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

JOHN DOE, JOHN DOE II, JOHN DOE III,
JANE DOE, JANE DOE II, JANE DOE III,
JANE DOE IV, JANE DOE V, and ALEXIS
SUTTER, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

KAISER FOUNDATION HEALTH PLAN,
INC., KAISER FOUNDATION HOSPITALS,
and KAISER FOUNDATION HEALTH PLAN
OF WASHINGTON,

Defendants.

Case No. 3:23-cv-02865-EMC

**REPLY IN FURTHER SUPPORT OF (I)
PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF PROPOSED CLASS
ACTION SETTLEMENT AND PLAN OF
ALLOCATION; AND (II) CLASS
COUNSEL'S MOTION FOR ATTORNEYS'
FEES, LITIGATION EXPENSES, AND
SERVICE AWARDS, AND
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

Judge: Hon. Edward M. Chen
Date: May 7, 2026
Time: 1:30 p.m.
Court: 5

TABLE OF CONTENTS

1

2

3

4 I. INTRODUCTION..... 1

5 II. ARGUMENT 4

6 A. The Extensive Court-Approved Notice Program Supports Approval

7 of the Motions..... 4

8 B. The Reaction of the Settlement Class Supports Approval of the Motions..... 6

9 1. The Settlement Class’s Positive Reaction Supports Approval of the

10 Settlement and Plan of Allocation..... 6

11 2. The Settlement Class’s Positive Reaction Supports Approval of Class

12 Counsel’s Request for Attorneys’ Fees, Litigation Expenses, and

13 Service Awards..... 7

14 C. The Objections Should Be Overruled..... 8

15 1. Objections to the Amount of Individual Recovery Are Without Merit..... 8

16 2. Objections to the Court-Approved Notices Are Without Merit 11

17 3. Objections to the Plan of Allocation Are Without Merit 11

18 4. Objections to the Requested Fee Award Are Without Merit 12

19 5. Objections to the Proposed Service Awards Are Without Merit 14

20 D. Result of Claims Process 15

21 III. CONCLUSION 15

22

23

24

25

26

27

28

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Abbott v. Lockheed Martin Corp.</i> , 2015 WL 4398475 (S.D. Ill. July 17, 2015).....	9
<i>AdTrader, Inc. v. Google LLC</i> , 2022 WL 16579324 (N.D. Cal. Nov. 1, 2022).....	14
<i>In re Am. Apparel, Inc. S’holder Litig.</i> , 2014 WL 10212865 (C.D. Cal. July 28, 2014).....	14
<i>In re Apple Inc. Device Performance Litig.</i> , 2021 WL 1022866 (N.D. Cal. Mar. 17, 2021).....	14
<i>In re Apple iPhone 4 Prods. Liab. Litig.</i> , 2012 WL 3283432 (N.D. Cal. Aug. 10, 2012).....	16
<i>In re Apple iPhone/iPod Warranty Litig.</i> , 2014 WL 12640497 (N.D. Cal. May 8, 2014).....	11
<i>Bellinghausen v. Tractor Supply Co.</i> , 306 F.R.D. 245 (N.D. Cal. 2015).....	11
<i>Chun-Hoon v. McKee Foods Corp.</i> , 716 F. Supp. 2d 848 (N.D. Cal. 2010).....	8
<i>Churchill Vill. LLC v. Gen. Elec.</i> , 361 F.3d 566 (9th Cir. 2004).....	7
<i>Destefano v. Zynga, Inc.</i> , 2016 WL 537946 (N.D. Cal. Feb. 11, 2016).....	8, 14
<i>In re Easysaver Rewards Litig.</i> , 906 F.3d 747 (9th Cir. 2018).....	13
<i>In re Facebook Biometric Info. Priv. Litig.</i> , 522 F. Supp. 3d 617 (N.D. Cal. 2021).....	10
<i>In re Facebook Internet Tracking Litig.</i> , 2022 WL 16902426 (N.D. Cal. Nov. 10, 2022).....	10
<i>Garner v. State Farm Mut. Auto. Ins. Co.</i> , 2010 WL 1687832 (N.D. Cal. April 22, 2010).....	7

1 *In re Glob. Crossing Sec. & ERISA Litig.*,
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Terry v. Hoovestol, Inc.,
 2019 WL 2061105 (N.D. Cal. May 9, 2019)..... 8

In re TikTok, Inc., Consumer Priv. Litig.,
 617 F. Supp. 3d 904 (N.D. Ill. 2022)..... 15

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In re TracFone Unlimited Service Plan Litig.,
112 F. Supp. 3d 993 (N.D. Cal. 2015) (Chen, J.) 10

Vizcaino v. Microsoft Corp.,
290 F.3d 1043 (9th Cir. 2002) 14

Waldbuesser v. Northrop Grumman Corp.,
2017 WL 9614818 (C.D. Cal. Oct. 24, 2017) 9

Will v. Gen. Dynamics Corp.,
2010 WL 4818174 (S.D. Ill. Nov. 22, 2010)..... 9

Wren v. RGIS Inventory Specialists,
2011 WL 1230826 (N.D. Cal. Apr. 1, 2011)..... 7

1 Plaintiffs John Doe, John Doe II, Jane Doe, Jane Doe II, Jane Doe III, Jane Doe IV, Jane Doe
 2 V, and Alexis Sutter (collectively, the “Plaintiffs”), respectfully submit this reply, along with the
 3 Third Supplemental Declaration of Paul Mulholland of Strategic Claims Services, Inc. (“Supp.
 4 Mulholland Decl.”) and Supplemental Declaration of Tyler S. Graden on behalf of Class Counsel
 5 (“Supp. Graden Decl.”). Plaintiffs and Class Counsel make this submission in further support of their
 6 (I) Motion for Final Approval of Proposed Class Action Settlement and Plan of Allocation (ECF No.
 7 401) and their (II) Motion for Attorneys’ Fees, Litigation Expenses, and Service Awards (ECF No.
 8 402) (together, the “Motions” and collectively with ECF No. 403 the “Opening Papers”).¹

9 **I. INTRODUCTION**

10 As detailed in Plaintiffs’ and Class Counsel’s Opening Papers, the proposed Settlement—
 11 providing for a significant common-fund recovery currently anticipated to be \$47,500,000 in addition
 12 to the important non-monetary relief already obtained through Plaintiffs’ and Class Counsel’s
 13 efforts—is an excellent result for the Settlement Class.² The Settlement is the culmination of years of
 14 hard-fought litigation and protracted arm’s-length negotiations between the Parties including
 15 mediations before two highly experienced and respected retired federal judges. ECF No. 403, ¶ 9.

16 As detailed in the Opening Papers, the Settlement, if approved, will provide a substantial
 17 recovery for the Settlement Class and avoids the very serious risk of continued litigation—through
 18 class certification, summary judgment, a trial, and likely post-trial appeals. ECF No. 403, ¶¶ 53-61.
 19 The Settlement Amount (after deduction of Court-approved fees and expenses) will be distributed to
 20 Settlement Class Members on a *pro rata* basis pursuant to the Plan of Allocation. In addition, Class
 21 Counsel’s request for attorneys’ fees in the amount of 33% of the Settlement Fund and litigation

22 ¹ Unless otherwise defined, all capitalized terms shall have the meanings ascribed to them in the
 23 Stipulation of Settlement dated August 13, 2025 and all exhibits thereto as amended by agreement of
 24 the Parties (*see* ECF Nos. 373, 374, 388) and Court Order (*see* ECF Nos. 362, 384, 387), and October
 25 23, 2025 and November 25, 2025 hearings) (the “Stipulation”), as filed with the Clerk of the Court
 26 (comprehensively referred to as the “Settlement”).

27 ² As represented in Plaintiffs’ Unopposed Motion for Preliminary Approval of Proposed Class Action
 28 Settlement, Certification of Settlement Class, Notice to Settlement Class and Memorandum of Points
 and Authorities in Support, the proposed \$46 million Settlement could increase to \$47.5 million under
 certain conditions. ECF No. 345, at 1. Currently those conditions have been met and the Settlement
 will be increased to the maximum amount of \$47.5 million. *See* Supp. Graden Decl. ¶ 3. To the extent
 this changes before the Fairness Hearing, supplemental papers will be submitted.

1 expenses in the amount of \$605,103.06 is fair and reasonable considering the result achieved for the
2 Settlement Class, including removal of the offending technologies at the heart of the action, and the
3 dedication and hard work performed by Class Counsel through highly contentious motion practice,
4 extensive discovery efforts, and protracted settlement negotiations. ECF No. 403, ¶ 9.

