

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

MIKE SHAFER, DAVID KEATING,
and WILLIAM JEFFREY IGOE, on
Behalf of Themselves and All Others
Similarly Situated,

Plaintiffs,

v.

GLOBAL PAYMENTS INC., ACTIVE
NETWORK LLC, JEFF SLOAN,
CAMERON BREADY, PAUL TODD,
JOSH WHIPPLE, and ANDREA FACINI,

Defendants.

Case No. 1:23-cv-00577-LMM

CLASS ACTION

**BRIEF IN SUPPORT OF CO-LEAD PLAINTIFFS' UNOPPOSED
MOTION FOR DISTRIBUTION OF THE NET SETTLEMENT FUND**

TABLE OF CONTENTS

	<u>Page</u>
I. BACKGROUND	2
II. CLAIMS ADMINISTRATION	4
A. No Disputed Claims	5
B. Late Claims and Final Cut-Off Date	6
III. FEES AND EXPENSES OF CLAIMS ADMINISTRATOR.....	7
IV. DISTRIBUTION PLAN FOR THE NET SETTLEMENT FUND	9
A. Distribution of the Net Settlement Fund	10
B. Additional Distribution(s) of the Net Settlement Fund.....	11
V. RELEASE OF CLAIMS	14
VI. CONCLUSION.....	15

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>City of Sunrise Gen’l Emps. Ret. Plan v. Fleetcor Techs., Inc.</i> , No. 1:17-cv-02207-LMM (Feb. 11, 2021 N.D. Ga.).....	14
<i>In re Nu Skin Enterprises, Inc., Sec. Litig.</i> , Master File No. 2:14-cv-00033-JNP-BCW, ECF Nos. 152-154 (D. Utah Aug. 30, 2018)	14
<i>Perkins v. Am. Nat’l Ins. Co.</i> , 2012 WL 2839788 (M.D. Ga. July 10, 2012).....	14
<i>Spann v. J.C. Penney Corp.</i> , 211 F. Supp. 3d 1244 (C.D. Cal. 2016), <i>appeal dismissed</i> , 2016 WL 9778633 (9th Cir. Nov. 7, 2016)	14
Other Authorities	
National Consumer Law Center, https://www.nclc.org/about-us/our-story.html	13

Co-Lead Plaintiffs Mike Shafer, David Keating, and William Jeffrey Igoe (“Co-Lead Plaintiffs”), on behalf of themselves and the Settlement Class, respectfully submit this brief in support of their unopposed motion for entry of the [Proposed] Order Approving Distribution of the Net Settlement Fund (the “Class Distribution Order”), which will approve the proposed plan for the distribution of the net proceeds of the Settlement to eligible Settlement Class Members in this Action. The distribution plan is set forth in the accompanying Declaration of Kathleen Brauns in Support of Co-Lead Plaintiffs’ Unopposed Motion for Distribution of the Net Settlement Fund (the “Brauns Declaration” or “Brauns Decl.”), submitted on behalf of the Court-approved Claims Administrator, A.B. Data, Ltd. (“A.B. Data”).¹

If entered by the Court, the Class Distribution Order would, *inter alia*: (i) approve the administrative determinations of A.B. Data, accepting and rejecting Claims submitted in connection with the Settlement reached in the above-captioned Action as stated in the Brauns Declaration; (ii) direct the distribution of the Net Settlement Fund to Claimants whose Claims are accepted by A.B. Data as valid and approved by the Court (“Authorized Claimants”); (iii) direct that distribution checks state that the check must be cashed within 120 days after the issue date; (iv) direct

¹ Unless otherwise indicated, all capitalized terms have the meanings set forth in the Brauns Declaration or in the Stipulation and Agreement of Settlement dated June 10, 2024 (Doc. No. 65-2) (the “Stipulation”).

that Authorized Claimants will forfeit all recovery from the Settlement if they fail to cash their distribution checks in a timely manner; (v) approve the recommended plan for any funds remaining after the distribution; (vi) approve A.B. Data's fees and expenses incurred and estimated to be incurred in the administration of the Settlement; (vii) release claims related to the administration process; and (viii) authorize the destruction of Claim Forms and supporting documents at an appropriate time. Pursuant to the terms of the Stipulation, this Motion is unopposed by Defendants.

