with a California
10 subclass); *Newman v. Jm Bullion*, No. BCV-21-100436, 2022 Cal. Super. LEXIS
11 37967, *2 (Cal. Super. June 30, 2022) (same).

12 As such, this factor also weighs in favor of approval.

13 **D. The Court Should Approve the Proposed Notice Program**

14 Rule 23 requires that prior to final approval, the “court must direct notice in
15 a reasonable manner to all class members who would be bound by the proposal.”
16 Fed. R. Civ. P. 23(e)(1)(B). For classes certified under Rule 23(b)(3), “the court
17 must direct to class members the best notice that is practicable under the
18 circumstances, including individual notice to all members who can be identified
19 through reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B). “The notice may be by one
20 or more of the following: United States mail, electronic means, or other appropriate
21 means.” *Id.* Class settlement notices must present information about a proposed
22 settlement simply, neutrally, and understandably, and must describe the terms of
23 the class action settlement in sufficient detail to alert those with adverse viewpoints
24 to investigate and to come forward and be heard. *In re Hyundai & Kia Fuel Econ.*
25 *Litig.*, 926 F.3d 539, 567 (9th Cir. 2019)

26 Here, the Parties have agreed to a robust notice program to be administered
27 by a well-respected third-party class administrator, Kroll, which will use all
28 reasonable efforts to provide direct and individual notice to each potential Member

1 of the Settlement Classes via email notice, and as appropriate, U.S. mailed notice
2 for those that cannot be contacted via email, along with a reminder notice. SA
3 § II.J.2. The Notice and Claim Form negotiated by the Parties are clear and concise
4 and inform Settlement Class Members of their rights and options under the
5 settlement, including detailed instructions on how to make a claim, object, or opt
6 out. *See* SA Exs. A-C.

7 In addition to the direct notice, the Administrator will also establish a
8 dedicated Settlement Website and will maintain and update the website throughout
9 the Claims Period, with the Notice and Claim Form approved by the Court, as well
10 as the Settlement Agreement and other key documents. *See* SA § II.G. The
11 Settlement Administrator will also establish a toll-free helpline and P.O. box
12 available to respond to Settlement Class Members' questions concerning the
13 settlement. *Id.*

14 The Parties have thus negotiated a notice program that is reasonably
15 calculated under the circumstances to apprise Members of the Settlement Classes
16 of the pendency of the action and afford them an opportunity to present their
17 objections. Because this notice plan ensures that Settlement Class Members' due
18 process rights are amply protected, this Court should approve it.

19 **E. Appointment of the Settlement Administrator**

20 In connection with implementation of the Notice Program and
21 administration of the settlement benefits, Plaintiffs request that the Court appoint
22 Kroll to serve as the Settlement Administrator. Kroll has a trusted and proven track
23 record of supporting thousands of class action administrations and distributing
24 billions of settlement funds. Fenwick Decl. ¶ 2. Notice and administration are
25 expected to cost approximately \$140,000.00 to be deducted from the overall
26 settlement fund. *Id.* ¶ 18; SA § II.G.

27 **F. Appointment of Counsel for the Settlement Classes**

28 Under Rule 23, "a court that certifies a class must appoint class counsel [who

1 must] fairly and adequately represent the interests of the class.” Fed. R. Civ. P.
2 23(g)(1)(B). Courts generally consider the following attributes: the proposed class
3 counsel’s (1) work in identifying or investigating potential claims; (2) experience
4 in handling class actions or other complex litigation, and the types of claims
5 asserted in the case; (3) knowledge of the applicable law; and (4) resources
6 committed to representing the class. Fed. R. Civ. P. 23(g)(1)(A)(i–iv).

7 Here, proposed Class Counsel have extensive experience prosecuting class
8 actions and other complex cases, including data breach cases. *See* Barney Decl. ¶ 9,
9 Exs. 3-5. As discussed above, proposed Class Counsel have worked extensively on
10 identifying and investigating the claims here, know the law regarding class actions
11 and data breach class actions, specifically, and have shown that they possess the
12 resources available to represent the Class. Accordingly, the Court should appoint
13 Mason A. Barney of Siri & Glimstad LLP, Nicholas A. Migliaccio of Migliaccio
14 & Rathod LLP, and Kenneth Grunfeld of Kopelowitz Ostrow Ferguson Weiselberg
15 Gilbert as Counsel for the Settlement Classes.

16 **VI. CONCLUSION**

17 For all the above reasons and such others as may appear to the Court,
18 Plaintiffs respectfully request that this Court grant Plaintiffs’ Motion for
19 Preliminary Approval of Class Action Settlement.

20
21 DATED: May 24, 2024

Respectfully Submitted,

22 /s/ Mason A. Barney

23 Mason A. Barney (*pro hac vice*)
24 Tyler Bean (admitted *pro hac vice*)
25 **SIRI & GLIMSTAD LLP**
26 745 Fifth Ave, Suite 500
27 New York, NY 10151
28 Telephone: 212-532-1091
Facsimile: 646-417-5967

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Nicholas A. Migliaccio (*pro hac vice*)
Jason S. Rathod
MIGLIACCIO & RATHOD LLP
412 H. St. NE, Ste. #302
Washington, D.C. 20002
Telephone: 202-470-3520
Facsimile: 202-800-2730

Kenneth Grunfeld (*pro hac vice*)
**KOPELOWITZ OSTROW FERGUSON
WEISELBERG GILBERT**
One West Las Olas Blvd., Suite 500
Fort Lauderdale, Florida 33301
Telephone: 954-525-4100
Facsimile: 954-525-4300

*Attorneys for Plaintiffs and
the Proposed Classes*

CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Plaintiffs, certifies that this brief contains 6,991 words, which complies with the word limit of L.R. 11-6.1.

Date: May 24, 2024

/s/ Mason A. Barney
Mason A. Barney, Esq.

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SIRI & GLIMSTAD LLP

Mason A. Barney (admitted *pro hac vice*)

Email: mbarney@sirillp.com

745 Fifth Ave, Suite 500

New York, NY 10151

Telephone: 212-532-1091

Facsimile: 646-417-5967

Attorney for Plaintiffs and the Class

**THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

Lead Case No. 2:23-cv-07498

*In re: Vivendi Ticketing US LLC,
d/b/a See Tickets Data Security
Incident*

**DECLARATION OF MASON A.
BARNEY IN SUPPORT OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

DATE: June 17, 2024
TIME: 1:30 p.m.
COURTROOM: 9 B
JUDGE: Hon. Cormac J. Carney

I, Mason A. Barney, hereby declare as follows:

1. I am an attorney duly licensed to practice law in the State of New York and a partner with Siri & Glimstad LLP (“Siri & Glimstad”), one of the firms representing Plaintiffs in the above-captioned action against Defendant Vivendi Ticketing US LLC d/b/a See Tickets (“See Tickets” or “Defendant”). I submit this declaration in support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement. I have personal knowledge of the facts set forth in this declaration and could testify competently to them if called upon to do so.

1 2. Attached hereto as **Exhibit 1** is a true and correct copy of the
2 Class Action Settlement Agreement and Release dated May 22, 2024 (the
3 “Settlement Agreement” or “SA”).

4 3. Attached hereto as **Exhibit 2** is a true and correct copy of the
5 Declaration of Scott Fenwick of Kroll Settlement Administration LLC Re:
6 Proposed Notice Plan.

7 **I. PROCEDURAL HISTORY**

8 4. Plaintiff Mandi Peterson filed her Complaint in the instant action on
9 September 11, 2023. An additional four complaints were later filed, and on October
10 2, 2023, the Court consolidated all five cases and Plaintiffs filed their consolidated
11 complaint (the “CCAC”) on December 1, 2023. The Court then granted See Tickets
12 additional time to respond to the CCAC in order to permit the Parties time to
13 explore mediation. The Parties selected Bob Meyer of JAMS, a well-regarded
14 private mediator, to conduct the mediation.

15 5. At the all-day mediation on March 11, 2024, the Parties spent the
16 entire day negotiating the material terms of a resolution of the class claims. By the
17 end of the day, after extensive back-and-forth sessions with the mediator related to
18 settlement structure and the overall value of the settlement, the Parties reached
19 agreement on all material terms of this settlement.

20 6. The Parties immediately apprised the Court of the settlement, and the
21 Court vacated all case deadlines pending Plaintiffs’ filing of their motion for
22 preliminary approval. *See* ECF No. 31.

23 **II. IMPORTANT FACTS RELATED TO THE SETTLEMENT**

24 7. **Attorneys’ Fees and Expenses.** As part of their fee petition,
25 Plaintiffs’ counsel intends to seek no more than 25% of the \$3,250,000 total
26 settlement fund, which would come out to \$812,500 in attorney’s fees.
27
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1 8. **Named Plaintiffs Service Payment.** Plaintiffs have been personally
2 involved in the case and support the Settlement. Plaintiffs intend to seek a service
3 payment award of no more than \$2,500 each.

4 9. **Discovery and Experience of Counsel.** Although the parties have
5 not engaged in formal discovery, Plaintiffs vigorously and aggressively gathered
6 all available information regarding Defendant and the Data Security Incident—
7 including publicly-available documents concerning announcements of the Data
8 Security Incident and notice of the Data Security Incident Defendant sent to
9 impacted customers – and informal, non-public information concerning the Data
10 Security Incident, the size and makeup of the Settlement Class, and the
11 circumstances that led to the Data Security Incident. In addition, as noted in the
12 accompanying brief, Plaintiffs have researched and compared the instant settlement
13 with other similar data breach settlements and concluded that the instant settlement
14 agreement compares very favorably. Furthermore, my firm’s, along with my co-
15 counsel’s, substantial experience in similar types of data breach class actions
16 provided substantive knowledge that enabled us to represent Plaintiffs’ and the
17 Settlement Class’s interests without expending hundreds of hours and enormous
18 financial resources to get up to speed. Plaintiffs fully understand the strengths
19 and weaknesses of this case. Having worked on behalf of the putative class since
20 the Data Security Incident at issue here was first announced, having evaluated the
21 legal and factual disputes, and having dedicated significant time and monetary
22 resources to this litigation, proposed Class Counsel endorse the settlement here
23 without reservation.

24 10. **Confirmatory Discovery.** In connection with the Settlement
25 Agreement, Defendant has provided some additional discovery to Plaintiffs in
26 order to assist Plaintiffs in understanding the scope of the Data Security Incident
27 and to confirm that all of the remedial measures being undertaken are properly
28

1 responsive. Plaintiffs anticipate receiving additional confirmatory discovery soon
2 and well in advance of when Plaintiffs will be filing their motion for final approval
3 of the settlement.

4 **11. Strengths and risks of continued litigation.** If this case were to
5 continue, Plaintiffs believe they would ultimately be able to offer substantial
6 evidence that Defendant was negligent in failing to maintain reasonable and current
7 data security programs and practices, which led directly to the loss of Plaintiffs'
8 and the Class's personal information here. Plaintiffs likewise contend that
9 Defendant is liable for its negligent, unfair, and unlawful conduct under common
10 law tort theories, as well as various state consumer protection statutes claims which
11 courts have frequently upheld. While Plaintiffs believe their case is a strong one, I
12 and my co-counsel recognize that all cases, including this one, are subject to
13 substantial risk. This case involves a proposed class of approximately 323,498
14 individuals, a complicated and technical factual overlay, and a Defendant with the
15 resources to litigate through trial if necessary.

16 **12. Counsel's Substantive Expertise.** Counsel initiated the lawsuit and
17 has substantial experience litigating complex class cases of various types,
18 including data breach cases such as this one. Attached hereto are true and correct
19 copies of Siri & Glimstad's firm resume (**Exhibit 3**); Kopelowitz Ostrow's firm
20 resume (**Exhibit 4**); and Migliaccio & Rathod's firm resume (**Exhibit 5**). As set
21 forth in the firm resumes, proposed Class Counsel have significant experience
22 handling complex litigations and class actions across various practice areas,
23 including having been appointed by courts to various leadership positions in class
24 actions and achieving outstanding settlements for their clients and class members.

25 **13. Siri & Glimstad's Expertise.** As shown in the firm resume, Siri &
26 Glimstad's representative matters include: appointed co-class counsel in a case
27 alleging violations of the Telephone Consumer Protection Act which resulted in a
28

1 settlement of \$25,000,000, plus free satellite radio service (*Buchanan v. Sirius XM*
2 *Radio, Inc.*, Case No. 3:17-cv-00728 (N.D. Tex.)); appointed co-class counsel in a
3 case alleging violations of the TCPA which resulted in a settlement of \$10,500,000
4 (*Thomas v. Dun & Bradstreet Credibility Corp.*, Case No. 15-cv-3194 (S.D. Cal.));
5 appointed co-class counsel in a case involving ERISA claims relating to an ESOP
6 which resulted in a settlement of \$11,138,938 (*Gatto v. Sentry Services, Inc., et al.*,
7 Case No. 13 CIV 05721 (S.D.N.Y.)); and appointed co-counsel for plaintiffs in
8 ERISA matter filed as a class action involving breaches of fiduciary duty related to
9 the management and termination of an ESOP which settled after the beginning of
10 trial for \$1,080,000 for the Class (*Kindle v. Dejana*, No. 14-cv-06784 (E.D.N.Y.)).
11 Additionally, Siri & Glimstad has experience as lead counsel in large data breach
12 class actions that reached settlement. Siri & Glimstad was appointed as lead
13 settlement counsel in *Carter, et al. v. Vivendi Ticketing US LLC d/b/a See Tickets*,
14 Case No. SACV 22-01981-CJC (C.D. Cal.), which this court granted final approval
15 to on October 30, 2023. Additionally, I and Tyler J. Bean of Siri & Glimstad LLP,
16 were recently appointed co-class counsel for plaintiffs in a data breach class action
17 titled *Medina v. Albertsons Companies, Inc.* Case No. 1:23-cv-00480-MN (D.
18 Del.), which received final approval on April 26, 2024. In state court, in the
19 Superior Court of Cobb County, Georgia, I was also appointed class co-counsel in
20 the data breach matter entitled *Askew v. Gas South, LLC*, Case No. 22106661
21 (Super. Ct. Cobb Cnty.), which received final approval on January 19, 2024.

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I declare under penalty of perjury under the laws of the United States of
America that the foregoing is true and correct.

Executed this 24th day of May, 2024, in New York, New York.

/s/ Mason A. Barney
Mason A. Barney, Esq.

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SIRI & GLIMSTAD LLP
745 Fifth Ave, Suite 500
New York, NY 10151
Telephone: 212-532-1091
Facsimile: 646-417-5967
Email: mbarney@sirillp.com

EXHIBIT 1

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

I. Introduction.

- A. This Settlement Agreement (“**Agreement**” or “**Settlement Agreement**”) is hereby entered into by and among Plaintiffs Mandi Peterson, Scott Fitzgerald, Zachary Richmond, Tom Loughead, Mason Verderame, Katie Jeziorny, Rian Bodner, Christopher Aragon, and Candice Zinner (“**Plaintiffs**” or “**Named Plaintiffs**”) individually and on behalf of the Settlement Class Members and Defendant Vivendi Ticketing US, LLC d/b/a See Tickets (“**Defendant**” or “**See Tickets**”), (collectively, “**the Parties**”), in the Action.
- B. This Agreement is intended by the Parties to fully, finally, and forever settle, compromise, and discharge the Released Claims (as defined below), subject to the terms of this Agreement, and subject to preliminary and final approval of the Court.

II. Terms of Settlement

A. Definitions.

- 1. “**Action**” means the civil action *In re: Vivendi Ticketing US LLC, d/b/a See Tickets Data Security Incident*, No. 2:23-cv-07498 (C.D. Cal.), filed in the District Court for the Central District of California, and for which a Consolidated Class Action Complaint was filed on December 1, 2023.
- 2. “**Agreement**” or “**Settlement Agreement**” means this Class Action Settlement Agreement and Release, including any exhibits.
- 3. “**Class Counsel**” means:
 - Mason A. Barney
SIRI & GLIMSTAD LLP
745 Fifth Ave, Suite 500
New York, NY 10151
 - Nicholas A. Migliaccio
MIGLIACCIO & RATHOD LLP
412 H. St. NE, Ste. #302
Washington, D.C. 20002
 - Kenneth Grunfeld
(*Pro Hac Vice* granted 10/5/2023)
KOPELOWITZ OSTROW P.A.
65 Overhill Rd.
Bala Cynwyd, Pennsylvania 19004
- 4. “**Court**” means the United States District Court for the Central District of California.

5. **“Data Security Incident”** means the unauthorized access to payment card information of certain customers that was disclosed by See Tickets in September 2023.
6. **“Released Claims”** means any and all actual, potential, filed, unfiled, known or unknown, fixed or contingent, claimed or unclaimed, suspected or unsuspected claims, demands, liabilities, rights, causes of action, damages, punitive, exemplary or multiplied damages, expenses, costs, attorneys’ fees and/or obligations, whether in law or in equity, accrued or unaccrued, direct, individual or representative, of every nature and description whatsoever, based on any federal, state, local, statutory or common law or any other law, against the Released Parties, or any of them, arising out of or relating to actual or alleged facts, transactions, events, matters, occurrences, acts, disclosures, statements, representations, omissions or failures to act relating to the Data Security Incident, including all claims relating to the Data Security Incident that were brought or could have been brought in the Action belonging to any and all Releasing Parties.
7. **“Released Parties”** means See Tickets and its past, present, and future direct and indirect heirs, assigns, associates, corporations, investors, owners, parents, subsidiaries, affiliates, divisions, officers, directors, shareholders, members, agents, employees, attorneys, insurers, reinsurers, benefit plans, predecessors, successors, managers, administrators, executors, and trustees.
8. **“Releasing Parties”** means Plaintiffs and other Participating Settlement Class Members and their respective past, present, and future heirs, beneficiaries, conservators, executors, estates, administrators, assigns, agents, accountants, financial and other advisors, and any other representatives of any of these persons and entities.
9. **“Settlement Fund Taxes and Tax-Related Expenses”** means any and all applicable taxes, duties, and similar charges imposed by a government authority (including any estimated taxes, interest or penalties) arising in any jurisdiction, if any, with respect to the income or gains earned by or in respect of the Settlement Fund, including, without limitation, any taxes that may be imposed upon See Tickets with respect to any income or gains earned by or in respect of the Settlement Fund for any period while it is held in the Settlement Fund.
10. **“Settlement Class Members”** means all individuals who are within the class certification definition found in section II.B hereof.
11. **“Participating Settlement Class Members”** means all Settlement Class Members who choose not to request exclusion from this settlement pursuant to Paragraph II.L hereof.
12. **“Approved Settlement Class Members”** means all Participating Settlement Class Members who’s Claim Forms were valid and timely submitted pursuant to Paragraph II.J.3 hereof.

- B. Certification of Class Action for Settlement Purposes Only. The Parties agree, for settlement purposes only, to stipulate to the certification of:

A Primary Settlement Class defined as follows:

All individuals in the United States whose information was accessed in the Data Security Incident and who received notice of the Data Security Incident from See Tickets.

A California Settlement Sub-Class defined as follows:

All individuals residing in California as of the Notice Date whose information was accessed in the Data Security Incident and who received notice of the Data Security Incident from See Tickets.

The Primary Settlement Class and California Settlement Sub-Class collectively are the Settlement Class and are the Settlement Class Members.

Excluded from the Settlement Class are (i) any judge or magistrate judge presiding over this Action, members of their staff, and members of their immediate families; (ii) the Released Parties; (iii) persons who properly execute and file a timely request for exclusion from the Settlement Class; (iv) persons whose claims in this matter have been finally adjudicated on the merits or otherwise released; (v) counsel for See Tickets; and (vi) the legal representatives, successors, and assigns of any such excluded persons.

For purposes of settling this Action, the Parties conditionally stipulate and agree that the requirements for establishing class certification with respect to the Settlement Class have been met, and that the Settlement Class is comprised of approximately 323,498 individuals. In the event that, for any reason, the Court does not issue a Final Approval Order that approves of this Settlement Agreement, then such stipulated class certification shall become null and void and the Parties shall not be affected in any way by such prior certification. See Tickets thus does not waive, and instead expressly reserves, the right to challenge the propriety of class certification for any purpose in the event that the Court does not issue a Final Approval Order that approves this Settlement Agreement.

- C. No Admission of Liability. See Tickets does not admit any liability or wrongdoing of any kind associated with the allegations or claims asserted in the Action. Nothing in this Settlement Agreement or any action that See Tickets takes under it shall be deemed or construed as an admission of liability or wrongdoing of any kind on the part of See Tickets with respect to any allegations or claims, nor does it constitute an admission that any putative class meets the requirements for class certification. It is specifically understood and agreed that the benefits provided in this Settlement Agreement are being paid or provided in full and final settlement of all claims and that such payment and the providing of sufficient benefits does not constitute and shall not be construed as any admission or evidence of fault or liability on the part of the Released Parties, and shall not be admissible in any proceeding as evidence of fault, liability, or wrongdoing. See Tickets has asserted defenses it believes to be meritorious and expressly denies that it was at fault and further

denies that it is liable to Plaintiffs or the Settlement Class for any amounts. Plaintiffs disagree with the strength and validity of See Tickets' defenses.

D. Effective Date. The settlement in this Settlement Agreement is conditioned upon the occurrence of each of the following events: (i) counsel for the Parties executing the Settlement Agreement; (ii) the Court granting preliminary approval to the Settlement Agreement as provided herein; (iii) notice being provided to the Settlement Class Members, providing them with an opportunity to submit claims or opt out; (iv) the Court entering a Final Approval Order granting final approval of the Settlement Agreement without any material modification or condition; and (v) dismissal of this Action with prejudice. Assuming each of these events has occurred, the effective date of the Settlement Agreement ("**Effective Date**") shall be either: (1) if no valid objections are filed, the first business day following entry of the Final Approval Order on the Court's docket; or (2) if a valid objection is filed, then the later of either the expiration of the time for filing an appeal of the Final Approval Order, or if a timely appeal is made, the date of the final resolution of that appeal and any subsequent appeals resulting in final approval of the Settlement Agreement without any material modification or condition.

