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**UNITED STATES DISTRICT COURT**
**CENTRAL DISTRICT OF CALIFORNIA**
**SOUTHERN DIVISION**

DHIMANT PATEL, Individually and on Behalf of All Others Similarly Situated,

Plaintiff,

v.

EDWARDS LIFESCIENCES CORPORATION and BERNARD J. ZOVIGHIAN,

Defendants.

Case No. 8:24-cv-02221-AH-KES

**LEAD COUNSEL'S NOTICE OF MOTION AND MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES; AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT**

Date: December 16, 2026
Time: 1:30 P.M.
Courtroom: 9C, 9th Floor
Judge: Hon. Anne Hwang

## NOTICE OF MOTION AND MOTION

**TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that on December 16, 2026, at 1:30 p.m., in Courtroom 9C of the Felicitas and Gonzalo Mendez United States Courthouse, 350 W 1st Street, Los Angeles, CA 90012, the Honorable Anne Hwang presiding, Lead Counsel Bernstein Litowitz Berger & Grossmann LLP, Court-appointed counsel for the Settlement Class and Lead Plaintiffs Louisiana Sheriffs' Pension & Relief Fund and City of Fort Lauderdale Police & Firefighters' Retirement System, will and hereby does move, pursuant to Rule 23(h) of the Federal Rules of Civil Procedure, for an Order granting an award of attorneys' fees and litigation expenses in the above-captioned securities class action.

This motion is made pursuant to the Court's August 3, 2026 Order granting preliminary approval of the Settlement (ECF No. 103) ("Preliminary Approval Order") and is based upon: (1) this Notice of Motion; (2) the supporting Memorandum of Points and Authorities set forth below; (3) the accompanying Declaration of Jeremy P. Robinson and the exhibits attached thereto; (4) the Stipulation and Agreement of Settlement dated July 1, 2026 (ECF No. 100-1) filed previously with the Court; (5) the pleadings and records on file in this action; and (6) other such matters and argument as the Court may consider at the hearing of this motion.

Pursuant to the Preliminary Approval Order, any objections to the motion for attorneys' fees and litigation expenses must be received by December 2, 2026. To date, no objections have been received. A proposed Order will be submitted with Lead Counsel's reply brief, which will be filed on December 9, 2026, after the deadline for objections has passed.

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## MEMORANDUM OF POINTS AND AUTHORITIES

Lead Counsel, Bernstein Litowitz Berger & Grossmann LLP ("BLB&G"), counsel for Louisiana Sheriffs' Pension & Relief Fund ("Louisiana Sheriffs") and City of Fort Lauderdale Police & Firefighters' Retirement System ("Fort Lauderdale P&F") (collectively, "Lead Plaintiffs") and Court-appointed class counsel for the Settlement Class, respectfully submits this Memorandum of Points and Authorities in support of its motion for (i) an award of attorneys' fees for Plaintiffs' Counsel in the amount of 25% of the Settlement Fund; and (ii) payment of $89,225.51 in Litigation Expenses that were reasonably and necessarily incurred by Plaintiffs' Counsel in prosecuting and resolving the Action.[1]

## I. INTRODUCTION

Through its effective advocacy and significant efforts over nearly two years of contested litigation, Lead Counsel achieved a non-reversionary Settlement of $39 million in cash for the benefit of the Settlement Class. Lead Counsel undertook this litigation on a fully contingent basis—without any guarantee of compensation or reimbursement of expenses. Lead Counsel devoted thousands of hours of attorney and

[1] "Plaintiffs' Counsel" means Lead Counsel BLB&G and Klausner, Kaufman, Jensen & Levinson, P.A., additional counsel for Lead Plaintiffs Louisiana Sheriffs and Fort Lauderdale P&F. Unless otherwise noted, capitalized terms have the meaning set forth in the Stipulation and Agreement of Settlement dated July 1, 2026 (ECF No. 100-1) (the "Stipulation") or the accompanying Declaration of Jeremy P. Robinson in Support of (A) Lead Plaintiffs' Motion for Final Approval of Class Action Settlement and Plan of Allocation and (B) Lead Counsel's Motion for Attorneys' Fees and Litigation Expenses ("Robinson Declaration" or "Robinson Decl."). Lead Counsel respectfully refers the Court to the Robinson Declaration for a detailed description of the claims asserted, the procedural history of the Action, the negotiations resulting in the Settlement, the risks of continued litigation, and the services Plaintiffs' Counsel provided for the benefit of the Settlement Class. Citations to "¶ __" herein refer to paragraphs of the Robinson Declaration and citations to "Ex. __" herein refer to exhibits to the Robinson Declaration.

staff time to achieve this Settlement, all the while cognizant of the significant risk that the Settlement Class may recover nothing and that Lead Counsel may never receive any compensation for its work.

The prosecution and settlement of this litigation required extensive efforts on the part of counsel. Among other things, Lead Counsel (i) conducted a comprehensive investigation of the claims, which included interviewing numerous former Edwards employees; (ii) drafted a detailed amended complaint; (iii) thoroughly researched and briefed an opposition to Defendants' motion to dismiss the amended complaint; (iv) conducted substantial fact discovery, including obtaining and analyzing more than 125,000 pages (over 23,500 documents) produced by Defendants; and (v) engaged in arm's-length settlement negotiations facilitated by an experienced mediator. ¶¶ 6-10.

