

KAZEROUNI LAW GROUP, APC
245 FISHER AVENUE, UNIT D1
COSTA MESA, CA 92626

KAZEROUNI LAW GROUP, APC

Abbas Kazerounian, Esq. (249203)

ak@kazlg.com

Matthew M. Loker, Esq. (279939)

ml@kazlg.com

245 Fischer Avenue, Unit D1

Costa Mesa, CA 92626

Telephone: (800) 400-6808

Facsimile: (800) 520-5523

HYDE & SWIGART

Joshua B. Swigart, Esq. (225557)

josh@westcoastlitigation.com

2221 Camino Del Rio South, Ste. 101

San Diego, CA 92108

Telephone: (619) 233-7770

Facsimile: (619) 297-1022

Attorneys for Plaintiff,

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

**HEATHER MAXIN,
INDIVIDUALLY AND ON
BEHALF OF ALL OTHERS
SIMILARLY SITUATED,**

Plaintiff,

v.

RHG & COMPANY, INC.,

Defendant.

Case No.: 16-cv-2625-JLS-BLM

**PLAINTIFF HEATHER MAXIN'S
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MAXIN'S MOTION FOR
ATTORNEYS' FEES AND COSTS**

DATE: February 15, 2018

TIME: 1:30 p.m.

COURTROOM: 4D

HON. JANIS L. SAMMARTINO

///

///

KAZEROUNI LAW GROUP, APC
 245 FISHER AVENUE, UNIT D1
 COSTA MESA, CA 92626

TABLE OF CONTENTS

Page

1 I. INTRODUCTION..... 1

2 II. FACTUAL AND PROCEDURAL HISTORY..... 2

3 III. LEGAL STANDARD..... 2

4 IV. ARGUMENT 3

5 A. THE REQUESTED FEE IS PRESUMPTIVELY REASONABLE BECAUSE IT
 6 RESULTED FROM ARM’S-LENGTH NEGOTIATIONS 3

7 B. THE PERCENTAGE-OF-THE-FUND METHOD SHOULD APPLY IN LIGHT
 8 OF THE CASE RESULTING IN A COMMON FUND SETTLEMENT 4

9 C. THE SETTLEMENT REPRESENTS AN OUTSTANDING RESULT FOR THE
 10 CLASS RENDERING THE REQUESTED FEE AWARD FAIR, REASONABLE,
 11 AND JUSTIFIED IN LIGHT OF THE SIX FACTORS DISCUSSED BELOW 6

12 1. The results obtained for the class are excellent and favor the
 13 amount sought by Maxin’s Counsel..... 9

14 2. The risk undertaken by counsel is significant because counsel
 15 took the case on a contingent basis 9

16 3. The complexity of the legal and factual issues in this case
 17 weigh in favor of awarding Maxin’s counsel the amount sought
 18 herein..... 11

19 4. The length of the professional relationship favors awarding
 20 the amount sought by Maxin’s Counsel in the Settlement
 21 Agreement..... 11

22 5. The prevailing market rate for this particular field of law
 23 favors the requested award..... 12

24 6. Awards in similar cases support the percentage award sought
 25 by Maxin’s counsel 13

26 D. THE CROSS-CHECK OF CLASS COUNSEL’S PERCENTAGE-OF-RECOVERY
 27 AGAINST A LODESTAR CALCULATION SUPPORTS CLASS COUNSEL’S
 28 DEMAND..... 13

 1. The number of hours expended on this litigation support the
 award sought in the Settlement Agreement 15

 2. A multiplier is warranted..... 15

 3. The hourly rates sought by Maxin’s counsel are reasonable
 and supported by other attorneys 16

E. MAXIN’S INCENTIVE AWARD IS REASONABLE 17

V. CONCLUSION 18

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

KAZEROUNI LAW GROUP, APC
245 FISHER AVENUE, UNIT D1
COSTA MESA, CA 92626

KAZERONI LAW GROUP, APC
 245 FISHER AVENUE, UNIT D1
 COSTA MESA, CA 92626

TABLE OF AUTHORITIES

CASES	PAGE(S)
<i>Barcia v. Contain-A-Way, Inc.</i> 2009 U.S. Dist. LEXIS 17118 (S.D. Cal. 2009)	4
<i>Behrens v. Wometco Enter., Inc.</i> 118 F.R.D. 534, 548 (S.D. Cal. 1988)	10
<i>Bert v. AK Steel Corp.</i> , 2008 WL 4693747 (S.D. Ohio Oct. 23, 2008)	9
<i>Blum v. Stevenson</i> , 465 U.S. 886 (1994)	17
<i>Boeing Co. v. Van Gemert</i> , 444 U.S. 472, 478 (1980)	4, 7
<i>Carroll v. Wolpoff & Abramson</i> 961 F.2d 459 (4th Cir. 1992)	4
<i>City of Riverside v. Rivera</i> 477 U.S. 561.....	4
<i>Cook v. Niedert</i> 142 F.3d 1004 (7th Cir. 1998)	21
<i>Craft v. County of San Bernardino</i> 2008 WL 916965 (C.D. Cal. 2008)	4, 17
<i>Davis v. City and County of San Francisco</i> 976 F.3d 1536 (9th Cir. 1992)	17
<i>Dennis v. Kellogg Co.</i> 2010 WL 4285011(S.D. Cal. Oct. 14, 2010)	9
<i>Di Giacomo v. Plains All Am. Pipeline</i> , 2001 U.S. Dist. LEXIS 25532 (S.D. Tex. Dec. 18, 2001)	17
<i>Fadhl v. City and County of San Francisco</i> 859 F.2d 649 (9th Cir. 1986)	18

