SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 03/11/25 TIME: 1:30 P.M. DEPT: A CASE NO: CV2301468

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER: CLERK: RON BAKER

PLAINTIFF: SAVE OUR CITY, ET AL vs. DEFENDANT: ALL PERSONS INTERESTED IN RESOLUTION NO. 2023-31, ET AL	

NATURE OF PROCEEDINGS: MOTION – ATTORNEY'S FEES

RULING

Plaintiffs Save Our City and Marilyn Mackel's ("Plaintiffs") motion for attorney's fees is **DENIED**.

Background

This is a reverse validation action. (See Code Civ. Proc., § 863.) As described in the complaint, on March 21, 2023, the Marin County Board of Supervisors ("Board") adopted Resolution No. 2023-31. (Complaint, ¶ 1.) Resolution No. 2023-31 approved the issuance of California Municipal Finance Authority ("CMFA") multifamily housing revenue bonds for financing the Drake Avenue Apartments, a residential real estate development in Marin City. (*Id.* at ¶¶ 1, 3.) The Board adopted the resolution pursuant to Internal Revenue Code, section 147, subdivision (f), a portion of the Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA"). (*Id.* at ¶ 4.) Plaintiffs alleged that the Board and the County approved Resolution No. 2023-31 under the false impression that under TEFRA, they did not have the authority to do otherwise. (*Id.* at ¶ 7.) Plaintiffs requested an order invalidating the adoption of Resolution No. 2023-31. (*Id.* at ¶ 34.) This case was subsequently consolidated with San Diego County Superior Court Case No. 37-2020-00026742-CU-MC-NC, another reverse validation action by the same plaintiffs. The San Diego case challenged CMFA's approval of its Resolution No. 23-118, which authorized the issuance of the bonds at issue in the Board's Resolution No. 2023-31.

In October, the Court issued a final decision on the merits holding that the Board had misunderstood the scope of its discretion when it approved Resolution No. 2023-31, which compelled the invalidation of both that resolution and Resolution No. 23-118. (Oct. 16, 2024 Order, pp. 11, 13.)

On November 4, 2024, the Court entered judgment for Plaintiffs. Plaintiffs had requested a judgment not simply invalidating Resolution Nos. 2023-31 and 23-118, but also invalidating all tax-exempt bonds and bond instruments issued by CMFA pursuant to Resolution No. 23-118. (See Pltfs.' Proposed Judgment [filed Oct. 22, 2024], pp. 3-4.) Several real parties in interest objected to the language regarding the bonds and bond instruments. (See generally CMFA's Objection to Proposed Judgment [filed Oct. 31, 2024].) The judgment ultimately entered in this case invalidated Resolution Nos. 2023-31 and 23-118, but did not include any language regarding the bonds or the bond instruments. (See generally Judgment [entered Nov. 4, 2024].)

The Court now considers Plaintiffs' motion for $606,665 in attorney's fees under Code of Civil Procedure, section 1021.5 ("Section 1021.5"). (Lippe Reply Dec., ¶ 6.)

Legal Standard

"Except as otherwise expressly provided by statute, a prevailing party is entitled as a matter of right to recover costs in any action or proceeding." (Code Civ. Proc., § 1032, subd. (b).) Attorney's fees are "allowable as costs" when authorized by contract, statute, or law. (Code Civ. Proc., § 1033.5, subd. (a)(10).)

"[T]he fee setting inquiry in California ordinarily begins with the 'lodestar,' i.e., the number of hours reasonably expended multiplied by the reasonable hourly rate. . . . The reasonable hourly rate is that prevailing in the community for similar work. The lodestar figure may then be adjusted, based on factors specific to the case, in order to fix the fee at the fair market value for the legal services provided." (*PLCM Group v. Drexler* (2000) 22 Cal.4th 1094, 1095 [internal citations omitted].) A lodestar enhancement reflects the court's determination that "the litigation involved a contingent risk or required extraordinary legal skill justifying augmentation of the unadorned lodestar in order to approximate the fair market rate for such services." (*Ibid.*)

To be recoverable, attorney's fees, like all costs, must be both "reasonable in amount" and "reasonably necessary to the conduct of the litigation rather than merely convenient or beneficial to its preparation." (Code Civ. Proc., § 1033.5, subd. (c).) The party seeking attorney's fees bears the burden of proving that the fees it seeks are reasonable. (*Center for Biological Diversity v. County of San Bernardino* (2010) 188 Cal.App.4th 603, 615.)

