

The Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRIAN JOE COURTER, COURTER AND
SONS LLC, DIANE M. HOOPER, THOMAS
MCGEE, and CANDRA E. EVANS,
Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

v.

CYTODYN INC., NADER Z. POURHASSAN,
MICHAEL MULHOLLAND, and SCOTT A.
KELLY,

Defendants.

Case No. 3:21-cv-05190-BHS

**LEAD COUNSEL'S MOTION FOR AN
AWARD OF ATTORNEYS' FEES AND
LITIGATION EXPENSES**

**NOTE ON MOTION CALENDAR:
November 2, 2026**

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Pursuant to Federal Rule of Civil Procedure (“Rule”) 23(h), Court-appointed Lead Counsel Kessler Topaz Meltzer & Check, LLP (“Kessler Topaz” or “Lead Counsel”), on behalf of Plaintiffs’ Counsel,¹ respectfully submits this Motion for: (i) an award of attorneys’ fees in the amount of 25% of the Settlement Shares (i.e., 12,250,000 Settlement Shares); (ii) payment of \$232,699.19 (in Settlement Shares) for expenses reasonably and necessarily incurred by Plaintiffs’ Counsel in prosecuting and resolving the Action; and (iii) reimbursement of \$5,000 (in Settlement Shares) to Court-appointed Lead Plaintiff Brian Joe Courter and Courter and Sons LLC (“Lead Plaintiff”) for its costs directly related to representing the Settlement Class in the Action, as authorized by the Private Securities Litigation Reform Act of 1995 (“PSLRA”).²

I. PRELIMINARY STATEMENT

Subject to Court approval, Lead Plaintiff and its counsel have agreed to settle all claims asserted in the Action against Defendants CytoDyn Inc. (“CytoDyn” or the “Company”), Nader Z. Pourhassan, Michael Mulholland, and Scott A. Kelly for 49 million shares of CytoDyn common stock and \$500,000 in cash. As detailed in the D’Ancona Declaration and summarized below, the Settlement: (i) is the culmination of over four years of contentious litigation; (ii) is the product of arm’s-length settlement negotiations facilitated by an experienced mediator; (iii) eliminates the risks (and additional delay and expense) of continued litigation, including an adverse outcome for the Settlement Class at class certification, summary judgment, or trial; and (iv) provides the Settlement Class with a certain, near-term recovery where obtaining anything greater than the Settlement Amount (or at all) after further litigation was far from certain due to CytoDyn’s

¹ Plaintiffs’ Counsel refers collectively to Kessler Topaz and Court-appointed Liaison Counsel Byrnes Keller Cromwell LLP (“Byrnes Keller”).

² All capitalized terms not defined herein have the meanings ascribed in the Stipulation and Agreement of Settlement dated March 18, 2026 (Dkt. 168) and the Declaration of Joshua E. D’Ancona (“D’Ancona Declaration”) filed herewith. Citations to “¶” herein refer to paragraphs in the D’Ancona Declaration and citations to “Ex.” herein refer to exhibits to the D’Ancona Declaration. Unless otherwise noted, all internal quotation marks, citations, or other punctuation are omitted, and all emphasis is added.

1 financial condition and the absence of other reasonably available sources of substantial funding
2 beyond CytoDyn itself.

3 To achieve this result, Plaintiffs' Counsel deployed a dedicated group of professionals to
4 develop, support, and pursue the Action against highly reputable defense firms over the course of
5 4+ years. Among their efforts, Plaintiffs' Counsel conducted an extensive investigation into the
6 claims alleged, consulted with damages experts, researched and prepared two detailed complaints,
7 successfully moved to modify the PSLRA's automatic discovery stay and obtained and reviewed
8 over 650,000 pages of documents from Defendants, successfully opposed Defendants' motions to
9 dismiss, and engaged in protracted settlement negotiations (at two separate stages of the litigation),
10 including formal mediation and the preparation of mediation briefing. Plaintiffs' Counsel
11 undertook these efforts (amounting to more than 8,100 hours) on a fully contingent basis. Indeed,
12 a class action litigated on contingency is fundamentally different from a case where litigation
13 expenses are funded by the client and attorneys are continuously paid, even if they lose. As such,
14 counsel is entitled to compensation that "reflect[s] the risk of non-payment in [these] cases."
15 *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051 (9th Cir. 2002).

16 As compensation for these efforts and the commitment to bringing the Action to a close,
17 as well as the significant risk of prosecuting and funding this Action with no guarantee of recovery,
18 Lead Counsel seeks attorneys' fees in the amount of 25% of the Settlement Shares. This fee request
19 aligns precisely with the Ninth Circuit's well-established benchmark.³ Further, a lodestar cross-
20 check confirms that the requested fee is reasonable. If approved, a 25% fee would result in a
21 *negative* (or less than 1x) multiplier on Plaintiffs' Counsel lodestar.⁴ Thus, despite the fact that
22 courts often apply positive lodestar multipliers in class actions with a contingency risk like this
23

24
25 ³ See *In re Pac. Enters. Sec. Litig.*, 47 F.3d 373, 379 (9th Cir. 1995) ("Twenty-five percent
is the 'benchmark' that district courts should award in common fund cases.").

26 ⁴ This calculation is based on the closing price of CytoDyn common stock on September 25,
2026 (i.e., \$0.23).

case,⁵ the requested fee here represents a significant discount to the value of the time Plaintiffs' Counsel dedicated to the Action. Lead Counsel also requests payment of expenses in the total amount of \$232,699.19 and reimbursement of \$5,000 to Lead Plaintiff for its costs in representing the Settlement Class. As with the fee, Lead Counsel requests that any Court-awarded expenses be paid in Settlement Shares. Lead Counsel does not seek any fees or expenses from the Cash Settlement Amount.

Lead Plaintiff Courter—a sophisticated investor who actively supervised the litigation, has evaluated Lead Counsel's fee and expense request and supports it as fair and reasonable.⁶ The Settlement Class's reaction to date has also been positive. Pursuant to the Court's Preliminary Approval Order (Dkt. 179), over 141,600 notices have been disseminated to potential Settlement Class Members.⁷ These notices advise that Lead Counsel would be applying to the Court for attorneys' fees in an amount not to exceed 25% of the Settlement Fund, plus expenses in an amount not to exceed \$300,000. *See* Bravata Decl., Exs. A, C & D. While the deadline to object to the fee and expense request has not yet passed, to date, there have been no objections to the maximum fee and expense amounts set forth in the notices—although the lone objection to the Settlement did raise a concern regarding the timing of the Fee Shares sales. *See* Dkt. 181, at ¶ 22; *see infra* § II.C.6.⁸

For the reasons discussed herein, Lead Counsel respectfully submits that its requested fee is fair and reasonable under the applicable legal standards. Lead Counsel also respectfully submits that the expenses for which it seeks payment were reasonable and necessary for the successful prosecution of the Action and that the request, pursuant to the PSLRA, for reimbursement to Lead

⁵ *See Vizcaino*, 290 F.3d at 1051 n.6 (noting multipliers ranging from 1 to 4 are common).

⁶ *See* Declaration of Brian Joe Courter (Ex. 1) ("Courter Decl."), at ¶¶ 4, 9-11.

