

1 REBECCA MILLER (CA SBN 317405)
rmiller@wclp.org
2 RICHARD A. ROTHSCHILD (CA SBN 67356)
rrothschild@wclp.org
3 WESTERN CENTER ON LAW & POVERTY
4 3701 Wilshire Boulevard, Suite 208
Los Angeles, California 90010
5 Telephone: (213) 487-7211
Facsimile: (213) 487-0242
6

7 MICHAEL HARRIS (CA SBN 118234)
mharris@youthlaw.org
8 HONG LE (CA SBN 305519)
hle@youthlaw.org
9 NATIONAL CENTER FOR YOUTH LAW
1212 Broadway, Suite 600
10 Oakland, California 94612
Telephone: 510.899.6566
11 Facsimile: 510.835.8099

12 Attorneys for Petitioners/Plaintiffs
13 [continued on next page]

14
15 SUPERIOR COURT OF THE STATE OF CALIFORNIA
16 COUNTY OF RIVERSIDE

17
18 SHIRLEY FREEMAN; DANIEL FREEMAN;
and TIFFINE HANSBROUGH; on behalf of
19 themselves and all others similarly situated,

20 Petitioners/Plaintiffs,

21 vs.

22 RIVERSIDE COUNTY; RIVERSIDE
COUNTY PROBATION DEPARTMENT;
23 CHIEF PROBATION OFFICER RONALD L.
MILLER, in his official capacity,

24 Respondents/Defendants.
25
26
27

Case No. RIC2001772

Assigned to the Honorable Craig Riemer

**PLAINTIFFS' NOTICE OF MOTION
AND UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES**

Date: November 15, 2022

Time: 8:30 a.m.

Dept: 01

(Reservation ID: 471981530200)

Complaint filed: June 1, 2020

1 [Additional Counsel]

2 CRYSTAL ADAMS (CA SBN 308638)
3 NATIONAL CENTER FOR YOUTH LAW
4 712 H Street NE, DPT #32020
5 Washington, DC 20002
6 cadams@youthlaw.org
7 Telephone: 202.868.4785
8 Facsimile: 202.868.4788
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **TO THE COURT, TO ALL PARTIES AND TO THEIR COUNSEL OF RECORD:**

2

3 **NOTICE IS HEREBY GIVEN** that on November 15, 2022, at 8:30am in Department 1
4 of the Superior Court for the County of Riverside, Historic Court House, located at 4050 Main
5 Street, Riverside, CA 92501, Plaintiffs Shirley Freeman and Daniel Freeman will move for an
6 order granting preliminary approval of the proposed class action settlement on the terms and
7 conditions set forth in the Settlement Agreement and Release between Plaintiffs and Defendant
8 Riverside County. A copy of the Settlement Agreement is attached as Exhibit A to the Declaration
9 of Rebecca Miller (Class Counsel). Plaintiffs will move the Court to:

- 10 1. Grant preliminary approval of the Settlement Agreement and Release;
- 11 2. Approve the Notice of Class Action Settlement, the proposed exclusion form, and the
12 proposed objection form attached as Exhibits D, E, and F to the Miller Declaration,
13 and order their distribution to Class Members;
- 14 3. Approve Rust Consulting, Inc., as the Settlement Administrator; and
- 15 4. Schedule a Final Approval and Settlement Fairness Hearing.

16 This Motion is based on this Notice and Motion, the Memorandum of Points and
17 Authorities, the declarations and exhibits filed in support of this Motion, all other pleadings and
18 papers on file in this action, and any oral argument or other matter that may be considered by the
19 Court.

20 Per Local Rule 3316, the Court will make a tentative ruling on the merits of this matter by
21 3:00 p.m. on the court day prior to the hearing. Tentative rulings will be available on the Internet
22 or by calling 1-760-904-5722. To view go to: <http://www.riverside.courts.ca.gov> and click on the
23 tentative ruling link. The tentative ruling shall become the ruling of the Court unless, by 4:30 p.m.
24 on the court day before the scheduled hearing, a party gives notice of intent to appear to all parties
25 and the Court. The notice of intent to appear must be given either in person or by telephone.

26 //

27 //

28 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Where notice of intent to appear has been properly given, or upon direction of the Court,
oral argument will be permitted.

Dated: September 9, 2022

Respectfully submitted,



Rebecca Carr Miller
Attorney for Plaintiffs

1 **TABLE OF CONTENTS**

2 **I. INTRODUCTION.....7**

3 **II. PROCEDURAL BACKGROUND.....8**

4 **III. SUMMARY OF MEDIATION PROCESS.....9**

5 **IV. THE PROPOSED SETTLEMENT.....9**

6 a. Settlement Fund..... 10

7 b. Class Members 10

8 c. Allocation Formula. 10

9 d. Residual Distribution to Class Members..... 10

10 e. Cy Pres. 10

11 f. Settlement Administrator and Costs..... 11

12 g. Service Awards 11

13 h. Attorneys’ Fees and Costs..... 12

14 i. Release 12

15 j. Form of Notice. 13

16 **V. THE COURT SHOULD GRANT PRELIMINARY APPROVAL.....13**

17 a. The Settlement is the Result of Informed, Non-Collusive, and Arm’s-Length Negotiations

