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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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In re ORIGIN MATERIALS, INC.,  
STOCKHOLDER DERIVATIVE LITIGATION

No. 2:25-cv-777 WBS JDP  
(Consolidated)

MEMORANDUM AND ORDER RE:  
PLAINTIFFS' UNOPPOSED MOTIONS  
FOR FINAL APPROVAL OF  
DERIVATIVE ACTION SETTLEMENT,  
AND FOR APPROVAL OF  
ATTORNEYS' FEES, EXPENSES,  
AND SERVICE AWARDS

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Plaintiffs brought this shareholder derivative action against defendant Origin Materials, Inc., alleging violations of section 14(a) of the Securities Exchange Act of 1934 (15 U.S.C. § 78n(a)) and Rule 14a-9 (17 C.F.R. § 240.14a-9). (See Docket No. 1 at 5.) Now before the court are plaintiffs' unopposed motions for final approval of derivative action settlement (Docket No. 36) and for approval of attorneys' fees, expenses, and service awards (Docket No. 37).

1 I. Background and Proposed Settlement

2 This is one of four related cases assigned to the  
3 undersigned judge that involve claims under the Securities  
4 Exchange Act of 1934 against several of the same defendants based  
5 on the same subject matter, namely the development and  
6 construction of the Origin 2 plant.

7 Origin, which is headquartered in West Sacramento,  
8 California, is a Delaware corporation "specializing in developing  
9 and commercializing sustainable materials to replace traditional  
10 petroleum-based materials used in various industries." (Docket  
11 No. 25-1 at 10.) On February 21, 2021, Origin announced a new  
12 capital projects plan that involved the construction of "two  
13 commercial-style plants": Origin 1 and Origin 2. (Id.) "Origin  
14 1 was expected to be operational by the end of 2022. Origin 2, a  
15 significantly larger manufacturing plant, was expected to be  
16 operational by mid-2025, and to supply the majority of the  
17 Company's products from 2025 until 2027." (Id.)

18 Plaintiffs' derivative claims, "arise from allegations  
19 that the Individual Defendants breached their fiduciary duties as  
20 officers and directors of Origin by making and/or permitting the  
21 issuance of materially false and misleading statements" and  
22 failures to disclose certain problems in Origin's technological  
23 processes and production capabilities. (Id. at 10-11.)

24 Specifically, plaintiffs alleged that Origin failed to  
25 disclose that: (1) "the Company was experiencing chemical fouling  
26 issues 'at every step' of the process of converting CMF to PX at  
27 commercial scale"; (2) "fouling issues were causing substantial  
28 delays during the FEL 2 phase of the Origin 2 project"; (3) "the

1 Individual Defendants had been planning internally to scale down  
2 production of PX at Origin 2 or to shift focus toward another  
3 product"; (4) "the Individual Defendants had been planning  
4 internally to split construction of Origin 2 into two phases";  
5 (5) "the Company entered into a deal with Avantium N.V.  
6 ('Avantium') to produce FDCA at Origin 2 to compensate for the  
7 Company's difficulties associated with producing PX at scale";  
8 (6) "contrary to the timeline repeatedly disseminated by the  
9 Individual Defendants, Avantium advised that it would take  
10 several years before Origin 2 could become operational with  
11 respect to production of FDCA"; (7) "despite representations  
12 concerning the oversight responsibilities of Board and its  
13 committees, neither adequately monitored the accuracy of the  
14 public statements issued on behalf of, or concerning, the  
15 Company"; (8) "Origin's internal controls over legal compliance,  
16 including all laws and regulations governing the content of the  
17 Company's public disclosures, were inadequate"; and (9) "as a  
18 result, the positive statements concerning the Company's  
19 business, operations, and prospects were materially misleading  
20 and lacked a reasonable basis at all relevant times." (Id.)

21 According to plaintiffs:

22 When it was finally disclosed that Origin 2 would no  
23 longer produce PET derived from PX, instead focusing  
24 on producing PEF derived from FDCA, and that  
25 construction of Origin 2 would be broken up into two  
26 phases, with phase 1 expected to be operational by  
27 late-2026 or 2027 and phase 2 expected to be  
28 operational by 2028, on August 9, 2023, the price of  
Origin stock declined significantly.

(Id. at 11.) Thereafter, litigation commenced.

1           The parties propose settlement terms that include nine  
2 areas of reform to Origin's corporate governance structures and  
3 practices: (1) "Enhancement of the Board's Oversight functions"  
4 (Id. at 14); (2) "Creation of a Board Operational Excellence  
5 Committee" (Id. at 15); (3) "Amendments to Audit Committee  
6 Responsibilities" (Id. at 15–16); (4) "Maintaining a Management  
7 Disclosure Committee" (Id. at 16–17); (5) "Creation of a Chief  
8 Compliance Officer" (Id. at 17); (6) "Creation of a Management  
9 Product and Technology Committee" (Id. at 17–19); (7) "Executive  
10 Reports" (Id. at 19); (8) "Cost Reduction Initiatives" (Id. at  
11 19); and (9) "Enhancements to the Whistleblower Policy" (Id. at  
12 20–21).

