

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

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

SCOTT C. HARTMANN, Individually  
and on behalf of all others similarly  
situated,  
  
Plaintiff,  
  
v.  
  
VERB TECHNOLOGY COMPANY,  
INC., and RORY J. CUTAIA,  
  
Defendants.

No. CV 19-5896-GW-MAAx

CLASS ACTION

**AMENDED ORDER  
GRANTING PLAINTIFFS’  
MOTION FOR PRELIMINARY  
APPROVAL OF CLASS  
ACTION SETTLEMENT**

Judge: Hon. George H. Wu

BUMJIN KIM, Individually and on  
behalf of all others similarly situated,  
  
Plaintiff,  
  
v.  
  
VERB TECHNOLOGY COMPANY,  
INC., and RORY J. CUTAIA,  
  
Defendants.

No. 2:19-cv-06944-GW-MAA

CLASS ACTION

1           WHEREAS, Lead Plaintiff J. Leister and named Plaintiff Alexander Wolfson  
2 (“Plaintiffs”), individually and on behalf of the Settlement Class, and Defendants  
3 Verb Technology Company, Inc. and Rory J. Cutaia (“Defendants,” and together  
4 with Plaintiffs, “Parties”), have entered into the Stipulation of Settlement, dated  
5 September 17, 2020 (the “Stipulation”), which is subject to review under Rule 23  
6 of the Federal Rules of Civil Procedure and which, together with the exhibits  
7 annexed thereto, sets forth the terms and conditions for the proposed settlement of  
8 the class action pending before the Court entitled *Hartmann v. Verb Technology*  
9 *Company, Inc., et al.*, Case No. 2:19-cv-05896-GW-MAA (“Action”)<sup>1</sup>; and the  
10 Court having read and considered the Stipulation and the exhibits thereto and  
11 submissions made relating thereto, and finding that substantial and sufficient  
12 grounds exist for entering this Order; and the Parties having consented to the entry  
13 of this Order;

14           NOW, THEREFORE, IT IS HEREBY ORDERED, this 28<sup>th</sup> day of October,  
15 2020, that:

16           1.     Capitalized terms used herein have the meanings set forth in the  
17 Stipulation.

18           2.     Pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil  
19 Procedure and for the purposes of the Settlement only, the Action is hereby  
20 preliminarily certified as a class action on behalf of all Persons (including, without  
21 limitation, their beneficiaries) who purchased Verb common stock during the period  
22 from January 3, 2018 through May 2, 2018, both days inclusive, and excluded from  
23 the Settlement Class are (i) Defendants and all officers and directors of Verb during  
24 the Settlement Class Period; (ii) immediate family members of any Person excluded

25  
26 \_\_\_\_\_  
27 <sup>1</sup> The Action also includes the related action previously consolidated with this  
28 Action by the Court, captioned *Kim v. Verb Technology Company, Inc. et al.*, Case  
No. 2:19-cv-06944.

1 under section (i) of this definition; (iii) any entities affiliated with or controlled by  
2 any person excluded under sections (i) and (ii) of this definition; (iv) the legal  
3 representatives, heirs, successors or assigns of any person excluded under  
4 subsections (i) through (iii) of this definition; and (v) Opt-Outs (*i.e.*, Persons who  
5 file valid and timely requests for exclusion from the Settlement Class in accordance  
6 with this Order).

7 3. This Court finds, preliminarily and for purposes of this Settlement  
8 only, that the prerequisites for a class action under Rules 23(a) and (b)(3) of the  
9 Federal Rules of Civil Procedure have been satisfied in that: (a) the number of  
10 Settlement Class Members is so numerous that joinder of all members of the  
11 Settlement Class is impracticable; (b) there are questions of law and fact common  
12 to the Settlement Class; (c) the claims of Plaintiffs are typical of the claims of the  
13 Settlement Class they seek to represent; (d) Plaintiffs fairly and adequately  
14 represent the interests of the Settlement Class; (e) questions of law and fact common  
15 to the Settlement Class predominate over any questions affecting only individual  
16 members of the Settlement Class; and (f) a class action is superior to other available  
17 methods for the fair and efficient adjudication of the Action.

18 4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure,  
19 preliminarily and for the purposes of this Settlement only, Plaintiffs are certified as  
20 the class representatives on behalf of the Settlement Class (“Class Representatives”)  
21 and Lead Counsel, previously selected by Plaintiffs and approved by this Court, is  
22 hereby appointed as Lead Counsel for the Settlement Class (“Lead Counsel”).

