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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NATHAN GERGETZ, individually and on)
behalf of all others similarly situated,)
)
Plaintiffs,)
v.)
TELENAV, INC., a Delaware corporation)
)
Defendant.)
_____)

CASE NO.: 5:16-cv-4261-BLF
~~PROPOSED~~ ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT

WHEREAS, an alleged class action is pending before the Court entitled Gergetz v. Telenav, Inc., Case No. 5:16-cv-4261-BLF; and

WHEREAS, Plaintiff Nathan Gergetz (“Plaintiff” or “Gergetz”) and Defendant Telenav, Inc., (“Defendant” or “Telenav”) have entered, into a Settlement Agreement, which, together with the exhibits attached thereto, sets forth the terms and conditions for a proposed settlement and dismissal of the Action with prejudice as to Telenav for the claims of the Settlement Class upon the terms and conditions as set forth in the Settlement Agreement, and

WHEREAS, the Court has read and considered the Settlement Agreement and exhibits attached thereto, this matter coming before the Court upon the Plaintiff’s Unopposed Motion for

1 Preliminary Approval of Class Action Settlement (Dkt. No. 65), good cause being shown, and
2 the Court being fully advised in the premises,

3 **IT IS HEREBY ORDERED, DECREED, AND ADJUDGED AS FOLLOWS:**

4 1. Terms and phrases in this Order shall have the same meaning as ascribed to them
5 in the Parties' Settlement Agreement (Dkt. No. 65 Ex. A).

6 2. Plaintiff, through Settlement Class Counsel, has moved the Court for an order
7 approving the settlement of the Action in accordance with the Settlement Agreement, which,
8 together with the documents incorporated therein, sets forth the terms and conditions for a
9 proposed settlement and dismissal of the Action with prejudice against Telenav, and the Court
10 having read and considered the Settlement Agreement and being fully advised in the premises,
11 hereby preliminarily approves the Settlement Agreement in its entirety subject to the Final
12 Approval Hearing referred to in Paragraph 17 of this Order.

13 3. Based on its preliminary evaluation, the Court finds that it has jurisdiction over
14 the subject matter of this action and over all Parties to the Action, including all members of the
15 Settlement Class ("Settlement Class Members"), which is certified solely for the purposes of
16 settlement, as defined as any person belonging to either Subclass below:

17 The "No Consent Subclass": All persons in the United States who during the Class
18 Period received at least one Download the Scout App Text Message; and/or

19 The "Stop Subclass": All persons in the United States who during the Class Period
20 received at least one additional message other than a message confirming an opt out
request, after replying STOP, QUIT, END, CANCEL or UNSUBSCRIBE to any text
message received from any Telenav Number.

21 4. Based on its preliminary evaluation, the Court finds that, subject to the Final
22 Approval Hearing, the Settlement Agreement is fair, reasonable, adequate, and in the best
23 interests of the Class Members as to their claims against Telenav. The Court further finds that the
24 Settlement Agreement substantially fulfills the purposes and objectives of the class action against
25 Telenav and provides beneficial relief to the Class.

26 5. The Court also finds that the Settlement Agreement (a) is the result of arms'
27 length negotiations involving experienced class action attorneys and overseen by an experienced
28 third-party mediator; (b) is sufficient to warrant notice of the settlement and the Final Approval

1 hearing to the Class; (c) meets all applicable requirements of law, including Federal Rule of Civil
2 Procedure 23, and the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1715; and (d) is not a
3 finding or admission of liability by Telenav.

4 Notice and Administration

5 6. Epiq Systems is hereby appointed as Settlement Administrator and shall be
6 required to perform all the duties of the Settlement Administrator as set forth in the Agreement
7 and this Order.

8 7. The Court finds that the Notice Plan (and all forms of Notice to the Class as set
9 forth in the Settlement Agreement and the Exhibits thereto) is approved as its form, method, and
10 content, complies with the requirements of Rule 23 and due process, and constitutes the best
11 notice practicable under the circumstances. The Court further finds that the Notice is reasonably
12 calculated to, under all circumstances, apprise the members of the Class of the pendency of this
13 action, the certification of the Class, the terms of the Settlement Agreement, and the right of
14 members to object to the settlement and to exclude themselves from the Class. The Parties, by
15 agreement, and the Settlement Administrator shall have discretion to format the Notice in a
16 reasonable manner to minimize mailing or administrative costs.

17 8. The Settlement Administrator shall implement the Notice Plan as set forth in the
18 Settlement Agreement.

19 9. Claims Deadline: Class Members may file claims no later than **August 28, 2018**.

