

## CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the “Settlement Agreement”) is entered into by and between Plaintiff Jenny Brown (“Plaintiff”) for herself and the Settlement Class Members (as defined below), on the one hand, and DIRECTV, LLC (“DIRECTV” or “Defendant”), on the other hand. Plaintiff and Defendant are referred to collectively in this Settlement Agreement as the “Parties.”

### 1. RECITALS

**1.01** On May 9, 2012, former plaintiff Cheryl Swope filed a class action in the Eastern District of Missouri against Credit Management, LP (“CMI”), *Swope v. Credit Management, LP*, No. 4:12-cv-832 (E.D. Mo.). On November 21, 2012, Plaintiff joined that action as an additional named plaintiff.

**1.02** On February 19, 2013, Plaintiff’s claims against CMI were severed from the *Swope* action and transferred to the Central District of California, No. 2:13-cv-1170 (C.D. Cal.) (“the Action”). On October 1, 2013, Plaintiff filed a Fourth Amended Complaint adding DIRECTV as a defendant. The Fourth Amended Complaint alleged that DIRECTV violated the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the “TCPA”) by using an automatic telephone dialing system or an artificial or prerecorded voice to call cell phones, without the prior express consent of Plaintiff and the potential class members.

**1.03** On March 29, 2019, the Court certified a subclass consisting of, *inter alia*, “[a]ll persons residing within the United States who, within four years prior to and after the filing of this action, received a non-emergency telephone call(s) from DIRECTV and/or its third-party debt collectors regarding a debt originally owed to DIRECTV, to a cellular telephone through the use of an artificial or prerecorded voice and who were never DIRECTV customers.” Dkt. 275.

**1.04** On June 3, 2019, the Ninth Circuit denied Defendant’s petition for permission to appeal the March 29, 2019 class certification order pursuant to Rule 23(f) of the Federal Rules of Civil Procedure.

**1.05** On August 5, 2019, the Court held that “(1) current DIRECTV customers, and (2)

persons who were DIRECTV customers on or after October 1, 2004” were obligated to arbitrate their TCPA claims against Defendant. Dkt. 287.

**1.06** On December 18, 2019, the Court ordered a revised class definition: “All persons residing within the United States who, within four years prior to and after the filing of this action, received a non-emergency telephone call(s) from DIRECTV and/or its third-party debt collectors regarding a debt allegedly owed to DIRECTV, to a cellular phone through the use of an artificial or prerecorded voice, and who has not been a DIRECTV customer at any time since October 1, 2004.” Dkt. 300. Through an agreed-upon process, potential class members who met the class definition criteria received due-process notice. Dkt. 317.

**1.07** In the fall of 2021, the parties filed motions for summary judgment (Dkts. 364, 377), Defendant moved to decertify the class (Dkt. 373), and Plaintiff moved to exclude Defendant’s expert report (Dkt. 387). On December 1, 2021, the Court issued an omnibus order that: (1) denied Defendant’s motion for decertification of the class; (2) granted Defendant’s summary judgment motion as to claims based on (i) calls prior to August 14, 2009; (ii) third-party collections calls after December 4, 2015; (iii) calls made by Enhanced Recovery Company, Inc. (“ERC”) prior to August 6, 2014, by Convergent from October 26, 2008 to May 10, 2016 and November 11, 2016 to February 25, 2019, and by NCO Financial Systems from January 16, 2009 to August 31, 2016; (3) granted Plaintiff’s summary judgment motion as to calls made by iQor, Inc. (“iQor”) and/or CMI from August 14, 2009 to December 4, 2015; and (4) denied as moot Plaintiff’s motion to exclude Defendant’s expert report. Dkt. 401. The Court further ordered that it would enter judgment as to iQor and CMI calls following the completion of a claims administration process. *Id.*

**1.08** Plaintiff thereafter filed a second summary judgment motion. Dkt. 414. On March 31, 2022, the Court granted in part Plaintiff’s motion by finding that calls made by AFNI, Inc. (“AFNI”) and ERC violated the TCPA. Dkt. 436. The Court set a trial date to determine, *inter alia*, Defendant’s liability for calls placed by AFNI and ERC, and the Class’s eligibility for treble damages. Dkt. 437.

**1.09** The Parties thereafter fully prepared for trial by, *inter alia*, filing all pre-trial documents and motions in limine. *See generally* Dkts. 449-500.

**1.10** On May 17, 2022, the Court held its Final Pretrial Conference. Dkt. 502.

**1.11** On May 19, 2022, the Court entered another omnibus order addressing the Parties' motions in limine. Dkt. 503. In light of those rulings, the Court amended the class definition to "[a]ll persons residing within the United States who, within four years prior to and after the filing of this action, received a non-emergency telephone call(s) from DIRECTV and/or iQor, Inc., Credit Management, LP, AFNI, Inc, or Enhanced Recovery Company, Inc. regarding a debt allegedly owed to DIRECTV, to a cellular telephone through the use of an artificial or prerecorded voice, and who not been a DIRECTV customer at any time since October 1, 2004." *Id.*

**1.12** Trial on liability as to the calls made by AFNI and ERC and willfulness on calls made by AFNI, ERC, CMI, and iQor was scheduled to begin on June 14, 2022.

**1.13** Defendant denies that it has any liability for the alleged TCPA violations and maintains that it would prevail at trial. In addition, Defendant maintains that it would seek, and eventually obtain, reversal of the class certification and both summary judgment orders on appeal. Nevertheless, given the risks, uncertainties, burden, and expense of continued litigation, Defendant has agreed to settle this litigation on the terms set forth in this Agreement, subject to Court approval.

**1.14** As this case reached the threshold of trial, both Plaintiff and Defendant have a complete understanding of the strengths and weaknesses of their respective cases, and have fully and exhaustively vetted the disputed issues between the parties.

**1.15** This Settlement Agreement resulted from good-faith, arm's-length settlement negotiations, including a December 6, 2021 mediation, as well as a May 14, 2022 in-person negotiation before Robert Meyer of JAMS, an experienced and well-respected private mediator. Plaintiff and Defendant submitted detailed mediation submissions to Mr. Meyer setting forth their respective views as to the strengths of their cases.

**1.16** Based on complete discovery and the negotiations described above, Class Counsel have concluded, taking into account the sharply contested issues involved, the risks, uncertainty and cost of further prosecution of this litigation, and the substantial benefits to be received by Settlement Class Members pursuant to this Agreement, that a settlement with Defendant on the terms set forth herein is fair, reasonable, adequate and in the best interests of the Settlement Class Members.

**1.17** The Parties understand, acknowledge, and agree that the execution of this Settlement Agreement constitutes the settlement and compromise of disputed claims. This Settlement Agreement is inadmissible as evidence against any party except to enforce the terms of the Settlement Agreement and is not an admission as to any legal issues, wrongdoing, or liability on the part of any party to this Settlement Agreement. The Parties desire and intend to effect a full, complete and final settlement and resolution of all existing disputes and claims as set forth herein.

**1.18** The settlement contemplated by this Settlement Agreement is subject to preliminary approval and final approval by the Court, as set forth herein. This Settlement Agreement is intended by the Parties to fully, finally and forever resolve, discharge, and settle the Released Claims, upon and subject to the terms and conditions hereof.

## **2. DEFINITIONS**

**2.01** “Action” means *Brown v. DIRECTV, LLC*, No. 2:13-cv-1170 (C.D. Cal.).

**2.02** “Additional Class Counsel” means Parisi & Havens LLP, Healey Law, and King & Siegel LLP.

**2.03** “Agreement” or “Settlement Agreement” means this Class Action Settlement Agreement and Release.

**2.04** “Approved Claims” means claims that have been timely submitted and approved by the Claims Administrator for payment.

**2.05** “CAFA Notice” refers to the notice requirements imposed by 28 U.S.C. § 1715(b).

**2.06** “Cash Award” means a cash payment to an eligible Settlement Class Member. Settlement Class Members who received calls from CMI or iQor are entitled two “shares” per qualifying call. Settlement Class Members who received calls from AFNI or ERC are entitled to “one” share per qualifying call as detailed in Section 5.04.

**2.07** “Claim Form” means the claim form attached hereto as Exhibit A.

**2.08** “Claims Deadline” means ninety (90) days from the Settlement Notice Date.

**2.09** “Claims Period” means the ninety (90) day period that begins on the Settlement Notice Date.

**2.10** “Claims Administrator” means BrownGreer, PLC.

**2.11** “Class Counsel” means Lieff Cabraser Heimann & Bernstein, LLP, Meyer Wilson Co., LPA, and Burke Law Offices LLC.

**2.12** “Court” shall mean the United States District Court for the Central District of California, and the judge to whom the Action has been assigned.

**2.13** “Effective Date” means five business days after the last of the following dates: (i) the date upon which the time expires for filing a notice of appeal of the Court’s Final Approval Order, with no appeals having been filed; or (ii) if there is an appeal or appeals of the Final Approval Order, five business days after the date of entry of an order affirming the Final Approval Order without material modification, and the time for review of that order has run, or entry of an order dismissing the appeal(s).

**2.14** “Final Approval Hearing” means the hearing held by the Court to determine whether to finally approve the Settlement set forth in this Settlement Agreement as fair, reasonable and adequate.

**2.15** “Final Approval Order” means the order to be submitted to the Court in connection with the Final Approval Hearing, substantially in the form attached hereto as Exhibit B. In the event that the Court issues separate orders addressing the matters constituting final settlement approval, then the Final Approval Order includes all such orders.

**2.16** “Final Distribution Date” means the earlier of (i) the date as of which all the

electronic payments have been received and checks for Cash Awards have been cashed, or (ii) 180 days after the date on which the last check for a Cash Award was issued.

**2.17** “Funding Date” means ten (10) business days after the Effective Date.

**2.18** “Net Settlement Fund” means the Settlement Fund (defined below) after reducing by the Settlement Costs.

**2.19** “Notice” means the notices to be provided to members of the Settlement Class as set forth in Section 9 including, without limitation, “Email Notice,” “Mail Notice,” and “Long Form Notice.” The forms of the Email Notice, Mail Notice, and Long Form Notice are attached hereto collectively as Exhibit C.

**2.20** “Notice Database” means the database containing potential Settlement Class Members’ telephone numbers that Plaintiff will provide pursuant to Section 8.02.

**2.21** “Objection Deadline” means sixty (60) days from the Settlement Notice Date.

**2.22** “Opt-Out Deadline” means sixty (60) days from the Settlement Notice Date.

**2.23** “Preliminary Approval Order” means the order entered by the Court granting the relief requested in the Motion for Preliminary Approval, including preliminarily approving the Settlement and Notice Plan, in substantially the same form attached hereto as Exhibit D. In the event that the Court issues separate orders addressing the matters constituting preliminary settlement approval, then Preliminary Approval Order includes all such orders.

**2.24** “Released Claims” means the released claims identified in Section 14.

**2.25** “Released Parties” means Defendant, and each and all of their respective past, present, and future, direct and indirect, parents, subsidiaries, affiliated companies and corporations, successors, and predecessors in interest, and each of its respective past, present, and future directors, officers, managers, employees, general partners, limited partners, principals, insurers, reinsurers, shareholders, attorneys, advisors, representatives, predecessors, successors, divisions, assigns, or related entities, and each of their executors, successors, and legal representatives, and each of AFNI, ERC, CMI, and iQor, as well as their agents, parents, subsidiaries, and affiliates.

**2.26** “Settlement” or “Settlement Agreement” means this Agreement between Plaintiff and Defendant and each and every exhibit attached hereto.

**2.27** “Settlement Class” means: All persons residing within the United States who, within four years prior to and after the filing of this action, received a non-emergency telephone call(s) from DIRECTV and/or iQor, Inc., Credit Management, LP, AFNI, Inc, or Enhanced Recovery Company, Inc. regarding a debt allegedly owed to DIRECTV, to a cellular telephone through the use of an artificial or prerecorded voice, and who has not been a DIRECTV customer at any time since October 1, 2004. The Settlement Class encompasses only persons associated with the telephone numbers and calls during the Settlement Class Period in Plaintiff’s summary judgment motions. *See* Dkts. 375-1 (CMI), 375-2 (iQor), 415-6 (AFNI), and 415-7 (ERC). Excluded from the Settlement Class are: (a) those persons who previously opted out in response to the notice of class certification, identified in Dkt. 420-1, (b) any trial judge that may preside over this case, (c) Defendant as well as any parent, subsidiary, affiliate or control person of Defendant.

**2.28** “Settlement Class Period” means the period August 14, 2009 to December 4, 2015.

**2.29** “Settlement Class Representative” means Plaintiff Jenny Brown.

**2.30** “Settlement Class Member” means any person who is a member of the Settlement Class, as set forth in the Settlement Class definition in the preceding paragraph, and who does not timely and validly request exclusion from the Settlement Class.

**2.31** “Settlement Costs” means: (i) all fees and costs incurred by the Claims Administrator, including notice and claims administration costs for administering this Settlement; (ii) Class Counsel/Additional Counsel’s Court-approved attorneys’ fees and reimbursement of reasonable costs; (iii) any Court-approved service award paid to Plaintiff. Settlement Costs include all expenses, fees, or costs that the Settlement Fund shall pay other than Settlement Class Member Payments.

**2.32** “Settlement Fund” means the sum of \$17,000,000 (seventeen million dollars) that Defendant will pay to settle this Action and obtain a release of all Released Claims in favor of

the Released Parties. That Settlement Fund shall be non-reversionary upon the Effective Date.

**2.33** “Settlement Notice Date” means thirty (30) days after a Preliminary Approval Order is issued.

**2.34** “Settlement Website” means the Internet website operated by the Claims Administrator as described in Section 9.04.

**2.35** “TCPA” means the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.*, and any regulations or rulings promulgated under it.

### **3. BOTH SIDES RECOMMEND APPROVAL OF THE SETTLEMENT**

**3.01** Defendant’s Position on the Litigation Thus Far. Defendant disputes liability, disputes that the presently certified class is manageable for purposes of litigation, contests the appropriateness of the Court’s summary judgment liability rulings in favor of Plaintiff, and further denies that a litigation class properly should be certified on the claims asserted in this Action. Entering into this Settlement shall not be deemed a concession by Defendant of liability or that the certified class is appropriate, nor would Defendant be precluded from challenging class certification or the Court’s liability rulings in further proceedings in this Action or in any other action if the Settlement Agreement is not finalized or finally approved. If the Settlement Agreement is not finally approved by the Court for any reason whatsoever, no doctrine of waiver, estoppel, or preclusion will be asserted in any litigated proceedings in this Action. No agreements made by or entered into by Defendant in connection with the Settlement Agreement may be used by Plaintiff, any person in the Settlement Class, or any other person to establish any of the elements of class certification or issues of liability in any litigated proceedings, whether in this Action or any other judicial proceeding.

