

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU**

CLAIR AWAD and SHANE MANNION,
individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

FANDANGO MEDIA, LLC,

Defendant.

Index No. 610563/2024

Motion Seq. No. 003

**NOTICE OF PLAINTIFFS’ UNOPPOSED MOTION FOR ATTORNEYS’ FEES,
COSTS, EXPENSES, AND NAMED PLAINTIFFS’ SERVICE AWARDS**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on February 27, 2025 at 9:00 a.m., as previously scheduled by Order of the Honorable Denise L. Sher, J.S.C. (NYSCEF Doc. No. 15), Plaintiffs Clair Awad and Shane Mannion (“Plaintiffs”), by and through Class Counsel, will move and hereby do move this Court at the Supreme Court of the State of New York, County of Nassau, 100 Supreme Court Drive, Part 30, Mineola, New York, for an Order, pursuant to Article 9 of the CPLR: (1) approving the payment of attorneys’ fees, costs, and expenses in the amount of \$2,250,000, (2) granting Plaintiffs service awards of \$5,000 each in recognition of their efforts on behalf of the class, and (3) awarding such other and further relief as the Court deems reasonable and just.

PLEASE TAKE FURTHER NOTICE that, in support of the motion, Plaintiffs will rely upon the accompanying Memorandum of Law in Support, and the Affirmation of Philip L. Fraietta, Esq., dated December 16, 2024, with annexed exhibits.

Dated: December 16, 2024

Respectfully submitted,

By: /s/ Philip L. Fraietta
Philip L. Fraietta

BURSOR & FISHER, P.A.
Philip L. Fraietta
1330 Avenue of the Americas, 32nd Floor
New York, NY 10019
Telephone: (646) 837-7150
Facsimile: (212) 989-9163
Email: pfraietta@bursor.com

Stefan Bogdanovich (*pro hac vice*)
1990 North California Blvd., Suite 940
Walnut Creek, CA 94596
Telephone: (925) 300-4455
Facsimile: (925) 407-2700
Email: sbogdanovich@bursor.com

Class Counsel

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FOR ATTORNEYS' FEES, COSTS, EXPENSES, AND NAMED PLAINTIFFS'
SERVICE AWARDS**

Dated: December 16, 2024

BURSOR & FISHER, P.A.

Philip L. Fraietta
1330 Avenue of the Americas, 32nd Floor
New York, NY 10019
Telephone: (646) 837-7150
Facsimile: (212) 989-9163
Email: pfraietta@bursor.com

Stefan Bogdanovich (*pro hac vice*)
1990 North California Blvd., Suite 940
Walnut Creek, CA 94596
Telephone: (925) 300-4455
Facsimile: (925) 407-2700
Email: sbogdanovich@bursor.com

Class Counsel

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PRELIMINARY STATEMENT

The class action settlement between Plaintiffs Clair Awad and Shane Mannion (“Plaintiffs”) and Defendant Fandango Media, LLC (“Fandango” or “Defendant”), if finally approved, resolves Plaintiffs’ and the Class’s claims against Fandango under New York Arts and Cultural Affairs Law (“ACAL”) § 25.07(4). Under the Settlement – which was only reached after a full-day mediation with The Honorable Diane M. Welsh (Ret.), formerly of the Eastern District of Pennsylvania and an experienced class action mediator – Defendant has agreed to make up to \$9,000,000 available to pay approved class member claims, notice and administration costs, service awards of the Plaintiffs, and attorneys’ fees, costs, and expenses to Class Counsel. Of note, the typical Convenience Fee paid by a Settlement Class Member during the class period was \$1.89 per ticket, and the Settlement provides that each Settlement Class Member has the ability to file a claim for either a \$5.00 cash payment or a \$10.00 Fandango at Home Voucher.

And equally important, the Settlement also provides meaningful prospective relief as Defendant acknowledges that as a result of this lawsuit it has changed the purchase flow for tickets to New York theaters on its website and online platforms to ensure compliance with ACAL § 25.07(4) and agrees to continue to comply with this provision unless and until it is amended, repealed, or otherwise invalidated.

Obtaining this exceptional relief came with significant risks. ACAL § 25.07(4) became effective on August 29, 2022, and as such, there is no binding case law (and at the time this action was initially filed no case law) on the statute. The case law that does exist is not unanimously in Plaintiffs’ favor. *See, e.g., Curanaj v. Tao Group, Inc.*, Index No. 56152/2024 at NYSCEF No. 36 (Sup. Ct. Westchester Cnty. July 25, 2024) (granting motion to dismiss similar ACAL ticket fee case); *Frias v. City Winery New York, LLC*, Index No. 651284/2024 (Sup. Ct. New York Cnty. Oct. 15, 2024) (same). Nonetheless, Class Counsel took this case on

contingency despite a significant risk that Plaintiffs, the Settlement Class, and thereby Class Counsel, would receive nothing. Rather than put Fandango's arguments to the test and risk everything, Plaintiffs and Class Counsel achieved meaningful, immediate relief for the Settlement Class.

In light of this exceptional result, Plaintiffs respectfully request pursuant to CPLR 909 that the Court approve attorneys' fees, costs, and expenses of \$2,250,000 (or 25% of the Settlement Cap), as well as Named Plaintiff Service Awards of \$5,000 for each Plaintiff for their service as class representatives. The requested 25% is well below the one-third or more of the fund that New York courts routinely award in class action settlements. *Milton v. Bells Nurses Registry & Employment Agency, Inc.*, 2015 WL 9271692, at *5 (Sup. Ct. Kings Cnty. Dec. 21, 2015) (collecting cases and noting that 33.3% is "consistent with the norms of class litigation in this circuit"); *see also Norcross v. Tishman Speyer Properties, L.P.*, Case No. 23-cv-11153 at ECF No. 36 ¶ 14 (S.D.N.Y. Aug. 16, 2024) (awarding one-third of the settlement fund in attorneys' fees, costs, and expenses in an ACAL § 25.07(4) settlement); *Charles v. Color Factory, LLC*, Case No. 24-cv-00322 at ECF No. 48 ¶ 14 (S.D.N.Y. Nov. 7, 2024) (same); *Hayes v. Harmony Gold Min. Co.*, 2011 WL 6019219, at *1 (S.D.N.Y. Dec. 2, 2011) (awarding "attorneys' fees in the amount of one third" of a \$9 million settlement fund), *aff'd* 509 F. App'x 21, 23-24 (2d Cir. 2013) (affirming same).

For these reasons, and as explained further below, the Court should approve the requested fee and Named Plaintiff Service Awards.

FACTUAL AND PROCEDURAL BACKGROUND

A brief summary of Plaintiffs' allegations, the litigation performed by Class Counsel for the Settlement Class's benefit, and the beneficial terms of the Settlement provide necessary context to the reasonableness of the requested fee and Named Plaintiffs' Service Awards.

A. Plaintiffs' Allegations

Defendant sells movie tickets throughout the United States, including in the State of New York. *See* Complaint (NYSECF Doc. No. 1) (“*Compl.*”) ¶ 9. Plaintiffs allege that when consumers purchase tickets to New York-based movie theaters on Defendant’s website, they are “quoted a fee-less price, only to be ambushed by a \$1.89 ‘convenience fee’ per ticket at checkout after clicking through the various screens required to make a purchase.” *Id.* ¶ 1; *see also id.* ¶¶ 10-15 and Figures 1-7. Plaintiffs allege that this conduct violates ACAL § 25.07(4) because Defendant failed to “disclose the ‘total cost of a ticket, inclusive of all ancillary fees that must be paid in order to purchase the ticket’ after a ticket is selected” and because Defendant “increas[ed] the price of their tickets during the purchase process.” *Id.* ¶¶ 28-29. Plaintiffs are individuals who purchased tickets on Defendant’s website to movie theaters in New York and paid convenience fees where the total cost was not disclosed to Plaintiffs at the beginning of the purchase process. *Id.* ¶¶ 31-32.

Fandango denies these allegations and denies any wrongdoing.

B. The Litigation And Work Performed To Benefit The Class

On December 22, 2023, Plaintiff Mannion filed a putative class action in the United States District Court for the Southern District of New York. Affirmation of Philip L. Fraietta In Support of Plaintiffs’ Unopposed Motion for Attorneys’ Fees, Costs, Expenses, And Named Plaintiffs’ Service Award (“*Fraietta Aff.*”) ¶ 4. The material allegations of the complaint centered on Defendant’s alleged failure to adequately disclose the total cost and a \$1.89 per ticket convenience fee for tickets to movie theaters in New York state prior to those tickets being selected for purchase, in alleged violation of ACAL § 25.07(4). *Id.*

From the outset of the case, the Parties engaged in settlement discussions and, to that end, agreed to participate in a private mediation with Judge Welsh. *Id.* ¶ 5. As part of the mediation,

the Parties exchanged informal discovery, including on issues such as the size and scope of the putative class, including the amount of convenience fees Defendant collected during the relevant time period. *Id.* ¶ 6. Given that the information exchanged would have been, in large part, the same information produced in formal discovery related to issues of class certification and summary judgment, the Parties had sufficient information to assess the strengths and weaknesses of the claims and defenses. *Id.* ¶ 7. On June 14, 2024, the Parties conducted a full-day mediation before Judge Welsh. *Id.* ¶ 8. At the conclusion of the mediation, the Parties reached an agreement on all material terms of a class action settlement and executed a term sheet. *Id.*

On June 17, 2024, Plaintiff Mannion voluntarily dismissed the federal action without prejudice, and that same day, Plaintiffs filed this case in the Supreme Court of the State of New York, County of Nassau because it is a court of general jurisdiction. *Id.* ¶ 9. Thereafter, Defendant produced confirmatory discovery regarding the size and scope of the putative class, and the Parties ultimately drafted and executed the Settlement Agreement, which is annexed to the Fraietta Affirmation as Exhibit 1. *Id.* ¶¶ 10-11. The Court preliminarily approved the Settlement on October 31, 2024, which is annexed to the Fraietta Affirmation as Exhibit 2. *Id.* ¶ 13.

SUMMARY OF THE SETTLEMENT

The Settlement provides an exceptional result for the class by delivering relief to over 1 million individuals who paid a Convenience Fee to gain entrance to any movie in any movie theater located within New York state from Fandango's website, mobile application, and/or any other Fandango owned or operated online platform from August 29, 2022, to and through March 11, 2024. *Id.* ¶ 10. The Settlement makes up to \$9,000,000 available to pay approved class member claims, notice and administration costs, service awards of the Plaintiffs, and attorneys' fees, costs, and expenses to Class Counsel. *Id.* ¶ 14; *see also id.* Ex. 1, Class Action Settlement

Agreement (“Settlement”) ¶ 1.33-34

The typical Convenience Fee during the Class Period was \$1.89 per ticket and the under the Settlement, Settlement Class Members who submit a short and simple valid Claim Form will be entitled to a \$5.00 cash payment or a \$10.00 Fandango at Home Voucher that can be used to rent or purchase movies or television shows for viewing on the Fandango at Home website or applications, at his or her election. Fraietta Aff. ¶ 15; Settlement ¶¶ 1.8; 2.1(a). Where the aggregate price plus taxes of the Fandango at Home order does not exceed \$10.00, consumers will not have to expend any additional funds to purchase and/or rent such movies and /or shows. *Id.*

Additionally, as part of the Settlement, Defendant acknowledges that this lawsuit was the catalyst for its decision to change the purchase flow for tickets to New York theaters on its website and online platforms to ensure compliance with ACAL § 25.07(4). Settlement ¶ 2.2. Defendant further agrees to continue to comply with ACAL § 25.07(4) unless and until it is amended, repealed, or otherwise invalidated. *Id.*

ARGUMENT

I. THE REQUESTED ATTORNEYS’ FEES, COSTS, AND EXPENSES ARE REASONABLE AND SHOULD BE APPROVED

This case is complex with the added class action procedural issues overlaying the underlying litigation. It has been litigated efficiently and with no duplication. The work performed was legal work related to the litigation and to the settlement. All tasks were pursued with one goal in mind: what was in the best interests of the Class.

“In testing the reasonableness of the negotiated fee, [courts] first look[] to the percentage of the recovery approach.” *Michels v. Phoenix Home Life Mut. Ins.*, 1997 WL 1161145, at *31 (Sup. Ct. N.Y. Cnty. Jan. 7, 1997). “Federal courts around the country, including federal district courts in New York, are turning away from the lodestar/multiplier approach and are returning to

the percentage of the recovery approach.” *Id.* (citing cases).¹

New York courts “have routinely granted requests for one-third or more of the fund in cases with settlement funds similar to or substantially larger than this one.” *Massiah v. MetroPlus Health Plan, Inc.*, 2012 WL 5874655, at *7 (E.D.N.Y. Nov. 20, 2012) (citing cases); *Milton*, 2015 WL 9271692, at *5 (collecting cases and noting that 33.3% is “consistent with the norms of class litigation in this circuit”); *Cucuzza v. National Debt Relief, LLC*, No. 601631/2021, NYSCEF No. 21 (Sup. Ct. Nassau Cty. Apr. 20, 2022); *Cortes v. Mexican Hospitality Operator LLC*, No. 601406/2021, NYSCEF No. 18 (Sup. Ct. Nassau Cty. Feb. 28, 2022); *Gabriel v. Homyn Enterprises Corp.*, No. 504595/2021, NYSCEF No. 15 (Sup. Ct. Kings Cty. Nov. 23, 2021); *Coba v. Wagamama USA, LLC*, No. 614988/2020, NYSCEF No. 17 (Sup. Ct. Nassau Cty. November 3, 2021); *Flowers v. FSNY Restaurant Associates, LLC*, No. 600976/2021, NYSCEF No. 19 (Sup. Ct. Nassau Cty. Oct. 21, 2021); *Hyken v. Greenwich BBQ, LLC*, No. 608689/2020, NYSCEF No. 19 (Sup. Ct. Nassau Cty. Jun. 3, 2021); *Figueroa v. United American Security, LLC*, No. 613892/2020, NYSCEF No. 21 (Sup. Ct. Nassau Cty. May 24, 2021); *Luna v. Zuma NYC, LLC*, No. 509547/2020, NYSCEF No. 40 (Sup. Ct. Kings Cty. May 10, 2021); *Lemma v. 103W77 Partners LLC*, No. 513125/2019, NYSCEF No. 24 (Sup. Ct. Kings Cty. Mar. 31, 2021); *Guzman v. Del Frisco’s of New York, LLC*, No. 617666/2019, NYSCEF No. 61 (Sup. Ct. Nassau Cty. Mar. 18, 2021); *Robinson v. Big City Yonkers, Inc.*, No. 600159/2016, NYSCEF No. 291 (Sup. Ct. Nassau Cty. Feb. 16, 2018). Indeed, as courts have noted, fee requests for one-third of settlement funds “reasonably approximate[] the market for the services rendered,” because they represent what “reasonably paying clients typically pay ... pursuant to contingency retainer agreements.” *In re Nigeria Charter Flights Litig.*, 2011 WL

¹ “New York’s courts have recognized that its class action statute is similar to the federal statute and have looked to federal case law for guidance.” *Fiala*, 899 N.Y.S.2d at 537 (citing cases); *Colt Indus. Shareholder Litig. v. Colt Indus. Inc.*, 77 N.Y.2d 185, 194 (1991) (“New York’s class action statute has much in common with Federal Rule 23.”).

7945548, at *4 (citing *Arbor Hill*, 522 F.3d 182 (2d. Cir. 2008)).

“In a claims-made settlement, attorneys’ fees should be based on the gross settlement amount, regardless of the number of claims actually made, because every putative class member could have claimed a portion of the fund if they wished to do so.” *Lopez*, 2015 WL 5882842, at *6; see also *Behzadi v. International Creative Mgmt. Partners, LLC*, 2015 WL 4210906, *2 (S.D.N.Y. July 9, 2015) (“Awarding attorneys’ fees based on a percentage of the settlement amount rather than the amount paid is proper.”); *Alleyne v. Time Moving & Storage, Inc.*, 264 F.R.D. 41, 59 (E.D.N.Y. 2010) (approving one third of total settlement fund, stating that “the proper number against which attorneys’ fees are measured is the amount of the entire fund created by the efforts of counsel, not the amount actually claimed or collected by the class.”); *Masters v. Wilhelmina Model Agency, Inc.*, 473 F.3d 423, 437 (2d Cir. 2007) (“An allocation of fees by percentage should therefore be awarded on the basis of the total funds made available.”).

**A. Plaintiffs’ Request For Approval Of Reimbursement Of
Litigation Expenses And Attorneys’ Fees Is Fair And
Reasonable And Should Be Granted**

Plaintiffs respectfully submit that Class Counsels’ request for \$2,250,000.00, or 25% of the Settlement Cap, in attorneys’ fees and reimbursement of expenses for the successful prosecution and resolution of this class action should also be approved by the Court. Like the Settlement, the amount of this inclusive fee and expense request was negotiated at arms-length with a well-respected and experienced former federal judge and class action mediator, and those fee and expense negotiations were not commenced until after all the material terms of the Settlement had been agreed to. Maximizing the benefit to the Class was therefore Class Counsels’ paramount consideration. Class Counsels’ efforts to date during litigation have been without compensation of any kind, and receipt of any attorneys’ fee or reimbursement of expenses has been wholly contingent upon the result achieved. For these and the other reasons

set forth below, Plaintiffs respectfully submit that the expenses and attorneys' fees sought meet the applicable legal standards and, considering the contingency risk undertaken and the result achieved, should be approved.

CPLR 909 permits courts to award attorneys' fees in class action litigation. In order to assess a reasonable fee, a court should consider:

[T]he risks of the litigation, whether counsel had the benefit of a prior judgment, standing at bar of counsel for the plaintiffs and defendants, the magnitude and complexity of the litigation, responsibility undertaken, the amount recovered, the knowledge the court has of the case's history and the work done by counsel prior to trial, and what it would be reasonable for counsel to charge a victorious plaintiff.

Milton, 2015 WL 9271692, at *7 (citing *Fiala v. Metro. Life Ins. Co.*, 899 N.Y.S.2d 531, 610 (Sup. Ct. N.Y. Cnty. 2010)). Each of these factors supports approval of Class Counsel's fee and expense request here.

1. The Risk Of Litigation

This factor recognizes the risk of non-payment in cases prosecuted on a contingency basis where claims are not successful, which can justify higher fees. *See, e.g., In re Marsh ERISA Litig.*, 265 F.R.D. 128, 148 (S.D.N.Y. 2010) ("There was significant risk of non-payment in this case, and Plaintiffs' Counsel should be rewarded for having borne and successfully overcome that risk."); *In re Telik, Inc. Sec. Litig.*, 576 F. Supp. 2d 570, 592 (S.D.N.Y. 2008) (noting risk of non-payment in cases brought on contingency basis). "It is well settled that class actions are notoriously complex and difficult to litigate." *Shapiro v. JPMorgan Chase & Co.*, 2014 WL 1224666, at *21 (S.D.N.Y. Mar. 24, 2014).

The same novelty that made this case complex also presented a substantial risk of non-payment for Class Counsel. As aforementioned, ACAL § 25.07(4) has not been heavily litigated and numerous legal issues would need to be decided in Plaintiffs' favor. For example,

Defendant would argue that its websites and applications were always in compliance with ACAL § 25.07(4), that Plaintiffs' claims are precluded by the voluntary payment doctrine, that plaintiffs are precluded from seeking a statutory penalty in this class action, that plaintiffs cannot meet the statutorily-required showing of harm required to bring a claim pursuant to ACAL § 25.33, that the statute does not apply to tickets to movie theaters, and that the pertinent statute provides for an excessive penalty that is constitutionally infirm. *Fraietta Aff.* ¶ 19; *see also Curanaj v. Tao Group, Inc.*, Index No. 56152/2024 at NYSCEF No. 36 (Sup. Ct. Westchester Cnty. July 25, 2024) (granting motion to dismiss similar ACAL ticket fee case); *Frias v. City Winery New York, LLC*, Index No. 651284/2024 (Sup. Ct. New York Cnty. Oct. 15, 2024) (same). It bears noting that Defendant's ticket selection page included the disclaimer "Prices and fees include estimated tax per ticket. Your Order will include a \$1.89 convenience fee per ticket." Compl. ¶ 12 and Figure 3. Defendant argued that it complied with the ACAL, in part, based on this disclosure. While Plaintiffs assert this disclaimer was ambiguous, it was nevertheless present and therefore posed a significant risk to establishing liability.

The risks were exacerbated by the fact that Defendant retained highly qualified defense counsel. Nonetheless, Class Counsel embarked on a fact-intensive investigation of Defendant's practices, engaged in informal discovery, and spent months negotiating with defense counsel – including preparing for and participating in a full-day mediation – to try and resolve this case. *Fraietta Aff.* ¶¶ 4-13. Class Counsel fronted this investment of time and resources, despite the significant risk of nonpayment inherent in this case. *Id.* ¶¶ 19, 23.

The fact that Class Counsel undertook this representation, despite the significant risk of nonpayment, supports the requested fee award.

2. Whether Counsel Had the Benefit of a Prior Judgment

At the time Class Counsel originally filed this action, there were no cases interpreting

ACAL § 25.07(4). Even today, there are only a few other cases interpreting ACAL § 25.07(4), none of which are binding or procedurally advanced beyond a motion to dismiss. Instead of relying on a prior judgment, Class Counsel took on the associated risk of filing this class action on a full contingency basis. This action and the instant Settlement provided a substantial benefit to millions of Fandango's customers in New York.

3. Standing at Bar of Counsel for the Plaintiffs and Defendant

Class action litigation presents unique challenges and – by achieving a meaningful settlement over alleged violations of an untested statute – Class Counsel proved that they have the ability and resources to litigate this case zealously and effectively.

Class Counsel are well-respected attorneys with significant experience litigating consumer class actions of similar size, scope, and complexity. *Fraietta Aff.* ¶¶ 25-28. Moreover, Class Counsel has been recognized by courts across the country for its expertise. *See Firm Resume, Fraietta Aff. Ex. 3; see also Ebin v. Kangadis Food Inc.*, 297 F.R.D. 561, 566 (S.D.N.Y. 2014) (Rakoff, J.) (“Bursor & Fisher, P.A., are class action lawyers who have experience litigating consumer claims. ... The firm has been appointed class counsel in dozens of cases in both federal and state courts, and has won multi-million dollar verdicts or recoveries in five class action jury trials since 2008.”).²

Furthermore, “[t]he quality of the opposition should be taken into consideration in assessing the quality of the plaintiffs’ counsel’s performance.” *In re MetLife Demutualization Litig.*, 689 F. Supp. 2d 297, 362 (E.D.N.Y. 2010). Class Counsel achieved an exceptional result in this case while facing well-resourced and experienced defense counsel.

Class Counsel litigated this case efficiently, effectively, and civilly. The excellent result

² Bursor & Fisher has since won a sixth jury verdict in *Perez v. Rash Curtis & Associates*, Case No. 4:16-cv-03396-YGR (N.D. Cal.), for \$267 million.

is a function of the high quality of that work, which supports the requested fee award.

4. The Magnitude And Complexity Of The Litigation

“[C]lass actions have a well deserved reputation as being most complex.” *In re Nasdaq Market-Makers Antitrust Litig.*, 187 F.R.D. 465, 477 (S.D.N.Y. 1998). This case was no exception. Fandango’s Convenience Fees impacted millions of customers in New York and presented many novel and complex issues. While Plaintiffs believe that their claims are strong, they are not without risk. For example, any allegation that Fandango engaged in deceptive conduct with its customers is vigorously disputed. The Settlement eliminates these risks and will provide substantial recovery for the Class without the risk and delay of continued litigation.

This factor therefore also supports Court approval of the requested attorneys’ fee and expense award.

5. The Case History and the Responsibility Undertaken by Class Counsel

As discussed in Point I, above, Class Counsel’s activities included, but were not limited to: conducting an extensive pre-filing investigation of Plaintiffs and Class Members’ claims and damages and vigorously prosecuting those claims. Class Counsel engaged in informal discovery and prepared for and participated in a full-day mediation with Judge Welsh. *Fraietta Aff.* ¶¶ 4-8.

Class Counsel also negotiated a comprehensive settlement agreement and prepared a motion for preliminary approval of the Settlement. *Id.* ¶¶ 11-12. Since reaching the Settlement, Class Counsel have also responded to inquiries from numerous Class Members and coordinated the settlement process with the Settlement Administrator. *Id.* ¶¶ 21-22. Class Counsel anticipates expending additional time administering the Settlement to and after final approval. *Id.*

Thus, the work performed by Class Counsel to date has been comprehensive, complex, and wide ranging. This factor supports the requested fee award.

6. The Amount Recovered

Class Counsel's work has led to the creation of a substantial recovery on behalf of the Class. The Settlement provides for up to \$9,000,000 in relief for over 1 million individuals. Fraietta Aff. ¶¶ 10, 14. This settlement benefits all individuals who paid a Convenience Fee to gain entrance to any movie in any movie theater located within New York state from Fandango's website, mobile application, and/or any other Fandango owned or operated online platform from August 29, 2022, to and through March 11, 2024 and, as discussed herein, provides them a substantial percentage of the maximum recovery they could hope to recover after trial and a successful appeal. *Id.* Indeed, Fandango's records confirm that the average Settlement Class Member paid approximately \$1.89 per ticket in Convenience Fees during the class period, and the Settlement provides that each valid claimant who chooses the cash option will receive \$5.00. *Id.* ¶ 15.

And equally important, the Settlement also provides meaningful prospective relief as Defendant acknowledges that as a result of this lawsuit it has changed the purchase flow for tickets to New York theaters on its website and online platforms to ensure compliance with ACAL § 25.07(4) and agrees to continue to comply with this provision unless and until it is amended, repealed, or otherwise invalidated. *Id.* ¶ 16.

The Settlement is clearly an excellent result.

7. What It Would Be Reasonable for Counsel To Charge A Victorious Plaintiff

Under CPLR 909, "[i]f a judgment in an action maintained as a class action is rendered in favor of the class, the court in its discretion may award attorneys' fees ... based on the reasonable value of legal services rendered and if justice requires, allow recovery of the amount

awarded from the opponent of the class.”³ Here, the Settlement provides that Class Counsel may petition the Court for an award up to 25% of the Settlement Cap (or \$2,250,000). Settlement ¶ 8.1. The “Fee Award” also includes all costs and expenses incurred by Class Counsel. As mentioned above, New York courts routinely approve fee requests for one-third of the settlement in class actions. *See* cases cited in Argument § I, *supra*. Thus, Class Counsel’s fee request of only 25% is more than reasonable.

Public policy also favors Class Counsels’ requested fee. “Consumer class actions . . . have value to society . . . both as deterrents to unlawful behavior . . . and as private law enforcement regimes that free public sector resources. If we are to encourage these positive societal effects, class counsel must be adequately compensated.” *Gascho v. Glob. Fitness Holdings, LLC*, 822 F3d 269, 287 (6th Cir. 2016); *see also* Myriam Gilles & Gary B. Friedman, *Exploding the Class Action Agency Costs Myth: The Social Utility of Entrepreneurial Lawyers*, 155 U. PA. L. REV. 103, 106 (2006) (“[T]he deterrence of corporate wrongdoing is what we can and should expect from class actions.”); William B. Rubenstein, *On What A “Private Attorney General” Is—and Why It Matters*, 57 VAND. L. REV. 2129, 2168 (2004) (“[Class counsel’s] clients are not just the class members, but the public and the class members; their goal is not just compensation, but deterrence and compensation.”); William B. Rubenstein, *Why Enable Litigation?: A Positive Externalities Theory of the Small Claims Class Action*, 74 UMKC L. REV. 709, 724-25 (2006) (“By enabling litigation, the class action has the structural

³ The requested fee award also encompasses unreimbursed litigation costs and expenses. Settlement ¶ 8.1. Reasonable litigation-related costs and expenses are customarily awarded in class action cases and include costs such as document preparation and travel. *See, e.g., Yuzary v. HSBC Bank USA, N.A.*, 2013 WL 5492998, at *11 (S.D.N.Y. Oct. 2, 2013) (“Class Counsel’s unreimbursed expenses, including court and process server fees, postage and courier fees, transportation, working meals, photocopies, electronic research, expert fees, and Plaintiffs’ share of the mediator’s fees, are reasonable and were incidental and necessary to the representation of the class.”). Thus, included in the requested fee award, Class Counsel respectfully seeks reimbursement of \$11,807.77 for out-of-pocket costs and expenses in these standard categories. *See Fraietta Aff.* ¶ 24.

consequence of dividing law enforcement among public agencies and private attorneys general and of shifting a significant amount of that enforcement to the private sector.”). Indeed, “many courts have recognized that generous fee awards ... serve the dual purpose of encouraging plaintiffs’ attorneys to act as private attorneys general and discouraging wrongdoing.” *Michels*, 1997 WL 1161145, at *31.

