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**SUPERIOR COURT OF CALIFORNIA**

**FOR THE COUNTY OF MONTEREY**

C.J., individually and on behalf of all other  
persons similarly situated,

Plaintiff,

v.

COGNOSPHERE PTE. LTD,

Defendant.

Case No. 23CV001405

**CASE DEEMED COMPLEX**  
ASSIGNED FOR ALL PURPOSES TO  
JUDGE THOMAS W. WILLS

**PLAINTIFF'S NOTICE OF MOTION AND  
MOTION FOR ATTORNEYS' FEES,  
COSTS, AND SERVICE AWARD**

Action Filed: May 3, 2023  
Trial Date: None assigned

Date: January 26, 2024  
Time: 8:30 a.m.  
Dept.: 15

1 **NOTICE OF MOTION AND MOTION**

2 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

3 PLEASE TAKE NOTICE that on January 26, 2024, at 8:30 a.m., or as soon thereafter as  
4 this matter may be heard in Department 15 of the above captioned Court, located at 1200 Aguajito  
5 Road, CA 93940, Plaintiff C.J. ("Plaintiff") will move, and hereby does move, for an Order  
6 granting attorneys' fees and costs and a service award for the Class Representative. This Motion is  
7 based on this Notice of Motion and Motion, the supporting memorandum of law, the Declaration of  
8 L. Timothy Fisher and exhibits thereto, the pleadings and papers on file herein, and upon such  
9 matters as may be presented to the Court at the time of the hearing.

10  
11 Dated: November 2, 2023

**BURSOR & FISHER, P.A.**

12 By: 

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1 **I. INTRODUCTION**

2 Plaintiff and Class Counsel have achieved a significant result in this case. The declarative  
3 and injunctive relief secured through this Class Action Settlement obtains the precise redress  
4 Plaintiff sought in the complaint: the ability for any class member to disaffirm his or her contract  
5 with Defendant and obtain refunds for any purchases that he or she made as a minor. Importantly,  
6 Class Members are not releasing their claims for monetary damages.

7 Class Counsel now requests that the Court approve an award of attorneys' fees and  
8 litigation costs in the amount of \$400,000. Cross-checking this amount against Class Counsel's  
9 lodestar validates the reasonableness of Class Counsel's fee request. As of November 1, 2023,  
10 Class Counsel had worked 490.6 hours on this case for a total fee, at current billing rates, of  
11 \$227,692.50. Fisher Decl., Ex. 2 (detailed billing records and expenses for this case). Class  
12 Counsel's blended hourly rate of \$464.11 is well within the bounds of reasonable hourly rates. *Id.*  
13 ¶¶ 4, 9, 11-14; *see also id.* Exs. 4-13. A fee and expense award of \$400,000 would result in a  
14 lodestar multiplier of 1.69, which further demonstrates its reasonableness.<sup>1</sup>

15 Finally, Plaintiff requests that the Court award a service payment in the amount of \$1,000  
16 to account for the significant time and effort that Plaintiff invested in this case on behalf of the  
17 Class.

18 **II. PROCEDURAL AND FACTUAL BACKGROUND**

19 The complaint in this case was filed on May 3, 2023. But the case actually began almost  
20 two years earlier, when, in July 2021, Plaintiff's counsel began investigating Defendant's refund  
21 policy with respect to minors. Fisher Decl. ¶ 15. Prior to engaging with Defendant, Plaintiff's  
22 counsel conducted an extensive pre-suit investigation into the factual underpinnings of the  
23 practices challenged in this action, as well as the applicable law. *Id.* Plaintiff's counsel reviewed  
24 Defendant's terms of service, Plaintiff's purchase history, and the refund policies of the platforms  
25 where Plaintiff made her purchases of in-game currency and virtual items. *Id.* Further, Plaintiff's  
26 counsel thoroughly investigated Defendant's publicly available financial information and player  
27

28 <sup>1</sup> Calculated as \$400,000.00 minus \$15,217.75 in expenses, divided by lodestar of \$227,692.50.

