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14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION

17 JANE DOE,
18

19 Plaintiff,

20 v.

21 ROBLOX CORPORATION,
22

23 Defendant.

CASE NO.: 3:21-cv-03943-WHO

**PLAINTIFF'S NOTICE OF
MOTION AND MOTION IN
SUPPORT OF FINAL APPROVAL
OF A CLASS ACTION
SETTLEMENT**

Date: September 27, 2023
Time: 2:00 pm
Judge: William H. Orrick
Courtroom: 2, 17th Floor

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Fax: 312.589.6378
Counsel for Plaintiff and the Settlement Class

1 **I. INTRODUCTION**

2 Plaintiff and Class Counsel previously presented the Court with a settlement in this
3 groundbreaking case, which the Court preliminarily approved: the Settlement returns a \$10 million
4 fund—nearly 50% of all losses—to the Settlement Class, provides that relief to virtually every
5 Settlement Class member without the need for a claim form, and secures forward-looking
6 injunctive relief that ends the entire harm at issue in the case and saves the Class \$31 million over
7 the next four years. The Administrator has now disseminated notice to the Settlement Class. And
8 the Settlement has been met with overwhelming support.

9 Only a small percentage of the Settlement Class has opted out, and three documents that
10 could loosely be considered objections were filed with the Court, only one of which was from an
11 actual Class Member. The Class Member’s objection takes no issue with the substance of the deal,
12 which is further evidence of the Settlement’s fairness—the second submission is not from a Class
13 Member, and the third is from an organization seeking to file an amicus brief. Plaintiff previously
14 suggested to the Court that Class Members here will value Robux just as they would real dollars,
15 and their actions have confirmed that to be the case: only about 3% of those eligible to elect to
16 receive cash in lieu of Robux have done so. And only about 0.01% of the Class has opted out.

17 The favorable reaction of the Class should come as no surprise: this Settlement
18 accomplishes what Roblox users want—the return of their Robux at an exceptional rate.¹ Indeed,
19 one TikTok influencer in the Settlement Class created a video about the Settlement with over 2.2
20 million views describing the Settlement and emphasizing, “I’m choosing to do nothing [be]cause I
21 want just my Robux back.”² The comments underneath that video show dozens of users eagerly

22
23 ¹ A proposed amicus brief, filed by Truth in Advertising (“TINA”), willfully ignores this
24 reality in arguing that tiny monetary sums should be returned to the Settlement Class and that the
25 Court should impose injunctive relief that is all but impossible to order. Class Counsel requested
26 that the Court reject TINA’s brief as improper commentary by an inexperienced, roving “amicus,” but
27 the Court will find all of TINA’s critiques addressed here.

28 ² See *ecjcv, ! IMPORTANT! Roblox message telling about class action settlement!*, TikTok
(June 15, 2023), <https://www.tiktok.com/@ecjcv/video/7245078775241723179>. The video has
also received over 279,000 “likes,” 39,000 “bookmarks,” and nearly 6,000 comments. Another
lawyer-influencer on TikTok also posted a video describing the Settlement with over 1.2 million
views, 206,000 “likes,” 7,600 comments, and 35,000 “bookmarks.” See *thelawyerangela, Get ur*
#roblox #robloxedit #robux #classaction #lawsuit #money #classactionsettlement, TikTok (May
12, 2023), <https://www.tiktok.com/@thelawyerangela/video/7232396806381047086>.

1 anticipating receipt of Robux under the Settlement, demonstrating that Class Members see real
2 value in that relief.³ The Court should have no trouble approving this Settlement as fair,
3 reasonable, and adequate.

4 **II. FACTUAL BACKGROUND**

5 As the Court well knows, this case concerns an alleged scheme by Roblox to enrich itself
6 at the expense of its user base, which is comprised almost entirely of minors. Roblox owns and
7 operates a metaverse in which children interact through avatars. Users can outfit their avatars with
8 items designed and uploaded by other users. These items must be purchased with Robux, the
9 metaverse's in-game currency, which are acquired with US Dollars. To juice the demand for
10 Robux, and thereby increase Roblox's own revenues, Plaintiff alleges that Roblox would
11 arbitrarily delete, or "moderate," content on the platform, without providing the affected user with
12 a refund. Thus, an affected user would need to purchase replacement items, perhaps after
13 purchasing additional Robux. The case attacks this alleged scheme principally under California
14 statutory and common-law fraud theories.

15 The Settlement reached by the parties here does two things to alleviate the injuries caused
16 by this alleged scheme. First, users whose items were deleted will be entitled to a refund of the
17 Robux they spent on these items, relief they can receive automatically, without having to submit a
18 claim. If a user had enough items deleted that he or she would be entitled to at least \$10 worth of
19 Robux under the Settlement, that user would have the option of receiving their Settlement benefits
20 in cash in lieu of Robux. Second, the Settlement locks into place a refund program that Roblox
21 instituted in response to the lawsuit which has already returned nearly \$5 million to the Settlement
22 Class, and which will save the Settlement Class an additional \$30 million over the next four years.

23 Since the Court preliminarily approved the Settlement, the parties have effectuated the
24 approved Notice Plan, which has reached over 90% of the Class through e-mail and over 99% of

25
26 ³ See Comments to TikTok Video by ecjcy, *supra* (e.g., "ok so where is my robux," "still
27 haven't gotten my robux back," "where's my robux," "nah where's my robux then," "Finally
28 boutta get robux for all the shirts that got deleted & i got no refunds for," "I have so many
deleted items that I'm still waiting for robux back on," "imma get so much robux," "Omg I got
the message three days ago and I haven't gotten robux," "Where my robux at?," "YES YES I
CAN FINALLY GET ROBUX BACK," etc.).

1 the Class through Roblox’s In-App Inbox. Additionally, the Settlement received free media
2 coverage from two TikTok accounts with large followings. Class Members were given the
3 opportunity to object or opt out, and eligible Class Members were given the option to elect to
4 receive their Settlement Benefits in cash. But the overwhelming majority of Settlement Class
5 Members stood pat, satisfied with the Robux on offer in the Settlement. Only one Class Member
6 objected. A tiny portion of the Class opted out, and a handful of eligible Class Members elected
7 Cash Relief. Moreover, CAFA Notice was provided to the appropriate state and federal officials,
8 and none of them voiced concerns with the Settlement.

9 This positive reaction to the Settlement confirms what the Court already has preliminarily
10 found: the Settlement is fair, reasonable, and adequate, and worthy of judicial approval. For the
11 reasons set forth below, the Court should affirm its finding that the Class can be certified for
12 settlement purposes, should confirm the appointment of Edelson PC as Class Counsel and Levi &
13 Korsinsky, LLP as Liaison Counsel, and should approve the Settlement as fair, reasonable, and
14 adequate.

15 **III. SUMMARY OF SETTLEMENT TERMS**

16 The principal terms of the Settlement before the Court are as follows:

17 **A. Settlement Class**

18 All individuals in the United States having a Roblox account prior to Preliminary Approval
19 of this Settlement from which content on the Roblox platform was moderated and removed by
20 Roblox. Excluded from the Settlement Class are (a) any Judge or Magistrate presiding over this
21 action and members of their families; (b) Defendant, Defendant’s subsidiaries, parents, successors,
22 predecessors, and any entity in which Defendant or its parents have a controlling interest and its
23 current or former employees, officers and directors; (c) persons who properly execute and file a
24 timely request for exclusion from the Class; (d) persons whose claims in this matter have been
25 finally adjudicated on the merits or otherwise released; (e) the legal representatives, successors,
26 and assigns of any such excluded persons; and (f) individuals who own one of 311 accounts that
27 Roblox has determined spent over 80,000 Robux (equating to over \$1,000) on any of these three
28 categories of virtual items: (1) the user purchased the same virtual item from the same seller

1 multiple times, (2) the user purchased a virtual item after that item had already been moderated, or
2 (3) the user created a virtual item and purchased it themselves. *See* Dkt. 54-1 ¶ 1.29
3 (“Settlement”).