There are no disputed Claims requiring Court review by any Settlement Class Member. As such, the motion is ripe for determination.

I. BACKGROUND

The Court has approved the Stipulation entered into by Co-Lead Plaintiffs, on behalf of themselves and the Settlement Class, and the Defendants in the Action. The Stipulation sets forth the terms of the settlement (the "Settlement"), which represents a complete resolution of this Action in return for a payment of \$3.6 million in cash, which Defendants have caused to be paid for the benefit of Settlement Class Members.

In accordance with the Order Preliminarily Approving Settlement and Providing for Notice (the "Preliminary Approval Order") entered by the Court (ECF No. 67), A.B. Data has, *inter alia*: mailed the Postcard Notice to potential Settlement

Class Members, brokers, and other nominees; created and maintained a toll-free helpline; launched and maintained a case-specific Settlement Website at which Settlement Class Members could obtain the Notice and Claim Form, published, the Summary Notice, and received and processed Claim Forms. Brauns Decl. ¶ 2. As stated in the Brauns Declaration, A.B. Data has disseminated 264,825 Postcard Notices to potential Settlement Class Members and nominees. *Id.* ¶ 4. The Postcard Notice informed Class Members that if they wished to be eligible to participate in the distribution of the Net Settlement Fund, they were required to submit a properly executed Claim Form received or postmarked no later than January 11, 2025. *Id.* ¶ 7.

On December 13, 2024, the Court issued its Order Approving Plan of Allocation of Net Settlement Fund (ECF No. 74) and its Order and Final Judgment Approving Class Action Settlement (ECF No. 76) (the “Judgment”). The Effective Date of the Settlement has occurred. Accordingly, the Net Settlement Fund may be distributed to Authorized Claimants. In accordance with paragraph 30 of the Stipulation, Co-Lead Plaintiffs respectfully ask the Court to enter the Class Distribution Order approving proposed distribution of the Net Settlement Fund.²

² The Court retained continuing and exclusive jurisdiction over, among other things, implementing the Settlement, including the disposition of the Settlement Fund and any motion to approve the Class Distribution Order. *See* Judgment ¶ 12.

II. CLAIMS ADMINISTRATION

As detailed in the accompanying Brauns Declaration, through March 25, 2026, A.B. Data received 291,830 Claims. Brauns Decl. ¶ 7. All Claims received through March 25, 2026, have been fully processed in accordance with the Stipulation and the Court-approved Plan of Allocation included in the Notice (*id.* ¶¶ 3, 7), and A.B. Data has worked with Claimants to help them perfect their Claims (*id.* ¶¶ 21-29).

As discussed in the Brauns Declaration, many of the Claims submitted in the Settlement were initially deficient or ineligible for one or more reasons, including being incomplete, not signed, not properly documented, or otherwise deficient, and A.B. Data performed substantial follow-up work to help Claimants perfect their Claims. *Id.* ¶¶ 21-29.

If A.B. Data determined a Claim to be defective or ineligible, A.B. mailed or emailed a Deficiency Notice (if the Claimant filed a paper or web Claim), or emailed a Status Email with a Status Spreadsheet(if the Claimant filed an Electronic Claim), to the Claimant or filer, as applicable, describing the defect(s) or condition(s) of ineligibility in the Claim and what was necessary to cure any curable defect(s) in the Claim (“Deficiency Notices”). *Id.* ¶¶ 21-23, 25-27. The Deficiency Notices advised the Claimant or filer that the appropriate information or documentary evidence to complete the Claim had to be sent within 20 days from the date of the notice, or A.B.

Data would recommend the Claim for rejection to the extent the deficiency or condition of ineligibility was not cured. *Id.* ¶¶ 23, 26. Examples of a Deficiency Notice, Status Email, and Status Spreadsheet are attached as Exhibits A, B, and C, respectively, to the Brauns Declaration.