E. Settlement Consideration.

1. Settlement Administration Fee: At least fourteen (14) days before the Notice Date (as defined below), See Tickets shall pay to the Settlement Administrator (as defined below) a sum portion of the Administrative Costs (as defined below) to be agreed upon by the Settlement Administrator, See Tickets, and Class Counsel, which shall be sufficient to effectuate notice to the Settlement Class Members. Following entry of the Preliminary Approval Order, See Tickets shall pay all subsequent amounts for Administrative Costs (as incurred) within thirty (30) days of when such amounts are invoiced to See Tickets along with wire instructions and other required documentation and become due and owing. See Tickets is not required to advance costs for claims validation or other claims processing related costs until such time such costs are actually incurred. Any Administrative Costs incurred after the Effective Date will be paid to the Settlement Administrator from the Settlement Fund following its funding. The sum total of the Administrative Costs incurred and paid to the Settlement Administrator prior to the Effective Date shall be referred to as the Administrative Notice Costs.
2. Agreed Monetary Relief. Within thirty (30) days of the Effective Date of this Agreement, See Tickets shall create a fund, by depositing with the Settlement Administrator, US \$3,250,000.00 in cash minus the Administrative Notice Costs (the "**Settlement Fund**"). The Named Plaintiffs and Approved Settlement Class Members' settlement awards, Class Counsel's attorney's fees, costs and expenses ("**Class Counsel Fees**"), the Named Plaintiffs Service Payments, and all costs of Settlement Administration ("**Administrative Costs**") incurred following the Effective Date will be paid from the Settlement Fund.

Other than the Settlement Fund and the Administrative Notice Costs, See Tickets will have no financial obligation to the Named Plaintiffs, Participating Settlement Class Members, Class Counsel, any other attorney representing Named Plaintiffs,

any other attorney representing any Settlement Class member, or the Settlement Administrator with respect to the Released Claims. The Settlement Fund and the Administrative Notice Costs represent the total extent of See Tickets' monetary obligations under this Agreement.

The "**Net Settlement Amount**" shall be that portion of the Settlement Fund that remains after deducting amounts for any (i) estimated Administrative Costs incurred following the Effective Date, (ii) Settlement Fund Taxes and Tax-Related Expenses, (iii) Service Awards Payments approved by the Court, and (vii) Class Counsel Fees approved by the Court; all of which shall be payable from the Settlement Fund.

3. Agreed Injunctive Relief.

In addition to the security practice changes implemented as part of the settlement in *Carter v. Vivendi Ticketing US LLC d/b/a See Tickets*, Case No. 8:22-cv-01981-CJC-DFM (C.D. Cal.), See Tickets agrees to the implementation of the following security measures for a period of at least 2 years from the date of implementation, to be fully implemented within 6 months from the Effective Date of the Settlement:

- a. A position responsible for information security with a person qualified for the position ("CISO"). The CISO will lead the information security program with responsibility to coordinate and be responsible for See Tickets' program(s) to protect the security of its customers' payment card data and PII, including See Tickets' compliance with PCI DSS.
- b. Performance of a security assessment for the organization based on an established industry standard conducted at least annually by an independent third party.
- c. A company-wide encryption policy that provides for encryption of customer payment card data to include encryption and tokenization of payment card data at rest and in movement.
- d. A firewall on all See Tickets US websites.
- e. Retention of an established third-party IT security vendor to conduct penetration testing at least twice a year.
- f. Endpoint protection and anti-malware software or tools on all servers and employee laptops with monitoring, reporting, and alerts for malware.
- g. Multi-factor authentication for employee access to corporate systems or other systems containing payment card data.
- h. Training for all employees regarding safe cyber security practices, provided twice a year.

- i. Encourage personnel to report any concerns about See Tickets' information security systems to the CISO or some other designated employee of the company.
 - j. Review and update data retention policy annually.
 4. Confirmatory Discovery. The Parties shall negotiate in good faith certain confirmatory discovery to be produced by See Tickets confirming the implementation of the Agreed Injunctive Relief, which See Tickets will produce to Plaintiffs prior to the seeking of final approval of the Settlement. Prior to seeking final approval of the Settlement, See Tickets agrees to prepare a written declaration regarding the implementation of the Agreed Injunctive Relief which may be provided to the Court in camera upon request.
 5. Certification. Class Counsel hereby certifies that a reasonable estimation of the value of the Agreed Injunctive Relief, to implement, test, and maintain, is approximately \$500,000. Class Counsel believes that this represents further good and valuable consideration for this Settlement.
- F. Class Counsel Fees and the Named Plaintiffs Service Payments.
1. At least one week prior to the deadline for Settlement Class Members to object to the settlement, Class Counsel will submit an application for Class Counsel Fees. Any Class Counsel Fees awarded by the Court at the Court's discretion shall be paid out of the Settlement Fund within thirty-five (35) days from the Effective Date. The Court's approval of Class Counsel Fees in an amount less than the applied-for amount will not affect the enforceability of this Agreement.
 2. In recognition of their time and effort spent serving as Class Representatives, Class Counsel shall submit an application for approval of Named Plaintiffs Service Payment awards. The amounts approved for the Named Plaintiffs Service Payment is solely within the discretion of the Court. The Named Plaintiffs Service Payments shall be paid out of the Settlement Fund within thirty-five (35) days from the Effective Date.
- G. Settlement Administration. The Parties will engage Kroll Settlement Administration LLC as the Settlement Administrator to oversee the sending of the Class Notice and making of the payments required under this Settlement Agreement. The Settlement Administrator estimates Administrative Costs to be \$140,000, excluding the costs of Credit Monitoring and the Claims Referee. See Tickets shall pay the Administrative Notice Costs directly to the Settlement Administrator, and the Administrative Costs incurred following the Effective Date shall be paid out of the Settlement Fund.

The Settlement Administrator will administer the settlement, including (i) not later than ten (10) calendar days after the filing of this Settlement Agreement with the Court, the Settlement Administrator, on Defendant's behalf, shall serve or cause to be served notice of the proposed Settlement upon the appropriate federal and state officials, as provided by the Class Action Fairness Act, 28 U.S.C. § 1715, *et seq.*; (ii) providing notification of the

proposed settlement as per this Agreement to the Settlement Class Members; (iii) creating and hosting a website, publicly accessible for at least six months after the Effective Date, dedicated to providing information related to the Action, including access to relevant publicly available court documents, the settlement and this Settlement Agreement, the long-form notice of the settlement, and providing Settlement Class Members with the ability to submit claims and supporting documentation for compensatory relief; (iv) maintaining a toll-free telephone number and P.O. Box by which Settlement Class Members can seek additional information regarding this Settlement Agreement; (v) processing claims and supporting documentation submissions, and providing approved payments to Approved Settlement Class Members; (vi) processing requests for exclusion from Settlement Class Members; and (vii) any other provision of this Settlement Agreement that relates to the settlement and claims administration.

H. Distribution of Net Settlement Amount.

1. Settlement Class Members may submit one claim per Settlement Class Member.
2. Initial Cash Distributions: The following shall collectively be considered the “Initial Cash Distributions”:
 - a. California Statutory Claim Benefits: In addition to the following awards, each member of the California Settlement Sub-Class who timely submits a valid Claim Form will be eligible for a separate California statutory damages award (the “**California Statutory Award**”). The amount of the California Statutory Award per person shall be \$100.
 - b. General Benefits: Any Settlement Class member who timely submits a valid Claim Form (“**Qualified Claimant**”) shall be entitled to payment from the Net Settlement Amount as detailed in this sub-paragraph (“**Claimant Award**”).
 - (i) Ordinary Losses: compensation for documented unreimbursed out-of-pocket expenses, up to a total of \$2,000 per person (“**Ordinary Expense Reimbursements**”), upon submission of a claim and supporting documentation, such as, but not limited to, the following:
 - (a) Out-of-pocket expenses incurred as a result of the Data Security Incident, including unreimbursed bank fees (such as card replacement and over-limit fees), interest on short-term loans, long distance phone charges, cell phone charges (only if charged by the minute), data charges (only if charged based on the amount of data used), postage, or gasoline for local travel; or
 - (b) Out-of-pocket expenses incurred for credit reports, credit freezes, credit monitoring, or other identity theft

insurance product purchased after the Data Security Incident;

- (ii) Compensation for Extraordinary Documented Losses: Up to \$5,000 in compensation to each Qualified Claimant for proven unreimbursed monetary losses as a result of actual identity theft (“**Extraordinary Expense Reimbursements**”) upon submission of a claim and supporting documentation if:
 - (a) The expense is an actual, documented, and unreimbursed out-of-pocket expense;
 - (b) The expense was more likely than not caused by the Data Security Incident;
 - (c) The expense was incurred after February 28, 2023;
 - (d) The loss is not already covered by one or more of the other reimbursement categories; and
 - (e) The Qualified Claimant made reasonable efforts to avoid, or seek reimbursement for the expenses, including but not limited to exhaustion of all available bank reimbursements, credit monitoring insurance, and identity theft insurance.

- (iii) Credit Monitoring or Alternative Payment: In addition to the foregoing benefits, each Qualified Claimant will be entitled to either:
 - (a) Credit Monitoring: thirty-six (36) months of three (3) bureau credit monitoring (the “**Credit Monitoring Services**”); the Settlement Administrator shall send an activation code to each Qualified Claimant who selects the Credit Monitoring Services within forty-five (45) days of the Effective Date which can be used to activate Credit Monitoring Services via an enrollment website; such enrollment codes shall be sent via email, unless the Qualified Claimant did not provide an email address, in which case such codes shall be sent via U.S. mail; a Qualified Claimant may activate Credit Monitoring Services for a period of at least sixty (60) days from the date the Settlement Administrator sends the activation code; or
 - (b) Alternative Cash Payments: Each Qualified Claimant who does not select the Credit Monitoring Services shall receive a cash payment in an amount equal to a pro rata

distribution of the Remaining Net Settlement Amount (“**Alternative Cash Payments**”), but in no event shall any class member receive more than \$100 under this provision; the “**Remaining Net Settlement Amount**” shall be calculated by taking the Net Settlement Amount and subtracting (1) the amount of all Ordinary Expense Reimbursements, (2) the amount of all Extraordinary Expense Reimbursements, (3) the total amount of all California Statutory Awards, and (4) the cost of Credit Monitoring Services.

If the same Qualified Claimant attempts to claim both the Credit Monitoring Services and the Alternative Cash Payment, the Settlement Administrator shall contact the Qualified Claimant (by email, telephone, or U.S. mail) to seek clarification regarding which benefit he or she would like to select, and if after diligent efforts (at least 2 attempts) the Settlement Administrator has not received a response from the Qualified Claimant, then the Qualified Claimant shall be considered to have selected the Alternative Cash Payment.

- c. Second Cash Distribution: Provided that the costs of so doing would not result in the distribution to Approved Settlement Class Members of a *de minimis* amount, then after calculating the Initial Distributions, the Settlement Administrator shall add a further cash distribution to the Initial Cash Distribution made to all Qualified Claimants in an amount equal to a pro rata distribution of the amount in the Remaining Net Settlement Amount after subtracting all previously calculated Initial Distributions.
3. Cy Pres: Within one-hundred and thirty-five (135) days of the Initial Cash Distribution, if money remains in the Remaining Net Settlement Amount after the distribution of the Initial Cash Distribution, those funds will be distributed to the National Independent Venue Foundation (NIVF); provided that such grants shall stipulate that the grant amounts may not be used in furtherance of litigation.
4. Payment: Claims of Approved Settlement Class Members that are deemed valid will result in Initial Distributions being made to those Approved Settlement Class Members within forty-five (45) days from the Effective Date, or as soon thereafter as is reasonably practical.
 - a. Approved Settlement Class Members shall have a choice of how to be paid the Initial Cash Distribution (with the same choice applying to both distributions), either via electronic payment (e.g., Venmo), pre-paid credit card, or check. Any checks issued from the Settlement Fund shall be valid for ninety (90) days from the date of issuance.
 - b. If the Initial Cash Distribution is returned as undeliverable, or unable to be paid, the Settlement Administrator will reattempt distribution if a

forwarding address is provided. If a new address is not provided, or if the distribution is remailed and returned or is unable to be paid, the Settlement Administrator shall cancel the distribution and there will be no further obligation to attempt to make any distribution to that Settlement Class member.

5. Taxes: Taxes on the amount received by Approved Settlement Class Members pursuant to this Agreement (*i.e.*, Initial Cash Distribution plus any Second Cash Distribution) are the responsibility of the Approved Settlement Class Members to whom the payments are made. No tax advice has been provided to Settlement Class Members. The Released Parties are not responsible for taxes arising from the payment of the Initial Cash Distribution. Any Settlement Fund Taxes and Tax-Related Expenses shall be paid out of the Settlement Fund.

I. Release. Upon the Effective Date, and in consideration of the settlement relief and other consideration described herein, the Releasing Parties shall be deemed to have, and by operation of the Final Approval Order shall have, fully, finally, and forever released, acquitted, relinquished, and completely discharged the Released Parties from any and all Released Claims, including but not limited to any state law or common law claims that the Releasing Parties may have or had, such as under California's Customer Records Act, California Civil Code section 1798.80, *et seq.* and/or California's Consumer Privacy Act, California Civil Code section 1798.100, *et seq.* Each Party expressly waives all rights under California Civil Code section 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

The Releasing Parties also waive the provisions and rights of any law(s) that are comparable in effect to California Civil Code section 1542 (including, without limitation, California Civil Code § 1798.80, *et seq.*, Montana Code Ann. § 28- 1-1602; North Dakota Cent. Code § 9-13-02; and South Dakota Codified Laws § 20-7-11). The Releasing Parties agree that, once this Agreement is executed, they will not, directly or indirectly, individually or in concert with another, maintain, cause to be maintained, or voluntarily assist in maintaining any further demand, action, claim, lawsuit, arbitration, or similar proceeding, in any capacity whatsoever, against any of the Released Parties based on any of the Released Claims.

J. Notice of Settlement. The Parties agree to the following procedures for notifying the Settlement Class Members.

1. Identification of Settlement Class Members. Within ten (10) days of entry of an Order from the Court granting Preliminary Approval of the Settlement, See Tickets will provide to the Settlement Administrator a list of approximately 323,498 unique names and email addresses, and mailing addresses where See Tickets has

them in its possession, associated with users who received notice of the Data Security Incident from See Tickets.

Any documentation or information disclosed in connection with this paragraph may be used by Class Counsel and the Settlement Administrator only for purposes of implementing this Settlement Agreement. All such documentation or information may not be disclosed by Class Counsel or the Settlement Administrator to anyone outside their organizations.

2. Class Notice. The court-approved Notice of Proposed Class Action Settlement (“**Class Notice**”) shall be in substantially the form attached hereto as **Exhibit A**, a long form notice shall be available to the Settlement Class Members in substantially the form attached hereto as **Exhibit B**, and a Claim Form shall be in substantially the form attached here to as **Exhibit C**. Any changes to the Class Notice that do not materially affect the substance of the Settlement Agreement that the Court may require will not invalidate this Settlement Agreement.

The Class Notice shall be sent to Settlement Class Members via email in substantially the form attached hereto as **Exhibit A** sent by the Settlement Administrator to all Settlement Class Members at the email address used to distribute notice of the Data Security Incident. If the Settlement Administrator determines that any of the emails are returned as undeliverable, or are otherwise unusable, or if Plaintiffs’ Counsel and the Settlement Administrator agree that additional mailing notice is necessary or proper, then the Settlement Administrator may provide notice to that Settlement Class member by mail in substantially the form attached hereto as **Exhibit A**.

The Class Notice shall be sent to Settlement Class Members within thirty (30) days of entry of an Order granting Preliminary Approval of the Settlement (the “**Notice Date**”). An email reminder class notice, which shall be substantially in the form attached hereto as **Exhibit A** with appropriate edits showing that it is a reminder (as agreed to by the parties) shall be sent out sixty-five (65) days after the Notice Date.

3. Claim Forms. Claim Forms shall be submitted online or by mailing to the Settlement Administrator. The deadline for submitting a valid Claim Form shall be ninety (90) days from the Notice Date. Valid Claim Forms must include the claimant’s current mailing address, valid email address, and the Settlement Administrator’s unique claim ID for the claimant. The Settlement Administrator shall be initially responsible for determining if a claim is valid.
4. Dispute Resolution. In the event of a dispute over the validity of a claim or the denial of a distribution, the relevant Participating Settlement Class Member or See Tickets shall be entitled to submit their claim to the designated Claims Referee, who is to be mutually agreed upon by See Tickets and Class Counsel. See Tickets will provide notice to Class Counsel of any claims submitted to the Claims Referee. The Claims Referee’s findings will be final and binding. The Claims Referee’s fees for the dispute resolution process shall be part of the Administrative

Costs. The Participating Settlement Class Member and See Tickets will each bear their own attorneys' fees and any other costs of the dispute resolution process, if any. Class Counsel will have the option, but not the obligation, to participate in the dispute resolution process.

- K. Objection Procedures. The Class Notice shall inform Settlement Class Members of the right to object to the Settlement Agreement. If a Settlement Class member wishes to have the Court consider an Objection to the Settlement Agreement, such person (i) must not have excluded himself from the Settlement and (ii) must file with the Court and mail to Class Counsel and See Tickets' Counsel a written statement stating the reasons for the objection to the Settlement, along with any supporting documentation that the person wishes the Court to consider, by no later than sixty (60) days after the Notice Date (the "**Objection/Opt-Out Deadline**"). If such Objection is submitted and overruled by the Court, the objecting member of the Settlement Class shall remain fully bound by the terms of the Settlement Agreement and the Final Approval Order. The Parties shall submit any responses to Objections no later than twenty-one (21) days prior to the final approval hearing. Any Settlement Class Member who does not appear individually or through counsel and who does not challenge or comment upon the fairness and adequacy of the Settlement Agreement or Class Counsel's request for Class Counsel Fees shall waive and forfeit any and all rights to appear separately or object. All Participating Settlement Class Members shall be bound by the Settlement and by all orders and judgments in this Action.
- L. Opt-Out Procedures. The Class Notice shall also provide that Settlement Class Members who wish to exclude themselves (i.e., opt out) from the Settlement Class must mail a letter to the Settlement Administrator on or before the Objection/Opt-Out Deadline requesting exclusion from the Settlement Class. An Opt-Out request must: (i) be in writing; (ii) provide the Settlement Class Member's current address; (iii) contain the following statement: "I request that I be excluded from the Settlement Class in the case of *In re: Vivendi Ticketing US LLC, d/b/a See Tickets Data Security Incident*"; (iv) be signed; and (v) be mailed to the Settlement Administrator at the address provided in the Class Notice with a postmark on or before the deadline set forth in the Class Notice. Each individual who properly files a timely written Opt-Out request shall be excluded from the Settlement Class and shall have no rights under the Settlement Agreement. Settlement Class Members who fail to submit a valid and timely request for exclusion on or before the Objection/Opt-Out Deadline shall be bound by all terms of the Settlement and any final judgment entered in this Action if the settlement is approved by the Court, regardless of whether they have objected to the settlement. An Opt-Out request shall be deemed timely if it is postmarked no later than sixty (60) days after the Notice Date.
- M. Settlement Administrator Reports. After the Notice Date, the Settlement Administrator shall provide a weekly report to Class Counsel and to See Tickets' Counsel, setting forth the number of valid Claim Forms that were submitted each week. Within ten (10) days of the Objection/Opt-Out Deadline, the Settlement Administrator shall provide jointly to Class Counsel and See Tickets' Counsel a report listing the timely written Opt-Out requests and copies of same.

Within one-hundred (100) days of the Notice Date, the Settlement Administrator shall provide Class Counsel and See Tickets' Counsel a report listing preliminary information,

which shall be subject to audit, validity, and review of duplicate submissions, regarding: (i) the total number of Claim Forms that were valid and timely submitted; and (ii) the calculated Claimant Award amount for each Settlement Class member that submitted a valid Claim Form.

Within thirty (30) days of the Effective Date, the Settlement Administrator shall issue a final report listing the audited, verified and deduplicated information regarding: (i) the total number of Claim Forms that were valid and timely submitted; and (ii) the calculated Claimant Award amount for each Settlement Class member that submitted a valid Claim Form.

- N. Review and Assistance. Class Counsel and Defendant will be permitted to audit and review actual (or summary reports on) claims made, claims approved or denied, distributions issued, calculations of benefits under the settlement, and returned distributions and uncashed distributions in order to assist with the effectuation of the settlement and the Parties' respective desire to reasonably ensure that the settlement benefits are administered in a manner to attempt to reach every Settlement Class member.
- O. Preliminary Approval. Within thirty (30) days of execution of the Settlement Agreement, Class Counsel shall promptly prepare and file with the Court a motion for preliminary approval and determination by the Court as to the fairness, adequacy, and reasonableness of this Settlement Agreement. The motion for preliminary approval shall request entry of a preliminary order that: (i) certifies the Settlement Class, (ii) approves the Class Notice and Claim Form as to form and content and directs that such Class Notice and Claim Form be provided to Settlement Class Members; (iii) preliminarily approves the Settlement Agreement; and (iv) approves Kroll Settlement Administration LLC as the Settlement Administrator.
- P. Final Approval and Entry of Final Judgment. On or before one-hundred and twenty (120) days after the Notice Date, the Parties will jointly request that the Court grant final approval and enter judgment approving the Settlement Agreement as fair, adequate, reasonable, and binding on all Participating Settlement Class Members; ordering that the settlement payments be made to the Approved Settlement Class Members; ordering that Class Counsel Fees, the Administrative Costs, and the Named Plaintiffs Service Payments be paid in the amounts approved by the Court; dismissing the Action with prejudice; and barring Participating Settlement Class Members from bringing Released Claims.
- Q. Termination.
1. The Settlement Agreement may be terminated and cancelled at the sole and exclusive discretion of See Tickets if two percent (2%) or more of Settlement Class Members timely and validly exclude themselves from the Settlement Class.
 2. If there is a failure to reach any Effective Date and/or if the Court should for any reason fail to approve this Settlement Agreement in the form agreed to by the Parties, decline to enter the Final Approval Order, or impose any modification or condition to approval of the Settlement Agreement to which the Parties do not consent, and/or if the Final Approval Order is reversed or rendered void, then

(a) this Settlement Agreement shall be considered null and void; (b) neither this Settlement Agreement nor any of the related negotiations shall be of any force or effect; (c) See Tickets shall have no obligation to provide any cash or other benefit to Participating Settlement Class Members or make any cash payment to the Settlement Fund and shall be entitled to the return of all cash deposited with the Settlement Administrator; (d) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court; and (e) the Settlement Agreement and all negotiations, statements, proceedings and data relating thereto shall be protected by Federal Rule of Evidence 408 and shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions in the Action. Invalidation of any portion of this Agreement shall invalidate this Agreement in its entirety unless the Parties agree in writing that the remaining provisions shall remain in full force and effect.

