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12
13 **UNITED STATES DISTRICT COURT**
14 **DISTRICT OF NEVADA**

15
16 *In re J&J Investment Litigation*

Case No.: 2:22-cv-00529-CDS-NJK

17 **PLAINTIFFS' MOTION FOR**
18 **ATTORNEYS' FEES,**
19 **REIMBURSEMENT OF LITIGATION**
20 **EXPENSES, AND SERVICE AWARDS**

21 Judge: Hon. Cristina D. Silva
22 Hon. Nancy J. Koppe
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Introduction

In compensation for their services in identifying, asserting, litigating, and settling the claims of the proposed Settlement Class against Wells Fargo, Plaintiffs' Counsel¹ seek an award of attorneys' fees equal to 31.25% of the \$50 million settlement fund, to be divided between Class Counsel and Receiver Counsel pursuant to their preexisting fee division agreement.² The requested award represents a modest increment over the Ninth Circuit's "benchmark" 25% fee award, and is justified by the result achieved, the skill required of counsel and the sophistication of the defense mounted by Wells Fargo's experienced counsel, the fully contingent nature of the representation, and the substantial risk of nonpayment. As importantly, any lower amount will not even return the time Plaintiffs' Counsel invested in bringing the litigation to this point. The request amounts to a flat multiplier of 1.003 on Plaintiffs' Counsel's lodestar of over \$15.57 million. The requested fee is also in line with other aiding-and-abetting cases in this Circuit. And as this Court acknowledged at preliminary approval, a fee request in this range is "consistent with the amount sought in similar cases across this circuit." ECF No. 293, Preliminary Approval Hr'g Tr. ("PA Tr.") at 8.

The recovery represents over 41% of what Plaintiffs estimate they could have recovered on their best day, assuming a trial win and affirmance on appeal. The result is favorable, considering the demanding "actual knowledge" standard Plaintiffs would have to meet to establish Wells Fargo's liability at trial. And 41 cents on the dollar is a conservative estimate of the recovery. The Receiver's

¹ Plaintiffs' Counsel includes Class Counsel, Girard Sharp LLP, Gibbs Mura LLP, and the Law Offices of Robert L. Brace, and counsel for the Receiver Geoff Winkler, Levine Kellogg Lehman Schneider + Grossman LLP. The firms will share proportionately in any award of attorneys' fees, as agreed among counsel and the Receiver.

² Class Counsel have reduced their fee from the 33.33% set out in the notice to account for an agreement between the Receiver's Counsel, who participated in the litigation alongside Class Counsel, and will share proportionately in any fee award. That agreement limits Receiver's Counsel to a fee equal to 25% of any recovery. Receiver Counsel contributed approximately 25.9% of the "lodestar" of all Plaintiffs' counsel. Rounding Receiver Counsel's contribution to 25% and deducting attorneys' fees of 25% from the quarter of the settlement fund (\$12.5 million) attributable to Receiver Counsel's contributions equates to attorneys' fees of \$3.125 million. Deducting attorneys' fees of 33.33% from the remaining \$37.5 million of the settlement fund equates to \$12,498,750, for total attorneys' fees of \$15,623,750, or 31.24750%, which counsel have rounded to 31.25%. Joint Declaration of Counsel ("Joint Decl."), attached as Exhibit 1, ¶ 9.

forensic accountant calculated in his expert report that the most probable liability period—in other words, the period when Plaintiffs had the best prospects for convincing a jury that Wells Fargo had actual knowledge of the scheme—set the total damages at around \$67 million, subject to potential reductions for other receivership assets and recoveries. In other words, the real-world recovery is closer to 75%, an unusual outcome in a case against a secondary actor.

As courts in other analogous cases have noted, aiding and abetting cases are complex and require skilled counsel. This case illustrates the point. The Settlement is the product of four years of litigation and three mediations, and nearly 19,000 hours of professional time, equating to \$15.57 million at Plaintiffs’ Counsel’s hourly rates. Plaintiffs’ Counsel also advanced over \$977,000 in out-of-pocket expenses. Counsel’s tasks included carefully investigating and drafting the consolidated complaint, protracted discovery negotiation and motion practice, coordination with a federal equity receiver, taking or defending 26 depositions, addressing complex attorney-client privilege issues and “zone of insolvency” dynamics, full briefing on motions to dismiss and for summary judgment, preparing and defending Plaintiffs’ motion for class certification, reciprocal *Daubert* motions, and complex damage analysis and mediation advocacy, requiring that Plaintiffs’ Counsel devote their attention to this litigation throughout the four-year period required to bring it to conclusion.

By every metric, the compensation requested has been earned, and Plaintiffs respectfully ask that the Court approve the requested awards in full, including service awards to the Class Representatives of \$10,000 each.

