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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – CENTRAL – SPRING STREET COURTHOUSE

SIRINE ADLOUNI,

Plaintiff,

v.

UCLA HEALTH SYSTEMS
AUXILIARY, et al.,

Defendants.

Lead Case No. BC589243 (*Adlouni*)

Consolidated and Related to:

BC589327 (*Ortiz*), BC590219 (*Allen*),
BC590344 (*A.Y.*), BC590534 (*Brooks*),
BC590942 (*Hawkins*), BC590943 (*Most*),
BC590990 (*Gambin*), BC591185 (*Liberatore*),
BC591192 (*Urnovitz*), BC591624 (*Alexandria*),
BC592539 (*Snyder*), BC593562 (*Williams*),
BC593527 (*Deville*), BC594104 (*Koci*),
BC595049 (*Jenani*), BC598189 (*Edelstein*)

Assigned for All Purposes to:

Hon. Daniel J. Buckley, Dept. 1, Spring Street

**MEMORANDUM IN SUPPORT OF
PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND REQUEST FOR
ATTORNEYS' FEES AND EXPENSES
AND PLAINTIFF SERVICE AWARDS**

Date: June 18, 2019
Time: 9:00 a.m.
Judge: Daniel J. Buckley
Dept.: 1, Spring Street Courthouse

Date Filed: July 24, 2015
Trial Date: None

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1 **I. Introduction**

2 Plaintiffs seek final approval of the proposed class action settlement. Preliminary
3 approval was granted on February 21, 2019.

4 In July 2015, The Regents of the University of California (“The Regents”), announced
5 that UCLA Health System’s computer system was attacked and infiltrated, allowing hackers the
6 ability to access sensitive and confidential information of approximately 4.5 million current and
7 former patients. The information on the system included social security numbers, addresses,
8 dates of birth, telephone numbers, and personal medical information. An open question of fact
9 in this litigation is what information was actually accessed and/or taken by the hackers. This
10 settlement is designed to account for the known, the disputed, and unknowable facts about this
11 attack, and provide the class with multiple forms of relief that protect and compensate class
12 members from the range of risks and losses posed by the attack.¹

13 This class action settlement is noteworthy in that at the initial status conference,
14 following Judge Wiley’s suggestions, counsel met in the jury room and started what became a
15 collaborative process to resolve the case. There was significant informal discovery to guide the
16 negotiations. The fact that the process was conducted without the need for contested court
17 hearings and formal discovery devices and disputes does not mean that all went smoothly or
18 without points of contention. It means the Parties committed to finding a resolution and worked
19 in good faith toward that goal, overcoming numerous differences. For example, there were
20 instances where The Regents initially declined to produce requested information. Some of this
21 information was highly confidential as it related to the cybersecurity of UCLA Health System’s
22 network, non-public security steps taken or planned since the attack, and steps to be taken
23 prospectively as part of this settlement. Class Counsel took the position that without access to
24 this and other information there could be no settlement. Ultimately, The Regents shared the
25 sensitive and significant information requested. The entire process was conducted without the

26
27
28 ¹ All capitalized terms are defined in the Stipulation of Settlement (“settlement” or “Stip.”).

1 need for motion practice, albeit with extended negotiations and testing of positions, because the
2 Parties acted with a good faith commitment to resolution.

3 The settlement is the result of two and a half years of arm's length negotiations
4 necessitated by the significance of the information exchanged and settlement terms which
5 required input and approvals from various levels and constituencies of The Regents, including
6 approval of the final terms by the Board of Regents. There were four full-day mediation sessions
7 with the Hon. Charles W. McCoy, ret., a multitude of in-person conferences of counsel to discuss
8 and often resolve specific settlement elements, and countless telephonic conferences. Class
9 Counsel also worked closely with a cybersecurity expert to ensure that the cybersecurity
10 enhancements negotiated by the Parties were substantial and subject to monitoring for
11 compliance because the class members' data continues to reside on the system.

12 This settlement resolves The Regents' exposure to damages and, in turn, provides a
13 substantial benefit to members of the class. Regents' exposure stems in part from the California
14 Confidentiality of Medical Information Act, Civ. Code §§ 56, *et seq* ("CMIA"). This statutory
15 scheme provides that, in addition to other remedies available, each plaintiff whose information
16 was negligently released and viewed is entitled to actual damages sustained or, at a minimum,
17 "nominal damages of one thousand dollars" even if the plaintiff was not threatened with and did
18 not suffer actual damages. *Id.* at § 56.36(b)(1)-(2). With 4.5 million potential class members,
19 based just on the nominal damages available, the exposure was high. However, The Regents
20 had numerous defenses including its assertion that the evidence would not have established that
21 medical information had been "viewed," governmental immunity and an argument that the
22 statutory nominal damages were actually punitive damages that would be prohibited against The
23 Regents as a matter of law. In addition, there are three California Court of Appeals decisions
24 which have ruled against any recovery under the CMIA, two of which focused on the inability
25 to prove peoples' information was viewed by the bad actors (which is challenging when the
26 identity of the bad actors is not known): *Sutter Health v. Super. Ct.*, 227 Cal. App. 4th 1546
27 (2014); *Regents of Univ. of Cal. v. Super. Ct.*, 220 Cal. App. 4th 549 (2013); and *Eisenhower*
28

1 *Med. Ctr. v. Super. Ct.*, 226 Cal. App. 4th 430 (2014). Thus, there was a significant risk of no
2 recovery at all for the class if the litigation continued.

3 In the face of the real risk of no recovery, the settlement provides substantial benefits
4 that account for the damages associated with identify theft. Each class member can sign up for
5 a two-year package of free credit monitoring, identity theft protection, and \$1 million in
6 insurance. This ID protection package, provided by ID Experts, has a retail value of \$9.95 per
7 month. Thus, the total retail value of ID protection services made available to the 4.5 million
8 class members over the 24-month term that they are being provided (approximately \$239 per
9 sign up), would be \$1,078,920,000. (The recognition of “value made available” to class
10 members and the actual sign ups to date are discussed below).

11 The settlement also creates a \$2 million fund to pay for reimbursement of identity
12 protection steps taken by class members and to cover ID theft losses suffered by class members
13 not covered by the insurance package. The settlement further provides at least \$5.5 million in
14 new money to the UCLA Health data security budget to enhance the security of the UCLA
15 Health Network. The cybersecurity enhancements are an important component of the settlement
16 because class members’ data continues to reside on the UCLA Health Network and continues to
17 need protection.

18 In addition, The Regents shall pay all class notice costs, settlement administration costs,
19 plaintiff service awards and attorneys’ fees and expenses. This is a further benefit to the class
20 which is generally obligated to pay these costs out of the benefits provided. Here, however,
21 payment of these fees and costs will not reduce awards to class members. By settling now, the
22 class obtains remedies that, as a practical matter, would not be available through a trial, or would
23 be worth considerably less by the time this case could be litigated to a final judgment.

24 The proposed settlement, with the oversight of Class Counsel and the court-appointed
25 Executive Committee, resolves each of the seventeen Consolidated Actions pending before this
26 Court.

27 Notice informing class members of the proposed settlement was performed and is
28 continuing as approved by the Court in the Preliminary Approval Order. As discussed in more

1 detail below, mailing of the postcard notices was completed as of March 20, 2019, the first round
2 of email notice was sent on March 19 and 20, 2019, and more rounds are scheduled. Publication
3 notice began on March 21 and is ongoing. See Declaration of Cameron R. Azari on
4 Implementation of Settlement Notice Plan (“Azari Decl.”), ¶¶ 13, 18, 24-27.

5 The response of the class is overwhelmingly in favor of the settlement. Although the
6 objection and opt out period is open for another two weeks, so far there are only 27 opt-outs and
7 no objections. *Id.*, ¶ 38. And participation in the settlement is vigorous. As of April 30,
8 82,495 class members have signed up for ID Experts package (the enrollment period is open
9 until September 2019) which at \$239 per sign up means this component of the settlement alone
10 is already worth \$19,716,305 in claims value. In addition to ID Experts package enrollment,
11 976 class members have submitted Preventive Measures claims (claims are accepted until June
12 2019), and 521 have submitted Unreimbursed Losses claims (claims are accepted until June
13 2012). *Id.*, ¶ 37. The settlement should be granted final approval so the settlement can be
14 implemented and benefits distributed to the class.

15 By this motion, Plaintiffs request that the Court: (1) grant final approval of the
16 settlement; (2) certify a class for settlement purposes; (3) award attorneys’ fees and expenses to
17 Plaintiffs’ Counsel; and (4) approve service awards to the 22 named Plaintiffs in the 17 class
18 actions resolved by this settlement.

19 **II. Factual Background**

20 **A. Summary of the Cyberattack**

21 On July 17, 2015, The Regents announced that the UCLA Health System’s network was
22 breached, allowing hackers the ability to access sensitive and confidential personally identifiable
23 information (“PII”) and personal health information (“PHI”) of current and former patients.
24 Although the breach was announced in July 2015, the hackers had infiltrated the system much
25 earlier by designing the cyberattack with the ability to cover their tracks. As a result, the hackers
26 may have had access to and use of the PII/PHI of at least 4.5 million current and former patients
27 of UCLA Health. All of those people are included in the class. See Declaration of Jeff S.
28

1 Westerman in Support of Plaintiffs’ Motion for Final Approval of Class Action Settlement
2 (“Westerman Decl.”), ¶ 10.

3 **B. Litigation Overview**

4 On July 24, 2015, Plaintiff Sirine Adlouni filed the first class action lawsuit in Los
5 Angeles Superior Court. The case was determined to be complex. Sixteen similar class action
6 cases were also filed, for a total of 22 named Plaintiffs, represented by over 25 law firms.
7 Westerman Decl., ¶ 13. The seventeen cases are listed in the Stipulation of Settlement, §2.1.8.