A. No Disputed Claims

A.B. Data carefully reviewed Claimants' and filers' responses to the Deficiency Notices, and Status Emails and Status Spreadsheets, to determine whether they resolved the deficiencies or conditions of ineligibility. Brauns Decl. ¶¶ 24, 29. Consistent with paragraph 28(e) of the Stipulation, A.B. Data advised the Claimant or filer of their right to contest the rejection of the Claim and request Court review of A.B. Data's administrative determination of the Claim. Brauns Decl. ¶¶ 23, 26 and Exhibits A and B thereto.

A.B. Data did not receive any requests for a review by the Court of its administrative determinations. *Id.* ¶ 30.

As shown in the Brauns Declaration, of the 291,830 Claims received through March 25, 2026, A.B. Data has determined that 109,460 are acceptable in whole or in part, and that 182,370 should be wholly rejected because they are ineligible for payment from the Net Settlement Fund. *Id.* ¶¶ 39. Co-Lead Plaintiffs respectfully request that the Court approve A.B. Data's administrative determinations accepting and rejecting Claims as stated in the Brauns Declaration.

B. Late Claims and Final Cut-Off Date

The 291,830 Claims received through March 25, 2026, include 9,703 that were postmarked or received after the Court-approved Claim submission deadline of January 11, 2025, but before March 25, 2026. *Id.* ¶ 31. Those late Claims have been fully processed, and 1,707 of them are, but for their late submission, otherwise eligible to participate in the Settlement. *Id.* Although these 1,707 Claims were late, they were received while the processing of timely Claims was ongoing. Due to the amount of time needed to process the timely Claims received, the processing of these late Claims did not delay the completion of the Claims administration process or the distribution of the Net Settlement Fund. The Court has discretion to accept Claims received after the submission deadline.³ Co-Lead Plaintiffs respectfully submit that, when the equities are balanced, it would be unfair to prevent an otherwise eligible Claim from participating in the distribution of the Net Settlement Fund solely because it was received after the Court-approved Claim submission deadline if it was submitted while timely Claims were still being processed.

To facilitate the efficient distribution of the Net Settlement Fund, however, there must be a final cut-off date after which no other Claims may be accepted.

³ See Preliminary Approval Order ¶ 8 (“Unless the Court orders otherwise, all Claim Forms must be postmarked no later than one hundred twenty (120) calendar days after the Notice Date. Notwithstanding the foregoing, Co-Lead Counsel may, at its discretion, accept for processing late Claims provided such acceptance does not delay the distribution of the Net Settlement Fund to the Class.”).

Accordingly, Co-Lead Plaintiffs respectfully request that this Court order that any new Claims and any adjustments to previously-filed Claims that would result in an increased Recognized Claim amount received after March 25, 2026, be barred, subject to the provisions of paragraph 43(d) of the Brauns Declaration. Paragraph 43(d) applies to any Claims received or modified after March 25, 2026, that would have been eligible for payment or additional payment under the Court-approved Plan of Allocation if timely received. At the time when Co-Lead Counsel, in consultation with A.B. Data, determines that a further distribution is not cost-effective as provided in paragraph 43(c) of the Brauns Declaration, the post-March 25, 2026 Claimants, after payment of fees and expenses as provided in paragraph 43(d) of the Brauns Declaration and at the discretion of Co-Lead Counsel and to the extent possible, may be paid the distribution amounts or additional distribution amounts on a *pro rata* basis that would bring them into parity with other Authorized Claimants who have cashed all their prior distribution checks.

III. FEES AND EXPENSES OF CLAIMS ADMINISTRATOR

In accordance with A.B. Data's agreement with Co-Lead Counsel to act as the Claims Administrator for the Settlement, A.B. Data was responsible for, among other things, disseminating notice of the Settlement to the Class, creating and maintaining a website and toll-free telephone helpline, processing Claims, and allocating and distributing the Net Settlement Fund to Authorized Claimants. Brauns

Decl. ¶¶ 2, 3. As stated in the accompanying Brauns Declaration, A.B. Data's fees and expenses for its work performed through March 25, 2026, and its estimated fees and expenses for its work to be performed in connection with the Initial Distribution are total \$554,898.27.⁴ Brauns Decl. ¶ 42.

