

1 THE RESTIS LAW FIRM, P.C.  
2 William R. Restis, Esq. (SBN 246823)  
3 402 West Broadway, Suite 1520  
4 San Diego, California 92101  
5 +1.619.270.8383  
6 +1.619.752.1552  
7 william@restislaw.com

8 *Attorneys for Plaintiff and the Proposed Settlement Class*

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9  
10 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
11 **COUNTY OF SAN DIEGO**

12 **KARL BECK**, individually and on behalf of all  
13 other similarly situated California residents,

14 Plaintiff,

15 v.

16 **POINT LOMA PATIENTS CONSUMER**  
17 **COOPERATIVE CORPORATION**, A  
18 California Corporation, **ADAM KNOPF**, an  
19 Individual, **JUSTUS H. HENKES IV**, an  
20 Individual, **419 CONSULTING INC.**, a  
21 California Corporation, **GOLDEN STATE**  
22 **GREENS LLC**, a California LLC, **FAR WEST**  
23 **MANAGEMENT, LLC**, a California LLC,  
24 **FAR WEST OPERATING, LLC**, a California  
25 LLC, **FAR WEST STAFFING, LLC**, a  
26 California LLC, and **DOES 1-50**,

27 Defendants.

Case No: 37-2017-00037524-CU-BT-CTL

**CLASS ACTION**

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF CLASS  
REPRESENTATIVE'S MOTION FOR  
ATTORNEYS' FEES AND EXPENSES and  
CLASS REPRESENTATIVE INCENTIVE  
AWARD**

Date: June 28, 2019

Time: 9:00 a.m.

Judge: Hon. Joel R. Wohlfeil

Ctrm: C-73

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1 Plaintiff and Class Representative Karl Beck (the “Class Representative”) respectfully  
2 submits this memorandum in support of his motion for an award of attorneys’ fees and expenses,  
3 and for a Class Representative incentive award (the “Fee and Cost Motion”). The Motion is intended  
4 to fairly compensate Class Counsel for their tireless efforts on behalf of the Settlement Class during  
5 the last one and one-half years, and the Class Representative for bringing this litigation to benefit  
6 Class interests.<sup>1</sup>

7 **I. INTRODUCTION**

8 Class Representative Beck is seeking approval of a class action Settlement with defendants  
9 Point Loma Patients Consumer Cooperative Corporation (the “PLPCC”), 419 Consulting Inc.,  
10 Golden State Greens LLC, Far West Management, LLC, Far West Operating, LLC, and Far West  
11 Staffing, LLC (collectively “Defendants”) that will provide significant patronage distribution credits  
12 to dispensary members consistent with the objectives of the litigation and the California Cooperative  
13 Corporations Code.

14 By this motion, Class Representative Beck seeks an award of attorney fees and expenses for  
15 Class Counsel’s tenacious efforts litigating this highly contested case. Class Counsel’s efforts to date  
16 have proceeded without compensation and their ability to recover attorneys’ fees was wholly  
17 contingent on realizing a favorable litigation result. Class Representative Beck respectfully submits  
18 that this Fee and Cost Application is extremely fair and reasonable given counsel’s hard work,  
19 tenacity, and ultimate success in achieving an excellent Settlement. As the Court is aware, Class  
20 Counsel successfully navigated uncharted legal waters against a formidable defense asserted by  
21 highly skilled and experienced counsel.

22 The Amended Settlement Agreement received preliminary approval on March 15, 2019.  
23 RoA #219. The Settlement will create a Settlement Fund of \$630,000 that can be redeemed for free  
24 or discounted products at the PLPCC, as well as pay for notice costs and potentially an incentive  
25 award to Class Representative Beck. RoA # 214, Amend. Settlement, Ex. A at § 3.1. The proposed  
26 Settlement also provides for payment of attorneys fees and reimbursement of litigation expenses up

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27 <sup>1</sup> Defined terms used herein are consistent with defined terms in the Amended Settlement  
28 Agreement.