Argument³

I. The Requested Fee is Reasonable and Should be Awarded.

Counsel “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.” *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980). In the Ninth Circuit, there are two ways of assessing requests for attorneys’ fees in common fund cases: the percentage-of-the-recovery method (where the fee is evaluated as a

³ In the interest of avoiding repetition, Plaintiffs respectfully refer the Court to the accompanying Motion for Final Approval of Class Action Settlement for the procedural background, settlement terms, and the details of the work Plaintiffs’ Counsel performed in this case.

percentage of the common fund) and the lodestar method (where the fee is evaluated by reference to counsel's lodestar). *In re Apple Inc. Device Performance Litig.*, 50 F.4th 769, 784 (9th Cir. 2022); *see also Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1047 (9th Cir. 2002) (citing *In re Wash. Pub. Power Supply Sys. Sec. Litig.*, 19 F.3d 1291, 1295-96 (9th Cir. 1994)).

The percentage-of-recovery method awards attorneys' fees as a percentage of the common fund. This method is "favored" when the "benefit to the class is easily quantified." *Wear v. Sprint Commc'ns Co. L.P.*, 2013 WL 3108312, at *2 (D. Nev. June 18, 2013) (quotation omitted); *see also id.* ("The percentage-of-recovery method is favored in common-fund cases because it allows courts to award fees from the fund in a manner that rewards counsel for success and penalizes it for failure." (quotation omitted)); *Acuna v. So. Nev. T.B.A. Supply Co.*, 324 F.R.D. 367, 384 (D. Nev. 2018) ("The lodestar calculation may also be used as a cross-check on the reasonableness of a percentage based award."). The benefit to the class, \$50 million in cash, is easily quantifiable, weighing in favor of determining attorneys' fees using the percentage method.

The requested fee of 31.25% of the Settlement Fund is consistent with other fee awards in the Ninth Circuit and appropriate under the percentage-of-the recovery method, given Class Counsel's work in diligently reaching a favorable settlement. *See Barrett v. Apple Inc.*, 2025 WL 1002786, at *2 (N.D. Cal. Apr. 3, 2025) ("The Court also notes that an award of this percentage [33.33%] is consistent with other awards in the Ninth Circuit"); *Martinelli v. Johnson & Johnson*, 2022 WL 4123874, at *9 (E.D. Cal. Sept. 9, 2022) ("[A] comparison to awards typically made in common fund cases suggests that an award amounting to one-third of the settlement amount is appropriate here."); *see also, e.g., In re Eureka Casino Breach Litig.*, 2026 WL 1715287, at *3 (D. Nev. June 12, 2026) (Silva, J.) (awarding 33.33% of settlement fund); *Small v. Univ. Med. Ctr. of S. Nev.*, 2019 WL 3063509, at *2 (D. Nev. May 29, 2019) (approving a 33% fee award); *In re Mego Fin. Corp. Secs. Litig.*, 213 F.3d 454, 463 (9th Cir. 2000) (affirming an award of one-third of settlement fund). When cross-checked against Class Counsel's lodestar, the requested fee will result in a negligible multiplier of approximately 1.003, essentially the return of the time invested by Plaintiffs' Counsel.

A. The Relevant Factors Favor a Fee Enhancement.

The equities in favor of awarding the fee requested are compelling. The 25% “benchmark” for an attorneys’ fee award in a common fund class action is a starting point; the Court determines the appropriate percentage by “tak[ing] into account all of the circumstances of the case.” *Vizcaino*, 290 F.3d at 1048; *see In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1047 (N.D. Cal. 2008) (noting that “in most common fund cases, the award exceeds that benchmark”). The benchmark is subject to adjustment based on the Court’s assessment of: “(1) the results achieved; (2) the risk of litigation; (3) the skill required; (4) the quality of counsel’s work; (5) the contingent nature of the fee and the financial burden; and (6) similar awards made in similar cases.” *Acuna*, 324 F.R.D. at 385; *see also Vizcaino*, 290 F.3d at 1047-50.

Each *Vizcaino* factor supports an upward adjustment from the Ninth Circuit’s 25% benchmark: the recovery as a percentage of triable damages exceeds that of similar cases; Plaintiffs faced extraordinary risks from the outset, particularly in proving Wells Fargo’s knowledge of the scheme; Class Counsel committed four years of diligent work on a fully contingent basis; and now seek a percentage request in line with other awards in this District, and they are not asking the Court to award a meaningful lodestar multiplier, only the value of their time at their customary rates.

1. The Relief Obtained for the Class Exceeds the Recovery in Similar Cases and Other Class Actions.

“The most important factor is the results achieved for the class. Outstanding results merit a higher fee.” *In re Cathode Ray Tube (CRT) Antitrust Litig.*, 2016 WL 4126533, at *4 (N.D. Cal. Aug. 3, 2016) (citing *In re Omnivision*, 559 F. Supp. 2d at 1046); *Hensley v. Eckerhart*, 461 U.S. 424, 436 (1983) (noting “the most critical factor is the degree of success obtained”).