5 Given the quality of the Settlement, it is not surprising that the Settlement Class’s response
6 has been overwhelmingly positive. In accordance with the Court’s December 5, 2025 Order
7 Preliminarily Approving Settlement and Approving Notice of Proposed Settlement of Class Action
8 and Fairness Hearing (ECF No. 393) (“Preliminary Approval Order”), the Settlement Administrator,
9 Strategic Claims Services, Inc. (“SCS”), conducted an extensive notice campaign, including
10 disseminating the Short Form Notice (by mail and/or email) to 13,134,307 Settlement Class
11 Members; sending supplemental notices to 454,693 Settlement Class Members whose emails were
12 returned as undeliverable; and posting Settlement-related information and deadlines, including copies
13 of the Long Form Notice, Claim Form, and Plan of Allocation on the Settlement Website,
14 www.KaiserPrivacySettlement.com.³ Moreover, this was not the first time Settlement Class
15 Members were made aware of the privacy breach as Kaiser previously sent a privacy breach notice
16 to Settlement Class Members on April 12, 2024—one day after the Court ruled on Defendants’
17 Motion to Dismiss Plaintiffs’ First Amended Complaint.

18 In addition, the Settlement has attracted a significant amount of publicity, with multiple news
19 organizations reporting on the Settlement and claims process, thus providing notice beyond what was
20 initially contemplated as part of the notice plan submitted at preliminary approval.⁴ As required,

21 _____
³ See Supp. Mulholland Decl., ¶¶ 5-14.

22 ⁴ See, e.g., Irene Wright, *Kaiser Permanente reaches \$46 million settlement. Are you owed money?*,
23 USA Today (Jan. 14, 2026), <https://www.usatoday.com/story/news/2026/01/14/heres-how-to-make-a-claim-for-part-of-kaiser-permanente-settlement/88175728007/>; KIRO 7 News Staff, *Kaiser
24 Permanente to pay up to \$46M over alleged data breach, here’s how to file a claim*, KIRO 7 (Jan.
25 13, 2026), [https://www.kiro7.com/news/local/kaiser-pay-up-46m-over-alleged-data-tracking-
26 websites-apps-heres-how-file-claim/EIHH57P3LNBUDKVVJIBLENZZAE/](https://www.kiro7.com/news/local/kaiser-pay-up-46m-over-alleged-data-tracking-websites-apps-heres-how-file-claim/EIHH57P3LNBUDKVVJIBLENZZAE/); KTVU Staff, *Kaiser
27 Permanente \$46M settlement: How to claim your payout*, KTVU FOX 2 San Francisco (Jan. 15,
28 2026), <https://www.ktvu.com/news/kaiser-permanente-46m-privacy-settlement-see-you-qualify>;
Madilynne Medina, *Kaiser Permanente members could get cash in \$46M privacy settlement*,
SFGATE (Jan. 14, 2026), [https://www.sfgate.com/bayarea/article/kaiser-members-get-cash-46-
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you qualify for a payout and how to file a claim*, FOX 11 Los Angeles (Jan. 15, 2026),
<https://www.foxla.com/news/kaiser-permanente-data-privacy-breach-settlement-file-claim>; Top

1 Kaiser also issued notice pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, *et seq.*,
 2 to the U.S. Department of Justice, Office of Attorney General, Colorado Department of Law, Georgia
 3 Office of the Attorney General, Hawaii Department of the Attorney General, Maryland Office of the
 4 Attorney General, Oregon Department of Justice, Virginia Office of Attorney General, Washington
 5 Attorney General's Office, and Washington, D.C. Office of the Attorney General, and no State
 6 Attorney General has objected or sought to intervene. ECF No.418. As a result of these notice efforts,
 7 Settlement Class Members were well informed of the Settlement, the Plan of Allocation, the requested
 8 attorneys' fees, litigation expenses, and service awards, as well as, *inter alia*, the procedures and
 9 deadlines for filing an objection, requesting exclusion from the Settlement Class, and submitting a
 10 Claim Form in order to share in the Settlement.

11 In response to this robust notice campaign, there have been *only nineteen objections*
 12 received—eight filed pursuant to the Court's Preliminary Approval Order and the Long Form Notice,⁵
 13 and eleven informal objections received by SCS and/or Class Counsel⁶—a miniscule number
 14 compared to the more than 13 million Settlement Class Members and the 753,150 timely Claims
 15 Forms received from Settlement Class Members. *See* Supp. Mulholland Decl., ¶¶ 5, 15. As discussed
 16 below in Section II.C, the objections assert general complaints regarding the Settlement Amount; the
 17 Notices; the Plan of Allocation; and the requested attorneys' fees and service awards, without any
 18 substantive consideration of the salient facts of this case or the work performed by Class Counsel.
 19 All objections should be overruled. In addition, SCS reports that 22,853 Settlement Class Members
 20 have requested exclusion from the Settlement Class, representing an exceedingly small portion
 21 (roughly 0.2%) of the Settlement Class. *See* Supp. Mulholland Decl., Ex. C (list of exclusion
 22

23 Class Actions, *\$47.5M Kaiser Permanente data privacy class action settlement*, Top Class Actions
 24 (Jan. 20, 2026), [https://topclassactions.com/lawsuit-settlements/closed-settlements/47-5m-kaiser-](https://topclassactions.com/lawsuit-settlements/closed-settlements/47-5m-kaiser-permanente-data-privacy-class-action-settlement/)
 25 *permanente-data-privacy-class-action-settlement/*; Tracy Bagdonas, *Up to \$47.5M Kaiser Settlement*
 26 *Ends Class Action Lawsuit Over Alleged Disclosure of Patient Info [UPDATE]*, ClassAction.org
 27 (Jan. 8, 2026), [https://www.classaction.org/news/up-to-47.5m-kaiser-settlement-ends-class-action-](https://www.classaction.org/news/up-to-47.5m-kaiser-settlement-ends-class-action-lawsuit-over-alleged-disclosure-of-patient-info)
 28 *lawsuit-over-alleged-disclosure-of-patient-info*; Steve Alder, *Kaiser Permanente Agrees to Pay Up*
 29 *to \$47.5 Million to Settle Web Tracker Litigation*, The HIPPA Journal (Dec. 3, 2025),
 30 [https://www.hipaajournal.com/kaiser-permanente-website-tracker-breach-affects-13-4-million-](https://www.hipaajournal.com/kaiser-permanente-website-tracker-breach-affects-13-4-million-individuals/)
 31 *individuals/*.

⁵ *See* ECF Nos. 404, 405, 406, 407, 408, 409, 410, 415.

⁶ The informal objections are attached to the Supplemental Graden Declaration as Exhibits A-K.

1 requests). Of the 22,853 requests for exclusion received, roughly 20,717 are part of mass opt-outs,
 2 meaning only approximately 2,136 individuals not represented by mass opt-out counsel (or roughly
 3 0.02% of the Settlement Class) decided to request exclusion after receiving the Notice.⁷ *Id.*

4 Thus, for the reasons herein and in the Opening Papers, the Motions should be approved.

5 **II. ARGUMENT**

6 Plaintiffs and Class Counsel respectfully submit that their Opening Papers demonstrate that
 7 approval of the Motions is warranted. Now that the deadline for objecting and requesting exclusion
 8 from the Settlement Class has passed, the overwhelmingly positive response from Settlement Class
 9 Members lends additional support for the Court’s approval of the Motions.

10 **A. The Extensive Court-Approved Notice Program Supports Approval of the** 11 **Motions**

12 Pursuant to the Court’s Preliminary Approval Order, on December 28, 2025, SCS established
 13 the Settlement Website, www.KaiserPrivacySettlement.com. *See* Supp. Mulholland Decl., ¶ 13. The
 14 Settlement Website includes information regarding the Settlement, including important dates and
 15 deadlines, and downloadable copies of key case documents. *Id.*

16 On January 3, 2026, SCS began disseminating the Short Form Notice to Settlement Class
 17 Members, and posted the Long Form Notice on the Settlement Website, in advance of the January
 18 16, 2026 notice deadline. *Id.* ¶¶ 7, 13. The Court was closely involved in substantively finalizing the
 19 Notices and establishing the opt-out procedure prior to preliminarily approving the Settlement. *See*
 20 ECF Nos. 373, 374, 388, 390, 392 (Court-ordered briefing regarding modifications to Notices,
 21 Settlement Class definition, and the procedure for opting out). Pursuant to the Preliminary Approval
 22 Order, SCS emailed the Short Form Notice (“Email Notice”) to 12,943,035 Settlement Class
 23 Members whose email addresses were provided by Kaiser. *Id.* ¶ 7. SCS also sent Short Form Notices
 24 by first-class U.S. mail (“Mail Notice”) to 191,272 Settlement Class Members whose email addresses
 25 were not provided. *Id.* Prior to mailing the Mail Notices, SCS ran each of the mailing addresses
 26 through the National Change of Address database to ensure the most current address was used. *Id.*

27 ⁷ Counsel representing the mass opt-outs are Labaton Keller Sucharow LLP (“Labaton”); Bryson
 28 Harris Suciú & DeMay, PLL; Potter Handy, LLP; and Shay Legal, APC.

