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9 Attorneys for Plaintiff and
10 the Settlement Class

11
12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF ALAMEDA**

14 CALIFORNIA CHIROPRACTIC
15 ASSOCIATION, on behalf of itself and its
16 members,

17 Plaintiffs,

18 v.

19 MEDRISK, LLC; MEDRISK HOLDCO,
20 LLC; and DOES 1 through 100, inclusive,

21 Defendants.

Case No: RG19045051

CLASS ACTION

**DECLARATION OF ZEV B. ZYSMAN
IN SUPPORT OF PLAINTIFF'S
MOTION FOR AWARD OF
UNOPPOSED ATTORNEYS' FEES,
EXPENSES AND SETTLEMENT
ADMINISTRATION FEES**

Date: August 15, 2023

Time: 3:00 p.m.

Dept: 23

Judge: Hon. Brad Seligman

1 of \$1,252.60. The attorneys' fees and expenses sought by the Plaintiff are not only imminently
2 reasonable but are well deserved.

3 6. While the fee and expense amount is agreed between the Parties, such an award
4 also is justified under the lodestar-multiplier method of analysis. In this instance, the total
5 combined lodestar amount for attorney time for Class Counsel, including my Co-Lead Counsel at
6 Pomerantz LLP as confirmed in the accompanying Declaration of Jordan L. Lurie is \$1,404,300.50
7 which actually results in a *negative* lodestar multiplier. Accordingly, the amount of the requested
8 fee is below the cross-check which further supports the reasonableness of the negotiated amount.
9 As set forth below, the number of hours and the hourly rates are reasonable and should be
10 approved.

11 **WORKED PERFORMED**

12 7. Class Counsel expended a total of 1,902.50 attorney hours on this matter from
13 inception through July 5, 2023. No secretarial, administrative or other staff time (including
14 paralegal time) is being billed or requested. In my experience, this number of hours is consistent
15 with a class action case that has been pending, litigated and resolved over a period of more than
16 three and one-half years since the original Complaint was filed.

17 8. The individual tasks performed by Class Counsel includes, *inter alia*: (1) time spent
18 in the investigation and drafting of the original Complaint and Amended Complaint, which
19 included researching of the applicable law with respect to the claims asserted therein and the
20 potential defenses thereto; (2) drafting, researching, and filing successful opposition to
21 Defendants' Demurrer; (3) drafting formal and informal discovery requests to Defendants,
22 including special interrogatories, request for production of documents, and requests for
23 admissions; (4) reviewing Defendants' informal responses to discovery requests, and documents
24 otherwise obtained through their investigation; (5) engaging in meet and confer sessions with
25 Defendants' counsel regarding the sufficiency of the informal discovery responses and production;
26 (6) consulting with potential experts/consultants; (7) drafting PMK deposition notices regarding
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1 class certification issues; purpose(s) for MedRisk’s practice of soliciting and receiving allegedly
2 improper payments for the referral of healthcare services and managing services provided to
3 injured workers in violation of specific provisions of the California Business and Professions
4 Code, the Insurance Code, the Labor Code, and the Health and Safety Code; inquiries and
5 complaints initiated by chiropractors relating to electronic billing/payment disputes with MedRisk
6 in violation of Labor Code §§ 4603.2, 4603.4, and 4603.6; and MedRisk’s efforts to comply with
7 applicable California law, including Labor Code §§139.32(c), 3215, and 3820 prohibiting
8 MedRisk from engaging in illegal payments and prohibiting referral systems for workers’
9 compensation treatment services that are directly tied to financial incentives; (8) reviewing records
10 and data provided by Defendants relative to thousands of California contracted providers which
11 showed MedRisk’s billing and referral practices based on pricing during the Class Period; (9)
12 preparing for case management conferences; (10) in-person meeting with Defense Counsel to
13 discuss litigation, relevant evidence and discovery and potential structure for settlement; (11)
14 numerous in-person meetings with client to discuss litigation and strategies; (12) drafting detailed
15 confidential mediation brief, along with supporting evidence and discovery; (13) preparing for and
16 attending full-day mediation in Los Angeles before Judge Meisinger; (14) researching and drafting
17 class certification motion (withheld filing after the Parties’ tentative agreement to settle); (15)
18 negotiating, drafting, editing and finalizing the terms of the Settlement, including the Settlement
19 Agreement, Revised Settlement Agreement, Class Notices, Settlement Website, and Proposed
20 Orders; (16) drafting and filing Motion for Preliminary Approval and Supplemental Brief; (17)
21 fielding and responding to Class Member inquiries regarding settlement and implementation
22 issues; and (18) preparing this Fee Motion and supporting documentation.

23 9. Importantly, Co-Lead Counsel and I were intimately involved in negotiating the
24 nature and scope of the class relief that Defendants ultimately agreed to provide as a direct result
25 of this Settlement. These negotiations relating to the material terms of the injunctive relief spanned
26 over eight months after the Mediation before Judge Louis Meisinger; and thereafter, Class Counsel
27 continued over several more months to finalize the settlement consistent with the terms agreed
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1 upon. During that time period, Class Counsel spent time working out the details of the Settlement
2 and the procedures and schedules for notice to the Class which was memorialized in the
3 Stipulation. Each aspect of this Settlement was vigorously negotiated, including the “Scorecard,”
4 “Scheduling Criteria,” and “Transparency and Process Management Procedures.” This process
5 involved extensive email and telephonic communications between counsel, as Class Counsel
6 drafted, reviewed and edited these documents throughout the drafting process. The settlement
7 negotiations were complicated, protracted, and often contentious.

8 10. Here, all known Class Members have received actual direct notice of the proposed
9 settlement via E-Mail and U.S. Mail. As such, this is not a situation where class members are
10 expected to see notice by publication alone. The Settlement provides for significant and robust
11 injunctive relief to the Settlement Class. Specifically, MedRisk agrees that, commencing no later
12 than ten business days following the Effective Date, and continuing to and including the last day
13 of the Effective Period, MedRisk will implement or comply with the following business practice
14 adjustments, therapeutics, or restrictions, with respect to patients and Chiropractors within the
15 State of California:

16 (a) MedRisk will implement, utilize, and apply, in connection with the
17 scheduling or assignment of patients within the State of California, the “Scheduling Criteria”
18 described in more detail in the Stipulation.

19 (b) MedRisk will implement, utilize, and comply with the “Transparency and
20 Process Management Procedures” described in more detail in the Stipulation.

21 (c) MedRisk will comply with the provider bill of rights set forth within Section
22 1375.5 of the California Health & Safety Code.

23 (d) During the Effective Period, MedRisk agrees to forward to MedRisk payors,
24 in full, without discounting, all separately billed Evaluation and Management (“E&M”) Services
25 delivered by Chiropractors. MedRisk will notify MedRisk payors that these separately billed
26 Services are not subject to discounting under the MedRisk-payor agreement and will use its
27 commercially reasonable best efforts to ensure that its systems are properly instructed, so that the
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1 E&M Services so billed and identified herein are not subject to discounting. Alternatively,
2 Chiropractors may choose to bill MedRisk payors directly for E&M Services provided to Covered
3 Persons. As used in this Settlement Agreement, E&M Services include without limitation: CPT
4 Codes 99201-99205, 99212-15, 993358, 99359, G2212 or such E&M Services adopted by the
5 California Division of Workers Compensation into the OMFS subsequent to the date of this
6 Settlement.

7 (e) In the event that OMFS is increased during the Effective Period, MedRisk
8 will proportionately increase the rate of reimbursement provided to directly contracted
9 Chiropractors whose reimbursement is based upon OMFS. For the purpose of this provision,
10 “proportional,” with respect to contracted Chiropractors whose reimbursement is based upon
11 OMFS, means that the increase in reimbursement is proportional to the increased OMFS rate for
12 contracted service.

13 (f) MedRisk will not change the “preferred” status or otherwise retaliate
14 against any Chiropractor who seeks to renegotiate their contract. Pursuant to Labor Code Sections
15 3215 and 3829(a)(b)(3), MedRisk will not penalize a current Chiropractor or any Chiropractor
16 whose rate is available to MedRisk through a subcontract or leased access or any future
17 Chiropractor whether directly contracted or whose services are available through a subcontract or
18 leased access on the basis that the Chiropractor has requested modification of an agreement with
19 MedRisk, submitted a grievance to MedRisk, or otherwise exercised their rights under the terms
20 of this Stipulation.

21 (g) Unless authorized to do so by the State of California, MedRisk will not hold
22 itself out in any written communications with injured workers, the general public, its clients and
23 prospective clients of any kind (including published or online listings of Chiropractic Networks)
24 as chiropractors. MedRisk further agrees that it will not make any communications to
25 Chiropractors indicating that they will receive more injured worker referrals if they lower their
26 rates or based on being in a particular rate tier. In addition, MedRisk will not communicate, offer,
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1 suggest, or deliver fewer referrals to a Chiropractor solely because that Chiropractor establishes a
2 new contract, or renegotiates a contract for a higher rate.

3 (h) MedRisk will not solicit, request, receive or accept any discount from any
4 of its contracted Chiropractors nor provide any consideration to its clients in exchange for any
5 offer, suggestion or agreement with the Chiropractor to receive or be in receipt of, preferential
6 referrals of injured workers within their network. MedRisk will not offer any inducement,
7 consideration for future referrals, bonus score, or preferential tiering to Chiropractors who contact
8 MedRisk following a direct communication from a claims administrator.

9 (i) MedRisk will not interfere with or redirect referrals made by the injured
10 worker's primary treating physician ("PTP") which have been approved by a claims adjuster or
11 requested by the injured worker. Except to schedule an appointment with the entity approved by
12 the claims adjuster or requested by the injured worker, MedRisk will not contact the PTP or injured
13 worker for the purpose of redirecting to a different provider once it has notice that the adjuster has
14 approved a referral to a specific Chiropractor.

15 (j) MedRisk will at all times cause compliance with requirements of the
16 California Labor Code, including Section 4603.4, its implementing regulations, 8 C.C.R. section
17 9792.5.0, *et seq.*, regarding but not limited to, content and delivery of Explanations of Review
18 ("EOR").

19 (k) MedRisk will provide written notice to each contracted Chiropractor, in a
20 mutually agreeable form, that provides as follows: "Participating Provider shall have the right
21 to transmit electronic bills consistent with the requirements set forth in the California Division of
22 Worker's Compensation Medical Billing and Payment Guide and the California Division of
23 Workers' Compensation Electronic Medical Billing and Payment Companion Guide through all
24 clearinghouses authorized by the Division of Workers' Compensation. From the date of
25 Settlement, MedRisk shall process all claims consistent with these California e-billing
26 requirements without additional charge by MedRisk."
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1 (l) MedRisk will notify all contracted Chiropractors that they may, but will
2 never be required to, opt in to any particular method of payment of their bills which may include
3 but not be limited to, “virtual cards,” ACH and checks. MedRisk will opt chiropractors into DWC-
4 approved free electronic claims payment at the request of Chiropractors, as required by the Labor
5 Code. Furthermore, current and future Chiropractors will be notified by MedRisk regarding their
6 choice for free electronic claims payment, specifically citing the California Labor Code.
7 Alternative payment methods may not be promoted or used by MedRisk as an inducement to
8 participate in any MPN or other network model, or gain injured worker referrals.

9 (m) MedRisk will provide to the contracted Chiropractor a copy of any
10 remittance advice generated as a result of the Chiropractor’s billed services, in the event that any
11 billed services were denied and/or reduced. Further, MedRisk will ensure that the
12 remittance advice provided by it to the Chiropractor contains all relevant reason and remark
13 codes and will provide a phone number on each of its EORs, EOBs or other remittance advice that
14 contracted Chiropractors can use to speak to a MedRisk billing professional for questions or
15 disputes or non-payment of claims. MedRisk will also use commercially reasonable efforts to
16 ensure that the Chiropractor is able to contact the claims administrator and licensed utilization
17 reviewer known to MedRisk by including their name, email, and phone number on all MedRisk
18 communications regarding individual patients when payment is denied.

19 (n) Subject to the indemnification provisions of an individual network
20 Chiropractor’s contract, MedRisk will utilize commercially reasonable efforts to ensure that the
21 only reasons it has recouped or will retrospectively recoup money from a Chiropractor is because
22 that Chiropractor has been overpaid by MedRisk or has already been paid directly for the service
23 being recouped.

24 11. Separate and independent from the foregoing changes in business practices,
25 MedRisk has also agreed to file a Licensure Application with the DWC seeking licensure as an
26 MPN, within thirty days of receipt of notice of entry of the preliminary approval order. MedRisk
27 will use its best efforts to secure approval of the Application and licensure as an MPN, provided,
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1 however, that the failure to successfully obtain such licensure will not result in termination of the
2 Stipulation, the Settlement that it contemplates, or any other Settlement provision and all such
3 other provisions will remain in full force and effect. MedRisk will provide Plaintiff with copies
4 of all application papers submitted to the DWC promptly following such submission. Every sixty
5 days following the submission of such initial application papers and continuing until MedRisk
6 receives a final determination MedRisk will provide CCA with a written update regarding the
7 status of and material developments with respect to the Application, accompanied by all
8 correspondence with and submissions to the DWC during the preceding sixty-day period.

9 12. Moreover, MedRisk has agreed to provide a report, under penalty of perjury, to
10 CCA every sixty days following the Effective Date regarding MedRisk's payment of electronically
11 billed claims for the provision of chiropractic services in the State of California. Such report will
12 provide the following information to the extent available to MedRisk: (1) the aggregate number of
13 Valid Claims electronically submitted to MedRisk by California chiropractors during the
14 preceding sixty-days (the "Reporting Period"); (2) the average amount of time elapsed from the
15 date upon which electronically submitted claims became Valid Claims from initial submission to
16 the date of issuance of payment; (3) the number of electronically submitted claims MedRisk
17 actually paid within 15 days; (4) an explanation as to all steps MedRisk is taking, or plans to take,
18 to improve compliance with the 15 day electronic bill pay requirement with respect to Valid
19 Claims; (5) the time frame(s) within which MedRisk intends to become fully complaint with the
20 15 day electronic bill pay requirement; and (6) for any claims tendered during such Reporting
21 Period that were not deemed Valid Claims ("Invalid Claims"), a pie chart or other chart breaking
22 down by % what percentage of electronically submitted claims were deemed invalid as a result of
23 each category of issue, including the specific categories described below. For purposes of the
24 Settlement, "Valid Claims" will include claims (or any portion of claims) that meet all of the
25 following criteria: (1) are complete, including all required information and supporting
26 documentation; (2) were properly submitted to MedRisk, through MedRisk's system; (3) have
27 been approved by the payor(s) providing coverage or potentially providing coverage for such
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1 claims; and (4) for which there is no senior payor obligated to provide first and primary payment
2 for the services covered by such claim(s). For each electronically submitted Valid Claim not paid
3 within 15 days, MedRisk will pay interest and penalties on such claim(s) as required by the Labor
4 Code.

5 13. None of the foregoing changes in business practices as part of the Settlement would
6 have been obtained without the efforts of Class Counsel.

7 14. In addition to the benefits to the Class, MedRisk has agreed to pay for all costs
8 associated with notice and settlement administration, and attorneys' fees and costs. Critically, all
9 such costs are being paid *separate and apart* from the Class benefits.

10 15. Class Counsel understood that it was undertaking complex, lengthy and expensive
11 litigation and nonetheless prosecuted this case on a contingency fee basis with no guarantee of
12 ever being compensated for the investment of time and money the case would require. During its
13 pendency, Class Counsel was obligated to assure that sufficient resources were dedicated to the
14 prosecution of this litigation and that funds were available to compensate staff and to pay for out-
15 of-pocket expenses required in a case like this.

16 16. To reasonably ensure that the present Motion represents only the time spent on the
17 claims subject to this litigation, I exercised my professional judgment and excluded the billable
18 hours that my firm expended on the related action, *Independent Physical Therapists of California*
19 *v. MedRisk, LLC et al.*, Case No. RG 19045049.

