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**UNITED STATES DISTRICT COURT**
**NORTHERN DISTRICT OF CALIFORNIA**
**SAN JOSE DIVISION**

RETAIL WHOLESALE DEPARTMENT STORE UNION LOCAL 338 RETIREMENT FUND, et al.,

Plaintiffs,

v.

STITCH FIX, INC., et al.,

Defendants.

Case No. 5:22-cv-04893-PCP

CLASS ACTION

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

Courtroom: Courtroom 8 - 4th Floor
Judge: Hon. P. Casey Pitts
Date: September 24, 2026
Time: 10:00 a.m.

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# TABLE OF AUTHORITIES

**STATUTES AND RULES**



**OTHER AUTHORITIES**

**NOTICE OF MOTION FOR AN AWARD OF**
**ATTORNEYS' FEES AND LITIGATION EXPENSES**

**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 Amended Order Granting Motion for Preliminary Approval of Settlement (Dkt. No. 134) (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 P. Casey Pitts, on September 24, 2026, at 10:00 a.m. in Courtroom 8 of the Robert F. Peckham Federal Building & United States Courthouse, 280 South 1st Street, San Jose, CA 95113, 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 Rebecca E. Boon in Support of (I) Lead Plaintiffs' Motion for Final Approval of Settlement and Plan of Allocation; and (II) Lead Counsel's Motion for Attorneys' Fees and Litigation Expenses ("Boon Declaration" or "Boon 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. A proposed Order will be submitted with Lead Counsel's reply submission, after the time for any objections has passed.

**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 for all Plaintiffs' Counsel in the amount of 25% of the Settlement Fund (*i.e.*, the Settlement Amount, plus interest accrued thereon).

2. Whether the Court should approve Lead Counsel's request for payment of $214,483.26 in litigation expenses incurred in this Action.

3. Whether the Court should approve Lead Plaintiffs' application for an award reimbursing their costs incurred in representing the Settlement Class pursuant to the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4(a)(4), in the amount of $8,753.88.

## MEMORANDUM OF POINTS AND AUTHORITIES

Court-appointed Lead Counsel for the Settlement Class and counsel for Lead Plaintiffs Retail Wholesale Department Store Union Local 338 Retirement Fund, Retail Wholesale Department Store Union Local 338 Health & Welfare Fund, Retail Wholesale Department Store Union Local 338 General Fund, and Retail Wholesale Department Store Union Local 338 Benefits Trust Fund ("Lead Plaintiffs"), 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 for Plaintiffs' Counsel in the amount of 25% of the Settlement Fund; (b) payment of $214,483.26 in litigation expenses that were reasonably incurred by Lead Counsel in prosecuting and resolving the Action; and (c) an award of $8,753.88 to reimburse Lead Plaintiffs for costs they incurred directly related to their representation of the Settlement Class, as authorized by the Private Securities Litigation Reform Act of 1995 ("PSLRA").[1]

## PRELIMINARY STATEMENT

Plaintiffs' Counsel have vigorously litigated this securities class action for nearly four years on a fully contingent basis, without receiving any compensation. The litigation was hard fought, and Plaintiffs' Counsel faced risks from the outset that they would be unable to obtain a meaningful recovery for Lead Plaintiffs and the class. As such, Plaintiffs' Counsel had to—and did—dedicate very substantial efforts to the Action from its outset. Plaintiffs' Counsel conducted an extensive investigation, including more than 200 interviews with former Stitch Fix employees; prepared two detailed amended complaints based on that investigation; opposed two rounds of heavily contested motions to dismiss through briefing and oral argument; began discovery efforts and conducted pre-mediation discovery, and engaged in arm's-length settlement negotiations, including a mediation session with an experienced mediator.

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[1] Unless otherwise defined in this memorandum, all capitalized terms have the meanings defined in the Stipulation and Agreement of Settlement, dated February 6, 2026 (Dkt. No. 126-1) (the "Stipulation"), or the Boon Declaration. Citations to "¶ __" in this memorandum refer to paragraphs in the Boon Declaration and citations to "Ex. __" refer to exhibits to the Boon Declaration. "Plaintiffs' Counsel" means Lead Counsel BLB&G and additional counsel for Lead Plaintiffs, Friedman & Anspach. Unless otherwise noted, all internal quotation marks, citations, or other punctuation are omitted, and all emphasis is added.

