



**FILED**  
San Francisco County Superior Court

JUN -5 2020

CLERK OF THE COURT  
BY: [Signature]  
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO  
DEPARTMENT 613

JOHN R. SWITZER, Individually and on Behalf  
of All Others Similarly Situated,

Plaintiff,

v.

W.R. HAMBRECHT & CO., LLC,  
ARCIMOTO, INC., MARK FROHNMAYER,  
DOUGLAS M. CAMPOLI, THOMAS  
THURSTON, TERRY BECKER, JEFFERSON  
CURL and DOES 1-25, inclusive,

Defendants.

Lead Case No. CGC-18-564904  
(Consolidated with Case No. CGC-18-565324)

ORDER GRANTING MOTION FOR AN  
AWARD OF ATTORNEYS' FEES AND  
COSTS

AND CONSOLIDATED ACTION

Plaintiffs Jay Mendelson and John Switzer moved the Court for approval of attorneys' fees and costs in connection with the settlement of the above matter with Defendants Arcimoto, Inc., Mark Frohnmayer, Douglas M. Campoli, Thomas Thurston, Terry Becker, and Jefferson Curl, and W.R. Hambrecht + Co., LLC ("Defendants"). The motion was previously set for hearing on March 13, 2020. On March 12, 2020, the Court issued a tentative ruling on the Plaintiffs' (1) Motion for Final Approval of Class Action Settlement; and (2) Motion for an Award of Attorneys' Fees and Expenses ("Motions"). In the tentative ruling, the Court outlined its concerns regarding the Motions, continued the Motions for further briefing, and vacated the March 13, 2020 hearing. On May 22, 2020, Plaintiffs submitted

1 supplemental briefing satisfying the Court's previous concerns.

2 The Court has granted final approval of the settlement by separate written order (Final Approval  
3 Order), creating a Settlement Amount of \$2,450,000.<sup>1</sup> In the instant motion, Plaintiffs seek for Plaintiffs'  
4 Settlement Counsel \$816,658 in attorneys' fees and \$51,919.53 for reimbursement of out-of-pocket costs.  
5 Defendants does not oppose Plaintiffs' motion, and the Court has received no objections to the requests  
6 from any Class Member or Authorized Claimant.

7 Having fully considered the instant motion for attorneys' fees and costs, the Court finds and orders  
8 as follows:

9 1. The Court awards Plaintiffs' Settlement Counsel the requested \$816,658 in attorneys' fees  
10 (together with the interest earned on that amount for the same time period and at the same rate as that  
11 earned on the Settlement Fund). In awarding this amount, as a cross-check, the Court also considered  
12 whether the requested amount was reasonable in light of the lodestar. The Court carefully considered the  
13 documentation submitted in support of the fee request, including the declarations Plaintiffs' Settlement  
14 Counsel setting forth the hours expended in this matter. Plaintiffs' Settlement Counsel has spent at least  
15 1,435 hours litigating the class claims, which results in a lodestar of \$887,891.00. The Court finds this  
16 amount justified given the contingent nature of the litigation, the quality of representation, the benefits  
17 obtained for the class, the risk of nonpayment, the extent of the litigation to date, and the results achieved.  
18 Finally, there was no valid objection to the settlement and no objection to the fee request. Accordingly,  
19 the requested fee of \$816,658 of the Settlement Amount is justified in this case. The award shall be paid  
20 from the Settlement Account.

21 2. The Court awards Plaintiffs' Settlement Counsel reimbursement of their litigation costs  
22 and expenses in the requested amount of \$51,621.58, plus interest on such expenses at the same rate and  
23 for the same time period as earned by the Settlement Fund.<sup>2</sup> The Court finds that the amount requested is  
24 reasonable and was reasonably incurred in the prosecution of this action. The award shall be paid from  
25

26  
27 <sup>1</sup> Unless otherwise noted, defined terms correspond with those in the parties' Amended Stipulation of  
Settlement dated August 2, 2019 (the "Stipulation"),

28 <sup>2</sup> Plaintiffs' Settlement Counsel's updated cost requests is \$51,919.53. However, the Court reduces the  
\$797.65 for a one-night stay at San Francisco Proper Hotel to \$500. Thus, the Court deducts \$297.95  
from the total costs requested, and therefore awards \$51,621.58.

1 the Settlement Amount.

2 3. The awarded attorneys' fees and expenses shall be paid to Plaintiffs' Settlement Counsel  
3 from the Settlement Fund subject to the terms, conditions and obligations of the Stipulation, which are  
4 incorporated herein.

5 4. The awarded attorneys' fees shall be allocated by Plaintiffs' Settlement Counsel among  
6 Plaintiffs' Counsel in a manner which they in good faith believe reflects the contribution of counsel to the  
7 prosecution and settlement of the Action.

8  
9 IT IS SO ORDERED.

10  
11 Dated: June 5, 2020



12 \_\_\_\_\_  
13 ANDREW Y.S. CHENG  
14 Judge of the Superior Court

**CERTIFICATE OF ELECTRONIC SERVICE**  
(CCP 1010.6(6) & CRC 2.260(g))

I, KEITH TOM, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On June 5, 2020, I electronically served the ATTACHED DOCUMENT(S) via File&ServeXpress on the recipients designated on the Transaction Receipt located on the File&ServeXpress website.

Dated: June 5, 2020

T. Michael Yuen, Clerk

By:   
\_\_\_\_\_  
KEITH TOM, Deputy Clerk