

1 1. The Court has subject matter jurisdiction over this matter pursuant to
2 28 U.S.C. § 1331 and 47 U.S.C. § 227 and has personal jurisdiction over the Parties
3 and the Settlement Class Members.

4 2. Unless defined herein, all defined terms in this Order shall have the
5 meanings ascribed to them in the Agreement.

6 3. The Motion is GRANTED.

7 4. The Court preliminarily approves the Settlement and the terms
8 embodied therein pursuant to Fed. R. Civ. P. 23(e)(1).

9 5. The Court finds that Plaintiff and Class Counsel have adequately
10 represented, and will continue to adequately represent, the Settlement Class. The
11 Court further finds that the Settlement is procedurally fair, the product of arms'
12 length negotiations by the Parties through an experienced mediator, Robert Meyer
13 of JAMS, and comes after more than ten years of litigation and discovery and a
14 detailed investigation.

15 6. The Court preliminarily finds that the Settlement relief provided—a
16 \$17 million non-reversionary settlement fund—is fair, reasonable, and adequate
17 taking into account, *inter alia*, the costs, risks, and delay of further litigation, trial
18 and appeal, the alleged harm to Settlement Class Members, the proposed method of
19 distributing payments to the Settlement Class *pro rata*, and the absence of any
20 agreement required to be identified under Rule 23(e)(3), other than the individual
21 settlement with Plaintiff Carmen Montijo.

22 7. The Court further preliminarily finds that the Settlement is
23 substantively fair and treats the Settlement Class Members equitably relative to
24 each other, accounting for the fact that certain Settlement Class Members' claims
25 had been granted summary judgment [*see* Doc. # 401], and others had not. The
26 Settlement provides for “two shares” to Settlement Class Members who were called
27 by iQor, Inc. or Credit Management, LP, and “one share” to Settlement Class
28 Members who were called by Enhanced Recovery Company, Inc. or AFNI, Inc.

1 There will be a *pro rata* distribution of the \$17 million settlement proceeds after
2 deduction of the Settlement Costs (*i.e.*, (i) settlement and administration costs; (ii)
3 Class Counsel attorneys' fees and expenses awarded by the Court; (iii) any Court-
4 approved service award paid to the Class Representative; and (iv) any taxes
5 incurred by the Settlement Fund). The Court will assess Class Counsel's request
6 for attorneys' fees and expenses after receiving a motion from Class Counsel
7 supporting such request. At this stage, the Court finds that the plan to request fees
8 and litigation expenses, as well as a class representative service award, to be paid
9 from the Settlement Fund creates no reason not to grant the Motion and direct
10 notice to the Settlement Class.

11 8. The Court hereby finds that it is likely to be able to certify, for
12 settlement purposes only, a "Settlement Class," pursuant to Fed. R. Civ. P. 23(a),
13 23(b)(3), and 23(e) consisting of:

14 All persons residing within the United States who, within four years prior to
15 and after the filing of this action, received a non-emergency telephone call(s)
16 from DIRECTV and/or iQor, Inc., Credit Management, LP, AFNI, Inc, or
17 Enhanced Recovery Company, Inc. regarding a debt allegedly owed to
18 DIRECTV, to a cellular telephone through the use of an artificial or
19 prerecorded voice, and who has not been a DIRECTV customer at any time
20 since October 1, 2004. The Settlement Class encompasses only persons
21 associated with the telephone numbers and calls during the Settlement Class
22 Period in Plaintiff's summary judgment motions. *See* [Doc. ## 375-1 (CMI),
23 375-2 (iQor), 415-6 (AFNI), 415-7 (ERC)]. Excluded from the Settlement
24 Class are: (a) those persons who previously opted out in response to the
25 notice of class certification, identified in [Doc. # 420-1], (b) any trial judge
26 that may preside over this case, and (c) Defendant, as well as any parent,
27 subsidiary, affiliate or control person of Defendant.