The \$50 million recovery for J&J investors represents roughly 41% of the best-case damages J&J investors stood to recover at trial (\$121.95 million). ECF No. 286-2, Ex. 2, Joint Declaration of Counsel (“Prelim. Counsel Decl.”), ¶ 27. Other similar cases have returned a lower percentage of the class’s recoverable net losses:

Case	Recoverable Investor Net Loss	Settlement	% Recovery
<i>In re J&J Investment Litigation</i> , No. 22-cv-00529 (D. Nev.)	\$121.95 million	\$50 million	41%
<i>Chang v. Wells Fargo Bank</i> , No. 19-CV-01973-HSG (N.D. Cal.)	\$30 – \$100 million ⁴	\$3.75 million ⁵	4 – 13%
<i>Jenson v. First Trust Corp.</i> , No. 05-cv-03124-ABC (C.D. Cal.)	\$91.5 million ⁶	\$8.5 million ⁷	9%
<i>McNamara v. Wells Fargo Bank</i> , No. 21-cv-1245-TWR (S.D. Cal.)	\$294 million ⁸	\$33 million ⁹	11%
<i>Neilson v. Union Bank</i> , No. 02-cv-06942-MMM (C.D. Cal.)	\$200+ million ¹⁰	\$26.5 million ¹¹	13% ¹²
<i>Gonzalez v. Lloyds TSB Bank</i> , No. 06-cv-01433-VBF (C.D. Cal.)	\$90 million ¹³	\$17.04 million ¹³	19%
<i>Evans v. ZB, N.A.</i> , No. 2:17-cv-01123 (E.D. Cal.)	\$55 million ¹⁴	\$14 million	25%
<i>Camenisch v. Umpqua Bank</i> , No. 20-cv-5905-PCP (N.D. Cal.)	\$149.4 million ¹⁵	\$55 million ¹⁶	37%

⁴ ECF No. 129 at 10-11 (estimating out-of-pocket losses at just over \$100 million but noting that up to \$70 million being held by the receivership estate could ultimately be returned to investors as well).

⁵ *Chang*, 2023 WL 6961555, at *2 (N.D. Cal. Oct. 19, 2023) (disregarding funds held by receivership estate, “the total settlement amount of \$3.75 million represents approximately 3.75% of total estimated losses”).

⁶ *Jenson*, 2008 WL 11338161, at *1 n.2 (C.D. Cal. June 9, 2008) (“the net-loss suffered by the Class is approximately \$91.5 million”).

⁷ *Id.* at 6.

⁸ ECF No. 383 at 25 n.19 (explaining that class plaintiffs sought \$294 million in compensatory damages).

⁹ *Id.* at 25.

¹⁰ ECF No. 308 at 2 (“Plaintiffs allege that more than \$200,000,000 of [\$600,000,000 received from investors] has never been returned”).

¹¹ *Id.* at 5-6 (\$26.5 million settlement fund to compensate both class and non-class investors for all claims, including aiding-and-abetting claims).

¹² *Id.* at 26 (“The proposed settlement amount thus represents approximately 13% of the damages the class sought to recover on the aiding and abetting claims”).

¹³ ECF No. 189 at 5-6, *adopted by* ECF No. 197.

¹⁴ ECF No. 105 at 10.

¹⁵ ECF No. 472 at 14-15.

¹⁶ *Id.* at 9-10.

1 The estimated 41% recovery in this case is conservative. The Receiver’s accountant, who also
 2 served as Plaintiffs’ expert, calculated damages in his expert report based on the most probable liability
 3 period at around \$67 million, subject to reductions for other receivership assets and recoveries. Joint
 4 Decl. ¶ 4. Under this more realistic estimate, the settlement represents 75% or more of recoverable
 5 damages for the most probable liability period.

6 In either case, the result supports the requested fee as even the more conservative estimate
 7 exceeds the typical recovery in class actions, including in analogous aiding and abetting cases. *See*
 8 *Jenson, v. First Tr. Corp.*, 2008 WL 11338161, at *12 (C.D. Cal. June 9, 2008) (single digit recovery in
 9 aiding and abetting case was an “excellent result” and “highly-favorable outcome” that supported the
 10 33% fee request); *Gevaerts v. TD Bank*, 2015 WL 6751061, at *7 (S.D. Fla. Nov. 5, 2015)
 11 (“Approximately ten percent (10%) of the most probable sum Plaintiffs anticipated recovering at trial,
 12 which is being paid by one defendant on aiding and abetting claims and who did not initiate the
 13 scheme, constitutes a very fair settlement.”). As courts have repeatedly noted, recoveries in class
 14 actions are often in the single or low double digits of total recoverable damages. *See, e.g., Int’l Bhd. of*
 15 *Elec. Workers Loc. 697 Pension Fund v. Int’l Game Tech., Inc.*, 2012 WL 5199742, at *3 (D. Nev. Oct.
 16 19, 2012) (3.5% recovery of “maximum damages that Plaintiffs believe could be recovered at trial”); *In*
 17 *re High-Tech Emp. Antitrust Litig.*, 2015 WL 5159441, at *4 & n.5 (N.D. Cal. Sept. 2, 2015)
 18 (collecting cases where courts approved settlements representing recoveries in the low single digits of
 19 total possible damages); *Kendall v. Odonate Therapeutics, Inc.*, 2022 WL 1997530, at *6 (S.D. Cal.
 20 June 6, 2022) (noting that 3.49% recovery was above “median recovery” in securities class actions).

