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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

Jake L. Kemp, on behalf of himself and others similarly situated,

Plaintiff,

vs.

Low Cost Interlock, Inc.,

Defendant.

CASE NO. 5:19-CV-01445-JGB-SHK

PLAINTIFF'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR APPROVAL OF AN AWARD OF ATTORNEYS' FEES, COSTS, AND LITIGATION EXPENSES

Date: March 15, 2021
Time: 9:00 a.m.
Judge: Hon. Jesus G. Bernal

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Introduction

Jake L. Kemp ("Plaintiff") submits this motion and supporting memorandum following the conference of counsel pursuant to L.R. 7-3, which took place on November 5, 2020. Low Cost Interlock, Inc. ("Defendant") does not oppose an award of attorneys' fees, costs, and expenses to Plaintiff but contests the appropriate amount of such an award.

Plaintiff undertook this litigation under the Consumer Leasing Act ("CLA") to hold Defendant accountable for its use of confusing ignition interlock lease agreements, which he contends provided defective payment disclosures. Plaintiff learned during the course of this case that more than 22,000 consumers nationwide signed materially identical lease agreements with the same (defective) payment disclosures. By way of a class settlement ensuring significant monetary and injunctive relief for those thousands of consumers, Plaintiff has accomplished that goal.

Getting to this point required more than a year of effort. First, Defendant moved to dismiss Plaintiff's claims, arguing the lease agreement at issue fully complied with all applicable statutory and regulatory provisions. Plaintiff conducted extensive research to prepare a comprehensive rebuttal to Defendant's motion. Then, in the shadow of this potentially dispositive motion, the parties zealously negotiated for weeks over a fair compromise for all 22,000-plus potential class members, culminating in a $130,000 class settlement fund that represents more than one-third of the class's *maximum* statutory damages under the CLA, despite the ongoing threat of Defendant's fully briefed motion. Additionally, Plaintiff undertook substantial briefing to obtain certification of the settlement class and preliminary approval of the negotiated relief.

That relief promises not only $29 to $58 per participating class member, but also a change in the very leasing practices that prompted this litigation. As well, Defendant agreed to pay Plaintiff $2,500 to recognize his service to the class members, subject to the Court's approval, plus an award of attorneys' fees, costs, and litigation expenses as

determined by this Court. Both sums will be paid entirely separately from the class fund and will not diminish class members' recoveries.

Angeion Group, the Court-appointed class administrator, distributed direct mail notice to class members earlier this month. To date, not one person has objected to any portion of the settlement, nor has anyone sought to be excluded.[1] No objections have resulted from the notice provided to governmental entities under the Class Action Fairness Act ("CAFA"), either.[2]

Given the results achieved here, the class's support thus far, and his counsel's tireless efforts, Plaintiff now seeks an award of attorneys' fees of $113,985 and reimbursement of costs and litigation expenses of approximately $2,036.40. As detailed below and in the accompanying Declaration of Jesse S. Johnson ("Johnson Decl."), Plaintiff and his counsel's requests are reasonable, well supported by the record and applicable Ninth Circuit law, and should be approved in their entirety.

Argument

I. The CLA mandates awards of attorneys' fees to prevailing plaintiffs, as does the parties' settlement agreement here.

The Truth in Lending Act ("TILA")—within which the CLA is codified—"provides that the prevailing plaintiff *shall* be awarded a reasonable attorney's fee as determined by the court." *Kessler v. Assocs. Fin. Servs. Co. of Haw., Inc.*, 639 F.2d 498, 499 (9th Cir. 1981).[3] An award of attorneys' fees and costs under TILA thus is mandatory for any successful consumer-plaintiff. *Palmer v. Statewide Grp.*, 134 F.3d

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[1] The notice advised class members that class counsel would seek up to $135,000 in attorneys' fees, costs and litigation expenses.

[2] The deadline for objections and exclusion requests is January 11, 2021. Plaintiff will address any objections or exclusions received by that deadline in his motion for final approval of the class settlement, due February 15, 2021.

[3] Internal citations, quotations, and footnotes are omitted, and emphasis is added, unless noted otherwise.

378, 378 (9th Cir. 1998) ("TILA provides that a prevailing plaintiff shall be awarded a reasonable attorney's fee as determined by the court. The statute is both remedial and penal. An award of fees, where the plaintiff succeeds, is generally mandatory.").

By including mandatory fee shifting in TILA,[4] Congress indicated that society has a significant stake in assisting consumers who may not otherwise have the means to pursue these types of cases, and in rewarding those attorneys who assist in that pursuit. The Fourth Circuit recognized:

> A fee-shifting provision like § 1640(a)(3) subsidizes the lawsuits of meritorious plaintiffs. Such subsidies appear frequently in civil rights and consumer protection laws, presumably because Congress is (or was) particularly interested in seeing those laws prosecuted. The members of Congress who approved [] TILA may have assumed either that the victims of TILA violations could not afford to bring TILA claims or that they would choose not to after considering the low returns those claims yield relative to the high costs of litigation. Even if lawyers take TILA cases on contingency, as [the plaintiff's] lawyers did, such assumptions remain reasonable under the law as it is now written. TILA awards will rarely be enough to cover the costs of representation; in most cases, they scarcely will cover the costs of filing a claim. Only with fee shifting does the prosecution of a typical individual TILA claim become an economically sensible possibility.

Nigh v. Koons Buick Pontiac GMC, Inc., 478 F.3d 183, 188 (4th Cir. 2007).

The Ninth Circuit agrees: "The purpose behind granting attorney's fees is to make a litigant whole and to facilitate private enforcement of the Truth in Lending Act." *Hannon v. Sec. Nat'l Bank*, 537 F.2d 327, 328 (9th Cir. 1976); *accord Camacho v. Bridgepoint Fin., Inc.*, 523 F.3d 973, 978 (9th Cir. 2008) (noting for the Fair Debt Collection Practices Act ("FDCPA"): "Generally, litigants in the United States pay their own attorneys' fees, regardless of the outcome of the proceedings. However, in order to encourage private enforcement of the law[,] Congress has legislated that in certain

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[4] As the CLA shares TILA's liability and fee-shifting provisions, *see* 15 U.S.C. § 1667d(a), case law addressing fee awards under TILA is equally applicable here.

cases prevailing parties may recover their attorneys' fees from the opposing side. When a statute provides for such fees, it is termed a 'fee shifting' statute.").

