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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SANTA CLARA

10	In re McAfee, Inc. Shareholder	)	Lead Case No. 1:10-cv-180413
11	Litigation	)	
		)	<u>CLASS ACTION</u>
12	Consolidated action, including:	)	
	<i>Greenberg v. McAfee, Inc.</i> , Santa Clara County	)	MEMORANDUM OF POINTS AND
13	Superior Court, Case No. 1:10-cv-180413	)	AUTHORITIES IN SUPPORT OF
	<i>Colwell v. McAfee, Inc.</i> , Santa Clara County	)	PLAINTIFF'S COUNSEL'S MOTION FOR
14	Superior Court, Case No. 1:10-cv-180420	)	AN AWARD OF ATTORNEYS' FEES AND
	<i>Faulkner v. McAfee, Inc.</i> , Santa Clara County	)	EXPENSES
15	Superior Court, Case No. 1:10-cv-180597	)	
16	<i>Korsinsky v. Bass</i> , Santa Clara County Superior	)	DATE: October 4, 2019
	Court, Case No. 1:10-cv-180928	)	TIME: 9:00 a.m.
17		)	DEPT: 5
		)	DATE ACTION FILED: 08/19/2010
18	This Document Relates To:	)	
19		)	Judge: Hon. Thomas E. Kuhnle
	ALL ACTIONS.	)	
20		)	

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1 Plaintiff and Class Representative Central Laborers’ Pension Fund (“Plaintiff” or “CLPF”)  
2 and its counsel (“Plaintiff’s Counsel”) submit this memorandum in support of their request for an  
3 award of attorneys’ fees and expenses, as well as a service award to Plaintiff for its representation of  
4 the Class.<sup>1</sup>

5 **I. INTRODUCTION**

6 Following eight years of litigation, the Parties agreed to resolve this Action just six weeks  
7 before trial was scheduled to begin. To achieve this result, Plaintiff’s Counsel engaged in nearly  
8 every potential aspect of pre-trial litigation possible. Plaintiff’s Counsel successfully opposed  
9 Defendants’ demurrers; engaged in class discovery and won certification the Class; completed full  
10 fact discovery, which involved numerous motions to compel and many more informal discovery  
11 conferences with the Court; litigated whether the Class was entitled to a trial by jury, both in this  
12 Court and again before the Court of Appeal; completed full expert discovery, which included opening  
13 reports, rebuttal reports, and the depositions of five expert witnesses; litigated an initial round of  
14 motions for summary judgment; successfully appealed the initial decision granting summary  
15 judgment in Defendants’ favor; defeated a renewed motion for summary judgment that Intel filed  
16 following remand; filed a motion in *limine* to exclude testimony from certain of Defendants’ expert  
17 witnesses and were on the eve of filing oppositions to Defendants’ own motions in *limine*; and  
18 engaged in months-long negotiations regarding a potential resolution to this Action that included a  
19 full-day mediation session. These efforts produced a favorable result for the Class, as the Settlement  
20 will provide for an all-cash recovery of ***\$11.7 million***.

21 Having secured this benefit for the Class, Plaintiff’s Counsel now respectfully moves for:  
22 (i) an award of attorneys’ fees in the amount of 30% of the Settlement Amount, (ii) payment of  
23 \$638,123.37 for expenses that were necessary to the prosecution of this Action, and (iii) a service  
24 award of \$5,000 for Plaintiff in connection with its time spent prosecuting this Action on behalf of  
25 the Class. Counsel and their paraprofessionals spent 7,701.80 hours prosecuting this Action with a  
26

27 \_\_\_\_\_  
28 <sup>1</sup> Unless indicated otherwise, all capitalized terms and definitions have the same meaning as set forth  
in the Stipulation of Settlement filed on March 13, 2019.

1 resulting lodestar of \$6,650,631.75. This reflects a lodestar multiplier of just 0.52, which means that  
2 Plaintiff's Counsel will be receiving a significant discount to its lodestar.

