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**UNITED STATES DISTRICT COURT**

**CENTRAL DISTRICT OF CALIFORNIA**

**WESTERN DIVISION**

EDIE GOLIKOV, individually and on behalf of all others similarly situated,

Plaintiff,

v.

WALMART INC.,

Defendant.

Case No. 2:24-CV-08211-RGK-MAR

Assigned to Honorable R. Gary Klausner

**DEFENDANT WALMART INC.'S SUPPLEMENTAL BRIEF ON THE REASONABILITY OF ATTORNEY'S FEES PURSUANT TO THE COURT'S ORDER GRANTING SANCTIONS (DKT. 98)**

[*Supplemental Brief; Declaration of Jacob M. Harper; and Proposed Order filed concurrently*]

Action Filed: September 24, 2024



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## I. INTRODUCTION AND BACKGROUND

In its prior order, the Court found Plaintiff's counsel, Christin Cho and Richard Lyon, acted "in subjective bad faith by recklessly raising a frivolous argument and unreasonably multiplying proceedings" in this (now decertified) nationwide class action against Walmart, Inc. Dkt. 98 at 5. The Court granted Walmart's motion for fees as sanctions and instructed Walmart to submit a brief on the reasonability of its fees. *Id.*

Having reviewed in detail its billing records, Walmart now seeks a total of **$745,422.75**[1] in fees incurred defending this costly and meritless class action, comprising (1) $624,054.60 incurred on the unnecessary aspects of litigation resulting from Attorneys Cho's and Lyon's recklessness (from moving to dismiss the FAC through decertification) and (2) $121,368.15 incurred moving for sanctions and filing this supplemental brief for fees. This amount is reasonable given the quality of representation and the immense amount of work involved in litigating this frivolous lawsuit through the pleadings, discovery, class certification, and class decertification—all in a short period of time; and it is well supported by Walmart's records and other evidence.

***Reasonable Rates.*** First, Walmart's requested rates are reasonable and fall well below market rates for similarly qualified complex class action litigators in Los Angeles. Walmart retained a team from Davis Wright Tremaine LLP (DWT) made up of highly qualified attorneys with a demonstrated track record of success in defending complex actions, including DWT's chair of class action defense and Food + Beverage industry group and attorneys with years of mislabeling class action experience; and multiple former federal district and appellate clerks. Recent courts

[1] Walmart's motion for sanctions estimated that Walmart would "seek no less than $545,000 in attorney's fees" based on the fees incurred up to, but not including, the sanctions motion itself. Dkt. 94 (Sanctions Mot.) at 18. Walmart noted it "w[ould] submit briefing on the amount of reasonable attorney's fees" "[i]f the Court determines fees are and appropriate sanction." *Id.*



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have found members of Walmart's defense team "particularly efficient and effective" in awarding full rates in other sanctions motions in other class actions. *Durant v. Big Lots, Inc.*, 2024 WL 5658810, at *7 (M.D. Fla. Sept. 25, 2024) (and awarding similar rates for same lead counsel), *aff'd sub nom. Sheehan v. Big Lots, Inc.*, 2025 WL 2461617 (11th Cir. Aug. 27, 2025). DWT's base rates alone—ranging from $990.00 for partners to $600.00 for junior associates—fall at or below the median rates for commercial litigators in Los Angeles. But DWT *further* discounted its rates 10%, in light of the high volume of work required in a short time frame. As such, Walmart seeks to recover based on this discounted effective rate—ranging from ***$891.00 for partners to $540.00 for associates***. This rate is eminently reasonable, and well below market, in light of DWT's specialized skill and experience.

***Reasonable Time.*** Second, the amount billed is reasonable in light of the extensive litigation that Ms. Cho's and Mr. Lyon's misrepresentation precipitated, DWT's well-documented and efficient conduct in the litigation, and the significant reductions DWT has applied to its requested fees to ensure reasonableness. This Court has already found that Plaintiff's counsel's "failure to correct" the "false fact" led the parties to engage in "multiple proceedings that unnecessarily augmented litigation." Dkt. 98 at 4. This included (1) moving to dismiss the FAC, answering the FAC, opposing class certification, engaging in discovery, preparing a Rule 23(f) appeal, and moving to decertify the class; and (2) briefing the motion for sanctions and this supplemental brief. At each stage, the DWT team was—as has been found in other class action matters for which DWT has received full-fee awards—"efficient and effective." *Durant* 2024 WL 5658810, at *7. To err on the side of making a conservative request, Walmart has also significantly reduced, and does not seek to recover a significant proportion of, the fees incurred as a result of Ms. Cho's and Mr. Lyon's misrepresentation.

