

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

IN RE GOOGLE INC. COOKIE PLACEMENT CONSUMER PRIVACY LITIGATION This Document Relates to All Actions	CASE NO 12-MD-2358
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**PLAINTIFFS' SECOND MOTION FOR PRELIMINARY APPROVAL OF
SETTLEMENT WITH GOOGLE, LLC**

TO DEFENDANTS AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Plaintiffs Jose M. (“Josh”) Bermudez, Nicholas Todd Heinrich, and Lynne Krause (“Plaintiffs”) hereby move the Court for an order certifying a settlement class and preliminarily approving a settlement with Defendant Google Inc. (“Google”). Plaintiffs file this motion pursuant to Federal Rule of Civil Procedure 23, on the grounds that the requirements for class certification are met and the proposed settlement is fair, reasonable, and adequate. This motion is based on the facts stated in this motion; the attached brief in support; the Declarations of Brian R. Strange, Stephen G. Grygiel, and James P. Frickleton; the other papers on file with the Court in this action; and all other evidence and argument the Court permits counsel to present regarding this matter.

Dated: January 3, 2020

Respectfully submitted,

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**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS’ SECOND MOTION FOR
PRELIMINARY APPROVAL OF SETTLEMENT WITH GOOGLE, LLC**

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I. INTRODUCTION

This memorandum is the Plaintiffs’ second seeking preliminary approval of the settlement with Google, Inc. This Court issued both a preliminary and final approval of the settlement in 2016 as described in detail in the memorandum, *infra*. After an appeal, the Third Circuit remanded for further attention to issues concerning the selection of *cy pres* recipients and issues as to the release of claims in a settlement under Fed. R. Civ. P. 23(b)(2). Plaintiffs and Defendants have cooperated to resolve these issues, and Plaintiffs present the second motion for preliminary approval as set out below. This memorandum incorporates the points and authorities previously filed, as well as the cites and references in the original declarations filed in support of the motion. (D.I. 163 and attachments).

II. NATURE AND STAGE OF THE PROCEEDINGS

Plaintiffs Jose M. (“Josh”) Bermudez, Nicholas Todd Heinrich, and Lynne Krause (“Plaintiffs”), on behalf of themselves and the class defined herein, and Defendant Google, LLC (formerly Google Inc.) (“Google” or “Defendant”) reached a class action settlement (“Settlement”) (Exhibit A to the Declaration of Brian R. Strange, D.I. 163-1), in 2016 which was challenged on appeal by a single objector. Following remand by the Third Circuit, the parties now seek preliminary approval from the Court for the modified settlement.

The background of this litigation is as follows: Plaintiffs in the Consolidated Amended Class Action Complaint and numerous other individuals filed complaints in various federal courts around the country in 2012. These actions were centralized and transferred to this Court for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407 on June 12, 2012. On December 19, 2012, Plaintiffs filed their Consolidated Class Action Complaint against Google and other parties (all Defendants other than Google referred to as “Non-Settling Defendants”). On

June 21, 2016, Plaintiffs filed their Consolidated Amended Class Action Complaint (the “Complaint”).

Plaintiffs centrally allege in the Complaint that Defendant Google circumvented Plaintiffs’ Safari and Internet Explorer browsers and defeated the default cookie settings of such browsers in violation of federal and state laws. More particularly, Plaintiffs allege that when Plaintiffs and Class Members visited a website containing an advertisement placed by certain Defendants in this case, tracking cookies were placed on Plaintiffs’ computers that circumvented Plaintiffs’ and Class Members’ browser settings that blocked such cookies. Plaintiffs allege Defendant’s secret and unconsented use of those cookies knowingly intercepted and gained access to Plaintiffs’ and Class Members’¹ internet communications and activity in violation of federal statutes and state laws. Google denies these claims.

Google filed a motion to dismiss all the claims against it on January 22, 2013 (D.I. 56) and, on October 9, 2013, this Court granted the motion to dismiss in its entirety and dismissed this case (D.I. 122). On November 10, 2015, the Third Circuit Court of Appeals affirmed the dismissal of the three federal law claims brought against all Defendants, vacated the District Court’s dismissal of Plaintiffs’ freestanding privacy claims against Google under the California Constitution and California tort law, and affirmed the dismissal of the remainder of Plaintiffs’ state law claims.

On March 10, 2016, Plaintiffs filed a Petition for Writ of Certiorari with the United States Supreme Court, seeking review of the Third Circuit’s Opinion. On May 9, 2016, Lead Counsel for Plaintiffs (Brian R. Strange, James P. Frickleton, and Stephen G. Grygiel (hereinafter, “Class Counsel”)) and counsel for Google participated in a private mediation before Retired Federal Judge

¹ The Settlement Class consists of all persons in the United States of America who used the Apple Safari or Microsoft Internet Explorer web browsers and who visited a website from which Doubleclick.net (Google’s advertising serving service) cookies were placed by the means alleged in the Complaint.

Layn Phillips. The parties exchanged extensive briefing, participated in pre-mediation phone calls, and engaged in an all-day mediation on May 9, 2016. During the mediation, Plaintiffs and Google agreed to the basic terms of this Settlement, which were later memorialized in a final document executed by all parties and Class Counsel as of June 30, 2016. See Strange Decl. D.I. 163-1, ¶ 7; Grygiel Decl. D.I. 163-2, ¶¶ 7–9; Frickleton Decl. D.I. 163-3, ¶ 4.

The Court, prior to final approval, received fifty requests for exclusion and only one objection. The lone objector challenged this Court’s certification of the settlement class and the terms of the approved settlement. This Court overruled the objections and the objector appealed. The Third Circuit, applying *In re Warfarin Sodium Antitrust Litig.*, 391 F.3d 516, 535 (3d Cir. 2004), approved the settlement in most respects assuming, without holding, that the presumption of fairness attached. *In re: Google Inc. Cookie Placement Consumer Privacy Litigation*, 934 F.3d 316, 326 (2019), fn. 8. The objector did not challenge numerosity, typicality, commonality, or adequacy of representation. The Third Circuit, applying *In re Nickelodeon Consumer Privacy Litigation*, 827 F.3d 262, 273–74 (3d Cir. 2016), determined that there was Article III standing in this case. 941 F.3d at 325. For purposes of this motion, those issues are the settled law of the case. *Todd & Co., Inc. v. SEC*, 637 F.2d 154, 157 (3d Cir.1980) (doctrine applies “to issues that were actually discussed by the court in the prior appeal [and] to issues decided by necessary implication.”). The Third Circuit remanded this case for consideration of two issues:

- Whether the *cy pres* recipients were chosen on their merits. *Id.* at 330, and
- Whether the class-wide release of damages was appropriate in a class certified under Rule 23(b)(2); *In Re Google*, 934 F.3d. at 329.

Plaintiffs on remand, in order to address the Circuit Court’s concerns regarding the propriety of the release, now request certification of the class under both Fed. R. Civ. P. 23(b)(2)

and (3). In accordance with the terms of the settlement agreement that requires the parties to cooperate on administrative and procedural matters in order to consummate the purpose and spirit of the agreement, the settlement relief has been modified so that a neutral third party appointed by the Court will choose the *cy pres* recipients, thereby obviating any concerns regarding their selection. Plaintiffs now show the settlement's release of damages claims is appropriate under Fed. R. Civ. P. 23(b)(3) and meets all the requirements of the rule. Plaintiffs request factual findings from this Court at the final approval hearing. Having modified the *cy pres* process as stated, the parties have satisfied the Third Circuit's concerns and now seek preliminary approval of the modified Settlement.

III. SUMMARY OF ARGUMENT

All of the requirements of class certification are met, and the Settlement Class should be certified under Rule 23(a) and (b)(2) and (b)(3) of the Federal Rules of Civil Procedure (hereinafter, "Rule 23"). As noted *supra* this Court's prior determinations with regard to numerosity, commonality, typicality and adequacy of representation went unchallenged and remain the law of the case.

Because the notice given when this class was originally certified meets the requirements both of Rule 23(b)(2) and 23(b)(3), Plaintiff need only demonstrate that this notice was and continues to be the best notice practicable under the circumstances. *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 173 (1974). Thus, this Court need not enter an order for additional notice if it finds, as the evidence supports, that the notice already given meets the requirements of the rule, and class members have been advised of their rights under the settlement.

The key issues before the Court now that Plaintiffs are moving for certification under Rule 23(b)(3) are those two set out by the Third Circuit, above, and the issues of predominance and

superiority required by Rule 23(b)(3). This memorandum sets forth the key terms of the settlement agreement and the one minor change since the original notice and approval², as well as the issues of predominance and superiority under Rule 23(b)(3). The memorandum then sets out the settling class member's response to the issues raised by the Third Circuit.

IV. TERMS OF THE PROPOSED SETTLEMENT

The proposed Settlement with Google was reached following extensive arms-length negotiations between Plaintiffs' counsel (Brian R. Strange, Stephen G. Grygiel, and James P. Frickleton), on the one hand, and Google on the other hand. Plaintiffs and Google discussed for several months the possibility of settling Plaintiffs' claims against Google. Following the mediation and back-and-forth negotiations and discussions, the parties agreed upon and executed a formal settlement agreement. Throughout the course of settlement negotiations, the parties took into consideration potential liability and damage issues; the risks of dismissal, class certification, summary judgment, and trial; the possibility of appeals of any judgment and/or rulings of the trial court; and how these factors could add to the cost, delay, and uncertainty of litigation. Class Counsel believes the proposed Settlement is fair and reasonable and should be approved by this Court. See Strange Decl. D.I. 163-1, ¶ 8; Grygiel Decl. D.I. 163-2, ¶ 6-9; Frickleton Decl. D.I. 163-3, ¶ 4. *See also* additional Declarations filed by class counsel contemporaneously with this motion.

A. THE PROPOSED SETTLEMENT CLASS

Plaintiffs request that, pursuant to the terms of the Settlement, the Court certify the following proposed Settlement Class:

² § 15.5 of the Settlement Agreement required the parties "to cooperate fully and to take all additional action that may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement." To that end the parties conferred and revamped the selection of the *cy pres* recipients in order to meet the Third Circuit's objections expressed in that Court's opinion.

All Persons in the United States of America who used the Apple Safari or Microsoft Internet Explorer web browsers and who visited a website from which Doubleclick.net (Google's advertising serving service) cookies were placed by the means alleged in the Complaint.

Settlement Agreement ("S.A."), Strange Decl., D.I. 163-1, ¶ 3, Ex. 1, § 2.3.

B. ASSURANCES BY GOOGLE

The Settlement confers substantial benefits upon the Settlement Class, particularly in light of the potential recovery provable at trial and given the costs, uncertainties, delays, and other risks associated with continued litigation, trial, and/or appeal. The settlement provides that Google fully remediate the allegedly wrongful conduct. Specifically, Google will provide Class Counsel with assurances that it has implemented systems configured to instruct Safari browsers to expire any cookie placed from the doubleclick.net domain by Google if those systems encountered such a cookie, with the exception of the DoubleClick opt-out cookie, until the time that all cookies placed from the doubleclick.net domain by Google on Safari browsers through February 15, 2012 should have expired by design. *Id.* § 5.1.

C. THE *CY PRES* PAYMENTS

Google shall deposit \$500,000 in an interest-bearing Settlement Account within 21 days of the entry of the Preliminary Approval Order. *Id.* § 5.2.2. Google shall deposit an additional sum of \$5,000,000 in the Settlement Account within 10 days of the Effective Date of the Settlement, as defined in the Settlement Agreement. *Id.* These monies, including any accrued interest and less any expenses for the Settlement Administrator, the Notice Plan, the Fee Award, the Incentive Awards, and any other notice fees or costs, shall be paid to *cy pres* recipients determined in the following manner:

- Up to ten (10) *cy pres* recipients will be selected by a third-party neutral and not by the parties;

- This Court, in the preliminary approval order, will appoint a third-party neutral to select the proposed *cy pres* recipients;
- Recipients have to satisfy eligibility criteria identified in the agreement establishing a sufficient nexus between their work and the injuries claimed by the class members or the principles the litigation sought to vindicate (William B. Rubinstein, *et al.*, Newberg on Class Actions §12.33 (4th ed. 2002), specifically, be recognized leaders in the fields of online privacy, safety, and/or advocacy and agree to devote the funds to promote public awareness and education and/or to support research, development, and initiatives related to the security and/or privacy of Internet browsers;
- Recipients must agree to use funds for purpose identified in the agreement;
- Recipients must agree to submit a sworn declaration that (1) confirms their eligibility; (2) confirms their promise to use funds in accordance with the agreement; and (3) discloses any existing or prior relationship to the court, parties, and counsel, including prior donations or *cy pres* distributions from the parties; and
- Recipients must agree to send a witness to the final approval hearing to respond to the Court's questions regarding their use of funds.

Based on the size of the Class in this case, estimated to be millions of individuals, distribution of the settlement fund to the *cy pres* recipients above, is the most efficient and best use of the settlement proceeds. Frickleton Decl., D.I., 163-3, ¶ 5.

D. COSTS OF SETTLEMENT ADMINISTRATION

Google has agreed to pay all reasonable Settlement Administrator expenses up to \$500,000, which are to be paid from the Settlement Fund. S.A. § 7.1.

E. PLAINTIFFS' LITIGATION COSTS AND FEES

As part of the prior settlement approval process, the court considered and approved Plaintiffs motion for attorney fees and expenses, awarding \$1,925,000 in fees and \$90,929.26 in expenses. D.I. 173. Although attorneys for the consolidated action have expended significant additional time representing the class in the various appeals of this case, counsel do not intend to seek additional fees for such work. Counsel therefore believes that if this court approves the settlement that the prior fee award, having not been challenged on appeal is the settled law of the case.

F. INCENTIVE PAYMENTS TO CLASS REPRESENTATIVES

Subject to the Court's approval, Class Counsel may move the Court for, and Google will not contest, incentive payments in a total amount not to exceed \$3,000 (\$1,000 per Class Representative), to be paid from the Settlement Fund. *Id.* § 11.2.

G. RELEASE BY SETTLEMENT CLASS MEMBERS

Following entry of the Final Order and Judgment, as defined in the Settlement Agreement, the Class will have released the "Released Parties" from the "Released Claims," all as defined in the Settlement Agreement, including a waiver of California Civil Code § 1542. *Id.* § 10. The Released Claims, as defined, will include all claims raised or which could have been raised in the Complaint based on the factual allegations.