28 9. The Court preliminary finds that, for settlement purposes only, the

1 Settlement Class, as defined above, is likely to meet the requirements for class
2 certification under Fed. R. Civ. P. 23(a) and 23(b)(3)—namely, that (a) the
3 Settlement Class Members are sufficiently numerous such that joinder is
4 impracticable; (b) there are common questions of law and fact; (c) Plaintiff’s claims
5 are typical of those of the Settlement Class Members; (d) Plaintiff and Class
6 Counsel have adequately represented, and will continue to adequately represent, the
7 interests of the Settlement Class Members; and (e) for purposes of settlement, the
8 Settlement Class meets the predominance and superiority requirements of Fed. R.
9 Civ. P. 23(b)(3).

10 10. Certification of the Settlement Class shall be solely for settlement
11 purposes and without prejudice to the Parties in the event the Settlement is not
12 finally approved by this Court or otherwise does not take effect, and the Parties
13 preserve all rights and defenses regarding class certification in the event the
14 Settlement is not finally approved by this Court or otherwise does not take effect.

15 11. The Court hereby designates Plaintiff Jenny Brown as Class
16 Representative for the Settlement Class.

17 12. The Court hereby designates the following attorneys as Class Counsel
18 for the Settlement Class:

19 Daniel M. Hutchinson
20 Lieff Cabraser Heimann & Bernstein LLP
21 275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
Tel. (415) 956-1000

22 Matthew R. Wilson
23 Meyer Wilson Co., LPA
24 305 W. Nationwide Blvd.
Columbus, OH 43215
Telephone: (614) 224-6000

25 Alexander H. Burke
26 Burke Law Offices, LLC
27 909 Davis Street, Suite 500
Evanston, IL 60201
Telephone: (312) 729-5288

28 13. The Court hereby appoints BrownGreer PLC (“BrownGreer”) as the

1 Claims Administrator for the Settlement and directs BrownGreer to carry out all the
2 duties and responsibilities of the Claims Administrator as specified in the
3 Settlement and herein.

4 **Notice Plan**

5 14. Pursuant to Fed. R. Civ. P. 23(e)(1) and 23(c)(2)(B) and subject to the
6 Court's edits, the Court approves the proposed Notice Plan and procedures set forth
7 at Section 9 of the Agreement, including the form and content of the proposed
8 forms of notice to the Settlement Class attached as Exhibit C to the Settlement and
9 the proposed procedures for Settlement Class Members to exclude themselves from
10 the Settlement Class or object. The Court finds that the proposed Notice Plan—
11 which includes (i) direct postcard notice, (ii) setting up a toll-free telephone
12 number; and (iii) establishing a Settlement Website at the web address of
13 www.dtvprerecordclassaction.com, where Settlement Class Members can view the
14 full Agreement, the detailed long-form notice, and other key case documents—
15 meets the requirements of due process under the United States Constitution and of
16 Rule 23, and constitutes the best notice that is practicable under the circumstances,
17 including individual notice to all members who can be identified through
18 reasonable effort. The Court further finds that the proposed form and content of the
19 notices are adequate and will give the Settlement Class Members sufficient
20 information to enable them to make informed decisions as to the Settlement,
21 including whether to object and whether to opt out. The Court finds that the notices
22 clearly and concisely state in plain, easily understood language, *inter alia*: (a) the
23 nature of the case; (b) the definition of the Settlement Class; (c) the class claims and
24 issues; (d) that a Settlement Class Member may enter an appearance through an
25 attorney if the member so desires; (e) that the Court will exclude from the
26 Settlement Class any member who timely and validly requests exclusion; (f) the
27 time and manner for requesting exclusion; and (g) the binding effect of a class
28 judgment on Settlement Class Members under Rule 23(c)(3).

1 15. The Court hereby directs the Parties and the Claims Administrator to
2 implement the Notice Plan as set forth in the Settlement.

3 16. In compliance with the Class Action Fairness Act of 2005, 28 U.S.C. §
4 1715, DIRECTV shall promptly provide written notice of the proposed Settlement
5 to the appropriate authorities.