Moreover, the parties' Class Action Settlement Agreement ("Agreement") aligns with the CLA's fee-shifting provision. At paragraph 10(D), Defendant confirms that it "will not object to an award of attorneys' fees, costs and expenses" but "reserves its right to contest the amount of such an award." ECF No. 32-2 at 16. Defendant must pay Plaintiff his attorneys' fees and expenses, as this Court determines, separate from class monies. *See id.* at 16-17 ("Any amount awarded to Plaintiff for attorneys' fees, costs, and expenses will be paid by Defendant separate and apart from the Settlement Fund, costs of class notice and settlement administration, and any payment to Plaintiff.").[5]

II. In light of statutory fee shifting, the lodestar method, rather than a constructive common fund, is the proper means for determining a fee award.

A. The Ninth Circuit has declared that TILA fee awards should be calculated using the lodestar method.

To help facilitate the CLA's important protectionary goals and encourage competent counsel to take up consumers' causes, "[a]n award of attorneys' fees under § 1640(a)(3) is properly calculated through a lodestar analysis, in which the court determines a reasonable rate and multiplies it by the number of attorney hours reasonably expended on the case." *Lyon v. Chase Bank USA, N.A.*, 656 F.3d 877, 891 (9th Cir. 2011) (evaluating fee award under the Fair Credit Billing Act, which shares the same liability provisions with the CLA and TILA). Numerous courts in this district have so applied TILA fee shifting. *E.g., Mendoza v. Sidney Auto Sales, Inc.*, No. 17-

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[5] Also relevant, "[a] party that obtains a judicially enforceable settlement agreement that provides some of the relief sought is a 'prevailing party' for purposes of fee-shifting statutes." *Nevarez v. Forty Niners Football Co., LLC*, No. 16-7013, 2020 WL 4226517, at *5 (N.D. Cal. July 23, 2020). Thus, settlement approval here triggers statutory fee shifting in Plaintiff's favor. *See Carbonell v. I.N.S.*, 429 F.3d 894, 901 (9th Cir. 2005) (When "the district court [has] placed its stamp of approval on the relief obtained, that relief has the necessary judicial imprimatur to qualify a plaintiff as a prevailing party.").

7293, 2018 WL 3830133 (C.D. Cal. July 20, 2018) (Anderson, J.); *Guadarrama v. Chadorbaff*, No. 17-645, 2018 WL 5816198 (C.D. Cal. June 25, 2018) (Carter, J.).

B. Imposition of a constructive common fund has no place here.

Focusing on attorneys' efforts in securing a recovery, rather than simply the size of that recovery, makes eminent sense for CLA fee awards given the private attorney general approach of the statute. Otherwise, the alternative "percentage-of-recovery" method could inhibit private enforcement, as oftentimes the maximum potential damages—as limited by the CLA's statutory damages caps, *see* 15 U.S.C. § 1640(a)(2)—would deter plaintiffs' counsel from undertaking meritorious litigation knowing their fees necessarily would be limited by that capped recovery.

Here, awarding attorneys' fees under the percentage-of-recovery method would require this Court to create a "constructive common fund" and thereby ignore the CLA's fee-shifting provision as well as the clear language of the parties' Agreement. The Ninth Circuit in *In re Bluetooth Headset Prods. Liab. Litig.* had occasion to consider the "constructive common fund" approach but chose not to specifically endorse it. 654 F.3d 935, 943 (9th Cir. 2011) ("Whether or not we view this as a common-fund case, we agree with Objectors that the district court needed to do more to assure itself—and us—that the amount awarded was not unreasonably excessive in light of the results achieved."). Its reasons were several.

"The award of attorneys' fees in a class action settlement is often justified by the common fund or statutory fee-shifting exceptions to the American Rule, and sometimes by both. We have approved two different methods for calculating a reasonable attorneys' fee depending on the circumstances." *Id.* at 941. Importantly, the Ninth Circuit held that the "lodestar method" is appropriate "under fee-shifting statutes (such as federal civil rights, securities, antitrust, copyright, and patent acts), where the relief sought—and obtained—is often primarily injunctive in nature and thus not easily monetized, *but where the legislature has authorized the award of fees to ensure compensation for counsel undertaking socially beneficial litigation*." *Id.*

On the other hand, the percentage-of-recovery method applies to class common fund recoveries, particularly in actions where class attorneys have no independent (*i.e.*, statutory) basis for recovery of their fees and expenses. "Where a settlement produces a common fund for the benefit of the entire class, courts have discretion to employ either the lodestar method or the percentage-of-recovery method." *Id.* at 942. "Because the benefit to the class is easily quantified in common-fund settlements, we have allowed courts to award attorneys a percentage of the common fund in lieu of the often more time-consuming task of calculating the lodestar." *Id.* And while "courts have discretion to choose which calculation method they use, their discretion must be exercised so as to achieve a *reasonable result*." *Id.*

On this latter point, the Eleventh Circuit's decision in *In re Home Depot Inc.*, 931 F.3d 1065 (11th Cir. 2019), is instructive. The class attorneys there, apparently dissatisfied with the lodestar method for their fee award, argued on appeal that they instead deserved a percentage of a constructive common fund. *Id.* at 1071. The Eleventh Circuit carefully parsed through these competing approaches:

> There are three exceptions to the American Rule: (1) when a statute grants courts the authority to direct the losing party to pay attorney's fees; (2) when the parties agree in a contract that one party will pay attorney's fees; and (3) when a court orders one party to pay attorney's fees for acting in bad faith. These exceptions—when one party pays for the other's attorney's fees—describe fee-shifting cases.
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> Some courts, including this one, have described common-fund cases as an exception to the American Rule. That is incorrect. And it is important to understand why.
>
> A common-fund case is when a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorney's fee from the fund as a whole. This is typical in class actions, where the class might receive a large payout, from which the attorney derives his fees. Common-fund cases are consistent with the American Rule, because the attorney's fees come from the fund, which belongs to the class. In this way, the client, not the losing party, pays the attorney's fees.

> Thus, the key distinction between common-fund and fee-shifting cases is whether the attorney's fees are paid by the client (as in common-fund cases) or by the other party (as in fee-shifting cases).

Id. at 1078-79.

