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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

JONNIE HOMYK, et al., Plaintiffs, v. CHEMOCENTRYX, INC. et al., Defendants.	Master File No. 4:21-cv-03343-JST *and related case*, No. 4:21-cv-04357 **LEAD COUNSEL'S MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES; AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** Judge: Honorable Jon S. Tigar Date: October 29, 2026 Time: 2:00 p.m.

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

CASES

OTHER AUTHORITIES

NOTICE OF MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, pursuant to Rule 23(h) of the Federal Rules of Civil Procedure and the Court's Order Granting Preliminary Approval of Class Action Settlement and Providing for Notice of Settlement (as Modified) (Dkt. No. 368) (the "Preliminary Approval Order"), Lead Counsel Bernstein Litowitz Berger & Grossmann LLP ("Lead Counsel" or "BLB&G") will and hereby does move the Court, before the Honorable Jon S. Tigar, on October 29, 2026, at 2:00 p.m. Pacific time by Zoom videoconference, or at such other location and time as set by the Court, for an Order awarding attorneys' fees and litigation expenses incurred in the above-captioned securities class action (the "Action").

This motion is based on the following Memorandum of Points and Authorities, the accompanying Declaration of Jonathan D. Uslaner in Support of Lead Counsel's Motion for Attorneys' Fees and Litigation Expenses ("Uslaner Declaration" or "Uslaner Decl.") and its exhibits, all other prior pleadings and papers in this Action, arguments of counsel, and such additional information or argument as may be required by the Court.

STATEMENT OF ISSUES TO BE DECIDED

1. Whether the Court should approve as fair and reasonable Lead Counsel's application for an attorneys' fee award in the amount of 22% of the Settlement Fund.

2. Whether the Court should approve Lead Counsel's request for the payment of litigation expenses reasonably incurred in prosecuting this Action.

MEMORANDUM OF POINTS AND AUTHORITIES

Court-appointed Lead Counsel for the Class and counsel for Lead Plaintiff Indiana Public Retirement System ("Indiana" or "Lead Plaintiff"), Bernstein Litowitz Berger & Grossmann LLP ("Lead Counsel" or "BLB&G"), respectfully submits this memorandum of law in support of its application for (a) an award of attorneys' fees in the amount of 22% of the Settlement Fund; and (b) $4,898,136.90 in litigation expenses that were reasonably incurred by Lead Counsel in prosecuting and resolving the Action.[1]

PRELIMINARY STATEMENT

Lead Counsel has vigorously litigated this securities class action for more than five years on a fully contingent basis, without receiving any compensation. The litigation was vigorously contested, and Lead Counsel faced substantial risks from the outset that it might be unable to obtain a meaningful recovery for Lead Plaintiff and the class. In order to obtain a recovery for the Class, Lead Counsel had to dedicate substantial efforts to the Action. Lead Counsel conducted an extensive investigation; prepared a detailed amended complaint based on that investigation; defeated Defendants' motion to dismiss; obtained class certification and defeated Defendants' Rule 23(f) petition; completed fact discovery, which included a review of approximately 8 million pages of documents produced by Defendants and non-parties and 21 fact depositions; conducted expert discovery, which included 24 expert reports and 17 expert depositions; and briefed and argued 11 *Daubert* motions and cross motions for summary judgment. Lead Counsel's vigorous efforts continued after the Court's summary judgment order, including an appeal to the Ninth Circuit and hard-fought negotiations that ultimately resulted in Settlement.

Through these sustained litigation efforts, Lead Counsel was able to achieve a $69 million recovery for the Settlement Class, which represents an excellent result and provides meaningful and certain compensation to Class Members while avoiding the significant risks and delay of

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[1] Unless otherwise defined in this memorandum, all capitalized terms have the meanings defined in the Revised Stipulation and Agreement of Settlement, dated May 15, 2026 (Dkt. No. 366-1) (the "Stipulation"), or the Uslaner Declaration. Citations to "¶ ___" in this memorandum refer to paragraphs in the Uslaner Declaration and citations to "Ex. ___" refer to exhibits to the Uslaner Declaration. Unless otherwise noted, all internal quotation marks, citations, or other punctuation are omitted, and all emphasis is added.

continued litigation, including the real risk that there might be no recovery at all. Having achieved this significant recovery, Lead Counsel now applies for attorneys' fees in the amount of 22% of the Settlement Fund as well as payment for the litigation expenses that Lead Counsel incurred in prosecuting the Action.

