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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

THOMAS FAN, MATTHEW KIMOTO, and  
CLINTON BROWN, on behalf of themselves  
and all others similarly situated,

Plaintiffs,

v.

NBA PROPERTIES, INC. and DAPPER LABS,  
INC.,

Defendants.

Case No. 3:23-cv-05069-SI

**PLAINTIFFS' NOTICE OF MOTION  
AND MOTION FOR FINAL APPROVAL  
OF CLASS ACTION SETTLEMENT;  
MEMORANDUM OF POINTS AND  
AUTHORITIES**

Date: December 19, 2025  
Time: 10:00 a.m.  
Courtroom: 1  
Judge: Hon. Susan Illston

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that on December 19, 2025, at 10:00 a.m., or another time the Court deems more convenient, in Courtroom 1 on the 17th Floor of the San Francisco United States Courthouse, 450 Golden Gate Avenue, San Francisco, CA 94102, the Honorable Susan Illston presiding, Plaintiffs Thomas Fan, Matthew Kimoto, and Clinton Brown (collectively, “Plaintiffs”), by and through their undersigned counsel of record, will and hereby do move, pursuant to Fed. R. Civ. P. 23(e), for the Court to grant final approval of the proposed Class Action Settlement.

This Motion is made on the grounds that final approval of the proposed Settlement is proper, given that each requirement of Fed. R. Civ. P. 23(e) has been met.

This Motion is based on this Notice of Motion, Plaintiffs’ Unopposed Motion for Final Approval of Class Action Settlement and the accompanying Declaration of Cameron R. Azari, Esq. Regarding Implementation and Adequacy of Notice Plan, the Declaration of Stefan Bogdanovich in Support of Plaintiffs’ Motion for Preliminary Approval, ECF No. 107-1 (the “Bogdanovich Decl.”) and the exhibits attached thereto, including the Settlement Agreement, ECF No. 107-1, Ex. 1, Plaintiffs’ Supplemental Brief in Support of Preliminary Approval of Class Action Settlement, ECF No. 115, and any other written and oral arguments that may be presented to the Court.

Respectfully submitted,

Dated: November 21, 2025

**BURSOR & FISHER, P.A.**

By:           /s/Stefan Bogdanovich            
Stefan Bogdanovich

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**INTRODUCTION**

1  
2 On August 19, 2025, this Court preliminarily approved the Settlement and directed notice  
3 to be sent to the Class.<sup>1</sup> ECF No. 119. The Settlement Administrator has implemented the Court-  
4 approved notice plan, which achieved excellent results, as evidenced by the overwhelmingly  
5 positive reaction from the Class. After successfully sending direct notice to the Class, 20,422 class  
6 members submitted claims with only two requests for exclusion and zero objections. Declaration  
7 of Cameron R. Azari, Esq. Regarding Implementation and Adequacy of Notice Plan (“Azari  
8 Decl.”) ¶ 22. As courts in this District have repeatedly noted, “[a] low number of opt-outs and  
9 objections in comparison to class size is typically a factor that supports settlement approval.”  
10 *Schneider v. Chipotle Mexican Grill, Inc.*, 336 F.R.D. 588, 598 (N.D. Cal. 2020) (quoting *In re*  
11 *Linkedin User Priv. Litig.*, 309 F.R.D. 573, 589 (N.D. Cal. 2015)); *See Smith v. Apple, Inc.*, 2025  
12 WL 1266927, at \*6 (N.D. Cal., May 1, 2025) (“[T]he settlement terms were publicized through a  
13 notice process that the Court has deemed adequate. Only nineteen members requested exclusion  
14 from the settlement, and no Class Members objected.”).

15 In all, this is an excellent settlement that has the overwhelming approval of the Class. The  
16 Court should have no hesitation in granting Final Approval.

**PROCEDURAL AND FACTUAL BACKGROUND**

17 On October 3, 2023, Plaintiff Thomas Fan filed this putative class action alleging that  
18 Defendants disclosed NBA Top Shot users’ personally identifiable information (“PII”) to Meta  
19 Platforms, Inc. without proper consent, in violation of the VPPA and its California state law  
20 corollary, California Civil Code §1799.3. ECF No. 1. After nearly two years and hundreds of  
21 hours of hard-fought litigation, the Parties put down their swords and agreed to settle the dispute.  
22

23 The Parties engaged in substantial motion practice, including three fully briefed pleading  
24 motions: (1) Dapper Lab’s Inc.’s motion to dismiss itself from the action, (2) NBA Properties  
25 Inc.’s second motion to dismiss itself from the action, and (3) Plaintiff Fan’s request to amend the  
26 complaint to add two new class representatives, Matthew Kimoto and Clinton Brown. ECF Nos.

27  
28 <sup>1</sup> All capitalized terms not otherwise defined herein shall have the same definitions as set out in the  
Settlement. *See* ECF No. 107-1, Ex. 1 (“Settlement”).

1 25, 50, 89. The Parties engaged in months of fulsome discovery. Plaintiffs reviewed over twenty  
2 thousand pages of documents produced by Defendants. All three Plaintiffs were deposed and  
3 completed their document production. Bogdanovich Decl., ¶ 3. Two Rule 30(b)(6) witnesses for  
4 both Defendants were also deposed, along with three fact witnesses in their personal capacity. *Id.*  
5 Meta had also completed its document production and produced two declarations. *Id.* ¶ 4.  
6 Plaintiffs had begun drafting their motions for class certification and summary judgment. *Id.* ¶ 5.

7 In short, both sides had a clear understanding of the strengths and weaknesses of their case.  
8 With the fact-discovery cut-off approaching, on May 27, 2025, the Parties, through their respective  
9 counsel, participated in a full-day mediation with former United States District Judge Wayne R.  
10 Andersen, formerly of the Northern District of Illinois. *Id.* ¶ 5. Previously, Judge Andersen had  
11 successfully mediated two other VPPA cases. *Id.*

12 While an agreement was not reached at the mediation, the Parties continued to engage in  
13 arms-length negotiations facilitated by Judge Andersen. ECF No. 105. On June 6, 2025, the  
14 Parties notified the Court that they had reached a settlement in principle. ECF No. 106. After  
15 further negotiations, the Parties executed a Term Sheet on July 14, 2025 resolving the case.

16 On July 31, 2025, Plaintiffs filed their Motion for Preliminary Approval of Class Action  
17 Settlement. ECF No. 107. On August 14, 2025, Plaintiffs filed their Supplemental Brief in  
18 Support of Preliminary Approval of Class Action Settlement. ECF No. 115. The Court granted  
19 Plaintiffs' Motion for Preliminary Approval on August 19, 2025. ECF No. 119.

## 20 ARGUMENT

### 21 **I. CERTIFICATION OF THE CLASS IS APPROPRIATE**

22 “[I]n the context of a case in which the parties reach a settlement agreement prior to class  
23 certification, courts must peruse the proposed compromise to ratify both the propriety of the  
24 certification and the fairness of the settlement.” *Staton v. Boeing Co.*, 327 F.3d 938, 952 (9th Cir.  
25 2003). Certification of the Class is appropriate here, as the Court found at Preliminary Approval.

26 On August 19, 2025, the Court preliminarily approved the following Class definition, after  
27 concluding that the requirements of Rule 23(a) and (b)(3) were satisfied:

1 All individuals in the United States who had NBA Top Shot accounts and Facebook  
2 accounts from June 15, 2020 to January 30, 2025.

3 ECF No. 119, ¶ 4. No substantive changes have occurred since that ruling, and, more importantly,  
4 no objections have challenged that conclusion. Azari Decl. ¶ 20. Further, “no facts that would  
5 affect these requirements have changed since the Court preliminarily certified the class.” *Smith*,  
6 2025 WL 1266927, at \*3. The Court may therefore rely on the same rationale as explained in the  
7 preliminary approval order to find that class certification is appropriate under Fed. R. Civ. P. 23(a)  
8 and (b)(3) in connection with final approval. *See id.* (“[T]his order incorporates by reference the  
9 Court’s prior analysis under Rules 23(a) and (b) as set forth in the order granting preliminary  
10 approval.”); *see also Smith v. Keurig Green Mountain, Inc.*, 2023 WL 2250264, at \*4 (N.D. Cal.,  
11 Feb. 27, 2023) (same).

## 12 **II. FINAL APPROVAL OF THE SETTLEMENT IS APPROPRIATE**

13 “[S]trong judicial policy [] favors settlements, particularly where complex class action  
14 litigation is concerned.” *Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992);  
15 Herbert B. Newberg and William B. Rubenstein, *Newberg and Rubenstein on Class Actions*,  
16 § 13.44 (6th ed. 2025) (“The law favors settlement, particularly in class actions and other complex  
17 cases where substantial resources can be conserved by avoiding lengthy trials and appeals.”).

18 In evaluating a class action settlement, courts in the Ninth Circuit consider the factors set  
19 forth in *Hanlon v. Chrysler Corp.*, 150 F.3d 1011 (9th Cir. 1998) (the “*Hanlon* factors”): (1) “the  
20 strength of the plaintiff’s case;” (2) “the risk, expense, complexity, and likely duration of further  
21 litigation;” (3) “the risk of maintaining class action status throughout the trial;” (4) “the amount  
22 offered in settlement;” (5) “the extent of discovery completed and the stage of the proceedings;”  
23 (6) “the experience and views of counsel;” (7) “the presence of a governmental participant;” and  
24 (8) “the reaction of the class members of the proposed settlement.” *Id.* at 1026

25 In addition to these factors, courts also consider the four enumerated factors in Federal Rule  
26 of Civil Procedure Rule 23(e)(2). There is significant overlap between the Rule 23(e)(2) and  
27 *Hanlon* factors, which complement rather than displace each other. *See In re California Pizza*  
28 *Kitchen Data Breach Litig.*, 129 F.4th 667, 674 (9th Cir. 2025) (“The key *Hanlon* factors are now

1 baked into the text of Rule 23(e), and the remaining ones can still be considered for Rule 23(e)(2)  
2 analysis.”).

3 **A. The *Hanlon* Factors Weigh in Favor of Final Approval**

4 **1. The Strength of Plaintiffs’ Case**

5 In determining the likelihood of a plaintiff’s success on the merits of a class action, “the  
6 district court’s determination is nothing more than an amalgam of delicate balancing, gross  
7 approximations and rough justice.” *Officers for Just. v. Civ. Serv. Comm’n of City & Cnty. of San*  
8 *Francisco*, 688 F.2d 615, 625 (9th Cir. 1982) (internal quotation marks omitted). The court may  
9 “presume that through negotiation, the Parties, counsel, and mediator arrived at a reasonable range  
10 of settlement by considering Plaintiff[s]’ likelihood of recovery.” *Garner v. State Farm. Mut.*  
11 *Auto. Ins. Co.*, 2010 WL 1687832, at \*9 (N.D. Cal. Apr. 22, 2010) (citing *Rodriguez v. West*  
12 *Publishing Corp.*, 563 F.3d 948, 965 (9th Cir. 2009)).

13 Here, Class Counsel became thoroughly familiar with the applicable facts, legal theories,  
14 and defenses on both sides before engaging in arms-length negotiations with Defendant’s counsel.  
15 *See generally*, ECF No. 107; ECF No. 107-1. Although Plaintiffs and Class Counsel had  
16 confidence in their claims, they recognize that a favorable outcome was not assured, and Plaintiffs’  
17 and the Class’s ability to ultimately secure a favorable judgment at trial, the expense, duration, and  
18 complexity of protracted litigation would be substantial and the outcome of trial uncertain.  
19 Defendants vigorously deny Plaintiffs’ allegations and assert that neither Plaintiffs nor the Class  
20 suffered any harm or damages. In addition, Defendants would no doubt present a vigorous defense  
21 at trial, and there is no assurance that the Class would prevail—or even if they did, that they would  
22 be able to obtain an award of damages significantly more than achieved here absent such risks.  
23 Indeed, even if Plaintiffs prevailed on their VPPA claim at trial, statutory damages under the VPPA  
24 are discretionary, meaning that even a total victory could result in zero recovery for the Class. ECF  
25 No. 107-1, at 5, ¶ 19. Thus, in the eyes of Class Counsel, the proposed Settlement provides the  
26 Class with an outstanding opportunity to obtain significant relief at this stage in the litigation. The  
27 Settlement also abrogates the risks that might prevent the Class from obtaining any relief. *See also*  
28 *Curtis-Bauer v. Morgan Stanley & Co., Inc.*, 2008 WL 4667090, at \*4 (N.D. Cal. Oct. 22, 2008)

1 (“Settlement avoids the complexity, delay, risk and expense of continuing with the litigation and  
2 will produce a prompt, certain, and substantial recovery for the Plaintiff class.”). Thus, this factor  
3 weighs in favor of final approval.

## 4 **2. Risk of Continuing Litigation**

5 Next, approval of the Settlement is appropriate given the risks associated with continued  
6 litigation. By reaching a favorable settlement now, Plaintiffs seek to avoid significant expense and  
7 delay while ensuring recovery for the Class. “Generally, ‘unless the settlement is clearly  
8 inadequate, its acceptance and approval are preferable to lengthy and expensive litigation with  
9 uncertain results.’” *Larsen v. Trader Joe’s Co.*, 2014 WL 3404531, at \*4 (N.D. Cal. July 11, 2014)  
10 (quoting *Nat’l Rural Telecommunications Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 526 (C.D. Cal.  
11 2004)) (internal quotation marks omitted). “Moreover, settlement is favored where, as here,  
12 significant procedural hurdles remain, including class certification[.]” *Id.* (citing *Rodriguez*, 563  
13 F.3d at 966).

