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*Interim Class Counsel*

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

In Re: Smashburger AP Holder, LLC, et al.

Lead Case No. LA CV19-0093 JAK  
(JEMx)

ALL CASES

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

Date: January 30, 2023  
Time: 8:30 a.m.  
Courtroom: 10B  
Judge: Hon. John A. Kronstadt

1 WHEREAS, Plaintiffs have submitted authority and evidence supporting  
2 Class Counsel’s Motion for Award of Attorneys’ Fees, Costs, Expenses and Service  
3 Awards; and

4 WHEREAS, the Court, having considered the Motion and being fully advised,  
5 finds that good cause exists for entry of the Order below; therefore,

6 IT IS HEREBY FOUND, ORDERED, ADJUDGED, AND DECREED  
7 THAT:

8 1. Unless otherwise provided herein, all capitalized terms in this Order  
9 shall have the same meaning as set forth in Class Counsel’s Motion for Award of  
10 Attorneys’ Fees, Costs, Expenses, and Service Awards.

11 2. Class Counsel requests the Court award 15% of the total \$5.5 million  
12 common fund as attorneys’ fees.

13 3. These requested attorneys’ fees, which reflect the “benchmark” fee  
14 award in common fund cases, are fair and reasonable. See *Vizcaino v. Microsoft*  
15 *Corp.*, 290 F.3d 1043,1047, 1052 (9th Cir. 2002). The Court reaches this conclusion  
16 after analyzing: (1) the extent to which class counsel achieved exceptional results for  
17 the class; (2) whether the case was risky for class counsel; (3) whether counsel’s  
18 performance generated benefits beyond the cash settlement fund; (4) the market rate  
19 for the particular field of law; (5) the burdens class counsel experienced while  
20 litigating the case; (6) and whether the case was handled on a contingency basis.

21 4. Class Counsel performed exceptional work and achieved an excellent  
22 result for the Class, recovering \$5.5 million (\$2.5 million in cash and a minimum of  
23 \$3 million in transferable vouchers). Any vouchers not claimed will be donated to  
24 the Boys’ and Girls’ Clubs of America. This litigation was extremely risky for Class  
25 Counsel. Class Counsel worked entirely on contingency

26 5. The market supports the fee, which is 15% of the total settlement fund  
27 and 33% of the cash fund alone. See, e.g., *Vasquez v. Coast Valley Roofing, Inc.*,  
28 266 F.R.D. 482, 492 (E.D. Cal. 2010) (citing to five recent class actions where

1 federal district courts approved attorney fee awards ranging from 30% to 33%);  
2 *Martin v. AmeriPride Servs., Inc.*, 2011 WL 2313604, at \*8 (S.D. Cal. June 9, 2011)  
3 (noting that “courts may award attorneys fees in the 30%-40% range in ... class  
4 actions that result in recovery of a common fun[d] under \$10 million”); *Singer v.*  
5 *Becton Dickinson & Co.*, 2010 WL 2196104, at \*9 (S.D. Cal. June 1, 2010)  
6 (approving attorney fee award of 33.33% of the common fund and holding that  
7 award was similar to awards in three other cases where fees ranged from 33.33% to  
8 40%); *Ingalls v. Hallmark Mktg. Corp.*, 08cv4342 (C.D. Cal. Oct. 16, 2009)  
9 (awarding 33.33% fee on a \$5.6 million common fund settlement); *Rippee v. Boston*  
10 *Mkt. Corp.*, No. 05-CV-1359 TM (JMA) (Dkt. No. 70 at 7) (S.D. Cal. Oct. 10, 2006)  
11 (awarding a 40% fee on a \$3.75 million in a common fund settlement).

12 6. The Court has conducted a lodestar cross-check, which yields a multiplier  
13 of 1.09. The hours spent by Class Counsel on this matter are reasonable, and  
14 counsel’s rates are supported by evidence establishing that they are in line with  
15 current market rates for attorneys with comparable experience and expertise in their  
16 field. The multiplier is reasonable and supports the award sought.

17 7. In addition to the fee request, Class Counsel requests reimbursement of  
18 \$21,541.02 in costs and expenses. *Staton v. Boeing Co.*, 327 F.3d 938, 974 (9th Cir.  
19 2003).

20 8. The Court finds these costs and expenses reasonable and appropriate.  
21 The Court consequently grants Class Counsel’s motion for reimbursement of  
22 \$21,541.02 in costs and expenses.

23 9. Class Counsel requests an incentive award of \$2,500 each for the five  
24 representative plaintiffs. The requested incentive awards are fair and reasonable. See  
25 *In re Portfolio Recovery Assocs., LLC, Tel. Consumer Prot. Act Litig.*, No. 11-md-  
26 02295, 2017 WL 10777695, at \*3 (S.D. Cal. Jan. 25, 2017) (incentive award  
27 appropriate where class representatives “were required to review documents” and  
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1 “they will earn little for their efforts without [] incentive payments”); *see also Van*  
2 *Vranken v. Atl. Richfield Co.*, 901 F. Supp. 294, 299 (N.D. Cal. 1995).

3 10. Based on the foregoing, the Court awards Class Counsel \$825,000 in  
4 attorneys’ fees; awards Class Counsel costs and expenses in the amount of  
5 \$21,541.02; and Andre Galvan, Lucinda Lopez, Thu Thuy Nguyen, Robert Meyer,  
6 and Jamelia Harris each \$2,500 as service awards.

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8 IT IS SO ORDERED.

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10 Dated: \_\_\_\_\_

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John A. Kronstadt

United States District Judge

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