3         Recent California Supreme Court precedent supports these awards. In *Laffitte v. Robert Half*  
4 *Int'l Inc.*, 1 Cal. 5th 480 (2016) ("*Laffitte*"), the California Supreme Court affirmed a one-third  
5 percentage-based fee award to class counsel as part of a \$19 million pre-trial settlement in a wage and  
6 hour class action. The fee award in *Laffitte* represented a lodestar multiplier of 2.13 when excluding  
7 work performed on appeal. *Id.* at 485-87. Here, Plaintiff's Counsel is requesting a lower percentage-  
8 based award that will represent a discount – not a multiple – to its lodestar. Further, the *Laffitte* class  
9 representatives received individual service awards of \$80,000. See *Laffitte v. Robert Half Int'l Inc.*,  
10 231 Cal. App. 4th 860, 866 (2014) ("*Laffitte App.*"). Plaintiff's requested service award in this Action  
11 is only \$5,000. Lastly, the court also awarded class counsel in *Laffitte* "their actual litigation expenses  
12 that were advanced in connection with the Actions," *id.* at 871, which is exactly what Plaintiff's  
13 Counsel is requesting here with respect to its expenses.

14         For the reasons set forth herein, as well as the Final Approval Memorandum and the  
15 Declaration filed concurrently herewith,<sup>2</sup> Plaintiff's Counsel respectfully submits that the requested  
16 attorneys' fees are fair and reasonable, and, in light of the risks undertaken, its diligent efforts  
17 litigating the Action on behalf of the Class, and the favorable result obtained, should be approved by  
18 the Court. The expenses requested by Plaintiff's Counsel are similarly reasonable, were necessary  
19 for the successful prosecution of the Action, and are the types of expenses typically paid to a fee-  
20 paying client. Finally, given its active involvement in and supervision of this multi-year litigation  
21 and its essential role in effectuating the Settlement, the service award requested for Plaintiff is  
22 reasonable and should be granted.

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26 <sup>2</sup> The "Final Approval Memorandum" refers to the Memorandum of Points and Authorities in Support  
27 of Plaintiff's Motion for Final Approval of Class Action Settlement and Approval of Plan of  
28 Allocation. The "Declaration" refers to the Declaration of Maxwell R. Huffman in Support of  
Motions for: (1) Final Approval of Class Action Settlement and Approval of Plan of Allocation; and  
(2) an Award of Attorneys' Fees and Expenses.

1 **II. THE REQUESTED ATTORNEYS' FEES FOR PLAINTIFF'S COUNSEL**  
2 **ARE REASONABLE AND SHOULD BE APPROVED**

3 **A. The Common Fund Doctrine Allows the Court to Compensate Attorneys**  
4 **for Their Efforts in Creating a Common Fund**

5 Where, as here, the litigation created a common fund for the benefit of a class, California  
6 courts have “long recognized” their power to award plaintiffs’ counsel their reasonable attorneys’  
7 fees and expenses out of that fund. *Laffitte*, 1 Cal. 5th at 489-90 (collecting cases). In *Laffitte*, the  
8 California Supreme Court held that the trial court may award class counsel a fee from a common fund  
9 based on a percentage of the fund created. *Id.* at 503. In so doing, the Court recognized the advantages  
10 of using the percentage method of awarding attorneys’ fees, including the “relative ease of  
11 calculation, alignment of incentives between counsel and the class, a better approximation of market  
12 conditions in a contingency case, and the encouragement it provides counsel to seek an early  
13 settlement and avoid unnecessarily prolonging the litigation.” *Id.*

14 The *Laffitte* ruling is consistent with decisions from courts throughout the country, including  
15 the United States Supreme Court and the Delaware Court of Chancery in merger-related stockholder  
16 class actions. *See Blum v. Stenson*, 465 U.S. 886, 900 n.16 (1984) (holding under the common fund  
17 doctrine a reasonable fee may be based “on a percentage of the fund bestowed on the class”); *In re*  
18 *Activision Blizzard, Inc. Stockholder Litig.*, 124 A.3d 1025, 1070 (Del. Ch. 2015) (“When the benefit  
19 is quantifiable, . . . *Sugarland* calls for an award of attorneys’ fees based upon a percentage of the  
20 benefit.”) (citation omitted). In fact, the California Supreme Court recognized that “[c]urrently, all  
21 the circuit courts either mandate or allow their district courts to use the percentage method in common  
22 fund cases; none require sole use of the lodestar method [and] [m]ost state courts to consider the  
23 question in recent decades have also concluded the percentage method of calculating a fee award is  
24 either preferred or within the trial court’s discretion in a common fund case.” *Laffitte*, 1 Cal. 5th at  
25 493-94 (citation omitted).