8 This settlement resolves all of the claims in the 17 actions that were ultimately
9 consolidated into a Second Amended Class Action Complaint by lead Plaintiff Theresa
10 Alexandria, which is posted on the settlement website, that alleges the following claims and
11 causes of action: Count I Violation of the California Confidentiality of Medical Information Act,
12 Civ. Code §§ 56, *et seq.*; Count II Violation of the California Unfair Competition Law, Bus. &
13 Prof. Code §§ 17200, *et seq.*; Count III Violation of the California Customer Records Act, Civ.
14 Code §§ 1798.80, *et seq.*; Count IV Violation of the California Information Practices Act, Civ.
15 Code §§ 1798, *et seq.*; Count V Negligence/Gross Negligence/Negligence *Per Se*; Count VI
16 Breach of Confidentiality; Count VII Invasion of Privacy; Count VIII Constructive Fraud; Count
17 IX Breach of Express Contract; Count X Breach of Implied Contract; Count XI Unjust
18 Enrichment; Count XII Bailment; Count XIII Conversion; and Count XIV Declaratory Relief.

19 **C. Procedural History**

20 At an October 28, 2015 case management conference on preliminary case management
21 issues, *Adlouni* was recognized as the lead case and all the cases were ordered related and
22 consolidated for administrative purposes. *See* Westerman Decl., ¶¶ 12-77 for procedural history.

23 After months of negotiations, Plaintiffs’ Counsel in all 17 cases stipulated to a leadership
24 structure, which the Court ordered on December 9, 2015. The order appointed Westerman Law
25 Corp. as Interim Lead Class Counsel and Ahdoot & Wolfson, PC, Arias Sanguinetti Stahle &
26 Torrijos, LLP, Blood Hurst & O’Reardon, LLP, Girard Gibbs LLP, Morgan & Morgan, and
27 Zimmerman Reed, LLP as the Executive Committee. Boucher LLP was appointed Liaison
28 Counsel. Stip., Ex.18.

1 Since that order issued, and throughout this litigation and settlement process, members
2 of the leadership firms worked in a collaborative and efficient manner while minimizing
3 duplication. For example, a small sub-committee of firms was formed to obtain and evaluate
4 information and documents from named Plaintiffs, including a questionnaire and interviews.
5 This information was used to prepare a consolidated complaint and proved to be useful for
6 settlement purposes.

7 In preparation for the second status conference and detailed case management
8 discussions (before settlement discussions commenced), Plaintiffs proposed a targeted discovery
9 of facts that would enable them to prepare a consolidated complaint. Plaintiffs prepared and
10 submitted a set of draft discovery requests to The Regents, based on the anticipated claims, and
11 pressed for agreement or permission to commence discovery.

12 The Regents saw things differently and proposed that Plaintiffs file their consolidated
13 complaint first and wait to commence discovery until after demurrers settled the pleading.

14 During the February 11, 2016 initial case management status conference, the Court
15 recognized that the Parties were unable to agree on a case management plan and indicated that
16 preparation of a consolidated complaint, initial discovery requests, and The Regents' subsequent
17 pleadings challenges did not appear to be the most efficient approach to resolution. Judge Wiley
18 encouraged the Parties to discuss further, off the record, a proposed framework for early partial
19 summary judgment with case management and discovery based on the topics of the motion, to
20 reach decisions on key issues, and also encouraged early production of Plaintiffs' documents.

21 After the conference, counsel engaged in very detailed discussions and the Parties
22 submitted a proposed initial case management order with the following terms: (1) the Parties
23 would produce an initial set of mutually agreed-upon documents by April 18, 2016, and continue
24 to meet and confer regarding the extent of productions and dates by which additional
25 productions, if any, may be accomplished, (2) Plaintiffs would file an amended consolidated
26 complaint by May 27, 2016, (3) the Parties would participate in a private mediation by July 29,
27 2016, and provide a post-mediation status report by August 8, 2016, and (4) the Parties would
28 meet and confer over Regents' response to the consolidated complaint.

1 In May 2016, the Parties submitted a modified version of Los Angeles Superior Court’s
2 model protective order, which the Court entered.

3 Beginning in May 2016 to early May 2017, The Regents made numerous document
4 productions totaling just under 1,200 pages, and subsequent productions as settlement
5 discussions progressed. The productions were reviewed and evaluated by selected attorneys and
6 a cybersecurity expert retained to consult with Plaintiffs’ Counsel. In May 2016, Plaintiffs
7 produced approximately 120 pages of documents pertaining to each named Plaintiff’s claims.

8 Subsequent to the productions, the Parties submitted a stipulation to extend time for
9 Plaintiffs to prepare an amended complaint, continue their informal discovery efforts, and focus
10 their resources on preparing for mediation before Judge McCoy (ret.) on August 29, 2016.

11 After a full-day mediation, the Parties filed a joint status report advising the Court there
12 was progress towards resolution, and the Parties agreed to engage in further discussions during
13 Fall 2016 and to participate in a second mediation session.

14 On December 15, 2016, the Parties participated in a second full-day mediation session
15 with Judge McCoy. A third mediation with Judge McCoy was held on March 21, 2017, and the
16 Parties submitted another joint status report confirming progress towards a proposed settlement.
17 About a month later, the Parties submitted a status report advising that a fourth mediation session
18 was scheduled. After the fourth mediation, the Parties submitted a joint status conference report
19 advising that they had made significant progress and reached a tentative agreement in principle
20 to resolve the matter, subject to documentation, and approval by The Regents.

21 At a July 26, 2017 status conference, the Parties informed the Court that a proposed
22 settlement had been reached in principle. The Parties continued to negotiate and draft the
23 settlement agreement, while keeping the Court advised of their progress.

24 In the late Spring and early Summer of 2017, bids were obtained from several class
25 action administrators and evaluated for terms, prior experience, and price. An administrator was
26 selected, and work was proceeding on finalizing the settlement administration details. However,
27 in May 2018, that administrator informed that it would not accept certain terms required by The
28 Regents. Counsel immediately solicited a new bidder and an update from a prior bidder. After

1 analysis of the two bids, and further discussions with both, Epiq Class Action & Claims
2 Solutions, Inc. (“Epiq”) was selected as the claims administrator on July 12, 2018. The
3 settlement agreement and exhibits were then finalized with input on the settlement notice
4 documents from Epiq, and a motion for preliminary approval of the settlement was filed on
5 October 23, 2018. On November 7, 2018, the Court, the Honorable Amy D. Hogue presiding,
6 held a hearing on the motion for preliminary approval. The Court continued the preliminary
7 approval of the proposed settlement and gave the Parties the opportunity to provide further
8 briefing on various issues.

9 On November 16, 2018, the Consolidated Actions were reassigned to Judge Daniel J.
10 Buckley. On January 31, 2019, the Parties filed the additional briefing for preliminary approval
11 prompted by Judge Hogue. On February 13, 2019, Judge Buckley issued an Order Re: Joint
12 Stipulation Re Leave for Plaintiff Theresa Alexandria to File Second Amended Complaint,
13 thereby allowing Plaintiffs to file a comprehensive complaint listing all the causes of action
14 alleged in the individual cases as requested by Judge Hogue.

15 The hearing on the motion for preliminary approval of the settlement was held on
16 February 21, 2019. Judge Buckley issued an Order preliminarily approving the settlement. The
17 Court also appointed Epiq as the Claims Administrator and directed that notice of the settlement
18 be given to the class members.

19 **III. Settlement Terms**

20 The settlement relief consists of: (1) two years of free identity protection services and
21 \$1 million insurance, with a retail value of \$239 for each class member who signs up;
22 (2) \$2 million dollars of cash relief for class members who incurred Preventive Measure costs
23 and/or suffered Unreimbursed Losses; (3) a minimum of \$5.5 million in “new money” for
24 specified cybersecurity enhancements to the UCLA Health Network; and (4) payment by The
25 Regents of class notice, settlement administration costs, attorneys’ fees and expenses and
26 Plaintiff service awards.

1 **A. Two Years of Credit Monitoring, Identity Theft Protection and Insurance**

2 Each class member is entitled to, at no charge, a two-year identity protection services
3 package (“ID Experts Package”). The free services include credit monitoring, a healthcare
4 identity theft protection toolkit, reimbursement insurance for out-of-pocket expenses from
5 identity theft issues, advisory services, and a fully managed identity recovery and restoration
6 service. *See* Stip., Ex 13 (detailing the ID Experts Package), or the Settlement Website at
7 [https://www.uclahealthcybersettlement.com/Content/Documents/Identity%20Protection%20Se](https://www.uclahealthcybersettlement.com/Content/Documents/Identity%20Protection%20Services.pdf)
8 [rvices.pdf](https://www.uclahealthcybersettlement.com/Content/Documents/Identity%20Protection%20Services.pdf) (same).

9 Regents will pay all costs of the two-year ID Experts Package to class members. Stip.,
10 §4.1.2. The retail value of the ID Experts Package is \$9.95/month, meaning the retail value for
11 each class member is \$238.80 (\$9.95 x 24 months). Westerman Decl., ¶ 7.

12 Class members have until September 16, 2019 to enroll with ID Experts. As of April
13 30, 82,495 class members have enrolled (Azari Decl., ¶ 37), and will be provided two years of
14 ID theft insurance and services if the settlement is granted final approval.