1 to \$200,000 which will be paid separately from the Settlement Fund as awarded by the Court. *Id.*, §  
2 6.3. Any portion of the \$200,000 sought by Class Counsel in this Fee and Cost Motion that is not  
3 awarded by the Court will be added to the Settlement Fund and distributed to the Settlement Class.  
4 *Id.*

5 Class Counsel’s requested Fee and Cost Award is reasonable under the “lodestar” method of  
6 calculating attorney fees, as it is only 55.2% of the time and expense reasonably expended by  
7 plaintiff’s counsel. Since Class Counsel are seeking a multiplier of less than one, in a case where the  
8 settlement benefit equals approximately 57% of the total potential recovery if Plaintiff were to certify  
9 a class and prevail at trial, the requested Fee and Cost Award is presumptively reasonable. *See Restis*  
10 *Decl.*, ISO Preliminary Approval, at ¶ 11; § II.B, *infra*.<sup>2</sup>

11 Computed under a percentage of the recovery method, the requested Fee and Cost Award  
12 represents approximately 24% of the total Settlement benefits. *See* § II.C, *infra*; *Laffitte v. Robert*  
13 *Half Internat. Inc.*, 1 Cal. 5th 480, 495 (2016) (approving use of common fund method and noting  
14 that “[t]he Ninth Circuit has approved a 25 percent benchmark.”) This “crosscheck” of the requested  
15 Fee and Cost Award confirms it is presumptively reasonable and respectfully should be approved.

16 In the Settlement, Defendants have agreed not to object to a \$5,000 incentive award to Beck  
17 as Class Representative for his efforts on behalf of the Settlement Class. RoA # 214, Amend.  
18 Settlement, Ex. A at § 6.4. The proposed \$5,000 incentive award for Class Representative Beck  
19 represents only 0.6% of the total Settlement Fund, and is well within the range of incentive awards  
20 approved by California courts of appeal. It compensates the Class Representative for lending his  
21 name and reputation to the very sensitive subject matter of this lawsuit, the sale and use of medical  
22 marijuana. *See* Declaration of Karl Beck ISO Motion for Attorney Fees and Expenses and Class  
23 Representative Incentive Award (“Beck Decl.”), at ¶ 10; *cf. Cellphone Termination Fee Cases*, 186  
24 Cal. App. 4th 1380, 1394-95 (2010) (courts should consider, *inter alia*, “the risk to the class  
25 representative in commencing suit, both financial and otherwise” and “the notoriety and personal  
26

---

27 <sup>2</sup> Class Counsel’s lodestar amount submitted for consideration by the Court does not include any  
28 time preparing this fee submission, or the time that will be spent responding to any objections, or  
appearing at any final approval hearing. *Restis Fee & Cost Decl.*, ¶¶ 10, 12.

1 difficulties encountered by the class representative.”) The incentive award for Class Representative  
2 Beck respectfully should be approved. *See* § III, *infra*.

3 **II. FEE AND COST APPLICATION**

4 **A. APPLICABLE LEGAL STANDARDS**

5 In California, a provision providing for the payment of attorney fees in an application to  
6 approve the settlement of a California class action must identify how the fees are to be paid. CAL.  
7 RULES OF COURT, 3.769(b). When a settlement of a class action provides for the payment of fees,  
8 the “fairness of the fees must be assessed independently of determining the fairness of the  
9 substantive settlement terms.” *Consumer Privacy Cases*, 175 Cal.App.4th 545, 555 (2009). “The  
10 court has a duty, independent of any objection, to assure that the amount and mode of payment of  
11 attorney fees are fair and proper.” *Id.*

12 California has long recognized, as an exception to the general American rule that parties bear  
13 the costs of their own attorneys, “the propriety of awarding an attorney fee to a party who has  
14 recovered or preserved a monetary fund for the benefit of himself or herself and others. In awarding  
15 a fee from the fund or from the other benefited parties, the trial court acts within its equitable power  
16 to prevent the other parties' unjust enrichment.” *Laffitte v. Robert Half Internat. Inc.*, 1 Cal. 5th 480,  
17 488-89 (2016) (citing cases).

