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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

PAUL PERKINS, PENNIE SEMPELL,  
ANN BRANDWEIN, ERIN EGGERS,  
CLARE CONNAUGHTON, JAKE  
KUSHNER, NATALIE RICHSTONE,  
NICOLE CROSBY, and LESLIE WALL;  
individually and on behalf of all others  
similarly situated,

Plaintiffs  
v.

LINKEDIN CORPORATION,  
Defendant.

Master Docket No. 13-CV-04303-LHK

**[PROPOSED] ORDER GRANTING  
PLAINTIFFS' MOTION FOR  
ATTORNEYS' FEES, LITIGATION  
COSTS, AND INCENTIVE AWARDS**

The Motion of Class Counsel for an award of attorneys' fees and reimbursement of expenses in the sum of \$3,250,000 came on regularly for hearing before this Court on February 11, 2016. Defendant does not oppose the Motion. Having considered the parties' submissions, the relevant case law, the parties' arguments, and the record in this case, the Court GRANTS Class Counsel attorneys' fees and reimbursement of litigation expenses in the sum of \$3,250,000.

The efforts of Class Counsel have created a common fund for the benefit of the Settlement Class in the amount of \$9,000,000. This is a non-reversionary settlement and, as such, no funds will be returned to the Defendant. Class Counsel seeks a modest downward adjustment of the

1 Ninth Circuit “benchmark” of 25% of the common fund as their petition for 25% of the  
2 \$13,000,000 settlement fund is inclusive of costs amounting to \$60,000.

3 The Ninth Circuit has stated that, in common fund cases like the instant case, a court may  
4 award attorneys’ fees as a percentage of the common fund. *Paul, Johnson, Alston & Hunt v.*  
5 *Graulity* (“*Paul*”), 886 F.2d 268, 271 (9th Cir. 1989). The Ninth Circuit has endorsed a  
6 benchmark of 25% for attorney’s fees awards. *Id.* at 272. That percentage amount can then be  
7 adjusted upward or downward depending on the circumstances of the case. *Id.* Indeed, “in most  
8 common fund cases, the award exceeds th[e] benchmark.” *In re Omnivision Technologies,*  
9 *Inc.*, 559 F.Supp.2d 1036, 1047 (N.D. Cal. 2008). Percentage awards of between 20% and 30%  
10 are common. *See In re Activision Sec. Litig.*, 723 F.Supp. 1373, 1377 (N.D. Cal 1989) (“This  
11 court’s review of recent reported cases discloses that nearly all common fund awards range  
12 around 30% even after thorough application of either the lodestar or twelve-factor method.”);  
13 *Vizcaino v. Microsoft Corp.* (“*Vizcaino I*”), 290 F.3d 1043, 1047 (9th Cir. 2002) (“The district  
14 court based its percentage award on *Bowles*, which states that ‘[i]n common fund cases, the  
15 ‘benchmark’ award is 25 percent of the recovery obtained,’ with 20-30% as the usual range...  
16 [The] Ninth Circuit cases echo this approach.” (quoting *Bowles v. Washington Dept. of Ret.*  
17 *Sys.*, 121 Wn.2d 52, 72-73 (1993) and *citing Paul*, 886 F.2d at 271)).

18 Whether the Court awards the benchmark amount or some other rate, the award must be  
19 supported “by findings that take into account all of the circumstances of the case.” *Vizcaino II*,  
20 290 F.3d at 1048. The Ninth Circuit has approved a number of factors which may be relevant to  
21 the district court’s determination: (1) the results achieved; (2) the risk of litigation; (3) the skill  
22 required and the quality of work; (4) the contingent nature of the fee and the financial burden  
23 carried by the plaintiffs; and (5) awards made in similar cases. *See id.* at 1048-1050. In addition,  
24 district courts may also compare the proposed percentage award to the attorney’s fee award that  
25 would be granted were the district court to use the lodestar method to determine fees. *Id.* at 1050.

26 Class Counsel seeks the Ninth Circuit benchmark of 25% of the common fund (including  
27 costs). As set forth below, the Court believes that the factors set forth in *Vizcaino II* weigh in  
28 favor of granting Class Counsel the requested percentage award.