⁷ *See* Declaration of Josephine Bravata submitted on behalf of the Claims Administrator, Strategic Claims Services ("SCS") (Ex. 2) ("Bravata Decl."), at ¶ 11.

⁸ In the objection from Edward C. Abraham and Maira Abraham, the Abrahams state "Fee Shares are appropriate, and Objector supports counsel taking its compensation in the same currency the class is paid in." Dkt. 181, at ¶ 17.

1 Plaintiff for the costs incurred directly relating to its representation of the Settlement Class are
 2 likewise reasonable and appropriate. Accordingly, Lead Counsel respectfully requests that its
 3 Motion be granted in full.

4 II. THE REQUESTED FEE AWARD WARRANTS APPROVAL

5 Lead Counsel pursued this Action in the face of significant risks and negotiated a favorable
 6 resolution for the Settlement Class despite numerous challenges. In consideration of those efforts,
 7 Lead Counsel respectfully submits that attorneys' fees in the amount of 25% of the Settlement
 8 Shares—which represents a *negative* multiplier on Plaintiffs' Counsel's lodestar—is fair and
 9 reasonable and warrants the Court's approval.

10 A. Plaintiffs' Counsel Are Entitled to a Reasonable Fee from the Common 11 Fund Created by the Settlement

12 Courts have long recognized that “a litigant or a lawyer who recovers a common fund for
 13 the benefit of persons other than himself or his client is entitled to a reasonable attorney's fee from
 14 the fund as a whole.” *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980); *see also Vincent v.*
 15 *Hughes Air W., Inc.*, 557 F.2d 759, 769 (9th Cir. 1977) (“[A] private plaintiff, or his attorney,
 16 whose efforts create, discover, increase or preserve a fund to which others also have a claim is
 17 entitled to recover from the fund the costs of his litigation, including attorneys' fees”). The policy
 18 rationale for awarding attorneys' fees from a common fund is that “those who benefit from the
 19 creation of the fund should share the wealth with the lawyers whose skill and effort helped create
 20 it.” *In re Wash. Pub. Power Supply Sys. Sec. Litig.*, 19 F.3d 1291, 1300 (9th Cir. 1994). In addition
 21 to providing just compensation, an award of fair attorneys' fees from a common fund ensures that
 22 “competent counsel continue to be willing to undertake risky, complex, and novel litigation.”
 23 *Gunter v. Ridgewood Energy Corp.*, 223 F.3d 190, 198 (3d Cir. 2000).

B. The Court Should Calculate the Fee Award as a Percentage of the Common Fund

“[A] court must ensure that attorney’s fees . . . awarded to class counsel are fair, reasonable, and adequate.” *In re Charles Schwab Sec. Litig.*, 2011 WL 1481424, at *7 (N.D. Cal. Apr. 19, 2011); *Staton v. Boeing Co.*, 327 F.3d 938, 963-64 (9th Cir. 2003). In awarding attorneys’ fees, courts in this Circuit have discretion to employ either the percentage-of-recovery method or the lodestar method. *See Vizcaino*, 290 F.3d at 1047. The percentage-of-recovery method has become the prevailing method used in this Circuit. *See, e.g., Glass v. UBS Fin. Servs., Inc.*, 331 F. App’x 452, 456-57 (9th Cir. 2009) (affirming the district court’s use of percentage-of-recovery method in awarding fees); *Cullen v. RYVYL Inc.*, 2025 WL 3731036, at *13 (S.D. Cal. Dec. 19, 2025) (“Use of the percentage method in common fund cases is the most dominant because of its various advantages, including increased incentive for counsel to litigate and promotion of efficiency.”); *Brown v. Papa Murphy’s Holdings, Inc.*, 2022 WL 1303176, at *2 (W.D. Wash. May 2, 2022) (Settle, J.) (applying percentage-of-recovery method).

Additionally, courts have found the percentage-of-recovery method preferable in common fund cases because it: (i) parallels the use of percentage-based contingency fee contracts, which are the norm in private litigation; (ii) aligns the lawyers’ interests with those of the class in achieving the maximum possible recovery; and (iii) reduces the court’s burden by eliminating the time-consuming lodestar analysis. *See, e.g., In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 942-43 (9th Cir. 2011).⁹ When awarding a percentage fee, courts may cross-check the requested fee with counsel’s lodestar to ensure its reasonableness, although such a cross-check is not required. *See In re Amgen Inc. Sec. Litig.*, 2016 WL 10571773, at *9 (C.D. Cal. Oct. 25, 2016)

⁹ The percentage-of-recovery method also comports with the language of the PSLRA, which states that “[t]otal attorneys’ fees and expenses awarded by the court to counsel for the plaintiff class shall not exceed a **reasonable percentage** of the amount of any damages and prejudgment interest actually paid to the class.” 15 U.S.C. § 78u-4(a)(6); *see also Nguyen v. Radiant Pharms. Corp.*, 2014 WL 1802293, at *9 (C.D. Cal. May 6, 2014) (“[T]he PSLRA has made percentage-of-recovery the standard for determining whether attorneys’ fees are reasonable.”).

1 (“Although an analysis of the lodestar is not required for an award of attorneys’ fees in the Ninth
 2 Circuit, a cross-check of the fee request with a lodestar amount can demonstrate the fee request’s
 3 reasonableness.”); *In re Extreme Networks, Inc. Sec. Litig.*, 2019 WL 3290770, at *10 (N.D. Cal.
 4 July 22, 2019) (“lodestar may provide a useful perspective on the reasonableness of a given
 5 percentage award”); *see also* § II.D *infra* (for lodestar analysis).

6 **C. The 25% Benchmark Fee Request Is Reasonable**

7 Lead Counsel respectfully submits that the Court should award attorneys’ fees based on a
 8 percentage of the common fund obtained. Specifically, Lead Counsel requests fees in the amount
 9 of 25% of the Settlement Shares. A 25% fee award is the Ninth Circuit’s “benchmark” in common
 10 fund cases. *See, e.g., In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 949 (9th Cir. 2015);
 11 *Bluetooth*, 654 F.3d at 942; *Brown*, 2022 WL 1303176, at *3. While the 25% benchmark can “be
 12 adjusted upward or downward to account for any unusual circumstances,” *Paul, Johnson, Alston*
 13 *& Hunt v. Gaulty*, 886 F.2d 268, 272 (9th Cir. 1989), courts have found fee awards in the amount
 14 of the 25% benchmark to be “presumptively reasonable.” *In re Anthem, Inc. Data Breach Litig.*,
 15 2018 WL 3960068, at *4 (N.D. Cal. Aug. 17, 2018). Courts have also found that, “in most common
 16 fund cases, the [fee] award exceeds that benchmark.” *In re Omnivision Techs., Inc.*, 559 F.Supp.2d
 17 1036, 1047 (N.D. Cal. 2008); *see also In re Allergan, Inc. Proxy Violation Derivatives Litig.*, 2018
 18 WL 4959014, at *1 (C.D. Cal. Aug. 13, 2018) (“The Ninth Circuit uses a 25% benchmark in
 19 common fund class actions, and in most common fund cases, the award exceeds that benchmark,
 20 with a 30% award the norm absent extraordinary circumstances that suggest reasons to lower or
 21 increase the percentage.”).

