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CLERK OF SUPERIOR COURT
SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR SPOKANE COUNTY

ULISES LOPEZ on behalf of himself and all
others similarly situated,

Plaintiff,

v.

HOBAN & ASSOCIATES, LLC a Washington
Limited Liability Company d/b/a COAST
PROPERTY MANAGEMENT, COAST
SCREENING SERVICES, COAST
COLLECTION SERVICES, COAST
MANAGEMENT COMPANY, INC. (CMC);
and CANYON BLUFFS INVESTORS VII-1,
LLC, a Washington limited liability company,

Defendants.

NO. 20-2-01929-32

**MEMORANDUM IN SUPPORT OF
PLAINTIFF'S UNOPPOSED MOTION
FOR PRELIMINARY APPROVAL OF
CLASS SETTLEMENT**

I. NATURE OF THE CASE AND PLAINTIFF'S CLAIMS

Plaintiff Representative, Ulises Lopez, on behalf of himself and all others similarly
situated, commenced this lawsuit via service of the Summons and Complaint (the "Action") on
April 28, 2020, against Defendant Hoban & Associates, LLC d.b.a. Coast Property Management
("Coast") and Canyon Bluffs Investors VII-1 (collectively referred to hereafter with Coast as
"Defendants") alleging violations of the Washington Residential Landlord Tenant Act, RCW

MEMORANDUM IN SUPPORT OF PLAINTIFF'S
UNOPPOSED MOTION FOR PRELIMINARY
APPROVAL OF CLASS SETTLEMENT - 1

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1 59.18, *et seq.*, (“RLTA”) and that Defendants were unjustly enriched. (Sub Number “SN” 1).

2 The alleged violations arise from Defendants’ practice of charging prospective tenants a fee and
3 collecting information from them without first providing required tenant screening disclosures in
4 violation of RCW 59.18.257. Mr. Lopez also brought causes of action for violations of
5 Washington’s Fair Credit Reporting Act, RCW 19.182, *et seq.*, and Consumer Protection Act,
6 RCW 19.86, *et seq.*, although certification of those claims were not pursued.

7 On February 17, 2023, the Court certified this matter as a class action, with the class
8 being defined as:

9 (a) All persons;

10 (b) Who applied to rent any property in Washington;

11 (c) Where the rental property, on the date of the application, was owned or managed
12 by Defendants or where Defendants were a “landlord” of the property, as defined by RCW
13 59.18.030(16);

14 (d) Who paid any tenant screening fee to Defendants or their affiliates; and/or

15 (e) Where, prior to paying any screening fee, the person was not provided with
16 written or posted notice of the information required by RCW 59.18.257, including but not
17 limited to the name and address of the source from which the screening report would be
18 obtained; and

19 (f) Where the violation occurred from three (3) years of the commencement of this
20 action, April 28, 2017, through February 10, 2023.

21 (SN 101).

22 The Class did not include any persons who timely and validly request exclusion from the
23 Class, nor Defendants, nor any person or entity that has a controlling interest in Defendants,

1 Defendants' current or former directors and officers, as well as the parties' counsel and their
2 immediate families. (SN 101). As part of its certification order, the Court approved Mr. Lopez as
3 representative of the class, and Shayne J. Sutherland and Kirk D. Miller¹ as Class Counsel.
4 (SN 101).

5 Thereafter, prolonged discovery was conducted to primarily ascertain the size, scope, and
6 identities of the class members. (SN 105, SN 106, SN 110, SN 129). After that information was
7 finally obtained, the parties agreed to participate in mediation with the highly regarded and
8 experienced Louis Peterson of Hillis, Clark, Martin & Peterson, P.S. (Sutherland Dec. ¶ 5). The
9 parties, through that all-day mediation and continued negotiations, were able to come to
10 settlement terms to resolve this matter fully and finally with the payment of substantial relief to
11 all of the estimated 30,963 members of the class. (Sutherland Dec. ¶ 5, Ex. 1; ¶¶ 6, 7).