The Settlement achieved through the efforts of Lead Counsel is a particularly favorable result when considered in light of the significant risks confronted in the litigation, including challenges related to proving Defendants' liability and establishing loss causation and damages. To start, in its September 19, 2025 order on Defendants' motion to dismiss, the Court dismissed every executive defendant except Zovighian, and expressly stated that the issue of Zovighian's scienter was "a very close one." ¶¶ 11, 39, 69. The Court invited "phased discovery limited to the issue of Zovighian's knowledge and scienter, as well as early motion practice," *id.*, and Defendants advised the Court that they anticipated moving for summary judgment on "the discrete issue of Defendant Zovighian's scienter." ¶ 45. Defendants contended that the documents produced in Phase I discovery showed that Zovighian believed in the Company's TAVR guidance and did not possess contrary information. ¶¶ 70, 75. If Lead Plaintiffs were ultimately unable to overcome Defendants' arguments on this single, early, contested question, the Settlement Class would have recovered nothing. ¶¶ 47, 71.

Lead Plaintiffs also faced meaningful challenges in proving falsity, loss causation, and damages. ¶¶ 14-15, 72-75. Because the Court found that nearly all of the remaining challenged statements were forward-looking, Defendants argued that liability required proof that Defendants' cautionary statements about slowing TAVR growth were insufficient and that Defendants had actual knowledge that their statements were false. ¶¶ 14, 72. Defendants further argued that Edwards' July 24, 2024 announcement of "lower-than-expected growth in TAVR" merely revised forward-looking guidance and reported financial results, such that the Settlement Class suffered no damages at all. ¶¶ 15, 74. Defendants also argued that no liability could attach to TAVR guidance during the first quarter of 2024—roughly the first half of the Class Period—an argument that, if credited, would have reduced the reasonably likely maximum class-wide damages from approximately $1.36 billion to approximately $850 million. ¶¶ 15, 75. In the face of these considerable risks, Lead Counsel vigorously pursued this Action on a contingent basis with no guarantee of payment or reimbursement of expenses.

Lead Counsel's fee request of 25% is consistent with the Ninth Circuit's "benchmark" for percentage fee awards in common fund cases. *See Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1047-48 (9th Cir. 2002). Courts in this District regularly award percentage fees of 25% or higher in comparable securities class actions. The reasonableness of Lead Counsel's fee request is also supported by a lodestar cross-check, which yields a multiplier of approximately 2.74. *See id*. (noting that multipliers typically range from 1.0 to 4.0 and affirming a 28% fee award on a $97 million settlement that resulted in a 3.65 multiplier). Lead Counsel also seeks payment of $89,225.51 in Litigation Expenses that were reasonably and necessarily incurred by Plaintiffs' Counsel in prosecuting the Action and achieving the Settlement.

Lead Plaintiffs—sophisticated public pension funds that supervised and

monitored the prosecution and settlement of the Action—fully endorse Lead Counsel's fee application, and the requested fee is consistent with the pre-litigation fee retainers between Lead Plaintiffs and BLB&G. While the deadline for Settlement Class Members to object to the requested attorneys' fees has not yet passed, thus far no objections to the fee or expense requests have been lodged. As set forth in more detail below, Lead Counsel respectfully requests that the Court approve this motion.

## II. THE REQUESTED FEE AWARD IS REASONABLE AND SHOULD BE APPROVED

### A. Counsel Are Entitled To An Award Of Attorneys' Fees From The Common Fund

The Supreme Court has long recognized that "a litigant or a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorney's fee from the fund as a whole." *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980). Similarly, the Ninth Circuit has held that "a private plaintiff, or his attorney, whose efforts create, discover, increase or preserve a fund to which others also have a claim is entitled to recover from the fund the costs of his litigation, including attorneys' fees." *Vincent v. Hughes Air West, Inc.*, 557 F.2d 759, 769 (9th Cir. 1977). The purpose of the common fund doctrine is to adequately compensate class counsel for services rendered and to ensure that all class members contribute equally towards the costs associated with the litigation. *See In re Wash. Pub. Power Supply Sys. Sec. Litig.*, 19 F.3d 1291, 1300 (9th Cir. 1994) ("*WPPSS*") ("those who benefit from the creation of the fund should share the wealth with the lawyers whose skill and effort helped create it").

In *Blum v. Stenson*, 465 U.S. 886 (1984), the Supreme Court recognized that under the common fund doctrine a reasonable fee may be based "on a percentage of the fund bestowed on the class." *Id.* at 900 n.16. The Ninth Circuit has consistently approved the use of the percentage method in common fund cases. *See Vizcaino*, 290 F.3d at 1050 ("the primary basis of the fee award remains the percentage method");

*Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1029 (9th Cir. 1998); *Torrisi v. Tucson Elec. Power Co.*, 8 F.3d 1370, 1376-77 (9th Cir. 1993). Indeed, the percentage method "is typically used where attorney's fees will be paid out of a common fund." *Jiangchen v. Rentech, Inc.*, 2019 WL 5173771, at *5 (C.D. Cal. Oct. 10, 2019); *see also In re Omnivision Techs. Inc.*, 559 F. Supp. 2d 1036, 1046 (N.D. Cal. 2008) (the "use of the percentage method in common fund cases appears to be dominant").

The percentage-of-recovery method is particularly appropriate in common fund cases where, as here, "the benefit to the class is easily quantified." *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 942 (9th Cir. 2011). As courts in this District have explained, "[t]here are significant benefits to the percentage approach, including consistency with contingency fee calculations in the private market, aligning the lawyers' interests with achieving the highest award for the class members, and reducing the burden on the courts that a complex lodestar calculation requires." *Nguyen v. Radient Pharms. Corp.*, 2014 WL 1802293, at *9 (C.D. Cal. May 6, 2014).

### B. The Requested Attorneys' Fees Are Reasonable Under The Percentage Method

Lead Counsel requests an award of attorneys' fees consistent with the Ninth Circuit "benchmark" of 25% for common fund cases. *See, e.g.*, *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 949 (9th Cir. 2015); *Fischel v. Equitable Life Assurance Soc'y*, 307 F.3d 997, 1006 (9th Cir. 2002); *Vizcaino*, 290 F.3d at 1047-48; *Torrisi*, 8 F.3d at 1376. Courts in this District have recognized that the Ninth Circuit's 25% "benchmark is 'presumptively reasonable,' and it should only be adjusted upward or downward for 'unusual circumstances.'" *In re Snap Inc. Sec. Litig.*, 2021 WL 667590, at *3 (C.D. Cal. Feb. 18, 2021); *In re Anthem, Inc. Data Breach Litig.*, 2018 WL 3960068, at *4 (N.D. Cal. Aug. 17, 2018).