22 In addition to being presumptively reasonable, additional factors also make clear that Lead
 23 Counsel’s 25% fee request is well justified. In analyzing fee requests, courts in this Circuit
 24 routinely analyze the following factors: (i) the results achieved; (ii) the risk of litigation; (iii) the
 25 skill required and the quality of work; (iv) the contingent nature of the fee and the financial burden
 26 carried by the plaintiffs; and (v) awards made in similar cases (commonly referred to as the

“*Vizcaino* factors”). *See Vizcaino*, 290 F.3d at 1048-50. Moreover, “[t]he relative degree of importance to be attached to any particular [*Vizcaino*] factor will depend upon . . . the nature of the claim(s) advanced, the type(s) of relief sought, and the unique facts and circumstances presented by each individual case.” *Atlas v. Accredited Home Lenders Holding Co.*, 2009 WL 3698393, at *3 (S.D. Cal. Nov. 4, 2009).

Here, as detailed below, each *Vizcaino* factor weighs strongly in favor of Lead Counsel’s fee request. And, as demonstrated by a lodestar cross-check (*see* § II.D below), a 25% fee results in a negative multiplier, further supporting the reasonableness of the requested fee. *See Amgen*, 2016 WL 10571773, at *9 (“[C]ourts have recognized that a percentage fee that falls below counsel’s lodestar strongly supports the reasonableness of the award.”).

1. Plaintiffs’ Counsel Achieved a Favorable Result for the Settlement Class

The benefit counsel secured for the class is an important factor in evaluating the reasonableness of a requested fee. *See Hensley v. Eckerhart*, 461 U.S. 424, 436 (1983) (noting “the most critical factor is the degree of success obtained”). Lead Counsel respectfully submits that the Settlement is a favorable result for the Settlement Class, especially when considering the risk of a smaller recovery, or no recovery at all, if the case continued.

Here, Lead Counsel has secured a near-term, tangible recovery of 49 million shares of CytoDyn common stock and \$500,000 in cash for the benefit of the Settlement Class. Notably, CytoDyn’s financial situation was uncertain at the time of settlement rendering it doubtful that the Company would be able to fund a future resolution in an amount greater than the Settlement Amount. ¶¶ 44-45, 75. More specifically, as noted in CytoDyn’s SEC Form 10-Q for the quarterly period ended August 31, 2025 (issued during the Parties’ settlement negotiations): (i) CytoDyn’s total liabilities were \$112,988,000, against total assets of \$13,483,000; (ii) CytoDyn had operated at a loss of \$5 million, with a net income loss of \$5.5 million; (iii) CytoDyn had just \$9 million in cash and cash equivalents; and (iv) critically, CytoDyn’s financial statements were prepared on a

“going concern basis,” meaning that it acknowledged “substantial doubt about the Company’s ability to continue as a going concern,” based on its losses in multiple consecutive periods and its accumulated deficit of approximately \$893.3 million. ¶ 46. In addition, as confirmed by due diligence conducted during the Parties’ settlement negotiations, there were no other viable sources for substantial funding other than CytoDyn itself (including the Individual Defendants). ¶ 47. These factors, in combination with the substantial litigation risks Plaintiffs faced in winning class certification and establishing liability, causation and damages at summary judgment and trial, made a near-term settlement a positive proposition for the Settlement Class.

Moreover, in its efforts to resolve the Action, Lead Counsel had to balance leveraging the strength of the case it had developed against concerns of weakening CytoDyn’s financial condition. Courts recognize that counsel’s ability to maximize recovery in the face of ability-to-pay issues demonstrates the quality of the result achieved. *See, e.g., In re Genworth Fin. Sec. Litig.*, 210 F.Supp.3d 837, 844 (E.D. Va. 2016) (“Balanced with the risk of losing at trial and the risk that a greater award could result in Genworth’s insolvency, the Settlement total provides an excellent result for the class and supports the Court’s award of substantial attorneys’ fees”); *In re Enron Corp. Sec. Derivative & ERISA Litig.*, 586 F.Supp.2d 732, 791-92 (S.D. Tex. 2008) (finding 5.2 multiplier warranted where class counsel obtained a favorable result in the face of limited resources).

This recovery will benefit a large number of investors. To date, SCS has received 39,958 claim submissions. *See Bravata Decl.*, at ¶ 21. If the Settlement is finally approved, numerous Settlement Class Members will receive compensation for their losses.

2. Plaintiffs’ Counsel Undertook Substantial Risk in the Action

The risk of the litigation is another key factor in considering whether a fee is reasonable. *See Vizcaino*, 290 F.3d at 1048; *Destefano v. Zynga, Inc.*, 2016 WL 537946, at *17 (N.D. Cal. Feb. 11, 2016) (approving requested fee, in part, because the “risks associated with [the] case were substantial”); *Baron v. HyreCar Inc.*, 2024 WL 3504234, at *8 (C.D. Cal. July 19, 2024) (“Courts

1 experienced with securities fraud litigation routinely recognize that securities class actions present
 2 hurdles to proving liability that are difficult for plaintiffs to clear.”); *AdTrader, Inc. v. Google LLC*,
 3 2022 WL 16579324, at *7 (N.D. Cal. Nov. 1, 2022) (noting 33% fee award justified given
 4 “substantial risk” and results).

5 Aside from the contingency risk (discussed below), Plaintiffs’ Counsel faced substantial
 6 risks to establishing Defendants’ liability and the Settlement Class’s full amount of damages had
 7 the Action continued. While Plaintiffs remained confident in their ability to prove the Settlement
 8 Class’s claims, they also appreciated the risks inherent in taking any case to trial, as well as the
 9 case-specific risks they faced in this Action. *See generally In re Comverse Tech., Inc. Sec. Litig.*,
 10 2010 WL 2653354, at *5 (E.D.N.Y. June 24, 2010) (“Little about litigation is risk-free, and class
 11 actions confront even more substantial risks than other forms of litigation.”). Had the Action not
 12 resolved, Defendants would continue to assert aggressive defenses, and an adverse decision for
 13 Plaintiffs at class certification, summary judgment, or trial could have drastically reduced or
 14 eliminated the amount of recoverable damages. ¶¶ 8, 50-56, 76. *See generally In re Portal*
 15 *Software, Inc. Sec. Litig.*, 2007 WL 4171201, at *3 (N.D. Cal. Nov. 26, 2007) (noting “significant
 16 risks” the PSLRA poses “to plaintiffs’ ability to survive . . . summary judgment and prevail[] at
 17 trial”).