1 SCS has disseminated a total of 13,134,307 Short Form Notices (i.e., 12,943,035 by email
2 and 191,272 by mail). *Id.* ¶ 7. Of the 12,943,035 Email Notices, 1,240,366 were returned as
3 undeliverable. *Id.* ¶ 8. SCS sent a second Email Notice to the 762,304 email addresses identified as
4 “soft” bounces, with 94,455 of those second Email Notices returned as undeliverable. *Id.* After these
5 unsuccessful attempts to deliver the Email Notices to certain Settlement Class Members, SCS
6 requested that Kaiser provide mailing addresses so that SCS could send these Settlement Class
7 Members a Short Form Notice by mail. *Id.* ¶ 9. Defendants provided SCS with mailing addresses for
8 these Settlement Class Members on January 15, 2026, January 21, 2026, February 25, 2026, March
9 9, 2026, and March 10, 2026. *Id.* Following the receipt of these mailing addresses, SCS, between
10 February 2, 2026 and March 19, 2026, prepared and mailed 454,693 Short Form Notices by first-
11 class U.S. mail to the Settlement Class Members whose emails were undeliverable and for whom
12 mailing addresses were provided. *Id.* Of the total 645,965 Mail Notices disseminated,⁸ 51,382 Mail
13 Notices (or 7.95%) were initially returned as undeliverable. *Id.* ¶ 10. Of these, the United States Postal
14 Service provided forwarding addresses for 1,843, and SCS promptly mailed another Mail Notice to
15 each updated address. *Id.* The remaining 49,539 Mail Notices returned as undeliverable were “skip-
16 traced” to obtain updated addresses, and 27,829 were re-mailed to the updated addresses. *Id.*

17 Consistent with the Preliminary Approval Order, the mailed/emailed Short Form Notice,
18 along with the Long Form Notice posted on the Settlement Website, informed Settlement Class
19 Members of the terms of the proposed Settlement and Plan of Allocation, and that Class Counsel
20 would be applying for: (i) an award of attorneys’ fees in an amount not to exceed 33% of the
21 Settlement Fund; (ii) litigation expenses not to exceed \$900,000; and (iii) service awards to Plaintiffs
22 in an aggregate amount not to exceed \$40,000 (i.e., \$5,000 to each). *See* Supp. Mulholland Decl.,
23 Exs. A, B. The Notices also advised Settlement Class Members of their right to request exclusion
24 from the Settlement Class and to object to the proposed Settlement, the proposed Plan of Allocation
25 and/or the requested attorneys’ fees, litigation expenses, and service awards to Plaintiffs, and the
26

27 ⁸ This number combines the initial 191,272 Mail Notices disseminated based on physical mailing
28 addresses provided by Kaiser and the 454,693 supplemental Mail Notices that were disseminated to
Settlement Class Members whose Email Notices were returned as undeliverable.

1 March 12, 2026 deadline for doing so. *See* Supp. Mulholland Decl., Exs. A, B. Additionally, SCS
 2 and Class Counsel responded to over 29,487 calls and 24,935 email inquiries regarding the
 3 Settlement. Supp. Graden Decl., ¶ 4; Supp. Mulholland Decl., ¶¶ 12, 14.

4 Accordingly, the notice campaign was extensive and robust, sufficiently providing Settlement
 5 Class Members with information about the Settlement as well as their rights and obligations in
 6 connection with the Settlement.

7 **B. The Reaction of the Settlement Class Supports Approval of the Motions**

8 **1. The Settlement Class’s Positive Reaction Supports Approval of the**
 9 **Settlement and Plan of Allocation**

10 The overwhelmingly positive reaction of the Settlement Class supports approval of the
 11 Settlement and Plan of Allocation. As noted above, there have been *only nineteen objections* received
 12 (eight filed pursuant to the Court’s Preliminary Approval Order⁹ and eleven additional informal
 13 objections received by SCS and/or Class Counsel¹⁰)—an exceedingly small number compared to the
 14 size of the Settlement Class and the number of Claims Forms submitted. The low number of
 15 objections to the Settlement supports final approval. *See Garner v. State Farm Mut. Auto. Ins. Co.*,
 16 2010 WL 1687832, at *14 (N.D. Cal. April 22, 2010) (“[T]he absence of a large number of objections
 17 to a proposed class action settlement raises a strong presumption that the terms of a proposed class
 18 settlement action are favorable to the class members.”) (quotation omitted); *see also, e.g., Rodriguez*
 19 *v. W. Publ’g Corp.*, 563 F.3d 948, 967 (9th Cir. 2009) (affirming approval of settlement where court
 20 found “a favorable reaction to the settlement” based on the submission of 54 objections and 376,301
 21 notices); *Churchill Vill. LLC v. Gen. Elec.*, 361 F.3d 566, 577 (9th Cir. 2004) (affirming settlement
 22 given 45 objectors relative to 90,000 potential class members); *Wren v. RGIS Inventory Specialists*,
 23 2011 WL 1230826, at *10-11 (N.D. Cal. Apr. 1, 2011) (16 objections relative to 62,594 notices
 24 “strongly supports approval of the settlement”); *In re Glob. Crossing Sec. & ERISA Litig.*, 225 F.R.D.
 25 436, 457-58 (S.D.N.Y. 2004) (twelve objections (six timely and six untimely) out of a class of
 26 approximately one million “constitutes a ringing endorsement of the settlement by class members”).

27 ⁹ *See* ECF Nos. 404, 405, 406, 407, 408, 409, 410, 415.

28 ¹⁰ *See* Supp. Graden Decl., Exs. A-K.

1 Likewise, the fact that only 22,853 Settlement Class Members have requested exclusion—
 2 20,717 of which were part of mass opt-outs coordinated by counsel, and only 2,136 submitted by
 3 individual Settlement Class Members following extensive notice efforts (including the
 4 emailing/ mailing of over 13,134,307 notices)—also provides strong support for approval of the
 5 Settlement. *See, e.g., Senne v. Kan. City Royals Baseball Corp.*, 2023 WL 2699972, at *7 (N.D. Cal.
 6 Mar. 29, 2023) (“[T]he response of the class members has been overwhelmingly positive, with only
 7 a very small percentage of the class of . . . opting out.”); *Destefano v. Zynga, Inc.*, 2016 WL 537946,
 8 at *14 (N.D. Cal. Feb. 11, 2016) (noting that a low number of exclusions supports the reasonableness
 9 of a class action settlement); *Terry v. Hoovestol, Inc.*, 2019 WL 2061105, at *5 (N.D. Cal. May 9,
 10 2019) (finding reaction of class highly favorable where 5% of the class opted out); *Schuchardt v. L.*
 11 *Office of Rory W. Clark*, 314 F.R.D. 673, 686 (N.D. Cal. 2016) (finding reaction of class strongly in
 12 favor of the settlement where 3% of the class opted out); *Chun-Hoon v. McKee Foods Corp.*, 716 F.
 13 Supp. 2d 848, 852 (N.D. Cal. 2010) (finding reaction of class to the proposed settlement to be
 14 overwhelmingly positive where opt-outs comprised 4.86% of the class); *Gong-Chun v. Aetna Inc.*,
 15 2012 WL 2872788, at *16 (E.D. Cal. July 12, 2012) (finding the fact that “less than two percent of
 16 Class Members opted out of the Settlement” supported approval). By way of comparison, SCS has
 17 received over 750,000 Claim Forms from Settlement Class Members seeking to receive a distribution
 18 from the Settlement, dwarfing the number of opt-outs.¹¹ Supp. Mulholland Decl., ¶¶ 22-23.

19 **2. The Settlement Class’s Positive Reaction Supports Approval of Class**
 20 **Counsel’s Request for Attorneys’ Fees, Litigation Expenses, and Service**
 21 **Awards**

22 The positive reaction of the Settlement Class should also be considered with respect to Class
 23 Counsel’s request for attorneys’ fees, litigation expenses, and service awards. Here, following the
 24 mailing/emailing of more than 13 million Short Form Notices, only eight¹² of the nineteen total
 25 objections received (a tiny fraction of 1% of the Settlement Class) took issue with the requested
 26 attorneys’ fees, litigation expenses, and/or service awards. This small percentage of objections to the

27 ¹¹ Of the Claims submitted, 8,388 were submitted after the claims filing deadline. Supp. Mulholland
 28 Decl., ¶ 23. Class Counsel believes that all valid Claims received on or before May 6, 2026—one day
 before the Fairness Hearing—should be honored.

