

1 Gretchen Carpenter, Bar No. 180525  
CARPENTER LAW  
1230 Rosecrans Ave., Suite 300  
2 Manhattan Beach, CA 90266  
Tel.: (424) 456-3183  
3 gretchen@gcarpenterlaw.com

4 David C. Parisi, Bar No. 162248  
Suzanne Havens Beckman, Bar No. 188814  
5 PARISI & HAVENS LLP  
212 Marine Street, Suite 100  
6 Santa Monica, California 90405  
Tel.: (818) 990-1299  
7 Fax: (818) 501-7852  
dcparsi@parisihavens.com  
8 shavens@parisihavens.com

9 Attorneys for Plaintiff Marko Djoric

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **COUNTY OF LOS ANGELES**

12 MARKO DJORIC, an individual, on behalf of  
13 himself and all others similarly situated,

14 Plaintiff,

15 v.

16 JUSTIN BRANDS, INC.; and DOES 1  
17 through 10, inclusive.

18 Defendants.

Case No. BC574927

**CLASS ACTION**

**NOTICE OF MOTION AND MOTION  
FOR AN AWARD OF ATTORNEYS'  
FEES AND COSTS AND AN INCENTIVE  
AWARD FOR MARKO DJORIC;  
MEMORANDUM OF POINTS AND  
AUTHORITIES**

Date: July 31, 2018

Time: 9:00 a.m.

Dept.: SSC, Dept. 17

Assigned to: Hon. Maren Nelson

Action Filed: March 12, 2015

Trial Date: Not set

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE THAT on July 31, 2018, at 9:00 a.m. in Department 17 of this  
3 Court, located at 312 North Spring Street, Los Angeles, California 90012, Plaintiff Marko Djoric  
4 (“Djoric”) shall, and hereby does, move the Court for an order awarding \$425,000.00 in attorneys’  
5 fees and costs to counsel for Djoric and the class (“Class Counsel”), as well as awarding  
6 \$10,000.00 as an incentive award to Djoric for serving as the class representative.

7 This motion is brought pursuant to Rule 3.769(b) of the Rules of Court, Civil Code section  
8 1780(e), Code of Civil Procedure section 1021.5, and section G of the Settlement Agreement  
9 between the Class and Defendant Justin Brands, Inc. on the grounds that Djoric is the prevailing  
10 party, he has enforced an important right affecting the public interest, he has secured significant  
11 benefits for a large class of persons, and the necessity of financial burden of this action make an  
12 award appropriate. Further, the requested fees and costs and incentive award are reasonable in  
13 light of the work Class Counsel and Djoric performed to obtain relief for the Class, the risks  
14 involved, and the benefits obtained for the Class. In fact, the requested fees and costs are actually  
15 less than Class Counsel’s lodestar (reasonable hours times reasonable hourly rates).

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1           This Motion is based upon this Notice, the accompanying Memorandum of Points and  
2 Authorities, the Declarations of Marko Djoric, Gretchen Carpenter, and Suzanne Havens  
3 Beckman, including all supporting exhibits, the complete file and records in this action, any oral  
4 argument and other evidence presented at the hearing on this matter, and any other evidence that  
5 the Court may wish to consider.

6 DATED: July 9, 2018

CARPENTER LAW

7  
8 By:   
Gretchen Carpenter

9 David C. Parisi, Bar No. 162248  
10 Suzanne Havens Beckman, Bar No. 188814  
PARISI & HAVENS LLP  
11 212 Marine Street, Suite 100  
Santa Monica, California 90405  
12 Tel.: (818) 990-1299  
Fax: (818) 501-7852  
13 dparisi@parisihavens.com  
shavens@parisihavens.com

14 *Attorneys for Plaintiff Marko Djoric, individually*  
15 *and on behalf of a class of similarly situated*  
16 *individuals*

17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**TABLE OF CONTENTS**

1

2 Table of Authorities ..... v

3 MEMORANDUM OF POINTS AND AUTHORITIES ..... 1

4 I. Introduction..... 1

5 II. Legal Standard ..... 2

6 III. As the Prevailing Party, Plaintiff is Entitled to a Fee and Costs Award Pursuant to Civil

7 Code Section 1780(e)..... 3

8 IV. Class Counsel are Also Entitled to an Award of Attorneys’ Fees Under Code of Civil

9 Procedure Section 1021.5 ..... 3

10 A. Plaintiff has Enforced an Important Right Affecting the Public Interest ..... 4

11 B. Plaintiff Has Secured Significant Benefits for a Large Class of Persons ..... 5

12 C. The Necessity of Financial Burden of this Action Make an Award Appropriate.. 5

13 D. A Separate Award of Attorneys’ Fees and Costs is Required Here ..... 6

14 V. The Lodestar Method is the Appropriate Measure of Fees ..... 7

15 A. Class Counsel Seeks an Award Which is less than Their Reasonable Hourly

16 Rates..... 7

17 B. Class Counsel’s Hourly Rates are Reasonable ..... 8

18 C. The Number of Hours Class Counsel Worked is Reasonable ..... 11

19 D. Class Counsel’s Fee Request Equates to a Negative Multiplier ..... 12

20 VI. The Fee Request is Reasonable as the Product of Non-Collusive Negotiations ..... 13

21 VII. The Court Should Award Class Counsel Reasonable Costs..... 13

22 VIII. The Requested Incentive Award for Djoric is Reasonable and Appropriate..... 14

23 IX. Conclusion ..... 16

24

25

26

27

28

1 **TABLE OF AUTHORITIES**

2 **STATE CASES**

3 *Baggett v. Gates*  
4 (1982) 32 Cal.3d 128 ..... 6

5 *Bartling v. Glendale Adventist Med. Ctr.*  
6 (1986) 185 Cal.App.3d 97 ..... 4

7 *Beasley v. Wells Fargo Bank*  
8 (1991) 233 Cal.App.3d 1407 ..... 4

9 *In re Cellphone Fee Termination Cases*  
10 (2010) 186 Cal.App.4th 1380 ..... 14, 16

11 *Colgan v. Leatherman Tool Group, Inc.*  
12 (2006) 135 Cal.App.4th 663 ..... 4

13 *Concepcion v. Amscan Holdings, Inc.*  
14 (2014) 223 Cal.App.4th 1309 ..... 12

15 *Cnty. of Inyo v. City of Los Angeles*  
16 (1978) 78 Cal.App.3d 82 ..... 6

17 *Davis v. Ford Motor Credit Co., LLC*  
18 (2009) 169 Cal.App.4th 581 ..... 3

19 *Dunk v. Ford Motor Co.*  
20 (1996) 48 Cal.App.4th 1794 ..... 7

21 *Estrada v. FedEx Ground Package System, Inc.*  
22 (2007) 154 Cal.App.4th 1 ..... 5

23 *Glendora Cmty. Redev. Agency v. Demeter*  
24 (1984) 155 Cal.App.3d 465 ..... 3