The Ninth Circuit has long recognized that, in class actions resulting in a common fund like this one, a percentage award is appropriate and an award of 25% of the settlement amount is the "benchmark." *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 949 (9th Cir. 2015). The requested 22% fee is below the "benchmark" and is well within the range of fees awarded in comparable class action cases. The requested fee percentage is also strongly supported by factors often considered by courts in determining the reasonableness of the fee, including the risks presented by this contingent fee litigation, the result achieved, the extent and quality of Lead Counsel's efforts, and the lodestar cross-check.

Lead Counsel prosecuted the Action on a contingency-fee basis and bore the risk that counsel would receive no compensation. As discussed below and in the Uslaner Declaration, there were multiple risks inherent in the Action from the outset in proving that Defendants' alleged misrepresentations concerning the ADVOCATE trial and the Company's communications with the FDA related to the approval of avacopan were actionably false and misleading, were made with scienter, and were the cause of the Class's losses. These risks in the Action were realized when the Court dismissed the claims at summary judgment, finding that all of the alleged misrepresentations were not actionable. Lead Counsel persisted, nevertheless, and was able to overcome these hurdles and secure a meaningful recovery for the Class.

Lead Counsel dedicated a total of over 61,000 hours of attorney and other professional staff time over the course of litigation to bring the Action to this resolution. ¶ 133. In class actions like this one, which are prosecuted on a contingent-fee basis, courts commonly award fees representing a positive "multiplier" of counsel's lodestar of up to four times the amount of their lodestar to compensate counsel for taking the risks of non-recovery and other factors. Here, the requested fee represents a "negative" or fractional multiplier of 0.37 of Lead Counsel's lodestar, and thus is well below the range of multipliers typically awarded in comparable cases.

Lead Counsel also seeks to recover the litigation expenses that it incurred in prosecuting and resolving this litigation, which totaled $4,898,136.90. As discussed below, these expenses were reasonable and necessary for the prosecution and resolution of the litigation and are of the type that are routinely charged to clients in non-contingent litigation.

For these reasons and those discussed below, Lead Counsel respectfully requests that the Court award attorneys' fees in the amount of 22% of the Settlement Fund and its litigation expenses.

ARGUMENT

I. LEAD COUNSEL'S REQUEST FOR ATTORNEYS' FEES OF 22% OF THE SETTLEMENT FUND IS BELOW THE "BENCHMARK PERCENTAGE" IN THIS CIRCUIT

The Ninth Circuit has established that, in common-fund cases such as this one, the "benchmark" percentage attorney fee award is 25% of the settlement fund. *See, e.g.*, *Online DVD-Rental*, 779 F.3d at 949 ("in this circuit, the benchmark percentage is 25%"); *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 942 (9th Cir. 2011) ("courts typically calculate 25% of the fund as the 'benchmark' for a reasonable fee award, providing adequate explanation in the record of any 'special circumstances' justifying a departure"); *Fischel v. Equitable Life Assurance Soc'y of U.S.*, 307 F.3d 997, 1006 (9th Cir. 2002) ("We have established a 25 percent 'benchmark' in percentage-of-the-fund cases."); *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1029 (9th Cir. 1998) ("This circuit has established 25% of the common fund as a benchmark award for attorney fees.").

Courts in this District have found fee awards in the amount of the 25% benchmark to be "presumptively reasonable." *In re Anthem, Inc. Data Breach Litig.*, 2018 WL 3960068, at *4 (N.D. Cal. Aug. 17, 2018) ("[I]t is well established that 25% of a common fund is a presumptively reasonable amount of attorneys' fees."); *Booth v. Strategic Realty Tr., Inc.*, 2015 WL 6002919, at *7 (N.D. Cal. Oct. 15, 2015) ("[T]he 25% award requested by Class Counsel is equal to the 'benchmark' percentage for a reasonable fee award in the Ninth Circuit. Such a fee award is 'presumptively reasonable.'").

Indeed, courts have found that, "in most common fund cases, the award *exceeds* that benchmark" of 25%. *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1047 (N.D. Cal. 2008);

see also In re Allergan, Inc. Proxy Violation Derivatives Litig., 2018 WL 4959014, at *1 (C.D. Cal. Aug. 13, 2018) ("The Ninth Circuit uses a 25% benchmark in common fund class actions, and 'in most common fund cases, the award exceeds that benchmark,' with a 30% award the norm 'absent extraordinary circumstances that suggest reasons to lower or increase the percentage.'"); *Pokorny v. Quixtar, Inc.*, 2013 WL 3790896, at *1 (N.D. Cal. July 18, 2013) ("The Ninth Circuit uses a 25% baseline in common fund class actions, and 'in most common fund cases, the award exceeds that benchmark,' with a 30% award the norm 'absent extraordinary circumstances that suggest reasons to lower or increase the percentage.'").

