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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

10
11 ADAM HOFFMAN, and SAMUEL JASON,
Individually and on Behalf of All Others
12 Similarly Situated,

13 Plaintiffs,

14 v.

15 CITY OF LOS ANGELES,
16 Defendant.

Case No. BC672326

**REPLY MEMORANDUM IN SUPPORT
OF: (1) PLAINTIFFS' UNOPPOSED
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT; AND (2)
PLAINTIFFS' COUNSEL'S MOTION
FOR AN AWARD OF ATTORNEYS'
FEES, REIMBURSEMENT OF
LITIGATION EXPENSES AND CLASS
REPRESENTATIVE SERVICE AWARDS**

Judge Stuart M. Rice

Date of Hearing: December 20, 2023

Time: 10:30 a.m.

Dept: SSC-1

Action Filed: August 15, 2017

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APPROVAL OF CLASS ACTION SETTLEMENT; AND (2) PLAINTIFFS' COUNSEL'S MOTION FOR AN
AWARD OF ATTORNEYS' FEES, LITIGATION EXPENSES AND SERVICE AWARDS**

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1 **I. PRELIMINARY STATEMENT**¹

2 Plaintiffs Adam Hoffman and Samuel Jason (collectively, “Plaintiffs”), and their counsel,
3 Glancy Prongay & Murray LLP (“Plaintiffs’ Counsel”), respectfully submit this memorandum in
4 further support of: (i) Plaintiffs’ Unopposed Motion for Final Approval of Class Action Settlement
5 (“Final Approval Motion”); and (ii) Plaintiffs’ Counsel’s Motion for an Award of Attorneys’ Fees,
6 Reimbursement of Litigation Expenses and Class Representative Service Awards (“Fee and
7 Expense Application”). This memorandum updates the Court on the status of the notice program
8 and the Settlement Class’s reaction thereto, including the fact that there has been only one objection
9 to the Settlement, four opt outs, and not a single objection to the request for attorneys’ fees,
10 reimbursement of litigation expenses, and class representative service awards. As demonstrated
11 below, this overwhelmingly positive response supports the Court granting both the Final Approval
12 Motion and the Fee and Expense Application.

13 **II. THE COURT-APPROVED NOTICE PROGRAM HAS BEEN IMPLEMENTED**

14 Pursuant to the Court’s Order Preliminarily Approving Settlement and Providing for Notice
15 dated June 12, 2023 (the “Preliminary Approval Order”), the Court-appointed Claims
16 Administrator, A.B. Data Ltd. (“A.B. Data”), disseminated a Postcard Notice, an Email Notice, or
17 both, to at least 795,165 potential Settlement Class Members. *See* Declaration of Eric Nordskog
18 Regarding Settlement Notice and Administration dated November 15, 2023 (the “Initial
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25 ¹ Unless otherwise defined, all capitalized terms herein have the same meanings as set forth in the
26 First Amended Class Action Settlement Agreement and Stipulation dated May 30, 2023
27 (“Stipulation”), attached as Ex. 1 to the Supplemental Declaration of Jonathan M. Rotter in Support
28 of Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement, filed on May
30, 2023.

1 Administration Declaration”), ¶11.^{2,3} In addition, the Notice, Claim Form, Stipulation, and
2 Preliminary Approval Order, among other important case-related documents, were posted on the
3 Settlement Website (www.LASewerChargeSettlement.com). *See id.* at ¶13. The Settlement
4 Website, Postcard Notice, Email Notice and Notice informed Settlement Class Members of the
5 November 29, 2023, deadline to: (i) submit an objection to the Settlement, or to the request for
6 attorneys’ fees, reimbursement of litigation expenses, and/or class representative service awards; or
7 (ii) request exclusion from the Settlement Class. *See* Supplemental Declaration of Eric Nordskog
8 Regarding Settlement Notice and Administration, filed concurrently herewith (“Supp.
9 Administration Decl.”), ¶¶18-19.