21 The “results achieved” factor favors an upward departure from the Ninth Circuit’s benchmark.
 22 *See, e.g., Carlin v. DairyAmerica, Inc.*, 380 F. Supp. 3d 998, 1022 (E.D. Cal. 2019) (collecting cases
 23 for the proposition that recoveries of approximately one-third of total maximum damages supports a
 24 greater fee award); *Weeks v. Google LLC*, 2019 WL 8135563, at *3 (N.D. Cal. Dec. 13, 2019) (citing
 25 38% damages recovery as factor in higher fee award); *Mauss v. NuVasive, Inc.*, 2018 WL 6421623, at
 26 *6 (S.D. Cal. Dec. 6, 2018) (recovery of 23% to 34% of maximum damages as a factor in favor of
 27 upward departure from benchmark); *Brown v. CVS Pharmacy, Inc.*, 2017 WL 3494297, at *6 (C.D.
 28 Cal. Apr. 24, 2017) (recovery of 27% of damages as a factor).

2. The Claims Against Wells Fargo Were Risky and Complex.

Litigation risk is another consideration in setting a reasonable fee. *Vizcaino*, 290 F.3d at 1048 (noting “[r]isk is a relevant circumstance” when applying the percentage-of-fund method); *Greene v. Jacob Transp. Servs., LLC*, 2018 WL 11424176, at *2 (D. Nev. Aug. 29, 2018) (recommending approval of attorney fees, in part, because “counsel undertook a substantial risk”).

Aiding and abetting cases against banks are risky, because plaintiffs must prove the bank’s “actual knowledge” of the primary actor’s tortious conduct. *See, e.g., Casey v. U.S. Bank Nat. Ass’n*, 127 Cal. App. 4th 1138, 1148 (2005) (“[T]hough the complaint provides ample details of the banks’ improper *conduct* in their business dealings with the unscrupulous DFJ Fiduciaries, the complaint fails to establish that the banks had actual knowledge of the primary violation in which they purportedly participated.” (emphasis in original)). The requirement that Plaintiffs plead and prove a bank’s actual knowledge and substantial assistance in the commission of a wrong is often fatal in aiding and abetting cases. *See, e.g., In re Consol. Meridian Funds*, 485 B.R. 604, 625 (Bankr. W.D. Wash. 2013) (dismissing aiding and abetting claims against bank arising out of Ponzi scheme based on failure to plead actual knowledge); *Chance World Trading E.C. v. Heritage Bank of Com.*, 438 F. Supp. 2d 1081, 1085-87 (N.D. Cal. 2005) (granting summary judgment for the bank because there was no evidence it was aware of underlying fraud); *Paskenta Band of Nomlaki Indians v. Crosby*, 2016 WL 6094468, at *7 (E.D. Cal. Oct. 19, 2016) (existence of “large withdrawals that triggered heightened scrutiny” did not mean the bank “had knowledge of any wrongdoing”). Plaintiffs also faced other significant challenges, including the risk of an adverse ruling on class certification. *See Medeiros v. HSBC Card Servs., Inc.*, 2017 WL 11632870, at *10 (C.D. Cal. Oct. 23, 2017) (citing risk that the court would deny class certification as supporting the requested 33.33% fee award).

Accordingly, the result achieved is particularly noteworthy given the risks Plaintiffs faced in prevailing at class certification and trial and sustaining a win on appeal. *See Evans v. Zions Bancorporation, N.A.*, 2022 WL 16815301, at *4 (E.D. Cal. Nov. 8, 2022) (noting the risk of no recovery because evidence of the bank’s actual knowledge was “inconclusive and subject to alternate interpretation”); *Gevaerts*, 2015 WL 6751061, at *12 (the “high standard required to prove that TD

1 Bank had actual knowledge of a fraud” constituted a “significant risk” class counsel successfully
2 overcame).

3 **3. The Recovery Reflects the Skill and Quality of Counsel’s Work.**

4 “[C]ourts have recognized that the prosecution and management of a complex national class
5 action requires unique legal skills and abilities[.]” *In re Stable Rd. Acquisition Corp.*, 2024 WL
6 3643393, at *13 (C.D. Cal. Apr. 23, 2024) (quotation omitted); *see also Vizcaino*, 290 F.3d at 1048
7 (reasoning that the complexity of the issues and skill and effort displayed by class counsel are among
8 the relevant factors under the percentage approach).

9 Plaintiffs’ Counsel are among the most experienced litigators in the United States in
10 representing investors in Ponzi scheme cases, with decades of experience in litigating against
11 sophisticated institutions and their highly qualified counsel. *See* ECF No. 286-2, Ex. 2A (firm
12 resumes). But experience alone does not equate to a successful outcome, the quality of Plaintiffs’
13 Counsel’s work is best reflected in their conduct of the litigation and in the result achieved. *See*
14 *Moreyra v. Fresenius Med. Care Holdings, Inc.*, 2013 WL 12248139, at *3 (C.D. Cal. Aug. 7, 2013)
15 (the result obtained is “[t]he single clearest factor reflecting the quality of class counsels’ services”
16 (quotation omitted)). Plaintiffs’ Counsel negotiated a \$50 million settlement by diligently litigating this
17 case from filing through class certification, summary judgment, and settlement, opposed by a highly-
18 regarded and determined team of defense attorneys with a deep well of experience, who, unlike
19 Plaintiffs’ Counsel, were not working on contingency. *See In re Am. Apparel, Inc. S’holder Litig.*, 2014
20 WL 10212865, at *22 (C.D. Cal. July 28, 2014) (considering “the quality of opposing counsel as a
21 measure of the skill required to litigate the case successfully” as a factor).

