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7 *Class Counsel*

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
COUNTY OF LOS ANGELES

10 ANDREA VELAZQUEZ, individually and on
11 behalf of all others similarly situated,

12 *Plaintiff,*

13 vs.

14 FESTIVAL FUN PARKS, LLC,

15 *Defendant.*

Case No. 24STCV20667

**NOTICE OF MOTION AND
UNOPPOSED MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT; MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

*Declaration of Simon Franzini filed
concurrently*

Hearing Date: November 9, 2026
Time: 9:00 a.m.
Judge: Honorable Elihu M. Berle
Department: SS-6

Notice of Motion and Unopposed Motion for Final Approval of Class Action Settlement
TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD

PLEASE TAKE NOTICE THAT on July 6, 2026, the Honorable Elihu M. Berle signed the Preliminary Approval Order for the class action Settlement Agreement in this matter and set a Final Approval Hearing for November 9, 2026, at 9:00 a.m. At the Final Approval Hearing, Plaintiff will, and hereby does, move for an order:

1. Confirming certification of the Settlement Class for settlement purposes;
2. Granting final approval of the Settlement;
3. Awarding Class Counsel attorneys' fees equal to \$283,333.33;
4. Awarding Class Counsel reimbursement for litigation costs of \$13,965.86;
5. Approving the payment of \$67,000 in settlement notice and administration costs to the Settlement Administrator;
6. Awarding the Class Representative a \$2,500 incentive award.

Plaintiff's unopposed motion is based on this notice of motion and motion, the memorandum of points and authorities in support of the motion, the concurrently filed declaration of Simon Franzini, all supporting exhibits filed herewith, as well as the records and files in this action and any argument as may be presented at the Final Approval Hearing. This motion is unopposed by Defendant.

Dated: August 28, 2026

Respectfully submitted,

By: /s/Martin Brenner

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1 **Memorandum of Points and Authorities**

2 **I. Introduction.**

3 The Settlement Agreement establishes an \$850,000, all cash, non-reversionary common
4 fund. The \$850,000 settlement fund falls well within the range of reasonable outcomes: it
5 represents approximately 57% of the Class’s maximum expected recovery. The settlement fund
6 will be used to distribute cash benefits to Settlement Class Members as well as to pay any Court-
7 approved deductions for notice and administration costs, attorneys’ fees and costs, and an
8 incentive award to the Class Representative. The requested deductions—consistent with the
9 Parties’ Settlement Agreement and Preliminary Approval Motion—include: (i) notice and
10 administration costs of \$67,000; (ii) attorneys’ fees of \$283,333.33; (iii) reimbursable litigation
11 expenses of \$13,965.86; and (iv) an incentive award of \$2,500. After accounting for all requested
12 deductions, the net settlement fund will total \$483,200.81. This amount will be distributed *pro*
13 *rata* to Settlement Class Members who submit valid and timely claims. As long as the Settlement
14 is approved, none of the gross settlement fund will revert to Defendant.

15 Class Counsel’s requested attorneys’ fees are reasonable. This is a non-reversionary cash
16 common fund settlement, so the percentage method, with or without lodestar cross-check, may
17 be used to assess the reasonableness of the requested fees. (See *Laffitte v. Robert Half Int’l, Inc.*
18 (2016) 1 Cal.5th 480, 503; Superior Court of Los Angeles County Checklist for Preliminary
19 Approval of Class Action Settlement, at p. 5.) The requested fees total one-third of the settlement
20 fund, which is the average award in California courts. (*Chavez v. Netflix, Inc.* (Cal. Ct. App.
21 2008) 162 Cal.App.4th 43, 66 n.11.) And it represents a multiplier on Class Counsel’s lodestar of
22 only 1.56, which is commonly found reasonable by California courts.

23 The Court signed the Preliminary Approval Order on July 6, 2026. In it, the Court
24 recognized that (a) the Settlement Class “meets all requirements for certification of a settlement
25 class under Section 382 of the Code of Civil Procedure, Rule 3.769 of the California Rules of
26 Court, and applicable case law”; and (b) the Settlement “appears fair, reasonable, adequate, and
27 within the range of possible final approval.” (July 6, 2026, Order, at pp. 2-3.) Nothing has
28 changed since the Court signed the Preliminary Approval Order that would prevent final

1 approval. Each requirement for settlement class certification continues to be met. The Settlement
2 continues to be an excellent outcome for the Class that is well within the range of reasonable
3 outcomes. Notice was sent to absent Class Members as ordered by the Court, and Class
4 Members' response to the Settlement so far has been overwhelmingly positive. Accordingly,
5 Plaintiff asks that the Court grant this Motion in full.

6 **II. Summary of the Settlement.**

7 Settlement Class. The Settlement Class includes "all persons residing in the United States
8 who purchased admission tickets from www.ragingwaters.com between June 1, 2020 and June
9 22, 2026, and paid a 'Processing Fee.'" (July 6, 2026, Order, at p. 2.)

10 Settlement benefits. The Settlement provides for a non-reversionary cash common fund
11 of \$850,000, to be paid by Defendant. (Franzini Decl., Ex. 1 ["Agreement"] § I(T).) All
12 settlement payments and Court-approved deductions will be paid from this settlement fund.
13 Settlement Class Members who submit timely and valid Claims will receive a payment from the
14 net settlement fund based on (a) the total number of timely and valid Claims; and (b) the
15 proportion of the total amount of "Processing Fees" each eligible claimant paid during the class
16 period. (*Id.* § III(B)(4).)

