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Michael Allagas, Arthur Ray, Brett Mohrman,
and the Settlement Class*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MICHAEL ALLAGAS, ARTHUR
RAY and BRETT MOHRMAN, on
behalf of themselves and all others
similarly situated,

Plaintiffs,

vs.

BP SOLAR INTERNATIONAL,
INC., HOME DEPOT U.S.A., INC.
and DOES 1 -10, inclusive,

Defendants.

Case No. 3:14-cv-00560-SI

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION FOR SUPPLEMENTAL
ATTORNEY FEES RELATING TO
ADMINISTRATION OF THE CLASS
ACTION SETTLEMENT**

DATE: September 19, 2025
TIME: 10:00 a.m.
COURTOOM: 1

The Honorable Susan Y. Illston

Action Filed: January 9, 2014
Trial Date: None

1 **I. HISTORY AND IMPLEMENTATION OF SETTLEMENT**

2 Class Counsel Birka-White Law Offices (“BWLO”) submits this application
3 for the supplemental attorney fees relating to significant work performed in
4 connection with administration of the Settlement.

5 All documents related to the Motion to Modify the Administration of the
6 settlement fund and this Motion for Supplemental Attorney Fees will be uploaded to
7 the BP Solar settlement administration website within 24 hours of the filing of this
8 motion. (DBW Decl. ¶ 2).

9 Since December 16, 2016 through the present, BWLO has responsibility of
10 managing the settlement funds and overseeing the administration of the funds.
11 (Declaration of David M. Birka-White White in Support of Application for
12 Supplemental Attorney Fees Relating to Administration of the Class Action
13 Settlement (“DBW Decl.”), ¶¶ 6, 8). During the past eight and a half years, BWLO
14 has exclusively managed the distribution of over \$35 million of Settlement proceeds
15 to the class members. (DBW Decl., ¶ 9).

16 The December 2016 Settlement included both claims-made and common fund
17 components, and permitted two avenues of recovery: removal and replacement by the
18 Independent Claims Administrator (Option 1), or removal by the Independent Claims
19 Administrator and compensation of \$2.35 per watt removed (Option 2) (DBW Decl.,
20 ¶ 10). On July 23, 2020, the Court ordered Final Approval of an Addendum to
21 modify the nationwide class action settlement to add an additional building integrated
22 solar panel, model BP365TS (“365”). (DBW Decl., ¶ 11).

23 Since 2016, BWLO has overseen all aspects of the Settlement administration,
24 including reviewing every Administrator decision, responding to class member
25 inquiries, and thoroughly investigating and resolving questions or matters relating to
26 claims. (DBW Decl., ¶ 8). The administrative work was further increased following
27 the certification and settlement of the additional 365 class in 2020, which required
28 further coordination and oversight. The duration and complexity of managing the

1 administration was not contemplated by the original fee award. (DBW Decl., ¶¶ 11-
2 12).

3 A total of 3,827 claims were submitted, 3,657 of which were found to be non-
4 duplicative, 1,366 of which were rejected, and approximately 2,300 were approved
5 for payment. (DBW Decl., ¶ 13). Mr. Birka-White was personally involved in every
6 one of these claims, whether to review the Administrator's decision or to answer
7 questions of the administrator and class members, to converse with defense counsel
8 and to review and pay the invoices of the Administrator. (DBW Decl., ¶ 15). The
9 Special Master was not required to resolve a single dispute. (DBW Decl., ¶ 22). The
10 eight and a half years of settlement administration has been an unexpectedly long
11 period, during which BWLO's work has assisted in facilitating the distribution of
12 these benefits to class members. (DBW Decl., ¶¶ 16-17).

13 Over 2,000 solar arrays were removed and replaced in many states.
14 Substantial attention to detail was required to secure contractors throughout the
15 United States to perform the exacting work to replace class member solar arrays.
16 (DBW Decl., ¶ 19).

17 To date, BWLO has incurred approximately \$632,942.83 in fees involving
18 853.72 hours of work associated with these ongoing efforts. (DBW Decl., ¶¶ 24-25).
19 BP does not object to the filing of the fee application and reserves all rights with
20 respect to the substance of the request. (DBW Decl., ¶ 23).

21 The hourly rates of BWLO reflect the market rate for professionals of
22 similar experience in California. The "hourly rate by billing period" reflects the
23 changes for the BWLO hourly rates between 2016 and 2025. The BWLO firm
24 rates have been approved by Courts in numerous Federal Court class action
25 cases. (DBW Decl., ¶ 26).

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1 In 2016, this Court approved the hourly rate for David Birka-White of
2 \$855.00 for work performed in this case in 2016. (DBW Decl., ¶ 27). (See
3 Declaration of David M. Birka-White in Support of Plaintiffs' Motion for
4 Attorney Fees and Costs, Dkt. 187-2; See also Order Granting Motion for
5 Attorney Fees and Costs, Dkt. 201).

