

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

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

*IN RE: ZOOM VIDEO COMMUNICATIONS
INC. PRIVACY LITIGATION,*

Master Case No. 3:20-cv-02155-LB

This Document Relates To:

All Actions

**[PROPOSED] ORDER GRANTING
MOTION FOR INDICATIVE RULING
RE APPROVAL OF SETTLEMENTS
WITH OBJECTOR-APPELLANTS**

On April 21, 2022, the Court granted final approval of a class settlement in this action. ECF No. 249. Shortly thereafter, objectors Sammy Rodgers, Alvery Neace, and Judith Cohen filed notices of appeal to the Ninth Circuit. On October 27, 2022, the parties filed a joint motion requesting an indicative ruling as to whether, upon remand from the Ninth Circuit, the Court will approve two settlement agreements reached between them.

Rule 23(e)(5) permits class members to object to proposed class action settlements and requires court approval of any payment in connection with “forgoing, dismissing, or abandoning an appeal from a judgment approving” a settlement. Fed. R. Civ. P. 23(e)(5)(A)-(B)(ii). If the parties do not obtain such approval “before an appeal has been docketed in the court of appeals, the procedure of Rule 62.1 applies while the appeal remains pending.” Fed. R. Civ. P.

1 23(e)(5)(C). Rule 62.1 permits the court to make an indicative ruling when the court lacks
2 authority to grant a motion because an appeal has been taken. Fed. R. Civ. P. 62.1(a)(3).

3 Pursuant to the proposed settlements, Plaintiffs and Zoom have agreed to undertake
4 certain procedures to make it easier for class members who have filed claims to update their
5 addresses with the settlement administrator and to receive cash payments by mailed checks,
6 addressing objections raised by objectors Rodgers and Neace. Plaintiffs and Zoom have also
7 agreed to modify the release in the Settlement Agreement to exclude from the release certain
8 claims for indemnification or contribution made by a state-licensed professional against Zoom,
9 addressing the core of objector Cohen's objection. The parties also agreed that the objectors may
10 apply for service payments and attorneys' fees and costs, up to a certain limit, and if approved to
11 be paid from the prior award of attorneys' fees to Class Counsel, which will not reduce in any
12 way the funds available for distribution to Class Members. If both agreements are approved, the
13 objectors agree to dismiss their appeals with prejudice.

14 Having reviewed the parties' joint motion and proposed settlement agreements, the Court
15 finds that the settlements would be in the best interest of the previously-approved Settlement
16 Class. The settlements benefit the Settlement Class, were reached through arms-length
17 negotiations as a result of a judicial mediation process, will prevent further expenditures on
18 appeal at the expense of the Settlement Class, and will expedite payment to the Settlement Class.
19 Therefore, the Court anticipates that it would grant a motion to approve the settlements if the
20 Ninth Circuit remands this action for that purpose.

21 **IT IS SO ORDERED.**

22 Dated: _____, 2022

23
24 _____
HON. LAUREL BEELER
United States Magistrate Judge