

JS-6

**UNITED STATE DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

ALFRED ZAKLIT AND JESSY  
 ZAKLIT, individually and on behalf of  
 all others similarly situated,

Plaintiffs,

vs.

NATIONSTAR MORTGAGE LLC  
 and DOES 1 through 10, inclusive, and  
 each of them,

Defendants.

**Case No 5:15-CV-02190-CAS-KK**

**CLASS ACTION**

**~~[PROPOSED]~~ ORDER GRANTING  
 FINAL APPROVAL OF CLASS  
 ACTION SETTLEMENT AND  
 FINAL JUDGMENT**

Assigned to the Hon. Christina A. Snyder

Plaintiffs have filed a Motion for an Order Granting Final Approval of Class Action Settlement, Conditionally Certifying Proposed Settlement Class, Approving Motion for Attorneys' Fees and Costs, and granting Incentive Award ("Motion"). Having reviewed the Motion and supporting materials, the Court determines and orders as follows:

On March 4, 2019 this Court entered an Order Granting Preliminary Approval of Settlement, resulting in certification of the following provisional Settlement Class:

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1           *“All individuals who, from October 23, 2014 to May 1, 2016, while*  
2           *physically present in California and using a cellular device with a*  
3           *California area code, participated for the first time in an outbound*  
4           *telephone conversation with a representative of Defendant or its*  
5           *agent who were recording the conversation without first informing*  
6           *the individual that the conversation was being recorded. ”*

7 Membership in the Settlement Class consists exclusively of individuals provided  
8 by Defendants to the Settlement Administrator, as set forth in the Agreement.  
9 The Court further approved the form of, and directed the parties to provide, the  
10 proposed Class Notice to the Class, which informed Settlement Class Members of:  
11 (a) the proposed Settlement, and the Settlement’s key terms; (b) the date, time, and  
12 location of the Final Approval Hearing; (c) the right of any Settlement Class  
13 Member to object to the proposed Settlement, and an explanation of the procedures  
14 to exercise that right; (d) the right of any Settlement Class Member to exclude  
15 themselves from the proposed Settlement; and an explanation of the procedures to  
16 exercise that right; and (e) an explanation of the procedures for Settlement Class  
17 Members to participate in the proposed Settlement.

18           No objections have been made, timely or otherwise, pursuant to the Class  
19 Notice sent to the Settlement Class members, nor did any objectors appear at the  
20 time of the hearing.

21           This matter having come before the Court for hearing pursuant to the Order  
22 of this Court dated August 19, 2019, for approval of the settlement set forth in the  
23 Settlement Agreement and Release ( “Settlement”), and due and adequate notice  
24 having been given to the Settlement Class Members as required in said Order, and  
25 the Court having considered all papers filed and proceedings had herein and  
26 otherwise being fully informed of the promises and good cause appearing therefore,  
27 it is ORDERED, ADJUDGED AND DECREED THAT:

- 1 1. This Court has jurisdiction over the subject matter of the Action and over all  
2 of the parties to the Action.
- 3 2. The Court finds that the Settlement Class is properly certified as a class for  
4 settlement purposes only.
- 5 3. The Class Notice provided to the Settlement Class conforms with the  
6 requirements of Fed. Rule Civ. Proc. 23, the California and United States  
7 Constitutions, and any other applicable law, and constitutes the best notice  
8 practicable under the circumstances, by providing individual notice to all  
9 Settlement Class Members who could be identified through reasonable effort,  
10 and by providing due and adequate notice of the proceedings and of the  
11 matters set forth therein to the other Settlement Class Members. The notice  
12 fully satisfied the requirements of Due Process. No Settlement Class Members  
13 have objected to the terms of the Settlement.
- 14 4. Only two Settlement Class Members have requested exclusion from the  
15 Settlement.
- 16 5. The Court finds that Defendant properly and timely notified the appropriate  
17 government officials of the Settlement Agreement, pursuant to the Class  
18 Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. § 1715. The Court has  
19 reviewed the substance of Defendant's notice, and finds that it complied  
20 with all applicable requirements of CAFA. Further, more than ninety (90)  
21 days have elapsed since Defendant provided notice pursuant to CAFA and  
22 the Final Approval Hearing.
- 23 6. The Court finds the Settlement was entered into in good faith, that the  
24 settlement is fair, reasonable and adequate, and that the Settlement satisfies  
25 the standards and applicable requirements for final approval of this class  
26 action settlement under California law, including the provisions of Fed. Rule  
27 Civ. Proc. 23. The Court finds that the consideration to be paid to members  
28 of the Settlement Class is reasonable and in the best interests of the