Here, the 22% fee request is substantially below the 25% Ninth Circuit benchmark, even though—as discussed below—there are numerous case-specific factors that would support an enhancement of the fee above the benchmark. Therefore, this factor strongly supports the reasonableness of the fee.

The 22% fee requested here is also well within the range of percentage fees typically awarded in securities class actions and similar litigation in this District and elsewhere with recoveries comparable to the $69 million achieved here. *See, e.g.*, *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1050 (9th Cir. 2002) (affirming award of 28% of $97 million settlement); *SEB Inv. Mgmt. AB v. Wells Fargo & Co.*, 2026 WL 1458903, at *6, *8 (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); *Leventhal v. Chegg, Inc.*, 2025 WL 1481382, at *9 (N.D. Cal. May 21, 2025) (awarding 25% of $55 million settlement); *In re QuantumScape Sec. Class Action*, 2025 WL 353556, at *5 (N.D. Cal. Jan. 22, 2025) (awarding 30% of $47.5 million settlement); *Roberts v. Zuora, Inc.*, 2024 WL 6847397, at *1 (N.D. Cal. Jan. 16, 2024) (awarding 30% of $75.5 million settlement); Final Approval Order at 7, *In re Nutanix Inc. Sec. Litig.*, No. 3:19-cv-01651-WHO (N.D. Cal. Oct. 6, 2023), Dkt. No. 326 (Ex. 16A) (awarding 25% of $71 million settlement); *In re Snap Inc. Sec. Litig.*, 2021 WL 12356004, at *1 (C.D. Cal. Mar. 9, 2021) (awarding 25% of $154.7 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); Revised Order at 2, *In re SanDisk LLC Sec. Litig.*, No. 3:15-cv-01455-VC (N.D. Cal.

Oct. 23, 2019), Dkt. No. 284 (Ex. 16B) (awarding 25% of $50 million settlement); *In re Volkswagen "Clean Diesel" Mktg., Sales Pracs., & Prods. Liab. Litig.*, 2019 WL 2077847, at *4 (N.D. Cal. May 10, 2019) (awarding 25% of $48 million settlement); *Anthem*, 2018 WL 3960068, at *16 (awarding 27% of $115 million settlement); *In re Amgen Inc. Sec. Litig.*, 2016 WL 10571773, at *9-10 (C.D. Cal. Oct. 25, 2016) (awarding 25% of $95 million settlement).

II. LEAD PLAINTIFF'S ENDORSEMENT OF THE ATTORNEYS' FEE, WHICH IS BASED ON *EX ANTE* AGREEMENT WITH LEAD COUNSEL, SUPPORTS ITS APPROVAL

Lead Plaintiff, which took an active role in the litigation and closely supervised the work of Lead Counsel, supports approval of the requested fee based on the result obtained, the efforts of Lead Counsel and the risks in the Action. *See* Gill Decl. (Ex. 1) at ¶¶ 3-6, 8. Lead Plaintiff's endorsement of the fee request further supports its approval. *See, e.g.*, *Hatamian v. Advanced Micro Devices, Inc.*, 2018 WL 8950656, at *2 (N.D. Cal. Mar. 2, 2018) (approving fee where request "reviewed and approved as fair and reasonable by Class Representatives, sophisticated institutional investors . . ."); *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.").

In addition, the fact that the requested fee is based on an agreement that Lead Counsel entered into with Lead Plaintiff at the outset of the Action further supports the request. Here, Indiana negotiated and entered into a retention agreement with Lead Counsel in July 2021, at the outset of the litigation, that provided for different levels of percentage fees based on the stage of litigation at which settlement was reached. *See* Gill Decl. ¶ 8 (Ex. 1).

The PSLRA was intended to encourage institutional investors with a substantial financial interest in the action, like Indiana, to "participate in the litigation and exercise control over the selection and actions of plaintiff's counsel." H.R. Conf. Rep. No. 104-369, at *32 (1995), reprinted in 1995 U.S.C.C.A.N. 730, 731. Congress believed that these institutions would be in the best position to monitor the ongoing prosecution of the litigation and to assess the reasonableness of counsel's fee request. A number of courts have found, in light of Congress's intent to empower lead plaintiffs under the PSLRA to select and supervise attorneys on behalf of the class, that a fee agreement entered into by a PSLRA lead plaintiff and its counsel at the outset of the litigation should be given considerable weight by the Court. *See 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, 133-34 (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.").

