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11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 IVAN BARON, Individually and on
14 Behalf of All Others Similarly Situated,

15 Plaintiff,

16 v.

17 HYRECAR INC., JOSEPH FURNARI
18 and ROBERT SCOTT BROGI,

19 Defendants.

Case No. 2:21-cv-06918-FWS-JC

**REPLY MEMORANDUM IN
FURTHER SUPPORT OF: (1) LEAD
PLAINTIFF’S MOTION FOR
FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND
PLAN OF ALLOCATION; AND (2)
LEAD COUNSEL’S MOTION FOR
AN AWARD OF ATTORNEYS’
FEES AND REIMBURSEMENT OF
LITIGATION EXPENSES**

Hearing Date: November 14, 2024

Hearing Time: 10:00 a.m.

Location: Courtroom 10D

Judge: Fred W. Slaughter

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1 Court-appointed lead plaintiff Turton Inc. (“Lead Plaintiff”), and its counsel,
2 Glancy Prongay & Murray LLP (“Lead Counsel”), respectfully submit this
3 memorandum in further support of: (i) Lead Plaintiff’s Motion for Final Approval
4 of Class Action Settlement and Plan of Allocation (ECF Nos. 132-133); and (ii) Lead
5 Counsel’s Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation
6 Expenses (ECF No. 134-135, the “Fee and Expense Application”).¹

7 **I. INTRODUCTION**

8 Pursuant to the Court’s July 19, 2024, Order Granting Lead Plaintiff’s Motion
9 for Preliminary Approval of Class Action Settlement (ECF No. 128; the
10 “Preliminary Approval Order”), approximately 13,875 copies of the Court-approved
11 Postcard Notice or Notice and Claim Form were disseminated to potential
12 Settlement Class Members and the largest brokerage firms, banks, institutions, and
13 other nominees.² In addition, the Court-appointed Claims Administrator, Strategic
14 Claims Services, Inc. (“SCS”) caused: (i) the Summary Notice to be published in
15 *Investor’s Business Daily* and transmitted over *PR Newswire* on May 13, 2024;³ and
16

17 ¹ Unless otherwise defined herein, all capitalized terms have the meanings set forth
18 in the Stipulation and Agreement of Settlement dated February 29, 2024 (ECF No.
19 124-1; the “Stipulation”), or the Declaration of Ex Kano S. Sams II in Support of
20 (I) Lead Plaintiff’s Motion for Final Approval of Class Action Settlement and Plan
21 of Allocation, and (II) Lead Counsel’s Motion for an Award of Attorneys’ Fees and
22 Reimbursement of Litigation Expenses (ECF No. 136).

23 ² See Supplemental Declaration of Josephine Bravata Concerning: (A)
24 Mailing/Emailing of Notice; (B) Report on Requests for Exclusion and Objections;
25 and (C) Claims Received to Date (the “Suppl. Mailing Decl.”) (attached as Exhibit
26 1 hereto), at ¶¶3-4. A total of 151 Postcard Notices remain undeliverable, despite
27 attempts to update mailing addresses. *Id.* at ¶5. Excluding these undeliverable
28 Postcard Notices, a total of 13,724 Postcard Notices or Notices and Claim Forms
were disseminated to potential Settlement Class Members. *Id.* at ¶4.

³ See ECF No. 136-2 (Declaration of Josephine Bravata Concerning: (A)
Mailing/Emailing of Notice; (B) Publication of the Summary Notice; and (C) Report
on Requests for Exclusion and Objections (“Initial Mailing Decl.”)), at ¶9 & Ex. D.

1 (ii) the Postcard Notice, Notice, Claim Form, Stipulation, and Preliminary Approval
2 Order, among other important case-related documents, to be posted on the
3 Settlement Website (www.HyreCarSecuritiesSettlement.com). *See* Initial Mailing
4 Decl., ¶11. The Postcard Notice, Notice, Summary Notice, and Settlement Website
5 informed Settlement Class Members of the October 24, 2024, deadline to: (i) submit
6 an objection to the Settlement, Plan of Allocation, and/or Fee and Expense
7 Application; or (ii) request exclusion from the Settlement Class. *See id.*, ¶¶12 & 13,
8 & Exs. A, C, and D.

9 On October 10, 2024, Lead Plaintiff and Lead Counsel filed their opening
10 papers in support of the Settlement, Plan of Allocation, and request for attorneys’
11 fees and reimbursement of Litigation Expenses. The motions are supported by the
12 declarations of Lead Plaintiff, Lead Counsel, and the Claims Administrator. These
13 papers are available on the public docket and on the Settlement Website. *See* ECF
14 Nos. 132-136; Suppl. Mailing Decl., at ¶7.

