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22 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
23 **COUNTY OF SAN FRANCISCO**

24 ERIC GRUBER; EVER GONZALEZ; and  
25 JEREMY EARLS, individually and on behalf  
26 and all others similarly situated,

27 Plaintiffs,

28 v.

YELP, INC., and DOES 1-10, inclusive,

Defendants.

Case No. CGC 16-554784

**CLASS ACTION**

**PLAINTIFFS' NOTICE OF MOTION  
AND MOTION FOR FINAL APPROVAL  
OF CLASS SETTLEMENT, CLASS  
REPRESENTATIVE SERVICE AWARDS,  
and ATTORNEYS FEES;**

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
MOTION;**

**DECLARATION OF MATTHEW H.  
FISHER IN SUPPORT OF MOTION;**

ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco

**03/15/2024**  
Clerk of the Court  
BY: SANDRA SCHIRO  
Deputy Clerk

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**DECLARATION OF MATTHEW S. DA VEGA IN SUPPORT OF MOTION;**

**DECLARATION OF MICHAEL J. JAURIGUE IN SUPPORT OF MOTION;**

**DECLARATION OF ZAREH JALTOROSSIAN IN SUPPORT OF MOTION;**

**DECLARATION OF TED D. MECHTENBERG IN SUPPORT OF MOTION; and**

**[PROPOSED] ORDER**

Date: April 10, 2024

Time: 9:30

Dept.: 613

Action Filed: October 12, 2016  
Assigned to the Hon. Andrew Y.S. Cheng

**TO THIS HONORABLE COURT, ALL INTERESTED PARTIES, and THEIR RESPECTIVE ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that on April 10, 2024 at 9:30 a.m., or as soon as the matter may be heard, before the Honorable Andrew Y. S. Cheng, Department 613, Superior Court of California, County of San Francisco, located at 400 MacAllister St., San Francisco, CA 94102, Plaintiffs Eric Gruber, Ever Gonzalez, and Jeremy Earls (“Plaintiffs”) pursuant to California Code of Civil Procedure §382 and California Rules of Court, rule 3.769, et seq., will and do move this Court for an Order granting final approval of the proposed class action settlement on the terms and conditions that this Court has previously approved (“The Motion”). The Motion is unopposed<sup>1</sup>, and is made pursuant to the California Code of Civil Procedure §382 and California Rules of Court, rule 3.769, et

<sup>1</sup> Yelp does not oppose this Motion, but it does not agree with all of the statements or characterizations of fact or law in the Motion.


1 seq., and the Order Granting Preliminary Approval of Class Settlement (“Preliminary Approval  
2 Order”). Specifically, Plaintiffs move the Court for an Order:

- 3 1. Approving the Class Settlement (**\$15,000,000** Maximum Settlement  
4 Amount);
- 5 2. Certifying the Class and Subclass for Settlement Purposes
- 6 3. Appointing Plaintiffs Eric Gruber, Ever Gonzalez, and Jeremy Earls as “Class  
7 Representatives” for settlement purposes;
- 8 4. Appointing Matthew H. Fisher and Matthew S. Da Vega of Da Vega Fisher  
9 Mechtenberg LLP, Michael J. Jaurigue of the Jaurigue Law Group, and Zareh  
10 A. Jaltorossian of KP Law as Class Counsel for Settlement Purposes
- 11 5. Approving Service Awards to the Class Representatives for their service to the  
12 Class and taking the risks of bringing this Action as a class action, which has  
13 resulted in substantial benefits to the Class, in a total amount of **\$45,000**  
14 (\$20,000 to Plaintiff Eric Gruber, \$12,500 to Plaintiff Jeremy Earls, and  
15 \$12,500 to Plaintiff Ever Gonzalez);
- 16 6. Approving reasonable Attorneys’ Fees to Class Counsel of **\$5,000,000**  
17 (\$2,000,000 to Da Vega Fisher Mechtenberg LLP, \$1,500,000 to Jaurigue  
18 Law Group, \$1,000,000 to KP Law, and \$500,000 to Dakessian Law, Ltd.)
- 19 7. Approving reasonable expenses of **\$274,195.19** for litigation costs incurred  
20 in pursuing the claims;
- 21 8. Approving estimated “Settlement Administration Costs” of no more than  
22 **\$600,000** paid to Epiq Class Action & Claims Solutions, Inc. (“Epiq”) to  
23 implement the terms of the Settlement; and
- 24 9. Entering a Judgment approving the Settlement and retaining jurisdiction over  
25 the parties to enforce the terms of the judgment.

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Dated: March 15, 2024

**DAVEGA | FISHER | MECHTENBERG LLP**

By:   
\_\_\_\_\_  
Matthew H. Fisher  
Attorney for Plaintiffs

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION AND SUMMARY OF SETTLEMENT TERMS**

3 On behalf of themselves and similarly situated individuals, Plaintiffs Eric Gruber, Ever  
4 Gonzalez, and Jeremy Earls (“Plaintiffs”) (“Plaintiffs” or “Class Representatives”) respectfully  
5 move for final settlement approval of the **\$15,000,000 (Fifteen Million Dollars)** Gross Settlement  
6 Amount for the class claims asserted against Defendant Yelp, Inc. (“Defendant” or “Yelp”) (or  
7 together with the Plaintiffs, the “Parties”).

8 Plaintiffs and Defendant vigorously disagree on the merits of the case. Class certification,  
9 liability and damages are all sharply disputed. Nevertheless, after over seven years of litigation,  
10 investigations, numerous interviews, exchange of extensive information, data, and documents, party  
11 and expert depositions, two motions for summary judgment/adjudications, a fully litigated motion  
12 for class certification, an appeal, multiple Petitions for Writ of Mandamus and two mediations the  
13 Parties reached an informed agreement to settle the class claims pursuant to their Class Action  
14 Settlement and Release Agreement (“Settlement Agreement”).

15 Plaintiffs filed their unopposed Motion for Preliminary Approval of Class Action Settlement.  
16 A copy of the Settlement Agreement was submitted to the Court and attached to the Declaration of  
17 Matthew H. Fisher in support of that motion.

18 On October 23, 2023, the Court issued an Order: Re Motion for Preliminary Settlement. The  
19 Order expressed concerns with the proposed Settlement including the reasoning behind the amount  
20 of the settlement, the percentage of attorney's fees requested, and other nonmonetary provisions of  
21 the Settlement Agreement. The Court requested additional briefing/amendments to the Settlement  
22 Agreement to address the Court’s concerns, and continued hearing on the Motion to December 21,  
23 2023.

24 On or around December 7, 2023, the Parties submitted supplemental briefing providing  
25 further support for the settlement amount, agreeing to reduce the amount of attorneys' fees  
26  
27



1 requested, and amending other nonmonetary provisions in the Settlement Agreement to address the  
2 Court's concerns.

3 On or around December 13, 2023, the Parties entered into an Amended Class Action  
4 Settlement and Release Agreement (“Amended Settlement Agreement”) which, among other things:  
5 (1) reduced the attorney fee award from 37% to a maximum of one-third (33.33%) of the  
6 \$15,000,000 proposed settlement (or \$5,000,000) and the service award requests on behalf of the  
7 Class Representatives from \$75,000 (in total) to \$45,000 (in total); (2) limited the scope of the  
8 Settlement's Confidentiality clause; (3) limited the scope of the release language applicable to absent  
9 class members; and (4) increased the Settlement’s opt-out blowup threshold from 5% to 7.5%.

10 On or around December 28, 2023, the Court issued an Order Granting Motion for  
11 Preliminary Settlement Approval (“Preliminary Approval Order”) approving the Amended  
12 Settlement Agreement. The Court’s Preliminary Approval Order states, in part:

13 “The Court finds that the Class and Subclass should continue to be certified for  
14 settlement purposes consistent with Code of Civil Procedure section 382.”

15 “The Court finds sufficient evidence that the terms of the Amended Settlement  
16 Agreement fall within a range that could ultimately be given final approval by this  
17 Court as fair, reasonable, and adequate. In making this finding the Court has  
18 evaluated inter alia: the consideration to be provided by Defendant; both the  
19 monetary and non-monetary terms of the Amended Agreement; the delay, costs, and  
20 risks of further litigation; the history of discovery and litigation at the trial  
21 and appellate level in this proceeding that has allowed the parties to investigate,  
22 develop, and test their respective legal theories; and the non-collusive, arms-length  
23 negotiations through which the settlement was reached with the assistance of a  
24 mediator.”

25 “The Court approves the long form and short form notices as revised and attached to  
26 the declaration of Matthew Fisher filed on December 15, 2023. These approved  
27 notices are also attached here as Exhibits 1-2. The Court finds that distribution of the  
28 approved notices in accordance with the plan set forth in the Amended Agreement  
(including through a settlement website) (a) constitutes the best notice practicable  
under the circumstances, (b) constitutes valid, due, and sufficient notice to all  
members of the Class (including the Subclass), and (c) complies fully with the  
requirements of California Code of Civil Procedure section 3 82, and California  
Rules of Court 3.766 and 3.769.”

1 “Matthew Fisher and Matthew Da Vega of Da Vega Fisher Mechtenberg LLP, Michael J.  
2 Jaurigue of Jaurigue Law Group, and Zareh A. Jaltorossian of KP Law are appointed as Class  
3 Counsel and shall represent the Class and Subclass in carrying out the terms of the Amended  
4 Settlement Agreement.”

5  
6 “Consistent with the Court's previous certification order, the Court confirms the appointment of  
7 plaintiffs Eric Gruber, Jeremy Earls, and Ever Gonzalez as Class Representatives.”