20 17. For the Court's convenience, the chart below breaks out and summarizes the hours
21 expended by Class Counsel into categories and provides detailed descriptions, grouping the time
22 entries by the nature of the activity. This information, coupled with the descriptions set forth
23 herein, in the accompanying Declaration of Jordan L. Lurie of Pomerantz LLP, and in Plaintiff's
24 Memorandum filed concurrently justifies Class Counsel's fee request and is sufficient to permit
25 the Court to review the time spent. No secretarial, administrative or other staff time (including
26 paralegal time) is being billed or requested. Moreover, it should be noted, that the following
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lodestar analysis does not include additional work to be performed in this case through and even following the Final Approval Hearing as described further in ¶ 20 below.

Name (Status)	1	2	3	4	Total Hours	Rate	Total Lodestar
Zev B. Zysman	230.25	260.50	168.00	386.25	1045.00	\$635.00	\$663,575.00
Attorney Total:	230.25	260.50	168.00	386.25	1045.00		\$663,575.00

Categories:

(1) **Pre-Filing Investigation/Initial Complaint/Amended Complaint:** This includes: initial contact and in-person meetings with the California Chiropractic Association (“CCA”) and its key leadership Dr. Wayne Whalen, Dawn Benton and others over an eight-month period prior to filing the Original Complaint; investigation of potential legal claims based on MedRisk’s policies and practices of soliciting and receiving allegedly improper payments for the referral of healthcare services and managing services provided to injured workers in violation of specific provisions of the California Business and Professions Code, the Insurance Code, the Labor Code, and the Health and Safety Code; evaluation and follow-up of inquiries and complaints initiated by chiropractors relating to electronic billing/payment disputes with MedRisk in violation of Labor Code §§ 4603.2, 4603.4, and 4603.6; and MedRisk’s efforts to comply with applicable California law, including Labor Code §§139.32(c), 3215, and 3820; review and analysis of confidential Survey conducted in 2018 and 2019 of member and non-member providers who had existing contracts with MedRisk; pre-filing research and review of civil dockets regarding any litigation against MedRisk; research of applicable California Business & Professions Code §§ 17200, and potential violations of Labor Code §§139.32(c), 3215, and 3820 and Labor Code §§ 4603.2, 4603.4, and 4603.6 and regulations arising from MedRisk’s pricing and referral practices and electronic billing practices; review of MedRisk’s dissemination of press releases and other materials; monitoring and tracking of legal and legislative developments in the workers’ compensation system; review of available financial

1 information relating to MedRisk's profits; researching, drafting and filing of Original Federal
2 Complaint, the Original State Complaint following dismissal of Federal Complaint, and the First
3 Amended Class Action Complaint based on allegations of organizational/associational standing;
4 and evaluating scope of potential post-litigation modifications concerning pricing and referral
5 policies.

6 **(2) Pleadings and Briefs/Legal Analysis:** This includes: legal research of legislative history of
7 Labor Code §§139.32(c), 3215, and 3820 and Labor Code §§ 4603.2, 4603.4, and 4603.6
8 regarding soliciting and receiving payments for the referral of healthcare services and managing
9 services to injured workers and soliciting discounts as an inducement for referring patients to
10 obtain workers compensation benefits; review of administrative decisions and subsequent case law
11 interpreting relevant sections of California Business and Professions Code, the Insurance Code,
12 the Labor Code, and the Health and Safety Code, and evaluation of potential impact of recent cases
13 on specific legal claims alleged in Original Complaint; extensive meet and confer sessions with
14 Defense Counsel regarding subject matter jurisdiction/citizenship issues based on Order to Show
15 Cause by district court following filing of Original Federal Complaint; review of non-public
16 information/documentation provided by Defense Counsel regarding citizenship of certain entities;
17 preparation of response to Order to Show Cause;; reviewing and researching of Demurrer to
18 Original Complaint based on lack of organizational/associational standing to pursue UCL claims
19 and judicial abstention and/or primary jurisdiction doctrines;; reviewing, researching, editing and
20 filing successful Opposition to Defendants' Demurrer; preparation for hearing on Demurrer;
21 preparation for and attendance at case management conferences; preparation of brief re: potential
22 range of prospective injunctive relief based on MedRisk's alleged practices of illegally referring
23 patients to providers based on lower rates/discounts and provider complaints involving MedRisk's
24 claims handling and electronic billing/payment activities in violation of California laws;
25 preparation of brief re: potential range of prospective injunctive relief based on available pricing
26 and referral data; researching viability of Defendants' numerous asserted affirmative defenses to
27 claims based on California Business & Professions Code § 17200 and Labor Code §§139.32(c),
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1 3215, and 3820; researching and drafting Motion for Class Certification (withheld filing following
2 tentative agreement to settle); researching legal issues related to summary judgment/summary
3 adjudication and other dispositive motions based on liability issues.

4 (3) **Discovery:** This includes: researching and preparing discovery plan on class certification and
5 merits issues, and drafting formal class and merits discovery to Defendants, including special
6 interrogatories, request for production of documents, and requests for admissions; reviewing
7 documents, data and information, including company policies and practices, as well as provider
8 data, produced informally by Defendants, and otherwise obtained by Class Counsel in preparation
9 for the anticipated Mediation in Los Angeles; consulting with potential experts/consultants and
10 developing a prospective injunctive relief model based on applicable Insurance Code, Labor Code,
11 and Health and Safety Code violations; interfacing with Class members and interested third parties
12 regarding the claims at issue; interviewing key industry leaders regarding the key allegations and
13 possible resolutions; reviewing and conferring with Defense Counsel regarding sufficiency and
14 scope of Defendants' informal discovery responses and production of documents; preparing and
15 drafting PMK deposition notices regarding class certification issues; purpose(s) for MedRisk's
16 practice of soliciting and receiving allegedly improper payments for the referral of healthcare
17 services and managing services provided to injured workers; inquiries and complaints initiated by
18 chiropractors relating to electronic billing/payment disputes with MedRisk in violation of Labor
19 Code §§ 4603.2, 4603.4, and 4603.6; and MedRisk's efforts to comply with applicable California
20 law, including Labor Code §§139.32(c), 3215, and 3820; reviewing records and data provided by
21 Defendants relative to thousands of California contracted providers which showed MedRisk's
22 billing and referral practices based on pricing during the Class Period; engaging in lengthy
23 dialogue with MedRisk personnel on a multitude of issues relative to the allegations and claims in
24 the First Amended Complaint; engaging in direct interviews with multiple professional
25 chiropractor CCA members who had existing contracts with MedRisk to determine if providers
26 were pressured to accept lower prices, threatened with termination or reductions in referrals, or
27 actually been terminated or otherwise lost patients and business in contravention of California
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1 laws; review and analysis of information based on intakes and conversations by CCA with its
2 members regarding issues identified in the Complaint.

3 **(4) Settlement Negotiations/Preparation of Agreement and Exhibits/Preliminary**

4 **Approval/Motion for Attorneys' Fees:** This includes: Extensive discussions among the Parties'

5 counsel regarding the legal and factual bases for Plaintiff's claims and Defendants' affirmative

6 defenses; researching potential settlement options and range of injunctive and equitable relief in

7 light of case developments and legislative/regulatory landscape; drafting multiple settlement

8 demand letters to Defendants; reviewing of settlement counter-proposals by Defendants; in-person

9 meeting with Defense Counsel to discuss potential settlement; multiple in-person meetings with

10 CCA and its leadership to strategize re settlement options; drafting detailed confidential mediation

11 brief, along with supporting evidence and discovery; preparing for full-day Mediation in Los

12 Angeles with key CCA leadership; engaging in protracted settlement discussions with Defense

13 Counsel over an eight month period following the Mediation; working out the details of the

14 Settlement and the procedures and schedules for notice to the Class which was memorialized in

15 the Stipulation, vigorously negotiating each aspect, including the "Scorecard," "Scheduling

16 Criteria," and "Transparency and Process Management Procedures," which involved extensive

17 email and telephonic communications between counsel, as Class Counsel drafted, reviewed and

18 edited these documents throughout the drafting process; negotiating, drafting, editing, reviewing

19 and finalizing Settlement Agreement and Revised Agreement, along with all corresponding

20 Exhibits, including Class Notices, Settlement Website, Proposed Preliminary Approval and

21 Proposed Final Judgment; researching, drafting and preparing Motion for Preliminary Approval

22 of Settlement and Supplemental Brief; engaging with Defense Counsel in post-settlement activities

23 and taking all actions to finalize a settlement through the preliminary and final approval phases

24 and beyond; supervising and assisting Settlement Administrator with design of Settlement Website

25 and distribution of Class Notices; personally responding to all Class Members who contacted our

26 office requesting information about the settlement following effectuation of Class Notices via E-

27 Mail and U.S. Mail; preparation for and attendance at preliminary approval hearing; researching

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1 and initial drafting of Motion for Final Approval of Settlement and Motion for Attorneys' Fee,
2 Expenses and Incentive Award; preparing detailed supporting declaration and exhibits (includes
3 only work completed through *July 5, 2023*; does *not* include time preparing for and attending Final
4 Approval Hearing, fielding and responding to Class Member inquiries regarding settlement,
5 potential objectors and any appeals).

6 18. As the Court can conclude, this matter was efficiently and leanly prosecuted. At
7 all times, Class Counsel litigated this action in a manner that maximized the efficiency of their
8 efforts in the prosecution of the litigation and pursued discovery to achieve substantial benefits for
9 the Class in a highly efficient manner while avoiding burdening this Court. Along with my Co-
10 Lead Counsel at Pomerantz LLP, I was responsible for conducting discovery and drafting
11 pleadings, investigating the underlying claims, engaging in actual settlement discussions and
12 preparing the settlement papers.

13 19. I am thoroughly familiar with the quality and quantity of work done in this case by
14 all lawyers representing Plaintiff and the Settlement Class. I believe the time expended in this
15 litigation was reasonable and necessary considering the amount of work required to litigate this
16 hard fought action. I have endeavored to ensure there was no unreasonable duplication of the
17 services for which my Firm and my co-counsel now seek compensation. In the situations in which
18 two or more attorneys participated in any matter, that participation was reasonable because of the
19 complexity of the issues or pleadings involved and the time constraints that existed. I believe tasks
20 were delegated appropriately among senior attorneys and less senior attorneys according to their
21 complexity.

22 20. Moreover, Class Counsel's involvement in this case is not at an end. Indeed, Class
23 Counsel will also incur additional time in this case through its conclusion, including drafting and
24 finalizing the Motion for Final Approval of Settlement, attending the hearing on Final Approval
25 of Settlement and Attorneys' Fees, Expenses, and Incentive Award that is *not* reflected in the
26 request for fees. Even following Final Approval of the settlement, Class Counsel will continue to
27 oversee Defendants' compliance with the terms of the injunctive relief Settlement. I estimate that
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1 my firm will spend a minimum of twenty-five (25) hours on this case through its conclusion.
2 Accordingly, Class Counsel’s actual lodestar will increase, and the effective lodestar is actually
3 higher than the amount submitted herein.

4 **RATES**

5 21. Below is a schedule of the total hours and billing rates for work performed on this
6 matter, and the lodestar calculation based on my firm’s billing rates. The schedule was prepared
7 from contemporaneous, daily time records regularly prepared and maintained by my firm.
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Lodestar - Inception through July 5, 2023			
<u>Attorney</u>	<u>Number of Hours</u>	<u>Rate</u>	<u>Lodestar</u>
Zev B. Zysman	1045.00	\$635.00	
Total			\$663,575.00

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15 22. The total number of hours expended on this litigation by my firm is 1045 hours.
16 The total lodestar for my firm is \$663,575.00.

17 23. Co-Lead Class Counsel at Pomerantz LLP have submitted detailed information
18 regarding their hours spent and hourly rates in the accompanying Declaration of Jordan L. Lurie.
19 In total, Class Counsel at Pomerantz LLP have spent 857.50 hours at the rates stated in the Lurie
20 Declaration totaling \$740,725.50.

21 24. In sum, the cumulative lodestar for the services performed by all firms is
22 \$1,404,300.50. Class Counsel spent a total of 1,902.50 attorney hours in the prosecution of this
23 litigation.

24 25. As explained in the Fee Motion, a lodestar analysis more than confirms the
25 reasonableness of Class Counsel’s fee request as the requested fee in the sum of \$1,290,314.32
26 actually results in a *negative* lodestar multiplier which further supports the reasonableness of the
27 negotiated amount.
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1 26. All of the matters undertaken by Class Counsel’s firm are class actions. I have been
2 practicing for over 27 years. While the use of current hourly rates is appropriate because it
3 accounts for the time value of money where, as here, Class Counsel have not been paid
4 contemporaneously for their work on this case, for the purpose of this Motion, Class Counsel relies
5 on the lower rates in effect in **2019** when the case was initiated.

6 27. Class Counsel’s rate is the rate established for all cases in 2019. The hourly rate
7 charged is based, in part, on delay in payment that results from the firm’s contingency-based
8 system of representation, and the skill and experience of counsel in prosecuting class actions.

9 28. Based on my experience in litigating class action cases, my familiarity with the
10 class action practice in California, and my review of rates charged by my class action colleagues,
11 my firm’s hourly rate is in line with the rates prevailing in the community for similar services of
12 lawyers of reasonable comparable skill and reputation.

13 29. Further, based on my experience in litigating class action cases against opposing
14 counsel, my familiarity with the class action practice in California, and my review of rates charged
15 by defense lawyers in class action cases, my firm’s hourly rate is lower than the rates charged by
16 major law firms who serve as opposing counsel in class action cases. Unlike the defense bar,
17 whose attorneys are paid regularly for each hour of service and are reimbursed on a current basis
18 for expenses incurred, plaintiffs’ lawyers normally have no steady flow of income. The financial
19 burden on contingent counsel is far greater than that on a firm that is paid on an ongoing basis.
20 Attached hereto as Exhibit 1 is a true and correct copy of the relevant sections of a survey of
21 attorneys fees provided by the National Law Journal in 2009, which includes fee ranges charged
22 by prominent law firms nationwide. Highlighted are the following firms based or with major
23 presence in Southern California that regularly litigate complex class action cases:

<u>Firm Name</u>	<u>Partner Range</u>	<u>Associate Range</u>
Cozen O’Connor	up to \$880	up to \$695
Loeb & Loeb	up to \$950	up to \$550
Manatt Phelps & Phillips	up to \$850	up to \$505

1 Sheppard Mullin Richter & Hampton up to \$715 up to \$525
2 Winston & Strawn up to \$995 up to \$670
3

4 30. Class Counsel's rate has been approved by numerous other courts. For example, in
5 a consumer class action entitled *Furman v. Station Casinos LLC, et al.*, Case No. 56-2013-
6 00446134-CU-BT-VTA, pending in Ventura County Superior Court, Judge Vincent J. O'Neill
7 approved Class Counsel's hourly rate which is the *same* as the rate charged here. Attached hereto
8 as Exhibit 2 is a copy of the Order Granting Final Approval of Class Action Settlement and
9 Judgment dated June 1, 2016 by Judge Vincent J. O'Neill.

10 31. In addition, in *Brown v. Defender Security, Co.*, Case No. 12-cv-07319-CAS,
11 pending in Los Angeles in the Central District of California, District Judge Christina A. Snyder
12 approved Class Counsel's hourly rate which is the *same* as the rate charged here. Attached hereto
13 as Exhibit 3 is a copy of the Final Order Approving Class Action Settlement and Judgment dated
14 March 18, 2014 by Judge Christina A. Snyder.

15 32. Moreover, in a consumer class action entitled *Sosinov v. RadioShack, Corp.*, Case
16 No. BC449675, pending in the Los Angeles Superior Court, Central Civil West, Judge William F.
17 Highberger specifically approved Class Counsel's hourly rate which is the *same* as Class Counsel
18 is seeking here. Attached hereto as Exhibit 4 is a copy of the Final Order Approving Class Action
19 Settlement and Judgment dated March 27, 2013 by Judge William F. Highberger.

