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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 ANGELIQUE SINGLETARY, an
11 individual, on behalf of herself
12 and on behalf of all persons
similarly situated,

13 Plaintiffs,

14 v.

15 G6 HOSPITALITY, LLC, a
16 Limited Liability Company;
17 MOTEL 6 OPERATING L.P., a
18 Limited Partnership; and Does 1
19 through 50, Inclusive, et al.,
Defendants.

Case No. 3:20-cv-00270-LAB-
AHG

ORDER GRANTING:

- 1) **MOTION FOR FINAL
APPROVAL OF CLASS
SETTLEMENT [Dkt. 86]; and**
2) **MOTION FOR ATTORNEY
FEES, COSTS, AND SERVICE
AWARDS [Dkt. 85]**

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21 Plaintiffs Angelique Singletary and Iyana Blackwell (“Plaintiffs”) were
22 prospective employees of G6 Hospitality LLC (“Defendant”). They filed this
23 putative class action against Defendant asserting claims for failure to make
24 proper disclosures and failure to obtain proper authorization under the Fair
25 Credit Reporting Act (“FCRA”), failure to make proper disclosure under the
26 Investigative Consumer Reporting Agencies Act (“ICRAA”), and unfair
27 competition under California Business & Professions Code. Plaintiffs now
28 move for final approval of the class settlement (the “Settlement”) with

1 Defendants and of payments to the Class, the Plaintiffs, Class Counsel and
2 the Settlement Administrator. (Dkt. 86-2; Dkt. 85-1).

3 The Court has considered:

- 4 • Plaintiffs' briefing in support of the Motion for Award of
5 Attorneys Fees and Costs and Service Awards ("the "Fee
6 Motion") (Dkt. 85);
- 7 • Plaintiffs' Notice of Motion and Motion for Final Approval of
8 Class Settlement (the "Final Approval Motion") (Dkt. 86);
- 9 • Plaintiffs' Memorandum of Points and Authorities in Support of
10 the Final Approval Motion (Dkt. 86-1);
- 11 • The declarations and exhibits submitted in support of each
12 Motion and the Settlement, including the First Amended Class
13 Action Settlement Agreement, (Dkt. 86-2 Ex. 2), and the
14 Stipulation to Amend the First Amended Class Action
15 Settlement Agreement (Dkt. 79 Ex. 1, and together with the
16 First Amended Class Action Settlement Agreement, the
17 "Agreement");
- 18 • This Court's experiences, observations, and file developed in
19 presiding over the resolution of this matter; and
- 20 • The relevant law;
- 21 • The entire record in this proceeding, including but not limited to
22 the briefing, declarations, and exhibits submitted in support of
23 preliminary approval of the Settlement in its various iterations,
24 including:
 - 25 ○ The Notice Plan for providing full and fair notice to the
26 Class;
 - 27 ○ The lack of any Class Member objections to the
28 Settlement and the four timely requests for exclusion

1 from the Settlement;

- 2 ○ The absence of any objection or response by any official
 3 after the provisions of all notices required by the Class
 4 Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. § 1715;
 5 and
 6 ○ Counsel's oral presentations at the two hearings on the
 7 Settlement's fairness;

- 8 • This Court's experiences, observations, and file developed in
 9 presiding over resolution of this matter; and
 10 • The relevant law.

11 Based upon these considerations and the Court's findings of fact and
 12 conclusions of law as set forth in the Preliminary Approval Order and as
 13 discussed below, **IT IS ORDERED:**

- 14 1) Final Approval of the Settlement, the terms of which are set forth
 15 in the Agreement, is **GRANTED**;
 16 2) The Settlement Class is **CERTIFIED**;
 17 3) Plaintiffs Angelique Singletary and Iyana Blackwell are appointed
 18 as Class Representatives and the incentive awards requested in
 19 the Fee Motion are **APPROVED**;
 20 4) The payments to Claims Administrator KCC, LLC requested in the
 21 Fee Motion are **APPROVED**;
 22 5) Blumenthal Nordrehaug Bhowmik De Blouw LLP is appointed as
 23 Class Counsel and the attorneys' fees requested in the Fee Motion
 24 are **APPROVED**;
 25 6) Plaintiffs' claims are **DISMISSED WITH PREJUDICE** in
 26 accordance with the terms of this Order.

