ALEXANDER E. WOLF (SBN 299775)
awolf@milberg.com
MILBERG, PLLC
280 S. Beverly Drive, PH
Beverly Hills, CA 90212
Tel: (872) 365-7060

WILLIAM J. EDELMAN (SBN 285177)
wedelman@milberg.com
MILBERG, PLLC
227 W. Monroe Street, Suite 2100
Chicago, IL 60606
Tel: (866) 252-0878

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

CHRISTINA CHIECHI, individually and on behalf of all similarly situated persons,

Plaintiff,

v.

EDLOE FINCH LLC d/b/a Albany Park,

Defendant.

Case No. 25CU057205C

Hon. Wendy M. Behan

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S UNOPPOSED MOTION FOR ATTORNEYS' FEES, COSTS, AND SERVICE AWARD

IMAGED FILE

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I. INTRODUCTION.

Plaintiff Christina Chiechi ("Plaintiff")[1] reached an outstanding resolution to this false discounting consumer class action providing over $16 million in total value, which the Court preliminarily approved on May 29, 2026. ROA 27. The proposed Settlement requires Defendant Edloe Finch LLC d/b/a Albany Park ("Defendant" or "Albany Park") to automatically distribute $115 store-credit vouchers to all Settlement Class Members without any requirement to submit a claim. SA § III.H.1. For those Settlement Class Members who prefer a cash refund, they may submit a Claim Form to elect a $115 cash payment in lieu of the store credit. *Id.* In addition to this consideration, Defendant will pay the costs of notice and administration and any court-approved service award and attorneys' fees—all without reducing the consideration available to the Settlement Class. *Id.* §§ I.B., III.I.5., III.K.

Plaintiff now brings the instant unopposed Motion seeking an award of (1) $1,500,000 in combined attorneys' fees and costs (specifically, $1,488,909 in attorneys' fees and $11,091 in costs), and (2) a $5,000 service award to the Class Representative. *Id.* §§ III.K.1, III.K.2. Class Counsel respectfully submit that the requested awards fairly compensate Class Counsel for their substantial efforts and excellent results, and for the Class Representative's service on behalf of the Settlement Class.

II. SUMMARY OF PROPOSED SETTLEMENT.

Under the Agreement, the Settlement Class will receive $14,952,300 in automatically distributed store credit vouchers at $115 each.[2] SA § III.H.1. The store credit vouchers are designed to be flexible. They are freely transferrable, have no blackout dates, and expire 18 months after activation. *Id.* § III.H.3. They also can be combined with any future discount or offer available to the public on AlbanyPark.com. *Id.* Settlement Class Members also have the option to submit a claim for a $115 cash refund in lieu of the store credit. *Id.* § III.H.4, III.I.1. Claiming Settlement Class Members can receive cash payments electronically through an online service or by check, if they wish. *Id.* §§ I.C., I.F., III.H.4.

In addition, Defendant will separately make available at least $1,566,000 to cover notice and

[1] All capitalized terms have the same meaning as set forth in the Settlement Agreement ("SA" or "Agreement") previously filed at ROA 16 Ex. 1.

[2] Defendant initially estimated 130,382 total Settlement Class Members. SA § III.H.1. In the course of compiling the class notice list with the Settlement Administrator, Defendant has since confirmed there are 130,020 unique Settlement Class Members. Wolf Decl. ¶ 20.

administration costs, an incentive award to the Plaintiff as approved by the Court, and any award of attorneys' fees, costs, and expenses to proposed Class Counsel. *Id.* §§ III.K.1 (attorneys' fees and costs), III.K.2 (service award), and III.I.5 (notice and administration costs). As a result, attorneys' fees and costs, settlement administration costs, and the service award will not reduce the amounts of the direct payments made to Settlement Class Members.

Thus, the Agreement requires Defendant to pay <u>$16,518,300</u> in combined benefits to the Settlement Class, notice and administration costs, service award to the Class Representative as approved by the Court, and any award of attorneys' fees, costs, and expenses as approved by the Court.

III. THE REQUESTED FEE AWARD IS FAIR, REASONABLE, AND JUSTIFIED

A. An Award of Attorneys' Fees and Costs is Authorized.

Class Counsel in consumer class actions are entitled to a reasonable fee award. California law permits an award of attorneys' fees to the prevailing party in a Consumers Legal Remedies Act ("CLRA") class action, like the instant action. Cal. Civ. Code § 1780(e) ("The court shall award court costs and attorney's fees to a prevailing plaintiff in litigation filed pursuant to this section."). While the CLRA does not define "prevailing plaintiff," courts apply a "pragmatic approach" that determines prevailing party status "based on which party succeeded on a practical level." *Graciano v. Robinson Ford Sales*, 144 Cal. App. 4th 140, 150 (2006). Attorneys' fees may also be awarded here under the substantial benefit doctrine and/or the private attorney general doctrine pursuant to Code of Civil Procedure § 1021.5.[3] And "[c]lass