Here, ACAL § 25.07(4) sat on the books for more than a year—*completely unenforced*—before Class Counsel first began filing this action and others. During that time, Fandango collected over \$13 million in allegedly unlawful Convenience Fees. But for Class Counsel’s efforts, Fandango’s conduct likely would have continued unabated. This factor therefore supports the requested fee award.

II. PLAINTIFFS’ REQUESTED SERVICE AWARDS ARE FAIR AND REASONABLE AND SHOULD BE GRANTED

Under the Settlement, Fandango does not object to Named Plaintiff Service Awards for Plaintiffs Awad and Mannion in the amount of \$5,000 each, as compensation for their efforts in bringing the Actions and achieving the benefits of the Settlement on behalf of the Settlement Class. Settlement ¶ 8.3. It is common for courts to grant service awards in class action suits. Such awards “reward[] the named plaintiffs for the effort and inconvenience of consulting with counsel over the many years [a] case was active and for participating in discovery, including depositions.” *Milton*, 2015 WL 9271692, *2-3 (citing *Cox v. Microsoft Corp.*, 26 Misc. 3d 1220(A), at *4 (Sup. Ct. N.Y. Cnty. 2007)).

Here, Plaintiffs made significant contributions to this litigation by bringing these lawsuits, providing counsel with relevant documents, actively participating in the litigation, and providing important information used to prosecute this action and to achieve the Settlement. *Fraietta Aff.* ¶¶ 29-31. Additionally, Plaintiffs were prepared to sit through depositions and trial, if necessary. *See id.*; *Milton*, 2015 WL 9271692, *3 (recognizing the important role that

plaintiffs play as the “primary source of information concerning the claim[,]” including by responding to counsel’s questions and reviewing documents).

The requested Service Awards are also well within the range previously approved by the New York courts. *See, e.g., Norcross*, Case No. 23-cv-11153 at ECF No. 36 ¶ 15 (awarding \$5,000 service award for plaintiff in ACAL § 25.07(4) settlement); *Charles*, Case No. 24-cv-00322 at ECF No. 48 ¶ 15 (same); *Milton*, 2015 WL 9271692, *3 (awarding \$8,000 Service Award and citing several decisions in which a Service Award of \$10,000 was awarded). Given that the Named Plaintiffs’ contributions of time and assistance to this litigation, the requested Service Awards are reasonable, appropriate, and should be approved by the Court.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court (1) approve attorneys’ fees, costs, and expenses in the amount of \$2,250,000.00, (2) grant Plaintiff Awad and Plaintiff Mannion Service Awards of \$5,000 each in recognition of their efforts on behalf of the class, and (3) award such other and further relief as the Court deems reasonable and just.

Dated: December 16, 2024

Respectfully submitted,

By: /s/ Philip L. Fraietta
Philip L. Fraietta

BURSOR & FISHER, P.A.

Philip L. Fraietta
1330 Avenue of the Americas, 32nd Floor
New York, NY 10019
Telephone: (646) 837-7150
Facsimile: (212) 989-9163
Email: pfraietta@bursor.com

Stefan Bogdanovich (*pro hac vice*)
1990 North California Blvd., Suite 940
Walnut Creek, CA 94596
Telephone: (925) 300-4455
Facsimile: (925) 407-2700
Email: sbogdanovich@bursor.com

Class Counsel

PRINTING SPECIFICATION STATEMENT

1. Pursuant to 22 N.Y.C.R.R. §202.8-b, the undersigned counsel certifies that the foregoing brief was prepared on a computer using Microsoft Word. A proportionally spaced typeface was used as follows:

Name of Typeface: Times New Roman
Point Size: 12
Line Spacing: Double

2. The total number of words in the brief, inclusive of point headings and footnotes and exclusive of the caption, table of contents, table of authorities, signature block, and this Certification, is 5,615 words. By operation of Microsoft Word's word count function, this number includes legal citations and certain forms of punctuation.

Dated: Dember 16, 2024

Respectfully submitted,

By: /s/ Philip L. Fraietta
Philip L. Fraietta

BURSOR & FISHER, P.A.
Philip L. Fraietta
1330 Avenue of the Americas, 32nd Floor
New York, NY 10019
Telephone: (646) 837-7150
Facsimile: (212) 989-9163
Email: pfraietta@bursor.com

Class Counsel

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU**

<p>CLAIR AWAD and SHANE MANNION, individually and on behalf of all others similarly situated,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>FANDANGO MEDIA, LLC,</p> <p style="text-align: center;">Defendant.</p>
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Index No. 610563/2024

Motion Seq. No. 003

**AFFIRMATION OF PHILIP L. FRAIETTA IN SUPPORT OF PLAINTIFFS’
UNOPPOSED MOTION FOR ATTORNEYS’ FEES, COSTS, EXPENSES, AND NAMED
PLAINTIFFS’ SERVICE AWARDS**

Philip L. Fraietta, Esq., an attorney duly admitted to practice law in the courts of the State of New York, does state and say under penalty of perjury as follows:

1. I am a partner at Bursor & Fisher, P.A., counsel of record for Plaintiffs in this action. I am an attorney at law licensed to practice in the State of New York. I have personal knowledge of the facts set forth in this affirmation and, if called as a witness, I could and would testify competently thereto.

2. I make this affirmation in support of Plaintiffs’ Unopposed Motion for Attorneys’ Fees, Costs, Expenses, and Named Plaintiffs’ Service Awards.

3. Attached hereto as **Exhibit 1** is a true and correct copy of the Parties’ Class Action Settlement Agreement (the “Settlement Agreement” or “Settlement”).

4. On December 22, 2023, Plaintiff Mannion filed a putative class action in the United States District Court for the Southern District of New York. The material allegations of the complaint centered on Defendant’s alleged failure to adequately disclose the total cost and a

\$1.89 per ticket convenience fee for tickets to movie theaters in New York state prior to those tickets being selected for purchase, in alleged violation of New York Arts & Cultural Affairs Law (“ACAL”) § 25.07(4).

5. From the outset of the case, the Parties engaged in settlement discussions and, to that end, agreed to participate in a private mediation with former United States Magistrate Judge Diane M. Welsh (of the U.S. District Court for the Eastern District of Pennsylvania), who is a neutral mediator affiliated with JAMS, and an experienced and well-regarded class action mediator.

6. As part of the mediation, the Parties exchanged informal discovery, including on issues such as the size and scope of the putative class, including the amount of convenience fees Defendant collected during the relevant time period.

7. Given that the information exchanged would have been, in large part, the same information produced in formal discovery related to issues of class certification and summary judgment, the Parties had sufficient information to assess the strengths and weaknesses of the claims and defenses.

8. On June 14, 2024, the Parties conducted a full-day mediation before Judge Welsh. At the conclusion of the mediation, the Parties reached an agreement on all material terms of a class action settlement and executed a term sheet.

9. On June 17, 2024, Plaintiff Mannion voluntarily dismissed the federal action without prejudice, and that same day, Plaintiffs filed this case in the Supreme Court of the State of New York, County of Nassau because it is a court of general jurisdiction.

10. Thereafter, Defendant produced confirmatory discovery regarding the size and scope of the putative class, which showed that from August 29, 2022 to and through March 11,

2024, Defendant collected \$13,732,123.99 in convenience fees from over 1 million purchasers to New York movie theaters. The investigation also confirmed that effective March 12, 2024, Defendant changed the purchase flow for tickets to New York theaters on its websites and mobile applications to ensure compliance with ACAL § 25.07(4).

11. My firm then worked extensively with defense counsel to finalize and memorialize the agreement into a formal Class Action Settlement Agreement, including proposed class notice documents. That process included multiple rounds of redlines and phone calls to discuss proposed edits.

12. After finalizing and executing the Class Action Settlement Agreement, my firm prepared Plaintiffs' Motion for Preliminary Approval, which was filed on August 30, 2024.

13. The Court preliminary approved the Settlement on October 31, 2024. A true and correct copy of the Court's October 31, 2024 Preliminary Approval Order is attached hereto as **Exhibit 2**.

14. Under the Settlement, Defendant has agreed to make up to \$9,000,000 available to pay approved class member claims, notice and administration costs, service awards of the Plaintiffs, and attorneys' fees, costs, and expenses to Class Counsel.

15. Defendant's records reflect that the typical Convenience Fee paid by a Settlement Class Member during the class period was \$1.89 per ticket, and the Settlement provides that each Settlement Class Member has the ability to file a claim for either a \$5.00 cash payment or a \$10.00 Fandango at Home Voucher, that can be used to rent or purchase movies or television shows for viewing on the Fandango at Home website or applications. See Settlement ¶¶ 1.15; 2.1(a). Where the aggregate price plus taxes of the Fandango at Home order does not exceed \$10.00, consumers will not have to expend any additional funds to purchase and/or rent such

movies and/or shows. *Id.*

16. The Settlement also provides meaningful prospective relief as Defendant acknowledges that, as a result of this lawsuit, it has changed the purchase flow for tickets to New York theaters on its websites and online platforms to ensure compliance with ACAL § 25.07(4) and agrees to continue to comply with this provision unless and until it is amended, repealed, or otherwise invalidated. Settlement ¶ 2.2.

17. The Parties agreed to the terms of the Settlement through experienced counsel who possessed all the information necessary to evaluate the case, determine all the contours of the proposed class, and reach a fair and reasonable compromise after negotiating the terms of the Settlement at arm's length and with the assistance of a neutral mediator.

18. Plaintiffs and Class Counsel recognize that despite our belief in the strength of Plaintiffs' claims, and Plaintiffs' and the Class's ability to ultimately secure a favorable judgment at trial, the expense, duration, and complexity of protracted litigation would be substantial and the outcome of trial uncertain. Indeed, Proposed Class Counsel filed the very first case under the newly enacted ACAL § 25.07(4) in December 2023, and thus far none have advanced to contested class certification, summary judgment, or trial.

19. Plaintiffs and Class Counsel are also mindful that absent a settlement, the success of Defendant's various defenses in this case could deprive the Plaintiffs and the Settlement Class Members of any potential relief whatsoever. Defendant is represented by highly experienced attorneys who have made clear that absent a settlement, they are prepared to continue their vigorous defense of this case, including by opposing the class certification and moving for summary judgment. Indeed, had the case not settled, Plaintiffs would have to overcome Defendant's defenses which include that Defendant's website was always in compliance with

ACAL § 25.07(4), that Plaintiffs' claims are precluded by the voluntary payment doctrine, that plaintiffs are precluded from seeking a statutory penalty in this class action, that plaintiffs cannot meet the statutorily-required showing of harm required to bring a claim pursuant to ACAL § 25.33, that the statute does not apply to tickets to movie theaters, and that the pertinent statute provides for an excessive penalty that is constitutionally infirm. *See Curanaj v. Tao Group, Inc.*, Index No. 56152/2024 at NYSCEF No. 36 (Sup. Ct. Westchester Cnty. July 25, 2024) (granting motion to dismiss similar ACAL ticket fee case); *Frias v. City Winery New York, LLC*, Index No. 651284/2024 (Sup. Ct. New York Cnty. Oct. 15, 2024) (same). It bears noting that Defendant's ticket selection page included the disclaimer "Prices and fees include estimated tax per ticket. Your Order will include a \$1.89 convenience fee per ticket." Compl. ¶ 12 and Figure 3. An adverse ruling on any of those defenses would have resulted in Plaintiffs and the Settlement Class receiving a substantially reduced recovery, or no recovery at all. Looking beyond trial, Plaintiffs and Class Counsel are also keenly aware that Defendant could appeal the merits of any adverse decision.

20. Plaintiff and Class Counsel believe that the relief provided by the settlement weighs heavily in favor of a finding that the Settlement is fair, reasonable, and adequate, and well within the range of approval.

21. Since the Court granted preliminary approval, my firm has worked with the Settlement Administrator, Epiq, to carry out the Court-ordered notice plan. Specifically, my firm reviewed and approved the final claim and notice forms, and tested and approved the settlement website before it launched live.

22. Since class notice has been disseminated, my firm has worked with Epiq on a weekly basis to monitor settlement claims and any other issues that may arise. My firm has also

fielded calls from Settlement Class Members and, where applicable, assisting them with filing claims. Class Counsel anticipates expending additional time administering the Settlement after final approval.

23. My firm undertook this matter on a contingency basis.

24. To date, my firm has expended \$11,807.77 in out-of-pocket costs and expenses in connection with the prosecution of this case. These costs and expenses, which include filing fees, process server fees, and mediation fees, are reflected in the records of my firm, and were necessary to prosecute this litigation.

25. Attached hereto as **Exhibit 3** is a current firm resume for Bursor & Fisher, P.A.

26. As aforementioned, my firm, Bursor & Fisher, P.A., has significant experience in litigating class actions of similar size, scope, and complexity to the instant action. (*See* Ex. 3; Firm Resume of Bursor & Fisher, P.A.).

27. In addition, my firm has also been recognized by courts across the country for its expertise. (*See* Ex. 3); *see also Ebin v. Kangadis Food Inc.*, 297 F.R.D. 561, 566 (S.D.N.Y. 2014) (Rakoff, J.) (“Bursor & Fisher, P.A., are class action lawyers who have experience litigating consumer claims. ... The firm has been appointed class counsel in dozens of cases in both federal and state courts, and has won multi-million dollar verdicts or recoveries in five class action jury trials since 2008.”).¹

28. Moreover, my firm has served as trial counsel for class action Plaintiffs in six jury trials and has won all six, with recoveries ranging from \$21 million to \$299 million.

29. I am of the opinion that Ms. Awad’s and Mr. Mannion’s active involvement in

¹ Bursor & Fisher has since won a sixth jury verdict in *Perez v. Rash Curtis & Associates*, Case No. 4:16-cv-03396-YGR (N.D. Cal.), for \$267 million.

this case was critical to its ultimate resolution. They took their role as class representatives seriously, devoting time and effort to protecting the interests of the class. Without their willingness to assume the risks and responsibilities of serving as class representatives, I do not believe such a strong result could have been achieved.

30. Ms. Awad and Mr. Mannion equipped my firm with critical details regarding their experiences with Defendant. They assisted my firm in investigating their claims, detailing their transaction histories, supplying supporting documentation, and aiding in drafting the Complaint. Ms. Awad and Mr. Mannion were prepared to testify at deposition and trial, if necessary. And they were actively consulted during the settlement process.

31. In short, Ms. Awad and Mr. Mannion assisted my firm in pursuing this action on behalf of the class, and their involvement in this case has been nothing short of essential.

I affirm under penalty of perjury that the above and foregoing is true and accurate.
Executed on December 16, 2024 in New York, New York.

/s Philip L. Fraietta
Philip L. Fraietta

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU**

CLAIR AWAD and SHANE MANNION,
individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

FANDANGO MEDIA, LLC,

Defendant.

Index No. 610563/2024

CLASS ACTION SETTLEMENT AGREEMENT

This Agreement (“Agreement” or “Settlement Agreement”) is entered into by and among (i) Plaintiffs Clair Awad and Shane Mannion (“Class Representatives”); (ii) the Settlement Class (as defined herein); and (iii) Defendant Fandango Media, LLC (“Defendant” or “Fandango”). The Settlement Class and Class Representatives are collectively referred to as the “Plaintiffs” unless otherwise noted. The Class Representatives and the Defendant are collectively referred to herein as the “Parties.” This Agreement is intended by the Parties to fully, finally and forever resolve, discharge, and settle the Released Claims (as defined herein), upon and subject to the terms and conditions of this Agreement, and subject to the final approval of the Court.

RECITALS

A. On December 22, 2023, Plaintiff Mannion filed a putative class action in the United States District Court for the Southern District of New York. The material allegations of the complaint centered on Defendant’s alleged failure to timely disclose a convenience fee for the online purchase of tickets to movie theaters in New York state, in alleged violation of New York Arts and Cultural Affairs Law (“ACAL”) § 25.07(4).

B. From the outset of the federal action, Fandango asserted that Plaintiff Mannion lacked the ability to allege a concrete injury, and thereby lacked standing to pursue his claims in federal court under Article III of the Constitution based upon, for example, the undisputed fact that Fandango's online platforms clearly and conspicuously disclosed the convenience fee prior to a user's decision to purchase movie tickets and the undisputed fact that Plaintiff Mannion is a repeat purchaser on Fandango's online platforms. Accordingly, Fandango contested the federal court's subject-matter jurisdiction over Mannion's claims against Fandango.

C. From the outset of the case, the Parties have engaged in settlement discussions and, to that end, agreed to participate in a private mediation on June 14, 2024 with the Honorable Diane M. Welsh (Ret.), formerly of the Eastern District of Pennsylvania and now with JAMS. Notably, Fandango changed the purchase flow for its online platforms effective on March 12, 2024.

D. On March 12, 2024, the Parties to the federal action submitted a joint letter to the federal court in which the Parties informed the federal court that they had agreed to mediate the matter with Judge Welsh. The federal court stayed the federal action accordingly.

E. Prior to the mediation, the Parties exchanged informal discovery, including on issues such as the size and scope of the putative class and the amount of convenience fees Defendant collected during the relevant period. Given that this information would have been, in large part, the same information that would have been produced in formal discovery related to issues of class certification and summary judgment, the Parties had sufficient information to assess the strengths and weaknesses of their respective claims and defenses.

F. On June 14, 2024, the Parties conducted a full-day mediation before Judge Welsh. At the conclusion of the mediation, the Parties reached an agreement on all material terms of a class action settlement and executed a term sheet.

G. On June 17, 2024, Plaintiff Mannion voluntarily dismissed the federal action without prejudice, and that same day, the Class Representatives filed this case in the Supreme Court of the State of New York, County of Nassau.

H. Defendant believes that the claims asserted in the Action against it have no merit and that it would have prevailed on a motion to compel arbitration, a motion to dismiss, a motion for summary judgment, and/or would have ultimately prevailed at trial, and that the Class Representatives would not have been able to certify a class under the requirements of CPLR 901. Defendant has denied, and continues to deny, any wrongdoing whatsoever, and has expressly denied, and continues to deny, that it committed, or attempted to commit, any wrongful or unlawful act or violation of law or duty alleged in the Action. Defendant has opposed, and will continue to oppose, certification of a litigation class in this Action. Nonetheless, taking into account the uncertainty and risks inherent in any litigation, Defendant has concluded that it is desirable and beneficial that the Action be fully and finally settled and terminated in the manner and upon the terms and conditions set forth in this Agreement.

I. The Class Representatives believe that the claims asserted in the Action against Defendant have merit and that they would have prevailed at summary judgment and/or trial. Nonetheless, the Class Representatives and Class Counsel (defined below) recognize that Defendant has raised factual and legal defenses that present a risk that the Class Representatives may not prevail. The Class Representatives and Class Counsel also that recognize the expense and delay associated with continued prosecution of the Action against Defendant through a motion to compel arbitration, a motion to dismiss, a class certification motion, summary judgment, trial, and any subsequent appeals. The Class Representatives and Class Counsel also have taken into account the uncertain outcome and risks of litigation, especially in complex class actions, as well as the difficulties inherent in such litigation. Therefore, the Class

Representatives believe it is desirable that the Released Claims be fully and finally compromised, settled, and resolved with prejudice. Based on its evaluation, Class Counsel has concluded that the terms and conditions of this Agreement are fair, reasonable, and adequate to the Settlement Class, and that it is in the best interests of the Settlement Class to settle the claims raised in the Action pursuant to the terms and provisions of this Agreement.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the Class Representatives, the Settlement Class, and each of them, and Defendant, by and through their undersigned counsel that, subject to final approval of the Court after a hearing or hearings as provided for in this Settlement Agreement, in consideration of the benefits flowing to the Parties from the Agreement set forth herein, that the Action and the Released Claims shall be finally and fully compromised, settled, and released, and the Action shall be dismissed with prejudice, upon and subject to the terms and conditions of this Agreement.

AGREEMENT

1. DEFINITIONS.

As used in this Settlement Agreement, the following terms have the meanings specified below:

1.1 “Action” means *Awad v. Fandango Media, LLC*, Index No. 610563/2024, pending in the Supreme Court of the State of New York, County of Nassau.

1.2 “Approved Claim” means a Claim Form submitted by a Settlement Class Member that is: (a) submitted timely and in accordance with the directions on the Claim Form and the provisions of the Settlement Agreement; (b) fully and truthfully completed by a Settlement Class Member with all of the information requested in the Claim Form; (c) signed by the Settlement Class Member, physically or electronically; and (d) approved by the Settlement Administrator pursuant to the provisions of this Agreement.

1.3 “Alternate Judgment” means a form of final judgment that may be entered by the Court herein, but in a form other than the form of Judgment provided for in this Agreement and where none of the Parties elects to terminate this Settlement by reason of such variance.

1.4 “Claim Form” means the document to be submitted by Settlement Class Members selecting a compensation option pursuant to this Settlement Agreement. The Claim Form will be available at the Settlement Website and the contents of the Claim Form will be substantially in the form attached hereto as Exhibit A, as approved by the Court.

1.5 “Claims Deadline” means the date by which all Claim Forms must be postmarked or received to be considered timely and will be set as a date no later than thirty (30) days after the Final Approval Hearing. The Claims Deadline will be clearly set forth in the Preliminary Approval Order as well as in the Notice and the Claim Form.

1.6 “Class Counsel” means Philip L. Fraietta and Stefan Bogdanovich of Bursor & Fisher, P.A.

1.7 “Class Representatives” means the named Plaintiffs in this Action, Clair Awad and Shane Mannion.

1.8 “Convenience Fee” means any convenience fee in connection with online purchases made on Fandango’s website, mobile phone application, and/or any online platform owned or operated by or on behalf of Defendant for tickets to movie theaters in New York state. The typical convenience fee paid by a Class Member during the class period was \$1.89 per ticket.

1.9 “Court” means the Supreme Court of the State of New York, County of Nassau.

1.10 “Days” means calendar days unless business days are specified, except that when computing any period of time prescribed or allowed by this Settlement Agreement, the day of the act, event or default from which the designated period of time begins to run shall not be

included. When computing any period of time prescribed or allowed by this Settlement Agreement, the last day of the period so computed shall be included, unless it is a Saturday, Sunday or federal or State of New York legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or federal or State of New York legal holiday.

1.11 “Defendant” means Fandango Media, LLC.

1.12 “Defendant’s Counsel” means Manatt, Phelps & Phillips, LLP.

1.13 “Effective Date” means the date ten (10) days after which all of the events and conditions specified in Paragraph 9.1 have been met and have occurred.

1.14 “Fandango at Home” means the Fandango at Home streaming platform, formerly known as Vudu, and currently at the website www.vudu.com and on the Fandango at Home application, which allows users to rent or purchase movies or television shows for viewing on the Fandango at Home website or applications.

1.15 “Fandango at Home Voucher” means a Fandango Promo Code of \$10.00 USD for use to rent or purchase movies or television shows for viewing on the Fandango at Home website or applications whose aggregate price plus taxes thereon does not exceed \$10.00. The face value of the Fandango at Home Vouchers shall be subject to the Settlement Cap. The Fandango at Home Voucher shall expire no earlier than one (1) year after the date of issue. Fandango at Home Vouchers and any movies or television shows rented or purchased are subject to Fandango’s Promo Code Policy,¹ the Fandango at Home Policy,² and Fandango’s other applicable Terms and Policies.³ So long as the aggregate price of all movies and/or television show purchases and/or rentals plus applicable taxes in sum do not exceed \$10.00, then the

¹ <https://www.fandango.com/policies/promo-code-policy>

² <https://www.fandango.com/policies/vudu-policy>

³ <https://www.fandango.com/policies/terms-and-policies>

consumer will not have to expend any funds to purchase and/or rent such movies and/or shows. No refunds or exchanges will be given on rentals or purchases made using the Fandango at Home Voucher.

1.16 “Fee Award” means the amount of attorneys’ fees, costs, and expenses awarded by the Court to Class Counsel, which will be paid by Defendant pursuant to the terms set forth herein.

1.17 “Final” means one business day following the latest of the following events: (i) the date upon which the time expires for filing or noticing any appeal of the Court’s Final Judgment approving the Settlement Agreement; (ii) if there is an appeal or appeals, other than an appeal or appeals solely with respect to the Fee Award, the date of completion, in a manner that finally affirms and leaves in place the Final Judgment without any material modification, of all proceedings arising out of the appeal or appeals (including, but not limited to, the expiration of all deadlines for motions for reconsideration or petitions for review and/or *certiorari*, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal or appeals following decisions on remand); or (iii) if there is an appeal that involves the fee award in addition to other issues, the date of final dismissal of any appeal or the final dismissal of any proceeding on *certiorari*.

1.18 “Final Approval Hearing” means the hearing before the Court where the Parties will request the Final Judgment to be entered by the Court approving the Settlement Agreement, the Fee Award, and the Service Awards to the Class Representatives.

1.19 “Final Judgment” means the Final Judgment and Order to be entered by the Court approving the Agreement after the Final Approval Hearing.

1.20 “Notice” means the notice of this proposed Class Action Settlement Agreement and Final Approval Hearing, which is to be sent to the Settlement Class substantially in the

manner set forth in this Agreement, is consistent with the requirements of Due Process, CPLR 904, and is substantially in the form of Exhibits A, B, and C hereto.

1.21 “Notice Date” means the date by which the Notice set forth in Paragraph 4.1 is complete, which shall be no later than thirty (30) days after the Court’s Preliminary Approval Order.

1.22 “Objection/Exclusion Deadline” means the date by which a written objection to this Settlement Agreement or a request for exclusion submitted by a Person within the Settlement Class must be made, which shall be designated as a date no later than sixty (60) days after the Notice Date and no sooner than fourteen (14) days after papers supporting the Fee Award are filed with the Court and posted to the settlement website listed in Paragraph 4.1(c), or such other date as ordered by the Court.

1.23 “Person” means, without limitation, any individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity and their spouses, heirs, predecessors, successors, representatives, or assigns. “Person” is not intended to include any governmental agencies or governmental actors, including, without limitation, any state Attorney General office.

1.24 “Plaintiffs” means the Class Representatives and the Settlement Class Members.

1.25 “Preliminary Approval” means the Court’s certification of the Settlement Class for settlement purposes, preliminary approval of this Settlement Agreement, and approval of the form and manner of the Notice.

1.26 “Preliminary Approval Order” means the order preliminarily approving the Settlement Agreement, certifying the Settlement Class for settlement purposes, and directing

notice thereof to the Settlement Class, which will be agreed upon by the Parties and submitted to the Court in conjunction with Plaintiffs' motion for preliminary approval of the Agreement.