1 Settlement Class Members considering the disputed facts and circumstances  
2 of and affirmative defenses asserted in the Action and the potential risks and  
3 likelihood of success of pursuing litigation on the merits.

- 4 7. The Court finds that the requirements of Rule 23(e)(2) of the Federal  
5 Rules of Civil Procedure are satisfied with request to the settlement. The  
6 Class representatives and class counsel have adequately represented the  
7 class, as demonstrated by their efforts in certifying the class by contested  
8 motion after significant formal discovery and motion practice. The Court  
9 found that these requirements were satisfied in its July 24, 2017 Order  
10 granting Plaintiffs' motion for class certification. Dkt. No. 74. Based on  
11 the record before the Court, The Court is persuaded that these  
12 requirements continue to be satisfied. Further, the settlement was  
13 negotiated at arm's length, with the assistance of experienced mediator  
14 Hon. Louis M. Meisinger (ret.), and over the course of several months of  
15 subsequent negotiations, conducted with the oversight and assistance of  
16 Judge Meisinger. The Court further finds that the relief provided to the  
17 class is adequate, fair and reasonable taking into account the costs, risks  
18 and delay of trial and appeal. Defendant articulated several bases upon  
19 which it planned to mount a vigorous defense, including contesting  
20 plaintiffs' claims at trial and filing potential appeals. Plaintiffs and Class  
21 Counsel adequately and appropriately considered these risks in  
22 negotiating a settlement. Additionally, the method of distributing relief to  
23 the class, by giving direct notice by mail, and creating a pro rata  
24 distribution of a common fund without reversion, is a method of  
25 distribution and settlement that is commonly accepted by courts, including  
26 by This Court, as satisfying the requirements of Rule 23(e)(2). The terms  
27 of the proposed award of attorney's fees are fair and determined to be fair  
28 and reasonable, given the length of time in litigation, and the results  
achieved. The timing of payment is fair because fees and costs will be

1 paid out of a common fund, at the same time as the remainder of the class  
2 members. Finally, the settlement puts all class members on equal footing,  
3 which is appropriate under the facts of this case, which involves the same  
4 statutory damages awarded to each class member. Accordingly, the Court  
5 finds that the requirements of Rule 23(e)(2) are satisfied.

6 8. The Court has specifically considered the factors relevant to class settlement  
7 approval (*see, e.g., Churchill Vill., L.L.C. v. Gen. Elec.*, 361 F.3d 566 (9th  
8 Cir. 2004))—including, *inter alia*, the strength of Plaintiff's case; the risk,  
9 expense, complexity, and likely duration of further litigation; the risk of not  
10 maintaining class action status throughout trial; the relief provided for in the  
11 settlement; the extent of discovery completed and stage of the proceedings;  
12 the experience and views of counsel; and the reaction of the Settlement  
13 Class Members to the proposed settlement (including the claims submitted  
14 and lack of any opt-outs or objections)—and upon consideration of such  
15 factors finds that the Settlement is fair, reasonable, and adequate to all  
16 concerned.

17 9. Accordingly, the Settlement is hereby finally approved in all respects, and the  
18 Parties are hereby directed to implement and consummate the Settlement  
19 Agreement according to its terms and provisions.

