Laura L. Ho (SBN 173179)
lho@dhkl.com
James Kan (SBN 240749)
jkan@dhkl.com
Katharine Trabucco (SBN 305413)
ktrabucco@dhkl.com
DARDARIAN HO KAN & LEE
155 Grand Avenue, Suite 900
Oakland, CA 94612
Tel: (510) 763-9800
Fax: (510) 835-1417

Julian Hammond (SBN 268489)
jhammond@hammondlawpc.com
Ari Cherniak (SBN 290071)
acherniak@hammondlawpc.com
Polina Brandler (SBN 269086)
pbrandler@hammondlawpc.com
HAMMONDLAW, P.C.
1201 Pacific Avenue, Suite 600
Tacoma, WA 98402
Tel: (310) 807-1666
Fax: (310) 295-2385

Attorneys for Plaintiffs and the Settlement Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

ABDULLAH UZAIR, ANGEL CHAVEZ, NICHOLAS JOEL LUSKIN, and SALVADOR DE LA O, individually and on behalf of all others similarly situated, Plaintiffs, vs. GOOGLE, LLC, a California Limited Liability Company, Defendant.	Case No.: 18CV328915 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S MOTION FOR APPROVAL OF ATTORNEYS' FEES AND COSTS AND SERVICE AWARDS** Date: July 23, 2026 Time: 1:30 p.m. Dept.: 22 Before: Hon. Beth McGowen Hearing dated set by the Court in January 24, 2026 Order Granting Plaintiff's Motion for Preliminary Approval

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

In conjunction with their motion for final approval, Class Counsel respectfully move this Court for an award of reasonable attorneys' fees in the amount of $2,250,000, reimbursement of actual out-of-pocket costs in the amount of $165,062.97, which includes $500 in anticipated costs expected to be incurred through final approval, and service awards for Plaintiffs De La O and Chavez in the amounts of $5,000 and $2,500, respectively.

This litigation was hard fought from beginning to end. Over the course of more than seven years, Google, LLC ("Defendant" or "Google") vigorously contested liability, certification, damages, and nearly every significant issue in the case. After more than seven years of sustained and substantial effort, and sophisticated legal work, Class Counsel achieved a $5 million non-reversionary settlement on behalf of approximately 450,000 California consumers. If the Court grants final approval and approves the requests made herein, approximately $2,502,437.03 will be distributed to Settlement Class Members through automatic Google Play credits or electronic cash payments. These automatic payments represent close to 60% of the amount paid for their first subscription renewal term—the very payment that formed the basis of the certified claims. In addition, after this action was filed, Google revised its subscription disclosures to inform consumers that subscriptions automatically renew until cancelled and to provide consumers with readily accessible cancellation information, thereby advancing the ARL's consumer-protection objectives.

The requested fee award is fair and reasonable under the lodestar analysis. The requested $2.25 million in attorneys' fees represents *less than half* of Class Counsel's current lodestar, which exceeds $4.9 million. Class Counsel devoted *more than 6,000 hours* to the prosecution of this hotly contested case against a well-funded defendant that mounted aggressive defenses at every step. The value of that work is underscored by the related, later-filed, *Dutcher v. Google LLC, et al.,* No. 20CV366905 matter, in which plaintiff alleged that Google and YouTube violated the ARL with respect to YouTube TV subscriptions. Although *Dutcher* also involved substantial litigation, that case was filed two years after the instant case and Class Counsel's work and the rulings developed here informed the *Dutcher* litigation, including the work undertaken by Class Counsel here to restore certification, which the *Dutcher* plaintiff represented prompted renewed settlement discussions in that case. That chronology also helps explain why Class Counsel devoted more than 6,000 hours here, while counsel in *Dutcher* reported approximately 2,000 hours at preliminary approval.

The requested attorneys' fee award, which is 45% of the common fund, is also justified under the percentage-of-the-fund analysis. Courts routinely approve higher percentage awards in cases involving modest common funds, particularly where counsel achieved an excellent result after years of contingent litigation and the requested fee represents a negative multiplier. That is the case here. The common fund is under $10 million, which for purposes of percentage-of-the fund analysis is considered modest. Class Counsel achieved an excellent result when compared to potential available damages and risks Plaintiff faced. And, the requested fee is not a windfall but represents no premium for over seven years of contingent litigation. Moreover, even after the requested fee, the Settlement delivers a per-class-member recovery that compares favorably to the *Dutcher* settlement, as well as other ARL settlements.

Finally, no objections were received from verified Settlement Class Members to the requested fees, costs, or service awards.

For these reasons, and as discussed below, the requested attorneys' fees, litigation expenses, and service awards are fair, reasonable, and fully supported under California law.

II. BACKGROUND

A. Overview of Class Counsel's Work Performed

Achieving the Settlement required persistence, sophisticated legal work, and more than 6,000 hours of attorney and staff time litigating against Google, a well-funded defendant represented by highly skilled counsel. Over more than seven years, Class Counsel litigated through contested pleadings, extensive discovery, appellate writ proceedings, repeated class-certification and decertification motion practice, and arm's-length settlement negotiations before securing a $5 million non-reversionary common fund.

1. Class Counsel Investigated the Claims, Filed Detailed Pleadings, Defeated Google's Demurrer in Substantial Part, and Successfully Opposed Google's Emergency Writ

Class Counsel's work began before the complaint was filed, with detailed factual investigation and meticulous analysis of the Google Wallet account setup process, the Google Play Store subscription process, the disclosures presented to consumers during those processes, the legal agreements Google required consumers to accept, Google's post-purchase acknowledgment emails, and cancellation disclosures. Ho Final Decl. ¶¶ 17-18.

Based on that investigation and legal analysis, Class Counsel drafted a detailed 23-page Complaint that included more than 60 pages of supporting exhibits. Ho Final Decl. ¶ 19. The Complaint was filed on May 30, 2018, and Google quickly demurred to all causes of action, arguing among other things that the ARL provided no private right of action, that Plaintiff lacked standing, and that the alleged facts did not support the UCL, CLRA, FAL, money-had-and-received, or declaratory-relief claims. *Id.,* ¶ 20. Class Counsel opposed the demurrer, which required detailed analysis of the ARL's "unconditional gift" provision and related authority involving Google. *Id.* Plaintiffs' opposition exceeded 400 pages, including a 21-page opposition brief supported by a 347-page request for judicial notice and legislative-history exhibit, as well as a 67-page attorney declaration with exhibits. Following oral argument, on February 1, 2019, the Court sustained the demurrer only as to the standalone ARL claim and otherwise overruled it, allowing the case to proceed. *Id.*

On March 5, 2019, Google filed a 70-page emergency writ petition challenging the demurrer ruling and urging the Court of Appeal to stay the case pending outcome of the consumer's appeal of an order sustaining Google's demurrer in another ARL case. Ho Final Decl. ¶ 21. Class Counsel immediately analyzed the emergency writ, researched the standard governing extraordinary writ relief, drafted the opposition, and filed it within days of the writ, on March 15, 2019. *Id.* ¶ 22. This required coordinated effort and shifting of significant resources and focus to this case. *Id.* The Court of Appeal ultimately denied Google's petition. *Id.*

The work described in this section required 370.1 hours of attorney and staff time and resulted in a combined lodestar of $313,841.00. Ho Final Decl. ¶ 23, Ex. 2.

2. <u>Class Counsel Developed Record for Class Certification Through Years of Contested Discovery, Complex Data Analysis, Source-Code Review, and PMK Depositions</u>

Discovery was a years-long process involving voluminous document and data productions, repeated meet-and-confer efforts, technical review, source-code inspection, and depositions. It was central to Class Counsel's ability to develop the record necessary for class certification, renewed certification, and settlement. Ho Final Decl. ¶¶ 25-35, 54-55.