Per *Home Depot*, and in light of TILA's § 1640(a)(3), Plaintiff's action here is a fee-shifting case—not a common fund case. The same was true in *Home Depot*, and the Eleventh Circuit refused to apply a constructive common fund—even over class counsel's request—because there was no "package deal" (as similarly concerned the Ninth Circuit in *Bluetooth*) justifying such application:

> On its face, the settlement agreement provides that Home Depot will pay the attorney's fees. The agreement states that "Home Depot agrees to pay the reasonable attorneys' fees, costs and expenses of counsel for the Financial Institution Plaintiffs." Even more explicit, the agreement goes on to state that "[a]ny award of attorneys' fees, costs, and expenses shall be paid separate from and in addition to the Settlement Fund." That sounds like fee shifting. Indeed, it is hard to imagine how the settlement agreement could be any clearer that Home Depot will pay the attorney's fees, and that payment will not come out of the class fund.
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> Still, Class Counsel insists that we should treat this arrangement as a constructive common fund. Where class action settlements are concerned, courts will often classify the fee arrangement as a "constructive common fund" that is governed by common-fund principles even when the agreement states that fees will be paid separately. Based on a proper understanding of the doctrine of constructive common funds, we find that it does not apply to this case.
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> *The rationale for the constructive common fund is that the defendant negotiated the payment to the class and the payment to counsel as a "package deal."* The defendant is concerned, first and foremost, with its total liability. Thus, courts have recognized that, as a practical matter, defendants undoubtedly take into account the amount of attorney's fees when they agree on an amount to pay the class. By taking the amount of attorney's fees into account, the defendant effectively reduces the class' recovery accordingly.
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> * * *

> *But this package-deal reasoning does not apply here. Put simply, there was no package: Home Depot did not negotiate the attorney's fees simultaneously with the settlement fund. The fees were left entirely to the District Court's discretion. The parties did not even agree to a cap, often referred to as a "clear-sailing agreement."* So it cannot be said that Home Depot took into account the amount of attorney's fees when it negotiated the size of the class award, because the amount of attorney's fees was completely undetermined.

931 F.3d at 1080-81.

So, too, here. There is no "artifice of separation . . . untethered to the economic realities" of the parties' settlement, as initially concerned this Court, *see* ECF No. 42 at 2, because there is no agreement at all on the amount of Plaintiff's attorneys' fees. The parties negotiated the class settlement fund before any discussion of fees. Even then, the parties only reached an agreement that Defendant would separately pay any fees this Court ultimately awards. To repeat, there is no "clear-sailing" agreement in the form of a negotiated cap on fees, *see* ECF No. 32-2 at 16, so the absence of a cap belies a constructive common fund. *See Home Depot*, 931 F.3d at 1081 ("Usually, when courts have applied the constructive common-fund doctrine, the parties at least agreed to a cap on the attorney's fees."). Only with a cap does "the constructive common fund make[] more sense because the defendant used the cap to determine its total exposure and (theoretically) limited the class' recovery accordingly." *Id.*[6]

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[6] The Eleventh Circuit further noted: "Admittedly, a defendant could (and probably does) make an educated guess concerning the amount of attorney's fees, even when the amount is left undetermined. But if this were enough to create a constructive common fund, it would be virtually impossible to contract for fee-shifting. The purported rule would be that any class settlement—no matter whether the fees are paid by the defendant or out of the class award, or whether the fees are negotiated separately or as part of the settlement—should be treated as a common fund. As a result, construing the agreement here as a constructive common fund would effectively eliminate the ability to contract for fee-shifting absent perhaps some magic-word requirement." *Home Depot*, 931 F.3d at 1081.

At bottom, because CLA claims are subject to statutory fee-shifting, and because there is no "clear-sailing" agreement for attorneys' fees, there is no need—and little basis—to implement a constructive common fund. *Id.* (rejecting constructive common fund while recognizing that "[i]n statutory fee-shifting cases, the Supreme Court has said that courts should use the lodestar method"); *accord Staton v. Boeing Co.*, 327 F.3d 938, 965-66 (9th Cir. 2003) (in suit brought under two federal fee-shifting statutes, noting that the parties "could have negotiated an award of fees under" those provisions, and "[h]ad they done so, the district court's review would have focused on the reasonableness of the fee request under the lodestar calculation method," but "[r]ather than justifying the attorneys' fees provisions of the settlement agreement on the statutory fee-shifting basis that would properly have applied, the parties sought to justify the fee amount according to the principles applicable to common funds").[7]

C. The lodestar method gives credence to the benefits of injunctive and prospective relief, which would be ignored in a percentage-of-recovery.

Lastly, the parties' Agreement includes significant prospective relief not only for class members but also myriad more consumers nationwide: Defendant's retirement of its form lease agreement that Plaintiff challenged here. Through Plaintiff's efforts, countless future customers of Defendant's bear no risk of being confused or potentially misled by the same agreement that caused Plaintiff—and over 22,000 others—harm.

As this prospective relief is inherently difficult, if not impossible, to quantify, it would not be captured, for purposes of compensating class counsel for their efforts, in

[7] *Accord Broomfield v. Craft Brew Alliance, Inc.*, No. 17-1027, 2020 WL 1972505, at *11 (N.D. Cal. Feb. 5, 2020) ("The lodestar method is therefore appropriate here because the Settlement does not establish a common fund and [the] consumer statutes at issue provide a basis in the law for an award of attorneys' fees."); *Aikens v. Malcolm Cisneros, A Law Corp.*, No. 17-2462, ECF No. 76 at 11 (C.D. Cal. Jan. 2, 2020) (Staton, J.) (awarding fees in FDCPA fee-shifting class action using the lodestar method and noting, "Here, the award to the Class Members is being paid by Defendant separate and apart from the attorneys' fees award. Thus, this is not a common fund case and whatever amount of fees is awarded to class counsel, it will not affect the amount going to class members.").

a constructive common fund percentage-of-recovery approach. This further supports application of the lodestar method in awarding Plaintiff's attorneys' fees. *See Bluetooth*, 654 F.3d at 941 ("The 'lodestar method' is appropriate in class actions brought under fee-shifting statutes (such as federal civil rights, securities, antitrust, copyright, and patent acts), where the relief sought—and obtained—is often primarily injunctive in nature and thus not easily monetized, but where the legislature has authorized the award of fees to ensure compensation for counsel undertaking socially beneficial litigation.").

As the Western District of Washington recognized in *Johnson v. Metro-Goldwyn-Mayer Studios, Inc.*:

> [T]he lodestar method is appropriate in this case for numerous reasons. First, the action was brought, at least in part, under Washington's Consumer Protection Act, which provides for an award of statutory attorneys' fees. Second, the settlement did not create a true common fund as it did not establish a single sum for both class compensation and attorneys' fees. Plaintiff also indicates that class compensation was negotiated first, with attorneys' fees being negotiated only after settlement of the class claims. Third, at least part of the relief obtained under the settlement agreement was injunctive relief and the lodestar method is often used where the relief sought and obtained is not easily monetized. Fourth, Plaintiff has considered only the lodestar method in her Motion for Fees.