¹² See ECF Nos. 404, 406, 407, 408, 410, 415; Supp. Graden. Decl., Exs. A, G.

1 requested attorneys' fees, litigation expenses, and service awards supports approval of these requests,
 2 especially here where Class Counsel's efforts resulted in not just a large monetary fund but also
 3 removal of the offending technology. *Waldbuesser v. Northrop Grumman Corp.*, 2017 WL 9614818,
 4 at *5 (C.D. Cal. Oct. 24, 2017) (finding objection by 0.00001% of the class was "remarkably small
 5 given the wide dissemination of notice," which justified fee award of 33 1/3%); *Rodriquez v. It's Just*
 6 *Lunch Int'l*, 2020 WL 1030983, at *11 (S.D.N.Y. Mar. 2, 2020) (finding the "relatively low number
 7 of objections weighs in favor of approving the attorneys' requested fees as reasonable" where
 8 0.00001% of the class members objected); *Abbott v. Lockheed Martin Corp.*, 2015 WL 4398475, at
 9 *1 (S.D. Ill. July 17, 2015) (noting 0.00003% objected to attorneys' request for fees and costs out of
 10 181,000 class members mailed); *Will v. Gen. Dynamics Corp.*, 2010 WL 4818174, at *1 (S.D. Ill.
 11 Nov. 22, 2010) (finding 0.00003% objections out of total class notices was a "remarkably small
 12 number of objections" and "an indication of the class's overwhelming and justified support for their
 13 Class Counsel and Class Counsel's Application"). Further, as discussed below in Section C.4, the
 14 eight objections to the requested attorneys' fees lack substantive merit.

15 In sum, the favorable reaction of the Settlement Class strongly supports approval of the
 16 Settlement, Plan of Allocation, attorneys' fees, litigation expenses, and service awards.

17 C. The Objections Should Be Overruled

18 A total of nineteen individuals have submitted objections.¹³ As an initial matter, eleven
 19 objections failed to comply with the procedures set forth in the Court's Preliminary Approval Order
 20 and Long Form Notice¹⁴ and three provided no grounds for their objection.¹⁵ Regardless, all nineteen
 21 objections lack any factual or legal basis, are without merit, and should be overruled.

22 1. Objections to the Amount of Individual Recovery Are Without Merit

23 Twelve Settlement Class Members objected to the Settlement Amount, with seven claiming

24
 25 ¹³ [REDACTED] (ECF No. 404), [REDACTED] (ECF No. 405), [REDACTED] (ECF No. 406), [REDACTED] (ECF No. 407),
 26 [REDACTED] (ECF No. 408), [REDACTED] (ECF No. 409), [REDACTED] (ECF No. 410), [REDACTED] (ECF No. 415), D.J.
 27 (Supp. Graden Decl., Ex. A), W.E.G. (Supp. Graden Decl., Ex. B), S.T. (Supp. Graden Decl., Ex. C),
 E.S. (Supp. Graden Decl., Ex. D), K.H. (Supp. Graden Decl., Ex. E), K.L.S. (Supp. Graden Decl.,
 Ex. F), M.F. (Supp. Graden Decl., Ex. G), T.H. (Supp. Graden Decl., Ex. H), T.T. (Supp. Graden
 Decl., Ex. I), C.C. (Supp. Graden Decl., Ex. J), and T.W. (Supp. Graden Decl., Ex. K).

¹⁴ See Supp. Graden Decl., Exs. A-K.

¹⁵ See Supp. Graden Decl., Exs. C, D, H.

1 the Settlement Amount is too low,¹⁶ four claiming the Settlement Amount is too high,¹⁷ and one
 2 asserting the amount is both too low and too high.¹⁸ These objections are conclusory and do not
 3 provide any basis to warrant the Court’s rejection of the Settlement. *See, e.g., Lane v. Facebook, Inc.*,
 4 696 F.3d 811, 823-24 (9th Cir. 2012) (affirming rejection of objector’s complaint regarding the
 5 settlement amount based on lack of any legal support); *In re TracFone Unlimited Service Plan Litig.*,
 6 112 F. Supp. 3d 993, 1002 (N.D. Cal. 2015) (Chen, J.) (“[Objector’s] specific arguments regarding
 7 the alleged inadequacy of the monetary relief in this settlement are all predicated on untenable
 8 assumptions, and must be rejected.”); *Senne*, 2023 WL 2699972, at *14 (rejecting objectors’ assertion
 9 that “the overall amount of the settlement is inadequate” after finding the settlement amount to be fair
 10 and reasonable); *In re Facebook Internet Tracking Litig.*, 2022 WL 16902426, at *6-9 (N.D. Cal.
 11 Nov. 10, 2022) (rejecting five objections to the settlement amount); *In re Facebook Biometric Info.*
 12 *Priv. Litig.*, 522 F. Supp. 3d 617, 627 (N.D. Cal. 2021) (“But simply pointing out, as objectors do,
 13 that the \$650 million settlement amount is less than the theoretical possibility of billions of dollars
 14 were the class to hit a home run at trial is not illuminating.”). Indeed, the Court has already considered
 15 the benefit conferred on the Settlement Class by the Settlement at the preliminary approval stage. *See*
 16 Preliminary Approval Hr’g Tr. at 40:15-25 (10/26/25), ECF No. 385 (“[The Court:] I will just say
 17 this for the record – that the terms of the settlement . . . seems to be fair, adequate, and reasonable for
 18 all the reasons stated . . . The main thing is that we’re getting, you know, real money to people.”);
 19 Preliminary Approval Order, ECF No. 393, ¶ 5 (considering proposed Settlement Amount and finding
 20 “that it will likely be able to finally approve the proposed Settlement”); ECF No. 384 at 3-4
 21 (recognizing Labaton did “not make any contention that the relief provided for by the proposed
 22 settlement is unreasonable as a substantive matter—*e.g.*, that the gross settlement fund is too low”).

23 The objectors asserting that the Settlement Amount is too low provide no basis for the amount
 24 they believe would be fair (indeed, all but one fail to even suggest an alternative amount), and instead
 25

26 ¹⁶ *See* ECF Nos. 404, 405, 406, 408; Supp. Graden Decl., Exs. B, G, K.

27 ¹⁷ *See* [REDACTED] Objection, ECF No. 415 (“[REDACTED]”); Supp. Graden
 Decl., Exs. A, E, F.

28 ¹⁸ *See* ECF No. 407 at 2 (stating first that [REDACTED],” and
 later that [REDACTED]).

1 simply state that the sensitivity of the information at issue renders the Settlement Amount
 2 inadequate.¹⁹ These arguments ignore that the personal information exposed to the Third Party
 3 Wiretappers’ offending technology is now protected because of Class Counsel’s efforts which
 4 resulted in the removal of the offending technology.²⁰ Moreover, these objectors fail to acknowledge
 5 the serious risks to continued litigation (and the likelihood of obtaining a recovery greater than the
 6 Settlement Amount)—something the Court recognized in preliminarily approving the Settlement. *See*
 7 ECF No. 393, ¶ 5 (“The Court finds that the proposed Settlement . . . bears a reasonable relationship
 8 to the claims alleged by Plaintiffs and the litigation risks of Plaintiffs as well as Defendant.”). These
 9 conclusory objections that lack any analysis of the specifics of the case do not diminish the sufficiency
 10 of the Settlement and should be rejected.²¹ *See, e.g., In re Apple iPhone/iPod Warranty Litig.*, 2014
 11 WL 12640497, at *10 (N.D. Cal. May 8, 2014) (overruling objections “consist[ing] solely of
 12 conclusory boilerplate statements that are devoid of authority or explanation”); *Nwabueze v. AT&T*
 13 *Inc.*, 2013 WL 6199596, at *8 (N.D. Cal. Nov. 27, 2013) (rejecting objections that were “largely
 14 conclusory and fail to provide legal support or evidence”).

15 As in any privacy case, putting a monetary value on personal information is a difficult task,
 16 subject to differing expert opinions and legal standards. The objective of this Settlement was to
 17 balance the strengths and weaknesses of those competing factors to come to a reasonable compromise
 18 between the Parties. *See Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 255 (N.D. Cal. 2015)
 19 (“[T]he court’s assessment of the likelihood of success is ‘nothing more than an amalgam of delicate
 20 balancing, gross approximations and rough justice.’”). The Settlement has achieved that result.

