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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES—SPRING STREET COURTHOUSE

ARNOLD SAURIN and AJAYZEAU
BROWN, individually, and on behalf of other
members of the general public similarly
situated and on behalf of other aggrieved
employees pursuant to the California Private
Attorneys General Act;

Plaintiffs

vs.

VALLEY PRESBYTERIAN HOSPITAL, a
California corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No.: 21STCV22597

Honorable William F. Highberger
Department SSC10

CLASS ACTION

**PLAINTIFFS' OPPOSITION TO
OBJECTION TO SETTLEMENT FILED
BY CLASS MEMBER MOHAMMED
TEKFAOUI**

Date: March 11, 2024
Time: 11:00 a.m.
Department: SSC10

Complaint Filed: June 15, 2021
FAC Filed: August 30, 2023
Trial Date: None Set

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

By way of his Objection to Settlement (the “Objection”), objector Mohammed Tekfaoui (“Objector”) does not establish that Edwin Aiwasian (“Mr. Aiwasian”) has not adequately served as class counsel in the above-captioned matter, nor does he demonstrate that Mr. Aiwasian cannot serve as adequate counsel in other lawsuits. The Objector concedes that he has no objection to the terms of the settlement, the compensation for class members and other beneficiaries, Mr. Aiwasian’s conduct in this case, or the overall result achieved by Mr. Aiwasian and his firm, Lawyers for Justice, PC. (Obj. at 1.) Instead, the Objection requests that this Court comb through dozens of cases, many of which are more than a decade old, and issue an unprecedented declaratory-type or advisory-type order that Mr. Aiwasian cannot “represent class members ever again,” in effect asking this Court to take the role of the State Bar. *Id.* at 17.

The Objector is represented by a competitor of Mr. Aiwasian, and the Objection is just one of many similar briefs that Objector’s counsel, Mr. Paul K. Haines (“Mr. Haines” or “Objector’s Counsel”), has filed in cases, including, *inter alia*, on behalf of a deceased individual, cases where Mr. Aiwasian has achieved similar and laudable results for class members, and cases where Mr. Haines has top-filed and/or is engaging in a reverse auction. Mr. Haines’ filings began sometime after one of Mr. Haines’ business affiliates colluded with defense counsel and entered into a reverse auctioned settlement; Mr. Aiwasian’s firm successfully objected to the settlement and the trial court declined to grant approval of the settlement; even after that, and after a modified global settlement was granted approval by the trial court, Mr. Aiwasian’s firm had to engage in additional court filings because the business affiliate continued to engage in collusion with defense counsel when defendant attempted to negotiate a modification to the settlement that was unfavorable to the class and refused to conduct a due diligence inquiry into the financial circumstances of the defendant. Declaration of Edwin Aiwasian in Support of Opposition to Objection to Settlement Filed by Class Member Mohammed Tekfaoui (“Aiwasian Decl.” or “Declaration of Edwin Aiwasian”), ¶ 7.

1 Mr. Haines' filings also began sometime after Mr. Aiwarzian's firm, in the course of working
2 with Mr. Haines regarding a global settlement that Mr. Haines was a part of because he top-
3 filed, voiced concerns that multiple procedural steps that Mr. Haines was proposing the parties
4 undertake in order to implement the settlement appeared to be forum shopping for the purpose
5 of obtaining a larger amount of attorneys' fees and/or appeared to be at odds with the due process
6 requirements for a class action settlement. Despite his asserting and presenting the
7 inflammatory accusations raised here, on multiple prior occasions, to multiple trial courts, thus
8 far, despite receiving evidence and briefing on the subject, no trial court has sustained Mr.
9 Haines's so-called objections or found them to have merit.

10 The Objection fails to raise a single issue suggesting that Mr. Aiwarzian's conduct in this
11 case prevents him from being appointed as class counsel. This is because Mr. Aiwarzian
12 performed high-quality work identifying, investigating, and prosecuting the claims in this
13 action; he has decades of experience handling class actions and, in particular, wage and hour
14 class actions; he is knowledgeable of the substantive law; and he has committed the appropriate
15 amount of resources to prosecuting, mediating, and settling this case. The Objection concedes
16 each of these facts and acknowledges that the "Court can still approve the settlement," without
17 any alterations to the consideration received by class members or any other substantive terms of
18 the settlement. (Obj. at 17.)

19 Rather than challenge the actual settlement, the Objection presents this Court with
20 cherry-picked, out-of-context allegations about Mr. Aiwarzian's conduct in other, unrelated
21 matters. Mr. Haines' declaration alone attaches more than 1,700 pages of selectively chosen
22 and obviously incomplete "evidence." This evidence has little, if any, relevance to the question
23 of whether Mr. Aiwarzian adequately represented the interests of the class in this case, and
24 whatever probative value it has is far outweighed by the practical effect that entertaining the
25 Objection would turn the settlement approval hearing into dozens of mini-trials about other cases
26 that have already proceeded to final judgment. *Cf.* Evid. Code § 352; Fed. R. Evid. 608(b).
27 Further, the authority cited by Objector makes clear that the State Bar, not a court, should
28 regulate an attorney's conduct. (Obj. at 17 (citing *Reliable Money Ord., Inc. v. McKnight Sales*

1 Co. (7th Cir. 2013) 704 F.3d 489, 499, 502(“[S]tate bar authorities—not a court—should enforce
2 the rules [of professional conduct.]”). The Court need not re-litigate Mr. Aiwazian’s past cases
3 in order to reach the correct outcome here: that the settlement is fair, reasonable, and adequate,
4 results in a substantial monetary recovery, and that Mr. Aiwazian can, and has, adequately
5 represented the class.

6 If the Court were to consider the collateral attacks on Mr. Aiwazian, even a cursory
7 review of Objector’s allegations prove no wrongdoing by Mr. Aiwazian. **First**, Mr. Aiwazian
8 and his firm’s use of consulting experts has been approved by multiple courts and is supported
9 by case law, statutes, industry practice, and industry publications including materials published
10 by the American Bar Association. *See infra* § III.C1. Even though this practice is well
11 supported, when one court raised concerns about whether an individual with legal expertise
12 should be treated as an expert in a tentative opinion (which ultimately was revised and ultimately
13 found no wrongdoing), Lawyers for Justice, PC stopped utilizing such consulting experts.
14 **Second**, as discussed below, neither Mr. Aiwazian nor his firm have engaged in forum shopping,
15 and in the case in question, the court in that matter approved the settlement without any findings
16 of “forum shopping” or any other findings critical of Mr. Aiwazian’s other plaintiff’s counsel’s
17 conduct. *See infra* § III.C2. **Third**, as discussed below, Mr. Aiwazian was not found to have
18 “colluded with defense counsel”, and in the case in question, the court in the matter also
19 determined that Mr. Aiwazian’s representation in the Private Attorney General Act case resulted
20 in a fair and reasonable recovery and approved the proposed settlement. *See infra* § III.C3.
21 **Fourth**, as discussed below, the contention that courts have been critical of work performed by
22 Mr. Aiwazian is misleading. *See infra* § III.C4. Mr. Aiwazian is an experience wage and hour
23 attorneys in California with a track record of successful cases, and he has been approved as class
24 counsel in hundreds of cases by dozens of courts. Mr. Aiwazian has litigated before experienced
25 and accomplished judges, including this very court, for approximately two decades, and been
26 appointed as adequate counsel repeatedly for his diligent and effective work in wage and hour
27 class and representative action cases. Finally, the substance of Objector’s allegations are
28 entirely unrelated to any conduct in the present case. Here, no lawyers served as consulting

experts and there are no allegations of forum shopping, collusion, or inadequate work. The substance of Objector's allegations are thus both unfounded and irrelevant.

