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**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH**

RYAN DEPAUW and JEREMY WILSON,
each individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

WHITESTONE HOME FURNISHINGS,
LLC,

Defendant.

Case No. 24CV25629

**PLAINTIFFS' UNOPPOSED
STATEMENT OF ATTORNEYS' FEES
AND COSTS**

Hon. Heidi Moawad

1 Class Counsel offers the following facts in support of an award of reasonable and
2 necessary attorneys' fees, costs, and disbursements:

3 1. Plaintiffs are entitled to recover attorneys' fees, costs, and disbursements
4 pursuant to the common fund doctrine and Oregon Rule of Civil Procedure 32 M. *See Strawn v.*
5 *Farmers Ins. Co.*, 353 Or. 210, 216 (2013) ("In the context of class-action litigation specifically,
6 the common-fund doctrine permits attorney fee awards from a monetary judgment that benefits
7 the class" and was codified by ORCP 32). And, the Settlement agreement expressly provides that
8 Plaintiffs may recover, and Defendant will pay, \$2,075,000 in attorneys' fees and litigation
9 expenses.

10 2. Plaintiffs request \$2,064,147.98 million in attorneys' fees, as permitted under the
11 Settlement Agreement. As set forth in detail in **Exhibit 1** (Plaintiffs' Memorandum in Support of
12 Plaintiffs' Statement of Attorneys' Fees and Costs), the legal fees represent less than 15 percent
13 of the value of the benefits conferred to the Class under the Settlement. This is well below what
14 is typically awarded in similar circumstances, and justified by the significant work performed
15 and results achieved. In addition, the Settlement provides for the payment of these fees on top of
16 the relief distributed to the class, meaning that the requested fees will not detract from the relief
17 that the Class will receive under the settlement. The requested fees cover Counsel's past work
18 and anticipated future work in the case. A description of the work performed is also set forth in
19 **Exhibit 1**.

20 3. The specific factors supporting an award and the amount of legal fees pursuant to
21 ORS 20.075 and ORCP 32 M are set forth in **Exhibit 1**.

22 4. Plaintiffs seek \$10,852.02 in litigation expenses advanced by Counsel that are
23 recoverable under the Settlement Agreement. These expenses are itemized in **Exhibit 2**.

1 5. In summary, Plaintiffs are entitled to an award of reasonable and necessary
2 attorneys' fees in the sum of \$2,064,147.98 and litigation expenses in the sum of \$10,852.02

3 I hereby declare that the above statement, including the information contained in the
4 exhibits to this statement, is true to the best of my knowledge and belief, and that I understand it
5 is made for use as evidence in court and is subject to penalty for perjury.

6 Dated: September 13, 2024

Respectfully submitted,

7 By: 
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Attorneys for Plaintiffs

* *Pro Hac Vice* application forthcoming

EXHIBIT 1

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**IN THE CIRCUIT COURT OF THE STATE OF OREGON
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RYAN DEPAUW and JEREMY WILSON,
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WHITESTONE HOME FURNISHINGS,
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Defendant.

Case No. 24CV25629

**MEMORANDUM IN SUPPORT OF
PLAINTIFFS' UNOPPOSED
STATEMENT OF ATTORNEYS' FEES
AND COSTS**

Hon. Heidi Moawad

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1 **I. Introduction.**

2 On July 29, 2024, the Court preliminarily approved the proposed settlement as fair,
3 reasonable, and adequate, and certified the settlement class in this case. The settlement class
4 includes all persons who, while in the state of California, placed one or more mattress orders on
5 Defendant’s website Saatva.com from May 23, 2020 to May 23, 2024 and all persons who, while
6 in the state of Oregon, placed one or more mattress orders on Defendant’s website Saatva.com
7 from May 23, 2023 to May 23, 2024. Order on Preliminary Approval of Class Settlement (Dkt.
8 11). The Court also preliminarily appointed Plaintiffs Ryan DePauw and Jeremy Wilson as class
9 representatives and appointed the attorneys of Dovel & Luner LLP as class counsel. And the
10 Court directed notice to be sent to the class and scheduled a hearing to consider whether to grant
11 final approval to the Settlement and to consider any motion filed by Plaintiffs seeking attorneys’
12 fees, costs, and incentive awards for November 13, 2024.