25 *Kasky v. Nike, Inc.*  
26 (2002) 27 Cal.4th 939 ..... 4

27 *Ketchum v. Moses*  
28 (2001) 24 Cal.4th 1122 ..... 7, 9, 11

*Kraus v. Trinity Mgmt. Servs., Inc.*  
(2000) 23 Cal.4th 116 ..... 4

*Lealao v. Beneficial Cal., Inc.*  
(2000) 82 Cal.App.4th 19 ..... 7, 13

|    |  |         |
|----|--|---------|
| 1  | <i>Lyons v. Chinese Hosp. Ass'n</i><br>(2006) 136 Cal.App.4th 1331 .....                     | 3, 6    |
| 2  |  |         |
| 3  | <i>Mandel v. Hodges</i><br>(1976) 54 Cal.App.3d 596 .....                                    | 12      |
| 4  |  |         |
| 5  | <i>PLCM Group v. Drexler</i><br>(2000) 22 Cal.4th 1084 .....                                 | 9       |
| 6  |  |         |
| 7  | <i>Serrano v. Priest</i><br>(1977) 20 Cal.3d 25 .....  | 3, 4, 7 |
| 8  |  |         |
| 9  | <i>Serrano v. Unruh</i><br>(1982) 32 Cal.3d 621 .....  | 9       |
| 10 |  |         |
| 11 | <i>Woodland Hills Residents Assoc'n v. City of Los Angeles</i><br>(1979) 23 Cal.3d 917 ..... | 4, 5, 6 |
| 12 |  |         |
| 13 | <i>Zhang v. Sup. Ct.</i><br>(2013) 57 Cal.4th 364 .....                                      | 3       |

**FEDERAL CASES**

|    |   |           |
|----|---|-----------|
| 14 | <i>Alexander v. FedEx Ground Package Sys., Inc.</i><br>(N.D. Cal., June 15, 2016, No. 05-CV-00038-EMC) 2016 WL 3351017..... | 16        |
| 15 |   |           |
| 16 | <i>In re Am. Apparel, Inc. Shareholder Litig.</i><br>(C.D. Cal., July 28, 2014, No. CV1006352MMMJCGX) 2014 WL 10212865..... | 9, 10, 11 |
| 17 |   |           |
| 18 | <i>In re Animation Workers Antitrust Litig.</i><br>(N.D. Cal., Nov. 11, 2016, No. 14-CV-4062-LHK) 2016 WL 6663005.....      | 16        |
| 19 |   |           |
| 20 | <i>Bravo v. Gale Triangle, Inc.</i><br>(C.D. Cal., Feb. 16, 2017, No. CV1603347BROGJSX) 2017 WL 708766 .....                | 10        |
| 21 |   |           |
| 22 | <i>Brawner v. Bank of Am. Nat'l Ass'n</i><br>(N.D. Cal., Jan. 14, 2016, No. 3:14-CV-02702-LB) 2016 WL 161295 .....          | 16        |
| 23 |   |           |
| 24 | <i>Briggs v. PNC Fin. Servs. Grp., Inc.</i><br>(N.D. Ill., Nov. 29, 2016, No. 1:15-CV-10447) 2016 WL 7018566 .....          | 16        |
| 25 |   |           |
| 26 | <i>Browne v. Am. Honda Motor Co., Inc.</i><br>(C.D. Cal., Oct. 5, 2010, No. CV 09-06750 MMM DTBX) 2010 WL 9499073 .....     | 10        |
| 27 |   |           |
| 28 | <i>Carter v. Forjas Taurus S.A.</i><br>(S.D. Fla., July 22, 2016, No. 1:13-CV-24583-PAS) 2016 WL 3982489.....               | 16        |
|    |   |           |
|    | <i>Chambers v. Whirlpool Corp.</i><br>(C.D. Cal. 2016) 214 F.Supp.3d 877 .....  | 9, 10     |

|    |   |        |
|----|---|--------|
| 1  | <i>Counts v. Meriwether</i>   |        |
|    | (C.D. Cal., March 9, 2016, No. 2:14-CV-00396-SVW-CW) 2016 WL 1165888.....     | 10     |
| 2  |   |        |
| 3  | <i>Ferland v. Conrad Credit Corp.</i>   |        |
|    | (9th Cir. 2001) 244 F.3d 1145 .....   | 11     |
| 4  | <i>Good Morning to You Prod. Corp. v. Warner/Chappell Music, Inc.</i>         |        |
| 5  | (C.D. Cal., Aug. 16, 2016, No. CV134460GHKMRWX) 2016 WL 6156076.....          | 9, 10  |
| 6  | <i>Hensley v. Eckerhart</i>   |        |
|    | (1983) 461 U.S. 424.....  | 11, 12 |
| 7  |   |        |
| 8  | <i>Huyer v. Wells Fargo &amp; Co.</i>   |        |
|    | (S.D. Iowa 2016) 314 F.R.D. 621 .....   | 16     |
| 9  |   |        |
| 10 | <i>Kearney v. Hyundai Motor Am.</i>   |        |
|    | (C.D. Cal. June 28, 2013) No. SACV 09– 1298–JST (MLGx), 2013 WL 3287996 ..... | 10     |
| 11 | <i>Mirkarimi v. Nevada Property 1, LLC</i>                                    |        |
| 12 | (S.D. Cal., Feb. 29, 2016, No. 12CV2160 BTM (DHB)) 2016 WL 795878.....        | 16     |
| 13 | <i>Parkinson v. Hyundai Motor Am.</i>   |        |
|    | (C.D. Cal. 2010) 796 F.Supp.2d 1160 .....                                     | 10     |
| 14 |   |        |
| 15 | <i>Pennsylvania v. Delaware Valley Citizens’ Council for Clean Air</i>        |        |
|    | (1987) 483 U.S. 711.....  | 11     |
| 16 | <i>Perfect 10, Inc. v. Giganews, Inc.</i>                                     |        |
| 17 | (C.D. Cal., March 24, 2015, No. CV 11–07098–AB (SHx)) 2015 WL 1746484 .....   | 11     |
| 18 | <i>Perkins v. Mobile Housing Bd.</i>  |        |
| 19 | (11th Cir. 1988) 847 F.2d 735 .....   | 12     |
| 20 | <i>POM Wonderful, LLC v. Purely Juice, Inc.</i>                               |        |
|    | (C.D. Cal. September 22, 2008, No. CV 07–2633) 2008 WL 4351842 .....          | 10     |
| 21 | <i>Roberti v. OSI Sys., Inc.</i>  |        |
| 22 | (C.D. Cal., December 8, 2015, No. CV-13-09174 MWF (MRW)) 2015 WL 8329916..... | 10     |
| 23 | <i>Rodriguez v. Cty. of L.A.</i>  |        |
| 24 | (C.D. Cal. 2014) 96 F.Supp.3d 1012 .....                                      | 10     |
| 25 | <i>Scott v. Family Dollar Stores, Inc.</i>                                    |        |
| 26 | (W.D.N.C., Mar. 14, 2018, No. 308CV00540MOCDS) 2018 WL 1321048 .....          | 16     |
| 27 | <i>Skaff v. Meridian N. Am. Beverly Hills, LLC</i>                            |        |
|    | (9th Cir. 2007) 506 F.3d 832 .....  | 3      |
| 28 |   |        |

**STATUTES**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Cal. Bus. & Prof. Code § 17200 ..... 1

Cal. Bus. & Prof. Code § 17500 ..... 1

Cal. Bus. & Prof. Code § 17533.7(a)..... 5

Cal. Civ. Code §1750..... 1

Cal. Civ. Code §1770(a)(4)..... 3

Cal. Civ. Code §1780(e) ..... ii, 1, 3

Cal. Code Civ. Proc. § 1021.5 ..... *passim*

Cal. Code Civ. Proc. § 1032(b)..... 14

Cal. Code Civ. Proc. § 1033.5(a)(1) ..... 14

Cal. Code Civ. Proc. § 1033.5(a)(3) ..... 14

Cal. Code Civ. Proc. § 1033.5(a)(4) ..... 14

Cal. Code Civ. Proc. § 1033.5(a)(11) ..... 14

Cal. Code Civ. Proc. § 1033.5(a)(14) ..... 14

Cal. Code Civ. Proc. § 1033.5(a)(15) ..... 14

**RULES**

Cal. Rules of Court, Rule 3.769(b) ..... ii



1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. Introduction**

3 This is a class action brought under the Consumers Legal Remedies Act (“CLRA”), Civil  
4 Code section 1750, *et seq.*, the Unfair Competition Law (“UCL”), Business & Professions Code  
5 section 17200, *et seq.*, and the False Advertising Law (“FAL”), Business & Professions Code  
6 section 17500, *et seq.*, to challenge Defendant Justin Brands, Inc. (“Defendant”) practice of  
7 representing that its Chippewa boots and other footwear are made or “handcrafted” in the United  
8 States, when they actually contain substantial foreign-made components.

