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SUPERIOR COURT OF THE STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO

CALIFORNIA DENTAL ASSOCIATION, a
California Corporation;
RICHARD W. BARNES, D.D.S.;
ROBERT E. REED, D.D.S.;
DEAN SCHWEITZER, D.D.S.;
GERALD MIDDLETON, D.D.S.;
WHITNEY JOHNSON, D.D.S.;
TERRENCE Y. LAU, D.D.S.,
BARBARA M. HAWTHORNE, D.D.S.,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

DELTA DENTAL OF CALIFORNIA, a
California Corporation,

Defendant.

No.: CGC-14-538849

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR
SUPPLEMENTAL ATTORNEYS' FEES**

Plaintiffs California Dental Association, Richard W. Barnes, Robert E. Reed, Dean
Schweitzer, Gerald Middleton, Whitney Johnson, Terrence Y. Lau and Barbara M. Hawthorne
move the Court for approval of supplemental attorneys' fees in connection with the allocation of the
Settlement Amount in the above-referenced matter with defendant Delta Dental of California
("Delta Dental").

The Court has granted final approval of the Amended Settlement Agreement entered into
between the parties by separate written order ("Final Approval Order"). The Amended Settlement

1 Agreement created a Settlement Fund of \$65,029,299 for allocation and distribution to the Class
2 members, and provided for certain changes to the basic contract between Delta Dental and the Class
3 members that inure to the benefit of the Class members. The Amended Settlement Agreement also
4 provided that Delta Dental would pay, and would not contest Plaintiffs' application for, attorneys'
5 fees of \$2,350,000, which amount was to be paid by Delta Dental over and above the \$65,029,299,
6 subject to Court approval that this amount was fair and reasonable.

7 On April 30, 2018, the Court granted Plaintiffs' Motion for Attorneys' Fees of \$2,350,000,
8 finding that the amount was fair and reasonable under the common fund approach, and under the
9 lodestar approach, and that the award did not reduce the recovery to the Class.

10 Plaintiffs have now moved for supplement attorneys' fees in the amount of \$200,000, to be
11 paid from the interest that has accrued on the Settlement Fund to date. Having fully considered
12 Plaintiffs' Motion For Supplemental Attorneys' Fees, the Court finds and orders as follows:

13 1. The Court approves as fair and reasonable supplemental attorneys' fees in the
14 amount of \$200,000, to be paid from the interest that has accrued on the Settlement Fund. The
15 Court has considered the information contained in the Motion and the declarations submitted in
16 support thereof, and finds that these fees are fair and reasonable, given the unanticipated and
17 complex issues associated with the allocation of the Settlement Fund, and in responding to the many
18 objections and inquiries from Class members.

19 3. The Court further finds that supplemental attorneys' fees of \$200,000 are warranted
20 under either the lodestar or percentage-of-recovery method of analyzing the reasonableness of
21 attorneys' fees. Under the percentage-of-recovery method, the total requested attorneys' fees are
22 approximately 3.9% of the recovery obtained for the Class, which compares favorably to awards of
23 25% or 30% that are commonly approved under this method. Under the lodestar method, Class
24 Counsel's revised lodestar is approximately \$3.9 million, meaning that the total requested fee award
25 is approximately 65% of that amount, equating to a negative multiplier. The Court also notes that
26 the additional attorneys' fees of \$200,000 will not come from the Settlement Fund, but from the
27 interest that has accrued on the Settlement Fund, and therefore will not reduce the recovery of the
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1 Class. The Court further finds that the requested attorneys' fees are less than the value of the
2 attorney and expert time that has been expended by Class Counsel and its expert in allocating the
3 Settlement Amount and responding to Class member inquiries and objections. The Court further
4 finds that the Parties had not anticipated or determined what should be done with the interest, and
5 that it is fair and appropriate that it be used to pay attorneys' fees, given that the work done by Class
6 Counsel has been done on behalf of the Class, and in response to inquiries and objections from
7 Class members.

8 5. Accordingly, the supplemental attorneys' fees requested by Plaintiffs are fair and
9 reasonable. Attorneys' fees in the amount of \$200,000 shall be paid to Class Counsel pursuant to
10 this Order.

11
12 SO ORDERED

13
14 Dated: _____, 2018

By: _____
Hon Mary E. Wiss
Judge of the Superior Court