IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF KING

KARANBIR SINGH, HARPREET SINGH, and
NASTEHO OMAR,

          Plaintiffs,

   v.

IQ DATA INTERNATIONAL, INC., a Washington
for profit corporation,

          Defendant.

NO. 20-2-07084-0 SEA

PLAINTIFFS' MOTION FOR ATTORNEYS' FEES, COSTS AND SERVICE AWARDS

I.   INTRODUCTION

Class Representatives Karanbir Singh, Harpreet Singh, and Nasteho Omar and their counsel request that the Court award Class Counsel $1,000,000 in attorneys' fees and $47,057 in litigation costs, and award each Class Representative a service payment of $10,000. The Class Representatives and Class Counsel actively litigated this action for more than three years before settling with Defendant IQ Data International, Inc. The settlement provides significant monetary relief for the Classes certified by the Court in November 2021.[1]

The settlement is an excellent outcome for the Classes. The Settlement establishes a fund of $4,000,000 that will pay CPA Class members approximately 61% of the amounts they

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[1] Unless otherwise explicitly defined herein, all capitalized terms have the same meanings as those set forth in the Parties' Settlement Agreement (Ex. 1 to the Declaration of Blythe Chandler in support of Plaintiff's motion for preliminary approval, Sub. No. 46).

1 paid to IQ Data in allegedly unlawful interest, and will pay FDCPA Class members who make

2 claims a statutory damage award estimated to be $35. Class Counsel seek an award of

3 attorneys' fees equaling twenty-five percent of the settlement fund and also seek their

4 litigation costs. Class Counsel's litigation costs include amounts that would be charged to a

5 paying client and are regularly paid from class settlement funds, including service, filing, court

6 reporting, transcription, translation, and mediation fees. Finally, the Class Representatives

7 request service awards in line with those regularly approved by Washington courts in

8 recognition of their significant efforts on behalf of the Classes.

9 **II.   STATEMENT OF FACTS**

10 **A.   This case has been heavily litigated for more than three years.**

11   This case was heavily litigated before IQ Data removed it to federal court. Karanbir and

12 Harpreet Singh filed this action in this Court in March 2020. Sub. No. 1. Plaintiffs amended their

13 complaint to add class allegations and add Nasteho Omar as a plaintiff and third proposed class

14 representative. Sub. No. 36.

15   Both parties took written discovery and depositions. Chandler Decl. ¶ 11. The parties

16 litigated discovery disputes before class certification. *See* Sub. No. 138 (granting Plaintiffs'

17 motion to compel production of documents and for second Rule 30(b)(6) deposition); Sub. No.

18 137 (denying IQ Data's motion for protective order).[2]

19   The Court granted Plaintiffs' motion for class certification and certified two classes on

20 November 23, 2021. Sub. No. 189. IQ Data then filed motions related to the Plaintiffs'

21 depositions and to disqualify the Plaintiffs as class representatives. Plaintiffs meanwhile filed

22 other motions relating to discovery. The Court heard the many pending motions at an omnibus

23 hearing on February 17, 2022. The Court denied IQ Data's motions to disqualify the Plaintiffs as

24 class representatives. Sub. Nos. 379, 381, 383. IQ Data sought interlocutory review of those

25 orders in Division I of the Washington Court of Appeals and the parties fully briefed IQ Data's

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27 [2] Copies of this Court's prior orders that are cited in this motion are attached as Exhibit A to the Declaration of Blythe Chandler.

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1 motion for discretionary review. Sub. No. 414; Chandler Decl. ¶ 12. The Court granted Plaintiffs'

2 second motion to compel and enforce the first discovery order and for sanctions. Sub. No. 377.

3 The Court granted Plaintiffs' motion to compel IQ Data's net worth information and awarded

4 fees. Sub. No. 371. The Court denied in large part IQ Data's motion for protective order against

5 employee depositions. Sub. No. 375. The Court granted Plaintiffs' motion to quash IQ Data's

6 subpoenas for Plaintiffs' employment records, Sub. No. 374, and denied IQ Data's motion for a

7 second deposition of Harpreet Singh. Sub. No. 373.

8 　　　　IQ Data then removed this case to federal court under the Class Action Fairness Act. The

9 federal court issued an order remanding the case to this Court on October 5, 2022, but IQ

10 appealed that order. The parties had fully briefed the appeal in the Ninth Circuit Court of

11 Appeals and were just a week away from oral argument when the case settled. Chandler Decl.

12 ¶ 13.

