

FILED
SAN MATEO COUNTY

JUL 14 2021

Clerk of the Superior Court
By *M. Boes*
DEPUTY CLERK

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN MATEO

SELENA SCOLA, ERIN ELDER, GABRIEL RAMOS, APRIL HUTCHINS, KONICA RITCHIE, ALLISON TREBACZ, JESSICA SWARNER, and GREGORY SHULMAN,
individually and on behalf of all others similarly situated,

Plaintiffs,

v.

FACEBOOK, INC.,

Defendant.

Civil Action No. 18CIV05135

~~PROPOSED~~ ORDER AND JUDGMENT GRANTING PLAINTIFFS' RENEWED MOTION FOR FINAL APPROVAL OF SETTLEMENT

Assigned for All Purposes to
Hon. V. Raymond Swope, Dept. 23

Date: June 21, 2021
Dept.: 23
Trial Date: None Set
2nd Amended Complaint Filed: June 30, 2020

1 This matter came before the Court on Plaintiffs' Renewed Motion for Final Approval of
2 Settlement (the "Motion") between individual and representative Plaintiffs Selena Scola, Erin Elder,
3 Gabriel Ramos, April Hutchins, Konica Ritchie, Allison Trebacz, Jessica Swarner, and Gregory
4 Shulman ("Plaintiffs") and Defendant Facebook, Inc. ("Facebook") (collectively the "Settling Parties"),
5 as set forth in the Settlement Agreement attached hereto as Exhibit A (the "Settlement").¹

6 The Court, having issued an August 14, 2020 Order Granting (1) Preliminary Approval of
7 Settlement; (2) Provisional Certification of Settlement Class; (3) Appointment of Class Counsel; (4)
8 Approval of Notice Plan; and (5) Approval of Settlement Administrator (the "Preliminary Approval
9 Order"): (a) granted preliminary approval to the Settlement; (b) ordered that notice of the Settlement be
10 disseminated to members of the Class, as directed therein; and (c) scheduled a final approval hearing;
11 an April 21, 2021 Order Granting (1) Plaintiffs' Renewed Motion to Approve Supplemental Notice
12 Program; and (2) Preliminary Approval of the Settlement ("Renewed Preliminary Approval Order");
13 and after a duly noticed fairness hearing on June 21, 2021 ("Fairness Hearing"), hereby finds that:

14 1. Notice to the Class was provided in accordance with the terms of the Preliminary
15 Approval Order and Renewed Preliminary Approval Order, and due process as demonstrated by the (1)
16 Declaration of Elizabeth Enlund in Support of Plaintiffs' Motion for Attorneys' Fees, Reimbursement
17 of Costs, and Service Awards, (2) the Declaration of Elizabeth Enlund in Support of Motion for Final
18 Approval, and (3) the Declaration of Elizabeth Enlund in Support of Renewed Motion for Final
19 Approval.

20 2. On June 21, 2021, the Settling Parties appeared before the Court for the Fairness
21 Hearing, and an opportunity to be heard was given to all persons requesting to be heard. The Court has
22 reviewed and considered all the pleadings filed in connection therewith, and all of the arguments and
23 evidence presented at the Fairness Hearing concerning the Settlement.

24 **Accordingly, it is hereby ORDERED and DECREED that:**

25
26 ¹ The Settlement was first filed with the Court on May 8, 2020 as Exhibit 1 to the Declaration of Steven N.
27 Williams in Support of Plaintiffs' Motion for (1) Preliminary Approval of Settlement; (2) Provisional
28 Certification of Settlement Class; (3) Appointment of Class Counsel; (4) Approval of Notice Plan; (5) Approval
of Settlement Administrator; and (6) Approval of Belaire Notice and is available at
contentmoderatorsettlement.com.

1 **A. Plaintiffs' Renewed Motion for Final Approval of the Class Action Settlement Is**
2 **Granted.**

3 3. This Court has jurisdiction over the above-captioned Action, Plaintiffs, Class Members,
4 and Defendant.

5 4. Capitalized terms used in this Order have the meanings and/or definitions ascribed to
6 them in the Settlement.

