

1 Adam E. Polk (SBN 273000)  
Simon Grille (SBN 294914)  
2 Trevor T. Tan (SBN 280145)  
3 Reid Gaa (SBN 330141)  
**GIRARD SHARP LLP**  
4 601 California Street, Suite 1400  
San Francisco, CA 94108  
5 Telephone: (415) 981-4800  
Facsimile: (415) 981-4846  
6 apolk@girardsharp.com  
7 sgrille@girardsharp.com  
ttan@girardsharp.com  
8 rgaa@girardsharp.com

9 *Attorneys for Plaintiffs*

10  
11 **UNITED STATES DISTRICT COURT**  
12 **NORTHERN DISTRICT OF CALIFORNIA**

13 BRAYDEN STARK, JUDD OOSTYEN,  
14 ISAAC BELENKIY, VALERIE BURTON,  
15 LAURA GOODFIELD and, DENOVIAS  
16 MACK, individually and on behalf of all others  
similarly situated,

17 Plaintiffs,

18 v.

19 PATREON, INC.,

20 Defendant.

Case No. 3:22-cv-03131-JCS

**PLAINTIFFS’ NOTICE OF MOTION AND  
MOTION FOR PRELIMINARY APPROVAL  
OF CLASS ACTION SETTLEMENT, AND  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT THEREOF**

Judge: Hon. Joseph C. Spero  
Date: September 11, 2024  
Time: 9:30 am  
Courtroom: Courtroom D – 15th Floor

**TABLE OF CONTENTS**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

I. INTRODUCTION .....1

II. STATEMENT OF THE ISSUE TO BE DECIDED.....2

III. FACTUAL AND PROCEDURAL BACKGROUND.....2

    A. Plaintiffs’ Allegations .....2

    B. Patreon’s Challenges to Plaintiffs’ Complaints. ....2

    C. Fact and Expert Discovery.....3

    D. Summary Judgment and Class Certification.....3

    E. The Settlement Negotiations.....4

IV. SUMMARY OF SETTLEMENT TERMS.....4

    A. The Class.....4

    B. Settlement Consideration. ....5

    C. Distribution of Settlement Fund. ....5

    D. Class Notice and CAFA Notice. ....7

    E. Release of Claims. ....7

    F. Attorneys’ Fees and Expenses, and Service Awards for the Class  
    Representatives. ....7

    G. The Claims Administrator. ....8

V. ARGUMENT.....9

    A. The Settlement is Fair, Reasonable, and Adequate. ....9

        1. The Proposed Settlement Is the Product of Arm’s Length Negotiations  
        Among Experienced Counsel. ....10

        2. The Settlement Treats All Class Members Equitably.....11

        3. The Relief Under the Proposed Settlement is Adequate.....12

    B. The Court Will Be Able to Certify the Class for Purposes of Settlement. ....15

        1. Class Members Are Too Numerous to Be Joined.....15

1           2.     There Are Common Questions of Law and Fact. ....16

2           3.     Plaintiffs’ Claims Are Typical of the Class. ....16

3           4.     Plaintiffs and Plaintiffs’ Counsel Will Fairly and Adequately Protect the

4                 Interests of the Class. ....17

5           5.     The Requirements of Rule 23(b)(3) Are Met. ....17

6                 a.     Common Issues of Law and Fact Predominate for Settlement

7                         Purposes. ....17

8                 b.     A Class Action is a Superior Means of Resolving This

                               Controversy.....18

9           C.     The Proposed Class Notice and Plan for Dissemination Are Reasonable and

10                 Should be Approved. ....19

11 VI.    CONCLUSION.....20

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

**TABLE OF AUTHORITIES**

**Cases**

*Aarons v. BMW of N. Am., LLC*,  
2014 WL 4090564 (C.D. Cal. 2014) ..... 13

*Alcazar v. Fashion Nova, Inc.*,  
2022 WL 19975445 (N.D. Cal. Sept. 6, 2022) ..... 18, 19

*Allen v. Bedolla*,  
787 F.3d 1218 (9th Cir. 2015) ..... 9

*Amchem Prods., Inc. v. Windsor*,  
521 U.S. 591 (1997)..... 15

*Carlotti v. ASUS Computer Int’l*,  
2020 WL 3414653 (N.D. Cal. 2020) ..... 6

*Castro v. ABM Indus., Inc.*,  
325 F.R.D. 332 (N.D. Cal. 2018)..... 17

*Chess v. Volkswagen Grp. of Am., Inc.*,  
2021 WL 5507177 (N.D. Cal. Nov. 24, 2021) ..... 9

*Date v. Sony Elecs., Inc.*,  
2013 WL 3945981 (E.D. Mich. July 31, 2013) ..... 7

*Ellis v. Harder Mech. Contractors, Inc.*,  
2022 WL 3638165 (N.D. Cal. Aug. 23, 2022) ..... 9

*Evans v. Linden Rsch., Inc.*,  
2014 WL 1724891 (N.D. Cal. Apr. 29, 2014) ..... 20

*Fed. Ins. Co. v. Caldera Med., Inc.*,  
2016 WL 5921245 (C.D. Cal. Jan. 25, 2016) ..... 10

*Feldman v. Star Trib. Media Co. LLC*,  
2024 WL 3026556 (D. Minn. June 17, 2024)..... 14

*Foster v. Adams & Assocs., Inc.*,  
2021 WL 4924849 (N.D. Cal. Oct. 21, 2021) ..... 14

*Gascho v. Global Fitness Holdings, LLC*,  
2014 WL 1350509 (S.D. Ohio Apr. 4, 2014) ..... 7

*Gatchalian v. Atl. Recovery Sols., LLC*,  
2023 WL 8007107 (N.D. Cal. Nov. 16, 2023) ..... 9

*Gold v. Lumber Liquidators, Inc.*,  
323 F.R.D. 280 (N.D. Cal. 2017)..... 18

*Haney v. Recall Ctr.*,  
282 F.R.D. 436 (W.D. Ark. 2012) ..... 18

*Hanlon v. Chrysler Corp.*,  
150 F.3d 1011 (9th Cir. 1998) ..... 16

1 *Hefler v. Wells Fargo & Co.*,  
 2 2018 WL 6619983 (N.D. Cal. 2018) ..... 11

3 *Hendricks v. StarKist Co.*,  
 4 2015 WL 4498083 (N.D. Cal. 2015) ..... 14

5 *Hodges v. Akeena Solar, Inc.*,  
 6 274 F.R.D. 259 (N.D. Cal. 2011)..... 16

7 *In re Chrysler-Dodge-Jeep EcoDiesel Mktg., Sales Practices, & Prods. Liab. Litig.*,  
 8 2019 WL 536661 (N.D. Cal. Feb. 11, 2019) ..... 9, 16

9 *In re Facebook Biometric Info. Priv. Litig.*,  
 10 326 F.R.D. 535 (N.D. Cal. 2018)..... 19

11 *In re Haier Freezer Consumer Litig.*,  
 12 2013 WL 2237890 (N.D. Cal. 2013) ..... 15

13 *In re Lenovo Adware Litig.*,  
 14 2019 WL 1791420 (N.D. Cal. April 24, 2019)..... 17

15 *In re LinkedIn User Priv. Litig.*,  
 16 309 F.R.D. 573 (N.D. Cal. 2015)..... 20

17 *In re Mego Fin. Corp. Sec. Litig.*,  
 18 213 F.3d 454 (9th Cir. 2000) ..... 15

19 *In re Oracle Sec. Litig.*,  
 20 1994 WL 502054 (N.D. Cal. 1994) ..... 11

21 *In re PFA Ins. Mktg. Litig.*,  
 22 2024 WL 1145209 (N.D. Cal. Feb. 5, 2024) ..... 17

23 *In re Toys R Us-Delaware, Inc.*,  
 24 300 F.R.D. 347 (C.D. Cal. 2013)..... 18

25 *In re Wells Fargo Loan Processor Overtime Pay Litig.*,  
 26 2011 WL 3352460 (N.D. Cal. Aug. 2, 2011) ..... 14

27 *In re: Cathode Ray Tube (CRT) Antitrust Litig.*,  
 28 2016 WL 3648478 (N.D. Cal. 2016) ..... 12

*In re: Cathode Ray Tube (CRT) Antitrust Litig.*,  
 2016 WL 6778406 (N.D. Cal., 2016) ..... 11

*J.L. v. Cissna*,  
 2019 WL 415579 (N.D. Cal. 2019) ..... 16

*Kacsuta v. Lenovo (U.S.) Inc.*,  
 2014 WL 12585783 (C.D. Cal. 2014) ..... 11, 18

*Kulesa v. PC Cleaner, Inc.*,  
 2014 WL 12581769 (C.D. Cal. 2014) ..... 11

*LaGarde v. Support.com, Inc.*,  
 2012 WL 13034899 (N.D. Cal. Nov. 2, 2012) ..... 10

1 *Linney v. Cellular Alaska P’ship*,  
 151 F.3d 1234 (9th Cir. 1998) ..... 10, 14

2 *Martinez v. Blu Prod., Inc.*,  
 3 2019 WL 12838199 (C.D. Cal. Oct. 3, 2019)..... 16

4 *Mendoza v. Hyundai Motor Co., Ltd*,  
 2017 WL 342059 (N.D. Cal. 2017) ..... 12

5 *Mergens v. Sloan Valve Co.*,  
 6 2017 WL 9486153 (C.D. Cal. Sept. 18, 2017) ..... 17

7 *Mollett v. Netflix, Inc.*,  
 795 F.3d 1062 (9th Cir. 2015) ..... 18

8 *Norcia v. Samsung Telecommunications Am., LLC*,  
 9 2021 WL 3053018 (N.D. Cal. 2021) ..... 6

10 *One Unnamed Deputy Dist. Attorney v. Cty. of Los Angeles*,  
 2011 WL 13128375 (C.D. Cal. 2011) ..... 18

11 *Parsons v. Ryan*,  
 754 F.3d 657 (9th Cir. 2014) ..... 16

12 *Rael v. Children's Place, Inc.*,  
 13 2021 WL 1226475 (S.D. Cal. Mar. 31, 2021)..... 20

14 *Ramirez v. Trans Union, LLC*,  
 2022 WL 2817588 (N.D. Cal. July 19, 2022)..... 9, 11

15 *Richards v. Chime Fin., Inc.*,  
 2020 WL 6318713 (N.D. Cal. Oct. 28, 2020)..... 19

16 *Roberts v. Source for Pub. Data*,  
 17 2009 WL 3837502 (W.D. Mo. Nov. 17, 2009)..... 18

18 *Rodriguez v. Hayes*,  
 591 F.3d 1105 (9th Cir. 2010) ..... 16

19 *Rogers v. BNSF Ry. Co.*,  
 20 680 F. Supp. 3d 1027 (N.D. Ill. 2023) ..... 12

21 *Schaffer v. Litton Loan Servicing, LP*,  
 2012 WL 10274679 (C.D. Cal. 2012) ..... 13

22 *Shin v. Plantronics, Inc.*,  
 2020 WL 1934893 (N.D. Cal., 2020) ..... 15

23 *Spann v. J.C. Penney Corp.*,  
 24 314 F.R.D. 312 (C.D. Cal. 2016)..... 13

25 *St. Louis, I.M. & S. Ry. Co. v. Williams*,  
 251 U.S. 63 (1919)..... 13

26 *Staton v. Boeing Co.*,  
 27 327 F.3d 938 (9th Cir. 2003) ..... 17

1 *Tyson Foods, Inc. v. Bouaphakeo*,  
 2 136 S. Ct. 1036 (2016)..... 17  
 3 *Van Lith v. iHeartMedia + Entm’t, Inc.*,  
 4 2017 WL 1064662 (E.D. Cal. 2017)..... 11  
 5 *Wakefield v. ViSalus, Inc.*,  
 6 51 F.4th 1109 (9th Cir. 2022) ..... 13  
 7 *West v. California Servs. Bureau, Inc.*,  
 8 323 F.R.D. 295 (N.D. Cal. 2017)..... 15  
 9 *Wilcox v. Swapp*,  
 10 330 F.R.D. 584 (E.D. Wash. 2019)..... 18  
 11 *Wolin v. Jaguar Land Rover N. Am., LLC*,  
 12 617 F.3d 1168 (9th Cir. 2010) ..... 18  
 13 **Statutes**  
 14 18 U.S.C. § 2710(b)(2)(B) ..... 5, 16  
 15 18 U.S.C. § 2710(c)(2)(A) ..... 12  
 16 28 U.S.C. § 1715..... 7  
 17 Cal. Bus. Prof. Code § 17200 ..... 2  
 18 Cal. Civ. Code § 1750..... 2  
 19 **Rules**  
 20 Fed. R. Civ. P. 23 ..... 1, 13, 19  
 21 Fed. R. Civ. P. 23(a) ..... ix, 15  
 22 Fed. R. Civ. P. 23(a)(1)..... 15  
 23 Fed. R. Civ. P. 23(a)(2)..... 16  
 24 Fed. R. Civ. P. 23(a)(3)..... 16  
 25 Fed. R. Civ. P. 23(a)(4)..... 17  
 26 Fed. R. Civ. P. 23(b)(3) ..... ix, 19  
 27 Fed. R. Civ. P. 23(c)(2)(B) ..... 19  
 28 Fed. R. Civ. P. 23(e) ..... ix, 15  
 Fed. R. Civ. P. 23(e)(1)..... 15  
 Fed. R. Civ. P. 23(e)(1)(B) ..... 2, 9, 19  
 Fed. R. Civ. P. 23(e)(2)..... 9, 10, 11, 12  
 Fed. R. Civ. P. 23(e)(3)..... 12  
 Fed. R. Civ. P. 23(e)(B) ..... 9  
 Fed. R. Civ. P. 30(b)(6)..... 3  
 Fed. R. Civ. P. 9(b) ..... 3

<b>Guidance Section</b>	<b>Guidance Topic</b>	<b>Location Where Guidance Topic is Discussed</b>
1(a)	Differences Between Settlement Class and Classes in Complaint	Page 4
1(b)	Difference Between Released Claims and Claims in Complaint	Page 7 Grille Decl., ¶ 47
1(c)	Recovery Under Settlement; Potential Exposure; Discount	Pages 4-5, 11-14 Grille Decl., ¶¶ 20-22
1(d)	Other Cases Affected by Settlement	Grille Decl., ¶ 23
1(e)	Proposed Allocation Plan	Pages 5-6, 10-11 Grille Decl., ¶¶ 24-34
1(f)	Claims Rate	Page 6
1(g)	Reversion	Pages 1, 4 Grille Decl., ¶ 21
2(a)	Settlement Administrator	Pages 7-8 Grille Decl., ¶¶ 35-37
2(b)	Class Member Data; Costs of Administration	Brunner Decl., ¶¶ 4-18
3	Notice	Pages 7, 18-19 Grille Decl., ¶¶ 43-46, Settlement Agreement, Exs. 2, 3 Brunner Decl., ¶¶ 21(a)-(d)
4	Opt-outs	Settlement Agreement, Ex. 3 Brunner Decl., ¶¶ 21(e), (g)
5	Objections	Settlement Agreement, Exs. 2-4 Brunner Decl., ¶¶ 21(e), (g)
6	Fees and costs	Pages 7-8 Grille Decl., ¶¶ 48-53
7	Service awards	Pages 5, 7
8	<i>Cy Pres</i>	Pages 5-6
9	Timeline	viii
10	CAFA Notice	Page 7
11	Comparable Outcomes	Grille Decl., Ex. 2



**NOTICE OF MOTION AND MOTION**

PLEASE TAKE NOTICE that on September 11, 2024 at 9:30 am, before the Honorable Joseph C. Spero of the United States District Court for the Northern District of California, Plaintiffs Brayden Stark, Judd Oostyen, Isaac Belenkiy, Valerie Burton, Laura Goodfield, and Denovias Mack, will and do hereby move the Court, pursuant to Federal Rules of Civil Procedure 23(a), (b)(3), and (e), for entry of the proposed Preliminary Approval Order, and request that the Court set the following schedule:

Event	[Proposed] Deadline
Class Action Fairness Act notice to state and federal officials, under 28 U.S.C. § 1715	Within 10 days after filing of the motion for preliminary approval
Notice Date	No later than 25 days after entry of preliminary approval order
Plaintiffs to move for final approval of the settlement	65 days after entry of preliminary approval order
Plaintiffs to move for attorneys' fees, expenses, and service awards	65 days after entry of preliminary approval order
Deadline to file a claim	100 days after entry of preliminary approval order
Deadline for the submission of objections and requests for exclusion	100 days after entry of preliminary approval order
Reply briefs in support of final approval and motion for attorneys' fees, expenses, and service awards	115 days after entry of preliminary approval order
Final Fairness Hearing	At least 130 days after entry of preliminary approval order

The Motion is based on this Notice of Motion, the incorporated memorandum of points and authorities, the Declarations of Simon S. Grille ("Grille Decl.") and Meagan Brunner ("Brunner Decl.") filed herewith, the record in this action, the argument of counsel, and any other matters the Court may consider.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Plaintiffs seek preliminary approval of a Settlement<sup>1</sup> that would require Defendant Patreon, Inc. to pay \$7,250,000.00 to create a non-reversionary cash fund to compensate Class Members and cease use of the Meta Pixel unless such use complies with the Video Privacy Protection Act (“VPPA”). The Settlement would fully resolve this litigation, which arises out of claims that Patreon violated the VPPA by disclosing its subscriber’s viewing choices and personal information to Meta without obtaining their consent in the form required under the VPPA. Class Members who submit a valid claim will be eligible to receive a *pro rata* share of the Net Settlement Fund. The Settlement meets all the criteria for preliminary approval under Rule 23 of the Federal Rules of Civil Procedure and the Northern District’s Procedural Guidance for Class Action Settlements (“Guidelines”).<sup>2</sup>

The Settlement was reached after nearly a year of arm’s length negotiations supervised by the Hon. Jeremy D. Fogel. The Settlement follows two motions to dismiss, a motion for summary judgment on a novel constitutional issue, extensive written discovery, work with experts on complex computer science and online advertising issues, and ten depositions, including eight depositions of current and former Patreon employees and two non-party depositions. This well-developed record facilitated a comprehensive understanding of the strengths and weaknesses of the Parties’ respective positions and informed Plaintiffs’ Counsel’s settlement strategy and negotiations.

The Settlement provides an excellent result for the Class, as continued litigation carried considerable risk of a lesser recovery or none at all. Patreon vigorously denies liability and contends that the VPPA violates the First Amendment. Moreover, Patreon’s class certification arguments, including the potential application of an arbitration clause in its Terms of Use, could reduce the number of individuals eligible to recover through this litigation or preclude recovery on a class-wide basis altogether. The Settlement also avoids the numerous uncertainties associated with trial, including dueling experts who would offer conflicting and highly technical opinions about the internet technology

---

<sup>1</sup> Unless otherwise noted, capitalized terms have the meaning ascribed to them in the Settlement Agreement, filed concurrently herewith as Exhibit 1.

<sup>2</sup> <https://www.cand.uscourts.gov/forms/procedural-guidance-for-class-action-settlements/>

1 at the center of this litigation. The Settlement is thus a successful outcome for Class Members and  
2 meets all criteria for preliminary approval.

3 Therefore, as set forth in further detail below, Plaintiffs respectfully request that the Court enter  
4 the proposed order to authorize notice to the class and schedule further settlement proceedings.

5 **II. STATEMENT OF THE ISSUE TO BE DECIDED**

6 Should the Court, pursuant to Fed. R. Civ. P. 23(e)(1)(B), preliminarily approve the parties'  
7 Settlement, authorize notice to the proposed class, and schedule further settlement proceedings?

8 **III. FACTUAL AND PROCEDURAL BACKGROUND**

9 **A. Plaintiffs' Allegations**

10 Plaintiffs filed an initial Class Action Complaint on May 27, 2022, alleging that Patreon  
11 disclosed to Meta the specific video materials its subscribers requested or obtained from its website  
12 without first obtaining their consent in the form required under the VPPA. Plaintiffs also asserted claims  
13 against Patreon for unjust enrichment and violations of California's Unfair Competition Law ("UCL"),  
14 Cal. Bus. And Prof. Code § 17200, *et seq.* and Consumers Legal Remedies Act ("CLRA"), Cal. Civ.  
15 Code § 1750, *et seq.* ECF No. 1.

16 **B. Patreon's Challenges to Plaintiffs' Complaints.**

17 Patreon moved to dismiss the initial Complaint on August 5, 2022, challenging the sufficiency  
18 of Plaintiffs' allegations in support of their VPPA, UCL, and CLRA claims and arguing that the VPPA  
19 violates the First Amendment to the United States Constitution. ECF No. 21. On October 13, 2022, the  
20 Court granted in part and denied in part the motion to dismiss with leave to amend. ECF No. 40. The  
21 Court dismissed Plaintiffs' VPPA claim on the basis that Plaintiffs failed to allege that the video  
22 material on Patreon's website was prerecorded, but determined Plaintiffs' other VPPA allegations were  
23 sufficient. *Id.* The Court also dismissed Plaintiffs' claim under the unlawful prong of the UCL to the  
24 extent it was based on a violation of the VPPA, but otherwise denied Patreon's motion and deferred  
25 ruling on Patreon's First Amendment challenge until after the deadline for the United States to  
26 intervene elapsed. *Id.*

27 Plaintiffs filed a First Amended Complaint ("FAC") on October 27, 2022, addressing the  
28 Court's October 13 motion to dismiss order. ECF No. 41. On November 23, 2022, Patreon moved to

1 dismiss the FAC, again raising its constitutional challenge to the VPPA and arguing that Plaintiffs  
2 failed to plead their fraud claims with the particularity required by Rule 9(b). ECF No. 48. The Court  
3 dismissed Plaintiffs' claims under the CLRA and the fraud prong of the UCL with leave to amend, and  
4 Plaintiffs elected not to replead these claims. ECF No. 59. The Court denied Patreon's constitutional  
5 challenge with leave to reassert this argument once the Parties developed a more complete factual  
6 record on this issue. *Id.*

7 On January 30, 2024, Plaintiffs filed a Second Amended Complaint to add four new Plaintiffs,  
8 but the allegations and claims asserted against Patreon remained unchanged. ECF No. 121.

9 **C. Fact and Expert Discovery.**

10 The Parties' settlement negotiations were informed by extensive discovery. Plaintiffs  
11 propounded five sets of document requests, two sets of interrogatories, and two sets of requests for  
12 admission to Patreon. Grille Decl., ¶ 16. The Parties negotiated Patreon's document productions,  
13 including extensive discussions regarding the search terms Patreon used to identify responsive  
14 documents, leading Patreon to produce approximately 38,000 documents. *Id.* Plaintiffs' Counsel  
15 reviewed and analyzed Patreon's documents, which provided critical information about Patreon's  
16 operations and use of the Meta Pixel and informed Plaintiffs' strategy for depositions, summary  
17 judgment, class certification, expert analysis, and settlement. *Id.* Plaintiffs' Counsel also deposed eight  
18 current and former Patreon employees, including three separate Rule 30(b)(6) designees, and defended  
19 the depositions of Plaintiffs Brayden Stark and Judd Oostyen. *Id.* Each Plaintiff also responded to three  
20 sets of document requests, two sets of interrogatories, and two sets of requests for admission. *Id.*

21 Plaintiffs also issued a subpoena seeking critical documents and testimony from Meta. Grille  
22 Decl., ¶ 17. Following protracted negotiations and a motion to compel Meta's compliance with the  
23 subpoena, Plaintiffs ultimately obtained eight productions from Meta and deposed Meta's corporate  
24 designee in a proceeding consolidated with a separate VPPA matter. *Id.*

25 **D. Summary Judgment and Class Certification.**

26 Following the Court's order on Patreon's motion to dismiss the FAC, Plaintiffs served  
27 discovery on numerous third-parties to develop the underlying factual record for Patreon's challenge to  
28 the VPPA under the First Amendment. Grille Decl., ¶ 10. Additionally, Plaintiffs retained an expert on

1 privacy and the First Amendment and worked with him to produce an expert report regarding the  
2 expectations of privacy in intellectual activities and the history and purpose of the VPPA. *Id.* Plaintiffs  
3 also produced a rebuttal expert report responding to the technical opinions offered in Patreon’s expert’s  
4 report. Grille Decl., ¶ 11. After the Parties finished briefing Patreon’s constitutional challenge,  
5 Plaintiffs, over Patreon’s objection, supplemented the summary judgment record with additional facts  
6 elicited through the depositions of Patreon witnesses. Grille Decl., ¶ 12. The Court then heard oral  
7 argument on Patreon’s motion on April 12, 2024. Shortly thereafter—and before the Court ruled on  
8 Patreon’s summary judgment motion—the Parties reached an agreement in principle to settle this  
9 action. *Id.* Plaintiffs had fully drafted their motion for class certification and prepared the evidence in  
10 support at the time of the Parties’ agreement in principle to resolve this action. Grille Decl., ¶ 15.

#### 11 **E. The Settlement Negotiations.**

12 Following a period of initial discovery, the Parties began discussing settlement in summer 2023  
13 when they first mediated before the Honorable Jeremy D. Fogel (Ret.) on June 27, 2023. Grille Decl., ¶  
14 18. The Parties continued their discussions over the next year, mediating before Judge Fogel again on  
15 November 20, 2023, March 5, 2024, and April 16, 2024. *Id.* The Parties continued discussions until  
16 they reached an agreement in principle on April 26, 2024. Grille Decl., ¶ 19. The Parties then  
17 negotiated the settlement agreement in the following weeks and executed it on August 1, 2024. *Id.*

#### 18 **IV. SUMMARY OF SETTLEMENT TERMS**

##### 19 **A. The Class.**

20 The Class consists of all persons in the United States who, between April 1, 2016, to and  
21 through the Preliminary Approval date, requested or obtained video content on the Patreon website  
22 (patreon.com) while in the United States and at a time the person had a Facebook account and also had  
23 a Patreon account. Grille Decl., ¶ 20; SA at § 1.9. The Class is coextensive with the nationwide class  
24 proposed in Plaintiffs’ operative complaint with only minor stylistic changes. *See* ECF No. 121 at ¶¶  
25 89-90. The class definition uses the VPPA’s “requested or obtained” language rather than “viewed.”

26 The Class excludes Patreon, its parents, subsidiaries, affiliates, officers, directors, and  
27 employees; any entity in which Patreon has a controlling interest; and all judges assigned to hear any  
28 aspect of this litigation, as well as their staff and immediate family members. SA at § 1.9.

1           **B. Settlement Consideration.**

2           Under the Settlement, Patreon will pay \$7,250,000.00 to create a non-reversionary cash fund  
3 for Class Members. SA at §§ 1.39, 2.1. Notice costs, administration expenses, attorneys’ fees and  
4 costs, and service awards awarded by the Court will be deducted from the fund and the balance (the  
5 “Net Settlement Fund”) will be applied to pay claims. *Id.* at § 1.21. Plaintiffs will seek up to 30% of  
6 the fund in attorneys’ fees, up to \$485,000 in reimbursement of expenses, and a service award of up to  
7 \$7,500 for each Class Representative. Grille Decl., ¶¶ 49, 51-52; SA at §§ 8.1-8.8.

8           Class Members also receive non-monetary relief through Patreon’s removal or disabling of the  
9 Meta Pixel on any Patreon web page that includes video content, with Patreon agreeing not to re-install  
10 or operate the Meta Pixel on any patreon.com web page that includes video content, except if: (a) the  
11 VPPA is amended in relevant part, repealed, or otherwise invalidated; (b) Patreon obtains consent in  
12 the form required by the VPPA, 18 U.S.C. § 2710(b)(2)(B); or (c) the Meta Pixel on the relevant  
13 Patreon web page otherwise complies with the VPPA. Grille Decl., ¶ 22; SA at §§ 2.4-2.5.

14           **C. Distribution of Settlement Fund.**

15           To be eligible for payment, Class Members must submit a Claim attesting that the Class  
16 Member accessed video content on Patreon.com while the Claimant had an active Facebook account,  
17 and provide a link to their Facebook profile. Grille Decl., ¶¶ 25-26; SA at §§ 3.2-3.3. The Claim Form  
18 is designed to be simple and easily understandable. Grille Decl., ¶ 27. Instructions for completing the  
19 Claim Form are provided on the Claim Form, in the Notice, and on the Settlement website. Grille  
20 Decl., ¶ 26. This claims process is designed to ensure recovery is limited to Class Members. Grille  
21 Decl., ¶ 27. The Claim Form requires potential Class Members to submit information that serves as a  
22 reasonable proxy for Class Membership when combined with Patreon’s records. *Id.* It further offers  
23 Class Members a simple way to participate while expediting payment to Class Members by avoiding  
24 the delay and expense of a forensic data retrieval exercise over the objections of nonparty Meta. *Id.*  
25 The claims process thus ensures the Settlement is limited to the intended recipients and provides a  
26 simple, efficient means of limiting the recovery to Class Members.

27           The Claims Administrator will audit a sample of claims. SA at § 3.4. If the Claims  
28 Administrator determines a Claim is inadequately supported, suspicious, or contains indicia of fraud,

1 the Claims Administrator may request additional supporting documentation. *Id.* The Claims  
2 Administrator will provide Claimants with a reasonable opportunity to cure defective claim  
3 submissions during a period of up to 60 days (“Cure Period”). Grille Decl., ¶ 29; SA at § 3.5. After the  
4 expiration of the Claim Period and Cure Period, the Claims Administrator will determine the total  
5 number of valid claims and distribute an equal share of the Net Settlement Fund to each eligible  
6 Claimant. Grille Decl., ¶ 31; SA at § 3.8.

7 Payments will be made electronically, with PayPal as the default payment mechanism. Grille  
8 Decl., ¶ 31. All cash payments to Approved Claimants that have not been claimed within 90 days after  
9 the date of issuance will be redistributed *pro rata*, after deducting necessary settlement administration  
10 expenses from such uncashed funds, to all Class Members who were paid by electronic payment  
11 during the initial distribution. If a *pro rata* redistribution would result in each such Class Member  
12 receiving less than \$10, the uncashed funds will be distributed, subject to Court approval, to a non-  
13 profit organization focused on consumer privacy protection that has not filed an amicus brief in this  
14 Action or in any other action alleging claims under the Video Privacy Protection Act. SA at § 3.11.

15 Based on discussions with the Claims Administrator and claims rates in similar VPPA-Pixel  
16 class action settlements, Class Counsel anticipate a claims rate of 1-10%. The projected claims rate is  
17 consistent with Class Counsel’s experience, which includes cases with claims rates ranging from less  
18 than 1% to 25%, as well as rates in comparable VPPA-Pixel cases. *See Fiorentino v. FloSports, Inc.*,  
19 Case No. 1:22-cv-11502 (D. Mass 2022), ECF No. 72 (3.3% claims rate); *Ambrose v. Boston Globe*  
20 *Media Partners, LLC*, Case No. 1:22-cv-10195-RGS (D. Mass 2022), ECF Nos. 63, 67 (estimated  
21 2.6% claims rate); *Beltran, Jr., et al. v. Sony Pictures Entertainment Inc., d/b/a CrunchyRoll*, Case No.  
22 1:22-cv-04858 (N.D. Il. 2022), ECF No. 53 (1.75% claims rate); *see also Carlotti v. ASUS Computer*  
23 *Int’l*, 2020 WL 3414653, at \*4 (N.D. Cal. 2020) (noting several cases where the claims rate was  
24 between 4.7 to 10.9% and approving settlement with 4% claims rate); *Norcia v. Samsung*  
25 *Telecommunications Am., LLC*, 2021 WL 3053018, at \*3 (N.D. Cal. 2021) (approving settlement  
26 involving smartphones with 2% claims rate); *see also* Grille Decl., Ex. 2 (Chart Summarizing  
27 Comparable Class Settlements). Claim rates are driven by factors such as the nature of the case, the  
28 severity of the issue, the methods for notice, and the accessibility of the claim form. *See Date v. Sony*



1 *Elecs., Inc.*, 2013 WL 3945981, at \*9-10 (E.D. Mich. July 31, 2013) (“[M]any factors affect response  
2 rates and this ratio should not be given great significance.”) (citation omitted); *Gascho v. Global*  
3 *Fitness Holdings, LLC*, 2014 WL 1350509, at \*30 (S.D. Ohio Apr. 4, 2014). Class Counsel have  
4 worked to simplify and streamline the claims process, recognizing the need both to limit recovery to  
5 eligible Claimants to prevent fraud while also optimizing simplicity to maximize participation.

6 **D. Class Notice and CAFA Notice.**

7 Patreon has represented it has email addresses for approximately 99.97% of its account holders  
8 who played a video (or engaged with a video post) on the Patreon website (patreon.com) while in the  
9 United States<sup>3</sup> during the time period in which the Meta Pixel was enabled on the Patreon website.  
10 Patreon will provide the Claims Administrator with a list of email addresses for these account holders.  
11 Grille Decl., ¶ 43; SA at § 6.1. The Claims Administrator will send direct notice to each Class Member  
12 for whom Patreon has a valid email address and, where feasible, the Claims Administrator will make a  
13 second attempt to re-send the email notice if the initial transmission results in a “bounce-back.” Grille  
14 Decl., ¶ 44; SA at § 6.2. Notice will also be posted on the settlement website and the Claims  
15 Administrator will establish a toll-free telephone number and email address Class Members can  
16 contact for assistance. Grille Decl., ¶ 46. The Claims Administrator will provide notice to the  
17 Attorneys General of each state in which Class Members reside, the Attorney General of the United  
18 States, and any other required government officials, consistent with 28 U.S.C. § 1715. SA at § 5.2.

19 **E. Release of Claims.**

20 The proposed release applies to claims arising from the facts underlying the claims and  
21 allegations in this action. SA at §§ 1.33, 4.1-4.5. In accordance with the Northern District’s Procedural  
22 Guidance for Class Action Settlements, the release tracks the claims in the SAC.

23 **F. Attorneys’ Fees and Expenses, and Service Awards for the Class Representatives.**

24 Plaintiffs’ Counsel will apply for an award of attorneys’ fees and reimbursement of litigation  
25 costs, together with service awards for the class representatives, at least 35 days before the due date for

---

26 <sup>3</sup> Patreon has represented that it generally determined the account holders’ location based on the  
27 location of the account holder’s IP address, and, if no IP address data was available for a given event,  
28 the user’s most-common IP country was used as a proxy to determine whether the event occurred in  
the United States.



1 objections. SA at § 8.3. Plaintiffs' Counsel expect to apply for a fee of up to 30% of the common fund.  
2 Grille Decl., ¶ 49. Plaintiffs' Counsel's total lodestar, through July 15, 2024, is approximately  
3 \$3,826,304.50 using current rates and representing 5,354.5 hours of work on this matter. *Id.* Class  
4 Counsel's lodestar reflects the hard-fought nature of this litigation and the dedicated work necessary to  
5 achieve resolution. Grille Decl., ¶ 50. Patreon's counsel mounted a sophisticated defense requiring  
6 extensive motion practice on potentially dispositive issues, and extensive negotiations and motion  
7 practice was necessary to obtain critical information from nonparty Meta. *Id.* Thus, if Plaintiffs'  
8 Counsel were to submit their fee application now, there would be no multiplier on the fee award given  
9 the substantial amounts of time dedicated by Plaintiffs' counsel to this matter. Grille Decl., ¶ 49.  
10 Plaintiffs' Counsel also will seek reimbursement of case expenses, which include expert witness fees,  
11 in an amount not to exceed \$485,000. Grille Decl., ¶ 51. The Parties have reached no agreement on the  
12 amount of fees and expenses that Plaintiffs' Counsel will seek and Patreon takes no position as to the  
13 amount of fees and expenses to be sought. Grille Decl., ¶ 53.

14 Plaintiffs' Counsel also intend to apply for service awards of up to \$7,500 for each of the Class  
15 Representatives. SA at § 8.6. Each Plaintiff devoted substantial time to this case, including in  
16 preparing the complaints, communicating with Plaintiffs' Counsel about case developments,  
17 responding to written discovery requests, gathering and producing documents, and, with respect to  
18 Plaintiffs Brayden Stark and Judd Oostyen, sitting for a deposition.

19 **G. The Claims Administrator.**

20 Plaintiffs' Counsel sent requests for proposal to six leading class action administrators and  
21 receiving proposals from each of them. Grille Decl., ¶ 35. After reviewing the proposals, and subject to  
22 the Court's approval, Plaintiffs' Counsel selected Simpluris based on its qualifications and competitive  
23 bid. Grille Decl., ¶ 36. The administrator will be paid from the settlement fund. Based on information  
24 provided by the parties to date, the Claims Administrator anticipates notice and administration  
25 expenses in the range of \$300,000-\$350,000. Grille Decl., ¶ 41. In addition to managing the notice  
26 program and receiving and processing claims and opt-outs, Simpluris will maintain a dedicated  
27 settlement website containing links to the Notice, Claim Form, and all other relevant Settlement  
28 documents. Grille Decl., ¶ 39.

1 **V. ARGUMENT**

2 “The approval of a settlement is a multi-step process. At the preliminary approval stage, the  
3 court should grant such approval only if it is justified by the parties’ showing that the court will likely  
4 be able to (1) ‘certify the class for purposes of judgment on the proposal’ and (2) ‘approve the proposal  
5 under Rule 23(e)(2).” *Ramirez v. Trans Union, LLC*, 2022 WL 2817588, at \*3 (N.D. Cal. July 19,  
6 2022) (quoting Fed. R. Civ. P. 23(e)(B)); *see Gatchalian v. Atl. Recovery Sols., LLC*, 2023 WL  
7 8007107, at \*3 (N.D. Cal. Nov. 16, 2023). The Court should grant preliminary approval because the  
8 Settlement is fair and reasonable and the product of extensive arm’s length negotiations, and because  
9 the Court is likely to be able to certify the Class for purposes of judgment.

10 **A. The Settlement is Fair, Reasonable, and Adequate.**

11 Plaintiffs readily satisfy the requirements for preliminary approval. “[T]here is a strong judicial  
12 policy that favors settlements, particularly where complex class action litigation is concerned.” *In re*  
13 *Chrysler-Dodge-Jeep EcoDiesel Mktg., Sales Practices, & Prods. Liab. Litig.*, 2019 WL 536661, at \*5  
14 (N.D. Cal. Feb. 11, 2019) (quoting *Allen v. Bedolla*, 787 F.3d 1218, 1223 (9th Cir. 2015)). Rule  
15 23(e)(2) directs the Court to consider whether “the class representatives and class counsel have  
16 adequately represented the class”; “the proposal was negotiated at arm’s length”; “the relief provided  
17 for the class is adequate”; and “the proposal treats class members equitably relative to each other.”  
18 These enumerated factors under Rule 23(e)(2) “focus the court and the lawyers on the core concerns of  
19 procedure and substance that should guide the decision whether to approve the proposal.” FED. R.  
20 CIV. P. 23(e)(2) advisory committee’s note (2018).