13 　　　　While the federal court proceedings moved forward, the Commissioner for Division I

14 also held a hearing IQ Data's motion for discretionary review, but deferred ruling until the

15 federal proceedings were complete. Chandler Decl. ¶ 14. IQ Data only dismissed the state

16 appeal after this Court granted preliminary approval of the settlement. *Id.*

17 　　　　The parties participated in three full-day mediations before the case settled. They

18 mediated with the Honorable John Erlick in March 2022, they participated in a full day

19 mediation with Ninth Circuit Mediator Robert Kaiser in January 2023, and ultimately agreed on

20 the settlement amount at the end of a full day mediation with the Honorable Paris Kallas (Ret.)

21 in June 2023. Chandler Decl. ¶ 15. The parties then negotiated the final terms of the Settlement

22 Agreement through direct arm's length negotiations. *Id.*

23 **B.　　The Class Representatives were actively involved in the litigation.**

24 　　　　The three Class Representatives have committed many hours of service to this litigation,

25 including by responding to multiple sets of discovery and each sitting for a full day deposition.

26 IQ Data's counsel's conduct made the depositions particularly trying. Throughout the

27 depositions, counsel for IQ Data attempted to intimidate the Class Representatives by asking

1   invasive questions about their capacity to speak and understand English and questioning them

2   about immigration status, despite their immigration status having nothing to do with any claim

3   or defense in the case. For example, during the deposition of Harpreet Singh, counsel argued

4   with the certified translator's translation of a question from English to Punjabi. See Sub. No.

5   305 at 3-4. IQ Data then filed a motion seeking to compel Mr. Singh to sit for a second

6   deposition and for sanctions against Plaintiffs' counsel for objecting to improper questions. The

7   Court denied that motion, finding that "IQ Data's conduct in seeking immigration status

8   information related plaintiff H. Singh could not be justified as a valid search for admissible

9   evidence," that there was no reason for a second deposition, and that IQ Data should pay

10   Plaintiffs' fees incurred in responding to the motion as a sanction. Sub. No. 373.

11   Similarly, IQ Data sought to disqualify Karanbir Singh as a Class Representative on,

12   among other grounds what IQ Data characterized as an "an extra-marital affair" because his

13   girlfriend was separated and had filed for divorce from her former spouse but had not yet

14   received a dissolution order. Sub. Nos. 298 at 7. The Court rejected these arguments as well,

15   finding Karanbir Singh "more than adequate to act as a representative for the 'CPA' class." Sub.

16   No. 379 at 2. The Court rejected all arguments to disqualify Ms. Omar as a class representative

17   as well. Sub. No. 383. In short, the Class Representatives endured a slew of personal attacks

18   hashed out in public court records in order to obtain benefits for the absent class members.

19   **C.   Class Counsel litigated the case with no guarantee of payment.**

20   Class Counsel are experienced class action litigators with expertise litigating complex

21   claims on behalf of consumers. Chandler Decl. ¶ 7–8.

22   Class Counsel took this case on a contingent basis with no guarantee of recovery. *Id.* ¶

23   20. Class Counsel also advanced over $40,000 of costs in this litigation. *Id.* Class Counsel have

24   worked on this matter for more than three years without compensation or reimbursement for

25   their time or out-of-pocket expenses. *Id.* If Class Counsel were unable to successfully resolve

26   this matter, Class Counsel would have been paid nothing.

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III. STATEMENT OF ISSUES

Should the Court approve the requested attorneys' fees, litigation costs, and service awards?

IV. EVIDENCE RELIED UPON

The Class Representatives rely on the Declarations of Blythe H. Chandler and Sam Leonard, and the exhibits attached thereto.

V. ARGUMENT AND AUTHORITY

Class Counsel requests that the Court approve a payment of $1,000,000 in attorneys' fees and $47,057 for their documented out-of-pocket expenses. Class Counsel's request warrants approval. Class Counsel disclosed to the Class their intent to request fees and costs to be paid from the settlement fund in the Court-approved notices and will post this motion and the supporting documentation on the settlement website within one-business day of filing it with the Court. Chandler Decl. ¶ 17.