III. ADDITIONAL FACTORS CONSIDERED BY COURTS SUPPORT APPROVAL OF THE REQUESTED FEE

The reasonableness of Lead Counsel's 22% fee request is further confirmed by additional factors considered by courts in this Circuit, including (1) the results achieved, (2) the risks of litigation, (3) the skill required and the quality of work, (4) the contingent nature of the fee and the financial burden carried by the plaintiffs, (5) awards made in similar cases, (6) the class's reaction, and (7) a lodestar cross-check. *See Vizcaino*, 290 F.3d at 1048-50; *Omnivision*, 559 F. Supp. 2d at 1046-48.

A. The Quality of the Result Achieved Supports the Fee Request

Courts consider the results achieved in assessing a fee award request. *See Vizcaino*, 290 F.3d at 1048 ("results are a relevant" factor in awarding attorneys' fees). The $69 million cash settlement is a favorable result for the Class in this case, especially when considering the risk of a significantly lower recovery—or no recovery at all.

The $69 million Settlement is more than six times the size of the median securities class-action settlement in the Ninth Circuit. ¶ 105. The Settlement is also favorable when considered against the risks of litigation and the range of potential damages that could be proved at trial. The $69 million Settlement represents approximately 5.3% to 13.4% of the absolute maximum damages for the Class (ranging from $513.6 million to $1.3 billion), <u>without</u> accounting for the Court's dismissal order and other litigation risks. ¶ 107. Courts in this Circuit have frequently approved settlements with comparable or lower percentage recoveries than obtained here as fair and reasonable in cases that were not dismissed at summary judgment. *See, e.g.*, *In re Lyft, Inc. Sec. Litig.*, 2022 WL 17740302, at *6 (N.D. Cal. Dec. 16, 2022) (settlement equal to 3.2% to 4.7% of estimated maximum damages was "well within the range of possible approval"); *Vataj v. Johnson*, 2021 WL 5161927, at *6 (N.D. Cal. Nov. 5, 2021) (approving settlement recovering "slightly more than 2% of . . . estimated damages" and noting that it was "consistent with the 2-3% average recovery that the parties identified in other securities class action settlements"); *In re Extreme Networks, Inc. Sec. Litig.*, 2019 WL 3290770, at *9 (N.D. Cal. July 22, 2019) (approving settlement representing "between 5% and 9.5%" of maximum potential damages).

The recovery under the circumstances here is particularly remarkable given that the Class faced a significant risk of zero recovery following the Court's dismissal order. Lead Counsel was, nevertheless, able to secure an outsized $69 million recovery, which was a direct result of its years of diligent efforts and high-caliber lawyering.

B. The Substantial Risks of the Litigation Support the Fee Request

"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." *In re Heritage Bond Litig.*, 2005 WL 1594389, at *14 (C.D. Cal. June 10, 2005); *see also, e.g.*, *In re Washington Pub. Power Supply Sys. Sec. Litig.*, 19 F.3d 1291, 1299-1301 (9th Cir. 1994) ("*WPPSS*"); *Omnivision*, 559 F. Supp. 2d at 1047.

Lead Counsel invested substantial resources in prosecuting this case, while recognizing that there were significant risks from the outset—including, in establishing that Defendants' statements were materially false and misleading when made and were actionable under the securities laws; that Defendants knew that their statements were false when made or were deliberately reckless in making the statements; and that the declines in the price of ChemoCentryx common stock were caused by the disclosure of Defendants' alleged misstatements.

With respect to each category of alleged misstatements, Defendants had meaningful arguments as to material falsity and scienter. Defendants consistently maintained that they honestly believed their statements about the safety and efficacy of avacopan and the ADVOCATE trial, and they had a reasonable basis for those statements as well as their optimistic statements concerning the prospects of FDA approval. Defendants also had significant arguments on issues related to damages. In particular, Defendants strenuously argued that no new facts were disclosed on May 7, 2021—the second corrective disclosure date—which, if accepted, would have cut damages in half. Additionally, Lead Counsel faced the risk that—even if the Class prevailed at trial—the Court or jury may conclude that damages should be "offset" by the amount by which ChemoCentryx's stock price increased following the FDA's approval of TAVNEOS shortly after the Class Period.

All of these substantial litigation risks strongly support the award of the 22% fee requested.

C. The Skill Required and the Quality of the Work Performed Support the Fee Request

Courts have recognized that the "'prosecution and management of a complex national class action requires unique legal skills and abilities.'" *Destefano v. Zynga, Inc.*, 2016 WL 537946, at *17 (N.D. Cal. Feb. 11, 2016). "'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."' *Id.* (quoting *Omnivision*, 559 F. Supp. 2d at 1047). In considering this factor, courts also consider the quality and vigor of opposing counsel. *See, e.g.*, *In re Heritage Bond Litig.*, 2005 WL 1594403, at *20 (C.D. Cal. June 10, 2005) ("the quality of opposing counsel is important in evaluating the quality of Plaintiff's counsel's work"); *In re Equity Funding Corp. of Am. Sec. Litig.*, 438 F. Supp. 1303, 1337 (C.D. Cal. 1977) ("[P]laintiffs' attorneys in this class action have been up against established and skillful defense lawyers, and should be compensated accordingly.").