21 Thus, at preliminary approval, courts generally ask whether “the proposed settlement (1)  
22 appears to be the product of serious informed, non-collusive negotiations; (2) does not grant improper  
23 preferential treatment to class representatives or other segments of the class; (3) falls within the range  
24 of possible approval; and (4) has no obvious deficiencies.” *Chess v. Volkswagen Grp. of Am., Inc.*,  
25 2021 WL 5507177, at \*7 (N.D. Cal. Nov. 24, 2021) (citation omitted); *see also* FED. R. CIV. P.  
26 23(e)(1)(B). Because the Court cannot fully assess these factors until the final approval hearing, “a full  
27 fairness analysis is unnecessary at this stage.” *Ellis v. Harder Mech. Contractors, Inc.*, 2022 WL  
28 3638165, at \*4 (N.D. Cal. Aug. 23, 2022) (citation omitted). Application of these factors demonstrates

1 that the settlement here is fair, reasonable, and adequate, in the best interests of the class, and will  
2 likely merit final approval.

3 **1. The Proposed Settlement Is the Product of Arm’s Length Negotiations**  
4 **Among Experienced Counsel.**

5 Under Rule 23(e)(2), the Court considers whether the class representatives and class counsel  
6 adequately represented the class and whether the settlement proposal was negotiated at arm’s length.  
7 To negotiate a fair and reasonable settlement, “the parties [must] have sufficient information to make  
8 an informed decision about settlement.” *Linney v. Cellular Alaska P’ship*, 151 F.3d 1234, 1239 (9th  
9 Cir. 1998).

10 This Settlement follows several years of hard-fought litigation where Plaintiffs and their  
11 counsel demonstrated their adequacy, including two motions to dismiss and a fully briefed motion for  
12 summary judgment. The Settlement was also reached only after nearly a year of rigorous negotiations  
13 and four formal mediation sessions supervised by a retired judge. *See* Grille Decl., ¶ 18; FED. R. CIV.  
14 P. 23(e)(2) advisory committee’s note to 2018 amendment (stating that “involvement of a neutral” in  
15 negotiations “may bear on whether they were conducted in a manner that would protect and further the  
16 class interests.”); *see also Fed. Ins. Co. v. Caldera Med., Inc.*, 2016 WL 5921245, at \*5 (C.D. Cal. Jan.  
17 25, 2016) (whether “the proposed settlement appears to be the product of serious, informed, non-  
18 collusive negotiations” is one factor in determining whether preliminary approval is appropriate).  
19 Further, as discussed in Section III(C), the Parties settled this matter following extensive discovery  
20 from Patreon and nonparties regarding the functionality of Patreon’s Pixel, Patreon’s knowledge of the  
21 Meta Pixel’s implementation and capabilities, and how the Meta Pixel was integrated into Patreon’s  
22 marketing efforts. Moreover, the Parties conducted discovery related to Patreon’s constitutional  
23 challenge to the VPPA to establish a comprehensive factual record on which this issue could be  
24 decided. *See, e.g., LaGarde v. Support.com, Inc.*, 2012 WL 13034899, at \*7 (N.D. Cal. Nov. 2, 2012)  
25 (existence of robust discovery indicates plaintiffs were sufficiently informed during settlement  
26 negotiations). Plaintiffs’ experts also investigated the technical operation of Patreon’s Pixel and its  
27 impact on Patreon subscribers, preparing reports that detailed how they tested Patreon’s website to  
28 confirm the alleged conduct occurred. *See Kacsuta v. Lenovo (U.S.) Inc.*, 2014 WL 12585783, at \*5

1 (C.D. Cal. 2014) (that class counsel hired engineering experts to test and analyze the computers at  
2 issue weighed in favor of the settlement).

3 Plaintiffs' Counsel's discovery and expert work enabled them to "enter[] the settlement  
4 discussions with a substantial understanding of the factual and legal issues from which they could  
5 advocate for their respective positions and which are necessary for a robust negotiation." *Kulesa v. PC  
6 Cleaner, Inc.*, 2014 WL 12581769, at \*10 (C.D. Cal. 2014); *Van Lith v. iHeartMedia + Entm't, Inc.*,  
7 2017 WL 1064662, at \*16 (E.D. Cal. 2017) ("The adversarial nature of these negotiations and the  
8 discovery performed by the parties indicate that the settlement process is procedurally adequate.").  
9 Plaintiffs thus satisfy the first factor of Rule 23(e)(2).

10 In sum, because the Settlement is "the product of serious, informed, non-collusive  
11 negotiations" conducted by experienced counsel, this factor weighs in favor of preliminary approval.  
12 *Ramirez*, 2022 WL 2817588, at \*4.

## 13 **2. The Settlement Treats All Class Members Equitably.**

14 "Approval of a plan of allocation of settlement proceeds in a class action . . . is governed by the  
15 same standards of review applicable to approval of the settlement as a whole: the plan must be fair,  
16 reasonable and adequate." *In re: Cathode Ray Tube (CRT) Antitrust Litig.*, 2016 WL 6778406, at \*3  
17 (N.D. Cal., 2016) (quoting *In re Oracle Sec. Litig.*, 1994 WL 502054, at \*1-2 (N.D. Cal. 1994)).  
18 Plaintiffs' proposal for allocation of the Settlement Fund readily satisfies this standard because all  
19 Class Members are treated equally and those who submit a valid claim will receive a proportional  
20 share of the Net Settlement Fund. *See* Grille Decl., ¶ 31; SA at § 3.8. *Hefler v. Wells Fargo & Co.*,  
21 2018 WL 6619983, at \*12 (N.D. Cal. 2018) ("The allocation plan disburses the Settlement Fund to  
22 class members on a pro rata basis based on the relative size of the potential claims that they are  
23 compromising. This type of pro rata distribution has frequently been determined to be fair, adequate,  
24 and reasonable.") (citation omitted) (internal quotation marks omitted). The proposed method of  
25 distributing the Settlement Fund avoids unnecessary distinctions between Claimants who have suffered  
26 nearly identical injuries by distributing an equal share of the Net Settlement Fund to all Class Members  
27 with a valid claim, underscoring the reasonableness of the proposed Settlement. *See Hefler*, 2018 WL  
28 6619983, at \*12.

1                   **3. The Relief Under the Proposed Settlement is Adequate.**

2                   In determining whether the class-wide relief is adequate under Rule 23(e)(2), the Court  
 3 considers “the costs, risks, and delay of trial and appeal”; “the effectiveness of any proposed method of  
 4 distributing relief to the class, including the method of processing class-member claims”; “the terms of  
 5 any proposed award of attorney’s fees, including timing of payment”; and “any agreement required to  
 6 be identified under Rule 23(e)(3).”<sup>4</sup> Approval of a class settlement is appropriate when “there are  
 7 significant barriers plaintiffs must overcome in making their case.” *Mendoza v. Hyundai Motor Co.,*  
 8 *Ltd*, 2017 WL 342059, at \*6 (N.D. Cal. 2017) (citation omitted). Further, “a proposed settlement may  
 9 be acceptable even though it amounts to only a fraction of the potential recovery that might be  
 10 available to the class members at trial.” *In re: Cathode Ray Tube (CRT) Antitrust Litig.*, 2016 WL  
 11 3648478, at \*6 (N.D. Cal. 2016) (cleaned up).

12                   According to Patreon’s records, approximately 6 million Patreon account holders accessed  
 13 video content on patreon.com while in the United States during the Class Period. Grille Decl., ¶ 42.  
 14 But not all of these people are Class Members because they did not all simultaneously maintain a  
 15 Facebook account such that the Meta Pixel would pass their video viewing choices and personal  
 16 information to Meta. Based on publicly available data regarding web browsing habits, use of cookie  
 17 blockers or private browsing, and Facebook login rates, Plaintiffs estimate that about 20% of the 6  
 18 million, or 1.2 million people are Class members. *Id.* If Plaintiffs prevailed at trial and in a post-trial  
 19 appeal, Patreon would in theory be exposed to a judgement in excess of \$1 billion, applying the  
 20 VPPA’s statutory damage measure of \$2,500 per violation. While the Settlement represents less than  
 21 1% of these potential trial damages, the prospects for recovering a billion judgment are remote.  
 22 Setting aside Patreon’s ability to pay, Patreon would argue that damages under the VPPA are  
 23 discretionary. *See* 18 U.S.C. § 2710(c)(2)(A) (A “court *may* award actual damages but not less than  
 24 liquidated damages in an amount of \$2,500) (emphasis added; *Rogers v. BNSF Ry. Co.*, 680 F. Supp.  
 25 3d 1027, 1041 (N.D. Ill. 2023) (finding that the Illinois Biometric Information Privacy Act’s use of  
 26 “may” meant that damages were discretionary). Second, Patreon would argue that a \$3 billion

27 \_\_\_\_\_  
 28 <sup>4</sup> There are no side agreements to disclose under Rule 23(e)(3).

1 judgment violates its due process rights because aggregated statutory damages, even if constitutional  
2 on a per-violation basis, may be limited when they become “wholly disproportionate” and “obviously  
3 unreasonable” in relation to the statute’s goals and prohibited conduct. *See Wakefield v. ViSalus, Inc.*,  
4 51 F.4th 1109, 1123 (9th Cir. 2022) (quoting *St. Louis, I.M. & S. Ry. Co. v. Williams*, 251 U.S. 63, 67  
5 (1919)).

6 Moreover, “[e]stimates of what constitutes a fair settlement figure are tempered by factors such  
7 as the risk of losing at trial, the expense of litigating the case, and the expected delay in recovery (often  
8 measured in years).” *Schaffer v. Litton Loan Servicing, LP*, 2012 WL 10274679, at \*11 (C.D. Cal.  
9 2012). While Plaintiffs are confident in the strength of their case, Patreon has vigorously denied  
10 liability from the outset. *See, e.g., Spann v. J.C. Penney Corp.*, 314 F.R.D. 312, 326 (C.D. Cal. 2016)  
11 (“The settlement the parties have reached is even more compelling given the substantial litigation risks  
12 in this case.”). As discussed, Patreon’s has raised numerous defenses, including technical arguments  
13 and a constitutional challenge to the VPPA. Taken together, these arguments and the challenges with  
14 sustaining class certification through trial indicate Plaintiffs face substantial risk if they continued to  
15 litigate this matter. *See Aarons v. BMW of N. Am., LLC*, 2014 WL 4090564, at \*10 (C.D. Cal. 2014)  
16 (risk of “battle of the experts” at trial weighed in favor of settlement approval).

17 Claims applying the VPPA to the use of the Meta Pixel are relatively untested and thus  
18 inherently risky. Patreon has vigorously challenged its liability under the VPPA, disputing that it  
19 “knowingly” disclosed its subscribers’ personal information to Meta via the Meta Pixel, and denying  
20 that the information disclosed to Meta via Patreon’s Pixel sufficiently identifies the affected  
21 subscribers. *See, e.g., ECF No. 21 at 6-9*. Although Plaintiffs prevailed on these issues at the pleading  
22 stage, Patreon likely would have reasserted these arguments at summary judgment and trial. Rebutting  
23 Patreon’s argument regarding its knowledge of the Meta Pixel’s capabilities would require Plaintiffs to  
24 explain complex computer science and website coding concepts to a lay jury. In addition, Patreon  
25 would likely continue to deny that the information transmitted by the Pixel is sufficient to identify  
26 individual Patreon subscribers or the video material they requested or obtained. Patreon’s class  
27 certification arguments also pose a threat to a successful resolution for the Class. In addition to  
28 opposing Plaintiffs the elements of Rule 23, Plaintiffs anticipate Patreon would argue that a large



1 segment of the class is bound by an arbitration clause that was present in Patreon’s terms of use until  
2 October 15, 2021, and must therefore be excluded from the class.

3           Patreon has further argued that the VPPA violates the First Amendment. *See, e.g.*, ECF No. 76.  
4 Because an adverse ruling would dispose of Plaintiffs’ VPPA claim, either terminating the litigation or  
5 resulting in an appeal, the Settlement here mitigates the considerable risk presented by Patreon’s First  
6 Amendment challenge. *See In re Wells Fargo Loan Processor Overtime Pay Litig.*, 2011 WL 3352460,  
7 at \*5 (N.D. Cal. Aug. 2, 2011) (“[F]act-intensive inquiries and developing case law present significant  
8 risks to Plaintiffs’ claims and potential recovery.”).

9           In light of Patreon’s defenses, as well as the fact that a trial date is not set and thus it is  
10 unknown when, if any, resolution through trial would occur, the Settlement delivers a timely and  
11 substantial recovery for the class. *See Linney*, 151 F.3d at 1242 (settlement amounting to a fraction of  
12 the potential total recovery was reasonable given the significant risks of going to trial); *Hendricks v.*  
13 *StarKist Co.*, 2015 WL 4498083, at \*7 (N.D. Cal. 2015) (settlement representing “only a single-digit  
14 percentage of the maximum potential exposure” was reasonable given the risks). The settlement  
15 amount also falls within the range of recovery in other comparable VPPA cases. *See, e.g., Feldman v.*  
16 *Star Trib. Media Co. LLC*, 2024 WL 3026556, at \*6 (D. Minn. June 17, 2024) (approving \$2.9 million  
17 settlement in VPPA case); *Ambrose v. Boston Globe Media Partners, LLC*, Case No. 1:22-cv-10195-  
18 RGS (D. Mass 2022), ECF No. 70 (entering final judgment and approving \$4,000,000.00 settlement of  
19 VPPA claim); *Beltran, Jr., et al. v. Sony Pictures Entertainment Inc., d/b/a CrunchyRoll*, Case No.  
20 1:22-cv-04858 (N.D. Il. 2022), ECF No.57 (entering final judgment and approving \$16,000,000.00  
21 settlement of VPPA claim); *Fiorentino v. FloSports, Inc.*, Case No. 1:22-cv-11502 (D. Mass 2022),  
22 ECF No. 76 (entering final judgment and approving \$2,625,000.00 settlement of VPPA claim); *see*  
23 *also Foster v. Adams & Assocs., Inc.*, 2021 WL 4924849, at \*7 (N.D. Cal. Oct. 21, 2021) (the fact the  
24 settlement amount was “consistent” with those in other similar cases favored approving the  
25 settlement).

26           In contrast to the significant risks and further delays after two years of hard-fought litigation,  
27 the Settlement here ensures eligible Class Members will receive monetary compensation for their  
28 injuries. SA at § 2.1. Moreover, all Class Members will be afforded relief through Patreon’s removal of

1 the Meta Pixel from any web page on the Patreon website that includes video content and its  
2 agreement not to re-install or operate the Meta Pixel on a Patreon web page with video content except  
3 under specific circumstances. SA at §§ 2.4-2.5. The settlement “relief is directly targeted to the harm  
4 suffered by the class and adequately redresses their injuries.” *Shin v. Plantronics, Inc.*, 2020 WL  
5 1934893, at \*3 (N.D. Cal., 2020). The parties’ Settlement provides certain relief to the Class Members,  
6 including “a significant, easy-to-obtain benefit to class members” in the form of a cash payment to any  
7 Class Member with a valid claim. *In re Haier Freezer Consumer Litig.*, 2013 WL 2237890, at \*4  
8 (N.D. Cal. 2013); *see In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 459 (9th Cir. 2000) (“difficulties  
9 in proving the case” favored settlement approval).

10 Thus, the settlement falls well within the range of reasonableness for preliminary approval.

11 **B. The Court Will Be Able to Certify the Class for Purposes of Settlement.**

12 Rule 23(e)(1) provides that preliminary approval should be granted (and notice disseminated)  
13 where the Court “will likely be able to” certify the class for purposes of judgment on the proposed  
14 settlement. Fed. R. Civ. P. 23(e); *see also id.* 2018 Amendment Advisory Committee Notes. When  
15 “[c]onfronted with a request for a settlement-only class certification, a district court need not inquire  
16 whether the case, if tried, would present intractable management problems . . . for the proposal is that  
17 there [will] be no trial.” *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997).

18 **1. Class Members Are Too Numerous to Be Joined.**

19 The numerosity requirement of Rule 23(a) is met because “joinder of all members is  
20 impracticable.” Fed. R. Civ. P. 23(a)(1); *see also West v. California Servs. Bureau, Inc.*, 323 F.R.D.  
21 295, 303 (N.D. Cal. 2017) (court may make “common-sense assumptions” regarding numerosity)  
22 (citation omitted). Plaintiffs estimate that the Settlement Class consists of approximately 1.2 million  
23 people. Grille Decl., ¶ 42. This estimate is derived from Patreon’s records, which show that  
24 approximately 6 million Patreon subscribers accessed video content on patreon.com while in the  
25 United States during the Class Period, and publicly available data indicating that about 20% of the 6  
26 million subscribers simultaneously maintained a Facebook account and other browser settings such  
27 that the Meta Pixel would pass their video viewing choices and personal information to Meta. *Id.*



1                   **2.       There Are Common Questions of Law and Fact.**

2                   Commonality under Rule 23(a)(2) “is construed ‘permissively’ and is satisfied when class  
3 members share ‘some . . . legal issues or a common core of facts.’” *J.L. v. Cissna*, 2019 WL 415579, at  
4 \*9 (N.D. Cal. 2019) (quoting *Rodriguez v. Hayes*, 591 F.3d 1105, 1122 (9th Cir. 2010)). The common  
5 questions include: (1) whether Patreon is a “video tape service provider”; (2) whether Patreon  
6 intentionally installed the Meta Pixel on its website, (3) whether during the class period, the Meta Pixel  
7 on Patreon’s website was configured to transmit information constituting “personally identifying  
8 information” under the VPPA; and (4) whether Patreon’s transmission of its subscribers’ personally  
9 identifying information was done without consent in the form required by 18 U.S. Code §  
10 2710(b)(2)(B). The answers to these questions, which are at the heart of every Class Member’s VPPA  
11 claim, are capable of class-wide resolution and would “resolve an issue that is central to the validity of  
12 each one of the claims in one stroke.” *In re Chrysler- Dodge-Jeep*, 2019 WL 536661, at \*5 (citation  
13 omitted); *Martinez v. Blu Prod., Inc.*, 2019 WL 12838199, at \*3 (C.D. Cal. Oct. 3, 2019) (“[T]here  
14 appears to be a number of sufficiently-important common questions here including: Did the phones in  
15 question include firmware that continuously captured and transmitted Plaintiffs’ personally identifiable  
16 information?”). Hence, commonality is satisfied.

17                   **3.       Plaintiffs’ Claims Are Typical of the Class.**

18                   Representative claims are ‘typical’ if they are reasonably co-extensive with those of absent  
19 class members; they need not be substantially identical.” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011,  
20 1020 (9th Cir. 1998). “The test of typicality” under Rule 23(a)(3) is “whether other members have the  
21 same or similar injury, whether the action is based on conduct which is not unique to the named  
22 plaintiffs, and whether other class members have been injured by the same course of conduct.”  
23 *Parsons v. Ryan*, 754 F.3d 657, 685 (9th Cir. 2014) (citation omitted). Here, Plaintiffs and Class  
24 Members have the same types of claims stemming from the same alleged violations concerning  
25 Patreon’s transmission of their personal information to Meta via the Pixel, thus satisfying typicality.  
26 *Hodges v. Akeena Solar, Inc.*, 274 F.R.D. 259, 267 (N.D. Cal. 2011) (typicality met when “[a]ll  
27 members of the putative class were allegedly injured by the same course of conduct[.]”).

1                   **4. Plaintiffs and Plaintiffs’ Counsel Will Fairly and Adequately Protect the**  
 2                   **Interests of the Class.**

3                   Two questions are relevant to adequacy of representation under Rule 23(a)(4): “(1) Do the  
 4 representative plaintiffs and their counsel have any conflicts of interest with other class members, and  
 5 (2) will the representative plaintiffs and their counsel prosecute the action vigorously on behalf of the  
 6 class?” *Staton v. Boeing Co.*, 327 F.3d 938, 957 (9th Cir. 2003). Plaintiffs and their counsel do not  
 7 have any conflicts with Class Members and have vigorously prosecuted this case. Plaintiffs agreed to  
 8 serve in a representative capacity, communicated with their attorneys, fulfilled their discovery  
 9 obligations and have acted in the best interests of the other Class Members. *See Mergens v. Sloan*  
 10 *Valve Co.*, 2017 WL 9486153, at \*6 (C.D. Cal. Sept. 18, 2017) (adequacy requirement met where  
 11 plaintiff had no interests antagonistic to the class); *Castro v. ABM Indus., Inc.*, 325 F.R.D. 332, 342  
 12 (N.D. Cal. 2018) (plaintiffs were adequate when they “have been active participants in the litigation”).

13                   Plaintiffs’ Counsel also have extensive experience successfully representing plaintiffs and  
 14 classes in complex class action litigation, including matters involving privacy violations. *See, e.g., In*  
 15 *re U.S. Office of Personnel Management Data Security Litig.*, Case No. 1:15-mc-01394-ABJ (D.D.C.  
 16 Oct. 26, 2022), ECF No. 208 (approving \$63 million settlement); *In re Lenovo Adware Litig.*, 2019  
 17 WL 1791420 (N.D. Cal. April 24, 2019) (approving \$7.3 million settlement)(“Plaintiffs have ensured a  
 18 favorable recovery for the class”); *In re PFA Ins. Mktg. Litig.*, 2024 WL 1145209, at \*25 (N.D. Cal.  
 19 Feb. 5, 2024) ((approving settlement for \$4.24 million)(“Class Counsel represented the class with skill  
 20 and diligence over the course of several years and achieved remarkable success”); *See also* Grille  
 21 Decl., ¶ 54, Ex. 1 (firm resume).

22                   **5. The Requirements of Rule 23(b)(3) Are Met.**

23                   **a. Common Issues of Law and Fact Predominate for Settlement**  
 24                   **Purposes.**

25                   The predominance inquiry tests the cohesion of the class, “ask[ing] whether the common,  
 26 aggregation-enabling, issues in the case are more prevalent or important than the non-common,  
 27 aggregation-defeating, individual issues.” *Tyson Foods, Inc. v. Bouaphakeo*, 136 S. Ct. 1036, 1045  
 28 (2016) (citation omitted). Predominance is ordinarily satisfied, for settlement purposes, when the  
 claims arise out of the defendant’s common conduct. *Gold v. Lumber Liquidators, Inc.*, 323 F.R.D.

1 280, 288 (N.D. Cal. 2017) (predominance satisfied where claims were based on “the same deceptive  
2 conduct”); *Kacsuta*, 2014 WL 12585783, at \*3 (common issues “significantly outweigh any individual  
3 questions” where the claims arise out of the “same alleged course of conduct” by the defendant).

4 This Class is cohesive. To establish liability under the VPPA, a plaintiff must show that “(1) a  
5 defendant is a ‘video tape service provider,’ (2) the defendant disclosed ‘personally identifiable  
6 information concerning any customer’ to ‘any person,’ (3) the disclosure was made knowingly, and (4)  
7 the disclosure was not authorized by section 2710(b)(2).” *Mollett v. Netflix, Inc.*, 795 F.3d 1062, 1066  
8 (9th Cir. 2015). Each Class Member’s personal information was allegedly transmitted to Meta via  
9 Patreon’s Pixel without consent in violation of the VPPA. So, whether Patreon violated the VPPA in its  
10 implementation of the Meta Pixel can be determined in a single class proceeding. Predominance is thus  
11 met. *See Alcazar v. Fashion Nova, Inc.*, 2022 WL 19975445, at \*2 (N.D. Cal. Sept. 6, 2022) (“Whether  
12 Fashion Nova’s website complies with those laws or whether it violates them can be answered in one  
13 fell swoop.”). Predominance has similarly been found in cases alleging violations of statutes analogous  
14 to the VPPA. *See, e.g., Coulter-Owens v. Time, Inc.*, 308 F.R.D. 524, 537 (E.D. Mich. 2015) (certifying  
15 class as to Michigan Video Rental Privacy Act claim); *Wilcox v. Swapp*, 330 F.R.D. 584 (E.D. Wash.  
16 2019) (granting class certification for Driver’s Privacy Protection Act claim); *Haney v. Recall Ctr.*, 282  
17 F.R.D. 436 (W.D. Ark. 2012) (same); *Roberts v. Source for Pub. Data*, 2009 WL 3837502, at \*1 (W.D.  
18 Mo. Nov. 17, 2009) (same). Predominance is further met because the VPPA’s statutory damages obviate  
19 the need for complex, individualized damages calculations. *See In re Toys R Us-Delaware, Inc.*, 300  
20 F.R.D. 347, 377 (C.D. Cal. 2013) (“Courts have been more willing to find predominance where, as here,  
21 the class seeks only statutory damages.”).

22 **b. A Class Action is a Superior Means of Resolving This Controversy.**

23 The superiority inquiry “requires the court to determine whether maintenance of this litigation  
24 as a class action is efficient and whether it is fair.” *One Unnamed Deputy Dist. Attorney v. Cty. of Los*  
25 *Angeles*, 2011 WL 13128375, at \*4 (C.D. Cal. 2011). When, as in this case, individual recoveries  
26 would be relatively small and individual litigation would needlessly duplicate discovery and expert  
27 work, it is “an inferior method of adjudication.” *Wolin v. Jaguar Land Rover N. Am., LLC*, 617 F.3d  
28 1168, 1176 (9th Cir. 2010). Class members have little incentive to pursue their own VPPA claims

1 against Patreon—and there have not been any other cases to date—when it will entail litigating highly  
2 technical issues over the implementation of the Metal Pixel on Patreon’s website and Patreon has  
3 strenuously defended itself at every stage of the case. The amount of each Class member’s potential  
4 recovery is also dwarfed by the costs necessary to individually litigate Class Members’ claims. *See In re*  
5 *Facebook Biometric Info. Priv. Litig.*, 326 F.R.D. 535, 548 (N.D. Cal. 2018) (statutory damages not  
6 enough to incentivize individual litigation due to high cost of discovery and Facebook’s vigorous  
7 defense); *Alcazar*, 2022 WL 19975445, at \*4 (availability of \$4,000 in statutory damages was not  
8 enough to incentivize individual litigation because “that sum pales in comparison with the cost of  
9 pursuing litigation”) (citation omitted).

10 Therefore, consistent with Rule 23(e)(1)(B), the Court will likely be able to certify the  
11 Settlement Class in this case.

12 **C. The Proposed Class Notice and Plan for Dissemination Are Reasonable and**  
13 **Should be Approved.**

14 Rule 23(e)(1)(B) requires the Court to “direct notice in a reasonable manner to all class members  
15 who would be bound by the proposal.” Under Rule 23(b)(3), the Court must “direct to class members the  
16 best notice that is practicable under the circumstances, including individual notice to all members who  
17 can be identified through reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B).

18 The notices here comport with Rule 23 and the due process mandates. Using plain language, these  
19 proposed notices provide all information required under Rule 23(c)(2)(B). The proposed notice program  
20 provides for direct email notice as well as follow-up mechanisms for directly notifying Class Members of  
21 the settlement. The settlement website will also be a useful resource for Class Members—consistent with  
22 the Guidelines, it will post the Claim Form, the long-form notice, and key documents in the case  
23 including Class Counsel’s attorneys’ fee application once it is filed. The Claims Administrator will also  
24 establish an email inbox and a toll-free number for Class Members to contact with questions. Email is the  
25 best practical means of providing notice in this case given the online nature of Patreon’s business and  
26 because it is the primary way Patreon communicated with Class Members. *See Richards v. Chime Fin.,*  
27 *Inc.*, No. 19-CV-06864-HSG, 2020 WL 6318713, at \*10 (N.D. Cal. Oct. 28, 2020) (approving email only  
28 notice plan because it was one of the “primary” ways the defendant communicated with class members);

1 *see, e.g., In re LinkedIn User Priv. Litig.*, 309 F.R.D. 573, 586 (N.D. Cal. 2015) (noting “the Court  
2 approved a notice plan involving direct email notice, a settlement website and a toll-free telephone  
3 number, as consistent with Rule 23(c)(2)(B)”); *Rael v. Children's Place, Inc.*, No. 16-CV-370-GPC-LL,  
4 2021 WL 1226475, at \*14 (S.D. Cal. Mar. 31, 2021) (approving notice plan primarily relying on email  
5 and settlement website); *Evans v. Linden Rsch., Inc.*, No. C-11-01078 DMR, 2014 WL 1724891, at \*3  
6 (N.D. Cal. Apr. 29, 2014) (similar).

7 **VI. CONCLUSION**

8 For the foregoing reasons, Plaintiffs respectfully request that the Court (1) grant preliminary  
9 approval of the proposed Settlement, (2) direct notice to the Class, and (3) set a schedule for settlement  
10 proceedings, including the final fairness hearing.

11  
12 Dated: August 2, 2024

Respectfully submitted,

13 /s/ Simon S. Grille

14 Adam E. Polk (SBN 273000)

15 Simon S. Grille (SBN 294914)

16 Trevor T. Tan (SBN 280145)

17 Reid Gaa (SBN 330141)

**GIRARD SHARP LLP**

601 California Street, Suite 1400

San Francisco, CA 94108

Telephone: (415) 981-4800

Facsimile: (415) 981-4846

18 apolk@girardsharp.com

19 sgrille@girardsharp.com

20 ttan@girardsharp.com

21 rgaa@girardsharp.com

22 *Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

I hereby certify that on August 2, 2024, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will automatically send notification of the filing to all counsel of record.

/s/ Simon S. Grille

Simon S. Grille

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# **EXHIBIT 1**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTHERN CALIFORNIA  
SAN FRANCISCO DIVISION**

BRAYDEN STARK, JUDD OOSTYEN,  
ISAAC BELENKIY, VALERIE BURTON,  
LAURA GOODFIELD, and DENOVIAS  
MACK, individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

PATREON, INC.,

Defendant.

Case No. 3:22-CV-03131-JCS

**CLASS ACTION SETTLEMENT  
AGREEMENT AND RELEASE**

The Honorable Joseph C. Spero



1 This Class Action Settlement Agreement and Release dated August 2, 2024 (the  
2 “Agreement”), is made and entered into by and among: (i) Plaintiffs Brayden Stark, Judd Oostyen,  
3 Isaac Belenkiy, Valerie Burton, Laura Goodfield, and Denovias Mack (“Plaintiffs”) on behalf of  
4 themselves and each of the members of the Class (as defined herein), and (ii) Defendant Patreon, Inc.  
5 (“Patreon” or “Defendant”) (collectively, the “Parties”). The Agreement is intended to fully, finally,  
6 and forever resolve, discharge, and settle the Released Claims (as defined herein) as against the  
7 Releasing Defendant (as defined herein) and compensate Plaintiffs and Class Members for claimed  
8 damages, subject to the approval of the Court and the terms and conditions set forth in this Agreement.

9 **I. RECITALS**

10 WHEREAS, on May 27, 2022, Plaintiffs Brayden Stark and Judd Oostyen filed a class action  
11 complaint against Patreon in the United States District Court for the Northern District of California,  
12 captioned *Stark et al. v. Patreon, Inc.*, Case No. 3:22-CV-03131-JCS, asserting claims, including claims  
13 for alleged violations of the Video Privacy Protection Act, 18 U.S.C. § 2710 (“VPPA”) (Dkt. No. 1);

14 WHEREAS, on October 13, 2022, the Court issued an Order granting in part and denying in part  
15 a motion by Patreon to dismiss the class action complaint (Dkt. No. 40);

16 WHEREAS, on October 27, 2022, Plaintiffs Brayden Stark and Judd Oostyen filed a First  
17 Amended Complaint (Dkt. No. 41);

18 WHEREAS, on February 17, 2023, the Court issued an Order granting in part and denying in part  
19 a motion by Patreon to dismiss the First Amended Complaint (Dkt. No. 59);

20 WHEREAS, on January 30, 2024, Plaintiffs filed a Second Amended Complaint adding Plaintiffs  
21 Isaac Belenkiy, Valerie Burton, Laura Goodfield, and Denovias Mack (Dkt. No. 121), a copy of which  
22 is attached as Exhibit 1;

23 WHEREAS, the Parties mediated before the Honorable Jeremy D. Fogel (Ret.) on June 27, 2023,  
24 November 20, 2023, March 5, 2024, and April 16, 2024;

25 WHEREAS, the parties fully briefed and argued a motion filed by Patreon seeking summary  
26 judgment on the grounds that the VPPA violates the First Amendment of the U.S. Constitution, which  
27 motion was taken under submission by the Court at the close of the motion hearing on April 12, 2024;  
28

1 WHEREAS, Plaintiffs represent that they were prepared to file their class certification motion  
2 with associated expert reports by April 29, 2024;

3 WHEREAS, the Parties reached an agreement in principle to settle this litigation on April 26,  
4 2024, shortly before Plaintiffs' motion for class certification otherwise would have been due, and when  
5 Patreon's aforementioned motion for summary judgment had been taken under submission and was  
6 pending before the Court;

7 WHEREAS, Plaintiffs have conducted discovery, including depositions of eight Patreon then-  
8 current or former employees and two nonparties, 48 document requests, 11 interrogatories, and 17  
9 requests for admission, and engaged expert witnesses and consultants;

10 WHEREAS, in entering into this Agreement, Plaintiffs recognize and acknowledge the expense  
11 and time it would take to prosecute this action through trial and any subsequent appeals, and the risk that  
12 this action could ultimately be unsuccessful in light of Patreon's defenses;

13 WHEREAS, Patreon has asserted and would assert numerous defenses to the claims alleged by  
14 Plaintiffs, and expressly denies each of the claims asserted by Plaintiffs against Patreon and any and all  
15 liability arising out of the conduct alleged by Plaintiffs;

16 WHEREAS, Patreon acknowledges that further litigation of this action could be protracted and  
17 expensive, and has taken into account the uncertainty and risks inherent in any litigation, including a  
18 proposed class action;

19 WHEREAS, by entering into this Agreement, Patreon does not admit any wrongdoing, and this  
20 Agreement is not and will not constitute an admission of liability by Patreon; and

21 WHEREAS, Plaintiffs and Patreon have therefore each independently determined that it is  
22 desirable and beneficial for this action to be fully and finally resolved in the manner and upon the terms  
23 and conditions set forth in this Agreement.

24 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Plaintiffs  
25 (for themselves and the Class Members) and Patreon, by and through its counsel, that, subject to the  
26 approval of the Court, the Litigation and the Released Claims will be finally and fully compromised,  
27 settled, and released, and the Litigation will be dismissed with prejudice, as to all Parties and their Related  
28 Parties (as defined below), upon and subject to the terms and conditions of the Agreement, as follows.

1 **II. TERMS OF AGREEMENT**

2 **1. Definitions**

3 As used in the Agreement, the following terms have the meanings specified below:

4 1.1 “Action” or “Litigation” means *Stark et al. v. Patreon, Inc.*, Case No. 3:22-CV-03131-  
5 JCS, pending in the United States District Court for the Northern District of California.

6 1.2 “Agreement,” “Settlement Agreement,” or “Settlement” means this Class Action  
7 Settlement Agreement and Release.

8 1.3 “Approved Claim” means a Claim Form submitted by a Class Member that: (a) is  
9 submitted timely and in accordance with the directions on the Claim Form; (2) is fully and truthfully  
10 completed by a Class Member with all of the information requested on the Claim Form; (3) is signed by  
11 the Class Member, physically or electronically; and (4) is approved by the Claims Administrator under  
12 the provisions of this Agreement, including its incorporated exhibits.

13 1.4 “Approved Claimant” means any Class Member whose claim has been allowed as an  
14 Approved Claim.

15 1.5 “Claimant” means a person who submits a Claim.

16 1.6 “Claims Administrator” means Simpluris Inc., or such other notice and claims  
17 administrator as the Court approves.

18 1.7 “Claims Deadline” means 100 days after Preliminary Approval.

19 1.8 “Claim Form” means a document, substantially in the form of Exhibit 2 hereto, that a  
20 Class Member must complete and submit to receive a payment from the Net Settlement Fund.

21 1.9 “Class” means all persons who, between April 1, 2016, to and through the Preliminary  
22 Approval date, requested or obtained video content on the Patreon website (patreon.com) while in the  
23 United States and at a time the person had a Facebook account and also had a Patreon account. The  
24 Class excludes Patreon, its parents, subsidiaries, affiliates, officers, directors, and employees; any entity  
25 in which Patreon has a controlling interest; and all judges assigned to hear any aspect of this litigation,  
26 as well as their staff and immediate family members.

27 1.10 “Class Member” means a person who falls within the definition of the Class and does not  
28 exercise his or her right to opt out of the Settlement before the Opt-Out Deadline.

1 1.11 “Class Counsel” means Girard Sharp LLP.

2 1.12 “Court” means the United States District Court for the Northern District of California.

3 1.13 “Defendant” means Patreon, Inc.

4 1.14 “Defendant’s Counsel” means The Norton Law Firm PC.

5 1.15 “Effective Date,” or the date upon which this Settlement becomes “effective,” means the  
6 date the Court has entered the Final Order and Judgment and the Final Order and Judgment has been  
7 upheld through the resolution of all appeals and writs of certiorari, if any, and through the expiration of  
8 all time to appeal and file writs of certiorari, except that the Effective Date will not be delayed or  
9 modified by an appeal from those parts of the Final Order and Judgment that pertain solely to any award  
10 of attorneys’ fees or expenses.

11 1.16 “Escrow Account” means the interest-bearing account constituting a qualified settlement  
12 fund, as defined in Treasury Regulation § 1.468B-1 *et seq.*, to be mutually selected by the Parties and  
13 opened by the Claims Administrator and maintained by the Escrow Agent, subject to the continuing  
14 jurisdiction of the Court.

15 1.17 “Escrow Agent” means Huntington Bank, NA.

16 1.18 “Fee and Expense Award” means the order awarding attorneys’ fees and reimbursement  
17 of litigation expenses incurred by Class Counsel in the Litigation.

18 1.19 “Final Approval Hearing” means the hearing before the Court where the Parties will  
19 request that the Court enter the Final Order and Judgment, approving the Settlement Agreement, the  
20 Plan of Allocation, the Fee and Expense Award, and the Service Awards to the Class Representatives.

21 1.20 “Final Order and Judgment” or “Final Approval Order” means an order, substantially in  
22 the form of Exhibit 5 hereto, to be entered by the Court in this Action granting final approval of this  
23 Settlement Agreement and dismissing the Litigation with prejudice.

24 1.21 “Net Settlement Fund” means the Settlement Fund, less attorneys’ fees and expenses and  
25 Class Representative Service Awards that may be approved by the Court, less Notice and  
26 Administration Expenses, less any taxes due on earnings on the Settlement Fund, less any expenses  
27 related thereto, and less any other Court-approved deductions.  
28

1 1.22 “Notice” means the Notice of Proposed Settlement of Class Action, which, subject to  
2 approval of the Court, will be substantially in the form attached as Exhibit 3 hereto.

3 1.23 “Notice Date” means 25 calendar days after Preliminary Approval.

4 1.24 “Notice and Administration Expenses” means reasonable costs and expenses incurred by  
5 the Claims Administrator in connection with providing Notice (including CAFA notice), processing and  
6 distributing claims, responding to inquiries from members of the Class, and related services. For the  
7 avoidance of doubt, no portion of the Notice and Administration Expenses shall include fees of Class  
8 Counsel.