8  
9 In that Order the Court also set a date for the Final Approval/Fairness hearing for April 10,  
10 2024 at 9:30 AM in Department 613. (Declaration of Matthew H. Fisher in Support of Plaintiffs'  
11 Unopposed Motion for Final Approval [“Fisher Decl.”], **Exhibit 1 – December 28, 2023 Order**  
12 **Granting Motion for Preliminary Settlement Approval (“Preliminary Approval Order”).**

13  
14 On February 12, 2024, in accordance with the terms of the Amended Settlement Agreement  
15 and Preliminary Approval Order, the Class Settlement Administrator Epiq mailed the Court-approved  
16 Notice of Class Action and Proposed Settlement (aka “Notice Packets”) via first class mail to all of  
17 the approximate 401,918 ascertainable Class Members with valid addresses after receiving the class  
18 member data and running a change of address search. Fisher Decl., **Exhibit 2 – Declaration of**  
19 **Jeanne M. Chernila (On Behalf of Epiq) with Respect to Notice and Settlement Administration**  
20 [“Chernila Decl.”], ¶ 13). The “Opt-Out”, dispute, and objection deadline will pass on March 28,  
21 2024. (Exhibit 2 – Chernila Decl., ¶ 25).

22  
23 As of March 14, 2024 the Settlement Administrator Epiq reported that 15,978 (Fifteen  
24 Thousand Nine-Hundred Seventy-Eight) Notice Packets remain undeliverable, resulting in a 93.13%  
25 deliverable rate. (Chernila Decl., ¶ 16). Epiq further reported 11 (Eleven) Requests for Exclusion  
26 from Class Members (“Opt-Out”); and 1 (One) Objection. (**Exhibit 2 – Chernila Decl.**, ¶ 22-23).

27  
28 The average individual pre-tax gross settlement payment to each Settlement Class Members is  
29 estimated at \$22.40. The highest individual settlement payment to a Settlement Class Member is  
30 estimated at \$617.72 and the lowest is estimated at \$6.84. (**Exhibit 2 – Chernila Decl.**, ¶24). After  
31 the opt-out period has passed on March 28, 2024 Plaintiffs will submit a supplemental declaration  
32 from Epiq confirming the final amounts of these numbers. (Chernila Decl., ¶ 25).

33  
34 As of the date of the filing of this motion, and pursuant to the terms of the Amended  
35 Settlement Agreement and Preliminary Approval Order, the Class will receive a minimum

1 **Estimated Net Settlement Amount of \$9,005,000.00** (Nine Million five-thousand dollars) to pay  
2 Settlement Class Members. That amount was determined by subtracting Class Counsel’s attorneys’  
3 fees [-\$5,000,000], Class Counsel’s maximum litigation costs [-\$350,000], the Class Representative  
4 Enhancement Awards [-\$45,000 (split between 3 class representatives)], and the Settlement  
5 Administrator maximum estimated costs [-\$600,000] from the Gross Settlement Amount  
6 [\$15,000,000] to determine settlement fund payment to Class Members. (**Exhibit 2** –Chernila Decl.,  
7 ¶ 24.)

8 This is an excellent result for Class Members, especially given the potential challenges  
9 entailed in successfully litigating this case. In Class Counsels’ opinion, this is a good result in light  
10 of the disputed material factual and legal issues involved, the intrinsic risks of further litigation  
11 without any assurance of a better outcome for Class Members, and the substantial benefits available  
12 to Class Members under the Settlement. The Settlement promotes judicial economy and eliminates  
13 the risk that Class Members could receive nothing after protracted litigation.

14 The Settlement’s key terms are summarized as follows:

15 1. The Settlement Class/Subclass are defined as:

16 Class: “All individuals who, during the Class Period, while physically  
17 present in California and using a cellular device, participated in an outbound  
18 telephone conversation with a sales representative of Yelp or its agent who  
19 one-way recorded the conversation without first informing the individual that  
20 the conversation was being recorded.” (Amended Settlement Agreement  
21 §III.A.3)

22 Subclass: “All individuals who, during the Class Period, while physically  
23 present in California and using a cellular device, participated *for the first time*  
24 in an outbound telephone conversation with a sales representative of Yelp or  
25 their agent who one-way recorded the conversation without first informing  
26 the individual that the conversation was being recorded. (Amended  
27 Settlement Agreement § III.A.3)

28 “Class Period” refers to the period of time from October 12, 2015, to May  
29 24, 2017. (Amended Settlement Agreement § III.A.6.)

30 2. The Gross Settlement Amount:

31 The Settlement provides for Defendants to make a maximum payment of  
32 **\$15,000,000** in settlement of all class claims in the case, including Attorneys’  
33 Fees and Expenses, all settlement administration costs, all settlement

1 payments to settlement class members, and the class representatives’  
2 enhancement payments (the “Gross Settlement Amount”) (Amended  
3 Settlement Agreement §III.A.15.).

3. The Estimated Net Settlement Fund to Class Members:

4 After deducting the Class Counsel’s Attorneys’ Fees (-\$5,000,000) and  
5 litigation costs (-\$350,000), Settlement Administration costs (-\$600,000), and  
6 a Class Representative Enhancement Award (-\$45,000) from the total of the  
7 Gross Settlement Amount (\$15,000,000), the Participating Settlement Class  
8 Members shall receive an Estimated Net Settlement Fund of **\$9,005,000**  
9 (“Estimated Net Settlement Fund”) based on a pro rata allocation formula.  
10 (Amended Settlement Agreement §III.A.16; Exhibit 1 to Amended  
11 Settlement Agreement.).

4. Individual Settlement Share Calculations:

9 “Settlement Share” means the individual portion of the Net Settlement Fund  
10 that each Participating Class Member is eligible to receive. The Settlement  
11 Administrator shall calculate each identified Participating Class Member’s  
12 Settlement Share as follows: First, each identified Participating Class  
13 Member shall receive \$5 (five) dollars. Second, each identified Participating  
14 Class Member shall receive a pro-rata share of the remaining proceeds of the  
15 Estimated Net Settlement Fund. The pro-rata share is an amount that is  
16 proportional to the number of calls that the Class Member received on his or  
17 her cell phone during the Class Period that were the subject of a one-sided  
18 recording (e.g., if there were 100 calls received by all Participating Class  
19 Members during the Class Period and Class Member #1 received 1 call  
20 during the Class Period he/she would receive 1/100 (one hundredth) of the  
21 remaining proceeds of the Estimated Net Settlement Fund as his or her pro-  
22 rata share). The \$5 (five dollar) payment plus the pro-rata share equals the  
23 Settlement Share to be distributed to the Participating Class Member.  
24 (Amended Settlement Agreement § III.A.29.)

5. Notice Period and Response/Opt-Out Deadline:

19 “Response Deadline(s)” means the deadline by which Class Members must  
20 submit to the Settlement Administrator valid Requests for Exclusion/Opt  
21 Outs or Objections or Disputes. Requests for Exclusion/Opt Out or  
22 Objections or Disputes must be submitted with proof of the submission date  
23 (such as a U.S. Postal Service postmark or another delivery service date  
24 stamp) on or before the Response Deadline. The Response Deadline (March  
25 28, 2024) shall be forty-five (45) calendar days from the mailing of the  
26 Notice of Settlement to the Class Member (February 12, 2024). (Amended  
27 Settlement Agreement §III.A.24.)

1                   6.       Release of Claims For Settling Class Members:

2                   The Amended Settlement Agreement provides for a release of claims for  
3                   Class Members who did not timely submit an “Opt-Out” Request. The  
4                   released claims include:

5                   “any and all known and unknown claims and causes of action against Yelp  
6                   and the Released Parties that reasonably arise out of or reasonably relate to  
7                   the allegations in Plaintiffs’ First Amended Complaint, including Plaintiffs’  
8                   allegations that during the Class Period (October 12, 2015 to May 24, 2017),  
9                   Yelp made one-sided recordings of calls between Yelp representatives and  
10                  individual business owners or employees without disclosing to the individual  
11                  business owners or employees that Yelp was recording its own representative  
12                  during the calls.” (Amended Settlement Agreement §V.A.)

13                  The “Released Parties” means “Yelp Inc. and any current and former parents,  
14                  divisions, subsidiaries and affiliated companies or entities, and their respective  
15                  officers, directors, employees, investors, insurers, administrators,  
16                  representatives, partners, shareholders and agents, and any other predecessors  
17                  and successors, assigns and legal representatives and their related persons and  
18                  entities. (Amended Settlement Agreement §22.) The Amended Settlement  
19                  Agreement also provides Defendant with a general release from named  
20                  Plaintiffs/Class Representatives, including a Civil Code § 1542 waiver.  
21                  (Amended Settlement Agreement § V.B)

22                   7.       Settlement Administrator Costs

23                   “Settlement Administration Costs” means the costs payable to the Settlement  
24                   Administrator (Epiq) for all fees and expenses reasonably and necessarily incurred as  
25                   a result of administering this Settlement, including, but not limited to, the cost of  
26                   providing notice of the proposed settlement to the Class, the cost of administering the  
27                   settlement and any settlement fund created as a result of this Agreement. The  
28                   Settlement Administration Costs are estimated to be between \$450,000 and \$750,000  
and shall be payable from, and not in addition to, the Gross Settlement Amount.  
Epiq’s current estimate of Settlement Administration Costs is no more than \$600,000  
(Amended Settlement Agreement §III.A.27; (**Exhibit 2** –Chernila Decl., ¶ 24.)

29                   8.       Class Representative Enhancement Award

Pursuant to the terms of the Settlement, Plaintiffs will seek  
Enhancement/Service Award Payments of up to \$45,000.00 from the Gross  
Settlement Amount to be split (not necessarily evenly) among the three Named  
Plaintiffs (Amended Settlement Agreement §VII.D)

1           9.       Class Counsel Award (Attorney Fees and Costs)

2                   Class Counsel may apply to the Court for an award of up to **\$5,000,000 in**  
3                   **attorney fees** plus reimbursement of up to **\$350,000 in litigation costs**  
                  (Amended Settlement Agreement §VIII.A)

4           The final approval of the Settlement is appropriate as all requirements for a class action have  
5   been satisfied and the terms of the Settlement are fair and reasonable.

6   **II. FACTUAL BACKGROUND**

7           This case is brought as a class action under California Code of Civil Procedure (“CCP”) §382.  
8   This class action lawsuit arises out of Yelp’s alleged policy and practice of illegally Yelp’s Sales  
9   Representatives’ side of calls made to and from prospective clients (both large and small business  
10   owners). Plaintiffs allege that Yelp has a policy and practice by which Yelp automatically "one-  
11   way" records these calls (i.e., records its employees' side of telephone calls) regarding the sales of  
12   Yelp’s products (advertising on YELP’s website). Plaintiffs allege that Yelp intentionally and  
13   surreptitiously one-way recorded telephone calls between business owners and YELP’s Sales  
14   Representatives without warning or disclosing to callers that they were doing so.