Lead Counsel is among the most experienced and skilled practitioners in the securities-litigation field, with a long and successful track record in securities cases throughout the country. ¶¶ 136-37. 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*, 1:20-cv-04494 (S.D.N.Y.), in which BLB&G recovered $1 billion for investors. ¶¶ 137-38.

Lead Counsel's experience in complex securities cases facilitated its ability to negotiate and secure the Settlement. Lead Counsel achieved this recovery in this Action by litigating against highly skilled and well-respected lawyers from Latham & Watkins LLP, who vigorously advocated for their clients. ¶ 139.

As noted above, Lead Counsel's efforts throughout the litigation were extensive—including (i) conducting a thorough investigation and filing a detailed Amended Consolidated Class Action Complaint; (ii) defeating Defendants' motion to dismiss; (iii) completing fact discovery involving the exchange and review of more than 8 million pages of documents, 21 fact depositions, and dozens of third-party subpoenas; (iv) successfully obtaining class certification; (v) defeating Defendants' Rule 23(f) petition for interlocutory review; (vi) disseminating notice of pendency of class action to the Class; (vii) completing expert discovery, which included 24 expert reports and 17 expert depositions; (viii) briefing and arguing 11 *Daubert* motions; (ix) briefing and arguing cross motions for summary judgment; (x) preparing and filing an appeal to the Ninth Circuit; and (xi) engaging in settlement negotiations. ¶¶ 3, 9-78.

D. The Contingent Nature of the Fee Supports the Fee Request

"It is an established practice in the private legal market to reward attorneys for taking the risk of non-payment by paying them a premium over their normal hourly rates for winning contingency cases." *WPPSS*, 19 F.3d at 1299; *see also Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 261 (N.D. Cal. 2015) ("when counsel takes cases on a contingency fee basis, and litigation is protracted, the risk of non-payment after years of litigation justifies a significant fee award"). The Supreme Court has emphasized that private securities actions, like this one, "provide 'a most effective weapon in the enforcement' of securities laws and are 'a necessary supplement to [SEC] action.'" *Tellabs, Inc. v. Makor Issues & Rts., Ltd.*, 551 U.S. 308, 318-19 (2007).

Here, Lead Counsel committed significant resources, time, and money to prosecute this Action vigorously and successfully for the Class's benefit—without any payment or any guarantee of compensation. The fee award and expense reimbursement in this Action has always been at risk in the case. This significant contingency-fee risk further supports the requested fee.

E. The Reaction of the Class to Date Supports the Fee Request

The reaction of the Class to the proposed Settlement and the fee motion to date also supports approval of the fee request. *See Heritage Bond*, 2005 WL 1594403, at *21 ("The existence or absence of objectors to the requested attorneys' fee is a factor i[n] determining the appropriate fee award."). A total of 77,834 copies of the Postcard Notice and 1,511 copies of the Settlement Notice Packet have been sent to potential Class Members and their nominees, and the Court-approved Summary Notice was published in the *Wall Street Journal* and transmitted over the *PR Newswire* on July 20, 2026. *See* Marquez Decl. (Ex. 3) at ¶¶ 9-10. The notices informed Class Members that Lead Counsel would apply for an award of attorneys' fees in an amount not to exceed 22% of the Settlement Fund. *See* Postcard Notice (Marquez Decl. Ex. A) at 1; Settlement Notice (Marquez Decl. Ex. A) at ¶¶ 5, 51. The notices further informed Class Members of their right to object to the request for attorneys' fees and expenses. *See* Postcard Notice at 1; Settlement Notice at p. 3 and ¶¶ 64-65. Although the deadline for filing any objections will not run until September 21, 2026, to date, no Class Member has filed an objection to the Settlement or the fees and expenses requested. Uslaner Decl. ¶¶ 144, 152.