18 Between Experienced Counsel..... 13

19 b. The Extent of the Information Provided Through Informal and Formal Discovery and the

20 Stages of the Proceedings Support the Settlement. 14

21 c. Counsel is Experienced in Similar Litigation. 15

22 d. The Parties Do Not Anticipate Significant Objections from Class Members..... 15

23 e. The Proposed Settlement is a Reasonable Compromise Given the Strength of Plaintiffs’

24 Claims and the Risk of Establishing their Claims through Litigation..... 15

25 f. The Risk, Expense, and Duration of Further Litigation, Including the Risk of Maintaining

26 the Class Action through Trial, Also Weigh in Favor of Settlement. 19

27 **VI. THE PROPOSED CLASS NOTICE OF SETTLEMENT IS REASONABLE AND**

28 **APPROPRIATE.....19**

VII. THE PROPOSED SCHEDULE OF EVENTS.....21

VIII. CONCLUSION.....21

1 **TABLE OF AUTHORITIES**

2 **CASES**

3 *Cartt v. Superior Ct.*, 50 Cal. App. 3d 960 (1975)..... 20

4 *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794 (1996)..... 13

5 *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116 (2008) 16

6 *Linney v. Cellular Alaska P’ship*, 151 F.3d 1234 (9th Cir. 1998) 14

7 *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306 (1950)..... 19

8 *Sutter Health Uninsured Pricing Cases*, 171 Cal. App. 4th 495 (2009)..... 16

9 *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224 (2001) 19, 20

10 **STATUTES**

11 42 U.S.C. § 1983 17

12 Codes of Civil Procedure

13 § 526a 17

14 § 1085 17

15 Government Codes

16 § 68115(a)(4)..... 8

17 § 815.6..... 17

18 § 910..... 17

19 Welfare and Institution Codes

20 § 903.45..... 7, 17

21 § 903 7, 17

22 **OTHER AUTHORITIES**

23 Cal. CONST., art. I, § 7..... 17

24 U.S. CONST., amend. XIV, § 1 17

25 California Rules of Court

26 3.766 19, 21

27 3.766(d) 20

28 3.766(e) 21

3.769 9

1 **I. INTRODUCTION**

2 Plaintiffs Shirley and Daniel Freeman seek preliminary approval of a \$540,307 class action
3 settlement on behalf of themselves and approximately 1,224 parents and guardians from whom
4 Riverside County received a payment in a juvenile case for costs of support from December 21,
5 2016, through April 21, 2020. *See* Dec. 10, 2021 Order on Pls.’ Mot. For Class Certification.

6 Plaintiffs’ lawsuit alleged that the County failed to comply with its mandatory duties under
7 Welfare and Institutions Code (WIC) Sections 903 and 903.45 when assessing and collecting costs
8 of support (detention and related fees) from parents and guardians with a child in juvenile
9 detention. Plaintiffs further alleged that the County’s continuous collection efforts violated
10 parents’ and guardians’ constitutional rights, because the County failed to provide due process
11 before beginning collection of costs of support. Plaintiffs sought two types of relief: (1) an order
12 prohibiting the County from continuing to collect outstanding costs of support and (2)
13 reimbursement for parents and guardians from whom fees had already been collected.

14 Plaintiffs achieved their first request for relief at the outset of this litigation when the
15 County ended the collection of \$4.1 million in outstanding costs of support and other juvenile
16 administrative fees and discharged these remaining accounts. This relief benefited both Class
17 Members and other parents and guardians, many of whom had thousands of dollars in outstanding
18 account balances discharged.

19 After over two years of litigation, many arm’s length negotiations, and two mediation
20 sessions with a neutral third party, the parties have reached an agreement as to Plaintiffs’ second
21 claim for relief—reimbursement—and all other ancillary issues. Accordingly, Plaintiffs now move
22 the Court to (1) grant preliminary approval of the Settlement Agreement and Release (Settlement
23 Agreement, Settlement, or SA); (2) approve the proposed Notice of Class Action Settlement, the
24 proposed exclusion form, and the proposed objection form, and order their distribution to Class
25 Members; (3) approve Rust Consulting, Inc., as the Settlement Administrator; and (4) schedule a
26 hearing for final approval.

27
28

1 **II. PROCEDURAL BACKGROUND**

2 On December 21, 2019, Plaintiffs Shirley Freeman, Daniel Freeman, and Tiffine
3 Hansbrough,¹ on behalf of themselves and other families similarly situated, sent a demand letter to
4 and filed a government claim with Riverside County. Declaration of Rebecca Miller (Miller Dec.),
5 ¶ 8. In both, Plaintiffs demanded the County stop its unlawful collection of costs of support and
6 reimburse parents and guardians for payments already collected. *Id.*

7 On March 27, 2020, Plaintiffs submitted their original Verified Petition for Writ of
8 Mandate and Taxpayer Complaint to the Court and provided a courtesy copy to the County.²
9 Plaintiffs' Complaint sought an end to the County's collection of costs of support and
10 reimbursement of any money previously collected from parents and guardians. Miller Dec., ¶ 9.