1 demographics. *Id.* Plaintiff’s counsel also researched complex legal and factual issues that were  
2 specific to suing an entity based in Singapore for violations of California law. *Id.*

3 These efforts culminated on March 16, 2022 with the filing of a case in the Central District  
4 of California on behalf of a minor plaintiff domiciled in Virginia. *See A.T. v. Cognosphere, LLC*  
5 (C.D. Cal.) 2:22-cv-01761 (“*A.T.*”). In *A.T.*, Defendant raised difficult procedural issues that were  
6 specific to the plaintiff in that case, necessitating two amendments of the *A.T.* complaint. Fisher  
7 Decl. ¶¶ 17-18. After Defendant moved to dismiss the *A.T.* case, and Plaintiff’s counsel prepared  
8 (but did not file) an opposition brief, Bursor & Fisher was retained by C.J. to file the instant case.  
9 As a result of the threatened litigation from C.J., the Parties mutually agreed to extend the  
10 deadlines in the C.J. case, and to mediate C.J.’s claims prior to filing. During the period leading up  
11 to the mediation, the Parties exchanged multiple rounds of voluminous briefing on the core facts,  
12 legal issues, litigation risks, and potential settlement structures; and the Parties supplemented that  
13 briefing with extensive telephonic correspondence, mediated and shuttled by the Phillips ADR  
14 team, clarifying each both Parties’ positions in advance of the mediation. Fisher Decl. ¶ 20. On  
15 March 16, 2023, the Parties participated in a full-day mediation session with Gregory P. Lindstrom  
16 of Phillips ADR, which culminated in a mediator’s proposal and near-final term sheet. *Id.* ¶ 21.  
17 Following additional negotiations, the term sheet was executed by the Parties on March 29, 2023.  
18 *Id.* Over the next month, the parties exchanged edits to the draft long form settlement agreement,  
19 which was executed on May 1, 2023. *Id.* As part of this confidential mediation process, Defendant  
20 provided Plaintiff’s Counsel with information about the putative class. *Id.*

21 Plaintiffs filed their motion for preliminary approval on May 24, 2023, and the Court,  
22 following a supplemental joint submission on September 22, 2023, granted the motion on October  
23 3, 2023.

24 **III. THE REQUESTED ATTORNEYS’ FEES AND COSTS ARE FAIR, REASONABLE,**  
25 **AND APPROPRIATE UNDER THE CIRCUMSTANCES**

26 **A. Class Counsel Obtained an Excellent Result**

27 As detailed in the concurrently-filed Motion for Final Approval of Class Action Settlement,  
28 the Settlement before the Court provides significant relief for the Class that is specifically tailored



1 to the harm alleged. This litigation is about Defendant’s denial of minors’ rights to disaffirm  
2 contracts with Defendant and seek refunds. The Settlement ***obligates Defendant to be in full***  
3 ***compliance with the relevant law*** and to completely overhaul its refund policies by not simply  
4 updating their relevant policy pages, but also by building a system that requires Defendant to (1)  
5 determine if a minor intends to disaffirm his or her contract and (2) refund any minors that do so  
6 intend, honoring their obligation under California law. *See V.R. v. Roblox Corp.* (N.D. Cal. Jan. 25,  
7 2023) 2023 WL 411347, at \*2 (stating that the language “[a]ll payments . . . are final and not  
8 refundable, except as required by law” complied with the California Family Code).

9 Any Class member who made purchases as a minor and wants to disaffirm their contracts  
10 can still sue Defendant for damages. Under the Settlement, absent Class members have thus  
11 released almost nothing. And although it was vigorously debated during settlement negotiations,  
12 no court has ever specifically held that a party was obligated to inform a minor about his right to  
13 disaffirm a contract. In fact, California courts have held that there is “no general duty owed by one  
14 contracting party to another to explain the other’s legal rights in connection with the agreement.”  
15 *Olsen v. Breeze, Inc.* (1996) 48 Cal. App. 4th 608, 622-23. Thus, the injunctive relief provided by  
16 the Settlement and Defendant’s additional, post-settlement concessions arguably require Defendant  
17 to exceed its pure legal obligations.

18 In sum, the Settlement achieves significant business practice changes, and benefits the  
19 Settlement Class now, without the inherent risks of continued litigation and without requiring  
20 Settlement Class Members to release any claims they may have for monetary relief.

21 **B. The Practice Changes Agreed to in the Settlement Were the**  
22 **Result of Counsel’s Efforts in this Litigation**

23 **1. The Prospective Relief**

24 The relief obtained by Plaintiff’s counsel is substantial, and Plaintiff and Class members  
25 release almost nothing in return.