13 Notice has been distributed to the settlement class members in accordance with the
14 Court’s preliminary approval order. Class Counsel now moves for an award of attorneys’ fees
15 and costs in the amount of \$2.075 million. This amount is expressly permitted under the
16 Settlement, and Defendant has agreed to pay it on top of the relief it has agreed to distribute to
17 the class. It is less than 15% of the Settlement’s total value—well below what is typically
18 awarded in similar cases. And, Class Counsel has achieved a stellar result for the class while
19 dedicating significant time and resources to vigorously prosecuting this case on a contingency
20 basis, facing a real risk of recovering nothing. The Court should award the requested fees and
21 costs in full.

22 Class Counsel also moves for incentive awards of \$2,500 to be awarded to each named
23 Plaintiff, for their service as class representatives. Plaintiffs have been model class
24

1 representatives and have achieved a significant result for the class. The Court should award the
2 requested incentive awards in full as well.

3 **II. Background.**

4 In this case, Plaintiffs and the Class allege that Defendant falsely represented its products
5 as being subject to limited-time discounts, when in fact these products were always discounted
6 and regularly available for less than their purported list prices. Complaint (or “Compl.”) ¶¶ 10-
7 12. Both Oregon and California law prohibit sellers from falsely representing that a product is on
8 sale, when it actually is not. *See, e.g.*, O.R.S. § 646.608(j); Cal. Bus. & Prof. Code
9 §§ 17200,17500; Cal. Civ. Code § 1770. After a thorough pre-suit investigation into Defendant’s
10 pricing and sales practices on its website, including the gathering of extensive archival data,
11 Declaration of Simon Franzini (“Franzini Decl.”) ¶ 8, Plaintiffs brought suit alleging violation of
12 Oregon and California consumer protection statutes, as well as common law claims for breach of
13 contract, breach of warranty, unjust enrichment, negligent misrepresentation, and intentional
14 misrepresentation.¹

15 To attempt to conserve judicial and party resources, the Parties began discussing a class-
16 wide resolution early in the case. The Parties sought to negotiate a resolution through private
17 mediation and scheduled an in-person mediation with Bruce Friedman of JAMS for February 9,
18 2024. Franzini Decl. ¶ 8-9. To ensure an excellent settlement, Class Counsel went into the
19 mediation with a thorough understanding of the issues. Class Counsel’s experience litigating
20

21 ¹ Plaintiff Wilson originally filed a lawsuit on behalf of California consumers in
22 California, where he resides, on November 3, 2023. *See Wilson v. Whitestone Home Furnishings,*
23 *LLC*, No. 2:23-cv-02552 (E.D. Cal.). Separately, Plaintiff DePauw sent Defendant a notice and
24 demand letter on January 18, 2024, asserting his intention to file his own lawsuit on behalf of
Oregon consumers. The Parties mediated both cases together, and, to conserve judicial and Party
resources, filed the Consolidated Class Action Complaint in this Court bringing both Plaintiffs’
claims and the class claims on behalf of California and Oregon consumers in the same suit.

1 similar cases, their efforts in the case thus far (including the pre-suit investigation), and the
2 documents, information, and data exchanged before mediation allowed Class Counsel to prepare
3 a lengthy and substantive mediation brief. *Id.* The brief addressed liability arguments and class
4 certification arguments and presented several detailed damages models. *Id.* ¶ 9. It was shared
5 with Defendant before the mediation. *Id.*

6 The Parties did not reach an agreement at the mediation, but made substantial progress.
7 *Id.* Afterward, the Parties continued to engage in extensive negotiation through the mediator
8 while simultaneously litigating the case. Plaintiffs served extensive discovery requests, including
9 interrogatories, requests for production, requests for admission, and a deposition notice of
10 Defendant’s corporate representative. *Id.* Additionally, the Parties conducted a Federal Rule
11 26(f) conference and submitted a case report including a case schedule to the *Wilson* court. *Id.*

12 On April 10, 2024, after months of contentious and well-informed negotiations, the
13 Parties reached a settlement in principle through the mediator, and subsequently began
14 negotiating a long-form agreement. The Parties extensively negotiated the long-form agreement
15 over a period of a month-and-a-half, requiring several discussions and back-and-forth drafts. The
16 long-form agreement was signed on May 23, 2024. Franzini Decl. ¶ 10.

