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THE HONORABLE KETU SHAH
Department 50
Noted for Consideration: August 21, 2020, 9:00 a.m.
With Oral Argument

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF KING

JOHN J. DIEL, JR. and REBECCA L. CLEVELAND,
husband and wife, on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

SALAL CREDIT UNION,

Defendant.

NO. 19-2-10266-7 KNT

**PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND AWARD OF
ATTORNEYS' FEES, COSTS, AND SERVICE
AWARDS**

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1 **I. INTRODUCTION**

2 Plaintiffs respectfully move for final approval of the class action settlement between
3 the Class and Salal Credit Union. The Settlement provides a non-reversionary fund of \$650,000
4 for Class Members. From this fund, Class Members will receive cash payments without
5 needing to file a claim form. In addition, Salal will not charge future overdraft fees on
6 transactions involving an authorization hold when there were sufficient funds available at the
7 time of authorization. As part of the Class Notice process, Salal provided additional
8 information to Class Members about how they can use mobile and online applications to
9 avoid incurring overdraft fees.

10 Notice has been sent to the Class and the response deadline is June 12, 2020. To date,
11 no Class Members have objected to or requested exclusion from the Settlement. Plaintiffs will
12 file a supplemental brief with information from the Class Administrator regarding the notice
13 program at least fourteen days before the Final Approval Hearing.

14 For the reasons set forth below and in the submission in support of preliminary
15 approval, the Settlement is fair, adequate, reasonable, and in the best interests of the Class.
16 Plaintiffs ask that the Court grant final approval by: (1) approving the proposed Settlement as
17 fair, adequate, and reasonable for the Class (2) certifying the Settlement Class; (3)
18 determining that adequate notice was provided; (4) granting Plaintiffs' request for a service
19 award; and (5) and granting Class Counsel's request for attorneys' fees and litigation
20 expenses.

21 **II. STATEMENT OF FACTS**

22 Plaintiffs' Motion for Preliminary Approval filed on February 21, 2020 discusses the
23 procedural history of this case and the Settlement. Plaintiffs allege that Salal employed
24 practices to maximize the number of overdraft fees it imposed on its members. The primary
25 practice Plaintiffs challenged involves imposing overdraft and NSF fees based on a member's
26 "available balance," rather than the actual money members had in their account, commonly

1 known as a “ledger balance.” ¶¶ 29-39. A member’s available balance may be lower than the
2 ledger balance because Salal delays crediting deposits, reduces the balance in anticipation of a
3 recurring transaction, or “holds” funds based on transactions that were authorized but not yet
4 settled. ¶¶ 30, 39. Salal contends that its use of the available balance for determining
5 overdrafts and its transaction processing methodologies were properly disclosed and
6 complied with the terms of its Member Account Agreement and applicable law.

7 Plaintiffs filed this lawsuit on behalf of themselves and two proposed classes. Brown
8 Decl. ¶ 8. Plaintiffs allege they were injured by Salal’s practices because they were charged
9 overdraft fees when there were sufficient funds in their checking account to cover underlying
10 transactions. ¶¶ 51-62. Plaintiffs allege that Salal’s fee enhancing practices are unfair and
11 deceptive under the CPA and constitute common law conversion and unjust enrichment. ¶¶
12 72-108. Salal denies these allegations.

13 Plaintiffs obtained evidence necessary to evaluate the strengths and weaknesses of
14 their claims and calculate the range of damages. Plaintiffs propounded requests for
15 production, interrogatories, requests for admission, and special interrogatories, to which Salal
16 responded with significant information. Brown Decl. ¶ 9. The parties conferred regarding
17 discovery and began discussing potential early resolution. *Id.* ¶ 10. In preparation for
18 mediation, Salal provided Class Counsel’s expert, Arthur Olsen, with class-wide transaction
19 data allowing him to identify each transaction that triggered a fee when the ledger balance
20 was sufficient to cover the underlying transaction or would have been sufficient but for a prior
21 wrongful fee. Mr. Olsen calculated the total amount of allegedly wrongful fees Salal charged
22 its members. *Id.* ¶¶ 11-12.

