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13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**
15 **SAN JOSE DIVISION**

16 YULIANA CAMACHO, on behalf of
17 herself and all others similarly situated,

18 Plaintiff,

19 v.

20 ALLIANT CREDIT UNION,

21 Defendant.

Case No.: 5:22-CV-01690-BLF

Hon. Beth Labson Freeman

**PLAINTIFF'S NOTICE OF MOTION
AND UNOPPOSED MOTION FOR
PRELIMINARY SETTLEMENT
APPROVAL**

Hearing Date: April 11, 2024

Hearing Time: 9:00 A.M.

Courtroom: 3, 5th Floor

NOTICE OF MOTION AND UNOPPOSED MOTION

PLEASE TAKE NOTICE that on April 11, 2024, at 9:00 a.m., or as soon thereafter as the matter may be heard, in the above-named Court, located at 280 South 1st Street, San Jose, CA 95115, the Honorable Beth Labson Freeman presiding, Plaintiff Yuliana Camacho, individually and as class representative on behalf of the Class, will, and hereby, does move for the following relief with respect to the Settlement Agreement and Release with Defendant Alliant Credit Union (“Alliant”):

1. That the Court certify, for settlement purposes only, the settlement class under Federal Rule of Civil Procedure 23(a) and (b)(3);
2. That the Court appoint Plaintiff Yuliana Camacho as Class Representative;
3. That the Court appoint Plaintiff’s attorneys as Class Counsel;
4. That the Court grant preliminary approval of the Settlement;
5. That the Court approve mailing to the Class Members the proposed Class Notice;
6. That the Court appoint RG2 Claims Administration LLC as the Settlement Administrator; and
7. That the Court schedule a hearing for final approval of the Settlement.

This Motion is made on the grounds that the Settlement is the product of arms-length, good-faith negotiations; is fair, reasonable, and adequate to the Class; and should be preliminarily approved, as discussed in the attached memorandum.

This Motion is based on: this notice; the following memorandum in support of the Motion; the Declaration of Thomas A. Saenz and attached Settlement Agreement and Release; the Court’s record of this action; all matters of which the Court may take notice; and oral and documentary evidence presented at the hearing on the Motion. Alliant does not oppose this Motion.

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MEMORANDUM IN SUPPORT OF UNOPPOSED MOTION

I. INTRODUCTION

The class action Settlement Agreement and Release (“Settlement” or “Settlement Agreement”) now before the Court is the product of more than one year of direct discussions and negotiations between the Parties regarding the legal issues raised in this case and following motion practice, the merits of Plaintiff’s claims, the accurate identification of proposed settlement class members, and the alleged potential damages.¹

The Settlement, which was the result of arms-length and good faith negotiations conducted through direct communications between counsel, provides a cash Settlement Fund of \$86,750 for the 95 members of the proposed settlement Classes (\$2,500 per California Class Member; \$250 per National Class Member). The Settlement represents a recovery of more than half of the statutory damages for Plaintiff’s California claims and the Individual Settlement Payments will be distributed to the Class Members without need for them to complete a claim form or take any additional steps such as submitting documentation. In addition to monetary relief, the Settlement provides corrective action. Alliant has agreed to update its underwriting policies as appropriate to provide that applicants shall not be denied consumer credit products solely on the basis of their immigration status, eliminating the harm alleged in the Complaint for all future applicants.

For the reasons set forth below, the Settlement represents an excellent result for the Classes in this litigation and satisfies the requirements of Rule 23 and Ninth Circuit precedent. *See Roes, I-2 v. SFBSM Mgmt., LLC*, 944 F.3d 1035, 1060 (9th Cir. 2019). The Parties have engaged in good-faith, arms-length settlement negotiations, including confirmatory discovery. Therefore, Plaintiff respectfully requests this Court grant preliminary approval of the Settlement. Granting preliminary approval will allow notice of the Settlement to be distributed to the Class Members to let them object, or opt-out, and for a hearing to be scheduled to consider whether to grant final approval.