This amount is greater than previously anticipated due to increased expenses in the form of invoices received from nominees in connection with their identification of, and their forwarding of Postcard Notices to, potential Settlement Class Members among their clients. *Id.* ¶ 42. Pursuant to the Preliminary Approval Order, nominees "who purchased or otherwise acquired Global Payments common stock during the Class Period for the benefit of another person or entity" were directed to, upon receipt of the Notice, request from A.B. Data sufficient copies of the Postcard Notice to forward to all such beneficial owners and thereafter forward such Postcard Notices (or provide a list, with addresses, of such beneficial owners to A.B. Data), and thereafter "may seek reimbursement of their reasonable expenses actually incurred in complying with this Order by providing the Claims Administrator with proper documentation supporting the expenses for which reimbursement is sought." Preliminary Approval Order ¶6. Pursuant to the

⁴ Should the estimate of fees and expenses to conduct the Initial Distribution of the Net Settlement Fund exceed the actual cost to conduct the distribution, the excess will be returned to the Net Settlement Fund and will be available for subsequent distribution to Authorized Claimants. Brauns Decl. ¶ 42 n.2.

Preliminary Approval Order, “[s]uch properly documented expenses incurred by nominees in compliance with the terms of this Order shall be paid from the Settlement Fund.” *Id.* Brokers requested a greater number of copies of the Postcard Notice than anticipated, leading to requests from such brokers for greater reimbursement of their reasonable expenses incurred in complying with the Preliminary Approval Order. Brauns Decl. ¶42.

To date, A.B. Data has received payment of fees and expenses in the amount of \$536,974.86. *Id.* ¶43. Accordingly, there is an outstanding balance of \$17,923.41 payable to A.B. Data, which amount includes the estimated fees and expenses to be incurred by A.B. Data in connection with the Initial Distribution. *Id.* Co-Lead Counsel reviewed A.B. Data’s invoices and respectfully request on behalf of Co-Lead Plaintiffs that the Court approve all of A.B. Data’s fees and expenses.

IV. DISTRIBUTION PLAN FOR THE NET SETTLEMENT FUND

The Net Settlement Fund is ready to be distributed. Co-Lead Plaintiffs respectfully move the Court for entry of an order approving A.B. Data’s determinations concerning acceptance and rejection of the Claims that are included in the present motion and approving the proposed distribution plan as stated in the Brauns Declaration.⁵

⁵ Under the Stipulation, Defendants have no role in or responsibility for the administration of the Settlement Fund or processing of Claims, including

A. Distribution of the Net Settlement Fund

Under the proposed distribution plan, A.B. Data will distribute the available balance of the Net Settlement Fund, after deducting all payments previously allowed and the payments approved by the Court on this motion, and after deducting payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees (i.e., the “Initial Distribution”). Brauns Decl. ¶ 43(a). In the Initial Distribution, A.B. Data will first determine each Authorized Claimant’s *pro rata* share of the total Net Settlement Fund based on the Claimant’s Recognized Claim in comparison to the total Recognized Claims of all Authorized Claimants. *Id.* ¶ 43(a)(i). In accordance with the Court-approved Plan of Allocation, A.B. Data will eliminate from the Initial Distribution any Authorized Claimant whose *pro rata* share calculates to less than \$10.00, as these Claimants will not receive any payment from the Net Settlement Fund and will be so notified by A.B. Data. *Id.* ¶ 43(a)(ii). A.B. Data will then recalculate the *pro rata* share of the Net Settlement Fund for Authorized Claimants who would have received \$10.00 or more based on the amount of the Authorized Claimant’s Recognized Claim in comparison to the total Recognized Claims of all Authorized Claimants who would have received \$10.00 or

determinations as to the validity of Claims or the distribution of the Net Settlement Fund. *See* Stipulation ¶¶ 21, 25, 27.

more. *Id.* ¶ 43(a)(iii). This pro rata share is the Authorized Claimant’s “Distribution Amount.” *Id.*