26 Under the terms of the Settlement, Cognosphere will, in processing any direct requests for  
27 refunds of in-game purchases: For platforms that process refund requests independently from  
28 Cognosphere (*e.g.*, Apple App Store, Google Play Store, PlayStation Store), in its standard

1 response redirecting users to those platforms, add language in substantially the following form:  
2 “Please note that store refund policies may vary based on the location of user and the age of user,  
3 including legal minority, at the time of purchase, as may be required by applicable law,” provided,  
4 however, that Cognosphere may include other language as well while redirecting users to those  
5 platforms. Settlement § IV.39.b.i. For all other platforms, and refund requests for which  
6 Cognosphere elects to process itself, in its standard response for U.S. users seeking a refund who  
7 indicate that a minor was involved in the situation that led to the refund request, Cognosphere will  
8 implement policies to determine whether the in-game purchase was made when the user was a  
9 minor without parental consent, except as prohibited by local law. *Id.* § IV.39.b.ii.

10 Cognosphere will create a public-facing “help page” (or add to existing pages to the extent  
11 relevant) referencing assistance with refunds for virtual money and/or virtual goods purchases, add  
12 specific links to platforms that process refund requests independently from Cognosphere In-  
13 App/In-Game Purchase refund policies for reference, and add language in substantially the  
14 following form: “Please note that store refund policies may vary based on the location of user and  
15 the age of user, including legal minority, at the time of purchase, as may be required by applicable  
16 law.” *Id.* § IV.39.c.i-ii.

17 Cognosphere will link to these “help pages” on the website within its FAQ section or on  
18 any section on its website that is easily accessible to general public. *Id.* § IV.39.d.

19 For all refund requests processed by Cognosphere (*see id.* § IV.39.b.ii.), Cognosphere will  
20 implement a dedicated process to address refund requests to determine whether a refund is  
21 appropriate, as outlined in the Settlement Agreement at § IV.39.e.i-iv. The personnel staffing this  
22 dedicated process will receive further training regarding how to analyze and process such refund  
23 requests in accordance with applicable law. *Id.*

24 Cognosphere will agree to include language in substantially the following form in its Terms  
25 of Service applicable to U.S. players<sup>2</sup>: “You acknowledge and agree that you are not entitled to a  
26 refund for any Virtual Currency, except as otherwise required by applicable law.” Settlement, §

27 \_\_\_\_\_  
28 <sup>2</sup> Currently available at <https://genshin.hoyoverse.com/en/company/terms>).

1 IV.39.a.i.

2 Last, Cognosphere agrees that its refund policies and practices with respect to U.S. minors  
3 will comply with the California Family Code Sections 6701(c) and 6710. *Id.* § IV.39.f.

4 In addition, after the Court requested additional details as to the notice plan and further  
5 specificity with respect to Cognosphere’s to-be-implemented “training procedures,” the Parties  
6 returned to the negotiating table. After further discussion, Defendant agreed to provide notice of  
7 the changes to the Genshin Impact terms of service to Class members. Specifically, and, again,  
8 following additional hard-fought negotiation, the revised language in the terms of service will be  
9 pushed (via an in-app notification) by Defendant to users for their information and  
10 acknowledgement. In addition, Defendant agreed to specifically train its customer support (“CS”)  
11 team to ask questions reasonably understandable to a consumer to (1) determine whether the minor  
12 is based in the U.S. and (2) whether the minor is disaffirming the purchases made in the game as  
13 part of the CS training process provided for in the Settlement. If it is determined that the minor is  
14 seeking to disaffirm, Defendant’s CS team will work with Defendant’s compliance team to refund  
15 the caller and shut down the minor’s account.

16 This settlement thus provides the class with certainty that their contractual rights the law  
17 will be honored – certainty that, absent the settlement, would not otherwise exist. And again, any  
18 minor who made purchases as a minor and wants to disaffirm their contracts can still sue  
19 Defendant for damages. Under the Settlement, absent class members have thus released almost  
20 nothing. And although it was vigorously debated during settlement negotiations, no court has ever  
21 specifically held that a party was obligated to inform a minor about his right to disaffirm a contract.  
22 In fact, California courts have held that there is “no general duty owed by one contracting party to  
23 another to explain the other’s legal rights in connection with the agreement.” *Olsen*, 48 Cal. App.  
24 4th at 622–23.