KAZEROUNI LAW GROUP, APC
 245 FISHER AVENUE, UNIT D1
 COSTA MESA, CA 92626

1 *Fischel v. Equit. Life Assurance Soc’y*
 2 307 F.3d 997 (9th Cir. 2002) 16
 3
 4 *Fitzgerald v. City of Los Angeles*
 5 2003 U.S. Dist. LEXIS 27382 (C.D. Cal. Dec. 8, 2003) 14
 6
 7 *Florida v. Exxon Corp.*
 8 109 F.3d 602, 607 (9th Cir. 1997) 4
 9
 10 *Garner v. State Farm*
 11 2010 U.S. Dist. LEXIS 49482 (N.D. Cal. Apr. 22, 2010) 11
 12
 13 *Glass v. UBS Fin. Servs.*, 2007 U.S. Dist. LEXIS 8476
 14 (N.D. Cal. Jan. 26, 2007) 15, 16
 15
 16 *Hanlon v. Chrysler Corp.*
 17 150 F.3d 1011 (9th Cir. 1998) 9, 11, 15
 18
 19 *Hataishi v. First American Home Buyers Protection Corporation*
 20 223 Cal.App.4th 1454 (2014) 13
 21
 22 *Hensley v. Eckerhart*
 23 461 U.S. 424 (1983) 8
 24
 25 *In re Activision Sec. Litig.*
 26 723 F. Supp. 1373 (N.D. Cal. 1989) 10
 27
 28 *In re Apple Computer, Inc. Derivative Litig.*
 2008 U.S. Dist. LEXIS 108195 (N.D. Cal. Nov. 5, 2008)..... 8
In re Bluetooth Headset Prods. Liab. Litig.
 654 F.3d 935, 942 (9th Cir. 2011) 8
In re Cendant Corp.
 232 F. Supp. 2d 327 (D.N.J. 2002) 21
In re Heritage Bond Litig.
 2005 WL 1594403 (C.D. Cal. 2005) 4, 11
In re Immune Response Sec. Litig.
 497 F. Supp. 2d 1166 (S.D. Cal. 2007) 18

KAZEROUNI LAW GROUP, APC
 245 FISHER AVENUE, UNIT D1
 COSTA MESA, CA 92626

1 *In re M.D.C. Holdings Sec. Litig.*,
 1990 U.S. Dist. LEXIS 15488 (S.D. Cal. Aug. 30, 1990) 11

2 *In re Media Vision Tech. Sec. Litig.*,
 913 F. Supp. 1362 (N.D. Cal. 1996) 5, 18

3 *In re Mego Financial Corp. Securities Litigation*
 4 213 F.3d 454 (9th Cir. 2000) 5, 13

5 *In re Mercury Interactive Corp. Sec. Litig.*
 6 618 F.3d 988 (9th Cir. 2010) 1, 8

7 *In re M.L. Stern Overtime Litig.*
 8 2009 U.S. Dist. LEXIS 31650 (S.D. Cal. 2009). 1

9 *In re Omnivision Techs.*
 10 559 F. Supp. 2d 1036, 1046 (N.D. Cal. 2007) passim

11 *In re Trans Union Corp. Privacy Litig.*
 12 211 F.R.D. 328, 350-351 (N.D. Ill. 2002) 6

13 *In re Washington Pub. Power Supply System Sec. Litig.*
 14 19 F.3d 1291 (9th Cir. 1994) passim

15 *Johnson v. Eaton*
 16 80 F.3d 148 (5th Cir. 1996) 4

17 *Kerr v. Screen Extras Guild, Inc.*,
 18 526 F.2d 67 (9th Cir. 1975) 16, 18

19 *Knight v. Red Door Salons, Inc.*, 2009 U.S. Dist. LEXIS 1149
 20 (N.D. Cal. Feb. 2, 2009) 11

21 *Larson v. Sprint Nextel Corp.*,
 22 2010 WL 239934 (D.N.J. Jan. 15, 2010) 9

23 *Lewis v. Starbucks Corp.*
 24 2008 WL 4196690 (E.D. Cal. September 11, 2008) 7

25 *Linney v. Cellular Alaska Partnership*
 26 151 F.3d 1234 (1998)..... 13

27

KAZERONI LAW GROUP, APC
 245 FISHER AVENUE, UNIT D1
 COSTA MESA, CA 92626

1 *Linney v. Cellular Alaska Part.*
 1997 U.S. Dist. LEXIS 24300 (N.D. Cal. 1997)..... 20

2 *Lopez v. Youngblood*
 2011 U.S. Dist. LEXIS 99289 (E.D. Cal. Sept. 1, 2011) 10, 18

3 *Louie v. Kaiser Found. Health Plan, Inc.*
 2008 U.S. Dist. LEXIS 78314 (S.D. Cal. 2008) 20

4 *Mills v. Electric Auto-Lite Co.*
 396 U.S. 375 (1970) 5, 18

5 *Milliron v. T-Mobile USA, Inc.*
 2009 WL 3345762 (D.N.J. Sept. 14, 2009) 9

6 *Morris v. Lifescan, Inc.*
 54 Fed. Appx. 663 (9th Cir. 2003) 7

7 *Ordick v. UnionBancCal Corp.*
 2012 U.S. Dist. LEXIS 171413 (N.D. Cal. Dec. 3, 2012) 12

8 *Opson v. Hanesbrands Inc.*
 2009 U.S. Dist. LEXIS 33900 (N.D. Cal. Apr. 3, 2009) 17

9 *Parker v. Time Warner Entm’t Co., L.P.*
 331 F.3d 13 (2d Cir. N.Y. 2003) 6

10 *Pennsylvania v. Delaware Valley Citizens’ Council for Clean Air*
 483 U.S. 711 (1987) 18

11 *Perkins v. Mobile Housing Board*
 847 F.2d 735, 738 (11th Cir. 1988) 2

12 *Rodriguez v. West Publishing Corp.*
 563 F.3d 948 (9th Cir. 2009) 11

13 *Sandoval v. Tharaldson Emp. Mgmt., Inc.,*
 2010 WL 2486346 (C.D. Cal. June 15, 2010) 9