Through Plaintiffs' Counsel's sustained litigation efforts, they achieved the proposed $32 million Settlement for the benefit of Lead Plaintiffs and the Settlement Class. The $32 million recovery represents a favorable result for the Settlement Class and provides meaningful and certain compensation to Settlement Class Members while avoiding the significant risks and delay of continued litigation, including the risk that there might be no recovery at all. Having achieved this significant monetary recovery after nearly four years of litigation without any payment, Lead Counsel now applies for attorneys' fees in the amount of 25% of the Settlement Fund as well as payment for the litigation expenses that Lead Counsel incurred in prosecuting the Action and reimbursement of Lead Plaintiffs' costs.

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 25% fee is consistent with this "benchmark" and is well within the range of fees awarded in comparable class action cases. The requested fee percentage is also supported by factors often considered by courts in determining the reasonableness of the fee, including the significant risks presented by this contingent fee litigation, the quality of the result achieved, the extent and quality of Lead Counsel's efforts, and the lodestar cross-check.

Plaintiffs' 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 Boon Declaration, there were multiple risks inherent in the Action from the outset. Lead Plaintiffs faced real challenges in proving that Defendants' statements about Direct Buy, Stitch Fix's new business line, were actionably false and made with scienter. ¶¶ 53-55. For example, there were risks that the Court or jury might find that certain of the alleged misstatements were vague or aspirational statements, or were unrelated to the introduction of Direct Buy to new customers, and were otherwise not actionable. Lead Plaintiffs also faced real challenges in proving that Defendants knowingly or recklessly deceived investors. There were risks from the outset that a factfinder might support Defendants' view on one of these issues—in which case there would be no recovery at all. *Id*. Moreover, Lead Plaintiffs also faced significant challenges in proving that the price declines at issue were the result of the alleged fraud, and in establishing the portion of the declines that were caused by the alleged fraud. ¶¶ 56-59. The riskiness of the Action was further highlighted by the fact that the Company never restated any of its financials; and there was no parallel SEC or DOJ enforcement action ever brought related to the alleged fraud. ¶ 99. Here, Plaintiffs' Counsel were able to overcome these hurdles and secure a meaningful recovery for the Settlement Class.

The requested attorneys' fees are also supported by the substantial efforts that Plaintiffs' Counsel dedicated to the Action to achieve the Settlement. Among other things, Plaintiffs' Counsel (1) conducted an extensive investigation into the claims asserted, which included a detailed review of SEC filings and other public documents, interviewing over 200 former Stitch Fix employees, and consulting with experts; (2) drafted a detailed Amended Complaint and a subsequent Second Amended Complaint based on this investigation; (3) researched, briefed and argued Lead Plaintiffs' opposition to two rounds of Defendants' motion to dismiss; (4) worked with an expert on complex issues of loss causation and damages; and (5) engaged in extensive arm's-length settlement negotiations to achieve the Settlement, including pre-mediation discovery and a formal mediation process. ¶¶ 3, 11-46.

Lead Counsel dedicated a total of over 5,800 hours of attorney and other professional staff time over the course of litigation to bring the Action to this resolution. ¶¶ 89-91. 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 multiplier of 1.87 of Lead Counsel's lodestar, which is well within the range of multipliers typically awarded in comparable cases. ¶ 91.

Lead Counsel also seeks to recover the litigation expenses that it incurred in prosecuting and resolving this litigation, which totaled $214,483.26. 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. Finally, Lead Counsel seeks an award of $8,753.88 to reimburse Lead Plaintiffs for the costs they incurred in representing the Settlement Class.

For the reasons set forth herein, Lead Counsel respectfully requests that the Court award attorneys' fees in the amount of 25% of the Settlement Fund; payment of litigation expenses in the amount of $214,483.26; and a PSLRA award to Lead Plaintiffs of $8,753.88.

