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15 **UNITED STATES DISTRICT COURT**
16 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
17 **SOUTHERN DIVISION**

18
19 MELISSA LILLEHAGEN, *et*
20 *al.*, on behalf of themselves and
all those similarly situated,

21 Plaintiffs,

22 v.

23 ALORICA, INC.,

24 Defendant.

Case No. 8:13-cv-00092-DOC(JPRx)

**ORDER GRANTING MOTION FOR
AWARD OF ATTORNEYS' FEES,
COSTS, AND CLASS
REPRESENTATIVE SERVICE
AWARDS [265]**

District Judge: Hon. David O. Carter
Magistrate Judge: Hon. Jean Rosenbluth

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1 WHEREAS, the Court considered the Class Action Settlement Agreement
2 (“the Settlement”) (Dkt. 246-1), and preliminarily approved the same on May 31,
3 2016;

4 WHEREAS, the Court entered an Order directing that notice be disseminated
5 to the Class Members (Dkt. 262), and notice was disseminated properly in
6 accordance therewith, including individual mailing of the notice to the Class
7 Members;

8 WHEREAS, the Court conducted a Fairness Hearing concerning the
9 proposed settlement on December 5, 2016; and

10 WHEREAS, the Court reviewed Class Counsel’s Motion for Final Approval
11 of an Award of Attorneys’ Fees, Costs, and Class Representative Service Awards;
12 the Memorandum of Points and Authorities in Support of that motion; the
13 declaration submitted in support thereof; Class Counsel’s Reply in support of their
14 Motion for an Award of Attorneys’ Fees, Costs, and Class Representative Service
15 Awards; the Memorandum of Points and Authorities in Support of that motion; the
16 declarations submitted in support thereof; the entire record of this action; and for
17 good cause appearing,

18 **IT IS HEREBY ORDERED:**

19 1. The Court has jurisdiction over the subject matter of this action, the
20 Defendant, and the Class.

21 2. Notice of the requested award of attorneys’ fees, reimbursement of
22 costs and expenses, and award of class representative service payments was
23 directed to Class Members in a reasonable manner, and complies with Rule
24 23(h)(1) of the Federal Rules of Civil Procedure.

25 3. Class Members and any party from whom payment is sought have
26 been given the opportunity to object in compliance with Fed. R. Civ. P. 23(h)(2).

27 4. The requested award of [REDACTED] in attorneys’ fees, or [REDACTED] of
28 the common fund, is reasonable under the percentage of the common fund method,

1 as it is consistent with Ninth Circuit authority. *See, e.g., Vizcaino v. Microsoft*
2 *Corp.*, 290 F.3d 1043 (9th Cir. 2002) (affirming award of 28% of \$96.885 million
3 common fund, while recognizing that the percentage of an award generally
4 increases as the common fund decreases); *In re Pacific Enterprises Sec. Litig.*, 47
5 F.3d 373, 379 (9th Cir. 1995) (affirming award of 33% of \$12 million common
6 fund); *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 460 (9th Cir. 2000)
7 (affirming award of 33.3% of \$1.725 million fund); *see also In re Activision Sec.*
8 *Litig.*, 723 F. Supp. 1373, 1378 (N.D. Cal. 1989) (surveying cases and stating, “in
9 class action common fund cases the better practice is to set a percentage fee and
10 that, absent extraordinary circumstances that suggest reasons to lower or increase
11 the percentage, the rate should be set at 30%.”). The Court reaches this conclusion
12 based on attorneys’ fees awards issued in similar wage and hour cases in this
13 District, and the fact that the common fund of ██████████ was created for Class
14 Members through the efforts of Class Counsel. *See Boyd v. Bank of Am. Corp.*, No.
15 13 Civ. 0561, 2014 WL 6473804, at *9 (C.D. Cal. Nov. 18, 2014) (approving fee
16 award of 36% of common fund settlement); *In re Quantum Health Res., Inc.*, 962 F.
17 Supp. 1254, 1258 (C.D. Cal. 1997) (attorneys representing a class “routinely
18 recover attorneys’ fees in the range of 20 to 40 percent of the common fund”); *see*
19 *also Vasquez v. Coast Valley Roofing, Inc.*, 266 F.R.D. 482, 492 (E.D. Cal. 2010)
20 (33.3% fee award; \$300,000 common fund) (collecting cases).