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[3] Under the private attorney general doctrine, attorneys' fees are awarded in cases that enforce rights affecting public policies. *See California Common Cause v. Duffy*, 200 Cal. App. 3d 730, 741 (1987) ("The fundamental objective of section 1021.5 is to encourage suits effectuating a strong public policy by awarding substantial attorney's fees to those who successfully bring such suits."). Successful litigants are entitled to fees when they have: (1) enforced an important right affecting the public interest; (2) conferred a significant benefit on the public or a large class of persons; and (3) imposed a financial burden on the plaintiff out of proportion to his individual stake. *See Baggett v. Gates*, 32 Cal.3d 128, 142 (1982). These criteria are easily satisfied in the instant consumer class action. *See Beasley v. Wells Fargo*, 235 Cal. App. 3d 1407, 1418 (1991) (consumer protection litigation has "long been judicially recognized to be vital to the public interest") (internal citations omitted); *Graham v. Daimler Chrysler Corp.*, 34 Cal.4th 553, 561 (2004) (only 1,000 subject vehicles sold to California consumers satisfied the "large persons" requirement of Section 1021.5); *Woodland Hills Residents Assn., Inc. v. City Council*, 23 Cal. 3d 917, 941 (1979) (The "financial burden" criterion is met when "the cost of the claimant's legal victory transcends his or her personal interest, that is, when the necessity of pursuing the lawsuit placed a burden on the plaintiff out of proportion to his or her individual stake in the matter"); *see also Colgan v.*

action litigation can result in an attorney fee award . . . through the common fund doctrine when, as in this case, a class settlement agreement establishes a relief fund from which the attorney fee is to be drawn." *See Laffitte v. Robert Half Internat. Inc.*, 1 Cal. 5th 480, 489 (2016).

Moreover, as a matter of policy, courts encourage parties to agree on the proposed fees. *See Hensley v. Eckerhart*, 461 U.S. 424, 437 (1983) ("A request for attorney's fees should not result in a second major litigation. Ideally, of course, litigants will settle the amount of a fee."); *see also Deposit Guar. Nat'l Bank v. Roper*, 445 U.S. 326, 338 (1980) ("Given the unique reliance of our legal system on private litigants to enforce substantive provisions of law through class and derivative actions, attorneys providing the essential enforcement services must be provided incentives roughly comparable to those negotiated in the private bargaining that takes place in the legal marketplace, as it will otherwise be economic for defendants to increase injurious behavior.").

Here, the attorneys' fees and costs figure of $1,500,000 was negotiated during adversarial bargaining by Class Counsel with Defendant after the substantive terms of the Settlement and corresponding Settlement Class benefits had been negotiated. Declaration of Alexander E. Wolf iso Motion for Attorneys' Fees ("Wolf Decl.") ¶¶ 17–18. Of the attorneys' fees awarded by the Court, with Plaintiff's consent, Class Counsel will allocate 15% to co-counsel Mohammed Rashik (CA SBN 334550) who identified and further investigated the underlying claims alongside Class Counsel. *Id.* ¶ 41. And as noted above, the fee and costs award will not reduce the payments to the Settlement Class. SA § III.K.3.

B. The Percentage-of-the-fund Method is Favored and Should Apply in This Case.

California state "[c]ourts recognize two methods for calculating attorney fees in civil class actions: the lodestar/multiplier method and the percentage of recovery method." *Laffitte*, 1 Cal. 5th at 502 (quoting *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 254 (2001)). Courts have "discretion" to select the method, with 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. The key advantage of the percentage method is that it focuses on the benefit conferred on the class resulting from

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Leatherman Tool Group, Inc., 135 Cal. App. 4th 663, 703 (2006) (enforcement of California consumer protection laws as an important right affecting the public interest).

the efforts of counsel, and "encourages early settlement, which avoids protracted litigation." *Id.* at 503 (the "recognized advantages of the percentage method" include the "ease of calculation, alignment of incentives between counsel and the class, a better approximation of market conditions in a contingency case, and the encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation.").

Many courts have also developed a preference for using the percentage method. *See Laffitte*, 1 Cal. 5th at 490-94 (quoting the American Law Institute's findings that "[a]lthough many courts in common-fund cases permit use of either a percentage-of-the-fund approach or a lodestar (number of hours multiplied by a reasonable hourly rate), most courts and commentators now believe that the percentage method is superior."); *Cody v. SoulCycle Inc.*, 2017 WL 6550682, at *6-7 (C.D. Cal. Oct. 3, 2017) (applying the percentage-of-the-fund method where the settlement provided class members with automatic class credits and the option to file a claim for cash); *Lopez v. Youngblood*, 2011 WL 10483569, at *3 (E.D. Cal. Sep. 2, 2011) (in common fund cases, the "percentage of the available fund analysis is the preferred approach in class action fee requests"). This is because "[t]here are significant benefits to the percentage approach, including consistency with contingency fee calculations in the private market," and "reducing the burden on the courts that a complex lodestar calculation requires." *Tait v. BSH Home Appliances Corp.*, 2015 WL 4537463, at *11 (C.D. Cal. July 27, 2015). Moreover, calculating attorneys' fees as a percentage-of-the-fund "aligns the interests of the counsel and the class, i.e., class counsel directly benefit from increasing the size of the class fund and working in the most efficient manner." *Lopez*, 2011 WL 10483569, at *3.