10 Following this extensive notice process, just one (1) Settlement Class Member has objected
11 to the Settlement, and not a single Settlement Class Member has objected to Plaintiffs’ Counsel’s
12 application for attorneys’ fees, reimbursement of litigation expenses, and class representative
13 service awards. *See* Supp. Administration Decl., ¶19. Moreover, A.B. Data has only received four
14 (4) requests for exclusion. *See id.* at ¶18. The extremely positive reaction of the Settlement Class
15 weighs heavily in favor of the requested relief.

16 For all the reasons set forth herein, and in the opening papers filed with the Court on
17 November 15, 2023, the Court should approve the Settlement, as well as the request for attorneys’
18 fees, reimbursement of litigation expenses, and class representative service awards.

19 **III. HUNDREDS OF THOUSANDS OF SETTLEMENT CLASS MEMBERS WILL**
20 **BENEFIT FROM THE SETTLEMENT**

21 The Preliminary Approval Order set a claim filing deadline of September 24, 2023.
22 Nevertheless, at the request of Plaintiffs’ Counsel, A.B. Data has processed all Claims submitted

23 ² The Initial Administration Declaration is Exhibit 1 to the Declaration of Jonathan M. Rotter in
24 Support of: (1) Plaintiffs’ Unopposed Motion for Final Approval of Class Action Settlement; and
25 (2) Plaintiffs’ Counsel’s Motion for an Award of Attorneys’ Fees, Reimbursement of Litigation
26 Expenses and Class Representative Service Awards, which was filed with the Court on November
27 15, 2023 (“Nov. 15, 2023, Rotter Decl.”).

28 ³ Although not mandated by the Preliminary Approval Order, Plaintiffs’ Counsel also authorized
A.B. Data to conduct a digital notice campaign targeting Spanish-speaking populations in the city
of Los Angeles. *See* Initial Administration Declaration, ¶12.

1 through December 1, 2023, which equates to a nine-week extension of the claims filing deadline.
2 *See* Supp. Administration Decl., ¶6. A.B. Data has not rejected any Claim solely based on its late
3 submission, and A.B. Data believes no delay has resulted from the acceptance of these late Claims.
4 *See id.* Ultimately, as detailed in the Supp. Administration Decl., after the validation process was
5 complete, the Claims Administrator determined that 536,590 Claims are acceptable and should
6 receive a distribution, subject to the Plan of Allocation. *Id.* at ¶12. The average gross award (*i.e.*,
7 before the addition of interest earned on the Settlement Fund, and deductions for attorneys’ fees,
8 litigation and administration expenses, service awards, and any tax liability associated with the fund)
9 is approximately \$107.16, and the largest gross award is \$20,839.87.⁴ *Id.* at ¶14.

10 Of course, this is just the Monetary Relief Portion of the Settlement. The Non-Monetary
11 Remedial Relief Component of the Settlement has and will continue to benefit Current Customer
12 Class Members, as well as future rate payers. This is because, *inter alia*, starting in its 2022-2023
13 fiscal year, the City began implementing a new methodology to calculate the DWCF based on the
14 model used by Plaintiffs’ expert at the first phase of trial, and updated based on data disclosed in
15 the LADWP 2020 Urban Water Management Plan. Plaintiffs’ Counsel believes this new
16 methodology has prevented and will prevent DWCF overcharges in the future, constitutes a 100%
17 recovery rate from FY 2022-2023 forward, and has saved and will save ratepayers approximately
18 \$11.4 million per year. *See* Nov. 15, 2023, Rotter Decl., ¶28.

19 Finally, as a result of this Action, Defendant accelerated its return of \$59,508,087 from its
20 General Fund to the Bureau of Sanitation’s Sewer Construction and Maintenance Fund (Funds 760
21 and 761) (“SCM Fund”) in accumulated over-allocations of related costs through Fiscal Year 2021-
22 2022. *See* Stipulation, ¶10(b). Going forward, the City will perform the related costs reconciliation
23 as soon as reasonably practicable after the close of each fiscal year and no later than December 31
24 of each fiscal year, and budget for the return to the SCM Fund any monies due under the
25 reconciliation in the upcoming budget for the fiscal year beginning the immediately following July

26 _____
27 ⁴ The Escrow Agent, Huntington National Bank, has informed Plaintiffs’ Counsel that as of
28 December 12, 2023, the Settlement Fund has earned approximately \$1,189,163 in interest.