14 *Serrano v. Unruh*
 32 Cal. 3d 621 (1982) 17

KAZEROUNI LAW GROUP, APC
245 FISHER AVENUE, UNIT D1
COSTA MESA, CA 92626

1 *Staton v. Boeing Co.*

2 327 F.3d 938 (9th Cir. 2003) 7, 8

3 *Steiner v. Am. Broad. Co.*

4 248 Fed. Appx. 780 (9th Cir. Cal. 2007) 17

5 *Swedish Hosp. Corp. v. Shalala*

6 1 F.3d 1261 (D.C. Cir. 1993) 9, 18

7 *Torres v. Nutrisystem, Inc.,*

8 289 F.R.D. 587 (2013)..... 6, 12

9 *Vasquez v. Coast Roofing,*

10 2010 U.S. Dist. LEXIS 21159 (E.D. Cal. 2010) 7

11 *Vizcaino v. Microsoft Corp.,*

12 290 F.3d 1043, 1049 (9th Cir. 2002) passim

13 *West v. Circle K Stores, Inc.*

14 2006 U.S. Dist. LEXIS 76558 (E.D. Cal. 2006) 19

15 *Wilhelmina Model Agency, Inc.*

16 2005 U.S. Dist. LEXIS 7961 (S.D.N.Y. 2005) 21

17 *Van Vranken v. Atlantic Richfield Co.*

18 901 F. Supp. 294 (N.D. Cal. 1995) 19

19 *Woo v. The Home Loan Group*

20 2008 WL 3925854 (S.D. Cal. 2008) 7

21 *Young v. Hilton Worldwide, Inc.,*

22 2014 WL 1087777 (9th Cir. Mar. 20, 2014) 13

23

24

25

26

27

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
MAXIN'S MOTION FOR ATTORNEYS' FEES AND COSTS**

I. INTRODUCTION

This Court preliminarily approved a \$900,000.00 common fund settlement between Plaintiff HEATHER MAXIN ("Maxin") and Defendant RHG & COMPANY, INC. ("RHG") on February 27, 2017. [ECF. No. 11; and, 2017 U.S. Dist. LEXIS 27374]. Maxin submits that this Settlement represents an excellent result for the Class members. As such, Maxin respectfully submits this Memorandum of Points and Authorities in support of Maxin's request for an award of attorneys' fees and costs in the amount of \$247,500. Of note, this amount is less than the agreed-upon attorneys' fees and costs of \$270,000.00. Class Counsel unilaterally reduced Class Counsel's demand to further establish the reasonableness of said demand and to make additional funds available to any and all claimants.

In addition, Maxin also respectfully requests that that an incentive award in the amount of \$5,000.00 be paid to Maxin as the Class Representative for Maxin's efforts in both bringing and helping prosecute this matter.

As explained below, Maxin's counsel seek their fees under the percentage-of-the-fund method. Under this method, attorneys who create a common fund for a class may be awarded a percentage of fees from the fund. *Munoz v. Giumarra Vineyards Corp.*, 2017 U.S. Dist. LEXIS 95910, at *37 (E.D. Cal. June, 2017). In the Ninth Circuit, the typical range of acceptable attorneys' fees range from twenty percent to thirty percent, with twenty-five percent the "benchmark." *Id.* at *37-38; *see generally Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1049 (9th Cir. 2002). Here, Class Counsel seek 27.5% of the Fund inclusive of, *and not in addition to*, their costs. This 27.5% award sought by Maxin's counsel is warranted in light of the excellent outcome which was expeditiously achieved as a direct result of the

1 time, effort, and skill of Maxin’s counsel and represents a unilateral reduction by
 2 Class Counsel when compared with the amount in the Parties’ Settlement
 3 Agreement. Maxin respectfully submits that the requested fee is fair, reasonable,
 4 consistent with Ninth Circuit law, and appropriate given the attorneys’ fees
 5 regularly awarded in similar cases.

6 **II. FACTUAL AND PROCEDURAL HISTORY**

7 Maxin filed Maxin’s Complaint in the Southern District of California
 8 alleging violations of the Cal. Civ. Code §§ 1750 *et seq.*; Cal. Bus & Prof. Code §§
 9 17533.7; and Cal. Bus. & Prof. Code §§ 17200 *et seq.* on October 21, 2016. [ECF
 10 No. 1]. Thereafter, Maxin filed Maxin’s Motion for Preliminary Approval of Class
 11 Action Settlement on October 27, 2016. [ECF No. 6]. On February 27, 2017, this
 12 Court granted said motion. [ECF. No. 11; and, 2017 U.S. Dist. LEXIS 27374].
 13 Maxin now brings this Motion for Attorneys’ Fees and Costs in compliance with
 14 the Order entered on November 8, 2017 seeking merely \$247,500, a demand that is
 15 \$22,500.00 less than the agreed-upon amount of \$270,000.00. [ECF No. 18].

16 **III. LEGAL STANDARD**

17 In a common fund case, the district court has the discretion to apply either a
 18 lodestar multiplier method or a percentage-of-the-fund method in calculating a
 19 class fee award. *Stetson v. Grissom*, 821 F.3d 1157, 1165 (9th Cir. 2016) quoting
 20 *Fischel v. Equitable Life Assur. Soc’y of U.S.*, 307 F.3d 997, 1006 (9th Cir. 2002);
 21 *see also Maxin v. Rhg & Co.*, 2017 U.S. Dist. LEXIS 27374 at *19. The Ninth
 22 Circuit has set a benchmark of 25% of the fund as a starting place, this benchmark
 23 is often adjusted upward or downward “depending upon the assessment of the
 24 results, and the size of the fund.” *Aichele v. City of L.A.*, 2015 U.S. Dist. LEXIS
 25 120225, at *16-17 (C.D. Cal. Sep. 9, 2015).

26 Furthermore, “[i]n megafund cases, fees more commonly will be under the
 27 25% benchmark in this Circuit In contrast, in cases under \$10 million, the

awards more frequently will exceed the 25% benchmark, and indeed go above 30%.” *Id.* The goal is reasonableness, and the use of a mechanical or formulaic application of the percentage-of-the-fund method is not appropriate where it would yield an unreasonable result. *Dandan Pan v. Qualcomm Inc.*, 2017 U.S. Dist. LEXIS 120150, at *33-34 (S.D. Cal. July 31, 2017) quoting *Fischel*, 307 F.3d at 1007. As set forth below, a mechanical or formulaic application of the percentage-of-the-fund method is inappropriate and an award of 27.5% is more than appropriate as is discussed at length below.

IV. ARGUMENT

Maxin asserts that (A) the requested fee is presumptively reasonable because it resulted from Arm’s-Length Negotiations; (B) the percentage-of-the-fund method should apply in light of this case resulting in a common fund settlement; (C) the settlement represents an outstanding result for the class and the requested fee award is fair, reasonable, and justified; (D) the lodestar-plus-multiplier cross-check supports the requested fee; and (E) the named Plaintiff’s incentive award is reasonable.

(A) THE REQUESTED FEE IS PRESUMPTIVELY REASONABLE BECAUSE IT RESULTED FROM ARM’S-LENGTH NEGOTIATIONS.

As the United States Supreme Court has explained, “[a] request for attorneys’ fees should not result in a second major litigation. Ideally, of course, litigants will settle the amount of a fee.” *Hensley v. Eckerhart*, 461 U.S. 424, 437 (1983). While the Court must perform its own evaluation to verify that the requested fees are reasonable and not the product of collusion, it should give weight to the judgment of the parties and their counsel where, as here, the fees were agreed to at arm’s length negotiations after the parties agreed on the key deal terms. *See, e.g. In re Apple Computer, Inc. Derivative Litig.*, 2008 U.S. Dist. LEXIS 108195, at *12 (N.D. Cal. Nov. 5, 2008).