12 Through the Settlement, the agreed class definition for purposes of Settlement was
13 altered slightly to conform to the evidence: The Settlement Class consists of all persons who:

- 14 (1) from April 28, 2017, to February 10, 2023, applied to rent a rental property then-
15 managed or owned by Defendant and located in the State of Washington;
16 (2) paid a tenant screening fee to Defendant;
17 (3) were screened by RealPage, Inc., d/b/a/ On-Site ("On-Site"); and
18 (4) did not receive all of the prospective tenant screening disclosures required by RCW
19 59.18.257.

20 Plaintiff's Counsel has performed a thorough study of the law and facts relating to the
21 claims asserted and have accounted for the contested issues involved, the expense and time
22

23 ¹ Mr. Miller passed away during the litigation of this matter. (SN 173).

1 necessary to pursue certification of the Action, the risks and costs of further prosecution of the
2 Action, and the substantial benefits to be received by Plaintiff and members of the settlement
3 class pursuant to the parties' class action Settlement Agreement and Release of Claims
4 ("Agreement")². Plaintiff and his Counsel have concluded that a settlement with Defendants is
5 in the best interest of the parties and the settlement class. (Sutherland Dec. ¶ 6). The terms set
6 forth in the Agreement are fair, reasonable, and adequate. (Sutherland Dec. ¶ 6). The Agreement,
7 with attachments, is attached to the contemporaneously filed Declaration of Counsel Shayne J.
8 Sutherland in support of this Motion as Exhibit 1.

9 Defendants have concluded that, because of the substantial expense of litigating the
10 Action, the inconvenience involved, and the litigation risks, the settlement provided herein is fair
11 and reasonable, and it is in their best interest to settle on the terms set forth in the Agreement.
12 Defendants do not admit liability by entering into this settlement. Defendants elect to settle the
13 case on the terms herein for the purpose of putting to rest the controversies in the Action.

14 II. RELIEF REQUESTED

15 With this Unopposed Motion, Plaintiff requests that the Court enter an Order: A)
16 preliminarily approving the Class Settlement as fair, reasonable, and adequate; B) appointing
17 EisnerAmper Group ("EAG") as Class Administrator and approving the proposed class notices
18 to be disseminated to Class Members; and C) entering a class action scheduling order which sets
19 a final fairness hearing.

20 ///

21 ///

23 ² Terms are capitalized herein for the purpose of consistency with the parties' class settlement agreement.

1 III. LEGAL ARGUMENT

2 A. The Parties' Class Settlement Agreement is Fair, Reasonable, and Adequate.

3 After a class has been certified, in order to settle a putative class action a court must find
4 that the settlement agreement reached is fair, adequate, and reasonable, and enter preliminary
5 approval of the settlement agreement. *Lane v. Facebook, Inc.*, 696 F.3d 811 (9th Cir. 2012);
6 *Staton v. Boeing Co.*, 327 F.3d 938, 952 (9th Cir. 2002) (both analyzing FRCP 23(e)).
7 Thereafter, notice and opportunity to object and opt-out must be given to all class members.
8 Finally, the court must conduct a fairness hearing and, in order to approve the final settlement,
9 make specific findings regarding the adequacy and fairness of the proposed settlement. *Staton*,
10 327 F.3d at 952.

11 1. Standard of Review for Class Action Settlements.

12 A court's approval of a class-action settlement must be accompanied by a finding that the
13 settlement is "fair, reasonable, and adequate." *Lane v. Facebook, Inc.*, 696 F.3d 811, 818 (9th
14 Cir. 2012). "[T]he [] court [] must evaluate the fairness of a settlement as a whole, rather than
15 assessing its individual components." *Id.* "[T]he question whether a settlement is fundamentally
16 fair within the meaning of Rule 23(e) is different from the question whether the settlement is
17 perfect." *Id.* at 819. Although CR 23 imposes strict procedural requirements on the approval of a
18 class settlement, a court's only role in reviewing the substance of that settlement is to ensure that
19 it is "fair, adequate, and free from collusion." *Id.* The court must determine the fundamental
20 fairness, adequacy, and reasonableness of the settlement taken as a whole. *Evans v. Jeff D.*, 475
21 U.S. 717, 726–27 (1986). "The trial court should not make a proponent of a proposed settlement
22 justify each term of settlement against a hypothetical or speculative measure of what concessions
23 might [be] gained." *Access Now, Inc. v. Claire's Stores, Inc.*, 2002 WL 1162422, at 4 (S.D. Fla.