Of note, while a 25% fee is the "benchmark" in the Ninth Circuit, courts in this Circuit have observed that, in "most common fund cases, the award *exceeds* that

benchmark," with a 30% fee "the norm 'absent extraordinary circumstances that suggest reasons to lower or increase the percentage.'" *Omnivision*, 559 F. Supp. 2d at 1047; *accord In re Heritage Bond Litig.*, 2005 WL 1594403, at *19 & n.14 (C.D. Cal. June 10, 2005); *In re Allergan, Inc. Proxy Violation Derivatives Litig.*, 2018 WL 4959014, at *1 (C.D. Cal. Aug. 13, 2018); *see also Schulein v. Petroleum Dev. Corp.*, 2015 WL 12762256, at *1 (C.D. Cal. Mar. 16, 2015) (same).

The fee requested here is consistent with the Ninth Circuit's "benchmark" of 25%, below the "norm" of 30%, and well within ***or lower than*** the range of percentage fees that have been awarded in similarly sized settlements of securities class actions in the Ninth Circuit. *See, e.g.*, *Black v. Snap Inc.*, No. 21-cv-8892-GW-RAO, slip op. at 2 (C.D. Cal. Apr. 24, 2026), ECF No. 202 (Ex. F) (awarding 30% of $65 million settlement); *Donley v. Live Nation Ent., Inc.*, No. 2:23-cv-06343-KK (ASx), slip op. at 3 (C.D. Cal. Aug. 28, 2025), ECF No. 101 (Ex. F) (awarding 30% of $20 million settlement); *In re The Honest Co. Sec. Litig.*, No. 21-cv-7405-MCS-PLA, slip op. at 3-4 (C.D. Cal. July 29, 2025), ECF No. 323 (Ex. F) (awarding 30% of $27.5 million settlement); *In re Silver Wheaton Corp. Sec. Litig.*, 2020 WL 4581642, at *4 (C.D. Cal. Aug. 6, 2020) (awarding 30% of $41.5 million settlement); *In re Hewlett-Packard Co. Sec. Litig.*, No. 8:11-cv-01404, slip op. at 2-3 (C.D. Cal. Sept. 15, 2014), ECF No. 167 (Ex. F) (awarding 25% of $57 million settlement); *York Cnty. v. HP Inc.*, 2026 WL 479759, at *1 (N.D. Cal. Feb. 13, 2026) (awarding 30% of $39 million settlement); *SEB Inv. Mgmt. AB v. Wells Fargo & Co.*, 2026 WL 1458903, at *5-6 (N.D. Cal. May 21, 2026) (awarding 25% of $85 million settlement); *Sayce v. Forescout Techs., Inc.*, 2025 WL 4072439, at *1 (N.D. Cal. Dec. 5, 2025) (awarding 33% of $45 million settlement); *Sheet Metal Workers' Nat'l Pension Fund v. Bayer Aktiengesellschaft*, 2025 WL 3034317, at *3 (N.D. Cal. Oct. 30, 2025) (awarding 27% of $38 million settlement, net of expenses); *Leventhal v. Chegg, Inc.*, 2025 WL

1481382, at *7, *9 (N.D. Cal. May 21, 2025) (awarding 25% of $55 million settlement).

Moreover, a statistical review of all PSLRA settlements from 2016 to 2025 reveals that the median fee award in settlements ranging from $25 million to $100 million was 25%. *See* NERA ECONOMIC CONSULTING, RECENT TRENDS IN SECURITIES CLASS ACTION LITIGATION: 2025 FULL-YEAR REVIEW, at 31 (2026) (Ex. F).

In sum, Lead Counsel's requested fee award of the benchmark 25% is reasonable and well within the range of what courts in this Circuit regularly award in common fund cases. Moreover, as discussed below, each of the other factors considered by courts in the Ninth Circuit also strongly supports a finding that the requested fee is reasonable.

## III. ALL OTHER FACTORS CONSIDERED BY NINTH CIRCUIT COURTS SUPPORT APPROVAL OF THE REQUESTED FEE

The attorneys' fee request is fair and reasonable in light of the relevant factors, including: (i) the results achieved; (ii) the risk of litigation; (iii) the skill required and the quality of work; (iv) the contingent nature of the fee and the financial burden carried; and (v) awards made in similar actions. *See Vizcaino*, 290 F.3d at 1048-50. The Ninth Circuit has explained that these factors should not be used as a rigid checklist or weighed individually, but, rather, should be evaluated in light of the totality of the circumstances. *Id*. As set forth below, all of the *Vizcaino* factors militate in favor of approving the requested fee.

### A. The Results Achieved

As detailed in the motion for final approval of the Settlement and the accompanying Robinson Declaration, the recovery achieved here—the creation of a settlement fund in the amount of $39,000,000—is an excellent result for the Settlement Class in an Action that faced many complexities and risks. The proposed Settlement avoids these risks as well as substantial expense, delay, and uncertainty of

class certification, early dispositive motions, full summary judgment motions, trial, and appeal.

Lead Plaintiffs' damages consultant estimated that the reasonably likely maximum class-wide damages, assuming Lead Plaintiffs prevailed on every issue at summary judgment, trial, and on appeal, were approximately $1.36 billion, using a conservative methodology and assuming no need to disaggregate confounding information. ¶¶ 17, 83. Against that figure, the Settlement represents approximately 2.86% of maximum damages. *Id*. If Defendants prevailed on their argument that no liability could attach for the first quarter of 2024, maximum damages would fall to approximately $850 million, of which the Settlement represents approximately 4.6%. ¶¶ 17, 75, 83.