9 1.25 “Objection or Opt-Out Deadline” means 100 days after Preliminary Approval.

10 1.26 “Patreon” means Defendant Patreon, Inc.

11 1.27 “Person” means an individual, corporation, limited liability corporation, professional  
12 corporation, partnership, limited partnership, limited liability partnership, association, joint stock  
13 company, joint venture, estate, legal representative, trust, unincorporated association, government or any  
14 political subdivision or agency thereof, any business or legal entity, and any of their heirs, successors,  
15 representatives, or assigns.

16 1.28 “Plaintiffs” or “Class Representatives” means Brayden Stark, Judd Oostyen, Isaac  
17 Belenkiy, Valerie Burton, Laura Goodfield, and Denovias Mack.

18 1.29 “Plan of Allocation” means the plan for allocating the Net Settlement Fund as described  
19 in Section 3 of this Agreement.

20 1.30 “Preliminary Approval Order” means the Order Preliminarily Approving Settlement and  
21 Providing for Notice, substantially in the form attached as Exhibit 4 hereto.

22 1.31 “Preliminary Approval” means the date on which the Preliminary Approval Order is  
23 entered.

24 1.32 “Related Parties” means, as applicable, each of a person or entity’s respective present and  
25 former parents, subsidiaries, divisions, affiliates, and each of their and a person or entity’s respective  
26 present and former employees, members, partners, principals, agents, officers, directors, controlling  
27 shareholders, attorneys, agents, related or affiliated entities, predecessors, successors, spouses, estates,  
28

1 heirs, executors, trusts, trustees, administrators, representatives, and assigns, in their capacity as such,  
2 and any entity in which such a person or entity has a controlling interest.

3 1.33 “Released Claims” means all claims by Class Members, whether federal or state, known  
4 or unknown, asserted or unasserted, regardless of legal theory, arising out of any facts, transactions,  
5 events, matters, occurrences, acts, disclosures, statements, representations, omissions and failures to act  
6 regarding the alleged disclosures of the Class Members’ personally identifiable information and video  
7 viewing or requesting behavior that were brought or could have been brought in the Action, including  
8 but not limited to claims under the VPPA, claims under California’s Unfair Competition Law, and  
9 claims for unjust enrichment.

10 1.34 “Released Defendant” and “Releasing Defendant” means Patreon and its Related Parties.

11 1.35 “Released Plaintiffs” and “Releasing Plaintiffs” means Plaintiffs and each Class Member.

12 1.36 “Releasing Defendant’s Claims” means all claims and causes of action, whether known  
13 or unknown, whether arising under federal, state, common, or foreign law, solely to the extent that such  
14 claims arise out of or relate to the institution, prosecution, or settlement of the Litigation or the Released  
15 Claims against the Released Defendant. Notwithstanding the foregoing, “Releasing Defendant’s Claims”  
16 does not include claims relating to the enforcement of the Settlement.

17 1.37 “Releasing Parties” means the Releasing Defendant and the Releasing Plaintiffs.

18 1.38 “Service Awards” mean the awards sought by Class Representatives, subject to Court  
19 approval, in consideration for their service during the course of the Action.

20 1.39 “Settlement Amount” means \$7,250,000.00, which amount was deposited by Defendant  
21 into an interest-bearing direct deposit account on May 13, 2024, which interest accrued for the benefit  
22 of the Class, and was then transferred (along with earned interest) to a separate account (“Holding  
23 Account”) and invested in a money market mutual fund (namely, FSIXX) on or about June 13, 2024,  
24 and has been maintained thereafter in that account for the benefit of the Class, and which continues to  
25 accrue interest (through the money market mutual fund) for the benefit of the Class, and which  
26 Defendant will transfer (along with earned interest) to the Escrow Account within 7 days after the Court  
27 enters the Final Order and Judgment granting final approval of this Settlement Agreement.  
28

1           1.40   “Settlement Fund” means the non-reversionary cash fund consisting of the Settlement  
2 Amount, together with accrued interest thereon, less the advance for Notice and Administration  
3 Expenses (paragraph 2.2). The Parties agree that the Settlement Fund is intended to be at all times a  
4 “qualified settlement fund” within the meaning of Section 1.468B-1 *et seq.* of the Treasury Regulations  
5 promulgated under Section 468B of the Internal Revenue Code of 1986, as amended, from the earliest  
6 date possible, and further agree to any relation-back election (as described in Treas. Reg. §1.468B-1(j))  
7 required to treat the Settlement Fund as a “qualified settlement fund” from the earliest date possible. The  
8 Settlement Fund will be maintained by the Escrow Agent with permissions granted to the Claims  
9 Administrator to access said funds until such time as the payments set forth herein are made. The  
10 Settlement Fund includes all interest that will accrue on the sums deposited in the Escrow Account. The  
11 Claims Administrator, as administrator of the Settlement Fund within the meaning of Treasury  
12 Regulation § 1.468B-2(k)(3), will be responsible for all tax filings with respect to any earnings on the  
13 Settlement Fund and the payment of all taxes that may be due on such earnings. Counsel for Defendant  
14 agrees to provide promptly to the Claims Administrator the statement described in Treasury Regulation  
15 § 1.468B-3(e). Neither the Class Representatives, Class Counsel, Defendant, nor Defendant’s Counsel  
16 will have any liability or responsibility for any tax arising with respect to the Settlement Fund.

17           1.41   “Unknown Claims” means claims that could have been raised in the Action and that any  
18 or all of the Releasing Parties do not know or suspect to exist, which, if known by him or her, might  
19 affect his or her agreement to release the Released Parties or the Released Claims or might affect his or  
20 her decision to agree, object or not to object to the Settlement. Upon the Effective Date, the Releasing  
21 Parties will be deemed to have, and will have, expressly waived and relinquished, to the fullest extent  
22 permitted by law, the provisions, rights, and benefits of Section 1542 of the California Civil Code,  
23 which provides as follows:

24           **A general release does not extend to claims that the creditor or releasing party does**  
25           **not know or suspect to exist in his or her favor at the time of executing the release and**  
26           **that, if known by him or her, would have materially affected his or her settlement**  
27           **with the debtor or released party.**

28           Upon the Effective Date, the Releasing Parties also will be deemed to have, and will have, waived any  
and all provisions, rights and benefits conferred by any law of any state or territory of the United States,



1 or principle of common law, or the law of any jurisdiction outside of the United States, which is similar,  
2 comparable or equivalent to Section 1542 of the California Civil Code. The Releasing Parties  
3 acknowledge that they may discover facts in addition to or different from those that they now know or  
4 believe to be true with respect to the subject matter of this release, but that it is their intention to finally  
5 and forever settle and release the Released Claims, notwithstanding any Unknown Claims they may have,  
6 as that term is defined in this Paragraph.

## 7 **2. Settlement Relief**

8 2.1 Defendant deposited the Settlement Amount (\$7,250,000.00) into an interest-bearing  
9 account on May 13, 2024, and then transferred such amount (including interest earned) into a separate  
10 trading account and invested the funds in a money market mutual fund (namely, FSIXX) on or about  
11 June 13, 2024, and Defendant will maintain the money market mutual fund shares in the Holding  
12 Account for the benefit of the Class, subject to Paragraphs 2.2 and 2.3 below. Within 7 days after the  
13 Court enters the Final Order and Judgment, Defendant will sell the money market mutual fund shares in  
14 the Holding Account for U.S. dollars and then transfer the funds (with all earned interest) to the Escrow  
15 Account. Defendant will make no further payments in connection with this Agreement.

16 2.2 Upon Preliminary Approval, an amount totaling \$58,953.20 for initial costs associated  
17 with Notice and Administration Expenses will be disbursed by Defendant from the Holding Account to  
18 the Claims Administrator. To the extent the disbursement thereafter is actually expended on Notice and  
19 Administration Expenses, the amount expended will not be returned to Defendant, and Defendant will  
20 have no claim for reimbursement of that amount.

21 2.3 If Final Approval is granted, no portion of the Settlement Fund or Net Settlement Fund  
22 will revert to Defendant; but if Final Approval is not granted, the balance of the Holding Account, plus  
23 any interest earned, will be returned to Defendant within 10 days after the Court enters its order denying  
24 Plaintiffs' motion for final approval of the settlement.

25 2.4 In addition to agreeing to pay the Settlement Amount, Patreon has removed or disabled  
26 the Meta Pixel from any web page on the Patreon website that includes video content as of the Effective  
27 Date.  
28



1           2.5     Patreon further agrees not to re-install or operate the Meta Pixel on any web page on the  
2 Patreon website that includes video content, except if: (a) the VPPA is amended in relevant part,  
3 repealed, or otherwise invalidated; (b) Patreon obtains consent in the form required by the VPPA, 18  
4 U.S.C. § 2710(b)(2)(B); or (c) the installed Meta Pixel otherwise complies with the VPPA.

5           **3.     Allocation of the Settlement Fund**

6           3.1     Class Members will have until the Claims Deadline to submit a Claim.

7           3.2     There will be one Claim Form, and each Class Member may submit one claim.  
8 The Claim Form will require an attestation under oath that the Claimant accessed video content on  
9 Patreon.com while the Claimant had an active Facebook account and that all information provided is  
10 true and correct to the best of the Claimant's knowledge.

11          3.3     The Claim Form will require that a Class Member support their claim by providing the  
12 link associated with the Class Member's Facebook profile. The Notice and Settlement Website will  
13 provide instructions to Class Members regarding how to access this information.

14          3.4     The Claims Administrator will audit a sample of claims. If the Claims Administrator  
15 determines a Claim is inadequately supported, suspicious, or contains indicia of fraud, the Claims  
16 Administrator may disallow the claim or request additional supporting documentation, including  
17 documentation showing that the Claimant accessed video content on patreon.com while he or she had a  
18 Facebook account.

19          3.5     The Settlement Administrator will give Claimants a reasonable opportunity to cure  
20 defective claim submissions during a period of up to 60 days ("Cure Period").

21          3.6     The Claims Administrator will have the discretion (but not the obligation) to accept late-  
22 submitted claims for processing by the Claims Administrator, provided the distribution of the Net  
23 Settlement Fund to Approved Claimants will not be materially delayed thereby.

24          3.7     For each claim, the Claims Administrator will make the final determination as to whether  
25 the claim is an Approved Claim. The parties will have no role in, nor will they be held liable in any way  
26 for, the determination of monetary relief to be accorded each Claimant.

1           3.8     After review of all claims and after expiration of the Cure Period, the Claims  
2 Administrator will determine the total number of Approved Claims, divide the Net Settlement Fund by  
3 the number of Approved Claims, and distribute equal shares to each Approved Claimant.

4           3.9     The determination of the validity of Claims and the proper amount of the payment to a  
5 Claimant is the sole responsibility of the Claims Administrator. No Party to this Agreement will be  
6 deemed in default of its obligations due to a dispute between a Claimant and the Claims Administrator,  
7 including a dispute over the amount of a payment or the return of a payment due to the death or  
8 unavailability of a Class Member. If a Class Member believes that a determination made by the Claims  
9 Administrator requires correction, the Class Member may seek correction pursuant to the following  
10 process:

11                   a)     A Claimant who objects to the Claims Administrator's determination of  
12 his or her claim must so notify the Claims Administrator within thirty (30) days after the date that the  
13 Claims Administrator mailed or emailed the determination to the Claimant. The Claimant must provide  
14 a written statement setting forth the basis for his or her disputed claim. Any disputed claim that is not  
15 postmarked or emailed within that thirty (30) day period will be waived.

16                   b)     Upon the timely submission of a disputed claim, the Claims  
17 Administrator, and the objecting Claimant, will have thirty (30) days to attempt to resolve the disputed  
18 claim by agreement. At the end of this thirty (30) day period, the Claims Administrator will provide the  
19 Claimant with its written notice of its decision regarding the disputed claim. The decision of the Claims  
20 Administrator will be binding and not subject to further review or appeal.

21                   c)     No person will have any claim against the Parties or their counsel or the  
22 Claims Administrator, or any other person designated by Class Counsel, based on conduct or  
23 communications substantially in accordance with this Settlement Agreement or further order(s) of the  
24 Court.

25           3.10    The Claims Administrator will provide the Parties with weekly written reports, beginning  
26 on the Notice Date and continuing until submission of the final post-distribution accounting (and  
27 thereafter upon request), summarizing all statistics and actions taken by the Claims Administrator in  
28 connection with administering the Settlement.

1           3.11 All cash payments to Approved Claimants that have not been deposited within 90 days  
2 after the date of issuance will be redistributed *pro rata*, after deducting necessary settlement  
3 administration expenses from such uncashed funds, to all Class Members who deposited a check or were  
4 paid by electronic payment (*e.g.*, Venmo, Zelle, etc.) during the initial distribution; but if such a *pro rata*  
5 redistribution would result in each such Class Member receiving less than \$10, the uncashed funds will  
6 be distributed, subject to Court approval, to a non-profit organization focused on consumer privacy  
7 protection that has not filed an amicus brief in this Action or in any other action alleging claims under  
8 the Video Privacy Protection Act.

9           **4. Releases**

10           4.1 Upon the Effective Date, all Releasing Plaintiffs and anyone claiming through or on  
11 behalf of any of them, will be deemed to have fully, finally, and forever released, relinquished, and  
12 discharged all Released Claims (including Unknown Claims) against the Released Defendant. Upon the  
13 Effective Date, the Releasing Plaintiffs will be forever barred and enjoined from commencing,  
14 instituting, prosecuting, or continuing to prosecute any action or other proceeding in any court of law or  
15 equity, arbitration tribunal, or administrative forum, asserting any Released Claim against any Released  
16 Defendant. Releasing Plaintiffs are aware of California Civil Code § 1542 and expressly waive and  
17 relinquish any rights or benefits available to them under this statute.

18           4.2 Upon the Effective Date, the Releasing Defendant will be deemed to have fully, finally,  
19 and forever released, relinquished, and discharged all Releasing Defendant's Claims (including  
20 Unknown Claims) against Released Plaintiffs, and Class Counsel, whether arising under federal, state,  
21 common or foreign law. Upon the Effective Date, the Releasing Defendant will be forever barred and  
22 enjoined from commencing, instituting, prosecuting, or continuing to prosecute any action or other  
23 proceeding in any court of law or equity, arbitration tribunal, or administrative forum, asserting the  
24 Releasing Defendant's Claims against any of the Released Plaintiffs, and Class Counsel.

25           4.3 All Persons granting any release pursuant to sections 4.1 and 4.2 above covenant not to  
26 sue with respect to all Claims released by such Person.

27           4.4 All Persons granting any release pursuant to sections 4.1 and 4.2 above will be  
28 permanently barred and enjoined from asserting, commencing, prosecuting, instituting, assisting,

1 instigating, or in any way participating in the commencement or prosecution of any action or other  
2 proceeding, in any forum, asserting any claim released by them under the releases in sections 4.1 and  
3 4.2, in any capacity, against any of the Released Parties.

4 4.5 No person will have any claim of any kind against the Parties or their counsel or the  
5 Claims Administrator with respect to the Settlement and the matters set forth herein, or based on  
6 determinations or distributions made substantially in accordance with this Agreement, the Final Order  
7 and Judgment, or further order(s) of the Court.

## 8 **5. Obtaining Court Approval of the Agreement**

9 5.1 Promptly after execution of the Agreement, Plaintiffs will submit the Agreement,  
10 including its incorporated Exhibits, to the Court and will apply for entry of the Preliminary Approval  
11 Order.

12 5.2 Pursuant to 28 U.S.C. § 1715, within ten days after this Agreement is filed with the  
13 Court, the Claims Administrator will cause notice of the Settlement to be sent to the Attorneys General  
14 of each State in which Class Members reside, the Attorney General of the United States, and any other  
15 required government officials.

16 5.3 In accordance with the schedule set under the Preliminary Approval Order, Class Counsel  
17 will draft the motion for final approval, and the Fee and Expense Application, and will appear at the  
18 Final Approval Hearing.

19 5.4 Any order or proceeding relating to the Plan of Allocation, or to the Fee and Expense  
20 Application, will not operate to terminate or cancel the Agreement or affect the finality of the Court's  
21 Final Order and Judgment.

22 5.5 If the Settlement is not approved by the Court or otherwise fails to become effective in  
23 accordance with its terms, the Parties will be restored to their respective positions in the Litigation as of  
24 April 26, 2024 and will jointly propose a revised schedule for briefing Plaintiffs' class certification  
25 motion and other case deadlines. In such event, the terms and provisions of the Agreement (with the  
26 exception of Paragraphs 2.2 and 2.3) will be null and void and will not be used in the Litigation or in  
27 any other proceeding for any purpose, and any judgment or order entered by the Court in accordance  
28

1 with the terms of the Agreement will be treated as vacated, *nunc pro tunc*, and will not be used in the  
2 Litigation or in any other proceeding for any purpose.

3 **6. Notice and Settlement Administration**

4 6.1 Within seven business days after Preliminary Approval, Patreon will provide the Claims  
5 Administrator with reasonably necessary Class Member information for purposes of effecting the Notice  
6 (to the extent Patreon has such information). This information provided by Patreon will include names  
7 and email addresses that Patreon has for all potential Class Members. Prior to providing this  
8 information, Patreon will have an opportunity to verify and approve the information security protocol of  
9 the Claims Administrator, which approval will not be unreasonably withheld.

10 6.2 Following Preliminary Approval, no later than the Notice Date, the Claims Administrator  
11 will send Notice via email substantially in the form attached as Exhibit 6, along with an electronic link  
12 to the Claim Form, substantially in the form attached as Exhibit 2, to all potential Class Members for  
13 whom a valid email address is available. To the extent such transmission of email notice results in  
14 “bounce-backs,” the Claims Administrator will make a second attempt to re-send the email notice where  
15 feasible.

16 6.3 At the election of Class Counsel, and at least seven days prior to the Claims Deadline, the  
17 Claims Administrator may, on one to three occasions, send Notice via email substantially in the form  
18 attached as Exhibit 6 (with minor, non-material modifications to indicate this is a reminder email), along  
19 with an electronic link to the Claim Form, substantially in the form attached as Exhibit 2, to all potential  
20 Class Members for whom a valid email address is available.

21 **7. Objections and Opt-Outs**

22 7.1 Any objections from Class Members regarding the Settlement must be submitted in  
23 writing to the Court no later than the Objection or Opt-Out Deadline, in accordance with the procedures  
24 set forth in the Preliminary Approval Order.

25 7.2 The Parties may file responses to any timely written objections no later than 15 days after  
26 the Objection or Opt-Out Deadline, or such later time as the Court may allow.  
27  
28

1           7.3     Any opt-out notice from a Class Member regarding the Settlement must be submitted in  
2 writing no later than the Objection or Opt-Out Deadline, in accordance with the procedures set forth in  
3 the Preliminary Approval Order.

4           7.4     This Settlement Agreement will not bind a Class Member who timely and validly opts  
5 out of the Class. The Settlement Agreement will, however, bind any Class Member who does not timely  
6 and validly opt out of the Class. Group opt-outs, including “mass” or “class” opt-outs, are prohibited.

7           7.5     Within 14 days after the Objection and Opt-Out Deadline, the Claims Administrator will  
8 provide Class Counsel and Defendant’s Counsel with the number of persons who have timely and  
9 validly excluded themselves from the Settlement.

10          7.6     Defendant shall have the right, but not the obligation, in its sole discretion, to terminate  
11 this Agreement by providing written notice to Class Counsel within twenty-five (25) days of the  
12 following event: individuals comprising more than one percent (1%) of the total number of persons who  
13 were sent Notice have timely and validly opted out of the Agreement. If the Agreement is terminated,  
14 the Parties will be restored to their respective positions in the Litigation as of April 26, 2024 and will  
15 jointly propose a revised schedule for briefing Plaintiffs’ class certification motion and other case  
16 deadlines. In such event, the terms and provisions of the Agreement (with the exception of Paragraphs  
17 2.2 and 2.3) will be null and void and will not be used in the Litigation or in any other proceeding for  
18 any purpose, and any judgment or order entered by the Court in accordance with the terms of the  
19 Agreement will be treated as vacated, *nunc pro tunc*, and will not be used in the Litigation or in any  
20 other proceeding for any purpose.

21           **8.     Attorneys’ Fees and Expenses; Service Awards**

22          8.1     Pursuant to Fed. R. Civ. P. 23(h), Defendant agrees that Class Counsel will be entitled to  
23 an award of reasonable attorneys’ fees and expenses to be paid exclusively out of the Settlement Fund in  
24 an amount to be determined by the Court.

25          8.2     The Parties have reached no agreement on the amount of fees and expenses that Class  
26 Counsel will seek. Defendant takes no position as to the amount of fees and expenses to be sought.

1           8.3     Class Members will have at least 35 days to object to and oppose Class Counsel's Fee  
2 and Expense Application by filing with the Court, and serving on Class Counsel, any objections relating  
3 to such application.

4           8.4     Any Fee and Expense Award will be paid from the Settlement Fund within 10 days after  
5 the Court enters the Final Order and Judgment and an order of such fees and expenses, notwithstanding  
6 any timely objections or potential for appeal therefrom, or collateral attack on the Settlement or any part  
7 hereof. If, however, the Final Judgment is reversed or rendered void as a result of an appeal, Class  
8 Counsel will return such funds to the Settlement Fund.

9           8.5     Procedures connected with the application by Class Counsel for attorneys' fees and  
10 expenses form no part of this Settlement Agreement, and the application will be considered separately  
11 from the Court's consideration of the fairness, reasonableness, and adequacy of this Settlement  
12 Agreement. Any order or proceeding relating to the application for attorneys' fees and expenses, the  
13 pendency of the application, or any appeal from any such order, will not operate to terminate or cancel  
14 this Settlement or to affect or delay the finality effected by entry of the Final Order and Judgment.

15           8.6     Class Counsel may apply for Service Awards not to exceed \$7,500 for each Class  
16 Representative. This amount is not a measure of damages, but instead solely an award for the Class  
17 Representatives' services, time, and effort on behalf of Class Members. Class Counsel will provide a  
18 Form W-9 to each Class Representative who may be awarded a Service Award, and the Claims  
19 Administrator will issue an IRS Form Misc. 1099 for such a Service Award to each such Class  
20 Representative.

21           8.7     The Class Representatives' approval of this Settlement Agreement is not contingent on  
22 Class Counsel applying for Service Awards or the Court approving any such application. Any order or  
23 proceeding relating to the application for Service Awards, the pendency of the application, or any appeal  
24 from such an order will not operate to terminate or cancel this Settlement Agreement, or to affect or  
25 delay the finality effected by entry of the Final Order and Judgment.

26           8.8     Any fees and/or expenses, including the Fee and Expense Award, and/or Service Awards  
27 awarded by the Court will be paid solely from the Settlement Fund. Defendant and its Related Parties  
28



1 will have no responsibility for any payment of attorneys' fees and/or expenses to Class Counsel, or any  
2 Service Award to any Plaintiff.

3 **9. Miscellaneous Provisions**

4 9.1 The Parties acknowledge that it is their intent to consummate this Agreement, and agree  
5 to cooperate as necessary to secure Court approval of the Agreement and to implement all terms and  
6 conditions of the Agreement, and to exercise their best efforts to accomplish the foregoing terms and  
7 conditions. The Parties and their respective counsel agree that they will act in good faith and will not  
8 engage in any conduct that could frustrate the purposes of this Agreement. The Parties and their  
9 respective counsel will not make any public statement that disparages the Settlement.

10 9.2 This Agreement is deemed to have been prepared by counsel for all Parties. Because all  
11 Parties have contributed substantially and materially to the preparation of this Agreement, it will not be  
12 construed more strictly against one Party than another, nor will the Agreement be construed against any  
13 Party on grounds that it was the drafter.

14 9.3 The Settlement Amount and the other terms of the Settlement Agreement were negotiated  
15 in good faith by the Parties, as a result of arms' length negotiations, and reflect a Settlement that was  
16 reached voluntarily after consultation with competent legal counsel. The Parties will not assert in any  
17 forum that the Action was brought by Plaintiff or defended by Defendant, or each or any of them, in bad  
18 faith or on a frivolous basis.

19 9.4 The Parties acknowledge that the Action concerns allegations which, if proven, are  
20 directly connected with, and proximately result from, the customary practices of Defendant's business.  
21 The Parties further acknowledge that the payments by Defendant under this Agreement are not paid or  
22 incurred (whether by suit, agreement, or otherwise): (a) to, or at the direction of, a government or  
23 governmental entity in relation to the violation of any law or the investigation or inquiry by such  
24 government or entity into the potential violation of any law; (b) for permanent improvements or  
25 betterments made to increase the value of any property or estate; or (c) to acquire or produce any asset  
26 (including without limitation real or personal property) or to defend or perfect title thereto.

27 9.5 If, at any time prior to Final Approval, any Party is in material breach of the terms hereof  
28 and fails to cure such material breach within 14 days of notice, any other Party, provided that it is in



1 substantial compliance with the terms of this Agreement, may terminate the Agreement on notice to the  
2 Party. If the Agreement is terminated, the Parties will be restored to their respective positions in the  
3 Litigation as of April 26, 2024 and will jointly propose a revised schedule for briefing Plaintiffs' class  
4 certification motion and other case deadlines. In such event, the terms and provisions of the Agreement  
5 (with the exception of Paragraphs 2.2 and 2.3) will be null and void and will not be used in the  
6 Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in  
7 accordance with the terms of the Agreement will be treated as vacated, *nunc pro tunc*, and will not be  
8 used in the Litigation or in any other proceeding for any purpose.

9       9.6     Neither this Agreement nor the Settlement contained herein, nor any act performed or  
10 document executed pursuant to or in furtherance of the Agreement or the Settlement: (a) is or may be  
11 deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, the  
12 truth of any of the allegations in the Litigation of any wrongdoing, fault, or liability of Defendant or its  
13 Related Parties, or that Plaintiffs or any Class Members have suffered any damages, harm, or loss; or (b)  
14 is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission on  
15 the part of Defendant or its Related Parties in any civil, criminal, or administrative proceeding in any  
16 court, administrative agency, or other tribunal.

17       9.7     Defendant may file this Agreement and/or the Final Order and Judgment in any other  
18 action that may be brought against it in order to support a defense or counterclaim based on principles of  
19 res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any theory  
20 of claim or issue preclusion or similar defense or counterclaim.

21       9.8     All agreements made and orders entered during the course of the Litigation relating to the  
22 confidentiality of information will survive this Agreement.

23       9.9     All of the Exhibits to the Agreement are material and integral parts hereof and are fully  
24 incorporated herein by this reference. This Agreement and its Exhibits constitute the entire agreement  
25 between the Parties related to the Settlement. No covenants, agreements, representations, or warranties  
26 of any kind have been made by any Party hereto, except as provided for herein.

27       9.10    Where this Agreement requires notice to the Parties, such notice will be sent to the  
28 undersigned counsel: for Class Counsel, Simon Grille, Girard Sharp LLP, 601 California Street, Suite

1 1400, San Francisco, CA 94108; for Defendant, Fred Norton, The Norton Law Firm PC, 299 Third  
2 Street, Suite 200, Oakland, CA 94607.

3 9.11 The headings herein are used for the purpose of convenience only and are not meant to  
4 have legal effect.

5 9.12 The Agreement may be amended or modified only by a written instrument signed by or  
6 on behalf of all Parties or their respective successor(s)-in-interest.

7 9.13 This Agreement may be executed in one or more counterparts. Signature by digital  
8 means, facsimile, or in PDF format will constitute sufficient execution of this Agreement. All executed  
9 counterparts, and each of them, will be deemed to be one and the same instrument.

10 9.14 This Settlement Agreement will be binding upon, and inure to the benefit of, the  
11 successors and assigns of the Parties hereto and the Released Parties.

12 9.15 This Settlement Agreement will be governed by and construed in accordance with the  
13 laws of the State of California.

14 9.16 The Court will retain jurisdiction with respect to implementation and enforcement of the  
15 terms of this Agreement, and all Parties hereto submit to the jurisdiction of the Court for purposes of  
16 implementing and enforcing the Settlement embodied in this Agreement.

17 IN WITNESS WHEREOF, each of the parties hereto have caused the Agreement to be executed,  
18 by their respective duly authorized representatives, on August 2, 2024.

19 DocuSigned by:  
*Simon Grille*  
20 D57DD0A47D4B411...  
Adam E. Polk (SBN 273000)  
21 Simon Grille (SBN 294914)  
22 Trevor T. Tan (SBN 280145)  
Reid Gaa (SBN 330141)  
**GIRARD SHARP LLP**  
23 601 California Street, Suite 1400  
24 San Francisco, CA 94108  
25 Telephone: (415) 981-4800  
apolk@girardsharp.com  
26 sgrille@girardsharp.com  
ttan@girardsharp.com  
27 rgaa@girardsharp.com

28 Attorneys for Plaintiffs

PATREON, INC.  
DocuSigned by:  
By: *Ty Layton*  
6EAE2FAAF51E464...  
Ty Layton,  
Director and Associate General  
Counsel

# **EXHIBIT 1**

1 Adam E. Polk (SBN 273000)  
 2 Simon Grille (SBN 294914)  
 3 Trevor T. Tan (SBN 281045)  
 4 Reid Gaa (SBN 330141)  
 5 **GIRARD SHARP LLP**  
 6 601 California Street, Suite 1400  
 7 San Francisco, CA 94108  
 8 Telephone: (415) 981-4800  
 9 apolk@girardsharp.com  
 10 sgrille@girardsharp.com  
 11 ttan@girardsharp.com  
 12 rgaa@girardsharp.com  
 13  
 14 *Attorneys for Plaintiffs*

11 **UNITED STATES DISTRICT COURT**  
 12 **NORTHERN DISTRICT OF CALIFORNIA**

15 BRAYDEN STARK, JUDD OOSTYEN,  
 16 ISAAC BELENKIY, VALERIE BURTON,  
 17 LAURA GOODFIELD and DENOVAS  
 18 MACK, individually and on behalf of all others  
 19 similarly situated,

20 Plaintiffs,

21 v.

22 PATREON, INC.,

23 Defendant.

Case No. 3:22-cv-03131-JCS

**SECOND AMENDED CLASS ACTION  
 COMPLAINT**

**JURY TRIAL DEMANDED**

Hon. Joseph C. Spero

1 Plaintiffs, on behalf of themselves and all others similarly situated, allege as follows against  
2 Defendant Patreon, Inc. (“Patreon”):

### 3 INTRODUCTION

4 1. This is a consumer privacy action against Patreon for disclosing its digital subscribers’  
5 identities and video-viewing preferences to Meta Platforms Inc. (“Meta”), which owns the social  
6 networking website and app Facebook, in violation of the Video Privacy Protection Act (“VPPA” or  
7 “the Act”) and state law.

8 2. The VPPA prohibits “video tape service providers,” such as Patreon, from knowingly  
9 disclosing a consumer’s personally identifiable information (“PII”)—in particular, “information which  
10 identifies a person as having requested or obtained specific video materials or services from a video tape  
11 provider”—unless the consumer expressly consented to the disclosure in a standalone consent form.

12 3. Patreon collects and shares users’ personal information with Meta using a “Meta Pixel”  
13 or “Pixel”—a snippet of programming code that, once installed on a webpage, sends information to  
14 Meta.<sup>1</sup> The Meta Pixel sends information to Meta in a data packet containing PII, such as the users’ IP  
15 address, name, email, or phone number. Meta then stores this data on its own servers.

16 4. The information that Patreon shares with Meta includes the user’s unique Facebook ID  
17 (“FID”) and the titles of prerecorded videos that Patreon delivered to the user for viewing. A user’s FID  
18 is linked to their Facebook profile, which generally contains a wide range of demographic and other  
19 information about the user, including pictures, personal interests, work history, relationship status, and  
20 other details.

21 5. Patreon discloses the user’s FID and viewing content to Meta together in a single  
22 transmission. Because the user’s FID uniquely identifies an individual’s Facebook account, Meta—and  
23 any other ordinary person—can use the FID to quickly and easily locate, access, and view the user’s  
24 corresponding Facebook profile. In simplest terms, the Pixel allows Meta to know what video content  
25 one of its users viewed on Patreon’s website.

26  
27  
28 <sup>1</sup> While Plaintiffs’ prior Class Action Complaint used the term “Facebook Pixel,” Meta refers to this  
code sequence as the “Meta Pixel.” See <https://developers.facebook.com/docs/meta-pixel/> (last visited  
Oct. 24, 2022).



## JURISDICTION AND VENUE

1  
2 17. This Court has original jurisdiction under 28 U.S.C. § 1331 based on Plaintiffs' claims  
3 under the Video Privacy Protection Act, 18 U.S.C. § 2710. The Court has supplemental jurisdiction over  
4 Plaintiffs' state-law claims under 28 U.S.C. § 1367.

5 18. This Court also has jurisdiction over this lawsuit under the Class Action Fairness Act, 28  
6 U.S.C. § 1332(d)(2), because this is a proposed class action in which: (1) there are at least 100 Class  
7 members; (2) the combined claims of Class members exceed \$5,000,000, exclusive of interest,  
8 attorneys' fees, and costs; and (3) Defendant and at least one Class member are domiciled in different  
9 states.

10 19. This Court has personal jurisdiction over Patreon because its principal place of business  
11 is within this District and it has sufficient minimum contacts in California to render the exercise of  
12 jurisdiction by this Court proper and necessary.

13 20. Venue is proper in this District under 28 U.S.C. § 1391(b) because a substantial part of  
14 the events or omissions giving rise to Plaintiffs' claims occurred in this District.

## PLAINTIFF-SPECIFIC ALLEGATIONS

### Brayden Stark

16  
17 21. Plaintiff Stark is a Patreon member and a Facebook user. He has been a Patreon member  
18 since 2019 and is therefore a "subscriber" to Patreon under the VPPA.

19 22. Mr. Stark's Facebook profile includes his name and other personal details.

20 23. Mr. Stark has consistently paid Patreon approximately \$15.00 per month in subscription  
21 fees.

22 24. When he initially subscribed to Patreon, Mr. Stark watched prerecorded video content on  
23 patreon.com daily. He continues to watch prerecorded video content on the Patreon website, though not  
24 as frequently as before.

25 25. Mr. Stark visited Patreon's website to request and watch prerecorded video content using  
26 the same browser that he uses to log in to Facebook, including while he was logged in to Facebook. He  
27 also uses the same device to request and watch prerecorded videos on Patreon that he uses for Facebook.  
28

1 **Judd Oostyen**

2 26. Plaintiff Oostyen is a Patreon member and a Facebook user. He has been a Patreon  
3 member since 2021 and is therefore a “subscriber” to Patreon under the VPPA.

4 27. Mr. Oostyen’s Facebook profile includes his name and other personal details.

5 28. Mr. Oostyen has consistently paid Patreon approximately \$5.00 per month in subscription  
6 fees.

7 29. When he initially subscribed to Patreon, Mr. Oostyen watched prerecorded video content  
8 on patreon.com daily. He continues to watch prerecorded video content on the Patreon website, though  
9 not as frequently as before.

10 30. Mr. Oostyen visited Patreon’s website to request and watch prerecorded video content  
11 using the same browser that he uses to log in to Facebook, including while he was logged in to  
12 Facebook. He also uses the same device to request and watch prerecorded videos on Patreon that he uses  
13 for Facebook.

14 **Isaac Belenkiy**

15 31. Plaintiff Belenkiy is a Patreon member and a Facebook user. He has been a Patreon  
16 member since 2020 and is therefore a “subscriber” to Patreon under the VPPA.

17 32. Mr. Belenkiy’s Facebook profile includes his name and other personal details.

18 33. Mr. Belenkiy has consistently paid Patreon approximately \$28.00 per month in  
19 subscription fees.

20 34. When he initially subscribed to Patreon, Mr. Belenkiy watched prerecorded video content  
21 on patreon.com monthly. He continues to watch prerecorded video content on the Patreon website,  
22 though not as frequently as before.

23 35. Mr. Belenkiy visited Patreon’s website to request and watch prerecorded video content  
24 using the same browser that he uses to log in to Facebook, including while he was logged in to  
25 Facebook. He also uses the same device to request and watch prerecorded videos on Patreon that he uses  
26 for Facebook.

27 36. Mr. Belenkiy watched prerecorded video content on Patreon’s website on a webpage  
28 dedicated to the individual video(s) he viewed.



1 **Valerie Burton**

2 37. Plaintiff Burton is a Patreon member and a Facebook user. She has been a Patreon  
3 member since around 2018 and is therefore a “subscriber” to Patreon under the VPPA.

4 38. Ms. Burton’s Facebook profile includes personal details sufficient to identify her.

5 39. Ms. Burton has consistently paid subscription fees to Patreon to access content on  
6 Patreon’s website, including prerecorded video content.

7 40. When she initially subscribed to Patreon, Ms. Burton watched prerecorded video content  
8 on patreon.com weekly. She continues to watch prerecorded video content on the Patreon website,  
9 though not as frequently as before.

10 41. Ms. Burton visited Patreon’s website to request and watch prerecorded video content  
11 using the same browser that she uses to log in to Facebook, including while she was logged in to  
12 Facebook. She also uses the same device to request and watch prerecorded videos on Patreon that she  
13 uses for Facebook.

14 42. Ms. Burton watched prerecorded video content on Patreon’s website on a webpage  
15 dedicated to the individual video(s) she viewed.

16 **Laura Goodfield**

17 43. Plaintiff Goodfield is a Patreon member and a Facebook user. She has been a Patreon  
18 member since 2022 and is therefore a “subscriber” to Patreon under the VPPA.

19 44. Ms. Goodfield’s Facebook profile includes her name and other personal details.

20 45. Ms. Goodfield has consistently paid subscription fees to Patreon to access content on  
21 Patreon’s website, including prerecorded video content. Ms. Goodfield paid Patreon approximately  
22 \$50.00 per year in subscription fees and previously paid a monthly subscription to Patreon.

23 46. When she initially subscribed to Patreon, Ms. Goodfield watched prerecorded video  
24 content on patreon.com regularly. She continues to watch prerecorded video content on the Patreon  
25 website, though not as frequently as before.

26 47. Ms. Goodfield visited Patreon’s website to request and watch prerecorded video content  
27 using the same browser that she uses to log in to Facebook, including while she was logged in to  
28

1 Facebook. She also uses the same device to request and watch prerecorded videos on Patreon that she  
2 uses for Facebook.

3 48. Ms. Goodfield watched prerecorded video content on Patreon's website on a webpage  
4 dedicated to the individual video(s) she viewed.

5 **Denovias Mack**

6 49. Plaintiff Mack is a Patreon member and a Facebook user. He has been a Patreon member  
7 since 2020 and is therefore a "subscriber" to Patreon under the VPPA.

8 50. Mr. Mack's Facebook profile includes his name and other personal details.

9 51. Mr. Mack has consistently paid Patreon approximately \$120.00 per month in subscription  
10 fees.

11 52. When he initially subscribed to Patreon, Mr. Mack watched prerecorded video content on  
12 patreon.com daily. He continues to watch prerecorded video content on the Patreon website, though not  
13 as frequently as before.

