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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

ELIA AZAR and DEAN ALFANGE, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

BLOUNT INTERNATIONAL, INC., JOSHUA L.
COLLINS, DAVID A. WILLMOTT, ROBERT E.
BEASLEY, JR., RONALD CAMI, ANDREW C.
CLARKE, NELDA J. CONNORS, E. DANIEL
JAMES, HAROLD E. LAYMAN, MAX L.
LUKENS, and DANIEL J. OBRINGER,

Defendants.

Case No. 3:16-CV-00483-SI

REPLY MEMORANDUM IN
FURTHER SUPPORT OF LEAD
PLAINTIFFS' UNOPPOSED MOTION
FOR FINAL APPROVAL OF: (i)
CLASS ACTION SETTLEMENT; (ii)
CLASS CERTIFICATION; (iii) PLAN
OF ALLOCATION; AND (iv)
APPLICATION FOR AWARD OF
ATTORNEYS' FEES,
REIMBURSEMENT OF EXPENSES,
AND SERVICE AWARDS

Date: September 9, 2019
Time: 10:00 a.m.
Courtroom 15B

Lead Plaintiffs'¹ respectfully submit this memorandum in further support of Lead Plaintiffs' Unopposed Motion for Final Approval of: (i) Class Action Settlement; (ii) Class Certification; (iii) Plan of Allocation; and (iv) Application for Award of Attorneys' Fees, Reimbursement of Expenses, and Service Awards. Dkt. No. 148.

I. BACKGROUND AND THE NOTICE PROGRAM

On April 29, 2019, the Court preliminarily certified this action as a class action for settlement purposes, preliminarily appointed Lead Plaintiffs as class representatives for settlement purposes, and preliminarily appointed Johnson Fistel, LLP and Levi & Korsinsky, LLP as Lead Counsel for settlement purposes only, and directed that notice be disseminated to potential Settlement Class Members (the "Preliminary Approval Order"). Dkt. No. 146.

As required by the Court's Preliminary Approval Order, Epiq Class Action & Claims Solutions, Inc. ("Epiq" or "Claims Administrator") effectuated a comprehensive notice program to inform Settlement Class Members of the particulars of the Settlement. In connection with this notice program, the Court-approved Notice was mailed to potential Settlement Class Members and their nominees beginning on May 13, 2019. *See* Declaration of Matthew Mulvihill Regarding: Mailing of the Notice and Proof of Claim Form ("Mulvihill Decl.") ¶3 (attached as Ex. 2 to the Declaration of W. Scott Holleman in Support of Lead Plaintiffs' Motion for Final Approval of: (i) Class Action Settlement; (ii) Certification of Settlement Class; (iii) Plan of Allocation; and (iv) Application for Award of Attorneys' Fees and Reimbursement of Expenses ("Holleman Decl.")(Dkt. No 149). To date, over 5,300 Notices have been sent to potential Settlement Class Members and their Nominees. *See* Supplemental Declaration of Matthew Mulvihill Regarding: (A) Mailing

¹ All capitalized terms not defined herein have the same meanings set forth in the Stipulation of Settlement dated April 9, 2019, Dkt. No. 142 ("Stipulation").