F. The Lodestar Cross-Check Supports the Fee Request

"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." *Amgen Inc.*, 2016 WL 10571773, at *9; *see also Extreme Networks*, 2019 WL 3290770, at *10 (noting that the "'lodestar may provide a useful perspective on the reasonableness of a given percentage award'"). 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 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.'"). Courts award lodestar multipliers up to four times counsel's lodestar, and sometimes even more. *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 Fleming v. Impax Lab'ys Inc.*, 2022 WL 2789496, at *9 (N.D. Cal. July 15, 2022) (approving 2.6 multiplier); *Vataj*, 2021 WL 5161927, at *9 (approving 2.5 multiplier); *In re Capacitors Antitrust Litig.*, 2018 WL 4790575, at *6 (N.D. Cal. Sept. 21, 2018) ("a lodestar multiplier of around 4 times has frequently been awarded in common fund cases"); *Petersen v. CJ Am., Inc.*, 2016 WL 11783674, at *1 (S.D. Cal. Oct. 18, 2016) ("the majority of fee awards in the district courts in the Ninth Circuit are 1.5 to 3 times higher than lodestar"); *Hopkins v. Stryker Sales Corp.*, 2013 WL 496358, at *4 (N.D. Cal. Feb. 6, 2013) ("Multipliers of 1 to 4 are commonly found to be appropriate in complex class action cases."); *Buccellato v. AT & T Operations, Inc.*, 2011 WL 3348055, at *2 (N.D. Cal. June 30, 2011) (awarding fee representing 4.3 multiplier).

As detailed in the Uslaner Declaration, Lead Counsel spent over 61,000 hours of attorney and other professional time prosecuting the Action for the benefit of the Class. ¶ 133. Lead Counsel's lodestar is $40,480,287.50, which was derived by multiplying the hours spent on the litigation by each attorney or other professional by their hourly rate. *Id*. The requested fee of 22% of the Settlement Fund is $15,180,000 (plus interest) and, therefore, represents a multiplier of 0.37 on Lead Counsel's lodestar. ¶ 133. In other words, the requested fee represents only 37% of the lodestar value of the time that Lead Counsel dedicated to the Action. This "negative" or fractional multiplier is well below the range of multipliers—often between one and four—commonly awarded in comparable litigation.

Courts repeatedly recognize that a percentage fee request that is less than counsel's lodestar, such as in this case, provides strong confirmation of the reasonableness of the award. *See, e.g.*, *Davis v. Yelp, Inc.*, 2023 WL 3063823, at *2 (N.D. Cal. Jan. 27, 2023) ("[A] multiplier of less than one suggests that the negotiated fee award is reasonable."); *Khoja v. Orexigen Therapeutics, Inc.*, 2021 WL 5632673, at *10 (S.D. Cal. Nov. 30, 2021) (where 33% fee requested resulted in a fractional multiplier of 0.528, the court found that the "lodestar cross-check . . . provides a strong indication of the reasonableness of Lead Counsel's requested percentage award"); *Amgen*, 2016 WL 10571773, at *9 ("[C]ourts have recognized that a percentage fee that falls below counsel's lodestar strongly supports the reasonableness of the award."); *In re Initial Pub. Offering Sec. Litig.*, 671 F. Supp. 2d 467, 515 (S.D.N.Y. 2009) (finding "no real danger of overcompensation" given that the requested fee represented a discount to counsel's lodestar).

Consistent with the Northern District of California Procedural Guidance for Class Action Settlements and the Court's practices, the Uslaner Declaration includes a breakdown of the hours that each attorney and other professional of Lead Counsel devoted to the litigation into 17 major tasks undertaken over the course of the litigation. *See* ¶¶ 134-35 and Exs. 7-9. Lead Counsel has not included in the fee application any time expended preparing the motion for fees and expenses. ¶ 134. The amount of hours Lead Counsel dedicated to the Action was 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 $1,000 to $1,800 for partners and senior counsel; $500 to $875 for associates, $385 to $525 for staff attorneys and senior staff attorneys; and $325 to $475 for paralegals and case managers. *See* Ex. 4. Lead Counsel's rates have been repeatedly accepted for use in the lodestar crosscheck in other similar class actions in this District and elsewhere. *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); Order, *Genesee Cnty. Emps' Ret. Sys. v. Driven Brands Holdings Inc.*, No. 3:23-cv-00895-MOC-DCK (W.D.N.C. July 30, 2026), Dkt. No. 88 (same); Order, *In re AdaptHealth Corp. Sec. Litig.*, No. 2:23-cv-04104-MRP (E.D. Pa. June 10, 2026), Dkt. No. 104 (same); *see also* Order, *In re EQT Corp. Sec. Litig.*, No. 2:19-cv-00754-RJC (W.D. Pa. Nov. 4, 2025), Dkt. No. 566 (approving fee based on lodestar cross-check using BLB&G's 2025 rates); Order, *In re Turquoise Hill Resources, Ltd. Sec. Litig.*, No. 1:20-cv-8585-LJL (S.D.N.Y. Oct. 23, 2025), Dkt. No. 493 (same); Order, *In re Silvergate Capital Corp. Sec. Litig.*, No. 3:22-cv-01936-JES-MSB (S.D. Cal. Sept. 3, 2025), Dkt. No. 149 (same).