1           The Court notes that Class Counsel has achieved monetary and non-monetary results in  
2 this case. Ninth Circuit courts consistently have held that, where class counsel achieves  
3 significant benefits that are not accounted for in the dollar value of the common settlement fund,  
4 the court “should consider the value of [such] relief as a relevant circumstance in determining  
5 what percentage of the common fund class counsel should receive as attorneys’ fees.” *Staton*,  
6 327 F.3d at 974; *see also Vizcaino*, 290 F.3d at 1049 (affirming enhanced fee award where “the  
7 court found that counsel’s performance generated benefits beyond the case settlement fund.”);  
8 *Linney v. Cellular Alaska P’ship*, No. 96-3008 DLJ, 1997 WL 450064, at \*7 (N.D. Cal. July 18,  
9 1997) (Jessen, J.), *aff’d*, 151 F.3d 1234 (9th Cir. 1998) (granting fee award of one-third common  
10 fund where settlement provided additional non-monetary relief).

11           As a result of this settlement, Defendant has revised its disclosures relating to its Add  
12 Connections service. In particular, the disclosures now clarify that up to two Reminder Emails  
13 will be sent for each Add Connection invitation enabling LinkedIn members to make fully-  
14 informed decisions before sending an Add Connection invitation. On its website, LinkedIn has  
15 added language to its Import Permission Screens, including new “Learn More” and “Help Center”  
16 buttons, that alert LinkedIn users that importing contact information in the Add Connections  
17 process entails a “one-time upload of [the user’s] address book contacts as well as their detailed  
18 contact information.” It also notifies users that, in the course of importing a user’s email contacts,  
19 “[LinkedIn] automatically selects all contacts on the displayed list to be invited...” and offers  
20 users the option to “uncheck the Select All box” rather than manually de-selecting the contacts, as  
21 previously. LinkedIn has also amended its Invitation Permission Screens adding that “[i]f  
22 someone you invite doesn’t respond right away, we’ll send up to two reminders.” LinkedIn has  
23 implemented functionality allowing users to manage their contacts as well as functionality  
24 allowing its members who invite contacts to connect through Add Connections to withdraw those  
25 invitations. This withdrawal functionality stops Reminder Emails from going out.

26           Further, Class Counsel has achieved a settlement in the amount of \$13,000,000. That  
27 fund was made available to a class of approximately 20.8 million people. The fund is also non-  
28 reversionary, thus the entire Net Settlement Fund (after deductions for attorneys’ fees, costs,

1 incentive awards, and administrative costs) will be fully paid to 441,161 class members with an  
2 average recovery for each participating class members of approximately \$20.37. Class Counsel  
3 also negotiated for the Email Notice to be disseminated, and for claims to be validated, by  
4 LinkedIn at no additional cost to the Class, rather than by the Settlement Administrator, which  
5 reduced administrative costs by approximately \$93,000. Accordingly, these results achieved on  
6 behalf of the class by Class Counsel weigh in favor of granting Class Counsel's request for a fee  
7 and reimbursement of costs award of 25%.

8         There were significant risks of litigation here. As an initial matter, Defendant was  
9 represented by an experienced and well-resourced defense firm. Had Class Counsel failed to  
10 vigorously prosecute this case, it is unlikely that this settlement could have been achieved. Absent  
11 the settlement, Plaintiffs would face challenging hurdles both factually and legally. LinkedIn  
12 contested its liability, arguing that its terms of service and privacy policies, as well as LinkedIn  
13 users' knowledge based upon receipt of Add Connections emails from other users and other  
14 potential forms of notice, would be sufficient for a jury to find that the proposed Class consented  
15 to the challenged conduct. LinkedIn also argued that the single publication rule might prevent  
16 Class Members from challenging Reminder Emails separately from initial invitation emails  
17 because the communications constituted a "single integrated publication." Finally, there is no  
18 doubt that LinkedIn would actively contest class certification including by claiming that aspects  
19 of the claims raise inherently individualized issues.

20         Class Counsel's experience in digital privacy class actions enabled them to evaluate the  
21 strengths and weaknesses of the case against Defendant and the reasonableness of the settlement.  
22 Class Counsel assembled a team of three law firms with resources and ability necessary to litigate  
23 these claims. They performed significant factual investigation prior to bringing these actions,  
24 engaged in motion practice including opposing two motions to dismiss, engaged in written  
25 discovery, participated in protracted, challenging and hard-fought negotiations with LinkedIn,  
26 including participating in two full-day mediations, with the assistance of two different capable  
27 and experienced mediators, and vigorously negotiated the Settlement.