## ARGUMENT

### I. Lead Counsel's Request for Attorneys' Fees of 25% of the Settlement Fund Is Consistent with 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.'"). Accordingly, the fact that the 25% fee request is consistent with the Ninth Circuit benchmark supports the reasonableness of the fee.

The 25% fee requested here is also well within the range of percentage fees typically awarded in securities class actions in this District and elsewhere in the Circuit with recoveries comparable to the $32 million achieved here. *See, e.g.*, *In re Doximity, Inc. Sec. Litig.*, 2026 WL 1697594, at *1-2 (N.D. Cal. June 11, 2026) (awarding 25% of $31 million settlement); *Uniformed Sanitationmen's Ass'n Comp. Accrual Fund v. Equinix, Inc.*, Case No. 3:24-cv-02656-VC, slip op. at 1-2 (N.D. Cal. Dec. 19, 2025) (Ex. 9A) (awarding 25% of $41 million settlement); *Sheet Metal Workers' Natl 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); *Villanueva v. Joyce*, 2025 WL 5089308, at *8 (N.D. Cal. Aug. 25, 2025) (awarding 25% of $29 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); *In re FibroGen, Inc., Sec. Litig.*, 2024 WL 6960478, at *1 (N.D. Cal. Aug. 1, 2024) (awarding 25% of $28.5 million settlement); *In re Splunk Inc. Sec. Litig.*, 2024 WL 6066817, at *1-2 (N.D. Cal. Mar. 4, 2024) (awarding 25% of $30 million settlement); *In re Lyft Inc. Sec. Litig.*, 2023 WL 5068504, at *11 (N.D. Cal. Aug. 7, 2023) (awarding 25% of $25 million settlement); *Fleming v. Impax Lab'ys Inc.*, 2022 WL 2789496, at *9 (N.D. Cal. July 15, 2022) (awarding 30% of $33 million settlement); *In re Tezos Sec. Litig.*, 2020 WL 13699946, at *1 (N.D. Cal. Aug. 28, 2020) (awarding 33.3% of $25 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 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); *Hatamian v. Advanced Micro Devices, Inc.*, 2018 WL 8950656, at *1-2 (N.D. Cal. Mar. 2, 2018) (awarding 25% of $29.5 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. 9B).

## II. Additional Factors Considered by Courts Support Approval of the Requested Fee

The reasonableness of Lead Counsel's 25% 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 v. Microsoft Corp.*, 290 F.3d 1043, 1048-50 (9th Cir. 2002); *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). Lead Counsel respectfully submits that the $32 million cash settlement is a favorable result for the Settlement Class in this case, especially when considering the risk of a significantly lower recovery—or no recovery at all—if the case proceeded through summary judgment, trial, and the inevitable appeals.

The $32 million Settlement is nearly three times the size of the median securities class-action settlement in the Ninth Circuit. ¶ 61. 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 $32 million Settlement represents approximately 2.4% to 9% of the maximum damages that could be obtained for the Settlement Class. ¶ 62. Courts in this Circuit have frequently approved settlements with comparable or lower percentage recoveries than obtained here as fair and reasonable. *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).

Here, achieving a full recovery through trial was far from certain. Defendants advanced serious arguments regarding all elements of liability, loss causation, and damages that, if accepted, would have substantially lowered the realistic maximum damages or eliminated them entirely. ¶ 62. Given the significant risks of establishing liability and loss causation here, Lead Counsel believes this level of recovery represents a favorable result for the Settlement Class. Accordingly, Lead Counsel believes that the quality of the result achieved supports the fee requested.

### 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.* ("*WPPSS*"), 19 F.3d 1291, 1299-1301 (9th Cir. 1994); *Omnivision*, 559 F. Supp. 2d at 1047.

Lead Counsel faced significant risks in this Action. This Action was subject to the pleading requirements of the PSLRA. *See Johnson v. US Auto Parts Network, Inc.*, 2008 WL 11343481, at *3 (C.D. Cal. Oct. 9, 2008) (noting that "securities actions have become more difficult from a plaintiff's perspective in the wake of the PSLRA"). To satisfy the PSLRA's requirements, Lead Counsel was required to—and did—conduct a substantial investigation, which included (among other things) interviewing more than 200 former Stitch Fix employees, with certain of their accounts featured in the complaints. To satisfy the PSLRA's requirements, Lead Counsel also needed to consult extensively with an expert on issues of loss causation and damages, as well as conduct a thorough review of the Company's public statements and stock price movements.

