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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

PAUL PERKINS, PENNIE SEMPELL, ANN BRANDWEIN, ERIN EGGERS, CLARE CONNAUGHTON, JAKE KUSHNER, NATALIE RICHSTONE, NICOLE CROSBY, and LESLIE WALL; individually and on behalf of all others similarly situated,

Plaintiffs,

v.

LINKEDIN CORPORATION,

Defendant.

Case No. 13-CV-04303-LHK

ORDER GRANTING PRELIMINARY APPROVAL OF PROPOSED SETTLEMENT, DIRECTING NOTICE TO CLASS, AND SETTING FINAL APPROVAL HEARING

Judge: Hon. Lucy H. Koh
Action Filed: September 17, 2013

WHEREAS, a putative class action captioned *Perkins et al. v. LinkedIn*, Case No. 13-CV-04303-LHK is pending before the Court, and

WHEREAS, Paul Perkins, Pennie Sempell, Ann Brandwein, Erin Eggers, Clare Connaughton, Jake Kushner, Natalie Richstone, Nicole Crosby, and Leslie Wall (collectively, the “Plaintiffs” or “Class Representatives”), individually and in their representative capacities on behalf of the Settlement Class, and LinkedIn Corporation (“Defendant” or “LinkedIn”) (Plaintiffs and LinkedIn collectively, the “Parties,” or singularly, “Party”) have entered into an Amended Settlement Agreement and Release (“Settlement Agreement”), ECF No. 105-2, which, together with the exhibits attached thereto (as amended by the Court and attached to this Order), sets forth the terms and conditions for a proposed settlement and dismissal of the Action with prejudice as to Defendant for the claims of the Settlement Class upon the terms and conditions set forth in the Settlement Agreement, and the Court having read and considered the Settlement Agreement and exhibits attached thereto;

1 This matter coming before the Court upon the agreement of the Parties and the motion of
2 Plaintiffs seeking preliminary approval of the Settlement Agreement, good cause being shown,
3 and the Court being fully advised in the premises,

4 IT IS HEREBY ORDERED, DECREED, AND ADJUDGED AS FOLLOWS:

5 1. Terms and phrases in this order shall have the same meaning as ascribed to them in
6 the Settlement Agreement.

7 **Settlement Class Certification for Settlement Purposes Only**

8 2. A class (the “Settlement Class”) is certified for settlement purposes only.

9 a. The Settlement Class is defined to include: “[A]ll current and former
10 LinkedIn members who used Add Connections to import information from external email
11 accounts and to send emails to persons who were non-members in which the member’s name,
12 photograph, likeness and/or identity was displayed between September 17, 2011 and October 31,
13 2014.” Excluded from the Settlement Class are the following: (1) Defendant, its subsidiaries, and
14 affiliates and each of their respective officers, directors and employees, (2) Class Counsel and
15 Defendant’s Counsel, and (3) any judicial officer to whom the Action is assigned.

16 b. The requirements for class certification under Fed. R. Civ. P. 23(a). The
17 Settlement Class consists of approximately 20.8 million persons, there are questions of law or fact
18 common to the Settlement Class, Plaintiffs’ claims are typical of those of the Settlement Class,
19 and Plaintiffs will fairly and adequately protect the interests of the Settlement Class.

20 c. In addition, the questions of law or fact common to the Settlement Class
21 predominate over any individual questions, and the class action mechanism is superior to other
22 available methods for the fair and efficient adjudication of this controversy. Consequently, the
23 Settlement Class satisfies the requirements of Fed. R. Civ. P. 23(b)(3).

24 3. The Court hereby appoints Plaintiffs Paul Perkins, Pennie Sempell, Ann
25 Brandwein, Erin Eggers, Clare Connaughton, Jake Kushner, Natalie Richstone, Nicole Crosby,
26 and Leslie Wall as Class Representatives.

