

1 Michael W. Sobol (194857)
msobol@lchb.com
2 LIEFF CABRASER HEIMANN & BERNSTEIN LLP
275 Battery Street, 29th Floor
3 San Francisco, CA 94111
Telephone: (415) 956-1000

4 Hank Bates (167688)
5 hbates@cbplaw.com
CARNEY BATES & PULLIAM, PLLC
6 519 West 7th Street
Little Rock, AR 72201
7 Telephone: (501) 312-8500
Facsimile: (501) 312-8505

8 Ray E. Gallo (158903)
9 rgallo@gallo-law.com
GALLO LLP
10 1299 Fourth Street, Suite 505
San Rafael, CA 94901
11 Telephone: (415) 257-8800

12 *Attorneys for Plaintiffs and the Settlement Class*

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

16 DANIEL MATERA and SUSAN
17 RASHKIS, as individuals, and on behalf of
other persons similarly situated,

18 Plaintiffs,

19 v.

20 GOOGLE LLC,

21 Defendant.

Case No. 5:15-cv-04062 LHK

**PLAINTIFFS' NOTICE OF MOTION AND
MOTION FOR AN AWARD OF
ATTORNEYS' FEES AND COSTS AND
SERVICE AWARDS; AND
MEMORANDUM AND POINTS OF
AUTHORITIES IN SUPPORT THEREOF**

Date: February 8, 2018
Time: 1:30 p.m.
Judge: Hon. Lucy H. Koh
Courtroom: 8, Fourth Floor

23
24
25
26
27
28

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

	Page
NOTICE OF MOTION	i
I. INTRODUCTION	1
II. SUMMARY OF CLASS COUNSEL’S WORK IN THIS LITIGATION	2
A. Procedural History	2
B. Discovery	3
C. Settlement Discussions	4
D. Preliminary Approval of the Settlement and Implementation of Class Notice	4
III. THE REQUESTED ATTORNEYS’ FEES AND COSTS ARE FAIR, REASONABLE AND APPROPRIATE UNDER THE CIRCUMSTANCES.....	5
A. Quality of Representation and Benefit Obtained for the Class	6
B. Complexity and Novelty of the Issues Presented.....	7
C. Risk of Nonpayment	8
D. Application of the Lodestar Method Demonstrates the Reasonableness of the Requested Fee.	9
1. The Time Class Counsel Devoted to this Case Was Appropriate.....	10
2. Class Counsel’s Hourly Rates Are Reasonable.	10
3. The Requested Fee Represents a Multiplier Well Within the Range of Reasonableness in the Ninth Circuit and Within This District.....	11
E. Class Counsel’s Litigation Expenses Were Reasonably Incurred in Furtherance of the Prosecution of the Claims, and Should be Awarded.	13
F. The Requested Service Awards Are Reasonable and Should Be Approved.	13
IV. CONCLUSION	14

TABLE OF AUTHORITIES

	Page
Cases	
1 <i>Backhaut v. Apple Inc.</i> ,	
2 148 F. Supp. 3d 844 (N.D. Cal. 2015)	8
3 <i>Blum v. Stenson</i> ,	
4 465 U.S. 886 (1984).....	11
5 <i>Bottoni v. Sallie Mae, Inc.</i> ,	
6 No. 10-cv-03602-LB (N.D. Cal. Nov. 21, 2013).....	11
7 <i>Campbell v. Facebook Inc.</i> ,	
8 77 F. Supp. 3d 836 (N.D. Cal. 2014)	8
9 <i>Campbell v. Facebook Inc.</i> ,	
10 No. 13-cv-05996-PJH, 2017 U.S. Dist. LEXIS 132624 (N.D. Cal. Aug. 18, 2017)	11
11 <i>Cunningham v. Cty. of Los Angeles</i> ,	
12 879 F.2d 481 (9th Cir. 1988).....	9
13 <i>Dyer v. Wells Fargo Bank, N.A.</i> ,	
14 303 F.R.D. 326 (N.D. Cal. 2014).....	13
15 <i>Faigman v. AT & T Mobility LLC</i> ,	
16 No. 06-cv-04622-MHP, 2011 WL 672648 (N.D. Cal. Feb. 16, 2011)	13
17 <i>Guam Soc’y of Obstetricians & Gynecologists v. Ada</i> ,	
18 100 F.3d 691 (9th Cir. 1996).....	9
19 <i>Hanlon v. Chrysler Corp.</i> ,	
20 150 F.3d 1011 (9th Cir. 1998).....	5, 6, 11
21 <i>Harris v. Marhoefer</i> ,	
22 24 F.3d 16 (9th Cir. 1994).....	9
23 <i>Hendricks v. Starkist Co.</i> ,	
24 No. 13-cv-00729-HSG, 2016 U.S. Dist. LEXIS 134872 (N.D. Cal. Sept. 29, 2016).....	5
25 <i>Hensley v. Eckerhart</i> ,	
26 461 U.S. 424 (1983).....	9
27 <i>Huber v. San Diego Ballpark Funding, LLC</i> ,	
28 San Diego Superior Court Case No. 37-2013-00066456-CU-CO-CTL (2016)	11
<i>In re Bluetooth Headset Liab. Litig.</i> ,	
654 F.3d 935 (9th Cir. 2011).....	5
<i>In re Carrier IQ, Inc., Consumer Privacy Litig.</i> ,	
78 F. Supp. 3d 1051 (N.D. Cal. 2015)	8
<i>In re Google Inc. Gmail Litig. (“Gmail I”)</i> ,	
No. 13-md-02430-LHK, 2013 WL 5423918 (N.D. Cal. Sep. 26, 2013)	8
<i>In re Google, Inc. Privacy Policy Litig.</i> ,	
No. 12-cv-01382-PSG, 2013 U.S. Dist. LEXIS 171124 (N.D. Cal. Dec. 3, 2013)	8
<i>In re LinkedIn User Privacy Litig.</i> ,	
309 F.R.D. 573 (N.D. Cal. 2015).....	13
<i>In re Media Vision Tech. Sec. Litig.</i> ,	
913 F. Supp. 1362 (N.D. Cal. 1996)	13

TABLE OF AUTHORITIES
(continued)

		Page
3	<i>In re Toys “R” Us FACTA Litig.</i> , 295 F.R.D. 438 (C.D. Cal. 2014).....	5, 9, 13
4	<i>In re Wash. Pub. Power Supply Sys. Sec. Litig.</i> , 19 F.3d 1291 (9th Cir. 1994).....	12
5	<i>Kerr v. Screen Extras Guild, Inc.</i> , 526 F.2d 67 (9th Cir. 1975).....	11
6	<i>Ketchum v. Moses</i> , 17 P.3d 735 (Cal. 2001).....	11
7	<i>Konop v. Hawaiian Airlines, Inc.</i> , 302 F.3d 868 (9th Cir. 2002).....	8
8	<i>Matera v. Google Inc. (“Gmail II”)</i> , No. 15-cv-04062-LHK, 2016 U.S. Dist. LEXIS 107918 (N.D. Cal. Aug. 12, 2016).....	8
9	<i>Noel v. Hall</i> , 568 F.3d 743 (9th Cir. 2009).....	8
10	<i>Paul, Johnson, Alston & Hunt v. Grauly</i> , 886 F.2d 268 (9th Cir. 1989).....	9
11	<i>Perkins v. LinkedIn Corp.</i> , No. 13-cv-04303-LHK, 2016 WL 613255 (N.D. Cal. Feb. 16, 2016).....	11
12	<i>Rodriguez v. W. Publ’g Corp.</i> , 602 F. App’x 385 (9th Cir. 2015).....	9
13	<i>Rodriguez v. W. Publ’g Corp.</i> , 563 F.3d 948, 958 (9th Cir. 2009).....	13
14	<i>Serrano v. Unruh</i> , 652 P.2d 985 (Cal. 1982).....	5
15	<i>Stanger v. China Elec. Motor, Inc.</i> , 812 F.3d 734 (9th Cir. 2016).....	12
16	<i>Staton v. Boeing Co.</i> , 327 F.3d 938 (9th Cir. 2003).....	5, 6, 13
17	<i>Stetson v. Grissom</i> , 821 F.3d 1157 (9th Cir. 2016).....	12
18	<i>Van Vranken v. Atl. Richfield Co.</i> , 901 F. Supp. 294 (N.D. Cal. 1995).....	13
19	<i>Vizcaino v. Microsoft Corp.</i> , 290 F.3d 1043 (9th Cir. 2002).....	1, 5, 12
20	<i>Winterrowd v. Am. Gen. Annuity Ins. Co.</i> , 556 F.3d 815 (9th Cir. 2009).....	10
21	Statutes	
22	18 U.S.C. § 2520(b)(3).....	5
23	Cal. Civ. Proc. Code § 1021.5.....	5
24	California Invasion of Privacy Act, Cal. Pen. Code §§ 630, <i>et seq.</i>	2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF AUTHORITIES
(continued)

	Page
Electronic Communications Privacy Act, 18 U.S.C. §§ 2510, <i>et seq.</i>	2
<i>Spokeo, Inc. v. Robins</i> , 136 S. Ct. 1540 (2016).....	2
Rules	
Fed. R. Civ. P. 23(h)	5

NOTICE OF MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on February 8, 2018, at 1:30 p.m., in the Courtroom of the Honorable Lucy H. Koh, located at the Robert F. Peckham Federal Building & United States Courthouse, 280 South First Street, Fourth Floor, San Jose, California, Plaintiffs and Class Counsel¹ in the above-captioned matter will and hereby do move the Court for an Order granting their application for an award of attorneys’ fees and costs and service awards for the named plaintiffs and settlement class representatives in this action.

Plaintiffs’ motion is based on this Notice of Motion and Motion, the Memorandum of Points and Authorities below, the Declaration of Class Counsel filed herewith, the papers filed in support of Plaintiffs’ motion for preliminary settlement approval, the papers filed in support of Class Counsel’s motion for final approval of class action settlement, the record in this case, and any additional argument and evidence the Court may consider.

Dated: October 30, 2017

By: /s/ Hank Bates
Hank Bates

Hank Bates (State Bar No. 167688)
David Slade (*pro hac vice*)
CARNEY BATES & PULLIAM, PLLC
519 W. 7th Street
Little Rock, AR 72201
Telephone: 501.312.8500
Facsimile: 501.312.8505

Michael W. Sobol (State Bar No. 194857)
Melissa Gardner (State Bar No. 289096)
Lief Cabraser Heimann & Bernstein, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
Telephone: 415.956.1000
Facsimile: 415.956.1008

¹ “Class Counsel” are the firms appointed as Class Counsel pursuant to the Court’s order preliminarily approving the proposed Settlement (the “Preliminary Approval Order”): Lief Cabraser Heimann & Bernstein LLP, Carney Bates & Pulliam, PLLC, and Gallo LLP. See ECF No. 89 at 4.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Ray E. Gallo (State Bar No. 158903)
Dominic Valerian (State Bar No. 240001)
GALLO LLP
1299 Fourth Street, Suite 505
San Rafael, CA 94901
Phone: 415.257.8800

Attorneys for Plaintiffs and the Settlement Class

MEMORANDUM AND POINTS OF AUTHORITIES**I. INTRODUCTION**

Plaintiffs Daniel Matera and Susan Rashkis (“Plaintiffs” or “Class Representatives”) and Class Counsel, pursuant to the settlement (the “Settlement”) reached between Plaintiffs and Defendant Google, Inc. (“Google” or “Defendant”) respectfully request the Court approve this application for attorneys’ fees and costs and service awards.

Class Counsel seek an award of attorney’s fees and costs of \$2,200,000, which represents a modest multiplier of 1.07 on counsel’s lodestar of \$2,062,439.50, and reimbursement of \$51,421.93 in expenses. The requested amount is fair, adequate and reasonable based upon the relief achieved in this action, the substantial effort required to obtain such relief, the complex legal issues and technical matters, the other opportunities Plaintiffs’ counsel declined to pursue because of this matter, and the contingent nature of the representation.

The reasonableness of the requested fee is also evidenced by the fact that it represents a multiplier at the bottom range of those routinely awarded in the Ninth Circuit. *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1052-54 (9th Cir. 2002) (finding that in the vast majority of attorneys’ fees awards in cases between 1996 and 2001, the multiplier ranged from 1.0–4.0). The settlement was the product of intensive discovery and document analysis, and negotiations across several months and two in-person mediation sessions on a well-developed record. The settlement achieves the goals of the litigation as articulated in the operative Amended Complaint by addressing each of the challenged practices therein, while protecting the interests of any Settlement Class members that may not be remedied through injunctive relief by expressly excluding monetary relief from the scope of the class release.

Class Counsel further requests awards of \$2,000—an amount well below what is deemed “presumptively reasonable” in this District—to each of the two Class Representatives in recognition of the risk they undertook in bringing these claims and their significant involvement in this litigation over the past two years.

1 **II. SUMMARY OF CLASS COUNSEL’S WORK IN THIS LITIGATION**

2 **A. Procedural History**

3 Plaintiff Daniel Matera, on behalf of himself and a putative class, filed this Action
4 September 4, 2015. (ECF No. 1.) The Complaint alleged that Google’s practices of intercepting,
5 extracting, reading, and using the email contents of individuals who do not have email accounts
6 with Google (“non-Gmail” users)—but who exchange email messages with Gmail
7 accountholders—violated the California Invasion of Privacy Act, Cal. Pen. Code §§ 630, *et seq.*
8 (“CIPA”) and the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510, *et seq.* (“ECPA”).

9 On October 29, 2015, Google concurrently filed a Motion to Dismiss the Complaint (ECF
10 No. 20) and a Motion to Stay (ECF No. 21) in light of the Supreme Court’s then-pending opinion
11 in *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540 (2016) (“*Spokeo*”). In response, on December 4, 2015,
12 Plaintiffs filed an Opposition to Google’s Motion to Dismiss (ECF No. 29) and an Opposition to
13 Google’s Motion to Stay (ECF No. 30). The Court granted Google’s Motion to Stay on
14 February 5, 2016. (ECF No. 36.) Following the issuance of the *Spokeo* opinion on May 16,
15 2016, the parties provided additional, supplemental briefing on the opinion’s impact, if any, on
16 Plaintiff Matera’s Article III standing. (ECF Nos. 41-42, 45-46.)

17 On August 12, 2016, the Court issued an Order Denying Google’s Motion to Dismiss as
18 to the Merits of Plaintiff’s Claims. (ECF No. 49.) Separately, on September 23, 2016, the Court
19 issued an Order Granting in Part and Denying in Part Defendant’s Motion to Dismiss Based on
20 Lack of Standing. (ECF No. 54.) The Court granted, with prejudice, Google’s motion to dismiss
21 Plaintiff Matera’s claim for an injunction as it relates to Google Apps for Education,² but denied
22 the remainder of Google’s motion.