23 ¹⁹ *See* ECF Nos. 404, 405, 406, 407, 408; Supp. Graden Decl., Exs. B, G, K. The [REDACTED] Objection
 24 points to unidentified [REDACTED]. However, at the preliminary approval stage, Plaintiffs cite a comparator
 25 providing approximately \$11.64 per claimant in a data privacy case involving tracking pixels. *See*
 ECF No. 345-2.

26 ²⁰ For the same reason the [REDACTED], and [REDACTED] Objections’ contention that the Settlement should
 have injunctive/forward looking relief also fails.

27 ²¹ The [REDACTED] Objection also makes unfounded claims of nationwide healthcare fraud, questions the
 28 legitimacy of all parties involved and points to a third-party disclosure at the bottom of a Kaiser email
 as purported proof that Kaiser’s privacy violations continue. ECF No. 406, at 4-5. However, these
 issues are different from the claims resolved by this action, concerning Kaiser’s Website and Apps.

1 **2. Objections to the Court-Approved Notices Are Without Merit**

2 One objection, the ██████ Objection, raises issue with the Court-approved Notices and claims
3 that the Notices could have been clearer. ECF No. 408, at 2. The Parties closely coordinated with the
4 Court to create the Notices, which included the address for the Settlement Website, a case-dedicated
5 email address, and a toll-free number that Settlement Class Members can access to obtain additional
6 information regarding the Settlement and answers to frequently asked questions. For the reasons
7 discussed in Plaintiffs’ Motion for Preliminary Approval of the Settlement and Opening Papers, the
8 form, method, and content of the Notices satisfy Rule 23 and due process. *See* ECF Nos. 373, 374,
9 388, 390, 392 (Court-ordered briefing regarding modifications to Notices, Settlement Class
10 definition, and the procedure for opting out). There are no deficiencies in the Notices.

11 **3. Objections to the Plan of Allocation Are Without Merit**

12 Two of the nineteen objections raise concerns about the Plan of Allocation.²² First, the ██████
13 Objection discusses the high value of protected health data and proposes a tiered plan of allocation
14 for individuals claiming that acute medical conditions or mental health records were disclosed by
15 Kaiser to third parties. *See* ECF No. 404. However, it is Plaintiffs’ position that because all Settlement
16 Class Members had sensitive data, namely protected health information, exposed as a result of the
17 offending technologies, no tiering was necessary or required. Moreover, the Settlement is a result of
18 the Parties’ arm’s-length negotiations which took into account the multiple state statutes involved, as
19 well as the sensitive nature of the data at issue. *See* ECF No. 403, ¶ 9. There would also be tremendous
20 cost (and time) involved with administering a tiered payment system. And notably, the Court has
21 suggested that tiering would be inappropriate. Preliminary Approval Hr’g Tr. at 40:19-24 (10/26/25),
22 ECF No. 385 (“I understand there’s issues about California and others, but I think you have answered
23 those. I think there’s not enough basis to have to try to reallocate. . . I’m not sure it’s worth that.”).
24 Here, the Plan of Allocation will result in a fair and equitable distribution of the Settlement proceeds
25 (in a cost-effective manner) among Settlement Class Members who submit a valid Claim Form.

26 Second, the Parties have considered the ██████ Objection²³ and have agreed to include a

27 _____
28 ²² ECF Nos. 404, 410.

²³ ECF No. 410.

1 25% cap on attorneys’ fees and one objection rejecting the percentage-of-recovery method,²⁷ none of
2 the objections contemplated the substantial risk undertaken by Class Counsel in prosecuting this
3 privacy breach case (among the riskier and more uncertain areas of class action litigation) on a fully
4 contingent basis. *See Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1048 (9th Cir. 2002); *AdTrader,*
5 *Inc. v. Google LLC*, 2022 WL 16579324, at *7 (N.D. Cal. Nov. 1, 2022) (33% fee award justified by
6 “substantial risk” and results); *In re Apple Inc. Device Performance Litig.*, 2021 WL 1022866, at *6
7 (N.D. Cal. Mar. 17, 2021) (“When counsel takes cases on a contingency fee basis, and litigation is
8 protracted, the risk of non-payment after years of litigation justifies a significant fee award.”);
9 *Destefano*, 2016 WL 537946, at *17 (approving requested fee, in part, because the “risks associated
10 with [the] case were substantial”). Furthermore, prosecuting this case against prominent nationwide
11 defense firms required significant skill and high-quality work in order to achieve a positive result for
12 the Settlement Class. *See Id.* (“[P]rosecution and management of a complex national class action
13 requires unique legal skills and abilities.”); *In re Am. Apparel, Inc. S’holder Litig.*, 2014 WL
14 10212865, at *22 (C.D. Cal. July 28, 2014) (“In addition to the difficulty of the legal and factual
15 issues raised, the court should also consider the quality of opposing counsel as a measure of the skill
16 required to litigate the case successfully.”).

17 The objections to the requested attorneys’ fees also fail to consider the specific legal and
18 factual circumstances of this case, as Class Counsel have done in supporting their fee request.²⁸
19 Specifically, Class Counsel have, *inter alia*, reviewed nearly 40,000 documents produced by Kaiser,
20 conducted multiple days of in-person source code review with an expert, participated in regular
21 discovery management conferences, successfully litigated discovery disputes including challenges to
22 Kaiser’s privilege designations, and litigated multiple rounds of motions to dismiss with multiple
23 claims prevailing over Kaiser’s challenges. ECF No. 403, ¶¶ 19-42.

24 These types of unsubstantiated objections have been consistently rejected by courts across the
25 country. *See, e.g., Miller v. Ghirardelli Chocolate Co.*, 2015 WL 758094, at *11 (N.D. Cal. Feb. 20,
26 2015) (“[C]onclusory and unsubstantiated objections are not sufficient to warrant a reduction in

27 _____
²⁷ *See* ECF Nos. 404, 409.

28 ²⁸ *See* ECF No. 402, at 5-13; ECF No. 403, Exs. 5, 6.

1 fees.”); *Moore v. Verizon Commc’ns Inc.*, 2013 WL 4610764, at *10 (N.D. Cal. Aug. 28, 2013)
2 (overruling four objections to the requested attorneys’ fees because the objections did not contain any
3 reasons or substantive grounds for the objection); *O’Brien v. Brain Rsch. Labs, LLC*, 2012 WL
4 3242365, at *25 (D.N.J. Aug. 9, 2012) (rejecting objection that “embodie[d] the objector’s personal
5 views about class action litigation generally and is not addressed to the specifics of this settlement”);
6 *cf. In re TikTok, Inc., Consumer Priv. Litig.*, 617 F. Supp. 3d 904, 941 (N.D. Ill. 2022) (approving
7 33.3% fee because it aligned with “contingency fee[s] routinely charged by class action lawyers”).

8 Further, with respect to the objection that Class Counsel’s fee should be capped at 25%, such
9 a fee of \$11,875,000 would result in a negative lodestar multiplier of 0.9 based on Class Counsel’s
10 total lodestar of \$12 million which is based on over 19,100 hours of attorney and professional support
11 staff time through the end of September 2025. ECF No. 402, at 13-14. And, this does not account for
12 the additional 547.4 hours spent by Class Counsel on the Settlement from October 2025 through
13 February 2026. Supp. Graden Decl., ¶ 6; *see also Hubbard v. Google LLC*, 2026 WL 92062, at *2
14 (N.D. Cal. Jan. 13, 2026) (noting that the lodestar multiplier will be lower once counsel’s total hours
15 by the end of the case are included). Moreover, “District Courts within this circuit . . . routinely award
16 attorneys’ fees that are one-third of the total settlement fund,” and “[s]uch awards are routinely upheld
17 by the Ninth Circuit.” *Hernandez v. Dutton Ranch Corp.*, 2021 WL 5053476, at *6 (N.D. Cal. Sep.
18 10, 2021). As such, particularly in light of Class Counsel’s development of this case, vigorous
19 litigation over the course of multiple years, and substantial benefits for the Class obtained, the 33%
20 fee requested by Class Counsel is reasonable and appropriate and the objections should be rejected.

21 5. Objections to the Proposed Service Awards Are Without Merit

22 The ██████ Objection, takes aim at the proposed \$5,000 service awards for the named
23 Plaintiffs, noting that only eight Plaintiffs are receiving service awards while there are nine Plaintiffs
24 in the case caption. *See* ECF No. 406. However, as the Court is aware, this is due to the fact that Class
25 Counsel have been unable to reach John Doe III despite numerous attempts by phone calls, text
26 messages, emails, and FedEx mail. ECF No. 419. Accordingly, counsel for John Doe III has moved
27 to withdraw him from the Action. ECF No. 346. Pursuant to the Court’s March 16, 2026 Order (ECF
28 No. 416), Class Counsel provided final notice to John Doe III on March 23, 2026. ECF No. 419.