As discussed in greater detail in the Boon Declaration and the Settlement Memorandum, many substantial challenges remained. This was not a case in which Stitch Fix ever restated its financials, nor was there ever any parallel SEC or other government action brought against Stitch Fix or any of the Defendants for the alleged fraud. Lead Plaintiffs would have none of those tailwinds in attempting to prove that Defendants' statements were materially false; that Defendants knew that their statements were false when made or were deliberately reckless in making the statements; and that the disclosures concerning Defendants' false and misleading statements caused declines in the price of Stitch Fix's stock.

Defendants had substantial arguments concerning each element of Lead Plaintiffs' claims. ***First***, with respect to falsity, there were risks that the Court or jury might find that certain of the alleged misstatements concerning Direct Buy were immaterial, vague, or aspirational statements, were unrelated to the introduction of Direct Buy to new customers, or were accurate statements about existing customers' use of Direct Buy. ¶ 53.

***Second***, Lead Plaintiffs also faced risks that the Court or jury might find that Defendants lacked scienter on a complete record at summary judgment or trial. ¶¶ 54-55. In particular, Lead Plaintiffs anticipate that Defendants would argue that even if the challenged statements were in reference to Direct Buy's introduction to new customers, Defendants reasonably believed that ongoing testing and proposed improvements to the Direct Buy platform would suffice to correct any potential underperformance and customer "cannibalization" prior to the product's full launch. ¶ 54.

Lead Plaintiffs also faced significant challenges on the issues of loss causation and damages. Defendants would have argued that there was an insufficient connection between the alleged corrective disclosures that caused the price decline and the alleged false and misleading statements. ¶¶ 57-58. Defendants were expected to argue Lead Plaintiffs could not establish "price impact" under *Goldman Sachs Group, Inc. v. Arkansas Teacher Retirement System*, 594 U.S. 113, 123 (2021), because the alleged misstatements about Direct Buy were too "generic" and vague to have impacted the price of the stock, or because there was a "mismatch" between the alleged misrepresentations and the subsequent disclosures that caused the price declines, so that the price impact of the alleged misrepresentations could not be determined by reference to the price declines following those disclosures. *Id.*

Further, Defendants argued, and would likely continue to argue, that the Direct Buy product that the Company had tested was fundamentally different than the product that Stitch Fix ultimately fully launched to new customers in August 2021. Defendants would argue their challenged statements were only alleged to be false because they conflicted with those internal tests, but the product that Defendants were describing in the subsequent alleged corrective disclosures was fundamentally different, and thus there was a mismatch between the subject of the alleged misstatements and the disclosures that would prevent Lead Plaintiffs from proving loss causation. ¶ 58. Finally, even if Lead Plaintiffs were able to establish loss causation, Defendants would likely argue that there were other factors unrelated to the alleged fraud that would require disaggregation and would substantially limit the damages available. ¶ 59.

### 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); *see also Vizcaino*, 290 F.3d at 1048. "'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."' *Zynga*, 2016 WL 537946, at *17 (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) ("plaintiffs' 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, and the firm has a long and successful track record in securities cases throughout the country, including within this Circuit. ¶¶ 93-95. 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 (GHW) (S.D.N.Y.), in which BLB&G recovered $1 billion for investors.

Lead Counsel's experience in complex securities cases facilitated Lead Counsel's ability to negotiate the Settlement, ultimately resulting in the $32 million recovery. Lead Counsel achieved this recovery in this Action by litigating against highly skilled and well-respected lawyers from Cooley LLP, who vigorously advocated for their clients. ¶ 96.

Lead Counsel's efforts throughout the litigation included (1) an extensive investigation of the claims at issue; (2) research and preparation of the detailed Amended Complaint and subsequent Second Amended Complaint; (3) opposing Defendants' two rounds of motions to dismiss through detailed briefing and oral argument; (4) working with experts in loss causation and damages; and (5) engaging in extended settlement negotiations, including preparing a detailed mediation statement and participating in a full-day mediation with Ms. Yoshida. ¶¶ 88, 92.

