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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ANNE WOLF, individually, and on)
behalf of other members of the general)
public similarly situated,)

Plaintiff,)

vs.)

HEWLETT PACKARD COMPANY,)

Defendant.)

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TJH
Case No. 5:15-cv-01221-~~PRO~~-GJS

**ORDER PRELIMINARILY
APPROVING CLASS ACTION
SETTLEMENT, CONDITIONALLY
CERTIFYING PROPOSED
SETTLEMENT CLASS,
DIRECTING NOTICE, AND
SETTING HEARING ON FINAL
APPROVAL OF SETTLEMENT**

1 Plaintiffs Anne Wolf, Robin Sergi, Carlos Romero and Anthony
2 Fehrenbach, having reached a settlement with Defendant HP Inc. f/k/a Hewlett-
3 Packard Company (“Defendant” or “HP”), have filed a Motion for an Order
4 Preliminarily Approving Class Action Settlement, Conditionally Certifying
5 Proposed Settlement Class, Directing Notice, and Setting Hearing on Final
6 Approval of Settlement (Dkt. No. __) (the “Motion”). Having reviewed the
7 Motion and supporting materials, the Court determines and **Orders** as follows:

8 A. Counsel have advised the Court that the parties have agreed, subject
9 to final approval by this Court following notice to the proposed Settlement Class
10 and a hearing, to settle this action on the terms and conditions set forth in the
11 Settlement Agreement and Release (“Settlement” or “Settlement Agreement”).

12 B. The Court has reviewed the Settlement Agreement, as well as the
13 files, records, and proceedings to date in this matter. The Court incorporates by
14 reference the Settlement Agreement as though fully set forth in this Order.
15 Capitalized terms shall have the meanings attributed to them in the Agreement.
16

17 C. The Court finds that the Settlement Agreement is sufficiently fair,
18 reasonable, and adequate to warrant notice to the proposed Class; that the
19 Settlement Class should be certified for settlement purposes only; and that the
20 Court should hold a hearing after notice to the Settlement Class to determine
21 whether to enter a final settlement approval order and final judgment in this
22 action, based upon the Agreement.

23 Based upon the foregoing, **IT IS HEREBY FURTHER ORDERED:**

24 1. **Preliminary Approval of Proposed Settlement.** The Settlement
25 Agreement, including all exhibits thereto, is preliminarily approved as fair,
26 reasonable and adequate. The Court finds that (a) the Agreement resulted from
27 extensive arm’s length negotiations, with participation of two experienced
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1 mediators, and (b) the Agreement is sufficient to warrant notice thereof to
2 members of the Settlement Class and the Fairness Hearing described below.

3 **2. Class Certification for Settlement Purposes Only.**

4 (a) Pursuant to Fed. R. Civ. P. 23(b)(3), the Court, for settlement
5 purposes only, conditionally certifies a class consisting of all persons or entities
6 residing in the States of California and Texas who purchased an HP LaserJet Pro
7 P1102w printer, as well as all persons or entities residing in California who
8 purchased an HP LaserJet Pro 200 Color MFP M276nw printer, between April 1,
9 2014, and the present. The Settlement Class does not include HP Inc., formally
10 known as Hewlett-Packard Company, or any of its employees, assigns, attorneys,
11 agents, past, present, and future officers and directors, nor its parents,
12 subsidiaries, divisions, affiliates, predecessors, and successors, and each of their
13 respective employees, assigns, attorneys, agents, resellers and past, present and
14 future officers and directors.. The Settlement Class also does not include any
15 persons who validly requested exclusion from the Class by the Opt Out Deadline.
16

17 (b) In connection with the certification, the Court makes the
18 following preliminary findings:

19 (1) The Class satisfies Fed. R. Civ. P. 23(a)(1) because the
20 Class appears to be so numerous that joinder of all members is impracticable;

21 (2) The Class satisfies Fed. R. Civ. P. 23(a)(2) because
22 there appear to be questions of law or fact common to the Class;

23 (3) The Class satisfies Fed. R. Civ. P. 23(a)(3) because the
24 claims of Plaintiffs Wolf, Fehrenbach, Sergi and Romero appear to be typical of
25 the claims being resolved through the proposed settlement;

26 (4) The Class satisfies Fed. R. Civ. P. 23(a)(4) because the
27 Representative Plaintiffs appear to be capable of fairly and adequately protecting
28 the interests of the Settlement Class in connection with the proposed settlement

1 and because Class Counsel are qualified, competent and capable of prosecuting
2 this action on behalf of the Class.