1.27 "Released Claims" means any and all actual, alleged, potential, filed, known or unknown, fixed or contingent, claimed or unclaimed, suspected or unsuspected, suits, claims, liens, demands, liabilities, rights, causes of action, contracts or agreements, extra contractual claims, statutory claims, damages, punitive, exemplary, statutory or multiplied damages, expenses, judgments, costs, attorneys' fees and or obligations (including "Unknown Claims," as defined below), and all other legal responsibilities in any form or nature, whether in law or in equity, accrued or un-accrued, direct, individual or representative, of every nature and description whatsoever, including but not limited to, all claims relating to or arising out of the ACAL or other state, federal, local, statutory or common law or any other law, rule, ordinance, or regulation, whether past, present, or future, asserted or unasserted, against the Released Parties, or any of them, arising out of or in any way related to Convenience Fees in connection with electronic ticket sales on Fandango's website, mobile phone application, and/or any online platform owned or operated by or on behalf of Defendant from August 29, 2022 through and including March 11, 2024, including but not limited to all claims that were brought or could have been brought in the Action relating to any and all Releasing Parties.

1.28 "Released Parties" means Fandango Media, LLC and all of its current, former, and future parents, predecessors, successors, affiliates, assigns, subsidiaries, divisions, or related corporate entities, and all of their respective current, future, and former employees, officers, directors, partners, principals, members, shareholders, associates, assigns, agents, trustees, administrators, executors, insurers, underwriters, financial and investment advisors, lenders, auditors, attorneys, legal representatives, independent contractors, consultants, licensors, licensees, and customers.

1.29 “Releasing Parties” means the Class Representatives, those Settlement Class Members who do not timely opt out of the Settlement Class, and all of their respective present, future, or past heirs, executors, estates, administrators, predecessors, successors, assigns, parent companies, subsidiaries, associates, affiliates, employers, employees, agents, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and companies, firms, trusts, and corporations.

1.30 “Service Award” means any Court-approved awards to the Class Representatives, in their capacity as individual class representatives, as set forth in Paragraph 8.3.

1.31 “Settlement Administration Expenses” means the expenses incurred by the Settlement Administrator in providing Notice, establishing a settlement website, processing claims, responding to inquiries from members of the Settlement Class, providing compensation to Settlement Class Members for Approved Claims, mailing checks, and related services, paying taxes and tax expenses related to the Settlement (including all federal, state or local taxes of any kind and interest or penalties thereon, as well as expenses incurred in connection with determining the amount of and paying any taxes owed and expenses related to any tax attorneys and accountants). All Settlement Administration Expenses will be borne by Defendant.

1.32 “Settlement Administrator” means Epiq, or such other reputable administration company that has been selected jointly by the Parties and approved by the Court to perform the duties set forth in this Agreement, including but not limited to overseeing the distribution of Notice, as well as the processing and payment of any claims to the Settlement Class as set forth in this Agreement, handing all approved payments, and handling the determination, payment and

filing of forms related to all federal, state and/or local taxes of any kind (including any interest or penalties thereon) that may be owed on any income earned by the Settlement.

1.33 “Settlement Cap” means the gross amount of nine million dollars (\$9,000,000.00 USD) that shall represent Defendant’s maximum financial obligation under the Settlement. The following shall be subject to the Settlement Cap: (i) amounts paid for all Approved Claims, including cash payments from the Cash Payment Fund and the face value of the Fandango at Home Vouchers; (ii) any Fee Award approved by the Court; (iii) any Service Awards approved by the Court; and (iv) any Settlement Administration Expenses approved by the Court, including any taxes.

1.34 “Settlement Class” means all individuals in the United States who purchased electronic tickets and paid a convenience fee to any movie in any movie theater located within New York state from Fandango’s website, mobile phone application, and/or any other Fandango owned or operated online platform from August 29, 2022, to and through March 11, 2024. Excluded from the Settlement Class are (1) any Judge or Magistrate presiding over this Action and members of their families; (2) the Defendant, Defendant’s subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and their current or former officers, directors, agents, attorneys, and employees; (3) persons who properly execute and file a timely request for exclusion from the class; and (4) the legal representatives, successors or assigns of any such excluded persons.

1.35 “Settlement Class Member” means an individual who falls within the definition of the Settlement Class as set forth above and who has not submitted a valid request for exclusion.

1.36 “Settlement Website” means the dedicated website created and maintained by the Settlement Administrator, which will contain relevant documents and information about the

Settlement, including this Settlement Agreement, the long-form Notice and the Claim Form, as well as web-based forms for Settlement Class Members to submit electronic Claim Forms, and requests for exclusion from the Settlement.

1.37 “Unknown Claims” means claims that could have been raised in the Action and that any or all of the Releasing Parties do not know or suspect to exist, which, if known by him or her, might affect his or her agreement to release the Released Parties or the Released Claims or might affect his or her decision to agree, object or not to object to the Settlement. Upon the Effective Date, the Releasing Parties shall be deemed to have, and shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of § 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT A 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.

Upon the Effective Date, the Releasing Parties also shall be deemed to have, and shall have, waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable or equivalent to § 1542 of the California Civil Code. The Releasing Parties acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of this release, but that it is their intention to finally and forever settle and release the Released Claims, notwithstanding any Unknown Claims that they may have, as that term is defined in this Paragraph.

2. SETTLEMENT RELIEF.**2.1 Payments to Settlement Class Members.**

(a) Settlement Class Members may elect to either:

- i. Do nothing and be bound by the settlement terms;
- ii. File a valid claim and receive a \$5.00 cash payment in the form of a check, or electronic payment via Venmo, PayPal, or Zelle, at the Settlement Class Member's election and be bound by the settlement terms;
- iii. File a valid claim and receive a \$10.00 Fandango at Home Voucher, which shall expire no earlier than one year from the date of issuance, and be bound by the settlement terms; or
- iv. Opt out of the settlement.

(b) Settlement Class Members wishing to receive a \$5.00 cash payment must make an election to receive cash by submitting a valid Claim Form to the Settlement Administrator. Settlement Class Members have until the Claims Deadline to submit a Claim Form for approval by the Settlement Administrator as an Approved Claim. Each Settlement Class Member who submits an Approved Claim for a cash payment will receive a \$5.00 payment in the form of a check, or electronic payment via Venmo, PayPal, or Zelle, at the Settlement Class Member's election. Payment to Settlement Class Members will be issued by the Settlement Administrator from the Cash Payment Fund (defined below) within 30 days of the Effective Date.

(c) Within fourteen (14) days of the Final Judgment, Defendant shall establish a fund containing its anticipated payment of any Approved Claims for Cash Payments (the "Cash Payment Fund"). Within ten (10) business days of the Effective Date, Defendant shall wire the

proceeds of the Cash Payment Fund to the Settlement Administrator for distribution to Settlement Class Members. Payments to all Settlement Class Members with Approved Claims shall be made within thirty (30) days after the Effective Date. Any uncashed checks or undistributed funds from the Cash Payment Fund shall revert to Defendant within 180 days of the Effective Date.

(d) Settlement Class Members wishing to receive a \$10.00 Fandango at Home Voucher must make an election to receive a voucher by submitting a valid Claim Form to the Settlement Administrator. Settlement Class Members have until the Claims Deadline to submit a Claim Form for approval by the Settlement Administrator as an Approved Claim. Each Settlement Class Member who submits an Approved Claim for a Fandango at Home Voucher will receive a voucher by email from the Settlement Administrator. In a timely manner, as requested by the Settlement Administrator, Defendant will provide the Settlement Administrator with promotional codes for each Settlement Class Member who submits an Approved Claim for the Fandango at Home Voucher. Fandango at Home Vouchers will be issued to Settlement Class Members within 30 days of the Effective Date.

(e) A maximum of one claim, submitted on a single Claim Form, may be submitted by each Settlement Class Member.

(f) In no event shall the total out-of-pocket costs paid by Defendant exceed the Settlement Cap. In the event that the total amount of Approved Claims, plus the Fee Award, the Settlement Administration Expenses (including taxes), and the Service Awards exceed the Settlement Cap, then the amount of each Approved Claim shall be reduced *pro rata*.

2.2 Prospective Relief. Plaintiffs acknowledge and agree that the current purchase flow on Fandango's website, mobile phone application, and any of its other online platforms for tickets to New York movie theaters complies with all applicable law. Defendant acknowledges

that the Action was the catalyst for the changed purchase flow. Defendant agrees to comply with ACAL § 25.07(4) unless and until it is amended, repealed, or otherwise invalidated.

3. RELEASE.

3.1 Upon the Effective Date, the Releasing Parties, and each of them, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Parties, and each of them to the fullest extent allowed by law. Further, upon the Effective Date, and to the fullest extent permitted by law, each Settlement Class Member, shall, either directly, indirectly, representatively, or in any capacity, be permanently barred and enjoined from filing, commencing, prosecuting, intervening in, or participating (as a class member or otherwise) in any lawsuit, action, or other proceeding in any jurisdiction (other than participation in the Settlement as provided herein) against any Released Party based on the Released Claims.

4. NOTICE TO THE CLASS.

4.1 The Notice Plan shall consist of the following:

(a) *Settlement Class List.* No later than fourteen (14) days after the Preliminary Approval Order, Defendant shall produce a confidential electronic list from its records that includes the last known email addresses, to the extent available, belonging to persons in the Settlement Class. This electronic document shall be called the “Class List,” and shall only be provided to the Settlement Administrator.

(b) *Direct Notice via Email.* No later than thirty (30) days after entry of the Preliminary Approval Order, the Settlement Administrator shall send Notice via email substantially in the form attached as Exhibit B to all Settlement Class Members for whom a last known email address is contained in the Class List. In the event the transmission of email notice results in any “bounce-backs,” the Settlement Administrator shall take reasonable steps,

if possible, to correct any issues that may have caused the “bounce-back” to occur and make a second attempt to re-send the email notice.

(c) *Settlement Website.* Within fourteen (14) days from entry of the Preliminary Approval Order, Notice shall be provided on a website at an available settlement URL (www.fandangoticketfeesettlement.com or another URL agreed to by both Parties) which shall be obtained, administered and maintained by the Settlement Administrator and shall include the ability to file Claim Forms online. Copies of this Settlement Agreement, the long-form Notice, and other pertinent documents and Court filings pertaining to the Settlement (including the motion for attorneys’ fees upon its filing), shall be provided on the Settlement Website. The Notice provided on the Settlement Website shall be substantially in the form of Exhibit C hereto.

4.2 The Notice shall advise the Settlement Class of their rights, including the right to be excluded from, comment upon, and/or object to the Settlement Agreement or any of its terms. The Notice shall specify that any objection to the Settlement Agreement, and any papers submitted in support of said objection, shall be considered by the Court at the Final Approval Hearing only if, on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice, the Person making the objection files notice of an intention to do so and at the same time (a) files copies of such papers he or she proposes to be submitted at the Final Approval Hearing with the Clerk of the Court, or alternatively, if the objection is from a Class Member represented by counsel, files any objection through the Court’s NYSCEF system, and (b) sends copies of such papers by mail, hand, or overnight delivery service to Class Counsel and Defendant’s Counsel.

4.3 Any Settlement Class Member who intends to object to this Agreement must present the objection in writing, which must be personally signed by the objector, and must

include: (1) the objector's name and address; (2) an explanation of the basis upon which the objector claims to be a Settlement Class Member; (3) all grounds for the objection, including all citations to legal authority and evidence supporting the objection; (4) the name and contact information of any and all attorneys representing, advising, or in any way assisting the objector in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection (the "Objecting Attorneys"); and (5) a statement indicating whether the objector intends to appear at the Final Approval Hearing (either personally or through counsel who files an appearance with the Court in accordance with the Local Rules).

4.4 If a Settlement Class Member or any of the Objecting Attorneys has objected to any class action settlement where the objector or the Objecting Attorneys asked for or received any payment in exchange for dismissal of the objection, or any related appeal, without any modification to the settlement, then the objection must include a statement identifying each such case by full case caption and amount of payment received. Any challenge to the Settlement Agreement or the Final Judgment shall be pursuant to appeal under the New York Rules of Court and not through a collateral attack.

4.5 A Settlement Class Member may request to be excluded from the Settlement Class by timely submitting a request for exclusion on the Settlement Website or sending a written request to the address identified in the Notice. Any such request for exclusion must be submitted on the Settlement Website or be postmarked on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice. To exercise the right to be excluded, a Person who would otherwise be a Settlement Class Member must timely submit a request for exclusion on the Settlement Website or send a written request for exclusion to the Settlement Administrator that contains his/her name and address, that he/she purchased electronic tickets and paid a convenience fee to any movie in any movie theater located within

New York state from Fandango’s website, mobile phone application, and/or any other Fandango owned or operated online platform from August 29, 2022, to and through March 11, 2024, and a statement that he or she wishes to be excluded from the Settlement Class for purposes of this Settlement. A request to be excluded that does not include all of this information, or that is sent to an address other than that designated in the Notice, or that is not postmarked within the time specified, shall be invalid, and the Person(s) serving such a request shall be a member(s) of the Settlement Class and shall be bound as a Settlement Class Member by this Agreement, if approved. Any member of the Settlement Class who validly elects to be excluded from this Agreement shall not: (i) be bound by any orders or the Final Judgment; (ii) be entitled to relief under this Settlement Agreement; (iii) gain any rights by virtue of this Agreement; or (iv) be entitled to object to any aspect of this Agreement. Any request for exclusion must be personally signed by each Person requesting exclusion. So-called “mass” or “class” opt-outs shall not be allowed. To be valid, a request for exclusion must be submitted on the Settlement Website by 11:59 p.m., Eastern Standard Time, on the date specified in the Notice, or be postmarked or received by the date specified in the Notice.

4.6 The Final Approval Hearing shall be no earlier than ninety (90) days after the Notice described in Paragraph 4.1(b) is provided.

4.7 Any Settlement Class Member who does not, in accordance with the terms and conditions of this Agreement, timely and validly seek exclusion from the Settlement Class, will be bound by all of the terms of this Settlement Agreement, including the terms of the Final Judgment to be entered in the Action and the Releases provided for in the Settlement Agreement, and will be barred from bringing any action against any of the Released Parties concerning the Released Claims.

4.8 For the convenience of the Parties and Settlement Class Members, below is a schedule of all proposed deadlines:

EVENT	PROPOSED DEADLINE
Post Notice on Settlement Website	Within 14 days after Preliminary Approval Order
Deadline to Provide Settlement Administrator with Class List	No later than 14 days after Preliminary Approval Order
Notice Date	No later than 30 days after Preliminary Approval Order
Motion for Attorneys' Fees	52 days after Preliminary Approval Order
Objection/Exclusion Deadline	No later than 60 days after the Notice Date and no sooner than 14 days after papers supporting the Fee Award are filed with the Court and posted to the settlement website
Opposition to Motion for Final Approval	14 days before Final Approval Hearing
Opposition to Motion for Attorneys' Fees	21 days before Final Approval Hearing
Reply in Support of Motion for Attorneys' Fees	14 days before Final Approval Hearing
Final Approval Motion	21 days before Final Approval Hearing
Final Approval Hearing	No earlier than 90 days after Notice Date
Claims Deadline	30 days after Final Approval Hearing
Payment of Fee Award	10 business days after Final Judgment
Establishment of Cash Payment Fund	14 days after Final Judgment
Payment of Service Awards	10 business days after Effective Date
Cash Payment Fund Wired to Settlement Administrator	10 business days after Effective Date
Cash Payments Sent to Settlement Class Members	30 days after Effective Date
Vouchers Sent to Settlement Class Members	30 days after Effective Date
Expiration of Vouchers	1 year after issuance or Effective Date

5. SETTLEMENT ADMINISTRATION.

5.1 The Settlement Administrator shall, under the supervision of the Court, administer the relief provided by this Settlement Agreement by processing Claim Forms and disbursing cash in the Cash Payment Fund and the Fandango at Home Vouchers in a rational, responsive, cost effective, and timely manner, consistent with the terms of this Agreement. The terms of this Agreement, upon approval by the Court, shall at all times govern the scope of the services to be provided by the Settlement Administrator to administer the compensatory relief provided by the Settlement, and the terms of any separate contract or agreement entered into between the Settlement Administrator and Class Counsel, Defendant's Counsel, or the Defendant to administer the Settlement shall be consistent in all material respects with the terms of this Agreement. The Settlement Administrator shall maintain reasonably detailed records of its activities under this Agreement. The Settlement Administrator shall maintain all such records as are required by applicable law in accordance with its normal business practices and such records will be made available to Class Counsel and Defendant's Counsel upon request. The Settlement Administrator shall also provide reports and other information to the Court as the Court may require. The Settlement Administrator shall provide Class Counsel and Defendant's Counsel with regular reports at weekly intervals containing information concerning claims, opt-outs, objections, Notice, administration, and implementation of the Settlement Agreement. Should the Court request, the Parties shall submit a timely report to the Court summarizing the work performed by the Settlement Administrator, including a report of all amounts paid to Settlement Class Members. Without limiting the foregoing, the Settlement Administrator shall:

(a) Forward to Defendant's Counsel, with copies to Class Counsel (with the exception of the Class List), all original documents and other materials received in connection

with the administration of the Settlement, and all copies thereof, within thirty (30) days after the Claim Deadline;

(b) Provide Class Counsel and Defendant's Counsel with drafts of all administration related documents, including but not limited to Notices, follow-up class notices or communications with Settlement Class Members, telephone scripts, website postings or language or other communications with the Settlement Class, at least five (5) days before the Settlement Administrator is required to or intends to publish or use such communications, unless Class Counsel and Defendant's Counsel agree to waive this requirement in writing on a case by case basis;

(c) Receive requests to be excluded from the Settlement Class and other requests and promptly provide to Class Counsel and Defendant's Counsel copies thereof. If the Settlement Administrator receives any exclusion forms or other requests after the deadline for the submission of such forms and requests, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Defendant's Counsel;

(d) Provide weekly reports to Class Counsel and Defendant's Counsel, including without limitation, reports regarding the number of Claim Forms and requests for exclusion and/or objections received, and the categorization and description of Claim Forms rejected, in whole or in part, by the Settlement Administrator; and.

(e) Make available for inspection by Class Counsel or Defendant's Counsel the Claim Forms received by the Settlement Administrator at any time upon reasonable notice.

5.2 Defendant, the Released Parties, and Defendant's Counsel shall have no responsibility for, interest in, or liability whatsoever with respect to: (i) any act, omission, or determination by Class Counsel, or the Settlement Administrator, or any of their respective designees or agents, in connection with the administration of the Settlement or otherwise;

(ii) the management, investment, or distribution of the cash payment; (iii) the payment of the cash payment to Settlement Class Members or the implementation, administration, or interpretation thereof; (iv) the distribution or receipt of Fandango at Home Vouchers; (v) the determination, administration, calculation, or payment of any claims; (vi) the payment or withholding of any Taxes, Tax Expenses, or costs incurred in connection with the taxation of the cash payments or the filing of any federal, state, or local returns; or (vii) any data breach or any common law or statutory claims related to breach of privacy related to unauthorized access to records maintained by the Settlement Administrator for the purpose of effectuating the terms of this Settlement Agreement.

5.3 All taxes and tax expenses, if any, shall be timely paid by the Settlement Administrator and reimbursed by Defendant pursuant to this Agreement and without further order of the Court. Such tax expenses shall be subject to the Settlement Cap. Any tax returns prepared for the Settlement (as well as the election set forth therein) shall be consistent with this Agreement and in all events shall reflect that all taxes on the income earned by the Settlement shall be paid out of the Settlement as provided herein. The Released Parties shall have no responsibility or liability for the acts or omissions of the Settlement Administrator or its agents with respect to the payment of taxes or tax expenses.

5.4. The Settlement Administrator will be responsible for reviewing all claims to determine their validity. The Settlement Administrator shall be obliged to employ reasonable procedures to screen claims for abuse or fraud and deny Claim Forms where there is evidence of abuse or fraud. The Settlement Administrator will reject any claim that does not comply in any material respect with the instructions on the Claim Form or the terms of Paragraphs 1.2 and/or 1.3, above, or is submitted after the Claims Deadline. Each claimant who submits an invalid Claim Form to the Settlement Administrator must be given a notice of the Claim Form's

deficiency and an opportunity to cure the deficiency within twenty-one (21) days of the date of the notice. The Settlement Administrator may contact any Person who has submitted a Claim Form to obtain additional information necessary to verify the Claim Form. Defendant has the right to audit the claims process for evidence of fraud or error.

5.5 Defendant's Counsel and Class Counsel shall have the right to challenge the acceptance or rejection of a Claim Form submitted by Settlement Class Members and to obtain and review supporting documentation relating to such Claim Form. The Settlement Administrator shall follow any agreed decisions of Class Counsel and Defendant's Counsel as to the validity of any disputed submitted Claim Form. To the extent Class Counsel and Defendant's Counsel are not able to agree on the disposition of a challenge, the disputed claim shall be submitted to the Honorable Diane M. Welsh of JAMS for binding determination.

5.6 In the exercise of its duties outlined in this Agreement, the Settlement Administrator shall have the right to reasonably request additional information from the Parties or any Settlement Class Member.

6. TERMINATION OF SETTLEMENT.

6.1 Subject to Paragraphs 9.1-9.3 below, Defendant or the Class Representatives on behalf of the Settlement Class, shall have the right but not the obligation to terminate this Agreement by providing written notice of the election to do so ("Termination Notice") to all other Parties hereto within twenty-one (21) days of any of the following events: (i) the Court's refusal to grant Preliminary Approval of this Agreement in any material respect; (ii) the Court's refusal to grant final approval of this Agreement in any material respect; (iii) the Court's refusal to enter the Final Judgment in this Action in any material respect; (iv) the date upon which the Final Judgment is modified or reversed in any material respect by the presiding Court, the Appellate Division, Second Department, the Court of Appeals or the Supreme Court; or (v) the

date upon which an Alternate Judgment, as defined in Paragraph 9.1(d) of this Agreement is modified or reversed in any material respect by the presiding Court, the Appellate Division, Second Department or the Court of Appeals or the Supreme Court.

6.2 Subject to Paragraphs 9.1-9.4 below, Defendant shall have the right, but not the obligation, in its sole discretion, to terminate this Agreement by providing written notice to Class Counsel within twenty-five (25) days of the following events: (i) individuals comprising more than one thousand (1,000) Settlement Class Members in total have timely and validly opted out of and/or objected to the Agreement; or (ii) individuals comprising more than two hundred (200) Settlement Class Members file or threaten to file any actions (e.g., individual lawsuits, class actions, arbitrations, etc.) against Defendant related to the Released Claims at any time prior to the Preliminary Approval Order.

6.4 Confirmatory Discovery. Defendant represented that it collected \$13,732,123.99 in convenience fees from purchasers to New York movie theaters from August 29, 2022, to and through March 11, 2024. Simultaneous with the execution of this Agreement, Defendant has provided an affidavit from an appropriate representative with knowledge attesting to the same.

7. PRELIMINARY APPROVAL ORDER AND FINAL APPROVAL ORDER.

7.1 Promptly after the execution of this Settlement Agreement, Class Counsel shall submit this Agreement together with its Exhibits to the Court and shall move the Court for Preliminary Approval of the settlement set forth in this Agreement; certification of the Settlement Class for settlement purposes only; appointment of Class Counsel and the Class Representatives; and entry of a Preliminary Approval Order, which order shall set a Final Approval Hearing date and approve the Notice for dissemination substantially in the form of Exhibits A, B, and C hereto. The Preliminary Approval Order shall also authorize the Parties,

without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of the Settlement Agreement and its implementing documents (including all exhibits to this Agreement) so long as they are consistent in all material respects with the terms of the Settlement Agreement and do not limit or impair the rights of the Settlement Class or materially expand the obligations of Defendant.

7.2 At the time of the submission of this Agreement to the Court as described above, Class Counsel shall request that, after Notice is given, the Court hold a Final Approval Hearing and finally approve the Settlement of the Action as set forth herein.

7.3 After Notice is given, Plaintiffs shall request and seek to obtain from the Court a Final Judgment, which will (among other things):

(a) find that the Court has personal jurisdiction over all Settlement Class Members and that the Court has subject matter jurisdiction to approve the Agreement, including all exhibits thereto;

(b) approve the Settlement Agreement and the proposed settlement as fair, reasonable, and adequate as to, and in the best interests of, the Settlement Class Members; direct the Parties and their counsel to implement and consummate the Agreement according to its terms and provisions; and declare the Agreement to be binding on, and have *res judicata* and preclusive effect in all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and Releasing Parties;

(c) find that the Notice implemented pursuant to the Agreement (1) constitutes the best practicable notice under the circumstances; (2) constitutes notice that is reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of the Action, their right to object to or exclude themselves from the proposed Agreement, and to appear at the Final Approval Hearing; (3) is reasonable and constitutes due, adequate, and

sufficient notice to all persons entitled to receive notice; and (4) meets all applicable requirements of the CPLR, the Due Process Clauses of the United States and New York Constitutions, and the rules of the Court;

(d) find that the Class Representatives and Class Counsel adequately represent the Settlement Class for purposes of entering into and implementing the Agreement;

(e) dismiss the Action (including all individual claims and Settlement Class Claims presented thereby) on the merits and with prejudice, without fees or costs to any party except as provided in the Settlement Agreement;

(f) incorporate the Release set forth above, make the Release effective as of the date of the Effective Date, and forever discharge the Released Parties as set forth herein;

(g) permanently bar and enjoin all Settlement Class Members who have not been properly excluded from the Settlement Class from filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in any lawsuit or other action in any jurisdiction based on the Released Claims;

(h) without affecting the finality of the Final Judgment for purposes of appeal, retain jurisdiction as to all matters relating to administration, consummation, enforcement, and interpretation of the Settlement Agreement and the Final Judgment, and for any other necessary purpose; and

(i) incorporate any other provisions, as the Court deems necessary and just.

8. CLASS COUNSEL'S ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES; SERVICE AWARD.

8.1 Pursuant to CPLR 909 and ACAL § 25.33, Class Counsel shall make an application to the Court for an award of reasonable attorneys' fees and costs in an amount no more than 25% of the Settlement Cap (or \$2,250,000.00 USD). The Court shall determine the amount of reasonable attorneys' fees and costs. If approved by the Court, payment of the Fee

Award shall be made by Defendant separate and apart from Defendant's other payment obligations under this Agreement.

8.2 The Fee Award shall be payable within ten (10) business days after entry of the Court's Final Judgment, subject to Class Counsel executing the Undertaking Regarding Attorneys' Fees and Costs (the "Undertaking") attached hereto as Exhibit D, and providing all payment routing information and tax I.D. numbers for Class Counsel. Payment of the Fee Award shall be made by Defendant by wire transfer to Class Counsel in accordance with wire instructions to be provided by Class Counsel, and completion of necessary forms, including but not limited to W-9 forms. Notwithstanding the foregoing, if for any reason the Final Judgment is reversed or rendered void as a result of an appeal(s), then any Persons or firms who shall have received the funds shall be severally liable for payments made pursuant to this subparagraph and shall return such funds to Defendant within fourteen (14) business days. Additionally, should any parties to the Undertaking dissolve, merge, declare bankruptcy, become insolvent, or cease to exist prior to the final payment to Class Members, those parties shall execute a new undertaking guaranteeing repayment of funds within fourteen (14) days of such an occurrence.

8.3 Subject to Court approval, the Class Representatives may be paid Service Awards by the Defendant, in addition to any settlement benefit as a result of being a Settlement Class Member pursuant to this Agreement, and in recognition for their efforts on behalf of the Settlement Class, in the amount of no more than \$5,000.00 each. The Court shall determine the amount of the Service Award. Such awards will be paid by Defendant (in the form of checks to the Class Representatives that are sent care of Class Counsel) within ten (10) business days of the Effective Date.

8.4 The Fee Award and Service Awards shall be in addition to the other benefits provided to the Settlement Class under this Agreement and shall not derogate in any way from payments owed to Settlement Class Members.

9. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL, CANCELLATION OR TERMINATION.