1 Here, Class Counsel negotiated with RHG to reach an agreed-upon fee
2 amount to which RHG would not object, and an amount that RHG regarded as
3 reasonable, subject to Court approval, based upon the benefits achieved for the class
4 and applicable legal principles, and did so only after the Parties reached an
5 agreement on the other key terms. As referenced in the Settlement Agreement, the
6 Parties reached this agreement after a full day of mediation, investigations into the
7 claims, analysis of said claims, and discovery as conducted by Maxin's counsel.¹
8 Further, the fee amount, like the settlement itself, was agreed upon under the
9 auspices and with the assistance of an experienced, well-respected former judge and
10 mediator, the Honorable Leo Papas (Ret.). This fact serves as "independent
11 confirmation that the fee was not the result of collusion or a sacrifice of the interests
12 of the class." *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1029 (9th Cir. 1998).
13 Under these circumstances, the Court may give weight to the judgment of the parties
14 and their counsel regarding reasonable fees.

14 **(B) THE PERCENTAGE-OF-THE-FUND METHOD SHOULD APPLY IN**
15 **LIGHT OF THIS CASE RESULTING IN A COMMON FUND**
16 **SETTLEMENT.**

17 "Many courts and commentators have recognized that the percentage of the
18 available fund analysis is the preferred approach in class action fee requests because
19 it more closely aligns the interests of the counsel and the class." *Aichele v. City of*
20 *L.A.*, 2015 U.S. Dist. LEXIS 120225, at *15 (C.D. Cal. Sep. 9, 2015). The lodestar
21 approach is not the most efficient way to award fees in cases like Maxin's because
22 the lodestar approach "encourages significant elements of inefficiency" by giving
23 class counsel an incentive to work more hours than necessary. *Id.* quoting *Swedish*
24

25 ¹ Agreements not to oppose an attorneys' fee request up to a certain amount are
26 proper. See *In re M.L. Stern Overtime Litig.*, 2009 U.S. Dist. LEXIS 31650, at *14
27 (S.D. Cal. 2009).

1 *Hosp. Corp. v. Shalala*, 1 F.3d 1261, 1266-67 (D.C. Cir. 1993). Furthermore, the
 2 sole use of the lodestar approach in cases like the one at hand, is unwarranted
 3 because it would punish Maxin’s counsel for achieving an excellent Settlement early
 4 in the litigation process. *Swedish Hosp. Corp.*, 1 F.3d at 1266-67 (finding that “the
 5 [lodestar] process . . . has led to [] abuses, such as encouraging lawyers to expend
 6 excessive hours engaging in duplicative and unjustified work . . . [and] it ‘creates a
 7 disincentive for the early settlement of cases’” (internal citations omitted)).

8 As such, the percentage-of-the-fund method comports with the legal
 9 marketplace, where counsel’s success is frequently measured in terms of the result
 10 counsel has achieved. *See Swedish Hosp. Corp. v. Shalala*, 1 F.3d 1261, 1269 (D.C.
 11 Cir. 1993) (in common fund cases “the monetary amount of the victory is often the
 12 true measure of [counsel’s] success”). By assessing the amount of the fee in terms
 13 of the amount of the benefit conferred on the class, the percentage method “more
 14 accurately reflects the economics of litigation practice” which “given the
 15 uncertainties and hazards of litigation, must necessarily be result-oriented.” *Id.*
 16 Moreover, “[i]t is well recognized that attorneys’ fees should be aligned with those
 17 of the class” and those interests are most aligned when the percentage fee method is
 18 used because said method gives class counsel an interest in maximizing the recovery
 19 because a greater recovery directly benefits counsel as well as the class. *Aichele*,
 20 2015 U.S. LEXIS 120225, at *17. The benefits to the percentage approach in
 21 common fund cases include: consistency with contingency fee calculations; aligning
 22 lawyers’ interests with achieving the highest award for class members; and reducing
 23 the burden on the courts that a complex lodestar calculation requires. *Tait v. BSH*
 24 *Home Appliances Corp.*, 2015 U.S. Dist. LEXIS 98546, at *34 (C.D. Cal. July 27,
 25 2015); *see also Vizcaino*, 290 F.3d at 1050 fn. 5; *In re Activision Sec. Litig.*, 723 F.
 26 Supp. 1373, 1375 (N.D. Cal. 1989).

1 The Ninth Circuit “has long recognized that the public interest is served by
 2 rewarding attorneys who assume representation on a contingent basis to compensate
 3 them for the risk that they might be paid nothing at all for their work.” *Rose v. Bank*
 4 *of Am. Corp.*, 2014 US. Dist. LEXIS 121641, at *35 (N.D. Cal. Aug. 29, 2014)
 5 citing *In re Washington Pub. Power Supply Sys. Sec. Litig.*, 19 F.3d 1291, 1299.
 6 “[I]f this ‘bonus’ methodology did not exist, very few lawyers could take on the
 7 representation of the class client given the investment of substantial time, effort, and
 8 money. . . .” *In re Washington*, 19 F.3d at 1300 (internal quotations and citations
 9 omitted). For these very reasons, the percentage-of-the-fund method is applied more
 10 frequently than the lodestar-plus-multiplier method in common fund cases in the
 11 Ninth Circuit. *See, e.g., In re Omnivision Techs.*, 559 F. Supp. 2d 1036, 1046 (N.D.
 12 Cal. 2007) (“[U]se of the percentage method in common fund cases appears to be
 13 dominant”); *Vizcaino*, 290 F.3d at 1050 (“[T]he primary basis of the fee award
 14 remains the percentage method”); *Lopez v. Youngblood*, 2011 U.S. Dist. LEXIS
 15 99289, at *31 (E.D. Cal. Sept. 1, 2011) (“[W]hile the Court has discretion to use
 16 either a percentage of the fund or a lodestar approach in compensating class
 17 counsel...the percentage of the fund is the typical method of calculating class fund
 18 fees”); and, *In re Activision Sec. Litig.*, 723 F. Supp. 1373, 1374-78 (N.D. Cal. 1998)
 19 (discussing advantages of percentage of recovery method in common fund cases).

20 Thus, Class Counsel request that the Court use the standard percentage-of-the-
 21 fund approach to determining the award of attorneys’ fees in this action.