3 (5) The Class satisfies the requirements of Fed. R. Civ. P.
4 23(b)(3) because, for purposes of settlement approval and administration,
5 common questions of law and fact appear to predominate over questions affecting
6 only individual Class Members and because settlement appears to be superior to
7 other available methods for the fair and efficient resolution of the claims of the
8 Class. The Class appears to be sufficiently cohesive to warrant settlement by
9 representation.

10 (c) In making the foregoing findings, the Court has exercised its
11 discretion in conditionally certifying a settlement class.

12 (d) Anne Wolf, Robin Sergi, Anthony Fehrenbach and Carlos
13 Romero are hereby designated as Class Representatives.

14 3. **Class Counsel.** The Court appoints the Law Offices of Todd M.
15 Friedman, PC as counsel for the Class (“Class Counsel”). For purposes of these
16 settlement approval proceedings, the Court finds that Class Counsel are
17 competent and capable of exercising their responsibilities as Class Counsel.
18

19 4. **Fairness Hearing.** A hearing shall be held before this Court on
20 November ⁰⁵ ~~XX~~2018 at 10:00 a.m. (“Fairness Hearing”), as set forth in the Notice
21 (described in Paragraph 5 below), to determine whether the Settlement
22 Agreement is fair, reasonable, and adequate and should be given final approval.
23 Papers in support of final approval of the Agreement and Class Counsel’s
24 application for an award of attorneys’ fees, costs and expenses and for service
25 awards to the Representative Plaintiffs (“Fee and Expense Application”) shall be
26 filed with the Court according to the schedule set forth in Paragraphs 12 and 13,
27 below. The Court may postpone, adjourn, or continue the Fairness Hearing
28 without further notice to the Class. After the Fairness Hearing, the Court may

1 enter a Settlement Order and Final Judgment in accordance with the Agreement
2 (“Final Judgment”), which will adjudicate the rights of the Class Members with
3 respect to the claims being settled.

4 5. **Notice.** The Court approves the form and content of the notices
5 substantially in the forms filed as Exhibits B, C, D and E in connection with the
6 Motion. Notice shall encompass the following:

7 Settlement Website.

8 No later than fourteen (14) days after entry of the Preliminary Approval
9 Order, the Claims Administrator shall:

- 10 (a) Create a settlement website in both English and Spanish, which shall
11 be operative no later than the first date that the Class publication
12 notice is published and which shall contain downloadable copies of
13 the Preliminary Approval Order, Long Form Notice, Settlement
14 Agreement, claim form, and when filed, Class Counsel’s motions for
15 an attorneys’ fees and expenses award and for an incentive fee for
16 the Class Representatives.
17
18 (b) Post on the settlement website a Long Form Notice substantially in
19 the form attached hereto as Exhibit B which shall set forth in a
20 question and answer format the details of the settlement and the
21 rights of Class Members to participate in the settlement, exclude
22 themselves, or object to the settlement.
23
24 (c) Post on the settlement website any subsequent notices agreed to by
25 the Parties, and rulings issued by the Court.

26 Notice to Class – Direct Mail Notice to Certain Class Members.

- 27 (a) No later than fourteen (14) days after entry of the Preliminary
28 Approval Order, Defendant, Plaintiffs, and third party retailers which
have agreed through discovery with Plaintiffs to produce data

1 directly to the claims administrator, shall deliver to the Claims
2 Administrator physical addresses, names and/or email addresses that
3 are believed to be associated with certain individuals who are
4 potential Class Members.