23 On November 18, the parties mediated for over fifteen hours with Louis Peterson of
24 Hillis Clark Martin & Peterson and ultimately signed a CR 2A Agreement. *Id.* ¶ 13. The parties
25 finalized the Settlement Agreement on December 30, 2019. *Id.* Salal provided updated class-
26 wide transaction data on January 17, 2020, which Mr. Olsen used to identify 2,687 unique

1 Class Members and calculate each member's claimed damages under a formula specified in
2 the Settlement Agreement. See Olsen Decl. in Support of Motion for Preliminary Approval;
3 Agreement § IV(3).

4 The Court granted preliminary approval of the Settlement on February 28, 2020 and
5 set the Final Approval Hearing for August 21, 2020. The settlement administrator, JND Legal
6 Administration, sent the Court-approved notice by mail to 611 Class Members and by email to
7 2,352 Class Members who were still Salal members and who agreed to receive notices from
8 Salal by email. Brown Decl. ¶ 15. JND mailed notice by mail to 94 Class Members whose
9 email notices were returned undeliverable and 46 Class Members whose mailed notices were
10 returned undeliverable after obtaining alternate mailing addresses. *Id.* JND also set up a
11 settlement website and a toll-free number for Class Members to call with questions. *Id.*

12 The deadline for opting out or objecting to the Settlement is June 12, 2020. *Id.* As of
13 May 26, 2020, no Class Members have objected to, or requested exclusion from the
14 Settlement. *Id.* ¶¶ 15-16. Plaintiffs will submit supplemental information from JND regarding
15 the notice program and any opt-outs or objections at least two weeks before the Final
16 Approval hearing.

17 III. STATEMENT OF ISSUES

- 18 1. Should the Court grant final approval to the Settlement as fair, adequate, and
19 reasonable?
- 20 2. Should the Court certify the Settlement Class for settlement purposes?
- 21 3. Should the Court find that adequate notice was provided to the Class?
- 22 4. Should the Court approve service awards of \$1,250 to the named Plaintiffs?
- 23 5. Should the Court approve an award of \$146,224.84 in attorneys' fees and
24 \$16,275.16 in litigation costs to Class Counsel?

1 **IV. EVIDENCE RELIED UPON**

2 Plaintiffs rely on the declarations of Ari Y. Brown and Walter Smith, and all pleadings
3 and papers filed in this action.

4 **V. ARGUMENT AND AUTHORITY**

5 When considering a motion for final approval of a class action settlement under
6 Washington Civil Rule 23, the court’s inquiry is whether the settlement is “fair, adequate, and
7 reasonable.” *Pickett v. Holland Am. Line-Westours, Inc.*, 145 Wn.2d 178, 188, 35 P.3d 351
8 (2001) (“a proposed class settlement may be approved by the trial court if it is determined to
9 be ‘fair, adequate, and reasonable’” (citing *Torrisi v. Tucson Elec. Power Co.*, 8 F.3d 1370, 1375
10 (9th Cir. 1993)). Approving a settlement agreement “is a delicate, albeit largely unintrusive
11 inquiry by the trial court.” *Id.* at 189. Although the Court has discretion in determining
12 whether a proposed class action settlement should be approved,

13 the court’s intrusion upon what is otherwise a private
14 consensual agreement negotiated between the parties to a
15 lawsuit must be limited to the extent necessary to reach a
16 reasoned judgment that the agreement is not the product of
fraud or overreaching by, or collusion between, the negotiating
parties, and that the settlement, taken as a whole, is fair,
reasonable and adequate to all concerned.

