

1 compliance with Paragraph 3.2 of the Amended Settlement Agreement, due process, and
2 Rule 23 of the Federal Rules of Civil Procedure. The Notice:

- 3 (a) fully and accurately informed Settlement Class Members about the Action
4 and the existence and terms of the Amended Settlement Agreement;
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6 (b) advised Settlement Class Members of their right to request exclusion from
7 the settlement and provided sufficient information so that Settlement Class
8 Members were able to decide whether to accept the benefits offered, opt out
9 and pursue their own remedies, or object to the proposed settlement;
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11 (c) provided procedures for Settlement Class Members to file written objections
12 to the proposed settlement, to appear at the Final Fairness Hearing, and to
13 state objections to the proposed settlement; and
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15 (d) provided the time, date, and place of the Final Fairness Hearing.

16 On October 5, 2023, the Court held a Final Fairness Hearing to determine whether
17 the proposed settlement is fair, reasonable, and adequate and whether judgment should be
18 entered dismissing this Action with prejudice. The Court reviewed (a) Plaintiffs' Motion for
19 Final Approval of Class Action Settlement and Plaintiffs' Motion for Attorneys' Fees,
20 Expenses and Service Award to Plaintiffs (together, the "Motions") and all supporting
21 materials, including but not limited to the Amended Settlement Agreement and the exhibits
22 thereto; (b) any objections filed with or presented to the Court; and (c) the Parties' responses
23 to any objections. The Court also considered the oral argument of counsel and any objectors
24 who appeared. Based on this review and the findings below, the Court finds good cause to
25 grant the Motion for Final Approval. The Court grants the request for a service award but
26 otherwise defers ruling on the fee motion.
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IT IS HEREBY ORDERED:

1. The Court has jurisdiction over the subject matter of this Litigation, all claims raised therein, and all Parties thereto, including the Settlement Class.

2. The Amended Settlement Agreement is fair, reasonable, adequate and in the best interests of Settlement Class Members. The Amended Settlement Agreement was negotiated at arm’s-length, in good faith, and without collusion, by capable and experienced counsel, with full knowledge of the facts, the law, and the risks inherent in litigating the Action, and with the active involvement of the Parties. Moreover, the Amended Settlement Agreement confers benefits on the Settlement Class Members, is not contrary to the public interest, and will provide the Parties with repose from litigation. The Parties faced risks, expense, and/or uncertainty from continued litigation of this matter, which further supports the Court’s conclusion that the settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class Members.

3. The Court grants final approval of the Amended Settlement Agreement in full, including but not limited to the releases therein and the procedures for effecting the Settlement. All Settlement Class Members who have not excluded themselves from the Settlement Class are bound by this Final Approval Order and Judgment.

4. The Parties shall carry out their respective obligations under the Amended Settlement Agreement in accordance with its terms. The relief provided for in the Amended Settlement Agreement shall be made available to the various Settlement Class Members submitting valid Claim Forms, pursuant to the terms and conditions in the Amended Settlement Agreement.

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OBJECTIONS AND REQUESTS FOR EXCLUSION

5. No objections to the settlement were submitted. All persons who did not object to the settlement in the manner set forth in the Amended Settlement Agreement are deemed to have waived any objections, including but not limited to by appeal, collateral attack, or otherwise.

6. One person requested to be excluded from the settlement and the Settlement Class. See Docket No. 50 (Fenwick Decl., Ex. H). Because this exclusion request was timely under the terms of the Settlement, that individual is hereby excluded from this class action Settlement.

CERTIFICATION OF THE SETTLEMENT CLASS

7. Solely for purposes of the Amended Settlement Agreement and this Final Approval and Order and Judgment, the Court hereby certifies the following Settlement Class:

Settlement Class:

All persons to whom LendUS mailed notice that between February 2, 2021, and March 22, 2021, LendUS was the target of a criminal cyberattack in which third-party criminals gained ‘unauthorized access to some LendUS employee email accounts’ and may have gained unauthorized access the notified individual’s PII. The Settlement Class specifically excludes: (i) LendUS and its respective officers and directors; (ii) all members of the Settlement Class who timely and validly request exclusion from the Settlement Class; (iii) the Judge and Magistrate Judge assigned to evaluate the fairness of the settlement; and (iv) any other Person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding, or abetting the Data Incident or who pleads *nolo contendere* to any such charge.

California Subclass:

1 All persons residing in California between February 2, 2021, and March 22,
2 2021, to whom LendUS mailed notice that between February 2, 2021, and
3 March 22, 2021, LendUS was the target of a criminal cyberattack in which
4 third-party criminals gained “unauthorized access to some LendUS
5 employee email accounts” and may have gained unauthorized access to the
6 notified individual’s PII. The California Subclass specifically excludes: (i)
7 LendUS and its respective officers and directors; (ii) all members of the
8 Settlement Class who timely and validly request exclusion from the
9 Settlement Class; (iii) the Judge and Magistrate Judge assigned to evaluate
10 the fairness of this settlement; and (iv) any other Person found by a court of
11 competent jurisdiction to be guilty under criminal law of initiating, causing,
12 aiding, or abetting the Data Incident or who pleads *nolo contendere* to any
13 such charge.

