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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

EFRAIN MUNOZ, *et al.*,
individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

PHH CORP., PHH MORTGAGE
CORP., PHH HOME LOANS, LLC.
and ATRIUM INSURANCE CORP.,

Defendants.

No. 1:08-cv-00759-MMB-BAM

**PLAINTIFFS' UNOPPOSED
MOTION FOR FINAL
APPROVAL OF SETTLEMENT
AND INCORPORATED
MEMORANDUM OF POINTS
AND AUTHORITIES**

Dept: Ctrm 10 (13th fl.)
Judge: Hon. M. Miller Baker

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1 Plaintiffs, Efrain Munoz, Leona Lovette, Stefanie Trudnowski, John
 2 Hoffman, and Daniel Maga, II (collectively, “Plaintiffs”) by and through
 3 Class Counsel,¹ respectfully submit this Memorandum in Support of their
 4 Motion for Final Approval of Settlement. PHH Corp., PHH Mortgage Corp.,
 5 PHH Home Loans, LLC, and Atrium Insurance Corp. (collectively,
 6 “Defendants” or “PHH”) have indicated that they do not oppose the relief
 7 requested herein.

8 I. INTRODUCTION

9 The overwhelmingly positive reaction of the Settlement Class, just
 10 two months into the notice period, demonstrates precisely why this
 11 Settlement should receive final approval. To date, no Settlement Class
 12 Member has opted-out of or objected to the Settlement. And, with ten
 13 months still remaining in the claims period, 6,436 Class members, have
 14 already submitted claims to receive the substantial \$875 Settlement
 15 payout. The preliminary claims rate of approximately 19% – after only two
 16 months of class notice—already far surpasses the “overall claims rate of ...
 17 less than 10%” reported by the FTC in a 2019 study of consumer class action
 18 settlement campaigns² and is a tremendous result for Class members.

21 ¹ Capitalized terms not defined herein shall have the same meaning ascribed to
 22 them in Plaintiffs’ Unopposed Motion for Preliminary Approval of Settlement and
 23 Incorporated Memorandum of Points and Authorities and the attached
 Settlement Agreement (ECF 614).

24 ² Federal Trade Commission Staff Report, Consumers and Class Actions: A
 25 Retrospective and Analysis of Settlement Campaigns at 1, 11 (Sep. 2019),
 26 [https://www.ftc.gov/system/files/documents/reports/consumers-class-actions-](https://www.ftc.gov/system/files/documents/reports/consumers-class-actions-retrospective-analysis-settlement-campaigns/class_action_fairness_report_0.pdf)
 27 [retrospective-analysis-settlement-campaigns/class_action_fairness_report_0.pdf](https://www.ftc.gov/system/files/documents/reports/consumers-class-actions-retrospective-analysis-settlement-campaigns/class_action_fairness_report_0.pdf)
 (FTC’s comprehensive study of class actions, identifying the mean claims rate of
 28 5%).

1 This Settlement was the result of *nearly two decades* of hard-fought
2 litigation and prolonged arm's-length negotiations between the parties.
3 Indeed, there is no denying that the parties vigorously litigated every
4 aspect of this complex case before reaching this resolution. The Plaintiffs
5 faced and survived myriad legal hurdles before attaining this impressive
6 result, including enduring significant changes in the law, case delays that
7 were beyond their control, and a dismissal on the eve of trial resulting in a
8 successful appeal to revive the case. And, as the Court is also aware, the
9 parties reached the agreement in principle to settle this case just days
10 before a bench trial was scheduled to consider the Class's Article III
11 standing which, if successful, would have resulted in a merits trial shortly
12 thereafter.

13 There was, therefore, a very real risk that the Class could recover
14 nothing at all. And there have been numerous instances throughout the
15 course of this very protracted litigation where the Class faced the prospect
16 having their claims dismissed. In addition, even if Plaintiffs reached trial
17 and won, years of appellate proceedings would follow – to say nothing of the
18 uncertainties surrounding Plaintiffs' ability to recover payment of a larger
19 judgment following trial.

20 The parties' agreement was reduced to writing in a formal Settlement
21 Agreement dated July 11, 2025, a copy of which is attached as Exhibit 1 to
22 the Declaration of Joseph H. Meltzer in Support of Motions for (1) Final
23 Approval of Settlement and (2) Attorneys' Fees, Expenses and Service
24 Awards ("Meltzer Decl."). The Court granted preliminary approval of the
25 proposed Settlement and ordered dissemination of notice to the Settlement
26 Class on August 11, 2025, concluding that "the proposed settlement
27 agreement is fair for purposes of giving notice and scheduling a final
28

1 approval hearing,” and that “conditional certification of the settlement
2 class” was appropriate. *See* ECF 615 at 7, 15.

3 The Settlement is an outstanding result for the Settlement Class
4 Members. It provides them with significant compensation for their alleged
5 economic losses and eliminates the risk of what would certainly have been
6 a hotly contested bench trial, potentially to be followed by a complex and
7 no doubt costly trial on the merits. Thus, given the excellent result and the
8 overwhelmingly positive reaction of the Settlement Class, Plaintiffs
9 respectfully request that the Court grant final approval of the Settlement.

10 **II. FACTUAL AND PROCEDURAL BACKGROUND**

11 The Court is surely familiar with the history of this litigation, much
12 of which is detailed in Plaintiffs’ Motion for Preliminary Approval and
13 supporting declaration, as well as the Meltzer Declaration filed herewith.
14 *See* ECF 614 (PA Motion); 614-1 at ¶¶ 9-10 (Meltzer Preliminary Approval
15 Decl.); *see also* Preliminary Approval Order (ECF 615 at 1-2). Plaintiffs
16 incorporate the preliminary approval papers by reference and provide the
17 following summary of key points.

18 Since its inception over seventeen years ago, this case has proved
19 complex, risky, and zealously litigated by all parties involved. Indeed, the
20 Plaintiffs’ case endured several challenges including changes in the law and
21 other significant hurdles that required a commensurate amount of work to
22 reach the result that was achieved.

23 Plaintiffs filed this class action on June 2, 2008 on behalf of tens of
24 thousands of borrowers, alleging that PHH set up captive reinsurance
25 arrangements with lenders to facilitate the collection of hundreds of
26 millions of dollars in unearned fees. Plaintiffs alleged that this resulted in
27 a windfall for Defendants and enabled them to receive unearned portions

1 of the premiums paid by the borrowers, who were required by their lender,
2 PHH, to purchase private mortgage insurance (“PMI”). Plaintiffs’
3 complaint alleged violations Section 8 of RESPA, 12 U.S.C. §2607, which
4 was intended “to effect certain changes in the [real estate] settlement
5 process” including “the elimination of kickbacks or referral fees that tend
6 to increase unnecessarily the costs of certain settlement services.” 12
7 U.S.C. §2601(b). Defendants fought hard to have Plaintiffs’ complaint and
8 amended complaint dismissed right out of the gate, filing several motions
9 including for judgment on the pleadings and even summary judgment at
10 an early stage. Plaintiffs ultimately prevailed on all of those motions,
11 however.

12 Class certification was also a tremendous battle between the parties.
13 After their initial motion to certify was denied without prejudice for
14 administrative reasons and the amended complaint filed, Plaintiffs filed a
15 renewed motion for class certification on February 11, 2011. But before that
16 motion was heard, Magistrate Judge Dennis Beck stayed the case, over
17 Plaintiffs’ objection, pending the Supreme Court’s ruling in the matter of
18 *First American Financial Corporation v. Denise P. Edwards*, No. 10-708 (S.
19 Ct. Sep. 9, 2011) (“*Edwards*”). On July 13, 2012, after *Edwards* was decided,
20 the Court lifted the stay, and deemed the pending motions refiled (which
21 also included at the time PHH’s motion for summary judgment).

22 At the same time that the dispositive and class certification motions
23 were being filed and briefed (which included extensive briefing by both
24 sides, as well as expert consultation), discovery marched forward. And with
25 it came more legal hurdles. The discovery process was highly complex and
26 involved extensive meet and confer efforts and motion practice. Plaintiffs
27 moved aggressively to develop a factual and evidentiary record sufficient to
28

1 certify the class and withstand summary judgment, with the Magistrate
2 Judge addressing a number of discovery disputes and motions to compel.