- R. Confidentiality. To the extent permitted by ethics rules, the Parties and their counsel shall keep confidential all settlement communications, including communications regarding the negotiation and drafting of this Settlement Agreement. The Parties will not make any public statement about the settlement that has not been approved by the other side, except as required or authorized by law. Approval of any proposed public statement of the other side will not be unreasonably withheld. The Parties will cooperate with each other regarding public statements about the settlement and may issue a joint statement/press release if they mutually agree to do so. This paragraph shall not be construed to limit or impede the notice requirements contained in this Settlement Agreement, nor shall this paragraph be construed to prevent Class Counsel or See Tickets' Counsel from notifying or explaining that the Action has settled or limit the representations that the Parties or their Counsel may make to the Court to assist in the Court's evaluation of the Settlement Agreement. See Tickets may also provide information about the Settlement Agreement to its attorneys, members, partners, insurers, brokers, agents, and other persons or entities as required by securities laws or other applicable laws and regulations.
- S. Cooperation in Effecting Settlement: The Parties, their successors and assigns, and their attorneys will implement this Settlement Agreement in good faith, use good faith in resolving any disputes that may arise in the implementation of this Settlement Agreement, cooperate with one another in seeking Court approval of this Settlement Agreement, and use their best efforts to effect the prompt consummation of this Settlement Agreement.
- T. Miscellaneous Provisions.
1. This Settlement Agreement may be amended or modified only by a written instrument signed by counsel for both Parties.
 2. The headings of the sections of this Settlement Agreement are included for convenience only and shall not be deemed to constitute part of this Settlement Agreement or to affect its construction.
 3. This Settlement Agreement constitutes the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or

contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or Party's legal counsel, are merged herein.

4. The Parties and their counsel will cooperate with each other and use their best efforts to implement this Settlement Agreement. Class Counsel shall, with the assistance and cooperation of See Tickets' Counsel, take all necessary steps to secure the Court's final approval of this Settlement Agreement and dismissal of this Action with prejudice.
5. This Settlement Agreement shall be binding upon and shall inure to the benefit of the Parties and Participating Settlement Class Members and their respective heirs, successors, and assigns.
6. All terms of this Settlement Agreement shall be governed by and interpreted according to the laws of the state of California, without regard to its rules regarding conflict of laws.
7. The determination of the terms of, and the drafting of, this Settlement Agreement has been by mutual agreement after extensive negotiation, with consideration by and participation of counsel for both Parties. The Settlement Agreement shall be construed according to the fair intent of the language taken as a whole, and not for or against any Party.
8. The waiver by one Party of any provision or breach of this Settlement Agreement shall not be deemed a waiver of any other provision or breach of this Settlement Agreement.
9. The Parties and their counsel may execute this Settlement Agreement in counterparts and this Settlement Agreement may be executed by electronic signature. Execution in counterparts shall have the same force and effect as if all signatories had signed the same document.
10. The Court shall retain jurisdiction to interpret, effectuate, enforce, and implement this Settlement Agreement, and all Parties submit to the jurisdiction of the Court only for purposes of implementing and enforcing the Settlement Agreement. Except as stated above regarding claim disputes, the Court shall have exclusive jurisdiction to resolve any disputes involving this Settlement Agreement.
11. Each individual signing this Settlement Agreement represents and warrants that he or she has the authority to sign on behalf of the person or entity for which that individual signs.

[The remainder of this page is intentionally left blank]

IN WITNESS HEREOF the undersigned, being duly authorized, have caused this Agreement to be executed on the dates shown below.

AGREED TO AND ACCEPTED:

Dated: 05 / 22 / 2024

Mandi Peterson

Mandi Peterson, Individually and on Behalf of the Primary Settlement Class

Dated: _____

Scott Fitzgerald, Individually and on Behalf of the California Settlement Sub-Class

Dated: _____

Zachary Richmond, Individually and on Behalf of the Primary Settlement Class

Dated: _____

Tom Loughead, Individually and on Behalf of the Primary Settlement Class

Dated: _____

Mason Verderame, Individually and on Behalf of the Primary Settlement Class

Dated: _____

Katie Jezierny, Individually and on Behalf of the Primary Settlement Class

IN WITNESS HEREOF the undersigned, being duly authorized, have caused this Agreement to be executed on the dates shown below.

AGREED TO AND ACCEPTED:

Dated: _____

Mandi Peterson, *Individually and on Behalf of the Primary Settlement Class*

Dated: ^{05/22/2024} _____



Scott Fitzgerald, *Individually and on Behalf of the Primary Settlement Class*

Dated: _____

Zachary Richmond, *Individually and on Behalf of the Primary Settlement Class*

Dated: _____

Tom Loughead, *Individually and on Behalf of the Primary Settlement Class*

Dated: _____

Mason Verderame, *Individually and on Behalf of the Primary Settlement Class*

Dated: _____

Katie Jezierny, *Individually and on Behalf of the Primary Settlement Class*

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AGREED TO AND ACCEPTED:

Dated: _____

Mandi Peterson, *Individually and on Behalf of the Primary Settlement Class*

Dated: _____

Scott Fitzgerald, *Individually and on Behalf of the California Settlement Sub-Class*

Dated: May 22, 2024



Zachary Richmond (May 22, 2024 11:37 CDT)

Zachary Richmond, *Individually and on Behalf of the Primary Settlement Class*

Dated: _____

Tom Loughead, *Individually and on Behalf of the Primary Settlement Class*

Dated: _____

Mason Verderame, *Individually and on Behalf of the Primary Settlement Class*

Dated: _____

Katie Jezierny, *Individually and on Behalf of the Primary Settlement Class*

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Dated: _____

Scott Fitzgerald, *Individually and on Behalf of the California Settlement Sub-Class*

Dated: _____

Zachary Richmond, *Individually and on Behalf of the Primary Settlement Class*

Dated: _____

Tom Loughead, *Individually and on Behalf of the Primary Settlement Class*

Dated: 05/22/2024



Tom Loughead (May 22, 2024 16:44 PDT)

Mason Verderame, *Individually and on Behalf of the Primary Settlement Class*

Dated: _____

Katie Jezierny, *Individually and on Behalf of the Primary Settlement Class*

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Mandi Peterson, Individually and on Behalf of the Primary Settlement Class

Dated: _____

Scott Fitzgerald, Individually and on Behalf of the California Settlement Sub-Class

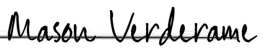
Dated: _____

Zachary Richmond, Individually and on Behalf of the Primary Settlement Class

Dated: _____

Tom Loughead, Individually and on Behalf of the Primary Settlement Class

5/22/2024
Dated: _____

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Mason Verderame, Individually and on Behalf of the Primary Settlement Class

Dated: _____

Katie Jezierny, Individually and on Behalf of the Primary Settlement Class

IN WITNESS HEREOF the undersigned, being duly authorized, have caused this Agreement to be executed on the dates shown below.

AGREED TO AND ACCEPTED:

Dated: _____

Mandi Peterson, *Individually and on Behalf of the Primary Settlement Class*

Dated: _____

Scott Fitzgerald, *Individually and on Behalf of the California Settlement Sub-Class*

Dated: _____

Zachary Richmond, *Individually and on Behalf of the Primary Settlement Class*

Dated: _____

Tom Loughhead, *Individually and on Behalf of the Primary Settlement Class*

Dated: _____

Mason Verderame, *Individually and on Behalf of the Primary Settlement Class*

Dated: 05/22/2024



Katie Jezierny, *Individually and on Behalf of the Primary Settlement Class*

Dated: 05/22/2024



Rian Bodner, *Individually and on Behalf of the Primary Settlement Class*

Dated: _____

Christopher Aragon, *Individually and on Behalf of the Primary Settlement Class*

Dated: _____

Candice Zinner, *Individually and on Behalf of the Primary Settlement Class*

Dated: _____

Mason Barney, *Counsel for Named Plaintiffs*

Dated: _____

Nicholas Migliaccio, *Counsel for Named Plaintiffs*

Dated: _____

Ken Grunfeld, *Counsel for Named Plaintiffs*

Dated: _____

Rian Bodner, *Individually and on Behalf of the Primary Settlement Class*

Dated: ^{05/22/2024} _____

Christopher Aragon

Christopher Aragon, *Individually and on Behalf of the*

Dated: _____

Candice Zinner, *Individually and on Behalf of the Primary Settlement Class*

Dated: _____

Mason Barney, *Counsel for Named Plaintiffs*

Dated: _____

Nicholas Migliaccio, *Counsel for Named Plaintiffs*

Dated: _____

Ken Grunfeld, *Counsel for Named Plaintiffs*

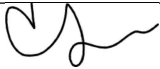
Dated: _____

Rian Bodner, *Individually and on Behalf of the Primary Settlement Class*

Dated: _____

Christopher Aragon, *Individually and on Behalf of the Primary Settlement Class*

Dated: 05 / 22 / 2024



Candice Zinner, *Individually and on Behalf of the Primary Settlement Class*

Dated: _____

Mason Barney, *Counsel for Named Plaintiffs*

Dated: _____

Nicholas Migliaccio, *Counsel for Named Plaintiffs*

Dated: _____

Ken Grunfeld, *Counsel for Named Plaintiffs*

Dated: _____

Rian Bodner, *Individually and on Behalf of the Primary Settlement Class*

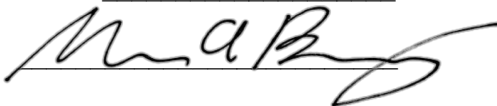
Dated: _____

Christopher Aragon, *Individually and on Behalf of the California Sub-Class*

Dated: _____

Candice Zinner, *Individually and on Behalf of the Primary Settlement Class*

Dated: May 23, 2024



Mason Barney, *Counsel for Named Plaintiffs*

Dated: _____



Nicholas Migliaccio, *Counsel for Named Plaintiffs*

Dated: May 22, 2024

Ken Grunfeld

Ken Grunfeld, *Counsel for Named Plaintiffs*

Dated: 5/22/2024 _____

Hala Baviere _____

By: Hala Baviere _____

Vivendi Ticketing US, LLC d/b/a See Tickets

Dated: _____

Aravind Swaminathan, Counsel for Vivendi Ticketing US, LLC d/b/a See Tickets

Dated: _____

By: _____

Vivendi Ticketing US, LLC d/b/a See Tickets

Dated: 5/22/2024

Aravind Swaminathan

Aravind Swaminathan, Counsel for Vivendi Ticketing US, LLC d/b/a See Tickets

SCHEDULE 1

Important Dates

<u>Order Granting Preliminary Approval of the Settlement</u>	
See Tickets provides to the Settlement Administrator list of Settlement Class Members	+10 Days
See Tickets pays the Settlement Administrator a portion of the Administrative Costs	+16 Days
Settlement Administrator sends out Notice	+30 Days
<u>Notice Date</u>	
Plaintiff file motions for Attorneys' Fees and Service Awards	+54 Days
Objection/Opt-Out Deadline	+60 Days
Settlement Administrator sends reminder notice	+65 Days
Settlement Administrator sends opt-out list	+70 days
Claims Deadline	+90 Days
Settlement Administrator sends report listing preliminary information	+100 Days
Filing of final approval motion	+120 Days ¹
Responses to Objections	+127 Days
Final Approval Hearing	+148 Days
<u>Effective Date</u>	
See Tickets to create and fund Settlement Fund	+30 Days
Settlement Administrator issues final report	+30 Days
Payment of Attorneys' Fees	+35 Days
Payment of Service Payments	+35 Days
Send Credit Monitoring codes	+45 Days
Payment of Initial Cash Distributions	+45 Days

¹ L.R. 6-1 requires a motion to be filed at least twenty-eight (28) days prior to the hearing.

EXHIBIT A

You may be eligible for cash payment and/or Credit Monitoring Services from
See Tickets but you need to act.

Si desea recibir esta notificación en español, llámenos o visite nuestra página web.

A Court Authorized this Notice.

This is not spam, an advertisement, or a lawyer solicitation.

A settlement has been reached in a class action lawsuit against Vivendi Ticketing US, LLC or See Tickets (“See Tickets”) that alleges that See Tickets was negligent and breached contractual and statutory duties in connection with a Data Security Incident that occurred starting in February of 2023 and that See Tickets disclosed in September 2023. See Tickets denies all the claims and says it did not do anything wrong.

ARE YOU INCLUDED? Yes, See Tickets’ records show that you are an individual whose information was accessed and that you were sent a notification of the Data Security Incident on or about September 11, 2023. Therefore, you are included in this settlement as a “Settlement Class member.”

WHAT ARE THE SETTLEMENT BENEFITS? See Tickets has agreed to establish a Settlement Fund of \$3,250,000. Settlement Class members who submit a valid claim will be reimbursed for documented, ordinary, and unreimbursed out-of-pocket expenses up to \$2,000 and extraordinary expenses up to \$5,000. All Settlement Class members may also elect to receive either three years of three-bureau credit monitoring or, alternatively, an Alternative Cash Payment of up to \$100 from the Settlement Fund. California residents will also receive an additional \$100 California Statutory Award pursuant to claims under California law. The Administrative Costs and all Class Counsel Fees will also be paid from the Settlement Fund.

HOW CAN I FILE A CLAIM? The only way to file a claim is by filling out a Claim Form available if you:

- Visit the settlement website at www.XXXXXXXXXX.com or
- Call (XXX) XXX-XXXX.

All claims must be filed *before* **Month Day, 2024**.

WHAT ARE MY OTHER OPTIONS? If you do nothing, you will remain in the Settlement Class, you will not be eligible for benefits, you will be bound by the decisions of the Court and give up your rights to sue See Tickets for the claims resolved by this settlement. If you do not want to be legally bound by the settlement, you must exclude yourself by **Month Day, 2024**. If you stay in the Settlement Class, you may object to it by **Month Day, 2024**. A more detailed notice explaining how to exclude yourself or object is available at www.XXXXXXXXXX.com, or call the phone number below.

WHEN WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT? On **Month Day, 2024**, the Court will hold a Final Approval Hearing to determine whether to approve the settlement, Class Counsel’s request for Class Counsel Fees and expenses of up to \$812,500 and a service payment of \$2,500 for each Named Plaintiff. The Motion for Class Counsel Fees will be posted on the settlement website after it is filed. You or your own lawyer may ask to appear and speak at the hearing at your own cost, but you do not **have** to.

For more information, call or visit the website below.

www.XXXXXXXXXX.com

(XXX) XXX-XXXX

EXHIBIT B

Long Form Notice

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

In re: Vivendi Ticketing US LLC, d/b/a See Tickets Data Security Incident, No. 2:23-cv-07498 (C.D. Cal.)

You may be eligible for cash payment and/or Credit Monitoring Services from See Tickets but you need to act.

A Court Authorized this Class Notice.

This is not spam, an advertisement, or a lawyer solicitation.

This is a court-authorized Class Notice of a proposed settlement in a class action lawsuit, *In re: Vivendi Ticketing US LLC, d/b/a See Tickets Data Security Incident, No. 2:23-cv-07498*, currently pending in the District Court for the Central District of California. The proposed settlement would resolve a lawsuit that alleges that See Tickets was negligent and breached contractual and statutory duties in connection with a data security incident that See Tickets disclosed in September 2023. See Tickets contests these claims and denies that it did anything wrong. This Class Notice explains the nature of the class action lawsuit, the terms of the settlement, and your legal rights and obligations.

You have legal rights and options that you may act on before the Court decides whether to approve the proposed settlement. Because your rights will be affected by this settlement, it is extremely important that you read this Class Notice carefully. To read the precise terms and conditions of the settlement, you can access a copy of the Settlement Agreement [here](#) [link to document on website]. You may also contact the Settlement Administrator at (XXX) XXX-XXXX.

Summary of Your Legal Rights and Options in This Settlement		Deadline
Submit a Claim	The only way to be eligible to receive a Claimant Award from this settlement is by submitting a timely and valid Claim Form.	_____, 2024
Opt Out of the Settlement	You can choose to opt out of the settlement and receive no payment. This option allows you to sue, continue to sue, or be part of another lawsuit against the Defendant related to the legal claims resolved by this settlement. You can elect to have your own legal counsel at your own expense.	_____, 2024
Object to the Settlement and/or Attend a Hearing	If you do not opt out of the settlement, you may object to it by writing to the Court about why you don't like the settlement. You may also ask the Court for permission to speak about your objection at the Final Approval Hearing. If you object, you may also file a claim for a Claimant Award.	_____, 2024

Do Nothing	Unless you opt out of the settlement, you are automatically part of the settlement. If you do nothing, you will not get a payment from this settlement and you will give up the right to sue, continue to sue, or be part of another lawsuit against the Defendant related to the legal claims resolved by this settlement.	No Deadline
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What Is This Action About? In a class action, one or more people, called class representatives, sue on behalf of people who have similar claims. All of the people with similar claims are Settlement Class members. One court resolves the issues for all Settlement Class members, except those who exclude themselves from the Settlement Class.

In this consolidated Action, Plaintiffs allege that See Tickets was negligent and violated contractual and statutory duties when a third party obtained unauthorized access to payment card information of certain See Tickets customers. See Tickets denies any liability or wrongdoing of any kind associated with the claims in this Action.

This is just a summary of the allegations. The complaint in the Action is posted at www.XXXXXXXXXX.com and contains all of the allegations.

Why Is There a Settlement? To resolve this matter without the expense, delay, and uncertainties of litigation, the parties reached a settlement. The proposed settlement would require See Tickets to pay money and provide access to a credit monitoring product, and pay Administrative Costs, Class Counsel Fees, and service payments to the Named Plaintiffs, as may be approved by the Court. The settlement is not an admission of wrongdoing by See Tickets and does not imply that there has been, or would be, any finding that See Tickets violated the law.

Am I a Settlement Class Member? You are a Settlement Class member if you are a resident of the United States whose information was accessed in the Data Security Incident and you received notice of the Data Security Incident from See Tickets.

Who Represents Me? The Court has appointed a team of lawyers as Class Counsel.

<p>Mason A. Barney SIRI & GLIMSTAD LLP 745 Fifth Ave, Suite 500 New York, NY 10151</p> <p>Nicholas Migliaccio MIGLIACCIO & RATHOD, LLP 412 H. St. NE, Suite 302 Washington, DC 20002 T: (202) 470-3520</p> <p>Kenneth Grunfeld KOPELOWITZ OSTROW P.A. One West Las Olas Blvd., Suite 500 Fort Lauderdale, FL 33301</p>
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Class Counsel will petition to be paid legal fees and to be reimbursed for their reasonable expenses from the Settlement Fund. You do not need to hire your own lawyer, but you may choose to do so at your own expense.

What Are the Settlement Benefits? See Tickets has agreed to establish a Settlement Fund, by depositing with the Settlement Administrator US \$3,250,000 in cash.

The Settlement Fund will be used to pay Class Counsel Fees and costs, service payments for the Named Plaintiffs and Administrative Costs. After deducting amounts for Class Counsel Fees and costs, a service payment for the Named Plaintiffs, and settlement administration costs, the remaining amount ("**Net Settlement Amount**") will be used to pay timely valid claims.

A Settlement Class member who timely submits a valid and approved Claim Form shall be entitled to a Claimant Award, which includes three categories of awards. Depending on the documentation submitted a Settlement Class member may be eligible for one or both awards:

- I. Cash Payment or Credit Monitoring Services. All Settlement Class members may choose either:
 - A. Three years of three-bureau Credit Monitoring Services; or
 - B. A *pro rata* Alternative Cash Payment of up to \$100 from the funds remaining in the Net Settlement Amount after payment of the Credit Monitoring Services and the following categories of awards.
- II. Reimbursement of Expenses. Any Settlement Class member who spent money as a result of the Data Security Incident, and submits valid documentation to establish this, is eligible for:
 - A. Reimbursement of up to \$2,000 in ordinary documented out of pocket expenses, such as unreimbursed bank fees (for example card replacement and over-limit fees), interest on short term loans, long distance phone charges, cell phone charges (only if charged by the minute), data charges (only if charged based on the amount of data used), postage incurred, or gasoline for local travel as a result of the Data Security Incident, this would also include the cost of credit reports, credit freezes or credit monitoring the Settlement Class member already purchased in response to the Data Security Incident; and
 - B. Reimbursement of up to \$5,000 in documented extraordinary expenses incurred from identity theft more likely than not caused by the Data Security Incident.
- III. California Resident Benefit. In addition to the above benefits, pursuant to protections in California law, any Settlement Class member who is a resident of California is entitled to a \$100 California Statutory Award.

After calculation of the above categories of awards, if any money remains from the Remaining Net Settlement Amount, that money will be distributed *pro rata* among all Settlement Class members who

timely submitted a valid and approved Claim Form for an Alternative Cash Payment, or if too little money remains to make such a payment, the money will be donated to an appropriate charity.

See Tickets has also agreed to certain enhancements to its data security.

How Do I Get a Payment? You must submit a completed Claim Form no later than [Day/Month, 2024]. You may submit a Claim Form online at www.XXXXXXXXXX.com.

How Do I Exclude Myself from the Settlement? If you want to exclude yourself from the Settlement Class, sometimes referred to as “opting out,” you will not be eligible to recover any benefits as a result of this settlement and you will not receive a payment or have any rights under the Settlement Agreement. However, you would keep the right to sue See Tickets at your own expense about the legal issues raised in this lawsuit. You may exclude yourself from the settlement by mailing a written notice to the Settlement Administrator, postmarked on or before [Day/Month, 2024]. Your exclusion request letter must:

- Be in writing;
- State your current address;
- Contain the statement “I request that I be excluded from the Settlement Class in the case of *In re: Vivendi Ticketing US LLC, d/b/a See Tickets Data Security Incident.*”;
- Be signed by you; and
- Be mailed to the Settlement Administrator, [Street Address], [City, State, Zip], postmarked on or before [Day/Month, 2024].

How Do I Object to the Settlement?

If you are a Settlement Class member and you do not exclude yourself from the settlement, you can object to the settlement. To do so, you must file your written objection with the Court no later than [Day/Month, 2024], and mail a copy to Class Counsel and See Tickets’ Counsel at the addresses listed below. Your written objection may include any supporting documentation you wish the Court to consider.

If your objection is submitted and overruled by the Court at the Final Approval Hearing, you will remain fully bound by the terms of the Settlement Agreement and the Final Approval Order.

