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Quinn and Lead Counsel for the Class
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10 **UNITED STATES DISTRICT COURT**
 11 **CENTRAL DISTRICT OF CALIFORNIA**

12 JEFFREY N. SCHNEIDER,
 13 Individually and On Behalf of All
 14 Others Similarly Situated,

15 Plaintiff,

16 v.

17 CHAMPIGNON BRANDS INC.,
 18 GARETH BIRDSALL, and
 19 MATTHEW FISH,

20 Defendants.
 21

Case No. 2:21-cv-03120-JVS-KES

**REPLY MEMORANDUM IN
 FURTHER SUPPORT OF LEAD
 PLAINTIFF’S UNOPPOSED
 MOTION FOR FINAL APPROVAL
 OF CLASS ACTION SETTLEMENT**

Date: February 27, 2023
 Time: 1:30 p.m.
 Crtm: 10C
 Judge: James V. Selna

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1 Court-appointed Lead Plaintiff Michael G. Quinn (“Lead Plaintiff”)
2 respectfully submits this memorandum in further support of Lead Plaintiff’s
3 Unopposed Motion for Final Approval of Class Action Settlement and Plan of
4 Allocation (ECF No. 90, the “Final Approval Motion”).¹ This memorandum updates
5 the Court on the status of the notice program and the Settlement Class’s reaction
6 thereto, including that there have been no objections to the Settlement, Plan of
7 Allocation, or request for attorneys’ fees and reimbursement of Litigation Expenses,
8 and not a single Settlement Class Member has requested exclusion.

9 **I. THE SETTLEMENT CLASS’S REACTION WAS UNIVERSALLY**
10 **POSITIVE AND SUPPORTS APPROVAL OF THE SETTLEMENT**
11 **AND PLAN OF ALLOCATION, AS WELL AS THE REQUESTED**
12 **ATTORNEYS’ FEES AND LITIGATION EXPENSES**

13 **A. The Court-Approved Notice Program**

14 Pursuant to the Court’s November 4, 2022 Preliminary Approval Order, 37,481
15 potential Settlement Class Members and their nominees were notified by either the
16 Postcard Notice or an email with a link to the Notice and Claim Form. *See*
17 Supplemental Declaration of Margery Craig Concerning: (A) Mailing of the Postcard
18 Notice; and (B) Report on Requests for Exclusion and Objections (“Supp. Craig
19 Decl.”), ¶4. The Postcard Notice directed potential Settlement Class Members to
20 downloadable versions of the Notice and Claim Form posted online at
21 www.strategicclaims.net/braxia/ (the “Settlement Webpage”).² The Notice advised

22 ¹ All capitalized terms used herein that are not otherwise defined have the meanings
23 ascribed to them in the Stipulation and Agreement of Settlement, dated April 6, 2022
(ECF No. 65-1, the “Stipulation”).

24 ² The Settlement Webpage became operational on or about November 18, 2022, and
25 is accessible 24-hours-a-day, seven-days-a-week, and its address is set forth in the
26 Postcard Notice, Notice, and Summary Notice. *See* Declaration of Margery Craig
27 Concerning: (A) Mailing of the Postcard Notice; (B) Publication of the Summary
28 Notice; and (C) Report on Requests for Exclusion and Objections (ECF No. 89-4, the
“Mailing Decl.”), at ¶12, and Exs. A, B, and D. In addition to providing access to
downloadable versions of the Notice and Claim Form, potential Settlement Class
(footnote continued)

1 Settlement Class Members of the Settlement, the Plan of Allocation, and the request
2 for an award of attorneys’ fees and reimbursement of Litigation Expenses. *See*
3 Mailing Decl., Ex. B. The Notice further advised the Settlement Class that February
4 6, 2023 was the deadline for: (1) requesting exclusion from the Settlement Class; and
5 (2) filing an objection to the Settlement, Plan of Allocation, and/or the request for an
6 award of attorneys’ fees and reimbursement of Litigation Expenses.³ *Id.*

7 On January 20, 2023, Lead Plaintiff filed the Final Approval Motion. Included
8 with the filing was a declaration from the Claims Administrator explaining the Notice
9 program as of the date of the Final Approval Motion. These papers are available on
10 the Court’s public docket and were posted on the Settlement Webpage. *See* ECF Nos.
11 89-90; Supp. Craig Decl., ¶6.