To encourage Authorized Claimants to promptly cash their checks, Co-Lead Plaintiffs propose that the distribution checks bear the notation, “DEPOSIT PROMPTLY, VOID AND SUBJECT TO RE-DISTRIBUTION IF NOT NEGOTIATED WITHIN 120 DAYS OF DISTRIBUTION.” *Id.* ¶ 40(b). Authorized Claimants who do not cash their checks within the time allotted or on the conditions stated in paragraph 43(a)(iv), footnote 3, of the Brauns Declaration will irrevocably forfeit all recovery from the Settlement, and the funds allocated to all of these stale-dated checks will be available to be redistributed to other Authorized Claimants in any subsequent distribution, as described below. *Id.* ¶ 43(a)(v). As stated in the Brauns Declaration, A.B. Data will conduct an Outreach Program in an effort to have as many Authorized Claimants as possible cash their checks. *Id.* ¶ 43(a)(iv) fn.3.

B. Additional Distribution(s) of the Net Settlement Fund

After A.B. Data has made reasonable and diligent efforts to have Authorized Claimants cash their Initial Distribution checks, but not earlier than six months after the Initial Distribution, A.B. Data will, after consulting with Co-Lead Counsel, conduct a second distribution of the Net Settlement Fund (the “Second Distribution”). Brauns Decl. ¶ 43(b). In the Second Distribution, any amounts remaining in the Net Settlement Fund after the Initial Distribution, including from

funds for all void stale-dated checks, after deducting A.B. Data's fees and expenses incurred in connection with administering the Settlement for which it has not yet been paid, including the estimated costs of the Second Distribution, and after deducting payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, will be distributed to all Authorized Claimants in the Initial Distribution who cashed their Initial Distribution checks and would receive at least \$10.00 from the Second Distribution based on their *pro rata* share of the remaining funds. *Id.* ¶ 43(b). If, after the Second Distribution, any funds remain in the Net Settlement Fund because of uncashed checks or otherwise, then after A.B. Data has made reasonable and diligent efforts to have Authorized Claimants cash their distribution checks, and if cost-effective, subsequent distributions of the funds remaining in the Net Settlement Fund, after deduction of costs and expenses as described above and subject to the same conditions, will take place at six-month intervals thereafter. *Id.* When Co-Lead Counsel, in consultation with A.B. Data, determines that further distribution is not cost-effective, if sufficient funds remain to warrant the processing of Claims received after March 25, 2026, A.B. Data will process those Claims. *Id.* ¶ 43(c). Any of these Claims that are otherwise valid, as well as any earlier-received Claims for which an adjustment was received after March 25, 2026, which resulted in an increased Recognized Claim, may be paid in accordance with paragraph 43(d) of the Brauns Declaration. *Id.* ¶ 43(c).

The Stipulation and Preliminary Approval Order provide that additional redistributions of the Net Settlement Fund shall be repeated, if economically feasible, until the Net Settlement Fund is *de minimis* and such remaining balance will then be distributed pursuant to a method approved by the Court. Preliminary Approval Order, Ex. A-1 (Notice) at 20; *see also* Stipulation, Ex. A-1 (Notice) ¶71.

Co-Lead Counsel proposes the National Consumer Law Center (“NCLC”) as the recipient of any balance of the Net Settlement Fund remaining when additional distributions are no longer economically feasible. NCLC is a private, non-sectarian, not-for-profit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. NCLC was founded in 1969 through a federal grant to provide legal services addressed to two main goals: improving the access of low-income people to the legal system and enabling advocates to seek remedies where needed. Today, NCLC continues to advocate for low-income consumers and provides many resources to civil legal aid and private attorneys representing low-income consumers. NCLC’s lawyers provide policy analysis, advocacy, litigation, expert-witness services, and training for consumer advocates throughout the United States. *See* <https://www.nclc.org/about-us/our-story.html>. Notably, the underlying allegations in this case involve alleged violations of consumer protection laws.

