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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

In re AudioEye, Inc. Sec. Litig.

Case No: 4:15-cv-00163-TUC-DCB

**ORDER AUTHORIZING
DISTRIBUTION OF NET
SETTLEMENT FUND AND
APPROVING THE PROPOSED
MODIFIED PLAN OF ALLOCATION**

Having considered the Motion for an Order to Authorize Distribution of the Net Settlement Fund and to Approve the Proposed Modified Plan of Allocation, and the accompanying documents thereto, and all matters submitted to it and good cause appearing therefore; and

It appearing that the parties have administered the terms of the Stipulation; and,

It appearing as set forth in the Notice of Pendency and Proposed Settlement of Class Action (the “Notice”), the deadline for Class Members to submit Proof of Claim and Release forms to the claims administrator for the Settlement, JND Class Action Administration (“JND” or “Claims Administrator”), in order to participate in the distribution of the Settlement Fund was April 24, 2017; and

It appearing that in satisfaction of due process requirements, all Class Members who filed claims that were in any way ineligible or deficient were: (1) informed that

1 their claims were ineligible or deficient; and (2) given opportunities to correct any
2 deficiency prior to their claims being finally rejected, or to contest the determination as
3 to the deficiency; and
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5 It appearing that the process of reviewing all Proofs of Claim has been
6 completed; and

7 It appearing that Lead Plaintiffs' Counsel now seeks authorization to distribute
8 the proceeds of the Settlement Fund to Authorized Claimants, after the payment of any
9 taxes and unpaid costs or expenses, and to approve the Proposed Modified Plan of
10 Allocation; and
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12 It appearing that this Court has retained exclusive and specific jurisdiction of this
13 Action with respect to all matters relating to the Settlement, including the
14 administration, interpretation, effectuation or enforcement of the Stipulation or
15 Settlement and the Order and Final Judgment, and including *inter alia* administering
16 and distributing the settlement proceeds to the Settlement Class Members;

17 **NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND**
18 **DECREED THAT:**

19 (1) The Proposed Modified Plan of Allocation is approved as fair and
20 reasonable and Lead Plaintiffs' Counsel and the Claims Administrator are directed to
21 administer the Stipulation and Proposed Modified Plan of Allocation in accordance with
22 its terms and provisions. Any modification or change in the Proposed Modified Plan of
23 Allocation that may hereafter be approved shall in no way disturb, affect or delay the
24 finality of the Order and Final Judgment dated May 8, 2017 (Dkt. No. 100) or the
25 Releases provided thereunder, shall not disturb, affect or delay the Effective Date of the
26 Settlement, and shall be considered separate from the Order and Final Judgment.
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1 (2) The administrative determinations of JND to accept the valid and timely
2 claims by Authorized Claimants, as set forth in Exhibit C-1 to the Cormio Affidavit, and
3 the late but otherwise valid claims by Authorized Claimants, as set forth in Exhibit C-2
4 of the Cormio Affidavit, are adopted and said claims are hereby accepted.
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6 (3) Any claim submitted after February 1, 2018 is and will be rejected, and
7 that no further claims against the Settlement Fund be permitted.

8 (4) The administrative determinations of JND to reject the claims on the list
9 of rejected or ineligible Claimants, as set forth in Exhibit C-3 of the Cormio Affidavit,
10 are adopted and said claims are hereby rejected.
11

12 (5) Payment shall be made from the Settlement Fund to the Internal Revenue
13 Service for the proper amount of taxes due and owing on the interest earned on the
14 Settlement Fund while in escrow, if any.

15 (6) The balance of the Settlement Fund, after deducting payments previously
16 allowed or set forth herein, shall be distributed to the Authorized Claimants listed on
17 Exhibit C-1 and C-2 of the Cormio Affidavit under the Court-approved Modified Plan
18 of Allocation in proportion to each Authorized Claimant's Recognized Loss as
19 compared to the total Recognized Loss of all accepted claimants as shown on such
20 printout.
21

22 (7) The checks for distribution to the Authorized Claimants shall bear the
23 notation "CASH PROMPTLY. VOID AND SUBJECT TO REDISTRIBUTION IF
24 NOT CASHED 90 DAYS AFTER ISSUE DATE." Lead Plaintiffs' Counsel and JND
25 are authorized to take appropriate action to locate and/or contact any Authorized
26 Claimant who has not cashed his, her or its check within said time. The costs of such
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1 services to locate and reissue payments to such Authorized Claimants shall be payable
2 from the unclaimed/uncashed monies remaining in the Net Settlement Fund.
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4 (8) One (1) year after the initial distribution, (a) any funds remaining in the
5 Net Settlement Fund, by reason of uncashed checks, or otherwise, after the Claims
6 Administrator has made reasonable efforts to have Authorized Claimants who are
7 entitled to participate in the distribution of the Net Settlement Fund cash their
8 distribution checks, shall be redistributed, if economically feasible, to Settlement Class
9 Members who have cashed their initial distributions and who would receive at least
10 \$10.00 from such redistribution, after payment of any unpaid costs or fees incurred in
11 administering the Net Settlement Fund for such redistribution; and (b) if there is any
12 balance remaining in the Net Settlement Fund after distribution or redistribution to
13 Authorized Claimants, then such remaining funds, after payment of any further notice
14 and administration expenses and taxes, shall be donated to the Arizona Foundation for
15 Legal Services and Education or any not-for-profit successor of it.
16

17 (9) The Court finds that the administration of the Settlement and the proposed
18 distribution of the Net Settlement Fund comply with the terms of the Stipulation and the
19 Modified Plan of Allocation and that all persons who are involved in the review,
20 verification, calculation, tabulation, or any other aspect of the processing of the Proofs
21 of Claim filed in this Action, or who are otherwise involved in the administration or
22 taxation of the Settlement Fund, or the Net Settlement Fund are released and discharged
23 from any and all claims arising out of such involvement, and, pursuant to the release
24 terms of the Settlement, all Class Members, whether or not they are to receive payment
25 from the Net Settlement Fund, are barred from making any further claims against the
26 Net Settlement Fund, beyond the amount allocated to Authorized Claimants, and to
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1 provide that all persons involved in the review, verification, calculation, tabulation, or
2 any other aspect of the processing of the Proofs of Claim submitted herein, or otherwise
3 involved in the administration or taxation of the Settlement Fund or Net Settlement
4 Fund, be released and discharged from any and all claims arising out of such
5 involvement.
6

7 (10) This Order shall not release any claim by Lead Plaintiffs against the
8 Claims Administrator with respect to distributions, if any, if later discovered to have
9 been made not substantially in accordance with the Stipulation, the Modified Plan of
10 Allocation or any order of the Court.
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12 (11) JND is hereby authorized to destroy claim forms and records in paper
13 form one year after final distribution of the Net Settlement Fund, and claim forms and
14 records in electronic form three years after final distribution of the Net Settlement Fund.
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16 (12) This Court retains jurisdiction over any further application or matter
17 which may arise in connection with this Action.

18 **IT IS FURTHER ORDERED** that the Motion for an Order to Authorize
19 Distribution of the Net Settlement Fund and to Approve the Proposed Modified Plan of
20 Allocation (Doc. 101) is GRANTED.

21 Dated this 9th day of February, 2018.

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Honorable David C. Bury
United States District Judge