All told, Walmart seeks fees for the following hours reasonably worked:



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| Phase | Hours | Fees Incurred |
|---|---|---|
| Moving to Dismiss the FAC | 76.2 | $57,939.75 |
| Answering the FAC | 10.3 | $7,816.05 |
| Opposing Class Certification | 147.0 | $110,814.75 |
| Drafting a Rule 23(f) Petition | 51.0 | $49,306.05 |
| Engaging in Discovery | 418.8 | $298,887.30 |
| Moving to Decertify the Class | 139.5 | $99,290.70 |
| Moving for Sanctions and filing this Supplemental Brief | 166.7 | $121,368.15 |
| **Total** | **1,009.5** | **$745,422.75** |

The total lodestar amount of **$745,422.75** is reasonable in light of the extensive—and entirely unnecessary—litigation expenses Walmart incurred in defending this class action through class certification and discovery based on Plaintiff's counsel's misrepresentation and continued concealment of a critical fact. The Court should award the requested fees in full.

## II. WALMART REASONABLY INCURRED $745,422.75 IN FEES DEFENDING THIS CASE

Walmart reasonably incurred $745,422.75 in fees over 1,009.5 hours defending Plaintiff's "frivolous" claims as they "advanced through the litigation phase without merit." Dkt. 98 at 2. Exhibit A to the Harper Declaration summarizes these fees by litigation phase and by timekeeper. *See* Harper Decl. ¶ 3 & Ex. A.

### A. Legal Standard.

Because "[t]he Court has already determined that [Walmart] is authorized to recover attorneys' fees," its "duty now is to 'ensure that the claim for attorneys' fees is reasonable.'" *Triller Fight Club II LLC v. Space*, 2022 WL 1309846, at *1 (C.D. Cal. Jan. 27, 2022) (Klausner, J.) (quoting *Vogel v. Harbor Plaza Ctr.*, 893 F.3d 1152, 1160 (9th Cir. 2018)). "In the Ninth Circuit, the reasonableness of attorneys'



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fees is determined using the lodestar calculation," *id.* (citing *Intel Corp. v. Terabyte Int'l, Inc.*, 6 F.3d 614, 622 (9th Cir. 1993)), "which is the 'product of reasonable hours times a reasonable rate.'" *Rios v. City of Los Angeles*, 2023 WL 3432164, at *2 (C.D. Cal. Mar. 2, 2023) (Klausner, J.) (quoting *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983)). "There is a 'strong presumption' that the lodestar represents a 'reasonable' fee." *Id.* (quoting *Pennsylvania v. Del. Valley Citizens' Council for Clean Air*, 478 U.S. 546, 565 (1986)).

Both DWT's rates and hours incurred are reasonable, as set forth below.

**B. DWT's Rates Are Reasonable.**

DWT's hourly rates are reasonable (indeed, conservative) for similarly skilled and experienced class action attorneys in Los Angeles. Hourly rates are reasonable if they are "in line with those prevailing in the community for similar services by lawyers of reasonably comparable skill, experience, and reputation." *Blum v. Stenson*, 465 U.S. 886, 895 n.11 (1984); *see Triller Fight Club II*, 2022 WL 1309846, at *1 (fees reasonable if in line with "'the prevailing market rate of the relevant community,'" i.e., "the forum in which the district court sits" (quoting *Carson v. Billings Police Dep't*, 470 F.3d 889, 891 (9th Cir. 2006))). A party moving for fees must produce "satisfactory evidence" establishing its rates' reasonableness. *Blum*, 465 U.S. at 896 n.11. This evidence can include "affidavits of the [fee applicant's] attorneys … regarding prevailing fees in the community," *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 980 (9th Cir. 2008), "rate determinations in other cases," *id.*; *see Dale v. BMW of N. Am., LLC*, 2023 WL 6786858, at *3 (C.D. Cal. Sept. 1, 2023) (Klausner, J.) ("Rate determinations in other cases … are satisfactory evidence of the prevailing market rate." (citation omitted)), and "data from the Wolters Kluwer *Real Rate Report*." *Dale*, 2023 WL 6786858, at *3 (citation omitted).

Walmart seeks a fee award based on discounted rates, and demonstrates those rates are reasonable with ample evidence.



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**1. Walmart Seeks Recovery at Discounted Rates.**

Walmart seeks fees based on discounted rates—which even before discount, were already slightly below market rates for commercial litigators in Los Angeles. DWT's base rates on this case ranged from $990.00 for partners to $600.00 for junior associates (with the sole exception of an appellate specialist's work on the Rule 23(f) petition). Harper Decl. ¶ 6; *see id.*, Ex. C (*Real Rate Report*) at 180 (showing DWT's base rates are in line with median and below third quartile).