4 As previously noted, the proposed Settlement Class contains a specific exclusion for a
5 limited number of accounts who lost content for which they spent more than 80,000 Robux, worth
6 over \$1,000 (the “laundering exclusions”). Roblox insisted upon these laundering exclusions
7 because, Plaintiff understands from Roblox, these accounts are engaged in suspicious behavior
8 (articulated in the criteria for exclusion) differentiating them from ordinary consumers. They
9 appear to be using the Roblox platform to send money to one another by purchasing fake virtual
10 items, a highly inefficient and costly means of transferring money which suggests they may be
11 engaged in money laundering or other improper behavior. In any case, proposed Class Counsel
12 agreed to the laundering exclusions solely because these individuals did not appear to be engaging
13 in bona fide purchases, and so have not been defrauded and may not have a legitimate claim. And
14 because they are not members of the proposed Settlement Class, their claims have not been
15 released and they retain an individual right to pursue separate litigation.

16 **B. Settlement Fund**

17 The Settlement requires Roblox to establish a \$10 million Settlement Fund, out of which
18 class members will be compensated, and, subject to Court approval, attorneys’ fees and costs,
19 service awards, and administrative costs will be paid. Settlement ¶ 1.31. The funding will occur in
20 two stages: Roblox made an initial \$3 million deposit once the Settlement earned preliminary
21 approval from the Court, and will fund the balance following final approval. *Id.* ¶ 2.1.

22 **C. Allocation**

23 Class Members’ pro rata share from the fund will be made in proportion to the amount of
24 Robux each class member has spent on “moderated” items—in other words, the amount of Robux
25 each class member lost due to the alleged misconduct. Settlement ¶ 3.1. Relief will be granted
26 either in dollars or Robux. *Id.* ¶ 3.2. Robux Relief will be automatic: Settlement Class Members
27 will receive their share of the Settlement Fund in Robux without having to take any action. *Id.*
28 ¶ 3.4.1. This relief will be calculated at a rate of 1 Robux = \$0.01, *id.* ¶ 3.4.2, a rate that is more

1 favorable than nearly any charged by Roblox on the open market, except for users who wish to
 2 spend \$100 at a time.⁴ Anyone whose pro rata share of the Settlement Fund is \$10 or greater and
 3 who wished to receive their share of the Settlement Fund in cash rather than Robux was able to do
 4 so by submitting a simple claim form. *Id.* ¶ 3.3.1. A visualization of the online Cash Claim Form
 5 prepared by the settlement administrator is attached as Exhibit A to the Settlement Agreement. *See*
 6 Dkt. 54-1.

7 **D. Prospective Relief**

8 As a result of this litigation, Roblox implemented an automatic refund program for users
 9 who had purchased items that were later deleted. *See* Declaration of Matt Brown (Dkt. 25-1)
 10 ¶ 12. Under this program, whenever a Roblox user's purchased virtual content is
 11 moderated/deleted from the platform, the user will automatically receive a credit of the Robux
 12 they spent to obtain that item, unless the user themselves engaged in a Terms of Service
 13 violation. *Id.* ¶¶ 14-15. As part of the Settlement, Roblox agrees to continue operating this refund
 14 program for at least four years. Settlement ¶ 3.5.

15 The refund program is, alone, incredibly valuable to the Settlement Class. It has already
 16 returned over 403 million Robux to class members. *See* May 10, 2023 Supplemental Declaration
 17 of Yaman Salahi (Dkt. 66) ("Second Salahi Decl.") ¶ 5. Class Counsel estimates that
 18 approximately 3.1 billion Robux will be refunded pursuant to this program while it is in place for
 19 the next four years, which equates to about \$31.7 million. *Id.* ¶ 10. Class Counsel's estimate on
 20 the value is more conservative than Roblox's. *Id.* ¶ 11.

21 **E. Payment of Settlement Notice and Administrative Costs**

22 Payment of notice and administrative costs will come from the Settlement Fund. The
 23 Settlement Administrator, Simpluris, Inc., estimates that notice and administrative costs will be
 24

25
 26 ⁴ Roblox offers Robux to its users at volume discounts. *See*
 27 <https://www.roblox.com/upgrades/robux>. Users can spend \$4.99 for 400 Robux (1 R =
 28 \$0.012475), \$9.99 for 800 Robux (1 R = \$0.0124875), \$19.99 for 1,700 Robux (1 R =
 \$0.0117588), \$49.99 for 4,500 (1 R = \$0.011108). *Id.* Only users who spend \$99.99 for 10,000
 Robux obtain a slightly more favorable rate (1 R = \$0.009999). *Id.* The vast majority of users
 make purchases in small amounts, however.

1 approximately \$350,000. *See* March 28, 2023 Declaration of Yaman Salahi (Dkt. 54) (“First
2 Salahi Decl.”), Ex. 2.

3 **F. Payment of Attorney’s Fees, Costs, and Service Award**

4 Class Counsel has moved for an award of fees and costs equal to 25% of the value of the
5 Settlement Fund and just 5.4% of the value of the Settlement to the Class overall. *See* Dkt. 75.
6 Defendant retained the right to challenge any fee request submitted by Class Counsel, *see*
7 Settlement ¶ 9.1, but elected not to do so. Should the Court award less than what Class Counsel
8 request, the balance will remain in the Settlement Fund for distribution to Class Members. *Id.* The
9 Named Plaintiff likewise petitioned the Court for a Service Award in the amount of \$5,000. *See*
10 Dkt. 75. Should the Court approve a lower award, the balance will remain in the Settlement Fund
11 for distribution to Settlement Class Members.

12 **G. Release of Liability**

13 In exchange for the relief described above, Roblox will obtain a release of all claims
14 arising from or related to the deletion, removal, or moderation of virtual items purchased on the
15 Roblox platform. Settlement ¶ 1.23. This release is intended to operate no more broadly than the
16 doctrine of claim preclusion would were this an individual suit related to allegedly improper
17 deletion of purchased items in the Roblox metaverse. *See* Northern District of California
18 Procedural Guidance for Class Action Settlements § 1.B.

19 **IV. ARGUMENT**

20 **A. The Court should confirm certification of the proposed Settlement Class.**

21 The Court preliminarily certified the above-defined Settlement Class for Settlement
22 purposes. Plaintiff explained in the Motion for Preliminary Approval why this Class meets the
23 requirements of Rule 23. The notice process has not revealed any information that would disturb
24 that analysis. None of the objections raised any concerns about potential variations in the strength
25 of the claims of Settlement Class Members, or raised concerns about the Class Representative’s
26 fitness to represent the Class. It is clear that classwide resolution is appropriate for this case,
27 premised as it is on common conduct that gives rise to several common questions of law and fact,
28 as previously explained. In brief:

1 Numerosity: The preliminarily certified Settlement Class consists of approximately 8
2 million individuals, *see* First Salahi Decl. ¶ 12, far too many to be joined in an individual action.