1 **D. Result of Claims Process**

2 As set forth in the Notices, Settlement Class Members were required to submit a completed
3 Claim Form either by mail or through the online claims portal available on the Settlement Website in
4 order to be eligible to receive a distribution from the Settlement. *See* Supp. Mulholland Decl., Exs.
5 A, B. As of March 26, 2026, SCS has received 753,150 timely Claim Forms (i.e., submitted before
6 the March 12, 2026 claims deadline) and 8,388 Claim Forms submitted after the March 12, 2026
7 claims deadline through March 26, 2026. *See* Supp. Mulholland Decl., ¶¶ 22-23. In light of the
8 extensive notice campaign, this claims rate of 5.7% is in line with the results of similar data privacy
9 case settlements and within the range that SCS originally estimated. ECF No. 345-5, ¶ 23 (“[T]he
10 claims rates for these settlements range from 1.95% to 9.17% (mid-point 5.56%) with an average
11 claims rate of 4.63%.”). Settlements with significantly lower claims rates have been approved both
12 in this District and around the country. *See, e.g., In re Apple iPhone 4 Prods. Liab. Litig.*, 2012 WL
13 3283432, at *1-3 (N.D. Cal. Aug. 10, 2012) (approving claims rate between 0.16% and 0.28%);
14 *Pollard v. Remington Arms Co., LLC*, 320 F.R.D. 198, 214-15 (W.D. Mo. 2017), *aff’d*, 896 F.3d 900
15 (8th Cir. 2018) (observing that “Courts around the country have approved settlements where the
16 claims rate was less than one percent” and collecting cases).

17 **III. CONCLUSION**

18 For the foregoing reasons and those set forth in the Opening Papers, Plaintiffs and Class
19 Counsel respectfully request that the Court approve the Settlement, the Plan of Allocation, and the
20 request for attorneys’ fees, litigation expenses, and service awards. Copies of (i) the Proposed Final
21 Approval Order and Judgment and (ii) the Proposed Order Awarding Attorneys’ Fees, Litigation
22 Expenses, and Service Awards are attached hereto as **Exhibits 1 and 2** and submitted in Word format
23 to Your Honor’s email.

24 Dated: April 2, 2026

Respectfully submitted,

25 **KESSLER TOPAZ**
26 **MELTZER & CHECK, LLP**

27 /s/ Tyler S. Graden
28 Joseph H. Meltzer (appearance *pro hac vice*)
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Additional Counsel for Plaintiff Alexis Sutter

EXHIBIT 1

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

JOHN DOE, JOHN DOE II, JOHN DOE III,
JANE DOE, JANE DOE II, JANE DOE III,
JANE DOE IV, JANE DOE V, and ALEXIS
SUTTER, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

KAISER FOUNDATION HEALTH PLAN,
INC., KAISER FOUNDATION HOSPITALS,
and KAISER FOUNDATION HEALTH PLAN
OF WASHINGTON,

Defendants.

Case No. 3:23-cv-02865-EMC

**[PROPOSED] FINAL APPROVAL ORDER
AND JUDGMENT**

WHEREAS, Plaintiffs John Doe, John Doe II, Jane Doe, Jane Doe II, Jane Doe III, Jane Doe IV, Jane Doe V, and Alexis Sutter (“Plaintiffs”), on behalf of themselves and the Settlement Class Members, as defined below; and Defendant Kaiser Foundation Health Plan, Inc. (“Kaiser Foundation Health Plan” or “Defendant”; and, together with Plaintiffs, collectively referred to herein as the “Parties”), determined to settle the above-captioned matter (the “Action”) on the terms and conditions set forth in the Stipulation of Settlement dated August 13, 2025 and all exhibits thereto as amended by agreement of the Parties (*see* Dkt. Nos. 373, 374, 388) and Court Order (*see* Dkt. Nos. 362, 384, 387 and October 23, 2025 and November 25, 2025 hearings) (the “Stipulation”), as filed with the Clerk of the Court (this settlement process is hereafter referred to as the “Settlement”);

WHEREAS, by Order dated December 5, 2025 (“Preliminary Approval Order”), this Court (a) found, pursuant to Rule 23(e)(1)(B) of the Federal Rules of Civil Procedure, that it would likely be able to approve the Settlement as fair, reasonable, and adequate under Rule 23(e)(2); (b) ordered Kaiser Foundation Health Plan to provide to the Settlement Administrator the May 2024 Notice List for the sole purpose of providing notice of the Settlement to the Settlement Class on behalf of Class Counsel, recognizing that the May 2024 Notice List will contain Kaiser Permanente member

1 email addresses and U.S. mailing addresses and reference the fact that a Settlement Class Member
2 is or was a Kaiser Permanente member; (c) ordered that notice of the proposed Settlement be
3 provided to Settlement Class Members; (d) provided Settlement Class Members with the
4 opportunity to exclude themselves from the Settlement Class or to object to the proposed
5 Settlement; and (e) scheduled a hearing regarding final approval of the Settlement;

6 WHEREAS, due and adequate notice has been given to the Settlement Class;

7 WHEREAS, on December 22, 2025, Plaintiffs moved this Court for, among other things,
8 final approval of the Settlement pursuant to Rule 23(e) of the Federal Rules of Civil Procedure and
9 approval of the Plan of Allocation;

10 WHEREAS, in accordance with the Preliminary Approval Order and as set forth in the
11 notices to the Settlement Class, a Fairness Hearing was held on May 7, 2026 to consider, among
12 other things (a) whether the terms and conditions of the Settlement are fair, reasonable, and
13 adequate to the Settlement Class, and should therefore be approved; and (b) whether a judgment
14 should be entered dismissing the Action with prejudice as against Defendant; and

15 WHEREAS, the Court, having entered the Preliminary Approval Order, having heard
16 argument in support of the Settlement and the Plan of Allocation, having reviewed all of the
17 evidence, objections, and other submissions presented with respect to the Settlement and related
18 matters, and the record of all proceedings in this case, and for good cause appearing therefore;

19 It is hereby ORDERED, ADJUDGED, AND DECREED that:

20 1. The Court has jurisdiction over the subject matter of the Action, and all matters
21 relating to the Settlement, and personal jurisdiction over the Parties to the Action, including the
22 Settlement Class Members.

23 2. The Stipulation and all of its exhibits (as filed with the Court) are incorporated into
24 this Final Order and Judgment Approving Settlement and Dismissing the Action With Prejudice
25 (“Judgment”), including the definitions and terms set forth in the Stipulation.

26 3. The Court hereby certifies for the purposes of the Settlement only, the Action as a
27 class action pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure on behalf of
28 the following Settlement Class:

1 Any and all Kaiser members¹ in the Kaiser Operating States², subject to the
 2 exclusions below, who accessed the authenticated pages of the Kaiser Permanente
 3 websites or mobile applications listed below from November 2017 to May 2024:

Websites	
	https://wa-member.kaiserpermanente.org https://healthy.kaiserpermanente.org https://mydoctor.kaiserpermanente.org
Mobile Applications	
	Kaiser Permanente Washington App Kaiser Permanente App My Doctor Online (NCAL Only) App My KP Meds App KP Health Ally App

14 Excluded from the Settlement Class are (1) the Judges presiding over the Action,
 15 Class Counsel, Sutter Counsel, and immediate members of their families; (2)
 16 Defendant, its subsidiaries, parent companies, successors, predecessors, and any
 17 entity in which the Defendant or its parents have a controlling interest, and their
 18 current or former officers and directors; (3) Persons who properly execute and
 19 submit a request for exclusions prior to the Opt-Out Deadline; (4) the successors or
 20 assigns of any such excluded Persons; and (5) Kaiser Permanente Members Who
 21 Have Chosen to Arbitrate, with “Members Who Have Chosen to Arbitrate” defined
 22 as (i) the seventeen (17) current and former Kaiser Permanente members identified
 23 in Appendix A represented by one or more of the Potter Handy, LLP (“Potter
 24 Handy”), Milberg Coleman Bryson Phillips Grossman, LLC (“Milberg”), and
 25

26 ¹ “Kaiser members” (also referred to in the Stipulation as “Kaiser Permanente members”) means
 27 current and former enrollees of the Kaiser Foundation Health Plan or any of its affiliates.
 Consolidated Class Action Complaint, ECF No. 271, ¶ 72.