¹ The Settlement Agreement is attached as Exhibit A to the Declaration of Thomas A. Saenz in Support of Plaintiff’s Unopposed Motion for Preliminary Settlement Approval (“Saenz Decl.”). Capitalized terms not defined here shall have the meanings as defined in the Settlement Agreement.

II. FACTUAL AND PROCEDURAL BACKGROUND

1 Plaintiff Yuliana Camacho is a resident of Salinas, California. Since 2012, Plaintiff has
2 been a recipient of Deferred Action for Childhood Arrivals (“DACA”). As a DACA recipient,
3 Plaintiff is authorized to work in the United States and has a “work only” Social Security Number.
4 In October 2021, Plaintiff applied for an automobile loan from Defendant Alliant Credit Union
5 (“Alliant”). Plaintiff was instructed that she must upload either I-797 and I-94 forms if she was a
6 visa holder, a permanent resident card, or a naturalization certificate. Plaintiff informed Alliant
7 that she did not have the requested documentation because she is a DACA recipient. Alliant denied
8 Plaintiff’s application and sent an adverse action notice indicating that Plaintiff’s “Residency
9 Status” was the principal reason for the credit denial.
10

11 On March 16, 2022, Plaintiff filed a putative class action complaint in this Court against
12 Alliant, alleging claims for alienage discrimination in violation of the Civil Rights Act of 1966, 42
13 U.S.C. § 1981 (“Section 1981”), and the California Unruh Civil Rights Act, California Civil Code
14 §§ 51, *et seq.* (the “Unruh Act”). Compl., ECF No. 1. Plaintiff alleges that Alliant has a policy of
15 denying applicants for consumer credit products based on their immigration status (the “Challenged
16 Practice”). *Id.*

17 On August 22, 2022, Alliant filed a motion to dismiss the Complaint under Federal Rule of
18 Civil Procedure 12(b)(6). ECF No. 35. After hearing oral argument on December 15, 2022, the
19 Court denied Alliant’s motion to dismiss. ECF No. 49. Alliant filed its answer and affirmative
20 defenses on January 24, 2023. ECF No. 50.

21 Since the time Alliant filed its motion to dismiss, the Parties have engaged in ongoing good
22 faith negotiations to resolve the claims alleged in the Complaint, ultimately resulting in an
23 agreement in principle to settle this action. On August 29, 2023, the Parties filed a joint notice of
24 settlement. ECF No. 52.

III. PROPOSED SETTLEMENT

A. The Settlement Class

27 For settlement purposes only and consistent with the Parties’ Settlement, Plaintiff seeks
28 certification of the following Settlement Classes, defined as: (i) the “California Class,” consisting

1 of 28 individuals who, according to Alliant’s records, were residing or residing as a matter of law
2 in California and applied for a consumer credit product with Alliant from March 16, 2020 through
3 July 31, 2023, were denied their application because of their immigration or residency status at the
4 time they applied, and whose valid, unexpired immigration status at the time they applied was either
5 DACA recipient, H4 visa holder (applying without the corresponding H1-B, H-2B, or H3 visa
6 holder to which it is dependent, or asylum applicant; and (ii) the “National Class,” consisting of 67
7 individuals who, according to Alliant’s records, were residing or residing as a matter of law in any
8 state of the United States other than California and applied for a consumer credit product with
9 Alliant from March 16, 2020 through July 31, 2023, were denied their application because of their
10 immigration or residency status at the time they applied, and whose valid, unexpired immigration
11 status at the time they applied was either DACA recipient, H4 visa holder (applying without the
12 corresponding H1-B, H-2B, or H3 visa holder to which it is dependent, or asylum applicant.
13 Settlement §§ 1(d) and 1(s).

14 **B. Settlement Overview**

15 The Settlement provides two important forms of relief for Class Members: (1) corrective
16 action under which Alliant will not deny consumer credit product applications based solely on an
17 applicant’s immigration status, unless required by law, rules, or regulations to do so, and will amend
18 its underwriting criteria accordingly, *id.*, § 11; and (2) Defendant will pay \$86,750 to be used for
19 individual payments by check made payable to each Class Member (the “Settlement Fund”) to
20 compensate Class Members for the alleged statutory violations and harm suffered, *id* §§ 1(o), 1(w)
21 and 10.