17 Under the terms of that agreement, each of the class members will receive \$115 for each
18 mattress order they placed on Defendant’s website during the Class Period. Franzini Decl. ¶ 10.
19 In total, Class Members placed 105,920 mattress orders during the class period, meaning that in
20 the aggregate, the class will receive over \$12 million in direct benefits.² *Id.*; Agreement at 9. In
21 addition, Defendant will pay—on top of the relief paid to the class—reasonable attorneys’ fees
22 and costs of up to \$2.075 million and incentive awards for the named Plaintiffs of \$2,500 each as
23

24 ² Some class members placed multiple mattress orders during the class period.

1 awarded by the court. Franzini Decl. ¶ 11. Because Defendant will pay awarded fees, costs, and
2 incentive awards on top of the direct relief provided to the Class, those awards will not detract
3 from the \$115-per-mattress-order in compensation that each Class Member will receive under
4 the Settlement. *Id.* And, the fees and costs together amount to less than 15% of the Settlement’s
5 value—well below what is typically awarded in class actions.

6 **III. Legal standard.**

7 Under the common fund doctrine, “the court may order reasonable attorney fees and
8 litigation expenses of the class to be paid from the [class’s] recovery.” Or. R. Civ. P. 32 M(1)(c).
9 The touchstone for evaluating attorneys’ fees is reasonableness. *Id.*; *Strawn v. Farmers Ins. Co.*,
10 353 Or. 210, 216 (2013) (“ORCP 32 . . . authoriz[es] a reasonable fee award.”). In cases that
11 create a common benefit like this one, courts favor the percentage-of-the-fund method for
12 assessing attorneys’ fees over the lodestar method. *Strawn*, 353 Or. at 219. Plus, when attorneys
13 work on contingency, “the per hour calculation is not determinative of the reasonableness of the
14 fee.” *Erickson v. Farmers Ins. Co.*, 175 Or. App. 548, 550 (Or. Ct. App. 2001). Instead, the fee
15 should recognize the benefits achieved and that counsel has devoted significant resources to the
16 litigation while bearing the risk that there may be no recovery at the end of the case. *Id.*

17 Fee awards tend to fall within “20 to 30 percent of the recovered fund,” and “[t]he
18 median of the usual range—25 percent—is used by many courts as a reasonable starting point for
19 common-fund awards in class actions.” *Strawn*, 353 Or. at 229-30. But sometimes this amount
20 can go as high as 50 percent. *Id.* at 230 (“A 50 percent-of-fund fee remains the usual upward
21 limit” in both class action and individual litigation.).

22 Here, the Settlement creates a common benefit for all class members: a payment of \$115
23 per mattress order, as well as additional funds to pay for fees, costs, and incentive awards on top.
24 As Class Counsel’s fee agreement with the Class Representatives confirms, Class Counsel

1 worked on this case on a fully contingent basis. Franzini Decl. ¶ 13, Exs. A & B. The requested
2 fee—\$2.075 million out of a total recovery of over \$14 million—amounts to less than 15% of the
3 total recovery, well below what is normally awarded in similar cases. And, Oregon Rule of Civil
4 Procedure 32 M and O.R.S. § 20.075, discussed more thoroughly below, confirm the
5 reasonableness of the requested attorneys’ fees.

