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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BRANDON IMBER, individually and on behalf of all others similarly situated,
Plaintiff,
v.

BRUCE LACKEY, PAM LACKEY, LACKEY FAMILY TRUST, COLE SCHARTON, THE ADMINISTRATIVE COMMITTEE OF THE PEOPLE BUSINESS EMPLOYEE STOCK OWNERSHIP PLAN, MIGUEL PAREDES, RICK ROUSH, DEL THACKER, RICHARD DEYOUNG and RITCHIE TRUCKING SERVICE HOLDINGS, INC.,

Defendants,
and

PEOPLE BUSINESS EMPLOYEE STOCK OWNERSHIP PLAN,

Nominal Defendant.

Case No. 1:22-cv-004-HBK

PLAINTIFF'S MEMORANDUM IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

Complaint Filed: December 30, 2021

Date: December 19, 2025
Time: 10:00 a.m.
Judge: Helena M. Barch-Kuchta

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I. Introduction.

Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, Plaintiff respectfully submits this Memorandum in support of his Motion for Final Approval of the proposed Class Action Settlement with Defendants. After almost four years since this litigation was filed, and three separate mediation sessions with two experienced mediators, which were preceded by discovery necessary for Plaintiff's counsel to make informed decisions about the value of a settlement, and the exchange of numerous negotiations over the terms of the settlement agreement (which are detailed in the numerous status reports), the Parties reached a settlement and finalized a settlement agreement. In exchange for resolving the claims of the Class, this Settlement provides the following relief: (1) $485,000 cash which Defendants have already paid into a Settlement Fund (and which has been earning interest) and (2) a reduction of the ESOP-related debt by $1.4 million as of January 1, 2024. As a result of this reduction of the ESOP-related debt, the Settlement requires the release of 115,000 shares from the ESOP suspense account to the Plan accounts of the Class. Based on information provided by Defendants after preliminary approval, Class Counsel calculates that the value of the 115,000 shares is $206,986.04 among 175 Class members. As the ESOP-related debt is also a debt on Ritchie Trucking Holdings, Inc. ("Ritchie"), the reduction of this debt will also increase the value of Ritchie as of January 1, 2024, in which the equity value of the 2 million shares would increase from $3.197 million to $4.527 million or from $1.60 per share to $2.26 per share. Thus, the immediate value of the settlement is approximately $2 million (and is at least $1.885 million). And the reduction of the debt will have future beneficial effects for Ritchie (of which the ESOP owns 100%), the ESOP itself and its participants as the debt will be paid faster and their equity should be greater.

As Class Counsel's expert calculated the overvaluation to range from $6.2

million to $9 million, with a likely overvaluation toward the lower end of that range, this settlement represents a recovery of between 22.4% and 32.5% of the maximum amount that could have been recovered for the Class if Plaintiff prevailed. Given the risks of establishing liability and damages, this is a very good result for the Class. No Class member has objected. Thus, this Settlement should receive final approval.

II. Background.

A. Factual Background.

Plaintiff Brandon Imber is a former employee of Ritchie Trucking Service, Inc, a subsidiary of Ritchie Trucking Service Holdings, Inc. and a vested participant in its ESOP, the People Business Employee Stock Ownership Plan (the "Plan" or "ESOP"). Doc No. 1 ("Compl.") ¶ 7. In December 2018, the ESOP Trustee, Defendant Miguel Paredes, caused the Plan to purchase from the Lackey Family Trust 2,000,000 shares of common stock of Ritchie for $19.5 million (the "2018 Transaction"). *Id*. ¶¶ 1, 64.

Before the 2018 Transaction, Ritchie's largest client, General Electric ("GE") announced that it would, and ultimately did, make significant changes that would decrease Ritchie's market share and revenue. *Id*. After these changes were announced in 2016 but before they were implemented, Bruce Lackey and Pam Lackey, the then-owners of Ritchie offered in 2017 to sell the company for $10-12 million. *Id*. The Lackeys, Richard DeYoung, Rick Roush and Del Thacker, were executives of Ritchie and the Plan's fiduciaries who failed to provide or provided incomplete information about GE's contemplated changes to the ESOP's advisors. *Id*. The 2018 valuation report by the Trustee's financial advisor does not appear to take this change into account in the 2018 Transaction (but did consider it in valuing Ritchie in 2019). *Id*. ¶ 67. Rather than discount the value of Ritchie based on the uncertainty of its business, the Trustee and his valuation advisor relied on aggressive forecasts from management (i.e. Defendants). *Id*. The post-Transaction financial

results demonstrate the flaws in these projections. *Id*. ¶ 64. Had the Trustee performed adequate due diligence – the type that an arms-length buyer would have performed (such as calling a company's largest clients or even seeking the basis for these aggressive forecasts) – the Trustee would have realized that the fair market value of Ritchie was not $19.5 million, but consistent with the $10-12 million range that Lackey had suggested when offering to sell Ritchie. *Id*. ¶ 67. As this material information was not considered in evaluating in the 2018 Transaction price, the Plan paid more than fair market value for the stock. *Id*. ¶ 71.

B. The Claims and Relief Requested.

The Complaint alleges seven counts under ERISA on behalf of a Class of ESOP participants and beneficiaries challenging the conduct of the ESOP fiduciaries – the Trustee (Paredes) and the Committee Defendants (the Lackeys and Cole Scharton), the Director Defendants (DeYoung, Roush and Thacker) – and the Selling Shareholders (the Lackeys and Lackey Trust) in connection with the 2018 Transaction:

> **Count I** alleges the Trustee and the Committee Defendants caused the ESOP to engage in a transaction prohibited by ERISA § 406(a), 29 U.S.C. § 1106(a), and the Selling Shareholder Defendants (i.e. the Lackeys and the Lackey Trust) knowingly participated in the 2018 Transaction;
>
> **Count II** alleges that the Selling Shareholder Defendants engaged in transaction prohibited by ERISA §§ 406(b), 29 U.S.C. §§ 1106(b);
>
> **Count III** alleges that the Trustee and the Committee Defendants breached their fiduciary duties under ERISA § 404(a)(1)(A), (B) & (D), 29 U.S.C. § 1104(a)(1)(A), (B) & (D) by causing the ESOP engage in the 2018 Transaction for more than fair market value;
>
> **Count IV** alleges the Trustee and the Committee Defendants breached their fiduciary duties under ERISA § 404(a)(1)(A), (B) & (D), 29 U.S.C. §