3 Commonality and Predominance: The Class’s claims present numerous questions that can
4 be resolved classwide. Much of the dispute here turns on Roblox’s common conduct, both the
5 common representations it made to the Class in the course of selling Robux and its conduct within
6 the Roblox metaverse. Plaintiff, for instance, contends that Roblox creates the appearance to all
7 users that it vets user-uploaded content before making it available for sale. And, by definition, all
8 Class Members have had content they purchased later deleted. This common course of conduct
9 gives rise to the Class’s statutory and common-law fraud claims. Moreover, Roblox contends that
10 there has been no misrepresentation because it disclosed its ability to delete content through its
11 Terms of Use, which were disseminated to all users. Thus, questions about whether a material
12 misrepresentation was made, an issue central to each of the fraud theories, will turn on common
13 evidence that will generate classwide answers. *See In re First All. Mortg. Co.*, 471 F.3d 977, 990
14 (9th Cir. 2006) (California “has followed an approach that favors class treatment of fraud claims
15 stemming from a common course of conduct.”) (quotations omitted); *In re JUUL Labs, Inc., Mktg.*
16 *Sales Pract. & Prods. Liab. Litig.*, 609 F. Supp. 3d 942, 988 (N.D. Cal. 2022) (finding
17 commonality and predominance to be satisfied under UCL and CLRA because “for purposes of
18 class certification plaintiffs have shown how through common, classwide proof they can
19 demonstrate the widespread reach of JLI’s very successful [and allegedly deceptive] campaigns”).
20 And Plaintiff’s conversion claim likewise presents numerous common questions, such as whether
21 digital items on the Roblox platform can be converted, and whether the act of deleting those items
22 dispossesses Class Members of their property. Thus, commonality and predominance are met.

23 Typicality: Plaintiff Doe is plainly typical of the Settlement Class. She purchased multiple,
24 unobjectionable items using Robux bought with funds she owned and controlled. She was not
25 aware that these items might later be deleted, and in fact believed that these items would remain
26 available to her in perpetuity. The claims she presses on behalf of the proposed Settlement Class
27 concern precisely this conduct, under legal theories that apply classwide, and she is seeking the
28 same relief as the rest of the class. *See Juarez v. Soc. Fin., Inc.*, No. 20-CV-03386-HSG, 2022 WL

1 17722382, at *4 (N.D. Cal. Dec. 15, 2022) (finding typicality satisfied because “Plaintiffs’ claims
2 are both factually and legally similar to those of the putative class”).

3 Adequacy: Plaintiff Doe is also plainly adequate. Her claims turn on the same facts and
4 legal theories as those of the Class, and she suffers from no conflicts of interest. Moreover, as
5 explained in the motion for a service award, Plaintiff Doe has been active in assisting Class
6 Counsel prosecute the case, demonstrating her vigorous representation of the absent Class. Dkt.
7 78, ¶ 3.

8 Class Counsel also are adequate. Edelson PC has extensive experience litigating consumer
9 class actions of similar size and complexity. *See* First Salahi Decl. ¶ 15, Ex. 3 (Edelson firm
10 resume). Edelson has repeatedly been recognized for its work litigating consumer class actions,
11 and in investigating and prosecuting this action have brought this experience and expertise to bear.
12 *Id.*

13 Superiority: Finally, a class action is clearly the superior means to resolve this dispute. The
14 average Class Member lost \$2.60 dollars, *see* First Salahi Decl. ¶¶ 12-13, as a result of Roblox’s
15 conduct. Losses of this magnitude are plainly insufficient to incentivize individual litigation. The
16 only practical way for Class Members to recover is through a class action. Moreover, individual
17 litigation would needlessly clog the courts with a multitude of identical disputes, as opposed to the
18 efficiencies generated by combining these identical claims in a single action. *Cottle v. Plaid Inc.*,
19 340 F.R.D. 356, 372 (N.D. Cal. 2021) (finding superiority established where “the range of issues is
20 limited and individual cases addressing these issues would likely address the same wrongful
21 conduct and use the same supporting evidence.”). Superiority is therefore satisfied.

22 The Court should therefore affirm its preliminary conclusion that the Settlement Class can
23 be certified for settlement purposes.

24 **B. Notice to the Class comported with Due Process.**

25 The parties diligently undertook to provide Notice to the Settlement Class in line with the
26 program outlined in the Settlement, which was highly successful. After preliminary approval,
27 Roblox provided the Court-approved Settlement Administrator—Simpluris—with three datasets
28 containing the Roblox account username, User ID, email addresses, and the number of unrefunded

1 Robux spent on moderated items for each Settlement Class Member. *See* Declaration of Jacob
2 Kamenir ¶ 5. These datasets contained 16,208,903 Roblox accounts belonging to 7,459,230
3 individual Class Members with at least one email address (many Class Members, including Jane
4 Doe, have multiple Roblox accounts). *Id.* The Settlement Administrator sent notice via email to
5 every email address associated with the Roblox account of a Settlement Class Member,
6 successfully delivering 6,724,996 of those emails (or 90.5%). *Id.* ¶¶ 9-11. The notice for those
7 Class Members eligible to elect a cash payment included a Unique Claim ID and a link to the
8 Claim Form on the Settlement Website. *Id.* A reminder email was sent to this same list of eligible
9 class members 30 days before the claim and exclusion deadlines. *Id.* ¶ 12. 483 eligible Class
10 Members submitted valid requests to receive cash instead of Robux. *Id.* ¶ 15.

11 In addition, Roblox provided notice through the Roblox platform’s “My Inbox” feature to
12 all Class Member Accounts, except 144 accounts that no longer exist because the account holder
13 had exercised their “right to be forgotten” (that is, to have Roblox delete their account records and
14 associated data). *See* Declaration of Roblox Corp. ¶¶ 1-3. Combined with the in-app notice
15 disseminated by Roblox, it appears that over 99% of the Settlement Class received direct notice of
16 the Settlement.

17 As the Court already found, the Notice documents provided to Class Members clearly and
18 plainly described their rights under the Settlement, and informed them of what actions they might
19 take. *See* Dkt. 67 ¶ 9. The Notice also directed Class Members to a dedicated Settlement Website,
20 containing various documents from the case (including the fee petition), the ability to file a Claim
21 Form, a toll-free number which Class Members could call Simpluris or Class Counsel with
22 questions about the Settlement, and an email address where Class Members could send questions
23 about the Settlement. Kamenir Decl. ¶¶ 6-8. The Settlement Administrator reports that the website
24 received 291,715 unique visitors with 577,171 page views, that 887 calls were fielded regarding
25 the Settlement, and that 208 inquiries about the Settlement were sent to the email address. *Id.*

26 The Court should find that the Notice Program, as implemented, provided Settlement Class
27 Members with the notice required by Due Process.
28

1 **C. The Settlement merits final approval under Fed. R. Civ. P. 23(e).**

2 Rule 23(e)(2) requires the Court to find that the settlement is “fair, reasonable, and
3 adequate” after considering whether: (A) the class representative and class counsel have
4 adequately represented the class; (B) the settlement was negotiated at arm’s length; (C) the relief
5 provided for the class is adequate; and (D) the settlement treats class members equitably relative to
6 each other. Fed. R. Civ. P. 23(e)(2). These Rule-based factors are sometimes considered through
7 the lens of the Ninth Circuit’s 8-factor approval test, which predates the current version of the
8 Rule and substantially overlaps with it. *See Churchill Vill. L.L.C. v. Gen. Elec.*, 361 F.3d 566, 575
9 (9th Cir. 2004). The eight factors are: “(1) the strength of the plaintiffs’ case; (2) the risk, expense,
10 complexity, and likely duration of further litigation; (3) the risk of maintaining class action status
11 throughout the trial; (4) the amount offered in settlement; (5) the extent of discovery completed
12 and the stage of the proceedings; (6) the experience and views of counsel; (7) the presence of a
13 governmental participant; and (8) the reaction of the class members to the proposed settlement.”
14 *Id.* These factors are discussed below within the framework established by Rule 23(e). Further,
15 because of the pre-certification posture of this settlement, the Court must consider the factors
16 identified by the Ninth Circuit in *In re Bluetooth Headset Products Liability Litigation*, 654 F.3d
17 935 (9th Cir. 2011). Because the *Bluetooth* factors are relevant to one of the considerations
18 mandated by Rule 23(e), the two tests are discussed together below.⁵ As Plaintiff explained in her
19 motion for preliminary approval, this Settlement easily clears the heightened bar set for pre-
20 certification settlements. None of the objections demonstrates otherwise, and no information has
21 been turned up during the Claims Period that would even hint that the Settlement is unfair or
22 inadequate.