6 **IV. The requested fee award is fair and reasonable under the circumstances of this case.**

7 **A. Rule 32 Factors**

8 Oregon Rule of Civil Procedure 32 M(1)(e) provides that courts should consider the
9 following factors in determining attorneys’ fees for a prevailing class:

- 10 (i) The time and effort expended by the attorney in the litigation, including the
11 nature, extent, and quality of services rendered;
- 12 (ii) Results achieved and benefits conferred upon the class;
- 13 (iii) The magnitude, complexity, and uniqueness of the litigation;
- 14 (iv) The contingent nature of success; and
- 15 (v) Appropriate criteria in Rule 1.5 of the Oregon Rules of Professional Conduct.

16 Here, each factor favors approval of Class Counsel’s fee request.

17 The time and effort expended by Class Counsel in the litigation, including the nature,
18 extent, and quality of services rendered: To date, Class Counsel has put significant effort and
19 hours into the case. Franzini Decl. ¶ 18. As detailed above and in the Franzini Declaration, this
20 work included a thorough and extensive investigation before the case was even filed, *id.* ¶ 8,
21 litigation in the *Wilson* matter (including serving extensive discovery on Defendant) before the
22 two cases were consolidated here, *id.* ¶¶ 8-9; advancing settlement negotiations through informal
23 discovery, the JAMS mediation, and subsequent negotiations overseen by the mediator; and
24 proceeding through the class certification and settlement approval process, *id.* ¶¶ 8-10; *see also*

1 *id.* ¶ 18. Class Counsel also expects to undertake substantial additional work before this case
2 concludes. *Id.* ¶ 18. This additional work will include overseeing the settlement administration
3 process, answering class member questions, and corresponding with the notice administrator;
4 preparing a final approval motion; responding to objections (if any); attending a final approval
5 hearing; supervising distribution of the settlement fund; and handling an appeal (if any). *Id.*

6 Class Counsel’s services were, and will continue to be, of very high quality. Class
7 Counsel has substantial experience with complex class actions. Franzini Decl. ¶¶ 3-7. Class
8 Counsel has achieved victory in jury trials—including a class jury verdict of \$925 million
9 dollars—and has also negotiated favorable settlements in many cases, including class actions. *Id.*

10 Class Counsel also has significant expertise and success in litigating fake discount class
11 action cases specifically. *Id.* ¶¶ 5-7. Class Counsel has prosecuted, and is continuing to
12 prosecute, numerous fake discount cases asserting claims similar to those alleged in this lawsuit
13 against a variety of defendants. *Id.* ¶ 5; *e.g.*, *Barr v. SelectBlinds LLC*, 2024 U.S. Dist. LEXIS
14 39068, at *37 (C.D. Cal. Mar. 4, 2024) (noting that Counsel “has specific expertise in litigating
15 ‘fake discounts,’ which ‘go[] relatively unchecked in the e-commerce space.’”). Class Counsel
16 has spent numerous hours on these cases, including, among other things, substantial time spent
17 developing the theories central to this case, investigating applicable causes of action, researching
18 potential defenses, and crafting damages models. Franzini Decl. ¶¶ 6, 18-19. As a result, Class
19 Counsel has developed significant expertise in this niche area of the law, and has grown
20 increasingly efficient and effective in litigating the relevant issues. This extensive experience and
21 competence in this area benefits class members in each of these cases, including the class here.

22 Class Counsel has also had significant success litigating these cases. *Id.* ¶ 7. For example,
23 Class Counsel has a proven track record of defeating pleading challenges to fake discount class
24 actions (which are subject to heightened pleading standards and are often dismissed on the

1 pleadings for failure to collect sufficient evidence of deceptive conduct). *Id.* Class Counsel has
2 also successfully negotiated a number of fake discount settlements providing excellent relief to
3 the class. *E.g., id.* These successes in other cases gave counsel the ability to negotiate a favorable
4 settlement here by demonstrating to Defendant what would happen if they did not settle on
5 favorable terms. This benefitted the class here, too.

