

COTCHETT, PITRE & MCCARTHY, LLP

Anne Marie Murphy (SBN 202540)
Mark C. Molumphy (SBN 168009)
Tyson C. Redenbarger (SBN 294424)
Julia Q. Peng (SBN 318396)
San Francisco Airport Office Center
840 Malcolm Road, Suite 200
Burlingame, CA 94010
Telephone: (650) 697-6000
Facsimile: (650) 697-0577
amurphy@cpmlegal.com
mmolumphy@cpmlegal.com
tredenbarger@cpmlegal.com
jpeng@cpmlegal.com

KAPLAN FOX & KILSHEIMER LLP

Matthew B. George (SBN 239322)
Kathleen A. Herkenhoff (SBN 168562)
Laurence D. King (SBN 206423)
1999 Harrison Street, Suite 1560
Oakland, CA 94612
Telephone: 415-772-4700
Facsimile: 415-772-4707
mgeorge@kaplanfox.com
kherkenhoff@kaplanfox.com
lking@kaplanfox.com

Interim Co-Lead Counsel for Plaintiffs

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

In Re: Robinhood Outage Litigation

Master File No. 3:20-cv-01626-JD

CLASS ACTION

**PLAINTIFFS' NOTICE OF MOTION AND
MOTION FOR PRELIMINARY
APPROVAL OF PROPOSED CLASS
ACTION SETTLEMENT; MEMORADUM
OF POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

Date: September 22, 2022

Time: 10:00 a.m.

Judge: Hon. James Donato

Ctrm: 11, 19th Floor

NOTICE OF MOTION AND MOTION**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE that on September 22, 2022 at 10:00 a.m., or as soon thereafter as the matter may be heard, before the Honorable James Donato, United States District Judge for the Northern District of California, at the San Francisco Courthouse, 450 Golden Gate Avenue, Courtroom 11, 19th Floor, San Francisco, CA 94102, Plaintiffs will and hereby do move for an Order pursuant to Rule 23 of the Federal Rules of Civil Procedure (“Rule”):

- (i) preliminarily approving the proposed Class Action Settlement Agreement and Release dated August 4, 2022 (attached as Exhibit A to the Joint Declaration of Anne Marie Murphy and Matthew B. George in Support of Plaintiffs’ Motion for Preliminary Approval of Proposed Class Action Settlement (“Joint Decl.”), filed concurrently herewith);
- (ii) finding that, for purposes of effectuating the proposed Settlement, the prerequisites for class certification under Federal Rule of Civil Procedure 23(a) are likely to be found satisfied;
- (iii) approving the form and manner of notice to the Settlement Class;
- (iv) approving the selection of the Settlement Administrator;
- (v) appointing Cotchett, Pitre & McCarthy (“CPM”) and Kaplan Fox & Kilsheimer LLP (“Kaplan Fox”) as Co-Lead Class Counsel for purposes of the settlement;
- (vi) appointing Plaintiffs Daniel Beckman, Emma Jones, Mahdi Heidari Moghadam, Howard Morey, Colin Prendergast, Raghu Rao, Michael Riggs, and Jason Steinberg as Class Representatives for purpose of the settlement; and
- (vii) scheduling a Fairness Hearing before the Court.

Plaintiffs’ motion is based upon this Notice of Motion and Motion, the Memorandum of Points and Authorities set forth below, the Joint Declaration, the Settlement Agreement, the Declaration of Cameron R. Azari, Esq. on Notice Plan and Notices (“Azari Decl.”), Declaration of Scott Walster (“Walster Decl.”), all exhibits attached thereto, the pleadings and records on file in

1 this Action, and other such matters and argument as the Court may consider at the hearing of this
2 motion.

3 **STATEMENT OF ISSUES TO BE DECIDED**

- 4 1. Whether the Court should grant conditional certification of the Settlement Class; and
5 2. Whether the Court should grant preliminary approval of the Settlement.

