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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

LAWRENCE OLIN, HAROLD NYANJOM,
SHERON SMITH-JACKSON, JANICE
VEGA-LATKER, MARC BOEHM, and
RAVEN WINHAM, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

FACEBOOK, INC.,

Defendant.

Case No. 3:18-cv-01881-RS

**FINAL ORDER AND
JUDGMENT**

1 The Court has considered the Class Action Settlement Agreement (“Settlement
2 Agreement”) between Plaintiffs Lawrence Olin, Harold Nyanjom, Sheron Smith-Jackson, Janice
3 Vega-Latker, Marc Boehm, and Raven Winham (“Plaintiffs”) and Defendant Facebook, Inc., now
4 known as Meta Platforms, Inc. (“Defendant” or “Meta”), dated May 13, 2022, the motion for an
5 order finally approving the Settlement Agreement, the record in this Action, the arguments and
6 recommendations made by counsel, and the requirements of the law. The Court finds and orders
7 as follows:

8 **I. FINAL APPROVAL OF THE SETTLEMENT AGREEMENT**

9 1. The Settlement Agreement is approved under Rule 23 of the Federal Rules of Civil
10 Procedure. The Court finds that the Settlement Agreement and the Settlement it incorporates
11 appear fair, reasonable, and adequate, and its terms are within the range of reasonableness. The
12 Settlement Agreement was entered into at arm’s-length by experienced counsel after extensive
13 negotiations spanning months, including with the assistance of a third-party mediator. The Court
14 finds that the Settlement Agreement is not the result of collusion.

15 **II. DEFINED TERMS**

16 2. For the purposes of this Final Approval Order and Final Judgment (“Order”), the
17 Court adopts all defined terms as set forth in the Settlement Agreement.

18 **III. NO ADMISSIONS AND NO EVIDENCE**

19 3. This Order, the Settlement Agreement, the Settlement provided for therein, and
20 any proceedings taken pursuant thereto, are not, and should not in any event be offered, received,
21 or construed as evidence of, a presumption, concession, or an admission by any Party or any of
22 the Released Parties of wrongdoing, to establish a violation of any law or duty, an admission that
23 any of the practices at issue violate any laws or require any disclosures, any liability or non-
24 liability, the certifiability or non-certifiability of a litigation class in this case, or any
25 misrepresentation or omission in any statement or written document approved or made by any
26 Party.
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1 **IV. JURISDICTION**

2 4. For the purposes of the Settlement of the Action, the Court finds it has subject
3 matter and personal jurisdiction over the Parties, including all Settlement Class Members, and
4 venue is proper.

5 **V. CLASS CERTIFICATION OF RULE 23(B)(2) CLASS FOR SETTLEMENT**
6 **PURPOSES ONLY**

7 5. The Court finds and concludes that, for the purposes of approving this Settlement
8 only, the proposed Rule 23(b)(2) Settlement Class meets the requirements for certification under
9 Rule 23 of the Federal Rules of Civil Procedure: (a) the Settlement Class is so numerous that
10 joinder of all members is impracticable; (b) there are questions of law or fact common to the
11 Settlement Class; (c) the claims or defenses of the Settlement Class Representatives are typical of
12 the claims or defenses of the Settlement Class; (d) Settlement Class Representatives and Class
13 Counsel will fairly and adequately protect the interests of the Settlement Class because Settlement
14 Class Representatives have no interests antagonistic to the Settlement Class, and have retained
15 counsel who are experienced and competent to prosecute this matter on behalf of the Settlement
16 Class; and (e) the Defendant has acted on grounds that apply generally to the Settlement Class, so
17 that final injunctive relief is appropriate respecting the Settlement Class as a whole.