28 ² “Kaiser Operating States” (also referred to in the Stipulation as Kaiser Permanente Operating
 States) means California, Colorado, Georgia, Hawaii, Maryland, Oregon, Virginia, Washington,
 and the District of Columbia. Consolidated Class Action Complaint, ECF No. 271, ¶ 72.

1 Bryson Harris Suci & DeMay, PLLC (“Bryson”) law firms; and (ii) the four (4)
2 current and former Kaiser Permanente members identified in Appendix B
3 represented by the Shay Legal, APC and Swigart Law Group, APC law firms.

4 4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for the purposes of
5 the Settlement only, the Court hereby appoints Plaintiffs as Class Representatives for the Settlement
6 Class and appoints Kessler Topaz Meltzer & Check, LLP and Carella, Byrne, Cecchi, Brody, &
7 Agnello, P.C. as Class Counsel for the Settlement Class. Plaintiffs and their counsel have fairly and
8 adequately represented the Settlement Class both in terms of litigating the Action and for purposes
9 of entering into and implementing the Settlement, and have satisfied the requirements of Federal
10 Rules of Civil Procedure 23(a)(4) and 23(g), respectively.

11 5. Notice to the members of the Settlement Class has been given in an appropriate,
12 adequate, and sufficient manner and notice was reasonably calculated to apprise interested parties
13 of the pendency of the Action, the nature of the claims, the definition of the Settlement Class, and
14 their opportunity to exclude themselves from the Settlement Class or present objections to the
15 Settlement. Collectively, the Notices complied in all respects with the requirements of the Federal
16 Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), the
17 rules of this Court, and any other applicable law. No Settlement Class Member is relieved from the
18 terms of the Settlement, including the releases provided for therein, based upon the contention or
19 proof that such Settlement Class Member failed to receive actual or adequate notice.

20 6. Members of the Settlement Class were given the opportunity to exclude themselves
21 from the Settlement Class. A total of 22,853 Settlement Class Members have requested exclusion
22 from the Settlement Class. A list of the individuals requesting exclusion from the Settlement Class
23 are identified in papers that were filed confidentially with the Court on April 2, 2026.

24 7. Kaiser Foundation Health Plan, Inc. has satisfied the requirements of CAFA. Dkt.
25 No. 418.

26 8. Members of the Settlement Class were given the opportunity to submit objections
27 in connection with the Settlement, and eighteen (18) individuals did so. The Court has considered
28 each of the objections to the Settlement submitted pursuant to Rule 23(e)(5) of the Federal Rules

1 of Civil Procedure. The Court finds and concludes that each of the objections is without merit, and
2 each is hereby overruled.

3 9. The Court finally approves the Settlement and Plan of Allocation in all respects as
4 fair, reasonable, adequate, and in the best interests of the Settlement Class pursuant to Rule 23(e).
5 Specifically, in accordance with Rule 23(e)(2), the Court finds that (a) Plaintiffs and Class Counsel
6 have adequately represented the Settlement Class; (b) the Settlement was negotiated by the Parties
7 at arm's length; (c) the relief provided for the Settlement Class under the Settlement is adequate
8 taking into account the costs, risks, and delay of trial and appeal, the proposed means of distributing
9 the Settlement Fund to the Settlement Class, and the proposed attorneys' fee award; and (d) the
10 Settlement treats members of the Settlement Class equitably relative to each other.

11 10. The terms of the Stipulation, including all exhibits to the Stipulation, and this
12 Judgment, shall be forever binding on the Settlement Class.

13 11. Neither the Settlement, this Judgment, any papers related to the Settlement, nor the
14 fact of the Settlement shall be used as a finding or conclusion of the Court, or an admission by
15 Kaiser Foundation Health Plan, Inc., of any fault, wrongdoing, or liability whatsoever.

16 12. The Parties and the Settlement Administrator shall carry out all the terms of the
17 Settlement, including the distribution of payments to each eligible Settlement Class Member as
18 provided in the Plan of Allocation, and the release provisions in the Stipulation, in accordance with
19 the terms of the Stipulation.

20 13. Kaiser Foundation Health Plan, Inc. shall have no liability or responsibility for any
21 payments, fees, or costs under this Judgment or the Settlement aside from its payment of the
22 Settlement Amount. Under no circumstances shall Defendant be required to pay any amounts in
23 furtherance of this Settlement, this Judgment, and the administration of the Settlement other than
24 the payment of the Settlement Amount.

25 14. Releases:

26 A. Upon the Effective Date, Plaintiffs and all Settlement Class Members, and
27 their respective current and former employees, attorneys, heirs, executors,
28 administrators, agents, legal representatives, conservators, professional

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corporations, partnerships, assigns, successors, and, with respect to minors, parents and guardians, will fully, finally, and forever release, relinquish, and discharge Kaiser Foundation Health Plan, Inc. and Released Parties from, and shall forever be enjoined from prosecution of Defendant, its Affiliated Entities, and the Released Parties for, any and all Released Claims. The Plaintiffs agree that they will not seek any further compensation, consideration, or relief of any kind in connection with the Action, or any and all Released Claims.

B. Settlement Class Members fully, finally, and forever release, relinquish, and discharge Kaiser Foundation Health Plan, Inc., its Affiliated Entities, and the Released Parties from, and shall forever be enjoined from prosecution of Defendant, its Affiliated Entities, and the Released Parties for, any and all Released Claims.

C. “Released Claims” and “Released Parties’ Claims” means any and all claims, causes of action, suits, arbitration claims or demands, obligations, debits, demands, agreements, promises, liabilities, damages, losses, controversies, costs, expenses, and attorneys’ fees of any nature whatsoever, whether based on any law (including federal law, state law common law, contract, rule or regulation) or equity, whether known or unknown, suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated, punitive or compensatory, monetary or nonmonetary, that have been pled in the Action or that could have been pled in the Action, that arise out of or relate to the causes of actions, allegations, practices, or conduct at issue in the Consolidated Class Action Complaint, including but not limited to use of third-party code on the Kaiser Permanente websites and mobile applications as described in paragraphs 4 through 23 and 82 through 428 of the Consolidated Class Action Complaint and access of the unauthenticated and authenticated pages

1 of the Kaiser Permanente websites or mobile applications. “Released
2 Claims” and “Released Parties’ Claims” do not include any claims relating
3 to the enforcement of the Settlement or any claims of the individuals who
4 submit timely and valid requests for exclusion from the Settlement Class in
5 accordance with the terms set forth in the Long Form Notice.

6 D. “Unknown Claims,” which the Stipulation defines as: “Unknown Claims”
7 means any and all Released Claims that any Plaintiff or Settlement Class
8 Member does not know or suspect to exist in his or her favor as of the
9 Effective Date and which, if known by him or her, might have affected his
10 or her decision(s) with respect to the Settlement. With respect to any and all
11 Released Claims, the Parties stipulate and agree that upon the Effective Date,
12 Plaintiffs and Settlement Class Members shall have waived any and all
13 provisions, rights, and benefits conferred under California Civil Code § 1542
14 or by any law of any state of the United States, or principle of common law
15 or otherwise, which is similar, comparable, or equivalent to California Civil
16 Code § 1542, which provides: A general release does not extend to claims
17 that the creditor or releasing party does not know or suspect to exist in his or
18 her favor at the time of executing the release and that, if known by him or
19 her, would have materially affected his or her settlement with the debtor or
20 released party. The Parties and Settlement Class Members by operation of
21 law shall be deemed to have acknowledged that the inclusion of “Unknown
22 Claims” in the definition of Released Claims was separately bargained for
23 and was a key element of the Stipulation.

24 E. As set forth in the Stipulation, “Affiliated Entities” means any
25 representatives, trustees, predecessors, successors, assigns, affiliates,
26 subrogors, subrogees, assignees, assignors, subsidiaries, agents, employees,
27 servants, officers, directors, and attorneys of Kaiser Foundation Health Plan,
28 Inc.

1 F. Settlement Class Members are barred and permanently enjoined from
2 prosecuting any and all Released Claims.

3 G. Nothing in this Judgment or the Stipulation shall preclude any action to
4 enforce the terms of the Settlement.

5 15. Without affecting the finality of this Judgment in any way, this Court will retain
6 exclusive continuing jurisdiction over all Parties and Settlement Class Members with regard to
7 implementation of the Stipulation, disposition of the Settlement Amount, and enforcement and
8 administration of the Stipulation, including the release provisions thereof. The Court may order any
9 appropriate legal or equitable remedy necessary to enforce the terms of this Judgment and/or the
10 Settlement.

11 16. A separate order shall be entered regarding the motion of Class Counsel for
12 attorneys' fees, litigation expenses, and service awards to Plaintiffs. Such order shall in no way
13 affect or delay the finality of this Judgment and shall not affect or delay the Effective Date of the
14 Settlement.