14 53. Mr. Mack visited Patreon's website to request and watch prerecorded video content using  
15 the same browser that he uses to log in to Facebook, including while he was logged in to Facebook. He  
16 also uses the same device to request and watch prerecorded videos on Patreon that he uses for Facebook.

17 54. Mr. Mack watched prerecorded video content on Patreon's website on a webpage  
18 dedicated to the individual video(s) he viewed.

19 \* \* \*

20 55. Patreon sent Plaintiffs' PII, including their FIDs, as well as the title of each prerecorded  
21 video they viewed, to Meta without obtaining their consent through a standalone consent form.

22 56. Plaintiffs value their privacy while web-browsing and watching videos.

23 57. Plaintiffs' viewing preferences constitute personal information of a private and  
24 confidential nature and are assets to which no third party has a presumptive right to access.

## COMMON ALLEGATIONS

### A. **Patreon Disclosed Plaintiffs' and Class Members' Private Viewing Information to Meta.**

58. Patreon's members ("Users") can access a variety of content on Patreon's website, including music, podcasts, and video content posted by content creators.

59. Patreon provides and delivers prerecorded audiovisual content to its users.

60. Patreon allows content creators to upload or share prerecorded videos which Patreon users can then view on the content creator's page. Plaintiffs requested and viewed prerecorded audiovisual content from Patreon.

61. While Plaintiffs and Class members were viewing prerecorded video content on Patreon's website, Patreon transmitted their viewing choices to Meta.

62. Patreon's transmission of viewing information to Meta includes the specific names of video content viewed by Users, as well as the User's FID—a string of numbers unique to each Facebook profile that personally identifies the User.

63. Anyone who possesses an FID may use this number to quickly and easily locate, access, and view the corresponding Facebook profile, which contains personal information, often in large quantities.

64. A Facebook profile typically shows the Facebook user's name, gender, place of residence, career, educational history, a multitude of photos, and the content of the user's posts. This information may reveal even more sensitive personal information—for instance, posted photos may disclose the identity of family members, and written posts may disclose religious preferences, political affiliations, personal interests and more.

65. Just as Meta can easily identify any individual on its Facebook platform with only their unique FID, so too can any ordinary person who comes into possession of a FID. Facebook admits as much on its website. Thus, equipped with a FID and the video content name and URL—all of which Patreon knowingly provides to Meta without appropriate consent from its subscribers—any ordinary person could determine the identity of the Patreon subscriber and the specific video or media content they viewed on Patreon's website.

66. Patreon transmits the FID and video title to Meta in a single transmission, through an invisible tracking tool called a “Meta Pixel.” A Meta Pixel is a snippet of a programming code that, once installed on a webpage, sends information to Meta. This transmission occurs when a User views a prerecorded video on Patreon’s website.

67. The transmission is shown in the screenshots below:

Structure	Sequence	Overview	Contents	Summary
>	<a href="https://www.patreon.com">https://www.patreon.com</a>	Name	Value	
√	<a href="https://www.facebook.com">https://www.facebook.com</a>	sb	B94DY39qbDogJixdWh42po6Y	
√	tr	datr	B94DY_VS2Ld738DZLz9uluEP	
	?id=267568703576098&ev=Page	c_user	100084957787778	
	?id=267568703576098&ev=Micro	xs	8%3AtPEvZCHswExVMA%3A2%3,	
	?id=267568703576098&ev=Page	fr	0dNuR6PV8TANcr0tB.AWWc9YQ	
	/			
	?id=267568703576098&ev=Page			
	/			

Structure	Sequence	Overview	Contents	Summary	Chart	Notes
>	<a href="https://www.patreon.com">https://www.patreon.com</a>	Name	Value			
√	<a href="https://www.facebook.com">https://www.facebook.com</a>	id	267568703576098			
√	tr	ev	Microdata			
	?id=267568703576098&ev=Page	dl	https://www.patreon.com/posts/nra-conference-67314328			
	?id=267568703576098&ev=Micro	rl	https://www.patreon.com/channel5/posts			
	?id=267568703576098&ev=Page	if	false			
	/	ts	1661204397807			
	?id=267568703576098&ev=Page	cd[DataLayer]	[]			
	/	cd[Meta]	{"title": "NRA Conference (Uvalde)   Channel 5 on Patreon"}			

68. In the exemplar scenario above, when a Patreon subscriber visits the Patreon page of a local news channel and requests and watches a prerecorded video, the Pixel transmits both the title of the video and the subscriber’s FID (highlighted in the red boxes) to Meta.

69. The Pixel is an advertising tool that allows website owners to track visitor actions on their websites for purposes of sending the corresponding information to Meta; websites use the Pixel in hopes of better targeting their products and services on Facebook to interested consumers. Thus, a business such as Patreon chooses to install the Pixel on its website in order to increase its profits.

70. According to Meta’s website, the Pixel allows it “to match your website visitors to their

1 respective Facebook User accounts” and that “[o]nce matched, we can tally their actions in the Facebook  
2 Ads Manager so you can use the data to analyze your website’s conversion flows and optimize your ad  
3 campaigns.”<sup>2</sup>

4 71. Patreon knew that by installing the Pixel on its website, the Pixel would send Meta  
5 information identifying its Users and their video-watching habits.

6 72. Meta’s website explains that, to begin using the Meta Pixel, a business must first “install”  
7 the Pixel “by placing the Meta Pixel base code on all pages of your website[.]”<sup>3</sup> Patreon made the  
8 conscious decision to undertake this installation process.

9 73. Further demonstrating that Patreon knowingly placed the Pixel in its website code,  
10 Meta’s website states that “[d]evelopers and marketers can *optionally choose* to send information about”  
11 a visitor’s activity on its website. (Emphasis added).<sup>4</sup>

12 74. Meta offers its Pixel tool to websites across the internet. As of January 2022, more than  
13 30 percent of popular websites have an embedded Facebook Pixel.

14 75. Meta benefits from websites like Patreon installing its Pixel. When the Pixel is installed  
15 on a business’s website, the business has a greater incentive to advertise through Facebook or other  
16 Meta-owned platforms, like Instagram. In addition, even if the business does not advertise with  
17 Facebook, the Pixel assists Meta in building more fulsome profiles of its own users, which in turn allows  
18 Meta to profit from providing more targeted ads. The Pixel is installed on websites all over the internet  
19 and, accordingly, provides Meta with information about its users’ preferences, other distinguishing  
20 traits, and web-browsing activities outside of Meta-owned platforms.

21 76. Using the Meta Pixel likewise benefits Patreon’s business by improving its ability to  
22 promote its content and services to its Users, thereby increasing its profits.

23 77. Through use of the Meta Pixel, Patreon discloses to Meta the full name of each video a  
24 User watched, together with the User’s FID, thus linking Users’ viewing content choices and  
25 preferences to their Facebook profiles. In other words, this single transmission connects a User’s  
26 viewing content with their FID.

27 <sup>2</sup> <https://developers.facebook.com/docs/meta-pixel/get-started> (last visited October 24, 2022).

28 <sup>3</sup> *Id.*; <https://www.facebook.com/business/tools/meta-pixel/get-started> (last visited October 24, 2022).

<sup>4</sup> <https://developers.facebook.com/docs/meta-pixel> (last visited October 24, 2022).

1           78.     Patreon violates and invades the privacy rights of Users with its practice of sending their  
2 FIDs, together with their viewing content, to Meta. Plaintiffs and Class members neither knew of nor  
3 authorized, nor otherwise consented to, Patreon’s disclosure of their prerecorded video and video-  
4 services requests and their identities to Meta.

5           **B.     Patreon’s Terms of Use, Privacy Policies, and Data Practices Do Not Disclose**  
6           **Patreon’s Use of the Facebook Pixel.**

7           79.     Patreon’s website includes its Terms of Use, a Privacy Policy, Data Practices, and a  
8 Cookie Policy. None of these informs Users of Patreon’s use of the Meta Pixel or its practice of sharing  
9 Users’ personal information and video content choices with Meta in a way that allows Meta to identify  
10 their specific video-watching preferences.

11           80.     The VPPA requires that consent be obtained in a form “distinct and separate from any  
12 form setting forth other legal or financial obligations of the consumer.” 18 U.S.C. § 2710. At no point  
13 were Plaintiffs or other Patreon Users given a standalone or any consent form disclosing Patreon’s  
14 practices at issue and requesting User consent. Hence, no User knew of or consented to Patreon’s  
15 offending practice of sharing video preferences with third parties.

16           **C.     Plaintiffs and the Class Were Harmed by Patreon’s Privacy Invasions.**

17           81.     Patreon shared with Meta the personal information of Plaintiffs and Class members,  
18 including their video-viewing histories and associated FIDs, which they reasonably expected would be  
19 kept private.

20           82.     The personal information Patreon obtained from Plaintiffs and Class members constitutes  
21 valuable data in the digital advertising-related market for consumer information. Patreon’s wrongful  
22 acquisition and use of their personal and private information deprived Plaintiffs and Class members of  
23 control over that information, and prevented them from realizing its full value for themselves.

24           83.     Patreon’s conduct caused economic harm to Plaintiffs and Class members who were  
25 Patreon subscribers during the Class Period in that they have paid subscription fees to Patreon for  
26 services that they reasonably did not expect would subject them to the practices described herein,  
27 thereby diminishing the value of services for which they paid Defendant, and constituting loss. Plaintiffs  
28 and Class members didn’t get what they paid for.



1 84. Plaintiffs and Class members paid for access to Patreon’s website, and not another  
2 competitor’s website, because they trusted that Patreon’s privacy practices comported with their privacy  
3 preferences.

4 85. If Plaintiffs and Class members had known that Patreon discloses to Meta the personal  
5 information of its Users, including their video-viewing histories and associated FIDs, Plaintiffs and  
6 Class members would not have subscribed for Patreon’s services or would have paid less for the  
7 subscription.

8 86. Patreon’s practice of sharing Users’ personal information and prerecorded video content  
9 with Facebook without their consent, and its failure to disclose this practice, caused Patreon to profit  
10 from membership fees it would otherwise not have received.

11 87. Plaintiffs and Class members’ experiences and injuries are consistent with and borne out  
12 by research showing that consumers prefer to transact with online retailers that better protect their  
13 privacy, and are willing to pay a premium to purchase goods and services from websites that afford  
14 greater privacy protection. *See* J. Tsai, S. Egelman, L. Cranor & A. Acquisiti [Carnegie Mellon Univ.],  
15 “The Effect of Online Privacy Information on Purchasing Behavior: An Experimental Study” (June  
16 2007), Information Systems Research, Vol. 22 at 254–268, available at:

17 [https://www.researchgate.net/publication/220079706\\_The\\_Effect\\_of\\_Online\\_Privacy\\_Information\\_on](https://www.researchgate.net/publication/220079706_The_Effect_of_Online_Privacy_Information_on_Purchasing_Behavior_An_Experimental_Study)  
18 [Purchasing Behavior An Experimental Study.](https://www.researchgate.net/publication/220079706_The_Effect_of_Online_Privacy_Information_on_Purchasing_Behavior_An_Experimental_Study)

19 88. The harms described above are aggravated by Patreon’s continued retention and  
20 commercial use of Plaintiffs’ and Class members’ personal information, including their private video-  
21 viewing histories.

#### 22 CLASS ACTION ALLEGATIONS

23 89. Plaintiffs bring this lawsuit under Federal Rules of Civil Procedure 23(a), (b)(1), (b)(2),  
24 and (b)(3), and/or (c)(4) as representatives of the following Class and constituent Subclass:

25 **Nationwide Class:** All persons in the United States who subscribed to  
26 Patreon.com, viewed prerecorded video content on Patreon.com, and used  
27 Facebook during the time Meta’s Pixel was active on Patreon.com.  
28

1           **California Subclass:** All persons in California who subscribed to  
2           Patreon.com, viewed prerecorded video content on Patreon.com, and used  
3           Facebook during the time Meta’s Pixel was active on Patreon.com.

4           90.     The “Class Period” is from April 1, 2016 to the present.

5           91.     Excluded from the Class are Defendant, its employees, agents and assigns, and any  
6           members of the judiciary to whom this case is assigned, their respective court staff, the members of their  
7           immediate families, and Plaintiffs’ counsel. Plaintiffs reserve the right to modify, change, or expand the  
8           Class definition based upon discovery and further investigation.

9           92.     **Numerosity:** The Class consists of at least hundreds of thousands of individuals, making  
10          joinder impractical.

11          93.     **Commonality and Predominance:** Common questions of law and fact exist with regard  
12          to each of the claims and predominate over questions affecting only individual Class members.

13          Questions common to the Class include:

14                 a.     Whether Patreon’s use of the Meta Pixel was without User consent or  
15                 authorization;

16                 b.     Whether Patreon obtained and shared or caused to be obtained and shared  
17                 Plaintiffs and Class members’ personal information through tracking using the Meta Pixel, which  
18                 Patreon installed on its webpages;

19                 c.     Whether third parties obtained Plaintiffs and Class members’ personal  
20                 information as a result of Patreon’s conduct described herein;

21                 d.     Whether Patreon’s conduct violates the Video Privacy Protection Act, 18 U.S.C.  
22                 § 2710, *et seq.*;

23                 e.     Whether Patreon’s conduct violates California consumer protection law;

24                 f.     Whether Patreon’s acquisition and transmission of Plaintiffs and Class members’  
25                 personal information resulted in harm; and

26                 g.     Whether Patreon should be enjoined from engaging in such conduct in the future.

27          94.     **Typicality:** Plaintiffs’ claims are typical of the claims of the Class members in that  
28          Plaintiffs, like all Class members, have been injured by Patreon’s misconduct at issue—i.e., disclosing  
29          Users’ PII and viewing content to Meta without appropriate consent.





1 similar to prerecorded video cassette tapes and those sales affect interstate or foreign commerce.

2 101. As defined in 18 U.S.C. § 2710(a)(3), “personally identifiable information” is defined to  
3 include “information which identifies a person as having requested or obtained specific video materials  
4 or services from a video tape service provider.”

5 102. Patreon knowingly caused personal viewing information, including FIDs, concerning  
6 Plaintiffs and Class members to be disclosed to Meta. This information constitutes personally  
7 identifiable information under 18 U.S.C. § 2710(a)(3) because it identified each Plaintiff and Class  
8 member to Meta as an individual who viewed Patreon’s video content, including the specific  
9 prerecorded video materials each such individual watched on Patreon’s website. This information  
10 allowed Meta to identify each Plaintiff and Class members’ specific individual video-viewing  
11 preferences and habits.

12 103. As defined in 18 U.S.C. § 2710(a)(1), a “consumer” means “any renter, purchaser, or  
13 subscriber of goods or services from a video tape service provider.” As alleged above, Plaintiffs are  
14 subscribers to Patreon’s services providing video content to Users on its website and viewed prerecorded  
15 videos provided on Patreon’s platform. Hence, Plaintiffs are “consumers” under this definition.

16 104. As set forth in 18 U.S.C. § 2710(b)(2)(B), “informed, written consent” must be (1) in a  
17 form distinct and separate from any form setting forth other legal or financial obligations of the  
18 consumer; and (2) at the election of the consumer, is either given at the time the disclosure is sought or  
19 is given in advance for a set period of time not to exceed two years or until consent is withdrawn by the  
20 consumer, whichever is sooner. Patreon failed to obtain informed, written consent under this definition.

21 105. Additionally, the VPPA creates an opt-out right for consumers in 18 U.S.C.  
22 § 2710(2)(B)(iii). The Act requires video tape service providers to “provide[] an opportunity, in a clear  
23 and conspicuous manner, for the consumer to withdraw on a case-by-case basis or to withdraw from  
24 ongoing disclosures, at the consumer’s election.” Patreon failed to provide an opportunity to opt out as  
25 required by the Act.

26 106. Patreon was aware that the disclosures to Meta that were shared through the Pixel  
27 identified Plaintiffs and Class members. Patreon also knew that Plaintiffs’ and Class members’ personal  
28 viewing content was disclosed to Meta because Patreon programmed the Meta Pixel into its website

1 code, knowing that Meta would receive video titles and the subscriber's FID when a user watched a  
2 prerecorded video.

3 107. By knowingly disclosing Plaintiffs' and Class members' personal viewing content,  
4 Patreon violated Plaintiffs' and Class members' statutorily protected right to privacy in their prerecorded  
5 video-watching habits. *See* 18 U.S.C. § 2710(c).

6 108. As a result of the above violations, Patreon is liable to Plaintiffs and Class members for  
7 actual damages related to their loss of privacy in an amount to be determined at trial or, alternatively, for  
8 "liquidated damages not less than \$2,500 per plaintiff." 18 U.S.C. § 2710(c)(2)(A). Under the Act,  
9 Patreon also is liable for reasonable attorney's fees, other litigation costs, injunctive and declaratory  
10 relief, and punitive damages in an amount to be determined by a jury and sufficient to prevent and deter  
11 the same or similar conduct by Patreon in the future.

## 12 **SECOND CAUSE OF ACTION**

### 13 **Violation of California's Unfair Competition Law (the "UCL")** 14 **Cal. Bus. & Prof. Code § 17200, *et seq.*** 15 **(On Behalf of the California Subclass)**

16 109. California Plaintiffs incorporate and reallege the above factual allegations by reference.

17 110. The UCL proscribes "any unlawful, unfair or fraudulent business act or practice." Cal.  
18 Bus. & Prof. Code § 17200.

#### 19 **Unlawful**

20 111. A business practice is "unlawful" under the UCL if it violates any other law or regulation.

21 112. Patreon's business acts and practices are unlawful because they violate the Video Privacy  
22 Protection Act as set forth above. They also violate California's Consumers Legal Remedies Act, for the  
23 reasons stated below. Patreon is therefore in violation of the "unlawful" prong of the UCL.

#### 24 **Unfair**

25 113. Patreon's conduct is unfair in violation of the UCL because it violates California's and  
26 the nation's legislatively declared public policy in favor of protection of consumer privacy. *See* S. Rep.  
27 No. 100-500 at 7-8 (1988) (finding that "the trail of information generated by every transaction that is  
28 now recorded and stored in sophisticated record-keeping systems . . . create[s] privacy interests that  
directly affect the ability of people to express their opinions, to join in association with others, and to

1 enjoy the freedom and independence that the Constitution was established to safeguard.”); California  
2 Bill Analysis, A.B. 375 Assem. (June 27, 2017) (noting that “[t]he unregulated and unauthorized  
3 disclosure of personal information and the resulting loss of privacy can have devastating effects for  
4 individuals, ranging from financial fraud, identity theft, and unnecessary costs to personal time and  
5 finances, to the destruction of property, harassment, reputational damage, emotional stress, and even  
6 potential physical harm.”).

7 114. Further, Patreon’s conduct is unfair because it is unethical, unscrupulous, offensive, and  
8 substantially injurious. The gravity of harm resulting from Patreon’s unfair conduct outweighs any  
9 potential utility therefrom. The disclosure of California Plaintiffs’ and Subclass members’ personal  
10 information without their express consent raises significant privacy concerns, and any potential utility  
11 from these disclosures (such as increased Patreon revenue due to more targeted advertising) is  
12 outweighed by their considerable harm to California Plaintiffs and the Subclass.

13 115. Patreon’s unfair business practices include disclosing California Plaintiffs’ and Subclass  
14 members’ FIDs and viewing content to Meta without authorization or consent, causing harm to  
15 California Plaintiffs and Subclass members.

16 116. Patreon actually and proximately caused harm to California Plaintiffs and Subclass  
17 members in that, among other things, they suffered economic injury by overpaying for their  
18 subscriptions.

19 117. For these reasons, Patreon is in violation of the “unfair” prong of the UCL.

20 118. California Plaintiffs and Subclass members accordingly seek appropriate relief, including  
21 (1) restitution under the UCL; and (2) such orders or judgments as may be necessary to enjoin Patreon  
22 from continuing its unfair and unlawful practices. There is no adequate remedy at law that would  
23 provide redress to California Plaintiffs and the Subclass or ensure that Patreon will not engage in the  
24 same data practices in the future. California Plaintiffs also seek reasonable attorneys’ fees and costs  
25 under applicable law, including under California Code of Civil Procedure section 1021.5.

### 26 **THIRD CAUSE OF ACTION**

#### 27 **Unjust Enrichment** 28 **(On Behalf of the Nationwide Class)**

119. Plaintiffs incorporate and reallege the above factual allegations by reference.



1 F. Award Plaintiffs and Class members pre- and post-judgment interest as provided  
2 by law;

3 G. Enter such other orders as may be necessary to restore to Plaintiffs and Class  
4 members any money and property acquired by Defendant through its wrongful conduct;

5 H. Award Plaintiffs and Class members reasonable litigation expenses and attorneys'  
6 fees as permitted by law; and

7 I. Award such other and further relief as the Court deems necessary and appropriate.

8 **DEMAND FOR JURY TRIAL**

9 Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs demand a trial by jury of all issues  
10 triable as of right.

11  
12 Dated: January 30, 2024

Respectfully submitted,

13 By: /s/ Simon S. Grille  
14 Adam E. Polk (SBN 273000)  
15 Simon Grille (SBN 294914)  
16 Trevor T. Tan (SBN 281045)  
17 Reid Gaa (SBN 330141)  
18 **GIRARD SHARP LLP**  
19 601 California Street, Suite 1400  
20 San Francisco, CA 94108  
21 Telephone: (415) 981-4800  
22 apolk@girardsharp.com  
23 sgrille@girardsharp.com  
24 ttan@girardsharp.com  
25 rgaa@girardsharp.com

26 *Attorneys for Plaintiffs*

# **EXHIBIT 2**

*Stark v. Patreon*  
c/o Settlement Administrator  
ADDRESS  
[email address]  
[www.\_\_\_\_\_ .com]

## CLAIM FORM

**YOUR CLAIM MUST BE SUBMITTED BY: [DATE]**

### CLAIM FORM INSTRUCTIONS

— IMPORTANT —

**PLEASE READ THE INSTRUCTIONS BELOW  
TO COMPLETE THIS CLAIM FORM**

**FOR MORE INFORMATION, READ THE NOTICE AND FAQ AVAILABLE  
AT [WWW.PATREONSETTLEMENT.COM](http://WWW.PATREONSETTLEMENT.COM) OR CALL THE SETTLEMENT  
ADMINISTRATOR AT 1-#####.**



Stark v. Patreon  
 c/o Settlement Administrator  
 ADDRESS  
 [email address]  
 [www. \_\_\_\_\_ .com]

**SECTION A: NAME AND CONTACT INFORMATION**

Please provide your name and contact information below. If your name or contact information changes after you submit this Claim Form, please notify the Claims Administrator of the new information by visiting [www. \\_\\_\\_\\_\\_ .com](http://www. _____ .com) or emailing [address].

<b>FIRST NAME</b>	<b>LAST NAME</b>
<b>EMAIL ADDRESS</b>	<b>PHONE NUMBER</b>

**SECTION B: PAYMENT INFORMATION**

Payment for valid claims will be made via **Paypal** using the email address provided above. If you wish to receive payment via a different method or if you would like to specify a different email address for your PayPal account, please mark the check box next to your preferred method and provide the requested information.

Selection	Payment Method	Verification Method
<input type="checkbox"/>	<<Zelle>>	Phone number:
<input type="checkbox"/>	<<Venmo>>	Phone number:
<input type="checkbox"/>	<<PayPal>>	Email:

**SECTION C: UNIQUE ID NUMBER**

1. Please provide the Unique ID located on the notice of the Settlement you received. The Unique ID you received is required to validate your claim.

*Stark v. Patreon*  
c/o Settlement Administrator  
ADDRESS  
[email address]  
[www. \_\_\_\_\_ .com]

**SECTION D: PROOF OF FACEBOOK ACCOUNT**

Your claim must include proof of your Facebook account. Copy and paste the link to your Facebook profile page in the box below:

**How to obtain your Facebook profile link on a web browser**

1. **Log in to Facebook.** Open your web browser and go to facebook.com. Log in with your username and password.
2. **Go to your profile.** Click on your profile picture in the top right corner and then click your name to go to your profile page. If you are using a web browser on a mobile device, you must first click the three horizontal lines in the top right corner of the screen and then your name in the top left corner.
3. **Identify the link.** Look at the address bar in your browser. The link for your Facebook profile page is located here. If you are using a web browser on a mobile device, you will need to tap the address bar to see the full link. Below are examples of how the link may appear:
  - a. <https://www.facebook.com/profile.php?id=1234567890>
  - or
  - b. <https://www.facebook.com/username>
4. **Insert the link in the box below.**

**How to obtain your Facebook profile link from the mobile Facebook App**

1. **Open the Facebook app.** Open the Facebook app on your mobile device. If necessary, log in with your username and password.
2. **Go to your profile.** Tap the three horizontal lines above the word “Menu” in the bottom right corner. Then click on your name or profile picture in the top left corner to go to your profile page.
3. **Copy profile link.** Tap the button with three dots (it appears next to the “Edit profile” button). Scroll to the bottom of the list of options and tap “Copy profile link.”
4. **Insert the link in the box below.**

**Facebook Profile URL:**

**It is important to provide accurate information in this form because a sample of claims will be audited by the Claims Administrator.** If the Claims Administrator cannot verify your claim based on your initial submission, you may be asked for more information. The Claims Administrator will provide you with further instructions in the event you are required to submit this information.

*Stark v. Patreon*  
c/o Settlement Administrator  
ADDRESS  
[email address]  
[www.\_\_\_\_\_ .com]

SECTION D: VERIFICATION AND DECLARATION	
<input type="checkbox"/> I declare under oath that between April 1, 2016 and [PA DATE], I requested or obtained video content on the Patreon website (patreon.com) while in the United States and at a time when I had a Facebook account and also had a Patreon account.	
SIGNATURE	DATE
PRINTED NAME	

# **EXHIBIT 3**



United States District Court for the Northern District of California

*Stark et al. v. Patreon, Inc.*

Case No. 3:22-CV-03131-JCS

# Class Action Notice

***Authorized by the U.S. District Court for the Northern District of California***

**Did you have a Patreon account and access videos on Patreon.com while you had a Facebook account between April 2016 and [PRELIMINARY APPROVAL DATE]?**

*A class action Lawsuit and a Settlement of that Lawsuit could affect your rights.*

*You may be eligible to receive payment from this Settlement.*

## Your Options:

- 1. Submit a claim.** Get a payment.
- 2. Do nothing.** You will be bound by the Settlement and the Lawsuit and you will get no payment.
- 3. Opt out of the Settlement.**
- 4. Object to the Settlement.**

## You are not being sued.

*This notice explains the Lawsuit, the Settlement, and your legal rights and options.*

*Please read the entire notice carefully.*

Important things to know:

- You **must submit a claim** to receive money from the settlement
- You do nothing, you will still be bound by the Settlement and the Lawsuit and your rights will be affected.
- If you want to opt out or object you must do so by [DATE].
- You can learn more at: [website].

# Table of Contents

**Table of Contents**..... **3**

**Key Information** ..... **5**

    What is happening in this lawsuit? ..... 5

    Why did I get this notice? ..... 5

    What are my options? ..... 6

    What are the most important dates? ..... 6

**Learning About the Lawsuit** ..... **6**

    What is this lawsuit about? ..... 6

    Why is there a settlement? ..... 7

    What happens next in this lawsuit? ..... 7

**Important Facts About How the Settlement Might Affect You**..... **7**

    How do I know if I am a member of the Settlement Class? ..... 7

    What if I'm still not sure if I'm included in the Settlement Class? ..... 8

    What are the benefits of the Settlement? ..... 8

    How can I verify or update my mailing address? ..... 8

**Your Options as a Settlement Class Member** ..... **8**

    What are my options if I am a Settlement Class Member? ..... 8

    Do I need to do anything to get paid? ..... 9

    How do I submit a form? ..... 9

    How much will my payment be? ..... 10

    When will I get my payment? ..... 11

    What do I give up by making a Settlement Claim? ..... 11

    What are the consequences of doing nothing? ..... 11

    What if I don't want to be a part of the Settlement Class? ..... 11

    How do I opt out? ..... 12

    What are the consequences of excluding myself? ..... 12

    How do I tell the Court if I don't like the Settlement? ..... 13

    How do I submit an objection to the Settlement? ..... 13

    What information must be included in an objection? ..... 14



What's the difference between objecting and excluding?..... 14

**The Final Approval Hearing ..... 15**

When and where will the Court decide whether to approve the Settlement? ..... 15

Do I have to come to the Final Approval Hearing? ..... 15

May I speak at the hearing?..... 15

**The Lawyers Representing You ..... 16**

Do I have a lawyer in this lawsuit?..... 16

How will the lawyers be paid? ..... 16

Should I get my own lawyer?..... 17

**Key Resources ..... 17**

How can I get more information? ..... 17

# Key Information

## What is happening in this lawsuit?

A group of people (called Plaintiffs) filed a class action lawsuit against Patreon, Inc. ("Patreon")—the defendant in this lawsuit. These Plaintiffs claimed that Patreon disclosed its users' identities and video-viewing preferences without consent in violation of federal law. Patreon denies these allegations.

In April 2024, Patreon agreed to pay \$7.25 million to settle the claims against it. The group of people that Patreon has agreed to pay is called the Settlement Class and it includes everyone who, between April 2016 and [PRELIMINARY APPROVAL DATE], requested or obtained video content on the Patreon website (patreon.com) while in the United States and at a time the person had a Facebook account and a Patreon account. If you are in this group and want to get paid, **you must submit a claim**. Details on how to submit a claim are provided below.

### What is a class action lawsuit?

A class action is a lawsuit in which one or more people sue on behalf of a larger group, called the Class.

## Why did I get this notice?

A court authorized this Notice because you have the right to know about the proposed settlement in the class action lawsuit, *Stark et al. v. Patreon, Inc.* **You received this notice because you may be a member of the group of people whose rights are affected by the proposed settlement.** This notice gives you information about the case and tells you how to opt out if you don't want to be part of it.

It is an important legal document, and we recommend that you read all of it. If you have questions or need assistance, please go to [website] or call [phone number].

## What are my options?

Submit A Claim Form	The only way to get a payment
Exclude Yourself by Opting Out	Get no payment.  This is the only option that allows you to keep your right to bring any other claim against Patreon related to the subject matter of the claims in this case.
Object to the Settlement and/or Attend a Hearing	You can write to the Court about why you like or do not like the Settlement. The Court cannot order a different settlement.  You can also ask to speak to the Court at the hearing on _____, 2024 about the fairness of the Settlement, with or without your own attorney.
Do Nothing	Get no payment. Give up rights and be bound by the Settlement.

## What are the most important dates?

- The deadline to submit a claim for a payment from the Settlement is [DATE].
- The deadline to opt out of the Settlement is [DATE].
- The deadline to object to the Settlement is [DATE].

## Learning About the Lawsuit

### What is this lawsuit about?

Plaintiffs claim that Patreon violated the Video Privacy Protection Act (“VPPA”) by disclosing its subscribers’ identities and video-viewing preferences without lawful consent. The lawsuit contends that Patreon

transmitted this information to Meta Platforms, Inc. (“Meta”)— the owner of Facebook—through use of a web tracking tool called the Meta Pixel. The case is *Stark et al. v. Patreon, Inc.*, Case No. 3:22-CV-03131-JCS (N.D. Cal.)

Patreon denies the allegations made in the lawsuit and denies that it did anything improper or unlawful.

The Court has not determined who is right. The proposed settlement to resolve this case is not an admission of guilt or wrongdoing by Patreon.

### Where can I learn more?

You can get a complete copy of the key documents in this lawsuit by visiting:  
[website]

## Why is there a settlement?

The Court did not decide in favor of the Plaintiffs or the Defendant. Instead, both sides agreed to a Settlement. That way, they avoid the costs and risks of a trial, and the affected Class Members can get benefits or compensation. The class representatives and their attorneys think the Settlement is best for the Class.

## What happens next in this lawsuit?

The Court in charge of this case will decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement and after any appeal is resolved

# Important Facts About How the Settlement Might Affect You

## How do I know if I am a member of the Settlement Class?

The Settlement Class includes all persons who, between April 1, 2016, to and through [Preliminary Approval date], requested or obtained video content on the Patreon website (patreon.com) while in the United States and at a time the person had a Facebook account and

also had a Patreon account.

If you are in this group, you are a member of the Settlement Class and you must submit a claim in order to receive payment.

### What if I'm still not sure if I'm included in the Settlement Class?

If you are not sure whether you are included in the class, you can ask for free help by calling Simpluris (the Claims Administrator) at XXX-XXX-XXXX for more information. You can also visit [www.XXXX.com](http://www.XXXX.com).

### What are the benefits of the Settlement?

Patreon will pay \$7,250,000 into a Settlement Fund. Patreon has also agreed not to operate the Meta Pixel on any web page on the Patreon website that includes video content unless: (a) the VPPA is amended in relevant part, repealed, or otherwise invalidated; (b) Patreon obtains consent in the form required by the VPPA; or (c) the Meta Pixel on the relevant Patreon web page otherwise complies with the VPPA.

Eligible claimants under the Settlement will receive a pro rata (or equal) portion of the Settlement Fund after deductions for administration expenses, attorneys' fees and costs, and service award payments to the Plaintiffs.

### How can I verify or update my mailing address?

You can update your contact information by visiting [www.XXXXX.com](http://www.XXXXX.com) or emailing [email address].

## Your Options as a Settlement Class Member

### What are my options if I am a Settlement Class Member?

You have three options as a member of the Settlement Class. You can:

(1) submit a claim to get paid from the Settlement;

- (2) opt out of the Settlement Class and retain your right to sue Patreon; or
- (3) do nothing and remain in the Settlement Class. If you do nothing and do not submit a claim, you will not receive a payment. You can also object to any part of the Settlement that you do not like, if you don't opt out of the Settlement Class.

## Do I need to do anything to get paid?

YES. To receive a payment from the Settlement you **MUST** submit a claim.

**The deadline to submit a claim is [DATE].**

## How do I submit a form?

If you are a class member (see pages 7-8) and you want to receive a payment, you can submit a claim by filling out and submitting the claim form available at [www.XXXXX.com](http://www.XXXXX.com).

You must provide the link for your Facebook profile page on the claim form, so that the Claims Administrator can verify that you are a Class Member. The link you provide must correspond with a Facebook profile that includes your personal information. To find your Facebook profile page link, you can use the following steps:

### **How to obtain your Facebook profile link on a web browser**

- (1) **Log in to Facebook.** Open your web browser and go to Facebook. Log in with your username and password.
- (2) **Go to your profile.** Click on your profile picture in the top right corner and then click your name to go to your profile page. If you are using a web browser on a mobile device, you must first click the three horizontal lines in the top right corner of the screen and then your name in the top left corner.
- (3) **Identify the link.** Look at the address bar in your browser. The link for your Facebook profile page is located here. If you are using a

web browser on a mobile device, you will need to tap the address bar to see the full link. Below are examples of how the link may appear:

(a) <https://www.facebook.com/profile.php?id=1234567890>

or

(b) <https://www.facebook.com/username>

### **How to obtain your Facebook profile link on the mobile phone Facebook App**

- (1) **Open the Facebook app.** Open the Facebook app on your mobile device. If necessary, log in with your username and password.
- (2) **Go to your profile.** Tap the three horizontal lines above the word “Menu” in the bottom right corner. Then click on your name or profile picture in the top left corner to go to your profile page.
- (3) **Copy profile link.** Tap the button with three dots (it appears next to the “Edit profile” button). Scroll to the bottom of the list of options and tap “Copy profile link.”

The Claim Form requires that you attest under oath that you accessed video content on Patreon.com while you had a Facebook account.

It is important to provide accurate information in the Claim Form because a sample of claims will be audited by the Claims Administrator. If the Claims Administrator cannot verify your claim based on your initial submission, you may be asked for more information. The Claims Administrator will provide you with further instructions in the event you are required to submit this information.

If you have questions, you can contact the Claims Administrator by telephone (XXX-XXX-XXXX) or email [insert email address].

**The deadline to submit a claim form is [DATE].**

## **How much will my payment be?**

After deduction of the costs of notice and settlement administration,



any Court-approved award of attorneys' fees (up to 30% of the Settlement Fund), litigation costs, and any service awards for the Class Representatives (up to \$7,500 to each of the six individual Class Representatives), the Settlement Fund will be divided equally among eligible class members.

We will not know the final amount that each class member will receive until all claims are completed. Based on claims rates in similar cases, eligible class members may receive between \$35 and \$175 each. The actual amount that each class member receives will be determined once all claims are evaluated, and may be higher or lower than these estimates.

### When will I get my payment?

Payments will be made if the Court approves the Settlement after the Final Approval Hearing and there is no appeal from the order approving the Settlement. For updates please visit [www.website.com](http://www.website.com) or follow @GirardSharp on X (Twitter).

### What do I give up by making a Settlement Claim?

Unless you exclude yourself with an opt-out request (see page 12), you cannot sue, continue to sue, or be part of any other lawsuit against Patreon about the issues in this case. The "Releases" section in the Settlement Agreement describes the legal claims that you give up if you remain a Settlement Class Member.

The Settlement Agreement is available at [www.XXXX.com](http://www.XXXX.com).

### What are the consequences of doing nothing?

If you do nothing, you won't be able to start, continue, or be part of any other lawsuit against Patreon for alleged violation of the VPPA during the Class Period.

### What if I don't want to be a part of the Settlement Class?

You can opt out of the Settlement Class.

Information about how to opt out of the Settlement Class is on page 12.

## How do I opt out?

You can opt out of the Settlement Class by going to [www.XXXX.com](http://www.XXXX.com) and filling out the online form, or by sending a letter via first class U.S. mail saying that you want to opt out of the Settlement in *Stark et al. v. Patreon, Inc.*, Case No. 3:22-CV-03131-JCS (N.D. Cal.) to the Claims Administrator at the below address:

Simpluris Inc.  
3194-C Airport Loop Drive  
Costa Mesa, CA 92626  
[Phone Number]

You must include your name, address, telephone number, and your signature. If you are under 18 years old and do not want your name included on the list of optouts filed with the Court, your letter must state that you are under 18. The deadline to opt out is [DATE].

## What are the consequences of excluding myself?

If you are a class member (see page 7-8 above), unless you opt out, you give up the right to sue Patreon for the claims resolved by the Settlement. If you are a class member and you want to pursue your own lawsuit, you must opt out. You will be responsible for the cost of any services provided by your lawyer.

This is your only opportunity to opt out of the Settlement Class.

### **What happens if I opt out of the Settlement Class?**

If you opt out of the Settlement Class, you will:

- Not be eligible to receive payment from the Settlement;
- Not have any rights as a member of the class under the Settlement;
- Not be bound by any further orders or judgments in this case; and

- Keep the right, if any, to file a lawsuit against (or continue to sue) Patreon about the legal claims brought on behalf of the Settlement Class.

## How do I tell the Court if I don't like the Settlement?

If you are a Settlement Class Member and do not opt out of the Settlement, you have the right to object to the Settlement, the Plan of Allocation, or Class Counsel's request for attorneys' fees, expenses and service awards. You can't ask the Court to order a different settlement. The Court can only approve or reject the Settlement.