28         From the outset of the case, Class Counsel's prosecution of this action involved

1 significant financial risk for Class Counsel. Class Counsel undertook this matter solely on a  
2 contingent basis with no guarantee of recovery and against a well-represented Defendant. All of  
3 the financial risk of litigation was assumed by Class Counsel, whose fee arrangement with  
4 Plaintiffs requires Class Counsel to bear all of the costs of litigation and the costs of attorney and  
5 paralegal time, which was substantial. Class Counsel took a significant risk in investing in this  
6 case, to some extent was precluded from taking and devoting resources to other cases or potential  
7 cases, and undertook it on a purely contingent basis with no guarantee that the time expended  
8 would result in any recovery or recoupment of costs.

9 An attorney's fee award that is 25% of the common fund (including costs) is consistent  
10 with, and within the range of, awards made in digital privacy cases by district courts in California.  
11 *Vizcaino II, supra*, 290 F.3d at 1047. Class Counsel's requested fee award is less than the fee  
12 frequently awarded in class actions. *See, e.g. Omnivision*, 559 F. Supp. 2d at 1047 ("in most  
13 common fund cases, the award exceeds that [25%] benchmark."); *In re Mego Fin. Corp. Sec.*  
14 *Litig.*, 213 F.3d 454, 463 (9th Cir. 2000), as amended (June 19, 2000) (affirming fee award of one  
15 third of common fund); *Lusby v. GameStop Inc.*, No. 12-3783, 2015 WL 1501095, at \*9 (N.D.  
16 Cal. Mar. 31, 2015) (awarding fee of one-third of common fund); *de Mira v. Heartland*  
17 *Employment Serv., LLC*, No. 12 -4092, 2014 WL 1026282, at \*4 (N.D. Cal. Mar. 13, 2014)  
18 (awarding fee of 28% of common fund); *Knight*, 2009 WL 248367, at \*7-\*8 (awarding 30% of  
19 common fund); *In re M.D.C. Holdings Sec. Litig.*, No. 89-90, 1990 WL 454747, at \*7, \*10 n.6  
20 (S.D. Cal. Aug. 30, 1990) (awarding 30% fee where settlement obtained "in a very short period of  
21 time" and finding that class counsel should be rewarded, not penalized, for achieving early  
22 success on behalf of the class).

23 In cases where courts apply the percentage method to calculate fees, it is common for  
24 courts to use a rough calculation of the lodestar as a cross-check to assess the reasonableness of  
25 the percentage award. *See, Vizcaino II*, 290 F.3d at 1050. The purpose of this multiplier is to  
26 account for the risk Class Counsel assumes when they take on contingent-fee cases. *See,*  
27 *Vizcaino v. Microsoft Corp.* ("*Vizcaino I*") 142 F.Supp.2d 1299, 1305 (W.D. Wa. 2001).  
28 Multipliers of 1 to 4 are commonly found to be appropriate in complex class action cases.

1 *Vizcaino II*, 290 F.3d at 1051, n.6 (finding that, in approximately 83 percent of the cases surveyed  
2 by the Court, the multiplier was between 1.0 and 4.0, with a “bare majority...54%...in the 1.5-3.0  
3 range”).

4 Here, Class Counsel’s total lodestar was \$2,242,956. *See* Supplemental Declaration Of  
5 Nicholas Diamand ¶ 4. Class Counsel’s time was spent primarily in the following tasks: (1)  
6 investigating the claims of the Plaintiffs; (2) preparing four Complaints, (3) conducting legal  
7 research regarding and opposing LinkedIn’s two motions to dismiss; (4) negotiating the  
8 Settlement over many months, including by participating in two full-day mediation sessions; (5)  
9 administering the Settlement; (6) moving for preliminary approval; (7) responding to Settlement  
10 Class Member inquiries concerning the Class Notice and Settlement; and (8) moving for final  
11 approval of the settlement.