The document production alone was substantial. Through written discovery, which included three sets of requests for production, two sets of special interrogatories, and form interrogatories, Class Counsel obtained and reviewed more than 7,000 pages of documents concerning Google Play's subscription purchase flow, Google's terms and policies, consumer acknowledgments, cancellation and refund practices, internal refund guidance, consumer complaints, and materials bearing on Google's compliance with California's Automatic Renewal Law. *Id.* ¶¶ 27-28. Obtaining these materials required meet-and-confer emails, letters, and calls concerning the scope and completeness of Google's responses and productions. *Id.* ¶ 26. The parties extended motion-to-compel deadlines multiple times while attempting to resolve discovery disputes before Google ultimately produced additional responses and documents. *Id.*

The data production was complex and technically demanding. *Id.* ¶ 29. Over the course of approximately two years, Google produced several iterations of class subscription-purchase data, each requiring explanation of non-obvious field meanings, and several supplemental productions to correct errors. *Id.* Class Counsel, working with data analysts, analyzed that data to understand class membership, renewal transactions, free trials, refunds, cancellations, and damages issues. *Id.* That work required not only technical review, but also follow-up with Google after Class Counsel identified discrepancies and issues in the data productions. *Id.*

After extensive meet-and-confer efforts, Google produced what it represented to be complete class data that would enable the parties to identify class members for purposes of class notice. *Id.* ¶ 30. Plaintiffs diligently reviewed that production, but identified different fields and entries from earlier productions, new field codes, and numerous discrepancies. *Id.*

Class Counsel also pursued discovery into Google's systems and practices beyond written discovery and data production. Class Counsel took two PMK depositions of Google witnesses, including witnesses knowledgeable about Google Play Commerce, the creation and renewal of subscriptions, purchase disclosures, cancellation and refund policies, archiving practices, and Google's asserted compliance with the ARL. Ho Final Decl. ¶ 31. In preparation for Google's PMK deposition, Plaintiffs' expert conducted a three-day, in-person source-code inspection. *Id.* ¶ 32. Those depositions were critical to developing the factual record for certification and testing Google's defenses. *Id.* ¶ 31.

In addition, Class Counsel prepared each Plaintiff's responses to Google's discovery requests, collected and reviewed Plaintiffs' documents, and produced more than 2,000 pages of responsive materials. *Id.* ¶ 33. Class Counsel also prepared each of the four Plaintiffs for their depositions and defended their full day depositions. *Id.*

While in the process of conducting discovery and before proceeding with class certification, the parties participated in mediation on February 5, 2020, ahead of which Plaintiffs drafted and submitted a 19-page mediation statement. *Id.* ¶ 34. The parties could not reach resolution and on May 19, 2020, following further investigation, Class Counsel drafted and filed a First Amended Complaint adding three Plaintiffs, including Plaintiff De La O. *Id.*

The work described above relating to discovery, participation in the first mediation, preparing and filing of the First Amended Complaint, and preparation for class certification between March 16, 2019 and May 18, 2021 required 2,050.1 hours of attorney and staff time and resulted in a lodestar of $1,632,625.50. Ho Final Decl. ¶ 35, Ex. 2. This figure does not capture all discovery-related work in the case because discovery efforts continued after March 2021 and remained ongoing through Google's decertification efforts and Plaintiff De La O's renewed motion for class certification. *Id.* ¶ 35. Accordingly, substantial additional time spent on discovery-related work is reflected in the lodestar associated with the activities described in the section that follows.

3. **<u>Securing Class Certification Required Extensive Briefing, Writ Proceedings, Briefing a Decertification Motion and a Renewed Certification Motion</u>**

Class certification became one of the most heavily contested phases of the case and required exceptional effort to obtain, defend, and restore classwide treatment through two motions for class certification, a writ petition, and two motions for decertification.

<u>The First Class Certification Motion</u>

Plaintiffs' first motion for class certification was filed on May 19, 2021. Ho Final Decl. ¶ 36. The moving papers totaled more than 2,000 pages and included a thoroughly researched 25-page memorandum of points and authorities supported by several attorney declarations, a declaration from Plaintiffs' expert, declarations from each of the four named Plaintiffs, and a request for judicial notice of the legislative history materials relating to the enactment of the ARL, federal regulatory materials related to negative-option marketing, publicly filed federal court orders in negative-option enforcement actions, and public comments and industry guidance documents submitted to federal agencies. *Id.* Counsel declarations attached hundreds of pages of exhibits, including documentary evidence, deposition excerpts, and Google's discovery responses. *Id.* Following review and analysis of Defendant's opposition, Plaintiffs prepared reply papers totaling approximately 260 pages. *Id.* ¶ 38. The Court certified a class on August 5, 2021, and appointed Plaintiff De La O as the only Class Representative and DHKL and HammondLaw as Class Counsel. *Id.* ¶ 39.

<u>Google's Writ Petition Challenging Class Certification Order</u>

Google challenged the certification order through a second petition for writ of mandate, filed on October 5, 2021. *Id.* ¶ 40. That filing required Class Counsel to pivot quickly. *Id.* Within ten days, Class Counsel reviewed Google's 50-page writ petition and the voluminous supporting record of more than 4,000 pages, researched the applicable writ standards and certification issues, and prepared a 40-page preliminary opposition defending the Court's certification ruling. Class Counsel filed that preliminary opposition on October 15, 2021. *Id.* The writ proceedings delayed the case and postponed the notice process, but Class Counsel continued to preserve the class's position and prepare for the next stages of litigation. *Id.* ¶ 41. The Court of Appeal ultimately denied Google's writ on July 7, 2022. *Id.* ¶ 42.

<u>Google's First and Second Decertification Motions</u>

Google next attempted to undo certification through two rounds of decertification motion practice. On March 29, 2023, Google filed its first decertification motion, challenging Plaintiff's damages theory that the class can seek a full refund of subscription fees based on ARL's "gift" provision pursuant to § 17603. Ho Final Decl. ¶ 45. Class Counsel opposed that motion with a 29-page opposition, supported by a declaration and approximately 110 pages of exhibits. *Id.* ¶ 46. That work required Class Counsel to revisit the certification record, address Google's renewed attack on Plaintiffs' restitution theory, and defend the legal and factual basis for maintaining certification. *Id.* The Court denied Google's first decertification motion on July 19, 2023. *Id.* ¶ 47.

On July 27, Google filed a second motion to decertify the class on the grounds that Plaintiff De La O could not represent anyone other than those individuals who purchased a Google Play Music subscription and that the new Ninth Circuit decision in *Olean Wholesale Grocery Coop., Inc. v. Bumble Bee Foods,* 31 F.4th 651 (9th Cir. 2022) required the Court to analyze the effect on the class definition of uninjured class members. Ho Final Decl. ¶ 48. Opposing that motion required substantial additional work because Google relied on data-related arguments and a declaration from a Google data scientist. *Id*. ¶ 49. Class Counsel had to evaluate Google's data productions, investigate discrepancies in the data, analyze whether Google's assertions could be reconciled with prior productions, and respond under compressed deadlines. Plaintiffs filed a 19-page opposition, a separate motion to strike the Yang Declaration, and the 44-page Kan Declaration addressing problems with Google's data productions. *Id.* Although the Court rejected certain arguments raised by Google, it granted decertification under *Olean*. *Id.*, ¶ 50.

Renewed Motion for Class Certification

Class Counsel did not allow that setback to end the case. Instead, after further in-depth analysis of *Olean* and the Court's decertification order, legal research, Plaintiff determined to file a renewed motion for class certification on behalf of a narrower class of subscribers who "paid for at least one renewal term," while excluding subscriptions cancelled during a free trial and subscriptions fully refunded by Google. Ho Final Decl. ¶ 53.

This narrowed certification theory required analysis of more granular transaction-level data because Class Counsel needed to distinguish the first paid renewal charge from other subscription terms and charges. *Id.* ¶ 54. Obtaining transaction-level data that allowed such analysis required additional meet-and-confer efforts because up to that point, despite Plaintiff's repeated requests for transaction-level data to identify free-trials, subscription renewal and related charges, and specific refunds, Google had produced only summaries of transactions. *Id.* Those summaries did not allow Class Counsel to determine, among other things, whether a subscription began with a free trial, how long any free trial lasted, when the subscription first renewed, what charges applied to particular renewal terms, whether prices changed over time, or what specific refunds were issued. *Id.* After several additional months of meet-and-confer correspondence and calls, Google agreed to produce transaction-level data in 2024, after characterizing Plaintiffs' request as involving "terabytes of complex data." *Id.* ¶ 55.

Plaintiff filed his renewed-certification motion on March 28, 2024. *Id.* ¶ 56. The renewed motion included a 25-page memorandum of points and authorities and three declarations of counsel totaling approximately 180 pages, including supporting exhibits. *Id.* Google opposed renewed certification, and Plaintiffs filed a 21-page reply. *Id.* After full briefing and argument, the Court issued a 19-page order granting renewed certification on July 22, 2024, restoring the classwide posture necessary to continue prosecuting the case and ultimately negotiate the Settlement. *Id.,* ¶ 57.