17 *Id.* (quoting *Officers for Justice v. Civil Serv. Comm’n*, 688 F.2d 615, 625 (9th Cir. 1982)). As the
18 *Pickett* Court observed, “voluntary conciliation and settlement are the preferred means of
19 dispute resolution.” *Id.* at 190 (quoting *Officers for Justice*, 688 F.2d at 625). “Settlement is the
20 offspring of compromise; the question we address is not whether the final product could be
21 prettier, smarter or snazzier, but whether it is fair, adequate and free from collusion.”
22 *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir. 1998); see also *Pelletz v. Weyerhaeuser*
23 *Co.*, 255 F.R.D. 537, 544 (W.D. Wash. 2009).

24 **A. The Settlement is fair, adequate, and reasonable.**

25 In evaluating whether a class settlement is “fair, adequate, and reasonable,”
26 Washington courts generally evaluate eight criteria: the likelihood of success by plaintiff; the

1 amount of discovery or evidence; the settlement terms and conditions; recommendation and
2 experience of counsel; future expense and likely duration of litigation; recommendation of
3 neutral parties, if any; number of objectors and nature of objections; and the presence of
4 good faith and absence of collusion. *Pickett*, 145 Wn.2d at 192. This list is “not exhaustive, nor
5 will each factor be relevant in every case The relative degree of importance to be
6 attached to any particular factor will depend upon and be dictated by the nature of the
7 claim(s) advanced, the type(s) of relief sought, and the unique facts and circumstances
8 presented by each individual case.” *Id.* at 189 (citing *Officers for Justice*, 688 F.2d at 625).

9 The *Pickett* factors support final approval of the Settlement.

10 1. Plaintiffs’ likelihood of success supports final approval of the
11 Settlement.

12 The existence of risk and uncertainty to Plaintiffs at the time of mediation “weighs
13 heavily in favor of finding that the settlement was fair, adequate, and reasonable.” See
14 *Pickett*, 145 Wn.2d at 192. Plaintiffs and their counsel continue to believe they have a strong
15 case but are pragmatic about the risks inherent in litigation. In the absence of a settlement,
16 Plaintiffs would have to clear substantial hurdles to prevail.

17 The Court could decline to certify the Class, leaving only Plaintiffs’ individual claims
18 and no efficient avenue for relief for Class Members. Salal has denied liability and maintained
19 that its practices are not deceptive or unfair because it discloses that it uses available balance
20 to assess overdraft fees in documents it provides to members and in the Member Account
21 Agreement. Although Plaintiffs believe that Salal’s disclosures were inadequate, that the
22 account tracking tools Salal provides obscure the available balance, and that the mere
23 disclosure of a practice does not mean it is not unfair or deceptive under the CPA, this factual
24 issue would present a challenge. Further, because the parties disagree on whether a Class
25 Member’s damages includes overdraft and NSF fees that would not have been imposed but
26 for a previous wrongful fee, Plaintiffs face the risk that the Class would be awarded a fraction

1 of the damages calculated, resulting in a lower recovery than the relief the Settlement
2 provides.

3 Plaintiffs also face the risk of Salal prevailing on summary judgment or at trial. This
4 Settlement avoids all these risks and provides the Settlement Class with immediate and
5 certain benefits. *See Nat'l Rural Telecommc'ns Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 526
6 (C.D. Cal. 2004) ("The Court shall consider the vagaries of litigation and compare the
7 significance of immediate recovery by way of the compromise to the mere possibility of relief
8 in the future, after protracted and expensive litigation." (citation omitted)).

9 2. The discovery and evidence obtained supports final approval.

10 Courts also consider the amount and nature of discovery and evidence developed at
11 the time of settlement in determining whether the settlement is fair, adequate, and
12 reasonable. *Pickett*, 145 Wn.2d at 199. Although the parties reached an early settlement, it
13 was only after Class Counsel obtained evidence necessary to evaluate potential outcomes if
14 the case were to be tried. Class Counsel propounded written discovery, reviewed Salal's
15 policies and account agreements, obtained class-wide transaction data, and hired an expert to
16 analyze the data and calculate damages. Class Counsel's expert was able to identify Class
17 Members and calculate the damages each individual allegedly incurred. Class Counsel are in
18 position to represent to the Court that the Settlement provides an excellent result for the
19 Class.