25 **C. The Fee Amount Was Negotiated at Arms’ Length by Skilled,**  
26 **Experienced Counsel**

27 “Ideally, litigants will settle the amount of a fee.” *Hensley v. Eckerhart* (1983) 461 U.S.  
28 424, 437. Thus, a court “should refrain from substituting its own value for a properly bargained-

1 for agreement.” *In re Apple Computer, Inc. Derivative Litig.* (N.D. Cal. Nov. 5, 2008) 2008 WL  
2 4820784, at \*4 (awarding attorneys’ fees based on “the terms of the settlement”). Courts therefore  
3 apply lessened scrutiny to fee agreements “negotiated at arm’s length with sophisticated defendants  
4 by the attorneys . . . intimately familiar with the case.” *In re First Capital Holdings Corp. Fin.*  
5 *Prods. Sec. Litig.* (C.D. Cal. June 10, 1992) 1992 WL 226321, at \*4.

6 These circumstances characterize the situation here. The Parties here did not reach an  
7 agreement on the full terms of the settlement until after (i) extensive investigation had been  
8 conducted by Plaintiff’s Counsel, (ii) Defendant briefed a motion to dismiss and Plaintiff’s counsel  
9 had prepared to oppose it, and (iii) the Parties participated in a full-day mediation facilitated by a  
10 respected mediator. Furthermore, it was only after reaching an agreement on the Settlement’s  
11 substantive terms that the parties turned to negotiating the fee. Fisher Decl. Ex. 25.

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

14 The Ninth Circuit has reconfirmed that “[t]here is a strong presumption that the  
15 lodestar figure represents a reasonable fee.” *Rodriguez v. West Publ. Corp.*, 602 Fed. Appx. at  
16 387. “Only in rare or exceptional cases will an attorney’s reasonable expenditure of time on a  
17 case not be commensurate with the fees to which he is entitled.” *Cunningham v. County of Los*  
18 *Angeles* (9th Cir. 1988) 879 F.2d 481, 488 (emphasis omitted). Lodestar is calculated by  
19 multiplying the number of hours reasonably expended on the litigation by a reasonable hourly  
20 rate. *Hensley*, 461 U.S. at 433; *Paul, Johnson, Alston & Hunt v. Graulity* (9th Cir. 1989) 886 F.2d  
21 268, 272. As this figure approximates the market value of the legal services, it “presumptively  
22 provides an accurate measure of reasonable attorney’s fees.” *In re Toys R Us FACTA Litig.* (C.D.  
23 Cal. 2014) 295 F.R.D. 438, 460, (quoting *Harris v. Marhoefer* (9th Cir. 1994) 24 F.3d 16, 18);  
24 *Guam Soc’y of Obstetricians & Gynecologists v. Ada* (9th Cir. 1996) 100 F.3d 691, 696.

25 The accompanying Declaration of L. Timothy Fisher sets forth the hours worked and the  
26 billing rates used to calculate Class Counsel’s lodestar in this Action, including a summary of the  
27 work performed, *see* Fisher Decl., Ex. 2, and an attorney-by-attorney breakdown of hours spent  
28 related to the Action. *Id.* Notably, the Ninth Circuit has held that “[t]estimony of an attorney as

1 to the number of hours worked on a particular case is sufficient evidence to support an award of  
2 attorney fees, even in the absence of detailed time records.” *Winterrowd v. Am. Gen. Annuity Ins.*  
3 *Co.* (9th Cir. 2009) 556 F.3d 815, 827. Here, nonetheless, detailed, individualized billing entries  
4 have also been provided. *See* Fisher Decl., Ex. 2. In sum, Class Counsel and their staff spent  
5 490.6 hours working on this case for a lodestar of \$227,692.50. Fisher Decl., Ex. 2.

6 **1. Class Counsel’s Hourly Rates are Reasonable**

7 Class Counsel worked efficiently. Class Counsel have submitted their detailed daily billing  
8 records showing what work was done and by whom as exhibits to the Fisher Declaration. Those  
9 records confirm Class Counsel’s efficient billing – nearly 70 percent of the hours billed on this case  
10 were billed by associates. Fisher Decl. ¶ 5.