23 Subsequently, on October 17, 2016, Plaintiff Matera filed an Amended Complaint (ECF

24 ² Plaintiffs initially challenged scanning practices associated with each of Google’s email
25 platforms: Gmail, Google Apps for Education, and Google Apps for Business. *See* Complaint
26 (ECF No. 1). The Court determined that “Google ceased intercepting and scanning, for
27 advertising purposes, the contents of emails processed via Google Apps for Education.” (ECF
28 No. 54 at 27.) In addition, although the Court denied Google’s motion as it relates to Google
Apps for Work, the Court noted that “the Court has learned that Google publicly represents that
Google no longer intercepts, scan and analyzes for advertising purposes emails transmitted via
Google Apps for Work.” (*Id.* at 32.) Consequently, as noted above, the Amended Complaint
eliminated allegations related to Google Apps for Education and Google Apps for Work.

1 No. 58), adding additional Named Plaintiff Susan Rashkis,³ eliminating allegations pertaining to
2 Google Apps, and refining and clarifying allegations relating to technical aspects of Google's
3 challenged practices. On October 21, 2016, Google filed its Answer to the Amended Complaint.
4 (ECF No. 59.)

5 **B. Discovery**

6 Plaintiffs propounded initial sets of Interrogatories and Requests for Production on
7 June 13, 2016, and Google propounded commensurate discovery on July 27, 2016. Throughout
8 the summer of 2016, Google produced more than 130,000 pages of documents, which Plaintiffs
9 carefully reviewed and analyzed. As a starting place, Google agreed to Plaintiffs' request to
10 produce the relevant deposition testimony, interrogatory answers, and documents produced in the
11 prior, related multi-district litigation, *In re Google Inc. Gmail Litig.*, No. 13-md-02430-LHK
12 (N.D. Cal.) ("*In re Gmail*"). Thereafter, Plaintiffs propounded further, targeted requests for
13 production and in response Google produced documents which provided a necessary and detailed
14 understanding of Google's email processing practices, the various servers and devices used to
15 process emails, points of time during the email delivery process that Google processes emails,
16 and the purposes for which Google processes emails. After the Court denied preliminary
17 approval of a prior proposed settlement, Plaintiffs required that Google supplement its
18 production, resulting in an additional 103,000 pages of documents, bringing Google's total
19 document production to 233,000 pages as of the end of August 2017. Plaintiffs served Requests
20 for Admission and a Second Set of Interrogatories on May 17, 2017, to which Google responded
21 on June 20, 2017, as well as a Third Set of Interrogatories on July 31, 2017, to which Google
22 responded on August 30, 2017.

23 During July and August 2017, Plaintiffs deposed two separate Google witnesses, in both
24 their individual and 30(b)(6) capacities. On July 13, 2017, Plaintiffs deposed Om Prakash Pitta, a
25 Google engineer, on multiple subjects including Google's message-scanning architecture, its
26 current scanning practices, its use of message content in spam/malware prevention, its use of

27 ³ Subsequent to the filing of this Action, Class Representative Matera moved from California to
28 New York. Accordingly, Plaintiffs added a California citizen Class Representative for the CIPA
Class.

1 message content in targeted advertising and user modeling, and proposed changes Google would
2 make to its systems in order to effectuate the terms of the Settlement. On August 3, 2017,
3 Plaintiffs deposed Syed Albiz, a Google engineer, on additional subjects related to Google's
4 messaging architecture and scanning processes for incoming and outgoing emails.

5 **C. Settlement Discussions**

6 The parties participated in mediations before highly-respected mediator Randall Wulff on
7 August 31, 2016 and November 4, 2016. Those mediations resulted in a proposed settlement,
8 executed on November 22, 2016, which was not granted preliminary approval. (ECF No. 71.)
9 Subsequently, with the benefit of guidance from the Court, the parties resumed discovery,
10 engaged in further negotiations regarding the remaining terms of the Settlement, and developed a
11 comprehensive revised set of settlement papers, including the Settlement Agreement, the
12 proposed Notice, and the proposed orders, which were each submitted to the Court as exhibits to
13 Plaintiffs' Motion for Preliminary Approval filed on July 21, 2017. (ECF No. 79.) The revised
14 Settlement was executed by all parties on July 21, 2017. Plaintiffs' Motion for Preliminary
15 Approval was filed on July 21, 2017. (ECF No. 79.)

16 **D. Preliminary Approval of the Settlement and Implementation of Class Notice**

17 Following the Court's August 31, 2017 Order Granting Preliminary Approval of Class
18 Action Settlement (ECF No. 89), the Parties conferred with KCC Class Action Services, LLC
19 ("KCC" or "Settlement Administrator") to implement the Notice Plan set forth in the Motion for
20 Preliminary Approval. *See* Declaration of Class Counsel ("Joint Decl.") at ¶ 16 (filed
21 concurrently herewith). Subsequently, the Parties worked with KCC to develop a website, and to
22 implement an online ad campaign ("Campaign"), running from September 21, 2017 to October
23 21, 2017. *Id.* Over the course of the Campaign, the Parties received multiple, periodic updates
24 on the number of ad impressions served and the overall progress of the Notice Program. *Id.* at ¶
25 16. At the Campaign's conclusion, 109,356,144 ad impressions were served, resulting in 596,585
26 total visitor hits, of which 88,742 were visits linking directly from the banner ads. *See* ECF No.
27 96-1 (Declaration of Lana Lucchesi on Behalf of Settlement Administrator Regarding Notice).
28

1 **III. THE REQUESTED ATTORNEYS' FEES AND COSTS ARE FAIR,**
 2 **REASONABLE AND APPROPRIATE UNDER THE CIRCUMSTANCES.**

3 In a class action settlement, a court may award reasonable attorneys' fees and costs as
 4 authorized by law or by the parties' agreement. *See* Fed. R. Civ. P. 23(h); *see also Hendricks v.*
 5 *Starkist Co.*, No. 13-cv-00729-HSG, 2016 U.S. Dist. LEXIS 134872, at *34 (N.D. Cal. Sept. 29,
 6 2016) (stating a court has the power to award reasonable attorneys' fees and costs where "a
 7 litigant proceeding in a representative capacity secures a 'substantial benefit' for a class of
 8 persons").⁴ "Under Ninth Circuit law, the district court has discretion in [class settlement] cases
 9 to choose either the percentage-of-the-fund or the lodestar method." *Vizcaino*, 290 F.3d at 1047.
 10 While courts often rely on the percentage method where a settlement creates a common fund,
 11 they rely on the lodestar method where—as here—the fees are being paid separately from the
 12 class relief and the relief is injunctive and thus not readily quantifiable. *Hanlon v. Chrysler*
 13 *Corp.*, 150 F.3d 1011, 1029 (9th Cir. 1998); *see also In re Toys "R" Us FACTA Litig.*,
 14 295 F.R.D. 438, 460 (C.D. Cal. 2014).

15 Under the lodestar method, a "lodestar figure is calculated by multiplying the number of
 16 hours the prevailing party reasonably expended on the litigation (as supported by adequate
 17 documentation) by a reasonable hourly rate for the region and for the experience of the lawyer."
 18 *In re Bluetooth Headset Liab. Litig.*, 654 F.3d 935, 941 (9th Cir. 2011) (citing *Staton v. Boeing*
 19 *Co.*, 327 F.3d 938, 965 (9th Cir. 2003)). The district court may adjust this lodestar figure
 20 "upward or downward by an appropriate positive or negative multiplier reflecting a host of
 21 reasonableness factors." *Id.* at 941–42 (citations and internal quotation marks omitted). These
 22 factors include "the quality of representation, the benefit obtained for the class, the complexity

23 _____
 24 ⁴ ECPA provides for an award of reasonable attorneys' fees and costs. *See* 18 U.S.C. §
 25 2520(b)(3) (providing appropriate relief includes "a reasonable attorney's fee and other litigation
 26 costs reasonably incurred."). In addition, in light of the CIPA claim, the requested attorneys' fees
 27 are authorized in this Action pursuant to California's "private attorney general" statute, which
 28 provides for an award of attorneys' fees "to a successful party against one or more opposing
 parties in any action which has resulted in the enforcement of an important right affecting the
 public interest if . . . a significant benefit, whether pecuniary or nonpecuniary, has been conferred
 on the general public or a large class of persons . . ." *See* Cal. Civ. Proc. Code § 1021.5;
Serrano v. Unruh, 652 P.2d 985, 991 (Cal. 1982) (explaining that such an award advances "the
 policy of encouraging private actions to vindicate important rights affecting the public interest").

1 and novelty of the issues presented, and the risk of nonpayment.” *Id.* at 942 (quoting *Hanlon*, 150
2 F.3d 1011 at 1029).

3 Here, Class Counsel seek \$2,200,000 in attorneys’ fees, reflecting a modest multiplier of
4 1.07 on their lodestar of \$2,062,439.50, along with reimbursement of \$51,421.93 in costs
5 reasonably incurred and \$2,000 in incentive awards for each of the two Class representatives. As
6 demonstrated below, the *In re Bluetooth* factors—the quality of representation, the benefit
7 obtained for the class, the complexity and novelty of the issues presented, and the risk of
8 nonpayment—all weigh in Class Counsel’s favor.

9 **A. Quality of Representation and Benefit Obtained for the Class**

10 As detailed in the concurrently filed Motion for Final Approval of Class Action
11 Settlement, the Settlement before the Court provides significant relief for the Class that is
12 specifically tailored to the harm alleged. As the Settlement reflects, Google has agreed to the
13 entry of a stipulated injunction—to be effective for not less than three years commencing one-
14 hundred eighty (180) days after the Court enters final judgment⁵—resulting in fundamental
15 changes to its messaging architectures and the elimination of all processing of email content for
16 “Advertising Purposes”⁶ prior to the point when the Gmail user can retrieve the email in his or her
17 Gmail mailbox (“pre-delivery processing”). Additionally, the Settlement enjoins Google from
18 using information it obtains from automated pre-delivery processing for Advertising Purposes,
19 even if the information is also used for a non-Advertising Purpose. Further, as the parties advised
20 the Court in their June 28, 2017 Case Management Statement (ECF No. 76) and as stated in
21 Plaintiffs’ Motion for Preliminary Approval (ECF No. 79), beyond eliminating pre-delivery
22 processing for Advertising Purposes, Google also has decided not create any new functionality to

23 _____
24 ⁵ In the Settlement Agreement, Google affirmatively represents “that it has no present intention of
25 eliminating the technical changes [required by the Settlement] after the expiration of the term of
26 the injunction. Google believes, however, that the architecture and technical requirements for
providing email services on a large scale evolve and change dynamically and that a longer
commitment may hinder Google’s ability to improve and change its architecture and technology
to meet changing demands.” Settlement Agreement, ¶ 34(d).

27 ⁶ As stated in Plaintiffs’ Motion for Preliminary Approval, “Advertising Purposes” means for the
28 purpose of serving advertisements, including advertisements served in Gmail and in other Google
products and services. (ECF No. 79 at 1.) “Advertising Purposes” includes the creation of user
models for the purpose of serving advertising. (*Id.*)

1 process (for Advertising Purposes) the contents of emails *after* they are stored in Gmail user's
2 inboxes for Advertising Purposes (it currently does not do such processing post-delivery).

3 Although this business practice commitment is independent of the Settlement, it is consistent with
4 its spirit and its terms and enhances the injunctive relief obtained here on behalf of the Settlement
5 Class. Finally, because the Settlement only contemplates injunctive relief, no Class Member
6 (with the exception of the Class Representatives) releases his or her rights to seek damages from
7 Google.

8 These results were achieved through years of zealous litigation. Class Counsel conducted
9 extensive pre-filing research into the law and the facts involved in this case, reviewed and
10 analyzed more than 233,000 pages of documents produced by Google, analyzed deposition
11 testimony from key Google employees from other litigation, and took the depositions of a key
12 Google employee and a corporate designee to ensure that the Settlement's terms fully addressed
13 Google's current practices. Class Counsel also successfully opposed Google's motion to dismiss,
14 both on the merits and as to standing under *Spokeo*, and participated in months-long negotiations
15 that included two separate mediation sessions before respected and skilled mediator Randall
16 Wulff (which process also included the exchange of mediation briefs). Throughout this Action,
17 Class Counsel endeavored to prosecute their case in as efficient and effective a manner as
18 possible, consistently and routinely coordinating tasks among the three firms to avoid duplication
19 of efforts or waste of time or costs. Joint Decl. at ¶ 6.

20 In light of the results achieved and Class Counsel's extensive involvement and zealous
21 prosecution of all aspects of this litigation, the quality of representation and benefit obtained for
22 the class factors of *In re Bluetooth* weigh in Class Counsel's favor.

23 **B. Complexity and Novelty of the Issues Presented**

24 This Action is one of a relatively small, but critically important, body of cases articulating
25 the contours of the privacy rights in one's email under ECPA and CIPA. As providers of
26 electronic communications services increasingly look to monetize their users' data in exchange
27 for "free" services, it is critical to litigate—and thereby meaningfully define—users' privacy
28 rights under these anti-wiretapping laws. In terms of both complexity and novelty, this Action

1 and analogous litigations require applying the law to highly-sophisticated, highly-technical fact
 2 patterns, addressing questions such as, *inter alia*, whether discrete acts of processing occur within
 3 the “ordinary course of business”⁷ or whether the provider’s message scanning occurs “in transit”
 4 in the milliseconds taken to move an email from sender to recipient.⁸

5 Beyond the technical novelty and sophistication of the issues contemplated in this Action,
 6 this Action also required the litigation of standing under statutorily-codified privacy rights
 7 following the Supreme Court’s opinion in *Spokeo*. *See, e.g.*, (ECF Nos. 41, 42, 45, 46). The
 8 Court’s subsequent order on this discrete issue was one of the first opinions—if not the very first
 9 opinion—to interpret *Spokeo*’s impact on Article III’s “injury in fact” requirement as it pertains to
 10 ECPA and CIPA. (ECF No. 54.) The novelty of this legal issue, and the value of the Court’s
 11 opinion, readily satisfy this *In re Bluetooth* factor.

12 Accordingly, the complexity and novelty of issues *In re Bluetooth* factor weighs in Class
 13 Counsel’s favor.

14 C. Risk of Nonpayment

15 In taking this matter on a contingent basis, Class Counsel assumed considerable risk.
 16 While Plaintiffs firmly believe in the strength of their claims, and have amassed substantial

17 ⁷ Compare *In re Google Inc. Gmail Litig.* (“*Gmail I*”), No. 13-md-02430-LHK, 2013 WL
 18 5423918, at *11 (N.D. Cal. Sep. 26, 2013) (analyzing scope of “ordinary course of business”
 19 defense and identifying a need for a “nexus between the need to engage in the alleged
 20 interception and the subscriber’s ultimate business, that is, the ability to provide the underlying
 21 service or good.”); *Matera v. Google Inc.* (“*Gmail II*”), No. 15-cv-04062-LHK, 2016 U.S. Dist.
 22 LEXIS 107918, at *25-26 (N.D. Cal. Aug. 12, 2016) (same); *Campbell v. Facebook Inc.*, 77 F.
 Supp. 3d 836, 844 (N.D. Cal. 2014) (adopting the “nexus” test articulated in *Gmail I*) with *In re*
Google, Inc. Privacy Policy Litig., No. 12-cv-01382-PSG, 2013 U.S. Dist. LEXIS 171124, at
 *35-36 (N.D. Cal. Dec. 3, 2013) (rejecting the “nexus” test and adopting a broad definition of
 “ordinary course of business” defense).