26 Compensating counsel with a percentage of the common fund is not only fair, but it also  
27 incentivizes efficient litigation. *Id.* at 503 (finding that percentage awards align the incentives of  
28 counsel with those of the class). As noted by a task force charged by the Third Circuit to investigate  
court-awarded attorneys’ fees, “any and all inducement or inclination to increase the number of . . .



1 hours will be reduced, since the amount of work performed will not . . . alter the contingent fee.”  
2 Report of the Third Circuit Task Force, *Court Awarded Attorney Fees*, 108 F.R.D. 237, 258 (Oct. 8,  
3 1985). Utilizing a percentage fee creates “a substantial inducement” for plaintiffs’ counsel to work  
4 efficiently, since “counsel’s compensation will not be enhanced by a delay.” *Id.*

5 **B. The Requested Fee of 30% Is Reasonable and Should Be Awarded**

6 In determining the reasonableness of a fee request, California courts typically consider the  
7 following “basic factors”: (1) the result obtained; (2) the time and labor required; (3) the contingent  
8 nature of the case and the delay in payment; (4) the extent to which the nature of the litigation  
9 precluded other employment; (5) the experience, reputation, and ability of class counsel, the skill they  
10 displayed in the litigation, and the complexity and difficulty of the case; and (6) the informed consent  
11 of the clients to the fee agreement. *In re Cal. Indirect Purchaser X-Ray Film Antitrust Litig.*, No.  
12 960886, 1998 WL 1031494, at \*3 (Alameda Super. Ct. Oct. 22, 1998); *see also Serrano v. Priest*,  
13 20 Cal. 3d 25, 49 (1977); *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1810 n.21 (1996).  
14 However, no rigid formula applies and each factor should be considered only “where appropriate.”  
15 *Dept. of Transp. v. Yuki*, 31 Cal. App. 4th 1754, 1771 (1995). Providing guidance as to an appropriate  
16 range for a reasonable fee, the Court of Appeals observed in *Laffitte* that “the trial court’s use of a  
17 percentage of 33 1/3 percent of the common fund is consistent with, and in the range of, awards in  
18 other class action lawsuits.” *Laffitte App.*, 231 Cal. App. 4th at 878. The court also explained that  
19 “[e]mpirical studies show that, regardless whether the percentage method or the lodestar method is  
20 used, fee awards in class actions average around one-third of the recovery.” *Id.*

21 Here, the requested fee is below that average and consistent with recent awards by courts  
22 throughout California and nationwide in similar stockholder class actions. *In re Epicor Software*  
23 *Corp. S’holder Litig.*, No. 30-2011-00465495-CU-BT-CXC, slip op. (Orange Cnty. Super. Ct.  
24 Oct. 24, 2014) (awarding 30% fee in merger-related stockholder class action) (Decl., Ex. E); *In re*  
25 *Avalanche Biotechnologies, Inc. S’holder Litig.*, No. CIV536488, slip op. (San Mateo Super. Ct.  
26 Jan. 19, 2018) (awarding 33% fee in securities class action) (Decl., Ex. F); *In re ITC Holdings Corp.*  
27 *S’holder Litig.*, No. 2016-151852-CB, slip op. (Oakland Cnty. Cir. Ct. Sept. 25, 2017) (awarding 30%  
28 fee in merger-related stockholder class action) (Decl., Ex. G). Moreover, as discussed below, the

1 requested fee award for Plaintiff's Counsel is further supported by: (1) the result achieved; (2) the  
2 time and effort it put into the litigation; and (3) the contingent nature of the representation and  
3 associated risk of loss.