1104(a)(1)(A), (B) & (D) to remedy or correct the 2018 Transaction;

Count VI alleges the Director Defendants breached their fiduciary duties under ERISA § 404(a)(1)(A), (B) & (D), 29 U.S.C. § 1104(a)(1)(A), (B) & (D) by failing to appropriately monitor the Trustee and the Committee;

Count VII alleges that the Director Defendants, Committee Defendants and Defendant Paredes each have co-fiduciary liability as a result of breaches by their co-fiduciaries; and

Count VIII: alleges that indemnification provisions in the Plan and Articles of Incorporation purporting to require Ritchie to indemnify the ESOP fiduciaries violate ERISA § 410(a), 29 U.S.C. § 1110(a), and Defendant Paredes, the Director Defendants, Committee Defendants and Ritchie breached fiduciary duties under ERISA § 404(a)(1)(A), (B) & (D), 29 U.S.C. § 1104(a)(1)(A), (B) & (D) by agreeing to such provisions.

As relief, the Complaint sought a declaration that Defendants violated ERISA, orders requiring the fiduciary Defendants to restore all the losses resulting from their fiduciary breaches and other appropriate equitable relief to the ESOP including a constructive trust on funds wrongfully received and disgorgement of profits, as well as removal as ESOP fiduciaries. *Id*. at Prayer for Relief ¶¶ A-O.

C. Procedural History

Plaintiff and his counsel began investigating the claims in this case in 2021, including by requesting certain documents from the Plan Administrator. *See* Doc No. 1 ¶¶ 79-82. After receiving some of the requested documents, Plaintiff filed this lawsuit on December 30, 2021. Doc No. 1. Defendant Paredes, the Committee Defendants and the Lackey Family Trust filed motions to dismiss all the claims against them. Doc Nos. 40, 42, 48. These motions are fully briefed and pending before the Court. *See* Doc Nos. 41, 42-1, 44, 48-1, 53, 56, 57, 59, 60, 72. Defendants Bruce Lackey, Pamela Lackey, Cole Scharton, The Administrative Committee of the

People Business Employee Stock Ownership Plan, and Ritchie Trucking Service Holdings, Inc. filed Answers to the Complaint. Doc Nos. 51, 54, 63.

After the motions to dismiss were fully briefed, the Parties discussed the possibility of engaging in a mediation after some discovery, and the Court issued a limited discovery order. Doc No. 80. Pursuant to that Order, Defendants were required to provide Plaintiff with the following discovery: (1) the 2018 Transaction documents; (2) reports/opinions valuing Ritchie stock during the Transaction and after; (3) resolutions and minutes of the Board or other ESOP fiduciaries; (4) the written instrument of the ESOP; and (5) insurance agreements. *Id.* ¶ 4. Consistent with that Order, Plaintiff also issued 9 total interrogatories to Defendants "Lackey individually and the Lackey Family Trust or Selling Shareholders," the "Committee Defendants," and the "Board of Director Defendants" and Ritchie Trucking Service Holdings, Inc. Doc No. 158-2 (Barton Decl.) ¶ 3. After receiving and reviewing that discovery, Plaintiff's counsel hired an expert to analyze the valuation reports. *Id.* ¶ 4. Plaintiff's expert assessed that the valuation for the 2018 Transaction likely overvalued Ritchie between $6.2 million and $9 million. *Id*.

After selecting Martin Quinn of JAMS as the mediator, the Parties prepared and exchanged mediation statements. *Id.* ¶ 6. Counsel and the Parties participated in a remote mediation session with Mr. Quinn on January 23, 2023. *Id*. At the end of the mediation, Mr. Quinn made a mediator's proposal. *Id.* ¶ 7. Plaintiff agreed to the proposal (with some clarifications), but the proposal was not accepted by all Defendants. *Id.* Nonetheless, the Parties agreed to continue settlement discussions following the mediation session with Mr. Quinn for several months, and then after he became unavailable due to medical reasons, without his assistance. *Id.* ¶ 8. After the Parties were unable to agree to either a term sheet or a settlement agreement, the Parties participated in a remote Voluntary Dispute Resolution Proceeding ("VDRP") with Rex Berry on April 2, 2024. *Id.* ¶ 9. After the initial VDRP session, the Parties

agreed to participate in a further mediation session with Mr. Berry on May 7, 2024. *Id*. While final agreement was not reached on May 7, 2024, the Parties continued negotiations, and eventually reached the agreement reflected in this Settlement Agreement, which was not finalized until March 2025. *Id.* ¶ 10.

D. The Terms of the Settlement Agreement.

The Settlement Agreement has several significant components of value to the Class: *First,* it requires Defendants to pay $485,000.00 into a Cash Settlement Fund which, less Court-approved attorney's fees, expenses, and service award, will be distributed to the Class according to a Court-approved Plan of Allocation. Doc No. 158-3 (Settlement Agreement) ("Agmt.") § IV.A. This cash payment and the amount paid to the Independent Fiduciary will exhaust the amount of fiduciary defendants' insurance. *Id.* a Recital ¶ N. *Second,* the Lackey Defendants will reduce the principal balance of the ESOP-related debt by $1.4 million ("Loan Modification"). *Id*. § IV.B. *Third,* 115,000 shares of Ritchie Stock held in the Plan Suspense Account will be allocated to the Stock Accounts of Class Members pursuant to a Court-approved Plan of Allocation. *Id*. *Fourth,* both the Cash Settlement and the Stock Settlement will be paid through the Plan which ensures every Class Member will benefit from this Settlement and ensures the tax-favored treatment of the Settlement proceeds. *Id*. § V.A.5 & V.B. *Fifth,* the Settlement requires Defendants or Ritchie to bear the expenses of the Settlement and distribution (other than those of the class notice and the Settlement Administrator) and prohibits assessment of any fees or charges to receive distributions. *Id*. § V.C.1&2 & VII.4. For purposes of valuing the stock to be liquidated, the Settlement precludes reducing the value by the amount of the costs in the litigation or settlement. *Id*. § V.A.3(a)(2). *Finally,* the Settlement requires the Plan Administrator (i.e. the Committee) and the Trustee to provide Plaintiff's counsel with any valuation reports regarding the value of Ritchie stock, which allows oversight of the valuation of the stock. *Id*. § XVII.3. T

