

THE HONORABLE KRISTIN RICHARDSON
Department 52
Note for Hearing: April 15, 2022, at 11:00 a.m.
With Oral Argument

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF KING

ANTHONY DEIEN, on behalf of himself and all
others similarly situated,

Plaintiff,

vs.

SEATTLE CITY LIGHT,

Defendant.

NO. 19-2-21999-8 SEA

**PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

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1 I. INTRODUCTION

2 Plaintiff Anthony Deien respectfully moves for final approval of the class action
3 settlement reached with Seattle City Light (SCL). The parties’ negotiations resulted in an
4 outstanding settlement for the Settlement Class. In addition to establishing a Settlement Fund
5 in the amount of \$3,500,000, SCL agreed to establish a dedicated customer service team to
6 address issues regarding estimated bills that will have authority to investigate and recalculate
7 bills, write off charges, and authorize payment plans for customers who need assistance paying
8 their bills.

9 The Settlement Class Members have responded positively to the Settlement. More than
10 36,000 people filed claims for payment from the Settlement Fund, a rate of 12%, which is
11 significantly higher than the average claims rates for consumer class actions. In contrast, only
12 27 people requested exclusion from the Settlement Class and just one person objected. If the
13 Settlement is approved as requested, claimants eligible for a payment from the True Up fund
14 will receive a check or bill credit of at least \$17 and claimants eligible for payment from the
15 Elevated Bill Fund will receive an estimated average award amount of \$706, with some
16 payments substantially exceeding that amount. The Settlement Class Members’
17 overwhelmingly positive reaction to the Settlement confirms that it is fair, reasonable, and
18 adequate and should be approved.

19 II. STATEMENT OF FACTS

20 Class Counsel litigated this case extensively, but efficiently, for over a year before the
21 parties settled. Plaintiff served discovery requests on SCL and obtained records from the City
22 Auditor. Sub. No. 59 (Declaration of Beth E. Terrell in Support of Plaintiff’s Motion for
23 Attorneys’ Fees, Costs, and Service Award (“Second Terrell Decl.”)) ¶ 10. SCL produced nearly
24 70,000 pages of documents. *Id.* SCL also produced substantial discovery, including millions of
25 billing data records, for purposes of mediation. *Id.* SCL engaged an expert to conduct a complex
26 analysis of bills involving estimated reads. *Id.* ¶ 11. Plaintiff also engaged experts to analyze
27 SCL’s billing and metering systems and billing records to evaluate Plaintiff’s claims and

1 damages. *Id.* SCL’s motion to dismiss and discovery to Plaintiff were pending when the
2 settlement was negotiated. *Id.* ¶ 12.

3 **A. Settlement negotiations.**

4 The parties mediated on November 5, 2020, and February 25, 2021, with the assistance
5 of Louis Peterson of Hillis Clark Martin & Peterson P.S., an experienced mediator of consumer
6 class action lawsuits. Second Terrell Decl. ¶ 13. The parties agreed to the basic terms and then
7 continued their adversarial, arm’s-length negotiations until September 15, 2021, when they
8 finalized the Settlement Agreement. *Id.*

9 **B. Class Counsel litigated the case with no guarantee of payment.**

10 Class Counsel are experienced class action litigators with expertise litigating complex
11 claims on behalf of consumers. Second Terrell Decl. ¶ 1-9.

12 Class Counsel took this case on a contingent basis with no guarantee of recovery.
13 Second Terrell Decl. ¶ 14. Class Counsel also agreed to advance all costs of this litigation. *Id.*
14 Class Counsel have worked on this matter for over two years without compensation or
15 reimbursement for their time and out-of-pocket expenses. *Id.* If Class Counsel were unable to
16 successfully resolve this matter (and as described below, this case was risky), Class Counsel
17 would have been paid nothing.

18 Although the parties settled this case in the pre-trial stage, Class Counsel have invested
19 a substantial amount of time (over 1300 hours to date) and resources investigating and
20 litigating this hotly contested action, including \$84,331.70 in out-of-pocket costs—mostly
21 expert costs. Second Terrell Decl. ¶¶ 15-19. Tasks performed by Class Counsel thus far include:
22 (1) investigating the claims; (2) researching and drafting the complaint; (3) propounding
23 discovery and reviewing Defendants’ responses; (4) reviewing document production and results
24 of public records requests; (5) conferring with plaintiff’s expert regarding data analysis; (6)
25 attending two all-day mediation sessions and preparing a robust mediation statement; (7)
26 preparing the settlement documents for approval; and (8) overseeing settlement
27 administration and responding to class member inquiries. *Id.* ¶¶ 15-16.