23
24
25
26 ⁵ The Court has also raised the possibility that the Settlement is a coupon settlement under 28
27 U.S.C. § 1712(e), which would require “heightened scrutiny.” *In re Online DVD-Rental Antitrust*
28 *Litig.*, 779 F.3d 934, 949 (9th Cir. 2015). The required Rule 23(e) and *Bluetooth* analyses
demonstrate that the Settlement passes muster even under this elevated standard, but, as
explained previously, at Docket Entry 75, the Court should find that § 1712 does not apply to
this Settlement.

1 **1. Doe and Class Counsel have adequately represented the Class.**

2 The first Rule 23(e) factor concerns adequate representation. The focus of this analysis is
3 “on the actual performance of counsel acting on behalf of the class” throughout the litigation and
4 in settlement negotiations. Fed. R. Civ. P. 23(e) Advisory Committee’s Note to 2018 Amendment;
5 *see Gumm v. Ford*, No. 5:15-cv-41-MTT, 2019 WL 479506, at *3 (M.D. Ga. Jan. 17, 2019). This
6 factor overlaps significantly with the adequacy requirement of Rule 23(a). *See O’Connor v. Uber*
7 *Techs., Inc.*, No. 13-CV-03826-EMC, 2019 WL 1437101, at *6 (N.D. Cal. Mar. 29, 2019). In
8 considering this factor, courts should examine whether plaintiff and class counsel had adequate
9 information to negotiate a class-wide settlement. Fed. R. Civ. P. 23(e) Advisory Committee’s Note
10 to 2018 Amendment; *see also Churchill*, 361 F.3d at 575 (requiring courts to consider the
11 discovery completed and the stage of the case at settlement). Ultimately, this factor is generally
12 satisfied where the named plaintiff and class counsel “have prosecuted the case with diligence and
13 success.” *In re Snap Inc. Secs. Litig.*, No. 2:17-CV-03679-SVW, 2021 WL 667590, at *1 (C.D.
14 Cal. Feb. 18, 2021).

15 Neither of the objections, nor the proposed TINA amicus brief, contends that Class
16 Counsel lacked the information necessary to craft a reasonable settlement, or inadequately
17 represented the Settlement Class. And for good reason: Roblox’s conduct at issue in the case was
18 publicly disclosed, and the scope and damages were confirmed in discovery. Class Counsel was
19 able to obtain discovery as to the scope of Roblox’s content moderation, including how many
20 accounts were affected, and the in-game cost of moderated items. For instance, Roblox disclosed
21 that members of the proposed Settlement Class, in aggregate, lost 1,719,480,373 Robux in
22 connection with items that were subsequently moderated/deleted by Roblox, and which have not
23 previously been refunded. First Salahi Decl. ¶ 13; *see also* Settlement ¶ 7.1. The basic legal battle
24 lines were drawn early on, and it became clear that the principal claim here would arise under the
25 UCL, a California consumer-protection law with which Class Counsel is very familiar. Thus, from
26 an early stage, and even without extensive discovery, Class Counsel could make an informed
27 estimate of the likelihood of recovery, and the cost of further litigation. *See Linney v. Cellular*
28 *Alaska P’ship*, 151 F.3d 1234, 1239 (9th Cir. 1998) (“In the context of class action settlements,

1 formal discovery is not a necessary ticket to the bargaining table where the parties have sufficient
 2 information to make an informed decision about settlement.”) (quotations omitted). Class Counsel
 3 came to the bargaining table prepared to strike a deal in the Settlement Class’s best interests, and,
 4 as explained more fully below, have done so.

5 **2. The Settlement was negotiated at arm’s length, and lacks any of the**
 6 **hallmarks of collusion identified by the Ninth Circuit in *Bluetooth*.**

7 Next, the Settlement was negotiated at arm’s length. *See* Fed. R. Civ. P. 23(e)(2)(B). “This
 8 inquiry aims to root out settlements that may benefit the plaintiffs’ lawyers at the class’s
 9 expense[.]” 6 Newberg & Rubenstein on Class Actions § 13:50. The concern, which is also
 10 embodied in this Circuit’s *Bluetooth* factors, is that “the defendant will dangle such a healthy fee
 11 in front of the plaintiffs’ lawyer that they will settle the class’s claims at a discount.” *See id.*; *see*
 12 *also Bluetooth*, 654 F.3d at 946 (“Prior to formal class certification, there is an even greater
 13 potential for a breach of fiduciary duty owed the class during settlement. Accordingly, such
 14 agreements must withstand an even higher level of scrutiny for evidence of collusion or other
 15 conflicts of interest than is ordinarily required under Rule 23(e) . . .”).

16 Here, again, none of the objections contend that the Settlement was not negotiated at arm’s
 17 length. And the record provides substantial support for finding that it was. This settlement was
 18 struck after a full day (and then some) of mediation with an experienced mediator, Gregory
 19 Lindstrom of Phillips ADR, who helped the parties craft this Settlement. First Salahi Decl. ¶¶ 6-7.
 20 And negotiations had been hard fought up to that point as well. The parties had been discussing
 21 potential settlement structures for weeks before working with Mr. Lindstrom to finally reach an
 22 agreement on the principal terms of a class-action settlement. *Id.* ¶¶ 4-5. And even after the
 23 parties’ all-day mediation, it took several additional months to hammer out the finer points of the
 24 Settlement. *Id.* ¶ 8.

25 These lengthy negotiations demonstrate that the proposed Settlement is the product of
 26 arm’s-length negotiations. *See Cmty. Res. for Indep. Living v. Mobility Works of Cal., LLC*, 533 F.
 27 Supp. 3d 881, 889 (N.D. Cal. 2020) (“serious, informed, non-collusive negotiations” taking place
 28 over an “extended” period weighed in favor of settlement approval); *Vianu v. AT&T Mobility*

1 LLC, No. 19-CV-03602-LB, 2022 WL 16823044, at *7 (N.D. Cal. Nov. 8, 2022) (finding that
2 negotiations aided by an experienced mediator weighed in favor of settlement approval).

3 Moreover, the Settlement bears none of the “subtle signs of implicit collusion” that the
4 Ninth Circuit has cautioned district courts to be on alert for. *Roes, 1-2 v. SFBSC Mgmt., LLC*, 944
5 F.3d 1035, 1049-50 (9th Cir. 2019). These factors, commonly called the *Bluetooth* factors, are: (1)
6 “when counsel receive a disproportionate distribution of the settlement;” (2) “when the parties
7 negotiate a ‘clear sailing’ arrangement” (i.e., an arrangement where defendant will not object to a
8 certain fee request by class counsel); and (3) when the parties create a reverter that returns
9 unclaimed funds to the defendant. *Bluetooth*, 654 F.3d at 947.⁶

10 First, Class Counsel have asked the Court to approve a fee request that amounts to 25% of
11 the value of the fund. Dkt. 75. This 25% figure is the “benchmark” fee award in this Circuit. *See*
12 *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043 (9th Cir. 2002). The fee award, and the objections
13 thereto, are discussed in greater detail below, but it suffices for present purposes to observe that
14 similar authorized awards have been found not to be indicative of collusion. *See, e.g., Luz*
15 *Bautista-Perez v. Juul Labs, Inc.*, No. 20-CV-01613-HSG, 2022 WL 307942, at *6 (N.D. Cal.
16 Feb. 2, 2022) (“And while the Settlement Agreement authorizes Plaintiffs’ counsel to request up
17 to \$750,000 in attorneys’ fees, which is about 42% of the gross settlement fund, it does not
18 necessarily contemplate a disproportionate cash allocation between counsel and the class”);
19 *Cottle*, 340 F.R.D. at 377-78 (proposed 25% award was “presumptively reasonable” and not a
20 disproportionate fee award).