Lead Counsel's rates are within the range of reasonable fees for attorneys working on sophisticated class action litigation in this District. *See, e.g.*, *Wells Fargo*, 2026 WL 1458903, at *6 (approving fee where rates used for lodestar cross-check ranged "from $805 to $1,195 per hour for partners, $370 to $835 per hour for other attorneys, $325 to $660 per hour for in-house investigators and $255 to $405 per hour for paralegals"); *In re Alphabet, Inc. Sec. Litig.*, 2024 WL 4354988, at *7 (N.D. Cal. Sept. 30, 2024) (finding that "the rates charged are reasonable and commensurate with those charged by attorneys with similar experience in the market" where counsel's rates ranged up to $1,400 for partners, $1,135 for of counsel, $700 for associates, and $475 for staff attorneys);[2] *In re Volkswagen "Clean Diesel" Mktg., Sales Pracs., & Prods. Liab. Litig.*, 2017 WL 1047834, at *5 (N.D. Cal. Mar. 17, 2017) (approving fee award following lodestar cross-check with hourly rates ranging up to $1,600 for partners and up to $790 for associates); *Hefler v. Wells Fargo & Co.*, 2018 WL 6619983, at *14 (N.D. Cal. Dec. 18, 2018), *aff'd sub nom. Hefler v. Pekoc*, 802 F. App'x 285 (9th Cir. 2020) (approving Lead Counsel's 2018 rates as reasonable for lodestar cross-check).

The reasonableness of Lead Counsel's rates is further underscored by the significantly higher rates charged by Latham & Watkins LLP, Defendants' Counsel in this case. *See In re Hi-Crush Partners L.P. Sec. Litig.*, 2014 WL 7323417, at *14 (S.D.N.Y. Dec. 19, 2014) (approving as reasonable hourly rates in securities actions that were "comparable to . . . defense-side law firms litigating matters of similar magnitude"). According to a recent filing by Latham, its current

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[2] Rates for class counsel in *Alphabet* were set forth in Declaration of Michael Albert at Ex. A, *In re Alphabet, Inc. Securities Litigation*, No. 3:18-cv-06245-TLT (N.D. Cal. July 19, 2024), Dkt. No. 234-1.

partner rates range from $1,895 to $3,050; counsel rates range from $1,815 to $2,550; associate rates range from $945 to $1,850; and paralegal rates range from $390 to $970. *See* Notice of Annual Hourly Rate Increase of Latham & Watkins LLP at 2, *In re AIG Fin. Prods. Corp.*, No. 22-11309-MFW (Bankr. D. Del. Dec. 23, 2025), Dkt. No. 750 (Ex. 16C); *see also* Supplement to Tenth Interim Fee Application of Latham & Watkins LLP at Ex. B, *In re AIG Fin. Prods. Corp.*, No. 22-11309-MFW (Bankr. D. Del. Dec. 3, 2025), Dkt. No. 737 (Ex. 16D) (reporting hourly rates in 2025 of $1,680 to $2,325 for partners; $1,775 for counsel; $835 to $1,565 for associates; and $595 for a paralegal, with a blended hourly rate of $1,696). These rates are substantially higher at all levels than the rates used by Lead Counsel to calculate its lodestar.

IV. LEAD COUNSEL'S EXPENSES ARE REASONABLE AND SHOULD BE APPROVED

"Attorneys who create a common fund are entitled to the reimbursement of expenses they advanced for the benefit of the class." *Vincent v. Reser*, 2013 WL 621865, at *5 (N.D. Cal. Feb. 19, 2013). "Attorneys may recover their reasonable expenses that would typically be billed to paying clients in non-contingency matters." *See Omnivision*, 559 F. Supp. 2d at 1048. A complete breakdown by category of the expenses incurred by Lead Counsel is set forth in Exhibit 12 to the Uslaner Declaration.

The expenses sought by Lead Counsel are all of the type that are charged to hourly paying clients and were required to prosecute the litigation. These expense items were incurred by Lead Counsel and are not duplicated in the firm's hourly rates. From the beginning of the case, Lead Counsel was aware that it might not recover any of its expenses. Lead Counsel also understood that, even assuming that the case was ultimately successful, an award of expenses would not compensate it for the lost use of the funds advanced to prosecute the Action. Thus, Lead Counsel was motivated to, and did, take significant steps to minimize expenses whenever practicable without jeopardizing the vigorous and efficient prosecution of the Action. ¶ 146.