4 **1. The Result Achieved in This Action**

5 Courts have consistently recognized that the result achieved is an important factor to be  
6 considered in making a fee award. *Hensley v. Eckerhart*, 461 U.S. 424, 436 (1983) (explaining that  
7 the "most critical factor is the degree of success obtained"); *In re King Res. Co. Sec. Litig.*, 420  
8 F. Supp. 610, 630 (D. Colo. 1976) ("the amount of the recovery, and end result achieved are of  
9 primary importance, for these are the true benefit to the client"). In this case, a Settlement Amount  
10 of \$11.7 million in cash has been obtained through the efforts of Plaintiff's Counsel. This is a  
11 favorable result given the risks of proving liability and causally-related damages, while providing an  
12 immediate and certain recovery for Class Members without the risk, expense and delay of trial and  
13 appeals. See Final Approval Memorandum at 7-13. This is a rare monetary settlement in stockholder  
14 class actions challenging the merger of a public company, which underscores the uniquely favorable  
15 outcome of this Action. *Id.*

16 **2. Time and Effort Required**

17 As noted above, Plaintiff's Counsel invested 7,701.80 hours of time in aggressively litigating  
18 the Action for eight years before the Settlement was reached. During this time, Plaintiff's Counsel,  
19 *inter alia*: (i) researched, drafted and filed a multitude of pleadings; (ii) defeated two demurrers;  
20 (iii) litigated three discovery motions and had numerous other informal discovery conferences with  
21 the Court; (iv) successfully certified the Class; (v) completed full discovery, including 38 depositions  
22 and over 195,000 pages of document productions; (vi) opposed two initial motions for summary  
23 judgment; (vii) successfully appealed the initial decision granting summary judgment; (viii) defeated  
24 a third motion for summary judgment filed following remand; (ix) file a motion in *limine* and prepared  
25 oppositions to Defendants' motions in *limine*; and (x) was actively preparing for trial, which was just  
26 six weeks away at the time the Parties agreed to settle this Action. Declaration, ¶¶7-35. This was all  
27 time well spent, as the \$11.7 million Settlement could not have been secured but for these efforts.

28

1 The requested award of attorneys' fees is also reasonable in comparison to Plaintiff's  
2 Counsel's lodestar. Lodestar is determined by multiplying the number of hours worked by the hourly  
3 rates of the attorneys and paraprofessionals. *Serrano*, 20 Cal. 3d at 48-49. An appropriate fee award  
4 will generally be a multiple (*i.e.*, a ratio greater than one) of counsel's lodestar because "the unadorned  
5 lodestar reflects the general local hourly rate for a fee-bearing case; it does not include any  
6 compensation for contingent risk, extraordinary skill, or any other factors a trial court may consider."  
7 *Ketchum v. Moses*, 24 Cal. 4th 1122, 1138 (2001); *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 61  
8 (2008) ("[A] lodestar enhancement based on 'quality of representation' by definition involves  
9 considerations not captured by counsel's hourly rates."). Although a comparison of lodestar to the  
10 requested fees is not required, "[a] lodestar cross-check" will provide the court with "a mechanism  
11 for bringing an objective measure of the work performed into the calculation of a reasonable attorney  
12 fee." *Laffitte*, 1 Cal. 5th at 504.<sup>3</sup>

13 Here, the requested fee for Plaintiff's Counsel results in a multiplier of approximately 0.52,  
14 which means that Plaintiff's Counsel would receive a discount to its lodestar. By comparison,  
15 California courts have repeatedly approved fee awards with multipliers that were several times  
16 counsel's lodestar. See *Wershba v. Apple Comput., Inc.*, 91 Cal. App. 4th 224, 255 (2001)  
17 (recognizing that "[m]ultipliers can range from 2 to 4 or even higher"), overruled on other grounds  
18 by *Hernandez v. Restoration Hardware, Inc.*, 4 Cal. 5th 260 (2018). Indeed, "numerous cases have  
19 applied multipliers of between 4 and 12 to counsel's lodestar in awarding fees." *Nat. Gas Anti-Trust*  
20 *Cases*, No. 4221, 2006 WL 5377849, at \*4 (San Diego Sup. Ct. Dec. 11, 2006); *Sternwest Corp. v.*  
21 *Ash*, 183 Cal. App. 3d 74, 76 (1986) (remanding for a lodestar enhancement of "two, three, four or  
22 otherwise"); *Glendora Cmty. Redevelopment Agency v. Demeter*, 155 Cal. App. 3d 465 (1984)  
23 (affirming a 12-times multiplier of counsel's hourly rate and expressly rejecting the argument that the