V. THE SETTLEMENT CLASS SHOULD BE CERTIFIED UNDER RULE 23(A) AND (B)(2) AND (B)(3)

When a class settlement occurs before class certification has taken place, a court may conditionally certify the case for settlement purposes. *In re Prudential Ins. Co. Am. Sales Practice Litig. Agent Actions*, 148 F.3d 283, 307 (3d Cir. 1998). The court uses the same Rule 23 requirements whether it certifies the class for trial or settlement. *Id.* When certification is sought

under Rules 23(a) and (b)(2), the Court’s threshold task is to preliminarily determine whether the proposed settlement class satisfies the numerosity, commonality, typicality, and adequacy requirements of Rule 23(a), and the requirement of Rule 23(b)(2) that the Defendant acted on grounds generally applicable to the class, thereby making final injunctive relief appropriate with respect to the class as a whole.

This Court has already undertaken that analysis and it is law of the case. *Todd*, 637 F.2d 154. In addition to the requirements of Rule 23(b)(2), Rule 23(b)(3) requires an analysis of predominance and superiority in order to certify a class action.

A. COMMON ISSUES PREDOMINATE

“To satisfy the predominance requirement in Rule 23(b)(3), a plaintiff must establish that the issues in the class action that are subject to generalized proof, and thus applicable to the class as a whole, predominate over those issues that are subject only to individualized proof.” *Beattie v. CenturyTel, Inc.*, 511 F.3d 554, 564 (6th Cir. 2007) (internal citations and quotations omitted). “The Rule 23(b)(3) predominance inquiry tests whether proposed classes are sufficiently cohesive to warrant adjudication by representation.” *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 622–23 (1997). “It is not necessary that all of the elements of the claim entail questions of fact and law that are common to the class, nor that the answers to those common questions be dispositive.” *CGC Holding Co., LLC v. Broad & Cassel*, 773 F.3d 1076, 1087 (10th Cir. 2014). “Put differently, the predominance prong ‘asks whether the common, aggregation-enabling, issues in the case are more prevalent or important than the non-common, aggregation-defeating, individual issues.’” *Id.*, quoting 2 William B. Rubenstein et al., *NEWBERG ON CLASS ACTIONS* § 4:49, at 195–96 (5th ed. 2012). That a particular defense “may arise and may affect different class members differently

does not compel a finding that individual issues predominate over common ones.” *Beattie*, 511 F.3d at 564.

Here, on the two remaining counts, the single predominant issue is whether Defendants violated consumers’ privacy rights by using cookies to knowingly intercept internet communications of the putative class; and this issue is common to all class members. If no cookies were used, the class would lose on these counts. The common operative facts are the significant central issue in the case and can be best resolved in a single adjudication. Thus, the first requirement of Rule 23(b)(3) is satisfied.

B. A CLASS ACTION IS THE SUPERIOR METHOD OF ADJUDICATION.

Rule 23(b)(3) further requires a class action be superior to other available methods for the fair and efficient adjudication of the controversy. Fed. R. Civ. P. 23(b)(3). “In balancing the relative merits of a class action versus alternative available methods of adjudicating the controversy, the trial court may consider: ‘the inability of the poor or uninformed to enforce their rights, and the improbability that large numbers of class members would possess the initiative to litigate individually.’” *Haynes v. Logan Furniture Mart, Inc.*, 503 F.2d 1161, 1165 (7th Cir.1974).

As explained by the United States Supreme Court:

The policy at the very core of a class action mechanism is to overcome the problem that small recoveries do not provide the incentive for any individual to bring a solo action prosecuting his or her rights. A class action solves this problem by aggregating the relatively paltry potential recoveries into something worth someone’s (usually an attorney’s) labor.”

Amchem, 521 U.S. at 617 (citing *Mace v. Van Ru Credit Corp.*, 109 F.3d 338, 344 (7th Cir. 1997)).

“[O]ne of the primary functions of the class suit is to provide a device for vindicating claims which, taken individually, are too small to justify legal action but which are of significant size if taken as a group.” *Brady v. LAC, Inc.*, 72 F.R.D. 22, 28 (S.D.N.Y. 1976). The class action is especially

preferred when a large number of small or medium sized claimants may be involved because “[i]n light of the awesome costs of discovery and trial, many of them would not be able to secure relief if class certification were denied.” *In Re Folding Carton Antitrust Litigation*, 75 F.R.D. 727, 732 (N.D. Ill. 1977).

1. The Interest of Members of The Class in Individually Controlling the Prosecution of Separate Actions is Minimal.

Damages to a party’s privacy rights are inherently difficult to quantify. Expert testimony would be required, as would expert testimony on the operation of computer-based cookies. Litigation costs for an individual class member would be virtually certain to exceed the maximum possible recovery, making litigation of individual cases highly impractical and any victory pyrrhic at best. Given the extensive discovery needed in this case, including multiple depositions, litigation costs for an individual class member would likely exceed the maximum possible recovery, making litigation of individual cases cost prohibitive for all but the wealthiest class members. *See In re Motor Fuel Temperature Sales Practices Litig.*, No. 07-MD-1840-KHV, 2015 WL 5010048, at *12 (D. Kan. Aug. 21, 2015) (“[I]n light of the limited size of any potential financial recovery for any particular class member and the possibility of inconsistent results, a class action is a far superior method of resolving the claims compared to individual suits.”).

The “most compelling rationale for finding superiority in a class action” is the case of a “negative value suit” where the stakes to each member are too slight to repay the cost of the suit. *Allison v. Citgo Petroleum Corp.*, 151 F.3d 402, 420 (5th Cir. 1998). “This factor is most relevant where each class member has suffered sizeable damages or has an emotional stake in the litigation . . . where the damages each plaintiff suffered are not that great, this factor weighs in favor of certifying a class action.” *Haley v. Medtronic, Inc.*, 169 F.R.D. 643, 652 (C.D.Cal. 1996) (citing *In re Northern Dist. Cal., Dalkon Shield, Etc.*, 693 F.2d 847, 856 (9th Cir. 1982)).

This case does not present a situation where each class member has suffered sizeable damages or has an emotional stake in the litigation, such as in a personal injury case. Accordingly, the interest of class members in individually controlling their own litigation is minimal. Moreover, the litigation having settled makes predominance less of an issue given that no proof on the contested issues – class wide or individual – will be necessary if the Court approves this settlement.

2. The Extent and Nature of Litigation Already Commenced by Members of the Class Supports Certification.

Only fifty individuals requested exclusion from the original class action settlement, and Plaintiff is unaware of any sizeable number of lawsuits concerning Google’s alleged conduct in this matter. While Google is battling its share of lawsuits nationally, its December 2018 10K report with the SEC makes no mention of similar privacy lawsuits. Accordingly, there is not significant litigation already underway by class members against Defendants based on the cookies at issue and this factor weighs in favor of certification as a class action at the settlement stage.

3. It is Desirable to Concentrate the Litigation in this Forum.

Concentrating the claims of the class in this forum is desirable. Google is a Delaware corporation. There is an adequate Plaintiff and competent counsel willing to pursue the claims of the class within this forum, and there is no other pending action pursuing the claims of the proposed class.

4. There are no Unusual Difficulties Likely to be Encountered in the Management of the Case

There are no unusual difficulties likely to be encountered in the management of this case as a class action at the settlement stage. *Amchem*, 521 U.S. at 620, 117 S.Ct. 2231 (in a settlement-only class certification, “a district court need not inquire whether the case, if tried, would present intractable management problems ... for the proposal is that there be no trial”). Courts have

managed scores of class actions at settlement with no unusual difficulty. *In re Warfarin Sodium Antitrust Litigation*, 391 F.3d 516, 530 (3rd Cir. 2004); *In re Prudential Ins.*, 148 F.3d at 307.

Any difficulty encountered in the management of this as a class action is far outweighed by the difficulties that would be encountered by the joinder of hundreds of thousands of separate suits. This case presents no more difficulty to manage than other class actions, including securities litigation and consumer fraud cases. Accordingly, this factor weighs in favor of class certification.

Thus, because common questions of law and fact predominate in this action and a class action is the superior method of adjudicating the claims alleged in this case, the Rule 23(b)(3) requirements are satisfied.

C. PROPRIETY AND SUFFICIENCY OF NOTICE

1. Sufficiency of Notice was Never Challenged

Although the Objector argued against a *cy pres* settlement and against certain *cy pres* recipients, no objector complained that notice was insufficient or did not reach a sufficient number of computer users. See declaration of Brian Strange at ¶ 24.

2. This Court Previously Approved the Notice in all Respects

The Court preliminarily approved the Settlement on August 31, 2016. (D.I. 164.) Beginning on September 12, 2016, and continuing until October 24, 2016, Notice of the Proposed Settlement with Google (“Notice”) was disseminated to potential members of the Class via online advertisements on the Audience Network Buy and Pulpo Media networks, as well as through targeted social media advertising on Facebook, designed by the Class Administrator to reach the broadest possible audience of potential Apple Safari and Microsoft Internet Explorer web browsers. See Declaration of Stephen J. Cirami Regarding Settlement Administration (“Cirami Decl.”) D.I. 163-4, ¶¶ 6–9 & Ex. C and also Declaration of Amanda Sternberg ¶¶ 5-9. A Summary

Notice was also published in the October 17, 2016 issue of People Magazine, a nationally distributed and widely read magazine. D.I. 163-4 ¶ 10 & Ex. D.³ A website containing the long-form Notice of the Settlement was also established and, as of December 30-2019, was visited at least 568,891 times. See Sternberg Declaration ¶ 10.⁴

The deadline for exclusions from the Settlement was November 27, 2016, and the deadline for objections was December 21, 2016. See Notice §§ 10, 11. The Class Administrator received 50 timely requests for exclusion from the Settlement. See Cirami Decl. ¶ 12 & Ex. G. Class Counsel received only one objection to the Settlement which this court summarily overruled in initially approving the settlement. See Strange Decl. at ¶ 3.

In initially approving the settlement as a Rule 23(b)(2) class this Court found the settlement's notice accurately described the litigation and the settlement met the requirements of Rule 23, comported with Due Process, and as a result, it approved the notice. That was the correct analysis. While the objector did not specifically take aim at the notice in this case, the Third Circuit said:

We also question, and leave to the District Court on remand, whether a defendant can ever obtain a class-wide release of claims for money damages in a Rule 23(b)(2) settlement, and if so, whether a release of that kind requires a heightened form of notice either under Rule 23(c)(2)(B) or due process tenets.

934 F.3d at 329-30. Plaintiffs have now moved to certify the class under both Rule 23(b)(2) and (b)(3) to address this issue.

³ The Notice and Summary Notice informed potential Class Members that Interim Co-Lead Counsel would be requesting permission to use a portion of the Settlement Fund to pay for attorneys' fees and expenses. See Cirami Decl. Exs. D & E. The fees and expenses granted by this court during the previous approval process, as described above, to be paid from the Settlement Fund, represents a fair and reasonable amount to compensate Class Counsel for their representation of the Class in preparing, filing, and litigating this case through two complex appeals. Settlement Agreement ("S.A.") §§ 11.1, 11.2.

⁴ In accordance with the Preliminary Approval Order and the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1711, et seq., the Class Administrator notified the appropriate state and federal officials of the proposed Settlement on September 8, 2016. Cirami Decl. ¶ 5 & Exs. A, B.

Fed. R. Civ. P. 23(c) requires the best notice practicable under the circumstances. Fed. R. Civ. P. 23(c). *Eisen*, 417 U.S. at 173. If this Court grants approval under Rule 23(b)(3), it moots the need to decide the “enhanced notice” issue with regard to Rule 23(b)(2). The record demonstrates the notice that has already been given meets the notice requirements of Rule 23(b)(3) and that no other or further notice need be given. This is because there has only been one non-substantive change in the way *cy pres* recipients are determined while the rest of the settlement remains the same. Likewise, technical obstacles to identifying class members, and set out below, exist as before. Individualized notice is required to those who can be identified “through reasonable effort.” *Eisen*, 417 U.S. at 173. Because neither Microsoft Explorer nor Apple’s Safari were individually registered, individualized notice to specific users is impossible through reasonable effort, and the targeted electronic notice already given satisfies both the rule and due process. *See Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 313, 70 S.Ct. 652, 94 L.Ed. 865 (1950).

3. The Settlement Terms Are Essentially Unchanged

The structure, timing, and disposition of funds set out in the settlement have not changed. While the appointment of a third party neutral to choose *cy pres* recipients has been substituted for the six named entities, the remainder of the settlement has not changed. The only substantive change is with Plaintiffs requesting certification under Rule 23(b)(3) in addition to (b)(2).

Defendant is not gaining additional concessions, and Plaintiffs are not gaining any additional benefits. The payments from Google will continue to benefit only the *cy pres* recipients in what the Third Circuit described as a settlement that “would be used for a purpose directly and substantially related to the class’s interests,” 934 F.3d at 329-30, and that belongs to the class as a whole rather than any individual. *Id.* at 328. Additional notice delineating an additional

subparagraph of the rule under which the case is certified would add nothing to the understanding of the individual consumer and might create confusion.

4. The Technical Barriers to Individualized Notice Remain

Unlike specialized software for word processing, tax preparation, or accounting, internet browsers normally are supplied as a part of the operating system of a computer and are not separately registered. Not all personal computers users search with Google⁵. Not all personal computers users deploy Microsoft's Explorer or Apple's Safari browsers. Apple Computer supplies Safari with its operating system. Microsoft supplies Internet Explorer (now Edge). Yet, not every user employs these standard browsers⁶. For those reasons a list of all Apple users would not be a list of class members any more than a list of all Microsoft Windows users would be. These technical issues limit the ability to provide individualized notice.

5. Targeted Electronic Notice was Used and Satisfies Due Process

Mullane v. Cent. Hanover Bank & Trust Co., 339 U.S. 306, 313, 70 S.Ct. 652, 94 L.Ed. 865 (1950) set the due process standard for notice. It said notice must be "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Id.* at 314, 70 S.Ct. 652. It went on to comment that:

The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it. The reasonableness and hence the constitutional validity of any chosen method may be defended on the ground that it is in itself reasonably certain to inform those affected....

Id.

⁵ Search engines like Yahoo, Bing, Dogpile, DuckDuckGo and Start Page all exist as alternatives to Google, and thus a comprehensive list of all users of operating systems would not reflect class membership.

⁶ Firefox, Opera and Chrome have wide support in both PC and Apple user groups.