In exchange, the Class will dismiss the class claims against Defendants with prejudice and release Defendants from claims arising out of the same factual predicate of those claims. *Id*. § XIV.1. Defendants will also release any claims that they have against Plaintiff and the Class as to the correctness of the amount in their Plan accounts. *Id*. § XIV.2. In other words, these Plan fiduciaries cannot later claim that any member of the Class received an incorrect allocation. *See id.*

E. Preliminary Approval, Class Notice & Additional Data

The Court certified the class and granted preliminary approval to the settlement on September 19, 2025. Doc No. 177. On August 27, 2025, Ritchie provided Class Counsel with the valuation of Ritchie stock as of December 31, 2025 and also a calculation of fair market value of Ritchie as of December 31, 2024, incorporating the effects of this Settlement. Barton Decl. ¶ 4. Defendants produced Class Data on September 29, 2025 that identified 175 participant Class members. Barton Decl. ¶ 5. Consistent with the Court's orders, the Settlement Administrator sent notice to the Class on October 17, 2025. Doc No. 184-1 (Mitchell Decl.) ¶ 7. To date, no Class Member has objected. *Id.* ¶ 11; Barton Decl ¶ 8. On November 12, 2025, Defendants provided Class Counsel with their calculation of the proposed allocations. Barton Decl. ¶ 6. While Class Counsel has not had time to confirm the stock allocations, this data along with the valuations provided in August allowed Class Counsel calculate a value of the 115,000 shares to be released as result of the settlement (assuming the correctness of Defendants' allocation calculations). *Id.* ¶ 7. Based on that data, Class Counsel calculates that 115,000 shares will have a value of $206,986.04 to the 175 participant Class members. *Id.* That is in addition to the other benefits of the loan modification. *See* Doc. No. 158-1 at 20-21.

III. The Class Should Be Finally Certified.

When the court has analyzed each of the Rule 23 factors and found that they were satisfied and the record on final approval reflects substantially the same

information, the Class should be finally certified. *Ayala v. Valley First Credit Union*, No. 1:22-CV-00657-HBK, 2024 WL 1053820, at *3 (E.D. Cal. Mar. 11, 2024) (Barch-Kuchta, J.); *Manzo v. McDonald's Rest. of Cal., Inc.,* No. 1:20-cv-1175-HBK, 2022 WL 4586236, at *5 (E.D. Cal. Sept. 29, 2022) (Barch-Kuchta, J.). Here, the only new information is that Defendants have provided information that the participant class members total 175 persons (plus beneficiaries). Thus, the class should be finally certified.

IV. The Settlement Should be Finally Approved.

As a matter of public policy, settlement is a strongly favored method for resolving disputes. *Util. Reform Project v. Bonneville Power Admin.*, 869 F.2d 437, 443 (9th Cir. 1989). This is especially true in class actions. *Officers for Justice v. Civil Serv. Comm'n of City & Cnty. of S.F.*, 688 F.2d 615, 625 (9th Cir. 1982); *Ayala*, 2024 WL 1053820, at *3. The Ninth Circuit "put[s] a good deal of stock in the product of an arms-length, non-collusive, negotiated resolution" in approving a class action settlement. *Rodriguez v. W. Publ'g Corp.*, 563 F.3d 948, 965 (9th Cir. 2009). "[I]ntrusion upon what is otherwise a private consensual agreement negotiated between the parties to a lawsuit must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." *Officers for Justice*, 688 F.2d at 625.

A. The Settlement Satisfies the Ninth Circuit Factors.

"When evaluating fairness, adequacy, and reasonableness of a class action settlement at the final approval stage," courts in this Circuit considers the following factors: "(1) the strength of plaintiff's case; (2) the risk, expense, complexity, and likely duration of further litigation; (3) the risk of maintaining class action status throughout the trial; (4) the amount offered in settlement; (5) the extent of discovery

completed, and the stage of the proceedings; (6) the experience and views of counsel; (7) the presence of a governmental participant; and (8) the reaction of the class members to the proposed settlement." *Ayala*, 2024 WL 1053820, at *4 (citing *Kim v. Allison*, 8 F.4th 1170, 1178 (9th Cir. 2021)). "The relative degree of importance to be attached to any particular factor will depend upon and be dictated by the nature of the claim(s) advanced, the type(s) of relief sought, and the unique facts and circumstances presented by each individual case." *Id.* at *4 (quoting *Officers for Justice*, 688 F.2d at 625). All of these factors weigh in favor of final approval of the settlement.

1. The Strength of Plaintiff's Case Favors Approval.

"When assessing the strength of a plaintiff's case, the court does not reach 'any ultimate conclusions regarding the contested issues of fact and law that underlie the merits of the [the] litigation.'" *Ayala*, 2024 WL 1053820, at *6 (quoting *In re Wash. Pub. Power Supply Sys. Sec. Litig.*, 720 F.Supp. 1379, 1388 (D. Ariz. 1989)). The court "evaluate[s] objectively the strengths and weaknesses inherent in the litigation and the impact of those considerations on the parties' decisions to reach these agreements." *Id*. "In most situations, unless the settlement is clearly inadequate, its acceptance and approval are preferable to lengthy and expensive litigation with uncertain results." *Urakhchin v. Allianz Asset Mgmt. of Am., L.P.*, No. SACV 15-1614-JLS (JCG), 2018 WL 3000490, *4 (C.D. Cal. Feb. 6, 2018) (granting final approval). "This factor is generally satisfied when plaintiffs must overcome barriers to make their case." *Tom v. Com Dev USA, LLC*, No. 16CV1363, 2017 WL 10378629, *3 (C.D. Cal. Dec. 4, 2017) (granting final approval).

Here, Plaintiff's claims primarily depended on whether Ritchie's stock was properly valued for purposes of the 2018 Transaction. *Supra* I.B. To support that overvaluation, Plaintiff would have relied on (1) the Lackey's prior estimation of value in the range of $10-12 million, (2) the termination of the GE contract and the

lack of proper disclosure to the Trustee and its appraiser, (3) the failure of the valuation to include any such discussion, (4) the failure of the Trustee to conduct any proper due diligence by the Trustee or its advisors that would have revealed the flaws in management's overly optimistic projections, and (5) the opinion of Plaintiff's expert as to the correct valuation. But as the claims would have addressed both the flaws in the process and the substantive valuation, a trial would have involved a battle of the experts on business valuation issues related to the amount of monetary relief, and the outcomes of such disputes are by nature difficult to predict. Business valuation is often described "as much an art as it is a science." *Henley Mining, Inc. v. Parton*, No. 617CV00092GFVTHAI, 2020 WL 4495466, at *3 (E.D. Ky. Aug. 3, 2020). This reality heightens the potential risks at trial. *In re Tyco Int'l, Ltd. Multidistrict Litig.*, 535 F.Supp.2d 249, 260-261 (D.N.H. 2007) (holding prospect of "confusing 'battle of the experts' over damages" favored approval). Here, Defendants would have undoubtedly argued that the valuation resulted in the correct price in the 2018 Transaction.