9.1 The Effective Date of this Settlement Agreement shall not occur unless and until each of the following events occurs and shall be the date upon which the last (in time) of the following events occurs:

- (a) The Parties and their counsel have executed this Agreement;
- (b) The Court has entered the Preliminary Approval Order;
- (c) The Court has entered an order finally approving the Agreement,

following Notice to the Settlement Class, as provided in the CPLR, and has entered the Final Judgment, or a judgment consistent with this Agreement in all material respects; and

(d) The Final Judgment has become Final, as defined above, or, in the event that the Court enters an Alternate Judgment, such Alternate Judgment becomes Final.

9.2 If any of the conditions specified in Paragraph 9.1 are not met, or in the event that this Agreement is not approved by the Court, or the Settlement set forth in this Agreement is terminated or fails to become effective in accordance with its terms, then this Settlement Agreement shall be canceled and terminated subject to Paragraph 6.1, unless Class Counsel and Defendant's Counsel mutually agree in writing to proceed with this Agreement. If any Party is in material breach of the terms hereof, any other Party, provided that it is in substantial compliance with the terms of this Agreement, may terminate this Agreement on notice to all of the Parties and Settlement Class Members. Notwithstanding anything herein, the Parties agree that the Court's failure to approve, in whole or in part, the Fee Award to be requested by Class Counsel and/or the Service Awards to be requested for the Class Representatives, as set forth in

Paragraph 8 above, shall not prevent the Agreement from becoming effective, nor shall it be grounds for termination.

9.3 If this Agreement is terminated or fails to become effective for the reasons set forth in Paragraphs 6.1-6.2 and/or 9.1-9.2 above, the Parties shall be restored to their respective positions in the Action as of the date of the signing of this Agreement. In such event, any Final Judgment or other order entered by the Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*, and the Parties shall be returned to the *status quo ante* with respect to the Action as if this Agreement had never been entered into.

9.4 Stay and Bar of Other Proceedings. All proceedings in the Action will be stayed following preliminary approval of the Settlement, except as may be necessary to implement the Settlement or comply with the terms of the Settlement. Pending determination of whether the Settlement should be granted final approval, the Parties agree not to pursue in the Action any claims or defenses otherwise available to them in the Action, and no Settlement Class Member, either directly, on a representative basis, or in any other capacity, may commence or prosecute against any of the Released Parties any action or proceeding asserting any of the Released Claims.

10. MISCELLANEOUS PROVISIONS.

10.1 The Parties (a) acknowledge that it is their intent to consummate this Settlement Agreement; and (b) agree, subject to their fiduciary and other legal obligations, to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Agreement, to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of this Agreement, to secure final approval, and to defend the Final Judgment through any and all appeals. Class Counsel and Defendant's Counsel agree to cooperate with one another in seeking Court approval of the Settlement Agreement, entry of the Preliminary Approval

Order, and the Final Judgment, and promptly to agree upon and execute all such other documentation as may be reasonably required to obtain final approval of the Agreement.

10.2 The Parties intend this Settlement Agreement to be a final and complete resolution of all disputes between them with respect to the Released Claims by the Class Representatives, the Settlement Class and each or any of them, on the one hand, against the Released Parties, and each or any of the Released Parties, on the other hand. Accordingly, the Parties agree not to assert in any forum that the Action was brought by the Class Representatives or defended by Defendant, or each or any of them, in bad faith or without a reasonable basis.

10.3 The Parties have relied upon the advice and representation of counsel, selected by them, concerning their respective legal liability for the claims hereby released. The Parties have read and understand fully the above and foregoing agreement and have been fully advised as to the legal effect thereof by counsel of their own selection and intend to be legally bound by the same.

10.4 Whether or not the Effective Date occurs, or the Settlement Agreement is terminated, neither this Agreement nor the settlement contained herein or any term, provision or definition therein, nor any act or communication performed or document executed in the course of negotiating, implementing or seeking approval pursuant to or in furtherance of this Agreement or the settlement:

(a) is, may be deemed, or shall be used, offered or received in evidence in any civil, criminal or administrative proceeding in any court, administrative agency, arbitral proceeding or other tribunal against the Released Parties, or each or any of them, as an admission, concession or evidence of, the validity of any Released Claims, the validity of a class certification, the truth of any fact alleged by the Class Representatives, the deficiency of any defense that has been or could have been asserted in the Action, the violation of any law or

statute, the definition or scope of any term or provision, the reasonableness of the settlement amount or the Fee Award, or of any alleged wrongdoing, liability, negligence, or fault of the Released Parties, or any of them;

(b) is, may be deemed, or shall be used, offered or received in evidence against any Released Party, as an admission, concession or evidence of any fault, or other wrongdoing, or any misrepresentation or omission with respect to any statement or written document approved or made by the Released Parties, or any of them;

(c) is, may be deemed, or shall be used, offered or received in evidence against the Released Parties, or each or any of them, as an admission or concession with respect to any liability, statutory violation, negligence, fault or wrongdoing by anyone in the settlement class as against any Released Parties, or supporting the certification of a litigation class, in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. However, the Settlement, this Agreement, and any acts performed and/or documents executed in furtherance of or pursuant to this Agreement and/or Settlement may be used in any proceedings as may be necessary to effectuate the provisions of this Agreement. Further, if this Settlement Agreement is approved by the Court, any Party or any of the Released Parties may file this Agreement and/or the Final Judgment in any action that may be brought against such Party or Parties in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim;

(d) is, may be deemed, or shall be construed against Plaintiffs, the Settlement Class, the Releasing Parties, or each or any of them, or against the Released Parties, or each or any of them, as an admission or concession that the consideration to be given hereunder

represents an amount equal to, less than or greater than that amount that could have or would have been recovered after trial; and

(e) is, may be deemed, or shall be construed as or received in evidence as an admission or concession against the Class Representatives, the Settlement Class, the Releasing Parties, or each and any of them, or against the Released Parties, or each or any of them, that any of Plaintiffs' claims are with or without merit or that damages recoverable in the Action would have exceeded or would have been less than any particular amount.

10.5 The Parties acknowledge that (a) any certification of the Settlement Class as set forth in this Agreement, including certification of the Settlement Class for settlement purposes in the context of Preliminary Approval, shall not be deemed a concession that certification of a litigation class is appropriate, or that the Settlement Class definition would be appropriate for a litigation class, nor would Defendant be precluded from challenging class certification in further proceedings in the Action or in any other action if the Settlement Agreement is not finalized or finally approved; (b) if the Settlement Agreement is not finally approved by the Court for any reason whatsoever, if the Court's approval is reversed or vacated on appeal, if this Settlement Agreement is terminated as provided herein, or if the Settlement set forth in this Settlement Agreement otherwise fails to become effective, then any certification of the Settlement Class will be void, the Parties and the Action shall be restored to the status quo ante, and no doctrine of waiver, estoppel or preclusion will be asserted in any litigated certification proceedings in the Action or in any other action, and this Settlement Agreement or any other settlement-related statement may not be cited regarding certification of the Class, or in support of an argument for certifying any class for any purpose related to this Action or any other proceeding; (c) no representations or agreements made by or entered into by Defendant in connection with the Settlement may be used by the Class Representatives, any person in the Settlement Class, or any

other person to establish any of the elements of class certification in any litigated certification proceedings, whether in the Action or any other judicial proceeding, (d) Defendant's agreement as to certification of the Settlement Class is solely for the purposes of effectuating the Settlement and no other purpose; and (e) Defendant retains all of its objections, arguments, and defenses with respect to class certification and any other issue, and reserves all rights to contest class certification and any other issue if the Settlement set forth in this Agreement does not result in entry of Final Judgment, if the Court's approval is reversed or vacated on appeal, if this Settlement is terminated as provided herein, or if the Settlement set forth in this Settlement Agreement otherwise fails to become effective.

10.6. This Agreement constitutes a compromise with denial of any liability by Defendant. The Agreement, any related documents, and any negotiations relating to or supporting the Agreement shall not be construed as, or deemed to be, evidence of an admission, or a concession of liability or wrongdoing of any type or nature on the part of Defendant, or any of the Released Parties (defined above), with respect to any claim of fault, liability, wrongdoing or damage whatsoever, with respect to the Action or with respect to the certifiability of a litigation class. Moreover, this Agreement and Defendant's participation in the settlement process, shall not be used against Defendant in any manner whatsoever to the extent the settlement does not ultimately obtain final approval.

10.7 No person or entity shall have any claim against the Class Representatives, Class Counsel, the Settlement Administrator or any other agent designated by Class Counsel, or the Released Parties and/or their counsel, arising from distributions made substantially in accordance with this Agreement. The Parties and their respective counsel and all other Released Parties shall have no liability whatsoever for the investment or distribution of payments and benefits subject to the Settlement Cap or the determination, administration, calculation, or payment of

any claim or nonperformance of the Settlement Administrator, the payment or withholding of taxes (including interest and penalties) owed in association with payments and benefits subject to the Settlement Cap, or any losses incurred in connection therewith.

10.8. All proceedings with respect to the administration, processing and determination of Claim Forms and settlement payments and the determination of all controversies relating thereto, including disputed questions of law and fact with respect to the validity of Claim Forms and settlement payments, shall be subject to the jurisdiction of the Court.

10.9 The headings used herein are used for the purpose of convenience only and are not meant to have legal effect.

10.10 The waiver by one Party of any breach of this Agreement by any other Party shall not be deemed as a waiver of any other prior or subsequent breaches of this Agreement.

10.11 All of the Recitals and Exhibits to this Agreement are material and integral parts thereof and are fully incorporated herein by this reference.

10.12 This Agreement and its Exhibits set forth the entire agreement and understanding of the Parties with respect to the matters set forth herein, and supersede all prior negotiations, agreements, arrangements and undertakings with respect to the matters set forth herein. No representations, warranties or inducements have been made to any Party concerning this Settlement Agreement or its Exhibits other than the representations, warranties and covenants contained and memorialized in such documents. This Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest.

10.13 Except as otherwise provided herein, each Party shall bear its own costs.

10.14 The Class Representatives represent and warrant that they have not assigned any claim or right or interest therein as against the Released Parties to any other Person or Party and that they are fully entitled to release the same.

10.15 Each counsel or other Person executing this Settlement Agreement, any of its Exhibits, or any related settlement documents on behalf of any Party hereto, hereby warrants and represents that such Person has the full authority to do so and has the authority to take appropriate action required or permitted to be taken pursuant to the Agreement to effectuate its terms. Class Counsel in particular warrants that they are authorized to execute this Settlement Agreement on behalf of Plaintiffs and the Settlement Class (subject to final approval by the Court after notice to all Settlement Class Members), and that all actions necessary for the execution of this Settlement Agreement have been taken.

10.16 This Agreement may be executed in one or more counterparts. Signature by digital means, facsimile, or in PDF format will constitute sufficient execution of this Agreement. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of original executed counterparts shall be filed with the Court if the Court so requests.

10.17 This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto and the Released Parties.

10.18 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Agreement, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in this Agreement.

10.19 This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of New York.

10.20 This Agreement is deemed to have been prepared by counsel for all Parties, as a result of arm's-length negotiations among the Parties. Because all Parties have contributed substantially and materially to the preparation of this Agreement, it shall not be construed more strictly against one Party than another.

10.21 Where this Agreement requires notice to the Parties, such notice shall be sent to the undersigned counsel: Philip L. Fraietta, Bursor & Fisher, P.A., 1330 Avenue of the Americas, 32nd Floor, New York, NY 10019; Christine M. Reilly, Manatt, Phelps & Phillips, LLP, 2049 Century Park East, Suite 1700, Los Angeles, CA 90067.

10.22 Plaintiffs and/or Class Counsel shall not, at any time, issue press releases or make other public statements regarding the Settlement or the Action (apart from filings with the Court as necessary to obtain Preliminary or Final Approval of the Settlement) unless Defendant agrees to such press releases or public statements in advance; provided that Class Counsel may post Court orders regarding the Action and brief summaries of those orders on their website(s) without permission from Defendant, so long as any reference in such order(s) to materials subject to any confidentiality obligations are properly redacted. This provision shall not prohibit Class Counsel from communicating with any person in the Settlement Class regarding the Settlement upon receipt of an inquiry from a Settlement Class member (subject to compliance with any and all applicable confidentiality obligations and this Settlement Agreement), provided that Class Counsel provides Defendant's Counsel with notice of such an inquiry.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGES TO FOLLOW]

IT IS SO AGREED TO BY THE PARTIES:

Dated: Aug 16, 2024

CLAIR AWAD

By: *Clair Awad*
Clair Awad (Aug 16, 2024 08:46 EDT)

Clair Awad, individually and as representative of the Settlement Class

Dated: Aug 16, 2024

SHANE MANNION

By: *Shane Mannion*
Mannion, Shane (Aug 16, 2024 08:49 EDT)

Shane Mannion, individually and as representative of the Settlement Class

Dated: August 16, 2024

FANDANGO MEDIA, LLC

By: *Kerry Samovar*

Kerry Samovar
Head of Legal and Business Affairs, Senior Vice President

IT IS SO STIPULATED BY COUNSEL:

Dated: August 16, 2024

BURSOR & FISHER, PA

By: *Philip L. Fraietta*

Philip L. Fraietta
pfraietta@bursor.com
BURSOR & FISHER, P.A.
1330 Avenue of the Americas, 32nd Floor
New York, New York 10019
Tel: (646) 837-7150
Fax: (212) 989-9163

Stefan Bogdanovich
sbogdanovich@bursor.com
BURSOR & FISHER, P.A.
1990 North California Blvd., Suite 940
Walnut Creek, CA 94596
Tel: (925) 300-4455
Fax: (925) 407-2700

Proposed Class Counsel

Dated: August 16, 2024

MANATT, PHELPS & PHILLIPS, LLP

By: Christine M. Reilly

Christine M. Reilly
creilly@manatt.com
MANATT, PHELPS & PHILLIPS, LLP
2049 Century Park East, Suite 1700
Los Angeles, CA 90067
Tel: (310) 312-4000
Fax: (310) 312-4224

Prana A. Topper
ptopper@manatt.com
MANATT, PHELPS & PHILLIPS, LLP
7 Times Square
New York, NY 10036
Tel: (212) 790-4615
Fax: (212) 536-1888

Attorneys for Defendant

EXHIBIT A

Awad v. Fandango Media, LLC

Supreme Court of the State of New York, County of Nassau

Index No. 610563/2024

Settlement Claim Form

If you are a Settlement Class Member and wish to receive a cash payment or a voucher, your completed Claim Form must be postmarked on or before [REDACTED], or submitted online on or before [REDACTED].

Please read the full notice of this settlement (available at [\[hyperlink\]](#)) carefully before filling out this Claim Form.

To be eligible to receive a \$5.00 cash payment or a \$10.00 voucher to Fandango at Home from the settlement obtained in this class action lawsuit, you must submit this completed Claim Form online or by mail.

ONLINE: Submit this Claim Form.

MAIL: [\[ADDRESS\]](#)

PART ONE: CLAIMANT INFORMATION & PAYMENT METHOD ELECTION

Provide your name and contact information below. It is your responsibility to notify the Settlement Administrator of any changes to your contact information after the submission of your Claim Form.

FIRST NAME

LAST NAME

STREET ADDRESS

CITY

STATE

ZIP CODE

EMAIL ADDRESS

POTENTIAL CASH PAYMENT OR FANDANGO AT HOME VOUCHER: You may be entitled to receive a **\$5.00** cash payment **or** a **\$10.00** Fandango at Home voucher if between August 29, 2022, to and through March 11, 2024, you paid a convenience fee to purchase electronic tickets to any movie in any movie theater located within New York state from Fandango’s website, mobile phone application, and/or any other Fandango owned or operated online platform. You may select only ONE option below:

\$5 Cash Payment

\$10 Fandango at Home Voucher

QUESTIONS? VISIT [\[hyperlink\]](#) OR CALL [\[NUMBER\]](#) TOLL-FREE

PREFERRED PAYMENT METHOD (For Cash Payment Only):

Venmo Venmo Username: _____

PayPal PayPal Email: _____

Zelle Zelle Email: _____

Check A check will be mailed to your mailing address above.

PART TWO: ATTESTATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury under the laws of the United States of America that between August 29, 2022, to and through March 11, 2024 I paid a convenience fee to purchase electronic tickets to any movie in any movie theater located within New York state from Fandango’s website, mobile phone application, and/or any other Fandango owned or operated online platform, and that all of the information on this Claim Form is true and correct to the best of my knowledge. I understand that my Claim Form may be subject to audit, verification, and Court review.

SIGNATURE

DATE

Please keep a copy of your Claim Form for your records.

EXHIBIT B

From: FandangoTicketFeeSettlement@fandangoticketfeesettlement.com
To: JonQClassMember@domain.com
Re: Legal Notice of Class Action Settlement

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT
Awad v. Fandango Media, LLC, Index No. 610563/2024
(Supreme Court of the State of New York, County of Nassau)

Our Records Indicate You May Have Paid a Convenience Fee to Purchase Electronic Tickets To A Movie In A Movie Theater Located Within New York State From Fandango’s Website, Mobile Phone Application, And/Or Any Other Fandango Owned Or Operated Online Platform From August 29, 2022, To And Through March 11, 2024. You May Be Entitled To A Payment From A Class Action Settlement.

A court authorized this notice. You are not being sued. This is not a solicitation from a lawyer.

This notice is to inform you that a settlement has been reached in a class action lawsuit claiming that Defendant Fandango Media, LLC (“Defendant”), failed to timely disclose a convenience fee for online tickets to movie theaters in New York state, in alleged violation of New York Arts and Cultural Affairs Law (“ACAL”) § 25.07(4). Defendant denies that it violated any law, but has agreed to the settlement to avoid the uncertainties and expenses associated with continuing the case.

Am I a Class Member? Our records indicate you may be a Class Member. Class Members are all individuals in the United States who paid a convenience fee to purchase electronic tickets to any movie in any movie theater located within New York state from Fandango’s website, mobile phone application, and/or any other Fandango owned or operated online platform from August 29, 2022, to and through March 11, 2024.

What Does The Settlement Provide? If approved by the Court, Defendant will establish a Settlement Benefit Cap of \$9,000,000.00. All approved claims submitted by the Settlement Class, together with notice and administration expenses, approved attorneys’ fees and costs to Class Counsel, and service awards to the Class Representatives will be subject to the Settlement Benefit Cap. To receive a payment, you must submit a timely and complete Claim Form by mail or online, submitted or postmarked **no later than [claims deadline]**. You may submit a valid Claim Form by accessing [hyperlink] for either (1) a \$5.00 cash payment; or (2) a \$10.00 voucher for Fandango at Home, at your election. The \$10.00 Fandango at Home voucher is a promotional code that can be used to rent or purchase movies or television shows for viewing on the Fandango at Home website or applications. If you elect a cash payment, it will be made by PayPal, Venmo, Zelle, or mailed check, at your election. Claim Forms must be submitted online by 11:59 p.m. EST on [DATE] or postmarked and mailed to [insert mailing address] by [DATE].

Defendant has also agreed to pay all approved claims to the Settlement Class, together with notice and administrative expenses, approved attorneys’ fees and costs to Class Counsel, and service awards to the Class Representatives. Additionally, Defendant has changed the purchase flow for

tickets to New York theatres on its website and agrees to comply with ACAL § 25.07(4) unless and until it is amended, repealed, or otherwise invalidated.

What are My Other Options? You may exclude yourself from the Class by sending a letter to the settlement administrator no later than [objection/exclusion deadline]. If you exclude yourself, you cannot get a settlement benefit, but you keep any rights you may have to sue the Defendant over the legal issues in the lawsuit. You and/or your lawyer have the right to appear before the Court and/or object to the proposed settlement. Your written objection must be filed no later than [objection/exclusion deadline]. Specific instructions about how to object to or exclude yourself from the Settlement are available at www.fandangoticketfeesettlement.com. If you file a claim or do nothing, and the Court approves the Settlement, you will be bound by all of the Court's orders and judgments. In addition, any claims relating to convenience fees in connection with electronic ticket sales on Fandango's website, mobile phone application, and/or any online platform owned or operated by or on behalf of Defendant from August 29, 2022 through and including March 11, 2024, will be released.

Who Represents Me? The Court has appointed lawyers Philip L. Fraietta and Stefan Bogdanovich of Bursor & Fisher, P.A. to represent the class. These attorneys are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

When Will the Court Consider the Proposed Settlement? The Court will hold the Final Approval Hearing at [time] m. on [date] in Courtroom X at the Supreme Court of the State of New York, County of Nassau, 100 Supreme Court Drive, Mineola, New York 11501. At that hearing, the Court will: hear any objections concerning the fairness of the settlement; determine the fairness of the settlement; decide whether to approve Class Counsel's request for attorneys' fees and costs; and decide whether to award Class Representatives Clair Awad and Shane Mannion \$5,000 each for their service in helping to bring and settle this case. Defendant has agreed to pay Class Counsel reasonable attorneys' fees in an amount to be determined by the Court. Class Counsel may seek no more than \$2,250,000, but the Court may award less than this amount.

How Do I Get More Information? For more information, including the full Notice, Claim Form and Settlement Agreement go to www.fandangoticketfeesettlement.com, contact the settlement administrator at 1-___-___-___ or Fandango Ticket Fee Settlement Administrator, [address], or call Class Counsel at 1-646-837-7150.

EXHIBIT C

SUPREME COURT OF THE STATE OF NEW YORK, COUNTY OF NASSAU*Awad v. Fandango Media, LLC*, Index No. 610563/2024

If You Paid A Convenience Fee To Purchase Electronic Tickets To a Movie In Any Movie Theater Located Within New York State From Fandango’s Website, Mobile Phone Application, And/Or Any Other Fandango Owned Or Operated Online Platform From August 29, 2022, To And Through March 11, 2024, You May Be Entitled To A Payment From A Class Action Settlement.

A court authorized this notice. You are not being sued. This is not a solicitation from a lawyer.

- A Settlement has been reached in a class action lawsuit claiming that Defendant Fandango Media, LLC (“Defendant”) failed to timely disclose a convenience fee for online tickets to movie theaters in New York state, in alleged violation of New York Arts and Cultural Affairs Law (“ACAL”) § 25.07(4). Defendant denies that it violated any law, but has agreed to the settlement to avoid the uncertainties and expenses associated with continuing the case.
- You are included if you paid a convenience fee to purchase electronic tickets to any movie in any movie theater located within New York state from Fandango’s website, mobile phone application, and/or any other Fandango owned or operated online platform from August 29, 2022, to and through March 11, 2024.
- Read this notice carefully. Your legal rights are affected whether you act, or do not act.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM BY [DATE]	This is the only way to receive a \$5.00 cash payment or \$10.00 voucher to Fandango at Home. You may file a claim here [hyperlink] or mail your claim form to [address]. You will also give up your rights to sue the Defendant about the claims in the case.
EXCLUDE YOURSELF BY [DATE]	You will receive no benefits, but you will retain any rights you currently have to sue the Defendant about the claims in this case.
OBJECT BY [DATE]	Write to the Court explaining why you do not like the Settlement.
GO TO THE HEARING ON [DATE]	Ask to speak in Court about your opinion of the Settlement.
DO NOTHING	You won’t get a share of the Settlement benefits and will give up your rights to sue the Defendant about the claims in this case.

These rights and options—**and the deadlines to exercise them**—are explained in this Notice.

QUESTIONS? CALL (800) 000-0000 TOLL FREE, OR VISIT WWW.FANDANGOTICKETFEESSETTLEMENT.COM

BASIC INFORMATION

1. Why was this Notice issued?

A Court authorized this notice because you have a right to know about a proposed Settlement of this class action lawsuit and about all of your options, before the Court decides whether to give final approval to the Settlement. This Notice explains the lawsuit, the Settlement, and your legal rights.

The case is called *Awad v. Fandango Media, LLC*, Index No. 610563/2024, pending in the Supreme Court of the State of New York, County of Nassau. The people who sued are called the Plaintiffs. The Defendant is Fandango Media, LLC.

2. What is a class action?

In a class action, one or more people called class representatives (in this case, Clair Awad and Shane Mannion) sue on behalf of a group or a “class” of people who have similar claims. In a class action, the court resolves the issues for all class members, except for those who exclude themselves from the Class.

3. What is this lawsuit about?

This lawsuit claims that Defendant failed to timely disclose a convenience fee for online tickets to movie theaters in New York state, in alleged violation of ACAL § 25.07(4). The Defendant denies it violated any law. The Court has not determined who is right or if Defendant violated the law. Rather, the Parties have agreed to settle the lawsuit to avoid the uncertainties and expenses associated with ongoing litigation.

4. Why is there a Settlement?

The Court has not decided whether the Plaintiffs or the Defendant should win this case. Instead, both sides agreed to a Settlement. That way, they avoid the uncertainties and expenses associated with ongoing litigation, and Class Members will get compensation sooner rather than after the completion of a trial, if at all.

WHO'S INCLUDED IN THE SETTLEMENT?

5. How do I know if I am in the Settlement Class?

The Court decided that everyone who fits the following description is a member of the **Settlement Class**:

All individuals in the United States who paid a convenience fee to purchase electronic tickets to any movie in any movie theater located within New York state from Fandango's website, mobile

phone application, and/or any other Fandango owned or operated online platform from August 29, 2022, to and through March 11, 2024.

THE SETTLEMENT BENEFITS

6. What does the Settlement provide?

Compensatory Relief. Settlement Class Members may submit a valid Claim Form by accessing [hyperlink] for either (1) a \$5.00 cash payment; or (2) a \$10.00 voucher for Fandango at Home, at their election. The \$10.00 Fandango at Home voucher is a promotional code that can be used to rent or purchase movies or television shows for viewing on the Fandango at Home website or applications.

Defendant has created a Settlement Benefit Cap totaling \$9,000,000.00. All payments for approved claims to the Settlement Class, together with notice and administrative expenses, approved attorneys' fees and costs to Class Counsel, and service awards to the Class Representatives will be subject to the Settlement Benefit Cap.

Prospective Relief. Additionally, Defendant has changed the purchase flow for tickets to New York theatres on its website and agrees to comply with ACAL § 25.07(4) unless and until it is amended, repealed, or otherwise invalidated.

A detailed description of the settlement benefits can be found in the Settlement Agreement, a copy of which is accessible on the Settlement Website by clicking [here](#). [insert hyperlink]

7. How much will my payment be?

You **must** submit a Claim Form (see instructions below) to receive a \$5.00 cash payment or a \$10.00 voucher to Fandango at Home, at your election.

You must provide proof of your Settlement Class membership when filing a claim by providing the unique Notice ID and Confirmation Code on the notice you received by e-mail. If for some reason you did not receive this information, but believe you are a Settlement Class Member, please call 1-XXX-XXX-XXXX to verify your identity and receive further information on how to file a claim.

8. When will I get my payment?

The hearing to consider the fairness of the settlement is scheduled for [Final Approval Hearing Date]. If the Court approves the settlement, you will receive an email with instructions for how to claim your \$5.00 cash payment or \$10.00 voucher to Fandango at Home, 30 days after the Settlement has been finally approved and/or after any appeals process is complete. If you elected a cash payment, your payment will be made in the form you elected (PayPal, Venmo, Zelle, or check), and all checks will expire

QUESTIONS? CALL (800) 000-0000 TOLL FREE, OR VISIT WWW.FANDANGOTICKETFEESSETTLEMENT.COM

and become void 180 days after they are issued. All Fandango at Home vouchers will expire no earlier than one (1) year after the date of issue.

HOW TO GET BENEFITS

9. How do I get a payment?

Settlement Class Members may submit a valid Claim Form by accessing [\[hyperlink\]](#) for either (1) a \$5.00 cash payment; or (2) a \$10.00 voucher for Fandango at Home, at their election.