Rule 23 and *Eisen*, 417 U.S. 156, require identification through “reasonable effort.” Case law provides useful comparisons of notice that meets the standard. *DeJulius v. New England Health Care Employees Pension Fund*, 429 F.3d 935 (10th Cir. 2005) involved a class action where notice was challenged post-judgment. In that case the parties challenging were class members who did not receive actual notice. The Circuit court held that lack of timely, actual notice of settlement to some class plaintiffs did not render the overall notice scheme violative of due process or otherwise unfair. Shares of the stocks at issue were held by brokerage firms as nominees for the actual class members. Notice to the holders in the “street name” did not uniformly get passed to the actual owners. There 70% of the class members got their notices less than 32 days before the opt-out deadline. However, only the parties before the Court claimed they received them after the deadline. The Court there noted that in *Silber v. Mabon*, 18 F.3d 1449, 1452, 1454 (9th Cir.1994) over 1000 notices were mailed after the deadline, and the notice scheme still met the requirements of due process. *DeJulius*, 429 F.3d at 947.

In re Domestic Air Transp. Antitrust Litigation, 141 F.R.D. 534 (N.D. Ga. 1992) also provides guidance. The class members in that case were purchasers of airfares (as opposed to travelers on the defendant’s airlines) who could not be identified by reasonable methods. The defendants had all readily attested to the fact these purchasers could not be identified and that they had no records to do so. *Id.* at 539, 540. Only when class certification loomed did defendants change tactics and insist that a list of 9,300,000 names compiled from TRW was a list of class members. The Court rejected this analysis and found as a fact that class members could not be identified by reasonable methods. After carefully analyzing the plaintiffs’ class notice plan consisting of multiple published notices in multiple newspapers as well as news weeklies (Time, Newsweek), the Court approved the notice plan saying:

There is no question that where the name and last known address of a class member or individual party is known or is capable of being readily identified from available business or public records, individual notice must be given. *Eisen*, 417 U.S. at 175, 94 S.Ct. at 2151... However, where the names and addresses of the entire class are not readily available from existing records, individual notice is only required under Rule 23 where identification is possible through reasonable efforts.

Id. at 539. *See also In re “Agent Orange” Product Liability Litigation*, 818 F.2d 145, 168 (2d Cir.1987), cert. denied, 484 U.S. 1004, 108 S.Ct. 695, 98 L.Ed.2d 647, 648 (1988) (“Rule 23, of course, accords considerable discretion to a district court in fashioning notice to a class.”); *Berland v. Mack*, 48 F.R.D. 121, 129 (S.D.N.Y.1969) (“Rule 23 contemplates cooperative ingenuity on the part of counsel and the court in determining the most suitable notice in each case.”).

Here the class members had their privacy invaded while using an internet browser. Given the carefully and specifically crafted mechanism for notice here, specifically online advertisements on multiple networks (viewed through internet browsers), as well as targeted social media advertising on Facebook, designed by the Class Administrator to reach the broadest possible audience of potential Apple Safari and Microsoft Internet Explorer web browsers (D.I. 163-4 ¶ 8-23), it is quite likely that anyone who had been affected by the invasion of their privacy was informed by the notice.

As set out above, the evidence before the Court in the earlier motion for approval presented the Court with the best possible notice under the circumstances, and the Court found notice acceptable. Neither Due Process nor Rule 23 require the impossible, and thus the best notice reasonably practicable here is the notice that has already been provided.

D. THE RELEASE IS PROPER AND NOT OVERBROAD

The Third Circuit questioned, and left “to the District Court on remand, whether a defendant can ever obtain a class-wide release of claims for money damages in a Rule 23(b)(2) settlement...” *Google*, 934 F.3d at 329. With the addition of certification under rule 23(b)(3), that

issue need not be decided. However, Plaintiffs and Google believe such a release is proper in this circumstance for the reasons set out in this motion and memorandum.

First, a damage claim for a loss of privacy essentially comes down to what a jury would do in a given case where proving monetary loss might be difficult, but where an intentionally-inflicted invasion of privacy, however defined, associated with a loss of control over private information might well compel a jury to provide money damages. While there were only fifty persons opting out of the class, thereby demonstrating a tepid degree of interest in damages, even if only ten lawsuits were filed Google would be required to defend them and would necessarily have the costs and expenses associated therewith. While those claims would be difficult for the reasons expressed herein, they would nonetheless be viable based on the Third Circuit's prior ruling in this case. According to one source, the average outside litigation cost for companies responding to a Duke University Law School survey was nearly \$115 million in 2008, up 73 percent from \$66 million in 2000⁷. The ratio of pages discovered to pages entered as exhibits is as high as 1000/1. In 2008, on average, 4,980,441 pages of documents were produced in discovery in major cases that went to trial – but only 4,772 exhibit pages actually were marked⁸. Google has serious economic risk should even one of the privacy lawsuits reach a jury but would have costs even if one did not. Before paying out millions of dollars to settle a claim, it needed to ensure that it was capping that risk.

And, while the settlement provides injunctive relief similar to that obtained by the FTC in its litigation, the FTC settlement is not privately enforceable. The Google settlement can be

⁷ Litigation Cost Survey of Major Companies, Lawyers for Civil Justice, at 3, submitted May, 2010, and found on the US Courts website at https://www.uscourts.gov/sites/default/files/litigation_cost_survey_of_major_companies_0.pdf

⁸ Id.

enforced against Google, creating a strong incentive for the company to operate within the settlement's restrictions.

To put this in contract terms, Google's commitment to do things it was not required to do (stop using the offending cookies, grant an enforceable right to privacy relief and pay *cy pres* damages of \$5,500,000.00) is good and sufficient consideration for the release of inchoate damages claims that are difficult to value. *Davis v. Wells*, 104 U.S. 159 (1881) ("It is not material that the expressed consideration is nominal. ... A stipulation in consideration of one dollar is just as effectual and valuable a consideration as a larger sum stipulated for or paid."); *In re American Coils Co.*, 187 F.2d 384 (3rd Cir. 1951) ("A very slight advantage to one party or a trifling inconvenience to the other is a sufficient consideration to support a contract ...").

Certification of this class action settlement under both Rule 23(b)(2) and (b)(3) satisfies the concerns of the Third Circuit in this case, and provides the benefit of the bargain to the class as a whole under the *cy pres* doctrine, and Google as defendant. It is fair, reasonable, and adequate under the circumstances. The release is not overbroad given the equities at issue here.

E. SELECTION OF CY PRES RECIPIENTS FOLLOWS THIRD CIRCUIT SUGGESTION

The Third Circuit directed this Court to "consider whether these *cy pres* recipients have significant prior affiliations with Google, class counsel, or the Court, and, if so, whether the selection process failed to satisfy Rule 23(e)(2) by raising substantial questions whether the recipients were chosen on the merits." *Google*, 934 F.3d at 331. It then noted that the "parties may also want to involve class members or a neutral participant in the selection of recipients to ward off any appearance of impropriety." *Id.* The parties have implemented the Circuit Court's direction and have requested that this Court appoint a third-party neutral with no affiliation to either party to choose the *cy pres* recipients. Should the Court do so, all of the Third Circuit's

objections to the settlement will have been properly dealt with. As noted *supra*, this is now incorporated into the modified settlement agreement as the only procedural change.

VI. CONCLUSION

The Third Circuit approved the settlement in most respects but remanded for two significant issues. Those issues have been fully addressed by the parties through arms-length negotiations conducted in good faith. The issue with cy pres recipients has been remedied through appointment of a neutral as suggested by the Third Circuit, and the issue with notice has been addressed by requesting certification under Rule 23(b)(3). For all these reasons the Plaintiff requests that this Court issue an order preliminarily approving the settlement and setting a final approval hearing.

Dated: January 3, 2020

Respectfully submitted,

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EXECUTIVE COMMITTEE MEMBERS

UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

IN RE GOOGLE INC. COOKIE
PLACEMENT CONSUMER PRIVACY
LITIGATION

Case No. 12-MD-2358

This Document Relates to:
ALL ACTIONS

**DECLARATION OF BRIAN R. STRANGE IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

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Executive Committee Member

I, Brian R. Strange, declare:

1. I am a partner of Strange & Butler LLP, one of Lead Class Counsel and a Member of the Executive Committee in this case. I submit this declaration of my own personal knowledge and, if called to testify, I could and would competently testify hereto under oath.

2. I submit this declaration in support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement with Defendant Google Inc. ("Google"), for certification of a class for settlement purposes, for appointment of Plaintiffs Jose M. ("Josh") Bermudez, Nicholas Todd Heinrich, and Lynne Krause as the representatives of the Settlement Class, and for appointment of Class Counsel (consisting of Steven G. Grygiel; Bartimus, Frickleton, and Robertson, P.C.; and Strange & Butler LLP) as Settlement Class Counsel.

3. On August 29, 2016, Class Counsel submitted to the Court for approval the signed Settlement Agreement between Plaintiffs and Google for preliminary approval, which the Court granted on August 31, 2016. (D.I. 163, 164.) On February 2, 2017, the Court overruled the sole objection to the settlement and granted final approval to the Settlement. (D.I. 173.) Following final approval, the only objector to the Settlement filed an appeal with the Court of Appeals for the Third Circuit. After briefing and argument, the Third Circuit issued an opinion on August 6, 2019, remanding the Settlement to the district court for further consideration, with particular emphasis paid to further consideration of the proposed *cy pres* recipients.

4. Attached hereto as Exhibit A is a true and correct copy of the signed Settlement Agreement between Plaintiffs and Google as originally submitted to the Court on August 29, 2016. There have been no material changes to the Settlement Agreement except those set forth in this Declaration, below.

5. All of the requirements of class certification are met, and the Settlement Class should be certified under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure (hereinafter, “Rule 23”). The Settlement Class is so numerous that joinder of all class members is impracticable; there are questions of fact or law common to the Settlement Class; Plaintiffs’ claims are typical of the claims of the Settlement Class; Plaintiffs and their counsel will fairly and adequately represent the interests of the Settlement Class; and Defendant has acted on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.

6. The Settlement confers substantial benefits upon the Settlement Class, particularly in light of the potential recovery provable at trial and given the costs, uncertainties, delays, and other risks associated with continued litigation, trial, and/or appeal.

7. Google has agreed to pay \$5,500,000, to be distributed to designated *cy pres* recipients, after payment of costs and expenses of the Settlement Administrator, Notice, the Fee Award, and any other administrative fees and expenses.

Settlement Negotiation

8. On May 9, 2016, Lead Counsel for Plaintiffs (James Frickleton, Stephen G. Grygiel, and myself) and counsel for Google participated in a private mediation before Retired Federal Judge Layn Phillips. The parties exchanged extensive briefing, participated in pre-mediation phone calls, and engaged in an all-day mediation on May 9, 2016. During the mediation, Plaintiffs and Google agreed to the basic terms of this Settlement, which was later memorialized in a final document executed by all parties and Class Counsel as of June 30, 2016.

9. The settlement was reached following extensive good faith arms-length negotiations between Stephen G. Grygiel, James Frickleton, and myself, on the one hand, and

Google on the other hand. Plaintiffs and Google discussed for several months the possibility of settling Plaintiffs' claims against Google. Following the mediation and many back-and-forth negotiations and discussions, the relevant parties agreed upon and executed a formal settlement agreement. Throughout the course of settlement negotiations, the parties took into consideration potential liability and damage issues; the risks of dismissal, class certification, summary judgment, and trial; the possibility of appeals of any judgment and/or rulings of the trial court; and how these factors could add to the cost, delay, and uncertainty of litigation. Class Counsel believes the proposed Settlement is fair and reasonable and should be approved by this Court.

10. Based on the size of this class, which is estimated to be in the millions of individuals, distribution of the settlement fund to six *cy pres* recipients who must agree to use the funds to promote public awareness and education and/or support research, development, and initiatives related to the security and/or privacy of Internet browsers, is the most efficient and best use of the settlement proceeds.

11. Google will provide Class Counsel with assurances that it implemented systems configured to instruct Safari browsers to expire any cookie placed from the doubleclick.net domain by Google if those systems encountered such a cookie, with the exception of the DoubleClick opt-out cookie, until the time that all cookies placed from the doubleclick.net domain by Google on Safari browsers through February 15, 2012 should have expired by design. These remedies, coupled with the injunctive and monetary penalties already obtained by the government against Google on behalf of consumers, renders the current settlement reasonable for class members. The release of claims contained within the Settlement Agreement is proper consideration for the above-described injunctive relief because the injunctive relief described above has real value to class members in that it provides an enforceable mechanism to ensure

Google's compliance with the agreed-upon privacy restrictions.

12. A class certification motion had not been filed in this action at the time of settlement. Nevertheless, is exactly the type of case that is particularly appropriate for settlement class certification. Significantly, Defendant has agreed not to contest conditional certification of the Settlement Class for settlement purposes. This Court previously certified a similar class in this case when it approved both preliminary and finally the Settlement between former Defendant PointRoll and the Plaintiff Class.

13. Plaintiffs' counsel, who have already been appointed as interim class counsel in this matter, have extensive experience with complex class actions, including cases similar to this, having served and still serving as class counsel in numerous federal and state court consumer fraud and privacy actions which have resulted in tens of millions of dollars being returned to consumers. Class Counsel have also published several articles on Internet privacy issues.

14. Plaintiffs have performed a thorough investigation of the technical and factual issues in the case. By and through Google's pleadings, motions, and settlement communications, Google's counsel made additional information available to Class Counsel that assisted Class Counsel in making the decision to agree to the Settlement.

15. While Class Counsel strongly disagree with Google's analysis, and believe that both the law and facts support Plaintiffs' position regarding Google's use of cookies that violated federal and state statutes, there is clearly no guarantee that Plaintiffs will prevail.

16. Although Class Counsel are prepared to present strong evidence that Google's cookie circumvention technique violated California common law, that the case should be certified as a class, and that the Settlement Class is entitled to damages under these laws as a result, Google

is also prepared to mount a vigorous defense. Given these risks, Plaintiffs and Class Counsel believe the settlement with Google provides meaningful benefits to the Class.

17. Specifically, the settlement provides the class with an enforceable remedy should Google in the future attempt to circumvent the restrictions imposed by the Federal Trade Commission, or refuse to honor its commitments under the settlement agreement. It provides the only means for any class member to enforce privacy relief against Google.

18. While Plaintiffs strongly believe they could certify a class for litigation, the risk of maintaining a class through trial is a consideration that Plaintiffs and Class Counsel believe supports this early settlement.