18 *First*, with respect to liability, Defendants would assert that the alleged misstatements and
 19 omissions at issue in the Action were not materially false or misleading as a matter of law because
 20 they were either: (i) statements of corporate optimism; (ii) statements of opinion; and/or (iii)
 21 forward-looking statements protected by the PSLRA’s safe harbor. ¶ 51. Defendants would further
 22 assert that they did not engage in fraudulent conduct in violation of SEC Rule 10b-5 (a, b, and c).
 23 *Id.* In addition, Defendants would argue that Plaintiffs would be unable to establish Defendants’
 24 scienter—i.e., that the alleged misstatements and omissions were made or that the alleged conduct
 25 occurred with an intent to defraud or with deliberate recklessness tantamount to actual intent. *Id.*
 26 To support this argument, Defendants were expected to point to CytoDyn’s continued investment

1 in leronlimab for both the HIV and COVID-19 indications—something that would make no sense
2 absent a good faith belief in the drug. *Id.*¹⁰

3 *Second*, there were risks to Plaintiffs’ ability to prove loss causation and damages. Plaintiffs
4 would have the burden to prove at trial through complex expert testimony that the alleged partial
5 disclosures of the alleged fraud proximately caused the price decline in CytoDyn common stock.
6 This would be difficult given, among other things, the myriad pieces of information entering the
7 market regarding CytoDyn through various media during the relevant period. ¶ 53. The ultimate
8 resolution of these issues would come down to financial economic evidence and a battle of the
9 experts with an unpredictable outcome. *Id.* See *In re Cendant Corp. Litig.*, 264 F.3d 201, 239 (3d
10 Cir. 2001) (“establishing damages at trial would lead to a ‘battle of experts’ . . . with no guarantee
11 whom the jury would believe”); see also *Radiant Pharms.*, 2014 WL 1802293, at *2 (approving
12 requested fee and noting particular challenges of proving and calculating damages).

13 *Third*, Plaintiffs expected Defendants to raise significant challenges to class certification.
14 ¶ 55. Defendants’ challenges would certainly present risk of non-certification, or that the proposed
15 class would be trimmed or certified only in part. *Id.*

16 *Finally*, even if all obstacles to proving liability and damages and obtaining class
17 certification had been surmounted, Plaintiffs would have likely faced appellate proceedings, which
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24 ¹⁰ If Defendants were able to successfully convince the Court (at summary judgment) or a
25 jury (at trial) that either Defendants’ statements or conduct were inactionable or that Defendants
26 did not act with the requisite scienter, Plaintiffs’ Sections 20(a) and 20A claims against the
Individual Defendants would have been foreclosed as well, as these claims require Plaintiffs to
prove a primary violation of the Exchange Act. ¶ 52.

would have delayed any recovery even longer or eliminated it entirely. ¶¶ 55-56.¹¹ The Settlement avoids these risks (and others) and secures a tangible recovery for the Settlement Class now.

3. Skill Required and Quality of Work

“The experience of counsel is also a factor in determining the appropriate fee award.” *In re Heritage Bond Litig.*, 2005 WL 1594389, at *12 (C.D. Cal. June 10, 2005). Indeed, “[t]he prosecution and management of a complex national class action requires unique legal skills and abilities.” *Omnivision*, 559 F.Supp.2d at 1047; *see also Jiangchen v. Rentech, Inc.*, 2019 WL 5173771, at *10 (C.D. Cal. Oct. 10, 2019) (“This is particularly true in securities cases because the [PSLRA] makes it much more difficult for securities plaintiffs to get past a motion to dismiss.”).

Plaintiffs’ Counsel have extensive experience prosecuting securities class actions and other complex litigation throughout the country.¹² This experience and skill was critical to the prosecution of the Action and its successful resolution. From the outset, Plaintiffs’ Counsel engaged in a concerted effort to obtain the maximum recovery for the Settlement Class. Through Plaintiffs’ Counsel’s persistent work, Plaintiffs were able to plead detailed allegations based on counsel’s extensive investigation and documents obtained through a successful lift-stay motion, defeat Defendants’ motions to dismiss the Second Amended Complaint in their entirety, engage in extended settlement negotiations and formal mediation, and secure a highly favorable result for the Settlement Class. ¶¶ 6, 17-36. *See Zepeda v. PayPal, Inc.*, 2017 WL 1113293, at *20 (N.D.

¹¹ *See, e.g., In re BankAtlantic Bancorp, Inc. Sec. Litig.*, 2011 WL 1585605, at *1 (S.D. Fla. Apr. 25, 2011) (granting defendants judgment as a matter of law on the basis of loss causation, overturning jury verdict and award in plaintiff’s favor), *aff’d on other grounds sub nom., Hubbard v. BankAtlantic Bancorp, Inc.*, 688 F.3d 713 (11th Cir. 2012); *Robbins v. Koger Props., Inc.*, 116 F.3d 1441, 1448-49 (11th Cir. 1997) (reversing jury verdict of \$81 million for plaintiffs against accounting firm on appeal on causation grounds, and judgment entered for defendant). *See also, e.g., Verdict Form, Jaffe Pension Plan v. Household Int’l, Inc.*, No. 1:02-cv-05893 (N.D. Ill. May 7, 2009), Dkt. 1611 & Final Judgment and Order of Dismissal with Prejudice, *id.*, Dkt. 2267 at Ex. 8 (N.D. Ill. Nov. 10, 2016) (highlighting time from verdict to final judgment took seven years).

¹² *See* firm resumes for Kessler Topaz (Ex. 4-C) and Byrnes Keller (Ex. 5-C).

Cal. Mar. 24, 2017) (finding counsel’s expertise allowed for result that “would have been unlikely if entrusted to counsel of lesser experience or capability” given the “substantive and procedural complexities” and the “contentious nature” of the case).

The quality of opposing counsel is also important in evaluating the quality of Plaintiffs’ Counsel’s work. *See, e.g., Barbosa v. Cargill Meat Sols. Corp.*, 297 F.R.D. 431, 449 (E.D. Cal. 2013). Defendants were represented by experienced counsel from the nationally prominent defense firms Wilmer Cutler Pickering Hale and Dorr LLP and Linklaters LLP. ¶ 87. Defendants’ Counsel vigorously defended their clients. Notwithstanding this formidable opposition, Plaintiffs’ Counsel’s ability to present a strong case and to demonstrate their willingness and ability to prosecute this Action further helped secure the Settlement. *Id.*

4. Plaintiffs’ Counsel Litigated the Action on a Contingent Basis

The significant risks that Plaintiffs’ Counsel shouldered for the benefit of the Settlement Class in prosecuting this Action on a fully contingent basis further support the requested fee award. “When counsel takes cases on a contingency fee basis, and litigation is protracted, the risk of non-payment after years of litigation justifies a significant fee award.” *In re Apple Inc. Device Performance Litig.*, 2021 WL 1022866, at *6 (N.D. Cal. Mar. 17, 2021); *see also Ching v. Siemens Indus., Inc.*, 2014 WL 2926210, at *8 (N.D. Cal. June 27, 2014) (“Courts have long recognized that the public interest is served by rewarding attorneys who assume representation on a contingent basis with an enhanced fee to compensate them for the risk that they might be paid nothing at all for their work.”); *In re Wash. Pub. Power Supply*, 19 F.3d 1291, 1299 (9th Cir. 1994) (“It is an established practice in the private legal market to reward attorneys for taking the risk of non-payment by paying them a premium over their normal hourly rates for winning contingency cases.”).

The risk of no recovery for a class and its counsel in complex cases of this type is very real. There are many examples of plaintiff’s counsel taking on the risk of pursuing claims on contingency, expending thousands of hours, and receiving no remuneration despite their diligence

and expertise. *See, e.g., In re Tesla, Inc. Sec. Litig.*, 2022 WL 1497559 (N.D. Cal. Apr. 1, 2022) and Jury Verdict, *Tesla*, No. 3:18-cv-04865-EMC (N.D. Cal. Feb. 3, 2023), Dkt. 671 (jury verdict in defendants' favor after lengthy trial and despite court previously granting summary judgment on certain elements in plaintiff's favor); *Fosbre v. L.V. Sands Corp.*, 2017 WL 55878 (D. Nev. Jan. 3, 2017) (granting summary judgment to defendants after six years of litigation), *aff'd sub nom. Pompano Beach Police & Firefighters' Ret. Sys. v. L.V. Sands Corp.*, 732 F. App'x 543 (9th Cir. 2018); *In re Oracle Corp. Sec. Litig.*, 2009 WL 1709050 (N.D. Cal. June 19, 2009) (granting summary judgment to defendants after eight years of litigation).