In granting preliminary approval, the Court found that, "[c]onsidering the risk and expense of further litigation, the proposed settlement amount is comparable to settlement recoveries approved in other securities class actions." ECF No. 103 at 12. Indeed, whether measured against the reasonably likely maximum damages for the full Class Period (2.86%) or for the latter half of the Class Period (4.6%), the Settlement Amount is a decidedly favorable result in the face of significant litigation risk. *See, e.g.*, *Baron v. HyreCar Inc.*, 2024 WL 3504234, at *8 (C.D. Cal. July 19, 2024) (approving settlement that "reflects an approximately 2% recovery" of maximum damages); *Farrar v. Workhorse Grp., Inc.*, 2023 WL 5505981, at *7 (C.D. Cal. July 24, 2023) (approving settlement representing "an approximately 3% recovery" on the maximum aggregate damages); *In re Broadcom Corp. Sec. Litig.*, 2005 WL 8153007, at *6 (C.D. Cal. Sept. 14, 2005) (approving settlement representing 2.7% of damages and finding such percentage was "not [] inconsistent with the average recovery in securities class action[s]").

**B. The Litigation Was Risky And Complex**

"'The risk that further litigation might result in Plaintiffs not recovering at all,

particularly a case involving complicated legal issues, is a significant factor in the award of fees.'" *Jiangchen*, 2019 WL 5173771, at *9. While courts have always recognized that securities class actions carry significant risks, post-PSLRA rulings make it clear that the risk of no recovery has increased significantly. As one court in this District aptly explained:

> By their very nature, securities class actions … involve complex legal and factual issues. … To succeed in this litigation, Plaintiffs would have been required to prove falsity, scienter, reliance and loss causation on the part of Defendants, which would be by no means guaranteed. … Moreover, both sides' arguments on loss causation and establishing damages at trial would have relied heavily on expert testimony, with no guarantee of whose testimony the factfinder would credit.

*Brown v. China Integrated Energy Inc.*, 2016 WL 11757878, at *7 (C.D. Cal. July 22, 2016); *see also, e.g.*, *Hefler v. Wells Fargo & Co.*, 2018 WL 6619983, at *13 (N.D. Cal. Dec. 18, 2018) ("'[I]n general, securities actions are highly complex and . . . securities class litigation is notably difficult and notoriously uncertain'"). This Action was no exception.

As discussed above and detailed in the motion for final approval of the Settlement, there was a very real risk that Lead Plaintiffs and the Settlement Class might recover nothing or significantly less than the amount of the proposed Settlement. For example, Lead Plaintiffs faced significant risk in establishing scienter. The Court dismissed the claims against each executive defendant except Zovighian, ruled that Zovighian's May 2024 stock sale and stock-based compensation did not by themselves support scienter, and described the question of Zovighian's scienter as "a very close one" and directed phased discovery and early motion practice on the issue. ¶ 69. Pursuant to the Court's direction, the Parties agreed to a phased discovery plan under which Phase I discovery focused solely on Zovighian's knowledge and scienter, and Defendants stated their intention to move for early summary judgment on that discrete issue. *Id*. Defendants pointed to the Phase I discovery record to argue that the

documents Zovighian received around the time of his statements show he believed those targets were attainable, and emphasized that TAVR sales grew in 2023 and 2024. ¶ 70. Had Defendants prevailed on scienter, the Settlement Class would have recovered nothing.

Absent the Settlement, Lead Plaintiffs would have also faced significant risks in proving falsity. Defendants argued that falsity required proof both that their cautionary statements about slowing TAVR growth were insufficient and that they had actual knowledge—not merely recklessness—that their statements were false. ¶ 72. Defendants pointed to cautionary statements in Edwards' SEC filings and to Edwards' reported results, which were within Edwards' initial projected dollar range, including first quarter 2024 TAVR sales growth and full-year 2024 TAVR sales of $4.1 billion. *Id*. Although these arguments did not prevail at the pleading stage, the Court determined that they were "better resolved at a later stage," and Defendants would have pressed them at summary judgment and trial. *Id*.

Lead Plaintiffs would have also faced significant risks in proving loss causation and damages at trial. *See Dura Pharms., Inc. v. Broudo*, 544 U.S. 336, 345-46 (2005) (plaintiffs bear the burden of proving "that the defendant's misrepresentations 'caused the loss for which the plaintiff seeks to recover'"). Indeed, Defendants argued that the decline in the price of Edwards common stock following Edwards' July 24, 2024 announcement was not caused by the revelation of any fraud. In support of their position, Defendants argued that the July 24, 2024 announcement merely revised forward-looking guidance and reported financial results, and Edwards had warned that TAVR sales could be affected by many factors, including hospital capacity constraints. ¶ 74.

Even setting those arguments aside, Defendants would have argued that they could not be liable for allegedly misleading TAVR guidance during the first quarter of 2024—roughly the first half of the Class Period—because no actual TAVR results

existed at that time that could have rendered the full-year guidance misleading. ¶ 75. If credited, that argument would have reduced the reasonably likely maximum class-wide damages from approximately $1.36 billion to approximately $850 million.

On all of the liability, loss causation, and damages issues, Lead Plaintiffs would have had to prevail at several further stages—on a motion for summary judgment, at trial, and again on appeal. At each stage, there would be very significant risks attendant to the continued prosecution of the Action, as well as considerable delay. That Lead Counsel faced and overcame these very significant risks during the course of the litigation, through its extensive efforts and skilled lawyering, strongly supports the requested fee.