3 Plaintiffs ultimately prevailed on class certification in 2015 but the
4 legal challenges continued. On September 9, 2016, Defendants filed a
5 Motion to Strike Plaintiffs' expert witnesses, a motion to decertify the Class
6 and another Motion for Summary Judgment, with Plaintiffs also filing a
7 Motion for Partial Summary Judgment. Both parties submitted extensive
8 documentation in support of their motions. On December 6, 2017—nearly
9 one year after the motions to strike and for summary judgment had been
10 argued—the parties filed a stipulation and proposed order asking the Court
11 to stay all proceedings to facilitate settlement negotiations, but they were
12 not fruitful at that time. The stay was lifted on April 10, 2018.

13 On August 12, 2020, the Court issued a comprehensive Order
14 addressing the pending cross motions to exclude, for summary judgment
15 and to decertify the class that were filed in the fall of 2016. *Munoz v. PHH*
16 *Corp.*, 478 F. Supp. 3d 945 (E.D. Cal. 2020). In that Order, Judge Drozd
17 held that Plaintiffs were entitled to summary judgment as to each of the
18 RESPA Section 8(a) elements of their claim. *Id.* at 971. Judge Drozd also
19 held that there was a genuine dispute of material fact as to whether the
20 CRAs were otherwise protected by RESPA's safe harbor, *id.* at 980, and
21 denied Defendants' separate argument that they were entitled to summary
22 judgment on the ground that Plaintiffs lacked an injury-in-fact sufficient
23 for Article III standing. *Id.* at 985-88. He also rejected Defendants' Motion
24 to Decertify the Class.

25 Pretrial proceedings moved ahead thereafter, with the parties again
26 engaging in various legal battles. In 2021, Defendants filed a Motion to
27 Reopen Law and Motion Practice to raise standing arguments once again.

1 But Judge Drozd denied that Motion, noting that the standing question had
2 been twice previously addressed. Defendants then again moved to decertify
3 the class in October 2021. During this same period of time, the parties each
4 filed several motions *in limine* seeking various pretrial rulings on
5 evidentiary issues. Defendants also moved to exclude the opinion of
6 Plaintiffs' standing expert and a Congressional Report on which he relied.
7 Between December 3 and December 23, 2021, the parties filed an additional
8 twenty-three pretrial briefs. In early 2022, PHH also moved to exclude
9 Plaintiffs' four other experts.

10 On January 31, 2022, just 15 days before trial was scheduled to begin,
11 the Court, characterizing Plaintiffs' proffer of the expert opinion of Dr. Hoyt
12 and the Joint Report as a motion seeking modification of the Final Pretrial
13 Order, ruled that there was no basis for modifying the same and barred
14 Plaintiffs' evidence of injury from trial as untimely. Plaintiffs appealed the
15 Court's orders and prevailed. The panel thereafter unanimously denied
16 PHH's petition for rehearing.

17 Another mediation session was held after the appeal was resolved,
18 but while the parties made progress, no resolution was reached. More
19 motion practice then ensued, with the parties filing motions to exclude the
20 opinions of the others' experts and additional motions *in limine*. On
21 December 15, 2023, Defendants once again filed a motion for summary
22 judgment. On January 31, 2024, Judge Baker issued four orders addressing
23 outstanding motions. The Court denied Defendants' Motion to Exclude the
24 Opinion of Plaintiffs' expert Dr. Hoyt, ordered a bench trial on his potential
25 exclusion, granted Plaintiffs' Motion to Exclude Certain Testimony of
26 PHH's experts, and denied PHH's Motion *in Limine* to preclude evidence or
27

1 testimony regarding the Congressional Report. *Munoz v. PHH Mortgage*
2 *Corp.*, 2025 WL 3607587 (E.D. Cal. Jan. 31, 2025).

3 Subsequently, while the parties were actively preparing for trial,
4 settlement discussions ensued and the parties ultimately reached an
5 agreement in principle to settle the case during the weeks before the bench
6 trial was to proceed. That Settlement, as described herein, provides a
7 definite and substantial monetary benefit to the Settlement Class.

8 As detailed above and elsewhere, Class Counsel fought hard to protect
9 the interests of Settlement Class Members. As the outcome reflects, Class
10 Counsel showed dedication to investigating, prosecuting, and resolving this
11 action over the course of over seventeen years. Final approval is warranted.

12 **III. LEGAL STANDARDS GOVERNING FINAL APPROVAL**

13 The Manual For Complex Litigation (Fourth) (2004) describes the
14 three-step procedure for approval of class action settlements: (1)
15 preliminary approval of the proposed settlement; (2) dissemination of the
16 notice of the settlement to Class Members, providing for, among other
17 things, a period for potential objectors and dissenters to raise challenges to
18 the settlement's reasonableness; and (3) a formal fairness and final
19 settlement approval hearing. *Id.* at § 21.63. The Court completed the first
20 step in the settlement process when it granted preliminary approval of the
21 Settlement. Thereafter, Class Counsel completed the second step by
22 implementing the ongoing Notice Program pursuant to the terms of the
23 Settlement and the Court's Preliminary Approval Order. Plaintiffs and
24 Class Counsel now seek the third and final step—holding a formal fairness
25 hearing, granting final approval of the Settlement, and entering a Final
26 Judgment.

1 Rule 23(e) and other well-recognized standards govern the Court's
2 consideration of final approval of a class action settlement. The Eastern
3 District of California recently explained in *Haro v. Walmart, Inc.*, 2025 WL
4 73109, at *2 (E.D. Cal. Jan. 8, 2025), that under Rule 23(e):

5 To approve a settlement, a district court must: (i) ensure
6 notice is sent to all class members; (ii) hold a hearing and
7 make a finding that the settlement is fair, reasonable, and
8 adequate; (iii) confirm that the parties seeking approval file a
9 statement identifying the settlement agreement; and (iv) be
10 shown that class members were given an opportunity to
11 object. Fed. R. Civ. P. 23(e)(1)-(5).

12 Further, in making the determination as to whether a settlement is fair,
13 reasonable and adequate (factor 2), the Rule requires consideration of
14 whether:

15 (A) the class representatives and class counsel have adequately
16 represented the class;

17 (B) the proposal was negotiated at arm's length;

18 (C) the relief provided for the class is adequate, taking into account:

19 (i) the costs, risks, and delay of trial and appeal;

20 (ii) the effectiveness of any proposed method of distributing
21 relief to the class, including the method of processing class-
22 member claims;

23 (iii) the terms of any proposed award of attorney's fees,
24 including timing of payment; and

25 (iv) any agreement required to be identified under Rule 23(e)(3).

26 Ninth Circuit precedent similarly instructs that the district court must
27 balance several factors, including:

(1) the strength of the plaintiffs’ case; (2) the risk, expense, complexity, and likely duration of further litigation; (3) the risk of maintaining class action status throughout the trial; (4) the amount offered in settlement; (5) the extent of discovery completed and the stage of the proceedings; (6) the experience and views of counsel; (7) the presence of a governmental participant; and (8) the reaction of the class members to the proposed settlement.