20 33. Further, in a consumer class action entitled *Pomerants v. Skechers U.S.A. Inc.*, Case
21 No. BC436360, pending in the Los Angeles Superior Court, Central Civil West, Judge John S.
22 Wiley approved Class Counsel's rate which is the *same* as Class Counsel is seeking here. Attached
23 hereto as Exhibit 5 is a copy of the Final Order Approving Class Action Settlement and Judgment
24 dated February 7, 2012 by Judge John S. Wiley.

25 34. Moreover, in a consumer class action entitled *Konevskya v. Tommy Bahama Group,*
26 *et al.*, Case No. BC424931, pending in the Los Angeles Superior Court, Central Civil West, Judge
27 Jane L. Johnson approved Class Counsel's rate which is the *same* as Class Counsel is seeking here.
28

1 Attached hereto as Exhibits 6 and 7, respectively, are copies of the Final Order Approving Class
2 Action Settlement and Judgment and Order Awarding Attorneys' Fees, Expenses and Incentive
3 Award dated December 12, 2011 by Judge Jane L. Johnson.

4 35. Additionally, in a consumer class action entitled *Burcham v. Welch Foods, Inc.*,
5 Case No. CV-10-01427-AHM, pending in Los Angeles in the Central District of California, Judge
6 A. Howard Matz approved Class Counsel's hourly rate which is the *same* rate as charged here.
7 Attached hereto as Exhibit 8 is a copy of the Order and Final Judgment dated June 27, 2011 by
8 Judge A. Howard Matz.

9 36. Further, attached hereto as Exhibit 9 is a copy of a Judgment and Order of Dismissal
10 dated September 23, 2008 by Judge William F. Fahey in a consumer class action entitled *Brand v.*
11 *Simple Tech, Inc.*, Case No. BC360001, pending in Los Angeles Superior Court. In that case,
12 Judge Fahey approved Class Counsel's hourly rate which is similar to the rate charged here.

13 37. Attached hereto as Exhibit 10 is a sworn statement by a class action attorney in the
14 matter entitled *Lundell v. Dell Inc.*, Case No. C05-03970 JW (N.D. Cal.) evidencing that firm's
15 hourly rates for class litigation in 2006. Those 2006 rates are consistent with (and even higher
16 than) the rates charged by Class Counsel now in 2023.

17 38. Class Counsel has extensive experience in complex business litigation and class
18 actions. Class Counsel has successfully served as Class Counsel prosecuting numerous consumer
19 class actions to Judgment, including *Fliegelman v. The Talbots, Inc.*, Case No. 56-2018-00513611-
20 CU-BT-VTA (Ventura County Superior Court); *Zhuravleva v. US Outlet Stores, LLC*, Case No.
21 37-2019-00036327-CU-BT-CTL (San Diego Superior Court); *Pascarella v. AM Retail Group,*
22 *Inc., et al.*, Case No. BC589194 (Los Angeles Superior Court, Central Civil West); *Furman v.*
23 *Station Casinos LLC, et al.*, Case No. 56-2013-00446134-CU-BT-VTA (Ventura County Superior
24 Court); *Brown v. Defender Security Co.*, Case No. 12-CV-7310-CAS (Central District of
25 California); *Press v. DS Waters of America, Inc.*, Case No. BC489552 (Los Angeles Superior
26 Court, Central Civil West); *Big 5 Sporting Goods Song-Beverly Cases*, Case No. JCCP4667 ((Los
27 Angeles Superior Court, Central Civil West); *Burcham v. Welch Foods, Inc.*, Case No. CV-10-

1 01427-AHM, (Central District of California); *Sosinov v. RadioShack, Corp.*, Case No. BC449675
2 (Los Angeles Superior Court, Central Civil West); *Pomerants v. Skechers U.S.A. Inc.*, Case
3 BC436360 (Los Angeles Superior Court, Central Civil West); *Yu v. Microsoft Corp.*, Case No.
4 BC316448 (Los Angeles Superior Court, Central Civil West); *Zilberman v. Netgear, Inc.*, Case
5 No. 1-04-CV-021230 (Santa Clara Superior Court); *Satsuta v. The Linksys Group*, Case No. 1-03-
6 CV002896 (Santa Clara Superior Court); *Brand v. Simple Tech, Inc.*, Case No. BC360001 (Los
7 Angeles Superior Court); and *In Re Wireless Product Cases*, JCCP Case No. 4381 (San Francisco
8 Superior Court).

9 39. All of the foregoing supports Class Counsel's representation that the hourly rate is
10 reasonable and should be approved.

11 40. The requested fee is justified for all the reasons set forth in the Fee Motion. The
12 Court also is requested to take into account that, as Class Counsel know from personal experience,
13 despite the most vigorous and competent of efforts, success in contingent class actions is never
14 assured. Lawyers who specialize in contingent matters live in a world of uncertainty. Unlike the
15 defense bar, whose attorneys are paid regularly for each hour of service and are reimbursed on a
16 current basis for expenses incurred, plaintiffs' lawyers normally have no steady flow of income.
17 Moreover, as demonstrated recently, changes in the law through legislation or judicial decree
18 potentially can be catastrophic and can occur on a moment's notice, adversely impacting pending
19 litigation. This occurs in many hard-fought lawsuits where because of the discovery of facts
20 unknown when the case commenced, or a significant change in the law during the pendency of the
21 litigation, highly professional efforts of members of the plaintiffs' bar produce no result for the
22 class or corporation sued for, and hence, no fee for counsel.

23 **CLASS COUNSEL'S EXPENSES ARE REASONABLE AND SHOULD BE**
24 **REIMBURSED**

25 41. The expenses which have been incurred, and for which reimbursement is sought,
26 were necessary for the conduct of this action, are reasonable in amount, and should be reimbursed.

1 an arm's-length negotiated and market-set reasonable fee which under the circumstances is more
2 than reasonable.

3 49. The requested fee amount does not dilute *any* benefits to the Class. The fee is *not*
4 being paid out of a common fund or some form of payment to be contributed by the Class. Rather,
5 the parties negotiated the material terms of the settlement and then negotiated an agreed-upon fee
6 reimbursement from Defendants. Accordingly, Plaintiff requests that the Court grant the Fee
7 Motion and award the requested fees and costs.

8 **THE NOTICE AND SETTLEMENT ADMINISTRATION COSTS ARE REASONABLE**
9 **AND SHOULD BE APPROVED**

10 50. Furthermore, as part of the settlement, Defendants have agreed to pay the
11 Settlement Administrator all expenses incurred in connection with the preparation, mailing and
12 publication of the Notices to the Settlement Class and preparation of the Settlement Website. To
13 date, the Settlement Administrator has incurred a total of \$1,252.60 in notice and settlement
14 administration costs. Under the circumstances present here, approval of this amount is reasonable.

15 I declare under penalty of perjury under the laws of the State of California that the
16 foregoing is true and correct.

17
18 Executed this 5th day of July, 2023 at Encino, California.

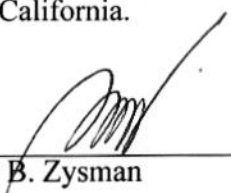
19
20 
21 _____
22 Zev B. Zysman
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EXHIBIT 1



2009 NLJ Billing Survey

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Fiscal Year	Firm Name	Location	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Med	Partner Billing Rate Med
2009	Adams and Reese LLP	New Orleans, LA	\$500	\$245	\$310	\$185	\$220	\$333	\$252	\$215	\$325
2009	Adorno & Yoss	Miami, FL	\$525	\$225	\$300	\$155	\$255	\$354	\$308	\$225	\$350
2009	Akerman Senterfitt	Miami, FL									
2009	Akin Gump Strauss Hauer & Feld LLP	Washington, DC									
2009	Allen Matkins Leck Gamble Mallory & Matsis LLP	City, ST									
2009	Alston & Bird LLP	Atlanta, GA	\$860	\$450	\$555	\$265	\$388	\$602	\$491	\$385	\$580
2009	Andrews Kurth LLP	Houston, TX									
2009	Arent Fox LLP	Washington, DC	\$755	\$420	\$485	\$260					
2009	Armstrong Teastale LLP	St. Louis, MO	\$450	\$320	\$315	\$175					
2009	Arnold & Porter LLP	Washington, DC									
2009	Baker & Daniels LLP	Indianapolis, IN									

Fiscal Year	Firm Name	Location	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Med	Partner Billing Rate Med
2009	Baker & Hostetler	Cleveland, OH									
2009	Baker, Donelson, Bearman, Caldwell & Berkowitz, PC	Memphis, TN	\$595	\$230	\$315	\$160	\$218	\$349	\$302	\$215	\$340
2009	Balch & Bingham LLP	City, ST									
2009	Ballard Spahr Andrews & Ingersoll, LLP	Philadelphia, PA									
2009	Barnes & Thornburg LLP	Indianapolis, IN	\$615	\$375	\$390	\$210	\$240	\$396	\$345	\$240	\$395
2009	Bass, Berry & Sims PLC	Nashville, TN									
2009	Best Best & Krieger LLP	Riverside, CA	\$550	\$310	\$380	\$185	\$245	\$421	\$310	\$245	\$425
2009	Bingham McCutchen LLP	Boston, MA									
2009	Bond, Schoenack & King, PLLC	Syracuse, NY	\$465	\$200	\$275	\$150	\$191	\$319	\$278	\$195	\$320
2009	Bowman and Brooke	Minneapolis, MN	\$500	\$250							
2009	Briggs and Morgan, Professional Association	Minneapolis, MN	\$600	\$290	\$315	\$210	\$240	\$437	\$373	\$235	\$440
2009	Brinks Hofer Gilson & Lyone	Chicago, IL	\$725	\$335	\$425	\$190	\$292	\$530	\$407	\$280	\$550
2009	Broad and Cassel	Orlando, FL	\$475	\$200	\$350	\$175	\$242	\$372	\$307	\$248	\$375
2009	Brown Rudnick LLP	Boston, MA									

Fiscal Year	Firm Name	Location	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Med	Partner Billing Rate Med
2009	Brownstein Hyatt Farber Schreck, LLP	Denver, CO	\$795	\$280	\$340	\$185	\$247	\$448	\$377	\$250	\$425
2009	Bryan Cave LLP	St. Louis, MO	\$765	\$355	\$550	\$160	\$331	\$541	\$448	\$330	\$530
2009	Buchalter Nemer	Los Angeles, CA	\$625	\$270	\$430	\$195	\$311	\$467	\$399	\$300	\$475
2009	Buchanan Ingersoll & Rooney PC	Pittsburgh, PA	\$1,020	\$310	\$580	\$200					
2009	Bullivant Houser	Portland, OR									
2009	Bailey Burr & Forman LLP	Birmingham, AL	\$490	\$275	\$335	\$200	\$247	\$352	\$314	\$300	\$350
2009	Butzel Long A Professional Corporation	Detroit, MI	\$700	\$285	\$395	\$200					
2009	Cadwalader, Wickersham & Taft LLP	New York, NY									
2009	Carlton Fields, P.A.	Tampa, FL	\$750	\$325	\$365	\$195	\$278	\$457	\$393	\$285	\$455
2009	Chapman and Cutler LLP	Chicago, IL									
2009	Clark Hill	Detroit, MI									
2009	Covington & Burling LLP	Washington, DC									
2009	Cozen O'Connor, A Professional Corporation	Philadelphia, PA	\$880	\$300	\$695	\$220	\$325	\$488	\$415	\$320	\$460

Fiscal Year	Firm Name	Location	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Med	Partner Billing Rate Med
2009	Crawell & Moring LLP	Washington, DC		\$675	\$575	\$290	\$434	\$730	\$522	\$435	\$730
2009	Curtis, Mallet-Prevost, Colt & Mosle LLP	New York, NY	\$785	\$310	\$445	\$210	\$300	\$474	\$346	\$305	\$465
2009	Davis Wright Tremaine LLP	Seattle, WA	\$775	\$385	\$465	\$230	\$310	\$507	\$411	\$295	\$495
2009	Day Pitney LLP	New York, NY	\$750	\$275	\$325	\$185					
2009	Dickinson Wright PLLC	Detroit, MI	\$575	\$500	\$515	\$265	\$403	\$633	\$520	\$415	\$630
2009	Dickstein Shapiro LLP	Washington, DC	\$950	\$200	\$295	\$165	\$204	\$345	\$286	\$200	\$340
2009	Dinsmore & Shohl LLP	Cincinnati, OH	\$625								
2009	DLA Piper US	New York, NY									
2009	Dorsey and Whitney LLP	Minneapolis, MN	\$795	\$245	\$545	\$105	\$315	\$520	\$335	\$300	\$520
2009	Duane Morris LLP	Philadelphia, PA	\$795	\$325	\$450	\$225	\$335	\$527	\$463	\$338	\$515
2009	Dykema Gossett PLLC	Detroit, MI	\$595	\$295	\$440	\$200	\$290	\$440			
2009	Eckert Seamans	Pittsburgh, PA									
2009	Cherlin & Mello LLP	Boston, MA	\$750	\$325	\$495	\$170	\$321	\$547	\$447	\$305	\$545
2009	Edwards Angell Palmer & Dodge LLP										
2009	Epstein Becker & Green, P.C.	New York, NY	\$855	\$350	\$475	\$180	\$332	\$523	\$434	\$325	\$500
2009	Fenwick & West LLP	Mountain View, CA									

Fiscal Year	Firm Name	Location	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Mod	Partner Billing Rate Mod
2009	Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P.	Washington, DC									
2009	Fish & Richardson P.C.	Boston, MA								\$385	
2009	Fitzpatrick, Cella, Harper & Scinto	New York, NY	\$810	\$470	\$440	\$275			\$530	\$400	\$620
2009	Foley & Lardner LLP	Milwaukee, WI	\$1,035			\$275	\$422	\$631			
2009	Foley Hoag LLP	Boston, MA									
2009	Ford & Harrison LLP	Atlanta, GA	\$595	\$340	\$370	\$245	\$296	\$466	\$391	\$308	\$468
2009	Fowler White Boggs P.A.	Tampa, FL	\$535	\$295	\$325	\$195	\$240	\$378	\$325	\$238	\$370
2009	Fox Rothschild LLP	Philadelphia, PA	\$675	\$310	\$400	\$225	\$276	\$451	\$383	\$265	\$450
2009	Fredrikson & Byron, P.A.	Minneapolis, MN									
2009	Frost Brown Todd LLC	Cincinnati, OH	\$490	\$200	\$245	\$160	\$191	\$317	\$274	\$185	\$310
2009	Fulbright & Jaworski L.L.P.	Houston, TX									
2009	Gardere Wynne Sewell LLP	Dallas, TX	\$775	\$380	\$445	\$210	\$310	\$512	\$400	\$302	\$500
2009	Gibbons P.C.	Newark, NJ	\$700	\$365	\$425	\$220					
2009	Godfrey & Kahn, S.C.	Milwaukee, WI	\$485	\$310	\$300	\$180					

Fiscal Year	Firm Name	Location	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Med	Partner Billing Rate Med
2009	Gordon & Rees LLP	San Francisco, CA									
2009	GrayRobinson, P.A.	Orlando, FL	\$750	\$170	\$150	\$300					
2009	Greenberg Traurig, LLP	International	\$850	\$345	\$575	\$200	\$328	\$534	\$442	\$340	\$545
2009	Greenebaum Doll & McDonald PLLC	Louisville, KY	\$505	\$225	\$235	\$150	\$170	\$300	\$252	\$195	\$365
2009	Harris Beach PLLC	Rochester, NY	\$475	\$250	\$275	\$140					
2009	Harter, Secrest & Emery	Rochester, NY									
2009	Herrick, Feinstein LLP	New York, NY									
2009	Hinslaw & Culbertson LLP	Chicago, IL									
2009	Hiscock & Barclay, LLP	Syracuse, NY	\$650	\$195	\$430	\$150	\$235	\$352	\$313	\$217	\$347
2009	Hodgson Russ LLP	Buffalo, NY	\$665	\$225	\$450	\$165	\$233	\$365	\$318	\$225	\$360
2009	Hogan & Hartson LLP	Washington, DC	\$990	\$385	\$550	\$150	\$420	\$675	\$540	\$405	\$660
2009	Holland & Hart LLP	Denver, CO	\$615	\$295	\$300	\$175	\$266	\$412	\$349	\$266	\$405
2009	Holland & Knight LLP	New York, NY									
2009	Holme Roberts & Owen LLP	Denver, CO	\$635	\$285	\$630	\$170	\$295	\$415	\$355	\$265	\$410

