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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MARIELA AGUILAR VELAZQUEZ, an individual, and RONEY EDLER BARROSO DA SILVA, an individual, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

ALLY BANK,

Defendant.

No. 2:21-cv-02375-MCE-DB

**MEMORANDUM AND ORDER**

Through this class action, Plaintiffs Mariela Aguilar Velazquez (“Aguilar”) and Roney Edler Barroso da Silva (“Barroso”) (collectively, “Plaintiffs”), individually and on behalf of all others similarly situated, seek relief from Defendant Ally Bank (“Defendant” or “Ally”) arising from its alleged “policy of denying full access to checking and savings accounts, in addition to other banking products and services, to applicants who are not United States citizens or Legal Permanent Residents (‘LPRs’).” First Am. Compl., ECF No. 45 ¶ 1 (“FAC”).<sup>1</sup> Presently before the Court is Plaintiffs’ unopposed Motion for  
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<sup>1</sup> The Court ordered Plaintiffs to file an amended complaint to include Barroso as a named Plaintiff and class representative.

1 Preliminary Settlement Approval. ECF Nos. 35 (“Pls.’ Mot.”), 43. The Court heard oral  
2 argument on April 20, 2023. For the following reasons, Plaintiffs’ Motion is GRANTED.

### 3 4 **BACKGROUND**

#### 5 **A. Factual Background<sup>2</sup>**

6 Since 2012, Aguilar has been a recipient of Deferred Action for Childhood Arrivals  
7 (“DACA”) and has continuously possessed an employment authorization card and Social  
8 Security Number (“SSN”). She resides in Sacramento, California. On November 2,  
9 2020, Aguilar applied to open a checking and savings account with Defendant through  
10 its online portal in which she uploaded her employment authorization card and SSN  
11 obtained under the DACA initiative. A couple of days later, on November 4, 2020,  
12 Defendant’s representative informed Aguilar that she is ineligible to open a checking and  
13 savings account because she is not a United States citizen or LPR. When Aguilar asked  
14 if this denial was allowed by law, the representative responded that it is Defendant’s  
15 policy to deny an application for these reasons. Aguilar subsequently received a letter  
16 confirming that Defendant only “offer[s] accounts to U.S. citizens and resident aliens.”  
17 This policy is also confirmed on Defendant’s website. Aguilar alleges that she has never  
18 been denied the opportunity to open a checking or savings account at other lending  
19 institutions because of her immigration status.

20 Similarly, Barroso is a K-1 Visa recipient and has continuously possessed a valid  
21 SSN. In August 2021, he married Kari Johnson (“Johnson”), an American citizen, and  
22 they reside in Overland Park, Kansas. A month later, in September 2021, Johnson  
23 applied to add Barroso to her checking and savings account with Defendant through its  
24 online portal and uploaded, in part, his SSN obtained under the K-1 Visa program.  
25 Some days later, Defendant sent a secure message directing Johnson to call its  
26 customer service line. Defendant’s representative then informed her that Barroso’s  
27 documents were insufficient and denied her request to add him to her existing account.

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28 <sup>2</sup> The following recitation of facts is taken, primarily verbatim, from the FAC.

1 On February 28, 2022, after Barroso received his REAL ID driver's license issued by the  
2 State of Kansas, Johnson again attempted to add him to her checking and savings  
3 account with Defendant through its online portal. Days later, on March 14, 2022,  
4 Johnson received another secure message to call Defendant and a representative again  
5 informed her that Barroso is ineligible to be added to her existing checking and savings  
6 account because he is not a United States citizen or LPR. The representative told  
7 Johnson that Barroso needs to upload a Permanent Resident Card in order to be added  
8 to her account.