18 Two primary methods of determining a reasonable attorney fee in class action litigation have  
19 emerged in recent decades. “The percentage method calculates the fee as a percentage share of a  
20 recovered common fund or the monetary value of plaintiffs' recovery.” *Laffitte*, 1 Cal. 5th at 489.  
21 The lodestar method, or more accurately the lodestar-multiplier method,  
22 calculates the fee “by multiplying the number of hours reasonably expended by counsel by a  
23 reasonable hourly rate.” *Id.* Once the court has fixed the lodestar, “it may increase or decrease that  
24 amount by applying a positive or negative ‘multiplier’ to take into account a variety of other factors,  
25 including the quality of the representation, the novelty and complexity of the issues, the results  
26 obtained, and the contingent risk presented.” *Id.*, citing *Lealao v. Beneficial Cal., Inc.*, 82 Cal. App.  
27 4th 19, 26 (2000).

1 Trial courts conducting lodestar analysis have “generally not been required to closely  
2 scrutinize each claimed attorney-hour, but have instead used information on attorney time spent to  
3 ‘focus on the general question of whether the fee award appropriately reflects the degree of time and  
4 effort expended by the attorneys.’” *Id.*, at 505 (citing treatises and cases). Trial courts are permitted  
5 to rely on “counsel declarations summarizing overall time spent, rather than demanding and  
6 scrutinizing daily time sheets in which the work performed was broken down by individual task.”  
7 *Id.* Ultimately, “[t]he ‘experienced trial judge is the best judge of the value of professional services  
8 rendered in his court.’” *Id.*, at 488.

9 “The most significant trend has been a blending of the two fee calculation methods, an  
10 approach in which one method is used to confirm or question the reasonableness of the other's  
11 result.” *Laffitte*, 1 Cal. 5th at 496. The “percentage method with a lodestar cross-check ‘is the most  
12 prevalent form of fee method’ in practice.” *Id.* at 496-97 (citing treatises). “When there is no relevant  
13 California precedent on point, federal precedent should be consulted.” *Lealao*, 82 Cal. App. 4th at  
14 38.

## 15 B. LODESTAR

16 In *Serrano v. Priest*, 20 Cal. 3d 25 (1977) (“*Serrano III*”), the California Supreme Court  
17 determined the proper formula for assessing an award of attorneys fees under *fee shifting statutes*.  
18 *Ketchum v. Moses*, 24 Cal. 4th 1122, 1131-34 (2001). California courts have used the *Serrano III*  
19 “lodestar” framework to analyze attorney fee requests in class action settlements. *Lealao*, 82 Cal.  
20 App. 4th at 40.

21 “Under *Serrano III*, a court assessing attorney fees begins with . . . a lodestar figure,” which  
22 is a review of the “time spent and reasonable hourly compensation of each attorney . . . involved in  
23 the presentation of the case.” *Ketchum*, at 1131-32. The lodestar is the basic fee for comparable legal  
24 services in the community. *Id.* at 1132. “Affidavits of the plaintiffs’ attorney and other attorneys  
25 regarding prevailing fees in the community, and rate determinations in other cases, particularly those  
26 setting a rate for the plaintiffs’ attorney, are satisfactory evidence of the prevailing market rate.”  
27 *United Steelworkers of Am. v. Phelps Dodge Corp.*, 896 F.2d 403, 407 (9th Cir. 1990).



1                   1.       Counsel's Hourly Rates Are Reasonable

2                   Class Representative Beck has submitted the sworn declaration of Class Counsel William R.  
3 Restis that attest to counsel's hourly rates, total hours devoted to the case, and experience. *See* Restis  
4 Fee & Cost Decl., ¶¶ 5-8. Class Counsel is a highly-respected member of the bar with extensive  
5 experience prosecuting high-stakes complex litigation, including consumer and securities class  
6 actions. Restis Fee & Cost Decl., ¶ 5, and Ex. A.

7                   Class Counsel William Restis' normal hourly rate when this matter began was \$650, and  
8 paralegal staff \$195 per hour. *Id.*, at ¶¶ 5-6. Class Counsel's rates are appropriate for complex  
9 litigation and reflect a high level of experience and skill necessary for success in this action. However,  
10 to ensure Class Counsel's hourly rate is consistent with the San Diego legal marketplace, for the  
11 purposes of this submission, Mr. Restis' hourly rate was reduced to \$600 per hour, and paralegal staff  
12 was reduced to \$150 per hour. *Id.*