1 **C. The Class Representative was actively involved in the case.**

2 Plaintiff Anthony Deien played a valuable role in bringing this litigation to a successful
3 conclusion. Mr. Deien assisted with Class Counsel’s investigation of the facts; provided
4 documents to Class Counsel; consulted with Class Counsel regarding the Settlement; reviewed
5 and approved the Settlement Agreement; and communicated regularly with Class Counsel and
6 provided input and answers to questions whenever needed. Second Terrell Decl. ¶ 20.

7 **D. The notice program was highly effective.**

8 The Settlement Administrator, P&N, fully implemented the robust notice program
9 approved by the Court. Aldridge Decl. ¶ 3. The notice program was extremely effective,
10 reaching 98.16% of the Class Members. *Id.* ¶ 13, Table 2. Of the 307,179 Class Members,
11 106,169 received the email notice and 195,365 received the post card notice. *Id.* Class
12 Members whose email notices bounced or were undeliverable were sent a postcard notice. *Id.*
13 ¶ 7. Class Members whose postcard notices were returned undeliverable were sent a second
14 postcard notice at an address identified by the Settlement Administrator through skip tracing,
15 where possible. *Id.* ¶ 8.

16 In addition to the direct email and postcard notice, the Settlement Website has been
17 available to Settlement Class Members since January 11, 2022. The Settlement Website has
18 received 255,920 page views from 93,480 unique visitors. *Id.* ¶ 10. And the Settlement was
19 publicized by an article in the Seattle Times that ran after the Court entered its preliminary
20 approval order. Christine Clarridge, *Seattle City Light settles lawsuit over huge power bill errors.*
21 *Here’s what customers need to know about the \$3.5 million settlement*, The Seattle Times, Sept.
22 30, 2021, available at [https://www.seattletimes.com/seattle-news/politics/seattle-city-light-](https://www.seattletimes.com/seattle-news/politics/seattle-city-light-settles-lawsuit-over-thousand-dollar-power-bills-that-left-customers-gasping/)
23 [settles-lawsuit-over-thousand-dollar-power-bills-that-left-customers-gasping/](https://www.seattletimes.com/seattle-news/politics/seattle-city-light-settles-lawsuit-over-thousand-dollar-power-bills-that-left-customers-gasping/).

24 Settlement Class Members placed 2,500 calls to the toll-free number established by the
25 Settlement Administrator for the case. Aldridge Decl. ¶ 11. More than 380 Settlement Class
26 Members contacted the Settlement Administrator via email. *Id.* ¶ 12. These response levels
27 demonstrate that the notice program was effective.

1 **E. Settlement Class Members responded favorably to the Settlement.**

2 Consumers submitted 36,965 claims, which equates to claims from 12% of the
3 Settlement Class. Aldridge Decl. ¶ 17, Table 4. The Settlement Administrator determined that
4 34,801 claims are valid—meaning that 11.33% of the Settlement Class Members filed valid
5 claims. There are 128 claims that are invalid because they were submitted by individuals who
6 are not identified as Settlement Class Members in SCL’s data or they were duplicate claims. *Id.*
7 ¶ 17. The Settlement Administrator identified 2,036 claims that are deficient and has sent
8 follow up communications to each of those claimants to allow them an opportunity to provide
9 information necessary to validate the claims. The Settlement Administrator received 23 late
10 claims. *Id.* ¶ 17, Table 4.

11 In contrast to the more than 36,000 claims submitted, only 28 people requested to be
12 excluded from the Settlement Class and just one person objected. *Id.* ¶ 19.

13 **III. STATEMENT OF ISSUES**

14 Whether the Court should grant final approval of the Settlement, find that Settlement Class
15 Members received adequate notice; approve payment of a service award to the named Plaintiff,
16 and award attorneys’ fees and costs to Class Counsel.