9 **B. Procedural History**

10 Aguilar initiated the present class action lawsuit in this Court on December 20,  
11 2021, alleging the following causes of action: (1) Alienage Discrimination in violation of  
12 42 U.S.C. § 1981 ("§ 1981"), and (2) violation of California's Unruh Civil Rights Act,  
13 California Civil Code §§ 51 et seq. ("Unruh Act"). On March 16, 2022, and on multiple  
14 occasions thereafter, this Court granted the parties' stipulations to stay the case pending  
15 settlement discussions and extend Defendant's deadline to file a response to the  
16 Complaint. See ECF Nos. 16, 18, 20, 24, 27, 29. Pursuant to stipulation, the matter was  
17 eventually referred to the magistrate judge for a settlement conference, which occurred  
18 on January 12, 2023. ECF Nos. 31, 34. The parties reached a settlement at that  
19 conference and executed their settlement agreement on March 13, 2023. Aguilar  
20 subsequently filed the present unopposed Motion on the same day.

21 Following oral argument and in response to this Court's order, on April 28, 2023,  
22 Plaintiffs filed the operative FAC, which lists Barroso as a named Plaintiff in addition to  
23 Aguilar. See ECF Nos. 44, 45. As requested by the Court, Plaintiffs also filed, in part,  
24 (1) an Amended Settlement Agreement and Release (the "Settlement"), (2) amended  
25 Notice and Claim Form, (3) an exclusion or opt-out form, and (4) an amended proposed  
26 order. See Saenz Am. Decl., ECF No. 46.

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1           **C. Settlement Agreement**

2           On April 28, 2023, the parties executed the Settlement. See Ex. A, Saenz Am.  
3 Decl., ECF No. 46-1. For settlement purposes only, Plaintiffs move to certify the  
4 following classes (“Class Members”):

5           “California Class” means those persons who applied for a  
6 checking or savings account with [Defendant] between  
7 December 20, 2019 and the date of the Preliminary Approval  
8 Order, resided in California at the time of the application,  
9 possessed a valid [SSN] or Individual Taxpayer Identification  
10 Number [(“ITIN”)] at the time of the application, and were not  
11 permitted to open or be added to an Ally checking or savings  
12 account because they were not U.S. permanent residents.

13           “National Class” means those persons who applied for a  
14 checking or savings account with [Defendant] between  
15 December 20, 2017 and the date of the Preliminary Approval  
16 Order, resided in the U.S. but outside of California, possessed  
17 a valid SSN or ITIN at the time of the application, and were not  
18 permitted to open or be added to an Ally checking or savings  
19 account because they were not U.S. permanent residents.

20           Id. §§ 1.10.1, 1.10.2. The parties estimate that there are approximately 3,638 members  
21 of the National Class and 772 members of the California Class (total 4,410 class  
22 members). Pls.’ Mot., at 10.

23           The Settlement provides two forms of relief for Class Members: (1) Programmatic  
24 Relief requiring Defendant to “update its deposit agreement and website, and amend its  
25 policies and procedures as appropriate, to provide that . . . applicants for deposit  
26 accounts with a SSN or ITIN who are residents or citizens of the United States will be  
27 eligible to open deposit accounts or to be added as an accountholder to an existing  
28 deposit account”; and (2) a Settlement Fund of between \$280,000 and \$325,000 to  
compensate Class Members with verified claims. Settlement §§ 3.2.1, 3.3.1, 3.3.2.  
Members of the California Class are entitled to \$2,500 per denied application whereas  
members of the National Class are entitled to \$250. Id. § 3.3.5; see Pls.’ Mot., at 11  
 (“[M]embers of the California Class could be entitled to statutory damages under the  
Unruh Act of up to \$4,000, which would not be available to members of the National  
Class.”) (citing Cal. Civ. Code § 52(a)). “In the event that the total amount of Verified

1 Claims . . . exceeds [\$325,000], or the amount remaining after deduction of any excess  
2 settlement administration costs, the payments made to [class members] for Verified  
3 Claims will convert to a pro rata share, with each California Class Member entitled to  
4 three times the pro rata share for each Verified Claim as compared to the pro rata share  
5 for each Verified claim for each National Class Member.” Settlement § 3.3.5. On the  
6 other hand, if “the combined total payments to Settlement Class Members [are] less than  
7 [\$280,000], the difference between those combined total payments and [\$280,000] shall  
8 be distributed to the following cy pres recipient: Immigrants Rising.” Id. § 3.3.6; see Pls.’  
9 Mot., at 16 (“Immigrants Rising is a non-profit [that] provides college scholarships and  
10 resources to undocumented youth, including DACA recipients.”).