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1 4. The Court hereby appoints Michael W. Sobol, Nicholas R. Diamand, and Melissa
2 Gardner of Lieff, Cabraser, Heimann & Bernstein, LLP; Dorian S. Berger and Daniel P. Hipkind
3 of Olavi Dunne LLP; and Larry C. Russ of Russ, August & Kabat as Class Counsel.

4 **Preliminary Approval**

5 5. Plaintiffs have moved the Court for an order approving the settlement of the Action
6 in accordance with the Settlement Agreement, which, together with the documents incorporated
7 therein, sets forth the terms and conditions for a proposed settlement and dismissal of the Action
8 with prejudice against Defendant, and the Court having read and considered the Settlement
9 Agreement and having heard the Parties and being fully advised in the premises, hereby
10 preliminarily approves the Settlement Agreement in its entirety subject to the Final Approval
11 Hearing referred to in Paragraph 20 of this order.

12 6. This Court finds that it has jurisdiction over the subject matter of this action and
13 over all Parties to the Action, including all members of the Settlement Class.

14 7. The Court finds that, subject to the Final Approval Hearing, the Settlement
15 Agreement falls within the range of possible approval as fair, reasonable, adequate, and in the best
16 interests of the Settlement Class. The Court further finds that the Settlement Agreement
17 substantially fulfills the purposes and objectives of the class action, and provides beneficial relief
18 to the Settlement Class. The Court also finds that the Settlement Agreement (a) is the result of
19 serious, informed, non-collusive arm's length negotiations involving experienced counsel familiar
20 with the legal and factual issues of this case and made with the assistance of Antonio Piazza of
21 Mediated Negotiations; (b) is sufficient to warrant notice of the Settlement Agreement and the
22 Final Approval Hearing to the Settlement Class; (c) meets all applicable requirements of law,
23 including Federal Rule of Civil Procedure 23, and the Class Action Fairness Act ("CAFA"), 28
24 U.S.C. § 1715; and (d) is not a finding or admission of liability by Defendant.

25 **Notice and Administration**

26 8. Gilardi & Co. LLC ("Gilardi") is hereby appointed as Settlement Administrator and
27 shall perform all the duties of the Settlement Administrator as set forth in the Settlement
28 Agreement and this order.

1 9. The Court finds that the Notice and Notice Plan as set forth in the Settlement
2 Agreement are reasonably calculated to, under all circumstances, apprise the members of the
3 Settlement Class of the pendency of this action, certification of the Settlement Class for settlement
4 purposes only, the terms of the Settlement Agreement, and their right to object to the Settlement or
5 to exclude themselves from the Settlement Class. The Notice and Notice Plan are consistent with
6 the requirements of Rule 23 and due process, and constitute the best notice practicable under the
7 circumstances.

8 10. The Court thus hereby approves the Notice and the Notice Plan, including the
9 Email Notice and Website Notice as amended by the Court and attached as Exhibits B and C,
10 respectively, to this Order. The Court also approves the Claim Form, as amended by the Court
11 and attached as Exhibit A to this Order, and claims administration procedures set forth in the
12 Settlement Agreement. The Parties may, by agreement, revise the Notice and/or Claim Form in
13 ways that are not material, or in ways that are appropriate to update these documents for purposes
14 of accuracy or formatting.

15 11. Pursuant to Section 5 of the Settlement Agreement, the Notice Plan shall be
16 implemented as follows: Within thirty (30) days following the entry of this order (the “Notice
17 Date”), LinkedIn shall send or cause to be sent the Email Notice, as amended by the Court and
18 attached as Exhibit B to this Order, to each Person in the Settlement Class using the email address
19 that LinkedIn has on file for their LinkedIn account. The Email Notice shall include a hypertext
20 link to the Settlement Website. For emails that result in a bounce-back or are otherwise
21 undeliverable, an attempt will be made to re-send the Email Notice once prior to the Notice Date.
22 With the involvement and approval of the Parties, and starting no later than the start of the
23 dissemination of Email Notice to the Settlement Class, the Settlement Administrator shall publish
24 the Website Notice, as amended by the Court and attached as Exhibit C to this Order, through the
25 Settlement Website. The Settlement Website shall be developed, hosted, and maintained by the
26 Settlement Administrator through the Final Settlement Date and shall include the ability to submit
27 Claim Forms electronically.