11 Between January and March 2020, the parties engaged in negotiations in an attempt to
12 resolve Plaintiffs' claims. *Id.*, ¶ 10. On April 21, 2020, the County satisfied Plaintiffs' first
13 demand by ending collection of and discharging \$4.1 million dollars in outstanding juvenile
14 administrative fees. *Id.*, ¶ 10; Miller Dec. Ex. B.

15 On October 28, 2020, the County simultaneously filed a demurrer and motion to strike
16 Plaintiffs' class allegations. Miller Dec., ¶ 12. The Court denied the motion to strike and overruled
17 the demurrer as to Plaintiffs' first, second, third, and fifth causes of action. *Id.* The Court granted
18 the demurrer, with leave to amend, as to Plaintiffs' fourth cause of action. *Id.* On January 25,
19 2021, Plaintiffs filed a Second Verified Supplemental and Amended Petition for Writ of Mandate,
20 Complaint and Taxpayer Complaint. *Id.*; Miller Dec. Ex. C (Second Amended Complaint). On
21 February 26, 2021, the County filed its answer. Miller Dec., ¶ 13.

22
23 _____
24 ¹ Petitioner/Plaintiff Tiffine Hansbrough is not a class representative or member of the class. Ms.
25 Hansbrough and Defendant Riverside County resolved Ms. Hansbrough's claims in a separate
agreement and release. Miller Dec., ¶¶ 31–33; Miller Dec. Ex. G.

26 ² Because of court closures at the start of the COVID-19 pandemic, Plaintiffs' complaint was not
27 filed until June 1, 2020. Miller Dec., ¶ 9. The time period between the submission of Plaintiffs'
28 complaint on March 27, 2020 and its filing on June 1, 2020 was declared to be a court holiday
pursuant to Gov't Code § 68115(a)(4). *Id.*

1 On December 10, 2021, the Court certified a class of “parents and guardians from whom
2 Riverside County received a payment in a juvenile case for costs of support from December 21,
3 2016, through April 21, 2020.” Dec. 10, 2021 Order on Pls.’ Mot. for Class Certification.

4 **III. SUMMARY OF MEDIATION PROCESS**

5 After the Court granted class certification, the parties participated in two separate
6 mediation sessions: one 11-hour session on February 17, 2022, and one 4-hour session on July 5,
7 2022, with the Honorable Carla Woehrle (Ret.) of ADR Services. Miller Dec., ¶ 24. The parties
8 negotiated sequentially, resolving merits issues first and then addressing attorneys’ fees and costs.
9 *Id.* The February 17, 2022 mediation session focused on reimbursement for Class Members and
10 the parties agreed to the \$540,307 Settlement Fund to be used exclusively to reimburse Class
11 Members. *Id.*, ¶ 25. From there, the parties engaged in arm’s length negotiations via phone and
12 email to reach an agreement on the cy pres recipients, class representatives’ service awards, and
13 the specific terms of the written Settlement Agreement. *Id.*, ¶ 27; Miller Dec. Ex. A. After
14 resolving all issues regarding relief for the Class Members and class representatives, the parties
15 participated in the second mediation session on July 5, 2022, to separately negotiate an agreement
16 on attorneys’ fees and costs. Miller Dec., ¶ 28. The parties agreed that the County would pay
17 \$525,000 to Plaintiffs for attorneys’ fees and litigation costs, and the County would pay for the
18 costs of the Settlement Administrator. *Id.*

19 **IV. THE PROPOSED SETTLEMENT**

20 Subject to this Court’s approval pursuant to California Rule of Court 3.769, Plaintiffs and
21 Defendant Riverside County³ have agreed to settle this class action lawsuit. Settlement Agreement
22 (SA), attached to Miller Dec. as Ex. A.. The Settlement Agreement resolves all claims of Plaintiffs
23 and the Class Members against Defendant. In exchange, Class Members will agree to release
24
25

26 _____
27 ³ The Settlement Agreement between Plaintiffs and Defendant Riverside County resolves all
28 claims in this lawsuit and provides relief for Class Members. Defendants Riverside County
Probation Department and Ronald L. Miller are not parties to the Settlement Agreement. In their
Motion for Final Approval, Plaintiffs will move to dismiss these two Defendants with prejudice.

1 Defendant from liability for all claims for damages and declaratory or injunctive relief brought in
2 this lawsuit. SA C.1. A summary of the key Settlement terms is as follows:

3 **a. Settlement Fund:** Described in more detail below, the Settlement Agreement
4 creates a non-reversionary Settlement Fund of \$540,307 to be used solely for distribution to
5 participating Class Members. *Id.*, F.1, F.5.

6 **b. Class Members:** The Settlement provides relief to Class Members, defined as
7 “parents and guardians from whom Riverside County received a payment in a juvenile case for
8 costs of support from December 21, 2016, through April 21, 2020.” *Id.*, B.2.

9 **c. Allocation Formula:** Participating Class Members will be entitled to receive an
10 Individual Settlement Payment based on the Class Member’s Pro Rata Percentage Share of the
11 Settlement Fund. *Id.*, B.8. Class Member’s Pro Rata Percentage Share means the total costs of
12 support collected from the individual Class Member by the County divided by the total of all costs
13 of support that the County collected from all Class Members. *Id.*, B.3. The Individual Settlement
14 Payment is determined by multiplying the Settlement Fund total by the Class Member’s Pro Rata
15 Percentage Share of all costs of support collected from Class Members, after removing any Class
16 Members who opt out of the Settlement. *Id.*, B.8. All participating Class Members will be entitled
17 to a \$25 minimum payment. *Id.* The Settlement Administrator shall prepare and mail checks to
18 participating Class Members without the necessity of any formal claim being filed. *Id.*, F.4.