11 Defendant also agrees to pay \$25,000 in administration costs to Angeion Group  
12 (“Settlement Administrator”); however, if the administration costs exceed that amount,  
13 Defendant will pay up to an additional \$10,000. Settlement § 3.3.1. If the administration  
14 costs exceed \$10,000, then the excess amount will be paid from the Settlement Fund,  
15 but only if the minimum \$280,000 threshold is not met. Id. Finally, separate from the  
16 Settlement Fund, Plaintiffs seek incentive awards of \$3,000 each and Defendant agrees  
17 to pay Plaintiffs’ counsel, the Mexican American Legal Defense and Educational Fund  
18 (“MALDEF” or “Class Counsel”), \$60,000 in attorneys’ fees and costs. Id. §§ 15.1, 15.2.

19 Not later than 30 days after preliminary approval, Defendant will provide the  
20 Settlement Administrator with the Notice List and the Settlement Administrator will then  
21 distribute the Notice and Claim Form to all Class Members by first class U.S. mail  
22 (“Notice Mailing Date”).<sup>3</sup> See id. §§ 7.2, 7.3; see Ex. 2 to Settlement, Saenz Am. Decl.,  
23 ECF No. 46-3. “Prior to mailing, the Settlement Administrator shall attempt to update the  
24 last known addresses of the Class Members set forth on the Notice List through the  
25 National Change of Address system or a similar database, or conduct a skip trace to  
26 locate and/or update mailing addresses of potential Class Members on the Notice List.”

27 \_\_\_\_\_  
28 <sup>3</sup> Class Counsel stated at the hearing that they would also make postings in English and Spanish on social media alerting potential Class Members to the Settlement.

1 Id. § 7.3. If any Notice is returned with a forwarding address, the Settlement  
2 Administrator will re-mail the Notice to that address; however, if any Notice is returned  
3 undeliverable, “the Settlement Administrator will attempt one skip-trace and if the skip-  
4 trace establishes an alternate address, the Settlement Administrator shall re-mail the  
5 Notice to that alternative address.”<sup>4</sup> Id. § 7.5. The Settlement Administrator will also  
6 create a dual English-Spanish website and operate a dual English-Spanish automated  
7 toll-free contact center to address questions from Class Members.<sup>5</sup> Id. § 6.2.

8 To receive a payment from the Settlement Fund, Class Members must complete  
9 and submit the Claim Form within 60 days after the Notice Mailing Date. Id. §§ 1.7, 5.2  
10 (“The Claim Form will be mailed with the Notice and will be posted on the Settlement  
11 Website.”); see Ex. 1 to Settlement, Saenz Am. Decl., ECF No. 46-2. The Claim Form  
12 can be submitted by mail, email, or online. See id. at 2. Class Members will need to  
13 affirm that they applied for a checking or savings account during the relevant time period,  
14 but they were not permitted to do so, and that at the time of denial, they had a current  
15 and valid SSN or ITIN and resided in the United States. Settlement § 5.2. If there is any  
16 doubt as to the validity of a claim, that Class Member may be requested to provide  
17 documentation such as a copy of their Social Security card or excerpted portion of a tax  
18 return document reflecting their name and SSN or ITIN. Id. § 5.2.2.; see Ex. 4 to  
19 Settlement, Saenz Am. Decl., ECF No. 46-5.

20 To be excluded from the Settlement, a Class Member must submit the Request to  
21 Opt Out form, which “shall: (a) identify the case name; (b) identify the name and  
22 address of the person requesting exclusion; (c) be personally signed by the person  
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24 <sup>4</sup> Counsel stated at the hearing that the Settlement Administrator will apply the same procedures if  
a Class Member no longer resides in the United States.