15           Plaintiffs allege that Yelp violated the California Invasion of Privacy Act (“CIPA”),  
16   specifically California Penal Code section 632.7, by "one-way recording" conversations during  
17   outbound cellular phone calls to actual and potential Yelp customers in California without notice to  
18   or consent from the call recipient. During the course of the litigation, Plaintiffs identified  
19   approximately 422,314 unique cell phone numbers that Yelp Sales Representatives called during the  
20   Class Period (October 12, 2015 through May 24, 2017) that were subject to Yelp’s automatic one-  
21   way recording policy.

22   **III. PROCEDURAL HISTORY**

23           **October 12, 2016 (Original CIPA Complaint Filed in San Francisco Superior Court):**

24   This CIPA action was filed October 12, 2016 by Plaintiff Eric Gruber represented by the firm of  
25   Da Vega Fisher Mechtenberg LLP asserting, among other things, claims under Penal Code section  
26   632 and 632.7 for recording of Plaintiff’s calls without notice.

1           **February 2017 (Plaintiff’s First Set of Discovery Propounded):** Plaintiff propounded a  
2 first set of Form Interrogatories and Requests for Production seeking call information, recording  
3 policies and protocols, and call recording data reporting from Yelp.

4           **May 2017 (Yelp Files Motion for Summary Judgment):** In May 2017, Yelp moved for  
5 summary judgment on a variety of theories, including that (1) Yelp did not make any two-sided  
6 recordings of Plaintiff Eric Gruber without his consent; (2) the Penal Code did not prohibit the  
7 making of one-sided recordings of only a Yelp representative speaking during calls with Gruber; and  
8 (3) section 632.7 of the Penal Code did not apply to calls made to or from phones that use Voice  
9 over IP technology, *i.e.*, “VoIP phones.”

10           **May 2017- February 2018 (Plaintiff Conducts Class-Wide Discovery and Files**  
11 **Discovery Motions):** Plaintiff associated in Jaurigue Law Group as trial co-counsel. Plaintiff  
12 deposed Yelp’s person most qualified, Zachary Pleau (who was deposed a total of three times in the  
13 action), Sales Representative Spencer Fossen, and Director and Head of Local Client Partner Kinsey  
14 Livingston. After numerous “meet and confers” and attendance of an Informal Discovery  
15 Conference, Plaintiff moved to compel further responses to its first set of written discovery to  
16 compel Yelp to respond to its class-wide discovery requests. Plaintiff further filed a motion for  
17 preliminary injunction to preserve electronic evidence and spoliation sanctions, alleging that Yelp  
18 had failed to preserve electronic call recording data.

19           **February 26, 2018 (Plaintiff’s Discovery Motion Granted):** The Court granted, in part,  
20 Plaintiff’s motion to compel further responses to its Requests for Production and denied Plaintiff’s  
21 request for sanctions.

22           **March 22, 2018 (Plaintiff Serves Additional Discovery):** Plaintiff served his Request for  
23 Production (Set Two) seeking additional class-wide call recording information.

24           **April 2018 (Summary Judgment Granted in Favor of Yelp):** In April 2018, Judge Mary  
25 Wiss granted summary judgment. She also denied the motion for injunction and spoliation sanctions  
26 as moot. Plaintiff appealed. At this time, Plaintiff associated in Zareh Jaltorossian, who at the time  
27

1 was employed at Dakessian Law LTD, to handle the appeal. The Court of Appeal reversed the  
2 summary judgment, holding: (1) Sections 632 and 632.7 of the Penal Code prohibit “one-sided”  
3 recordings without consent; (2) Yelp's First Amendment arguments were untimely and  
4 underdeveloped (and therefore forfeited for purposes of the appeal); (3) Yelp failed to carry its  
5 burden of production to establish that VoIP phones are not landline phones under Section 632.7(a).  
6 See *Gruber v. Yelp Inc.*, 55 Cal.App.5th 591 (2020).

7 **January 28, 2021 (Remittitur Issued):** The remittitur issued on January 28, 2021,  
8 transferring the case back to San Francisco Superior Court. Judge Andrew Y.S. Cheng was assigned  
9 to the case.

10 **2021 (Discovery Continues):** The Parties continued discovery throughout 2021. Yelp  
11 produced, among other things, a file directory identifying millions of the calls at issue and a sample  
12 of 136,380 of the “one-sided” recordings in .mp3 format.

13 **September 15, 2021 (First Mediation with JAMS Mediator Jay Gandhi):** The Parties  
14 conducted a first mediation with Jay Gandhi at JAMS. The case did not settle. Thereafter, Plaintiff  
15 propounded further class discovery and sought to send out *Belaire* Notice to class members. Below  
16 are additional relevant dates and events.

17 **September 27, 2021 (CMC Setting Class Certification Schedule):** A CMC was held in  
18 which the Parties were instructed to set a class certification schedule.

19 **October 14, 2021 (Plaintiff Gruber’s Deposition) :** Yelp took the deposition of Plaintiff  
20 Eric Gruber.

21 **October 21, 2021 (Stipulation re *Belaire* Notice):** Plaintiff sent a stipulation and order to  
22 Yelp requesting to send out *Belaire* Notice seeking the names and contact information of certain  
23 putative class members. Yelp objected.

24 **November 15, 2021 (Written Discovery Propounded):** Yelp propounded Requests for  
25 Production, Special Interrogatories, and Form Interrogatories requesting individual information  
26 about Plaintiff Eric Gruber.



1           **December 3, 2021 (Briefing re *Belaire* Notice):** Plaintiff submitted IDC briefing to the  
2 Court requesting it to order *Belaire* Notice to Class Members. On December 15, 2021, Yelp  
3 submitted responsive briefing, contending it would be prejudicial to its business interests to send  
4 *Belaire* notice to its customers.

5           **January 11, 2022 (Joint Case Management Conference Statement re Discovery**  
6 **Disputes):** The Parties submitted a joint case management conference statement further discussing  
7 their discovery disputes.

8           **January 25, 2022 (*Belaire* Notice Granted):** The Court granted Plaintiff's request that  
9 *Belaire* notice be sent to class members. It further instructed the Parties to meet and confer  
10 regarding the form of notice.

11           **February 3, 2022 (Yelp Requests Reconsideration of *Belaire* Notice):** Yelp filed an ex  
12 parte application requesting the Court to reconsider its ruling that *Belaire* Notice issue to putative  
13 class members, seeking clarification regarding the scope of the order as it applied to contact with  
14 class members, and claiming there was no practical method of providing notice to class members.

15           **February 8, 2022 (Plaintiff Opposes Ex Parte):** Plaintiff filed an opposition to Yelp's ex  
16 parte application, arguing that Yelp was misconstruing the Court's order and simply repeating  
17 arguments that it made in the first round of briefing. This Court issued an order clarifying that its  
18 prior order did not preclude the Parties from contacting putative class members.

19           **February 25, 2022 (Yelp Files Petition for Writ of Mandate re *Belaire* Notice):** Yelp  
20 filed a 66-page Petition for Writ of Mandate seeking to set aside the Court's order directing *Belaire*  
21 notice. Yelp argued, among other things, that Gruber did not have standing to assert privacy rights  
22 on behalf of putative class members, and that *Belaire* notice was unnecessary because Gruber  
23 already had phone contact information for putative class members and an existing protective order  
24 precluded the parties from disseminating that information to the public.

25           **March 7, 2022 (First Appellate District Denies Yelp's Petition):** The First Appellate  
26 District issued an order summarily denying Yelp's Petition for Writ of Mandate.

1           **March 21, 2022 (Joint CMC Statement):** The Parties submitted another CMC statement  
2 indicating that Yelp's petition was denied and that the Parties were proceeding with discovery.

3           **March 24, 2022 (Plaintiff Files Motion for Class Certification):** Plaintiff filed his motion  
4 for class certification, seeking certification of a class to assert claims under Penal Code section  
5 632.7. Plaintiff proposed to identify class members based on a data set of approximately 422,314  
6 unique cell phone numbers associated with individuals who received approximately 3,731,739 one-  
7 sided recorded calls from Yelp representatives. Plaintiff submitted declarations from three experts,  
8 Anya Verkhovskaya, Randall Snyder, and Jeffrey A. Hansen, who opined on the feasible methods to  
9 identify class members based on Yelp's data.

10           **April 19, 2022 (Belair Notice Sent to 2000 Class Members):** Class Administrator CPT  
11 Group mailed *Belair* notice to approximately 2000 class members.

12           **April 22, 2022 (Yelp Deposits Plaintiffs' Expert re Class Administration):** Yelp deposited  
13 Plaintiff's class administrator expert, Anya Verkhovskaya.

14           **April 26, 2022 (Yelp Deposits Plaintiffs' Expert re Cellular):** Yelp deposited Plaintiff's  
15 cellular expert, Randall Snyder.

16           **April 28, 2022 (Yelp Deposits Plaintiffs' Expert Re Data):** Yelp deposited Plaintiff's ASR  
17 and data expert, Jeffrey Hansen.

18           **May 9, 2022 (Discovery Conference with Court):** The Parties held another informal  
19 discovery conference with the Court regarding discovery requests Yelp propounded to Plaintiff Eric  
20 Gruber.

21           **May 19, 2022 (Plaintiff Propounds Further Document Requests re Shortel / Sales Force  
22 Data):** Plaintiff propounded a third set of document requests seeking Yelp's Shortel system phone  
23 system database containing dial information for sales representatives, Salesforce account data, and  
24 customer emails.

25           **May 23, 2022 (Plaintiff File First Amended Complaint Adding New Class  
26 Representatives):** Plaintiff Gruber requested Yelp to stipulate to the filing of a first amended  
27

1 complaint adding new class representatives Cheryl Skidmore, Ever Gonzalez, and Jeremy Earls. The  
2 proposed first amended complaint also contained a revised class definition limiting the class to  
3 outbound sales calls to customers on cellular devices, and adding a “subclass” consisting of  
4 customers who received a Yelp call to their cellular phone for the very first time during the Class  
5 Period (October 12, 2015 to May 24, 2017).