13                   Counsel's discounted hourly rates are comparable to those approved in the Southern District  
14 of California, which includes San Diego County. *See Makaeff v. Trump Univ., LLC*, 2015 U.S. Dist.  
15 LEXIS 46749, at \*12, 15 (S.D. Cal. Apr. 9, 2015) (approving partner rates of \$600 to \$825 per hour  
16 for anti-SLAPP motion in class action case); *Flowrider Surf, Ltd. v. Pac. Surf Designs, Inc.*, 2017  
17 U.S. Dist. LEXIS 76757, at \*6 (S.D. Cal. May 18, 2017) (approving partner rates of \$995/hr and  
18 associate rates of \$645/hr on motion for discovery sanctions); *Chaikin v. Lululemon USA Inc.*, 2014  
19 WL 1245461, at \*6 (S.D. Cal. Mar. 17, 2014) (awarding partner admitted 2000, \$650/hr; partner  
20 admitted 2007, \$500/hr; partner admitted 2000, \$675/hr; partner admitted 2002, \$500/hr); *Morey v.*  
21 *Louis Vuitton N. Am., Inc.*, 2014 WL 109194, at \*10-11 (S.D. Cal. Jan. 9, 2014) (awarding partner  
22 admitted 2000, \$650; associate admitted 2007, \$500; partners admitted 2000, \$675); *Grant v. Capital*  
23 *Mgmt. Servs., L.P.*, 2014 WL 888665, at \*6 (S.D. Cal. Mar. 5, 2014) (approving as reasonable rates  
24 between \$525 and \$875 for partners, \$245-\$395 for associates, and \$150 for paralegals); *Iorio v.*  
25 *Allianz Life Ins. Co. of N. Am., Inc.*, 2011 U.S. Dist. LEXIS 21824, at \*31-32 (S.D. Cal. Mar. 3, 2011)  
26 (approving rates between \$595-\$750 for partners, \$410-\$575 for associates, and \$195 for paralegals).

27                   Counsel's rates are within approved ranges. Thus they are presumptively reasonable.  
28

1                   2.     The Hours Expended Are Reasonable

2             Class Counsel have devoted a substantial amount of time vigorously prosecuting this  
3 litigation. Restis Fee & Cost Decl., ¶¶ 7-8. The Court is intimately familiar with the time and effort  
4 expended by Class Counsel, and the complex legal and factual issues requiring the expenditure of  
5 this time and effort. *See* Amended Mot. Preliminary Approval, RoA # 231, at pp. 2-5 (detailing  
6 highly contested litigation history). Accordingly, the Court is well positioned to evaluate the  
7 reasonableness of the lodestar amount expended by Class Counsel. *See Jordan v. Multnomah Cnty.*,  
8 815 F.2d 1258, 1263 (9th Cir. 1987) (lodestar calculation requires court to determine that time spent  
9 by counsel was reasonably necessary).

10            Nonetheless, to assist the Court in evaluating this Fee and Cost Application, Class Counsel  
11 have categorized their respective hours and submitted a task-based summary describing the number  
12 of hours devoted by Class Counsel by individual attorney / paralegal. The following table lists the  
13 task categories and number of hours devoted by Class Counsel to the specific task categories. Class  
14 Counsel’s time calculations were taken from contemporaneous electronic time and expense records  
15 prepared and maintained by Class Counsel in the ordinary course of business. Restis Fee & Cost  
16 Decl., ¶ 6. If requested, Class Counsel is prepared to submit detailed time and expense reports *in*  
17 *camera* for the Court’s review. *Id.*, ¶ 9.

18            Such task-based summaries, which obviate the onerous judicial burden of wading through  
19 dozens or hundreds of pages of time records, are commonplace and well-recognized tools for courts  
20 to assess the reasonableness of a requested fee award in complex class action proceedings such as  
21 this. *Laffitte*, 1 Cal. 5th at 505; *Covillo v. Specialtys Café*, 2014 WL 954516, at \*6 (N.D. Cal. March  
22 6, 2014) (“The lodestar cross-check calculation need entail neither mathematical precision nor bean  
23 counting .... [courts] may rely on summaries submitted by the attorneys and need not review actual  
24 billing records.”)