Mr. Aiwazian has offered substantial evidence in support of his adequacy, and specifically of his experience, education, and track record that qualifies him to represent the class. Objector's voluminous and irrelevant Objection is vexatious, imposes an improper burden on the Court, and should be overruled and denied in its entirety, and Plaintiffs' concurrently filed Motion for Final Approval of the settlement should be granted.

II. APPLICABLE LAW

The Court may certify a class "when the question is one of a common or general interest . . . and it is impracticable to bring [all putative class members] before the court." Cal Civ. Proc. Code § 382. When determining whether to certify a class, the Court may rely on guidance from federal cases interpreting Federal Rule of Civil Procedure 23. *See, e.g., Daar v. Yellow Cab Co.* (1967) 67 Cal. 2d 695; *Vasquez v. Superior Court* (1971) 4 Cal. 3d 800.

Pursuant to Federal Rule of Civil Procedure 23(g)(1), "a court that certifies a class must appoint class counsel." Rule 23(g)(1)(A) sets forth four factors that the court "must consider":

- (i) the work counsel has done in identifying or investigating potential claims in the action;
- (ii) counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action;
- (iii) counsel's knowledge of the applicable law; and
- (iv) the resources that counsel will commit to representing the class.

Fed. R. Civ. Proc. 23(g)(1)(A)(i)–(iv). In addition to the four mandatory factors, the court "**may** consider any other matter pertinent to counsel's ability to fairly and adequately represent the interests of the class." Fed. R. Civ. Proc. 23(g)(1)(B) (emphasis added). So long as the trial court employs a "'rigorous analysis' . . . , it enjoys broad leeway in deciding the adequacy of class counsel." *Reliable Money Ord., Inc. v. McKnight Sales Co.*, (7th Cir. 2013) 704 F.3d 489, 498 (cited by Obj. at 17).

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Courts have held that the key inquiry in determining class counsel is not whether the attorney committed past ethical breaches, but rather whether counsel’s conduct “jeopardizes the court’s ability to reach a just and proper outcome in the case.” *Id.* at 502. In reaching that ruling, the Court in *Reliable Money* noted that the proper role of a Court is to review conduct in the underlying lawsuit and that the State Bar is better positioned to address alleged ethical breaches in other cases. *Id.*

III. ARGUMENT

A. Mr. Aiwazian and Lawyers for Justice, PC Satisfy The Four Mandatory Factors For Appointment As Class Counsel.

The Objector does not offer any facts or argument about the four mandatory factors under Federal Rule of Civil Procedure 23(g)(1)(A). There is no contention that Mr. Aiwazian’s work in this matter was inadequate, that Mr. Aiwazian is inexperienced or lacks knowledge of the relevant law, or that he devoted inadequate resources to representing the class. It is indisputable that Mr. Aiwazian and other members of his firm have committed significant resources and performed extensive and competent work identifying and investigating potential claims in the present action. See, Declaration of Edwin Aiwazian in Support of Opposition to Objection to Settlement Filed by Class Member Mohammed Tekfaoui (“Aiwazian Decl.”), ¶ 14; see generally, Declaration of Brian J. St. John in Support of Motion for Preliminary Approval filed on April 14, 2023 (“St. John Decl. ISO MPA”); Further Supplemental Declaration of Brian J. St. John in Support of Motion for Preliminary Approval filed on August 30, 2023; Declaration of Brian J. St. John in Support of Plaintiffs’ Motion for Final Approval of Class Action Settlement, Attorneys’ Fees and Costs, and Enhancement Payments (“St. John Decl. ISO MFA”); Declaration of Joanna Ghosh in Support of Plaintiffs’ Motion for Final Approval of Class Action Settlement, Attorneys’ Fees and Costs, and Enhancement Payments (“Ghosh Decl.”). Moreover, Mr. Aiwazian and attorneys at his firm have drawn from their collective decades of experience and depth of knowledge in the employment class action context to advocate zealously and achieve a favorable settlement for the class. St. John Decl. ISO MPA, ¶¶ 2-7; Ghosh Decl., ¶¶ 8-13. The facts speak for themselves: attorneys at Lawyers for Justice,

1 PC conducted extensive investigations into the facts of this case through both formal and
2 informal discovery. St. John Decl. ISO MPA, ¶¶ 10-12; St. John Decl. ISO MFA ¶ 4-8;
3 Ghosh Decl., ¶ 6. This included propounding multiple sets of written discovery onto Defendant,
4 reviewing a large volume of information, documents, and data produced in response,
5 interviewing the plaintiff and other class members, researching the law, analyzing damages and
6 penalties, and conferring with Defendant’s counsel regarding pleadings, discovery, and the
7 production of information, documents, and other data in connection with litigation and
8 mediation and settlement negotiations. *Ibid.* Mr. Aiwazian led settlement discussions with
9 opposing counsel, which culminated in a formal, full-day mediation session where the parties
10 agreed to settle the case. Aiwazian Decl., ¶ 14. As is customary, Mr. Aiwazian and his firm
11 bore all of the risks and costs associated with this litigation and will not receive any
12 compensation until and unless recovery is obtained. Ghosh Decl., ¶ 14. In short, Mr.
13 Aiwazian—with his wealth of experience in general, and importantly, the effort he and his team
14 of attorneys put into litigating this matter in particular—is the paradigm of adequate counsel
15 under Federal Rule of Civil Procedure 23(g)(1)(A)’s mandatory factors.

16 Beyond failing to challenge any of the four mandatory factors, the Objection concedes
17 that the settlement is fair. Objector states that “this Court can still approve the settlement.”
18 (Obj. at 17). Mr. Aiwazian is adequate under the mandatory factors and there are no challenges
19 to the fairness of the settlement, as such, the inquiry can and should end there. *See e.g., Smith*
20 *v. State Farm Mut. Auto. Ins. Co.* (N.D. Ill. 2014) 301 F.R.D. 284, 288 (finding class counsel
21 adequate pursuant to analysis of mandatory Federal Rule of Civil Procedure 23(g)(1)(A) factors
22 and conducting no analysis pursuant to discretionary Federal Rule of Civil Procedure
23 23(g)(1)(B) factor); *Mendez v. MCSS Rest. Corp.* (E.D.N.Y. June 17, 2019) 2019 WL 2504613,
24 at *13 (“Thus, having considered the 23(g)(1)([A]) factors, the court finds that the four proposed
25 classes will be adequately represented by Plaintiffs’ counsel.”).