Regardless of the strength of Plaintiff's claims, there are numerous examples of trials of ERISA fiduciary breach and ESOP transaction cases where defendants prevailed. *E.g. Walsh v. Bowers*, 561 F.Supp.3d 973, 977 (D. Haw. 2021) (finding in favor of defendants against DOL after one week trial); *Fish v. Greatbanc Tr. Co.*, 09 C 1668, 2016 WL 5923448, *1, *68 (N.D. Ill. Sept. 1, 2016) (finding for defendants in ESOP case after 34 trial days); *Reetz v. Lowe's Cos., Inc.*, No. 5:18-CV-00075, 2021 WL 4771535, at *1 (W.D.N.C. Oct. 12, 2021) (finding for defendant after 5-day trial). If Plaintiff was only able to prove procedural violations in the valuation without any resulting substantive flaw, then that may not result in a finding of fiduciary breach, but a finding that those breaches resulted in no harm or loss to the participants. *DeFazio v. Hollister, Inc.*, 854 F.Supp.2d 770, 816 (E.D. Cal. 2012) (finding after trial in ESOP case that "the fiduciaries' breaches of their

duties did not cause a material harm" and "plaintiffs [were] not entitled to damages."), *aff'd*, 612 Fed. Appx. 439 (9th Cir. 2015). Here, Defendants would likely have argued that any procedural issues did not ultimately impact the price. Thus, these potential issues favor approval of the settlement.

2. The Risk, Expense, Complexity, and Likely Duration of Further Litigation Favors Approval.

"In the Ninth Circuit, there is a 'strong judicial policy that favors settlements, particularly where complex class action litigation is concerned.'" *Ayala*, 2024 WL 1053820, at *6 (quoting *In re Syncor ERISA Litig.*, 516 F.3d 1095, 1101 (9th Cir. 2008)). "As a general matter, 'unless the settlement is clearly inadequate, its acceptance and approval are preferable to lengthy and expensive litigation with uncertain results.'" *Id*. (quoting *Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 526 (C.D. Cal. 2004)). Analyzing this factor involves comparing the uncertainties of prolonged litigation with the immediate benefits that the settlement provides to the class. *Id*.

As this Court recognized, the claims in this case involved "'significant' litigation risk including Defendant's argument that the class should not be certified, as well as risks on summary judgment, trial, and appeal." *Imber v. Lackey*, No. 1:22-cv-00004-HBK, 2025 WL 2687358, at *13 (E.D. Cal. Sept. 19, 2025). This risk "is especially true here given that 'ERISA actions are notoriously complex cases, and ESOP cases are often cited as the most complex of ERISA cases.'" *Id.* (quoting *Foster v. Adams and Assoc., Inc.*, No. 18-cv-02723-JSC, 2021 WL 4924849, at *6 (N.D. Cal. Oct. 21, 2021)). Here, Defendants would have undoubtedly contested class certification, the merits and the amount of any losses, and other equitable relief.

Even if Plaintiff succeeded at trial, the Class faced a risk on appeal as illustrated by a Ninth Circuit decision reversing a trial decision for the class in an ERISA case after a ten-day bench trial. *Wit v. United Behav. Health*, 79 F.4th 1068

(9th Cir. 2023). Litigating to judgment would have been time-consuming as ERISA class actions sometimes extend for a decade or more. *E.g. Amara v. Cigna Corp.*, 53 F.4th 241 (2d Cir. 2022) (describing ERISA pension case taking almost 20 years of litigation to resolve); *Tibble v. Edison Int'l*, CV 07-5359 SVW (AGRx), 2017 WL 3523737, at *15 (C.D. Cal. Aug. 16, 2017) (outlining remaining issues ten years after suit was filed). Litigation to judgment and exhaustion of appeals would have required significant attorney time and litigation expenses as ERISA cases are "enormously complex" involving law and facts that are "exceedingly complicated." *Conkright v. Frommert*, 559 U.S. 506, 509 (2010). Due to the need and complexity of expert testimony, ESOP litigation is expensive. *Fifth Third Bancorp v. Dudenhoeffer*, 573 U.S. 409, 424 (2014) (recognizing ESOP litigation is expensive); *Su v. Bowers*, 89 F.4th 1169, 1174 (9th Cir. 2024) (describing ESOP litigation that proceeded to trial as "time-consuming and expensive"). As this Court has observed, when plaintiff's claims present complex issues and defenses, significant expenditure of resources, delay, a "significant risk of no recovery," that favors approval. *Ayala*, 2024 WL 1053820, at *6. The same is true in this case.

3. The Amount Offered Favors Approval of the Settlement.

"To evaluate the fairness of a settlement award, the court should 'compare the terms of the compromise with the likely rewards of litigation.'" *Ayala*, 2024 WL 1053820, at *7 (quoting *Protective Comm. For Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424-425 (1968)). When considering this factor, "[i]t is the complete package taken as a whole, rather than the individual component parts, that must be examined for overall fairness." *Officers for Justice*, 688 F.2d at 628. "It is well-settled" that a settlement "amounting to only a fraction of the potential recovery does not per se render the settlement inadequate or unfair." *In re Mego Fin. Corp. Secs. Litig.*, 213 F.3d 454, 459 (9th Cir. 2000) (finding settlement that was "roughly one-sixth of the potential recovery" was fair and

adequate). It is the "rare class action settlement which provides complete relief for all alleged harms." *Messineo v. Ocwen Loan Servicing, LLC,* No. 15-cv-02076-BLF, 2017 WL 733219, at *9 (N.D. Cal. Feb. 24, 2017). In considering another class settlement, this Court concluded that the relief was substantial where the gross settlement amount was $120,000.00. *Ayala*, 2024 WL 1053820, at *7; *Manzo*, 2022 WL 183492, at *7 (approving a $2 million settlement that was about 13.75% of the total estimated liability). Here, the Settlement primarily provides the following relief for the Class: (1) $485,000.00 paid to a Cash Settlement Fund and (2) a reduction of the principal balance of the ESOP-related debt by $1.4 million ("Loan Modification"). Agmt. §§ IV.A-B.