1 1. The monies due under such reconciliation shall be fully returned as budgeted during the fiscal
2 year beginning the immediately following July 1. Accordingly, in the future, there will be no multi-
3 year accumulating related cost reconciliation balance, as the repayment will be performed each
4 fiscal year. *Id.*

5 **IV. ANTICIPATED DISTRIBUTION MOTION**

6 The Stipulation provides that “Plaintiffs’ Counsel will apply to the Court, on notice to
7 Defendant’s Counsel, for a Class Distribution Order: (a) approving the Claims Administrator’s
8 administrative determinations concerning the acceptance and rejection of the Claims submitted by
9 Former Customer Class Members; (b) approving payment to Settlement Class Members based on
10 the City’s records; (c) approving payment of any administration fees and expenses associated with
11 the administration of the Settlement from the Escrow Account; and (d) if the Effective Date has
12 occurred, directing payment of the Net Settlement Fund to Authorized Claimants from the Escrow
13 Account.”⁵ Stipulation, ¶36. Following entry of the Class Distribution Order, and that order
14 becoming Final, the Claims Administrator will prepare and mail checks to all Authorized Claimants.
15 *See id.* Plaintiffs anticipate filing a motion for distribution of the Net Settlement Fund not later than
16 60 days after the Effective Date.

17 **V. ARGUMENT**

18 **A. The Settlement Class’s Reaction Strongly Supports Approval of the Settlement**

19 “[T]he absence of a large number of objections to a proposed class action settlement raises
20 a strong presumption that the terms of a proposed class settlement action are favorable to the class
21 members.” *Nat’l Rural Telecomm’s Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 529 (C.D. Cal.
22 2004);⁶ *see also Chavez v. Netflix, Inc.*, 162 Cal.App.4th 43, 52 (2008) (“When the following facts
23 are established in the record, a class action settlement is presumed to be fair: (1) the settlement is
24 reached through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow

25 ⁵ Among the conditions for the Effective Date to occur are the Court’s entering the Judgment or an
26 Alternative Judgment, and the Judgment or the Alternative Judgment becoming Final. *See*
27 Stipulation, ¶41(e).

28 ⁶ Unless otherwise indicated, all internal citations and quotations are omitted.

1 counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) *the*
2 *percentage of objectors is small.*” (emphasis added)); *Ching v. Siemens Indus., Inc.*, 2014 WL
3 2926210, at *6 (N.D. Cal. June 27, 2014) (“the Court may appropriately infer that a class action
4 settlement is fair, adequate, and reasonable when few class members object to it.”).

5 Here, there has only been one objection to the Settlement and four requests for exclusion.⁷
6 The miniscule percentage of Settlement Class Members objecting (0.000001%) indicates
7 overwhelming support for the Settlement and strongly favors its approval. *See 7-Eleven Owners for*
8 *Fair Franchising v. Southland Corp.*, 85 Cal.App.4th 1135, 1153 (2000) (reaction of the settlement
9 class was “overwhelmingly positive” where a “mere 80 of the 5,454 national class members elected
10 to opt out” and “[a] total of nine members ... objected to the settlement.”); *Wren v. RGIS Inventory*
11 *Specialists*, 2011 WL 1230826, at *10-11 (N.D. Cal. Apr. 1, 2011) (finding that receipt of only 33
12 requests for exclusion and 16 objections relative to 62,594 notices “strongly supports approval of
13 the settlement”); *Churchill Vill., L.L.C. v. Gen. Elec.*, 361 F.3d 566, 577 (9th Cir. 2004) (where 45
14 out of the 90,000 class members objected and only 500 requested exclusion, the reaction of the class
15 weighed in favor of settlement approval).