11 The blended hourly rate for Class Counsel’s work of \$464.11 is quite reasonable. *Id.* ¶¶ 4,  
12 9, 11-14; *see also id.* Exs. 4-13. And the hourly rates for each of the lawyers who staffed the case,  
13 which are set forth in Exhibit 2 to the Fisher Declaration, are also reasonable and amply supported  
14 by the evidentiary material submitted with the Fisher Declaration. *See id.* Rates are “reasonable  
15 where they [are] similar to those charged in the community and approved by other courts.”  
16 *Hartless v. Clorox Co.*, (S.D. Cal. Jan. 20, 2011) 273 F.R.D. 630, 644. California courts have  
17 repeatedly held rates commensurate with Class Counsel’s rates to be fair and reasonable. *See, e.g.*,  
18 *In re Anthem, Inc. Data Breach Litig.* (N.D. Cal. Aug. 17, 2018) 2018 WL 3960068, at \*17  
19 (approving billing rates for partners between \$400 and \$970, and associates between \$185 to  
20 \$850); *Nitsch v. DreamWorks Animation SKG Inc.* (N.D. Cal. June 5, 2017) 2017 WL 2423161, at  
21 \*9 (finding rates for senior attorneys of between \$870 to \$1200 per hour to be reasonable);  
22 *Parkinson v. Hyundai Motor America* (C.D. Cal. 2010) 796 F. Supp. 2d 1160, 1172 (approving  
23 hourly rates between \$445 and \$675 for class counsel in a consumer class action); *In re High-Tech*  
24 *Employee Antitrust Litig.* (N.D. Cal. Sept. 2, 2015) 2015 WL 5158730, at \*9 (approving billing  
25 rates of \$490 to \$975 for partners, \$310 to \$800 for non-partner attorneys, and \$190 to \$430 for  
26 paralegals, law clerks, and litigation support staff); *POM Wonderful, LLC v. Purely Juice, Inc.*  
27 (CD. Cal. Sept. 22, 2008) 2008 WL 4351842, at \*4 (finding rates of \$475 to \$750 for partners and  
28

1 \$275 to \$425 for associates reasonable in a consumer class action); *Aguilar v. Wawona Frozen*  
2 *Foods* (E.D. Cal. May 19, 2017) 2017 WL 2214936, at \*6 (“This court has previously accepted as  
3 reasonable for lodestar purposes hourly rates of between \$370 and \$495 for associates, and \$545  
4 and \$695 for senior counsel and partners.”); *Taylor v. FedEx Freight, Inc.* (E.D. Cal. Oct. 13,  
5 2016) 2016 WL 6038949, at \*7 (finding class counsel rates of \$525/hour for senior associates and  
6 \$700/hour for the senior partner in this district reasonable).

7 Class Counsel here are experienced, highly regarded members of the bar. They have  
8 brought to this case extensive experience in consumer class actions and complex litigation. *See*  
9 *Fisher Decl.* ¶ 13; *see also id.* Ex. 14 (Firm Resume of Bursor & Fisher, P.A.). For this reason,  
10 courts within California have previously found the rates of Class Counsel fair and reasonable. *See*  
11 *Perez v. Rash Curtis & Associates* (N.D. Cal. Apr. 17, 2020) 2020 WL 1904533, at \*20 (finding  
12 Bursor & Fisher’s blended hourly rate of \$634.48 to be reasonable); *Zakskorn v. American Honda*  
13 *Motor Co.* (E.D. Cal. June 9, 2015) 2015 WL 3622990, at \*13–15 (approving a fee request where  
14 Bursor & Fisher submitted hourly rates of up to \$850 per hour for partners and \$450 per hour for  
15 associates). Thus, in performing its cross-check analysis, the Court should find Class Counsel’s  
16 hours and rates reasonable.

17 **2. The Time Class Counsel Devoted to this Case Was**  
18 **Appropriate**

19 Class Counsel’s efforts were necessary to achieving the Settlement. As detailed in the  
20 Declaration of L. Timothy Fisher and *supra*, Class Counsel expended 490.6 hours performing the  
21 following tasks, among others: (1) engaging in extensive pre-suit investigation, (2) preparing and  
22 filing multiple complaints, (3) drafting an opposition to Cognosphere’s motion to dismiss, (5)  
23 undertaking pre-mediation discovery, (4) preparing for and participating in a mediation, (5)  
24 negotiating the terms of the Settlement and the documents related thereto, and (6) successfully  
25 moving for preliminary approval of the Settlement. *See Fisher Decl.* ¶ 5.

