

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
San Francisco Division

IN RE: ZOOM VIDEO
COMMUNICATIONS, INC. PRIVACY
LITIGATION

Case No. 20-cv-02155-LB

FINAL APPROVAL ORDER

Re: ECF Nos. 216, 217

This Document Relates To:

ALL ACTIONS.

INTRODUCTION

This is a consumer-privacy class action against Zoom Video Communications. The plaintiffs allege that Zoom improperly shared their data through third-party software from companies such as Facebook and Google, claimed to have end-to-end encryption when it did not, and failed to prevent “Zoombombing” (disruptions of Zoom meetings by third-party actors).¹ The parties settled the case, and the court granted the plaintiffs’ motion for preliminary approval of the settlement.² The plaintiffs moved for final approval of the settlement and for attorney’s fees, expenses, and service

¹ Second Am. Compl. (SAC) – ECF No. 179 at 3–5 (¶¶ 4–9); Mot. – ECF No. 216 at 12. Record citations refer to material in the Electronic Case File (ECF); pinpoint citations are to the ECF-generated page numbers at the top of the documents.

² Mot. for Prelim. Approval – ECF No. 190; Settlement Agreement, Ex. 1 to Wolfson & Molumph

1 payments.³ The court held a fairness hearing on April 21, 2022. The court finds the settlement fair,
 2 adequate, and reasonable and approves the final settlement, including the fees, costs, and service
 3 payments.

4 STATEMENT

5 1. The Lawsuit

6 In early 2020, consumers dramatically increased their use of Zoom in response to the COVID-
 7 19 pandemic. Between March and May 2020, fourteen class-action complaints were filed in the
 8 Northern District of California challenging Zoom's alleged violations of its customers' data
 9 privacy and security.⁴ The court consolidated the cases and appointed Tina Wolfson of Ahdoot &
 10 Wolfson and Mark Molumphy of Cotchett, Pitre & McCarthy as Interim Co-Lead Counsel.
 11 Rachele Byrde of Wolf Haldenstein, Albert Chang of Bottini & Bottini, and Eric Gibbs of the
 12 Gibbs Law Group were appointed to the Plaintiffs' Steering Committee.⁵

13 Following the plaintiffs' filing a consolidated amended complaint and Zoom's motion to
 14 dismiss, the parties stipulated to the plaintiffs' filing a First Amended Consolidated Class Action
 15 Complaint. Zoom moved to dismiss the complaint, and the court granted the motion in part,
 16 dismissing (with leave to amend) the claims involving (1) Zoombombing (to the extent that the
 17 claims challenged the harmfulness of third-party content or derived from Zoom's status as a
 18 publisher/speaker of the content), (2) invasion of privacy under California law, (3) negligence, (4)
 19 California's Comprehensive Data Access and Fraud Act (CDAFA), and (5) fraud under
 20 California's Unfair Competition Law (UCL), California's Consumer Legal Remedies Act
 21 (CLRA), and Cal. Civ. Code § 1710(3) (fraudulent concealment).⁶ On May 12, 2021, the plaintiffs
 22 then filed the operative Second Amended Complaint (SAC) with six claims (eliminating the
 23

24 ³ Mot. – ECF No. 216; Mot. for Attorney's Fees – ECF No. 217.

25 ⁴ Mot. – ECF No. 216 at 12; Settlement Agreement, Ex. 1 to Wolfson & Molumphy Decl. – ECF No.
 191-1 at 2 (¶ A).

26 ⁵ Mot. – ECF No. 216 at 12; Settlement Agreement, Ex. 1 to Wolfson & Molumphy Decl. – ECF No.
 191-1 at 2 (¶¶ B–C); Orders – ECF Nos. 62, 92.

27 ⁶ Mot. – ECF No. 216 at 12–13; Consolidated Am. Compl. – ECF No. 114; Mot. to Dismiss – ECF
 28

1 previously dismissed claims of negligence and a violation of the CDAFA and eliminating two
2 named plaintiffs). The claims are (1) invasion of privacy, (2) breach of implied contract, (3)
3 breach of the implied covenant of good faith and fair dealing, (4) unjust enrichment; (5) a
4 violation of the UCL, and (6) a violation of the CLRA.⁷

5 The parties engaged in extensive discovery, including written discovery (interrogatories and
6 document requests). Class counsel issued subpoenas to third parties. The parties exchanged
7 additional discovery as part of their settlement discussions.⁸ The plaintiffs learned through these
8 efforts that Zoom “collected approximately \$1.07 billion in Zoom Meetings subscriptions from
9 Settlement Class Members,” and the plaintiffs consulted with damages experts regarding the
10 adequacy of the settlement in light of that revenue.⁹

11 The parties participated in extensive, arms-length settlement negotiations over many months,
12 including four mediations and many additional discussions facilitated by the Honorable Jay C.
13 Gandhi (Ret.), a former magistrate judge and a respected mediator with significant class-action
14 and data-privacy experience. The parties began mediation in November 2020, exchanged
15 information to prepare for the mediation (in addition to the discovery), and reached agreement on
16 some key terms in April 2021, after both parties accepted a double-blind mediator’s proposal.
17 Negotiations and mediation continued until the Settlement Agreement was executed on July 30,
18 2021. This process was complex “due to the unique nature of the claims, the novel technology
19 involved, and the monetary and injunctive relief [the] Plaintiffs were seeking.”¹⁰

20 After the parties finalized their settlement agreement, the court granted the plaintiffs’
21 unopposed motion for preliminary approval.¹¹ The plaintiffs moved for final approval of the
22
23

24 _____
25 ⁷ Mot. – ECF No. 216 at 14; SAC – ECF No. 179 at 57–66 (¶¶ 209–69).