Cy Pres Recipient Selection Process

19. Following remand from the Third Circuit, Plaintiffs and Google extensively met and conferred in order to arrive at a compromise designed to address the Third Circuit's stated concerns about the *cy pres* recipient selection process. Based on those extensive negotiations, Plaintiffs and Google have arrived at the following requirements to ensure that there is no bias on the part of any of the parties that could impact the selection of any potential *cy pres* recipient, consistent with the Third Circuit's decision:

- a. Up to ten *cy pres* recipients to be selected by a neutral third party, and not by the parties;
- b. In the preliminary approval order, the Court will appoint the third-party neutral to select the proposed *cy pres* recipients;
- c. The selected *cy pres* recipients must satisfy the eligibility criteria identified in the Settlement Agreement and must agree to use the funds for the purpose identified in the Settlement Agreement;

- d. The selected *cy pres* recipients must submit a sworn declaration that (1) confirms their eligibility to receive funds under the Settlement Agreement; (2) confirms their promise to use the funds in accordance with the Settlement Agreements; and (3) discloses any existing or prior relationship to the Court, the parties, and counsel, including prior donations or *cy pres* distributions from the parties; and
- e. The selected *cy pres* recipients must send a witness to the final approval hearing for questioning by the Court, if requested.

20. Class Counsel believes that the above *cy pres* selection process, which is the only material change from the original Settlement Agreement, addresses the concerns laid out in the Third Circuit's prior decision in this case, and adopts the fix suggested by that Court in its opinion.

21. Because the revised *cy pres* selection process above changes the selection methodology such that no potential bias on the part of the parties could impact the selection of the recipients, it is not necessary to examine which recipients were selected (but rejected) during the prior settlement approval process because all recipients selected under the above selection process would be selected by the third-party neutral appointed solely by the Court and not the parties or their counsel.

Appointment of Class Counsel

22. By Memorandum Order dated November 16, 2012 (D.I. 44), this Court appointed Keefe Bartels, LLC (replaced by Silverman Thompson Slutkin White); Bartimus, Frickleton, Robertson & Gorny, P.C. (now Bartimus, Frickleton, and Robertson, P.C.); and Strange & Carpenter (now Strange & Butler LLP) as co-interim class counsel pursuant to Rule 23(g)(3) of the Federal Rules of Civil Procedure. In doing so, the Court noted our firms' "experience in large

class actions and with substantial privacy rights litigation,” our “impressive credentials and the underlying qualifications to serve as lead counsel,” our “understanding of the legal issues,” our “work to identify or investigate potential claims,” and “the resources [we] will bring to bear on behalf of the putative class.” (Order at 3–4.)

23. As the Court has recognized, I have substantial experience in complex class actions, including cases similar to this, having served and still serving as class counsel in numerous federal and state consumer fraud actions which have resulted in tens of millions of dollars being returned to consumers, as well as privacy actions. I have been appointed to leadership in MDLs across the country. For example, I was selected as one of the members of plaintiffs’ leadership out of 16 applicants appointed to Plaintiffs’ Steering Committee in *In re Sony Gaming Networks Customer Data Security Breach Litig.*, MDL No. 2258, by the Honorable Anthony J. Battaglia in the Southern District of California. I was also approved by Judge Jack Zouhary to serve on the Plaintiffs’ Executive Committee in a consolidated antitrust case, *In re: Polyurethane Foam Antitrust Litig.*, in the United States District Court for the Northern District of Ohio, MDL No. 2196, which is considered one of the largest antitrust cases in the last 10 years. I was also counsel for plaintiffs in *In re Hulu Privacy Litigation*, Northern District of California Case No. 3:11-cv-03764-LB, a case concerning Internet “cookies” and privacy issues. I am intimately familiar with the developing legal doctrines of cyberspace privacy law, and have recently published articles on Internet privacy issues, including my article “Privacy: Is it legal tracking or an illegal Wiretap?” published in the Advocate, July 2012.

Class Notice Requirements Are Met

24. As set forth in the Declaration of Amanda Sternberg, class notice requirements in this case are met in that the best notice that is practicable under the circumstances was directed to

class members. Notably, no class members, including the sole objector to the prior settlement, objected to the type or efficacy of the notice served to the class in this case.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 20th day of December, 2019, at Los Angeles, California.

/s/ Brian R. Strange
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Executive Committee Member

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

**IN RE GOOGLE INC. COOKIE
PLACEMENT CONSUMER PRIVACY
LITIGATION**

Case No. 12-MD-2358 (SLR)

**This Document Relates to:
ALL ACTIONS**

**DECLARATION OF JAMES P. FRICKLETON IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

I, James P. Frickleton, having first been duly sworn, declare:

1. I am a partner in the law firm of Bartimus, Frickleton, Robertson & Rader, P.C., one of the lead counsel appointed by the Court in this MDL and am a member of the Executive Committee in this case. This declaration is based on my own personal knowledge and if called to testify, I could and would competently testify hereto under oath.

2. This declaration is submitted contemporaneously with and in support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement with Defendant Google LLC ("Google"), for certification of a settlement class and for the appointment of Plaintiffs Jose M. Bermudez, Nicholas Todd Heinrich, and Lynn Krause as Class Representatives for the Settlement Class and for the appointment of class counsel to represent the Settlement Class.

3. I submitted a previous declaration in support of this settlement on August 29, 2016 (Doc. 163-3). That Declaration is also attached hereto and incorporated fully by reference.

4. Also on August 29, 2016, my co-lead counsel Brian Strange submitted a declaration in support of this settlement (Doc. 163-1). Mr. Strange has also submitted an additional contemporaneous declaration in support of this current motion. I will not repeat all of the factual statements recited in Mr. Strange's declaration concerning the history and the terms of the

proposed settlement. All of those statements are accurate.

5. Given the size of the potential class and the issues involved, the parties believe that the distribution of the Settlement Fund to *cy pres* recipients who will agree to use the funds to promote public awareness and education and/or support research, development, and initiatives related to the security and/or privacy of Internet browsers is the best use of the settlement proceeds.

6. In addition, Google will provide Class Counsel with assurances that it implemented systems configured to instruct Safari web browsers to expire any cookie placed from the doubleclick.net domain by Google if those systems encountered such a cookie, with the exception of the doubleclick opt-out cookie, until the time that all cookies places from the doubleclick.net domain by Google on Safari web browsers through February 15, 2012 should have expired by design.

7. On November 16, 2012, this Court appointed my firm as one of the lead counsel in this MDL pursuant to Rule 23(g)(3) of the Federal Rules of Civil Procedure. In doing so, the Court noted our firm's "experience in large class actions and with substantial privacy rights litigation," our "impressive credentials and the underlying qualifications to serve as lead counsel," and we have served as co-lead counsel in this case since that time.

8. The Court's file reflects the experience in complex civil and class action litigation that gave rise to my firm's appointment as co-lead counsel in this case and I will not repeat it here. However, that experience leads me to conclude that this proposed settlement is fair and reasonable should be preliminarily approved.

9. As set forth in the Declaration of Amanda Sternberg, class notice requirements in this case are met in that the best notice that is practicable under the circumstances was directed to class

members. Notably, no class members, including the sole objector to the prior settlement, objected to the type or efficacy of the notice served to the class in this case.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 3rd day of January, 2019, at Leawood, Kansas.

/s/ James P. Frickleton

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

**IN RE GOOGLE INC. COOKIE
PLACEMENT CONSUMER PRIVACY
LITIGATION**

Case No. 12-MD-2358 (SLR)

**This Document Relates to:
ALL ACTIONS**

**DECLARATION OF STEPHEN G. GRYGIEL IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

I, Stephen G. Grygiel, having first been duly sworn, declare:

1. I am the principal of Grygiel Law, LLC, one of the lead counsel appointed by the Court in this MDL, and a member of the Executive Committee in this case. This declaration is based on my own personal knowledge and if called to testify, I could and would competently testify hereto under oath.

2. This declaration is submitted contemporaneously with and in support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement with Defendant Google LLC ("Google"), for certification of a settlement class and for the appointment of Plaintiffs Jose M. Bermudez, Nicholas Todd Heinrich, and Lynn Krause as Class Representatives for the Settlement Class and for the appointment of class counsel to represent the Settlement Class.

3. I submitted a previous declaration in support of this settlement on August 29, 2016 (Doc. 163-2). That Declaration is also attached hereto and incorporated fully by reference.

4. Also on August 29, 2016, my co-lead counsel Brian Strange and James Frickleton submitted declarations in support of this settlement (Doc. 163-1, 163-3). Mr. Strange has also submitted an additional contemporaneous declaration in support of this current motion. I will not

repeat all of the factual statements recited in Mr. Strange's current declaration concerning the history and the terms of the proposed settlement. All of those statements are accurate.

5. Given the tremendous size of the potential class and the issues involved, the parties believe that the distribution of the Settlement Fund to *cy pres* recipients who will agree to use the funds to promote public awareness and education and/or support research, development, and initiatives related to the security and/or privacy of Internet browsers is the best use of the settlement proceeds.

6. Google will also provide Class Counsel with assurances that Google has implemented systems configured to instruct Safari web browsers to expire any cookie placed from the doubleclick.net domain by Google if those systems encounter such a cookie, with the exception of the doubleclick opt-out cookie, until all cookies placed from the doubleclick.net domain by Google on Safari web browsers through February 15, 2012 should have expired by design.

7. On November 16, 2012, this Court appointed my prior firm as one of the lead counsel in this MDL pursuant to Rule 23(g)(3) of the Federal Rules of Civil Procedure. I have substantial experience as a lead counsel in large class actions, including, without limitation, in privacy rights cases such as this one. I have served as co-lead counsel in this case since then.

8. The Court's file (*see, e.g.*, Doc. 163-2) reflects the experience in complex civil and class action litigation that gave rise to my appointment as co-lead counsel in this case and I will not repeat it here. For example, my previous Declaration in Support of Motion for Attorneys' Fees, Expenses and Incentive Awards, filed on December 7, 2016 (Doc. 168-4) summarizes the work I have done in this case that provides the basis for my conclusion that this settlement is fair, adequate and reasonable, in the best interest of the class members, and warrants approval. My experience in numerous other class actions also supports that conclusion.

9. As described in the Declaration of Amanda Sternberg, class notice requirements in this case are satisfied. The best notice practicable under the circumstances was directed to class members. No class members, including the sole objector to the prior settlement, objected to the type or efficacy of the notice served to the class.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 3rd day of January, 2019, at Baltimore, Maryland.

/s/ Stephen G. Grygiel

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

IN RE GOOGLE INC. COOKIE
PLACEMENT CONSUMER PRIVACY
LITIGATION

) Case No. 12-MD-2358 (SLR)
)
)
)

DECLARATION OF AMANDA STERNBERG REGARDING SETTLEMENT

ADMINISTRATION

I, AMANDA STERNBERG, declare as follows:

INTRODUCTION

1. I am a Senior Project Manager for Epiq Class Action & Claims Solutions, Inc. (“Epiq”).¹
2. The following statements are based on my personal knowledge and information provided by other Epiq employees working under my supervision, and if called on to do so, I could and would testify competently about these issues.
3. A previous declaration was submitted discussing the settlement administration. Attached hereto as **Exhibit 1** is a copy of the Declaration of Stephen J. Ciriame dated December 5, 2016.
4. I submit this Supplemental Declaration in order to advise the Parties and the Court as to final Exclusion and Notification reach totals.

NOTICE

5. Pursuant to paragraph 7 of the Preliminary Approval Order, Epiq designed and conducted a nationwide publication website-based notice program using banner notices targeted to Apple Safari and Microsoft Internet Explorer web browser users in English and Spanish with a link to the Long-Form Notice. For a period of (6) six weeks, beginning on September 12, 2016, and continuing until October 24, 2016, the notice of the proposed settlement was disseminated to potential members of the Class via online advertisements on the Audience Network and Pulpo

¹ Garden City Group, LLC was acquired by Epiq on June 15, 2018 and is now continuing operations as part of Epiq.

Media networks, as well as through targeted social media advertising on Facebook. A total of 275,361,445 impressions were served by the banner advertisements during this time period.

6. The Audience Network covers over 84% of the total U.S. internet population including websites from comScore's top 1,000 websites ranked by page views/traffic. Advertising has the opportunity to run on over 3 million websites including AOL.com, ABCFamily.go.com, CafeMom.com, FoodNetwork.com, MSN.com, WSJ.com, Weather.com, People.com, BHG.com, Pandora.com, ABCNews.go.com, AllYou.com, Prevention.com and Shape.com, among others.

7. Pulpo Media is a bi-language network including thousands of Spanish language websites. Pulpo Media is ranked by comScore Media Metrix as #1 in Hispanic Reach based on its Hispanic Ad Focus Hispanic Ad Focus (#1 Spanish Dominant, Bilingual, and English dominant Hispanics respectively). Ads may appear on such sites as Espanol.Weather.com, Hoy.es, and Univision.com, among others.

8. Facebook is the number one social networking site on the web with over 1.55 billion monthly active users worldwide and over 1 billion people logging in daily.

9. Epiq also published the Summary Notice in the October 17, 2016 issue of *People* Magazine, appearing on page 57. *People* is a national weekly magazine with broad circulation of 3.5 million and a readership of over 42 million. The Summary Notice contained the material terms of the Settlement to potential Class Members, including the relief provided under the Settlement, the date, time, and place of the fairness hearing, the procedures and deadlines for opting-out of the Settlement or submitting objections to the Settlement, and an explanation that Class Members would be bound by any final judgement in this case if they did not opt-out of the Settlement.

SETTLEMENT WEBSITE

10. Pursuant to paragraph 7 of the Preliminary Approval Order, Epiq designed and made public on September 12, 2016, a Settlement Website, <http://cases.gcginc.com/ggl>, which contained the Long-Form Notice. The Long-Form Notice contained the material terms of the Settlement to potential Class Members, including the relief provided under the Settlement, the date, time, and place of the fairness hearing, the procedures and deadlines for opting-out of the Settlement or submitting objections to the Settlement, and an explanation that Class Members would be bound by any final judgement in this case if they did not opt-out of the Settlement. Through this Settlement Website, Class Members were able to download the Request For Exclusion Form. As of December 30, 2019, the Settlement Website has received 568,891 visits.

EXCLUSIONS

11. Pursuant to Sections 8.1-8.3 of the Agreement, any Class Member may have sought to be excluded from the Settlement by submitting to the Settlement Administrator the Request for Exclusion Form postmarked by November 27, 2016. As of December 30, 2019, Epiq received 50 timely requests for exclusion and 11 untimely requests (the latest received exclusion request was dated February 10, 2017). A list of all persons who have submitted a request for exclusion is attached hereto as **Exhibit 2**.

OBJECTIONS

12. Pursuant to Sections 9.1-9.4 of the Agreement, any Class Member who wished to object to the Settlement had to file their reasons for objecting with the Clerk of the Court, Counsel, and the Settlement Administrator on or before December 21, 2016. As of December 30, 2019, Epiq has not received any objections.