17 The Settlement also provides for prospective relief. Defendant agreed "to disclose all
18 processing fees for [California] consumers in compliance with all California statutes governing
19 drip pricing going forward." (*Id.* § III(B)(5).) This corresponds with the injunctive relief Plaintiff
20 sought in her Complaint. Defendant has advised Class Counsel that it no longer operates the
21 Raging Waters park, or any other park, in California, and that therefore it presently charges no
22 processing fees to California consumers who purchase tickets to that park. (Franzini Decl. ¶ 19.)
23 If, however, Defendant resumes operation over the park, the Compliance provision in the
24 Settlement will apply. In any event, Plaintiff does not ascribe any independent monetary value to
25 this prospective relief when assessing the benefits of the Settlement to Class Members below.

26 Release. Under the Settlement, Class Members release only those "claims and causes of
27 action that were alleged in the operative complaint, or which arise from the same facts alleged in
28 the operative complaint in the Action." (Settlement § III(C)(1).) The scope of this release is

1 consistent with governing California law and the Los Angeles Superior Court’s Checklist for
2 Preliminary Approval of Class Action Settlements. (See *Amaro v. Anaheim Arena Management,*
3 *LLC* (Cal. Ct. App. 2021) 69 Cal.App.5th 521, 537.)

4 Attorneys’ fees, litigation costs, and incentive award. As contemplated by the Agreement,
5 Class Counsel requests \$283,333.33 in attorneys’ fees (one-third of the settlement fund),
6 \$13,965.86 for litigation expenses, and \$2,500 for an incentive award. (See Agreement §
7 III(D)(3) [attorneys’ fees and costs]; *id.* § III(D)(4) [incentive award].) These amounts are
8 consistent with the notice provided to Class Members. (See July 6, 2026, Order, Exs. A-B.)

9 Settlement notice and administration. The Parties selected, and the Court appointed, the
10 Angeion Group as Settlement Administrator. Angeion worked with the Parties to create thorough
11 and clear notices to send to absent Class Members. Angeion provided notice to Class Members
12 consistent with the Settlement Agreement and the Preliminary Approval Order. (Franzini Decl.
13 ¶ 29.) Email notice was successfully sent to 149,452—or approximately 95.6%—of Settlement
14 Class Members. (*Id.* ¶¶ 17, 29.) Mail notice was successfully sent to about another 5,000 Class
15 Members. (*Id.* ¶ 30.) As a result, about 98.8% of Settlement Class Members received direct
16 notice of the Settlement through email or mail. Reminder email notices will be sent in the
17 coming months. (*Id.* ¶ 33.) The Settlement Administrator also established the Settlement Website
18 and a 24/7 toll-free number dedicated to the Settlement. (*Id.* ¶ 34.)¹

19 **III. The Court should grant final approval of the Settlement.**

20 **A. The Court should confirm its certification of the Settlement Class.**

21 In granting preliminary approval, the Court conditionally certified the Settlement Class
22 (July 6, 2026, Order, at p. 2.) Nothing has changed since preliminary approval that affects
23 certification, so the Court should reach the same conclusion here for all the reasons set forth in
24 the Preliminary Approval Order. (See *Dickey v. Advanced Micro Devices, Inc.* (N.D. Cal. Feb.
25 21, 2020) 2020 U.S. Dist. LEXIS 30440, at *9 [certifying class and noting that “[b]ecause no
26

27 ¹ The Settlement Administrator will provide the Court with a declaration describing the
28 notice and its outcome no later than the Court’s October 26, 2026, deadline. (July 6, 2026, Order
at p. 4.) Plaintiff will file a proposed Final Approval Order at that time.

1 facts that would affect [the Rule 23] requirements have changed since the Court preliminarily
2 approved the settlement on October 4, 2019, this order incorporates by reference its prior
3 analysis as set forth in the order granting preliminary approval.”].)

4 **B. The Court should approve the Settlement as fair, reasonable, and adequate.**

5 At the preliminary approval stage, the Court preliminarily found the settlement fair,
6 reasonable, and adequate. Since then, nothing has changed except that the Settlement
7 Administrator enacted the Court-approved Notice Plan, which has reached about 98.8% of Class
8 Members. And although the Claim Deadline and Objection and Exclusion Deadline have not yet
9 passed, Class Member response to the Settlement has so far been positive. Accordingly, the
10 Settlement remains fair, reasonable, and adequate to Class members, and the Court should grant
11 final approval.

12 **a. The Settlement is entitled to the presumption of fairness.**

13 “[A] presumption of fairness exists where: (1) the settlement is reached through arm’s-
14 length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to
15 act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of
16 objectors is small.” (*Dunk v. Ford Motor Co.* (Cal. Ct. App. 1996) 48 Cal.App.4th 1794, 1802;
17 see also *Cellphone Termination Fee Cases* (Cal. Ct. App. 2009) 180 Cal.App.4th 1110, 1118; *In*
18 *re Microsoft I-V Cases* (Cal. Ct. App. 2006) 135 Cal.App.4th 706, 723.) Like at the preliminary
19 approval stage, all applicable requirements are satisfied here.

20 (1) All negotiations related to the Settlement were completed at arm’s length. Settlement
21 negotiations were not collusive. The Parties enlisted the services of an experienced mediator, Mr.
22 Bruce Friedman of JAMS. (Franzini Decl. ¶ 12.) After the Parties were unable to reach an
23 agreement at the mediation, the mediator issued a mediator’s proposal, which both sides
24 considered over the following days and then accepted. (*Ibid.*; see *In re MyFord Touch Consumer*
25 *Litig.* (N.D. Cal. Mar. 28, 2019) 2019 U.S. Dist. LEXIS 53356, at *25 [proposed settlement was
26 “the product of arm’s-length bargaining” where it was based on a mediator’s proposal]; *Morales*
27 *v. Stevco, Inc.* (E.D. Cal. Nov. 10, 2011) 2011 U.S. Dist. LEXIS 130604, at *32 [settlement by
28 means of a mediator’s proposal non-collusive].)