20 3. The comprehensive terms and conditions support final approval of the
21 Settlement.

22 The Settlement provides for comprehensive relief. Salal has agreed to pay \$650,000 for
23 the benefit of the Settlement Class. Out of this fund, Plaintiffs ask that the Court approve: (1)
24 service awards of \$1,250 for the named Plaintiffs to compensate them for their time and
25 effort on behalf of the Settlement Class; (2) payment of \$16,275.16 to compensate Class
26 Counsel for costs incurred prosecuting this action; and (3) payment of \$146,224.84 to Class
Counsel as attorneys' fees.

1 The remaining net settlement amount will be divided among Settlement Class
2 Members. If the Court approves the requested fees, costs, and service awards, Settlement
3 Class Members will recover 101% of the calculated damages. Brown Decl. ¶ 14. Settlement
4 Awards will range from approximately \$29.29 to \$8,581.97, with an average payment of
5 \$177.75. *Id.* The funds will be fairly allocated to Settlement Class Members because each
6 award is proportional to the actual overdraft and NSF fees each individual incurred. Going
7 forward, Salal will not charge overdraft fees on transactions involving an authorization hold
8 for which there were sufficient funds available at the time of authorization. Agreement §
9 IV(7). As part of the Notice program, Salal provided Class Members with a notice (which was
10 negotiated by the parties and approved by the Preliminary Approval Order) explaining how
11 members can use Salal’s online and mobile banking application to avoid overdraft and NSF
12 fees. *See* Agreement § VII (4)(c), Ex. D. Finally, Salal will separately pay reasonable settlement
13 administration costs. *Id.* § VII(2).

14 This compares favorably with settlements in similar class actions challenging overdraft
15 fees. *See* Motion for Final Approval of Class Action Settlement, *Wodja v. Washington State*
16 *Employees Credit Union*, Pierce County Superior Court, Case No. 16-2-12148-4 (May 11, 2018),
17 at 8 (class members recovered 47% of similarly challenged overdraft fees); Memorandum in
18 Support of Plaintiff’s Motion for Final Approval of Class Action Settlement, *Salls v. Digital*
19 *Federal Credit Union*, Case No. 18-cv-11262-TSH (D. Mass. Nov. 11, 2019), Dkt. No. 55 at 6, 15-
20 16 (class members recovered either 57% or 113% of the possible damages, depending on the
21 methodology, and defendant changed the challenged practice).

22 4. The positive recommendation and extensive experience of counsel
23 supports final approval of the Settlement.

24 “When experienced and skilled class counsel support a settlement, their views are
25 given great weight.” *Pickett*, 145 Wn.2d at 200. Class Counsel are experienced and skilled in
26 consumer and class action litigation and claims regarding bank overdraft fees. Brown Decl. ¶¶
2-7; Smith Decl. ¶¶ 2-4. Having evaluated the strengths and weaknesses of the case after

1 targeted discovery, Class Counsel support the Settlement as fair, reasonable, adequate, and in
2 the best interests of the Class.

3 5. Future expense and likely duration of litigation support final approval of
4 the Settlement.

5 Another factor to consider in assessing the fairness of a settlement is the expense and
6 likely duration of the litigation were a settlement not reached. *Pickett*, 145 Wn.2d at 188. The
7 Settlement guarantees a very favorable outcome for the Class while avoiding lengthy, risky,
8 and expensive litigation. If this litigation continued, the parties would need to exchange
9 additional discovery and take depositions. Brown Decl. ¶ 17. Plaintiffs would need to move for
10 class certification and each party would likely move for summary judgment. *Id.* In addition,
11 trial is always risky. Even if Plaintiffs prevailed, they would likely face an appeal. Absent
12 settlement, Class members face years of costly litigation and an uncertain outcome. This
13 Settlement provides relief now, without increasing fees and costs, and without the risks of the
14 Court declining to certify the class, a reduction in attributable damages, or the delay of an
15 appeal.