13           According to plaintiffs, "the Reforms directly target  
14 the alleged governance deficiencies that enabled the wrongdoing  
15 alleged in the Derivative Matters" and, if approved, they "will  
16 not only prevent recurrence of the wrongs alleged . . . but will  
17 . . . generally strengthen Origin's corporate governance,  
18 oversight, and internal controls." (Id. at 13.) Moreover,  
19 Origin agrees to "adopt, implement, and maintain the Reforms  
20 within sixty days of an Order granting final approval of the  
21 settlement" and has further agreed to "maintain the Reforms for  
22 at least three (3) years." (Id.)

## 23 II. Final Settlement Approval

24           Federal Rule of Civil Procedure 23.1 provides that a  
25 shareholder "derivative action may be settled, voluntarily  
26 dismissed, or compromised only with the court's approval." Fed.  
27 R. Civ. P. 23.1(c). "Rule 23 requires courts to employ a two-  
28 step process in evaluating a class action or derivative action

1 settlement.” In re Wells Fargo & Co. Shareholder Derivative  
2 Litig., No. 16-cv-05541-JST, 2019 WL 13020734, at \*4 (N.D. Cal.  
3 May 14, 2019). Under Rule 23(e)(2), the court at step one “must  
4 make a preliminary determination that the settlement is fair,  
5 reasonable, and adequate.” Id. (internal citation and quotations  
6 omitted). Then, at step two, the court may approve the  
7 settlement only if it is found to be “fundamentally fair,  
8 adequate, and reasonable.” In re Hewlett-Packard Co. S'holder  
9 Derivative Litig., No. 3:12-cv-06003-CRB, 2015 WL 1153864, at \*3  
10 (N.D. Cal. Mar. 13, 2015) (internal citation and quotations  
11 omitted). Having determined at the preliminary approval stage  
12 that the proposed settlement was “within the range of possible  
13 approval.” In re Tableware Antitrust Litig., 484 F. Supp. 2d  
14 1078, 1080 (N.D. Cal. 2007) (internal citation and quotations  
15 omitted); see In re Wells Fargo, 2019 WL 13020734, at \*4, the  
16 court now proceeds to step two.

17 Courts consider a broad range of factors when  
18 evaluating the “fairness, reasonableness, and adequacy” of a  
19 proposed settlement in the context of a derivative action at step  
20 two. In re Lyft, Inc. Derivative Litig., No. 20-cv-09257-HSG,  
21 2024 WL 4505474, at \*4 (N.D. Cal. Oct. 16, 2024). Such factors  
22 include: (1) “the strength of plaintiffs' case”; (2) “the risk,  
23 expense, complexity, and likely duration of further litigation”;  
24 (3) “the risk of maintaining class action status throughout the  
25 trial”; (4) “the amount offered in settlement”; (5) “the extent  
26 of discovery completed, and the stage of the proceedings”; (6)  
27 “the experience and views of counsel”; (7) “the presence of a  
28 governmental participant”; and (8) “the reaction of the class

1 members to the proposed settlement.” Officers for Just. v. Civ.  
2 Serv. Comm'n of City & Cnty. of San Francisco, 688 F.2d 615, 625  
3 (9th Cir. 1982).

4           Importantly, the court must ensure that the settlement  
5 is not “the product of fraud or overreaching by, or collusion  
6 between, the negotiating parties.” In re Hewlett-Packard, 2015  
7 WL 1153864, at \*3 (internal citation and quotation omitted); see  
8 also Lloyd v. Gupta, No. 15-cv-04183-MEJ, 2016 WL 3951652, at \*4  
9 (N.D. Cal. July 22, 2016) (internal citation and quotations  
10 omitted) (explaining that a court will take into account whether  
11 “the settlement is the result of arm's-length negotiations in  
12 which plaintiffs' counsel has effectively represented the  
13 interest of the shareholder class, and whether the substantive  
14 terms of the settlement are in the interests of [the company] and  
15 its shareholders relative to the likely rewards of litigation.”).

16           A. Fairness, Adequacy, and Reasonableness of Settlement

17           “The principal factor to be considered in determining  
18 the fairness of a settlement concluding a shareholders'  
19 derivative action is the extent of the benefit to be derived from  
20 the proposed settlement by the corporation, the real party in  
21 interest.” In re Apple Computer, Inc. Derivative Litig., No. 06-  
22 cv-4128-JF-(HRL), 2008 WL 4820784, at \*2 (N.D. Cal. Nov. 5, 2008)  
23 (internal citation and quotation omitted); see also Mego  
24 Financial Corp. Sec. Litig., 213 F.3d 454, 459 (9th Cir. 2000).