9 As set forth in the concurrently filed motion for final approval of settlement, after  
10 extensive litigation and discovery, as well as protracted mediation and settlement negotiations,  
11 the parties ultimately reached an excellent settlement for the Class, providing that Defendant will  
12 stop and correct its wrongful practices as well as make substantial monetary payments to Class  
13 members, in the form of a \$25.00 payment per purchase, or a \$50.00 voucher off the purchase  
14 price of a Chippewa product, at the election of each Class member who submits a claim. The  
15 Class members’ reaction to the settlement, including the provision for attorneys’ fees and an  
16 incentive award, has been extremely positive to date. In fact, as of this filing, not a single  
17 objection to the settlement or request for attorneys’ fees, costs or incentive award has been  
18 received; no class members have opted out;<sup>1</sup> and thousands of Class members have already  
19 submitted claims (and the claim deadline is not until September 7, 2018). This settlement brings  
20 just resolution to this litigation on behalf of the Class. Without this settlement and the decision  
21 by Plaintiff Marko Djoric (“Plaintiff” or “Djoric”) to pursue a class action, it is likely that none  
22 of the settlement monies would have been paid out, and that Defendant would have continued its  
23 conduct challenged in the complaint, which has now been rectified as a result of the settlement.

24 As a result of the settlement, pursuant to Civil Code section 1780(e) and Code of Civil  
25 Procedure section 1021.5, as well as Section G of the Settlement Agreement itself, Class Counsel  
26

---

27 <sup>1</sup> The objection and opt out deadline is July 9, 2018, so it is possible that there are some objections  
28 and/or opt outs that have not yet been received. If so, the parties will update the Court prior to  
the final approval hearing.

1 are entitled to and respectfully seek an award of attorneys' fees and costs in the total amount of  
2 \$425,000.00, which is significantly *less* than Class Counsel's lodestar. Class Counsel  
3 additionally apply for an incentive award of \$10,000.00 for the representative plaintiff in this  
4 matter, Marko Djoric. For the purposes of settlement, Defendant has agreed not to contest the  
5 reasonableness of these requests. The payment of attorneys' fees and costs, as well as any  
6 incentive payment awarded by the Court, will be paid separately by Defendant so as not to  
7 diminish any payments to the Class.

8 California courts recognize the propriety of awarding attorneys' fees in representative  
9 cases such as this based upon a lodestar analysis, multiplying the number of hours expended by  
10 the reasonable hourly rate, and then adjusting by applying a multiplier, if appropriate. Under this  
11 analysis, the fees requested in this case, which equate to a negative multiplier on Class Counsel's  
12 lodestar, are reasonable.

13 As explained more fully below and in the supporting declarations of Gretchen Carpenter  
14 and Suzanne Havens Beckman, the requested fees and costs break down as follows:

- 15 (1) Strange & Carpenter incurred a lodestar of \$33,675.00 and costs of \$2,821.01.
- 16 (2) Carpenter Law incurred a lodestar of \$201,175.00, and costs of \$9,478.71.
- 17 (3) Parisi & Havens LLP incurred a lodestar of \$299,510.00 and costs of \$13,269.06.
- 18 (4) Class Counsel's total lodestar is \$534,360.00, with costs of \$25,568.78.<sup>2</sup>
- 19 (5) Class Counsel are seeking a negative multiplier, for a total of \$425,000.00 in  
20 attorney's fees and costs combined.

21 These fees and costs are reasonable and should be awarded by the Court.

## 22 **II. Legal Standard**

23 California appellate courts have long recognized that trial courts are ideally situated to  
24 assess the quality and effect of class counsel's efforts, and have thus conferred wide equitable  
25 discretion upon this Court to determine an appropriate fee and cost award:

---

26 <sup>2</sup> All counsel and Djoric have agreed in writing to the following fee split among counsel: 47.5%  
27 to Carpenter Law; 47.5% to Parisi & Havens, LLP; and 5% to Brian R. Strange, APC (formerly  
28 of Strange & Carpenter, the firm who initially filed this case) (Carpenter Decl., ¶ 18; Djoric Decl.,  
¶ 13.).

1 The experienced trial judge is the best judge of the value of professional services  
2 rendered in his court, and while his judgment is of course subject to review, it will  
not be disturbed unless the appellate court is convinced that it is clearly wrong.

3 (*Serrano v. Priest* (1977) 20 Cal.3d 25, 49 (citations and internal quotation marks omitted)  
4 (*Serrano III*); accord, *Glendora Community Redev. Agency v. Demeter* (1984) 155 Cal.App.3d  
5 465, 474. Class Counsel’s request for attorneys’ fees and costs here is made pursuant to this  
6 Court’s equitable and discretionary power.

7 **III. As the Prevailing Party, Plaintiff is Entitled to a Fee and Costs Award Pursuant to  
Civil Code Section 1780(e)**

8 Djoric’s class claims arose under the CLRA, UCL and FAL. The CLRA, which expressly  
9 prohibits “[u]sing deceptive representations or designations of geographic origin in connection  
10 with goods or services” (Civ. Code § 1770(a)(4)), also provides for statutory fees for prevailing  
11 parties. Specifically, Civil Code section 1780(e) provides that “[t]he court shall award court costs  
12 and attorney’s fees to a prevailing plaintiff in litigation filed pursuant to this section.” “Under  
13 California law, ‘[i]t is undisputed that relief obtained through a settlement may qualify a plaintiff  
14 as the prevailing party.’” *Skaff v. Meridian No. America Beverly Hills, LLC* (9th Cir. 2007) 506  
15 F.3d 832, 844 (quoting *Lyons v. Chinese Hosp. Ass’n* (2006) 136 Cal.App.4th 1331, 1345.) Class  
16 Counsel are therefore entitled to an award of attorneys’ fees under the CLRA.