14 8. The Settlement Class is estimated to include 11,570 individuals and
15 the California Subclass is estimated to include 5,387 individuals.

16 9. The Court incorporates its preliminary conclusions in the Preliminary
17 Approval Order regarding the satisfaction of Federal Rules of Civil Procedure 23(a) and
18 23(b). Because the Settlement Class is certified solely for purposes of settlement, the Court
19 need not address any issues of manageability for litigation purposes.

20 10. The Court grants final approval to the appointment of Representative
21 Plaintiff Evangelia Remoundos, John Biegger, and Anne Biegger as Class Representatives
22 of the Settlement Class and concludes that they have fairly and adequately represented the
23 Settlement Class and shall continue to do so.

24 11. The Court grants final approval to the appointment of M. Anderson Berry of
25 Clayeo C. Arnold, A Professional Law Corporation; Terence R. Coates of Markovits, Stock
26 & Demarco, LLC and Joseph M. Lyon of The Lyon Firm, LLC as Class Counsel. Class
27 Counsel have fairly and adequately represented the Settlement Classes and shall continue
28 to do so.

NOTICE TO THE CLASS

12. The Court finds that the Notice Program provided for in the Amended
Settlement Agreement and effectuated pursuant to the Preliminary Approval Order: (i) was

1 the best notice practicable under the circumstances; (ii) was reasonably calculated to
2 provide, and did provide, due and sufficient notice to the Settlement Class regarding the
3 existence and nature of the Action, certification of the Settlement Class for settlement
4 purposes only, the existence and terms of the Amended Settlement Agreement, and the
5 rights of Settlement Class Members to exclude themselves from the settlement, to object
6 and appear at the Final Fairness Hearing, and to receive benefits under the Amended
7 Settlement Agreement; and (iii) satisfied the requirements of the Federal Rules of Civil
8 Procedure, the United States Constitution, and all other applicable law.

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10 **ATTORNEYS' FEES AND COSTS, SERVICE AWARD**

11 13. The Court defers ruling on the fee motion. As the Court is granting final
12 approval here, notice to the class may issue regarding the credit monitoring program.
13 Approximately 30-45 days after that notice has issued, the parties will have a sense of what
14 the enrollment rate in the credit monitoring program will be. The parties may then file an
15 interim report regarding enrollment in the credit monitoring program, and the Court will
16 make its assessment on the fee motion.

17 14. The Court awards a Service Award of \$2,000.00 each to Evangelia
18 Remoundos, John Biegger, and Anne Biegger. The Court finds these amounts are justified
19 by the Class Representatives' service to the Settlement Class. Payment shall be made from
20 the Settlement Fund pursuant to the procedures in Section IX of the Amended Settlement
21 Agreement.

22 **RELEASE**

23 15. Each Settlement Class Member, including the Class Representatives, are be
24 deemed to have, and by operation of the Judgment shall have, fully, finally, and forever
25 released, relinquished, and discharged all Released Claims as defined in the Amended
26 Settlement Agreement and including Unknown Claims. The full terms of the release
27 described in this paragraph are set forth in Section VI of the Amended Settlement
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1 19. The Amended Settlement Agreement and this Final Approval Order and
2 Judgment, and all documents, supporting materials, representations, statements and
3 proceedings relating to the settlement shall not be offered or received into evidence, and are
4 not admissible into evidence, in any action or proceeding, except that the Amended
5 Settlement Agreement and this Final Approval Order and Judgment may be filed in any
6 action by any Defendant or the Settlement Class Members seeking to enforce the Amended
7 Settlement Agreement or the Final Approval Order and Judgment.

8 20. If the Effective Date does not occur for any reason, the Action will revert to
9 the status that existed before the Amended Settlement Agreement's execution date, and the
10 Parties shall be restored to their respective positions in the Action as if the Amended
11 Settlement Agreement had never been entered into. No term or draft of the Amended
12 Settlement Agreement, or any part of the Parties' settlement discussions, negotiations, or
13 documentation, will have any effect or be admissible in evidence for any purpose in the
14 Litigation.

15 21. Without affecting the finality of this Final Approval Order and Judgment,
16 the Court will retain jurisdiction over this Action and the Parties with respect to the
17 interpretation, implementation, and enforcement of the Amended Settlement Agreement for
18 all purposes.

19 22. The Court hereby dismisses the Action in its entirety with prejudice, and
20 without fees or costs except as otherwise provided for herein.

21 NOW, THEREFORE, the Court hereby enters judgment in this matter pursuant to
22 Rule 58 of the Federal Rules of Civil Procedure.

23 **IT IS SO ORDERED.**

24 DATED: October 17, 2023

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27 HON. EDWARD M. CHEN
28 UNITED STATES DISTRICT COURT JUDGE

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