25           Here, the settlement “provides Origin and its  
26 shareholders with the substantial, immediate, and lasting  
27 benefits of the reforms which directly remediate the governance  
28 deficiencies that caused and/or enabled the alleged wrongdoing

1 and will prevent the recurrence of similar misconduct." (Docket  
2 No. 36 at 18.) The settlement consists primarily of corporate  
3 governance reforms that the parties agree are designed to achieve  
4 the following ends:

- 5 (1) "[I]mprove Origin's risk oversight functions through  
6 updates to the Board's oversight functions;"
- 7 (2) "[E]nsure that the Company's manufacturing capabilities  
8 and processes conform to its target production goals as  
9 expressed in public statements;"
- 10 (3) "[E]nhance the Audit Committees' risk oversight  
11 responsibilities and capabilities;"
- 12 (4) "[E]nsure that the Company's significant public  
13 statements are reviewed for accuracy, integrity, and  
14 compliance with applicable laws and regulations as well  
15 as GAAP and non-GAAP requirements, protocols, and  
16 procedures through the maintenance of a management-  
17 level Disclosure Committee;"
- 18 (5) "[E]nhance oversight of the Company's corporate  
19 governance policies through the creation of a CCO  
20 position;"
- 21 (6) "[I]mprove oversight of key technological initiatives  
22 through the creation of a management-level Product and  
23 Technology Committee;"
- 24 (7) "[P]rovide regular executive reports to the Board  
25 regarding the Company's financial condition and  
26 business prospects;"
- 27 (8) "[M]inimize costs to the Company in the near term  
28 through cost reduction initiatives; and"
- (9) "[P]rotect and incentivize employees with legitimate  
concerns regarding the Company's management to voice

1           their concerns through updates to the Company's  
2           Whistleblower Policy."

3           (Docket No. 25-1 at 24.) "[C]ourts have recognized that  
4           corporate governance reforms ... provide valuable benefits to  
5           public companies." In re NVIDIA Corp. Derivative Litig., No. 06-  
6           cv-06110-SBA-(JCS), 2008 WL 5382544, at \*3 (N.D. Cal. Dec. 22,  
7           2008) (internal citation and quotations omitted). Together,  
8           these reforms "significantly strengthen the Board's decision-  
9           making process, risk management, and oversight by ensuring that  
10          the Board receives detailed financial and operational information  
11          from management before it approves the issuance of material  
12          financial and operational public statements." (Docket No. 36 at  
13          18-19; see also Docket No. 37 at 9.)

14          The settlement here also fixes the proposed corporate  
15          governance reforms in place for three years. (Docket No. 37 at  
16          8). In Cohn v. Nelson, the court found that corporate governance  
17          measures included in a proposed settlement, when held in place  
18          for at least three years, tend to "provide meaningful ways of  
19          avoiding the problems [the company] experienced in the recent  
20          past." 375 F.Supp.2d 844, 850 (E.D. Mo. 2005). Courts have also  
21          found that a "three-year commitment should enhance consumer,  
22          investor, and employee trust in [the Corporation's] corporate  
23          governance." In re Lyft, 2024 WL 4505474, at \*4. Moreover, "the  
24          Board, including its independent directors, advised by counsel  
25          and acting by unanimous resolution and in the exercise of its  
26          business judgment, acknowledges and agrees that the Settlement,  
27          and the Reforms it provides, confer substantial benefits upon  
28          Origin and its stockholders." (Docket No. 36 at 19.)

1           Additionally, “without a settlement, Plaintiffs face[ ]  
2 the prospect of additional or collateral litigation ... further  
3 prolonging any resolution beneficial to [Origin].” In re Wells  
4 Fargo, 2019 WL 13020734, at \*6; see In re Apple Computer, Inc.,  
5 2008 WL 4820784, at \*3 (internal citation and quotations omitted)  
6 (“[T]he risk, expense, complexity, and likely duration of further  
7 litigation are additional factors that should be considered in  
8 determining the fairness of a proposed settlement.”).

9           Plaintiffs here acknowledge “the significant risk that  
10 continued litigation may not lead to any recovery for Origin.”  
11 (Docket No. 25-1 at 25); see Basaraba v. Greenberg, No. 13-cv-  
12 5061-PSG-(SHX), 2014 WL 12591677, at \*3 (C.D. Cal. Nov. 10, 2014)  
13 (“In the context of shareholder derivative litigation, even the  
14 strongest cases have a very low likelihood of success due to the  
15 myriad legal, procedural, and discovery protections afforded  
16 director and officer defendants.”); see also In re Pac. Enter.  
17 Sec. Litig., 47 F.3d 373, 378 (9th Cir. 1995) (“[T]he odds of  
18 winning a derivative lawsuit [are] extremely small.”) They argue  
19 that “the uncertainties of further litigation demonstrate that  
20 the proposed Settlement is within the range of approval and  
21 warrants Court approval.” (Docket No. 25-1 at 25.)