Mailing addresses for Class Counsel and See Tickets’ Counsel are as follows:

<p>CLASS COUNSEL:</p> <p>Mason Barney SIRI & GLIMSTAD LLP 745 Fifth Ave, Suite 500 New York, NY 10151</p> <p>Nicholas A. Migliaccio MIGLIACCIO & RATHOD LLP 412 H. St. NE, Ste. #302 Washington, D.C. 20002</p> <p>Kenneth Grunfeld KOPELOWITZ OSTROW FERGUSON</p>	<p>SEE TICKETS’ COUNSEL:</p> <p>Aravind Swaminathan Jacob Heath Rebecca Harlow ORRICK HERRINGTON & SUTCLIFFE LLP 401 Union Street - Suite 3300 Seattle, WA 98101</p>
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WEISELBERG GILBERT One West Las Olas Blvd., Suite 500 Fort Lauderdale, Florida 33301	
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What Is the Difference Between Objecting and Asking to Be Excluded?

Objecting means telling the Court that you do not like something about the settlement. You can object to the settlement only if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the settlement. If you exclude yourself, you have no basis to object to the settlement because it no longer affects you.

What Am I Agreeing to By Remaining in the Settlement Class?

Unless you exclude yourself, you will be part of the Settlement Class and you will be bound by the release of claims in the settlement. This means that if the settlement is approved, you cannot sue, continue to sue, or be part of any lawsuit against See Tickets or the other Released Parties asserting a “Released Claim,” as defined below. It also means that the Court’s Order approving the settlement and the judgment in this case will apply to you and legally bind you.

“Released Claims” means any and all actual, potential, filed, unfiled, known or unknown, fixed or contingent, claimed or unclaimed, suspected or unsuspected, claims, demands, liabilities, rights, causes of action, damages, punitive, exemplary or multiplied damages, expenses, costs, attorneys’ fees and/or obligations, whether in law or in equity, accrued or unaccrued, direct, individual or representative, of every nature and description whatsoever, whether based on federal, state, local, statutory or common law or any other law, against the Released Parties, or any of them, arising out of, or relating to, actual or alleged facts, transactions, events, matters, occurrences, acts, disclosures, statements, representations, omissions or failures to act in connection with the data security incident, and including all claims that were brought or could have been brought in the Action regarding the data security incident, belonging to any and all Settlement Class members, including but not limited to any state law or common law claims that they may have or had, such as under California’s Customer Records Act, California Civil Code section 1798.80, et seq. and/or California’s Consumer Privacy Act, California Civil Code section 1798.100, et seq. Each party expressly waives all rights under California Civil Code section 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

“Released Parties” means See Tickets and its past, present, and future, direct and indirect heirs, assigns, associates, corporations, investors, owners, parents, subsidiaries, affiliates, divisions, officers, directors, shareholders, agents, employees, attorneys, insurers, reinsurers, benefit plans, predecessors, successors, managers, administrators, executors and trustees.

When Will the Court Decide Whether to Approve the Settlement? The Court will hold a Final Approval Hearing on [Day/Month, 2024] at XX:XX A.M./P.M. at _____ . At that hearing,

the Court will determine the overall fairness of the settlement, hear objections, and decide whether to approve the requested Class Counsel Fees and expenses, service payment for the Named Plaintiff, and Administrative Costs. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check www.XXXXXXXXXX.com and the Court's docket for updates.

How Do I Get More Information? For more information, go to www.XXXXXXXXXX.com, or call the Settlement Administrator at (XXX) XXX-XXXX. You may also write to the Settlement Administrator via mail to [address] or via email [email address].

EXHIBIT C

ONLINE CLAIM FORM

In re: Vivendi Ticketing US LLC, d/b/a See Tickets Data Security Incident, No. 2:23-cv-07498 (C.D. Cal.)

Important: Your Claim Form must be submitted online by **[Month, Day], 2024** in order to be timely and valid. You may submit a Claim Form by completing the form below.

Your failure to submit a timely Claim Form will result in you forfeiting any payment and benefits for which you may be eligible under the settlement.

To begin your Claim Form, please enter your Claimant ID below. Your Claimant ID is located in the top right corner of the Class Notice that was emailed to you. If you did not receive a Notice but believe you are a Class Member, or have misplaced your Class Notice, you may call **[(###) ###-####]** to get information regarding your claim.

Claimant ID: _____

(required, must be a valid number)

OR

Email address: _____ AND Name: _____

(required if claimant ID unavailable)

[NEXT button]

Claim Form page:

This claim form should be filled out online if you are an individual who received notice of the Data Security Incident that Vivendi Ticketing US, LLC, doing business as See Tickets (“See Tickets”), disclosed in September of 2023, pertaining to the cyber-attack against See Tickets. You may get money if you fill out this claim form, if the settlement is approved, and if you are found to be eligible for a payment.

The Class Notice **[link to document on website]** describes your legal rights and options.

If you wish to submit a claim for a settlement payment, you need to provide the information requested below.

TO RECEIVE BENEFITS FROM THIS SETTLEMENT, YOU MUST PROVIDE ALL OF THE REQUIRED INFORMATION BELOW AND YOU MUST ELECTRONICALLY SIGN THIS CLAIM FORM.

First Name _____ *(required)* Middle Name _____ *(not required)* Last Name _____ *(required)*

Mailing Address _____ *(required)* City _____ *(required)*

State _____ *(required)* Zip Code _____ *(required)* Country _____ *(required, default to United States)*

Telephone Number _____ *(required, must be minimum of 10 digits)*

Email Address _____ *(required, must be valid email address format)*

1. ALTERNATIVE CASH PAYMENT OR CREDIT MONITORING

All Settlement Class members may choose one of the following:

- Send me my activation code for three-year, three- bureau credit monitoring so I can enroll in the credit monitoring services; OR
- Send me a check to the above mailing address for my *pro rata* cash payment of up to \$100 from the funds remaining in the Net Settlement Amount after payment of the credit monitoring and the following categories of awards.

2. REIMBURSEMENT ELIGIBILITY INFORMATION.

Check the box for each category of expenses you incurred as a result of the Data Security Incident. Please be sure to fill in the total amount you are claiming for each category and to attach documentation of the charges as described in bold type (if you are asked to provide account statements as part of proof required for any part of your claim, you may mark out any unrelated transactions if you wish). Please provide as much information as you can to help us determine if you are entitled to a settlement payment. You may mark out any transactions that are not relevant to your claim before sending in the documentation.

- Compensation for Ordinary Losses as a result of the Data Security Incident. This category is capped at \$2,000.**

You must provide supporting documentation. Examples - bank fees, long distance phone charges, cell phone charges (if charged by the minute), data charges (if charged based on the amount of data used), postage, or gasoline for travel.

Total amount for this category: \$_____

- Compensation for Extraordinary Documented Losses as a result of the Data Security Incident. This category is capped at \$5,000.**

You must provide supporting documentation. Examples – fees for credit reports, credit monitoring, or other identity theft insurance, purchased after February 28, 2023, and before [Date For Claims Deadline]. Reimbursements in this category must be more likely than not caused by the Data Security Incident and not already covered and mitigated by the claimant through any existing bank reimbursements, credit monitoring insurance, or identity theft insurance.

Total amount for this category: \$_____

3. California Statutory Claim Benefits.

In addition to the following awards, each member of the California Settlement Sub-Class who timely submits a valid Claim Form will be eligible for a California Statutory Award of up to \$100.

Signature_____ (required)

Date: (auto-populate)

EXHIBIT 2

1 Mason A. Barney
SIRI & GLIMSTAD LLP
2 745 Fifth Ave, Suite 500
New York, NY 10151

3
4 Nicholas A. Migliaccio
MIGLIACCIO & RATHOD LLP
5 412 H. St. NE, Ste. #302
Washington, D.C. 20002

6
7 Kenneth Grunfeld
(Pro Hac Vice granted 10/5/2023)
8 KOPELOWITZ OSTROW P.A.
65 Overhill Rd.
9 Bala Cynwyd, Pennsylvania 19004

10 *Attorneys for Plaintiffs*

11
12 **UNITED STATES DISTRICT COURT**
CENTRAL DISTRICT OF CALIFORNIA

13
14 *In re: Vivendi Ticketing US LLC,*
15 *d/b/a See Tickets Data Security*
16 *Incident*

Case No.: 2:23-cv-07498

CLASS ACTION

17 **DECLARATION OF**
18 **SCOTT M. FENWICK OF KROLL SETTLEMENT**
19 **ADMINISTRATION LLC**
20 **IN CONNECTION WITH PRELIMINARY**
21 **APPROVAL OF SETTLEMENT**

22 I, Scott M. Fenwick, hereby declare:

23 1. I am a Senior Director of Kroll Settlement Administration LLC (“Kroll”),¹ the
24 proposed Settlement Administrator to be appointed in the above-captioned case, whose principal
25 office is located at 2000 Market Street, Suite 2700, Philadelphia, Pennsylvania 19103. I am over 21
26

27 _____
28 ¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Settlement Agreement as defined below.

1 years of age and am authorized to make this declaration on behalf of Kroll and myself. The following
2 statements are based on my personal knowledge and information provided by other experienced Kroll
3 employees working under my general supervision. This declaration is being filed in connection with
4 preliminary approval of the settlement.

5 2. Kroll has extensive experience in class action matters, having provided services in
6 class action settlements involving antitrust, securities, labor and employment, consumer and
7 government enforcement matters. Kroll has provided class action services in over 3,000 settlements
8 varying in size and complexity over the past 50 years.

9 3. Kroll is prepared to provide a full complement of notification and claims
10 administration services in connection with that certain Class Action Settlement Agreement and
11 Release (the “Settlement Agreement”) entered into this Action, including dissemination of the Class
12 Notice by email, mail, and through the use of a settlement website to be created in connection with
13 this matter.

14 4. It is Kroll’s understanding that it will be provided with a list of Settlement Class
15 Members (the “Class List”) covered under the Settlement Agreement, and the Class List is to contain
16 a combination of unique names, physical mailing addresses and email addresses, and other data
17 elements pertinent to the administration of the settlement.

18 **Class Notice by Email**

19 5. In preparation for disseminating Class Notice by email, Kroll will work with Class
20 Counsel and See Tickets’ Counsel (collectively, “Counsel”) to finalize the language for the email
21 form of Class Notice. Once the email form of the Class Notice is approved, Kroll will create an email
22 notice template in preparation for the email campaign. Kroll will prepare a file with all Settlement
23 Class Member email addresses and upload the file to an email campaign platform. Kroll will prepare
24 email proofs for Counsel’s review and final approval. The proofs/test emails for approval will include
25 the body of the email and subject line. Once the proofs/test emails are approved, the email campaign
26 will begin as directed in the Settlement Agreement.

27 6. Kroll will track and monitor emails that are rejected or “bounced back” as
28 undeliverable. At the conclusion of the email campaign, Kroll will provide a report with the email

1 delivery status of each record. The report will include the number of records that had a successful
2 email Class Notice delivery, and a count of the records where delivery failed. Kroll will also update
3 its administration database with the appropriate status of the email campaign for each of the
4 Settlement Class Member records.

5 7. If the email Class Notice was delivered successfully, no further action will be taken
6 with respect to the particular Settlement Class Member record.

7 8. Email Class Notices rejected or “bounced back” as undeliverable will be re-sent to that
8 particular Settlement Class Member via mail where a physical mailing address is available, as detailed
9 below.

10 **Class Notice by Mail**

11 9. Kroll will work with Counsel to format the Class Notice for mailing. Upon approval,
12 Kroll will coordinate the preparation of Class Notice proofs for Counsel’s review and final approval.

13 10. Pursuant to the Settlement Agreement, Kroll will send the Class Notice by first-class
14 mail to the physical addresses of Settlement Class Members: 1) who only have a physical mailing
15 address (and no email address) in the Class List to be provided by Defendant; and 2) whose email
16 Class Notice bounced and a physical mailing address is included in the Class List.

17 11. Notices by mail will be sent by first-class mail to all physical addresses as noted above.
18 In preparation for the notice mailing, Kroll will send the Class List through the United States Postal
19 Service’s (“USPS”) National Change of Address (“NCOA”) database. The NCOA process will
20 provide updated addresses for Settlement Class Members who have submitted a change of address
21 with the USPS in the last 48 months, and the process will also standardize the addresses for mailing.
22 Kroll will then prepare a mail file of Settlement Class Members that are to receive the Class Notice
23 via first-class mail.

24 12. As directed by Counsel, mailed Class Notices returned by the USPS with a forwarding
25 address will be automatically re-mailed to the updated address provided by the USPS.

26 13. As directed by Counsel, mailed Class Notices returned by the USPS undeliverable as
27 addressed without a forwarding address will be sent through an advanced address search process in
28

1 an effort to find a more current address for the record. If an updated address is obtained through the
2 advanced search process, Kroll will re-mail the notice to the updated address.

3 14. As required under Section II.J.2. of the Settlement Agreement, Kroll will send an email
4 reminder Class Notice sixty-five (65) days after the Notice Date to Settlement Class Members who
5 have yet to file a claim, have not opted out of the settlement and who have not unsubscribed to
6 receiving emails pertaining to the settlement.

7 **Settlement Website**

8 15. Kroll will work with Counsel to create a dedicated settlement website. The settlement
9 website URL will be determined and approved by Counsel. The settlement website will contain a
10 summary of the settlement, will allow Settlement Class Members to contact the Settlement
11 Administrator with any questions or changes of address, provide notice of important dates such as the
12 final approval hearing, deadline for submitting claim forms, Objection/Opt-Out Deadline, and provide
13 Settlement Class Members who file Claim Forms online the opportunity to select an electronic
14 payment method, including Venmo, Zelle, Paypal, ACH, or payment by check. The settlement
15 website will also contain relevant case documents including, the Settlement Agreement, the long form
16 notice, and any relevant publicly available Court documents Counsel or the Court request Kroll to
17 include.

18 **Toll-Free Telephone Number**

19 16. Kroll will also establish a toll-free telephone number for the settlement. The toll-free
20 telephone number will allow Settlement Class Members to call and obtain information about the
21 settlement through an Interactive Voice Response (“IVR”) system and live operator option.
22 Settlement Class Members may also request copies of the long form notice and claim form, as well
23 as the Settlement Agreement.

24 **Post Office Box**

25 17. Kroll will designate a post office box with the mailing address *In re: Vivendi Ticketing*
26 *US LLC*, c/o Kroll Settlement Administration LLC, PO Box 225391, New York, NY 10150-5391 in
27 order to receive opt-out requests, claim forms, and correspondence from Settlement Class Members.
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1 **Administrative Cost**

2 18. Based on Kroll’s current understanding of the Settlement Class size and requested
3 settlement administration services, estimated Administration Costs are approximately \$140,000 for
4 fees, costs and other expenses incurred for settlement administration pursuant to the Settlement
5 Agreement. The current estimate is subject to change depending on factors such as the actual
6 Settlement Class size and/or any settlement administration scope change not currently under
7 consideration.

8 **Data Use Limitation**

9 19. Kroll will solely use Settlement Class Member data for notice and settlement
10 administration, award calculations, and issuing settlement payments to Qualified Claimants.

11 **Technical Controls, Data Security**

12 20. Kroll is an industry leader in data security. Kroll is CCPA, HIPAA, and GDPR
13 compliant and maintains numerous industry certifications related to data security, including SOC2
14 and ISO 2700 certification. Kroll has technical, physical, and procedural protocols and safeguards in
15 place to ensure the security and privacy of Settlement Class Member data. These include standards
16 related to data retention and document destruction; fully redundant environmental systems and
17 redundant storage; regular audits; and documented plans for both incident and crisis response,
18 including breach protocols and physical controls. Kroll’s information security program includes
19 vulnerability management, compliance, security monitoring and security engineering supported by a
20 team of information security professionals, including a Chief Information Security Officer and Chief
21 Privacy Officer.

22 **Business/Liability Insurance**

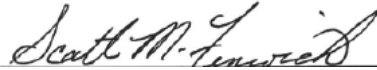
23 21. Kroll maintains standard business insurance, including professional liability
24 insurance, cyber insurance, and crime insurance.

25 **Administrative and Ethical policies**

26 22. Kroll has employee administrative and ethical polices that all employees are required
27 to follow. These include, but are not limited to:

- 28
 - Pre-hire background checks;

1 I declare under penalty of perjury under the laws of the United States that the above is true and
2 correct to the best of my knowledge and that this declaration was executed on May 23, 2024, in Inver
3 Grove Heights, Minnesota.

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6 SCOTT M. FENWICK

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EXHIBIT 3

Siri | Glimstad



FIRM RESUME



Class Action Practice Group

With attorneys across the country, Siri & Glimstad LLP represents clients from coast to coast in class actions and mass torts in state and federal courts. Utilizing decades of experience at major global law firms, we tackle each dispute with a sophisticated, strategic approach, and we fight hard for every one of our clients.

Offices Nationwide

NEW YORK

745 Fifth Ave • Suite 500
New York, NY 10151

MIAMI

20200 West Dixie Highway • Ste 902
Aventura, FL 33180

PHOENIX

11201 N. Tatum Boulevard • Ste 300
Phoenix, AZ 85028

DETROIT

220 West Congress Street • 2nd Floor
Detroit, MI 48226

WASHINGTON D.C.

2101 L Street N.W. • Ste 300 Washington,
D.C. 20037

LOS ANGELES

700 S Flower Street • Ste 1000
Los Angeles, CA 90017

AUSTIN

1005 Congress Avenue • Ste 925-C36
Austin, TX 78701

CHARLOTTE

525 North Tryon Street • Ste 1600
Charlotte, NC 28202

1-888-SIRI-LAW (747-4529)

Admitted States

Arizona • California • Connecticut • District of Columbia • Florida • Idaho • Illinois
Kentucky • Massachusetts • Maryland • Michigan • Mississippi • New Jersey
New Mexico • New York • North Carolina • North Dakota • Oklahoma • Pennsylvania
South Carolina • Tennessee • Texas • Virginia



Attorney Profiles

Aaron Siri

Managing Partner

Aaron Siri is the Managing Partner of Siri & Glimstad LLP and has extensive experience in a wide range of complex civil litigation matters, with a focus on civil rights, class actions, and commercial litigation.



Mr. Siri has successfully litigated numerous civil rights cases, prosecuted class actions against large corporations resulting in payments to hundreds of thousands of Americans, and has acted as counsel to clients in multiple commercial disputes exceeding one billion dollars, including regarding Oracle Team's challenge for the America's Cup and the collapse of the World Trade Center.

Prior to founding Siri & Glimstad, Mr. Siri was a litigation attorney at Latham & Watkins for over five years. Before Latham, Mr. Siri clerked for the Chief Justice of the Supreme Court of Israel from 2004-2005 where he advised the Chief Justice of relevant American, English (including Commonwealth Countries), and International Law precedents for cases of first impression.

Mr. Siri has also been involved in various pro-bono matters, including representation of asylum applicants, housing discrimination victims, and non-profit organizations in tenant-landlord disputes, as well as being chosen as a Frank C. Newman delegate to present a paper he authored before the United Nations Human Rights Sub-Commission.

Mr. Siri earned his law degree at the University of California, Berkeley School of Law where he received four Prosser Prizes and ten High Honors. He was also the Editor-in-Chief and founder of the Berkeley Business Law Journal, which he developed into a nationally recognized publication, and was ranked as the leading commercial law journal in the country.

Prior to law school, Mr. Siri was an auditor at Arthur Andersen LLP, where he examined internal controls and audited corporate documents for private and public micro-cap technology companies. Mr. Siri is a Certified Public Accountant and an attorney admitted in federal and state courts across the country.

Mr. Siri is regularly interviewed on national television for his expertise regarding certain legal issues. He has also been published in the Washington Post, Stat News, and Bloomberg.



Mason A. Barney

Partner

Mason A. Barney is an experienced trial attorney who for nineteen years has represented both individuals and corporations in complex litigations. Mr. Barney received his J.D., *summa cum laude* from Brooklyn Law School, in 2005, where he graduated second in his class of nearly 500 students, and received numerous academic honors, in addition to being an editor on the Brooklyn Law Review. He then served as a law clerk to the Honorable Judge David G. Trager in the U.S. District Court for the Eastern District of New York. After clerking, he joined the litigation department at Latham & Watkins LLP, and later joined Olshan Frome Wolosky LLP a large established New York City law firm. Before law school, Mr. Barney earned his B.A. from Bowdoin College, where he double majored in Computer Science and Studio Art, and after college he served as a lead database developer for three years at a successful Internet start-up in Washington D.C.



Mr. Barney focuses his practice on class actions and representing individuals in complex litigations. In this practice he has won tens of millions of dollars for his clients. Among other matters, Mr. Barney has fought to stop companies from illegally spamming consumers with unwanted phone calls, has worked to stop companies from illegally obtaining their customers' biometric information (e.g., facial scans and fingerprints), and obtained recovery for numerous victims of data breaches.

Mr. Barney is recognized by the New York Legal Aid Society for his outstanding pro bono work representing indigent individuals in matters concerning prisoners' rights, immigration, and special education.

Mr. Barney has published a number of articles concerning a variety of legal issues. These include authoring or co-authoring: *The FBI vs. Apple: What Does the Law Actually Say?*, Inc. Magazine (February 2016); *Can Lawyers Be Compelled to Produce Data They Compile? An Emerging Front in the Trenches of e-Discovery Battles*, Bloomberg BNA (May 2015); *Legal Landscape for Cybersecurity Risk is Changing as Federal Government and SEC Take Action*, Inside Counsel Magazine (May 2015); *Tellabs v. Makor, One Year Later*, Securities Law 360 (July 2008); *Not as Bad as We Thought: The Legacy of Geier v. American Honda Motor Co. in Product Liability Actions*, 70 Brooklyn L. Rev. 949 (Spring 2005). Mr. Barney serves as an adjunct professor at Brooklyn College in New York, teaching Education Law in its graduate studies program, and separately has presented continuing legal education instruction regarding the Foreign Corrupt Practices Act.



Elizabeth Brehm

Partner

Elizabeth Brehm graduated from Boston University with a Bachelor of Science and earned her master's degree from Long Island University at C.W. Post. She attended Hofstra Law School and obtained a Juris Doctorate, graduating magna cum laude, in 2008.