16 6. The reaction of the Class supports final approval of the Settlement.

17 A court may infer that a class settlement is fair, adequate, and reasonable when few
18 class members object. *See, e.g., Pickett*, 145 Wn.2d at 200–01; *Nat’l Rural Telecomms. Coop.*
19 *v. DIRECTV, Inc.*, 221 F.R.D. 523, 529 (C.D. Cal. 2004) (“[T]he absence of a large number of
20 objections to a proposed class action settlement raises a strong presumption that the terms of
21 a proposed class settlement action are favorable to the class members.”).

22 The settlement administrator has notified the 2,687 Class Members. Brown Decl. ¶ 15.
23 The deadline for objecting or opting out of the Settlement is June 12, 2020. As of May 26,
24 2020, there have been no objections and no opt outs. *Id.* ¶¶ 15-16. Class Counsel will submit
25 supplemental data at least fourteen days before the Final Approval deadline with a
26 declaration from the settlement administrator regarding the notice program. The lack of
opposition to the Settlement weighs in favor of approval. *See In re Phenylpropanolamine*

1 (*PPA Prods. Liab. Litig.*, 227 F.R.D. 553, 564 (W.D. Wash. 2004) (noting that 95% of Class
2 Members chose to take part in the Settlement).

3 7. The non-collusive negotiations and settlement process support final
4 approval of the Settlement.

5 Finally, Courts consider whether the settlement was reached in good faith and without
6 collusion. *Pickett*, 145 Wn.2d at 201. This Settlement is the result of extensive, arm’s-length
7 negotiations between experienced attorneys. The parties reached an agreement after a full
8 day of mediation and signed a CR 2A Agreement. Brown Decl. ¶ 13. Salal then provided
9 updated transaction data, that allowed Class Counsel’s expert to identify all Class Members
10 and their respective claimed damages and allowed Class Counsel to advocate for the Class
11 while finalizing the Settlement Agreement. *Id.* The parties signed the Settlement Agreement
12 on December 30, 2019. *Id.*

13 As the United States Supreme Court has held, “One may take a settlement amount as
14 good evidence of the maximum available if one can assume that parties of equal knowledge
15 and negotiating skill agreed upon the figure through arms-length bargaining” *Ortiz v.*
16 *Fibreboard Corp.*, 527 U.S. 815, 852 (1999). None of the signs of collusion, such as a
17 disproportionate award of attorneys’ fees or the return of unclaimed funds to Salal, is present.
18 *See Roes, 1-2 v. SFBSC Mgmt., LLC*, 944 F.3d 1035, 1049 (9th Cir. 2019). And the assistance of a
19 third-party mediator weighs in favor of finding a settlement to be fair and non-collusive. *See In*
20 *re Bluetooth Headset Products Liab. Litig.*, 654 F.3d 935, 948 (9th Cir. 2011).

21 **B. The Settlement Class should be certified for settlement purposes.**

22 On February 28, 2020, the Court found all the requirements of Civil Rule 23(a) and
23 (b)(3) satisfied and granted preliminary certification of the Class for Settlement purposes.
24 Order Granting Motion for Preliminary Approval of the Class Action Settlement, ¶¶ 3-9. For
25 the reasons identified by the Court and in Plaintiffs’ Motion for Preliminary Approval, Plaintiffs
26 request that the Court grant final certification of the Settlement Class. *See* Plaintiffs’ Motion
for Preliminary Approval of Class Action Settlement, at 11-13.

1 **C. Members of the Settlement Class received the best notice practicable.**

2 This Court has determined that the notice program meets the requirements of due
3 process and applicable law, provides the best notice practicable, and constitutes sufficient
4 notice to the Class. Order Granting Unopposed Motion for Preliminary Approval of the Class
5 Action Settlement, ¶¶ 13-14.

