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 (*Additional Counsel for Plaintiffs and the*  
 13 *Certified Classes listed on following page*)

14 UNITED DISTRICT COURT  
 15 NORTHERN DISTRICT OF CALIFORNIA  
 16 OAKLAND DIVISION

17 JAVANNI MUNGUIA-BROWN, ANGELINA  
 18 MAGAÑA, NORMA RODRIGUEZ, DAVID  
 BONFANTI, and SHANNAH SMITH individually  
 19 and on behalf of others similarly situated,

20 Plaintiffs,  
 vs.

21 EQUITY RESIDENTIAL, a real estate investment  
 22 trust, ERP OPERATING LIMITED  
 PARTNERSHIP, a partnership, EQUITY  
 23 RESIDENTIAL MANAGEMENT, L.L.C., EQR-  
 WOODLAND PARK A LIMITED  
 24 PARTNERSHIP, and EQR-WOODLAND PARK  
 B LIMITED PARTNERSHIP,

25 Defendants.  
 26

**CLASS ACTION**

Case No.: 4:16-cv-01225-JSW-TSH

**STIPULATION AND ~~PROPOSED~~ ORDER  
 REGARDING SUPPLEMENTATION OF  
 CLASS LIST AND CLASS MEMBER DATA**

Dept: Courtroom 5  
 Before: Hon. Jeffrey S. White

Trial Date: February 27, 2023

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1 This Stipulation is hereby entered into by and between Plaintiffs Javanni Munguia-Brown,  
2 Angelina Magaña, Norma Rodriguez, David Bonfanti, and Shannah Smith, on behalf of themselves  
3 and the certified classes (“Plaintiffs”), and Defendants Equity Residential, ERP Operating Limited  
4 Partnership, Equity Residential Management, LLC, EQR-Woodland Park A Limited Partnership and  
5 EQR-Woodland Park B Limited Partnership (“Defendants”) by and through their respective counsel of  
6 record, as follows:

7 WHEREAS, on October 25, 2021 the Court granted Plaintiffs’ motion to expand the certified  
8 Standard Late Fee Monetary Relief Class to include California tenants who have been charged  
9 Defendants’ standard late fee from October 23, 2017 through 75 days before trial, *see* ECF No. 315 at  
10 5:20-24;

11 WHEREAS, on July 26, 2022, the Parties submitted and the Court approved a Joint Stipulation  
12 and Proposed Order Regarding Supplementation of Class List (*see* ECF No. 364), which planned the  
13 dissemination of class notice by August 24, 2022 based on the then-scheduled trial date of November  
14 7, 2022;

15 WHEREAS, on July 28, 2022, the Court continued trial from November 7, 2022 to February  
16 27, 2023 (*see* ECF No. 365), and the date 75 days before that date is December 14, 2022;

17 WHEREAS, on August 2, 2022, given the operative Order re Class Notice (ECF 364),  
18 Defendants produced to Plaintiffs names and contact information for Standard Late Fee Class  
19 Members who were first charged the Standard Late Fee between January 1, 2022 to July 28, 2022,  
20 using the Class List query for that time period (“July 2022 Class List”);

21 WHEREAS, the Parties have further met and conferred regarding parameters for Defendants’  
22 further supplementing the Standard Late Fee Class List and Class Member data, so that “the timing and  
23 sequencing of disseminating class notice and producing the updated class-member data shall occur at  
24 the earliest possible time when further single notice prior to trial can be effectuated,” *see* ECF No. 320;

25 WHEREAS, given the time and resources involved in compiling and producing updated data,  
26 and in order that the Parties and their experts may focus their efforts on preparing for trial, the Parties  
27 agree that it would streamline trial preparation and reduce litigation costs to defer further data  
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1 supplementation until after trial, should the Court issue findings of fact and conclusions in favor of  
2 Plaintiffs;

3 WHEREAS, the Parties agree that stipulating to the timeline for production of any documents  
4 or datasets does not waive any evidentiary objections to the same datasets or documents;

5 WHEREAS, because Defendants' electronic property management system ("MRI") operates on  
6 a monthly cycle, the Parties agree that in order to ensure timely provision of notice by December 14,  
7 2022, the class list for notice distribution will be based on Defendants' class data through October 28,  
8 2022, as specified below;