6 **May 26, 2022 (Yelp Files Opposition to Plaintiff’s Class Certification Motion):** Yelp  
7 filed its opposition papers to Plaintiffs class certification motion. Yelp contended that "the one-sided  
8 nature of the recordings and the individualized evidence in this case pose insurmountable barriers to  
9 class certification," and attacked the qualifications and methodology proposed by Plaintiff’s experts.  
10 Yelp provided counter declarations from its experts, including cellular expert Jan Kostyun and ASR  
11 expert Wayne Ramprashad, who contended that class members and individual call violations could  
12 not be practically identified through available technology.

13 **May 31, 2022 (Yelp Files Motions to Exclude Declarations of Plaintiff’s Experts):** In  
14 support of its opposition to the motion for class certification, Yelp also filed three motions to  
15 exclude the declarations of Plaintiff’s experts Verkhovskaya, Hansen, and Snyder from evidence,  
16 contending that they lacked a reasonable basis, were untested, and speculative (commonly known as  
17 *Sargon* motions).

18 **June 15, 2022 (Plaintiff Deposes Yelp Expert Re Cellular):** Plaintiff deposed Yelp’s  
19 cellular expert, Jan Kostyun.

20 **June 21, 2022 (Plaintiff’s Motion to File First Amended Complaint and Add New Class  
21 Members and Class Definition):** Plaintiff filed a motion requesting leave to file a first amended  
22 complaint adding the new class members and revising the class definitions as previously stated.

23 **June 22, 2022 (Plaintiff Deposes Yelp Expert re ASR):** Plaintiff deposed Yelp's ASR  
24 expert, Wayne Ramprashad.

25 **July 5, 2022 (CMC Re Briefing Schedule on Class Certification):** The Parties submitted  
26 another CMC statement discussing the briefing schedule on class certification and discussing various  
27

1 pending discovery issues.

2 **July 21, 2022 (Yelp Opposes Plaintiff's Request for Leave to Amend Complaint):** Yelp  
3 opposed the motion for leave to file a first amended complaint. Yelp argued that amendment would  
4 be futile because the proposed plaintiffs consented to one-sided recording. And it argued that  
5 conducting discovery regarding the new class members would be burdensome and interrupt the class  
6 certification briefing and hearing schedule.

7 **July 22, 2022 (Plaintiff files Reply Brief):** Plaintiff filed his reply brief in support of the  
8 motion for class certification. Plaintiff included a rebuttal declaration from a second ASR expert,  
9 Professor Deliang Wang, further contending that recent advances in ASR technology increase its  
10 reliability to levels equivalent to human operators.

11 **July 22, 2022 (Plaintiff Files Opposition Re Expert Opinions):** Plaintiff filed his  
12 opposition papers, further contending that his experts' opinions were reliable and had a reasonable  
13 basis in fact.

14 **July 29, 2022 (Yelp Files Reply Brief):** Yelp filed its reply brief further contending that  
15 Plaintiff's experts' opinions lacked a reasonable basis.

16 **August 2, 2022 (Court Grants Leave to Amend Complaint):** The Court issued its order  
17 granting the motion for leave to amend and adding new class representatives Cheryl Skidmore,  
18 Jeremy Earls, and Ever Gonzalez as Plaintiffs in the action.

19 **August 5, 2022 (Plaintiffs Propound 4<sup>th</sup> Set of Document Requests Re Log Information  
20 re New Class Reps):** Plaintiffs propounded Request for Production of Documents to Defendant  
21 Yelp Inc. (Set Four) seeking call log information and one-sided recordings with respect to the new  
22 proposed class representatives.

23 **August 9, 2022 (Plaintiffs Propound Special Interrogatories):** Plaintiffs propounded  
24 Special Interrogatories to Defendant Yelp Inc. (Set Three) seeking information and detail about  
25 Yelp's toll free numbers.

26 **August 11, 2022 (Yelp Propounds Additional Discovery to the New Class**  
27

1 **Representatives):** Yelp propounded Special Interrogatories and Requests for Production to the new  
2 class representatives Cheryl Skidmore, Ever Gonzalez, and Jeremy Earls.

3 **September 6, 2022 (Yelp Files Answer to First Amended Complaint):** Yelp filed its  
4 answer responding to the new allegations/Parties presented in the first amended complaint.

5 **September 26, 2022 (Plaintiffs Dismiss Class Representative Cheryl Skidmore):** Cheryl  
6 Skidmore requested dismissal of her claims against Yelp.

7 **September 28, 2022 (Yelp Deposes Named Plaintiff/Representative Ever Gonzalez):**  
8 Yelp deposed Plaintiff Ever Gonzalez.

9 **September 30, 2022 (Yelp Deposes Named Plaintiff/Representative Jeremy Earls):** Yelp  
10 deposed Plaintiff Jeremy Earls.

11 **September 30, 2022 (Stipulation Re Contact Information for 2000 Additional Putative**  
12 **Class Members):** The Parties stipulated to providing *Belaire* Notice seeking the contact  
13 information of an additional 2000 putative class members.

14 **October 7, 2022 (CMC and Yelp Requests to File Second Motion for Summary**  
15 **Judgment):** The Parties submitted a further CMC statement in which Yelp requested to file a second  
16 motion for summary judgment.

17 **October 12, 2022 (CMC re Class Certification Motion Scheduling):** A further CMC was  
18 held in which the Parties discussed scheduling for the class certification motion and the motion to  
19 exclude Plaintiffs' experts. The Court postponed setting a second summary judgment hearing until  
20 hearing on the class certification motion was completed.

21 **October 28, 2022 (Yelp Submits Additional Briefing):** Yelp submitted additional briefing  
22 arguing that the new Plaintiffs (Jeremy Earls and Ever Gonzalez) were not adequate/typical class  
23 representatives.

24 **November 14, 2022 (Plaintiffs Respond to Yelp's Brief):** Plaintiffs responded to Yelp's  
25 supplemental briefing, providing evidence that the new proposed class representatives met the  
26 criteria of adequacy and typicality.

1           **November 16, 2022 (Hearing on Motion to Exclude Plaintiffs' Experts):** The Court heard  
2 oral argument on Yelp's motions to exclude the testimony of Plaintiffs' three experts, Anya  
3 Verkhovskaya, Randall Snyder, and Jeff Hansen. Matthew Fisher argued for Plaintiffs. Brian  
4 Sutherland argued for Yelp. The Court took the matter under submission.

5           **November 18, 2022 (Plaintiffs File Additional Declarations):** Plaintiffs filed an additional  
6 declaration from Mr. Hansen addressing the feasibility of obtaining Yelp's call recording data.

7           **December 13, 2022 (Court Hearing on Plaintiffs' Motion for Class Certification):** The  
8 Court heard oral argument on the motion for class certification. Matthew Fisher argued for Plaintiffs.  
9 Brian Sutherland argued for Yelp.

10           **January 12, 2023 (Yelp Files Second Motion for Summary Adjudication):** Yelp filed a  
11 motion for summary adjudication on five issues. Yelp sought summary adjudication of section 632.7  
12 claims on the ground that the statute does not apply to VoIP communications. It also sought  
13 summary adjudication with respect to four specified one-sided recordings (the remaining four issues)  
14 on the ground that penalizing Yelp in connection with those recordings would violate its First  
15 Amendment and Due Process rights.

16           **January 18, 2023 (Court Grants Plaintiffs' Motion for Class Certification):** The Court  
17 granted Plaintiffs' motion for certification of its proposed class and subclasses and denied Yelp's  
18 motions to exclude Plaintiffs' experts. The Court found that Plaintiffs had submitted an adequate  
19 methodology to identify class members, that the proposed class was sufficiently numerous, and that  
20 common questions predominated. The Court found that the proposed class representatives were  
21 adequate and had suffered an injury typical of the class.

22           **February 17, 2023 (Yelp Seeks Writ Review of Order Granting Class Certification):**  
23 Yelp sought writ review of the Court's orders certifying the class and denying its motion to exclude  
24 Plaintiffs' expert Jeffrey Hansen.

25           **February 17, 2023 (Plaintiffs Depose Yelp Expert Re VOIP):** Plaintiffs deposed Yelp's  
26 VoIP expert, Seamus Gilchrist, who had submitted a declaration in support of Yelp's motion for  
27

1 summary adjudication.

2 **April 17, 2023 (Plaintiffs Serve Special Interrogatories re Sales Rep Phone Numbers):**

3 Plaintiffs served their Special Interrogatories to Defendant Yelp (Set Four) seeking lists of Yelp's  
4 sales representative phone numbers.

5 **March 15, 2023 (Joint CMC Statement re Plaintiffs' Request for Trial Date):** The

6 Parties submitted another CMC statement. Plaintiffs requested a trial date and Yelp opposed.

7 **March 17, 2023 (Plaintiffs File Opposition to Yelp's Motion for Summary**

8 **Adjudication):** Plaintiffs filed their opposition, arguing that Yelp's motion for summary  
9 adjudication sought a second adjudication based on grounds raised in Yelp's first summary judgment  
10 motion, i.e., that section 632.7 did not cover VoIP calls and that one-sided recording violated Yelp's  
11 First Amendment Rights. The opposition also responded to Yelp's renewed motion on the merits,  
12 including with a declaration from VoIP expert Thomas Ladd opining that Yelp's wired VoIP  
13 connection was a "landline telephone" within the meaning of Penal Code section 632.7.

14 **March 20, 2023 (Per Request of Court of Appeal, Plaintiffs File Preliminary**

15 **Opposition):** At the request of the Court of Appeal, Plaintiffs filed a preliminary opposition to  
16 Yelp's Petition for Writ of Mandate seeking to vacate the certification order.

17 **March 22, 2023 (Further CMC and Setting of Trial Date):** The Court held a further case

18 management conference. It set a trial date for January 29, 2024.

19 **March 28, 2023 (Yelp Files Reply Re Petition for Writ of Mandate):** Yelp filed a 49-page

20 reply in support of its writ petition. Yelp further served its Request for Production (Set Two) on  
21 Plaintiff Jeremy Earls seeking additional information about his calls with Yelp.

