

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Miguel Avila, on Behalf of Himself and All
Others Similarly Situated,

Plaintiffs,

v.

LifeLock Inc., Todd Davis, Chris G.
Power, and Hilary A. Schneider,

Defendants.

CASE NO. 2:15-cv-01398-SRB

CLASS ACTION

Hon. Susan R. Bolton

**ORDER GRANTING
PRELIMINARY APPROVAL
OF CLASS ACTION
SETTLEMENT, APPROVING
FORM AND MANNER OF
NOTICE, AND SETTING
DATE FOR HEARING ON
FINAL APPROVAL OF
SETTLEMENT**

WHEREAS:

A. On March 27, 2020, Oklahoma Police Pension and Retirement System and Oklahoma Firefighters Pension and Retirement System (collectively, “Lead Plaintiffs”) and all other members of the Settlement Class, on the one hand, and LifeLock, Inc. (“LifeLock,” or “the Company”), Todd Davis, Chris Power, and Hilary Schneider (collectively, “Defendants”), on the other, entered into a Stipulation and Agreement of Settlement (the “Stipulation”) in the above-captioned litigation (the “Action”), which is subject to review under Rule 23 of the Federal Rules of Civil Procedure and which, together with the exhibits thereto, sets forth the terms and conditions of the proposed settlement of the Action and the claims alleged in the Second Amended Class Action Complaint, filed on October 14, 2016, on the merits and with prejudice (the “Settlement”);

1 B. The Court has reviewed and considered the Stipulation and the
2 accompanying exhibits;

3 C. The Parties to the Stipulation have consented to the entry of this order; and

4 D. All capitalized terms used in this order that are not otherwise defined herein
5 have the meanings defined in the Stipulation.

6 NOW, THEREFORE, IT IS HEREBY ORDERED that:

7 1. The Court has reviewed the Stipulation and preliminarily finds, pursuant to
8 Fed. R. Civ. P. 23(e)(1), that the Court will likely be able to approve the proposed
9 Settlement as fair, reasonable, and adequate under Federal Rule of Civil Procedure
10 23(e)(2), subject to further consideration at the Settlement Hearing described below.

11 2. Pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure,
12 the Court preliminarily certifies, for purposes of the Settlement only, the Settlement Class
13 of: all persons and entities who or which purchased or otherwise acquired shares of
14 LifeLock publicly traded common stock and/or call options, and/or sold LifeLock publicly
15 traded put options during the period from July 31, 2014 through July 21 2015, inclusive,
16 and who were damaged thereby. Excluded from the Settlement Class are: (i) Defendants;
17 (ii) members of the immediate families of the Individual Defendants; (iii) LifeLock's
18 subsidiaries and affiliates, including LifeLock's employee retirement and benefit plan(s);
19 (iv) any person who is or was an officer or director of LifeLock or any of LifeLock's
20 subsidiaries or affiliates during the Class Period; (v) any entity in which any Defendant
21 has a controlling interest; and (vi) the legal representatives, heirs, successors and assigns
22 of any such excluded person or entity. Also excluded from the Settlement Class are those
23 Persons who or which have timely and validly sought exclusion from the Settlement Class
24 in accordance with the requirements set forth below and in the Notice.

25 3. The Court finds and preliminarily concludes that the prerequisites of class
26 action certification under Rules 23(a) and 23(b)(3) of the Federal Rules of Civil
27 Procedures have been satisfied for the Settlement Class defined herein and for the
28 purposes of the Settlement only, in that:

1 (a) the members of the Settlement Class are so numerous that joinder of
2 all Settlement Class Members is impracticable;

3 (b) there are questions of law and fact common to the Settlement Class
4 Members;

5 (c) the claims of Lead Plaintiffs are typical of the Settlement Class's
6 claims;

7 (d) Lead Plaintiffs and Lead Counsel have fairly and adequately
8 represented and protected the interests of the Settlement Class;

9 (e) the questions of law and fact common to Settlement Class Members
10 predominate over any individual questions; and

11 (f) a class action is superior to other available methods for the fair and
12 efficient adjudication of the controversy, considering that the claims of Settlement Class
13 Members in the Action are substantially similar and would, if tried, involve substantially
14 identical proofs and may therefore be efficiently litigated and resolved on an aggregate
15 basis as a class action; the amounts of the claims of many of the Settlement Class
16 Members are too small to justify the expense of individual actions; and it does not appear
17 that there is significant interest among Settlement Class Members in individually
18 controlling the litigation of their claims.