1 12. Settlement Class Members who wish to receive a payment under the Settlement
2 Agreement must complete and submit a timely and valid Claim Form. A Settlement Class
3 Member may file only one (1) Claim Form, regardless of how many LinkedIn accounts he, she, or
4 it may have. All Claim Forms must be postmarked or received by the Settlement Administrator on
5 or before the Claims Deadline, which is hereby set as December 14, 2015.

6 **Exclusion**

7 13. Settlement Class members who wish to exclude themselves from the Settlement
8 Class for purposes of this settlement may do so by submitting a request for exclusion to the
9 Settlement Administrator on or before the Objection/Exclusion Deadline, which is hereby set as
10 December 14, 2015. The request for exclusion must comply with the exclusion procedures set
11 forth in the Settlement Agreement and include the case number of the Action, the member's name,
12 address, email address associated with his, her, or its LinkedIn account, phone number, signature,
13 and a statement that he or she wishes to be excluded from the Settlement Class for purposes of this
14 settlement. A request for exclusion may not request exclusion of more than one Settlement Class
15 Member.

16 14. Any member of the Settlement Class who timely requests exclusion consistent with
17 these procedures shall not (i) be bound by the Final Order and Judgment; (ii) be entitled to relief
18 under the Settlement Agreement; (iii) gain any rights by virtue of the Settlement Agreement; or
19 (iv) be entitled to object to any aspect of the Settlement Agreement. However, Settlement Class
20 Members who fail to submit a valid and timely request for exclusion shall be bound by all terms of
21 the Settlement Agreement and the Final Order and Judgment, regardless of whether they have
22 otherwise requested exclusion from the Settlement Class.

23 **Objections**

24 15. Any member of the Settlement Class who has not filed a timely and valid request
25 for exclusion may object to the granting of final approval to the Settlement Agreement.
26 Settlement Class Members may object on their own, or may do so through separate counsel at
27 their own expense.

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1 16. Any objection must be in writing, must be personally signed by the objector, and
2 must include: (1) the name of the Action and case number, “*Perkins v. LinkedIn Corp.*, Case No.
3 5:13-CV-04303-LHK”; (2) the objector’s name, address, email address associated with his, her, or
4 its LinkedIn account, and contact phone number; (3) an explanation of the basis upon which the
5 objector claims to be a member of the Settlement Class; (4) the grounds for the objection,
6 including any supporting law or evidence, if any; (5) the name and contact information of any and
7 all attorneys representing, advising, or in any way assisting the objector in connection with the
8 preparation or submission of the objection or who may profit from the pursuit of the objection;
9 and (6) a statement indicating whether the objector intends to appear at the Final Approval
10 Hearing (either personally or through counsel who files an appearance with the Court in
11 accordance with the Local Rules).

12 17. All objections and any papers submitted in support of such objections must be
13 submitted to the Court on or before the Objection/Exclusion Deadline either by mailing them to
14 Judge Koh’s Case System Administrator at the United States Courthouse, 280 South 1st Street,
15 Room 2112, San Jose, CA 95113, or by filing them in person at any location of the United States
16 District Court for the Northern District of California, except that any objection made by a
17 Settlement Class Member represented by counsel must be filed through the Court’s Case
18 Management/Electronic Case Filing (CM/ECF) system.