9 NOW, THEREFORE, the Parties jointly stipulate and request that the Court order as follows:

10 **Standard Late Fee Class List and Class Notice**

11 1. By October 14, 2022, Defendants will prepare and send to Plaintiffs a revised version  
12 of the Class List query to identify the supplemental class members who were first charged the  
13 Standard Late Fee between July 29, 2022 to October 28, 2022 ("October 2022 Class List"). Plaintiffs  
14 will have until October 21, 2022, to review and approve or object to this query. Once the query is  
15 final and the October 2022 MRI period has closed, Defendants will run this query in MRI and produce  
16 the October 2022 Class List, including names, email addresses and forwarding mailing addresses and  
17 telephone numbers (where available) to Plaintiffs no later than November 4, 2022;

18 2. "New Class Members" means the July and October 2022 Class Lists, as well as those  
19 tenants on the December 2021 Class List who have not previously been sent class notice in this action;

20 3. Within 20 days of receipt of this list and no later than December 14, 2022, Plaintiffs'  
21 Counsel shall (1) email, via a third party administrator, a copy of the applicable Court-approved email  
22 notice to the New Class Members for whom an email address is provided; (2) mail, by U.S. mail, a  
23 copy of the applicable Court-approved postcard notice, after running the addresses through the  
24 National Change of Address Database, to the New Class Members for whom email addresses are not  
25 provided; and, (3) post the long-form notice on Class Counsel's websites. For New Class Members  
26 whose emails are returned as undeliverable, the third party administrator shall promptly send a notice  
27 by U.S. mail. Class members shall have 45 days from the date of initial notice distribution to opt out  
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1 of the monetary relief class so that the Parties have a defined class within 30 days of trial. (*See*  
2 *generally* ECF No. 91, p. 12; ECF No. 320, p. 1.)

3 **Supplementation of Standard Late Fee Class Member Data**

4 4. The Parties agree that Standard Late Fee class membership in this action cuts off as of  
5 October 28, 2022.

6 5. The Parties agree that the trial currently scheduled for February 27, 2023 will proceed  
7 based on data about class late fee charges and payments and Defendants' costs, described above, that  
8 EQR has already produced to Plaintiffs, which run through December 29, 2021.

9 6. The Parties agree that, in the event that the Court issues post-trial findings of fact and  
10 conclusions of law in Plaintiffs' favor, and those findings make it necessary to update the data, Equity  
11 will supplement class late fee charges and payment data and Defendants' cost data for the period from  
12 December 29, 2021 to a date determined by the Court, and the Parties' experts will update their  
13 calculations by incorporating the updated data in a manner consistent with the Court's findings of fact  
14 and conclusions of law.

15 7. The Parties have not agreed about the appropriate cutoff date for the supplemental data.  
16 Accordingly, the Parties agree that if the Court issues post-trial findings of fact and conclusions of law  
17 in Plaintiffs' favor, the Parties will present their competing positions on the appropriate period for  
18 which supplemental data will be produced, as well as their proposed schedule(s) for data production  
19 and updated expert calculations, to the Court for resolution.

20 **IT IS SO STIPULATED.**

21  
22 Dated: September 12, 2022

GOLDSTEIN, BORGEN, DARDARIAN & HO

23  
24 */s/ Katharine L. Fisher*

25 Katharine L. Fisher

26 Attorneys for Plaintiffs and the Certified Classes  
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1 Dated: September 9, 2022

DUANE MORRIS LLP

2  
3 /s/ Karen L. Alexander

4 Karen L. Alexander

5 Attorneys for Defendants

6 **SIGNATURE ATTESTATION**

7 I, Katharine L. Fisher, am the ECF User whose ID and Password are being used to file this  
8 Stipulation and [Proposed] Order Regarding Supplementation of Class List and Class Member Data. I  
9 attest that concurrence in the filing of this document has been obtained from the other signatory.  
10

11 Dated: September 12, 2022

/s/ Katharine L. Fisher

1 ~~PROPOSED~~ ORDER

2 PURSUANT TO STIPULATION, AND GOOD CAUSE APPEARING, THE COURT

3 APPROVES the Parties Stipulation Regarding Supplementation of Class List and Class Member Data.

4 All other pretrial and trial deadlines are unchanged.

5  
6 Dated: September 23, 2022



7 Hon. Jeffrey S. White  
8 United States District Judge