12 Following this extensive notice program, not a single Settlement Class Member
13 requested exclusion from the Settlement Class, or objected to the Settlement, the Plan
14 of Allocation, the request for attorneys’ fees and reimbursement of expenses, or Lead
15 Plaintiff’s request to be reimbursed for his work litigating the Action. *See* Suppl. Craig
16 Decl. at ¶¶7-8.

17 **B. The Settlement Class’s Reaction Supports Approval Of The**
18 **Settlement, Plan Of Allocation, And Lead Counsel’s Requested Fees**
19 **And Litigation Expenses**

20 In this Circuit, “the reaction of the class members to the proposed settlement”
21 is one of the factors to consider in analyzing whether a settlement is fair, reasonable,
22 and adequate. *See, e.g., Linney v. Cellular Alaska P’ship*, 151 F.3d 1234, 1242 (9th
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25 Members can view or download the Stipulation, the Preliminary Approval Findings,
26 and the Preliminary Approval Order. *Id.* at ¶12.

27 ³ The February 6, 2023 deadline to object or request exclusion was also included in
28 the Postcard Notice and the Summary Notice. *See* Mailing Decl., Exs. A and D. On
December 14, 2022, the Summary Notice was published electronically over *Globe*
Newswire. *Id.* at ¶10.

1 Cir. 1998);⁴ *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998) (same).
2 “[T]he absence of a large number of objections to a proposed class action settlement
3 raises a strong presumption that the terms of a proposed class settlement action are
4 favorable to the class members.” *Nat’l Rural Telecomm’s Coop. v. DIRECTV, Inc.*,
5 221 F.R.D. 523, 529 (C.D. Cal. 2004); *see also Ching v. Siemens Indus., Inc.*, 2014
6 WL 2926210, at *6 (N.D. Cal. June 27, 2014) (“the Court may appropriately infer
7 that a class action settlement is fair, adequate, and reasonable when few class
8 members object to it.”).

9 Here, the lack of a single objection or request for exclusion to the Settlement
10 demonstrates that the proposed Settlement is fundamentally fair, reasonable, and
11 adequate. *See, e.g., In re Apollo Grp. Inc. Sec. Litig.*, 2012 WL 1378677, at *3 (D.
12 Ariz. Apr. 20, 2012) (“There have been no objections from Class Members or
13 potential class members, which itself is compelling evidence that the Proposed
14 Settlement is fair, just, reasonable, and adequate.”); *In re Omnivision Techs., Inc.*, 559
15 F. Supp. 2d 1036, 1043 (N.D. Cal. 2008) (“By any standard, the lack of objection of
16 the Class Members favors approval of the Settlement.”); *In re Heritage Bond Litig.*,
17 2005 WL 1594403, at *10 (C.D. Cal. June 10, 2005) (“The Court finds the lack of
18 class members that have manifested any disapproval of the Settlement further
19 demonstrates the fairness, adequacy and reasonableness of the Settlement.”).

20 The Settlement Class’s positive reaction also supports approval of the Plan of
21 Allocation. *See Mauss v. NuVasive, Inc.*, 2018 WL 6421623, at *4 (S.D. Cal. Dec. 6,
22 2018) (concluding that the proposed plan of allocation was fair and reasonable after
23 noting “[t]he Plan of Allocation was described in detail in the notice and no class
24 member objected.”); *In re Volkswagen “Clean Diesel” Mktg., Sales Practices, &*
25 *Prod. Liab. Litig.*, 2019 WL 2077847, at *3 (N.D. Cal. May 10, 2019) (finding only
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28 ⁴ Unless otherwise noted, all internal quotations and citations are omitted.