Moreover, Lead Plaintiffs did not benefit from other advantages securities class action plaintiffs frequently have. In particular, Lead Counsel developed the case without the benefit of a governmental investigation. *See, e.g.*, *In re Hi-Crush Partners L.P. Sec. Litig.*, 2014 WL 7323417, at *15 (S.D.N.Y. Dec. 19, 2014) ("Lead Counsel did not have the benefit of a 'road map' established by a government investigation off which they could 'piggy back', but instead independently developed factual allegations and legal theories sufficient to survive the PSLRA's heightened pleading standards"). Additionally, there were no financial restatements, accounting irregularities, internal investigations, or SEC charges that would illuminate a theory of the case and set out key evidence. Nor was there an SEC whistleblower who could be counted on to cooperate with Lead Plaintiffs and explain to the jury why Defendants' conduct was fraudulent.

Lead Counsel prosecuted this Action on a fully contingent basis and assumed numerous substantial litigation risks that might have resulted in no or lesser recovery for the Settlement Class (and thus no or lesser compensation to counsel). Notwithstanding these risks, Lead Counsel dedicated many millions of dollars of its attorneys' and other staff members' time to litigating this Action as forcefully as

possible for the Settlement Class and incurred over $80,000 in Litigation Expenses in prosecuting the claims for the Settlement Class. These risks further support the reasonableness of the requested fee. *See, e.g.*, *In re Heritage Bond Litig.*, 2005 WL 1594389, at *14 (C.D. Cal. June 10, 2005) ("The risks assumed by Class Counsel, particularly the risk of non-payment or reimbursement of expenses, is a factor in determining counsel's proper fee award."); *Omnivision*, 559 F. Supp. 2d at 1047; *WPPSS*, 19 F.3d at 1299-301.

### C. The Skill Required And Quality Of Lead Counsel's Work Performed Support The Requested Fee

Courts also consider the skill required and quality of work performed in determining what fee to award. *See Heritage Bond*, 2005 WL 1594389, at *12 ("The experience of counsel is also a factor in determining the appropriate fee award"). "The prosecution and management of a complex national class action requires unique legal skills and abilities. This is particularly true in securities cases because the Private Securities Litigation Reform Act makes it much more difficult for securities plaintiffs to get past a motion to dismiss." *Jiangchen*, 2019 WL 5173771, at *10.

Lead Counsel is among the most experienced and skilled practitioners in the securities-litigation field, and the firm has a long and successful track record in securities cases throughout the country, including within this Circuit. Lead Counsel's successes in this Circuit and elsewhere include, among others, *In re McKesson HBOC, Inc. Securities Litigation*, No. 5:99-cv-20743 (N.D. Cal.), in which BLB&G recovered $1.05 billion for investors, the largest recovery in a securities class action in the Ninth Circuit; *Hefler v. Wells Fargo & Co.*, No. 4:16-cv-05479 (N.D. Cal.), in which BLB&G recovered $480 million for investors; *In re Allergan, Inc. Proxy Violation Securities Litigation*, No. 8:14-cv-02004 (C.D. Cal.), in which BLB&G recovered $250 million for investors; and *In re Wells Fargo & Co. Securities Litigation*, No. 1:20-cv-04494 (GHW) (S.D.N.Y.), in which BLB&G recovered $1 billion for investors.

Moreover, the record shows that this litigation is highly complex, involving thorny, and often unresolved, legal issues and difficult assembly of proof. Among the many issues on which the Parties do not agree are: (i) whether Defendants made any false or misleading statements; (ii) whether any of the challenged statements were material to investors; (iii) whether Defendant Zovighian acted with scienter; (iv) the method for determining whether the price of Edwards common stock was artificially inflated during the Class Period; (v) the amount (if any) of such inflation; and (vi) the amount of damages (if any) that could be recovered at trial.

From the outset of this case, Lead Counsel sought to obtain the maximum recovery for the class. Lead Counsel devoted substantial amounts of attorney and staff time, as well as its own money and other considerable resources in the vigorous prosecution of this matter. As summarized above and set forth in greater detail in the Robinson Declaration, Lead Counsel's efforts throughout the litigation included: (i) a comprehensive investigation into the claims asserted in the Action, which included identifying and contacting 82 former Edwards employees and interviewing 28 of them; reviewing and analyzing Edwards' public SEC filings, earnings call transcripts, press releases, analyst reports, and media reports; and conducting legal research on key issues in the case; (ii) preparing and filing the detailed Complaint; (iii) defeating in part Defendants' motion to dismiss the Complaint; (iv) conducting substantial Phase I fact discovery on Zovighian's scienter, which included obtaining and analyzing more than 125,000 pages (over 23,500 documents) produced by Defendants, and pressing a discovery dispute before Magistrate Judge Karen E. Scott; and (v) engaging in an arm's-length mediation process before an experienced mediator, Jed D. Melnick of JAMS, which included the preparation of a detailed mediation statement and participation in a full-day mediation session. Lead Counsel's extensive efforts and skill led to the Settlement and strongly support the requested fee award.

The quality and vigor of opposing counsel are also considered in evaluating the

services rendered by Lead Counsel. *Jiangchen*, 2019 WL 5173771, at *10 ("requested fee" supported because "Lead Counsel faced a vigorous defense" from "a respected national law firm"). Here, Defendants were represented throughout the Action by Latham & Watkins LLP, a highly experienced international law firm that vigorously defended the Action. ¶ 117. Defendants' Counsel are highly skilled and supported by considerable financial resources. In the face of this opposition, Lead Counsel was able to secure a significant recovery for the Settlement Class, supporting Lead Counsel's fee request.