19 4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for
20 purposes of the Settlement only, Oklahoma Police Pension and Retirement System and
21 Oklahoma Firefighters Pension and Retirement System are preliminarily certified as Class
22 Representatives for the Settlement Class. The law firms of Bernstein Liebhard LLP and
23 Labaton Sucharow LLP are preliminarily appointed Class Counsel for the Settlement
24 Class, and the law firm of Bonnett, Fairbourn, Friedman & Balint, P.C. is preliminarily
25 appointed as Liaison Counsel for the Settlement Class.

26 5. A hearing (the "Settlement Hearing") pursuant to Rule 23(e) of the Federal
27 Rules of Civil Procedure is hereby scheduled to be held before the Court, either in person
28

1 or telephonically at the Court's discretion, on **July 21, 2020, at 10:00 a.m.**, for the
2 following purposes:

3 (a) to determine whether the proposed Settlement is fair, reasonable and
4 adequate, and should be approved by the Court;

5 (b) to determine whether the proposed Final Order and Judgment
6 ("Judgment") as provided under the Stipulation should be entered, and to determine
7 whether the release by the Settlement Class of the Released Claims, as set forth in the
8 Stipulation, should be provided to the Released Defendant Parties;

9 (c) to determine, for purposes of the Settlement only, whether the
10 Settlement Class should be finally certified; whether Lead Plaintiffs should be finally
11 certified as Class Representatives for the Settlement Class; whether the law firms of
12 Bernstein Liebhard LLP and Labaton Sucharow LLP should be finally appointed as Class
13 Counsel for the Settlement Class; and whether Bonnett, Fairbourn, Friedman & Balint,
14 P.C. should be finally appointed as Liaison Counsel for the Settlement Class;

15 (d) to determine whether the proposed Plan of Allocation for the
16 proceeds of the Settlement is fair and reasonable and should be approved by the Court;

17 (e) to consider Lead Counsel's application for an award of attorneys'
18 fees and expenses (which may include an application for an award to Lead Plaintiffs for
19 reimbursement of their reasonable costs and expenses directly related to their
20 representation of the Settlement Class, pursuant to the Private Securities Litigation
21 Reform Act of 1995 ("PSLRA")); and

22 (f) to rule upon such other matters as the Court may deem appropriate.

23 6. The Court reserves the right to approve the Settlement with or without
24 modification and with or without further notice to the Settlement Class of any kind. The
25 Court further reserves the right to enter the Judgment approving the Settlement regardless
26 of whether it has approved the Plan of Allocation or awarded attorneys' fees and/or
27 expenses. The Court may also adjourn the Settlement Hearing, decide to hold the hearing
28 telephonically, or modify any of the dates herein without further individual notice to

1 members of the Settlement Class. Any such changes shall be posted on the website of the
2 Claims Administrator.

3 7. The Court approves the form, substance and requirements of the Notice of
4 Pendency of Class Action, Proposed Settlement, and Motion for Attorneys' Fees and
5 Expenses (the "Notice") and the Proof of Claim and Release form ("Claim Form"),
6 substantially in the forms annexed hereto as Exhibits 1 and 2, respectively.