CLASS COMMUNICATION

13. Epiq received limited communications with Class Members aside from processing mailed Request for Exclusion Forms, however Epiq did receive a phone call from a Class Member interested in knowing which charities were to benefit from the Settlement and whether they would could suggest a charity to be a beneficiary.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 30th day of December, 2019 in Seattle, Washington.


AMANDA STERNBERG

EXHIBIT 1

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

IN RE GOOGLE INC. COOKIE
PLACEMENT CONSUMER PRIVACY
LITIGATION

) Case No. 12-MD-2358 (SLR)
)
)
)

**DECLARATION OF STEPHEN J. CIRAMI
REGARDING SETTLEMENT ADMINISTRATION**

I, STEPHEN J. CIRAMI, declare as follows:

INTRODUCTION

1. I am the Executive Vice President and Chief Operating Officer of the Garden City Group, LLC (“GCG”). Over the past 13 years at GCG, I have handled a wide range of historic complex legal administrations, including mass tort settlements, human rights administrations, product liability settlements, antitrust matters, DOJ disgorgements, SEC Fair Funds, and ERISA, wage and hour, and insurance-related matters. I have particular expertise identifying solutions for cases involving high volume and inaccurate or dated data, and those requiring specialized class member identification demands.

2. The following statements are based on my personal knowledge and information provided by other GCG employees working under my supervision, and if called on to do so, I could and would testify competently about these issues.

3. GCG was retained as the Settlement Administrator pursuant to Section 2.29 of the Settlement Agreement and Release (the “Agreement”)¹, which the Court preliminarily approved in its Order Granting Motion for Preliminary Approval of Class Action Settlement dated August 31, 2016 (“Preliminary Approval Order”).

¹ Unless otherwise defined herein, all capitalized terms shall have the same meaning as set forth in the Agreement.

4. I submit this Declaration in order to advise the Parties and the Court as to compliance with the notice procedures as set forth in the Agreement and Preliminary Approval Order.

CAFA NOTICE

5. Pursuant to Section 7.4 of the Agreement, notice of the proposed settlement pursuant to the Class Action Fairness Act 28 U.S.C. §1715(b) (“CAFA Notice”) was to be sent within ten days of the Preliminary Approval Motion. On September 8, 2016, GCG served CAFA Notice and an accompanying CD containing the documents specified by 28 U.S.C. §1715(b)(1)-(8) to the Attorney General of the United States and to the state Attorney Generals identified in the Service List for the CAFA Notice. Attached hereto as **Exhibit A** is a copy of the CAFA Notice cover letter and Service List. GCG sent the CAFA Notice cover letter and accompanying CD by Federal Express overnight delivery service and confirmed delivery for each addressee. The delivery confirmation sheet is attached hereto as **Exhibit B**.

ONLINE PUBLICATION NOTICE

6. Pursuant to paragraph 7 of the Preliminary Approval Order, GCG designed and conducted a nationwide publication website-based notice program using banner notices targeted to Apple Safari and Microsoft Internet Explorer web browser users in English and Spanish with a link to the Long-Form Notice. For a period of (6) six weeks, beginning on September 12, 2016, and continuing until October 24, 2016, the notice of the proposed settlement was disseminated to potential members of the Class via online advertisements on the Audience Network and Pulpo Media networks, as well as through targeted social media advertising on Facebook. A total of 275,361,445 impressions were served by the banner advertisements during this time period. Screenshots of the banner advertisements as they appeared are attached hereto as **Exhibit C**.

7. The Audience Network covers over 84% of the total U.S. internet population including websites from comScore's top 1,000 websites ranked by page views/traffic. Advertising has the opportunity to run on over 3 million websites including AOL.com, ABCFamily.go.com, CafeMom.com, FoodNetwork.com, MSN.com, WSJ.com, Weather.com, People.com, BHG.com, Pandora.com, ABCNews.go.com, AllYou.com, Prevention.com and Shape.com, among others.

8. Pulpo Media is a bi-language network including thousands of Spanish language websites. Pulpo Media is ranked by comScore Media Metrix as #1 in Hispanic Reach based on its Hispanic Ad Focus Hispanic Ad Focus (#1 Spanish Dominant, Bilingual, and English dominant

Hispanics respectively). Ads may appear on such sites as Espanol.Weather.com, Hoy.es, and Univision.com, among others.

9. Facebook is the number one social networking site on the web with over 1.55 billion monthly active users worldwide and over 1 billion people logging in daily.

PRINT PUBLICATION NOTICE

10. Pursuant to paragraph 7 of the Preliminary Approval Order, GCG published the Summary Notice in the October 17, 2016 issue of *People* Magazine, appearing on page 57. *People* is a national weekly magazine with broad circulation of 3.5 million and a readership of over 42 million. The Summary Notice contained the material terms of the Settlement to potential Class Members, including the relief provided under the Settlement, the date, time, and place of the fairness hearing, the procedures and deadlines for opting-out of the Settlement or submitting objections to the Settlement, and an explanation that Class Members would be bound by any final judgement in this case if they did not opt-out of the Settlement. A copy the *People* Magazine cover and the Summary Notice included therein are attached hereto as **Exhibit D**.

SETTLEMENT WEBSITE

11. Pursuant to paragraph 7 of the Preliminary Approval Order, GCG designed and made public on September 12, 2016, a Settlement Website, <http://cases.gcginc.com/ggl>, which contained the Long-Form Notice. The Long-Form Notice contained the material terms of the Settlement to potential Class Members, including the relief provided under the Settlement, the date, time, and place of the fairness hearing, the procedures and deadlines for opting-out of the Settlement or submitting objections to the Settlement, and an explanation that Class Members would be bound by any final judgement in this case if they did not opt-out of the Settlement. A copy of the Long-Form Notice is attached hereto as **Exhibit E**. Through this Settlement Website, Class Members were also able to download the Request For Exclusion Form, attached hereto as **Exhibit F**. As of December 4, 2016, the Settlement Website has received 44,415 visits.

EXCLUSIONS

12. Pursuant to Sections 8.1-8.3 of the Agreement, any Class Member may have sought to be excluded from the Settlement by submitting to the Settlement Administrator the Request for Exclusion Form, (see Exhibit F), postmarked by November 27, 2016. As of December 4, 2016, GCG has received 50 timely requests for exclusion and 1 (one) untimely


request. A list of all persons who have submitted a request for exclusion is attached hereto as **Exhibit G**.

OBJECTIONS

13. Pursuant to Sections 9.1-9.4 of the Agreement, any Class Member who wishes to object to the Settlement has to file their reasons for objecting with the Clerk of the Court, Counsel, and the Settlement Administrator on or before December 21, 2016. Any objection must state the Class Member's full name, address, telephone number, information demonstrating that the Class Member is entitled to be included as a member of the Class, and reasons for his or her objection. As of December 4, 2016, GCG has not received any objections.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 5th day of December, 2016 in New York, New York.



STEPHEN J. CIRAMI

EXHIBIT A



888-404-8013 | gardencitygroup.com
1531 Utah Avenue S., Suite 600, Seattle, WA 98134

September 8, 2016.

VIA FEDERAL EXPRESS

United States Attorney General
And State Officials Identified
in the Attached Exhibit A

Re: CAFA Notice of Proposed Class Action Settlement
In re Google Inc. Cookie Placement Consumer Privacy Litigation
Case No. 12-md-2358 (SLR)

Dear Sir or Madam:

In compliance with the Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. § 1715, the Garden City Group, LLC ("GCG") on behalf of Defendant Google Inc., provides this notice relating to the proposed settlement of the lawsuit entitled *In re Google Inc. Cookie Placement Consumer Privacy Litigation*, United States District Court for the District of Delaware, Case No. 12-MD-2358 (SLR).

On August 29, 2016, the Plaintiff's Motion for Preliminary Approval of Class Action Settlement; Brief in Support was filed with the Court. The Court issued its Order Granting Motion for Preliminary Approval of Class Action Settlement on August 31, 2016. The Final Approval Hearing is currently scheduled for January 11, 2017 at 1:00 p.m.

In accordance with CAFA, please find enclosed a CD containing copies of the following documents:

1. Consolidated Class Action Complaint (Docket 46);
2. Defendant Google Inc.'s Answer to the Consolidated Amended Complaint (Docket 154);
3. Consolidated Amended Class Action Complaint (Docket 162);
4. Plaintiff's Motion for Preliminary Approval of Class Action Settlement; Brief in Support (Docket 163);
 - a. Declaration of Brian R. Strange in Support of Motion for Preliminary Approval of Class Action Settlement (Docket 163-1) including Exhibits;



- b. Declaration of Stephen G. Grygiel in Support of Motion for Preliminary Approval of Class Action Settlement (Docket 163-2);
- c. Declaration of James P. Frickleton in Support of Motion for Preliminary Approval of Class Action Settlement (163-3);
- d. Declaration of Stephen J. Cirami Regarding Notice and Settlement Administration (Docket 163-4);
- e. [Proposed] Order Granting Preliminary Approval of Class Action Settlement (Docket 163-5);

5. Order Granting Preliminary Approval of Class Action Settlement (Docket 164)

These documents are also available online via the federal Public Access to Court Electronic Records ("PACER") system, available at <http://www.pacer.gov/>.

It is not feasible at this time to provide the names of class members who reside in each State or a reasonably accurate estimate of the proportionate share of the claims of such members to the entire settlement. A settlement class member is anyone in the United States of America who used the Apple Safari or Microsoft Internet Explorer web browsers and who visited a website from which Doubleclick.net (Google's advertising serving service) cookies were placed by the means alleged in the Complaint.

Defendant is represented by Michael H. Rubin and Anthony J Weibell of Wilson Sonsini Goodrich & Rosati. Please feel free to contact Mr. Rubin or Mr. Weibell directly at Wilson Sonsini Goodrich & Rosati, 650 Page Mill Road, Palo Alto, CA 94304 with any questions.

Best regards,

Robert Jindra
Assistant Director, Operations
GCG
1531 Utah Ave South, Suite 600
Seattle, WA 98134
1-888-404-8013

Enclosures

cc: Counsel for Defendants
Class Counsel

US Attorney General
US Department of Justice
950 Pennsylvania Ave NW
Washington, DC 20530

Attorney General for Alaska
1031 W. 4th Avenue
Suite 200
Anchorage, AK 99501

Attorney General for Alabama
501 Washington Avenue
Montgomery, AL 36104

Attorney General for Arkansas
323 Center St., Suite 200
Little Rock, AR 72201

Attorney General for Arizona
1275 W. Washington St.
Phoenix, AZ 85007

CAFA Coordinator
Office of the Attorney General
Consumer Law Section
455 Golden Gate Ave., Suite 11000
San Francisco, CA 94102

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Ralph L. Carr Judicial Building
1300 Broadway, 10th Fl
Denver, CO 80203

Attorney General for Connecticut
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Hartford, CT 06106

Attorney General for DC
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Washington, DC 20001

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Wilmington, DE 19801

Attorney General for Florida
The Capitol PL-01
Tallahassee, FL 32399

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Honolulu, HI 96813

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Hoover State Office Building
Des Moines, IA 50319

Attorney General for Idaho
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Attorney General for Illinois
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Springfield, IL 62706

Attorney General for Indiana
Indiana Government Center South
302 W. Washington St, 5th Floor
Indianapolis, IN 46204

Attorney General for Kansas
120 SW 10th Ave., 2nd Fl.
Topeka, KS 66612

Attorney General for Kentucky
700 Capitol Avenue
Suite 118
Frankfort, KY 40601

Attorney General for Louisiana
1885 North 3rd St., 6th Floor
Baton Rouge, LA 70802

Office of Massachusetts
Attorney General
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Boston, MA 02108

Attorney General for Maryland
200 St. Paul Pl.
Baltimore, MD 21202

Attorney General for Maine
6 State House Station
Augusta, ME 04333

Attorney General for Michigan
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525 W. Ottawa St.
Lansing, MI 48909

Attorney General for Minnesota
1400 Bremer Tower
445 Minnesota St.
St. Paul, MN 55101

Attorney General for Missouri
Supreme Court Building
207 W High St.
Jefferson City, MO 65101

Attorney General for Mississippi
Walter Sillers Bldg.
550 High St., Ste. 1200
Jackson, MS 39201

Attorney General for Montana
Justice Building, 3rd Fl.
215 North Sanders
Helena, MT 59601

Attorney General for North Carolina
114 West Edenton Street
Raleigh, NC 27603

Attorney General for North Dakota
State Capitol
600 E. Blvd. Ave., Dept. 125
Bismarck, ND 58505

Attorney General for Nebraska
2115 State Capitol
Lincoln, NE 68509

Attorney General for New Hampshire
33 Capitol St.
Concord, NH 03301

Attorney General for New Jersey
HJC, 8th Floor, West Wing
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Trenton, NJ 08625

Attorney General for New Mexico
408 Galisteo St.
Villagra Bldg.
Santa Fe, NM 87501

Attorney General for Nevada
100 N. Carson St.
Carson City, NV 89701

Attorney General for New York
The Capitol
Albany, NY 12224

Attorney General for Ohio
30 E. Broad St., 14th Floor
Columbus, OH 43215

Attorney General for Oklahoma
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Oklahoma City, OK 73105

Attorney General for Oregon
Oregon Department of Justice
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Salem, OR 97301

Attorney General for Pennsylvania
16th Floor, Strawberry Square
Harrisburg, PA 17120

Attorney General for Rhode Island
150 S. Main St.
Providence, RI 02903

Attorney General for South Carolina
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Columbia, SC 29201

Attorney General for South Dakota
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Pierre, SD 57501

Attorney General for Tennessee
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Nashville, TN 37243

Attorney General for Texas
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Austin, TX 78701

Attorney General for Utah
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Salt Lake City, UT 84114

Attorney General for Virginia
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Richmond, VA 23219

Attorney General for Vermont
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Attorney General for Washington
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Attorney General for Wisconsin
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Attorney General for West Virginia
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Federated States of Micronesia
PO Box PS 105, Palikir
Pohnpei, FM 96941

Attorney General for the
Republic of the Marshall Islands
PO Box 890
Majuro, MH 96960