15 **B. Two Million Dollar Monetary Relief Fund**

16 The settlement also provides a \$2 million fund that will be used to pay class members
17 for any Preventive Measures (incurred from July 17, 2015 through March 20, 2019) and
18 Unreimbursed Losses (incurred from September 1, 2014 through June 18, 2021, or later). Any
19 portion of the \$2 million fund not paid to class members as Preventive Measure or Unreimbursed
20 Losses claims is called the Claims Balance and will be added to Cybersecurity Enhancements.
21 Stip., §4.2 and Ex. 9.

22 Unreimbursed Losses claimants with approved claims will receive their actual losses up
23 to \$20,000. Preventive Measure claimants with approved claims will be reimbursed for costs
24 incurred to prevent identity theft up to \$5,000. Stip., §4.2 and Ex. 9. As of April 30, class
25 members have submitted 521 Unreimbursed Losses claims and 976 Preventive Measure claims.
26 Azari Decl., ¶ 37.

1 **C. Cybersecurity Enhancements**

2 Regents will be obligated to spend \$5.5 million in new money, plus any Claims Balance,
3 to increase cybersecurity for the UCLA Health Network. The money must be spent, in full, on
4 Cybersecurity Enhancements to implement or maintain meaningful, specific changes to data
5 security practices to address the security elements that UCLA Health and Plaintiffs believe
6 contributed to the breach and/or enhance ongoing data protection. Stip., §4.3 and Ex. 12. As
7 stated above, the cybersecurity enhancements are significant to protect the class members’ data
8 that still resides at UCLA Health in their databases. Exhibit 12 – the Cybersecurity
9 Enhancement Protocol – was submitted under seal due to the need to protect the information.

10 **D. Notice, Settlement Administration and Attorneys’ Fees and Expenses**

11 As a benefit to the class, The Regents will also pay for class notice costs, settlement
12 administration, attorneys’ fees and expenses and plaintiff service awards.

13 The comprehensive notice plan includes mailed notice, multiple rounds of email notice
14 and various forms of publication notice. Stip., §5 and Ex. 4. The notice plan was extensively
15 negotiated by the Parties and designed with the assistance of Epiq, a respected and proven class
16 notice and settlement administration company. Westerman Decl., ¶¶ 84, 86-87. Notice has been
17 disseminated pursuant to the Court’s order. The details of the notice dissemination are set forth
18 in the concurrently filed Azari Declaration. In addition to the formal notice plan, supplemental
19 notice encouraging enrollment in the IDX package occurring in the form of two emails to class
20 members with known email addresses who previously signed up for the one-year ID Experts
21 protection UCLA offered when it disclosed the attack in July 2015. In addition, notice is posted
22 on the UCLA Health system webpage. Declaration of Nathaniel J. Wood ISO Motion for Final
23 Approval of the Class Settlement. Altogether, the class notice, claim review and settlement
24 administration will cost an estimated \$1.9 million. Westerman Decl., ¶ 9. This cost will be paid
25 by The Regents. Stip., §5.1.

26 The Regents have also agreed to pay up to \$3,275,000 in attorneys’ fees and up to
27 \$135,000 in expenses and Plaintiff service awards, as approved by the Court. Stip., §10.

28

1 Accordingly, the attorneys' fees and litigation expenses incurred in reaching this settlement will
2 not reduce class member awards and are a benefit to the class.

3 **IV. The Settlement Merits Final Approval**

4 **A. The Legal Standard for Final Approval**

5 Settlement of a class action requires court approval. Cal. Rules of Court 3.769.
6 California has a strong judicial policy that favors settlement. *Hamilton v. Oakland Sch. Dist.*,
7 219 Cal. 322, 329 (1933) (“it is the policy of the law to discourage litigation and to favor
8 compromises”); *Rich Vision Ctrs., Inc. v. Bd. of Med. Exam’rs*, 144 Cal. App. 3d 110, 115 (1983)
9 (there exists a “general policy of favoring compromises of contested rights”). This is particularly
10 true in class actions, where substantial resources can be conserved by avoiding the time, cost,
11 and rigors of litigation. *In re Microsoft I-V Cases*, 135 Cal. App. 4th 706, 723 n.14 (2006)
12 (“Public policy generally favors the compromise of complex class action litigation.”); *Cellphone*
13 *Termination Fee Cases*, 180 Cal. App. 4th 1110, 1125 (2009).

14 To warrant final approval, a class settlement must be fair, adequate, and reasonable.
15 *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1801 (1996); *Cho v. Seagate Tech. Holdings,*
16 *Inc.*, 177 Cal. App. 4th 734, 742-43 (2009). The court has “broad discretion” in determining
17 whether to approve a proposed settlement. *Cellphone Termination Fee Cases*, 186 Cal. App.
18 4th 1380, 1389 (2010); *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224, 234-35 (2001).

19 Although the court must independently review a proposed settlement, the court should
20 avoid substituting its judgment for that of the counsel who negotiated the settlement. *Kullar v.*
21 *Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 133 (2008). Review “must be limited to the
22 extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or
23 overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as
24 a whole, is fair, reasonable and adequate to all concerned.” *Dunk*, 48 Cal. App. 4th at 1801.²

25 In evaluating the fairness of a class settlement courts consider several factors, including
26 “the strength of plaintiffs’ case, the risk, expense, complexity and likely duration of further
27

28 ² Here, as throughout, all citations and internal quotations are deemed omitted.

1 litigation, the risk of maintaining class action status through trial, the amount offered in
2 settlement, the extent of discovery completed ... the experience and views of counsel, the
3 presence of a governmental participant, and the reaction of the class members to the proposed
4 settlement.” *Dunk*, 48 Cal. App. 4th at 1801; *Cellphone Termination*, 186 Cal. App. 4th at 1389.
5 The court “is free to engage in a balancing and weighing of factors depending on the
6 circumstances of each case.” *Wershba*, 91 Cal. App. 4th at 245.

7 “[A] presumption of fairness exists where: (1) the settlement is reached through arm’s
8 length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court
9 to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of
10 objectors is small.” *Dunk*, 48 Cal. App. 4th at 1802; *Cellphone Termination*, 186 Cal. App. 4th
11 at 1389. The settlement satisfies these requirements so it is presumed fair, reasonable and
12 adequate.

13 **B. The Settlement Is Fair, Reasonable and Adequate**

14 **1. The Strength and Risks of Plaintiffs’ Case and the Value of the**
15 **Settlement Offered**

16 “The most important factor is the strength of the case for plaintiffs on the merits,
17 balanced against the amount offered in settlement.” *Kullar*, 168 Cal. App. 4th at 130. When
18 determining whether to approve a class settlement, the court must “ensure that the recovery
19 represents a reasonable compromise, given the magnitude and apparent merit of the claims being
20 released, discounted by the risks and expenses of attempting to establish and collect on those
21 claims by pursuing the litigation.” *Id.* at 129.

22 In Plaintiffs’ motion for preliminary approval and the supplemental briefing requested
23 by Judge Hogue, the Parties analyzed in detail the strengths and weaknesses of moving forward
24 with this litigation.³ Summarizing here, the significant and real risks include that The Regents
25 would have prevailed on demurrer or obtained judgment on the pleadings in light of the three
26 Court of Appeal cases that have dismissed CIMA cases at the pleadings stage: *Sutter Health v.*

27
28 ³ See Supp. Memo. ISO of Motion for Preliminary Approval at 8-9, 14-16 and Attachment
A; Memo ISO Motion for Preliminary Approval at 20.

1 *Super. Ct.*, 227 Cal. App. 4th 1546 (2014); *Regents of Univ. of Cal. v. Super. Ct.*, 220 Cal. App.
2 4th 549 (2013); and *Eisenhower Med. Ctr. v. Super. Ct.*, 226 Cal. App. 4th 430 (2014). Indeed,
3 these Courts of Appeal have set a high bar for pleading viable claims under CIMA which The
4 Regents contended could not be met by Plaintiffs here. Westerman Decl., ¶ 108 and Ex. F.

5 There was also the significant difficulty of obtaining class certification in the litigation
6 context. For instance, considering this same final approval factor in the *Anthem* case, the parties
7 could point the court “to only one non-settlement data-breach case that had been certified in
8 federal court to date.” *In re Anthem, Inc. Data Breach Litig.*, 327 F.R.D. 299, 318 (N.D. Cal.
9 2018). The lack of direct precedent would have been a challenge.

10 Even if the pleadings were deemed adequate and class certification was granted, there
11 would still be risks of succeeding at trial. One trial hurdle for Plaintiffs was the need for expert
12 testimony to establish that The Regents failed to adequately safeguard class members’ personal
13 information, which expert testimony would no doubt have been opposed and countered by The
14 Regents. Westerman Decl., ¶¶ 108-109.

15 Another significant trial hurdle would be overcoming The Regents’ contention that class
16 members could not prove damages. A related challenge was that of presenting and supporting
17 a class wide damages model. In addition, The Regents asserted that CMIA’s statutory damages
18 provision is punitive and therefore inapplicable to public entities such as The Regents. *Id.*

19 Finally, even a trial to obtain injunctive relief and changes to The Regents’ security
20 procedures would have faced an uphill battle. The Regents took the position that enhancements
21 to its cybersecurity should be left to regulatory agencies, not the courts. *Id.* And even if the
22 Plaintiffs were to succeed at trial, there was the risk of a delay obtaining injunctive relief or
23 payment due to an appeal or even a loss on appeal.

24 In the face of these risks and uncertainties, the settlement provides real and substantial
25 benefits to the class. It provides: protection for class members in the event their data is
26 improperly used (the ID Experts Package); cash reimbursement for people who already incurred
27 costs to protect themselves (the Preventive Measures claims); monetary relief to those whose
28 data was or will be mis-used (the Unreimbursed Losses claims); enhanced security for class

1 members' information that continues to be stored on the UCLA Health Network (the
2 cybersecurity enhancements); and payment by The Regents of all litigation and settlement costs
3 (class notice, settlement administration, attorneys fees, service awards and litigation expenses).