**3.02** Plaintiff’s Belief in the Merits of Case. Plaintiff believes that the claims asserted in this Action have merit and that the evidence developed to date supports those claims. This Settlement shall in no event be construed or deemed to be evidence of or an admission or concession on the part of Plaintiff that there is any infirmity in the claims asserted by Plaintiff, or that there is any merit whatsoever to any of the contentions and defenses that Defendant has



asserted.

**3.03 Plaintiff Recognizes the Benefits of Settlement.** Plaintiff recognizes and acknowledges, however, the expense and amount of time which would be required to continue to pursue this Action against Defendant, as well as the uncertainty, risk, and difficulties of proof inherent in prosecuting such claims on behalf of the Class. Plaintiff has concluded that it is desirable that this Action and any Released Claims be fully and finally settled and released as set forth in this Settlement. Plaintiff and Class Counsel believe that the agreement set forth in this Settlement confers substantial benefits upon the Class and that it is in the best interests of the Class to settle as described herein.

**4. SETTLEMENT TERMS AND BENEFITS TO THE SETTLEMENT CLASS**

**4.01 Monetary Consideration.** Defendant shall pay \$17,000,000 (seventeen million dollars) into a Settlement Fund for the benefit of the Settlement Class (the “Settlement Payment”), an amount that shall equate to the amount of the Settlement Fund. This sum will be used to pay Approved Claims and any Settlement Costs. In no event will Defendant be required to pay any more than \$17,000,000 (seventeen million dollars) in connection with the Settlement.

**4.02** Defendant shall pay or cause to be paid \$500,000 of the Settlement Payment by a wire transfer to a bank account identified by the Claims Administrator within seven (7) business days after the entry of the Preliminary Approval Order, or seven (7) business days after the Claims Administrator has provided the information necessary to effect the wire transfer, whichever is later, to be used for initial Settlement Costs including the costs of Notice. The remaining \$16,500,000.00 of the Settlement Payment shall be disbursed to the Claims Administrator by the Funding Date. The Claims Administrator shall establish and deposit the Settlement Payment in a single account, at a financial institution with more than Twenty Billion dollars (\$20,000,000,000.00), with insurance that exceeds any amounts deposited therein, chosen in the best judgment of the Claims Administrator to preserve the fund and facilitate the payment of Settlement Costs and other expenditures approved by the Court.

**4.03** Prior to the Effective Date, the Claims Administrator shall use the Settlement

Payment to fund the payment of Settlement Costs, and the Claims Administrator shall provide monthly accounting of such expenditures of Settlement Costs to Class Counsel and Defendant's counsel. All portions of the Settlement Payment expended by the Claims Administrator for settlement administration or notice costs shall be non-refundable to Defendant. Upon the Effective Date, Defendant shall have no further ownership interest in the Settlement Payment. The Claims Administrator may only use the Settlement Fund consistent with the terms of the Settlement. Upon receipt of the Settlement Payment, the Claims Administrator is authorized to deduct notice and administration costs without further Court approval.

**4.04** The Settlement Payment made by Defendant shall be used for the benefit of the Settlement Class and shall not revert to Defendant. Notwithstanding the foregoing or any other provision in the Settlement, if the Settlement fails to achieve the Effective Date or the Settlement is terminated pursuant to Section 15 below, the Claims Administrator shall return all monies remaining in the Settlement Fund to Defendant within five (5) business days after it receives notice that the Settlement has failed to achieve the Effective Date or that the Settlement has been terminated. The Claims Administrator may deduct all Settlement Costs it has incurred prior to the date it received such notice.

**4.05** Treatment of Settlement Class Member Phone Numbers. For every Settlement Class Member who submits an Approved Claim, Defendant shall add the phone number provided by the Settlement Class Member to its internal do-not-call database.

## **5. SETTLEMENT PROCEDURE**

**5.01** Settlement Class Members. Prior to Notice being distributed as set forth in Section 9, the Claims Administrator shall identify all potential Settlement Class Members, and determine which are DIRECTV customers (and thus non-Settlement Class Members).

(a) To identify potential Settlement Class Members, the Claims Administrator shall use the following protocol:

(i) The Claims Administrator shall begin its analysis with the owners of the cell phones exhibited to Plaintiff's summary judgment motions, Dkts. 375-1 (CMI), 375-2

(iQor), 415-6 (AFNI), and 415-7 (ERC), at the time that the calls were placed during the Settlement Class Period;

(ii) The Claims Administrator shall then identify the individual who was the subscriber and/or user of each cellular telephone identified in Section 5.01(a)(i) by searching through the wireless carrier telephone records previously produced by AT&T, Verizon, and T-Mobile.

(iii) For those telephone number/date combinations where no individual subscriber and/or user information is located in the wireless carrier telephone records, the Claims Administrator shall conduct reverse-lookups using sources customarily used by claims administrators (*e.g.*, Lexis-Nexis).

(b) To categorize the individuals identified in Section 5.01, the Claims Administrator shall use the following protocol:

(i) First, Defendant shall provide to the Claims Administrator, within fourteen days of the execution of this Agreement, in an electronically searchable and readable format, the name, address, dates of service, and contact information from its customer databases, from October 1, 2004 to present. The Claims Administrator will cooperate to provide a mutually agreeable, secure mechanism for the transmissions of such information, and will keep the customer information provided by Defendant secure and in strict confidence using reasonable data security practices, shall not disclose it to any third party, and shall use it only for purposes of administering this Settlement. Within five (5) business days after the Final Distribution Date, or within five (5) days after it receives notice that the Settlement has failed to achieve the Effective Date or that the Settlement has been terminated, the Claims Administrator shall destroy all copies of customer information provided by Defendant and confirm to counsel for the Parties that it has done so.

(ii) The Claims Administrator shall then compare each potential Settlement Class Member with Defendant's customer database information to determine whether someone is or was a DIRECTV customer. A DIRECTV customer is defined as each

potential Settlement Class Member that is an *exact match* as to first and last name, and address, with those fields in Defendant's customer database. Those individuals shall be removed from the list of potential Settlement Class Members. Such persons are or were customers of Defendant and therefore are not Settlement Class Members. The remaining names on the list are the potential Settlement Class Members to whom notice shall be directed as specified below.

**5.02** Eligibility for Settlement Class Member Cash Awards. Each Settlement Class Member is eligible for a Cash Award upon making a valid and timely claim, according to the procedure set forth in this Agreement.

**5.03** Distribution of the Settlement Fund. The Claims Administrator shall distribute the funds in the Settlement Fund in the following order and within the time periods set forth herein with respect to each such payment:

a. first, no later than five (5) business days after the Funding Date, the Claims Administrator shall pay to Class Counsel the attorneys' fees, costs, and expenses ordered by the Court as set forth in Section 6.02;

b. next, no later than five (5) business days after the Funding Date, the Claims Administrator shall pay to the Class Representative any incentive award ordered by the Court, as described in Section 6.03;

c. next, the Claims Administrator shall be paid for any previously unreimbursed costs of administration;

d. next, the Claims Administrator shall pay the Cash Awards to Class Members;

**5.04** Amount Paid per Claim. Each Settlement Class Member who makes a valid and timely claim shall receive a Cash Award. The amount of each Cash Award shall be determined as follows:

(a) A Settlement Class Member who received calls from CMI or iQor shall be allotted two "shares" per qualifying call received for purposes of this claims process. A

Settlement Class Member who received calls from AFNI or ERC shall be allotted one “share” per qualifying call received for purposes of this claims process. The Settlement Administrator shall use the lists of cellular telephone numbers and dates exhibited to Plaintiff’s summary judgment motions, Dkts. 375-1 (CMI), 375-2 (iQor), 415-6 (AFNI), and 415-7 (ERC), to determine the number of qualifying calls a Settlement Class Member received from CMI, iQor, AFNI, and/or ERC in the Settlement Class Period.

(b) The pro-rata share for Settlement Class Members shall be calculated by the Claims Administrator according to the following formula: (Net Settlement Fund) / (Total Number of shares) = (Pro-Rata Share).

## **6. ATTORNEYS’ FEES, COSTS AND PAYMENT TO CLASS REPRESENTATIVE**

**6.01** Class Representative. For purposes of the Settlement, Jenny Brown is the only Settlement Class Representative.

**6.02** Attorneys’ Fees and Costs. Class Counsel may move the Court for an award of attorneys’ fees not exceeding thirty-three percent (33%) of the Settlement Fund, plus reimbursement of reasonable costs and expenses incurred in relation to their investigation and litigation of this Action, both to be paid from the Settlement Fund. The Parties agree not to appeal any Court award of attorneys’ fees and costs and expenses that is consistent with the foregoing limitations.

(a) Any fees and expenses, as awarded by the Court, shall be paid to Class Counsel from the Settlement Fund as set forth in Section 5.03.

(b) Except as provided in this Section 6.02, the Parties shall bear their own attorney’s fees, costs, and expenses incurred in the prosecution, defense, or settlement of the Action. Defendant’s obligation to pay attorneys’ fees and costs to any person incurred on behalf of Plaintiffs and/or the Settlement Class in this Action shall be limited to the judicially-approved amount established pursuant to this Section, and such obligation shall be paid from the Settlement Fund. In no event shall Defendant’s aggregate liability under this Settlement, including attorneys’ fees and costs, exceed \$17 million. Any allocation of fees between or among

Class Counsel and any other person representing Plaintiffs or the Settlement Class shall be the sole responsibility of Class Counsel, subject to any alterations by the Court.

**6.03** Payment to Class Representative. In recognition of the significant time and effort she has personally invested in the Action, including but not limited to consulting with Class Counsel, participating in an extensive discovery process, providing information and input necessary for the prosecution of this case, and preparing for trial, which efforts have provided a benefit to the Settlement Class, Plaintiff Jenny Brown shall be entitled to apply to the Court for an incentive payment. Defendant shall not object to such incentive payment to be paid to Plaintiff Brown from the Settlement Fund provided that it does not exceed \$10,000, subject to Court approval. Within five (5) business days of the Funding Date, and after receiving W-9 forms from the Class Representative, the Claims Administrator shall pay to Class Counsel the amount of any incentive payment awarded by the Court out of the Settlement Fund, and Class Counsel shall disburse such funds. No interest will accrue on such amounts at any time.

**6.04** Settlement Independent of Award of Fees, Costs and Incentive Payments. The payments of attorneys' fees, costs, and incentive payment set forth in Sections 6.02 and 6.03 are subject to and dependent upon the Court's approval of the Settlement as fair, reasonable, adequate and in the best interests of Settlement Class Members. However, this Settlement is not conditioned upon the Court approving Plaintiff's or Class Counsel's requests for such payments or awarding the particular amounts sought by Plaintiff or Class Counsel. In the event the Court declines the requests or awards less than the amounts sought, this Settlement shall continue to be effective and enforceable by the Parties.

**6.05** Resolution of Carmen Montijo's Claims. Plaintiff Carmen Montijo allegedly received calls from Diversified Consultants Inc. (DCI), and the litigation class was decertified on May 19, 2022 as to those who received calls from DCI, though the Court preserved her individual claims. Dkt. 503, at 9. The Settlement Class does not include DCI calls, and thus Plaintiff Montijo is not a member of the Settlement Class. However, in order to effectuate the full and complete resolution and dismissal of this Action, the Parties have agreed to a modest

individual settlement for Ms. Montijo that does not release anyone else's claims, other than those that she has authority to bind. Plaintiff will seek, and Defendant will not oppose, dismissal of Ms. Montijo's claims from the Action on that basis. The monies used to pay Ms. Montijo will not be deducted from the Settlement Fund. In no event is this Settlement contingent on the resolution of Ms. Montijo's individual claims in any way.

## **7. PRELIMINARY APPROVAL**

**7.01 Order of Preliminary Approval.** As soon as practicable after the execution of this Agreement, Plaintiff shall move the Court for entry of the Preliminary Approval Order in substantially the form attached as Exhibit D. Pursuant to the motion for preliminary approval, Plaintiff will request that:

- a. the Court find it will likely be able to approve the Settlement as fair, reasonable, and adequate;
- b. the Court approve the form(s) of Notice and find that the notice program set forth herein constitutes the best notice practicable under the circumstances, and satisfies due process and Rule 23 of the Federal Rules of Civil Procedure;
- c. the Court direct that Notice be sent to the Class;
- d. the Court set the date and time for the Final Approval Hearing, which may be continued by the Court from time to time without the necessity of further notice to the Class except for an update to the Settlement Website; and,
- e. the Court set the Claims Deadline, the Objection Deadline and the Opt-Out Deadline.

## **8. CLAIMS ADMINISTRATOR AND COSTS**

**8.01 Third-Party Claims Administrator.** The Settlement will be administered by the Claims Administrator, who will be jointly chosen and overseen by Class Counsel and Defendant, subject to Court approval. The Claims Administrator's responsibilities include, but are not limited to: (i) holding and supervising the Settlement Fund; (ii) providing notice in accordance with the Court-approved Notice Plan; (iii) obtaining potential Settlement Class Member contact

information using telephone numbers provided by Defendant; (iv) obtaining new addresses for returned email and mail; (v) setting up and maintaining the Settlement Website and toll-free telephone number; (vi) fielding inquiries about the Settlement; (vii) processing claims; (viii) acting as a liaison between Settlement Class Members and the Parties regarding claims information; (ix) approving claims, rejecting any invalid Claim Form, including those where there is evidence of fraud; (x) directing the payment of Cash Awards to Settlement Class Members by check and/or electronic funds transfers; and (xi) any other tasks reasonably required to effectuate the foregoing. The Claims Administrator will provide monthly updates on the status of administration, including claims, exclusions, and objections, to counsel for all Parties.

**8.02** Notice Database. To facilitate the notice and claims administration process, Plaintiff will provide to the Claims Administrator as soon as practicable and, in any case, no later than ten (10) days after the execution of this Settlement Agreement, in an electronically searchable and readable format, the telephone numbers and call dates exhibited to Plaintiff's summary judgment motions, Dkts. 375-1 (CMI), 375-2 (iQor), 415-6 (AFNI), and 415-7 (ERC).

**8.03** Any personal information relating to members of the Settlement Class provided to the Claims Administrator or Class Counsel pursuant to this Settlement shall be provided solely for the purpose of the notice and claims process under this Settlement. This information shall be kept in strict confidence and shall not be disclosed to any third party.