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27 ///

28 ///

B. Mr. Aiwarzian and Lawyers *for Justice*, PC Satisfy the Discretionary Factor For Appointment As Class Counsel.

1. The Objection Need Not Be Considered.

Pursuant to Federal Rule of Civil Procedure 23(g)(1)(B), the Court “may” consider other matters which are “pertinent to counsel’s ability to fairly and adequately represent the interests of the class.” Fed. R. Civ. Proc. 23(g)(1)(B). Here, the Objection exclusively challenges Mr. Aiwarzian’s ability to represent the class based on his conduct in past cases. (Obj. at 1 (“This objection challenges . . . the adequacy of Mr. Saurin’s lead attorney, Edwin Aiwarzian . . . [based on] *misconduct in the past*.” (emphasis added))). These challenges say nothing about whether Mr. Aiwarzian has, or could, adequately represent this class.

The authority cited by Objector contradicts his argument and instead emphasizes why the Court need not conduct the equivalent of a State Bar investigation into Mr. Aiwarzian’s past conduct to determine adequacy of counsel. For misconduct to warrant decertification or a finding that counsel is not adequate to represent the class, it must “jeopardize[e] the court’s ability to reach a just and proper outcome in the case.” (Obj. at 17 (citing *Reliable Money*, 704 F.3d at 499); *see also* 2 McLaughlin on Class Actions § 6:30 (19th ed.) (“[M]ost courts have rejected [objections to settlement approval] by collaterally attacking the adequacy of representation provided in prior settlement proceedings.”)). Not only is the Objection silent as to whether the allegations somehow preclude this Court from reaching the proper outcome of approving the settlement, the Objection cites no cases where an attorney’s past conduct prevented them from serving as class counsel. To the contrary, each of the cases cited by Objector either involved misconduct in the case (which is not applicable here) or resulted in the court determining that class counsel was adequate despite alleged misconduct. And in no case cited by Objector did the court issue a ruling that an attorney was “not fit to represent class members ever again.” (Obj. at 17).

- ***Wagner v. Lehman Bros. Kuhn Loeb Inc.* (N.D. Ill. 1986) 646 F. Supp. 643:** The Objection cites *Wagner* for the proposition that an attorney’s “attempts to bribe potential witnesses violated the professional rules and required denial of class certification.” (Obj. at 17). *Wagner* directly undermines the Objection because there

is no allegation that Mr. Aiwazian ever “bribe[d] potential witnesses” in this case or another case or that he engaged in any other type of misconduct *in this matter*.

- ***Kaplan v. Pomerantz* (N.D. Ill. 1990) 132 F.R.D. 504:** The Objection cites *Kaplan* for the proposition that attorneys who “failed to correct a witness’s false deposition testimony despite knowing its falsity,” could not adequately represent the class. (Obj. at 17 (citations omitted)). *Kaplan* likewise undermines the Objection because there are no allegations that Mr. Aiwazian “failed to correct . . . false deposition testimony” in case or another case or that he engaged in any other type of misconduct *in this matter*.
- ***Reliable Money Ord., Inc. v. McKnight Sales Co.* (7th Cir. 2013) 704 F.3d 489:** The Objector’s third and final case citation, to *Reliable Money Order*, likewise undermines his argument. In *Reliable Money Order*, the Seventh Circuit affirmed the district court’s decision to certify the class, and specifically affirmed the district court’s determination that the plaintiffs’ attorneys (despite ethical violations) could adequately represent the class. *Id.* at 502. The Seventh Circuit also distinguished between the proper function of a court, which can issue “sanction[s] in the underlying lawsuit,” and the state bar, which is “generally better positioned to address” “ethical breach[es].” *Id.* According to the Seventh Circuit, the key inquiry for class certification is not whether an attorney has committed past ethical breaches, but rather whether “unethical conduct . . . jeopardizes the court’s ability to reach a just and proper outcome in the case.” (Obj. at 17 (citing *Id.*)). Here, the Objection does not even suggest that Mr. Aiwazian’s past conduct has somehow “jeopardize[d]” this Court’s ability to reach the correct outcome. *See generally* Obj.

Moreover, it would be patently unfair for this Court to conduct a slew of mini-trials regarding past conduct in prior, unrelated cases. *Cf.* Cal. Evid. Code § 352 (“The court . . . may exclude evidence if its probative value is substantially outweighed by the probability that its admission will (a) necessitate undue consumption of time[.]”); Fed. R. Evid. 608(b) (“[E]xtrinsic evidence is not admissible to prove specific instances of a witness’s conduct in order to attack or support the witness’s character for truthfulness[.]”). The Objector’s allegations of misconduct say nothing about Mr. Aiwazian’s conduct in this case or whether *this* settlement is fair to class members, and in fact, Objector concedes that the settlement can and should be approved by the Court. However, even if the Court believes Objector’s allegations have some probative value such value is far outweighed by the burden of converting a settlement approval hearing into the equivalent of a State Bar investigation of conduct in other, unrelated closed cases. *Cf. People v. Calhoun* (2019) 38 Cal. App. 5th 275, 301 (court did not err by excluding relevant evidence that “would have led to a minitrial on all the circumstances surrounding [a party’s] conduct”). The Declaration of Paul K. Haines in support of the Objection (“Haines

Decl.”) cites more than 1,700 pages of “evidence” from 62 cases, most of which is selectively excerpted from incomplete records. For example, as discussed further in *infra* § III.C1, the Objection cites and quotes extensively from Judge Cohn’s *tentative* decision on the consolidated Orders to Show Cause (OSCs) that took place on March 20, 2023 in five (5) cases,¹ but the final decision departed substantially from the tentative order in a way that undermines the Objection. (Obj. at 11-12). For Mr. Aiwarzian to comprehensively rebut each of the allegations made against him, he would need to submit an equally or more voluminous record and inundate the Court with material unrelated to the above-captioned action and irrelevant to settlement approval.

Put simply: nothing in the cases cited by Objector—nor any case, statute, or regulation—requires this Court to conduct a trial on Mr. Aiwarzian’s conduct in other cases in order to determine his adequacy to serve as class counsel. Mr. Aiwarzian is a member of the California bar in good standing, he vigorously litigated this case on behalf of Plaintiffs and the class, and achieved an excellent result. The Court need not entertain Objector’s request to engage in a broad, sweeping inquiry of Mr. Aiwarzian’s conduct in other cases.

2. The Court Should Reject Objector’s Attempt To Use This Proceeding To Restrict Mr. Aiwarzian’s Ability to Practice Law.