22 **April 5, 2023 (Yelp Deposits Plaintiffs' VOIP Expert):** Yelp deposed Plaintiffs' VoIP

23 expert, Thomas Ladd.

24 **April 21, 2023 (Yelp Files Reply to Its Motion for Summary Adjudication):** Yelp filed a

25 Reply in support of its motion for summary judgment.

26 **May 25, 2023 (Court of Appeal Denies Yelp's Petition re Class Certification):** The First

1 District Court of Appeal summarily denied Yelp's Petition seeking to vacate the certification order.

2 **June 2, 2023 (Yelp Files Petition for Review to California Supreme Court):** Yelp filed a  
3 45-page Petition for Review in the California Supreme Court asking the California Supreme Court to  
4 grant and transfer the matter back to the Court of Appeal for decision on the merits of its challenge  
5 to the trial court's certification order.

6 **June 11, 2023 (Parties Agree to Mediation with Mediator Mark LeHocky):** The Parties  
7 agreed to mediation with Mark LeHocky as mediator and set a mediation date for July 13, 2023.

8 **June 21, 2023 (Joint CMC Statement Re Second Mediation):** The Parties filed a joint  
9 CMC statement in advance of the case management conference set for June 28, 2023. The Parties  
10 informed the court that a mediation had been set before Mark LeHocky on July 13. Plaintiffs  
11 informed the court, in light of the Court of Appeal's denial of Yelp's Petition for Review of the  
12 certification order, that they were preparing a proposed class notice to be sent to all 422,000 class  
13 members, with an estimated expense of \$300,000 to be shared by both Parties. Yelp opposed  
14 Plaintiffs' notice and cost-sharing proposals. Plaintiffs also indicated their intent to serve a  
15 subpoena on AT&T seeking call location data for approximately 200,000 class members.

16 **June 22, 2023 (Plaintiffs File Answer to Yelp's Supreme Court Petition):** Plaintiffs filed  
17 their Answer to the Petition for Review in the Supreme Court, arguing that Yelp's arguments did not  
18 merit review of the class certification ruling and defending the correctness of that decision.

19 **June 27, 2023 (Yelp Files Reply to Plaintiffs' Answer to Supreme Court):** Yelp filed a  
20 22-page reply to Plaintiffs' Answer in the Supreme Court.

21 **June 28, 2023 (Hearing on Yelp's Summary Adjudication Motion):** This Court (Hon.  
22 Samuel Feng) heard argument on the motion for summary adjudication and held a further status  
23 conference. The Court took the matter under submission, indicating it would defer ruling until after  
24 the Parties' scheduled July mediation.

25 **June 30, 2023 (Plaintiffs Send Meet and Confer Letter Re Class Recordings):** Plaintiffs  
26 sent "meet and confer" correspondence to Yelp seeking classwide discovery /documents, including  
27



1 all 3,731,739 call recordings, call detail records for all of Yelp's sales representatives, and all emails  
2 to class members purportedly containing notice of recording.

3 **July 13-14, 2023 (Mediation with Mark LeHocky of ADR):** Mediation took place at  
4 ADR's San Francisco location. The mediation ended without a settlement, but the Parties indicated  
5 they would consider a mediator's proposal. On July 14, 2023, Mr. LeHocky communicated a  
6 mediator's proposal. After a few days, both sides accepted the proposal. The Parties then negotiated  
7 and drafted a Memorandum of Understanding (MOU) to memorialize the terms of the proposed class  
8 settlement.

9 **August 2-4, 2023 (Class Action MOU Executed by the Parties):** The Parties executed the  
10 MOU. Subsequently, the Parties negotiated and drafted a "long-form" Class Action and Release  
11 Settlement Agreement ("Settlement Agreement")

12 **September 20, 2023 (Class Action Settlement Agreement Executed by Parties):** After  
13 weeks of drafting/editing the Parties agreed upon the terms reflected in the proposed Settlement  
14 Agreement now before the Court including the forms and procedure for providing notice of the  
15 proposed settlement to the Class Members.

16 **September 25, 2023 (Plaintiffs file Motion for Preliminary Approval):** Plaintiffs filed  
17 their unopposed Motion for Preliminary Approval of Class Action Settlement. A copy of the  
18 Settlement Agreement was submitted to the Court and attached to the Declaration of Matthew H.  
19 Fisher in support of that motion.

20 **October 23, 2023 (Court issues Order: Re Motion For Preliminary Settlement seeking**  
21 **additional briefing/amendments to the Settlement Agreement):** The Court issued an Order: Re  
22 Motion for Preliminary Settlement. The Order expressed concerns with the proposed Settlement  
23 including the reasoning behind the amount of the settlement, the percentage of attorney's fees  
24 requested, and other nonmonetary provisions of the Settlement Agreement. The Court requested  
25 additional briefing/amendments to the Settlement Agreement to address the Court's concerns and  
26 continued hearing on the Motion to December 21, 2023.

1           **November 8, 2023 (Plaintiffs' apply ex parte to continue the trial date):** In light of the  
2 Court's concerns with the Settlement Agreement, Plaintiffs applied ex parte to continue the trial date  
3 to January 29, 2024 to May 1, 2024 and re-open discovery. Yelp opposed plaintiffs' ex parte  
4 application.

5           **November 8, 2023 (The Court denies Plaintiffs ex parte application):** The Court denied  
6 Plaintiffs' ex parte application, instead vacating the trial date and tolling the five-year period to bring  
7 the action to trial under Code of Civil Procedure section 383.310.

8           **December 7, 2023 (The Parties submit supplemental briefing in support of the Motion  
9 for Preliminary Approval):** On or around December 7, 2023, the Parties submitted supplemental  
10 briefing providing further support for the settlement amount, agreeing to reduce the amount of  
11 attorneys' fees requested, and amending other nonmonetary provisions in the Settlement Agreement  
12 to address the Court's concerns.

13           **December 13, 2023 (The Parties execute an Amended Class Action Settlement  
14 Agreement)** the Parties entered into an Amended Class Action Settlement and Release Agreement  
15 ("Amended Settlement Agreement") which, among other things: (1) reduced the attorney fee award  
16 from 37% to a maximum of one-third (33.33%) of the \$15,000,000 proposed settlement (or  
17 \$5,000,000) and the service award requests on behalf of the Class Representatives from \$75,000 (in  
18 total) to \$45,000 (in total); (2) limited the scope of the Settlement's Confidentiality clause; (3)  
19 limited the scope of the release language applicable to absent class members; and (4) increased the  
20 Settlement's opt-out blowup threshold from 5% to 7.5%.

21           **December 21, 2023 (Hearing on Motion for Preliminary Approval):** The Court heard  
22 oral argument from the Parties regarding the Motion for Preliminary Approval.

23           **December 21, 2023 (The Court requests additional briefing regarding the scope of the  
24 Amended Settlement Agreement's release language):** The Court issued an order indicating it was  
25 anticipating issuing an order granting preliminary approval, but requested additional briefing  
26 regarding the scope of the parties' amended release clause.  
27

1           **December 27, 2023 (The Parties submit additional briefing):** The parties submitted a  
2 joint statement regarding the scope of the release language in the Amended Settlement Agreement.

3           **December 28, 2023 (Preliminary Approval Granted)** On or around December 28, 2023, the  
4 Court issued an Order Granting Motion for Preliminary Settlement Approval (“Preliminary  
5 Approval Order”).

6           **February 12, 2024 (Notice of Class Action Settlement Mailed):** Notice Packets to Class  
7 Members were mailed by the Settlement Administrator Epiq to an estimated 401,918 ascertainable  
8 Class Members.

9           **March 28, 2024 (End of Class Action Notice Period/Response Deadline):** The Class  
10 Notice/Response Deadline is set for this date.

11           **April 10, 2024 @ 9:30 a.m. (Hearing on Final Approval/Fairness of Class Settlement):**  
12 The hearing on Final Approval/Fairness of the Class Action is to be held.

#### 13 **IV. THE SETTLEMENT SHOULD RECEIVE FINAL APPROVAL**

14           Pursuant to the Settlement, the Settlement Administrator Epiq has engaged in a  
15 comprehensive notification process which started on February 12, 2024 with mailing of notice to  
16 401,918 Class Members to Class Members with valid address via First Class mail, and a 93.13%  
17 deliverable rate. The notice period in which to submit a dispute, objection, or “opt out” of the  
18 settlement will conclude on March 28, 2024. The terms of the Settlement have been well received by  
19 the Class Members as, of the 401,918 participating Class Members, only 11 (Eleven), or .003%, have  
20 requested exclusion to date, and there is only one objector. (**Exhibit 2** – Chernila Decl., ¶ 22) The  
21 one individual who has submitted an objection to date contends that he should have received the full  
22 amount of the available statutory penalty per call as well as criminal convictions against Defendant,  
23 but no call recording class action settlement to date has achieved anything like these results. (Exhibit  
24 3 to Chernila Decl., ¶ 23)

25           “The trial court’s discretion is broad” regarding approval of a class action settlement, and “is  
26 to be exercised though the application of several well-recognized factors.” *Munoz v. BCI Coca-Cola*  
27 *Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 407. These factors include, but are not

1 limited to, the strength of Plaintiff's case; the risk, expense, complexity and likely duration of further  
2 litigation; the risk of maintaining class action status through trial; the amount offered in settlement;  
3 the extent of discovery completed and the stage of the proceedings; the experience and views of  
4 counsel; and the reaction of the class members to the proposed settlement. *Id.* (omitting quotations  
5 and citations). "The most important factor is the strength of the case for plaintiffs on the merits,  
6 balanced against the amount offered in settlement." *Id.* at 407-408 (quoting *Kullar v. Foot Locker*  
7 *Retail, Inc.* (2008) 168 Cal.App.4th 116, 130). An analysis of the pertinent factors to the Parties'  
8 Settlement demonstrates that final approval is appropriate.