22 **(C) THE SETTLEMENT REPRESENTS AN OUTSTANDING RESULT FOR THE**
 23 **CLASS RENDERING THE REQUESTED FEE AWARD FAIR,**
 24 **REASONABLE, AND JUSTIFIED IN LIGHT OF THE SIX FACTORS**
 25 **DISCUSSED BELOW.**

26 The compromised settlement reached between the Parties states that RHG
 27 agrees to create a common fund of nine hundred thousand dollars (\$900,000.00 (the

1 “Gross Settlement Fund”). [Preliminary Approval Motion, Exhibit 1, Settlement
2 Agreement (“Settlement Agr.” or “Settlement”), 8:25-28]. The Gross Settlement
3 Fund is to be used to pay the following: (i) the cash awards; (ii) the incentive award
4 to Maxin; (iii) the Attorneys’ Fees award, inclusive of litigation costs of counsel;
5 (iv) costs of administering the notice, the Claims, and the Settlement; and (v) taxes
6 due in connection with the Gross Settlement Fund and Net Settlement Fund. [*Id.* at
7 8:26-28; 9:1-6]. Pursuant to the Settlement Agreement, the amounts remaining in the
8 Gross Settlement Fund after the deduction of the aforementioned items, will be used
9 to pay Valid Claims submitted by the Class Members. [*Id.* at 9:20-23].

10 Within thirty days after the Final Approval date, the Claims Administrator
11 will send to each Qualifying Claimant a Cash award check in compliance with the
12 following conditions: (i) Class Members who submit a Valid Claim without
13 Adequate Proof of Purchase shall receive \$6.00 per Product, up to a maximum of
14 five (5) Products per person; or (ii) Class Members who have proof of having
15 purchased more than five (5) Products and submit a Valid Claim accompanied by
16 Adequate Proof of Purchase shall receive \$6.00 per Product, up to a maximum of
17 twenty-five (25) Products per person. [*Id.* at 19-28]. Meaning that Class Members
18 will receive between \$6.00-\$150.00 from RHG. In addition to these cash awards,
19 Class Members have benefited since June 3, 2015, from injunctive relief. [*Id.* at
20 11:1-7]. As such, RHG has already revised its labeling practices to conform to the
21 terms as set forth in the Settlement Agr. including deleting any “Made in USA”
22 representations. [*Id.*].

23 As previously stated above, in common fund cases, the Ninth Circuit’s
24 benchmark for attorneys’ fees is 25%, which serves as a starting point for the
25 analysis. *Pointer v. Bank of Am., N.A.*, 2016 U.S. Dist. LEXIS 176930, at *42 (E.D.
26 Cal. Dec. 20, 2016). “The selection of the benchmark or any other rate must be
27 supported by findings that take into account all of the circumstances of the case.” *Id.*

1 quoting *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1048 (9th Cir. 2002). The exact
 2 percentage that is appropriate in any given case will depend on the facts of the case;
 3 however, in most common fund cases, the award does in fact exceed the benchmark.
 4 *Pointer*, 2016 U.S. Dist. LEXIS 176930 at *42. *See also Vasquez v. Coast Valley*
 5 *Roofing, Inc.*, 266 F.R.D. 482, 491 (E.D. Cal. 2010); *Williams v. Centerplate, Inc.*,
 6 2013 U.S. Dist. LEXIS 121307, at *19-21 (S.D. Cal. Aug. 26, 2013).

7 Here, Maxin’s counsel seeks attorneys’ fees and costs amounting to 27.5% of
 8 the Settlement Fund. This amount is slightly above the benchmark but within the
 9 usual range.² Furthermore, there are several factors courts may consider in assessing
 10 a request for attorneys’ fees using the percentage-of-recovery method. *See Resnick v.*
 11 *Frank (In re Online DVD-Rental Antitrust Litig.)*, 779 F.3d 934, 954-55 (9th Cir.
 12 2015) citing to *Vizcaino*, 290 F.3d at 1047-50. The factors that the Court must weigh
 13 are as follows: (1) the results obtained for the class; (2) the risk undertaken by
 14 counsel; (3) the complexity of the legal and factual issues; (4) the length of the
 15 professional relationship with the client; (5) the market rate for the particular field of
 16 law; and (6) awards in similar cases (and the burden on counsel in foregoing other
 17 work). *Munoz v. Guimarra Vineyards Corps.*, 2017 U.S. Dist. LEXIS 95910, at *38
 18 quoting *Romero v. Producers Dairy Foods, Inc.*, 2007 U.S. Dist. LEXIS 86270, at
 19 *809 (E.D. Cal. Nov. 14, 2007). *See also Vizcaino*, 290 F.3d at 1048-1050; *Six*

20
 21 _____
 22 ² “Federal courts have consistently approved of attorney fee awards over the 25%
 23 benchmark.” *In re Heritage Bond Litig.*, 2005 WL 1594403, at *18 n.12 (C.D.
 24 Cal. 2005). “Courts in this Circuit routinely recognize that as the size of the
 25 common fund decreases, the percentage to which plaintiff’s counsel is entitled
 26 increases, and common funds under \$10 million often result in awards between 30-
 27 50 percent.” *Armes v. Hot Pizzas, LLC*, 2017 U.S. Dist. LEXIS 89920, at *18 (D.
 28 Ariz. June 9, 2017). *see also Barcia v. Contain-A-Way, Inc.*, 2009 U.S. Dist.
 LEXIS 17118, at *15 (S.D. Cal. 2009) (“[t]he requested fee falls at the bottom end
 of the Ninth Circuit’s benchmark of 25% to 40% of a common fund...”).

Mexican Workers v. Ariz. Citrus Growers, 904 F.2d 1301, 1311 (9th Cir. 1990).

Each of the above referenced factors are discussed in turn below.

(1) The results obtained for the class are excellent and favor the amount sought by Maxin’s counsel.

As already discussed at length above, the results obtained for Class Members in this case were exceptional. Ordinarily, the level of success achieved for the class is considered to be the most important factor in determining the appropriate fee award in a common fund case. *See Hensley v. Eckerhart*, 461 U.S. 424, 435 (1983); *Omnivision*, 559 F. Supp. 2d at 1046; *see also* Federal Judicial Center, *Manual for Complex Litigation*, § 27.71, p. 336 (4th Ed. 2004) (the “fundamental focus is on the result actually achieved for calls members”) (citing Fed. R. Civ. P. 23(h) committee note). Standing alone, this factor supports Maxin’s fee request. As stated above, the settlement required Defendant to pay a maximum of \$900,000.00 into a Gross Settlement Fund. [ECF No. 6-3; 8:26-28]. Thereafter, Class Members will receive between \$6.00-\$150.00. [*Id.* at 10:22-28].