No. 17-541, 2018 WL 5013764, at *6 (W.D. Wash. Oct. 16, 2018); *see also Relente v. Viator, Inc.*, No. 12-5868, 2015 WL 3613713, at *2 (N.D. Cal. June 9, 2015) ("[T]he Court's attorney's fees analysis will use the lodestar method. That method is particularly suited to this case because part of the relief the class obtained is an injunction, whose value will not be reflected in the monetary award that is going to the class.").

III. Under the lodestar approach, fee awards pursuant to fee-shifting statutes may greatly exceed plaintiffs' damages recoveries.

Also important, in keeping with congressional intent, awards of reasonable attorneys' fees under federal fee-shifting statutes "are not conditioned upon and need not be proportionate to an award of money damages." *City of Riverside v. Rivera*, 477 U.S. 561, 576 (1986); *see also Evon v. Law Offices of Sidney Mickell*, 688 F.3d 1015,

1033 (9th Cir. 2012) ("The same is true in consumer protection cases: where the monetary recovery is generally small, requiring direct proportionality for attorney's fees would discourage vigorous enforcement of the consumer protection statutes."); *Lewis v. Kendrick*, 944 F.2d 949, 957 (1st Cir. 1991) ("We believe we made it clear that we were not departing from the recognized principle that the fee is not limited by the size of the recovery, but may, in appropriate instances, greatly exceed it.").

This is because a rule so limiting an attorneys' fee award in proportion to the damages recovered would seriously undermine the mechanism that Congress chose to enforce the CLA, particularly in light of its consumer protection goals. *See Purtle v. Eldridge Auto Sales, Inc.*, 91 F.3d 797, 802 (6th Cir. 1996) (upholding a fee award under TILA and noting that "[t]he attorney's fees are not limited by the amount of Purtle's recovery"); *accord Durham v. Cont'l Cent. Credit*, No. 07-1763, 2011 WL 6783193, at *3 (S.D. Cal. Dec. 27, 2011) ("A requirement of proportionality between attorney's fees and damages would discourage attorneys from accepting representation of FDCPA plaintiffs and would be inconsistent with the FDCPA's statutory scheme."); *Parkinson v. Hyundai Motor Am.*, 796 F. Supp. 2d 1160, 1171-72 (C.D. Cal. 2010) (Stotler, J.) (using lodestar over "a constructive common fund or [percentage-of-recovery] method" in part because "[u]se of the [percentage-of-recovery] method in this case would result in an arbitrary reduction in the fee award, contrary to the purpose of the fee-shifting statute" at the heart of the lawsuit).

The very purpose of CLA fee shifting is to benefit consumers by allowing them to obtain competent counsel to pursue redress under the statute, even for relatively small claims. For example, an individual filing suit under the CLA may recover statutory damages of no more than $2,000, or as little as $200, depending on the terms of his lease. 15 U.S.C. § 1640(a)(2)(A)(ii). While the statute additionally allows recovery of attorneys' fees and costs, *id.* at § 1640(a)(3), few, if any, attorneys would take on such work if they knew from the outset that, regardless of their efforts, payment would be

limited to a proportion of damages capped by law at $2,000.[8] The complaint filing cost, alone, could top the potential fee award. *See Nigh*, 478 F.3d at 188 ("TILA awards will rarely be enough to cover the costs of representation; in most cases, they scarcely will cover the costs of filing a claim. Only with fee shifting does the prosecution of a typical individual TILA claim become an economically sensible possibility.").

By incentivizing the private bar to involve itself in consumer protection litigation by way of fee-shifting provisions, the federal government has relieved itself of the costs of protecting consumers while ensuring that they may still be vindicated under the law. FDCPA jurisprudence is particularly enlightening because, like the CLA, that statute encourages private enforcement through fee shifting while also instituting class damages limits in proportion to the defendant's net worth—thus capping available remedies, even for potentially egregious violations. *See* 15 U.S.C. § 1692k(a).

The Seventh Circuit thus found that, "[i]n order to encourage able counsel to undertake FDCPA cases, as Congress intended, it is necessary that counsel be awarded fees commensurate with those which they could obtain by taking other types of cases." *Tolentino v. Friedman*, 46 F.3d 645, 653 (7th Cir. 1995). This "commensurate" fee is best measured *not* by damages obtained but by "what that attorney could earn from paying clients" at a "standard hourly rate." *Id*. Paying counsel less—by fashioning an award of attorneys' fees in proportion to the amount of damages recovered—"is inconsistent with the Congressional desire to enforce the FDCPA through private actions, and therefore misapplies the law." *Id*. Of course, this same reasoning applies with equal force to the CLA. *See Purtle*, 91 F.3d at 802.

The District of Maine succinctly summarized the need for attorneys' fee awards *un*tethered to damages awarded in fee-shifting cases:

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[8] This is equally true in consumer class actions pursued under statutes with statutory damages limits like the CLA, where actual damages are often difficult to establish and a class's maximum statutory damages are capped at one percent of the defendant's net worth.

> In the debt collection context, to apply a rigid proportionality rule to a case where there is no actual demonstrable damage would allow a debt collector to ignore the requirements of federal and state law, confident that its violation would be sanctioned by a maximum award of $1,000 and by attorney's fees roughly limited to the amount of the award. If the proportionality argument were rigorously applied, the potential benefit of the violation of the consumer protections of the FDCPA and [its Maine state law equivalent] could exceed the potential sanction. *Furthermore, if plaintiff's counsel knew, based on a cap on the statutory award, that a substantial portion of her work would go uncompensated, she would have little incentive to do the legal spadework essential for successful litigation and debtors would as a practical matter find it difficult to recruit attorneys to represent them in small, but significant violations of the law.*

Archambault v. GC Servs. Ltd. P'ship, No. 16-104, 2016 WL 6208395, at *5 (D. Me. Oct. 24, 2016).

Numerous district courts within this circuit agree. The Eastern District of California worried that "[w]ronged debtors would also be less likely to find counsel absent the guarantee of fee-shifting, as the damages involved are often too low to support contingency-based representation." *Davis v. Hollins Law*, 25 F. Supp. 3d 1292, 1302 (E.D. Cal. 2014). It thus "discern[ed] no principled justification to" so apportion attorneys' fees: "There exists no requirement of proportionality between the damages recovered and the attorney's fees and costs ultimately awarded in FDCPA cases." *Id.*

Judge McDermott noted that the Supreme Court has "rejected any rule of proportionality," holding: "As there rarely will be extensive damages, a rule of proportionality would discourage vigorous enforcement of [the] FDCPA." *Kottle v. Unifund CCR, LLC*, 992 F. Supp. 2d 982, 985 (C.D. Cal. 2014) (McDermott, M.J.). To that end, the Northern District of California awarded $118,978.30 in fees and costs on an FDCPA recovery of $1,000—an award *118 times* the damages recovery—because such recovery "does not reflect a lack of success. Their purpose was to establish that the defendants violated the FDCPA, and they won." *De Amaral v. Goldsmith & Hull*, No. 12-3580, 2014 WL 1309954, at *6, *8 (N.D. Cal. Apr. 1, 2014).