25 <sup>5</sup> After the Court expressed concern at the hearing that the Notice and Claim Form were not  
26 provided in Spanish, the parties amended them to include sentences in Spanish directing Class Members  
27 to the website and call center and informing them that translations of all documentation would be provided  
28 on the website. See Exs. 1–2 to Settlement, Saenz Am. Decl., ECF Nos. 46-2, 46-3. Additionally, the  
parties indicated at the hearing that it was unlikely that a significant number of Class Members do not  
speak either English or Spanish, and thus there is no need to provide the documentation in another  
language.

1 requesting exclusion; (d) contain a statement that indicates a desire to be excluded from  
2 the Settlement Class, such as ‘I hereby request that I be excluded from the proposed  
3 Settlement Class in the Action’; and (e) affirm via sworn statement that the potential  
4 Class Member applied for a checking or savings account during the time period for the  
5 California Class or the National Class, possessed a valid SSN or ITIN at the time of the  
6 application, and was not permitted to open or be added to a checking or savings account  
7 because they were not U.S. permanent residents.” Settlement § 11.1; see also Ex. 3 to  
8 Settlement, Saenz Am. Decl., ECF No. 46-4 (stating that the exclusion request must be  
9 sent to the Settlement Administrator by mail or email).<sup>6</sup> The Request to Opt Out form  
10 also includes a sentence in Spanish directing class members to the website for  
11 translation. See id. “Any Settlement Class Member who does not opt out of the  
12 Settlement in the manner described herein shall be deemed to be part of the Settlement  
13 Class upon the expiration of the Opt-Out Deadline, and shall be bound by all subsequent  
14 proceedings, orders, and judgments.” Settlement § 11.2.

15 Class Members who do not exclude themselves from the Settlement may object  
16 to it. Id. § 12.2. A valid objection must be in writing and include the following  
17 information: “(a) the case name and number; (b) the name, address, and telephone  
18 number of the Settlement Class Member objecting and, if represented by counsel, of  
19 his/her counsel; (c) the reasons for the objection; (d) a statement of whether he/she  
20 intends to appear at the Final Approval Hearing, either with or without counsel; and  
21 (e) affirm by a sworn statement that the Settlement Class Member applied for a checking  
22 or savings account during the time period for the California Class or the National Class,  
23 possessed a valid SSN or ITIN at the time of the application, and was not permitted to  
24 open or be added to a checking or savings account because they were not U.S.  
25 permanent residents.” Id. §§ 12.2, 12.3. Objections must be timely filed with the Court.

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27 <sup>6</sup> The first settlement agreement previously required any Class Member seeking exclusion from  
28 the settlement to send a written request to the Settlement Administrator containing all of this information.  
See Ex. 2, Saenz Decl., ECF No. 36, at 81. However, the Court expressed concern that this procedure  
would be too difficult, and the parties subsequently drafted a Request to Opt Out form.

1 Id. § 12.2. “Subject to approval of the Court, any Class Member who submits a [valid  
2 and timely] written objection . . . may appear, in person or by counsel, at the Final  
3 Approval Hearing held by the Court, to show cause why the proposed Settlement should  
4 not be approved as fair, adequate, and reasonable.” Id. § 12.7.

5 In exchange for the monetary relief, “each Class Member, including Plaintiffs  
6 Aguilar and Barroso da Silva, will release [Defendant] of any and all claims related to  
7 [Defendant’s] alleged denial of their application to open or be added to a checking or  
8 savings account from [Defendant] based on alienage and/or immigration status,  
9 including but not limited to, any claims under Section 1981 or the Unruh Act[.]” Pls.’  
10 Mot., at 13; see Settlement § 1.40 (“Released Claims”).