Here, for over four years, Plaintiffs' Counsel committed significant resources, time, and money to prosecute this Action against Defendants, without any payment or any guarantee of a fee. *See Martinelli v. Johnson & Johnson*, 2022 WL 4123874, at *9 (E.D. Cal. Sep. 9, 2022) (33.3% award justified based on contingent risk assumed by counsel in case). Plaintiffs' Counsel's fees have always been at risk and contingent on the result achieved and on this Court's approval. The contingency fee risk here supports the fee request.

5. The Requested Fee Is in Line with Fee Awards in this Circuit

As noted above, the Ninth Circuit has established a 25% "benchmark" percentage fee award in common fund cases. A review of Ninth Circuit fee awards supports the reasonableness of that fee percentage here. *See, e.g., In re Aimmune Therapeutics, Inc. Sec. Litig.*, 2025 WL 2047615, at *1 (N.D. Cal. July 18, 2025) (awarding one-third fee); *Lamartina v. VMware, Inc.*, 2025 WL 1085566, at *1 (N.D. Cal. Mar. 31, 2025) (awarding 25% fee); *In re Stable Rd. Acquisition Corp.*, 2024 WL 3643393, at *14 (C.D. Cal. Apr. 23, 2024) (awarding 25% fee); *Farrar v. Workhorse Grp., Inc.*, 2023 WL 5505981, at *8 (C.D. Cal. July 24, 2023) (awarding 25% fee); *Fleming v. Impax Lab'ys Inc.*, 2022 WL 2789496, at *8 (N.D. Cal. July 15, 2022) (awarding 30% fee); *Brown*, 2022 WL 1303176, at *3 (awarding 31.5% fee); *In re Tezos Sec. Litig.*, 2020 WL 13699946, at *1 (N.D. Cal. Aug. 28, 2020) (awarding 33.33% fee); *In re Silver Wheaton Corp. Sec. Litig.*, 2020 WL 4581642, at *4 (C.D. Cal. Aug. 6, 2020) (awarding 30% fee).

Moreover, a statistical review of PSLRA settlements from 2016 to 2025 reveals that the median fee award was 30% for settlements ranging from \$5 million to \$10 million and 28% for settlements ranging from \$10 million to \$25 million. *See* Edward Flores, Svetlana Starykh & Ivelina Velikova, *Recent Trends in Securities Class Action Litigation: 2025 Full-Year Review*, 31 (NERA 2026).

6. No Settlement Class Member Has Objected to the Fee Request

Although not specifically articulated in *Vizcaino*, courts in the Ninth Circuit also consider the reaction of the class when deciding a fee award. *See Knight v. Red Door Salons, Inc.*, 2009 WL 248367, at *7 (N.D. Cal. Feb. 2, 2009); *see also Vataj v. Johnson*, 2021 WL 5161927, at *7 (N.D. Cal. Nov. 5, 2021) (“[T]he absence of a large number of objections to a proposed class action settlement raises a strong presumption that the terms of a proposed class settlement action are favorable to the class members.”) (alteration in original). Although this Motion is, by design, being filed and made available to Settlement Class Members prior to the October 12, 2026 objection deadline, the notices advise of Lead Counsel’s intent to apply to the Court for attorneys’ fees in an amount not to exceed 25% of the Settlement Fund. *See* Bravata Decl., Exs. A, C & D. The notices further advise Settlement Class Members of their right to object to this request. To date, there have been no objections to the maximum amount of fees and expenses noticed or now being requested. ¶ 73.

In the one objection to the Settlement, the objectors raise a concern regarding the sequencing of Fee Share sales and the potential for those sales to occur at the same time as Settlement Class Member sales, to the detriment to the Settlement Class. Dkt. 181, at ¶ 22. Subject to the Court’s approval, Lead Counsel intends to request that their Fee Shares be paid upon award, with the obligation to make appropriate refunds if the award is reduced or reversed. In accordance with the Addendum to Stipulation and Settlement Agreement dated June 12, 2026, which was drafted to address questions raised by the Court at the Preliminary Approval hearing, Lead Counsel “will sell no more than 15% of the trailing 3-month daily average trading volume of CytoDyn common stock per day” and “will continue to monitor the daily trading activity/volume of

CytoDyn common stock and use its best efforts to ensure that its sales of Fee Shares do not negatively affect the share price.” Dkt. 177, at 59-62.

There are currently 1.38 billion shares of CytoDyn common stock outstanding.¹³ The Fee Shares represent less than 1% of the total float. Given that the Fee Shares will be liquidated slowly over several months, these sales are expected to have no, or very minimal, impact on CytoDyn’s stock price and will not compete with Settlement Class Member sales (which together with the Fee Shares make up just 3.6% of the total float). As discussed at the June 2026 Hearing, it is Lead Counsel’s belief that the volume of the Settlement Shares against the total volume of shares outstanding is something that the Company’s stock price can absorb, particularly given that the Settlement was announced in November 2025 and any price impact from the issuance of the shares has already been estimated by the market. *See* June 2026 Hr’g Tr. (Ex. 3), at 9-11.

D. A Lodestar Cross-Check Confirms Reasonableness of the Requested Fee

As noted above, “[a]s a final check on the reasonableness of the requested fees, courts often compare the fee counsel seeks as a percentage with what their hourly bills would amount to under the lodestar analysis.” *Omnivision*, 559 F.Supp.2d at 1048.¹⁴ Under the lodestar method, courts routinely award positive multipliers to account for the contingent nature or risk involved in a case and the quality of the attorneys’ work. *See Vizcaino*, 290 F.3d at 1051 (noting “courts have routinely enhanced the lodestar to reflect the risk of non-payment in common fund cases”). Here, the requested fee results in a negative multiplier on Plaintiffs’ Counsel’s lodestar.

¹³ *See* CytoDyn Inc. (CYDY) Valuation Measures & Financial Statistics, Yahoo Finance, <https://finance.yahoo.com/quote/CYDY/key-statistics/> (last visited September 28, 2026).

¹⁴ *See also In re Am. Apparel, Inc. S’holder Litig.*, 2014 WL 10212865, at *23 (C.D. Cal. July 28, 2014) (“In contrast to the use of the lodestar method as a primary tool for setting a fee award, the lodestar cross-check can be performed with a less exhaustive cataloging and review of counsel’s hours.”); *In re Apollo Grp. Inc. Sec. Litig.*, 2012 WL 1378677, at *7 n.2 (D. Ariz. Apr. 20, 2012) (“an itemized statement of legal services is not necessary for an appropriate lodestar cross-check”).