Where, as here, counsel in a class action seek fees from the common fund, courts have discretion to employ either the lodestar method or percentage-of-recovery method to calculate a reasonable fee. *Bowles v. Washington Dep't of Ret. Sys.*, 121 Wn.2d 52, 72, 847 P.2d 440 (1993). When determining the appropriate fee from a common fund, the percentage-of-the-fund method is preferred. *Id.* As a matter of public policy, awarding fees from the common fund promotes "greater access to the judicial system" by making it easier for class action plaintiffs to obtain counsel. *Id.*

A. Class Counsel's fee request is supported by the "percentage of recovery" method of calculating fees that is favored in common fund cases.

Under the "percentage of recovery" method attorneys are awarded a reasonable percentage of the total recovery, "often in the range of 20 to 30 percent." *Bowles*, 121 Wn.2d at 72. Here, Class Counsel seek 25% of the common fund, less than fees that have been approved by Washington Superior Courts over the last several years. *See* Chandler Decl., Ex. B (*Strong v. Numerica Credit Union*, No. 17-2-01406-39, Order Granting Plaintiff's Unopposed

1   Motion for Final Approval of Class Action Settlement and Award of Attorneys' Fees, Costs and

2   Service Award ¶ 19 (Yakima Cnty. Sup. Ct. Feb. 14, 2020) (awarding one-third of fund)); Ex. C

3   (*Dougherty v. Barrett Business Servs., Inc.*, No. 17-2-05619-1, Final Approval Order and Entry of

4   Judgment ¶¶ 18-21 (Clark Cnty. Sup. Ct. Nov. 8, 2019) (awarding one-third of fund)); Ex. D

5   (*Terrell v. Costco Wholesale Corp.*, No. 16-2-19140-1 SEA, Order Approving Award of Attorneys'

6   Fees and Costs (King Cnty. Sup. Ct. June 19, 2018) (awarding one-third of fund)).

7   Class Counsel's request is warranted given the significant value to the Classes provided

8   by the Settlement. IQ Data has created a common fund of $4,000,000. Settlement Agreement

9   § III. 1. After deducting Court-approved settlement administration expenses, attorney's fees

10 and costs, and service awards to the Class Representatives, the Settlement Proceeds will be

11 distributed to Settlement Class Members as follows: (1) $225,000 will be allocated to the FDCPA

12 Class; and (2) the balance allocated to payments to the CPA Class. Settlement Agreement § III.3.

13 No part of the Settlement Proceeds will revert to IQ Data. *Id.* § III.

14   The recovery is more impressive given that the claims in this case were far from risk-

15 free. Plaintiffs are confident in the strength of their case but also aware of the risk created by IQ

16 Data's defenses. Specifically, IQ Data maintained that its addition of prejudgment interest to

17 amounts Class members allegedly owed to class members was authorized by the Class

18 members leases with their former landlords. Plaintiffs also faced risks related to their ability

19 recover even if they prevailed on the merits. IQ Data's insurance policy has been reduced by

20 the costs of its defense in this matter.

21   Continued litigation would also be expensive and time-consuming. The parties would

22 have had to complete briefing on decertification and motions for summary judgment and

23 Plaintiffs would have had to prevail on those motions, at trial, and in any appeal before they or

24 the other members of the class would have recovered anything. *See Pickett v. Holland Am. Line-*

25 *Westours, Inc.,* 145 Wn.2d 178, 188–89, 35 P.3d 351 (2001) (discussing factors relevant to

26 determining reasonableness of class settlement, including future expense and likely duration of

27 litigation)*.* Delays created by appeals were particularly likely here—indeed IQ Data twice sought

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1   interlocutory appeal over the course of this litigation, resulting in significant delay in the

2   resolution of the case.

3   Despite these obstacles, Class Counsel achieved a settlement that pays CPA Class

4   Members more than 60% of their alleged damages and creates a fund of nearly half the total

5   amount FDCPA class members could have recovered in statutory damages.

6   **B.   Class Counsel should be awarded their litigation costs.**

7   To date, Class Counsel have expended $47,939 in litigation expenses related to the

8   prosecution of this action, including filing and service expenses, court reporter costs,

9   transcription fees, translation fees, travel, computer research costs, and mediation fees.