If the Court denies approval of the Settlement, no money will be paid to class members and the lawsuit will continue

## How do I submit an objection to the Settlement?

To object to the Settlement, you (or your lawyer if you have one) must submit a written objection to the Court and send the objection to the Claims Administrator at the addresses on page 12. You must submit your objection on or before [DATE]. Your objection can include any supporting materials, papers, or briefs that you want the Court to consider.

If you submit a timely written objection, you may (but are not required to) appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney. If you wish to appear at the Settlement Hearing, you must also include a statement of intention to appear in your objection.

All written objections and supporting papers must clearly identify the case name and number (Stark v. Patreon, No. 3:22-CV-03131-JCS (N.D. Cal.)). You can file the objection electronically at <https://www.cand.uscourts.gov/cm-ecf> or mail the objection by First Class U.S. Mail, so that it is submitted electronically or postmarked no later than [DATE], to the following address:

Clerk of the Court  
U.S. District Court for the  
Northern District of  
California  
450 Golden Gate Avenue  
San Francisco, CA 94102  
Case No. 3:22-CV-03131-JCS

## What information must be included in an objection?

An objection must include:

- (a) a written statement identifying your name, address, and signature, and, if represented by counsel, the name, address of counsel;
- (b) a written statement that you had a Patreon account and a Facebook account between April 1, 2016 through [Preliminary Approval date] and requested or obtained video content on the Patreon website during that time;
- (c) a written statement of your objection and the reasons for your objection;
- (d) a written statement whether the objection applies only to you, to a specific subset of the Class, or to the entire Class; and
- (e) any documentation or authorities in support of your objection.

If you do not mail or electronically file the objection, you must have it delivered in person to the above address, no later [DATE].

## What's the difference between objecting and excluding?

Objecting is telling the Court that you don't like something about the Settlement. You can object to the Settlement only if you do not exclude yourself from the Settlement. Excluding yourself from the Settlement is opting out and telling the Court that you don't want to be part of the Settlement. If you opt out of the Settlement, you cannot object to it because it no longer affects you.

# The Final Approval Hearing

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

The Court will hold a Final Approval Hearing on \_\_\_\_\_, 2024 at \_\_\_\_\_, in Courtroom D on the 15th Floor of the San Francisco federal courthouse located at 450 Golden Gate Avenue, San Francisco, CA 94102.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to Class Members who have asked to speak at the hearing.

The Court will also decide how much Class Counsel should receive in fees, expense reimbursements and service awards. After the hearing, the Court will decide whether to approve the Settlement.

The Court may reschedule the Final Approval Hearing, or hold the hearing via Zoom Webinar, or change any of the deadlines described in this Notice. The date of the Final Approval Hearing may change without further notice to Class Members. Be sure to check the website, [www.\\_\\_\\_\\_\\_.com](http://www._____.com), for news of any such changes. You can also access the case docket via the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>.

## Do I have to come to the Final Approval Hearing?

No. Class Counsel will answer any questions the Court may have. You may attend at your own expense if you wish.

If you send an objection, you do not have to come to the hearing. If you submitted your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but that is not necessary.

## May I speak at the hearing?

You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must include a statement in your written objection (see pages 12-13) that you intend to appear at the hearing, with your name, address, and signature.

## The Lawyers Representing You

### Do I have a lawyer in this lawsuit?

Yes. In a class action, the court appoints class representatives and lawyers to work on the case and represent the interests of all the class members. For purposes of the case, the Court has appointed Simon Grille and Reid Gaa of Girard Sharp LLP to serve as Class Counsel for the Settlement Class.

Simon S. Grille

Reid Gaa

**Girard Sharp LLP**

601 California Street, Suite 1400

San Francisco, CA 94108

Telephone: (415) 981-4800

[patreonvppa@girardsharp.com](mailto:patreonvppa@girardsharp.com)

**You will not be charged for Class Counsel's services**, although their fees may be paid with the Court's approval from the settlement negotiated on behalf of the class.

Class Counsel does not represent you individually, only as a member of the Class.

If you want to be represented by your own lawyer, you may hire one at your own expense.

### How will the lawyers be paid?

Class Counsel, who have not been paid for their services in this case since it began, will ask the Court for an award of attorneys' fees of up to 30% of the Settlement Fund. Class Counsel will also seek reimbursement of costs and expenses (1) advanced in litigating the case and (2) for providing notice and administering the settlement, as

well as service awards to the Class Representatives of up to \$7,500 each.

All of these amounts, as well as the costs associated with notice and administering the settlement, will be paid from the Settlement Fund.

All awards for attorneys' fees and expenses are subject to Court approval and will be paid from the Settlement Fund only after the Court approves them.

A copy of Class Counsel's Motion for Attorneys' Fees and Expenses and for Plaintiff Service Awards will be available at [www.XXXX.com](http://www.XXXX.com) by [DATE].

You do not individually have to pay any attorneys' fees or expenses in connection with the lawsuit.

## Should I get my own lawyer?

You do not need to hire your own lawyer.

If you want your own lawyer, you may hire one, but you will be responsible for any payment for that lawyer's services. For example, you can ask your own lawyer to appear in court if you want someone other than Class Counsel to speak for you.

You may also appear for yourself without a lawyer.

## Key Resources

### How can I get more information?

This Notice summarizes the proposed Settlement—more details are in the Settlement Agreement and other case documents. To get a copy of the case documents you can:

- contact the lawyers who represent the class (information below);
- visit the case website at [website];
- access the Court Electronic Records (PACER) system online at:

<https://ecf.cand.uscourts.gov>; or

- by visiting the Clerk of the Court for the United States District Court for the Northern District of California at any of the Court’s locations between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays (addresses below).

Resource	Case Information
<b>Case website</b>	[website]
<b>Toll Free Number</b>	[phone number]
<b>Claims Administrator</b>	Simpluris Inc. 3194-C Airport Loop Drive Costa Mesa, CA 92626 [Phone Number]
<b>Class Counsel</b>	Simon Grille Reid Gaa <b>Girard Sharp LLP</b> 601 California Street Suite 1400 San Francisco, CA 94108 (415) 981-4800 <a href="mailto:patreonvppa@girardsharp.com">patreonvppa@girardsharp.com</a>
<b>Court (DO NOT CONTACT)</b>	PLEASE DO NOT CALL THE COURT OR THE COURT CLERK’S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS:  Phillip Burton Federal Building & United States Courthouse, 450 Golden Gate Avenue, San Francisco, CA 94102  Robert F. Peckham Federal Building and United States Courthouse, 280 South 1st Street, San Jose, CA 95113  Ronald V. Dellums Federal Building & United States Courthouse, 1301 Clay Street, Oakland, CA 94612



	United States Courthouse, 3140 Boeing Avenue, McKinleyville, CA 95519
--	--

# **EXHIBIT 4**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

BRAYDEN STARK, JUDD OOSTYEN, ISAAC  
BELENKIY, VALERIE BURTON, LAURA  
GOODFIELD, and DENOVIAS MACK, on  
behalf of themselves and all others similarly  
situated,

Plaintiffs,

v.

PATREON, INC.,

Defendant.

Case No. 3:22-cv-03131-JCS

**[PROPOSED] ORDER GRANTING  
PLAINTIFFS' MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT AND PROVIDING FOR  
NOTICE**

1 This matter comes before the Court on Plaintiffs’ Motion for Preliminary Approval of Class  
2 Action Settlement for consideration of whether the Court should grant preliminary approval of the  
3 proposed Settlement Agreement<sup>1</sup> entered into by Plaintiffs Brayden Stark, Judd Oostyen, Isaac  
4 Belenkiy, Valerie Burton, Laura Goodfield, and Denovias Mack, on behalf of themselves and the Class,  
5 and Defendant Patreon, Inc. (collectively, the “Parties”).

6 The Court is familiar with the record and has read and considered Plaintiffs’ Motion, and all  
7 supporting documents submitted therewith, including the Settlement Agreement and Declaration of  
8 Simpluris Inc (“Simpluris Decl.”) describing the Parties’ proposed method of giving notice to Class  
9 Members. The Court finds that there are sufficient grounds to preliminarily approve the Settlement under  
10 Federal Rule of Civil Procedure 23, that the Court will likely be able to certify the Class for settlement  
11 purposes only, and directs notice of the Settlement to be disseminated to the proposed Class.

12 Accordingly, it is **HEREBY ORDERED** that:

13 **Preliminary Approval of the Settlement**

14 1. The proposed Settlement Agreement is preliminarily approved as likely to be finally  
15 approved under Federal Rule of Civil Procedure 23(e)(2) and as meriting notice to the Settlement Class  
16 for its consideration. This determination is not a final finding that the Settlement is fair, reasonable, and  
17 adequate, but it is a determination that good cause exists to disseminate notice to Class Members in  
18 accordance with the Settlement Agreement and plan for notice described in the Simpluris Decl. and to  
19 hold a hearing on final approval of the proposed Settlement.

20 2. Considering the factors set forth in Rule 23(e)(2), the Court preliminarily finds as follows:

- 21 a. Plaintiffs and Class Counsel have adequately represented the Class;
- 22 b. The Class Settlement Agreement was negotiated at arm’s length with the assistance  
23 of the Hon. Jeremy D. Fogel (Ret.), a former District Judge of the Northern District  
24 of California and experienced private mediator;
- 25 c. The monetary relief provided to the Settlement Class is adequate given the risks,  
26 delay, and uncertainty of continued litigation and trial, the effectiveness of the

27 <sup>1</sup> Unless otherwise specified, all capitalized terms used herein that are defined in the Settlement  
28 Agreement have the same meanings as set forth in that agreement.

1 proposed method of distributing relief to the class, the terms of the proposed award  
2 of attorney's fees, and any agreement required to be identified under Rule 23(e)(3);  
3 and

- 4 d. The Settlement Agreement and proposed method of distributing the relief treat all  
5 Class Members equitably relative to each other.

6 **Certification of the Class**

7 3. The Court finds, upon preliminary evaluation and for purposes of the Settlement only, that  
8 the Court will likely be able to certify the following proposed class pursuant to Federal Rule of Civil  
9 Procedure 23:

10 All persons who, between April 1, 2016, to and through the Preliminary  
11 Approval date, requested or obtained video content on the Patreon website  
12 (patreon.com) while in the United States and at a time the person had a  
13 Facebook account and also had a Patreon account.

14 Excluded from the Class are Defendant Patreon, Inc., its parents, subsidiaries, affiliates, officers,  
15 directors, and employees; any entity in which Patreon has a controlling interest; and all judges assigned  
16 to hear any aspect of this litigation, as well as their staff and immediate family members.

17 4. The Court preliminarily finds that:

- 18 a. Members of the Class are so numerous as to make joinder impracticable;  
19 b. There are questions of law and fact common to the Class, and such questions  
20 predominate over any questions affecting only individual Class Members for purposes  
21 of the Settlement;  
22 c. Plaintiffs' claims and the defenses thereto are typical of the claims of the Class  
23 Members and the defenses thereto for purposes of the Settlement;  
24 d. Plaintiffs and their counsel have, and will continue to, fairly and adequately protect  
25 the interests of the Settlement Class Members in this action with respect to the  
26 Settlement; and  
27 e. A class action is superior to all other available methods for fairly and efficiently  
28 resolving this action.



1 Claims Administrator for Notice or administering the Settlement, as set forth in the Settlement  
2 Agreement.

3 10. No later than 25 days after entry of this Order, the Claims Administrator will complete  
4 distribution of the Notice, substantially in the form of Exhibit 2 to the Settlement Agreement, along with  
5 an electronic link to the Claim Form, via email to all members of the Class for whom a valid email address  
6 is available. To the extent such transmission of email notice results in “bounce-backs,” the Claims  
7 Administrator will make a second attempt to re-send the email notice to the extent feasible.

8 11. Under the Settlement, all Class Members who wish to participate in the Settlement shall  
9 complete and submit a Claim Form in accordance with the instructions contained therein. All Claim  
10 Forms must be postmarked or submitted electronically within 100 days after entry of this Order as set  
11 forth in the Settlement Agreement, which provides Class Members 75 days from the Notice Date to  
12 submit a Claim.

13 12. The Claims Administrator shall also establish and maintain the Settlement Website and  
14 post the Notice, the Settlement Agreement, the operative Complaint, and other relevant case documents,  
15 as well as contact information for Class Counsel and the Claims Administrator.

16 13. The dates provided for herein may be extended by Order of the Court, for good cause  
17 shown, without further notice to the Class.

#### 18 **The Final Fairness Hearing**

19 14. The Court will hold a Final Fairness Hearing on \_\_\_\_\_, at the United States  
20 District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA  
21 94102, Courtroom D – 15th Floor for the following purposes: (i) to finally determine whether the Class  
22 satisfies the applicable requirements for certification under Federal Rules of Civil Procedure 23(a) and  
23 23(b)(3); (ii) to determine whether the Settlement should be approved as fair, reasonable, and adequate  
24 and in the best interests of the Class; (iii) to consider Class Counsel’s application for an award of  
25 attorneys’ fees, costs, and expenses and for service awards to the representative Plaintiffs; and (iv) to  
26 consider any other matters that may properly be brought before the Court in connection with the  
27 Settlement.





1 authorities in support of such objection. All written objections and supporting papers must clearly  
2 identify the case name and number (*Stark v. Patreon*, No. 3:22-CV-03131-JCS (N.D. Cal.). If the Class  
3 Member wishes to appear at the Settlement Hearing, he or she must also include a statement of intention  
4 to appear at the Settlement Hearing. Objections must be submitted to the Court either by filing  
5 electronically or in person at any location of the United States District Court for the Northern District  
6 of California or by mailing it to the Clerk, United States District Court for the Northern District of  
7 California, at the following address:

8 Northern District of California, San Francisco Division  
9 United States District Court  
10 450 Golden Gate Avenue, Box 36060  
11 San Francisco, CA 94102-3489  
Case No. 3:22-cv-03131-JCS

12 19. Any Class Member who does not make their objection in the time and manner provided  
13 for herein shall be deemed to have waived such objection and shall forever be barred from making any  
14 objection to the fairness, reasonableness, or adequacy of the proposed Settlement, and to Class Counsel's  
15 application for an award of attorneys' fees, costs, and expenses and for service awards. By objecting,  
16 or otherwise requesting to be heard at the Final Fairness Hearing, a person shall be deemed to have  
17 submitted to the jurisdiction of the Court with respect to the objection or request to be heard and the  
18 subject matter of the Settlement, including but not limited to enforcement of the terms of the Settlement.

19 20. Attendance at the Final Fairness Hearing is not necessary, but persons wishing to be heard  
20 orally in connection with approval of the Settlement, including the proposed method of distribution,  
21 and/or the application for an award of attorneys' fees, costs, and expenses and for service awards must  
22 indicate in their written objection their intention to appear at the hearing. If an objector hires an attorney  
23 for the purpose of making an objection, the attorney must file a notice of appearance with the Court and  
24 serve it on Class Counsel and Defendant's Counsel by the Objection Deadline.

25 **Exclusion from the Class**

26 21. Any requests for exclusion are due no later than 100 days after entry of this Order  
27 ("Exclusion Deadline"). Any person or entity who would otherwise be a member of the Class who  
28 wishes to be excluded from the Class must notify the Claims Administrator in writing of that intent by

1 either (i) by U.S. mail postmarked no later than the Exclusion Deadline; or (ii) by submission of an opt-  
2 out request on the Settlement Website no later than the Exclusion Deadline. Any person or entity who  
3 is a member of the Class and who validly and timely requests exclusion from the Settlement shall not  
4 be a Class Member; shall not be bound by the Settlement Agreement; shall not be eligible to apply for  
5 or receive any benefit under the terms of the Settlement Agreement; and shall not be entitled to submit  
6 an Objection to the Settlement.

7 22. Any member of the Class who does not notify the Claims Administrator of their intent to  
8 be excluded from the Class in the manner stated herein shall be deemed to have waived his or her right  
9 to be excluded from the Class. If the Court finally approves the Settlement, any such person or entity  
10 shall forever be barred from requesting exclusion from the Class in this or any other proceeding, and  
11 shall be bound by the Settlement and the judgment, including the releases provided for in the Settlement  
12 Agreement, and the Final Order and Judgment.

#### 13 **Termination of the Settlement**

14 23. If the Settlement fails to become effective in accordance with its terms, or if the Final  
15 Order and Judgment is not entered or is reversed or vacated on appeal, this Order shall be null and void,  
16 the Settlement Agreement shall be deemed terminated, and the Parties shall return to their positions  
17 without any prejudice, as provided for in the Settlement Agreement.

#### 18 **Limited Use of This Order**

19 24. The fact and terms of this Order or the Settlement, all negotiations, discussions, drafts and  
20 proceedings in connection with this Order or the Settlement, and any act performed or document signed  
21 in connection with this Order or the Settlement, shall not, in this or any other Court, administrative  
22 agency, arbitration forum, or other tribunal, constitute an admission, or evidence, or be deemed to create  
23 any inference (i) of any acts of wrongdoing or lack of wrongdoing, (ii) of any liability on the part of  
24 Defendant to Plaintiffs, the Class, or anyone else, (iii) of any deficiency of any claim or defense that has  
25 been or could have been asserted in this Action, (iv) of any damages or absence of damages suffered by  
26 Plaintiffs, the Class, or anyone else, or (v) that any benefits obtained by the Class under the Settlement  
27 represent the amount that could or would have been recovered from Defendant in this Action if it were  
28 not settled at this time. The fact and terms of this Order and the Settlement, and all negotiations,

1 discussions, drafts, and proceedings associated with this Order and the Settlement, including the  
 2 judgment and the release of the Released Claims provided for in the Settlement Agreement, shall not be  
 3 offered or received in evidence or used for any other purpose in this or any other proceeding in any  
 4 court, administrative agency, arbitration forum, or other tribunal, except as necessary to enforce the  
 5 terms of this Order, the Final Order and Judgment, and/or the Settlement.

6 **Reservation of Jurisdiction**

7 25. The Court retains exclusive jurisdiction over the Action to consider all further matters  
 8 arising out of or connected with the Settlement.

9 26. All discovery and pretrial and trial proceedings and deadlines are vacated until further  
 10 notice from the Court, except for such actions as are necessary to implement the Settlement Agreement  
 11 and this Order.

12 **Schedule and Deadlines**

13 27. The Court sets the following schedule for further Settlement-related proceedings:

Event	[Proposed] Deadline
Class Action Fairness Act notice to state and federal officials, under 28 U.S.C. § 1715	Within 10 days after filing of the motion for preliminary approval
Notice Date	No later than 25 days after entry of preliminary approval order
Plaintiffs to move for final approval of the settlement	65 days after entry of preliminary approval order
Plaintiffs to move for attorneys’ fees, expenses, and service awards	65 days after entry of preliminary approval order
Deadline to file a claim	100 days after entry of preliminary approval order
Deadline for the submission of objections and requests for exclusion	100 days after entry of preliminary approval order
Reply briefs in support of final approval and motion for attorneys’ fees, expenses, and service awards	115 days after entry of preliminary approval order
Final Fairness Hearing	At least 130 days after entry of preliminary approval order

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**IT IS SO ORDERED.**

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

\_\_\_\_\_  
THE HONORABLE JOSEPH C. SPERO  
UNITED STATES MAGISTRATE JUDGE

# EXHIBIT 5

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

BRAYDEN STARK, JUDD OOSTYEN, ISAAC  
BELENKIY, VALERIE BURTON, LAURA  
GOODFIELD, and DENOVIAS MACK, on  
behalf of themselves and all others similarly  
situated,

Plaintiffs,

v.

PATREON, INC.,

Defendant.

Case No. 3:22-cv-03131-JCS

**[PROPOSED] FINAL JUDGMENT AND  
ORDER OF DISMISSAL WITH PREJUDICE**

1 This matter came before the Court for hearing pursuant to the Order Granting Plaintiffs' Motion  
2 for Preliminary Approval of Class Action Settlement, dated \_\_\_\_ ("Preliminary Approval Order"), on  
3 the motion of Plaintiffs Brayden Stark, Judd Oostyen, Isaac Belenkiy, Valerie Burton, Laura Goodfield,  
4 and Denovias Mack for approval of proposed class action settlement with Defendant Patreon, Inc. Due  
5 and adequate notice having been given of the Settlement as required by the Preliminary Approval Order,  
6 the Court having considered all papers filed and proceedings conducted herein, and good cause  
7 appearing therefor, it is hereby **ORDERED, ADJUDGED** and **DECREED** as follows:

8 1. This Judgment incorporates by reference the definitions in the Class Action Settlement  
9 Agreement and Release with Defendant dated August 2, 2024 (the "Settlement Agreement"), and all  
10 defined terms used herein that are defined in the Settlement Agreement have the same meanings ascribed  
11 to them in the Settlement Agreement.

12 2. This Court has jurisdiction over the subject matter of the Action and over all Parties  
13 thereto, and venue is proper in this Court.

14 3. The Court reaffirms and makes final its provisional findings, rendered in the Preliminary  
15 Approval Order, that, for purposes of the Settlement only, all prerequisites for maintenance of a class  
16 action set forth in Federal Rules of Civil Procedure 23(a) and (b)(3) are satisfied. The Court accordingly  
17 certifies the following Settlement Class:

18 All persons who, between April 1, 2016, to and through the Preliminary  
19 Approval date, requested or obtained video content on the Patreon website  
20 (patreon.com) while in the United States and at a time the person had a  
21 Facebook account and also had a Patreon account.

22 4. Excluded from the Settlement Class are Defendant Patreon, Inc., its parents, subsidiaries,  
23 affiliates, officers, directors, and employees; any entity in which Patreon has a controlling interest; and  
24 all judges assigned to hear any aspect of this litigation, as well as their staff and immediate family  
25 members.

26 5. The Court finds that notice of this Settlement was given to Settlement Class Members in  
27 accordance with the Preliminary Approval Order and constituted the best notice practicable of the  
28 proceedings and matters set forth therein, including the Settlement, to all Persons entitled to such notice,

1 and that this notice satisfied the requirements of Federal Rule of Civil Procedure 23 and of due process.  
2 The Court further finds that the notification requirements of the Class Action Fairness Act, 28 U.S.C.  
3 § 1715, have been met.

4 6. Pursuant to Federal Rule of Civil Procedure 23(e), the Court hereby grants final approval  
5 of the Settlement and finds that it is, in all respects, fair, reasonable, and adequate and in the best interests  
6 of the Settlement Class.

7 7. Except as to any individual claim of those Persons identified in Exhibit 1, if any, who  
8 have validly and timely requested exclusion from the Class, the Action and all claims contained therein,  
9 as well as all of the Released Claims (including Unknown Claims), are dismissed on the merits and with  
10 prejudice. It is hereby determined that all Class Members who did not timely and properly elect to  
11 exclude themselves from the Class by a written Request for Exclusion delivered on or before the date  
12 set forth in the Preliminary Approval Order and the Notice are bound by this Judgment.

13 8. The persons and entities identified in Exhibit 1 hereto requested exclusion from the Class  
14 as of the Exclusion Deadline. These persons and entities shall not share in the benefits of the Settlement  
15 and this Judgment does not affect their legal rights to pursue any claims they may have against Patreon.  
16 All other members of the Class are hereinafter barred and permanently enjoined from prosecuting any  
17 Released Claims against Patreon in any court, administrative agency, arbitral forum, or other tribunal.

18 9. Upon the Effective Date, Releasing Plaintiffs shall be deemed to have, and by operation  
19 of this Judgment shall have, fully, finally, and forever released, relinquished, and discharged the  
20 Released Defendant from all Released Claims.

21 10. Neither Class Counsel's application for attorneys' fees, reimbursement of litigation  
22 expenses, and service awards for Plaintiffs, nor any order entered by this Court thereon, shall in any way  
23 disturb or affect this Judgment, and all such matters shall be treated as separate from the Judgment  
24 entered herein.

25 11. The Parties shall bear their own costs and attorneys' fees, except as set forth in the  
26 Settlement Agreement, in this Judgment, or any Order regarding Plaintiffs' request for attorneys' fees,  
27 expenses, and service awards.

28



1           12. Neither the Settlement, nor any act performed or document executed pursuant to or in  
2 furtherance of the Settlement, is or may be deemed to be or may be used as an admission of, or evidence  
3 of, (a) the validity of any Released Claim, (b) any wrongdoing or liability of Patreon, or (c) any fault or  
4 omission of Patreon in any proceeding in any court, administrative agency, arbitral forum, or other  
5 tribunal. To the extent permitted by law, neither the Settlement Agreement, the Settlement, the  
6 Judgment, any of their terms or provisions, nor any of the negotiations or proceedings connected with  
7 them, shall be offered as evidence or received in evidence or used in any way in any pending or future  
8 civil, criminal, or administrative action or any other proceeding to establish any liability or wrongdoing  
9 of, or admission by Patreon. Notwithstanding the foregoing, nothing in this Judgment shall be  
10 interpreted to prohibit the use of this Judgment in a proceeding to consummate or enforce the Settlement  
11 Agreement or Judgment, or to defend against the assertion of Released Claims in any other proceeding.  
12 All other relief not expressly granted to Class Members is denied.

13           13. No Class Member or any other person will have any claim against Patreon, Plaintiffs,  
14 Class Counsel, or the Claims Administrator arising from or relating to the Settlement or any actions,  
15 determinations or distributions made substantially in accordance with the Settlement or Orders of the  
16 Court.

17           14. Without affecting the finality of this Judgment, this Court reserves exclusive jurisdiction  
18 over all matters related to administration, consummation, enforcement, and interpretation of the  
19 Settlement and this Judgment, including (a) distribution or disposition of the Settlement Fund; (b) further  
20 proceedings, if necessary, on the application for attorneys' fees, reimbursement of litigation expenses,  
21 and service awards for Plaintiffs; and (c) the Parties for the purpose of construing, enforcing, and  
22 administering the Settlement. If any Party fails to fulfill its obligations under the Settlement, the Court  
23 retains authority to vacate the provisions of this Judgment releasing, relinquishing, discharging, barring  
24 and enjoining the prosecution of, the Released Claims against the Releasees, and to reinstate the  
25 Released Claims against the Releasees.

26           15. If the Settlement does not become effective, then this Judgment shall be rendered null and  
27 void to the extent provided by and in accordance with the Settlement Agreement and shall be vacated  
28

1 and, in such event, all orders entered and releases delivered in connection herewith shall be null and  
2 void to the extent provided by and in accordance with the Settlement Agreement.

3 16. Without further order of the Court, the Parties may unanimously agree to reasonable  
4 extensions of time or other reasonable amendments, modifications, and expansions of the Settlement  
5 Agreement necessary to carry out any of the provisions of the Settlement Agreement, provided that such  
6 amendments, modifications, and expansions of the Settlement Agreement are not materially inconsistent  
7 with this Judgment and do not materially limit the rights of Class Members or the Released Defendant  
8 or Released Plaintiffs under the Settlement Agreement.

9 17. Judgment shall be, and hereby is, entered dismissing the Action with prejudice and on the  
10 merits. There is no just reason for delay in the entry of Judgment and immediate entry by the Clerk of  
11 the Court is expressly directed pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

12  
13 **IT IS SO ORDERED.**

14  
15 DATED: \_\_\_\_\_ THE HONORABLE JOSEPH C. SPERO  
16 UNITED STATES MAGISTRATE JUDGE  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# **EXHIBIT 6**

**To:** [Class Member Email Address]  
**From:** Stark v. Patreon Settlement Administrator  
**Subject:** Stark v. Patreon Settlement

---

**If you had a Patreon account and accessed videos on Patreon.com while you had a Facebook account, you may be eligible for payment from a class action settlement**

You may be a Settlement Class Member			
<b>Unique ID:</b>	<<Unique_ID>>	<b>PIN:</b>	<<PIN>>

Dear <<Name>> or if no name Class Member:

A Settlement has been reached with Patreon, Inc. (“Patreon”) in a class action lawsuit alleging that Patreon violated the Video Privacy Protection Act (“VPPA”) by disclosing its subscribers’ identities and video-viewing preferences without lawful consent. The lawsuit contends that Patreon transmitted this information to Meta Platforms, Inc. (“Meta”)— the owner of Facebook— through use of a web tracking tool called the Meta Pixel.

Patreon denies all of the allegations made in the lawsuit, denies that it violated the VPPA, and denies that Patreon did anything improper or unlawful. The proposed Settlement is not an admission of guilt or wrongdoing of any kind by Patreon. The United States District Court for the Northern District of California approved this notice.

**Why am I receiving this notice?**

You might be a Settlement Class member. Patreon’s records indicate that you had a Patreon account between April 2016 and [PRELIMINARY APPROVAL DATE] and accessed video content on Patreon.com. To be eligible for payment, you must demonstrate that you also had a Facebook account when you accessed video content on Patreon.com.

**You can submit a claim to be paid from the Settlement using the claim form available [here](#).**

**For more information and to review the full notice, please visit [www.\\_\\_\\_\\_.com](http://www.____.com).**

**What does the Settlement provide?**

Patreon will pay \$7,250,000 into a Settlement Fund. Patreon has also agreed not to operate the Meta Pixel on any web page on the Patreon website that includes video content unless: (a) the VPPA is amended in relevant part, repealed, or otherwise invalidated; (b) Patreon obtains consent in the form required by the VPPA; or (c) the Meta Pixel on the relevant Patreon web page otherwise complies with the VPPA. For a full copy of the Settlement Agreement, including all other

Settlement terms, please visit [www.\\_\\_\\_\\_.com](http://www.____.com). For more information about how distributions will be made to Settlement Class Members, please visit [www.\\_\\_\\_\\_.com](http://www.____.com).

### What are the expected payments?

After deduction of the costs of notice and settlement administration, any Court-approved award of attorneys' fees (up to 30% of the Settlement Fund), litigation costs, and any service awards for the Class Representatives (up to \$7,500 to each of the six individual Class Representatives), the Settlement Fund will be distributed *pro rata* to eligible class members. We will not know the final amount that each class member will receive until all claims are evaluated. Based on claims rates in similar cases, eligible class members might receive between \$35 and \$175 each. The actual amount that each class member receives will be determined once all claims are evaluated, and may be higher or lower than these estimates. Please be patient.

### How can I get a payment?

If you are a class member and you want to receive a payment, you can make a claim by filling out and submitting the claim form available at [www.\\_\\_\\_\\_.com](http://www.____.com).

You must provide the link for your Facebook profile page on the claim form, so that the Claims Administrator can verify that you are a Class Member. The link you provide must correspond with a Facebook profile that includes your personal information. Instructions for how you can find your Facebook profile page link are available at [www.\\_\\_\\_\\_.com](http://www.____.com).

The Claim Form will also ask you to attest under oath that you accessed video content on Patreon.com while you had an active Facebook account.

If you have questions, you can contact the claims administrator by telephone (8XX-XXX-XXXX) or email [\\_\\_\\_\\_@\\_\\_\\_\\_.com](mailto:____@____.com).

### When is the deadline to submit a claim form?

To be eligible for payment, claim forms must be submitted no later than [DATE].

### What are my other options?

You can do nothing, exclude yourself or object. If you do nothing, your rights will be affected and you won't get a payment.

If you don't want to be legally bound by the Settlement, you must exclude yourself from it by [DATE]. You may opt out online at [www.\\_\\_\\_\\_.com](http://www.____.com). Click on the "Opt Out" tab and provide the requested information. You may also opt out by calling 1-800-\_\_\_\_ or mailing the Opt-Out form available at \_\_\_\_\_ to the Claims Administrator at:

Simpluris Inc.  
3194-C Airport Loop Drive  
Costa Mesa, CA 92626

Unless you exclude yourself, you won't be able to sue or continue to sue Patreon for any claim regarding the subject matter of the claims in this case.

If you stay in the Settlement (i.e., don't exclude yourself), you may object to it or ask for permission for you or your own lawyer to appear and speak at the Final Approval Hearing—at your own cost—but you don't have to. Objections and requests to appear are due by [DATE].

The Final Approval Hearing will be held on [DATE], at [TIME], in Courtroom D on the 15<sup>th</sup> Floor of the San Francisco federal courthouse, located at 450 Golden Gate Avenue, San Francisco, CA 94102, or via Zoom Webinar.

More information about your options is in the detailed notice available at [www.\\_\\_\\_\\_\\_.com](http://www._____.com), or you may contact Class Counsel with any questions:

- **Simon S. Grille.** Telephone: (415) 981-4800; email: [patreonvppa@girardsharp.com](mailto:patreonvppa@girardsharp.com)

You may also access the docket in this case through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California at any of the Court's locations between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

PLEASE DO NOT CALL THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

**BY ORDER OF THE U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA**

To unsubscribe from this list, please click on the following link: [Unsubscribe](#)

1 Adam E. Polk (SBN 273000)  
2 Simon Grille (SBN 294914)  
3 Trevor T. Tan (SBN 280145)  
4 Reid Gaa (SBN 330141)  
5 **GIRARD SHARP LLP**  
6 601 California Street, Suite 1400  
7 San Francisco, CA 94108  
8 Telephone: (415) 981-4800  
9 Facsimile: (415) 981-4846  
10 apolk@girardsharp.com  
11 sgrille@girardsharp.com  
12 ttan@girardsharp.com  
13 rgaa@girardsharp.com

14 *Attorneys for Plaintiffs*

15 **UNITED STATES DISTRICT COURT**  
16 **NORTHERN DISTRICT OF CALIFORNIA**  
17 **SAN FRANCISCO DIVISION**

18 BRAYDEN STARK, JUDD OOSTYEN,  
19 ISAAC BELENKIY, VALERIE BURTON,  
20 LAURA GOODFIELD, and DENOVIA MACK  
21 on behalf of themselves and all others similarly  
22 situated,

23 Plaintiffs,

24 v.

25 PATREON, INC.,

26 Defendant.

Case No. 3:22-cv-03131-JCS

**DECLARATION OF SIMON S. GRILLE  
IN SUPPORT OF PLAINTIFFS'  
MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

Judge: Hon. Joseph C. Spero

Date: September 11, 2024

Time: 9:30 am

Courtroom: Courtroom D – 15th Floor

1 I, Simon S. Grille, declare as follows:

2 1. I am an attorney at the law firm of Girard Sharp LLP (“Girard Sharp”), and one of the  
3 attorneys of record for Plaintiffs.

4 2. I submit this declaration in support of Plaintiffs’ Motion for Preliminary Approval of  
5 Class Action Settlement. I submit this declaration based on personal knowledge, and if called to do so,  
6 could testify to the matters contained herein.

7 **THE LITIGATION**

8 3. On May 27, 2022, Girard Sharp filed the initial class action complaint (“Complaint”)  
9 against Patreon Inc. (“Patreon”) on behalf of Plaintiffs Brayden Stark and Judd Oostyen, and others,  
10 alleging that Patreon violated the Video Privacy Protection Act (“VPPA”), 18 U.S.C. § 2710, by  
11 disclosing information about the video content Patreon users requested or obtained on Patreon’s  
12 website to Meta Platforms, Inc. (“Meta”) via Patreon’s Meta Pixel (“Patreon’s Pixel”) without those  
13 users’ lawful consent. ECF No. 1.

14 4. After filing the initial complaint, Girard Sharp continued to investigate and develop the  
15 case. Our continuing investigation included interviewing numerous Patreon users who accessed  
16 prerecorded video content on Patreon’s website while logged into their Facebook account. We also  
17 retained and consulted with experts in computer science and online advertising, and researched the  
18 Meta Pixel’s operation on Patreon’s website and its impact on Plaintiffs and class members.

19 5. On July 20, 2022, Plaintiffs served Patreon with an initial set of document requests. We  
20 then negotiated with Patreon a stipulated protective order and an order governing the production and  
21 use of electronically stored information produced in this litigation. *See* ECF Nos. 29, 30.

22 6. Patreon moved to dismiss the Complaint on August 5, 2022. ECF No. 21. Plaintiffs filed  
23 an opposition brief on September 9, 2022; Patreon replied on September 30. ECF No. 31, 35. The Court  
24 issued an Order Granting in Part and Denying in Part the Motion to Dismiss on October 13, 2022,  
25 dismissing Plaintiffs’ VPPA claim for failing to allege the video material on Patreon’s website was  
26 prerecorded as well as Plaintiffs’ claim under the unlawful prong of California’s Unfair Competition  
27 Law (“UCL”) to the extent it was based on a violation of the VPPA. ECF No. 40. The Court otherwise  
28



1 denied Patreon’s motion and granted leave to file an amended complaint by October 27, 2022. ECF No.  
2 40.

3 7. On October 27, 2022, Plaintiffs filed a First Amended Complaint (“FAC”) addressing  
4 the Court’s October 13 motion to dismiss order and incorporating newly developed facts and evidence  
5 regarding the technical process by which Patreon’s Pixel transmitted Patreon users’ information to  
6 Meta. ECF No. 41.

7 8. Patreon then moved to dismiss the FAC on November 23, 2022, re-asserting its earlier  
8 challenge to the VPPA as unconstitutional under the First Amendment. ECF No. 48. Plaintiffs filed an  
9 opposition brief on December 21, 2022; Patreon replied on January 20, 2023; and the Court heard oral  
10 argument on February 10, 2023. ECF Nos. 51, 54, 56. The Court issued an Order Granting in Part and  
11 Denying in Part the Motion to Dismiss on February 17, 2023, dismissing Plaintiffs’ claims under  
12 California’s Consumers Legal Remedies Act and UCL and instructing the parties to develop a more  
13 complete factual record with respect to Patreon’s constitutional challenge. ECF No. 59.

14 9. Patreon answered the FAC on March 17, 2023. ECF No. 63.

15 10. Consistent with the Court’s February 17 motion to dismiss order, Plaintiffs served and  
16 negotiated numerous subpoenas to obtain evidence relevant to Patreon’s challenge to the VPPA under  
17 the First Amendment. Additionally, we retained Neil Richards, an expert on the intersection of privacy  
18 and the First Amendment, who produced an expert report on September 22, 2023, regarding the  
19 expectations of privacy in intellectual activities and the history and purpose of the VPPA.

20 11. On September 22, 2023, Patreon also produced an expert report from Andrew Shaxted in  
21 support of its First Amendment challenge. To respond to the technical opinions expressed in that report,  
22 we retained a digital marketing and internet technology expert, Jonathan Hochman, who prepared a  
23 rebuttal report wherein he opined on the functionality of Patreon’s Pixel and Patreon’s control over it.  
24 The Rebuttal Report of Jonathan Hochman was produced to Patreon on October 20, 2023.

25 12. Patreon filed its Motion for Summary Judgment on Plaintiffs’ VPPA Claims on the  
26 Ground that the VPPA Violates the First Amendment on November 17, 2023. ECF No. 76. Plaintiffs  
27 filed an opposition brief on December 21, 2023; Patreon replied on January 19, 2024; over Patreon’s  
28 opposition, Plaintiffs supplemented the summary judgment record with additional evidence on

1 February 23, 2024; Patreon responded to the supplemental summary judgment evidence on March 20,  
2 2024; and the Court heard oral argument on April 12, 2024. ECF Nos. 100, 117, 129, 151, 157.