EXHIBIT B

Carrier	Tracking No. or Nickname	Shipper city, state	Ship (P/U) date	Status	Recipient city, state	Delivery date	Signature image
FedEx	682222383067	Seattle, WA	9/8/2016	Delivered	Washington, DC	9/9/2016 9:56	YES
FedEx	682222383078	Seattle, WA	9/8/2016	Delivered	Anchorage, AK	9/9/2016 10:23	YES
FedEx	682222383089	Seattle, WA	9/8/2016	Delivered	Montgomery, AL	9/9/2016 9:51	YES
FedEx	682222383090	Seattle, WA	9/8/2016	Delivered	Little Rock, AR	9/9/2016 10:00	YES
FedEx	682222383104	Seattle, WA	9/8/2016	Delivered	Phoenix, AZ	9/9/2016 10:04	YES
FedEx	682222383115	Seattle, WA	9/8/2016	Delivered	San Francisco, CA	9/9/2016 9:31	YES
FedEx	682222383126	Seattle, WA	9/8/2016	Delivered	Denver, CO	9/9/2016 10:21	YES
FedEx	682222383137	Seattle, WA	9/8/2016	Delivered	Hartford, CT	9/9/2016 9:37	YES
FedEx	682222383148	Seattle, WA	9/8/2016	Delivered	Washington, DC	9/9/2016 9:11	YES
FedEx	682222383159	Seattle, WA	9/8/2016	Delivered	Wilmington, DE	9/9/2016 13:55	YES
FedEx	682222383160	Seattle, WA	9/8/2016	Delivered	Tallahassee, FL	9/9/2016 9:22	YES
FedEx	682222383170	Seattle, WA	9/8/2016	Delivered	Atlanta, GA	9/9/2016 8:48	YES
FedEx	682222383181	Seattle, WA	9/8/2016	Delivered	Honolulu, HI	9/9/2016 11:56	YES
FedEx	682222383192	Seattle, WA	9/8/2016	Delivered	Des Moines, IA	9/9/2016 11:43	YES
FedEx	682222383207	Seattle, WA	9/8/2016	Delivered	Boise, ID	9/9/2016 10:15	YES
FedEx	682222383218	Seattle, WA	9/8/2016	Delivered	Springfield, IL	9/9/2016 9:22	YES
FedEx	682222383229	Seattle, WA	9/8/2016	Delivered	Indianapolis, IN	9/9/2016 10:10	YES
FedEx	682222383230	Seattle, WA	9/8/2016	Delivered	Topeka, KS	9/9/2016 9:12	YES
FedEx	682222383240	Seattle, WA	9/8/2016	Delivered	Frankfort, KY	9/9/2016 11:00	YES
FedEx	682222383251	Seattle, WA	9/8/2016	Delivered	Baton Rouge, LA	9/9/2016 11:28	YES
FedEx	682222383262	Seattle, WA	9/8/2016	Delivered	Boston, MA	9/9/2016 10:30	YES
FedEx	682222383273	Seattle, WA	9/8/2016	Delivered	Baltimore, MD	9/9/2016 13:51	YES
FedEx	682222383284	Seattle, WA	9/8/2016	Delivered	Augusta, ME	9/9/2016 10:05	YES
FedEx	682222383295	Seattle, WA	9/8/2016	Delivered	Lansing, MI	9/9/2016 10:02	YES
FedEx	682222383300	Seattle, WA	9/8/2016	Delivered	St. Paul, MN	9/9/2016 9:08	YES
FedEx	682222383310	Seattle, WA	9/8/2016	Delivered	Jefferson City, MO	9/9/2016 9:32	YES
FedEx	682222383321	Seattle, WA	9/8/2016	Delivered	Jackson, MS	9/9/2016 8:51	YES
FedEx	682222383332	Seattle, WA	9/8/2016	Delivered	Helena, MT	9/9/2016 10:57	YES
FedEx	682222383343	Seattle, WA	9/8/2016	Delivered	Raleigh, NC	9/9/2016 9:55	YES
FedEx	682222383354	Seattle, WA	9/8/2016	Delivered	Bismarck, ND	9/9/2016 10:46	YES
FedEx	682222383365	Seattle, WA	9/8/2016	Delivered	Lincoln, NE	9/9/2016 8:41	YES
FedEx	682222383376	Seattle, WA	9/8/2016	Delivered	Concord, NH	9/9/2016 10:04	YES
FedEx	682222383387	Seattle, WA	9/8/2016	Delivered	Trenton, NJ	9/9/2016 10:08	YES

Carrier	Tracking No. or Nickname	Shipper city, state	Ship (P/U) date	Status	Recipient city, state	Delivery date	Signature image
FedEx	682222383398	Seattle, WA	9/8/2016	Delivered	Santa Fe, NM	9/9/2016 10:01	YES
FedEx	682222383402	Seattle, WA	9/8/2016	Delivered	Carson City, NV	9/9/2016 9:48	YES
FedEx	682222383413	Seattle, WA	9/8/2016	Delivered	Albany, NY	9/9/2016 9:29	YES
FedEx	682222383424	Seattle, WA	9/8/2016	Delivered	Columbus, OH	9/9/2016 10:27	YES
FedEx	682222383435	Seattle, WA	9/8/2016	Delivered	Oklahoma City, OK	9/9/2016 9:36	YES
FedEx	682222383446	Seattle, WA	9/8/2016	Delivered	Salem, OR	9/9/2016 9:10	YES
FedEx	682222383457	Seattle, WA	9/8/2016	Delivered	Harrisburg, PA	9/9/2016 9:48	YES
FedEx	682222383468	Seattle, WA	9/8/2016	Delivered	Providence, RI	9/9/2016 9:23	YES
FedEx	682222383479	Seattle, WA	9/8/2016	Delivered	Columbia, SC	9/9/2016 8:52	YES
FedEx	682222383480	Seattle, WA	9/8/2016	Delivered	Pierre, SD	9/9/2016 10:09	YES
FedEx	682222383490	Seattle, WA	9/8/2016	Delivered	Nashville, TN	9/9/2016 11:59	YES
FedEx	682222383505	Seattle, WA	9/8/2016	Delivered	Austin, TX	9/9/2016 9:48	YES
FedEx	682222383516	Seattle, WA	9/8/2016	Delivered	Salt Lake City, UT	9/9/2016 10:12	YES
FedEx	682222383527	Seattle, WA	9/8/2016	Delivered	Richmond, VA	9/9/2016 9:39	YES
FedEx	682222383538	Seattle, WA	9/8/2016	Delivered	Montpelier, VT	9/9/2016 10:04	YES
FedEx	682222383549	Seattle, WA	9/8/2016	Delivered	Olympia, WA	9/9/2016 10:47	YES
FedEx	682222383550	Seattle, WA	9/8/2016	Delivered	Madison, WI	9/9/2016 9:51	YES
FedEx	682222383560	Seattle, WA	9/8/2016	Delivered	Charleston, WV	9/9/2016 9:10	YES
FedEx	682222383571	Seattle, WA	9/8/2016	Delivered	Cheyenne, WY	9/9/2016 9:58	YES
FedEx	682222383582	SEATTLE, WA	9/8/2016	Delivered	PAGO PAGO	9/19/2016 12:54	NO
FedEx	682222383593	SEATTLE, WA	9/8/2016	Delivered	TAMUNING, GU	9/12/2016 8:39	YES
FedEx	682222383608	SEATTLE, WA	9/8/2016	Delivered	SAN JUAN, PR	9/9/2016 13:58	NO
FedEx	682222383619	SEATTLE, WA	9/8/2016	Delivered	ST. THOMAS	9/9/2016 13:32	YES
USPS	9470112699350005623923	SEATTLE, WA	9/9/2016	Delivered	Saipan, MP	9/16/2016	NO
USPS	9470112699350005623947	SEATTLE, WA	9/10/2016	Delivered	Koror, PW	9/19/2016	NO
USPS	9470112699350005623916	SEATTLE, WA	9/11/2016	Delivered	Pohnpei, FM	9/13/2016	NO
USPS	9470112699350005623930	SEATTLE, WA	9/12/2016	Delivered	Majuro, MH	9/14/2016	NO

EXHIBIT C

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US Markets open in 3 hrs and 56 mins

Yahoo! Finance

Finance HomeYahoo OriginalsPersonal FinanceTechMarket DataIndustry NewsMy Portfolio

S&P Futures
2,137.75
-14.25 (-0.66%)

Dow Futures
18,127.00
-119.00 (-0.65%)

Nasdaq Futures
4,732.25
-31.50 (-0.66%)

TRADE FOR \$7.95
SPX
Fidelity

EXTRADE
ADAPTIVE PORTFOLIO

Scottrade
Quality for \$600
& 30 Free Trades
Investment Apply

Ametrade
NO
HIDDEN FEES

Trending Tickers

Symbol

Last Price

Market Time

Change

% Change

Volume

Avg Vol (3 month)

Intraday High/Low

52 Week Range

Day Chart

Market Cap

^BVSP

BOVESPA

58,586.11

5:19PM BRT

586.39

1.01%

3.446M

3.446M

57,511.17

58,595.09

37,046.00

60,310.00

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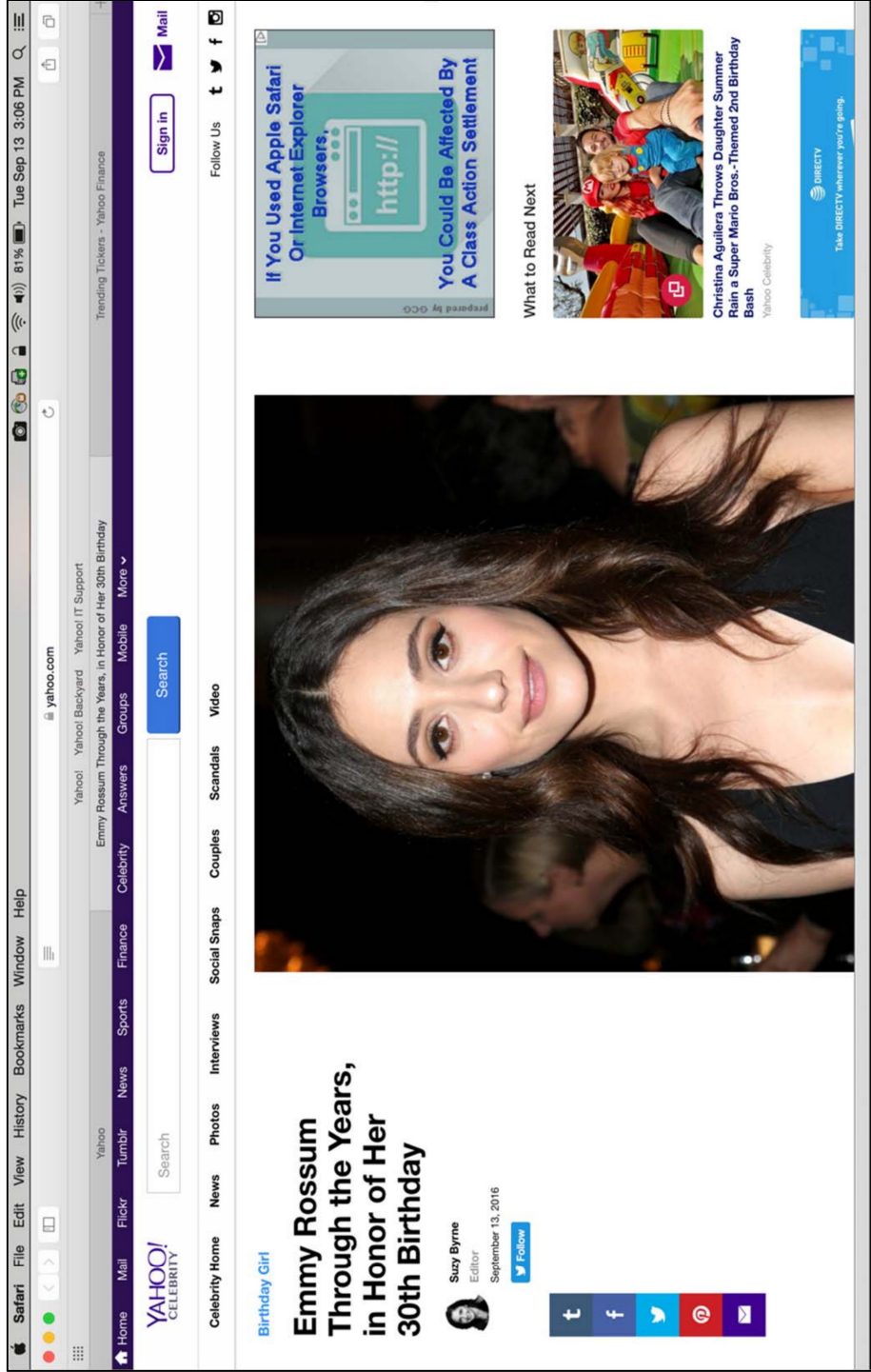
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Google Class Action

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If you used Safari or IE web browsers, a class action settlement could affect you

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AN ENTRAVISION COMPANY

PULPO MEDIA DISPLAY

Placement: Desktop

Banner Size: 728x90

ScreenShot URL: <https://www.terra.com/>

ScreenShot date: 9/12/2016

The screenshot displays the Terra website homepage. At the top, there is an orange navigation bar with a 'MENÚ' button, a search bar labeled 'buscar', the 'terra' logo, and social media icons. Below the navigation bar, a grey banner contains a legal notice in Spanish: 'Si usted utilizó los navegadores de Internet Apple Safari o Internet Explorer, usted podría verse afectado por una acción judicial colectiva'. Below this, a row of sports scores is shown: SUN 0 x 0 EVT (Premier League - 15h00), EMP 1 x 1 CRO (Calcio Serie A - Liga Italiana - 14h45), and FEI 1 x 0 TON (Liga Portuguesa - 15h00). A '4 eventos en vivo' indicator is also present. Below the sports scores, a horizontal menu lists categories: AUTOS, DEPORTES, ENTRETENIMIENTO, FUTBOL, HORÓSCOPO, NOTICIAS, TERRA TV, and VIDA Y ESTILO. The main content area features three news articles: 1. 'Fifty Shades Darker': Anastasia Steele protagoniza primer póster (10 min). 2. Diagnóstico de pulmonía siembra dudas de la salud de Clinton (6h). 3. El último adiós de las estrellas a Alexis Arquette (31 min). To the right of these articles is a large advertisement for a Honda pickup truck with the text 'ES MUY CERQUITA. DIJERON.'