Yun-Fei Lou v. Am. Honda Motor Co., 2025 WL 1359067, at *2 (N.D. Cal. May 9, 2025) (citing *Churchill Vill., L.L.C. v. Gen. Elec.*, 361 F.3d 566, 575 (9th Cir. 2004) (citing *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998))). *See also Sanchez v. Mohawk Indus.*, 2024 WL 4556094, at *13 (E.D. Cal. Oct. 22, 2024). *See also Lane v. Facebook, Inc.*, 696 F.3d 811, 819 (9th Cir. 2012), *cert. denied*, 134 S. Ct. 8 (2013) (quoting *Hanlon*, 150 F.3d at 1027) (“Although Rule 23 imposes strict procedural requirements on the approval of a class settlement, a district court’s only role in reviewing the substance of that settlement is to ensure that it is ‘fair, adequate, and free from collusion.’”).³

³ As to a Court’s consideration of the adequacy of relief, the Northern District has also stated, “the very essence of a settlement is compromise, a yielding of absolutes and an abandoning of highest hopes.” *Turner v. Motel 6 Operating L.P.*, 2018 WL 6977474, at *3 (C.D. Cal. Nov. 6, 2018) (quoting *Officers for Justice v. Civil Serv. Comm’n of San Francisco*, 688 F.2d 615, 624 (9th Cir. 1982)). “The Ninth Circuit has explained that, ‘the proposed settlement is not to be judged against a hypothetical or speculative measure of what might have been achieved by the negotiators.’” *Id.* (quoting *Officers for Justice*, 688 F.2d at 625). “Rather, any analysis of a fair settlement amount must account for the risks of further litigation and trial, as well as expenses and delays associated with continued litigation.” *Id.*

1 The Ninth Circuit has also found that the revised Rule 23(e) requires
2 district courts “to go beyond our precedent” and mandates consideration of
3 “the *Bluetooth* factors” to all class action settlements, regardless of whether
4 settlement was achieved before or after class certification. *See Briseño v.*
5 *Henderson*, 998 F.3d 1014, 1022-26 (9th Cir. 2021) (“district courts must
6 apply the *Bluetooth* factors to scrutinize fee arrangements ... to determine
7 if collusion may have led to class members being shortchanged.” *Id.* at 1026.
8 The so-called *Bluetooth* factors—also referred to as “subtle signs” of
9 collusion—include: (i) “when counsel receive a disproportionate
10 distribution of the settlement, or when the class receives no monetary
11 distribution but class counsel are amply rewarded”; (ii) the existence of a
12 “clear sailing” arrangement, which provides “for the payment of attorneys’
13 fees separate and apart from class funds,” or a provision under which
14 defendant agrees not to object to the attorneys’ fees sought; and (iii) “when
15 the parties arrange for fees not awarded to revert to defendants rather than
16 be added to the class fund.” *In re Bluetooth Headset Prods. Liab. Litig.*, 654
17 F.3d 935, 947 (9th Cir. 2011) (internal quotations and citations omitted).
18 “The presence of these three signs is not a death knell—but when they
19 exist, ‘they require[] the district court to examine them, ... develop the
20 record to support its final approval decision,’ and thereby ‘assure itself that
21 the fees awarded in the agreement were not unreasonably high.” *Kim v.*
22 *Allison*, 8 F.4th 1170, 1180 (9th Cir. 2021) (quoting *Allen v. Bedolla*, 787
23 F.3d 1218, 1224 (9th Cir. 2015)).
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25
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27
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1 **IV. ARGUMENT⁴**

2 **A. The Settlement Satisfies Rule 23(e) and Should Be Approved.**

3 The Settlement for which the parties now seek final approval
4 provides a significant and definite monetary benefit to the Settlement
5 Class. Recognizing this excellent result, the Court preliminarily found that
6 all the factors set forth in Fed. R. Civ. P. 23(e)(2) weigh in favor Settlement
7 approval. *See* ECF 615 at 7-15. That remains even more true today given
8 the overwhelming response by the Class.

9 **1. Rule 23(e)(2)(A): Class Counsel and the Settlement Class**
10 **Representatives have zealously represented the**
11 **Settlement Class.**

12 Plaintiffs and Class Counsel fought hard to protect the interests of
13 the certified Class, and these efforts resulted in the excellent Settlement
14 before the Court. The outcome reflects Class Counsel's dedication to the
15 case by diligently investigating, prosecuting, and resolving this action over
16 the course of over seventeen years. *See* Fed. R. Civ. P. 23(e)(2)(A).

17 As detailed above and in the Preliminary Approval Motion, Class
18 Counsel put forth significant effort to uncover the facts to advance and
19 refine the Class claims. This includes the pursuit and review of over a
20 million pages of documents and other discovery from PHH and third-
21 parties, as well as the retention of multiple experts to evaluate the evidence
22 and prepare detailed experts reports, along with Plaintiffs' own
23 investigative efforts. *See* Meltzer Decl. at ¶ 8; ECF 614-1 at ¶¶ 9-10.

24
25
26 ⁴ The Court-appointed Settlement Administrator effectuated notice of the
27 Settlement to state and federal officials as required by the Class Action Fairness
28 Act ("CAFA"), 28 U.S.C. § 1715. *See* Meltzer Decl. at n.3 and Ex. 2, ¶¶ 10-12.

1 Class Counsel also engaged in motion practice regarding nearly every
2 aspect of the case, including researching, drafting, and filing: (a) an
3 opposition to PHH's motion for judgment on the pleadings; (b) multiple
4 motions for class certification; (c) a motion to strike affirmative defenses;
5 (d) oppositions to multiple motions for summary judgment, (e) various
6 discovery motions and motions to compel; (f) oppositions to two motions to
7 decertify; (g) oppositions to and affirmative motions to strike experts; (h)
8 appellate motions; (i) oppositions to and affirmative motions *in limine*; and
9 (j) various other miscellaneous motions and briefing on the above. *See*
10 Meltzer Decl. at ¶ 8. Accordingly, Class Counsel were well-positioned to
11 evaluate the case and to negotiate a fair and reasonable Settlement. *See*
12 *Ontiveros v. Zamora*, 303 F.R.D. 356, 371 (E.D. Cal. 2014) ("A settlement
13 that occurs in an advanced stage of the proceedings indicates the parties
14 carefully investigated the claims before reaching a resolution" (citation
15 omitted)). And that is exactly what occurred.

16 Plaintiffs were likewise actively engaged from start to finish. *See*
17 Decls. at Exs. 9-13. They have seen this litigation through for nearly two
18 decades. They also support the agreement on behalf of the Class and
19 remain willing to protect the Class until the Court finally approves the
20 Settlement and Settlement administration is complete. *See id.*

21 Finally, the Court has now twice found that Plaintiff and Class
22 Counsel have adequately represented the Settlement Class, both at the
23 class certification stage and in granting preliminary approval of the
24 Settlement. *See* ECF 615. Indeed, the Court has "easily conclude[d] that
25 the named plaintiffs (as representatives) and counsel have adequately
26 represented the class ... involving this case's years of litigation and the
27 effective result." *Id.* at 13.

1 **2. Rule 23(e)(2)(B): The Settlement is the product of good**
 2 **faith, evidence-backed, and arm's-length negotiations.**

3 The Court has already “preliminarily conclude[d] that the proposed
 4 settlement resulted from arm's-length negotiations,” and not collusion.
 5 ECF 615 at 13. Indeed, there can be no doubt that the proposed Settlement
 6 arises out of serious, informed, and non-collusive negotiations, and satisfies
 7 Fed. R. Civ. P. 23(e)(2)(B). Prior to the Settlement, the parties engaged in
 8 two mediation sessions before respected mediators, which were
 9 unsuccessful but helped clarify the parties' positions on the strengths and
 10 weakness of their respective cases, as well as what a settlement might
 11 ultimately look like. The parties also engaged in back-and-forth
 12 negotiations on and off several times during the life of the case, including
 13 in depth negotiations in the months leading up to the Settlement. As the
 14 Court observed at preliminary approval: “The parties have exchanged
 15 voluminous amounts of discovery, undertaken two mediation sessions,
 16 litigated an appeal to the Ninth Circuit, and ultimately reached an
 17 agreement shortly before a bench trial that could have resulted in a victory
 18 for Defendants.” ECF 615 at 7. The Court continued: “Those facts all point
 19 to a conclusion that the parties' negotiations here were intensive and non-
 20 collusive, supporting a finding of fairness.” *Id.*

21 Further demonstrating the non-collusive nature of the negotiations,
 22 the Settlement was reached on the eve of trial, after the class was certified,
 23 summary judgment was denied, and the close of extensive fact and expert
 24 discovery had long since passed, so the parties were as informed of the
 25 strengths and weaknesses of their positions as possible during
 26 negotiations. *See id.*; *see also Rojas v. Zaninovich*, 2015 WL 3657172, at *15
 27 (E.D. Cal. June 11, 2015), *report and recommendation adopted*, 2015 WL

1 13662178 (E.D. Cal. Oct. 2, 2015) (granting final approval after recognizing
 2 that “the Settlement was reached after nearly exhaustive discovery,
 3 certification of two classes, and six years of considerable motion practice”
 4 and was therefore non-collusive); *California Dep’t of Toxic Substances*
 5 *Control v. Jim Dobbas, Inc.*, 2015 WL 5026925, at *3 (E.D. Cal. Aug. 25,
 6 2015) (“The arms’-length character of their negotiations is reinforced by the
 7 fact that the parties reached settlement after [the defendant] moved for
 8 summary judgment and put forth substantial evidence in its defense.”);
 9 *Ontiveros*, 303 F.R.D. at 371; accord William B. Rubenstein et al., 4
 10 NEWBERG AND RUBENSTEIN ON CLASS ACTIONS § 13:49 (5th ed. 2012). In
 11 sum, the Settlement was reached in a procedurally fair manner between
 12 extremely well-informed parties.

