



1 The Court held a Final Approval Hearing on February 24, 2023 on the  
2 Motion for Final Approval of the Parties' July 29, 2022 Class Action Settlement  
3 Agreement and Release (the "Settlement") [Doc. # 533], as well as Class Counsel's  
4 motion for an award of attorneys' fees and expenses and for Plaintiff Jenny  
5 Brown's service award ("MAF") [Doc. # 528]. Notice of the Final Approval  
6 Hearing was duly given in accordance with this Court's Preliminary Approval  
7 Order. [Doc. # 527]. Upon consideration of all papers filed and proceedings had  
8 herein, and for the reasons stated on the record at the hearing,

9 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** as follows:

10 1. The Settlement Agreement dated July 29, 2022, including its exhibits  
11 (the "Settlement Agreement") [Doc. # 516-2], and the definitions of words and  
12 terms contained therein, are incorporated by reference in this Order. The terms of  
13 this Court's Preliminary Approval Order are also incorporated by reference in this  
14 Order.

15 2. This Court has subject matter jurisdiction over this matter pursuant to  
16 28 U.S.C. § 1331 and 47 U.S.C. § 227 and has personal jurisdiction over the Parties  
17 and the Settlement Class Members, including all members of the following  
18 Settlement Class:

19 All persons residing within the United States who, within four years prior to  
20 and after the filing of this action, received a non-emergency telephone call(s)  
21 from DIRECTV and/or iQor, Inc., Credit Management, LP, AFNI, Inc, or  
22 Enhanced Recovery Company, Inc. regarding a debt allegedly owed to  
23 DIRECTV, to a cellular telephone through the use of an artificial or  
24 prerecorded voice, and who has not been a DIRECTV customer at any time  
25 since October 1, 2004. The Settlement Class encompasses only persons  
26 associated with the telephone numbers and calls during the Settlement Class  
27 Period in Plaintiff's summary judgment motions. *See* Dkts. 375-1 (CMI),  
28 375-2 (iQor), 415-6 (AFNI), and 415-7 (ERC). Excluded from the

1 Settlement Class are: (a) those persons who previously opted out in response  
2 to the notice of class certification, identified in Dkt. 420-1, (b) any trial judge  
3 that may preside over this case, and (c) Defendant as well as any parent,  
4 subsidiary, affiliate or control person of Defendant.

5 3. The Court finds that the notice provisions set forth under the Class  
6 Action Fairness Act, 28 U.S.C. § 1715, were complied with in this Action.

7 4. The Court finds and concludes that Class Notice was disseminated to  
8 members of the Settlement Class in accordance with the terms set forth in the  
9 Settlement Agreement and that Class Notice and its dissemination complied with  
10 this Court's Preliminary Approval Order. The Court finds that such Notice Plan,  
11 including the approved forms of notice: (a) constituted the best notice practicable  
12 under the circumstances; (b) included direct individual notice to all Settlement  
13 Class Members who could be identified through reasonable effort; (c) constituted  
14 notice that was reasonably calculated, under the circumstances, to apprise  
15 Settlement Class Members of the nature of the Action; the definition of the  
16 Settlement Class certified; the class claims and issues; the opportunity to enter an  
17 appearance through an attorney if the member so desires; the opportunity, the time,  
18 and the manner for requesting exclusion from the Settlement Class; and the binding  
19 effect of a class judgment; (d) constituted due, adequate and sufficient notice to all  
20 persons entitled to notice; and (e) met all applicable requirements of Federal Rule  
21 of Civil Procedure 23, due process under the U.S. Constitution, and any other  
22 applicable law.

23 5. The Court hereby finds that all persons who fall within the definition  
24 of the Settlement Class have been adequately provided with an opportunity to  
25 exclude themselves from the Settlement Class by submitting a request for exclusion  
26 in conformance with the terms of the Settlement and this Court's Preliminary  
27 Approval Order. All persons who submitted timely and valid requests for exclusion  
28 from the Settlement Class shall not be deemed Settlement Class Members and are

1 not bound by this Final Approval Order. Those persons are:

- 2 • Randy Reed;
- 3 • Barry Bates; and
- 4 • Donegal Mutual Insurance Co.<sup>1</sup>

5 All other persons who fall within the definition of the Settlement Class are  
6 Settlement Class Members and part of the Settlement Class and shall be bound by  
7 this Final Approval Order and the Settlement.