6 Mr. Birka-White's hourly rate in 2016 was \$855.00 and has increased
7 over the last nine years to \$1,100.00. The time billed in the fee application
8 reflects the changes in Mr. Birka-White's rates from \$855.00 to \$1,100.00 per
9 hour from 2016 to 2025. (DBW Decl., ¶ 28)

10 The hourly rate of Attorney Mindy Wong ranged from \$510.00 in 2017 to
11 \$700.00 in 2019. Mindy Wong worked with BWLO throughout the underlying
12 litigation of this case. She provided essential and necessary assistance regarding
13 the setup and completion of the administration of the settlement. (DBW Decl., ¶
14 29)

15 Sonya Hernandez is a senior paralegal at BWLO with 31 years of
16 experience whose hourly rate is \$345.00 throughout the time she spent on the
17 administration of the settlement and was indispensable over the last six years.
18 During the time, Ms. Hernandez was responsible for all wire transfers for
19 payments to the Administrator and general interfacing with JND. (DBW Decl., ¶
20 30)

21 All of the services performed by BWLO staff were reasonable and
22 necessary to manage, oversee and implement the administration of the
23 Settlements. DBW Decl., ¶ 31)

24 All of the time was contemporaneously entered as the work was
25 performed. (DBW Decl., ¶ 32)

26 There has been no redundant or duplicative entries of services for which
27 BWLO now seeks compensation. BWLO handled all of the administrative
28

1 management work and there was no duplication from co-counsel Lieff Cabraser
2 Heimann & Bernstein, LLP. (DBW Decl., ¶ 33).

3 There was no block billing. All time was itemized by 1/10 of an hour
4 increments. (DBW Decl., ¶ 34).

5 Virtually all the time spent over the last eight and one-half years in
6 overseeing the administration was performed by David Birka-White, associate
7 Mindy Wong and senior paralegal Sonya Hernandez. In that regard, the
8 appropriate level of timekeeper was consistently maintained and monitored
9 since 2016. (DBW Decl., ¶ 35).

10 The administration of this nationwide settlement was noteworthy given its
11 long duration and complexity of implementing benefits to class members.
12 Substantial skill and experience were required to address the range of difficulties
13 that was necessary to oversee the unique administration of the settlement.
14 (DBW Decl., ¶ 20). BWLO was required to be on call and available at all times
15 since 2016 to address all issues associated with the administration of the
16 settlement. BWLO has met, and continues to meet, that responsibility as Class
17 Counsel. (DBW Decl., ¶ 18). In addition, the responsibilities of BWLO to serve
18 as Class Counsel and oversee the remainder of the administration will continue
19 for an additional seven years until 2032. (DBW Decl., ¶ 21). BWLO therefore
20 requests a reasonable multiplier of 1.5. $\$632,942.83 \times 1.5 = \$949,414.24$. (DBW
21 Decl., ¶¶ 36-39).

22 **II. ARGUMENT**

23 The Court has jurisdiction to award supplemental fees in this case. In its Final
24 Order and Judgment approving the Settlement Agreement dated December 12, 2016
25 and the July 23, 2020 Addendum to the class Settlement Agreement, the Court
26 “expressly retains exclusive jurisdiction as to all matters relating to the
27 administration, consummation, enforcement and interpretation of the Settlement
28 Agreement and of this Final Order and Judgment, including, without limitation, for

the purpose of . . . entering such additional orders, if any, as may be necessary or appropriate . . . to ensure the fair and orderly administration of the Settlement.” (Dkt. 200, at 8) (Dkt. 247, at 6). Further, in its Order Granting Class Counsel’s Motion for Attorneys’ Fees and Costs dated July 23, 2020, the Court “reserves continuing and exclusive jurisdiction over parties to the Settlement Agreement to settle any disputes related to the allocation of the costs and fees awarded by this Order.”

The original fee award(s) fell well within the acceptable range of proportionality to the benefit conferred on the class that governs fee awards in the Ninth Circuit, as set forth in *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935 (9th Cir. 2011), and *Briseño v. Henderson*, 998 F.3d 1014 (9th Cir. 2021). The fee award for the common fund portion of the settlement was 19.9% (\$9 million fee for \$45.33 million settlement), significantly below the accepted range of 25% and well within the accepted range of fee awards in similar cases. (DBW Decl., ¶ 37).¹²

The requested supplemental attorney fee award of **\$949,414.24**, which includes this request for a 1.5 multiplier, would remain well within those limits. (DBW Decl., ¶¶ 36-39).

III. CONCLUSION

For eight and a half years BWLO has overseen and successfully managed this settlement consistent with the Court Orders. No compensation has been received for any of this work. The implementation of the settlement was complex and required a high level of skill and attention to the numerous details and demands of the settlement

¹ Regarding the fee award for the Claims Made Settlement, Class Counsel received a fee award of \$2 million (10%) in connection with the \$20 million Claims Made Settlement cap. (DBW Decl., ¶ 40).

² On July 23, 2020 the Court entered an Order for Final Approval of Addendum to Class Settlement Agreement. (DBW Decl., ¶ 41). This Order granted fees in the amount of \$235,000 for the work related to the modification of the Settlement Agreement to include panel 365. (DBW Decl., ¶ 41) The fees were not associated with the administration of the settlement. (DBW Decl., ¶ 41).

1 administration. BWLO was dedicated to this considerable task and accepted the
2 responsibility to ensure that the Orders of the Court were properly executed. It is
3 submitted that the request for a supplemental attorney fee award with a 1.5 multiplier
4 is reasonable and justified and well within the accepted range of allowable fees
5 awarded when added to the original fee award in this matter.

6 DATED: August 14, 2025

Respectfully submitted,

7 BIRKA-WHITE LAW OFFICES

8
9 By: s/s David M. Birka-White

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