Examples of disproportional attorneys' fee awards in fee-shifting class actions

abound nationwide. *See, e.g.*, *Taylor v. TimePayment Corp.*, No. 18-378, 2020 WL 906319, at *2-3 (E.D. Va. Feb. 24, 2020) (finally approving class settlement under the CLA, TILA, and state usury law providing $225,000 in cumulative class benefits, and separately awarding attorneys' fees and costs of $210,000); *Riddle v. Atkins & Ogle Law Offices, LC*, No. 19-249, 2020 WL 3496470, at *2 (S.D. W. Va. June 29, 2020) ($50,000 in fees and costs in conjunction with FDCPA class settlement fund of $5,500); *Alderman v. GC Servs. Ltd. P'ship*, No. 16-14508, 2019 WL 1605656, at *2-3 (S.D. Fla. Apr. 9, 2019) ($195,000 in fees and costs for $172,910 FDCPA class settlement); *McWilliams v. Advanced Recovery Sys., Inc.*, No. 15-70, 2017 WL 2625118, at *3 (S.D. Miss. June 16, 2017) ($116,562.50 in attorneys' fees after $35,000 FDCPA class settlement recovery); *Schuchardt v. Law Office of Rory W. Clark*, 314 F.R.D. 673, 689 (N.D. Cal. 2016) ($52,500 in fees and costs in connection with $13,610 FDCPA class settlement fund); *Alexander v. Coast Prof'l Inc.*, No. 12-1461, 2016 WL 861329, at *8 (E.D. Pa. Mar. 7, 2016) ($185,000 in fees and expenses in connection with $9,000 FDCPA class settlement).

It therefore follows that the size of Plaintiff's fee request here in relation to the $130,000 class settlement fund should pose no threat to its approval.

IV. Plaintiff is entitled to an award of attorneys' fees of $113,985 based on his counsel's substantial efforts.

Using the lodestar method, this Court must determine a reasonable attorneys' fee for Plaintiff "by multiplying the number of hours the prevailing party reasonably expended on the litigation by a reasonable hourly rate." *Camacho*, 523 F.3d at 978. This Court may also then consider a multiplier to that lodestar:

> [T]he Court divides the total fees sought by the lodestar to arrive at the multiplier. The purpose of this multiplier is to account for the risk Class Counsel assumes when they take on a contingent-fee case. If the multiplier falls within an acceptable range, it further supports the conclusion that the fees sought are, in fact, reasonable. In determining whether a multiplier is appropriate, courts consider the following factors:

> (1) the time and labor required, (2) the novelty and difficulty of the questions involved, (3) the skill requisite to perform the legal service properly, (4) the preclusion of other employment by the attorney due to acceptance of the case, (5) the customary fee, (6) whether the fee is fixed or contingent, (7) time limitations imposed by the client or the circumstances, (8) the amount involved and the results obtained, (9) the experience, reputation, and ability of the attorneys, (10) the "undesirability" of the case, (11) the nature and length of the professional relationship with the client, and (12) awards in similar cases.

Schuchardt, 314 F.R.D. at 690. Regardless, Plaintiff seeks no such multiplier here, as explained below.

A. Class counsel already have invested more than 230 hours in this matter, with much work still remaining to be done.

Turning first to the number of hours reasonably expended, the attorneys at Greenwald Davidson Radbil PLLC ("GDR") invested hundreds of hours for the class's benefit, which includes: (a) conducting an investigation into the underlying facts regarding Plaintiff's and the class's claims; (b) preparing a class action complaint; (c) researching the law pertinent to class members' claims and Defendant's defenses; (d) researching and preparing Plaintiff's opposition to Defendant's motion to dismiss; (e) negotiating the parameters of the class settlement now before this Court, which included the exchange of several settlement demands and counteroffers and many related telephone conferences among counsel to work through details of the demands and offers; (f) conferring repeatedly with Plaintiff and defense counsel throughout the litigation, beyond the aforementioned settlement discussions; (g) preparing the Agreement, along with the proposed direct mail and long-form class notices; (h) obtaining and negotiating several class notice administration proposals, and ultimately coordinating with Angeion Group and defense counsel to devise a class notice and settlement administration program to best serve class members; (i) preparing Plaintiff's unopposed motion for preliminary approval of the class settlement, the proposed order

accompanying the same, and counsel's supporting declaration; (j) following the Court's denial of Plaintiff's initial motion, coordinating with defense counsel regarding the parties' response, and preparing Plaintiff's renewed unopposed preliminary approval motion; (k) following the Court's denial of that renewed motion, coordinating with defense counsel again regarding the parties' response, and ultimately preparing Plaintiff's second renewed unopposed preliminary approval motion, and counsel's supporting declaration; (l) upon the Court's preliminary approval of the settlement, coordinating with Angeion Group and defense counsel to finalize the class notice program; (m) responding to class member inquiries regarding the settlement; (n) preparing the instant motion seeking approval of an award of attorneys' fees, costs, and litigation expenses for Plaintiff, and the proposed order accompanying the same; and (o) preparing the declaration supporting the instant motion. Johnson Decl. at ¶ 48.

In doing so, GDR's attorneys billed 232.7 hours to date performing legal services reasonably necessary to litigate this matter. *Id.* at ¶¶ 51-54. The undersigned served as lead attorney for GDR and performed the vast bulk of this work himself, while two additional partners and one associate assisted with legal strategy and research. *Id.* at ¶¶ 52-53. Worth noting, this tally does *not* include an additional 15.2 hours of attorney time that GDR voluntarily zeroed out as non-billable in an exercise of billing discretion, *see id.* at ¶ 51, nor does it include any time accumulated by Plaintiff's local counsel at the Thompson Consumer Law Group, PC. *Id.* at ¶ 60.