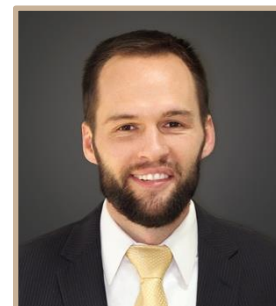
After law school, Ms. Brehm spent a year at Winston & Strawn LLP where she focused on products liability litigation. For nine years prior to joining Siri & Glimstad, Ms. Brehm worked for a New York law firm where she focused on antitrust class action lawsuits, health care fraud, and qui tam and whistleblower litigations.

Ms. Brehm has been an attorney at Siri & Glimstad for over two years and has handled numerous complex litigation matters, including class action matters.

Walker Moller

Partner

Before law school, Walker Moller worked and volunteered for three years in 15 countries throughout Southeast Asia, Oceania, and Africa. While at Mississippi College School of Law, Walker clerked at the Mississippi Supreme Court and was on the Law Review. He graduated summa cum laude in 2014 and earned the highest grade in eight courses. After graduation, Walker clerked for a federal judge at the United States District Court, Western District of Louisiana, where he gained exposure to a large volume of employment discrimination matters, products liability cases, and constitutional litigation.



Walker then worked for the U.S. Army Corps of Engineers from 2015 to 2021, where his practice focused on federal contracts and civil litigation in various administrative courts. Immediately before joining Siri & Glimstad, Walker achieved full dismissal of a lawsuit against the Corps of Engineers that implicated \$68M worth of federal contracts.

Lisa Considine

Partner



Lisa R. Considine is counsel at Siri & Glimstad LLP and has broad litigation experience, having successfully litigated various class action cases involving violations of State and Federal consumer protection laws, including representing consumers against many of the world's largest companies.



Ms. Considine graduated from Rutgers College with a Bachelor of Arts and attended Seton Hall University School of Law and obtained her J.D., with Honors, in 2004.

Prior to joining Siri & Glimstad, Ms. Considine was a founding member of her own practice that focused exclusively on consumer class actions and individual matters against major auto rental companies, banks, mortgage lenders, auto finance companies, payday lenders and other consumer finance companies in litigation involving the Consumer Fraud Act, Electronic Fund Transfer Act, Truth in Lending Act, Real Estate Settlement Procedures Act, Fair Credit Reporting Act, Fair and Accurate Credit Transaction Act, Truth-in-Consumer Contract, Warranty and Notice Act, predatory lending, loan origination and servicing, banking operations and consumer fraud claims.

Ms. Considine serves on the Board of Directors of the Consumer League of New Jersey and is also Co-Chair of the New Jersey State Bar Association's Class Actions Special Committee. Ms. Considine also serves at the pleasure of the New Jersey Supreme Court on the District IIB Ethics Committee and is President of the Worrall F. Mountain Inn of Court. Ms. Considine is a member of the National Association of Consumer Advocates, the Complex Litigation e-Discovery Form (CLEF), and the New Jersey State Bar Association's Consumer Protection Committee.

David DiSabato

Partner

David J. DiSabato is counsel at Siri & Glimstad LLP and focuses his practice on complex class actions and consumer protection law. With over two decades of class action experience, Mr. DiSabato has led successful class actions against many of the country's largest financial institutions, retailers, service providers and employers. In addition, Mr. DiSabato has extensive experience handling patients' rights class actions and civil rights claims.



Mr. DiSabato graduated from Tufts University and received his J.D. from Boston University School of Law. Named to the New Jersey Super Lawyers List in 2022 and 2023, Mr. DiSabato



is the New Jersey Chair of the National Association of Consumer Advocates and sits on NACA's Judicial Nominations Committee. He also is a member of both the American Association for Justice and the New Jersey Association for Justice (Civil Rights Committee), and sits on the Board of Directors of the Consumer League of New Jersey, where he serves as the Director of Litigation. Mr. DiSabato is also a member of the Class Actions Special Committee and the Consumer Protection Law Committee of the New Jersey State Bar Association, as well as the Complex Litigation e-Discovery Forum (CLEF). He also serves as the Vice Chair of the Land Use Board of the Borough of Peapack and Gladstone.

In addition, Mr. DiSabato regularly lobbies in both Washington D.C. and Trenton, New Jersey on consumer issues such as predatory lending, manufactured housing and forced arbitration, and is a frequent speaker on Constitutional issues, class action practice and consumer rights.

Prior to joining Siri & Glimstad, Mr. DiSabato was a founding member of his own practice where he represented consumers, workers, tenants, patients and other individuals in complex class actions.

Tyler J. Bean

Attorney

Tyler J. Bean graduated from the University of Oklahoma's Michael F. Price College of Business in 2015 and obtained a Juris Doctorate from the University of Oklahoma in 2019, where he served as editor for the Oil and Gas, Natural Resources, and Energy Law Review Journal. Mr. Bean also received numerous academic honors as a law student, including being named to the Faculty Honor Roll and Dean's List.



After graduating law school and serving as in-house counsel for a large, multi-billion-dollar retail organization, Mr. Bean turned his focus to complex civil litigation and consumer class actions, with a particular emphasis on data breach and privacy matters. He has years of experience as a data breach and privacy lawyer, having played a significant role as class counsel in successfully litigating numerous data breach and privacy class actions from inception through discovery and court approved settlements, recovering millions of dollars for hundreds of thousands of consumers, patients, students, and employees across the country who have been victims of negligent data security and privacy practices.

Kyle McLean

Attorney



Kyle McLean obtained his J.D. in 2019 from the University of California, Hastings College of the Law, with an emphasis in Civil Litigation and Alternative Dispute Resolution. He was selected to participate in the Hastings Appellate Program, where he was one of only two students chosen to represent a pro bono client before the Ninth Circuit Court of Appeals and deliver oral and written argument before the Court. He received his B.A. in History and Economics from California Polytechnic University, Pomona in 2015. Prior to joining Siri & Glimstad, Mr. McLean defended a wide variety of complex civil matters.



Mr. McLean presently represents individuals in complex class action privacy litigations, including claims for illegally spamming consumers with unwanted telephone advertisements, unlawful requests for employees' genetic information (e.g., family medical history), and numerous victims of data breaches.

Oren Faircloth

Attorney

Oren Faircloth graduated from McGill University in 2009 with a Bachelor of Arts degree in Political Science. Before attending law school, he served in the armed forces from 2010 to 2011. Mr. Faircloth graduated from Quinnipiac University School of Law, magna cum laude, in 2016.



Prior to joining Siri & Glimstad, Mr. Faircloth worked for a boutique law firm where he spearheaded ERISA class action lawsuits against Fortune 500 companies, including: Huntington Ingalls, Rockwell Automation, Raytheon, UPS, U.S. Bancorp, Delta Air Lines, and Sprint. Mr. Faircloth was involved in the prosecution of numerous successful class actions in which over \$100 million dollars have been recovered for tens of thousands of employees around the country. In 2022, Mr. Faircloth was recognized by Super Lawyers magazine as a Rising Star in the field of class action.

Mr. Faircloth focuses his practice on class actions and representing individuals in complex litigations. He presently represents individuals who have been denied reimbursement for work-related expenses from their employers, denied sufficient lactation accommodations in the workplace, and denied actuarially equivalent pension benefits. Mr. Faircloth has also represented several individuals on a pro bono basis, negotiating favorable settlements for violations of their constitutional rights.

Wendy Cox

Attorney



Prior to joining Siri & Glimstad, Ms. Cox served for 21 years in the United States Army as an Army Nurse Corps officer and as an Army Judge Advocate. As a nurse corps officer, Ms. Cox worked in several clinical settings to include a pediatric unit, a specialty surgical unit, and an orthopedic surgical unit. During her last year as an Army Nurse Corps officer, she taught Army medics in basic life saving skills before being selected by the Army to attend law school. After graduating law school in 2005, Ms. Cox prosecuted soldiers, advised on operational law issues, taught Constitutional Law at West Point, and advised senior leaders on a variety of legal issues. Following her retirement from the United States Army in 2018, she went on to continue serving soldiers as an attorney for the Office of Soldiers' Counsel.



Wendy Cox graduated cum laude from the State University at Buffalo Law School in New York and summa cum laude from Norwich University with a Bachelor of Science in Nursing. She went on to get her Master of Laws (L.L.M.) degree in Military Law in 2008.

Catherine Cline

Attorney

Catherine Cline has extensive experience in a wide range of civil law, including constitutional, administrative, employment, and election law. Prior to joining Siri & Glimstad, Ms. Cline served as a judicial law clerk for judges in the U.S. District Court for the Middle District of Pennsylvania, the Commonwealth Court of Pennsylvania, and the Supreme Court of Pennsylvania.



Ms. Cline attended law school on a full tuition scholarship, during which time she served as the Editor-in-Chief of the law review and as intern for a U.S. District Court Judge in the Middle District of Florida. Before attending law school, Ms. Cline received her Bachelor of Arts in Economics with a Minor in Business and the Liberal Arts from Penn State University and worked in the Tax Credit Division of the Pennsylvania Department of Community and Economic Development.

Dana Smith

Attorney



Dana Smith is a seasoned litigator. Prior to joining Siri & Glimstad, Ms. Smith focused most of her legal career on personal injury litigation, including representing individuals harmed due to corporate negligence. Ms. Smith is also experienced in various domestic areas of practice, including divorce, high-conflict custody disputes, and child welfare law.



Ms. Smith graduated cum laude from the North Carolina Central University School of Law. Additionally, she received her Bachelor of Arts in Romance Languages from the University of North Carolina at Chapel Hill.

Sonal Jain

Attorney

Sonal Jain has experience in complex commercial litigations as well as class actions. Ms. Jain graduated from the New York University School of Law with an LLM in International Business Regulation, Litigation and Arbitration in 2020 where she gained experience with international dispute resolution. She received her first degree in law (B.A. LL.B.) from ILS Law College, Pune, a prime legal education institution in India. Prior to joining Siri & Glimstad, Ms. Jain held various internships with top-tier law firms in India where she specialized in complex dispute resolution ranging from consumer and corporate litigation to domestic arbitrations.



Jack Spitz

Attorney

Jack R. Spitz is a graduate of Rutgers School of Law where he was a member of the Rutgers Law Record Journal and interned with the Essex County Public Defender's Office. Following law school, he served as Law Clerk for two judges at the Middlesex County Superior Court in New Brunswick, New Jersey. Subsequently, Mr. Spitz defended a wide variety of personal injury and property damage matters, as well as represented Plaintiffs in employment litigation matters. Prior to law school, Mr. Spitz graduated from Clemson University in South Carolina.





Gabrielle Williams

Attorney

Ms. Williams obtained her J.D. from the University of Maryland Francis King Carey School of Law. During her time in law school, she represented clients in state court through the Justice for Victims of Crime Clinical Law Program. She also served as an Associate Editor on the Journal of Healthcare Law and Policy, Executive Board Member of the Black Law Students Association, and Class Representative for the Student Bar Association. Prior to joining Siri and Glimstad, Ms. Williams served as a Judicial Law Clerk on the Appellate Court of Maryland.



Neil Williams

Attorney

With a robust background in data breach litigation, Mr. Williams is a seasoned legal professional dedicated to protecting the interests of clients in the digital age. Leveraging his extensive experience in cybersecurity law and privacy regulations, he has successfully represented numerous individuals in complex data breach cases. Mr. Williams meticulously navigates the intricate legal landscape surrounding data breaches, providing strategic counsel and vigorous advocacy to achieve favorable outcomes for his clients.



During law school, Mr. Williams was awarded CALI Awards on two occasions for the top grade in his class. He also worked alongside several South Carolina Pro Bono Services to ensure that competent legal representation was reaching the most at need populations in the area.



Notable Class Actions Handled By Siri & Glimstad LLP

Buchanan v. Sirius XM Radio, Inc.

Case No. 3:17-cv-00728 (N.D. Tex.)

Appointed co-lead class counsel in a case alleging violations of the TCPA, which resulted in a settlement of \$25,000,000, plus free satellite radio service, to a class of 14.4 million members.

Thomas v. Dun & Bradstreet Credibility Corp.

Case No. 15-cv-3194 (S.D. Cal.)

Appointed co-lead class counsel in a case alleging violations of the TCPA which resulted in a settlement of \$10,500,000.

Gatto v. Sentry Services, Inc., et al.

Case No. 13 CIV 05721 (S.D. N.Y.)

Appointed co-lead class counsel in a case involving ERISA claims relating to an ESOP which resulted in a settlement of \$11,138,938.

Kindle v. Dejana

Case No. 14-cv-06784 (E.D. N.Y.)

Appointed co-lead class for plaintiffs in an ERISA matter filed as a class action involving breaches of fiduciary duty related to the management and termination of an ESOP, which settled after the beginning of trial for \$1,080,000 for the class.

Herff Jones Data Breach Litigation

Case No. 1:21-cv-01329 (S.D. Ind.)

Obtained preliminary approval of a class settlement that includes a settlement fund of \$4,350,000 and, separate from the settlement fund, requires the defendant to pay for data security.

California Pizza Kitchen Data Breach Litigation

Case No. 8:21-cv-01928 (C.D. Cal.)

Appointed co-lead class counsel for plaintiffs in a data breach class action where the district court granted final approval to a settlement that provided \$2.1 millions in value to over 100,000 class members, subject to current appeal.

Carter, et al. v. Vivendi Ticketing US LLC d/b/a See Tickets

Case No. 8:22-cv-01981 (C.D. Cal.)

Final approval granted, appointing firm as settlement class counsel, in a data breach class action settlement involving 437,310 class members and a \$3,000,000 non-reversionary settlement fund.



Armstrong et al. v. Gas South, LLC

Case No. 22106661 (Ga. Sup. Ct., Cobb Cty.)

Obtained final approval of a class settlement involving roughly 40,000 class members and valued at over \$9 million.

Medina v. Albertsons Companies, Inc.

Case No. 1:23-cv-00480 (D. Del.)

Obtained final approval of a class settlement involving 33,000 class members and a \$750,000 non-reversionary settlement fund.

In re Sovos Compliance Data Security Incident Litigation

Case No. 1:23-cv-12100-AK (D. Mass.)

Obtained preliminary approval of a class settlement that includes a non-reversionary settlement fund of \$3,534,128.50 involving 490,000 and, separate from the settlement fund, requires the defendant to pay for data security improvements.

EXHIBIT 4



FIRM RESUME

One West Las Olas Boulevard, Suite 500
Fort Lauderdale, Florida 33301

Telephone: 954.525.4100

Facsimile: 954.525.4300

Website: www.kolawyers.com

Miami – Fort Lauderdale – Boca Raton

OUR FIRM

For over two decades, Kopelowitz Ostrow Ferguson Weiselberg Gilbert (KO) has provided comprehensive, results-oriented legal representation to individual, business, and government clients throughout Florida and the rest of the country. KO has the experience and capacity to represent its clients effectively and has the legal resources to address almost any legal need. The firm's 25 attorneys have practiced at several of the nation's largest and most prestigious firms and are skilled in almost all phases of law, including consumer class actions, multidistrict litigation involving mass tort actions, complex commercial litigation, and corporate transactions. In the class action arena, the firm has experience not only representing individual aggrieved consumers, but also defending large institutional clients, including multiple Fortune 100 companies.

WHO WE ARE

The firm has a roster of accomplished attorneys. Clients have an opportunity to work with some of the finest lawyers in Florida and the United States, each one committed to upholding KO's principles of professionalism, integrity, and personal service. Among our roster, you'll find attorneys whose accomplishments include Board Certified in their specialty; serving as in-house counsel for major corporations, as city and county attorneys handling government affairs, and as public defenders and prosecutors; achieving multi-millions of dollars through verdicts and settlements in trials, arbitrations, and alternative dispute resolution procedures; successfully winning appeals at every level in Florida state and federal courts; and serving government in various elected and appointed positions.

KO has the experience and resources necessary to represent large putative classes. The firm's attorneys are not simply litigators, but rather, experienced trial attorneys with the support staff and resources needed to coordinate complex cases.

CLASS
ACTION
PLAINTIFF

Since its founding, KO has initiated and served as lead class counsel in dozens of high-profile class actions. Although the actions are diverse by subject area, KO has established itself as one of the leading firms that sue national and regional banks and credit unions related to the unlawful assessment of fees. Their efforts spanning a decade plus have resulted in recoveries in excess of \$500 million and monumental practices changes that have changed the industry and saving clients billions of dollars.

Additionally, other past and current cases have been prosecuted for breaches of insurance policies; data breaches; data privacy; wiretapping; biometric privacy; gambling; false advertising; defective consumer products and vehicles; antitrust violations; and suits on behalf of students against colleges and universities arising out of the COVID-19 pandemic.

The firm has in the past litigated certified and proposed class actions against Blue Cross Blue Shield and United Healthcare related to their improper reimbursements of health insurance benefits. Other insurance cases include auto insurers failing to pay benefits owed to insureds with total loss vehicle claims. Other class action cases include cases against Microsoft Corporation related to its Xbox 360 gaming platform, ten of the largest oil companies in the world in connection with the destructive propensities of ethanol and its impact on boats, Nationwide Insurance for improper mortgage fee assessments, and several of the nation's largest retailers for deceptive advertising and marketing at their retail outlets and factory stores.

CLASS ACTION DEFENSE

The firm also brings experience in successfully defended many class actions on behalf of banking institutions, mortgage providers and servicers, advertising conglomerates, aircraft manufacturer and U.S. Dept. of Defense contractor, a manufacturer of breast implants, and a national fitness chain.

MASS TORT LITIGATION

The firm also has extensive experience in mass tort litigation, including serving as Lead Counsel in the Zantac Litigation, one of the largest mass torts in history. The firm also has handled cases against 3M related to defective earplugs, several vaginal mesh manufacturers, Bayer in connection with its pesticide Roundup, Bausch & Lomb for its Renu with MoistureLoc product, Wyeth Pharmaceuticals related to Prempro, Bayer Corporation related to its birth control pill YAZ, and Howmedica Osteonics Corporation related to the Stryker Rejuvenate and AGB II hip implants. In connection with the foregoing, some of which has been litigated within the multidistrict arena, the firm has obtained tens of millions in recoveries for its clients.

OTHER AREAS OF PRACTICE

In addition to class action and mass tort litigation, the firm has extensive experience in the following practice areas: commercial and general civil litigation, corporate transactions, health law, insurance law, labor and employment law, marital and family law, real estate litigation and transaction, government affairs, receivership, construction law, appellate practice, estate planning, wealth preservation, healthcare provider reimbursement and contractual disputes, white collar and criminal defense, employment contracts, environmental, and alternative dispute resolution.

FIND US ONLINE

To learn more about KO, or any of the firm's other attorneys, please visit www.kolawyers.com.

**FINANCIAL
INSTITUTIONS**

Abercrombie v. TD Bank, N.A., 0:21-cv-61376 (S.D. Fla. 2022) - \$4.35 million
Perks, et al. v. TD Bank, N.A., 1:18-cv-11176 (E.D.N.Y. 2022) - \$41.5 million
Fallis v. Gate City Bank, 09-2019-CV-04007 (Dist. Ct., Cty. of Cass, N.D. 2022) - \$1.8 million
Mayo v. Affinity Plus Fed. Credit Union, 27-CV-20-11786 (4th Judicial District Minn. 2022) - \$1 million
Glass, et al. v. Delta Comm. Cred. Union, 2019CV317322 (Sup. Ct. Fulton Cty., Ga. 2022) - \$2.8 million
Roy v. ESL Fed. Credit Union, 19-cv-06122 (W.D.N.Y. 2022) - \$1.9 million
Clark v. Hills Bank and Trust Co., LACV080753 (Iowa Dist. Johnson Co. 2022) - \$740,000
Wallace v. Wells Fargo, 17CV317775 (Sup. Ct. Santa Clara 2021) - \$10 million
Doxey v. Community Bank, N.A., 8:19-CV-919 (N.D.N.Y. 2021) - \$3 million
Coleman v. Alaska USA Federal Credit Union, 3:19-cv-0229-HRH (Dist. of Alaska 2021) - \$1 million
Perri v. Notre Dame Federal Credit Union, 71C01-1909-PL-000332 (Cir. Ct. St. Joseph 2021) - \$800,000
Smith v. Fifth Third Bank, 1:18-cv-00464-DRC-SKB (W.D. Ohio 2021) - \$5.2 million
Lambert v. Navy Federal Credit Union, 1:19-cv-00103-LO-MSN (S.D. Va. 2021) - \$16 million
Roberts v. Capital One, N.A., 16 Civ. 4841 (LGS) (S.D.N.Y. 2021) - \$17 million
Baptiste v. GTE Financial, 20-CA-002728 (Cir. Ct. Hillsborough 2021) - \$975,000
Morris v. Provident Credit Union, CGC-19-581616 (Sup. Ct. San Francisco 2020) - \$1.1 million
Lloyd v. Navy Federal Credit Union, 17-cv-01280-BAS-RBB (S.D. Ca. 2019) - \$24.5 million
Lashmbae v. Capital One Bank, N.A., No. 17-cv-06406 (E.D.N.Y. 2020) - \$320,000
Farrell v. Bank of America, N.A., 3:16-cv-00492-L-WVG (S.D. Ca. 2018) - \$66.6 million
Bodnar v. Bank of America, N.A., 5:14-cv-03224-EGS (E.D. Pa. 2015) - \$27.5 million
Morton v. Green Bank, 11-135-IV (20th Judicial District Tenn. 2018) - \$1.5 million
Hawkins v. First Tenn. Bank, CT-004085-11 (13th Jud. Dist. Tenn. 2017) - \$16.75 million
Payne v. Old National Bank, 82C01-1012 (Cir. Ct. Vanderburgh 2016) - \$4.75 million
Swift. v. Bancorpsouth, 1:10-CV-00090 (N.D. Fla. 2016) - \$24.0 million
Mello v. Susquehanna Bank, 1:09-MD-02046 (S.D. Fla. 2014) - \$3.68 million
Johnson v. Community Bank, 3:11-CV-01405 (M.D. Pa. 2013) - \$2.5 million
McKinley v. Great Western Bank, 1:09-MD-02036 (S.D. Fla. 2013) - \$2.2 million
Blabut v. Harris Bank, 1:09-MD-02036 (S.D. Fla. 2013) - \$9.4 million
Wolfgeber v. Commerce Bank, 1:09-MD-02036 (S.D. Fla. 2013) - \$18.3 million
Case v. Bank of Oklahoma, 09-MD-02036 (S.D. Fla. 2012) - \$19.0 million Settlement
Hawthorne v. Umpqua Bank, 3:11-CV-06700 (N.D. Cal. 2012) - \$2.9 million Settlement
Simpson v. Citizens Bank, 2:12-CV-10267 (E.D. Mich. 2012) - \$2.0 million
Harris v. Associated Bank, 1:09-MD-02036 (S.D. Fla. 2012) - \$13.0 million
LaCour v. Whitney Bank, 8:11-CV-1896 (M.D. Fla. 2012) - \$6.8 million
Orallo v. Bank of the West, 1:09-MD-202036 (S.D. Fla. 2012) - \$18.0 million
Taulava v. Bank of Hawaii, 11-1-0337-02 (1st Cir. Hawaii 2011) - \$9.0 million

**FALSE
PRICING**

Gattinella v. Michael Kors (USA), 14-Civ-5731 (WHP) (S.D. NY 2015) - \$4.875 million

Stathakos v. Columbia Sportswear, 4:15-cv-04543-YGR (N.D. Ca. 2018) - Injunctive relief prohibiting deceptive pricing practices

Lopez, et al. v. Volusion, LLC, 1:20-cv-00761 (W.D. Tex. 2022) - \$4.3 million

Gupta v. Aeries Software, Inc., 8:20-cv-00995 (C.D. Ca. 2022) - \$1.75 million

In Re: CaptureRx Data Breach, 5:21-cv-00523 (W.D. Tex. 2022) - \$4.75 million

Ostendorf v. Grange Indemnity Ins. Co., 2:19-cv-01147-ALM-KAJ (E.D. Ohio 2020) – \$12.6 million

Walters v. Target Corp., 3:16-cv-1678-L-MDD (S.D. Cal. 2020) – \$8.2 million

Papa v. Grieco Ford Fort Lauderdale, LLC, 18-cv-21897-JEM (S.D. Fla. 2019) - \$4.9 million

Bloom v. Jenny Craig, Inc., 18-cv-21820-KMM (S.D. Fla. 2019) - \$3 million

Masson v. Tallahassee Dodge Chrysler Jeep, LLC, 1:17-cv-22967-FAM (S.D. Fla. 2018) - \$850,000

DiPuglia v. US Coachways, Inc., 1:17-cv-23006-MGC (S.D. Fla. 2018) - \$2.6 million

In re Disposable Contact Lens Antitrust Litig., MDL 2626 (M.D. Fla.) - Liaison Counsel

In re Zantac (Ranitidine) Prods. Liab. Litig., 9:20-md-02924-RLR (S.D. Fla.) - MDL No. 2924 – Co-Lead Counsel

In re: Stryker Rejuvenate and ABG II PRODUCTS LIABILITY LITIGATION, 13-MD-2411 (17th Jud. Cir. Fla. Complex Litigation Division)

In re: National Prescription Opiate Litigation, 1:17-md-02804-DAP (N.D. Ohio) - MDL 2804

In re: Smith and Nephew BHR Hip Implant Products Liability Litigation, MDL-17-md-2775

Yasmin and YAZ Marketing, Sales Practices and Products Liability Litigation, 3:09-md-02100-DRH-PMF (S.D. Ill.) – MDL 2100

In re: Prempro Products Liab. Litigation, MDL Docket No. 1507, No. 03-cv-1507 (E.D. Ark.)