The lodestar method, in contrast, "is typically used when the relief obtained is 'not easily monetized.'" *Ahmed v. HSBC Bank United States*, 2019 WL 13027266, at *5-6 (C.D. Cal. Dec. 30, 2019). It also "inadequately responds to the problem of risk." *See In re: Wash. Pub. Power Supply Sys. Sec. Litig.*, 19 F.3d 1291, 1300 (9th Cir. 1994) (without the percentage-of-the-fund method of calculating fees, "very few lawyers could take on the representation of a class client given the investment of substantial time, effort, and money, especially in light of the risks of recovering nothing") (citation omitted). And it discourages early resolution. *Laffitte*, 1 Cal. 5th at 494 (quoting the American Law Institute's findings that the lodestar method creates a "financial incentive to extend the litigation"). So, the lodestar method is especially disfavored in evaluating fee requests where class counsel achieves a settlement that provides significant pecuniary benefits to the class before summary judgment or trial. *See Rankin v. Am. Greetings, Inc.*, No. 2:10-CV-01831-GGH, 2011 WL 13239039, at *2 (E.D. Cal. July 6, 2011) (explaining that courts "have recognized that" even a "lodestar cross check need not be performed where plaintiff's counsel achieves a significant result through an early settlement").

Here, the percentage method should apply. Class Counsel's efforts generated a significant benefit to the Class with an easily quantifiable monetary value—the Agreement provides for $16,518,300 in total value. And Class Counsel achieved this result at a reasonably early stage, prior to summary judgment or trial. The Court should therefore follow the prevailing practice and evaluate the fee request based on the percentage of the benefits made available to Settlement Class Members.

C. The Requested Fee Award Amounts to Approximately 10% of the Settlement and is Reasonable Under the Percentage Method.

"[F]ee awards in class actions average around one-third of the recovery." *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66 n.11 (2008). The California Supreme Court has not articulated a "presumptively reasonable" percentage of the fund as attorneys' fees but recently affirmed a 33% fee award in a common fund case. *Laffitte*, 1 Cal. 5th at 486. *See also Stanley Donen Films, Inc. v. Twentieth Century Fox Film Corp.*, 2018 WL 2881500 (L.A. Sup. Ct. Apr. 9, 2018) (awarding 33.3% fee on $12.6 million fund); *Bergara v. Bread & Cie Inc.*, No. 37-2022-00001960-CU-0E-CTL (San Diego Super. Ct. Jan. 19, 2024) (Taylor, J.) (awarding one-third of gross settlement fund in fees).

Other courts, including the Ninth Circuit, find "25% of a common fund" as the "presumptively reasonable amount of attorneys' fees." *McShan v. Hotel Valencia Corp.*, 2021 WL 1338948, at *1 (N.D. Cal. Apr. 9, 2021). And in many cases, the "award exceeds th[e] benchmark." *In re Omnivision Techs.*, 559 F. Supp. 2d 1036, 1047-48 (N.D. Cal. 2007) ("[N]early all common fund awards range around 30%" and generally "the rate should be set at 30%."); *Ruiz v. XPO Last Mile, Inc.*, 2017 WL 6513962, at *7-8 (S.D. Cal. Dec. 20, 2017) (approving attorneys' fees award of 35% of the common fund); *Lloyd v. Navy Fed. Credit Union*, 2019 WL 2269958, at *13 (S.D. Cal. May 28, 2019) ("[i]n most common fund cases, the award exceeds the 25% benchmark."); *Spann v. J.C. Penney Corp.*, 211 F. Supp. 3d 1244, 1265 (C.D. Cal. 2016) (granting fee award of 27% of the settlement amount in a similar deceptive pricing case).

Here, as explained above, the settlement provides benefits to Class Members worth $16,518,300 in total—consisting of $14,952,300 in direct compensation, plus $1,566,000 to pay for court-approved attorneys' fees, costs, a service award, and administration. To be sure, the $1,566,000 allocated to fund attorneys' fees and litigation costs benefits Settlement Class Members because it made the settlement possible and does not reduce the direct compensation to the Settlement Class. Thus, the total settlement value is $16,518,300. *See Consumer Priv. Cases*, 175 Cal. App. 4th 545, 553-54 (2009) ("If an agreement is reached on the amount of a settlement fund and a separate amount for attorney fees and expenses" then "the sum of the two amounts ordinarily should be treated as a settlement fund for the benefit of the class."); Manual for Complex Litig. § 21.75 (4th ed. 2008) (same); *Broomfield v. Craft Brew All., Inc.*, 2020 WL 1972505, at *46 (N.D. Cal. Feb. 5, 2020) (to calculate the value of a settlement for purposes of evaluating fees, courts "have included attorneys' fees, settlement administration costs, and litigation expenses" in the total value); *see also Lealao v. Beneficial California, Inc.*, 82 Cal. App. 4th 19, 33 (2000) ("The award to the class and the agreement on attorney fees represent a package deal. Even if the fees are paid directly to the attorneys, those fees are still best viewed as an aspect of the class' recovery.").