But DWT discounted its rates by 10% given the high volume of work required in this case in a short period. *Id.* ¶ 6. Walmart therefore seeks fees based on these discounted rates actually charged: $891.00 for partners, between $733.50 and $805.50 for counsel, between $540.00 and $720.00 for associates, and $1,237.50 for an appellate specialist. *Id.*

| Timekeeper | Title | Year | Standard Rate | Further Discount | Effective Rate |
|---|---|---|---|---|---|
| J. Sigel | Partner | 2025 | $1,325.00 | 10% | $1,237.50 |
| J. Harper | Partner | 2025 | $990.00 | 10% | $891.00 |
| | | 2024 | $990.00 | 10% | $891.00 |
| J. Moon | Partner | 2025 | $990.00 | 10% | $891.00 |
| H. Canner | Counsel | 2025 | $895.00 | 10% | $805.50 |
| | | 2024 | $815.00 | 10% | $733.50 |
| J. Elie-Meyers | Associate | 2025 | $800.00 | 10% | $720.00 |
| | | 2024 | $725.00 | 14% | $625.50 |
| C. Whitten | Associate | 2025 | $800.00 | 10% | $720.00 |
| S. Accorsi | Associate | 2025 | $760.00 | 10% | $684.00 |
| P. Bae | Associate | 2025 | $760.00 | 10% | $684.00 |
| M. Drell | Associate | 2025 | $760.00 | 10% | $684.00 |
| M. Ladew | Associate | 2025 | $760.00 | 10% | $684.00 |
| | | 2024 | $690.00 | 10% | $621.00 |
| B. Stoffers | Associate | 2025 | $725.00 | 10% | $652.00 |
| K. Feliciano | Associate | 2025 | $680.00 | 10% | $612.00 |
| M. Gibbons | Associate | 2025 | $640.00 | 10% | $576.00 |
| N. Traver | Associate | 2025 | $625.00 | 10% | $562.00 |
| D. Imakyure | Associate | 2025 | $600.00 | 10% | $540.00 |



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**2. Walmart's Evidence that Rates Are Reasonable.**

"[S]atisfactory evidence," *Blum*, 465 U.S. at 895–96 n.11, establishes that these rates are in line with those charged by class action attorneys of comparable skill and qualification in Los Angeles. Walmart offers several forms of such evidence.

*First*, as detailed in the accompanying declaration, each of Walmart's counsel is highly qualified, with particular skill and experience in federal litigation and in defending against consumer mislabeling class actions. *See* Harper Decl. ¶¶ 7–21 (detailing Walmart's attorneys' qualifications). In fact, Walmart hired DWT precisely because of its experience and positive outcomes in product mislabeling class actions generally, and specifically in avocado oil mislabeling class actions. *Id.* ¶ 5; *see McConnon v. The Kroger Co.*, 2024 WL 3941340, at *5 (C.D. Cal. June 21, 2024) (obtaining dismissal of avocado oil mislabeling class action filed and litigated before the Complaint here was filed); *see also Hawkins v. Walmart, Inc.*, 766 F. Supp. 3d 1036, 1044 (E.D. Cal. 2025) (same). In *Durant*, another product mislabeling class action, a district court found DWT's comparable rates were reasonable (even in a judicial district with lower standard rates) because DWT "was a reasonable, if not expected, choice for retention" in defending a "national class action consumer products liability case" against familiar plaintiffs' attorneys. 2024 WL 5658810, at *7, *aff'd* 2025 WL 2461617.

*Second*, the 2024 *Real Rate Report* establishes these rates are actually conservative, and more than reasonable, for general commercial litigators in Los

| Practice Area | Firm Size | Role | n | First Quartile | Median | Third Quartile | 2024 | 2023 | 2022 |
|---|---|---|---|---|---|---|---|---|---|
| Commercial | 50 Lawyers or Fewer | Partner | 10 | $325 | $502 | $525 | $466 | $503 | $479 |
| | 501-1,000 Lawyers | Partner | 14 | $741 | $975 | $1,114 | $955 | $1,003 | $901 |
| | | Associate | 12 | $806 | $935 | $1,005 | $913 | $818 | $696 |



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Angeles. The discounted rate DWT partners charged Walmart—$891/hour—falls below the median for partners (and well below the third quartile).[2] *See* Harper Decl. ¶ 6 & Ex. C (*Real Rate Report*) at 180 (**for partners**, **median of $975** and third quartile of $1,114). The rates charged for associates, at a maximum of $720, and counsel, at a maximum of $805, also fall below the median (and well below the third quartile). *See id.* (**for associates**, **median of $935** and third quartile of $1,005). DWT's rates are particularly justified in light of their specialized experience in defending complex class actions. Further, the *Real Report* benchmarks would be even higher for 2025.