14 Here, in the absence of settlement, the Parties would have to continue litigating through  
15 class certification, summary judgment, and trial. Given the disposition of the case, “[f]urther  
16 litigation, absent settlement would likely be lengthy and would present several difficulties to  
17 resolve.” *In re Apple Inc. Sec. Litig.*, 2024 WL 3297079, at \*3 (N.D. Cal. June 3, 2024). Plaintiffs  
18 faced significant hurdles to get the proposed class certified, defeat Defendants’ forthcoming  
19 summary judgment motion, and prevail at trial and on any subsequent appeal. Accordingly, this  
20 factor weighs in favor of final approval.

## 21 **3. Risk of Maintaining Class Action Status**

22 In addition to the risks of continuing the litigation, Plaintiffs also face risks in certifying a  
23 class and maintaining class status through trial. The Court has preliminarily approved the Class for  
24 settlement purposes but has not certified the proposed classes otherwise. While numerous putative  
25 class actions have been brought under the VPPA, Plaintiffs are only aware of a single VPPA case  
26 where a contested motion for class certification has been granted. *Jancik v. WebMD LLC*, 2025  
27 WL 560705, at \*1 (N.D. Ga. Feb. 20, 2025). Two other courts denied motions for class  
28 certification and granted summary judgment in favor of defendants. *In re Hulu Privacy Litig.*,

1 2014 WL 2758598 (N.D. Cal. June 17, 2014) (denying class certification of VPPA claim);  
2 *Therrien v. Hearst Television, Inc.*, 2025 WL 509454, at \*1 (D. Mass. Feb. 14, 2025) (same); *In re*  
3 *Hulu Privacy Litig.*, 86 F. Supp. 3d 1090 (N.D. Cal. 2015) (granting summary judgment for  
4 defendant on VPPA claim); *Therrien v. Hearst Television, Inc.*, 2025 WL 1208535, at \*4 (D. Mass.  
5 Apr. 25, 2025) (same); *see also* Bogdanovich Decl. ¶ 18. While Plaintiffs have obtained written  
6 discovery and testimony they believe is sufficient to certify a class and establish that Defendants  
7 knowingly disclosed Class Members' PII to Meta, they are also keenly aware that this may not be  
8 enough.

9 Moreover, even assuming that the Court were to grant a motion for class certification, the  
10 class could still be decertified at any time. *See In re Netflix Privacy Litig.*, 2013 WL 1120801, at  
11 \*6 (N.D. Cal. Mar. 18, 2013) ("The notion that a district court could decertify a class at any time is  
12 one that weighs in favor of settlement.") (internal citations omitted). Additionally, should the  
13 Court certify the class, Defendants may appeal the Court's decision through a Rule 23(f) petition  
14 and subsequently move to decertify, forcing additional rounds of briefing. Risk, expense, and  
15 delay permeate such a process. "[C]onsummating this Settlement promptly in order to provide  
16 effective relief to Plaintiff[s] and the Class" eliminates these risks by ensuring Class Members a  
17 recovery that is certain and immediate. *Johnson v. Triple Leaf Tea Inc.*, 2015 WL 8943150, at \*4  
18 (N.D. Cal. Nov. 16, 2015). The Settlement eliminates these risks, expenses, and delay, and this  
19 factor therefore weighs in favor of final approval.

#### 20 **4. Amount Offered in Settlement**

21 The determination of "the fairness, adequacy, and reasonableness of the amount offered in  
22 settlement is not a matter of applying a 'particular formula.'" *Knapp v. Art.com, Inc.*, 283 F. Supp.  
23 3d 823, 832 (N.D. Cal. 2017) (citing *Rodriguez*, 563 F.3d at 965). Instead, the Court's analysis of  
24 whether a settlement amount is reasonable is "an amalgam of delicate balancing, gross  
25 approximations, and rough justice." *Id.* In assessing the consideration available to Class Members  
26 in a proposed Settlement, "[i]t is the complete package taken as a whole, rather than the individual  
27 component parts, that must be examined for overall fairness." *DIRECTV, Inc.*, 221 F.R.D. at 527  
28 (quoting *Officers for Justice*, 688 F.2d at 628). Because a settlement provides certain and

1 immediate recovery, courts often approve settlements even where the benefits obtained as a result  
2 of the settlement are less than those originally sought. Indeed, “it is well-settled law that a  
3 proposed settlement may be acceptable even though it amounts to only a fraction of the potential  
4 recovery that might be available to the class members at trial.” *Id.* (citing *Linney v. Cellular*  
5 *Alaska P’ship*, 151 F.3d 1234, 1242 (9th Cir. 1998)). Here, the total monetary value of the Class  
6 Settlement represents an outstanding recovery for the Class.

7 In this case, a \$7,050,000 non-reversionary Settlement Fund has been created from which  
8 all Settlement Class Members are entitled to a *pro rata* share. Settl. ¶ 2.1(a)-(b). As of November  
9 21, 2025, 20,422 valid claims have been received. *See* Azari Decl. ¶ 22. At the current claims rate,  
10 assuming that attorneys’ fees, costs, and expenses, and the service award are approved in full,  
11 Class Counsel estimates each Settlement Class Member providing a valid claim form will be  
12 entitled to a *pro rata* portion of approximately \$224.<sup>2</sup>

13 This is an excellent recovery and is comparatively superior to other privacy settlements  
14 under the VPPA or its state-law analogs, some of which have provided zero monetary recovery for  
15 class members. *Stark et al. v. Patreon, Inc.*, Case No. 3:22-cv-3131, ECF No. 192 (N.D. Cal. Sept.  
16 23, 2024) (granting preliminary approval to VPPA settlement with recovery of \$6.04 per class  
17 member); *In re Netflix Privacy Litig.*, 2013 WL 1120801, at \*1 (approving VPPA settlement where  
18 balance of settlement proceeds, after payment of attorneys’ fees and settlement administration  
19 expenses, went to *cy pres* rather than to class members); *Lane v. Facebook, Inc.*, 696 F.3d 811, 817  
20 (9th Cir. 2012) (same). And it is especially excellent given that, while the VPPA allows for  
21 liquidated damages of \$2,500 (18 U.S.C. § 2710(c)(2)(A)), such statutory damages are potentially  
22 subject to reduction on Due Process grounds. *See, e.g., Wakefield v. ViSalus, Inc.*, 51 F.4th 1109,  
23 1125 (9th Cir. 2022) (vacating award of statutory damages).

24  
25  
26 <sup>2</sup> This estimate is calculated as follows: \$7,050,000 (total settlement amount) - \$75,271.97  
27 (estimated administration costs) - \$2,350,000 (requested award of attorneys’ fees, costs and  
28 expenses) - \$30,000 (requested client service awards) = \$4,594,728.03/20,422 (claims submitted to  
date) = \$224.99.

1 Weighing the benefits of the Settlement against the risks associated with proceeding in  
2 litigation and in collecting on any judgment, the proposed Settlement is more than reasonable. *See*  
3 *Carter v. XPO Logistics, Inc.*, 2019 WL 5295125, at \*3 (N.D. Cal. Oct. 18, 2019) (“The amount of  
4 the settlement is fair, adequate and reasonable given the risks of continued litigation.”).

5 Accordingly, this factor weighs heavily in favor of final approval.

### 6 **5. The Extent of Discovery**

7 Under this factor, courts evaluate whether Class Counsel had sufficient information to make  
8 an informed decision about the merits of the case. *See In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d  
9 454, 459 (9th Cir. 2000). Plaintiffs, by and through their counsel, have conducted extensive  
10 research and investigation during the nearly two years of litigation and substantial discovery that  
11 took place. ECF No. 107 at 16.

12 Plaintiffs reviewed over twenty thousand documents, including emails, chat messages,  
13 PowerPoint presentations, and material concerning the programming of the Meta Pixel on the  
14 website, the tracking of the effectiveness of Defendant’s ad campaigns, and the relationship  
15 between Defendants. Bogdanovich Decl., ¶ 3. A Rule 30(b)(6) witness for Dapper and another  
16 for the NBA were both deposed. *Id.* ¶ 3. Three of Defendants’ fact witnesses also testified in their  
17 personal capacity: one about the implementation of the Meta Pixel, targeted advertising, and  
18 audience measurement, while another two testified about the NBA’s relationships with Dapper. *Id.*  
19 All three Plaintiffs were deposed and had completed their document production. *Id.* Meta had also  
20 produced spreadsheets for all three Plaintiffs—including Thomas Fan—showing hundreds of  
21 instances where Plaintiffs had either viewed or purchased moments, along with the URLs to those  
22 specific videos. *Id.* ¶ 4. In other words, the Parties had all but completed discovery and Plaintiffs  
23 had begun drafting their motions for class certification and summary judgment.

24 Thus, the Parties had sufficient information to assess the strengths and weaknesses of their  
25 claims and defenses in reaching the Settlement. Bogdanovich Decl. ¶ 5. Accordingly, this factor  
26 also weighs in favor of final approval. *See Carlotti v. ASUS Computer Int’l*, 2019 WL 6134910, at  
27 \*6 (N.D. Cal. Nov. 19, 2019) (“Class settlements are presumed fair when they are reached  
28 ‘following sufficient discovery and genuine arms-length negotiation.’”) (citations omitted).

1                                   **6.     Experience and Views of Counsel**

2                   “Where ‘[b]oth Parties are represented by experienced counsel,’ the recommendation of  
3 experienced counsel to adopt the terms of the proposed settlement ‘is entitled to great deal of  
4 weight.’” *Low v. Trump Univ., LLC*, 246 F. Supp. 3d 1295, 1302 (S.D. Cal. 2017) (internal  
5 citations omitted). Specifically, “[t]he recommendations of plaintiffs’ counsel should be given a  
6 presumption of reasonableness” as the “[a]ttorneys, having an intimate familiarity with a lawsuit  
7 after spending years in litigation, are in the best position to evaluate the action, and the Court  
8 should not without good cause substitute its judgment for theirs.” *Boyd v. Bechtel Corp.* 485 F.  
9 Supp. 610, 622 (N.D. Cal. 1979). Here, the Settlement was negotiated by counsel with extensive  
10 experience in consumer class action litigation. *See* ECF No. 107-1, Ex. 2, Firm Resume of Bursor  
11 & Fisher, P.A. Based on their experience, Class Counsel concluded that the Settlement provides  
12 exceptional results for the Class while sparing the Class from the uncertainties of continued and  
13 protracted litigation.

14                                   **7.     The Presence of a Governmental Participant**

15                   No governmental agency is involved in this litigation, but the Attorney General of the  
16 United States and Attorneys General of each State have been notified of the proposed Settlement  
17 pursuant to the Class Action Fairness Act, 28 U.S.C. § 1715, and have had an opportunity to raise  
18 any concerns or objections, and none have done so. Azari Decl. ¶ 6.

19                                   **8.     The Response of Class Members Has Been**  
20                                   **Overwhelmingly Positive**

21                   The objection and opt-out deadlines lapsed on November 17, 2025. To date, not a single  
22 Class Member objected to the Settlement, and only two Class Members opted out. *See* Azari Decl.  
23 ¶ 20. Such an overwhelmingly positive response from Class Members strongly supports final  
24 approval. *Cnty. Res. for Indep. Living v. Mobility Works of California, LLC*, 533 F. Supp. 3d 881,  
25 889 (N.D. Cal. 2020) (“No objections have been submitted. The absence of a negative reaction  
26 weighs in favor of approval.”) (cleaned up); *Torchia v. W.W. Grainger, Inc.*, 304 F.R.D. 256, 270  
27 (E.D. Cal. 2014) (“Significantly, no objections were filed by Class Members following service of  
28 the Class Notice Packet. ... Therefore, this factor weighs in favor of the Settlement.”) (internal

1 citation omitted); *Arreola v. Shamrock Foods Co.*, 2021 WL 4220630, at \*5 (C.D. Cal. Sept. 16,  
2 2021) (“A low proportion of opts outs and objections ‘indicates that the class generally approves of  
3 the settlement.’ Therefore, this factor weighs in favor of final approval.”) (citations omitted).

4 **B. The Rule 23(e)(2) Factors Weigh in Favor of Final Approval**

5 **1. The Class Representatives and Class Counsel Have**  
6 **Adequately Represented the Class (Fed. R. Civ. P.**  
7 **23(e)(2)(A))**

8 As the Court already found at Preliminary Approval, “Plaintiffs and Class Counsel ... fairly  
9 and adequately represent the Settlement Class.” ECF No. 119 ¶ 5. There is no reason to deviate  
10 from that conclusion. Plaintiffs have been consistently involved in this litigation, providing  
11 valuable insight and useful facts allowing Class Counsel to effectively litigate this action and  
12 negotiate this Settlement. Further, Plaintiffs regularly communicated with Class Counsel regarding  
13 various issues pertaining to this case and will continue to do so until the Settlement is approved,  
14 and its administration completed. Bogdanovich Decl. ¶ 10. Likewise, Class Counsel vigorously  
15 prosecuted this action and will continue to do so through final approval. *Id.* ¶ 12. Class Counsel  
16 identified and investigated the claims in this lawsuit and the underlying facts and successfully  
17 negotiated this Settlement. Bogdanovich Decl. ¶ 3. Those efforts led to a recovery of  
18 approximately \$224 per Settlement Class Member. And Class Counsel is sufficiently experienced  
19 in class action litigation and privacy litigation in particular. ECF No. 107-1 ¶¶ 12-15.