10   Chandler Decl. ¶ 25. Class Counsel seek an award of $47,057, the total amount of fees listed on

11   the notices sent to the class members, which do not include fees incurred in connection with

12   obtaining preliminary approval. As Counsel's expense records show, all the costs incurred were

13   reasonable, necessary to the successful conclusion of this litigation and are the types of costs

14   normally charged to a paying client. *See Newberg on Class Actions* § 16.10 (explaining that class

15   counsel can typically recover from a common fund costs that would "normally be charged to a

16   paying client"); *Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994) (counsel should recover

17   "those out-of-pocket expenses that would normally be charged to a fee paying client"); *see also*

18   *Absher Const. Co. v. Kent Sch. Dist. No. 415*, 79 Wn. App. 841, 848, 917 P.2d 1086, 1090 (1995)

19   (online legal research fees recoverable as costs).

20   **C.   The Class Representative's requested service awards should be approved.**

21   "At the conclusion of a class action, the class representatives are eligible for a special

22   payment in recognition of their service to the class." Rubenstein, William B., *Newberg on Class*

23   *Actions* § 17:1 (5th ed. Dec. 2019). Courts approve service awards in most class suits. *Id.* Service

24   payments "are intended to compensate class representatives for work undertaken on behalf of

25   a class" and "'are fairly typical in class action cases.'" *In re Online DVD-Rental Antitrust Litig.*,

26   779 F.3d 934, 943 (9th Cir. 2015) (citation omitted); *see also Aram Terteryan v. Nissan Motor*

27   *Acceptance Corp.*, No. CV 16-2029-GW-KSx, 2022 U.S. Dist. LEXIS 159383 (C.D. Cal. Aug. 21,

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1   2022) (awarding class representatives service awards of $10,000 each and explaining the

2   awards were warranted given the amount of their participation in the case); *Gamino v. KPC*

3   *Healthcare Holdings, Inc.*, No. 5:20-cv-01126-SB-SHK, 2023 U.S. Dist. LEXIS 82910 (C.D. Cal. Mar.

4   11, 2023) (approving service awards of $10,000 per class representative); *Gamino v. KPC*

5   *Healthcare Holdings, Inc.*, No. 5:20-cv-01126-SB-SHK, 2023 U.S. Dist. LEXIS 82910 (C.D. Cal. Mar.

6   11, 2023) (approving service awards of $15,000 based on the representatives participation and

7   the great result for the class). Such awards are intended to compensate class representatives

8   for work done on behalf of the class, to make up for financial or reputational risk undertaken in

9   bringing the action, and to recognize their willingness to act as private attorneys general. *Van*

10   *Vranken v. Atlantic Richfield Co.*, 901 F. Supp. 294, 299 (S.D. Cal. 1995).

11   The Class Representatives each request a service payment of $10,000 (for a total of

12   $30,000 in service awards), in recognition of their efforts on behalf of the Classes, which

13   included assisting counsel with the investigation, litigation, and settlement of the case. The

14   Class Representatives expended significant time and effort in this matter, consistently putting

15   the Class Members' interests first. For example, each of the Class Representatives sat through a

16   full day deposition. As described above, IQ Data conducted the deposition in an aggressive

17   manner and then filed motions to disqualify the Class Representatives that rested largely on

18   negative personal attacks. The Class Representatives' efforts and willingness to pursue this

19   action in the face of such adversity resulted in substantial benefits to the Settlement Class. And

20   their request is moderate, relative to service awards approved in other cases. *See Probst v.*

21   *State of Washington Dep't of Ret. Sys.*, 150 Wn. App. 1062, 2009 WL 1863993, at *6 (2009)

22   (unpublished) (affirming payment of $7,500 to named plaintiff). Further, the amount requested

23   in service awards comprise less than 1% of the total settlement fund of $4,000,000.

24   **VI.   CONCLUSION**

25   For the foregoing reasons, Class Counsel request that the Court award them a

26   reasonable attorneys' fee of 25% of the Settlement Fund ($1,000,000), litigation costs of

27   $47,057, and award the Class Representatives service awards of $10,000 each.

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1   RESPECTFULLY SUBMITTED AND DATED this 6th day of December, 2023.

2   TERRELL MARSHALL LAW GROUP PLLC

3
        I certify that this memorandum contains 2,644
4   *words, in compliance with the Local Civil Rules.*

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DECLARATION OF SERVICE

I, Blythe H. Chandler, hereby certify that on December 6, 2023, I caused true and correct copies of the foregoing to be served via the means indicated below:

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I declare under penalty of perjury under the laws of the State of Washington and the United States that the foregoing is true and correct.

DATED this 6th day of December, 2023.

By: _/s/ Blythe H. Chandler, WSBA #43387_
Blythe H. Chandler, WSBA #43387

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