What's more, GDR estimates that it will spend approximately 50 more hours of billable time to prepare Plaintiff's unopposed final approval motion and corresponding final approval order; prepare for, travel to, and attend the final fairness hearing in Riverside in March 2021; continue coordinating class notice and settlement administration efforts with Angeion Group (the Court-appointed administrator) and Defendant's counsel; respond to class member inquiries; and otherwise bring this matter to a successful conclusion. *See id.* at ¶¶ 49, 56. As a result, GDR anticipates having spent 282.7 hours litigating this case by the time it concludes.

B. GDR's hourly rates are reasonable.

While completing this work, the undersigned billed at $400 per hour, senior partners Michael L. Greenwald and James L. Davidson each billed at $450 per hour, and associate Alexander D. Kruzyk billed at $350 per hour. Significantly, earlier this year in connection with a class action settlement under the FDCPA, Judge Staton specifically approved as reasonable GDR's partner rates of $400 and $450 "[i]n light of the evidence presented by Plaintiff, the attorneys' experience, and the Court's own knowledge of prevailing rates" in this district. *Aikens*, ECF No. 76 at 15.[9]

Outside this district, several other courts specifically approved GDR's rates over the last few years in class action settlements under fee-shifting statutes. *See, e.g.*, *Newman v. Edoardo Meloni, P.A.*, No. 20-60027, 2020 WL 5269442, at *2 (S.D. Fla. Sept. 4, 2020) (approving $350 to $450 as "within the range of reasonableness for" the Southern District of Florida); *Riddle*, 2020 WL 3496470, at *2 (approving $400 and $450 as "within the range of reasonableness" in the Southern District of West Virginia); *Dickens v. GC Servs. Ltd. P'ship*, No. 16-803, 2019 WL 1771524, at *1 (M.D. Fla. Apr. 10, 2019) ("Class Counsel charged associate and partner rates ranging from $350 to $450 per hour. The Court agrees that for this type of litigation and the market rate in Tampa, the rates are reasonable."); *Gonzalez v. Germaine Law Office PLC*, No. 15-1427, 2016 WL 5844605, at *1, n.1 (D. Ariz. Oct. 3, 2016) (approving rates of $350 and $400 in Arizona while noting that GDR's "hourly rates are in line with others recently approved in FDCPA cases in this District"); *Bellum v. Law Offices of Frederic I. Weinberg & Assocs., P.C.*, No. 15-2460, 2016 WL 4766079, at *10 (E.D. Pa. Sept. 13, 2016) (approving GDR's partner and associate rates of $400 and $350, respectively); *Schuchardt*, 314 F.R.D. at 689 ("Given that Class Counsel has been

[9] Worth noting, Judge Staton utilized the lodestar method to award GDR attorneys' fees of $80,004.33 in an FDCPA class settlement providing $6,900 for the class—a recovery of approximately 31% of maximum potential statutory damages. *Id.* at 4, 17. Here, by comparison (and with a motion to dismiss still pending), the class will receive 37% of maximum potential statutory damages.

appointed in numerous class actions, including FDCPA cases; courts have awarded them exactly the same rates requested here in previous cases; and courts in this District [Northern California] found similar rates appropriate in FDCPA cases, Class Counsel's requested rates are reasonable.").

Further, GDR's rates fit within prevailing market rates in this district, particularly for complex class actions like this. *See, e.g.*, *Bea-Mone v. Silverstein*, No. 17-550, 2019 WL 762676, at *4 (C.D. Cal. Feb. 20, 2019) (Staton, J.) (finding attorney rates of $350 and $400 "well within the range courts in the Central District have found reasonable for FDCPA cases"); *Salazar v. Midwest Servicing Grp., Inc.*, No. 17-137, 2018 WL 4802139, at *6 (C.D. Cal. Oct. 2, 2018) (Gutierrez, J.) (approving hourly rates ranging from $450 to $495 in FDCPA class case); *Mendoza*, 2018 WL 3830133, at *2 (approving hourly rates of $350 and $400 in individual TILA action); *Guadarrama*, 2018 WL 5816198, at *4-5 (approving $350 per hour for individual claims under TILA); *Yang v. Assisted Credit Servs., Inc.*, No. 15-2118, 2017 WL 9939710, at *3 (C.D. Cal. Nov. 7, 2017) (Guilford, J.) (allowing $400 in FDCPA case).[10]

What's more, GDR's rates all are below the median rates for attorneys handling class action cases in California, and in this region in particular, as set forth in the most recent version of the United States Consumer Law Attorney Fee Survey Report. *See* United States Consumer Law Attorney Fee Survey Report, 2017-2018, pp. 59, 230, available at https://burdgelaw.com/wp-content/uploads/2019/10/US-Consumer-Law-

[10] *Accord Brandt v. Columbia Credit Servs., Inc.*, No. 17-703, 2018 WL 4963109, at *1 (W.D. Wash. Oct. 15, 2018) (approving $350 and $400 rates in *individual* FDCPA action); *Brown v. Mandarich Law Grp., LLP*, No. 13-4703, 2014 WL 1340211, at *2 (N.D. Cal. April 2, 2014) (approving $450 rate for partner in *individual* FDCPA action five years ago); *Rivera v. Portfolio Recovery Assocs., LLC*, No. 13-2322, 2013 WL 5311525, at *8 (N.D. Cal. Sept. 23, 2013) (approving $450 rate six years ago for successful FDCPA action); *Shelago v. Marshall & Ziolkowski Enter., LLC*, No. 07-279, 2009 WL 1097534, at *2 (D. Ariz. 2009) (finding hourly rates of $300 and $400 reasonable, in 2009, in *individual* FDCPA litigation); *Palmer v. Far West Collection Servs., Inc.*, 04-3027, 2008 WL 5397140, at *1 (N.D. Cal. Dec. 18, 2008) (in FDCPA class action, approving $465 rate as reasonable nearly 12 years ago).

Attorney-Fee-Survey-Report-2017-2018.pdf (last accessed November 5, 2020) (median hourly rate for a class action attorney in California in 2017-2018 was $488, and $500 in the Riverside area); *accord Shelago*, 2009 WL 1097534, at *2 (considering a consumer law attorney fee survey in addressing a fee petition under the FDCPA).

Multiplying each attorney's hourly rate by the number of hours he committed to this case yields a lodestar to date of $93,985. *See* Johnson Decl. at ¶¶ 57-58. And tallying Mr. Johnson's additional anticipated time of 50 hours, multiplied by his rate of $400 per hour, adds $20,000 more in expected lodestar. So, combining the time incurred with the additional time anticipated thus results in a total anticipated lodestar of $113,985. *Id.* at ¶ 58.[11] Plaintiff submits that this estimation is perfectly reasonable for the significant work performed by GDR to obtain the great results of this settlement for over 22,000 potential class members nationwide. This is particularly true considering that GDR voluntarily reduced its lodestar by zeroing out several time entries, and even one timekeeper, prior to Plaintiff making this request. *See Reade-Alvarez v. Eltman, Eltman, & Cooper, P.C.*, No. 04-2195, 2006 WL 3681138, at *8 (E.D.N.Y. Dec. 11, 2006) ("Because the proposed fee of $50,000 is actually lower than the lodestar, that proposed amount is justifiable.").