Fiscal Year	Firm Name	Location	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Mid	Partner Billing Rate Mid
2009	Honigman Miller Schwartz and Cohn LLP	Detroit, MI									
2009	Huntton & Williams LLP	Richmond, VA									
2009	Husch Blackwell Sanders LLP	Kansas City and St. Louis, MO	\$777	\$220	\$399	\$168	\$220	\$376	\$319	\$205	\$368
2009	Ice Miller LLP	Indianapolis, IN									
2009	Irell & Manella LLP	Los Angeles, CA									
2009	Jackson Kelly PLLC	Charleston, WV	\$445	\$220	\$250	\$145	\$180	\$289	\$250	\$180	\$285
2009	Jackson Lewis LLP	White Plains, NY	\$715	\$245	\$425	\$150	\$282	\$425	\$360	\$275	\$425
2009	Jenner & Block LLP	Chicago, IL	\$1,000	\$525	\$535	\$325	\$409	\$655		\$400	\$625
2009	Jones Day	New York, NY									
2009	Jones, Walker, Waechter, Poitevent, Carrera & Denegre LLP	New Orleans, LA	\$620	\$185	\$260	\$170					
2009	K&L Gates LLP	Pittsburgh, PA									
2009	Kelley Drye & Warren LLP	New York, NY	\$875	\$450	\$545	\$265					
2009	Kenyon & Kenyon LLP	New York, NY									

Fiscal Year	Firm Name	Location	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Med	Partner Billing Rate Med
2009	Kilpatrick Stockton LLP	Atlanta, GA	\$700	\$375	\$425	\$225	\$310	\$515	\$425	\$295	\$495
2009	Krobb, Martens, Olson & Bear, LLP	Irvine, CA	\$680	\$390	\$380	\$270	\$308	\$492		\$295	\$480
2009	Kramer Levin Naftalis & Frankel LLP	New York, NY									
2009	Lane Powell Moss & Miller	Seattle, WA	\$575	\$340	\$350	\$225	\$272	\$420	\$337	\$280	\$415
2009	Latham & Watkins LLP	New York, NY									
2009	Lathrop & Gage LLP	Kansas City, MO	\$490	\$255	\$265	\$180					
2009	LeClairRyan	Richmond, VA									
2009	Leonard, Street and Deinaard, Professional Association	Minneapolis, MN									
2009	Lewis and Roca LLP	Phoenix, AZ									
2009	Lewis, Rice & Fingersh	St. Louis, MO	\$450	\$250	\$210	\$140					
2009	Lindquist & Vennum PLLP	Minneapolis, MN	\$600	\$275	\$300	\$200	\$236	\$386	\$320	\$225	\$390
2009	Littler Mendelson, A Professional Corporation	San Francisco, CA	\$685	\$270	\$435	\$125	\$278	\$433	\$361	\$275	\$425
2009	Locke Lord Bissell & Liddell LLP	Dallas, TX	\$1,045	\$375	\$525	\$200	\$310	\$563	\$458	\$295	\$560

Fiscal Year	Firm Name	Location	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Med	Partner Billing Rate Med
2009	Loeb & Loeb LLP	New York, NY and Los Angeles, CA	\$950	\$475	\$550	\$285	\$400	\$687	\$568	\$425	\$650
2009	Lowenstein Sandler PC	Roseland, NJ	\$785	\$425	\$500	\$230					
2009	Luce, Forward, Hamilton & Scripps LLP	San Diego, CA	\$650	\$360	\$540	\$240	\$304	\$496	\$410	\$290	\$490
2009	Mann, Phelps & Phillips, LLP	Los Angeles, CA	\$850	\$465	\$505	\$290	\$363	\$626	\$531	\$410	\$620
2009	Marshall, Dennehey, Warner, Coleman & Goggin	Philadelphia, PA	\$400	\$140	\$310	\$125					
2009	McAndrews Held & Malloy	Chicago, IL	\$625	\$310	\$290	\$220					
2009	McCarter & English, LLP	Newark, NJ	\$700	\$350	\$395	\$205	\$307	\$472	\$396	\$315	\$408
2009	McDonnell Boehnen	Chicago, IL	\$670	\$295	\$270	\$225					
2009	McElroy, Deutsch, Mulvaney & Carpenter, LLP	Morristown, NJ	\$500	\$295	\$250	\$145	\$185	\$275	\$200	\$170	\$250
2009	McGlinchey Stafford	New Orleans, LA									
2009	McKenna Long & Aldridge LLP	Allanta, GA	\$775	\$360	\$470	\$220	\$284	\$471			
2009	Michael Best & Friedrich LLP	Milwaukee, WI	\$620	\$235	\$305	\$190	\$235	\$303	\$305	\$225	\$375

Fiscal Year	Firm Name	Location	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Med	Partner Billing Rate Med
2009	Miller & Martin PLLC	Chattanooga, Tennessee	\$610	\$220	\$315	\$180	\$235	\$330	\$305	\$230	\$375
2009	Miller, Canfield, Paddock and Stone, P.L.C.	Detroit, MI	\$640	\$240	\$400	\$175	\$254	\$431	\$368	\$245	\$440
2009	Montgomery, McCracken, Walker & Rhoads	Philadelphia, PA	\$605	\$370	\$375	\$215	\$266	\$452	\$396		
2009	Moore & Van Allen PLLC	Charlotte, NC	\$770	\$265	\$355	\$180	\$259	\$437	\$359	\$250	\$420
2009	Morgan, Lewis & Bockius LLP	Philadelphia, PA									
2009	Morris, Manning & Martin, LLP	Atlanta, GA	\$760	\$365	\$425	\$200	\$353	\$492	\$424	\$360	\$490
2009	Morrison & Foerster LLP	San Francisco, CA									
2009	Munger, Tolles & Olson LLP	Los Angeles, CA									
2009	Neal, Gerber & Eisenberg LLP	Chicago, IL									
2009	Nelson Mullins Riley & Scarborough LLP	Columbia, SC	\$850	\$275	\$405	\$190	\$248	\$394	\$340	\$245	\$380
2009	Nexsen Pruet	Columbia, SC	\$500	\$220	\$250	\$175					
2009	Nixon Peabody LLP	New York, NY	\$865	\$455	\$570	\$230	\$386	\$583	\$436	\$370	\$600

Fiscal Year	Firm Name	Location	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Med	Partner Billing Rate Med
2009	O'Melveny & Myers LLP	Los Angeles, CA	\$625	\$400	\$290	\$195	\$281	\$386	\$347		
2009	Ogletree, Deakins, Nash, Smoak & Stewart, P.C.	National									
2009	Orrick, Herrington & Sutcliffe LLP	San Francisco, CA									
2009	Patton Boggs LLP	Washington, DC	\$990	\$400	\$540	\$200	\$396	\$650	\$521	\$400	\$625
2009	Paul, Hastings, Janofsky & Walker LLP	New York, NY									
2009	Pepper Hamilton LLP	Philadelphia, PA	\$820	\$420	\$450	\$240					
2009	Perkins Coie LLP	Seattle, WA	\$815	\$205	\$525	\$195	\$337	\$518	\$424		\$515
2009	Phelps Dunbar LLP	New Orleans, LA	\$450	\$170	\$260	\$130	\$170	\$256	\$213	\$165	\$355
2009	Phillips Lytle LLP	Buffalo, NY	\$475	\$240	\$415	\$150	\$235	\$340	\$250	\$230	\$335
2009	Plunkett & Cooney	Bloomfield Hills, NY									
2009	Polsinelli Shughart PC	Kansas City, MO	\$600	\$250	\$275	\$185					
2009	Proskauer Rose LLP	New York, NY									
2009	Quarles & Brady LLP	Milwaukee, WI	\$625	\$205	\$375	\$200	\$252	\$422	\$353	\$245	\$425

Fiscal Year	Firm Name	Location	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Med	Partner Billing Rate Med
2009	Reed Smith LLP	Pittsburgh, PA									
2009	Reinhart Boerner Van Deuren s.c.	City, Hartford, CT	\$650	\$320	\$525	\$210	\$262	\$449	\$325	\$360	\$450
2009	Robinson & Cole LLP	Akron, OH	\$550	\$250	\$300	\$180	\$227	\$347	\$307	\$230	\$350
2009	Roetzel & Andress, A Legal Professional Association	Fort Lauderdale, FL									
2009	Rudman McClosky	Costa Mesa, CA	\$635	\$335	\$400	\$225		\$464	\$387	\$260	\$450
2009	Rutan & Tucker	Philadelphia, PA	\$800	\$315	\$585	\$205	\$294				
2009	Saul Ewing LLP	Philadelphia, PA									
2009	Schneider Harrison Segal & Lewis LLP	New York, NY	\$880	\$715	\$670	\$265					
2009	Schulte Roth & Zabel LLP	Portland, OR	\$640	\$290	\$440	\$195	\$280	\$410	\$305	\$250	\$400
2009	Schwabe Williamson & Wyatt	San Francisco, CA	\$670	\$315	\$555	\$225	\$302	\$418	\$343	\$295	\$415
2009	Sedgwick, Detert, Moran & Arnold LLP	Chicago, IL									
2009	SayMarth Shaw LLP	Los Angeles, CA	\$715	\$495	\$525	\$285					
2009	Sheppard, Mullin, Richter & Hampton LLP										

Fiscal Year	Firm Name	Location	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Med	Partner Billing Rate Med
2009	Sherman & Howard	Denver, CO									
2009	Shook, Hardy & Bacon L.L.P.	Kansas City, MO									
2009	Shumaker, Loop & Kendrick, LLP	Toledo, OH	\$515	\$235	\$395	\$165	\$231	\$341	\$309	\$235	\$340
2009	Sillis Cummins & Gross P.C.	Newark, NJ									
2009	Skadden, Arps, Slate, Meagher & Flom LLP	New York, NY									
2009	Smith, Gambrell & Russell, LLP	Atlanta, GA	\$740	\$325	\$440	\$195	\$1,004	\$1,402	\$381		
2009	Snell & Wilmer L.L.P.	Phoenix, AZ	\$775	\$315	\$480	\$175	\$300	\$473			
2009	Squire, Sanders & Dempsey L.L.P.	Cleveland, OH									
2009	Stephens & Johnson LLP	Washington, DC									
2009	Stevens & Lee, A Professional Corporation	Reading, PA									
2009	Stinson Morrison Hecker LLP	Kansas City, MO	\$680	\$275	\$305	\$195	\$232	\$391	\$333	\$228	\$380
2009	Sitka & Harbison, PLLC	Louisville, KY									
2009	Stoel Rives LLP	Portland, OR	\$630	\$310	\$375	\$190	\$267	\$430	\$369	\$285	\$425
2009	Strasburger & Price, LLP	Dallas, TX	\$610	\$325	\$365	\$210			\$331		

Fiscal Year	Firm Name	Location	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Med	Partner Billing Rate Med
2009	Sullivan & Worcester LLP	Boston, MA	\$800	\$470	\$560	\$285	\$373	\$629	\$520	\$365	\$618
2009	Sutherland Asbill & Brennan LLP	Atlanta, GA and Washington, D.C.	\$800	\$420	\$480	\$220	\$332	\$563	\$403	\$320	\$550
2009	Tar Stettinius & Hollister LLP	Cincinnati, OH	\$475	\$200	\$370	\$160	\$212	\$346			
2009	Thompson & Knight LLP	Dallas, TX	\$825	\$410	\$500	\$265	\$358	\$560	\$471	\$365	\$560
2009	Thompson Coburn LLP	St. Louis, MO	\$595	\$320	\$390	\$190					
2009	TOWNSEND and TOWNSEND and CREW LLP	San Francisco, CA	\$750	\$480	\$460	\$260	\$360	\$530	\$351	\$360	\$560
2009	Troutman Sanders LLP	Atlanta, GA									
2009	Ulmer & Berne LLP	Cleveland, OH	\$550	\$245	\$320	\$180	\$215	\$340	\$265		
2009	Vedder Price, P.C.	Chicago, IL	\$700	\$375	\$450	\$245	\$312	\$409	\$406	\$300	\$455
2009	Variable LLP	Washington, DC	\$975	\$420	\$450	\$275	\$336	\$556	\$457	\$325	\$550
2009	Vinson & Elkins LLP	Houston, TX									
2009	Vorys, Sater, Seymour and Pease LLP	Columbus, OH									
2009	Waller Lansden Dortch & Davis, LLP	Nashville, TN									

Fiscal Year	Firm Name	Location	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Med	Partner Billing Rate Med
2009	White and Williams LLP	Philadelphia, PA		\$360	\$410	\$220					
2009	Wiggin and Dana	New Haven, CT	\$650								
2009	Wiley Rein LLP	Washington, DC		\$315	\$380	\$220	\$274	\$417			
2009	Williams Mullen	Richmond, VA	\$710								
2009	Wilmer Cutler Pickering Hale and Dorr LLP	Boston, MA		\$350	\$385	\$215	\$285	\$462	\$395	\$345	\$630
2009	Winstead PC	Dallas, TX	\$655	\$400	\$670	\$210	\$372	\$638	\$498	\$281	\$465
2009	Winston & Strawn LLP	Chicago, IL	\$995	\$300	\$415	\$140	\$285	\$462	\$213	\$220	\$355
2009	Womble Carlyle Sandridge & Rice	Winston Salem, NC	\$750	\$250	\$265	\$190	\$218	\$350	\$284	\$220	\$355
2009	Wyatt, Tarrant & Combs, LLP	Louisville, KY	\$475	\$250	\$265	\$190	\$218	\$350	\$284	\$220	\$355

EXHIBIT 2

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RECEIVED
VENTURA SUPERIOR COURT

APR 29 2016

VENTURA
SUPERIOR COURT
FILED

JUN -2 2016

MICHAEL D. PLANET
Executive Officer and Clerk

BY: ~~DEBRA RAMOS~~ Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF VENTURA

RAYNA M. FURMAN, on Behalf of
Herself and All Others Similarly Situated,

Plaintiff,

v.

STATION CASINOS, LLC;
VEGAS.COM LLC; and DOES 2 through
100, inclusive,

Defendants.

CASE NO. 56-2013-00446134-CU-BT-VTA

*[Assigned to the Hon. Vincent O'Neill,
Dept. 41]*

**[PROPOSED] ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND JUDGMENT**

Hearing:

Date: June 1, 2016
Time: 8:30 a.m.
Dept: 41

Complaint Filed: December 17, 2013

1 The Court conducted a hearing regarding the fairness and final approval of the Settlement
2 Agreement, Class Representative's service payment and Class Counsel's attorney's fees and
3 litigation costs in this action on June 1, 2016, at 8:30 a.m. in Department 41 of the above
4 captioned court, the Honorable Vincent O'Neill presiding. All parties appeared by counsel of
5 record.