6 The results achieved and benefits conferred upon the class: As described above, the
7 results achieved and benefits conferred upon the class from this Settlement are outstanding. The
8 Settlement provides over \$12 million in direct benefits to the class. And when accounting for
9 administration costs, attorneys' fees and costs, and incentive awards—all of which are paid on
10 top of the direct benefits—the total value of the benefits conferred upon the class is over \$14
11 million. Franzini Decl. ¶ 10-11. This is significantly in excess of the total and per-claimant
12 recovery in similar fake discount cases where courts have approved of similar or greater fees. *See*
13 Dkt. 4 (Plaintiffs' Motion for Preliminary Approval) at 13-14. And these results are especially
14 impressive because they were achieved early in the case, meaning that they were achieved
15 without exposing the class to the significant chance of recovering nothing that is inherent in
16 protracted litigation.

17 The class's reaction to the Settlement to date confirms that the results achieved and
18 benefits conferred upon the class are outstanding. Just two weeks into the claims process—with
19 approximately six weeks to go—over 10% of the class has already filed a claim to receive their
20 benefit in cash. Franzini Decl. ¶ 12. This already far exceeds the typical claims rate in consumer
21 class actions after the claims process is completed. *See, e.g., Munday v. Navy Fed. Credit Union,*
22 *2016 U.S. Dist. LEXIS 193973, at *23 n.1 (C.D. Cal. Sep. 15, 2016)* (“[t]he prevailing rule of
23 thumb with respect to consumer class actions is [a claims rate of] 3-5 percent”). And it is all the
24 more impressive because—unlike most class settlements—class members do not even need to

1 file a claim to receive compensation; those who do not will automatically be sent the
2 compensation they are owed to their email address on file with Defendant in the form of a credit
3 voucher. *See* Agreement at 9-10. Moreover, no class member has objected to date, and only six
4 have opted out. Franzini Decl. ¶ 12.

5 The magnitude, complexity, and uniqueness of the litigation: Fake discount class actions
6 like this one are very complex. *See Spann v. J.C. Penney Corp.*, 211 F. Supp. 3d 1244, 1264
7 (C.D. Cal. Sept. 30, 2016) (issues in fake discount case “were novel and complex, particularly as
8 to plaintiff’s proposed measures of restitution”). As explained in Plaintiffs’ Motion for
9 Preliminary Approval, these types of cases have been dismissed at every stage of litigation from
10 the pleadings, to class certification and summary judgment. *See* Dkt. 4 at 15-16.

11 The contingent nature of success: When determining attorneys’ fees courts look to the
12 risks involved in the litigation. Here, success for the Class was never guaranteed; as discussed
13 above and in Plaintiffs’ Motion for Preliminary Approval, cases like this one are regularly
14 dismissed for a variety of reasons, including legal challenges at the pleading and summary
15 judgment stages, class certification, and the viability of damages models. In short, Class Counsel
16 took significant risk by prosecuting this case on a contingency fee basis, including the risk of
17 potentially getting no recovery at all. Franzini Decl. ¶ 13-16 & Exs. A & B.

18 The appropriate Rule 1.5 criteria: Rule 1.5 of the Oregon Rules of Professional Conduct
19 instructs attorneys to not enter into an agreement for illegal or clearly excessive fees. The factors
20 for assessing fees under Rule 1.5 overlap with the factors in O.R.S. § 20.075(2), which are
21 discussed below (and support Class Counsel’s requested fees).

22 **B. O.R.S. § 20.075(2) Factors**

23 O.R.S. § 20.075(2) provides that courts shall consider nine factors “in determining the
24 amount of an award of attorney fees.”

1 The time and labor required in the proceeding, the novelty and difficulty of the questions
2 involved in the proceeding and the skill needed to perform the legal services: Securing the \$14+
3 million settlement—including at least \$115 in direct benefit to each class member—required
4 significant work and effort. Navigating the challenges of this case required extensive knowledge
5 and experience with the Oregon Unfair Trade Practices Act, California’s consumer protection
6 statutes, California and Oregon common law, and class action procedure. Resolving the case
7 required expert mediation and settlement skills. Additionally, Class Counsel’s reputation and
8 experience as top-tier class action firm and trial team, ready and able to litigate this case to
9 victory at a jury trial, was crucial to establishing the strong negotiation position that enabled the
10 Settlement. *See* Franzini Decl. ¶¶ 3-7.