3 13. On January 30, 2024, after the Court granted Plaintiffs' motion to add new plaintiffs to  
4 the litigation, Plaintiffs filed a Second Amended Complaint ("SAC") and added Denovias Mack, Isaac  
5 Belenkiy, Laura Goodfield, and Valerie Burton. ECF No. 121.

6 14. Patreon answered the SAC on March 14, 2024. ECF No. 146.

7 15. Plaintiffs were prepared to file a class certification motion by April 29, 2023. *See* ECF  
8 No. 163. In addition to drafting the underling motion and compiling the exhibits with relevant evidence  
9 in support, we retained and worked closely with an expert in computer science and online advertising to  
10 draft a report in support of Plaintiffs' class certification motion. We also obtained declarations from  
11 each Plaintiff attesting to certain facts relevant to the class certification analysis.

12 16. Further, Girard Sharp conducted extensive discovery throughout this litigation,  
13 including:

- 14 a. serving forty-eight document requests, eleven interrogatories, and seventeen  
15 requests for admission on Patreon;
- 16 b. negotiating document productions with Patreon's counsel, including with regard  
17 to search terms to query for the production of custodial information;
- 18 c. conducting three Rule 30(b)(6) depositions of Patreon corporate designees;
- 19 d. deposing five current and former Patreon employees;
- 20 e. serving subpoenas on two non-party media agencies that Patreon retained to  
21 perform work related to the Meta Pixel, deposing one and negotiating a production of documents and a  
22 deposition from the other;
- 23 f. setting up an electronic document review platform and reviewing documents  
24 produced by Patreon and the subpoenaed non-parties;
- 25 g. preparing responses to Patreon's discovery requests on behalf of each Plaintiff,  
26 including thirty-five document requests, ten interrogatories, and 182 requests for admission;<sup>1</sup>

27 \_\_\_\_\_  
28 <sup>1</sup> At the time the Parties reached an agreement in principle to resolve this action, the deadline to respond to Patreon's Second Set of Requests for Admission to Plaintiffs had not yet elapsed. Although responses

1 h. gathering, reviewing, and producing Plaintiffs' documents in response to  
2 Patreon's document requests; and

3 i. defending the depositions of Plaintiffs Brayden Stark and Judd Oostyen.

4 17. Plaintiffs also took critical discovery of non-party, Meta. On February 1, 2023, we  
5 served Meta with a subpoena noticing a deposition and seeking data and documents related to the  
6 transmission of Patreon users' personal information to Meta via Patreon's Pixel. Between February and  
7 September 2023, we negotiated the scope of the subpoena with Meta to alleviate any undue burden, and  
8 received an initial production on September 22, 2023. We continued to negotiate the production of  
9 responsive material from Meta, as well as the parameters of a deposition, subsequently moving to  
10 compel Meta on December 13, 2023, to produce class-wide data and designate a deponent pursuant to  
11 Rule 30(b)(6). *Stark, et al. v. Meta Platforms, Inc.*, 3:23-mc-80326-JCS, ECF No. 1. The Court heard  
12 oral argument on January 26, 2024, and ordered Meta to produce a subset of class data and designate a  
13 witness to sit for a deposition. *Stark, et al. v. Meta Platforms, Inc.*, 3:23-mc-80326-JCS, ECF No. 16.  
14 Ultimately, Plaintiffs obtained eight sets of document productions from Meta and deposed Meta's  
15 corporate designee in a proceeding consolidated with a separate VPPA matter.

16 **SETTLEMENT NEGOTIATIONS**

17 18. The Parties first mediated before the Honorable Jeremy D. Fogel (Ret.) on June 27,  
18 2023. The Parties continued to mediate before Judge Fogel on November 20, 2023, March 5, 2024, and  
19 April 16, 2024, and continued their settlement discussions following the April 16 mediation session.

20 19. After exchanging multiple proposals and counter-proposals, the Parties reached an  
21 agreement in principle on April 26, 2024, and agreed to a final term sheet on April 27. The Parties then  
22 negotiated the settlement agreement in the following weeks in preparation for Plaintiffs' motion for  
23 preliminary approval. The Parties then negotiated the settlement agreement in the following weeks and  
24 executed it on August 1, 2024.

25  
26  
27 \_\_\_\_\_  
28 to these requests for admission were not served, we had prepared responses and objections on behalf of  
each Plaintiff and were prepared to serve them by the deadline established in Rule 36.

1 **SETTLEMENT TERMS**

2 20. The proposed Class means all persons who, between April 1, 2016, to and through the  
3 Preliminary Approval date, requested or obtained video content on the Patreon website (Patreon.com)  
4 while in the United States and at a time the person had a Facebook account and also had a Patreon  
5 account. The Class excludes Patreon, its parents, subsidiaries, affiliates, officers, directors, and  
6 employees; any entity in which Patreon has a controlling interest; and all judges assigned to hear any  
7 aspect of this litigation, as well as their staff and immediate family members.

8 21. Under the Settlement, Patreon will pay \$7,250,000.00 to create a non-reversionary cash  
9 fund for Class Members. Notice costs, administration expenses, attorneys’ fees and costs, and service  
10 awards awarded by the Court will be deducted from the fund. The balance (the “Net Settlement Fund”)  
11 will be applied to pay Settlement Class Member claims.

12 22. Patreon will also remove or disable the Meta Pixel from any web page on the Patreon  
13 website that includes video content as of the Effective Date. Patreon has agreed not to re-install or  
14 operate the Meta Pixel on any web page on the Patreon website that includes video content, except if:  
15 (a) the VPPA is amended in relevant part, repealed, or otherwise invalidated; (b) Patreon obtains  
16 consent in the form required by the VPPA, 18 U.S.C. § 2710(b)(2)(B); or (c) the Meta Pixel on the  
17 relevant Patreon web page otherwise complies with the VPPA.

18 23. The resolution of this litigation does not affect any other pending case.

19 **DISTRIBUTION OF THE SETTLEMENT FUND**

20 24. The Net Settlement Fund will be allocated according to Section 3 of the Settlement  
21 Agreement.

22 25. There will be a single Claim Form, and any Class Member can submit a claim.  
23 The Claim Form will require an attestation under oath that the Claimant accessed video content on  
24 Patreon.com while the Claimant had an active Facebook account and that all information provided is  
25 true and correct to the best of the Claimant’s knowledge.

26 26. The Claim Form will require that a Class Member support their claim by providing the  
27 link associated with the Class Member’s Facebook profile. The Notice and Settlement Website will  
28 provide instructions to Class Members regarding how to access this information.

1           27.     A Claim Form is required to ensure recovery is limited to Class Members. Only Patreon  
2     accountholders who accessed video content on Patreon.com while they had an active Facebook account  
3     are eligible to participate in the settlement. Patreon’s records show whether a person had a Patreon  
4     account and requested or obtained video content on the Patreon website. While Meta has extensive  
5     data received through Patreon’s Pixel transmissions, undertaking a forensic retrieval exercise over  
6     Meta’s objections would result in further delays and substantial additional expense, and the expedient  
7     of simply requiring an attestation and link to a Facebook account serves as a reasonable proxy for proof  
8     of class membership, balancing the need to limit payments to class members with the imperative of  
9     offering an easy to understand, streamlined way for Class Members to participate. The Claim Form  
10    also elicits the information required to confirm contact and payment details. The Claim Form can be  
11    completed online in less than five minutes with no more effort than was required to create a Patreon  
12    account.

13           28.     The Claims Administrator will audit a sample of claims. If the Claims Administrator  
14    determines a Claim is inadequately supported, suspicious, or contains indicia of fraud, the Claims  
15    Administrator may disallow the claim or request additional supporting documentation.

16           29.     The Settlement Administrator will give Claimants a reasonable opportunity to cure  
17    defective claim submissions during a period of up to 60 days (“Cure Period”).

18           30.     The Claims Administrator will have the discretion (but not the obligation) to accept late-  
19    submitted claims for processing by the Claims Administrator, provided the distribution of the Net  
20    Settlement Fund to Approved Claimants will not be materially delayed thereby.

21           31.     After review of all claims and after expiration of the Cure Period, the Settlement  
22    Administrator will determine the total number of Approved Claims, divide the Net Settlement Fund by  
23    the number of Approved Claims, and distribute to each Approved Claimant their respective share.  
24    Payments will be made electronically, with PayPal as the default payment mechanism.

25           32.     For each claim, the Settlement Administrator will make the final determination as to  
26    whether the claim is an Approved Claim. The parties will have no role in, nor will they be held liable in  
27    any way for, the determination of monetary relief to be accorded each Claimant.

28

1 33. Any dispute regarding the validity of a Claim submission or eligibility for payment will  
2 be referred to the administrator.

3 34. The Claims Administrator will provide the Parties with weekly written reports,  
4 beginning on the Notice Date and continuing until submission of the final post-distribution accounting  
5 (and thereafter upon request), summarizing all statistics and actions taken by the Claims Administrator  
6 in connection with administering the Settlement

7 **THE CLAIMS ADMINISTRATOR**

8 35. Class counsel sent requests for proposals to six leading class action administrators and  
9 received proposals from each of them.

10 36. After reviewing all the proposals, Class counsel selected Simpluris Inc. based on its  
11 qualifications and pricing.

12 37. In the past two years, Girard Sharp has worked with Simpluris in one matter: *In re*  
13 *Planned Parenthood Los Angeles Data Incident Litigation* (“PPLA”), No. 21STCV44106 (Los Angeles  
14 Sup. Ct.). Simpluris has effectively administered the notice and claims process in that case.

15 38. The Claims Administrator’s procedures for securely handling class member data and its  
16 acceptance of responsibility and maintenance of insurance in case of error is addressed in the  
17 Declaration of Meagan Brunner (“Brunner Decl.”) submitted in support of Plaintiffs’ Motion for  
18 Preliminary Approval of Class Action Settlement. *See* Brunner Decl. ¶¶ 4-18.

19 39. The Claims Administrator will establish and maintain a Settlement Website with a  
20 mutually acceptable domain name. The Settlement Website will be optimized for viewing on both  
21 mobile devices and personal computers. The Settlement Website will include, without limitation, the  
22 Notice, this Agreement, the operative Complaint, other relevant case documents, a set of frequently  
23 asked questions, and information on how to object or opt out, as well as contact information for Class  
24 Counsel and the Claims Administrator. The Settlement Website will include a readily accessible means  
25 for Class members to submit a Claim Form electronically.

26 40. The Claims Administrator will establish a toll-free telephone number where members of  
27 the Class Members can obtain assistance and receive instructions for accessing settlement-related  
28 information, the Claim Form, and case documents.

1 41. Administrative costs will be paid from the Settlement Fund. Based on information  
2 provided by the parties to date, the Claims Administrator anticipates notice and administration expenses  
3 in the range of \$300,000-\$350,000.

4 **CLASS NOTICE**

5 42. According to Patreon’s records, approximately 6 million Patreon account holders  
6 accessed video content on Patreon.com while in the United States during the Class Period. Not all of  
7 these people are Class Members, however, because they did not all simultaneously maintain a  
8 Facebook account such that the Meta Pixel would pass their video viewing choices and personal  
9 information to Meta. Based on publicly available data regarding web browsing habits, use of cookie  
10 blockers or private browsing, and Facebook login rates, Plaintiffs estimate that about 20% of the 6  
11 million, or 1.2 million people are Class members.

12 43. Patreon represents that it has email addresses for 99.97% of its account holders who  
13 accessed video content on Patreon.com while their subscription was active. Patreon will provide the  
14 Claims Administrator with the email addresses of these subscribers.

15 44. The Claims Administrator will provide direct notice via email. The Claims  
16 Administrator will format these emails to maximize the likelihood they will be received and understood  
17 by Class Members. To the extent the transmission of email notice results in “bounce-backs,” the Claims  
18 Administrator will make a second attempt to re-send the email notice.

19 45. The Claims Administrator will send three email reminders of the Claims Deadline and  
20 Objection and Opt-Out Deadline to all potential Class Members for whom a valid email address is  
21 available. The reminder emails will include links to the Notice and the electronic Claim Form.

22 46. Notice will also be posted on the Settlement Website, and the Claims Administrator will  
23 provide a toll-free telephone number that Class Members can use to receive assistance for filing a  
24 claim.

25 **SETTLEMENT RELEASE**

26 47. The release is limited to claims arising from the facts underlying the claims and  
27 allegations in this action. In accordance with the Procedural Guidance, the release appropriately tracks  
28 the claims in the SAC.



**ATTORNEYS' FEE AWARD AND SERVICE AWARD**

48. Class Counsel will apply for an award of attorneys' fees and reimbursement of litigation expenses, together with service awards for the class representatives, at least 35 days before the due date for objections. The fee application will be promptly posted on the settlement website.

49. Plaintiffs will seek up to 30% of the fund in attorneys' fees. Class Counsel's total lodestar, through July 15, 2024, is approximately \$3,826,304.50 using current rates and representing 5,354.5 hours of work on this matter. There will be no multiplier on the fee award, given the substantial amounts of time dedicated by Plaintiffs' counsel to this matter.

50. Class Counsel's lodestar reflects the determined and sophisticated defense mounted by Patreon and its experienced counsel. In addition, Plaintiffs were dependent on nonparty Meta for essential information, requiring extensive conferences, technical support from industry experts, and two motions to compel production of data and testimony relevant to their claims. The parties reached settlement only after several mediation sessions, multiple rounds of motion to dismiss briefing, a fully briefed summary judgment motion, and on the eve of Plaintiffs filing their class certification motion.

51. Plaintiffs also will seek reimbursement of case expenses, which include expert witness fees, in an amount not to exceed \$485,000.

52. In addition, Plaintiffs intend to apply for service awards of up to \$7,500 for each of the Class Representatives. Each Plaintiff devoted considerable time to this case, including by assisting counsel in preparing the complaints, communicating with Class Counsel about case developments, responding to written discovery requests, gathering and producing documents, and, with respect to Plaintiffs Brayden Stark and Judd Oostyen, giving a deposition.

53. The Parties have reached no agreement on the amount of fees and expenses to be sought by Class Counsel. There is no "clear sailing" agreement.

**RECOMMENDATION OF COUNSEL**

54. Girard Sharp's resume is attached as Exhibit A. The firm has considerable experience in the prosecution of data privacy class actions. We believe that, considering the relative benefits of settlement at this time on the terms offered, in comparison to the risk of a less favorable outcome, taking into account the prospects of prevailing at trial and on appeal, the proposed settlement meets the



1 standard for preliminary approval in that the Court “will likely be able to” approve the settlement as  
2 fair, reasonable, and adequate under Rule 23(e)(2).

3         55. The Settlement provides Class Members with the opportunity for an immediate recovery  
4 with the benefit of a claimant-friendly procedure supervised by an experienced claims administrator.  
5 The Settlement also ensures that Patreon will cease use of Pixel on webpages with video content, unless  
6 such usage complies with the VPPA. By contrast, continued litigation carries considerable risk of no  
7 recovery at all. Patreon vigorously denied liability under the VPPA. Patreon’s experienced counsel  
8 have attacked virtually every aspect of Plaintiffs’ VPPA claims, and Patreon’s challenge to the VPPA  
9 on First Amendment grounds remains unresolved. Plaintiffs anticipate Patreon will strenuously oppose  
10 class certification, including arguing that whether the Pixel transmitted any particular users’ PII and  
11 video information to Meta is a highly fact-intensive issue, preventing a finding of predominance.  
12 Patreon also has pointed to an arbitration clause in its Terms of Use, which could reduce the number of  
13 individuals eligible to recover through this litigation or preclude recovery on a class-wide basis  
14 altogether. Moreover, even if Plaintiffs prevailed in the District Court on the arbitration issue, Patreon  
15 would be entitled to a stay pending appeal, creating further delay and appellate risk. *See Coinbase, Inc.*  
16 *v. Bielski*, 599 U.S. 736, 143 S. Ct. 1915, 216 L. Ed. 2d 671 (2023). The Settlement avoids the  
17 numerous uncertainties associated with trial, including a battle of experts who would offer conflicting  
18 and highly technical opinions about the internet technology at the center of this litigation. Finally, the  
19 VPPA landscape is rapidly shifting, and the case law Plaintiffs rely on could erode before this action  
20 reaches a final judgment. The Settlement is thus a hard-fought and favorable outcome for Class  
21 Members and meets all criteria for preliminary approval.

22         56. The Settlement also complies in all respects with this District’s Procedural Guidance for  
23 Class Action Settlements. We therefore respectfully request that the Court grant preliminary approval  
24 so that notice can be given and Settlement Class members have the opportunity to exercise their rights  
25 under Rule 23 and the terms of the Settlement.

26         57. Attached as Exhibit B is a chart submitted in compliance with the Northern District of  
27 California’s Procedural Guidance for Class Action Settlements. The charts contain true and accurate  
28 information regarding analogous settlement we have negotiated on behalf of other classes.

\* \* \*

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed August 2, 2024, in San Francisco, California.

/s/ Simon S. Grille  
Simon S. Grille

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I hereby certify that on August 2, 2024, I electronically filed the foregoing document using the CM/ECF system, which will send notification of such filing to all counsel of record registered in the CM/ECF system.

/s/ Simon S. Grille  
Simon S. Grille

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# **EXHIBIT A**

# GIRARD SHARP

## *Firm Resume*

Girard Sharp specializes in class actions and other complex litigation. Our clients range from individual consumers and small businesses to Fortune 100 companies and public retirement systems. We are experienced in antitrust, securities, consumer protection, products liability, privacy, and whistleblower laws. We represent our clients in class and collective actions, multidistrict litigation, and arbitrations. Since our founding in 1995, we have recovered billions in settlements and trial judgments, leveling the playing field for our clients and successfully confronting the most determined and sophisticated adversaries.

Girard Sharp is distinguished as a Tier 1 law firm for plaintiffs' mass tort and class action litigation by *Best Lawyers* and has appeared on its list of "Best Law Firms" for more than a decade. In 2023, Girard Sharp was featured in multiple practice areas in the *National Law Journal's* Elite Trial Lawyers awards: the firm won in the Pharmaceutical Litigation category, received an honorable mention in Products Liability, and was recognized as a finalist in Antitrust, Class Actions, Consumer Protection, and Privacy/Data Breach. In 2022, *Law360* recognized Girard Sharp as Practice Group of the Year for Product Liability Litigation, and the *National Law Journal* recognized the firm for its expertise in Pharmaceutical Litigation. The *Daily Journal* awarded Girard Sharp its "Top Plaintiff Verdicts: Impact" award in 2021, and its "Top Boutiques in California" award in 2020. Girard Sharp has also been named by the *National Law Journal* to its "Plaintiffs' Hot List," a selection of top U.S. plaintiffs' firms recognized for wins in high-profile cases, and was recognized as a "2023 Plaintiff Leader" by the *Global Data Review* for work in privacy protection matters.

The firm's attorneys have been recognized as Northern California Super Lawyers and Rising Stars. Daniel Girard and Dena Sharp also have been recognized as among the "Top 100 Super Lawyers" in Northern California, and since 2020, Dena Sharp has been named one of the Top 50 Women Attorneys. Partners Daniel Girard, Dena Sharp, and Jordan Elias are elected members of the American Law Institute, and have been selected by their peers for inclusion in *The Best Lawyers in America*, along with several other Girard Sharp lawyers who have been recognized by *Best Lawyers* as "Ones to Watch." Additionally, *Best Lawyers* designated Dena Sharp as the 2023 "Lawyer of the Year" in San Francisco for class action litigation, and Daniel Girard as a 2013 "Lawyer of the Year." In 2023, *Law360* also recognized Dena Sharp as a "Titan of the Plaintiffs Bar," and the *National Law Journal* has honored her three times as an "Elite Woman of the Plaintiff's Bar."

## ATTORNEYS

### Partners

<a href="#"><u>Daniel Girard</u></a>	p. 2
<a href="#"><u>Dena Sharp</u></a>	p. 3
<a href="#"><u>Adam Polk</u></a>	p. 4
<a href="#"><u>Jordan Elias</u></a>	p. 5
<a href="#"><u>Scott Grzenczyk</u></a>	p. 6
<a href="#"><u>Simon Grille</u></a>	p. 7
<a href="#"><u>Tom Watts</u></a>	p. 8

### Associates

<a href="#"><u>Mikaela Bock</u></a>	p. 8
<a href="#"><u>Samhita Collur</u></a>	p. 9
<a href="#"><u>Namita Dhawan</u></a>	p. 9
<a href="#"><u>Reid Gaa</u></a>	p. 9
<a href="#"><u>Erika Garcia</u></a>	p. 10
<a href="#"><u>Nina Gliozzo</u></a>	p. 10
<a href="#"><u>Sean Greene</u></a>	p. 11
<a href="#"><u>Jordan Isern</u></a>	p. 11
<a href="#"><u>Patrick Johnson</u></a>	p. 11
<a href="#"><u>Kristen Palumbo</u></a>	p. 12
<a href="#"><u>Kyle Quackenbush</u></a>	p. 12
<a href="#"><u>Tony Rogari</u></a>	p. 13
<a href="#"><u>Trevor Tan</u></a>	p. 13
<a href="#"><u>Peter Tuschner</u></a>	p. 14

### Of Counsel

<a href="#"><u>Michael Danko</u></a>	p. 14
<a href="#"><u>Kristine Meredith</u></a>	p. 15

## SIGNIFICANT RECOVERIES

<a href="#"><u>Antitrust</u></a>	p. 15
<a href="#"><u>Securities and Financial</u></a>	
<a href="#"><u>Fraud</u></a>	p. 17
<a href="#"><u>Deceptive Trade Practices</u></a>	p. 20
<a href="#"><u>Defective Products</u></a>	p. 22
<a href="#"><u>Privacy Violations</u></a>	p. 24
<a href="#"><u>Insurance and Other Consumer</u></a>	
<a href="#"><u>Protection Matters</u></a>	p. 26
<a href="#"><u>Women's Advocacy, Fertility,</u></a>	
<a href="#"><u>and Sexual Abuse</u></a>	p. 29
<a href="#"><u>Mass Tort</u></a>	p. 29
<a href="#"><u>Government Reform</u></a>	p. 30

## ATTORNEYS

### Partners

---

**Daniel Girard** founded the firm in 1995 to offer dedicated, professional representation to everyday Americans. Dan believes that individuals who work hard and play by the rules deserve the same focused, skillful representation enjoyed by corporations, banks, and insurance companies. Under Dan's leadership, Girard Sharp has become one of the most respected and experienced class action law firms in the United States, consistently delivering outstanding results in challenging cases.



Dan has been appointed by federal courts to lead class actions brought under a range of federal and state laws, often involving investments and consumer financial services matters. Dan currently serves as lead counsel in the *GWG Holdings Securities Litigation* in the Northern District of Texas, the *Wells Fargo J&J Investments Litigation* in the District of Nevada and the *PFA Insurance Marketing Litigation* in the Northern District of California. He recently served as counsel for investors in the Woodbridge Investments, Jay Peak EB-5 Investments, Peregrine Financial Group and Provident Royalties cases, all of which involved parallel bankruptcy and criminal or regulatory proceedings against investment promoters. He has led successful class actions in such areas as securities, corporate governance, telecommunications, unfair competition, federal statutory rights, predatory lending, sexual abuse, product liability, and constitutional law.

In addition to individuals, Dan's past and present clients include municipal and state employee retirement systems, public employee unions, financial institutions, property and casualty insurers, and NYSE companies.

Dan has been privileged to serve the federal court system through his work on federal rulemaking committees. He was appointed by Chief Justice William H. Rehnquist to the United States Judicial Conference Advisory Committee on Civil Rules in 2004 and served on the Civil Rules Committee through 2010. Chief Justice John G. Roberts appointed Dan to the Standing Committee on Rules of Practice and Procedure in 2015 and reappointed him to a second term in 2018. Dan's article, "Limiting Evasive Discovery: A Proposal for Three Cost-Saving Amendments to the Federal Rules," 87 *Denver University Law Review* 473 (2010), proposed several rule amendments that were ultimately adopted in Federal Rule of Civil Procedure 34(b)(2).

Dan serves as a member of the Council of the American Law Institute, where he chairs the Audit Committee and serves on the Membership and Development Committees. He has been recognized in *The Best Lawyers in America* since 2012, and as a Northern California Super Lawyer since 2007. He is a longstanding member of the American Bar Association, Section on Business Law, Corporate and Business Litigation Committee.

**Dena Sharp** is dedicated to finding common-sense solutions in even the most complex litigation. She recently served as co-lead counsel in the *In re Juul Labs Inc.* multidistrict litigation, which resulted in recoveries of nearly \$2 billion for individual consumers, school districts, municipalities, and Native American tribes. The last of the *Juul* settlements—for \$235 million with Altria (formerly Philip Morris)—was reached after Dena and her co-lead trial counsel rested the plaintiff’s case in a bellwether jury trial against the tobacco giant.



Dena currently serves as co-lead counsel in *In re Xyrem Antitrust Litigation* and *In re Google Digital Advertising Antitrust Litigation*, as well as in leadership positions in various life sciences and statutory damage matters. She also serves as a member of the End-Payer Steering Committee in the massive *In re Generic Pharmaceuticals Pricing Antitrust Litigation*. Dena previously led a team to a \$104.75 million recovery on the eve of trial in a certified “pay-for-delay” antitrust class action concerning the drug Lidoderm, which delivered the largest recovery for a class of end-payers in similar federal litigation in more than decade.

Dena tries cutting-edge cases. In a first-of-its-kind jury trial in 2021, Dena and team represented clients whose eggs and embryos were in a freezer tank at a fertility clinic that failed. After a three-week trial, the jury returned a \$15 million verdict for the plaintiffs, leading to a global resolution with the tank manufacturer for the dozens of households represented by Girard Sharp.

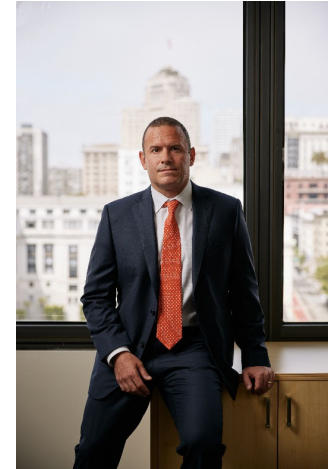
Outside the courtroom, Dena chairs the board of directors of the Impact Fund, a public interest nonprofit. She is an elected member of the American Law Institute, sits on the board of advisors for the Center for Litigation and the Courts at the UC College of the Law, San Francisco, and serves on the executive committee of the local chapter of the Federal Bar Association. Dena co-wrote a chapter in the ABA’s “Class Action Strategy and Practice Guide,” and the widely-cited *Sedona Principles: Best Practices and Principles for Electronic Document Production (Third Edition)*. She is the immediate past co-chair for the Northern District of California’s Lawyer Representatives to the Ninth Circuit Judicial Council.

Dena was recognized as the 2023 “Lawyer of the Year” in San Francisco for Plaintiffs’ Mass Tort / Class Action Litigation by *Best Lawyers in America*, and selected as a “Titan of the Plaintiffs’ Bar” by *Law360* in April 2023. Dena has three times been named to the *National Law Journal*’s “Elite Women of the Plaintiffs’ Bar,” honoring her as one of only a handful of lawyers nationwide who has “consistently excelled in high-stakes matters on behalf of plaintiffs.” The *Daily Journal* has also recognized her as one of the “Top Antitrust Lawyers in California” and “Top Women Lawyers” in California. In 2023, Dena was selected as one of the Top 100 Super Lawyers in Northern California, and since 2020 she has been recognized by *San Francisco* magazine as one of the “Top 50 Women Attorneys in Northern California.”

Dena is a graduate, *cum laude*, of the University of California College of the Law, San Francisco, and earned her undergraduate degree from Brown University, where she graduated *magna cum laude*. A first-generation American, Dena is fluent in Spanish and German.



**Adam Polk's** experience spans all aspects of civil litigation, from initial case investigation and complaint preparation through trial and settlement. Respected among his peers for his leadership, preparation, and client-centered decision-making, Adam's practice encompasses a range of class action matters, including products liability, consumer finance, securities, antitrust, corporate governance, life science, and sexual abuse.



Adam currently serves as co-lead counsel in *In re Hewlett Packard Enterprise Co. Shareholder Litigation* (a securities case alleging Hewlett Packard misled investors when it merged with Computer Science Corporation Inc. to form DXC Technology Company); *In re Accellion Data Breach Litigation* (litigation following a data breach incident involving the theft of sensitive information in files loaded to Accellion's File Transfer Appliance system); *In re Huntington Bancshares Inc. Shareholder Litigation* (alleging violations of the Securities Act of 1933); and *In re MCG Health Data Security Issue Litigation* (centering on alleged exfiltration of personal health information). He also serves on the leadership teams in *In re PFA Insurance Marketing Litigation*, *In re Allergan Biocell Textured Breast Implant Products Liability Litigation*, and *In re Philips Recalled CPAP, Bi-Level Pap, and Mechanical Ventilator Products Litigation*.

Recently, Adam served as a key member of the trial team in *In re Pacific Fertility Center Litigation*. In a landmark result, the jury awarded approximately \$15 million for the loss of four families' eggs and embryos. A global resolution with the tank manufacturer followed for the dozens of households represented by Girard Sharp.

Adam has taken a leading role in several recent cases that resolved favorably for his clients, including *In re Maxar Technologies Inc. Shareholder Litigation* (a Securities Act case that resolved for \$36.5 million); *In re Subaru Battery Drain Litigation* (a consumer protection action concerning defective batteries in Subaru vehicles); *Bentley v. LG Electronics U.S.A., Inc.* and *Sosenko v. LG Electronics U.S.A., Inc.* (class actions alleging that LG's refrigerators are defective and prone to premature failure); *In re Nexus 6P Products Liability Litigation* and *Weeks v. Google LLC* (two consumer class actions against Google relating to defective mobile phones, which resolved for a combined \$17 million); and *In re Sears Holdings Corporation Stockholder and Derivative Litigation* (\$40 million settlement).

Adam is active in the American Bar Association, where he serves as the current co-chair of the ABA's National Institute on Class Actions and co-chair of the Virtual Programming Board. He also serves as a leader of the American Association for Justice's Class Action Litigation Section.

Adam has been recognized as a National Trial Lawyers "Top 40 Under 40" every year since 2019. Adam was also named to *Best Lawyers'* "Ones to Watch" list in 2021 and 2022, and honored in 2022 as a "Rising Star of the Plaintiffs Bar" by the *National Law Journal*. In 2023, he was named one *Lawdragon's* "500 Leading Consumer Plaintiff Lawyers." He has been selected by his peers as a Northern California Super Lawyer, Rising Star every year since 2013.



**Jordan Elias** has pursued civil claims against oil and tobacco companies, price-fixing cartels, pharmaceutical companies and the nation's largest banks.

Jordan argued the first substantive motion in the digital advertising monopoly litigation against Google. He was the primary author of the plaintiffs' briefs in the California Supreme Court in the Cipro "pay-for-delay" antitrust case, and led the appeal in *In re U.S. Office of Personnel Management Data Security Breach Litigation*, 928 F.3d 42 (D.C. Cir. 2019), where the court reversed the dismissal of a case brought on behalf of 22 million federal government employees and job applicants whose sensitive private information was hacked. Federal judges have described his advocacy as "very thorough" and "clearly in the public interest."



Jordan has been recognized by his peers for inclusion in *The Best Lawyers in America*. A former chief arbitrator for the San Francisco Bar Association's attorney fee disputes program, he received a California Lawyer Attorney of the Year (CLAY) award in 2016 and has been recognized as a Northern California Super Lawyer, Appellate, since 2014.

Jordan's writing and expertise are not limited to case work. He authored the Supreme Court chapter, and co-authored the Ninth Circuit chapter, in the American Bar Association's authoritative *Survey of Federal Class Action Law*. For several years he has been responsible for the chapter on antitrust standing, causation, and remedies in *California State Antitrust and Unfair Competition Law* (Matthew Bender). Jordan also co-authored the chapter on CAFA exceptions in both the 2013 and 2022 editions of *The Class Action Fairness Act: Law and Strategy*, an ABA book.

Jordan's law review articles include *The Multistate Problem in Consumer Class Actions and Three Solutions*, 17 *Harvard Law & Policy Rev.* 101 (2023), *Course Correction—Data Breach as Invasion of Privacy*, 69 *Baylor L. Rev.* 574 (2018), and "More Than Tangential": *When Does the Public Have a Right to Access Judicial Records?*, 29 *Journal of Law & Policy* 367 (2021). His bar journal articles include "Antitrust Restoration from California Anchored by a New Monopolization Synthesis," Vol. 33 No. 1 *Competition: J. Anti. & Unfair Comp. L. Sec. St. B. Cal* 34 (Spring/Summer 2023), "Does *Bristol-Myers Squibb Co. v. Superior Court* Apply to Class Actions?" *ABA Section of Litigation, Class Actions & Derivative Suits* (Feb. 25, 2020) (co-author), "Tilting at Windmills: Nationwide Class Settlements after *In re Hyundai and Kia Fuel Economy Litigation*," *ABA Section of Litigation, Class Actions & Derivative Suits* (Feb. 28, 2018) (co-author), and *Putting Cipro Meat on Actavis Bones*, Vol. 24 No. 2 *Competition: J. Anti. & Unfair Comp. L. Sec. St. B. Cal.* 1 (2015). He has filed friend-of-the-court briefs representing legal scholars, the American Independent Business Alliance, and the League of Women Voters. In 2017 he was elected to the American Law Institute.

Jordan is a native Californian who attended Harvard-Westlake School in Los Angeles. After earning his J.D. from Stanford Law School, where he served on the law review, Jordan clerked for the late Ninth Circuit Judge Cynthia Holcomb Hall. At Yale College he was an all-Ivy League sprinter and received the Field Prize for best dissertation or senior thesis in the humanities.

**Scott Grzenczyk** is a partner at Girard Sharp with wide-ranging experience in complex litigation. He has served as a member of leadership teams that have recovered billions of dollars on behalf of plaintiffs. Scott brings a tireless work ethic and a practical, results-oriented approach to his cases, believing that the best results are achieved by looking at each case holistically and using creative strategies to overcome challenges. He has successfully applied this thoughtful, dedicated approach to representing clients in antitrust and consumer protection matters, among others.



For nearly a decade, Scott has represented union health and welfare funds in cases alleging that large, multinational drug companies illegally inflated the price of prescription drugs. He has developed an in-depth knowledge of the pharmaceutical industry and the unique challenges that come with prosecuting antitrust claims against drug companies, which has helped him achieve precedent-setting recoveries, including a \$104.75 million settlement shortly before trial in a case concerning the prescription drug Lidoderm. He plays a central role in the end-payors' efforts in *In re Generic Pharmaceuticals Antitrust Litigation* and *In re Xyrem Antitrust Litigation*, as well as the recently-settled *In re Restasis Antitrust Litigation*, in which he led the end-payors' successful bid to obtain class certification. Scott is also a key member of the co-lead counsel teams in antitrust cases outside of the pharmaceutical industry, including *In re Google Digital Advertising Antitrust Litigation* and *In re California Gasoline Spot Market Antitrust Litigation*.

Scott is an integral member of the co-lead counsel team in *In re JUUL Labs, Inc. Marketing, Sales Practices, and Products Liability Litigation*, and took primary responsibility for legal briefing and discovery related to the plaintiffs' class action claims. After certification of nationwide and California classes, the class action settled for \$300 million. He has a track record of successfully representing consumers, including car and cell phone purchasers, in cases involving fraud and unfair business practices. Scott also serves as co-lead counsel for policyowners alleging that Lincoln National increased premiums in violation of the policy terms. The litigation—including a coordinated proceeding involving other policyowners—settled for \$117.5 million. Scott led the firm's litigation efforts in a class action filed by native inhabitants of Guam bringing due process and equal protection claims against the government of Guam. During law school, he successfully argued a precedent-setting immigration case before the U.S. Court of Appeals for the Ninth Circuit. Scott also volunteers with the Federal Pro Bono Project of the Bar Association of San Francisco, including having represented a plaintiff who alleges the San Francisco Zen Center discriminated against him on the basis of his disability in violation of the Americans with Disabilities Act.

In addition to his work in the courts, Scott serves as Vice-Chair of the Civil Procedure and Practice Committee of the American Bar Association's Antitrust Section. He regularly speaks and writes on discovery, expert witness, and antitrust issues. In 2023, Scott was named as one of the "Top Antitrust Lawyers in California" by the *Daily Journal*. In 2020, he received the American Antitrust Institute's Outstanding Litigation Achievement by a Young Lawyer. He has been named to *Best Lawyers'* "Ones to Watch" list every year since 2021 (including in the categories of antitrust, class actions, and products liability in 2023), and has been selected as a Rising Star in Northern California by Super Lawyers since 2013.

**Simon Grille** is a partner at Girard Sharp, representing plaintiffs in all forms of class and complex litigation. He has taken a lead role in consumer class actions against some of the largest companies in the world and has recovered tens of millions of dollars for the firm’s clients.

Simon has substantial experience in all aspects of civil litigation. In *In re MacBook Keyboard Litigation*, No. 5:18-CV-02813-EJD, 2021 WL 1250378 (N.D. Cal. Apr. 5, 2021), Simon led the firm’s successful efforts in certifying a multistate class, withstanding sophisticated challenges to Plaintiffs’ experts and a Rule 23(f) petition, and securing a \$50 million settlement on behalf of purchasers of MacBook laptops with ultrathin “butterfly” keyboards. He served on the lead counsel team in *Bentley v. LG Electronics U.S.A., Inc.* and *Sosenko v. LG Electronics U.S.A., Inc.* (settlement providing multi-thousand dollar recoveries to class members who purchased allegedly defective LG refrigerators); and in *In re Nexus 6P Products Liability Litigation* and *Weeks v. Google LLC* (two consumer class actions against Google relating to defective mobile phones, which resolved for a combined \$17 million).



Simon also has significant experience in the area of privacy litigation. He was appointed lead counsel in *Ochoa et al. v. The Regents of the Univ. of Cal. et al.*, No. RG21097796 (Cal. Super. Ct., Alameda Cnty.), a case brought on behalf of victims of a data breach affecting the University of California. He has also played an integral role on the lead counsel team in *In re U.S. Office of Personnel Management Data Security Breach Litigation*, 928 F.3d 42 (D.C. Cir. 2019), which settled for \$63 million and will compensate federal employees and job applicants whose highly sensitive personnel files were exposed in a 2015 data breach. Simon also served on the plaintiffs’ executive committees in *In re Experian Data Breach Litigation*, No. 8:15-cv-01592-AG (C.D. Cal.), and *In re 21st Century Oncology Customer Data Security Breach Litigation*, 380 F. Supp. 3d 1243 (M.D. Fla.), which resulted in settlements valued in excess of \$39 million and \$12.5 million, respectively. Simon’s latest efforts in protecting Americans’ privacy in the digital age include leading the firm’s Video Privacy Protection and Wiretap cases, against such companies as Patreon, Rakuten Viki, Fandom, and Prudential Financial. In addition, he has successfully led several cases under the Telephone Consumer Protection Act. Simon welcomes the challenges of complex civil litigation, approaching each case with a creative problem-solving approach and an unwavering commitment to obtaining the best possible outcome for his clients.