### 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).

As courts recognize, there have been many class actions in which plaintiffs' counsel took on the risk of pursuing claims on a contingency basis, expending thousands of hours and millions of dollars, yet received no remuneration whatsoever despite their diligence and expertise. *See, e.g.*, *In re Omnicom Grp., Inc. Sec. Litig.*, 597 F.3d 501, 504 (2d Cir. 2010) (affirming grant of summary judgment in favor of defendant on loss-causation grounds after years of litigation); *In re Oracle*

*Corp. Sec. Litig.*, 2009 WL 1709050, at *34 (N.D. Cal. June 19, 2009) (granting summary judgment to defendants after eight years of litigation), *aff'd*, 627 F.3d 376 (9th Cir. 2010).

Even plaintiffs who get past summary judgment and succeed at trial may find a judgment in their favor overturned on appeal or on a post-trial motion. *See, e.g.*, *Robbins v. Koger Props., Inc.*, 116 F.3d 1441, 1449 (11th Cir. 1997) (reversing jury verdict of $81 million for plaintiffs); *In re BankAtlantic Bancorp, Inc. Sec. Litig.*, 2011 WL 1585605, at *38 (S.D. Fla. Apr. 25, 2011) (granting defendants' motion for judgment as a matter of law following plaintiffs' verdict), *aff'd sub nom.*, *Hubbard v. BankAtlantic Bancorp, Inc.*, 688 F.3d 713 (11th Cir. 2012).

Here, Plaintiffs' Counsel committed significant resources, time, and money to prosecute this Action vigorously and successfully for the Settlement 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 and contingent on this Court's discretion in awarding fees and expenses. If Plaintiffs' Counsel had been unsuccessful at the motion to dismiss stage, or lost at summary judgment or at trial, they would have received nothing for their years of diligent prosecution of the claims for the benefit of the Settlement Class. This significant contingency-fee risk further supports the requested fee.

### E. The Reaction of the Settlement Class to Date and the Approval of Lead Plaintiffs Support the Fee Request

The reaction of the Settlement 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 347,215 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* on June 23, 2026. *See* Walter Decl. (Ex. 4) at ¶¶ 4, 6. 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 (Walter Decl. Ex. A) at ¶¶ 5, 55. The Notice further informed Settlement Class Members of their right to object to the request for attorneys' fees and expenses. *See id*. at p. 2 and ¶¶ 64-66. Although the deadline for filing any objections will not run until August 27, 2026, to date, no Settlement Class Member has filed an objection to the fees and expenses requested. Boon Decl. ¶¶ 101, 110.

In addition, Lead Plaintiffs, which took an active role in the litigation and closely supervised the work of Lead Counsel, support approval of the requested fee based on the result obtained, the efforts of Lead Counsel and the risks in the Action. *See* Mathurin Decl. (Ex. 2) at ¶¶ 4-6, 8. 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.").

**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." *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. *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 the 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 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 Boon Declaration, Lead Counsel spent over 5,800 hours of attorney and other professional time prosecuting the Action for the benefit of the Settlement Class through June 30, 2026. ¶ 91. Lead 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 $4,279,381.25. *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 $8,000,000 (plus interest) and, therefore, represents a multiplier of 1.87 on Lead Counsel's lodestar. ¶ 91. This multiplier falls well within the range of multipliers awarded in cases like this with substantial contingency fee risks. *See, e.g.*, *Vizcaino*, 290 F.3d at 1051 (a 3.65 multiplier was "within the range of multipliers applied in common fund cases"); *Doximity*, 2026 WL 1697594, at *1-2 (awarding 25% of $31 million settlement representing a 2.4 multiplier); *Villanueva v. Joyce*, 2025 WL 5089308, at *8 (awarding 25% of $29 million settlement representing a 2.25 multiplier); *Impax*, 2022 WL 2789496, at *9 (awarding 30% of $33 million settlement representing a 2.6 multiplier); *Kendall v. Odonate Therapeutics, Inc.*, 2022 WL 1997530, at *7 (S.D. Cal. June 6, 2022) (finding that a 2.36 multiplier supported the "reasonableness of the requested attorneys' fees award"); *Vataj*, 2021 WL 5161927, at *9 (approving 2.5 multiplier); *In re VeriFone Holdings, Inc. Sec. Litig.*, 2014 WL 12646027, at *2 (N.D. Cal. Feb. 18, 2014) (approving 4.3 multiplier).