*Third*, courts routinely award fees to comparable attorneys in Los Angeles at these (or higher) rates for similar work. Courts have approved partner rates well above the $891/hour charged here. *See N.T.A.A. v. Nordstrom, Inc.*, 2024 WL 1723524, at *4 (C.D. Cal. Apr. 19, 2024) (**$1,364.70 reasonable for partners**); *Title Tracy Anderson Mind & Body, LLC v. Roup*, 2023 WL 6890744, at *3 (C.D. Cal. Sept. 11, 2023) (**$1,065 for partners**); *Hope Med. Enters., Inc. v. Fagrgon Compounding Serv., LLC*, 2022 WL 826903, at *3 (C.D. Cal. Mar. 14, 2022) (**$1,295 for partners** and **$895 for counsel**).

And Courts regularly approve associate rates above the $720.00/hour maximum here. *See N.T.A.A.*, 2024 WL 1723524, at *4 (**$808 reasonable for associates**); *Title Tracy Anderson*, 2023 WL 6890744, at *3 (**$760 for associates**, explaining 2022 *Real Rate Report* showed "the median hourly rate for commercial litigation attorneys is … $686 for associates, while the fee rates in the upper quartile of attorneys are … $876 for associates"); *Hope Med.*, 2022 WL 826903, at *3 (**$985 for associates**); *California v. Rish Invs., Inc.*, 2024 WL 5317165, at *2 (C.D. Cal.

[2] The *Real Rates Report* does not include data specific to appellate litigators, but $1,237.50 is only marginally above the third quartile for commercial litigation partners Los Angeles. Harper Decl., Ex. C at 180 (third quartile is $1,114.00). Considering Mr. Sigel's exceptional qualifications, including clerking on the Supreme Court, this rate is reasonable. *Id.* ¶ 8.



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Oct. 24, 2024) (**$680 for associates**); *621 Two*, 2021 WL 4860687, at *4 (median range in 2020 was Los Angeles was $425 to **$812 for associates**).

*Fourth*, DWT was actually paid at these rates. Harper Decl. ¶ 25; *see Woodhouse v. U.S. Gov't*, 2022 WL 17222248, at *1 n.3 (C.D. Cal. Aug. 16, 2022) (Klausner, J.) ("Another indication that the hourly rates [were] reasonable" was that attorneys were "actually paid the rates sought" (citing *Blanchard v. Bergeron*, 489 U.S. 87, 93 (1989))); *Monster Energy Co. v. Vital Pharms., Inc.*, 2023 WL 8168854, at *22 (C.D. Cal. Oct. 6, 2023) (rates reasonable where the "negotiated hourly rates [were] what [law firm] actually billed [plaintiff] for its work, not mere estimates"; "[t]he fact that the fees ha[d] been paid 'add[ed] weight to the presumption of reasonableness'" (citations omitted)); *Durant*, 2024 WL 5658810, at *7 ("What an attorney is actually paid by his clients is perhaps the strongest evidence of his market rate." (quotation omitted)). DWT's rates are reasonable.

**C. DWT's Time Expended Is Reasonable.**

DWT's time expended on vigorously defending this nationwide class action is also reasonable. A fee applicant "must produce … 'detailed documentation of the hours worked.'" *Rios*, 2023 WL 3432164, at *2 (quoting *United States v. $28,000.00 in U.S. Currency*, 802 F.3d 1100, 1105 (9th Cir. 2015)). Billing records suffice if they "specify the time spent down to the tenth of an hour and provide descriptions of the services that were performed." *Patagonia, Inc. v. 18A Chrons. LLC*, 2023 WL 5505805, at *2 (C.D. Cal. July 11, 2023) (Klausner, J.).

Walmart's detailed billing records support the time it reasonably spent on this litigation. *See* Harper Decl. ¶¶ 24–27 & Ex. B (time entries). These entries reflect time actually billed to Walmart and therefore already exclude time written off before invoicing.[3] *Id.* ¶ 25.

[3] In addition, Walmart has removed many entries from the records submitted to the Court, including charges for tasks that might be considered clerical, may have overlapped with time expended on similar matters, or otherwise are not assigned exclusively to this matter. Harper Decl. ¶ 26. Walmart also removed time worked and billed by one-off timekeepers, librarians, and paralegals. *Id.* Although rightly



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**1. Walmart Spent 842.8 Hours on Litigation Before Filing the Sanctions Motion.**

Walmart spent no fewer than 842.8 hours incurring no less than $624,054.60 in fees litigating phases of the case directly related to Plaintiff's counsel's falsely alleging that Plaintiff bought the avocado oil in a Walmart store: (a) moving to dismiss the FAC, (b) answering the FAC, (c) opposing class certification, (d) drafting a Rule 23(f) petition, (e) engaging in discovery, and (e) moving to decertify the class.