of the Notice and Proof of Claim; and (B) Requests for Exclusion (“Suppl. Mulvihill Decl.”) attached to the Declaration of Shannon L. Hopkins in Support of Lead Plaintiffs’ Reply Memorandum (“Hopkins Decl.”), filed herewith, at Ex. 1, ¶3. In addition, the Notice, Stipulation, Proof of Claim and Release, and Preliminary Approval Order were published on the internet at <https://www.blountinternationalsettlement.com/>, a website created to facilitate Settlement Class Members’ access to Settlement-related documentation and pertinent Court documents. Suppl. Mulvihill Decl. at ¶6. Further, on May 20, 2019, the Court-approved Summary Notice was published over *Investor’s Business Daily* and *PR Newswire*. See Holleman Decl. at Ex. 3. The Notice and Summary Notice (collectively, the “Notices”) informed Settlement Class Members of the August 19, 2019 deadline to submit an objection to the Settlement, the Plan of Allocation, and the application for attorneys’ fees and reimbursement of expenses, or to request exclusion from the Settlement Class. See Holleman Decl., Ex. 1, Notice (Dkt. No. 149, at p. 27); Ex. 3, published Summary Notice (Dkt. No. 149, at p. 40). Specifically, the Notices informed Settlement Class Members who did not wish to participate in the Settlement, but wished to retain any causes of action against Defendants, that they could exclude themselves from the Settlement by following the procedures set forth in the Notice available on the settlement website. See *id.* The Notices also provided that Settlement Class Members could remain in the Settlement Class, and object to the Settlement, Plan of Allocation, and/or Counsel’s motion for an award of attorneys’ fees and reimbursement of litigation expenses. *Id.*

The deadline for requests for exclusion and objections has now passed. Following the extensive notice program administered by Epiq, no objections nor exclusions have been received. See Holleman Decl. ¶43 (no objections or exclusions); Suppl. Mulvihill Decl. at ¶¶8-9 (same).

Further, no objections have been filed on the Court docket, evidencing that no objections were received directly by the Court.

II. ARGUMENT

In this Circuit, class member reaction to a proposed settlement is an important factor to consider in analyzing whether a settlement is fair, reasonable, and adequate. *See, e.g., Linney v. Cellular Alaska P'ship*, 151 F.3d 1234, 1242 (9th Cir. 1998);² *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998); *Juvera v. Salcido*, No. CV-11-2119-PHX-LOA, 2013 WL 6628039, at *14 (D. Ariz. Dec. 17, 2013). When few class members object to a settlement, a court may appropriately infer that a class action settlement is fair, adequate, and reasonable. *Bell v. Consumer Cellular, Inc.*, No. 3:15-CV-941-SI, 2017 WL 2672073, at *6 (D. Or. June 21, 2017) (“the fact that there were no objections to the Amended Settlement and only two opt-outs suggests that the amount is fair and adequate.”) (citing *Barbosa v. Cargill Meat Sols. Corp.*, 297 F.R.D. 431, 447 (E.D. Cal. 2013). Here, the lack of a single objection or exclusion demonstrates that the proposed Settlement is fundamentally fair, reasonable, and adequate. *See, e.g., In re Heritage Bond Litig.*, No. 02-ML-1475 DT, 2005 WL 1594403, at *10 (C.D. Cal. June 10, 2005) (“The Court finds the lack of class members that have manifested any disapproval of the Settlement further demonstrates the fairness, adequacy and reasonableness of the Settlement.”); *Nat'l Rural Telecomm's Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 529 (C.D. Cal. 2004) (“It is established that the absence of a large number of objections to a proposed class action settlement raises a strong presumption that the terms of a proposed class settlement action are favorable to the class members.”) (citing cases).

Similarly, the lack of any objection to the request for an award of attorneys' fees and

² Unless otherwise noted, all internal quotations and citations are omitted.

reimbursement of litigation expenses, including the requested awards to the Lead Plaintiffs, evidences strong support for the effort and results achieved by Lead Counsel and Lead Plaintiffs and supports a finding that the requested fees and expenses are reasonable under the circumstances of this litigation. *See, e.g., Waldbuesser v. Northrop Grumman Corp.*, No. CV 06-6213-AB (JCx), 2017 WL 9614818, at *5 (C.D. Cal. Oct. 24, 2017) (holding that four objectors to a settlement in which notice was disseminated to approximately 210,000 potential class members, “is remarkably small given the wide dissemination of notice [and] [a]ccordingly, the Court concludes that the lack of significant objections to the requested fees justifies an award of one-third of the Settlement Fund.”); *Ching v. Siemens Indus., Inc.*, No. 11-CV-04838-MEJ, 2014 WL 2926210, at *8 (N.D. Cal. June 27, 2014) (finding “the lack of objection from the class after notice further demonstrates the reasonableness and fairness of Class Counsel’s fee request” of 30% of the common fund).