23 5. The Court finds that (a) the Stipulation resulted from good faith, arm’s-  
24 length negotiations, and (b) the Stipulation is sufficiently fair, reasonable, and  
25 adequate to the Settlement Class Members to warrant providing notice of the  
26 Settlement to Settlement Class Members and holding a Settlement Hearing.

27  
28

1           6.     The Court hereby preliminarily approves the Settlement, subject to  
2 further consideration at a hearing (“Settlement Hearing”) pursuant to Federal Rule  
3 of Civil Procedure 23(e), which is hereby scheduled to be held before the Court on  
4 February 18, 2021 at 8:30 a.m., and may be conducted via telephonic or  
5 videoconference means at the Court’s direction, for the following purposes:

6                   (a)     to determine finally whether the applicable prerequisites for  
7 class action treatment under Federal Rules of Civil Procedure 23(a) and (b) are  
8 satisfied;

9                   (b)     to determine finally whether the Settlement is fair, reasonable,  
10 and adequate, and should be approved by the Court;

11                   (c)     to determine finally whether the Final Judgment as provided  
12 under the Stipulation should be entered, dismissing the Action on the merits and  
13 with prejudice, and to determine whether the release by the Releasing Parties of the  
14 Released Claims against the Released Parties, as set forth in the Stipulation, should  
15 be ordered, along with a permanent injunction barring efforts to prosecute or  
16 attempt to prosecute any Released Claims extinguished by the release against any  
17 of the Released Parties, as also set forth in the Stipulation;

18                   (d)     to determine finally whether the proposed Plan of Allocation for  
19 the distribution of the Net Settlement Fund is fair and reasonable and should be  
20 approved by the Court;

21                   (e)     to consider the application of Lead Counsel for an award of  
22 attorneys’ fees and expenses and awards to each Class Representatives;

23                   (f)     to consider Settlement Class Members’ objections to the  
24 Settlement, if any, whether submitted previously in writing or presented orally at  
25 the Settlement Hearing by Settlement Class Members (or by counsel on their  
26 behalf); and

27  
28

1 (g) to rule upon such other matters as the Court may deem  
2 appropriate.

3 7. The Court reserves the right to adjourn the Settlement Hearing to a  
4 later date and to approve the Settlement with or without modification and with or  
5 without further notice other than entry of an Order on the Court's docket. The Court  
6 further reserves the right to enter its Final Judgment approving the Settlement and  
7 dismissing the Action, on the merits and with prejudice, regardless of whether it has  
8 approved the Plan of Allocation or awarded attorneys' fees and expenses.

9 8. The Court reserves the right to approve the Settlement with such  
10 modifications as may be agreed upon or consented to by the Parties and without  
11 further notice to the Settlement Class where to do so would not impair Settlement  
12 Class Members' rights in a manner inconsistent with Rule 23, other applicable rules  
13 or regulations, or due process of law.

14 9. The Court approves the form, substance and requirements of (a) the  
15 Postcard Notice, (b) the Notice, (c) the Proof of Claim, and (d) the Summary Notice,  
16 all of which are exhibits to the Stipulation.

17 10. Lead Counsel, on behalf of Plaintiffs, has the authority to enter into  
18 the Settlement on behalf of the Settlement Class and has the authority to act on  
19 behalf of the Settlement Class with respect to all acts or consents required by or that  
20 may be given pursuant to the Stipulation or such other acts that are reasonably  
21 necessary to consummate the Settlement.

22 11. Strategic Claims Services is appointed and approved as the Claims  
23 Administrator to supervise and administer the notice procedure as well as the  
24 processing of claims.

25 12. The Escrow Agent may, at any time after entry of this Order and  
26 without further approval from Defendants or the Court, disburse at the direction of  
27 Lead Counsel up to \$100,000 from the Settlement Fund prior to the Effective Date  
28

1 to pay Administrative Costs. After the Effective Date, additional amounts, up to a  
2 total of \$200,000, may be transferred from the Settlement Fund to pay for any  
3 necessary additional Administrative Costs without further order of the Court.

4 13. No later than ten Business Days after the date of this Order, Defendants  
5 shall provide and/or cause its transfer agent to provide to Lead Counsel or the  
6 Claims Administrator a list of the record owners of Verb common stock during the  
7 Settlement Class Period in a usable electronic format, such as an Excel spreadsheet.  
8 This information will be kept confidential and not used for any purpose other than  
9 to provide the notice contemplated by this Order.