1 (2) Class Counsel’s investigation and the informal discovery were sufficient to allow
2 Counsel to act intelligently and make an informed decision on settlement. As detailed in the
3 Preliminary Approval Motion, Class Counsel was well-informed in all negotiations and
4 negotiated the Settlement only after significant analysis of the case, including through a pre-
5 filing investigation of Defendant’s pricing practices and checkout flows; months of litigation;
6 pre-mediation informal discovery, including critical transaction data showing the size of the
7 Class and amount of potential exposure; and preparing the mediation briefs. (Franzini Decl. ¶¶ 9,
8 12.)

9 (3) Class Counsel are highly experienced litigators, with particular expertise in class
10 litigation. Class Counsel is well-qualified and has significant experience with consumer
11 protection cases like this one. (Franzini Decl. ¶¶ 3-7.) Based on their substantial experience,
12 Class Counsel believes the Settlement is an excellent result for the Class, especially in light of
13 the complexities of the case. (*Id.* ¶ 25.)

14 (4) No objections have been submitted. The deadline for Settlement Class Members to
15 object to or opt-out of the Settlement is September 28, 2026. So far, however, Settlement Class
16 Members’ response to the Settlement has been overwhelmingly positive. There have been no
17 objections.² (Franzini Decl. ¶ 32.) Only one Settlement Class Member has opted out. (*Ibid.*; 7-
18 *Eleven Owners for Fair Franchising v. Southland Corp.* (Cal. Ct. App. 2000) 85 Cal.App.4th
19 1135, 1152-53 [class response to the settlement was “overwhelmingly positive” when a “mere 80
20 of the 5,454 national class members elected to opt out” and nine objected].) And while we are
21 still at the beginning of the Claims process, over 5% of Settlement Class Members have already
22 submitted a claim. (Franzini Decl. ¶ 33; *Rael v. Children’s Place, Inc.* (S.D. Cal. Jan. 28, 2020)
23 2020 U.S. Dist. LEXIS 13970, at *25 [noting that “consumer class actions tend to result in
24 claims rates in the low single digits” and collecting cases with claims rates less than 2%].)
25
26
27

28 ² Class Counsel will provide the Court with any timely objections that are made after this Motion is filed no later than the Court’s October 26, 2026, deadline. (July 6, 2026, Order at p. 4.)

1 **b. Other factors confirm that the Settlement is fair, reasonable, and**
2 **adequate.**

3 Similarly, as at preliminary approval, the other factors commonly considered by
4 California courts also support approval. (See *Dunk*, 48 Cal.App.4th at p. 1801 [discussing (a)
5 strength of plaintiffs’ case; (b) risk, expense, complexity, and likely duration of further litigation;
6 (c) risk of maintaining class action status; (d) the amount offered in settlement; (e) the extent of
7 discovery completed; (f) the experience and views of counsel; (g) the presence of a governmental
8 participant; and (h) the reaction of class members].) Here, there was no government participant.
9 And, as discussed above, the reaction so far of Class Members to the Settlement has been
10 overwhelmingly favorable. The other factors continue to show that the Settlement is fair,
11 reasonable, and adequate.

12 The strength of Plaintiff’s case and the risks, expenses, and duration of continued
13 litigation: The risks, expenses, and duration of continued litigation favor approval of this
14 Settlement. Drip pricing claims like the ones alleged by Plaintiff have been dismissed at
15 various stages, including the pleading stage and at summary judgment. (See e.g., *Charbonnet v.*
16 *Omni Hotels & Resorts* (S.D. Cal. Dec. 16, 2020) 2020 U.S. Dist. LEXIS 236726, at *11-15
17 [granting motion to dismiss drip pricing claims in part for failure to adequately allege reliance or
18 injury]; *Hall v. Marriott Int’l, Inc.* (S.D. Cal. 2023) 344 F.R.D. 247, 263-266 [granting motion
19 for summary judgment as to drip pricing claims].)

20 Plaintiff’s claims are particularly risky because, although the California legislature
21 amended the CLRA to prohibit drip pricing effective July 2024, Defendant changed its fee
22 disclosure practices before the new law went into effect, and Plaintiff’s claims are based on
23 Defendant’s pre-amendment conduct. (See Complaint ¶ 30.) Whether drip pricing was unfair or
24 unlawful under the UCL before the CLRA amendment went into effect is an issue of first
25 impression that creates novel risks and a potential appeal.

26 Even in the best-case scenario for Plaintiff, extensive litigation would impose significant
27 expense and delay, cutting into any ultimate relief achieved for the Class. (See *Schaffer v. Litton*
28 *Loan Servicing, LP* (C.D. Cal. Nov. 13, 2012) 2012 U.S. Dist. LEXIS 189830, at *36 [“Even if

1 the class were ultimately to prevail ... trial and appeals would significantly delay class members’
2 ability to obtain compensation.”].) “By contrast, the proposed settlement provides certain, timely,
3 and substantial relief” for the Class. (See *Tait v. BSH Home Appliances Corp.* (C.D. Cal. July 27,
4 2015) 2015 U.S. Dist. LEXIS 98546, at *21.) Discovery had only just opened when the Parties
5 began settlement discussions, so absent settlement, the Parties would potentially face years of
6 additional litigation. This process would be long and expensive, and even if successful, the
7 Settlement Class would not receive any relief until it finished.

8 The risk of maintaining class action status through trial: Absent settlement, it is possible
9 that Plaintiff would not be able to certify or maintain a class. Class Counsel is aware of no drip
10 pricing case in California where a contested class has been certified. (Franzini Decl. ¶ 23.)