25

<b>Individual</b>	<b>Rate</b>	<b>Hours</b>	<b>Fee</b>
William R. Restis (P)	\$ 600.00	567.00	\$340,200.00
Paralegal	\$ 150.00	17.80	\$2,670.00

26  
27  
28

<b>TOTAL</b>	<b>584.8</b>	<b>\$342,870.00</b>
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<b>Task</b>	<b>Hours</b>	<b>Fees</b>
Appear for / Attend	13.2	\$7,920
Communications (Client)	8.4	\$4,905
Communications (Outside Counsel)	50.8	\$30,390
Data/File Management	10.0	\$1,500
Discovery & Discovery Motions	130.7	\$78,420
Draft/Revise Pleadings & Motions	293.8	\$172,995
Internal Meeting	5.0	\$3,000
Other	1.0	\$600
Planning & Preparation	18.5	\$11,100
Research	53.4	\$32,040
<b>TOTAL</b>	<b>584.8</b>	<b>\$342,870</b>

Restis Fee & Cost Decl., ¶¶ 7-8.

In addition, the law firm Finkelstein & Krinsk LLP (“F&K”) expended \$13,421 in documented attorneys fees at the beginning of the case. *See* RoA # 16, Krinsk Decl. ISO Mot. Per. Cal. Corp. Code § 12603-07. Class Counsel also expended \$2,516 in paid expenses. Restis Fee & Cost Decl., ¶ 13. F&K reported to Class Counsel that they expended \$3,471 in paid expenses. *Id.*, ¶ 14, and Ex. B.

In total, Class Counsel and F&K expended \$362,278 in attorney fees and litigation expenses to prosecute this class action and achieve the favorable result for the Settlement Class. The litigation history confirms that these hours were reasonable and necessary.

3. A 0.55 Multiplier Confirms The Reasonableness of The Fee and Cost Award

The lodestar amount may be adjusted by the court based on such factors as: “(1) the novelty and difficulty of the questions involved, (2) the skill displayed in presenting them, (3) the extent to which the nature of the litigation precluded other employment by the attorneys, [and] (4) the contingent nature of the fee award.” *Ketchum*, 24 Cal.4th at 1132, citing *Serrano III*, 20 Cal. 3d at 49. The Supreme Court noted that “a contingent fee contract, since it involves a gamble on the result, may properly provide for a larger compensation than would otherwise be reasonable.” *Id.*, citing *Rader v. Thrasher*, 57 Cal. 2d 244, 253 (1962).

Here, Class Counsel has already agreed to accept a lodestar multiplier less than one, so no multiplier analysis is necessary. However, the factors to be considered confirm the reasonableness of

1 the Fee and Cost Application. For example, the case was extremely novel. No court had addressed  
2 any of the major issues in the litigation addressing the ability of a medical marijuana dispensary to  
3 generate profits through related entities. *See e.g.*, RoA ## 13-17, Plaintiff’s Motion Per. Cal. Corp.  
4 Code § 12603-07 (requesting appointment of an independent auditor and production of business  
5 records); and RoA # 20, Demurrer.

6 The skill Class Counsel displayed in presenting these issues is confirmed by the Settlement  
7 itself: the \$830,000 benefit represents approximately **57% of the total potential recovery** if Plaintiff  
8 were to certify a class and prevail at trial. *See* RoA # 214, Restis Decl. ISO Preliminary Approval, at  
9 ¶ 11 (describing Class Counsel’s due diligence into the PLPCC’s financial records). This is in the  
10 upper range of recovery on a class action settlement.<sup>3</sup>

11 And even though Class Counsel would likely be entitled to a positive multiplier given the  
12 contingent nature of the representation, the proposed Fee and Cost Award only compensates for a  
13 fraction of the time expended. *Cf. Clark v. City of L.A.*, 803 F.2d 987, 991 (9th Cir. 1986) (finding  
14 a multiplier of 1.5 reasonable); *In re Wachovia Corp, etc.*, 2011 WL 1877630 at \*7 (N.D. Cal. May  
15 17 2011) (multiplier of 2.2 "is well within the acceptable range"); *In re Mercury Interactive Sec.*  
16 *Litig.*, 2011 WL 826797 at \*2 (N.D. Cal. Mar. 3, 2011) (multiplier of 3.08 "is within the acceptable  
17 range"); *Thieriot v. Celtic Ins Co.*, 2011 1522385, \*7 (N.D. Cal. Apr. 21, 2011) (multiplier of 1.94  
18 is “within the customary range”).