18 6. The Settlement Agreement was reached after extensive investigation and motion
19 practice in the Action, and was the result of protracted negotiations conducted by the Parties, over
20 the course of several months, including with the assistance of a neutral mediator. Settlement
21 Class Representatives and Class Counsel maintain that the Action and the claims asserted therein
22 are meritorious and that Settlement Class Representatives and the Class would have prevailed at
23 trial. Defendant denies the material factual allegations and legal claims asserted by Settlement
24 Class Representatives in this Action, maintains that a class would not be certifiable under any
25 Rule, and that the Settlement Class Representatives and Class Members would not prevail at trial.
26 Notwithstanding the foregoing, the Parties have agreed to settle the Action pursuant to the
27 provisions of the Settlement Agreement, after considering, among other things: (a) the benefits to
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the Settlement Class Representatives and the Settlement Class under the terms of the Settlement Agreement; (b) the uncertainty of being able to prevail at trial; (c) the uncertainty relating to Defendant's defenses and the expense of additional motion practice in connection therewith; (d) obstacles to establishing entitlement to class-wide relief; (e) the attendant risks of litigation, especially in complex actions such as this, as well as the difficulties and delays inherent in such litigation and appeals; and (f) the desirability of consummating the Settlement promptly in order to provide effective relief to the Settlement Class Representatives and the Settlement Class.

7. The Court accordingly certifies, for settlement purposes only, a class under Rule 23(b)(2), consisting of all persons in the United States who installed the Facebook Messenger and Facebook Lite apps for Android, and granted Meta permission to access their contacts. Excluded from the Settlement Class are (i) all Persons who are directors, officers, and agents of Meta or its subsidiaries and affiliated companies or are designated by Meta as employees of Meta or its subsidiaries and affiliated companies; and (ii) the Court, the Court's immediate family, and Court staff, as well as any appellate court to which this matter is ever assigned, and its immediate family and staff.

VI. NOTICE

8. Notice of the settlement is not required here. *See* Fed. R. Civ. P. 23(c)(2)(A) (stating that under Rule 23(b)(2) the court "*may* direct appropriate notice to the class") (emphasis added). The Court finds that notice also is not required because the Settlement Agreement only releases claims for injunctive and/or declaratory relief and does not release the monetary or damages claims of the Class, and thus the settlement expressly preserves the individual rights of class members to pursue monetary claims against the defendant. *See, e.g., Stathakos v. Columbia Sportswear Co., et al.*, 2018 WL 582564, at *3-4 (N.D. Cal. Jan. 25, 2018); *Lilly v. Jamba Juice Co.*, 2015 WL 1248027, at *8-9 (N.D. Cal. Mar. 18, 2015); *Kim v. Space Pencil, Inc.*, 2012 WL 5948951, at *4, 17 (N.D. Cal. Nov. 28, 2012). Nonetheless, pursuant to the Settlement Agreement, all documents pertaining to the Settlement, preliminary approval, and

1 final approval (including Plaintiffs' motion for attorneys' fees and incentive awards and any
2 opposition or reply papers thereto), were posted on Class Counsel's public website.

3 **VII. CLAIMS COVERED AND RELEASES**

4 9. This Order constitutes a full, final and binding resolution between the Class
5 Representatives' Releasing Parties, on behalf of themselves and the Settlement Class Members,
6 and the Released Parties. This Release shall be applied to the maximum extent permitted by law.

7 10. Upon the Effective Date and by operation of this Order, the Settlement Class
8 Representatives' Releasing Parties will fully, finally, and forever release, relinquish, and
9 discharge any and all Settlement Class Representatives' Released Claims, including claims for
10 monetary relief and damages, known and unknown, as well as provide a waiver under California
11 Civil Code Section 1542. Settlement Class Representatives' Releasing Parties are forever
12 enjoined from taking any action seeking any relief against the Released Parties based on any
13 Settlement Class Representatives' Released Claims.

14 11. Upon the Effective Date and by operation of this Order, the Releasing Parties will
15 fully, finally, and forever release, relinquish, and discharge the Settlement Class Members'
16 Released Claims (as well as provide a waiver under California Civil Code Section 1542),
17 including any and all claims for injunctive and/or declaratory relief of any kind or character, at
18 law or equity, known or unknown, preliminary or final, under Federal Rule of Civil Procedure
19 23(b)(2) or any other federal or state law or rule of procedure, from the Releasing Parties' first
20 interaction with Meta up until and including the Effective Date, that result from, arise out of, are
21 based on, or relate in any way to the practices and claims that were alleged in the Action, except
22 that, notwithstanding the foregoing, the Releasing Parties do not release claims for monetary
23 relief or damages. The Releasing Parties are forever enjoined from taking any action seeking
24 injunctive and/or declaratory relief against the Released Parties based on any Settlement Class
25 Members' Released Claims.