6 The Class Administrator, JND, implemented the Court-approved notice program.
7 Brown ¶ 15. To date, JND has sent the notice by U.S. mail to 705 Class Members and by email
8 to 2,352 Class Members who were still Salal members and who agreed to receive notices from
9 Salal by email. *Id.* JND also established a toll-free number for Class Members to call with
10 questions along with a website that includes documents and information relating to the
11 Settlement, including the Settlement Agreement, Plaintiffs' motion for preliminary approval,
12 and the Court's order granting preliminary approval. *Id.* This motion for final approval and for
13 attorneys' fees, costs, and service awards will also be posted on the website. *Id.*

14 The notice program has been successful. As of May 26, 2020, 99.14% of the Class, or
15 2,664 Class Members, received notice by mail and/or email. *Id.*

16 **D. The requested service award for the named Plaintiffs is reasonable.**

17 Class Counsel requests service awards of \$1,250 for each named Plaintiff in recognition
18 of their efforts on behalf of the Class. Service awards "are intended to compensate class
19 representatives for work undertaken on behalf of a class" and "are fairly typical in class action
20 cases." *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 943 (9th Cir. 2015) (citation
21 omitted). Such awards are generally approved so long as they are reasonable and do not
22 undermine the adequacy of the class representatives. *See Radcliffe v. Experian Info. Solutions,*
23 *Inc.*, 715 F.3d 1157, 1164 (9th Cir. 2013). These awards promote the public policy of
24 encouraging individuals to undertake the responsibility of representative lawsuits. *See*
25 *Rodriguez v. W. Publ'g Corp.*, 563 F.3d 948, 958–59 (9th Cir. 2009).

1 Plaintiffs John Diel and Rebecca Cleveland assisted counsel with the investigation and
2 litigation, and were available by telephone during the full day mediation. Brown Decl. ¶ 18.
3 Plaintiffs’ efforts and willingness to pursue this action contributed to the resolution, including
4 recovery of 101% of each Class Members’ alleged damages. *Id.* The \$1,250 service award is
5 significantly lower than awards approved in similar cases. *See* Order and Judgment Finally
6 Approving Class Action Settlement, *Wodja*, Case No. 16-2-12148-4 (June 22, 2018), at 5
7 (approving \$5,000 service award); Final Approval Order and Judgment, *Salls*, Case No. 18-cv-
8 11262-TSH (D. Mass. Dec. 19, 2019), Dkt. No. 62 at 5 (approving \$10,000 service award).

9 **E. The requested award of attorneys’ fees and costs is fair and reasonable.**

10 Class Counsel ask that the Court approve an attorneys’ fee award of \$146,224.84 and
11 reimbursement of \$16,275.16 in actual, documented, out-of-pocket expenses. This totals one-
12 quarter of the Settlement Fund. The Settlement Agreement provides that attorneys’ fees and
13 costs totaling no more than twenty-five percent of the Settlement Fund be paid from the
14 Settlement Fund. Agreement § V(2). Class Counsel informed the Court that their requested
15 attorneys’ fees and costs would not exceed twenty-five percent of the \$650,000 Settlement
16 Fund in their motion for preliminary approval and informed the Class of their intent to request
17 that amount in the Court-approved notice.

18 1. The requested fee payment is reasonable.

19 Where class counsel seek fees from the common fund, courts have discretion to
20 employ either the lodestar method or the percentage-of-recovery method—though the
21 percentage-of-the-fund method is preferred. *Bowles v. Washington Dep’t of Ret. Sys.*, 121
22 Wn.2d 52, 72, 847 P.2d 440 (1993). As a matter of public policy, awarding fees from the
23 common fund promotes “greater access to the judicial system” by making it easier for class
24 action plaintiffs to obtain counsel. *Id.* Under the “percentage of recovery” method, attorneys
25 are awarded a reasonable percentage of the total recovery, “often in the range of 20 to 30
26 percent.” *Bowles*, 121 Wn.2d at 72; *see also City of Seattle v. Okeson*, 137 Wn. App. 1051,

1 2007 WL 884827, at *7 (2007) (unpublished) (“Twenty to thirty percent of the recovery is a
2 typical benchmark used in awarding attorney fees under the common fund doctrine....”).