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19 <sup>3</sup> *See City of Omaha Police & Fire Ret. Sys. v. LHC Grp.*, 2015 WL 965696, at \*7-8 (W.D. La.  
20 Mar. 3, 2015) (finding that a “7.4%–10.3% [recovery] of estimated provable damages” amounts to  
21 “a high degree of success” because “[t]he typical recovery in most class actions generally is three-to-  
22 six cents on the dollar.”) citing *In re Enron Corp. Sec., Derivative & ERISA Litig.*, 586 F.Supp.2d  
23 732, 804 (S.D.Tex.2008); *Wright v. Stern*, 553 F. Supp. 2d 337, 347 (S.D.N.Y. 2008) (finding that  
24 recovery of approximately 40% and 50% of two different funds was “more than reasonable in light  
25 of the attendant risks of litigation and burdens and delay” of continued litigation); *Billitteri v. Sec.*  
26 *Am., Inc.*, 2011 WL 3585983, at \*5 and \*12 (N.D. Tex. Aug. 4, 2011) (recovery of 40 cents on the  
27 dollar prior to attorney fees, was a “very effective result for class members” warranting a 25% of  
28 recovery fee); *Faught v. Am. Home Shield Corp.*, 2010 WL 10959223, at \*14 (N.D. Ala. Apr. 27,  
2010) *aff’d*, 668 F.3d 1233 (11th Cir. 2011) (“Any settlement typically offers far less than a full  
recovery. Indeed, settlements, by their nature, do not yield one hundred percent recovery for  
plaintiffs.”); *Cf. McCown v. City of Fontana*, 565 F.3d 1097, 1102 (9th Cir. 2009) (The  
reasonableness of attorneys’ fees “is determined primarily by reference to the level of success  
achieved by the plaintiff.”)

1                   **C.     PERCENTAGE OF RECOVERY**

2                   Here the total recovery is easy to calculate. Under the Settlement, \$630,000 is set aside for  
3 Patronage Distribution Credits to the Settlement Class, Notice costs, and any potential incentive  
4 award for the Class Representative. *See* RoA # 214, Amend. Settlement, Ex. A at § 3.1.a. Any  
5 amount of the \$200,000 requested Fee and Cost Application not awarded by the Court will go into  
6 the Settlement Fund to be distributed to the Class as Patronage Distribution Credits. *Id.*, § 6.3.  
7 Patronage Distribution Credits will then be distributed *pro rata* to Settlement Class members based  
8 on their patronage. *Id.*, at § 3.1.b. Patronage Distribution Credits unclaimed within 12 months will  
9 be redistributed to future PLPCC patrons as \$5.00 credited toward each purchase from the PLPCC  
10 until the Settlement Fund is exhausted, no later than 24 months after approval. *Id.*, at § 3.1.d. To  
11 confirm that all Settlement proceeds are distributed, the PLPCC will submit affirmations based on  
12 data directly from the PLPCC point of sale system and tax filings confirming under penalty of  
13 perjury that all funds were distributed. *Id.*, at § 3.1.f-g. In other words, the Settlement requires the  
14 entire fund to be spent, no exceptions.<sup>4</sup>

15                   Here, \$200,000 is approximately 24% of the total \$830,000 settlement benefit, which is just  
16 below what the California Supreme Court and the Ninth Circuit have referred to as the “benchmark”  
17 percentage of recovery. *Laffitte*, 1 Cal. 5th at 495; *In re Online DVD-Rental Antitrust Litig.*, 779  
18 F.3d 934, 949-55 (9th Cir. 2015) (affirming attorney’s fees of 25% of the value of a gift card  
19 settlement—in which the entire “Cash Component [of the settlement] funded attorneys’ fees and  
20 expenses, costs of notice and administration, and incentive payments to class representatives”); *In*  
21 *re Bluetooth Headset Prods. Liability Litig.*, 654 F.3d 935, 942 (2011) (25% “benchmark”)

22                   Under either the “lodestar” or “percentage of recovery” analysis, the proposed Fee and  
23 Expense Award is reasonable and, respectfully should be approved.