9 **A. The Parties Dispute the Merits of the Case**

10 Throughout the litigation, Defendant has denied Plaintiffs' allegations and that the case was  
11 appropriate for class certification. (Declaration of Matthew H. Fisher In Support of Motion for  
12 Preliminary Approval of Class Action Settlement, filed September 25, 2023 ("Fisher Prelim. Decl.")  
13 ¶89.) Defendant has made numerous arguments at the trial and appellate levels that the "one-sided"  
14 recording of Class Members conversations with Yelp's sales representatives was not a violation of  
15 CIPA and that determining which of the Class Members consented to call recording requires  
16 individualized inquiry, among other arguments and as further detailed below. (*Id.*) First, Yelp asserts  
17 that Penal Code section 632.7 does not apply to recording of telephone communications made  
18 through VOIP technology. The summary adjudication motion Yelp filed and that was pending at the  
19 time the action settled raises this issue. Second, Yelp has asserted a First Amendment defense to  
20 Plaintiffs' claims. Yelp argues that it has a constitutional/free speech right to engage in one-sided  
21 recordings, as such recordings constitute an exercise of speech because they are a form of protected  
22 expression, citing to the recent Ninth Circuit decision *Project Veritas v. Schmidt* (9<sup>th</sup> Cir. 2023) 72  
23 F.4th 1043. Yelp contends that it therefore cannot be prohibited from and penalized for making such  
24 recording by state laws like CIPA or that, at a minimum, determining whether penalizing Yelp would  
25 be constitutional requires recording by recording analysis. Yelp has raised its constitutional  
26 arguments in opposition to class certification, in its motion for summary adjudication, in its writ  
27 petition challenging the certification order, and in its petition for review with the California Supreme

1 Court challenging the Court of Appeal’s denial of its writ petition on the class certification order.  
2 (Yelp withdrew the petition after the Parties reached this settlement). Third, Yelp has challenged and  
3 would continue to challenge the trial court’s order granting class certification on consent, free speech,  
4 and due process grounds. Yelp has indicated that it would bring a motion to decertify the class if the  
5 case was not settled. (Fisher Prelim. Decl. ¶ 90.)

6 On the other hand, Plaintiffs allege that VoIP phones are a form of landline communication  
7 device that is encompassed by CIPA; that Class Members were subject to the same common policies  
8 and practices promulgated by Defendant throughout the Class Period failing to give them notice of  
9 “one-sided” recording; and that it is possible to determine, via experts in Automatic Speech  
10 Recognition technology, wireless and consumer data collection, and cell tower configurations, which  
11 Class Members were subject to the alleged illegal “one-sided” recording practice within the state of  
12 California. (Fisher Prelim. Decl. ¶ 91) As part of the investigation into the claims, Class Counsel  
13 retained a team of experts, deposed employees and experts, interviewed numerous individuals as  
14 potential class representatives, reviewed various documents, policies, training materials and  
15 handbooks for Defendants, and reviewed/analyzed the voluminous contents of Yelp dial lists, phone  
16 records, customer lists, and call recordings produced in this action. (*Id.*) This investigation was  
17 crucial to the Parties’ dispute over both the merits of the case, as well as with respect to the  
18 appropriate scope of the Class. (*Id.*)

19 **B. The Risk, Expense, And Complexity Of Continuing To Litigate The Action**

20 As demonstrated above, the Parties are sharply divided on the factual and legal issues  
21 pertaining to the underlying claims, as well as whether class certification can be obtained in this  
22 case. Defendant is represented by well-staffed counsel who are experienced in consumer law and  
23 class actions, as are Plaintiffs’ counsel. The Parties contend that continued litigation would be  
24 protracted and expensive, with no assurance of a better outcome for the Class.

25 Significantly, while extensive informal and formal discovery, motion, and appellate work has  
26 occurred to ensure the Settlement is fair and reasonable to the Class, should the Settlement not be  
27 finally approved, the Parties will need to start from scratch in terms of continuing with formal

1 discovery and preparing for trial of the matter. The Settlement reached by the Parties through  
2 extensive arms-length negotiations eliminates the risk that the Class Members will receive nothing,  
3 eliminates the need for further protracted and expensive litigation that financially jeopardizes any  
4 recovery, and eliminates the risk of further lengthy and uncertain appeals. The elimination of those  
5 many uncertainties is reflected in the Settlement which provides prompt and substantial relief to the  
6 Class Members. These factors weigh heavily in favor of approving the Settlement.

7 **C. The Settlement Amount Offered To Class Members Is Fair And Reasonable**

8 The Settlement provides for Defendant to pay **\$15,000,000** in settlement of all Class claims  
9 in the case, including attorneys' fees and costs, settlement administration fees, and a class  
10 representative enhancement award. Class Members will share in a minimum Estimated Net  
11 Settlement Amount of approximately \$9,005,000.00 after subtracting attorney fees [-\$5,000,000]  
12 and maximum costs [-\$350,000], the class representatives service awards [- \$45,000 (split among the  
13 3 class representatives)], and estimated maximum Settlement Administration Costs [-\$600,000].  
14 (Exhibit 2 – Chernila Decl., ¶ 24 ) This is an excellent recovery for the class, which at the time of  
15 filing includes 401,918 participating Settlement Class Members. The average Class Member will  
16 receive a pre-tax award of approximately \$22.40 (Exhibit 2 – Chernila Decl., ¶ 24). The amount of  
17 the Settlement is reasonable given the difficulty of the claims, the degree of risk and uncertainty  
18 involved in further litigation, the amount of time that would pass before Plaintiffs and the Class  
19 Members would see the fruits of any class verdict in their favor, and the lack of ability of Defendants  
20 to pay.

21 **D. The Settlement Agreement Is Fair And Reasonable**

22 The law favors settlements, especially of class actions. *See Potter v. Pacific Coast Lumber*  
23 *Co.* (1951) 37 Cal. 2d 592, 602; *Van Bronkhorst v. Safeco Corp.* (9th Cir. 1976) 529 F.2d 943, 950.  
24 To ensure there is no “fraud, collusion or unfairness to the class,” class claims can only be settled  
25 through Court review and approval. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801. The  
26 trial court is required to determine whether the “settlement is fair, adequate and reasonable,” and has  
27 “broad discretion” in making this assessment. *Id.*

1           Following notice to the Class, the Court can now make a final determination regarding the  
2 fairness of the Settlement. In making this evaluation, courts consider and balance a number of  
3 factors, as described above, including: [T]he strength of plaintiffs’ case, the risk, expense,  
4 complexity and likely duration of further litigation, the risk of maintaining class action status  
5 through trial, the amount offered in settlement, the extent of discovery completed and the stage of  
6 the proceedings, the experience and views of counsel, the presence of a governmental participant,  
7 and the reaction of the class members to the proposed settlement. *Wershba v. Apple Computer, Inc.*  
8 (2001) 91 Cal.App.4th 224, 244–45 (quoting *Dunk v. Ford Motor Co.*, *supra*, 48 Cal.App.4th at  
9 1801).

10           A presumption of fairness exists when: (1) the parties reached a settlement through arm’s-  
11 length bargaining; (2) the parties conducted sufficient investigation and discovery to allow counsel  
12 and the Court to act intelligently; (3) counsel are experienced in similar litigation; and, (4) the  
13 percentage of objectors is small. *Dunk, supra*, 48 Cal.App.4th at 1802. In this case, both Plaintiffs  
14 and Defendant recognized that it was in its mutual interest to explore resolution. Defendant agreed,  
15 through both formal an informal discovery processes, to produce a significant amount of data to  
16 enable Plaintiffs to fully and fairly evaluate both liability and damages. Indeed, prior to and during  
17 the mediation and later settlement discussions/discovery, Defendant produced voluminous data,  
18 which Plaintiffs analyzed through dynamic spreadsheet calculations via Plaintiffs’ experts on  
19 multiple occasions. Those calculations were provided in Plaintiffs’ motion for preliminary approval  
20 and declarations in support thereof.

21           The Parties therefore had more than enough information to allow for a sufficient analysis of  
22 the likelihood of certification (and decertification), liability, and damages. Prior to attending two  
23 mediations and later settlement discussions, the Parties were aware of the strengths and weaknesses  
24 of their respective positions, and they addressed their respective positions at the lengthy mediation  
25 session and at further settlement discussions. It was only after the exchange of information and  
26 multiple rounds of arm’s-length demands and offers facilitated by the mediator, and further Court-  
27 requested amendments, that the parties finally reached their proposed Settlement. The amount is, of

1 course, a compromise figure, and takes into account risks related to liability, possible damage  
2 scenarios, and all defenses asserted by Defendant.

3       Should a Class Member not desire to participate in the Settlement, for whatever reason, the  
4 Parties provided for an “opt-out” procedure. This procedure allowed any Class Members who  
5 believed they had claims worth more than what the Settlement provides with an opportunity to  
6 pursue their individual claims. Moreover, in the event that a Class Member disagreed with the  
7 Settlement for any reason whatsoever, the Parties provided for an objection procedure. However, to  
8 date only 11 (eleven) Class Members have “opted out”, and 1 (one) Class Member has objected to  
9 final settlement approval. At all times during this litigation, the Parties were represented by  
10 competent and experienced counsel with decades of class action experience, who vigorously  
11 prosecuted their respective positions while seeking a cost-effective resolution to this Action. Counsel  
12 is confident that the Settlement is in the best interest of the Plaintiffs, and the Class, as it is fair,  
13 reasonable, and provides substantial relief which the Class would not be guaranteed, for numerous  
14 reasons, should litigation proceed.

#### 15 **V. THE CLASS REPRESENTATIVE SERVICE AWARDS ARE REASONABLE**

16       Pursuant to the terms of the Settlement, Class Counsel now seeks Service Awards of **\$45,000**  
17 (\$20,000 for Plaintiff Eric Gruber; and \$12,500 each for Class Representatives Jeremy Earls and  
18 Ever Gonzalez). (Amended Settlement Agreement §III.A.16)). Courts have routinely granted such  
19 enhancements. *Staton v. Boeing Co.*, 327 F.3d 938, 977 (9th Cir. 2003) (“[N]amed Plaintiffs . . . are  
20 eligible for reasonable incentive payments.”).