6 After considering the papers and the arguments of counsel, and good cause appearing
7 therefor, the Court GRANTED the Motion for Final Approval and Judgment, Class
8 Representative's service payment, and Class Counsel's Application for Attorneys' Fees and
9 Costs, and the Court rules as follows:

10 IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

- 11 1. The Settlement Agreement and Release ("Settlement Agreement") is hereby
12 incorporated with and made part of this Final Order Approving Class Action
13 Settlement and Judgment ("Final Order and Judgment"). Unless otherwise
14 provided in this Order, all capitalized terms shall have the same meaning as set
15 forth in the Agreement.
- 16 2. This Court has jurisdiction over the subject matter of this Action and all parties to
17 this Action, including the Class Members as defined in Section 1(f) of the
18 Settlement Agreement. The Class Members consist of all persons in California
19 who during the period from December 17, 2012 through January 3, 2014,
20 inclusive, made one or more telephone calls to Station Casinos, spoke with a
21 representative, and were not informed at the beginning of the call that the call may
22 be recorded. The Court refers to the class just defined as the "Settlement Class."
- 23 3. The Settlement Agreement previously filed in this action, and the terms set forth
24 herein, are thereby found and determined to be fair, reasonable, and adequate, and
25 are hereby approved.
- 26 4. The Court finds that the form, manner and content of the Class Notice specified in
27 Section 6 of the Settlement Agreement and Exhibits B, D, and E thereto provided a
28 means of notice reasonably calculated to apprise the Settlement Class Members of

1 the pendency of the action and the proposed settlement, and thereby met the
2 requirements of California Rules of Court Rule 3.769 and California Code of Civil
3 Procedure § 382, as well as due process under the United States Constitution, the
4 California Constitution, and any other applicable laws, constituted the best
5 practicable notice under the circumstances, and constituted due and sufficient
6 notice to all Settlement Class Members entitled thereto.

7 5. This Final Order and Judgment applies to all claims or causes of action settled
8 under the terms of the Settlement Agreement, and shall be fully binding with
9 respect to all Settlement Class Members who did not properly request exclusion
10 pursuant to the Order Preliminarily Approving Settlement entered by this Court on
11 December 11, 2015. A list of all Settlement Class Members who have requested
12 exclusion is attached hereto as Exhibit A. Moreover, no persons timely filed valid
13 objections to the Settlement.

14 6. Class Representative and each Settlement Class Member who did not properly
15 request exclusion are barred and permanently enjoined from asserting, instituting,
16 or prosecuting, either directly or indirectly against Station Casinos and Vegas.com.
17 and their past or present direct and indirect parents, affiliates and subsidiaries
18 (whether or not wholly owned) and their respective directors, officers, employees,
19 agents, insurers, shareholders, members, attorneys, advisors, consultants,
20 representatives, partners, affiliates, related companies, parents, subsidiaries
21 (whether or not wholly owned), joint ventures, independent contractors, vendors,
22 wholesalers, resellers, distributors, retailers, clients, divisions, franchisees,
23 licensees, predecessors, successors, and assigns and each of them (collectively, the
24 "Released Parties"), any claims released under the Settlement Agreement which
25 they had, or have, to the extent provided in the Settlement Agreement, including,
26 any and all liabilities, claims, causes of action, damages, costs, attorneys' fees,
27 losses, or demands, whether known or unknown, existing or potential, suspected or
28 unsuspected, which were or could have been asserted in the Action and are related

1 to the claims asserted in the Action, including, without limitation, (1) any and all
2 claims relating to the transactions, actions, conduct or events that are the subject of
3 the Action, (2) any and all claims arising out of the institution, prosecution,
4 assertion, settlement or resolution of the Action, (3) any and all claims for
5 violation of the California Invasion of Privacy Act, Cal. Penal Code §§ 630, *et*
6 *seq.*, including, without limitation, Cal. Penal Code §§ 631, 632, and 632.7, and
7 (4) any and all claims relating to the recording, eavesdropping and/or monitoring
8 of telephone calls (collectively, the "Released Claims").

- 9 7. The Claims Administrator shall conduct all administration of the Common Fund.
10 The Claims Administrator shall disburse attorney's fees and costs to the Class
11 Counsel from the Common Fund as ordered by the Court. The Claims
12 Administrator shall prepare and issue all disbursements of the Common Fund to
13 Authorized Claimants, and any remaining unclaimed or uncashed funds to
14 Charitable Organization(s) as described in the Settlement Agreement or as
15 otherwise ordered by the Court. The Claims Administrator shall pay itself from
16 the Common Fund all reasonable fees and costs owed to it for the administration
17 of the Settlement and notice to the Class.
- 18 8. If they have not already done so, Defendants shall wire or cause to be wired the
19 difference between One Million Four Hundred Thousand Dollars (\$1,400,000) and
20 any amount previously delivered to the Claims Administrator to fund the Common
21 Fund within the time period specified in the Settlement Agreement. The Claims
22 Administrator shall issue the checks for the appropriate pro-rata Net Settlement
23 Amount to each Authorized Claimant entitled to same within the time periods
24 specified in the Settlement Agreement.
- 25 9. The Court finds that Class Counsel are qualified to represent the settlement Class.
26 The Court hereby grants Class Counsel's request for an award of attorney's fees
27 and costs in the amount of \$ 471,864.54 *vju* to be
28 paid from the Common Fund. The Court finds that the amount of this award is fair

1 and reasonable in light of the efforts expended by Class Counsel in prosecuting
2 this Action and the results obtained. The amount of this award is based on the
3 lodestar-multiplier analysis and the percentage-of-the-benefit approach.

4 10. The Court approves a service payment of \$10,000 to be paid from the
5 Common Fund to Class Representative Rayna Furman as compensation for
6 instituting, prosecuting and bearing the laboring oar and risk of this litigation as
7 Class Representative.

8 11. Pursuant to California Rules of Court Rule 3.769(h), and without affecting the
9 finality of this Final Order and Judgment in any way, the Court hereby retains
10 continuing jurisdiction over the Parties for the purpose of construing, enforcing
11 and administering this Final Order and Judgment, and the terms of the Settlement
12 Agreement.

13
14 **IT IS SO ORDERED.**

15 Dated: June 1, 2016

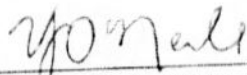
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17 _____
18 **HON. VINCENT O'NEILL**
19 **Judge of the Superior Court**

EXHIBIT 3

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JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

KAMI BROWN, on Behalf of Herself
and All Others Similarly Situated,

Plaintiff,

vs.

DEFENDER SECURITY COMPANY
d/b/a DEFENDER DIRECT, INC. and
PROTECT YOUR HOME; and DOES
1 through 100, inclusive,

Defendant.

Case No. CV 12-07319-CAS (PJWx)

**FINAL ORDER APPROVING
CLASS ACTION SETTLEMENT
AND JUDGMENT**

The Court conducted a hearing regarding the fairness and final approval of the Settlement Agreement and Plaintiffs attorneys' fees and costs and Class Representative's Compensation in this action on March 3, 2014, at 10:00 a.m., the Honorable Christina A. Snyder presiding. The parties appeared by and through their respective counsel of record.

1 After considering the papers and the arguments of counsel, as well as any
2 papers filed by objectors, and good cause appearing, the Court GRANTS Plaintiff's
3 Motion for Final Approval and Judgment, and Plaintiff's Application for Attorneys'
4 Fees and Costs and Class Representative's Compensation, and rules as follows.

5 **FINDINGS:**

6 1. The Settlement Agreement and Release (hereafter, the "Settlement
7 Agreement"), previously filed with the Court, and all definitions set forth therein
8 are hereby incorporated with and made part of this Final Order Approving Class
9 Action Settlement and Judgment ("Final Order and Judgment").

10 2. This Court has jurisdiction over the subject matter of this Action and
11 all parties to this Action, including the settlement Class Members, as defined in
12 Section 1.7 of the Settlement Agreement. Specifically, the members of the Class
13 that are subject to this Final Order and Judgment are all persons in California, who
14 at any time between July 25, 2011 and June 1, 2013 participated in one or more
15 inbound and/or outbound telephone conversations with employees, contractors,
16 agents, subsidiaries, parents of representatives of Defendant Defender Security
17 Company ("Defender") and whose calls were recorded or monitored by Defender.

18 3. The Settlement Agreement, and the terms set forth therein, are hereby
19 found and determined to be fair, reasonable, and adequate, and are hereby approved
20 and ordered to be performed by all parties. Defender shall have no liability to Class
21 Members or any other persons, for any acts performed in connection with the
22 administration of the Settlement Agreement, including, but not limited to, the
23 requirement that Class Members provide information in order to qualify as
24 Authorized Claimants.

25 4. The Court finds that the form, manner and content of the Class Notice
26 and Short Form Class Notice described in the Settlement Agreement, and specified
27 in Exhibits B and E to the Settlement Agreement, provided a means of notice
28 reasonably calculated to apprise the Class Members of the pendency of the action

1 and the proposed settlement, and thereby met the requirements of Rule 23(c)(2) of
2 the Federal Rules of Civil Procedure, as well as due process under the United States
3 Constitution, and any other applicable law, and constituted due and sufficient notice
4 to all Class Members entitled thereto. Specifically, individual notice was provided
5 to Class Members by regular mail where available, and class notice was provided to
6 all potential Class Members by publishing such notice on the Settlement Website
7 and in the California edition of *USA Today* for at least a period of two days and an
8 advertisement size of at least 1/4 of a page.

9 **5.** This Final Order and Judgment applies to all claims or causes of action
10 settled under the terms of the Settlement Agreement, and shall be fully binding with
11 respect to all Class Members who did not properly request exclusion pursuant to the
12 Order Granting Preliminary Approval of Class Action Settlement entered by this
13 Court on October 28, 2013. This Order does not bind Class Members who filed
14 timely and valid requests for exclusions. Attached as Exhibit A is a list of persons
15 who properly requested to be excluded from the Settlement.

16 **6.** Representative Plaintiff Kami Brown and all Class Members who did
17 not properly request exclusion are barred and permanently enjoined from asserting,
18 instituting, or prosecuting, either directly or indirectly, any claims released under
19 the Settlement Agreement which they had, or have, to the extent provided in the
20 Settlement Agreement. All claims of Representative Plaintiff and all Class
21 Members shall be conclusively deemed released and discharged as to Defender and
22 its related entities, to the extent provided in the Settlement Agreement.

23 **7.** The Claims Administrator shall conduct all administration of the
24 Common Fund in accordance with the Settlement Agreement. The Claims
25 Administrator shall prepare and issue all disbursements to Authorized Claimants,
26 and any remaining unclaimed or uncashed funds shall be distributed to the
27 Consumer Federation of America which is a non-profit organization qualified under
28 IRC § 501(c)(3) that educates organizations and/or consumers in California

1 regarding issues relating to protection of privacy, identity, and personal
2 information.

3 **8.** The Claims Administrator shall issue the appropriate Prorated
4 Settlement Amount to each Authorized Claimant within the time periods specified
5 in the Settlement Agreement.

6 **9.** All claims asserted by Representative Plaintiff and the Class Members
7 in this Action are hereby dismissed with prejudice.

8 **10.** The Court finds that Class Counsel are qualified to represent the
9 settlement Class. The Court hereby grants Class Counsel's request for an award of
10 attorneys' fees in the amount of \$411,006.91, plus reimbursement of litigation
11 expenses in the amount of \$8,993.09 which shall be paid out of the Common Fund
12 within the time periods specified in the Settlement Agreement. The Court finds that
13 the amount of the attorney fees award is fair and reasonable in light of the efforts
14 expended by Class Counsel in prosecuting this Action and the results obtained.

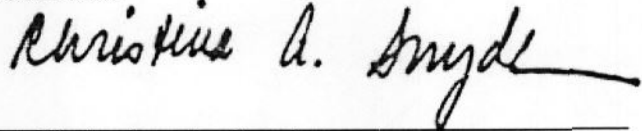
15 **11.** The Court finds that it is appropriate for the Class Representative to be
16 paid a one-time payment of Five Thousand Dollars (\$5,000.00) as compensation for
17 instituting, prosecuting and bearing the laboring oar and risk of this litigation as
18 Class Representative. This payment shall be made out of the Common Fund within
19 the time periods specified in the Settlement Agreement.

20 **12.** The Court approves payment to KCC Class Actions Services, LLC to
21 be paid out of the Common Fund for all expenses incurred in providing notice to
22 the Class and administering the Settlement.

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13. Without affecting the finality of this Final Order and Judgment in any way, the Court hereby retains continuing jurisdiction over the parties for the purpose of construing, enforcing and administering this Final Order and Judgment, and the terms of the Settlement Agreement.



Dated: March 18, 2014

Hon. Christina A. Snyder
United States District Court Judge

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EXHIBIT A
TIMELY LIST OF EXCLUSIONS

1. La Has
2. Lidia Jaworska
3. Gary Morris
4. James Ricker
5. Jennifer Ricker

EXHIBIT 4

FILED
Superior Court of California
County of Los Angeles

MAR 27 2013 *MC*

John A. Clarke, Executive Officer/Clerk

By *M. Cavataio*, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

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MAR 20 2013
CCW, RM. 314

FAXED

ZOYA SOSINOV, on Behalf of Herself and
All Others Similarly Situated,

Plaintiff,

v.

RADIOSHACK CORPORATION., and
DOES 1 through 100, inclusive,

Defendants.

No. BC449675

CLASS ACTION

~~PROPOSED~~ FINAL ORDER APPROVING
CLASS ACTION SETTLEMENT AND
JUDGMENT

Dept. 307

Judge: Hon. William F. Highberger

Date Action Filed: November 19, 2010

Trial Date: Not Set

On March 27, 2013, this Court heard plaintiff Zoya Sosinov's ("Plaintiff") unopposed motion for final approval of the class action settlement. This Court reviewed: (a) the motion and the supporting papers, including, the Settlement Agreement and Release ("Agreement"); (b) any objections filed with or presented to the Court; (c) the parties' responses to any objections; and (d) counsels' arguments. Based on this review and the findings below, the Court found good cause to grant the motion.

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1 **FINDINGS:**

2 1. The Agreement was fair, reasonable, and adequate.

3 2. The parties adequately performed their obligations under the Agreement.

4 3. Defendant RadioShack Corporation ("Defendant"), provided notice to Class
5 Members in compliance with Section 3.3 of the Agreement, due process, and CAL. R. CT. 3.769.
6 The notice: (i) fully and accurately informed Class Members about the lawsuit and settlement; (ii)
7 provided sufficient information so that Class Members were able to decide whether to accept the
8 benefits offered, opt-out and pursue their own remedies, or object to the proposed settlement; (iii)
9 provided procedures for Class Members to file written objections to the proposed settlement, to
10 appear at the hearing, and to state objections to the proposed settlement; and (iv) provided the
11 time, date and place of the final fairness hearing.

12 4. An award of \$ 375,000⁰⁰ in attorneys' fees and costs to Plaintiff's
13 Counsel is fair and reasonable in light of the nature of this case, Plaintiff's Counsel's experience
14 and efforts in prosecuting this Action, and the benefits obtained for the Class.

15 5. An incentive award to Plaintiff Zoya Sosinov of \$ 2,000⁰⁰ is fair
16 and reasonable in light of: (a) Plaintiff's risks (including financial, professional, and emotional) in
17 commencing this action as the Class Representative; (b) the time and effort spent by Plaintiff in
18 litigating this action as the Class Representative; and (c) Plaintiff's public interest service.

19 **IT IS ORDERED THAT:**

20 1. **Class Members.** The Class Members are defined as:

21 All persons, who between November 19, 2009 and December 13,
22 2012, used a credit card to make a purchase at a RadioShack store
23 located in California and whose personal identification information,
24 including, but not limited to, postal address, zip code, e-mail
address, and/or telephone number (landline or mobile), were
requested and recorded by Defendant.

25 2. **Binding Effect of Order.** This order applies to all claims or causes of action
26 settled under the Agreement, and binds all class members, including those who did not properly
27 request exclusion under paragraph 6 of the Preliminary Approval of Class Settlement and
28 Provisional Class Certification Order. This order does not bind persons who filed timely and

1 valid Requests for Exclusions. Attached as Exhibit A is a list of persons who properly requested
2 to be excluded from the settlement.