13 Finally, the remarkable Settlement benefit is separate and apart and
 14 will not be influenced by any award of attorney’s fees or expenses. ECF 615
 15 at 10-11. Moreover, there is no hard cap on the gross settlement amount,
 16 meaning Class members who file valid timely claims will receive \$875
 17 regardless of the number of claimants. On these facts, the Court has
 18 already preliminarily found that “on balance the benefit to the class
 19 members is significant enough to overcome the prospect of collusion here.”
 20 ECF 615 at 8. Final approval is warranted under Rule 23(e)(2)(B).

21 **3. Rule 23(e)(2)(C): The Settlement represents a fair**
 22 **compromise for substantial compensation.**

23 Avoiding the risk of trial (including both the bench and possible
 24 subsequent jury trial) and appeal in exchange for an immediate and
 25 substantial benefit is a principled compromise that works to the clear
 26 benefit of the Settlement Class. *See* Fed. R. Civ. P. 23(e)(2)(C). In short, the
 27 Settlement provides the Settlement Class significant value now, not years
 28

1 from now (if ever). *See In re Toys “R” Us-Delaware, Inc.—Fair & Accurate*
 2 *Credit Transactions Act (FACTA) Litig.*, 295 F.R.D. 438, 453 (C.D. Cal.
 3 2014) (“Estimates of a fair settlement figure are tempered by factors such
 4 as the risk of losing at trial, the expense of litigating the case, and the
 5 expected delay in recovery (often measured in years)).”

6 As detailed below, the Settlement reflects a fair, reasonable, and
 7 adequate compromise of Plaintiffs’ claims, especially considering (i) the
 8 costs, risks, and delay of trial and appeal, (ii) the effectiveness of the
 9 proposed distribution plan, and (iii) the terms of any proposed award of
 10 attorney’s fees, including timing of payment. *See* Fed. R. Civ. P. 23(e)(2)(C).
 11 This Court found the same in its Preliminary Approval Order. ECF 615 at
 12 13.

13 **a. The Settlement mitigates the risks, expenses, and**
 14 **delays the Class would bear with continued**
 15 **litigation.**

16 Plaintiffs have been confident in the strength of this case from the
 17 outset and were prepared to take it all the way to a costly and heavily
 18 contested trial. Because many hurdles lay ahead, however, the Settlement
 19 benefit is quite impressive given the inherent uncertainties of continued
 20 litigation.

21 Indeed, the Court has already preliminarily ruled as such: “As to the
 22 adequacy-of-relief factors, the class members faced a material risk of
 23 obtaining no relief had the case continued. The court could have found that
 24 the plaintiffs, and by extension the class, lacked Article III standing, or the
 25 jury could have found for Defendants on the merits.” ECF 615 at 13.

26 Thus, while Plaintiffs believed that they would have prevailed at the
 27 bench trial and possible jury trial, PHH raised numerous substantive
 28

1 issues and defenses that presented risks to the case. Among them was
2 PHH's vigorous defense on the basis of Article III standing, which had been
3 an issue throughout the pendency of the action. Accordingly, as the Court
4 mentioned in its preliminary approval opinion, PHH could have succeeded
5 at the bench trial, preventing Plaintiffs from even proceeding to a trial on
6 the merits. On a more substantive level, whether the captive reinsurance
7 arrangements were protected by RESPA's safe harbor was a battle of the
8 parties' experts, and it is impossible to predict which side's experts' the jury
9 might have credited more. Finally, the computation of damages in this case
10 was also a hotly contested and open issue for trial, which the Court had
11 already bifurcated from the jury trial on the merits of the RESPA claim.

12 Therefore, avoiding the additional, costly, and risky litigation in
13 exchange for the immediate and significant Settlement benefit is a
14 principled compromise to the clear benefit of the Settlement Class. The
15 Settlement eliminates all potential future risk, cuts through payment
16 delay, and provides the Settlement Class with certain and timely
17 compensation, all of which favors approving the Settlement Agreement. *See*
18 *Nobles v. MBNA Corp.*, 2009 WL 1854965, at *2 (N.D. Cal. June 29, 2009)
19 ("The risks and certainty of recovery in continued litigation are factors for
20 the Court to balance in determining whether the Settlement is fair.") (citing
21 *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 458 (9th Cir. 2000)); *Kim v.*
22 *Space Pencil, Inc.*, 2012 WL 5948951, at *5 (N.D. Cal. Nov. 28, 2012) ("The
23 substantial and immediate relief provided to the Class under the
24 Settlement weighs heavily in favor of its approval compared to the inherent
25 risk of continued litigation, trial, and appeal, as well as the financial
26 wherewithal of the defendant."); *In re Toys "R" US*, 295 F.R.D. at 453
27 (similar); Fed. R. Civ. P. 23(e)(2)(C)(i).

**b. Settlement Class Members can obtain relief
through a streamlined and flexible claims process.**

As explained in Plaintiffs' Motion for Preliminary Approval, the parties were diligent in their efforts to ensure that the claims process, overseen by the Notice and Settlement Administrator, was simple, straightforward and efficient. *See* ECF 614 at 38-39. The Court reviewed the claims process and the proposed Notice Program and concluded that "the proposed settlement agreement is fair for purposes of giving notice and scheduling a final approval hearing." ECF 615 at 15. The same is true now.

Settlement Class Members have already submitted claim forms and they continue to do so, using the same streamlined Claim Form that has been and continues to be available to them, and claim submission is available either online through the Settlement website or in hard copy. *See* JND Declaration ¶ 22. Importantly, Settlement Class Members need not meet a high burden to show eligibility for a settlement payment. The Settlement requires only that Class Members provide basic identifying information during the relevant claim period, and affirm (via checking a box) whether they were a borrower on an affected loan and, to the best of their memory, paid some amount for private mortgage insurance in connection with the loan. *See* ECF 614-2, Ex. B.

The Settlement's method for processing claims and distributing relief is straightforward, fair, and reasonable, and is effective in distributing relief to the Class, supporting final approval. *See* Fed. R. Civ. P. 23(e)(2)(C)(ii).

c. Class Counsel seeks reasonable attorneys' fees and costs.

Class Counsel's reasonable fee request is detailed in a concurrently filed memorandum. As set forth therein, the terms of proposed award of attorneys' fees are fair and reasonable, particularly in light of the substantial recovery for the Settlement Class and the fact that Class Counsel's requested attorneys' fees are a fraction of their lodestar incurred in this seventeen-year-old, heavily litigated case, and are requested pursuant to the Settlement and the fee-shifting provision of Plaintiffs' certified RESPA claim. See Fed. R. Civ. P. 23(e)(2)(C)(iii).

4. Rule 23(e)(2)(D): The Proposed Settlement treats all Settlement Class Members equitably relative to one another.

In its order granting preliminary approval, the Court observed that "the proposal treats class members equitably because they will receive the same payout per affected loan regardless of the number of claims submitted." ECF 615 at 13. This ensures that the Settlement treats Settlement Class Members equitably relative to one another. *See* Fed. R. Civ. P. 23(e)(2)(D). In fact, not one Class Member has thus far objected or opted out of the Settlement. This is not surprising—the \$875 payment per loan is truly an excellent outcome.