The Cash Payment of $485,000 (plus the $15,000 payment to the Independent Fiduciary) exhausts the amount of insurance available. Agmt. at Recital ¶ N. The result is that the Class receives the benefit of the "remaining insurance proceeds rather than those proceeds being used to litigate this case." *Ivan Baron v. HyreCar Inc.*, No. 2:21-cv-06918-FWS-JC, 2025 WL 3097076, at *6 (C.D. Cal. Mar. 7, 2025) (quoting *Farrar v. Workhorse Grp., Inc.*, No. CV 21-02072-CJC (PVCx), 2023 WL 5505981, at *6 (C.D. Cal. July 24, 2023)). The claims for monetary relief were all alleged against individuals. Compl. ¶¶ 83-121, 136-157. As a result, the insurance was the most likely and readily available source of cash available for any recovery. Not only are there no monetary claims against Ritchie, but a monetary judgment against Ritchie for the ESOP makes no economic sense as the ESOP owns 100% of Ritchie so that a payment by Ritchie would reduce the stock value by the amount paid by Ritchie. The only non-fiduciary defendant not covered by insurance is the Lackey Trust (or the Lackeys in a non-fiduciary capacity) for which –as the 2018 Transaction was financed by seller notes – the most likely remedy would be a modification of the loan (which is precisely the remedy obtained). Thus, the structure of the settlement that pays the amount of the available cash plus an amount of the

loan reduction is directly related to the likely relief.

The Loan Modification has immediate and long-term benefits. *First,* the Settlement requires release of 115,000 shares from the ESOP suspense account to participant accounts. *Id*. § IV.B. Based on the 2023 Form 5500, as of 2023, there were 250,378 shares allocated to participant accounts with a fair value of $400,605 or $1.60 per share. Doc. No. 158-2 (Barton Decl.) ¶ 11. The Loan Modification will immediately increase the allocated shares by 46%. *Id.* Based on information that Defendants provided after preliminary approval, Class Counsel calculates the value of the 115,000 shares to be worth $206,986.04 to the 175 participant Class members. Barton Decl. ¶ 7. *Second,* the $1.4 million debt reduction will *increase the value of all* shares. *Id*. As previously explained, the equity value of the 2 million shares would increase from $3.7 million to $4.5 million or from $1.60 per share to $2.26 per share. Doc. No. 158-2 (Barton Decl.) ¶ 11; *see* Doc. No. 161 (Reply on Preliminary Approval) at 5. The immediate impact of the debt reduction means that the value of the allocated shares would immediately increase from $400,605 to $827,108. *Id*. And the value of all shares held by the ESOP (both allocated and unallocated) would increase by $1.33 million. *Id.* at 5-6. *Finally,* there is the long-term impact. As a result of the debt reduction, as the company makes contributions to the ESOP (assuming the same amount of contributions), the ESOP debt will be paid more quickly and shares will be released from the suspense account, meaning that participants will receive their ESOP shares more quickly. *Id*. Even excluding the long-term benefits, the monetary value of the settlement is worth approximately $2.02 million. As previously explained, Plaintiff's expert calculated that maximum overvaluation at between $6.2 million to $9 million. Doc. No. 158-2 (Barton Decl.) ¶ 4.[1] The $2.02 million represents between 22.4% and 32.5% of the maximum

[1] Even if the settlement is only valued at $1.885 million, that represents between 21-30% of the maximum amount that could have been recovered for the Class. *Id*. ¶ 12.

amount that could have been recovered for the Class if Plaintiff prevailed. And it results in a benefit of approximately $11,542.85 per participant (or $10,771 per participant if only $1.885 million is used).

This compares favorably to other ERISA class action settlements in this Circuit on a percentage basis. *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d at 459 (affirming approval of ERISA settlement representing 16% recovery); *Gamino v. KPC Healthcare Holdings, Inc.,* No. 5:20-cv-01126-SB-SHK, 2023 WL 3325190, at *4 (C.D. Cal. Mar. 11, 2023) (finding settlement that was 7% of the estimated losses "compare[d] favorably to other approved ERISA settlements"). Courts in this Circuit have concluded that recoveries of 24%-29% of the losses are exceptional. *Marshall v. Northrop Grumman Corp.*, No. 16-CV-6794 AB (JCx), 2020 WL 5668935, at *2 (C.D. Cal. Sept. 18, 2020) (finding an ERISA settlement that was approximately 29% of claimed damages was "an exceptional result for the Class"); *Hurtado v. Rainbow Disposal Co., Inc.,* No. 8:17-cv-01605-JLS-DFM, 2021 WL 2327858, at *4 (C.D. Cal. May 21, 2021) (finding settlement that was 24% to 34% of total potential liability was "an impressive result").

An "average gross recovery of … $11,000 per class member" is "significantly higher than that approved in many other ERISA class actions." *New England Biolabs, Inc. v. Miller,* No. 1:20-cv-11234-RGS, 2022 WL 20583575, at *3 (D. Mass. Oct. 26, 2022); *Hurtado,* 2021 WL 2327858, at *4 (finding settlement would provide average benefit of $11,969 per participant was significant). This is illustrated by other ERISA class actions approved in this Circuit where the average participant benefit was far lower. *E.g. Rocke v. Allianz Asset Mgmt. of Am. LLC*, No. SACV 23-00098-CJC (KESx), 2024 WL 6874363, at *7 (C.D. Cal. Mar. 18, 2024) (observing "class members will receive an average of over $1,000"); *Gamino,* 2023 WL 3325190, at *2 (approving ESOP settlement that would provide an average of $2,900 per participant); *Baird v. BlackRock Institutional Trust Company, N.A.,* No. 17-cv-

01892-HSG, 2021 WL 5113030, at *2 (N.D. Cal. Nov. 3, 2021) (approving $9.65 million settlement to be divided among 18,289 class members for an average benefit of $527 per class member); *Marshall*, 2020 WL 5668935, at *2 (describing settlement amounting to $77.34 average gross recovery as "exceptional"). The amount of the settlement is reasonable whether measured on a percentage or a per participant basis.