22           In particular, plaintiffs recognize the difficulties  
23 imposed by the heightened pleading standards in Rule 23.1 and  
24 state that they were “mindful of the inherent challenges of  
25 establishing demand futility.” (Id.; see also Docket No. 36 at  
26 21); see In re Fab Universal Corp. S'holder Derivative Litig.,  
27 148 F. Supp. 3d 277, 281-82 (S.D.N.Y. 2015) (“The doctrine of  
28 demand futility, the business judgment rule, and the generally

1 uncertain prospect of establishing a breach of fiduciary duties  
2 combine to make shareholder derivative suits an infamously uphill  
3 battle for plaintiffs."); see also Kamen v. Kemper Fin. Servs.  
4 Inc., 500 U.S. 90, 96 (1991) (holding that "extraordinary  
5 conditions" are required in order for a plaintiff to establish  
6 demand futility.").

7           According to plaintiffs' counsel, "[h]ad Plaintiffs  
8 continued to litigate, there was a risk that they would not have  
9 prevailed against a motion challenging pleading sufficiency under  
10 Fed. R. Ci, P. 23.1." (Docket No. 36 at 21.) And "[t]o  
11 establish damages at trial, Settling Stockholders would have to  
12 prove, inter alia, that the claims raised in the Derivative  
13 Matters actually caused Origin to suffer non-exculpated damages  
14 and that the Individual Defendants, as a matter of law, could be  
15 held liable for those damages." (Id. at 22.)

16           Similarly, settlement at this stage of the proceedings  
17 allows both sides to avoid the lengthy and costly process of full  
18 discovery as would be required were the litigation to continue.  
19 (Id. at 22–23.) "Settling Stockholders have a strong grasp of  
20 the underlying facts and alleged misconduct, as well as the  
21 strengths and weaknesses of their claims, to support their  
22 opinion that the Settlement is fair, reasonable, and adequate.  
23 For these reasons too, the Settlement should be finally  
24 approved." (Id. at 23.) This is because "Settling Stockholders'  
25 Counsel's investigation and negotiations were sufficient to  
26 critically evaluate the Derivative Matters and the propriety of  
27 settling at this stage." (Id.) As part of its investigation,  
28

1 Settling Stockholders' Counsel had, *inter alia*: (i)  
2 reviewed and analyzed Origin's press releases, public  
3 statements, and filings with the SEC; (ii) prepared  
4 the complaints and demands in the underlying  
5 Derivative Matters; (iii) conducted research into the  
6 Company's corporate governance structure in connection  
7 with settlement efforts; (iv) exchanged extensive  
8 written settlement demands with Defendants' Counsel;  
9 (v) obtained confidential, non-public information  
10 about Origin and its business during settlement  
11 negotiations; and (vi) negotiated the material terms  
12 of the Settlement.

13 (Id.)

14 The settlement bypasses these hurdles, aiming to ensure  
15 that Origin does not miss out on the opportunity to receive a  
16 benefit. See In re AOL Time Warner S'holder Derivative Litig.,  
17 No. 02-cv-6302-(SWK), 2006 WL 2572114, at \*5 (S.D.N.Y. Sept. 6,  
18 2006) ("Termination of the litigation at this stage of the  
19 proceedings 'obviate[es] the expenditure of any future time and  
20 expense in connection with this action,' and will allow the  
21 Company to direct its full attention to its substantive  
22 business.") (citation omitted).

23 B. Views of Counsel and Shareholder Reactions

24 Further factors weighing in favor of final settlement  
25 approval are the views of experienced counsel and the reaction of  
26 shareholders.

27 "'Great weight' is accorded to the recommendation of  
28 counsel, who are most closely acquainted with the facts of the  
underlying litigation." Nat'l Rural Telecommunications Coop. v.  
DIRECTV, Inc., 221 F.R.D. 523, 528 (C.D. Cal. 2004) (citing In re  
Painwebber Ltd. P'ships Litig., 171 F.R.D. 104, 125  
(S.D.N.Y.1997)); see also Pac. Enters. Sec. Litig., 47 F.3d at

1 378 ("Parties represented by competent counsel are better  
2 positioned than courts to produce a settlement that fairly  
3 reflects each party's expected outcome in the litigation.").  
4 Therefore, "the trial judge, absent fraud, collusion, or the  
5 like, should be hesitant to substitute its own judgment for that  
6 of counsel." Nat'l Rural Telecommunications Coop., 221 F.R.D. at  
7 528 (citing Cotton v. Hinton, 559 F.2d 1326, 1330 (5th  
8 Cir.1977)); see also Griffin v. Consol. Commc'ns, No. 2:21-cv-  
9 885-WBS-KJN, 2023 WL 3853643, at \*4 (E.D. Cal. June 6, 2023)  
10 (Shubb, J.) ("Given counsel's representation that the settlement  
11 reached was the product of arms-length bargaining following  
12 extensive informal discovery and with the help of an experienced  
13 mediator, this factor weighs in favor of final approval."); see  
14 La Fleur v. Med. Mgmt. Int'l, Inc., No. 5:13-cv-00398, 2014 WL  
15 2967475, at \*4 (N.D. Cal. June 25, 2014) ("Settlements reached  
16 with the help of a mediator are likely non-collusive.").  
17 Importantly, here experienced counsel on both sides agree that  
18 "the Settlement is in its best interests and confers substantial  
19 benefits to the Company." (Docket No. 36 at 24.)

