The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

E.S., by and through her parents, R.S. and J.S., and JODI STERNOFF, both on their own behalf, and on behalf of all similarly situated individuals, Plaintiffs, v. REGENCE BLUESHIELD; and CAMBIA HEALTH SOLUTIONS, INC., f/k/a THE REGENCE GROUP, Defendants.	NO. 2:17-cv-1609-RAJ CLASS COUNSEL'S MOTION FOR ATTORNEY FEES, LITIGATION COSTS AND CASE CONTRIBUTION AWARDS **Note on Motion Calendar: March 20, 2026 at 9:00 am (Fairness Hearing)**

I. INTRODUCTION

Class Counsel secured a settlement that will put substantial money back into the hands of disabled insureds who paid out of pocket for medically necessary hearing aids and related services. With the claims process now closed, the Settlement is anticipated to reimburse approved class member claims at approximately ***60%–85%*** of out-of-pocket costs, without copays, deductibles, or other cost-sharing. The average award will be several thousand dollars even after the fees, costs, and case-contribution awards requested here, and it is even better than Class Counsel originally anticipated. Hamburger Decl., ¶5.

The result is remarkable because this case was effectively dead after a 2018 dismissal. Yet Class Counsel pressed forward with appeal, taking the kind of risk that is needed to expand civil

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rights enforcement. This case presented a true question of first impression: whether the Affordable Care Act's anti-discrimination protections reach discriminatory benefit design in health plans. Class Counsel's theory proved correct. In the sister case to this one, *Schmitt v. Kaiser*, the Ninth Circuit held, for the first time, that the ACA permits disabled insureds to challenge discriminatory benefit design. *See Schmitt v. Kaiser Found. Health Plan of Wash.*, 965 F.3d 945 (9th Cir. 2020). *See also E.S. v. Blueshield,* 812 Fed. App'x 539 (9th Cir. 2020) (linking this case to *Schmitt*).

That holding was the turning point that made this settlement possible. But the impact does not stop there. These cases have driven follow-on litigation across the country seeking protection from disability discrimination in health-plan design, including cases brought on behalf of: (1) hearing-impaired enrollees in other plans (*Rasin v. CIGNA Health and Life Ins. Co.*, No. 2:25-cv-00407-CDS-DJA), (2) disabled enrollees with limb loss seeking coverage of prosthetics (*Gillespie v. CIGNA Health and Life Ins. Co.*, No. 2:25-cv-00288-JAW), and (3) enrollees diagnosed with disabling obesity (*Holland v. Elevance Health Inc.*, No. 25-1359, pending before the First Circuit). These—and other—suits exist because this case and *Schmitt* confirmed the legal path: the ACA's enforceable anti-discrimination component can reach benefit design, not just discriminatory administration.

This case is exactly the sort of high-risk, long-horizon, first-impression litigation that warrants a full common-fund award. Class Counsel developed, advanced, and funded this lawsuit with their time and money in the absence of controlling authority, on a contingency basis, with no guarantee of recovery—consuming eight years of uncompensated work, including appellate litigation. Consistent with the fee award ordered by Judge Lasnik in *Schmitt,* Class Counsel seek an award of one-third of the $3,000,000 common fund ($1,000,000), reimbursement of $39,976.28 in litigation costs, and $15,000 case-contribution awards for each named Plaintiff.

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II. LAW AND ARGUMENT[1]

A. The Requested Fees Are Reasonable and Should Be Awarded.

1. Attorney Fees of 33⅓% of the Common Fund Should Be Awarded.

When a class action settlement creates a common fund, a court has discretion to choose either the percentage-of-the-fund or the lodestar method in calculating a fee award. *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1047 (9th Cir. 2002); *Stetson v. Grissom*, 821 F.3d 1157, 1165 (9th Cir. 2016). Typically, courts apply the percentage-of-the-fund method where the settlement involves a common fund. *Kinney v. Nat'l Express Transit Servs. Corp.*, 2018 U.S. Dist. LEXIS 10808, *11 (E.D. Cal. Jan. 22, 2018); *Accord*, *Manual for Complex Litigation* (Fourth) §14.121 ("[T]he factor given the greatest emphasis is the size of the fund created, because 'a common fund is itself the measure of success … [and] represents the benchmark from which a reasonable fee will be awarded.'").

