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Lead Counsel for Plaintiff

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

In re ALPHABET, INC. SECURITIES LITIGATION This Document Relates To: ALL ACTIONS.	Master File No. 3:18-cv-06245-TLT CLASS ACTION OMNIBUS REPLY IN SUPPORT OF MOTIONS FOR FINAL APPROVAL OF SETTLEMENT AND AWARD OF ATTORNEYS' FEES AND EXPENSES DATE: September 24, 2024 TIME: 2:00 p.m. CTRM: 9, 19th Floor JUDGE: Honorable Trina L. Thompson

Lead Plaintiff Rhode Island will not belabor what has been a sweeping confirmation that the Court correctly ordered Preliminary Approval of the settlement here. ECF 232. The Claims Administrator received over 948,200 claims from people, entities, and funds with actual monetary losses and thus standing to object to the terms of the Settlement or the requested attorneys' fees and expenses.[1] Not one objected. Of particular significance, no institutional investors, those class members with the largest amounts at stake, objected to either the Settlement, the request for attorneys' fees, or the Plan of Allocation. The overwhelmingly positive reaction from sophisticated institutional investors further confirms that the Settlement is fair.[2] This unequivocal support reflects the unique realities of this case – a case no one else wanted to pursue or finance for nearly six years. A case against the richest company in world history. A case that required unrelenting determination where there were no damages under conventional approaches. A case that took nearly six years to achieve the greatest post-reversal securities fraud resolution in the history of this Circuit.

Unlike the unanimous approval of tens of thousands of class members with standing, three class members who lack standing because they suffered no monetary damages submitted boilerplate objections to the attorneys' fees and expenses.[3] The Court's review will confirm the boilerplate

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[1] *See* Supplemental Declaration of Ross D. Murray Regarding Notice Dissemination and Requests for Exclusion and Objections Received to Date ("Suppl. Murray Decl."), submitted herewith. ¶¶4-5. As of September 4, 2024, Gilardi had mailed or emailed a total of over 1.2 million Summary Notices and 254 Claim Packages to potential Settlement Class Members and nominees, resulting in 948,245 asserted claims. *Id*.

[2] *See Hefler v. Wells Fargo & Co.*, 2018 WL 6619983, at *15 (N.D. Cal. Dec. 18, 2018) ("As with the Settlement itself, the lack of objections from institutional investors 'who presumably had the means, the motive, and the sophistication to raise objections' [to the attorneys' fee] weighs in favor of approval."); *In re Regulus Therapeutics Inc. Sec. Litig.*, 2020 WL 6381898, at *6 (S.D. Cal. Oct. 30, 2020) ("Many potential class members are sophisticated institutional investors; the lack of objections from such institutions indicates that the settlement is fair and reasonable.").

[3] *See* Suppl. Murray Decl., ¶7. *Stetson v. Grissom*, 821 F.3d 1157, 1163 (9th Cir. 2016) ("[A]n objector seek[ing] to appeal an award of fees to class counsel, . . . 'must independently satisfy Article III' – that is, he must demonstrate standing to appeal independent of his ability to object before the district court."); *In re Transpacific Passenger Air Transportation Antitrust Litig.*, 2024 WL 810703, at *1 (9th Cir. Feb. 27, 2024) ("'Every class member must have Article III standing in order to recover individual damages,' and Objectors bear the burden of proving standing." (quoting *TransUnion LLC v. Ramirez*, 594 U.S. 413, 430-31, 141 S. Ct. 2190, 2207-08 (2021)); *see also TransUnion,* 594 U.S. at 424 (to have standing, individual class member's harm must be "'concrete'" – that is, "'real, and not abstract'" (quoting *Spokeo, Inc. v. Robins*, 578 U.S. 330, 340, 136 S. Ct. 1540 (2016)).

nature of these three objections, as not one acknowledges a single substantive aspect of this case. Nothing about the fact that other plaintiffs' firms saw no case here. Nothing about the challenges of prosecuting a case against the richest company in world history, which used no fewer than four different law firms to defend it. Nothing about the lack of any recognizable damages under conventional approaches. Nothing about achieving the greatest post-reversal securities fraud resolution in the history of this Circuit. Nothing about all this taking nearly six years to accomplish without making any money along the way and, in fact, spending well over $1,000,000 on experts crucial to sustaining it. And nothing about the fee being negotiated by a large institutional investor with its own in-house counsel – at a rate (19%) that is well below the Ninth Circuit's benchmark for fees (25%),[4] despite a recovery that exceeds all benchmarks for recoveries by an order of magnitude.