23 ⁸ Compare *e.g.*, *Backhaut v. Apple Inc.*, 148 F. Supp. 3d 844, 849-50 (N.D. Cal. 2015) (granting
 24 defendant’s motion for summary judgment as to Plaintiffs’ ECPA claims as, *inter alia*, “[t]here
 25 can be no interception for purposes of the Wiretap Act if the acquisition of the message occurs
 26 while the message is in storage, even if it is in temporary storage incidental to the transmission of
 27 the communication”) (citing *Konop v. Hawaiian Airlines, Inc.*, 302 F.3d 868, n.6 (9th Cir. 2002))
 28 with *In re Carrier IQ, Inc., Consumer Privacy Litig.*, 78 F. Supp. 3d 1051, 1081-82 (N.D. Cal.
 2015) (distinguishing *Konop* and holding that “even if . . . the communications at issue in this
 case were in transitory storage on Plaintiffs’ mobile devices (such as the devices’ random access
 memory, cache memory, etc.) when the [the purported interception occurred], it is not at all
 apparent why there was no “captur[ing] or redirect[ing]” of these communications
 contemporaneous with their transmission” (quoting *Noel v. Hall*, 568 F.3d 743, 749 (9th Cir.
 2009))).

1 evidence in support of those claims through the discovery process, there is at least some risk that,
 2 absent a settlement, Google might prevail in motion practice, at trial, or on appeal, resulting in no
 3 relief for Class Members and no fees or cost recovery for Class Counsel. As discussed in the
 4 preceding section, there are myriad novel and highly-complex legal issues at play in claims
 5 brought under ECPA and CIPA,⁹ any number of which serve as a complete defense for Google.
 6 These issues, and other difficult issues implicated by these claims, required Class Counsel to
 7 research and devise litigation strategies to move the case towards trial, without the certainty of
 8 ever receiving compensation. Joint Decl. at ¶¶ 17-28. Accordingly, it is possible that, absent
 9 settlement, Class Counsel would not have been paid for their efforts in this litigation. Despite
 10 facing such risks, Class Counsel effectively prosecuted this case, foregoing other work in the
 11 process. Thus, the time devoted by Class Counsel to this Action on a purely contingent basis
 12 supports the requested fee.

13 **D. Application of the Lodestar Method Demonstrates the Reasonableness of the**
 14 **Requested Fee.**

15 The Ninth Circuit recently reconfirmed that “[t]here is a strong presumption that the
 16 lodestar figure represents a reasonable fee.” *Rodriguez v. W. Publ’g Corp.*, 602 F. App’x 385,
 17 387 (9th Cir. 2015). “Only in rare or exceptional cases will an attorney’s reasonable expenditure
 18 of time on a case not be commensurate with the fees to which he is entitled.” *Cunningham v. Cty.*
 19 *of Los Angeles*, 879 F.2d 481, 488 (9th Cir. 1988) (emphasis omitted); Lodestar is calculated by
 20 multiplying the number of hours reasonably expended on the litigation by a reasonable hourly
 21 rate. *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983); *Paul, Johnson, Alston & Hunt v. Gaulty*,
 22 886 F.2d 268, 272 (9th Cir. 1989). As this figure approximates the market value of the legal
 23 services, it “presumptively provides an accurate measure of reasonable attorney’s fees.” *In re*
 24 *Toys “R” Us FACTA Litig.*, 295 F.R.D. at 460 (quoting *Harris v. Marhoefer*, 24 F.3d 16, 18 (9th
 25 Cir. 1994)); *Guam Soc’y of Obstetricians & Gynecologists v. Ada*, 100 F.3d 691, 696 (9th Cir.
 26 1996).

27 The Northern District of California’s Procedural Guidance for Class Action Settlements

28 ⁹ See fn. 6 and 7, *supra*.

1 instructs that presentation of lodestar information requires “declarations of class counsel as to
 2 hours spent on various categories of activities related to the action, together with hourly billing
 3 rate information, provided that the declarations are adequately detailed.”¹⁰ Accordingly, the
 4 section below and accompanying Declaration of Class Counsel set forth the hours worked and the
 5 billing rates used to calculate Class Counsel’s lodestar in this Action, including both a
 6 chronological summary of the work performed (Joint Decl. at ¶¶ 7-16) and a tabulation of the
 7 hours spent on various categories of activities related to the Action (*id.* at ¶ 25, Ex. 1). *See*
 8 *Winterrowd v. Am. Gen. Annuity Ins. Co.*, 556 F.3d 815, 827 (9th Cir. 2009) (“Testimony of an
 9 attorney as to the number of hours worked on a particular case is sufficient evidence to support an
 10 award of attorney fees, even in the absence of detailed time records.”) (internal quotations
 11 omitted). In total, Class Counsel and their professional staffs spent 4,046.50 hours working on
 12 this case for a lodestar of \$2,062,439.50. Joint Decl. at ¶ 25, Ex. 1.

13 **1. The Time Class Counsel Devoted to this Case Was Appropriate.**

14 Class Counsel’s efforts were necessary to achieving the Settlement. As detailed in the
 15 Declaration of Class Counsel and the preceding sections, Class Counsel expended 4,046.50 hours
 16 performing the following tasks, among others: (1) engaged in investigation and factual research,
 17 including extensive pre-suit investigation, (2) prepared and filed multiple complaints,
 18 (3) successfully opposed Google’s motion to dismiss (including supplemental *Spokeo* briefing),
 19 (4) undertook extensive discovery, document review, technical review and depositions,
 20 (5) prepared for and participated in two settlement mediations before mediators, and
 21 (6) negotiated the terms of the Settlement and the documents related thereto. *See* Joint Decl. at
 22 ¶¶ 7-16, 25, Ex. 1.

23 **2. Class Counsel’s Hourly Rates Are Reasonable.**

24 The accompanying Declaration of Class Counsel sets forth the billing rates used to
 25 calculate their lodestars and summarize the experience of the attorney timekeepers who worked
 26 on this litigation. Joint Decl. at ¶¶ 17-28, Ex. 1. In assessing the reasonableness of an attorney’s
 27 hourly rate, courts consider whether the claimed rate is “in line with those prevailing in the

28 ¹⁰ <http://www.cand.uscourts.gov/ClassActionSettlementGuidance> (last visited Oct. 30, 2017).

1 community for similar services by lawyers of reasonably comparable skill, experience and
 2 reputation.” *Blum v. Stenson*, 465 U.S. 886, 895-96 n.11 (1984). Courts apply each biller’s
 3 current rates for all hours of work performed, regardless of when the work was performed, as a
 4 means of compensating for the delay in payment.

5 Class Counsel here are experienced, highly regarded members of the bar. They have
 6 brought to this case extensive experience in data privacy litigation, consumer class actions and
 7 complex litigation, including specific experience litigating and settling cases regarding data
 8 privacy. Joint Decl. at ¶¶ 33-56; *see also* ECF No. 79-1 at 7-16. Class Counsel’s customary
 9 rates, which were used in calculating the lodestar here, are in line with prevailing rates in this
 10 District, have been approved by courts in this District and other courts in comparable markets,
 11 and are paid by hourly-paying clients. Joint Decl. at ¶¶ 20-24; *see also Perkins v. LinkedIn Corp.*,
 12 No. 13-cv-04303-LHK, 2016 WL 613255, at *15 (N.D. Cal. Feb. 16, 2016) (approving Lieff
 13 Cabraser rates and granting motion for attorneys’ fees). *Campbell v. Facebook Inc.*, No. 13-cv-
 14 05996-PJH, 2017 U.S. Dist. LEXIS 132624, at *22-23 (N.D. Cal. Aug. 18, 2017) (approving
 15 rates of Lieff Cabraser and Carney Bates and granting motion for attorneys’ fees in ECPA/CIPA
 16 privacy litigation); *Bottoni v. Sallie Mae, Inc.*, No. 10-cv-03602-LB, ECF No. 163 (N.D. Cal.
 17 Nov. 21, 2013) (approving Gallo’s rates and motion for fees); *Huber v. San Diego Ballpark*
 18 *Funding, LLC*, San Diego Superior Court Case No. 37-2013-00066456-CU-CO-CTL (2016)
 19 (same).

20 **3. The Requested Fee Represents a Multiplier Well Within the Range of**
 21 **Reasonableness in the Ninth Circuit and Within This District.**

22 For the purpose of awarding class counsel a reasonable fee, the lodestar may be adjusted
 23 in light of the (1) results obtained, (2) novelty and complexity of the questions presented, (3) skill
 24 exhibited by counsel, (4) preclusion of other legal work because of counsel’s acceptance and
 25 prosecution of the case, and (5) risk of nonpayment. *Hanlon*, 150 F.3d at 1029; *Kerr v. Screen*
 26 *Extras Guild, Inc.*, 526 F.2d 67, 70 (9th Cir. 1975); *Ketchum v. Moses*, 17 P.3d 735, 741 (Cal.
 27 2001). The Ninth Circuit recently held that a district court “*must* apply a risk multiplier to the
 28 lodestar ‘when (1) attorneys take a case with the expectation they will receive a risk enhancement

1 if they prevail, (2) their hourly rate does not reflect that risk, and (3) there is evidence the case
2 was risky.’ Failure to apply a risk multiplier in cases that meet these criteria is an abuse of
3 discretion.” *Stetson v. Grissom*, 821 F.3d 1157, 1166 (9th Cir. 2016) (emphasis in original); *see*
4 *also Stanger v. China Elec. Motor, Inc.*, 812 F.3d 734 (9th Cir. 2016).

5 Each of these three factors is present here—Class Counsel anticipated a risk multiplier
6 upon commencement of this action; the hourly rates utilized in the lodestar calculation include no
7 risk multiplier but are simply regional market rates; and this case posed heightened risks due to
8 the application of novel legal issues in a highly technical context. Joint Decl. at ¶ 27. The
9 contingent nature of the fee, alone, would justify a positive multiplier in this case. *See In re*
10 *Wash. Pub. Power Supply Sys. Sec. Litig.*, 19 F.3d 1291, 1299 (9th Cir. 1994) (“Contingent fees
11 that may far exceed the market value of the services if rendered on a non-contingent basis are
12 accepted in the legal profession as a legitimate way of assuring competent representation for
13 plaintiffs who could not afford to pay on an hourly basis regardless whether they win or lose.”);
14 *Vizcaino*, 290 F.3d at 1051 (courts reward successful class counsel in contingency case “by
15 paying them a premium over their normal hourly rates”). The fact that Class Counsel assumed
16 representation here on a purely contingent basis strongly supports the reasonableness of the
17 amount requested. That is particularly so given the complex and novel nature of the issues
18 involved in this case and the corresponding risks that Class Counsel might receive nothing for
19 their efforts.

20 In *Vizcaino*, the Ninth Circuit conducted a survey of attorneys’ fees awards in cases
21 ranging from \$50 to 200 million between 1996 and 2001. *See* 290 F.3d at 1052–54. In the vast
22 majority of cases (20 of 24, or 83%), the multiplier ranged from 1.0–4.0. *Id.* Here, Class Counsel
23 seek a 1.07 multiplier of their \$2,062,439.50 lodestar, for a total of \$2,200,000 in fees. This
24 multiplier of 1.07, in the bottom of *Vizcaino*’s continuum, is well within the range of
25 reasonableness of multipliers that must be awarded, under Ninth Circuit law, in the present
26 circumstances.

1 **E. Class Counsel’s Litigation Expenses Were Reasonably Incurred in**
 2 **Furtherance of the Prosecution of the Claims, and Should be Awarded.**

3 The Settlement terms and well-settled precedent support Class Counsel’s entitlement to
 4 recovery of out-of-pocket costs reasonably incurred in investigating, prosecuting, and settling
 5 these claims. *See, e.g., In re Media Vision Tech. Sec. Litig.*, 913 F. Supp. 1362, 1366 (N.D. Cal.
 6 1996). Class Counsel incurred \$51,421.93 in unreimbursed out-of-pocket costs over the course of
 7 this litigation, which costs were reasonably incurred and necessary to the prosecution of this
 8 action. Joint Decl. at ¶¶ 29-30, Ex. 2. Significant costs included, *inter alia*, travel for depositions
 9 and hearings, deposition transcripts, mediation fees, legal research, postage, and other customary
 10 litigation expenses. *Id.* Moreover, as detailed in the Declaration of Class Counsel, these costs
 11 were reasonably incurred in furtherance of the investigation, prosecution, and Settlement of the
 12 Action and should be reimbursed. *Id.*; *see In re Toys “R” Us FACTA Litig.*, 295 F.R.D. at 469.

13 **F. The Requested Service Awards Are Reasonable and Should Be Approved.**

14 As the Ninth Circuit has recognized, “named plaintiffs, as opposed to designated class
 15 members who are not named plaintiffs, are eligible for reasonable incentive payments.” *Staton*,
 16 327 F.3d at 977; *Rodriguez v. W. Publ’g Corp.*, 563 F.3d 948, 958 (9th Cir. 2009) (service awards
 17 “are fairly typical in class action cases”). Such awards are “intended to compensate class
 18 representatives for work done on behalf of the class [and] make up for financial or reputational
 19 risk undertaken in bringing the action.” *Id.*; *see also Van Vranken v. Atl. Richfield Co.*, 901 F.
 20 Supp. 294, 299-300 (N.D. Cal. 1995).

21 Class Counsel seeks service awards of \$2,000 for each Class Representative. In this
 22 District, service awards in the amount of \$5,000 per class representative (over twice the amount
 23 sought here) are “presumptively reasonable.” *In re LinkedIn User Privacy Litig.*, 309 F.R.D. 573,
 24 592 (N.D. Cal. 2015); *Dyer v. Wells Fargo Bank, N.A.*, 303 F.R.D. 326, 335 (N.D. Cal. 2014);
 25 *Faigman v. AT & T Mobility LLC*, No. 06-cv-04622-MHP, 2011 WL 672648, at *5 (N.D. Cal.
 26 Feb. 16, 2011).

27 The requested service awards are well justified under the circumstances. The Class
 28 Representatives actively participated in this Action, investing substantial time over the past two

1 years in collaborating and communicating with Class Counsel, monitoring the litigation and
2 reviewing case filings and other pertinent documents. Joint Decl. at ¶¶ 31-32, and Exhibits 3 and
3 4 attached thereto. Further, in advocating for (and successfully vindicating) the privacy rights of
4 the Class, the Class Representatives were willing to risk a level of public exposure that is
5 attendant with litigation. Thus, the requested service awards of \$2,000 to each Class
6 Representative are reasonable and justified.