26 ⁸ Mot. – ECF No. 216 at 14; Molumphy & Wolfson Decl. – ECF No. 218 at 7–13 (¶¶ 24–45).

27 ⁹ Mot. – ECF No. 216 at 23; Molumphy & Wolfson Decl. – ECF No. 218 at 11 (¶ 39).

28 ¹⁰ Mot. – ECF No. 216 at 14–15; Molumphy & Wolfson Decl. – ECF No. 218 at 12–14 (¶¶ 43–49);
Gandhi Decl. – ECF No. 216-1.

1 settlement, attorney’s fees and costs for Class Counsel, and Service Awards for the Class
2 Representatives.¹² The court held a fairness hearing on April 21, 2022.

3 4 **2. Proposed Settlement**

5 All defined terms in this Final Approval Order have the same meaning as in the Settlement
6 Agreement.

7 **2.1 Settlement Class**

8 The parties agreed to the following class definition for settlement purposes only:

9 “Settlement Class” means all Persons in the United States who, between March 30,
10 2016 and the Settlement Date, registered, used, opened, or downloaded the Zoom
11 Meetings Application (“App”) except for (i) all Persons who have only registered,
12 used, opened, or downloaded the Zoom Meetings App through an Enterprise-Level
13 Account or a Zoom for Government Account, (ii) Zoom and its officers and
14 directors; and (iii) the Judge or Magistrate Judge to whom the action is assigned
15 and any member of those Judges’ staffs or immediate family members.¹³

16 The “Settlement Date” is July 30, 2021.¹⁴ An “Enterprise-Level Account” is one “that as of the
17 Settlement Date belonged to, was controlled by, or was provisioned by a Person paying to use (or
18 otherwise licensed by Zoom to use) the Zoom Meetings App at the ‘Enterprise’ level of Zoom’s
19 pricing plans.”¹⁵

20 There are approximately 150 million Settlement Class Members.¹⁶ The Settlement
21 Administrator received 2,242 requests for exclusion.¹⁷ Nine objections to the settlement were filed
22 with the court.¹⁸

23 ¹² Mot. – ECF No. 216; Mot. for Attorney’s Fees – ECF No. 217.

24 ¹³ Settlement Agreement, Ex. 1 to Wolfson & Molumphy Decl. – ECF No. 191-1 at 9 (¶ 1.40).

25 ¹⁴ *Id.* (¶ 1.42).

26 ¹⁵ *Id.* at 6 (¶ 1.14).

27 ¹⁶ Mot. – ECF No. 216 at 11; Molumphy & Wolfson Decl. – ECF No. 218 at 15 (¶ 52).

28 ¹⁷ Azari Second Suppl. Decl. – ECF No. 237-1 at 2 (¶ 3); Exclusion Report, Ex. 1 to *id.* – ECF No. 237-1 at 6–60.

29 ¹⁸ *Id.* – ECF No. 237-1 at 2 (¶ 3); Exclusion Report, Ex. 1 to *id.* – ECF No. 237-1 at 6–60.

2.2 Settlement Benefits

The settlement contains monetary and injunctive relief. The monetary Settlement Amount is \$85,000,000, and the Net Settlement Fund — the fund recovered by the Settlement Class — will be a lesser amount after the following deductions: (1) any Fee and Expense Award approved by the court (the plaintiffs moved for \$21,250,000 in fees and \$130,842.24 in expenses); (2) any Service Payments approved by the court (the plaintiffs moved for \$5,000 per plaintiff); (3) Taxes and Tax Expenses; and (4) Settlement Administration Expenses (estimated at \$2,833,000).¹⁹

Settlement Class Members who submit a Claim Form will be entitled to individual payment. Individual payment amounts will depend on whether the Settlement Class Member paid for a Zoom Meetings subscription. Those who did can submit a Paid Subscription Claim and will receive the greater of \$25 or 15% of the amount paid. Those who did not pay for a subscription can submit a User Claim and will receive \$15. These amounts can be adjusted up or down depending on claim volume and the amount of deductions from the Settlement Amount.²⁰ As of March 14, 2022, the Settlement Administrator anticipated that adjustment is likely, such that those who submit Paid Subscription Claims will receive the greater of \$50 or 30% of the amount paid (an average of \$95), and those who submit User Claims will receive \$29.²¹

Settlement Class Members will have the option to receive Settlement Payments via digital methods; otherwise, they will receive a check. The checks and digital payments will be good for 90 days.²²

The Settlement Administrator has “authority to determine whether a Claim Form is valid, timely, and complete.” Those submitting Settlement Claims will have an opportunity to cure any

¹⁹ Mot. – ECF No. 216 at 16; Mot. for Attorney’s Fees – ECF No. 217 at 2; Wolfson & Molumphy Decl. – ECF No. 191 at 7 (¶ 26); Settlement Agreement, Ex. 1 to *id.* – ECF No. 191-1 at 7 (¶¶ 1.15, 1.20), 9 (¶¶ 1.36, 1.43), 11–14 (¶ 2.1), 30–31 (¶¶ 10.1–10.3).

²⁰ Mot. – ECF No. 216 at 16; Settlement Agreement, Ex. 1 to Wolfson & Molumphy Decl. – ECF No. 191-1 at 14–17 (¶¶ 2.2, 2.4).

²¹ Reply – ECF No. 231 at 8; Azari Suppl. Decl. – ECF No. 231-1 at 11 (¶ 25).

²² Settlement Agreement, Ex. 1 to Wolfson & Molumphy Decl. – ECF No. 191-1 at 17 (¶ 2.5).

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