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12 *Lead Counsel for Plaintiffs and the Settlement Class*

13 **UNITED STATES DISTRICT COURT**  
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 In re CAPSTONE TURBINE  
16 CORPORATION SECURITIES  
17 LITIGATION

18 Lead Case No.: 2:15-CV-08914-DMG-  
19 RAOx

20 **LEAD COUNSEL’S NOTICE OF**  
21 **MOTION AND MOTION FOR AN**  
22 **AWARD OF ATTORNEYS’ FEES**  
23 **AND REIMBURSEMENT OF**  
24 **LITIGATION EXPENSES**

25 Date: November 15, 2019  
26 Time: 10:00 a.m.  
27 Crtm: 8C  
28 Judge: Hon. Dolly M. Gee

1           **TO THE CLERK OF THE COURT AND ALL PARTIES AND THEIR**  
2 **ATTORNEYS OF RECORD:**

3           PLEASE TAKE NOTICE that pursuant to Rule 23(e) of the Federal Rules of  
4 Civil Procedure and the Court’s Order Granting Preliminary Approval of Settlement  
5 (Dkt. No. 122), on November 15, 2019, at 10:00 a.m., or as soon thereafter as counsel  
6 may be heard, in the Courtroom of the Honorable R. Dolly M. Gee, United States  
7 District Judge, Central District of California, located at 350 West 1st Street, Courtroom  
8 8C, 8th Floor, Los Angeles, CA, 90012, Lead Counsel Glancy Prongay & Murray LLP  
9 will and hereby do move the Court for an Order awarding attorneys’ fees and  
10 reimbursement of Litigation Expenses.<sup>1</sup>

11           This motion is based on the concurrently filed Memorandum of Points and  
12 Authorities in Support of Lead Counsel’s Motion for an Award of Attorneys’ Fees and  
13 Reimbursement of Litigation Expenses, and the Declaration of Casey E. Sadler in  
14 Support of: (I) Plaintiffs’ Motion for Final Approval of Class Action Settlement and  
15 Plan of Allocation; and (II) Lead Counsel’s Motion for an Award of Attorneys’ Fees  
16 and Reimbursement of Litigation Expenses, as well as the pleadings and papers on file  
17 in this Action and any further evidence and argument as may be presented at the  
18 hearing.

19           This motion is made following the conference of counsel pursuant to Local Rule  
20 7-3, which took place on September 19, 2019. Lead Counsel conferred with  
21 Defendants’ counsel with respect to this motion prior to filing, and Defendants’  
22 Counsel have authorized Lead Counsel to represent that Defendants do not take a  
23 position on the motion.

24           A proposed order granting the requested relief is submitted herewith. An  
25 updated version of the proposed order will be submitted with Plaintiffs’ Motion for  
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27 <sup>1</sup> All capitalized terms have the meanings set forth in the Stipulation and Agreement of  
28 Settlement dated April 12, 2019. Dkt. No. 118-1.



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**PROOF OF SERVICE BY ELECTRONIC POSTING**

I, the undersigned say:

I am not a party to the above case, and am over eighteen years old. On September 24, 2019, I served true and correct copies of the foregoing document, by posting the document electronically to the ECF website of the United States District Court for the Central District of California, for receipt electronically by the parties listed on the Court’s Service List.

I affirm under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on September 24, 2019, at Los Angeles, California.

*s/ Casey E. Sadler*  
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Casey E. Sadler

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

In re CAPSTONE TURBINE  
CORPORATION SECURITIES  
LITIGATION

Lead Case No.: 2:15-CV-08914-DMG-  
RAOx

Honorable Dolly M. Gee

**[PROPOSED] ORDER AWARDING ATTORNEYS’ FEES  
AND REIMBURSEMENT OF LITIGATION EXPENSES**

This matter came on for hearing on November 15, 2019 (the “Settlement Hearing”) on Lead Counsel’s Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses. The Court having considered all matters submitted to it at the Settlement Hearing and otherwise; and it appearing that notice of the Settlement Hearing substantially in the form approved by the Court was provided to all Settlement Class Members who or which could be identified with reasonable effort, and that a summary notice of the hearing substantially in the form approved by the Court was published in *Investor’s Business Daily* and was transmitted over the *PR Newswire* pursuant to the specifications of the Court; and the Court having considered and determined the fairness and reasonableness of the award of attorneys’ fees and litigation expenses requested,

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. This Order incorporates by reference the definitions in the Stipulation and Agreement of Settlement dated April 12, 2019 (Dkt. No. 118-1) (the “Stipulation”) and all capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Stipulation.
2. The Court has jurisdiction to enter this Order and over the subject matter of the Action and all parties to the Action, including all Settlement Class Members.