REMAINING IN THE SETTLEMENT

10. What am I giving up if I stay in the Class?

If the Settlement becomes final, you will give up your right to sue the Defendant and other Released Parties for the claims being resolved by this Settlement. The specific claims you are giving up against the Defendant are described in the Settlement Agreement. You will be “releasing” the Defendant and certain of its affiliates, employees and representatives as described in Section [1.28](#) of the Settlement Agreement. Unless you exclude yourself (*see* Question 13), you are “releasing” the claims, regardless of whether you claim your settlement benefit or not. The Settlement Agreement is available through the “court documents” link on the website.

The Settlement Agreement describes the released claims with specific descriptions, so read it carefully. If you have any questions you can talk to the lawyers listed in Question 11 for free or you can, of course, talk to your own lawyer at your expense if you have questions.

THE LAWYERS REPRESENTING YOU

11. Do I have a lawyer in the case?

The Court has appointed Philip L. Fraietta and Stefan Bogdanovich of Bursor & Fisher, P.A. to be the attorneys representing the Settlement Class. They are called “Class Counsel.” They believe, after conducting an extensive investigation, that the Settlement Agreement is fair, reasonable, and in the best interests of the Settlement Class. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

12. How will the lawyers be paid?

Class Counsel's attorneys' fees, costs, and expenses will be paid separately by Defendant and as awarded by the Court. Class Counsel is entitled to seek no more than \$2,250,000, but the Court may award less than this amount.

As approved by the Court, the Class Representatives will separately be paid a service award by Defendant for helping to bring and settle the case. The Class Representatives may seek up to \$5,000 each as a service award, but the Court may award less than this amount.

EXCLUDING YOURSELF FROM THE SETTLEMENT

13. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must submit a request for exclusion by 11:59 p.m. EST on [objection/exclusion deadline]. Requests for exclusion may be submitted either on the Settlement Website (via the online form accessible [here](#) [insert hyperlink]) or by mailing or otherwise deliver a letter (or request for exclusion) stating that you want to be excluded from the *Awad v. Fandango Media, LLC*, Index No. 610563/2024 settlement. Your letter or request for exclusion must also include (i) your name, (ii) your address, (iii) a statement that you paid a convenience fee to purchase electronic tickets to any movie in any movie theater located within New York state from Fandango's website, mobile phone application, and/or any other Fandango owned or operated online platform from August 29, 2022, to and through March 11, 2024, (iv) your signature, (v) the name and number of this case, and a (vi) statement that you wish to be excluded. If you choose to submit a request for exclusion by mail, you must mail or deliver your exclusion request, postmarked no later than [objection/exclusion deadline], to the following address:

Fandango Ticket Fee Settlement
0000 Street
City, ST 00000

14. If I don't exclude myself, can I sue the Defendant for the same thing later?

No. Unless you exclude yourself, you give up any right to sue the Defendant for the claims being resolved by this Settlement.

15. If I exclude myself, can I get anything from this Settlement?

No. If you exclude yourself, you will not receive any payment from the Settlement Fund. You will not receive a \$5.00 cash payment or a \$10.00 voucher for Fandango at Home.

OBJECTING TO THE SETTLEMENT

QUESTIONS? CALL (800) 000-0000 TOLL FREE, OR VISIT WWW.FANDANGOTICKETFEESSETTLEMENT.COM

16. How do I object to the Settlement?

If you are a Class Member, you can object to the Settlement if you do not like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must file with the Court a letter or brief stating that you object to the Settlement in *Awad v. Fandango Media, LLC*, Index No. 610563/2024 and identify all your reasons for your objections (including citations and supporting evidence) and attach any materials you rely on for your objections. Your letter or brief must also include your name, your address, the basis upon which you claim to be a Class Member, the name and contact information of any and all attorneys representing, advising, or in any way assisting you in connection with your objection, and your signature. If you, or an attorney assisting you with your objection, have ever objected to any class action settlement where you or the objecting attorney has asked for or received payment in exchange for dismissal of the objection (or any related appeal) without modification to the settlement, you must include a statement in your objection identifying each such case by full case caption. You must also mail or deliver a copy of your letter or brief to Class Counsel and Defendant's Counsel listed below.

Class Counsel will file with the Court and post on this website its request for attorneys' fees by [two weeks prior to objection deadline].

If you want to appear and speak at the Final Approval Hearing to object to the Settlement, with or without a lawyer (explained below in answer to Question Number 20), you must say so in your letter or brief. File the objection with the Court (or mail the objection to the Court) and mail a copy of the objection to Class Counsel and Defendant's Counsel, at the addresses below, postmarked no later than [objection deadline].

Court	Class Counsel	Defendant's Counsel
The Honorable [NAME] Supreme Court of the State of New York, County of Nassau 100 Supreme Court Drive Mineola, New York 11501	Philip L. Fraietta Bursor & Fisher P.A. 1330 Avenue of the Americas, 32nd Floor New York, NY 10019	Christine M. Reilly Manatt, Phelps & Phillips, LLP 2049 Century Park East, Suite 1700 Los Angeles, CA 90067

17. What's the difference between objecting and excluding myself from the Settlement?

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

THE COURT'S FINAL APPROVAL HEARING

QUESTIONS? CALL (800) 000-0000 TOLL FREE, OR VISIT WWW.FANDANGOTICKETFEESSETTLEMENT.COM

18. When and where will the Court decide whether to approve the Settlement?

The Court will hold the Final Approval Hearing at [redacted] on [date] in Courtroom X at the Supreme Court of the State of New York, County of Nassau, 100 Supreme Court Drive, Mineola, New York 11501. The purpose of the hearing will be for the Court to determine whether to approve the Settlement as fair, reasonable, adequate, and in the best interests of the Class; to consider the Class Counsel's request for attorneys' fees and expenses; and to consider the request for service awards to the Class Representatives. At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the Settlement.

The hearing may be postponed to a different date or time without notice, so it is a good idea to check for updates by visiting the Settlement Website at www.fandangoticketfeesettlement.com or by calling (800) 000-0000. If, however, you timely objected to the Settlement and advised the Court that you intend to appear and speak at the Final Approval Hearing, you will receive notice of any change in the date of the Final Approval Hearing.

19. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. But, you are welcome to come at your own expense. If you send an objection or comment, you do not have to come to Court to talk about it. As long as you filed and mailed your written objection on time, the Court will consider it. You may also pay another lawyer to attend, but it is not required.

20. May I speak at the hearing?

Yes. You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must include in your letter or brief objecting to the settlement a statement saying that it is your "Notice of Intent to Appear in *Awad v. Fandango Media, LLC*, Index No. 610563/2024." It must include your name, address, telephone number and signature as well as the name and address of your lawyer, if one is appearing for you. Your objection and notice of intent to appear must be filed with the Court and postmarked no later than [objection deadline] and be sent to the addresses listed in Question 16.

GETTING MORE INFORMATION**21. Where do I get more information?**

This Notice summarizes the Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement at www.fandangoticketfeesettlement.com. You may also write with questions to Fandango Ticket Fee Settlement, P.O. Box 0000, City, ST 00000. You can call the Settlement Administrator at (800) 000-0000 or Class Counsel at

QUESTIONS? CALL (800) 000-0000 TOLL FREE, OR VISIT WWW.FANDANGOTICKETFEESSETTLEMENT.COM

(646) 837-7150, if you have any questions. Before doing so, however, please read this full Notice carefully. You may also find additional information elsewhere on the case website.

EXHIBIT D

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU**

CLAIR AWAD and SHANE MANNION,
individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

FANDANGO MEDIA, LLC,

Defendant.

Index No. 610563/2024

STIPULATION REGARDING UNDERTAKING
RE: ATTORNEYS' FEES, COSTS, AND EXPENSES

Plaintiffs Clair Awad and Shane Mannion (“Plaintiffs”) and Fandango Media, LLC (“Defendant”) (collectively, “the Parties”), by and through and including their undersigned counsel, stipulate and agree as follows:

WHEREAS, Bursor & Fisher, P.A. (the “Firm”) desires to give an undertaking (the “Undertaking”) for repayment of the award of attorneys’ fees, costs, and expenses approved by the Court, and

WHEREAS, the Parties agree that this Undertaking is in the interests of all Parties and in service of judicial economy and efficiency.

NOW, THEREFORE, the undersigned counsel, as agent for his law firm, hereby submits his law firm to the jurisdiction of the Court for the purpose of enforcing the provisions of this Undertaking.

Capitalized terms used herein without definition have the meanings given to them in the Settlement Agreement.

By receiving any payments pursuant to the Settlement Agreement, the Firm and its shareholders, members, and/or partners submit to the jurisdiction of the Supreme Court of the State of New York, County of Nassau for the enforcement of and any and all disputes relating to or arising out of the reimbursement obligation set forth herein and the Settlement Agreement.

In the event that the Final Approval Order or any part of it is vacated, overturned, reversed, or rendered void as a result of an appeal, or the Settlement Agreement is voided, rescinded, or otherwise terminated for any other reason, the Firm shall, within fourteen (14) days repay to Defendant, based upon written instructions provided by Defendant's Counsel, the full amount of the attorneys' fees and costs previously paid to the Firm in connection with the settlement, including any accrued interest.

In the event the Final Approval Order is upheld, but the attorneys' fees, costs, and expenses awarded by the Court or any part of them are vacated, modified, reversed, or rendered void as a result of an appeal, the Firm shall within fourteen (14) days repay to the Defendant, based upon written instructions provided by Defendant's Counsel, the attorneys' fees and costs previously paid to the Firm by Defendant in the amount vacated or modified, including any accrued interest.

This Undertaking and all obligations set forth herein shall expire if no repayment obligations arise prior to or upon finality of all direct appeals of the Final Approval Order.

In the event the Firm fails to repay to Defendant any of the attorneys' fees and costs that are owed pursuant to this Undertaking, the Court shall, upon application of Defendant, and notice to the Firm, summarily issue orders, including but not limited to judgments and attachment orders against the Firm, and may make appropriate findings for sanctions for contempt of court. The Court may also award Defendant interest on any amount that was not

timely repaid by the Firm to Defendant. The Firm shall be responsible for Defendant's attorneys' fees and costs incurred in connection with enforcing this Undertaking.

The undersigned Scott A. Bursor stipulates, warrants, and represents that he has both actual and apparent authority to enter into this stipulation, agreement, and undertaking on behalf of the Firm.

This Undertaking may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signatures by facsimile, PDF, or other electronic means shall be as effective as original signatures.

This Court retains jurisdiction to resolve any disputes that may arise under this Undertaking.

The undersigned declare under penalty of perjury under the laws of the United States that they have read and understand the foregoing and that it is true and correct.

IT IS SO STIPULATED THROUGH COUNSEL OF RECORD:

DATED: August 16, 2024

BURSOR & FISHER, P.A.



By: Scott A. Bursor, on behalf of Bursor & Fisher, P.A.
Attorneys for Plaintiffs

DATED: August 16, 2024

MANATT, PHELPS & PHILLIPS, LLP



By: Christine M. Reilly, on behalf of Defendant Fandango Media, LLC

SHORT FORM ORDER

SUPREME COURT OF THE STATE OF NEW YORK

PRESENT: HON. DENISE L. SHER
Supreme Court Justice

.....
CLAIR AWAD and SHANE MANNION, individually
and on behalf of all others similarly situated,

Plaintiffs,

- against -

FANDANGO MEDIA, LLC,

Defendant.
.....

TRIAL/IAS PART 30
NASSAU COUNTY

Index No.: 610563/2024
Motion Seq. No.: 01
Motion Date: 09/09/2024

The following papers have been read on this motion:

	Papers Numbered
Notice of Motion, Affirmation and Exhibits, Memorandum of Law	1

Upon the foregoing papers, it is ordered that the motion is decided as follows:

Plaintiffs' unopposed motion, pursuant to Article 9 of the CPLR, for an order

- (i) granting preliminary approval of the Class Action Settlement; (ii) provisionally certifying the Settlement Class under CPLR 902 in connection with the settlement process;
- (iii) appointing Philip L. Fraietta and Stefan Bogdanovich of Bursor & Fisher, P.A. as Class Counsel; (iv) appointing Clair Awad and Shane Mannion as the Class Representatives for the Settlement Class; (v) approving the Notice Plan for the Class Action Settlement described in the Class Action Settlement Agreement and its Exhibits, as well as the specific Notice of Class Action and Proposed Settlement (the 'Proposed Notice'), attached as Exhibits B-C to the Settlement Agreement, and directing distribution of the Proposed Notice, is hereby **GRANTED**. And it is further

ORDERED, DECREED, AND ADJUDGED AS FOLLOWS:

1. Terms and phrases in this Order shall have the same meaning as ascribed to them in the Settlement Agreement.
2. The Parties have moved the Court for an order approving the settlement of the Action in accordance with the Settlement Agreement, which, together with the documents incorporated therein, sets forth the terms and conditions for a proposed settlement and dismissal of the Action with prejudice, and the Court having read and considered the Settlement Agreement and having heard the parties and being fully advised in the premises, hereby preliminarily approves the Settlement Agreement in its entirety subject to the Final Approval Hearing referred to in paragraph 5 of this Order.
3. This Court finds that it has jurisdiction over the subject matter of this action and over all Parties to the Action.
4. The Court preliminarily finds that, subject to the Final Approval Hearing, the Settlement Agreement is fair, reasonable, and adequate, within the range of possible approval, and in the best interests of the Settlement Class set forth below. The Court further preliminarily finds that the Settlement Agreement substantially fulfills the purposes and objectives of the class action, and provides substantial relief to the Settlement Class without the risks, burdens, costs, or delay associated with continued litigation, trial, and/or appeal. The Court also finds that the Settlement Agreement (a) is the result of arm's-length negotiations between experienced class action attorneys; (b) is sufficient to warrant notice of the settlement and the Final Approval Hearing to be disseminated to the Settlement Class; (c) meets all applicable requirements of law, including CPLR Article 9;

and (d) is not a finding or admission of liability by the Defendant or any other person, nor a finding of the validity of any claims asserted in the Action or of any wrongdoing or any violation of law.

Final Approval Hearing

5. The Final Approval Hearing shall be held before this Court on **February 27, 2025**, at **9:00 a.m.**, IAS Part 30 at the Supreme Court of the State of New York, County of Nassau, 100 Supreme Court Drive, Mineola, NY to determine (a) whether the proposed settlement of the Action on the terms and conditions provided for in the Settlement Agreement is fair, reasonable, and adequate and should be given final approval by the Court; (b) whether a judgment and order of dismissal with prejudice should be entered; (c) whether to approve the payment of attorneys' fees, costs, and expenses to Class Counsel; and (d) whether to approve the payment of service awards to the Class Representatives.

The Court may adjourn the Final Approval Hearing without further notice to members of the Settlement Class.

6. Class Counsel shall file papers in support of their Fee Award and Class Representatives' Service Awards (collectively, the "Fee Petition") with the Court on or before **December 16, 2024**. Defendant may, but is not required to, file a response to Class Counsel's Fee Petition with the Court on or before **February 6, 2025**.

Class Counsel may file a reply in support of their Fee Petition with the Court on or before **February 13, 2025**.

7. Papers in support of final approval of the Settlement Agreement shall be filed with the Court on or before **February 6, 2025**.

Certification of the Settlement Class

8. For purposes of settlement only: (a) Philip L. Fraietta and Stefan Bogdanovich of Bursor & Fisher, P.A. are appointed Class Counsel for the Settlement Class; and (b) Clair Awad and Shane Mannion are named Class Representatives. The Court finds that these attorneys are competent and capable of exercising the responsibilities of Class Counsel and that Plaintiffs will adequately protect the interests of the Settlement Class defined below.

9. For purposes of settlement only, the Court conditionally certifies the following Settlement Class as defined in the Settlement Agreement:

All individuals in the United States who purchased electronic tickets and paid a convenience fee to any movie in any movie theater located within New York state from Fandango's website, mobile phone application, and/or any other Fandango owned or operated online platform from August 29, 2022, to and through March 11, 2024.¹

10. The Court preliminarily finds, subject to the Final Approval Hearing referred to in Paragraph 5 above, that the Settlement Agreement is fundamentally fair, adequate, and reasonable, and, solely within the context of and for the purposes of settlement only, that the Settlement Class satisfies the requirements of CPLR 901, specifically, that: the Settlement Class is so numerous that joinder of all members is impracticable; there are questions of fact and law common to the Settlement Class (*e.g.*, whether Defendant failed to adequately disclose the total price (including the convenience fee) and the convenience fee in violation of New York Arts & Cultural Affairs Law § 25.07(4); and whether the displayed price of Defendant's tickets

¹ Excluded from the Settlement Class are (1) any Judge or Magistrate presiding over this Action and members of their families; (2) the Defendant, Defendant's subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and their current or former officers, directors, agents, attorneys, and employees; (3) persons who properly execute and file a timely request for exclusion from the class; and (4) the legal representatives, successors or assigns of any such excluded persons.

increased during the purchase process in violation of New York Arts & Cultural Affairs Law § 25.07(4)); the claims of the Class Representatives are typical of the claims of the members of the Settlement Class; the Class Representatives and Class Counsel will fairly and adequately protect the interests of the members of the Settlement Class; common questions of law or fact predominate over questions affecting individual members; and a class action is a superior method for fairly and efficiently adjudicating the Action.

11. If the Settlement Agreement does not receive the Court's final approval, or if final approval is reversed or vacated on appeal, or if the Settlement Agreement is terminated or otherwise fails to become effective, the Court's grant of class certification shall be vacated, and the Class Representatives and the Settlement Class will once again bear the burden of establishing the propriety of class certification. In such case, neither the certification of the Settlement Class for settlement purposes, nor any other act relating to the negotiation or execution of the Settlement Agreement or the motion for preliminary approval shall be considered as a factor in connection with any class certification issue(s).

Notice and Administration

12. The Court approves, as to form, content, and distribution, the Notice Plan set forth in the Settlement Agreement, including Claim Form attached to the Settlement Agreement as Exhibit A, the Notice Plan and all forms of Notice to the Settlement Class as set forth in the Settlement Agreement and Exhibits B and C, thereto, and finds that such Notice is the best notice practicable under the circumstances, and that the Notice complies fully with the requirements of CPLR 904 and 908. The Court also finds that the Notice constitutes valid, due, and sufficient notice to all persons entitled thereto, and meets the requirements of Due Process. The Court further finds that the Notice is reasonably calculated to, under all circumstances, reasonably

apprise members of the Settlement Class of the pendency of this action, the terms of the Settlement Agreement, and the right to object to the settlement and to exclude themselves from the Settlement Class. In addition, the Court finds that no notice other than that specifically identified in the Settlement Agreement is necessary in this Action. The Parties, by agreement, may revise the Notice and Claim Form in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting.

13. The Court approves the request for the appointment of Epiq as Settlement Administrator of the Settlement Agreement.

14. Pursuant to paragraph 4.1 of the Settlement Agreement, the Settlement Administrator is directed to publish the Notice and Claim Form on the Settlement Website and to send direct notice via email in accordance with the Notice Plan called for by the Settlement Agreement. The Settlement Administrator shall also maintain the Settlement Website to provide full information about the Settlement and allow for the filing of claims online. The Notice Date is **November 29, 2024**.

Submission of Claims and Requests for Exclusion from Class

15. Members of the Class who wish to receive benefits under the Settlement Agreement must complete and submit a timely and valid Claim Form(s) in accordance with the instructions contained therein. All Claim Forms must be postmarked or received by the Settlement Administrator no later than thirty (30) days after the Final Approval Hearing.

16. Any person falling within the definition of the Settlement Class may, upon valid and timely request, exclude themselves or “opt out” from the Class. Any such person may do so if, on or before the Objection/Exclusion Deadline of **January 28, 2025** they comply with

the exclusion procedures set forth in the Settlement Agreement and Notice.

Any members of the Class so excluded shall neither be bound by the terms of the Settlement Agreement nor entitled to any of its benefits.

17. Any members of the Settlement Class who elect to exclude themselves or “opt out” of the Settlement Agreement must file a written request with the Settlement Administrator, received or postmarked no later than the Objection/Exclusion Deadline.

The request for exclusion must comply with the exclusion procedures set forth in the Settlement Agreement and Notice and include the Settlement Class member’s name and address, a signature, a statement that he/she paid a convenience fee to purchase electronic tickets to any movie in any movie theater located within New York state from Fandango’s website, mobile phone application, and/or any other Fandango owned or operated online platform from August 29, 2022, to and through March 11, 2024, and a statement that he or she wishes to be excluded from the Settlement Class for purposes of this Settlement.

Each request for exclusion must be submitted individually. So called “mass” or “class” opt-outs shall not be allowed.

18. Individuals who opt out of the Class relinquish all rights to benefits under the Settlement Agreement and will not release their claims. However, members of the Settlement Class who fail to submit a valid and timely request for exclusion shall be bound by all terms of the Settlement Agreement and the Final Judgment, regardless of whether they have requested exclusion from the Settlement Agreement.

Appearances and Objections

19. At least twenty-one (21) calendar days before the Final Approval Hearing, any person who falls within the definition of the Settlement Class and who does not request exclusion from the Class may enter an appearance in the Action, at their own expense, individually or through counsel of their own choice. Any Settlement Class Member who does not enter an appearance will be represented by Class Counsel.

20. Any members of the Settlement Class who have not timely filed a request for exclusion may object to the fairness, reasonableness, or adequacy of the Settlement Agreement or to a Final Judgment being entered dismissing the Action with prejudice in accordance with the terms of the Settlement Agreement, or to the attorneys' fees and expense reimbursement sought by Class Counsel in the amounts specified in the Notice, or to the award to the Class Representatives as set forth in the Notice and Settlement Agreement.

At least fourteen (14) days prior to the Objection/Exclusion Deadline, papers supporting the Fee Award shall be filed with the court and posted to the settlement website.

Members of the Class may object on their own, or may do so through separate counsel at their own expense.

21. To object, members of the Class must sign and file a written objection on or before the Objection/Exclusion Deadline of **January 28, 2025**. To be valid, the objection must comply with the objection procedures set forth in the Settlement Agreement and Notice, and include his or her name and address; an explanation of the basis upon which he or she claims to be a Settlement Class Member; a signature; all grounds for the objection, including all citations to legal authority and evidence supporting the objection; the name and contact information of any and all attorneys representing, advising,

or in any way assisting him or her in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection (the “Objecting Attorneys”); and a statement indicating whether he or she intends to appear at the Final Approval Hearing (either personally or through counsel who files an appearance with the Court in accordance with the Court Rules). If a Settlement Class Member or any of the Objecting Attorneys has objected to any class action settlement where the objector or the Objecting Attorneys asked for or received any payment in exchange for dismissal of the objection, or any related appeal, without any modification to the settlement, then the objection must include a statement identifying each such case by full case caption.

22. Members of the Class who fail to file and serve timely written objections in compliance with the requirements of this paragraph and the Settlement Agreement shall be deemed to have waived any objections and shall be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement Agreement or to any of the subjects listed in paragraph 5, above, *i.e.* (a) whether the proposed settlement of the Action on the terms and conditions provided for in the Settlement Agreement is fair, reasonable, and adequate and should be given final approval by the Court; (b) whether a judgment and order of dismissal with prejudice should be entered; (c) whether to approve the payment of attorneys’ fees and expenses to Class Counsel; and (d) whether to approve the payment of service awards to the Class Representatives.

23. To be valid, objections must be filed with the Court and sent to the following:

Class Counsel, Philip L. Fraietta, Bursor & Fisher, P.A., 1330 Avenue of the Americas, 32nd Floor, New York, NY 10019; and Defendant’s Counsel, Christine M. Reilly,

Manatt, Phelps & Phillips, LLP, 2049 Century Park East, Suite 1700, Los Angeles, CA 90067.

In addition, any objections made by a Class member represented by counsel must be filed through the Court's electronic filing system.

Further Matters

24. All further proceedings in the Action are ordered stayed until Final Judgment or termination of the Settlement Agreement, whichever occurs earlier, except for those matters necessary to obtain and/or effectuate final approval of the Settlement Agreement.

Defendant's time to answer, move or otherwise respond to the complaint herein is hereby tolled effective from the date of the execution of the Term Sheet.

25. Members of the Settlement Class shall be bound by all determinations and judgments in the Action concerning the Action and/or Settlement Agreement, whether favorable or unfavorable.

26. The Court retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement Agreement. The Court may approve the Settlement, with such modifications as may be agreed to by the Parties, if appropriate, without further notice to the Class.

27. All Settlement Class Members who do not timely exclude themselves from the Settlement: (a) shall be bound by the provisions of the Settlement Agreement and all proceedings, determinations, orders and judgments in the Action relating thereto, including, without limitation, the Judgment or Alternate Judgment, if applicable, and the Releases provided for therein, whether favorable or unfavorable to the Class; and (b) to the fullest extent permitted by law, shall forever be barred and enjoined from directly or indirectly filing, commencing, instituting, prosecuting, maintaining, participating in (as a class member or

otherwise), or intervening in any lawsuit, action, cause of action, arbitration, claim, demand, or other proceeding in any jurisdiction, whether in the United States or elsewhere, on their own behalf or in a representative capacity, that is related to or arises out of any or all of the Released Claims against Defendant and/or any of the Released Parties, as more fully described in the Settlement Agreement.

28. If the Settlement Agreement is not approved by the Court in complete accordance with its terms, each party will have the option of having the Action revert to its status as if the Settlement Agreement had not been negotiated, made, or filed with the Court. In such event, the parties will retain all rights as if the Settlement Agreement was never agreed upon.


29. The Court hereby authorizes the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of the Settlement Agreement and its implementing documents (including Exhibits A, B, C, and D to the Settlement Agreement) so long as they are consistent in all material respects with the terms of the Settlement Agreement and do not limit or impair the rights of the Settlement Class or materially expand the obligations of Defendant.

30. If the Settlement Agreement is terminated pursuant to the provisions of the Settlement Agreement or for any reason whatsoever the approval of it does not become Final then (i) the Settlement Agreement shall be null and void, including any provision related to the award of attorneys' fees, and shall have no further force and effect with respect to any party in this Action, and shall not be used in this Action or in any other proceeding for any purpose; (ii) all negotiations, proceedings, documents prepared, and statements made in connection therewith, including the submissions made in support of preliminary approval, shall be without prejudice to any person or party hereto, shall not be deemed or construed to be

an admission by any party of any act, matter, or proposition, and shall not be used in any manner or for any purpose in any subsequent proceeding in this Action or in any other action in any court or other proceeding, provided, however, that the termination of the Settlement Agreement shall not shield from subsequent discovery any factual information provided in connection with the negotiation of this Settlement Agreement that would ordinarily be discoverable but for the attempted settlement; and (iii) other than as expressly preserved by the Settlement Agreement in the event of its termination, the Settlement Agreement shall have no further force and effect with respect to any party and shall not be used in the Action or any other proceeding for any purpose.

29. Stay of Proceedings. All proceedings in this Action are stayed until further order of the Court, except as may be necessary to implement the Settlement or comply with the terms of the Settlement. Pending determination of whether the Settlement should be granted final approval, no party shall pursue in this Action any claims or defenses otherwise available to them in the Action, and no Settlement Class Member, either directly, on a representative basis, or in any other capacity, will commence or prosecute against Defendant or any of the Released Parties any action or proceeding asserting any of the Released Claims.

This constitutes the Decision and Order of this Court.

ENTER:

DENISE L. SHER, J.S.C.

Dated: Mineola, New York
October 30, 2024

ENTERED
Oct 31 2024

NASSAU COUNTY
COUNTY CLERK'S OFFICE



BURSOR & FISHER
P.A.

www.bursor.com

701 BRICKELL AVENUE
MIAMI, FL 33131

1330 AVENUE OF THE AMERICAS
NEW YORK, NY 10019

1990 NORTH CALIFORNIA BLVD.
WALNUT CREEK, CA 94596

FIRM RESUME

With offices in Florida, New York, and California, BURSOR & FISHER lawyers have represented both plaintiffs and defendants in state and federal courts throughout the country.