24 \_\_\_\_\_  
25 <sup>3</sup> In *Laffitte*, the Court observed: "With regard to expenditure of judicial resources, we note that trial  
26 courts conducting lodestar cross-checks have generally not been required to closely scrutinize each  
27 claimed attorney-hour, but have instead used information on attorney time spent to 'focus on the  
28 general question of whether the fee award appropriately reflects the degree of time and effort  
expended by the attorneys.' . . . The trial court in the present case exercised its discretion in this  
manner, performing the cross-check using counsel declarations summarizing overall time spent,  
rather than demanding and scrutinizing daily time sheets in which the work performed was broken  
down by individual task." *Id.* at 505 (citations omitted).

1 requested fee was exorbitant or unconscionable). Accordingly, the lodestar and multiplier here  
2 strongly reinforces the fairness of the requested fee award.

### 3                   **3.           Contingent Nature of the Representation**

4           Courts have consistently recognized that the risk of receiving little or no recovery is a major  
5 factor in considering an award of attorneys' fees. *See Goldberger v. Integrated Res.*, 209 F.3d 43, 54  
6 (2d Cir. 2000) (the level of risk taken by plaintiff's counsel is "perhaps the foremost' factor" in  
7 considering the appropriate percentage award) (citation omitted). This makes sense because in the  
8 legal marketplace, an attorney who takes a case on contingency expects a higher fee than an attorney  
9 who is paid as the case goes along, win or lose. *See Rader v. Thrasher*, 57 Cal. 2d 244, 253 (1962);  
10 *Salton Bay Marina, Inc. v. Imperial Irrigation Dist.*, 172 Cal. App. 3d 914, 955 (1985) ("riskiness,'  
11 difficulty or contingent nature of the litigation is a relevant factor in determining a reasonable attorney  
12 fee award"). As the Court of Appeals explained in *Cazares v. Saenz*, 208 Cal. App. 3d 279 (1989):

13                   In addition to compensation for the legal services rendered, there is the *raison*  
14 *d'etre* for the contingent fee: the contingency. The lawyer on a contingent fee contract  
15 receives nothing unless the plaintiff obtains a recovery. Thus, in theory, a contingent  
16 fee in a case with a 50 percent chance of success should be twice the amount of a non-  
17 contingent fee for the same case. . . .

18                   Finally, even putting aside the contingent nature of the fee, the lawyer under  
19 such an arrangement agrees to delay receiving his fee until the conclusion of the case,  
20 which is often years in the future. The lawyer in effect finances the case for the client  
21 during the pendency of the lawsuit. If a lawyer was forced to borrow against the legal  
22 services already performed on a case which took five years to complete, the cost of  
23 such a financing arrangement could be significant.

24 *Id.* at 288.

25           Here, Plaintiff's Counsel undertook this litigation on a contingent fee basis, assuming a  
26 significant risk that the litigation would yield no recovery and leave it uncompensated. Unlike  
27 counsel for Defendants, who are paid an hourly rate and paid for their expenses on a regular basis,  
28 Plaintiff's Counsel has not been compensated for any time or expense since this case began in  
August 2010. Moreover, Plaintiff's Counsel faced significant risk of establishing both liability and  
damages. As discussed in the Final Approval Memorandum, there was significant risk that Plaintiff  
would not be able to convince the trier of fact that evidence supported: (i) a breach of fiduciary duty  
by DeWalt; (ii) Intel knowingly participated in an underlying breach; (iii) any such misconduct

1 resulted in causal damages; and (iv) and the elements of potentially dispositive affirmative defenses  
2 were not met. *See* Final Approval Memorandum at 7-13. There was also significant risk that, even  
3 assuming that Plaintiff was able to demonstrate liability, Defendants would be able to convince the  
4 trier of fact that the Transaction price was a fair price for McAfee and its stockholders, and the Class  
5 would end up with no damages or recovery. *Id.* at 10-11.