5 (b) No later than thirty (30) days after entry of the Preliminary Approval
6 Order, the Claims Administrator shall provide notice by first-class
7 postcard, double-sided with postage pre-paid, to the addresses
8 obtained through the process set forth above. The notice shall be
9 substantially in the form set forth as Exhibit D, provided, however,
10 that the Parties shall have the discretion to make agreed-upon non-
11 material minor revisions to the notice before mailing it.

12
13 6. **Filing of CAFA Notice.** The Claims Administrator shall be
14 responsible for serving the Class Action Fairness Act (“CAFA”) notice required
15 by 28 U.S.C. § 1715 within ten (10) days of the filing of the Preliminary
16 Approval Motion. Before the Fairness Hearing, the Claims Administrator shall
17 file with the Court proof of compliance with the notice provisions of the Class
18 Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1715.

19 7. **Findings Concerning Notice.** The Court finds that the Notice and
20 the manner of its dissemination described in Paragraph 5 above and Paragraph
21 9.01-9.05 of the Settlement Agreement constitutes the best practicable notice
22 under the circumstances and is reasonably calculated, under all the circumstances,
23 to apprise Class Members of the pendency of this action, the terms of the
24 Agreement, and their right to object to or exclude themselves from the Class. The
25 Court finds that the Notice is reasonable, that it constitutes due, adequate and
26 sufficient notice to all persons entitled to receive notice, and that it meets the
27 requirements of the Due Process Clause of the United States Constitution and of
28 Rule 23 of the Federal Rules of Civil Procedure.

1 8. **Exclusion from Class.** Each person or entity who wishes to be
2 excluded from the Class and follows the procedures set forth in this Paragraph
3 shall be excluded. Any potential member of the Class may mail a written request
4 for exclusion, in the form specified in the Settlement Agreement, to the Claims
5 Administrator at the address set forth in the Notice. All such written requests
6 must be postmarked by ninety (90) days after entry of this Order. All persons
7 who properly request exclusion from the Class shall not be Class Members and
8 shall have no rights with respect to, nor be bound by, the Settlement Agreement,
9 should it be finally approved. The names of all such excluded individuals shall be
10 attached as an exhibit to any Final Judgment.

11 9. **Right to Abrogate Agreement.** In the event more than 3,000 Class
12 Members timely exclude themselves from the Settlement Class, HP shall have the
13 unilateral right to abrogate the Settlement Agreement by written notice of
14 abrogation to Class Counsel in accordance with and subject to the procedures set
15 forth in the Settlement Agreement. If HP exercises its right to abrogate the
16 Agreement, then all aspects of the Agreement and the settlement underlying it,
17 including but not limited to the provisional certification of the Settlement Class
18 for settlement purposes only, shall be altogether null and void, and no aspect of
19 the Agreement, the settlement, or this Order shall serve as legal precedent or as
20 any basis for legal or factual argument in this or any other case.

21 10. **Claims Procedures.** The Court approves the claims procedures set
22 forth in the Settlement Agreement. The Court approves the form and content of
23 the Claim Form substantially in the form at the end of Exhibit G filed in
24 connection with the Motion. Each Settlement Class Member shall submit a claim
25 form listing his or her qualifying Class Printer. The claim period shall remain
26 open for one hundred and twenty (120) days after entry of the Preliminary
27 Approval Order. Claim forms will be: (a) included on the settlement website to
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1 be designed and administered by the Claims Administrator; and (b) made readily
2 available from the Claims Administrator. Any Settlement Class Member who, in
3 accordance with the terms and conditions of this Settlement Agreement and
4 Release, neither seeks exclusion from the Settlement Class nor files a claim form
5 will not be entitled to receive any benefit or other relief pursuant to this
6 Settlement Agreement and Release, but will be bound together with all Settlement
7 Class Members by all of the terms of this Settlement Agreement and Release,
8 including the terms of the Final Approval Order and Judgment to be entered in
9 the Actions and the releases provided for herein, and will be barred from bringing
10 any action against any of the Released Parties concerning the Released Claims.