1. The Number of Hours Devoted to the Action Was Reasonable

As detailed in the D’Ancona Declaration, Plaintiffs’ Counsel have litigated this Action for over four years on behalf of the Settlement Class. Specifically, Plaintiffs’ Counsel’s efforts included: (i) conducting an extensive investigation into the Settlement Class’s claims; (ii) consulting with damages experts; (iii) researching and preparing two detailed complaints; (iv) moving to partially modify the PSLRA’s automatic discovery stay and obtaining and reviewing over 650,000 pages of documents from Defendants; (v) briefing Defendants’ motions to dismiss; and (vi) preparing for and engaging in protracted settlement negotiations and formal mediation with the assistance of Gregory P. Lindstrom of Phillips ADR Enterprises, P.C. ¶¶ 6, 17-36. In total, through June 18, 2026 (the date of the Court’s Preliminary Approval Order), Plaintiffs’ Counsel devoted over 8,100 hours of attorney and other professional support staff time for the benefit of the Settlement Class. ¶ 85.¹⁵ Plaintiffs’ Counsel’s total lodestar, derived by multiplying the hours each attorney and professional support staff employee spent on the Action by their current hourly rates, is \$5,785,872.00. *See id.*¹⁶

2. Plaintiffs’ Counsel’s Hourly Rates Are Reasonable

A reasonable hourly rate is “the rate prevailing in the community for similar work performed by attorneys of comparable skill, experience, and reputation.” *Fowler v. Wells Fargo Bank, N.A.*, 2019 WL 330910, at *6 (N.D. Cal. Jan. 25, 2019). The hourly rates utilized by Plaintiffs’ Counsel in calculating their lodestar range from: (i) \$750 to \$1,425 per hour for partners;

¹⁵ Lead Counsel will continue to perform legal work on behalf of the Settlement Class should the Court approve the Settlement. Additional resources will be expended assisting Settlement Class Members with their Claims and related inquires and working with SCS to ensure the smooth progression of claims processing and distribution of the Settlement Shares. No additional legal fees will be sought for this work.

¹⁶ It is appropriate to calculate counsel’s lodestar based on current, rather than historical, rates as a method of compensating for the delay in payment and the loss of interest on the funds. *See Missouri v. Jenkins*, 491 U.S. 274, 284 (1989); *White v. Experian Info. Sols., Inc.*, 2018 WL 1989514, at *15 (C.D. Cal. Apr. 6, 2018) (“Courts in this Circuit regularly apply current billing rates in evaluating fee requests in multi-year litigation to account for the delay in payment.”), *aff’d in part, rev’d in part sub nom., Radcliffe v. Hernandez*, 794 F. App’x 605 (9th Cir. 2019).

(ii) \$370 to \$830 per hour for other attorneys; (iii) \$495 to \$705 per hour for in-house investigators; and (iv) \$320 to \$475 per hour for paralegals. ¶ 84.¹⁷ These hourly rates are within the range of reasonable rates for attorneys and professional support staff working on sophisticated class action litigation in jurisdictions across the country, including this Circuit. *See, e.g., Grey Fox, LLC v. Plains All-Am. Pipeline, L.P.*, 2024 WL 4267431, at *5 (C.D. Cal. Sept. 17, 2024) (granting motion for attorneys’ fees that included hourly attorney rates from \$925 to \$1,450 for partners and \$300 to \$875 for associates); *In re Volkswagen “Clean Diesel” Mktg., Sales Pracs., & Prods. Liab. Litig.*, 2017 WL 1047834, at *5 (N.D. Cal. Mar. 17, 2017) (approving fee using “rates ranging from \$275 to \$1600 for partners, \$150 to \$790 for associates, and \$80 to \$490 for paralegals”).¹⁸

By way of comparison, Cytodyn’s counsel, Wilmer Cutler Pickering Hale and Dorr LLP—a law firm with a national practice like Kessler Topaz, reported hourly rates as high as \$1,865 for partners and \$1,120 for associates in a bankruptcy filing from 2024. *See Combined Second Monthly Application . . . For the Period from Dec. 1, 2023 through Jan. 31, 2024, In re: Infinity Pharma., Inc.*, No. 23-11640 (Bankr. D. Del. Feb. 9, 2024), Dkt. 216. These rates exceed Plaintiffs’ Counsel’s rates.

3. The Requested Fee Reflects a Negative Multiplier and Thus a Substantial Discount on Plaintiffs’ Counsel’s Lodestar

As noted above, under the lodestar method, courts routinely award positive multipliers to account for the contingent nature or risk involved in a case and the quality of the attorneys’ work. *See Destefano*, 2016 WL 537946, at *18.

¹⁷ Lead Counsel’s rates are set in accord with the national market for securities class action litigation, both on the plaintiff side and the defense side. Based on its review of publicly-available information in court filings, Lead Counsel’s rates are aligned with the rates of the national market for defense firms that defend securities class actions and other plaintiff firms that specialize in large and complex securities litigation. ¶ 84; *see also* Ex. 4 (Kessler Topaz Fee and Expense Declaration), at ¶ 4.

¹⁸ *See Parkinson v. Hyundai Motor Am.*, 796 F.Supp.2d 1160, 1172 (C.D. Cal. 2010) (noting courts may find rates reasonable “based on evidence of other courts approving similar rates or other attorneys engaged in similar litigation charging similar rates”).

1 As detailed in the D’Ancona Declaration, Plaintiffs’ Counsel devoted substantial time to
 2 the Action over the past 4+ years in the face of a determined defense. Through June 18, 2026,
 3 Plaintiffs’ Counsel spent over 8,100 hours of attorney and other professional support staff time
 4 prosecuting the Action, for a total lodestar of \$5,785,872.00. ¶ 85.

5 Accordingly, the requested fee—25% of the Settlement Shares (or, 12,250,000 Settlement
 6 Shares)—equates to \$2,817,500 based on the \$0.23 per share closing price of CytoDyn common
 7 stock on September 25, 2026, representing a negative multiplier of approximately 0.49 on
 8 Plaintiffs’ Counsel’s lodestar. In other words, the requested fee represents *less than 50%* of the
 9 lodestar value of the time that Plaintiffs’ Counsel dedicated to the Action. This “negative” or
 10 fractional multiplier is well below the range of positive multipliers—often between one and four—
 11 commonly awarded in comparable litigation. *See Vizcaino*, 290 F.3d at 1051-52 (approving a 3.65
 12 multiplier and finding “most” multipliers to be in the range of 1 to 4). Courts repeatedly recognize
 13 that a percentage fee request that is less than counsel’s lodestar provides strong confirmation of its
 14 reasonableness. *See, e.g., Davis v. Yelp, Inc.*, 2023 WL 3063823, at *2 (N.D. Cal. Jan. 27, 2023)
 15 (“[A] multiplier of less than one suggests that the negotiated fee award is reasonable.”); *Khoja v.*
 16 *Orexigen Therapeutics, Inc.*, 2021 WL 5632673, at *10 (S.D. Cal. Nov. 30, 2021) (where 33% fee
 17 request resulted in fractional multiplier of 0.528, the court found the “lodestar cross-check . . .
 18 provides a strong indication of the reasonableness of Lead Counsel’s requested percentage
 19 award”); *see also In re Initial Pub. Offering Sec. Litig.*, 671 F.Supp.2d 467, 515 (S.D.N.Y. 2009)
 20 (finding “no real danger of overcompensation” given that the requested fee represented a discount
 21 to counsel’s lodestar).