4. The Extent of Discovery and the Stage of the Proceedings Favors Approval.

This factor considers whether "the parties have sufficient information to make an informed decision about settlement." *Linney v. Cellular Alaska P'ship*, 151 F.3d 1234, 1239 (9th Cir. 1998). "In the context of class action settlements, 'formal discovery is not a necessary ticket to the bargaining table' where the parties have sufficient information to make an informed decision about settlement." *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 459 (9th Cir. 2000). As detailed on preliminary approval, Class Counsel obtained discovery "including the 2018 Transaction documents," the valuations of Ritchie stock at and after the 2018 Transaction, resolutions and minutes of the Board and ESOP fiduciaries, and insurance policies as well as interrogatories and Rule 26(a) disclosures. *Imber*, 2025 WL 2687358, at *11 (citing Doc No. 158-2 (Barton Decl.)). This was in addition to the plan documents and disclosures that Mr. Imber requested before filing litigation. Doc. No. 156-4 (Imber Decl.) ¶¶ 4-5. Class Counsel understood Defendants' arguments based on their Answers, motions to dismiss and their mediation statements. Doc. No. 158-2 (Barton Decl.) ¶ 5. As Class Counsel had litigated ESOP cases for more than 20 years, this discovery constituted sufficient information for Plaintiff's counsel to make an informed decision about the merits of the case. *Id.*

Only after receiving this information did Class Counsel proceed to mediation. "Over the span of two years, the Parties engaged in ongoing negotiations and three

separate mediation sessions with two different mediators." *Imber*, 2025 WL 2687358, at *12 (citing Doc. No. 158-1 & 158-2). A mediator's proposal "formed the basis for future negotiations." *Id.* The various status reports in the case set forth the lengthy negotiations over those two years that eventually resulted in a settlement agreement signed in March 2025. *See id.* Thus, Class Counsel had more than sufficient information to negotiate a settlement.

5. The Views of Experienced Counsel Supports Approval.

"The Ninth Circuit recognizes that 'parties represented by competent counsel are better positioned than courts to produce a settlement that fairly reflects each party's expected outcome in litigation.'" *Knapp v. Art.com, Inc.*, 283 F.Supp.3d 823, 833 (N.D. Cal. Aug. 22, 2017) (citing *Rodriguez*, 563 F.3d at 967). Courts give "great weight ... to the recommendation of counsel, who are most closely acquainted with the facts of the underlying litigation." *Foster v. Adams and Assocs., Inc.,* No. 18-cv-02723-JSC, 2022 WL 425559, at *6 (N.D. Cal. Feb. 11, 2022). Here, "Class counsel has extensive experience in employee benefits class actions, including numerous ERISA class actions, both generally and specifically challenging ESOP transactions." *Imber,* 2025 WL 2687358, at *10. In his nearly 25 years litigating such cases, he has been trial counsel in three ESOP transaction case, plus other ERISA trials. Doc No. 156-2 (Barton Decl.) ¶¶ 3, 6. Class Counsel believes that the Settlement is a very good result for the Class. Barton Decl. ¶ 9. Thus, the views of experienced counsel weigh in favor of final approval of the settlement.

6. The Absence of a Governmental Participant is Neutral.

As no government entity has participated in this matter, this factor is neutral. *Ayala*, 2024 WL 1053820, at *8 (finding same and finally approving settlement). ERISA § 502(h) does require plaintiffs to provide the complaint to the Department of Labor, which Class Counsel did here. Barton Decl. ¶ 2. And Defendants were required to and have informed Class Counsel submitted notice to government

officials under the Class Action Fairness Act. *Id.* ¶ 3. As no government official has objected, this favors approval. *See Manzo*, 2022 WL 4586236, at *8 (finding lack of government objection to PAGA settlement favored approval).

7. The Reaction of the Class Favors Approval.

"[T]he absence of a large number of objections to a proposed class action settlement raises a strong presumption that the terms of a proposed class settlement action are favorable to the class members." *Ayala*, 2024 WL 1053820, at *8 (quoting *Nat'l Rural Telecomms. Coop*, 221 F.R.D. at 528-29). To date, no class member has objected. Barton Decl. ¶ 8; Doc No. 184-1 (Mitchell Decl.) ¶ 11. The lack of objections weighs in favor of final approval of the settlement.

B. The Settlement Satisfies the Rule 23(e) Factors.

Since 2018, Rule 23(e) identifies the following factors to consider when evaluating a request to approve a proposed settlement:

> (A) the class representatives and class counsel have adequately represented the class;
> (B) the proposal was negotiated at arm's length;
> (C) the relief provided for the class is adequate, taking into account:
> (i) the costs, risks, and delay of trial and appeal;
> (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing classmember claims;
> (iii) the terms of any proposed award of attorney's fees, including timing of payment; and
> (iv) any agreement required to be identified under Rule 23(e)(3); and
> (D) the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2). The Ninth Circuit factors "overlap significantly with the factors codified in Rule 23(e)." *Heredia v. Sunrise Senior Living, LLC*, No. 8:18-cv-01974-JLS-JDE, 2024 WL 5416919, at *4 (C.D. Cal. Dec. 3, 2024). All the Rule 23(e) factors weigh in favor of final approval of the settlement.

1. The Class Representatives and Class Counsel Have Adequately Represented the Class.

The fact that counsel is experienced, has been actively engaged in the litigation, engaged in discussions over an extended period of time, and utilized an experienced mediator, evidences the non-collusive nature of the settlement. *Morris v. FPI Mgmt., Inc.*, No. 2:19-CV-0128-TOR, 2022 WL 3013076, at *2 (E.D. Wash. Feb. 3, 2022) (granting final approval). This Court previously found that all of these elements were met here. *Imber,* 2025 WL 2687358, at *12. This Court also found that Class Counsel had significant experience and that Mr. Imber was qualified to adequately represent the Class. *Id.* at *10. This factor supports approval.

2. The Settlement Was Negotiated at Arm's Length.

When a settlement is preceded by extensive, arms-length negotiations, that favors approval. *Morris,* 2022 WL 3013076, at *2; *see Sandoval Ortega v. Aho Enters., Inc.,* No. 19-cv-00404-DMR, 2021 WL 5584761, at *9 (N.D. Cal. Nov. 30, 2021). This Court previously found that the settlement agreement was the result of serious, informed, and non-collusive negotiations by counsel experienced in ERISA and ESOP class actions assisted by a mediator. *Imber,* 2025 WL 2687358, at *12.