11 The amount offered and value of the Settlement: The relief provided to the class is the
12 most important consideration in evaluating a potential settlement. (See *Bayat v. Bank of the West*
13 (N.D. Cal. Apr. 15, 2015) 2015 U.S. Dist. LEXIS 50416, at *12.) Here, the \$850,000 settlement
14 fund and Defendant’s agreement to comply with California’s drip pricing statutes going forward
15 is excellent relief, especially in light of the existence of serious obstacles to recovering on the
16 claims. As described above, the \$850,000 settlement fund amounts to approximately 57% of the
17 maximum total recovery the Class could have achieved in the best-case scenario at trial.
18 (Franzini Decl. ¶ 22.) This relief is well within the range of reasonable outcomes. (See *Wershba*
19 *v. Apple Computer, Inc.* (Cal. Ct. App. 2001) 91 Cal.App.4th 224, 250 overruled on other
20 grounds in *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260 [“A settlement need
21 not obtain 100 percent of the damages sought in order to be fair and reasonable” and settlements
22 with even “relatively paltry” monetary benefits can be fair and reasonable.]; *Jones v. Canon Bus.*
23 *Sols., Inc.* (C.D. Cal. Sept. 2, 2014) 2014 U.S. Dist. LEXIS 202882, at *22 [settlement amount
24 representing recovery between 7% and 58% adequate]; *Bellinghausen v. Tractor Supply Co.*
25 (N.D. Cal. 2015) 306 F.R.D. 245, 256 [settlement amount representing a recovery between 8.5%
26 and 25.4% adequate]; *Graehl v. Wellpoint Inc.* (C.D. Cal. Jan. 8, 2016) 2016 U.S. Dist. LEXIS
27 204665, at *16 [approving settlement totaling less than 7% of maximum potential recovery]; *In*
28 *re Mego Fin. Corp. Securities Litig.* (9th Cir. 2000) 213 F.3d 454, 459 [recovery of 16.67% of

1 the potential recovery was adequate in light of risks involved in case and other factors]; *In re*
2 *Omnivision Techs.* (N.D. Cal. 2007) 559 F. Supp. 2d 1036, 1042 [approving settlement
3 representing approximately 9% of potential maximum recovery and collecting cases].)

4 The extent of discovery completed and the stage of the proceedings: Extensive pre-trial
5 discovery is not “a prerequisite to approval.” (*7-Eleven Owners for Fair Franchising*, 85
6 Cal.App.4th at p. 1150 [quoting *Plummer v. Chemical Bank* (2d Cir. 1982) 668 F.2d 654, 660].)
7 Here, although this case is in its early stages, the Parties carefully analyzed the issues in the case
8 through pre-suit investigations, litigation, and settlement negotiations. (Franzini Decl. ¶¶ 8-14.)
9 Before settlement discussions began, Plaintiff served discovery and Defendant served responses.
10 (*Id.* ¶ 11.) The Parties also engaged in pre-mediation informal discovery to increase the
11 likelihood of successful settlement discussions, including the exchange of transaction data,
12 which gave further insight to the Parties on both liability and damages issues. (*Id.* ¶ 12; *7-Eleven*
13 *Owners for Fair Franchising*, 85 Cal.App.4th at p. 1150 [“In the context of class action
14 settlements, formal discovery is not a necessary ticket to the bargaining table where the parties
15 had sufficient information to make an informed decision about settlement.” (cleaned up)].)

16 The experience and views of Counsel: As discussed above, Class Counsel has significant
17 expertise in consumer class actions, and particularly with drip pricing cases like this one.
18 (Franzini Decl. ¶¶ 3-7 & Ex. 3.) Based on that experience, Counsel is confident that the
19 Settlement represents an excellent result for Settlement Class Members. (*Id.* ¶ 25.) This
20 conclusion is supported by the opinion of the independent mediator who facilitated the
21 Settlement. (*Id.* ¶¶ 12-13; *Dunk*, 48 Cal.App.4th at pp. 1802-03 [“[T]he record was ideal for the
22 trial court to make a rational and educated determination [that] the settlement was fair, adequate
23 and reasonable” in part because “[t]he independent mediator ... with substantial experience and
24 respect in the legal community, recommended the settlement.”].)

25 **IV. The Court should approve the requested deduction from the settlement fund for**
26 **reasonable settlement notice and administration costs.**

27 The Parties agreed to a robust notice process designed to reach nearly all Class Members.
28 To maximize the number of Class Members who submit claims, the Settlement Administrator

1 will conduct three rounds of email notice (the initial email plus two reminders). (Agreement
2 § IV(C)(3).) For Class Members who could not be reached by the initial email notice, the
3 Settlement Administrator mailed over 6,000 postcard notices, of which about 5,000 were
4 delivered. (Franzini Decl. ¶ 30.) It also: created the Settlement Website and toll-free phone
5 service; has and will continue to diligently respond to Class Member inquiries; has and will
6 continue to evaluate all submitted claims to minimize the risk of fraud; and will allocate and
7 distribute settlement payments after the Claims Deadline. (*Id.* ¶ 34.) Angeion agreed to complete
8 all notice and administration tasks in this matter for a not-to-exceed price of \$67,000, which is
9 significantly less than any other potential administrator offered for this case. (*Id.* ¶ 27.) This
10 amount is reasonable given the number of Class Members and complexity of the settlement
11 administration, and should be approved in full.