20 Accordingly, this factor weighs in favor of final approval.

21 **2. The Settlement Was Negotiated at Arm’s Length**

22 In evaluating the adequacy of a proposed settlement under Rule 23(e)(2), particular  
23 attention should be paid to the process of settlement negotiations. When a class settlement is  
24 reached through arm’s-length negotiations between experienced, capable counsel knowledgeable in  
25 complex class litigation, there is a presumption that the settlement is fair and reasonable. *See In re*  
26 *Pac. Enterprises Sec. Litig.*, 47 F.3d 373, 378 (9th Cir. 1995); *Garner*, 2010 WL 1687832, at \*9.  
27 Here, counsel for both Plaintiffs and Defendants are experienced in class action litigation, engaged  
28 in protracted settlement discussions, and reached this settlement with the assistance of an  
experienced neutral, Judge Wayne R. Andersen (Ret.). *See* ECF No. 107-1, Ex. 2; Bogdanovich

1 Decl., ¶ 5. In other words, the negotiations were conducted at arm’s length, non-collusive, well-  
2 informed (in that they were conducted after an assessment of the strengths and weaknesses of the  
3 claims on both sides), conducted between counsel on both sides with decades of class action  
4 experience, and utilized the assistance of a well-respected mediator. Use of a mediator “tends to  
5 support the conclusion that the settlement process was not collusive.” *Villegas v. J.P. Morgan*  
6 *Chase & Co.*, 2012 WL 5878390, at \*6 (N.D. Cal. Nov. 21, 2012).

7 Under such circumstances, the proposed Settlement is entitled to a presumption of  
8 reasonableness, and the Court is entitled to rely upon counsel’s opinions and assessments. *See*  
9 *Perks v. Activehours, Inc.*, 2021 WL 1146038, at \*5 (N.D. Cal. Mar. 25, 2021) (“[T]he Court found  
10 that Class Counsel have substantial experience in litigating and settling consumer class actions.  
11 Despite the relatively early stage of the litigation, Class Counsel obtained sufficient information to  
12 make an informed decision about the Settlement and about the legal and factual risks of the case. . .  
13 The Settlement was also the product of arm’s-length negotiations through mediation sessions and  
14 follow-up communications supervised by [an experienced neutral]. There is no indication of any  
15 collusion between the parties.”). Accordingly, the second Rule 23(e)(2) factor has been met.

### 16 **3. The Settlement Provides Adequate Relief to the Class**

17 Whether relief is adequate takes into account: “(i) the costs, risks, and delay of trial and  
18 appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including  
19 the method of processing class-member claims, if required; (iii) the terms of any proposed award of  
20 attorney’s fees, including timing of payment; and (iv) any agreement required to be identified  
21 under Rule 23(e)(3).” Rule 23(e)(2)(C)(i)-(iv). These factors subsume several *Hanlon* factors,  
22 discussed *supra*, including: “the risk, expense, complexity, and likely duration of further litigation”  
23 (*Hanlon* Factor 2); “the risk of maintaining class action status throughout the trial” (*Hanlon* Factor  
24 3); and “the amount offered in settlement” (*Hanlon* Factor 4). As noted above, the Settlement has  
25 met each of the *Hanlon* factors. *See* Section III.A, *supra*.

26 As to “the effectiveness of any proposed method of distributing relief to the class,” it is  
27 “important for the court to scrutinize the method of claims processing to ensure that it facilitates  
28 filing legitimate claims.” *Alvarez v. Sirius XM Radio Inc.*, 2020 WL 7314793, at \*6 (C.D. Cal.

1 July 15, 2020) (citing Fed. R. Civ. P. 23(e), 2018 Advisory Committee Notes). “A claims  
2 processing method should deter or defeat unjustified claims, but the court should be alert to  
3 whether the claims process is unduly demanding.” *Id.* Here, the Claims Administrator has  
4 applied methods to detect fraudulent claims and duplicate submissions. Azari Decl. ¶¶ 11, 22.  
5 Under the terms of the Settlement, Class Members with Approved Claims are entitled to “a *pro*  
6 *rata* payment from the Settlement Fund. Proration of amounts due to Settlement Class Members  
7 with Approved Claims shall be determined no later than 60 days after entry of a Final Judgment.”  
8 ECF No. 107-1, Ex. 1 § 2.1 (b). The Court should find that this “process is not unduly demanding,  
9 and [] the proposed method of distributing relief to the Class is effective.” *Alvarez*, 2020 WL  
10 7314793, at \*6.

11 Next, as to “the terms of any proposed award of attorneys’ fees,” Class Counsel filed a fee  
12 application on October 7, 2025, consistent with the Settlement Agreement, for an award of  
13 \$2,350,000 in attorneys’ fees, costs, and expenses, and incentive awards in the amount of \$10,000  
14 each for Plaintiffs Thomas Fan, Matthew Kimoto, and Clinton Brown. ECF No. 120; ECF No.  
15 107-1, Ex. 1 §§ 8.1, 8.3. That request is more than reasonable for the reasons set forth in the  
16 Motion for Attorneys’ Fees. *See generally* ECF No. 120. Finally, there are no agreements between  
17 Plaintiffs, Class Counsel, and Defendants other than the Settlement. The Settlement therefore  
18 provides adequate relief to the Class under Rule 23(e)(2)(C), and the requested attorneys’ fees are  
19 reasonable in relation to such relief.

#### 20 **4. The Settlement Treats All Class Members Equally**

21 “The final Rule 23(e)(2) factor is whether ‘the proposal treats class members equitably  
22 relative to each other.’” *Perks*, 2021 WL 1146038, at \*6 (citing Fed. R. Civ. P. 23(e)(2)(D)). In  
23 assessing this factor, “the Court considers whether the proposal ‘improperly grant[s] preferential  
24 treatment to class representatives or segments of the class.’” *Id.* (citing *In re Tableware Antitrust*  
25 *Litig.*, 484 F. Supp. 2d 1078, 1079 (N.D. Cal. 2007)).

26 Here, all Class Members are entitled to the same relief under the Settlement Agreement,  
27 and all Class Members will receive a *pro rata* distribution of the Settlement Fund based on the  
28 number of Approved Claims. ECF No. 107-1, Ex. 1 § 2.1 (b). Courts in this Circuit have found

1 that allocating settlement benefits to Settlement Class Members on a *pro rata* basis is equitable.  
2 *See Perks*, 2021 WL 1146038, at \*6 (“This *pro rata* distribution is inherently equitable because it  
3 treats Class Members fairly based on the amount of each member’s potential damages.”); *In re*  
4 *Extreme Networks, Inc. Sec. Litig.*, 2019 WL 3290770, at \*8 (N.D. Cal. July 22, 2019) (finding *pro*  
5 *rata* distribution equitable); *Boyd v. Avanquest N. Am. Inc.*, 2015 WL 4396137, at \*3 (N.D. Cal.  
6 July 17, 2015) (“[T]he proposed settlement agreement ‘does not improperly grant preferential  
7 treatment to class representatives or segments of the class[]’ because all class members are treated  
8 in the same way and there is no difference in treatment throughout the class.”) (internal citations  
9 omitted). Thus, this factor also weighs in favor of granting final approval.

### 10 **III. THE NOTICE PLAN PROVIDED THE BEST NOTICE PRACTICABLE**

11 For a settlement class, the Court must “direct to class members the best notice that is  
12 practicable under the circumstances, including individual notice to all members who can be  
13 identified through reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B). Notice should “generally  
14 describe[] the terms of the settlement in sufficient detail to alert those with adverse viewpoints to  
15 investigate and come forward and be heard.” *Churchill Village, L.L.C. v. Gen. Elec.*, 361 F. 3d  
16 566, 575 (9th Cir. 2004).

17 Pursuant to the Notice Plan approved by the Court, Defendants provided the Settlement  
18 Administrator, Epiq, with one data file with 1,340,265 records for identified Settlement Class  
19 Members, which included names and last known email addresses to the extent available. *See Azari*  
20 Decl. ¶ 11. Of that, 1,334,388 records were found to be unique, identified Settlement Class  
21 Member records. *Id.* Of these, 2,661 records did not contain a valid email address. *Id.* Epiq sent  
22 direct email notices to the remaining 1,331,727 email addresses. *Id.* ¶ 12. If the receiving email  
23 server could not deliver the message, a “bounce code” was returned along with the unique message  
24 identifier. *Id.* ¶ 13. For Email Notices for which a bounce code was received indicating that the  
25 message was undeliverable for reasons such as an inactive or disabled account, the recipient’s  
26 mailbox was full, technical autoreplies, etc., at least two additional attempts were made to deliver  
27 the Notice by email. *Id.* Epiq confirmed that 1,195,971 emails were delivered successfully. *Id.* ¶  
28 15. Thus, the individual notice efforts reached approximately 90% of the identified Settlement

1 Class Members. *Id.* The email notices informed Class Members of the settlement and directed  
2 them to the Settlement Website for more information. A true and correct copy of the Email Notice  
3 is attached as Attachment 2 to the Azari Declaration.

4 Epiq also established a Settlement Website that included case-related documents, a set of  
5 frequently asked questions, information on how to object to the settlement or request exclusion,  
6 and contact information for the Settlement Administrator, and how to obtain other case-related  
7 information. *Id.* ¶ 17. Finally, Epiq provided notice to state and federal officials as required by the  
8 Class Action Fairness Act, 28 U.S.C. § 1715. *Id.* ¶ 6.

9 These efforts met the requirements for effective notice under Rule 23 and appraised the  
10 Class of the Settlement. *Id.* ¶ 7. This resulted in 20,422 pending claims, *zero* objections, and only  
11 two requests for exclusion. *Id.* ¶¶ 20, 22. Accordingly, Plaintiffs ask the Court to find: (1) the  
12 Notice Plan was reasonably calculated to give actual notice to Class Members of their rights to  
13 receive benefits from the Settlement, or otherwise how to exclude themselves from or object to the  
14 Settlement; and (2) the Notice Plan satisfied due process requirements and any other applicable  
15 requirements under federal law. *Hanlon*, 150 F. 3d at 1024.

16 Epiq effectuated the Notice Plan, as ordered by the Court in its Preliminary Approval  
17 Order, and the Notice Plan was designed to ensure the widest possible reach and provide the most  
18 practicable notice of the Settlement to Class Members. Epiq's efforts as Settlement Administrator,  
19 and the Notice as effectuated, support final approval.

20 **CONCLUSION**

21 For the reasons set forth above, Plaintiffs respectfully request that the Court finally approve  
22 the Settlement. A Proposed Order is submitted herewith.

23  
24 Dated: November 21, 2025

**BURSOR & FISHER, P.A.**

25 By: /s/ Stefan Bogdanovich  
26 Stefan Bogdanovich

27 L. Timothy Fisher (State Bar No. 191626)  
28 Stefan Bogdanovich (State Bar No. 324525)

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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

THOMAS FAN, MATTHEW KIMOTO, and  
CLINTON BROWN, on behalf of themselves  
and all others similarly situated,

Plaintiffs,

v.

NBA PROPERTIES, INC. and DAPPER LABS,  
INC.,

Defendants.

Case No. 3:23-cv-05069-SI

**DECLARATION OF CAMERON R. AZARI,  
ESQ. REGARDING IMPLEMENTATION  
AND ADEQUACY OF NOTICE PLAN**

1 I, Cameron R. Azari, Esq., hereby declare and state as follows:

2 1. My name is Cameron R. Azari, Esq. I have personal knowledge of the matters set forth  
3 herein, and I believe them to be true and correct.

4 2. I am a nationally recognized expert in the field of legal notice and have served as an expert  
5 in hundreds of federal and state cases involving class action notice plans.

6 3. I am a Senior Vice President of Epiq Class Action & Claims Solutions, Inc. (“Epiq”) and the  
7 Managing Director of Epiq Legal Noticing (aka Hilsoft Notifications), a business unit of Epiq that  
8 specializes in designing, developing, analyzing, and implementing large-scale, un-biased, legal  
9 notification plans.

10 4. The facts in this declaration are based on my personal knowledge, as well as information  
11 provided to me by my colleagues in the ordinary course of business at Epiq and Epiq Legal Noticing  
12 (hereinafter “Epiq”).