21 Second, there is no clear sailing agreement here. Although Roblox ultimately declined to
22 challenge Class Counsel’s fee request, they retained the right to do so in the Settlement. *See*
23 Settlement ¶ 9.1 (“Defendant may challenge the amount requested.”).⁷

24
25 ⁶ Later cases have also indicated that “large incentive payments seemingly untethered from
26 service to the class” also may be evidence of collusion. *Roes, 1-2*, 944 F.3d at 1049; *see Luz*
27 *Bautista-Perez*, 2022 WL 307942, at *6-*7. The size of the service award contemplated by the
28 Settlement is discussed in conjunction with another of the Rule 23(e) factors, concerning the
equitable distribution of settlement proceeds. *See infra* Section IV.C.4.

⁷ To be clear, there were absolutely no discussions concerning Defendant’s opposition to the
fee request prior to, during, or after the mediation, and Defendant’s lack of opposition was not an
(continued...)

1 Third, there is no reverter or kicker clause here. Settlement Class Members will receive a
 2 refund of their Robux automatically, without the need to submit a claim form. Settlement ¶ 3.4.1.
 3 And Settlement Class Members whose pro rata share is at least \$10 and who opted to receive their
 4 recovery in cash could easily do so by submitting a Cash Claim Form, and electing either an
 5 electronic distribution of funds or a paper check. *Id.* ¶ 3.3.1. If a check goes uncashed, the relevant
 6 Class Member will still receive Robux Relief. *Id.* ¶ 3.3.9. A *cy pres* recovery will only be
 7 available if, for some reason, a class member cannot be issued their Robux Relief. *Id.* Moreover,
 8 should the Court award less in fees, costs, or service awards than what Plaintiff and proposed
 9 Class Counsel seek, the difference will remain in the Settlement Fund for distribution to Class
 10 Members. Settlement ¶¶ 9.1-9.2.

11 Thus, the terms of the Settlement contain none of the subtle signs of collusion that the
 12 Ninth Circuit has cautioned against, confirming that the Settlement was negotiated at arm's length.

13 **3. The Settlement secures outstanding relief for the Class.**

14 The next Rule 23(e) factor directs the Court to consider whether “the relief provided for
 15 the class is adequate, taking into account: (i) the costs, risks, and delay of trial and appeal; (ii) the
 16 effectiveness of any proposed method of distributing relief to the class, including the method of
 17 processing class-member claims; (iii) the terms of any proposed award of attorney’s fees,
 18 including timing of payment; and (iv) any agreement required to be identified under Rule
 19 23(e)(3)” Similarly, the *Churchill* factors include the amount offered in settlement, the
 20 strength of the plaintiff’s case, and the risks and expense of further litigation, including the risk of
 21 maintaining class status through judgment. *See Churchill*, 361 F.3d at 575. The Court should find
 22 that the relief secured by the Settlement is more than adequate under the Rule and the Ninth
 23 Circuit’s gloss.⁸

24 First, the basics: Informal discovery confirmed that the Class’s losses totaled about 1.7
 25 billion Robux. For purposes of negotiation, Class Counsel valued these losses at an exchange rate

26 _____
 27 explicit or implicit understanding of the Parties. *See* September 7, 2023 Declaration of Yaman
 28 Salahi (“Fourth Salahi Decl.”) ¶ 7.

⁸ There are no agreements required to be disclosed under Rule 23(e)(3).

1 of 1 Robux = \$0.0125, which is slightly higher than the exchange rate for the vast majority of
2 Roblox users who purchase Robux in the smallest possible quantity (\$4.99 for 400 Robux, *see*
3 note 4, *supra*). Thus, Class Counsel likely over-estimated the class’s monetary damages at just
4 under \$21.5 million. The cash value of the Settlement—\$10 million—equates to about 46.5% of
5 Class Member losses. This is an outstanding result.

6 Moreover, the Settlement locks into place valuable conduct relief. Under the prospective
7 relief agreed to by Roblox, moving forward, anytime a Roblox user’s purchased virtual content is
8 deleted or moderated for reasons other than that user’s own Terms of Service violations, Roblox
9 will automatically credit that user’s account with the Robux spent on the item. *See Brown Decl.*

10 (Dkt. 25-1) ¶¶ 12-13. If the Settlement Class’s own experience is any indication, this refund
11 program stands to prevent losses of at least \$25 million USD. *Second Salahi Decl.* ¶ 5 (disclosing
12 what Class Members actually lost due to alleged misconduct). Class Counsel’s best projection of
13 the value of this prospective relief over the next four years is over \$31 million. *Id.* ¶¶ 6-10.

14 Although Roblox instituted this program voluntarily, Plaintiff and Class Counsel deserve credit for
15 forcing Roblox’s hand, as the program was instituted in response to this lawsuit, and for ensuring
16 that the program remains in place for four years. *See Dkt. 19-1* ¶ 12 (acknowledging that the
17 program was instituted after the filing of this lawsuit).

18 The favorable reaction of Class Members and State Attorneys General also demonstrates
19 the fairness and adequacy of the relief provided by the Settlement. *See Churchill*, 361 F.3d at 575.
20 Notice of the Settlement has been provided to the appropriate state and federal officials under
21 CAFA, and none of them raised any issues with the sufficiency of the relief secured. *See In re*
22 *LinkedIn User Priv. Litig.*, 309 F.R.D. 573, 589 (N.D. Cal. 2015) (observing that lack of action by
23 state and federal officials who received notice of a settlement weighed in favor of approval). And
24 although there was a Settlement Class of approximately 8 million people here, only 934
25 individuals executed a request to be excluded from the Settlement,⁹ and only 1 class member
26 submitted an objection. In other words, despite a comprehensive notice campaign and free

27
28 ⁹ This number of opt outs is not unusual for a case of this size. The Roblox community is active and communicative with one another, which further demonstrates the appropriateness of a Settlement where the vast, vast majority of Class Members have decided to remain.

1 publicity of the Settlement via certain TikTok accounts with substantial followings, around 0.01%
2 of the Class opted out, and there is just a lone objection concerning the relief provided by the
3 Settlement. This is powerful evidence that the Class considers the Settlement to be in its best
4 interests. *See, e.g., In re MacBook Keyboard Litig.*, No. 5:18-cv-02813-EJD, 2023 WL 3688452,
5 at *9 (N.D. Cal. May 25, 2023) (in case with 1,733 opt outs and 6 objections, holding that “[t]he
6 low number of objections and opt outs relative to the size of the class weighs in favor of approving
7 the Settlement.”). Additionally, Class Counsel, who have extensive experience litigating consumer
8 class actions of similar size and complexity, firmly believe that the Settlement is fair, reasonable,
9 and adequate. *See Churchill*, 361 F.3d at 575.