6 17. No later than **September 19, 2022** (the “Settlement Notice Date”), the
7 Claims Administrator shall substantially complete Mail and Email Notice via first
8 class mail and email to Settlement Class Members. In the event that any Notices
9 are returned as non-deliverable, the Claim Administrator shall promptly re-mail
10 and/or re-email any Notices that are returned as non-deliverable with a forwarding
11 address to such forwarding address.

12 18. No later than the date it begins distributing direct notice, the Claims
13 Administrator shall maintain and administer a dedicated Settlement Website and set
14 up a toll-free telephone number for receiving toll-free calls related to the
15 Settlement.

16 19. No later than **October 19, 2022**, Class Counsel shall file an Interim
17 Report from the Claims Administrator detailing the results of the Notice and claims
18 program. No later than **January 20, 2023**, the Claims Administrator shall serve on
19 counsel for all Parties a declaration stating that the Notice required by the
20 Agreement has been completed in accordance with the terms of the Preliminary
21 Approval Order, and that the CAFA Notice was served. The Claims Administrator
22 shall likewise provide DIRECTV and Class Counsel with a final list of persons who
23 submitted timely and valid requests for exclusion from the Settlement Class.

24 **Claims Process**

25 20. Settlement Class Members shall be permitted to share in the
26 Settlement Fund paid by DIRECTV only after completing and submitting a Claim
27 Form to the Claims Administrator pursuant to the procedures outlined in Section 10
28 of the Agreement. As set forth in the Agreement, Settlement Class Members who

1 submit Claim Forms with missing or errant information will be provided additional
2 time to correct the errors and re-submit the Claim Forms to the Claims
3 Administrator, after being apprised of the need to do so by the Claims
4 Administrator.

5 21. For a Claim Form to be considered valid, the Settlement Class
6 Member shall include: (1) their name; (2) the telephone number that the Settlement
7 Class Member used or subscribed to during the Settlement Class Period; and (3)
8 affirmation that the Settlement Class Member was not a customer of Defendant at
9 any time after October 1, 2004.

10 **Opt-Out and Objection Procedures**

11 22. Settlement Class Members who wish to either object to the Settlement
12 or request to be excluded from it must do so by the Objection Deadline and Opt-
13 Out Deadline of **November 18, 2022**, which are both sixty (60) calendar days after
14 the Settlement Notice Date. Settlement Class Members may not both object and
15 opt out. If a Settlement Class Member submits both a Request for Exclusion and an
16 objection, the Request for Exclusion will be controlling.

17 23. To submit a Request for Exclusion (or opt-out), Settlement Class
18 Members must follow the directions in the Notice and send a compliant request to
19 the Claims Administrator at the address designated in the Class Notice by the Opt-
20 Out Deadline. In the Request for Exclusion, the Settlement Class Member must
21 state his or her full name, address, and telephone number, and must state in writing
22 that he or she wishes to be excluded from the Settlement. No Request for
23 Exclusion will be valid unless all of the information described above is included.
24 No Settlement Class Member, or any person acting on behalf of or in concert or
25 participation with that Settlement Class Member, may exclude any other Settlement
26 Class Member from the Settlement Class.

27 24. If a timely and valid Request for Exclusion is made by a member of
28 the Settlement Class, then that person will not be a Settlement Class Member, and

1 the Agreement and any determinations and judgments concerning it will not bind
2 the excluded person.

3 25. All Settlement Class Members who do not opt out in accordance with
4 the terms set forth in the Agreement will be bound by all determinations and
5 judgments concerning the Agreement.