Discussion

Section 1021.5 codifies the "private attorney general" theory of attorney's fees. (*Woodland Hills Residents Assn., Inc. v. City Council* (1979) 23 Cal.3d 917, 933.) The goal of this doctrine is " 'to encourage suits effectuating a strong [public] policy by awarding substantial attorney's fees . . . to those who successfully bring such suits and thereby bring about benefits to a broad class of citizens.' " (*Serrano v. Priest* (1977) 20 Cal.3d 25 [quoting *D'Amico v. Board of Medical Examiners* (1974) 11 Cal.3d 1, 27].) The doctrine recognizes that "privately initiated lawsuits are often essential to the effectuation of the fundamental public policies embodied in constitutional or statutory provisions" and that if private litigants are unable to recover attorney's fees incurred in bringing those lawsuits, such actions "will as a practical matter frequently be infeasible." (*Woodland Hills*, *supra*, 23 Cal.3d 917, 933.)

The statute permits a court to award attorney's fees "to a successful party" where: (1) the action "has resulted in the enforcement of an important right affecting the public interest"; (2) "a significant benefit,[1] whether pecuniary or nonpecuniary, has been conferred on the general public or a large class of persons"; (3) "the necessity and financial burden of private enforcement are such as to make the award appropriate"; and (4) if the plaintiff secured a monetary recovery, attorney's fees should not, in the interest of justice, be paid out of that recovery. (*Woodland Hills, supra*, 23 Cal.3d 917, 935; Code Civ. Proc., § 1021.5.) "The burden is on the claimant to establish each prerequisite to an award of attorney fees under section 1021.5." (*Ebbetts Pass Forest Watch v. Department of Forestry & Fire Protection* (2010) 187 Cal.App.4th 376, 381.)

Here, Plaintiffs have not met their burden to show that the action conferred a significant benefit on the general public or a large class of persons.

"The 'significant benefit' that will justify an attorney fee award need not represent a 'tangible' asset or a 'concrete' gain but, in some cases, may be recognized simply from the effectuation of a fundamental constitutional or statutory policy." (*Woodland Hills, supra*, 23 Cal.3d 917, 939; see also *La Mirada Avenue Neighborhood Assn. of Hollywood v. City of Los Angeles* (2018) 22 Cal.App.5th 1149, 1158 ["significant benefit" may consist of "the proper enforcement of the law" provided "the law being enforced furthers a significant policy"].) A trial court is to "determine the significance of the benefit, as well as the size of the class receiving [the] benefit, from a realistic assessment, in light of all the pertinent circumstances, of the gains which have resulted in a particular case." (*Woodland Hills, supra*, pp. 939-940.)

Plaintiffs argue that the judgment entered in this case "enforces the democratic process required by TEFRA and Plaintiffs' right to have their elected Supervisors exercise the discretion conferred on them by law in deciding whether to approve the issuance of tax-exempt 'private activity' bonds for financing the Drake Avenue Apartments project." (Memorandum, p. 14.) Defendants and real parties in interest contend that Plaintiffs have achieved nothing significant because the project is proceeding regardless of this legal action and is doing so using the bonds issued pursuant to the resolutions Plaintiffs have challenged. Construction is underway and the developer has stated that "[n]o part of the Approved Budget will be materially changing as a result" of the judgment entered in this case. (Roope Dec., ¶ 3; Halter Dec., Ex. 1.) The project continues to be funded by the bonds issued by CMFA. (Roope Dec., ¶ 4.)