12 **V. The Court should approve the requested deductions from the settlement fund for**
13 **reasonable attorneys' fees.**

14 Class Counsel asks for attorneys' fees equal to the average fees awarded in class action
15 cases by California courts: one-third of the common fund, or \$283,333.33. While a lodestar
16 cross-check is unnecessary here, Counsel's lodestar multiplier for past work (1.56) is on the low
17 end of the standard range of one to four. (Franzini Decl. ¶ 38.) And Class Counsel expects to
18 spend more time responding to inquiries from absent Class Members and working with the
19 Settlement Administrator to ensure reminder notices and settlement payments are sent out
20 according to the Settlement Agreement and the Court's orders. (*Id.* ¶ 39.) In short, Counsel seeks
21 the standard amount in attorneys' fees for efficiently achieving an excellent result for the Class.

22 **A. The Court should use the preferred percentage-of-the-fund method for assessing**
23 **the reasonableness of Class Counsel's requested attorneys' fees.**

24 Although courts may use either the lodestar or the percentage method when assessing the
25 reasonableness of attorneys' fees in common fund cases, (Superior Court of Los Angeles County
26 Checklist for Preliminary Approval of Class Action Settlement, at p. 5), the percentage method is
27 generally preferred. (*Laffitte*, 1 Cal.5th at p. 499 ["[T]he vast majority of courts nationwide ...
28 favor, or at least [] allow, use of the percentage-of-the-fund method in common fund cases."].)

1 The percentage method is favored because it: aligns the incentives between counsel and the class
2 (*id.* at p. 503); maintains “consistency with contingency fee calculations in the private market”
3 (*Tait*, 2015 U.S. Dist. LEXIS 98546, at *34; see *Lealao v. Beneficial California, Inc.* (Cal. Ct.
4 App. 2000) 82 Cal.App.4th 19, 47-48 [awarded fees should approximate what the market would
5 set]); “eliminate[s] the cumbersome, enervating, and often surrealistic process of preparing and
6 evaluating fee petitions that [used to] plague[] the Bench and the Bar” before the percentage
7 method was widely accepted (*Laffitte*, 1 Cal.5th at p. 493); and “more accurately reflects the
8 results achieved” by class counsel (*id.* at p. 489 [quotation omitted]).

9 While the lodestar method may have benefits when the class’s relief is “not easily
10 monetized” (see *Johnson v. Moss Bros. Auto Grp., Inc.* (C.D. Cal. June 24, 2022) 2022 U.S. Dist.
11 LEXIS 112361, at *16), it is unhelpful in common fund cases like this one where the settlement
12 value is easy to determine. Courts disfavor the lodestar method because it “inadequately
13 responds to the problem of risk,” “increases the amount of fee litigation,” “lacks objectivity,”
14 “can result in churning, padding of hours, and inefficient use of resources,” and can discourage
15 early settlement. (*Lopez v. Youngblood* (E.D. Cal. Sept. 1, 2011) 2011 U.S. Dist. LEXIS 99289,
16 at *11; see *Laffitte*, 1 Cal.5th at p. 494 [summarizing criticisms of lodestar method].)

17 Here, the requested fees are reasonable under either approach, but the Court, like other
18 courts considering similar settlements, should use the favored percentage method.

19 **B. The requested attorneys’ fees are reasonable under the percentage method.**

20 “[F]ee awards in class actions average around one-third of the recovery.” (*Chavez*, 162
21 Cal.App.4th at p. 66 n.11; *Amaro*, 69 Cal.App.5th at p. 545 [same].) California courts regularly
22 award fees in this range or higher. (E.g., *Laffitte*, 1 Cal.5th at pp. 487, 506 [affirming 33.33% fee
23 award based on the percentage method]; *Roos v. Honeywell International, Inc.* (Cal. Ct. App.
24 2015) 241 Cal.App.4th 1472, 1488 [affirming 37.5% fee award in \$8,150,000 class settlement],
25 overruled on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260;
26 *Bergara v. Bread & Cie Inc.* (San Diego Super. Ct. Jan. 19, 2024) 2024 Cal. Super. LEXIS 4532,
27
28

1 at *1-2³ [awarding one-third of gross settlement fund in fees]; *Cinto v. Asendia United States*
2 (L.A. Super. Ct. June 2, 2022) 2022 Cal. Super. LEXIS 87143, at *4 [same]; *Flores v. Heritage*
3 *Bag Co.* (San Bernardino Super. Ct. Apr. 7, 2023) 2023 Cal. Super. LEXIS 52808, at *6 [same];
4 *Watson v. Jones Fin. Cos.* (Sacramento Super. Ct. Nov. 16, 2020) 2020 Cal. Super. LEXIS 1769,
5 at *1-2 [same]; *Rodriguez v. Cal. Payroll Group* (San Bernardino Super. Ct. Jan. 24, 2022) 2022
6 Cal. Super. LEXIS 47539, at *4-5 [collecting cases where California courts approved 33.3%;
7 35%; 40%; 40%; 40%; and up to 45% of the fund].)

8 Class Counsel requests fees equal to the one-third average. Given the excellent result for
9 the Class, this request falls well within the range of what courts regularly approve as reasonable.

10 **C. The relevant factors confirm that the requested fees award is reasonable.**

11 To further assess whether fees are reasonable when using the percentage method,
12 California courts often consider the following factors: “(a) the results achieved; (b) the risk of
13 litigation; (c) the skill required, (d) the quality of work; (e) the contingent nature of the fee and
14 the financial burden; and (f) the awards made in similar cases.” (*Vasquez v. Coast Valley*
15 *Roofing, Inc.* (E.D. Cal. 2010) 266 F.R.D. 482, 492 [citing *Vizcaino v. Microsoft Corp.* (9th Cir.
16 2002) 290 F.3d 1043, 1047].)⁴ Each of these factors support the requested fees here.