20 Likewise, "[t]he reaction of shareholders also factors  
21 into assessing the fairness of a settlement." In re Pinterest  
22 Derivative Litig., No. 20-cv-08331-WHA, 2022 WL 2079712, at \*1  
23 (N.D. Cal. June 9, 2022). Consequently, "because potential  
24 buyers of [the Corporation's] stock likely will view [the]  
25 reforms as an additional reason to purchase the stock, this  
26 three-year period should confer financial benefits to [the  
27 Corporation]." In re Lyft, 2024 WL 4505474, at \*4 (internal  
28 citation and quotation marks omitted); see also In re Rambus Inc.

1 Derivative Litig., No. 06-cv-3513-JF-(HRL), 2009 WL 166689 (N.D.  
2 Cal. Jan. 20, 2009) ("The Settlement provides long term remedial  
3 measures that are specifically designed to protect the  
4 shareholders."). According to counsel, "[t]o date, neither  
5 Settling Stockholders' Counsel nor Defendants' Counsel have  
6 received any objections to the Settlement." (Docket No. 36 at  
7 24.) They argue that "[t]he lack of objections weighs heavily in  
8 favor of final approval." (Id.) The court is inclined to agree.

9 The court is therefore satisfied that the settlement is  
10 "fundamentally fair, adequate, and reasonable." In re Hewlett-  
11 Packard Co. S'holder Derivative Litig., 2015 WL 1153864, at \*3.

12 III. Motion for Approval of Attorneys' Fees, Expenses, and  
13 Service Awards

14 Federal Rule of Civil Procedure 23(h) provides, "[i]n a  
15 certified class action, the court may award reasonable attorney's  
16 fees and nontaxable costs that are authorized by law or by the  
17 parties' agreement." Fed. R. Civ. P. 23(h). If a negotiated  
18 settlement includes an award of attorneys' fees, that fee award  
19 must be evaluated in the overall context of the settlement. See  
20 Knisley v. Network Assocs., 312 F.3d 1123, 1126 (9th Cir. 2002);  
21 Monterrubio v. Best Buy Stores, L.P., 291 F.R.D. 443, 455 (E.D.  
22 Cal. 2013) (England, J.). The court "ha[s] an independent  
23 obligation to ensure that the award, like the settlement itself,  
24 is reasonable, even if the parties have already agreed to an  
25 amount." In re Bluetooth Headset Prod. Liab. Litig., 654 F.3d  
26 935, 941 (9th Cir. 2011) ("The reasonableness of any fee award  
27 must be considered against the backdrop of the 'American Rule,'  
28 which provides that courts generally are without discretion to

1 award attorneys' fees to a prevailing plaintiff unless (1) fee-  
2 shifting is expressly authorized by the governing statute; (2)  
3 the opponents acted in bad faith or willfully violated a court  
4 order; or (3) 'the successful litigants have created a common  
5 fund for recovery or extended a substantial benefit to a  
6 class.'"). In determining the reasonableness of a motion for  
7 attorneys' fees, the court will consider, "(1) the results  
8 achieved, (2) the risk of litigation, (3) the skill required and  
9 quality of work, and (4) the contingent nature of the fee and the  
10 financial burden carried by the Settling Stockholders' Counsel."  
11 (Docket No. 37 t 6-7.)

12 A. Fees and Expenses

13 Courts are required to "ensure that the agreement is  
14 not the product of fraud or overreaching by, or collusion  
15 between, the negotiating parties." In re NVIDIA, 2008 WL  
16 5382544, at \*2 (internal citation and quotations omitted).  
17 However, "[a]n initial presumption of fairness is usually  
18 involved if the settlement is recommended by class counsel after  
19 arm's length bargaining." Urena v. Cent. California Almond  
20 Growers Assn., No. 1:18-cv-517-NONE-EPG, 2020 WL 3483280, at \*11  
21 (E.D. Cal. June 26, 2020), report and recommendation adopted, No.  
22 1:18-cv-517-NONE-EPG, 2020 WL 4593824 (E.D. Cal. Aug. 11, 2020)  
23 (quotation omitted). Additionally, "[t]he involvement of counsel  
24 with significant experience in derivative litigation, who appear  
25 'on behalf of all parties,' weighs in favor of a non-collusive  
26 settlement." In re Lyft, 2024 WL 4505474, at \*5 (citation  
27 omitted).

28 Here, "Defendants were represented by esteemed counsel

1 from Freshfields US LLP.” (Docket No. 25-1 at 28.) Plaintiffs  
2 were likewise represented by counsel with significant experience  
3 in derivative litigation. (Docket No. 25-2 at 87–130.)  
4 Plaintiffs assert that “counsel on both sides possessed a firm  
5 understanding of the strengths and weaknesses of the claims and  
6 defenses in the Derivative Matters.” (Docket No. 25-1 at 28–29  
7 (“Specifically, prior to the Settlement, Settling Stockholders’  
8 Counsel was well-informed about the legal and factual issues the  
9 litigation posed as they conducted extensive research and  
10 investigation into the claims and underlying issues in their  
11 investigation.”).) This included, among other things,  
12 significant research and investigation, preparation of a  
13 settlement demand, “extensive settlement discussions with  
14 [opposing] counsel,” “the exchange of corporate governance reform  
15 proposals and counteroffers,” and “negotiating and drafting the  
16 term sheet and subsequent settlement documentation for  
17 presentment to the Court.” (Id. at 29; see also Docket No. 38 at  
18 23.)