AN ENTRAVISION COMPANY

PULPO MEDIA DISPLAY

Placement: Desktop

Banner Size: 300x250

ScreenShot URL: <http://www.publimetro.co/entretenimiento/>

ScreenShot date: 09/12/2016

The screenshot displays the Publimetro website interface. At the top, there is a green header with the 'publimetro' logo and a navigation bar with links to Home, Noticias, Economía, Deportes, Entretenimiento, Estilo de Vida, Nueva Mujer, Publimetro TV, Opinión, and Virales. A large banner at the top right promotes a settlement for Cipro in California, with a 'Complete El Formulario' button and the website 'www.CiproSettlement.com'. Below the navigation bar, the 'ENTRETENIMIENTO' section is highlighted. The main article features a photo of Edna Márquez and the headline '¿Qué ha pasado con Edna Márquez, exprotagonista de Novela?'. The text below the headline mentions her participation in the reality show 'Protagonistas de Novela 2002'. To the right of the article, there is a 'BUSCADOR' (Search) box and two advertisements: one for a legal action against Apple Safari and Internet Explorer, and another for Adidas Men's Superstar Circular Knit shoes.

publimetro

Lunes 12 de Septiembre de 2016

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Home > Entretenimiento

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Buscador

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If You Used Apple Safari Or Internet Explorer Browsers,
You Could Be Affected By A Class Action Settlement

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Emmy Awards

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75°F

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Sunny

See Hourly

TODAY
SEP 12



72°


Hi

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Low clouds followed by sun

More

TONIGHT
SEP 12



59°


Lo

RealFeel® 59*

Becoming cloudy, late mist

More

TOMORROW
SEP 13



70°

Hi

RealFeel® 76*

Morning mist; clouds breaking

More

Trending Now

WATCH: Tornado rips through Illinois

VIRAL: Koala interrupts soccer game as crowd cheers it on

If You Used Apple Safari Or Internet Explorer Browsers, You Could Be Affected By A Class Action Settlement

Prepared by GCG

Video Weather Forecast

Westlake Village Radar

EXHIBIT D

The Garden City Group Legal Notice – PEOPLE's 10/17 Issue



United States Postal Service

2016 Statement of Ownership, Management and Circulation

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20. General Manager: Adam Carlin
21. Editor: Adam Carlin
22. Publisher: Adam Carlin
23. Owner: Time Inc. Intellectual Property, LLC
24. New Address: 125 Liberty St., 11th Floor, New York, NY 10038

If You Used Apple Safari Or Internet Explorer Browsers, You Could Be Affected By A Class Action Settlement.

What Is This Lawsuit About?

A class action settlement has been reached in *Re: Google Inc. Cookie Placement Consumer Privacy Litigation*, Case No. 12-md-2358 (S.D.). Plaintiffs allege that, in violation of federal and state laws, Google placed third-party tracking cookies and other cookies on its users' devices without their consent, thereby circumventing browser settings that were set to block such cookies. Google denies all allegations of wrongdoing.

The Settlement Agreement provides for substantial injunctive relief for Settlement Class Members, including assurances from Google regarding its remediation efforts. Google has also agreed to pay \$5.5 million to be distributed to various non-profit or public awareness, research, and initiatives related to the security or privacy of Internet browsers.

Are You Affected?

If you used a Safari or Internet Explorer browser in 2011-2012 with the browser cookie settings set, by default or by choice, either to accept only cookies from "visited" sites or to block cookies from "third parties and advertisers," and you visited a Google website, you may be affected by the Settlement. If you think that Google's advertising practices may have affected you, please visit doubleclick.net was placed on your browser as a result of that visit, you may be a Class Member.

What Are Your Rights And Options

A Class Member may request exclusion by sending a completed "Request for Exclusion" form to the Administrator postmarked by November 27, 2016. If you submit a timely Request for Exclusion you shall not be affected by the Settlement. Class Members who do not request exclusion will be bound by its terms and will receive any and all claims.

If you wish to comment or object to settling to any aspect of the proposed Settlement or to Class Counsel's fees and attorneys' fees and expenses or incentive awards, you may do so by filing your comments or objections with the Court and sending them to the U.S. Mail or email to the Parties no later than December 21, 2016.

When Is The Fairness Hearing?

The Court has scheduled a hearing at 1:00 pm on January 11, 2017, in the Courtroom of the Honorable Sue L. Robinson, U.S. District Court for the District of Maryland, 4124, Unit 31, Wilmington, DE 19801-3568. At this hearing, the Court will consider if the Settlement should be granted final approval and if Class Counsel's fees and expenses and incentive awards and attorneys' fees and expenses should be approved. Although you may attend the hearing or send your own attorney at your own expense, you are not required to do so.

Where Can I Get More Information?

This notice is a summary only. If you need further information, please view the Long Form Notice at <http://cases.gccinc.com/ggl> or please contact Class Counsel, Brian R. Strang, Strategic Strategic & Associates, LLP, 12100 Wilshire Blvd., Suite 200, Beverly Hills, CA 90230, or Steven Silverman, Thompson Shattin White, 201 N. Charles Street, 26th Floor, Baltimore, MD 21201, and/or James P. Friedman, Bartimus, Friedman, and Robertson, P.C., 11150 Overbrook Road, Suite 200, Lanewood, KS 66111.

PLEASE DO NOT CONTACT THE COURT.

<http://cases.gccinc.com/ggl>

EXHIBIT E

NOTICE OF CLASS ACTION SETTLEMENT

In re Google Inc. Cookie Placement Consumer Privacy Litigation,

12-MD-2358 (SLR)

United States District Court, District of Delaware

IMPORTANT: THIS NOTICE IS BEING PROVIDED BY COURT ORDER. PLEASE READ THIS ENTIRE NOTICE CAREFULLY. A SETTLEMENT REACHED WITH DEFENDANT GOOGLE INC. (“GOOGLE”) IN A PENDING CLASS ACTION LITIGATION MAY AFFECT YOUR RIGHTS.

This Notice answers the following questions:

1. Why should I read this Notice?
2. What is a class action and who is involved?
3. What is the lawsuit about?
4. Who are the members of the Settlement Class?
5. What are the terms of the proposed settlement?
6. What are the important dates?
7. Who represents the Settlement Class and what are the associated attorneys’ fees and expenses?
8. What are the reasons for the settlement?
9. What claims are being released?
10. Can I exclude myself from the settlement and release?
11. What is the settlement approval procedure and how can I make my views known?
12. Where can I get additional information?

1. WHY SHOULD I READ THIS NOTICE?

Your rights may be affected by a class action lawsuit, *In re Google Inc. Cookie Placement Consumer Privacy Litigation*. It was filed by the plaintiffs in United States District Court for the District of Delaware under Case No. 12-MD-2358 (SLR).

The purpose of this Notice is to provide important information to people in the United States who may be Class Members. You may be a Class Member if in 2011-2012 you used a Safari or Internet Explorer web browser with the browser cookie settings set, by default or by choice, either to accept cookies only from “visited” sites or to block cookies from “third parties and advertisers,” and you visited a non-Google website that displayed ads from doubleclick.net (Google’s advertising serving service), and a cookie from doubleclick.net was placed on your browser as a result of that visit.

This notice is also to inform you that: (1) a settlement of the Class Action (the “Settlement”) with Google has been preliminarily approved by the court in Delaware; and (2) a hearing has been scheduled at 1:00 pm on January 11, 2017, in the Courtroom of the Honorable Sue L. Robinson, Judge of the United States District Court, District of Delaware. The Court is located at the J. Caleb Boggs Federal Building, 844 N. King Street, Room 4124, Unit 31, Wilmington, DE 19801-3568. The hearing is to consider the fairness and adequacy of the Settlement. The judge will also consider Class Counsel’s request for attorneys’ fees and expenses, and the incentive awards for the Representative Plaintiffs.

This settlement, if finally approved, will decide the litigation with respect to the Defendant (“Google”) only and will be subject to any appeals. The litigation will continue with respect to the Non-Settling Defendants.

2. WHAT IS A CLASS ACTION AND WHO IS INVOLVED?

In a class action lawsuit, one or more people, called “Representative Plaintiffs” or “Named Plaintiffs” sue on behalf of people who have similar claims. The people together are called the “Class” or “Class Members.” The Representative Plaintiffs, through Class Counsel, have reached the proposed Settlement with Google. The Court has allowed, or “certified,” this to proceed as a class action solely for purposes of the Settlement, and all decisions that the Court makes concerning the Settlement will affect all of the Class Members.

3. WHAT IS THE LAWSUIT ABOUT?

Named Plaintiffs (“Plaintiffs”) and other individuals filed complaints claiming that Google set cookies on Plaintiffs’ Apple Safari or Microsoft Internet Explorer web browsers. They claim this is in conflict with the default cookie settings of such browsers and in violation of federal and state laws. These complaints were consolidated and transferred to the United States District Court for the District of Delaware. On June 21, 2016, Plaintiffs filed their Amended Class Action Complaint (the “Complaint”) against Google and other parties (“Non-Settling Defendants”).

Plaintiffs allege that Google installed third-party tracking cookies when Plaintiffs and Class Members visited a website containing an advertisement placed by Google. They allege that Google circumvented Apple Safari or Microsoft Internet Explorer web browser settings that blocked such cookies. Plaintiffs allege Google used those cookies to knowingly intercept and gain access to Plaintiffs’ and Class Members’ Internet communications and activity.

Google denies all allegations of wrongdoing, but has agreed to settle the case to avoid the uncertainties, expenses, and time of further litigation. Google believes that the placement of cookies was a legitimate, lawful, and permissible activity that fostered advertising effectiveness.

Counsel for the Plaintiffs believe they have a strong case on the merits and that a class would be certified for litigation purposes. Plaintiffs are prepared to seek class certification and present evidence that Google engaged in improper conduct, and that the Settlement Class was harmed as a result. Google is likewise prepared to mount a vigorous defense on numerous important questions, including whether the claims are legally viable; whether the case is properly subject to class certification for litigation purposes; and whether the Plaintiffs or members of the Settlement Class suffered any harm even assuming the truth of the allegations as pled.

The Settlement was reached only after many detailed arms-length negotiations conducted in good faith. On August 31, 2016, the Court granted preliminary approval of the settlement and certified the Settlement Class for the purposes of settlement only. It also appointed Plaintiffs Jose M. (“Josh”) Bermudez, Nicholas Todd Heinrich, and Lynne Krause (“Plaintiffs”), as representatives of the Settlement Class, and Strange & Butler, LLP, Silverman Thompson Slutkin White, and Bartimus, Frickleton and Robertson, P.C., as Settlement Class Counsel. The Court ordered that this Notice be disseminated.

THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION BY THE COURT REGARDING THE MERITS OR LACK THEREOF OF ANY OF THE CLAIMS OR DEFENSES ASSERTED BY PLAINTIFFS OR DEFENDANT.

4. WHO ARE THE MEMBERS OF THE SETTLEMENT CLASS?

The Settlement Class consists of all persons in the United States of America who used the Apple Safari or Microsoft Internet Explorer web browsers and who visited a website from which Doubleclick.net (Google’s advertising serving service) cookies were placed by the means alleged in the Complaint. The Complaint alleges that in 2011-2012, users of Apple Safari or Microsoft Internet Explorer web browsers that were set to accept cookies only from “visited” sites or to block all cookies from “third parties and advertisers” who visited a non-Google website containing an advertisement served by Doubleclick.net (Google’s advertising serving service) and who did not already have a cookie from the Doubleclick.net domain would have received one as a result of this visit because of means employed by Google to set cookies under these circumstances.

IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS, YOU WILL BE BOUND BY THIS SETTLEMENT. YOU MAY, BUT ARE NOT REQUIRED TO, APPEAR IN PERSON AT THE SETTLEMENT FAIRNESS HEARING, OR HAVE AN ATTORNEY APPEAR ON YOUR BEHALF, AND/OR SUBMIT COMMENTS REGARDING THE FAIRNESS, ADEQUACY, AND REASONABLENESS OF THE SETTLEMENT.

IF THE SETTLEMENT IS FINALLY APPROVED BY THE COURT, THE JUDGMENT WILL BIND ALL PERSONS IN THE SETTLEMENT CLASS. THEIR CLAIMS AGAINST GOOGLE AND GOOGLE RELATED PARTIES SHALL FOREVER BE RELEASED AND DISMISSED.

5. WHAT ARE THE TERMS OF THE PROPOSED SETTLEMENT?

In exchange for the release of claims of the Settlement Class Members, the Settlement Agreement provides for substantial injunctive and prospective relief for Settlement Class Members. Among these is Google taking steps designed to expire or delete, by modifying the cookie deletion date contained in each cookie, all third-party Google cookies that exist in the Safari Browser files for Safari Browsers.¹ The parties agree that this action by Google is a practical, reasonable, and effective means of removing the cookies at issue. Google has also agreed to pay \$5.5 million into a settlement fund to be distributed to various non-profit and/or educational institutions. These institutions must agree to devote the funds to promote public

¹ This will not apply to Google “opt-out” cookies, which are cookies users can choose to accept that allow them to “opt-out” of Google’s third-party cookies themselves. Therefore, those users would not want the “opt-out” cookies to be expired or deleted.

awareness and education, and/or to support research, development, and initiatives, related to the security and/or privacy of Internet browsers.

6. WHAT ARE THE IMPORTANT DATES AND DEADLINES TO ACT?

Opt-Out Deadline: November 27, 2016
Objection Deadline: December 21, 2016
Fairness Hearing: January 11, 2017 at 1:00 pm

7. WHO REPRESENTS THE SETTLEMENT CLASS AND WHAT ARE THE ASSOCIATED ATTORNEYS' FEES AND EXPENSES?

The Court has appointed, Jose M. ("Josh") Bermudez, Nicholas Todd Heinrich, and Lynne Krause as the Settlement Class Representatives. It has appointed Strange & Butler, LLP, Silverman Thompson Slutkin White, and Bartimus, Frickleton, and Robertson, P.C. as Class Counsel for the Settlement Class.

Class Counsel have been prosecuting this litigation on a contingency fee basis (that is, without compensation) while advancing litigation expenses. In advance of the Fairness Hearing, Class Counsel will ask the Court for attorneys' fees and litigation costs/expenses in the amount of up to \$2,500,000 to be paid from the Settlement Fund. Google has agreed not to oppose this request. Class Counsel will also apply to the Court for incentive awards for the Settlement Class Representatives in the amount of up to \$1000 each, to be paid from the Settlement Fund. Google has also agreed not to oppose this motion. All such reimbursements will be subject to approval by the Court. Settlement Class Members are not personally responsible for any attorneys' fees, expenses, or incentive awards. Class counsel's attorneys' fees and expenses and Settlement Class Representatives' incentive awards are to be paid from the Settlement Fund in an amount authorized by the Court. Settlement Class Members are not personally responsible for payment of any attorney's fees, unless they hire their own attorney to represent them in this case.

8. WHAT ARE THE REASONS FOR THE SETTLEMENT?

Class Counsel have thoroughly investigated the facts and circumstances relevant to the claims at issue in the litigation. Class Counsel have also considered the expense and length of time necessary to prosecute the litigation through trial and any appeals, the uncertainties associated with the outcome of any litigation including this one, and the benefits provided by the proposed Settlement. Based upon their investigation and evaluation of the claims and defenses, Class Counsel have concluded that it is in the best interests of the Settlement Class to resolve the claims against Google on the terms outlined in this document.