17 **a. Class Counsel achieved an excellent result for the Class.**

18 “The overall result and benefit to the class from the litigation is the most critical factor in
19 granting a fee award.” (*In re Omnivision Techs., Inc.*, 559 F.Supp.2d at p. 1046.) As described
20 above, Class Counsel secured an excellent result for the Settlement Class. The \$850,000
21 settlement fund represents approximately 57% of the Class’s maximum potential recovery if the
22

23 ³ The Court may take judicial notice of Superior Court orders under Evidence Code
24 sections 452(c), section 452(d), and section 452(h) as these are “records of” a “court of this
25 state,” “[o]fficial acts” of the California judiciary, and because the existence and result of these
26 orders is not reasonably subject to dispute. (See *In re Vicks* (Cal. 2013) 56 Cal.4th 274, 314
[explaining that courts may take “judicial notice of court records” including “the existence of
each document in a court file” and “the truth of results reached”].)

27 ⁴ California Superior Courts have applied the same factors laid out in *Vasquez*. (See, e.g.,
28 *McKillop v. Onehalloweennight Inc.* (Sacramento Super. Ct. Oct. 26, 2022) 2022 Cal. Super.
LEXIS 71655, at *7; *Rivali v. Shutterfly, LLC* (San Diego Super. Ct. Feb. 16, 2024) 2024 Cal.
Super. LEXIS 6956, at *16.)

1 Class were able to obtain a full refund of all processing fees Class Members paid to Defendant
2 during the Class Period. (Franzini Decl. ¶ 22; see above § III(B)(b) [collecting cases involving
3 settlements securing between 7-percent and 58-percent of maximum potential recovery].)

4 **b. Further litigation presents significant and material risks.**

5 “The risk that further litigation might result in no recovery is a ‘significant factor’ in
6 assessing the fairness and reasonableness of an award of attorneys’ fees.” (*Bravo v. Gale*
7 *Triangle, Inc.* (C.D. Cal. Feb. 16, 2017) 2017 U.S. Dist. LEXIS 77714, at *46; see *Vizcaino*, 290
8 F.3d at p. 1048 [“Risk is a relevant circumstance” in determining an attorney fee award.].) Here,
9 as described above, continued litigation of this matter presented significant risks. Drip pricing
10 claims have been dismissed at various stages. (See e.g., above Section III(B)(b) [collecting
11 cases].) Plus, Plaintiff’s theory of the case—that the UCL prohibited drip pricing before the
12 CLRA was amended to expressly bar the practice in July 2024—is untested and introduces
13 uncertainty on the merits and a risk of any favorable outcome being reversed on appeal.

14 Thus, Class Counsel took on significant risk by prosecuting this case, including the very
15 real risk of getting no recovery at all. (See *Perez v. DIRECTV Grp. Holdings, LLC* (C.D. Cal.
16 Jan. 23, 2023) 2023 U.S. Dist. LEXIS 13920, at *25 [that “proving damages [] would be
17 especially challenging . . . favor[ed] approval of the requested fee”].) This favors awarding
18 Counsel’s fee request.

19 **c. The Class benefited from Class Counsel’s work and significant**
20 **expertise in this area.**

21 “The ‘prosecution and management of a complex [] class action requires unique legal
22 skills and abilities’ that are to be considered when evaluating fees.” (*Spencer-Ruper v. Scientiae*
23 (C.D. Cal. Sept. 24, 2021) 2021 U.S. Dist. LEXIS 204246, at *6 [alteration in original].) Class
24 Counsel’s experience and expertise in consumer class actions, and with drip pricing cases in
25 particular, are relevant factors when assessing fee awards. (See e.g., *Perez*, 2023 U.S. Dist.
26 LEXIS 13920, at *25-26.) Class Counsel’s experience bolstered their ability to successfully
27 settle this case. (See Franzini Decl. ¶¶ 3-7 & Ex. 3 [summarizing experience].) Moreover, “the
28

1 quality of Class Counsel’s work is evidenced by the favorable settlement achieved.” (*Defrees v.*
2 *Kirkland* (C.D. Cal. July 26, 2018) 2018 U.S. Dist. LEXIS 125462, at *14.)

3 **d. Class Counsel took this case on a contingency basis and has borne**
4 **significant financial burdens.**

5 “A contingent fee must be higher than a fee for the same legal services paid as they are
6 performed.” (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132 [quotes and internal citation
7 omitted]; *Barbosa v. Cargrill Meat Solutions Corp.* (E.D. Cal. 2013) 297 F.R.D. 431, 450 [“No
8 one expects a lawyer whose compensation is contingent on the success of his services to charge,
9 when successful, as little as he would charge a client who in advance of the litigation has agreed
10 to pay for his services, regardless of success.”].) All of Class Counsel’s efforts in this case have
11 been done on a contingency basis. (Franzini Decl. ¶ 37.) Counsel thoroughly investigated
12 Defendant’s fee disclosures without any assurance that it would reveal actionable claims and
13 with the knowledge that they may never receive payment for the work. (See *id.* ¶ 40 [only a
14 small fraction of Counsel’s investigations results in filed cases].) Counsel then devoted
15 substantial time to litigating, mediating, and settling the matter, which prevented Counsel from
16 taking or working on other matters. (*Id.* ¶¶ 8-14, 38.) Counsel bore out-of-pocket expenses,
17 including court and mediator fees for which they have not yet been reimbursed. (*Id.* ¶ 46.) All
18 this too weighs in favor of granting the fee request in full.

19 **e. Courts regularly award significantly higher fees.**

20 As discussed above, the requested fee award is in line with the benchmark used by
21 California courts. (See *Chavez*, 162 Cal.App.4th at p. 66 n.11.) California courts regularly award
22 one-third or more of the total value of a settlement in attorneys’ fees, including in consumer
23 protection class action cases. (See Section V(B) above [collecting cases].)

