

1 PENELOPE A. PREVOLOS (BAR NO. 87607)
Email: PPreovolos@mof.com
2 WILLIAM F. TARANTINO (BAR NO. 215343)
Email: WTarantino@mof.com
3 MORRISON & FOERSTER LLP
425 Market Street
4 San Francisco, California 94105-2482
Telephone: 415.268.7000
5 Facsimile: 415.268.7522

6 Attorneys for Defendant
IMVU, INC.
7

8 SUPERIOR COURT OF THE STATE CALIFORNIA
9 COUNTY OF SANTA CLARA
10

11 PETER MACKINNON, JR., an individual, on
behalf of himself, the general public and those
12 similarly situated,

13 Plaintiff,

14 v.

15 IMVU, INC.; AND DOES 1 THROUGH 50,

16 Defendants.
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11/17/2016 10:32:59 AM
David H. Yamasaki
Chief Executive Officer/Clerk
Superior Court of CA,
County of Santa Clara
2011-1-CV-193767
Reviewed By:R. Walker

Case No. 111-CV-193767

UNLIMITED CIVIL CASE

**[PROPOSED] ORDER EXTENDING
BENEFIT DISTRIBUTION
DEADLINES AND SETTING
PENALTIES FOR NONCOMPLIANCE**

Date: November 17, 2016
Time: 10:00 a.m.
Dept: 1
Judge: Hon. Peter H. Kirwan

Date of Filing: January 29, 2015
Trial Date: None

1 The ex parte application of Defendant IMVU seeking an order modifying this Court's order of
2 final approval and judgment to (1) extend the deadlines by which IMVU must distribute certain class
3 benefits pursuant to the Settlement Agreement from October 25, 2016 to February 16, 2016, and (2)
4 set financial penalty for IMVU's non-compliance with the revised schedule came on for hearing on
5 November 16, 2016 at 10 a.m. in Department 1. William Tarantino, from Morrison & Foerster LLP,
6 appeared on behalf of IMVU. Adam Gutride appeared for plaintiff and the class.

7 Having considered the papers submitted by the parties, the file in this matter and previous
8 rulings by this court, the argument of counsel, and good cause appearing therefore, the court hereby
9 orders that defendants' ex parte application is GRANTED as follows:

10 1. Compliance with the schedule set forth below shall be deemed timely compliance with
11 IMVU's obligations to complete Predit distribution under the Settlement Agreement.

Date	Approximate Predit Distribution	Approximate Percent Complete
November 16, 2016	182,508,282	62%
December 14, 2016	183,012,685	75%
January 18, 2016	182,981,522	87%
February 16, 2017	182,980,989	100%

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20 2. IMVU shall ensure that all Predits owed to qualified settlement beneficiaries are
21 distributed no later than February 16, 2017 and shall file and serve a certification of compliance on or
22 before February 17, 2017.

23 3. IMVU shall research and reconcile differences between the numbers of current
24 identified settlement beneficiaries and the number identified in the January 14, 2016 Declaration of
25 Kevin Henshaw, and it will provide benefits to any individuals improperly excluded. IMVU will
26 provide a detailed description of the results of the investigation in its certification of compliance to be
27 filed on or before February 17, 2016.
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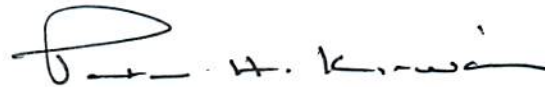
1 4. The remaining \$50,000 attorney fees awarded to Plaintiff's counsel, plus accrued
2 interest, shall be released from the escrow account to Plaintiff's counsel forthwith.

3 5. Failure by IMVU to comply with the revised schedule would be material non-
4 compliance with the Settlement Agreement shall be subject to a finding of contempt by this Court. ^{and} CF

5 6. Should IMVU fail to timely certify compliance on February 17, 2017, IMVU agrees
6 not to oppose Plaintiff's request for an order imposing of fine of up to \$100,000, payable to the
7 Court, and further agrees not to oppose Plaintiffs' request for reimbursement out of that fine of
8 attorney's fees and costs incurred on or after October 5, 2016 to secure compliance with the
9 Settlement Agreement. Plaintiffs will also retain any other remedy available to it in law or equity.

10 IT IS SO ORDERED.

11
12 DATE: November 17, 2016

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15 Hon. Peter Kirwan
16 SANTA CLARA SUPERIOR COURT