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DISCUSSION

I. Definitions

Except as otherwise specified herein, the Court adopts all defined terms set forth in the Agreement for purposes of this Final Approval Order.

II. Jurisdiction

This Court has original jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1441, which vests District Court with original jurisdiction because there is a federal question.

The Court also has original jurisdiction over this civil action pursuant to CAFA, Pub. L. No. 109-2 (enacted Feb. 18, 2005) (codified at 28 U.S.C. §§ 1332(d)(2), 1453, 1711–1715), as: (1) the action involves 100 or more potential class members; (2) any class members are citizens of a state different from any Defendant; and (3) the aggregate amount-in-controversy exceeds \$5,000,000.00, exclusive of costs and interest. 28 U.S.C. §§ 1332(d)(2), (d)(6), and (d)(11)(B)(i).

III. Findings and Conclusions

A. Definition of Class and Class Members

The Court adopts the Preliminary Approval Order's definitions of the Class, comprised of the Class Members. The definitions of Class and "Class Period" are reproduced below:

- "Class" means all individuals who applied to work for either defendant G6 Hospitality LLC and/or defendant Motel 6 Operating L.P. and submitted one of Defendants' background check forms that were allegedly defective because the form contained information for multiple states and for whom background checks were run by Defendants or on Defendants' behalf in the United States during the Class Period. The Class specifically excludes individuals who applied to work for Defendants and underwent no

1 background check in connection with their application or who
2 underwent a wholly unrelated background check during the Class
3 Period.

- 4 • Class Period means the period of time from December 10, 2017
5 to May 3, 2020.

6 The Court excludes from the Class all individuals who requested
7 such exclusion. Those individuals are listed in the Declaration of Claims by
8 Claims Administrator Sharon Howard. (Dkt. 88 ¶ 7).

9 **B. Definition of Class and Class Members**

10 Before approving a settlement of Class Claims, the Court must
11 confirm that the Class Form is appropriate to the case. Rule 23(a) requires
12 a class to satisfy four prerequisites, generally referred to as numerosity,
13 commonality, typicality, and adequacy of representation. If these are
14 satisfied, the Court must confirm that the action meets one of the class
15 action types enumerated in Rule 23(b)—as relevant here, subsection (3) of
16 that Rule requires that the common questions predominate over individual
17 ones, and that a class action be superior to other available methods for
18 fairly and efficiently adjudicating the controversy. Because the Court finds
19 that each of these requirements is met, the Court grants final certification
20 of the Class. All Class Members are subject to this Order.

21 **1. Numerosity**

22 The Class here includes 14,078 members (after accounting for the
23 four opt-outs). This is sufficiently numerous that joinder of all Class
24 Members is impracticable, so Rule 23's numerosity requirement is
25 satisfied. Fed. R. Civ. P. 23(a)(1).

26 **2. Commonality**

27 A properly certified class must also have questions of law or fact
28 common to the class members. Fed. R. Civ. P. 23(a)(a). Each Class

1 Member submitted a background form provided by defendants, and those
2 forms were allegedly defective. The proposed Class satisfies this
3 requirement because its claims depend on a question regarding the
4 sufficiency of the disclosures contained in the consent form Defendant
5 provided to each Class Member.

6 **3. Typicality**

7 A class can be certified only if the class representative's claims are
8 typical of the class's claims. Fed. R. Civ. P. 23(a)(3). A representative's
9 claims are typical "if they are reasonably co-extensive with those of absent
10 class members; they need not be substantially identical." *Hanlon v.*
11 *Chrysler Co.*, 150 F.3d 1011, 1020 (9th Cir. 1998), *overruled on other*
12 *grounds by Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338 (2011). Like the
13 other Class Members, each Plaintiff allegedly applied for a job with
14 Defendants, submitted an allegedly violative background check form, and
15 underwent a background check. The Court finds that Plaintiffs' claims are
16 reasonably co-extensive with those of the other Class Members.

17 **4. Adequacy of Class Representatives**

18 The next prerequisite to class certification, adequacy of
19 representation, "serves to uncover conflicts of interest between named
20 parties and the class they seek to represent." *Amchem Prods., Inc. v.*
21 *Windsor*, 521 U.S. 591, 625 (1997); Fed. R. Civ. P. 23(a)(4). No party or
22 objector contends that the Class lack adequate representation, and Class
23 Counsel has fully and completely prosecuted all claims available to the
24 Class. Plaintiffs possess no apparent interests adverse to the Class. Class
25 Counsel and the named Plaintiffs are adequate to represent the Class.