26 Moreover, in taking this matter on a contingent basis, Class Counsel assumed considerable  
27 risk. This case presented unique issues with regards to jurisdiction, class certification, and  
28 summary judgment (i.e., issues regarding Defendant’s domicile, arbitration, whether Plaintiff and

1 Class Members were actually injured, and whether there exists a ripe dispute between the Parties).  
2 Fisher Decl. ¶ 7. For example, a federal court in the Northern District of California recently  
3 dismissed similar claims on these grounds, leaving the class members in that case with no recovery  
4 whatsoever. *See V.R.*, 2023 WL 411347. *Id.* These novel legal issues were disputed heavily by  
5 Defendant. *Id.* Despite facing such risks, Class Counsel effectively prosecuted this case, foregoing  
6 other work in the process. Thus, the time devoted by Class Counsel to this Action on a purely  
7 contingent basis supports the requested fee.

8 **E. The Requested Fee Represents a Reasonable Multiplier**

9 For the purpose of awarding class counsel a reasonable fee, the lodestar may be adjusted  
10 in light of the (1) results obtained, (2) novelty and complexity of the questions presented, (3) skill  
11 exhibited by counsel, (4) preclusion of other legal work because of counsel’s acceptance and  
12 prosecution of the case, and (5) risk of nonpayment. *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150  
13 F.3d 1011, 1029; *Kerr v. Screen Extras Guild, Inc.* (9th Cir. 1975) 526 F.2d 67, 70; *Ketchum v.*  
14 *Moses* (Cal. 2001), 17 P.3d 735, 741. The Ninth Circuit has held that a district court “must apply a  
15 risk multiplier to the lodestar ‘when (1) attorneys take a case with the expectation they will receive  
16 a risk enhancement if they prevail, (2) their hourly rate does not reflect that risk, and (3) there is  
17 evidence the case was risky.’” *Stanger v. China Elec. Motor, Inc.* (9th Cir. 2016) 812 F.3d 734,  
18 741 (quoting *Fischel v. Equitable Life Assur. Soc’y of U.S.* (9th Cir. 2002) 307 F.3d 997, 1008).  
19 Each of these three factors is present here – Class Counsel anticipated a risk multiplier upon  
20 commencement of this action; the hourly rates utilized in the lodestar calculation include no risk  
21 multiplier; and this case posed heightened risks due to the application of novel legal issues. Fisher  
22 Decl. ¶¶ 4, 7-8.

23 Notably, courts in California and elsewhere regularly approve risk multipliers, even in the  
24 context of settlements that only provide for injunctive relief. *See, e.g., Berry v. Schulman* (4th Cir.  
25 2015) 807 F.3d 600, 617 (affirming fee “award of \$5,333,188.21” which included “a multiplier of  
26 1.99” in a pure injunctive relief settlement); *Gaston v. LexisNexis Risk Sols. Inc.* (W.D.N.C. May  
27 24, 2021) 2021 WL 2077812, at \*7 (finding, for an injunction-only settlement, that “a multiplier of  
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1 approximately 1.85 is applicable and reasonable, and an award of \$5,098,094.31 is appropriate.”);  
2 *Krumme v. Mercury Ins. Co.* (Cal. Ct. App. 2004) 20 Cal. Rptr. 3d 485, 503 (Affirming fee award  
3 with lodestar multiplier of 1.5 in injunction-only settlement because “the litigation initiated by  
4 plaintiff ‘enforced an important right affecting the public interest’ and ‘conferred a significant  
5 benefit upon ... a large class of persons.’”). Here, a multiplier of 1.69 applied to the presumptively  
6 reasonable lodestar confirms the fairness of the requested fee award.

7 **F. The Attorneys Fees and Costs Requested are Part of the Total**  
8 **Value of the Settlement**

9 When calculating the total value provided by a settlement agreement, California courts  
10 include the requested attorney’s fees and costs because “those fees are still best viewed as an aspect  
11 of the class’ recovery.” *Lealao v. Beneficial California, Inc.* (2000) 82 Cal. App. 4th 19, 33. Thus,  
12 “the sum of the two amounts ordinarily should be treated as a settlement fund for the benefit of the  
13 class....” *Consumer Priv. Cases* (2009) 175 Cal. App. 4th 545, 554 (citation omitted). Here,  
14 subject to the Court’s approval, Defendant will pay Class Counsel fees and costs up to \$400,000.  
15 Settlement, § VII. 49. Any reduction in that amount, at this stage, would only serve to enrich  
16 Defendant at the expense of the class.