11 The likelihood, if apparent to the client, that the acceptance of the particular employment
12 by the attorney would preclude the attorney from taking other cases: Clients in consumer
13 protection cases rarely assess the likelihood that acceptance of their cases will preclude their
14 attorneys from taking on other cases; so this factor is of limited relevance. Regardless, a large
15 class action such as this is a major commitment of resources for a small firm—and Class
16 Counsel’s firm is small, employing only 14 attorneys. A case like this will necessarily limit such
17 a firm’s ability to take on other work alongside it, and it did here. *See* Franzini Decl. ¶ 18.

18 The fee customarily charged in the locality for similar services: In individual contingent
19 fee cases, the customary fee is one-third, or roughly 33 percent. In class actions, fees typically
20 range from 20 to 30 percent. *Strawn*, 353 Or. at 229-230. Here, Class Counsel seeks far less than
21 that benchmark: less than 15 percent of the total settlement value.

22 The amount involved in the controversy and the results obtained: The recovery here of at
23 least \$115 in direct benefits to each class member (and over \$14 million in total benefits)
24

1 exceeds per-class-member and overall recovery in several similar cases by multiple orders of
2 magnitude. *See* Dkt. 4 (Plaintiffs’ Motion for Preliminary Approval) at 13-14.

3 Time limitations imposed by the client or the circumstances: This factor is of limited
4 relevance here and generally in class action litigation, as the clients did not impose time
5 limitations.

6 The nature and length of the attorneys’ professional relationship with the client: This
7 factor, intended to address interactions with long-term, institutional clients, is of limited
8 relevance in consumer class actions, where plaintiffs’ relationship with counsel is naturally
9 limited in time and scope.

10 The experience, reputation, and ability of the attorneys: Class Counsel have ample
11 experience and ability in class actions and complex litigation. Past wins include a \$925 million
12 jury verdict in Oregon federal court, *Wakefield v. ViSalus, Inc.*, No. 3:15-cv-1857-SI (D. Or.), a
13 \$17.5 million class action settlement in Colorado federal court, *Goodrich, et al. v. Alterra*
14 *Mountain Co., et al.*, No. 1:20-cv-01057-RM-SKC (D. Colo.), and a \$10 million settlement in a
15 fake discount class action in California federal court. *Barr v. SelectBlinds LLC*, 2024 U.S. Dist.
16 LEXIS 39068 (C.D. Cal. Mar. 4, 2024). In 2020, Class Counsel was selected as a finalist for The
17 National Law Journal’s 2020 Elite Trial Lawyers “Law Firm of the Year” award in Consumer
18 Protection. Franzini Decl. ¶ 3-5.

19 Class Counsel also has ample experience in fake discount cases, including several
20 ongoing cases that are being heavily litigated, *see e.g., Phillips v. Brooklyn Bedding, LLC*, No.
21 3:23-cv-03781-RFL (N.D. Cal.); *Vizcarra v. Michaels Stores, Inc.*, No. 5:23-cv-00468 (N.D.
22 Cal.); and *Crowder et al. v. The Shade Store, LLC*, Case No. 5:23-cv-02331-NC (N.D. Cal.), and
23 the recently settled *Barr* case, 2024 U.S. Dist. LEXIS 39068. Franzini Decl. ¶ 5.

1 Whether the fee is fixed or contingent: The fee in this case is wholly contingent. Franzini
2 Decl. ¶ 13.

3 Whether the attorney performed the services on a pro bono basis or the award of attorney
4 fees otherwise promotes access to justice: Class Counsel’s work on a contingent basis in this
5 case has allowed Oregon and California consumers to obtain real economic relief from
6 Defendant’s unlawful trade practices—at least \$115 per class member. Class members likely
7 would not have been able to obtain this economic relief if litigating on an individual basis. *See*
8 *Barr*, 2024 U.S. Dist. LEXIS 39068, at *37 (Fake discounting “go[es] relatively unchecked in
9 the e-commerce space.”). Contingent fee awards like the one requested here are necessary to
10 enable attorneys to litigate large-scale consumer class actions such as these.