26 **5. The Class Meets the Requirements of Rule 23(b)(3)**

27 Having met Rule 23(a) prerequisites for class certification, Plaintiffs
28 contend that the Class can be certified under Fed. R. Civ. P. 23(b)(3). (See

1 Dkt. 62 ¶ 31(c)). This requires the Court to find that questions of law or fact
2 common to Class Members predominate over any questions affecting only
3 individual members and that class treatment is the superior means to
4 adjudicate plaintiffs' claims. Fed. R. Civ. P. 23(b)(3). These requirements
5 are satisfied as to each Class.

6 Predominance can be established by the existence of a
7 companywide policy or practice. See, e.g., *Duque v. Bank of America*,
8 Case No. SA CV 18-1298 (MRQx), 2018 WL 10483813 at *3-4 (C.D. Cal.
9 Dec. 10, 2018). Here, the Class's claims arise from Defendant's allegedly
10 defective background check forms. The common question surrounding
11 these policies predominate over any individual questions, so the
12 predominance requirement is met.

13 The Court must also confirm that the class form is superior to other
14 methods of litigation before certifying a class under Rule 23(b). This inquiry
15 "requires determination of whether the objectives of the particular class
16 action procedure will be achieved in the particular case." *Hanlon*, 150 F.3d
17 at 1023. The "dominant[]" objective of the class form is "vindication of the
18 rights of groups of people who individually would be without effective
19 strength to bring their opponents into court at all. . . . The policy at the very
20 core of the class action mechanism is to overcome the problem that small
21 recovery do not provide incentive for any individual to bring a solo action
22 prosecuting his or her rights." *Amchem*, 521 U.S. at 617 (cleaned up). The
23 Class here consists of over ten thousand members and the released
24 claims, absent proof of actual damages, are limited to \$10,000 or less (and
25 typically result in far smaller recoveries). 15 U.S.C. § 1681n(a)(1) (willful
26 violator liable for actual damages "not less than \$100 and not more than
27 \$1,000"); Cal. Civ. Code § 1786.50(a)(1) (defendant liable under ICRAA in
28 individual actions for greater of actual damages or \$10,000); Cal. Civ. Code

§ 1785.31(a)(2) (under CCRAA, willful violator is liable for actual damages and punitive damages between \$100 and \$5,000); see *also, e.g., Pietras v. Sentry Ins. Co.*, 513 F. Supp. 2d 983, 985 (surveying FCRA class actions and finding average settlement of \$34.59 per class member). The Court finds that each individual Class Member’s claim would be sufficiently small that they wouldn’t have a sufficient incentive to bring individual actions, so the superiority requirement is satisfied.

With the requirements of Rules 23(a) and (b)(3) satisfied, the Court grants final certification of the Class for settlement purposes only.

IV. The Settlement

Federal Rule of Civil Procedure 23(e) requires “district courts to review proposed class action settlements for fairness, reasonableness, and adequacy.” *Roses, 1-2 v. SFBSC Management, LLC*, 944 F.3d 1035, 1048 (9th Cir. 2019). Because named plaintiffs, class counsel, and defense counsel may have incentives inconsistent with the interests of absent class members, the Court must take care to protect the due process rights of those absent class members. And because this incongruity is most pronounced where the settlement comes prior to class certification, “settlement approval requires a higher standard of fairness and a more probing inquiry than may normally be required under Rule 23(e).” *Id.* At 1048–49 (internal marks and citation omitted). The Court must look particularly for evidence of collusion or other conflicts of interest to protect absent class members. *Id.*

Applying this standard, the Court finds that the Settlement is fair, reasonable, and adequate to the Class in light of the complexity, expense, and likely duration of the litigation (including appellate proceedings), as well as the risks involved in establishing liability, damages, and the appropriateness of class treatment through trial and appeal. See *Rodriguez*

1 *v. West Publ'g Corp.*, 563 F.3d 948, 963 (9th Cir. 2009). The Settlement
 2 appears to be the result of arm's-length negotiation, and the record doesn't
 3 support a conclusion that the Settlement is the result of either: 1) collusion
 4 among Plaintiffs and Class Counsel, and Defendants; or 2) conflicts of
 5 interest between Plaintiffs and Class Counsel, on the one hand, and the
 6 Class Members, on the other.