## 11 12 ANALYSIS

### 13 14 A. Class Certification

15 A court may certify a class if a plaintiff demonstrates that all of the prerequisites of  
16 Federal Rule of Civil Procedure 23(a)<sup>7</sup> have been met, and that at least one of the  
17 requirements of Rule 23(b) has been met. See Pointer v. Bank of Am. Nat’l Ass’n,  
18 No. 2:14-cv-00525-KJM-CKD, 2016 WL 696582, at \*4 (E.D. Cal. Feb. 22, 2016). The  
19 Court will address each of these in turn.

#### 20 1. Rule 23(a)

21 Rule 23(a) provides four prerequisites to class certification: “(1) the class is so  
22 numerous that joinder of all members is impracticable; (2) there are questions of law or  
23 fact common to the class; (3) the claims or defenses of the representative parties are  
24 typical of the claims or defenses of the class; and (4) the representative parties will fairly  
25 and adequately protect the interests of the class.” First, the numerosity requirement is  
26 satisfied because Plaintiffs estimate that there are 4,410 class members. See Pls.’ Mot.,  
27 at 10. Second, the commonality requirement is met because Defendant’s policy affects

28 <sup>7</sup> All further references to “Rule” or “Rules” are to the Federal Rules of Civil Procedure.



1 all putative Class Members and “common questions include whether [Defendant’s] policy  
2 denies individuals the opportunity to access [Defendant’s] banking products and services  
3 because of their alienage or immigration status, and further, whether that policy violates  
4 Section 1981 and/or the Unruh Act.” Id. at 17. Third, Plaintiffs’ claims are typical of the  
5 Class because they allege that their applications were denied because of Defendant’s  
6 policy and that at the time of their denied applications, they resided in the United States  
7 and possessed a valid SSN. Id.

8 Lastly, the adequacy requirement is satisfied because Plaintiffs have the same  
9 interests as the other class members and have “vigorously represented the interests of  
10 Class Members and devoted time to the prosecution of the action, including having  
11 numerous phone calls and meetings with Class Counsel.” Id. at 17–18. Plus, Class  
12 Counsel “has extensive experience litigating complex civil rights class actions, including  
13 serving as co-counsel in a class action brought against Wells Fargo Bank, N.A. alleging  
14 claims similar to those alleged here.” Id. at 18. Overall, the Court finds that Plaintiffs  
15 have satisfied Rule 23(a)’s requirements.

## 16 **2. Rule 23(b)(3)**

17 Plaintiffs here seek certification under Rule 23(b)(3), which requires “that the  
18 questions of law or fact common to class members predominate over any questions  
19 affecting only individual members, and that a class action is superior to other available  
20 methods for fairly and efficiently adjudicating the controversy.” The predominance  
21 requirement is met because Defendant’s “policy of requiring proof of U.S. permanent  
22 residence applies to all Class Members.” Pls.’ Mot., at 18. As for the superiority  
23 requirement, Class Counsel “is not aware of parallel litigation that could give rise to any  
24 reverse auction concerns,” and there is no indication that Class Members seek to  
25 individually control their cases. See id. at 19; Saenz Am. Decl., ECF No. 46 ¶ 33. As a  
26 result, “it would be wasteful and inefficient if hundreds of individual plaintiffs were to  
27 litigate their claims in separate proceedings.” Pls.’ Mot., at 19. Therefore, the Court  
28 finds Rule 23(b)(3) is also satisfied.

1                                   **3. Preliminary Conclusion**

2                   Because Plaintiffs have established facts sufficient to meet the requirements of  
3 Rule 23(a) and (b)(3), they have satisfied the elements essential to settlement class  
4 certification for both the National and California Classes. Accordingly, the Court  
5 preliminarily certifies both Classes for purposes of settlement.

6                                   **B. Fairness Determination**

7                   The Court may approve a class action settlement only if it is fair, reasonable, and  
8 adequate. Fed. R. Civ. P. 23(e). Courts generally find preliminary approval of a class  
9 action settlement appropriate “if the proposed settlement appears to be the product of  
10 serious, informed, non-collusive negotiations, has no obvious deficiencies, does not  
11 improperly grant preferential treatment to class representatives or segments of the class,  
12 and falls within the range of possible approval[.]” In re Tableware Antitrust Litig.,  
13 484 F. Supp. 2d 1078, 1079 (N.D. Cal. 2007) (internal citation and alteration omitted).  
14 Because “preliminary approval of a settlement has both a procedural and a substantive  
15 component[.]” id. at 1080, the Court will address each of them in turn.