**a. Moving to Dismiss the FAC: 76.2 Hours.**

Walmart reasonably incurred no less than $57,939.75 in fees spending no fewer than 76.2 hours challenging the FAC. The Court's Order recognized that Plaintiff's counsel's "failure to correct" the "false material fact" that Plaintiff purchased the avocado oil in a Walmart store directly caused the parties to litigate the motion to dismiss the FAC. Dkt. 98 at 4 (Plaintiff's counsel "continued to represent" that Plaintiff purchased the avocado oil in a store even in opposition to the motion to dismiss the FAC). "[S]anctions awarding these attorney's fees are appropriate." *Id.*; *see Pascual v. Wells Fargo Bank, N.A.*, 2014 WL 582264, at *8 (N.D. Cal. Feb. 13, 2014) (awarding § 1927 sanctions for fees incurred moving to dismiss amended complaint filed in response to initial motion to dismiss).

Given the multiple arguments researched and raised and the stakes of significant class action, Walmart reasonably spent 76.2 hours challenging the FAC. *See* Harper Decl. ¶ 29 (detailing tasks). Walmart' counsel, among other tasks:

- Drafted the motion.
- Surveyed the case law on avocado oil misrepresentation claims and researched bases for dismissal. *See* MTD FAC at 9.

recoverable, Walmart also removed time billed for case management, procedural motions, review of and compliance with the Local Rules of this District, and certain strategy discussions and analysis. *Id.*



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- Analyzed the scientific studies upon which Plaintiff based her claims. S*ee id.* at 10–12.
- Analyzed and researched arguments raised in the Opposition to the motion to dismiss the FAC.
- Drafted the Reply and notices of supplemental authority in support of the motion.

| **Motion to Dismiss FAC** | | | |
|---|---|---|---|
| **Timekeeper** | **Title** | **Hours** | **Amount** |
| J. Harper | Partner | 18.3 | $16,305.30 |
| H. Canner | Counsel | 5.1 | $4,079.25 |
| J. Elie-Meyers | Associate | 49.6 | $35,712.00 |
| M. Gibbons | Associate | 3.2 | $1,843.20 |
| **Total** | | **76.2** | **$57,939.75** |

Walmart meets its burden to substantiate the reasonableness of this time spent. The Harper Declaration provides detailed time entries substantiating the time spent on the motion to dismiss the Complaint, including descriptions of the tasks performed down to the tenth of an hour. Harper Decl. ¶ 3 & Ex. B (time entries); *see Patagonia*, 2023 WL 5505805, at *2 (detailed billing records satisfy applicant's burden). The timekeepers working on this motion each completed discrete, non-overlapping tasks related to the motion. *See* Harper Decl. ¶ 30 & Ex. B. And the billed hours are comparable to what has been awarded in other, similar cases: the *Durant* court awarded fees for 121.8 hours spent on a motion to dismiss and found DWT "provided ample support for the hours it ha[d] spent litigating th[at] class action lawsuit which had the potential to cause its client serious financial and reputational harm." 2024 WL 5658810, at *5, *aff'd* 2025 WL 2461617.

Moreover, courts in this District recognize that dispositive Rule 12 motions reasonably take this long to competently research and brief. *See Vedatech, Inc. v.*



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*St. Paul Fire & Marine Ins. Co.*, 2005 WL 1513130, at *18 (N.D. Cal. June 22, 2025) (finding 101.4 hours reasonable for motion to dismiss); *Peak Health Ctr. v. Dorfman*, 2020 WL 3254337, at *6 (N.D. Cal. June 16, 2020) (finding 90.1 hours reasonable for overlapping motion to dismiss and anti-SLAPP motion). This is especially true in consumer class actions.

Walmart reasonably incurred $57,939.75 in fees challenging the FAC.

**b. Answering the FAC: 10.3 Hours.**

Walmart reasonably incurred no less than $7,816.05 in fees spending no fewer than 10.3 hours answering the FAC. The Court's Order recognized that the FAC reiterated the same material misrepresentation that Plaintiff purchased the avocado oil "from a Walmart store." Dkt. 98 at 1 (citing misrepresentation at FAC ¶ 6). The fees incurred answering that FAC are recoverable under § 1927 and the Court's Order. *See id.* at 4; *Carlock v. Collons Motors, Inc.*, 2005 WL 8173205, at *4 (S.D. Cal. Sept. 19, 2005) (awarding § 1927 sanctions for fees incurred on answer). Walmart researched and strategized regarding affirmative defenses and drafted an answer to the remaining claims in the FAC. Harper Decl. ¶ 32–34; *see* Dkt. 64 (Answer).

| **Answer to FAC** | | | |
|---|---|---|---|
| **Timekeeper** | **Title** | **Hours** | **Amount** |
| J. Harper | Partner | 2.7 | $2,405.70 |
| H. Canner | Counsel | 4.5 | $3,624.75 |
| M. Gibbons | Associate | 3.1 | $1,785.60 |
| **Total** | | **10.3** | **$7,816.05** |

The Harper Declaration provides detailed time entries substantiating the time reasonably spent answering the FAC. Harper Decl. ¶ 3 & Ex. B (time entries); *see Patagonia*, 2023 WL 5505805, at *2 (billing records satisfy applicant's burden).