17 **IV. Class Counsel are Also Entitled to an Award of Attorneys’ Fees Under Code of Civil  
Procedure Section 1021.5**

18 Based on Plaintiff’s successful claims under the UCL and FAL, Class Counsel are also  
19 (or alternatively) entitled to an award of attorneys’ fees under Code of Civil Procedure section  
20 1021.5. “Although the UCL does not contain an attorneys’ fee provision, a successful UCL  
21 litigant may also seek an award of fees and costs as a private attorney general under Code of Civil  
22 Procedure section 1021.5.” *Zhang v. Superior Court* (2013) 57 Cal.4th 364, 371, fn. 4 (citing  
23 *Davis v. Ford Motor Credit Co. LLC* (2009) 169 Cal.App.4th 581, 600.) An attorneys’ fees award  
24 is appropriate in any action, such as this, which has “resulted in the enforcement of an important  
25 right affecting the public interest if (a) a significant benefit, whether pecuniary or nonpecuniary,  
26 has been conferred on the general public or a large class of persons, (b) the necessity and financial  
27 burden of private enforcement, or of enforcement by one public entity against another public  
28

1 entity, are such as to make the award appropriate, and (c) such fees should not in the interest of  
2 justice be paid out of the recovery, if any.” Code of Civ. Pro. section 1021.5; *see also Colgan v.*  
3 *Leatherman Tool Group, Inc.* (2006) 135 Cal.App.4th 663, 703 (“[a]ttorney fees may be awarded  
4 under Code of Civil Procedure section 1021.5 for ... class action suits benefiting a large number  
5 of people.”)

6 “[T]he fundamental objective of the private attorney general doctrine of attorney fees is  
7 “to encourage suits effectuating a strong (public) policy by awarding substantial attorney’s fees  
8 ... to those who successfully bring such suits and thereby bring about benefits to a broad class of  
9 citizens.” *Woodland Hills Residents Assoc’n v. City of Los Angeles* (1979) 23 Cal.3d 917, 933  
10 (citing *Serrano III*, 20 Cal.3d at p. 43.) “Implicit [in the doctrine] is the recognition that ‘without  
11 some mechanism authorizing the award of attorney fees, private actions to enforce ... important  
12 public policies will as a practical matter frequently be infeasible.’” *Bartling v. Glendale Adventist*  
13 *Medical Center* (1986) 185 Cal.App.3d 97, 103 (internal citations omitted). Each of the elements  
14 of Section 1021.5 has been met and the requested fees and costs award are appropriate.

15 **A. Plaintiff has Enforced an Important Right Affecting the Public Interest**

16 By virtue of the initiation and settlement of this action, Plaintiff has achieved an important  
17 right benefitting the public by enforcing well-founded consumer protection statutes, the UCL and  
18 FAL, and halting improper practices. For purposes of Section 1021.5, “[t]he question whether  
19 there was an important public interest at stake merely calls for an examination of the subject  
20 matter of the action – i.e., whether the right involved was of sufficient societal importance.”  
21 *Beasley v. Wells Fargo Bank* (1991) 233 Cal.App.3d 1407, 1417 (disapproved of on other  
22 grounds). “The UCL’s purpose is to protect both consumers and competitors by promoting fair  
23 competition in commercial markets for goods and services.” *Kasky v. Nike, Inc.* (2002) 27 Cal.4th  
24 939, 949. Courts have “repeatedly recognized the importance” of private actions under the UCL  
25 to “protect the public and restore to the parties in interest money or property taken by means of  
26 unfair competition.” *Kraus v. Trinity Management Services, Inc.* (2000) 23 Cal.4th 116, 126.  
27 Defendant’s unlawful practices of representing their products as being made or “handcrafted” in  
28 the United States, when in fact they contained substantial foreign-made components, which were

1 exposed and challenged by Plaintiff's suit, are the quintessential conduct meant to be stemmed  
2 by the UCL and FAL on behalf of the public. In fact, the FAL expressly provides that "It is  
3 unlawful for any ... corporation... to sell or offer for sale in this State any merchandise ... [with]  
4 the words "Made in the USA," "Made in America," "U.S.A.," or similar words if the merchandise  
5 or any article, unit, or part thereof has been entirely or substantially made, manufactured, or  
6 produced outside of the United States." Bus. & Prof. Code § 17533.7(a). Defendant's practice  
7 was systemic and affected thousands of California citizens. Further, the individual amounts at  
8 issue were too small to justify individual litigation. Accordingly, Plaintiff's action promoted an  
9 important right affecting the public interest.

10 **B. Plaintiff Has Secured Significant Benefits for a Large Class of Persons**

11 Plaintiff has clearly obtained significant benefits on behalf of a large class of persons for  
12 purposes of Section 1021.5. In evaluating this factor, the Court must "determine the significance  
13 of the benefit, as well as the size of the class receiving the benefit." *Woodland Hills*, 23 Cal.3d  
14 at 939-940. As a result of Plaintiff filing this suit and his efforts therein, thousands of persons  
15 have already submitted claims for monetary benefits under the settlement. Settlements extending  
16 benefits to far fewer individuals have been deemed to establish this element. *See e.g., Estrada v.*  
17 *FedEx Ground Package System, Inc.* (2007) 154 Cal.App.4th 1, 16-17 ("Estrada's personal  
18 motivation does not diminish the fact that he pursued this public interest class action not only for  
19 himself but on behalf of a class comprised of FedEx's past and present drivers and ultimately  
20 obtained awards for 209 drivers. [ ] No more is required to satisfy the 'significant benefit,' 'public  
21 interest,' and large class of persons' requirements of Code of Civil Procedure section 1021.5.")  
22 Further, Defendant's has changed its practices as a result of the settlement, thus eliminating the  
23 chance of other Californians and suffering the same harm in the future. Accordingly, there can  
24 be no question that Plaintiff has satisfied this element of Section 1021.5.

25 **C. The Necessity of Financial Burden of this Action Make an Award  
26 Appropriate**

27 Section 1021.5(b) also requires that the necessity and financial burden of the action make  
28 the fee award appropriate. California courts construe the "necessity and financial burden" clause  
to mean that the "cost of the claimant's legal victory transcends his personal interest." *Woodland*

1 *Hills*, 23 Cal.3d at 941 (quoting *County of Inyo v. City of Los Angeles* (1978) 78 Cal.App.3d 82,  
2 89; *see also Baggett v. Gates* (1982) 32 Cal.3d 128, 142 (holding “necessity and financial burden”  
3 requirement met where the litigation of the matter “imposed financial burden on plaintiff[] which  
4 was out of proportion to [his] individual stake in the matter.”) Here, Plaintiff’s individual stake  
5 was small. Class Counsel’s lodestar (\$534,360.00) and the litigation costs expended  
6 (\$25,568.78), on the other hand, are more than 1,900 times the *entire* purchase price of one of  
7 Djoric’s pairs of boots (\$292.56), and damages would actually likely be measured as only a  
8 percentage of the purchase price or based on Defendant’s significantly lower wholesale prices.  
9 *See Lyon*, 136 Cal.App.4th at 1354 (Under Section 1021.5, the “financial burden test does not  
10 require a comparison of public benefits achieved to the plaintiff’s personal stake in the case.  
11 Rather, it mandates a comparison between the estimated value of the plaintiff’s individual stake  
12 in the action, (which may be nonpecuniary) and the cost of the litigation.”) Clearly, in this action  
13 no individual would be willing to bear the enormous burden to directly pay such fees and costs  
14 themselves for so small an individual stake, and this Section 1021.5 element is met here.

15 **D. A Separate Award of Attorneys’ Fees and Costs is Required Here**

16 Finally, section 1021.5(c) provides as its final criterion that “such fees should not in the  
17 interest of justice be paid out of the recovery, if any.” Here, given the relatively small individual  
18 damages of each Class member, justice is best served by the separate payment of fees and costs  
19 so that the relief to the Class can be maximized. Indeed, all parties agree that a separate payment  
20 is appropriate as indicated by the explicit language of the Settlement Agreement. (“The payment  
21 of Attorneys’ Fees, reimbursement of actual expenses, and an award of a class representative  
22 incentive fee (if any) will be paid by Defendant in addition to the settlement consideration to the  
23 Settlement Class.”) (Settlement Agreement, § G(3).) To do otherwise here would undermine the  
24 very purpose of the private attorney general doctrine and serve as a chill on other plaintiffs who  
25 may undertake this important work.