12 Class Counsel attests that the lodestar was calculated using the hourly rates Class Counsel  
13 normally charges for class litigation and is consistent with prevailing rates. *See*, Diamand Decl.  
14 (Dkt. No. 116). This Court, within the last year, and others within this District (and elsewhere),  
15 have approved Class Counsel’s customary rates used in calculating the lodestar here. *See High-*  
16 *Tech Employee*, 2015 WL 5158730, at \*9; *see also Bayat v. Bank of the W.*, No. 13-2376, 2015  
17 WL 1744342, at \*9 (N.D. Cal. Apr. 15, 2015); *In re TracFone Unlimited Serv. Plan Litig.*, No.  
18 13-3440, 2015 WL 4051882, at \*12 (N.D. Cal. July 2, 2015). Based on a lodestar of \$2,242,956  
19 the Court’s award of 25% of the common fund results in a multiplier of 1.44. Such an award is  
20 consistent with case law. The Court believes that the request of \$3,250,000 is a reasonable  
21 amount that adequately compensates Class Counsel.

22 The positive response from the Class further supports the fee request. *In re Omnivision*  
23 *Techs., Inc.*, 559 F. Supp. 2d 1036, 1048 (N.D. Cal. 2008) (Conti, J.) (“The reaction of the class  
24 may also be a determining factor in the determining the fee award.”); *Wren v. RGIS Inventory*  
25 *Specialists*, No. 6-5778, 2011 WL 1230826, at \*29 (N.D. Cal. Apr. 1, 2011) (Spero, J.) (finding  
26 that “positive reaction and low opt-out rate” supported request for fee award in amount equal to  
27 42% of settlement fund). As demonstrated by correspondence during the claims process, and  
28 referenced in Class Counsel’s moving papers, Class members support this Settlement.

1 Class Counsel have also submitted 85 documents that could be construed as objections.<sup>1</sup>  
 2 Five of these potential objections were submitted by individuals who LinkedIn has confirmed are  
 3 not members of the Class. Non-Class members lack standing to object to the Settlement. As a  
 4 result, these objections will not be considered. Of the remaining 80 documents, 18 were styled as  
 5 “objections” but did not expressly state opposition to the Settlement, and many appeared to  
 6 support the goals of the litigation.<sup>2</sup> Counting each of these 80 documents as objections, less than  
 7 0.0004% of the Class objected to the Settlement. Only 23, or approximately one in a million,  
 8 Class members, objected to Class counsel’s request for the benchmark fee award.

9 The Court overrules the objections to Class Counsel’s fee request.<sup>3</sup> Many of these  
 10 objectors (eighteen<sup>4</sup>) appear to believe that the suit is frivolous, that no such relief for the Class

11 <sup>1</sup> The true number of objections is lower than 85. Class Counsel have included with their  
 12 submission a considerable number of documents (77) that failed to meet the procedural  
 13 requirements for validity, including 35 letters and comments addressed to Class Counsel that  
 14 were not previously filed with the Court. *See generally* Dkt. No. 126-7, Jue Decl.; Dkt. No. 126-  
 15 4, Burke Decl., Ex. 3.

16 <sup>2</sup> For instance, objector Gerald Monge wrote, “Numerous acquaintances of mine were offended  
 17 that I released their names to LinkedIn (Dkt. No. 126-7, Jue Decl., Ex. 49);” Lindsay Finnie  
 18 wrote, “I agree with the terms of the lawsuit and expect reimbursement” (*Id.*, Ex. 19); Rustin  
 19 Coburn wrote “I . . . seriously do not like that LinkedIn used the ‘Add Connections’ service to  
 20 import contacts. . . This is unethical and hopefully illegal (*Id.*, Ex. 12);” Diane Kushmer wrote “I  
 21 see this as an invasion to my privacy and to the privacy of the people in my contacts (*Id.*, Ex. 40).  
 22 Additional objectors who appear to support the litigation and/or the Settlement are June Barrett,  
 23 Anne Butman, Shataia Denise Blocker, Antuan Booker, Elizabeth Garcia, Julius Gonzala,  
 24 Christopher H. Peters, Donata Ray, Youssef Rifai, Carol Stocks, Scott L. Teague, Efrain Valdez,  
 25 Melanie Wobig, Quintena Woodward. (*Id.*, Exs. 2, 10, 6-7, 13, 22, 24, 53, 57, 60, 68, 71, 75, 81-  
 26 82).