21 5. The requested fee award is also reasonable under the lodestar method.
22 The hours devoted to this case by Class Counsel and their rates are reasonable. The
23 award, which is significantly less than Class Counsel’s lodestar, and resulting
24 multiplier of 0.76x, which is well below the middle range of fee multipliers courts
25 routinely approve, is reasonable in light of the time and labor required, the
26 difficulty of the issues involved, the requisite legal skill and experience necessary,
27 the results obtained for the Class, the contingent nature of the fee and risk of no
28 payment, and the range of fees that are customary. Courts routinely approve much

1 higher lodestar multipliers in comparable common fund cases. *See Vizcaino*, 290
 2 F.3d at 1052-54; *Steiner v. Am. Broad. Co.*, 248 Fed. Appx. 780, 783 (9th Cir.
 3 2007) (affirming award with multiplier of 6.85); *see also* Newberg, *Attorney Fee*
 4 *Awards*, § 14.03 at 14-5 (1987) (“multiples ranging from one to four are frequently
 5 awarded in common fund cases when the lodestar method is applied.”); *Rabin v.*
 6 *Concord Assets Group, Inc.*, No. No. 89 Civ. 6130 (LBS), 1991 WL 275757
 7 (S.D.N.Y. 1991) (4.4 multiplier) (“In recent years multipliers of between 3 and 4.5
 8 have become common.”) (internal quotations and citations omitted); *In re Xcel*
 9 *Energy, Inc., Securities, Derivative & “ERISA” Litig.*, 364 F. Supp. 2d 980, 998-99
 10 (D. Minn. 2005) (approving 25% fee, resulting in 4.7 multiplier); *In re Aremissoft*
 11 *Corp. Sec. Litig.*, 210 F.R.D. 109, 134-35 (D.N.J. 2002) (approving 28% fee,
 12 resulting in 4.3 multiplier); *Maley v. Del Global Techs. Corp.*, 186 F. Supp. 2d 358,
 13 371 (S.D.N.Y. 2002) (approving 33.3% fee, resulting in “modest multiplier of
 14 4.65”); *Di Giacomo v. Plains All Am. Pipeline*, Nos. 99-4137 & 99-4212, 2001 WL
 15 34633373, at *10-11 (S.D. Fla. Dec. 19, 2001) (approving 30% fee, resulting in 5.3
 16 multiplier); *Roberts v. Texaco, Inc.*, 979 F. Supp. 185, 198 (S.D.N.Y. 1997) (5.5
 17 multiplier); *Roberts v. Texaco*, 979 F. Supp. 185 (S.D.N.Y. 1997) (approving
 18 multiplier of 5.5); *Weiss v. Mercedes-Benz*, 899 F. Supp. 1297 (D.N.J. 1995)
 19 (approving multiplier of 9.3); *Weiss v. Mercedes-Benz of N. Am., Inc.*, 899 F. Supp.
 20 1297, 1304 (D.N.J. 1995) (9.3 multiplier), *aff’d*, 66 F.3d 314 (3d Cir. 1995);.

21 6. Class Counsel seek reimbursement of litigation expenses of [REDACTED].
 22 The litigation costs and expenses incurred by Class Counsel have been adequately
 23 documented and were reasonably incurred for the benefit of the Class. The Court
 24 finds that reimbursement of [REDACTED] in costs and expenses is justified.

25 7. The requested Class Representative service awards of [REDACTED] each for
 26 Class Representatives Beckerley, Lillehagen, and Carlile; [REDACTED] each for Class
 27 Representatives Maddox and Edden; [REDACTED] each for Class Representatives Shaw,
 28 Whitmore, Pizana, and Luper; and [REDACTED] each for Class Representatives Allen,