This Court previously approved NCLC as the *cy pres* recipient of the residual balance of the net settlement fund in another securities class action. Order Approving

Distribution Plan, ECF No. 114, at 7, *City of Sunrise Gen'l Emps. Ret. Plan v. Fleetcor Techs., Inc.*, No. 1:17-cv-02207-LMM (Feb. 11, 2021 N.D. Ga.). FLEETCOR. Other courts have also approved NCLC as a *cy pres* recipient of remaining settlement funds. *See, e.g., In re Nu Skin Enterprises, Inc., Sec. Litig.*, Master File No. 2:14-cv-00033-JNP-BCW, ECF Nos. 152-154 (D. Utah Aug. 30, 2018); *Spann v. J.C. Penney Corp.*, 211 F. Supp. 3d 1244, 1261 (C.D. Cal. 2016), *appeal dismissed*, 2016 WL 9778633 (9th Cir. Nov. 7, 2016); *Perkins v. Am. Nat'l Ins. Co.*, 2012 WL 2839788, at *5 (M.D. Ga. July 10, 2012) (“The Court is also satisfied that The National Consumer Law Center’s mission, reputation and established track record will ensure that it will be a good steward of the grant award made to it.”).

V. RELEASE OF CLAIMS

In order to allow the full and final distribution of the Net Settlement Fund, it is necessary to bar any further claims against the Net Settlement Fund beyond the amounts allocated to Authorized Claimants, and to provide that all persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the Claims submitted in connection with the Settlement, or who are otherwise involved in the administration or taxation of the Settlement Fund or the Net Settlement Fund, be released and discharged from all claims arising out of that involvement. Accordingly, Co-Lead Plaintiffs respectfully request that the Court

release and discharge all persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the Claims submitted in connection with the Settlement, or who are otherwise involved in the administration or taxation of the Settlement Fund or the Net Settlement Fund from all claims arising out of that involvement, and bar all Settlement Class Members and other Claimants, whether or not they receive payment from the Net Settlement Fund, from making any further claims against the Net Settlement Fund, Co-Lead Plaintiffs, Co-Lead Counsel, the Claims Administrator, the Escrow Agent, or any other agent retained by Co-Lead Plaintiffs or Co-Lead Counsel in connection with the administration or taxation of the Settlement Fund or the Net Settlement Fund or any other person released under the Settlement beyond the amounts allocated to Authorized Claimants

VI. CONCLUSION

For the foregoing reasons, Co-Lead Plaintiffs respectfully submit that Co-Lead Plaintiffs' Unopposed Motion for Distribution of the Net Settlement Fund should be granted and the [Proposed] Order Approving Distribution of the Net Settlement Fund should be entered.

Dated: April 1, 2026

POMERANTZ LLP

s/ Jonathan D. Park
Jeremy A. Lieberman
(Admitted *Pro Hac Vice*)
Jonathan D. Park
(Admitted *Pro Hac Vice*)
600 Third Avenue, 20th Floor

New York, NY 10016
Telephone: (212) 661-1100
Facsimile: (212) 661-8665
jalieberman@pomlaw.com
jpark@pomlaw.com

Counsel to Co-Lead Plaintiff William Jeffrey Igoe and Co-Lead Counsel for the Class

EVANGELISTA WORLEY, LLC

James M. Evangelista
500 Sugar Mill Road, Suite 245A
Atlanta, GA 30350
Telephone: (404) 205-8400
jim@ewlawllc.com

Counsel to Co-Lead Plaintiff William Jeffrey Igoe and Liaison Counsel for the Class

LOWEY DANNENBERG, P.C.

Vincent Briganti
vbriganti@lowey.com
(Admitted *Pro Hac Vice*)
Andrea Farah
afarah@lowey.com
(Admitted *Pro Hac Vice*)
Alesandra Greco
agreco@lowey.com
(Admitted *Pro Hac Vice*)
44 South Broadway, Suite 1100
White Plains, New York 10601
Telephone: 914/997-0500

Counsel to Co-Lead Plaintiffs Mike Shafer and David Keating and Co-Lead Counsel for the Class

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 1, 2026, I electronically filed the foregoing document with the Clerk of Court by using the CM/ECF system, and a copy of the foregoing pleading has been electronically mailed to all attorneys of record.

/s/ Jonathan D. Park
JONATHAN D. PARK