15 Following this extensive notice process, *no* Settlement Class Member has
16 objected to the Settlement, the Plan of Allocation, or Lead Counsel’s Fee and
17 Expense Application. Moreover, SCS has not received a single request for
18 exclusion. *See id.*, at ¶8. The absence of any objections or opt-outs by Settlement
19 Class Members provides strong evidence of the fairness and reasonableness of the
20 proposed Settlement, Plan of Allocation, and request for attorneys’ fees and
21 reimbursement of Litigation Expenses. *See In re Signet Jewelers Ltd. Sec. Litig.*,
22 2020 WL 4196468, at *6 (S.D.N.Y. July 21, 2020) (“The absence of any objections
23 and the small number of requests for exclusion support a finding that the Settlement
24 is fair, reasonable, and adequate.”); and at *21 (“The absence of any objections to
25 the requested attorneys’ fees and Litigation Expenses supports a finding that the
26 request is fair and reasonable.”); *Ressler v. Jacobson*, 149 F.R.D. 651, 656 (M.D.
27 Fla. Dec. 15, 1992) (“The fact that there are no objections to either the Settlement or
28

1 to Petitioners’ request for attorney’s fees is strong evidence of the propriety and
2 acceptability of that request.”).⁴

3 For all the reasons set forth herein, and in the opening papers filed with the
4 Court on October 10, 2024, Lead Plaintiff and its counsel respectfully request that
5 the Court approve the Settlement, Plan of Allocation, and request for attorneys’ fees
6 and reimbursement of Litigation Expenses.

7 **II. ARGUMENT**

8 **A. The Positive Reaction Of The Settlement Class Supports**
9 **Approval Of The Settlement And Plan Of Allocation**

10 In this Circuit, “the reaction of the class members to the proposed settlement”
11 is one of the factors to consider in analyzing whether a settlement is fair, reasonable,
12 and adequate. *See, e.g., Linney v. Cellular Alaska P’ship*, 151 F.3d 1234, 1242 (9th
13 Cir. 1998); *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998) (same).
14 “[T]he absence of a large number of objections to a proposed class action settlement
15 raises a strong presumption that the terms of a proposed class settlement action are
16 favorable to the class members.” *Nat’l Rural Telecomms Coop. v. DIRECTV, Inc.*,
17 221 F.R.D. 523, 529 (C.D. Cal. 2004); *see also Ching v. Siemens Indus., Inc.*, 2014
18 WL 2926210, at *6 (N.D. Cal. June 27, 2014) (“the Court may appropriately infer
19 that a class action settlement is fair, adequate, and reasonable when few class
20 members object to it.”).

21 Here, the lack of a single objection or request for exclusion to the Settlement
22 demonstrates that the proposed Settlement is fundamentally fair, reasonable, and
23 adequate. *See, e.g., In re Apollo Grp. Inc. Sec. Litig.*, 2012 WL 1378677, at *3 (D.
24 Ariz. Apr. 20, 2012) (“There have been no objections from Class Members or
25 potential class members, which itself is compelling evidence that the Proposed
26 Settlement is fair, just, reasonable, and adequate.”); *In re Omnivision Techs., Inc.*,

27
28 ⁴ Unless otherwise indicated, all internal quotations and citations are omitted.

1 559 F. Supp. 2d 1036, 1043 (N.D. Cal. 2008) (“By any standard, the lack of objection
2 of the Class Members favors approval of the Settlement.”); *Khoja v. Orexigen*
3 *Therapeutics, Inc.*, 2021 WL 5632673, at *7 (S.D. Cal. Nov. 30, 2021)
4 (“Considering the number of Notice Packets mailed to potential Class Members and
5 the fact that zero objections have been filed, the Court finds that the reaction of the
6 Class Members to the Settlement weighs in favor of approving the Settlement.”).

7 **B. The Settlement Class’s Reaction Supports Approval Of The**
8 **Plan Of Allocation**

9 The favorable reaction of the Settlement Class also supports approval of the
10 Plan of Allocation. *See In re Heritage Bond Litig.*, 2005 WL 1594403, at *12 (C.D.
11 Cal. June 10, 2005) (“In light of the lack of objectors to the plan of allocation at
12 issue, and the competence, expertise, and zeal of counsel in bringing and defending
13 this action, the Court finds the plan of allocation as fair and adequate.”); *Mauss v.*
14 *NuVasive, Inc.*, 2018 WL 6421623, at *4 (S.D. Cal. Dec. 6, 2018) (concluding that
15 the proposed plan of allocation was fair and reasonable after noting “[t]he Plan of
16 Allocation was described in detail in the notice and no class member objected.”); *In*
17 *re Volkswagen “Clean Diesel” Mktg., Sales Practices, & Prod. Liab. Litig.*, 2019
18 WL 2077847, at *3 (N.D. Cal. May 10, 2019) (only one objection and 16 opt outs
19 “supports [conclusion] that the settlement and plan of allocation are fair, reasonable,
20 and adequate.”).