26 Having satisfied all of the criteria of Section 1021.5, Plaintiff clearly has an entitlement  
27 to an award of attorney fees and costs under the statute.  
28

1 **V. The Lodestar Method is the Appropriate Measure of Fees**

2 As the Court stated in its March 12, 2018 Preliminary Approval Order, “the award of  
3 attorney fees is made by the court at the fairness hearing, using the lodestar method with a  
4 multiplier, if appropriate.” Indeed, “[i]n so-called ‘fee shifting’ cases, [such as this] in which the  
5 responsibility to pay attorney fees is statutorily or otherwise transferred from the prevailing  
6 plaintiff or class to the defendant, the primary method for establishing the amount of ‘reasonable’  
7 attorney fees is the lodestar method.” *Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19,  
8 26, *see e.g., Serrano III*, 20 Cal.3d at 48, f.23 (“The starting point of every fee award . . . must be  
9 a calculation of the attorney’s services in terms of the time he has expended on the case.”)  
10 (internal citations omitted). *See also Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1134 [lodestar  
11 analysis “anchors the trial court’s analysis to an objective determination of the value of the  
12 attorney’s services, ensuring that the amount awarded is not arbitrary”] (*Ketchum*).

13 Lodestar analysis involves two steps. “The fee setting inquiry in California ordinarily  
14 begins with the ‘lodestar,’ i.e., the number of hours reasonably expended multiplied by the  
15 reasonable hourly rate.” (*Ketchum, supra*, 24 Cal.4th at p. 1134 [citations, punctuation omitted].)  
16 Next, the Court assigns a multiplier which adjusts the lodestar “based on consideration of factors  
17 specific to the case, in order to fix the fee at the fair market value for the legal services provided.”  
18 (*Ibid.* [same].) Under the lodestar approach, a California court will calculate the base amount of  
19 the fee award from a compilation of time spent and reasonable hourly compensation of each  
20 attorney. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1810.) An analysis of the  
21 lodestar/multiplier method confirms the reasonableness of the \$425,000.00 fees and costs  
22 requested. In fact, as explained below, the request equates to a *negative* multiplier.

23 **A. Class Counsel Seeks an Award Which is less than Their Reasonable Hourly  
24 Rates**

25 Class Counsel are experienced in litigating consumer class actions. (Carpenter Decl., ¶¶  
26 13-17; Havens Beckman Decl., ¶¶ 2&3; Exh. 1.) The declarations of Class Counsel detail the  
27 lodestar of each attorney who worked on behalf of the Class. The aggregate lodestar is  
28 \$534,360.00 (hours multiplied by rates). The total amount sought for reimbursement is  
\$425,000.00. Thus, the resulting “multiplier,” assuming the Court awards costs, based upon the

1 fees requested in this application is actually a negative number, approximately 0.75 times the total  
2 lodestar of Class Counsel.<sup>3</sup>

3 Below is a summary of each attorney and paralegal who worked on this case, through  
4 June 27, 2018:

| 5 <b>Attorney or Paralegal</b> | 6 <b>Years Practicing</b> | 7 <b>Hourly Rate</b>                             | 8 <b>Hours Billed</b> | 9 <b>Total</b>      |
|--------------------------------|---------------------------|--|-----------------------|---------------------|
| 10 Brian R. Strange            | 36 years                  | \$950.00   | 4                     | \$3,800.00          |
| 11 Gretchen Carpenter          | 22 years                  | \$725.00<br>(while at<br>Strange &<br>Carpenter) | 12                    | \$8,700.00          |
| 12 Gretchen Carpenter          | 22 years                  | \$650.00<br>(while at<br>Carpenter<br>Law)       | 277.1                 | \$180,115.00        |
| 13 David C. Parisi             | 25 years                  | \$550.00   | 94.4                  | \$51,920.00         |
| 14 Suzanne Havens Beckman      | 21 years                  | \$525.00   | 471.6                 | \$247,590.00        |
| 15 Pablo Orozco                | 7 Years                   | \$425.00   | 42.5                  | \$18,062.50         |
| 16 Jill Hood (paralegal)       | 21 years                  | \$280.00   | 6.5                   | \$1,820.00          |
| 17 Greg Tatum (paralegal)      | 6 years                   | \$235.00   | 5.5                   | \$1,292.50          |
| 18 Carlo Aguilar (paralegal)   | 9 years                   | \$200.00   | 105.3                 | \$21,060.00         |
| 19 <b>Total:</b>               |                           |  | 1,018.90              | <b>\$534,360.00</b> |

20 **B. Class Counsel’s Hourly Rates are Reasonable**

21 As set forth above, the hourly rates of Class Counsel’s primary attorneys who worked on  
22 this case are \$650.00 per hour for Gretchen Carpenter (for the vast majority of time she spent on  
23 this case), \$550.00 for David Parisi, and \$525.00 for Suzanne Havens Beckman. These rates are  
24 comparable or less than those charged by other class action plaintiffs’ counsel, and are certainly  
25 reasonable.

26 The Court’s lodestar analysis begins with “the hourly prevailing rate for private attorneys  
27 in the community conducting noncontingent litigation of the same type,” so that “the reasonable

28 <sup>3</sup> The multiplier is calculated as follows: Assuming that costs of \$25,568.78 are awarded from the \$425,000.00, Class Counsel are seeking \$399,431.22 in attorney’s fees. Class Counsel’s lodestar is \$534,360.00, so the multiplier sought by Class Counsel is approximately 0.75 (\$399,431.22 divided by \$534,360.00).



1 value of attorney services is variously defined as the hourly amount to which attorneys of like  
2 skill in the area would typically be entitled.” (*Ketchum, supra*, 24 Cal.4th at p. 1133 [quoting  
3 *Serrano v. Unruh*, 32 Cal.3d 621, 625, 640 fn. 31; punctuation omitted].) The Court sets an hourly  
4 market value of the attorneys’ fees

5 after consideration of a number of factors, including the nature of the litigation, its  
6 difficulty, the amount involved, the skill required in its handling, the skill  
employed, the attention given, the success or failure, and other circumstances in  
the case.

7 (*PLCM Group v. Drexler* (2000) 22 Cal.4th 1084, 1094 [citations, punctuation omitted]).<sup>4</sup>

8 Here, survey data confirms the reasonableness of Class Counsel’s rates. The court in  
9 *Chambers v. Whirlpool Corporation* (C.D. Cal. 2016) 214 F.Supp.3d 877, 899, for example,  
10 quoted a 2014 National Law Journal survey of regional billing rates, which showed that partner  
11 hourly rates among top Los Angeles firms ranged from \$490 to \$975. *See also Good Morning to*  
12 *You Productions Corp. v. Warner/Chappell Music, Inc.* (C.D. Cal., Aug. 16, 2016, No.  
13 CV134460GHKMRWX) 2016 WL 6156076, at \*6-7 (also citing to the National Law Journal  
14 survey concluding that, in 2013, average Los Angeles partner rates were \$665 per hour and  
15 average associate rates were \$401 per hour); *In re American Apparel, Inc. Shareholder Litigation*  
16 (C.D. Cal., July 28, 2014) No. CV1006352MMMJCGX, 2014 WL 10212865, at \*25 (citing an  
17 ALM Legal Intelligence survey, finding that “[a]mong firms with their largest office in Los  
18 Angeles, the average partner billing rate is \$665 per hour while the average associate rate is \$401  
19 per hour.”). Class Counsel’s rates here are lower than these rates, despite Class Counsel’s  
20 extensive experience (a combined 68 years’ experience for the three primary attorneys working  
21 on this case).