17 **G. Class Counsel’s Litigation Expenses Were Reasonably Incurred**  
18 **in Furtherance of the Prosecution of the Claims, and Should be**  
19 **Awarded**

20 The Settlement terms and well-settled precedent support Class Counsel’s entitlement to  
21 recovery of out-of-pocket costs reasonably incurred in investigating, prosecuting, and settling  
22 these claims. *See, e.g., In re Media Vision Tech. Sec. Litig.* (N.D. Cal. 1996) 913 F. Supp. 1362,  
23 1366. Class Counsel incurred \$15,217.75 in unreimbursed out-of-pocket costs over the course  
24 of this litigation. Fisher Decl. ¶ 10, *id.*, Ex. 3. The most significant costs include mediation fees  
25 and other customary litigation expenses. *Id.* Moreover, as detailed in the Fisher Declaration, these  
26 costs were reasonably incurred in furtherance of the investigation, prosecution, and Settlement of  
27 the action and should be reimbursed. *Id.*; *see also In re Toys R Us FACTA Litig.*, 295 F.R.D. at 469.  
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1                   **H.     The Requested Service Award is Reasonable and Should be**  
2                   **Approved**

3                   Class action incentive awards “are intended to compensate class representatives for work  
4                   done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the  
5                   action, and, sometimes, to recognize their willingness to act as a private attorney general.”  
6                   *Cellphone Termination Fee Cases* (Ct. App. 2010) 186 Cal. App. 4th 1380, 1393–94 (citing  
7                   *Rodriguez v. West Publishing Corp.* (9th Cir. 2009) 563 F.3d. 948, 958; *see also id.* (noting that  
8                   service awards “are fairly typical in class action cases”). Service awards in the amount of \$5,000  
9                   per class representative have been found to be “presumptively reasonable,” rendering the service  
10                  awards sought here eminently reasonable. *E.g., In re LinkedIn User Privacy Litig.* (N.D. Cal. 2015)  
11                  309 F.R.D. 573, 592; *Dyer v. Wells Fargo Bank, N.A.* (N.D. Cal. 2014) 303 F.R.D. 326, 335;  
12                  *Faigman v. AT & T Mobility LLC* (N.D. Cal. Feb. 16, 2011) 2011 WL 672648, at \*5. In fact,  
13                  Service awards of \$10,000 have been approved in class action cases in California. *See Cellphone*  
14                  *Termination Fee Cases* (Ct. App. 2010) 186 Cal. App. 4th 1380, 1393 (approving \$10,000  
15                  incentive award).

16                  Here, Class Counsel seeks, and Defendant does not oppose, a service award in the amount  
17                  \$1,000 for the Plaintiff serving as Class Representative. *See Settlement*, § VII.51. The requested  
18                  service award is well justified under the circumstances. The Class Representative assisted with the  
19                  preparation of and reviewed the complaint before filing, provided documents (including receipts of  
20                  the purchases she made in Defendant’s video game), and invested substantial time over the past  
21                  year in collaborating and communicating with class counsel, and monitoring the litigation and  
22                  reviewing case filings and other pertinent documents. *See Fisher Decl.* ¶ 27, *see also Declaration*  
23                  *of C.J. in Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement.*  
24                  Thus, the requested service award of \$1,000 to the Class Representative is reasonable and justified.

25                  **IV.     CONCLUSION**

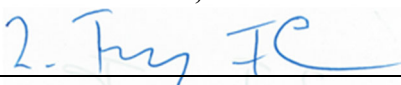
26                  For the foregoing reasons, Plaintiffs respectfully request that the Court: (a) award Class  
27                  Counsel’s attorneys’ fees and costs in the amount of \$400,000, with such amount to be paid by  
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Cognosphere as set forth in the Settlement; and (b) grant a service award in the amount of \$1,000 for the Class Representative.

Dated: November 2, 2023

**BURSOR & FISHER, P.A.**

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