Simon was recognized as a 2023 “Top 40 under 40” Lawyer by The Daily Journal and has been included repeatedly on the “Super Lawyers: Rising Stars” and “Best Lawyers: Ones to Watch” lists. He regularly speaks on panels regarding complex litigation at national conferences and national webinars. He was editor of the American Association for Justice’s Class Action Newsletter and served as a volunteer fee arbitrator for the Bar Association of San Francisco.

Before joining Girard Sharp, Simon represented victims of toxic exposure in complex civil litigation. He also has experience working in-house at a multinational company and as an extern for the Honorable Arthur S. Weissbrodt of the United States Bankruptcy Court for the Northern District of California.



**Tom Watts** is a partner at Girard Sharp who concentrates his practice on antitrust, investment fraud and consumer protection litigation.

Tom's current matters include representing a certified class of investors in the *Maxar Securities Litigation*, which resulted in a \$36.5 million settlement, one of the largest securities judgments ever obtained in California state court. He is also part of the Girard Sharp co-lead counsel team in the *Xyrem Antitrust Litigation*, a high-stakes generic suppression case. Tom also contributes to the firm's work in the *Generic Pharmaceuticals Antitrust Litigation* and the *Philips Recalled CPAP, Bi-Level Pap, and Mechanical Ventilator Products Litigation*.

Tom previously served on the lead counsel team in the *Restasis Antitrust Litigation*, helping to achieve a \$30 million settlement with pharma giant Allergan for end-purchasers of Restasis, a dry-eye medication. Tom also participated in Girard Sharp's representation of the California State Teachers' Retirement System in a non-class securities case against Allergan, securing a confidential settlement for CalSTRS. Tom's work in consumer cases includes obtaining refunds and additional cash payments for British Airways passengers affected by COVID 19-related cancellations.

Tom is a *magna cum laude* graduate of Harvard Law School and concurrently received a Master of Public Policy from the Harvard Kennedy School. He received his B.A. from the University of California, Berkeley, with High Distinction in General Scholarship.

Before joining the firm, Tom clerked for the Honorable Jane Roth of the Third Circuit Court of Appeals and the Honorable Robert McDonald of the Maryland Court of Appeals.

Since 2020, Tom has been named a Rising Star by Northern California Super Lawyers.

## Associates

---

**Mikaela Bock** advocates for injured consumers and other purchasers in complex civil litigation, including the *California Gasoline Spot Market Antitrust Litigation*, an antitrust case alleging illicit manipulation of the spot market for gasoline in California. She also represents advertisers suing Google for monopolizing online advertising markets and consumers whose credit was inaccurately reported by Equifax. In addition, Mikaela plays a central role in the firm's ongoing case against Natera, a provider of prenatal screening tests that plaintiffs allege are unreliable and inaccurate. She has also volunteered with the Federal Pro Bono Project of the Bar Association of San Francisco.

During law school, Mikaela externed in the Northern District of California and was the national champion of the Evan A. Evans Constitutional Law Moot Court Competition. She previously worked for Teach for America, teaching seventh graders in East Palo Alto, California.



**Samhita Collur** advocates for plaintiffs in class actions and other complex civil litigation.

Samhita earned her J.D., *cum laude*, from the University of Wisconsin Law School. During law school, she interned for Justice Jill Karofsky of the Wisconsin Supreme Court. She also served as a member of the Moot Court Board and was awarded Best Oral Advocate for her performance at the Seigenthaler Sutherland First Amendment Moot Court Competition. As part of her law school's immigration clinic, Samhita also represented immigrants seeking humanitarian relief.

Before law school, Samhita worked as a Program Manager for a community-based nonprofit organization in San Francisco offering accessible financial services.

**Namita Dhawan** focuses on complex civil litigation, including antitrust and securities cases. Prior to joining Girard Sharp, Namita was a patent litigator at two *Am Law* Top 100 law firms.

Namita earned her J.D. from Harvard Law School, where she was co-president of the Student Animal Legal Defense Fund.

**Reid Gaa** focuses on complex civil litigation, including consumer protection and digital privacy matters. Reid has participated in nearly all phases of litigation, including drafting pleadings, coordinating document discovery, preparing dispositive motions, and taking and defending depositions. Before joining Girard Sharp, Reid litigated complex civil cases at a plaintiff-focused boutique firm and represented retailer defendants at an *Am Law* Top 100 law firm.

Reid earned his J.D., *cum laude*, from the University of California College of the Law, San Francisco. While in law school, Reid served as a member of the Moot Court Student Board and as a teaching assistant for the Legal Writing and Research Department. He also competed in several moot court competitions, receiving an award as co-author of the best brief at the Chicago Bar Association competition. Reid was named to the Northern California Super Lawyers "Rising Stars" list in 2023.



**Erika Garcia** handles complex e-discovery matters for the firm.

Before joining Girard Sharp, Erika worked at a large international law firm with a focus on class action and commercial litigation as well as regulatory investigations. She has negotiated and drafted numerous confidentiality agreements in the mergers and acquisitions setting.

Erika is fluent in Spanish and previously served as a volunteer advocate in Ecuador for refugees from other Latin American countries.

Erika received her J.D. from the University of California College of the Law, San Francisco. She is admitted to practice in California and New York.



**Nina Gliozzo** represents plaintiffs in complex litigation, with an emphasis on consumer and fertility-related litigation. Nina has played a central role on the trial teams in high-profile cases. In the *Pacific Fertility* trial, which resulted in a precedent-setting \$15 million jury verdict against the manufacturer of a malfunctioned storage tank at an IVF clinic, Nina took the direct examinations of women and couples whose frozen eggs and embryos were lost in the tank failure. In the *JUUL* MDL, Nina played an integral role throughout the case, developing claims against key defendants, conducting discovery, working to obtain class certification, defending the certification order on appeal, and helping to prepare cases for trial. Following a global settlement with Juul and other defendants, Nina was a key trial team member in the first bellwether case against Altria (formerly Philip Morris). Altria settled after the plaintiff rested its case, bringing the total settlements to nearly \$2 billion. She also plays a central role in the firm's work in the *Prudential* wiretapping case, as well as several ongoing confidential fertility matters.



Before joining Girard Sharp, Nina clerked for the Honorable Marsha S. Berzon of the U.S. Court of Appeals for the Ninth Circuit. She earned her J.D., *magna cum laude*, from the University of California College of the Law, San Francisco. During law school she externed for the Honorable Charles R. Breyer, U.S. District Judge for the Northern District of California. She presently serves on the Advisory Committee for the Complex Litigation Ethics Conference. While she was in law school, Nina also served as Executive Symposium Editor for the *Hastings Law Journal*, organizing a symposium featuring a conversation with former Supreme Court Justice Anthony M. Kennedy.

Nina was recognized as a Northern California Super Lawyers “Rising Star” in 2023.



**Sean Greene** brings his experience in insurance defense to his representation of investors and policyholders at Girard Sharp. His current work includes representing investors in the *GWG Holdings Securities Litigation* in the Northern District of Texas and policyholders in the *PFA Insurance Marketing Litigation* in the Northern District of California.



Sean attended the University of California College of the Law, San Francisco, where he earned Moot Court Honorable Mention in Oral Advocacy and served as an officer of the Hastings Health Law Organization. Before law school, he gained extensive knowledge of insurance from working on public health initiatives to provide health care to underprivileged schoolchildren in Northeast Pennsylvania.

**Jordan Isern** advocates for plaintiffs in class actions and other complex litigation, with a focus on antitrust. Jordan is a graduate of Harvard Law School. There, she served as Executive Technical Editor of the *Civil Rights–Civil Liberties Law Review* and published several articles for the *Covid-19 and the Law Series Blog*.



Before joining Girard Sharp, Jordan worked for the Department of Justice, Antitrust Division and externed for the Honorable Michael Baylson of the Eastern District of Pennsylvania. She also interned at several nonprofit legal organizations, including the Asian American Legal Defense and Education Fund and the Pennsylvania Innocence Project.

Outside the courtroom, Jordan is an avid outdoor enthusiast. She enjoys rock climbing and has backpacked parts of the Appalachian, Continental Divide, and Pacific Crest trails.

**Patrick Johnson** brings his federal civil litigation experience to bear for his clients in class actions and other complex civil litigation. His primary focus is on consumer protection, securities, and antitrust.



Before joining Girard Sharp, Patrick clerked for Magistrate Judge Laurel Beeler of the Northern District of California. He also litigated at an Am Law Top 100 law firm practicing complex commercial litigation and white-collar investigations.

Patrick earned his J.D. from the University of California, Berkeley, School of Law. In addition to his coursework, Patrick interned for the U.S. Department of State and was a judicial extern for the Supreme Court of California, working under Associate Justice Ming W. Chin. He also competed in several mock trial competitions, including winning the Western Division of the National Trial Competition. Patrick continues to coach Berkeley Law mock trial teams in his free time.

Patrick has also volunteered with the Federal Pro Bono Project of the San Francisco Bar

Association, representing a plaintiff who alleged the City of Hayward discriminated against him in violation of the Americans with Disabilities Act.

**Kristen Palumbo** is an experienced litigator who focuses her practice on antitrust cases, class actions and other high-stakes complex commercial litigation. Kristen is experienced in all phases of litigation, including pre-filing investigations, fact discovery, document review, expert discovery, motion practice, settlement and trial. She has received favorable results for her clients across a wide range of industries and technologies, including energy, accounting, consumer electronics, microprocessors, flash memory and data storage systems, biometric authorization and payment solutions, enterprise software and support services. Kristen has also represented pro bono clients in a variety of matters, primarily focused on prisoner's rights.

Before joining the firm, Kristen was an antitrust and commercial litigator at two international law firms, where she chaired the firms' San Francisco Pro Bono and Charitable Giving Committees and served on the firms' Diversity and Hiring Committees.

**Kyle Quackenbush** prosecutes class actions and other complex civil litigation. He has participated in all stages of litigation, including drafting pleadings, coordinating document discovery, taking depositions, preparing dispositive motions, and trial. Kyle currently contributes to the Girard Sharp co-lead counsel team in *In re California Gasoline Spot Market Antitrust Litigation* (litigation stemming from alleged manipulation of a benchmark price for gasoline sold in California), *In re Accellion Data Breach Litigation* (litigation following a data breach incident involving the theft of sensitive information); *In re JUUL Labs, Inc., Marketing, Sales Practices, and Products Liability Litigation*, No. 19-md-02913-WHO (N.D. Cal.) (litigation concerning the vaping epidemic, which delivered nearly \$2 billion in recoveries for the plaintiffs); and *In re Natera Prenatal Testing Litigation* (litigation alleging seller of prenatal tests omitted information concerning the test's accuracy).



Kyle has volunteered for the Federal Pro Bono Project of the Bar Association of San Francisco since receiving his bar license, engaging in full and limited scope representation of plaintiffs. During law school, Kyle was a Summer Honors Legal Intern at the Federal Trade Commission's San Francisco office, and a Legal Extern at the Washington State Attorney General's Office. While at the FTC, he co-authored *The Efficiencies Defenestration, Are Regulators Throwing Valid Healthcare Efficiencies Out The Window?*, published in the winter 2017 issue of the Journal of the Antitrust and Unfair Competition Law Section of the California Lawyers Association.

In addition to his membership in the American Bar Association and the Bar Association of San Francisco, Kyle participates in the Barristers Association of San Francisco, working to provide information and resources to lawyers in their first ten years of practice. In 2023, *Lawdragon* named Kyle as among the Lawdragon 500 X – The Next Generation. Kyle has also been selected by his peers as a Northern California Super Lawyer “Rising Star” each year since 2020.



**Tony Rogari** focuses on complex civil litigation, including consumer digital privacy litigation.

Tony earned his J.D. from the University of California, Davis School of Law. During law school, he served as a Senior Online Editor for the *UC Davis Law Review* and published his student Note, *Consolidating Charter City Elections: An Argument for Extending the California Voter Participation Rights Act*. Tony also was a Training Chair for the trial practice program and competed in several mock trial competitions. In addition, he participated in the school's Civil Rights Clinic as a student advocate working on prisoner law cases.



**Trevor Tan** focuses on consumer protection class actions and other complex civil litigation, specializing in legal research and writing. He has been honored as a Rising Star by Super Lawyers since 2019 and appears on *Best Lawyers'* "Ones to Watch" list.

Trevor has considerable experience working in judicial chambers. Before joining Girard Sharp, he clerked for the Honorable Fernando M. Olguin of the U.S. District Court for the Central District of California. Trevor also clerked for Judges of the Los Angeles County Superior Court and the court's Appellate Division, and served as an extern for the Honorable George H. Wu in the Central District of California.

Trevor received his J.D. from the University of Chicago Law School. During law school, in addition to serving as a judicial extern, he served as a law clerk with the Illinois Attorney General. He also served as a child advocate with the school's immigrant child advocacy clinic and worked on behalf of immigrant children from China. After law school, Trevor represented unaccompanied minors in removal proceedings as a fellow at the Young Center for Immigrant Children's Rights.



**Peter Touschner** handles complex class action discovery matters for the firm. Before joining Girard Sharp, Peter represented class members harmed by Volkswagen’s emissions-related fraud, as well as insureds who were charged inflated premiums due to the anticompetitive practices of a hospital conglomerate.

Peter previously worked as a Research Attorney at the Center for Democracy and Technology, where he investigated deceptive online advertising practices and evaluated proposed cybersecurity legislation. During law school, Peter externed for U.S. District Judge Charles R. Breyer and served as Senior Articles Editor for the *Hastings Science and Technology Law Journal*.



## Of Counsel

---

**Michael S. Danko** is a renowned trial lawyer with more than 35 years of legal experience. Mike represents individuals who have suffered catastrophic personal injuries, as well as families of wrongful death victims in cases involving product defects, defective medications and medical devices, airplane and helicopter accidents, and dangerous structures. He has tried cases in state and federal courts throughout the country and has won numerous eight-figure verdicts on behalf of his clients.

Mike represents dozens of victims of a Pacific Gas & Electric gas line explosion and serves on the Plaintiffs’ Steering Committee in a California state coordinated proceeding, *San Bruno Fire Cases*, JCCP No. 4648. He also served on the Science Committee for Plaintiffs in *In re Yasmin and Yaz (Drospirenone) Marketing, Sales Practices and Products Liability Litigation*, MDL No. 2100.



In 2009, Mike won a \$15 million jury verdict for a client injured by a defective aircraft part, which earned him a nomination for 2009 California Trial Lawyer of the Year by the Consumer Attorneys of California. He also secured a \$14.9 million jury verdict against an engine manufacturer for injuries a passenger sustained in the crash landing of a single-engine aircraft, and a \$10 million court judgment against a large developer for the breach of a promise to deposit \$400,000 into purchase escrow.

Mike’s trial advocacy has helped bring about significant reforms and changes to corporate policies. As lead counsel in *In re Deep Vein Thrombosis Litigation*, MDL No. 1606 (N.D. Cal.), he represented more than one hundred air travelers who suffered strokes, pulmonary emboli, or heart attacks as a result of airline-induced blood clots. He developed theories of liability and proof regarding the cause of his clients’ injuries that led to virtually every major air carrier advising air travelers of the risks of deep vein thrombosis and measures to mitigate those risks. Mike also represented parents of children who were injured or killed by a popular candy made by a foreign manufacturer. His work in proving that the candy’s unusual ingredients and consistency made it a choking hazard resulted in the

candy being removed from Costco and Albertson's stores nationwide, and helped persuade the FDA to ban the candy from further import into the United States.

Mike has been recognized as one of the nation's 500 Leading Consumer Lawyers by *Lawdragon*, a "Top 100" Trial Lawyer by the National Trial Lawyers, and one of the "Best Lawyers in America" each year since 2011. Mike also has been named a Northern California Super Lawyer each year since the award's inception in 2004. He is a member of the American Association for Justice, the Lawyer Pilots Bar Association, and the Consumer Attorneys of California, where he served on the board of governors. Mike received his A.B. degree from Dartmouth College, *magna cum laude*, in 1980, and earned his J.D. from the University of Virginia School of Law in 1983.

**Kristine Keala Meredith** is a trial attorney specializing in product liability litigation. Kristine served as co-lead counsel with Michael Danko representing more than one hundred air travelers who suffered strokes, pulmonary emboli, or heart attacks as a result of airline-induced blood clots in *In re Deep Vein Thrombosis Litigation*, MDL No. 1606.



Kristine served on the Law and Motion committee in *In re Yasmin and Yaz (Drospirenone) Marketing, Sales Practices and Products Liability Litigation*, MDL No. 2100, where she assisted in the successful opposition to 15 *Daubert* motions in fewer than three weeks. Before she began representing plaintiffs, Kristine worked on the national defense counsel teams for medical device manufacturers in multi-district litigation including *In re Silicone Gel Breast Implants Product Liability Litigation*, MDL No. 926, and *In re Orthopedic Bone Screw Product Liability Litigation*, MDL No. 1014.

Kristine has been named one of the "Top 100" Super Lawyers in Northern California as well as one of the "Top 50" women lawyers by *Thomson Reuters* and *San Francisco* magazine. She has also been named one of San Francisco's 10 best personal injury lawyers by *Forbes*. She is currently an officer of the American Association for Justice and the Santa Clara County Bar Association. Kristine is also a member of the San Francisco Trial Lawyers Association and serves on the Board of Governors for the Consumer Attorneys of California. She is a former chair of the Minority Issues Committee of the San Francisco Bar Association Barrister Club.

## Favorable Outcomes and Significant Recoveries

### Antitrust

*In re Lidoderm Antitrust Litigation*, No. 14-md-02521 (N.D. Cal.). Girard Sharp lawyers were appointed co-lead counsel in a class action on behalf of end-purchasers of the prescription drug Lidoderm who alleged that two drug companies, Endo Pharmaceuticals and Teikoku Pharma, unlawfully paid a third, Watson Pharmaceuticals, to delay the launch of more affordable generic Lidocaine patches. The firm secured a \$104.75 million settlement on the eve of trial. The court wrote

that “Class counsel provided their clients with diligent and skilled representation in this matter” and “their efforts produced substantial benefits for the End-Payor Class.”

*In re Restasis Antitrust Litigation*, No. 1:18-md-02819 (E.D.N.Y.). Girard Sharp serves as co-lead counsel in this indirect purchaser class action alleging suppression of generic competition to the dry-eye prescription drug Restasis. The plaintiffs alleged that Allergan fended off more affordable generic alternatives through a multifaceted scheme; among other conduct, Allergan sold Restasis patent rights to the St. Regis Mohawk Tribe, which licensed them back to Allergan, which then invoked tribal sovereign immunity in response to a patent challenge. After certifying a class of consumers and third-party payors, Girard Sharp helped secure a \$30 million settlement, which was granted final approval in August 2022. The Honorable Nina Gershon found that Girard Sharp and its co-counsel were “extremely qualified and able to represent the certified class” and “extremely experienced in litigating pharmaceutical antitrust cases on behalf of end-payors. During their court appearances before me and in their written submissions, they were thorough, diligent, and professional as they prosecuted this complex, discovery-intensive, and expert-dependent action. In addition to opposing, with nearly complete success, two motions to dismiss, counsel litigated, intensively and successfully, a complicated class certification motion, which involved not only extensive briefing but a two-day evidentiary hearing.”

*In re Capacitors Antitrust Litigation*, No. 3:17-md-02801-JD (N.D. Cal.). Girard Sharp served on the plaintiffs’ executive committee for the certified direct purchaser class in this MDL against a large group of defendant manufacturers that allegedly conspired to raise, fix, maintain and stabilize prices of aluminum, tantalum and film capacitors—products commonly found in computers, vehicles, smart devices and other electronics. The defendants’ global conspiracy was centered in East Asia. Girard Sharp was responsible for developing the case against U.S. defendant KEMET, which ultimately agreed to pay \$62 million—over 12% of non-trebled damages. Total settlements in the litigation exceeded \$604 million.

*In re TFT-LCD (Flat Panel) Antitrust Litigation*, MDL No. 1827 (N.D. Cal.). The firm served as liaison counsel for the direct purchaser plaintiffs and certified direct purchaser class in this multidistrict antitrust litigation against makers of LCD screens alleging a far-reaching conspiracy to raise, fix, maintain and stabilize prices. The direct purchasers achieved settlements of more than \$400 million.

*In re Aggrenox Antitrust Litigation*, No. 14-md-2516 (D. Conn.). Girard Sharp served on the Plaintiffs’ Executive Committee in this “pay-for-delay” litigation accusing Teva Pharmaceuticals USA, Inc. and Boehringer Ingelheim Pharmaceuticals, Inc. of illegally agreeing to keep generic Aggrenox off the market. The case settled for \$54 million.

*In re Solodyn Antitrust Litigation*, No. 14-md-2503 (D. Mass.). The firm served on the Plaintiffs’ Executive Committee in this action alleging that Medicis Pharmaceuticals and several generic drug manufacturers conspired to monopolize the market for the acne drug Solodyn. The case settled for over \$40 million in cash.

*In re Natural Gas Antitrust Cases I, II, III and IV*, J.C.C.P. No. 4221 (Cal. Super. Ct., San Diego Cty.). Girard Sharp served on the leadership team in coordinated antitrust litigation against numerous natural gas companies for manipulating the California natural gas market. The firm helped achieve settlements of nearly \$160 million.



## Securities and Financial Fraud

---

*In re Maxar Technologies Inc. Shareholder Litigation*, No. 19CV357070 (Cal. Super. Ct., Santa Clara Cty.). Serving as co-lead counsel, Girard Sharp prosecuted this certified class action on behalf of investors of Maxar Technologies, Ltd. (NYSE: MAXR) who alleged material misstatements and omissions concerning the performance and financial outlook of one of Maxar's core business units. In December 2023, the Superior Court granted final approval of a \$36.5 million settlement—one of the largest securities judgments ever achieved in California state court.

*In re JPMorgan Precious Metals Spoofing Litigation*, No. 1:18-cv-10356 (S.D.N.Y.). Girard Sharp served on the Plaintiffs' Executive Committee in a class action against JPMorgan Chase & Co. for market manipulation in violation of the Commodities Exchange Act. In July 2022, the court approved a \$60 million settlement that fully compensated claimants for their losses.

*In re Woodbridge Investments*, No. 2:18-cv-00103 (C.D. Cal.). Girard Sharp served as lead counsel representing investors in securities issued by the Woodbridge Group of Companies. Woodbridge and its founder Robert Shapiro—now serving a 25-year prison sentence—operated a massive Ponzi scheme from 2012 through 2017. Plaintiffs alleged that Comerica Bank, which serviced all the Woodbridge accounts, knew of and substantially assisted the fraud. Acting as lead counsel, Girard Sharp worked closely with the Woodbridge bankruptcy trustee and prevailed in large part against Comerica's motion to dismiss. After substantial discovery, and with class certification fully briefed, the parties (including the trustee) reached a \$54.2 million settlement for the investors.

*In re CannTrust Holdings, Inc. Securities Litigation*, No. 1:19-cv-06396-JPO (S.D.N.Y.). Girard Sharp represented investors in California state court against officers, directors and underwriters involved with a Canada-based cannabis operation that was running unregistered "grows." Coordinated with litigation in Canada, the *CannTrust* case settled for \$83 million.

*Magowski v. The Parking REIT, Inc.*, No. 24-C-19-003125; *Barene v. The Parking REIT, Inc.*, No. 24-C-19-003527 (Circuit Court for Baltimore City). Girard Sharp and co-counsel sued The Parking REIT's CEO and Chairman, Michael Shustek, along with the REIT's directors, on behalf of investors who faced a complete loss on their investments after Shustek carried out a series of alleged self-dealing transactions in connection with internalizing the company's external manager. After deposing whistleblowers, Girard Sharp coordinated negotiations among The Parking REIT, the individual defendants, plaintiffs in a separate suit in federal court in Nevada, and a potential acquirer to arrive at a settlement that provided for cash payments to the stockholders, an injection of new capital into the company, and forfeiture of Shustek's right to receive additional shares. The court described this result as "well more than adequate" as it delivered more than half the maximum potential recovery in the case.

*Daccache v. Raymond James Financial, Inc.*, No. 1:16-cv-21575-FAM (S.D. Fla.). Girard Sharp served as a member of the leadership team representing investors in various Jay Peak EB-5 Immigrant Investor Program project offerings. The investors' funds were diverted and misappropriated instead of being applied to the intended project to develop the area surrounding the Jay Peak Ski Resort. In June 2017, the court approved a settlement of \$150 million for the investors.

*In re Oppenheimer Rochester Funds Group Securities Litigation*, No. 09-md-02063-JLK (D. Colo). Girard Sharp represented investors who were misled by the Oppenheimer California Municipal Bond Fund about the investment risks associated with the fund's holdings. On November 6, 2017, the Honorable John L. Kane approved a \$50.75 million settlement for the investors.

*In re Sears Holdings Corporation Stockholder and Derivative Litigation*, Consolidated C.A. No. 11081-VCL (Del. Ch.). Girard Sharp served as co-lead counsel on behalf of the company in this derivative suit charging CEO and majority owner Edward S. Lampert and other directors with depriving stockholders of the full value of 266 of Sears Holdings' most valuable properties. Girard Sharp obtained a \$40 million settlement for Sears Holdings Corporation in the Court of Chancery.

*In re Digex, Inc. Shareholder Litigation*, Consol. No. 18336 (Del. Ch.). Girard Sharp represented the Kansas Public Employees Retirement System, one of two institutional lead plaintiffs in this lawsuit; minority stockholders of Digex, Inc. sued to enjoin MCI WorldCom's planned acquisition of a controlling interest in Digex via a merger with Intermedia Communications, Inc. A settlement approved by the Delaware Chancery Court secured \$165 million in MCI WorldCom stock and \$15 million in cash for Digex shareholders, as well as non-cash benefits valued at \$450 million.

*Billitteri v. Securities America, Inc.*, No. 3:09-cv-01568-F (N.D. Tex.). Girard Sharp served as lead counsel in an action against broker-dealer Securities America, Inc. and its corporate parent, Ameriprise, Inc. in connection with sales of investments in the Provident Royalties and Medical Capital investment schemes. Daniel Girard coordinated negotiations resulting in a \$150 million settlement, with \$80 million allocated to class plaintiffs represented by Girard Sharp and \$70 million allocated to individual investors who had initiated arbitration proceedings. The settlements returned over 40% of investment losses. In approving the settlement, the court found that Girard Sharp attorneys "possess great competence and experience, and the result reached in this case perfectly exemplifies their abilities. The Court has been extremely impressed with the conduct, skill, and accomplishment of Class Counsel throughout this litigation."

*In re Lehman Brothers Equity/Debt Securities Litigation*, No. 08-Civ-5523 (S.D.N.Y.). Girard Sharp was appointed class counsel for a certified class of retail investors in structured products sold by UBS Financial Services, Inc., following the collapse of Lehman Brothers Holdings, Inc. in the largest bankruptcy in American history. The plaintiffs alleged that UBS misrepresented Lehman's financial condition and failed to disclose that the "principal protection" feature of many of the notes depended upon Lehman's solvency. Girard Sharp negotiated a settlement that established a \$120 million fund to resolve these claims.

*In re Prison Realty Securities Litigation*, No. 3:99-0452 (M.D. Tenn.). Girard Sharp served as co-lead counsel in this securities class action brought against a real estate investment trust and its officers and directors relating to a merger between Corrections Corporation of America and CCA Prison Realty Trust. The court approved a settlement for over \$120 million in cash and stock.

*In re American Express Financial Advisors Securities Litigation*, No. 04-cv-01773-DAB (S.D.N.Y.). Girard Sharp served as co-lead counsel in this class action on behalf of individuals who bought financial plans and invested in mutual funds from American Express Financial Advisors. The case alleged that American Express steered its clients into underperforming "shelf space funds"

to reap kickbacks and other financial benefits. The court granted final approval of a settlement providing \$100 million in cash and other relief.

*Scheiner v. i2 Technologies, Inc.*, No. 3:01-CV-418-H (N.D. Tex.). Girard Sharp represented the lead plaintiff—the Kansas Public Employees Retirement System—and served as co-lead counsel on behalf of investors in i2 Technologies. The Honorable Barefoot Sanders approved cash settlements for \$88 million from the company, its officers, and its former auditor Arthur Andersen. As part of the settlement, i2 agreed to significant corporate governance reforms.

*In re Peregrine Financial Group Customer Litigation*, No. 1:12-cv-5546 (N.D. Ill.). As one of two co-lead counsel, Girard Sharp prosecuted this litigation under the Commodities Exchange Act and state law on behalf of investors who lost millions in the collapse of a commodities futures merchant. The litigation generated recoveries of more than \$75 million. The court wrote that counsel “conferred an impressive monetary benefit on the Settlement Class: the funds recovered from U.S. Bank are substantial—both in absolute terms and when assessed in light of the risks of establishing liability and damages.”

*CalSTRS v. Qwest Communications*, No. 415546 (Cal. Super. Ct., S.F. Cty.). Girard Sharp represented the California State Teachers Retirement System in this opt-out securities fraud case against Qwest Communications, Inc. and certain of its officers and directors, as well as its outside auditor Arthur Andersen. The case resulted in a precedent-setting \$45 million settlement for California schoolteachers.

*In re SLM Corp. Securities Litigation*, No. 08-Civ-1029-WHP (S.D.N.Y.). Girard Sharp served as lead counsel representing investors of SLM Corporation who alleged Sallie Mae, the leading provider of student loans in the United States, misled the public about its financial performance to inflate the company’s stock price. After achieving nationwide class certification, Girard Sharp negotiated a settlement that established a \$35 million fund to resolve the investors’ claims.

*In re Winstar Communications Securities Litigation*, No. 01 Civ. 11522 (S.D.N.Y.). Girard Sharp represented Allianz of America, Inc., Fireman’s Fund and other large private institutional investors against Grant Thornton and other defendants on claims arising out of plaintiffs’ investments in Winstar Communications, Inc. The firm achieved a settlement on the eve of trial that provided a recovery rate over 30 times higher than what class members received in a related class action. After deduction of attorneys’ fees, the fund returned 78.5% of potentially recoverable losses.

*In re Oxford Tax Exempt Fund Securities Litigation*, No. WMN-95-3643 (D. Md.). Girard Sharp served as co-lead counsel in class and derivative litigation brought on behalf of a real estate limited partnership with assets of over \$200 million. The parties reached a settlement providing for exempt issuance of securities under section 3(a)(10) of the Securities Act of 1933, public listing of units, and additional benefits valued at over \$10 million.

*Calliott v. HFS, Inc.*, No. 3:97-CV-0924-L (N.D. Tex.). Girard Sharp intervened on behalf of an institutional client in this securities class action arising out of the bankruptcy of Amre, Inc., a seller of home remodeling and repair services. After being designated lead counsel under the Private Securities Litigation Reform Act, Girard Sharp negotiated and obtained court approval of settlements totaling \$7.3 million.



*In re Towers Financial Corporation Noteholders Litigation*, MDL No. 994 (S.D.N.Y.). This class action was brought against promoters and professionals linked to a failed investment scheme that the SEC described at the time as being the “largest Ponzi scheme in U.S. history.” The case resulted in \$6 million in partial settlements and a \$250 million judgment entered against four senior Towers executives. Girard Sharp served as liaison counsel and as a Plaintiffs’ Executive Committee member. The court stated that “class counsel—particularly plaintiffs’ liaison counsel, Daniel Girard—has represented the plaintiffs diligently and ably in the several years that this litigation has been before me.” 177 F.R.D. 167, 171 (S.D.N.Y. 1997).

## Deceptive Trade Practices

---

*In re JUUL Labs, Inc., Marketing, Sales Practices, and Products Liability Litigation*, No. 19-md-02913-WHO (N.D. Cal.). Girard Sharp served as co-lead counsel in this multidistrict litigation concerning the vaping epidemic, which affected countless American youth. The firm represented plaintiffs ranging from e-cigarette purchasers and injured users to school districts and Native American tribes. In May 2023, Girard Sharp lawyers conducted a jury trial against Altria (formerly Philip Morris), which agreed to a \$235 million settlement after the plaintiff rested. Girard Sharp also took the lead in pursuing an innovative RICO claim and obtaining certification of nationwide consumer class of e-cigarette buyers. The *JUUL* litigation delivered nearly \$2 billion in recoveries for the plaintiffs, including over \$300 million in recoveries for class members and an additional \$1.7 billion for other plaintiff groups. The Honorable William H. Orrick commented from the bench that the work performed was “really was excellent and the result obtained was also excellent. Just a superb job.”

*In re Hyundai and Kia Horsepower Litigation*, No. 02CC00287 (Cal. Super. Ct., Orange Cty.). Girard Sharp served as lead counsel in this coordinated nationwide class action against Hyundai for falsely advertising the horsepower ratings of more than 1 million vehicles over a ten-year period. The case was aggressively litigated on both sides over several years. In all, over 850,000 Hyundai vehicle owners received notice of the settlement, which was valued at \$125 million and which provided cash and other benefits to class members.

*In re Chase Bank USA, N.A. “Check Loan” Contract Litigation*, No. 09-2032 (N.D. Cal.). Girard Sharp and several other firms led this nationwide class action alleging deceptive marketing and loan practices by Chase Bank USA, N.A. After certifying a nationwide class, the Honorable Maxine M. Chesney granted final approval of a \$100 million settlement benefiting Chase cardholders.

*In re Hyundai and Kia Fuel Economy Litigation*, No. 2:13-ml-2424 (C.D. Cal.). In a lawsuit alleging false advertising in connection with the fuel efficiency of various Hyundai and Kia models, the firm served as liaison counsel and in that capacity regularly reported to the court and coordinated a wide-ranging discovery process. The case resulted in a nationwide class action settlement with an estimated value of up to \$120 million.

*In re Providian Credit Card Cases*, J.C.C.P. No. 4085 (Cal. Super. Ct., S.F. Cty.). Girard Sharp served as court-appointed co-lead counsel in this nationwide class action brought on behalf of Providian credit-card holders. The suit alleged that Providian engaged in unlawful, unfair and fraudulent business practices in connection with marketing and assessing fees for its credit cards. The

Honorable Stuart Pollack approved a \$105 million settlement, plus injunctive relief—one of the largest class action recoveries in consumer credit-card litigation.

*In re MCI Non-Subscriber Telephone Rates Litigation*, MDL No. 1275 (S.D. Ill.). Girard Sharp served as co-lead counsel and recovered an \$88 million settlement for MCI telephone subscribers who were charged rates and surcharges applicable to non-subscribers instead of the lower advertised rates. In approving the settlement, the Honorable David Herndon highlighted “the complexity of the issues involved; the vigorous opposition Plaintiffs’ counsel faced from sophisticated and well-funded Defendants represented by skilled counsel; the achievement of a very large cash settlement fund under these conditions”; and the “design and implementation of a computerized claims process, which appears to have been highly successful.” Daniel Girard argued the key motions in the case and designed the claim procedure.

*Skold v. Intel Corp.*, No. 1-05-CV-039231 (Cal. Super. Ct., Santa Clara Cty.). Girard Sharp represented Intel consumers through a decade of hard-fought litigation, ultimately certifying a nationwide class under an innovative “price inflation” theory and negotiating a settlement that provided refunds and \$4 million in *cy pres* donations. In approving the settlement, Judge Peter Kirwan wrote: “It is abundantly clear that Class Counsel invested an incredible amount of time and costs in a case which lasted approximately 10 years with no guarantee that they would prevail. . . . Simply put, Class Counsel earned their fees in this case.”

*Steff v. United Online, Inc.*, No. BC265953, (Los Angeles Super. Ct.). This nationwide class action was brought against NetZero, Inc. and its parent, United Online, Inc. by former NetZero customers. Plaintiffs alleged that defendants falsely advertised their internet service as unlimited and guaranteed for a specific period of time. The Honorable Victoria G. Chaney of Los Angeles Superior Court granted final approval of a settlement that provided full refunds to customers whose services were cancelled, and which also placed restrictions on Defendants’ advertising.

*Stoddard v. Advanta Corp.*, No. 97C-08-206-VAB (Del. Super. Ct.). This nationwide class action was brought on behalf of cardholders who were promised a fixed APR for life in connection with balance transfers, but whose APR was then raised pursuant to a notice of change in terms. The Honorable Vincent A. Bifferato appointed the firm as co-lead counsel and approved a \$7.25 million settlement.

*Khaliki v. Helzberg’s Diamond Shops, Inc.*, No. 11-0010-CV-W-NKL (W.D. Mo.). Girard Sharp and co-counsel represented consumers who alleged deceptive marketing in connection with the sale of princess-cut diamonds. The court approved a favorable settlement, recognizing “that Class Counsel provided excellent representation” and obtained “a favorable result relatively early in the case, which benefits the Class while preserving judicial resources.” The court further recognized that “Class Counsel faced considerable risk in pursuing this litigation on a contingent basis, and obtained a favorable result for the class given the legal and factual complexities and challenges presented.”

*In re Tyson Foods Inc., Chicken Raised Without Antibiotics Consumer Litigation*, No. RDB- 08-1982 (D. Md.). Girard Sharp served as Class Counsel on behalf of consumers who purchased chicken products misleadingly labeled as having been “raised without antibiotics.” After discovery, counsel negotiated a cash settlement that required Tyson Foods to pay class members and make substantial *cy pres* contributions to food banks.

## Defective Products

---

*In re MacBook Keyboard Litigation*, No. 5:18-cv-02813-EJD (N.D. Cal.). Girard Sharp secured a \$50 million settlement for purchasers of MacBook laptops fitted with an ultrathin “butterfly” keyboard. After obtaining multistate class certification, the firm, acting as co-lead counsel, pursued the case through expert discovery and summary judgment before securing the settlement. After the court approved the settlement in May 2023, MacBook purchasers who experienced repeat keyboard failures received compensation of several hundred dollars. The Honorable Edward J. Davila recognized Girard Sharp’s “skill and diligent prosecution” and found that “Class Counsel achieved excellent results,” stating in part that “[t]he Class benefitted from Counsel’s decades of experience in prosecuting class actions, evidenced by Class Counsel’s successful defense in three rounds of motions to dismiss, certification of the seven-state class and subclasses, and prolonged settlement negotiations . . . in pursuit of the best outcome.”

*Bentley v. LG Electronics U.S.A., Inc.*, No. 2:19-cv-13554-MCA-MAH (D.N.J.). Girard Sharp served as co-lead counsel representing consumers who paid premium prices for LG refrigerators prone to stop cooling, resulting in spoiled food and medicine, due to a malfunctioning linear compressor part. The plaintiffs reached a settlement under which every refrigerator owner could receive several thousand dollars in compensation, and those without documentation could recover up to \$450. The class members also received a five-year extended warranty covering the full cost of repairs for cooling failures. In approving the settlement, the Honorable Madeline Cox Arleo noted that “the settlement is available to over a million and a half Americans who purchased allegedly defective refrigerators; there is absolutely no -- there is no cap on the award that a claimant can get. Claimants will be made whole, plus the additional warranty.”