6 26. To object to the Settlement, Settlement Class Members must follow
7 the directions in the Notice and file a written Objection with the Settlement
8 Administrator by the Objection Deadline. In the written Objection, the Settlement
9 Class Member must state: (1) his or her full name, address, and telephone number
10 where he or she may be contacted; (2) the telephone number(s) that he or she
11 maintains were called; (3) all grounds for the objection; (4) the identity of any
12 witnesses he or she may call to testify; (5) copies of any exhibits that he or she
13 intends to introduce into evidence at the Final Approval Hearing; (6) a statement of
14 the identity (including name, address, law firm, phone number and email) of any
15 lawyer who will be representing the individual with respect to any objection; (7) a
16 statement of whether he or she intends to appear at the Final Approval Hearing with
17 or without counsel; and (8) a statement as to whether the objection applies only to
18 the objector, a specific subset of the Settlement Class, or the entire Settlement
19 Class. Such objection will be filed with the Court by Class Counsel as part of
20 Plaintiff's Motion for Final Approval. Any documents that the Settlement Class
21 Member wishes the Court to consider must also be attached to the Objection. Any
22 and all objections shall identify any lawyer that represents the Settlement Class
23 Member as to the case or such objection. No Objection will be valid unless all of
24 the information described above is included. The right to object to this Settlement
25 must be exercised individually by an individual Settlement Class Member, not by
26 the act of another person acting or purporting to act in a representative capacity.
27 The Parties will have the right to depose any objector as to the basis and
28 circumstances of his or her objection, and to assess the objector's standing.

1 27. Any Settlement Class Member who has timely filed an Objection may
2 appear at the Final Approval Hearing, either in person or through an attorney hired
3 at the Settlement Class Member’s own expense, to object to the fairness,
4 reasonableness, or adequacy of this Agreement or the Settlement. Any Settlement
5 Class Member wishing to so appear must file a notice of intention to appear with
6 the Clerk of Court, postmarked no later than November 18, 2022. The notice
7 should include the case name and number, Settlement Class Member’s full name,
8 address, and telephone number, and be submitted to the below address:

9 Clerk of Court
10 United States District Court, Central District of California
11 350 West 1st Street
12 Suite 4311
13 Los Angeles, CA 90012-4565

14 28. Any Settlement Class Member who fails to timely file a written
15 objection with the Court and notice of his or her intent to appear at the Final
16 Approval Hearing in accordance with the terms of this Order, above and as detailed
17 in the Notice, shall not be permitted to object to the Agreement at the Final
18 Approval Hearing, shall be foreclosed from seeking any review of the Agreement
19 by appeal or other means, shall be deemed to have waived his, her, or its objections,
20 and shall be forever barred from making any such objections in the Action. All
21 members of the Settlement Class, except those members of the Settlement Class
22 who submit timely Requests for Exclusion, will be bound by all determinations and
23 judgments in the Action, whether favorable or unfavorable to the Settlement Class.

24 **Final Approval Hearing**

25 29. The Court will hold a Final Approval Hearing on **February 24, 2023**
26 at **10:00 a.m.** (Pacific time), in Courtroom 8C at the United States District Court
27 for the Central District of California, 350 W. 1st Street, Los Angeles, California.
28 The Court may change the date, time, or location of the Final Approval Hearing

1 without further notice. At the Final Approval Hearing, the Court will, among other
2 things: (a) determine whether the Settlement should be finally approved by the
3 Court as fair, reasonable, and adequate, and in the best interests of the Settlement
4 Class; (b) determine whether judgment should be entered pursuant to the
5 Settlement, dismissing this Action with prejudice and releasing all Released
6 Claims; (c) determine whether the Settlement Class should be finally certified; (d)
7 rule on Class Counsel's motion for attorneys' fees and expenses, and incentive
8 award to the Class Representative; (e) consider any properly filed objections; and
9 (f) consider any other matters necessary in connection with the final approval of the
10 Settlement.

11 30. By no later than **October 19, 2022**, Plaintiff and Class Counsel shall
12 file their motion for attorneys' fees, expenses, and a class representative service
13 award, which shall include Class Counsel's lodestar amount. Promptly after they
14 are filed, these document(s) shall be posted on the Settlement Website. By no later
15 than **January 20, 2023**, the Parties shall file their motion for final Settlement
16 Approval, and their responses to any objections that are submitted.