19 **d. Residual Distribution to Class Members:** Any unclaimed funds intended for
20 participating Class Members or other unpaid cash residues from the Settlement Fund, including
21 any accrued interest, shall be deemed “Settlement Residues.” *Id.*, G.1. If the total amount of the
22 Settlement Residues exceeds \$35,000, the Settlement Residues amount shall be redistributed to
23 Class Members who did not opt out and who cashed their checks within the 120-day period on a
24 pro rata basis in the same manner as the Individual Settlement Payments were determined. *Id.*

25 **e. Cy Pres:** If the total amount of the Settlement Residues is less than \$35,000, or any
26 amount remains after a Residues Distribution, the Settlement Administrator shall distribute the
27 remaining funds, in accordance with Code of Civil Procedure Section 384, on a cy pres basis to
28 the nonprofit organization(s) approved by the Court. *Id.*, H.1. This threshold balances the

1 administrative costs and limited benefits to Class Members of further distribution. Miller Dec.,
2 ¶ 41. The parties agree that any cy pres award will be distributed in equal parts to two
3 organizations that benefit individuals similar to Class Members and provide services consistent
4 with the objectives and purposes of the underlying class action: Neighborhood College and
5 Catholic Charities. SA H.2. These two nonprofits were selected over other potential recipients
6 considered because they provide counseling, mentoring, skills and awareness classes, and other
7 services for youth in Riverside County, including youth on probation. Declaration of Ken F. Sawa
8 (Catholic Charities); Declaration of Rebecca Acevedo (Neighborhood College).

9 The parties are not aware of any material contractual, financial, or familial relationship
10 between Neighborhood College and the parties or their attorneys. Miller Dec., ¶ 43; Declaration of
11 Michael Harris (Harris Dec.), ¶ 11; Declaration of Kelly Moran (Moran Dec.), ¶ 8; Acevedo Dec.,
12 ¶ 7. Catholic Charities works with various Riverside County departments to provide its services.
13 Sawa Dec., ¶ 7. Over the past year, Catholic Charities received funds from the County Board of
14 Supervisors and County to administer homeless prevention and school-related programs. *Id.*
15 Catholic Charities and Neighborhood College are two of a number of nonprofit organizations to
16 which Riverside County Probation refers youth and their families for services. *Id.*; Acevedo Dec.,
17 ¶ 7; Moran Dec., ¶ 8.

18 **f. Settlement Administrator and Costs:** The parties' proposed Settlement
19 Administrator is Rust Consulting, Inc., which the parties selected after receiving estimates from
20 three reputable settlement administration firms. Miller Dec., ¶ 44. Rust is a well-established class
21 action settlement administrator and has substantial experience with class action settlements and
22 fund distribution. Declaration of Rebecca Blake (Rust Consulting, Inc.). The Settlement provides
23 that the County shall pay the costs of the Settlement Administrator separate from the Settlement
24 Fund. SA J.2.

25 **g. Service Awards:** The Settlement Agreement provides for a service award of
26 \$7,500 for each of the two class representatives. *Id.*, I.1. The County has agreed to pay these
27 amounts separately; therefore, any service award that is approved by the Court will not be
28

1 deducted from the Settlement Fund. *Id.* Plaintiffs will petition for approval of the service awards
2 in their motion for final approval.

3 **h. Attorneys' Fees and Costs:** The Settlement Agreement provides that the County
4 shall pay Plaintiffs' Counsel \$525,000 for attorneys' fees and litigation costs. *Id.*, J.1. This
5 payment represents a full and final settlement of all past, present, and further attorneys' fees and
6 costs, unless the Plaintiffs need to enforce any provision of this Agreement or to litigate any
7 breach of this Agreement. *Id.* The County has agreed to pay these amounts separately, and
8 therefore none of these expenses will be paid from the Settlement Fund. *Id.* The proposed Notice
9 informs Class Members of the attorneys' fees and costs for which Plaintiffs' counsel expects to
10 seek approval. Miller Dec. Ex. D, question 14. This amount represents a significant compromise,
11 as it is approximately 50% of Plaintiffs' counsel's fees to date, without the additional hours
12 Plaintiffs' counsel has spent and will spend seeking approval of the Settlement and overseeing its
13 administration. Miller Dec., ¶ 28. This amount is approximately 11% of the total monetary relief
14 achieved for the benefit of Class Members and other parents and guardians, which includes the
15 discharge of \$4.1 million in juvenile administrative fees and the \$540,307 Settlement Fund. *Id.*
16 Plaintiffs will petition the Court for approval of this Settlement term together with their motion for
17 final approval.