10 The pro se objections to the Settlement misunderstand the reach of the case or the nature of
11 settlement, generally, and do not warrant denying final approval. One of the objectors, Vincent
12 Panetta, is not even a Class Member, as the Roblox account name he identified does not appear in
13 the class data. *See Kamenir Decl.* ¶ 13; *see In re TracFone Unlimited Serv. Plan Litig.*, 112 F.
14 Supp. 3d 993, 1008 (N.D. Cal. 2015) (only class members have standing to object, and burden is
15 on objector to demonstrate membership). In any case, Panetta complains not that the Settlement
16 secures inadequate relief for the conduct alleged in the operative Complaint, but that the lawsuit
17 should be expanded to redress other practices of Roblox’s that Panetta deems unsavory. *See Dkt.*
18 *70*. But those complaints are not what this case was about, and Panetta or anyone else is free to
19 pursue them as they wish. No authority requires a plaintiff or class counsel to challenge *all* of a
20 company’s wrongful practices whenever a lawsuit is filed.

21 The other objector, Jacob Emerson (who holds himself out as a lawyer in the Roblox
22 metaverse),¹⁰ contends that Class Members should be refunded all of their Robux, and receive
23 additional compensation, as well. *See Dkt. 69*. But a settlement is a compromise, and must reflect
24 the fact that, as explained below, Roblox had strong arguments on the merits that could have
25 precluded any relief. *See Officers for Just. v. Civil Serv. Comm’n of City and Cnty. of S.F.*, 688

26
27 ¹⁰ Emerson’s specific business model seems to be to pursue claims on behalf of Roblox users
28 in the metaverse in exchange for Robux. Based on the form and substance of their papers, it does
not seem they are an actual lawyer. A search of the State Bar of Texas’ attorney database did not
return results for the name “Jacob Emerson.”

1 F.2d 615, 624 (9th Cir. 1982) (writing that “the very essence of a settlement is compromise, a
2 yielding of absolutes and an abandoning of highest hopes” as “in exchange for the saving of cost
3 and elimination of risk, the parties each give up something they might have won had they
4 proceeded with litigation”) (citations and quotations omitted). No court has held that a settlement
5 can only be approved if it obtains 100% redress. Moreover, there was never any realistic
6 possibility that the Settlement Class would get an award of damages on top of what they allegedly
7 lost in Roblox, as Emerson wants. So a settlement, which must acknowledge Roblox’s potentially
8 meritorious arguments, and take into account the time and money that would be required to litigate
9 this case, is the best way forward, particularly where it recovers 46.5% of the Settlement Class’s
10 losses.¹¹

11 Proposed amicus TINA, to the extent their arguments are considered (and they should not
12 be, for reasons previously argued, *see* Dkt. 81), contends that the conduct relief is valueless
13 because Roblox has not yet changed language in its Terms of Service, the Settlement simply
14 maintains the status quo, and prospective relief should be in place for more than four years. Dkt.
15 79-2, at 3-9. These points are unreasonable and, regrettably, seem to be boilerplate in TINA’s
16 practice of filing roving “amicus” objections to class settlements.

17 As to the first point, TINA argues that any injunctive relief short of its desired injunctive
18 relief—that Roblox review the millions of third-party created items in the Avatar Shop for
19 compliance with its Terms of Service *before* they are made available for sale—is worthless. While
20 TINA, which has no Class Members as clients and no fiduciary duty to members of the Class, may
21 be free to opine on what its version of an “ideal” world would look like without having to worry
22 about practical realities, neither Class Counsel nor the Settlement Class have that luxury. Class
23 Counsel have to anchor settlement negotiations in the real world, where questions like “how could
24 millions of virtual goods created by third parties be effectively pre-screened in any reliable or
25 cost-effective way by Roblox without simultaneously undermining the experience of Roblox users
26 on the platform?” and “is this relief that could be obtained through litigation, in light of Section
27 230 of the Telecommunications Decency Act?” matter. Despite Class Counsel’s best efforts to
28

¹¹ Emerson also objected to the fee request. That aspect of the objection is discussed *infra*.

1 explain these issues to TINA, they have fallen on deaf ears. *See* Declaration of J. Eli Wade-Scott
2 (Dkt. 82).

3 The volume of content created does not feasibly permit Roblox to pre-screen user-
4 generated items on the platform before they are made available for sale, and TINA presents no
5 evidence to suggest its demand is anything other than pie-in-the-sky wishful thinking. There are
6 more than ten million items on the Roblox shop, and the availability of user-created content is one
7 of the central parts of what makes the Roblox metaverse appealing. There is no way to re-engineer
8 Roblox in TINA’s desired image without turning that particular metaverse upside down—and the
9 reaction of the Settlement Class here shows that Settlement Class members don’t want that. Nor
10 do they need it: the prospective relief provided by the Settlement prevents any economic harm
11 resulting from the practices in question by automatically crediting Robux spent on moderated
12 items.

13 TINA also ignores an obvious feature of the prospective relief provided for by the
14 Settlement. It provides full Robux refunds to Roblox users when they lose access to purchased
15 content in the future, including the portion of each transaction that otherwise would have been
16 retained by Roblox as a commission. Enforcement of the policy thus costs Roblox. This means
17 that the prospective relief provided by the Settlement creates a strong incentive for Roblox to
18 ensure it makes moderation decisions with more precision, before it suffers losses by refunding
19 users for lost access to purchased content.

20 As for TINA’s complaint that the injunctive relief merely locks in the status quo, it is
21 important to remember that this lawsuit is responsible for Roblox’s refund program. Criticizing
22 the settlement for failing to further adjust a program that rectifies the main problem in the case just
23 misses the mark. TINA’s citation to *Koby v. ARS National Services, Inc.*, 846 F.3d 1071 (9th Cir.
24 2017), does not hold otherwise. The settlement at issue there also memorialized changes made by
25 the defendant in response to the litigation. *Id.* at 1075. But the court’s reasons for deeming this
26 injunction worthless do not apply here. First, the court noted, most of the class members would not
27 deal with the defendant again; thus, forward-looking conduct relief conferred no benefit. *Id.* at
28 1080. Here, by contrast, class members continue to inhabit the Roblox metaverse, and want to do

1 so, so forward-looking changes are a continuing benefit. Moreover, the injunction there contained
2 “an escape clause” that permitted the defendant to seek to dissolve the injunction in case of a
3 change in law. *Id.* There is no such escape hatch present here. Instead, the injunction here
4 promises to save Settlement Class Members millions of dollars over the next four years, a valuable
5 benefit indeed.

6 TINA also complains about the temporal scope of the injunction, contending that it should
7 be permanent. This permanence is needed, TINA says, to ensure “parity in any release between
8 Roblox and the class in this case.” Dkt. 79-2 at 9. Class Counsel is unsure exactly what this means
9 or why TINA appears to argue that all injunctive relief should always be permanent. The
10 Settlement does not release future, hypothetical claims that have not yet arisen; if Roblox resumes
11 the wrongful conduct that precipitated this lawsuit in four years, any class member or other
12 Roblox user who experiences harm or an imminent threat of harm can take Roblox back to court
13 seeking injunctive relief. Moreover, reaction from actual class members, as opposed to third-party
14 groups with no concrete stake in the case and a minimal grasp on the facts, demonstrates that
15 Class Members are happy with the relief provided by the Settlement. In any event, a perpetual
16 injunction is not necessarily preferable, as the mechanics of the Roblox universe will inevitably
17 change, perhaps in ways that completely moot the issues in this case.