Of note, Class Counsel's fee request of $1,488,909 amounts to about 10% of the total value created by the Settlement—below fee awards approved in comparable cases. *E.g., Spann v. J.C. Penney Corp.*, 211 F. Supp. 3d 1244, 1261 (C.D. Cal. 2016) (deceptive discounting case valuing store credit at face value and awarding 27% of $50 million settlement); *Russell v. Kohl's Dep't Stores, Inc.,* 2019 WL 13109706, at *3 (C.D. Cal. Feb. 22, 2019) (same and awarding 23.8% of the fund); *Hampton v. Mattress Firm, Inc.*, No. 25CU003462C (Super. Ct. S.D. County) (Pollack, J.) (deceptive discounting case approving 15% of direct class benefits in fees); *McCall v. Michael Kors (USA), Inc.*, No. 25CU041352N (Super. Ct. S.D. County) (Wood, J.) (deceptive discounting case awarding 21.9% of total class benefits in fees); *Clark v. Fashion Nova, LLC*, No. 25CU032047N (Super. Ct. S.D. County) (Wood, J.) (deceptive discounting case awarding $4,173,414.17 in fees based on 11% of gross settlement fund and acknowledging lodestar cross check multiplier of 2.93).

D. The Relevant Factors Confirm the Requested Fees are Reasonable.

In determining whether the fee award is reasonable, courts consider several factors including: (1) the results achieved; (2) the risk of litigation; (3) the skill required; (4) the quality of work; and (5) the contingent nature of the fee and the financial burden. *See Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1048-50 (9th Cir. 2002). Applied here, each of these factors supports approval of the fee request.

1. Class Counsel Achieved Excellent Results for the Settlement Class.

The "results achieved by the settlement" is the "most critical factor" in assessing a request for fees. *Garcia v. Harkins Admin. Servs., Inc.*, 2021 WL 2792321, at *3 (C.D. Cal. Jan. 4, 2021).

Class Counsel achieved excellent results in this case. Again, Settlement Class Members will automatically receive $115 store credit vouchers as compensation. SA § III.H.2. The vouchers are valid for 18 months after activation, can be transferred, and can be combined with any future discount available. *Id.* § III.H.3. And those who prefer cash can easily submit a Claim Form for a $115 refund. *Id.* §§ III.H.1, III.H.4, III.I.1. This is an outstanding result, as $115 equates to about 7% of the average product price during the Class Period, and about 5% of the average revenue per Settlement Class Member. Wolf Decl. ¶ 22. And it is especially meaningful in that it provides value to every Settlement Class Member, in the form of store credit, without the need to make a claim.

In the context of false discounting cases, the Credit Benefits are particularly appropriate because they are tied to Plaintiff's theory of liability. Plaintiff does not allege there are physical problems with the products. Instead, Plaintiff alleges that AlbanyPark.com deceptively advertised the products' regular prices and discounts. Providing credits directly remedies this alleged deception by offering consumers exactly what the lawsuit alleges they were deprived of—more value in the form of products. Beyond that, the available cash refund option provides Settlement Class Members with a reasonable alternative to store credit. *See McKnight v. Uber Techs.*, 2021 WL 4205055, at *4 (N.D. Cal. Sep. 1, 2021) ("[W]hen class members receive cash, as they have the option of doing here, there is no risk of their being forced to spend 'more' of their own money at all, much less on the defendant's product.").

2. This Case Presented Significant Risks.

The requested fee award is reasonable in light of the risks incurred by Class Counsel. While Class Counsel is confident in the strength of the case, Defendant raised multiple arguments regarding liability and damages, and whether a class could be certified. For example, Defendant argued that its advertising caused no injury and was not deceptive because it was a fair assessment of value in the marketplace, and a class could not be certified in part because Plaintiff could not show classwide damages or restitution.

Wolf Decl. ¶ 24. Plaintiff disagrees with these arguments, but recognizes that to succeed on her claims, Plaintiff must prevail on several substantive arguments, successfully certify a litigation class over Defendant's objections, and win at trial. *Id.* Even then, there is the possibility of appeal. *See Kim v. Space Pencil, Inc*., 2012 WL 5948951, at *5 (N.D. Cal. Nov. 28, 2012) ("The substantial and immediate relief provided to the Class under the Settlement weighs heavily in favor of its approval compared to the inherent risk of continued litigation, trial, and appeal . . ."); *Rodriguez v. W. Publ'g Corp*., 563 F.3d 948, 966 (9th Cir. 2009) (length and expense of continued litigation favored settlement where parties still had to contend with a number of "serious hurdles" like summary judgment and appeal).