### D. The Contingent Nature Of The Fee And The Financial Burden Carried By Plaintiffs' Counsel Support The Requested Fee

Determination of a fair and reasonable fee also includes consideration of the contingent nature of the fee.[2] It is an established practice in the private legal market to reward attorneys for taking on the serious risk of non-payment by permitting a fee award that reflects a premium to normal hourly billing rates. *See In re Nuvelo, Inc. Sec. Litig.*, 2011 WL 2650592, at *2 (N.D. Cal. July 6, 2011). "This practice encourages the legal profession to assume such a risk and promotes competent representation for plaintiffs who could not otherwise hire an attorney." *Id.*

Here, Plaintiffs' Counsel received no compensation during the nearly two years of litigating this Action. Unlike defense counsel—who typically receive payment on a timely basis whether they win or lose—Plaintiffs' Counsel sustained the entire risk that they would have to fund the expenses of this Action and that, unless Plaintiffs' Counsel succeeded, they would not be entitled to any compensation whatsoever. Accordingly, the contingent nature of the representation, and the burden carried by Plaintiffs' Counsel, support the requested fee.

[2] *See In re Dynamic Random Access Memory (DRAM) Antitrust Litig.*, 2007 WL 2416513, at *1 (N.D. Cal. Aug. 16, 2007); *see also Omnivision*, 559 F. Supp. 2d at 1047.

### E. The Requested Fee Is Consistent With Awards Made In Similar Cases On A Percentage Or Lodestar Multiplier Basis

Lead Counsel's fee request is well within the range of what courts in this Circuit commonly award in complex securities class actions. As discussed above, *see* Part II.B, the 25% fee request is consistent with the Ninth Circuit's 25% "benchmark" and fee percentages regularly awarded in comparable settlements. As discussed below, *see* Part III.H, the requested fee represents a lodestar multiplier that is well within the range of multipliers typically awarded in cases of this nature.

### F. Lead Plaintiffs' Approvals Support The Requested Fee

Lead Plaintiffs, sophisticated public pension funds that both took an active role in the litigation and closely supervised the work of Lead Counsel, support the approval of the requested fee based on the result obtained, the efforts of counsel, and the risks in the Action. *See* Wenguer Decl. (Ex. B), ¶ 7; McGee Decl. (Ex. C), ¶ 7. Lead Plaintiffs' endorsement of the fee request further supports its approval. *See, e.g.*, *In re Lucent Techs., Inc. Sec. Litig.*, 327 F. Supp. 2d 426, 442 (D.N.J. 2004) ("Significantly, the Lead Plaintiffs, both of whom are institutional investors with great financial stakes in the outcome of the litigation, have reviewed and approved Lead Counsel's fees and expenses request.").

Moreover, the fact that the fee request is based on an *ex ante* fee agreement that Lead Counsel agreed to at the outset of the Action further supports the request. Numerous courts have found that, in light of Congress's intent to empower lead plaintiffs under the PSLRA to select and supervise attorneys on behalf of the class, a fee agreement entered into by a PSLRA lead plaintiff and its counsel at the outset of the litigation warrants considerable weight by the Court. *See, e.g.*, *In re Cendant Corp. Litig.*, 264 F.3d 201, 282 (3d Cir. 2001) (*ex ante* fee agreements in securities class actions should be given "a presumption of reasonableness"); *In re Nortel Networks Corp. Sec. Litig.*, 539 F.3d 129, 133 (2d Cir. 2008) ("We expect . . . that district courts

will give serious consideration to negotiated fees because PSLRA lead plaintiffs often have a significant financial stake in the settlement, providing a powerful incentive to ensure that any fees resulting from that settlement are reasonable.").

### G. The Reaction Of The Settlement Class To Date Supports The Fee Request

Courts in the Ninth Circuit also consider the reaction of the class when deciding whether to award the requested fee. *See Jiangchen*, 2019 WL 5173771, at *10 ("no objections . . . supports granting the requested fees"); *Brown*, 2016 WL 11757878, at *12 ("reaction of the class is relevant in determining the overall fairness and reasonableness of an award of attorneys' fees."). A total of 291,625 copies of the Notice and Claim Form have been sent to potential Settlement Class Members and their nominees, and the Court-approved Summary Notice was published in *The Wall Street Journal* and transmitted over the *PR Newswire*. *See* Marquez Decl. (Ex. D) ¶¶ 9, 10. The Notice informed potential Settlement Class Members that Lead Counsel would apply for an award of attorneys' fees in an amount not to exceed 25% of the Settlement Fund. *See* Notice (Marquez Decl. Ex. A) ¶¶ 5, 53. The Notice further informed Settlement Class Members of their right to object to the request for attorneys' fees and expenses. *See id*. at 3 & ¶¶ 62-63. Although the deadline for filing any objections will not run until December 2, 2026, to date, no Settlement Class Member has filed an objection to the Settlement or the fees and expenses requested. ¶ 125. To the extent that any objections are subsequently made, Lead Plaintiffs and Plaintiffs' Counsel will address them in their reply papers.

### H. The Lodestar Cross-Check Supports The Reasonableness Of The Fee

"Although an analysis of the lodestar is not required for an award of attorneys' fees in the Ninth Circuit, a cross-check of the fee request with a lodestar amount can demonstrate the fee request's reasonableness." *In re Amgen Inc. Sec. Litig.*, 2016 WL 10571773, at *9 (C.D. Cal. Oct. 25, 2016); *see also HCL Partners Ltd. P'ship v. Leap*

*Wireless Int'l, Inc.*, 2010 WL 4156342, at *2 (S.D. Cal. Oct. 15, 2010) ("Courts have found that a lodestar analysis is not necessary when the requested fee is within the accepted benchmark."). When the lodestar is used as a cross-check, the "focus is not on the 'necessity and reasonableness of every hour' of the lodestar, but on the broader question of whether the fee award appropriately reflects the degree of time and effort expended by the attorneys." *In re Tyco Int'l, Ltd. Multidistrict Litig.*, 535 F. Supp. 2d 249, 270 (D.N.H. 2007); *see In re Am. Apparel, Inc. S'holder Litig.*, 2014 WL 10212865, at *23 (C.D. Cal. July 28, 2014) ("'In contrast to the use of the lodestar method as a primary tool for setting a fee award, the lodestar cross-check can be performed with a less exhaustive cataloging and review of counsel's hours.'"); *Glass v. UBS Fin. Servs., Inc.*, 331 F. App'x 452, 456-57 (9th Cir. 2009).