For the reasons set forth above and briefly referenced herein, the requested 27.5% award is reasonable.

(2) The risk undertaken by counsel is significant because counsel took the case on a contingent basis.

The Ninth Circuit has long recognized that the public interest is served by rewarding attorneys who assume representation on a contingent basis to compensate them for the risk that they might be paid nothing at all for their work. *Sanchez v. Frito-Lay, Inc.*, 2015 U.S. Dist. LEXIS 102771, at *36 (E.D. Cal. Aug. 5, 2015) (“[C]ourts tend to find above-market-value fee awards more appropriate in this context given the need to encourage counsel to take on contingency-fee cases . . .”). *In re Washington Pub. Power Supply Sys. Sec. Litig.*, 19 F.3d at 1299 (“Contingent fees that may far exceed the market value of the services if rendered on a non-

1 contingent basis are accepted in the legal profession as a legitimate way of assuring
2 competent representation for Plaintiffs who could not afford to pay on an hourly
3 basis regardless of whether they win or lose”); *Vizcaino*, 290 F.3d at 1051 (courts
4 reward successful class counsel in contingency cases “for taking risk of nonpayment
5 by paying them a premium over their normal hourly rates”).

6 Maxin prosecuted this matter on a purely contingent basis while agreeing to
7 advance all necessary expenses and knowing that Maxin’s Counsel would only
8 receive a fee if there was a recovery. In pursuit of this litigation, Maxin’s Counsel
9 both committed the resources of their firms to litigating this matter through all
10 motion and discovery issues, and through trial, if necessary, not knowing a relatively
11 early settlement would occur. In any event, the firms have spent considerable time
12 and money by, among other things, (1) investigating the action; (2) conducting legal
13 research relating to the alleged claims; (3) conducting discovery; (4) negotiating the
14 settlement over a period of months; (5) preparing the preliminary approval brief and
15 supporting documents, (6) assisting in the administration of the Settlement; and (7)
16 responding to class members’ inquiries.

17 Maxin’s Counsel expended these resources despite the risk that Class Counsel
18 would never be compensated at all. From the outset, Maxin’s Counsel risked non-
19 payment by taking on this case and risked receiving zero compensation for potential
20 years of work and out-of-pocket expenses had this case proceeded to trial. *See*
21 *generally Beaver v. Tarsadia Hotels*, 2017 U.S. Dist. LEXIS 160214, at *32 (S.D.
22 Cal. Sep. 28, 2017). Also, a commitment to this case necessarily requires foregoing
23 other opportunities. Common sense dictates that time spent on this matter was time
24 not spent on another equally as important and complex matter.

25 As such, for the reasons set forth above, the settlement achieved by Class
26 Counsel provides exceptional monetary relief and this factor weighs heavily in
27

Maxin's favor. Therefore, Maxin respectfully requests the Court grant Maxin's fee request in full.

(3) The complexity of the legal and factual issues in this case weigh in favor of awarding Maxin's counsel the amount sought.

The "prosecution and management of a complex [] class action requires unique legal skills and abilities" that are to be considered when evaluating fees. *In re Omnivision Techs.*, 559 F. Supp. 2d 1036, 1047 (N.D. Cal. 2007); see also *Jonsson v. USCB, Inc.*, 2015 U.S. Dist. LEXIS 69934, at *26 ("[C]lass counsel are experienced in consumer class actions and the claims asserted in this action . . . [t]his factors weighs in favor of granting the requested fee).

Maxin's counsel are experienced class action litigators who have successfully prosecuted complex consumer cases, and who have become particularly skilled and experienced in litigating class actions. [See Declarations of Counsel filed concurrently herewith]. In addition, although the present case settled at a relatively early stage of this litigation, Maxin's Counsel obtained a result that includes both a cash award for Class Members and injunctive relief. Thus, Class Counsel's skill and expertise, reflected in the prompt and significant settlement, generated benefits beyond the cash settlement fund and support the fee request.

(4) The length of the professional relationship favors awarding the amount sought by Maxin's Counsel in the Settlement Agreement.

Litigation in connection with this case commenced in October of 2016. [ECF No. 1]. As has already been discussed at length above in § (B), using the percentage of the fund method rewards counsel for early settlements and excellent results. While this professional relationship has not spanned the course of years as in some cases, the expeditious nature of this lawsuit favors the fee award sought by Maxin's counsel. This factor favors Maxin's counsel because to hold otherwise would

discourage early and favorable settlements when presented to counsel must like the lodestar approach does as discussed above. *See generally Swedish Hosp. Corp.*, 1 F.3d at 1266-67. As such, the speedy, efficient, and very favorable resolution of this case, which resulted in a less than lengthy professional relationship between Maxin and counsel favors an award in the amount sought by Maxin’s counsel.

(5) The prevailing market rate for this particular field of law favors the requested award.

“A reasonable hourly rate is that prevailing in the community for similar work performed by attorneys of comparable skill, experience, and reputation.” *Pearson v. U.S. Bank N.A.*, 2017 U.S. Dist. LEXIS 129159, at *22 citing to *Moreno v. City of Sacramento*, 534 F.3d 1106, 1111(9th Cir. 2008). “Generally, when determining a reasonable hourly rate, the relevant community is the forum in which the district court sits.” *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 979. “Affidavits of the plaintiff’s attorney and other attorneys regarding prevailing fees in the community, and rate determinations in other cases, particularly prevailing fees in the community, are satisfactory evidence of the prevailing market rate.” *Stirling v. Genpact Servs., LLC*, 2012 U.S. Dist. LEXIS 196197, at *4 (C.D. Cal. May 2, 2012) citing to *United Steelworkers of America v. Phelps Dodge Corp.*, 896 F.2d 403, 407 (9th Cir. 1999).

Here, Maxin’s counsel’s requested rates ranging from \$625 per hour down to \$495 per hour are reasonable in the Southern District of California for the respective attorneys that litigated this matter. The requested rate of \$625 per hour for Kazerounian and Swigart has been previously approved. *See Hooker, Jr., et al. v. Sirius XM Radio, Inc.*, 13-cv-003 (E.D. Va. May 11, 2017) (Approving hourly rate of \$625). These previous Orders support Maxin’s demand herein.