7 8. The Court approves the retention of JND Legal Administration as the
8 Claims Administrator. The Claims Administrator shall cause the Notice and the Claim
9 Form, substantially in the forms annexed hereto, to be mailed, by first-class mail, postage
10 prepaid, on or before ten (10) business days after entry of this Preliminary Approval Order
11 ("Notice Date"), to all Settlement Class Members who can be identified with reasonable
12 effort. LifeLock, to the extent it has not already done so, shall use its best efforts to obtain
13 and provide to Lead Counsel, or the Claims Administrator, transfer records in electronic
14 searchable form containing the names and addresses of Persons who purchased or
15 acquired LifeLock publicly traded common stock during the Class Period as soon as
16 practicable after entry of this Preliminary Approval Order.

17 9. The Claims Administrator shall use reasonable efforts to give notice to
18 nominee purchasers such as brokerage firms and other persons and entities that purchased
19 or acquired LifeLock publicly traded common stock and/or call options and/or sold
20 LifeLock publicly traded put options during the Class Period as record owners but not as
21 beneficial owners. Such nominees SHALL EITHER: (a) WITHIN SEVEN (7)
22 CALENDAR DAYS of receipt of the Notice, request from the Claims Administrator
23 sufficient copies of the Notice to forward to all such beneficial owners and WITHIN
24 SEVEN (7) CALENDAR DAYS of receipt of those Notices from the Claims
25 Administrator forward them to all such beneficial owners; or (b) WITHIN SEVEN (7)
26 CALENDAR DAYS of receipt of the Notice, provide a list of the names and addresses of
27 all such beneficial owners to the Claims Administrator and the Claims Administrator is
28 ordered to send the Notice promptly to such identified beneficial owners. Nominees shall

1 also provide email addresses for all such beneficial owners to the Claims Administrator, to
2 the extent they are available. Nominees who elect to send the Notice to their beneficial
3 owners SHALL ALSO send a statement to the Claims Administrator confirming that the
4 mailing was made and shall retain their mailing records for use in connection with any
5 further notices that may be provided in the Action. Upon full and timely compliance with
6 these directions, such nominees may seek reimbursement of their reasonable expenses
7 actually incurred by providing the Claims Administrator with proper documentation
8 supporting the expenses for which reimbursement is sought.

9 10. Lead Counsel shall, at or before the Settlement Hearing, file with the Court
10 proof of mailing of the Notice and Claim Form.

11 11. The Court approves the form of the Summary Notice of Pendency of Class
12 Action, Proposed Settlement, and Motion for Attorneys' Fees and Expenses ("Summary
13 Notice") substantially in the form annexed hereto as Exhibit 3, and directs that Lead
14 Counsel shall cause the Summary Notice to be published in *Investor's Business Daily* and
15 be transmitted over *PR Newswire* within fourteen (14) calendar days of the Notice Date.
16 Lead Counsel shall, at or before the Settlement Hearing, file with the Court proof of
17 publication of the Summary Notice.

18 12. The form and content of the notice program described herein, and the
19 methods set forth herein of notifying the Settlement Class of the Settlement and its terms
20 and conditions, meet the requirements of Rule 23 of the Federal Rules of Civil Procedure,
21 Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(7), as
22 amended by the PSLRA, and due process, constitute the best notice practicable under the
23 circumstances, and shall constitute due and sufficient notice to all persons and entities
24 entitled thereto.

25 13. In order to be eligible to receive a distribution from the Net Settlement
26 Fund, in the event the Settlement is effected in accordance with the terms and conditions
27 set forth in the Stipulation, each claimant shall take the following actions and be subject to
28 the following conditions:

1 (a) A properly executed Claim Form, substantially in the form annexed
2 hereto as Exhibit 2, must be submitted to the Claims Administrator, at the address
3 indicated in the Notice, postmarked no later than five (5) calendar days before the
4 Settlement Hearing. Such deadline may be further extended by Court order or by Lead
5 Counsel in their discretion. Each Claim Form shall be deemed to have been submitted
6 when postmarked (if properly addressed and mailed by first-class or overnight mail,
7 postage prepaid). Any Claim Form submitted in any other manner shall be deemed to
8 have been submitted when it was actually received at the address designated in the
9 Notice. Any Settlement Class Member who does not timely submit a Claim Form within
10 the time provided for shall be barred from sharing in the distribution of the Net
11 Settlement Fund, unless otherwise ordered by the Court, but shall remain bound by all
12 determinations and judgments in this Action concerning the Settlement, as provided by
13 paragraph 15 of this order.