6 The contingent nature of counsel’s representation and the sizable financial risks borne by  
7 Plaintiff’s Counsel further support the percentage fee requested. It simply cannot be disputed that the  
8 risk of no recovery in complex cases is very real. As the court in *In re Xcel Energy, Inc.* recognized,  
9 “[t]he risk of no recovery in complex cases of this sort is not merely hypothetical. Precedent is replete  
10 with situations in which attorneys representing a class have devoted substantial resources in terms of  
11 time and advanced costs yet have lost the case despite their advocacy.” 364 F. Supp. 2d 980, 994  
12 (D. Minn. 2005). For example, in *In re Oracle Corp. Sec. Litig.*, No. C 01-00988 SI, 2009 U.S. Dist.  
13 LEXIS 50995 (N.D. Cal. June 16, 2009), *aff’d*, 627 F.3d 376 (9th Cir. 2010), a case that the Robbins  
14 Geller firm prosecuted, the court granted summary judgment to defendants after eight years of  
15 litigation, and after class counsel incurred over \$6 million in expenses, and worked over 100,000  
16 hours, representing a lodestar of approximately \$40 million. Similarly, in a case against JDS  
17 Uniphase Corporation, after a lengthy trial involving securities claims, the jury reached a verdict in  
18 defendants’ favor. *See In re JDS Uniphase Corp. Sec. Litig.*, No. C-02-1486 CW (EDL), 2007 WL  
19 4788556 (N.D. Cal. Nov. 27, 2007).

20 Because the fee in this matter was entirely contingent, the only certainties were that there  
21 would be no fee without a successful result and that such a successful result would be realized only  
22 after considerable and difficult effort. Despite such risks, Plaintiff’s Counsel committed significant  
23 resources of both time and money to vigorously and successfully prosecute the Action for the Class’  
24 benefit.

25 **III. THE REQUESTED EXPENSES ARE REASONABLE AND WERE**  
26 **NECESSARY FOR PROSECUTING THE ACTION**

27 Attorneys who create a common fund for the benefit of a class are entitled to payment from  
28 the fund of reasonable litigation expenses because those who benefit from their effort should share in

1 the cost. *Laffitte App.*, 231 Cal. App. 4th at 871; *Rider v. Cty. of San Diego*, 11 Cal. App. 4th 1410,  
2 1423 n.6 (1992). The relevant standard for awarding expenses is whether the costs are of the type  
3 typically billed by attorneys to fee-paying clients in the marketplace. *See Beasley v. Wells Fargo*  
4 *Bank*, 235 Cal. App. 3d 1407, 1419 (1991); *Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994).

5 Here, in order to aggressively and successfully litigate this Action, Plaintiff's Counsel  
6 incurred expenses of \$638,123.37. These expenses include: (1) fees paid to expert witnesses and  
7 consultants; (2) court fees; (3) court reporter fees, videographer fees and transcripts; (4) necessary  
8 on-line research; (5) transportation, hotels, and out-of-town meals associated with attending hearings,  
9 depositions and client meetings; (6) in-house database management charges; and (7) photocopying  
10 and telephone charges.<sup>4</sup> The expenses are reasonable in light of the work performed, the legal and  
11 factual issues presented, and the vigorous defense.

12 Moreover, these expenses are the type that are normally charged to paying clients, and were  
13 incurred in accordance with the firm's regular policies. They were entirely necessary for this Action,  
14 and, given their reasonable amount when compared with the scale and duration of the Action, as well  
15 as the recovery to the Class, should be paid in the amount requested. *See Missouri v. Jenkins*, 491  
16 U.S. 274, 287 n.9 (1989) (expenses which are billed in accordance with the "prevailing practice" are  
17 subject to reimbursement); *Laffitte App.*, 231 Cal. App. 4th at 871 (awarding class counsel "their  
18 actual litigation expenses that were advanced in connection with the Actions" as part of a class action  
19 settlement).