21       When considering whether to make an incentive award, courts consider the following factors:  
22 (1) the risk to the class representative in commencing suit, both financial and otherwise; (2) the  
23 notoriety and personal difficulties encountered by the class representative; (3) the amount of time  
24 and effort spent by the class representative; (4) the duration of the litigation; and (5) the personal  
25 benefit, or lack thereof, received by the class representative as a result of the litigation. *Van Vranken*  
26 *v. Atl. Richfield Co.*, 901 F. Supp. 294, 299 (N.D. Cal. 1995) (quotations and citation omitted).  
27



1 The typical enhancement award ranges from approximately \$5,000.00 to \$40,000.00,  
2 although some awards are higher, and commonly more than one class representative receives awards  
3 in the above range. *Mirkarimi v. Nev. Property 1, LLC*, No. 12cv2160 BTM (DHB), 2016 WL  
4 795878, at \*6 (S.D. Cal. Feb. 29, 2016) (finding a \$30,000.00 enhancement award is proper); *Chu v.*  
5 *Wells Fargo Inv., LLC*, Nos. C 05-4526 MHP, C 06-7924 MHP, 2011 WL 672645, at \*5 (N.D. Cal.  
6 Feb. 16, 2011) (awarding \$10,000.00 to two named plaintiffs, and \$4,000.00 to three named  
7 plaintiffs, and indicating that enhancement awards have ranged from \$5,000.00 to \$50,000.00); *see*  
8 *also Williams v. Centerplate, Inc.*, No 11-CV-2159 H-KSC, 12-cv-0008-H-KSC, 2013 WL 4525428,  
9 at \* (S.D. Cal. Aug. 26, 2013) (finding \$5,000.00 incentive awards to three named plaintiffs,  
10 representing 2.3% of the common fund, reasonable).

11 Here, the requested Class Representative Service Awards of \$45,000 (split between 3  
12 representatives) is reasonable and justified based on the significant risk, difficulties, time and effort  
13 the Class Representatives incurred in bringing this case on behalf of the Class, as well as the  
14 substantial benefits the resulting Settlement provides the Class. The requested award is nearer to the  
15 bottom of the range courts deem reasonable, and is justified because of the Class Representatives'  
16 involvement. The Class Representatives have made exceptional efforts to provide information,  
17 witnesses, and evidence to Plaintiffs' Counsel to achieve the excellent result described herein. The  
18 proposed Class Representative Enhancement Payments of \$45,000 total (split between 3 class  
19 representatives) represents only **0.3%** of the \$15,000,000 maximum settlement amount (\$45,000  
20 divided by \$15,000,000) and will not significantly reduce the awards of the Class Members. Plaintiff  
21 have requested a larger award for Mr. Gruber (\$20,000) than Mr. Earls and Mr. Gonzalez (\$12,500  
22 each) as he originated the case and has been participating in the litigation since 2016, while the other  
23 class representatives did not enter into the case until several years later, in 2022. Mr. Gruber  
24 therefore has significantly more time/effort into the case than the other class representatives  
25 (including by attending multiple mediations and assisting in additional discovery/motion work) (See  
26 Fisher Decl., **Exhibit 3 - Declarations of Eric Gruber, Jeremy Earls, and Ever Gonzalez ISO**  
27 **Motion for Final Approval of Class Settlement**).

1 Plaintiffs were the driving force behind this case. They initiated the respective claims,  
2 arranged for Plaintiffs' Counsel to obtain evidence through production/inspection of their call records  
3 over a period of several years, reviewed the pleadings/briefs, attended their own depositions, had  
4 numerous calls and meetings with counsel, responded to written discovery, attended one or more full  
5 days of mediation, and took personal and financial risk in coming forward (*see, e.g., Earley v. Sup.*  
6 *Ct.*, 79 Cal. App. 4th 1420, 1433 (2000) (representative risk an adverse award of costs). With the  
7 exception of Mr. Gruber, Plaintiffs know little about the legal system but provided and obtained  
8 additional information in support of their legal claims. Plaintiffs expressed fear that by participating  
9 in a class action lawsuit they might risk their current careers and/or future opportunities. Plaintiffs  
10 however stepped up and worked diligently in support of the case. Plaintiffs were subjected to a high  
11 degree of scrutiny by Defendant regarding their Yelp businesses and their personal privacy was at  
12 times invaded. Plaintiffs had numerous meetings and telephone conversations with Class Counsel to  
13 aid in the initial investigation, factual development, depositions (their own and Defendant's  
14 employees), mediation, and resolution of this case. In sum, the Settlement could never have been  
15 achieved without their service to the greater good on behalf of the Class that has resulted in a  
16 recovery for these small business owners (See Fisher Decl., **Exhibit 3 - Declarations of Eric**  
17 **Gruber, Jeremy Earls, and Ever Gonzalez ISO Motion for Final Approval of Class Settlement**).  
18 The Class Representatives also risked potential judgments against themselves if these matters were  
19 unsuccessful as a losing party is liable for the prevailing party's costs. *Earley v. Sup. Ct.* (2000) 79  
20 Cal.App.4th 1420, 1431-33. Additionally, Plaintiffs have protected the interests of Class Members  
21 during the pending of this matter, and will continue to do so.

## 22 **VI. THE PROPOSED ATTORNEYS' FEES AND COSTS ARE REASONABLE**

23 Under the terms of the Amended Settlement Agreement preliminarily approved by the Court,  
24 Class Counsel now moves for a Class Counsel Award of reasonable **attorneys' fees in the amount**  
25 **of \$5,000,000** (33.33% of the Gross Settlement Amount of \$15,000,000) (Amended Settlement  
26 Agreement §VIII.A). Class Counsel also seeks reimbursement of reasonable **costs incurred in the**  
27 **amount of \$274,195.19** (Fisher Decl., ¶16; Amended Settlement Agreement §VIII.A). These

1 amount falls well within the historical range of attorneys' fee awards, especially as Class Counsels'  
2 fees constitute one-third (1/3) of the total settlement value. The requested fee represents fair  
3 compensation for undertaking complex, risky, expensive, and time-consuming litigation on a  
4 contingent fee basis, especially in light of the substantial benefits achieved by Class Counsel for the  
5 Class Members. Plaintiffs' Counsel diligently litigated and investigated this case. Class Counsel has  
6 attached a detailed declaration justifying the award of fees and costs. (see generally, Fisher Decl.)

7 It has long been recognized that "a litigant or a lawyer who recovers a common fund for the  
8 benefit of persons other than himself or his client is entitled to a reasonable attorney's fee from the  
9 fund as a whole." *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980). The purpose of this doctrine  
10 is to avoid unjust enrichment and to spread litigation costs proportionately among all the  
11 beneficiaries. *Id.* This common fund doctrine is firmly rooted in American case law. *See, e.g.,*  
12 *Trustees v. Greenough*, 105 U.S. 527 (1882); *Central R. & Banking Co. v. Pettus*, 113 U.S. 116  
13 (1885); *Blum v. Stenson*, 465 U.S. 886, 900 n.16 (1984).

14 California courts have recognized that an appropriate method for awarding attorney's fees in  
15 class action cases like this is to award a percentage of the "common fund" created as a result of the  
16 settlement. *City & Cnty. of San Francisco v. Sweet* ("Sweet"), 12 Cal.4th 105, 110-11 (1995); *Quinn*  
17 *v. State*, 15 Cal.3d 162, 168 (1975). The basis of the common fund is fairness to the successful  
18 litigant who might otherwise receive no benefit because his recovery might be consumed by the  
19 expenses; correlative prevention of an unfair advantage to others who are entitled to share in the  
20 fund and who should bear their share of the burden of its recovery; and encouragement of the  
21 attorney, who will be more willing to undertake and diligently prosecute proper litigation for the  
22 protection or recovery of the fund if he is assured that he will be properly and directly compensated  
23 should his efforts be successful. *Sweet*, 12 Cal.4th 105, 111 (1995). In *Quinn v. State*, the California  
24 Supreme Court expressly recognized that "one who expends attorneys' fees in winning a suit which  
25 creates a fund from which others derive benefits may require those passive beneficiaries to bear a  
26 fair share of the litigation costs." 15 Cal.3d 162, 167 (1975). Similarly, in *Sweet*, the Court  
27 recognized that the common fund doctrine has been applied "consistently in California when an

1 action brought by one party creates a fund in which other persons are entitled to share.” 12 Cal.4th at  
2 110.

3 Several courts have expressed frustration with the alternative “lodestar” approach for  
4 deciding fee awards, which usually involves wading through voluminous and often indecipherable  
5 time records. *Lealao v. Beneficial Cal., Inc.*, 82 Cal. App. 4th 19, 31 n.5 (citing *In re Activision Sec.*  
6 *Litig.*, 723 F. Supp. 1373, 1375 (N.D. Cal 1989)). The percentage approach is preferable to the  
7 lodestar because it: (1) aligns the interests of class counsel and absent class members; (2) encourages  
8 efficient resolution of the litigation by providing an incentive for early, yet reasonable, settlement;  
9 and (3) reduces the demands on judicial resources. *In re Activision*, 723 F. Supp. at 1378-79. The  
10 Ninth Circuit now routinely uses the percentage of the common fund approach to determine the  
11 award of attorney’s fees. *Lealao*, 82 Cal. App. 4th at 30-31; *see e.g., In re Pacific Enters. Sec. Litig.*,  
12 47 F.3d 373, 378-79 (9th Cir. 1995) (approving attorney’s fee of 33%).

13 Class Counsels’ request for fees of one-third of the Gross Settlement Amount is well within  
14 the range of reasonableness. Historically, courts have awarded percentage fees between 20% and  
15 50%, depending on the circumstances of the case. *See In re Activision*, 723 F.Supp. at 1378.  
16 Awarding 33% of a common fund is neither unreasonable nor uncommon. California courts have  
17 frequently awarded attorneys’ fees in common fund cases equal to one-third of the gross recovery.  
18 *See, e.g., Lafitte v. Robert Half International Inc.* (2016) 1 Cal.5th 480 (approving one-third percent  
19 attorneys’ fee); *Chavez v. Netflix, Inc.*, 162 Cal.App.4th 43, 66 n.11 (1st Dist. 2008) (noting that fee  
20 of one-third gross settlement value is customary); *see also, e.g., In re M.D.C. Holdings Sec. Litig.*,  
21 1990 WL 454747, at \*7 (S.D. Cal. Aug. 30, 1990) (“In private contingent litigation, fee contracts  
22 have traditionally ranged between 30% and 40% of the total recovery.”).