In the Ninth Circuit, 25% of the settlement amount is commonly referred to as the "benchmark" percentage applied to the settlement fund amount in class action common fund cases to determine the attorney fee award. That figure is, however, only a "starting point for analysis," and "selection of the rate must be supported by findings that take into account all of the circumstances of the case." *Vizcaino*, 290 F.3d at 1048. In "most common fund cases the award exceeds that [25%] benchmark." *Brown v. Papa Murphy's Holdings Inc.*, 2022 U.S. Dist. LEXIS 9209, *5-6 (W.D. Wash. May 2, 2022).

Selection of a percentage amount must be supported by findings that take into account all the circumstances of the case. *Vizcaino*, 290 F.3d at 1048. Factors that the court should consider in selecting the rate include the results obtained for the class, the risk counsel undertook in pursuing the case, the complexity of the issues and the skill required, the benefits generated for

[1] Class Counsel incorporate by reference the description of the Settlement Agreement located at Dkt. No. 88 at 6-10.

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the class beyond the cash settlement fund, and awards made in similar cases. *Vizcaino*, 290 F.3d at 1048-50.

A fee award above 25% is often appropriate and sometimes presumptively correct. *See, e.g., Vasquez v. Coast Roofing, Inc.*, 255 F.R.D. 482, 491-92 (E.D. Cal. 2010) ("[I]n most common fund cases, the award exceeds the benchmark."). The "typical range" of acceptable attorney fee awards in the Ninth Circuit has been characterized as 20%–33% of the total settlement value. *Id.* at 491; *Barbosa v. Cargill Meat Solutions Corp.*, 297 F.R.D. 431, 448 (E.D. Cal. 2013). Other courts have held that "nearly all common fund awards range around 30%." *In re Activision Sec. Litig.*, 723 F. Supp. 1373, 1377-78 (N.D. Cal. 1989). *See also, In re Pac. Enters. Secs. Litig.*, 47 F.3d 373, 379 (9th Cir. 1995) (approving attorney fee award of 33⅓%); *Morris v. Lifescan, Inc.*, 54 F. App'x 663, 664 (9th Cir. Jan. 16, 2003) (approving 33% award); *Erami v. JPMorgan Chase Bank*, No. CV 15-7728 PSG (PLAx), 2018 U.S. Dist. LEXIS 245073, at *18-19 (C.D. Cal. Dec. 3, 2018) ("[T]he 30 to 33 percent range [is] often awarded in common fund cases").

A higher percentage is often awarded when the amount of the fund created is relatively small, or less than $10 million. *Miller v. CEVA Logistics USA, Inc.*, Case No. 2:13-cv-01321-TLN-CKD, 2015 U.S. Dist. LEXIS 104704, *18 (E.D. Cal. Aug. 10, 2015) (finding fees of 33 1/3% of a total settlement amount of less than $10 million reasonable); *Hitt v. Cardinal Health 100*, 2017 U.S. Dist. LEXIS 235022, *4 (C.D. Cal. Aug. 14, 2017) ("[I]n meal and rest break cases with total settlement amounts less than $10 million, courts routinely approve percentages at or near 33 percent."); *Armes v. Hot Pizzas, LLC*, 2017 U.S. Dist. LEXIS 89920, *18-19 (D. Ariz. June 9, 2017) (fee awards between 30–50 percent generally involve common funds of less than ten million dollars).