**8.04** Payment of Notice and Claims Administration Costs. Before the entry of the Final Approval Order, the Claims Administrator shall only take such action toward notice and settlement administration that is reasonable and necessary. Any reasonable and necessary costs of notice and settlement administration that are incurred prior to the Funding Date shall be paid from the Settlement Fund once it is established. No later than four (4) days after Class Counsel submits the Motion for Preliminary Approval of the Settlement, the Claims Administrator shall provide an estimate—for Defendant's and Class Counsel's review and approval—of the amount of reasonable and necessary costs required to identify potential members of the Settlement Class, mail and email notice, establish the Settlement Website, and establish a toll-free telephone



number, as well as any other initial administration costs.

**8.05** Notice and Claims Administration. The Claims Administrator shall use the Notice Database and the customer information supplied by DIRECTV to implement the notice and claims process set forth below.

## **9. NOTICES**

**9.01** Potential Settlement Class Member Identification. Potential Settlement Class Members shall be identified pursuant to the procedures set forth above in Section 5. The Claims Administrator shall use reasonable and generally-accepted sources to identify the current mailing and email addresses of the potential Settlement Class Members, including the cellular telephone provider data, LexisNexis, and/or Thompson Reuters. The Claims Administrator also will remove from the list of individuals to whom notice is directed those persons who previously opted out, listed in Dkt. 420-1. For all Class Members, the Claims Administrator shall perform any further investigations deemed appropriate by the Claims Administrator, including using the National Change of Address (“NCOA”) database maintained by the United States Postal Service, in an attempt to identify current mailing addresses.

**9.02** Timing of Class Notice. The Claims Administrator shall disseminate Notice by the Settlement Notice Date in the manner described herein.

**9.03** Mailing of Settlement Notice. The Claims Administrator shall send the Mail Notice and Email Notice via first class mail and email, respectively, to the list of persons generated through the process for potential Settlement Class Member identification in Section 9.01.

a. Address Updates. The last known mailing address of the potential Settlement Class members will be subject to confirmation or updating as follows: (a) the Claims Administrator will check each address against the United States Post Office National Change of Address Database before the initial mailing; (b) the Claims Administrator will conduct a reasonable search to locate an updated address for any person whose Mail Notice is returned as undeliverable; (c) the Claims Administrator shall update addresses based on any forwarding

information received from the United States Post Office; and (d) the Claims Administrator shall update addresses based on any requests received from persons in the Settlement Class. The last known email address will be subject to confirmation or updating as follows: (i) for each email address that is either missing, or returned as undeliverable with no forwarding email address provided, the Claims Administrator will conduct a search using the corresponding telephone number in the Notice Database and, provided a reasonable match is found showing a new email address, update the email address accordingly, and (ii) the Claims Administrator will update email addresses based on verified requests received from Settlement Class Members. The Claims Administrator will promptly re-email the Notices to the updated email addresses provided under scenarios (i) and (ii) above.

b. Re-Mailing of Returned Settlement Notices. The Claims Administrator shall promptly re-mail and/or re-email any Notices that are returned as non-deliverable with a forwarding address to such forwarding address. The Claims Administrator shall perform skip tracing for all returned email and mail.

c. Costs Considered Settlement Costs. All costs of mailing and email address updating, confirmation, skip tracing, re-mailing, and/or re-emailing of returned Notices will be considered Settlement Costs and deducted from the Settlement Fund.

**9.04** Internet Notice. By the Settlement Notice Date, the Claims Administrator shall maintain and administer a dedicated Settlement Website at [www.dtvprerecordclassaction.com](http://www.dtvprerecordclassaction.com) containing information regarding the Settlement and related documents, along with information necessary to file a claim and an electronic version of the Claim Form members can complete and submit electronically, as well as information regarding the date and time of the Final Approval Hearing, which shall be updated as appropriate. At a minimum, such documents shall include the Settlement Agreement and attached exhibits, Mail Notice, Email Notice, a downloadable Claim Form for anyone wanting to print a hard copy and mail in the Claim Form, the operative complaint in the Action, the Preliminary Approval Order, and when filed, the Final Approval Order.

**9.05** Toll-Free Telephone Number. Prior to dissemination of Notice and the establishment of the Settlement Website, the Claims Administrator shall set up a toll-free telephone number for receiving toll-free calls related to the Settlement. That telephone number shall be maintained until thirty (30) days after the Claims Deadline. After that time, and for a period of ninety (90) days thereafter, a recording will advise any caller to the toll-free telephone number that the Claims Deadline has passed and the details regarding the Settlement may be reviewed on the related Settlement Website.

**9.06** CAFA Notice. The Claims Administrator, on behalf of the Defendant, shall serve the Class Action Fairness Act (“CAFA”) Notice required by 28 U.S.C. § 1715 within ten (10) days of the filing of the Preliminary Approval Motion. The costs of such CAFA Notice shall be paid from the Settlement Fund as Settlement Costs.

## **10. CLAIMS PROCESS AND CASH AWARD PAYMENTS**

**10.01** Potential Claimants. Each Settlement Class Member who does not timely and validly request exclusion from the Settlement as required in this Agreement shall be entitled to make a claim.

**10.02** Conditions for Claiming Cash Award. To make a claim, Settlement Class Members must submit by the Claims Deadline a valid and timely Claim Form, which shall contain the information set forth in Exhibit A hereto, including the following: (i) the Settlement Class Member’s full name; (ii) the telephone number that the Settlement Class Member used or subscribed to during the Settlement Class Period; (iii) affirmation that the Settlement Class Member was not a customer of Defendant at any time after October 1, 2004.

(a) The Claims Administrator shall be responsible for receiving and keeping safe and secure all Claims Forms. Upon the Effective Date, the Claims Administrator shall examine each Claim Form to determine whether the claimant is a Settlement Class Member entitled to receive a Cash Award, and the claimant’s share pursuant to Section

5.03. To make this determination, the Claims Administrator shall compare the information supplied by the claimant to telephone number and call date(s) found in the Notice Database. To the extent a Claim Form is submitted by a person to whom the Claims Administrator did not send direct Notice (after removing exact matches with Defendant's customer information), and the Notice Database shows calls to that person's telephone number within the time period identified on their Claim Form, the Claims Administrator shall determine the claimant ineligible to receive a Cash Award if there is an exact match in Defendant's customer records as to first and last name and address.

(b) In the event more than one claimant submits a claim regarding a particular telephone number found in the Notice Database, and the claims overlap in time period (*i.e.*, more than one claimant submits a claim that would apply to a particular call listed in the Notice Database), the Claims Administrator will promptly provide such information to Counsel for the Parties. The Claims Administrator and Class Counsel may contact and/or follow up with the competing claimants, may examine extrinsic information (such as reverse look-up and wireless carrier data), and shall discuss to determine which competing claim is valid. In no event shall more than one person be entitled to a Cash Award for a particular call reflected in the Notice Database.

(c) The Claims Administrator shall have discretion to permit any Settlement Class Member who has submitted an incomplete or invalid Claim Form to re-submit a Claim Form within thirty-five (35) calendar days of the sending of notice of the incompleteness by the Claims Administrator, and shall, at its discretion, use best practices designed to ensure that only Settlement Class Members receive payment.

**10.03** Counsel for the Parties shall be kept apprised of the volume of claims, and the volume and nature of defective claims, and Class Counsel are permitted to communicate with Settlement Class Members as they deem appropriate to cure such deficiencies. Defendant shall have the right to suggest denial of claims if Defendant has a good faith belief that such claims are improper or fraudulent. Any suggested denial of claims shall be provided to Class Counsel in

writing. If the Parties cannot agree upon which claims should be denied, then they shall submit the issue to the Court for determination.

**10.04 Distribution of Cash Awards.** After calculating the pro rata Cash Award due each Settlement Class Member who submitted a timely and valid Claim Form pursuant to this Section and Section 5, the Claims Administrator shall promptly distribute those payments electronically or by check.

**10.05 Electronic Distribution of Funds.** To the maximum extent possible, and in order to minimize the costs of Settlement Administration, the Claims Administrator will pay Cash Awards via electronic funds transfer. The Claims Administrator shall provide a secure portal on the Settlement Website by which Settlement Class Members can have the option of having their claim payment transmitted to them electronically, through Automated Clearing House (“ACH”) direct deposit, or other reliable means.

**10.06 Mailing of Settlement Check.** For Settlement Class Members who submit valid and timely claims who do not receive their cash awards via electronic transfer as set forth in Section 10.05, the Claims Administrator shall mail Settlement checks via U.S. mail. If any settlement checks are returned, the Claims Administrator shall attempt to obtain a new mailing address for that Settlement Class Member by taking the steps described in Section 9.03. If, after a second mailing, the settlement check is again returned, no further efforts need be taken by the Claims Administrator to resend the check. The Claims Administrator shall advise Class Counsel and counsel for Defendant of the names of the claimants whose checks are returned by the postal service as soon as practicable. Each settlement check will be negotiable for one hundred eighty (180) days after it is issued.

(a) If checks that remain uncashed after 180 days of the first pro-rata distribution yield an amount that, after administration costs, would allow a second pro-rata distribution to the qualifying claimants equal to or greater than \$1.00 per qualifying claimant, a second pro-rata distribution will be made. If the uncashed amount is not sufficient to allow for such a second pro-rata distribution, the Parties will apply to the Court for approval of one or

more non-profit recipients. The non-profit must be one in which the Parties represent that they do not have any financial interest or otherwise have a relationship sufficient to create any conflict of interest. If a second pro-rata distribution is made, the amount of any checks that remain uncashed after 180 days will be distributed to the non-profit(s) in the same manner.

**10.07 Tax Forms.** To the extent a Settlement Class Member is entitled to a Cash Award in an amount that meets or exceeds the threshold for reporting the payment to the IRS, the Claims Administrator shall engage in additional direct notice to such persons to attempt to obtain the necessary tax forms. The Claims Administrator may engage in more than one round of such additional notice. Payments shall be made without withholding and shall be reported to the IRS and the payee, to the extent required by law, under the payee's name and Social Security number on an IRS Form 1099.

## **11. OPT-OUTS AND OBJECTIONS**

**11.01 Opting Out of the Settlement.** Any members of the Settlement Class who wish to exclude themselves from the Settlement Class must advise the Claims Administrator in writing of that intent, and their opt out request must be postmarked no later than the Opt-Out Deadline.

**11.02 Opt-Out Information.** The Claims Administrator shall provide the Parties with copies of all opt-out requests it receives, and shall provide a list of all Settlement Class Members who timely and validly opted out of the Settlement in their declaration filed with the Court, as required by Section 12.01. Settlement Class Members who do not properly and timely submit an opt-out request will be bound by this Agreement and the judgment, including the releases in Section 14 below.

a. In the written request for exclusion, the Settlement Class Member must state: (1) his or her full name, address, and telephone number where he or she may be contacted; (2) the telephone number(s) on which he or she was called; and (3) a statement that he or she wishes to be excluded from the Settlement. The request for exclusion must be personally signed by the Settlement Class Member submitting the request. A request to be excluded that does not include the foregoing information, that is not sent to the Claims Administrator, that is not

postmarked by the Opt-Out Deadline, or that is not personally signed by the Settlement Class Member, shall be invalid.

b. No person shall purport to exercise any exclusion rights of any other person, or purport (a) to opt-out Class Members as a group, aggregate, or class involving more than one Settlement Class Member; or (b) to opt-out more than one Settlement Class Member on a single paper, or as an agent or representative. Any such purported opt-outs shall be void.

c. Any Settlement Class Member who submits a valid and timely request for exclusion will not be a Settlement Class Member and shall not be bound by the terms of this Agreement. If the Claims Administrator believes any opt-out request is ambiguous as to its validity, the Claims Administrator shall provide that request to Class Counsel and Defendant for review.

**11.03 Objections.** Any Settlement Class Member who intends to object to the fairness of this settlement must file a written objection with the Court and/or the Parties, by the Objection Deadline.

a. In the written objection, the Settlement Class Member must state: (1) his or her full name; (2) his or her address; (3) the telephone number where he or she may be contacted; (4) the telephone number(s) that he or she maintains were called; (5) all grounds for the objection, with specificity and with factual and legal support for each stated ground; (6) the identity of any witnesses he or she may call to testify; (7) copies of any exhibits that he or she intends to introduce into evidence at the Final Approval Hearing; (8) a statement of the identity (including name, address, law firm, phone number and email) of any lawyer who will be representing the individual with respect to any objection; (9) a statement of whether he or she intends to appear at the Final Approval Hearing with or without counsel; and (10) a statement as to whether the objection applies only to the objector, a specific subset of the Settlement Class, or the entire Settlement Class. Such objection must be filed with the Court with a postmark date on or before the Objection Deadline.

Any Settlement Class Member who does not submit a timely objection in accordance with this Agreement, the Notice, and otherwise as ordered by the Court shall not be treated as having filed a valid objection to the Settlement and shall forever be barred from raising any objection to the Settlement.

**11.04** Any Settlement Class Member who objects may (but is not required to) appear at the Final Approval Hearing, either in person or through an attorney hired at the Settlement Class Member's own expense, to object to the fairness, reasonableness, or adequacy of this Agreement or the Settlement. A member of the Settlement Class who opts out may not object to this Agreement or the Settlement, and is not entitled to be heard at the Final Approval Hearing.

## **12. FINAL APPROVAL HEARING AND FINAL APPROVAL ORDER**

**12.01** No later than sixteen (16) calendar days prior to the Final Approval Hearing, the Claims Administrator shall serve on counsel for all Parties a declaration stating that the Notice required by the Agreement has been completed in accordance with the terms of the Preliminary Approval Order, and that the CAFA Notice was served pursuant to Section 9.06.

**12.02** If the Settlement is approved preliminarily by the Court, and all other conditions precedent to the settlement have been satisfied, no later than fourteen (14) calendar days prior to Final Approval Hearing:

- a. Plaintiff shall request that the Court enter the Final Approval Order in substantially the form attached as Exhibit B, with Class Counsel filing a memorandum in support of the motion;
- b. Plaintiff shall file the declaration provided by the Claims Administrator pursuant to Section 12.01; and
- c. Class Counsel and/or Defendant may file a memorandum addressing any objections to the Settlement.

**12.03** At the Final Approval Hearing, the Court will consider and determine whether the provisions of this Agreement should be approved, whether the Settlement should be finally approved as fair, reasonable and adequate, whether any objections to the Settlement should be



overruled, whether the fee award and incentive payment to the Class Representative should be approved, and whether a judgment finally approving the Settlement should be entered.