13 **OVERVIEW**

14 5. This declaration describes the successful implementation of the Settlement notice plan  
15 (“Notice Plan”) and notices (the “Notice” or “Notices”) for *Fan v. NBA Properties, Inc.*, Civil Action No.  
16 3:23-cv-5069-SI, pending in the United States District Court for the Northern District of California.  
17 Previously, I executed my *Declaration of Cameron R. Azari, Esq. Regarding Notice Plan* (“Notice Plan  
18 Declaration”) on July 28, 2025, which described the Notice Plan, detailed Epiq’s class action notice  
19 experience, described Epiq’s data privacy, security procedures and protections, and attached Epiq’s  
20 *curriculum vitae*. I also provided my educational and professional experience relating to class actions and  
21 my ability to render opinions on overall adequacy of notice programs. Epiq designed and implemented  
22 this Notice Plan based on our extensive prior experience and research into the notice issues particular to  
23 this Settlement. We designed and implemented a Notice Plan that is the best notice practicable under the  
24 circumstances to provide notice to the Settlement Class.

25 **CAFA NOTICE**

26 6. Pursuant to the Class Action Fairness Act (CAFA), 28 U.S.C. § 1715, on August 8, 2025,  
27 Epiq sent 57 CAFA Notice Packages (“CAFA Notice”). The CAFA Notice was mailed via United States  
28

1 Postal Service (“USPS”) Priority Mail to 53 officials (the Attorneys General of 47 states, the District of  
 2 Columbia, and the United States Territories). Per the direction of the Nevada, New York, and Connecticut  
 3 Attorneys General, the CAFA Notice was sent to the Nevada, New York, and Connecticut Attorneys  
 4 General electronically via email. The CAFA Notice was also sent via United Parcel Service (“UPS”) to  
 5 the Attorney General of the United States. Details regarding the CAFA Notice mailing are provided in  
 6 the *Declaration of Kyle S. Bingham on Implementation of CAFA Notice*, dated August 8, 2025, which is  
 7 included as **Attachment 1**.

### NOTICE PLAN SUMMARY

8  
 9 7. Federal Rules of Civil Procedure, Rule 23 directs that notice must be “the best notice that is  
 10 practicable under the circumstances, including individual notice to all members who can be identified  
 11 through reasonable effort” and that “the notice may be by one or more of the following: United States  
 12 mail, electronic means, or other appropriate means.”<sup>1</sup> The Notice Plan as implemented satisfied these  
 13 requirements.

14 8. The Notice Plan as designed and implemented reached the greatest practicable number of  
 15 Settlement Class Members. The Notice Plan individual notice efforts via email to identified Settlement  
 16 Class Members reached approximately 90% of the identified Settlement Class. The reach was further  
 17 enhanced by a Settlement Website. In my experience, the reach of the Notice Plan was consistent with  
 18 other court-approved notice plans, was the best notice practicable under the circumstances of this case and  
 19 satisfied the requirements of due process, including its “desire to actually inform” requirement.<sup>2</sup> The  
 20 Notice Plan also complied with the Court’s Standing Order for Civil Cases.

21  
 22 <sup>1</sup> Fed. R. Civ. P. 23(c)(2)(B).

23 <sup>2</sup> *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 315 (1950) (“But when notice is a person’s  
 24 due, process which is a mere gesture is not due process. The means employed must be such as one desirous  
 25 of actually informing the absentee might reasonably adopt to accomplish it. The reasonableness and hence  
 26 the constitutional validity of any chosen method may be defended on the ground that it is in itself reasonably  
 27 certain to inform those affected . . .”); *see also In re Hyundai & Kia Fuel Econ. Litig.*, 926 F.3d 539, 567  
 28 (9th Cir. 2019) (“To satisfy Rule 23(e)(1), settlement notices must ‘present information about a proposed  
 settlement neutrally, simply, and understandably.’ ‘Notice is satisfactory if it generally describes the terms  
 of the settlement in sufficient detail to alert those with adverse viewpoints to investigate and to come forward  
 and be heard.’”) (citations omitted); N.D. Cal. Procedural Guidance for Class Action Settlements,  
 Preliminary Approval (3) (articulating best practices and procedures for class notice).

1 **NOTICE PLAN DETAIL**

2 9. On August 19, 2025, the Court approved the Notice Plan and appointed Epiq as the  
3 Settlement Administrator in the *Modified Order Granting Preliminary Approval of Class Action*  
4 *Settlement* (“Preliminary Approval Order”). In the Preliminary Approval Order, the Court approved and  
5 provisionally certified, for settlement purposes only, the following “Settlement Class”:

6 [A]ll individuals in the United States who had NBA Top Shot accounts and  
7 Facebook accounts from June 15, 2020 to January 30, 2025.

8 Excluded from the Class is any entity in which Defendants have a controlling  
9 interest, and officers, directors, agents, attorneys, and employees of  
10 Defendants.

11 10. After the Court’s Preliminary Approval Order was entered, Epiq implemented the Notice  
12 Plan. This declaration details the notice activities undertaken to date and explains how and why the Notice  
13 Program was comprehensive and well-suited to reach the Settlement Class Members. This declaration  
14 also discusses the administration activity to date.

15 **NOTICE PLAN**

16 ***Individual Notice***

17 11. On August 29, 2025, Epiq received one data file with 1,340,265 records for identified  
18 Settlement Class Members, which included names and last known email addresses to the extent available  
19 (“Class List”). Epiq deduplicated and rolled-up the records and loaded the unique, identified Settlement  
20 Class Member records into its database. These efforts resulted in 1,334,388 unique, identified Settlement  
21 Class Member records (of these, 2,661 records did not contain a valid email address and were not sent  
22 Notice).

23 ***Individual Notice – Email***

24 12. On September 17, 2025, Epiq commenced sending 1,331,727 Email Notices to all identified  
25 Settlement Class Members for whom a valid email address was available. The following industry standard  
26 best practices were followed. The Email Notice was drafted in such a way that the subject line, the sender,  
27 and the body of the message overcame SPAM filters and ensured readership to the fullest extent  
28 reasonably practicable. For instance, the Email Notice used an embedded html text format. This format

1 provided easy-to-read text without graphics, tables, images and other elements that in our experience  
2 would have increased the likelihood that the message would have been blocked by Internet Service  
3 Providers (ISPs) and/or SPAM filters for this type of email communication. The Email Notices were sent  
4 from an IP address known to major email providers as one not used to send bulk “SPAM” or “junk” email  
5 blasts. Each Email Notice was transmitted with a digital signature to the header and content of the Email  
6 Notice, which allowed ISPs to programmatically authenticate that the Email Notices were from our  
7 authorized mail servers. Each Email Notice was also transmitted with a unique message identifier. The  
8 Email Notice included an embedded link to the Settlement Website. By clicking the link, recipients were  
9 able to access the Long-Form Notice and other information about the Settlement. The Email Notice is  
10 included as **Attachment 2**.

11 13. If the receiving email server could not deliver the message, a “bounce code” was returned  
12 along with the unique message identifier. For Email Notices for which a bounce code was received  
13 indicating that the message was undeliverable for reasons such as an inactive or disabled account, the  
14 recipient’s mailbox was full, technical autoreplies, etc., at least two additional attempts were made to  
15 deliver the Notice by email.

16 14. Additionally, a Long-Form Notice and Claim Form (“Claim Package”) was mailed to all  
17 persons who requested one via the toll-free telephone number or by other means. As of November 21,  
18 2025, Epiq mailed six Claim Packages as a result of such requests. The Long-Form Notice is included as  
19 **Attachment 3**. The Claim Form is included as **Attachment 4**.

#### 20 *Notice Results*

21 15. As of November 21, 2025, an Email Notice was delivered to 1,195,971 of the 1,334,388  
22 unique, identified Settlement Class Members. This means the individual notice efforts reached  
23 approximately 90% of the identified Settlement Class Members.

#### 24 *Reminder Notice*

25 16. On November 17, 2025, Epiq commenced sending Reminder Notices to all identified  
26 Settlement Class Members with a valid email address that was not previously returned as undeliverable  
27 and who had not submitted a Claim Form or requested exclusion from the Settlement. The Reminder  
28

1 Notice included an electronic link directly to the Claim Form. The Reminder Notice is included as  
2 **Attachment 5.**

3 *Settlement Website*

4 17. On September 16, 2025, Epiq established a website for the Settlement with an easy to  
5 remember domain name (www.NBATopShotVideoPrivacyClassActionSettlement.com). Relevant  
6 documents are posted on the Settlement Website, including the Long-Form Notice, Settlement Agreement,  
7 Preliminary Approval Order, and other case-related documents. In addition, the Settlement Website includes  
8 relevant dates, answers to frequently asked questions (“FAQs”), instructions for how Settlement Class  
9 Members could opt-out (request exclusion) from or object to the Settlement prior to the deadlines, contact  
10 information for the Settlement Administrator, and how to obtain other case-related information. Settlement  
11 Class Members are also able to file a Claim Form on the Settlement Website. The Settlement Website  
12 address was prominently displayed in all notice documents. As of November 21, 2025, there have been  
13 59,389 unique visitor sessions to the Settlement Website, and 169,752 website pages have been presented.

14 *Toll-Free Telephone Number and Other Contact Information*

15 18. On September 16, 2025, Epiq established a toll-free telephone number (1-888-854-8281) for  
16 the Settlement. Callers are able to hear an introductory message and have the option to learn more about  
17 the Settlement in the form of recorded answers to FAQs, and to request that a Claim Package be mailed  
18 to them. This automated telephone system is available 24 hours per day, 7 days per week. The toll-free  
19 telephone number was prominently displayed in all notice documents. As of November 21, 2025, there  
20 have been 126 calls to the toll-free telephone number representing 257 minutes of use.

21 19. A postal mailing address was established and continues to be available, allowing Settlement  
22 Class Members the opportunity to request additional information or ask questions.

23 *Requests for Exclusion and Objections*

24 20. The deadline to request exclusion from the Settlement or to object to the Settlement was  
25 November 17, 2025. As of November 21, 2025, Epiq has received two requests for exclusion. As of  
26 November 21, 2025, Epiq is aware of no objections to the Settlement. The Exclusion Report is included  
27 as **Attachment 6.**

1 ***Claim Submission & Distribution Options***

2 21. The Notices provided a detailed summary of relevant information about the Settlement,  
3 including the Settlement Website address and how Settlement Class Members can file a Claim Form online  
4 or by mail. With any method of submitting a Claim Form, Settlement Class Members are given the option  
5 of receiving a digital payment or traditional paper check. Epiq worked with counsel for the parties to  
6 select an appropriate menu of payment options. The type of digital payment selected does not impact  
7 Epiq’s compensation for its work as the Settlement Administrator, and no digital option is discouraged  
8 relative to other options.

9 22. The Claims Deadline for Settlement Class Members to file a Claim Form is on December  
10 16, 2025. As of November 21, 2025, Epiq has received 20,422 Claim Forms (20,062 online and 360  
11 paper). Since the Claims Deadline has not yet passed, these numbers are preliminary. As standard  
12 practice, Epiq is in the process of conducting a complete quality control review of Claim Forms received.  
13 There is a likelihood that after detailed review, the total number of Claim Forms received will change due  
14 to duplicate and denied Claim Forms.

15 ***Cost of Notice and Administration***

16 23. As of November 21, 2025, administration costs total \$75,271.97, which is inclusive of the  
17 costs to implement the Settlement Notice Plan and handle settlement administration through October 30,  
18 2025. This is not a minimum or cap of costs to be incurred. Based on the current scope of the settlement  
19 administration, Epiq anticipates additional costs will be incurred to complete the settlement  
20 administration, leading up to and following the Final Approval Hearing.

21 **CONCLUSION**

22 24. In class action notice planning, execution, and analysis, we are guided by due process  
23 considerations under the United States Constitution, by federal and local rules and statutes, and by case  
24 law pertaining to notice. This framework directs that a notice plan be designed to reach the greatest  
25 practicable number of potential class members and, in a settlement class action notice situation such as  
26 this, that the notice or notice plan provides information to potential class members regarding their rights,  
27  
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1 possible benefits available, and how to exercise their rights or claim benefits. All of these requirements  
2 were met in this case.

3 25. The Notice Plan individual notice efforts via email to identified Settlement Class Members  
4 reached approximately 90% of the identified Settlement Class. The reach was further enhanced by a  
5 Settlement Website. In 2010, the Federal Judicial Center (“FJC”) issued a *Judges’ Class Action Notice  
6 and Claims Process Checklist and Plain Language Guide*, which is relied upon for federal cases. This  
7 Guide states that, “the lynchpin in an objective determination of the adequacy of a proposed notice effort  
8 is whether all the notice efforts together will reach a high percentage of the class. It is reasonable to reach  
9 between 70–95%.”<sup>3</sup> Here, we have developed a Notice Plan that readily achieved a reach within that  
10 standard.

11 26. The Notice Plan followed the guidance for satisfying due process obligations that a notice  
12 expert gleans from the United States Supreme Court’s seminal decisions, which emphasize the need: (a)  
13 to endeavor to actually inform the Class, and (b) to ensure that notice is reasonably calculated to do so:

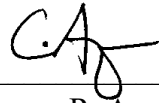
- 14 a) “[W]hen notice is a person’s due, process which is a mere gesture is not due process.  
15 The means employed must be such as one desirous of actually informing the  
16 absentee might reasonably adopt to accomplish it,” *Mullane v. Central Hanover  
Trust*, 339 U.S. 306, 315 (1950); and
- 17 b) “[N]otice must be reasonably calculated, under all the circumstances, to apprise  
18 interested parties of the pendency of the action and afford them an opportunity to  
19 present their objections,” *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156 (1974) (citing  
*Mullane*, 339 U.S. at 314).