8 6. The Court reaffirms that this Action is properly maintained as a class  
9 action, for settlement purposes only, and finds that the requirements of Federal  
10 Rules of Civil Procedure 23(a) and 23(b)(3) are met.

11 7. The Court reaffirms its appointment of Plaintiff Jenny Brown as Class  
12 Representative to represent the Settlement Class and reaffirms its appointment of  
13 Class Counsel to represent the Settlement Class.

14 8. For the reasons stated on the record, the Court finds that the Settlement  
15 warrants final approval pursuant to Rule 23(e)(2) because the Court finds the  
16 Settlement to be fair, reasonable, and adequate and in the best interest of the  
17 Settlement Class, after weighing the relevant considerations.

18 9. The Motion for Final Approval is hereby **GRANTED**, and the  
19 Settlement and its terms are hereby found to be and are **APPROVED** as fair,  
20 reasonable, and adequate, and in the best interest of the Settlement Class. The  
21 Parties and Claims Administrator are directed to consummate and implement the  
22 Settlement in accordance with its terms.

23 10. The MAF is hereby **GRANTED**. The Court awards Class Counsel  
24 attorneys' fees in the amount of \$5,610,000, grants Class Counsel's request for  
25 reimbursement of \$869,303.55 in litigation expenses, grants Plaintiff Jenny Brown  
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27 <sup>1</sup> Also excluded from the Settlement Class are the individuals who timely  
28 opted out of the Class before settlement. *See* January 12, 2022 Devery Decl., Ex. A  
[Doc. # 420-1].

1 a service award of \$10,000, and approves the Claims Administrator's expenses in  
2 the amount of \$612,076.68. The Court finds that these amounts are reasonable.

3 11. This Court hereby dismisses this Action, except as to Plaintiff Carmen  
4 Montijo's individual claim, for which a separate dismissal shall be filed. The  
5 instant dismissal is with prejudice and without leave to amend and without costs to  
6 any Party, other than as specified in the Settlement and in this Final Approval  
7 Order.

8 12. In consideration of the benefits provided under the Settlement,  
9 Plaintiff Jenny Brown and each Settlement Class Member who has not requested  
10 exclusion shall, by operation of this Final Approval Order, have forever released all  
11 Released Claims against all Released Parties in accordance with Sections 2.25 and  
12 14 of the Settlement, the terms of which sections are incorporated herein by  
13 reference. The terms of the Settlement, which are incorporated by reference into  
14 this Final Approval Order, shall have res judicata and other preclusive effects as to  
15 the Released Claims as against the Released Parties. The Released Parties may file  
16 the Settlement and/or this Final Approval Order in any other litigation to support a  
17 defense or counterclaim based on principles of res judicata, collateral estoppel,  
18 release, good-faith settlement, judgment bar or reduction, or any similar defense or  
19 counterclaim.

20 13. Plaintiff Jenny Brown and each Settlement Class Member, as well as  
21 their respective assigns, heirs, executors, administrators, successors, and agents,  
22 hereby release, resolve, relinquish, and discharge each and all of the Released  
23 Parties from each of the Released Claims. Brown and the Settlement Class  
24 Members further agree that they will not institute any action or cause of action (in  
25 law, in equity or administratively), suits, debts, liens, or claims, known or  
26 unknown, fixed or contingent, which they may have or claim to have, in state or  
27 federal court, in arbitration, or with any state, federal or local government agency or  
28 with any administrative or advisory body, arising from the Released Claims. This

1 permanent bar and injunction is necessary to protect and effectuate the Settlement  
2 Agreement, this Order, and this Court's authority to effectuate the Settlement  
3 Agreement, and is ordered in aid of this Court's jurisdiction and to protect its  
4 judgments. Notwithstanding the foregoing, nothing in this Final Approval Order  
5 and judgment shall preclude an action to enforce the terms of the Settlement.

6 14. This Final Approval Order is the final, appealable judgment in the  
7 Action as to all Released Claims.