Beyond seeking an order that Mr. Aiwarzian is “not adequate class counsel,” the Objector seeks two additional rulings from this Court: (1) “a finding that Mr. Aiwarzian is not fit to represent class members ever again,” and (2) “findings [which can be] turned over to the State Bar.” (Obj. at 4, 17.) Objector cites no authority for the proposition that this Court could issue a finding that prohibits Mr. Aiwarzian from representing class members “ever again” or that this proceeding should be used to develop evidence for a State Bar inquiry. (Obj. at 17.) The authority cited by Objector itself says that this Court should not supplant the functions of the

¹ The five (5) cases are as follows: *Fuentes, et al., v. Communications Test Design, Inc.*, San Bernardino Superior Court, Case Number CIVDS1802427, *Gallegos, et al., v. Pneudraulics, Inc.*, San Bernardino Superior Court Case Number CIVDS1721082, *Minor v. HSNI, LLC*, San Bernardino Superior Court Case Number CIVDS1910946, *Reed v. Quadramed Affinity Corporation*, San Bernardino Superior Court Case Number CIVDS1804388, and *Flores, et al., v. Windsor Fashions, Inc.*, San Bernardino Superior Court, Case Number CIVDS1610178. The hearing transcript and the final ruling appear to be captioned and/or docketed under *Fuentes, et al., v. Communications Test Design, Inc.*, San Bernardino Superior Court, Case Number CIVDS1802427.

1 State Bar:

2 Thus, unless the violation prejudices one of the parties or undermines the
3 court's ability to resolve the case justly, **state bar authorities—not a court—
4 should enforce the rules and sanction the attorney.**

5 [. . .]

6 [W]hen an ethical breach neither prejudices an attorney's client nor
7 undermines the integrity of the judicial proceedings, state bar authorities are
8 generally better positioned to address the matter through disciplinary
9 proceedings, rather than the courts through substantive sanction in the
10 underlying lawsuit.

11 *Reliable Money Order*, 704 F.3d at 499, 502 (emphasis added) (cited in Obj. at 17). In fact, the
12 American Bar Association's (ABA) Model Rules warn that "the purpose of the Rules can be
13 subverted when they are invoked by opposing parties as procedural weapons." Preamble to
14 ABA Model R. of Prof'l Conduct ¶ 20.

15 Objector is represented by one of Mr. Aiwazian's competitors who has filed voluminous
16 papers asserting virtually identical allegations in multiple courts in multiple unrelated cases,
17 conveniently, after Mr. Aiwazian's firm made it clear to Objector's counsel and one of his
18 business affiliates, that it appeared they were engaging in or proposing to engage in questionable
19 conduct.² Aiwazian Decl., ¶¶ 7, 8, and 32. Objector is burdening the courts with voluminous
20 filings in an obvious attempt to malign his competitor Mr. Aiwazian, restrict Mr. Aiwazian's
21 ability to practice law, and obtain evidence for a State Bar complaint. This vexatious use of the
22 settlement approval process for an improper purpose violates ABA rules, is an improper waste
23 of legal and judicial resources, and should be stopped.

24 ///

25 ² See e.g., filings undertaken by Objector's counsel in the following instances: (1) Plaintiff Brittany Legaspi's
26 Motion for Appointment of Lead Counsel and Declaration of Paul K. Haines in Support of Plaintiff Brittany
27 Legaspi's Motion for Appointment of Lead Counsel filed on April 28, 2022 in *Legaspi v. Mercedes Diaz Homes,
28 Inc., et al.*, Los Angeles County Superior Court Case No. 20STCV45683; (2) Objection of Yesenia Romero
[Successor-in-Interest to Ana Romero] to Class Action Settlement and Declaration of Paul K. Haines in Support of
Objection of Yesenia Romero [Successor-in-Interest to Ana Romero] to Class Action Settlement filed on
September 26, 2022 in *Flores, et al. v. Biscomerica Corp.*, San Bernardino County Superior Court Case No.
CIVDS1930814; (3) Plaintiff Aaron Hallum and Plaintiff Amy Ramos' Joint Opposition to Plaintiff Nicole
Salazar's Motion to Consolidate Cases and Declaration of Paul K. Haines in Support of Plaintiff Aaron Hallum and
Plaintiff Amy Ramos' Joint Opposition to Plaintiff Nicole Salazar's Motion to Consolidate Cases filed on February
8, 2023 in *Salazar v. FCA US LLC*, San Bernardino County Superior Court Case No. CIVSB2124160; and (4)
Proposed Intervenor/Plaintiff Joaquin Morales's Notice of Motion and Motion to Intervene and Declaration of Paul
K. Haines in Support of Proposed Intervenor/Plaintiff Joaquin Morales's Motion to Intervene filed on November
21, 2023 in *McCullough v. Wright Tree Service, Inc., et al.*, Case No. 2:23-cv-01927-MCE-DMC (E.D. Cal.).
Aiwazian Decl., ¶ 4.

C. Objector's Allegations Are False On Their Merits.

Even if the Court were to consider these attacks on Mr. Aiwazian's character and career, the Objection should still be denied. In each instance, Objector presents misleading, cherry-picked evidence to raise false allegations that are ultimately totally unfounded.

1. Mr. Aiwazian's Use Of Consulting Experts Was Appropriate.

More than half of the Objection discusses Mr. Aiwazian's use in other cases of consulting experts who are or were licensed to practice law. (Obj. at 5-13). But despite the Objection's characterization of this practice as "theft" (see Obj. at 1) and "fraud" (see Obj. at 5), there is extensive authority supporting the use of attorneys as consulting experts and the submission of their bills as reimbursable case costs rather than attorney's fees.³ In addition, multiple courts have approved of this practice.

Lawyers for Justice, PC has in the past retained consulting experts in cases, who are or were licensed to practice law, and fully disclosed their identities and fees in expenses submitted for court approval. As Mr. Aiwazian made clear in each of the cases in which the issue has arisen, the consulting experts did not perform (or bill for) any work performed as legal counsel for the plaintiffs. Specifically, the consulting experts did not act as a lawyer for a client who is a party in the case, nor did they enter an appearance, file a notice of association, sign or draft legal briefs, argue motion, take or defend depositions, or perform any other work on behalf of the party on whose behalf the experts were engaged as a consulting expert, that would require a law license; they also never entered into or executed any legal service engagement, contingency fee, or retainer agreement and never entered into or executed any attorney fee sharing agreement, with respect to the party on whose behalf they were engaged as a consulting expert. Aiwazian Decl., ¶ 16; *Id.*, Exh. 5 (Declaration of Robert A. Parris filed in *Myers, et al. v. Nationwide Guard Services Inc.* ("Parris Decl."), ¶ 14). Lawyers for Justice, PC retained the experts to

³ Another baseless accusation of "fraud" comes in the form of Objector claiming that Mr. Aiwazian "renege on his word" after he had "represented" that he would "return the funds earmarked as 'expert costs' to the class members of his own volition" "irrespective of whether or not the court concluded that it had jurisdiction to amend the final judgment." (Obj. at 12-13). But this allegation is belied by the very quote that the Objection cites to ostensibly support this proposition, which explicitly states that Mr. Aiwazian would return the funds "if it would please the court." *Id.* at 13. Mr. Aiwazian offered to return the funds if the court ordered him to do so, and the court never did. A straightforward reading of the exchange cuts straight through any misleading allegation of fraud.