4 The settlement is a good deal for the class.

5 **2. The Settlement Was Reached Through Arms' Length Negotiations**

6 There is no question but that the settlement is the result of contentious arms' length
7 bargaining. Every aspect of the settlement was extensively negotiated and examined by the
8 Parties. Both the settlement terms and the attorneys' fees and expenses were resolved with
9 mediator proposals. When needed, Class Counsel consulted with a cybersecurity expert to
10 ensure the enhancements to the UCLA Heath system will be meaningful and substantial. The
11 settlement also required four separate days of mediation with Judge McCoy. Indeed, the
12 complexity and extensive negotiations over each aspect of the settlement is reflected in the time
13 required to obtain a final settlement agreement, exhibits and a notice and claim review program.
14 Westerman Decl., ¶¶ 84-87,108.

15 **3. The Extensive Investigation Was Conducted to Allow Thorough**
16 **Evaluation of the Fairness of the Settlement**

17 Investigation by counsel reinforces the presumption of fairness when counsel and the
18 court evaluate the settlement. *Dunk*, 48 Cal. App. 4th at 1802; *Chavez v. Netflix, Inc.*, 162 Cal.
19 App. 4th 43, 53 (2008); *7-Eleven Owners for Fair Franchising v. Southland Corp.*, 85 Cal. App.
20 4th 1135, 1150 (2000).

21 Here, significant and targeted discovery was required as the settlement discussions
22 unfolded. Plaintiffs would not proceed with the settlement discussions absent the information
23 they needed to evaluate terms of settlement and how to shape the terms. This included
24 information from The Regents about the investigation of the attack, the nature and extent of the
25 attack, cyber remediation steps taken, and steps that could be taken or accelerated. Westerman
26 Decl. ¶¶ 78-83; *see also* Plaintiffs' Supplemental Memorandum In Support of Preliminary
27 Approval, at 12-14, 16.

28

1 Investigative reports revealed that UCLA Health was the victim of a criminal cyberattack
2 perpetrated by a sophisticated attacker. The FBI informed UCLA Health that the methods and
3 tools used by the attacker were consistent with an “advanced persistent threat” attack, which
4 may have been launched by a nation state or a group with links to a nation state. The
5 investigators concluded that the attacker gained entry by compromising two internet-facing
6 servers within the UCLA Health environment, and then used this foothold to gain access to other
7 machines in the network.

8 The Regents’ cyberattack investigation began on October 16, 2014, when UCLA Health
9 IT staff received alerts suggesting suspicious activity and took immediate steps to stop the
10 suspicious activity. It then opened an investigation with the support of an information security
11 and forensics firm and notified the FBI. UCLA Health examined systems within its environment
12 for signs of attacker activity, with an eye toward searching for evidence of any unauthorized
13 access or acquisition of sensitive information, including protected health information. Where
14 signs of attacker activity were found, forensic analysis was performed including, as appropriate,
15 installation of an advanced malware detection agent, use of a leading forensics agent, and the
16 imaging of systems.

17 The Regents’ team specifically investigated whether the hackers had gained access to
18 UCLA Health’s Electronic Health Records (“EHR”) system. Among other things, they analyzed
19 audit logs for the EHR, which record each time a patient record is accessed. The logs revealed
20 no unexplained increase in the normal amount of expected traffic in the database.

21 However, in early May 2015, the investigation team learned that the cyberattackers had
22 accessed a set of servers called a “SQL cluster.” One of the databases on the SQL cluster
23 contained information of more than 4 million current and former UCLA Health patients. The
24 investigation team found no evidence showing that the cyberattackers accessed data in this
25 database. However, the team also was unable to determine conclusively which (if any) databases
26 within the SQL cluster had been accessed by the cyberattackers.

27 The investigation team also learned that some data had been exfiltrated from the system.
28 UCLA Health logs reflected that the transfer was less than two gigabytes. But the investigators

1 also learned that the third-party logging software had an unknown error that meant it was not
2 reliably capturing data flows out of the UCLA Health environment. The software was corrected
3 with an update provided by the vendor. Even if the software had been working properly, it
4 would not have provided information on the *type* of data that was exfiltrated (it only logged data
5 volume and timing information).

6 On June 5, 2015, following an analysis of the facts, UCLA Health made the
7 determination that, even though it did not have evidence the attacker actually accessed or
8 acquired personal or medical information maintained on the part of the UCLA Health Network
9 impacted by the attack, it could not conclusively rule out that possibility, and therefore providing
10 notice of the incident was appropriate.

11 After learning of the cyberattack, but before this matter was settled, UCLA Health took
12 numerous important measures to enhance system security (in addition to already-planned
13 measures), including retaining a third party vendor to operate a round-the-clock security
14 operations center; blocking known malicious IP addresses identified during the investigation;
15 deploying security appliances to scan for malware and malicious network traffic; and increasing
16 the number of UCLA Health data security personnel. Plaintiffs requested and obtained
17 information on these data security improvements during discovery.

18 The resulting information was evaluated by Plaintiffs' cybersecurity expert and used to
19 develop the security enhancements that are part of the settlement. Plaintiffs' cybersecurity
20 expert also reviewed in detail the various iterations of the Security Enhancements, posing
21 questions and suggesting improvements. Westerman Decl., ¶ 83.

22 It is to the Parties credit that discovery regarding the cyberattack and The Regents'
23 investigation of the attack was obtained by informal means. "Discovery in its most efficient
24 utilization should be totally extra-judicial." *Cotton v. Hinton*, 559 F.2d 1326, 1332 (5th Cir.
25 1977). Formal discovery is not always necessary to reach a fair class settlement, rather "over
26 discovered" cases "waste[] the time of this Court, the parties and their attorney[], [and] it often
27 adds unnecessarily to the financial burden of litigation ...". *Id.* Plaintiffs here were informed
28

1 through the discovery they requested and had the information needed to negotiate the best
2 possible settlement for the class.

3 **4. The Judgement of Experienced Counsel**

4 Also weighing in favor of final approval is Plaintiffs' Counsel's significant experience
5 and success in similar class cases. *Dunk*, 48 Cal. App. 4th at 1802. Plaintiffs are represented
6 by a team of counsel with a wealth of experience in prosecuting complex class action litigation,
7 including data breach cases and consumer class actions. Along with Class Counsel, these
8 counsel (many of whom have successfully litigated other data breach cases), attended certain
9 mediation sessions and were collectively consulted on the settlement negotiations and terms as
10 they evolved and were agreed upon. These experienced counsel were consulted in reaching the
11 settlement and support the settlement as fair, reasonable and adequate and in the best interest of
12 the class. Westerman Decl., ¶¶ 106-107 and Ex. F.

13 It is also noteworthy that the settlement presented for approval here compares favorably
14 with the reported settlements approved in other courts, including federal and state courts in
15 California. The settlement presented here contains similar basic elements, combined with
16 provisions or enhancements tailored to the specific circumstances of this case involving medical
17 data and the reality that class members' data still resides with the UCLA Health Network. As
18 in this case, the focus and goal of many of the court-approved data breach settlements is (i) to
19 provide consumers with free monitoring, insurance protection and support services so that
20 identity or financial theft or other unauthorized use of their data is prevented or, if not prevented,
21 mitigated; (ii) to compensate those who may be the victims of identity or financial theft or other
22 unauthorized use resulting from this breach; and (iii) to require defendant to upgrade its security
23 system so class members' data – which remains in defendant's care – is better protected from
24 future cyberattack.

25 For example, the Northern District of California *Anthem* settlement, approved in August
26 2018 by Judge Lucy Koh, provides two years of free insurance and credit monitoring to those
27 who enroll, that Anthem triple its spending on data security for three years, and create a fund
28 from which class members can claim reimbursement for harm they incurred, with the fund

1 residual rolled into extending the credit monitoring by up to two additional years. *In re Anthem,*
2 *Inc., Data Breach Litig.*, 327 F.R.D. 299, 333-34 (N.D. Cal. 2018). Substantially similar
3 settlement structures were approved in *In re Target Corp. Data Security Breach Litig.*, MDL
4 No. 14-2522 (PAM/JJK) (D. Minn., approved 2015; affirmed by 8th Cir. 2018); *Pagoaga v.*
5 *Academy of Art University*, No. CGC 16-551952 (San Francisco Super. Ct., approved 2018); *In*
6 *re TJX Companies Retail Security Breach Litig.*, No. 07-10162-WGY (D. Mass., approved
7 2008); *In re Home Depot, Inc., Customer Data Security Breach Litig.*, 1:14-md-0283-TWT)
8 (N.D. Ga., approved 2016); and *Bray v. Gamestop Corp.*, No. 17-cv-01365 (Dist. Del., approved
9 2018).

10 Another settlement worth noting is *Corona v. Sony Pictures Entertainment, Inc.*,
11 No. 2:14-cv-09600 (C.D. Cal., approved 2016). In *Sony*, actions were filed in the Central District
12 of California and Los Angeles Superior Court. When the cases moved toward settlement, Judge
13 Wiley, who was presiding over the state court actions, stayed the state cases pending resolution
14 in the federal case, before Judge Klausner. The settlement was thereafter approved by the federal
15 court and, after his separate review, found to be fair, reasonable and adequate by Judge Wiley.⁴
16 Like here, the *Sony* settlement provides two years of free insurance and credit monitoring to
17 enrollees and a claim fund, however (in contrast to this settlement) lacks a security enhancement
18 component.

19 For the Court's convenience, a chart of these settlements and their components is
20 provided as Westerman Decl., Ex. E.