Notably, in false discounting cases, there is meaningful risk that Plaintiff prevails on liability but suffered no financial loss. Stated differently, "[e]ven if plaintiff were to prevail at trial, there is a very real risk that plaintiff could recover nothing." *Spann v. J.C. Penney Corp.*, 314 F.R.D. 312, 326 (C.D. Cal. 2016) (approving settlement in false discounting case); *Rael v. Children's Place, Inc*., No. 16-CV-370-GPC-LL, 2021 WL 1226475, at *7 (S.D. Cal. Mar. 31, 2021) (approving false discount settlement and acknowledging risk of continued litigation where the "state of the law regarding the appropriate method for calculating damages or restitution in these types of false pricing cases is in flux"); *Chowning v. Kohl's Dep't Stores, Inc*., 2016 WL 1072129, at *12-13 (C.D. Cal. Mar. 15, 2016), *aff'd*, 733 F. App'x 404 (9th Cir. 2018) (in a false discount case, granting defendant's motion for summary judgment and affirming on appeal because "Plaintiff failed to demonstrate a viable measure of restitution"); *see also In re Tobacco Cases II*, 240 Cal. App. 4th 779, 802 (2015) (declining to award restitution because plaintiffs failed to establish a price/value differential despite prevailing on liability under the UCL and FAL).

For these reasons, false discounting cases often settle for store credit—including (unlike here) credit with *no option* to claim a cash refund. *E.g*., *Aberl v. Ashley Global Retail LLC*, No. 37-2023-00011536-CU-BT-NC (Super. Ct. S.D. County) (Freeland, J.) (approving class settlement providing $30 vouchers that expire within 180 days of issuance); *Martinez v. American Freight LLC*, No. 37-2024-00002841-CU-BT-NC (Super. Ct. S.D. County) (Washington, J.) (approving class settlement providing $25 vouchers that expire within 12 months of issuance); *Rael v. RTW Retailwinds Inc.*, No. 37-2019-00003850-CU-MC-CTL (Super. Ct. S.D. County) (Wohlfeil, J.) (approving class settlement where $7.50 vouchers were directly distributed to New York and Co. customers but expire within 6 months); *Olmedo* *v. PVH Retail Stores LLC*, No. 37-2019-00003250-CU-MC-CTL (Super. Ct. S.D. County) (Whitney, J.) (approving class settlement where $10 vouchers were directly distributed to Tommy Hilfiger outlet customers); *Courtney Dennis v. Ralph Lauren Corp., et al.*, No. 37-2018-58462-CU-MC-CTL (Super. Ct. S.D. County) (Frazier, J.) (approving class settlement where $10 vouchers were directly distributed to Ralph Lauren outlet store customers); *Foos v. Ann, Inc.*, No. 11CV2794 L MDD, 2013 WL 5352969, at *1 (S.D. Cal., Sept. 24, 2013) (approving settlement providing $15 vouchers that expire six months after issuance); *Chaikin v. Lululemon USA Inc.*, No. 3:12-CV-02481-GPC, 2014 WL 1245461, at *3 (S.D. Cal., Mar. 17, 2014) (approving settlement providing $25 vouchers that expire six months after issuance).

3. The Complexity of the Litigation Required Skilled Counsel.

"The 'prosecution and management of a complex [] class action requires unique legal skills and abilities' that are to be considered when evaluating fees." *Spencer-Ruper v. Scientiae*, 2021 WL 4895740, at *2 (C.D. Cal. Sep. 24, 2021). Here, Class Counsel has substantial experience with complex class actions generally, including cases involving deceptive advertising. Wolf Decl. ¶¶ 2–12. This knowledge and experience directly contributed to Class Counsel's ability to successfully litigate and settle this case.

Indeed, the Settlement was reached following formal discovery and informal discovery and settlement discussions that evaluated the strengths and weaknesses of the case and culminated in a successful mediation. Wolf Decl. ¶¶ 13–18. Plaintiff's counsel researched and analyzed the legal merits of the claims and defenses, including an assessment of academic literature and case law, and spent significant time and effort tracking and analyzing Defendant's historical advertising spanning three years. *Id.* The Parties also drafted and exchanged comprehensive mediation briefs. *Id.* Further using the information from the investigation and supplementing it with information from Defendant, Plaintiff's counsel was able to assess the likelihood of prevailing at trial. *Id.* As a result, Plaintiff was able to assess thoroughly the claims of the Settlement Class, Defendant's marketing practices, and Defendant's defenses. *Id*.