1 one objection and 16 opt outs “supports [conclusion] that the settlement and plan of
2 allocation are fair, reasonable, and adequate.”).

3 Finally, the universally favorable reaction of the Settlement Class also supports
4 Lead Counsel’s request for an award of attorneys’ fees and reimbursement of
5 Litigation Expenses, including that Lead Plaintiff be reimbursed for the costs incurred
6 as a direct result of his representation of the Settlement Class pursuant to the Private
7 Securities Litigation Reform Act. *See Omnivision*, 559 F. Supp. 2d at 1048 (“The
8 reaction of the class may also be a determining factor in [] determining the fee
9 award.”). Moreover, the absence of any objections from Settlement Class Members
10 to Lead Counsel’s requested fee award and expenses supports a finding that the
11 request is fair and reasonable. *See Waldbuesser v. Northrop Grumman Corp.*, 2017
12 WL 9614818, at *5 (C.D. Cal. Oct. 24, 2017) (finding receipt of only two objections
13 to fee request, after mailing 210,000 notices, was “remarkably small given the wide
14 dissemination of notice,” and “conclud[ing] that the lack of significant objections to
15 the requested fees justifies an award of one-third of the settlement fund.”); *Cheng*
16 *Jiangchen v. Rentech, Inc.*, 2019 WL 5173771, at *9-10 (C.D. Cal. Oct. 10, 2019)
17 (noting “that there have been no objections filed to the requested attorney’s fees ...
18 also supports granting the requested fees” of 33½% of \$2,050,000 settlement fund);
19 *Omnivision*, 559 F. Supp. 2d at 1049 (awarding lead plaintiffs \$29,913.80 from the
20 settlement fund for reimbursement of their costs and expenses (including lost wages)
21 where class members were provided notice and “no one objected.”).⁵

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25 ⁵ *See also Heritage Bond*. 2005 WL 1594403. at *10. *21 (where notice was
26 disseminated to thousands of potential class members, “the lack of significant
27 objections to the requested fees justifies an award of one-third of the Settlement
28 Fund.”); *Patel v. Axesstel, Inc.*, 2015 WL 6458073. at *9 (S.D. Cal. Oct. 23, 2015)
(finding a \$3,000 award to lead plaintiff reasonable and noting “the lack of any
objection from the class members.”); *In re K12 Inc. Sec. Litig.*, 2019 WL 3766420. at
*1 (N.D. Cal. Oct. 10, 2019) (awarding 33% of \$3.5 million settlement fund where
“[t]here were no objections to the requested attorneys’ fees and expenses.”).

1 **II. CONCLUSION**

2 Based on the foregoing and the entire record herein, Lead Plaintiff and Lead
3 Counsel respectfully request that the Court: (1) approve the Settlement and Plan of
4 Allocation as fair, reasonable, adequate, and in the best interest of the Settlement
5 Class; (2) award attorneys' fees to Lead Counsel in the amount of 25% of the
6 Settlement Fund, together with expenses in the amount of \$23,953.30; and (3) grant
7 the request of \$1,000 for Lead Plaintiff for reimbursement of the costs incurred as a
8 direct result of his representation of the Settlement Class.

9 DATED: February 17, 2023

GLANCY PRONGAY & MURRAY LLP

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19 *and Lead Counsel for the Class*

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PROOF OF SERVICE BY ELECTRONIC POSTING

I, the undersigned, say:

I am not a party to the above case and am over eighteen years old. On February 17, 2023, I served true and correct copies of the foregoing document, by posting the document electronically to the ECF website of the United States District Court for the Central District of California, for receipt electronically by the parties listed on the Court’s Service List.

I affirm under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on February 17, 2023, at Los Angeles, California.

/s/ Casey E. Sadler
Casey E. Sadler