1 May 7, 2002). Significant weight should be given “to the belief of experienced counsel that
2 settlement is in the best interest of the class.” *Austin v. Pennsylvania Dep’t. of Corrections*, 876
3 F. Supp. 1437, 1472 (E.D. Pa. 1995). Generally, a proposed settlement will be preliminarily
4 approved unless it is outside the range of reasonableness or appears to be the product of
5 collusion, rather than arms-length negotiation. *See Officers for Justice v. Civil Serv. Comm’n of*
6 *San Francisco*, 688 F.2d 615, 625 (9th Cir. 1982).

7 The primary question raised by a request for preliminary approval is whether the
8 proposed settlement is, “within the range of possible approval.” *See* MANUAL FOR COMPLEX
9 LITIGATION (THIRD) § 30.41, at 237; *accord, e.g., Alaniz v. California Processors, Inc.*, 73
10 F.R.D. 269, 273 (N.D. Cal. 1976). “[T]his determination is similar to a determination that there
11 is ‘probable cause’ to think the settlement is fair and reasonable.” *Id.* at 273.

12 To guide courts in assessing the fairness and reasonableness of a proposed settlement, the
13 Ninth Circuit has identified several factors to employ, which may include, among others, some
14 or all of the following: the strength of plaintiff’s case; the risk, expense, complexity, and likely
15 duration of further litigation; the risk of maintaining class action status throughout the trial; the
16 amount offered in settlement; the extent of discovery completed, and the stage of the
17 proceedings; the experience and views of counsel; the presence of a governmental participant;
18 and the reaction of the class members to the proposed settlement. *Hanlon v. Chrysler Corp.*, 150
19 F.3d 1011, 1026 (9th Cir. 1998); *Smith v. Mulvaney*, 827 F.2d 558, 562 n.3 (9th Cir. 1987); *see*
20 *also* Fed R. Civ. P. 23(e)(2) (listing similar factors).

21 2. *The Agreement is the Result of Arm’s-Length, Non-Collusive Negotiations and is*
22 *Presumptively Fair.*

1 Preliminary approval “establishes an initial presumption of fairness when the court finds
2 that: (1) the negotiations occurred at arm’s length; (2) there was sufficient discovery; (3) the
3 proponents of the settlement are experienced in similar litigation.” *In re General Motors Corp.*
4 *Pick-Up Truck Prod. Liab. Litig.*, 55 F.3d 768, 785 (3rd Cir. 1995). Further, “[a]rm’s length
5 negotiations conducted by competent counsel constitute prima facie evidence of fair
6 settlements.” *Ikuseghan v. Multicare Health Sys.*, No 3:14-cv-05539-BHS, 2016 WL 3976569,
7 *3 (W.D. Wash. July 25, 2016); *see also Ortiz v. Fiberboard Corp.*, 527 U.S. 815, 852 (1999)
8 (“[O]ne may take a settlement amount as good evidence of the maximum available if one can
9 assume that parties of equal knowledge and negotiating skill agreed upon the figure through
10 arms-length bargaining.”).

11 The proposed Settlement was reached after extensive investigation, motion practice,
12 litigation, and negotiations. (Sutherland Dec. ¶¶ 4, 5, 6). The parties’ attorneys negotiated the
13 Agreement with the benefit of many years of prior class action experience and a solid
14 understanding of the facts and law of this case, and with the assistance and guidance of
15 experienced class action mediator Louis Peterson. (Sutherland Dec. ¶¶ 2, 3, 5, 6). The
16 recommendation of experienced counsel weighs in favor of granting approval and creates a
17 presumption of reasonableness. *See Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 257
18 (N.D. Cal. 2015) (“The trial court is entitled to, and should, rely upon the judgment of
19 experienced counsel for the parties.”) (citation omitted).