22 Substantial case law supports the reasonableness of Class Counsel’s hourly rates here as  
23 well. *See Chambers*, 214 F.Supp.3d at 899 (“In Los Angeles, hourly rates between \$485 and  
24 \$750 are common.”); *Good Morning to You*, 2016 WL 6156076, at \*6-7 (approving hourly rates  
25 for associates ranging from \$190 to \$525 and hourly rates for partners ranging from \$420 to  
26

---

27 <sup>4</sup> The Court acts as its own expert in deciding the “value of legal services performed in a case”  
28 before it, and “may make its own determination of the value of the services contrary to, or without  
the necessity for, expert testimony.” (*PLCM, supra*, 22 Cal.4th at 1096 [citations, punctuation  
omitted].)

1 \$935); *Bravo v. Gale Triangle, Inc.* (C.D. Cal., Feb. 16, 2017) No. CV1603347BROGJSX, 2017  
2 WL 708766, at \*18 (hourly rates of \$650 and \$700 for partners and \$350 for an associate are  
3 reasonable); *Counts v. Meriwether* (C.D. Cal. Mar. 9, 2016) No. 2:14-cv-00396-SVW-CW, 2016  
4 WL 1165888, \*3–4 (hourly rates of \$701.25, \$552.50, and \$446.25 per hour are “reasonable and  
5 consistent with the prevailing rates in the Central District”); *See Roberti v. OSI Sys., Inc.* (C.D.  
6 Cal. Dec. 8, 2015) No. CV-13-09174 MWF (MRW), 2015 WL 8329916, at \*7 (approving hourly  
7 rates of \$525 to \$975 for attorneys with 15 or more years of experience in securities class action);  
8 *In re American Apparel, Inc. Shareholder Litigation, supra*, 2014 WL 10212865, at \*25  
9 (approving hourly partner rates of \$675 to \$735 and associate rates of \$395 to \$475); *Rodriguez*  
10 *v. Cty. of L.A.* (C.D. Cal. 2014) 96 F.Supp.3d 1012, 1023 (approving rates from \$500 to \$975);  
11 *Kearney v. Hyundai Motor America* (CD. Cal. June 28, 2013) No. SACV 09–1298–JST (MLGx),  
12 2013 WL 3287996, at \*8 (approving hourly rates between \$650 and \$800 for class counsel in a  
13 consumer class action); *Parkinson v. Hyundai Motor America* (CD. Cal. 2010) 796 F.Supp.2d  
14 1160, 1172 (approving hourly rates between \$445 and \$675 for class counsel in a consumer class  
15 action); *Browne v. American Honda Motor Co., Inc.* (C.D. Cal., Oct. 5, 2010) No. CV 09-06750  
16 MMM DTBX, 2010 WL 9499073, at \*7 (approving hourly rates of \$675 for an attorney with  
17 fifteen years of experience, \$550 for an attorney with over twenty years of experience, \$545 for  
18 an attorney with ten years of experience, and \$445 for an attorney with seven years of experience);  
19 *POM Wonderful, LLC v. Purely Juice, Inc.* (CD. Cal. Sept. 22, 2008) No. CV 07–2633, 2008 WL  
20 4351842, at \*4 (finding rates of \$475 to \$750 for partners and \$275 to \$425 for associates  
21 reasonable in a consumer class action).

22 Case law also supports the hourly rates for Class Counsel’s paralegals, with the great  
23 majority of paralegal time being billed at \$200.00 per hour. *See Perfect 10, Inc. v. Giganews,*  
24 *Inc.* (C.D. Cal. Mar. 24, 2015) No. CV 11–07098–AB (SHx), 2015 WL 1746484, \*21 (approving  
25 “paralegal fees at rates between \$240 for a paralegal with five years’ experience to \$345 for a  
26 paralegal with 23 years’ experience”); *In re American Apparel, Inc. Shareholder Litigation,*  
27 *supra*, 2014 WL 10212865, at \*24-25 (approving paralegal rates of \$200 to \$250).

28 Here, Class Counsel’s rates reflect their relative skill as class action litigators and their

1 position within the relevant legal community; in fact, the rates for the vast majority of Class  
2 Counsel’s time are on the low end of reasonable. The rates should be approved.

3 **C. The Number of Hours Class Counsel Worked is Reasonable**

4 The second component of the lodestar figure is the number of hours counsel reasonably  
5 expended. Class Counsel are entitled to be compensated for all time that would, in the exercise  
6 of “billing judgment,” be billed to a fee-paying client. *Hensley v. Eckerhart* (1983) 461 U.S. 424,  
7 434, 437; *Pennsylvania v. Delaware Valley Citizens’ Council for Clean Air* (1987) 483 U.S. 711.  
8 As the California Supreme Court explained in *Ketchum, supra*, 24 Cal.4th at pp. 1132-33, “fee  
9 awards should be fully compensatory” and also “adjusted in some manner to reflect the fact that  
10 the fair market value of legal services provided on [the fair market value] basis is greater than the  
11 equivalent noncontingent hourly rate.” *Id.* at 1132-33. Even in “relatively straightforward” cases,  
12 however,

13 the number of hours expended . . . may often seem high if considered in the  
14 aggregate . . . Compliance with procedural requirements . . . can result in attorneys’  
15 fees for relatively simple cases that seem unreasonably high after a first—or even  
16 second or third—glance at the bottom line.

17 (*Ferland v. Conrad Credit Corp.* (9th Cir. 2001) 244 F.3d 1145, 1150–51 [courts should not  
18 reduce time incurred in lodestar analysis without reasoned explanations, even in straightforward,  
19 non-complex cases]. In contrast, this was a hard-fought case that required significant litigation,  
20 as well as substantial follow up and negotiation even after a preliminary settlement was reached.

21 The litigation of this matter was contentious and labor-intensive. As stated above and in  
22 Class Counsel’s declarations, as of June 27, 2018, Class Counsel had incurred just over 1000  
23 hours combined litigating this case, and they expect to incur approximately another 50 hours or  
24 more working on this case, the settlement, and attendance at the final approval hearing.  
25 (Carpenter Decl., ¶¶ 19, 20, 22-31, 33; Havens Beckman Decl., ¶17.) The law firms kept  
26 contemporaneous records for each timekeeper. (Carpenter Decl., ¶¶ 19, 22; Havens Beckman  
27 Decl., ¶¶4-5.)<sup>5</sup> Despite the intensity of the litigation, Class Counsel worked hard to ensure

28 <sup>5</sup> Class Counsel are prepared to present their time sheets, but assert the summaries in their  
declarations are sufficiently detailed, are somewhat easier to analyze and review than daily  
timesheets, and will save the expense (for everyone involved) of redacting time sheets for

1 throughout that necessary tasks to prosecute the case were allocated among counsel and were  
2 conducted efficiently, without undue duplication of effort and at minimal expense. Counsel have,  
3 in short, already eliminated the “fat” from their documented hours, and no further reduction would  
4 be necessary or appropriate. Thus, the hours claimed by counsel are “reasonable” as they stand.  
5 *See Perkins v. Mobile Housing Board* (11th Cir. 1988) 847 F.2d 735, 738 (attorney hours sworn  
6 to are “evidence of considerable weight on the issue of the time required in the usual case” and  
7 should not be reduced unless “the time claimed is obviously and convincingly excessive under  
8 the circumstances”).