24 **D. The requested fees are reasonable under the lodestar-with-multiplier method.**

25 Courts utilizing the percentage-of-the-recovery method sometimes utilize a lodestar
26 “cross-check” to verify that a fee award is reasonable. California courts, however, “retain the
27 discretion to forgo a lodestar cross-check.” (*Laffitte*, 1 Cal.5th at p. 506.) Alternatively, courts
28 may use the lodestar-with-multiplier method as another, separate means of assessing the

1 reasonableness of attorneys' fees. Here, whether the Court assesses the fees through the
2 percentage method (with or without a lodestar crosscheck) or the lodestar-with-multiplier
3 method, Class Counsel's requested fees are reasonable.

4 Courts considering a lodestar routinely approve fees with multipliers ranging from 2 to 4,
5 and often even higher. (See *Wershba*, 91 Cal.App.4th at p. 255; *Chavez*, 162 Cal.App.4th at p.
6 66; *In re TFT-LCD Flat Panel Antitrust Litigation* (N.D. Cal. Nov. 9, 2012) 2012 U.S. Dist.
7 LEXIS 207376, at *83 ["[C]ourts in California and nationwide routinely approve multipliers in
8 the 4-6 range, with some as high as 19.6 or as low as .6." [citations omitted]]; *Aguilar v.*
9 *Wawona Frozen Foods* (E.D. Cal. May 18, 2017) 2017 U.S. Dist. LEXIS 76751, at *14-15
10 ["[C]ourts typically approve percentage awards based on lodestar cross-checks of 1.9 to 5.1 or
11 even higher." [quoting Newberg On Class Actions § 14.7]]; e.g., *Steele v. Legoland Cal. LLC*
12 (San Diego Super. Ct. Nov. 17, 2023) 2023 Cal. Super. LEXIS 91704, at *3 ["The
13 reasonableness is confirmed when double checked against the lodestar, which results in a 3.9
14 multiplier"]; *Ochoa v. Cke Rests. Holdings* (Los Angeles Super. Ct. Oct. 7, 2022) 2022 Cal.
15 Super. LEXIS 85630, at *15-16 [granting fees resulting in 4.1 multiplier]; *Ramirez v. Yin Mgmt.*
16 (Sacramento Super. Ct. Sept. 9, 2022) 2022 Cal. Super. LEXIS 55975, at *10-11 [granting
17 33.3% of gross settlement fund in attorneys' fees with lodestar multiplier of 3.57]; *Lloyd v. Navy*
18 *Fed. Credit Union* (S.D. Cal. May 28, 2019) 2019 U.S. Dist. LEXIS 89246, at *36 [awarding fee
19 that "would likely result in a multiplier of around 10.96."]; *Team Design v. Reliant Energy, Inc.*
20 (*Coordination Proceeding Special Title (Rule 1550(b))*) (San Diego Super. Ct. June 19, 2007)
21 2007 Cal. Super. LEXIS 2160, at *7-8 [granting fee award with multiplier of 3.66 and citing
22 cases that "have applied multipliers of between 4 and 12"]; see also *Vizcaino*, 290 F.3d at pp.
23 1051-52 & n.6 [noting survey of class settlements with multipliers up to 19.6]; *Buccellato v.*
24 *AT&T Operations, Inc.* (N.D. Cal. June 30, 2011) 2011 U.S. Dist. LEXIS 85699, at *4-5 [citing
25 cases applying multipliers ranging from 4.3 to 9.3]; *In re NASDAQ Market-Makers Antitrust*
26 *Litig.* (S.D.N.Y. 1998) 187 F.R.D. 465, 489 [awarding 3.97 multiplier and observing that "[i]n
27
28

1 recent years multipliers of between 3 and 4.5 have become common”].) Class Counsel’s lodestar
2 multiplier for past work done in this case is only 1.56. (Franzini Decl. ¶ 38.)⁵

3 Class Counsel’s current lodestar for past work on this case is \$181,612.50.⁶ (*Ibid.*) This
4 does not include necessary additional work that needs to be done to ensure approval of the
5 Settlement (such as corresponding with Class Members and the Settlement Administrator,
6 responding to objections (if any), or handling an appeal (if any)). (*Id.* ¶ 39; see *Kangas v.*
7 *Volkswagen Grp. of Am., Inc. (In re Volkswagen “Clean Diesel” Mktg., Prod. Liab. Litig.)* (9th
8 Cir. July 23, 2018) 746 F.App’x 655, 659 [affirming district court’s inclusion of future time in its
9 lodestar cross check]; *Reyes v. Bakery & Confectionery Union & Indus. Int’l Pension Fund*
10 (N.D. Cal. 2017) 281 F.Supp.3d 833, 856-57 [including, over the defendants’ objection, “125
11 anticipated future hours” to be spent on “communicating with the settlement administrator or
12 responding to inquiries from class members” in the lodestar calculation]; *Corzine v. Whirlpool*
13 *Corp.* (N.D. Cal. Dec. 31, 2019) 2019 U.S. Dist. LEXIS 223341, at *32 [including “an estimate
14 of 250 hours for future work to complete Settlement’s claims process”].)

15 This yields a lodestar multiplier of approximately 1.56 if only past work is considered,
16 and lower if future work is factored in. (Franzini Decl. ¶¶ 38-39.) So, a lodestar analysis supports
17 the reasonableness of Class Counsel’s requested fee award, too.