Consistent with the Northern District of California Procedural Guidance for Class Action Settlements, the Boon Declaration includes a breakdown of the hours that each attorney and other professional of Lead Counsel devoted to the litigation into 13 major tasks undertaken over the course of the litigation. *See* ¶ 92 and Ex. 6. Lead Counsel has not included in the fee application *any* time expended preparing the motion for fees and expenses. ¶ 90.

The hourly rates used to calculate Lead Counsel's lodestar are also reasonable. The hourly rates for Lead Counsel range from $1,050 to $1,800 for partners and senior counsel; $475 to $875 for associates, $425 to $525 for staff attorneys and senior staff attorneys, and from $425 to $475 for paralegals and case managers. *See* Ex. 5. Lead Counsel believes these rates are within the range of reasonable fees for attorneys working on sophisticated class action litigation in this District. *See, e.g., 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 class counsel's 2024 rates ranged from $785 to $1,400 for partners, $480 to $1,135 for of counsel, $375 to $700 for associates, $450 to $475 for staff attorneys)[2]; *Impax*, 2022 WL 2789496, at *9 (approving as reasonable class counsel's 2022 hourly rates, which ranged from $760 to $1,325 for partners, $895 to $1,150 for counsel, and up to $520 for associates); *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).

[2] Rates for class counsel in *Alphabet* were set forth in Declaration of Michael Albert at Ex. A, *In re Alphabet, Inc. Sec. Litig.*, No. 3:18-cv-06245-TLT (N.D. Cal. July 19, 2024), Dkt. No. 234-1 (Ex. 9C).

The reasonableness of Lead Counsel's rates is further underscored here by the significantly higher rates charged by 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 action that were "comparable to . . . defense-side law firms litigating matters of similar magnitude"). According to a recent filing by Cooley LLP, counsel for Defendants here, its current partner rates range from $1,790 to $2,450; of counsel and senior counsel rates range from $1,670 to $1,945; associate rates range from $1,050 to $1,665; and paraprofessional rates range from $265 to $715. *See* Supplemental Certification of Cullen D. Speckhart Regarding Cooley LLP Professional Fee Hourly Rate Increase, *In re Whittaker, Clark & Daniels, Inc.*, No. 23-13575 (MBK) (Bankr. D.N.J. Jan. 23, 2026), Dkt. No. 2469 (Ex. 9D); *see also* Fourth Monthly Application of Cooley LLP (for March 2026) at 4-6, *In re Clearside Biomedical, Inc.*, Case No. 25-12109 (TMH) (Bankr. D. Del. June 12, 2026), Dkt. No. 404 (Ex. 9E) (reporting hourly rates in 2026 of $1,790 to $2,380 for partners; $935 to $1,780 for special counsel; $910 to $1,665 for associates, and $505 for a paralegal, and a blended hourly rate of $1,527 for all timekeepers). These rates are substantially higher than the rates used by Lead Counsel to calculate its lodestar.

## III. 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). In assessing whether counsel's expenses are compensable in a common fund case, courts look to whether the particular costs are of the type typically billed by attorneys to paying clients in the marketplace. *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.").

The expenses sought are of the type that are charged to hourly paying clients and were required to prosecute the litigation. These expense items were incurred separately 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 and would not recover anything unless and until the Action was successfully resolved. 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. ¶ 103.

As discussed in detail in the Boon Declaration, Lead Counsel incurred a total of $214,483.26 in litigation expenses in litigating the Action. ¶ 104. 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, online research, court fees, and copying and postage expenses. ¶¶ 105-108.