5. The Settlement satisfies the Ninth Circuit's approval factors.

The Ninth Circuit has also identified a number of additional factors for courts to consider when evaluating a class action settlement. *See In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d at 946 These factors include: (1) the strength of the plaintiffs' case; (2) the risk, expense,

1 complexity, and likely duration of further litigation; (3) the risk of
 2 maintaining class action status throughout the trial; (4) the amount offered
 3 in settlement; (5) the extent of discovery completed and the stage of the
 4 proceedings; (6) the experience and views of counsel; (7) the presence of a
 5 governmental participant; and (8) the reaction of the class members of the
 6 proposed settlement). Most of these (factors 1-5) overlap with the Rule
 7 23(e)(2)(C) factors and are addressed above. The remaining relevant factors
 8 (6 and 8), addressed below, favor final approval as well.

9 Indeed, where, as here, Class Counsel is experienced and supports the
 10 Settlement, and the agreement was reached after arm's-length
 11 negotiations, courts should give a presumption of fairness to the
 12 settlement. *Nobles*, 2009 WL 1854965, at *6; *Ellis v. Naval Air Rework*
 13 *Facility*, 87 F.R.D. 15, 18 (N.D. Cal. 1980), *aff'd*, 661 F.2d 939 (9th Cir.
 14 1981). Further, as a matter of “express public policy,” federal courts favor
 15 and encourage settlements, particularly in class actions, where the costs,
 16 delays, and risks of continued litigation might otherwise overwhelm any
 17 potential benefit the class could hope to obtain. *See Class Plaintiffs v. City*
 18 *of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992) (noting the “strong judicial
 19 policy that favors settlements, particularly where complex class action
 20 litigation is concerned”); *In re Syncor ERISA Litig.*, 516 F.3d 1095, 1101
 21 (9th Cir. 2008) (same); *Kabasele v. Ulta Salon, Cosms. & Fragrance, Inc.*,
 22 2024 WL 477221, at *1 (E.D. Cal. Feb. 7, 2024) (same); *see also* Herbert B.
 23 Newberg & Alba Conte, 4 NEWBERG ON CLASS ACTIONS § 11:41 (4th ed.
 24 2002) (same, collecting cases).

25 Further, the Ninth Circuit has cautioned that a “district court’s task
 26 in reviewing a settlement is to make sure it is ‘not the product of fraud or
 27 overreaching by, or collusion between, the negotiating parties, and that the
 28

1 settlement, taken as a whole, is fair, reasonable and adequate to all
 2 concerned.” *In re Volkswagen “Clean Diesel” Mktg., Sales Practices, &*
 3 *Prods. Liab. Litig.*, 895 F.3d 597, 617 (9th Cir. 2018) (quoting *Officers for*
 4 *Justice*, 688 F.2d at 625); *see also In re Bluetooth Headset Prod. Liab. Litig.*, 654
 5 F.3d at 947. “[T]he Court’s inquiry into whether a proposed settlement is fair,
 6 adequate, and reasonable is relatively less probing” where, as here, the
 7 parties settle after the classes are certified by the Court. *Edwards v. Nat’l*
 8 *Milk Producers Fed’n*, 2017 WL 3623734, at *5 (N.D. Cal. June 26, 2017),
 9 *aff’d sub nom. Edwards v. Andrews*, 846 F. App’x 538 (9th Cir. 2021).

10 **a. Class Counsel Endorse the Settlement.**

11 The Court is to “accord great weight to the recommendation of counsel
 12 because they are aware of the facts of the litigation and in a better position
 13 than the court to produce a settlement that fairly reflects the parties’
 14 expected outcome in the litigation.” *Rodriguez v. Danell Custom*
 15 *Harvesting, LLC*, 327 F.R.D. 375, 388-89 (E.D. Cal. 2018); *see also*
 16 *Ontiveros*, 303 F.R.D. at 371; *In re Volkswagen “Clean Diesel” Mktg., Sales*
 17 *Practices, & Prods. Liab. Litig.* 2016 WL 6248426, at *14 (N.D. Cal. Oct. 25,
 18 2016) (“Courts afford ‘great weight to the recommendation of counsel, who
 19 are most closely acquainted with the facts of the underlying litigation.’”) (quoting *Nat’l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523,
 20 528 (C.D. Cal. 2004)).

22 “Parties represented by competent counsel are better positioned than
 23 courts to produce a settlement that fairly reflects each party’s expected
 24 outcome in litigation.” *In re Pac. Enters. Sec. Litig.*, 47 F.3d 373, 378 (9th
 25 Cir. 1995); *see also Brulee v. DAL Global Services, LLC*, 2018 WL 6616659,
 26 at *6 (C.D. Cal. Dec. 13, 2018) (same). Where “[b]oth Parties are
 27 represented by experienced counsel,” the recommendation of experienced
 28

1 counsel to adopt the terms of the proposed settlement ‘is entitled to great
2 deal of weight.’” *Beaver v. Tarsadia Hotels*, 2017 WL 4310707, at *6 (S.D.
3 Cal. Sep. 28, 2017) (citation omitted). “In particular, ‘[t]he
4 recommendations of plaintiffs’ counsel should be given a presumption of
5 reasonableness.” *Id.* (citation omitted).

6 Based on their own significant experience in complex class action
7 cases, and their extensive work in this case day in and day out for over
8 seventeen years, Class Counsel are confident in the result obtained for the
9 Settlement Class here and the process used to reach it, and strongly
10 recommend its approval. Meltzer Decl. at ¶¶ 9, 26. This strongly weighs in
11 favor of Settlement approval. *See, e.g., In re Volkswagen “Clean Diesel”*
12 *Mktg., Sales Practices, & Prods. Liab. Litig.*, 2019 WL 2077847, at *1 (N.D.
13 Cal. May 10, 2019) (granting final settlement approval where “Lead
14 Counsel ha[d] . . . a successful track record of representing [plaintiffs] in
15 cases of this kind . . . [and] attest[ed] that both sides engaged in a series of
16 intensive, arm’s-length negotiations” and there was “no reason to doubt the
17 veracity of Lead Counsel’s representations”). Accordingly, this Court should
18 find that the views of counsel favor final approval of the Settlement.

19 **b. The Notice Program is proving a success, and the**
20 **Settlement Class’s initial response has been**
21 **overwhelmingly positive.**

22 Following preliminary approval, the parties worked with respected
23 class notice provider JND Legal Administration to roll out the Court-
24 approved Notice Program with great and ongoing success. JND reports that
25 the Notice Program, which included various means of outreach, reached
26 96.4% of Settlement Class Members, which far surpasses the 70-95% reach
27

1 standard set forth by the FJC, exceeding that of other court approved
2 programs.⁵ *See* JND Decl. at ¶¶ 32-33

3 On September 10, 2025, JND mailed the Court-approved personalized
4 Long-Form Notice with a blank Claim Form Notice (“Mailed Notice”) to all
5 48,413 uniquely named Settlement Class Member addresses. JND Decl. at
6 ¶ 15. Of the 4,640 Mailed Notices that were returned as undeliverable, 776
7 were forwarded to updated addresses provided by the USPS or re-mailed
8 based on JND’s advanced address research. *Id.* at 16.

9 Also on September 10, 2025, JND e-mailed the customized, Court-
10 approved Summary Notice (“E-mail Notice”) to each of the 21,832 e-mail
11 addresses associated with Settlement Class Member records, 16,081 of
12 which were delivered successfully. *Id.* at 17-18.

13 JND also engaged in a comprehensive digital and internet search
14 campaign that achieved nearly 10,429,925 impressions, 429,925 more than
15 what was originally planned. Digital Notice was implemented through OM
16 Trade Desk (the “OMTD”), the leading digital network Google Display
17 Network, Facebook and Instagram, to supplement the direct mail and
18 email notice program by reaching out to internet users. The OMTD activity
19 targeted users who purchased a home, a home loan, a refinanced loan, or a
20 second home loan during 2007-2009. The GDN impressions targeted adults
21 35 years of age or older (Adults 35+) who are homeowners in-market for
22 mortgage refinancing, home insurance, or mortgage insurance. The
23 Facebook and Instagram effort targeted Adults 35+ who are interested in

24
25 ⁵ Federal Judicial Center, Judges’ Class Action Notice and Claims Process
26 Checklist and Plain Language Guide (2010), p. 3 states: “...the lynchpin in an
27 objective determination of the adequacy of a proposed notice effort is whether all
28 the notice efforts together will reach a high percentage of the class. It is
reasonable to reach between 70–95%.”