An award of 33⅓% is in line with that of other district courts in the Ninth Circuit, "in cases where class counsel took the case on contingency and no class member objected." *Hernandez v. Arthur J. Gallagher Serv. Co., Ltd. Liab. Co.*, No. 22-cv-01910-H-DEB, 2024 U.S. Dist. LEXIS 153062, at *27-28 (S.D. Cal. Aug. 26, 2024) (awarding 33⅓% and citing similar

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cases). *See also Davis v. Yelp, Inc.*, No. 18-cv-00400-EMC, 2023 U.S. Dist. LEXIS 12664, at *6 (N.D. Cal. Jan. 27, 2023) (same). *See* Hamburger Decl., ¶10 (only one "opt-out" to date).

The factors identified in *Vizcaino* justify increasing the attorney fee award in this case from the overall benchmark of 25% to 33 1/3% or $1,000,000:

First, Class Counsel obtained an excellent result for the Class. This Settlement is anticipated to reimburse approved, valid claims at approximately 60%–85% of out-of-pocket costs. Hamburger Decl., ¶5. That recovery is not just meaningful—it is strong by any common-fund yardstick, and it is better on a *pro rata* basis than the recovery in *Schmitt v. Kaiser*, where valid and approved claims were reimbursed at 50%. Dkt. No. 91 at ¶11. This outcome was the product of months of hard bargaining and reflects the best result reasonably available to the Class from this Defendant given the litigation risks and defenses. *Id.* at ¶¶9-11, 17.

Just as important, Class Counsel ensured the Settlement delivers recovery in practice—not merely on paper. Class members who previously denied coverage received a prepopulated form and were only required to verify the out-of-pocket expenses they actually incurred during the Class period. Dkt. No. 88-1, ¶6.1.5.2(b). That design choice matters because when class action claim rates are low, unnecessary paperwork is often the cause.

Finally, the Settlement is not limited to those who previously filed claims—Class membership broadly includes all enrollees who incurred out-of-pocket expenses during the Class period. Dkt. No. 88-1, ¶1.6.1.

Second, Class Counsel assumed extraordinary risk in prosecuting this action. They took this case of first impression on a pure contingency—no guarantee of any recovery, and therefore no guarantee of any fee. Hamburger Decl. ¶11(b). They also fronted the costs of litigation with the real possibility those expenditures would never be repaid. *Id.* And they did so over a long horizon: Class Counsel has litigated this case since 2017, including a successful appeal to the Ninth Circuit, without compensation. *Id.* That is exactly the kind of risk the common-fund doctrine is designed to reward.

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Third, this case is complex and required substantial skill to prosecute and resolve. This lawsuit—and *Schmitt*—presented issues of first impression nationally, and required Class Counsel to litigate and negotiate against well-resourced defendants with every incentive to press dispositive motion practice, contest class treatment, and drag the case out for years. Hamburger Decl. ¶11(c). While Plaintiffs believed they would ultimately prove that the hearing-loss exclusion was an unlawful form of discriminatory benefit design under state and federal law, the path to that result was neither obvious nor short. This settlement delivers meaningful relief now—rather than gamble class recovery on years more litigation and appeals. *Id.*

Fourth, the requested 33⅓% fee is firmly supported by the award in the sister case. In *Schmitt*, Judge Lasnik approved a 33⅓% common-fund fee on a similar settlement amount, finding it reasonable in light of the settlement's benefits, the risk counsel assumed, and the complexity of the case. *Schmitt v. Kaiser Found. Health Plan of Wash.*, No. 2:17-cv-1611-RSL, 2024 U.S. Dist. LEXIS 71166, *10-12 (W.D. Wash. Apr. 18, 2024).[2] Indeed, although a lodestar cross-check was not required there (or here), Judge Lasnik noted that the firm effectively lost money under the 33⅓% percentage when compared to its lodestar. *Id.* at 12.

Taken together, these factors fully justify an award of 33⅓% here.