22 **1. Corrective Action**

23 The Settlement provides for comprehensive corrective action to Alliant’s underwriting
24 criteria to eliminate any present or future risk of the Challenged Practice. Specifically, Alliant
25 agrees that it has ceased the Challenged Practice, and agrees that it will not deny consumer credit
26 product applications based solely on an applicant’s immigration status, unless required by law, rule,
27 or regulation. *Id.* § 11
28

1 **2. Monetary Relief**

2 Alliant agrees to create a \$86,750 Settlement Fund that will be used to make individual
3 payments in the amount of \$2,500 by check to each California Class Member, and individual
4 payments in the amount of \$250 by check to each National Class Member. *Id.* § 1(o). The
5 Settlement Fund will be paid to Class Members; Alliant will separately pay the costs of
6 administration; court approved attorneys' fees and costs; and incentive award.

7 **C. Distribution to Class Members**

8 The Settlement does not require class members to submit a claim or take any action to claim
9 the monies they are entitled to under the Settlement. *Id.* § 10(a). Rather, payments will be made
10 to Class Members by check payable to the Class Member and mailed to the Class Member's last
11 known address. *Id.* Addresses will be updated by the Claims Administrator through skip-trace or
12 other means.

13 **D. Cy Pres Distribution of any Unclaimed Settlement Funds**

14 If any checks mailed to Class Members remain uncashed for 150 days after the checks are
15 sent ("Unclaimed Settlement Funds"), those funds do not revert to Alliant. *Id.* § 12. Instead, any
16 Unclaimed Settlement Funds will be paid to Immigrants Rising, if approved by the Court, as a *cy*
17 *pres* award. *Id.* Immigrants Rising is a non-profit organization that provides scholarships and
18 financial resources to undocumented immigrants and, specifically, DACA recipients. *See*
19 <http://immigrantsrising.org>.

20 **E. Notice to Class Members**

21 The Settlement includes proposed English and Spanish language short form and long form
22 notices to the class members that inform them of the terms of the Settlement and their rights to
23 object to, or opt-out of, the Settlement, or to do nothing and receive the benefits of the Settlement
24 and be bound by it. *Id.*, Exs. 1-2. All Class Members will receive notice by mail, sent to the best
25 available mailing address for each Class Member, updated as appropriate by running the Class
26 Member's name through the National Change of Address Registry. Settlement § 4(b). For all
27 notices that are returned as undeliverable, the Settlement Administrator will use standard skip
28 tracing devices to obtain forwarding address information and re-mail the notice. *Id.* A website will

1 also be established to provide Class Members with additional information relating to the Settlement.

2 *Id.* § 5(g).

3 **F. Attorneys’ Fees and Expenses, Settlement Administrator’s Costs,**
4 **and Class Representative Service Award**

5 Attorneys’ fees, cost of litigation and the cost of Notice and Administration shall be paid
6 by Alliant in addition to the payments to Class Members. These expenses will be paid separate and
7 apart from the Settlement Fund. Class Counsel will file a motion seeking approval for its attorneys’
8 fees and costs. *Id.* § 8. Alliant will not oppose an application for attorneys’ fees of up to \$50,000.
9 *Id.* § 10(c)(ii). Further, Class Counsel estimated fees will not exceed \$50,000. This estimate of
10 attorneys’ fees encompasses any work conducted by Class Counsel prior to settlement, and any
11 future work conducted following the Court’s order granting preliminary approval, including but
12 not limited to: answering questions from Class Members; reviewing documentation; drafting and
13 submitting a motion for attorneys’ fees and cost, and a motion for final approval.