18 With respect to TINA’s complaint that Roblox’s website does not describe the nature of
19 the refund program, and that its Terms of Service have not yet been updated to reflect it, TINA
20 seems to forget that the Settlement does not become effective until the Court grants final approval.
21 *See* Settlement ¶ 1.12 (defining “Effective Date”). Roblox is not obligated to implement the terms
22 of the Settlement until that date.

23 TINA then complains that most Class Members will receive their portion of the Settlement
24 proceeds in the form of Robux, but again its arguments fail to persuade. First, TINA suggests that
25 the \$10 minimum award required to recover losses under the Settlement in US Dollars, as opposed
26 to Robux, “bears no relationship to the facts of this case.” *See* Dkt. 79-2 at 10. But what it *does*
27 bear a relationship to is the cost of administering the Settlement. Given that the average Class
28 Member lost only \$2.60 and the Settlement recovers approximately 46.5%, the average Class

1 Member’s gross recovery is \$1.20 (*i.e.*, before deduction of costs). TINA seems unconcerned with
2 the fact that there is simply no cost-effective way to distribute such a sum to 8 million people.
3 Postage alone costs \$0.66 these days. *See* <https://www.usps.com/business/prices.htm>. If every
4 single Settlement Class Member were eligible to receive their share of the Settlement in cash, the
5 administration costs would be around \$11 million, *see* September 7, 2023 Declaration of Yaman
6 Salahi (“Fourth Salahi Decl.”) ¶ 3, \$1 million more than the Settlement Fund and over 50% of the
7 total amount in controversy in this litigation (\$21.5 million). Class Counsel obtained those
8 estimates during settlement negotiations with Roblox in July 2022, and thereafter had to negotiate
9 and structure a settlement accounting for that reality. *Id.* ¶¶ 3-6. When Class Counsel raised this
10 practical obstacle to TINA before it filed its proposed amicus brief, TINA’s representatives
11 dismissed it as not their problem to worry about—which is true, but it was an issue that Class
12 Counsel, who actually has obligations to their client and the proposed Class, had to account for.
13 *See* Dkt. 82-1 at 4. It is for this reason that courts often approve minimum disbursements, and that
14 a minimum disbursement level makes sense here. *See, e.g., In re MGM Mirage Sec. Litig.*, 708
15 Fed. App’x 894, 897 (9th Cir. 2017) (holding district court did not abuse discretion in approving
16 allocation plan with a minimum \$10 threshold because “issuing very small checks to class
17 members would cause a disproportionate administrative expense” and because “smaller checks,
18 such as those under \$10, in many instances are never cashed”); *Destefano v. Zynga, Inc.*, No. 12-
19 cv-04007-JSC, 2016 WL 537946, at *4, *15 (N.D. Cal. Feb. 11, 2016) (approving settlement with
20 \$10 threshold “due to the expenses associated with administering the claims”); *City of Livonia*
21 *Emp. ’s Ret. Sys. v. Wyeth*, No. 07 Civ. 10329(RJS), 2013 WL 4399015, at *2-*3 (S.D.N.Y. Aug.
22 7, 2013) (observing that courts have approved disbursement thresholds as high as \$50 to ensure
23 efficient settlement administration and to avoid having administrative costs cut into class member
24 recoveries).

25 TINA also claims that any virtual currency relief is worthless, but this argument ignores
26 that nearly all Class Members have continued to use Roblox, and therefore can make immediate
27 use of Robux. In fact, according to Roblox, in the 6 months preceding preliminary approval (after
28 this lawsuit was already in progress), Settlement Class Members spent nearly 28 *billion* Robux on

1 the platform. *See* July 27, 2023 Declaration of Yaman Salahi (Dkt. 76) (“Third Salahi Decl.”) ¶ 9.
2 TINA may not like it, but Settlement Class Members are very engaged with the platform and
3 continue to be.

4 Moreover, TINA does not consider the risks and expense of continued litigation, which are
5 key to evaluating the relief provided by the Settlement. Here, the risks of continued litigation are
6 significant. Indeed, while Plaintiff remains confident in her ability to prevail, the Settlement Class
7 would face several hurdles to relief on the merits after a trial. First, a jury may not agree with
8 Plaintiff that the Roblox marketplace is itself designed to induce the reasonable belief that
9 purchased items will remain in the control of users. Or a jury might agree with Roblox that users
10 have sufficient warning that items may be deleted such that any reliance on a contrary position is
11 unreasonable. A jury finding in Roblox’s favor would prevent the Class from recovering anything
12 on their fraud-based claims. Moreover, the conversion claim faces a significant legal hurdle in that
13 the allegedly converted goods are intangible, and without any apparent connection to a physical
14 document. *See Thrifty-Tel, Inc. v. Bezenek*, 46 Cal. App. 4th 1559, 1565 (1996). There is a serious
15 risk that the Court might conclude at summary judgment that these virtual goods cannot be
16 converted, or that all Class Members own is a revocable license to the virtual good, rather than the
17 virtual good itself. Add to these risks the fact that even if the Class were to prevail, any success
18 would not come for years. Both the class certification and summary judgment stages likely would
19 have required the production of experts, and associated briefing on whether to qualify or exclude
20 them, as well the development of a trial plan, and a trial itself. Either party also would be likely to
21 appeal an adverse judgment, adding additional delay. *See Harrison v. Bank of Am. Corp.*, No. 19-
22 cv-00316-LB, 2021 WL 5507175, at *3 (N.D. Cal. Nov. 24, 2021) (approving settlement that
23 returned approximately 20% of total damages); *Knapp v. Art.com, Inc.*, 283 F. Supp. 3d 823, 832-
24 33 (N.D. Cal. 2017) (settlement representing at most 42% of potential recovery was fair and
25 adequate, particularly since the settlement also included conduct relief); *see also Officers for Just.*,
26 688 F. 2d at 628 (“It is well-settled law that a cash settlement amounting to only a fraction of the
27 potential recovery will not per se render the settlement inadequate or unfair.”). None of this is
28 discussed in the objections, robbing them of persuasive force.

1 The Settlement’s fairness is further augmented by the fact that Class Members need not do
2 anything to receive Robux relief from the Settlement: the Settlement ensures that Robux Relief
3 will be credited automatically to the Roblox accounts of Class Members. The Settlement also
4 provided those entitled to a share of the Settlement worth at least \$10 the option to receive their
5 payout in cash, rather than Robux, and a further option to receive this distribution electronically.
6 Only around 3% of those eligible to receive cash elected to do so, and those Class Members will
7 receive, on average, around \$40. That roughly 97% of those with a choice elected to receive their
8 distribution in the form of Robux indicates that Class Members are both happy with this relief and
9 satisfied with the method of distribution.

10 Finally, as discussed in the filing at docket entry 75 and *infra*, the attorney’s fees here are
11 reasonable. Thus, the relief provided by the Settlement is fair, reasonable, and adequate,
12 supporting final approval.

13 **4. The Settlement treats Class Members equitably relative to each other.**

14 The final Rule 23(e) factor concerns whether the proposed settlement treats class members
15 equitably relative to each other. The instant Settlement easily passes this test, as Settlement Class
16 Members’ recovery is calibrated to how much they lost when Roblox “moderated” items they had
17 already purchased. *See In re MacBook Keyboard Litig.*, No. 5:18-CV-02813-EJD, 2022 WL
18 17409738, at *5 (N.D. Cal. Dec. 2, 2022) (settlement which contained tiered allocation plan
19 depending on class member injuries “appears to treat Class members equitably relative to each
20 other”); *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1045 (N.D. Cal. 2008) (“It is
21 reasonable to allocate the settlement funds to class members based on the extent of their injuries or
22 the strength of their claims on the merits.”).