23 Further, California courts recognize that a percentage fee “may be calculated on the basis of  
24 the total fund made available rather than the actual payment made to the class.” *Lealao*, 82  
25 Cal.App.4th at 51 (citing *Boeing Co. v. Van Gemert*, 444 U.S. 472 (1980); *Waters v. Intern.*  
26 *Precious Metals Corp.*, 190 F.3d 1291 (11th Cir. 1999); *Williams v. MGM-Pathe Commun’s. Co.*,  
27 129 F.3d 1026 (9th Cir. 1997)); *see also, e.g., Bergman v. Thelen LLP*, 2016 U.S. Dist. LEXIS  
170861, \*21-22 (N.D. Cal. Dec. 9, 2016) (“...Ninth Circuit precedent requires courts to award class

1 counsel fees based on the total benefits being made available to class members rather than the actual  
2 amount that is ultimately claimed.”) (citing *Williams*).

3 Class Counsel has borne, and continues to bear, the entire risk and cost of litigation  
4 associated with this class action on a pure contingency basis. The factual and legal issues posed  
5 in this case are highly disputed, and there also were risks whether a class would be certified,  
6 leaving a large number of putative class members unlikely to receive any recovery. While California  
7 courts recognize that the percentage method is superior to the lodestar method, they also recognize  
8 that the lodestar provides a useful “cross-check” in determining reasonableness of percentage fees  
9 sought. Here, the requested fee award of \$5,000,000 represents a multiplier of the lodestar to date of  
10 \$3,046,555 and a multiplier of 1.64 which is well within the range warranted under California law.

11 (see Fisher Decl., ¶ 14-15; **Exhibit 4 - NALFA 2020 Litigation Hourly Rate Range Growth;**  
12 **Exhibit 5 - Laffey Matrix; Exhibit 6 - National Law Journal Billing Survey 2017;** See also  
13 Declaration of Matthew S. Da Vega In Support of Plaintiff’s Motion for Final Approval of Class  
14 Settlement and Attorneys Fees and Costs, ¶¶ 14-15; Declaration of Ted Mechtenberg In Support of  
15 Plaintiff’s Motion for Final Approval of Class Settlement and Attorneys Fees and Costs ¶¶ 14-15;  
16 Declaration of Michael Jaurigue In Support of Plaintiff’s Motion for Final Approval of Class  
17 Settlement and Attorneys Fees and Costs ¶ 14; Declaration of Zareh Jaltorossian In Support of  
18 Plaintiff’s Motion for Final Approval of Class Settlement and Attorneys Fees and Costs  
19 (“Jaltorossian Decl.”) ¶ 5-7.) “Multipliers of 1 to 4 are commonly found to be appropriate in  
20 complex class action cases.” *Destefano v. Zynga, Inc.*, 2016 WL 537946, at \*21 (N.D. Cal. Feb. 11,  
21 2016) (quoting *Hopkins v. Stryker Sales Corp.*, 2013 WL 496358, at \*4 (N.D. Cal. Feb. 6, 2013));  
22 see *Vizcaino v. Microsoft Corp.*, 290 F.3d United States District Court Northern District 1043, 1051  
23 n.6 (9th Cir. 2002) (citing survey finding most multipliers range from 1.0 to 4.0). As a result, this  
24 Court should have no trouble concluding that an award is supported by the lodestar cross-check is  
25 fair and reasonable and is justified under California law. “[T]he lodestar method better accounts for  
26 the amount of work done, while the percentage of the fund method more accurately reflects the  
27 results achieved.” *Rawlings v. Prudential-Bache Properties, Inc.* (6th Cir. 1993) 9 F.3d 513, 516.

1 Plaintiffs further request that the fees be apportioned among Plaintiff's counsel as follows:  
 2 DFM (40%) = \$2,000,000; JLG (30%) = \$1,500,000; Zareh Jaltorossian affiliated entities (KP  
 3 Law/Dakessian Law, Ltd) (30%) = \$1,500,000.

4 DFM has incurred roughly 50% of the attorney hours/lodestar in this case, with JLG and  
 5 Zareh Jaltorossian (through his affiliated firms KP Law and Dakessian Law, Ltd.) incurring  
 6 approximately 25% of the remaining lodestar/hours each. However, this lodestar should be adjusted  
 7 to reflect additional considerations not reflected in these hours. JLG provided significant marketing,  
 8 staffing, and administration support services in connection with this case in addition to hourly  
 9 attorney work. Mr. Jaltorossian provided extraordinary appellate work in this case which included  
 10 reversing a summary judgment loss at the trial court level. He further obtained a published appellate  
 11 court decision of first impression holding that one-way recording a conversation without notice to  
 12 the caller violates CIPA. (see Fisher Decl., ¶ 15.) These achievements should be reflected in the  
 13 lodestar award. Plaintiffs therefore request a distribution of fees as set forth below:

<b>Firm Name</b>	<b>Lead Attorney</b>	<b>Firm Hours Incurred</b>	<b>Lodestar Amount</b>	<b>Requested Firm Fee</b>
<b>DAVEGA FISHER MECHTENBERG LLP</b>	Matthew H. Fisher	2154	\$1,533,842.50	\$2,000,000
<b>JAURIGUE LAW GROUP</b>	Michael Jaurigue	994.4	\$783,337.50	\$1,500,000
<b>KP LAW</b>	Zareh Jaltorossian	715	\$ 536,250	\$1,000,000
<b>DAKESSIAN LAW, LTD.<sup>2</sup></b>	Zareh Jaltorossian	257.50	\$193,125.00	\$500,000
<b>GRAND TOTAL</b>		4120.9	<b>\$3,046,555</b>	<b>\$5,000,000</b>

22  
 23 <sup>2</sup> Attorney Zareh Jaltorossian was originally associated into this action on or around June 29, 2018 as  
 24 an employee of Dakessian Law, Ltd. (See Notice of Association of counsel, filed June 29, 2018  
 25 Jaltorossian Decl ¶ 5). After working on the matter for a few years, Mr. Jaltorossian then departed  
 26 Dakessian Law for KP Law, which was associated into the case in or around March 3, 2021 (See  
 27 Notice of Association of Counsel, filed March 23, 2021; Jaltorossian Decl. ¶ 6-7.) On or around  
 December 28, Mr. Jaltorossian was appointed as co-class counsel as part of the Court's Preliminary  
 Approval Order. (Preliminary Approval Order, para. 5) Dakessian Law Ltd. may be properly be  
 awarded the fees sought, as it only seeks fees worked by approved class counsel Zareh Jaltorossian.  
 (Jaltorossian Decl. ¶ 5.)

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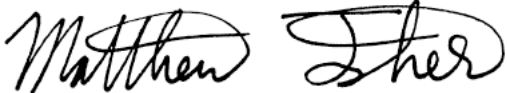
The Court should approve the requested attorneys’ fees and costs, which are justified by the results achieved, the complexity of the issues, the difficulty of the case, and the risk undertaken by Class Counsel. The requested attorneys’ fees and costs will not be opposed by Defendants and are well within established guidelines.

**VII. CONCLUSION**

For the reasons set forth above and in the accompanying papers, Plaintiffs respectfully requests that the Court grant Plaintiffs' unopposed Motion for Final Approval of the Class Settlement and sign the proposed Order and Judgment thereon. The Settlement is fair, adequate, and reasonable. It will result in substantial payments to Class Members; it is non-collusive; and it was achieved as the result of informed, extensive, and arm’s length negotiations conducted by counsel for respective Parties who are experienced in consumer and class action litigation.

Dated: March 15, 2024

**DAVEGA | FISHER | MECHTENBERG LLP**

By: 

Matthew H. Fisher  
Attorney for Plaintiffs

2 **PROOF OF SERVICE**

3 I am employed in the County of Los Angeles; I am over the age of eighteen years and am not a  
 4 party to the within action; and my business address is 300 West Glenoaks Boulevard, Suite 300,  
 Glendale, California 91202.

5 On **March 15, 2024**, I served the document(s) described as

6 **PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF**  
 7 **CLASS SETTLEMENT, CLASS REPRESENTATIVE SERVICE AWARDS, and**  
**ATTORNEYS FEES;**

8 on the party (or parties) in this action by delivering a true copy (or copies) addressed as follows:

<p>9 Brian A. Sutherland          10 Christine M. Morgan          11 Chris J. Pulido  <b>REED SMITH LLP</b>          12 101 Second Street, Ste 1800          San Francisco, CA 94105          BSutherland@ReedSmith.com          CMorgan@ReedSmith.com          CPulido@ReedSmith.com          QLa@reedsmith.com          CMosqueda@ReedSmith.com          15 <i>Attorney(s) for Defendant Yelp,</i>          16 <i>Inc.</i></p>	<p>Matthew S. Da Vega          Matthew H. Fisher  <b>DA VEGA FISHER</b>  <b>MECHTENBERG LLP</b>          232 East Anapamu Street          Santa Barbara, CA 93101          mfisher@mdmflaw.com          mdavega@mdmflaw.com    <i>Attorney(s) For Plaintiff</i>  <i>Eric Gruber</i></p>	<p>Zareh A. Jaltorossian  <b>KP LAW</b>          150 East Colorado Blvd.          Suite 206          Pasadena, CA 91105          zjaltorossian@kplitigators.com    <i>Attorney For Plaintiff</i>  <i>Eric Gruber</i></p>
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 18 **XXX BY ELECTRONIC MAIL:** I caused to be served by electronic transmission (e-mail) to  
 19 the parties and/or their attorney(s) of record stated above. The document(s) was/were  
 20 transmitted by electronic transmission. The transmission was reported as complete and  
 without error.

21 I declare under penalty of perjury under the laws of the State of California and the United States  
 22 that the foregoing is true and correct. Executed on **March 15, 2024** at Glendale, California.

23  
 24 

25 Parker Swanson