21 **C. The Settlement Class’s Reaction Supports Approval Of The**
22 **Fee And Expense Application**

23 Finally, the reaction of the Settlement Class should be considered with respect
24 to Lead Counsel’s motion for an award of attorneys’ fees and reimbursement of
25 Litigation Expenses, including the request that Lead Plaintiff be reimbursed for the
26 costs incurred as a direct result of his representation of the Settlement Class. *See In*
27 *re Stable Road Acquisition Corp. Sec. Litig.*, 2024 WL 3643393, at *14 (C.D. Cal.
28 Apr. 23, 2024) (“the existence or absence of objectors to the requested attorneys’ fee

1 is a factor is determining the appropriate fee award.”); *Omnivision*, 559 F. Supp. 2d
2 at 1048 (“The reaction of the class may also be a determining factor in ...
3 determining the fee award.”).

4 Here, the absence of any objections from Settlement Class Members to the
5 Fee and Expense Motion supports a finding that the request is fair and reasonable.
6 *See Khoja*, 2021 WL 5632673, at *9-11 (attorneys’ fee award of 33% of \$4.8 million
7 settlement where “no Class Member has objected to or requested exclusion from the
8 Settlement” and PSLRA award of \$9,230 where “no Class Member has objected to
9 this request.”); *In re Immune Response Sec. Litig.*, 497 F. Supp. 2d 1166, 1177 (S.D.
10 Cal. May 31, 2007) (“the lack of objection from any Class Member supports the
11 attorneys’ fees award.”); *In re K12 Inc. Sec. Litig.*, 2019 WL 3766420, at *1 (N.D.
12 Cal. Oct. 10, 2019) (awarding 33% of \$3.5 million settlement fund where “[t]here
13 were no objections to the requested attorneys’ fees and expenses.”).⁵

14 * * *

15 In sum, the complete absence of objections—together with the almost
16 unheard-of absence of requests for exclusion—strongly militates in favor of a
17 finding that the Settlement is fair, reasonable, and adequate, that the proposed Plan
18 of Allocation is fair and equitable, and that Lead Counsel’s fee and expense

19 ⁵ *See also Omnivision*, 559 F. Supp. 2d at 1049 (awarding lead plaintiffs \$29,913.80
20 from the settlement fund for reimbursement of their costs and expenses (including
21 lost wages) where class members were provided notice and “no one objected.”);
22 *NuVasive*, 2018 WL 6421623, at *10 (PSLRA award of \$7,500 to each of the two
23 class representatives “[i]n light of [their] contributions to the case, and the lack of
24 any objection from the class members”); *Cheng Jiangchen v. Rentech, Inc.*, 2019
25 WL 5173771, at *9-10 (C.D. Cal. Oct. 10, 2019) (noting “that there have been no
26 objections filed to the requested attorney’s fees ... also supports granting the
27 requested fees” of 33½% of \$2,050,000 settlement fund); *Waldbuesser v. Northrop*
28 *Grumman Corp.*, 2017 WL 9614818, at *5 (C.D. Cal. Oct. 24, 2017) (finding receipt
of only two objections to fee request, after mailing 210,000 notices, was “remarkably
small given the wide dissemination of notice,” and “conclud[ing] that the lack of
significant objections to the requested fees justifies an award of one-third of the
settlement fund.”).

1 application is fair and reasonable.

2 **VI. CONCLUSION**

3 Based on the foregoing and the entire record herein, Lead Plaintiff and Lead
4 Counsel respectfully request that the Court: (i) approve the Settlement and Plan of
5 Allocation as fair, reasonable, adequate, and in the best interest of the Settlement
6 Class; (ii) award attorneys’ fees to Lead Counsel in the amount of 33⅓% of the
7 Settlement Fund, plus Lead Counsel’s out-of-pocket expenses in the amount of
8 \$109,924.85; and (iii) award \$10,000 to Lead Plaintiff (Turton Inc.) as
9 reimbursement for time spent representing the Settlement Class.⁶

10
11 DATED: October 31, 2024

GLANCY PRONGAY & MURRAY LLP

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23
24 ⁶ The Settlement is conditioned on the entry of the [Proposed] Judgment. *See*
25 *Stipulation*, ¶¶30, 31(e); Ex. B. A revised version of the [Proposed] Judgment,
26 which incorporates the lack of objections and requests for exclusion, is submitted
27 concurrently herewith. A [Proposed] Order Approving Plan of Allocation and a
28 [Proposed] Order Awarding Attorneys’ Fees and Reimbursement of Litigation
Expenses were previously submitted to the Court in conjunction with the opening
papers.

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CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Lead Plaintiff Turton Inc., certifies that this brief contains 1,867 words, which complies with the word limit of L.R. 11-6.1.

DATED: October 31, 2024

s/ Ex Kano S. Sams II
Ex Kano S. Sams II

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PROOF OF SERVICE

I hereby certify that on this 31st day of October, 2024, a true and correct copy of the foregoing document was served by CM/ECF to the parties registered to the Court's CM/ECF system.

s/ Ex Kano S. Sams II
Ex Kano S. Sams II