27 <sup>3</sup> These objections were submitted by Boyan Boyanov, Daniel Brown/Jenny Hill, William  
 28 Calderwood, Mary C. Don, Melodie Kate Ford, Gary Gill, Julie Gordon, Susan House, Mark  
 Howard, Michael Hughes, Dylan Jacobs, August Lasseter, Tom Lucas, Mary Means, Donald  
 Muldoon, Robert Petersen, Karrie Reuter, John Rollinson, Gabriel Smith, Carol Tomczyk, Steven  
 White, Daniel Whiting, Philip Wrona, Olen York, and Farage Yusupov. (Dkt. No. 126-7, Jue  
 Decl. Exs. 8-9, 11, 17, 21, 23, 25, 29, 31, 32-33, 42, 44, 47, 50, 54, 59, 62, 65, 74, 79-80, 83-84).

<sup>4</sup> Calderwood, Ford, Gill, Gordon, Howard, Hughes, Jacobs, Lasseter, Lucas, Muldoon, Petersen,  
 Reuter, Rollinson, Smith, Tomczyk, White, Whiting, Wrona (Dkt. No. 126-7, Dkt. No. 126-7,  
 Jue Decl. Exs. 11, 21, 23, 25, 31, 32, 33, 42, 44, 50, 54, 59, 62, 65, 74, 79, 80, 83). Additionally,  
 Mary C. Don (Dkt. No. 126-7, Jue Decl. Ex. 17) impliedly objects to attorneys’ fees insofar as  
 she objects to recovery of *any* monetary relief under the Settlement, although she appears to  
 believe that the suit itself was meritorious. Farage Yusupov (Dkt. No. 126-7, Jue Decl. Ex. 85)  
 finds the numbers, including the attorneys’ fees, to be “unjust” because he believes that the harm  
 he suffered as a result of LinkedIn’s conduct is worth more than \$10, which he anticipated would  
 be the *pro rata* recovery for Class members under the Settlement. Because the Settlement  
 provides meaningful prospective and monetary relief for the Class, neither of these objections  
 provides a basis to deny Class Counsel’s fee request.

1 was necessary, and therefore that an award of attorneys' fees would be unwarranted. The Court  
 2 has already found that this litigation is not frivolous. *See In re: High-tech Employee Antitrust*  
 3 *Litig.*, No. 11-2509, 2014 WL 10520478, at \*2 (N.D. Cal. May 16, 2014) (finding objection that  
 4 "case should not have been brought at all. . . is not a valid objection, particularly in light of the  
 5 fact that the Court has found this litigation to be meritorious.") Moreover, the Settlement  
 6 provides meaningful injunctive relief that prospectively addresses the conduct at issue in the  
 7 lawsuit. The Settlement created a non-reversionary Net Settlement Fund of approximately \$9  
 8 million from which Class members were entitled to submit claims for compensation. These  
 9 excellent results obtained on behalf of the Class weigh in favor of the requested award of  
 10 attorneys' fees.

11 Three objectors, two of whom are individuals who have filed objections to multiple class  
 12 action settlements (Susan House and Dylan Jacobs), and a third represented by counsel (Mary  
 13 Means) (Dkt. No. 126-7, Jue Decl. Exs. 29, 33, 47), objected that Class Counsel did insufficient  
 14 work to justify the requested fee. These objections are overruled. Class Counsel's diligence and  
 15 quality of work are demonstrated by the result obtained for the Class. In addition, these objectors  
 16 do not properly consider how the fee requested compares with fees awarded in comparable cases.<sup>5</sup>  
 17 As addressed above, courts in the Ninth Circuit regularly award fees of 25% and even higher in  
 18 class action common fund settlements, including in cases where there was only limited litigation  
 19 and/or the relief achieved is far less than the recovery achieved here. *See e.g., de Mira v.*