7 **IV. CONCLUSION**

8 For the foregoing reasons, Plaintiffs respectfully request that the Court: (a) award Class
9 Counsel attorneys’ fees of \$2,200,000 and expenses of \$51,421.93, with such amount to be paid
10 by Google as forth in the Settlement; and (b) grant service awards in the amounts of \$2,000 for
11 each of the Class Representatives.

12
13 Dated: October 30, 2017

By: /s/ Hank Bates
Hank Bates

Hank Bates (State Bar No. 167688)
David Slade (*pro hac vice*)
CARNEY BATES & PULLIAM, PLLC
519 W. 7th Street
Little Rock, AR 72201
Telephone: 501.312.8500
Facsimile: 501.312.8505

Michael W. Sobol (State Bar No. 194857)
Melissa Gardner (State Bar No. 289096)
LIEFF CABRASER HEIMANN & BERNSTEIN, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
Telephone: 415.956.1000
Facsimile: 415.956.1008

Ray E. Gallo (State Bar No. 158903)
Dominic Valerian (State Bar No. 240001)
GALLO LLP
1299 Fourth Street, Suite 505
San Rafael, CA 94901
Phone: 415.257.8800

Attorneys for Plaintiffs and the Settlement Class

1 Michael W. Sobol (194857)
msobol@lchb.com
2 LIEFF CABRASER HEIMANN & BERNSTEIN LLP
275 Battery Street, 29th Floor
3 San Francisco, CA 94111
Telephone: (415) 956-1000

4 Hank Bates (167688)
5 hbates@cbplaw.com
CARNEY BATES & PULLIAM, PLLC
6 519 West 7th Street
Little Rock, AR 72201
7 Telephone: (501) 312-8500
Facsimile: (501) 312-8505

8 Ray E. Gallo (158903)
9 rgallo@gallo-law.com
GALLO LLP
10 1299 Fourth Street, Suite 505
San Rafael, CA 94901
11 Telephone: (415) 257-8800

12 *Attorneys for Plaintiffs and the Settlement Class*

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

16 DANIEL MATERA and SUSAN
17 RASHKIS, as individuals, and on behalf of
other persons similarly situated,

18 Plaintiffs,

19 v.

20 GOOGLE LLC,

21 Defendant.

Case No. 5:15-cv-04062 LHK

**JOINT DECLARATION OF MICHAEL
SOBOL, HANK BATES, AND RAY
GALLO IN SUPPORT OF PLAINTIFFS'
MOTION FOR AN AWARD OF
ATTORNEYS' FEES AND COSTS AND
SERVICE AWARDS**

Date: February 8, 2018
Time: 1:30 p.m.
Judge: Hon. Lucy H. Koh
Courtroom: 8, Fourth Floor

23 We, Michael Sobol, Hank Bates, and Ray Gallo declare as follows:

24 1. Michael Sobol is a member in good standing of the California State Bar and a
25 partner in the law firm Loeff, Cabraser, Heimann & Bernstein, LLP ("LCHB"), counsel for
26 Plaintiffs and the Class in this proceeding. He is the LCHB attorney principally responsible for
27 overseeing LCHB's work in this proceeding.
28

1 2. Hank Bates is a member in good standing of the California and Arkansas State
2 Bars and a partner in the law firm Carney Bates & Pulliam PLLC (“CBP”), counsel for Plaintiffs
3 and the Class in this proceeding. He is the CBP attorney principally responsible for overseeing
4 CBP’s work in this proceeding.

5 3. Ray Gallo is a member in good standing of the California State Bar and a partner
6 in the law firm Gallo, LLP (“GALLO”), counsel for Plaintiffs and the Class in this proceeding.
7 He is the GALLO attorney principally responsible for overseeing GALLO’s work in this
8 proceeding.

9 4. We submit this declaration jointly in support of Plaintiffs’ Motion for Attorneys’
10 Fees and Expenses and for Service Awards for Plaintiffs.

11 5. Except as otherwise noted, we have personal knowledge of the facts set forth
12 herein, and if called to testify thereto, could and would do so competently, including with respect
13 to the information provided regarding our respective law firms.

14 **SUMMARY OF CLASS COUNSEL’S WORK IN THIS CASE**

15 6. As summarized below, investigating, litigating, and negotiating a resolution of this
16 matter required substantial commitments of time and resources from our firms. Throughout the
17 litigation, all reasonable efforts were made to avoid duplication of efforts and to ensure the most
18 efficient management and prosecution of this matter reasonably possible.

19 7. A chronological summary of Class Counsel’s work is provided below.

20 **I. Case Investigation and Factual Research Prior to Filing (June 2015 to September**
21 **2015)**

22 8. Class Counsel began work on this action at the beginning of June, 2015, four
23 months prior to filing. That pre-filing investigation included extensive review of Google’s
24 message scanning functionality, legal issues raised in the prior *Gmail* litigation, consultation with
25 multiple experts, review of Google’s terms of service and privacy policies during the relevant
26 time period and investigation of publicly available information related to the alleged conduct.

1 **II. Filing of the Action and Successful Opposition to Google’s Motion to Dismiss**
2 **(September 2015 to August 2016)**

3 9. Plaintiff Daniel Matera, on behalf of himself and a putative class, filed this Action
4 September 4, 2015. (ECF No. 1). The Complaint alleged that Google’s practices of intercepting,
5 extracting, reading, and using the email contents of individuals who do not have email accounts
6 with Google (“non-Gmail” users)—but who exchange email messages with Gmail
7 accountholders—violated the California Invasion of Privacy Act, Cal. Pen. Code §§ 630, *et seq.*
8 (“CIPA”) and the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510, *et seq.* (“ECPA”).

9 10. On October 29, 2015, Google concurrently filed a Motion to Dismiss the
10 Complaint (ECF No. 20) and a Motion to Stay (ECF No. 21) in light of the Supreme Court’s
11 then-pending opinion in *Spokeo v. Robbins*, 136 S. Ct. 1540 (2016) (“*Spokeo*”). In response, on
12 December 4, 2015, Plaintiffs filed an Opposition to Google’s Motion to Dismiss (ECF No. 29)
13 and an Opposition to Google’s Motion to Stay (ECF No. 30). The Court granted Google’s
14 Motion to Stay on February 5, 2016 (ECF No. 36). Following the issuance of the *Spokeo* opinion
15 on May 16, 2016, the parties provided additional, supplemental briefing on the opinion’s impact,
16 if any, on Plaintiff Matera’s Article III standing (ECF Nos. 41-42, 45-46).

17 11. On August 12, 2016, the Court issued an Order Denying Google’s Motion to
18 Dismiss as to the Merits of Plaintiff’s Claims (ECF No. 49). Separately, on September 23, 2016,
19 the Court issued an Order Granting in Part and Denying in Part Defendant’s Motion to Dismiss
20 Based on Lack of Standing (ECF No. 54), which granted, with prejudice, Google’s motion to
21 dismiss Plaintiff Matera’s claim for an injunction as it relates to Google Apps for Education,¹ but
22 which denied the remainder of Google’s motion.

23
24 ¹ Plaintiffs initially challenged scanning practices associated with each of Google’s email
25 platforms: Gmail, Google Apps for Education, and Google Apps for Business. *See*, Complaint
26 (ECF No. 1). The Court determined that “Google ceased intercepting and scanning, for
27 advertising purposes, the contents of emails processed via Google Apps for Education” (ECF No.
28 54 at 27). In addition, although the Court denied Google’s motion as it relates to Google Apps
for Work, the Court noted that “the Court has learned that Google publicly represents that Google
no longer intercepts, scan and analyzes for advertising purposes emails transmitted via Google
Apps for Work.” (*Id.* at 32.) Consequently, as noted above, the Amended Complaint eliminated
allegations related to Google Apps for Education and Google Apps for Work.

1 12. Subsequently, on October 17, 2016, Plaintiff Matera filed an Amended Complaint
2 (ECF No. 58), adding additional Named Plaintiff Susan Rashkis,² eliminating allegations
3 pertaining to Google Apps, and refining and clarifying allegations relating to technical aspects of
4 Google's challenged practices. On October 21, 2016, Google filed its Answer to the Amended
5 Complaint (ECF No. 59).

6 **III. Discovery (June 2016 to August 2017)**

7 13. Plaintiffs propounded initial sets of Interrogatories and Requests for Production on
8 June 13, 2016, and Google propounded commensurate discovery on July 27, 2016. Throughout
9 the summer of 2016, Google produced more than 130,000 pages of documents, which Plaintiffs
10 carefully reviewed and analyzed. As a starting place, Google agreed to Plaintiffs' request to
11 produce the relevant deposition testimony, interrogatory answers, and documents produced in the
12 prior, related multi-district litigation, *In re Google Inc. Gmail Litig.*, No. 13-MD-02430-LHK
13 (N.D. Cal.) ("*In re Gmail*"). Thereafter, Plaintiffs propounded further, targeted requests for
14 production and in response Google produced documents which provided a necessary and detailed
15 understanding of Google's email processing practices, the various servers and devices used to
16 process emails, points of time during the email delivery process that Google processes emails,
17 and the purposes for which Google processes emails. After the Court denied preliminary
18 approval of a prior proposed settlement, Plaintiffs required that Google supplement its production,
19 resulting in an additional 103,000 pages of documents, bringing Google's total document
20 production to 233,000 pages as of the end of August 2017. Plaintiffs served Requests for
21 Admission and a Second Set of Interrogatories on May 17, 2017, to which Google responded on
22 June 20, 2017, as well as a Third Set of Interrogatories on July 31, 2017, to which Google
23 responded on August 30, 2017.

24 14. During July and August 2017, Plaintiffs deposed two separate Google witnesses,
25 in both their individual and 30(b)(6) capacities. On July 13, 2017 Plaintiffs deposed Om Prakash
26 Pitta, a Google engineer, on multiple subjects including Google's message-scanning architecture,

27 ² Subsequent to the filing of this Action, Class Representative Matera moved from California to
28 New York. Accordingly, Plaintiffs added a California citizen Class Representative for the CIPA
Class.

1 its current scanning practices, its use of message content in spam/malware prevention, its use of
2 message content in targeted advertising and user modeling, and proposed changes Google would
3 make to its systems in order to effectuate the terms of the Settlement. On August 3, 2017,
4 Plaintiffs deposed Syed Albiz, a Google engineer, on additional subjects related to Google's
5 messaging architecture and scanning processes for incoming and outgoing emails.

6 **IV. Settlement Discussions, Resuming Litigation, and Renewed Settlement Discussions**
7 **(August 2016 to July 2017)**

8 15. The parties participated in mediations before highly-respected mediator Randall
9 Wulff on August 31, 2016 and November 4, 2016. Those mediations resulted in a proposed
10 settlement, executed on November 22, 2016, which was not granted preliminary approval (ECF
11 No. 71). Subsequently, with the benefit of guidance from the Court, the parties resumed
12 discovery, engaged in further negotiations regarding the remaining terms of the Settlement, and
13 developed a comprehensive revised set of settlement papers, including the Settlement Agreement,
14 the proposed Notice, and the proposed orders, which were each submitted to the Court as exhibits
15 to Plaintiffs' Motion for Preliminary Approval filed on July 21, 2017 (ECF No. 79.) The revised
16 Settlement was executed by all parties on July 21, 2017. Plaintiffs' Motion for Preliminary
17 Approval was filed on July 21, 2017 (ECF No. 79).

18 **V. Preliminary Approval of the Settlement, Implementation of Class Notice, and**
19 **Continued Work in This Action (February 2017 to Present)**

20 16. Following the Court's August 31, 2017 Order Granting Preliminary Approval of
21 Class Action Settlement (ECF No. 89), the Parties conferred with KCC Class Action Services,
22 LLC ("KCC" or "Settlement Administrator") to implement the Notice Plan set forth in the
23 Motion for Preliminary Approval. Subsequently, the Parties worked with KCC to develop a
24 website, and to implement an online ad campaign ("Campaign"), running from September 21,
25 2017 to October 21, 2017. Over the course of the Campaign, the Parties received multiple,
26 periodic updates on the number of ad impressions served and the overall progress of the Notice
27 Program. At the Campaign's conclusion, as stated in the declaration of Lana Lucchesi filed with
28 Plaintiffs' Motion for Final Approval, 109,356,144 ad impressions were served, resulting in
596,585 total visitor hits, of which 88,742 were visits linking directly from the banner ads.

SUMMARY OF TIME AND COSTS INCURRED

I. Time Incurred By Plaintiffs' Counsel

17. We have spent considerable time working on this case that could have been spent on other fee-generating matters. The time that we have spent on this case has been completely contingent on the outcome. We have not been paid for any of our time spent on this case, nor have we been reimbursed for any of the expenses we incurred in this case.

18. In total, from the inception of this litigation in June 2015 through October 27, 2017, the attorneys and staff at our firms have billed approximately 4,046.50 hours on this matter, for a total combined lodestar (for the three Class Counsel firms combined) of \$2,062,439.50. Attached hereto as **Exhibit 1** are summaries listing, for each of our firms, each lawyer, paralegal and other professional for which compensation is sought, the hours each individual has expended to date (both in aggregate and by individual tasks), their hourly billing rates, and their total lodestar.

19. The amounts included in Exhibit 1 are derived from our respective time records, which are prepared contemporaneously, describe tasks performed in 0.1 hour increments, and are maintained in the ordinary course of business. Such amounts do not include many hours of time that we have written off in the exercise of billing discretion upon review of these time records.

20. Our respective firms' billing rates, which were used for purposes of calculating the lodestar here, have been approved by courts in California and throughout the country, are the usual and customary rates that our respective firms charge for services in other actions, and are set in accordance with prevailing market rates. The lodestar calculation provided here is based on our respective firms' 2017 billing rates. For any personnel who are no longer employed by the firm in question, their billing rate at the time they left the respective firm is used.