The work described in this section occurred between March 19, 2021 and July 22, 2024, required 3,082.80 hours of attorney and staff time, and resulted in a lodestar of $2,490,425.00. *See* Ho Final Decl. ¶¶ 43, 51, 58 & Ex. 2 (phases 3, 4, and 5). The Ho Final Declaration provides a more detailed breakdown of those hours and fees among three phases of the litigation: the initial class-certification motion and writ petition, Google's decertification motions, and Plaintiff De La O's renewed motion for class certification. *See Id.*

4. <u>Class Counsel's Settlement Efforts Produced the $5 Million Non-Reversionary Common Fund</u>

Class Counsel's work on certification was central to creating the classwide posture that ultimately made a meaningful common-fund settlement possible. Following renewed certification, the parties began renewed settlement discussions and agreed that mediation could avoid unnecessary expense if resolution proved possible. Ho Final Decl. ¶ 60. The parties attended their second mediation on September 18, 2025, with Jill R. Sperber. *Id.* ¶ 61. The parties engaged in settlement discussions in the weeks leading up to the mediation and exchanged detailed mediation briefs in advance. *Id*. After an all-day mediation, the parties reached agreement in principle and subsequently negotiated and executed the Memorandum of Understanding ("MOU"). *Id.* ¶ 62.

The work described in this section required 297.8 hours of attorney and staff time and resulted in a combined lodestar of $269,276.50. *Id.* ¶ 63, Ex. 2.

5. <u>Settlement Approval and Notice Administration</u>

Following execution of the MOU, Class Counsel spent approximately three months negotiating and drafting the long-form Settlement Agreement and the long-form Notice and Email Notices. Ho Final Decl. ¶ 65. Thereafter, Class Counsel prepared the motion for preliminary approval, worked with the

Settlement Administrator to finalize the Email Notice and settlement website, oversaw the notice process and communications with the Settlement Administrator, reviewed opt-outs and other class-member submissions, and prepared the final approval and attorneys'-fees motions. *Id.* ¶¶ 66-67.

The work described in this section occurred between October 4, 2025 and June 20, 2026, required 260.8 hours of attorney and staff time, and resulted in a lodestar of $229,491.50. *Id.* ¶ 68 & Ex. 2. Class Counsel also anticipates performing additional work including finalizing the final approval and the instant motion, attending the final approval hearing, overseeing settlement administration and distribution, addressing class-member inquiries and administration issues, and reporting the final results of distribution efforts to the Court. *Id.* ¶ 95. Those future efforts, which Class Counsel anticipates will require approximately 100 additional hours of work and approximately $71,900 in additional lodestar, are not reflected in the lodestar presented herein. *Id.*; Hammond Final Decl. ¶ 19.

6. <u>Class Counsel Also Performed Substantial Case-Management and Other Work</u>

In addition to the major pleadings, discovery, and certification work described above, Class Counsel performed substantial case-management and administrative work necessary to move the case forward. Ho Final Decl. ¶ 69. Class Counsel prepared and/or negotiated nearly twenty case-management conference statements and status reports and submitted numerous stipulations and proposed orders. *Id.* In order to permit discovery involving Google's confidential documents and source code, Class Counsel also negotiated a Stipulated Protective Order and subsequently a Source Code Addendum, and addressed repeated sealing and conditional-lodging issues throughout the case. *Id.*

Class Counsel also devoted significant time to class notice, negotiating notice issues in multiple rounds: immediately after the initial certification order, again after the Court of Appeal denied Google's writ petition, and again after renewed certification. *Id.* ¶ 70. Those efforts included meet-and-confer negotiations with Google over the notice procedure, notice plan, content of the proposed notice, and selection of a notice administrator. *Id.* The notice work was twice interrupted by Google's challenges to certification: first by Google's writ petition, and later by its decertification motions. *Id.* After renewed certification, the parties reached agreement on the form and content of class notice and the notice plan, and submitted a stipulation regarding class notice. Notice ultimately was deferred because the parties began discussing mediation and agreed it would be more efficient to explore resolution before sending notice. *Id.*

Because the activities described in this section occurred throughout the more than seven years of litigation and were intertwined with all major phases of the case, the associated time is not separately tracked or allocated. Instead, that time is reflected in the lodestar attributed to the various litigation phases described above and detailed in the Ho Final Declaration. *Id.* ¶ 71.

7. **The Related *Dutcher* Matter Underscores the Significance of Class Counsel's Work**

The significance of Class Counsel's work is further demonstrated by the *Dutcher v. Google LLC, et al.,* No. 20CV366905 matter, filed on June 5, 2020, two years after this case. *Dutcher* alleged that Google and YouTube failed to comply with the ARL's disclosure and consent requirements in connection with auto-renewing YouTube TV subscriptions. Ho Final Decl. ¶ 8 & Ex. 1. Although there is no overlap in the classes at issue in *Uzair* and *Dutcher*, both cases involved similar ARL allegations, overlapping defenses, and similar motion practice. Like this case, *Dutcher* proceeded through demurrer practice, class certification, a writ proceeding challenging the certification order, and two motions to decertify. *Id.,* ¶ 72 n. 5 & Ex. 1 at ¶¶ 6-10, 20-34.

The similarities between the two cases were substantial. The demurrers in both cases relied on the *Mayron v. Google,* 54 Cal. App. 5th 566 (2020) and related ARL standing, causation, and restitution arguments to contend that alleged ARL violations could not support classwide consumer claims. The decertification motions likewise raised overlapping issues, including challenges to Plaintiffs' restitution theory and classwide proof. Indeed, Google expressly recognized in its first decertification motion that the motions in this case and *Dutcher* were intended to resolve the same legal issues. Ho Final Decl. ¶ 72 n. 5. That chronology matters. Because this case was first filed, it proceeded first through motion practice that was overlapping with *Dutcher* and Class Counsel's work developed the record and rulings that informed the related *Dutcher* litigation. *Id.* Importantly, Class Counsel's work also carried the case through the additional step of renewed certification after decertification, which restored the classwide posture and also had significance in *Dutcher.* In moving for preliminary approval, the *Dutcher* plaintiff represented that this Court's ruling in *Uzair* and subsequent discussions between counsel prompted renewed settlement negotiations in *Dutcher. Id*. & Ex. 1 at ¶ 36.

By the time Dutcher moved for preliminary approval, counsel there reported approximately 2,000 hours of work, while Class Counsel here had devoted more than 6,000 hours to litigating this earlier-filed case through renewed certification and settlement. *Id.,* ¶ 72 n. 5, Ex. 1 at ¶ 60.

B. Benefit Achieved for the Class and Class Response

1. Monetary Benefit

Pursuant to the Settlement, Defendant will pay a non-reversionary sum of $5,000,000 into the Settlement Fund. Settlement Agreement ("Settlement" or "Settlement Agreement") ¶¶ 1.34, 3.1. The Settlement does not contemplate a claims process – instead each Participating Class Member shall automatically receive his/her pro rata share of the Net Settlement Fund of approximately $2,502,437.03. Ho Final Decl. ¶ 4. Settlement shares will be distributed to Class Members in the form of Google Play credits or cash sent electronically to Class Members without active accounts. *Id*. Each Class Member will receive approximately $5.53, which is almost 60% of the amount paid for the first renewal term—the very payment that formed the basis of the certified claims. *Id.*; Hammond Final Decl. ¶ 3. The gross benefit per Class Member (i.e. prior to deductions of Court-approved fees and costs) is approximately $11.06, which exceeds the average amount paid to Google for the first renewal term. Ho Final Decl. ¶ 8. The result of the Settlement is consistent with the aim of the litigation (and compares favorably to, and in several instances exceeds, recoveries obtained in other ARL settlements) to provide Class Members with restitution in the amount of money paid by the Class Members for subscriptions renewing without their affirmative consent to the clear and conspicuous disclosure of the terms as required by the ARL.

Google Play credits sent to Class Members will never expire and will be available for immediate use. SA § 3.2.2; Ho Final Decl. ¶ 5. Class Members will be able to use their credits or cash to purchase any product available on the Google Play Store, including digital content, games, movies, books, music, apps, in-app purchases, as well as subscriptions. Class Members will not need to spend any additional money in order to make purchases. Ho Final Decl. ¶ 5. The Google Play Store has countless products priced under $5.53. *Id.* Books are available for $1.99, $3.99, and $4.99; movies and TV episodes are available for $1.79, $1.99, and $3.99; and games are available for $0.99, $1.99, $2.99, $3.99, and $4.99.