21 **5. The Presence of a Governmental Participant Supports Final** 22 **Approval**

23 The participation of a government agency and its approval of the settlement is an
24 important factor for the Court's consideration. *Dunk*, 48 Cal. App. 4th at 1801; *see also*
25 *Marshall v. Holiday Magic, Inc.*, 550 F.2d 1173, 1178 (9th Cir. 1977) (citing Richard Briffault,
26 *Developments in the Law - Class Actions*, 89 Harv.L.Rev. 1318, 1563, 1571 (1976)).

27
28 ⁴ The *Sony* federal court approval order and related brief describing what was approved
were filed in support of preliminary approval as Ex. F to the Supp. Westerman Decl.

1 Here, the settlement required input and approvals from various levels and constituencies
2 of Regents, including approval of the settlement terms by the UC Board of Regents. This further
3 weighs in favor of the settlement.

4 **6. The Positive Reaction of the Class Supports Final Approval**

5 In determining if the settlement is fair, reasonable and adequate, the reaction of the class
6 – those most impacted by the settlement – should also be considered. *Dunk*, 48 Cal. App. 4th at
7 1801.

8 The objection and opt out deadline is open for another two weeks, until May 20, 2019.
9 However, as of the time of this brief, the reaction has been very positive. As of April 30, there
10 are only 27 opt-outs and no objectors. In contrast, 82,495 class members have already signed
11 up for the ID Experts package and enrollment is open until September 16, 2019. Azari Decl.,
12 ¶¶ 37-38. These sign-ups mean that class members have taken advantage of \$19,716,305 in
13 settlement value (82,495 x \$239) as of April 30. In addition, class members have submitted 976
14 Preventive Measure claims and 521 Unreimbursed Losses claims. These numbers will all be
15 updated in the final approval reply brief.

16 In sum, given the benefits obtained, the risks of continued litigation, the contentious and
17 protracted settlement negotiations, the judgment of experienced counsel and the reaction of the
18 class, the settlement is fair, reasonable and adequate and should be approved by the Court.

19 **V. The Class Should Be Certified**

20 The Court conditionally certified a settlement class based on the factors and analysis set
21 forth in Plaintiffs' Motion for Preliminary Approval. *See* Preliminary Approval Order, at 2.
22 Nothing has changed since preliminary approval that should affect the Court's final certification
23 of a settlement class. For the reasons previously set forth, the proposed class readily meets the
24 certification requirements of ascertainability, predominate common legal or factual questions,
25 typicality, adequacy, and superiority.

26 The Court should therefore grant certification of the following class:

27 All persons whose personally identifiable information or protected health
28 information (PII/PHI) was stored on the portions of the UCLA Health Network
that were, or could have been, accessed by the cyberattackers during the Incident

1 announced in July 2015, including all persons to whom mail notice was provided
2 regarding the Incident.

3 Excluded from the Settlement Class are (i) the members of the Board of Regents,
4 the Officers of The Regents, and members of The Regents' Office of General
5 Counsel with responsibility for the Consolidated Actions, (ii) outside counsel
6 retained by The Regents in connection with the Consolidated Actions, (iii) any
7 judicial officer to whom the Action is assigned, and (iv) any individual who
8 timely and validly opts-out from the Settlement Class.

9 **VI. Class Notice Satisfied Due Process Requirements**

10 The manner of giving notice and the content of notice must "fairly apprise the
11 prospective members of the class of the terms of the proposed settlement and of the options that
12 are open to them in connection with the proceedings." *7-Eleven*, 85 Cal. App. 4th at 1164. An
13 appropriate notice has a "reasonable chance of reaching a substantial percentage of the class
14 members." *Wershba*, 91 Cal. App. 4th at 251; *Cellphone Termination*, 186 Cal. App. 4th at
15 1392; *see also* Cal. Rules of Court 3.766.

16 The notice plan was carefully tailored to reach class members and fairly apprise them of
17 the settlement. The notice provided a brief, clear, and thorough explanation of the case, the
18 terms of the proposed settlement, the release, the maximum amount Plaintiffs' Counsel may
19 seek for attorneys' fees and expenses, the amount Plaintiffs may seek as service awards, the
20 date, time, and place of the final approval hearing, and the procedure for class members to opt
21 out or object to the settlement. The notice also described how to appear at the final approval
22 hearing to object. *See* Cal. Rules of Court 3.769(f); Azari Decl., Exs. 1-4, 6 (exemplar notices
23 distributed to the class).

24 Notice was disseminated by a range of means. A postcard notice was mailed directly to
25 the last known address of the 3.5 million class members (about 77% of the class) for which an
26 address was available in defendant's records. Following mailed notice are three rounds of
27 individual email notices and reminder email notices to the class members whose email addresses
28 were available or could be obtained. Azari Decl., ¶¶ 17-23. In addition, ID Experts is sending
two rounds of email to approximately 130,000 class members who had previously enrolled in

1 the one-year monitoring package, informing of the settlement and encouraging them to sign up
2 for the ID protection package. Westerman Decl., ¶ 96.

3 Notice also was provided through a robust digital publication/social media notice
4 focused in the areas where class members are known to reside based on zip code information.
5 Azari Decl., ¶¶ 24-30. Digital publication was supplemented by national, state and local press
6 releases. *Id.*, ¶ 31. It is estimated that at least 80% of the class was reached by these means.
7 Azari Decl., ¶ 10. In addition, UCLA posted web site notification. Wood Decl. And the notice
8 was posted on the Settlement Website at <https://www.uclahealthcybersettlement.com/en>.

9 These combined means of dissemination far exceed requirements. *See, e.g., Cartt v.*
10 *Super. Ct.*, 50 Cal. App. 3d 960, 974 (1975) (notice “should have a reasonable chance of reaching
11 a substantial percentage of class members.”); *Choi v. Mario Badescu Skin Care, Inc.*, 248 Cal.
12 App. 4th 292, 297-98 (2016) (individual notice supplemented with publication notice sufficient);
13 *Bell v. Am. Title Ins. Co.*, 226 Cal. App. 3d 1589, 1599 (1991) (approving notice by publication
14 only); *Cellphone Termination*, 186 Cal. App. 4th at 1393 (notice by mail and publication
15 sufficient); *Gallucci v. Gonzales*, 603 Fed. Appx. 533, 535 (9th Cir. 2015) (approving notice by
16 publication only).

17 **VII. The Court Should Award Attorneys’ Fees and Expenses**

18 Plaintiffs seek attorneys’ fees in the total amount of \$3,275,000, which compensates
19 Plaintiffs’ Counsel in each of the 17 Consolidated Actions. Stip. §10.1 and *id.*, Ex. 18
20 (Stipulation of Settlement and the Court’s Stipulated Order Re Status Conference and Plaintiffs’
21 Leadership Structure, entered December 9, 2015 (“Case Management Order”)). Plaintiffs also
22 seek reimbursement of their counsels’ out-of-pocket expenses and Plaintiff service awards in
23 the total amount of \$135,000. These amounts were negotiated and resolved with a mediator’s
24 proposal and The Regents does not oppose fee, expense or service awards up to these amounts.
25 Stip., §10.1. Payment of the fees and expenses will not reduce the amount paid to class
26 members; The Regents will pay attorneys’ fees and expenses in addition to the other settlement
27 benefits. Stip., §§4.4, 10.

28

1 **A. Plaintiffs’ Counsel Are Entitled to Attorneys’ Fees**

2 Plaintiffs’ Counsel are entitled to an award of attorneys’ fees and expenses under
3 CMIA’s fee-shifting provisions, the substantial benefit doctrine, the private attorney general
4 doctrine, and by agreement of the Parties.

5 “Class action litigation can result in an attorney fee award pursuant to a statutory fee
6 shifting provision[.]” *Laffitte v. Robert Half Int’l., Inc.*, 1 Cal. 5th 480, 489 (2016). Pursuant to
7 the CMIA’s fee-shifting provision, patients whose medical information has been used or
8 disclosed are entitled to attorneys’ fees. Civ. Code § 56.35.

9 Additionally, Plaintiffs’ Counsel are entitled to fees and expenses under the substantial
10 benefit doctrine. The substantial benefit doctrine “permits the award of fees when the litigant,
11 proceeding in a representative capacity, obtains a decision resulting in the conferral of a
12 ‘substantial benefit’ of pecuniary or nonpecuniary nature.” *Serrano v. Priest*, 20 Cal. 3d 25, 38
13 (1977). The settlement here provides both pecuniary benefits (funds for compensation for harm
14 and free IDX insurance) plus nonpecuniary benefits (security enhancements).

15 Plaintiffs’ Counsel are also entitled to fees under Code of Civil Procedure section 1021.5
16 because they have “acted as a private attorney general by enforcing an important right affecting
17 the public interest” (*Laffitte*, 1 Cal. 5th at 489) and have conferred “a significant benefit” on “a
18 large class of persons.” Civ. Proc. Code § 1021.5.

19 Lastly, the Parties negotiated a settlement contract whereby Regents agreed to pay for
20 attorneys’ fees and costs. Stip., §4.4.

21 **B. The Requested Fee Is Reasonable Under the Lodestar Method**

22 When attorneys’ fees are sought under a fee shifting statute or under the substantial
23 benefit doctrine, the primary (but not necessarily exclusive) approach is the lodestar-multiplier
24 method. *Laffitte*, 1 Cal. 5th at 500; *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553, 579
25 (2004); *Serrano*, 20 Cal. 3d at 34; *Consumer Privacy Cases*, 175 Cal. App. 4th 545, 556-57
26 (2009) (absent a common fund, the primary method for establishing fees is the lodestar-
27 multiplier method).