11 11. **Costs of Notice and Claims Processing.** The costs of notice to the
12 Class of the pendency and settlement of the Actions and of processing claims
13 shall be paid by HP, in an amount to be determined.

14 12. **Objections and Appearances.**

15 (a) **Written Objections.** Any entity or person who has not timely
16 submitted a written request for exclusion from the Class, and thus is a Class
17 Member, may object to the fairness, reasonableness or adequacy of the
18 Agreement, or the Fee and Expense Application. Any Settlement Class Member
19 who intends to object to the fairness of this settlement must file a written
20 objection with the Court no later than ninety (90) days after entry of this Order
21 and simultaneously provide a copy to Class Counsel and counsel for Defendant at
22 the addresses set forth in the Notice. Class Counsel will file copies with the Court
23 via ECF. In the written objection, the Settlement Class Member must state his or
24 her full name, current address, telephone number, the reasons for his or her
25 objection, and whether he or she intends to appear at the Fairness Hearing on his
26 or her own behalf or through counsel. Any documents supporting the objection
27 must also be attached to the Objection, and if the Settlement Class Member
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1 intends to call witnesses at the Fairness Hearing, those witnesses must be
2 identified, including providing each witness' name, address and telephone
3 number in the Objection. Objections must be signed by the Settlement Class
4 Member making them or by his or her counsel.

5 **(b) Appearance at Fairness Hearing.** Any Settlement Class
6 Member who has timely filed a written objection, as provided for above, may
7 appear at the Fairness Hearing, either in person or through an attorney hired at the
8 Class Member's own expense, to object to the fairness, reasonableness, or
9 adequacy of this Agreement or the settlement. A Settlement Class Member or his
10 or her attorney intending to make an appearance at the Fairness Hearing must: (a)
11 file a notice of appearance with the Court no later than ten (10) days prior to the
12 Fairness Hearing, or as the Court may otherwise direct; and (b) serve a copy of
13 such notice of appearance on all counsel for all Parties. Any Class Member who
14 fails to comply with the provisions of this Paragraph 12 shall waive and forfeit
15 any and all rights to appear separately and/or to object, and shall be bound by all
16 the terms of this settlement, and by all proceedings, orders, and judgments in the
17 litigation.
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19 **(c) Papers for Final Approval and for Fees and Expenses.**
20 Representative Plaintiffs shall file their motion for final approval of the
21 settlement, together with all supporting documentation, by no later than one
22 hundred fifty (150) days from entry of this Order.

23 **(d) Responses to Objections.** Any responses to objections to the
24 Agreement or the Fee and Expense Application shall be filed with the Court
25 within twenty-one (21) days after the deadline for serving objections.

26 **13. Dates of Performance.** In summary, the dates of performance are
27 as follows:
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1 (a) Notice shall be sent to potential Class Members by April 9, 2018;

2 (b) Class Counsel's Fee and Expense Application, and all
3 supporting materials, shall be filed by September 3, 2018;

4 (c) Representative Plaintiffs' final approval motion, and all
5 supporting materials, shall be filed by September 3, 2018;

6 (d) Class Members who desire to be excluded shall mail requests
7 for exclusion postmarked by June 25, 2018;

8 (e) All objections to the Settlement Agreement or the Fee and
9 Expense Application shall be filed and served by June 25, 2018;

10 (f) Responses to objections, if any, and in further support of the
11 Fee and Expense Application, shall be filed by July 16, 2018;

12 (g) Class Members who desire to submit Claim Forms shall do so
13 by July 30, 2018 (the "Claims Deadline");

14 (h) Class Counsel's deadline to move for entry of the Final
15 Approval Order is September 3, 2018;

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25 (i) The Fairness Hearing shall be held on November 5, 2018
26 at 10:00 a.m.