The bonds had already been issued to the developer by the time the Court entered its judgment (Cucchi Dec., ¶ 15.) There is no indication that the judgment has any effect on the developer's use of those funds. The developer remains entitled to use any TEFRA tax-exempt bonds issued prior to the entry of judgment in this case to finance the project, notwithstanding the fact that the resolutions authorizing the issuance of those funds have been invalidated.

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[1] Some opinions refer to this factor as the "*substantial* benefit" factor. (*Center for Biological Diversity v. County of San Bernardino* (2010) 185 Cal.App.4th 866, 895 [emphasis added].)

Plaintiffs argue that their objectives in this case were to "invalidate the resolutions approving the use of tax-exempt bonds and authorizing their issuance[,]" and they achieved that. (Reply,[2] p. 3.) But given that the lawsuit did not stop the developer from using improperly issued tax-exempt public funding for this project, it is difficult to conclude it generated a significant or substantial benefit. The net effect of the litigation appears to be a reprimand of Marin County Board of Supervisors for acting under a misunderstanding of the law. Plaintiffs practically admit as much. (See Reply, p. 4 [Plaintiffs characterize the effect of the judgment as "call[ing] the county supervisors to account"].)

The judgment in this case does enforce "Plaintiffs' right to have their elected Supervisors exercise the discretion conferred upon them by law[.]" (Memorandum, p. 14.) Laws governing the actions of elected officials are rendered useless if elected officials are not held to them, and "the public always derives a 'benefit' when illegal private or public conduct is rectified." (*Woodland Hills*, *supra*, 23 Cal.3d 917, 939.) Nonetheless, the Supreme Court has made clear that this is not enough to award fees: "[T]he Legislature [in drafting Section 1021.5] "did not intend to authorize an award of attorney fees in every case involving a statutory violation." (*Id.* at pp. 939-940; accord *Concerned Citizens of La Habra v. City of La Habra* (2005) 131 Cal.App.4th 329, 335 ["[T]he mere vindication of a statutory violation is not sufficient to be considered a substantial benefit by itself."]; *McCormick v. Public Employees' Retirement System* ("*McCormick II*") (2023) 90 Cal.App.5th 996, 1007 ["[A] significant benefit is not conferred on the public every time a case enforces existing law."].) Practically speaking, the "gains which have resulted" from this case are de minimis. (*Id.* at p. 940.)

Plaintiffs rely on decisions holding the significant benefit factor satisfied in CEQA matters. These cases, however, do not compel a different result. The decision in *Coalition for Los Angeles County Planning in the Public Interest v. Board of Supervisors* (1977) 76 Cal.App.3d 241 predates the effective date of Section 1021.5. (See *Woodland Hills*, *supra*, 23 Cal.3d 917, 925, fn. 1.) It expressly did *not* consider even Section 1021.5's doctrinal predecessor, the private attorney general doctrine, but instead a different theory of attorney's fees. (*Id.* at p. 933; *Coalition*, *supra*, 76 Cal.App.3d 241, 246.) *Woodland Hills* did not issue any holding regarding whether the significant benefit factor was satisfied, because Section 1021.5 did not exist at the time the trial court ruled on the motion for attorney's fees and the Supreme Court wanted to give the trial court a chance to address the issue for itself on remand. (*Woodland Hills*, *supra*, 23 Cal.3d 917, 938, 940-941.)

In *RiverWatch v. County of San Diego Dept. of Environmental Health* (2009) 175 Cal.App.4th 768, the trial court's judgment required the defendants to address traffic impacts associated with the project and the need for an adequate water supply. (175 Cal.App.4th 768, 781.) The appellate court held that the significant benefit factor was present because the ruling required the defendants to take affirmative steps to address environmental impacts, and specifically steps that would give affected parties another chance to provide input on the project. (*Id.* at p. 782.) *Center for Biological Diversity v. County of San Bernardino* (2010) 185 Cal.App.4th 866 is similar in

[2] The Court does not rule on the evidentiary objections submitted with Plaintiffs' reply. The objections are directed at evidence relating to the amount of fees to be awarded, not to Plaintiffs' threshold entitlement to attorney's fees. Because the Court holds that Plaintiffs are not entitled to attorney's fees, it did not reach any of the issues addressed by that evidence.

that the judgment required the defendant to "conduct a more in-depth review" of a particular environmental mitigation measure where it formerly "[gave] the issue short shrift." (185 Cal.App.4th 866, 893-894.) In contrast to these cases, the judgment here does not require the defendants to do anything moving forward and does not give the public another opportunity to weigh in on the propriety of issuing tax-exempt bonds to fund the project.