3 Class Counsel’s request falls squarely within the typical benchmark Washington courts
4 established. This percentage is appropriate. Class Counsel secured an excellent settlement for
5 all Settlement Class Members as they will recover 101% of the overdraft fees they claim were
6 assessed when their ledger balance was sufficient to cover the underlying transaction, or
7 would have been sufficient but for a similar fee charged within the seven previous days. Salal
8 will also cease charging overdraft fees on transactions when there are sufficient funds
9 available at the time of authorization. And Salal will provide additional information about how
10 they can avoid incurring overdraft fees going forward. Class Counsel spent considerable time
11 investigating the claims, analyzing legal issues, engaging in discovery, working with their
12 expert, and negotiating the Settlement. Brown Decl. ¶ 21; Smith Decl. ¶¶ 5-6. Because of their
13 experience in these types of cases, Class Counsel were able to pursue targeted discovery to
14 understand the strengths and weaknesses of the case, negotiate a settlement, and avoid years
15 of costly litigation.

16 Class Counsel dedicated 425.3 hours to litigating this case, incurring \$165,194.00 in
17 fees. Brown Decl. ¶ 21; Smith Decl. ¶¶ 5-6. Counsel’s lodestar calculations are based on hourly
18 rates based on factors that include: the experience, skill and sophistication required for the
19 legal services performed; the rates customarily charged in the applicable markets; and the
20 experience, reputation and ability of the attorneys and staff members. Brown Decl. ¶¶ 20-22;
21 Smith Decl. ¶¶ 7-8. The hourly rates range from \$275 to \$525 for attorneys and \$75 to \$175
22 for paralegal and support staff. Brown Decl. ¶ 21; Smith Decl. ¶ 5. The award of \$146,224.84 is
23 89% percent of Class Counsel’s incurred lodestar fees.

24 2. The requested costs reimbursement should be approved.

25 Class Counsel incurred \$16,275.16 in litigation expenses, including filing and service
26 expenses, copying costs, computer research costs, and expert and mediation expenses. These

1 costs were reasonable and necessary to the successful conclusion of this litigation and are
2 costs normally charged to a paying client. Brown Decl. ¶ 23; Smith Decl. ¶ 9. Courts routinely
3 reimburse these types of costs. *See De Jesus Ortega Melendres v. Arpaio*, 13-16285, 2017 WL
4 10808812, at *11 (9th Cir. Mar. 2, 2017); *In re Immune Response Sec. Litig.*, 497 F. Supp. 2d
5 1166, 1177-1178 (S.D. Cal. 2007) (finding that costs such as filing fees, photocopy costs, travel
6 expenses, postage, telephone and fax costs, computerized legal research fees, and mediation
7 expenses relevant and necessary expenses in a class action litigation); *In re Guardianship of*
8 *Hays*, 176 Wn. App. 1009 (2013) (online legal research fees recoverable as costs).

9 **VI. CONCLUSION**

10 The \$650,000 Settlement is fair, adequate, and reasonable in light of the obstacles and
11 the risks of continued litigation. Awards of \$1,250 to the named Plaintiffs are reasonable given
12 their service to the Settlement Class. Finally, it is appropriate for the Court to grant Class
13 Counsel's request for \$146,224.84 in attorneys' fees and \$16,275.16 in costs given the
14 excellent result for the Class. For these reasons, Plaintiffs respectfully ask that the Court grant
15 final certification of the Settlement Class, grant final approval of the Settlement and enter the
16 Proposed Order Granting Final Approval and Approving Attorneys' Fees, Costs, and Service
17 Awards.

18 **VII. LCR 7(B)(5)(B)(VI) CERTIFICATION**

19 I certify that this motion contains words in compliance with the Local Civil Rules.
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1 RESPECTFULLY SUBMITTED AND DATED this 26th day of May, 2020.

2 TERRELL MARSHALL LAW GROUP PLLC

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