3 **3. Objection.** The Court has considered the Objection to the Settlement and/or
4 Plaintiff's Counsel's attorneys' fees and costs and Class Representative's Incentive Award filed
5 by Steven Bitter *(who actually opted out) and David Stuard* and the arguments and evidence submitted in response to the Objection. The
6 Objection *& David Stuard are* by Steven Bitter is overruled.

7 **4. Release.** Plaintiff and all Class Members who did not properly request exclusion
8 are: (1) deemed to have released and discharged Defendant from all claims arising out of or
9 asserted in this action and claims released under the Agreement; and (2) barred and permanently
10 enjoined from asserting, instituting, or prosecuting, either directly or indirectly, these claims.

11 **5. Class Relief.** The Credit Certificates provided to Class Members will be activated
12 and made negotiable according to the timeline set forth in Sections 3.3(b), 3.3(c) and 3.5 of the
13 Agreement.

14 **6. Cy Pres.** Defendant shall donate all Certificates that can not be reasonably
15 delivered to Class Members following attempts at the last known address of each Class Member
16 according to the terms set forth in Section 2.4 of the Agreement.

17 **7. Attorney's Fees and Costs.** Plaintiff's Counsel is awarded
18 \$ 375,000.00 in fees and costs. Defendant must pay Plaintiff's Counsel this amount
19 according to the timeline set forth in Section 2.6 of the Agreement.

20 **8. Incentive Award.** Plaintiff Zoya Sosinov is awarded \$ 2,000.00 as
21 an incentive award. Defendant must pay Plaintiff this amount according to the timeline set forth
22 in Section 2.7 of the Agreement.

23 **9. Court's Jurisdiction.** Pursuant to the parties' request, CAL. CODE CIV. PROC.
24 § 664.6, and CAL. R. CT. 3.769(h), the Court will retain jurisdiction over this action and the
25 parties until final performance of the Agreement.

26 **10. Administrator post notice for 30 days on website**
27 **per CRC 3.771(b)**

28 DATED: 3/27/13

W.F. Highberger
JUDGE OF THE SUPERIOR COURT

3.

WILLIAM F. HIGHBERGER

EXHIBIT 5

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LOS ANGELES
SUPERIOR COURT

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CENTRAL CIVIL WEST COURTHOUSE

ADA POMERANTS, on Behalf of Herself
and All Others Similarly Situated,

Plaintiff,

v.

SKECHERS U.S.A., INC. and DOES 1
through 100, inclusive,

Defendant.

No. BC436360

CLASS ACTION

~~PROPOSED~~ FINAL ORDER APPROVING
CLASS ACTION SETTLEMENT AND
JUDGMENT

Date: February 7, 2012
Time: 9:00 a.m.
Dept: 311
Judge: Hon. John S. Wiley Jr.

On February 7, 2012, this Court heard plaintiff Ada Pomerants's ("Plaintiff") unopposed motion for final approval of the class action settlement. This Court reviewed: (a) the motion and the supporting papers, including, the Settlement Agreement and Release ("Agreement"); (b) any objections filed with or presented to the Court; (c) the parties' responses to any objections; and (d) counsels' arguments. Based of this review and the findings below, the Court found good cause to grant the motion.

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1 **FINDINGS:**

- 2 1. The Agreement was fair, reasonable, and adequate.
- 3 2. The parties adequately performed their obligations under the Agreement.
- 4 3. Defendant Skechers U.S.A., Inc. ("Defendant" or "Skechers"), provided notice to
- 5 Class Members in compliance with Section 3.3 of the Agreement, due process, and CAL. R. CT.
- 6 3.769. The notice: (i) fully and accurately informed Class Members about the lawsuit and
- 7 settlement; (ii) provided sufficient information so that Class Members were able to decide
- 8 whether to accept the benefits offered, opt-out and pursue their own remedies, or object to the
- 9 proposed settlement; (iii) provided procedures for Class Members to file written objections to the
- 10 proposed settlement, to appear at the hearing, and to state objections to the proposed settlement;
- 11 and (iv) provided the time, date and place of the final fairness hearing.

12 4. An award of \$ 275,000.00 in attorneys' fees and costs to Class Counsel is

13 fair and reasonable in light of the nature of this case, Class Counsel's experience and efforts in

14 prosecuting this Action, and the benefits obtained for the Class.

15 5. An incentive award to Plaintiff Ada Pomerants of \$ 7,500.00 is fair and

16 reasonable in light of: (a) Plaintiff's risks (including financial, professional, and emotional) in

17 commencing this action as the Class Representative; (b) the time and effort spent by Plaintiff in

18 litigating this action as the Class Representative; and (c) Plaintiff's public interest service.

19 **IT IS ORDERED THAT:**

- 20 1. **Class Members.** The Class Members are defined as:
- 21 All persons who, between April 22, 2009 and November 11, 2011,
- 22 used a credit card to make a purchase at a Skechers store (including
- 23 Skechers retail stores, concept stores, factory outlet stores, and
- 24 warehouse stores) located in California and whose personal
- 25 identification information, including, but not limited to, postal
- 26 address, e-mail address, and/or telephone number (landline or
- 27 mobile), were requested and recorded by Skechers.
- 28 2. **Binding Effect of Order.** This order applies to all claims or causes of action
- settled under the Agreement, and binds all class members, including those who did not properly
- request exclusion under paragraph 6 of the Preliminary Approval of Class Settlement and

1 Provisional Class Certification Order. This order does not bind persons who filed timely and
2 valid Requests for Exclusions. Attached as Exhibit A is a list of persons who properly requested
3 to be excluded from the settlement.

4 **3. Release.** Plaintiff and all Class Members who did not properly request exclusion
5 are: (1) deemed to have released and discharged Defendant from all claims arising out of or
6 asserted in this action and claims released under the Agreement; and (2) barred and permanently
7 enjoined from asserting, instituting, or prosecuting, either directly or indirectly, these claims. The
8 full terms of the release described in this paragraph are set forth in paragraphs 4.2 and 4.3 of the
9 Agreement.

10 **4. Class Relief.** Defendant will issue a single Merchandise Certificate to each Class
11 Member who timely registered to receive a Merchandise Certificate as provided in the Agreement
12 no later than thirty-five (35) calendar days after the Final Settlement Date, which is defined under
13 Paragraph 1.10 of the Agreement, or after the end of the period for Class Members to register to
14 receive a Merchandise Certificate, whichever is later.

15 **5. Attorney's Fees and Costs.** Class Counsel is awarded \$ 275,000.00 in fees
16 and costs. Defendant must pay Class Counsel this amount according to the timeline set forth in
17 Section 2.3 of the Agreement.

18 **6. Incentive Award.** Plaintiff Ada Pomerants is awarded \$ 2,500.00 as an
19 incentive award. Defendant must pay Plaintiff this amount according to the timeline set forth in
20 Section 2.4 of the Agreement.

21 **7. Court's Jurisdiction.** Pursuant to the parties' request, CAL. CODE CIV. PROC.
22 § 664.6, and CAL. R. CT. 3.769(h), the Court will retain jurisdiction over this action and the
23 parties until final performance of the Agreement.

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8. **Acknowledgement of Satisfaction of Judgment.** Plaintiff must file Judicial Council Form EJ-100 with the Court according to the timeline set forth in Paragraph 4.4 of the Agreement.

DATED: _____

FEB 07 2012

JOHN SHEPARD WILEY JR.
JUDGE OF THE SUPERIOR COURT

EXHIBIT 6

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ORIGINAL FILED

DEC 12 2011

**LOS ANGELES
SUPERIOR COURT**

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

INNA KONEVSKYA, on Behalf of Herself
and All Others Similarly Situated,

Plaintiff,

v.

TOMMY BAHAMA GROUP, INC.,
OXFORD INDUSTRIES, INC., and DOES 1
through 100, inclusive,

Defendants.

No. BC424931

CLASS ACTION

~~[Proposed]~~ FINAL ORDER APPROVING
CLASS ACTION SETTLEMENT AND
JUDGMENT

Dept. 308
Judge: Hon. Jane L. Johnson

Date Action Filed: October 28, 2009
Trial Date: Not Set

On Dec. 12, 2011, this Court heard plaintiff Inna Konevskya's ("Plaintiff") motion for final approval of the class action settlement. This Court reviewed: (a) the motion and the supporting papers, including, the Settlement Agreement and Release ("Agreement"); (b) any objections filed with or presented to the Court; (c) the parties' responses to any objections; and (d) counsels' arguments. Based of this review and the findings below, the Court found good cause to grant the motion.

///

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1 **FINDINGS:**

2 1. The Agreement was fair, reasonable, and adequate.

3 2. The parties adequately performed their obligations under the Agreement.

4 3. Defendants Tommy Bahama Group, Inc. and Oxford Industries, Inc.
5 ("Defendants"), provided notice to Class Members in compliance with Section 3.3 of the
6 Agreement, due process, and CAL. R. CT. 3.769. The notice: (i) fully and accurately informed
7 Class Members about the lawsuit and settlement; (ii) provided sufficient information so that Class
8 Members were able to decide whether to accept the benefits offered, opt-out and pursue their own
9 remedies, or object to the proposed settlement; (iii) provided procedures for
10 Class Members to file written objections to the proposed settlement, to appear at the hearing, and
11 to state objections to the proposed settlement; and (iv) provided the time, date and place of the
12 final fairness hearing.

13 4. An award of \$ 250,000.00 in attorneys' fees and costs to Class
14 Counsel is fair and reasonable in light of the nature of this case, Class Counsel's experience and
15 efforts in prosecuting this Action, and the benefits obtained for the Class.

16 5. An incentive award to Plaintiff Inna Konevskya of \$ 2,000.00 is fair
17 and reasonable in light of: (a) Plaintiff's risks (including financial, professional, and emotional) in
18 commencing this action as the Class Representative; (b) the time and effort spent by Plaintiff in
19 litigating this action as the Class Representative; and (c) Plaintiff's public interest service.

20 **IT IS ORDERED THAT:**

21 1. **Class Members.** The Class Members are defined as:

22 All persons, who between October 28, 2008 and September 26,
23 2011, used a credit card to make a purchase at a Tommy Bahama
24 store located in California and whose personal identification
25 information, including, but not limited to, postal address, e-mail
26 address, and/or telephone number, were requested and recorded by
27 Defendants.

26 The class does not include any persons who were employed by
27 Tommy Bahama Group, Inc., Oxford Industries, Inc., or Tommy
28 Bahama R&R Holdings Inc. between October 28, 2008 and
September 26, 2011.

1 2. **Binding Effect of Order.** This order applies to all claims or causes of action
2 settled under the Agreement, and binds all class members, including those who did not properly
3 request exclusion under paragraph 6 of the Preliminary Approval of Class Settlement and
4 Provisional Class Certification Order. This order does not bind persons who filed timely and
5 valid Requests for Exclusions. Attached as Exhibit A is a list of persons who properly requested
6 to be excluded from the settlement.

7 3. **Release.** Plaintiff and all Class Members who did not properly request exclusion
8 are: (1) deemed to have released and discharged Defendants from all claims arising out of or
9 asserted in this action and claims released under the Agreement; and (2) barred and permanently
10 enjoined from asserting, instituting, or prosecuting, either directly or indirectly, these claims. The
11 full terms of the release described in this paragraph are set forth in paragraphs 4.2 and 4.3 of the
12 Agreement.

13 4. **Class Relief.** Defendants will issue a single Merchandise Certificate to each Class
14 Member who submitted a valid and timely Claim Form as provided in the Agreement no later
15 than twenty-five (25) calendar days after the Final Settlement date, which is defined under
16 Paragraph 1.13 of the Agreement.

17 5. **Attorney's Fees and Costs.** Class Counsel is awarded \$ 250,000.00
18 in fees and costs. Defendants must pay Class Counsel this amount according to the timeline set
19 forth in Section 2.4 of the Agreement.

20 6. **Incentive Award.** Plaintiff Inna Konevskya is awarded \$ 2,000.00
21 as an incentive award. Defendants must pay Plaintiff this amount according to the timeline set
22 forth in Section 2.5 of the Agreement.

23 7. **Court's Jurisdiction.** Pursuant to the parties' request, CAL. CODE CIV. PROC.
24 § 664.6, and CAL. R. CT. 3.769(h), the Court will retain jurisdiction over this action and the
25 parties until final performance of the Agreement.

1 8. Acknowledgement of Satisfaction of Judgment. Plaintiff must file Judicial
2 Council Form EJ-100 with the Court according to the timeline set forth in Paragraph 4.4 of the
3 Agreement.

4
5 DATED: DEC 12 2011

JANE L. JOHNSON

JUDGE OF THE SUPERIOR COURT

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EXHIBIT 7

ORIGINAL FILED

DEC 12 2011

LOS ANGELES
SUPERIOR COURT

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

INNA KONEVSKYA, on Behalf of Herself and)
All Others Similarly Situated,)

Plaintiff,)

v.)

TOMMY BAHAMA GROUP, INC., OXFORD)
INDUSTRIES, INC., and DOES 1 through 100,)
inclusive,)

Defendants.)

Case No: BC424931

CLASS ACTION

~~PROPOSED~~ ORDER AWARDING
ATTORNEYS' FEES, EXPENSES AND
INCENTIVE AWARD

Date: December 5, 2011
Time: 10:00 a.m.
Dept: 308
Judge: Hon. Jane L. Johnson

~~PROPOSED~~ ORDER AWARDING ATTORNEYS' FEES, EXPENSES
AND INCENTIVE AWARD

BC424931

1 Plaintiff's Unopposed Motion for Award of Attorneys' Fees, Expenses and Incentive
2 Award came on regularly for hearing on December 5, 2011. Having reviewed the papers filed in
3 connection with the motion and good cause appearing therefore, subject to the entry by the Court
4 of a final order and judgment approving the settlement in this matter,

5 **IT IS HEREBY ORDERED THAT:**

6 1. Class Counsel is entitled to reasonable attorneys' fees for their work, which the
7 Court finds to be \$245,728.¹⁹ in light of the nature of the case, work performed, hourly rates,
8 Class Counsel's experience and the benefits obtained for the Class, and to recover \$4271.81 in
9 reasonable expenses incurred in the Litigation.

10 2. The Plaintiff is entitled to an award of \$2000.⁰⁰, in light of Plaintiff's risks in
11 commencing this action as the Class Representative, the time and effort spent by Plaintiff in
12 litigating this action as the Class Representative, and Plaintiff's public interest service.

13 3. The above payments are to be made by Defendants within the time established in
14 the Parties' negotiated Settlement Agreement.

15 4. In the event the Court does not grant final approval of the settlement in this action
16 and enter judgment accordingly, the findings contained herein shall be deemed null and void *ab*
17 *initio*.

18 Dated: Dec. 12, 2011

JANE L. JOHNSON

HON. JANE L. JOHNSON
CALIFORNIA SUPERIOR COURT JUDGE

EXHIBIT 8

1 Jordan L. Lurie (130013)
jlurie@weisslurie.com
2 Zev B. Zysman (176805)
zzysman@weisslurie.com
3 Joel E. Elkins (256020)
jelkins@weisslurie.com
4 WEISS & LURIE
10940 Wilshire Boulevard, 23rd Floor
5 Los Angeles, CA 90024
Telephone: (310) 208-2800
6 Facsimile: (310) 209-2348

7 *Attorneys for Plaintiff and*
8 *The Settlement Class*

JS-6
FILED
CLERK, U.S. DISTRICT COURT
JUN 28 2011
CENTRAL DISTRICT OF CALIFORNIA
BY [Signature]

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

13 MARYAM BURCHAM, on Behalf of
14 Herself and All Others Similarly
Situating,

15 Plaintiff,

16 v.

17 WELCH FOODS, INC.,

18 Defendant.

19 CONSOLIDATED WITH

21 SEAN P. COURTNEY,

22 Plaintiff,

23 v.

24 WELCH FOODS, INC., et al.,

25 Defendants.

Case Nos. CV 09-05946 AHM (AGR_x) ✓

consolidated with

SA CV10-01427-AHM (AGR_x)

CLASS ACTION

~~PROPOSED~~ ORDER AND FINAL
JUDGMENT

Date: June 27, 2011

Time: 10:00 a.m.