1 consult and provide assessment regarding important issues, including, *inter alia*, valuation
2 (namely, damages and penalties), negotiation strategy and settlement scenarios, assessment of
3 financial condition of the defendant(s) and structuring of any settlement recovery in light of that,
4 and industry practice, in part, based on results-based data and personal knowledge that they have
5 gathered regarding actual settlements reached or outcomes obtained by multiple firms practicing
6 in the area, and analysis of various metrics thereof (e.g., class size, pay periods count,
7 workweeks count, violation rates, industry, mediator, and the judge the case is assigned to).
8 Aiwazian Decl., ¶ 22; *Id.*, Exh. 5 (Parris Decl., ¶ 13). Meanwhile, all legal work was performed
9 by attorneys who worked for Lawyers for Justice, PC in the cases in which the consulting experts
10 were used for mediation. Specifically, attorneys at Lawyers for Justice, PC analyzed and
11 assessed facts regarding merits, variability, community of interest, pattern and practice, and
12 manageability, assessed damages and penalties, and evaluated and considered what was required
13 for a viable trial plan as well as the defendant's defenses if the matter were to proceed through
14 any threatened dispositive motions, class certification, and trial stages. Aiwazian Decl., ¶ 17.
15 In connection with mediation, the attorneys at Lawyers for Justice, PC who are counsel of record
16 for plaintiffs performed the following work: reviewed and analyzed extensive information, data,
17 and documents obtained from plaintiffs, defendant, and other sources, including, *inter alia*,
18 interviews with and/or employment records of plaintiffs and putative class members, class time
19 and pay data, and defendant's operations and employment practices, policies, and procedures
20 documents, among other information and documents; developed damages and penalties
21 valuation models with the assistance of the consulting expert; researched applicable law and
22 drafted the mediation brief; prepared for and attended the mediation; prepared for and handled
23 post-mediation meet-and-confer discussions and continued settlement negotiations (if any);
24 engaged in confirmatory discovery and reviewed and considered additional information (if
25 applicable) regarding issues materials to claims valuation and resolution that came up at
26 mediation; and memorialized the terms of settlement in an enforceable settlement agreement
27 and filed moving and supporting papers to obtain court approval of the settlement. *Ibid.*

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1 In three cases courts determined the expenses submitted by Mr. Parris—one of the
2 consulting experts used by Mr. Aiwarzian—were reimbursable, reasonable, and necessary case
3 costs. Aiwarzian Decl., ¶ 21. For example:

- 4 • In or around October 2021, in *Barela v. Quail Park Retirement Village, LLC*, Tulare
5 County Superior Court, Case No. VCU282224, Judge David Matthias requested
6 “additional information as to why plaintiff and/or its counsel determined not to utilize
7 an expert in its assessment of damages in this case involving complex wage and hour
8 claims of hundreds of employees.” In response, Lawyers for Justice, PC filed a
9 declaration from Robert A. Parris describing his services and credentials. The court
10 did not comment further on Mr. Parris’ expert services and approved the settlement.
11 Aiwarzian Decl., ¶ 21(a). The referenced declaration of Mr. Aiwarzian is attached as
12 “EXHIBIT 6” to the accompanying Declaration of Edwin Aiwarzian.
- 13 • In or around July 2021, in *Zimmers v. Pinnacle Property Management Services, LLC*,
14 Orange County Superior Court Case No. 30-2018-000995413, Judge William D.
15 Claster, observed that “Counsel retained an expert to assist in claim valuation. Is this
16 Robert Parris, the expert mentioned in the costs bill? Please provide a copy of the
17 expert’s CV.” In response, Lawyers for Justice, PC filed a declaration from Robert
18 A. Parris detailing his services and credentials. The court did not comment further on
19 Mr. Parris’ expert services and granted approval of the settlement. Aiwarzian Decl., ¶
20 21(b). The referenced declaration of Mr. Aiwarzian is attached as “EXHIBIT 7” to
21 the accompanying Declaration of Edwin Aiwarzian.
- 22 • In or around December 2021, in *DeBar, et al. v. Optima Tax Relief, LLC*, Orange
23 County Superior Court Case No. 30-2018-00972771, Judge Claster again requested
24 information about Mr. Parris’s credentials. Mr. Aiwarzian filed a declaration attaching
25 Robert A. Parris’s CV. The court did not comment further on Mr. Parris’ expert
26 services and granted approval of the settlement. Aiwarzian Decl., ¶ 21(c). The
27 referenced declaration of Mr. Aiwarzian is attached as “EXHIBIT 8” to the
28 accompanying Declaration of Edwin Aiwarzian.

19 These approvals came before Judge David S. Cohn and Judge Joseph T. Ortiz, of the
20 San Bernardino County Superior Court, expressed concern over whether individuals who have
21 had successful careers, in part, practicing law, could be billed as consulting experts providing
22 services for which reimbursement could be sought as case costs. After hearing those concerns,
23 despite these costs being approved in prior cases, Lawyers for Justice, PC no longer seeks
24 reimbursement of expenses for such consulting experts.

25 There is ample case law and other authority supporting the use of these experts by
26 Lawyers for Justice, PC.

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1 The rules of evidence broadly define who can serve as experts and do not preclude
2 attorneys from serving as experts. Cal. Evid. Code § 720 (defining expert as person with
3 “special knowledge, skill, experience, training or education” which may be shown “by any
4 otherwise admissible evidence” including expert’s own testimony); Cal. Evid. Code § 801
5 (defining expert opinions as those “[r]elated to a subject that is sufficiently beyond common
6 experience” and “[b]ased on matter (including specialized knowledge, skill, experience,
7 training, and education) perceived by or personally known to the witness or made known to him
8 [or her][.]” Also, both California Evidence Code § 805 and Federal Rule of Evidence 704
9 explicitly acknowledge that an expert can opine and may even testify on an ultimate issue to be
10 decided by the trier of fact.

11 Numerous courts have approved the use of experts in wage and hour class actions to
12 perform work similar to that performed by the consulting experts identified by the Objector.
13 *See, e.g. Acosta v. Trans Union, LLC* (C.D. Cal. 2007) 243 F.R.D. 377, 397 (trial court was
14 baffled by “[p]laintiffs failure to consult any expert” regarding potential recovery and economic
15 value before reaching settlement in mediation); *Stone Brewing Co., LLC v. MillerCoors LLC*
16 (S.D. Cal. Feb. 25, 2020) 2020 WL 907060, at *8 (“it is entirely appropriate to use damages
17 experts to calculate damages in a sophisticated case”); *Salgado v. T-Mobile USA, Inc.* (E.D. Cal.
18 June 12, 2020) 2020 WL 3127931, at *13 (noting that plaintiff hired an expert to prepare for
19 both the class certification motion as well as damage calculations and an exposure analysis for
20 the mediation); *In re Am. Apparel, Inc. S’holder Litig.* (C.D. Cal. July 28, 2014) 2014 WL
21 10212865, at *19 (finding the settlement allocation “based on the damages theory that class
22 counsel developed in consultation with their damages expert” fair and reasonable); *Roberti v.*
23 *OSI Sys., Inc.* (C.D. Cal. Dec. 8, 2015) 2015 WL 8329916, at *7 (approving lead counsel’s
24 request to recover expert and consultant costs as part of class action settlement because
25 “[a]ttorneys routinely bill clients for all of these expenses, and it is therefore appropriate for
26 Lead Counsel here to recover these costs from the Settlement”).