Thousands of apps cost less than $2 and in-app purchases are often as low as a few cents. *Id.*[1]

2. **Changes to Google's Practices**

In addition to the monetary relief, the litigation has conferred a nonpecuniary benefit on the general public. As of October 28, 2019, Google made changes to its disclosures to inform consumers that subscriptions automatically renew until a consumer cancels and to provide a hyperlink "Learn how to cancel" immediately next to that statement, with instructions on steps a consumer has to take to avoid further charges. Ho Final Decl. ¶ 6.

3. **Overwhelmingly Positive Response by the Class**

Following preliminary approval, Plaintiffs, through the Settlement Administrator, successfully implemented the Class Notice plan as approved by the Court. Class Notice was emailed to all Class Members with available email addresses and reached 427,262 of them. Silva Decl. ¶¶ 6-8.

The Class Notice informed Class Members of the terms of Settlement, described the benefit negotiated for the class, both in the aggregate and on a pro-rata basis, and notified class members of the attorneys' fees and costs and service awards requested by Class Counsel, subject to the Court's approval. *See* Silva Decl., Exs. A-B. The Class Notice also informed Class Members that they could object to or "opt out of" the Settlement and provided instructions for how to do so. Silva Decl. ¶¶ 11, 13, Exs. A-B.

At the conclusion of the Notice period, the response by the Class was overwhelmingly positive; only 25 Class Members (0.006% of those emailed Notice) opted out, and no valid objections were submitted. Silva Decl. ¶¶ 12, 14-16. The Class response also indicates that notice was effective and consistent with due process as 25 Class Members understood and exercised their right to exclude themselves from the Settlement and not one Class Member objected about the Notice Plan.[2]

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[1] *See, e.g., In re Online DVD-Rental Antitrust Litig.,* 779 F.3d 934, 950-951 (9th Cir. 2015) (finding that a defendant's gift cards should be viewed as offering full value to the class because the gift cards did not expire, were freely transferrable, did not require consumers to spend their own money, and could be used to purchase thousands of entire products from Walmart, including products that were not the focus of the lawsuit).

[2] While email notice did not reach 24,758 of the Class Members, at least some of these Class Members likely learned of the Settlement from online sources, including the settlement website, just like the eight submitters did (one of whom confirmed that she did not receive Notice, though clearly learned of the settlement). *See e.g.,* https://www.cnbc.com/select/google-play-5-million-class-action-settlement/#who-is-eligible-for-the-google-play-settlement (publicly available article about this Settlement).

As set out in the concurrently filed Motion for Final Approval, the Settlement Administrator received eight submissions purporting to object, but none of the submitters has shown they are members of the Class and have standing to object. And, neither the Settlement Administrator nor Class Counsel could verify that any submitter belonged to the Settlement Class, even after Class Counsel independently reviewed Google's subscription-purchase data produced in discovery for matching class-member records. Silva Decl. ¶¶ 14-16; Ho Final Decl. ¶¶ 11-12. Because the submitters have not been verified as Class Members, their purported objections should not affect the fee analysis because none was submitted by a verified Settlement Class Member.

III. THE COURT SHOULD APPROVE CLASS COUNSEL'S REQUESTED ATTORNEYS' FEES AND COSTS

Plaintiffs seek approval of attorneys' fees in the amount of $2,250,000, which represents a significant *negative* multiplier to their current lodestar. The two "primary methods of determining a reasonable attorney fee in a class action litigation . . . are [t]he percentage method . . . of a recovered common fund . . . [and the] lodestar-multiplier method . . ." *Laffitte v. Robert Half Int'l Inc.,* 1 Cal. 5th 480, 489, 503-04 (2016); *see also In re Consumer Priv. Cases,* 175 Cal. App. 4th 545, 557–58 (2009) (same). "The choice of a fee calculation method is generally one within the discretion of the trial court, the goal under either the percentage or lodestar approach being the award of a reasonable fee to compensate counsel for their efforts." *Laffitte*, 1 Cal. 5th at 504. Here, Class Counsel's requested fee is appropriate under either method.

A. Class Counsel is Entitled to an Award of Attorneys' Fees Pursuant to CCP § 1021.5

California's private-attorney-general statute, Cal. Civ. Proc. Code § 1021.5, provides for an award of attorneys' fees to a "successful party," "in any action which has resulted in the enforcement of an important right affecting the public interest if: (a) a significant benefit, whether pecuniary or nonpecuniary, has been conferred on the general public or a large class of persons, (b) the necessity and financial burden of private enforcement ... [are] such as to make the award appropriate, and (c) such fees should not in the interest of justice be paid out of the recovery, if any." Cal. Code Civ. Proc. § 1021.5; *Collins v. City of Los Angeles,* 205 Cal. App. 4th 140, 153 (2012); *see also Press v. Lucky Stores, Inc.,* 34 Cal. 3d 311, 317-18 (1983). *See Graham v. DaimlerChrysler Corp.,* 34 Cal. 4th 553, 566-67 (2004), *as modified* (Jan. 12, 2005) ("'[A]ttorney fees may be proper whenever an action results in relief to the plaintiffs, whether the relief is obtained through a "voluntary" change in the defendant's conduct, through a settlement, or otherwise'").

Class Counsel are entitled to recover statutory attorneys' fees because Plaintiff's lawsuit and the Settlement meet all the requirements of Section 1021.5. First, the subject matter of the action implicated the public interest because the instant lawsuit has resulted in the enforcement of important rights affecting the overall public interest. California Senate Bill 340 – codified as California Business and Professions Code Section 17600, *et seq.* – was enacted to strengthen the regulation of automatically renewing subscriptions. The law was a "response to reported consumers complaints that certain businesses . . . lure consumers into signing up for 'automatic renewals' without the consumers' full knowledge or consent."[3] The Legislature sought "to address this problem by requiring clear disclosures and affirmative acts of consumer consent."[4] Plaintiffs' lawsuit thus resulted in enforcing the core requirements of the ARL – that businesses making automatic renewal offers must clearly and conspicuously disclose the terms of the offer, as defined by the statute, and that they must obtain consumers' affirmative consent before charging consumers for renewal terms, thus enforcing an important public right.

Second, the Settlement confers a significant pecuniary benefit on over 400,000 California consumers. If the Settlement is finally approved, the Class will receive, at a minimum, their share of the approximately $2,502,437.03 Net Settlement Amount. Ho Final Decl. ¶ 4. The litigation has also conferred a nonpecuniary benefit on the general public: after Plaintiffs' Complaint was filed, Google made changes to its automatic renewal and cancellation policy disclosures. *Id.* ¶ 6.

Third, the necessity and financial burden of private enforcement render the award appropriate. This requirement encompasses two issues: (1) whether private enforcement is necessary because public enforcement of the right at issue is inadequate, and (2) whether financial burden of private enforcement warrants subsidizing the prevailing party's attorneys because private plaintiffs would otherwise have little or no incentive to bring public interest suits because their personal stake in the outcome is small.

[3] B. Analysis, S. 3d Reading, S.B. 340 (2009-2010 Reg. Sess.) Aug. 20, 2009.

[4] *Id.*

Collins, 205 Cal. App. 4th at 154. No government actor brought an action against Google and, as the amount of Class Counsel's lodestar clearly evidences, the cost and risk of litigating against Google for more than seven years were "out of proportion for [Plaintiff's] individual stake in the matter." *See Baggett v. Gates,* 32 Cal. 3d 128, 142 (1982); *see also Ryan v. Cal. Interscholastic Fed'n,* 94 Cal. App. 4th 1033, 1044 (2001) ("As to the necessity and financial burden of private enforcement, an award is appropriate where the cost of the legal victory transcends the claimant's personal interest; in other words, where the burden of pursuing the litigation is out of proportion to the plaintiff's individual stake in the matter.").

Finally, because Plaintiff seeks fees from the common fund rather than a separate statutory fee award against Google, the final § 1021.5 factor does not preclude the requested award. Courts have discretion in cases involving a monetary recovery to determine whether fees should be paid from the recovery, by the defendant, or apportioned. *Collins,* 205 Cal. App. 4th at 156-57. Here, compensating Class Counsel – who took this case on a contingent basis and expended over 6,000 hours, or $4.9 million in reasonable fees, and $165,062.97 in out-of-pocket costs, with no guarantee of payment – from the fund their work created is equitable, particularly where the requested fee is substantially below Class Counsel's lodestar and reflects no premium for the risk, delay, and complexity of the litigation and still leaves a meaningful recovery for the Settlement Class.