18 **i. Release:** The release is congruent with the allegations in the Second Amended
19 Complaint and does not contain any terms that are outside the scope of the operative complaint.
20 SA, C.1. The Settlement Agreement provides:

21 The Plaintiffs and Participating Class Members, on behalf of themselves, their heirs,
22 executors, administrators, representatives, attorneys, successors, assigns, agents,
23 affiliates, and partners, and any persons they represent, by operation of any final
24 judgment entered by the Court, fully, finally, and forever release, relinquish, and
25 discharge the Defendant of and from any and all of the Settled Claims. This Release
26 shall not apply to claims that arise or accrue after the termination of this Agreement.

25 *Id.* "Settled Claims" means all claims for damages, declaratory or injunctive relief that were
26 brought on behalf of Plaintiffs or Class Members in this Action based on the facts and
27 circumstances alleged in the Second Amended Complaint. *Id.*, B.13.

28

1 **j. Form of Notice:** The Settlement Administrator will send all Class Members the
2 Notice via First-Class U.S. Mail. *Id.*, E.1. The Notice will be posted electronically and physically
3 in places where Class Members are likely to see it. *Id.*, E.1, E.4. There will be a Spanish-language
4 version of the Notice for posting and for distribution to Class Members upon request. *Id.*, E.8.

5 **V. THE COURT SHOULD GRANT PRELIMINARY APPROVAL**

6 In evaluating whether to approve a class settlement, courts must determine if the agreement
7 is “fair, adequate, and reasonable” to protect the rights of class members and named plaintiffs.
8 *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1801 (1996). While settlements of class actions
9 require court approval, “[d]ue regard should be given to what is otherwise a private consensual
10 agreement between the parties.” *Id.* The court’s inquiry is “limited to the extent necessary to reach
11 a reasoned judgment that the agreement is not the product of fraud or overreaching by, or
12 collusion between, the negotiating parties.” *Id.*

13 There is a presumption that a settlement is fair when (1) “the settlement is reached through
14 arm’s-length bargaining,” (2) there has been sufficient discovery and investigation to allow the
15 court and counsel “to act intelligently,” (3) “counsel is experienced in similar litigation,” and (4)
16 there is only a small percentage of objectors. *Id.* at 1802. Courts may also consider a variety of
17 non-exhaustive factors tailored to the case, including: the strength of the plaintiffs’ case; the risk,
18 expense, and duration of further litigation; and the risk of maintaining the class action through
19 trial. *Id.* at 1801. Applying these factors here demonstrates that the proposed Settlement is
20 reasonable and will provide fair relief to the class.

21 **a. The Settlement is the Result of Informed, Non-Collusive, and Arm’s-Length**
22 **Negotiations Between Experienced Counsel.**

23 The proposed Settlement was reached through adversarial, non-collusive negotiations
24 between counsel for respective parties who have significant class action litigation experience.
25 Miller Dec., ¶¶ 21–29; Moran Dec., ¶ 4–5. By the time the parties participated in formal
26 mediation, they had developed and tested their claims and defenses through significant formal and
27 informal discovery, as well as briefing the demurrer and class certification motion, to allow them
28 to make informed negotiation decisions. Miller Dec., ¶¶ 14–18, 20–23. The parties then

1 participated in two separate mediation sessions with an experienced mediator, the Honorable Carla
2 Woehrle (Ret.), a former federal magistrate judge. *Id.*, ¶ 24. Continued, good faith but
3 occasionally contentious negotiations over a six-month period were required to ultimately reach
4 agreement on all issues. Accordingly, this factor supports preliminary approval.

5 **b. The Extent of the Information Provided Through Informal and Formal**
6 **Discovery and the Stages of the Proceedings Support the Settlement.**

7 The parties' informal and formal discovery has provided them "sufficient information to
8 make an informed decision about settlement." *Linney v. Cellular Alaska P'ship*, 151 F.3d 1234,
9 1239 (9th Cir. 1998).

10 Plaintiffs put forth novel theories of relief that involved significant fact development and
11 investigation. Prior to and during the litigation, Plaintiffs made numerous informal requests for
12 information, including Public Records Act requests, to better understand the County's role in
13 assessing and collecting costs of support. Miller Dec., ¶ 14–15. The County and their collection
14 agent, the Enhanced Collections Division of the Superior Court (ECD), produced a variety of
15 quantitative and qualitative data, including annual costs of support payment totals, and
16 descriptions of the Probation Department's procedures. *Id.*

17 This significant exchange of information allowed the parties to prepare a joint stipulation,
18 which described the County's practice for charging and collecting costs of support. *Id.*, ¶ 16. In
19 addition, Plaintiffs obtained a signed declaration from ECD to clarify ECD's role in the collection
20 of costs of support. *Id.* Plaintiffs propounded discovery requests to confirm the facts in the joint
21 stipulation and ECD declaration, and to address issues those documents did not cover. *Id.*, ¶ 17.
22 Plaintiffs contacted ECD to understand certain practices, including how ECD received information
23 about and communicated with parents and guardians. *Id.* All of this discovery helped the parties
24 determine the strengths and weaknesses of their claims and defenses. *Id.*, ¶ 18.

25 In addition, the parties engaged in informal discovery for mediation purposes. For
26 example, Plaintiffs sought from ECD families' payment records, which helped the parties identify
27 the number of families affected by the alleged conduct and the amount of fees that had been
28 collected from Class Members. *Id.*, ¶ 20.