[11] Plaintiff is filing this motion seeking a total fee award that includes estimations for work remaining to be done, prior to the objection deadline, so that class members may evaluate his fee petition in its entirety when assessing their potential courses of action here. *Accord In re Mercury Interactive Corp. Sec. Litig.*, 618 F.3d 988, 993-94 (9th Cir. 2010) ("The plain text of [Rule 23] requires that any class member be allowed an opportunity to object to the fee 'motion' itself, not merely to the preliminary notice that such a motion will be filed."). If at the conclusion of this case GDR ultimately incurs attorneys' fees in some lesser amount than its estimations, Plaintiff will seek a fee award of only whatever amount the record supports. Conversely, if GDR ultimately incurs more time than is estimated, Plaintiff will not seek recompense above the $113,985 total provided herein.

C. The *Kerr* factors additionally support the reasonableness of Plaintiff's fee request, including that he effectively seeks a *negative* multiplier.

Finally, this Court may consider several additional factors—the *Kerr* factors—in determining whether GDR's lodestar should be adjusted upward or downward in setting an appropriate fee award. *See Bea-Mone*, 2019 WL 762676, at *2 ("[o]nce a lodestar figure is at hand, the Court may consider the twelve *Kerr* factors") (referencing *Kerr v. Screen Guild Extras, Inc.*, 526 F.2d 67, 70 (9th Cir. 1975)). And while Plaintiff is seeking no such multiplier or other enhancement to his counsel's lodestar—just the opposite, as GDR already reduced its billable time in this matter—he submits that the *Kerr* factors further demonstrate the reasonableness of his abridged fee request.

First, this action carried significant risk both on the merits and on the propriety of certification of a litigation class (as opposed to settlement class), which Defendant assuredly would have contested absent settlement. It bears repeating that Plaintiff obtained a $130,000 class recovery with a motion to dismiss still pending, the granting of which would have foreclosed *any* recovery if successful.

But even assuming Plaintiff had overcome that motion, Defendant most certainly would have objected to class certification as to commonality, typicality, predominance, and/or superiority. Differences—however minor—between Plaintiff's lease agreement and those signed by other potential class members could have fragmented the class's claims. Legal and factual battles at summary judgment, or potentially at trial, would have ensued, potentially halting the class's claims altogether. Or, even with a victory on the merits, the jury could have awarded the class little or no statutory damages after conducting the necessary analysis required by statute. *See* ECF No. 39-1 at 7-11.

Instead, the parties' Agreement assures the class substantial monetary relief while guaranteeing a significant change in Defendant's leasing practices. *See Gross v. Wash. Mut. Bank*, No. 02-4135, 2006 WL 318814, at *6 (E.D.N.Y. Feb. 9, 2006) ("The type of litigation undertaken by class counsel here, which addresses important consumer

concerns that would likely be ignored without such class action lawsuits, must be encouraged."). The results here in light of these risks favor Plaintiff's fee request.

Second, this settlement might not have been possible without GDR's decades of collective experience in consumer protection class action litigation, having earned a stellar reputation in their field. *See* Johnson Decl. at ¶¶ 8-28. The Southern District of West Virginia recently recognized:

> GDR is an experienced firm that has successfully litigated many complex consumer class actions. Because of its experience, GDR has been appointed class counsel in many class actions throughout the country, including several in the Fourth Circuit. GDR employed that experience here in negotiating a favorable result that avoids protracted litigation, trial, and appeals.

Riddle, 2020 WL 3496470, at *3. Class counsel's familiarity with the law and sharpened skill set undoubtedly helped bring this matter to an efficient, favorable conclusion. *See In re Heritage Bond Litig.*, No. 02-1475, 2005 WL 1594403, at *20 (C.D. Cal. June 10, 2005) (Tevrizian, J.) ("The experience of Class Counsel also justifies the fee award requested.").

Third, GDR is a firm of just five full-time attorneys, all of whom pitched in here on behalf of the class. Their involvement in this case, particularly Mr. Johnson's, necessarily curtailed class counsel's ability to accept other work, further justifying their fees here. *See, e.g.*, *In re Checking Account Overdraft Litig.*, 830 F. Supp. 2d 1330, 1365 (S.D. Fla. 2011) ("It is uncontroverted that the time spent on the Action was time that could not be spent on other matters. This factor too supports the requested fee.").

Fourth, GDR undertook this case on a contingency arrangement, as is customary in consumer protection class litigation. Accordingly, counsel would only receive payment in this case if they obtained a recovery for Plaintiff or the class. Such a fee arrangement "weighs in favor of the requested attorneys' fees award, because [s]uch a large investment of money [and time] place[s] incredible burdens upon . . . law practices and should be appropriately considered." *In re Thornburg Mortg., Inc. Sec. Litig.*, 912

F. Supp. 2d 1178, 1256 (D.N.M. 2012); *Clark v. City of L.A.*, 803 F.2d 987, 991 (9th Cir. 1986) ("The risk and delay involved in contingent fee arrangements have long been seen as justifications for the relatively large fees often resulting in contingency cases.").

Fifth, GDR navigated all attendant risks of contingency class action litigation to obtain for the class over one-third of *maximum* potential damages, plus prospective relief, while a motion to dismiss still loomed large. "The overall result and benefit to the class from the litigation is the most critical factor in granting a fee award." *Graham v. Capital One Bank (USA), N.A.*, No. 13-743, 2014 WL 12579806, at *5 (C.D. Cal. Dec. 8, 2014) (Staton, J.). And while the class settlement fund reaches about 37% of the maximum statutory damages for the class—capped by law at one percent of Defendant's net worth—it is important to consider that a *maximum* award never was guaranteed. *See* ECF No. 39-1 at 7-8; *accord Gonzalez v. BMC West, LLC*, No. 17-390, 2018 WL 3830774, at *6 (C.D. Cal. May 23, 2018) (Bernal, J.) (preliminarily approving class settlement amounting to 36.73% of defendant's potential exposure).[12]