28

1 Under the two-step lodestar-multiplier method, trial courts first calculate the lodestar,
2 consisting of all the hours reasonably spent multiplied by reasonable hourly rates. *Ketchum v.*
3 *Moses*, 24 Cal. 4th 1122, 1133 (2001). Second, that figure may be enhanced or multiplied “based
4 on a number of factors in order ‘to fix a fee at the fair market value for the particular action.’”
5 *Syers Props. III v. Rankin*, 226 Cal. App. 4th 691, 697-98 (2014). A multiplier is generally
6 appropriate because “the unadorned lodestar reflects the general local hourly rate for a *fee-*
7 *bearing* case; it does *not* include any compensation for contingent risk, extraordinary skill, or
8 any other factors a trial court may consider.” *Ketchum*, 24 Cal. 4th at 1138) (emphasis in
9 original). The adjusted lodestar should not be significantly different from the percentage fee
10 freely negotiated in comparable litigation. *Lealao v. Beneficial Cal., Inc.*, 82 Cal. App. 4th 19,
11 50 (2000).

12 Here, the majority of the work was done by Class Counsel and the Executive Committee.
13 As of April 10, 2019, the collective lodestar of these eight firms is \$2,423,125.85, resulting in a
14 modest multiplier of 1.35. If all the reported lodestar of all Plaintiffs’ Counsel is considered,
15 including the time incurred before the Court entered the Case Management Order on December
16 19, 2015, sometimes referred to as “pre-lead time” before counsels’ efforts were fully
17 coordinated or assigned by Interim Lead Counsel, then the total lodestar reported from all firms
18 through April 10 is \$2,894,317.35, and the requested fee results in multiplier of just 1.13.
19 *Westerman Decl.*, ¶ 101.

20 1. Hourly Rates Are Reasonable

21 Plaintiffs’ Counsel are entitled to the hourly rates charged by attorneys of comparable
22 experience, reputation, and ability for similar litigation. *Ketchum*, 24 Cal. 4th at 1133; *Syers*
23 *Props.*, 226 Cal. App. 4th at 700. Payment at full market rates is essential to fulfill the goal of
24 enticing qualified counsel to undertake difficult consumer litigation, such as this. *San*
25 *Bernardino Valley Audubon Soc’y v. Cty. of San Bernardino*, 155 Cal. App. 3d 738, 755 (1984).

26 An attorney’s actual billing rate for similar work is presumptively appropriate. *Wershba*,
27 91 Cal. App. 4th at 254-55. The average hourly rates here of Class Counsel and Executive
28 Committee members, \$769 for partners and \$465 for associates, are represented as the standard

1 rates they charge to their clients and are well within the range of rates billed by comparable
2 attorneys in the consumer class action market. In fact, this group of eight law firms is a
3 representative sample of the firms in the market. These rates are also well within the rates
4 approved as reasonable by other courts. Westerman Decl., ¶ 103 (noting approval by several
5 judges of Class Counsel’s hourly rates); *see also Glendora Cmty. Redevelopment Agency v.*
6 *Demeter*, 155 Cal. App. 3d 465, 477 (1984) (affirming an effective hourly rate of \$3,644 per
7 hour because it was a contingency fee); *Hartless v. Clorox Co.*, 273 F.R.D. 630, 644 (S.D. Cal.
8 2011) (approving hourly rates of Blood Hurst & O’Reardon, LLP – on the Executive Committee
9 here – “based on the Court’s familiarity with the rates charged by other firms in the San Diego
10 area, the Court finds the rates charged by the attorneys and paralegals in this action reasonable”);
11 *Sproul v. Astrue*, No. 11-CV-01000-IEG (DHB), 2013 U.S. Dist. LEXIS 12667, at *2, *5-6
12 (S.D. Cal. Jan. 30, 2013) (awarding an amount that represented an hourly rate of roughly \$800,
13 explaining that “[c]ourts are loathe to penalize experienced counsel for efficient representation
14 under contingency agreements”); *Stuart v. RadioShack Corp.*, No. C-07-4499 EMC, 2010 U.S.
15 Dist. LEXIS 92067, at *18 (N.D. Cal. Aug. 9, 2010) (finding, almost a decade ago, an average
16 hourly rate of \$708 was reasonable in a class action settlement); *Edgar v. Comm’r, SSA*, No.
17 3:14-cv-0267-SI, 2018 U.S. Dist. LEXIS 94065, at *6 (D. Or. June 5, 2018) (noting “that
18 effective hourly rates exceeding \$1,000 have been approved” and citing *Quinnin v. Calvin*,
19 No. 1:12-cv-01133-SI, 2013 U.S. Dist. LEXIS 154022, at *4 (D. Or. Oct. 28, 2013) (approving
20 de facto hourly rate of \$1,240 for attorney time)); *Ali v. Comm’r*, No. 3:10-cv-01232-CL, 2013
21 U.S. Dist. LEXIS 102520, at *7, (D. Or. July 21, 2013) (approving de facto hourly rate of
22 \$1,000); *Breedlove v. Astrue*, No. 3:07-cv-1743-AC, 2011 U.S. Dist. LEXIS 68376, at *6, (D.
23 Or. June 24, 2011) (approving de facto hourly rate of \$1,041.84”).

24 Some courts also look to the Laffey Matrix, a recognized source of attorney rates, to
25 determine reasonable hourly fees. *See Syers*, 226 Cal. App. 4th at 695 (approving use of the
26 Laffey Matrix); *Nemecek & Cole v. Horn*, 208 Cal. App. 4th 641, 651 (2012) (affirming fee
27 award that was based on the Laffey Matrix); *Theme Promotions, Inc. v. News Am. Mktg. FSI*,

28

1 *Inc.*, 731 F. Supp. 2d 937, 948 (N.D. Cal. 2010) (the Laffey Matrix is “a widely recognized
2 compilation of attorney and paralegal rates” used to determine reasonable hourly fees).

3 The Laffey Matrix for June 2018 to May 2019 ranges from \$371 per hour for attorneys
4 with less than three years out of law school, up to \$895 per hour for attorneys with greater than
5 20 years out of law school.⁵ However, the Laffey Matrix is based on Washington, D.C. pay
6 rates which should be adjusted using the Judicial Salary plan for 2019.⁶ The Judicial Salary Plan
7 differential between Washington D.C. and Los Angeles is 2.35% higher in Los Angeles (39.57%
8 locality pay in Los Angeles minus 28.22% locality pay in Washington, D.C.). Thus, the estimated
9 hourly rate for Los Angeles attorneys ranges from \$380 to \$916 per hour, within the average
10 ranges of Plaintiffs’ Counsel requested hourly rates. Here, appointed Class Counsel has 38 years
11 of experience, and his firm with the most time in the case, charged rates below that construct.
12 Westerman Decl., ¶ 89, Ex. A at 76 and Ex. B.

13 The National Law Journal billing rate survey also shows the requested rates as
14 reasonable. *See Ctr. for Biological Diversity v. Cty. of San Bernardino*, 188 Cal. App. 4th 603,
15 615 (2010) (noting The National Law Journal billing rate survey can reflect rates charged by
16 other attorneys of comparable experience). Even five years ago, the 2014 National Law Journal
17 billing survey provides the following for Southern California firms: Irell & Manella (\$975-\$800
18 partner rates, \$750-\$395 associate rates); Manatt, Phelps & Phillips (\$795-\$640 partner rates);
19 O’Melveny & Myers (\$950-\$615 partner rates); Sheppard, Mullin, Richter & Hampton (\$875-
20 \$490 partner rates, \$535-\$275 associate rates). Again, the requested averages here (for partners
21 \$769 and for associates \$465) are on the lower side of these reported 2014 rates.

22 Finally, Class Counsel and the Executive Committee’s hourly rates, at the Court’s
23 request, were provided in conjunction with the motion for preliminary approval and are updated
24

25
26 ⁵ See <http://www.laffeymatrix.com/see.html>.

27 ⁶ *Chanel, Inc. v. Doan*, No. C 05-03464 VRW, 2007 U.S. Dist. LEXIS 22691, at *18 (N.D.
28 Cal. Mar. 13, 2007) (utilizing the Judicial Salary Plan to adjust hourly rates can “approximate
these differences[.]”). The 2019 Judicial Salary Plan for Los Angeles can be found at
https://www.uscourts.gov/sites/default/files/jsp_los_angeles_2019_0.pdf.

1 for this motion. *See* Westerman Decl., ¶ 101 and Ex. B. The hourly rates were reviewed by the
2 Court through preliminary approval and found acceptable.⁷

3 **2. Hours Expended Are Reasonable**

4 Under California law, counsel are entitled to compensation for every hour reasonably
5 spent litigating this matter. *Ctr. for Biological Diversity*, 185 Cal. App. 4th at 896; *Ketchum*, 24
6 Cal. 4th at 1133. Reasonableness of hours is assessed by “the entire course of the litigation, ...”
7 *Vo v. Las Virgenes Mun. Water Dist.*, 79 Cal. App. 4th 440, 447 (2000).

8 The number of hours spent by Plaintiffs’ Counsel is reasonable given the effort required
9 to resolve this case. The total hours incurred by Class Counsel and the Executive Committee is
10 3,644. If all Plaintiffs’ Counsel in the 17 Consolidated Actions are considered, which includes
11 “pre-lead” time, the total hours incurred is 4,521. Westerman Decl., ¶ 101.