The closest analogue to this case the Court found in its research was *McCormick II, supra*, 90 Cal.App.5th 996. There, California's Public Employees' Retirement System denied the plaintiff's application for disability retirement, and the trial court denied her petition for a writ of mandate. (90 Cal.App.5th 996, 1000.) When the plaintiff appealed, the First District issued a published opinion that reversed the trial court's judgment. That opinion enforced existing law governing disability retirement eligibility for millions of Californians and "clarified and protected the rights of employees who serve the public." (*Id.* at pp. 1010-1011.) On remand, the trial court denied the plaintiff's request for attorney's fees under Section 1021.5, concluding the case did not satisfy the significant benefit requirement. (*Id.* at p. 1000.) The First District reversed. It expressly rejected the idea that any case requiring that existing law be followed satisfies the significant benefit requirement (*id.* at p. 1007), but held nevertheless held that it satisfied the standard on the facts at hand. It was critical in that case that the plaintiff's lawsuit had resulted in a published opinion on the merits of her claims. (*Id.* at pp. 1011, 1012.) The First District stated that suits that do not result in a published opinion on the merits do not "develop[] or elucidate[] the law governing the rights at issue for a broader audience" and that had the plaintiff won in the trial court without the need for her first appeal, it might agree that the significant benefit factor was not satisfied. (*Id.* at p. 1012.) The instant case has not resulted in a published appellate opinion, but only a nonprecedential, uncitable trial court opinion. (*Harrott v. County of Kings* (2001) 25 Cal.4th 1138, 1148; *San Diego County Employees Retirement Assn. v. County of San Diego* (2007) 151 Cal.App.4th 1163, 1184.)

In their reply,[3] Plaintiffs argue that due to the judgment, "the tax exemption for income on the purportedly 'tax-exempt' bonds is dead under the tax code." (Reply, p. 5.) They assert that while interest on any state or local bond can generally be excluded from one's gross income for tax purposes, that is not the case for private activity bonds other than "qualified bonds," and the effect of the Court's invalidating the Resolutions was to eliminate the bonds' "qualified" status. (*Ibid.*) Plaintiffs contend that because the bonds are no longer "qualified," they are no longer tax exempt. (*Ibid.*) As a result, the judgment "provides Plaintiffs with the legal basis to notify the U.S. Department of the Treasury of the loss of tax-exempt status for bonds used to finance" the project and "may cause loss of the federal tax credits issued to finance the project." (*Id.* at p. 6.)

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[3] Generally speaking, "new evidence is not permitted with reply papers." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537.) However, "a court has discretion to accept arguments or evidence made for the first time in reply." (*Grappo v. McMills* (2017) 11 Cal.App.5th 996, 1009.) Real parties in interest argue that the case must be "exceptional" for a court to reach new evidence offered with a reply, but the authorities it cites do not support that. The sole case they offer that suggests the case must be "exceptional" is *Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349, 362, fn. 8. *Plenger* is a summary judgment case, and the way the burdens of proof and persuasion function at summary judgment means this rule does not readily translate to other contexts. (See *Y.K.A. Industries Inc. v. Redevelopment Agency of City of San Jose* (2009) 174 Cal.App.4th 339, 353-354.) Other cases addressing the issue, including those citing *Plenger*, do not hold that exceptional circumstances are required. (See, e.g., *Grappo, supra*, 11 Cal.App.5th 996, 1009.) The Court has considered all of Plaintiffs' additional evidence here, even though this material should have been raised with Plaintiffs' moving papers to the extent it relates to their argument that this case resulted in tax consequences constituting a significant benefit.