**12.04** This Agreement is subject to and conditioned upon the issuance by the Court of a Final Approval Order which grants final approval of this Agreement and:

- a. finds that the Notice provided satisfies the requirements of due process and Federal Rule of Civil Procedure Rule 23(e)(1);
- b. finds that Settlement Class Members have been adequately represented by the Class Representative and Class Counsel;
- c. finds that the Settlement Agreement is fair, reasonable and adequate to the Settlement Class, that each Settlement Class Member shall be bound by this Agreement, including the release in Section 14.01, the bar in Section 14.02, and the covenant not to sue in Section 14.03, and that this Settlement Agreement should be and is approved;
- d. dismisses the Action on the merits and with prejudice;
- e. permanently enjoins each and every Settlement Class Member from bringing, joining, or continuing to prosecute any Released Claims against Defendant or the Released Parties; and
- f. retains jurisdiction of all matters relating to the interpretation, administration, implementation, effectuation and enforcement of this Settlement.

### **13. FINAL JUDGMENT**

**13.01** The judgment entered at the Final Approval Hearing shall be deemed final:

- a. Thirty (30) days after entry of the judgment approving the Settlement if no document is filed within that time seeking appeal, review or rehearing of the judgment; or
- b. If any such document is filed, then five (5) days after the date upon which all appellate and/or other proceedings resulting from such document have been finally terminated in such a manner as to permit the judgment to take effect in substantially the form described in Section 12.04.

#### 14. RELEASE OF CLAIMS

**14.01 Released Claims.** Plaintiff and each and all Settlement Class Members, on behalf of themselves and their respective heirs, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors-in-interest, assigns, all those who claim through them or who assert or could assert claims on their behalf, and any customary or authorized users of their accounts or telephones, will be deemed to have fully released and forever discharged the Released Parties from any and all claims relating to the placement of collections calls by Defendant, or by CMI, iQor, AFNI, and/or ERC regarding a debt allegedly owed to Defendant, during the Settlement Class Period, including claims arising under the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the “Released Claims”).

a. Plaintiff and each Settlement Class Member acknowledges that he or she may hereafter discover facts other than or different from those that he or she knows or believes to be true with respect to the subject matter of the claims released pursuant to the terms of this Agreement, but each of those persons expressly agree that, upon entry of the Final Approval Order, he or she shall have waived and fully, finally, and forever settled and released any known or unknown, suspected or unsuspected, asserted or unasserted, contingent or non-contingent claim with respect to the claims released pursuant to Section 14.01 above, whether or not concealed or hidden, without regard to subsequent discovery or existence of such different or additional facts.

b. Plaintiff and the Settlement Class Members expressly agree that, upon the Effective Date, each will waive and release any and all provisions, rights, and benefits conferred either (a) by Section 1542 of the California Civil Code or (b) by any law of any state or territory of the United States, or principle of common law which is similar, comparable, or equivalent to section 1542 of the California Civil Code, with respect to the claims released pursuant to Section 14.01 above. Section 1542 of the California Civil Code reads:

Section 1542. General Release; extent. A general release does not extend to claims which the creditor does not know or suspect to exist in his or her

favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

On the Effective Date, all Settlement Class Members shall be deemed to have, with respect to the subject matter of the Action, expressly waived the benefits of any statutory provisions or common law rules that provide, in sum or substance, that a general release does not extend to claims which the person does not know or suspect to exist in the person's favor at the time of executing the release, which if known by the person would have materially affected its settlement with any other party.

**14.02 Stay/Bar of Proceedings:** All proceedings in the Action shall be stayed following entry of the Preliminary Approval Order, except as may be necessary to implement the Settlement or comply with the terms of the Settlement. Pending determination of whether the Settlement should be granted final approval, the Parties agree not to pursue any claims or defenses otherwise available to them, and further agree that the Final Approval Order shall include an injunction that no person who has not validly and timely opted out of the Settlement Class and no person acting or purporting to act directly or on behalf of a Settlement Class Member, or acting on a representative basis or in any other capacity, will commence or prosecute against any of the Released Parties any action or proceeding asserting any of the Released Claims. The Settlement will be conditioned upon the entry of such an injunction in the Final Approval Order. Settlement Class Members are not precluded from addressing, contacting, dealing with, or complying with requests or inquiries from any governmental authorities relating to the issues raised in this Settlement.

**14.03 Covenant Not To Sue.** Plaintiff agrees and covenants, and each Settlement Class Member will be deemed to have agreed and covenanted not to sue any Released Party with respect to any of the Released Claims and agree to be forever barred from doing so, in any court of law or equity, or any other forum. Settlement Class Members are not precluded from addressing, contacting, dealing with, or complying with requests or inquiries from any governmental authorities relating to the issues raised in this Settlement.

## **15. TERMINATION OF AGREEMENT**

**15.01 Either Side May Terminate the Agreement.** Plaintiff and Defendant shall each have the right to unilaterally terminate this Agreement by providing written notice of her or its election to do so (“Termination Notice”) to the other party hereto within ten (10) calendar days of any of the following occurrences:

- a. the Court rejects, materially modifies, materially amends or changes, or declines to preliminarily or finally approve the Settlement Agreement;
- b. an appellate court reverses the Final Approval Order, and the Settlement Agreement is not reinstated without material change by the Court on remand;
- c. any court incorporates into, or deletes or strikes from, or modifies, amends, or changes, the Preliminary Approval Order, Final Approval Order, or the Settlement Agreement in a way that is material, unless such modification or amendment is accepted in writing by all Parties;
- d. the Effective Date does not occur; or
- e. any other ground for termination provided for elsewhere in this Agreement occurs.

**15.02 Termination by Defendant.** This Agreement shall be terminable at the option of Defendant if members of the Settlement Class with potential claims representing more than 7% of the calls reflected in the Notice Database opt out of the Settlement.

**15.03 Revert to Status Quo.** If either Plaintiff or Defendant terminates this Agreement as provided herein, the Agreement shall be of no force and effect and the Parties’ rights and defenses shall be restored, without prejudice, to their respective positions as if this Agreement had never been executed, and any orders entered by the Court in connection with this Agreement shall be vacated. However, any payments made to the Claims Administrator for services rendered up to the date of termination shall not be refunded to Defendant.

**16. NO ADMISSION OF LIABILITY**

**16.01** Defendant denies any liability or wrongdoing of any kind associated with the alleged claims in Action. Defendant has denied and continues to deny each and every material factual allegation and all claims asserted against it in the Action. Nothing herein shall constitute an admission of wrongdoing or liability, or of the truth of any allegations in the Action. Nothing herein shall constitute an admission by Defendant that the Action was properly brought on a class or representative basis, or that classes should be certified in those actions, other than for settlement purposes. To this end, the settlement of the Action, the negotiation and execution of this Agreement, and all acts performed or documents executed pursuant to or in furtherance of the Settlement: (i) are not and shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on the part of Defendant or of the truth of any of the allegations in the Action; (ii) are not and shall not be deemed to be, and may not be used as an admission or evidence of any fault or omission on the part of Defendant in any civil, criminal or administrative proceeding in any court, arbitration forum, administrative agency or other tribunal; and (iii) are not and shall not be deemed to be and may not be used as an admission of the appropriateness of these or similar claims for class certification.

**16.02** Pursuant to Federal Rules of Evidence Rule 408 and any similar provisions under the laws of other states, neither this Agreement nor any related documents filed or created in connection with this Agreement shall be admissible in evidence in any proceeding, except as necessary to approve, interpret or enforce this Agreement.

**17. MISCELLANEOUS**

**17.01** Entire Agreement. This Agreement and the exhibits hereto constitute the entire agreement between the Parties. Besides the terms of this Settlement Agreement and the exhibits hereto, there are no other agreements, except for the individual resolution of Plaintiff Carmen Montijo's claims detailed in Section 6.05, required to be identified under Rule 23(e)(3) of the Federal Rules of Civil Procedure. No representations, warranties or inducements have been made to any of the Parties, other than those representations, warranties, and covenants contained

in this Agreement.

**17.02 Claims Against Cash Awards.** In the event a third party, such as a bankruptcy trustee, former spouse, or other third party has or claims to have a claim against any of a Cash Award made to a Settlement Class Member, it is the responsibility of the Class Member to transmit the funds to such third party, and neither the Parties nor the Claims Administrator will bear any responsibility or liability to such third party.

**17.03 No Tax Advice.** Plaintiff, Class Counsel, Defendant, and the Claims Administrator make no representations as to the taxability of the relief to Settlement Class Members. Settlement Class Members are responsible for seeking their own tax advice at the own expense.

**17.04 Governing Law.** This Agreement shall be governed by the laws of the State of California.

**17.05 Future Changes in Laws or Regulations.** To the extent Congress, the Federal Communications Commission or any other relevant regulatory authority or court promulgates different requirements under the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.*, or any other law or regulatory promulgation that would govern any conduct affected by the Settlement, those laws and regulatory provisions shall control. However, the Parties agree that changes in law shall not provide any basis for any attempt to alter, modify or invalidate this Settlement.

**17.06 Jurisdiction.** The Court shall retain continuing and exclusive jurisdiction over the Parties to this Agreement, including the Plaintiff and all Settlement Class Members, for purposes of the administration and enforcement of this Agreement.

**17.07 No Construction Against Drafter.** This Agreement was drafted jointly by the Parties and, in construing and interpreting this Agreement, no provision of this Agreement shall be construed or interpreted against any Party based upon the contention that this Agreement or a portion of it was purportedly drafted or prepared by that Party.

**17.08 Good Faith Efforts; Resolution of Disputes.** The Parties shall cooperate in good

faith in the administration of this Settlement and agree to use their best efforts to promptly file a motion for preliminary approval with the Court. The Parties and their Counsel shall not directly or indirectly solicit any person to opt-out or object to the Settlement. Any unresolved dispute regarding the administration of this Agreement shall be decided by the Court, or by a mediator upon agreement of the Parties.

**17.09** Counterparts. This Agreement may be signed in counterparts and the separate signature pages executed by the Parties and their counsel may be combined to create a document binding on all of the Parties and together shall constitute one and the same instrument.

**17.10** Time Periods. The time periods and dates described herein are subject to Court approval and may be modified upon order of the Court or written stipulation of the Parties.

**17.11** Authority. Each person executing this Settlement Agreement on behalf of any of the Parties hereto represents that such person has the authority to so execute this Agreement.

**17.12** No Oral Modifications. This Agreement may not be amended, modified, altered or otherwise changed in any manner, except by a writing signed by a duly authorized agent of Defendants and Plaintiff, and approved by the Court.

**17.13** Notices. Unless otherwise stated herein, any notice required or provided for under this Agreement shall be in writing and may be sent by electronic mail, fax or hand delivery, postage prepaid, as follows:

If to Class Counsel:

Matthew Wilson  
Meyer Wilson Co., LPA  
305 W. Nationwide Blvd.  
Columbus, OH 43215  
Telephone: (614) 384-7031  
mwilson@meyerwilson.com

Daniel M. Hutchinson  
Lief Cabraser Heimann & Bernstein, LLP  
275 Battery Street, 29th Floor  
San Francisco, CA 94111-3339  
Telephone: (415) 956-1000  
dhutchinson@lchb.com

If to counsel for Defendant:

Hans J. Germann  
Kyle J. Steinmetz  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606  
Telephone: (312) 701-8547  
hgermann@mayerbrown.com  
ksteinmetz@mayerbrown.com

Andrew Wirmani  
Brett S. Rosenthal  
REESE MARKETOS LLP  
750 North Saint Paul Street Suite 600  
Dallas, TX 75201  
Telephone: (214) 382-9810  
Email: andrew.wirmani@rm-firm.com  
Email : brett.rosenthal@rm-firm.com

IN WITNESS WHEREOF, the parties hereto have caused this Settlement Agreement to be executed, dated as of July 29, 2022.

DATED: 07 / 29 / 2022

Plaintiff Jenny Brown

*Jenny Brown*

\_\_\_\_\_

DATED: \_\_\_\_\_

Defendant DIRECTV, LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM AND CONTENT:

DATED: \_\_\_\_\_, 2022

MAYER BROWN LLP



Hans J. Germann  
Kyle J. Steinmetz  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606  
Telephone: (312) 701-8547  
hgermann@mayerbrown.com  
ksteinmetz@mayerbrown.com

Andrew Wirmani  
Brett S. Rosenthal  
REESE MARKETOS LLP  
750 North Saint Paul Street Suite 600  
Dallas, TX 75201  
Telephone: (214) 382-9810  
Email: andrew.wirmani@rm-firm.com  
Email : brett.rosenthal@rm-firm.com

IN WITNESS WHEREOF, the parties hereto have caused this Settlement Agreement to be executed, dated as of July 29, 2022.

DATED: \_\_\_\_\_

Plaintiff Jenny Brown

\_\_\_\_\_

DATED: July 29, 2022

Defendant DIRECTV, LLC

By:  \_\_\_\_\_

Name: Sara Romine

Title: AVP - Senior Legal Counsel

APPROVED AS TO FORM AND CONTENT:

DATED: 7/29, 2022

MAYER BROWN LLP

By   
Hans Germann  
Attorneys for Defendant DIRECTV, LLC

DATED: \_\_\_\_\_, 2022

LIEFF CABRASER HEIMANN & BERNSTEIN  
LLP

By \_\_\_\_\_  
Daniel M. Hutchinson  
Class Counsel

DATED: \_\_\_\_\_, 2022

MEYER WILSON CO., LPA

By \_\_\_\_\_  
Matthew R. Wilson  
Class Counsel

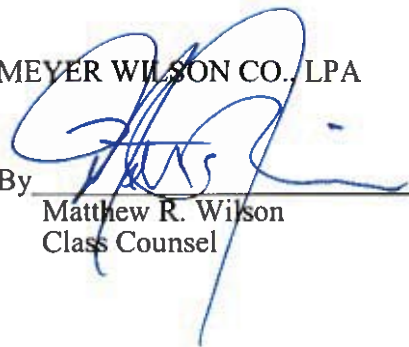
By \_\_\_\_\_  
Hans Germann  
Attorneys for Defendant DIRECTV, LLC

DATED: July 29, 2022

LIEFF CABRASER HEIMANN & BERNSTEIN  
LLP

By  \_\_\_\_\_  
Daniel M. Hutchinson  
Class Counsel

DATED: 7/29, 2022

MEYER WILSON CO., LPA  
By  \_\_\_\_\_  
Matthew R. Wilson  
Class Counsel

By \_\_\_\_\_  
Hans Germann  
Attorneys for Defendant DIRECTV, LLC

DATED: \_\_\_\_\_, 2022

LIEFF CABRASER HEIMANN & BERNSTEIN  
LLP

By \_\_\_\_\_  
Daniel M. Hutchinson  
Class Counsel

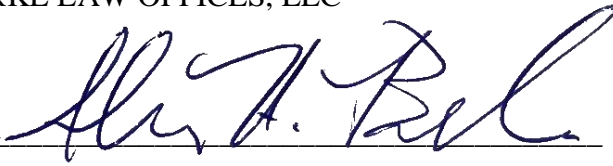
DATED: \_\_\_\_\_, 2022

MEYER WILSON CO., LPA

By \_\_\_\_\_  
Matthew R. Wilson  
Class Counsel

DATED: July 29, 2022

BURKE LAW OFFICES, LLC

By  \_\_\_\_\_  
Alexander H. Burke  
Class Counsel

# **EXHIBIT A**

**Claim Form**  
**Brown v. DIRECTV, LLC**

(This claim form should be used only if you are mailing in your form. You may instead complete and submit a form online, at [www.dtvprerecordclassaction.com](http://www.dtvprerecordclassaction.com))

---

**NAME**

First Name: \_\_\_\_\_

Last Name: \_\_\_\_\_

---

**CURRENT ADDRESS AND PHONE NUMBER**

Street Address 1: \_\_\_\_\_

Street Address 2: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Postal Code / Zip Code: \_\_\_\_\_

Cell Phone Number(s) on which you received a DIRECTV debt collection call or calls between 2009 and 2015: \_\_\_\_\_

(Your phone number must be one of the phone numbers that Plaintiff previously listed as belonging to members of the Settlement Class to be included as part of the settlement. If you are not certain which of your cell phone numbers may have been called, you may list each of them separately.)