12 Throughout, and to manage the large number of Plaintiffs’ Counsel that go along with
13 17 consolidated actions, after the Case Management Order was entered, effort was made to
14 ensure the work was accomplished efficiently and without duplication. Class Counsel and the
15 Executive Committee were selective and effective in assigning work and seeking input from co-
16 counsel. Assessment of time, resources and prior relevant experience was analyzed before
17 assigning appropriate tasks, and Counsel were to submit monthly time reports and status updates
18 on their respective tasks in order to ensure that work was being efficiently executed. Westerman
19 Decl., ¶ 23; *see also* Stip., Ex. 18 (Case Management Order).

20 It should also be noted that, in spite of contested discovery issues and protracted
21 settlement negotiations, Class Counsel were able to keep motion and pleading practice at a
22 minimum so that efforts went into obtaining the best settlement possible, not motion practice.

23 The hours submitted as of December 31, 2018 by each attorney and paralegal for each
24 firm on the Executive Committee and Class Counsel were provided to the Court at preliminary
25

26 ⁷ Class Counsel’s hourly rate was \$880 applied from inception of this case in 2015 through
27 December 2018. This rate was approved in several cases over the years, and it was increased
28 for the first time in at least four years to \$895 for time incurred starting in January 2019.
Westerman Decl., ¶ 102. Like Class Counsel, the other firms that have increased their rates
since the start of the case have applied increased rates going forward only, not retroactively. *Id.*

1 approval. For the Court’s convenience, these summaries are updated and provided in the
2 Westerman Decl., Ex. B. The summaries have been updated through April 10 for the firms who
3 incurred time in 2019.⁸

4 The 2019 work includes: supplemental briefing for preliminary approval; attending the
5 preliminary approval hearing; working with the claims administrator and defense counsel on the
6 final forms of and the dissemination of the various forms of class notice, publication notice,
7 email notice, press releases and the settlement and UCLA websites; monitoring the notice effort;
8 answering questions from claimants; assisting the named plaintiffs and claimants with forms
9 and the IDX enrollment; tracking claims, objections and opt outs; and preparing the final
10 approval papers.

11 And counsel’s work is not yet done. They still need to: (1) prepare reply briefing and
12 respond to any objections, and attend the final approval hearing; (2) oversee the claims
13 administration process (which extends for two more years), including addressing any claim
14 review issues and monitoring payments to the class members; (3) monitor the security
15 enhancements to ensure all agreed enhancements are timely implemented and create additional
16 enhancements in the event of remaining available funds; (4) provide status reports to the Court
17 as needed or required, and (5) handle appeals, if any.

18 Often, responding to objectors involves obtaining written discovery, deposition
19 testimony, or both from the objectors. And if there are appeals, hundreds of thousands of dollars
20 of additional attorney time may be incurred in post-judgment motions (such as appeal bond
21 requests for objectors) and in defending the settlement on appeal.

22
23
24 ⁸ “The law is clear, [] that an award of attorney fees may be based on declarations without
25 production of detailed time records.” *Tuchscher Dev. Enters., Inc. v. San Diego Unified Port*
26 *Dist.*, 106 Cal. App. 4th 1219, 1248 (2003); *see also Syers Props.*, 226 Cal. App. 4th at 698-99
27 (California courts do not require detailed time records); *Concepcion v. Amscan Holdings, Inc.*,
28 223 Cal. App. 4th 1309, 1324 (2014) (“It is not necessary to provide detailed billing timesheets
to support an award of attorney fees under the lodestar method); *Wershba*, 91 Cal. App. 4th at
254-55 (counsel are not required to submit detailed time records); *Dunk*, 48 Cal. App. 4th at
1810 (same); *Sommers v. Erb*, 2 Cal. App. 4th 1644, 1651 (1992) (attorney declarations
sufficient); *Lobatz v. U.S. West Cellular of Cal., Inc.*, 222 F.3d 1142, 1148-49 (9th Cir. 2000)
(the court may rely on summaries of total hours spent by counsel).

1 As to the claims process, it is designed to permit certain claims for up to two years to
2 ensure those harmed by a future data breach can be compensated. The security enhancements
3 will also require Class Counsel and Plaintiffs' expert to monitor the security enhancements for
4 over two years for timely and appropriate implementation. Class Counsel conservatively
5 estimates the future claim review and security enhancement oversight work will take between
6 75 to 150 hours of time. Westerman Decl., ¶ 101. Plaintiffs' Counsel will receive no further
7 compensation for this work other than the funds approved on this motion.

8 3. A 1.35 Multiplier Is Appropriate

9 The attorneys' fee request based only on Class Counsel and Executive Committee time
10 through April 10, 2019, represents a very modest multiplier of 1.35. The multiplier will decrease
11 prospectively as hours are inevitably incurred for work required for the final hearing and
12 settlement implementation.

13 In determining the multiplier, courts have considered a range of factors to be relevant.
14 *Lealao*, 82 Cal. App. 4th at 40. California courts have looked at the following factors:

- 15 • the benefits obtained or the results achieved (*City of Oakland v. Oakland Raiders*,
16 203 Cal. App. 3d 78, 80 (1988); *Lealao*, 82 Cal. App. 4th at 41; *Thayer v. Wells*
17 *Fargo Bank*, 92 Cal. App. 4th 819, 838 (2001));
- 18 • the novelty and difficulty of the questions involved, and the skill displayed in
19 presenting the issues (*Serrano*, 20 Cal. 3d at 49);
- 20 • the contingencies involved in prosecuting the action and obtaining fees (*id.*; *Graham*,
21 34 Cal. 4th at 583);
- 22 • the delay in receiving fees (*Graham*, 34 Cal. 4th at 583; *City of Oakland*, 203 Cal.
23 App. at 85); and
- 24 • the "public service element, and motivation to represent consumers and enforce
25 laws." *State of Cal. v. Meyer*, 174 Cal. App. 3d 1061, 1073 (1985); *Thayer*, 92 Cal.
26 App. 4th at 839 (meager fee awards will discourage able counsel from engaging in
27 public interest litigation, which should be encouraged).

1 “Multipliers can range from 2 to 4 or even higher.” *Wershba*, 91 Cal. App. 4th at 255;
2 *see also Chavez*, 162 Cal. App. 4th at 66 (2.53 multiplier is in “line with prevailing case law”);
3 *Glendora*, 155 Cal. App. 3d at 479 (approving a multiplier of 12); *Sternwest Corp. v. Ash*, 183
4 Cal. App. 3d 74, 76 (1986) (case remanded with directions “to enhance the lodestar award by
5 such factor (two, three, four or otherwise)”); *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051
6 (9th Cir. 2002) (multiplier of 3.65); *Craft v. Cty. of San Bernardino*, 624 F. Supp. 2d 1113, 1125
7 (C.D. Cal. 2008) (approving 25% fee award which equated to a 5.2 multiplier and collecting
8 cases in support).

9 Considering the exceptional results obtained, the novelty and complexity of the issues,
10 the contingent risk, and the public service rendered by this action, a 1.35 multiplier calculated
11 from the time through April 10 is very reasonable.

12 First, the results achieved were superb. This settlement makes available to every class
13 member free identity insurance and credit monitoring for two years while their information is
14 still at risk, with a retail value of \$239 per enrollee; it provides a claim process so any class
15 member damaged by preventive measures or identity theft can seek compensation whether they
16 sign up for the credit/insurance package or not; and requires UCLA Health to spend millions to
17 enhance security so class member data – which still resides on the network – is better protected
18 from future cyberattacks.

19 These results were achieved in the face of novel and uncertain legal issues. Courts
20 recognize the novelty of medical data breach cases. In the words of one court, data breach
21 litigation is still “in its infancy with threshold issues still playing out in the courts.” *In re Anthem,*
22 *Inc., Data Breach Litig.*, 327 F.R.D. 299, 317 (N.D. Cal. 2018). Complicating the novel legal
23 issues, three California appellate decisions involving the CMIA sustained demurrers without
24 leave to amend. *See cases cite supra* in section IV.B.1. On the plus side, legislation in the field
25 is developing, such that proof of data breach cases – and particularly damages – may be easier
26 prospectively. *See Civ. Code. §§ 1798.100, et seq.* (California Consumer Privacy Act of 2018,
27 effective Jan. 1, 2020). However, as is, this was not a simple case to litigate, with unresolved
28 and developing legal issues.

1 The contingent nature of this case and the risk that goes with a contingency litigation, as
2 well as the delay in receiving fees, also weighs in favor of a multiplier. When attorneys
3 undertake litigation on a contingent basis, a fee that is limited to the hourly fee that would have
4 been paid by the fee-paying client, win or lose, is not a reasonable fee by market standards.
5 *Greene v. Dillingham Constr. NA., Inc.*, 101 Cal. App. 4th 418, 428-29 (2002). From the outset
6 of this litigation to the present, Plaintiffs’ Counsel litigated this matter on a contingent basis and
7 placed their own resources at risk. Westerman Decl., ¶ 99. The only certainty was that
8 Plaintiffs’ Counsel would not get paid unless they obtained a successful result. Absent this
9 settlement, there was a sizeable risk that Plaintiffs, the class members, and their counsel would
10 obtain no recovery at all.

11 The public interest served by this Action also supports the modest enhancement sought.
12 *Lealao*, 82 Cal. App. 4th at 41 (“[T]his kind of consumer class action litigation would not be
13 pursued by counsel but for the expectation of receiving enhanced fee awards in successful
14 cases.”). Cyberattacks broadly impact the public. Yet, without litigation such as this,
15 remediation after an attack and enhanced security to mitigate future attacks would be slower,
16 reduced, or nonexistent.

17 Finally, “the parties’ initial bargain should be given substantial weight in determining
18 the reasonableness of a fee award.” *Laffitte*, 1 Cal. 5th at 507 (2016). The Regents – after arms’
19 length, contested and protracted negotiation and with the input of a mediator’s proposal – agreed
20 to the attorneys’ fees now requested and agreed to pay these fees in addition to the other
21 settlement benefits to the class. Westerman Decl., ¶¶ 84, 98. The requested fee amount which
22 represents a modest multiplier of 1.35 is reasonable and should be approved.