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**c. Opposing Class Certification: 147.0 Hours.**

Walmart reasonably incurred no less than $110,814.75 in fees over no fewer than 147.0 hours opposing class certification. The Court's Order recognized that Plaintiff's counsel's "failure to correct" the "false material fact" directly caused Walmart to "oppos[e] class certification." Dkt. 98 at 4; *see* Dkt. 92 (Decertification Ord.) at 2 (observing Plaintiff moved for class certification "[b]ased on her allegations that she purchased the avocado oil from 'a Walmart store'"). "[S]anctions awarding these attorney's fees are appropriate." Dkt. 98 at 4. Given the multiple arguments researched and raised and the stakes of class certification, the 147.0 hours spent opposing class certification were reasonable. *See* Harper Decl. ¶ 35 (detailing tasks). Among other things, Walmart's counsel:

- Responded in detail to Plaintiff's thorough motion for class certification, which briefed numerous issues relating to Plaintiff's Rule 23 requirements.
- Researched arguments against certifying consumer classes based on the allegations in the FAC.
- Analyzed and researched Plaintiff's survey evidence and damages models. *See* Opp. to Class Cert. at 11–13.
- Subpoenaed laboratories cited in Motion for Class Certification.
- Worked with Walmart's supplier to prepare the supplier's declaration.
- Researched and drafted motion to file under seal.
- Researched and drafted evidentiary objections to multiple purported expert opinions.

| **Opposition to Class Certification** | | | |
|---|---|---|---|
| **Timekeeper** | **Title** | **Hours** | **Amount** |
| J. Harper | Partner | 38.1 | $33,947.10 |
| J. Moon | Partner | 1.8 | $1,628.10 |
| H. Canner | Counsel | 34.1 | $27,467.55 |



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| | | | |
|---|---|---|---|
| P. Bae | Associate | 19.0 | $12,996.00 |
| J. Elie-Meyers | Associate | 17.5 | $12,600.00 |
| D. Imakyure | Associate | 22.8 | $12,312.00 |
| C. Whitten | Associate | 13.7 | $9,864.00 |
| **Total** | | **147.0** | **$110,814.75** |

Courts award fees for many more hours spent on similarly complex class certification briefing. *See Kamal v. Eden Creamery, LLC*, 745 F. Supp. 3d 1071, 1085 (S.D. Cal. 2024) (awarding fees for 70% of 352 hours (i.e., 246.4 hours) spent opposing class certification); *see also 621 Two*, 2021 WL 4860687, at *6 (259.9 hours spent on mediation brief was reasonable). Because Walmart's counsel was simultaneously briefing the motion to dismiss the FAC and opposition to class certification, as well as undertaking discovery, more attorneys were involved in the briefing of this motion. Harper Decl. ¶ 36. Walmart reasonably incurred $110,814.75 in fees opposing class certification. *See id.* ¶ 3 & Ex. B (time entries); *Patagonia*, 2023 WL 5505805, at *2 (billing records satisfy applicant's burden).

**d. Rule 23(f) Petition: 51.0 Hours.**

Walmart reasonably incurred no less than $49,306.05 in fees spending no fewer than 51.0 hours drafting a petition to appeal the Court's class certification order under Rule 23(f). Like with the opposition to class certification, the Rule 23(f) Petition was the result of Plaintiffs' maintenance of their improper position that Ms. Golikov could pursue class claims. *See* Dkt. 98 at 4 (misrepresentation led to opposition to class certification). And as with the fees incurred opposing class certification, Walmart fees incurred preparing the petition are recoverable under § 1927 and the Court's order. *See id.* Among other things, Walmart researched class certification issues related to the Court's order certifying the class and drafted the petition. Harper Decl. ¶ 39–39.



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| Rule 23(f) | | | |
|---|---|---|---|
| **Timekeeper** | **Title** | **Hours** | **Amount** |
| J. Harper | Partner | 5.7 | $5,078.70 |
| J. Sigel | Partner | 22.5 | $27,843.75 |
| J. Elie-Meyers | Associate | 21.9 | $15,768.00 |
| M. Ladew | Associate | 0.9 | $615.60 |
| **Total** | | **51.0** | **$49,306.05** |

The Harper Declaration provides detailed time entries substantiating the time spent on moving to dismiss the FAC. Harper Decl. ¶ 3 & Ex. B (time entries); *see Patagonia*, 2023 WL 5505805, at *2 (billing records satisfy applicant's burden). The same authorities cited in support of the time spent on the opposition to class certification support the reasonableness of this time (*see* § II.C.1.c).