---

**CLAIM ID NUMBER**

Claim ID: \_\_\_\_\_

(This is not required, but if you have it—this number is on the front of the postcard you may have received.)

---

**CERTIFICATION**

By submitting this Claim Form, I certify that I have not been a customer of DIRECTV at any time after October 1, 2004, and the information provided above is true and correct.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

---

**You must submit your completed claim form, postmarked no later than [DATE] to:  
DIRECTV TCPA Settlement Administrator, c/o [XXX], P.O. Box [XXXXX], [City], [State]  
[ZIP].**

# **EXHIBIT B**

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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

JENNY BROWN, on behalf of herself  
and all others similarly situated,

Plaintiffs,

v.

DIRECTV, LLC,

Defendant.

Case No. 2:13-cv-01170-DMG-E

Hon. Dolly M. Gee

**[PROPOSED] ORDER GRANTING MOTION FOR FINAL APPROVAL OF  
CLASS ACTION SETTLEMENT**

1. The Court having held a Final Approval Hearing on [\_\_\_\_\_, 202\_], notice of the Final Approval Hearing having been duly given in accordance with this Court’s Order: (1) Preliminarily Approving Class Action Settlement, (2) Approving Notice Plan, and (3) Setting Final Approval Hearing (“Preliminary Approval Order”), and on the motion (“Motion”) for final approval of the Parties’ July 29, 2022 *Class Action Settlement Agreement and Release* (the “Settlement,” Dkt. \_\_\_), as well as Class Counsel’s motion for an award of attorneys’ fees and expenses and for Plaintiff’s service award. Due and adequate notice having been given to the Settlement Class Members of the Settlement and the pending motions,



1 as directed by the Court’s Preliminary Approval Order, and upon consideration of  
2 all papers filed and proceedings had herein, and good cause appearing,

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

4 2. The Settlement Agreement dated July 29, 2022, including its exhibits  
5 (the “Settlement Agreement”), and the definitions of words and terms contained  
6 therein are incorporated by reference in this Order. The terms of this Court’s  
7 Preliminary Approval Order are also incorporated by reference in this Order.

8 3. This Court has subject matter jurisdiction over this matter pursuant to  
9 28 U.S.C. § 1331 and 47 U.S.C. § 227 and has personal jurisdiction over the Parties  
10 and the Settlement Class Members, including all members of the following  
11 Settlement Class:

12 All persons residing within the United States who, within four years prior to  
13 and after the filing of this action, received a non-emergency telephone call(s)  
14 from DIRECTV and/or iQor, Inc., Credit Management, LP, AFNI, Inc, or  
15 Enhanced Recovery Company, Inc. regarding a debt allegedly owed to  
16 DIRECTV, to a cellular telephone through the use of an artificial or  
17 prerecorded voice, and who has not been a DIRECTV customer at any time  
18 since October 1, 2004. The Settlement Class encompasses only persons  
19 associated with the telephone numbers and calls during the Settlement Class  
20 Period in Plaintiff’s summary judgment motions. *See* Dkts. 375-1 (CMI),  
21 375-2 (iQor), 415-6 (AFNI), and 415-7 (ERC). Excluded from the Settlement  
22 Class are: (a) those persons who previously opted out in response to the  
23 notice of class certification, identified in Dkt. 420-1, (b) any trial judge that  
24 may preside over this case, (c) Defendant as well as any parent, subsidiary,  
25 affiliate or control person of Defendant.

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

28 5. The Court finds and concludes that Class Notice was disseminated to

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

16         6. The Court hereby finds that all persons who fall within the definition  
17 of the Settlement Class have been adequately provided with an opportunity to  
18 exclude themselves from the Settlement Class by submitting a request for exclusion  
19 in conformance with the terms of the Settlement and this Court’s Preliminary  
20 Approval Order. All persons who submitted timely and valid requests for exclusion  
21 shall not be deemed Settlement Class Members and are not bound by this Final  
22 Approval Order. A list of those persons who submitted timely and valid requests for  
23 exclusion is attached hereto. All other persons who fall within the definition of the  
24 Settlement Class are Settlement Class Members and part of the Settlement Class  
25 and shall be bound by this Final Approval Order and the Settlement.

26         7. The Court reaffirms that this Action is properly maintained as a class  
27 action, for settlement purposes only, pursuant to Federal Rules of Civil Procedure  
28 23(a) and 23(b)(3).

1           8.       The Court hereby finds and concludes that the Settlement Class meets  
2 the requirements of numerosity, commonality, typicality, and adequacy as set forth  
3 in Rule 23(a) of the Federal Rules of Civil Procedure. The Court further finds and  
4 concludes that the Settlement Class meets the requirements of predominance,  
5 superiority, and manageability as set forth in Rule 23(b)(3) of the Federal Rules of  
6 Civil Procedure.

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

10          10.       The Court finds that the Settlement warrants final approval pursuant to  
11 Rule 23(e)(2) because the Court finds the Settlement to be fair, reasonable, and  
12 adequate and in the best interest of the Settlement Class, after weighing the relevant  
13 considerations. First, the Court finds that Plaintiff and Class Counsel have  
14 adequately represented the Settlement Class and will continue to do so through  
15 Settlement implementation. Second, the Settlement was reached as a result of arms'  
16 length negotiations among counsel for the Parties, assisted by an experienced  
17 mediator, Robert Meyer of JAMS, and comes after ten (10) years of litigation and a  
18 detailed and informed investigation and analysis by counsel for the parties. Third,  
19 the Court finds that the relief proposed to be provided for the Settlement Class—a  
20 non-reversionary settlement fund of \$17 million—is fair, reasonable, and adequate  
21 taking into account, *inter alia*, the costs, risks, and delay of trial and appeal, the  
22 alleged harm to Settlement Class Members, and the proposed method of  
23 distributing payments to the Settlement Class Members. Fourth, the Court finds  
24 that the Settlement treats all Settlement Class Members equitably relative to each  
25 other accounting for the fact that certain Settlement Class Members' claims had  
26 been granted summary judgment, Dkt. 401, and others had not. Under the terms of  
27 the Settlement, all Settlement Class Members who submitted a timely and valid  
28 Claim Form will be sent a *pro rata* distribution, as specified in the Settlement, of

1 the \$17 million settlement proceeds after reduction of the Settlement Costs (*i.e.*, (i)  
2 settlement and administration costs; (ii) Class Counsel attorneys' fees and expenses  
3 awarded by the Court; (iii) any Court-approved service award paid to the Class  
4 Representative; and (iv) any taxes incurred by the Settlement Fund).

5 11. The motion is hereby GRANTED, and the Settlement and its terms are  
6 hereby found to be and APPROVED as fair, reasonable, and adequate and in the  
7 best interest of the Settlement Class. The Parties and Claims Administrator are  
8 directed to consummate and implement the Settlement in accordance with its terms.

9 12. This Court hereby dismisses this Action, with prejudice and without  
10 leave to amend and without costs to any Party, other than as specified in the  
11 Settlement, in this Final Approval Order, and in any order(s) by this Court  
12 regarding Class Counsel's motion for attorneys' fees, expenses, and service awards.

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

25 14. Plaintiff and each Settlement Class Member, as well as their respective  
26 assigns, heirs, executors, administrators, successors, and agents, hereby release,  
27 resolve, relinquish, and discharge each and all of the Released Parties from each of  
28 the Released Claims. Plaintiff and the Settlement Class Members further agree that

1 they will not institute any action or cause of action (in law, in equity or  
2 administratively), suits, debts, liens, or claims, known or unknown, fixed or  
3 contingent, which they may have or claim to have, in state or federal court, in  
4 arbitration, or with any state, federal or local government agency or with any  
5 administrative or advisory body, arising from or reasonably related to the Released  
6 Claims. This permanent bar and injunction is necessary to protect and effectuate  
7 the Settlement Agreement, this Order, and this Court's authority to effectuate the  
8 Settlement Agreement, and is ordered in aid of this Court's jurisdiction and to  
9 protect its judgments. Notwithstanding the foregoing, nothing in this Final  
10 Approval Order and judgment shall preclude an action to enforce the terms of the  
11 Settlement.

12 15. This Final Approval Order is the final, appealable judgment in the  
13 Action as to all Released Claims.

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

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

27 18. The Settlement Agreement (including, without limitation, its exhibits),  
28 and any and all negotiations, documents, and discussions associated with it, shall

1 not be deemed or construed to be an admission or evidence of any violation of any  
2 statute, law, rule, regulation or principle of common law or equity, of any liability  
3 or wrongdoing, by DIRECTV, or of the truth of any of the claims asserted by  
4 Plaintiff in the Action. Further, the Settlement Agreement and any and all  
5 negotiations, documents, and discussions associated with it, will not be deemed or  
6 construed to be an admission by DIRECTV that the Action is properly brought on a  
7 class or representative basis, or that classes may be certified for any purpose. To  
8 this end, the settlement of the Action, the negotiation and execution of the  
9 Settlement Agreement, and all acts performed or documents executed pursuant to or  
10 related to the Settlement Agreement: (i) are not and will not be deemed to be, and  
11 may not be used as, an admission or evidence of any wrongdoing or liability on the  
12 part of DIRECTV or of the truth of any of the allegations in the Action; (ii) are not  
13 and will not be deemed to be, and may not be used as an admission or evidence of  
14 any fault or omission on the part of DIRECTV in any civil, criminal, or  
15 administrative proceeding in any court, arbitration forum, administrative agency, or  
16 other tribunal; and, (iii) are not and will not be deemed to be and may not be used  
17 as an admission of the appropriateness of these or similar claims for class  
18 certification. Further, evidence relating to the Settlement Agreement shall not be  
19 discoverable or used, directly or indirectly, in any way, whether in the Action or in  
20 any other action or proceeding, except for purposes of enforcing the terms and  
21 conditions of the Settlement Agreement, the Preliminary Approval Order, and/or  
22 this Order.

23 19. In the event that any provision of the Settlement or this Order is  
24 asserted by DIRECTV as a defense in whole or in part (including, without  
25 limitation, as a basis for a stay) in any other suit, action, or proceeding brought by a  
26 Settlement Class Member or any person actually or purportedly acting on behalf of  
27 any Settlement Class Member(s), DIRECTV may seek an immediate stay of that  
28 suit, action or other proceeding, which the Settlement Class Member shall not

1 oppose, until this Court or the court or tribunal in which the claim is pending has  
2 determined any issues related to such defense or assertion. Solely for purposes of  
3 such suit, action, or other proceeding, to the fullest extent they may effectively do  
4 so under applicable law, the Parties irrevocably waive and agree not to assert, by  
5 way of motion, as a defense or otherwise, any claim or objection that they are not  
6 subject to the jurisdiction of this Court, or that this Court is, in any way, an  
7 improper venue or an inconvenient forum. These provisions are necessary to  
8 protect the Settlement Agreement, this Order and this Court’s authority to  
9 effectuate the Settlement, and are ordered in aid of this Court’s jurisdiction and to  
10 protect its judgment.

11 20. The Court awards Class Counsel attorneys’ fees and expenses in the  
12 amount of \$\_\_\_\_\_, and awards Plaintiff Jenny Brown \$\_\_\_\_\_ as a service  
13 award, with such attorneys’ fees, expenses, and service award to be paid from the  
14 Settlement Fund pursuant to the terms of the Settlement.

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

18  
19 IT IS SO ORDERED

20  
21  
22 DATED: \_\_\_, 202\_

\_\_\_\_\_

23 HON. DOLLY M. GEE

24  
25  
26  
27  
28

# EXHIBIT C



**MAIL NOTICE**

**CLAIM FORM**

TO MAKE A CLAIM, THIS FORM MUST BE POSTMARKED BY [DATE]

This claim form should be used only if you are mailing in your form. You may instead complete and submit a form online, at [www.dtvprerecordclassaction.com](http://www.dtvprerecordclassaction.com). You may also obtain other information about the case at that website.

UNIQUE ID: [00001234]

First Name \_\_\_\_\_

Last Name \_\_\_\_\_

Address1 \_\_\_\_\_

Address2 \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_

ZIP \_\_\_\_\_

Cell Phone Number(s) on which you received a DIRECTV debt collection call or calls between 2009 and 2015:

\_\_\_\_\_  
(Your phone number must be one of the phone numbers that Plaintiff previously listed as belonging to members of the Settlement Class to be included as part of the settlement. If you are not certain which of your cell phone numbers may have been called, you may list each of them separately.)

By submitting this Claim Form, I certify that I have not been a customer of DIRECTV at any time after October 1, 2004, and the information provided above is true and correct.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Para ver este aviso en español, visite [www.DTVPRERECORDCLASSACTION.com](http://www.DTVPRERECORDCLASSACTION.com).