7 5. The Court finds that the applicable requirements of the California Code of Civil
8 Procedure section 382 and California Rules of Court, rules 3.769 and 3.7709 have been satisfied with
9 respect to Class Members and the Settlement.

10 6. The certified Class is defined as follows:

11 All Content Moderators who performed work for Facebook in California, Arizona, Texas,
12 or Florida as an employee or subcontractor of one or more of the Facebook Vendors from
September 15, 2015 to the date of Preliminary Approval of the Settlement.

13 7. The notice plan implemented pursuant to the Settlement and approved by the Court in
14 the Preliminary Approval Order and Renewed Preliminary Approval Order was reasonably calculated
15 under the circumstances to apprise the Settlement Class of the pendency of the Actions and all material
16 elements of the proposed Settlement, and of their opportunity to object to, request exclusion from, or
17 comment on the Settlement, and to appear at the Fairness Hearing. The notice was reasonable: it
18 provided due, adequate, and sufficient notice to all members of the Settlement Class, and complied
19 fully with the laws of the State of California, the Code of Civil Procedure, the California Rules of
20 Court, due process, and any other applicable statutes or rules. A full and fair opportunity has been
21 afforded to the members of the Settlement Class to participate in the Fairness Hearing, and all Class
22 Members and other persons wishing to be heard have been heard.

23 8. Accordingly, the Court determines that all Class Members are bound by this Judgment,
24 Final Order, and Decree. The individuals identified in Exhibit B attached hereto, however, timely and
25 properly requested exclusion from the Class. Each of these persons is excluded from the Settlement
26 Class, meaning they shall not be bound by the terms of the Settlement or by entry of this Judgment.

27 9. One Class Member asserted an Objection to the Settlement Agreement. This Class
28 Member, after making a statement at the Fairness Hearing, withdrew his objection. I have considered

1 this objection and found that the Settlement is fair, reasonable, and adequate despite the objection
2 raised and withdrawn for the reasons described below. Accordingly, the Court hereby grants Final
3 Approval to the Settlement.

4 10. The Settlement is entitled to a presumption of reasonableness, as it was negotiated at
5 arms' length by experienced and well-prepared Class Counsel, and there has only been one objection to
6 the Settlement. (*7-Eleven Owners for Fair Franchising v. Southland Corp.* (2001) 85 Cal. App. 4th
7 1135, 1151.)

8 11. Even apart from this presumption, the Court has determined that the Settlement is fair,
9 reasonable, and adequate as measured by the relevant criteria. (*See Dunk v. Ford Motor Co.* (1996) 48
10 Cal. App. 4th 1794, 1801 [listing and applying factors].) Prior to entering into the proposed Settlement,
11 Class Counsel, who have extensive experience in class action litigation, were well-informed about the
12 potential risks and rewards of continued litigation—having conducted extensive discovery and
13 investigation; and having consulted at length with experts concerning Facebook's potential liability and
14 Class Members' potential damages.

15 12. The case had not been set for trial and continued litigation presents significant risks for
16 Class Members as well as further risks in any post-trial appeal.

17 13. The Court finds that the \$52 million Settlement Payment is fair, reasonable, and
18 adequate given the claims and defenses, the substantial litigation risks, and the history of this Action.

19 14. In addition, the reaction of Class Members strongly favors approval of the Settlement.
20 While the Settlement Class contains thousands of content moderators, only one Class Member objected
21 to the Settlement. This Class Member withdrew his objection at the Fairness Hearing.

22 15. The Plan of Allocation, as approved in the Preliminary Approval Order and described in
23 the notice disseminated to the Settlement Class, is hereby approved as fair, reasonable, and adequate.
24 Pursuant to the Plan of Allocation, funds are to be disbursed from the Settlement Fund as follows:

25 a. The Attorneys' Fee Award approved by the Court may be distributed to Class
26 Counsel from the Settlement Fund within thirty (30) days after the later of (a) the Effective Date
27 of the Settlement; or (b) receipt of a completed IRS Form W9 from the Attorneys' Fees Award
28 recipient(s).