11 **C. O.R.S. § 20.075(1) Factors**

12 O.R.S. § 20.075(2) also instructs courts to consider the factors specified in § 20.075(1).
13 The relevant factors identified in § 20.075(1) assess: (1) the reasonableness of Plaintiffs’ claims
14 and the Parties’ litigation conduct, § 20.075(1)(a),(b),(e); (2) the reasonableness and diligence of
15 the Parties’ settlement conduct, *id.* (1)(f); and (3) the deterrent effect of attorneys’ fees, *id.*
16 (1)(c),(d). Each of these factors favor the requested fee award.

17 First, Plaintiffs’ claims were reasonable, and the Parties’ litigation conduct was
18 reasonable and diligent. As described above, Counsel performed an extensive pre-suit
19 investigation to assess Defendant’s liability before ever even filing suit. *See supra* Section II;
20 Franzini Decl. ¶¶ 8, 18. This investigation, combined with Counsel’s experience in these types of
21 cases, ensured Plaintiffs’ claims were reasonable. Plaintiffs then diligently filed suit and litigated
22 the case while simultaneously pursuing settlement, which led to a relatively early resolution of
23 the case and excellent settlement benefits for the class.

1 In sum: Class Counsel expended substantial time and effort on this case and achieved an
2 excellent result for the Class. And the requested attorneys' fees of \$2,064,147.98 are well below
3 benchmark and more than justified considering the results achieved and the work performed to
4 achieve them. The Court should award the requested fees in full.

5 **V. The requested costs are reasonable and should be approved.**

6 Courts routinely award costs in class actions. *See* Or. R. Civ. P. 32 M(1)(c) (“If the
7 prevailing class recovers a judgment that can be divided for the purpose, the court may order
8 reasonable attorney fees *and litigation expenses* of the class to be paid from the recovery.”
9 (emphasis added)).

10 Here, Class Counsel incurred a total of \$10,852.02 in out-of-pocket litigation and
11 settlement expenses. Franzini Decl. ¶ 21 & Ex. 2. These expenses were reasonably necessary and
12 not excessive. *Id.* Awarding these costs does not reduce the recovery for the Class. Settlement §
13 III(E)(1). They should be approved in full.

14 **VI. The requested incentive awards are reasonable and should be approved.**

15 “Incentive fees are intended to address a cost burden that class actions disproportionately
16 impose on the class representative.” *Strawn*, 353 Or. at 242. “Those costs may include spending
17 time learning about the case; being subject to the time, expense, and intrusiveness of discovery,”
18 and other disadvantages like possible retaliation. *Id.* Incentive awards also help address the “free
19 rider” problem, where an otherwise meritorious class action may not be brought because “all the
20 class members hope that someone else will assume the burden of serving as class
21 representative.” *Id.*

22 Here, Plaintiffs request service awards of \$2,500 each. Each award amounts to less than
23 0.02 percent of the Settlement’s total monetary value. *See Strawn*, 353 Or. at 243 (“[O]n
24 average” incentive awards are “0.16 percent of the class recovery, with a median incentive fee of

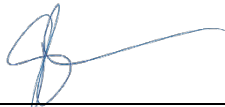
1 only 0.02 percent of the class recovery.”) The value of the requested incentive awards is also
2 typical. *Id.* (“The average award per class representative was \$15,992 and the median award per
3 class representative was \$4,357.”). They are also reasonable and warranted in view of Plaintiffs’
4 efforts in this case and the results they obtained. Franzini Decl. ¶ 22-23; Dkt. 6 (Wilson Decl.),
5 ¶ 6; Dkt. 7 (DePauw Decl.), ¶ 6 (detailing work performed). They should be awarded in full.