20 27. The Notice Plan as implemented provided the best notice practicable under the  
21 circumstances, conformed to all aspects of Federal Rules of Civil Procedure Rule 23 regarding notice as  
22 well as the N.D. Cal. Procedural Guidance for Class Action Settlements, and the Court’s Standing Order  
23 for Civil Cases, comported with the guidance for effective notice stated in the Manual for Complex  
24 Litigation, Fourth and applicable FJC materials, and satisfied the requirements of due process, including  
25 its “desire to actually inform” requirement.

26 \_\_\_\_\_  
27 <sup>3</sup> FED. JUDICIAL CTR, JUDGES’ CLASS ACTION NOTICE AND CLAIMS PROCESS CHECKLIST AND PLAIN  
28 LANGUAGE GUIDE 3 (2010), available at <https://www.fjc.gov/content/judges-class-action-notice-and-claims-process-checklist-and-plain-language-guide-0>.

1 28. The Notice Plan schedule afforded enough time to provide full and proper notice to  
2 Settlement Class Members before the Objection/Exclusion Deadline. Settlement Class Members were  
3 provided with at least 35 days<sup>4</sup> from the notice completion date until Objection/Exclusion Deadline.

4 29. I declare under penalty of perjury under the laws of the State of California that the foregoing  
5 is true and correct. Executed November 21, 2025.

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8 \_\_\_\_\_  
Cameron R. Azari, Esq.

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<sup>4</sup> The N.D. Cal. Procedural Guidance for Class Action Settlements, Preliminary Approval (9) regarding the timeline for class members to opt-out was followed.

# Attachment 1

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

THOMAS FAN, MATTHEW KIMOTO, and  
CLINTON BROWN, on behalf of themselves and  
all others similarly situated,

Plaintiffs,

v.

NBA PROPERTIES, INC. and DAPPER LABS,  
INC.,

Defendants.

Case No. 3:23-cv-05069-SI

**DECLARATION OF KYLE S. BINGHAM ON IMPLEMENTATION OF CAFA NOTICE**

I, KYLE S. BINGHAM, hereby declare and state as follows:

1. My name is KYLE S. BINGHAM. I am over the age of 25 and I have personal knowledge of the matters set forth herein, and I believe them to be true and correct.
2. I am the Senior Director of Legal Noticing for Epiq Class Action & Claims Solutions, Inc. (“Epiq”), a firm that specializes in designing, developing, analyzing and implementing large-scale, un-biased, legal notification plans. I have overseen and handled Class Action Fairness Act (“CAFA”) notice mailings for more than 500 class action settlements.
3. Epiq is a firm with more than 25 years of experience in claims processing and settlement administration. Epiq’s class action case administration services include coordination of all notice requirements, design of direct-mail notices, establishment of fulfillment services, receipt and processing of opt-outs, coordination with the United States Postal Service (“USPS”), claims database management, claim adjudication, funds management and distribution services.
4. The facts in this Declaration are based on what I personally know, as well as information provided to me in the ordinary course of my business by my colleagues at Epiq.

**CAFA NOTICE IMPLEMENTATION**

5. At the direction of counsel for Defendants NBA Properties, Inc. and Dapper Labs, Inc., 57 federal and state officials (the Attorney General of the United States and the Attorneys General of each of the 50 states, the District of Columbia, and the United States Territories) were identified to receive CAFA notice.

6. Epiq maintains a list of these federal and state officials with contact information for the purpose of providing CAFA notice. Prior to mailing, the names and addresses selected from Epiq's list were verified, then run through the Coding Accuracy Support System ("CASS") maintained by the United States Postal Service ("USPS").<sup>1</sup>

7. On August 8, 2025, Epiq sent 57 CAFA Notice Packages ("Notice"). The Notice was mailed via USPS Priority Mail to 53 officials (the Attorneys General of 47 states, the District of Columbia, and the United States Territories). As per the direction of the Office of the Nevada, New York, and Connecticut Attorneys General, the Notice was sent to the Nevada, New York, and Connecticut Attorneys General electronically via email. The Notice was also sent via United Parcel Service ("UPS") to the Attorney General of the United States. The CAFA Notice Service List (USPS Priority Mail, Email, and UPS) is included as **Attachment 1**.

8. The materials sent to the federal and state officials included a Cover Letter, which provided notice of the proposed Settlement of the above-captioned case. The Cover Letter is included as **Attachment 2**.

9. The cover letter was accompanied by a CD, which included the following:

a. **Per 28 U.S.C. § 1715(b)(1) – Complaint and Any Amended Complaints:**

- Class Action Complaint (filed October 3, 2023);

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<sup>1</sup> CASS improves the accuracy of carrier route, 5-digit ZIP®, ZIP + 4® and delivery point codes that appear on mail pieces. The USPS makes this system available to mailing firms who want to improve the accuracy of postal codes, i.e., 5-digit ZIP®, ZIP + 4®, delivery point (DPCs), and carrier route codes that appear on mail pieces.

- First Amended Class Action Complaint (filed October 6, 2023);
  - Second Amended Class Action Complaint (filed April 5, 2024); and
  - Third Amended Class Action Complaint (filed November 1, 2024).
- b. **Per 28 U.S.C. § 1715(b)(3) – Notification to Class Members:**
- Claim Form (*Exhibit A to the Settlement Agreement*);
  - Email Notice (*Exhibit B to the Settlement Agreement*); and
  - Long Form Notice (*Exhibit C to the Settlement Agreement*).
- c. **Per 28 U.S.C. § 1715(b)(4) – Class Action Settlement Agreement:** The following documents were included:
- Plaintiffs’ Notice of Motion for Preliminary Approval of Class Action Settlement; Motion for Preliminary Approval of Class Action Settlement; Supporting Memorandum of Points and Authorities;
  - Declaration of Stefan Bogdanovich in Support of Plaintiffs’ Motion for Preliminary Approval;
    - Class Action Settlement Agreement (*Exhibit 1 to the Bogdanovich Declaration*);
    - Bursor & Fisher P.A. Firm Resume (*Exhibit 2 to the Bogdanovich Declaration*);
  - Declaration of Cameron R. Azari Esq. Regarding Notice Plan;
    - Epiq Firm Resume (*Attachment 1 to the Azari Declaration*);
  - [Proposed] Order Granting Preliminary Approval of Class Action Settlement; and
  - Order Permitting Motion for Preliminary Approval to be heard at Case Management Conference.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 8, 2025.

  
\_\_\_\_\_  
KYLE S. BINGHAM

# **Attachment 1**

## CAFA Notice Service List

## USPS Priority Mail

Appropriate Official	FullName	Address1	Address2	City	State	Zip
Office of the Attorney General	Treg Taylor	1031 W 4th Ave	Suite 200	Anchorage	AK	99501
Office of the Attorney General	Steve Marshall	501 Washington Ave		Montgomery	AL	36104
Office of the Attorney General	Tim Griffin	323 Center St	Suite 200	Little Rock	AR	72201
Office of the Attorney General	Kris Mayes	2005 N Central Ave		Phoenix	AZ	85004
Office of the Attorney General	CAFA Coordinator	Consumer Protection Section	455 Golden Gate Ave Suite 11000	San Francisco	CA	94102
Office of the Attorney General	Phil Weiser	Ralph L Carr Colorado Judicial Center	1300 Broadway Fl 10	Denver	CO	80203
Office of the Attorney General	Brian Schwalb	400 6th St NW		Washington	DC	20001
Office of the Attorney General	Kathy Jennings	Carvel State Bldg	820 N French St	Wilmington	DE	19801
Office of the Attorney General	James Uthmeier	State of Florida	The Capitol PL-01	Tallahassee	FL	32399
Office of the Attorney General	Chris Carr	40 Capitol Square SW		Atlanta	GA	30334
Department of the Attorney General	Anne E Lopez	425 Queen St		Honolulu	HI	96813
Iowa Attorney General	Brenna Bird	Hoover State Office Building	1305 E Walnut St	Des Moines	IA	50319
Office of the Attorney General	Raul Labrador	700 W Jefferson St Ste 210	PO Box 83720	Boise	ID	83720
Office of the Attorney General	Kwame Raoul	500 South Second Street		Springfield	IL	62701
Office of the Indiana Attorney General	Todd Rokita	Indiana Government Center South	302 W Washington St Rm 5	Indianapolis	IN	46204
Office of the Attorney General	Kris Kobach	120 SW 10th Ave 2nd Fl		Topeka	KS	66612
Office of the Attorney General	Russell Coleman	700 Capitol Ave Suite 118		Frankfort	KY	40601
Office of the Attorney General	Liz Murrill	PO Box 94005		Baton Rouge	LA	70804
Office of the Attorney General	Andrea Campbell	1 Ashburton Pl 20th Fl		Boston	MA	02108
Office of the Attorney General	Anthony G Brown	200 St Paul Pl		Baltimore	MD	21202
Office of the Attorney General	Aaron Frey	6 State House Station		Augusta	ME	04333
Department of Attorney General	Dana Nessel	PO BOX 30212	525 W. Ottawa St.	Lansing	MI	48909
Office of the Attorney General	Keith Ellison	445 Minnesota St Ste 1400		St Paul	MN	55101
Missouri Attorney General's Office	Andrew Bailey	207 West High Street	PO Box 899	Jefferson City	MO	65102
Mississippi Attorney General	Lynn Fitch	PO Box 220		Jackson	MS	39205
Office of the Attorney General	Austin Knudsen	215 N Sanders 3rd Fl	PO Box 201401	Helena	MT	59620
Attorney General's Office	Jeff Jackson	9001 Mail Service Ctr		Raleigh	NC	27699
Office of the Attorney General	Drew H Wrigley	600 E Boulevard Ave Dept 125		Bismarck	ND	58505
Nebraska Attorney General	Mike Hilgers	2115 State Capitol	PO Box 98920	Lincoln	NE	68509
Office of the Attorney General	John Formella	NH Department of Justice	33 Capitol St	Concord	NH	03301
Office of the Attorney General	Matthew J Platkin	25 Market Street	PO Box 080	Trenton	NJ	08625
Office of the Attorney General	Raul Torrez	408 Galisteo St	Villagra Bldg	Santa Fe	NM	87501
Office of the Attorney General	Dave Yost	30 E Broad St Fl 14		Columbus	OH	43215
Office of the Attorney General	Gentner Drummond	313 NE 21st St		Oklahoma City	OK	73105
Office of the Attorney General	Dan Rayfield	Oregon Department of Justice	1162 Court St NE	Salem	OR	97301
Office of the Attorney General	Dave Sunday	16th Fl Strawberry Square		Harrisburg	PA	17120
Office of the Attorney General	Peter F Neronha	150 S Main St		Providence	RI	02903
Office of the Attorney General	Alan Wilson	PO Box 11549		Columbia	SC	29211
Office of the Attorney General	Marty Jackley	1302 E Hwy 14 Ste 1		Pierre	SD	57501
Office of the Attorney General	Jonathan Skrmetti	PO Box 20207		Nashville	TN	37202
Office of the Attorney General	Ken Paxton	PO Box 12548		Austin	TX	78711
Office of the Attorney General	Derek Brown	Utah State Capitol Complex	350 North State Street Ste 230	Salt Lake City	UT	84114
Office of the Attorney General	Jason S Miyares	202 N 9th St		Richmond	VA	23219
Office of the Attorney General	Charity R Clark	109 State St		Montpelier	VT	05609
Office of the Attorney General	Nick Brown	800 5th Ave Ste 2000		Seattle	WA	98104
Office of the Attorney General	Josh Kaul	PO Box 7857		Madison	WI	53707
Office of the Attorney General	JB McCuskey	State Capitol Complex Bldg 1 Room E 26	1900 Kanawha Blvd E	Charleston	WV	25305
Office of the Attorney General	Bridget Hill	109 State Capital		Cheyenne	WY	82002
Department of Legal Affairs	Gwen Tauiliili-Langkilde	GHC Reid Building, Pago Plaza, 2d flr, Room 220	Territory of American Samoa	Pago Pago	AS	96799
Attorney General Office of Guam	Douglas Moylan	ITC Bldg.	590 S Marine Corps Dr Ste 901	Tamuning	GU	96913
Office of the Attorney General	Edward Manibusan	PO Box 10007		Saipan	MP	96950
PR Department of Justice	Janet Parra-Mercado	PO Box 9020192		San Juan	PR	00902
Department of Justice	Gordon C. Rhea	3438 Kronprindsens Gade	GERS BLDG 2nd Floor	St Thomas	VI	00802

Email

Appropriate Official	Contact Format	State
Office of the Attorney General for Connecticut	All documents sent to CT AG at their dedicated CAFA email inbox.	CT
Office of the Attorney General for Nevada	All documents sent to NV AG at their dedicated CAFA email inbox.	NV
Office of the Attorney General for New York	All documents sent to NY AG at their dedicated CAFA email inbox.	NY

UPS

Appropriate Official	FullName	Address1	Address2	City	State
US Department of Justice	Pamela Bondi	950 Pennsylvania Ave NW		Washington	DC

# **Attachment 2**

**CAFA NOTICE ADMINISTRATOR**

10300 SW Allen Blvd  
Beaverton, OR 97005  
P 503-350-5800  
DL-CAFA@epiqglobal.com

August 8, 2025

**VIA UPS OR USPS PRIORITY MAIL**

**Class Action Fairness Act – Notice to Federal and State Officials**

Dear Federal and State Officials:

Pursuant to the Class Action Fairness Act of 2005 (“CAFA”), codified at 28 U.S.C. § 1715, please find enclosed information from Defendants NBA Properties, Inc. and Dapper Labs, Inc. (collectively “Defendants”) relating to the proposed settlement of a class action lawsuit.