10 14. No later than fourteen days after the entry of this Order, Lead Counsel,  
11 through the Claims Administrator, shall, (a) post the Stipulation and its exhibits,  
12 this Order, and copies of the Notice and Proof of Claim form on the Claims  
13 Administrator's website; (b) mail requests to nominees or custodians who held Verb  
14 common stock during the Settlement Class Period as record owners but not as  
15 beneficial owners, requesting the names of all beneficial owners of Verb common  
16 stock; and (c) publish the Summary Notice on *GlobalNewswire*.

17 15. No later than seven Business Days after receiving the list of the record  
18 owners of Verb common stock during the Settlement Class Period, Lead Counsel,  
19 through the Claims Administrator, shall mail, by first class mail, postage prepaid,  
20 the Notice and Proof of Claim to the list of record holders of Verb common stock.

21 16. Nominees or custodians shall, within ten calendar days of receipt of  
22 the notice, either: (i) request copies of the Postcard Notice sufficient to send the  
23 Postcard Notice to all beneficial owners for whom they are nominee or custodian,  
24 and within ten calendar days after receipt thereof send copies to such beneficial  
25 owners; (ii) request an electronic copy of the Summary Notice and email the  
26 Summary Notice in electronic format to each beneficial owner for whom they are  
27 nominee or custodian within ten calendar days after receipt thereof; or (iii) provide  
28

1 the Claims Administrator with lists of the names, last known addresses and email  
2 addresses (to the extent known) of such beneficial owners, in which event the  
3 Claims Administrator shall promptly deliver the Summary Notice, if email  
4 addresses are available, or Postcard Notice to such beneficial owners. If the Claims  
5 Administrator receives an email address, it will send a Summary Notice  
6 electronically. Nominees or custodians who elect to email the Summary Notice or  
7 send the Postcard Notice to their beneficial owners shall send a written certification  
8 to the Claims Administrator confirming that the mailing has been made as directed.  
9 Copies of the Postcard Notice shall be made available to any nominee or custodian  
10 requesting same for the purpose of distribution to beneficial owners. The Claims  
11 Administrator shall, if requested, reimburse nominees or custodians out of the  
12 Settlement Fund solely for their reasonable out-of-pocket expenses incurred in  
13 providing notice to beneficial owners, which expenses would not have been  
14 incurred except for the providing of names and addresses, in amounts up to: (i)  
15 \$0.05 per name and address provided; (ii) \$0.05 per email for emailing notice; or  
16 (iii) \$0.05 per postcard, plus postage at the rate used by the Claims Administrator,  
17 for mailing Postcard Notice, subject to further order of this Court with respect to  
18 any dispute concerning such reimbursement.

19 17. As soon as practical after receiving lists of beneficial owners from  
20 nominees and custodians, the Claims Administrator shall mail the Postcard Notice  
21 to all Settlement Class Members whom the Claims Administrator identifies by  
22 reasonable efforts. The Postcard Notice shall contain instructions on how  
23 Settlement Class Members can obtain copies of the Notice and the Proof of Claim,  
24 substantially in the forms annexed to the Stipulation, either electronically or in hard  
25 copy by contacting the Claims Administrator.

26 18. Promptly upon receiving requests from Settlement Class Members, the  
27 Claims Administrator shall mail, by first class mail, postage pre-paid, the Notice  
28

1 and Proof of Claim to such beneficial owners who request it, or otherwise instruct  
2 Settlement Class Members how to receive the Notice electronically and how to  
3 submit a Proof of Claim.

4 19. No later than fourteen Business Days before the Settlement Hearing,  
5 Lead Counsel shall serve upon counsel for Defendants and file with the Court (a)  
6 proof of the mailing of the Postcard Notice and details of how many persons  
7 received the Notice and Proof of Claim by mail and how many accessed it  
8 electronically as required by this Order, and (b) proof of publication of the  
9 Summary Notice.

10 20. The forms and methods set forth herein of notifying the Settlement  
11 Class Members of the Settlement and its terms and conditions meet the  
12 requirements of due process, Rule 23 of the Federal Rules of Civil Procedure, and  
13 Section 21D(a)(7) of the Exchange Act, 15 U.S.C. § 78u-4(a)(7), as amended by  
14 the Private Securities Litigation Reform Act of 1995; constitute the best notice  
15 practicable under the circumstances; and constitute due and sufficient notice to all  
16 persons and entities entitled thereto. No Settlement Class Member will be relieved  
17 from the terms and conditions of the Settlement, including the releases provided for  
18 therein, based upon the contention or proof that such Settlement Class Member  
19 failed to receive actual or adequate notice.