3. The Relief Provided for the Class is Adequate.

Rule 23(e)(2)(C) identifies four subfactors to consider: (i) "the costs, risks, and delay of trial and appeal," (ii) "the effectiveness of any proposed method of distributing relief to the class, including the method of processing class member claims," (iii) "the terms of any proposed award of attorney's fees, including timing of payment," and (iv) "any agreement required to be identified under Rule 23(e)(3)." Fed. R. Civ. P. 23(e)(2)(C). Each of these subfactors supports final approval.

i. The Costs, Risks & Delay of Trial & Appeal.

Where plaintiff "would face several hurdles before resolution of the matter, including additional discovery, contested class certification, dispositive motion

practice, and ultimately, trial and the potential for an appeal," this factor favors approval. *Morris*, 2022 WL 3013076, at *3. This factor is the same as a Ninth Circuit factor. *Sandoval,* 2021 WL 5584761, at *10. This factor is met. *Supra* IV.A.2.

ii. The Method of Distribution of Relief to the Class.

Rule 23 requires the court to consider "the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims." Fed. R. Civ. P. 23(e)(2)(C)(ii). Settlements where class members "will automatically receive their share of the settlement" without needing to submit a claim form provide an effective method of distributing relief. *Moreno v. Cap. Bldg. Maint. & Cleaning Servs., Inc*., No. 19-cv-07087-DMR, 2021 WL 1788447, at *12 (N.D. Cal. May 5, 2021); *Sandoval,* 2021 WL 5584761, at *10.

The Settlement ensures that all Class Members will receive benefits of the settlement. Under the Agreement, the settlement proceeds will be distributed directly to Class members' ESOP accounts and, to the extent they are entitled to an immediate distribution, can be transferred to another tax-favored vehicle. Agmt §§ V.A.4-5(a) & V.B.2 & V.B.3(a)(1). Courts approving other ESOP settlements negotiated by this Class Counsel have approved such distribution structures because they contain "an innovative element: it allows Class Members the opportunity to distribute their recovery to an IRA or other tax-qualified retirement plan." *Cunningham*, 2021 WL 1626482, at *7; *Hurtado*, 2021 WL 2327858, at *4 (explaining that it constitutes an additional benefit by preserving "the tax advantages that Class Members would have enjoyed under the[] ESOP"). Unlike many class settlements that require claim forms, this distribution method ensures that all Class Members will receive benefits.

iii. The Provisions Regarding Attorney's Fees.

The Ninth Circuit requires courts to "scrutinize agreements for 'subtle signs that class counsel have allowed pursuit of their own self-interests ... to infect negotiations.'" *Briseño v. Henderson*, 998 F.3d 1014, 1023 (9th Cir. 2021) (quoting

In re Bluetooth Headset Prods. Liab. Litig., 654 F.3d 935, 947 (9th Cir. 2011)). The three "*Bluetooth* factors" are (1) "when counsel receive a disproportionate distribution of the settlement or when the class receives no monetary distribution but class counsel are amply rewarded"; (2) when the payment of attorneys' fees is subject to a "clear sailing provision" or are paid "separate and apart from class funds"; and (3) when benefits that are not awarded revert to the defendants rather than being added to the class. *In re Bluetooth*, 654 F.3d at 947.

First, the amount that Class Counsel is requesting is only a percentage of the value of the settlement, and in an amount that is less than the benchmark in this Circuit. *Imber*, 2025 WL 2687358, at *14. That alone should not create a concern. *In re LinkedIn ERISA Litig,* 2023 WL 8631678, at *8 (N.D. Cal. 2023) (finding a request for 30% did not amount to a disproportionate amount). If the Court is concerned about how to value of the non-monetary portion of the settlement, then where the statute under which the case is brought includes a fee-shifting statute and the relief is "not easily monetized," then the lodestar method is appropriate. *Ayala*, 2024 WL 1053820, at *9[2]. Even in the case of a common fund, the court has discretion to use the lodestar method. *Id.* But the fee requested results in a significant

[2] The reduction of the debt and allocation of stock does not qualify as a coupon settlement under CAFA as none of the coupon factors are met: "(1) whether class members have 'to hand over more of their own money before they can take advantage of' a credit, (2) whether the credit is valid only 'for select products or services,' and (3) how much flexibility the credit provides, including whether it expires or is freely transferrable." *In re Easysaver Rewards Litig.*, 906 F.3d 747, 755 (9th Cir. 2018) (citation omitted); *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 951 (9th Cir. 2015) (finding gift cards did not qualify as coupons as they can be used freely, do not expire and do not require consumers to spend their own money). Here, the settlement allocates stock to Class member accounts and increases the value of existing stock, in which stock is vested and can be received under the terms of the Plan. Even if debt reduction or stock allocation transformed this settlement into a coupon settlement, the fees would then be determined by the lodestar approach. *In re Easysaver Rewards Litig.,* 906 F.3d at 759. Here, the attorneys' fees would be based on ERISA's fee shifting provision in ERISA § 502(g).

"negative multiplier" that it does not raise a concern regarding collusion. *DiMercurio v. Equilon Enters. LLC,* No. 3:19-cv-04029-JSC, 2024 WL 2113857, at *7 (N.D. Cal. May 9, 2024*); Botonis v. Bimbo Bakeries USA, Inc.,* No. 2:22-cv-01453-DJC-SCR, 2024 WL 4326916, at *13 (E.D. Cal. Sept. 27, 2024) (finding fee resulting in negative multiplier was reasonable); *Norton v. LVNV Funding, LLC,* No. 18-cv-05051-DMR, 2021 WL 3129568, at *11 (N.D. Cal. July 23, 2021) (same). The fees will be paid from the Cash Settlement Fund and will be paid only after the Settlement is finally approved by the Court. Agmt. VIII.1.

Second, Defendants have agreed to take no position regarding the application for an award of attorneys' fees, but such Clear sailing provisions are not prohibited nor are they "fatal to final approval." *Imber*, 2025 WL 2687358, at *13. Not only did Class Counsel "engaged in years of negotiations" and "obtained discovery" that allowed informed decision-making, but the amount sought is less than the benchmark and less than lodestar. *See id.*

Third, the amount to be awarded in fees will be what the Court awards, the decision on fees will not affect approval of the settlement and anything remaining in the Cash Settlement Fund will be distributed to Class Members and does not revert to Defendants. Agmt §§ V, VIII.

iv. There Are No Longer Any Other Agreements.