14 Class Counsel will also file a motion requesting that the Court approve a payment of the
15 Settlement Administrator’s costs. The Settlement Administrator shall be RG2 Claims
16 Administration, LLC. A copy of the Administrator’s brochure detailing its experience and services
17 is attached to the Saenz Declaration as Ex. B.

18 Class Counsel shall also apply for a Service Award for the Named Plaintiff of up to \$5,000
19 in recognition of her efforts in this case that have resulted in a benefit to all of the Class Members.
20 *Id.* § 10(b)(i).

21 **IV. ARGUMENT**

22 “Where, as here, parties reach an agreement before class certification, ‘courts must peruse
23 the proposed compromise to ratify both the propriety of the certification and the fairness of the
24 settlement.’” *Uschold v. NSMG Shared Servs., LLC*, 333 F.R.D. 157, 166 (N.D. Cal. 2019)
25 (quoting *Staton v. Boeing Co.*, 327 F.3d 938, 952 (9th Cir. 2003)). Thus, the court must make two
26 determinations at the preliminary approval stage: first, the court must determine that the settlement
27 class meets the requirements for class certification, Fed. R. Civ. P. 23(a), (b); second, the court
28 must determine on a preliminary basis that the settlement is fair, reasonable, and adequate such that

1 notice should be sent to the proposed class, Fed. R. Civ. P. 23(e)(2). *See Hanlon v. Chrysler Corp.*,
2 150 F.3d 1011, 1025-26 (9th Cir. 1998), *overruled on other grounds by Wal-Mart Stores, Inc. v.*
3 *Dukes*, 564 U.S. 338, 338 (2011).

4 **A. Certification of the Class is Proper Under Rule 23**

5 “The validity of use of a temporary settlement class is not usually questioned.” ALBA
6 CONTE & HERBERT B. NEWBERG, 4 NEWBERG ON CLASS ACTIONS § 11:22 (4th ed. 2002). For
7 settlement purposes here, the Parties agree to certify the proposed Classes. Additionally, the
8 relevant factors under Rule 23 weigh in favor of certification.

9 **1. Rule 23(a) is Satisfied**

10 First, numerosity is satisfied because joinder of the Class Members would be impractical.
11 Fed. R. Civ. P. 23(a)(1). Alliant’s records identify 95 individual applicants who applied for
12 consumer credit products and were denied based on their immigration status during the class period.
13 *See Nelson v. Avon Prod., Inc.*, No. 13-CV-02276-BLF, 2015 WL 1778326, at *5 (N.D. Cal. Apr.
14 17, 2015) (“Courts have repeatedly held that classes comprised of ‘more than forty’ members
15 presumptively satisfy the numerosity requirement.”).

16 Second, commonality is satisfied because “there are questions of law or fact common to the
17 class.” Fed. R. Civ. P. 23(a)(2). When determining whether commonality is met, the Supreme
18 Court has instructed that the focus is on whether there are common issues of fact among class
19 members and whether class treatment will “generate common answers apt to drive the resolution
20 of the litigation.” *Abdullah v. U.S. Sec’y Assocs.*, 731 F.3d 952, 957 (9th Cir. 2013) (citing *Wal-*
21 *Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011)). Here, common issues include whether
22 Alliant’s Challenged Practice at the time Plaintiff applied for a consumer credit product (i.e., an
23 auto-loan) denied Plaintiff and Class Members the opportunity to receive consumer credit products
24 on the basis of their immigration status, and whether Alliant violated Section 1981 or the Unruh
25 Act. *See Stevens v. Harper*, 213 F.R.D. 358, 377 (E.D. Cal. 2002) (in the civil rights context,
26 “commonality is satisfied where the lawsuit challenges a system-wide practice or policy that affects
27 all of the putative class members.”).