Ctrm: 14

Judge: Honorable A. Howard Matz

1 On this 27th day of June, 2011, a hearing having been held before this Court
2 to determine: (i) whether the terms and conditions of the Stipulation of Settlement
3 between Plaintiff, on behalf of herself and the class, and Welch Foods, Inc.
4 ("Welch's), dated March 10, 2011 (the "Stipulation") are fair, reasonable and
5 adequate for the settlement of all claims asserted by the Class members against
6 Welch's and the Released Parties in the Litigation now pending before this Court
7 under the above caption; and (ii) whether judgment should be entered dismissing
8 the Litigation on the merits and with prejudice as to all Class Members who have
9 not requested exclusion therefrom, and the Plaintiff and all Class Members shall be
10 forever barred from bringing or prosecuting, in any capacity, any action or
11 proceeding that involves or asserts any of the Released Claims against any of the
12 Released Parties.

13 And it appearing that a notice of hearing substantially in the form approved
14 by the Court was provided to all persons reasonably identifiable;

15 And the Court, having considered all matters submitted to it at the hearing
16 and otherwise having determined the fairness and reasonableness of the proposed
17 Settlement of the claims of the Class Members against Welch's and the Released
18 Parties;

19 NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

20 1. The Settlement is approved as fair, reasonable and adequate, and in the
21 best interests of the Class Members. The parties to the Settlement are directed to
22 consummate the Settlement in accordance with the terms and provisions of the
23 Amended Stipulation. Pursuant to Federal Rules of Civil procedure 23(b)(3), the
24 Class consists of all persons who purchased Welch's 100% Juice White Grape
25 Pomegranate flavored 3 Juice blend from concentrate with added ingredients (the
26 "WGP Product") during the period from July 1, 2007 through the date of this
27 judgment. Excluded from the Class are Welch's, officers and directors of Welch's
28 and its parent, subsidiaries and affiliates, and the legal representatives, heirs,

1 successors or assigns of any such excluded party. Also excluded from the Class are
2 the persons and entities who timely file a valid request for exclusion from the
3 Class.

4 2. The Court finds that the Class meets all requirements of Federal Rules
5 of Civil Procedure 23(a) and (b)(3) for certification of the class claims, including:
6 (a) numerosity; (b) commonality; (c) typicality; (d) adequacy of the Lead Plaintiff
7 and Class Counsel; (e) predominance of common questions of fact and law among
8 the Class; and (f) superiority.

9 3. Having considered the factors set forth in Rule 23(g)(1) of the Federal
10 Rules of Civil Procedure, the Court finds that Class Counsel have fairly and
11 adequately represented the Class for purposes of entering into and implementing
12 the Settlement, and thus, hereby appoint Class Counsel as counsel to represent the
13 Class Members.

14 4. The complaints in the above-captioned consolidated action, currently
15 pending before this Court, are hereby dismissed without costs and with prejudice in
16 full and final discharge of any and all claims or obligations that were or could have
17 been asserted in the Litigation, as against Welch's and all Released Parties.

18 5. No persons submitted timely and valid requests for exclusions
19 ("Opt-Outs").

20 6. The Court has received and considered the filed objection of plaintiffs
21 Courtney and Rojas to the Settlement and hereby overrules the objection for the
22 reasons set forth by the parties in their Responses to the objection. The Court has
23 considered all objections filed up until the date of the fairness hearing, whether
24 timely or untimely postmarked, and whether or not separately identified in the
25 moving papers. The Court overrules all objections, finding that they do not alter
26 the Court's finding that the Settlement Agreement is fair and reasonable.

27 7. "Released Claims" means any and all claims, actions and causes of
28 action in law or equity, suits, obligations, debts, demands, agreements, promises,

1 warranties, liabilities, controversies, damages, losses, attorneys' fees, costs or
2 expenses of any kind whatsoever, whether based on common law or on any federal
3 or state statute, rule, regulation, or other law or right of action, foreseen or
4 unforeseen, natural or unnatural, known or unknown, accrued or not accrued,
5 suspected or unsuspected, fixed or contingent, and whether or not concealed or
6 hidden, with the exception of claims for personal injury, that are based upon, or are
7 related to, arise from or are connected with the claims, or the factual bases for the
8 claims, asserted in the Litigation, or any facts, circumstances, statements,
9 omissions, events or other matters raised or referred to in the pleadings in the
10 Litigation which could have been raised against Welch's and any of the Released
11 Parties by the Lead Plaintiffs or any Class Member.

12 8. "Released Parties" means Welch Foods, Inc.; its officers, directors,
13 employees, agents, assigns, as well as its retail, wholesale or club store distributors,
14 as well as the National Grape Cooperative, and its officers, directors, employees,
15 agents, assigns, and each of its member growers, and each of their respective
16 employees, agents or assigns.

17 9. Class Members, the successors and assigns of any of them, and anyone
18 claiming through or on behalf of them, are hereby permanently enjoined and barred
19 from instituting, commencing or prosecuting, either directly or in any other
20 capacity, any Released Claim against any of the Released Parties.

21 10. The Released Claims are hereby ordered as compromised, settled,
22 released, discharged and dismissed as to each of the Released Parties on the merits
23 and with prejudice by virtue of the proceedings herein and this Judgment.

24 11. The Released Parties are hereby permanently enjoined and barred
25 from instituting, commencing or prosecuting, either directly or in any other
26 capacity, any claim arising from or out of the matters giving rise to the Litigation
27 against the Lead Plaintiff, Class Members or their attorneys.

28

1 12. The Released Parties' claims, arising out of the matters giving rise to
2 this Litigation, if any, against the Lead Plaintiff, Class Members or their attorneys,
3 are hereby comprised, settled, released, discharged and dismissed on the merits and
4 with prejudice by virtue of the proceedings herein and this Judgment.

5 13. Neither the Stipulation, nor any of its terms and provisions, nor any of
6 the negotiations or proceedings connected with it, nor any of the documents or
7 statements referred to therein shall be:

8 a. Offered in evidence as proof of liability or a presumption,
9 concession or an admission by any of the Released Parties of the truth of any fact
10 alleged or the validity of any claim that has been, could have been or in the future
11 might be asserted in the Complaint, or otherwise against the Released Parties, or of
12 any purported liability, fault, wrongdoing or otherwise of the Released Parties; or

13 b. Offered or received in evidence as proof of a presumption,
14 concession or an admission of any purported liability, wrongdoing, fault,
15 misrepresentation or omission in any statement, document, report or financial
16 statement heretofore or hereafter issued, filed, approved or made by any of the
17 Released Parties or otherwise referred to for any other reason, other than for the
18 purpose of and in such proceeding as may be necessary for construing terminating
19 or enforcing the Stipulation; or

20 c. Construed as a concession or an admission that the Lead
21 Plaintiff or the Class Members have suffered any damage; or

22 d. Construed as or received in evidence as an admission,
23 concession or presumption against the Lead Plaintiff or the Class Members or any
24 of them, that any of their claims are without merit.

25 14. Exclusive jurisdiction is hereby retained over the parties and the Class
26 Members for all matters relating to the Litigation, including the administration,
27 interpretation, effectuation or enforcement of the Stipulation and this Judgment.

28

1 15. The Court has considered the submissions by the parties and all other
2 relevant factors involving the prosecution of claims on behalf of the Class. Class
3 Counsel initiated the Litigation on behalf of the Lead Plaintiff and acted to protect
4 the Class. Their efforts have produced the Stipulation entered into in good faith
5 that provides a fair, reasonable, adequate and certain result for the Class. Class
6 Counsel is entitled to reasonable attorneys' fees for their work, which the Court
7 finds to be ~~\$639,867.94~~ and to recover \$ 14,863.09 in expenses incurred in the
8 Litigation. The Lead Plaintiff is entitled to an incentive award of \$ 2,500.00.

9 16. The finality of this Judgment shall not be affected in any manner by
10 rulings the Court may make on Lead Counsel's application for an award of
11 attorneys' fees and reimbursement of expenses.

12 17. The Court hereby finds that the notice described herein provided the
13 best notice practicable under the circumstances, and fully satisfied the requirements
14 of Federal Rules of Civil Procedure 23, the requirements of due process, 28 U.S.C.
15 Section 1715, and any other applicable law. Said notice was reasonably calculated
16 to reach actual, potential and likely Class Members, and to direct them to resources
17 informing them of the benefits of the Settlement, the right to exclude themselves
18 from the Class, and the consequences of doing so or not doing so. There having
19 been no timely Opt-Outs submitted, all Settlement Class Members are bound by
20 this Judgment and are eligible to receive cash refund(s) or a replacement product
21 coupon as provided to Class Members by the terms of the Stipulation but may not
22 pursue their own individual remedies against Defendant relating to any of the
23 Released Claims against any of the Released Parties.

24 18. Without affecting the finality of this Judgment, the Court reserves
25 jurisdiction over the implementation, administration and enforcement of this
26 Judgment and the Stipulation, and all matters ancillary thereto.

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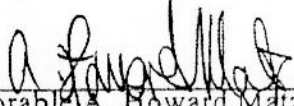
1 19. The Court finding that no reason exists for delay in ordering the final
2 judgment pursuant to Federal Rule of Civil Procedure 54(b), the clerk is hereby
3 directed to enter this Judgment forthwith.

4 20. The parties are hereby authorized without needing further approval
5 from the Court, to agree to and adopt such modifications and expansions of, the
6 Stipulation, including without limitation, the forms to be used in the claims
7 process, which are consistent with this Judgment and do not limit the right of Class
8 Members under the Stipulation.

9 21. Defined terms herein are used as defined in the Stipulation between
10 Lead Plaintiff, on behalf of herself and the Class and Welch's.

11 22. In the event this Judgment does not become final, it shall be rendered
12 null and void and shall be vacated.

13 Dated: June 27, 2011



Honorable A. Howard Matz
United States District Judge

15
16 Respectfully submitted,

17 **WEISS & LURIE**
18 Jordan L. Lurie
19 Zev B. Zysman
20 Joel E. Elkins

21 /s/ Jordan L. Lurie
22 Jordan L. Lurie

23 10940 Wilshire Boulevard, 23rd Floor
24 Los Angeles, CA 90024
25 Telephone: (310) 208-2800
26 Facsimile: (310) 209-2348

27 *Attorneys for Plaintiff and*
28 *the Settlement Class*

EXHIBIT 9

REC'D
SEP 18 2008
FILING WINDOW

FILED
LOS ANGELES SUPERIOR COURT
SEP 23 2008
JOHN A. CLARKE, CLERK
[Signature]

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SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

BORIS BRAND, on Behalf of Himself, and All)
Others Similarly Situated,)

Plaintiff,)

vs.)

SIMPLE TECH, INC., and DOES 1-100,)
inclusive,)

Defendants.)

CASE NO.: BC360001
CLASS ACTION
**[PROPOSED] JUDGMENT AND
ORDER OF DISMISSAL**

1 This matter came on for hearing on September 4, 2008, on a motion for final class
2 certification and final approval of the parties' proposed class action settlement, which is set forth in
3 the Settlement Agreement and Release ("Agreement"). The Court has carefully considered the
4 Agreement, the record in the above-captioned action (the "Action"), the arguments, evidence and
5 authorities of counsel, including those submitted or introduced at the hearing, and all oral and/or
6 written objections and comments received regarding the proposed settlement. Good cause
7 appearing, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

8 1. The Court, for purposes of this Judgment, adopts the terms and definitions set forth
9 in the Agreement.

10 2. The Court has jurisdiction over the subject matter of the Action, the Class
11 Representative, the Settlement Class Members, and Defendant STEC Inc., ("STEC") which was
12 formerly known as SimpleTech, Inc.

13 3. The Court finds that the notice to the Settlement Class of the pendency of the Action
14 and of the proposed settlement, disseminated via e-mailed notice (to Class Members for whom
15 STEC has an e-mail address and who did not indicate that they did not wish to receive
16 communications from STEC), published notice and posting of the notice on a website maintained
17 by STEC, as provided by the Agreement and by an Order of this Court, was fully implemented.

18 4. The Court finds that the notice as ordered and implemented was reasonably
19 calculated under the circumstances to apprise the Settlement Class Members of the pendency of this
20 Action; all material elements of the proposed settlement; and their opportunity (a) to exclude
21 themselves from the proposed settlement; (b) to object to or comment on the settlement and/or
22 Class Counsel's fees and expenses, and the payment of incentive fees, and to appear at the Final
23 Hearing; (c) to consult and/or retain an attorney of their choice at their own expense; and/or (d) to
24 seek to intervene in the Action. The notice was reasonable and the best notice practicable under the
25 circumstances; was due, adequate and sufficient notice to all Settlement Class Members; and
26 complied with the laws of the State of California, the California Code of Civil Procedure, the
27 California Rules of Court, due process, and any other applicable statutes or rules. A full opportunity
28 has been afforded to the members of the Settlement Class to participate at the Final Hearing, and all

1 members of the Settlement Class and other persons wishing to be heard have been heard.

2 Accordingly, the Court determines that all members of the Settlement Class are bound by this
3 Judgment.

4 5. On May 30, 2008, this Court conditionally certified the following Settlement Class:

5
6 All persons or entities in the United States who purchased a Covered Simple Tech
7 Hard Disk Drive from October 6, 2002 through February 9, 2007, who resided in the
8 United States at the time of purchase, purchased the Covered Simple Tech Hard
9 Disk Drive at a location within the United States, purchased the Covered Simple
10 Tech Hard Disk Drive new (i.e., not second hand) from an entity that regularly
11 sells/sold such devices or items, and did not purchase the Covered Simple Tech Hard
12 Disk Drive for resale to others.

13 6. The Court earlier appointed Boris Brand as Class Representative of the Settlement
14 Class. The Court appointed Jordan L. Lurie and Zev B. Zysman of the law firm, Weiss & Lurie, as
15 Class Counsel.

16 7. California Code of Civil Procedure section 382 provides for class certification when
17 there is an ascertainable class and a well-defined community of interest among class members. The
18 Settlement Class continues to meet this standard for class certification.

19 8. More specifically, the Court finds for the purposes of settlement that: (a) the
20 Settlement Class is ascertainable; (b) the members of the Settlement Class are so numerous that
21 joinder would be impractical; (c) there is a community of interest among the members of the
22 Settlement Class; (d) there are questions of law and fact that are common to the Settlement Class
23 and those common questions predominate over individual questions; (e) the claims of the Class
24 Representative are typical of the claims of absent members of the Settlement Class; (f) the Class
25 Representative and Class Counsel have and will fairly and adequately represent the interests of the
26 absent members of the Settlement Class; and (g) class treatment is superior to any alternative means
27 of resolving this matter.

28 9. Class certification is therefore an appropriate method for protecting the interests of
the Class and resolving the common issues of fact and law arising out of STEC's alleged violations
of California law. Accordingly, pursuant to California Code of Civil Procedure section 382, the
Court hereby makes final its earlier conditional certification of the Settlement Class for settlement

1 purposes only, and confirms the appointment of the Class Representative and Class Counsel to
2 represent the Settlement Class, as set forth above.

3 10. The Court grants final approval of the settlement set forth in the Agreement and
4 finds that it is fair, reasonable, adequate, and in the best interests of the Settlement Class as a whole.
5 The settlement shall be consummated in accordance with the terms and conditions of the
6 Agreement.

7 11. The Court adjudges that the payment of attorneys' fees, costs and expenses in the
8 total amount of \$360,134 to Class Counsel is fair, reasonable and adequate, and that amount shall
9 be paid to Class Counsel according to the terms of the Agreement. The Court further finds that an
10 incentive award of \$2,000 to the Class Representative is fair, reasonable and adequate, and that said
11 payment shall be paid to Class Counsel for distribution to the Class Representative according to the
12 terms of the Agreement.