20 21. To be entitled to participate in recovery from the Net Settlement Fund  
21 after the Effective Date, each Settlement Class Member shall take the following  
22 action and be subject to the following conditions:

23 (a) A properly completed and executed Proof of Claim must be  
24 submitted to the Claims Administrator electronically or at the Post Office Box  
25 indicated in the Postcard Notice and the Notice, postmarked no later than February  
26 4, 2021. Such deadline may be further extended by Order of the Court. Each Proof  
27 of Claim shall be deemed to have been submitted when legibly postmarked (if  
28



1 properly addressed and mailed by first class mail) provided such Proof of Claim is  
2 actually received before the filing of a motion for an order of the Court approving  
3 distribution of the Net Settlement Fund. Any Proof of Claim submitted in any other  
4 manner shall be deemed to have been submitted when it was actually received by  
5 the Claims Administrator at the address designated in the Notice.

6 (b) The Proof of Claim submitted by each Settlement Class Member  
7 must satisfy the following conditions: (i) it must be properly completed, signed and  
8 submitted in a timely manner in accordance with the provisions of the preceding  
9 subparagraph; (ii) it must be accompanied by adequate supporting documentation  
10 for the transactions reported therein, in the form of broker confirmation slips, broker  
11 account statements, an authorized statement from the broker containing the  
12 transactional information found in a broker confirmation slip, or such other  
13 documentation as is deemed adequate by the Claims Administrator or Lead  
14 Counsel; (iii) if the person executing the Proof of Claim is acting in a representative  
15 capacity, a certification of his current authority to act on behalf of the Settlement  
16 Class Member must be provided with the Proof of Claim; and (iv) the Proof of  
17 Claim must be complete and contain no material deletions or modifications of any  
18 of the printed matter contained therein and must be signed under penalty of perjury.

19 (c) Once the Claims Administrator has considered a timely  
20 submitted Proof of Claim, it shall determine whether such claim is valid, deficient,  
21 or rejected. For each claim determined to be either deficient or rejected, the Claims  
22 Administrator shall send a deficiency letter or rejection letter as appropriate,  
23 describing the basis on which the claim was so determined. Persons who timely  
24 submit a Proof of Claim that is deficient or otherwise rejected shall be afforded a  
25 reasonable time (at least ten Business Days) to cure such deficiency if it shall appear  
26 that such deficiency may be cured. If any Claimant whose claim has been rejected  
27 in whole or in part wishes to contest such rejection, the Claimant must, within ten  
28

1 Business Days after the date of mailing of the notice of rejection, serve upon the  
2 Claims Administrator a notice and statement of reasons indicating the Claimant’s  
3 ground for contesting the rejection, along with any supporting documentation, and  
4 requesting a review thereof by the Court. If an issue concerning a claim cannot be  
5 otherwise resolved, Lead Counsel shall thereafter present the request for review to  
6 the Court.

7 (d) As part of the Proof of Claim, each Settlement Class Member  
8 shall submit to the jurisdiction of the Court with respect to the claim submitted, and  
9 shall, upon the Effective Date, release all claims as provided in the Stipulation. No  
10 discovery shall be allowed on the merits of the Action or the Settlement in  
11 connection with processing of the Proofs of Claim, nor shall any discovery from or  
12 of Defendants be allowed on any topic.

13 22. All Settlement Class Members who do not submit valid and timely  
14 Proofs of Claim will be forever barred from receiving any payments from the Net  
15 Settlement Fund, but will in all other respects be subject to and bound by the  
16 provisions of the Stipulation and the Final Judgment, if entered.

17 23. Settlement Class Members shall be bound by all determinations and  
18 judgments in this Action, whether favorable or unfavorable, unless such Persons  
19 request exclusion from the Settlement Class in a timely and proper manner, as  
20 hereinafter provided. A Settlement Class Member wishing to request exclusion  
21 from the Settlement Class shall mail it, in written form, by first class mail, postage  
22 prepaid, or otherwise deliver it, so that it is received no later than twenty-one days  
23 prior to the Settlement Hearing (“Exclusion Deadline”), to the addresses listed in  
24 the Notice. To be valid, unless otherwise ordered by the Court, such request for  
25 exclusion must (a) clearly indicate the name and address and phone number and e-  
26 mail contact information (if any) of the Person seeking exclusion, and state that the  
27 sender specifically “requests to be excluded from the Settlement Class in *Hartmann*  
28

1 v. *Verb Technology Company Inc., et al.*, Case No. 2:19-cv-05896-GW-MAA, and  
2 (b) (i) state the date, number of shares, and dollar amount of each Verb common  
3 stock purchase or acquisition during the Settlement Class Period, and any sale  
4 transactions, and (ii) the number of shares of Verb common stock held by the Person  
5 as of May 2, 2018.