28 Third, typicality is satisfied because the “claims or defenses of the representative parties are

1 typical of the claims or defenses of the class.” Fed. R. Civ. P. 23(a)(3). “Under the rule's permissive
2 standards, representative claims are ‘typical’ if they are reasonably co-extensive with those of
3 absent class members; they need not be substantially identical.” *Castillo v. Bank of Am., NA*, 980
4 F.3d 723, 729 (9th Cir. 2020) (quotation marks omitted). Here, Plaintiff’s claims are typical of the
5 Classes she seeks to represent because she alleges that: (1) she was legally residing in the United
6 States as a DACA recipient, (2) she applied for a consumer credit product at Alliant in 2021, (3)
7 using a “work only” Social Security Number, and (4) her application was denied based on her
8 immigration status.

9 Fourth, Plaintiff is an adequate class representative because she has and will adequately
10 protect the interests of the Classes. Fed. R. Civ. P. 23(a)(4). The adequacy requirement is met
11 where a class representative “possess[es] the same interests and suffer[s] the same injury as the
12 class members.” *Amchem Prod., Inc. v. Windsor*, 521 U.S. 591, 625-26 (1997) (quotation marks
13 omitted). Here, Plaintiff has the same interests as other Class Members and has shown that she can
14 fairly and adequately protect Class Member’s interests. Like all Class Members, Plaintiff was
15 denied her consumer credit product application by Alliant because she is not a U.S. citizen. Plaintiff
16 has no conflicts of interest with the Class Members, and Class Members stand to benefit
17 substantially from Plaintiff’s pursuit of damages on their behalf.

18 Additionally, Plaintiff is represented by adequate counsel. The Mexican American Legal
19 Defense and Educational Fund (“MALDEF”) has extensive experience litigating complex civil
20 rights class actions and Class Counsel has vigorously prosecuted this action on behalf of Plaintiff
21 and have engaged in extensive settlement negotiations with Alliant. For these reasons, Class
22 Counsel satisfies the adequacy requirement of Rule 23(a).

23 **2. Rule 23(b)(3) is Satisfied**

24 Rule 23(b)(3) requires that common questions predominate over individual ones and a class
25 action is superior to other available methods for adjudicating the controversy. Fed. R. Civ. P.
26 23(b)(3). Both requirements are met here.

27 Here, the Class is sufficiently cohesive to satisfy predominance. *Amchem*, 521 U.S. at 623.
28 Predominance does not require “that each element of [a plaintiff’s] claim [is] susceptible to

1 classwide proof.” *Amgen Inc. v. Conn. Ret. Plans & Tr. Funds*, 568 U.S. 455, 469 (2013) (quotation
2 marks omitted). Rather, the “predominance inquiry asks whether the common, aggregation-
3 enabling, issues in the case are more prevalent or important than the non-common, aggregation-
4 defeating, individual issues.” *Amchem*, 521 U.S. at 626 (quotation marks omitted). Plaintiff
5 challenges Alliant’s consumer credit product underwriting criteria and policies that apply to all
6 Class Members. Common questions as to their nature and legality can be adjudicated collectively
7 and will drive the resolution of class claims. *See Ellis v. Costco Wholesale Corp.*, 285 F.R.D. 492,
8 509 (N.D. Cal. 2012) (predominance is satisfied as to discrimination claims where plaintiffs
9 challenged “specific employment practices” that applied “companywide”).

10 Whether Rule 23’s superiority factor is met rests on factors like individual class members’
11 desire to bring individual actions and the utility of concentrating the litigation in one forum. Fed.
12 R. Civ. P. 23(b)(3). Here, “there is no indication[] that class members seek to individually control
13 their cases, that individual litigation is already pending in other forums, or that this particular forum
14 is undesirable for any reason.” *Tierno v. Rite Aid Corp.*, No. C 05-02520 TEH, 2006 WL 2535056,
15 at *11 (N.D. Cal. Aug. 31, 2006). Because the class mechanism will achieve economies of scale
16 for Class Members, conserve judicial resources, and preserve public confidence in the system by
17 avoiding repetitive proceedings and preventing inconsistent adjudications, superiority is met.

18 **3. Plaintiff’s Counsel Should Be Appointed as Class Counsel**

19 Adequacy of class counsel depends on (1) work performed on the matter, (2) experience,
20 (3) knowledge of the law, and (4) resources that counsel can commit. Fed. R. Civ. P. 23(g)(1)(A).
21 Class Counsel readily satisfy these criteria, as set forth above, and as demonstrated by activity in
22 this case to date.