Further undermining the merits of these three boilerplate objections, one is from a serial objector,[5] another failed to answer the question about whether he has filed other objections in the past two years, and the third inverted the relevant numbers and misunderstood the requested attorneys' fee rate to be 81%, instead of the actual requested 19%.[6]

In sum, the thousands of class members with skin in the game recognize the accomplishment here and have no opposition to the requested fees and expenses, whereas three people with no skin in

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[4] "'This circuit has established 25% of the common fund as a benchmark award for attorney fees.'" *Staton v. Boeing Co.*, 327 F.3d 938, 968 (9th Cir. 2003) (quoting *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1029 (9th Cir. 1998), *overruled on other grounds by Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 131 S. Ct. 2541 (2011)).

[5] *See, e.g.*, *In re Kraft Heinz Sec. Litig.,* No. 1:19-cv-01339, ECF 493 (N.D. Ill. Sept. 19, 2023) (noting that the Court had "considered and rejected" two objections (one of which was a virtually identical objection from Killion (*id.*, ECF 479)) and approving 20% fee award); *La. Sheriffs' Pension & Relief Fund v. Cardinal Health, Inc.*, 2023 WL 5951767 (S.D. Ohio Sept. 13, 2023) (overruling virtually identical objection from Killion (ECF 113), as well as a second objection, and approving 30% fee award); *City of Sterling Heights Police & Fire Ret. Sys. v. Reckitt Benckiser Grp. PLC*, No. 1:20-cv-1004, ECF 181 at 3 (S.D.N.Y. July 19, 2023) ("The Court has considered the objection to the fee application filed by Larry D. Killion . . . and finds it to be without merit. The objection is overruled in its entirety."); *Reynolds v. FCA US LLC*, No. 2:19-cv-11745, ECF 106 at 4 (E.D. Mich. June 27, 2023) ("The Killion Objection's challenge to the contingent nature of the requested attorneys' fees is not well taken and inconsistent with the law of this Circuit."); *In re Nielsen Holdings PLC Sec. Litig.*, No. 1:18-cv-07143, ECF 159 at 10 (S.D.N.Y. July 20, 2022) ("I find that the one objection from Mr. Killion is flawed both as a matter of law and a matter of fact . . . .").

[6] *See* Suppl. Murray Decl., Ex. A at 1.

the game and no apparent awareness of the circumstances of this case submitted unsubstantiated boilerplate objections.[7] Lead Plaintiff and Lead Counsel respectfully request that the Court overrule these objections due to: (1) the objectors' lack of standing to object to fees and expenses that do not affect them, as they did not suffer any monetary damages and will not share in the recovery here; (2) the objectors' failure to identify any case-specific bases for objecting to the fees or expenses; (3) the lack of any objections from any institutional investor or any other investor with standing to object; (4) the requested fee percentage (19%) amounting to nearly 25% below the Ninth Circuit's benchmark for common-fund cases (25%); and (5) the Court's finding that based on the record before it that the fees and expenses have been well-earned and amply justified.

Lead Plaintiff respectfully requests that the Court confirm its Preliminary Approval Order by entering an Order Granting Final Approval of Settlement and Awarding Attorneys' Fees and Expenses.

DATED: September 6, 2024

Respectfully submitted,

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[7] 2 Joseph M. McLaughlin, *McLaughlin on Class Actions* §6:10 (20th ed. 2023) ("A certain number of objections are to be expected in a class action with an extensive notice campaign and a large number of class members."); *Churchill Village, L.L.C. v. Gen. Elec.*, 361 F.3d 566, 577 (9th Cir. 2004) (affirming settlement where 45 of approximately 90,000 class members objected); *Rodriguez v. West Publishing Corp.*, 563 F.3d 948, 967 (9th Cir. 2009) ("The court had discretion to find a favorable reaction to the settlement among class members given that, of 376,301 putative class members to whom notice of the settlement had been sent, 52,000 submitted claims forms and only fifty-four submitted objections."); *see also In re Lyft Inc. Sec. Litig.*, 2023 WL 5068504, at *9 (N.D. Cal. Aug. 7, 2023) ("There are three objections on behalf of six class members. . . . The Court finds that the objections do not warrant disapproving the settlement."); *In re Apple Inc. Sec. Litig.*, 2011 WL 1877988, at *3 (N.D. Cal. May 17, 2011) ("The small number of objections raises a strong presumption that the settlement is favorable to the class. . . . The Court concludes that none of the objections rebuts this presumption.").

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