17 **IV. EVIDENCE RELIED UPON**

18 Plaintiff relies upon the Declaration of Ryan Aldridge regarding settlement
19 administration, the papers filed in support of preliminary approval of the Settlement (Sub. Nos.
20 47-51), the papers filed in support of Plaintiff’s motion for attorneys’ fees, costs, and service
21 award (Sub. Nos. 57-60), the objection and the parties’ responses to objections (Sub. Nos. 62-
22 66), and the balance of pleadings filed in this action.

23 **V. ARGUMENT AND AUTHORITY**

24 When considering a motion for final approval of a class action settlement under
25 Washington Civil Rule 23, the Court’s inquiry is whether the settlement is “fair, adequate, and
26 reasonable.” *Pickett v. Holland Am. Line-Westours, Inc.*, 145 Wn.2d 178, 188, 35 P.3d 351
27 (2001) (“it is universally stated that a proposed class settlement may be approved by the trial

1 court if it is determined to be ‘fair, adequate, and reasonable’” (citing *Torrissi v. Tucson Elec.*
2 *Power Co.*, 8 F.3d 1370, 1375 (9th Cir. 1993)).

3 In evaluating whether a class settlement is “fair, adequate, and reasonable,” courts
4 generally refer to eight criteria, with differing degrees of emphasis: the likelihood of success by
5 plaintiff; the amount of discovery or evidence; the settlement terms and conditions;
6 recommendation and experience of counsel; future expense and likely duration of litigation;
7 recommendation of neutral parties, if any; number of objectors and nature of objections; and
8 the presence of good faith and the absence of collusion. *Pickett*, 145 Wn.2d at 192 (citing 2
9 Herbert B. Newberg & Alba Conte, *Newberg on Class Actions* § 11.43 “General Criteria for
10 Settlement Approval” (3d ed. 1992)). This list is “not exhaustive, nor will each factor be relevant
11 in every case The relative degree of importance to be attached to any particular factor will
12 depend upon and be dictated by the nature of the claim(s) advanced, the type(s) of relief
13 sought, and the unique facts and circumstances presented by each individual case.” *Pickett*,
14 145 Wn.2d at 189 (citing *Officers for Justice v. Civil Serv. Comm’n*, 688 F.2d 615, 625 (9th Cir.
15 1982)).¹

16 The approval of a settlement agreement “is a delicate, albeit largely unintrusive inquiry
17 by the trial court.” *Pickett*, 145 Wn.2d at 189. Although the Court has discretion to determine
18 whether a proposed class action settlement should be approved,

19 the court’s intrusion upon what is otherwise a private consensual
20 agreement negotiated between the parties to a lawsuit must be
21 limited to the extent necessary to reach a reasoned judgment that
22 the agreement is not the product of fraud or overreaching by, or
collusion between, the negotiating parties, and that the
settlement, taken as a whole, is fair, reasonable and adequate to
all concerned.

23 *Id.* (quoting *Officers for Justice*, 688 F.2d at 625). Moreover, as the court in *Pickett* observed, “it
24 must not be overlooked that voluntary conciliation and settlement are the preferred means of
25 dispute resolution.” *Id.* at 190 (quoting *Officers for Justice*, 688 F.2d at 625). In the end,

26 _____
27 ¹ CR 23 is similar to its federal counterpart, Fed. R. Civ. P. 23; thus, federal cases interpreting the analogous federal
provision are persuasive. *Pickett*, 145 Wn. 2d at 188.

1 “[s]ettlement is the offspring of compromise; the question we address is not whether the final
2 product could be prettier, smarter or snazzier, but whether it is fair, adequate and free from
3 collusion.” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir. 1998); *see also Pelletz v.*
4 *Weyerhaeuser Co.*, 255 F.R.D. 537, 544 (W.D. Wash. 2009).

5 **A. The Settlement is Fair, Adequate, and Reasonable.**

6 1. The Settlement Provides Substantial Financial and Injunctive Relief to Settlement
7 Class Members

8 The Settlement terms and conditions provide comprehensive relief for the Class.
9 Defendants will create a common fund of \$3,500,000 in cash and retail bill credits. Settlement
10 Agreement § III.E.1. After deducting Court-approved settlement administration expenses,
11 attorney’s fees and costs, and a service award to Plaintiff, the Net Settlement Amount will be
12 distributed to Settlement Class Members who submit a valid claim form online or by mail. *Id.* §
13 III.G.7. To date,