4. Class Counsel Took This Case on a Contingency Fee Basis.

"The risk that an attorney takes in the underlying public interest litigation has two components: the risk of not being a 'successful party,' i.e., not prevailing on the merits, and the risk of not establishing eligibility for an attorney fee award." *Graham v. Daimler Chrysler Corp.*, 34 Cal.4th 553, 583 (2004). Class Counsel undertook this matter solely on a contingency basis, with no guarantee of recovery. Wolf Decl. ¶¶ 27–31. *See Schiller v. David's Bridal, Inc.*, 2012 WL 2117001, at *18 (E.D. Cal. June 11, 2012) ("Class Counsel litigated the case on a contingency basis, which necessarily presented considerable risk."); Posner, *Economic Analysis of Law* (4th ed. 1992) at 534, 567 ("A contingent fee must be higher than a fee for the same legal services paid as they are performed."). And Class Counsel has yet to receive any payment for any of their substantial work on this case or out-of-pocket costs. *See Downey Cares v. Downey Community Dev. Comm'n.*, 196 Cal.App.3d 983, 997 (1987) (enhanced fees in contingent fee cases recognize the delay in receipt of full payment of fees).

Despite such challenges, Class Counsel demonstrated that Defendant faced significant risk, thus compelling Defendant settle and compensate the Settlement Class.

For these reasons, the requested fee award is reasonable under the percentage method.

E. A LODESTAR/MULTIPLIER CROSS-CHECK SUPPORTS THE FEE AWARD.

Courts may, but are not required to, "cross-check" the proposed fee award against counsel's lodestar to ensure its reasonableness. *Laffitte*, 1 Cal. 5th at 506 (holding courts have discretion to "conduct" or "forego" a lodestar cross-check). The lodestar method begins with a calculation of time spent and reasonable hourly compensation of each attorney and paralegal who worked on the case. *See Wershba*, 91 Cal.App.4th at 254. To compensate counsel for risk, quality, and result, courts commonly apply a "multiplier" to the lodestar. *Id.* The hourly rates employed are generally based on the rates charged by private attorneys of comparable experience, expertise, and reputation for comparable work. *See Serrano v. Unruh*, 32 Cal.3d 621, 640 (1982). The lodestar includes all work in the underlying case, including settlement and the fee application itself. *Id.* at 632-38. Courts also include any future work in the cross-check. *See In re Volkswagen "Clean Diesel" Mktg., Prods. Liab. Litig.*, 746 F. App'x 655, 659 (9th Cir. 2018) ("The district court did not err in including projected time in its lodestar cross-check").

The "trial court is in the best position to value the services rendered by the attorneys in his or her courtroom." *Syers Properties III, Inc. v. Rankin*, 226 Cal. App. 4th 691, 698-702 (2014). "California courts do not require detailed time records, and trial courts have discretion to award fees based on declarations of counsel describing the work they have done and the court's own view of the number of hours reasonably spent." *Id.* at 698-99.

1. Class Counsel's Hourly Rates are Reasonable.

The reasonable market value of the attorneys' services sets the standard measure of a reasonable hourly rate. *See Ketchum v. Moses*, 24 Cal.4th 1122, 1132 (2001). Courts determine the reasonable market value by examining whether the rates are "within the range of reasonable rates charged by and judicially awarded comparable attorneys for comparable work." *Children's Hosp. & Med. Ctr. v. Bonta*, 97 Cal.App.4th 740, 783 (2002). Rates awarded to other attorneys practicing complex class action litigation in California are appropriate guides for establishing reasonable market rates. *See Davis v. City of San Diego*, 106 Cal.App.4th 893, 904 (2003).

Here, Class Counsel's rates reflect the current market rates by attorneys of comparable experience, skill, and reputation for comparable work. Wolf Decl. ¶¶ 35–36. Class Counsel specializes in complex consumer class actions and regularly litigate cases in California state and federal courts. *Id.* ¶¶ 2–12. Moreover, courts have approved Class Counsel's requested rates and those charged by other experienced attorneys in similar class action matters. *Id.* ¶¶ 35–36; *e.g.*, *Nelkin v. Kroto Inc.*, No. 2:23-cv-08241-KK-MAA, ECF No. 72 (C.D. Cal. Mar. 31, 2025) (approving Class Counsel's 2024 rates); *Hampton v. Mattress Firm, Inc.*, No. 25CU003462C (Super. Ct. S.D. County) (Pollack, J.) (approving Class Counsel's 2025 rates); *Bailey v. Rite Aid Corp.*, No. 4:18-cv-6926, ECF No. 178, at 9 (N.D. Cal. Dec. 16, 2022) (approving requested fees and holding that Milberg's rates were "commensurate with their experience and with the legal market"); *Julian v. TTE Technology, Inc.*, No. 20-cv-02857, ECF No. 152 (N.D. Cal. Jan. 23, 2023) (approving Milberg's rates in false advertising class action); *see also Martinez v. American Freight LLC*, No. 37-2024-00002841-CU-BT-NC, Dkt Nos. 36, 51 (San Diego Super. Ct. Aug. 19, 2024) (Washington, J.) (in a deceptive pricing class action, approving hourly rates of $1,250 and $995 for partners and $775 for senior associates); *Aberl v. Ashley Global Retail, LLC*, No. 37-2023-00011536-CU-BT-NC (Super. Ct. San Diego Cnty.) (Freeland, J.) (approving partner hourly rates of $995); *McKeehan v. 1-800-Pack-Rat LLC*, No. 37-2022-00038509-CU-BT-NC, Dkts. 46, 47 (San Diego Super. Ct. Oct. 4, 2024) (approving hourly rates of $1,000 for partners and $725 for senior associates); *Lopez v. Mgmt. & Training Corp.*, No. 17CV1624 JM(RBM), 2020 WL 1911571, at *8 (S.D.