The lawyers at our firm have an active civil trial practice, having won multi-million-dollar verdicts or recoveries in six of six class action jury trials since 2008. Our most recent class action trial victory came in May 2019 in *Perez v. Rash Curtis & Associates*, in which Mr. Bursor served as lead trial counsel and won a \$267 million jury verdict against a debt collector found to have violated the Telephone Consumer Protection Act. During the pendency of the defendant's appeal, the case settled for \$75.6 million, the largest settlement in the history of the Telephone Consumer Protection Act.

In August 2013 in *Ayyad v. Sprint Spectrum L.P.*, in which Mr. Bursor served as lead trial counsel, we won a jury verdict defeating Sprint's \$1.06 billion counterclaim and securing the class's recovery of more than \$275 million in cash and debt relief.

In *Thomas v. Global Vision Products, Inc. (II)*, we obtained a \$50 million jury verdict in favor of a certified class of 150,000 purchasers of the Avacor Hair Regrowth System. The legal trade publication VerdictSearch reported that this was the second largest jury verdict in California in 2009, and the largest in any class action.

The lawyers at our firm have an active class action practice and have won numerous appointments as class counsel to represent millions of class members, including customers of Honda, Verizon Wireless, AT&T Wireless, Sprint, Haier America, and Michaels Stores as well as purchasers of Avacor™, Hydroxycut, and Sensa™ products. Bursor & Fisher lawyers have been court-appointed Class Counsel or Interim Class Counsel in:

1. *O'Brien v. LG Electronics USA, Inc.* (D.N.J. Dec. 16, 2010) to represent a certified nationwide class of purchasers of LG French-door refrigerators,
2. *Ramundo v. Michaels Stores, Inc.* (N.D. Ill. June 8, 2011) to represent a certified nationwide class of consumers who made in-store purchases at Michaels Stores using a debit or credit card and had their private financial information stolen as a result,
3. *In re Haier Freezer Consumer Litig.* (N.D. Cal. Aug. 17, 2011) to represent a certified class of purchasers of mislabeled freezers from Haier America Trading, LLC,
4. *Rodriguez v. CitiMortgage, Inc.* (S.D.N.Y. Nov. 14, 2011) to represent a certified nationwide class of military personnel against CitiMortgage for illegal foreclosures,

5. *Rossi v. The Procter & Gamble Co.* (D.N.J. Jan. 31, 2012) to represent a certified nationwide class of purchasers of Crest Sensitivity Treatment & Protection toothpaste,
6. *Dzielak v. Whirlpool Corp. et al.* (D.N.J. Feb. 21, 2012) to represent a proposed nationwide class of purchasers of mislabeled Maytag Centennial washing machines from Whirlpool Corp., Sears, and other retailers,
7. *In re Sensa Weight Loss Litig.* (N.D. Cal. Mar. 2, 2012) to represent a certified nationwide class of purchasers of Sensa weight loss products,
8. *In re Sinus Buster Products Consumer Litig.* (E.D.N.Y. Dec. 17, 2012) to represent a certified nationwide class of purchasers,
9. *Ebin v. Kangadis Food Inc.* (S.D.N.Y. Feb. 25, 2014) to represent a certified nationwide class of purchasers of Capatriti 100% Pure Olive Oil,
10. *Forcellati v. Hyland's, Inc.* (C.D. Cal. Apr. 9, 2014) to represent a certified nationwide class of purchasers of children's homeopathic cold and flu remedies,
11. *Ebin v. Kangadis Family Management LLC, et al.* (S.D.N.Y. Sept. 18, 2014) to represent a certified nationwide class of purchasers of Capatriti 100% Pure Olive Oil,
12. *In re Scotts EZ Seed Litig.* (S.D.N.Y. Jan. 26, 2015) to represent a certified class of purchasers of Scotts Turf Builder EZ Seed,
13. *Dei Rossi v. Whirlpool Corp., et al.* (E.D. Cal. Apr. 28, 2015) to represent a certified class of purchasers of mislabeled KitchenAid refrigerators from Whirlpool Corp., Best Buy, and other retailers,
14. *Hendricks v. StarKist Co.* (N.D. Cal. July 23, 2015) to represent a certified nationwide class of purchasers of StarKist tuna products,
15. *In re NVIDIA GTX 970 Graphics Card Litig.* (N.D. Cal. May 8, 2015) to represent a proposed nationwide class of purchasers of NVIDIA GTX 970 graphics cards,
16. *Melgar v. Zicam LLC, et al.* (E.D. Cal. March 30, 2016) to represent a certified ten-jurisdiction class of purchasers of Zicam Pre-Cold products,
17. *In re Trader Joe's Tuna Litigation* (C.D. Cal. December 21, 2016) to represent purchaser of allegedly underfilled Trader Joe's canned tuna.
18. *In re Welspun Litigation* (S.D.N.Y. January 26, 2017) to represent a proposed nationwide class of purchasers of Welspun Egyptian cotton bedding products,
19. *Retta v. Millennium Products, Inc.* (C.D. Cal. January 31, 2017) to represent a certified nationwide class of Millennium kombucha beverages,
20. *Moeller v. American Media, Inc.,* (E.D. Mich. June 8, 2017) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
21. *Hart v. BHH, LLC* (S.D.N.Y. July 7, 2017) to represent a nationwide class of purchasers of Bell & Howell ultrasonic pest repellers,
22. *McMillion v. Rash Curtis & Associates* (N.D. Cal. September 6, 2017) to represent a certified nationwide class of individuals who received calls from Rash Curtis & Associates,

23. *Lucero v. Solarcity Corp.* (N.D. Cal. September 15, 2017) to represent a certified nationwide class of individuals who received telemarketing calls from Solarcity Corp.,
24. *Taylor v. Trusted Media Brands, Inc.* (S.D.N.Y. Oct. 17, 2017) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
25. *Gasser v. Kiss My Face, LLC* (N.D. Cal. Oct. 23, 2017) to represent a proposed nationwide class of purchasers of cosmetic products,
26. *Gastelum v. Frontier California Inc.* (S.F. Superior Court February 21, 2018) to represent a certified California class of Frontier landline telephone customers who were charged late fees,
27. *Williams v. Facebook, Inc.* (N.D. Cal. June 26, 2018) to represent a proposed nationwide class of Facebook users for alleged privacy violations,
28. *Ruppel v. Consumers Union of United States, Inc.* (S.D.N.Y. July 27, 2018) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
29. *Bayol v. Health-Ade* (N.D. Cal. August 23, 2018) to represent a proposed nationwide class of Health-Ade kombucha beverage purchasers,
30. *West v. California Service Bureau* (N.D. Cal. September 12, 2018) to represent a certified nationwide class of individuals who received calls from California Service Bureau,
31. *Gregorio v. Premier Nutrition Corporation* (S.D.N.Y. Sept. 14, 2018) to represent a nationwide class of purchasers of protein shake products,
32. *Moeller v. Advance Magazine Publishers, Inc. d/b/a Condé Nast* (S.D.N.Y. Oct. 24, 2018) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
33. *Bakov v. Consolidated World Travel Inc. d/b/a Holiday Cruise Line* (N.D. Ill. Mar. 21, 2019) to represent a certified class of individuals who received calls from Holiday Cruise Line,
34. *Martinelli v. Johnson & Johnson* (E.D. Cal. March 29, 2019) to represent a certified class of purchasers of Benecol spreads labeled with the representation “No Trans Fat,”
35. *Edwards v. Hearst Communications, Inc.* (S.D.N.Y. April 24, 2019) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
36. *Galvan v. Smashburger* (C.D. Cal. June 25, 2019) to represent a proposed class of purchasers of Smashburger’s “Triple Double” burger,
37. *Kokoszki v. Playboy Enterprises, Inc.* (E.D. Mich. Feb. 7, 2020) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
38. *Russett v. The Northwestern Mutual Life Insurance Co.* (S.D.N.Y. May 28, 2020) to represent a class of insurance policyholders that were allegedly charged unlawful paper billing fees,
39. *In re: Metformin Marketing and Sales Practices Litigation* (D.N.J. June 3, 2020) to represent a proposed nationwide class of purchasers of generic diabetes medications that were contaminated with a cancer-causing carcinogen,

40. *Hill v. Spirit Airlines, Inc.* (S.D. Fla. July 21, 2020) to represent a proposed nationwide class of passengers whose flights were cancelled by Spirit Airlines due to the novel coronavirus, COVID-19, and whose tickets were not refunded,
41. *Kramer v. Alterra Mountain Co.* (D. Colo. July 31, 2020) to represent a proposed nationwide class of purchasers to recoup the unused value of their Ikon ski passes after Alterra suspended operations at its ski resorts due to the novel coronavirus, COVID-19,
42. *Qureshi v. American University* (D.D.C. July 31, 2020) to represent a proposed nationwide class of students for tuition and fee refunds after their classes were moved online by American University due to the novel coronavirus, COVID-19,
43. *Hufford v. Maxim Inc.* (S.D.N.Y. Aug. 13, 2020) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
44. *Desai v. Carnegie Mellon University* (W.D. Pa. Aug. 26, 2020) to represent a proposed nationwide class of students for tuition and fee refunds after their classes were moved online by Carnegie Mellon University due to the novel coronavirus, COVID-19,
45. *Heigl v. Waste Management of New York, LLC* (E.D.N.Y. Aug. 27, 2020) to represent a class of waste collection customers that were allegedly charged unlawful paper billing fees,
46. *Stellato v. Hofstra University* (E.D.N.Y. Sept. 18, 2020) to represent a proposed nationwide class of students for tuition and fee refunds after their classes were moved online by Hofstra University due to the novel coronavirus, COVID-19,
47. *Kaupelis v. Harbor Freight Tools USA, Inc.* (C.D. Cal. Sept. 23, 2020), to represent consumers who purchased defective chainsaws,
48. *Soo v. Lorex Corporation* (N.D. Cal. Sept. 23, 2020), to represent consumers whose security cameras were intentionally rendered non-functional by manufacturer,
49. *Miranda v. Golden Entertainment (NV), Inc.* (D. Nev. Dec. 17, 2020), to represent consumers and employees whose personal information was exposed in a data breach,
50. *Benbow v. SmileDirectClub, Inc.* (Cir. Ct. Cook Cnty. Feb. 4, 2021), to represent a certified nationwide class of individuals who received text messages from SmileDirectClub, in alleged violation of the Telephone Consumer Protection Act,
51. *Suren v. DSV Solutions, LLC* (Cir. Ct. DuPage Cnty. Apr. 8, 2021), to represent a certified class of employees who used a fingerprint clock-in system, in alleged violation of the Illinois Biometric Information Privacy Act,
52. *De Lacour v. Colgate-Palmolive Co.* (S.D.N.Y. Apr. 23, 2021), to represent a certified class of consumers who purchased allegedly “natural” Tom’s of Maine products,
53. *Wright v. Southern New Hampshire University* (D.N.H. Apr. 26, 2021), to represent a certified nationwide class of students for tuition and fee refunds after their classes were moved online by Southern New Hampshire University due to the novel coronavirus, COVID-19,

54. *Sahlin v. Hospital Housekeeping Systems, LLC* (Cir. Ct. Williamson Cnty. May 21, 2021), to represent a certified class of employees who used a fingerprint clock-in system, in alleged violation of the Illinois Biometric Information Privacy Act,
55. *Landreth v. Verano Holdings LLC, et al.* (Cir. Ct. Cook Cnty. June 2, 2021), to represent a certified class of employees who used a fingerprint clock-in system, in alleged violation of the Illinois Biometric Information Privacy Act.
56. *Rocchio v. Rutgers, The State University of New Jersey*, (Sup. Ct., Middlesex Cnty. October 27, 201), to represent a certified nationwide class of students for fee refunds after their classes were moved online by Rutgers due to the novel coronavirus, COVID-19,
57. *Malone v. Western Digital Corp.*, (N.D. Cal. Dec. 22, 2021), to represent a class of consumers who purchased hard drives that were allegedly deceptively advertised,
58. *Jenkins v. Charles Industries, LLC*, (Cir. Ct. DuPage Cnty. Dec. 21, 2021) to represent a certified class of employees who used a fingerprint clock-in system, in alleged violation of the Illinois Biometric Information Privacy Act,
59. *Frederick v. Examsoft Worldwide, Inc.*, (Cir. Ct. DuPage Cnty. Jan. 6, 2022) to represent a certified class of exam takers who used virtual exam proctoring software, in alleged violation of the Illinois Biometric Information Privacy Act,
60. *Isaacson v. Liqui-Box Flexibles, LLC, et al.*, (Cir. Ct. Will Cnty. Jan. 18, 2022) to represent a certified class of employees who used a fingerprint clock-in system, in alleged violation of the Illinois Biometric Information Privacy Act,
61. *Goldstein et al. v. Henkel Corp.*, (D. Conn. Mar. 3, 2022) to represent a proposed class of purchasers of Right Guard-brand antiperspirants that were allegedly contaminated with benzene,
62. *McCall v. Hercules Corp.*, (N.Y. Sup. Ct., Westchester Cnty. Mar. 14, 2022) to represent a certified class of who laundry card purchasers who were allegedly subjected to deceptive practices by being denied cash refunds,
63. *Lewis v. Trident Manufacturing, Inc.*, (Cir. Ct. Kane Cnty. Mar. 16, 2022) to represent a certified class of workers who used a fingerprint clock-in system, in alleged violation of the Illinois Biometric Information Privacy Act,
64. *Croft v. Spinx Games Limited, et al.*, (W.D. Wash. Mar. 31, 2022) to represent a certified class of Washington residents who lost money playing mobile applications games that allegedly constituted illegal gambling under Washington law,
65. *Fischer v. Instant Checkmate LLC*, (N.D. Ill. Mar. 31, 2022) to represent a certified class of Illinois residents whose identities were allegedly used without their consent in alleged violation of the Illinois Right of Publicity Act,
66. *Rivera v. Google LLC*, (Cir. Ct. Cook Cnty. Apr. 25, 2022) to represent a certified class of Illinois residents who appeared in a photograph in Google Photos, in alleged violation of the Illinois Biometric Information Privacy Act,
67. *Loftus v. Outside Integrated Media, LLC*, (E.D. Mich. May 5, 2022) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,

68. *D'Amario v. The University of Tampa*, (S.D.N.Y. June 3, 2022) to represent a certified nationwide class of students for tuition and fee refunds after their classes were moved online by The University of Tampa due to the novel coronavirus, COVID-19,
69. *Fittipaldi v. Monmouth University*, (D.N.J. Sept. 22, 2022) to represent a certified nationwide class of students for tuition and fee refunds after their classes were moved online by Monmouth University due to the novel coronavirus, COVID-19,
70. *Armstead v. VGW Malta Ltd. et al.* (Cir. Ct. Henderson Cnty. Oct. 3, 2022) to present a certified class of Kentucky residents who lost money playing mobile applications games that allegedly constituted illegal gambling under Kentucky law,
71. *Cruz v. The Connor Group, A Real Estate Investment Firm, LLC*, (N.D. Ill. Oct. 26, 2022) to represent a certified class of workers who used a fingerprint clock-in system, in alleged violation of the Illinois Biometric Information Privacy Act,
72. *Delcid et al. v. TCP HOT Acquisitions LLC et al.* (S.D.N.Y. Oct. 28, 2022) to represent a certified nationwide class of purchasers of Sure and Brut-brand antiperspirants that were allegedly contaminated with benzene,
73. *Kain v. The Economist Newspaper NA, Inc.* (E.D. Mich. Dec. 15, 2022) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
74. *Strano v. Kiplinger Washington Editors, Inc.* (E.D. Mich. Jan. 6, 2023) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
75. *Moeller v. The Week Publications, Inc.* (E.D. Mich. Jan. 6, 2023) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
76. *Ambrose v. Boston Globe Media Partners, LLC* (D. Mass. May 25, 2023) to represent a nationwide class of newspaper subscribers who were also Facebook users under the Video Privacy Protection Act,
77. *In re: Apple Data Privacy Litigation*, (N.D. Cal. July 5, 2023) to represent a putative nationwide class of all persons who turned off permissions for data tracking and whose mobile app activity was still tracked on iPhone mobile devices,
78. *Young v. Military Advantage, Inc. d/b/a Military.com* (Cir. Ct. DuPage Cnty. July 26, 2023) to represent a nationwide class of website subscribers who were also Facebook users under the Video Privacy Protection Act,
79. *Whiting v. Yellow Social Interactive Ltd.* (Cir. Ct. Henderson Cnty. Aug. 15, 2023) to represent a certified class of Kentucky residents who lost money playing mobile applications games that allegedly constituted illegal gambling under Kentucky law,
80. *Kotila v. Charter Financial Publishing Network, Inc.* (W.D. Mich. Feb. 21, 2024) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
81. *Schreiber v. Mayo Foundation for Medical Education and Research* (W.D. Mich. Feb. 21, 2024) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,

82. *Norcross v. Tishman Speyer Properties, et al.* (S.D.N.Y. May 17, 2024) to represent a class of online ticket purchasers under New York Arts & Cultural Affairs Law § 25.07(4).

SCOTT A. BURSOR

Mr. Bursor has an active civil trial practice, having won multi-million verdicts or recoveries in six of six civil jury trials since 2008. Mr. Bursor's most recent victory came in May 2019 in *Perez v. Rash Curtis & Associates*, in which Mr. Bursor served as lead trial counsel and won a \$267 million jury verdict against a debt collector for violations of the Telephone Consumer Protection Act (TCPA).

In *Ayyad v. Sprint Spectrum L.P.* (2013), where Mr. Bursor served as lead trial counsel, the jury returned a verdict defeating Sprint's \$1.06 billion counterclaim and securing the class's recovery of more than \$275 million in cash and debt relief.

In *Thomas v. Global Vision Products, Inc.* (2009), the jury returned a \$50 million verdict in favor of the plaintiff and class represented by Mr. Bursor. The legal trade publication VerdictSearch reported that this was the second largest jury verdict in California in 2009.

Class actions are rarely tried to verdict. Other than Mr. Bursor and his partner Mr. Fisher, we know of no lawyer that has tried more than one class action to a jury. Mr. Bursor's perfect record of six wins in six class action jury trials, with recoveries ranging from \$21 million to \$299 million, is unmatched by any other lawyer. Each of these victories was hard-fought against top trial lawyers from the biggest law firms in the United States.

Mr. Bursor graduated from the University of Texas Law School in 1996. He served as Articles Editor of the Texas Law Review, and was a member of the Board of Advocates and Order of the Coif. Prior to starting his own practice, Mr. Bursor was a litigation associate at a large New York based law firm where he represented telecommunications, pharmaceutical, and technology companies in commercial litigation.

Mr. Bursor is a member of the state bars of New York, Florida, and California, as well as the bars of the United States Court of Appeals for the Second, Third, Fourth, Sixth, Ninth and Eleventh Circuits, and the bars of the United States District Courts for the Southern and Eastern Districts of New York, the Northern, Central, Southern and Eastern Districts of California, the Southern and Middle Districts of Florida, and the Eastern District of Michigan.

Representative Cases

Mr. Bursor was appointed lead or co-lead class counsel to the largest, 2nd largest, and 3rd largest classes ever certified. Mr. Bursor has represented classes including more than 160 million class members, roughly 1 of every 2 Americans. Listed below are recent cases that are representative of Mr. Bursor's practice:

Mr. Bursor negotiated and obtained court-approval for two landmark settlements in *Nguyen v. Verizon Wireless* and *Zill v. Sprint Spectrum* (the largest and 2nd largest classes ever certified). These settlements required Verizon and Sprint to open their wireless networks to

third-party devices and applications. These settlements are believed to be the most significant legal development affecting the telecommunications industry since 1968, when the FCC's Carterfone decision similarly opened up AT&T's wireline telephone network.

Mr. Bursor was the lead trial lawyer in *Ayyad v. Sprint Spectrum, L.P.* representing a class of approximately 2 million California consumers who were charged an early termination fee under a Sprint cellphone contract, asserting claims that such fees were unlawful liquidated damages under the California Civil Code, as well as other statutory and common law claims. After a five-week combined bench-and-jury trial, the jury returned a verdict in June 2008 and the Court issued a Statement of Decision in December 2008 awarding the plaintiffs \$299 million in cash and debt cancellation. Mr. Bursor served as lead trial counsel for this class again in 2013 during a month-long jury trial in which Sprint asserted a \$1.06 billion counterclaim against the class. Mr. Bursor secured a verdict awarding Sprint only \$18.4 million, the exact amount calculated by the class's damages expert. This award was less than 2% of the damages Sprint sought, less than 6% of the amount of the illegal termination fees Sprint charged to class members. In December 2016, after more than 13 years of litigation, the case was settled for \$304 million, including \$79 million in cash payments plus \$225 million in debt cancellation.

Mr. Bursor was the lead trial lawyer in *White v. Cellco Partnership d/b/a Verizon Wireless* representing a class of approximately 1.4 million California consumers who were charged an early termination fee under a Verizon cellphone contract, asserting claims that such fees were unlawful liquidated damages under the California Civil Code, as well as other statutory and common law claims. In July 2008, after Mr. Bursor presented plaintiffs' case-in-chief, rested, then cross-examined Verizon's principal trial witness, Verizon agreed to settle the case for a \$21 million cash payment and an injunction restricting Verizon's ability to impose early termination fees in future subscriber agreements.

Mr. Bursor was the lead trial lawyer in *Thomas v. Global Visions Products Inc.* Mr. Bursor represented a class of approximately 150,000 California consumers who had purchased the Avacor® hair regrowth system. In January 2008, after a four-week combined bench-and-jury trial, Mr. Bursor obtained a \$37 million verdict for the class, which the Court later increased to \$40 million.

Mr. Bursor was appointed class counsel and was elected chair of the Official Creditors' Committee in *In re Nutraquest Inc.*, a Chapter 11 bankruptcy case before Chief Judge Garrett E. Brown, Jr. (D.N.J.) involving 390 ephedra-related personal injury and/or wrongful death claims, two consumer class actions, four enforcement actions by governmental agencies, and multiple adversary proceedings related to the Chapter 11 case. Working closely with counsel for all parties and with two mediators, Judge Nicholas Politan (Ret.) and Judge Marina Corodemus (Ret.), the committee chaired by Mr. Bursor was able to settle or otherwise resolve every claim and reach a fully consensual Chapter 11 plan of reorganization, which Chief Judge Brown approved in late 2006. This settlement included a \$12.8 million recovery to a nationwide class of consumers who alleged they were defrauded in connection with the purchase of Xenadrine® dietary supplement products.

Mr. Bursor was the lead trial lawyer in *In re: Pacific Bell Late Fee Litigation*. After filing the first class action challenging Pac Bell's late fees in April 2010, winning a contested

motion to certify a statewide California class in January 2012, and defeating Pac Bell's motion for summary judgment in February 2013, Mr. Bursor obtained final approval of the \$38 million class settlement. The settlement, which Mr. Bursor negotiated the night before opening statements were scheduled to commence, included a \$20 million cash payment to provide refunds to California customers who paid late fees on their Pac Bell wireline telephone accounts, and an injunction that reduced other late fee charges by \$18.6 million.

L. TIMOTHY FISHER

L. Timothy Fisher has an active practice in consumer class actions and complex business litigation and has also successfully handled a large number of civil appeals.

Mr. Fisher has been actively involved in numerous cases that resulted in multi-million dollar recoveries for consumers and investors. Mr. Fisher has handled cases involving a wide range of issues including nutritional labeling, health care, telecommunications, corporate governance, unfair business practices and consumer fraud. With his partner Scott A. Bursor, Mr. Fisher has tried five class action jury trials, all of which produced successful results. In *Thomas v. Global Vision Products*, Mr. Fisher obtained a jury award of \$50,024,611 — the largest class action award in California in 2009 and the second-largest jury award of any kind. In 2019, Mr. Fisher served as trial counsel with Mr. Bursor in *Perez v. Rash Curtis & Associates*, where the jury returned a verdict for \$267 million in statutory damages under the Telephone Consumer Protection Act.

Mr. Fisher was admitted to the State Bar of California in 1997. He is also a member of the bars of the United States Court of Appeals for the Ninth Circuit, the United States District Courts for the Northern, Central, Southern and Eastern Districts of California, the Northern District of Illinois, the Eastern District of Michigan, and the Eastern District of Missouri. Mr. Fisher taught appellate advocacy at John F. Kennedy University School of Law in 2003 and 2004. In 2010, he contributed jury instructions, a verdict form and comments to the consumer protection chapter of Justice Elizabeth A. Baron's *California Civil Jury Instruction Companion Handbook* (West 2010). In January 2014, Chief Judge Claudia Wilken of the United States District Court for the Northern District of California appointed Mr. Fisher to a four-year term as a member of the Court's Standing Committee on Professional Conduct.

Mr. Fisher received his Juris Doctor from Boalt Hall at the University of California at Berkeley in 1997. While in law school, he was an active member of the Moot Court Board and participated in moot court competitions throughout the United States. In 1994, Mr. Fisher received an award for Best Oral Argument in the first-year moot court competition.

In 1992, Mr. Fisher graduated with highest honors from the University of California at Berkeley and received a degree in political science. Prior to graduation, he authored an honors thesis for Professor Bruce Cain entitled "The Role of Minorities on the Los Angeles City Council." He is also a member of Phi Beta Kappa.

Representative Cases

Thomas v. Global Vision Products, Inc. (Alameda County Superior Court). Mr. Fisher litigated claims against Global Vision Products, Inc. and other individuals in connection with the sale and marketing of a purported hair loss remedy known as Avacor. The case lasted more than seven years and involved two trials. The first trial resulted in a verdict for plaintiff and the class in the amount of \$40,000,000. The second trial resulted in a jury verdict of \$50,024,611, which led to a \$30 million settlement for the class.

In re Cellphone Termination Fee Cases - Handset Locking Actions (Alameda County Superior Court). Mr. Fisher actively worked on five coordinated cases challenging the secret locking of cell phone handsets by major wireless carriers to prevent consumers from activating them on competitive carriers' systems. Settlements have been approved in all five cases on terms that require the cell phone carriers to disclose their handset locks to consumers and to provide unlocking codes nationwide on reasonable terms and conditions. The settlements fundamentally changed the landscape for cell phone consumers regarding the locking and unlocking of cell phone handsets.

In re Cellphone Termination Fee Cases - Early Termination Fee Cases (Alameda County Superior Court and Federal Communications Commission). In separate cases that are a part of the same coordinated litigation as the Handset Locking Actions, Mr. Fisher actively worked on claims challenging the validity under California law of early termination fees imposed by national cell phone carriers. In one of those cases, against Verizon Wireless, a nationwide settlement was reached after three weeks of trial in the amount of \$21 million. In a second case, which was tried to verdict, the Court held after trial that the \$73 million of flat early termination fees that Sprint had collected from California consumers over an eight-year period were void and unenforceable.

Selected Published Decisions

Melgar v. Zicam LLC, 2016 WL 1267870 (E.D. Cal. Mar. 30, 2016) (certifying 10-jurisdiction class of purchasers of cold remedies, denying motion for summary judgment, and denying motions to exclude plaintiff's expert witnesses).

Salazar v. Honest Tea, Inc., 2015 WL 7017050 (E.D. Cal. Nov. 12, 2015) (denying motion for summary judgment).

Dei Rossi v. Whirlpool Corp., 2015 WL 1932484 (E.D. Cal. Apr. 27, 2015) (certifying California class of purchasers of refrigerators that were mislabeled as Energy Star qualified).

Bayol v. Zipcar, Inc., 78 F.Supp.3d 1252 (N.D. Cal. 2015) (denying motion to dismiss claims alleging unlawful late fees under California Civil Code § 1671).

Forcellati v. Hyland's, Inc., 2015 WL 9685557 (C.D. Cal. Jan. 12, 2015) (denying motion for summary judgment in case alleging false advertising of homeopathic cold and flu remedies for children).