22 Plaintiffs’ Counsel’s diligence and skill in reaching the Settlement support the requested fee
23 award.

24 **4. Plaintiffs’ Counsel Worked on a Contingent Basis in This Risky** 25 **Case Over Four Years.**

26 “[W]hen counsel takes cases on a contingency fee basis, and litigation is protracted, the risk of
27 non-payment . . . justifies a significant fee award.” *Bellinghausen v. Tractor Supply Co.*, 306 F.R.D.
28 245, 261 (N.D. Cal. 2015). The risk that Plaintiffs’ Counsel would receive little or no compensation for

1 their work also weigh in favor of the fee request. *See In re Wash. Pub. Power Supply*, 19 F.3d at 1299
 2 (“It is an established practice in the private legal market to reward attorneys for taking the risk of non-
 3 payment by paying them a premium over their normal hourly rates for winning contingency cases.”).

4 From the outset of the case, it was uncertain whether Plaintiffs’ Counsel would see a return on
 5 their investment. To develop and assert the aiding-and-abetting claims on behalf of J&J investors,
 6 Plaintiffs’ Counsel invested nearly 19,000 hours and advanced over \$977,000 to fund the litigation.
 7 Joint Decl. ¶¶ 11, 20. These investments in the face of significant risk warrant an upwards adjustment
 8 of the fee award. *See Judson v. Goldco Direct, LLC*, 2021 WL 8462049, at *8 (C.D. Cal. June 11,
 9 2021) (approving upward departure and noting “[t]he risk that further litigation might result in no
 10 recovery is a ‘significant factor’ in assessing the fairness and reasonableness of an award of attorneys’
 11 fees”).

12 **5. The Requested Fee Falls Within the Range of Fees Awarded in** 13 **Comparable Cases.**

14 As the Court observed at the preliminary approval hearing, the fee request is consistent with the
 15 amount sought in similar cases across this Circuit. ECF No. 293, PA Tr. at 8; *see also McNamara v.*
 16 *Wells Fargo & Co.*, 2026 WL 836680, at *2 (S.D. Cal. Mar. 26, 2026) (award of 33.33%); *In re*
 17 *Silvergate Cap. Corp.*, 2026 WL 973368, at *4-5 (S.D. Cal. Feb. 10, 2026) (same); *Jenson*, 2008 WL
 18 11338161, at *11-15 (award of 33%); *In re Eureka*, 2026 WL 1715287, at *3 (awarding 33.33% of
 19 settlement fund); *Small*, 2019 WL 3063509, at *2 (award of 33% of the maximum settlement amount);
 20 *In re Mego*, 213 F.3d at 463 (affirming an award of one-third of settlement fund); *Davis v. Symetra Life*
 21 *Ins. Co.*, 2025 WL 1434727, at *5-6 (W.D. Wash. May 19, 2025) (awarding one-third of settlement
 22 fund); *Hod v. Medtronic MiniMed, Inc.*, 2025 WL 2934516, at *8 (C.D. Cal. Sept. 18, 2025) (same);
 23 *Aguilar Auto Repair, Inc. v. Wells Fargo Bank, N.A.*, 2025 WL 1753509, at *9-10 (N.D. Cal. May 23,
 24 2025) (same); *Durham v. Sachs Elec. Co.*, 2022 WL 2307202, at *8 (N.D. Cal. June 27, 2022) (same);
 25 *In re Telescopes Antitrust Litig.*, 2025 WL 1093248, at *10 (N.D. Cal. Apr. 11, 2025) (same);
 26 *Medeiros*, 2017 WL 11632870, at *9 (same).

27 A 31.25% fee is also less than the percentage fee under a standard contingency agreement, and
 28 “when deciding on appropriate fee levels in common-fund cases, courts must do their best to award

counsel the market price for legal services, in light of the risk of nonpayment and the normal rate of compensation” *In re Synthroid Mktg. Litig.*, 264 F.3d 712, 718 (7th Cir. 2001); *see also Blum v. Stenson*, 465 U.S. 886, 904 (1984) (Brennan, J., concurring) (noting that “[i]n tort suits, an attorney might receive one-third of whatever amount the Plaintiff recovers”); *In re Ocean Power Techs., Inc.*, 2016 WL 6778218, at *29 (D.N.J. Nov. 15, 2016) (“If this were an individual action, the customary contingent fee would likely range between 30 and 40 percent of the recovery.”); Robinson, *An Empirical Study of Settlement Conference Nuts and Bolts*, 17 Harv. Negot. L. Rev. 97, 112 (2012) (“In many instances, the attorney’s fee would be 33% of a settlement, but 40% if it goes to trial.”). “In the private marketplace, [skilled counsel] commands a significant premium. So too should it here.” *Gevaerts*, 2015 WL 6751061, at *12.