20 Here, the parties’ respective counsel agree that in light of all the facts and circumstances
21 this case presents, the Settlement Agreement reached in this matter is fair and reasonable. They
22 ask the Court to preliminarily determine the same.

1 3. *The Relief Provided by the Settlement is Adequate Considering the Strength of*
2 *Plaintiff's Case, and the Risk, Cost and Delays of Further Proceedings.*

3 Defendants' agreement to pay \$1,400,000 to settle this case is more than adequate given
4 the risks and delay of continued litigation. *Berry v. School Dist. of Benton Harbor*, 184 F.R.D.
5 93, 98 (W.D. Mich. 1998). (“[O]ne of the most important factors in assessing the fairness of a
6 settlement agreement is the strength of the plaintiffs' case on the merits balanced against the
7 relief offered in the settlement.”).

8 The monetary benefits of the settlement alone, which will pay Class Members
9 approximately 27.5% of the maximum statutory damages available under RCW 59.18.257,
10 exceeds or is on par with similar settlements approved by other courts. *See e.g., Daley v.*
11 *Avenue5 Residential LLC, SCSC Case No. 19-2-04154-32* (2019) (at SN 65 and SN 70 approving
12 settlement in a case identical to this one providing class members with 20% of the maximum
13 statutory damages under RCW 59.18.257); *Cavnar v. BounceBack, Inc.*, No. 2:45-CV-235-RMP,
14 ECF No. 154 (E.D. Wash. Sept. 15, 2015) (approving settlement providing 15.6% of alleged
15 unlawful collection fees paid by class members alleging FDCPA and Consumer Protection Act
16 violations); *Estate of Brown v. Consumer Law Assocs.*, No. , 2013 EL 2285368, at *3 (E.D.
17 Wash. May 23, 2013) (approving settlement of class claims under the Consumer Protection Act,
18 paying class members an estimated 30% of funds collected for challenged debt adjusting
19 practices); *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 459 (9th Cir. 2000) (affirming the
20 district court's approval of a settlement estimated to be worth between 16.67% and 50% of class
21 members' estimated loss); (Sutherland Dec. ¶ 7).

1 The monetary relief provided is an addition to the non-monetary relief of Defendants'
2 agreement to provide all of RCW 59.18.257's required screening disclosures going forward as
3 part of the parties' Settlement Agreement. (Sutherland Dec. ¶ 7).

4 Although Mr. Lopez is confident in the strength of his case, he is also pragmatic about
5 the risks inherent in litigation. Absent this Settlement, Mr. Lopez would still have to face
6 dispositive motions that could win the case for Defendants, trial on uncertain and discretionary
7 statutory damages, and any potential appeal by the Defendants.

8 Litigating this case to trial and through any appeals would be expensive and time-
9 consuming and would present risk to both parties. The Agreement, by contrast, provides prompt
10 and certain relief for class members. *See Rodriguez v. West Publ'g Corp.*, 563 F.3d 948, 966 (9th
11 Cir. 2009); *Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 526 (C.D. Cal.
12 2004) ("The Court shall consider the vagaries of litigation and compare the significance of
13 immediate recovery by way of the compromise to the mere possibility of relief in the future, after
14 protracted and expensive litigation.") (citation omitted).

15 Here, Mr. Lopez's and Class Counsel's decision to settle was formed by extensive
16 investigation, litigation, and negotiations with Defendants. (Sutherland Dec. ¶¶ 4-6). The
17 settlement negotiations were conducted at arm's length between experienced counsel for both
18 parties, with the guidance and expertise of a highly respected mediator. (Sutherland Dec. ¶¶ 5,
19 6). Class Counsel carefully explained the above risks as well as the proposed benefits and
20 drawbacks of the settlement with Mr. Lopez. After Mr. Lopez considered all of the above, while
21 still remaining conscious of his duty to the putative class, he determined this Settlement is in the
22 best interest of the Class. (Sutherland Dec. ¶¶ 6, 8).