7 **A. Generally**

8 Under the terms of the Agreement, Defendant will pay a total of
 9 \$1,397,570. After deducting all payments of Court-approved attorney fees
 10 and expenses, class representative service awards, and settlement
 11 administration expenses from the Gross Settlement Amount, 25% of the
 12 remaining Net Settlement Amount will be paid to Class Members.

13 **B. The Settlement Affords Meaningful Relief**

14 Accounting for the Court-approved attorney fees and expenses
 15 payments, class representative service payments, and settlement
 16 administration expenses provided in this Order, the Class will receive
 17 \$821,714, or \$63.29 per Class Member. This is a reasonable recovery for
 18 the Class's claims. *See, e.g., Pietras*, 513 F. Supp. 2d at 985 (surveying
 19 FCRA class actions and finding average settlement of \$34.59 per class
 20 member).

21 On the other side of the ledger and as described in further detail *infra*,
 22 Section VII, participating Class Members will release the claims actually
 23 brought and other background check claims that could have been brought
 24 under federal and state law arising out of the allegations of the operative
 25 complaint and that accrued on or before May 3, 2020, but excluding all
 26 other claims, including claims for labor law violations. Plaintiffs themselves
 27 will release all "claims, transactions or occurrences between them [and
 28 Defendant or its affiliated entities or individuals] that occurred during the

1 Class Period.” (Dkt. 86-2 at 4).

2 The Court finds the release reasonable in scope and, in light of the
3 risks, costs, and duration of continued litigation, the amount paid to
4 Plaintiffs and the Class fair, reasonable, and adequate consideration for
5 that release.

6 **C. No Collusion or Conflicts of Interest**

7 The Court finds no evidence to support a conclusion that Plaintiffs
8 and the Defendant colluded. To the contrary, up to and through the
9 Settlement, the Parties vigorously litigated and negotiated this action, as
10 evidence by the docket.

11 However, the Agreement’s “clear sailing” provision, under which
12 Defendants agreed not to contest any request for fees exceeding 25% of
13 the Settlement funds, can be a “subtle sign of collusion.” *SFBSC*
14 *Management*, 944 F.3d at 1049. The presence of such a provision requires
15 the Court to look closely at the reasonableness of the recovery and the
16 reasonableness of fees to confirm that Class Counsel haven’t negotiated a
17 benefit for themselves using the Class’s claims as leverage. *Id.*

18 That scrutiny doesn’t reveal evidence that Class Counsel bargained
19 away a class benefit in exchange for clear sailing on an unreasonably large
20 fee award. The Settlement’s benefit to the Class is appropriate in relation
21 to the likelihood of success at trial and the magnitude of the Class’s claims.
22 Class Counsel’s requested fees withstand close scrutiny, too. They seek
23 25% of the total—equal to the Ninth Circuit’s benchmark rate and less than
24 the maximum the clear sailing agreement allows without objection. These
25 fees are reasonable. And while the Court finds that the maximum fees
26 allowable under the clear sailing provisions would be too high, that
27 maximum amount isn’t so extraordinary that the Court can infer that Class
28 Counsel obtained the provision by bargaining away a class benefit.

1 Because it's unlikely that the clear sailing agreement provided a non-
2 negligible benefit to Class Counsel, and because the Class's benefit from
3 the Settlement is adequate, the Settlement withstands close scrutiny, and
4 the court finds no apparent collusion.

5 **D. Response of the Class**

6 The Class's responses after full, fair, and effective notice (as
7 discussed below) favor final approval of the Settlement. At least 13,489
8 Class Members received notice. (See Dkt. 88 ¶¶ 3–5). None filed an
9 objection to the Settlement, and only four timely requested exclusion.