16                                   **1. Procedural Fairness**

17                   First, “it is appropriate for the court to consider the procedure by which the parties  
18 arrived at their settlement to determine whether the settlement is truly the product of  
19 arm’s length bargaining, rather than the product of collusion or fraud.” Millan v. Cascade  
20 Water Serv., Inc., 310 F.R.D. 593, 613 (E.D. Cal. 2015). A settlement is presumed fair if  
21 it “follow[s] sufficient discovery and genuine arms-length negotiation[.]” Adoma v. Univ.  
22 of Phx., Inc., 913 F. Supp. 2d 964, 977 (E.D. Cal. 2012) (citation omitted). Here, the  
23 parties engaged in “nearly a year of settlement discussions . . . , including the exchange  
24 of confirmatory discovery,” and the Settlement was reached during a settlement  
25 conference with the magistrate judge. Pls.’ Mot., at 23; see also Saenz Am. Decl., ECF  
26 No. 46 ¶ 32 (“The Parties first negotiated programmatic and monetary relief to Class  
27 Members, and then negotiated incentive awards to the Class Representatives and Class  
28 ///

1 Counsel’s attorneys’ fees and expenses.”). As a result, the Court finds that the parties  
2 participated in good faith and arms-length negotiations.

### 3 **2. Substantive Fairness**

4 “The amount offered in settlement is generally considered to be the most  
5 important consideration[] of any class settlement.” Millan, 310 F.R.D. at 611. “To  
6 determine whether that settlement amount is reasonable, the Court must consider the  
7 amount obtained in recovery against the estimated value of the class claims if  
8 successfully litigated.” Id. “It is well-settled law that a cash settlement amounting to only  
9 a fraction of the potential recovery does not per se render the settlement inadequate or  
10 unfair.” In re Mego Fin. Corp. Sec. Litig., 213 F.3d 454, 459 (9th Cir. 2000) (citation  
11 omitted). Courts should also “consider plaintiffs’ expected recovery balanced against the  
12 value of the settlement offer.” Tableware, 484 F. Supp. 2d at 1080.

13 Here, “California Class Members are eligible to receive individual payments of up  
14 to \$2,500 per Verified Claim, which is nearly two-thirds of the \$4,000 statutory damages  
15 available under the Unruh Act.” Pls.’ Mot., at 21 (citing Cal. Civ. Code § 52(a)). On the  
16 other hand, National Class Members are only “eligible to receive individual payments of  
17 up to \$250 per Verified Claim,” but Plaintiffs contend that there are “challenges inherent  
18 in establishing Section 1981 liability on a class-wide basis . . .” Id. For example, “Class  
19 Members would face significant challenges in establishing entitlement to compensatory  
20 damages resulting from [Defendant’s] denial of their applications in light of the availability  
21 of deposit accounts at other banks that did not have a U.S. permanent residency  
22 requirement and offered accounts on similar financial terms and conditions as”  
23 Defendant. Id. Additionally, the \$3,000 incentive awards for each Plaintiff are not far off  
24 from the proposed payments to Class Members. The Court thus finds that the monetary  
25 relief for both Classes is appropriate.

26 In addition to monetary relief, Defendant “has agreed to update its policies such  
27 that individuals who possess a valid SSN or ITIN and reside in the U.S. can access their  
28 consumer banking products and services, subject to [Defendant’s] standard account

1 opening requirements.” Id. This means that “[n]on-U.S permanent residents with a SSN  
2 or ITIN and who reside in the U.S. nationwide—not just Class Members—will benefit  
3 from the programmatic relief afforded by the settlement.” Id. at 21–22. Ultimately, the  
4 Court finds that the relief set forth in the settlement is within the range of possible  
5 approval.

