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

MARK COZIAHR, on behalf of himself and all
others similarly situated,

PLAINTIFF,

vs.

OTAY WATER DISTRICT; and DOES 1 through
200, inclusive,

DEFENDANTS.

Case No. 37-2015-00400000-CU-MC-CTL

CERTIFIED CLASS ACTION

[PROPOSED] ORDER GRANTING
ATTORNEYS' FEES, COSTS, AND SERVICE
AWARD

DEPT: C-67
JUDGE: Hon. Michael T. Smyth
COMPLAINT: July 14, 2015

1 **[PROPOSED] ORDER**

2 This matter is before the Court on Plaintiff's motion for attorneys' fees, costs, and a service
3 award ("Motion"). The Court has reviewed the Motion, the memorandum in support, the declarations
4 submitted supporting the Motion, any response and reply, other documents submitted in support of the
5 motion, the record in this matter, and the briefs and arguments of counsel. Based on the entire record
6 of these proceedings to date, and good cause appearing therefor, **IT IS HEREBY ORDERED** as
7 follows:

8 1. The Court, having considered the Motion and supporting documents, concludes that an
9 award of attorneys' fees and reimbursement of certain litigation costs to Plaintiff to be paid from the
10 Otay Water District settlement (totaling \$12,000,000 in monetary benefits) ("Settlement Fund") are
11 appropriate under the Court's equitable discretion. (*Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th
12 480, 503.) Plaintiff provided notice of the Motion to potential settlement class members in the class
13 notice, at least forty-five days in advance of the Response Deadline.

14 2. Based on Plaintiff's Motion, the Court awards attorneys' fees using the percentage-of-the-
15 recovery method out of the Settlement Fund. (*Laffitte, supra*, 1 Cal.5th at p. 503.) The Court GRANTS
16 an award of reasonable attorneys' fees to Plaintiff in the amount of \$4,000,000 from the Settlement
17 Fund (1/3 of the Settlement Fund). Based on the Court's review of the record and the filings in this
18 action, Class Counsel are experienced in class actions, and did exceptional work in this challenging case
19 that lasted nearly eleven years, including both a full bifurcated trial and appeal. Having considered the
20 results obtained, the risks, the secondary benefits of the settlement, the market rate in the particular field
21 of law, the burdens class counsel experienced, and the fact that the fee was contingent, Plaintiff's request
22 for attorneys' fees, in light of all of the facts and the results achieved, is fair and reasonable. (*Laffitte,*
23 *supra*, 1 Cal.5th at p. 503; *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557 fn. 13 ["Empirical
24 studies show that, regardless whether the percentage method or the lodestar method is used, fee awards
25 in class actions average around one-third of the recovery." [Citation].]; *Amaro v. Anaheim Arena*
26 *Management, LLC* (2021) 69 Cal.App.5th 521, 545 [same]; *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th
27 43, 66, fn. 11 [same].) Further, an award of 1/3 of the Settlement Fund reflects a lodestar multiplier of
28 approximately 1.54x, consistent with fee awards in comparable class actions. (*Laffitte, supra*, 1 Cal.5th at

1 p. 488 [multiplier of 2.03 to 2.13]; *Chavez, supra*, 162 Cal.App.4th at p. 66 [2.5x multiplier]; *Wershba v.*
2 *Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 255 [“Multipliers can range from 2 to 4 or even higher.”]
3 disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260.)

4 3. Likewise, based on Plaintiff’s Motion and supporting documents, the Court finds that
5 Plaintiff incurred reasonable, adequately documented litigation costs and hereby GRANTS
6 reimbursement of litigation costs in the cumulative amount of \$283,069.80, which shall be disbursed
7 from the Settlement Fund. Plaintiff’s request for reimbursement of litigation expenses in this case that
8 was litigated through trial and an appeal, in light of all of the facts, is fair and reasonable, and the litigation
9 expenses are adequately documented.

10 4. The Court also authorizes the class representative (Mark Coziahr) to be awarded \$5,000 as
11 a service award for his participation in this litigation over approximately eleven years, which shall be
12 disbursed from the Settlement Fund. Plaintiff’s request for a service award, in light of all of the facts, is
13 appropriate under these circumstances.

14 5. The foregoing amounts—\$4,000,000 in attorneys’ fees, \$283,069.80 in cumulative litigation
15 costs, and \$5,000 as a service award payment to the class representative—shall be disbursed to the
16 Settlement Administrator within 14 days of any Order Granting Final Approval of the Class Settlement.
17 (Settlement § 8.4.)

18 **IT IS SO ORDERED.**

19 Dated: _____

20 By: _____

21 Hon. Michael T. Smyth
22 Judge of the Superior Court