19 18. Any Settlement Class Member who fails to timely mail or file a written objection
20 with the Court and notice of his or her intent to appear at the Final Approval Hearing in
21 accordance with the terms of this Settlement Agreement and as detailed in the Notice shall not be
22 permitted to object to the Settlement at the Final Approval Hearing, and shall be foreclosed from
23 seeking any review of the Settlement by appeal or other means and shall be deemed to have
24 waived his, her, or its objections and be forever barred from making any such objections in the
25 Action or any other action or proceeding.

26 **Final Approval Hearing**

27 19. A Final Approval Hearing shall be held before this Court on February 11, 2016, at
28 1:30 p.m. in Courtroom 8 of the United States Courthouse, 280 South 1st Street, 4th Floor, San

1 Jose, CA 95113 to consider: (a) whether the proposed settlement of the Action on the terms and
2 conditions provided for in the Settlement Agreement is fair, reasonable, and adequate and should
3 be given final approval by the Court; (b) whether a final judgment should be entered; (c) whether
4 to award payment of attorney's fees and expenses to Class Counsel and in what amount; and (d)
5 whether to award payment of an incentive award to the Class Representative and in what amount.
6 The Court may adjourn the Final Approval Hearing without further notice to Class Members.

7 20. At least fourteen (14) days prior to the Objection/Exclusion Deadline, Plaintiffs
8 shall file with the Court their motion for attorney's fees, costs, and service awards, which shall be
9 posted to the Settlement Website on the date of filing.

10 21. No later than January 14, 2016, Plaintiffs shall file with the Court their motion for
11 final approval, which shall be posted to the Settlement Website on the date of filing.

12 22. No later than February 4, 2016, Plaintiffs shall file any replies in support of
13 Plaintiffs' motion for attorney's fees, costs, and service awards and Plaintiffs' motion for final
14 approval, both of which shall be posted to the Settlement Website on the date of filing.

15 **Further Matters**

16 23. In order to protect its jurisdiction to consider the fairness of the Settlement
17 Agreement and to enter a Final Order and Judgment having binding effect on all Settlement Class
18 Members, the Court hereby enjoins all members of the Settlement Class, and anyone who acts or
19 purports to act on their behalf, from pursuing any of the Released Claims.

20 24. Settlement Class Members shall be bound by all determinations and judgments in
21 the Action concerning the Action and/or Settlement Agreement, whether favorable or unfavorable.

22 25. All discovery and pretrial proceedings and deadlines are stayed and suspended until
23 further notice from the Court, except for such actions as are necessary to implement the Settlement
24 Agreement and this Order.

25 26. In the event that the Settlement Agreement is terminated pursuant to the provisions
26 of the Settlement Agreement, then (a) the Settlement Agreement, this Preliminary Approval Order,
27 and the Final Order and Judgment (if applicable) (including but not limited to the certification of
28 the Settlement Class, the appointment of Plaintiffs as Class Representatives, and the appointment

1 of Class Counsel) shall be vacated and shall be null and void, shall have no further force and effect
2 with respect to any Party in this Action, and shall not be used in this Action or in any other
3 proceeding for any purpose; (b) this action will revert to the status that existed before the
4 Settlement Agreement's execution date; (c)(i) no term or draft of the Settlement Agreement, (ii)
5 nor any part of the Parties' settlement discussions, negotiations, or documentation (including any
6 declaration or brief filed in support of the motion for preliminary approval or motion for final
7 approval), (iii) nor any rulings regarding class certification for settlement purposes (including the
8 Preliminary Approval Order and, if applicable, the Final Order and Judgment), will have any
9 effect or be admissible into evidence for any purpose in the Action or any other proceeding.

10 27. The Court may, for good cause, extend any of the deadlines set forth in this Order
11 without further notice to the Settlement Class Members. The Final Approval Hearing may, from
12 time to time and without further notice to the Settlement Class Members, be continued by order of
13 the Court.

14 **IT IS SO ORDERED.**

15
16 Date: September 15, 2015



HON. LUCY H. KOH
UNITED STATES DISTRICT JUDGE