14 (b) The Claim Form submitted by each claimant must satisfy the
15 following conditions, unless otherwise allowed pursuant to the Stipulation: (i) it must be
16 properly completed, signed and submitted in a timely manner in accordance with the
17 provisions of the preceding subparagraph; (ii) it must be accompanied by adequate
18 supporting documentation for the transactions reported therein, in the form of broker
19 confirmation slips, broker account statements, an authorized statement from the broker
20 containing the transactional information found in a broker confirmation slip, or such
21 other documentation as is deemed adequate by the Claims Administrator and/or Lead
22 Counsel; (iii) if the person executing the Claim Form is acting in a representative
23 capacity, a certification of her current authority to act on behalf of the claimant must be
24 included in the Claim Form; and (iv) the Claim Form must be complete and contain no
25 material deletions or modifications of any of the printed matter contained therein and
26 must be signed under penalty of perjury.

27 (c) As part of the Claim Form, each claimant shall submit to the
28 jurisdiction of the Court with respect to the claim submitted.

1 14. Any Settlement Class Member may enter an appearance in this Action, at
2 his, her or its own expense, individually or through counsel of his, her or its own choice.
3 If any Settlement Class Member does not enter an appearance, he, she or it will be
4 represented by Lead Counsel.

5 15. Settlement Class Members shall be bound by all orders, determinations and
6 judgments in this Action concerning the Settlement, whether favorable or unfavorable,
7 unless such Persons request exclusion from the Settlement Class in a timely and proper
8 manner, as hereinafter provided. A putative Settlement Class Member wishing to make
9 such an exclusion request shall mail the request in written form by first-class mail to the
10 address designated in the Notice for such exclusions, such that it is received no later than
11 twenty-one (21) calendar days prior to the Settlement Hearing. Such request for exclusion
12 must state the name, address and telephone number of the Person seeking exclusion, must
13 state that the sender requests to be “excluded from the Settlement Class in *Miguel Avila v.*
14 *LifeLock, Inc., et al.*, Case No. 2:15-cv-01398-SRB (D. Ariz.)” and must be signed by
15 such Person. Such Persons requesting exclusion are also directed to state the information
16 requested in the Notice, including, but not limited to: the date(s), price(s), and number(s)
17 of shares of all purchases, acquisitions, and sales of LifeLock publicly traded common
18 stock and call or put options during the Class Period. The request for exclusion shall not
19 be effective unless it provides the required information and is made within the time stated
20 above, or the exclusion is otherwise accepted by the Court.

21 16. Putative Settlement Class Members requesting exclusion from the
22 Settlement Class shall not be eligible to receive any payment out of the Net Settlement
23 Fund as described in the Stipulation and Notice.

24 17. The Court will consider any Settlement Class Member’s objection to the
25 Settlement, the Plan of Allocation, and/or the application for an award of attorneys’ fees
26 or expenses only if such Settlement Class Member has served by hand or by mail his, her
27 or its written objection and supporting papers, such that they are received on or before
28 twenty-one (21) calendar days before the Settlement Hearing, upon Lead Counsel: Carol