Bayol v. Zipcar, Inc., 2014 WL 4793935 (N.D. Cal. Sept. 25, 2014) (denying motion to transfer venue pursuant to a forum selection clause).

Forcellati v. Hyland's Inc., 2014 WL 1410264 (C.D. Cal. Apr. 9, 2014) (certifying nationwide class of purchasers of homeopathic cold and flu remedies for children).

Hendricks v. StarKist Co., 30 F.Supp.3d 917 (N.D. Cal. 2014) (denying motion to dismiss in case alleging underfilling of 5-ounce cans of tuna).

Dei Rossi v. Whirlpool Corp., 2013 WL 5781673 (E.D. Cal. October 25, 2013) (denying motion to dismiss in case alleging that certain KitchenAid refrigerators were misrepresented as Energy Star qualified).

Forcellati v. Hyland's Inc., 876 F.Supp.2d 1155 (C.D. Cal. 2012) (denying motion to dismiss complaint alleging false advertising regarding homeopathic cold and flu remedies for children).

Clerkin v. MyLife.com, 2011 WL 3809912 (N.D. Cal. August 29, 2011) (denying defendants' motion to dismiss in case alleging false and misleading advertising by a social networking company).

In re Cellphone Termination Fee Cases, 186 Cal.App.4th 1380 (2010) (affirming order approving \$21 million class action settlement).

Gatton v. T-Mobile USA, Inc., 152 Cal.App.4th 571 (2007) (affirming order denying motion to compel arbitration).

Selected Class Settlements

Melgar v. Zicam (Eastern District of California) - \$16 million class settlement of claims alleging cold medicine was ineffective.

Gastelum v. Frontier California Inc. (San Francisco Superior Court) - \$10.9 million class action settlement of claims alleging that a residential landline service provider charged unlawful late fees.

West v. California Service Bureau, Inc. (Northern District of California) - \$4.1 million class settlement of claims under the Telephone Consumer Protection Act.

Gregorio v. Premier Nutrition Corp. (Southern District of New York) - \$9 million class settlement of false advertising claims against protein shake manufacturer.

Morris v. SolarCity Corp. (Northern District of California) - \$15 million class settlement of claims under the Telephone Consumer Protection Act.

Retta v. Millennium Products, Inc. (Central District of California) - \$8.25 million settlement to resolve claims of bottled tea purchasers for alleged false advertising.

Forcellati v. Hyland's (Central District of California) – nationwide class action settlement providing full refunds to purchasers of homeopathic cold and flu remedies for children.

Dei Rossi v. Whirlpool (Eastern District of California) – class action settlement providing \$55 cash payments to purchasers of certain KitchenAid refrigerators that allegedly mislabeled as Energy Star qualified.

In Re NVIDIA GTX 970 Graphics Chip Litigation (Northern District of California) - \$4.5 million class action settlement of claims alleging that a computer graphics card was sold with false and

misleading representations concerning its specifications and performance.

Hendricks v. StarKist Co. (Northern District of California) – \$12 million class action settlement of claims alleging that 5-ounce cans of tuna were underfilled.

In re Zakskorn v. American Honda Motor Co. Honda (Eastern District of California) – nationwide settlement providing for brake pad replacement and reimbursement of out-of-pocket expenses in case alleging defective brake pads on Honda Civic vehicles manufactured between 2006 and 2011.

Correa v. Sensa Products, LLC (Los Angeles Superior Court) - \$9 million settlement on behalf of purchasers of the Sensa weight loss product.

In re Pacific Bell Late Fee Litigation (Contra Costa County Superior Court) - \$38.6 million settlement on behalf of Pac Bell customers who paid an allegedly unlawful late payment charge.

In re Haier Freezer Consumer Litigation (Northern District of California) - \$4 million settlement, which provided for cash payments of between \$50 and \$325.80 to class members who purchased the Haier HNCM070E chest freezer.

Thomas v. Global Vision Products, Inc. (Alameda County Superior Court) - \$30 million settlement on behalf of a class of purchasers of a hair loss remedy.

Guyette v. Viacom, Inc. (Alameda County Superior Court) - \$13 million settlement for a class of cable television subscribers who alleged that the defendant had improperly failed to share certain tax refunds with its subscribers.

JOSEPH I. MARCHESE

Joseph I. Marchese is a Partner with Bursor & Fisher, P.A. Joe focuses his practice on consumer class actions, employment law disputes, and commercial litigation. He has represented corporate and individual clients in a wide array of civil litigation, and has substantial trial and appellate experience.

Joe has diverse experience in litigating and resolving consumer class actions involving claims of mislabeling, false or misleading advertising, privacy violations, unlawful and junk fees, data breach claims, and violations of the Telephone Consumer Protection Act and Servicemembers Civil Relief Act.

Joe also has significant experience in multidistrict litigation proceedings. Recently, he served on the Plaintiffs' Executive Committee in *In Re: Blue Buffalo Company, Ltd. Marketing And Sales Practices Litigation*, MDL No. 2562, which resulted in a \$32 million consumer class settlement. Currently, he serves on the Plaintiffs' Steering Committee for Economic Reimbursement in *In Re: Valsartan Products Liability Litigation*, MDL No. 2875.

Joe is admitted to the State Bar of New York and is a member of the bars of the United States District Courts for the Southern District of New York, the Eastern District of New York,

and the Eastern District of Michigan, as well as the United States Courts of Appeals for the First, Second and Sixth Circuits.

Joe graduated from Boston University School of Law in 2002 where he was a member of The Public Interest Law Journal. In 1998, Joe graduated with honors from Bucknell University.

Selected Published Decisions:

Farwell v. Google, LLC, 595 F. Supp. 3d 702 (C.D. Ill. Mar. 31, 2022), denying defendant's motion to dismiss BIPA claims brought on behalf of Illinois students using Google's Workspace for Education platform.

Boelter v. Hearst Communications, Inc., 269 F. Supp. 3d 172 (S.D.N.Y. Sept. 7, 2017), granting plaintiff's motion for partial summary judgment on state privacy law violations in putative class action.

Boelter v. Hearst Communications, Inc., 192 F. Supp. 3d 427 (S.D.N.Y. June 17, 2016), denying publisher's motion to dismiss its subscriber's allegations of state privacy law violations in putative class action.

In re Scotts EZ Seed Litigation, 304 F.R.D. 397 (S.D.N.Y. 2015), granting class certification of false advertising and other claims brought by New York and California purchasers of grass seed product.

Ebin v. Kangadis Food Inc., 297 F.R.D. 561 (S.D.N.Y. 2014), granting nationwide class certification of false advertising and other claims brought by purchasers of purported "100% Pure Olive Oil" product.

In re Michaels Stores Pin Pad Litigation, 830 F. Supp. 2d 518 (N.D. Ill. 2011), denying retailer's motion to dismiss its customers' state law consumer protection and privacy claims in data breach putative class action.

Selected Class Settlements:

Schreiber v. Mayo Foundation, Case No. 22-cv-0188-HYJ-RSK (W.D. Mich. 2024) – final approval granted for \$52.5 million class settlement to resolve claims of periodical subscribers for alleged statutory privacy violations.

Edwards v. Mid-Hudson Valley Federal Credit Union, Case No. 22-cv-00562-TJM-CFH (N.D.N.Y. 2023) – final approval granted for \$2.2 million class settlement to resolve claims alleging unlawfully charged overdraft fees on accounts with sufficient funds.

Benbow v. SmileDirectClub, LLC, Case No. 2020-CH-07269 (Cir. Ct. Cook Cnty. 2022) – final approval granted for \$11.5 million class settlement to resolve claims for alleged TCPA violations.

Marquez v. Google LLC, Case No. 2021-CH-1460 (Cir. Ct. Cook Cnty. 2022) – final approval granted for \$100 million class settlement to resolve alleged BIPA violations of Illinois residents appearing on the Google Photos platform.

Edwards v. Hearst Communications, Inc., Case No. 15-cv-09279-AT (S.D.N.Y. 2019) – final approval granted for \$50 million class settlement to resolve claims of magazine subscribers for alleged statutory privacy violations.

Moeller v. Advance Magazine Publishers, Inc. d/b/a Condé Nast, Case No. 15-cv-05671-NRB (S.D.N.Y. 2019) – final approval granted for \$13.75 million class settlement to resolve claims of magazine subscribers for alleged statutory privacy violations.

In re Scotts EZ Seed Litigation, Case No. 12-cv-4727-VB (S.D.N.Y. 2018) – final approval granted for \$47 million class settlement to resolve false advertising claims of purchasers of combination grass seed product.

In Re: Blue Buffalo Marketing And Sales Practices Litigation, Case No. 14-MD-2562-RWS (E.D. Mo. 2016) – final approval granted for \$32 million class settlement to resolve claims of pet owners for alleged false advertising of pet foods.

Rodriguez v. Citimortgage, Inc., Case No. 11-cv-4718-PGG (S.D.N.Y. 2015) – final approval granted for \$38 million class settlement to resolve claims of military servicemembers for alleged foreclosure violations of the Servicemembers Civil Relief Act, where each class member was entitled to \$116,785 plus lost equity in the foreclosed property and interest thereon.

O'Brien v. LG Electronics USA, Inc., et al., Case No. 10-cv-3733-DMC (D.N.J. 2011) – final approval granted for \$23 million class settlement to resolve claims of Energy Star refrigerator purchasers for alleged false advertising of the appliances' Energy Star qualification.

SARAH N. WESTCOT

Sarah N. Westcot is the Managing Partner of Bursor & Fisher's Miami office. She focuses her practice on consumer class actions, complex business litigation, and mass torts.

She has represented clients in a wide array of civil litigation, and has substantial trial and appellate experience. Sarah served as trial counsel in *Ayyad v. Sprint Spectrum L.P.*, where Bursor & Fisher won a jury verdict defeating Sprint's \$1.06 billion counterclaim and securing the class's recovery of more than \$275 million in cash and debt relief.

Sarah also has significant experience in high-profile, multi-district litigations. She currently serves on the Plaintiffs' Steering Committee in *In re Zantac (Ranitidine) Products Liability Litigation*, MDL No. 2924 (S.D. Florida). She also serves on the Plaintiffs' Executive Committee in *In re Apple Inc. App Store Simulated Casino-Style Games Litigation*, MDL No. 2985 (N.D. Cal.) and *In Re: Google Play Store Simulated Casino-Style Games Litigation*, MDL No. 3001 (N.D. Cal.).

Sarah is admitted to the State Bars of California and Florida, and is a member of the bars of the United States District Courts for the Northern, Central, Southern, and Eastern Districts of California, the United States District Courts for the Southern and Middle Districts of Florida, and the bars of the United States Courts of Appeals for the Second, Eighth, and Ninth Circuits.

Sarah received her Juris Doctor from the University of Notre Dame Law School in 2009. During law school, she was a law clerk with the Cook County State's Attorney's Office in Chicago and the Santa Clara County District Attorney's Office in San Jose, CA, gaining early trial experience in both roles. She graduated with honors from the University of Florida in 2005.

Sarah is a member of The National Trial Lawyers Top 100 Civil Plaintiff Lawyers, and was selected to The National Trial Lawyers Top 40 Under 40 Civil Plaintiff Lawyers for 2022.

JOSHUA D. ARISOHN

Joshua D. Arisohn is a Partner with Bursor & Fisher, P.A. Josh has litigated precedent-setting cases in the areas of consumer class actions and terrorism. He participated in the first ever trial to take place under the Anti-Terrorism Act, a statute that affords U.S. citizens the right to assert federal claims for injuries arising out of acts of international terrorism. Josh's practice continues to focus on terrorism-related matters as well as class actions.

Josh is admitted to the State Bar of New York and is a member of the bars of the United States District Courts for the Southern District of New York, the Eastern District of New York, the District Court for the District of Columbia, and the United States Courts of Appeals for the Second and Ninth Circuits.

Josh previously practiced at Dewey & LeBoeuf LLP and DLA Piper LLP. He graduated from Columbia University School of Law in 2006, where he was a Harlan Fiske Stone Scholar, and received his B.A. from Cornell University in 2002. Josh has been honored as a 2015, 2016 and 2017 Super Lawyer Rising Star.

Selected Published Decisions:

Fields v. Syrian Arab Republic, Civil Case No. 18-1437 (RJL), entering a judgment of approximately \$850 million in favor of the family members of victims of terrorist attacks carried out by ISIS with the material support of Syria.

Farwell v. Google LLC, 2022 WL 1568361 (C.D. Ill. Mar. 31, 2022), denying social media defendant's motion to dismiss BIPA claims brought on behalf of Illinois school students using Google's Workspace for Education platform on laptop computers.

Weiman v. Miami University, Case No. 2020-00614JD (Oh. Ct. Claims), certifying a class of students alleging a breach of contract based on their school's failure to provide a full semester of in-person classes.

Smith v. The Ohio State University, Case No. 2020-00321JD (Oh. Ct. Claims), certifying a class of students alleging a breach of contract based on their school's failure to provide a full semester of in-person classes.

Waitt v. Kent State University, Case No. 2020-00392JD (Oh. Ct. Claims), certifying a class of students alleging a breach of contract based on their school's failure to provide a full semester of in-person classes.

Duke v. Ohio University, Case No. 2021-00036JD (Oh. Ct. Claims), certifying a class of students alleging a breach of contract based on their school's failure to provide a full semester of in-person classes.

Keba v. Bowling Green State University, Case No. 2020-00639JD (Oh. Ct. Claims), certifying a class of students alleging a breach of contract based on their school's failure to provide a full semester of in-person classes.

Kirkbride v. The Kroger Co., Case No. 2:21-cv-00022-ALM-EPD, denying motion to dismiss claims based on the allegation that defendant overstated its usual and customary prices and thereby overcharged customers for generic drugs.

Selected Class Settlements:

Morris v. SolarCity Corp., Case No. 3:15-cv-05107-RS (N.D. Cal.) - final approval granted for \$15 million class settlement to resolve claims under the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 *et seq.*

Marquez v. Google LLC, Case No. 2021-CH-1460 (Cir. Ct. Cook Cnty. 2022) – final approval granted for \$100 million class settlement to resolve alleged BIPA violations of Illinois residents appearing in photos on the Google Photos platform.

NEAL J. DECKANT

Neal J. Deckant is a Partner with Bursor & Fisher, P.A., where he serves as the firm's Head of Information & e-Discovery. Neal focuses his practice on complex business litigation and consumer class actions. Prior to joining Bursor & Fisher, Neal counseled low-income homeowners facing foreclosure in East Boston.

Neal is admitted to the State Bars of California and New York, and is a member of the bars of the United States District Court for the Northern District of California, the United States District Court for the Eastern District of California, the United States District Court for the Central District of California, the United States District Court for the Southern District of California, the United States District Court for the Southern District of New York, the United States District Court for the Eastern District of New York, and the bars of the United States Courts of Appeals for the Second and Ninth Circuits.

Neal received his Juris Doctor from Boston University School of Law in 2011, graduating cum laude with two Dean's Awards. During law school, Neal served as a Senior

Articles Editor for the Review of Banking and Financial Law, where he authored two published articles about securitization reforms, both of which were cited by the New York Court of Appeals, the highest court in the state. Neal was also awarded Best Oral Argument in his moot court section, and he served as a Research Assistant for his Securities Regulation professor. Neal has also been honored as a 2014, 2015, 2016, and 2017 Super Lawyers Rising Star. In 2007, Neal graduated with Honors from Brown University with a dual major in East Asian Studies and Philosophy.

Selected Published Decisions:

Martinelli v. Johnson & Johnson, 2019 WL 1429653 (N.D. Cal. Mar. 29, 2019), granting class certification of false advertising and other claims brought by purchasers of Benecol spreads labeled with the representation “No Trans Fats.”

Dzielak v. Whirlpool Corp., 2017 WL 6513347 (D.N.J. Dec. 20, 2017), granting class certification of consumer protection claims brought by purchasers of Maytag Centennial washing machines marked with the “Energy Star” logo.

Duran v. Obesity Research Institute, LLC, 204 Cal. Rptr. 3d 896 (Cal. Ct. App. 2016), reversing and remanding final approval of a class action settlement on appeal, regarding allegedly mislabeled dietary supplements, in connection with a meritorious objection.

Marchuk v. Faruqi & Faruqi, LLP, et al., 100 F. Supp. 3d 302 (S.D.N.Y. 2015), granting individual and law firm defendants’ motion for judgment as a matter of law on plaintiff’s claims for retaliation and defamation, as well as for all claims against law firm partners, Nadeem and Lubna Faruqi.

Ebin v. Kangadis Food Inc., 297 F.R.D. 561 (S.D.N.Y. 2014), granting nationwide class certification of false advertising and other claims brought by purchasers of purported “100% Pure Olive Oil” product.

Ebin v. Kangadis Food Inc., 2014 WL 737878 (S.D.N.Y. Feb. 25, 2014), denying distributor’s motion for summary judgment against nationwide class of purchasers of purported “100% Pure Olive Oil” product.

Selected Class Settlements:

In Re NVIDIA GTX 970 Graphics Chip Litigation, Case No. 15-cv-00760-PJH (N.D. Cal. Dec. 7, 2016) – final approval granted for \$4.5 million class action settlement to resolve claims that a computer graphics card was allegedly sold with false and misleading representations concerning its specifications and performance.

Hendricks v. StarKist Co., 2016 WL 5462423 (N.D. Cal. Sept. 29, 2016) – final approval granted for \$12 million class action settlement to resolve claims that 5-ounce cans of tuna were allegedly underfilled.

In re: Kangadis Food Inc., Case No. 8-14-72649 (Bankr. E.D.N.Y. Dec. 17, 2014) – class action claims resolved for \$2 million as part of a Chapter 11 plan of reorganization, after a corporate defendant filed for bankruptcy, following claims that its olive oil was allegedly sold with false and misleading representations.

Selected Publications:

Neal Deckant, *X. Reforms of Collateralized Debt Obligations: Enforcement, Accounting and Regulatory Proposals*, 29 Rev. Banking & Fin. L. 79 (2009) (cited in *Quadrant Structured Products Co., Ltd. v. Vertin*, 16 N.E.3d 1165, 1169 n.8 (N.Y. 2014)).

Neal Deckant, *Criticisms of Collateralized Debt Obligations in the Wake of the Goldman Sachs Scandal*, 30 Rev. Banking & Fin. L. 407 (2010) (cited in *Quadrant Structured Products Co., Ltd. v. Vertin*, 16 N.E.3d 1165, 1169 n.8 (N.Y. 2014)); *Lyon Village Venetia, LLC v. CSE Mortgage LLC*, 2016 WL 476694, at *1 n.1 (Md. Ct. Spec. App. Feb. 4, 2016); Ivan Ascher, *Portfolio Society: On the Capitalist Mode of Prediction*, at 141, 153, 175 (Zone Books / The MIT Press 2016); Devon J. Steinmeyer, *Does State National Bank of Big Spring v. Geithner Stand a Fighting Chance?*, 89 Chi.-Kent. L. Rev. 471, 473 n.13 (2014)).

YITZCHAK KOPEL

Yitzchak Kopel is a Partner with Bursor & Fisher, P.A. Yitz focuses his practice on consumer class actions and complex business litigation. He has represented corporate and individual clients before federal and state courts, as well as in arbitration proceedings.

Yitz has substantial experience in successfully litigating and resolving consumer class actions involving claims of consumer fraud, data breaches, and violations of the telephone consumer protection act. Since 2014, Yitz has obtained class certification on behalf of his clients five times, three of which were certified as nationwide class actions. Bursor & Fisher was appointed as class counsel to represent the certified classes in each of the cases.

Yitz is admitted to the State Bars of New York and New Jersey, the bar of the United States Court of Appeals for the Second, Eleventh, and Ninth Circuits, and the bars of the United States District Courts for the Southern District of New York, Eastern District of New York, Eastern District of Missouri, Eastern District of Wisconsin, Northern District of Illinois, and District of New Jersey.

Yitz received his Juris Doctorate from Brooklyn Law School in 2012, graduating *cum laude* with two Dean's Awards. During law school, Yitz served as an Articles Editor for the Brooklyn Law Review and worked as a Law Clerk at Shearman & Sterling. In 2009, Yitz graduated *cum laude* from Queens College with a B.A. in Accounting.

Selected Published Decisions:

Bassaw v. United Industries Corp., 482 F.Supp.3d 80, 2020 WL 5117916 (S.D.N.Y. Aug. 31, 2020), denying motion to dismiss claims in putative class action concerning insect foggers.

Poppiti v. United Industries Corp., 2020 WL 1433642 (E.D. Mo. Mar. 24, 2020), denying motion to dismiss claims in putative class action concerning citronella candles.

Bakov v. Consolidated World Travel, Inc., 2019 WL 6699188 (N.D. Ill. Dec. 9, 2019), granting summary judgment on behalf of certified class in robocall class action.

Krumm v. Kittrich Corp., 2019 WL 6876059 (E.D. Mo. Dec. 17, 2019), denying motion to dismiss claims in putative class action concerning mosquito repellent.

Crespo v. S.C. Johnson & Son, Inc., 394 F. Supp. 3d 260 (S.D.N.Y. 2019), denying defendant's motion to dismiss fraud and consumer protection claims in putative class action regarding Raid insect fogger.

Bakov v. Consolidated World Travel, Inc., 2019 WL 1294659 (N.D. Ill. Mar. 21, 2019), certifying a class of persons who received robocalls in the state of Illinois.

Bourbia v. S.C. Johnson & Son, Inc., 375 F. Supp. 3d 454 (S.D.N.Y. 2019), denying defendant's motion to dismiss fraud and consumer protection claims in putative class action regarding mosquito repellent.

Hart v. BHH, LLC, 323 F. Supp. 3d 560 (S.D.N.Y. 2018), denying defendants' motion for summary judgment in certified class action involving the sale of ultrasonic pest repellers.

Hart v. BHH, LLC, 2018 WL 3471813 (S.D.N.Y. July 19, 2018), denying defendants' motion to exclude plaintiffs' expert in certified class action involving the sale of ultrasonic pest repellers.

Penrose v. Buffalo Trace Distillery, Inc., 2018 WL 2334983 (E.D. Mo. Feb. 5, 2018), denying bourbon producers' motion to dismiss fraud and consumer protection claims in putative class action.

West v. California Service Bureau, Inc., 323 F.R.D. 295 (N.D. Cal. 2017), certifying a nationwide class of "wrong-number" robocall recipients.

Hart v. BHH, LLC, 2017 WL 2912519 (S.D.N.Y. July 7, 2017), certifying nationwide class of purchasers of ultrasonic pest repellers.

Browning v. Unilever United States, Inc., 2017 WL 7660643 (C.D. Cal. Apr. 26, 2017), denying motion to dismiss fraud and warranty claims in putative class action concerning facial scrub product.

Brenner v. Procter & Gamble Co., 2016 WL 8192946 (C.D. Cal. Oct. 20, 2016), denying motion to dismiss warranty and consumer protection claims in putative class action concerning baby wipes.

Hewlett v. Consolidated World Travel, Inc., 2016 WL 4466536 (E.D. Cal. Aug. 23, 2016), denying telemarketer's motion to dismiss TCPA claims in putative class action.

Bailey v. KIND, LLC, 2016 WL 3456981 (C.D. Cal. June 16, 2016), denying motion to dismiss fraud and warranty claims in putative class action concerning snack bars.

Hart v. BHH, LLC, 2016 WL 2642228 (S.D.N.Y. May 5, 2016) denying motion to dismiss warranty and consumer protection claims in putative class action concerning ultrasonic pest repellents.

Marchuk v. Faruqi & Faruqi, LLP, et al., 100 F. Supp. 3d 302 (S.D.N.Y. 2015), granting clients' motion for judgment as a matter of law on claims for retaliation and defamation in employment action.

In re Scotts EZ Seed Litigation, 304 F.R.D. 397 (S.D.N.Y. 2015), granting class certification of false advertising and other claims brought by New York and California purchasers of grass seed product.

Brady v. Basic Research, L.L.C., 101 F. Supp. 3d 217 (E.D.N.Y. 2015), denying diet pill manufacturers' motion to dismiss its purchasers' allegations for breach of express warranty in putative class action.

Ward v. TheLadders.com, Inc., 3 F. Supp. 3d 151 (S.D.N.Y. 2014), denying online job board's motion to dismiss its subscribers' allegations of consumer protection law violations in putative class action.

Ebin v. Kangadis Food Inc., 297 F.R.D. 561 (S.D.N.Y. 2014), granting nationwide class certification of false advertising and other claims brought by purchasers of purported "100% Pure Olive Oil" product.

Ebin v. Kangadis Food Inc., 2014 WL 737878 (S.D.N.Y. Feb. 25, 2014), denying distributor's motion for summary judgment against nationwide class of purchasers of purported "100% Pure Olive Oil" product.

Selected Class Settlements:

Hart v. BHH, LLC, Case No. 1:15-cv-04804 (S.D.N.Y. Sept. 22, 2020), resolving class action claims regarding ultrasonic pest repellents.

In re: Kangadis Food Inc., Case No. 8-14-72649 (Bankr. E.D.N.Y. Dec. 17, 2014), resolving class action claims for \$2 million as part of a Chapter 11 plan of reorganization, after a corporate defendant filed for bankruptcy following the certification of nationwide claims alleging that its olive oil was sold with false and misleading representations.

West v. California Service Bureau, Case No. 4:16-cv-03124-YGR (N.D. Cal. Jan. 23, 2019), resolving class action claims against debt-collector for wrong-number robocalls for \$4.1 million.

PHILIP L. FRAIETTA

Philip L. Fraietta is a Partner with Bursor & Fisher, P.A. Phil focuses his practice on data privacy, complex business litigation, consumer class actions, and employment law disputes. Phil has been named a “Rising Star” in the New York Metro Area by Super Lawyers® every year since 2019.

Phil has significant experience in litigating consumer class actions, particularly those involving privacy claims under statutes such as the Michigan Preservation of Personal Privacy Act, the Illinois Biometric Information Privacy Act, and Right of Publicity statutes. Since 2016, Phil has recovered over \$100 million for class members in privacy class action settlements. In addition to privacy claims, Phil has significant experience in litigating and settling class action claims involving false or misleading advertising.

Phil is admitted to the State Bars of New York, New Jersey, Illinois, Michigan, and California, the bars of the United States District Courts for the Southern District of New York, the Eastern District of New York, the Western District of New York, the Northern District of New York, the District of New Jersey, the Eastern District of Michigan, the Western District of Michigan, the Northern District of Illinois, the Central District of Illinois, and the United States Court of Appeals for the Second, Third, and Ninth Circuits. Phil was a Summer Associate with Bursor & Fisher prior to joining the firm.

Phil received his Juris Doctor from Fordham University School of Law in 2014, graduating cum laude. During law school, Phil served as an Articles & Notes Editor for the Fordham Law Review, and published two articles. In 2011, Phil graduated cum laude from Fordham University with a B.A. in Economics.

Selected Published Decisions:

Fischer v. Instant Checkmate LLC, 2022 WL 971479 (N.D. Ill. Mar. 31, 2022), certifying class of Illinois residents for alleged violations of Illinois’ Right of Publicity Act by background reporting website.

Kolebuck-Utz v. Whitepages Inc., 2021 WL 157219 (W.D. Wash. Apr. 22, 2021), denying defendant’s motion to dismiss for alleged violations of Ohio’s Right to Publicity Law.

Bergeron v. Rochester Institute of Technology, 2020 WL 7486682 (W.D.N.Y. Dec. 18, 2020), denying university’s motion to dismiss for failure to refund tuition and fees for the Spring 2020 semester in light of the COVID-19 pandemic.

Porter v. NBTY, Inc., 2019 WL 5694312 (N.D. Ill. Nov. 4, 2019), denying supplement manufacturer’s motion for summary judgment on consumers’ allegations of false advertising relating to whey protein content.

Boelter v. Hearst Communications, Inc., 269 F. Supp. 3d 172 (S.D.N.Y. 2017), granting plaintiff’s motion for partial summary judgment on state privacy law violations in putative class action.