2. The Requested Fee Award is Reasonable Based on Class Counsel's Lodestar.

After applying the percentage-of-the-fund approach to award attorney fees in class action cases, district courts then sometimes use the lodestar method as a cross-check on the reasonableness of the proposed percentage figure. *Vizcaino*, 290 F.3d at 1050 n.5. To be clear, "[t]he Court is not required to conduct a lodestar cross-check." *Benson v. DoubleDown Interactive, LLC*, 2023 U.S. Dist. LEXIS 97758, *8 (W.D. Wash. June 1, 2023) (citing *Farrell v. Bank of Am. Corp., N.A.*, 827 F. App'x 628, 631 (9th Cir. 2020)). But if it does, the "primary basis

[2] *See also,* Hamburger Decl., *Exh. D,* Transcript of 4/18/2024 Hearing, p. 7, in *Schmitt v. Kaiser Health Foundation of Washington*, Western District of Washington Cause No. CV17-01611-RSL.

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of the fee award remains the percentage method" while the cross-check is simply a "reasonableness" perspective on that percentage. *Vizcaino*, 290 F.3d at 1050.

a. Class Counsel's Hourly Rates Are Reasonable.

The lodestar is determined by "multiplying the number of hours reasonably spent on the litigation by a reasonable hourly rate." *McCown v. City of Fontana Fire Dep't*, 565 F.3d 1097, 1102 (9th Cir. 2009). Actual rates charged by lawyers constitute strong evidence of reasonableness. *Rosie D. v. Patrick*, 593 F. Supp. 2d 325, 330 (D. Mass. 2009); *see also, Tomazzoli v. Sheedy*, 804 F.2d 93, 98 (7th Cir. 1986). The current hourly rates for partners Mr. Spoonemore (34 years of experience) and Ms. Hamburger (33 years of experience) are $825/hour. The hourly rates for Ann Merryfield and Daniel Gross, both with 30 years or more of experience, are $745/hour. *See* Hamburger Decl., ¶¶5-6. These rates are well in line with the rates for Seattle attorneys with similar experience. *Id.*

The reasonableness of Class Counsel's rates is confirmed by the 2022 version of Wolters Kluwer's "Real Rate Report," which is an analysis of actual law firm rates, trends, and practices. *See* Hamburger Decl., *Exh. C*. Due to its extensive database, its reports are recognized as strong guideposts for legal rates. *Sarabia v. Ricoh U.S.A., Inc.*, 2023 U.S. Dist. LEXIS 85742, at *23-24 (C.D. Cal. May 1, 2023).[3] According to the Real Rate Report, Class Counsel's normal hourly rates, ranging from $745–$825 per hour, are well within a reasonable range (between the median and third quartile of the 2022 Real Rate Report when adjusted for inflation) given that all Class Counsel have 30 or more years of experience. Hamburger Decl., ¶¶5-6 and *Exh. C*; Dkt. No. 91, ¶¶2-31.

[3] "Courts have found that the Real Rate Report is "a much better reflection of true market rates than self-reported rates in all practice areas." *Hicks v. Toys 'R' Us-Del., Inc., No.*, 2014 U.S. Dist. LEXIS 135596, at *4 (C.D. Cal. Sept. 2, 2014); *Eksouzian v. Albanese*, 2015 U.S. Dist. LEXIS 189545, at *8 (C.D. Cal. Oct. 23, 2015) (same).

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b. Class Counsel's Hours Worked Were Reasonable.

When calculating counsel's lodestar, the hours spent on the case include time "reasonably expended in pursuit of the ultimate result achieved in a manner that an attorney traditionally is compensated by a fee-paying client for all time reasonably expended on a matter." *Hensley v. Eckerhart*, 461 U.S. 424, 431 (1983). As a general rule, "the court should defer to the winning lawyer's professional judgment as to how much time he was required to spend on the case; after all, he won, and might not have, had he been more of a slacker." *Moreno v. City of Sacramento*, 534 F.3d 1106, 1112 (9th Cir. 2008); *Campbell v. Catholic Cmty. Servs.*, 2012 U.S. Dist. LEXIS 190096, *12 (W.D. Wash. Aug. 8, 2012).