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2 **14. Effect of Failure to Approve the Settlement Agreement.** In the
3 event the Court does not finally approve the Agreement, or for any reason the
4 Parties fail to obtain a Final Judgment as contemplated in the Agreement, or the
5 Agreement is terminated pursuant to its terms for any reason, then the following
6 shall apply:

7 (a) All orders and findings entered in connection with the
8 Agreement shall become null and void and have no further force and effect, shall
9 not be used or referred to for any purposes whatsoever, and shall not be
10 admissible or discoverable in any other proceeding;

11 (b) The conditional certification of the Class pursuant to this
12 Order shall be vacated automatically, and the Actions shall return to their status
13 as they existed before entry of this Order;

14 (c) Nothing contained in this Order is, or may be construed as,
15 any admission or concession by or against Defendant or Representative Plaintiffs
16 on any point of fact or law, including, but not limited to, factual or legal matters
17 relating to any effort to certify this case as a class action for purposes of
18 considering settlement approval; and

19 (d) Nothing in this Order or pertaining to the Agreement shall be
20 used as evidence in any further proceeding in this case, including, but not limited
21 to, motions or proceedings pertaining to treatment of this case as a class action.

22 **15. Discretion of Counsel.** Counsel are hereby authorized to take all
23 reasonable steps in connection with approval and administration of the settlement
24 not materially inconsistent with this Order or the Agreement, including, without
25 further approval of the Court, making minor changes to the content of the Notice
26 that they jointly deem reasonable or necessary.
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1 **16. Stay of Proceedings Pending Approval of the Settlement.** All
2 proceedings before the Court are stayed pending final approval of the Settlement
3 Agreement, except as may be necessary to implement the settlement or comply
4 with the terms of the Agreement.

5 **17. Injunction Against Asserting Released Claims Pending**
6 **Settlement Approval.** Pending final determination of whether the settlement
7 should be approved, Plaintiffs, all Class Members and any person or entity
8 allegedly acting on behalf of Plaintiffs or Class Members, either directly,
9 representatively or in any other capacity, are preliminarily enjoined from
10 commencing or prosecuting against the Released Parties any action or proceeding
11 in any court or tribunal asserting any of the Released Claims, provided, however,
12 that this injunction shall not apply to individual claims of any Class Members
13 who timely exclude themselves in a manner that complies with this Order. This
14 injunction is necessary to protect and effectuate the settlement, this Order, and the
15 Court's flexibility and authority to effectuate this settlement and to enter
16 judgment when appropriate, and is ordered in aid of the Court's jurisdiction and
17 to protect its judgments pursuant to 28 U.S.C. § 1651(a).

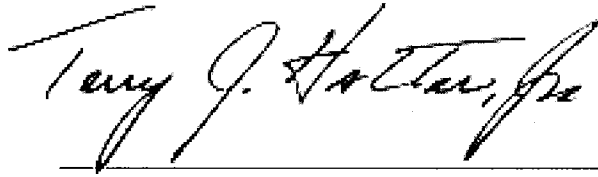
18 **18. Reservation of Rights and Retention of Jurisdiction.** The Court
19 reserves the right to adjourn or continue the date of the Fairness Hearing without
20 further notice to Class Members, and retains jurisdiction to consider all further
21 applications arising out of or connected with the settlement. The Court may
22 approve or modify the settlement without further notice to Class Members.

23 **19. No Admission of Liability.** Neither the Settlement Agreement nor
24 the Settlement contained therein, nor any act performed or document executed
25 pursuant to or in furtherance of the Settlement Agreement or Settlement is or may
26 be deemed to be or may be used as an admission of, or evidence of: (a) the
27 validity of any Released Claim, or of any liability, fault or other wrongdoing of
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1 any kind; (b) any liability, fault, misrepresentation or omission with respect to
2 any advertising or any other statement; (c) the validity or invalidity of any claims
3 asserted by the Plaintiffs or the amount of recoverable damages in connection
4 with those claims; or (d) any infirmity in the defenses that have been or could
5 have been asserted in the Action.

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7 **IT IS SO ORDERED.**

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10 Date: March 23, 2018



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TERRY J. HATTER, JR.
UNITED STATES DISTRICT JUDGE