19 Here counsel assert that “[o]nly after reaching an  
20 agreement in principle on the Reforms did the Settling Parties  
21 discuss attorneys’ fees.” (Docket No. 25-1 at 29.) Plaintiffs  
22 argue that the proposed “Fee and Expense Amount of \$700,000.00 .  
23 . . represents a fair, reasonable, beneficial, and practical  
24 resolution of highly uncertain litigation,” and that the terms of  
25 the settlement “fairly account for the risks and potential  
26 rewards of the claims being settled.” (Id.) “[T]he Parties  
27 agree that the Settlement ‘confers substantial benefits upon the  
28 Company and its stockholders and that the adoption,

1 implementation, and maintenance of the Reforms are in the best  
2 interests of the Company and its stockholders.” (Id.)

3 Further, like complex class actions, this case  
4 presented both counsel and plaintiffs with a risk of no recovery  
5 at all. (See Docket No. 38 at 21–22.) Plaintiff’s counsel took  
6 on this matter on a contingency basis. (Id.) The nature of  
7 contingency work inherently carries risks that counsel will  
8 sometimes recovers very little to nothing at all, even for cases  
9 that may be meritorious. See Kimbo v. MXD Group, Inc., No. 2:19-  
10 cv-00166 WBS KNJ, 2021 WL 492493, at \*7 (E.D. Cal. Feb. 10,  
11 2021). Plaintiffs’ counsel argues, and counsel for defendants  
12 agree, that, in light of the result obtained and substantial risk  
13 taken in this case, a fee of \$700,000.00, as requested here, is  
14 reasonable.

15 The Ninth Circuit has established 25% of the fund as  
16 the “benchmark” award that should be given in common fund cases.  
17 Six (6) Mexican Workers v. Ariz. Citrus Growers, 904 F.2d 1301,  
18 1311 (9th Cir. 1990). As this court has explained, “a review of  
19 California cases . . . reveals that courts usually award  
20 attorneys’ fees in the 30-40% range in wage and hour class  
21 actions that result in recovery of a common fun[d] under \$10  
22 million.” Watson v. Tennant Co., No. 2:18-cv-02462 WBS DB, 2020  
23 WL 5502318, at \*7 (E.D. Cal. Sep. 11, 2020) (awarding 33.33% of  
24 settlement fund); see also Osegueda v. N. Cal. Inalliance, No.  
25 18-cv-00835 WBS EFB, 2020 WL 4194055, at \*16 (E.D. Cal. July 21,  
26 2020) (same). Given that the requested fee is in line with the  
27 typical practice in the Ninth Circuit and in this district, the  
28 court agrees that plaintiff’s counsel’s requested percentage of

1 the common fund is reasonable.

2 "Calculation of the lodestar, which measures the  
3 lawyers' investment of time in the litigation, provides a check  
4 on the reasonableness of the percentage award." Vizcaino v.  
5 Microsoft Corp., 290 F.3d 1043, 1050 (9th Cir. 2002).

6 Here, a lodestar cross-check confirms the  
7 reasonableness of the requested award. Counsel represent that  
8 they have together dedicated 849.34 hours of work to these cases.  
9 (See Docket No. 38 at 22.) And counsel from the respective firms  
10 state that their customary hourly rates in actions such as this  
11 range from \$200.00 to \$1,000.00. (Compare Docket No. 38 at 22,  
12 with Docket No. 38-7 at 4, Docket No. 38-8 at 7, and Docket No.  
13 38-9 at 4.) The firms specialize in shareholder derivative  
14 action cases, and counsel represents that comparable hourly rates  
15 have been approved by multiple federal and state courts in  
16 California. (See e.g., Docket No. 37 at 14-16.) For purposes of  
17 the lodestar calculation, the court will apply the rate at the  
18 lower end of the ranges provided by counsel.<sup>1</sup> Based on 849.34  
19 hours billed at an average hourly rate of approximately \$250.39,  
20 the lodestar figure is \$212,662.00.<sup>2</sup> While this figure is nearly

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21  
22 <sup>1</sup> The court's calculations are as follows: (1) Rigrodsky  
23 Law, P.A. with 256.75 hours at a rate of \$200.00 per hour for a  
24 firm subtotal of \$51,350.00 (Docket No. 38 at 24); (2) Kuehn Law,  
25 PLLC with 218.49 hours at a rate of \$350.00 per hour for a firm  
26 total of \$76,471.50 (Docket No. 38-7 at 4); (3) Gainey McKenna &  
27 Egleston with 240.50 hours at a rate of \$225.00 per hour for a  
28 firm total of \$54,112.50 (Docket No. 38-8 at 7); and (4) Wolf  
Haldenstein Adler Freeman & Herz LLP with 133.60 hours at a rate  
of \$230.00 per hour for a firm total of \$30,728.00 (Docket No.  
38-9 at 4).