When performing the lodestar cross-check, detailed cataloging of hours spent is not necessary, and declarations from attorneys attesting to their experience and qualifications, their hourly rates, and the hours expended have been found sufficient. *In re Immune Response Sec. Litig.*, 497 F. Supp. 2d 1166, 1176 (S.D. Cal. 2007) (citing *In re Rite Aid Corp. Sec. Litig.*, 396 F.3d 294, 306-07 (3d Cir. 2005) ("The lodestar cross-check calculation need entail neither mathematical precision nor bean-counting.")); *Schiller v. David's Bridal, Inc.*, 2012 U.S. Dist. LEXIS 80776, *57 (E.D. Cal. June 11, 2012) (an "exhaustive cataloging and review of counsel's hours" is not necessary when performing a lodestar cross-check).

For purposes of the lodestar cross-check here, Class Counsel has provided its time and expense ledgers for the Lawsuit, redacted for attorney-client privilege and work product confidentiality, and submitted with this Motion. Hamburger Decl., *Exh. A*. Class Counsel already submitted a declaration attesting to their experience and qualifications. *See* Dkt. No. 91, ¶¶19-32. The total amount of time documented by Class Counsel to date totals 739.95 hours for a lodestar of $605,974.75. *See* Hamburger Decl., ¶2, *Exh. A*.

This amount of time spent on the litigation by Class Counsel was extremely reasonable. The lodestar includes time spent researching the facts and issues, reviewing documents and publicly available information, communicating with the Class Representatives, drafting and

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amending complaints and related motions, opposing Regence's multiple motions to dismiss, drafting appellate briefing and participating in appellate argument, preparing discovery requests, analyzing issues and strategy, mediating and negotiating with Regence, drafting and revising the terms of settlement and the ultimate settlement agreement, moving for settlement class certification and approval of the settlement, and communicating with Class members, including working with the claims administrator to create web pages and claims instructions that inform members of the efforts to obtain recovery from the Defendants and how to submit a claim for reimbursement under the Settlement. *Id.*

The time reported does not include the considerable time Class Counsel will spend supporting Class members as they continue through the claims process, seeking final approval of the settlement, submitting a reply brief in support of this motion, and overseeing the ultimate distribution of the settlement fund. Moreover, Class Counsel has already received and responded to communications from dozens of Class members in response to the Class notice, and they anticipate they will have to spend additional time ensuring the payment of claims to Class members. *See* Hamburger Decl., ¶11. The time spent by Class Counsel is eminently reasonable.

c. Calculating and Determining the Reasonableness of a Lodestar Multiplier.

Once a lodestar figure is arrived at, a lodestar multiplier may then be applied to the resulting amount to adjust it up or down, depending on the complexity of the case, the risks involved, and the length of the litigation. *Vizcaino*, 290 F.3d at 1051. A cross-check that is less than four times the lodestar passes the reasonableness test. *Id.* (multiplier of 3.65 is "within the range of multipliers applied in common fund cases"); *Mejia v. Walgreen Co.*, 2021 U.S. Dist. LEXIS 56150, *23-24 (E.D. Cal. Mar. 23, 2021) (multipliers between 3 and 4 routinely approved); *Miller*, 2015 U.S. Dist. LEXIS 104704, at *21 ("Multipliers in the 3-4 range are common in lodestar awards for lengthy and complex class action litigation."). Indeed, the Ninth

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Circuit has approved multipliers of up to seven. *Steiner v. Am. Broad. Co.*, 248 F. App'x 780, 783 (9th Cir. Aug. 29, 2007).

Here, Class Counsel's lodestar ($605,974.75) reflects a multiplier of 1.65 should the Court award 33⅓% of the fund. This amount is far less than four times the lodestar, and easily passes the "reasonableness" test. *Vizcaino*, 290 F.3d at 1051.