22 While the lodestar cross-check and resulting multiplier provided above are based on
 23 Plaintiffs’ Counsel’s currently hourly rates, including Lead Counsel’s rates which are aligned with
 24 the national market for securities class action litigation, the result of a lodestar cross-check would
 25 be the same if the hourly rates for each of the Kessler Topaz attorneys with an hourly rate in excess
 26 of \$750 was adjusted to the same hourly rate as Mr. Keller of Byrnes Keller (i.e., \$750). Plaintiffs’

Counsel's lodestar using the adjusted hourly rates, \$4,327,550.50, would still result in a negative multiplier on Plaintiffs' Counsel's adjusted lodestar—0.65—based on the per share closing price of CytoDyn common stock on September 25, 2026.

Thus, the lodestar cross-check and resulting negative multiplier further underscore the reasonableness of the fee request and justify its approval.

III. PLAINTIFFS' COUNSEL'S LITIGATION EXPENSES ARE REASONABLE AND SHOULD BE APPROVED

This Motion also requests payment of \$232,699.19 (to be paid in Settlement Shares) for expenses reasonably incurred in prosecuting and resolving the Action. These expenses are properly recovered by counsel. *See Fleming*, 2022 WL 2789496, at *9 ("Attorneys who create a common fund for the benefit of a class are entitled to reimbursement of reasonable litigation costs from that fund."); *Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994) (counsel may recover "those out-of-pocket expenses that would normally be charged to a fee-paying client"); *Destefano*, 2016 WL 537946, at *22 ("[C]ourts throughout the Ninth Circuit regularly award litigation costs and expenses—including photocopying, printing, postage, court costs, research on online databases, experts and consultants, and reasonable travel expenses—in securities class actions, as attorneys routinely bill private clients for such expenses in non-contingent litigation.").¹⁹

The expenses sought by Plaintiffs' Counsel are of the type that are charged to hourly paying clients and were required to prosecute the Action. These expenses include, among others, expert/consultant fees, document hosting and litigation support, online research, photocopying, mail services, and mediation. These expenses are not duplicated in counsel's hourly rates.

The largest expense—totaling \$124,836.14 or approximately 54% of Plaintiffs' Counsel's total expenses—was for document hosting and litigation support. ¶ 93; Ex. 4, at ¶ 8(h). The majority of this amount (i.e., \$112,778.18) reflects the cost of the discovery platform used to

¹⁹ A breakdown of Plaintiffs' Counsel's Litigation Expenses by category is included in the accompanying Fee and Expense Declarations. *See* Exs. 4-B & 5-B.

1 maintain the electronic database through which Lead Counsel hosted and reviewed the over
2 650,000 pages of documents produced by Defendants. ¶ 93.

3 The second largest expense (\$34,431.25 or approximately 15% of Plaintiffs' Counsel's
4 total expenses) was for the Parties' settlement negotiations with Mr. Lindstrom. The Parties'
5 negotiations with Mr. Lindstrom occurred at two separate stages of the Action and included a
6 remote mediation session in September 2022. ¶¶ 33-36, 94.

7 Plaintiffs' Counsel's expenses also include expert costs in the amount of \$32,445.00. ¶ 95.
8 Lead Counsel consulted with two damages experts: (i) Forensic Economics, Inc. on questions
9 related to causation and economic damages at the outset of the case; and (ii) Stanford Consulting
10 Group, Inc. on damages issues, the calculation of class-wide damages, and the proposed Plan of
11 Allocation in connection with settlement. Consultation with these experts was critical to the
12 prosecution and resolution of the Action as their expertise allowed Lead Counsel to fully frame
13 the issues, make a realistic assessment of provable damages, and develop a fair and reasonable
14 plan for allocating the Settlement Shares to the Settlement Class. *Id.*

15 In addition to the foregoing expenses, Plaintiffs' Counsel also incurred: (i) \$33,504.15 for
16 online research; (ii) \$4,179.30 for court transcripts; (iii) \$1,525.31 for overnight mail; (iv)
17 \$1,439.00 for court filing and other fees; and (v) \$339.04 for document reproduction. ¶¶ 96-97,
18 *see also* Plaintiffs' Counsel's Fee and Expense Declarations (Exs. 4-B and 5-B). The notices
19 advised that Lead Counsel would seek payment of Litigation Expenses (which might include
20 reimbursement of Lead Plaintiff's reasonable costs as discussed below) in an amount not to exceed
21 \$300,000. The expenses requested are below the amount set forth in the notices and, to date, no
22 objections to the maximum expense request have been received. ¶ 90.²⁰ As such, Lead Counsel's
23 request for Litigation Expenses should be approved.

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20 Any objections will be addressed in Lead Counsel's October 26, 2026 reply.

IV. LEAD PLAINTIFF SHOULD BE AWARDED ITS REASONABLE COSTS UNDER THE PSLRA

The PSLRA provides that an “award of reasonable costs and expenses (including lost wages) directly relating to the representation of the class” may be made to “any representative party serving on behalf of a class.” 15 U.S.C. § 78u-4(a)(4); *see also Stable Road*, 2024 WL 3643393, at *16 (“Reimbursement of such costs are allowed because it encourages participation of plaintiffs in the active supervision of their counsel.”). Consistent with the PSLRA, Lead Plaintiff seeks an award of \$5,000 (to be paid in Settlement Shares) for the time it dedicated to the Action.

Here, Lead Plaintiff Courter took an active role in the Action and dedicated personal time to prosecuting the Action on behalf of the Settlement Class. *See* Courter Decl., at ¶ 6. Among other efforts, Courter moved to serve as lead plaintiff; communicated regularly with Lead Counsel regarding the progress of the case and case strategy; reviewed significant filings in the Action and Court orders; consulted with Lead Counsel regarding its review and assessment of the document discovery obtained from Defendants; consulted with Lead Counsel regarding the Parties’ settlement negotiations; and evaluated and approved the terms of the Settlement. *Id.* The foregoing efforts are precisely the types of activities courts have found to support reimbursement to class representatives. *See Stable Road*, 2024 WL 3643393, at *16 (awarding \$10,000 to plaintiff who moved for lead plaintiff; produced trading records; regularly communicated with counsel; reviewed significant pleadings and briefs; reviewed court orders; consulted with counsel regarding settlement negotiations; and evaluated and approved settlement).

Moreover, courts in this Circuit, including this Court, have approved similar awards. *See, e.g., In re Honest Co., Inc. Sec. Litig.*, 2025 WL 2205810, at *2 (C.D. Cal. July 29, 2025) (awarding \$7,425 to plaintiff); *In re ImmunityBio, Inc. Sec. Litig.*, 2025 WL 1686263, at *16 (S.D. Cal. June 16, 2025) (awarding \$10,000 to plaintiff); *Yelp*, 2023 WL 3063823, at *2 (awarding \$15,000 to plaintiff); *Brown*, 2022 WL 1303176, at 3 (awarding \$5,000 to plaintiff for 40 hours of work “which is presumptively reasonable”); *Ferreira v. Funko, Inc.*, 2022 WL 22877154, at *13 (C.D.