Selected Class Settlements:

Edwards v. Hearst Communications, Inc., Case No. 15-cv-09279-AT (S.D.N.Y. 2019) – final approval granted for \$50 million class settlement to resolve claims of magazine subscribers for alleged statutory privacy violations.

Ruppel v. Consumers Union of United States, Inc., Case No. 16-cv-02444-KMK (S.D.N.Y. 2018) – final approval granted for \$16.375 million class settlement to resolve claims of magazine subscribers for alleged statutory privacy violations.

Moeller v. Advance Magazine Publishers, Inc. d/b/a Condé Nast, Case No. 15-cv-05671-NRB (S.D.N.Y. 2019) – final approval granted for \$13.75 million class settlement to resolve claims of magazine subscribers for alleged statutory privacy violations.

Benbow v. SmileDirectClub, LLC, Case No. 2020-CH-07269 (Cir. Ct. Cook Cnty. 2021) – final approval granted for \$11.5 million class settlement to resolve claims for alleged TCPA violations.

Gregorio v. Premier Nutrition Corp., Case No. 17-cv-05987-AT (S.D.N.Y. 2019) – final approval granted for \$9 million class settlement to resolve claims of protein shake purchasers for alleged false advertising.

Taylor v. Trusted Media Brands, Inc., Case No. 16-cv-01812-KMK (S.D.N.Y. 2018) – final approval granted for \$8.225 million class settlement to resolve claims of magazine subscribers for alleged statutory privacy violations.

Moeller v. American Media, Inc., Case No. 16-cv-11367-JEL (E.D. Mich. 2017) – final approval granted for \$7.6 million class settlement to resolve claims of magazine subscribers for alleged statutory privacy violations.

Rocchio v. Rutgers, The State University of New Jersey, Case No. MID-L-003039-20 (Sup. Ct. Middlesex Cnty. 2022) – final approval granted for \$5 million class settlement to resolve claims for failure to refund mandatory fees for the Spring 2020 semester in light of the COVID-19 pandemic.

Heigl v. Waste Management of New York, LLC, Case No. 19-cv-05487-WFK-ST (E.D.N.Y. 2021) – final approval granted for \$2.7 million class settlement to resolve claims for charging allegedly unlawful fees pertaining to paper billing.

Frederick v. Examsoft Worldwide, Inc., Case No. 2021L001116 (Cir. Ct. DuPage Cnty. 2022) – final approval granted for \$2.25 million class settlement to resolve claims for alleged BIPA violations.

ALEC M. LESLIE

Alec Leslie is a Partner with Bursor & Fisher, P.A. He focuses his practice on consumer class actions, employment law disputes, and complex business litigation.

Alec is admitted to the State Bar of New York and is a member of the bar of the United States District Courts for the Southern and Eastern Districts of New York. Alec was a Summer Associate with Bursor & Fisher prior to joining the firm.

Alec received his Juris Doctor from Brooklyn Law School in 2016, graduating *cum laude*. During law school, Alec served as an Articles Editor for Brooklyn Law Review. In addition, Alec served as an intern to the Honorable James C. Francis for the Southern District of New York and the Honorable Vincent Del Giudice, Supreme Court, Kings County. Alec graduated from the University of Colorado with a B.A. in Philosophy in 2012.

Selected Class Settlements:

Gregorio v. Premier Nutrition Corp., Case No. 17-cv-05987-AT (S.D.N.Y. 2019) – final approval granted for class settlement to resolve claims of protein shake purchasers for alleged false advertising.

Wright v. Southern New Hampshire Univ., Case No. 1:20-cv-00609-LM (D.N.H. 2021) – final approval granted for class settlement to resolve claims over COVID-19 tuition and fee refunds to students.

Mendoza et al. v. United Industries Corp., Case No. 21PH-CV00670 (Phelps Cnty. Mo. 2021) – final approval granted for class settlement to resolve false advertising claims on insect repellent products.

Kaupelis v. Harbor Freight Tools USA, Inc., Case No. 8:19-cv-01203-JVS-DFM (C.D. Cal. 2021) – final approval granted for class settlement involving allegedly defective and dangerous chainsaws.

Rocchio v. Rutgers Univ., Case No. MID-L-003039-20 (Middlesex Cnty. N.J. 2021) – final approval granted for class settlement to resolve claims over COVID-19 fee refunds to students.

Malone v. Western Digital Corporation, Case No. 5:20-cv-03584-NC (N.D. Cal.) – final approval granted for class settlement to resolve false advertising claims on hard drive products.

Frederick et al. v. ExamSoft Worldwide, Inc., Case No. 2021L001116 (DuPage Cnty. Ill. 2021) – final approval granted for class settlement to resolve claims over alleged BIPA violations with respect to exam proctoring software.

D'Amario et al. v. Univ. of Tampa, Case No. 7:20-cv-07344 (S.D.N.Y. 2022) – final approval granted for class settlement to resolve claims over COVID-19 fee refunds to students.

Olin et al. v. Meta Platforms, Inc., Case No. 3:18-cv-01881-RS (N.D. Cal. 2022) – final approval granted for class settlement involving invasion of privacy claims.

Croft v. SpinX Games et al., Case No. 2:20-cv-01310-RSM (W.D. Wash. 2022) – final approval granted for class settlement involving allegedly deceptive and/or illegal gambling practices.

Armstead v. VGW Malta Ltd. et al., Case No. 22-CI-00553 (Henderson Cnty. Ky. 2023) – final approval granted for class settlement involving allegedly deceptive and/or illegal gambling practices.

Barbieri v. Tailored Brands, Inc., Index No. 616696/2022 (Nassau Cnty. N.Y.) – final approval granted for class settlement involving untimely wage payments to employees.

Metzner et al. v. Quinnipiac Univ., Case No. 3:20-cv-00784 (D. Conn.) – final approval granted for class settlement to resolve claims over COVID-19 fee refunds to students.

In re GE/Canon Data Breach, Case No. 1:20-cv-02903 (S.D.N.Y.) – final approval granted for class settlement to resolve data breach claims.

Davis v. Urban Outfitters, Inc., Index No. 612162/2022 (Nassau Cnty. N.Y.) – final approval granted for class settlement involving untimely wage payments to employees.

Armstead v. VGW Malta LTD et al., Civil Action No. 22-CI-00553 (Henderson Cir. Ct. Ky.) – final approval granted for class settlement involving allegedly deceptive and/or illegal gambling practices.

Casler et al. v. Mclane Company, Inc. et al., Index No. 616432/2022 (Nassau Cnty. N.Y.) – final approval granted for class settlement involving untimely wage payments to employees.

Wyland v. Woopla, Inc., Civil Action No. 2023-CI-00356 (Henderson Cir. Ct. Ky.) – final approval granted for class settlement involving allegedly deceptive and/or illegal gambling practices.

Graziano et al. v. Lego Systems, Inc., Index No. 611615/2022 (Nassau Cnty. N.Y.) – final approval granted for class settlement involving untimely wage payments to employees.

Lipsky et al. v. American Behavioral Research Institute, LLC, Case No. 50-2023-CA-011526-XXXX-MB (Palm Beach Cnty. Fl.) – final approval granted to resolve allegedly deceptive automatic renewal and product efficacy claims.

Whiting v. Yellow Social Interactive Ltd., Civil Action No. 2023-CI-00358 (Henderson Cir. Ct. Ky.) – final approval granted for class settlement involving allegedly deceptive and/or illegal gambling practices.

STEPHEN BECK

Stephen is an Associate with Bursor & Fisher, P.A. Stephen focuses his practice on complex civil litigation and class actions.

Stephen is admitted to the State Bar of Florida and is a member of the bars of the United States District Courts for the Southern and Middle Districts of Florida, the Eastern District of Missouri, and the Northern District of Illinois.

Stephen received his Juris Doctor from the University of Miami School of Law in 2018. During law school, Stephen received an Honors distinction in the Litigation Skills Program and was awarded the Honorable Theodore Klein Memorial Scholarship for excellence in written and oral advocacy. Stephen also received the CALI Award in Legislation for earning the highest grade on the final examination. Stephen graduated from the University of North Florida with a B.A. in Philosophy in 2015.

STEFAN BOGDANOVICH

Stefan Bogdanovich is an Associate with Bursor & Fisher, P.A. Stefan litigates complex civil and class actions typically involving privacy, intellectual property, entertainment, and false advertising law.

Prior to working at Bursor & Fisher, Stefan practiced at two national law firms in Los Angeles. He helped represent various companies in false advertising and IP infringement cases, media companies in defamation cases, and motion picture producers in royalty disputes. He also advised corporations and public figures on complying with various privacy and advertising laws and regulations.

Stefan is admitted to the State Bar of California and all of the California Federal District Courts. He is also a Certified Information Privacy Professional.

Stefan received his Juris Doctor from the University of Southern California Gould School of Law in 2018, where he was a member of the Hale Moot Court Honors Program and the Trial Team. He received the highest grade in his class in three subjects, including First Amendment Law.

BRITTANY SCOTT

Brittany Scott is an Associate with Bursor & Fisher, P.A. Brittany focuses her practice on data privacy, complex civil litigation, and consumer class actions. Brittany was an intern with Bursor & Fisher prior to joining the firm.

Brittany has substantial experience litigating consumer class actions, including those involving data privacy claims under statutes such as the Illinois Biometric Information Privacy Act, the Fair Credit Reporting Act, and the Michigan Preservation of Personal Privacy Act. In addition to data privacy claims, Brittany has significant experience in litigating class action claims involving false and misleading advertising.

Brittany is admitted the State Bar of California and is a member of the bars of the United States District Courts for the Northern, Central, Southern, and Eastern Districts of California, the Eastern District of Wisconsin, the Northern District of Illinois, the Ninth Circuit Court of Appeals, the Seventh Circuit Court of Appeals, and Second Circuit Court of Appeals.

Brittany received her Juris Doctor from the University of California, Hastings College of the Law in 2019, graduating cum laude. During law school, Brittany was a member of the Constitutional Law Quarterly, for which she was the Executive Notes Editor. Brittany published a note in the Constitutional Law Quarterly entitled “Waiving Goodbye to First Amendment Protections: First Amendment Waiver by Contract.” Brittany also served as a judicial extern to the Honorable Andrew Y.S. Cheng for the San Francisco Superior Court. In 2016, Brittany graduated from the University of California Berkeley with a B.A. in Political Science.

Selected Class Settlements:

Morrissey v. Tula Life, Inc., Case No. 2021L0000646 (Cir. Ct. DuPage Cnty. 2021) – final approval granted for \$4 million class settlement to resolve claims of cosmetics purchasers for alleged false advertising.

Clarke et al. v. Lemonade Inc., Case No. 2022LA000308 (Cir. Ct. DuPage Cnty. 2022) – final approval granted for \$4 million class settlement to resolve claims for alleged BIPA violations.

Whitlock v. Jabil Inc., Case No. 2021CH00626 (Cir. Ct. Cook Cnty. 2022) – final approval granted for \$995,000 class settlement to resolve claims for alleged BIPA violations.

MAX S. ROBERTS

Max Roberts is an Associate in Bursor & Fisher’s New York office. Max focuses his practice on class actions concerning data privacy and consumer protection. Max was a Summer Associate with Bursor & Fisher prior to joining the firm and is now Co-Chair of the firm’s Appellate Practice Group.

In 2023, Max was named “Rising Star” in the New York Metro Area by Super Lawyers®.

Max received his Juris Doctor from Fordham University School of Law in 2019, graduating cum laude. During law school, Max was a member of Fordham’s Moot Court Board, the Brennan Moore Trial Advocates, and the Fordham Urban Law Journal, for which he published a note entitled [*Weaning Drug Manufacturers Off Their Painkiller: Creating an Exception to the Learned Intermediary Doctrine in Light of the Opioid Crisis*](#). In addition, Max served as an intern to the Honorable Vincent L. Briccetti of the Southern District of New York and the Fordham Criminal Defense Clinic. Max graduated from Johns Hopkins University in 2015 with a B.A. in Political Science.

Outside of the law, Max is an avid triathlete.

Selected Published Decisions:

Huertas v. Bayer US LLC, 120 F.4th 1169 (3d Cir. 2024), reversing district court and holding plaintiffs had alleged an injury-in-fact sufficient for Article III standing. Max personally argued the appeal before the Third Circuit, which can be listened to [here](#).

Jackson v. Amazon.com, Inc., 65 F.4th 1093 (9th Cir. 2023), affirming district court's denial of motion to compel arbitration. Max personally argued the appeal before the Ninth Circuit, which can be viewed [here](#).

Javier v. Assurance IQ, LLC, 2022 WL 1744107 (9th Cir. May 31, 2022), reversing district court and holding that Section 631 of the California Invasion of Privacy Act requires prior consent to wiretapping. Max personally argued the appeal before the Ninth Circuit, which can be viewed [here](#).

Mora v. J&M Plating, Inc., 213 N.E.3d 942 (Ill. App. Ct. 2d Dist. 2022), reversing circuit court and holding that Section 15(a) of Illinois' Biometric Information Privacy Act requires an entity to establish a retention and deletion schedule for biometric data at the first moment of possession. Max personally argued the appeal before the Second District, which can be listened to [here](#).

Shah v. Fandom, Inc., --- F. Supp. 3d ---, 2024 WL 4539577 (N.D. Cal. Oct. 21, 2024), denying motion to dismiss alleged violations of California pen register statute.

Yockey v. Salesforce, Inc., --- F. Supp. 3d ---, 2024 WL 3875785 (N.D. Cal. Aug. 16, 2024), denying motion dismiss alleged violations of California and Pennsylvania wiretapping statutes.

Gladstone v. Amazon Web Services, Inc., --- F. Supp. 3d ---, 2024 WL 3276490 (W.D. Wash. July 2, 2024), denying motion to dismiss alleged violations of California wiretapping statute.

Rancourt v. Meredith Corp., 2024 WL 381344 (D. Mass. Jan. 11, 2024), denying motion to dismiss alleged violations of federal Video Privacy Protection Act, and finding personal jurisdiction over operator of mobile application.

Saunders v. Hearst Television, Inc., 711 F. Supp. 3d 24 (D. Mass. 2024), denying motion to dismiss alleged violations of federal Video Privacy Protection Act.

Cristostomo v. New Balance Athletics, Inc., 647 F. Supp. 3d 1 (D. Mass. 2022), denying motion to dismiss and motion to strike class allegations in case involving sneakers marketed as "Made in the USA."

Selected Class Settlements:

Sholopa v. Turk Hava Yollari A.O. (d/b/a Turkish Airlines), Case No. 1:20-cv-3294-ALC (S.D.N.Y. 2023) – final approval granted for \$14.1 million class settlement to resolve claims of passengers whose flights with Turkish Airlines were cancelled due to COVID-19 and who did not receive refunds.

Payero v. Mattress Firm, Inc., Case No. 7:21-cv-3061-VB (S.D.N.Y. 2023) – final approval granted for \$4.9 million class settlement to resolve claims of consumers who purchased allegedly defective bed frames.

Miranda v. Golden Entertainment (NV), Inc., Case No. 2:20-cv-534-AT (D. Nev. 2021) – final approval granted for class settlement valued at over \$4.5 million to resolve claims of customers and employees of casino company stemming from data breach.

Malone v. Western Digital Corp., Case No. 5:20-cv-3584-NC (N.D. Cal. 2021) – final approval granted for class settlement valued at \$5.7 million to resolve claims of hard drive purchasers for alleged false advertised.

Frederick v. ExamSoft Worldwide, Inc., Case No. 2021-L-001116 (18th Judicial Circuit Court DuPage County, Illinois 2021) – final approval granted for \$2.25 million class settlement to resolve claims of Illinois students for alleged violations of the Illinois Biometric Information Privacy Act.

Bar Admissions

- New York State
- Southern District of New York
- Eastern District of New York
- Northern District of New York
- Northern District of Illinois
- Central District of Illinois
- Eastern District of Michigan
- District of Colorado
- Third Circuit Court of Appeals
- Seventh Circuit Court of Appeals
- Ninth Circuit Court of Appeals

JULIA K. VENDITTI

Julia K. Venditti is an Associate with Bursor & Fisher, P.A. Julia focuses her practice on complex civil litigation and class actions. Julia was a Summer Associate with Bursor & Fisher prior to joining the firm.

Julia is admitted to the State Bar of California and is a member of the bars of the United States District Courts for the Northern, Eastern, Central, and Southern Districts of California.

Julia received her Juris Doctor in 2020 from the University of California, Hastings College of the Law, where she graduated *cum laude* with two CALI Awards for the highest grade in her Evidence and California Community Property classes. During law school, Julia was a member of the UC Hastings Moot Court team and competed at the Evans Constitutional Law Moot Court Competition, where she finished as a national quarterfinalist and received a best brief award. Julia was also inducted into the UC Hastings Honors Society and was awarded Best Brief and an Honorable Mention for Best Oral Argument in her First-Year Moot Court section.

In addition, Julia served as a Research Assistant for her Constitutional Law professor, as a Teaching Assistant for Legal Writing & Research, and as a Law Clerk at the San Francisco Public Defender's Office. In 2017, Julia graduated *magna cum laude* from Baruch College/CUNY, Weissman School of Arts and Sciences, with a B.A. in Political Science.

JULIAN DIAMOND

Julian Diamond is an Associate with Bursor & Fisher, P.A. Julian focuses his practice on privacy law and class actions. Julian was a Summer Associate with Bursor & Fisher prior to joining the firm.

Julian received his Juris Doctor from Columbia Law School, where he was a Harlan Fiske Stone Scholar. During law school, Julian was Articles Editor for the Columbia Journal of Environmental Law. Prior to law school, Julian worked in education. Julian graduated from California State University, Fullerton with a B.A. in History and a single subject social science teaching credential.

MATTHEW GIRARDI

Matt Girardi is an Associate with Bursor & Fisher, P.A. Matt focuses his practice on complex civil litigation and class actions, and has focused specifically on consumer class actions involving privacy violations, illegal gambling, financial misconduct, and false advertising. Matt was a Summer Associate with Bursor & Fisher prior to joining the firm.

Matt is admitted to the State Bar of New York, and is a member of the bars of the United States District Courts for the Southern District of New York, the Eastern District of New York, the Eastern District of Michigan, the Western District of Michigan, the First Circuit Court of Appeals, and the Ninth Circuit Court of Appeals.

Matt received his Juris Doctor from Columbia Law School in 2020, where he was a Harlan Fiske Stone Scholar. During law school, Matt was the Commentary Editor for the Columbia Journal of Tax Law, and represented fledgling businesses for Columbia's Entrepreneurship and Community Development Clinic. In addition, Matt worked as an Honors Intern in the Division of Enforcement at the U.S. Securities and Exchange Commission. Matt graduated from Brown University in 2016 with a B.A. in Economics, and worked as a Paralegal Specialist at the U.S. Department of Justice in the Antitrust Division prior to law school.

Selected Class Settlements:

Armstead v. VGW Malta Ltd. et al., Case No. 22-CI-00553 (Henderson Cnty. Ky. 2023) – final approval granted for \$11.75 million class settlement involving allegedly deceptive and/or illegal gambling practices.

Edwards v. Mid-Hudson Valley Federal Credit Union, Case No. 22-cv-00562-TJM-CFH (N.D.N.Y. 2023) – final approval granted for \$2.2 million class settlement to resolve claims that an upstate New York credit union was unlawfully charging overdraft fees on accounts with sufficient funds.

Fischer, et al. v. Instant Checkmate LLC, et al., No. 19-cv-04892 (N.D. Ill. 2024) – final approval granted for state-by-state non-reversionary cash settlements involving alleged violations of right of publicity statutes totaling in excess of \$10.1 million.

Wyland v. Woopla, Inc., Civil Action No. 2023-CI-00356 (Henderson Cir. Ct. Ky. 2023) – final approval granted for \$835,000 class settlement involving allegedly deceptive and/or illegal gambling practices.

Whiting v. Yellow Social Interactive Ltd., Civil Action No. 2023-CI-00358 (Henderson Cir. Ct. Ky. 2023) – final approval granted for \$1.32 million class settlement involving allegedly deceptive and/or illegal gambling practices.

JENNA GAVENMAN

Jenna Gavenman is an Associate with Bursor & Fisher, P.A. Jenna focuses her practice on complex civil litigation and consumer class actions. Jenna was a Summer Associate and a part-time intern with Bursor & Fisher prior to joining the firm as a full-time Associate in September 2022.

Jenna is admitted to the State Bar of California and is a member of the bars of the United States District Courts for the Northern, Eastern, Central, and Southern Districts of California.

Jenna received her Juris Doctor in 2022 from the University of California, Hastings College of the Law (now named UC Law SF). During law school, she was awarded an Honorable Mention for Best Oral Argument in her First-Year Moot Court section. Jenna also participated in both the Medical Legal Partnership for Seniors (MLPS) and the Lawyering for Children Practicum at Legal Services for Children—two of UC Hastings’s nationally renowned clinical programs. Jenna was awarded the Clinic Award for Outstanding Performance in MLPS for her contributions to the clinic. In addition, Jenna volunteered with her law school’s Legal Advice and Referral Clinic and as a LevelBar Mentor.

In 2018, Jenna graduated *cum laude* from Villanova University with a B.A. in Sociology and Spanish (double major). Jenna was a Division I athlete, competing on the Villanova Women’s Water Polo varsity team for four consecutive years.

EMILY HORNE

Emily Horne is an Associate with Bursor & Fisher, P.A. Emily focuses her practice on complex civil litigation and consumer class actions. Emily was a Summer Associate with Bursor & Fisher prior to joining the firm.

Emily is admitted to the State Bar of California.

Emily received her Juris Doctor from the University of California, Hastings College of the Law in 2022 (now UC, Law SF). During law school, Emily served as Editor-in-Chief for the UC Hastings Communications and Entertainment Law Journal, and she competed on the Moot Court team. Emily also served as a judicial extern in the Northern District of California and as a

Teaching Assistant for Legal Writing & Research. In 2015, Emily graduated from Scripps College with a B.A. in Sociology.

IRA ROSENBERG

Ira Rosenberg is an Associate with Bursor & Fisher, P.A. Ira focuses his practice on complex civil litigation and class actions.

Ira received his Juris Doctor in 2022 from Columbia Law School. During law school, Ira served as a Student Honors Legal Intern with Division of Enforcement at the U.S. Securities and Exchange Commission. Ira also interned during law school in the Criminal Division at the United States Attorney's Office for the Southern District of New York and with the Investor Protection Bureau at the Office of the New York State Attorney General. Ira graduated in 2018 from Beth Medrash Govoha with a B.A. in Talmudic Studies.

LUKE SIRONSKI-WHITE

Luke Sironski-White is an Associate with Bursor & Fisher, P.A., focusing on complex civil litigation and consumer class actions. Luke joined the firm as a full-time Associate in August 2022.

Luke is admitted to the State Bar of California and is a member of the bars of the United States District Courts for the Northern, Eastern, Central, and Southern Districts of California.

Luke received his Juris Doctor in 2022 from the University of California, Berkeley School of Law. During law school, Luke was on the board of the Consumer Advocacy and Protection Society (CAPS), edited for the Berkeley Journal of Employment and Labor Law, and volunteered with the Prisoner Advocacy Network.

In 2017, Luke graduated from the University of Chicago with a B.A. in Anthropology. Before entering the field of law Luke was a professional photographer and filmmaker.

INES DIAZ

Ines Diaz is an Associate with Bursor & Fisher, P.A. Ines focuses her practice on complex civil litigation and class actions.

Ines is admitted to the State Bar of California.

Ines received her Juris Doctor in 2023 from the University of California, Berkeley School of Law. During law school, Ines served as an Executive Editor of the California Law Review. She also served as an intern with the East Bay Community Law Center's Immigration Clinic and as a Fellow of the Berkeley Law Academic Skills Program. Additionally, Ines served as an instructor with the University of California, Berkeley Extension, Legal Studies Global Access Program where she taught legal writing to international law students. In 2021, Ines was selected for a summer externship at the California Supreme Court where she served as a judicial extern for the Honorable Mariano-Florentino Cuéllar.

CAROLINE C. DONOVAN

Caroline C. Donovan is an Associate with Bursor & Fisher, P.A. Caroline focuses her practice on complex civil litigation, data protection, mass arbitration, and class actions. Caroline interned with Bursor & Fisher during her third year of law school before joining full time in Fall 2023.

Caroline is admitted to the State Bar of New York.

Caroline received her Juris Doctor in 2023 from Brooklyn Law School. During law school, Caroline was a member of the Moot Court Honor Society Trial Division, where she was chosen to serve as a National Team Member. Caroline competed and coached in numerous competitions across the country, and placed second at regionals in AAJ's national competition in both her second and third year of law school. Caroline was also the President of the Art Law Association, and the Treasurer of the Labor and Employment Law Association.

During law school, Caroline was a judicial intern for Judge Kenneth W. Chu of the National Labor Relations Board. She also interned at the United States Attorney's Office in the Eastern District of New York, as well as a securities class action firm.

JOSHUA B. GLATT

Joshua Glatt is an Associate with Bursor & Fisher, P.A. Joshua focuses his practice on complex civil litigation and consumer class actions. Joshua was a Summer Associate with Bursor & Fisher prior to joining the firm as an Associate.

Joshua earned his Juris Doctor from the University of California College of the Law, San Francisco (formerly U.C. Hastings). While there, he received a CALI Award for earning the highest grade in Constitutional Law II and served on the executive boards of the Jewish Law Students Association and the American Constitution Society. Prior to law school, Joshua graduated *summa cum laude* from the Walter Cronkite School of Journalism and Mass Communication at Arizona State University in 2016 and earned a master's degree from the University of Southern California in 2018.

JOSHUA R. WILNER

Joshua Wilner is an Associate with Bursor & Fisher, P.A. Joshua focuses his practice on complex civil litigation, data privacy, consumer protection, and class actions. Joshua was a Summer Associate at Bursor & Fisher prior to joining the firm full time in Fall 2023.

Joshua is admitted to the State Bar of California.

Joshua received his Juris Doctor in 2023 from Berkeley Law. During law school, he received the American Jurisprudence Award for Constitutional Law.

During law school, Joshua served on the board of the Berkeley Journal of Employment and Labor Law. Joshua also interned at Disability Rights California, Legal Aid at Work, and a private firm that worked closely with the ACLU of Northern California to enforce the California

Racial Justice Act. In 2022 and 2023, Joshua worked as a research assistant for Professor Abbye Atkinson.

VICTORIA ZHOU

Victoria Zhou is an Associate in Bursor & Fisher's New York office. Victoria focuses her practice on class actions concerning data privacy and consumer protection.

Victoria is admitted to the State Bar of New York.

Victoria received her Juris Doctor from Fordham Law School in 2023. During law school, Victoria served as an Associate Editor of the Moot Court Board and competed in multiple mock trial competitions as a member of the Brendan Moore Trial Advocates. In addition, Victoria served as a judicial extern to Chief Judge Mark A. Barnett of the United States Court of International Trade. In 2019, Victoria graduated *magna cum laude* from Fei Tian College with a B.F.A. in Classical Dance.

KYLE D. GORDON

Kyle Gordon is an Associate with Bursor & Fisher, P.A. Kyle focuses his practice on class actions concerning data privacy and consumer protection. Kyle was a Summer Associate with Bursor & Fisher prior to joining the firm.

Kyle is admitted to the State Bar of New York.

Kyle received his Juris Doctor from Columbia Law School in 2023, where he was a Harlan Fiske Stone Scholar. During law school, Kyle was a Staff Editor for the Columbia Science and Technology Law Review. In 2020, Kyle graduated *summa cum laude* from New York University with a B.A. in Politics and became a member of Phi Beta Kappa. Prior to law school, Kyle interned in the Clerk's Office of the United States District Court for the District of Columbia.