B. Litigation Costs of $39,976.28 Should Be Awarded.

Litigation costs are recoverable in a class action settlement. *Staton v. Boeing Co.*, 327 F.3d 938, 974-75 (9th Cir. 2003). The prevailing view is that expenses are awarded in addition to the fee percentage. A. Conte, ATTORNEY FEE AWARDS, §§2.08, 2.19 (3d ed. 2012); *In re Businessland Sec. Litig.*, 1991 U.S. Dist. LEXIS 8962, *6 (N.D. Cal. June 18, 1991) (collecting cases). Reimbursement of the costs is subject to the Court's determination of relevance and reasonableness. *Id.* Costs compensable include "nontaxable costs that are authorized by law or by the parties' agreement." Fed. R. Civ. P. 23(h). Attorneys generally may recover reasonable expenses that would typically be billed to paying clients in non-contingency matters. *Harris v. Marhoefer*, 24 F.3d 15, 19 (9th Cir. 1994).

Counsel in this case have incurred a total of $39,976.28 in litigation expenses. Hamburger Decl., ¶8. This amount includes filing fees, costs of service of summons, fees related to Plaintiffs' damages expert that were required for mediation, the cost of the mediator, among other costs. Each of these costs was necessary to arrive at the common-fund settlement and should be reimbursed from the common fund. Indeed, these costs are extremely modest, especially when compared to the costs incurred in the more heavily litigated *Schmitt* case. *Schmitt*, 2024 U.S. Dist. LEXIS 71166, at *13 (litigation costs of over $370,000 approved as reasonable).

C. A Case Contribution of $15,000 For Each Class Representative Is Appropriate and Should Be Awarded.

Case contribution awards—also called "enhancement" or "incentive" awards—are typical in class action cases, *Rodriguez v. W. Publ'g Corp.*, 563 F.3d 948, 958-59 (9th Cir. 2009), and

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are in the Court's discretion to award. *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 463 (9th Cir. 2000). "Because a named plaintiff is an essential ingredient of any class action, an incentive award is appropriate if it is necessary to induce an individual to participate in the suit." *Cook v. Niedert*, 142 F.3d 1004, 1016 (7th Cir. 1998) (affirming a $25,000 incentive award). *See also, Louie v. Kaiser Found. Health Plan, Inc.*, No. 08-cv-0795-IEG-RBB, 2008 U.S. Dist. LEXIS 78314, *18 (S.D. Cal. Oct. 6, 2008) (preliminary approval of a $25,000 incentive award where named plaintiffs "have protected the interests of the class and exerted considerable time and effort by maintaining three separate lawsuits, conducting extensive informal discovery, hiring experts to analyze discovered data and engaging in day-long settlement negotiations with a respected mediator").

In determining whether to approve a case contribution award, courts may consider the following factors: (1) the risk to the class representative in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the class representative; (3) the amount of time and effort spent by the class representative; (4) the duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation. *Van Vranken v. Atl. Richfield Co.*, 901 F. Supp. 294, 299 (N.D. Cal. Aug. 16, 1995) (awarding $50,000 to class representative). Incentive awards are especially appropriate in health care class actions because named plaintiffs not only invest their time and effort to support the litigation, but they also sacrifice their "personal and medical privacy" for the benefit of the class. *McCoy v. Health Net, Inc.*, 569 F. Supp. 2d 448, 479-80 (D.N.J. 2008) (awarding each representative plaintiff $60,000); *Roches v. Cal. Physicians' Serv.*, 2018 U.S. Dist. LEXIS 250754, *19 (N.D. Cal. July 5, 2018) (case contribution awards of $20,000 to each named plaintiff).

Contribution awards of $5,000 per plaintiff are presumptively reasonable, but higher amounts may well be granted depending on the facts. *Richardson v. THD At-Home Servs.*, 2016 U.S. Dist. LEXIS 46784 (E.D. Cal. Apr. 5, 2016) (awarding $15,000 to named plaintiff). *See also*

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Chu v. Wells Fargo Invs., LLC, No. C05-4526 MHP, 2011 U.S. Dist. LEXIS 15821, *14 (N.D. Cal. Feb. 15, 2011) ($10,000 enhancement award to each named plaintiff was acceptable); *Reed v. Balfour Beatty Rail, Inc.*, 2023 U.S. Dist. LEXIS 128546, *24 (C.D. Cal. June 22, 2023) (awarding $10,000 service fee to a named plaintiff).