9. WHAT CLAIMS ARE BEING RELEASED?

If the Settlement Agreement is approved by the Court, each Settlement Class Member will release and dismiss Google, and its past, present, and future parents, divisions, subsidiaries, partnerships, affiliates, and other related entities (whether or not they are wholly owned), together with the directors, officers, employees, agents, insurers, reinsurers and attorneys of any of them (but not including any of the other Defendants named in the Consolidated Amended Complaint, or any of their past, present and future parents, divisions, subsidiaries, partnerships, affiliates and other related entities (whether or not wholly owned), together with their directors, officers, employees, agents, insurers, reinsurers and attorneys), from any and all potential or actual matters, claims, demands, rights, liabilities, losses, obligations, duties, actions,

potential actions, and causes of action of any kind whatsoever, whether at common law, pursuant to statute, ordinance, or regulation, in equity or otherwise, which any Class Member has or might have, known or unknown, including Unknown Claims, defined below, of any kind whatsoever prior to the Effective Date and that Plaintiffs alleged or could have alleged in the Complaint against Google or that otherwise are based on or relate to, wholly or partially, the facts and circumstances Plaintiffs alleged in the Complaint's claims against Google.

Without limiting the generality of the foregoing description of Released Claims, the Class Members may hereafter discover facts in addition to or different from those that any of them now knows or believes to be true with respect to the facts, circumstances and import of Plaintiffs' Complaint's claims against Google. However, the Class Members fully, finally, and forever settle and release any and all claims set forth in this Paragraph, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, that now exist, or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, reckless, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts. The Class Members acknowledge that the inclusion of such "Unknown Claims" in the Agreement was separately bargained for and was a key element of the Agreement.

By the definition of Released Claims set forth above, the Class Members hereby intend expressly to waive the provisions, rights, and benefits of any state law or rule that seeks to or does preserve known or unknown claims that would otherwise be released by this Settlement Agreement, including California Civil Code § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

The Named Plaintiffs and Class Members expressly waive any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or of any other nation that is similar, comparable, or equivalent to California Civil Code § 1542.

10. CAN I EXCLUDE MYSELF FROM THE SETTLEMENT AND RELEASE?

A Class Member may request exclusion from the Class up until the Opt-Out Deadline (see Paragraph 6 above). To request exclusion, the Class Member must complete, sign, and mail the "Request for Exclusion" form attached to this notice to the Settlement Administrator. The Request for Exclusion must be signed by the Class Member seeking exclusion under penalty of perjury. The Request for Exclusion must be postmarked on or before the Opt-Out Deadline. Any Person who submits a valid and timely Request for Exclusion shall not be entitled to relief under, and shall not be affected by, the settlement or any relief provided by the settlement. The parties to the settlement will have the right to challenge the timeliness and validity of any Request for Exclusion, in which case the Court will determine whether any contested exclusion request is valid. Class Members that do not follow the steps to be excluded from the settlement will be bound by the settlement and will release any and all claims as set forth in Paragraph 9, above.

11. WHAT IS THE SETTLEMENT APPROVAL PROCEDURE AND HOW CAN I MAKE MY VIEWS KNOWN?

The Court has scheduled a hearing at 1:00 pm on January 11, 2017, in the Courtroom of the Honorable Sue L. Robinson, Judge of the United States District Court, District of Delaware. The Court is located at J. Caleb Boggs Federal Building, 844 N. King Street, Room 4124, Unit 31, Wilmington, DE 19801-3568.

At this hearing, the Court will consider, among other matters, whether the Settlement should be granted final approval as fair, adequate and reasonable, and in the best interests of Settlement Class Members. It will also consider Class Counsel's application for attorneys' fees and expenses and incentive awards for the Representative Plaintiffs. Although you may attend the hearing in person or through your own attorney at your own expense, you are not required to do so. If you wish to comment in writing in support or in opposition to any aspect of the proposed Settlement or to Class Counsel's request for attorneys' fees and expenses or incentive awards for the Representative Plaintiffs, you may do so by filing your written comments or objections with the Court. Send them by U.S. Mail or email (including ECF service) to (1) Brian R. Strange, Strange & Butler, LLP, 12100 Wilshire Blvd., Ste. 1900, Los Angeles, CA 90025; Stephen G. Grygiel, Silverman Thompson Slutkin White, 201 N. Charles Street, 26th Floor, Baltimore, MD 21201; and/or James P. Frickleton, Bartimus, Frickleton, and Robertson, P.C., 11150 Overbrook Road, Suite 200, Leawood, KS 66211, and (2) Michael Rubin, Wilson Sonsini Goodrich & Rosati, One Market Plaza, Spear Tower, Suite 3300, San Francisco, CA 94105. They must be postmarked, faxed, or delivered (or served by ECF) on or before December 21, 2016. The Court will not be able to give much consideration to general comments lacking detail, for example, a submission simply stating, "I object" or "I support the Settlement" will not provide enough information to the Court or Parties. Your submission must also include your name and current address, a statement that you are a Settlement Class Member, and the case caption.

12. WHERE CAN I GET ADDITIONAL INFORMATION?

This notice only contains a summary of the proposed Settlement. You may appear in person during regular business hours at the Clerk's office of the United States District Court, District of Delaware. The office is located at 844 North King St Unit 18, Wilmington, DE 19801-3570. You can also review online the entire Settlement Agreement, as well as the pleadings, records and other papers on file with the Court.

If you need further information, please contact Class Counsel, Brian R. Strange, Strange & Butler, LLP, 12100 Wilshire Blvd., Ste. 1900, Los Angeles, CA 90025; Stephen G. Grygiel, Silverman Thompson Slutkin White, 201 N. Charles Street, 26th Floor, Baltimore, MD 21201; and/or James P. Frickleton, Bartimus, Frickleton, and Robertson, P.C., 11150 Overbrook Road, Suite 200, Leawood, KS 66211.

PLEASE DO NOT CONTACT THE COURT WITH QUESTIONS.

**Mail completed and signed Request for Exclusion to:
In re Google Inc. Cookie Placement Settlement Administrator
c/o GCG
PO Box 10320
Dublin, OH 43017-5920**

EXHIBIT F

REQUEST FOR EXCLUSION FORM

THIS REQUEST MAY AFFECT YOUR LEGAL RIGHTS.

In re Google Inc. Cookie Placement Consumer Privacy Litigation, United States District Court,
District of Delaware, Case No. 12-MD-2358 (SLR)

If you do not want to participate in the settlement and wish to exclude yourself from the Class, that is, to “OPT-OUT” of this settlement, then you must complete this Request for Exclusion, sign under penalty of perjury, date and mail the Form to the address below. You must submit this Form, postmarked no later than November 27, 2016.

By electing to “OPT-OUT” of the settlement (i) you will not share in any benefits from the settlement, (ii) you will not be bound by any further orders or judgment entered for or against the Class, and (iii) you will remain able to independently pursue any claims alleged in this action, against Google Inc., by filing your own lawsuit at your own expense.

“I hereby opt-out of the Class and request to be excluded from the settlement in *In re Google Inc. Cookie Placement Consumer Privacy Litigation*, United States District Court, District of Delaware, Case No. 12-MD-2358 (SLR).”

Name:																													
<div></div>																													
Address:																													
<div></div>																													
<div></div>																													
City:																				State:					ZIP:				
<div></div>																				<div></div>					<div></div>				
I declare under penalty of perjury under the laws of the State of _____ that the foregoing is true and correct.																													
Signature of the Claimant:																				Date:									
<div></div>																				<div></div> / <div></div> / <div></div>									

Mail completed and signed Request for Exclusion to:
In re Google Inc. Cookie Placement Settlement Administrator
c/o GCG
PO Box 10320
Dublin, OH 43017-5920

EXHIBIT G

IN RE GOOGLE INC COOKIE PLACEMENT CONSUMER PRIVACY
LITIGATION
EXCLUSION REQUESTS

GCG ID NO.	CLASS MEMBER NAME	UNTIMELY	UNSIGNED
B4E535D02C	AKIKO DUNN		
C395C9BF85	ALAN LANSING		
609F01BCE3	ALEKSANDR Y SHINKAREV		
5004E9094B	ALESIA JACKSON		
D8576D76A5	ANDREY SHLOMOVICH		
A918648630	ANITRA MURPHY		
1113BDD2E6	BRADDOCK BUCK DEANGELO		
0A5BDF6236	BRYAN MURPHY		
F6CEEFE734	CAMERON CORNELISON		
59E7A68549	CHARLES E RICHARDSON		X
2C3D6535C6	CHARLES JACKLIN		
7457060D41	CHARLES RICHARDSON		
2D675464D7	CHRISTOPHER GALBRAITH		
34904D73FB	CODY THOMSON-ESQUER	X	
7D1F2D7B47	DEANGELO BRADDOCK		
F16BF035C1	DOREEN M CAOUETTE		
04AED75C43	DWAYNE HAWKINS-LODGE		
CAD886200A	EMANUEL HAJEK		
EBCCE4518F	GARY RICHARDSON		
C111B7C04C	GEROD GREEN		
DC5A7CED01	GLENDA JOHNSON		
485D8F69EA	GLENNA O'DELL		
97A52D8C4A	JAMES COBB		
37D5FC861D	JAMES L NELSON JR		
9E12FA2824	JAMES WALTON		
1B3A58CE36	JENNIFER SIMONIAN		
18C456CD80	JESSICA BROWN		
8A3F6127C0	JESSICA BROWN		
C5179FA632	JESSICA BROWN		
E623AA70EB	KAREN FENNESSEY		
264767730C	KIN WAH KUNG		
344DC93545	MARIA ZAPOLSKI		
4E38C388EC	MARINA SHLOMOVICH		
AD69E16E0C	MARY REPINE		
4E248D3080	MICHAEL BROWN		
D5F1F7F5C4	MICHAEL BROWN		

IN RE GOOGLE INC COOKIE PLACEMENT CONSUMER PRIVACY
LITIGATION
EXCLUSION REQUESTS

GCG ID NO.	CLASS MEMBER NAME	UNTIMELY	UNSIGNED
A89FE75E77	MICHELLE SHLOMOVICH		
E86A9EB8A0	MOHAMAD HAKKANI		
22A8716654	PETRA HAYEK		
6F6B6BCB5A	PHYLLIS BYRD		
603EFF417A	RACHELLE REESE		
E52A4866E2	RICHARD HAYEK		
CF4B00E930	RONY YARDEN		
91F80D4144	SHARD MASON		
2F35BB7580	SHERONDA WILLIAMS		
2C50A485E7	SMITH TRATICA		
BC9C044FF3	SONJI LANGFORD		
6BE7BD15DD	STEPHANIE WARD		
D2791B6886	TODD DORDAN		
8E8E55C18E	TRATICA SMITH		
E2D29C8163	UNITA FAY MITCHELL		X

EXHIBIT 2

IN RE GOOGLE INC COOKIE PLACEMENT CONSUMER PRIVACY
LITIGATION
EXCLUSION REQUESTS

UNIQUE ID NO	CLASS MEMBER NAME	UNTIMELY	UNSIGNED
91F80D4144	SHARD MASON		
97A52D8C4A	JAMES COBB		
7457060D41	CHARLES RICHARDSON		
344DC93545	MARIA ZAPOLSKI		
9E12FA2824	JAMES WALTON		
E623AA70EB	KAREN FENNESSEY		
4E38C388EC	MARINA SHLOMOVICH		
A89FE75E77	MICHELLE SHLOMOVICH		
F16BF035C1	DOREEN M CAOUETTE		
264767730C	KIN WAH KUNG		
A918648630	ANITRA MURPHY		
603EFF417A	RACHELLE REESE		
F6CEEF734	CAMERON CORNELISON		
6BE7BD15DD	STEPHANIE WARD		
5004E9094B	ALESIA JACKSON		
0A5BDF6236	BRYAN MURPHY		
59E7A68549	CHARLES E RICHARDSON		X
1B3A58CE36	JENNIFER SIMONIAN		
1113BDD2E6	BRADDOCK BUCK DEANGELO		
2C50A485E7	SMITH TRATICA		
8E8E55C18E	TRATICA SMITH		
7D1F2D7B47	DEANGELO BRADDOCK		
AD69E16E0C	MARY REPINE		
2F35BB7580	SHERONDA WILLIAMS		
B4E535D02C	AKIKO DUNN		
E2D29C8163	UNITA FAY MITCHELL		X
D8576D76A5	ANDREY SHLOMOVICH		
C395C9BF85	ALAN LANSING		
D2791B6886	TODD DORDAN		
37D5FC861D	JAMES L NELSON JR		
4E248D3080	MICHAEL BROWN		
BC9C044FF3	SONJI LANGFORD		

IN RE GOOGLE INC COOKIE PLACEMENT CONSUMER PRIVACY
LITIGATION
EXCLUSION REQUESTS

UNIQUE ID NO	CLASS MEMBER NAME	UNTIMELY	UNSIGNED
8A3F6127C0	JESSICA BROWN		
2C3D6535C6	CHARLES JACKLIN		
CAD886200A	EMANUEL HAJEK		
E52A4866E2	RICHARD HAYEK		
22A8716654	PETRA HAYEK		
609F01BCE3	ALEKSANDR Y SHINKAREV		
6F6B6BCB5A	PHYLLIS BYRD		
E86A9EB8A0	MOHAMAD HAKKANI		
2D675464D7	CHRISTOPHER GALBRAITH		
C111B7C04C	GEROD GREEN		
CF4B00E930	RONY YARDEN		
04AED75C43	DWAYNE HAWKINS-LODGE		
DC5A7CED01	GLENDA JOHNSON		
EBCCE4518F	GARY RICHARDSON		
C5179FA632	JESSICA BROWN		
18C456CD80	JESSICA BROWN		
D5F1F7F5C4	MICHAEL BROWN		
485D8F69EA	GLENNA O'DELL		
34904D73FB	CODY THOMSON-ESQUER	X	
7FC1C49FA3	SONIA MARTINEZ	X	
7CFF2C7A31	ROCCO A. CONFORTI JR	X	
40AE9DB0CC	ROCCO A. CONFORTI JR	X	
7CFF2C7A31	ROCCO A. CONFORTI JR	X	
40AE9DB0CC	ROCCO A. CONFORTI JR	X	
344F34B05A	SONIA MARTINEZ	X	
342451F4E6	DANIEL FRANCO	X	
7FC1C49FA3	SONIA MARTINEZ	X	
342451F4E6	DANIEL FRANCO	X	
2793CE6AFD	BIANCA M JOYAL	X	