21. A sample of California federal courts that have approved LCHB's standard billing rates and reimbursement of costs as reasonable are:

a. *Perkins v. LinkedIn Corp.*, No. 13-cv-04303-LHK, 2016 WL 613255, at *15 (N.D. Cal. Feb. 16, 2016) (approving billing rates and granting motion for attorneys' fees);

1 b. *In re High-Tech Emp. Antitrust Litig.*, No. 11-cv-02509-LHK, ECF. No.
2 1112 (N.D. Cal. Sept. 2, 2015) (approving billing rates);

3 c. *Campbell v. Facebook, Inc.*, No. 13-cv-05996-PJH, ECF. No. 253 (N.D.
4 Cal. Aug. 18, 2017) (approving billing rates and granting requested attorneys' fees);

5 d. *In re: Toyota Motor Corp. Unintended Acceleration Mktg., Sales Practices,*
6 *and Prods. Liability Litig.*, No. 10-ml-02151-JVS (FMOx), ECF. No. 3933 (C.D. Cal. June 24,
7 2013) (awarding requested fees and finding that “[c]lass counsel’s experience, reputation, and
8 skill, as well as the complexity of the case” justified their rates that ranged up to \$950);

9 e. *In re TracFone Unlimited Serv. Plan Litig.*, 112 F. Supp. 3d 993, 1009
10 (N.D. Cal. 2015) (awarding requested attorneys' fees);

11 f. *Steinfeld v. Discover Fin. Servs.*, No. 12-cv-01118-JSW, ECF No. (N.D.
12 Cal. Mar. 31, 2014) (“Class counsel have submitted declarations that show the hourly rates that
13 they have requested are reasonable and have provided the Court with information about other
14 cases that approved their rates.”);

15 g. *Nwabueze v. AT&T Inc.*, No. C 09-01529 SI, 2014 U.S. Dist. LEXIS
16 11766, at *8 (N.D. Cal. Jan. 29, 2014) (“[T]he Court also finds that the rates requested are within
17 the range of reasonable hourly rates for contingency litigation approved in this District.”);

18 h. *Ross v. Trex Co., Inc.*, No. 09-cv-00670-JSW (N.D. Cal. Dec. 16, 2013)
19 (awarding requested attorneys' fees);

20 i. *In re AXA Rosenberg Investor Litig.*, No. 11-00536-JSW (N.D. Cal. Apr. 2,
21 2012) (“The Court has also reviewed Lead Counsel’s hourly rates and concludes that these rates
22 are appropriate for attorneys in this locality of Lead Counsel’s skills and experience.”);

23 j. *Vedachalam v. Tata Consultancy Servs., Ltd.*, No. C-06-0963-CW (N.D.
24 Cal. July 18, 2013) (“Class Counsel’s hourly rates are reasonable in light of their experience (as
25 reflected in their declarations and the declarations of their peers in the field of class action
26 litigation), and the rates charged are comparable to other attorneys in this field.”);

1 k. *Wehlage v. Evergreen at Arvin, LLP*, No. 10-cv-058390-CW (N.D. Cal.
2 Oct. 4, 2012) (“[T]he billing rates used by Class Counsel to calculate their lodestar are reasonable
3 and in line with prevailing rates in this District for personnel of comparable experience.”);

4 l. *Holloway v. Best Buy Co., Inc.*, No. C-05-5056-PJH (MEJ) (N.D. Cal.
5 Nov. 9, 2011) (“The rates used by Class Counsel are reasonable.”);

6 m. *Fulford v. Logitech, Inc.*, No. 08-cv-02041-MMC, 2010 U.S. Dist. LEXIS
7 144437, at *10 (N.D. Cal. Mar. 5, 2010) (“The Court further finds that Plaintiff’s Counsels’
8 hourly rates are reasonable for their skill and the work they performed.”);

9 22. Courts in this District, and the Central District of California, that have approved
10 CBP’s requested fees and reimbursement of costs as reasonable include the following:

11 a. *Campbell v. Facebook, Inc.*, No. 13-cv-05996-PJH, ECF No. 253 (N.D.
12 Cal. Aug. 18, 2017) (approving billing rates and granting requested attorneys’ fees);

13 b. *Smith v. Intuit, Inc.*, No. 12-cv-00222-EJD, ECF No. 105 (N.D. Cal. Oct. 1,
14 2013) (granting requested attorneys’ fees);

15 c. *In re Bank of Am. Credit Protection Mktg. & Sales Practices Litig.*, No. 11-
16 md-2269-TEH, ECF No. 96 (N.D. Cal. Jan. 16, 2013) (granting requested attorneys’ fees);

17 d. *In re Nat’l Golf Props., Inc. Sec. Litig.*, No. 02-cv-01383-GHK RZx, ECF
18 No. 106 (C.D. Cal. Oct. 5, 2004) (granting requested attorneys’ fees);

19 e. *Valuepoint Partners, Inc. v. ICN Pharm., Inc.*, No. 03-cv-00989-DOC-AN,
20 ECF No. 109 (C.D. Cal. Feb. 28, 2005) (granting requested attorneys’ fees).

21 23. Federal and state courts throughout the country have likewise approved CBP’s
22 requested fees and reimbursement of costs as reasonable. *See, e.g., In re Liberty Refund*
23 *Anticipation Loan Litig.*, No. 12-cv-02949-JBG, ECF No. 166 (N.D. Ill. Jan. 7, 2016); *In re*
24 *Semtech Corp. Sec. Litig.*, No. 07-cv-7114-CAS-FMO, ECF No. 283 (C.D. Cal. June 27, 2011);
25 *In re Sterling Fin. Corp. Sec. Class Action*, No. 07-cv-02171-LS, ECF No. 126 (E.D. Pa. Sept.
26 11, 2009); *Nelson v. Wal-Mart Stores, Inc.*, No. 04-cv-00171-BRW, ECF No. 243 (E.D. Ark.
27 Aug. 12, 2009); *Montalvo v. Triplos, Inc. et al.*, Case No. 4:03CV995SNL (E.D. Mo.); *In re*
28 *Fleming Corporation Securities Litigation*, No. 5-02-CV-178 (E.D. Tx.).

1 24. Courts in California that have approved GALLO's requested fees and
2 reimbursement of costs as reasonable include the following:

3 a. *Bottoni v. Sallie Mae, Inc.*, Northern District of California, Case No. C 10-
4 03602 LB, filed July 13, 2010, final approval granted November 21, 2013 (recovered \$67.5
5 million in debt relief and \$1 million in refunds for excessive collection charges);

6 b. *Huber v. San Diego Ballpark Funding, LLC*, San Diego Super. Ct., Case
7 No. 37-2013-00066456-CU-CO-CTL, filed September 11, 2013, final approval granted March 4,
8 2016;

9 c. *Meier v. Rubios*, Los Angeles Super. Ct., Case No. BC 335793, filed June
10 28, 2005, final approval granted in 2006;

11 d. *Levinson v. Delivery Drivers, Inc.*, Orange County Super. Ct., Case No.
12 05CC00022, final approval granted in 2007;

13 e. *Sutton v. Pinkberry*, Los Angeles Super. Ct., Case No. 370909, filed May
14 10, 2007, final approval granted in 2008;

15 f. *Bienstock v. Ventura Foods*, Los Angeles Super. Ct., Case No. BC 362937,
16 filed December 5, 2006, final approval granted in 2008;

17 g. *Amador v. California Culinary Academy, Inc., et al.*, San Francisco Super.
18 Ct., Case No. CGC-07-467710, filed September 27, 2007, final approval granted in 2012
19 (recovered \$40 million for false advertising).

20 25. In addition to the chronological summary of work provided above, the following
21 chart shows the number of hours that each of our firms spent, as of October 27, 2017, on each of
22 fifteen categories of activities related to the action, described as follows:

23 a. Identifying and Communicating with Plaintiffs/Potential Plaintiffs – Tasks
24 related to client outreach and intake, and discussions with Class Representatives regarding factual
25 investigation, pleadings, discovery, settlement, and all other case updates.

26 b. Document Review – Tasks related to review of documents produced by
27 Google in discovery, reports of review results, and establishing coding and reporting protocols.
28

- 1 c. Investigations and Factual Research – Tasks related to investigation and
2 analysis of factual issues, to the extent such issues were not a part of briefing- or pleadings-
3 related investigation or research (see category 6), or a part of follow-up investigation related to
4 Document Review (category 2).
- 5 d. Written Discovery – Tasks related to all formal discovery except
6 Document Review and disclosures/documents/interrogatory responses for Class Representatives.
- 7 e. Depositions – Tasks related to depositions of Google’s witnesses, including
8 identifying and noticing witnesses, and preparation for and conducting of the depositions.
- 9 f. Pleadings, Briefs, and Pretrial Motions – Tasks related to the drafting of
10 such documents, including legal and factual research.
- 11 g. Experts – Tasks related to outreach to, retention of, and working with
12 experts.
- 13 h. Court Appearances – Tasks related to appearances before the Court,
14 including related preparation and travel.
- 15 i. Litigation Strategy and Analysis – Tasks related to developing litigation
16 strategy and assessing appropriate steps for the efficient and successful prosecution of the Action.
- 17 j. Class Certification – Tasks related to class certification briefing, research,
18 and strategy.
- 19 k. Settlement – Tasks related to settlement, including negotiations, research,
20 analysis, drafting and exchanging mediation statements, and participating in meditations.
- 21 l. Administrative – Tasks including and related to organizing files, creating
22 exhibits, calendaring, etc.
- 23 m. Miscellaneous – Tasks not specifically attributable to any other listed
24 category.
- 25 n. Case Management – Tasks related general case management.
- 26 o. Settlement Approval Work – Tasks related to post-settlement work,
27 including drafting approval papers and accompanying exhibits, working with KCC to effectuate
28 Class Notice, etc.

1 **Summary of Work by Class Counsel**

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

Billing Category	Class Counsel Combined Hours	Class Counsel Combined Lodestar
Identifying and Communicating with Plaintiffs/Potential Plaintiffs	52.10	\$24,010.50
Document Review	1816.30	\$791,341.50
Investigations and Factual Research	110.00	\$49,691.00
Written Discovery	318.80	\$181,580.50
Depositions	197.20	\$105,735.00
Pleadings, Briefs, and Pretrial Motions	727.80	\$387,316.00
Experts	2.10	\$829.50
Court Appearances	91.10	\$69,954.50
Litigation Strategy and Analysis	202.80	\$114,302.50
Class Certification	12.20	\$8,795.00
Settlement	321.10	\$227,515.50
Administrative	34.90	\$11,399.50
Miscellaneous	2.00	\$826.00
Case Management	93.00	\$57,350.50
Settlement Approval Work	65.10	\$31,792.00
TOTAL	4,046.50	\$2,062,439.50

19 **Summary of Work by Lief Cabraser**

20

21

22

23

24

25

26

27

28

Billing Category	Lief Cabraser Hours	Lodestar
Identifying and Communicating with Plaintiffs/Potential Plaintiffs	9.0	\$5,454.00
Document Review	494.20	\$205,484.00
Investigations and Factual Research	3.30	\$1,773.00
Written Discovery	88.20	\$53,466.00
Depositions	8.30	\$5,935.00
Pleadings, Briefs, and Pretrial Motions	286.60	\$158,156.00
Experts	0.00	\$0.00

Billing Category	Lieff Cabraser Hours	Lodestar
Court Appearances	76.10	\$58,704.50
Litigation Strategy and Analysis	25.90	\$17,213.50
Class Certification	0.00	\$0.00
Settlement	149.00	\$112,874.50
Administrative	25.80	\$9,352.00
Miscellaneous	1.00	\$360.00
Case Management	28.60	\$21,404.00
Settlement Approval Work	21.20	\$11,114.50
TOTAL	1,217.20	\$661,291.00

Summary of Work by Carney Bates & Pulliam

Billing Category	Carney Bates & Pulliam Hours	Lodestar
Identifying and Communicating with Plaintiffs/Potential Plaintiffs	29.30	\$14,626.50
Document Review	226.10	\$89,309.50
Investigations and Factual Research	4.20	\$1,943.00
Written Discovery	175.60	\$102,554.50
Depositions	99.70	\$59,510.00
Pleadings, Briefs, and Pretrial Motions	394.60	\$206,312.50
Experts	2.10	\$829.50
Court Appearances	15.00	\$11,250.00
Litigation Strategy and Analysis	99.30	\$54,879.00
Class Certification	12.20	\$8,795.00
Settlement	148.80	\$97,826.00
Administrative	0.00	\$0.00
Miscellaneous	0.80	316.00
Case Management	28.10	\$17,631.50
Settlement Approval Work	43.30	\$20,227.50
TOTAL	1279.10	\$686,010.50

1 **Summary of Work by Gallo LLP**

2

Billing Category	Gallo Hours	Lodestar
Identifying and Communicating with Plaintiffs/Potential Plaintiffs	13.80	\$3,930.00
Document Review	1,096.00	\$496,548.00
Investigations and Factual Research	102.50	\$45,975.00
Written Discovery	55.00	\$25,560.00
Depositions	89.20	\$40,290.00
Pleadings, Briefs, and Pretrial Motions	46.60	\$22,847.50
Experts	0.00	\$0.00
Court Appearances	0.00	\$0.00
Litigation Strategy and Analysis	77.60	\$42,210.00
Class Certification	0.00	\$0.00
Settlement	23.30	\$16,815.00
Administrative	9.10	\$2,047.50
Miscellaneous	0.20	\$150.00
Case Management	36.30	\$18,315.00
Settlement Approval Work	0.60	\$450.00
TOTAL	1550.20	\$715,138.00

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18 26. Based on our experience with other class actions and complex cases, we believe
19 that the time expended in connection with this matter was necessary to ensure the success of the
20 action and reasonable in amount, particularly given the result achieved for the Settlement Class
21 members and the complexity and challenges of the litigation.

22 27. The hourly rates utilized in the lodestar calculation include no risk multiplier. This
23 Action involves novel issues predicated on claims involving ECPA's and CIPA's application to
24 electronic messages. The case law in this context is not fully developed, which resulted in the
25 parties advanced conflicting interpretations of certain elements of Plaintiffs' ECPA and CIPA
26 claims during the litigation, including the extent to which an interception of an electronic message
27 occurs "in transit," the contours of the affirmative defense of implied consent, and the extent to
28 which an "ordinary course of business" defense applies to an electronic communications service

1 provider's acquisition and/or use of message content. Further, this Action implicated the (at the
2 time) entirely novel legal issue of standing under statutorily-codified privacy rights following the
3 Supreme Court's opinion in *Spokeo v. Robins*, 136 S. Ct. 1540 (2016). The Court's subsequent
4 order on this discrete issue was one of the first opinions—if not the very first opinion—to
5 interpret *Spokeo*'s impact on Article III's "injury in fact" requirement as it pertains to ECPA and
6 CIPA.

7 28. Moreover, these novel legal issues were disputed in a context that required us, our
8 co-counsel and our retained experts to review highly technical documents. These issues, and
9 other difficult issues implicated by these claims, required our firms to research and devise
10 litigation strategies to move the case through class certification towards trial, without the certainty
11 of ever receiving compensation.

12 **II. Costs Incurred By Plaintiffs' Counsel**

13 29. Class Counsel have borne all costs incurred on behalf of Plaintiffs in this litigation.
14 Attached hereto as **Exhibit 2** is a summary of expenses incurred, including travel for depositions
15 and hearings, legal research, postage, and other customary litigation expenses. As detailed in this
16 exhibit, LCHB's expenses incurred in the prosecution of this matter total \$20,209.40; and CBP's
17 expenses incurred in the prosecution of this matter total \$17,049.84; and GALLO's expenses
18 incurred in the prosecution of this matter total \$14,162.69. Total unreimbursed expenses are
19 \$51,421.93.

20 30. The foregoing expenses were incurred solely in connection with this litigation and
21 are reflected in our respective books and records as maintained in the ordinary course of business.

22 **III. Time and Effort by Plaintiffs**

23 31. In addition to the time and costs we incurred in this action, the two Class
24 Representatives have spent considerable time and effort in their pursuit of this litigation and in
25 seeking to advance the legal rights and interests of the Settlement Class, including time spent
26 discussing this litigation with Class Counsel, time spent reviewing all relevant filings and
27 communications in the Action, and time spent communicating with Class Counsel in the context
28 of settlement negotiations.