<sup>2</sup> This loadstar figure is the sum of the four firm-  
specific loadstar calculations. See supra note 1.

1 one third the \$700,000.00 total award requested and translates to  
2 a loadstar cross-check multiplier of approximately 3.29, which is  
3 comparable to the 3.65 multiplier applied in Vizcaino. Cf.  
4 Vizcaino, 290 F.3d at 1051; see also Cohn, 375 F. Supp. 2d at 862  
5 (“In shareholder litigation, courts typically apply a multiplier  
6 of 3 to 5.”); see also In re Fab Universal Corp. S’holder  
7 Derivative Litig., 148 F. Supp. 3d 277 (S.D.N.Y. 2015) (“In  
8 shareholder litigation, courts typically apply a positive  
9 multiplier of 3 to 5 to compensate counsel for the risk of  
10 contingent representation”). The court finds that class  
11 counsel’s request for attorneys’ fees is reasonable.

12 Likewise with expenses, “[t]here is no doubt that an  
13 attorney who has created a common fund for the benefit of the  
14 class is entitled to reimbursement of reasonable litigation  
15 expenses from that fund.” In re Heritage Bond Litig., No. 02-cv-  
16 1475, 2005 WL 1594403, at \*23 (C.D. Cal. June 10, 2005). Here,  
17 the parties agreed that plaintiffs’ counsel shall be entitled to  
18 recover reasonable, documented litigation costs. (See Docket No.  
19 38 at 14–16.) Counsels’ litigation expenses and costs currently  
20 total approximately \$36,772.71. (See Docket No. 38 at 22.) The  
21 court finds that class counsel’s request for reimbursement of  
22 litigation expenses in the amount of \$36,772.71 is reasonable.

23 This suggests, therefore, that the total award amount  
24 is reasonable.

25 B. Service Awards

26 “Incentive awards are fairly typical in class action  
27 cases.” Rodriguez, 563 F.3d at 958. “[They] are intended to  
28 compensate class representatives for work done on behalf of the

1 class, to make up for financial or reputational risk undertaken  
2 in bringing the action, and, sometimes, to recognize their  
3 willingness to act as a private attorney general.” Id. at 958-  
4 59.

5           Nevertheless, the Ninth Circuit has cautioned that  
6 “district courts must be vigilant in scrutinizing all incentive  
7 awards to determine whether they destroy the adequacy of the  
8 class representatives . . . .” Radcliffe v. Experian Info.  
9 Solutions, Inc., 715 F.3d 1157, 1164 (9th Cir. 2013). In  
10 assessing the reasonableness of incentive payments, the court  
11 should consider “the actions the plaintiff has taken to protect  
12 the interests of the class, the degree to which the class has  
13 benefitted from those actions” and “the amount of time and effort  
14 the plaintiff expended in pursuing the litigation.” Staton, 327  
15 F.3d at 977 (citation omitted). The court must balance “the  
16 number of named plaintiffs receiving incentive payments, the  
17 proportion of the payments relative to the settlement amount, and  
18 the size of each payment.” Id.

19           In the Ninth Circuit, an incentive award of \$5,000.00  
20 is presumptively reasonable. Davis v. Brown Shoe Co., Inc., No.  
21 1:13-cv-01211 LJO BAM, 2015 WL 6697929, at \*11 (E.D. Cal. Nov. 3,  
22 2015) (citing Harris v. Vector Marketing Corp., No. 08-cv-5198  
23 EMC, 2012 WL 381202, at \*7 (N.D. Cal. Feb. 6, 2012) (collecting  
24 cases)).

25           Plaintiffs seek a \$5,000.00 incentive award for each of  
26 the two plaintiffs and for Stockholder Yaden, “to be funded from  
27 the Fee and Expense Amount, in recognition of their participation  
28 and efforts in securing substantial benefits for Origin and its

1 shareholders.” (Docket No. 37 at 19.) Plaintiffs’ efforts  
2 included “reviewing and authorizing the service of the Demand,  
3 participating in numerous updates, remaining available to consult  
4 on the ultimate strategy which achieved the instant proposed  
5 Settlement, and approving the terms and details of the proposed  
6 Settlement.” (Docket No. 38-8 at 10.) Counsel represents that  
7 plaintiffs’ efforts constituted active involvement in prosecuting  
8 this action. (Id.) Considering plaintiffs’ efforts and the  
9 risks incurred in bringing this action, the court finds the  
10 requested incentive awards to be reasonable and will approve the  
11 awards.

12 Accordingly, the court finds the above requested  
13 figures to be reasonable and will grant counsel’s unopposed  
14 motion for attorneys’ fees, expenses, and service awards totaling  
15 \$700,000.00.

