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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

IN RE: LITHIUM ION BATTERIES
ANTITRUST LITIGATION

Case No. 13-md-02420-YGR
MDL No. 2420

This Document Relates to:
ALL DIRECT PURCHASER ACTIONS

**[PROPOSED] ORDER GRANTING CO-LEAD
COUNSEL FOR DIRECT PURCHASER
PLAINTIFFS' NOTICE OF MOTION AND
MOTION FOR AN AWARD OF ATTORNEYS'
FEES, REIMBURSEMENT OF EXPENSES
AND SERVICE AWARDS**

Date: May 8, 2018
Time: 2:00 p.m.
Courtroom: 1, 4th Floor
Judge: Hon. Yvonne Gonzalez Rogers

1 The Court, having reviewed Direct Purchaser Plaintiffs’ Motion for an Award of Attorneys’
2 Fees, Reimbursement of Expenses, and Class Representative Service Awards (February 8, 2018)
3 (“Motion”), the pleadings and other papers on file in this action, [the responses of class members],
4 and the statements of counsel and the parties, hereby finds that:

5 1. The Motion requests an award of attorneys’ fees in the amount of \$41,790,000 or 30%
6 of the \$139,300,000 Settlement Fund.¹ Further, Co-Lead Counsel request payment from the
7 Settlement Fund of a total of \$3,354,573.35 in expenses (“Total Expenses”).

8 2. Of the Total Expenses, the amount of \$2,501,352.52 are unreimbursed, out-of-pocket
9 expenses, which includes Litigation Fund expenditures of \$2,247,198.62 and Plaintiffs’ Counsel’s
10 total out-of-pocket firm expenses of \$445,068.46, less \$190,914.56 in travel, meals and lodging
11 expenses for which reimbursement is not requested.

12 3. Co-Lead Counsel request that the Court approve payment from the Settlement Fund
13 for \$212,030.00 in outstanding invoices for professional economists’ services rendered.

14 4. In addition, Co-Lead Counsel request that the Court approve payment from the
15 Settlement Fund for the charge of \$641,190.83 for document hosting services rendered.

16 5. Lastly, Co-Lead Counsel request service awards, *a.k.a.*, “incentive awards” for the
17 nine Class Representatives as follows: Ritz Camera, Circuit City, and Univisions (\$30,000 each);
18 Automation Engineering, Stereo Shop and First Choice Marketing (\$10,000 each); and
19 Charles Carte, Terri Walner, and James O’Neil (\$5,000 each) for a total of \$135,000.

20 6. The Court finds that the requested fee award of \$41,790,000—30% of the Settlement
21 Fund—is fair and reasonable under the percentage-of-the-recovery method based upon the following
22 factors: (i) the results obtained by Plaintiffs’ Counsel in this case; (ii) the risks and complex issues
23 involved in this case, which were significant and required a high level of skill and high-quality work
24 to overcome; (iii) that the attorneys’ fees requested were reasonable and entirely contingent upon
25 success—Plaintiffs’ Counsel risked time and effort and advanced costs with no ultimate guarantee

26 _____
27 ¹ The “Settlement Fund” consists of the total proceeds of the following settlements: Sony (\$19
28 million); NEC Corp. (\$1 million); Hitachi Maxell (\$3.45 million); Panasonic/Sanyo (\$42.5 million);
Toshiba (\$2.9 million); LG Chem (\$41 million); Samsung SDI (\$24.5 million); NEC Tokin (\$4.95
million).

1 of compensation; (iv) that the range of awards made in similar cases justifies an award of 30% here;
2 and (v) that Plaintiffs' Counsel's reasonable lodestar means the requested attorneys' fee results in a
3 negative, 0.58 multiplier, which obviates concern about any windfall given the size of the settlement
4 recovery. These factors justify an upward adjustment of the Ninth Circuit's 25% benchmark.
5 Consequently, the Court finds that the requested fee award is reasonable and is justified by the
6 circumstances of this case.

7 7. The Court has confirmed the reasonableness of DPPs' fee request by conducting a
8 lodestar cross-check. The Court finds that Class Counsel's reasonable lodestar was \$72,489,066.75
9 based on 173,863.20 hours of work billed at historic hourly rates for the period from the appointment
10 of lead counsel until August 31, 2017, which is an average rate of \$417/hr. Co-Lead Counsel's
11 requested fee award represents 58% of their reasonable lodestar, and an effective rate of \$241.82/hr.
12 This further supports the reasonableness of Class Counsel's fee request here.

13 8. The Court finds that Plaintiffs' Counsel incurred a total of \$3,354,573.35 in total
14 unreimbursed out-of-pocket litigation costs and other expenses in prosecuting this litigation. The
15 Court finds that these costs and expenses were reasonably incurred in prosecuting this case and were
16 necessary given the complex nature and nationwide scope of the case.

17 9. Pursuant to *Radcliffe v. Experian Information Solutions, Inc.*, 715 F.3d 1157 (9th Cir.
18 2013), the Court has carefully considered the requested incentive awards. The Court deems the
19 application for incentive awards to the nine Class Representatives reasonable and justified given:
20 (i) their willingness to serve as private attorneys general; and (ii) their work performed and the active
21 participation in the litigation on behalf of the DPP Class.

22 10. In sum, upon consideration of the Motion and accompanying Declarations, and based
23 upon all matters of record including the pleadings and papers filed in this action, the Court hereby
24 finds that the attorneys' fee requested is reasonable and proper; the costs and expenses incurred by
25 Plaintiffs' Counsel were necessary, reasonable, and proper; and that incentive awards are appropriate
26 given the time and effort expended by the Class Representatives in the prosecution of this case.

27 Accordingly, it is hereby ORDERED and DECREED that:
28

1 11. Plaintiffs' Counsel are awarded attorneys' fees of \$41,790,000 (30% of the
2 \$139,300,000 Settlement Fund), together with a proportional share of interest earned on the
3 Settlement Fund for the same time period until dispersed to Class Counsel.

4 12. Plaintiffs' Counsel are awarded reimbursement of their litigation costs and expenses
5 in the amount of \$3,354,573.35. This amount does not include Plaintiffs' Counsel's travel, meals,
6 and lodging expenses related to the litigation of this action.

7 13. Class Representatives Ritz Camera, Circuit City, and Univisions shall each receive
8 an incentive award in the amount of \$30,000 each.

9 14. Class Representatives Automation Engineering, Stereo Shop and First Choice
10 Marketing shall each receive an incentive award in the amount of \$10,000 each.

11 15. Charles Carte, Terri Walner, and James O'Neil shall each receive an incentive award
12 in the amount of \$5,000 each.

13 16. The attorneys' fees awarded, reimbursement of litigation costs and expenses, and
14 incentive awards shall be paid from the Settlement Fund and the interest earned thereon.

15 17. Co-Lead Counsel will allocate the fees and expenses among Co-Lead Counsel and all
16 Plaintiffs' Counsel in a fair and equitable manner that, in Co-Lead Counsel's good-faith judgment,
17 reflects each firm's contribution to the institution, prosecution, and resolution of the litigation.

18 18. This order shall be entered of this date pursuant to Rule 54(b) of the Federal Rules of
19 Civil Procedure, the Court finding that there is no just reason for delay.

20 **IT IS SO ORDERED.**

21
22 Dated: _____

23 HON. YVONNE GONZALEZ ROGERS
24 UNITED STATES DISTRICT JUDGE