14 The Net Settlement Amount is allocated 75% to an Elevated Bill Fund, used to
15 compensate Settlement Class Members who Plaintiff’s expert identified as having received a bill
16 in which the average kilowatt hours was at least 400% more than the average for a comparable
17 billing period, and 25% to a True Up Fund, used to compensate the remaining Settlement Class
18 Members who received at least one estimated bill followed by an actual consumption bill. *Id.* If
19 the Settlement is approved as requested, claimants eligible for a payment from the True Up
20 fund will receive a check or bill credit of at least \$17 and claimants eligible for payment from
21 the Elevated Bill Fund will receive an average award amount of \$706, with some payments
22 substantially exceeding that amount. Aldridge Decl. ¶ 18, Table 5. Any amount of the Cash Fund
23 remaining after the date for cashing checks has passed will be transferred to SCL’s Emergency
24 Low Income Assistance (ELIA) Program. *Id.* The ELIA program provides low-income households
25 with grants to pay up to \$200 of their electric bill. Settlement Agreement § III.G.7(b).

26 The Settlement also provides significant injunctive relief. Beginning with the Effective
27 Date of the Settlement Agreement, SCL will implement: (1) enhanced communication on its

1 website to help residential customers better understand its billing practices and procedures,
2 information on contacting the Specialized Customer Care Team, and information on all available
3 bill-relief programs; (2) a standardized customer support checklist (based on Exhibit A to the
4 Settlement Agreement) for customer service staff to use in addressing estimated billing issues;
5 (3) a Specialized Customer Care Team dedicated to resolving estimated billing issues; (4) an
6 investigative process to resolve disputes regarding the accuracy of meter readings and billing
7 recalculations and adjustments using a table based on the average electricity consumption of
8 an SCL residential customer when the investigation determines that an estimated bill or bill
9 following an estimated bill is not attributable to Customer Conduct; (5) billing collection write-
10 offs upon request for customers with debt more than 36 months old based on billing
11 corrections associated with estimated bills; and (6) extended payment arrangements for
12 customers who request additional time to pay a True Up bill. Settlement Agreement § III.E.2.

13 These measures are intended to last for one year from the Effective Date but the
14 substance of the provisions (except billing correction write-offs) are intended to continue,
15 subject to SCL's modifications and adjustments. Settlement Agreement § III.E.2. At the end of
16 the one-year period, SCL will itemize all modifications with a brief description of the reasons in
17 a report to Plaintiff's Counsel and made available on its website. *Id.*

18 2. The Settlement Is an Excellent Result Given the Risks Plaintiff Faced in Continuing
19 to Litigate.

20 The existence of risk and uncertainty to the plaintiff at the time of mediation "weighs
21 heavily in favor of finding that the settlement was fair, adequate, and reasonable." *See Pickett*,
22 145 Wn.2d at 192. In the absence of a settlement, there are several substantial hurdles Plaintiff
23 would have to clear to prevail. SCL's motion to dismiss, which challenged the merits of
24 Plaintiff's claims and the availability of penalties and damages, was pending when the parties
25 negotiated the settlement. If Plaintiff's claims survived that motion, he would file a motion for
26 class certification, which presents some unique risks in this case. For example, it may be difficult
27 to determine whether a particular class member's bill was more expensive due to unusual use

1 of electricity rather than the challenged practices. If the Court denied Plaintiff's motion for class
2 certification, the other Settlement Class Members would be left with no relief. If Plaintiff
3 prevailed on class certification, he would likely face a summary judgment motion that would
4 likely include arguments that the challenged conduct was exempt from actions under the CPA,
5 that SCL's conduct was not deceptive, and that even if it were, that any such conduct did not
6 cause the alleged harm. The parties are also cognizant of the risks inherent in any trial. SCL
7 would likely appeal if Plaintiff won at trial, which creates additional risk. Continued litigation
8 would also be expensive and time-consuming. *See Nat'l Rural Telecommc'ns Coop. v. DIRECTV,*
9 *Inc.*, 221 F.R.D. 523, 526 (C.D. Cal. 2004) ("The Court shall consider the vagaries of litigation and
10 compare the significance of immediate recovery by way of the compromise to the mere
11 possibility of relief in the future, after protracted and expensive litigation." (citation omitted)).