16 **B. The Settlement Class’s Universally Favorable Reaction to the Fee Application**
17 **Supports Approval**

18 The absence of *any* objections to Plaintiffs’ Counsel’s application for an award of attorneys’
19 fees, reimbursement of litigation expenses, and class representative service awards militates heavily
20 in favor of approval. *See Waldbuesser v. Northrop Grumman Corp.*, 2017 WL 9614818, at *5 (C.D.
21 Cal. Oct. 24, 2017) (finding that receipt of only two objections to fee request, after mailing 210,000
22 notices, was “remarkably small given the wide dissemination of notice,” and “conclud[ing] that the
23 lack of significant objections to the requested fees justifies an award of one-third of the settlement
24 fund.”); *In re Heritage Bond Litig.*, 2005 WL 1594403, at *10, *21 (C.D. Cal. June 10, 2005) (where

25 ⁷ For the reasons set forth in section VII of the Memorandum of Points and Authorities in Support
26 of the Final Approval Motion, the objection is without merit. *See also Redwen v. Sino Clean Energy,*
27 *Inc.*, 2013 WL 12303367, at *8 (C.D. Cal. July 9, 2013) (stating that *de minimis* thresholds are
28 “commonly used in distributions from private securities litigation settlement funds in order to
preserve the Settlement Fund from being overburdened with potentially disproportionate
administrative expenses” and approving distributions of amounts over \$20.00).

1 notice was disseminated to thousands of potential class members, “the lack of significant objections
2 to the requested fees justifies an award of one-third of the Settlement Fund.”); *In re Banc of Cal.*
3 *Sec. Litig.*, 2020 WL 1283486, at *1 (C.D. Cal. Mar. 16, 2020) (awarding 33% of settlement fund
4 where “over 35,000 copies of the Notice were disseminated to potential Class Members ... and no
5 objections to the fees or expenses were filed by Class Members.”); *see also In re Natural Gas Anti-*
6 *Trust Cases I, II, III, & IV.*, No. JCCP4221, 2006 WL 6383836 (San Diego Super. Ct. June 27,
7 2006) (awarding incentive fees of \$15,000 to four plaintiffs and \$10,000 to seven others where
8 “[t]here was no opposition to the award of these incentive fees.”); *Davis v. Yelp, Inc.*, 2023 WL
9 3063823, at *1-*2 (N.D. Cal. Jan. 27, 2023) (awarding plaintiff “\$15,000.00 as fair and reasonable
10 compensation for his services” where notice was given and there were no objections).

11 In sum, the extremely favorable reaction of the Settlement Class is strong evidence that: (i)
12 the Settlement is fair, reasonable, and adequate and in the best interests of the Settlement Class; and
13 (ii) Plaintiffs’ Counsel’s request for attorneys’ fees, reimbursement of litigation expenses, and class
14 representative service awards is reasonable.

15 **VI. CONCLUSION**

16 Based on the foregoing and the entire record herein, Plaintiffs and Plaintiffs’ Counsel
17 respectfully request that the Court: (i) approve the Settlement as fair, reasonable, adequate, and in
18 the best interests of the Settlement Class; (ii) award attorneys’ fees to Plaintiffs’ Counsel in the
19 amount of 33⅓% of the Settlement Fund, plus reimbursement of litigation expenses in the amount
20 of \$461,729.60; and (iii) award \$15,000 to each Plaintiff for the time and effort they expended on
21 behalf of the Settlement Class.⁸

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25 ⁸ The Settlement is conditioned on the entry of the [Proposed] Judgment Approving Class Action
26 Settlement (“Judgment”). *See* Stipulation, ¶¶40, 41(e), 42; Ex. B. In light of the additional request
27 for exclusion, revised versions of the [Proposed] Judgment, and the [Proposed] Order Granting Final
28 Approval of Class Action Settlement, are being submitted concurrently herewith. For the Court’s
convenience, Plaintiffs’ Counsel are also refiled the [Proposed] Order Awarding Attorneys’ Fees,
Reimbursement of Litigation Expenses and Class Representative Service Awards.

1 DATED: December 13, 2023

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2
3 By: s/ Jonathan M. Rotter

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PROOF OF SERVICE BY ELECTRONIC POSTING

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I, the undersigned say:

I am not a party to the above case, and am over eighteen years old. On December 13, 2023, I served true and correct copies of the foregoing document, by posting the document electronically to One Legal File&Serve, for receipt electronically by the parties listed on the Court’s Service List.

I affirm under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on December 13, 2023, at Los Angeles, California.

s/ Jonathan M. Rotter
Jonathan M. Rotter