To be clear, the Court here is only describing Plaintiffs' argument here and does not pass judgment on the accuracy of their statements regarding the function or application of federal tax laws.

Plaintiffs do not explain how the public benefits in any significant way from the fact that income earned on these bonds can no longer be claimed as tax exempt. They do not explain how anyone benefits from Plaintiffs' notifying the Treasury Department that these bonds have lost their tax-exempt status. As for the argument that the judgment may cause loss of the federal tax credits issued to finance the project, "[c]ourts consider the 'substantial benefit' criterion in the context of the outcome of the current litigation, and not on speculative future events." (*Center for Biological Diversity, supra*, 185 Cal.App.4th 866, 895.) In other words, the court looks at the "benefits . . . flow[ing] directly and immediately from the decision of the court." (*Coalition, supra*, 76 Cal.App.3d 241, 248, fn. 7.) The potential loss of federal tax credits used to finance the project at an unspecified point in the future is too speculative to constitute a significant benefit. The possibility that certain Marin County Supervisors will face criticism from their constituents and be penalized at the ballot box is likewise speculative. (See Reply, p. 4 [effect of the judgment is that "[i]nstead of finding convenient political cover in the fiction that they had no choice . . . the supervisors must face their constituents and the electorate on the merits of providing this financial benefit to the project."].) Moreover, such a line of reasoning would suggest that Section 1021.5's significant benefit factor is satisfied in every case where the losing defendant is a governing body or a public official, simply by virtue of the defendant's job.

Accordingly, because Plaintiffs did not meet their burden to show that the action conferred a significant benefit on the general public or a large class of people, Plaintiffs are not entitled to attorney's fees under Section 1021.5 and the motion is denied.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 03/11/25 TIME: 1:30 P.M. DEPT: A CASE NO: CV0000353

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER: CLERK: RON BAKER

PLAINTIFF: PLEIADES WINE COMPANY, INC., ET AL vs. DEFENDANT: THACKREY & CO., ET AL	

NATURE OF PROCEEDINGS: MOTION – SUMMARY JUDGMENT

RULING

The motion for summary judgment, or in the alternative summary adjudication by defendants Mystique Pearson, as Personal Representative With Full Authority for the Estate of Sean Haley Thackrey, and Thackrey & Co, LLC (collectively "Defendants") is **continued to June 10, 2025**, pursuant to Code of Civil Procedure section 437c(h). The opposition to the motion will be due May 21, 2025 and the reply will be due on May 30, 2025.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 03/11/25 TIME: 1:30 P.M. DEPT: A CASE NO: CV0000419

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER: CLERK: RON BAKER

PLAINTIFF: PAUL ROY vs. DEFENDANT: WORLD WIDE WHEELS LT LSR, ET AL	

NATURE OF PROCEEDINGS: 1) MOTION – QUASH; DISCOVERY FACILITATOR PROGRAM
2) CASE MANAGEMENT CONFERENCE – TRIAL SETTING

RULING

Based on the able assistance of Attorney Kruze acting as the Discovery Facilitator, the parties were able to resolve the discovery disputes. Plaintiff's discovery motions are therefore ordered off-calendar.

The parties should appear at the hearing because they are scheduled for a case management conference with the court.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 03/11/25 TIME: 1:30 P.M. DEPT: A CASE NO: CV0001878

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER: CLERK: RON BAKER

PLAINTIFF: BLANCA ROSA NIETO vs. DEFENDANT: PHILO FARNSWORTH, ET AL	

NATURE OF PROCEEDINGS: 1) MOTION – COMPEL; DISCOVERY FACILITATOR PROGRAM
2) MOTION – DISCOVERY; DISCOVERY FACILITATOR PROGRAM

RULING

This matter was referred to the Court's Discovery Facilitator Program pursuant to Marin County Rule, Civil 2.13B. The Court has not received a Declaration of Non-Resolution from either party, in particular *the moving party*, five court days prior to the hearing on the motion set for March 11, 2025, as required by MCR Civ 2.13H. The Court reminds the parties that compliance with MCR Civ 2.13H not only includes the timely filing of the Declaration of Non-Resolution by each party five court days prior to the hearing, but also requires that "[t]he Declaration shall not exceed three pages and ***shall briefly summarize the remaining disputed issues and each party's contentions***." (MCR Civ 2.13H(1), emphasis added.)