Add Postage  
Prepaid  
Information

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DIRECTV Prerecord TCPA  
Class Administrator c/o XXX  
P.O. Box \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

#71925

**Who's Included?** The Settlement Class includes all persons residing within the United States who, within four years prior to and after the filing of this action, received a non-emergency telephone call(s) from DIRECTV and/or iQor, Inc., Credit Management, LP, AFNI, Inc, or Enhanced Recovery Company, Inc. regarding a debt allegedly owed to DIRECTV, to a cellular telephone through the use of an artificial or prerecorded voice, and who has not been a DIRECTV customer at any time since October 1, 2004. The Settlement Class encompasses only persons associated with the telephone numbers and calls during the Settlement Class Period in Plaintiff's summary judgment motions.

**What Are the Settlement Terms?** DIRECTV has agreed to create a common fund of seventeen million dollars (\$17,000,000) to settle all the claims of class members, pay the costs of administration of the settlement, and pay attorney's fees, expenses, an incentive awards to the Class Representative as approved by the Court.

**How Can You Get a Payment?** You must make a claim to receive payment. Each Class Member who makes a valid claim will receive a pro-rated share of the Settlement Fund, or two pro-rated shares if you received a call from CMI or iQor. You can make a claim by either 1) mailing a completed Claim Form to the Settlement Administrator; or 2) submitting a Claim Form online at www.dtvprerecordclassaction.com.

**Your Other Options.** You will be legally bound by the Settlement, whether or not you submit a claim form, unless you exclude yourself from the Settlement Class by **[DATE]**. If you exclude yourself, you get no payment from the Settlement. You may object to the Settlement by **[DATE]**. The information available on the Settlement Website (www. www.dtvprerecordclassaction.com.com) explains how to exclude yourself or object. The Court will hold a Final Approval Hearing on **[DATE]** to consider whether to approve the Settlement and a request for attorneys' fees of 33% of the total settlement fund of \$17,000,000 and a service payment of \$10,000 to the Class Representative. You may appear at the hearing, either yourself or through an attorney hired by you, but you do not have to appear at the hearing.

For more information, call the Settlement Administrator's toll free number (\*\*\*-\*\*\*-\*\*\*\*) or visit the Settlement Website at www.dtvprerecordclassaction.com. The capitalized terms used in this Notice are defined in the Settlement Agreement, which is available on the Settlement Website.

**A federal court authorized this notice.  
You are not being sued.**

**You May Be Entitled To Money From  
A Class Action Settlement**

*Puede tener derecho a recibir dinero de  
un acuerdo de demanda colectiva*

A Court has preliminarily approved the settlement of a class action lawsuit that may affect you if you received prerecorded debt collection calls by or on behalf of DIRECTV on your cellular telephone between 2008 and 2015. You may be a member of the Settlement Class entitled to payment. This notice has been approved by the Court and explains these things.

DIRECTV Prerecord TCPA  
Class Administrator  
Toll Free Number: x-xxx-xxx-xxxx  
PO Box [ ]  
Website:  
www.DTVPRERECORDCLASSACTION.com

PRESORT  
FIRST CLASS  
U.S. POSTAGE  
PAID  
PERMIT NO.  
XX



Postal Service: Please do not mark barcode

UNIQUE ID: [00001234]

<<Name1>>  
<<Name2>>  
<<Address1>>  
<<Address2>>  
<<City>><<State>><<Zip>>

## Email Notice

### **If you received a prerecorded DIRECTV debt collection call, and you were not or are not a DIRECTV customer, you may be entitled to money from a class action settlement.**

A Settlement has been reached in a class action lawsuit claiming that DIRECTV, LLC (“DIRECTV”), or certain debt collectors calling for it -- Credit Management, LP (“CMI”), iQor, Inc. (“iQor”), AFNI, Inc. (“AFNI”) and Enhanced Recovery Company, Inc. (“ERC”) -- made prerecorded calls to telephone numbers of people who were not DIRECTV customers seeking to collect debts. DIRECTV denies any liability or wrongdoing of any kind, and the parties have reached a Settlement of these claims to avoid the time and cost of further litigation.

**Who’s Included?** The Settlement Class includes all persons residing within the United States who, within four years prior to and after the filing of this action, received a non-emergency telephone call(s) from DIRECTV and/or iQor, Inc., Credit Management, LP, AFNI, Inc., or Enhanced Recovery Company, Inc. regarding a debt allegedly owed to DIRECTV, to a cellular telephone through the use of an artificial or prerecorded voice, and who has not been a DIRECTV customer at any time since October 1, 2004. The Settlement Class encompasses only persons associated with the telephone numbers and calls during the Settlement Class Period in Plaintiff’s summary judgment motions. The calls in question were made between 2008 and 2015.

You are receiving this notice because records show that you may be a member of that class.

**What Are the Settlement Terms?** DIRECTV has agreed to create a common fund of seventeen million dollars (\$17,000,000) to settle all the claims of class members, pay the costs of administration of the settlement, and pay attorney’s fees, expenses, an incentive awards to the Class Representative as approved by the Court.

**How Can You Get a Payment?** You must make a claim to receive payment. Each Settlement Class Member who makes a valid claim will receive a pro-rated share of the Settlement Fund, or two pro-rated shares if you received a call from CMI or iQor. You can make a claim by either 1) mailing a completed Claim Form to the Settlement Administrator; or 2) submitting a Claim Form online at [www.dtvprerecordclassaction.com](http://www.dtvprerecordclassaction.com).

**Your Other Options** You will be legally bound by the Settlement, whether or not you submit a claim form, unless you exclude yourself from the Settlement Class by **[DATE]**. If you exclude yourself, you get no payment from the Settlement. You may object to the Settlement by **[DATE]**. The Settlement Website ([www.dtvprerecordclassaction.com](http://www.dtvprerecordclassaction.com)) explains how to exclude yourself or object. The Court will hold a Final Approval Hearing on **[DATE]** to consider whether to approve the Settlement and a request for attorneys’ fees of 33% of the total settlement fund of \$17,000,000 and a service payment of \$10,000 to the Class Representative. You may appear at the hearing, either yourself or through an attorney hired by you, but you do not have to appear at the hearing.

For more information, call the Settlement Administrator’s toll free number (\*\*\*-\*\*\*-\*\*\*\*) or visit the Settlement Website at [www.dtvprerecordclassaction.com](http://www.dtvprerecordclassaction.com). The capitalized terms used in this Notice are defined in the Settlement Agreement, which is available on the Settlement Website.

**In the United States District Court for the Central District of California**

**If you received prerecorded debt collection calls from or on behalf of DIRECTV, and you were not a DIRECTV customer, you may be entitled to money from a class action settlement.**

*A court authorized this notice. This is not a solicitation from a lawyer.*

- The Plaintiff claims that DIRECTV, LLC (“DIRECTV”) and its debt collection agencies made debt collection calls using prerecorded messages to the cellular telephones of individuals who did not have a customer relationship with DIRECTV, in violation of the Telephone Consumer Protection Act (“TCPA”). DIRECTV denies the allegations in this lawsuit and denies that it did anything wrong.
- The parties have reached a proposed settlement (“Settlement”). The Settlement, if approved, would create a common fund of seventeen million dollars (\$17,000,000) to pay individuals who are entitled to cash awards under the Settlement, as well as pay Plaintiff’s attorneys’ fees and costs, an incentive award for the Representative Plaintiff, and the administrative costs of the Settlement.
- The Settlement avoids the further cost and risk associated with continuing the lawsuit; pays money to recipients of the calls who are eligible Settlement Class Members; and releases DIRECTV and the Debt Collectors from liability:

**Your legal rights are affected whether you act or don't act. Read this Notice carefully.**

**On the website, [www.dtvprerecordclassaction.com](http://www.dtvprerecordclassaction.com), Notice in Spanish is available upon request.**

## BASIC INFORMATION

### 1. Why was this notice issued?

A Court has established, or “certified,” this case as a class action lawsuit. You may have received notice of this lawsuit previously. The Plaintiff and Defendant have reached a proposed Settlement of this matter that will affect your rights. The person who sued is called the Plaintiff. The company she is suing, DIRECTV, is called the Defendant.

Judge Dolly M. Gee of the United States District Court for the Central District of California is overseeing this case. The case is known as *Brown v. DIRECTV, LLC*, Case No. 2:13-cv-01170. She has authorized this notice to explain all of your options, before the Court decides whether to approve the Settlement. If the Court approves the Settlement and if such approval is final with respect to appeal(s), if any, an administrator appointed by the Court will make the payments and take other actions that the Settlement allows. Because your rights will be affected by this Settlement, it is extremely important that you read this Notice carefully.

## 2. What is a class action?

In a class action, one or more people called Class Representatives (in this case, Jenny Brown) sue on behalf of people who have similar claims. All these people are called Class members. One court resolves the issues for all Class members, except for those who exclude themselves from the Class.

The Court decided that this lawsuit should be a class action because it meets the requirements of Federal Rule of Civil Procedure Rule 23, which governs class actions filed in United States Federal Court.

## WHAT THE LAWSUIT IS ABOUT

### 3. What is this lawsuit about?

In this lawsuit, the Plaintiff says that DIRECTV, through four debt collection agencies (Credit Management, LP (“CMI), iQor, Inc. (“iQor”), AFNI, Inc. (“AFNI”), and Enhanced Recovery Company, Inc. (“ERC”)) made debt collection calls using prerecorded messages to the cellular telephones of individuals who were not DIRECTV customers. Plaintiff says that these calls violated the Telephone Consumer Protection Act, or TCPA, because DIRECTV did not have the prior express consent to make calls using prerecorded messages to the cellular telephones of these non-customers, as is required by the law. DIRECTV disagrees and argues that it should not held responsible for calls from the debt collection agencies, and that the calls do not violate of the law.

### 4. What is the TCPA?

The TCPA is a federal law that attempts to prevent businesses or other institutions from making certain kinds of calls to the general public. In particular, the TCPA makes it illegal to make a debt collection call using a prerecorded message to a cellular telephone unless the calling party first obtains prior express consent to call the recipient of the call.

### 5. Why is there a Settlement?

The Court had held that DIRECTV is liable for calls made by CMI and iQor to members of the Class, but has not established which individuals who received calls are entitled to receive money. The Court has not held that DIRECTV is liable for the calls made by AFNI or ERC. Both parties agreed to a Settlement instead of going to trial. That way, they avoid the cost and uncertainty of a trial, as well as appeals of the Court’s decisions. The Class Representative and her attorneys think the Settlement is best for all Settlement Class Members. The Court in charge of this lawsuit has granted preliminary approval of the Settlement and ordered that this Notice be distributed to explain it.

## WHO IS IN THE SETTLEMENT

### 6. How do I know if I am part of this?

The Settlement provides relief for all Settlement Class Members, who are described as:

The Settlement Class includes all persons residing within the United States who, within four years prior to and after the filing of this action, received a non-emergency telephone call(s) from DIRECTV and/or

iQor, Inc., Credit Management, LP, AFNI, Inc, or Enhanced Recovery Company, Inc. regarding a debt allegedly owed to DIRECTV, to a cellular telephone through the use of an artificial or prerecorded voice, and who has not been a DIRECTV customer at any time since October 1, 2004. The Settlement Class encompasses only persons associated with the telephone numbers and calls during the Settlement Class Period in Plaintiff's summary judgment motions.

## SETTLEMENT BENEFITS—WHAT YOU GET

### 7. What does the Settlement Provide?

DIRECTV has agreed to create a common fund of seventeen million dollars (\$17,000,000) to pay cash awards to Settlement Class Members, pay the costs of administration of the settlement, and pay attorney's fees, expenses, an incentive award to the Class Representative as approved by the Court.

### 8. How do I get paid?

**You must submit a valid and timely Claim Form to receive a cash award.** In order to make a claim under the Settlement, you must affirm that you have not been a customer of DIRECTV at any time after October 1, 2004.

If you submit a valid and timely claim, and you received calls from CMI or iQor, you will receive two pro-rata shares of the settlement fund, after deducting administrative expenses, any payments to the class representative, and attorneys' fees and expenses as approved by the Court. If you received calls from AFNI or ERC, you will receive one pro-rata share.

### 9. When do I get my cash award?

The Court will hold a hearing on [DATE] to decide whether to approve the Settlement. If the Settlement is approved, appeals may still follow. It is always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year, so we cannot say exactly when payment will be made. Please be patient.

## YOUR RIGHTS AND OPTIONS

### 10. What am I giving up to get a payment or stay in the Settlement?

Being a Settlement Class Member means that, unless you exclude yourself, you cannot sue, continue to sue, or be part of any other lawsuit against DIRECTV or recover from DIRECTV about the legal issues in this case, and that all of the decisions and judgments by the Court will bind you.

If you were to file your own lawsuit for violations of the TCPA and prevailed, you could obtain damages of \$500 per violation, or up to \$1,500 per violation if the statute is found to have been willfully or knowingly violated. The TCPA does not provide for attorneys' fees to prevailing individual plaintiffs.

However, DIRECTV has denied that it made any illegal calls to anyone or engaged in any wrongdoing of any kind, or that it is responsible for any improper calls made by the debt collection agencies, and DIRECTV has a full range of potential defenses.

If you do not exclude yourself from the Settlement Class, you will be unable to file another lawsuit involving any of the claims described and identified below, and you will release DIRECTV and the Released Parties (defined as DIRECTV and each and all of DIRECTV's respective past, present, and



future, direct and indirect, parents, subsidiaries, affiliated companies and corporations, successors, and predecessors in interest, and each of its respective past, present, and future directors, officers, managers, employees, general partners, limited partners, principals, insurers, reinsurers, shareholders, attorneys, advisors, representatives, predecessors, successors, divisions, assigns, or related entities, and each of their executors, successors, and legal representatives, and each of AFNI, ERC, CMI, and iQor, as well as their agents, parents, subsidiaries, and affiliates) from any liability for them.

Remaining in the Settlement Class, whether or not you submit a Claim Form, means that you, as well as your heirs, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors-in-interest, assigns, all those who claim through them or who assert or could assert claims on their behalf, and any customary or authorized users of their accounts or telephones, release, resolve, relinquish, and discharge each and every one of the Released Persons from each of the Released Claims (as defined below). You further agree that you and they will not institute any action or cause of action (in law, in equity or administratively), suits, debts, liens, or claims, known or unknown, fixed or contingent, which they may have or claim to have, in state or federal court, in arbitration, or with any state, federal or local government agency or with any administrative or advisory body, arising from or related in any way to the Released Claims. "Released Claims" means any and all claims in this action relating to the placement of collections calls by Defendant, or by CMI, iQor, AFNI, and/or ERC regarding a debt allegedly owed to Defendant, during the Settlement Class Period, including claims arising under the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.*

The Released Claims specifically extend to claims that Plaintiff and Settlement Class Members do not know or suspect to exist in their favor at the time that the Settlement Agreement and the releases contained therein become effective. This release will be interpreted to the fullest extent of the law. In addition, any rights of the Class Representative and each and every one of the Settlement Class Members to the protections afforded under Section 1542 of the California Civil Code and/or any other similar, comparable, or equivalent laws, are terminated.