Therefore, Class Counsel are entitled to the requested award under Section 1021.5.

B. <u>The Requested Attorneys' Fees Are Reasonable Under the Lodestar Analysis and Represent a Substantial Negative Multiplier</u>

In determining the reasonableness of the fee request under the lodestar method, the Court begins with the "lodestar" figure, which "is calculated by multiplying the number of hours reasonably expended on the litigation by a reasonable hourly rate." *Press,* 34 Cal. 3d at 322; *PLCM Grp., Inc. v. Drexler,* 22 Cal. 4th 1084, 1095 (2000). "That figure may then be increased or reduced by the application of a 'multiplier' after the trial court has considered other factors concerning the lawsuit." *Press,* 34 Cal. 3d at 322; *see also Serrano v. Priest,* 20 Cal. 3d 25, 49 (1977). These factors include: "(1) the novelty and difficulty of the questions involved, (2) the skill displayed in presenting them, (3) the extent to which the nature of the litigation precluded other employment by the attorneys, (4) the contingent nature of the fee award." *Ketchum v. Moses,* 24 Cal. 4th 1122, 1132 (2001).

The lodestar method underscores the principle that Class Counsel is entitled to recover fees for all hours reasonably spent working on the case. *See Vo v. Las Virgenes Mun. Water Dist.,* 79 Cal. App. 4th 440, 446 (2000) ("Under the lodestar method, a party who qualifies for a fee should recover for all hours reasonably spent unless special circumstances would render the award unjust."); *Weeks v. Baker & McKenzie,* 63 Cal. App. 4th 1128, 1175-76 (1998) (an "attorney who takes [a complex] case can anticipate receiving full compensation for every hour spent litigating a claim against even the most polemical opponent."). The reasonableness of the hours spent is supported by contemporaneous time records. *See PLCM Grp., Inc.,* 22 Cal. 4th at 1096 n.4.

1. <u>The Time and Labor Expended by Class Counsel Was Reasonable</u>

Applying the first step of this analysis, Class Counsel collectively expended more than 6,000 hours in this litigation from its inception through June 20, 2026, resulting in a combined lodestar of more than $4.9 million. Ho Final Decl. ¶ 72, Ex. 3; *see also* Hammond Final Decl. ¶ 17, Ex. 2. These hours were reasonably incurred given the hard-fought nature of this more than seven-year litigation, Google's aggressive defense, the number of motions and writ petitions briefed, the contested discovery process, and the volume and complexity of documents and data Class Counsel obtained and analyzed. *See* Ho Final Decl. ¶ 73.

The related *Dutcher* matter confirms the reasonableness of those hours. As discussed above, *Dutcher* involved overlapping ARL allegations, defenses, and motion practice, and proceeded in the wake of substantial work and rulings already developed in this case. Indeed, while *Dutcher* was filed more than two years after this case, it settled at the same time as this case, but without having to litigate renewed certification and instead relying on the theory identified by Class Counsel in this case. Ho Final Decl. ¶ 72 n. 5. *Dutcher's* lower reported hours therefore are consistent with its later-filed posture and the benefit of the record, rulings, and litigation framework developed first in this case. By contrast, Class Counsel here litigated this case from its inception through demurrer practice, extensive discovery, certification, writ proceedings, decertification, renewed certification, and settlement. The more than 6,000 hours incurred here reflect that longer and more procedurally demanding path, including additional motion practice and an additional writ, and one without the benefit of rulings from a parallel case.

Class Counsel's time included factual investigation and legal analysis before filing, including analysis of Google Play's subscription purchase flow, account setup, disclosures, terms, cancellation process, and related ARL compliance issues; drafting the original complaint and supporting exhibits; opposing Google's demurrer and responding to Google's emergency writ petition challenging the Court's demurrer ruling; engaging in a six-year discovery process that required multiple rounds of written discovery, repeated meet-and-confer efforts, review and analysis of more than 7,000 pages of documents and extensive data productions, including millions of rows of subscription-transaction data, investigation of deficiencies in Google's productions, source-code inspection, and Google PMK depositions; responding to Google's discovery, producing documents, and preparing for and defending the named plaintiffs' depositions; briefing class certification, defending certification against Google's writ petition, opposing two decertification motions, and briefing renewed certification; preparing for two mediations, participating in arm's-length settlement negotiations, and negotiating the Settlement Agreement, notice documents, and settlement-implementation procedures; preparing numerous case-management and status statements; negotiating a protective order and source-code addendum; and addressing class notice issues in multiple rounds. Ho Final Decl. ¶¶ 17-71.

Plaintiff's reasonable attorneys' fees are substantial because Class Counsel were required to actively prosecute this case for more than seven years through extensive discovery, repeated class-certification proceedings, appellate writ practice, decertification motion practice, and settlement approval. *Id.*; *see also Peak-Las Positas Partners v. Bollag,* 172 Cal. App. 4th 101, 114 (2009) (recognizing a correlation between the amount of fees sought and the tenacity with which a defendant litigated an action).

This lodestar is documented by detailed and contemporaneous billing records maintained by Class Counsel. A summary report, for both firms, broken down by timekeeper is attached to Class Counsel's declarations for the Court's review. Ho Final Decl., Ex. 3; Hammond Final Decl., Ex. 2. Class Counsel efficiently managed, staffed, and divided and assigned the work between the two firms and amongst lower and higher-level attorneys to avoid duplicating efforts. Ho Final Decl. ¶¶ 76, 80; Hammond Final Decl. ¶ 18. To provide further detail regarding the necessary hours spent by Class Counsel litigating this more than seven-year-old case, Class Counsel provide a chart that breaks down by litigation phase the time Class Counsel and their staff spent on this case through June 20, 2026. Ho Final Decl., Ex. 2.

This lodestar amount does not include the considerable additional time Class Counsel will spend after June 20 finalizing and filing Plaintiff's motion for final approval of the settlement and the instant motion, obtaining final approval (including preparing for and appearing at the final approval hearing), and implementing the settlement. Ho Final Decl. ¶ 95; Hammond Final Decl. ¶ 19. Accounting for the estimated time required for these additional future tasks to benefit the Class, Class Counsel estimates their future lodestar will increase to approximately $5,007,559.50. *See* Ho Final Decl. ¶¶ 72, 95.

2. <u>The Lodestar is Based on Class Counsel's Reasonable and Customary Rates</u>

Class Counsel's lodestar is also reasonable because it is based on hourly rates commensurate with the rates of practitioners with similar experience in the California legal market. Ho Final Decl. ¶ 93; Hammond Final Decl. ¶ 22. HammondLaw's and DHKL's hourly rates have previously been approved and found reasonable by both federal and California courts. DHKL's 2025 rates, which are the same rates as DHKL used to calculate its lodestar here, have been approved most recently in *Griffin v. City of Los Angeles*, 24-cv-06312-RGK-MAR, 2026 WL 1747212 (C.D. Cal. June 11, 2026) (after class action trial and a contested fee motion, court found DHKL 2025 rates to be reasonable and should be applied to work conducted in prior years to account for delay in payment). *See also Rasmussen et al. v. The Walt Disney Company et al.,* No. 19STCV10974 (L.A. Cnty. Super. Ct. Dec. 8, 2025) (approving 2025 rates and finding they "are reasonable and commensurate with the rates of practitioners with similar experience in the California legal market."); *Curran et al. v. City of Oakland,* No. 23-cv-02354-RS, ECF No. 57 (N.D. Cal. Dec. 4, 2025) (finding that Class Counsel's 2025 rates "are reasonable and within the range of market rates charged by attorneys with similar skill and experience handling similarly complex litigation in this district"); *Abrishamcar v. Oracle America, Inc.,* No. CIV 535490 (San Mateo Cnty. Super. Ct. May 29, 2025) (finding that DHKL's "requested attorneys' fee award [was] consistent with market rates for contingency fees in employment litigation" and "[fell] well within the norm for attorneys with Plaintiff's Counsel's skills and experience."); *Veitch et al. v. Stanford Health Care,* No. 22CV395001 (Santa Clara Cnty. Super. Ct. Apr. 1, 2025) (approving fee award in connection with class action settlement). *See* Ho Final Decl. ¶ 93 (listing other cases approving DHKL's regular hourly rates).