1 32. Each Class Representative has prepared a declaration detailing the time and efforts
 2 spent in pursuit of this litigation. The declaration of Daniel Matera is attached hereto as **Exhibit**
 3 **3** and the declaration of Susan Rashkis is attached hereto as **Exhibit 4**.

QUALIFICATIONS³

Lieff Cabraser Heimann & Bernstein, LLP

6 33. LCHB's qualifications were previously detailed at ECF No. 79-1 (filed in support
 7 of Plaintiff's Motion for Preliminary Approval of Class Action Settlement), which filing is
 8 incorporated by reference herein. As set forth therein, LCHB is one of the most respected and
 9 most successful class action firms in the country, and has recovered billions of dollars for class
 10 members. A copy of LCHB's current resume, which describes the firm's experience in class
 11 action and other complex litigation, can be found at [http://www.lchbdocs.com/pdf/firm-](http://www.lchbdocs.com/pdf/firm-resume.pdf)
 12 [resume.pdf](http://www.lchbdocs.com/pdf/firm-resume.pdf).

13 34. The primary LCHB attorneys working on this case were partner Michael W.
 14 Sobol, former partner Nicole Sugnet, and associates Melissa Gardner and Michael Levin-
 15 Gesundheit.

16 35. Michael W. Sobol is a 1989 graduate of Boston University School of Law. Mr.
 17 Sobol practiced law in Massachusetts from 1989 to 1997. From 1995 through 1997, he was a
 18 Lecturer in Law at Boston University School of Law. In 1997, Mr. Sobol left his position as
 19 partner in the Boston firm of Shafner, Gilleran & Mortensen, P.C. to move to San Francisco,
 20 where he joined LCHB. Since joining LCHB in 1997, Mr. Sobol has represented plaintiffs in
 21 consumer protection class actions and other class actions and complex matters. He has been a
 22 partner with LCHB since 1999, and is currently in his fifteenth year as head of LCHB's consumer
 23 practice group. Mr. Sobol has served as plaintiffs' class counsel in numerous nationwide class
 24 action cases. Mr. Sobol's qualifications and experience are discussed in more detail at pages 7-10
 25

26 ³ Pursuant to Paragraph 5, *supra*, Michael Sobol submits the portions of this Declaration
 27 pertaining to LCHB's qualifications (¶¶ 33-43); Hank Bates submits the portions of this
 28 Declaration pertaining to CBP's qualifications (¶¶ 44-49); and Ray Gallo submits the portions of
 this Declaration pertaining to GALLO's qualifications (¶¶ 50-56).

1 of the Joint Declaration of Class Counsel in Support of Plaintiffs' Motion for Preliminary
2 Approval of Class Action Settlement. (Dkt. 79-1).

3 36. Nicole Sugnet graduated from the University of California, Hastings College of
4 the Law in 2006. Following graduation from law school, Ms. Sugnet focused her practice
5 exclusively on consumer class action litigation. She is the co-author of "Consumer Protection
6 and Employment Cases after *Concepcion*," published in the ABA Section of Litigation, Class
7 Action & Derivative Suits Committee Newsletter (Summer 2011), as well as the California
8 Section of the ABA State Class Action Survey (2012). Ms. Sugnet was selected by Super
9 Lawyers as a "Rising Star for Northern California," each year from 2013-2016, and as a "Super
10 Lawyer" in 2017.

11 37. Melissa Gardner graduated in 2011 from Harvard Law School. Prior to joining
12 LCHB, she worked as a law clerk for South Brooklyn Legal Services in their Workers' Rights
13 and Government Benefits Unit and at litigation boutique Emery Celli Brinckerhoff & Abady in
14 New York. Ms. Gardner is currently an associate in LCHB's San Francisco office, where she
15 works on consumer protection and personal injury & mass torts. Ms. Gardner was selected by
16 Super Lawyers as a "Rising Star for Northern California" in 2017.

17 38. Michael Levin-Gesundheit graduated from Stanford Law School in 2013. Prior to
18 joining LCHB, Michael was a law clerk for Judge Jacqueline Nguyen of the United States Court
19 of Appeals for the Ninth Circuit in Pasadena, California and Judge Garland Burrell, Jr. of federal
20 district court in Sacramento.

21 39. Eavon Rolich is employed by LCHB on a contract basis. Mr. Rolich's resume
22 shows that he obtained his M.A. in comparative literature from the University of California,
23 Berkeley, in 2000 and his J.D. from New York University School of Law in 2006 and that Mr.
24 Rolich has several years of experience with the review and analysis of electronic discovery using
25 the Relativity platform that was used for reviewing and categorizing the documents produced in
26 this litigation.

27 40. Cristina Yu is employed by LCHB on a contract basis. Ms. Yu's resume shows
28 that she obtained her B.S. in Mathematics from California State University, Hayward, in 1988

1 and her J.D. from Santa Clara University of Law in 1997, and that Ms. Yu has ten years of work
2 experience in providing network, hardware, and other information technology support in addition
3 to more than ten additional years of experience reviewing and analyzing electronically stored
4 information in complex litigation, including in patent and other technology-related disputes.

5 41. In addition to the LCHB attorneys involved in this Action, LCHB has a team of
6 paralegals that assist in the litigation of its cases, with the level of staffing depending on the size
7 and needs of the particular case. In this case, Yun Swenson was the primary LCHB paralegal
8 assigned to this matter. Ms. Swenson is a 2003 graduate of Cornell Law School and a 1998
9 graduate of University of California, Berkeley.

10 42. LCHB litigation support specialists worked on this matter as well. LCHB's
11 Litigation Support group consists of an experienced team of litigation support specialists
12 responsible primarily for: (a) preparing and conducting trial presentations and similar in-court
13 technical productions; (b) creating, managing, and searching case-specific document and
14 information databases (e.g., Relativity); and (c) performing certain case-specific data analyses
15 (e.g., for use in evaluating damages). Because the personnel who make up LCHB's Litigation
16 Support group have extensive training and experience performing these specific and technical
17 tasks, it is more efficient and cost-effective, and in my judgment ultimately results in better work
18 product, for this sort of work to be assigned to these personnel as opposed to paralegals with other
19 areas of specialization who normally perform less technical work.

20 43. The primary LCHB litigation support specialists who worked on this case were
21 Anthony Grant, Margie Calangian, and Richard Anthony. Their tasks included creating and
22 managing the document database dedicated to this case, searching and helping attorneys access
23 and search the database for materials for use in depositions and for other purposes, and providing
24 guidance and assistance regarding technical aspects of document production and resolving issues
25 concerning the format of materials produced by Google.

26 **Carney Bates & Pulliam, PLLC**

27 44. CBP's qualifications were previously detailed at ECF No. 79-1 (filed in support of
28 Plaintiff's Motion for Preliminary Approval of Class Action Settlement), which filing is

1 incorporated by reference herein. As set forth therein, CBP is a national law firm based in Little
2 Rock, Arkansas, and is recognized as one of the country's premiere firms in the areas of
3 consumer protection class actions, data privacy/security, securities fraud, environmental law and
4 employment discrimination. A copy of CBP's current resume, which describes the firm's
5 experience in class action and other complex litigation, can be found at
6 <http://www.cbplaw.com/firm-resume/>.

7 45. The primary CBP attorneys working on this case were partner Hank Bates and
8 associates David Slade and Kristin Brown. In addition, associate Justin Craig performed discrete
9 tasks.

10 46. Hank Bates is a partner at CBP with 25 years of litigation experience. He joined
11 CBP in 2004, and since that time has focused his practice on representing consumers, farmers,
12 shareholders, small businesses and governmental entities in class actions and complex litigation
13 involving primarily consumer fraud, computer privacy, environmental law and employment
14 rights. He received his B.A. from Harvard College in 1987 and his J.D. from Vanderbilt
15 University School of Law in 1992. Following law school, he was a law clerk for the Honorable
16 Danny J. Boggs, United State Court of Appeals for the Sixth Circuit. He practiced public-interest
17 environmental law in San Francisco, California from 1993 to 1997, first with the law firm of
18 Shute, Mihaly & Weinberger and then with Earthjustice, before returning to his home state of
19 Arkansas. Mr. Bates's qualifications and experience are discussed in more detail at pages 10-13
20 of the Joint Declaration of Class Counsel in Support of Plaintiffs' Motion for Preliminary
21 Approval of Class Action Settlement. (ECF No. 79-1).

22 47. David Slade is an associate at CBP with four years of litigation experience. He
23 received his B.A. from Yale University in 2001 and his J.D. from the University of Arkansas at
24 Little Rock in 2013. At CBP, Mr. Slade's focus is on consumer protection, specifically in the
25 areas of data privacy and data security. He has also organized cyber safety training for Arkansas
26 law enforcement and victim assistance professionals in conjunction with the National
27 Organization of Victim Assistance. Additionally, Mr. Slade is a member of the Volunteers
28

1 Organization, Center for Arkansas Legal Services, an organization committed to pro bono
2 advocacy.

3 48. Kristin Brown is an associate at CBP with four years of experience. Ms. Brown
4 entered the University of Arkansas, Little Rock Bowen School of Law in 2010 where she was a
5 member of the Moot Court Board and overall winner of the 2011 Ben J. Alzheimer Moot Court
6 Competition. She attended her third year of law school at Villanova School of Law in
7 Philadelphia and received her J.D. from the University of Arkansas, Little Rock, in May 2013.
8 She is admitted to practice law in Arkansas, Pennsylvania, and New Jersey. She is a member of
9 the Arkansas Bar Association, Arkansas Trial Lawyers Association, Pennsylvania Bar
10 Association, and New Jersey Bar Association.

11 49. Justin Craig is an associate at CBP with three years of litigation experience. Mr.
12 Craig received his B.A. from the University of Central Florida in 2010 and his J.D. from the
13 University of Arkansas at Little Rock in 2014. Mr. Craig founded his own law firm, and as a solo
14 practitioner, focused on serving populations that are historically underserved through providing
15 family law, estate planning, and expungement services. Since joining CBP in 2015, Mr. Craig
16 has focused his work on consumer protection.

17 **Gallo LLP**

18 50. GALLO's qualifications were previously detailed at ECF No. 79-1 (filed in
19 support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement), which filing
20 is incorporated by reference herein. As set forth therein, GALLO is a nationally-recognized law
21 firm based in San Rafael, California, specializing in class- and mass action consumer protection
22 and data privacy litigation.

23 51. The primary GALLO attorneys working on this case were partners Ray Gallo and
24 Dominic Valerian, associate Warren Stramiello, of counsel attorney Sharon Laveson, and
25 paralegal Marc Van Anda.

26 52. Ray Gallo graduated from Yale College with a B.A. in Economics and Political
27 Science in May 1987 and received his J.D. from the University of California, Los Angeles School
28 of Law in December 1991. He joined the Los Angeles office of Crosby, Heafey, Roach & May

1 (now Reed Smith) in February 1992. After two years at Crosby, he left to start Gallo &
2 Associates (now Gallo LLP). In or about 1998, as a sixth year lawyer in commercial litigation
3 practice, Mr. Gallo received Martindale Hubbell's "AV" rating. Mr. Gallo has been actively
4 involved in the prosecution of consumer fraud class actions since 2004. Most notably, he has led
5 the nation in obtaining monetary relief for students misled by for-profit schools in both mass and
6 class action proceedings. Mr. Gallo's qualifications and experience are discussed in more detail
7 at pages 14-16 of the Joint Declaration of Class Counsel in Support of Plaintiffs' Motion for
8 Preliminary Approval of Class Action Settlement. (ECF No. 79-1).

9 53. Dominic Valerian is a graduate of University of California, Davis and the
10 University of Southern California Law Center. Since joining Gallo LLP in 2009, his focus has
11 been on vindicating the rights of consumers, employees, and businesses in fraud and breach of
12 contract matters. Before coming to Gallo LLP, Dominic was a litigation associate in the Los
13 Angeles office of the international law firm Dewey & LeBoeuf, where he defended commercial
14 cases on behalf of Fortune 500 companies and oversaw his office's pro bono program.

15 54. Warren Stramiello is a computer scientist and attorney, with extensive experience
16 in both fields. Warren earned a B.S. in Computer Science from the Georgia Institute of
17 Technology, graduating with highest honors in 2003. Prior to attending law school and during his
18 undergraduate studies, Warren worked as a System Security Administrator at the Georgia Tech
19 Research Institute and presented at conferences on computer security topics, including
20 steganography and watermarking. Warren received his J.D. in 2007 from the University of
21 California, Los Angeles School of Law, and was elected to the Order of the Coif. After
22 graduating from law school, Warren worked as an attorney with the firm of Paul, Weiss, Rifkind,
23 Wharton & Garrison LLP for eight years, litigating technology-related disputes in a broad range
24 of cases, including patent infringement, copyright infringement, antitrust, contract, securities class
25 actions, investigations, tort, and fraud, as well as advising clients concerning privacy and data
26 security, technology-related mergers and acquisitions, and other intellectual property issues. In
27 2015, Warren joined GALLO as both an attorney and the firm's CISO. At GALLO, Warren
28 focused his legal practice on clients seeking help with technology-related matters, including

1 compliance, investigations, advisement and litigation. On October 18, 2017, Warren joined
2 IBM's Cybersecurity Legal team at the corporate headquarters in Armonk, New York.

3 55. Sharon Laveson graduated from the University of Pennsylvania, and is a 2002
4 graduate of the Columbia University School of Law (with honors). She spent five years as a trial
5 lawyer with the Manhattan District Attorney's office in New York, trying approximately 20 jury
6 cases to a verdict before joining GALLO in or about September 2008, working on commercial
7 litigation and consumer class action matters.

8 56. Marc Van Anda graduated from the University of California, Berkeley with a B.A.
9 in Political Science in 1983. He obtained his paralegal certificate in April 2011 and joined
10 GALLO in November 2011.

11
12 I declare under penalty of perjury that the foregoing is true and correct. Executed this
13 30th day of October, 2017 in San Francisco, California.

14
15 /s/ Michael W. Sobol
16 Michael W. Sobol

17 I declare under penalty of perjury that the foregoing is true and correct. Executed this
18 30th day of October, 2017 in Little Rock, Arkansas.

19
20 /s/ Hank Bates
21 Hank Bates

22 I declare under penalty of perjury that the foregoing is true and correct. Executed this
23 30th day of October, 2017 in San Rafael, California.

24
25 /s/ Ray Gallo
26 Ray Gallo

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTESTATION

I, Michael W. Sobol, am the ECF user whose identification and password are being used to file this Joint Declaration. I hereby attest that Hank Bates and Ray Gallo have concurred in this filing.

/s/ Michael W. Sobol
Michael W. Sobol, Esq.