8 15. Without affecting the finality of this Final Approval Order in any way,  
9 this Court retains jurisdiction over (a) implementation of the Settlement and the  
10 terms of the Settlement; (b) Class Counsel's motion for attorneys' fees, expenses,  
11 and service awards; (c) distribution of the Settlement Fund, Class Counsel  
12 attorneys' fees and expenses, and Plaintiff's service award; and (d) all other  
13 proceedings related to the implementation, interpretation, validity, administration,  
14 consummation, and enforcement of the terms of the Settlement. The time to appeal  
15 from this Final Order and Judgment shall commence upon its entry.

16 16. In the event that the Effective Date does not occur, this Final Approval  
17 Order shall be rendered null and void and shall be vacated, *nunc pro tunc*, except  
18 insofar as expressly provided to the contrary in the Settlement, and without  
19 prejudice to the status quo ante rights of Plaintiff, Settlement Class Members, and  
20 DIRECTV.

21 17. The Settlement Agreement (including, without limitation, its exhibits),  
22 and any and all negotiations, documents, and discussions associated with it, shall  
23 not be deemed or construed to be an admission or evidence of any violation of any  
24 statute, law, rule, regulation or principle of common law or equity, of any liability  
25 or wrongdoing, by DIRECTV, or of the truth of any of the claims asserted by  
26 Plaintiff in the Action. Further, the Settlement Agreement and any and all  
27 negotiations, documents, and discussions associated with it, will not be deemed or  
28 construed to be an admission by DIRECTV that the Action is properly brought on a

1 class or representative basis, or that classes may be certified for any purpose. To  
2 this end, the settlement of the Action, the negotiation and execution of the  
3 Settlement Agreement, and all acts performed or documents executed pursuant to or  
4 related to the Settlement Agreement: (i) are not and will not be deemed to be, and  
5 may not be used as, an admission or evidence of any wrongdoing or liability on the  
6 part of DIRECTV or of the truth of any of the allegations in the Action; (ii) are not  
7 and will not be deemed to be, and may not be used as an admission or evidence of  
8 any fault or omission on the part of DIRECTV in any civil, criminal, or  
9 administrative proceeding in any court, arbitration forum, administrative agency, or  
10 other tribunal; and (iii) are not and will not be deemed to be and may not be used as  
11 an admission of the appropriateness of these or similar claims for class certification.  
12 Further, evidence relating to the Settlement Agreement shall not be discoverable or  
13 used, directly or indirectly, in any way, whether in the Action or in any other action  
14 or proceeding, except for purposes of enforcing the terms and conditions of the  
15 Settlement Agreement, the Preliminary Approval Order, and/or this Order.

16 18. In the event that any provision of the Settlement or this Order is  
17 asserted by DIRECTV as a defense in whole or in part (including, without  
18 limitation, as a basis for a stay) in any other suit, action, or proceeding brought by a  
19 Settlement Class Member or any person actually or purportedly acting on behalf of  
20 any Settlement Class Member(s), DIRECTV may seek an immediate stay of that  
21 suit, action or other proceeding, which the Settlement Class Member shall not  
22 oppose, until this Court or the court or tribunal in which the claim is pending has  
23 determined any issues related to such defense or assertion. Solely for purposes of  
24 such suit, action, or other proceeding, to the fullest extent they may effectively do  
25 so under applicable law, the Parties irrevocably waive and agree not to assert, by  
26 way of motion, as a defense or otherwise, any claim or objection that they are not  
27 subject to the jurisdiction of this Court, or that this Court is, in any way, an  
28 improper venue or an inconvenient forum. These provisions are necessary to

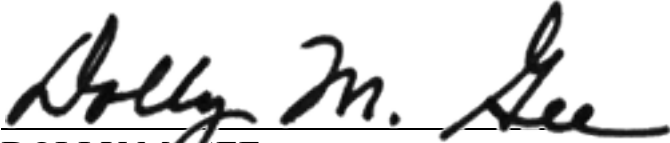
1 protect the Settlement Agreement, this Order and this Court’s authority to  
2 effectuate the Settlement, and are ordered in aid of this Court’s jurisdiction and to  
3 protect its judgment.

4 19. Finding that there is no just reason for delay, the Clerk of the Court is  
5 directed to enter this Order on the docket and it shall serve as final judgment  
6 pursuant to Rule 54(b) forthwith.

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**IT IS SO ORDERED.**

DATED: March 3, 2023

  
DOLLY M. GEE  
UNITED STATES DISTRICT JUDGE