6 24. To be valid, such request for exclusion must be submitted with  
7 documentary proof (a) of each purchase or acquisition and, if applicable, sale  
8 transaction of Verb common stock during the Settlement Class Period and (b)  
9 demonstrating the Person's status as a beneficial owner of the Verb common stock.  
10 Any such request for exclusion must be signed and submitted by the beneficial  
11 owner under penalty of perjury. The request for exclusion shall not be effective  
12 unless it provides the required information, is legible, and is made within the time  
13 stated above, or the exclusion is otherwise accepted by the Court. Lead Counsel  
14 may contact any Person filing a request for exclusion, or their attorney if one is  
15 designated, to discuss the exclusion.

16 25. The Claims Administrator shall provide all requests for exclusion and  
17 supporting documentation submitted therewith (including untimely requests) to  
18 counsel for the Parties as soon as possible and no later than three Business Days  
19 after the Exclusion Deadline or upon the receipt thereof (if later than the Exclusion  
20 Deadline). The Settlement Class excludes any Person who delivers a valid and  
21 timely request for exclusion.

22 26. Any Person that submits a request for exclusion may thereafter submit  
23 to the Claims Administrator a written revocation of that request for exclusion,  
24 provided that it is received no later than five Business Days before the Settlement  
25 Hearing or is accepted by the Court at the Settlement Hearing, in which event that  
26 Person will be included in the Settlement Class.

27  
28

1           27. All Persons who submit a valid, timely and unrevoked request for  
2 exclusion will be forever barred from receiving any payments from the Net  
3 Settlement Fund.

4           28. The Court will consider comments and/or objections to the Settlement,  
5 the Plan of Allocation, or the Fee and Expense Application, provided, however, that  
6 no Settlement Class Member or other Person shall be heard or entitled to contest  
7 the approval of the terms and conditions of the proposed Settlement or, if approved,  
8 the Final Judgment, or any other order relating thereto, unless, at least twenty-one  
9 days prior to the Settlement Hearing, that Person has (a) filed said objections, papers  
10 and briefs, showing due proof of service upon counsel identified above, with the  
11 Clerk of the Court, U.S. District Court, Central District of California, First Street  
12 Courthouse, 350 West First Street, Los Angeles, CA 90012 and (b) served copies  
13 of any objections, papers and briefs to each of the following counsel:

14           LEAD COUNSEL:

15  
16 Jacob A. Goldberg  
17 THE ROSEN LAW FIRM, P.A.  
18 101 Greenwood Avenue, Suite 440  
19 Jenkintown, PA 19046

20           COUNSEL FOR DEFENDANTS:

21 Steven M. Schatz  
22 Catherine Moreno  
23 WILSON SONSINI GOODRICH & ROSATI, P.C.  
24 650 Page Mill Road  
25 Palo Alto, CA 94304

26           29. To be valid, any such objection must contain the Settlement Class  
27 Member's (a) name, address, and telephone number, (b) a list of all purchases and  
28 sales of Verb common stock during the Settlement Class Period to show

1 membership in the Settlement Class, (c) all grounds for the objection, including any  
2 legal support known to the Settlement Class Member and/or his, her, or its counsel,  
3 (d) the name, address, and telephone number of all counsel who represent the  
4 Settlement Class Member, and (e) the number of times the Settlement Class  
5 Member and/or his, her, or its counsel has filed an objection to a class action  
6 settlement in the last five years, the nature of each such objection in each case, the  
7 jurisdiction in each case, and the name of the issuer of the security or seller of the  
8 product or service at issue in each case. Attendance at the Settlement Hearing is not  
9 necessary but Persons wishing to be heard orally in opposition to the approval of  
10 the Stipulation, the Plan of Allocation, and/or the Fee and Expense Application are  
11 required to indicate in their written objection (or in a separate writing that is  
12 submitted in accordance with the deadline and after instruction pertinent to the  
13 submission of a written objection) that they intend to appear at the Settlement  
14 Hearing and identify any witnesses they may call to testify or exhibits they intend  
15 to introduce into evidence at the Settlement Hearing. Settlement Class Members do  
16 not need to appear at the Settlement Hearing or take any other action to indicate  
17 their approval.