26 12. Upon the Effective Date and by operation of this Order, Meta will fully, finally,
27 and forever release, relinquish, and discharge any and all Meta's Released Claims against the
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Settlement Class Representatives' Releasing Parties, from the Settlement Class Representatives' first interaction with Meta up until and including the Effective Date, that result from, arise out of, are based on, or relate in any way to the practices and claims that were alleged in the Action. Meta is forever enjoined from taking any action seeking any relief against the Settlement Class Representatives' Releasing Parties based on any of Meta's Released Claims.

13. The Settlement Agreement and this Order shall be the exclusive remedy for any and all Released Claims of the Settlement Class Representatives, Settlement Class Members, and Meta.

VIII. INJUNCTIVE RELIEF

14. Meta shall delete all Call and Text History Data uploaded from persons in the United States through the Facebook Messenger or Facebook Lite apps for Android devices that Meta is not otherwise legally obligated to preserve by jurisdictions outside of the United States within 45 days of the effective date (which shall be seven (7) days after the final settlement approval order and final judgment have been entered and become Final). Any data retained because of continuing legal obligations will be quarantined in access-controlled data warehouse tables that are segregated from any systems used or accessed in the ordinary course of Meta's business, and access to this data is limited to Meta's Legal team. Any such data will be preserved and used solely in connection with any legal obligations and not for any business use, and Meta will delete all such data within 45 days of the expiration of any legal obligation to preserve it.

IX. ATTORNEYS' FEES AND EXPENSES AND INCENTIVE AWARDS

15. The Court's decision regarding the payment of attorneys' fees and expenses to Class Counsel and incentive awards to the Settlement Class Representatives is addressed in a separate order.

X. AUTHORIZATION TO PARTIES TO IMPLEMENT AGREEMENT AND MODIFICATIONS OF AGREEMENT

16. By this Order, the Parties are hereby authorized to implement the terms of the Settlement Agreement. After the date of entry of this Order, the Parties may by written

1 agreement effect such amendments, modifications, or expansions of the Settlement Agreement
 2 and its implementing documents (including all exhibits thereto) without further approval by the
 3 Court if such changes are consistent with terms of this Order and do not materially alter, reduce,
 4 or limit the rights of Settlement Class Members under the Settlement Agreement.

5 **XI. TERMINATION**

6 17. In the event that the Settlement Agreement is terminated pursuant to the terms of
 7 the Settlement Agreement, (a) the Settlement Agreement and this Order shall become void, shall
 8 have no further force or effect, and shall not be used in any action or other proceedings for any
 9 purpose other than as may be necessary to enforce the terms of the Settlement Agreement that
 10 survive termination; (b) this matter will revert to the status that existed before execution of the
 11 Settlement Agreement; and (c) no term or draft of the Settlement Agreement or any part of the
 12 Parties' settlement discussions, negotiations, or documentation (including any briefs filed in
 13 support of preliminary or final approval of the Settlement) shall (i) be admissible into evidence
 14 for any purpose in any action or other proceeding other than as may be necessary to enforce the
 15 terms of the Settlement Agreement that survive termination, (ii) be deemed an admission or
 16 concession by any Party regarding the validity of any Released Claim or the propriety of
 17 certifying any class against Meta, or (iii) be deemed an admission or concession by any Party
 18 regarding the truth or falsity of any facts alleged in the Action or the availability or lack of
 19 availability of any defense to the Released Claims.


20 **XII. RETENTION OF JURISDICTION**

21 18. The Court shall retain jurisdiction over any claim relating to the Settlement
 22 Agreement (including all claims for enforcement of the Settlement Agreement and/or all claims
 23 arising out of a breach of the Settlement Agreement) as well as any future claims by any
 24 Settlement Class Member relating in any way to the Released Claims.

25 **XIII. FINAL JUDGMENT AND DISMISSAL WITH PREJUDICE**

26 19. By operation of this Order, this Action is hereby dismissed with prejudice.
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4 DATED: October 20, 2022


Hon. Richard Seeborg
Chief United States District Judge