**CONSUMER
PROTECTION**

**MASS
TORT**

Managing Partner

Bar Admissions

The Florida Bar
District of Columbia Bar

Court Admissions

Supreme Court of the United States
U.S. Court of Appeals for the Eleventh Circuit
U.S. Court of Appeals for the Ninth Circuit
U.S. District Court, Southern District of Florida
U.S. District Court, Middle District of Florida
U.S. District Court, Northern District of Florida
U.S. District Court, Northern District of Illinois
U.S. District Court, Eastern District of Michigan
U.S. District Court, Western District of Tennessee
U.S. District Court, Western District of Wisconsin
U.S. District Court, Western District of Kentucky
U.S. District Court, Northern District of New York
U.S. District Court, District of Colorado
U.S. District Court, Eastern District of Texas

Education

Nova Southeastern University, J.D. - 1997
University of Florida, B.S. – 1994

Email: Ostrow@kolawyers.com



Jeff Ostrow is the Managing Partner of Kopelowitz Ostrow P.A. He established his own law practice in 1997 immediately upon graduation from law school and has since grown the firm to 25 attorneys in 3 offices throughout south Florida. In addition to overseeing the firm's day-to-day operations and strategic direction, Mr. Ostrow practices full time in the areas of consumer class actions, sports and business law. He is a Martindale-Hubbell AV® Preeminent™ rated attorney in both legal ability and ethics, which is the highest possible rating by the most widely recognized attorney rating organization in the world.

Mr. Ostrow often serves as outside General Counsel to companies, advising them in connection with their legal and regulatory needs. He has represented many Fortune 500® Companies in connection with their Florida litigation. He has handled cases covered by media outlets throughout the country and has been quoted many times on various legal topics in almost every major news publication, including the Wall Street Journal, New York Times, Washington Post, Miami Herald, and Sun-Sentinel. He has also appeared on CNN, ABC, NBC, CBS, Fox, ESPN, and almost every other major national and international television network in connection with his cases, which often involve industry changing litigation or athletes in Olympic swimming, professional boxing, the NFL, NBA and MLB.

Mr. Ostrow is an accomplished trial attorney who represents both Plaintiffs and Defendants, successfully trying many cases to verdict involving multi-million dollar damage claims in state and federal courts. Currently, he serves as lead counsel in nationwide and statewide class action lawsuits against many of the world's largest financial institutions in connection with the unlawful assessment of fees. To date, his efforts have successfully resulted in the recovery of over \$1 billion for tens of millions of bank and credit union customers, as well as monumental changes in the way they assess fees. Those changes have forever revolutionized an industry, resulting in billions of dollars of savings. In addition, Mr. Ostrow has served as lead Class Counsel in consumer class actions against some of the

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world's largest airlines, pharmaceutical companies, clothing retailers, health and auto insurance carriers, technology companies, pharmaceutical companies, and oil conglomerates, along with serving as class action defense counsel for some of the largest advertising and marketing agencies in the world, banking institutions, real estate developers, and mortgage companies.

In addition to the law practice, he is the founder and president of ProPlayer Sports LLC, a full-service sports agency and marketing firm. He represents both Olympic Gold Medalist Swimmers, World Champion Boxers, and select NFL athletes, and is licensed by both the NFL Players Association as a certified Contract Advisor. At the agency, Mr. Ostrow handles all player-team negotiations of contracts, represents his clients in legal proceedings, negotiates all marketing and NIL engagements, and oversees public relations and crisis management. He has extensive experience in negotiating, mediating, and arbitrating a wide range of issues on behalf of clients with the NFL Players Association, the International Olympic Committee, the United States Olympic Committee, USA Swimming and the World Anti-Doping Agency. He has been an invited sports law guest speaker at New York University and Nova Southeastern University and has also served as a panelist at many industry-related conferences.

Mr. Ostrow received a Bachelor of Science in Business Administration from the University of Florida in 1994 and Juris Doctorate from Nova Southeastern University in 1997. He is a licensed member of The Florida Bar and the District of Columbia Bar, is fully admitted to practice before the U.S. Supreme Court, the U.S. District Courts for the Southern, Middle, and Northern Districts of Florida, Eastern District of Michigan, Northern District of Illinois, Western District of Tennessee, Western District of Wisconsin, and the U.S. Court of Appeals for the Eleventh Circuit. Mr. Ostrow is also member of several Bar Associations.

He is a lifetime member of the Million Dollar Advocates Forum. The Million Dollar Advocates Forum is the most prestigious group of trial lawyers in the United States. Membership is limited to attorneys who have had multi-million dollar jury verdicts. Additionally, he is consistently named as one of the top lawyers in Florida by Super Lawyers®, a publication that recognizes the best lawyers in each state. Mr. Ostrow is an inaugural recipient of the University of Florida's Warrington College of Business Administration Gator 100 award for the fastest growing University of Florida alumni-owned law firm in the world.

When not practicing law, Mr. Ostrow serves on the Board of Governors of Nova Southeastern University's Wayne Huizenga School of Business and is a Member of the Broward County Courthouse Advisory Task Force. He is also the Managing Member of One West LOA LLC, a commercial real estate development company with holdings in downtown Fort Lauderdale. He has previously sat on the boards of a national banking institution and a national healthcare marketing company. Mr. Ostrow is a founding board member for the Jorge Nation Foundation, a 501(c)(3) non-profit organization that partners with the Joe DiMaggio Children's Hospital to send children diagnosed with cancer on all-inclusive Dream Trips to destinations of their choice. Mr. Ostrow resides in Fort Lauderdale, Florida, and has 3 sons, 2 of which currently attend the University of Florida.

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ROBERT C. GILBERT

Partner

Bar Admissions

The Florida Bar
District of Columbia Bar

Court Admissions

Supreme Court of the United States
U.S. Court of Appeals for the 11th Circuit
U.S. District Court, Southern District of Florida
U.S. District Court, Middle District of Florida

Education

University of Miami School of Law, J.D. - 1985
Florida International University, B.S. - 1982

Email: Gilbert@kolawyers.com



Robert C. “Bobby” Gilbert has over three decades of experience handling class actions, multidistrict litigation and complex business litigation throughout the United States. He has been appointed lead counsel, co-lead counsel, coordinating counsel or liaison counsel in many federal and state court class actions. Bobby has served as trial counsel in class actions and complex business litigation tried before judges, juries and arbitrators. He has also briefed and argued numerous appeals, including two precedent-setting cases before the Florida Supreme Court.

Bobby was appointed as Plaintiffs’ Coordinating Counsel in *In re Checking Account Overdraft Litig.*, MDL 2036, class action litigation brought against many of the nation’s largest banks that challenged the banks’ internal practice of reordering debit card transactions in a manner designed to maximize the frequency of customer overdrafts. In that role, Bobby managed the large team of lawyers who prosecuted the class actions and served as the plaintiffs’ liaison with the Court regarding management and administration of the multidistrict litigation. He also led or participated in settlement negotiations with the banks that resulted in settlements exceeding \$1.1 billion, including Bank of America (\$410 million), Citizens Financial (\$137.5 million), JPMorgan Chase Bank (\$110 million), PNC Bank (\$90 million), TD Bank (\$62 million), U.S. Bank (\$55 million), Union Bank (\$35 million) and Capital One (\$31.7 million).

Bobby has been appointed to leadership positions in numerous other class actions and multidistrict litigation proceedings. He is currently serving as co-lead counsel in *In re Zantac (Ranitidine) Prods. Liab. Litig.*, 9:20-md-02924-RLR (S.D. Fla.), as well as liaison counsel in *In re Disposable Contact Lens Antitrust Litig.*, MDL 2626 (M.D. Fla.); liaison counsel in *In re 21st Century Oncology Customer Data Security Beach Litig.*, MDL 2737 (M.D. Fla.); and *In re Farm-Raised Salmon and Salmon Products Antitrust Litig.*, No. 19-21551 (S.D. Fla.). He previously served as liaison counsel for indirect purchasers in *In re Terazosin Hydrochloride Antitrust Litig.*, MDL 1317 (S.D. Fla.), an antitrust class action that settled for over \$74 million.

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For the past 18 years, Bobby has represented thousands of Florida homeowners in class actions to recover full compensation under the Florida Constitution based on the Florida Department of Agriculture's taking and destruction of the homeowners' private property. As lead counsel, Bobby argued before the Florida Supreme Court to establish the homeowners' right to pursue their claims; served as trial counsel in non-jury liability trials followed by jury trials that established the amount of full compensation owed to the homeowners for their private property; and handled all appellate proceedings. Bobby's tireless efforts on behalf of the homeowners resulted in judgments exceeding \$93 million.

Bobby previously served as an Adjunct Professor at Vanderbilt University Law School, where he co-taught a course on complex litigation in federal courts that focused on multidistrict litigation and class actions. He continues to frequently lecture and make presentations on a variety of topics.

Bobby has served for many years as a trustee of the Greater Miami Jewish Federation and previously served as chairman of the board of the Alexander Muss High School in Israel, and as a trustee of The Miami Foundation.

JONATHAN M. STREISFELD

Partner

Bar Admissions

The Florida Bar

Court Admissions

Supreme Court of the United States

U.S. Court of Appeals for the First, Second, Fourth, Fifth Ninth, and Eleventh Circuits

U.S. District Court, Southern District of Florida

U.S. District Court, Middle District of Florida

U.S. District Court, Northern District of Florida

U.S. District Court, Northern District of Illinois

U.S. District Court, Western District of Michigan

U.S. District Court, Western District of New York

U.S. District Court, Western District of Tennessee

Education

Nova Southeastern University, J.D. - 1997

Syracuse University, B.S. - 1994

Email: streisfeld@kolawyers.com



Jonathan M. Streisfeld joined KO as a partner in 2008. Mr. Streisfeld concentrates his practice in the areas of consumer class actions, business litigation, and appeals nationwide. He is a Martindale Hubbell AV® Preeminent™ rated attorney in both legal ability and ethics.

Mr. Streisfeld has vast and successful experience in class action litigation, serving as class counsel in nationwide and statewide consumer class action lawsuits against the nation's largest financial institutions in connection with the unlawful assessment of fees. To date, his efforts have successfully resulted in the recovery of over \$500,000,000 for tens of millions of bank and credit union customers, as well as profound changes in the way banks assess fees. Additionally, he has and continues to serve as lead and class counsel for consumers in many class actions involving false advertising and pricing, defective products, data breach and privacy, automobile defects, airlines, mortgages, and payday lending. Mr. Streisfeld has also litigated class actions against some of the largest health and automobile insurance carriers and oil conglomerates, and defended class and collective actions in other contexts.

Mr. Streisfeld has represented a variety of businesses and individuals in a broad range of business litigation matters, including contract, fraud, breach of fiduciary duty, intellectual property, real estate, shareholder disputes, wage and hour, and deceptive trade practices claims. He also assists business owners and individuals with documenting contractual relationships and resolving disputes. Mr. Streisfeld has also provided legal representation in bid protest proceedings.

Mr. Streisfeld oversees the firm's appellate and litigation support practice, representing clients in the appeal of final and non-final orders, as well as writs of certiorari, mandamus, and prohibition. His appellate practice includes civil and marital and family law matters.

Previously, Mr. Streisfeld served as outside assistant city attorney for the City of Plantation and Village of Wellington in a broad range of litigation matters. As a member of The Florida Bar, Mr. Streisfeld served for many years on the Executive Council of the Appellate Practice Section and is a past Chair of the Section's Communications Committee. Mr. Streisfeld currently serves as a member of the Board of Temple Kol Ami Emanu-El.

KEN GRUNFELD

Partner

Bar Admissions

The Pennsylvania Bar
The New Jersey Bar

Court Admissions

U.S. Court of Appeals for the Third, Fourth, Fifth, Ninth,
Tenth and Eleventh Circuits
U.S. District Ct, Eastern District of Pennsylvania
U.S. District Ct, Middle District of Pennsylvania
U.S. District Ct, Western District of Pennsylvania
U.S. District Ct, District of New Jersey
U.S. District Ct, Eastern District of Michigan
U.S. District Ct, Western District of Wisconsin

Education

Villanova University School of Law, J.D., 1999
University of Michigan, 1996

Email: grunfeld@kolawyers.com



Ken Grunfeld is one of the newest KO partners, having just started working at the firm in 2023. Having worked at one of Philadelphia's largest and most prestigious defense firms for nearly a decade defending pharmaceutical manufacturers, national railroads, asbestos companies and corporate clients in consumer protection, products liability, insurance coverage and other complex commercial disputes while working, Mr. Grunfeld "switched sides" about 15 years ago.

Since then, he has become one of the city's most prolific and well-known Philadelphia class action lawyers. His cases have resulted in the recovery of hundreds of millions of dollars for injured individuals.

Mr. Grunfeld brings with him a wealth of pre-trial, trial, and appellate work experience in both state and federal courts. He has successfully taken many cases to verdict. Currently, he serves as lead counsel in a number of nationwide class actions. Whether by settlement or judgment, Mr. Grunfeld makes sure the offending companies' wrongful practices have been addressed. He believes the most important part of bringing a wrongdoer to justice is to ensure that it never happens again; class actions can be a true instrument for change if done well.

Mr. Grunfeld has been named a Super Lawyer numerous times throughout his career. He has been a member of the Philadelphia, Pennsylvania, and American Bar Associations, as well as a member of the American Association for Justice (AAJ). He was a Finalist for AAJ's prestigious Trial Lawyer of the Year Award in 2012 and currently serves as AAJ's Vice Chair of the Class Action Law Group. To his strong view that attorneys should act ethically, he volunteers his time as a Hearing Committee Member for the Disciplinary Board of the Supreme Court of Pennsylvania.

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Mr. Grunfeld received his undergraduate degree from the University of Michigan. He is an active member of the Michigan Alumni Association, Philadelphia chapter and serves as a Michigan Alumni Student recruiter for local high schools. He received his Juris Doctor from the Villanova University School of Law. He was a member of the Villanova Law Review and graduated Order of the Coif.

Ken is a life-long Philadelphian. He makes his home in Bala Cynwyd, Pennsylvania, where he resides with his wife, Jennifer, and his year-old twins.

KRISTEN LAKE CARDOSO

Partner



Bar Admissions

The Florida Bar
The State Bar of California

Court Admissions

U.S. District Court, Southern District of Florida
U.S. District Court, Middle District of Florida
U.S. District Court, Central District of California
U.S. District Court, Eastern District of California
U.S. District Court, Northern District of Illinois
U.S. District Court, Eastern District of Michigan

Education

Nova Southeastern University, J.D., 2007
University of Florida, B.A., 2004

Email: cardoso@kolawyers.com

Kristen Lake Cardoso is a litigation attorney focusing on consumer class actions and complex commercial litigation. She has gained valuable experience representing individuals and businesses in state and federal courts at both the trial and appellate levels in a variety of litigation matters, including contractual claims, violations of consumer protection statutes, fraud, breach of fiduciary duty, negligence, professional liability, real estate claims, enforcement of non-compete agreements, trade secret infringement, shareholder disputes, deceptive trade practices, and other business torts.

Currently, Ms. Cardoso serves as counsel in nationwide and statewide class action lawsuits concerning violations of state consumer protection statutes, false advertising, defective products, data breaches, and breaches of contract. Ms. Cardoso is actively litigating cases against major U.S. airlines for their failure to refund fares following flight cancellations and schedule changes, as well as cases against manufacturers for their sale and misleading marketing of products, including defective cosmetics and nutritional supplements. Ms. Cardoso has also represented students seeking reimbursements of tuition, room and board, and other fees paid to their colleges and universities for in-person education, housing, meals, and other services not provided when campuses closed during the COVID-19 pandemic. Additionally, Ms. Cardoso has represented consumers seeking recovery of gambling losses from tech companies that profit from illegal gambling games offered, sold, and distributed on their platforms.

Ms. Cardoso is admitted to practice law throughout the states of Florida and California, as well as in the United States District Courts for the Southern District of Florida, Middle District of Florida, Central District of California, Eastern District of California Northern District of Illinois, and Eastern District of Michigan.

Ms. Cardoso attended the University of Florida, where she received her Bachelor's degree in Political Science, cum laude, and was inducted as a member of Phi Beta Kappa honor society. She received her law degree from Nova Southeastern University, magna cum laude. While in law school, Ms. Cardoso served as an Articles Editor for the Nova Law Review, was on the Dean's List, and was the recipient of a scholarship granted by the Broward County Hispanic Bar Association for her academic achievements. When not practicing law, Ms. Cardoso serves as a volunteer at Saint David Catholic School, including as a member of the school Advisory Board and an executive member of the Faculty Student Association. She has also served on various committees with the Junior League of Greater Fort Lauderdale geared towards improving the local community through leadership and volunteering.

STEVEN SUKERT

Partner

Bar AdmissionsThe Florida Bar
The New York Bar***Court Admissions***United States District Court, Southern District of Florida
United States District Court, Middle District of Florida
United States District Court, Southern District of New York
United States District Court, Eastern District of New York
United States District Court, Northern District of Illinois
United States District Court, Central District of Illinois***Education***Georgetown University Law Center, J.D., 2018
Northwestern University, B.S., 2010***Email: sukert@kolawyers.com***

Steven Sukert has experience in all aspects of complex litigation in federal and state court, including drafting successful dispositive motions and appeals, handling discovery, and arguing court hearings. Steven focuses his practice at KO on complex class actions and multi-district litigations in courts around the country, including in data privacy, bank overdraft fee, and other consumer protection cases.

Before joining KO, Steven gained experience at Gunster, Yoakley & Stewart, P.A. in Miami in high-stakes commercial cases often involving trade secret and intellectual property claims, consumer contract claims, and legal malpractice claims, as well as in international arbitrations. Steven co-authored an amicus brief in the Florida Supreme Court case *Airbnb, Inc. v. Doe* (Case No. SC20-1167), and helped organize the American Bar Association's inaugural International Arbitration Masterclass, in 2021.

Steven was born and raised in Miami. He returned to his home city after law school to clerk for the Honorable James Lawrence King in the U.S. District Court for the Southern District of Florida.

In 2018, Steven earned his J.D. from Georgetown University Law Center. While living in the nation's capital, he worked at the U.S. Department of Labor, Office of the Solicitor, where he won the Gary S. Tell ERISA Litigation Award; the Civil Fraud Section of the U.S. Department of Justice, where he worked on large Medicare fraud cases and pioneered the use of the False Claims Act in the context of pharmaceutical manufacturers who engaged in price fixing; and the Lawyers' Committee for Civil Rights Under Law, where his proposal for writing an amicus brief in the *Janus v. AFSCME* U.S. Supreme Court case was adopted by the organization's board of directors.

Steven has a degree in Molecular Biology from Northwestern University. Prior to his legal career, he worked as a biomedical laboratory researcher at the Diabetes Research Institute in Miami.

CAROLINE HERTER

Associate



Bar Admissions

The Florida Bar

Court Admissions

U.S. District Court, Southern District of Florida

U.S. Bankruptcy Court, Southern District of Florida

Education

University of Miami School of Law, J.D. - 2020

University of Miami, B.S. – 2016

Email: Herter@kolawyers.com

Caroline Herter is a litigation attorney at the firm's Fort Lauderdale office. Caroline focuses her practice on consumer class actions, mass torts, and white-collar commercial litigation in state and federal courts nationwide. She has gained valuable experience representing individuals and businesses to hold wrongdoers accountable through claims involving personal injury, wrongful death, consumer fraud, products liability, breach of fiduciary duty, civil theft/conversion, corporate veil-piercing, fraudulent transfer, tortious interference, False Claims Act violations, and the like.