Fee awards in class actions with contingency risks, such as this one, routinely represent positive multipliers of counsel's lodestar to account for the possibility of non-payment, as well as other factors. *See Broadmoor Lumber & Plywood Co. v. Toyota Indus. Corp.*, 2026 WL 2001158, at *9 (N.D. Cal. July 10, 2026) ("In evaluating whether a lodestar multiplier is appropriate, district courts in the Ninth Circuit analyze a number of factors, including, but not limited to: (i) the quality of the representation; (ii) the benefit obtained for the class; (iii) the complexity and novelty of the issues presented; and (iv) the risk of nonpayment."); *Rihn v. Acadia Pharms. Inc.*, 2018 WL 513448, at *6 (S.D. Cal. Jan. 22, 2018) ("Courts have 'routinely enhanced the lodestar to reflect the risk of non-payment in common fund cases'" because, in doing so, it provides a '"financial incentive to accept contingent-fee cases which may produce nothing.'").

As detailed in the Robinson Declaration, Plaintiffs' Counsel spent over 5,500 hours of attorney and other professional time prosecuting the Action for the benefit of the Settlement Class through the date the Stipulation was signed, which is July 1,

2026. ¶¶ 106, 113.[3] Plaintiffs' Counsel's lodestar, derived by multiplying the hours spent on the litigation by each attorney or other professional by his or her current hourly rate, is $3,558,210.00. *Id*. It is well established that it is appropriate to calculate counsel's lodestar based on current, rather than historical rates, as a method of compensating for the delay in payment and the loss of interest on the funds. *See Missouri v. Jenkins*, 491 U.S. 274, 283-84 (1989); *WPPSS*, 19 F.3d at 1305; *In re Apollo Grp. Inc. Sec. Litig.*, 2012 WL 1378677, at *7 n.2 (D. Ariz. Apr. 20, 2012).

The requested fee of 25% of the Settlement Fund is $9,750,000 (plus interest) and, therefore, represents a multiplier of approximately 2.74 on Plaintiffs' Counsel's total lodestar. ¶ 113. This multiplier falls well within the range of multipliers awarded in cases like this with substantial contingency fee risks. *See Vizcaino*, 290 F.3d at 1051-52 & n.6 (affirming 28% fee award representing 3.65 multiplier and finding that "courts have routinely enhanced the lodestar to reflect the risk of non-payment in common fund cases," and that, when the lodestar is used as a cross-check, "most" multipliers were in the range of 1 to 4, but citing examples of higher multipliers); *see also van Wingerden v. Cadiz, Inc.*, 2017 WL 5565263, at *13 (C.D. Cal. Feb. 8, 2017) ("[m]ultipliers in the 3–4 range are common in lodestar awards for lengthy and complex class action litigation"); *Brown*, 2016 WL 11757878, at *12 ("Courts often approve percentage-fee awards that result in a positive lodestar multiplier between three and four."); *In re Regulus Therapeutics Inc. Sec. Litig.*, 2020 WL 6381898, at *7 (S.D. Cal. Oct. 30, 2020) ("'the majority of fee awards in the district courts in the Ninth Circuit are 1.5 to 3 times higher than lodestar'").

Consistent with Rule G.8 of the Standing Order for Civil Cases Assigned to Judge Anne Hwang, Lead Counsel is submitting by email to the Courtroom Deputy

[3] Lead Counsel devoted substantial work to this Action after July 1, 2026, including in connection with the motion for preliminary approval of the proposed Settlement, the class notice program, and the motion for final settlement approval.

Excel spreadsheets documenting Plaintiffs' Counsel's hours spent on this litigation. *See* ¶ 110. The accompanying lodestar and expense declarations, attached as Exhibits E1 and E2 to the Robinson Declaration, also show the hours worked by Plaintiffs' Counsel's professionals broken down by 8 different categories of work. *Id.* As noted above (*see supra* note 3), Plaintiffs' Counsel have not included in the fee application any time expended in connection with the class notice program or preparing the motion for final approval, and all time expended in preparing this application for fees and expenses has also been excluded. ¶ 114. The amount of hours Plaintiffs' Counsel dedicated to the Action were reasonable and necessary to obtain the result achieved in the face of Defendants' Counsel's zealous opposition.

The hourly rates used to calculate Lead Counsel's lodestar are also reasonable. The hourly rates for Lead Counsel range from $950 to $1,800 for partners and senior counsel; $500 to $875 for associates; $375 to $525 for staff attorneys and senior staff attorneys, and $375 to $450 for paralegals and case managers. *See* Exhibit 1 to Ex. E1. Lead Counsel's rates have been repeatedly accepted for purposes of a lodestar cross-check in securities class actions. *See, e.g.*, *In re Doximity, Inc. Sec. Litig.*, 2026 WL 1697594, at *1-2 (N.D. Cal. June 11, 2026) (approving fee based on lodestar cross-check using BLB&G's current rates); *Genesee Cnty. Emps.' Ret. Sys. v. Driven Brands Holdings Inc.*, No. 3:23-cv-00895-MOC-DCK (W.D.N.C. July 30, 2026), ECF No. 88 (same); *In re AdaptHealth Corp. Sec. Litig.*, No. 2:23-cv-04104-MRP (E.D. Pa. June 10, 2026), ECF No. 104 (same); *see also In re EQT Corp. Sec. Litig.*, No. 2:19-cv-00754-RJC (W.D. Pa. Nov. 4, 2025), ECF No. 566 (approving fee based on lodestar cross-check using BLB&G's 2025 rates); *In re Turquoise Hill Res., Ltd. Sec. Litig.*, No. 1:20-cv-8585-LJL (S.D.N.Y. Oct. 23, 2025), ECF No. 493 (same); *In re Silvergate Cap. Corp. Sec. Litig.*, No. 3:22-cv-01936-JES-MSB (S.D. Cal. Sept. 3, 2025), ECF No. 149 (same).