What's more, the anticipated per-person recovery of between $29 and $58 compares favorably with other class settlements under the CLA and TILA. *See, e.g.*, *Danger v. Nextep Funding, LLC*, No. 18-567, 2020 WL 4034822 (D. Minn. July 17, 2020) (preliminarily approving class settlement under the CLA and TILA with expected claim-in recoveries of between $50 and $100); *Taylor*, 2020 WL 906319, at *2 (finally approving class settlement under the CLA and TILA providing about $26 per claimant); *Spencer v. #1 A LifeSafer of Ariz., LLC*, No. 18-2225, 2019 WL 1034451, at *1, *4 (D. Ariz. Mar. 4, 2019) (allowing $22 to $45 per claimant in CLA class settlement); *Salvagne v. Fairfield Ford, Inc.*, No. 09-324, 2011 WL 13248504, at *1-2 (S.D. Ohio

[12] As the Ninth Circuit has held, "while the amount of damages recovered is relevant to the amount of attorney's fees awarded, it is only one of several factors that a court must consider in determining the fee award." *See Evon*, 688 F.3d at 1033. Therefore, "courts should not reduce lodestars based on relief obtained simply because the amount of damages recovered on a claim was less than the amount requested." *Quesada v. Thomason*, 850 F.2d 537, 539 (9th Cir. 1988).

Sept. 21, 2011) (awarding maximum TILA class damages of $33,292.15, allowing $35.72 per person).

Sixth, the fee award sought here is well in line with those approved in similar consumer protection class action litigation. *See, e.g.*, *Taylor*, 2020 WL 906319, at *3 (awarding attorneys' fees and costs of $210,000 in class settlement under the CLA, TILA, and state usury law); *Aikens*, ECF No. 76 at 17 ($80,004.33 in attorneys' fees in FDCPA class settlement); *Dickens*, 2019 WL 1771524, at *1 ($270,000 in fees and costs in FDCPA class settlement); *Alderman*, 2019 WL 1605656, at *2-3 ($195,000 in fees and costs in FDCPA class settlement); *Grant v. Ocwen Loan Servicing*, No. 15-1376, 2019 WL 367648, at *9 (M.D. Fla. Jan. 30, 2019) ($150,000 in fees and expenses in FDCPA class settlement); *McWilliams*, 2017 WL 2625118, at *3 (fees of $116,562.50 and expenses of $1,782.55 in FDCPA class settlement); *Blandina v. Midland Funding, LLC*, No. 13-11792, 2016 WL 3101270, at *8 (E.D. Pa. June 1, 2016) ($245,000 in fees and expenses in FDCPA class settlement); *Alexander*, 2016 WL 861329, at *8 ($185,000 in fees and expenses in FDCPA class settlement); *Roundtree v. Bush Ross, P.A.*, No. 14-357, 2016 WL 360721, at *2 (M.D. Fla. Jan. 28, 2016) (fees and expenses of $170,000 in FDCPA class settlement); *Donnelly v. EquityExperts.org, LLC*, No. 13-10017, 2015 WL 249522, at *2 (E.D. Mich. Jan. 14, 2015) (fees of $90,000 and expenses of $5,947.58 in FDCPA class case).

These factors, individually and collectively, militate toward approval of Plaintiff's requested attorneys' fees.

V. Plaintiff and his counsel are entitled to reimbursement for the reasonable costs and litigation expenses incurred during this litigation.

Plaintiff also seeks reimbursement of costs and litigation expenses routinely charged to paying clients in the marketplace and, therefore, properly reimbursable under Rule 23. *In re Immune Response Sec. Litig.*, 497 F. Supp. 2d 1166, 1177-78 (S.D. Cal. 2007) (awarding as reasonable and necessary, reimbursement for "1) meals, hotels, and transportation; 2) photocopies; 3) postage, telephone, and fax; 4) filing fees; 5)

messenger and overnight delivery; 6) online legal research; 7) class action notices; 8) experts, consultants, and investigators; and 9) mediation fees"); *see also* Fed. R. Civ. P. 23(h) ("In a certified class action, the court may award reasonable attorney's fees and *nontaxable* costs that are authorized by law or by the parties' agreement.").

As of this filing, GDR has incurred reimbursable costs and litigation expenses in the amount of $1,136.40. Johnson Decl. at ¶ 63. This includes the filing fee for the complaint ($400), the fee for counsel's admission *pro hac vice* ($400), the cost for serving Defendant with the class action complaint and summons ($50), and charges for deliveries of courtesy copies of various case documents ($286.40). *Id.*

GDR additionally will incur reimbursable expenses associated with counsel's travel to California for the final fairness hearing in March 2021, including airfare, lodging, meals, home airport parking in Ft. Lauderdale, and transportation between the airport, the courthouse, and counsel's hotel in California, among other expenses. GDR estimates that these additional expenses will total approximately $900, resulting in total expenses of approximately $2,036.40. *Id.* at ¶ 65. These expenses are properly compensable and deserving of reimbursement upon Plaintiff's confirmation of their actual costs in advance of the final fairness hearing.

Worth noting, GDR also incurred other reimbursable expenses not itemized herein such as for printing, photocopies, long distance telephone calls, and computerized legal research. But Plaintiff does not seek reimbursement for these expenses, underscoring the reasonableness of the request at hand.

Conclusion

Defendant has agreed to create a $130,000 settlement fund, discontinue its form lease agreement, and separately pay a reasonable attorneys' fee and expense award to Plaintiff's counsel. Given the success of GDR's efforts in the face of strong opposition from Defendant, Plaintiff respectfully submits that awards of $113,985 in fees and $2,036.40 in costs and expenses are eminently reasonable for this certified class action

benefitting thousands of consumers nationwide. The proposed awards will not diminish class members' recoveries in any way, as Defendant will pay them in addition to, and not *from*, the class settlement fund. *See Good v. Nationwide Credit, Inc.*, No. 14-4295, 2016 WL 929368, at *16 (E.D. Pa. Mar. 14, 2016) ("Even if the Court were to approve less than the $125,000 negotiated amount, the class would not gain a greater recovery; rather, Defendant would simply keep the money.").

Because Plaintiff's attorneys' fees and expenses are fair and reasonable, unopposed by class members to date, and supported by both the record and applicable Ninth Circuit law, they should be approved under the CLA and Rule 23.

DATED: November 9, 2020

GREENWALD DAVIDSON RADBIL PLLC

By: */s/ Jesse S. Johnson*
Jesse S. Johnson
Class counsel

Certificate of Service

I hereby certify that on November 9, 2020, I filed a copy of the foregoing with the Clerk of Court using the Court's CM/ECF system, which will provide notice to all counsel of record.

/s/ Jesse S. Johnson
Jesse S. Johnson