6 **C. Notice**

7 Under Rule 23(e)(1), “[t]he court must direct notice in a reasonable manner to all  
8 class members who would be bound by the proposal . . .”

9 For any class certified under Rule 23(b)(3)—or upon ordering  
10 notice under Rule 23(e)(1) to a class proposed to be certified  
11 for purposes of settlement under Rule 23(b)(3)—the court  
12 must direct to class members the best notice that is practicable  
13 under the circumstances, including individual notice to all  
14 members who can be identified through reasonable effort. The  
15 notice may be by one or more of the following: United States  
16 mail, electronic means, or other appropriate means. The  
17 notice must clearly and concisely state in plain, easily  
18 understood language:

- 19 (i) the nature of the action;
- 20 (ii) the definition of the class certified;
- 21 (iii) the class claims, issues, or defenses;
- 22 (iv) that a class member may enter an appearance through an  
attorney if the member so desires;
- 23 (v) that the court will exclude from the class any member who  
requests exclusion;
- 24 (vi) the time and manner for requesting exclusion; and
- 25 (vii) the binding effect of a class judgment on members under  
Rule 23(c)(3).

26 Fed. R. Civ. P. 23(c)(2)(B).

27 The Court finds that the parties’ notice plan meets Rule 23. As previously set  
28 forth, the Settlement Administrator will mail the Notice to the last known addresses of the  
Class Members. See Settlement § 7.3. If any Notice is returned with a forwarding  
address, the Settlement Administrator will re-mail the Notice, but if the Notice is returned  
as undeliverable, the Settlement Administrator will attempt to determine the correct

1 mailing address using skip trace. See id. § 7.5. The Settlement Administrator will also  
2 operate a dual English-Spanish website and call center. See id. § 6.2. Counsel assured  
3 the Court at the hearing that the same procedures would apply to Class Members  
4 residing outside of the United States. Additionally, Class Counsel stated that the  
5 Settlement Administrator will also post the Notice on social media.

6 As for the content, the Notice and Claim Form contain all of the requisite  
7 information, such as the nature of the action and the exclusion procedures. See  
8 Exs. 1–2 to Settlement, Saenz Am. Decl., ECF Nos. 46-2, 46-3. In light of the Court’s  
9 concern that the original Notice and Claim Form were only provided in English, the  
10 parties amended them to include sentences in Spanish directing class members to the  
11 dual English-Spanish website and call center and informing them that translations of all  
12 documentation would be provided on the website. See id. Overall, the Court finds the  
13 Notice and proposed Notice plan is practicable under the circumstances and comports  
14 with due process.

## 15 16 **FINAL CONCLUSION AND ORDERS**

17  
18 Based on the foregoing reasons, the Court orders the following:

19 1. Plaintiffs’ Motion for Preliminary Settlement Approval, ECF No. 35, is  
20 GRANTED.

21 2. The Court hereby preliminarily certifies the following classes solely for  
22 purposes of the settlement:

23 “California Class” means those persons who applied for a  
24 checking or savings account with [Defendant] between  
25 December 20, 2019 and the date of the Preliminary Approval  
26 Order, resided in California at the time of the application,  
27 possessed a valid [SSN] or Individual Taxpayer Identification  
28 Number [(“ITIN”)] at the time of the application, and were not  
permitted to open or be added to an Ally checking or savings  
account because they were not U.S. permanent residents.

“National Class” means those persons who applied for a  
checking or savings account with [Defendant] between

1 December 20, 2017 and the date of the Preliminary Approval  
2 Order, resided in the U.S. but outside of California, possessed  
3 a valid SSN or ITIN at the time of the application, and were not  
permitted to open or be added to an Ally checking or savings  
account because they were not U.S. permanent residents.

4 3. The Court hereby appoints Plaintiffs as Class Representatives and MALDEF  
5 as Class Counsel.

6 4. The Court hereby appoints Angeion Group as the Settlement Administrator.