Before joining KO, Caroline worked at a boutique law firm in Miami where she represented plaintiffs in matters involving creditor's rights, insolvency, and asset recovery. She now applies this experience throughout her practice at KO, often combining equitable remedies with legal claims to ensure the best chance of recovery for her clients.

Notable cases that Caroline has been involved in include In Re: Champlain Towers South Collapse Litigation, where she was a member of the team serving as lead counsel for the families of the 98 individuals who lost their lives in the tragic condominium collapse. The case resulted in over \$1 billion recovered for class members, the second-largest settlement in Florida history. She also co-authored a successful petition for certiorari to the United States Supreme Court in Olhausen v. Arriva Medical, LLC et al., a False Claims Act case involving the standard for determining a defendant's scienter, which led the high Court to reverse the Eleventh Circuit Court of Appeal's earlier ruling against her client.

Caroline earned her law degree from the University of Miami School of Law, summa cum laude, where she received awards for the highest grade in multiple courses. During law school Caroline was an editor of the University of Miami Law Review and a member of the Moot Court Board.

Outside of her law practice, Caroline serves on the Board of Directors of the non-profit organization Americans for Immigrant Justice.

EXHIBIT 5



MIGLIACCIO&RATHODLLP

SUMMARY

The attorneys at Migliaccio & Rathod LLP (“M&R”) have decades of experience in complex civil litigation and have successfully prosecuted a number of noteworthy consumer protection, data breach and privacy, civil rights, and wage theft cases. The firm’s attorneys, located in Washington D.C. and San Francisco, focus primarily on class or collective actions and take all of their cases on a contingent basis. The attorneys at the firm have litigated cases leading to recoveries of hundreds of millions of dollars for consumers, workers, and other victims of corporate misconduct. M&R has a track record of investing the time, energy, and resources necessary to develop cases which implicate significant economic, societal, privacy, and health concerns.

NOTABLE MATTERS AND SUCCESSES

- *In Re: Kia Hyundai Vehicle Theft Litigation*, No. 8:22-ml-03052-JVS-KES (C.D. Cal.). Represent plaintiffs in MDL concerning a security vulnerability in millions of vehicles manufactured by Hyundai and Kia that made them susceptible to theft. A non-reversionary common fund settlement totaling \$80-\$145 million is pending approval and the litigation resulted in a software update being provided to class members to address the underlying security vulnerability.
- *Valsartan N-Nitrosodimethylamine (NDMA) Products Liability Litigation*, MDL Case No: 1:19-md-02875-RBK-JS (D.N.J.). Represent plaintiffs in multi-district litigation arising from worldwide recalls of generic Valsartan that had been found to be contaminated with probable human carcinogens. M&R was appointed to the Plaintiffs’ Steering Committee and serves as co-chair of the medical monitoring committee. The court granted class certification for medical monitoring for several states and appointed M&R attorney as one of two class counsel.
- *In re: Philips Recalled CPAP, Bi-Level Pap, and Mechanical Ventilator Products Litigation*, MDL No. 3014 (W.D. Pa.). Represent plaintiffs in MDL. M&R attorney one of 12 appointed to Plaintiff Steering Committee and co-chairs the Science and Experts Committee as well as chairs the Class Action and Experts Subcommittee.
- *Young v. Nationwide Mut. Ins. Co.*, 693 F.3d 532, 535 (6th Cir. 2012). Represented classes of insureds against several major insurance companies for the failure to use technological advances in verifying the addresses of insureds, leading to overcharges. The Sixth Circuit opinion was foundational for a relaxed standard for ascertainability in that circuit. Litigation culminated in several multi-million dollar settlements.
- *Carmack v. Snap-On Inc.*, 2:22-cv-695 (E.D. Wis.). M&R was sole settlement class counsel in settlement for nationwide class of employees whose information was compromised in a data breach. The settlement provided for reimbursement of certain categories of losses as well as enhancement of cybersecurity practices.



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- *McHenry v. Advent Health Partners, Inc.*, 3:22-cv-00287 (M.D. Tenn.). M&R was settlement class counsel, along with one other firm, in settlement for nationwide class of patients whose private information was exposed in a cyberattack. The settlement provided for reimbursement of certain categories of losses as well as enhancement of cybersecurity practices.
- *Carlotti v. ASUS Computer International, et al*, No. 18-cv-00369 (N.D. Cal.). Represented plaintiffs in a class action suit brought on behalf of purchasers of ASUS Rog Strix GL502VS or GL502VSK laptops with defective batteries or which overheat due to their insufficient cooling system. Benefits of the resulting settlement include cash payment of up to \$110 or credit certificate of up to \$210 for any impacted individual. Settlement valued at \$16 million.
- *Brown et al. v. Hyundai Motor America, et ano.*, Case No. 2:18-cv-11249 (D.N.J.) M&R was appointed co-lead class counsel in an action brought arising from Hyundai's alleged manufacture, design, marketing and sale of vehicles with a piston-slap defect. The case settled on a class-action basis, and class members were provided with an extended warranty, and reimbursement of expenses.
- *In re National Security Agency Telecommunications Records Litigation*, Case No. 3:06-md-01791 (N.D. Cal.). Represented Sprint subscribers in privacy suit against telecom companies to enjoin the alleged disclosure to the National Security Agency of telephone calling records. Appointed, with co-counsel, interim lead counsel for the Sprint subscriber class in the MDL proceedings. The litigation was ultimately dismissed after Congress granted retroactive immunity to the telecom companies.
- *Wheeler et al. v. Lenovo (United States) Inc.*, Case No. 13-0007150 (D.C. Sup. Ct.) and *Kacsuta v. Lenovo (United States), Inc.*, Case No. 13-00316 (C.D. Cal.). Represented plaintiffs in a class action brought on behalf of purchasers of Lenovo laptops that suffered from Wi-Fi connectivity problems. Served among the Court-appointed class counsel in a nationwide settlement where Lenovo agreed to refund \$100 cash or issue a \$250 voucher (which required no purchase to use) to owners of the laptops.
- *Fath et al. v. Honda North America, Inc.*, Case No. 0:18-cv-01549 (D. Minn.). M&R served on the Plaintiff Steering Committee in this nationwide action arising from Honda's alleged manufacture, design, marketing and sale of vehicles with a fuel dilution defect. The case settled on a class action basis, and class members were provided with an extended warranty, reimbursement of expenses, and a product update where applicable.
- *Washington v. Navy Federal Credit Union*, Case No. 2019 CA 005735 B (D.C. Super. Ct.). Represented a settlement class of individuals whose rights were allegedly violated by Navy Federal Credit Union when they had their vehicles repossessed. The court granted approval of the \$800,000 common fund class action settlement in the Fall of 2020. Each class member received no less than \$748.12.



MIGLIACCIO&RATHODLLP

- *Hill v. County of Montgomery et al.*: Case No.: 9:14-cv-00933 (N.D.N.Y.). M&R served as co-lead counsel in this conditions of confinement civil rights class action for the alleged provision of insufficient sustenance in the Montgomery County Jail in upstate New York. After years of litigation, the case settled on a class action basis for \$1,000,000, providing significant relief to the class of inmates and detainees.
- *Vasquez et al. v. Libre by Nexus, Inc. et al.*: Case No. 4:17- cv-00755 (N.D.Cal.). Represented migrants released from detention who allegedly suffered from unfair and deceptive practices – including having to wear an ankle monitor – by the middleman that arranged for bond to be posted. A nationwide class action settlement has been granted final approval.
- *In re: JUUL Labs, Inc. Products Litigation*, Case No. 3:18-cv-02499 (N.D. Cal.) M&R was appointed as co-lead interim class counsel prior to formation of an MDL in action brought on behalf of a nationwide class arising from marketing and sale of electronic cigarettes by JUUL, the world’s largest e-cigarette manufacturer. M&R wrote key aspects of the motion to dismiss briefing, which was later relied on in MDL opinions. In the MDL, M&R assisted with class representative discovery.
- *Adeli v. Silverstar Automotive, Inc.*, Case No. 5:17-cv-05224 (W.D. Ark.). M&R was co-lead trial counsel in this individual consumer fraud suit for economic losses that resulted in a trial verdict of over \$5.8 million, the vast majority of which was in punitive damages (judgment later reduced to \$533,622, inclusive of a reduced but sizable punitive damages amount, which was affirmed by the Eighth Circuit Court of Appeals).
- *Bendetowies et al. v. Facebook, Inc.*: Case No. 1:18-cv-06263 (N.D.Cal.). Represented consumers in a class action against Facebook for its failure to exercise reasonable care in securing and safeguarding its account holders’ Private Information. Plaintiffs alleged that Facebook’s security failures exposed Plaintiffs’ and Class members’ Private Information to a massive security breach affecting approximately 50 million Facebook users. The failures put Plaintiffs’ and Class members’ personal and financial information and interests at serious, immediate, and ongoing risk.
- *Sonya O. Carr v. Transit Employee Federal Credit Union*: Case No. 19-cv-005735 (D.C. Super. Ct.). Represented a settlement class of individuals whose rights were allegedly violated by Transit Employee Federal Credit Union when they had their vehicles repossessed. The court granted approval of a \$215,000 common fund class action settlement. Each class member received no less than \$1,000.
- *Matthews v. TCL Communications et al.*, Case No. 3:17-cv-95 (W.D.N.C.). Represented plaintiffs in a class action brought on behalf of purchasers of Alcatel OneTouch Idol 3 smartphones who alleged that a firmware update removed Band 12 LTE functionality from their phones, greatly reducing their functionality. Served as Court-appointed class counsel in a class action settlement which provided class members with either the reinstatement of Band 12 LTE functionality on their phones, or new phones with LTE Band 12 functionality.



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- *Snodgrass v. Bob Evans*, Case No. 2:12-cv-768 (S.D. Ohio). Represented Bob Evans’ Assistant Managers in a case alleging that Bob Evans, a restaurant chain with hundreds of locations predominantly in the Midwest, had misclassified its Assistant Managers as exempt from federal and state overtime laws. After a landmark ruling on the application of the so-called “fluctuating workweek” method of payment, the lawsuit settled for \$16.5 million. The gross recovery per class member was approximately \$6,380. In issuing its order approving the settlement, the court took special note of the “competence of class counsel in prosecuting this complex litigation.”
- *Corbin v. CFRA, LLC*, Case No. 1:15-cv-00405 (M.D.N.C.). Represented 1,520 servers in collective action against major IHOP franchise for wage theft violations, culminating in \$1.725 million settlement.
- *Craig v. Rite Aid*, Case No. 4:08-CV-2317 (M.D. Pa.). Represented Rite Aid Assistant Managers in a case alleging that Rite Aid had misclassified its Assistant Managers as exempt from federal and state overtime laws. Plaintiffs alleged that their primary duties involved manual labor such as loading and unloading boxes, stocking shelves, cashiering and other duties which are not exempt under federal and state overtime laws. After extensive litigation, the case settled for \$20.9 million, covering over 1,900 current and former assistant store managers. In issuing its order approving the settlement, the court stated that the settlement “represents an excellent and optimal settlement award for the Class Members” resulting from “diligent, exhaustive, and well-informed negotiations.”
- *Peppler, et al. v. Postmates, Inc.*, Case No. 2015 CA 006560 (D.C. Sup. Ct.) and *Singer, et al. v. Postmates, Inc.*, 4:15-cv-01284-JSW (N.D. Cal.). Represented plaintiffs in a wage theft class action against application-based courier startup company, alleging that the couriers were misclassified as independent contractors. M&R was named class counsel in the settlement agreement providing for \$8.75 million in relief to a nationwide class.
- *Bland v. Calfrac Well Services*, Case No. 2:12-cv-01407 (W.D. Pa.). Represented oil field workers in a nationwide collective and class action lawsuit against Defendant Calfrac Well Services for its alleged failure to properly pay overtime to its field operators. After extensive litigation, the case settled for \$6 million, which provided a gross recovery per class member of between \$250 and approximately \$11,500.
- *Nelson v. Sabre Companies LLC*, Case No. 1:15-cv-0314 (N.D.N.Y.). M&R was lead counsel in this nationwide collective action that settled for \$2.1 million on behalf of oil and gas workers for unpaid overtime.
- *Beture v. Samsung Electronics America*, Case No. 17-cv-05757 (D.N.J.). M&R was appointed as co-lead interim class counsel in action brought on behalf of a nationwide class arising from a hardware defect affecting hundreds of thousands of Samsung Galaxy Note 4 smartphones.



MIGLIACCIO&RATHODLLP

- *McFadden et al. v. Microsoft Corporation*, Case No. 2:20-cv-00640 (W.D. Wash.) M&R was appointed as co-lead interim class counsel in an action brought on behalf of a nationwide class arising from a hardware defect affecting Microsoft X-Box video game controllers.
- *Restaino et al. v. Mario Badescu, Inc.*, Case No. MID-L-5830-14 (N.J. Super. Ct.). Represented 36 individuals who had become physically addicted to undisclosed corticosteroids in a purportedly botanical face cream, and sought damages for personal injuries arising from the symptoms of topical steroid withdrawal. After three years of litigation, the case settled for significant relief to the plaintiffs.
- *Walsh et al. v. Globalstar, Inc.*, Case No. 3:07-cv-01941 (N.D. Cal.), represented Globalstar satellite telephone service customers who brought claims that Globalstar knew that it was experiencing failures in its satellite constellation and its satellite service was rapidly deteriorating and was no longer useful for its intended purpose, yet failed to disclose this information to its potential and existing customers. Served as Court-appointed class counsel in a nationwide settlement that provided an assortment of benefit options, including, but not limited to, monetary account credits, free minutes, or cash back for returned equipment.
- *Delandro v. County of Allegheny*, Case No. 06-927 (W.D. Pa.). Represented pre-trial detainees who were subjected to unlawful strip searches prior to their admission at Allegheny County Jail, located in Pittsburgh, PA. After winning class certification, partial summary judgment on liability, and an injunction, the case settled for \$3 million.
- *Nnadili v. Chevron*, Case No. 02-1620 (D.D.C.). Represented owners and residents of properties in the District of Columbia that were contaminated with gasoline constituents from leaking underground storage tanks that were installed by Chevron. The plaintiffs, who resided in over 200 properties in the Riggs Park neighborhood of Northeast Washington, D.C., alleged that Chevron's contamination interfered with the use and enjoyment of their property, impacted their property values, constituted a trespass on their land, and caused fear and emotional distress. The United States Environmental Protection Agency conducted an extensive investigation into the contamination. After approximately five years of litigation, the case settled for \$6.2 million.
- *Ousmane v. City of New York*, Case No. 402648/04 (NY Sup. Ct.). Represented New York City Street vendors in a pro bono class action suit against the City of New York for excessive fines and helped secure a settlement with a value of over \$1 million.
- *Stillman v. Staples*, Case No. 07-849 (D.N.J.). Represented Staples Assistant Managers in Fair Labor Standards Act Claims for unpaid overtime. Served as a member of the trial team where the plaintiffs won a nearly \$2.5 million verdict against Staples for unpaid overtime on behalf of 342 sales managers after a six-week jury trial. After the verdict, nearly a dozen wage and hour cases against Staples from across the country were consolidated in a multi-district litigation. Served in a central role in the consolidated litigation, which lasted nearly two years after the *Stillman* verdict. The consolidated litigation ultimately settled for \$42 million.



MIGLIACCIO&RATHODLLP

ATTORNEYS

Nicholas A. Migliaccio

Nicholas Migliaccio has been practicing for over 20 years and litigates across the firm's practice areas. He has successfully prosecuted numerous noteworthy class and mass action cases over the course of his career, and has been appointed class counsel in both litigation and settlement classes. He has been recognized by his peers as a Superlawyer in 2016 - 2023.

Mr. Migliaccio graduated from the State University of New York at Binghamton in 1997 (B.A., *cum laude* in Environmental Studies and Philosophy) and received his law degree from Georgetown University Law Center in 2001, where he was an Editor of the Georgetown International Environmental Law Review.

Notable Cases Include:

- Represented assistant managers in a Fair Labor Standards Act misclassification case and served as a member of the trial team for a six-week jury trial that resulted in a \$2.5 plaintiffs' verdict. After the verdict, nearly a dozen wage and hour cases against the defendant from across the country were consolidated in a multi-district litigation. Served in a central role in the consolidated litigation, which ultimately settled for \$42 million.
- Represented worker class in wage theft assistant manager misclassification case against national restaurant chain that culminated in a \$16.5 million settlement
- Represented worker class in wage theft rate miscalculation case against multinational fracking company, resulting in \$6 million settlement
- Represented plaintiffs in a consumer class in defective laptop case against multinational computer manufacturer, resulting in a nationwide settlement where defendant agreed to refund \$100 cash or issue a \$250 voucher (which required no purchase to use) to owners of the laptops.
- Represented pre-trial detainees who were subjected to unlawful strip searches prior to their admission at Allegheny County Jail, located in Pittsburgh, PA. After winning class certification, partial summary judgment on liability, and an injunction, the case settled for \$3 million.
- Represented owners and residents of properties in the District of Columbia that were contaminated with gasoline constituents from leaking underground storage tanks that were installed by a major oil company. The plaintiffs alleged that the contamination interfered with the use and enjoyment of their property, impacted their property values, constituted a trespass on their land, and caused fear and emotional distress. After extensive litigation, the case settled for \$6.2 million.
- Represented New York City street vendors in a pro bono class action suit against the City of New York for excessive fines and helped secure a settlement with a value of over \$1 million.
- Appointed to leadership in recent major data breach cases involving hospitals and health records, including in *In re Netgain Technology, LLC, Consumer Data Breach Litigation*,



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No. 0:21-cv-01210 (D. Minn.) and in *In re Eskenazi Health Data Incident Litigation*, No. 49D01-2111-PL-038870 (Ind. Sup. Ct.)

Admissions:

- New York
- Washington, D.C.
- United States Court of Appeals for the Third Circuit
- United States Court of Appeals for the Fourth Circuit
- United States Court of Appeals for the Sixth Circuit
- United States District Court for the District of Colorado
- United States District Court for the District of Columbia
- United States District Court for the District of Maryland
- United States District Court for the Eastern District of Michigan
- United States District Court for the Eastern District of New York
- United States District Court for the Northern District of New York
- United States District Court for the Southern District of New York
- United States District Court for the Western District of New York
- United States District Court for the Western District of Pennsylvania

Education:

- Georgetown University Law Center, J.D., 2001
- State University of New York at Binghamton, BA, 1997

Publications and Speaking Engagements:

- Co-authored “Environmental Contamination Treatise: Overview of the Litigation Process,” in R. Simons, Ph.D, *When Bad Things Happen to Good Property* (Environmental Law Institute, 2005).
- Presentation on *The Motor Carrier Act Exception to the FLSA’s Overtime Provisions - 13(b)(1) and the SAFETEA-LU Amendments*, Worker’s Injury Litigation Group / Ohio Association of Justice Meeting, Winter 2014.
- Presentation on *Litigating Fair Labor Standards Act Collective Action Cases*, Worker’s Injury Litigation Group / Ohio Association of Justice Convention, Fall 2011.

Awards:

- SuperLawyers, 2016, 2017, 2018, 2019, 2020, and 2021



Jason S. Rathod

Jason S. Rathod is a founding partner of Migliaccio & Rathod LLP and regarded as one of the most accomplished plaintiff-side class action litigation lawyers under the age of 40, particularly in the areas of consumer protection and defective products. Mr. Rathod has been appointed to leadership teams in some of the most high-profile cases in the country. In *In Re: Philips Recalled CPAP, Bi-Level Pap, and Mechanical Ventilator Products Litigation*, he is among a small group of lawyers appointed to the Plaintiffs' Steering Committee and serves as the co-chair of the Science and Experts Committee. He was also recently appointed to serve on the experts committee in the *In Re: Kia Hyundai Vehicle Theft* MDL. Mr. Rathod has been quoted in the national press, including in *The Wall Street Journal* and *Washington Post*. In addition to his consumer protection work, Mr. Rathod also prosecutes data privacy, wage theft, civil rights, and environmental protection cases.

Mr. Rathod has been recognized as a leader in his field beyond the courtroom. He is the author of several published works, including a law review article on aggregate litigation in poor countries. Another recent law review article that he co-authored, comparing public and private enforcement in the United State and Europe, was cited by the Consumer Financial Protection Bureau in its proposed rule prohibiting class action waivers in the fine print of consumer contracts.

Mr. Rathod graduated from Grinnell College in 2006 (B.A. with honors in Political Science and Religious Studies). After college, he traveled to Fiji, Mauritius, South Africa, Trinidad & Tobago, Guyana, and Suriname on a Watson Fellowship, studying the Indian Diaspora. He graduated law school from the Duke University School of Law in 2010, where he was an Articles Editor of the *Duke Law Journal*. In law school, he also worked for the Self-Employed Women's Association in Ahmedabad, India on behalf of street vendors seeking an injunction against the city government for unlawful harassment and evictions.

Notable Cases Include:

- Representing consumer classes in insurance overcharge cases, including by drafting appellate briefs about the propriety of class certification. The Sixth Circuit Court of Appeals affirmed order for the classes 3-0, leading to several multi-million-dollar settlements;
- Representing consumer in consumer fraud trial for economic losses that resulted in verdict for the Plaintiff on all counts and a multimillion dollar punitive damages award (later reduced on remittitur, but still totaling in the hundreds of thousands of dollars and representing a 25:1 ratio of punitive to economic damages);
- Representing consumer class of laptop purchasers against multinational corporation in nationwide class action settlement valued at over \$16 million;
- Representing consumer class of vehicle purchasers and lessees in nationwide class action settlement, following allegations of engine defect;



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- Representing consumer class of vehicle purchasers and lessees in nationwide class action settlement, alleging oil dilution defect;
- Representing consumer classes in two cases in D.C. Superior Court arising from the alleged unlawful repossession of vehicles, resulting in classwide settlements with significant pro rata payments and injunctive relief, including debt relief;
- Representing consumer class at trial in product defect class action;
- Representing worker class in wage theft assistant manager misclassification case against national restaurant chain that culminated in a \$16.5 million settlement;
- Representing worker class and collective against multinational startup company for independent contractor misclassification claims, resulting in \$8.75 million settlement;
- Representing worker class in wage theft rate miscalculation case against multinational fracking company, resulting in \$6 million settlement;
- Representing over 1,500 servers in multistate collective action, resulting in \$1.72 million settlement;
- Representing consumer class in defective laptop case against multinational computer manufacturer; and
- Representing consumer class in defective construction case against multinational home builder, drafting key briefs leading to class certification and maintenance of suit in court, rather than arbitration.
- Appointed to leadership in recent major data breach cases involving hospitals and health records, including in *In re Netgain Technology, LLC, Consumer Data Breach Litigation*, No. 0:21-cv-01210 (D. Minn.) and in *In re Eskenazi Health Data Incident Litigation*, No. 49D01-2111-PL-038870 (Ind. Sup. Ct.)