1           3.     Notice of Lead Counsel’s Motion for an Award of Attorneys’ Fees and  
2 Reimbursement of Litigation Expenses was given to all Settlement Class Members who  
3 could be identified with reasonable effort. The form and method of notifying the  
4 Settlement Class of the motion for an award of attorneys’ fees and expenses satisfied  
5 the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Private  
6 Securities Litigation Reform Act of 1995 (15 U.S.C. § 78u-4(a)(7)) and due process,  
7 constituted the best notice practicable under the circumstances, and constituted due and  
8 sufficient notice to all persons and entities entitled thereto.

9           4.     Lead Counsel are hereby awarded attorneys’ fees in the amount of  
10 \_\_\_\_\_% of the Settlement Fund and \$\_\_\_\_\_ in reimbursement of  
11 litigation expenses (which fees and expenses shall be paid from the Settlement Fund),  
12 which sums the Court finds to be fair and reasonable. In making this award of  
13 attorneys’ fees and reimbursement of expenses to be paid from the Settlement Fund, the  
14 Court has considered and found that:

15           A.     The Settlement has created a fund consisting of \$5,550,000 in cash  
16 that has been funded into escrow pursuant to the terms of the Stipulation, and  
17 that numerous Settlement Class Members who submit acceptable Claim Forms  
18 will benefit from the Settlement that occurred because of the efforts of Lead  
19 Counsel;

20           B.     The Settlement represents approximately 18.6% of the Settlement  
21 Class’s maximum recoverable damages, which is a highly favorable result and  
22 weighs in favor of an upward adjustment from the 25% benchmark to a fee of  
23 26.2% of the common fund;

24           C.     Copies of the Postcard Notice, which referred potential Settlement  
25 Class Members to the Settlement Website and the Notice, were mailed to over  
26 36,000 potential Settlement Class Members and nominees stating that Lead  
27 Counsel would apply for attorneys’ fees in an amount not exceed 30% of the  
28 Settlement Fund and reimbursement of litigation expenses in an amount not to

1 exceed \$140,000, and there were no objections to the requested attorneys' fees  
2 and expenses;

3 D. Lead Counsel has conducted the litigation and achieved the  
4 Settlement with skill, perseverance and diligent advocacy;

5 E. The Action raised a number of complex issues;

6 F. Had Lead Counsel not achieved the Settlement, there would remain  
7 a significant risk that Lead Plaintiff and the other members of the Settlement  
8 Class may have recovered less or nothing from Defendants;

9 G. Lead Counsel undertook the Action on a fully contingent basis,  
10 thereby assuming the risk of loss;

11 H. Counsel in this Action have devoted over 2,300 hours, with a  
12 lodestar value of approximately \$1,398,140.25, to achieve the Settlement; and

13 I. The amount of attorneys' fees awarded and expenses to be  
14 reimbursed from the Settlement Fund are fair and reasonable and consistent with  
15 awards in similar cases.

16 5. Plaintiffs are hereby awarded reimbursement from the Settlement Fund as  
17 reimbursement for their reasonable costs and expenses directly related to their  
18 representation of the Settlement Class in the following amounts:

19 A. Lead Plaintiff Randall Kay is awarded \$\_\_\_\_\_;

20 B. Lead Plaintiff Elizabeth Kay is awarded \$\_\_\_\_\_;

21 C. Plaintiff David Kinney is awarded \$\_\_\_\_\_;

22 D. Plaintiff John Perez is awarded \$\_\_\_\_\_;

23 6. Any appeal or any challenge affecting this Court's approval regarding any  
24 attorneys' fees and expense application shall in no way disturb or affect the finality of  
25 the Judgment.

26 7. Exclusive jurisdiction is hereby retained over the parties and the  
27 Settlement Class Members for a period of five (5) years for all matters relating to this  
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1 Action, including the administration, interpretation, effectuation or enforcement of the  
2 Stipulation and this Order.

3 8. In the event that the Settlement is terminated or the Effective Date of the  
4 Settlement otherwise fails to occur, this Order shall be rendered null and void to the  
5 extent provided by the Stipulation.

6 9. There is no just reason for delay in the entry of this Order, and immediate  
7 entry by the Clerk of the Court is expressly directed.

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9 SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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13 The Honorable Dolly M. Gee  
14 United States District Judge  
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