1 Because the parties’ engaged in sufficient informal and formal discovery to enable them to
2 make an informed decision about settlement, this factor also supports preliminary approval.

3 **c. Counsel is Experienced in Similar Litigation.**

4 The proposed Settlement was reached through vigorous arm’s-length negotiation between
5 lawyers with significant experience litigating issues facing low-income families and children,
6 including challenging unlawful county practices, ability-to-pay practices, child welfare, and
7 juvenile justice issues. Miller Dec., ¶¶ 3–7; Harris Dec., ¶¶ 3–8. Based on Plaintiffs’ Counsel’s
8 decades of experience litigating class actions and writ of mandate actions to benefit large numbers
9 of individuals, and their analysis of settlements in other similar cases, Plaintiffs’ Counsel believes
10 that the proposed Settlement represents an appropriate monetary result for the Class, particularly
11 in light of the risks of continued litigation and the benefit of the Class receiving reimbursement
12 without further expense and delay. Miller Dec., ¶ 30; Harris Dec., ¶ 9. Accordingly, this factor
13 also supports preliminary approval.

14 **d. The Parties Do Not Anticipate Significant Objections from Class Members.**

15 Class Members have not yet received Notice of the Settlement, but the named class
16 representatives have been consulted during negotiations and have approved the terms of the
17 Settlement. Miller Dec., ¶ 26. Given the significant benefits to the Class Members, the parties do
18 not anticipate significant objections to the Settlement, if any. The Court can more fully evaluate
19 this factor after notice has been issued to Class Members, and after the Court has had an
20 opportunity to review any objections and the number of opt-out requests.

21 **e. The Proposed Settlement is a Reasonable Compromise Given the Strength of
22 Plaintiffs’ Claims and the Risk of Establishing their Claims through
23 Litigation.**

24 When analyzing the reasonableness of a settlement, courts must consider “the magnitude
25 and apparent merit of the claims being released,” reduced by the expenses and risks associated
26 with establishing and collecting on those claims through litigation. *Kullar v. Foot Locker Retail,
27 Inc.*, 168 Cal. App. 4th 116, 129 (2008). For the court to evaluate the reasonableness of the
28 parties’ compromise, it must have sufficient information on the nature of the claims and the

1 impediments to recovery. *Id.* at 133. The court then determines if the settlement is within the
2 “ballpark” of reasonableness. *Id.* (citation omitted).

3 Here, while Plaintiffs are confident that their claims are supported by the relevant law and
4 the significant factual record they have developed, Plaintiffs also understand the inevitable risks
5 and delays associated with continued litigation. Miller Dec., ¶¶ 36–37. Below, Plaintiffs describe
6 their claims and the relief Plaintiffs will have achieved through the litigation and in the Settlement.
7 Plaintiffs also detail why these results, which confer significant benefits to Class Members, are a
8 reasonable compromise given the risk that Plaintiffs will not ultimately prevail.

9 *Discharge of \$4.1 million in outstanding juvenile administrative fees:* Plaintiffs’ Complaint
10 originally sought two types of relief: (1) injunctive relief requiring the County to stop collecting
11 outstanding juvenile administrative fees; and (2) reimbursement of fees that were collected
12 without compliance with statutory and constitutional protections. Early in the litigation, Plaintiffs’
13 advocacy resulted in the County halting collection of \$4.1 million in juvenile administrative fees
14 and discharging these outstanding accounts. Miller Dec. Ex. B.

15 *Settlement Fund:* The parties’ Settlement provides for a \$540,307 Settlement Fund to
16 reimburse Class Members from whom the County collected money for costs of support. SA F.1.
17 Given the total amount of fees that the County collected from Class Members and the potential
18 challenges to the scope of recovery if the litigation continued, this Settlement Fund provides a
19 reasonable compromise of Class Members’ claims for reimbursement. Miller Dec., ¶¶ 36–37; *see*
20 *Sutter Health Uninsured Pricing Cases*, 171 Cal. App. 4th 495, 629 (2009) (settlement cannot be
21 judged against the hypothetical of what could have been achieved if the plaintiffs prevailed at trial
22 because of the reality that plaintiffs could lose).

23 After the County stopped collecting and discharged outstanding accounts for juvenile
24 administrative fees in April 2020, Plaintiffs’ litigation focused on seeking reimbursement for fees
25 that Plaintiffs allege the County collected in violation of state law and due process rights. Miller
26 Dec., ¶¶ 10–11. The operative complaint (Plaintiffs’ Second Amended Complaint) asserts five
27 counts, all of which seek to establish that the manner in which the County assessed and collected
28 costs of support was illegal, and four of which seek reimbursement of fees the County collected.