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In addition, many cases have approved attorneys serving as expert witnesses. For example, in *Curtis v. Superior Court* (2021) 62 Cal. App. 5th 453, a plaintiff’s side employment attorney regularly served as a “consulting expert” to an attorney defending an employment case “to advise him on employment law, help him investigate and prepare a legal strategy, and provide a plaintiff’s perspective.” Similarly, many other cases and authority have noted and approved the use of attorneys as experts on a wide variety of issues, including legal issues. See, e.g., *Mora v. Big Lots Stores, Inc.* (2011) 194 Cal. App. 4th 496, 513 (head of Department of Labor Standards may testify as expert regarding criteria for executive exemption from payment of overtime compensation and benefits), disapproved on other grounds by *Noel v. Thrifty Payless, Inc.* (2019) 7 Cal. 5th 955, 975 n.8; *PM Group, Inc. v. Stewart* (2007) 154 Cal. App. 4th 55, 63-64 (entertainment attorney could properly opine as an expert on contract issues implicating custom and practice in entertainment industry); *Neal v. Farmers Ins. Exchange* (1978) 21 Cal. 3d 910, 924 (attorney may testify as an expert regarding whether insurance company acted in bad faith); Cal. Evid. Code, § 805 (expert opinions can encompass ultimate issues to be decided by the trier of fact).

An ABA article also recognizes that consulting experts can and should assist counsel with tasks regularly performed by counsel. In “Expert Witnesses-The Basics”, the authors describe the work of “consulting experts” broadly to include:

“(i) assessing the value of a case; (ii) formulating claims, counterclaims, and defenses; (iii) drafting discovery requests and responses; (iv) reviewing documents; (v) challenging the other side’s experts; (vi) developing and refining case strategy; (vii) identifying, evaluating, and calculating damages; (viii) evaluating and responding to opposing claims and theories; and (ix) aiding the factfinder through trial testimony.”⁴

R. Adam Swick and Ryan Goldstein, *Expert Witnesses—the Basics*, American Bar Association (Dec. 30, 2021); see also Jonathan Couchman, *Practice Points: Using a Consulting Expert’s Assistance to Take Effective Depositions* (Mar. 13, 2017) (describing how consulting experts can

⁴ R. Adam Swick and Ryan Goldstein, *Practice Points: Expert Witnesses—The Basics*, American Bar Association (Dec. 30, 2021), <https://www.americanbar.org/groups/litigation/committees/trial-practice/practice/2021/expert-witnesses-the-basics/>. For the Court’s ease of reference, a true and correct copy of this article is attached as “EXHIBIT 9” to the accompanying Declaration of Edwin Aiwazian.

1 assist with various legal tasks).⁵ While the experts hired by Lawyers for Justice, PC did not
2 perform any legal work, even if they had, their expenses could have been characterized as
3 consulting experts pursuant to the applicable legal authorities and industry practice and
4 guidance.⁶

5 The Objection mischaracterizes the two recent court rulings that expressed concern over
6 individuals, who are or were licensed to practice law, serving as consulting experts. For
7 example, the Objection cites to Judge Cohn’s tentative ruling but Judge Cohn departed from his
8 tentative in his final ruling. (See Obj. at 10-12). In his Final Ruling, Judge Cohn declined to
9 make a report to the State Bar. See Aiwazian Decl., Exh. 2 (March 24, 2024 Ruling on
10 Submitted Matter: Orders to Show Cause (OSCs) in *Fuentes, et al., v. Communications Test*
11 *Design, Inc.*, San Bernardino Superior Court, Case Number CIVDS1802427 at 4). The Objection
12 also misstates Mr. Aiwazian’s representation to Judge Cohn about reimbursing the class for the
13 expert costs. Mr. Aiwazian offered to do so if the Court wished him to do so, but the Court
14 never ordered or instructed Mr. Aiwazian to do so. *Id.*; Aiwazian Decl., Exh. 1 (March 20, 2023
15 Hearing Transcript in *Fuentes, et al., v. Communications Test Design, Inc.*, San Bernardino Superior
16 Court, Case Number CIVDS1802427, at 16:12-21, 59:16-17). Further, the Objection
17 misleadingly characterizes Judge Ortiz’s verbal statement(s) of what he “think(s)” which were
18 made in a court hearing. Importantly, Judge Ortiz noted as follows:

19 “You understand the Court's position. At this juncture I don't think there's anything
20 to be done. In any event, I don't think the money at issue is outside of the four
21 corners of the Court's prerogative. We're talking about \$5,000. Not to say that if
there were a fraud that would be -- that wouldn't be considered and that wouldn't

22 ⁵ Jonathan Couchman, *Practice Points: Using a Consulting Expert’s Assistance to Take Effective Depositions* (Mar.
23 13, 2017), <https://www.americanbar.org/groups/litigation/committees/expert-witnesses/practice/2017/using-a-consulting-experts-assistance-to-take-effective-depositions/>. For the Court’s ease of reference, a true and correct
copy of this article is attached as “EXHIBIT 10” to the accompanying Declaration of Edwin Aiwazian.

24 ⁶ As noted by a leading employment defense firm: “Given the importance of expert testimony in class litigation,
25 **early involvement of effective experts**, both **consulting** and testifying, is imperative. Such early involvement
enables the company to identify relevant data, what needs to be retained, and the best way to analyze it. **Consulting**
26 **experts are particularly helpful** because they can help to build a statistical model to study various employment
decisions at issue without risking the discovery of results. **This may give the company immeasurable leverage in**
27 **settlement negotiations** as it will already have defenses prepared to claims that plaintiffs’ counsel may make during
settlement negotiations. Further, the company will be in position to defend the case in the event a resolution is not
reached, as it can use the data to defeat class certification if it proceeds to litigation.” Christina L. Feege, James N.
Boudreau, and Allan G. King, *Stealth Class Actions*, GC New York (Jan. 31, 2005) at 2,
28 <https://www.littler.com/files/press/pdf/11456.pdf> (emphasis added). For the Court’s ease of reference, a true and
correct copy of this article is attached as “EXHIBIT 11” to the accompanying Declaration of Edwin Aiwazian.