- **Case:** *Fan, et al., v. NBA Properties, Inc.*, Case No. 3:23-cv-05069-SI.
- **Court:** United States District Court for the Northern District of California.
- **Defendant:** NBA Properties, Inc. and Dapper Labs, Inc.
- **Documents Enclosed:** In accordance with the requirements of 28 U.S.C. § 1715, please find copies of the following documents associated with this action on the enclosed CD:
  1. **Per 28 U.S.C. § 1715(b)(1) – Complaint and Any Amended Complaints:**
    - Class Action Complaint (filed October 3, 2023);
    - First Amended Class Action Complaint (filed October 6, 2023);
    - Second Amended Class Action Complaint (filed April 5, 2024); and
    - Third Amended Class Action Complaint (filed November 1, 2024).
  2. **Per 28 U.S.C. § 1715(b)(2) – Notice of Any Scheduled Judicial Hearing:** The Court has scheduled a preliminary approval hearing on August 15, 2025, at 10:00 a.m.
  3. **Per 28 U.S.C. § 1715(b)(3) – Notification to Class Members:**
    - Claim Form (*Exhibit A to the Settlement Agreement*);
    - Email Notice (*Exhibit B to the Settlement Agreement*); and
    - Long Form Notice (*Exhibit C to the Settlement Agreement*).
  4. **Per 28 U.S.C. § 1715(b)(4) – Class Action Settlement Agreement:** The following documents are included:
    - Plaintiffs’ Notice of Motion for Preliminary Approval of Class Action Settlement; Motion for Preliminary Approval of Class Action Settlement; Supporting Memorandum of Points and Authorities;

**CAFA NOTICE ADMINISTRATOR**

10300 SW Allen Blvd  
Beaverton, OR 97005  
P 503-350-5800  
DL-CAFA@epiqglobal.com

- Declaration of Stefan Bogdanovich in Support of Plaintiffs' Motion for Preliminary Approval;
    - Class Action Settlement Agreement (*Exhibit 1 to the Bogdanovich Declaration*);
    - Bursor & Fisher P.A. Firm Resume (*Exhibit 2 to the Bogdanovich Declaration*);
  - Declaration of Cameron R. Azari Esq. Regarding Notice Plan;
    - Epiq Firm Resume (*Attachment 1 to the Azari Declaration*);
  - [Proposed] Order Granting Preliminary Approval of Class Action Settlement; and
  - Order Permitting Motion for Preliminary Approval to be heard at Case Management Conference.
5. **Per 28 U.S.C. § 1715(b)(5) – Any Settlement or Other Agreements:** All Settlements or Agreements between the parties are reflected in the settlement documents included herewith.
6. **Per 28 U.S.C. § 1715(b)(6) – Final Judgment or Notice of Dismissal:** To date, the Court has not issued a final order, judgment or dismissal in the above-referenced action.
7. **Per 28 U.S.C. § 1715(b)(7) – Estimate of Class Members:** The Settlement Class means all individuals in the United States who had NBA Top Shot accounts and Facebook accounts from June 15, 2020 to January 30, 2025. Excluded from the Class is any entity in which Defendants have a controlling interest, and officers or directors, agents, attorneys, and employees of Defendants.
- Pursuant to 28 U.S.C. § 1715(b)(7), CAFA requires a defendant, “if feasible,” to provide the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement, or if not feasible, a reasonable estimate thereof. As described in section 6.2 of the Settlement Agreement, there are approximately 1,221,288 persons potentially in the Settlement Class.
8. **Per 28 U.S.C. § 1715(b)(8) – Judicial Opinions Related to the Settlement:** To date, the Court has not issued a final order or judgment in the above-referenced action.

If you have questions or concerns about this notice or the enclosed materials, please contact this office.

Sincerely,

CAFA Notice Administrator

Enclosures

# Attachment 2

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**From:** NBA Top Shot Settlement Administrator  
<info@nbatopshotvideoprivacyclassactionsettlement.com >  
**To:** [REDACTED]  
**Subject:** Legal Notice of Class Action Settlement

PIN	UniqueID
[REDACTED]	[REDACTED]

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**  
*Fan v. NBA Properties, Inc.*, Case No. 3:23-cv-05069-SI  
(United States District Court for the Northern District of California)

**Our Records Indicate You Have An *NBA Top Shot* Account and May Be Entitled to a Payment from a Class Action Settlement.**

***A court authorized this notice. You are not being sued. This is not a solicitation from a lawyer.***

This notice is to inform you that a proposed settlement has been reached in a class action lawsuit claiming that Defendants, NBA Properties, Inc. and Dapper Labs, Inc., disclosed their subscribers' personally identifiable information ("PII") to Meta via the Meta Tracking Pixel on the nbatopshot.com website without proper consent, in violation of the Video Privacy Protection Act (the "VPPA") and California law. Defendants deny that they violated any law but have agreed to the settlement to avoid the uncertainties and expenses associated with continuing the case.

**Am I a Class Member?** Our records indicate you may be a Class Member. Class Members are all persons in the United States who, from June 15, 2020, to and through January 30, 2025, had an active Facebook account and an NBA Top Shot account.

**What Can I Get?** If approved by the Court, Defendants will establish a Settlement Fund of \$7,050,000.00 to pay all valid claims submitted by the Settlement Class, together with notice and administration expenses, attorneys' fees and costs, and an incentive award. If you are entitled to relief, you may submit a claim to receive a pro rata share of the Settlement Fund, estimated at \$36-\$122 per class member. The settlement also requires Defendants to suspend operation of the Meta Tracking Pixel on the NBA Top Shot website unless and until the VPPA is amended, repealed, or otherwise invalidated—or unless Defendants are otherwise in compliance with that law.

**How Do I Get a Payment?** You must submit a timely and complete Claim Form **no later than December 16, 2025**. You can file a claim by clicking [here](#). Your payment will be sent via your choice of electronic payment—PayPal, Venmo, or Zelle—or by physical check that will be mailed

to you.

**What are My Other Options?** You may exclude yourself from the Class by sending a letter to the Settlement Administrator no later than **November 17, 2025**. If you exclude yourself, you cannot get a settlement payment, but you keep any rights you may have to sue the Defendants over the legal issues in the lawsuit.

You can ask the Court to deny approval by filing an objection. You can't ask the Court to order a different settlement; the Court can only approve or reject the settlement. If the Court denies approval, no settlement payments will be sent out, and the lawsuit will continue. If that is what you want to happen, you should object. You and/or your lawyer have the right to appear before the Court and/or object to the proposed settlement. Your written objection must be filed no later than **November 17, 2025**. Specific instructions about how to object to, or exclude yourself from, the settlement are available at [www.NBATopShotVideoPrivacyClassActionSettlement.com](http://www.NBATopShotVideoPrivacyClassActionSettlement.com).

If you file a claim or do nothing, and the Court approves the settlement, you will be bound by all of the Court's orders and judgments. In addition, your claims relating to the alleged disclosure of subscriber information to Facebook in this case against the Defendants will be released.

**Who Represents Me?** The Court has appointed lawyers Stefan Bogdanovich and L. Timothy Fisher of Bursor & Fisher, P.A. to represent the class. These attorneys are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

**When Will the Court Consider the Proposed Settlement?** The Court will hold the Final Approval Hearing at 10:00 a.m. on Friday, December 19, 2025, via Zoom before the Honorable District Judge Susan Illston. All members of the public can attend the public hearing by visiting <https://cand-uscourts.zoomgov.com/j/1612108939?pwd=RFIsVmV0ZlFYb1ovQzRNTVlXNzcydz09>. At that hearing, the Court will hear any objections concerning the fairness of the settlement; determine the fairness of the settlement; decide whether to approve Class Counsel's request for attorneys' fees and costs; and decide whether to award the Class Representatives \$10,000 from the Settlement Fund for their service in helping to bring and settle this case. Defendants have agreed to pay Class Counsel reasonable attorneys' fees in an amount to be determined by the Court. Class Counsel is entitled to seek no more than one-third of the Settlement Fund, but the Court may award less than this amount.

**How Do I Get More Information?** For more information (including the full Notice, Claim Form, and Settlement Agreement), go to [www.NBATopShotVideoPrivacyClassActionSettlement.com](http://www.NBATopShotVideoPrivacyClassActionSettlement.com); contact the Settlement Administrator at 1-888-854-8281 or NBA Top Shot Video Privacy Settlement Administrator, P.O. Box 4130, Portland, OR 97208-4130; or call Class Counsel at 1-646-837-7150.

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If [REDACTED] should not be subscribed or if you need to change your subscription information for NBA Top Shot, [please use this preferences page](#).

# Attachment 3

**UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA***Fan v. NBA Properties, Inc.*, Case No. 3:23-cv-05069-SI**Our Records Indicate You Have An NBA Top Shot Account and May Be Entitled to a Payment from a Class Action Settlement.***A Court authorized this Notice. You are not being sued. This is not a solicitation from a lawyer.*

- A proposed settlement has been reached in a class action lawsuit against NBA Properties, Inc. and Dapper Labs, Inc. The class action lawsuit accuses NBA Properties, Inc. and Dapper Labs, Inc. of disclosing NBA Top Shot account holders' personally identifiable information ("PII") to Meta via the Meta Tracking Pixel on the <https://www.nbatopshot.com/> website without proper consent, in violation of the Video Privacy Protection Act (the "VPPA") and California law. Defendants deny that they violated any law but have agreed to the settlement to avoid the uncertainties and expenses associated with continuing the case.
- You are included if you are a person in the United States who, from June 15, 2020, to and through January 30, 2025, had an active Facebook account and an NBA Top Shot account.
- Persons included in the settlement will be eligible to receive a pro rata (meaning equal) portion of the Available Settlement Fund, which Class Counsel anticipates will be approximately \$36-122. The settlement also requires Defendants to suspend operation of the Meta Tracking Pixel on the NBA Top Shot website, unless and until the VPPA is amended, repealed, or otherwise invalidated, unless Defendants are otherwise in compliance with that law.
- Read this Notice carefully. Your legal rights are affected whether you act or don't act.

**YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

<b>SUBMIT A CLAIM FORM BY DECEMBER 16, 2025</b>	This is the only way to receive a payment.
<b>EXCLUDE YOURSELF BY NOVEMBER 17, 2025</b>	You will receive no benefits, but you will retain any rights you currently have to sue the Defendants about the claims in this case.
<b>OBJECT BY NOVEMBER 17, 2025</b>	Write to the Court explaining why you don't like the settlement.
<b>ATTEND THE HEARING VIA ZOOM ON DECEMBER 19, 2025</b>	Ask to speak in Court about your opinion of the settlement.
<b>DO NOTHING</b>	You won't get a share of the settlement benefits and will give up your rights to sue the Defendants about the claims in this case.

Your rights and options—**and the deadlines to exercise them**—are explained in this Notice.

## BASIC INFORMATION

### 1. Why was this Notice issued?

A Court authorized this Notice because you have a right to know about a proposed settlement of this class action lawsuit and about all of your options, before the Court decides whether to give final approval to the settlement. This Notice explains the lawsuit, the settlement, and your legal rights.

The Honorable Susan Illston, of the U.S. District Court for the Northern District of California, is overseeing this case. The case is called *Fan v. NBA Properties, Inc.*, Case No. 3:23-cv-05069-SI. The persons who have sued are called the Plaintiffs. The Defendants are NBA Properties, Inc. and Dapper Labs, Inc.

### 2. What is a class action?

In a class action, one or more people called the Class Representative(s) (in this case, Thomas Fan, Matthew Kimoto, and Clinton Brown) sue on behalf of a group or a “class” of people who have similar claims. In a class action, the Court resolves the issues for all class members, except for those who exclude themselves from the class.

### 3. What is this lawsuit about?

This lawsuit claims that Defendants violated the Video Privacy Protection Act, 18 U.S.C. § 2710, *et seq.* (“VPPA”) and California law by disclosing their NBA Top Shot account holders’ personally identifiable information (“PII”) to Meta via the Meta Tracking Pixel on the <http://www.nbatopshot.com/> website without consent. The Defendants deny that they violated any law. The Court has not determined who is right. Rather, the Parties have agreed to settle the lawsuit to avoid the uncertainties and expenses associated with ongoing litigation.

### 4. Why is there a settlement?

The Court has not decided whether the Plaintiffs or the Defendants should win this case. Instead, both sides agreed to a settlement. That way, they avoid the uncertainties and expenses associated with ongoing litigation, and Settlement Class Members will get compensation sooner rather than, if at all, after the completion of a trial.

## WHO’S INCLUDED IN THE SETTLEMENT?

### 5. How do I know if I am in the Settlement Class?

The **Settlement Class** is defined as:

All persons in the United States who, from June 15, 2020, to and through January 30, 2025, had an active Facebook account and an NBA Top Shot account.