EXHIBIT 1

Lodestar Detail for Class Counsel for the Settlement Class
Daniel Matera and Susan Rashkis, et al., v. Google LLC
5:15-cv-04062 LHK

TABLE OF CONTENTS

I.	Timekeeper Status.....	1
II.	Category Description	1
III.	Grand Total Class Counsel Hours and Lodestar.....	2
IV.	Lieff Cabraser Heimann & Bernstein, LLP	3
	A. Michael Sobol	4
	B. Nicole Sugnet.....	5
	C. Melissa Gardner	6
	D. Michael Levin-Gesundheit.....	7
	E. Cristina Yu	8
	F. Eavon Rolich.....	9
	G. Richard Anthony.....	10
	H. Margie Calangian.....	11
	I. Anthony Grant	12
	J. Yun Swenson	13
V.	Carney Bates & Pulliam, PLLC.....	14
	A. Hank Bates	15
	B. David Slade.....	16
	C. Kristin Brown.....	17
	D. Justin Craig	18
VI.	Gallo, LLP.....	19
	A. Ray Gallo	20
	B. Warren Stramiello.....	21
	C. Marc Van Anda.....	22
	D. Sharon Laveson.....	23
	E. Dominic Valerian.....	24

I. Timekeeper Status

(P) = Partner

(A) = Associate

(N) = Non-Attorney Staff

II. Category Description

Identifying and Communicating with Plaintiffs/Potential Plaintiffs: Tasks related to client outreach and intake, and discussions with Class Representatives regarding factual investigation, pleadings, discovery, settlement, and all other case updates.

Document Review: Tasks related to review of documents produced by Google in discovery, reports of review results, and establishing coding and reporting protocols.

Investigations and Factual Research: Tasks related to investigation and analysis of factual issues, to the extent such issues were not a part of briefing- or pleadings-related investigation or research (see category 6), or a part of follow-up investigation related to Document Review (category 2).

Written Discovery: Tasks related to all formal discovery except Document Review and disclosures/documents/interrogatory responses for Class Representatives.

Depositions: Tasks related to depositions of Google's witnesses, including identifying and noticing witnesses, and preparation for and conducting of the depositions.

Pleadings, Briefs, and Pretrial Motions: Tasks related to the drafting of such documents, including legal and factual research.

Experts: Tasks related to outreach to, retention of, and working with experts.

Court Appearances: Tasks related to appearances before the Court, including related preparation and travel.

Litigation Strategy and Analysis: Tasks related to developing litigation strategy and assessing appropriate steps for the efficient and successful prosecution of the Action.

Class Certification: Tasks related to class certification briefing, research, and strategy.

Settlement: Tasks related to settlement, including negotiations, research, analysis, drafting and exchanging mediation statements, and participating in meditations.

Administrative: Tasks including and related to organizing files, creating exhibits, calendaring, etc.

Miscellaneous: Tasks not specifically attributable to any other listed category.

Case Management: Tasks related general case management.

Settlement Approval Work: Tasks related to post-settlement work, including drafting approval papers and accompanying exhibits, working with KCC to effectuate Class Notice, etc.

III. Grand Total Class Counsel Hours and Lodestar

Grand Total for Class Counsel for the Settlement Class		
	Hours	Lodestar
Attorney Grand Total	3,870.00	\$2,001,380.50
Non-Attorney Grand Total	176.50	\$61,059.00
GRAND TOTAL	4,046.50	\$2,062,439.50

IV. Lieff Cabraser Heimann & Bernstein, LLP

Lieff Cabraser Heimann & Bernstein, LLP			
Timekeeper	Hours	Rate	Lodestar
Sobol, Michael (P)	272.40	\$900.00	\$245,160.00
Sugnet, Nicole (P)	297.10	\$510.00	\$151,521.00
Gardner, Melissa (A)	79.90	\$455.00	\$36,354.50
Levin-Gesundheit, Michael (A)	47.80	\$415.00	\$19,837.00
Yu, Cristina (A)	192.00	\$415.00	\$79,680.00
Rolich, Eavon (A)	176.80	\$415.00	\$73,372.00
Anthony, Richard (N)	12.00	\$375.00	\$4,500.00
Calangian, Margie (N)	22.80	\$375.00	\$8,550.00
Grant, Anthony (N)	27.50	\$375.00	\$10,312.50
Swenson, Yun (N)	88.90	\$360.00	\$32,004.00
LIEFF CABRASER TOTAL	1217.20		\$661,291.00

A. Michael Sobol

Billing Category	Michael Sobol Hours	Lodestar
Identifying and Communicating with Plaintiffs/Potential Plaintiffs	3.00	\$2700.00
Document Review	4.10	\$3,690.00
Investigations and Factual Research	1.00	\$900.00
Written Discovery	24.80	\$22,320.00
Depositions	5.00	\$4,500.00
Pleadings, Briefs, and Pretrial Motions	50.10	\$45,090.00
Experts	0.00	\$0.00
Court Appearances	52.80	\$47,520.00
Litigation Strategy and Analysis	11.90	\$10,710.00
Class Certification	0.00	\$0.00
Settlement	98.20	\$88,380.00
Administrative	0.00	\$0.00
Miscellaneous	0.00	\$0.00
Case Management	18.20	\$16,380.00
Settlement Approval Work	3.30	\$2,970.00
TOTAL	272.40	\$245,160.00

B. Nicole Sugnet

Billing Category	Nicole Sugnet Hours	Lodestar
Identifying and Communicating with Plaintiffs/Potential Plaintiffs	3.20	\$1,632.00
Document Review	21.10	\$10,761.00
Investigations and Factual Research	0.30	\$153.00
Written Discovery	54.70	\$27,897.00
Depositions	0.00	\$0.00
Pleadings, Briefs, and Pretrial Motions	154.10	\$78,591.00
Experts	0.00	\$0.00
Court Appearances	10.60	\$5,406.00
Litigation Strategy and Analysis	7.30	\$3,723.00
Class Certification	0.00	\$0.00
Settlement	38.90	\$19,839.00
Administrative	0.30	\$153.00
Miscellaneous	0.00	\$0.00
Case Management	6.60	\$3,366.00
Settlement Approval Work	0.00	\$0.00
TOTAL	297.10	\$151,521.00

C. Melissa Gardner

Billing Category	Melissa Gardner Hours	Lodestar
Identifying and Communicating with Plaintiffs/Potential Plaintiffs	1.20	\$546.00
Document Review	11.20	\$5,096.00
Investigations and Factual Research	0.00	\$0.00
Written Discovery	0.00	\$0.00
Depositions	2.60	\$1,183.00
Pleadings, Briefs, and Pretrial Motions	28.70	\$13,058.50
Experts	0.00	\$0.00
Court Appearances	12.70	\$5,778.50
Litigation Strategy and Analysis	0.00	\$0.00
Class Certification	0.00	\$0.00
Settlement	3.10	\$1,410.50
Administrative	0.20	\$91.00
Miscellaneous	0.00	\$0.00
Case Management	2.30	\$1,046.50
Settlement Approval Work	17.90	\$8,144.50
TOTAL	79.90	\$36,354.50

D. Michael Levin-Gesundheit

Billing Category	Michael Levin-Gesundheit Hours	Lodestar
Identifying and Communicating with Plaintiffs/Potential Plaintiffs	0.00	\$0.00
Document Review	0.20	\$83.00
Investigations and Factual Research	0.00	\$0.00
Written Discovery	0.30	\$124.50
Depositions	0.00	\$0.00
Pleadings, Briefs, and Pretrial Motions	37.90	\$15,728.50
Experts	0.00	\$0.00
Court Appearances	0.00	\$0.00
Litigation Strategy and Analysis	6.70	\$2,780.50
Class Certification	0.00	\$0.00
Settlement	1.40	\$581.00
Administrative	0.00	\$0.00
Miscellaneous	0.00	\$0.00
Case Management	0.00	\$0.00
Settlement Approval Work	0.00	\$0.00
TOTAL	47.80	\$19,837.00

E. Cristina Yu

Billing Category	Cristina Yu Hours	Lodestar
Identifying and Communicating with Plaintiffs/Potential Plaintiffs	0.00	\$0.00
Document Review	192.00	\$79,680.00
Investigations and Factual Research	0.00	\$0.00
Written Discovery	0.00	\$0.00
Depositions	0.00	\$0.00
Pleadings, Briefs, and Pretrial Motions	0.00	\$0.00
Experts	0.00	\$0.00
Court Appearances	0.00	\$0.00
Litigation Strategy and Analysis	0.00	\$0.00
Class Certification	0.00	\$0.00
Settlement	0.00	\$0.00
Administrative	0.00	\$0.00
Miscellaneous	0.00	\$0.00
Case Management	0.00	\$0.00
Settlement Approval Work	0.00	\$0.00
TOTAL	192.00	\$79,680.00

F. Eavon Rolich

Billing Category	Eavon Rolich Hours	Lodestar
Identifying and Communicating with Plaintiffs/Potential Plaintiffs	0.00	\$0.00
Document Review	176.80	\$73,372.00
Investigations and Factual Research	0.00	\$0.00
Written Discovery	0.00	\$0.00
Depositions	0.00	\$0.00
Pleadings, Briefs, and Pretrial Motions	0.00	\$0.00
Experts	0.00	\$0.00
Court Appearances	0.00	\$0.00
Litigation Strategy and Analysis	0.00	\$0.00
Class Certification	0.00	\$0.00
Settlement	0.00	\$0.00
Administrative	0.00	\$0.00
Miscellaneous	0.00	\$0.00
Case Management	0.00	\$0.00
Settlement Approval Work	0.00	\$0.00
TOTAL	176.80	\$73,372.00

G. Richard Anthony

Billing Category	Richard Anthony Hours	Lodestar
Identifying and Communicating with Plaintiffs/Potential Plaintiffs	0.00	\$0.00
Document Review	9.60	\$3,600.00
Investigations and Factual Research	0.00	\$0.00
Written Discovery	2.40	\$900.00
Depositions	0.00	\$0.00
Pleadings, Briefs, and Pretrial Motions	0.00	\$0.00
Experts	0.00	\$0.00
Court Appearances	0.00	\$0.00
Litigation Strategy and Analysis	0.00	\$0.00
Class Certification	0.00	\$0.00
Settlement	0.00	\$0.00
Administrative	0.00	\$0.00
Miscellaneous	0.00	\$0.00
Case Management	0.00	\$0.00
Settlement Approval Work	0.00	\$0.00
TOTAL	12.00	\$4,500.00

H. Margie Calangian

Billing Category	Margie Calangian Hours	Lodestar
Identifying and Communicating with Plaintiffs/Potential Plaintiffs	0.00	\$0.00
Document Review	20.50	\$7,687.50
Investigations and Factual Research	0.00	\$0.00
Written Discovery	2.30	\$862.50
Depositions	0.00	\$0.00
Pleadings, Briefs, and Pretrial Motions	0.00	\$0.00
Experts	0.00	\$0.00
Court Appearances	0.00	\$0.00
Litigation Strategy and Analysis	0.00	\$0.00
Class Certification	0.00	\$0.00
Settlement	0.00	\$0.00
Administrative	0.00	\$0.00
Miscellaneous	0.00	\$0.00
Case Management	0.00	\$0.00
Settlement Approval Work	0.00	\$0.00
TOTAL	22.80	\$8,550.00

I. Anthony Grant

Billing Category	Anthony Grant Hours	Lodestar
Identifying and Communicating with Plaintiffs/Potential Plaintiffs	0.00	\$0.00
Document Review	25.50	\$9,562.50
Investigations and Factual Research	0.00	\$0.00
Written Discovery	2.00	\$750.00
Depositions	0.00	\$0.00
Pleadings, Briefs, and Pretrial Motions	0.00	\$0.00
Experts	0.00	\$0.00
Court Appearances	0.00	\$0.00
Litigation Strategy and Analysis	0.00	\$0.00
Class Certification	0.00	\$0.00
Settlement	0.00	\$0.00
Administrative	0.00	\$0.00
Miscellaneous	0.00	\$0.00
Case Management	0.00	\$0.00
Settlement Approval Work	0.00	\$0.00
TOTAL	27.50	\$10,312.50

J. Yun Swenson

Billing Category	Yun Swenson Hours	Lodestar
Identifying and Communicating with Plaintiffs/Potential Plaintiffs	1.60	\$576.00
Document Review	33.20	\$11,952.00
Investigations and Factual Research	2.00	\$720.00
Written Discovery	1.70	\$612.00
Depositions	.70	\$252.00
Pleadings, Briefs, and Pretrial Motions	15.80	\$5,688.00
Experts	0.00	\$0.00
Court Appearances	0.00	\$0.00
Litigation Strategy and Analysis	0	\$0.00
Class Certification	0	\$0.00
Settlement	7.40	\$2,664.00
Administrative	25.30	\$9,108.00
Miscellaneous	1.00	\$360.00
Case Management	0.20	\$72.00
Settlement Approval Work	0.00	\$0.00
TOTAL	88.90	\$32,004.00

V. Carney Bates & Pulliam, PLLC

Carney Bates & Pulliam, PLLC			
Timekeeper	Hours	Rate	Lodestar
Bates, Hank (P)	509.20	\$750	\$381,900.00
Slade, David (A)	420.90	\$395	\$166,255.50
Brown, Kristin (A)	328.40	\$395	\$129,718.00
Craig, Justin (A)	20.60	\$395	\$8,137.00
CBP TOTAL	1279.10		\$686,010.50

A. Hank Bates

Billing Category	Hank Bates Hours	Lodestar
Identifying and Communicating with Plaintiffs/Potential Plaintiffs	8.60	\$6,450.00
Document Review	0.00	\$0.00
Investigations and Factual Research	0.80	\$600.00
Written Discovery	93.50	\$70,125.00
Depositions	56.70	\$42,525.00
Pleadings, Briefs, and Pretrial Motions	142.10	\$106,575.00
Experts	0.00	\$0
Court Appearances	15.00	\$11,250.00
Litigation Strategy and Analysis	44.10	\$33,075.00
Class Certification	11.20	\$8,400.00
Settlement	110.00	\$82,500.00
Administrative	0.00	\$0
Miscellaneous	0.00	\$0
Case Management	18.40	\$13,800.00
Settlement Approval Work	8.80	\$6,600.00
TOTAL	509.20	381,900.00

B. David Slade

Billing Category	David Slade Hours	Lodestar
Identifying and Communicating with Plaintiffs/Potential Plaintiffs	20.70	\$8,176.50
Document Review	15.70	\$6,201.50
Investigations and Factual Research	3.40	\$1,343.00
Written Discovery	82.10	\$32,429.50
Depositions	43.00	\$16,985.00
Pleadings, Briefs, and Pretrial Motions	113.90	\$44,990.50
Experts	2.10	\$829.50
Court Appearances	0.00	\$0
Litigation Strategy and Analysis	55.20	\$21,804.00
Class Certification	1.00	\$395.00
Settlement	38.80	\$15,326.00
Administrative	0.00	\$0
Miscellaneous	0.80	\$316.00
Case Management	9.70	\$3,831.50
Settlement Approval Work	34.50	\$13,627.50
TOTAL	420.90	\$166,255.50

