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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Ricci Saliba,

10 Plaintiff,

11 v.

12 KS Statebank Corporation,

13 Defendant.
14

No. CV-20-00503-PHX-JAT

ORDER

15 Pending before the Court is the Renewed Joint Motion to Approve Cy Pres
16 Recipient. (Doc. 68).

17 **I. BACKGROUND**

18 The Court approved a Final Class Action Settlement on October 6, 2021. (Doc. 63).
19 The settlement agreement, in part, provided the following:

20 If any amounts remain 180 days from issuance of this second distribution, the
21 Parties shall seek Court approval of a cy pres award to a nonprofit charitable
22 organization. The Parties shall jointly select a cy pres recipient prior to moving for
23 the Court's approval.

24 (Doc. 55-1 p. 22-23; Doc. 66-1 p. 22-23). The parties followed the distribution procedures
25 and \$5,577.38 remains. (Doc. 66 p. 2). The parties filed the first joint motion and proposed
26 People Acting Now Discover Answers ("PANDA") as the *cy pres* recipient. (Doc. 66 p.
27 2). The Court denied that motion without prejudice because the Court could not find the
28 requisite nexus between PANDA and the lawsuit. (Doc. 67). The parties then filed the
pending Renewed Joint Motion, proposing the National Consumer Law Center ("NCLC")
as the *cy pres* recipient. (Doc. 68 p. 1). The NCLC's mission is "to stop exploitative

1 practices, help financially stressed families build and retain wealth, and advance economic
2 fairness.” *Mission*, NCLC, <https://www.nclc.org/about-us/mission/>
3 [<https://perma.cc/P7FB-ZJ7C>]. The NCLC specifically “works to stop unwanted or
4 fraudulent robocalls and texts, to protect consumers, and to make it harder for scammers
5 to disappear with a consumer’s money.” *Key Issues*, NCLC, [https://www.nclc.org/our-](https://www.nclc.org/our-work/)
6 [work/ \[https://perma.cc/JJT4-6LTL\]](https://perma.cc/JJT4-6LTL).

7 II. ANALYSIS

8 “*Cy pres* distributions must account for the nature of the plaintiffs’ lawsuit, the
9 objectives of the underlying statutes, and the interests of the silent class members, including
10 their geographic diversity.” *Nachshin v. AOL, LLC*, 663 F.3d 1034, 1036 (9th Cir. 2011)
11 (citing *Six (6) Mexican Workers v. Ariz. Citrus Growers*, 904 F.2d 1301, 1307-08 (9th Cir.
12 1990)). There must be “a driving nexus between the plaintiff class and the *cy pres*
13 beneficiaries.” *Id.* at 1038.

14 Here, Plaintiffs’ lawsuit related to unsolicited telemarketing in the form of
15 automated text messages directed towards prospective customers. (Doc. 10 p. 2). The
16 underlying statute was the Telephone Consumer Protection Act. (*Id.*). Plaintiffs alleged a
17 national class. (*Id.*). The NCLC is a national organization that does specific work to combat
18 such unsolicited telemarketing. The Renewed Joint Motion cites numerous Ninth Circuit
19 cases in which courts approved the NCLC as a *cy pres* recipient where the underlying
20 statute was the Telephone Consumer Protection Act. (Doc. 68 p. 3). For the foregoing
21 reasons, the Court approves the selection of the NCLC as the *cy pres* recipient.

22 III. CONCLUSION

23 Accordingly,

24 **IT IS ORDERED** that the Renewed Joint Motion to Approve *Cy Pres* Recipient
25 (Doc. 68) is granted.

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