1 be a problem. But I don't have any evidence of that here. And I do understand
2 when we're talking about wage and hour, the attorney work, the specialty, can be
3 construed as different. And reasonable parties can think that it may be something
4 different.”

5 See Aiwazian Decl., Exh. 3 (July 13, 2023 Hearing Transcript in *Myers, et al. v. Nationwide*
6 *Guard Services Inc.*, San Bernardino County Superior Court Case No. CIVDS1907100, at
7 43:26-44:10). Judge Ortiz ultimately declined to issue an Order to Show Cause and found no
8 wrongdoing by Mr. Aiwazian. See *Id.* (Hearing Transcript at 46:17-20); *Id.*, Exh. 4 (July 13,
9 2023 Minute Order in *Myers, et al. v. Nationwide Guard Services Inc.*, San Bernardino County
10 Superior Court Case No. CIVDS1907100).

11 **Most importantly, in this case consulting experts were not used by Plaintiffs. Any**
12 **concerns about the use of consulting experts in prior, unrelated cases does not in any way**
13 **affect Mr. Aiwazian or Lawyers for Justice, PC adequacy to serve as class counsel in this**
14 **case.**

15 Finally, Objector's frequent and ominous citations to a State Bar inquiry are a red
16 herring. Though the Objection refers to this “investigation” ten times (see Obj. at 1, 4, 9, 11, 12,
17 13), the fact that someone submitted a complaint to the State Bar, and that Mr. Haines is
18 gratuitously trying to bait trial courts into issuing decisions regarding the allegations to submit
19 in support of that complaint, is not in and of itself evidence of wrongdoing. As this Court is
20 certainly well aware, the existence of a complaint or an investigation does not necessitate a
21 finding of wrongdoing, and it should have no effect on the Court's decision regarding adequacy
22 of class counsel.

23 2. Mr. Aiwazian Did Not Engage in Forum Shopping.

24 Objector's allegation that Mr. Aiwazian engaged in forum shopping in a separate case –
25 years ago fares no better. See Obj. at 13-15. Objector cherry picks and misconstrues facts. In
26 early 2020, Lawyers for Justice, PC reached a global settlement on a matter pending in federal
27 court, where Mr. Haines had top-filed an overlapping case. Aiwazian Decl., ¶ 8. Mr. Haines
28 took lead on implementation of the settlement. *Id.* In the course of working with his firm
regarding that settlement, an attorney at Lawyers for Justice, PC voiced concerns to Mr. Haines
and the group of plaintiffs' attorneys, that multiple procedural steps that Mr. Haines was

proposing to take in order to implement the settlement appeared to be forum shopping for the purpose of obtaining a larger amount of attorneys' fees and/or appeared inconsistent with the due process requirements for a class action settlement. *Id.* Thereafter, conveniently, Mr. Haines began to accuse Lawyers for Justice, PC of having engaged in forum shopping in *Olivas, et al. v. VCI Construction, LLC*. *Id.*; Aiwazian Decl., ¶ 32. However, neither Mr. Aiwazian nor Lawyers for Justice, PC executed a stipulation to add a claim to a case for the purpose of forum shopping and removal to federal court in *Olivas, et al. v. VCI Construction, LLC*, and it is not true that anything done in *Olivas, et al. v. VCI Construction, LLC* was done due to the belief that a settlement would not be approved, ultimately, the settlement reached in that matter was approved as fair, adequate, and reasonable. Aiwazian Decl., ¶ 32. To be clear, in *Olivas, et al. v. VCI Construction, LLC*, another law firm had filed the first case against the defendant and Lawyers for Justice, PC had filed the second case; there was a stipulation to add one or more claims to the case, which was entered into between other counsel for plaintiffs and defendant. *Ibid.* Mr. Haines is misconstruing the intent between a stipulation entered into by individuals and firms other than Mr. Aiwazian or Lawyers for Justice, PC, and he is doing so, after Lawyers for Justice, PC comments which he, it appears, took personally. *Ibid.*; Aiwazian Decl., ¶ 8.

Moreover, the Objection's bald assertion that the matter was re-filed in Kern County so that Mr. Aiwazian could "take advantage of the class members in front of a judge in Kern County who he perceived as being less sophisticated with respect to approving class action settlements" is unsupported by any evidence whatsoever and demonstrates Objector's Counsel incorrect prejudices regarding the judges in Kern County more than anything else. (Obj. at 15).

3. Mr. Aiwazian Did Not Engage in a Reverse Auction.

Objector's allegation that Mr. Aiwazian engaged in a "reverse auction" in *Garcia v. Group 1 Automotive, Inc.*, can also be swiftly rejected. (Obj. at 15-16). Mr. Haines is misconstruing Orange County Superior Court Judge Timothy Claster's observations juxtaposing details provided by Defendant regarding the negotiation of the settlement, against a boilerplate statement filed by another plaintiff's firm that was co-counseling to represent the same plaintiff as Lawyers for Justice, PC. Aiwazian Decl., ¶ 33. Specifically, neither Mr. Aiwazian nor

1 Lawyers for Justice, PC colluded with defense nor did they engage in any reverse auction, nor
2 would they ever do such a thing. *Ibid.* To the contrary, Mr. Aiwarzian led the effort and was
3 successful in obtaining a \$2,000,000.00 settlement that was ultimately approved by the court as
4 fair, adequate, and reasonable. *Ibid.* The matter involved approximately five (5) plaintiffs'
5 firms who did not have a global agreement to split attorneys' fees among all of them, and the
6 firms were engaging in adversarial and contested court-filings on the subject. *Ibid.*
7 Nevertheless, Judge Claster determined that the settlement that was reached through Mr.
8 Aiwarzian and his firm's leadership was fair and adequate, and granted approval of the
9 settlement. *Ibid.*

10 4. Mr. Aiwarzian Has a Strong Reputation for Legal Work.

11 Contrary to the Objection's *ad hominem* characterization of Mr. Aiwarzian as a performer
12 of "sloppy and incompetent legal work" (Obj. at 16), Mr. Aiwarzian is highly respected in his
13 field and has been approved as class counsel hundreds of times by dozens of judges. The
14 Objection cites to four unrelated cases for the proposition that Mr. Aiwarzian has been criticized
15 in the past, however Objector is misconstruing and omitting context regarding the proceedings
16 in those cases. At all times, Mr. Aiwarzian's conduct and the conduct of Lawyers for Justice,
17 PC was that of zealous advocates of putative class members and/or aggrieved employees, in
18 highly-contested matters.