Of the total expenses, Lead Counsel incurred $98,950.00, or approximately 46% of the total litigation expenses, on retention of its expert in financial economics, including damages and loss causation. ¶ 105. The combined costs for online legal and factual research amounted to $79,416.07, or approximately 37% of the total expenses. ¶ 106. Lead Plaintiffs' share of the mediation costs paid to Phillips ADR for the services of Ms. Yoshida totaled $8,750.00, or 4% of Plaintiffs' Counsel's Litigation Expenses. ¶ 107. 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, court reporting, copying, postage, and travel. ¶ 108. A complete breakdown by category of the expenses incurred by Lead Counsel is set forth in Exhibit 8 to the Boon Declaration.

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 Notice provided to potential Settlement Class Members informed them that Lead Counsel intended to apply for the payment of litigation expenses in an amount not to exceed $300,000. Notice ¶¶ 5, 55. The total amount of Litigation Expenses requested, $223,237.14—

which includes Lead Counsel's request for $214,483.26 and Lead Plaintiffs' request for $8,753.88 under the PSLRA, as discussed below—is substantially less than the amount stated in the Notice. The deadline for objecting to the fee and expense application is August 27, 2026. To date, there have been no objections to the request for attorneys' fees or maximum litigation expenses set out in the Notice.

## IV. Lead Plaintiffs Should Be Awarded Their Reasonable Costs and Expenses Under 15 U.S.C. § 78u-4(a)(4)

The PSLRA specifically provides that an "award of reasonable costs and expenses (including lost wages) directly relating to the representation of the class" may be made to "any representative party serving on behalf of a class." 15 U.S.C. § 78u-4(a)(4); *see also Staton v. Boeing Co.*, 327 F.3d 938, 977 (9th Cir. 2003) (holding that named plaintiffs are eligible for "reasonable" payments as part of class-action settlement). When evaluating the reasonableness of a lead plaintiff reimbursement request, courts may consider factors such as "the actions the plaintiff has taken to protect the interests of the class, the degree to which the class has benefitted from those actions, . . . [and] the amount of time and effort the plaintiff expended in pursuing the litigation," among others. *Id.*

As detailed in the declaration from the Fund Administrator of the Local 338 Funds, attached as Exhibit 2 to the Boon Declaration, Lead Plaintiffs are seeking an award of $8,753.88 in reimbursement for the value of the time that Local 338 Funds' staff dedicated to the Action. Here, Lead Plaintiffs took an active role in the litigation and have been fully committed to pursuing the class's claims. *See* Mathurin Decl. ¶¶ 4-6. These efforts included numerous communications with Plaintiffs' Counsel throughout the Action, reviewing pleadings and briefs filed in the Action, and consulting with Plaintiffs' Counsel regarding the settlement negotiations. *Id.* These efforts required Local 338 Funds' employees to dedicate significant time to this Action that they otherwise would have devoted to their regular duties for the Local 338 Funds, and thus represented a cost to the Local 338 Funds. *See id.* ¶¶ 10-12.

The amount requested is reasonable in light of the amount of time that Local 338 Funds' employees dedicated to the representation of the Settlement Class. *See, e.g., Bayer*

*Aktiengesellschaft*, 2025 WL 3034317, at *3-4 (awarding $31,485.14 to class representatives in PSLRA action); *In re Restoration Robotics, Inc. Sec. Litig.*, 2021 WL 4124089, at *1 (N.D. Cal. Sept. 9, 2021) (awarding $15,000 to lead plaintiff); *Baker v. SeaWorld Ent., Inc.*, 2020 WL 4260712, at *12 (S.D. Cal. July 24, 2020) (awarding $10,569 and $60,000 to lead plaintiffs); *Amgen*, 2016 WL 10571773, at *10 (awarding $30,983.99 in expenses related to lead plaintiff's participation in the litigation); *In re Immune Response Sec. Litig.*, 497 F. Supp. 2d 1166, 1173-74 (S.D. Cal. 2007) (approving $40,000 reimbursement to lead plaintiff).

## CONCLUSION

For all the foregoing reasons, Lead Counsel respectfully requests that the Court award attorneys' fees of 25% of the Settlement Fund, $214,483.26 in payment of the Lead Counsel's Litigation Expenses; and $8,753.88 in reimbursement of Lead Plaintiffs' costs incurred in representing the Settlement Class in the Action.

Dated: July 23, 2026

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