Plaintiffs’ Counsel’s requested fee award is in line with fees approved in connection with comparable settlements and throughout the Ninth Circuit.

6. The Request is Consistent with Plaintiffs’ Agreement with the Receiver

Class Counsel’s representation agreements do not specify the maximum percentage Class Counsel will seek in attorneys’ fees. However, the agreement between Receiver Counsel and the Receiver, which was approved by the Court, states that the fee will be 25% of any recovery, but “[i]f there is a joint recovery between Receiver and the class action plaintiff in the separate litigation, [Receiver Counsel] will be compensated, along with counsel representing the class action plaintiffs, from a common fund.” *SEC v. Beasley*, No. 2:22-cv-00612-CDS-EJY, ECF No. 471 (D. Nev. Feb. 21, 2023). Pursuant to the Joint Prosecution Agreement between Plaintiffs’ Counsel and the Receiver, if Plaintiffs’ Counsel “believes that it has a good faith basis for seeking more than 25% of the gross settlement or recovery, then [Plaintiffs’ Counsel] shall first ask the Receiver for its support in such a request, which the Receiver shall consider in good faith.” Joint Decl. ¶ 10. Despite good faith discussions between the Receiver and Plaintiffs’ Counsel, the Receiver reserved his position. *Id.*

Accordingly, to account for the agreement between the Receiver and his counsel, Plaintiffs’ Counsel seek a fee based on the weighted average of Plaintiffs’ Counsel’s respective lodestar

1 contributions. Receiver Counsel contributed approximately 25.9% of the lodestar of all Plaintiffs’
 2 counsel. *Id.* ¶ 9. Rounding Receiver Counsel’s contribution to 25% and deducting attorneys’ fees of
 3 25% from the quarter of the settlement fund attributable to Receiver Counsel’s contributions (\$12.5
 4 million) equates to attorneys’ fees of \$3.125 million. *Id.* Deducting attorneys’ fees of 33.33% from the
 5 remaining \$37.5 million of the settlement fund yields additional fees of \$12,498,750, for total
 6 attorneys’ fees of \$15,623,750, or 31.24750%, which counsel have rounded to 31.25%. *Id.*

7 Plaintiffs have thus discharged their obligations under their representation agreement with the
 8 Receiver.

9 **B. A Lodestar Cross-Check Confirms the Reasonableness of the Requested**
 10 **Fees.**

11 The Ninth Circuit encourages a lodestar cross-check on the reasonableness of attorneys’ fees
 12 awarded under the percentage-of-fund method. *See Gamble v. Boyd Gaming Corp.*, 2016 WL 3693743,
 13 at *10 (D. Nev. July 11, 2016) (citing, *inter alia*, *Vizcaino*, 290 F.3d at 1048-50). “Under the lodestar
 14 method, attorney’s fees are ‘calculated by multiplying the number of hours the prevailing party
 15 reasonably expended on the litigation (as supported by adequate documentation) by a reasonable hourly
 16 rate for the region and for the experience of the lawyer.’” *Harrison v. E.I. DuPont De Nemours & Co.*,
 17 2018 WL 5291991, at *6 (N.D. Cal. Oct. 22, 2018) (quoting *In re Bluetooth Headset Prods. Liab.*
 18 *Litig.*, 654 F.3d 935, 941 (9th Cir. 2011)). A “lodestar crosscheck need not be as exhaustive as a pure
 19 lodestar calculation because it only serves as a point of comparison by which to assess the
 20 reasonableness of a percentage award.” *Baker v. SeaWorld Ent., Inc.*, 2020 WL 4260712, at *10 (S.D.
 21 Cal. July 24, 2020) (quotations omitted). “It is well established that the lodestar cross-check calculation
 22 need entail neither mathematical precision nor bean counting,” so that “courts may rely on summaries
 23 submitted by the attorneys and need not review actual billing records.” *Bellinghausen*, 306 F.R.D. at
 24 264 (cleaned up). “There is a strong presumption that the lodestar is a reasonable fee.” *Stetson v.*
 25 *Grissom*, 821 F.3d 1157, 1165 (9th Cir. 2016).

26 Plaintiffs’ Counsel devoted 18,915.5 hours to this case from inception through July 31, 2026,
 27 reflecting the complex nature of the case and Wells Fargo’s vigorous defense. *See Joint Decl.* ¶¶ 11, 18.
 28

1 Counsel carefully investigated and pleaded their claims, surviving Wells Fargo’s motion to dismiss. *Id.*
 2 ¶ 18. Document discovery, targeting highly sensitive internal bank records, required lengthy and
 3 contentious “meet and confer” sessions, with some unresolved issues decided only through motion
 4 practice before Magistrate Judge Koppe. *Id.* Twenty-six depositions followed, then briefing on Wells
 5 Fargo’s motion to dismiss and motion for summary judgment, and Plaintiffs’ motion for class
 6 certification, along with reciprocal *Daubert* motions. *Id.*