19 Mr. Haines is misconstruing what happened in *Zackaria v. Wal-Mart Stores, Inc.* and/or
20 omitting relevant context. Aiwarzian Decl., ¶ 34. This matter involved a Motion for Class
21 Certification that was filed by Lawyers for Justice, PC's co-counsel. *Ibid.* The United States
22 District Court for the Eastern District of California denied the motion for technical deficiencies
23 regarding how evidence was being cited to and summarized in the papers (specifically, the lack
24 of pincites, the inclusion of cover page bates number citation(s) when citing to deposition
25 transcripts, not including parentheticals repeating or explaining the content of evidence cited to
26 where the evidence had very small font that was hard to read, and not including sufficient
27 identifications and explanations regarding the evidence being cited to). Aiwarzian Decl., ¶ 34;
28 *Zakaria v. Wal-Mart Stores, Inc.*, Case No. 5:12-cv-01520 (C.D. Cal. Feb. 21, 2014), Doc. 77,

1 3:25-4:3, 4:10-18; 5:7-9. The motion was denied without prejudice, with instructions on
2 preparing a renewed motion. Eventually, the parties submitted additional briefing and the
3 renewed motion was decided on the merits (the court denied certification). Aiwazian Decl., ¶
4 34; *Zakaria v. Wal-Mart Stores, Inc.*, Case No. 5:12-cv-01520 (C.D. Cal. Feb. 21, 2014), Doc.
5 77, 6:2-9:8.

6 Mr. Haines is misconstruing what happened in *Brown v. Royal Power Mgmt., Inc.* and/or
7 omitting relevant context. Aiwazian Decl., ¶ 35. This matter involved a determination that
8 sufficient minimum contacts had not been demonstrated for the Northern District of California
9 to have jurisdiction in lieu of the Central District of California. *Ibid.*; *see generally*, *Brown v.*
10 *Royal Power Mgmt., Inc.*, Case No. 3:11-cv-04822 (C.D. Cal. Feb. 1, 2012), Doc. 20. In reaching
11 this determination the court noted that plaintiffs did not identify and provide enough detail to
12 establish minimum contacts, namely, that they did not identify specific offices or real property,
13 individuals who are agents, business licenses, or employees, and did not establish that
14 corporations were alter egos of the defendant. *Ibid.*

15 With respect to *Silva v. AvalonBay Communities, Inc.*, Mr. Haines is misconstruing the
16 order in question and/or omitting relevant context. Aiwazian Decl., ¶ 36. Specifically, he is
17 relying on language in the court's order that is quoting the defendant's contention, in support of
18 its request for sanctions under Federal Rule of Civil Procedure 11, that the complaint is cookie-
19 cutter and that it strongly suggested that pre-filing investigation was not conducted – but the
20 court did not make such a finding. *Ibid.*; *Silva v. AvalonBay Communities, Inc.*, Case No. 2:15-
21 cv-04157 (E.D. Cal. Oct. 8, 2015), Doc. 48, 14. Instead, the court denied the defendant's request
22 for Rule 11 sanctions, finding that there was not sufficient showing that the standards established
23 by the Rule had been violated. *Ibid.*

24 With respect to *Bicek v. C & S Wholesale Grocers, Inc.*, Mr. Haines is misconstruing the
25 order in question and/or omitting relevant context. Aiwazian Decl., ¶ 37. The court did not
26 make a finding that Mr. Aiwazian intentionally and dilatorily stonewalled opposing counsel with
27 respect to depositions of putative class members. *Ibid.*; *see, generally*, *Bicek v. C & S Wholesale*
28 *Grocers, Inc.*, Case No. 2:13-cv-0411-MCE (E.D. Cal. Oct. 17, 2013), Doc. 57. The matter

involved a discovery dispute in connection with coordinating the depositions of putative class members by defendants. Aiwazian Decl., ¶ 37; *Bicek v. C & S Wholesale Grocers, Inc.*, Case No. 2:13-cv-0411-MCE (E.D. Cal. Oct. 17, 2013), Doc. 57, 1:18-23. Plaintiff's counsel insisted that defendants produce the personnel files of the deponents before the depositions, asserting that deponents had the right to review their personnel files to prepare for deposition prior to being deposed, delayed in responding regarding availability for depositions because defense counsel delayed in advising that it would produce the personnel files, and plaintiff's counsel asserted objections regarding the availability of prospective deponents. Aiwazian Decl., ¶ 37; *Bicek v. C & S Wholesale Grocers, Inc.*, Case No. 2:13-cv-0411-MCE (E.D. Cal. Oct. 17, 2013), Doc. 57, 4:9-5:16, 8:22-24. The court observed that there were at least 5 different attorneys and two law firms representing plaintiff, that it was not provided any authority for the proposition that plaintiff's counsel was entitled to receive the personnel files of the deponent prior to their deposition or that such receipt was a prerequisite for scheduling the depositions, and that plaintiff's counsel had no substantial justification for opposing the deposition going forward based on the deponents' purported rights to review their personnel files and prepare for depositions. Aiwazian Decl., ¶ 37; *Bicek v. C & S Wholesale Grocers, Inc.*, Case No. 2:13-cv-0411-MCE (E.D. Cal. Oct. 17, 2013), Doc. 57, 3:13-15, 12:9-11, and 12:13-15. The court also observed that defendants' counsel could have communicated and clarified at an earlier stage that they were willing to provide the personnel files subject to the protective order. *Ibid.*; *Bicek v. C & S Wholesale Grocers, Inc.*, Case No. 2:13-cv-0411-MCE (E.D. Cal. Oct. 17, 2013), Doc. 57, 12:1-5.

There is no support for the proposition that criticism within the context of aggressive and hotly-contested litigation, in many instances regarding the conduct or work of other co-counsel firms, on a miniscule percentage of prior cases, should bear on an attorney's ability to perform adequately as class counsel in this case, where there is a demonstrated record of success (as there is here).

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1 5. Mr. Haines is Biased.

2 Lastly, the Court should consider Objector's counsel's obvious bias and explicitly
3 admitted ulterior motive. Objector's counsel is a competitor of Mr. Aiwazian (and Lawyers *for*
4 Justice, PC) and has explicitly stated repeatedly that his goal in this Objection is to prevent Mr.
5 Aiwazian from practicing law through an order from this Court. Also, as discussed in §§ I,
6 II.C.2 *infra*, Objector's counsel has engaged in a campaign, parroting the same allegations,
7 conveniently, after Lawyers *for* Justice, PC voiced concern about the conduct of Objector's
8 counsel and his business affiliate. Aiwazian Decl., ¶¶ 5-10, 32. Objector's counsel's request
9 that this Court publicly criticize Mr. Aiwazian in an order, so that Objector's counsel can present
10 it to the State Bar to continue to lobby them to restrict Mr. Aiwazian's practice, is part-and-
11 parcel of that campaign, that he has been undertaking for an improper and unrelated, ulterior
12 purpose. The Objection does not, in any meaningful way, have anything to do with the above-
13 captioned action or settlement; it is vexatious and detracts from the best interests of the class—
14 which is to receive an expeditious recovery by way of the significant settlement obtained in this
15 matter by Lawyers *for* Justice, PC.

16 **IV. CONCLUSION**

17 The Objection is without merit and should be denied in its entirety.

18
19 Respectfully,

20 Date: February 15, 2024

LAWYERS *for* JUSTICE, PC

21
22 By: 
23 Edwin Aiwazian
24 Attorneys *for* Plaintiffs and the Class
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