1 mortgage insurance, mortgage loans, and/or mortgage calculator. *Id.* at 20.
2 The digital ads were served across all devices, including desktop, laptop,
3 tablet, and cell phone devices. *Id.* at 21.

4 JND established a case-specific website and e-mail address. The
5 Settlement website has tracked 33,488 unique users thus far with 74,360
6 page views. To date, JND has received approximately 1,251 incoming email
7 inquiries to the dedicated e-mail address.

8 Finally, JND has also established a dedicated toll-free number for
9 Settlement Class Members to call to obtain information regarding the
10 Settlement and a P.O. Box to receive Settlement Class Member
11 correspondence, paper Claim Forms, and exclusion requests. To date, the
12 toll-free number has received 539 incoming calls. *Id.* at ¶ 24.

13 Finally, and importantly, to date, and with nearly 10 months still
14 remaining in the claims period, the Settlement Class has already
15 demonstrated their overwhelming support for the Settlement. As of
16 October 27, 2025, JND had received 6,436 Settlement Claims, the vast
17 majority of which were submitted online. *Id.* ¶ 30. In stark contrast, with
18 11 days left before the objection and opt-out deadline, JND has not received
19 any exclusion requests and no Settlement Class Member has objected to
20 the Settlement. *Id.* at ¶¶ 28-29. As courts have repeatedly held, “the fact
21 that the overwhelming majority of the class willingly approved the offer
22 and stayed in the class presents . . . positive commentary as to its fairness.”
23 *Hanlon*, 150 F.3d at 1027; *see also Foster v. Adams & Assocs., Inc.*, 2022
24 WL 425559, at *6 (N.D. Cal. Feb. 11, 2022) (“Courts have repeatedly
25 recognized that the absence of a large number of objections to a proposed
26
27
28

1 class action settlement” is a factor suggesting “that the terms of a proposed
2 class settlement action are favorable to the class members.”).⁶

3 Together, the significant claims rate and lack of opposition to the
4 Settlement are very encouraging signs of the Class’s engagement that,
5 coupled with the remaining time in the Claims Period and additional
6 reminder campaign to persuade Settlement Class Members to file claims,
7 will yield substantial additional participation from the Settlement Class in
8 the months to come. In any event, the current claims rate far surpasses the
9 national median rate (despite that the claims period here is far from over),
10 and is more than sufficient to warrant final approval. *See, e.g., In re Online*
11 *DVD-Rental Antitrust Litig.*, 779 F.3d 934, 944-45 (9th Cir. 2015)
12 (affirming approval of settlement where 1,183,444 of 35 million class
13 members—less than 3.4%—filed claims); *Moore v. Verizon Commc’ns Inc.*,
14 2013 WL 4610764, at *8 (N.D. Cal. Aug. 28, 2013) (granting final approval
15 of class action settlement with 3% claims rate); *Evans v. Linden Rsch., Inc.*,
16 2014 WL 1724891, at *4 (N.D. Cal. Apr. 29, 2014) (approving settlement
17 where claims rate was 4.3%); *Touhey v. United States*, 2011 WL 3179036,
18 at *7-8 (C.D. Cal. July 25, 2011) (approving a settlement with a 2% claims
19 rate); *Carlotti v. ASUS Computer Int’l*, 2020 WL 3414653, at *4 (N.D. Cal.
20 June 22, 2020) (“a claims rate of 4% is reasonable”); see also *Keil v. Lopez*,
21 862 F.3d 685, 696-97 (8th Cir. 2017) (“a claim rate as low as 3 percent is
22 hardly unusual in consumer class actions and does not suggest
23 unfairness”).

24
25
26 ⁶ Plaintiffs will, of course, provide the Court with an update on the Notice Plan
27 and the reaction of the Settlement Class in their Reply Memoranda, which will
28 be filed in advance of the Fairness Hearing.

c. **Settlement is Undoubtedly Free from Collusion**

Finally, as the Court recognized at preliminary approval, there are no signs, “subtle” or otherwise, of any collusion present here. *See Bluetooth*, 654 F.3d at 947.

First, as an uncapped claims-made Settlement, Class Counsel’s requested fee award is completely separate from the Settlement payments to be distributed to the Class, which are significant in their own right (as supported by the overwhelmingly positive response of the Class). Moreover, the Court has already found that the “proposed fee award is not disproportionate to the estimated class payout.” ECF 615 at 9. That remains true today, especially with 10 months to go in the claims period.

Second, the Court has also addressed the so-called “clear sailing provision,” noting that “the Class still stands to receive a greater monetary award than it might have had the case not settled.” *Id.* at 10. As repeatedly stated and explained in detail in the Fee Brief, the fee award here is separate and apart from the uncapped Settlement benefit to be paid to Class Members, which is substantial. Thus, unlike in a common fund case, the fee award does not detract from the Settlement benefit in any way. Thus, the so-called clear sailing provision here brings with it no signs of collusion and should not serve as an impediment to finally approving this remarkable Settlement. *See* Fee Brief at pp. 9-15.

Further, as explained in more detail in the Fee Motion, the requested fee is eminently fair and reasonable. Indeed, it represents a negative multiplier of 0.29514 to Class Counsel’s lodestar, thus further distancing the Settlement from any signs of collusion. *See Hernandez v. Dutton Ranch Corp.*, 2021 WL 5053476, at *4 (N.D. Cal. Sep. 10, 2021) (noting, in granting final approval, that “there was no fraud or collusion in this settlement as

1 Plaintiff's counsel's fee request ... is only 30% of the of their lodestar - a
 2 negative multiplier.”). Indeed, as the Court found at preliminary approval,
 3 “on balance the benefit to the class members is significant enough to
 4 overcome the prospect of collusion. That is especially true for the new
 5 settlement class members who were not part of the earlier litigation class
 6 and whose claims would otherwise be time-barred.” ECF 615 at 10.

7 Third, the Court has also already found the third *Bluetooth* factor to
 8 not be at issue since “each claimant is to receive the same amount
 9 regardless of the fee award.” *Id.*

10 **B. The Settlement Class Satisfies the Applicable Rule 23**
 11 **Requirements for Class Certification.**

12 Finally, “[f]inal approval of a class action settlement requires, as a
 13 threshold matter, an assessment of whether the class satisfies the
 14 requirements of Federal Rule of Civil Procedure 23(a) and (b).” *In Re*
 15 *California Gasoline Spot Market Antitrust Litig.*, 2025 WL 822665, at *4
 16 (N.D. Cal. Mar. 14, 2025) (citing *Hanlon*, 150 F.3d at 1019-1022. As the
 17 Northern District stated in *In re California Gasoline*, however, “[b]ecause
 18 no facts that would affect these requirements have changed since the Court
 19 preliminarily approved the class on [August 11, 2025], this [Court may
 20 issue an Order] incorporating by reference the Court’s prior analysis under
 21 Rules 23(a) and (b) as set forth in the Order granting preliminary
 22 approval.” *Id.*

23 As explained above, before this case was settled, this Court certified
 24 a class that is virtually identical to the Settlement Class definitions. *See*
 25 ECF 288. Subsequently, at the preliminary approval phase, the Court
 26 recognized:

1 Aside from that expansion [loans originated between January
 2 1 and June 2, 2007], the proposed settlement class is
 3 materially identical to the class the court certified in 2015
 4 when it adopted the Magistrate Judge's findings and
 5 recommendations filed May 15, 2013 (ECF 230), except as to
 6 a proposed "tolling subclass" that is no longer at issue. *See*
 7 ECF 288. In an exceptionally comprehensive analysis, the
 8 Magistrate Judge found all four of the Rule 23(a) factors
 9 satisfied, ECF 230, at 14–34, and found certification under
 10 Rule 23(b)(3) appropriate, *id.* at 34–39. The court later denied
 11 multiple motions by Defendants to decertify the class. *See* 478
 12 F. Supp. 3d at 984-88 (ECF 417); ECF 538, at 18-20. The court
 13 can find no reason to depart from its previous analyses.