HammondLaw's rates have also been approved and found reasonable by numerous California state and federal courts, including most recently in *Patton, et al. v. Biola University, Inc*., No. 24STCV19764 (L.A. Cnty. Super. Ct. Feb. 18, 2026); *Gutierrez, et al. v. Environmental Systems Research Institute, Inc.,* No. CIVSB2300014 (San Bernardino Cnty. Super. Ct. Oct. 24, 2025); *Hoang To, et al. v. DirectToU et al*., No. 24-cv-06447-WHO (N.D. Cal. May 5, 2026) (fee request approved based on HammondLaw's 2025 hourly rates). HammondLaw's slightly lower 2024 rates were approved in *Fox, et al. v. Verkada, Inc.,* No. 23-CIV-00193 (San Mateo Cnty. Super. Ct. Nov. 5, 2024); *Smith-Washington, et al. v. TaxAct,* No. 23-cv-00830 (N.D. Cal. Dec. 30, 2024) (finding HammondLaw's lodestar calculated using 2024 rates "reasonable").

3. <u>The Negative Multiplier Strongly Supports the Reasonableness of the Requested Fee</u>

The requested $2,250,000 fee compensates Class Counsel for less than half of their lodestar. Additional work required for final approval and settlement administration will reduce the effective multiplier even further. Ho Final Decl. ¶ 95; Hammond Final Decl. ¶ 19. A negative multiplier "strongly

suggests the reasonableness of [a] negotiated fee." *Rosado v. eBay Inc.,* No. 12-cv-04005-EJD, 2016 WL 3401987, at *8 (N.D. Cal. June 21, 2016) (considering a negative multiplier of 0.54); *Chun-Hoon v. McKee Foods Corp.,* 716 F. Supp. 2d 848, 854 (N.D. Cal. 2010) (supporting the reasonableness of class counsel's lodestar on the basis that a negative multiplier "suggests that the negotiated fee award is a reasonable and fair valuation of the services rendered to the class by class counsel").

Such a substantial negative multiplier is well below the multipliers courts have awarded in similar cases. In *Wershba v. Apple Computer, Inc.,* 91 Cal. App. 4th 224, 255 (2001), for example, the court approved a 1.42 multiplier in a case that settled in less than seven months after filing, finding that "multipliers can range from 2 to 4 or even higher." In *Chavez v. Netflix, Inc.*, a case with settlement value ($7.2 million) and fee request ($2 million) similar to this case in terms of proportion but resolved significantly earlier in the litigation (before the class was certified), the fees awarded represented approximately a 2.5 multiplier, which the Court of Appeal found to be consistent with prevailing case law. 162 Cal. App. 4th 43, 66 (2008).

Both state and federal courts in other similar ARL cases have approved multipliers well above the multiplier Class Counsel seeks here and in cases that settled far earlier in the litigation and before class certification or summary adjudication or judgment motion practice. In fact, this Court preliminarily approved a 1.5 multiplier in *Dutcher v. Google, et. al.,* No. 20CV366905 (Santa Clara Cnty. Super. Ct. June 18, 2026). *See also Rickey v. Baller, Inc., et al.,* No. 37-2022-00044840-CU-BT-CTL (San Diego Cnty. Super. Ct., Dec. 6, 2024) (approving a 0.93 multiplier); *Habelito v. Guthy-Renker LLC,* No. BC499558 (L.A. Cnty. Super. Ct. May 16, 2017) (approving 1.993 multiplier); *Goldman v. Lifelock,* No. 1-15-CV-276235 (Santa Clara Cnty. Super. Ct. Feb. 5, 2016) (approving 1.6 multiplier in a case that settled approximately six months after filing); *Noll v. eBay, Inc.,* 309 F.R.D. 593, 610 (N.D. Cal. 2015) (approving fees with a crosscheck multiplier of 1.6); *Williamson v. McAfee, Inc.,* No. 14-cv-00158-EJD (N.D. Cal. Feb. 3, 2017), ECF No. 118 (approving 1.449 multiplier); *Kissel v. Code42 Software Inc., et al.,* No. 15-cv-01936 (C.D. Cal. Feb. 20, 2018), ECF No. 58 (approving multiplier of 1.15). *See also In re Cal. Indirect Purchases,* No. 960886, 1998 WL 1031494, at *10 (Alameda Cnty. Super. Ct. Oct. 22, 1998) (cites three examples of California courts granting a multiplier of five or higher).

Despite the substantial negative multiplier, a positive multiplier would be appropriate here based on "(1) the novelty and difficulty of the issues, (2) the attorneys' skill in presenting the issues, (3) the extent to which the case precluded the attorneys from accepting other work, and (4) the contingent nature of the work" (*see Ctr. for Biological Diversity v. County of San Bernardino,* 188 Cal. App. 4th 603, 616 (2010); *Ketchum,* 24 Cal. 4th at 1132), as well as (5) the results achieved, (6) the risk of non-payment, and (7) the delay in payment (*see Graham,* 34 Cal. 4th at 582-84). *See also Wershba,* 91 Cal. App. 4th at 255 (approving a 1.42 multiplier and recognizing that multipliers may range from 2 to 4 or higher); *Chavez v. Netflix, Inc.,* 162 Cal. App. 4th 43, 66 (2008) (affirming fee award representing an approximately 2.5 multiplier based on quality of representation and result achieved).

1. <u>Novelty and Difficulty of Issues Supports the Fee Award</u>

This litigation involved novel and difficult issues under California's ARL, which remains a developing area of law and was even more sparse at the time this case was filed in 2018. As a result, the well-resourced Google represented by highly capable counsel fought Plaintiffs every step of the way. Before discovery even began, Class Counsel had to defend threshold legal questions concerning the scope of the ARL's unconditional-gift provision as applied to digital subscription services and whether that theory could support standing under the UCL and CLRA. The case also involved a battle over class certification. Class Counsel had to brief four class-certification-related motions and a writ petition. After Class Counsel certified the Class the first time, the en banc decision in *Olean,* 31 F.4th 651 was issued and formed a central basis for Google's successful second decertification motion. Discovery was also hard-fought, spanned six years, and posed technically complex issues. And, in general, Google mounted an aggressive defense for more than seven years, making Class Counsel's task of prosecuting the case and achieving a positive result for the Class far from easy.

2. <u>The Result Achieved Supports the Fee Award</u>

Despite risks and obstacles Class Counsel faced in this case, Class Counsel created the procedural leverage necessary to produce a $5 million non-reversionary common fund for more than 400,000 California consumers, with automatic distribution to participating Settlement Class Members and no claims process. This recovery is an excellent result as it represents close to 60% of the amount paid for the first renewal term—the very payment that formed the basis of the certified claims. As set forth in the Motion for Final Approval and below, no verified Class Member objected to the Settlement. Even assuming that any of the submitters are Class Members, their complaints that the recovery is inadequate ignores the fact that the settlement provides substantial recovery relative to the actual class claims.

In addition, after this case was filed, Google changed its disclosures to inform consumers that subscriptions automatically renew until a consumer cancels and to provide a hyperlink titled "Learn how to cancel" immediately next to that statement, with instructions on steps a consumer would have to take to avoid further charges. These changes, which help clarify Google's renewal and cancellation disclosures, have already and will continue to benefit the Class and other consumers who purchase subscriptions from Google.

3. <u>Class Counsel's Skills Displayed Support the Fee Award</u>

Class Counsel are highly experienced class-action litigators from reputable firms with substantial experience prosecuting complex consumer and class actions. Their skill and high quality of representation are reflected in their ability to preserve the case after demurrer and writ practice, obtain and restore certification, develop the evidentiary record through difficult and technically complex discovery, and negotiate a classwide settlement. Counsel performed that work against Google, a well-funded defendant represented by highly skilled counsel. Class Counsel performed that work on a fully contingent basis, with no compensation for more than seven years, and the intensive nature of the litigation required Class Counsel to forgo other profitable work so they could devote the attorney and staff resources necessary to prosecute the case. *Serrano,* 20 Cal. 3d at 49 (recognizing "the extent to which the nature of the litigation precluded other employment by the attorneys" as a factor supporting a fee award).