1 Furthermore, in this settlement, Class Settlement Members must affirmatively opt-out of
2 the Agreement. (Sutherland Dec. ¶ 9). This process, versus one where Class Members would
3 have to opt-in by submitting a claim form, assures many more Class Members will receive
4 monetary compensation. (Sutherland Dec. ¶ 9). All unclaimed funds by Class Members will
5 result in generous *cy pres* donations to the Washington non-profits The Legal Foundation of
6 Washington and Southeast Effective Development (“Seed”). (Sutherland Dec. ¶ 9).

7 4. Class Counsel will Request Approval of a Fair and Reasonable Attorneys’ Fee Award
8 and Service Award to Mr. Lopez.

9 Class Counsel intends to request a combined award of attorneys’ fees and costs of not
10 more than 33.33% of the \$1,400,000 common fund for the work performed on behalf of the
11 Class and out-of-pocket expenses they have incurred in prosecuting this action for five and one
12 half years. (Sutherland Dec. ¶¶ 4, 13). Class Counsel will also request a combined statutory
13 damage and service award of \$10,000 to Mr. Lopez for his dedicated service to this lawsuit and
14 the class over the last five plus years. (Sutherland Dec. ¶¶ 4, 12). They will do so by preparing
15 and filing a comprehensive motion for an award of attorneys’ fees supported by detailed entry
16 records within thirty (30) days after this Court enters a preliminary approval order in this matter.
17 This motion will be posted on the Settlement Website at least 30 days before the deadline for
18 class members to opt-out or object to the Settlement. (Sutherland Dec. ¶ 13). Defendants have
19 agreed to pay for and not contest Class Counsel’s motion for attorney’s fees and costs and the
20 service award to Mr. Lopez. (Sutherland Dec. ¶¶ 12, 13).

21 The attorneys’ fees and costs Class Counsel seek are reasonable under the circumstances
22 of this case. *See In re Bluetooth Headset Products Liab. Litig.*, 654 F.3d 935, 941 (9th Cir. 2011)
23 (requiring that any attorneys’ fee awarded be reasonable). District Courts have discretion to use

1 either the percentage-of-the-fund or the lodestar method to calculate a reasonable attorneys' fee
2 from a common fund established by a class action settlement. *Vizcaino v. Microsoft Corp.*, 290
3 F.3d 1043, 1047 (9th Cir. 2002). In Washington state, courts use the percentage of the fund
4 method when a common fund is created. *Bowles v. Dep't. of Ret. Sys.*, 121 Wn.2d 52, 72, 847
5 P.2d 440 (1993) (Supreme Court held that, where attorneys create a common fund or benefit,
6 they are entitled to collect attorneys' fees from that fund). Here, Class Counsel will seek
7 attorneys' fees and costs of no more than 33.33% of the common fund recovered, and a service
8 award of \$10,000 to Mr. Lopez, which are reasonable given the facts and circumstances of this
9 case.

10 5. Conclusion- The Court should Preliminarily Approve the Parties' Settlement
11 Agreement.

12 Based on the foregoing, the parties respectfully submit that the proposed Settlement
13 Agreement satisfies all of the relevant legal standards for preliminary approval under CR 23. The
14 Agreement is fair considering the amount of the recovery for the Class and the cost and risks of
15 further litigation in this matter. The Agreement resulted from intensive, extended arm's-length
16 negotiations with the guidance and assistance of an experienced mediator and reflects a
17 reasonable compromise based on interests of the Class and the risks and expense of further
18 litigation. All attorneys' fees and costs, the class representative fee, and class administration
19 costs are being paid from the fund established by Defendants. (Sutherland Dec. ¶¶ 10, 12, 13).