7 5. The Court hereby approves the proposed Notice plan set forth above and in  
8 the Settlement. Not later than thirty (30) days from the entry of this Memorandum and  
9 Order, the Settlement Administrator shall distribute Notice to all Class Members by first  
10 class U.S. mail and create the dual English-Spanish website and automated toll-free  
11 contact center in accordance with the Settlement ("Notice Mailing Date").

12 6. Class Members who wish to receive payment under the Settlement shall  
13 complete, sign, and return the Claim Form in accordance with the instructions contained  
14 therein. All Claim Forms must be postmarked no later than sixty (60) days after the  
15 Notice Mailing Date ("Claim Deadline"). If requested, any official documentation required  
16 to support a Claim Form must be submitted no later than twenty-one (21) days after the  
17 Claim Deadline. Any Class Member who does not submit a timely and valid Claim Form  
18 shall be barred from receiving payment under the Settlement, unless otherwise ordered  
19 by the Court, but shall nevertheless be bound by any Final Judgment entered by the  
20 Court.

21 7. Class Members who wish to exclude themselves from the Settlement must  
22 complete, sign, and return the Request to Opt Out form not later than forty-five (45) days  
23 after the Notice Mailing Date to the Settlement Administrator. If requested, the Request  
24 to Opt Out form must also include official documentation as set forth above. All Class  
25 Members who submit valid, verified, and timely Requests to Opt Out in the manner set  
26 forth in this paragraph and Memorandum and Order shall have no rights under the  
27 Settlement and shall not be bound by the Settlement or any Final Judgment.

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1           8. Any Class Member who does not timely and validly exclude himself or herself  
2 from the Settlement Class may object to the Settlement but must do so in writing not  
3 later than forty-five (45) days after the Notice Mailing Date (“Objection Deadline”) in  
4 accordance with the Settlement and this Memorandum and Order. The written Objection  
5 must be filed with the Clerk of the United States District Court for the Eastern District of  
6 California, Robert T. Matsui United States Courthouse, 501 I Street, Sacramento,  
7 California 95814. If requested, the Objection must also include official documentation as  
8 set forth above.

9           9. Any Class Member who does not exclude himself or herself from the  
10 Settlement Class and/or who files and serves a timely and valid written Objection may  
11 appear at the Final Approval Hearing, at his or her own expense, individually or through  
12 counsel of his or her own choice. An objector must file with the Clerk of Court a Notice  
13 of Intention to Appear at the Final Approval Hearing by the Objection Deadline. Any  
14 Class Member who does not file a timely and valid Notice of Intention to Appear shall not  
15 be entitled to appear at the Final Approval Hearing and raise any objections.

16           9. All Class Members who do not exclude themselves from the Settlement Class  
17 by properly and timely submitting a Request to Opt Out form shall be bound by all  
18 determinations and judgments in this action concerning the Settlement, whether  
19 favorable or unfavorable to the Class.

20           10. The Final Approval Hearing is set for Thursday, October 19, 2023, at 10 a.m.  
21 before the undersigned and will be conducted by videoconference. The motion in  
22 support of final approval of the Settlement shall be filed and served no later than  
23 fourteen (14) days prior to the Final Approval Hearing and any responsive papers shall  
24 be filed and served no later than seven (7) days prior to the Final Approval Hearing.

25           11. Class Counsel’s motion for attorneys’ fees and expenses and/or incentive  
26 awards shall be filed and served no later than thirty-five (35) days prior to the Final  
27 Approval Hearing.

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1           12. The Court reserves the right to continue the date of the Final Approval  
2 Hearing without further notice to the Class Members and retains jurisdiction to consider  
3 all further applications arising out of or connected with the Settlement. The Court may  
4 approve the Settlement with such modifications as may be agreed to by the parties, if  
5 appropriate, without further notice to the Classes.

6           IT IS SO ORDERED.

7 Dated: May 26, 2023

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10 MORRISON C. ENGLAND, JR.  
11 SENIOR UNITED STATES DISTRICT JUDGE  
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