4. <u>The Need to Turn Away Other Fee Generating Work Supports the Fee Award</u>

The intensity and duration of this litigation also required Class Counsel to forgo other profitable work. *Serrano,* 20 Cal. 3d at 49 (recognizing "the extent to which the nature of the litigation precluded other employment by the attorneys" as a factor supporting a fee award). Over more than seven years, the case required Class Counsel to respond to compressed appellate deadlines, manage voluminous and technically complex discovery, and devote sustained attorney and staff resources to repeated class-certification proceedings and related writ practice. Maintaining the resources necessary to prosecute the case at that level required Class Counsel to turn away other potential fee-generating work. Ho Final Decl. ¶ 102; Hammond Final Decl. ¶ 27.

5. <u>The Significant Contingent Risk Assumed by Class Counsel Supports the Fee Award</u>

Finally, Class Counsel took this case on a fully contingent basis and therefore faced the risk of receiving no compensation for their work, or, at minimum, payment delayed for many years. Class Counsel have received no compensation during more than seven years of litigation and advanced substantial costs despite the real possibility that those expenses would never be recovered. Ho Final Decl. ¶¶ 74, 97; Hammond Final Decl. ¶ 26. Courts have long recognized that contingency risk is an important factor in assessing a reasonable fee and may justify compensation above ordinary hourly rates. *Graham,* 34 Cal. 4th at 580 ("[A] lawyer who both bears the risk of not being paid and provides legal services is not receiving the fair market value of his work if he is paid only for the second of these functions."); *Ketchum,* 24 Cal. 4th at 1132 ("[A] contingent fee contract, since it involves a gamble on the result, may properly provide for a larger compensation than would otherwise be reasonable."). Here, however, Class Counsel do not seek any premium. The requested fee represents a substantial negative multiplier to Class Counsel's current lodestar, making the request especially reasonable in light of the risk, delay, and costs Class Counsel assumed.

In light of Class Counsel's extraordinary effort, more than 6,000 hours of attorney time, and the risk of non-payment they assumed, the requested fee is reasonable because it is far below the lodestar Class Counsel reasonably incurred to obtain the recovery and still leaves the Class with meaningful recovery on their claims.

C. <u>The Requested 45% Fee is Justified Under the Common Fund Approach Because it Reflects Exceptional Litigation Effort and a Negative Multiplier</u>

Under California law, in common fund cases, reasonable attorneys' fees may be calculated as a "percentage-of-recovery." *In re Consumer Privacy Cases,* 175 Cal. App. 4th at 557-58; *see also Laffitte,* 1 Cal. 5th at 503 (reaffirming percentage-of-recovery approach in calculating attorneys' fees in common fund cases); *Serrano,* 20 Cal. 3d at 34 ("[W]hen a number of persons are entitled in common to a specific fund, and an action brought by a Plaintiff or Plaintiffs for the benefit of all results in the creation or preservation of that fund, such Plaintiff or Plaintiffs may be awarded attorneys' fees out of the fund."); *accord Boeing Co. v. Van Gemert,* 444 U.S. 472, 478 (1980) ("[A] lawyer who recovers a common fund . . . is entitled to a reasonable attorney's fee from the fund as a whole.").

In addition to spreading the litigation costs among all the beneficiaries, common-fund fees also serve the important societal goal of attracting competent counsel to handle contingency cases, "who will be more willing to undertake and diligently prosecute proper litigation for the protection or recovery of the fund if [they are] assured that [they] will be promptly and directly compensated should [their] efforts be successful." *Melendres v. City of Los Angeles,* 45 Cal. App. 3d 267, 273 (1975).

Although common-fund awards are often around one-third of the recovery, California courts do not apply a rigid percentage rule. *Laffitte,* 1 Cal. 5th at 503-04; *In re Consumer Privacy Cases,* 175 Cal. App. 4th at 556 n.13. The ultimate question is whether the requested fee is reasonable under the circumstances. *In re Consumer Privacy Cases,* 175 Cal. App. 4th at 557. In making that determination, courts consider the same basic factors applied to lodestar enhancement analysis, including the result achieved for the class, the litigation risk, the contingent nature of the representation, the delay in payment, counsel's skill and experience, the complexity of the case, the reaction of the class, comparable awards, and whether the lodestar cross-check confirms that the requested percentage is reasonable. *See Dep't of Transportation v. Yuki,* 31 Cal. App. 4th 1754, 1771 (1995); *Schiller v. David's Bridal, Inc.,* No. 10-cv-00616, 2012 WL 2117001, at *16 (E.D. Cal. June 11, 2012).

Consistent with that flexible approach, courts and commentators have recognized that common-fund fee awards historically have ranged from 20% to 50% of the fund, when justified under the circumstances of a particular case and particularly where the common fund is under $10 million. Newberg on Class Actions § 14.6 (4th ed. 2002) (noting that 50% of the fund appears to be an approximate upper limit on a reasonable fee award, although somewhat larger percentages are not unprecedented); *see also Van Vranken v. Atl. Richfield Co.,* 901 F. Supp. 294, 297-98 (N.D. Cal. 1995) (noting awards of "30-50 percent" of the settlement where the settlement value is "less than $10 million"); *In re SmithKline Beckman Corp. Securities Litig.,* 751 F. Supp. 525, 533 (E.D. Pa. 1990) (in common fund cases, "[c]ourts have allowed attorney compensation ranging from 19 to 45% of the settlement fund created"); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.,* 480 F. Supp. 1195 (S.D.N.Y. 1979) (awarding approximately 53% of the settlement fund as attorneys' fees).

That flexible approach is also particularly important where, as here, the Settlement Fund is under $10 million and the result achieved also strongly justifies the requested percentage. Class Counsel secured a $5 million non-reversionary settlement for more than 400,000 California consumers. The value of the settlement represents almost 60% of the amount paid for the first subscription term, which compares favorably to and, in some cases is higher than, the recovery in other ARL settlements that have received final approval.

Dutcher provides a useful related comparator. As discussed above, this Court recently preliminarily approved the settlement in *Dutcher* as fair and reasonable. *Dutcher* provides approximately $8.00 in gross settlement value and approximately $4.57 in net recovery per class member if the requested fees, costs, administration expenses, and service award are approved in full. Here, the Settlement provides approximately $11.06 gross and approximately $5.53 net per Settlement Class Member, with automatic distribution and no claims process. Ho Final Decl. ¶ 8. The comparison is even stronger when measured against the subscription payments at issue: the average first renewal payment here was approximately $9.65, while YouTube TV subscriptions in *Dutcher* ranged from approximately

$35 to $65 per month during the relevant period. *See* Ho Final Decl., Ex. 1 at ¶ 51. Thus, even after the requested 45% fee, the recovery here compares favorably to *Dutcher* both in dollar terms and relative to the subscription payment at issue.

The risk, difficulty, and duration of the litigation also support the requested award. Class Counsel litigated this case for more than seven years on a fully contingent basis and faced a real risk that they would recover nothing despite thousands of hours of attorney time and substantial litigation costs. The experience and skill of Class Counsel were important to the success of this litigation and ultimate settlement. If the class had not been recertified, the prospect of obtaining classwide monetary relief for more than 400,000 California consumers would have been effectively lost. Class Counsel risked not being compensated for the more than 6,000 hours of attorney time devoted to this case, and have yet to be compensated for that labor. *See* Ho Final Decl. ¶¶ 74, 97; Hammond Final Decl. ¶ 26.

Moreover, the lodestar cross-check confirms that the requested percentage is reasonable and does not create a windfall. The requested $2,250,000 fee compensates Class Counsel for less than half of their lodestar, even before accounting for additional work required for final approval and settlement administration. Ho Final Decl. ¶ 75; Hammond Final Decl. ¶ 19. Courts frequently approve percentage awards above a benchmark where, as here, the requested fee is below counsel's lodestar. *See Rosado v. eBay Inc.,* 2016 WL 3401987, at *8 (negative multiplier "strongly suggests the reasonableness" of the requested fee); *Moreno v. Cap. Bldg. Maint. & Cleaning Servs., Inc.,* No. 4:19-cv-07087-DMR, 2021 WL 4133860, at *6 (N.D. Cal. Sept. 10, 2021) (approving percentage award where there was a substantial negative multiplier). A lower percentage award would substantially undercompensate Class Counsel for the time reasonably required to create the Settlement Fund.

