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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE
MYFORD TOUCH CONSUMER
LITIGATION

Case No. [13-cv-03072-EMC](#)

**FURTHER ORDER GRANTING
PLAINTIFFS’ MOTION FOR
ATTORNEYS’ FEES**

Docket No. 527

United States District Court
Northern District of California

On August 16, 2019, Plaintiffs filed a Motion for Attorney’s Fees. *See* Docket No. 527 (“AF Mot.”). Plaintiffs seek \$16 million in attorneys’ fees and costs, which was the figure that Magistrate Judge Kim “independently proposed to the parties.” *See* AF Mot. at 1. Class Counsel represents that it accrued approximately \$5,800,535 in expenses, of which \$4.1 million went towards expert fees (primarily related to hiring engineers to review software code). *Id.* at 17. Subtracting these costs from the \$16 million request, Class Counsel is effectively seeking \$10,199,465 in attorneys’ fees.

In assessing the request for attorneys’ fees, the Court employed both the lodestar approach and the percentage-of-recovery method. When compared to the \$31,445,713.25 in fees accrued by Class Counsel (as reflected in their contemporaneously tracked records), *id.* at 7, the fee request represents a negative multiplier of .32. As the Court noted in its order granting Preliminary Approval: “The Ninth Circuit has observed that lodestar multipliers ranging from one to four are frequently awarded in complex class action cases, *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051 n.6 (9th Cir. 2002), and ‘courts view self-reduced fees’ representing a negative multiplier on the lodestar ‘favorably,’ *Schuchardt v. Law Office of Rory W. Clark*, 314 F.R.D. 673, 690 (N.D.

1 Cal. 2016). . . . [Thus,] the negative multiplier it has applied to its fee request suggests the request
 2 is reasonable.” Docket No. 526 at 13. Nothing has changed since the Court’s earlier order that
 3 would disturb its prior analysis, thus the lodestar analysis counsels in favor of granting the fee
 4 request. The Court also employed the percentage-of-recovery method in assessing the request for
 5 fees. *See Bluetooth Headset*, 654 F.3d at 944. The attorneys’ fees of \$10,199,464.94 represent
 6 approximately 31% of the estimated \$33 million that Ford will pay in settling this case (\$17
 7 million settlement fund + \$16 million fees and costs); while slightly high, that percentage is not so
 8 excessive relative to the 25% benchmark in the Ninth Circuit, *see Bluetooth Headset*, 654 F.3d at
 9 942, to impugn the request. The request for attorneys’ fees is reasonable. For these reasons and
 10 for those stated on the record at the fairness hearing, the Court **GRANTS** the Motion for
 11 Attorneys’ Fees in the amount of \$10,199,464.94.

12 Turning next to the issue of costs, as noted above, Class Counsel represents that it has
 13 accrued approximately \$5,800,535.06 in expenses, of which \$4.1 million went towards expert
 14 fees. AF Mot. at 17.¹ As with the lodestar numbers, each firm provided an individualized expense
 15 report further explaining their expenditures. *See* Docket No. 528-3 at 2 (Chimicles); Docket No.
 16 529-1 at 2 (Hagens Berman); Docket No. 530-3 at 2 (DLG); Docket No. 531-4 at 2 (Baron &
 17 Budd). In addition, Plaintiffs note that some of counsel’s expenses were reduced in order to
 18 comply with the Court’s cost-limiting order. *See, e.g.*, Docket No. 528 at 12 and Docket No. 528-
 19 3 (noting that actual Travel/Food/Lodging expenses totaled \$79,479.91, but \$9,220.10 of those
 20 expenses exceeded the limitations set forth by the Court, so only \$70,259.81 was submitted). For

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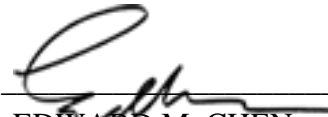
27 _____
 28 ¹ These expenses do not include the cost of the second mailing, which Plaintiffs’ counsel had
 agreed to cover (as discussed above). The estimated cost of that mailing is \$119,520.

1 the reasons stated on the record, as well as those reasons reflected in the Court's order granting
2 preliminary approval, *see* Docket No. 526, the Court **GRANTS** the request for expenses in the
3 amount of \$5,800,535.06.

4 This order disposes of Docket No. 527.

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6 **IT IS SO ORDERED.**

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8 Dated: December 17, 2019

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11 EDWARD M. CHEN
12 United States District Judge

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United States District Court
Northern District of California