23 **C. The Percentage of Benefit Cross-Check**

24 “[A]ppellate courts in this state have, in effect, adopted the common federal practice of
25 ‘cross-checking’ the lodestar against the value of the class recovery[.]” *Lealao*, 82 Cal. App.
26 4th at 45. In California, attorneys’ fee awards of 33% of the value of the recovery to the class
27 are common. Indeed, “[e]mpirical studies show that, regardless whether the percentage method
28 or the lodestar method is used, fee awards in class actions average around one-third of the

1 recovery.” *Chavez*, 162 Cal. App. 4th at 66 n.11. In *Laffitte*, the Supreme Court upheld a fee
2 award of 33% of the common fund and stated an award of 33% “is within a historical range of
3 20 to 50 percent of a common fund.” 1 Cal. 5th at 487.

4 The value of settlement benefits to the class “may be calculated on the basis of the total
5 fund made available rather than the actual payments made to the class.” *Lealao*, 82 Cal. App.
6 4th at 51 (citing *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980)); *Williams v. MGM–Pathe*
7 *Comm’ns Co.*, 129 F.3d 1026, 1027 (9th Cir. 1997); *Dunk*, 48 Cal. App. 4th at 1804. Further,
8 “the standard is not how much money a company spends on the purported benefits, but the value
9 of those benefits to the class.” *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 944
10 (9th Cir. 2011). Here, with a value of \$239 per class member, the ID protection services made
11 available to class members have a total value of over one billion dollars and attorneys’ fees are
12 just 0.3% of this benefit alone.

13 Even if the Court were to consider attorneys’ fees as a percentage of settlement benefits
14 *received* by class members, the fee request is a reasonable percentage. First, although enrollment
15 in the ID protection services is open until September 18, 2019, as of April 30, 2019, 82,495 class
16 members have enrolled and upon final approval will receive IDX insurance services worth over
17 \$19.7 million. This number will only increase. Second, class members are filing claims for
18 compensation via the claim review process. While the amount to be paid via claim review is
19 not yet known, as of April 30, class members have submitted 1,497 claims and approved
20 claimants will received monetary relief from the \$2 million fund. Third, class members will
21 also receive the benefit of \$5.5 million, plus any unused balance of the claims fund, in
22 cybersecurity enhancements. And fourth, the benefits to the class include class notice and
23 settlement administration costs (approximately \$1.9 million), attorneys’ fees (\$3.275 million)
24 and expenses (\$117,750).⁹ The Regents also agreed to pay up to \$15,000 in the event the
25

26 ⁹ The value of settlement benefits to the class include notice and administrative costs and
27 attorneys’ fees and expenses. *Consumer Privacy Cases*, 175 Cal. App. 4th at 554 (“total
28 settlement amount” which includes fees and expenses should “be used as a yardstick to” measure
the reasonableness of the fees); *Cellphone Termination*, 186 Cal. App. 4th at 1383 (settlement
provided that all fees and costs, including cost of notice and other administrative tasks, would
be paid from common fund); *Staton v. Boeing*, 327 F.3d 938, 975 (9th Cir. 2003) (reasonable

1 mediator is needed to resolve future issues over the cybersecurity remediation provisions
2 regarding future implementation and determination of future expenditures. Stip. §4.3.7.

3 In sum, considering *only* the ID protection services claimed to date (\$19,716,305) - and
4 setting aside the benefits of notice and administration costs (\$1.9 million), attorneys' fees and
5 expenses (together \$3,392,750), cybersecurity enhancements (\$5.5 million) and claim review
6 payments (\$2 million) - as of now, the attorneys' fees request is just 16.6% of the value of the
7 ID protection services claimed to date. The attorneys' fees sought are extremely reasonable by
8 any measure and should be awarded.

9 **VIII. Plaintiffs' Counsel Are Entitled To Reimbursement Of Out-of-Pocket Expenses**

10 Litigation costs are routinely awarded in contingency matters. *Rider v. Cty. of San*
11 *Diego*, 11 Cal. App. 4th 1410, 1423 n.6 (1992) (in contingency cases expenses are awarded “for
12 precisely the same reasons” as fees); *see also Melendres v. L.A.*, 45 Cal. App. 3d 267, 272-73
13 (1975) (citing *Estate of Stauffer v. Wollenberg*, 53 Cal. 2d 124, 132 (1959)) (affirming expense
14 award for contingency litigation); *Lealao*, 82 Cal. App. 4th at 35 (citing cases that awarded
15 expenses over \$1.5 million) In addition, a successful litigate under CIMA is entitled to recover
16 “costs of litigation[.]” Civ. Code § 56.35.

17 Plaintiffs' Counsel seek reimbursement of out-of-pocket expenses in the amount of
18 \$117,750 and service awards for the named plaintiff in the amount of \$17,250,¹⁰ and The
19 Regents have agreed to pay these amounts. Stip., §10.1. Plaintiffs' Counsel's actual out-of-
20 pocket expenses (\$122,913) is higher than the amount sought in reimbursement.

21 All expenses sought by Plaintiffs' Counsel are of the types typically charged to paying
22 clients in the marketplace and are also routinely reimbursed in class action settlements. For
23 example, in *Rodriguez v. Danell Custom Harvesting, LLC*, 327 F.R.D. 375, 394 (E.D. Cal.

24
25 _____
26 benefits to the class include costs of class notice and attorneys' fees when the defendant pays);
27 *Hartless*, 273 F.R.D. at 645 (applying California law “benefit to the class ... includes notice and
28 administration costs”).

¹⁰ This includes expenses of \$10,250 invoiced by plaintiffs' cyber security expert which is
estimated for the expert's assistance in monitoring and updating the security enhancements with
remaining funds for more than a two-year period. Westerman Decl., ¶ 105.

1 2018), the awarded expenses included: “travel, postage, telephone, fax, notice, online legal
2 research fees, mediation fees, filing fees and photocopies.”

3 Indeed, other than office overhead, “all reasonable expenses incurred in case preparation,
4 during the course of litigation, or as an aspect of settlement of the case” are subject to
5 reimbursement. *In re Media Tech. Sec. Litig.*, 913 F. Supp. 1362, 1368 (N.D. Cal. 1995); *see*
6 *also Hartless*, 273 F.R.D. at 645-46 (court awarded litigation costs for consultants, online legal
7 research, copying, postage, long distance charges, travel expenses, filing fees, mediation fees,
8 and investigation fees).

9 Plaintiffs’ Counsel’s out-of-pocket expenses are types of expenses normally charged to
10 paying clients, were incurred in the course of this litigation, and were incurred in connection
11 with the litigation. Westerman Decl., ¶¶ 104-05. For the Court’s convenience, charts
12 summarizing the expenses submitted by each firm are provided with the Westerman Decl., Ex D.

13 **IX. The Service Awards Should Be Approved**

14 Plaintiff seeks service awards for herself and each of the named Plaintiffs in the
15 Consolidated Actions.

16 Named Plaintiffs in representative actions are eligible for reasonable service awards to
17 compensate them for their time, efforts and the inconvenience they incurred in securing benefits
18 for other members of the class. *Munoz v. BCI Coca-Cola Bottling Co. of L.A.*, 186 Cal. App.
19 4th 399, 412 (2010); *Cellphone Termination*, 186 Cal. App. 4th at 1395. Service awards
20 “compensate class representatives for work done on behalf of the class, to make up for financial
21 or reputational risk undertaken in bringing the action, and, sometimes, to recognize their
22 willingness to act as a private attorney general.” *Rodriguez v. W. Publ’g Corp.*, 563 F.3d 948,
23 958-59 (9th Cir. 2009).

24 Each named Plaintiff is entitled to a service award. Plaintiff Alexandria seeks a service
25 award of \$1,500 for her additional service (described below). \$750 is requested for each of the
26 other 21 plaintiffs. The total is \$17,250.

27 Each named Plaintiff stepped forward, filed a lawsuit, participated in discovery and was
28 available for a call to duty to represent the class. Plaintiff Alexandria went above and beyond

1 by attending settlement mediation and conferring repeatedly with Class Counsel regarding case
2 status and the terms of settlement. Westerman Decl., ¶ 92. If the named Plaintiffs did not step
3 forward to file complaints and assist in the prosecution, the class actions would never have been
4 brought, the class members would not be getting any recovery and the harm and potential harm
5 from the cyberattack would have gone unchecked. As a result of Plaintiffs' efforts, class
6 members and patients of UCLA Health will receive substantial benefits.

7 The awards sought by the named Plaintiffs are reasonable in these circumstances
8 compared to amounts awarded by other courts. *See, e.g., Cellphone Termination*, 186 Cal. App.
9 4th at 1393 (awarding "\$10,000 each to [the four] class representatives" who participated in
10 significant written discovery and document production and testified in deposition or at trial);
11 *Lane v. Facebook, Inc.*, 696 F.3d 811, 826 (9th Cir. 2012) (approving \$5,000 award to two class
12 representatives and \$1,000 to the other 19 named plaintiffs). The service awards approved by
13 the Court to the named Plaintiffs is agreed to be paid by The Regents and will not reduce the
14 amount available or distributed to class members. Stip. §10.1.

15 **X. Conclusion**

16 For all the foregoing reasons, Plaintiffs respectfully request that the Court confirm
17 certification of the class, grant final approval of the settlement, approve the application for
18 attorneys' fees and expenses and grant service awards for the named Plaintiffs.

19 Respectfully submitted,

20 Dated: May 6, 2019

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