18         30. Any Settlement Class Member who does not object in the manner  
19 prescribed above shall be deemed to have waived all such objections and shall  
20 forever be foreclosed from making any objection to the fairness, adequacy or  
21 reasonableness of the Settlement, the Final Judgment to be entered approving the  
22 Settlement, the Plan of Allocation, and/or the Fee and Expense Application, unless  
23 otherwise ordered by the Court; shall be bound by all the terms and provisions of  
24 the Stipulation and by all proceedings, orders and judgments in the Action; and shall  
25 also be foreclosed from appealing from any judgment or order entered in this  
26 Action.

27  
28

1           31. All papers in support of the Settlement, the Plan of Allocation and/or  
2 the Fee and Expense Application shall be filed and served no later than twenty-five  
3 Business Days before the Settlement Hearing.

4           32. Any submissions filed in response to any objections or in further  
5 support of the Settlement, the Plan of Allocation and/or the Fee and Expense  
6 Application shall be filed no later than seven days prior to the Settlement Hearing.

7           33. Defendants, their counsel, their insurers, and other Released Parties  
8 shall have no responsibility for, or liability with respect to, the Plan of Allocation  
9 or any application for attorneys' fees or expenses or payments to the Class  
10 Representatives submitted by Lead Counsel, and such matters will be considered  
11 separately from the fairness, reasonableness, and adequacy of the Settlement.

12           34. Pending final determination of whether the Settlement should be  
13 approved, all Releasing Parties shall be enjoined from commencing, prosecuting,  
14 attempting to prosecute any Released Claims against any Released Party in any  
15 court or tribunal or proceeding. Unless and until the Stipulation is cancelled or  
16 terminated pursuant to the Stipulation, all proceedings in the Action, other than such  
17 proceedings as may be necessary to carry out the terms and conditions of the  
18 Stipulation, are hereby stayed and suspended until further order of the Court.

19           35. All funds held by the Escrow Agent shall be deemed to be in the  
20 custody of the Court, and shall remain subject to the jurisdiction of the Court, until  
21 such time as such funds shall be distributed or returned pursuant to the Stipulation  
22 and Plan of Allocation and/or further order(s) of the Court.


23           36. Neither the Stipulation, nor any of its terms or provisions, nor any of  
24 the negotiations, documents, or proceedings connected with it, shall be deemed to  
25 be evidence of, or construed as an admission or concession by Defendants, their  
26 counsel, their insurers, or any of the other Released Parties of the truth of any of the  
27 allegations in the Action, or of any liability, fault, or wrongdoing of any kind or  
28

1 construed as, or deemed to be evidence of or an admission or concession that Class  
2 Representatives or any Settlement Class Members have suffered any damages,  
3 harm, or loss. Further, neither the Stipulation, nor any of its terms or provisions, nor  
4 any of the negotiations or proceedings connected with it, nor this Order shall be  
5 construed as an admission or concession by Class Representatives of the validity of  
6 any factual or legal defense or of the infirmity of any of the claims or facts alleged  
7 in this Action.

8 37. In the event the Settlement is not consummated in accordance with the  
9 terms of the Stipulation, then the Stipulation and this Order (including any  
10 amendment(s) thereof, and except as expressly provided in the Stipulation or by  
11 order of the Court) shall be null and void, of no further force or effect, and without  
12 prejudice to any Party, and may not be introduced as evidence or used in any action  
13 or proceeding by any Person against the Parties or the Released Parties, and each  
14 Party shall be restored to his, her or its respective litigation positions as they existed  
15 prior to September 17, 2020, pursuant to the terms of the Stipulation.

16 38. The Court retains exclusive jurisdiction over the Action to consider all  
17 further matters arising out of, or relating to, the Stipulation, including by way of  
18 illustration and not limitation, any dispute concerning any Proof of Claim submitted  
19 and any future requests by one or more of the Parties that the Final Judgment, the  
20 releases and/or the permanent injunction set forth in the Stipulation be enforced.

21  
22  
23 Dated: October 28, 2020

  
\_\_\_\_\_  
HON. GEORGE H. WU  
UNITED STATES DISTRICT JUDGE