1 b. Disbursements for the payment of any taxes (including any estimated taxes,
2 interest, or penalties) due as a result of income earned by the Settlement Fund shall be made
3 promptly by the escrow agent;

4 c. The Class Representative Service Awards approved by the Court for services
5 rendered to the Class by Plaintiffs shall be distributed to Plaintiffs from the Settlement Fund
6 within thirty (30) days after the later of (a) the Effective Date of the Settlement; or (b) receipt of
7 a completed IRS Form W9 from the Class Representative Service Awards recipient(s);

8 d. Other disbursements, such as for reasonable fees and expenses incurred in
9 administering the Settlement Fund and escrow account and for the cost of notice, may be
10 disbursed as set forth in the Settlement Agreement; and

11 e. The balance of the Settlement Fund after the payments described in paragraphs
12 (a) through (d) above shall be distributed to Class Members in accordance with the Plan of
13 Allocation approved by the Court.

14 f. In the event monies remain as residue in the Settlement Fund following
15 distributions to Class Members, the Class Representatives shall move the Court for an order
16 disposing of all such funds to the Cy Pres Recipient. The Court has approved the International
17 Society for Traumatic Stress Studies as the Cy Pres Recipient.

18 g. In no event shall a residue in the Settlement Fund revert to Facebook.

19 16. Based on the foregoing findings, the Settlement is finally approved and made a part of
20 this Judgment as if fully set forth herein and shall have the full force and effect of an order of this
21 Court. The Settling Parties shall consummate the Settlement according to its terms.

22 17. The Court hereby orders and declares (i) the Settlement is binding upon all Settling
23 Parties and Class Members; (ii) the Settlement shall be preclusive in all pending and future lawsuits or
24 other proceedings against Facebook as set forth in Section 6 of the Settlement; and (iii) the Settlement
25 and this Order shall have res judicata and preclusive effect in all pending and future lawsuits or other
26 proceedings maintained against Facebook by or on behalf of the Plaintiffs or any other Class Member,
27 as well as each of their heirs, executors, administrators, successors and assigns, as set forth in Section 6
28

1 of the Settlement. Upon the Effective Date, the Settlement shall be the exclusive remedy against
2 Facebook for satisfaction of any and all Released Claims of Class Members.

3 18. The Court hereby incorporates the Releases and Covenants Not to Sue set forth in
4 Section 6 of the Settlement. Should any Class Member breach the covenant not to sue set forth in
5 Section 6 of the Settlement, the Released Parties may seek equitable and legal remedies, including the
6 recovery of attorneys' fees incurred in responding to such breach. Without in any way limiting the
7 definition of Released Defendant Parties, the following specific entity is a Released Defendant Party:
8 Facebook, Inc.

9 19. Nothing in this Order shall be construed to expand the obligations of Facebook under
10 the Settlement or to impose obligations on Facebook other than those contained in the Settlement.

11 **B. Reservation of Jurisdiction.**


12 20. Without affecting the finality of this Judgment and Final Order, the Settling Parties have
13 submitted to the exclusive and continuing jurisdiction of this Court, and this Court reserves exclusive
14 and continuing jurisdiction over the Settlement, including the administration, consummation, and
15 interpretation of the Settlement. Pursuant to California Rules of Court, Rule 3.769(h), the Court retains
16 exclusive and continuing jurisdiction over the Parties to enforce the terms of this Judgment.

17 **C. Entry of Final Judgment.**

18 21. Pursuant to Code of Civil Procedure sections 578, 579, and 664.6, the Court, in the
19 interests of justice, there being no just reason for delay, directs the Clerk of the Court to enter this Final
20 Approval Order and Judgment, and hereby decrees that upon entry it shall be deemed a Final Judgment
21 with respect to all Released Claims.

22 22. The Court directs that the Action be dismissed with prejudice as against Facebook and,
23 except as provided for in the Settlement, without costs to the Settling Parties, and that an order and
24 final judgment of dismissal be entered as between Plaintiffs and Facebook.

25
26 Dated: JUL 14 2021

27 
28 Hon. V. Raymond Swipe
Judge of the Superior Court