21 <sup>5</sup> Repeat objector Alan Sherwood's clients, Daniel Brown and Jenny Hill suggest that Class  
 22 Counsel's fee request is improper because it seeks 25% of the settlement fund before deducting  
 23 administrative costs, citing *In re Bluetooth Headset Products Liab. Litig.*, 654 F.3d 935 (9th Cir.  
 24 2011). (Dkt. No. 126-7, Dkt. No. 126-7, Jue Decl., Ex. 9, at 3). *In re Bluetooth* does not so hold.  
 25 *See id.*, at 945 (observing that fees awarded far exceeded "benchmark" of 25% of fund including  
 26 "notice costs.") The rule proposed by these objectors is not the law in the Ninth Circuit, and,  
 27 indeed, would contradict this Court's precedent. *See Chavez v. PVH Corp.*, No. 13-1797, 2015  
 28 WL 9258144, at \*8 (N.D. Cal. Dec. 18, 2015) (awarding 25% of common fund calculated before  
 deductions for costs or administrative expenses); *Trosper v. Stryker Corp.*, No. 13-607, 2015 WL  
 5915360, at \*2 (N.D. Cal. Oct. 9, 2015) (same, 25%); *de Mira v. Heartland Employment Serv.,*  
*LLC*, No. 12-4092, 2014 WL 1026282, at \*5 (N.D. Cal. Mar. 13, 2014) (same, 28%); *In re: High-*  
*tech Employee Antitrust Litig.*, No. 11-2509, 2014 WL 10520478, at \*4 (N.D. Cal. May 16, 2014)  
 (same, 25%); *Hopkins v. Stryker Sales Corp.*, No. 11-2786, 2013 WL 496358, at \*6 (N.D. Cal.  
 Feb. 6, 2013) (same, 30%); *see also In re LinkedIn User Privacy Litig.*, 309 F.R.D. 573, 591  
 (N.D. Cal. 2015) (same, 25%).

1 *Heartland Employment Serv., LLC*, No. 12-4092, 2014 WL 1026282, at \*3 (N.D. Cal. Mar. 13,  
2 2014).

3 Objector Susan House objects that the Court was provided insufficient information about  
4 the work performed by Class Counsel to perform a lodestar cross-check of the benchmark fee  
5 request. (Dkt. No. 126-7, Jue Decl. Ex. 29, at 7). “[I]t is well established that ‘the lodestar cross-  
6 check calculation need entail neither mathematical precision nor bean counting ... [courts] may  
7 rely on summaries submitted by the attorneys and need not review actual billing records.’”  
8 *Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 264 (N.D. Cal. 2015) (Corley, J.) (citations  
9 omitted); *Covillo v. Specialtys Cafe*, No. 11-594, 2014 WL 954516, at \*6 (N.D. Cal. Mar. 6,  
10 2014) (Ryu, J.) (citation omitted) (same); *Pierce v. Rosetta Stone, Ltd.*, No. 11-1283, 2013 WL  
11 5402120, at \*5 (N.D. Cal. Sept. 26, 2013) (Armstrong, J.) (same); *Young v. Polo Retail, LLC*, No.  
12 2-4546, 2007 WL 951821, at \*6 (N.D. Cal. Mar. 28, 2007) (Walker, J.) (“the lodestar cross-check  
13 can be performed with a less exhaustive cataloging and review of counsel’s hours”). In sworn  
14 declarations, Class Counsel have provided detailed summaries of their time, demonstrating both  
15 the number of hours spent by specific individuals on the necessary work, and the nature of the  
16 work performed. Courts in this District have found such declarations to be an “especially helpful  
17 compromise between reporting hours in the aggregate (which is easy to review, but lacks  
18 informative detail) and generating a complete line-by-line billing report (which offers great detail,  
19 but tends to obscure the forest for the trees).” *In re HPL Techs., Inc. Sec. Litig.*, 366 F. Supp. 2d  
20 912, 920 (N.D. Cal. 2005) (Walker, J.). Class Counsel’s submission, under the circumstances of  
21 this case, is sufficient for the “rough calculation” of Class Counsel’s lodestar required to assess  
22 the reasonableness of the percentage award. *de Mira v. Heartland Employment Serv., LLC*, No.  
23 12-4092, 2014 WL 1026282, at \*4 (N.D. Cal. Mar. 13, 2014). These objections are overruled.

24 Of the 80 total documents that could be construed as objections from Class members,  
25 seven were timely and fully complied with this Court’s order for procedural validity (Dkt. No.  
26 106; 126-4, at 15-16).<sup>6</sup> Five of those valid objections: Brown/Hill, House, Jacobs, Means, and

27 <sup>6</sup> These are objectors Brown/Hill, House, Jacobs, Kung, Lezon, Means, and Tomczyk. As  
28 discussed above, objector York met the requirements for procedural validity but does not appear  
to be a Class member.