Cal. Dec. 13, 2022) (awarding \$14,100 and \$18,000 to plaintiffs); Order, *In re Snap Inc. Sec. Litig.*, No. 17-cv-03679 (C.D. Cal. Mar. 9, 2021), Dkt. 400 (approving awards to plaintiffs ranging from \$2,500 to \$36,750); *In re Infospace, Inc. Sec. Litig.*, 330 F.Supp.2d 1203, 1216 (W.D. Wash. 2004) (approving an award of \$5,000 and \$6,600, respectively, for the two class representatives). The Notice indicated that Lead Plaintiff would seek an award in an amount not to exceed \$10,000, and there have been no objections. Accordingly, the proposed award to Lead Plaintiff of \$5,000 is fully justified under the PSLRA and warrants approval.

V. CONCLUSION

Lead Counsel respectfully requests that the Court: (i) award attorneys' fees in the amount of 25% of the Settlement Shares (i.e., 12,250,000 Settlement Shares); (ii) approve payment of Plaintiffs' Counsel's Litigation Expenses in the amount of \$232,699.19 (to be paid in Settlement Shares); and (iii) approve an award to Lead Plaintiff in the amount of \$5,000 (to be paid in Settlement Shares). A proposed order granting the relief requested is attached hereto.

DATED this 28th day of September, 2026.

BYRNES KELLER CROMWELL LLP

By /s/ Bradley S. Keller

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8 *and Courter and Sons LLC, Named*
9 *Plaintiffs Diane M. Hooper, Thomas McGee*
10 *and Candara E. Evans and Lead Counsel for*
11 *the Putative Class*

12
13 **CERTIFICATION:** The above signature also certifies that this memorandum contains
14 7,849 words, in compliance with the Local Civil Rules.
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CERTIFICATE OF SERVICE

The undersigned attorney certifies that on the 28th day of September, 2026, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel on record in the matter.

/s/ Bradley S. Keller

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The Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRIAN JOE COURTER, COURTER AND
SONS LLC, DIANE M. HOOPER, THOMAS
MCGEE, and CANDRA E. EVANS,
Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

v.

CYTODYN INC., NADER Z. POURHASSAN,
MICHAEL MULHOLLAND, and SCOTT A.
KELLY,

Defendants.

No. 3:21-cv-05190-BHS

**[PROPOSED] ORDER AWARDING
ATTORNEYS' FEES AND
LITIGATION EXPENSES**

This matter is before the Court on Lead Counsel's motion for an award of attorneys' fees and Litigation Expenses in connection with the settlement of the above-captioned securities class action ("Action"). The Court having considered all matters submitted to it; and it appearing that notice substantially in the form approved by the Court, which advised of Lead Counsel's request for an award of attorneys' fees and Litigation Expenses, was mailed and/or emailed to all Settlement Class Members who or which could be identified with reasonable effort, and that a summary notice substantially in the form approved by the Court was published in *The Wall Street Journal* and transmitted over *PR Newswire* pursuant to the specifications of the Court; and the Court having considered and determined the fairness and reasonableness of the attorneys' fees and Litigation Expenses requested,

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. This Order incorporates by reference the definitions in the Stipulation and Agreement of Settlement dated March 18, 2026 (Dkt. 168) (“Stipulation”), and all capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Stipulation.

2. The Court has jurisdiction to enter this Order and over the subject matter of the Action and all Parties to the Action, including all Settlement Class Members.

3. Notice of Lead Counsel’s motion for an award of attorneys’ fees and Litigation Expenses was given to all Settlement Class Members who or which could be identified with reasonable effort. The form and method of notifying the Settlement Class of the motion for an award of attorneys’ fees and Litigation Expenses satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4, as amended, and all other applicable law and rules, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

4. Lead Counsel is hereby awarded attorneys’ fees in the amount of ____% of the Settlement Shares (“Fee Shares”). The Court also awards \$_____ in payment of Plaintiffs’ Counsel’s Litigation Expenses (which amount is to be paid in Settlement Shares). The foregoing fees and expenses, which sums the Court finds to be fair and reasonable, shall be paid from the Settlement Fund in accordance with the Stipulation. Fee Shares shall be sold in accordance with the terms set forth in the Addendum to Stipulation and Agreement of Settlement dated June 12, 2026. Dkt. 177 at 59-62. Lead Counsel shall allocate any Fee Shares awarded between Plaintiffs’ Counsel in a manner which it, in good faith, believes reflects the contributions of such counsel to the institution, prosecution, and settlement of the Action.

5. In making this award of attorneys’ fees and payment of expenses from the Settlement Fund, the Court has considered and found that:

- 1 A. The Settlement has created a fund comprised of 49 million shares of CytoDyn Inc.
2 common stock and \$500,000 in cash that has been funded into escrow pursuant to
3 the terms of the Stipulation, and that numerous Settlement Class Members who
4 submit acceptable Claims will benefit from the Settlement that occurred because
5 of the efforts of Plaintiffs' Counsel;
- 6 B. The fee sought has been reviewed and approved as reasonable by Lead Plaintiff,
7 who actively supervised the Action;
- 8 C. Over 141,600 notices were mailed and/or emailed to potential Settlement Class
9 Members stating that Lead Counsel would apply for attorneys' fees in an amount
10 not to exceed 25% of the Settlement Fund and for payment of Litigation Expenses
11 in an amount not to exceed \$300,000, and no objections to these amounts have
12 been received;
- 13 D. Plaintiffs' Counsel conducted the litigation and achieved the Settlement with skill,
14 perseverance, and diligent advocacy;
- 15 E. The Action raised a number of complex issues;
- 16 F. Had Plaintiffs' Counsel not achieved the Settlement, there would remain a
17 significant risk that Lead Plaintiff and the other members of the Settlement Class
18 may have recovered less or nothing from Defendants;
- 19 G. Plaintiffs' Counsel devoted over 8,100 hours, with a lodestar value of
20 \$5,785,872.00, to achieve the Settlement; and
- 21 H. The amount of attorneys' fees awarded and expenses to be paid from the
22 Settlement Fund are fair and reasonable and consistent with awards in similar
23 cases.
- 24 6. Lead Plaintiff Brian Joe Courter and Courter and Sons LLC is hereby awarded
25 \$5,000 (which amount is to be paid in Settlement Shares) as reimbursement for its reasonable
26 costs directly related to its representation of the Settlement Class in the Action.

7. Any appeal or any challenge affecting this Court's approval regarding any attorneys' fees and expense application shall in no way disturb or affect the finality of the Judgment.

8. In the event that the Settlement is terminated or the Effective Date of the Settlement otherwise fails to occur, this Order shall be rendered null and void to the extent provided by the Stipulation.

9. There is no just reason for delay in the entry of this Order, and immediate entry by the Clerk of the Court is expressly directed.

IT IS SO ORDERED.

Dated this ____ day of _____, 2026

Honorable Benjamin H. Settle
UNITED STATES DISTRICT JUDGE

1 Presented by:

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24 *Attorneys for Lead Plaintiff Brian Joe Courter*
25 *and Courter and Sons LLC, Named Plaintiffs*
26 *Diane M. Hooper, Thomas McGee and*
Candara E. Evans and Lead Counsel for the Putative Class

CERTIFICATE OF SERVICE

The undersigned attorney certifies that on the 28th day of September, 2026, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel on record in the matter.

/s/ Bradley S. Keller

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