Education:

- Duke University School of Law, J.D. 2010
- Grinnell College, B.A., 2006

Admissions:

- Illinois
- Washington, D.C.
- United States Court of Appeals for the District of Columbia Circuit
- United States Court of Appeals for the Second Circuit
- United States Court of Appeals for the Third Circuit
- United States Court of Appeals for the Fourth Circuit
- United States Court of Appeals for the Eighth Circuit
- United States District Court for the District of Columbia
- United States District Court for the District of Maryland
- United States District Court for the District of Nebraska
- United States District Court for the Northern District of Illinois
- United States District Court for the Western District of Pennsylvania
- United States District Court for the District of Colorado



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- United States District Court for the Eastern District of Michigan
- United States District Court for the Western District of Michigan

Publications and Speaking Engagements:

- *Arbitration Tactics and Strategy* (July 2020) (CLE presentation), American Association for Justice (“AAJ”)
- *Fighting for Food Policy Progress Across Legal Arenas* (panelist), Food Systems Virtual Summit with CUNY Urban Food Policy Institute (April 2020)
- *Human Capital and Fragmentation* (Nov. 15, 2019) (panelist), ClassCrits Conference
- *Plaintiffs, Procedure & Power* (Nov. 3, 2018) (panelist), ClassCrits Conference
- *DNA Barcoding analysis of seafood accuracy in Washington, D.C. restaurants*, PeerJ (April 25, 2017) (co-authored)
- *The Arc and Architecture of Private Enforcement Regimes in the United States and Europe: A View Across the Atlantic*, 14 U.N.H. L. Rev. 303 (2016) (co-authored)
- *Trying the Class Action: Practical Tips from the Pros* (AAJ) (June 4, 2015) (panelist)
- *Emerging Markets, Vanishing Accountability: How Populations in Poor Countries Can Use Aggregate Litigation to Vindicate Their Rights*, 24 Transnat’l L. & Contemp. Probs. 69 (2014)
- *Note: Not Peace, But a Sword: Navy v. Egan and the Case Against Judicial Abdication in Foreign Affairs*, 59 Duke L.J. 595 (2009)

Awards

- SuperLawyers Rising Stars, 2017, 2018, 2019, 2020, 2021, 2022, and 2023



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Mark Patronella

Mark Patronella is an Associate at the firm and litigates class actions across the firm's practice areas. He takes particular pride in helping consumers obtain fair compensation for predatory behavior on the part of large corporations.

Mr. Patronella has been recognized for his considerable commitment to pro bono practice. He dedicated well over one thousand hours to representing asylum-seekers, tenants facing eviction, and environmental initiatives.

Mr. Patronella graduated magna cum laude from Drew University in 2015 (B.A. with honors in Economics). He graduated law school from Duke University School of Law in 2018, where he was a Staff Editor of the Duke Environmental Law and Policy Forum and served as a teaching assistant for an environmental law course. Throughout law school, he provided legal services for a number of local and national environmental organizations.

Education:

- Duke University School of Law, J.D., 2018
- Drew University, B.A., 2015

Admissions:

- New Jersey
- Washington D.C.
- United States District Court for the Southern District of Texas
- United States District Court for the Eastern District of Texas
- United States District Court for the Eastern District of Michigan



Eugenie Montague

Eugenie Montague is Of Counsel to the firm and litigates cases across the firm's areas of practice including in consumer protection, data breach, and wage theft class actions.

Education:

- Duke University School of Law, J.D. 2009
- UC Irvine, Master of Fine Arts, Fiction, 2010
- Colby College, B.A.

Admissions:

- California



Bryan Faubus

Bryan Faubus is Senior Counsel at the firm and litigates cases across the firm’s areas of practice including in consumer protection, data breach, and wage theft class actions.

Mr. Faubus received a B.A. in Urban Studies, with Honors, from the University of Texas at Austin in 2005, and a J.D., *cum laude*, from Duke University School of Law, where he was the Online Editor of the Duke Law Journal. Mr. Faubus authored *Narrowing the Bankruptcy Safe Harbor for Derivatives to Combat Systemic Risk*, 59 DUKE L.J. 801 (2010). Prior to joining Migliaccio & Rathod LLP, he practiced commercial litigation and real estate law at two large, international law firms and securities, antitrust, and consumer protection law at a California-based plaintiff’s law firm.

Education:

- Duke University School of Law, J.D. 2010
- University of Texas – Austin, B.A. 2005

Admissions:

- New York



MIGLIACCIO&RATHODLLP

Matthew Smith

Matthew (“Matt”) Smith Faubus is Senior Counsel at the firm and litigates in the firm’s consumer protection and civil rights practice areas. He joined M&R after practicing with nationally recognized plaintiffs’ firms based in Washington D.C. and the San Francisco Bay Area. Previous successes include an \$18 million trial judgment on behalf of a class of retired steelworkers, as well as contributions to antitrust, civil rights, and employee benefits cases that have resulted in substantial settlements and judgments in favor of the class. After graduating *magna cum laude* from Duke Law School where he was inducted into the honor’s society, he clerked for the Hon. Rosemary Barkett on the United States Court of Appeals for the Eleventh Circuit.

Education:

- Duke University School of Law, J.D., *magna cum laude*, Order of the Coif, 2011
 - LLM, International and Comparative Law
 - Notes Editor, Duke Law Journal
- UC Santa Cruz, MA, History of Consciousness
- Columbia University, BA, *cum laude*

Admissions:

- New York
- California

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Lead Case No. 2:23-cv-07498

*In re: Vivendi Ticketing US LLC,
d/b/a See Tickets Data Security
Incident*

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

DATE: June 17, 2024
TIME: 1:30 pm
COURTROOM: 9 B
JUDGE: Hon. Cormac J. Carney

1 This matter is before the Court on Plaintiffs’ Motion for Preliminary Approval
2 of Class Action Settlement (the “Motion”). Plaintiffs Mandi Peterson, Scott
3 Fitzgerald, Zachary Richmond, Tom Loughead, Mason Verderame, Katie Jeziorny,
4 Rian Bodner, Christopher Aragon, and Candice Zinner, individually and on behalf
5 of the proposed Settlement Class (“Plaintiffs”), and Defendant Vivendi Ticketing
6 US LLC d/b/a See Tickets (“See Tickets” or “Defendant” and, together with
7 Plaintiffs, the “Parties”) have entered into a Class Action Settlement Agreement and
8 Release, dated May 23, 2024 (the “Settlement Agreement”) that, subject to the
9 Court’s approval and final hearing on the matter, will resolve this lawsuit. Having
10 considered the Motion, the Settlement Agreement and all supporting documents
11 attached thereto, the record in this matter, and the briefs and arguments of counsel,
12 IT IS HEREBY ORDERED as follows:

- 13 1. Unless otherwise defined herein, all terms capitalized herein shall have
14 the same definitions ascribed to them as in the Settlement Agreement.
- 15 2. The Court retains continuing and exclusive jurisdiction over this
16 litigation, including over Plaintiffs, Defendant, and Members of the Settlement
17 Classes, and all matters arising out of or connected with the settlement, including
18 the administration and enforcement of the Settlement Agreement.

19 **Background and Procedural History**

20 3. See Tickets is an online merchant of tickets for various events.
21 Defendant’s principal place of business is located at 6380 Wilshire Blvd, Suite 900,
22 Los Angeles, CA 90048, and its corporate policies, including those on data privacy,
23 are established in and emanate from the state of California.

24 4. Plaintiffs and Class Members were Defendant’s customers. When
25 customers make a purchase on See Tickets’ website, it collects sensitive personal
26 data, including names, addresses, and payment card information (“Private
27

1 Information”).

2 5. From February 28, 2023, to July 2, 2023, See Tickets was besieged by
3 a cyberattack (the “Data Security Incident”). In May 2023, Defendant discovered
4 the unauthorized entry into its network containing costumers’ Private Information.
5 Plaintiffs and the Class were notified of the Data Breach on September 6, 2023.

6 6. The initial complaint was filed in the United States District Court for
7 the Central District of California on September 11, 2023.

8 7. Plaintiffs subsequently filed a motion to consolidate several related
9 matters on September 28, 2023, and appoint the undersigned firms as interim class
10 counsel pursuant to Fed. R. Civ. P. 23(g). The Court granted Plaintiffs’ motion on
11 October 2, 2023.

12 8. After that order was entered, Plaintiff Peterson and the newly named
13 Plaintiffs filed their 62-page operative Complaint on December 1, 2023. The Parties
14 agreed to extend the deadlines to respond to the Complaint.

15 9. The Parties retained Mediator Robert Meyer, Esq. of JAMS and
16 exchanged informal discovery. Mediation was scheduled for and took place on
17 March 11, 2024. Mediation was successful. After the Parties ultimately reached an
18 agreement in principle on all material terms of substantive relief for the Settlement
19 Class, they began negotiating the amount of attorneys’ fees and costs that Defendant
20 would pay to Class Counsel (subject to Court approval) and the amount of service
21 awards Defendant would pay to the Class Representatives (also subject to Court
22 approval). At all times, the issue of attorneys’ fees, costs, and Class Representative
23 service awards was negotiated separately from the settlement relief to Class
24 Members. Like the other negotiations, these negotiations were conducted at arm’s
25 length.

26 10. Following negotiations, the Parties began drafting, exchanging, and
27 editing the detailed Settlement Agreement, including its accompanying exhibits,
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1 notices, and claim forms. The Parties sought bids from several claims administrators,
2 and ultimately selected a qualified and cost-effective company after the bidding
3 process.

4 11. The time and effort spent by the Parties to this litigation demonstrate
5 the rigor, intensity, and thoroughness of the mediation efforts, as well as the Parties’
6 commitment to working constructively toward a resolution. The proposed settlement
7 addresses the reasonable objectives of the litigation. The exchange of information
8 throughout the settlement process allowed the Parties to sufficiently understand the
9 relative strengths and weaknesses of their positions when fashioning the proposed
10 settlement.

11 **Settlement Benefits**

12 12. The Settlement negotiated on behalf of the Class provides for monetary
13 relief to be paid by See Tickets to eligible claimants of a Settlement Class that
14 includes approximately 323,498 individuals whose personal information was
15 potentially compromised as a result of the Data Security Incident and who were sent
16 written notice thereof.

17 13. Defendant will fund a \$3,250,000.00 non-reversionary Settlement Fund
18 to provide each claimant with a cash payment. The common fund will also be used
19 to pay for the costs of notice and settlement administration, Plaintiffs’ service
20 awards, and attorneys’ fees and costs awarded by the Court. Specifically, Settlement
21 Class Members may be eligible to receive the following Settlement Benefits:

- 22 • **Compensation for Ordinary Losses** of up to a total of \$2,000
23 per person upon submission of a claim and supporting
24 documentation;
- 25 • **Compensation for Extraordinary Losses** of up to \$5,000 per
26 person upon submission of a claim and supporting
27 documentation;

- 1 • **Credit Monitoring or an Alternative Cash Payment** upon
2 submission of a claim; and
- 3 • **Compensation for a California Statutory Claim Benefits:** for
4 each member of the California Settlement Sub-Class who timely
5 submits a valid Claim Form.

6 **Preliminary Approval**

7 14. The Court has carefully reviewed all the terms of the proposed
8 Settlement Agreement, all corresponding and supporting documents attached
9 thereto, Plaintiffs’ Motion and corresponding papers filed therewith, including the
10 declaration of counsel and the Settlement Administrator. Based on its review of these
11 documents, the Court finds the Settlement Agreement to be fair, reasonable, and
12 adequate, and the result of vigilant, informed, non-collusive arms’ length
13 negotiations overseen by an experienced and neutral mediator. The Court further
14 finds that the Settlement Agreement is the result of informal discovery and that the
15 terms of the Settlement Agreement fall within the range of possible approval.

16 15. The Court hereby GRANTS preliminary approval of the Settlement
17 Agreement and all the terms and conditions contained therein.

18 16. Without limiting the foregoing, any challenge to the Settlement
19 Agreement or this Preliminary Approval Order shall be pursuant to appeal under
20 applicable Court rules and not through a collateral attack.

21 **Preliminary Certification of Settlement Class**

22 17. The Court preliminarily certifies, for settlement purposes only,
23 pursuant to Federal Rule of Civil Procedure 23(b)(3), the Primary Settlement Class
24 and California Settlement Sub-Class (collectively, the “Settlement Class”) defined
25 in the Settlement Agreement as follows:

26 **Primary Settlement Class:**

27 All individuals in the United States whose information
28

1 was accessed in the Data Security Incident and who
2 received notice of the Data Security Incident from See
3 Tickets.

4 **California Settlement Sub-Class:**

5 All individuals residing in California as of the Notice Date
6 whose information was accessed in the Data Security
7 Incident and who received notice of the Data Security
8 Incident from See Tickets.

9 Specifically excluded from the Primary Settlement Class and California Settlement
10 Sub-Class are: (i) any judge or magistrate judge presiding over this Action, members
11 of their staff, and members of their immediate families; (ii) the Released Parties;
12 (iii) persons who properly execute and file a timely request for exclusion from the
13 Settlement Class; (iv) persons whose claims in this matter have been finally
14 adjudicated on the merits or otherwise released; (v) counsel for See Tickets; and
15 (vi) the legal representatives, successors, and assigns of any such excluded persons.

16 18. The Settlement Classes are estimated to include 323,498 individuals in
17 total and the California Settlement Sub-Class is estimated to include 66,722
18 individuals.

19 19. The Court preliminarily finds that the Classes satisfy the requirements
20 of Federal Rule of Civil Procedure 23(a) for settlement purposes: (1) the Classes are
21 sufficiently numerous that joinder of all Members is impracticable; (2) there are
22 questions of law or fact common to the Classes; (3) Plaintiffs' claims are typical of
23 other Class Members; and (4) Plaintiffs will fairly and adequately protect the
24 interests of the Classes.

25 20. The Court hereby appoints Mandi Peterson, Scott Fitzgerald, Zachary
26 Richmond, Tom Loughead, Mason Verderame, Katie Jezierny, Rian Bodner,
27 Christopher Aragon, and Candice Zinner as Class Representatives for the Primary
28

1 Settlement Class and Rian Bodner and Christopher Aragon as Class Representatives
2 for the California Settlement Sub-Class.

3 21. The Court hereby finds that Interim Co-Lead Counsel Mason Barney
4 of Siri & Glimstad, LLP, Nicholas Migliaccio of Migliaccio & Rathod, LLP, and
5 Kenneth Grunfeld of Kopelowitz Ostrow P.A. are experienced and adequate counsel
6 and are provisionally designated as Settlement Class Counsel.

7 **Notice and Administration**

8 22. Pursuant to the Settlement Agreement, the Parties have designated
9 Kroll Settlement Administration LLC (“Kroll”) as the Settlement Administrator.
10 Kroll shall perform all duties necessary for notice and administration as set forth in
11 the Settlement Agreement. Pursuant to the Settlement Agreement, Kroll will make
12 important documents, such as this order, the Settlement Agreement, and Claim Form
13 accessible on the settlement website.

14 23. The Court finds that the Class Notice plan as set forth in the Settlement
15 Agreement satisfies the requirements of due process and provides the best notice
16 practicable under the circumstances pursuant to Federal Rule of Civil Procedure
17 23(e)(1). The Class Notice plan is reasonably calculated to inform Members of the
18 Settlement Classes of the nature of the litigation, the terms and conditions of the
19 Settlement Agreement, the right of Members of the Settlement Classes to object to
20 the Settlement Agreement or exclude themselves from the Settlement Classes and
21 provides important instructions about the process for doing so, and the details
22 regarding the Final Approval Hearing.

23 24. The Court approves the Class Notice plan, including the Claim Form
24 and the Long and Short Form Notices (attached as exhibits to the Settlement
25 Agreement), and directs the Settlement Administrator and the Parties to proceed with
26 providing Notice to the Settlement Classes as set forth in the Settlement Agreement
27 and this Order.

1 **Settlement Class Member Exclusions and Objections**

2 25. Members of the Settlement Classes who request to opt-out and exclude
3 themselves from the Settlement Class must do so by notifying the Settlement
4 Administrator in writing. To be valid, the opt-out request must be mailed to the
5 Settlement Administrator and postmarked no later than 60 days after the Notice
6 Date, must be in writing, must state the individual’s name and address, and must
7 contain a signed statement to the following effect: “I request that I be excluded from
8 the Settlement Class in the case of *In re: Vivendi Ticketing US LLC, d/b/a See Tickets*
9 *Data Security Incident.*” Members of the Settlement Classes who submit a valid and
10 timely request for exclusion will not be bound by the terms of the Settlement
11 Agreement. Any Member of the Settlement Classes who does not submit a timely
12 request for exclusion in accordance with the Settlement Agreement will forfeit the
13 opportunity to be excluded from the settlement and will be bound by the Settlement
14 Agreement upon entry of the Final Judgment and Order.

15 26. Members of the Settlement Classes who wish to object to the Settlement
16 Agreement must do so by submitting a written objection to the Settlement
17 Administrator in accordance with the procedures outlined in the Class Notice and
18 this Order postmarked no later than 60 days after the Notice Date and must include
19 a written statement providing the reasons for the objection along with any supporting
20 documentation that the individual wants the Court to consider. The Parties shall
21 submit any responses to Objections no later than seven (7) days prior to the final
22 approval hearing. Settlement Class Members who submit a request for exclusion
23 are not eligible to object to the Settlement.

24 27. Any Member of the Settlement Classes who does not submit a timely
25 written objection pursuant to the procedures outlined above and the procedures
26 detailed in the Class Notice and Settlement Agreement, waives the right to object or
27 be heard at the Final Approval Hearing, shall be forever barred from making any
28

1 objection to the Settlement Agreement, and will be bound by the Settlement
2 Agreement upon entry of the Final Judgment and Order.

3 **Final Approval Hearing**

4 28. The Court will hold a Final Approval Hearing on _____, 2024 at
5 _____ [a.m./p.m.], in Courtroom 9 B of the United States District Court for the
6 Central District of California, Ronald Reagan Federal Building and United States
7 Courthouse, 411 West Fourth Street, Santa Ana, CA, 92701-4516. In accordance
8 with the Settlement Agreement, this date has been set on or after one-hundred-and-
9 forty-eight (148) days following the Notice Date.

10 29. At the Final Approval Hearing, the Court will review, and rule on, the
11 following issues:

- 12 a. Whether this matter should be finally certified as a class action
13 for settlement purposes under Fed. R. Civ. P. 23(a) and (b)(3);
- 14 b. Whether the settlement should be approved as fair, reasonable,
15 and adequate under Fed. R. Civ. P. 23(e);
- 16 c. Whether this lawsuit should be dismissed with prejudice
17 pursuant to the terms of the Settlement Agreement;
- 18 d. Whether the Members of the Settlement Classes should be bound
19 by the releases set forth in the Settlement Agreement;
- 20 e. Whether the application of Class Counsel for an award of
21 attorneys' fees, costs, and expenses and service awards should be
22 approved under Fed. R. Civ. P. 23(h); and
- 23 f. Any other issues the Court deems appropriate.

24 30. Members of the Settlement Classes do not need to attend the Final
25 Approval Hearing nor take any other action to indicate their approval of the proposed
26 Settlement Agreement aside from submitting the aforementioned Claim Form.
27 However, any Members of the Settlement Classes who wish to be heard must appear
28

1 at the Final Approval Hearing. The Final Approval Hearing may be postponed,
2 adjourned, transferred, or continued without further notice to the Settlement Class
3 Members.

4 **Settlement Administration Timeline, Injunction, and Termination**

5 31. To facilitate the timely administration of this case, the Court hereby sets
6 the following schedule:

<u>Order Granting Preliminary Approval of the Settlement</u>	
See Tickets provides to the Settlement Administrator list of Settlement Class Members	+10 Days
See Tickets pays the Settlement Administrator a portion of the Administrative Costs	+16 Days
Settlement Administrator sends out Notice	+30 Days
<u>Notice Date</u>	
Plaintiff file motions for Attorneys’ Fees and Service Awards	+54 Days
Objection/Opt-Out Deadline	+60 Days
Settlement Administrator sends reminder notice	+65 Days
Settlement Administrator sends opt-out list	+70 days
Claims Deadline	+90 Days
Settlement Administrator sends report listing preliminary information	+100 Days
Filing of final approval motion	+120 Days
Responses to Objections	+127 Days
Final Approval Hearing	+148 Days

21
22 32. All proceedings and deadlines in this matter, except those required to
23 implement this Order and the Settlement Agreement, are hereby stayed and
24 suspended.

25 33. In the event that the Settlement Agreement is terminated pursuant to the
26 terms of the Settlement Agreement: (1) the Settlement Agreement and this Order
27 shall become null and void and shall be without prejudice to the rights of the parties,
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1 shall have no further force or effect, and shall not be used in this litigation or any
2 other proceedings for any purpose other than as necessary to enforce the terms of the
3 Settlement Agreement that survived termination, (2) this litigation will revert to the
4 status that existed before the Settlement Agreement was executed, and (3) no term(s)
5 or draft(s) of the Settlement Agreement or any part of the settlement discussions,
6 negotiations, or documentation of any kind, related to the Settlement Agreement,
7 whatsoever, shall (a) be admissible into evidence for any purpose in this litigation
8 or in any other action or proceeding other than as may be necessary to enforce the
9 terms of the Settlement Agreement that survived termination, (b) be deemed an
10 admission or concession by any settling party regarding the validity of any of the
11 Released Claims or the propriety of certifying any class against Defendant, or (c) be
12 deemed an admission or concession by any of the parties regarding the truth or falsity
13 of any facts alleged in the litigation or the availability or lack of availability of any
14 defense to the Released Claims.

15
16 **IT IS SO ORDERED.**

17
18 DATED: _____, 2024

19 HON. CORMAC J. CARNEY
20 UNITED STATES DISTRICT COURT JUDGE
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