1 Tomczyk, concerned Class Counsel’s request for fees. (Dkt. No. 126-7, Jue Decl. Exs. 9, 29, 33,  
2 47, 74). The remaining 18 procedurally deficient objections to Class Counsel’s fee request may  
3 be overruled “on this basis alone.” *Chavez v. PVH Corp.*, No. 13-1797, 2015 WL 9258144, at \*3  
4 (N.D. Cal. Dec. 18, 2015) (Koh, J.). *See also Moore v. Verizon Commc’ns Inc.*, 2013 WL  
5 4610764, \*12 (N.D. Cal. Aug. 28, 2013) (Armstrong, J.) (overruling objections that were  
6 submitted because these objections “fail[ed] to comply with the procedural requirements for  
7 objecting to the Settlement.”). Importantly, due to the failure of 30 of the 73 procedurally invalid  
8 objections to include unique identifying information for the objector (such as a Class member’s  
9 unique Claim ID or email address used to sign up for a LinkedIn account), LinkedIn is unable to  
10 verify whether those individuals (eleven of which are fee objectors<sup>7</sup>) are members of the Class,  
11 and, thus, whether they have standing to object to either the Settlement or to Class Counsel’s fee  
12 request. (Junnarkar Decl. ¶ 7). The Court has already overruled these objections based upon  
13 their substantive merits. The 73 procedurally invalid objections, including the 18 procedurally  
14 invalid objections to Class Counsel’s fee request, are overruled for the additional reason that they  
15 failed to comply with this Court’s order for submitting a valid objection.

16 For the reasons set forth above, the Court believes that an award of 25% of the common  
17 fund (including costs) is appropriate. Such an award represents a multiplier of approximately  
18 1.44[ ], which falls within the “majority” range for risk multipliers. *See Vizcaino II*, 290 F.3d at  
19 1051 n. 6 (finding that, of the cases surveyed by the Court, the multiplier in 83 percent of cases  
20 was from “1.0-4.0.”). Accordingly, the Court awards Class Counsel attorneys’ fees in the amount  
21 of \$3,250,000, above Class Counsel’s lodestar of \$2,242,956. The Court believes that this  
22 amount adequately compensates Class Counsel for their work in this case.

23 Class Counsel are not seeking payment of costs in addition to their recovery of 25% of the  
24 Settlement Fund, and, rather, will be reimbursed their costs from that 25% fee. These expenses  
25 were incidental and necessary to the effective representation of the Class. *Harris v.*  
26 *Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994). In prosecuting this case, Class Counsel have incurred

27 \_\_\_\_\_  
28 <sup>7</sup> Calderwood, Don, Ford, Lucas, Muldoon, Reuter, Smith, White, Whiting, Wrona, Yusupov  
(Dkt. No. 126-7, Dkt. No. 126-7, Jue Decl. Exs. 11, 17, 21, 44, 50, 59, 65, 79-80, 83, 85).

1 total out-of-pocket expenses of approximately \$60,000. (Dkt. 116,). This includes costs for  
2 (1) mediation fees; (2) travel to court hearings, mediations and meeting with counsel; (3) hard  
3 costs such as legal research through LEXIS and Westlaw and Federal Express, and messengering  
4 fees; and (4) expert and consultant fees. These relatively modest out-of-pocket costs were  
5 necessary to resolve this litigation. *See In re Media Vision*, 913 F. Supp. at 1367-72 (costs related  
6 to retention of experts, photocopy costs, travel expenses, postage, telephone costs, computerized  
7 legal research fees, and filing fees may be reimbursed).

8 Class Counsel request approval of Incentive Awards to the Class Representatives in the  
9 amount of \$1,500 each. The purpose of such service awards is to “compensate named plaintiffs  
10 for the services they provided and the risks they incurred during the course of class action  
11 litigation. . .” *Sullivan v. DB Invs., Inc.*, 667 F.3d 273, 333 n.65 (3d Cir. 2011) (en banc), *cert.*  
12 *denied*, 132 S. Ct. 1876 (2012). *See also Staton*, 327 F.3d at 977 (“[N]amed plaintiffs . . . are  
13 eligible for reasonable incentive payments”).