As discussed in detail in the Uslaner Declaration, Lead Counsel incurred a total of $4,898,136.90 in litigation expenses in litigating the Action. ¶ 147. The expenses for which payment is sought were reasonable and necessary for the prosecution and resolution of the litigation and are of the types that are routinely charged to clients in non-contingent litigation. These include expert fees, mediation fees, factual and legal research, court fees, and postage expenses. ¶¶ 148-52.

Of the total expenses, Lead Counsel incurred $3,571,480.31, or approximately 73% of the total litigation expenses, on retention of experts and consultants, including its experts in financial economics, including damages and loss causation; expert consultants on FDA regulation and pharmaceutical clinical trials; and trial preparation consultants. ¶ 148. Lead Counsel also incurred $200,738.42 in court reporting fees in connection with the over 40 depositions conducted in the Action. The combined costs for online legal and factual research amounted to $350,039.24, or approximately 7% of the total expenses. ¶ 149. Lead Counsel also incurred $139,246.01 in taxable costs paid under Rule 54(d) following entry of the judgment in favor of Defendants, which was a necessary expense that allowed Lead Plaintiff to continue litigation on appeal and ultimately achieve the $69 million settlement. ¶ 151(c).

In addition, Lead Counsel incurred $168,028.39 in expenses for the retention of independent counsel to represent several former ChemoCentryx employees that Lead Counsel contacted during its investigation and who wished to be represented by independent counsel. ¶ 151(b). Similar expenses have been approved by courts. *See, e.g.*, Order at 1-2, *In re Qualcomm Inc. Sec. Litig.*, No. 3:17-cv-00121-JO-MSB (S.D. Cal. Sept. 27, 2024), Dkt. No. 450 (awarding expenses to class counsel that included reimbursement for the costs of paying for independent counsel for third-party witnesses); Order at 15, *SEB Inv. Mgmt. AB v. Symantec Corp.*, No. 3:18-cv-02902-WHA (N.D. Cal. Feb. 10, 2022), Dkt. No. 421 (same).

The other expenses are also the types of expenses that are necessarily incurred in litigation and routinely charged to clients. These expenses included court fees, service of process, document hosting and management costs, mediator's fees, copying and printing, and travel. ¶ 151. Courts routinely approve litigation expenses such as these. *See, e.g.*, *Vega v. Weatherford U.S., Ltd. P'ship*, 2016 WL 7116731, at *17 (E.D. Cal. Dec. 7, 2016) ("legal research expenses, copying costs, mediation fees, postage, federal express charges, expert fees, . . . and travel expenses," among others, were all categories of expenses "routinely reimbursed" in class actions); *Zynga*, 2016 WL 537946, at *22 ("courts 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").

The Postcard Notice and Settlement Notice disseminated to potential Class Members informed them that Lead Counsel intended to apply for the payment of litigation expenses in an amount not to exceed $5 million. Postcard Notice at 1; Settlement Notice ¶¶ 5, 56. The total amount of Litigation Expenses requested, $4,898,136.90, is less than the amount stated in the notices. The deadline for objecting to the fee and expense application is September 21, 2026. To date, there have been no objections to the request for attorneys' fees or the maximum litigation expenses set out in the notices.

V. LEAD COUNSEL REQUESTS THAT ITS EXPENSES AND 90% OF THE ATTORNEYS' FEES BE PAID UPON AWARD

Consistent with this Court's practices, Lead Counsel requests that 90% of the attorneys' fees awarded by the Court be paid upon approval of the Settlement and entry of the order approving the fee and expense award, with the remaining 10% of the attorneys' fees to be paid upon entry of the Post-Distribution Accounting. *See, e.g.*, Order at 2, *In re Splunk Inc. Sec. Litig.*, No. 4:20-cv-08600-JST (N.D. Cal. Mar. 4, 2024), Dkt. No. 143 (Ex. 16E (awarding 90%); *Hessefort v. Super Micro Computer, Inc.*, 2023 WL 7185778, at *11 (N.D. Cal. May 5, 2023) (same); *In re Twitter Inc. Sec. Litig.*, 2022 WL 17248115, at *1 (N.D. Cal. Nov. 21, 2022) (same).

Lead Counsel believes that a 10% holdback of attorneys' fees is appropriate here because it fairly balances Lead Counsel's interest and reasonable expectation in receiving prompt payment after having prosecuted the Action for over five years without compensation, while creating sufficient financial incentive to ensure that Lead Counsel remains actively involved in overseeing the prompt distribution of settlement funds to eligible Claimants.

CONCLUSION

For all the foregoing reasons, Lead Counsel respectfully requests that the Court award attorneys' fees of 22% of the Settlement Fund and reimbursement of Lead Counsel's Litigation Expenses.

Dated: September 10, 2026

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