1 C. Villegas, Labaton Sucharow LLP, 140 Broadway, New York, NY 10005, and Michael
2 S. Bigin, Bernstein Liebhard LLP, 10 East 40th Street, New York, NY 10016; and
3 Defendants' Counsel: Boris Feldman, Wilson Sonsini Goodrich & Rosati, 650 Page Mill
4 Road, Palo Alto, CA 94304; and has filed, either by mail or in person, said objections and
5 supporting papers with the Clerk of the Court, United States District Court for the District
6 of Arizona, Sandra Day O'Connor U.S. Courthouse, Suite 522, 401 West Washington
7 Street, SPC 50, Phoenix, Arizona, 85003. Any Settlement Class Member who does not
8 make his, her, or its objection in the manner provided for in the Notice shall be deemed to
9 have waived such objection and shall forever be foreclosed from making any objection to
10 any aspect of the Settlement, to the Plan of Allocation, or to the request for attorneys' fees
11 and expenses, unless otherwise ordered by the Court, but shall otherwise be bound by the
12 Judgment to be entered and the releases to be given. Attendance at the hearing is not
13 necessary, however, persons wishing to be heard orally in opposition to the approval of
14 the Settlement, the Plan of Allocation, and/or the application for an award of attorneys'
15 fees and other expenses are required to indicate in their written objection their intention to
16 appear at the hearing. Persons who intend to object to the Settlement, the Plan of
17 Allocation, and/or the application for an award of attorneys' fees and expenses and desire
18 to present evidence at the Settlement Hearing must include in their written objections the
19 identity of any witnesses they may call to testify and exhibits they intend to introduce into
20 evidence at the Settlement Hearing.

21 18. Settlement Class Members do not need to appear at the hearing or take any
22 other action to indicate their approval.

23 19. Pending final determination of whether the Settlement should be approved,
24 Lead Plaintiffs, all Settlement Class Members, and each of them, and anyone who acts or
25 purports to act on their behalf, shall not institute, commence or prosecute any action
26 which asserts Released Claims against the Released Defendant Parties.

27 20. As provided in the Stipulation, prior to the Effective Date, Lead Counsel
28 may pay the Claims Administrator a portion of the reasonable fees and costs associated

1 with giving notice to the Settlement Class and the review of claims and administration of
2 the Settlement out of the Settlement Fund not to exceed \$450,000 without further approval
3 from Defendants and without further order of the Court.

4 21. All papers in support of the Settlement, Plan of Allocation, and Lead
5 Counsel's request for an award of attorneys' fees and expenses shall be filed with the
6 Court and served on or before thirty-five (35) calendar days prior to the date set herein for
7 the Settlement Hearing. If reply papers are necessary, they are to be filed with the Court
8 and served no later than seven (7) calendar days prior to the Settlement Hearing.

9 22. No person who is not a Settlement Class Member or Lead Counsel shall
10 have any right to any portion of, or to any distribution of, the Net Settlement Fund unless
11 otherwise ordered by the Court or otherwise provided in the Stipulation.

12 23. All funds held in escrow shall be deemed and considered to be in *custodia*
13 *legis* of the Court, and shall remain subject to the jurisdiction of the Court until such time
14 as such funds shall be disbursed pursuant to the Stipulation and/or further order of the
15 Court.

16 24. Neither Defendants nor their counsel shall have any responsibility for the
17 Plan of Allocation or any application for attorney's fees or expenses submitted by Lead
18 Counsel or Lead Plaintiffs, and such matters shall be considered separately from the
19 fairness, reasonableness and adequacy of the Settlement.

20 25. If the Settlement fails to become effective as defined in the Stipulation or is
21 terminated, then both the Stipulation, including any amendment(s) thereof, except as
22 expressly provided in the Stipulation, and this Preliminary Approval Order shall be null
23 and void, of no further force or effect, and without prejudice to any Party, and may not be
24 introduced as evidence or used in any actions or proceedings by any person or entity
25 against the Parties, and the Parties shall be deemed to have reverted to their respective
26 litigation positions in the Action as of March 4, 2020.

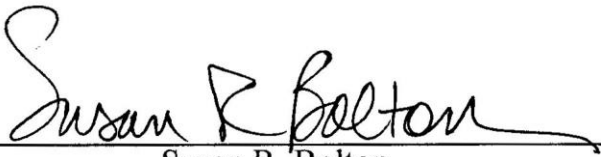
27 ...

28 ...

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

26. The Court retains exclusive jurisdiction over the Action to consider all further matters arising out of or connected with the Settlement.

Dated this 10th day of April, 2020.



Susan R. Bolton
United States District Judge