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11 *Attorneys for Plaintiff*

12 **SUPERIOR COURT OF CALIFORNIA**
13 **COUNTY OF ORANGE**

14 JOSH BINGHAM, individually, and on behalf of
all others similarly situated,

15 Plaintiff,

16 v.

17 ACORNS GROW, INC., a California corporation;
18 ACORNS ADVISERS, LLC, a Delaware limited
liability company; and DOES 1-10, inclusive,

19 Defendants.
20

Case No: 30-2019-01050842-CU-NP-CXC

Assigned for All Purposes To
Hon. Randall Sherman, Dept. CX105

**NOTICE OF ENTRY OF ORDER ON
TENTATIVE RULING**

21 **PLEASE TAKE NOTICE** that the parties in the above-captioned action have submitted on
22 the Court’s tentative ruling regarding Plaintiff’s Motion for Final Approval of Class Action Settlement,
23 Award of Attorneys’ Fees and Costs, and Approval of Class Representative Service Award, which
24 continued the Final Approval Hearing to September 30, 2022, at 10:00 a.m. in Department CX105.
25 Attached hereto as Exhibit A is a true and correct copy of the Court’s tentative ruling.

26 Dated: July 22, 2022

LYNCH CARPENTER, LLP

27 By: /s/ (Eddie) Jae K. Kim

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EXHIBIT A

<p>5 Bingham vs. Acorns Grow, Inc. 2019-01050842</p>	<p>The tentative ruling is to continue the hearing on plaintiff Josh Bingham’s Motion for Final Approval of Class Action Settlement, Award of Attorneys’ Fees and Costs, and Approval of Class Representative Service Award to September 30, 2022 at 10:00 a.m. Counsel must file supplemental papers addressing the court’s concerns (not fully revised papers that would have to be re-read) at least 16 days before the next hearing date.</p> <p>The estimate of the number of accounts during the preliminary approval stage was 181,892 unique Acorn accounts. However, the list provided to the administrator included 232,199 accounts. Plaintiff must provide an explanation for the substantial increase in the number of accounts.</p> <p>The Administrator cleansed the list of accounts to remove duplicates and otherwise remove purportedly invalid e-mail addresses, and so notice was sent for only 218,684 of those accounts, and only 213,035 successfully received the notice, as the rest were bounce-backs or undeliverable. Plaintiff must provide an explanation of how the administrator determined whether an e-mail should be cleansed from the list, aside from removing duplicates. For example, if some of the bounce-backs were due to e-mail inboxes being full, those e-mails should be re-sent.</p> <p>Plaintiff did not provide the court with the number of class members, or the high, low or average individual payments to the class members. Simply providing the number of accounts is insufficient. The requested information should enable the court to better evaluate the reasonableness of the settlement.</p> <p>Plaintiff has not submitted his attorneys’ bills or a detailed breakdown of his attorneys’ costs to support the court’s review of the costs request. The summary chart in ¶128 of the Joint Declaration, which includes only categories for some cost items, is insufficient. Each cost must be disclosed. An explanation of the \$56,000 claim for “Expert Witness”, and all accompanying invoices, are especially required.</p> <p>Plaintiff has not provided a declaration in support of his \$5,000 enhancement request explaining what he did that merits an enhancement award, including an estimate of the total number of hours he has spent working on this matter or assisting counsel.</p> <p>An invoice from the administrator, KCC Class Action Services, LLC, is required to support the \$70,000 administrator fee request.</p> <p>There is no information in the moving papers about what will happen to the funds from uncashed checks. A proposed recipient must be identified and approved.</p> <p>Plaintiff must submit an amended Proposed Judgment or Order which provides how the parties will comply with CRC Rule 3.771(b), which states: “Notice of the judgment must be given to the class in the manner specified by the court.” The notice may be included with the checks that are mailed to the class members or posted on the administrator’s website.</p> <p>Counsel should propose a realistic Final Report Hearing date, taking into account the time deadlines associated with funding the settlement, mailing distributions, allowing the check-cashing deadline to pass, and distributing uncashed check funds, pursuant to the terms of the settlement agreement. The court usually sets these hearings nine months after settlement approval if the check cashing deadline is 180 days. The parties must report to the court the total amount that was actually paid to the class members. All supporting papers must be filed at least 16 days before the Final Report Hearing date.</p> <p>Plaintiff is ordered to give notice of the ruling unless notice is waived.</p>
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