12 The settlement, by contrast, will provide a guaranteed recovery for the Class. Those
13 Settlement Class Members who filed valid claims will recover a percentage of the amounts they
14 allegedly overpaid while all SCL customers will benefit from the injunctive relief. While
15 negotiating this settlement, the parties were cognizant of the fact that SCL's revenue comes
16 from its customers' payments for electricity, meaning that a hefty monetary recovery could
17 impact Settlement Class Members' and other SCL customers' rates. For this reason, the parties
18 dedicated the larger portion of the Net Settlement Fund to the Elevated Bill Fund and
19 supplemented the settlement with meaningful and robust nonmonetary relief.

20 3. The Substantial Discovery Completed Supports Final Approval of the Settlement

21 Courts also consider the amount and nature of discovery and evidence developed at the
22 time of settlement in determining whether the settlement is fair, adequate, and reasonable.
23 *Pickett*, 145 Wn.2d at 199. Class Counsel litigated this case extensively, but efficiently, for over
24 a year before the parties settled. The parties exchanged substantial discovery and engaged
25 experts to analyze SCL's billing and metering systems and billing records to evaluate Plaintiff's
26 claims and damages prior to mediation. Class Counsel have invested over 1300 hours litigating
27 this case and preparing the settlement. *See* Second Terrell Decl. ¶ 16. At the time of mediation,

1 Plaintiff and Class Counsel had all the information needed to fairly assess the risks of the case
2 and the prospects of a litigated recovery if the case were to proceed toward trial. In short, Class
3 Counsel are in an excellent position to conclude that the Settlement provides a very good result
4 for the Class and should be granted final approval.

5 4. The Settlement Is the Result of Arm’s Length Negotiation and Supported by
6 Experienced Counsel

7 In determining the fairness of a settlement, courts should consider the parties’ good
8 faith and the absence of collusion between them. *Pickett*, 145 Wn.2d at 201. Courts recognize
9 that arm’s-length negotiations conducted by competent counsel with the assistance of a third-
10 party mediator are *prima facie* evidence of fair settlements. As the United States Supreme
11 Court has held, “[o]ne may take a settlement amount as good evidence of the maximum
12 available if one can assume that parties of equal knowledge and negotiating skill agreed upon
13 the figure through arms-length bargaining” *Ortiz v. Fibreboard Corp.*, 527 U.S. 815, 852
14 (1999); *see also Hughes v. Microsoft Corp.*, No. C98-1646C, 2001 WL 34089697, at *7 (W.D.
15 Wash. Mar. 26, 2001) (“A presumption of correctness is said to attach to a class settlement
16 reached in arms-length negotiations between experienced capable counsel after meaningful
17 discovery.”); *In re PPA Prods. Liab. Litig.*, 227 F.R.D. at 567 (approving settlement entered into
18 in good faith, following arm’s-length and non-collusive negotiations).

19 The Settlement is the result of extensive, arm’s-length negotiations between
20 experienced attorneys who are highly familiar with class action litigation in general and
21 expertise in litigating claims on behalf of consumers. Second Terrell Decl. ¶¶ 3–9. The parties
22 participated in multiple mediations with the assistance of an experienced mediator, Louis D.
23 Peterson of Hillis Clark Martin & Peterson P.S. In addition to two full days of hard-fought
24 negotiations that resulted in a CR 2A agreement, the parties continued to negotiate for months
25 over the final of the Settlement, including the injunctive relief provisions.

26 “When experienced and skilled class counsel support a settlement, their views are given
27 great weight. *Pickett*, 145 Wn.2d at 200 (citing *Reed v. Gen. Motors Corp.*, 703 F.2d 170, 175

1 (5th Cir. 1983)). Class Counsel have extensive knowledge and experience in litigating class
2 actions. Based on their thorough evaluation of the strengths and weaknesses of this case
3 gained through discovery, Class Counsel believe the Settlement to be an excellent result.

4 5. The Reaction of the Class Supports Final Approval of the Settlement

5 A court may appropriately infer that a class action settlement is fair, adequate, and
6 reasonable when few class members object to it. *See, e.g., Pickett*, 145 Wn.2d at 200–01;
7 *Marshall v. Holiday Magic, Inc.*, 550 F.2d 1173, 1178 (9th Cir. 1977); *Nat’l Rural Telecomms.*
8 *Coop*, 221 F.R.D. at 529 (“It is established that the absence of a large number of objections to a
9 proposed class action settlement raises a strong presumption that the terms of a proposed
10 class settlement action are favorable to the class members.”). A court can approve a class
11 action settlement as fair, adequate, and reasonable even over the objections of a large number
12 of class members. *See Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1291–96 (9th Cir. 1992).

