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Attorneys for Plaintiff and the Proposed Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

JANE DOE NO. 1, JANE DOE NO. 2, JANE
DOE NO. 3, B.W., B.A., AND B.B., on behalf of
themselves and all others similarly situated,

Plaintiffs,

vs.

SAN DIEGO FERTILITY CENTER MEDICAL
GROUP, INC. d/b/a SAN DIEGO FERTILITY
CENTER,

Defendant.

) Case No.: 37-2024-00006118-CU-BC-CTL

) Judge: Hon. Marcella O. McLaughlin

) **DECLARATION OF VESS A. MILLER IN SUPPORT**

) **OF PLAINTIFFS' MOTION FOR FEES, EXPENSES,**

) **AND SERVICE AWARDS**

) **Date: July 18, 2025**

) **Time: 9:30 a.m.**

) **Place: Department 72**

) Action Filed: January 25, 2024

1 **DECLARATION OF VESS A MILLER IN SUPPORT OF PLAINTIFFS' MOTION FOR**
2 **FEES, EXPENSES, AND SERVICE AWARDS**

3 I, Vess A. Miller, declare that the following is true and correct, and if called as a witness, I
4 could competently testify to the matters set forth below based on my personal knowledge:

5 1. I am an attorney licensed to practice on the State of California, and I am counsel for
6 Plaintiffs in the above-captioned action. I submit this declaration in support of Plaintiffs' motion for
7 fees, expenses, and service awards.

8 2. The Settlement Agreement proposes to resolve the claims of thousands of class
9 members against Defendants relating to the use of third-party tracking software on certain web
10 properties and was only reached through arm's-length bargaining through the assistance of well-
11 respected third-party mediator Hon. Jay Gandhi.

12 3. At the time the parties agreed to the Settlement Agreement, the parties had engaged
13 in sufficient litigation and discovery to enable each side to evaluate the risks of prolonged litigation,
14 as well as the substantive of their claims and defenses. The parties have conducted written
15 discovery, including the exchange of factual disclosures, records pursuant to requests for
16 production, and verified responses to written interrogatories, and such discovery has enabled each
17 party to understand and assess the detail and substance of their respective claims and defenses.

18 4. The Claims brought by the Class here present highly technical issues dealing with
19 companies' use of online tracking technology, which requires counsel and its experts to navigate
20 highly complex technical and web development issues that are difficult to explain to lay persons.

21 5. Moreover, the claims and defenses present novel questions to courts, often leading to
22 inconsistent holding even when faced with materially similar factual circumstances.

23 6. Notwithstanding these challenges, Plaintiffs' counsel here believes strongly in the
24 merits of this case and that Plaintiffs would prevail at summary judgment and at trial even though,
25 to counsel's knowledge, no similar case as proceeded to trial.

26 7. Because on similar case has proceeded to trial, no model exists for the successful
27 prosecution of Plaintiffs' claims here. Indeed, because of the inconsistency in rulings across the
28

1 various cases around the country, some online tracking technology cases have been dismissed at the
2 outset.

3 8. Because of the novelty of the claims and defenses presented here and the highly
4 technical nature of these cases, counsel has expended significant time and effort to ensure complete
5 understanding of the strengths and weakness of this case under applicable law. Counsel has been
6 aided in this endeavor by the significant experience counsel has in litigating complex consumer
7 privacy class action—especially in data breach cases and numerous other cases challenged
8 defendants’ use of online tracking technology, which requires significant technical skill and
9 understanding and expenditures on expensive technical experts.

10 9. To date, Plaintiffs’ counsel has spent 506.33 hours litigating this action, including
11 counsel’s investigation before and after filing suit, significant legal research, preparing the
12 complaint, interviewing clients, engaging in discovery, preparing for and conducting mediation, and
13 preparing settlement papers and notice and claims exhibits.

14 10. Counsel’s investigation and interviews with clients were critical to understanding the
15 nature and circumstances of the factual allegations presented here.

16 11. Beyond these investigations, Counsel has relied on their significant experience in
17 privacy litigation to prosecute this case and in understanding the benefits typical in these
18 settlements, which has led to Counsel believing the proposed Settlement here is easily fair,
19 reasonable, and adequate.

20 12. Beyond the efforts already expended, Counsel will continue to work on this matter
21 through final approval and to ensure proper distribution of the benefits provided to Class Members
22 and to oversee and potential *cy pres* distribution.

23 13. Based on the hourly rates charged by each Plaintiffs’ counsel on this case as reported
24 to the undersigned, the total lodestar is \$385,161.61. Given that Counsel requests only \$283,333.33
25 in attorneys’ fees, this represents a lodestar multiplier of 0.74.

26 14. The rates charged by Counsel here represent the market rate for their time and are the
27 same amounts that would charge clients in cases billed at hourly rates.