C. Kristin Brown

Billing Category	Kristin Brown Hours	Lodestar
Identifying and Communicating with Plaintiffs/Potential Plaintiffs	0.00	\$0
Document Review	210.40	\$83,108.00
Investigations and Factual Research	0.00	\$0
Written Discovery	0.00	\$0
Depositions	0.00	\$0
Pleadings, Briefs, and Pretrial Motions	118.00	\$46,610.00
Experts	0.00	\$0
Court Appearances	0.00	\$0
Litigation Strategy and Analysis	0.00	\$0
Class Certification	0.00	\$0
Settlement	0.00	\$0
Administrative	0.00	\$0
Miscellaneous	0.00	\$0
Case Management	0.00	\$0
Settlement Approval Work	0.00	\$0
TOTAL	328.40	\$129,718.00

D. Justin Craig

Billing Category	Justin Craig Hours	Lodestar
Identifying and Communicating with Plaintiffs/Potential Plaintiffs	0.00	\$0
Document Review	0.00	\$0
Investigations and Factual Research	0.00	\$0
Written Discovery	0.00	\$0
Depositions	0.00	\$0
Pleadings, Briefs, and Pretrial Motions	20.60	\$8,137.00
Experts	0.00	\$0
Court Appearances	0.00	\$0
Litigation Strategy and Analysis	0.00	\$0
Class Certification	0.00	\$0
Settlement	0.00	\$0
Administrative	0.00	\$0
Miscellaneous	0.00	\$0
Case Management	0.00	\$0
Settlement Approval Work	0.00	\$0
TOTAL	20.60	\$8,137.00

VI. Gallo, LLP

Gallo, LLP			
Timekeeper	Hours	Rate	Lodestar
Gallo, Ray (P)	63.30	\$750.00	\$47,475.00
Valerian, Dominic (P)	2.50	\$550.00	\$1,375.00
Stramiello, Warren (A)	1,370.20	\$450.00	\$616,590.00
Laveson, Sharon (A)	88.90	\$495.00	\$44,005.50
Van Anda, Marc (N)	25.30	\$225.00	\$5,692.50
GALLO TOTAL	1550.20		\$715,138.00

A. Ray Gallo

Billing Category	Ray Gallo Hours	Lodestar
Identifying and Communicating with Plaintiffs/Potential Plaintiffs	0.80	\$600.00
Document Review	0.00	\$0.00
Investigations and Factual Research	0.00	\$0.00
Written Discovery	2.70	\$2,025.00
Depositions	0.50	\$375.00
Pleadings, Briefs, and Pretrial Motions	6.70	\$5,025.00
Experts	0.00	\$0.00
Court Appearances	0.00	\$0.00
Litigation Strategy and Analysis	24.10	\$18,075.00
Class Certification	0.00	\$0.00
Settlement	21.10	\$15,825.00
Administrative	0.00	\$0.00
Miscellaneous	0.20	\$150.00
Case Management	6.60	\$4,950.00
Settlement Approval Work	0.60	\$450.00
TOTAL	63.30	\$47,475.00

B. Warren Stramiello

Billing Category	Warren Stramiello Hours	Lodestar
Identifying and Communicating with Plaintiffs/Potential Plaintiffs	1.80	\$810.00
Document Review	1,004.20	\$451,890.00
Investigations and Factual Research	101.40	\$45,630.00
Written Discovery	52.30	\$23,535.00
Depositions	88.70	\$39,915.00
Pleadings, Briefs, and Pretrial Motions	37.00	\$16,650.00
Experts	0.00	\$0.00
Court Appearances	0.00	\$0.00
Litigation Strategy and Analysis	52.90	\$23,805.00
Class Certification	0.00	\$0.00
Settlement	2.20	\$990.00
Administrative	0.00	\$0.00
Miscellaneous	0.00	\$0.00
Case Management	29.70	\$13,365.00
Settlement Approval Work	0.00	\$0.00
TOTAL	1,370.20	\$616,590.00

C. Marc Van Anda

Billing Category	Marc Van Anda Hours	Lodestar
Identifying and Communicating with Plaintiffs/Potential Plaintiffs	11.20	\$2,520.00
Document Review	2.90	\$652.50
Investigations and Factual Research	0.80	\$180.00
Written Discovery	0.00	\$0.00
Depositions	0.00	\$0.00
Pleadings, Briefs, and Pretrial Motions	1.30	\$292.50
Experts	0.00	\$0.00
Court Appearances	0.00	\$0.00
Litigation Strategy and Analysis	0.00	\$0.00
Class Certification	0.00	\$0.00
Settlement	0.00	\$0.00
Administrative	9.10	\$2,047.50
Miscellaneous	0.00	\$0.00
Case Management	0.00	\$0.00
Settlement Approval Work	0.00	\$0.00
TOTAL	25.30	\$5,692.50

D. Sharon Laveson

Billing Category	Sharon Laveson Hours	Lodestar
Identifying and Communicating with Plaintiffs/Potential Plaintiffs	0.00	\$0.00
Document Review	88.90	\$44,005.50
Investigations and Factual Research	0.00	\$0.00
Written Discovery	0.00	\$0.00
Depositions	0.00	\$0.00
Pleadings, Briefs, and Pretrial Motions	0.00	\$0.00
Experts	0.00	\$0.00
Court Appearances	0.00	\$0.00
Litigation Strategy and Analysis	0.00	\$0.00
Class Certification	0.00	\$0.00
Settlement	0.00	\$0.00
Administrative	0.00	\$0.00
Miscellaneous	0.00	\$0.00
Case Management	0.00	\$0.00
Settlement Approval Work	0.00	\$0.00
TOTAL	88.90	\$44,005.50

E. Dominic Valerian

Billing Category	Dominic Valerian Hours	Lodestar
Identifying and Communicating with Plaintiffs/Potential Plaintiffs	0.00	\$0.00
Document Review	0.00	\$0.00
Investigations and Factual Research	0.30	\$165.00
Written Discovery	0.00	\$0.00
Depositions	0.00	\$0.00
Pleadings, Briefs, and Pretrial Motions	1.60	\$880.00
Experts	0.00	\$0.00
Court Appearances	0.00	\$0.00
Litigation Strategy and Analysis	0.60	\$330.00
Class Certification	0.00	\$0.00
Settlement	0.00	\$0.00
Administrative	0.00	\$0.00
Miscellaneous	0.00	\$0.00
Case Management	0.00	\$0.00
Settlement Approval Work	0.00	\$0.00
TOTAL	2.50	\$1,375.00

EXHIBIT 2

Expense Summary for Class Counsel for the Settlement Class
Daniel Matera and Susan Rashkis, et al., v. Google LLC
 5:15-cv-04062 LHK

EXPENSE CATEGORY	CBP, PLLC	GALLO, LLP	LCHB, LLP	TOTAL
Travel (airfare, transportation, lodging & meals)	\$10,578.21	\$1,300.94	\$258.50	\$12,137.65
Long distance/ Facsimile/Teleconference	\$245.35	\$0.00	\$690.06	\$935.41
Postage/Express Delivery/Messenger	\$0.00	\$0.94	\$396.29	\$397.23
Commercial Copies	\$0.00	\$0.00	\$160.50	\$160.50
Internal Reproduction Copies	\$0.00	\$0.00	\$1,878.80	\$1,878.80
Experts/Consultants	\$0.00	\$0.00	\$0.00	\$0.00
Court Fees	\$0.00	\$0.00	\$369.85	\$369.85
Court Reporters/Transcripts	\$2,247.99	\$4,708.57	\$376.40	\$7,332.96
Witness/Service Fees	\$0.00	\$0.00	\$90.00	\$90.00
Electronic Database	\$0.00	\$0.00	\$8,550.00	\$8,550.00
Computer Research/PACER	\$1,144.96	\$67.80	\$3,490.03	\$4,702.79
Mediation Expenses	\$2,833.33	\$7,083.33	\$3,948.97	\$13,865.63
Other Charges	\$0.00	\$1,001.11	\$0.00	\$1,001.11
TOTAL EXPENSES	\$17,049.84	\$14,162.69	\$20,209.40	\$51,421.93

EXHIBIT 3

1 Michael W. Sobol (SBN 194857)
msobol@lchb.com
2 Melissa Gardner (State Bar No. 289096)
mgardner@lchb.com
3 LIEFF CABRASER HEIMANN
& BERNSTEIN, LLP
4 275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
5 Telephone: 415.956.1000
Facsimile: 415.956.1008

6 Hank Bates (SBN 167688)
7 hbates@cbplaw.com
CARNEY BATES & PULLIAM, PLLC
8 519 W. 7th Street
Little Rock, AR 72201
9 Telephone: 501.312.8500
Facsimile: 501.312.8505

10 Ray E. Gallo (SBN 158903)
11 rgallo@gallo-law.com
Dominic R. Valerian (SBN 240001)
12 dvalerian@gallo-law.com
GALLO LLP
13 1299 Fourth St., Suite 505
San Rafael, CA 94901
14 Telephone: 415.257.8800

15 *Attorneys for Plaintiffs and the Class*

16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA

18 DANIEL MATERA and SUSAN
19 RASHKIS, as individuals, and on behalf of
other persons similarly situated,

20 Plaintiffs,

21 v.

22 GOOGLE, INC.,

23 Defendant.
24

Case No. 5:15-cv-04062 LHK

**DECLARATION OF DANIEL MATERA IN
SUPPORT OF PLAINTIFFS' MOTION
FOR AN AWARD OF ATTORNEYS' FEES
AND COSTS AND SERVICE AWARDS**

25
26
27
28

1 I, Daniel Matera, declare as follows:

2 1. I am one of the Named Plaintiffs in this case.

3 2. I submit this declaration in support of Plaintiffs' Motion for an Award of
4 Attorneys' Fees and Costs and Service Awards. I have personal knowledge of the facts stated
5 herein. If called to testify to the contents of this declaration, I could and would competently do
6 so.

7 3. After initiating this lawsuit, I actively participated in this litigation, including
8 through discussions with my attorneys about the litigation about the litigation's progress and
9 significant milestones, the multiple mediations, and the ultimate settlement of the lawsuit.

10 4. I provided information for and reviewed the Complaint in which I am a named
11 Plaintiff filed on September 4, 2015, and the Amended Complaint filed on October 7, 2016.

12 5. Throughout the litigation, I had numerous telephonic, email, and in-person
13 meetings with Class Counsel. They routinely kept me advised as to the status of the case and
14 responded to any questions I had.

15 6. I also stayed up to date on and informed of case developments by reviewing and
16 discussing with Class Counsel the major filings and events in the case.

17 7. I was in regular communication with Class Counsel during each mediation, and I
18 reviewed and approved the Settlement that is presented for the Court's approval.

19 8. In total, since this litigation began approximately 26 months ago, I estimate that I
20 have spent 30 hours on this litigation.

21 9. I have never been promised any compensation for performing my duties as a
22 plaintiff and class representative. I understand, however, that the parties have requested that the
23 Court award me \$2,000 for my time and efforts on behalf of the Settlement Class. I will be most
24 appreciative if the Court determines that my efforts on behalf of the Settlement Class in
25 commencing and assisting with the prosecution of this action warrant an award in that amount.

26 I declare under penalty of perjury that the foregoing is true and correct. Executed this
27 _____th day of October, 2017, in _____, _____

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

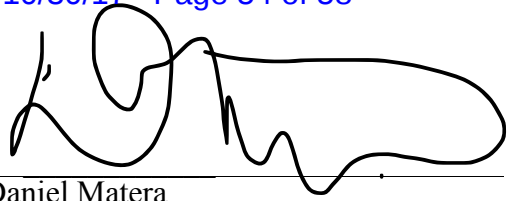
By: 
Daniel Matera

EXHIBIT 4

1 Michael W. Sobol (SBN 194857)
msobol@lchb.com
2 Melissa Gardner (State Bar No. 289096)
mgardner@lchb.com
3 LIEFF CABRASER HEIMANN
& BERNSTEIN, LLP
4 275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
5 Telephone: 415.956.1000
Facsimile: 415.956.1008

6 Hank Bates (SBN 167688)
hbates@cbplaw.com
7 CARNEY BATES & PULLIAM, PLLC
8 519 W. 7th Street
Little Rock, AR 72201
9 Telephone: 501.312.8500
Facsimile: 501.312.8505

10 Ray E. Gallo (SBN 158903)
rgallo@gallo-law.com
11 Dominic R. Valerian (SBN 240001)
dvalerian@gallo-law.com
12 GALLO LLP
13 1299 Fourth St., Suite 505
San Rafael, CA 94901
14 Telephone: 415.257.8800

15 *Attorneys for Plaintiffs and the Class*

16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA

18 DANIEL MATERA and SUSAN
19 RASHKIS, as individuals, and on behalf of
other persons similarly situated,

20 Plaintiffs,

21 v.

22 GOOGLE, INC.,

23 Defendant.
24

Case No. 5:15-cv-04062 LHK

**DECLARATION OF SUSAN RASHKIS IN
SUPPORT OF PLAINTIFFS' MOTION
FOR AN AWARD OF ATTORNEYS' FEES
AND COSTS AND SERVICE AWARDS**

25
26
27
28

1 I, Susan Rashkis, declare as follows:

2 1. I am one of the Named Plaintiffs in this case.

3 2. I submit this declaration in support of Plaintiffs' Motion for an Award of
4 Attorneys' Fees and Costs and Service Awards. I have personal knowledge of the facts stated
5 herein. If called to testify to the contents of this declaration, I could and would competently do
6 so.

7 3. After joining this lawsuit as a Named Plaintiff, I actively participated in this
8 litigation, including through discussions with my attorneys about the litigation about the
9 litigation's progress and significant milestones, the multiple mediations, and the ultimate
10 settlement of the lawsuit.

11 4. I provided information for and reviewed the Amended Complaint in which I am a
12 named Plaintiff filed on October 7, 2016.

13 5. Throughout the litigation, I had numerous telephonic, email, and in-person
14 meetings with Class Counsel. They routinely kept me advised as to the status of the case and
15 responded to any questions I had.

16 6. I also stayed up to date on and informed of case developments by reviewing and
17 discussing with Class Counsel the major filings and events in the case.

18 7. I was in regular communication with Class Counsel during each mediation, and I
19 reviewed and approved the Settlement that is presented for the Court's approval.


20 8. In total, since this litigation began approximately 26 months ago, I estimate that I
21 have spent 20 hours on this litigation.

22 9. I have never been promised any compensation for performing my duties as a
23 plaintiff and class representative. I understand, however, that the parties have requested that the
24 Court award me \$2,000 for my time and efforts on behalf of the Settlement Class. I will be most
25 appreciative if the Court determines that my efforts on behalf of the Settlement Class in
26 commencing and assisting with the prosecution of this action warrant an award in that amount.

27 I declare under penalty of perjury that the foregoing is true and correct. Executed this

28 27th day of October, 2017, in San Francisco, California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

By: 
Susan Rashkis