23 **B. The Settlement is Fair, Adequate, and Reasonable**

24 Once the Court has found class certification is proper, it must determine if the settlement is
25 “fundamentally fair, adequate, and reasonable.” *Hanlon*, 150 F.3d at 1026. In deciding whether to
26 grant preliminary approval of a settlement, courts “put a good deal of stock in the product of an
27 arms-length, non-collusive, negotiated resolution[.]” *Rodriguez v. W. Publ’g Corp.*, 563 F.3d 948,
28 965 (9th Cir. 2009). Courts may consider and balance a number of other factors, such as: “[1] the

1 strength of the plaintiffs’ case; [2] the risk, expense, complexity, and likely duration of further
2 litigation; [3] the risk of maintaining class action status throughout the trial; [4] the amount offered
3 in settlement; the extent of discovery completed . . . [and] [5] the experience and views of
4 counsel[.]” *Hanlon*, 150 F.3d at 1026 (considering other factors not relevant here).

5 Here, the weight of factors demonstrates that the Settlement is fair, adequate, and
6 reasonable. This is for four principal reasons.

7 *First*, Plaintiff faces substantial obstacles to full recovery, and defendant liability is not
8 guaranteed. Plaintiff’s claims for discrimination on behalf of DACA recipients with “work only”
9 Social Security Numbers present a relatively novel theory with numerous unsettled issues—*e.g.*,
10 whether immigration-status discrimination is cognizable under § 1981; whether the evidence would
11 support an argument that Alliant’s Challenged Practice was a pre-text for alienage discrimination,
12 etc. Further, the National Class may face challenges demonstrating actual damages that can be
13 calculated and proved on a class-wide basis. This Settlement mitigates these risks posed to the
14 Class Members.

15 *Second*, the monetary and corrective action relief provide substantial value for Class
16 Members. California Class Members will receive individual payments of \$2,500, which amounts
17 to 62.5% of the \$4,000 statutory damages available under the Unruh Act for each discriminatory
18 act. Cal. Civil Code § 52(a). National Class Members, who must demonstrate actual damages
19 resulting from the Challenged Practice, will receive individual payments of \$250. This is an
20 excellent result for the Class Members. *See In re Heritage Bond Litig.*, No. 02-ML-1475 DT, 2005
21 WL 1594403, at *19 (C.D. Cal. June 10, 2005) (recovery of 36% of total net loss is an “exceptional
22 result”). Similarly, the Settlement provides prospective corrective action intended to eliminate the
23 allegedly discriminatory practices. This corrective action relief represents the *maximum* degree of
24 prospective relief available under the circumstances.

25 *Third*, the Settlement was reached as the result of lengthy, thorough, arms-length
26 negotiations. Saenz Decl. ¶¶ 12-14. Specifically, the Parties, through counsel: exchanged informal
27 discovery, including credit application and records, copies of policies and procedures, and records
28 regarding Alliant’s membership base, to assess the merits of Plaintiff’s discrimination claims and

1 the number of potentially affected Class Members. Following this exchange of discovery, and an
2 evaluation of the terms of court-approved class action settlements in similar cases filed by Class
3 Counsel against several banks, the parties negotiated the terms of the Settlement, including the
4 payments to individual Class Members and Alliant's obligation to pay for attorneys' fees, the cost
5 of an incentive award and the cost of administration in addition to the payments to Class Members.