In addition to these decisions discussing rates within the Southern District, said rates are also supported by counsel’s affidavits as well as affidavits of

1 additional attorneys that regularly practice herein. As such, Maxin's counsel's rates
 2 are in line with the prevailing market rates and have been previously approved by
 3 California District Courts.

4 **(6) Awards in similar cases support the percentage award sought**
 5 **by Maxin's counsel.**

6 As has been previously mentioned, 25% of the common fund is a benchmark
 7 award for attorneys' fees in the Ninth Circuit. *Munoz v. Giumarra Vineyards*
 8 *Corps.*, 2017 U.S. Dist. LEXIS 95910, at *44 (E.D. Cal. June 20, 2017). The typical
 9 range of acceptable attorneys' fees in the Ninth Circuit is 20% to 33.3% of the total
 10 settlement value. *Id.* citing *Barbosa v. Cargill Meat Solutions Corp.*, 297 F.R.D.
 11 431 (E.D. Cal. 2013). As examples, the Eastern District upheld a requested fee of
 12 32.1% of the Settlement amount in *Schiller v. David's Bridal, Inc.*, 2012 U.S. Dist.
 13 LEXIS 80778, at *56 (E.D. Cal. June 11, 2012). In another contingent fee case in
 14 the Southern District, the Court upheld a percentage award of thirty percent. *In re*
 15 *M.D.C. Holdings Sec. Litig.*, 1990 U.S. Dist. LEXIS 15488, at *31 (S.D. Cal. Aug.
 16 30, 1990). Lastly, in another class settlement case in the Ninth Circuit, the Court
 17 upheld a request for 30% of the total settlement fund where an award in the lodestar
 18 amount would have penalized class counsel for their efforts. *Johnson v. Gen. Mills,*
 19 *Inc.*, 2013 U.S. Dist. LEXIS 90338, at *18-20 (C.D. Cal. June 17, 2013). Thus,
 20 Maxin's demand of 27.5% is reasonable and should be approved by this Court.

21 **(D) THE CROSS-CHECK OF CLASS COUNSEL'S PERCENTAGE-OF-**
 22 **RECOVERY AGAINST A LODESTAR CALCULATION SUPPORTS CLASS**
 23 **COUNSEL'S DEMAND.**

24 Additionally, a court may also cross-check its percentage-of-recovery figure
 25 against a lodestar multiplier calculation. *Resnick v. Frank (In re Online DVD-Rental*
 26 *Antitrust Litig.)*, 779 F.3d at 954-55 citing to *Vizcaino*, 290 F.3d at 1047-50. "When
 27

the lodestar is used as a cross-check for a fee award, the Court is not required to perform an ‘exhaustive cataloguing and review of counsel’s hours.’” *Munoz*, 2017 U.S. Dist. LEXIS 95910, at *46. Furthermore, as discussed in detail above, in cases such as Maxin’s where Class Counsel diligently achieved an excellent result for Class Members, the lodestar method is a less effective tool for determining the reasonableness of an attorney’s fee award. Even still said cross-check supports Class Counsel’s demand since Class Counsel has expended a significant amount of time to date to achieve the current settlement.

The “lodestar” method is utilized in the Southern District of California to determine reasonable attorneys’ fees. *Pearson v. U.S. Bank Nat’l Ass’n*, 2017 U.S. Dist. LEXIS 129159, at *20 (C.D. Cal. Aug. 14, 2017) citing to *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983). The “lodestar” method is comprised of “the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate.” *Yepremyan v. GC Servs. LP*, 2013 U.S. Dist. LEXIS 13516, at *2 (C.D. Cal. Jan. 18, 2013) citing to *Grove v. Wells Fargo Financial Cal., Inc.*, 606 F.3d 577, 582 (9th Cir. 2010); and, *Intel Corp. v. Terabyte Int’l, Inc.*, 6 F.3d 614, 622 (9th Cir. 1993).

A summary of Class Counsel’s hours and hourly rates is provided below while a detailed Time Sheet is attached as Exhibit 1 and filed concurrently herewith.

COUNSEL:	RATE:	HOURS:	TOTAL:
ABBAS KAZEROUNIAN	\$625.00	113.2	\$70,750.00
JOSHUA B. SWIGART	\$625.00	39.3	\$24,562.50
MATTHEW M. LOKER	\$495.00	24.8	\$12,276.00
TOTAL:		177.3	\$107,588.00

1 **1. The number of hours expended on this litigation support the**
 2 **award sought in the Settlement Agreement.**

3 “The fee applicant must submit evidence of hours worked.” *Hensley*, 461
 4 U.S. at 433. “All hours that are not reasonably expended, or that are excessive or
 5 redundant, should be excluded.” *Id.* Here, Maxin seeks an award of attorneys’
 6 fees for Abbas Kazerounian, Esq.; Joshua B. Swigart, Esq.; and, Matthew M.
 7 Loker, Esq. based upon the lodestar formula. All Maxin’s attorneys assigned to
 8 this matter have considerable experience litigating a variety of consumer rights
 9 issue, including product cases similar to the case at hand. [See the respective
 10 declarations filed concurrently herewith]. This experience drastically reduced the
 11 hours necessary to obtain the current judgment while avoiding duplication of
 12 efforts and unnecessary billing.

13 Given the result, the amount of time expended by Maxin’s counsel is
 14 reasonable for this type of litigation, and the lodestar formula supports the reduced
 15 award sought of 27.5% under the percentage-of-the fund method.

16 **2. A multiplier is warranted.**

17 The 27.5% fee requested by Class Counsel reflects a multiplier of 2.3.³ Of
 18 note, Courts regularly approve fee awards resulting in multipliers which are much
 19 higher than the requested multiplier in this matter. *See, e.g., Franklin v. Wells Fargo*
 20 *Bank, N.A.*, 2016 U.S. Dist. LEXIS 13696 (S.D. Cal. 2016) (approving multiplier of
 21 3.6); *Vizcaino*, 290 F.3d at 1051 (affirming 28% fee award where multiplier equaled
 22 3.65; and, citing cases approving multipliers in common fund cases going as high as
 23 19.6); *Steiner v. Am. Broad. Co.*, 248 Fed. Appx. 780, 783 (9th Cir. Cal. 2007)

24 _____
 25 ³ The precise multiplier sought by Class Counsel is 2.30044; however, Class
 26 Counsel refers to the approximate multiplier of 2.3 for the sake of clarity. In
 27 addition, said multiplier will decrease as Class Counsel continues to incur attorneys’
 28 fees; and, costs necessary to finalize this Settlement.