9 Under the lodestar method, the result achieved in the litigation is also an important factor.  
10 *See Hensley*, 461 U.S. at 436 (“[T]he most critical factor is the degree of success obtained.”);  
11 *Mandel v. Hodges* (1976) 54 Cal.App.3d 596, 623 (factors to be evaluated include “the amount  
12 involved,” “the success or failure of the attorney’s efforts,” and the “skill employed,” in  
13 handling the litigation) (citation omitted). Class Counsel have achieved a substantial result. Not  
14 only is the Class entitled to choose between two direct monetary benefits, but this litigation and  
15 settlement have resulted in Defendant stopping its wrongful practices at issue in this case.  
16 Further, the attorney’s fees and expenses necessary to achieve this result will not impact the  
17 amount of reimbursement to the Class.

18 The number of hours spent was reasonable.

#### 19 **D. Class Counsel’s Fee Request Equates to a Negative Multiplier**

20 Lawyers who achieve favorable results for their clients generally expect and receive fees  
21 that are significantly higher than their lodestar. (*See In re Warner Communication Securities*  
22 *Litigation* (S.D.N.Y. 1985) 618 F.Supp. 735, 747.) While an increase in counsel’s lodestar would  
23 be entirely justified given the efforts expended, the significant result achieved, and the risks

---

24 privilege and work product. “It is not necessary to provide detailed billing timesheets to  
25 support an award of attorney fees under the lodestar method. . . . Declarations of counsel  
26 setting forth the reasonable hourly rate, the number of hours worked and the tasks performed  
27 are sufficient.” (*Concepcion v. Amscan Holdings, Inc.* (2014) 223 Cal.App.4th 1309, 1324  
28 [citations omitted; collecting cases].) Declarations which “reported the total number of hours  
spent in various generalized categories of services” may be sufficient; if not, the Court may  
“request additional information to allow it to determine the number of hours reasonably  
worked for inclusion in the lodestar calculation.” (*Id.* at p. 1325.)

1 undertaken, as explained above, Class Counsel’s request for attorneys’ fees and costs of  
2 \$425,000.00 actually results in a negative multiplier of approximately 0.75. Accordingly, the  
3 request here, which falls *below* Class Counsel’s reasonable lodestar rate and results in a negative  
4 multiplier, should be awarded without question.

5 **VI. The Fee Request is Reasonable as the Product of Non-Collusive Negotiations**

6 The interests of the Class are promoted by a fee that is negotiated in the manner of the  
7 requested fee here. Class Counsel negotiated their agreement regarding fees and costs with  
8 Defendant only after the parties reached an agreement as to the material terms of the settlement.  
9 (Carpenter Decl., ¶18.) By deferring fee negotiation until that time, Class Counsel aligned their  
10 interests with the interests of the Class. In particular, the interests of Class Counsel were tempered  
11 by the reality that the fee requested would be evaluated in light of the benefits negotiated for the  
12 Class; with the greater the recovery, the greater would be the likelihood that the Court would  
13 approve the requested fee. (*Id.*) Once the material terms of the settlement were agreed to,  
14 Defendant had every incentive to negotiate as low a fee as possible to decrease its overall costs  
15 and ultimately, the negotiations resulted in a below-market fee agreement. This dynamic (*i.e.*, an  
16 arm’s length negotiation) has produced the desired result: an outstanding settlement and  
17 separately paid fees that do not exceed those to be found in the “free market.” *See Lealao, supra*,  
18 82 Cal.App.4th at 47.

19 **VII. The Court Should Award Class Counsel Reasonable Costs**

20 Included within the \$425,000.00 request, the Court should also award all of Class  
21 Counsel’s costs, which total \$25,568.78. *See* Code Civ. Proc., § 1032(b) (“a prevailing party is  
22 entitled as a matter of right to recover costs in any action or proceeding.”) The Code of Civil  
23 Procedure identifies specific taxable costs including “[f]iling, motion, and jury fees,” “[t]aking,  
24 video recording, and transcribing necessary depositions, including an original and one copy of  
25 those taken by the claimant,” “[t]ravel expenses to attend depositions,” fees incurred for  
26 “[s]ervice of process,” “court reporter fees,” “[f]ees for the electronic filing or service of  
27 documents,” and “[f]ees for the hosting of electronic documents.” (Code Civ. Proc., § 1033.5,  
28 subd. (a)(1), (3), (4), (11), (14), (15).) Most of Class Counsel’s costs fall into one of the foregoing

1 categories. (Carpenter Decl. ¶¶ 21, 34; Havens Beckman Decl. ¶ 18.) Class Counsel’s costs,  
2 which are included within the \$425,000.00 request, should be awarded by the Court.

3 **VIII. The Requested Incentive Award for Djoric is Reasonable and Appropriate**

4 This Court should also approve a \$10,000.00 incentive award to Marko Djoric, as it is  
5 just, fair and reasonable to compensate him for serving as the representative plaintiff in this case.  
6 *See In re Cellphone Fee Termination Cases* (2010) 186 Cal.App.4th 1380, 1393–1395. Incentive  
7 fees to class representatives are favored and encouraged. An incentive fee is certainly needed  
8 where a meritorious class action may otherwise never have been brought, which is the situation  
9 here. Some findings on this issue are as follows:

- 10 • In a report which analyzed 374 opinions from 1993 to 2002, the authors found that  
11 “granting an incentive award is common in classes of cases with very low recoveries,  
12 mostly consumer credit cases and antitrust cases resembling consumer credit cases.” (T.  
13 Eisenberg & G. Miller, *Incentive Awards to Class Action Plaintiffs: An Empirical Study*,  
14 New York University School of Law (2005), p. 25, attached as Exhibit 2 to the Carpenter  
15 Decl.)
- 16 • This study also found that “[t]he average award per class representative was \$15,992 and  
17 the median award per class representative was \$4,357.” (*Id.*)
- 18 • In another report which looked at incentive awards in four federal districts it was found  
19 that “median amounts of all awards to class representatives” in four federal districts were  
20 \$7,500, \$12,000, \$7,500, and \$17,000. (Federal Judicial Center, *Empirical Study of Class  
21 Actions in Four Federal District Courts: Final Report to the Advisory Committee on Civil  
22 Rules* by T. Willging, L. Hooper & R. Niemic (1996), attached as Exhibit 3 to the  
23 Carpenter Decl.)
- 24 • One report on consumer class actions explained that “[i]t has become commonplace for  
25 the named representatives to request a special payment for having borne the flag and  
26 headed a class action. Most courts are receptive to this because they feel that private  
27 attorneys general should be encouraged, and such incentives further the goals of federal  
28 and state laws.” (S. Savett, R. Liebenberg & R. Wellington, *Consumer Class Actions:  
Class Certification Issues, Including Ethical Considerations and Counsel Fees and  
Incentive Payments to Named Plaintiffs*, Practicing Law Institute (April 1996), Exhibit 4  
to the Carpenter Decl.)