## THE SETTLEMENT BENEFITS

### 6. What does the settlement provide?

**Monetary Relief:** Defendants have created a Settlement Fund totaling \$7,050,000.00. Settlement Class Member payments, as well as the cost to administer the settlement, the cost to inform people about the settlement, attorneys’ fees, and an award to the Class Representatives will come out of this fund (see Question 13).

**Prospective Changes:** In addition to this monetary relief, the settlement also requires Defendants to suspend operation of the Meta Tracking Pixel on the NBA Top Shot website, unless and until the VPPA is amended, repealed, or otherwise invalidated, unless the Defendants are otherwise in compliance with that law.

A detailed description of the settlement benefits can be found in the Settlement Agreement.

QUESTIONS? CALL 1-888-854-8281 TOLL-FREE, OR VISIT  
NBATOPSHOTVIDEOPRIVACYCLASSACTIONSETTLEMENT.COM

## 7. How much will my payment be?

If you are a member of the Settlement Class, you may submit a Claim Form to receive a portion of the Settlement Fund. The amount of this payment will depend on how many of the Settlement Class Members file valid claims. Each Settlement Class Member who files a valid claim will receive a proportionate share of the Available Settlement Fund, which Class Counsel anticipates will be approximately \$36-\$122. You can contact Class Counsel at 1-646-837-7150 to inquire as to the number of claims filed.

## 8. When will I get my payment?

The hearing to consider the fairness of the settlement is scheduled December 19, 2025, at 10:00 a.m. If the Court approves the settlement, eligible Settlement Class Members whose claims were approved by the Settlement Administrator will receive their payment 90 days after the settlement has been finally approved and/or any appeals process is complete. Your payment will be sent via your choice of an electronic payment, PayPal, Venmo, Zelle, or via a physical check that will be mailed to you.

### HOW TO GET BENEFITS

## 9. How do I get a payment?

If you are a Settlement Class Member and you want to get a payment, you **must** complete and submit a Claim Form by **December 16, 2025**. Claim Forms can be found and submitted at [NBATopShotVideoPrivacyClassActionSettlement.com](http://NBATopShotVideoPrivacyClassActionSettlement.com), or by printing and mailing a paper Claim Form, copies of which are available for download at [NBATopShotVideoPrivacyClassActionSettlement.com](http://NBATopShotVideoPrivacyClassActionSettlement.com).

We also encourage you to submit your claim online. Not only is it easier and more secure, but it is completely free and takes only minutes!

### REMAINING IN THE SETTLEMENT

## 10. What am I giving up if I stay in the class?

If the settlement becomes final, you will give up your right to sue Defendants for the claims this settlement resolves. The Settlement Agreement describes the specific claims you are giving up against the Defendants. You will be “releasing” the Defendants and certain of their affiliates described in Section 1.29 of the Settlement Agreement. Unless you exclude yourself (see Question 14), you are “releasing” the claims, regardless of whether you submit a claim or not. Additional information about the scope of the released claims and the operation and legal impact of the release can be found in Sections 1.28, 3.1, 3.2, and 10.6 of the Settlement Agreement. The Settlement Agreement is available through the “Court Documents” link on the website.

The Settlement Agreement describes the Released Claims with specific descriptions, so read it carefully. If you have any questions you can talk to the lawyers listed in Question 12 for free or you can, of course, talk to your own lawyer if you have questions about what this means.

## 11. What happens if I do nothing at all?

If you do nothing, you won't get any benefits from this settlement. But, unless you exclude yourself, you won't be able to start a lawsuit or be part of any other lawsuit against the Defendants for the claims being resolved by this settlement.

## THE LAWYERS REPRESENTING YOU

### 12. Do I have a lawyer in the case?

The Court has appointed Stefan Bogdanovich and L. Timothy Fisher of Bursor & Fisher, P.A. to be the attorneys representing the Settlement Class. They are called “Class Counsel.” They believe, after conducting an extensive investigation, that the Settlement Agreement is fair, reasonable, and in the best interests of the Settlement Class. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

### 13. How will the lawyers be paid?

Class Counsel’s attorneys’ fees, costs, and expenses will be paid from the Settlement Fund in an amount determined and awarded by the Court. Class Counsel is entitled to seek no more than one-third of the \$7,050,000 Settlement Amount, but the Court may award less than this amount.

As approved by the Court, the Class Representatives will be paid a Service Award from the Settlement Fund for helping to bring and settle the case. The Class Representatives will seek no more than \$10,000 as a Service Award, but the Court may award less than this amount.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

### 14. How do I get out of the settlement?

To exclude yourself from the settlement, you must mail or otherwise deliver a letter (or request for exclusion) stating that you want to be excluded from the *Fan v. NBA Properties, Inc.*, Case No. 3:23-cv-05069-SI settlement. Your letter or request for exclusion must also include your name, your address, your signature, the name and number of this case, and a statement that you wish to be excluded. You must mail or deliver your exclusion request no later than **November 17, 2025**, to:

NBA Top Shot Video Privacy Settlement  
P.O. Box 4130  
Portland, OR 97208-4130

### 15. If I don’t exclude myself, can I sue the Defendants for the same thing later?

No. Unless you exclude yourself, you give up any right to sue the Defendants for the claims being resolved by this settlement.

### 16. If I exclude myself, can I get anything from this settlement?

No. If you exclude yourself, do not submit a Claim Form to ask for benefits.

## OBJECTING TO THE SETTLEMENT

### 17. How do I object to the settlement?

If you’re a Settlement Class Member, you can ask the Court to deny approval by filing an objection. You can’t ask the Court to order a different settlement; the Court can only approve or reject the settlement. If the Court denies approval, no Cash Awards will be sent out, and the lawsuit will continue. If that is what you want to happen, you should object.

If you’re a Settlement Class Member, you can object to the settlement if you don’t like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must file with the Court a letter or brief stating that you object to the settlement in *Fan v. NBA Properties, Inc.*, Case No. 3:23-cv- 05069-SI and identify all your reasons for your objections (including citations and supporting evidence) and attach any materials you rely on for your objections. Your letter or brief must also include your name, an explanation of the basis upon which you claim to be a Settlement Class Member, including information sufficient to identify your current Facebook page or a screenshot showing that you were a Facebook member during the class period, the name

QUESTIONS? CALL 1-888-854-8281 TOLL-FREE, OR VISIT  
NBATOPSHOTVIDEOPRIVACYCLASSACTIONSETTLEMENT.COM

and contact information of any and all attorneys representing, advising, or in any way assisting you in connection with your objection, and your signature. If you, or an attorney assisting you with your objection, have ever objected to any class action settlement where you or the objecting attorney has asked for or received payment in exchange for dismissal of the objection (or any related appeal) without modification to the settlement, you must include a statement in your objection identifying each such case by full case caption. All objections will be scanned into the electronic case docket, and the parties will receive electronic notices of filings.

Class Counsel will file with the Court and post on the website its request for attorneys' fees by October 7, 2025.

If you want to appear and speak at the Final Approval Hearing to object to the settlement, with or without a lawyer (explained below in answer to Question Number 21), you must inform the Court at least two weeks prior to the hearing on **December 5, 2025** by filing a "Notice of Intent to Appear in *Fan v. NBA Properties, Inc.*, Case No. 3:23-cv-05069-SI."

#### Court

The Honorable Susan Illston  
San Francisco U.S. Courthouse  
450 Golden Gate Avenue, Courtroom 1, 17th Floor  
San Francisco, CA 94102

### 18. What's the difference between objecting and excluding myself from the settlement?

Objecting simply means telling the Court that you don't like something about the settlement. You can object only if you stay in the class. Excluding yourself from the class is telling the Court that you don't want to be part of the class. If you exclude yourself, you have no basis to object because the case no longer affects you.

#### THE COURT'S FINAL APPROVAL HEARING VIA ZOOM

### 19. When and where will the Court decide whether to approve the settlement?

The Court will hold the Final Approval Hearing at 10:00 a.m. Pacific Standard Time on **Friday, December 19, 2025**. All members of the public can attend the public hearing by visiting:

<https://cand-uscourts.zoomgov.com/j/1612108939?pwd=RFIsVmV0ZlFYbl0vQzRNTVlXNzcyd209>.

The purpose of the hearing will be for the Court to determine whether to approve the settlement as fair, reasonable, adequate, and in the best interests of the class; to consider the Class Counsel's request for attorneys' fees and expenses; and to consider the request for a Service Award to the Class Representatives. At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the settlement.

The hearing may be postponed to a different date or time without notice, so it is a good idea to check [NBATopShotVideoPrivacyClassActionSettlement.com](http://NBATopShotVideoPrivacyClassActionSettlement.com) or call 1-646-837-7150. If, however, you timely objected to the settlement and advised the Court that you intend to appear and speak at the Final Approval Hearing, you will receive notice of any change in the date of such Final Approval Hearing.

### 20. Do I have to attend the Zoom hearing?

No. Class Counsel will answer any questions the Court may have. But you are welcome to attend via Zoom. If you send an objection or comment, you don't have to attend. As long as you filed and mailed your written objection on time, the Court will consider it. You may also pay another lawyer to attend, but it's not required.

### 21. May I speak at the Zoom hearing?

Yes. You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must file a "Notice of Intent to Appear in *Fan v. NBA Properties, Inc.*, Case No. 3:23-cv-05069-SI." It must include your name, address, telephone number, and signature as well as the name and address of your lawyer, if one is appearing for you. Your notice of intent to appear must be filed with the Court no later than **December 5, 2025**, and be sent to the address listed in Question 17.

QUESTIONS? CALL 1-888-854-8281 TOLL-FREE, OR VISIT  
[NBATOPSHOTVIDEOPRIVACYCLASSACTIONSETTLEMENT.COM](http://NBATOPSHOTVIDEOPRIVACYCLASSACTIONSETTLEMENT.COM)

**GETTING MORE INFORMATION****22. Where do I get more information?**

This Notice summarizes the settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement at [NBATopShotVideoPrivacyClassActionSettlement.com](http://NBATopShotVideoPrivacyClassActionSettlement.com). You may also write with questions to NBA Top Shot Video Privacy Settlement, P.O. Box 4130, Portland, OR 97208-4130. You can call the Settlement Administrator at 1-888-854-8281 or Class Counsel at 1-646-837-7150, if you have any questions. Before doing so, however, please read this full Notice carefully. You may also find additional information elsewhere on the case website.

QUESTIONS? CALL 1-888-854-8281 TOLL-FREE, OR VISIT  
[NBATOPSHOTVIDEOPRIVACYCLASSACTIONSETTLEMENT.COM](http://NBATOPSHOTVIDEOPRIVACYCLASSACTIONSETTLEMENT.COM)

# Attachment 4



PayPal

PayPal Email:

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PayPal Phone:

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Zelle

Zelle Email:

[Grid of 28 empty boxes for email address]

Zelle Phone:

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Check

**PART TWO: PROOF OF FACEBOOK ACCOUNT**

**PROOF OF FACEBOOK ACCOUNT:** You may submit proof of your Facebook account by providing your Facebook Profile URL below or by providing a screenshot of your Facebook Profile with your claim submission.

To provide your Facebook Profile URL:

1. Open Facebook in a web browser and log in.
2. Navigate to your Facebook Profile.
3. Once on your Facebook Profile, look at the URL in your browser’s address bar.
4. Write your Facebook Profile URL here: <https://facebook.com/>\_\_\_\_\_

To provide a screenshot of your Facebook Profile:

1. Open Facebook in a web browser and log in.
2. Navigate to your Facebook Profile.
3. Take a screenshot of your Facebook Profile.
4. Print the screenshot and include it with your claim submission. Your completed Claim Form and documentation can be mailed to the Settlement Administrator at the following mailing address:

NBA Top Shot Video Privacy Settlement  
P.O. Box 4130  
Portland, OR 97208-4130

QUESTIONS? VISIT [NBATopShotVideoPrivacyClassActionSettlement.com](http://NBATopShotVideoPrivacyClassActionSettlement.com) OR CALL 888-854-8281 TOLL-FREE

**PART THREE: ATTESTATION UNDER PENALTY OF PERJURY**

I declare under penalty of perjury under the laws of the United States of America that I held an account on the NBA Top Shot website using the email address and username below between June 15, 2020, and January 30, 2025, and that all of the information on this Claim Form is true and correct to the best of my knowledge. I also declare under penalty of perjury that the Facebook account identified in this form belongs to me and no one else. I understand that my Claim Form may be subject to audit, verification, and Court review.

**NBA Top Shot Email Address**

**NBA Top Shot Username**

**SIGNATURE**

DATE   -   -

**MM**

**DD**

**YYYY**

**Please keep a copy of your Claim Form for your records.**

QUESTIONS? VISIT [NBATopShotVideoPrivacyClassActionSettlement.com](http://NBATopShotVideoPrivacyClassActionSettlement.com) OR CALL 888-854-8281 TOLL-FREE

# Attachment 5

**From:** [info\\_nbatopshotvideoprivacyclassactionsettlem](mailto:info_nbatopshotvideoprivacyclassactionsettlem) <[info@nbatopshotvideoprivacyclassactionsettlement.com](mailto:info@nbatopshotvideoprivacyclassactionsettlement.com)>  
**To:** [REDACTED]  
**Subject:** Legal Notice of Class Action Settlement Thursday,

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PIN	UniqueID
[REDACTED]	[REDACTED]

To submit your claim on the Settlement Website, click [here](#).