13 The Settlement Class’s response indicates strong support for the Settlement. Out of
14 307,179 Settlement Class members, only 28 requested exclusion from the Settlement. Aldridge
15 Decl. ¶ 19; *see In re Phenylpropanolamine (PPA) Prods. Liab. Litig.*, 227 F.R.D. 553, 564 (W.D.
16 Wash. 2004) (“[T]he Class Members themselves have effectively voted heavily in favor of the
17 Settlement, by not opting out. In fact, 95% of Class Members have chosen to take part in the
18 Settlement.”)

19 Only one Settlement Class Member objected to the settlement. *See* Sub. No. 62;
20 Aldridge Decl. ¶ 20. Both Class Counsel and SCL have filed substantive responses to the
21 objection, which should be considered with this motion. Sub. Nos. 64, 65, 66. Most importantly,
22 SCL’s Account Services Manager for Operations has testified to the significant investment by
23 SCL to improve customer service as required by the Settlement Agreement, estimating the cost
24 of SCL’s new Specialized Customer Care Team alone to be \$681,000 per year. Sub. No. 65 ¶ 3.
25 The objection boils down to a request to re-write an injunctive relief term negotiated at length
26 by the parties. It does nothing to undermine the conclusion that the Settlement is fair,

27

1 reasonable, and adequate. Plaintiff requests that Mr. Pampena’s objection, Sub. No. 62, be
2 overruled and the Settlement approved.

3 The Settlement Administrator received a total of twenty-three (23) late claims that
4 appear to be otherwise valid. Plaintiff requests the Court approve the 23 late claims.

5 **B. Class Members Received the Best Notice Practicable.**

6 The Court has already determined that the Notice Plan in this case meets the
7 requirements of due process and applicable law, provides the best notice practicable under the
8 circumstances, and constitutes due and sufficient notice to all individuals entitled to notice. The
9 approved Notice Plan was fully implemented by independent Settlement Administrator,
10 Postlethwaite & Netterville, APAC (“P&N”).

11 P&N provided notice in the methods approved by this Court. On January 11, 2022, P&N
12 sent Email Notice to 113,964 Settlement Class members for whom email addresses were
13 provided. Aldridge Decl. ¶ 6. Of those, 106,169 Email Notices were successfully delivered. *Id.*
14 P&N caused the Postcard Notice to be mailed via First Class U.S. Mail to the remaining 200,969
15 Settlement Class members for whom no email address was provided or whose Email Notice was
16 not successfully delivered. *Id.* ¶¶ 7–8. P&N also sent supplemental mailings to 7,483 Class
17 Members whose initial Postcard Notices were not deliverable but for whom it was able to
18 obtain an alternative mailing address via skip trace searches. *Id.* ¶ 8. In total, the direct notice
19 reached 301,534 Settlement Class members, which represents a 98.16% success rate. *Id.* ¶ 13.

20 On February 21, 2022, prior to the claim deadline, P&N sent a supplemental reminder
21 Email Notice to all Settlement Class Members to whom an email was previously delivered but
22 who had not submitted a claim as of the date of the reminder email. The supplemental Email
23 Notice was successfully delivered to 90,736 Settlement Class members. Aldridge Decl. ¶ 14.

24 **C. The Requested Attorneys’ Fees and Service Award should be Approved.**

25 Plaintiff filed his fully documented motion for approval of attorneys’ fees and a class
26 representative service award on January 28, 2022. Sub. No. 57. The motion and supporting
27 declaration were posted to the Settlement Website the following business day. No Settlement

1 Class Member has made any objection to Class Counsel’s request for an award of 25% of the
2 common fund, or to Mr. Deien’s request for a modest service award of \$2,500. These amounts
3 should be approved.

4 **VI. CONCLUSION**

5 Plaintiff and Class Counsel request that the Court grant final approval of the settlement.

6 **VII. LCR 7(b)(5)(B)(vi) CERTIFICATION**

7 I certify that this memorandum contains 3,918 words in compliance with the Local Civil
8 Rules.

9 RESPECTFULLY SUBMITTED AND DATED this 30th day of March, 2022.

10 TERRELL MARSHALL LAW GROUP PLLC

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