Cal. Apr. 20, 2020) (approving partner rates up to $900 several years ago); *In re MacBook Keyboard Litig.*, 2023 WL 3688452, at *15 (N.D. Cal. May 25, 2023) (approving partner rates up to $1,195, associate rates up to $850, and paralegal rates of $325); *Fleming v. Impax Lab'ys Inc.*, No. 16-CV-06557-HSG, 2022 WL 2789496, at *9 (N.D. Cal. July 15, 2022) (hourly rates range from $760 to $1,325 for partners, $895 to $1,150 for counsel, and $175 to $520 for associates).

2. Class Counsel's Hours are Reasonable.

Hours are reasonable if they were "reasonably expended in pursuit of the ultimate result achieved in the same manner that an attorney traditionally is compensated by a fee-paying client for all time reasonably expended on a matter." *Hensley v. Eckerhart*, 461 U.S. 424, 431 (1983). In addition to time spent during litigation, reasonable hours include time spent before the case was filed, including to interview clients, investigate facts and the law, and prepare the initial pleadings. *See Webb v. Board of Educ.*, 471 U.S. 234, 243-50 (1985) ("Most obvious examples are the drafting of the initial pleading and the work associated with the development of the theory of the case."). Reasonable hours also include time spent to prepare and litigate the attorneys' fee claim. *See Serrano,* 32 Cal.3d at 639.

Here, as detailed in the Wolf Declaration, Class Counsel spent 482.8 hours on this case through July 31, 2026, including without limitation: (1) fact investigation and analysis, (2) drafting the complaint, (3) research and analysis relating to the merits, damages, academic literature, and underlying issues of law, (4) conferring with Plaintiff, (5) arguing the merits with defense counsel, (6) preparing for and participating in mediation, (7) negotiating the settlement with defense counsel, and (8) submitting the settlement to the Court for approval. Wolf Decl. ¶¶ 33, 40; *id.* ¶¶ 13–18. Additionally, Class Counsel endeavored to litigate efficiently and avoid duplication of efforts by leanly staffing the matter with one lead attorney performing the majority of work, and with support as needed. *Id.* ¶ 37.

3. The Requested Multiplier is Reasonable.

Once the lodestar is calculated, it may be enhanced with a multiplier. *Wershba*, 91 Cal.App.4th at 254. The objective of any multiplier is to provide lawyers involved in public interest litigation with a financial incentive. *See Ketchum*, 24 Cal.4th at 1123. "If this 'bonus' methodology did not exist, very few lawyers could take on the representation of a class client given the investment of substantial time, effort, and money, especially in light of the risks of recovering nothing." *In re Washington Public Power*

Supply System Sec. Litig., 19 F.3d 1291, 1300 (9th Cir. 1994). "Multipliers are often imposed to reflect counsel's risk in taking on such protracted litigation or its deserved reward from the benefits its extracts for the class." *Zucker v. Occidental Petroleum Corp.*, 968 F.Supp. 1396, 1401 (C.D. Cal. 1997), *aff'd*, 192 F.3d 1323 (9th Cir. 1999). Only when courts properly compensate experienced counsel for successful results can they assure the continuing effectiveness of class actions. To accomplish this objective, the fee award must be large enough "to entice counsel to undertake difficult public interest cases." *San Bernardino Valley Audubon Society v. County of San Bernardino*, 155 Cal.App.3d 738, 755 (1984).

"Multipliers can range from 2 to 4 or even higher." *Wershba*, 91 Cal.App.4th at 225; *see also Vizcaino*, *supra*, 290 F.3d 1043, 1051 n.6 (finding that most approved class action settlements had multipliers in the 1.5 to 3 range and approving settlement with 3.6 multiplier). In fact, courts in California routinely approve much higher multipliers. *Steiner v. Am. Broad. Co*., 248 F. App'x 780, 783 (9th Cir. 2007) (affirming a fee award with a 6.85 multiplier); *Craft v. Cty. of San Bernardino*, 624 F. Supp. 2d 1113, 1125 (C.D. Cal. 2008) (approving $6,375,000 in fees, representing 25% of the settlement fund and a 5.2 multiplier).

Here, Class Counsel's fee request equates to a 3.26 lodestar multiplier based on hours incurred to date, and an anticipated 3.09 multiplier through final approval—an amount well within the accepted range for class action cases. Wolf Decl. ¶¶ 33–34, 38. *Wershba*, 91 Cal.App.4th at 225.