23 Finally, while the Plaintiff has sought a service award, *see* Dkt. 75, that does not indicate
24 inequitable treatment. Such awards are commonplace, and serve to recognize the valuable efforts
25 of a class representative, without which this type of representative litigation and class settlement
26 could not even exist. The basis for the award here is more fully explained in Plaintiff’s motion for
27 a service award, and is fully justified under governing law. The ultimate award is, of course,
28 subject to Court approval, but for present purposes it suffices to note that Doe petitioned for an

1 award of \$5,000. This is on the lower end of incentive awards in this District, constitutes only
2 0.05% of the proposed Settlement Fund, and is presumptively reasonable. *See In re Facebook*
3 *Biometric Info. Priv. Litig.*, No. 21-15553, 2022 WL 822923, at *2 (9th Cir. Mar. 17, 2022)
4 (noting that the Ninth Circuit “regularly uphold[s] incentive awards” of \$5,000); *In re Wells Fargo*
5 *& Co. S’holder Derivative Litig.*, 445 F. Supp. 3d 508, 534 (N.D. Cal. 2020) (noting that a \$5,000
6 award is “presumptively reasonable”). Thus, this additional allocation of funds is equitable. *See*
7 *Evans v. Zions Bancorp., N.A.*, No. 2:17-CV-01123 WBS DB, 2022 WL 16815301, at *5 (E.D.
8 Cal. Nov. 8, 2022) (finding that \$5,000 service awards comported with equitable treatment of
9 class members); *see also Juarez*, 2022 WL 17722382, at *6 (noting that settlement’s provision for
10 an incentive award did not indicate preferential treatment because any such award would need to
11 be supported with evidence).

12 **D. The objections do not demonstrate that Class Counsel’s requested Attorney’s**
13 **Fees are unreasonable.**

14 In seeking a fee award of 25% of the Settlement Fund, and just 5.4% of the total value of
15 the Settlement to the Class (a total of \$2.5 million), Class Counsel explained that this case is not
16 governed by 28 U.S.C. § 1712(e) because this is not a coupon settlement, and because Class
17 Counsel’s efforts justified a 25% award, which is equal to the benchmark award in this Circuit.
18 Only one objector takes issue with Class Counsel’s fee request, and proposed amicus TINA adds a
19 few words on the subject as well. But neither filing shows either that this is a coupon settlement
20 (necessitating a different method of calculating fees) or that a 25% award is unreasonable.

21 Objector Emerson suggests that Class Counsel’s fee request is excessive because most
22 Settlement Class Members are minors. *See* Dkt. 69. There is no obvious doctrinal reason that class
23 members should be treated differently based on their age, and Class Counsel could locate no case
24 endorsing Emerson’s belief that attorney’s fees must be reduced when the clients are young. Class
25 Counsel were able to locate only a few decisions in class actions in which the class, as here, was
26 composed exclusively or primarily of minors. In available fee orders, there is no hint that counsel
27 should be denied compensation because of the age of class members, though these decisions are
28 not based on the common-fund doctrine. *See Bohannon v. Facebook, Inc.*, No. 12-cv-01894-BLF,

1 2016 WL 9149505, at *1 (N.D. Cal. Aug. 5, 2016) (discussing fee award approved in case
2 involving injunctive relief); *M.B. v. Howard*, 555 F. Supp. 3d 1047, 1091 (D. Kan. 2021)
3 (awarding more than \$2.2 million following settlement benefitting children in foster care, but
4 under fee-shifting provision of federal civil-rights statute). And in common-fund cases in which
5 minor children are likely a significant part of a certified class, fees have been awarded based upon
6 the benefits that accrue to the entire class, not the age range of class members. *See, e.g., In re*
7 *TikTok, Inc. Consumer Priv. Litig.*, 617 F. Supp. 3d 904, 943 (N.D. Ill. 2022) (awarding one-third
8 of the fund in case with settlement class of all U.S.-based TikTok users).

9 To the extent Emerson’s objection is merely that an award of 5.4% of the value to the
10 Class is too large here, they do not identify any reason why a smaller award would more
11 accurately reflect the work performed by Class Counsel here, or the results achieved. As explained
12 more fully in Plaintiff’s motion for attorney’s fees, *see* Dkt. 75, an award of 25% of the cash fund
13 or 5.4% of the value here accurately reflects the results achieved and the risk overcome. Moreover,
14 the requested fee award amounts to a multiplier of approximately 3, which is well within the range
15 of multipliers typically approved in this Circuit. *See In re Nat’l Collegiate Athletic Ass’n Athletic*
16 *Grant-in-Aid Cap Antitrust Litig.*, No. 4:14-md-2541-CW, 2017 WL 6040065, at *9 (N.D. Cal.
17 Dec. 6, 2017) (“Indeed, multipliers of 4.0 and above are frequently applied in granting fee awards
18 from common funds.”).

19 TINA also contends that Class Counsel’s requested fee award is disproportionate to the
20 Settlement Class’ recovery. But that contention is based upon TINA’s own view of Robux as
21 “worthless.” The reaction of the Settlement Class tells us that TINA’s assessment is not shared by
22 most members of the Settlement Class. And, of course, it is the Class’s outlook on the relief that
23 matters, not TINA’s. TINA’s cases are inapposite, anyway. Much of TINA’s authority focuses on
24 settlements in which reverters and low claims rates mean that the Class actually realizes very little
25 value from the Settlement. *See, e.g., Lowery v. Rhapsody Int’l*, 75 F.4th 985, 990 (9th Cir. 2023)
26 (although defendant promised to pay up to \$20 million to class members, so few made claims that
27 defendant ultimately paid out only \$52,841.05); *Kim v. Allison*, 8 F.4th 1170, 1179 (9th Cir. 2021)
28 (in age discrimination lawsuit against Tinder dating app, value of coupon relief overstated because

1 44% of the settlement class no longer used Tinder, and although \$6 million in cash was available,
2 Tinder paid out less than \$45,000); *Briseño v. Henderson*, 998 F.3d 1014, 1026 (9th Cir. 2021) (in
3 claims-made settlement, defendant paid out only 1% of potential \$95 million in claims due to low
4 claims rate). But that is not what is happening here. Here, every Settlement Class Member gets to
5 realize value from the Settlement. And while it is true that many Class Members are ineligible for
6 cash relief, that is because the cost of administering a settlement that included only cash relief
7 would likely use up the entire settlement fund, preventing anyone from getting anything—these
8 are mostly losses between \$1–3, and often less. So instead, the relief here gets Class Members
9 what they want: more Robux to use to replace moderated items in the Roblox metaverse nearly all
10 of them continue to play in. There is real value in that. Class Counsel’s fee request does not
11 represent a disproportionate share of the value realized by the Settlement.

12 **E. There are no objections to the proposed Service Award.**

13 Plaintiff previously explained why the Court should issue a Service Award. *See* Dkt. 75.
14 No opposition to the service award was lodged by the objectors or by TINA. The Court should
15 issue the award for the reasons previously stated.

16 **V. CONCLUSION**

17 Accordingly, this Court should enter an order confirming certification of the Settlement
18 Class for settlement purposes, confirming the appointment of Plaintiff Jane Doe to represent the
19 Settlement Class, and Jay Edelson, Rafey S. Balabanian, J. Eli Wade-Scott, and Yaman Salahi of
20 Edelson PC as Class Counsel and Mark S. Reich and Courtney E. Maccarone of Levi &
21 Korsinsky, LLP as Liaison Counsel, finally approving the Settlement, ordering that the Settlement
22 Fund be distributed to the Settlement Class in accordance with the Settlement, and entering a final
23 judgment in this matter.

24
25 Date: September 7, 2023

By: /s/ Yaman Salahi

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