In similar complex cases where, as here, counsel prosecuted lengthy and risky litigation on a contingent basis and the lodestar cross-check confirmed that the award would not result in a windfall, courts have approved percentage awards at 45% and above. *See Flores v. TFI Int'l, Inc.,* No. 12-cv-05790-JST, 2019 WL 1715180, at *10 (N.D. Cal. Apr. 17, 2019) (approving attorneys' fees representing approximately 61% of the total amount paid by defendants where the award was still only 83% of counsel's lodestar); *In re California Indirect Purchases,* 1998 WL 1031494, at *9 (collecting cases awarding between 30% and 45%). *See also Glover v. 20/20 Commc'ns, Inc.,* No. RG14748879 (Alameda

Cnty. Super. Ct. Nov. 4, 2014) (awarding 46% of $475,000 PAGA settlement); *Rickey v. Baller, Inc., et al.,* No. 37-2022-00044840-CU-BT-CTL (San Diego Cnty. Super. Ct., Dec. 6, 2024) (awarding 40% of common fund in an ARL class action that settled in less than two years, resulting in a 0.93 multiplier).

Finally, the Class's reaction supports the requested fee. Notice informed Class Members of the requested attorneys' fees and costs, and no valid objections were received. Silva Decl. ¶¶ 14-16 & Exs. A-B; Ho Final Decl. ¶¶ 10-12. *In re Heritage Bond Litig.,* No. 02-ML-1475, 2005 WL 1594389, at *15 (C.D. Cal. June 10, 2005) (positive reaction by settlement class members to counsel's fee request supported finding fee request reasonable). As discussed in the Motion for Final Approval and briefly above, the Settlement Administrator received eight submissions purporting to object to the Settlement, but none could be verified as having been submitted by a Settlement Class Member after multiple follow-up attempts by the Administrator and independent investigation by Class Counsel. Silva Decl. ¶¶ 14-15; Ho Final Decl. ¶¶ 11-12.

For all of these reasons, the requested fee is fair and reasonable under the common-fund approach and, far from creating a windfall, compensates Class Counsel for substantially less than the value of the work required to create the Settlement Fund.

D. <u>The Litigation Costs Are Reasonable.</u>

Class Counsel incurred $165,062.97 in reasonable litigation costs to date. Ho Final Decl. ¶ 104, Ex. 5; Hammond Final Decl. ¶ 28, Ex. 3. These costs are commonly taxable and reimbursed costs, including court-filing and process-serving fees, deposition and hearing transcript costs, expert consultation costs, travel costs, mediation costs, online research costs, postage, and copying costs. *See In re United Energy Corp. Solar Power Modules Tax Shelter Inv. Sec. Litig,* Nos. MDL 726, CV 81-3962KN(GX), CV 86-3538KN(GX), 1989 WL 73211, at *6 (C.D. Cal. Mar. 9, 1989) (approving costs for "filing fees, postage, telephone bills, photocopying, legal research assistance, deposition costs, witness fees, and similar items"); *Serrano,* 20 Cal. 3d at 35 (when common fund is created, fair share of litigation costs should be borne by beneficiaries of fund). Class Counsel have reasonably incurred these costs while litigating this case for more than seven years and will continue to incur additional expenses throughout the final approval and administration process. Ho Final Decl. ¶¶ 105-106; Hammond Final Decl. ¶ 28.

In addition, Class Counsel anticipate incurring approximately $500 in further litigation and administration expenses in connection with preparing and filing the motion for final approval, preparing and filing the motion for attorneys' fees, costs, and service awards, overseeing settlement administration, supervising distribution of settlement benefits, and completing the final accounting and closing of the settlement. Hammond Final Decl. ¶ 28. These additional expenses are reasonably necessary to bring the settlement to completion and are of the same type routinely reimbursed in class action litigation.

IV. <u>THE SERVICE AWARDS TO PLAINTIFFS DE LA O AND CHAVEZ ARE JUSTIFIED AND REASONABLE</u>

The requested service awards of $5,000 to Plaintiff and Class Representative De La O and of $2,500 to Plaintiff Chavez are fair and reasonable and should be approved. In granting preliminary approval, the Court expressly found that "Plaintiffs are entitled to service awards" and preliminarily approved awards of $5,000 for Plaintiff De La O and $2,500 for Plaintiff Chavez. Prelim. App. Order at 14. The Class reaction to this request further supports its reasonableness as not one Class Member has objected to the requested service awards after receiving notice.

Class representatives in class action litigation are eligible for reasonable participation payments to compensate them for the risks assumed, and efforts made, on behalf of the Class. *Clark v. Am. Residential Servs. LLC,* 175 Cal. App. 4th 785, 807 (2009) (citing *In re Cont'l Ill. Sec. Litig.,* 962 F.2d 566, 571 (7th Cir. 1992)); *see Staton v. Boeing Co.,* 327 F.3d 938, 976 (9th Cir. 2003). Courts routinely approve service awards to compensate named plaintiffs for the expense or risk they incur during the course of the class action litigation, including in amounts greater than the amount requested here. *In re Cellphone Fee Termination Cases,* 186 Cal. App. 4th 1380, 1393-94 (2010) (approving $10,000 payment to each class representative in a consumer class action); *Munoz v. BCI Coca-Cola Bottling Co of Los Angeles,* 186 Cal. App. 4th 399, 412 (2010) (approving $5,000 payment to each class representative in employment class action); *In re Online DVD-Rental Antitrust Litig.,* 779 F.3d at 947-48 (affirming grant of $5,000 service awards to each of nine class representative); *Wahl v. Yahoo! Inc.,* No. 17-cv-02745-BLF, 2018 WL 6002323, at *6 (Nov. 15, 2018) (approving $5,000 payment to the class representative); *Lomeli, et al. v. SeaWorld Parks & Entertainment, Inc.,* No. 37-2023-00008529-CU-BT-CTL (San Diego Cnty. Super. Ct. Aug. 15, 2025) (approving $10,000 service award for class representative); *Habelito v. Guthy-Renker LLC,* No. BC499558 (approving $10,000 service award for class representative); *Gargir v. SeaWorld Parks & Etm't, Inc.,* No. 37-2015-00008175 (San Diego Cnty. Super. Ct. Oct. 21, 2016) (approving $5,000 service award for the class representative). *See also Dutcher,* No. 20CV366905 (preliminarily approving $15,000 service award for the class representative).

The requested award to De La O is particularly warranted. De La O served as the sole certified Class Representative and remained actively involved during the approximately six-year period since he became a named Plaintiff. He reviewed pleadings, searched for and produced records, responded to written discovery, prepared for and sat for a full-day deposition, reviewed and corrected his deposition transcript, assisted with class-certification proceedings, remained available for mediation, reviewed the Settlement Agreement, and stayed in regular contact with counsel throughout the litigation. De La O devoted at least 30 hours to the case despite full-time work and family obligations and assumed the risks attendant to serving as the Class's sole certified representative. *See* Hammond Final Decl., Ex. 4 (Decl. of Salvador De La O, filed 12/29/25).

The requested $2,500 award to Chavez is likewise reasonable. Although the Court ultimately determined that Chavez was not an adequate class representative, Chavez devoted substantial time and effort to the prosecution of this action. He communicated extensively with counsel, reviewed and approved pleadings, searched for and produced records, responded to written discovery, spent approximately six hours preparing for his deposition, sat for a full-day deposition, reviewed a transcript exceeding 300 pages, assisted with class-certification briefing, and remained actively involved in the case. Chavez devoted approximately 28 to 30 hours to the litigation and assumed the risks associated with serving as a named plaintiff. *See* Hammond Final Decl., Ex. 4 (Decl. of Angel Chavez, filed 12/29/25). In addition, Chavez is relinquishing any right to challenge the Court's ruling regarding his adequacy and has agreed not to pursue an appeal because he believes doing so would not be in the best interests of the Class and would delay the Class's recovery. *See Id.* Under these circumstances, the requested awards are modest, well-supported by the record, and comfortably within the range routinely approved in class actions.

V. <u>CONCLUSION</u>

For the foregoing reasons, this Court should grant Plaintiffs' request for attorneys' fees and out-of-pocket litigation costs, and service awards for class representatives in full.

Dated: June 26, 2026

Respectfully submitted,

HAMMONDLAW, PC.

/s/ Julian Hammond

Julian Hammond

DARDARIAN HO KAN & LEE

/s/ Laura L. Ho

Laura L. Ho

Attorneys for Plaintiffs and the Settlement Class