As set forth in Djoric’s declaration filed concurrently herewith, Plaintiff here discovered  
Defendant’s improper practices on his own, and took the time and energy to search out counsel  
to rectify what he correctly perceived as misconduct. Plaintiff has been very involved in all stages  
of this case, including discovering the misrepresentations on his own in the first place, researching

1 and retaining attorneys to file this lawsuit, meeting with Class Counsel in person, communicating  
2 with Class Counsel by telephone and email, educating Class Counsel about the underlying facts,  
3 reviewing and providing input to numerous documents filed with the Court (including the  
4 complaints, class certification papers, and settlement-related documents), providing input and  
5 submitting a declaration in support of class certification, assisting in the preparation of and  
6 reviewing discovery responses (including responses to form interrogatories, special  
7 interrogatories, and requests for production of documents), gathering and producing documents  
8 in discovery, and participating at all stages of the lengthy settlement negotiations, including  
9 reviewing multiple settlement drafts. (*See* Djoric Decl., ¶¶ 8, 10.) In total, over the course of the  
10 last four years, Mr. Djoric spent approximately 100 hours on this matter. (*Id.*, ¶ 10.) Mr. Djoric  
11 also rejected a section 998 settlement offer that would have provided no monetary benefits to the  
12 class. In addition, over and above the release provided by the Class as a result of the settlement,  
13 Djoric executed a general release and section 1542 waiver. (Settlement Agreement, § K(3), (4);  
14 Djoric Decl., ¶ 11.) In light of his efforts and risks, Defendant has agreed not to oppose Djoric’s  
15 request for an incentive award in the amount of up to \$10,000.00. (Settlement Agreement, §  
16 G(3).) Importantly, as with the attorneys’ fees, the incentive award will be paid separately by  
17 Defendant, such that it will not reduce the amount of recovery to the Class.

18 Courts recognize that the type of conduct and involvement Djoric had here should be  
19 commended and encouraged by awarding an incentive payment. *See 4 Newberg on Class Actions*  
20 § 11:38 (4th ed.) and cases cited therein; *In re Cellphone Fee Termination Cases, supra*, 186  
21 Cal.App.4th at 1395 (upholding incentive awards of \$10,000 for representative plaintiffs who  
22 participated extensively in litigation); *Scott v. Family Dollar Stores, Inc.* (W.D.N.C., Mar. 14,  
23 2018) No. 308CV00540MOCDS, 2018 WL 1321048, at \*5 (approving \$10,000 service awards  
24 to the representative plaintiffs where they executed a general release of all claims against the  
25 defendant); *Mirkarimi v. Nevada Property I, LLC* (S.D. Cal., Feb. 29, 2016) No. 12CV2160 BTM  
26 (DHB), 2016 WL 795878, at \*6 (approving a \$30,000 incentive award to a representative plaintiff  
27 who expended 120 hours of work, and who rejected an individual settlement that would have  
28 provided no benefit to the class earlier in the case); *Brawner v. Bank of America National*

1 *Association* (N.D. Cal., Jan. 14, 2016) No. 3:14-CV-02702-LB, 2016 WL 161295, at \*6  
2 (awarding \$15,000 incentive award to a single representative plaintiff who spent 80-100 hours in  
3 connection with the litigation, and who risked paying costs if the defendant prevailed); *Briggs v.*  
4 *PNC Financial Services Group, Inc.* (N.D. Ill., Nov. 29, 2016) No. 1:15-CV-10447, 2016 WL  
5 7018566, at \*3 (awarding \$12,500 incentive fees to representative plaintiffs who “participated in  
6 an extensive pre-suit investigation, provided documents crucial to establishing Plaintiffs’ claims,  
7 responded to document requests and interrogatories, and submitted declarations in support of  
8 Plaintiffs conditional certification motion (which also were utilized extensively during the  
9 mediation).”); *Alexander v. FedEx Ground Package System, Inc.* (N.D. Cal., June 15, 2016) No.  
10 05-CV-00038-EMC, 2016 WL 3351017, at \*1 (awarding original plaintiffs \$10,000 incentive  
11 awards); *Huyer v. Wells Fargo & Co.* (S.D. Iowa 2016) 314 F.R.D. 621, 629 (approving \$10,000  
12 incentive awards for plaintiffs who actively participated in litigation for several years); *Carter v.*  
13 *Forjas Taurus S.A.* (S.D. Fla., July 22, 2016) No. 1:13-CV-24583-PAS, 2016 WL 3982489, at  
14 \*15 (“In light of the two-and-a-half years of service on behalf of the Class, involving, *inter alia*,  
15 assisting in the initial investigation, as well as sitting for depositions, other meetings with Class  
16 Counsel, and attending Court hearings, Plaintiff Chris P. Carter has earned a service award of  
17 \$15,000 for representing the Class.”); *In re Animation Workers Antitrust Litigation* (N.D. Cal.,  
18 Nov. 11, 2016) No. 14-CV-4062-LHK, 2016 WL 6663005, at \*9 (approving \$10,000 incentive  
19 awards where “the three named representatives ... have spent a significant amount of time  
20 assisting in the litigation of this case.”); *In re Polyurethane Foam Antitrust Litigation* (N.D. Ohio  
21 2015) 135 F.Supp.3d 679, 694 (approving \$35,000 incentive awards to the representative  
22 plaintiffs in an antitrust class action).

23 In view of the substantial time he has expended and the excellent results for the Class, an  
24 incentive award of \$10,000.00 to Djoric is fair and reasonable.

25 **IX. Conclusion**

26 Based on the foregoing, the Court should award Class Counsel attorneys’ fees and costs  
27 of \$425,000.00 and an incentive award of \$10,000.00 to Mr. Djoric.

28



1 DATED: July 9, 2018

CARPENTER LAW

2  
3 By:   
Gretchen Carpenter

4 David C. Parisi, Bar No. 162248  
5 Suzanne Havens Beckman, Bar No. 188814  
6 PARISI & HAVENS LLP  
7 212 Marine Street, Suite 100  
8 Santa Monica, California 90405  
Tel.: (818) 990-1299  
Fax: (818) 501-7852  
dcparisi@parisihavens.com  
shavens@parisihavens.com

9 *Attorneys for Plaintiff Marko Djoric, individually*  
10 *and on behalf of a class of similarly situated*  
11 *individuals*

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is:

CARPENTER LAW  
1230 Rosecrans Ave., Suite 300  
Manhattan Beach, CA 90266

On July 9, 2018, I served the foregoing documents, described:

**NOTICE OF MOTION AND MOTION FOR AN AWARD OF ATTORNEYS' FEES AND COSTS AND AN INCENTIVE AWARD FOR MARKO DJORIC; MEMORANDUM OF POINTS AND AUTHORITIES**

via electronic transmission addressed as follows:

Robert Hicks  
robert.hicks@greshamsavage.com  
Theodore K. Stream  
ted.stream@greshamsavage.com  
GRESHAM SAVAGE NOLAN &  
TILDEN, PC  
3403 Tenth St., Suite 700  
Riverside, CA 92501  
Tel: (951) 684-2171  
Fax: (951) 684-2150

David C. Parisi  
dcparisi@parisihavens.com  
Suzanne Havens Beckman  
shavens@parisihavens.com  
PARISI & HAVENS LLP  
212 Marine Street, Unit 100  
Santa Monica, California 90405  
Tel: (818) 990-1299  
Fax: (818) 501-7852

*Counsel for Defendant*

*Co-Counsel for Plaintiff*

**VIA ELECTRONIC TRANSMISSION TO CASE ANYWHERE AT WWW.CASEANYWHERE.COM**

VIA ELECTRONIC MAIL

Executed on July 9, 2018, at Anaheim, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



\_\_\_\_\_  
Carlo Aguilar