Remaining in the Settlement Class also means that you further agree and covenant not to sue any of the Released Persons with respect to any of the Released Claims, or otherwise to assist others in doing so, and agree to be forever barred from doing so, in any court of law or equity, or any other forum.

The Settlement Agreement (available at [www.dtvprerecordclassaction.com](http://www.dtvprerecordclassaction.com)) provides more detail regarding the release and describes the Released Persons and Released Claims with accurate legal terminology, so read it carefully. You can talk to the law firms representing the Class listed in the "Do I have a lawyer in this case?" section below for free or you can, at your own expense, talk to your own lawyer if you have any questions about the Released Parties or the Released Claims or what they mean.

The release does not apply to Settlement Class Members who timely opt-out of or exclude themselves from the Settlement.

## 11. How do I opt-out or exclude myself from the Settlement?

If you want to keep the right to sue DIRECTV individually on your own or be a part of a case against DIRECTV (as a class member or otherwise) about the legal issues in this case, then you must take steps to exclude yourself or opt-out from the Settlement.

If you ask to be excluded, you will not get any payment, and you cannot object to the Settlement. You will not be legally bound by anything that happens in this Settlement.

If you do not exclude yourself and the Settlement is finally approved, you give up any right to sue DIRECTV or any Released Persons on any of the claims that this Settlement resolves. You must exclude yourself from this Settlement Class to continue your own lawsuit.

**12. How do I request to be excluded?**

To exclude yourself from the Settlement, you must send a signed request by mail saying that you want to be excluded from *Brown v. DIRECTV, LLC*, Case No. 2:13-cv-1170 (C.D. Cal.). Your letter must include: (a) your name and address; (b) your telephone phone number(s) in which you received call(s) on behalf of DIRECTV; (c) a statement that reasonably indicates a desire to be excluded from the Settlement Class; and (d) your signature.

You must mail your request for exclusion postmarked no later than **[DATE]** to:

**DIRECTV Call TCPA Settlement Administrator**

\*\*\*\*\*  
\*\*\*\*\*

You cannot exclude yourself by telephone or by email. You cannot exclude yourself by mailing a request to any location other than the address above or after the deadline. You must sign your letter requesting exclusion. A lawyer cannot sign for you. No one else can sign for you.

**EXCLUSION REQUESTS THAT ARE NOT POSTMARKED ON OR BEFORE [DATE] WILL NOT BE HONORED.**

**13. How do I tell the Court that I don't think the Settlement is fair**

You can tell the Court that you do not agree with the Settlement or any part of it. If you are a Class Member, you can object to the Settlement (or any part of it) if you do not think it is fair. You can state the reason(s) why you think the Court should not approve it. The Court will consider your views. To object, you must file a written objection saying that you object to the proposed Settlement in *Brown v. DIRECTV, LLC*, Case No. 2:13-cv-1170 (C.D. Cal.). Your letter must include: 1) your full name; (2) your address; (3) the telephone number where you may be contacted; (4) the telephone number(s) that you maintain were called; (5) all grounds for the objection, with specificity and with factual and legal support for each stated ground; (6) the identity of any witnesses he or she may call to testify; (7) copies of any exhibits that he or she intends to introduce into evidence at the Final Approval Hearing; (8) a statement of the identity (including name, address, law firm, phone number and email) of any lawyer who will be representing the individual with respect to any objection; (9) a statement of whether you intend to appear at the Final Approval Hearing with or without counsel; and (10) a statement as to whether the objection applies only to the objector, a specific subset of the Settlement Class, or the entire Settlement Class. Supporting documents must also be attached to the objection. **Your objection to the Settlement must be filed with the Court and postmarked no later than [DATE].**

The objection must be filed with the Court at:

**THE COURT**  
Clerk of Court  
U.S. District Court, Central District of California  
305 West 1st Street  
Suite 4311  
Los Angeles, CA 90012-4565

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the Class. Excluding yourself (or opting out), is telling the Court that you do not want to be included in the Settlement. If you exclude yourself, you cannot object because the Settlement no longer affects you. Any Class Member who does not file objections in accordance with the requirements stated in this Notice waives the right to object or to be heard at the Final Approval Hearing discussed below.



## THE LAWYERS REPRESENTING YOU

### 14. Do I have a lawyer in this case?

Yes. The Court appointed the law firms of Lief Cabraser Heimann & Bernstein, LLP; Meyer Wilson Co., LPA; and Burke Law Offices, LLC; to represent you as “Class Counsel.”

You do not have to pay Class Counsel. If you want to be represented by your own lawyer, and have that lawyer appear in court for you in this case, you may hire one at your own expense.

Class Counsel include:

Matthew R. Wilson  
Meyer Wilson Co., LPA  
305 W. Nationwide Blvd.  
Columbus, OH 43215  
Telephone: (614) 224-6000  
mwilson@meyerwilson.com

Daniel M. Hutchinson  
Lief Cabraser Heimann & Bernstein, LLP  
275 Battery Street, 29th Floor  
San Francisco, CA 94111-3339  
Telephone: (415) 956-1000  
dhutchinson@lchb.com

### 15. How will the lawyers and the Class Representative be paid?

Class Counsel will ask the Court to approve payment of one-third of the Settlement Fund, or \$5,666,666.67 to compensate them for expenses and for attorneys’ fees for investigating the facts, litigating the case, and negotiating the Settlement. Class Counsel will also ask for their costs in litigating the case. Class Counsel will also request an award of an incentive payment of \$10,000 to the Class Representative, in compensation for her time and effort. The Court may award less than these amounts.

Any objection to Class Counsel’s application for attorneys’ fees and costs, or to the request for the Class Representative incentive payment, may be mailed, and must be postmarked no later than [DATE], which is thirty (30) days following the filing of Class Counsel’s motion for an award of attorneys’ fees and costs. You can object by sending a letter addressed to the Court at the address listed in the next section of this Notice. In your letter you must state that you object. Be sure to include your full name, address, telephone number, and the reasons you object to the proposed award, or to the amount of the proposed award.

## THE FINAL APPROVAL HEARING

### 16. When and where will the Court decide whether to approve the Settlement?

The Court will hold a hearing to decide whether to approve the Settlement. This Final Approval Hearing will be held at [TIME] on [DATE] in Courtroom 8C of the U.S. District Court for the Central District of California, 305 West 1st Street, Los Angeles, CA 90012-4565. The hearing may be held virtually by video conference or moved to a different date or time without additional notice, so it is a good idea to check the settlement website for updates. At this hearing, the Court will consider whether the Settlement

is fair, reasonable, and adequate, and whether to award attorneys' fees, expenses, and incentive award as described above, and in what amounts. If there are objections, the Court will consider them. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long it will take the Court to issue its decision. It is not necessary for you to attend this hearing, but you may attend at your own expense.

### 17. May I speak at the Hearing

You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must file a notice with the Court saying that you intend to appear at the Final Approval Hearing in *Brown v. DIRECTV, LLC*, Case No. 2:13-cv-1170 (C.D. Cal.). You may include this request in any objection you file, see Section 13 above. Be sure to include your full name, address, and telephone number, and to the extent not otherwise submitted in relation to a filed objection, copies of any documents you will present to the Court in connection with the Final Approval Hearing. You cannot speak at the hearing if you do not file a timely notice or if you excluded yourself from the Settlement Class. **Your notice of intention to appear must be filed with the Court and postmarked no later than [DATE].**

The notice of intention to appear must be filed with the Court:

#### THE COURT

Clerk of Court  
U.S. District Court, Central District of California  
305 West 1st Street  
Suite 4311  
Los Angeles, CA 90012-4565

### IF YOU DO NOTHING

### 18. What happens if I do nothing?

If you do nothing, you will not receive a cash award. Either way, unless you exclude yourself, if the Court grants final approval of the Settlement then you will be bound by the terms and conditions of the Settlement and you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against DIRECTV about the legal issues in this case, ever again.

### GETTING MORE INFORMATION

### 19. Are more details available?

Visit the website at [www.dtvprerecordclassaction.com](http://www.dtvprerecordclassaction.com), where you will find the key documents in this case, including key orders from the Court during the lawsuit and related to this Settlement. You may also call toll-free at 1-877-XXX-XXXX, email Class Counsel for more information, or write to \_\_\_\_\_.

# **EXHIBIT D**

1 **UNITED STATES DISTRICT COURT**  
2 **CENTRAL DISTRICT OF CALIFORNIA**  
3 **WESTERN DIVISION**

4 JENNY BROWN, on behalf of herself  
5 and all others similarly situated,

6 Plaintiffs,

7 v.

8 DIRECTV, LLC,

9 Defendant.

Case No. 2:13-cv-01170-DMG-E

Hon. Dolly M. Gee

10 **[PROPOSED] ORDER GRANTING MOTION FOR PRELIMINARY**  
11 **APPROVAL OF CLASS ACTION SETTLEMENT**

12 This matter having come before the Court on Plaintiff’s motion for  
13 preliminary approval of the proposed class action settlement of the above-captioned  
14 case (the “Action”) between Plaintiff Jenny Brown, individually and on behalf of  
15 the certified and Settlement Class (“Plaintiff”), and Defendant DIRECTV, LLC  
16 (“Defendant”) as set forth in the Parties’ Settlement Agreement and Release (the  
17 “Agreement,” which memorializes the “Settlement”). Having duly considered the  
18 Settlement, including the proposed forms of Class Notice and other exhibits thereto,  
19 the Motion, and the papers and arguments in connection therewith, and good cause  
20 having been shown, THE COURT HEREBY FINDS AND ORDERS AS  
21 FOLLOWS:

22 1. The Court has subject matter jurisdiction over this matter pursuant to  
23 28 U.S.C. § 1331 and 47 U.S.C. § 227 and has personal jurisdiction over the Parties  
24 and the Settlement Class Members.

25 2. Unless defined herein, all defined terms in this Order shall have the  
26 meanings ascribed to them in the Agreement.

27 3. The Motion is GRANTED.

28 4. The Court hereby preliminarily approves the Settlement and the terms

1 embodied therein pursuant to Fed. R. Civ. P. 23(e)(1). The Court finds that it will  
2 likely be able to approve the Settlement under Fed. R. Civ. P. 23(e)(2) and to  
3 finally certify the Settlement Class for purposes of judgment pursuant to the  
4 Settlement.

5         5. The Court further finds that Plaintiff and Class Counsel have  
6 adequately represented, and will continue to adequately represent, the Settlement  
7 Class. The Court further finds that the Settlement is procedurally fair, the product  
8 of arms' length negotiations by the Parties through an experienced mediator, Robert  
9 Meyer of JAMS, and comes after more than ten years of litigation and discovery  
10 and a detailed investigation.

11         6. The Court preliminarily finds that the Settlement relief provided—a  
12 \$17 million non-reversionary settlement fund—is fair, reasonable, and adequate  
13 taking into account, *inter alia*, the costs, risks, and delay of further litigation, trial  
14 and appeal, the alleged harm to Settlement Class Members, the proposed method of  
15 distributing payments to the Settlement Class *pro rata*, and the absence of any  
16 agreement required to be identified under Rule 23(e)(3), other than the individual  
17 settlement with Plaintiff Carmen Montijo.

18         7. The Court further preliminarily finds that the Settlement is  
19 substantively fair and treats the Settlement Class Members equitably relative to  
20 each other, accounting for the fact that certain Settlement Class Members' claims  
21 had been granted summary judgment, Dkt. 401, and others had not. The Settlement  
22 provides for “two shares” to Settlement Class Members who were called by iQor,  
23 Inc. or Credit Management, LP, and “one share” to Settlement Class Members who  
24 were called by Enhanced Recovery Company, Inc. or AFNI, Inc. There will be a  
25 *pro rata* distribution of the \$17 million settlement proceeds after reduction of the  
26 Settlement Costs (*i.e.* (i) settlement and administration costs; (ii) Class Counsel  
27 attorneys' fees and expenses awarded by the Court; (iii) any Court-approved service  
28 award paid to the Class Representative; and (iv) any taxes incurred by the

1 Settlement Fund). The Court will assess Class Counsel’s request for attorneys’ fees  
2 and expenses after receiving a motion from Class Counsel supporting such request.  
3 At this stage, the Court finds that the plan to request fees and litigation expenses, as  
4 well as a class representative service award, to be paid from the Settlement Fund  
5 creates no reason not to grant the Motion and direct notice to the Settlement Class.

6 8. The Court hereby finds that it is likely to certify, for settlement  
7 purposes only, a “Settlement Class,” pursuant to Fed. R. Civ. P. 23(a), 23(b)(3), and  
8 23(e) consisting of:

9 All persons residing within the United States who, within four years prior to  
10 and after the filing of this action, received a non-emergency telephone call(s)  
11 from DIRECTV and/or iQor, Inc., Credit Management, LP, AFNI, Inc, or  
12 Enhanced Recovery Company, Inc. regarding a debt allegedly owed to  
13 DIRECTV, to a cellular telephone through the use of an artificial or  
14 prerecorded voice, and who has not been a DIRECTV customer at any time  
15 since October 1, 2004. The Settlement Class encompasses only persons  
16 associated with the telephone numbers and calls during the Settlement Class  
17 Period in Plaintiff’s summary judgment motions. *See* Dkts. 375-1 (CMI),  
18 375-2 (iQor), 415-6 (AFNI), and 415-7 (ERC). Excluded from the Settlement  
19 Class are: (a) those persons who previously opted out in response to the  
20 notice of class certification, identified in Dkt. 420-1, (b) any trial judge that  
21 may preside over this case, (c) Defendant as well as any parent, subsidiary,  
22 affiliate or control person of Defendant.

23 9. The Court preliminary finds that, for settlement purposes only, the  
24 Settlement Class, as defined above, is likely to meet the requirements for class  
25 certification under Fed. R. Civ. P. 23(a) and 23(b)(3)—namely, that (a) the  
26 Settlement Class Members are sufficiently numerous such that joinder is  
27 impracticable; (b) there are common questions of law and fact; (c) Plaintiff’s claims  
28 are typical of those of the Settlement Class Members; (d) Plaintiff and Class

1 Counsel have adequately represented, and will continue to adequately represent, the  
2 interests of the Settlement Class Members; and (e) for purposes of settlement, the  
3 Settlement Class meets the predominance and superiority requirements of Fed. R.  
4 Civ. P. 23(b)(3).