7 Applying each firm’s current hourly rates, Plaintiffs’ Counsel committed more than
 8 \$15,570,000 in hourly time to this litigation. *Id.* ¶ 12. A multiplier is usually awarded in addition to the
 9 lodestar, and those “in the 3-4 range are common in lodestar awards for lengthy and complex class
 10 action litigation.” *Milburn v. PetSmart, Inc.*, 2019 WL 5566313, at *8 (E.D. Cal. Oct. 29, 2019)
 11 (quotation omitted). But here, Plaintiffs’ Counsel’s current reported lodestar yields a modest multiplier
 12 of approximately 1.003, which represents the return of counsel’s hours at their current rates. Joint Decl.
 13 ¶ 14; *see also Vizcaino*, 290 F.3d at 1052 (collecting sampling of published, common fund settlements,
 14 with multipliers spanning from 0.6 to 8.5); *Lee v. Enter. Leasing Co.-W.*, 2015 WL 2345540, at *8 (D.
 15 Nev. May 15, 2015) (approving a 2.07 multiplier and noting with favor the *Vizcaino* multiplier of 3.65).
 16 Further, Plaintiffs’ Counsel’s work is not complete. Plaintiffs’ Counsel will respond to any objections
 17 or appeals and appear at the hearing on final approval. Joint Decl. ¶ 18. As a result, the ratio of the fee
 18 to the time invested will further decline as Plaintiffs’ Counsel perform the services needed to secure the
 19 Settlement for distribution. *Wear v. Sprint Commc’ns Co. L.P.*, 2013 WL 3108312, at *4 (D. Nev. June
 20 18, 2013) (factoring in class counsel’s continuing work in determining multiplier).

22 In assessing the reasonableness of an attorney’s hourly rate, courts consider whether the claimed
 23 rate is “in line with those prevailing in the community for similar services by lawyers of reasonably
 24 comparable skill, experience, and reputation.” *Blum v. Stenson*, 465 U.S. 886, 895 n.11 (1984). “It is an
 25 established practice in the private legal market to reward attorneys for taking the risk of non-payment
 26 by paying them a premium over their normal hourly rates for winning contingency cases.” *In re Wash.*
 27 *Pub. Power Supply*, 19 F.3d at 1299. Plaintiffs’ Counsel bring decades of highly relevant experience to
 28

1 this case. *See* ECF No. 286-2, Ex. 2A (firm resumes). Their hourly rates range from \$365 to \$1,400 for
 2 attorneys and \$250 to \$400 for all litigation staff. Joint Decl. ¶¶ 24-37; *see also Joyce R. v. Kijakazi*,
 3 2023 WL 4532829, at *2 (D. Nev. July 12, 2023) (finding an “effective hourly rate of \$1,400”
 4 reasonable); *Hefler v. Wells Fargo & Co.*, 2018 WL 6619983, at *14 (9th Cir. Dec. 18, 2018) (rates
 5 ranging from \$650 to \$1,250 for partners or senior counsel, \$400 to \$650 for associates, and \$245 to
 6 \$350 for paralegals were reasonable). Plaintiffs’ Counsel’s hourly rates are reasonable and have been
 7 approved by courts throughout the country. Joint Decl. ¶ 16; *see also Wakefield v. Wells Fargo & Co.*,
 8 2015 WL 3430240, at *5 (N.D. Cal. May 28, 2015) (noting that a court may utilize counsel’s current
 9 rates to compensate for delay in payment).

10 In sum, Plaintiffs respectfully submit that a 31.25% fee is reasonable considering the favorable
 11 result achieved for the class, the significant risk and expense in undertaking the litigation, the judgment
 12 and expertise of counsel, the contingent nature of the fee, and the fees awarded in comparable cases.

13 **II. Plaintiffs’ Counsel Should be Reimbursed for Litigation Expenses.**

14 In common fund cases, “[c]lass counsel is entitled to reimbursement of reasonable expenses.” *In*
 15 *re Lidoderm Antitrust Litig.*, 2018 WL 4620695, at *4 (N.D. Cal. Sept. 20, 2018) (quotation omitted);
 16 *see also In re High-Tech Emp. Antitrust Litig.*, 2015 WL 5158730, at *16 (N.D. Cal. Sept. 2, 2015) (“In
 17 common fund cases, the Ninth Circuit has stated that the reasonable expenses of acquiring the fund can
 18 be reimbursed to counsel who has incurred the expense.” (citing *Vincent v. Hughes Air W., Inc.*, 557
 19 F.2d 759, 769 (9th Cir. 1977))). “The prevailing view is that expenses are awarded in addition to the fee
 20 percentage.” *Williams v. SuperShuttle Int’l, Inc.*, 2015 WL 685994, at *2 (N.D. Cal. Feb. 12, 2015)
 21 (quotation omitted); *see also, e.g., Szymborski v. Ormat Techs., Inc.*, 2012 WL 4960098, at *4 (D. Nev.
 22 Oct. 16, 2012) (awarding costs in addition to fees). Reasonable litigation expenses include those
 23 incurred for document production and database maintenance, experts and consultants, depositions,
 24 travel, mailing and postage expenses. *See In re Media Vision Tech. Secs. Litig.*, 913 F. Supp. 1362,
 25 1366 (N.D. Cal. 1996); *Thornberry v. Delta Air Lines*, 676 F.2d 1240, 1244-45 (9th Cir. 1982).

