

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
3 **SOUTHERN DIVISION**

4 TERRI N. WHITE, *et al.*,

5 *Plaintiffs,*

6 *v.*

7 EXPERIAN INFORMATION
8 SOLUTIONS, INC.,

9 *Defendant.*

CASE No. 8:16-cv-00485

**[PROPOSED] ORDER
GRANTING MOTION
FOR ATTORNEYS' FEES
AND SERVICE AWARDS**

10 AND RELATED CASES:

11 05-cv-0173-DOC (MLGx)

12 05-cv-7821-DOC (MLGx)

13 05-cv-0392-DOC (MLGx)

14 05-cv-1172-DOC (MLGx)

15 05-cv-5060-DOC (MLGx)

16 The Court has considered Plaintiffs' Motion for Attorneys' Fees and Service
17 Awards, the briefing and evidence in the support of same, any objections thereto,
18 and the arguments of counsel, if any, and has decided that said motion should be and
19 hereby is GRANTED.

20 It is therefore ORDERED that:

21 1. The Court approves attorneys' fees to Class Counsel in the amount of
22 \$11,161,163.06 as reasonable under the percentage-of-recovery methodology. Under
23 the percentage-of-recovery methodology, this fee represents at most 21% of the Class
24 recovery, well below the Ninth Circuit's 25% benchmark. *Vizcaino v. Microsoft Corp.*,
25 290 F.3d 1043, 1048-49 (9th Cir. 2002); *Hanson v. Chrysler Corp.*, 150 F.3d 1011,
26 1029 (9th Cir. 1998); *Six Mexican Workers v. Arizona Citrus Growers*, 904 F.2d 1301,
27 1311 (9th Cir. 1990).

28 CASE No. 8:16-cv-00485

1 2. This percentage award is equitable and reasonable based on the range of
2 the total value of the Settlement, which properly includes the total monetary and
3 non-monetary benefits secured for the Class, including the approximately \$38
4 million cash fund and the Settlement’s non-monetary benefits, whose value can be
5 reasonably estimated to be at least \$15 million. These non-monetary benefits include
6 consumer credit reporting assistance available through the Settlement Website,
7 including an offer of free legal help from Class Counsel, and an option to claim a free
8 file disclosure and two free VantageScore credit scores in lieu of a damage award.
9 While it is difficult to place a precise value on these non-monetary benefits,
10 Defendants currently offer the VantageScore credit scores for \$7.95 each. Although
11 they may also be obtained through other organizations and/or as part of a credit
12 monitoring package for less, the fact that thousands of Class members have chosen
13 this benefit over a Convenience Award estimated to be between \$15–20 indicates
14 that those Class members value the non-monetary relief at least that much. Even if
15 the value of this non-monetary relief were estimated at only \$1 per Class member on
16 average (and those who took advantage of it clearly valued it much more than that),
17 the total non-monetary relief made available would exceed \$15 million. *See Williams*
18 *v. MGM-Pathe Commc’ns Co.*, 129 F.3d 1026, 1027 (9th Cir. 1997) (holding that value
19 of settlement for attorneys’ fees purposes must be based on total value made
20 available to the class). Consideration of the so-called enhancement factors here—
21 including the results achieved for the Class, the contingent nature of the fee, and the
22 complexity of the issues involved and skill required of Class Counsel—further
23 supports that a fee of approximately 21% of the Class recovery is reasonable. *See*
24 *Vizcaino*, 290 F.3d at 1048-1050

25 3. A lodestar cross-check further confirms that the awarded fee is reasonable.
26 The Court has reviewed Class Counsel’s lodestar and rates and finds that Class
27 Counsel’s collective lodestar attributable to this Settlement is \$11,830,950.71 for

1 work performed over more than 12 years of litigation. This lodestar figure does not
2 include any hours expended during the period of conflict identified by the Ninth
3 Circuit in *Radcliffe v. Experian Info. Solutions, Inc.*, 715 F.3d 1157 (9th Cir. 2013)
4 (“*Radcliffe I*”), from April 1, 2009 to May 1, 2013. Nor does it include any time that
5 was previously allocated to the Injunctive Relief Settlement in this action, for which
6 Class Counsel will be separately compensated according to the Court’s Injunctive
7 Relief Fee Order. (Dkts. 775, 839.)