14 Nothing has changed to alter this analysis, and for the reasons set
 15 forth in Plaintiffs' Motion for Preliminary Approval, the Settlement Class
 16 should be finally certified for settlement purposes. *See* ECF 614.

17 **C. The Court should confirm Plaintiffs' Counsel as Class Counsel**
 18 **under Rule 23(g)(1).**

19 Kessler Topaz Meltzer & Check, LLP (KTMC), along with Larson LLP
 20 and assisting counsel, acting as counsel for Plaintiffs and the Settlement
 21 Class, have undertaken a significant amount of work, effort, and expense
 22 in litigating the claims in this case. *See* Meltzer Decl. at ¶¶ 8, 13- 20. As a
 23 result of these efforts, the Court appointed KTMC and Larson as settlement
 24 Class Counsel at the preliminary approval stage. ECF 615 at 16. In the
 25 intervening period, Class Counsel has continued to demonstrate the skill
 26 and experience necessary to oversee and effectuate this Settlement through
 27 their efforts in overseeing the Notice Program and the administration of
 28

1 the Settlement. Plaintiffs thus request that the Court confirm Class
2 Counsel under Rule 23(g)(1) in connection with final approval of the
3 Settlement.

4 **V. CONCLUSION**

5 For all of the foregoing reasons, Plaintiffs and Class Counsel
6 respectfully request that the Court certify the Settlement Class, confirm
7 the appointment of Class Counsel and the Settlement Class
8 Representatives, and grant final approval of the Settlement. Plaintiffs have
9 filed a proposed order and proposed final judgment herewith.

10 DATED: October 30, 2025

Respectfully submitted,

11
12 **KESSLER TOPAZ**
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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing Memorandum of Points and Authorities contains 7,653 words, as reported by Microsoft Word.

/s/ Joseph H. Meltzer

Joseph H. Meltzer

CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2025, a true and correct copy of the foregoing document was electronically filed with the Clerk of Court, is available for viewing and downloading from the ECF system, and will be served by operation of the Court's electronic filing system (CM/ECF) upon all counsel of record.

/s/ Joseph H. Meltzer
Joseph H. Meltzer

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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 EFRAIN MUNOZ, *et. al.*,
11 Individually, and On Behalf of All
12 Others Similarly Situated,

13 Plaintiffs,

14 v.

15 PHH CORP., PHH MORTGAGE
16 CORP., PHH HOME LOANS, LLC.
17 and ATRIUM INSURANCE CORP.,

18 Defendants.
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No. 1:08-cv-00759 MMB-BAM

[PROPOSED] FINAL
APPROVAL ORDER AND
JUDGMENT

Dept: Ctrm 10 (13th fl.)

Judge: Hon. M. Miller Baker

1 WHEREAS, the above-captioned class action is pending in this Court
2 (“Action”);

3 WHEREAS, (a) Plaintiffs Efrain Munoz, Leona Lovette, Stefanie
4 Melani, John Hoffman, and Daniel Maga, II (collectively, “Plaintiffs”) on
5 behalf of themselves and the Court-certified Class, and (b) Defendants
6 PHH Corp., PHH Mortgage Corp., PHH Home Loans, LLC, and Atrium
7 Insurance Corp. (collectively, “Defendants”) (together with Plaintiffs, the
8 “Parties”) have entered into the Class Action Settlement Agreement dated
9 July 11, 2025 (“Settlement Agreement”), that provides for a complete
10 dismissal with prejudice of the claims asserted against Defendants in the
11 Action on the terms and conditions set forth in the Settlement Agreement,
12 subject to the approval of this Court (“Settlement”);

13 WHEREAS, unless otherwise defined in this Final Approval Order,
14 the capitalized terms herein shall have the same meanings as they have in
15 the Settlement Agreement;

16 WHEREAS, by Order dated August 11, 2025 (ECF 615) (“Preliminary
17 Approval Order”), this Court: (a) found, pursuant to Rule 23(e)(1)(B) of the
18 Federal Rules of Civil Procedure, that it would likely be able to approve the
19 Settlement as fair, reasonable, and adequate under Rule 23(e)(2); (b)
20 ordered that notice of the proposed Settlement be provided to potential
21 members of the Class; (c) provided Class Members with the opportunity to
22 exclude themselves from the Class, to object to the proposed Settlement; and
23 (d) scheduled a hearing regarding final approval of the Settlement;

24 WHEREAS, by Order dated August 11, 2025 (ECF 615), the Court
25 also provisionally certified the following class under Federal Rule of Civil
26 Procedure 23(b)(3) and 23(e): All persons who obtained residential
27 mortgage loans originated and/or acquired by PHH and/or its affiliates on
28 or after January 1, 2007, through December 31, 2009, and, in connection

1 therewith, purchased private mortgage insurance and whose loans were
2 included within PHH's captive mortgage reinsurance agreements.);¹

3 WHEREAS, pursuant to the Court's Order dated August 11, 2025
4 (ECF 615), notice was disseminated to potential members of the
5 Settlement Class to notify them of, among other things: (a) the nature of
6 the action; (b) the definition of the Settlement Class; (c) the class claims
7 and issues; (d) Settlement Class Members' right to enter an appearance
8 through counsel if desired; (e) the necessity of submitting a timely claim
9 via a valid claim form to be eligible to receive compensation under the
10 Settlement; (f) the time and manner for submitting a claim form; (g) that
11 the Court will exclude from the Settlement Class any member who timely
12 and validly requests such; (h) the time and manner for requesting
13 exclusion; and (i) the binding effect of a class judgment on Settlement Class
14 members under Rule 23(c)(3);

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

16 WHEREAS, the Court conducted a hearing on December 17, 2025
17 ("Final Fairness Hearing") to consider, among other things (a) whether the
18 terms and conditions of the Settlement are fair, reasonable, and adequate
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20 ¹ Excluded from the Settlement Class are: (a) Defendants' officers, directors,
21 and employees; (b) Defendants' affiliates and affiliates' officers, directors, and
22 employees; (c) Defendants' future, present, and former direct and indirect parents,
23 subsidiaries, divisions, affiliates, predecessors, successors, and assigns, and their
24 future, present, and former directors, officers, employees, managers, servants,
25 principals, agents, insurers, reinsurers, shareholders, investors, attorneys,
26 advisors, consultants, representatives, partners, joint venturers, divisions,
27 predecessors, successors, assigns, and agents thereof; (d) all persons who have
28 previously excluded themselves from the certified class (*see* ECF. 230, 288, 314);
and (e) any person otherwise in the Settlement Class who timely and properly
excludes themselves from the Settlement Class as provided in the Settlement
Agreement and class notices. All individuals and entities excluded from the Class
by request are listed on Exhibit 1 hereto.

1 to the Class, and should therefore be approved; and (b) whether a judgment
2 should be entered dismissing the Action with prejudice as against
3 Defendants; and

4 WHEREAS, the Court having reviewed and considered the Settlement
5 Agreement, all papers filed and proceedings held herein in connection with
6 the Settlement, all oral and written comments received regarding the
7 Settlement, and the record in the Action, and good cause appearing
8 therefore;

9 NOW THEREFORE, IT IS HEREBY ORDERED:

10 1. **Jurisdiction** – The Court has jurisdiction over the subject matter
11 of the Action, and all matters relating to the Settlement, as well as personal
12 jurisdiction over all of the Parties and each of the Class Members.

13 2. **Incorporation of Settlement Documents** – This Final Approval
14 Order incorporates and makes a part hereof: (a) the Settlement Agreement
15 filed with the Court on July 31, 2025; and (b) the Long- Form Notice,
16 Summary Notice, and Claim Form, all of which were filed with the Court on
17 the same day.