- 1 • Count 1: Plaintiffs sought a writ of mandate pursuant to Code of Civil Procedure § 1085,
2 declaring that the County violated its ministerial duty by failing to conduct ability-to-pay
3 determinations and obtain enforceable court orders against parents and guardians as
4 required by WIC §§ 903, 903.45 and therefore was required to repay fees it had collected;
- 5 • Counts 2 and 3: Plaintiffs sought a writ of mandate pursuant to Code of Civil Procedure
6 § 1085, declaring that the County violated its ministerial duty to provide parents and
7 guardians notice and an opportunity to be heard as to their liability for costs of support as
8 required by the California and Federal Constitutions, and therefore was required to repay
9 fees it had collected. *See* Cal. CONST., art. I, § 7; U.S. CONST., amend. XIV, § 1; 42
10 U.S.C. § 1983 (prohibiting violations of federal right to due process under color of state
11 law);
- 12 • Count 4: Pursuant to Government Code §§ 815.6 and 910, Plaintiffs sought restitution for
13 any costs of support that were collected in violation of the statutory and constitutional
14 requirements set forth in Counts 1 through 3; and
- 15 • Count 5: Plaintiffs sought a declaration pursuant to Code of Civil Procedure § 526a that
16 the County’s assessment, collection and refusal to repay costs of support violated state
17 law, and the California and United States Constitutions, as set forth in Counts 1 through 4.

18 During this litigation, Plaintiffs received collection records from ECD that showed the
19 amount of costs of support collected from Class Members. Miller Dec., ¶ 20. Based upon these
20 records, Plaintiffs estimate that, if Plaintiffs were able to prevail on all of their claims and legal
21 theories at trial, the total amount of fees paid by Class Members for which they would be entitled
22 to repayment is approximately \$2.2 million dollars. *Id.*, ¶ 35.

23 The \$540,307 Settlement Fund therefore provides a recovery of approximately 25% of the
24 total amount of fees paid by the class. *Id.*, ¶¶ 36–37. To provide a fair and equitable distribution,
25 Class Members will each receive a pro rata share of the Settlement Fund that is based upon the
26 actual amount the County collected from the Class Member, with each participating Class
27 Member entitled to a minimum payment of \$25. *Id.*, ¶ 38. If all Class Members participate, the
28 estimated median recovery will be approximately \$240, and the average recovery will be

1 approximately \$440. *Id.* The lowest payment will be the minimum \$25 and the highest payment
2 will be approximately \$3,725. *Id.* The Notice will inform each Class Member of the estimated
3 Individual Settlement Payment they would receive if all Class Members participate in the
4 Settlement. SA F.2; Miller Dec. Ex. D, question 8. Class Members will not have to complete a
5 claim form to receive payment. SA F.4. The entire \$540,307 Settlement Fund will be available for
6 distribution to Class Members and will not be reduced for other items, because the Settlement
7 provides separately for the remaining monetary terms, including attorneys' fees and litigation
8 costs, costs of the Settlement Administrator, and service payments. *Id.*, F.1, J.1.

9 The Settlement Fund is a reasonable compromise given the risks if Plaintiffs were to
10 continue to litigate their claims. The County raised multiple defenses to Plaintiffs' claims. First,
11 the County claimed that its procedures complied with applicable laws and constitutional
12 requirements. Miller Dec., ¶ 36. If litigation continued, Plaintiffs expect that the County might
13 have presented witnesses who—despite the County's lack of written policies and procedures—
14 could have complicated Plaintiffs' proof of classwide harm. *Id.* The County has also raised legal
15 arguments challenging Plaintiffs' ability to prevail on claims for reimbursement, including
16 whether the Government Claim Act precludes such recovery. *Id.*

17 Second, the County raised multiple attacks on the scope of Plaintiffs' right to
18 reimbursement based on various statutes of limitations. *Id.*, ¶ 37. The County asserted that as short
19 as a six-month statute of limitations could apply to Plaintiffs' state law claims and a two-year
20 period to Plaintiffs' federal claims. *Id.* The County also opposes Plaintiffs' contention that
21 equitable tolling, equitable estoppel, and the continuing violation doctrine should apply to Class
22 Members' recovery. *Id.* If the County were to prevail on any of these arguments, the total amount
23 of fees Plaintiffs could expect to be awarded at trial if they prevailed could fall from \$2.2 million
24 to closer to \$500,000 or even less. *Id.* If the County were to prevail on any of these arguments that
25 a shorter recovery period should apply, the \$540,307 Settlement Fund would provide for a
26 recovery of approximately 52% to 104% of the total Class payments, further demonstrating the
27 reasonableness of the Settlement. *Id.*

28

1 Given the potential relief Plaintiffs could achieve by litigating the case through trial and
2 the impediments to recovery, the Settlement Fund is a reasonable compromise of Plaintiffs' claims
3 for reimbursement.

4 **f. The Risk, Expense, and Duration of Further Litigation, Including the Risk of**
5 **Maintaining the Class Action through Trial, Also Weigh in Favor of**
6 **Settlement.**

7 The parties have been in litigation for over two years. Although the parties have already
8 engaged in significant briefing and discovery, if the litigation continues it will require further
9 costly discovery, including depositions, which the parties have managed to avoid until now. The
10 parties also are likely to file cross motions for summary judgment, and Defendant may seek to de-
11 certify the class. Further litigation would result in both a delay of relief for the class and additional
12 attorneys' fees, with no certainty that this delay would result in additional relief for the Class
13 Members. To the contrary, given that some Class Members' claims stretch back years, delaying
14 settlement may also increase the difficulty in locating and reimbursing some Class Members.

15 Thus, the risk and delay of further litigation, and the risk of maintaining a certified class
16 through trial, also weigh in favor of approving the Settlement now.