5 10. Certification of the Settlement Class shall be solely for settlement  
6 purposes and without prejudice to the Parties in the event the Settlement is not  
7 finally approved by this Court or otherwise does not take effect, and the Parties  
8 preserve all rights and defenses regarding class certification in the event the  
9 Settlement is not finally approved by this Court or otherwise does not take effect.

10 11. The Court hereby designates Plaintiff Jenny Brown as Class  
11 Representative for the Settlement Class.

12 12. The Court hereby designates the following attorneys as Class Counsel  
13 for the Settlement Class:

14 Daniel M. Hutchinson  
15 Lieff Cabraser Heimann & Bernstein LLP  
16 275 Battery Street, 29th Floor  
17 San Francisco, CA 94111-3339  
18 Tel. (415) 956-1000

19 Matthew R. Wilson  
20 Meyer Wilson Co., LPA  
21 305 W. Nationwide Blvd.  
22 Columbus, OH 43215  
23 Telephone: (614) 224-6000

24 Alexander H. Burke  
25 Burke Law Offices, LLC  
26 909 Davis Street, Suite 500  
27 Evanston, IL 60201  
28 Telephone: (312) 729-5288

13. The Court hereby appoints BrownGreer PLC (“BrownGreer”) as the  
Claims Administrator for the Settlement and directs BrownGreer to carry out all the  
duties and responsibilities of the Claims Administrator as specified in the  
Settlement and herein.

**Notice Plan**

14. Pursuant to Fed. R. Civ. P. 23(e)(1) and 23(c)(2)(B), the Court

1 approves the proposed Notice Plan and procedures set forth at Section 9 of the  
2 Agreement, including the form and content of the proposed forms of notice to the  
3 Settlement Class attached as Exhibit C to the Settlement and the proposed  
4 procedures for Settlement Class Members to exclude themselves from the  
5 Settlement Class or object. The Court finds that the proposed Notice Plan—which  
6 includes (i) direct postcard notice, (ii) setting up a toll-free telephone number; and  
7 (iii) establishing a Settlement Website at the web address of  
8 www.dtvprerecordclassaction.com, where Settlement Class Members can view the  
9 full Agreement, the detailed long-form notice, and other key case documents—  
10 meets the requirements of due process under the United States Constitution and of  
11 Rule 23, and constitutes the best notice that is practicable under the circumstances,  
12 including individual notice to all members who can be identified through  
13 reasonable effort. The Court further finds that the proposed form and content of the  
14 notices are adequate and will give the Settlement Class Members sufficient  
15 information to enable them to make informed decisions as to the Settlement,  
16 including whether to object and whether to opt out. The Court finds that the notices  
17 clearly and concisely state in plain, easily understood language, *inter alia*: (a) the  
18 nature of the case; (b) the definition of the Settlement Class; (c) the class claims and  
19 issues; (d) that a Settlement Class Member may enter an appearance through an  
20 attorney if the member so desires; (e) that the Court will exclude from the  
21 Settlement Class any member who timely and validly requests exclusion; (f) the  
22 time and manner for requesting exclusion; and (g) the binding effect of a class  
23 judgment on Settlement Class Members under Rule 23(c)(3).

24 15. The Court hereby directs the Parties and the Claims Administrator to  
25 implement the Notice Plan as set forth in the Settlement.

26 16. In compliance with the Class Action Fairness Act of 2005, 28 U.S.C. §  
27 1715, DIRECTV shall promptly provide written notice of the proposed Settlement  
28 to the appropriate authorities.



1           17. No later than thirty (30) days after entry of an Order granting  
2 preliminary approval to the Settlement (the “Settlement Notice Date”), the Claims  
3 Administrator shall substantially complete Mail and Email Notice via first class  
4 mail and email to Settlement Class Members. In the event that any Notices are  
5 returned as non-deliverable, the Claim Administrator shall promptly re-mail and/or  
6 re-email any Notices that are returned as non-deliverable with a forwarding address  
7 to such forwarding address.

8           18. No later than the date it begins distributing direct notice, the Claims  
9 Administrator shall maintain and administer a dedicated Settlement Website and set  
10 up a toll-free telephone number for receiving toll-free calls related to the  
11 Settlement.

12           19. No later than (16) calendar days prior to the Final Approval Hearing,  
13 the Claims Administrator shall serve on counsel for all Parties a declaration stating  
14 that the Notice required by the Agreement has been completed in accordance with  
15 the terms of the Preliminary Approval Order, and that the CAFA Notice was  
16 served. The Claims Administrator shall likewise provide DIRECTV and Class  
17 Counsel with a final list of persons who submitted timely and valid requests for  
18 exclusion from the Settlement Class.

19           **Claims Process**

20           20. Settlement Class Members shall be permitted to share in the  
21 Settlement Fund paid by DIRECTV only after completing and submitting a Claim  
22 Form to the Claims Administrator pursuant to the procedures outlined in Section 10  
23 of the Agreement. As set forth in the Agreement, Settlement Class Members who  
24 submit Claim Forms with missing or errant information will be provided additional  
25 time to correct the errors and re-submit the Claim Forms to the Claims  
26 Administrator, after being apprised of the need to do so by the Claims  
27 Administrator.

28           21. For a Claim Form to be considered valid, the Settlement Class

1 Member shall include: (1) their name; (2) the telephone number that the Settlement  
2 Class Member used or subscribed to during the Settlement Class Period; and (3)  
3 affirmation that the Settlement Class Member was not a customer of Defendant at  
4 any time after October 1, 2004.

5 **Opt-Out and Objection Procedures**

6 22. Settlement Class Members who wish to either object to the Settlement  
7 or request to be excluded from it must do so by the Objection Deadline and Opt-  
8 Out Deadline of \_\_\_\_\_, which are both sixty (60) calendar days after the  
9 Settlement Notice Date. Settlement Class Members may not both object and opt  
10 out. If a Settlement Class Member submits both a Request for Exclusion and an  
11 objection, the Request for Exclusion will be controlling.

12 23. To submit a Request for Exclusion (or opt-out), Settlement Class  
13 Members must follow the directions in the Notice and send a compliant request to  
14 the Claims Administrator at the address designated in the Class Notice by the Opt-  
15 Out Deadline. In the Request for Exclusion, the Settlement Class Member must  
16 state his or her full name, address, and telephone number, and must state in writing  
17 that he or she wishes to be excluded from the Settlement. No Request for  
18 Exclusion will be valid unless all of the information described above is included.  
19 No Settlement Class Member, or any person acting on behalf of or in concert or  
20 participation with that Settlement Class Member, may exclude any other Settlement  
21 Class Member from the Settlement Class.

22 24. If a timely and valid Request for Exclusion is made by a member of  
23 the Settlement Class, then that person will not be a Settlement Class Member, and  
24 the Agreement and any determinations and judgments concerning it will not bind  
25 the excluded person.

26 25. All Settlement Class Members who do not opt out in accordance with  
27 the terms set forth in the Agreement will be bound by all determinations and  
28 judgments concerning the Agreement.

1           26. To object to the Settlement, Settlement Class Members must follow  
2 the directions in the Notice and file a written Objection with the Court by the  
3 Objection Deadline. In the written Objection, the Settlement Class Member must  
4 state: (1) his or her full name, address, and telephone number where he or she may  
5 be contacted; (2) the telephone number(s) that he or she maintains were called; (3)  
6 all grounds for the objection; (4) the identity of any witnesses he or she may call to  
7 testify; (5) copies of any exhibits that he or she intends to introduce into evidence at  
8 the Final Approval Hearing; (6) a statement of the identity (including name,  
9 address, law firm, phone number and email) of any lawyer who will be representing  
10 the individual with respect to any objection; (7) a statement of whether he or she  
11 intends to appear at the Final Approval Hearing with or without counsel; and (8) a  
12 statement as to whether the objection applies only to the objector, a specific subset  
13 of the Settlement Class, or the entire Settlement Class. Such objection must be filed  
14 with the Court with a postmark date on or before the Objection Deadline. Any  
15 documents that the Settlement Class Member wishes the Court to consider must  
16 also be attached to the Objection. Any and all objections shall identify any lawyer  
17 that represents the Settlement Class Member as to the case or such objection. No  
18 Objection will be valid unless all of the information described above is included.  
19 The right to object to this Settlement must be exercised individually by an  
20 individual Settlement Class Member, not by the act of another person acting or  
21 purporting to act in a representative capacity. The Parties will have the right to  
22 depose any objector as to the basis and circumstances of his or her objection, and to  
23 assess the objector's standing.

24           27. Any Settlement Class Member who has timely filed an Objection may  
25 appear at the Final Approval Hearing, either in person or through an attorney hired  
26 at the Settlement Class Member's own expense, to object to the fairness,  
27 reasonableness, or adequacy of this Agreement or the Settlement.

28           28. Any Settlement Class Member who fails to timely file a written

1 objection with the Court and notice of his or her intent to appear at the Final  
2 Approval Hearing in accordance with the terms of this Order, above and as detailed  
3 in the Notice, shall not be permitted to object to the Agreement at the Final  
4 Approval Hearing, shall be foreclosed from seeking any review of the Agreement  
5 by appeal or other means, shall be deemed to have waived his, her, or its objections,  
6 and shall be forever barred from making any such objections in the Action. All  
7 members of the Settlement Class, except those members of the Settlement Class  
8 who submit timely Requests for Exclusion, will be bound by all determinations and  
9 judgments in the Action, whether favorable or unfavorable to the Settlement Class.

10 **Final Approval Hearing**

11 29. The Court will hold a Final Approval Hearing on \_\_\_\_\_, 202\_ at \_\_\_  
12 (Pacific time), in Courtroom 8C at the United States District Court for the Central  
13 District of California of the Spring Street U.S. Courthouse, 312 N. Spring Street,  
14 Los Angeles, California, or at such other date, time and place (including by  
15 videoconference) later set by Court Order. At the Final Approval Hearing, the  
16 Court will, among other things: (a) determine whether the Settlement should be  
17 finally approved by the Court as fair, reasonable, and adequate, and in the best  
18 interests of the Settlement Class; (b) determine whether judgment should be entered  
19 pursuant to the Settlement, dismissing this Action with prejudice and releasing all  
20 Released Claims; (c) determine whether the Settlement Class should be finally  
21 certified; (d) rule on Class Counsel's motion for attorneys' fees and expenses, and  
22 incentive award to the Class Representative; (e) consider any properly filed  
23 objections; and (f) consider any other matters necessary in connection with the final  
24 approval of the Settlement.

25 30. By no later than fourteen (14) calendar days prior to the Final Approval  
26 Hearing, the Parties shall file any motions for final Settlement Approval, including  
27 any responses to any objections that are submitted. By no later than thirty (30)  
28 calendar days prior to the Objection Deadline, Plaintiff and Class Counsel shall file

1 their motion for attorneys' fees, expenses, and a class representative service award.  
2 Promptly after they are filed, these document(s) shall be posted on the Settlement  
3 Website.

4 31. Only the Parties and Settlement Class Members who have submitted  
5 timely and valid objections, in accordance with the requirements of this Order, may  
6 be heard at the Final Approval Hearing.

7 32. If the Settlement, including any amendment made in accordance  
8 therewith, is not finally approved by the Court or shall not become effective for any  
9 reason whatsoever, the Settlement and any actions taken or to be taken in  
10 connection therewith (including this Order and any judgment entered herein), shall  
11 be terminated and shall become null and void and of no further force and effect  
12 except for (a) any obligations to pay for any expense incurred in connection with  
13 notice and administration as set forth in the Settlement, and (b) any other  
14 obligations or provisions that are expressly designated in the Settlement to survive  
15 the termination of the Settlement.

16 33. Other than such proceedings as may be necessary to carry out the  
17 terms and conditions of the Settlement, all proceedings in this Action are hereby  
18 stayed and suspended until further order of this Court.

19 34. The Agreement and any and all negotiations, documents, and  
20 discussions associated with it, will not be deemed or construed to be an admission  
21 or evidence of any violation of any statute, law, rule, regulation, or principle of  
22 common law or equity, or of any liability or wrongdoing, by Defendant, or the truth  
23 of any of the claims, and evidence relating to the Agreement will not be  
24 discoverable or used, directly or indirectly, in any way, whether in the Action or in  
25 any other action or proceeding, except for purposes of demonstrating, describing,  
26 implementing, or enforcing the terms and conditions of the Agreement, this Order,  
27 and the Final Judgment and Order of Dismissal.

28 35. If the Settlement is terminated or final approval does not for any

1 reason occur, the stay will be immediately terminated. If the Settlement is not  
 2 approved or consummated for any reason whatsoever, the Settlement and all  
 3 proceedings in connection with the Settlement will be without prejudice to the right  
 4 of Defendant or the Settlement Class Representative to assert any right or position  
 5 that could have been asserted if the Agreement had never been reached or proposed  
 6 to the Court. In such an event, the Parties will return to the status quo ante in the  
 7 Action and the certification of the Settlement Class will be deemed vacated. The  
 8 certification of the Settlement Class for settlement purposes, or any briefing or  
 9 materials submitted seeking certification of the Settlement Class, will not be  
 10 considered in connection with any subsequent class certification or merits decision.

11 36. Pending the final determination of whether the Settlement should be  
 12 approved, any member of the Settlement Class is hereby enjoined from filing any  
 13 class action, or attempting to amend an existing action to assert any claims which  
 14 would be released pursuant to the Settlement Agreement. If the Settlement is  
 15 terminated or final approval does not for any reason occur, the injunction will be  
 16 immediately terminated.

17 Accordingly, the following are the deadlines by which certain events must  
 18 occur:

19 <b>Settlement Notice Date</b>	<b>30 calendar days after the Preliminary Approval Order</b>
20 <b>Last day for Plaintiff and Class Counsel to file motion for attorneys’ fees, expenses, and service awards</b>	<b>30 days after Settlement Notice Date</b>
21 <b>Last day for Settlement Class Members to Opt-Out or to Object</b>	<b>60 days after Settlement Notice Date</b>
22 <b>Last day for Settlement Class Members to file Claim Forms (excluding time set forth in the Settlement to correct errors or omissions in filed Claim Forms).</b>	<b>90 days after Settlement Notice Date</b>
23 <b>Deadline for Plaintiff to file Motion and Memorandum in Support of Final Approval, including responses to any Objections.</b>	<b>14 days before the Final Approval Hearing</b>
24 <b>Final Approval Hearing</b>	_____, 2022_____

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SO ORDERED.

DATED: \_\_, 2022

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HON. DOLLY M. GEE