Courts also consider what percentage of the common fund would be taken up by a proposed case contribution award in determining whether the award is reasonable. See *Sandoval v. Tharaldson Emp. Mgmt.*, 2010 U.S. Dist. LEXIS 69799 (C.D. Cal. June 15, 2010) (noting that incentive award not exceeding 1% of total settlement was fair and reasonable); *Acosta v. Evergreen Moneysource Mortg. Co.*, 2019 U.S. Dist. LEXIS 198728, *53 (E.D. Cal. Nov. 14, 2019) (awarding named plaintiff $10,000 incentive award that represented 2.85% of gross settlement amount); *Kater v. Churchill Downs Inc.*, 2021 U.S. Dist. LEXIS 26734, *7 (W.D. Wash. Feb. 11, 2021) (approving incentive awards of $10,000 each to two named plaintiffs and $50,000 to a third whose contributions went much beyond those usually offered by a class representative); *Ikuseghan v. MultiCare Health Sys.*, 2016 U.S. Dist. LEXIS 109417, *7 (W.D. Wash. Aug. 16, 2016) (ordering $15,000 incentive award and finding it reasonable).

The Class Representatives made a significant contribution of time toward the settlement in this case. Dkt. No. 91, ¶16. Throughout the course of the litigation, the Class Representatives have been actively involved. *Id.* They agreed to pursue the Defendants here on behalf of a class, even though they might have reached a better result for themselves had they pursued their claims individually. They understood and signed agreements recognizing that they owed a fiduciary duty to all other Class members, and were responsible for monitoring the litigation, communicating with Class Counsel, and acting in the best interests of the Class. Dkt. Nos. 89-90; Hamburger Decl., ¶9. They scoured their files, emails, and papers and provided Class Counsel with relevant documents and information to assist in drafting the complaints. *Id.* They reviewed the complaints and provided feedback. *Id.* They provided assistance in responding to and opposing the various dispositive motions. *Id.* They participated in the mediation. *Id.* They each carefully considered

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the proposed settlement terms and executed the initial settlement term sheet and the final long-form Settlement Agreement with Regence. *Id.*

Indeed, the Class Representatives went above and beyond what is typically required in this kind of litigation. *Id.* Plaintiffs attended argument before the Ninth Circuit, took time off from work to participate in mediation, and repeatedly did whatever was required to support the case. *Id.* At all relevant times, these named Plaintiffs thought carefully and conscientiously about the impact of the settlement on absent class members; they each did their best to alert their own formal and informal networks about the settlement claims process; and they were ideal named plaintiffs. *Id.*

Finally, the total Case Contribution request here for all Class Representatives—$30,000—is just 1.0% of the settlement fund, well within the amounts found by courts to be reasonable. *See Sandoval*, 2010 U.S. Dist. LEXIS 69799, at *26-27, and *Acosta*, 2019 U.S. Dist. LEXIS 198728, at *53 (finding, respectively, that 1% and 2.85% of the settlement amount was reasonable). The proposed case contribution awards of $15,000 to each named Plaintiff should be ordered by the Court.

III. CONCLUSION

For all of the reasons set out above, the requested awards are fair, reasonable, and well supported by governing Ninth Circuit authority. Class Counsel respectfully requests that the Court award (1) attorney fees in the amount of one-third of the $3,000,000 common fund ($1,000,000); (2) reimbursement of litigation costs in the amount of $39,976.28; and (3) case contribution awards of $15,000 to each Class Representative.

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DATED: February 18, 2026.

I certify that the foregoing contains 4,178 words, in compliance with the Local Civil Rules.

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