6 *Id.*

7 Overall, the Parties exchanged multiple offers and counter-offers over this period until a
8 settlement in principle was reached. *Id.* Class Counsel initially demanded full payment of the
9 potential damages for each class member. However, because of potential defenses to Class Member
10 Claims, including through the development of discovery demonstrating non-discriminatory factors
11 considered in Alliant's underwriting process, the Parties eventually agreed to payments to each
12 class member of just over 50% of statutory damages, along with a commitment by Alliant to modify
13 its underwriting criteria. The Parties also negotiated the source of funds to pay for Class Counsel's
14 fees and costs, a Service Award and the costs to implement the Settlement. The Court should take
15 note that the parties *did not* negotiate the amount of Class Counsel's fees and costs as part of the
16 settlement; they only negotiated the source of funds for the payment of fees and costs and the other
17 costs associated with the Settlement. Alliant demanded payment of all costs from the Settlement
18 Fund but eventually agreed to pay the costs *in addition to* the Settlement Fund. Alliant reserved
19 the right to object to Class Counsel's fees. The Parties eventually agreed that Class Counsel should
20 have "clear sailing" up to \$50,000. Again, Alliant has no knowledge of the actual amount of Class
21 Counsel's fees and costs.

22 *Fourth* and finally, the terms of the Settlement are comparable to the settlements approved
23 by the Northern District of California in class action cases filed against Sofi and Wells Fargo.

24 Ultimately, this Settlement represents an excellent result for the Class Members. It is the
25 product of arms-length negotiations conducted over a period of months. There was no collusion or
26 self-dealing. Accordingly, the Settlement is fair, adequate, and reasonable.

27
28

1 **C. The Proposed Incentive Award is Fair, Adequate and Reasonable.**

2 Class Counsel will apply for an “Incentive Award” of \$5,000 for the services performed
3 by Plaintiff Camacho. An incentive award is permitted in the Ninth Circuit based on the services
4 performed and time spent by the Named Plaintiff. *See Staton*, 327 F.3d at 977.

5 Here, an incentive award of \$5,000 is reasonable to compensate Plaintiff for her time and
6 effort assisting Class Counsel to prosecute the claims of the Class Members and negotiate a
7 settlement on behalf of the Classes. The proposed incentive award is within the range approved by
8 courts in the Ninth Circuit and this District, where “a \$5,000 payment is presumptively reasonable.”
9 *Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 266 (N.D. Cal. 2015) (collecting cases).

10 Further, Plaintiff faced heightened risk in bringing this action based on her lack of
11 permanent immigration status, which makes her an attractive target for harassment and vulnerable
12 to potential immigration consequences. Incentive payments are “intended to compensate class
13 representatives for work done on behalf of the class, to make up for financial or reputational risk
14 undertaken in bringing the action, and, sometimes, to recognize their willingness to act as a private
15 attorney general.” *Rodriguez*, 563 F.3d at 948–59; *see also Cook v. Niedert*, 142 F.3d 1004, 1016
16 (7th Cir. 1998) (“Because a named plaintiff is an essential ingredient of any class action, an
17 incentive award is appropriate if it necessary to induce an individual to participate in the suit.”).
18 Plaintiff had several telephone conversations and email communications with Class Counsel,
19 provided documents, and provided background information. By bringing this action, Plaintiff
20 placed herself at risk by publicizing her immigration status and revealing personal information.
21 Therefore, without Plaintiff’s participation, Class Counsel would not have been able to bring this
22 action and achieve an exceptional result for the Classes.

23 **D. The Proposed Notice is Clear and Adequate**

24 Rule 23(c)(2) requires that class notice be the “best notice practicable under the
25 circumstances, including individual notice to all members who can be identified through reasonable
26 effort.” Fed. R. Civ. P. 23(c)(2)(B). “Notice is satisfactory if it ‘generally describes the terms of
27 the settlement in sufficient detail to alert those with adverse viewpoints to investigate and to come
28 forward and be heard.’” *Churchill Vill., L.L.C. v. Gen. Elec.*, 361 F.3d 566, 575 (9th Cir. 2004)

1 (citation omitted).