20 **B. The Court Should Appoint EAG as the Class Administrator and Approve the**
21 **Proposed Class Notices.**

22 Plaintiff, with the consent of Defendants, requests the Court appoint EAG to act as the
23 administrator of the Class. (Sutherland Dec. ¶ 10). EAG has successfully acted as the class
24 administrator in a number of other class actions filed in the state and federal throughout the

1 United States. (Sutherland Dec. ¶ 10). Its responsibilities will include: emailing and
 2 disseminating the class notice; following up on undelivered notices; establishing and maintaining
 3 a settlement website; establishing a toll-free number and responding to settlement class member
 4 calls; processing, requesting exclusion and providing them with an opportunity to cure;
 5 administering the settlement fund; disbursing the settlement fund to settlement class members;
 6 and providing a report to this Court of the Settlement's success. (Sutherland Dec. ¶ 10).

7 Filed contemporaneously with this Motion, attached as Exhibits B and C to the
 8 Settlement Agreement which is attached to the Declaration of Class Counsel Mr. Sutherland as
 9 Exhibit 1, are the proposed class notices. The parties request that the Court approve the notices
 10 and dissemination of notice to the class members via email. The class notices are part of a notice
 11 program designed to ensure the maximum number of class members are notified of the parties'
 12 Settlement and the procedures going forward. (Sutherland Dec. ¶ 5, Ex. 1). As part of the
 13 Settlement Agreement, Defendants agreed to pay all class administration fees and costs, which
 14 EAG estimates will total \$70,000 or less. (Sutherland Dec. ¶ 10).

15 **C. The Court Should Enter a Class Administration Scheduling Order and Set a Final**
 16 **Approval Hearing.**

17 As set forth in the parties' proposed preliminary approval order, the parties suggest the
 18 following case administration deadlines:

Action	Date
Defendants to provide Class Member information to Class Administrator	Within 15 days after entry of the Preliminary Approval Order
Defendants to provide Settlement Funds to Class Administrator	Within 15 days after entry of the Preliminary Approval Order
Deadline for Delivering Class Notice	Within 30 days after entry of the Preliminary Approval Order
Class Counsel's Fee and Costs Motion Submitted	Within 30 days after entry of the Preliminary Approval Order

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CERTIFICATE OF SERVICE

I hereby certify that I caused to be served upon counsel of record at the address and in the manner described below a copy of the document to which this certificate is attached for delivery to the following:

<p>Eliot M. Harris, WSBA #36590 Maxwell B. Glasson, WSBA #51948 WILLIAMS, KASTNER & GIBBS PLLC 601 Union Street, Suite 4000 Seattle, WA 98101-2380 Email: eharris@williamskastner.com mglasson@williamskastner.com</p> <p><i>Attorneys for Defendants Hoban & Associates, LLC d/b/a Coast Property Management, Coast Screening Services, Coast Collection Services, Coast Management Company, Inc. (CMC), and Canyon Bluffs Investors VII-1, LLC</i></p>	<p><input type="checkbox"/> Via E-Service <input type="checkbox"/> Via Hand Delivery/Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via Electronic Mail <input type="checkbox"/> Via U.S. Mail <input type="checkbox"/> Via Overnight Courier</p>
<p>Dalton J. Reynolds, WSBA #54055 WINSTON & CASHATT LAWYERS, PS 601 West Riverside Ave., Suite 1900 Spokane, WA 99201 Tel: (509) 838-6131 Fax: (509) 838-1416 Email: djr@winstoncashatt.com</p> <p><i>Co-Counsel for Defendant Canyon Bluffs Investors VII-1, LLC</i></p>	<p><input type="checkbox"/> Via E-Service <input type="checkbox"/> Via Hand Delivery/Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via Electronic Mail <input type="checkbox"/> Via U.S. Mail <input type="checkbox"/> Via Overnight Courier</p>

DATED this 23rd day of January, 2026.

s/ Shayne J. Sutherland
Shayne J. Sutherland, WSBA #44593