6 Respectfully submitted,

7 Dated: August 5, 2022

/s/ Anne Marie Murphy

COTCHETT, PITRE & MCCARTHY, LLP

Anne Marie Murphy (SBN 202540)

Mark C. Molumphy (SBN 168009)

Tyson C. Redenbarger (SBN 294424)

Julia Q. Peng (SBN 318396)

San Francisco Airport Office Center

840 Malcolm Road, Suite 200

Burlingame, CA 94010

Telephone: (650) 697-6000

Facsimile: (650) 697-0577

amurphy@cpmlegal.com

mmolumphy@cpmlegal.com

tredenbarger@cpmlegal.com

jpeng@cpmlegal.com

16 Dated: August 5, 2022

/s/ Matthew B. George

KAPLAN FOX & KILSHEIMER LLP

Matthew B. George (SBN 239322)

Kathleen A. Herkenhoff (SBN 168562)

Laurence D. King (SBN 206423)

1999 Harrison Street, Suite 1560

Oakland, CA 94612

Telephone: 415-772-4700

Facsimile: 415-772-4707

mgeorge@kaplanfox.com

kherkenhoff@kaplanfox.com

lking@kaplanfox.com

Interim Co-Lead Counsel for Plaintiffs

TABLE OF CONTENTS

	Page
MEMORANDUM OF POINTS AND AUTHORITIES	1
I. INTRODUCTION	1
II. BACKGROUND	1
A. The Litigation and Class Counsel's Efforts	1
B. Fact and Expert Discovery	3
III. PROPOSED SETTLEMENT	4
A. The Settlement Class and Release	4
B. The Settlement's Monetary Benefits	5
C. The Settlement's Notice Plan.....	5
D. Service Awards	6
E. Attorneys' Fees and Expenses	6
F. Settlement Administrator	6
IV. ARGUMENT	7
A. The Court Should Grant Preliminary Approval of the Settlement Because It is Fair, Reasonable, and Adequate	7
i. The Proposed Class Representatives Adequately Represent the Class	8
ii. The Parties Negotiated the Settlement at Arm's Length	8
iii. The Advanced Stage of Litigation and Completed Discovery Support the Settlement	9
B. The Settlement Satisfies the Northern District's Procedural Guidance for Class Action Settlements	10
i. Guidance 1(a) and 1(b): Differences between Class Definitions, Claims .	10
ii. Guidance 1(c): Settlement Value v. Potential Recovery at Trial.....	11
iii. Guideline 1(d): Other Cases Affected by the Settlement.....	13
iv. Guidance 1(e): The Proposed Plan of Allocation for the Settlement Fund	13

1	v.	Guidance 1(f): Estimate of Number of Claims	15
2	vi.	Guidance 1(g): Reversions.....	15
3	vii.	Guidance 3: Notice	16
4	viii.	Guidance 4 and 5: Requests for Exclusion and Objections	16
5	ix.	Guidance 6: Attorneys' Fees and Expenses.....	16
6	x.	Guidance 7: Service Awards.....	17
7	xi.	Guidance 8: Cy Pres.....	18
8	xii.	Guidance 10: CAFA Notice.....	18
9	xiii.	Guidance 11: Comparable Outcomes with Past Distributions.....	18
10			
11	C.	The Court Should Conditionally Certify the Class for Settlement Purposes.....	19
12	i.	This Settlement Meets the Prerequisites of Subdivision (a) of Rule 23	20
13	ii.	Numerosity Rule 23(a)(1).....	20
14	iii.	Commonality.....	20
15	iv.	Typicality	20
16	v.	Adequacy of Representation	21
17	vi.	This Settlement Meets the Requirements of Subdivision (b)(3) of Rule 23.....	22
18	vii.	Common Liability Questions Predominate Over Individual Damages Questions.....	22
19	viii.	Class Action is Superior to Other Available Methods for Fairly and Efficiently Adjudicating the Controversy	23
20			
21			
22			
23	D.	The Court Should Appoint CPM and Kaplan Fox as Co-Lead Class Counsel for Purposes of Settlement.....	23
24			
25	E.	The Court Should Appoint Plaintiffs as Class Representatives for Purposes of Settlement	23
26			
27	V.	PROPOSED SCHEDULE FOR PROCEEDINGS	24
28	VI.	CONCLUSION.....	24

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.