26 As of July 31, 2026, Plaintiffs’ Counsel have incurred \$977,784 in litigation expenses,
 27 exceeding the maximum amount set out in the Class Notice. Joint Decl. ¶ 21. Accordingly, Plaintiffs’
 28 Counsel limit their motion for recovery of expenses to \$900,000. These expenses, which are detailed in

1 the Joint Declaration, were advanced for the benefit of the Class and were reasonably incurred and
 2 necessary to achieving the result. *Id.* ¶¶ 27-40.

3 Plaintiffs' Counsel's expenses were reasonably incurred and adequately documented and should
 4 be reimbursed in full. The requested fee is all the more reasonable considering it will also repay the
 5 portion of counsel's expenses not included in the reimbursement request.

6 **III. The Court Should Award Service Awards for the Class Representatives**

7 Finally, the Court should approve a \$10,000 service award to each Plaintiff. "The purpose of a
 8 service award is to 'compensate class representatives for work done on behalf of the class, to make up
 9 for financial or reputational risk undertaking in bringing the action, and, sometimes, to recognize their
 10 willingness to act as a private attorney general.'" *Daniels v. Aria Resort & Casino, LLC*, 2023 WL
 11 2634613, at *5 (D. Nev. Mar. 23, 2023) (quoting *Rodriguez v. W. Publ'g Corp.*, 563 F.3d 948, 958-59
 12 (9th Cir. 2009)).

13 When assessing requests for service awards, courts consider (1) "the proportion of the payments
 14 relative to the settlement amount," (2) "the size of the payment," (3) "the actions the plaintiff has taken
 15 to protect the interests of the class, the degree to which the class has benefitted from those actions," and
 16 (4) "the amount of time and effort the plaintiff expended in pursuing the litigation." *Sinanyan v. Luxury*
 17 *Suites Int'l, LLC*, 2018 WL 815551, at *4 (D. Nev. Feb. 8, 2018) (approving a service award of
 18 \$10,000). "To justify an incentive award, therefore, a class representative must present evidence
 19 demonstrating the quality of plaintiff's representative service, such as substantial efforts taken as class
 20 representative to justify the discrepancy between [his or her] award and those of the unnamed
 21 plaintiffs." *Id.* (quotation omitted).

22 Here, each factor weighs in favor of granting the request. The requested awards combined
 23 represent approximately 0.1% of the total settlement and are consistent with service awards previously
 24 approved by courts in the Ninth Circuit. *See e.g., Coyne v. Las Vegas Metro. Police Dep't*, 2026 WL
 25 1346623, at *3 (D. Nev. May 13, 2026) (awarding services awards of \$12,5000 and \$20,000); *Lee*,
 26 2015 WL 2345540, at *11 (approving \$10,000 service award); *Cunningham v. Leslie's Poolmart, Inc.*,
 27 2016 WL 7173806, at *2 (C.D. Cal. Apr. 18, 2016) (same); *Negrete v. Allianz Life Ins. Co. of N. Am.*,
 28 2015 WL 12592726, at *15 (C.D. Cal. Mar. 17, 2015) (same); *Quezada v. Schneider Logistics*

1 *Transloading & Distrib., Inc.*, 2014 WL 12584436, at *12 (C.D. Cal. May 12, 2014) (explaining that
 2 “other courts have found that service awards of \$10,000 to named plaintiffs are reasonable” and
 3 collecting cases).

4 Each Plaintiff devoted significant time throughout the course of this litigation, with no
 5 guarantee it would yield a successful result. Plaintiffs’ contributions include assisting counsel in their
 6 pretrial investigation, reviewing the complaint, monitoring and communicating with counsel about case
 7 developments, gathering and producing documents, responding to written discovery, preparing and
 8 appearing for depositions, and evaluating settlement proposals. *See* Joint Decl. ¶ 42. Had this litigation
 9 proceeded to trial, each Plaintiff was prepared to testify. *Id.* Additionally, each lent their name to case,
 10 knowing it would appear in the Court’s records and become discoverable through a simple online
 11 search.

12 The requested service awards are thus reasonable and consistent with the practice in the Ninth
 13 Circuit.

14 Conclusion

15 For the above reasons, Plaintiffs request that the Court grant their requests for attorneys’ fees,
 16 expenses, and service awards.

17
 18 Dated: September 8, 2026

Respectfully submitted,

19
 20 /s/ David K. Stein

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CERTIFICATE OF SERVICE

I hereby certify that on September 8, 2026 I served a true and correct copy of **PLAINTIFFS' MOTION FOR ATTORNEYS' FEES, REIMBURSEMENT OF LITIGATION EXPENSES, AND SERVICE AWARDS** to be electronically filed with the Clerk of the Court of the U.S. District Court of Nevada via the Court's CM/ECF system, which will send a notification of such filing to all registered counsel of record.

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