The only agreement identified under Rule 23(e)(3) was one that allowed Defendants to terminate the Settlement only if the Court certified the class under Rule 23(b)(3) *and* if enough class members opt out. *See* Doc No. 158-1 at 25-26. As the Class was certified as a mandatory class under Rule 23(b)(1), this agreement no longer applies. *See Imber,* 2025 WL 2687358, at *10-11.

4. The Settlement Treats Class Members Equitably.

A settlement treats class members equitably relative to each other when it "takes appropriate account of differences among their claims." 2018 Advisory

Committee Note to Rule 23. "[T]here is no rule that settlements benefit all class members equally" so long as any differences are "rationally based on legitimate considerations." *Holmes v. Cont'l Can Co.*, 706 F.2d 1144, 1148 (11th Cir. 1983) (citing *Kincade v. Gen. Tire & Rubber Co.*, 635 F.2d 501, 506 n.5 (5th Cir. 1981)); *Cohen v. Resolution Tr. Corp*., 61 F.3d 725, 728 (9th Cir. 1995) *vacated on other grounds*, 72 F.3d 686 (9th Cir. 1996) (approving settlement with different treatment of certain parties that was rationally based on legitimate considerations and there was no indication of any collusion against them). As the Eleventh Circuit explained in rejecting an objector's argument, "the text of the [Rule 23(e)(2)(D)] requires equity, not equality, and treating class members equitably does not necessarily mean treating them all equally." *In re Blue Cross Blue Shield Antitrust Litig.,* 85 F.4th 1070, 1093 (11th Cir. 2023). This provision "ensure[s] that similarly situated class members are treated similarly and that dissimilarly situated class members are not arbitrarily treated as if they were similarly situated." 4 Newberg and Rubenstein on Class Actions § 13:56 (6th ed.). This requirement is satisfied when the settlement "is specifically tailored to their claims in the litigation" and each class member's share is calculated based on losses alleged in the case. *Sparks v. Mills*, 626 F.Supp.3d 131, 138 (D. Me. 2022); *see Cunningham,* 2021 WL 1626482, at *7.

Here, the Settlement itself merely provides that the Net Settlement Fund will be allocated and distributed to Class Members through the Plan (to preserve the tax-favored benefits of the money) pursuant to the Court-approved Plan of Allocation. Agmt. §§ V.A.4-5, V.5.B.2, 3(a) & 3(b). The Settlement provides that the Plan of Allocation will be proposed by Class Counsel and subject to approval by the Court. *Id.* § VI.1 & 3. The only difference under the Agreement relates to whether Class members are entitled to an immediate distribution under the terms of the Plan. *Id.* § V.A.5(a)-(c) & § V.B.3(a)-(b). But that is a feature of the Plan, which allows certain participants (mainly former employees) to take distributions after they cease

employment. All participants will benefit from the debt reduction, but those participants who continue to hold stock (primarily current employees) will benefit from the debt reduction in the future because those participants will continue to receive allocations of stock to their account under the terms of the Plan. As those are legitimate distinctions, this factor favors preliminary approval.

V. The Plan of Allocation is Fair, Reasonable & Adequate.

"The Plan of Allocation, like the class settlement as a whole, must be fair, reasonable, and adequate." *Ramsey v. MRV Commc'ns Inc.*, No. CV 08-04561 (GAF) (RCx), 2010 WL 11596641, *7 (C.D. Cal. Nov. 16, 2010). As this Court has explained, a plan of allocation based on a pro rata basis is reasonable. *Manzo*, 2022 WL 183492, at *9 (approving such an allocation plan). Courts approve plans of allocations in ESOP cases where "each claimant will be allocated a pro rata share of the fund based on the" shares in his or her ESOP account as of a particular date "or if she terminated employment prior to that date, the number of vested shares in her account at the time of her termination." *Gamino,* 2022 WL 20581948, at *1; *New England Biolabs, Inc.*, 2022 WL 20583575, at *4.

The Plan of Allocation provides that each Class Member will receive a pro rata share of the Cash Settlement and Stock Settlement funds. Agmt. (Doc No. 158-3) Ex. A at 3-4. The pro rata share will be determined by first dividing the number of shares of Employer Stock in a Payee Class Member's Employer Stock Account (the "Credited Balance") by the sum of the Credited Balances of all Class Members. *Id*. This Court previously found this was an "equitable and reasonable method of allocating class members' payments." *Imber,* 2025 WL 2687358, at *14. As the Plan of Allocation is unchanged and there have been no objections, it remains fair, reasonable, and adequate and should be finally approved.

VI. Notice of the Settlement Was Properly Provided.

Rule 23 requires that notice must be directed "in a reasonable manner to all

class members who would be bound by the proposal." Fed. R. Civ. P. Rule 23(e)(1). Rule 23(c)(2)(B) requires "the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort." Fed. R. Civ. P. Rule 23(c)(2)(B). The Court previously found the form and method of notice sufficient. *Imber*, 2025 WL 2687358, at *15 The notice was sent as directed by the Court. Doc No. 184-1 (Mitchell Decl.) ¶ 7.

VII. Judgment Should be Entered Under Rule 54(b) as to the Class Claims

Rule 54(b) permits entry of judgment on fewer than all claims when an action has more than one claim for relief "only if the court expressly determines that there is no just reason for delay." Fed. R. Civ. P. Rule 54(b); *Schuman v. Microchip Tech. Inc.*, 139 F.4th 1045, 1054 (9th Cir. 2025) (finding district court properly granted Rule 54(b) judgment in class action). "Rule 54(b) has been utilized to permit the appeal of orders approving a settlement of class claims" where other claims remain in the lawsuit. 7B Wright et al, *Fed. Prac. & Proc. Civ.* § 1802.1 (citing cases) *In re Ikon Office Sol., Inc., Secs Litig,* 194 F.R.D. 166, 192 (E.D. Pa. 2000)). Courts enter judgment pursuant to Rule 54(b) "to facilitate the prompt distribution of the Settlement benefits to the members of the Settlement Class, [as] this is in the interest of the Settlement Class." *Ferrari v. Autobahn, Inc.*, No. 4:17-CV-00018-YGR, 2019 WL 295260, at *5 (N.D. Cal. Jan. 23, 2019). Here, judgment should be entered as to the Class Claims as the single remaining individual claim in Count V will not be affected by the Class Claims.

VIII. Conclusion.

For the foregoing reasons, the Class should be finally certified, the Settlement should receive final approval and the Plan of Allocation should be finally approved.

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Respectfully submitted,

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