Firm	Name	Role	Hourly Rate	Hours	Lodestar	Firm Totals
Almeida Law Group	Matthew Langley	Partner	\$ 715.00	98.6	\$ 70,499.00	
Almeida Law Group	Elena Belov	Of Counsel	\$ 550.00	20.8	\$ 11,440.00	
Almeida Law Group	John R. Parker	Partner	\$ 765.00	14.7	\$ 11,245.50	
Almeida Law Group	Britany Kabakov	Senior Associate	\$ 535.00	15.13	\$ 8,094.55	
Almeida Law Group	David Almeida	Managing Partner/Principal	\$ 835.00	2.1	\$ 1,753.50	
Almeida Law Group	Luke Coughlin	Associate	\$ 415.00	2.5	\$ 1,037.50	
Almeida Law Group	Katy Liebhold	Paralegal	\$ 225.00	4.5	\$ 1,012.50	
Almeida Law Group	Charlotte Frederic	Paralegal	\$ 225.00	0.2	\$ 45.00	\$ 105,127.55
CohenMalad, LLP	Vess Miller	Partner	\$ 975.00	68.9	\$ 67,177.50	
CohenMalad, LLP	Lynn Toops	Partner	\$ 1,025.00	23.9	\$ 24,497.50	
CohenMalad, LLP	Mallory Schiller	Associate	\$ 450.00	30.8	\$ 13,860.00	
CohenMalad, LLP	Emily Herrin	Associate	\$ 450.00	14.8	\$ 6,660.00	
CohenMalad, LLP	Natalie Lyons	Partner	\$ 700.00	9	\$ 6,300.00	\$ 118,495.00
Stranch, Jennings & Garvey PLLC	Emily Schiller	Associate	\$ 655.20	77.3	\$ 50,646.96	
Stranch, Jennings & Garvey PLLC	J. Gerard Stranch	Partner	\$ 1,450.00	34.1	\$ 49,445.00	
Stranch, Jennings & Garvey PLLC	Andrew Mize	Associate	\$ 787.50	34.6	\$ 27,247.50	
Stranch, Jennings & Garvey PLLC	Jennifer Steele	Paralegal	\$ 374.00	8.7	\$ 3,253.80	\$ 130,593.26
Strauss Borrelli PLLC	Britney Resch	Partner	\$ 575.00	26.2	\$ 15,065.00	
Strauss Borrelli PLLC	Samuel Strauss	Partner	\$ 700.00	17.6	\$ 12,320.00	
Strauss Borrelli PLLC	Carolyn Chen	Associate	\$ 400.00	1.6	\$ 640.00	
Strauss Borrelli PLLC	Zog Begolli	Associate	\$ 425.00	0.3	\$ 127.50	\$ 28,152.50
		TOTAL		506.33		\$ 382,368.31
					Requested Fee Multiplier	\$ 283,333.33 0.74

15. Had Class Counsel used the hourly rates provided by the *Laffey* matrix, which are rates that are widely considered reasonable by federal courts, their lodestar would be even higher, at approximately \$431,079.03, creating a multiplier of 0.66.

16. Beyond the fees incurred in this case, Plaintiffs Counsel also funded the expenses and cost of litigation—totally \$25,912.59. These costs and expenses were spent on filing fees, mediation costs, travel expenses, *pro hac vice* applications, and some legal research costs.

Category	Amount
Filing Fees	\$ 4,162.55
Legal Research	\$ 1,523.88
Mediation Fees	\$ 17,500.00
PHV Fees	\$ 1,025.00
Travel	\$ 1,701.16
Total	\$ 25,912.59

17. In addition, Counsel negotiated service awards for each named Plaintiff of \$2,500. Counsel believes these amounts are highly reasonable because they are in line with the great majority of service awards granted in similar privacy class actions. Moreover, they are justified because of the named Plaintiffs' dedication to the prosecution of this action and the time they spent

1 in interviews with counsel, in discussing the proposed settlement, and in reviewing pleadings and
2 other litigation documents. Indeed, the requested Service Awards are the only way in which the
3 named Plaintiffs will be rewarded for their service to the Class beyond their ability to make a claim
4 like all other Class Members.

5 18. The risk to Counsel in this case was increased because Plaintiffs' Counsel accepted,
6 funded, and litigated this matter on a contingency basis—and risked being paid and reimbursed
7 nothing if the case was not successful.

8
9 Pursuant to California Code of Civil Procedure § 2015.5, I declare under penalty of perjury under
10 the laws of the State of California that the foregoing is true and correct. Executed this 27th day of
11 June 2025, in Indianapolis, Indiana.

12 /s/ Vess A. Miller
13 Vess A. Miller (SBN 278020)
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1 **PROOF OF SERVICE**

2 I declare that I am a citizen of the United States, over 18 years of age, and not a party to this
3 action. I am employed at CohenMalad, LLP, One Indiana Square, Suite 1400, Indianapolis, IN
4 46204.

5 On **June 27, 2025**, I served a copy of the foregoing document(s) entitled:

6 **(1) Notice of Motion and Motion for Approval of Fees, Expenses, and Service
Awards;**

7 **(2) Memorandum of Points and Authorities;**

8 **(3) [Proposed] Order Granting Motion for Approval of Fees, Expenses, and
9 Service Awards (Under Separate Cover)**

10 on the interested parties in this action as follows:

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23 *Counsel for Defendants*

24 **[X] BY ELECTRONIC SERVICE (EMAIL) TO THE ADDRESS(ES) LISTED ABOVE.**

25 I declare under penalty of perjury under the laws of the State of California that the
26 statements in this Proof of Service are true and correct.

27 Executed on June 27, 2025, at Indianapolis, Indiana.

28 /s/Ariatne Franco
Ariatne Franco