13 12. No persons made timely and valid requests for exclusion from the Settlement Class
14 or filed any objections to the settlement and/or Class Counsel's attorneys' fees, and/or incentive
15 award.

16 13. As of the Effective Date, the Class Representative and all Settlement Class Members
17 shall be forever barred from bringing or prosecuting, in any capacity, any action or proceeding that
18 involves or asserts any of the Released Claims against any Released Party and shall conclusively be
19 deemed to have released and forever discharged the Released Parties from all Released Claims.

20 14. All Settlement Class Members shall, as of the Effective Date, conclusively be
21 deemed to have acknowledged that the Released Claims may include claims, rights, demands,
22 causes of action, liabilities, or suits that are not known or suspected to exist as of the Effective Date
23 and shall have released all Released Claims, against the Released Parties. "Released Claims" do not
24 encompass claims for personal injury and claims involving product defects unrelated to data storage
25 capacity of the Covered Simple Tech Hard Disk Drive Products. Further, as of the Effective Date,
26 all Settlement Class Members shall be deemed to have waived any and all protections, rights and
27 benefits of California Civil Code § 1542 and any comparable statutory or common law provision of
28 any other jurisdiction.


1 15. The benefits and payments described in the Agreement are the only consideration,
2 fees, and expenses STEC or the Released Parties shall be obligated to give to the Class
3 Representative, Settlement Class Members, and Class Counsel in connection with the Agreement
4 and the payment of attorneys' fees and expenses and incentive award.

5 16. The Action and all claims asserted in the Action are dismissed on the merits and with
6 prejudice as to the Class Representative and all Settlement Class Members. Notwithstanding the
7 dismissal of the Action, STEC shall not claim and may not be awarded any costs, attorneys' fees, or
8 expenses.

9 17. The Agreement and this Judgment are not admissions of liability or fault by STEC or
10 the Released Parties, or a finding of the validity of any claims in the Action or of any wrongdoing
11 or violation of law by STEC or the Released Parties. The Agreement is not a concession by the
12 Parties and to the extent permitted by law, neither this Judgment, nor any of its terms or provisions,
13 nor any of the negotiations or proceedings connected with it, shall be offered as evidence or
14 received in evidence in any pending or future civil, criminal, or administrative action or proceeding
15 to establish any liability of, or admission by STEC, the Released Parties, or any of them.
16 Notwithstanding the foregoing, nothing in this Judgment shall be interpreted to prohibit the use of
17 this Judgment in a proceeding to consummate or enforce the Agreement or Judgment, or to defend
18 against the assertion of Released Claims in any other proceeding, or as otherwise required by law.

19 18. The Court reserves exclusive and continuing jurisdiction over the Action, the Class
20 Representative, the Settlement Class Members, and STEC for the purposes of supervising the
21 implementation, enforcement, construction, and interpretation of the Agreement and this Judgment
22 and Order of Dismissal.

23
24 Dated: September 23, 2008



Honorable William F. Fahey
Judge of the Superior Court of California
County of Los Angeles

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EXHIBIT 10

1 Jonathan D. Selbin (SBN 170222)
jselbin@lchb.com
2 H. John Gutierrez (SBN 235406)
hjgutierrez@lchb.com
3 LIEFF, CABRASER, HEIMANN &
BERNSTEIN LLP
4 275 Battery Street, 30th Floor
San Francisco, California 94111-3336
5 Telephone: (415) 956-1000
Facsimile: (415) 956-1008

6 Attorneys for Plaintiffs
7

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 DON C. LUNDELL and GILLIAN
12 ROBINSON, individually and on behalf of
all others similarly situated,
13 Plaintiffs,
14 v.
15 DELL, INC.
16 Defendant.
17

Case No. C05-03970 JW

**REPLY DECLARATION OF
JONATHAN D. SELBIN IN SUPPORT OF
CLASS COUNSEL'S MOTION FOR AN
AWARD OF ATTORNEYS' FEES AND
COSTS**

18 I, JONATHAN D. SELBIN, declare as follows:

19 1. I am a member of the law firm of Lieff, Cabraser, Heimann & Bernstein,
20 LLP ("LCHB"), counsel of record for Plaintiffs in this matter. I am a member in good standing
21 of the bars of the States of California and New York, and the bar of the District of Columbia. I
22 respectfully submit this declaration in support of Class counsel's motion for an award of
23 attorneys' fees and costs. I have personal knowledge of the facts set forth in this declaration, and
24 could testify competently to them if called upon to do so.

25 2. A true and correct summary of LCHB's lodestar by personnel updated
26 through November 27, 2006 is attached hereto as Ex. A. The LCHB lodestar detail Class counsel
27 are providing the Court for *in camera* review are true and correct records of the detailed time
28

1 expended by LCHB attorneys and staff in this matter, without any fee-related time included, and
2 reflects time reported in this matter in the same manner as detailed in my prior declaration, ¶ 11.

3 3. A true and correct summary of LCHB's costs by item updated through
4 November 27, 2006 is attached hereto as Ex. B. This amount is less than that previously reported
5 due to an accounting error.

6 4. Attached hereto as Ex. C is a chart setting forth a summary of the lodestar
7 and costs by firm updated through November 27, 2006, based upon information found in Class
8 counsel's reply declarations submitted herewith. I am informed and believe that total hours spent
9 on this matter collectively by Class counsel through November 27, 2006, not including any time
10 spent on fee issues, is 2,728.8 hours, for a total lodestar at current billable rates of \$1,097,345.50.
11 I am informed and believe that total costs expended collectively by Class counsel through
12 November 27, 2006, not including any expenses spent on fee issues, is \$141,867.09. I am
13 informed and believe that only those costs that qualify as reimbursable under *In re Medivision*
14 *Tech. Sec. Litig.*, 913 F.Supp. 1362, 1366 (N.D. Cal. 1996), have been included in this total.

15 5. In the two weeks since my prior declaration, and through November 22,
16 2006, Class counsel have responded to and assisted an additional 205 Class members.

17 6. Following preliminary approval of the Settlement, Class counsel were
18 contacted by a number of Class members who reported a variety of problems with obtaining relief
19 under the Settlement. There were reports that Dell's service technicians were denying the
20 existence of the Settlement, misinforming Class members about its terms, and attempting to
21 charge Class members for various provisions of the warranty program that were to be provided
22 for free. Class counsel followed up on each such instance, and while Dell corrected each such
23 problem, but-for Class counsel's diligence those Class members would not have obtained the
24 relief to which they were entitled. Class counsel will continue to monitor and work on such
25 problems as they arise during the life of the Settlement.

26 7. I am a member of my firm's Executive Committee, which periodically
27 updates LCHB's billing rates. The last time such rates were updated was 2005. The updates are
28 based upon publicly available market survey data, cases in which courts have approved billing

1 rates of our firm and comparable class action firms in class litigation, and the rates that are
2 negotiated and paid by our lone paying hourly client, Merrill Lynch Mutual Funds.

3 8. Earlier this year in *Kan, et al. v. Toshiba America Information Systems*
4 *Inc.*, Case No. BC327273 (Los Angeles County Superior Court), Judge Elias of the Los Angeles
5 County Superior Court approved a fee and cost award of \$4.45 million, a multiplier of 3.38 on
6 class counsel's time. That case settled shortly after a CLRA notice letter was sent by Class
7 counsel on behalf of their clients.

8 9. LCHB's rates were recently approved by Judge Chaney of the Los Angeles
9 Superior Court in *Doigin v. Health Net of California*, Case No. BC 263211 (Los Angeles County
10 Superior Court). In that case, defendant challenged both the amount of hours Class counsel
11 expended and the hourly rates charged by LCHB. A true and correct copy of Judge Chaney's
12 order of March 27, 2006 is attached hereto as Ex. D.

13 10. LCHB's 2004 rates were approved by Judge Jenkins of this Court, in
14 *Frank v. United Airlines, Inc.*, Case No. C 92 0692 MJJ (N.D. Cal.). A true and correct copy of
15 Judge Jenkins's order of January 16, 2004 is attached hereto as Ex. E.

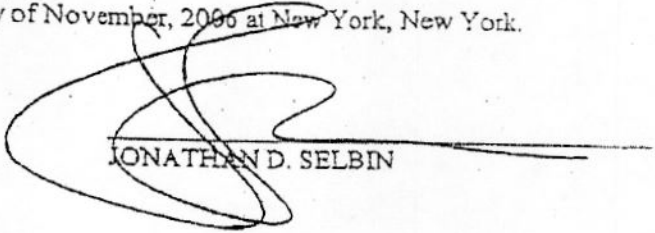
16 11. During the mediation in this case, Dell produced its warranty claims data
17 for the 5150. Class counsel's expert analyzed that data in the same manner that the data was
18 analyzed in *Oneil*. Because the data was produced subject to the mediation privilege, and because
19 Dell will not agree to waive that confidentiality even though Class counsel would have been
20 entitled to obtain that information via formal discovery, Class counsel cannot inform the Court as
21 to the value of the Settlement using the *Oneil* analysis. However, Class counsel can report that it
22 more than adequately supports Class counsel's fee request.

23 12. While it is true that a number of attorneys, particularly at LCHB, billed
24 some amount of time to this matter, the overwhelming majority of time billed to this matter was
25 billed by a total of five lawyers, two from LCHB (myself and John Gutierrez), and one each from
26 the other three firms. As demonstrated in Exhibit A hereto, the largest single amount of time was
27 devoted by John Gutierrez, whose time accounts for 32% of the total.

28 I declare under penalty of perjury under the laws of the State of California and the

1 United States that the foregoing is true and correct.

2 Executed this 28th day of November, 2006 at New York, New York.

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5  JONATHAN D. SELBIN

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LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

Report created on 11/27/2006 06:00:57 PM

From inception
To 27-Nov-06

Case Number: 3118

DELL INSPIRON

PARTNER

NAME	HOURS	RATE	TOTAL
ELIZABETH CABRASER	0.20	750.00	150.00
WILLIAM BERNSTEIN	40.90	750.00	30,675.00
JONATHAN SELBIN	267.70	550.00	147,235.00
KATHRYN BARNETT	0.20	550.00	110.00
LORI ANDRUS	2.60	425.00	1,105.00
LISA LEEBOVE	2.20	475.00	1,045.00
	<u>313.80</u>		<u>186,320.00</u>

ASSOCIATE

NAME	HOURS	RATE	TOTAL
KRISTEN LAW	4.50	340.00	1,530.00
Henry John Gutierrez	861.10	375.00	322,912.50
	<u>865.60</u>		<u>324,442.50</u>

LAW CLERK

NAME	HOURS	RATE	TOTAL
ANABELLE BOLANOS	9.70	115.00	1,115.50
	<u>9.70</u>		<u>1,115.50</u>

PARALEGAL

NAME	HOURS	RATE	TOTAL
MARIA CORTEZ	72.50	115.00	8,337.50
MATTHEW PUSHINSKY	4.10	115.00	471.50
ADELINA ACUNA	136.50	155.00	21,157.50
RICHARD ANTHONY	116.40	180.00	20,952.00
NATHANIEL GARRETT	6.30	230.00	1,449.00
CHAD HARTZ	9.10	190.00	1,729.00
ALISON HONG	21.00	155.00	3,255.00
GREGORY LEWIS	1.80	190.00	304.00
MAJOR MUGRAGE	2.70	180.00	486.00
DANIEL NEWHALL	43.30	190.00	8,227.00
SALLY NGUYEN	57.20	115.00	6,578.00
DARIN RANAHAN	0.50	155.00	77.50
DANIEL REID	1.00	190.00	190.00
	<u>472.20</u>		<u>73,214.00</u>

OTHER

NAME	HOURS	RATE	TOTAL
WENDY DOLL	0.30	170.00	51.00

RENEE MUKHERJI	0.20	180.00	36.00
CHRIS PARISO	14.20	205.00	2,911.00
DANELLE HAILE	4.00	215.00	860.00
RALPH HUGO	29.20	205.00	5,966.00
	<u>47.90</u>		<u>9,844.00</u>
CASE TOTALS	1,709.20		588,936.00

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Don C. Lundell and Gillian Robinson,
individually and on behalf of all other
similarly situated,

NO. C 05-03970 JW

**ORDER AWARDING CLASS COUNSEL
ATTORNEYS' FEES AND COSTS;
DENYING DEFENDANT'S MOTION TO
STRIKE NEW AND IMPROPER
EVIDENCE**

Plaintiffs,

v.

Dell, Inc.,

Defendant.

The parties in this class action have reached a settlement that provides for reimbursement of expenses the class members have incurred to repair the alleged defects of the Dell Inspiron 5150 laptop computer and for a new, one-year extended warranty that covers the alleged defects on computers already several years old. Despite agreement on the terms of the settlement, the parties have been unable to agree on the amount of attorneys' fees that should be awarded to Plaintiffs' counsel ("Class Counsel"). In JAMS mediation, Class Counsel agreed to not seek more than \$3.3 million in fees and costs, and Defendants agreed not to oppose a fee application of \$1.3 million. Both sides also agreed that neither would appeal an award of between \$1.3 million and \$3.3 million.

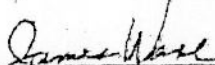
Presently before the Court is Class Counsel's Motion for an Award of Attorneys' Fees and Costs. (Docket Item No. 53.) Class Counsel submit that, through November 27, 2006, they have spent a total of 2,728.8 hours on this case and that this time multiplied by reasonable hourly rates

1 results in a base lodestar of \$1,097,345.50.¹ (See Reply Declaration of Jonathan D. Selbin, "Selbin
2 Decl.," Docket Item No. 60, ¶ 4, Ex. C.) In addition, Class Counsel submit that they have incurred
3 costs in the amount of \$141,867.09. (Selbin Decl. ¶ 4.) Class Counsel contends that the Court
4 should apply a risk multiplier to the base lodestar to reward them for winning a contingency case. In
5 total, Class Counsel seeks \$3.3 million in fees and costs.

6 After reviewing the billing records, submitted in camera, the Court finds that a lodestar of
7 \$1,097,345.50 is reasonable.² In consumer remedies cases, courts have discretion to increase or
8 decrease the lodestar amount based on the nature of the litigation, the difficulty of the issues, the
9 contingent risk presented, and other circumstances in the case. See Graciano v. Robinson Ford
10 Sales, Inc., 144 Cal. App. 4th 140, 160-61 (2006); Lealao v. Beneficial California, Inc., 82 Cal. App.
11 4th 19, 26 (2000). In this case, the Court increases the lodestar amount by \$602,654.50 to
12 compensate Class Counsel for the contingencies that were present.

13 Accordingly, the Court awards Class Counsel \$1.7 million in attorneys' fees. Class Counsel
14 is also entitled to recover costs of \$141,867.09. See Beasley v. Wells Fargo Bank, 235 Cal. App. 3d
15 1407, 1421-22 (1991).

16 Dated: December 6, 2006


17 JAMES WARE
18 United States District Judge
19
20

21 ¹ This lodestar represents the total amount sought by the four firms that have been involved
22 in this case. Loeff, Cabraser, Heimann & Bernstein LLP seeks \$588,936.00 in fees for 1709.20
23 hours; Kiesel, Boucher & Larson LLP seeks \$236,423.25 in fees for 372.45 hours; Malesovas &
Martin LLP seeks \$162,168.75 in fees for 331.65 hours; Fee, Smith, Sharp & Vitullo LLP seeks
\$109,817.50 in fees for 315.5 hours. (See Selbin Decl. Ex. C.)

24 ² Defendant objects to the submission of billing records for in camera review and to the
25 evidence that Class Counsel has attached to its reply brief. (See Defendant's Motion to Strike New
26 and Improper Evidence, Docket Item No. 70.) Defendant, however, has indicated that it would not
27 oppose a fee application that is larger than the amount of the base lodestar here. In light of this
28 admission, the Court finds that Defendant has not been prejudiced by in camera review of the billing
records and by Class Counsel's late submission of further evidence in support of their motion for
attorneys' fees. Accordingly, Defendant's Motion to Strike is DENIED.