The reasonableness of Lead Counsel's rates is further underscored by the significantly higher rates charged by Latham & Watkins, counsel for Defendants in this case. *See Hi-Crush*, 2014 WL 7323417, at *14 (approving as reasonable hourly rates in securities action that were "comparable to . . . defense-side law firms litigating matters of similar magnitude"). For example, in a 2026 bankruptcy filing, Latham & Watkins requested compensation for professional services based on the following hourly rates: partner rates ranging from $2,150 to $3,050; counsel rates ranging from $1,926.65 to $2,050; associate rates ranging from $995 to $1,850; and paralegal rates ranging from $450 to $885. *See* Second Interim and Final Application of Latham & Watkins LLP for Compensation for Services Rendered and for Reimbursement of Expenses Incurred as Bankruptcy Counsel to the Debtors for the (I) Second Interim Period from May 1, 2026, Through and Including July 31, 2026, and (II) Final Period from January 26, 2026, Through and Including July 31, 2026 at Ex. A, *In re FAT Brands, Inc.*, No. 26-90126 (ARP) (Bankr. S.D. Tex. Aug. 28, 2026), ECF No. 1715 (Ex. F). Other fee applications from Latham & Watkins LLP reflect similar hourly rates. *See, e.g.*, Thirty-Sixth Monthly Fee Statement of Latham & Watkins LLP for Compensation for Services Rendered and for Reimbursement of Expenses Incurred as Bankruptcy Co-Counsel to the Debtors for the Period from September 1, 2026 through September 30, 2026 at Ex. B, *In re BMI Oldco Inc.*, No. 23-90794 (MI) (Bankr. S.D. Tex. Oct. 23, 2026), ECF No. 2362 (Ex. F) (reflecting partner rates ranging from $2,110 to $2,950; counsel rate of $2,050; associate rates ranging from $1,105 to $1,595; and paralegal rate of $665); Supplement to Thirteenth Interim Fee Application of Latham & Watkins LLP at Ex. B, *In re AIG Fin. Prods. Corp.*, No. 22-11309 (MFW) (Bankr. D. Del. Aug. 13, 2026), ECF No. 832 (Ex. F) (reflecting partner rates ranging from $1,895 to $2,110; counsel rate of $1,950; associate rate of $1,105; and paralegal rate of $665).

## IV. PLAINTIFFS' COUNSEL'S LITIGATION EXPENSES ARE REASONABLE

Lead Counsel also requests payment of Litigation Expenses in the amount of $89,225.51 that Plaintiffs' Counsel incurred in prosecuting and resolving the Action on behalf of the Settlement Class. Attorneys who create a common fund for the benefit of a class are entitled to be reimbursed for their out-of-pocket expenses incurred in creating the fund so long as the submitted expenses are reasonable, necessary and directly related to the prosecution of the action. *See Omnivision*, 559 F. Supp. 2d at 1048 ("Attorneys may recover their reasonable expenses that would typically be billed to paying clients in non-contingency matters.").

From the outset, Plaintiffs' Counsel were aware that they might not recover any of these expenses. Thus, Plaintiffs' Counsel were motivated to, and did, take steps to minimize expenses without jeopardizing the vigorous and efficient prosecution of the Action. ¶ 127.

The expenses for which Plaintiffs' Counsel seek payment are detailed in the accompanying lodestar and expense declarations, attached as Exhibits E1 and E2 to the Robinson Declaration, setting forth the specific categories of expenses incurred and the amount. The types of expenses for which Plaintiffs' Counsel seek payment were necessarily incurred in litigation and are routinely charged to classes in contingent litigation and clients billed by the hour. These include expenses associated with, among other things, experts, mediation costs, court fees, on-line legal and factual research, electronic document management, and copying costs. *See Thomas v. MagnaChip Semiconductor Corp.*, 2018 WL 2234598, at *4 (N.D. Cal. May 15, 2018) ("[C]ourts throughout the Ninth Circuit regularly award litigation costs and expenses—including photocopying, printing, postage, court costs, research on online databases, experts and consultants, and reasonable travel expenses—in securities class actions, as attorneys routinely bill private clients for such expenses in non-contingent

litigation."); *Todd v. STAAR Surgical Co.*, 2017 WL 4877417, at *5 (C.D. Cal. Oct. 24, 2017) (approving reimbursement of expenses for "experts and consultants," "mediation fees," and "necessary travel, filing fees, investigator fees, and document storage and maintenance fees").

The Notice informed potential Settlement Class Members that Lead Counsel would apply for Litigation Expenses in an amount not to exceed $195,000. *See* Marquez Decl. Ex. A ¶¶ 5, 53. The total amount of Litigation Expenses requested is $89,225.51, which is significantly less than the $195,000 maximum amount stated in the Notice.

## V. CONCLUSION

Lead Counsel respectfully requests that the Court award attorneys' fees in the amount of 25% of the Settlement Fund and payment of Plaintiffs' Counsel's Litigation Expenses in the amount of $89,225.51.

Dated: November 11, 2026

Respectfully submitted,

**BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP**

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**VERIFICATION**

Generative artificial intelligence was utilized to generate and/or assist with the drafting of portions of this filing. I verify that all source material has been reviewed, and any artificially generated content is accurate and complies with counsel's Rule 11 obligations.

Dated: November 11, 2026

By: */s/ Jeremy P. Robinson*
Jeremy P. Robinson