The requested multiplier is also reasonable. Indeed, this case supports the public interest outlined in California's consumer protection laws and federal regulations regarding deceptive reference price advertising. *E.g.,* Cal. Bus. & Prof. Code § 17501 (False Advertising Law); Cal. Civ. Code § 1770(a)(13) (Consumers Legal Remedies Act); 16 C.F.R. § 233.1(a) (Federal Trade Commission regulations). Further, the Settlement provides significant financial benefits to Settlement Class Members and deters future violations. And as explained above, the difficulty of the questions involved, the negative precedent on liability and damages, the skill displayed by Class Counsel, the results obtained, and the contingent nature of the fee award all support a multiplier.

IV. THE REQUESTS LITIGATION COSTS ARE REASONABLE.

Out-of-pocket expenses are compensable under § 1021.5 of the Code of Civil Procedure if they would normally be billed to a fee-paying client. *Beasley v. Wells Fargo*, 235 Cal. App. 3d 1407, 1419

(1991). The CLRA likewise provides for costs to a prevailing plaintiff. Cal. Civ. Code § 1780(d). Here, Class Counsel only seeks reimbursement for court/filing fees, mediation fees, process servers/investigators, and postage, totaling $11,091. Wolf Decl. ¶¶ 42–43. These expenses were necessary to conduct the litigation and are reasonable and modest in light of the benefit conferred on the Class. *Id.* These types of costs are also typical of those billed by attorneys to fee-paying clients. *See Beasley*, 235 Cal.App.3d at 1421.

V. THE REQUESTED SERVICE AWARD IS REASONABLE.

"[N]amed plaintiffs are eligible for reasonable incentive payments to compensate them for the expense or risk that they have incurred in conferring a benefit on other members to the class." *Munoz v. BCI Coca-Cola Bottling Co. of L.A.*, 186 Cal.App.4th 399, 412 (2010). A service award (also termed incentive award) is appropriate "if it is necessary to induce an individual to participate in the suit." *Cellphone Termination Fee Cases*, 186 Cal.App.4th 1380, 1395 (2010) ($10,000 incentive awards to each of the four class representatives).

Here, Class Counsel requests a service award of $5,000 for Ms. Chiechi to compensate her for service as the Class Representative and securing relief for the Settlement Class—an amount that courts have found "presumptively reasonable." *Lloyd v. Navy Fed. Credit Union*, No. 17-CV-1280-BAS-RBB, 2019 WL 2269958, at *15 (S.D. Cal. May 28, 2019) ("The $5,000.00 incentive award for each Class Plaintiff in this case is presumptively reasonable."); *Farrar v. Workhorse Grp., Inc.*, No. CV2102072CJCPVCX, 2023 WL 5505981, at *11 (C.D. Cal. July 24, 2023) ("a $5,000 incentive award is 'presumptively reasonable.'"); *Ahmed v. HSBC BANK USA*, No. EDCV152057FMOSPX, 2019 WL 13027266, at *7 (C.D. Cal. Dec. 30, 2019) (same); *Hale v. Manna Pro Prod., LLC*, No. 2:18-CV-00209-KJM-DB, 2021 WL 4993036, at *8 (E.D. Cal. Oct. 27, 2021) (approving a $7,500 incentive award in a false advertising class action).

Ms. Chiechi participated in this action and did so in good faith. She consulted on the drafting of, and reviewed, the Complaint. She gathered and provided information, and responded to requests for information, from Class Counsel. She strategized with Class Counsel regarding the claims and defenses. She provided information to Class Counsel in the lead up to the mediation, settlement negotiations, and follow-up negotiations with defense counsel. She has been diligent in responding to counsel. She stayed informed of the status of the action, including settlement. Importantly, the Settlement Class would likely recover nothing had Ms. Chiechi not stepped up to pursue this class action litigation. Wolf Decl. ¶¶ 44–45; Declaration of Christina Chiechi (ROA 18) ¶¶ 2-7. Beyond that, Plaintiff undertook substantial risks to her reputation in the public domain and thrust herself into active litigation to enforce an important right for the benefit of the general public. And the service award will be paid by Defendant without reducing the payments to the Settlement Class. SA § III.K.2–3.

Thus, the Class Representative respectfully should be granted a $5,000 service award. *See Hampton v. Mattress Firm, Inc.*, No. 25CU003462C (Super. Ct. S.D. County) (Pollack, J.) (approving $5,000 service award in similar false discounting case); *Williams v. Costco Wholesale Corp.*, No. 02CV2003 IEG(AJB), 2010 WL 2721452, at *7 (S.D. Cal. July 7, 2010) (approving $5,000 service award in antitrust case which settled for $440,000).

VI. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant the Unopposed Motion for Attorneys' Fees and Costs in the amount of $1,500,000, and Service Award of $5,000.

Dated: August 3, 2026

MILBERG, PLLC

By: ______________________

ALEXANDER E. WOLF
Attorneys for Plaintiff and the Settlement Class