2 Here, the proposed long and short form notices are easily understandable and include: (1)
3 pertinent details about the case, including the nature of Plaintiff's claims; (2) the definition and
4 scope of the proposed Classes; (3) contact information for Class Counsel to answer questions; (4)
5 the address for a website and telephone line maintained by the Settlement Administrator for Class
6 Members to obtain important case documents and information; (5) instructions to file an objection
7 or opt out of the Classes; and (6) the date, time, and location of the fairness hearing. Settlement,
8 Exs. 1-2. Furthermore, the notice will be sent directly by mail to the individual Class Members
9 identified in Alliant's records. *Id.* § 4. To ensure notice is mailed to the best available address, the
10 Settlement Administrator will run the names and addresses of the Class Members through the
11 National Change of Address Registry. *Id.* § 4(b). In the event notice is returned undeliverable, the
12 Settlement Administrator will use standard skip tracing devices to obtain forwarding address
13 information. *Id.* Finally, given that some Class Members may only understand Spanish, the notice
14 will be sent in both Spanish and English. *Id.* And, it will provide that questions be directed to
15 MALDEF attorneys who are experienced dealing with bilingual and non-English speaking clients.

16 **E. The Court Should Approve Class Counsel's Proposed *Cy Pres***
17 **Recipient.**

18 Given the size of the individual awards in this case, the Parties do not anticipate there will
19 be significant, if any, unclaimed funds. In the event there are unclaimed funds, Class Counsel
20 proposes Immigrants Rising as the *cy pres* recipient. Immigrants Rising provides financial and
21 other resources to immigrants, especially DACA recipients. As such, there is a nexus between the
22 work of Immigrants Rising and the subject matter of this lawsuit—alleged financial discrimination
23 against non-citizens. *See In re Easysaver Rewards Litig.*, 906 F.3d 747, 761–62 (9th Cir. 2018) (*cy*
24 *pres* recipients should be selected in light of the objectives of the underlying statute and the interest
25 of the class). Also, although Immigrants Rising is a California organization, it provides its services
26 and resources nationally, thus equally affecting where members of the California Class and
27 National Class are located.

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1 **V. A FINAL APPROVAL HEARING SHOULD BE SCHEDULED**

2 Based on the deadlines set forth in the Settlement and Plaintiff's proposed order granting
3 preliminary approval, in consultation with Alliant, Plaintiff proposes the following schedule for
4 finalizing and implementing the Settlement:

5 Preliminary Approval Hearing	April 11, 2024
6 Preliminary Approval Order*	April 18, 2024
7 Deadline for the Settlement Administrator to mail notice and for Settlement Website to go live	May 20, 2024
8 Bar Date to Opt Out or Object	June 19, 2024
9 Deadline to file Motion for Final Approval and Motion for Award of Fees, Costs, and Service Award	July 5, 2024
10 Final Approval Hearing	August 8, 2024
11 Final Approval Order*	August 15, 2024
12 Deadline for Alliant to transfer the Settlement Fund, amount awarded to Class Counsel for attorneys' fees and costs, any service award authorized by the Court, and fees and costs payable to the Settlement Administrator	August 26, 2024
13 Effective Date (assuming no appeals)*	September 16, 2024
14 Settlement Administrator to pay amount awarded to Class Counsel for attorneys' fees and costs, any service award authorized by the Court, and Individual Settlement Payments	September 26, 2024

15 *Assumed dates for purposes of calculating subsequent dates.

16 **VI. CONCLUSION**

17 For the foregoing reasons, Plaintiff respectfully requests that the Court: (1) certify, for
18 settlement purposes only, the settlement classes under Federal Rules of Civil Procedure 23(a) and
19 23(b)(3); (2) grant preliminary approval of the Settlement; (3) appoint Plaintiff Yuliana Camacho
20 as Class Representative, her counsel MALDEF as Class Counsel, and RG2 Claims Administration
21 LLC as Settlement Administrator; (4) approve mailing to the Class Members the Proposed Notice,
22 and the establishment of a settlement website; and (5) schedule a hearing for final approval of the

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Settlement after entry of the Preliminary Approval Order.

Dated: October 30, 2023

Respectfully submitted,

/s/ Thomas A. Saenz

Thomas A. Saenz (Cal. Bar No. 159430)

Luis Lozada (Cal. Bar No. 344357)

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