1 Parker, Fulmore, Gomez, Irvin, Ayers, Fuerte, Ramirez, and King are fair and
2 reasonable in light of the time and effort the Class Representatives expended for the
3 benefit of the Class Members, as well as the risk accepted by initiating the litigation
4 and publicly representing the Class. *See, e.g., Stevens v. Safeway, Inc.*, No. 05 Civ.
5 01988, 2009 U.S. Dist. LEXIS 17119, at *34-37 (C.D. Cal. Feb. 25, 2008) (\$20,000
6 and \$10,000 to two class representatives); *Glass v. UBS Financial Services, Inc.*,
7 Case No. 06 Civ. 4068, 2007 WL 221862, at *16-17 (N.D. Cal. Jan. 26, 2007)
8 (\$25,000 each to four class representatives); *Van Vranken v. Atl. Richfield Co.*, 901
9 F. Supp. 294, 300 (N.D. Cal. 1995) (\$50,000 to one class representative); *In Re*
10 *Janney Montgomery Scott LLC Financial Consultant Litig.*, No. 06 Civ. 3202, 2009
11 U.S. Dist. LEXIS 60790, at *35-37 (E.D. Pa. July 16, 2009) (\$20,000 each to three
12 class representatives); *Wade v. Kroger Co.*, No. 01 Civ. 699, 2008 WL 4999171, at
13 *13 (W.D. Ky. Nov. 20, 2008) (\$30,000 each to multiple class representatives);
14 *Wright v. Stern*, 553 F. Supp. 2d 337, 342 (S.D.N.Y. 2008) (\$50,000 each to eleven
15 class representatives); *In re Dun & Bradstreet Credit Servs. Customer Litig.*, 130
16 F.R.D. 366, 374 (S.D. Ohio 1990) (\$35,000-55,000 each to five class
17 representatives).

18 8. The Class Representatives have satisfied the criteria as set forth in
19 *Staton v. Boeing Co.*, 327 F.3d 938, 963 (9th Cir. 2003). Under *Staton*, a service
20 award request should be evaluated using “‘relevant factors, includ[ing] the actions
21 the Plaintiff has taken to protect the interests of the class, the degree to which the
22 class has benefited from those actions, ... the amount of time and effort the Plaintiff
23 expended in pursuing the litigation ... and reasonabl[e] fear[s] of workplace
24 retaliation.’” *Staton*, 327 F.3d at 977 (citing *Cook v. Niedert*, 142 F.3d 1004, 1016
25 (7th Cir. 1998)) (ellipses in original). Here, the Class Representatives’ leadership
26 of this action caused them personal exposure and potential adverse consequences
27 with future employers, and their representation of the various state law Classes
28 enhanced the case’s value overall by increasing Alorica’s potential exposure, tolling

1 the statutes of limitations for those state law claims. Furthermore, Class Counsel
2 attests that Plaintiffs Beckerley, Lillehagen, and Carlile were substantially involved
3 throughout the litigation, educating Class Counsel regarding Class Members' job
4 experiences and Alorica's policies and procedures.

5 Class Administrators, Garden City Group, LLC, have indicated that the costs
6 of administering the settlement likely will greatly exceed the [REDACTED] estimate this
7 Court was presented with in the Motion for Preliminary Approval. *See* Declaration
8 of Loree Kovach of Garden City Group, LLC (Dkt. 272). Payments out of the class
9 members' recovery for the costs of administering the settlement are capped at
10 [REDACTED]. Payments beyond [REDACTED] made to Garden City Group or any other
11 administrator in connection with administering this settlement will be made by
12 Class Counsel out of this fee award.

13 **THE COURT HEREBY ORDERS:**

14 Class Counsel are hereby awarded attorneys' fees in the amount of
15 [REDACTED], and reimbursement of costs and expenses in the amount of [REDACTED].
16 Class Representatives Beckerley, Lillehagen, and Carlile are awarded [REDACTED]
17 each; Class Representatives Maddox and Edden are awarded [REDACTED] each; Class
18 Representatives Shaw, Whitmore, Pizana, and Luper are awarded [REDACTED] each; and
19 Class Representatives Allen, Parker, Fulmore, Gomez, Irvin, Ayers, Fuerte,
20 Ramirez, and King are awarded [REDACTED] each. Payments beyond [REDACTED] made to
21 Garden City Group or any other administrator in connection with administering this
22 settlement will be made by Class Counsel out of this fee award.

23 Alorica shall provide the Gross Settlement Amount to the Settlement
24 Administrator within 35 days of this Order. The Settlement Administrator shall
25 wire the attorneys' fees and costs to Class Counsel within 15 days of the date on
26 which it receives the Gross Settlement Amount. Such payments shall be subject to
27 refund to Alorica should the Court not grant final approval of the Settlement, or if
28 this Order or the Final Approval Order is appealed.

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IT IS SO ORDERED.

Dated: December 5, 2016

David O. Carter

The Honorable David O. Carter
United States District Judge