20 10. The terms of the Settlement Agreement and of this Final Order, including all  
21 exhibits thereto, shall be forever binding in all pending and future lawsuits  
22 maintained by the Named Plaintiff and all other Settlement Class Members,  
23 as well as their family members, heirs, administrators, successors, and assigns.

24 11. Upon entry of this Order, compensation to the participating Settlement Class  
25 Members shall be effected pursuant to the terms of the Settlement.

26 12. In addition to any recovery that Plaintiffs may receive under the Settlement,  
27 and in recognition of the Plaintiffs' efforts and risks taken on behalf of the  
28 Settlement Class, the Court hereby approves the payment of a Service Award  
to Plaintiffs, in the amount of \$10,000 per Class Representative.

1 13. The Court approves the payment of attorneys' fees to Class Counsel in the  
2 sum of \$1,625,000.00, and the reimbursement of litigation expenses in the  
3 sum of \$25,046.52

4 14. The Court approves and orders payment in an amount commensurate with  
5 Epiq Systems, Inc.'s actual costs, and not to exceed \$200,000 to Epiq  
6 Systems, Inc. for performance of its settlement claims administration services.

7 15. Upon the Effective Date, the Plaintiffs and Settlement Class Members,  
8 [except the excluded individuals referenced in paragraph 4 of this Order], shall  
9 have, by operation of this Order and the accompanying Judgment, fully,  
10 finally and forever released, relinquished, and discharged Defendant from all  
11 claims or liabilities arising from or related to the facts, circumstances or  
12 subject matter of this Action, as set forth in the Settlement Agreement. Upon  
13 the Effective Date, all Settlement Class Members shall be and are hereby  
14 permanently barred and enjoined from the institution or prosecution of any  
15 and all Released Claims that are released under the terms of the Settlement.  
16 This Lawsuit and all claims of Plaintiffs and the Settlement Class Members  
17 are hereby dismissed with prejudice. Furthermore, Plaintiffs and all  
18 Settlement Class Members are hereby barred and permanently enjoined from  
19 (a) filing, commencing, prosecuting, intervening in, promoting, or  
20 participating (as class members or otherwise) in any lawsuit in any jurisdiction  
21 based on or arising out of the claims and causes of action, or the facts and  
22 circumstances relating thereto, in this Action; and (b) organizing Settlement  
23 Class Members who have not been excluded from the Settlement Class into a  
24 separate class for purposes of pursuing as a purported class action any lawsuit  
25 (including by seeking to amend a pending complaint to include class  
26 allegations, or seeking class certification in a pending action) based on or  
27 relating to the claims and causes of action, or the facts and circumstances  
28 relating thereto, in this Action.

16. This Final Order and the Settlement Agreement (including the exhibits thereto) may be filed in any action against or by any Released Party (as that term is defined herein and the Settlement Agreement) to support a defense of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim.

17. This Order, the Settlement, and any and all negotiations, statements, documents, and/or proceedings in connection with this Settlement are not, and shall not be construed as, an admission by Defendant of any liability or wrongdoing in this or in any other proceeding.

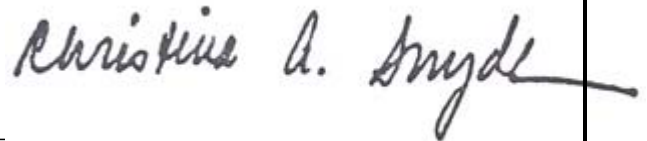
18. Upon completion of administration of the Settlement, the Parties shall file a declaration setting forth that claims have been paid and that the terms of the Settlement have been completed.

19. This Judgment is intended to be a final disposition of the above captioned action in its entirety, and is intended to be immediately appealable.

20. This Court shall retain jurisdiction with respect to all matters related to the administration and consummation of the settlement, and any and all claims, asserted in, arising out of, or related to the subject matter of the lawsuit, including but not limited to all matters related to the Settlement and the determination of all controversies related thereto.

**IT IS SO ORDERED.**

Dated: August 21, 2019



Honorable Christina A. Snyder  
United States District Court Judge