Walmart reasonably incurred $49,306.05 in fees on the 23(f) petition.

**e. Engaging in Discovery: 418.8 Hours.**

Walmart reasonably incurred no less than $298,887.30 in fees (and interrupted its business operations) over no fewer than 418.8 hours engaging in discovery. The Court's Order recognized that Plaintiff's counsel's bad faith caused Walmart to "engage in discovery" unnecessarily. Dkt. 98 at 4. Walmart had no choice but to respond to Plaintiff's significant discovery and propound its own discovery in preparation for summary judgment, trial, and potential decertification of the class. The fees incurred in discovery "are appropriate under § 1927." *Id.* Walmart engaged in significant discovery. *See* Harper Decl. ¶ 41 (detailing tasks).

As to defensive discovery and document production, Walmart, among other tasks:

- Interviewed and collected records from numerous custodians to identify responsive records and information for Plaintiff's requests.
- Drafted responses to Plaintiff's numerous requests for production and interrogatories.



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- Had a dedicated team of attorneys review thousands of records to identify responsive documents to Plaintiff's requests.
- Conferred with Plaintiff's counsel in writing and by phone regarding Walmart's written discovery responses and prepared supplemental discovery responses. *See* Dkt. 70.
- Conferred on and prepared a motion to quash Plaintiff's improper Rule 30(b)(6) notice (not filed due to the order compelling arbitration).

As to affirmative discovery, Walmart's counsel:

- Drafted and served two sets of written discovery, in addition to deposition notices and subpoenas.
- Engaged in significant conferral efforts after Plaintiff failed to produce documents. *See* Dkt. 71 at 3 (referring to letter detailing the deficiencies in Plaintiff's responses and requesting to confer).
- Researched and drafted a lengthy (over 100 pages) Joint Stipulation to compel production pursuant to Local Rule 37-2. *See* Dkts. 71 (Joint Stipulation); 75 (memorandum in support of Joint Stipulation).

| **Discovery** | | | |
|---|---|---|---|
| **Timekeeper** | **Title** | **Hours** | **Amount** |
| J. Harper | Partner | 50.1 | $44,639.10 |
| H. Canner | Counsel | 88.2 | $71,045.10 |
| M. Drell | Associate | 66.5 | $45,486.00 |
| J. Elie-Meyers | Associate | 62.1 | $44,712.00 |
| K. Feliciano | Associate | 2.2 | $1,346.40 |
| M. Gibbons | Associate | 33.7 | $19,411.20 |
| D. Imakyure | Associate | 5.8 | $3,132.00 |
| M. Ladew | Associate | 5.5 | $3,762.00 |
| B. Stoffers | Associate | 62.5 | $40,781.25 |
| N. Traver | Associate | 36.9 | $20,756.25 |



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| | | | |
|---|---|---|---|
| C. Whitten | Associate | 5.3 | $3,816.00 |
| **Total** | | **418.8** | **$298,887.30** |

Walmart's 418.8 hours spent in discovery were reasonable and are well supported by its billing records. *See* Harper Decl. ¶¶ 42–45; *id.* ¶ 3 & Ex. B (time entries); *Patagonia*, 2023 WL 5505805, at *2 (detailed billing records satisfy applicant's burden). Courts recognize that class action discovery is intensely time consuming and routinely award significant fees for time spent in discovery. *Wolph v. Acer Am. Corp.*, 2013 WL 5718440, at *4 (N.D. Cal. Oct. 21, 2013) (finding 550 hours on discovery reasonable in consumer class action); *McCrary v. Elations Co., LLC*, 2016 WL 769703, at *11 (C.D. Cal. Feb. 25, 2016) (4,489 hours reasonable in litigating consumer class action, including discovery but minimal motions practice).

Walmart's requested $298,887.30 in fees for discovery are reasonable.

**f. Moving to Decertify the Class: 139.5 Hours.**

Walmart reasonably incurred no less than $99,290.70 in fees over no fewer than 139.5 hours moving to decertify the class. The Court's Order recognized that Plaintiff's counsel further "unreasonably multiplied proceedings" by filing her "Opposition to a Motion to Decertify the Class" even after Walmart had revealed "the action was frivolous." Dkt. 98 at 2, 4; *see* Dkt. 92 at 3 (granting motion to decertify because Plaintiff "never had a valid claim arising out of her November 14, 2021 purchase of avocado oil" and "was never eligible to represent the Class before this Court"). The fees incurred moving to decertify "are appropriate under § 1927." Dkt. 98 at 4. Further, the time spent on the motion to decertify was reasonable because the motion was not simply a recasting of the initial opposition to class certification; it hinged on Plaintiff's commitment to arbitrate her claims and Plaintiff's counsel's inadequacy for recklessly making false allegations and defended against arguments regarding substituting a new named plaintiff. Harper Decl. ¶ 47 (detailing tasks); *see* Dkts. 83 (motion to decertify), 91 (reply in support of motion). In preparing this motion and reply, Walmart, among other things:



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- Researched grounds for decertifying the class on these facts.
- Drafted the motion to decertify the class.
- Researched for and drafted the reply in support of the motion.

| **Motion to Decertify Class** | | | |
|---|---|---|---|
| **Timekeeper** | **Title** | **Hours** | **Amount** |
| J. Harper | Partner | 16.9 | $15,057.90 |
| J. Moon | Partner | 21.6 | $19,537.20 |
| M. Drell | Associate | 41.5 | $28,386.00 |
| J. Elie-Meyers | Associate | 1.3 | $936.00 |
| D. Imakyure | Associate | 30.8 | $16,632.00 |
| M. Ladew | Associate | 27.4 | $18,741.60 |
| **Total** | | **139.5** | **$99,290.70** |

Walmart carries its burden to substantiate the reasonableness of the 139.5 hours spent decertifying the class. *See* Harper Decl. ¶ 48; *id.* ¶ 3 & Ex. B (time entries); *Patagonia*, 2023 WL 5505805, at *2 (billing records satisfy applicant's burden). The same authorities cited above support the reasonableness of this time (*see* § II.C.1.c).

Walmart's $99,290.70 in fees for decertifying the class are reasonable.

**2. Walmart Spent 166.7 Hours Recovering its Fees.**

Last, Walmart respectfully requests recover for the no less than $121,368.15 in fees over no fewer than 166.7 hours moving for sanctions and preparing this supplemental brief. "[T]he costs of obtaining sanctions may be included in a sanctions award under § 1927." *Blixseth v. Yellowstone Mountain Club, LLC*, 854 F.3d 626, 631 (9th Cir. 2017); *see Rosales v. Roman Catholic Bishop of San Diego*, 2024 WL 874107, at *6–7 (S.D. Cal. Feb. 29, 2024) (awarding fees incurred moving for § 1927 sanctions); *Hodgson v. Roper*, 2022 WL 297089, at *14 (E.D. Cal. Feb. 1, 2022) (same).



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This time was reasonable. *See* Harper Decl. ¶ 50 (detailing tasks). To prepare this motion, Walmart's counsel:

- Researched the availability of sanctions.
- Drafted the Sanctions Motion and supporting declarations.
- Researched and drafted the reply in support of the motion.
- Analyzed billing records and reasonable rates and hours in this District.
- Drafted the Supplemental Brief and supporting declarations.

| **Motion for Sanctions & Supplemental Brief** | | | |
|---|---|---|---|
| **Timekeeper** | **Title** | **Hours** | **Amount** |
| J. Harper | Partner | 24.1 | $21,402.90 |
| H. Canner | Counsel | 32.3 | $26,017.65 |
| S. Accorsi | Associate | 28.9 | $19,767.60 |
| M. Drell | Associate | 16.9 | $11,559.60 |
| J. Elie-Meyers | Associate | 19.2 | $13,824.00 |
| K. Feliciano | Associate | 14.8 | $9,057.60 |
| D. Imakyure | Associate | 7.8 | $4,212.00 |
| M. Ladew | Associate | 22.7 | $15,526.80 |
| **Total** | | **166.7** | **$121,368.15** |

Walmart carries its burden to substantiate the reasonableness of the 166.7 hours spent preparing the successful sanctions motion and submitting this supplemental brief. *See* Harper Decl. ¶¶ 51–53; *id.* ¶ 3 & Ex. B (time entries); *Patagonia*, 2023 WL 5505805, at *2 (detailed billing records satisfy applicant's burden). The *Durant* court awarded fees for 60.6 hours DWT spent on a motion for sanctions and application for fees in a case that involved significantly less briefing, no discovery, and many fewer time entries. 2024 WL 5658810, at *5, *aff'd* 2025 WL 2461617.

Walmart's $121,368.15 in fees for recovering its fees are reasonable.



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## III. CONCLUSION

Plaintiff's counsel should never have brought this costly and wasteful lawsuit. Walmart respectfully requests the Court award Walmart its $745,422.75 in fees incurred defending it.

Dated: November 17, 2025

DAVIS WRIGHT TREMAINE LLP

By: */s/ Jacob M. Harper*
Jacob M. Harper

*Attorneys for Defendant Walmart Inc.*



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**CERTIFICATION**

The undersigned counsel of record for Walmart Inc. certifies that this brief contains 5,007 words, which complies with the word limit of L.R. 11-6.1 and the Court's Standing Order.

*/s/ Jacob M. Harper*
Jacob M. Harper



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