#### 20 **IV. THE REQUESTED SERVICE AWARD FOR PLAINTIFF IS REASONABLE**

21 A service award of \$5,000 is requested for Plaintiff and Class Representative CLPF for the  
22 time incurred in ensuring that the Class was adequately represented in the Action. The purpose of  
23 service awards is to "encourage participation of plaintiffs in the active supervision of their counsel."  
24 *Varljen v. H.J. Meyers & Co.*, No. 97 CIV. 6742 (DLC), 2000 U.S. Dist. LEXIS 16205, at \*14 n.2  
25 (S.D.N.Y. Nov. 8, 2000). Plaintiff was extremely dedicated to the prosecution of this Action, which  
26

27 <sup>4</sup> *See Declaration of Maxwell R. Huffman Filed on Behalf of Robbins Geller Rudman & Dowd*  
28 *LLP in Support of Application for Award of Attorneys' Fees and Expenses*, ¶¶5-6, submitted  
herewith.

1 required CLPF to regularly confer with its counsel, review pleadings and motions, search for and/or  
2 collect trading records and other responsive material related to McAfee as part of the discovery  
3 process, prepare for and have the deposition taken of CLPF's executive director, and discuss and  
4 consider the proposed Settlement.<sup>5</sup> The requested service award for Plaintiff is warranted as a public  
5 policy consideration and has ample precedent under the law. *See, e.g., Laffitte App.*, 231 Cal. App.  
6 4th at 866 (approving \$80,000 service awards for class representatives); *Williams, Inc. v. Kaiser Sand*  
7 *& Gravel Co.*, No. C91 4028 MHP, 1995 U.S. Dist. LEXIS 14262, at \*6-\*7 (N.D. Cal. Sept. 19,  
8 1995) (granting \$10,000 incentive award to single plaintiff); *Xcel Energy*, 364 F. Supp. 2d at 1000  
9 (\$100,000 collectively awarded to lead plaintiff group as reimbursement).

10 In recognition of the fact that both individuals and organizations must take time away from  
11 their ordinary activities in order to properly oversee the litigation, California courts have regularly  
12 approved service awards to pension funds, like Plaintiff, bringing stockholder class actions. *See, e.g.,*  
13 *In re Ceradyne, Inc. S'holder Litig.*, No. 30-2012-00604001-CU-BT-CXC, slip op., ¶6 (Orange Cnty.  
14 Sup. Ct. Dec. 10, 2018) (Ex. H) (approving \$5,000 service award for pension fund in a stockholder  
15 class action); *City of Riviera Beach Gen. Emps. Ret. Sys. v. Schwartz*, No. C-15-00140, slip op., ¶10  
16 (Contra Costa Sup. Ct. Mar. 6, 2017) (Ex. I) (approving \$5,000 service award for pension fund in a  
17 stockholder derivative action); *Chicago Laborers Pension Fund v. Alibaba Group Holding Limited*,  
18 No. 535692, slip op., ¶17 (San Mateo Sup. Ct. May 17, 2019) (Ex. J) (approving \$20,000 service  
19 award for pension fund in stockholder class action).

## 20 **V. CONCLUSION**

21 For the reasons set forth herein, in the Final Approval Memorandum, and in the Declaration,  
22 Plaintiff's Counsel respectfully submits that the motion for an award of attorneys' fees and expenses  
23 is fair, reasonable and appropriate, and should therefore be granted. Additionally, the requested  
24  
25  
26  
27

28 <sup>5</sup> *See* Declaration of Dan Koepfel in Support of Plaintiff's Motion for Final Approval of Class Action Settlement, submitted herewith.

1 service award to Plaintiff for its representation of the Class is fair and reasonable and should also be  
2 approved.

3 DATED: July 29, 2019

Respectfully submitted,

4 ROBBINS GELLER RUDMAN  
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6 RANDALL J. BARON  
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9 

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**DECLARATION OF SERVICE BY E-MAIL**

I, JACLYN WILLIAMS, not a party to the within action, hereby served the attached MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES on the parties in the within action by e-mail addressed as follows:

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