1 (upholding 25% fee award yielding multiplier of 6.85, finding that it “falls well
2 within the range of multipliers that courts have allowed”); *Craft v. County of San*
3 *Bernardino*, 624 F. Supp. 1113, 1125 (C.D. Cal. 2008) (approving 25% fee award
4 yielding a multiplier of 5.2 and stating that “there is ample authority for such awards
5 resulting in multipliers in this range or higher”); *In re UnitedHealth Group, Inc.*, 643
6 F. Supp. 2d 1094, 1106 (D. Minn. 2009) (finding a lodestar multiplier of 6.5
7 reasonable); and, *Malta v. Freddie Mac & Wells Fargo Home Mortgage*, 10-cv-
8 1290 (S.D. Cal. 2013) (awarding fees in TCPA litigation with a lodestar cross-check
9 multiplier of 5.16).

10 Here, the exceptional monetary relief obtained for the Class; the risks
11 involved with continued litigation; the contingent nature of the fee; the arm’s-length
12 nature of difficult and protected negotiations; and the experience of Class Counsel in
13 litigating consumer class actions, justify a significant multiplier. *See Kerr*, 526 F.3d
14 at 70; *Washington Pub. Power*, 19 F.3d at 1299-1300 (“[C]ourts have routinely
15 enhanced the lodestar to reflect the risk of non-payment in common fund cases” in
16 accord with the “established practice in the private legal market of rewarding
17 attorneys for taking the risk of nonpayment by paying them a premium over their
18 normal hourly rates for winning contingency cases”). A lodestar-plus-multiplier
19 cross-check therefore further supports the reasonableness of the requested 27.5% fee
20 in this matter.

21 **3. The hourly rates sought by Maxin’s counsel are reasonable.**

22 As discussed above in § IV(C)(5), Class Counsel’s requested rates of \$495-
23 \$625 are reasonable; have been approved by other California District Courts; and,
24 are supported by other consumer attorneys that regularly practice in the Southern
25 District of California. Thus, the cross-check of Maxin’s counsel’s percentage-of-
26 recovery figure against a lodestar calculation supports the reduced award of 27.5%
27 award sought herein.

(E) MAXIN’S INCENTIVE AWARD IS REASONABLE.

1 As the Ninth Circuit has recognized, “named Plaintiffs, as opposed to
 2 designated class members who are not named Plaintiffs, are eligible for reasonable
 3 incentive payments.” *Staton*, 327 F.3d at 977; *Rodriguez v. West Publishing Corp.*,
 4 563 F.3d 948, 958 (9th Cir. 2009) (service awards “are fairly typical in class action
 5 cases”). Such awards are intended to compensate class representatives for work done
 6 on behalf of the class [and] make up for financial or reputational risk undertaken in
 7 bringing the action.” *Id.*; see also *California v. Infineone Techs. AG* (In re Dynamic
 8 Random Access Memory (DRAM) Antitrust Litig.), 2013 U.S. Dist. LEXIS 190974,
 9 at *182 (N.D. Cal. Oct. 30, 2013) (finding that the requested incentive award of
 10 \$5,000 to each named plaintiff was fair and reasonable).

11 Small incentive awards, such as those requested here, promote the public
 12 policy of encouraging individuals to undertake the responsibility of representative
 13 lawsuits. The requested modest service award of \$5,000.00 for Maxin is justified
 14 especially considering that RHG not to object to an award request in that amount.
 15 [ECF No. 6-3; 19: 26-27].

16 In addition to lending her name to this matter, and thus subjecting herself to
 17 public attention, Maxin was actively engaged in this case from the start. Among
 18 other things, Maxin (1) provided information to Counsel for the Complaints and
 19 other pleadings; (2) reviewed pleadings and other documents; (3) communicated on
 20 a regular basis with counsel and kept herself informed of progress in the litigation
 21 and settlement negotiations; and, (4) reviewed and approved the proposed
 22 settlement. Maxin’s dedication to this action was notable, particularly given the
 23 relatively modest personal financial stakes in this case. *See Van Vranken v. Atlantic*
 24 *Richfield Co.*, 901 F. Supp. 294, 299 (N.D. Cal. 1995) (awarding \$100,000 incentive
 25 award in part on the ground that, “[i]n exchange for his participation, Van Vranken
 26 will not receive great personal benefit”). Moreover, the amount is reasonable as
 27

1 compared to other class actions awarding incentive payments. *See Opson v.*
 2 *Hanesbrands Inc.*, 2009 U.S. Dist. LEXIS 33900, at *27-28 (N.D. Cal. Apr. 3, 2009)
 3 (awarding \$5,000 incentive payment and finding that “in general, courts have found
 4 that \$5,000 incentive payments are reasonable”); *Ordick v. UnionBancCal Corp.*,
 5 2012 U.S. Dist. LEXIS 171413, at *11 (N.D. Cal. Dec. 3, 2012 (awarding \$5,000 to
 6 named Plaintiffs where “the settlement was reached at the early stages of
 7 litigation”); *Fitzgerald v. City of Los Angeles*, 2003 U.S. Dist. LEXIS 27382, at *9
 8 (C.D. Cal. Dec. 8, 2003) (awarding \$3,500 each to class representatives in early
 9 settlement case).

10 Here, the proposed incentive award of a maximum of \$5,000.00 to Maxin is
 11 reasonably related to the expenditure of time and exposure by Maxin to achieve this
 12 result. Thus, Class Counsel respectfully request the Court to approve an incentive
 13 award of \$5,000.00 to Maxin.

14 **V. CONCLUSION**

15 For the reasons discussed above, Maxin respectfully requests that the Court
 16 grant Maxin’s Motion for an Award from the Settlement Fund of Attorneys’ Fees
 17 and Costs in the total amount of \$247,500.00, which includes all litigation costs
 18 and an incentive award of \$5,000 to Maxin. Said demand for attorneys’ fees; and,
 19 costs is less than the amount agreed to amongst counsel and preliminarily approved
 20 by this Court.

21 DATED: November 10, 2017

KAZEROUNI LAW GROUP, APC

22
 23 By: /s/ Abbas Kazerounian
 24 ABBAS KAZEROUNIAN, ESQ.
 25 ATTORNEY FOR PLAINTIFF
 26