8 4. Class Counsel’s hourly rates are consistent with current market rates for
9 complex class action legal services in this district and are accordingly reasonable in
10 this matter, particularly in light of the fact that Class Counsel have extensive
11 experience in consumer class actions, other complex cases, and Fair Credit
12 Reporting Act (“FCRA”) litigation. The Court also finds that the work performed
13 was reasonable and necessary.

14 5. The fee awarded here represents an inverse multiplier of 0.94, reflecting
15 that the fees requested are less than the total time Class Counsel have expended in
16 obtaining this Settlement. This lodestar cross-check confirms that the requested fee
17 is reasonable, because the inverse multiplier is well below the multipliers typically
18 approved in the Ninth Circuit. *See Steiner v. Am. Broad. Co.*, 248 Fed. Appx. 780,
19 783 (9th Cir. 2007) (common fund settlement with fee based on percentage of 24%
20 held reasonable, and lodestar cross-check indicated a multiplier of approximately
21 6.85, which was well within the range of multipliers allowed in other cases); *see also*
22 *Vizcaino*, 290 F.3d at 1051 n.6 (noting that a multiplier is frequently awarded in
23 common fund cases when the lodestar method is applied and citing cases with
24 multipliers ranging from 0.6 to 19.6, with most of the cases ranging from 1.0 to 4.0
25 and a bare majority of cases in the 1.5 to 3.0 range); *In re Wal-Mart Stores, Inc. Wage*
26 *and Hour Litig.*, No. 06-2069, 2011 WL 31266, at *7 (N.D. Cal. Jan. 5, 2011)
27 (approving 1.4 multiplier as “warranted in view of the results counsel achieved for

1 the class”); *Hopson v. Hanesbrands Inc.*, No. 08-cv-0844, 2009 WL 928133, at *12
2 (N.D. Cal. April 3, 2010) (“‘[M]ultiples ranging from one to four are frequently
3 awarded in common fund cases when the lodestar method is applied.’”) (quoting *In*
4 *re Prudential Ins. Co. Am. Sales Practices Litig.*, 148 F.3d 283, 341 (3d Cir. 1998)). The
5 fee awarded is particularly reasonable given the fact that Class Counsel have
6 expended their considerable time and resources in this litigation on a completely
7 contingent basis, and given the complex nature of the issues involved. *See Ballen v.*
8 *City of Redmond*, 466 F.3d 736, 746 (9th Cir. 2006); *Kerr v. Screen Extras Guild, Inc.*,
9 526 F.2d 67, 70 (9th Cir. 1975)).

10 6. The Court further approves expenses to Class Counsel in the amount of
11 \$838,836.94. These expenses exclude any expenses incurred during the period of
12 conflict identified by the Ninth Circuit in *Radcliffe I*, from April 1, 2009 to May 1,
13 2013, and also exclude any expenses previously allocated to obtaining injunctive
14 relief. (*See* Dkts. 775, 839.) The expenses are reasonable, and Class Counsel bore
15 these out-of-pocket expenses over 12 years of litigation with no promise of
16 reimbursement. Because these expenses were necessary in conjunction with this
17 litigation and its resolution for the benefit of the Class, they are reimbursable. *In re*
18 *Media Vision Tech. Sec. Litig.*, 913 F. Supp. 1362, 1366 (N.D. Cal. 1996) (citing *Mills*
19 *v. Electric Auto-Lite*, 396 U.S. 375, 391–92 (1970)).

20 7. The Court approves a service award of _____ each to Class
21 Representatives José Hernandez, Kathryn Pike, Robert Randall, Bertram Robison,
22 and Lewis Mann. The Court finds that these amounts are reasonable in light of the
23 Class Representatives’ actions taken to protect the interests of the Class, the degree
24 to which the Class has benefited from the Class Representatives’ actions, and the
25 amount of time and effort the Class Representatives have expended in pursuing the
26 litigation. *See Staton v. Boeing Co.*, 327 F.3d 938, 977 (9th Cir. 2003).

1 8. Within ten (10) days of the Effective Date, the Parties shall jointly petition
2 the Court to release funds from the Settlement Fund in the Registry of the Court to
3 the Settlement Administrator for payment of the Fees, Costs, and Service Awards
4 granted in this Order.

5 IT IS SO ORDERED.

6
7 DATED: _____

BY: _____
HON. DAVID O. CARTER
U.S. DISTRICT JUDGE