20 10. To aid in the efficient submission of claims, the Settlement Agreement allows
21 claimants to submit claims online without the need for a manual signature. Claimants who
22 submit an electronic claim shall be bound to the same extent as if they had used a manual
23 signature.

24 Exclusion

25 11. Settlement Class Members who wish to exclude themselves from the Class for
26 purposes of this Settlement may do so by complying with the exclusion procedures set forth
27 below. Any member of the Class who timely requests exclusion consistent with those procedures
28 shall not be bound by the terms of the Settlement Agreement.

1 Class Member intends on appearing at the Final Approval Hearing either pro se or through
2 counsel and whether the objecting Settlement Class Member plans on offering testimony at the
3 Final Approval Hearing. All Objections must be mailed or hand-delivered to the Court before the
4 Objection Deadline.

5 16. Any Settlement Class Member who fails to timely file a written objection with the
6 Court and notice of his or her intent (if any) to appear at the Final Approval Hearing in
7 accordance with the terms of Paragraph 15 above and as detailed in the Notice will not be
8 permitted to object to this Settlement at the Final Approval Hearing, will be deemed to have
9 waived his or her objections and be forever barred from making any such objections in the
10 Action or in any other action or proceeding, and will be foreclosed from seeking any review of
11 this Settlement Agreement by appeal or other means.

12 Final Approval Hearing

13 17. The Final Approval Hearing shall be held before this Court on **September 6,**
14 **2018** at 1:30 P.M. at the Robert F. Peckham Federal Building & Courthouse, Courtroom 3 – 5th
15 Floor, 280 South 1st Street, San Jose, CA 95113, to determine whether the proposed Settlement
16 Agreement with Telenav is fair, reasonable and adequate and should be given final approval by
17 the Court. The Court may adjourn the Final Approval Hearing or conduct it by telephone without
18 further notice to Class Members.

19 Further Matters

20 18. To protect its jurisdiction to consider the fairness of this Settlement Agreement
21 and to enter a Final Order and Judgment having binding effect on all Settlement Class Members,
22 the Court hereby enjoins all Settlement Class Members, and anyone who acts or purports to act
23 on their behalf, from pursuing all other proceedings in any state or federal court that seeks to
24 address any parties' or Settlement Class Members' rights or claims relating to, or arising out of,
25 any of the Released Claims as set forth in the Settlement Agreement.

26 19. Settlement Class Members shall be bound by all determinations and judgments in
27 the Action concerning the Action and/or Settlement Agreement, whether favorable or
28 unfavorable.

1 20. The Settlement Agreement and the proceedings and statements made pursuant to
2 the Settlement Agreement or papers filed relating to the Settlement Agreement and this Order are
3 not and shall not in any event be construed, deemed, used, offered or received as evidence of an
4 admission, concession, or evidence of any kind by any person or entity with respect to: (i) the
5 truth of any fact alleged or the validity of any claim or defense that has been, could have been, or
6 in the future might be asserted in the Action or in any other civil, criminal, or administrative
7 proceeding in any court, administrative agency, or other tribunal; or (ii) any liability,
8 responsibility, fault, wrongdoing, or otherwise of the Parties. Telenav has denied and continues
9 to deny the claims asserted by Plaintiff. Notwithstanding, nothing contained herein shall be
10 construed to prevent a Party from offering the Settlement Agreement into evidence for purpose
11 of enforcing the Settlement Agreement.

12 21. For settlement purposes only, the Court hereby approves the appointment of
13 Plaintiff Nathan Gergetz as Settlement Class Representative.

14 22. The Court appoints, for settlement purposes only, Steven Woodrow and Patrick
15 Peluso of Woodrow & Peluso, LLC and Stefan Coleman from the Law Office of Stefan
16 Coleman, P.A. as Class Counsel. Class Counsel shall move for an award of reasonable attorneys'
17 fees to be paid as set forth in the Settlement Agreement and cause such motion to be posted on
18 the Settlement Website no later than **August 2, 2018**. Class Counsel shall move for Final
19 Approval of the Settlement Agreement and respond to any objections no later than **August 23,**
20 **2018**.

21 23. The certification of the Settlement Class shall be binding only with respect to the
22 Settlement of the Action. In the event that the Settlement Agreement fails to become effective, is
23 overturned on appeal, or does not become Final for any reason, the Parties shall be restored to
24 their respective positions in the Action as of the date of the signing of the Agreement, and no
25 reference to the Settlement Class, the Settlement Agreement, or any documents,
26 communications, or negotiations related in any way thereto shall be made for any purpose.

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1 IT IS SO ORDERED.

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3 Dated this _____ day of _____, 2018

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HONORABLE BETH L. FREEMAN
UNITED STATES DISTRICT JUDGE

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