18 **VI. The requested reimbursement for litigation costs is reasonable.**

19 In addition to attorneys’ fees, Class Counsel seeks reimbursement for reasonable
20 litigation costs. (Agreement § III(D)(2-3).) Courts routinely award litigation costs in addition to
21 attorneys’ fees awards. (See, e.g., *Chavez*, 162 Cal.App.4th at p. 67; *Consumer Privacy Cases*,
22 175 Cal.App.4th 545, 559-560.) Here, Class Counsel have incurred a total of \$13,965.86 in out-

24 ⁵ California courts often assess lodestars using attorney declarations attesting to their
25 hours worked. (See *Sutter Health Uninsured Pricing Cases* (Cal. Ct. App. 2009) 171
26 Cal.App.4th 495 at p. 512; *Wershba*, 91 Cal.App.4th at pp. 254-55 [“California case law permits
27 fee awards in the absence of detailed time sheets.”].) But Counsel can provide billing records and
an expense report upon request.

28 ⁶ Counsel’s rates are in line with the non-contingent market rates charged by attorneys of
reasonably comparable experience, skill, and reputation for trial work, and are reasonable.
(Franzini Decl. ¶¶ 42-45 & Exs. 2-3.)

1 of-pocket litigation and settlement expenses. (Franzini Decl. ¶¶ 36, 46.) These expenses consist
2 of (a) filing and related e-filing fees (\$2,980.86); (b) expenses related to service (\$485); and (c)
3 mediation expenses (\$10,500). (*Id.* ¶ 46.) Each expense was reasonably necessary, and the total
4 costs are modest given the benefits to the Settlement Class. (*Ibid.*; e.g., *In re Immune Response*
5 *Sec. Litig.* (S.D. Cal. 2007) 497 F.Supp.2d 1166, 1177-78 [finding that costs such as filing fees,
6 photocopy costs, travel expenses, postage, telephone and fax costs, computerized legal research
7 fees, and mediation expenses are relevant and necessary expenses in class action litigation].)

8 **VII. The Court should approve the requested deduction from the settlement fund for a**
9 **reasonable Class Representative incentive award.**

10 “[I]ncentive awards are fairly typical in class action cases.” (*Cellphone Termination Fee*
11 *Cases* (Cal. Ct. App. 2010) 186 Cal.App.4th 1380, 1393-94 [citation omitted].) They are
12 intended to compensate class representatives for work done and for risks taken, and to recognize
13 their willingness to act as a private attorney general. (*Ibid.*) They “typically range from \$2,000 to
14 \$10,000.” (*Bellinghausen*, 306 F.R.D. at p. 267.) And in many courts, \$5,000 incentive awards
15 are “presumptively reasonable.” (*Ahmed v. HSBC Bank USA* (C.D. Cal. June 21, 2019) 2019
16 U.S. Dist. LEXIS 104401, at *34; e.g., *Cellphone Termination Fee Cases*, 186 Cal.App.4th at
17 pp. 1393-95 [affirming \$10,000 incentive award].)

18 The Class Representative significantly contributed to the Settlement’s success, and the
19 requested incentive award is below the “presumptively reasonable” standard. She provided
20 essential information and documentation needed to file the Complaint; reviewed the pleadings
21 and consulted with Class Counsel on her experiences with Defendant; communicated with Class
22 Counsel about the case and settlement negotiations; discussed Defendant’s motion to compel
23 arbitration with Class Counsel and submitted a declaration in opposition to that motion; made
24 herself available by phone during settlement negotiations and during the mediation; discussed the
25 mediation and the classwide resolution negotiated at the mediation with Class Counsel; and
26 reviewed and approved the terms of the Settlement Agreement. (Franzini Decl. ¶ 47; Declaration
27 of Andrea Velazquez in Support of Preliminary Approval Motion [filed October 22, 2025] ¶¶ 3,
28 6-7.) In agreeing to serve as Class Representative, Ms. Velazquez thrust herself into litigation for

1 the benefit of the Class with no guarantee that the litigation would be successful or that her
2 efforts would bear fruit. She has no known conflicts with the Settlement Class. (Velazquez Decl.
3 ¶ 6.) These efforts justify the requested \$2,500 incentive award, which should be awarded in full.

4 **VIII. Conclusion.**

5 For the foregoing reasons, this Motion should be granted and the Settlement approved.

6
7 Date: August 28, 2026

Respectfully submitted,

By: /s/ Martin Brenner

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14 *Attorneys for Plaintiff*

1 **PROOF OF SERVICE**

2 I am a resident of the state of California, I am over the age of 18 years, and I am not a
3 party to the within action. My business address is 201 Santa Monica Blvd., Suite 600, Santa
4 Monica, CA 90401.

5 On August 28, 2026, I served the foregoing document(s) described as **NOTICE OF**
6 **MOTION AND UNOPPOSED MOTION FOR FINAL APPROVAL OF CLASS ACTION**
7 **SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT**
8 **THEREOF** on all interested parties in this action as follows:

9 Elizabeth Del Cid (Cal. Bar No. 250962)
10 edelcid@ohaganmeyer.com
11 Alexis Arteaga (Cal. Bar No. 356798)
12 aartega@ohaganmeyer.com
13 **O'HAGAN MEYER LLP**
14 2615 Pacific Coast Highway, Suite 300
15 Telephone: (310) 807-1100
16 Facsimile: (310) 807-1115

17 *Attorneys for Defendant*

18 ☒ (VIA ELECTRONIC SERVICE THROUGH CASE ANYWHERE): I served
19 the document(s) listed above electronically on Case Anywhere pursuant to the instructions on
20 that website [The document will be deemed served on the date that it was uploaded to the
21 website as indicated by the Case Anywhere system.].

22 I declare under penalty of perjury under the laws of the State of California that the
23 foregoing is true and correct.

24 Executed on August 28, 2026, at Santa Monica, California.

25 /s/ Leily Rossi
26 Leily Rossi
27
28