17 31. Only the Parties and Settlement Class Members who have submitted
18 timely and valid objections, in accordance with the requirements of this Order, may
19 be heard at the Final Approval Hearing.

20 32. If the Settlement, including any amendment made in accordance
21 therewith, is not finally approved by the Court or shall not become effective for any
22 reason whatsoever, the Settlement and any actions taken or to be taken in
23 connection therewith (including this Order and any judgment entered herein), shall
24 be terminated and shall become null and void and of no further force and effect
25 except for (a) any obligations to pay for any expense incurred in connection with
26 notice and administration as set forth in the Settlement, and (b) any other
27 obligations or provisions that are expressly designated in the Settlement to survive
28 the termination of the Settlement.

1 33. Other than such proceedings as may be necessary to carry out the
2 terms and conditions of the Settlement, all proceedings in this Action are hereby
3 stayed and suspended until further order of this Court.

4 34. The Agreement and any and all negotiations, documents, and
5 discussions associated with it, will not be deemed or construed to be an admission
6 or evidence of any violation of any statute, law, rule, regulation, or principle of
7 common law or equity, or of any liability or wrongdoing, by Defendant, or the truth
8 of any of the claims, and evidence relating to the Agreement will not be
9 discoverable or used, directly or indirectly, in any way, whether in the Action or in
10 any other action or proceeding, except for purposes of demonstrating, describing,
11 implementing, or enforcing the terms and conditions of the Agreement, this Order,
12 and the Final Judgment and Order of Dismissal.

13 35. If the Settlement is terminated or final approval does not for any
14 reason occur, the stay will be immediately terminated. If the Settlement is not
15 approved or consummated for any reason whatsoever, the Settlement and all
16 proceedings in connection with the Settlement will be without prejudice to the right
17 of Defendant or the Settlement Class Representative to assert any right or position
18 that could have been asserted if the Agreement had never been reached or proposed
19 to the Court. In such an event, the Parties will return to the *status quo ante* in the
20 Action and the certification of the Settlement Class will be deemed vacated. The
21 certification of the Settlement Class for settlement purposes, or any briefing or
22 materials submitted seeking certification of the Settlement Class, will not be
23 considered in connection with any subsequent class certification or merits decision.

24 36. Pending the final determination of whether the Settlement should be
25 approved, any member of the Settlement Class is hereby enjoined from filing any
26 class action, or attempting to amend an existing action to assert any claims which
27 would be released pursuant to the Settlement Agreement. If the Settlement is
28 terminated or final approval does not for any reason occur, the injunction will be

1 immediately terminated.

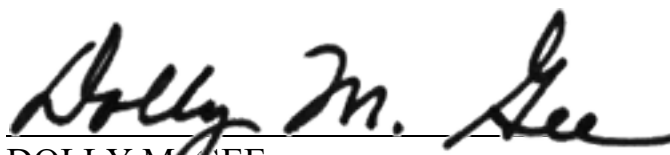
2 Accordingly, the following are the deadlines by which certain events must
 3 occur:

Event	Deadline
Settlement Notice Date	September 19, 2022
Last day for Plaintiff and Class Counsel to file motion for attorneys' fees, expenses, and service awards	October 19, 2022
Class Counsel to File Claims Administrator's Interim Status Report related to Notice	October 19, 2022
Last day for Settlement Class Members to Opt-Out or to Object	November 18, 2022
Last day for Settlement Class Members to file Claim Forms (excluding time set forth in the Settlement to correct errors or omissions in filed Claim Forms)	December 19, 2022
Deadline for Plaintiff to file Motion and Memorandum in Support of Final Approval, including responses to any Objections	January 20, 2023
Class Counsel to File Claims Administrator's Final Status Report related to Notice	January 20, 2023
Final Approval Hearing	February 24, 2023 at 10:00 a.m.

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IT IS SO ORDERED.

DATED: August 24, 2022


 DOLLY M. GEE
 UNITED STATES DISTRICT JUDGE