24  
25  
26                   <sup>4</sup> The aggregate Settlement value calculation includes the \$200,000 Defendants have agreed to pay  
27 in attorney fees and costs, as well as notice costs, as Ninth Circuit case law holds it is proper to  
28 include these items in the denominator to calculate the percentage of the benefit. *Staton v. Boeing*  
*Co.*, 327 F.3d 938, 975 (9th Cir. 2003).

1 **III. CLASS REPRESENTATIVE INCENTIVE FEE**

2 “The rationale for making enhancement or incentive awards to named plaintiffs is that they  
3 should be compensated for the expense or risk they have incurred in conferring a benefit on other  
4 members of the class.” *Cellphone Termination Fee Cases*, 186 Cal. App. 4th 1380, 1394 (2010)  
5 citing *Clark v American Residential Servicess LLC*, 175 Cal.App.4th 785, 806 (2009). “Since  
6 without a named plaintiff there can be no class action” an incentive award is appropriate ““if it is  
7 necessary to induce an individual to participate in the suit.” *Cellphone* at 1394 citing *Clark* at 804.

8 Criteria courts may consider include: “1) the risk to the class representative in  
9 commencing suit, both financial and otherwise; 2) the notoriety and personal difficulties  
10 encountered by the class representative; 3) the amount of time and effort spent by  
11 the class representative; 4) the duration of the litigation and; 5) the personal benefit (or lack  
12 thereof) enjoyed by the class representative as a result of the litigation.” *Cellphone* at 1394-95  
13 (citing cases).

14 In this case, the primary basis for the Class Representative’s Incentive Award is the  
15 extremely sensitive subject matter of the litigation. The Class Representative was required to put his  
16 name on a litigation essentially admitting that he was a user of medical marijuana. This exposed the  
17 Class Representative to substantial professional and legal risks. *See Beck Decl.*, at ¶ 6. Despite these  
18 risks, the Class Representative decided to proceed with the litigation to rectify potentially wrongful  
19 conduct and obtain funds on behalf of PLPCC members. *Id.*, at 7.

20 In addition to the reputational and professional risk the Class Representative undertook, he  
21 also expended a significant amount of time investigating the claims, assisting Class Counsel, and  
22 overseeing this proposed Settlement. *Id.*, at ¶¶ 11-13. These efforts paid off, as evidenced by the  
23 excellent Settlement now before the Court.

24 Class Representative Beck respectfully requests he be awarded the full \$5,000 incentive fee  
25 for ‘sticking his neck out’ and obtaining substantial benefits for the absent Class. *In re Mego Fin.*  
26 *Corp. Sec. Litig.*, 213 F.3d 454, 456–457, 463 (9th Cir. 2000) [approving, without  
27 discussion, incentive awards of \$ 5,000 each to two class representatives from a settlement of \$  
28

1 1.725 million, plus interest].); *Weeks v. Kellogg Co.*, 2011 U.S. Dist. LEXIS 155472, at \*143 (C.D.  
2 Cal. Nov. 23, 2011) (“An incentive award of \$5,000 per class representative is in line with other  
3 awards approved in this circuit.”); *Faigman v. AT&T Mobility LLC*, 2011 U.S. Dist. LEXIS 15825,  
4 2011 WL 672648, \*5 (N.D. Cal. Feb. 16, 2011) (approving an incentive payment of \$3,333.33 for  
5 each of three class representatives, and noting that “[i]n [the Northern] [D]istrict, incentive payments  
6 of \$5,000 are presumptively reasonable”).

7 **IV. CONCLUSION**

8 For the foregoing reasons, the Class Representative respectfully requests that the Court grant  
9 Class Counsel the full requested Fee and Cost Award of \$200,000, and Class Representative Beck  
10 the full \$5,000 requested incentive award.

11  
12 Respectfully submitted,

13 DATED: April 3, 2019

THE RESTIS LAW FIRM, P.C.

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15 \_\_\_\_\_  
16 William R. Restis, Esq.  
17 402 W. Broadway, Suite 1520  
18 San Diego, CA 92101  
19 Tel: +1.619.270.8383  
20 Email: [william@restislaw.com](mailto:william@restislaw.com)