15 17. Without further approval from the Court, Plaintiffs and Defendant are hereby
16 authorized to agree to and adopt such amendments or modifications of the Stipulation or any
17 exhibits attached thereto to effectuate the Settlement that: (a) are not materially inconsistent with
18 this Judgment; and (b) do not materially limit the rights of Settlement Class Members in connection
19 with the Settlement.

20 18. If the Settlement is terminated as provided in the Stipulation or the Effective Date
21 of the Settlement otherwise fails to occur, this Judgment shall be vacated, rendered null and void,
22 and be of no further force and effect, except as otherwise provided by the Stipulation, and this
23 Judgment shall be without prejudice to the rights of Plaintiffs, the other members of the Settlement
24 Class, and Defendant, and the Parties shall be restored to their litigation positions immediately prior
25 to the execution of the Term Sheet at the May 13, 2025 mediation, as provided in the Stipulation.

26 19. The Action is dismissed with prejudice and without costs (except as otherwise
27 provided herein and in the Stipulation).

28 20. This is a final and appealable Judgment.

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21. There is no just reason to delay the entry of this Judgment and immediate entry by the Clerk of the Court is expressly directed.

SO ORDERED.

Dated: _____, 2026

Honorable Edward M. Chen
United States District Judge
Northern District of California

EXHIBIT 2

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JOHN DOE, JOHN DOE II, JOHN DOE III,
JANE DOE, JANE DOE II, JANE DOE III,
JANE DOE IV, JANE DOE V, and ALEXIS
SUTTER, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

KAISER FOUNDATION HEALTH PLAN,
INC., KAISER FOUNDATION HOSPITALS,
and KAISER FOUNDATION HEALTH PLAN
OF WASHINGTON,

Defendants.

Case No. 3:23-cv-02865-EMC

**[PROPOSED] ORDER AWARDING
ATTORNEYS' FEES, LITIGATION
EXPENSES, AND SERVICE AWARDS**

This matter came on for hearing on May 7, 2026 ("Fairness Hearing"), on Class Counsel's Motion for Attorneys' Fees, Litigation Expenses, and Service Awards. The Court having considered all matters submitted to it at the Fairness Hearing and otherwise; it appearing that notice of the Fairness Hearing substantially in the forms approved by the Court, which advised Settlement Class Members of Class Counsel's Motion for Attorneys' Fees, Litigation Expenses, and Service Awards, was emailed/mailed to the Settlement Class Members identified in the data provided by Kaiser, and that a notice campaign, including development and operation of a website dedicated to the Settlement, where Settlement-related information and deadlines, including copies of the Long Form Notice, Claim Form, and Plan of Allocation were posted, was conducted in the manner approved by the Court; and the Court having considered and determined the fairness and reasonableness of the proposed attorneys' fees, litigation expenses, and service awards,

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1 1. This Order incorporates by reference the definitions in the Amended Stipulation of
2 Settlement dated December 1, 2025 (ECF No. 390-1) (“Settlement Agreement”) and all terms not
3 otherwise defined herein shall have the same meanings as set forth in the Settlement Agreement.

4 2. The Court has jurisdiction to enter this Order and over the subject matter of the Action
5 and all Parties to the Action, including all Settlement Class Members.

6 3. Notice of Class Counsel’s Motion for Attorneys’ Fees, Litigation Expenses, and
7 Service Awards and the date for the hearing on such motion was given to Settlement Class Members.
8 The forms and methods of notifying the Settlement Class of Class Counsel’s Motion for Attorneys’
9 Fees, Litigation Expenses, and Service Awards satisfied the requirements of Rule 23 of the Federal
10 Rules of Civil Procedure, due process, and all other applicable law and rules, constituted the best
11 notice practicable under the circumstances, and constituted due and sufficient notice to all persons
12 entitled thereto.

13 4. Class Counsel are hereby awarded attorneys’ fees in the amount of _____ of
14 the Settlement Fund and _____ for payment of counsel’s litigation expenses plus interest
15 earned on such amounts. These attorneys’ fees and expenses shall be paid from the Settlement Fund
16 and the Court finds these sums to be fair and reasonable. In accordance with the Settlement
17 Agreement, Class Counsel shall allocate the attorneys’ fees awarded among counsel in a manner in
18 which they, in good faith, believe reflects the contributions of each counsel to the institution,
19 prosecution, and settlement of the Action.

20 5. In making this award of attorneys’ fees and litigation expenses from the Settlement
21 Fund, the Court has considered and found that:

22 a. The Settlement has created a fund of \$_____, in cash pursuant to the
23 terms of the Settlement Agreement, and numerous Settlement Class Members
24 who submit acceptable Claim Forms will benefit from the Settlement that
25 occurred because of the efforts of Class Counsel;

26 b. Short Form Notices were sent to Settlement Class Members and the Long Form
27 Notice was posted on the Settlement Website. The notices advised that Class

1 Counsel would apply for attorneys' fees in an amount not to exceed 33% of
2 the Settlement Fund and payment of litigation expenses in an amount not to
3 exceed \$900,000, plus interest, and only eight objections to the requested
4 attorneys' fees, litigation expenses, or service awards were submitted, which
5 the Court has considered and rejected;

6 c. Class Counsel conducted the litigation and achieved the Settlement with skill,
7 perseverance, and diligent advocacy;

8 d. The Action raised a number of complex issues;

9 e. Had Class Counsel not achieved the Settlement there would remain a
10 significant risk that Plaintiffs and the other members of the Settlement Class
11 may have recovered less or nothing from Kaiser;

12 f. Over the course of two years, Class Counsel devoted more than 19,647 hours,
13 with a lodestar value of \$12,585,006, to achieve the Settlement; and

14 g. The amount of attorneys' fees awarded and expenses to be paid from the
15 Settlement Fund are fair and reasonable and consistent with awards in similar
16 cases.

17 6. Plaintiff John Doe is hereby awarded a service award in the amount of _____
18 from the Settlement Fund for the time and effort he devoted in prosecuting the Settlement Class's
19 claims and achieving the substantial Settlement for the Settlement Class.

20 7. Plaintiff John Doe II is hereby awarded a service award in the amount of _____
21 from the Settlement Fund for the time and effort he devoted in prosecuting the Settlement Class's
22 claims and achieving the substantial Settlement for the Settlement Class.

23 8. Plaintiff Jane Doe is hereby awarded a service award in the amount of _____
24 from the Settlement Fund for the time and effort she devoted in prosecuting the Settlement Class's
25 claims and achieving the substantial Settlement for the Settlement Class.

1 9. Plaintiff Jane Doe II is hereby awarded a service award in the amount of _____
2 from the Settlement Fund for the time and effort she devoted in prosecuting the Settlement Class’s
3 claims and achieving the substantial Settlement for the Settlement Class.

4 10. Plaintiff Jane Doe III is hereby awarded a service award in the amount of _____
5 from the Settlement Fund for the time and effort she devoted in prosecuting the Settlement Class’s
6 claims and achieving the substantial Settlement for the Settlement Class.

7 11. Plaintiff Jane Doe IV is hereby awarded a service award in the amount of _____
8 from the Settlement Fund for the time and effort she devoted in prosecuting the Settlement Class’s
9 claims and achieving the substantial Settlement for the Settlement Class.

10 12. Plaintiff Jane Doe V is hereby awarded a service award in the amount of _____
11 from the Settlement Fund for the time and effort she devoted in prosecuting the Settlement Class’s
12 claims and achieving the substantial Settlement for the Settlement Class.

13 13. Plaintiff Alexis Sutter is hereby awarded a service award in the amount of
14 _____ from the Settlement Fund for the time and effort she devoted in prosecuting the
15 Settlement Class’s claims and achieving the substantial Settlement for the Settlement Class.

16 14. Any appeal or any challenge affecting this Court’s approval of the Plan of Allocation
17 shall in no way disturb or affect the finality of the Final Approval Order.

18 15. Exclusive jurisdiction is hereby retained over the Parties and the Settlement Class
19 Members for all matters relating to this Action, including the administration, interpretation,
20 effectuation or enforcement of the Settlement Agreement and this Order.

21 16. In the event that the Settlement is terminated or the Effective Date of the Settlement
22 otherwise fails to occur, this Order shall be rendered null and void to the extent provided by the
23 Settlement Agreement.

24 17. There is no just reason for delay in the entry of this Order, and immediate entry by
25 the Clerk of the Court is expressly directed.

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IT IS SO ORDERED.

DATED: _____, 2026

HONORABLE EDWARD M. CHEN
UNITED STATES DISTRICT JUDGE