14 The Court finds that the requested service awards of up to \$1,500 for each Class  
15 Representative are reasonable and appropriate here. First, the Class Representatives have  
16 expended substantial time and effort in assisting Class Counsel with the prosecution of the  
17 Class’s claims, including relating the details of their embarrassment as a result of LinkedIn’s  
18 alleged conduct, preserving relevant documentation and evidence for discovery, staying abreast of  
19 events in the litigation and providing their opinions on the proposed settlement, and, in some  
20 cases, attending and participating in the parties’ mediations.

21 Second, the Class Representatives should be rewarded for their “public service of  
22 contributing to the enforcement of mandatory laws.” *Sullivan*, 667 F.3d at 333 n.65 (citation and  
23 quotation omitted). Without the Class Representatives’ willingness to take the risks of filing a  
24 class action lawsuit, no recovery would have been possible. Solely because the Class  
25 Representatives came forward here at substantial personal risk, LinkedIn has made significant  
26 practice changes to provide LinkedIn users control over the use of their names and likenesses  
27 through Add Connections, and will pay a total of \$13,000,000 into a common fund for the benefit  
28 of the Class.

1 In addition, the requested service awards are appropriate when compared to the recovery  
2 achieved. Courts assessing the reasonableness of requests for service awards may compare the  
3 request against the size of the settlement fund. *See, e.g., Velez v. Novartis Pharm. Corp.*, No. 4-  
4 9194, 2010 WL 4877852, at \*8 (S.D.N.Y. Nov. 30, 2010) (“Plaintiffs seek, therefore, a total of  
5 \$3,775,000.00 in service award payments, which represents only approximately 2.4 percent of the  
6 entire monetary award of \$152.5 million (or approximately 2.1 percent of the entire value of the  
7 settlement of \$175 million).”). The requested service awards here collectively represent  
8 approximately 0.1% of the \$13,000,000 common fund.

9 The Court overrules the objection to the Incentive Awards, which was filed by repeat  
10 objector Susan House, represented by Joseph Darrel Palmer. (Dkt. No. 126-7, Jue Decl., Ex. 29,  
11 at 7). Ms. House objects that the Incentive Awards are excessive as compared to the *pro rata*  
12 recovery obtained for each Class member who submitted a valid claim. Such a comparison may  
13 be a factor in assessing the reasonableness of the awards. However, total incentive awards of 0.1%  
14 of the common fund are modest under the circumstances, and well in line with awards approved  
15 by federal courts in the Ninth Circuit. *See In re Online DVD-Rental Antitrust Litig.*, 779 F.3d  
16 934, 947-48 (9th Cir. 2015) (holding that awards cumulatively representing “mere .17%” of  
17 settlement fund were reasonable); *Gaudin v. Saxon Mortgage Servs., Inc.*, No. 11-1663, 2015 WL  
18 7454183, at \*9-10 (N.D. Cal. Nov. 23, 2015) (collecting cases, noting that “[m]any courts in the  
19 Ninth Circuit have . . . held that a \$5,000 incentive award is ‘presumptively reasonable.’”); *In re*  
20 *ECotality, Inc. Sec. Litig.*, No. 13-3791, 2015 WL 5117618, at \*4 (N.D. Cal. Aug. 28, 2015)  
21 (same). *See also Chavez v. PVH Corp.*, No. 13-1797, 2015 WL 9258144, at \*9 (N.D. Cal. Dec.  
22 18, 2015) (holding that incentive awards totaling \$7,500, and representing only a “small part” of  
23 the benefit conferred upon the Class, were reasonable); *Fraley v. Facebook, Inc.*, No. 11-1726,  
24 2013 WL 4516806, at \*4 (N.D. Cal. Aug. 26, 2013) *aff’d* 2016 WL 145984 (9th Cir. Jan. 6, 2016)  
25 (awarding incentive awards of \$1,500 to each named plaintiff based, in part, on “additional  
26 transparency and control resulting from the settlement.”).

27 The Named Plaintiffs have achieved meaningful monetary and prospective relief for the  
28 Class. Accordingly, having considered the record in this case and the response of the Class, this

1 Court finds that Class Counsel's request for Incentive Awards of \$1,500 for each Class  
2 Representative is reasonable.

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4 **IT IS SO ORDERED**

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7 Dated: February \_\_, 2016

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LUCY H. KOH  
United States District Judge

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