10 **V. Notice**

11 Pursuant to the Preliminary Approval Order, KCI sent the Notice of
12 Pendency of Class Action Settlement and Hearing Date for Court Approval
13 ("Class Notice") to 14,082 Class Members by mail. Of these, 596 were
14 returned as undeliverable, after which KCC identified updated addresses
15 for 3 Class Members. KCC also sent emails to 11,625 Class Members. The
16 Class Notice informed Class Members of the terms of the Settlement, their
17 right to receive a Settlement Share, their right to comment on or object to
18 the Settlement and/or the attorneys' fees and costs, their right to elect not
19 to participate in the Settlement and pursue their own remedies, and their
20 right to appear in person or by counsel at the final approval hearing and be
21 heard regarding approval of the Settlement. Adequate periods of time were
22 provided by each of these procedures.

23 The notice procedure afforded adequate protections to Class
24 Members and provides the basis for the Court to make an informed
25 decision regarding approval of the settlement based on the response of
26 Class Members. The Class Notice provided in this case was the best notice
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1 practicable, satisfying the requirements of law and due process.

2 **VI. Costs and Fees**

3 The fees and expenses of KCC, LLC in administering the
4 Settlement, in the amount of \$85,000, are fair and reasonable. The Court
5 hereby grants final approval to and orders that the payment of that amount
6 be paid of the Gross Settlement Amount in accordance with the Agreement.

7 The requested class representative service payments and attorneys'
8 fees and costs are fair and reasonable. The Court hereby grants final
9 approval to and orders that the payment of \$5,000 to each of the two
10 Plaintiffs for their class representative service payments, \$349,392.50 for
11 attorneys' fees to Class Counsel, and \$10,127.83 for reimbursement of
12 costs be paid out of the Gross Settlement Amount in accordance with the
13 Settlement.

14 **VII. Release**

15 Upon entry of final judgment, Class Members, including Plaintiffs, will
16 fully release and forever discharge Defendants and the Released Parties
17 of all claims that were or reasonably could have been alleged based on the
18 facts in the operative complaint which occurred during the Class Period,
19 including any claims related to background checks and any claims arising
20 under the FCRA, CCRAA, ICCRAA, and expressly excluding all other
21 claims, including claims for Labor Code violations, wrongful termination,
22 unemployment insurance, disability, social security, and workers'
23 compensation, and claims outside of the Class Period (collectively, the
24 "Released Claims").

25 Upon entry of final judgment, Plaintiffs will also fully and finally
26 release Defendants and the Released Parties from Plaintiffs' Released
27 Claims, which include any and all claims, transactions, or occurrences
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1 between them that occurred during the Class Period.

2 Nothing in this order shall preclude any action to enforce the Parties'
3 obligations under the Settlement or under this order, including the
4 requirement that Defendant make payment in accordance with the
5 Agreement.

6 If, for any reason, the Effective Date (as defined by the Settlement)
7 does not occur, this Order will be vacated; the Parties will return their
8 respective positions in this action as those positions existed immediately
9 before the Parties executed the Agreement; and nothing stated in the
10 Agreement or any other papers filed with this Court in connection with the
11 Settlement will be deemed an admission of any kind by any of the Parties
12 or used as evidence against, or over the objection of, any of the Parties for
13 any purpose in this action or in any other action.

14 The Parties represent that they entered into the Settlement solely for
15 the purpose of compromising and settling disputed claims. Defendant
16 expressly denies any violation of law or any liability whatsoever to Plaintiffs
17 and/or the Class, individually or collectively.

18 CONCLUSION

19 The Settlement is ordered finally approved, and that all terms and
20 provisions of the Settlement are ordered to be consummated. Participating
21 Class Members will be bound by the Settlement. The Parties are hereby
22 ordered to comply with the terms of the Agreement.

23 The action is **DISMISSED WITH PREJUDICE**, and final judgment is
24 entered. Each side will bear its own costs and attorneys' fees except as
25 provided by the Settlement and this Order.

26 The Parties have consented to the continued jurisdiction of United
27 States Magistrate Judge Allison H. Goddard or any Magistrate Judge who

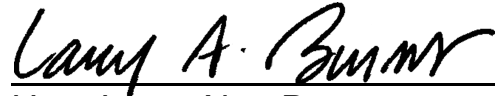
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1 may later be assigned over all matters relating to the interpretation,
2 administration, implementation, effectuation and enforcement of this Order
3 and the Settlement.

4 The Clerk is directed to close the case.

5 **IT IS SO ORDERED.**

6 Dated: June 17, 2022



7 Hon. Larry Alan Burns
8 United States District Judge
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