**REMINDER NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**  
*Fan v. NBA Properties, Inc.*, Case No. 3:23-cv-05069-SI  
**(United States District Court for the Northern District of California)**

**Our Records Indicate You Have An *NBA Top Shot* Account and May Be Entitled to a Payment from a Class Action Settlement.**

***A court authorized this reminder notice. The email notice was previously sent to you in September 2025. You are not being sued. This is not a solicitation from a lawyer.***

This notice is to inform you that a proposed settlement has been reached in a class action lawsuit claiming that Defendants, NBA Properties, Inc. and Dapper Labs, Inc., disclosed their subscribers' personally identifiable information ("PII") to Meta via the Meta Tracking Pixel on the nbatopshot.com website without proper consent, in violation of the Video Privacy Protection Act (the "VPPA") and California law. Defendants deny that they violated any law but have agreed to the settlement to avoid the uncertainties and expenses associated with continuing the case.

**Am I a Class Member?** Our records indicate you may be a Class Member. Class Members are all persons in the United States who, from June 15, 2020, to and through January 30, 2025, had an active Facebook account and an NBA Top Shot account.

**What Can I Get?** If approved by the Court, Defendants will establish a Settlement Fund of \$7,050,000.00 to pay all valid claims submitted by the Settlement Class, together with notice and administration expenses, attorneys' fees and costs, and an incentive award. If you are entitled to relief, you may submit a claim to receive a pro rata share of the Settlement Fund, estimated at \$36-\$122 per class member. The settlement also requires Defendants to suspend operation of the Meta Tracking Pixel on the NBA Top Shot website unless and until the VPPA is amended, repealed, or otherwise invalidated—or unless Defendants are otherwise in compliance with that law.

**How Do I Get a Payment?** You must submit a timely and complete Claim Form **no later than December 16, 2025**. You can file a claim by clicking [here](#). Your payment will be sent via your choice of electronic payment—PayPal, Venmo, or Zelle—or by physical check that will be mailed to you.

**What are My Other Options?** You may exclude yourself from the Class by sending a letter to

the Settlement Administrator no later than **November 17, 2025**. If you exclude yourself, you cannot get a settlement payment, but you keep any rights you may have to sue the Defendants over the legal issues in the lawsuit.

You can ask the Court to deny approval by filing an objection. You can't ask the Court to order a different settlement; the Court can only approve or reject the settlement. If the Court denies approval, no settlement payments will be sent out, and the lawsuit will continue. If that is what you want to happen, you should object. You and/or your lawyer have the right to appear before the Court and/or object to the proposed settlement. Your written objection must be filed no later than **November 17, 2025**. Specific instructions about how to object to, or exclude yourself from, the settlement are available at [www.NBATopShotVideoPrivacyClassActionSettlement.com](http://www.NBATopShotVideoPrivacyClassActionSettlement.com).

If you file a claim or do nothing, and the Court approves the settlement, you will be bound by all of the Court's orders and judgments. In addition, your claims relating to the alleged disclosure of subscriber information to Facebook in this case against the Defendants will be released.

**Who Represents Me?** The Court has appointed lawyers Stefan Bogdanovich and L. Timothy Fisher of Bursor & Fisher, P.A. to represent the class. These attorneys are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

**When Will the Court Consider the Proposed Settlement?** The Court will hold the Final Approval Hearing at 10:00 a.m. on Friday, December 19, 2025, via Zoom before the Honorable District Judge Susan Illston. All members of the public can attend the public hearing by visiting <https://cand-uscourts.zoomgov.com/j/1612108939?pwd=RFIsVmV0ZlFYb1ovQzRNTVlXNzcydz09>. At that hearing, the Court will hear any objections concerning the fairness of the settlement; determine the fairness of the settlement; decide whether to approve Class Counsel's request for attorneys' fees and costs; and decide whether to award the Class Representatives \$10,000 from the Settlement Fund for their service in helping to bring and settle this case. Defendants have agreed to pay Class Counsel reasonable attorneys' fees in an amount to be determined by the Court. Class Counsel is entitled to seek no more than one-third of the Settlement Fund, but the Court may award less than this amount.

**How Do I Get More Information?** For more information (including the full Notice, Claim Form, and Settlement Agreement), go to [www.NBATopShotVideoPrivacyClassActionSettlement.com](http://www.NBATopShotVideoPrivacyClassActionSettlement.com); contact the Settlement Administrator at 1-888-854-8281 or NBA Top Shot Video Privacy Settlement Administrator, P.O. Box 4130, Portland, OR 97208-4130; or call Class Counsel at 1-646-837-7150.

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If [REDACTED] should not be subscribed or if you need to change your subscription information for NBA Top Shot, [please use this preferences page](#).

# Attachment 6



**Exclusion Report**  
***Fan v. NBA Properties Inc. et al***

Number	Name
1	Randall Bozzini
2	Kevin Greco

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

THOMAS FAN, MATTHEW KIMOTO, and  
CLINTON BROWN, on behalf of themselves  
and all others similarly situated,

Plaintiffs,

v.

NBA PROPERTIES, INC. and DAPPER LABS,  
INC.,

Defendants.

Case No. 3:23-cv-05069-SI

**[PROPOSED] FINAL APPROVAL  
ORDER AND JUDGMENT**

1 WHEREAS, pursuant to Fed. R. Civ. P. (“Rule”) 23(a), 23(b)(3), and 23(e) of the Federal  
2 Rules of Civil Procedure, the parties seek entry of an order granting final approval of the  
3 Settlement of this Action pursuant to the settlement agreement fully executed on or about July 29,  
4 2025 (the “Settlement Agreement”), which, together with its attached exhibits, sets forth the  
5 terms and conditions for a proposed Settlement of the Action and dismissal of the Action with  
6 prejudice;

7 WHEREAS, the Court granted preliminary approval of the Settlement on August 19,  
8 2025; and

9 WHEREAS, the Court has read and considered the Settlement Agreement and its exhibits,  
10 and Plaintiffs’ Memorandum in Support of Motion for Final Approval of Class Action  
11 Settlement;

12 IT IS HEREBY **ORDERED** as follows:

13 1. Defined Terms. This Order incorporates by reference the definitions in the  
14 Settlement Agreement, and all terms used in this Order shall have the same meanings as set forth  
15 in the Settlement Agreement.

16 2. Class Certification for Settlement Purposes Only: The Court finds, solely for  
17 purposes of the Settlement, that the Rule 23 criteria for certification of the Settlement Class exists  
18 in that: (a) the Settlement Class is so numerous that joinder of all Settlement Class Members in  
19 the Action is impracticable; (b) there are questions of law and fact common to the Settlement  
20 Class that predominate over any individual questions; (c) the claims of the Settlement Class  
21 Representatives are typical of the claims of the Settlement Class; (d) the Settlement Class  
22 Representatives and Settlement Class Counsel have and will continue to fairly and adequately  
23 represent and protect the interests of the Settlement Class; and (e) a class action is superior to all  
24 other available methods for the fair and efficient adjudication of the controversy.

25 3. Class Definition: Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the  
26 Court preliminarily certifies, solely for purposes of effectuating the Settlement Agreement, the  
27 following Settlement Class: all individuals in the United States who had NBA Top Shot accounts  
28 and Facebook accounts from June 15, 2020 to January 30, 2025. Excluded from the Settlement

1 Class are any entity in which Defendants have a controlling interest, and officers, directors,  
2 agents, attorneys, and employees of Defendants.

3 4. Class Representatives and Class Counsel: The Court appoints Bursor & Fisher,  
4 P.A. as Class Counsel for the Settlement Class. The Court appoints Thomas Fan, Matthew  
5 Kimoto, and Clinton Brown as the Class Representatives.

6 5. Class Notice: Notice of the pendency of this action as a class action and of the  
7 proposed settlement was given to Settlement Class Members in a manner reasonably calculated to  
8 provide the best notice practicable under the circumstances. The form and method of notifying the  
9 Settlement Class Members of the pendency of the Action as a class action and of the terms and  
10 conditions of the proposed Settlement met the requirements of Fed. R. Civ. P. 23, due process,  
11 and any other applicable law, and constituted due and sufficient notice to all persons and entities  
12 entitled thereto. The record establishes that the Settlement Administrator served the required  
13 notices under the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, with the documentation  
14 required by 28 U.S.C. § 1715(b)(1-8).

15 6. Approval of the Settlement: The Court finds that the requirements of Rule 23(e) of  
16 the Federal Rule of Civil Procedure and other laws and rules applicable to final settlement  
17 approval of class actions have been satisfied, and the Court approves the settlement of this Action  
18 as memorialized in the Settlement Agreement as being fair, just reasonable and adequate to the  
19 Settlement Class Members. The Court further finds that the Settlement Agreement substantially  
20 fulfills the purposes and objectives of the class action and provides substantial relief to the  
21 Settlement Class Members without the risks, burdens, costs or delays associated with continued  
22 litigation, trial and/or appeal. The Settlement is not a finding or admission of liability by the  
23 Defendants or any other person, nor a finding of the validity of any claims asserted in the Action  
24 or of any wrongdoing or any violation of law.

25 7. The Court has considered and finds Class Counsel and the Class Representatives  
26 have adequately represented the Settlement Class Members. Plaintiffs, by and through their  
27 counsel, have investigated the pertinent facts and law, and have evaluated the risks associated  
28 with continued litigation, class certification, trial, and/or appeal. The Court finds that the

1 Settlement Agreement was reached in the absence of collusion, is the product of informed, good-  
2 faith, arms-length negotiations between the parties and their capable and experienced counsel.

3 8. The Court finds that the Settlement is effective in appropriately distributing relief  
4 to the Settlement Class in light of the claims and defenses asserted, that the method of processing  
5 Settlement Class Member claims is reasonable and appropriate, and that the Settlement  
6 Agreement treats all Settlement Class Members equitably relative to each other.

7 9. The Court has evaluated this overall reaction of the Class to the Settlement and  
8 finds that the overall acceptance of the Settlement Agreement by Settlement Class Members  
9 supports the Court’s conclusion that the Settlement Agreement is in all respects fair, reasonable,  
10 adequate, and in the best interests of the Settlement Class Members.

11 10. Disbursement of Settlement Fund: The Parties are directed to consummate the  
12 Settlement Agreement in accordance with its terms and conditions. The parties are authorized to  
13 disburse funds from the Settlement Fund in accordance with the terms and conditions of the  
14 Settlement Agreement.

15 11. Settlement Administrator: Epiq Systems, Inc. (“Epiq”) is finally appointed to  
16 continue to serve as the Settlement Administrator. The Settlement Administrator is directed to  
17 process all Claim Forms in accordance with the Settlement Agreement. Class Counsel and  
18 Counsel for Defendants are hereby authorized to employ all reasonable procedures in connection  
19 with administration of the Settlement Agreement that are not materially inconsistent with this  
20 Order or the Settlement Agreement.

21 12. Settlement Administration Expenses: The Court authorizes the payment of the  
22 Settlement Administration Expenses from the Settlement Fund pursuant to Paragraphs 1.32 and  
23 1.37 of the Settlement Agreement.

24 13. Attorneys’ Fees, Costs and Expenses: Pursuant to Fed. R. Civ. P. 23(h), the Court  
25 hereby awards Class Counsel total attorneys’ fees, costs and expenses in the amount of  
26 \$2,350,000.00.

27 14. Service Awards: The Court awards \$10,000 each to Plaintiffs Thomas Fan,  
28 Matthew Kimoto, and Clinton Brown as service awards for their participation in this matter.

1           15.    Dismissal: The Action is hereby dismissed with prejudice and without costs as  
2 against Defendants and the Released Parties.

3           16.    Releases: Class Representatives and all Settlement Class Members (except any  
4 such person who has filed a proper and timely request for exclusion) and all persons acting on  
5 behalf of or in concert with any of the above, are hereby permanently barred and enjoined from  
6 instituting, commencing or prosecuting, either directly or in any other capacity, any and all of the  
7 Released Claims against any of the Released Parties. The Court finds that issuance of the  
8 permanent injunction described in this paragraph is necessary and appropriate in aid of the  
9 Court’s jurisdiction over this Action and to protect and effectuate this Order.

10          17.    Judgment: This Settlement Approval Order and Final Judgment constitutes a  
11 judgment within the meaning and for purposes of Rule 54 of the Federal Rules of Civil  
12 Procedure. Without affecting the finality of the Settlement Approval Order and Final Judgment in  
13 any way, this Court hereby retains continuing jurisdiction over: (a) the disposition of the  
14 settlement benefits and (b) the settling parties for purposes of construing, enforcing and  
15 administering the Settlement Agreement.

16          18.    Retaining Jurisdiction. This Court shall maintain continuing jurisdiction over  
17 these settlement proceedings to ensure the effectuation thereof for the benefit of the Class, and for  
18 any other necessary purpose. Without further order of the Court, the settling parties may agree to  
19 reasonably necessary extensions of time to carry out any of the provisions of the Settlement  
20 Agreement.

21  
22  
23 Dated: \_\_\_\_\_

\_\_\_\_\_  
SUSAN ILLSTON  
United States District Judge