6 **VII. Conclusion**

7 For the reasons set forth above, Plaintiffs and the Class respectfully request that the Court
8 approve the award of attorneys’ fees, costs, and incentive awards as fair and reasonable.

9
10 Dated: September 13, 2024

Respectfully submitted,

11
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23 * *Pro Hac Vice* application forthcoming

EXHIBIT 2

DOVEL & LUNER, LLP - Saatva

Expense Date	Invoice Id	Project	Expense Type	Description	Cost
10/27/2023	Saatva	Mailing/Postage		FedEx. Express shipping. Invoice no. 8-299-86666.	\$38.32
10/27/2023	Saatva	Mailing/Postage		FedEx. Express shipping. Invoice no. 8-299-86666.	\$30.20
10/27/2023	Saatva	Mailing/Postage		FedEx. Express shipping. Invoice no. 8-299-86666.	\$23.16
11/04/2023	Saatva	Court fees		US District Court for the Central District of California. Case filing fee.	\$402.00
11/11/2023	Saatva	Delivery services/messengers		ABC Legal. Service of process fee.	\$75.00
01/31/2024	Saatva	Arbitrators/mediators		JAMS. Mediation services. Invoice no. 7019138.	\$9,000.00
02/10/2024	Saatva	Travel/Lodging		Uber. Rideshare for mediation (G. Bennett).	\$29.84
02/11/2024	Saatva	Travel/Lodging		Uber. Rideshare for mediation (G. Bennett).	\$3.00
02/11/2024	Saatva	Travel/Lodging		Uber. Rideshare for mediation (G. Bennett).	\$18.96
02/13/2024	Saatva	Travel/Lodging		Watt Plaza Parking. Mediation parking (S. Franzini).	\$35.00
06/01/2024	Saatva	Other		In house black and white photocopies for month of May.	\$2.76
06/01/2024	Saatva	Other		In house color photocopies for month of May.	\$4.80
08/01/2024	Saatva	Printing/Copying		In house color photocopies for month of July.	\$2.40
08/01/2024	Saatva	Printing/Copying		In house black and white photocopies for the month of July.	\$8.58
08/02/2024	Saatva	Court fees		Oregon Complaint filing fee. Invoice no. 14581.	\$1,178.00
Grand Total					\$10,852.02

CERTIFICATE OF SERVICE

I am over the age of 18 and am not a party to the within action. I am employed in Multnomah County, State of Oregon, and my business address is 121 SW Morrison St., Suite 600, Portland, Oregon 97204.

On September 13, 2024, I served the following document(s):

PLAINTIFFS' UNOPPOSED STATEMENT OF ATTORNEYS' FEES AND COSTS

on the party or parties listed on the following page(s) in the following manner(s):

BY HAND DELIVERY: For each party, I caused a copy of the document(s) to be placed in a sealed envelope and caused such envelope to be delivered by messenger to the street address(es) indicated on the attached service list.

BY FEDERAL EXPRESS: For each party, I caused a copy of the document(s) to be placed in a sealed envelope and caused such envelope to be delivered by Federal Express to the street address(es) indicated on the attached service list.

BY FIRST-CLASS MAIL: For each party, I caused a copy of the document(s) to be placed in a sealed envelope and caused such envelope to be deposited in the United States mail at Portland, Oregon, with first-class postage thereon fully prepaid and addressed to the street address(es) indicated on the attached service list.

BY FACSIMILE: For each party, I caused a copy of the document(s) to be sent by facsimile to the facsimile number(s) indicated on the attached service list. If this action is pending in Oregon state court, then printed confirmation of receipt of the facsimile generated by the transmitting machine is attached hereto.

BY E-MAIL: For each party, I caused a copy of the document(s) to be sent by electronic mail to the e-mail address(es) indicated on the attached service list.

BY E-FILING: For each party, I caused a copy of the document(s) to be sent by electronic mail via Tyler Technologies Odyssey filing system to the e-mail address(es) on file with that system.

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

s/ Cody Hoesly

Cody Hoesly

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