17 **VI. THE PROPOSED CLASS NOTICE OF SETTLEMENT IS REASONABLE AND**
18 **APPROPRIATE**

19 Constitutional due process requires that notice to class members provides sufficient
20 information to make an informed decision to accept, opt out, or object to a proposed settlement
21 and an opportunity to be heard in the proceedings. *See Mullane v. Cent. Hanover Bank & Trust*
22 *Co.*, 339 U.S. 306, 314 (1950); *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224, 251–52
23 (2001). Additionally, California Rule of Court 3.766 sets out specific procedures and contents
24 required in the notice to class members. The proposed Notice, exclusion form, and objection form
25 here satisfy these requirements. Miller Dec. Exs. D, E, and F.

26 The proposed Notice informs Class Members, in plain and easy-to-understand language, of
27 (1) a brief explanation of the case, (2) the Settlement's material terms, (3) an estimated Individual
28 Settlement Payment under the allocation formula, (4) proposed fees and costs to be awarded to
29 Plaintiffs' Counsel, (5) that Class Members may opt out of or object to the Settlement (and

1 instructions on how to do so); (6) a statement that the Settlement will bind all Class Members who
2 do not request exclusion; (7) a statement that any Class Member who does not opt out may enter
3 an appearance through counsel; (8) details about the court hearing on Settlement approval and the
4 opportunity to object, and (9) how Class Members can obtain additional information, including
5 documents related to the class action and Settlement. Miller Dec. Exs. D, E, and F. The content of
6 the proposed Notice is therefore appropriate because it provides sufficient information for Class
7 Members to decide whether to participate in, object to, or opt out of the Settlement, and meets all
8 of the requirements of Rule of Court 3.766(d). The Notice and forms will also be available in
9 Spanish, the predominate second language of families involved in the juvenile system in Riverside
10 County. Miller Dec., ¶ 46.

11 The procedure for distributing the Notice has “a reasonable chance of reaching a
12 substantial percentage of the class members.” *Cartt v. Superior Ct.*, 50 Cal. App. 3d 960, 974
13 (1975); *see also Wershba*, 91 Cal. App. 4th at 251. The parties have agreed upon Rust Consulting
14 to administer the Notice. SA E.1. First, the Notice will be sent via First-Class U.S. Mail to the
15 Class Members’ addresses on file in the ECD collection records. *Id.*, E.1. Before mailing the
16 Notice, Rust will run all addresses through the National Change of Address database to ensure that
17 the Notice is being sent to each Class Member’s most up-to-date address. *Id.*, E.1. For any
18 returned notices, Rust will run the Class Members’ addresses through a public records database
19 and resend the Notice to the last known address in that database. *Id.* A copy of the Notice will be
20 posted electronically on the websites of the County, any applicable County departments, and Class
21 Counsel. *Id.*, E.4.a, c. Further, copies of the Notice will be provided for posting in ECD offices
22 where payments in juvenile cases are made or accepted and to juvenile defense attorneys in the
23 County’s Office of Public Defender and the Alternate Defender. *Id.*, E. 4.b, d.

24 Finally, within ten business days following the Court’s entry of a final judgment, the
25 parties shall post a Notice of Final Settlement in all locations identified above. *Id.*, E.7.

26 This robust manner of giving notice complies with Rule of Court 3.766(e) because it has a
27 likelihood of reaching most, if not all, Class Members. Although greater efforts could conceivably
28 reach all Class Members, such efforts (e.g., hiring private investigators) are not warranted here

1 given that they would likely entail significant cost, Class Members' stake in recovery is limited to
2 the claims asserted in the case, and the average monetary award is relatively modest. Miller Dec.,
3 ¶ 48.

4 As described above, this notice procedure will notify Class Members via First-Class mail.
5 SA E.1. It will also provide notice in several electronic and physical locations where Class
6 Members are likely to see it. *Id.*, E. 4.a-d. In sum, the Notice is appropriate and satisfies the
7 requirement of Due Process and Rule of Court 3.766.

8 **VII. THE PROPOSED SCHEDULE OF EVENTS**

9 Plaintiffs respectfully request that the Court adopt the following proposed schedule, upon
10 granting this Motion, assuming that it is granted on the date of the hearing.

<u>Date</u>	<u>Event</u>	<u>Timing</u>
November 15, 2022	Hearing on Motion for Preliminary Approval	
December 5, 2022	Deadline to complete notice to class	20 days after preliminary approval
January 19, 2023	Last day for Class Members to opt out/object to settlement	45 days after Notice is mailed
January 31, 2023	Plaintiffs file Motion for Final Approval	12 days after last day to object
February 28, 2023	Final Approval Hearing	28 days after filing of Motion for Final Approval

18
19 **VIII. CONCLUSION**

20 For the foregoing reasons, Plaintiffs respectfully request that the Court (1) grant
21 preliminary approval of the Settlement; (2) approve the proposed Notice, exclusion form, and
22 objection form, and order their distribution to Class Members; (3) approve Rust Consulting, Inc.,
23 as the Settlement Administrator; and (4) schedule a hearing for final approval.

24
25 Dated: September 9, 2022

Respectfully submitted,



Rebecca Miller
Attorney for Plaintiffs