The Court concludes and expects that this discovery matter is being resolved by the facilitator. The motion is therefore ordered **OFF CALENDAR**. (MCR Civ 2.13H(2).) Should the parties fail to reach resolution through the facilitator, either party may request (by ex parte application) that the Court re-set the motion for an expedited hearing.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 03/11/25 TIME: 1:30 P.M. DEPT: A CASE NO: CV0002480

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER: CLERK: RON BAKER

PLAINTIFF: ALAIN DUPONT vs. DEFENDANT: WILLIAM ROBERT FENNER	

NATURE OF PROCEEDINGS: MOTION – DISCOVERY; DISCOVERY FACILITATOR PROGRAM

RULING

The Court is in receipt of the Report of Attorney Praetzellis acting as the Court's Discovery Facilitator. The Court appreciates the Facilitator's assistance and is adopting his recommendation.

Accordingly, the unopposed motion of Defendant to compel T-Mobile to produce records as described in the subpoena is **GRANTED**. No sanctions, fees or costs are awarded. Absent objection, the Court will sign the proposed order submitted by the moving party.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 03/11/25 TIME: 1:30 P.M. DEPT: A CASE NO: CV0002873

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER: CLERK: RON BAKER

PLAINTIFF: RAMY KAUFLER EDEN vs. DEFENDANT: GAWFCO ENTERPRISES, INCORPORATED	

NATURE OF PROCEEDINGS: MOTION – OTHER: ENTRY OF STIPULATED CONSENT JUDGMENT FILED ON 12/11/2024

RULING

Plaintiff's unopposed motion to approve the Proposition 65 settlement and enter judgment as to Defendant Gawfco Enterprises, Inc. is GRANTED. (Code Civ. Proc., § 664.6.)

Discussion
The proposed settlement agreement and consent judgment contains a provision whereby the parties stipulate that this Court shall have jurisdiction to enforce the settlement pursuant to Code of Civil Procedure section 664.6. Under section 664.6, the court is authorized to approve or disapprove a settlement agreement, but not to modify its terms. (*Leeman v. Adams Extract & Spice, LLC* (2015) 236 Cal.App.4th 1367, 1375.)

California Health and Safety Code section 25249.7(f)(4) requires judicial approval of the settlement of a Proposition 65 action between private parties. The court may not grant approval unless it finds that all the statutory requirements have been met. (*Consumer Defense Group v. Rental Housing Industry Members* (2006) 137 Cal.App.4th 1185, 1207.) As set forth in the statute:

If there is a settlement of an action brought by a person in the public interest under subdivision (d), the plaintiff shall submit the settlement other than a voluntary dismissal in which no consideration is received from the defendant, to the court for approval upon noticed motion, and the court may approve the settlement only if the court makes all of the following findings:

(A) The warning that is required by the settlement complies with this chapter.

(B) The award of attorney's fees is reasonable under California law.

(C) The penalty amount is reasonable based on the criteria set forth in paragraph (2) of subdivision (b).

(Health and Saf. Code § 25249.7(f)(4).)
The Court has reviewed the settlement terms and proposed consent judgment. After proper notice, no objections have been filed. As to factor (A), the court has reviewed the moving papers and finds that the proposed warnings are in reasonable compliance with the requirements of Proposition 65. As to (C), the penalty of $3,000 is reasonable under the criteria of the statute. With regards to factor (B), the court finds that there is sufficient information to determine that the requested fees and costs in the amount of $6,000 are reasonable. The amount of fees requested represents a significant reduction to Plaintiff's documented lodestar calculation.

Accordingly, the settlement is approved and the Court will enter the consent judgment.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

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