*Burd v. Subaru of America, Inc.*, No. 1:20-cv-03095-JHR-MJS (D.N.J.). Girard Sharp served as co-lead counsel for owners and lessors of Subaru vehicles with an alleged defect that causes the battery to drain and deplete prematurely, leaving many drivers stranded. After plaintiffs prevailed in significant part on Subaru’s motion to dismiss, the case settled on favorable terms, providing class members with cash reimbursements, a technical fix for the battery drain problem, and enhanced warranty protections.

*Weeks v. Google LLC*, No. 18-cv-00801-NC (N.D. Cal.). Girard Sharp served as co-lead counsel representing owners of Google Pixel and Pixel XL smartphones. The lawsuit alleged that a defect in the Google phones caused the microphones to fail, such that users were unable to make calls, dictate texts, record audio, search the web with voice command, or use the advertised Google Assistant feature. On December 6, 2019, the court approved a \$7.25 million settlement for the class that it deemed “excellent.”

*In re Nexus 6P Products Liability Litigation*, No. 5:17-cv-02185-BLF (N.D. Cal.). Girard Sharp was appointed as co-lead counsel in a class action alleging that Nexus 6P smartphones suffered from a defect that rendered the phones inoperable through an endless boot-loop cycle and an accelerated battery drain that caused the phones to shut off prematurely. On November 11, 2019, the Honorable Beth L. Freeman approved a \$9.75 million class settlement, finding in part that “Class counsel has extensive experience representing plaintiffs and classes in complex litigation and consumer class actions.... [T]he quality of their work is reflected in the results achieved for the class.” 2019 WL 6622842, at \*10, \*12 (N.D. Cal. Nov. 12, 2019).

*In re iPod Cases*, JCCP No. 4355 (Cal. Super. Ct., San Mateo Cty.). Girard Sharp, as court-appointed co-lead counsel, negotiated a settlement that provided warranty extensions, battery replacements, cash payments, and store credits for class members who experienced battery failure. In approving the settlement, the Honorable Beth L. Freeman wrote that Girard Sharp attorneys are “extremely well qualified” and negotiated a “significant and substantial benefit” for the class.

*Sugarman v. Ducati North America, Inc.*, No. 5:10-cv-05246-JF (N.D. Cal.). The firm served as class counsel on behalf of owners of Ducati motorcycles whose fuel tanks degraded and deformed due to incompatibility with the motorcycles’ fuel. In January 2012, the Honorable Jeremy D. Fogel approved a settlement that provided an extended warranty and repairs, commenting: “The Court recognizes that class counsel assumed substantial risks and burdens in this litigation. Representation was professional and competent; in the Court’s opinion, counsel obtained an excellent result for the class.” 2012 WL 113361, at \*6 (N.D. Cal. Jan. 12, 2012).

*Parkinson v. Hyundai Motor America*, No. CV 8:06-0345 (C.D. Cal.). Girard Sharp served as class counsel in this action alleging that the flywheel and clutch system in certain Hyundai vehicles was defective. After achieving nationwide class certification, Girard Sharp negotiated a settlement that provided from 50% to 100% in reimbursement to class members for their repairs, depending on their vehicle’s mileage at the time of repair. The settlement also provided full reimbursement for rental car expenses for class members who rented a vehicle while flywheel or clutch repairs were being performed. After approving the settlement, the court wrote, “Perhaps the best barometer of . . . the benefit obtained for the class . . . is the perception of class members themselves. Counsel submitted dozens of letters from class members sharing their joy, appreciation, and relief that someone finally did something to help them.” 796 F. Supp. 2d 1160, 1175 (C.D. Cal. 2010).

*In re Medtronic, Inc. Implantable Defibrillators Products Liability Litigation*, MDL No. 1726 (D. Minn.). Girard Sharp served on the discovery and law committees and performed briefing, discovery, and investigative work in this lawsuit that followed a February 2005 recall of certain models of Medtronic implantable cardioverter defibrillator devices. The controversy was resolved for \$75 million.

*Browne v. American Honda Motor Co., Inc.*, No. CV 09-06750 (C.D. Cal.). Girard Sharp served as co-lead counsel representing plaintiffs who alleged that about 750,000 Honda Accord and Acura TSX vehicles had brake pads that wore out prematurely. Girard Sharp negotiated, and the court approved, a settlement valued at \$25 million that provided reimbursements to class members and made improved brake pads available.

*In re General Motors Dex-Cool Cases*, No. HG03093843 (Cal. Super Ct. Alameda Cty.). These class actions alleged that General Motors’ Dex-Cool engine coolant damaged certain vehicles’ engines and formed a rusty sludge that caused vehicles to overheat. After consumer classes were certified in both Missouri and California, General Motors agreed to pay cash to class members nationwide. On October 27, 2008, the California court granted final approval of the settlement.

*Roy v. Hyundai Motor America*, No. SACV 05-483-AHS (C.D. Cal.). Girard Sharp served as co-lead counsel in this nationwide class action alleging a defect in the air-bag system in Hyundai Elantra vehicles. Girard Sharp helped negotiate a settlement under which Hyundai agreed to repair the air-bag systems in the vehicles it sold and leased to class members. Hyundai also agreed to



reimburse class members for transportation expenses and administer an alternative dispute resolution program for trade-ins and buy-backs. In approving the settlement, the Honorable Alicemarie H. Stotler described the settlement as “pragmatic” and a “win-win” for all concerned.

## Privacy Violations

---

*In re U.S. Office of Personnel Management Data Security Litigation*, MDL No. 2664 (D.D.C.). Girard Sharp serves as lead counsel on behalf of 22 million federal government employees and job applicants whose highly sensitive personnel files were stolen in a 2015 hack attributed to the Chinese government. After the district court dismissed the Privacy Act claims against the United States for lack of standing and failure to state a claim, the D.C. Circuit reversed. *See* 928 F.3d 42 (D.C. Cir. 2019). On remand, despite the immunity that limits recovery to pecuniary loss, *see FAA v. Cooper*, 566 U.S. 284 (2012), and the breach reportedly having been perpetrated by a foreign state actor, Girard Sharp negotiated a \$63 million settlement for the class. The settlement, finally approved by the court in 2022, compensated victims who suffered a financial loss as a result of the data breach, providing for minimum payments of \$700.

*In re Lenovo Adware Litigation*, MDL No. 2624 (N.D. Cal.). Girard Sharp is co-lead counsel for a class of computer purchasers whose online activities were surreptitiously monitored by pre-installed software. The undisclosed spyware degraded the computers’ performance, operating continuously in the background as it analyzed browsing activity and injected ads into visited webpages. The Honorable Ronald M. Whyte certified a nationwide indirect purchaser class for trial. 2016 WL 6277245 (N.D. Cal. Oct. 27, 2016). After the defendants agreed to a non-reversionary cash settlement, Girard Sharp helped design a claims process that allowed each participating class member to choose between (1) completing a short online claim form to receive an estimated \$40 cash payment for every purchased computer, or (2) submitting receipts or other documentation to recover sums actually expended as a result of the spyware being on the computer, up to \$750. The Honorable Haywood S. Gilliam granted final approval of the settlement. 2019 WL 1791420 (N.D. Cal. Apr. 24, 2019).

*Corona v. Sony Pictures Entertainment*, No. 2:14-cv-09600-RGK-SH (C.D. Cal.). Girard Sharp served as co-lead counsel in a class action brought on behalf of 15,000 current and former employees of Sony Pictures Entertainment following a cyberattack attributed to North Korean intelligence as retaliation for release of the film *The Interview*. In April 2016, the court approved a class settlement that reimbursed actual losses in full and provided extended credit monitoring—a structure adopted in many subsequent data breach settlements.

*In re Yahoo Mail Litigation*, No. 5:13-cv-04980-LHK (N.D. Cal.). Girard Sharp represented non-Yahoo email subscribers whose emails with Yahoo email subscribers were illegally intercepted and scanned by Yahoo. The court, in a widely-cited opinion, certified a nationwide class for injunctive-relief purposes. 308 F.R.D. 577 (N.D. Cal. 2015). With cross-motions for summary judgment fully briefed, the parties settled. Yahoo agreed to restructure its email delivery architecture to ensure that incoming and outgoing email would no longer be intercepted while in transit—bringing its email scanning practices into compliance with applicable law—and to disclose its email scanning practices on its website. The court noted that “Class Counsel achieved these benefits only after several years of litigation,” which they prosecuted “in an effective and cost-efficient manner.” 2016 WL 4474612, at \*10 (N.D. Cal. Aug. 25, 2016).

*In re The Home Depot, Inc. Customer Data Security Breach Litigation*, MDL No. 2583 (N.D. Ga.). The Honorable Thomas W. Thrash, Jr. appointed Girard Sharp to the Plaintiffs' Executive Committee in this MDL arising from a breach of Home Depot customers' credit and debit card information. Under the court-approved settlement, class members with documented claims could receive up to \$10,000, and the defendant paid an additional \$6.5 million to provide 18 months of identity monitoring services for the benefit of class members. 2016 WL 6902351, at \*4 (N.D. Ga. Aug. 23, 2016). Judge Thrash described the settlement as "an outstanding result for the Class in a case with a high level of risk," *id.* at \*5, and further noted that "Class Counsel obtained an exceptional result . . ." 2017 WL 9605208, at \*1 (N.D. Ga. Aug. 1, 2017).

*In re Target Corp. Customer Data Security Breach Litigation*, MDL No. 2522 (D. Minn.). Girard Sharp served on the Plaintiffs' Steering Committee representing consumers whose personal and financial information was compromised in a breach of Target's point-of-sale systems. After plaintiffs defeated Target's motion to dismiss, *see* 66 F. Supp. 3d 1154 (D. Minn. 2014), the parties agreed to a class settlement that was approved by the MDL court and upheld on appeal, *see* 892 F.3d 968 (8th Cir. 2018). The settlement requires changes to Target's information security practices and delivered cash recoveries to class members under a simplified claim procedure.

*In re Experian Data Breach Litigation*, No. 15-01592 (C.D. Cal.). Girard Sharp served on the Plaintiffs' Steering Committee in this litigation arising out of a breach of Experian's electronic systems that compromised names, addresses, and social security numbers of T-Mobile subscribers. The Honorable Andrew J. Guilford in 2019 granted final approval of a settlement that established a \$22 million fund and provided identity theft protection services for the benefit of class members, commenting in part: "You folks have truly done a great job, both sides. I commend you."

*In re Adobe Systems, Inc. Privacy Litigation*, No. 5:13-cv-05226-LHK (N.D. Cal.). Girard Sharp was appointed as lead counsel in this consolidated litigation on behalf of consumers asserting privacy and consumer fraud claims arising from a 2013 data breach. Girard Sharp obtained a pivotal ruling when the court denied Adobe's motion to dismiss for lack of standing, ruling that the Supreme Court's decision in *Clapper v. Amnesty International USA*, 133 S. Ct. 1138 (2013), did not change existing standing jurisprudence. 66 F. Supp. 3d 1197 (N.D. Cal. 2014). Before this ruling, many data breach defendants had obtained dismissals for lack of standing based on *Clapper*. The *Adobe* ruling has been followed by a number of courts, including the Seventh Circuit Court of Appeals in *Remijas v. Neiman Marcus Group, LLC*. 794 F.3d 688, 693–94 (7th Cir. 2015).

*Prather v. Wells Fargo Bank, N.A.*, No. 17-cv-00481 (N.D. Ill.). Girard Sharp served as co-lead counsel in an action alleging that Wells Fargo used an automatic telephone dialing system to repeatedly call the cellular phone numbers of persons with no prior affiliation with Wells Fargo. On December 10, 2019, the Honorable Manish S. Shah of the Northern District of Illinois granted final approval of a settlement that established a fund of \$17,850,000 for class members.

*Whitaker v. Health Net of California, Inc.*, No. 2:11-cv-00910-KJM-DAD (E.D. Cal.); *Shurtleff v. Health Net of California, Inc.*, No. 34-2012-00121600-CU-CL (Cal. Super Ct. Sacramento Cty.). Girard Sharp served as co-lead counsel in this patient privacy action. On June 24, 2014, the court granted final approval of a settlement that provided class members with credit monitoring, established a \$2 million fund to reimburse consumers for related identity theft incidents, and required material upgrades to and monitoring of Health Net's information security protocols.

*In re Sony BMG CD Technologies Litigation*, No.1:05-cv-09575-NRB (S.D.N.Y.). Girard Sharp served as co-lead counsel for a class of consumers who alleged that Sony BMG incorporated “Digital Rights Management” software into its music CDs, violating the Computer Fraud and Abuse Act, 18 U.S.C. § 1030 *et seq.*, and rendering the consumers’ computers vulnerable to viruses and spyware. The firm negotiated a settlement that required Sony BMG to promptly recall all affected CDs and provide “clean” CDs and cash to class members.

*In re Countrywide Financial Corp. Customer Data Security Breach Litigation*, MDL No. 1988 (W.D. Ky.). Girard Sharp served on the Plaintiffs’ Executive Committee representing a class of millions of actual and potential customers of Countrywide whose personal information was stolen by a former Countrywide employee and then sold to other mortgage lenders. The class settlement approved by the court provided for free credit monitoring, reimbursement of out-of-pocket expenses incurred as a result of the theft, and reimbursement of up to \$50,000 per class member for identity theft losses.

*Smith v. Regents of the University of California, San Francisco*, No. RG-08-410004 (Cal. Super Ct. Alameda Cty.). Girard Sharp represented a patient who alleged that UCSF’s disclosure of its patients’ medical data to outside vendors violated California’s medical privacy law. The firm succeeded in negotiating improvements to UCSF’s privacy procedures on behalf of a certified class of patients of UCSF Medical Center. In approving the stipulated permanent injunction, the Honorable Stephen Brick found that “Smith has achieved a substantial benefit to the entire class and the public at large.”

## **Insurance and Other Consumer Protection Matters**

---

*In re PFA Insurance Marketing Litigation*, No. 4:18-cv-03771-YGR (N.D. Cal.). Girard Sharp prosecuted this certified class action on behalf of owners of indexed universal life insurance issued by National Life Group. Plaintiffs alleged that NLG and its sales agency, Premier Financial Alliance, sold these policies through a pyramid scheme targeting Asian immigrants. Under a settlement reached during final pretrial preparation, claimants received an average payment of \$4,207. The Honorable Yvonne Gonzalez Rogers commended this “exceptional success,” finding that Girard Sharp “represented the class with skill and diligence over the course of several years and achieved remarkable success on behalf of the class . . . despite the relative novelty of their theory of liability, which applies the Endless Chain Scheme Law in the context of insurance products.”

*Spegele v. USAA Life Insurance Co.*, No. 5:17-cv-967-OLG (W.D. Tex.). After obtaining nationwide class certification under Texas law, Girard Sharp and co-counsel reached a \$90 million settlement of claims that USAA Life Insurance systematically overcharged policyholders under their policies’ “cost of insurance” terms. The settlement was approved as fair, reasonable, and adequate in 2021 and benefited owners of 122,000 universal life insurance policies in effect since March 1, 1999.

*Larson v. John Hancock Life Insurance Company (U.S.A.)*, No. RG16813803 (Cal. Super. Ct., Alameda Cty.). Girard Sharp served as liaison counsel in this certified class action on behalf of universal life insurance policyholders alleging John Hancock overcharged more than 100,000 of its



insureds, depriving them of the full value of the premiums they paid over time. On May 8, 2018, the Honorable Brad Seligman granted final approval of a \$59 million settlement.

*Ide v. British Airways*, No. 20-cv-03542-JMF (S.D.N.Y.). Girard Sharp represented British Airways passengers suing over the airline's refusal to issue refunds for COVID 19-related cancellations. The court approved a comprehensive settlement for refunds and interest in November 2022.

*In re America Online Spin-Off Accounts Litigation*, MDL No. 1581 (C.D. Cal.). Girard Sharp served as court-appointed co-lead counsel in this nationwide class action on behalf of America Online subscribers who were billed for a second account without their knowledge or consent. The litigation settled for \$25 million and changes in AOL's billing and account practices.

*Mitchell v. American Fair Credit Association*, No. 785811-2 (Cal. Super. Ct., Alameda Cty.); *Mitchell v. Bankfirst, N.A.*, No. C-97-1421-MMC (N.D. Cal.). This class action was brought on behalf of California members of the American Fair Credit Association (AFCA). Plaintiffs alleged that AFCA operated an illegal credit repair scheme. The Honorable James Richman certified the class and appointed the firm as class counsel. In February 2003, the Honorable Ronald Sabraw of Alameda County Superior Court and the Honorable Maxine Chesney of the Northern District of California granted final approval of settlements valued at over \$40 million.

*In re Mercedes-Benz Tele Aid Contract Litigation*, MDL No. 1914, CV No. 07-2720-DRD (D.N.J.). Girard Sharp served as co-lead class counsel on behalf of consumers whose vehicles' navigation systems were on the verge of becoming obsolete. Counsel obtained nationwide class certification before negotiating a settlement valued at up to \$50 million. In approving the settlement, the court acknowledged that the case "involved years of difficult and hard-fought litigation by able counsel on both sides" and that "the attorneys who handled the case were particularly skilled by virtue of their ability and experience." 2011 WL 4020862, at \*4, \*8 (D.N.J. Sept. 9, 2011).

*In re LookSmart Litigation*, No. 02-407778 (Cal. Super. Ct., S.F. Cty.). This nationwide class action was brought against LookSmart, Ltd. on behalf of consumers who paid an advertised "one time payment" to have their websites listed in LookSmart's directory, only to be charged additional fees to continue service. The court granted final approval of a class settlement valued at approximately \$20 million that provided cash and other benefits.

*In re America Online, Inc. Version 5.0 Software Litigation*, MDL No. 1341 (S.D. Fla.). Girard Sharp served as co-lead counsel in this MDL involving 45 centralized actions. The case alleged violations of state consumer protection statutes, the Computer Fraud and Abuse Act, and federal antitrust laws arising from AOL's distribution of its Version 5.0 software upgrade. The Honorable Alan S. Gold granted final approval of a \$15.5 million settlement.

*In re PayPal Litigation*, No. C-02-1227-JF (PVT) (N.D. Cal.). Girard Sharp served as co-lead counsel in this nationwide class action alleging violations of California consumer protection statutes and the Electronic Funds Transfer Act (EFTA). Plaintiffs alleged that PayPal unlawfully restricted access to consumers' PayPal accounts. On September 24, 2004, Judge Fogel granted final approval of a settlement valued at \$14.35 million in cash and returned funds, plus injunctive relief to ensure compliance with the EFTA.

*Powers Law Offices, P.C. v. Cable & Wireless USA, Inc.*, No. 99-CV-12007-EFH (D. Mass). Girard Sharp prosecuted this class action on behalf of cable and wireless subscribers who were overcharged for recurring fees. The court granted final approval of an \$8 million settlement, and the bankruptcy court approved a 30% distribution from the unsecured creditors' fund of bankruptcy liquidation proceeds.

*Lehman v. Blue Shield of California*, No. CGC-03-419349 (Cal. Super. Ct., S.F. Cty.). In this class action charging Blue Shield with having illegally modified the risk-tier structure of its individual and family health care plans, Girard Sharp negotiated a \$6.5 million settlement on behalf of current and former Blue Shield subscribers in California. The Honorable James L. Warren granted final approval of the settlement in March 2006.

*Telestar v. MCI, Inc.*, No. C-05-Civ-10672-JGK (S.D.N.Y.). This class action was brought on behalf of MCI commercial subscribers who were charged both interstate and intrastate fees for the same frame relay on prorate line service during the same billing period. On April 17, 2008, the Honorable John G. Koeltl approved a favorable cash settlement.

*Wixon v. Wyndham Resort Development Corp.*, No. C-07-02361 JSW (BZ) (N.D. Cal.). Girard Sharp served as class and derivative counsel in this litigation against a timeshare developer and the directors of a timeshare corporation for violations of California law. Plaintiffs alleged that the defendants violated their fiduciary duties by taking actions for the financial benefit of the timeshare developer to the detriment of the owners of timeshare interests. On September 14, 2010, the district court approved a settlement of the derivative claims.

*Berrien v. New Raintree Resorts, LLC*, No. CV-10-03125 CW (N.D. Cal.); *Benedict v. Diamond Resorts Corporation*, No. CV 12-00183-DAE (D. Hawaii). Girard Sharp pursued these actions on behalf of timeshare owners, challenging the imposition of unauthorized "special assessment" fees. The court in each case approved a favorable settlement of the claims asserted on behalf of class members who were charged the fee.

*Allen Lund Co., Inc. v. AT&T Corporation*, No. C 98-1500-DDP (C.D. Cal.). This class action was brought on behalf of small businesses whose long-distance service was switched to Business Discount Plan, Inc. The Honorable Dean D. Pregerson appointed Girard Sharp as class counsel, and thereafter approved a settlement providing full cash refunds and free long-distance telephone service.

*Mackouse v. The Good Guys – California, Inc.*, No. 2002-049656 (Cal. Super Ct. Alameda Cty.). This nationwide class action against The Good Guys and its affiliates alleged violations of the Song-Beverly Consumer Warranty Act and other California consumer protection laws. Plaintiff alleged that The Good Guys failed to honor contracts that it offered for sale to customers in exchange for protection of a purchase after the manufacturer's warranty expired. On May 9, 2003, the Honorable Ronald M. Sabraw granted final approval of a settlement providing cash refunds or services at a class member's election.

*In re H&R Block Express IRA Litigation*, MDL No. 1786 (W.D. Mo.). Girard Sharp served as co-lead counsel in this MDL involving H&R Block's marketing and sale of its "Express IRA" investment products. The firms negotiated a settlement in coordination with the New York Attorney General that delivered more than \$19 million in cash to class members—resulting in a full recovery

for consumers—as well as non-cash benefits entitling Express IRA holders to convert their investments to alternative IRAs with lower fees.

## **Women’s Advocacy, Fertility, and Sexual Abuse**

---

*In re Pacific Fertility Center Litigation*, No. 3:18-cv-01586-JSC (N.D. Cal.). Girard Sharp represented IVF patients of Pacific Fertility Center whose eggs and embryos were damaged or destroyed in a cryopreservation tank failure. On June 11, 2021, after a three-week trial, a jury found the tank manufacturer, Chart Industries Inc., liable for a defect in the tank and for negligent failure to recall a part that malfunctioned (a “controller” designed to monitor liquid nitrogen levels). The jury awarded approximately \$15 million in damages to three women who lost eggs and a married couple who lost embryos in the catastrophic incident. The three women were each awarded between \$2 million and \$3 million, and the couple was awarded \$7.2 million. Girard Sharp also secured settlements in 2023 for over 80 families who lost reproductive material in the tank failure.

*In re USC Student Health Center Litigation*, No. 2:18-cv-06115 (C.D. Cal.). Girard Sharp served as co-lead counsel in a class action against the University of Southern California and campus gynecologist Dr. George Tyndall on behalf of women who were sexually abused by Tyndall during his long tenure at USC. A federal judge approved a class action settlement with USC that established a \$215 million fund and gave every survivor a choice in how to participate. The claims process received wholehearted praise from class members for the compassionate and generous approach. The settlement also required USC to adopt and implement procedures for identification, prevention, and reporting of sexual and racial misconduct, as well as to recognize the harm done to Tyndall’s patients.

*A.B. v. The Regents of the University of California*, No. 2:20-cv-09555-RGK-E (C.D. Cal.). Girard Sharp lawyers filed and successfully resolved a class action lawsuit against UCLA on behalf of women treated by UCLA gynecologist Dr. James Heaps. Heaps was convicted of sexual batteries committed while working as a staff gynecologist at UCLA—a position he held for almost 30 years. The UC Regents agreed to resolve the claims, and the District Court granted final approval of the settlement, finding that: “Class Counsel delivered robust results for the Class, negotiating a flexible and trauma-informed settlement that has provided \$73 million in compensation to class members and precipitated significant institutional changes at UCLA. No class member objected. Class Counsel crafted an innovative claims process that was sensitive to the trauma many Class members experienced, providing a non-adversarial alternative to individual litigation.”

## **Mass Tort**

---

*In re Actos (Pioglitazone) Products Liability Litigation*, MDL No. 2299 (W.D. La.). Girard Sharp lawyers were appointed to the Plaintiffs’ Steering Committee and served on the *Daubert* and Legal Briefing Committees in this MDL. A \$2.37 billion global settlement was achieved.

*In re Yasmin and Yaz (Drospirenone) Marketing, Sales, Practices and Products Liability Litigation*, MDL No. 2385 (S.D. Ill.). Girard Sharp lawyers were appointed to the Plaintiffs’ Steering Committee

and served as Co-Chair of the Plaintiffs' Law and Briefing Committee in this MDL that produced settlements worth approximately \$1.6 billion.

*In re Pradaxa (Dabigatran Etexilate) Products Liability Litigation*, MDL No. 2385 (S.D. Ill.). Girard Sharp lawyers were appointed to the Plaintiffs' Steering Committee in mass tort litigation that culminated in settlements worth approximately \$650 million.

## Government Reform

---

*Paeste v. Government of Guam*, No. 11-cv-0008 (D. Guam) (Marshall, J.). Girard Sharp and co-counsel served as class counsel in litigation against the Government of Guam on behalf of Guam taxpayers for chronic late payment of income tax refunds. After obtaining certification of a litigation class, the plaintiffs prevailed at summary judgment and obtained a permanent injunction reforming Guam's administration of tax refunds. The Ninth Circuit affirmed the injunction. 798 F.3d 1228 (9th Cir. 2015), *cert. denied*, 136 S. Ct. 2508 (2016).

*Ho v. San Francisco Unified School District*, No. C-94-2418-WHO (N.D. Cal.). This civil rights action was brought on behalf of a certified class of San Francisco public school students of Chinese descent to terminate racial and ethnic quotas imposed under a 1983 desegregation consent decree. *See Ho v. San Francisco Unified Sch. Dist.*, 965 F. Supp. 1316 (N.D. Cal. 1997), *aff'd*, 147 F.3d 854 (9th Cir. 1998); *see also* 143 Cong. Rec. S6097, 6099 (1997) (statement of Senator Hatch noting testimony of a class representative before the Senate Judiciary Committee).

# **EXHIBIT B**

	<i>In re: MacBook Keyboard Litigation, No. 5:18-cv-02813-EJD-VKD (N.D. Cal. May 25, 2023)</i>	<i>Weeks v. Google LLC, No. 5:18-cv-00801-NC, 2019 WL 8135563 (N.D. Cal. Dec. 13, 2019)</i>	<i>In re: Lenovo Adware Litigation, No. 4:15-md-02624-HSG (N.D. Cal. May 6, 2019)</i>	<i>In re: U.S. Office Of Personnel Management Data Security Breach Litigation, No. 1:15-mc-01394-ABJ (D.D.C. Oct. 26, 2022)</i>
<b>Total Settlement Fund</b>	\$50 million	\$7.25 million	\$8.3 million	\$63 million
<b>Number of Class Members</b>	Approximately 15 million	Approximately 800,000	Approximately 797,000	360,000 (estimated)
<b>Potential Class Members to Whom Notice Was Sent</b>	<b>Group 1:</b> 56,378 <b>Groups 2-3:</b> 692,316	596,361	Approximately 500,000	Approximately 3.6 million
<b>Method(s) of Notice</b>	Email, Mail, Online	Email, Mail, Online	Email, Mail, Online	Email, Mail, Print Publication, Online, Radio, Union and Association Targeting
<b>Number and Percentage of Claim Forms Submitted</b>	<b>Group 1:</b> not required to submit claim to receive payment  <b>Groups 2-3:</b> 81,683 / approximately 11%	41,971 / 5.25%	112,135 valid claims / approximately 14%	28,154 / 7.7%
<b>Average Recovery Per Class Member</b>	Between \$50 to \$395 depending on the Group to which the Class Member belongs	\$142.76	\$45 for short form claims  Out-of-pocket expenses up to \$750 for Class Members with documented proof of loss	A minimum of \$700 for valid claims and up to \$10,000 with a documented loss exceeding \$700 depending on the proof submitted
<b>Amounts Distributed to Cy Pres Recipients (if any)</b>	N/A	N/A	\$85,627.15 <i>cy pres</i> award distributed to EPIC, a leading non-profit consumer privacy organization	Any funds remaining in the settlement fund will revert to the U.S. Treasury in 2025
<b>Administrative Costs</b>	Not to exceed \$1.4 million	\$310,000	\$483,256.80	Paid by US Government

	<i>In re: MacBook Keyboard Litigation, No. 5:18-cv-02813-EJD-VKD (N.D. Cal. May 25, 2023)</i>	<i>Weeks v. Google LLC, No. 5:18-cv-00801-NC, 2019 WL 8135563 (N.D. Cal. Dec. 13, 2019)</i>	<i>In re: Lenovo Adware Litigation, No. 4:15-md-02624-HSG (N.D. Cal. May 6, 2019)</i>	<i>In re: U.S. Office Of Personnel Management Data Security Breach Litigation, No. 1:15-mc-01394-ABJ (D.D.C. Oct. 26, 2022)</i>
<b>Attorneys' Fees and Costs</b>	<b>Fees:</b> \$15 million <b>Costs:</b> \$1,559,090.75	<b>Fees:</b> \$2.175 million <b>Costs:</b> \$364,855.97	<b>Fees:</b> \$2.49 million <b>Costs:</b> \$340,798.70	<b>Fees:</b> \$6,977,347.55 <b>Costs:</b> \$133,333.06
<b>Injunctive and Non-Monetary Relief (if any)</b>	<b>Injunctive:</b> N/A  <b>Non-Monetary:</b> Class Members remain eligible for 4 years for Apple program that provides for a new keyboard and replacement of other major components	<b>Injunctive:</b> N/A  <b>Non-Monetary:</b> N/A	<b>Injunctive:</b> N/A  <b>Non-Monetary:</b> Defendant Superfish, who settled prior to its co-defendant, agreed to provide substantial cooperation to Plaintiffs	<b>Injunctive:</b> N/A  <b>Non-Monetary:</b> N/A



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTHERN CALIFORNIA  
SAN FRANCISCO DIVISION**

BRAYDEN STARK, JUDD OOSTYEN,  
ISAAC BELENKIY, VALERIE BURTON,  
LAURA GOODFIELD, and DENOVAS  
MACK, individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

PATREON, INC.,

Defendant.

Case No. 3:22-CV-03131-JCS

**DECLARATION OF SETTLEMENT  
ADMINISTRATOR SIMPLURIS INC. IN  
SUPPORT OF PLAINTIFFS' MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

1  
2 I, Meagan Brunner, declare as follows:

3 1. Under penalties as provided by law pursuant to 28 U.S.C. § 1746, I certify that the  
4 statements set forth in this instrument are true and correct, except as to matters herein stated to be on  
5 information and belief, and as to such matters, I certify that I believe the same to be true.

6 2. I am a Program Manager at Simpluris, Inc. (“Simpluris”). Simpluris is a national full-  
7 service class action notice and claims administrator.

8 3. Simpluris has been administering class action settlements for over fifteen years, in which  
9 time we have been appointed in over 9,000 cases and distributed over \$7 billion in funds. Our leadership  
10 team has nearly 150 years of combined industry experience that includes some of the largest class action  
11 administrations in the United States, including *In re: Equifax, Inc., Customer Data Security Breach*, Case  
12 No. 1:17-md-2800 (N.D. Ga.) and *In re: Premera Blue Cross Customer Data Security Breach*, Case No.  
13 3:15-md-2633 (D. Or.). Recent representative cases include *Cordova et al v. United Education Institute*  
14 *et al*, Case No. 37-2012-00083573, Cal. Sup. Ct. (San Diego); *Shuts v. Covenant Holdco, LLC*, Case No.  
15 RG10551807, Cal. Sup. Ct. (Alameda); *Hamilton et al v. Suburban Propane Gas Corp.*, Case No.  
16 BC433779, Cal. Sup. Ct. (Los Angeles); *Upadhyay et al v. Prometheus Real Estate Group*, Case No. 1-  
17 08-CV-118002, Cal. Sup. Ct. (Santa Clara); *Starke v. Stanley Black & Decker Inc.*, Case No. C-03-CV-  
18 21-001091, Md. Cir. Ct. (Baltimore); and *Hale v. Manna Pro Products LLC*, Case No. 2:18-cv-00209  
19 (E.D. Cal.).  
20

21 **PRIVACY AND SECURITY**

22 **Overview**

23 4. Simpluris maintains robust data and cybersecurity practices, controls, and procedures.  
24 These include the use of layered, industry-leading software and hardware systems to prevent both  
25 external and internal unauthorized access to sensitive client and company data. Unique among other  
26 administrators, Simpluris has developed a comprehensive, integrated administration system, Cadence,  
27 which was designed specifically to provide the highest level of data privacy and anti-intrusion security.  
28

1 Our systems are monitored, tested, and constantly upgraded by a highly experienced team of IT  
2 professionals, and systemwide security is overseen directly by our CTO.

3 5. Simpluris is SOC 2 Type 1 and Type 2 certified. SOC 2 is a standard developed by the  
4 American Institute of CPAs (AICPA) to ensure that customer data is handled in a way that meets strict  
5 security, availability, integrity, confidentiality, and privacy standards. Certification requires an extensive  
6 audit of all aspects of company data practices by a qualified independent CPA or accounting firm.

7 6. As an approved Redress Administrator for the FTC, and approved Fund Administrator for  
8 the SEC, Simpluris maintains Federal Information Security Management Act (“FISMA”) and National  
9 Institute of Standards and Technology (“NIST”) certification for data security.

### 10 **Security and Access Controls**

11 7. In compliance with the above certifications, Simpluris maintains strict physical and  
12 electronic access controls. For physical infrastructure and equipment these include access logs, video  
13 monitoring, and alarm systems. For electronic systems, this includes comprehensive, constantly  
14 monitored and updated, best-in-class anti-intrusion and anti-exfiltration measures. Access privileges to  
15 all computers, including individual employee workstations, is limited to the minimum required. Requests  
16 for additional privileges must be approved by both the employee’s manager and IT security.

### 17 **Administrative Policies**

18 8. All Simpluris employees undergo a pre-hire background check and screening process.

19 9. All Simpluris employees enter into a non-disclosure agreement.

20 10. All Simpluris employees are required to undergo HIPAA training.

21 11. All Simpluris employees are held to the highest ethical standards, and expected behavior  
22 is codified in the Employee Handbook, as well as other written policies and procedures. Simpluris  
23 adheres to clearly defined disciplinary procedures, and violations of policy can result in consequences up  
24 to and including termination of employment.

25 12. Only US-based employees have access to systems that contain class data.

26 13. When employment ends, the former employee’s access to all Simpluris physical locations  
27 and electronic systems is immediately terminated.  
28

1 14. Simpluris carefully reviews all vendors and third-party services and service providers, and  
2 engages only those who meet our high standards for security and reliability.

3 15. Simpluris has never experienced a data breach. However, should such an event take place,  
4 Simpluris maintains a detailed incident response plan. The plan includes specific internal procedures and  
5 responses, as well as external notifications to our general counsel and third-party stakeholders.

6 **Data Practices**

7 16. Simpluris will collect and maintain class data only to the extent required by the  
8 administration of this settlement.

9 17. In all situations in which Simpluris employees handle PII, including class member data,  
10 we do so solely for the purpose of carrying out our duties and responsibilities as a third-party  
11 administrator.

12 18. Class data is maintained and preserved only for as long as required for administration of  
13 the settlement and any relevant subsequent reporting required. Data maintained on Simpluris' systems,  
14 including backups, is then deleted using NIST/DOD standards. Any data existing on external drives or  
15 other media provided to Simpluris in the course of the administration are either securely returned to the  
16 party that provided them, or wiped using NIST/DOD standards and physically destroyed.

17 **Insurance**

18 19. Simpluris maintains an E & O insurance policy of five million dollars (\$5,000,000.00) as  
19 well as a cybersecurity insurance policy of five million dollars (\$5,000,000.00).

20 **OVERVIEW**

21 20. Simpluris has been selected by counsel in the captioned matter to serve as the class action  
22 Settlement Administrator in this case. Based on information provided by the parties to date, Simpluris  
23 anticipates notice and administration expenses in the range of \$300,000-\$350,000.

24 21. Per the terms of the Settlement Agreement, in the course of this administration Simpluris  
25 will be charged with, among other responsibilities:

- 26 (a) Disseminating notice of the proposed Settlement in compliance with the  
27 requirements of the Class Action Fairness Act, 28 U.S.C. Sec. 1711, et seq. ("CAFA"), to be  
28

1 served upon the appropriate State official in each State where a Class Member resides and the  
2 appropriate federal official;

3 (b) Establishing and maintaining an Interactive Voice Response (“IVR”) settlement  
4 toll-free telephone number that will be available 24 hours a day and offer answers to frequently  
5 asked questions (“FAQs”);

6 (c) Establishing and maintaining a settlement-specific email box which will be  
7 monitored for Class Member inquiries;

8 (d) Developing and maintaining an interactive settlement website that will host  
9 relevant settlement documents; allow eligible Class Members to submit claims electronically  
10 and elect to receive their payments digitally or by check; and comply with data privacy  
11 requirements, including a detailed Privacy Policy;

12 (e) Processing incoming claims, requests for exclusion, objections, and related class  
13 correspondence;

14 (f) Sending an email notice of the Settlement to eligible Class Members to provide  
15 information on how to file a claim, the deadline to do so, and other relevant dates;

16 (g) Sending three reminder email notices to eligible Class Members that have not  
17 submitted a claim, request for exclusion, or objection.

18 (h) Establishing and maintaining a 26 CFR § 1.468B-1 compliant Qualified  
19 Settlement Fund;

20 (i) Calculating the amounts due to each Class Member pursuant to the Settlement;

21 (j) Processing payments to Class Members who make valid claims;

22 (k) Preparing and filing all applicable tax forms and tax returns with state and federal  
23 agencies; and

24 (l) Reporting on the status of the claims and distribution as required by the parties  
25 and Court.

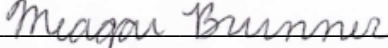
26 22. Prior to sending direct email notice, Simpluris will confirm that all email addresses  
27 received are properly formatted and able to receive notice. If direct email notice is returned, or “bounced”  
28

1 back,” Simpluris will perform a public records search, commonly called a “skip trace,” utilizing  
2 available class member information to locate a more current or another available email address.  
3 Simpluris will resend the email notice to Class Members where a new valid email address was located.

4 23. The proposed notice plan, consisting of direct notice by email notification, interactive  
5 settlement website, and communication with Class Members via IVR, represents “the best notice that is  
6 practicable under the circumstances” and will fully comply with the requirements set forth in Fed. R.  
7 Civ. P. 23(c)(2)(B).

8 24. The proposed administration as a whole will fully implement the Settlement Agreement  
9 reached by parties.  
10

11 I declare under penalty of the perjury under the laws of the United States that the foregoing is  
12 true and correct. Executed on August 2, 2024, at Louisville, Kentucky.  
13

14  
15   
16 \_\_\_\_\_  
17 MEAGAN BRUNNER  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28