18 3. **Notice** – The Court finds that the Notice Plan: (a) was
19 implemented in accordance with the Preliminary Approval Order; (b)
20 constituted the best notice practicable under the circumstances; (c)
21 constituted notice that was reasonably calculated, under the circumstances,
22 to apprise Settlement Class Members of (i) the effect of the proposed
23 Settlement (including the releases to be provided thereunder); (ii) Class
24 Counsel's motion for attorneys' fees, litigation expenses, and class
25 representative service awards; (iii) their right to object to any aspect of the
26 Settlement and/or Class Counsel's motion for attorneys' fees, litigation
27 expenses, and class representative service awards; (iv) their right to exclude
28 themselves from the Class; and (v) their right to appear at the Final

1 Fairness Hearing; (d) constituted due, adequate, and sufficient notice to all
2 individuals and entities entitled to receive notice of the proposed
3 Settlement; and (e) satisfied the requirements of Rule 23 of the Federal
4 Rules of Civil Procedure, the United States Constitution (including the Due
5 Process Clause), and all other applicable law and rules. No Class Member
6 is relieved from the terms of the Settlement, including the releases provided
7 for therein, based upon the contention or proof that such Class Member
8 failed to receive actual or adequate notice. A full opportunity has been
9 offered to Settlement Class Members to object to the proposed Settlement
10 and to participate in the hearing thereon. Thus, it is hereby determined that
11 all Settlement Class Members are bound by this Final Approval Order,
12 except those individuals and entities listed on Exhibit 1 hereto.

13 4. **CAFA Notice** - The Court finds that the notice requirements set
14 forth in the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, have been
15 satisfied.

16 5. **Objections** – There are no objections to the Settlement.

17 6. **Final Settlement Approval and Dismissal of Claims** – Pursuant
18 to, and in accordance with, Rule 23(e)(2) of the Federal Rules of Civil
19 Procedure, this Court hereby fully and finally approves the Settlement set
20 forth in the Settlement Agreement in all respects (including, without
21 limitation, the Settlement Relief, the releases provided for therein, and the
22 dismissal with prejudice of the claims asserted against Defendants in the
23 Action), and finds that the Settlement is, in all respects, fair, reasonable and
24 adequate, and in the best interests of the Class. Specifically, the Court finds
25 that (a) Plaintiffs and Class Counsel have adequately represented the Class;
26 (b) the Settlement was negotiated by the Parties at arm's length; (c) the
27 relief provided for the Class under the Settlement is adequate taking into
28 account the costs, risks, and delay of trial and appeal, the proposed means

1 of distributing the Settlement Relief to the Class, and the proposed
2 attorneys' fee award; and (d) the Settlement treats members of the Class
3 equitably relative to each other. The Parties are directed to implement,
4 perform, and consummate the Settlement in accordance with the terms and
5 provisions contained in the Settlement Agreement.

6 7. The Action and all of the claims asserted against Defendants in
7 the Action by Plaintiffs and the other members of the Class are hereby
8 dismissed with prejudice as to Defendants. The Parties shall bear their own
9 costs and expenses, except as otherwise expressly provided in the
10 Settlement Agreement.

11 8. **Binding Effect** – The terms of the Settlement Agreement and of
12 this Final Approval Order shall be forever binding on the Parties and all
13 other members of the Class (regardless of whether or not any individual
14 Class Member submits a claim), as well as their respective successors and
15 assigns. The individuals and entities listed on Exhibit 1 hereto are excluded
16 from the Class pursuant to request and are not bound by the terms of the
17 Settlement Agreement or this Final Approval Order.

18 9. **Release** – The releases set forth in the Settlement Agreement,
19 together with any definitions contained in the Settlement Agreement
20 relating thereto, are expressly incorporated herein. The releases are
21 effective as of the Effective Date. Accordingly, this Court orders that: subject
22 to paragraph 10 below, upon the Effective Date of the Settlement
23 Agreement, the Settlement Class Releasers shall release, forever discharge,
24 will not in any manner pursue this Action, and shall be forever barred from
25 asserting, instituting, or maintaining against the Released Persons, any
26 and all Released Claims, as defined in § 3 of the Settlement Agreement. This
27 release shall not apply to any individual or entity listed on Exhibit 1 hereto.
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1 10. Notwithstanding paragraph 9 above, nothing in this Final
2 Approval Order shall bar any action by any of the Parties to enforce or
3 effectuate the terms of the Settlement Agreement or this Final Approval
4 Order.

5 11. **No Admissions** – This Final Approval Order, the Settlement
6 Agreement, the Settlement, all documents, orders, and other evidence
7 relating to the Settlement, the fact of their existence, any of their terms, any
8 press release or other statement or report by the Parties or by others
9 concerning this Final Approval Order, the Settlement Agreement, the
10 Settlement, their existence, or their terms, any negotiations, proceedings,
11 acts performed, or documents drafted or executed pursuant to or in
12 furtherance of the Settlement Agreement or the Settlement shall not be
13 offered or received as evidence, nor shall they be deemed to be, used as,
14 construed as, or constitute a presumption, concession, admission, or
15 evidence of (a) the validity of any Released Claims or of any liability,
16 culpability, negligence, or wrongdoing on the part of the Released Persons;
17 (b) any fact alleged, any defense asserted or any fault by the Released
18 Persons; (c) the propriety of certifying a litigation class or any decision by
19 any court regarding the certification of a class; and/or (d) whether the
20 consideration to be given in the Settlement Agreement represents the relief
21 that could or would have been obtained through trial in the Action in any
22 trial, civil, criminal, administrative, or other proceeding of the Action or any
23 other action or proceeding in any court, administrative agency, or other
24 tribunal. Defendants and the other Released Persons shall have the right to
25 file the Settlement Agreement and/or the Final Approval Order in any
26 action that may be brought against them in order to support a defense or
27 counterclaim based on principles of res judicata, collateral estoppel, release,
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1 good-faith settlement, judgment bar, reduction, or any other theory of claim
2 preclusion or issue preclusion or similar defense or counterclaim.

3 12. **Retention of Jurisdiction** – Without affecting the finality of this
4 Final Approval Order in any way, this Court retains continuing and
5 exclusive jurisdiction over: (a) the Parties for purposes of the
6 administration, interpretation, implementation, and enforcement of the
7 Settlement and payment of the Settlement Relief; (b) any motion for
8 attorneys' fees, litigation expenses, or class representative service awards
9 by Class Counsel in the Action; and (c) members of the Class for all matters
10 relating to the Action.

11 13. A separate order shall be entered regarding approval of the
12 motion of Class Counsel for attorneys' fees, litigation expenses, and class
13 representative service. Such order shall in no way affect or delay the finality
14 of this Final Approval Order and shall not affect or delay the Effective Date
15 of the Settlement.

16 14. **Modification of the Agreement of Settlement** – Without further
17 approval from the Court, the Parties are hereby authorized to agree to and
18 adopt such amendments or modifications of the Settlement Agreement or
19 any exhibits attached thereto to effectuate the Settlement that: (a) are not
20 materially inconsistent with this Final Approval Order; and (b) do not
21 materially limit the rights of Settlement Class Members in connection with
22 the Settlement. Without further order of the Court, the Parties may agree
23 to reasonable extensions of time to carry out any provisions of the
24 Settlement.

25 15. **Termination of Settlement** – If the Settlement is terminated as
26 provided in the Settlement Agreement or the Effective Date of the
27 Settlement otherwise fails to occur, this Final Approval Order shall be
28 vacated, rendered null and void, and be of no further force and effect, except

1 as otherwise provided by the Settlement Agreement, and this Final
2 Approval Order shall be without prejudice to the rights of Plaintiffs, the
3 other members of the Class, and Defendants, and the Parties shall be
4 restored to their respective positions immediately preceding execution of the
5 Settlement Agreement, and any intervening Court rulings or decisions shall
6 be vacated, as provided in the Settlement Agreement.

7 16. **Entry of Final Judgment** – There is no just reason to delay the
8 entry of this Final Approval Order and immediate entry by the Clerk of the
9 Court is expressly directed.

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11 **IT IS SO ORDERED.**

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13 Dated: _____, 2025

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16 HON. M. MILLER BAKER²
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28 ² Judge of the United States Court of International Trade, sitting by designation.

Exhibit 1

List of Individuals and Entities Excluded from the Class Pursuant to Request