Moreover, Lead Counsel’s requested fee of 33.3% of the Settlement Fund equals the amount that Lead Counsel informed Settlement Class Members might be sought in this case (as stated in the Notice and published on the Settlement website). *See* Dkt. No. 149 at p. 28, 33. The requested % fee represents a *negative* multiplier of .22 when cross-checked against Counsel’s lodestar of \$4,503,208.90, derived from Counsel having expended over 9,300 hours in the prosecution and resolution of this action. *See* Holleman Decl., Dkt. No. 149 at ¶¶51-57. Notably, no objections were submitted to Lead Counsel’s requested 33.3% fee or to Lead Counsel’s request for reimbursement of \$317,922.40 for its out-of-pocket litigation expenses, an amount significantly below the \$400,000 stated in the Notice. *See* Dkt. No. 149 at pp. 28, 33. Consequently, these factors further support the conclusion that Lead Counsel’s requested fees and expenses are fair and reasonable and should be approved.

Finally, the lack of any objections to Lead Plaintiffs' request for reimbursement of their reasonable time and expenses (including lost wages/opportunity) incurred in prosecuting this Action also demonstrates that their request is reasonable. *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1049 (N.D. Cal. 2008) (awarding lead plaintiffs' request for \$29,913.80 from the settlement fund for reimbursement of their costs and expenses (including lost wages) where class members were provided notice and did not object). Here, Lead Plaintiffs' requested awards of \$15,000 and \$7,500 (\$15,000 for Lead Plaintiff Elia Azar and \$7,500 for Lead Plaintiff Dean Alfange) which is reasonable given the time and effort each Lead Plaintiff expended in litigating this action on behalf of the Settlement Class Members.

Accordingly, the lack of negative reaction by Settlement Class Members strongly favors final approval of the Settlement and the Plan of Allocation, certification of the Settlement Class, approval of Lead Counsel's request for an award of attorneys' fees and expenses, and approval of Lead Plaintiffs' request for reimbursement of costs and expenses.

III. CONCLUSION

For the foregoing reasons, Lead Plaintiffs respectfully submit that the Court should enter the [Proposed] Order and Final Judgement and Order Awarding Attorneys' Fees, Reimbursement of Expenses, and Service Awards (attached to the Hopkins Decl. as Exhibit 2): (1) approving the Settlement and the Plan of Allocation as fair, reasonable, and adequate; (2) granting the Final Approval Motion; (3) approving Lead Counsel's application for an award of attorneys' fees of 33.3% of the Settlement Fund (or \$1,018,647.00) and reimbursement of \$317,922.40 in expenses; and (4) approving Lead Plaintiffs' requests for reimbursement of their costs, including lost wages/opportunity, in the amount of \$15,000 and \$7,500 (\$15,000 for Lead Plaintiff Elia Azar and \$7,500 for Lead Plaintiff Dean Alfange).

Dated: August 23, 2019

LEVI & KORSINSKY LLP

By: /s/ Shannon L. Hopkins

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CERTIFICATE OF SERVICE

I, Shannon L. Hopkins, hereby certify that on August 23, 2019, I served the foregoing Reply Memorandum in Further Support of Lead Plaintiffs' Unopposed Motion for Final Approval of: (i) Class Action Settlement; (ii) Class Certification; (iii) Plan of Allocation; and (iv) Application for Award of Attorneys' Fees, Reimbursement of Expenses, and Service Awards upon all counsel of record in the above-captioned case via the Court's CM/ECF System.

Dated: August 23, 2019

/s/ Shannon L. Hopkins
Shannon L. Hopkins