16 IV. Conclusion

17 IT IS THEREFORE ORDERED that plaintiffs’ unopposed  
18 motions for final approval of derivative settlement (Docket No.  
19 36) and for approval of attorneys’ fees, expenses, and service  
20 awards (Docket No. 37) be, and the same hereby are, GRANTED.

21 IT IS FURTHER ORDERED THAT:

22 (1) This order and final judgment incorporates by  
23 reference the definitions in the Stipulation, and all terms used  
24 herein shall have the same meanings as set forth in the  
25 Stipulation, unless otherwise set forth herein.

26 (2) This court has jurisdiction over the subject  
27 matter of this case, including all matters necessary to  
28 effectuate the settlement, and over all the Settling Parties.

1 (3) Based on evidence submitted, the court finds that  
2 notice of the settlement was published and disseminated in  
3 accordance with this court's Preliminary Approval Order.

4 (Compare Docket No. 32, with Docket No. 40.) This court further  
5 finds that the forms and contents of the notice, as previously  
6 preliminarily approved by the court, complied with the  
7 requirements of Federal Rule of Civil Procedure 23.1, satisfied  
8 the requirements of due process of the U.S. Constitution, and  
9 constituted due and sufficient notice of the matters set forth  
10 therein.

11 (4) The court finds that the terms of the stipulation  
12 and settlement are fair, reasonable, and adequate as to each of  
13 the parties, and hereby finally approves the stipulation and  
14 settlement in all respects and orders the parties to perform its  
15 terms to the extent the Parties have not already done so.

16 (5) Pursuant to entry of this order and final  
17 judgment, the action and all claims contained therein against  
18 defendants, as well as all of defendants' released claims against  
19 each of the released defendant parties, are hereby dismissed with  
20 prejudice. As among the settling stockholders and defendants,  
21 the parties are to bear their own costs, except as otherwise  
22 provided in the stipulation.

23 (6) Upon the date of this order, the settling  
24 stockholders (acting on their own behalf and derivatively on  
25 behalf of Origin), Origin, and any person acting derivatively on  
26 behalf of Origin shall be deemed to have, and by operation of the  
27 order and final judgment to be rendered by the court shall have,  
28 fully, finally, and forever released, relinquished, discharged

1 and dismissed with prejudice the released stockholder claims  
2 (including unknown claims) against defendants, regardless of the  
3 jurisdiction in which such claims were or could have been alleged  
4 or where the claims had impact.

5 (7) Upon the date of this order, the settling  
6 stockholders (acting on their own behalf and, in some cases,  
7 derivatively on behalf of Origin), Origin, and any person acting  
8 derivatively on behalf of Origin, shall be forever barred and  
9 enjoined from asserting, commencing, instituting, or prosecuting  
10 any of the released stockholder claims against any defendants,  
11 regardless of the jurisdiction in which such claims were or could  
12 have been alleged or where the claims had impact.

13 (8) Upon the date of this order, each of the  
14 individual defendants and Origin shall be deemed to have, and by  
15 operation of the order and final judgment shall have, fully,  
16 finally, and forever released, relinquished, and discharged the  
17 released defendant claims (including unknown claims) against the  
18 settling stockholders, and shall be forever barred and enjoined  
19 from asserting any released defendant claims against any settling  
20 stockholders.

21 (9) During the course of the derivative matters, all  
22 settling parties and their respective counsel at all times  
23 complied with the requirements of Federal Rule of Civil Procedure  
24 11, and all other similar rules, laws, or statutes.

25 (10) The court hereby approves the \$700,000.00  
26 requested for attorneys' fees, expenses, and service awards. The  
27 court further finds that such amounts and awards are fair and  
28 reasonable.

1 (11) Neither the stipulation (including any exhibits  
2 attached thereto) nor the settlement, nor any act or omission  
3 taken in connection with this stipulation or the settlement, is  
4 intended or shall be deemed to be a presumption, concession or  
5 admission by:

6 a. any of defendants as to the validity of any claims,  
7 causes of action or other issues that were or could  
8 have been raised in the derivative matters or in any  
9 other litigation, or to be evidence of or constitute  
10 an admission of wrongdoing or liability by any of  
11 them, and each of them expressly denies any such  
12 wrongdoing or liability; or

13 b. settling stockholders as to the lack of merit of any  
14 claim or the validity of any defense.

15 (12) Without affecting the finality of this order and  
16 final judgment in any way, this court hereby retains continuing  
17 jurisdiction with respect to implementation and enforcement of  
18 the terms of the stipulation and settlement, except as otherwise  
19 provided in the stipulation.

20 (13) This order and final judgment is a final judgment  
21 and shall be entered forthwith by the Clerk in accordance with  
22 Federal Rule of Civil Procedure 58 and all other similar laws.

23 IT IS SO ORDERED.

24 Dated: January 21, 2026



25 **WILLIAM B. SHUBB**  
26 **UNITED STATES DISTRICT JUDGE**  
27  
28