

1 **LYNCH CARPENTER, LLP**  
Todd D. Carpenter (234464)  
2 todd@lcllp.com  
James B. Drimmer (196890)  
3 Jim@lcllp.com  
1234 Camino del Mar  
4 Del Mar, CA 92014  
Tel: 619-762-1910  
5 Fax: 619-756-6991

6 **KELLER POSTMAN LLC**  
Warren Postman (330869)  
7 wdp@kellerpostman.com  
150 N. Riverside Plaza, Suite 4100  
8 Chicago, IL 60606  
Tel: 202-918-1870

9 *Attorneys for Plaintiff and Class Counsel*

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
**07/18/2023** at 11:42:00 AM  
Clerk of the Superior Court  
By Veronica Navarro, Deputy Clerk

11 **SUPERIOR COURT OF CALIFORNIA**  
12 **COUNTY OF SAN DIEGO**

13 MARION WILLIAMS, on behalf of himself  
and all others similarly situated,  
14  
15 Plaintiff,  
16 v.  
17 UDEMY, INC., a Delaware limited liability  
company, and DOES 1- 50, inclusive,  
18  
19 Defendants.

Case No. 37-2023-00003666-CU-BT-NC  
[E-FILE]  
**CLASS ACTION**  
**DECLARATION OF TODD D. CARPENTER**  
**IN SUPPORT OF PLAINTIFF'S UNOPPOSED**  
**MOTION FOR FINAL APPROVAL OF**  
**CLASS ACTION SETTLEMENT**  
Date: July 28, 2023  
Time: 1:30 p.m.  
Judge: Robert P. Dahlquist  
Dept: N-29

- 20 I, Todd D. Carpenter, declare as follows:
- 21 1. I am an attorney duly licensed to practice law before this court.
  - 22 2. I have personal knowledge of the facts set forth in this declaration and, if called as a  
23 witness, could and would competently testify with respect thereto.
  - 24 3. I submit this declaration in support of Plaintiff's Unopposed Motion for Final  
25 Approval of Class Action Settlement.
  - 26 4. I am the attorney of record for Plaintiff Marion Williams and the Settlement Class.<sup>1</sup>
  - 27

28 <sup>1</sup> All capitalized terms, unless otherwise defined, have the same definition as those terms in the Settlement Agreement and Release (ROA No. 12, at Ex. 1),

1           5.       I have personally been involved in the investigation and prosecution of this class  
2 action from its inception through to the present. I oversaw the investigation into the Defendant’s e-  
3 commerce store, Udemy.com. The process leveraged an open-source software library which is used  
4 for software test automation. An outside consultant developed an application utilizing the library  
5 that initiated a web browser, loaded the respective URLs, then inspected the content of each page,  
6 isolating product links. The application sought out each product that was on sale, recorded  
7 information about that product, and took a screenshot of the item and the entire webpage to ensure  
8 the veracity of the data. The data was collected from January 2021 and continues uninterrupted to  
9 this day.

10           6.       Class Counsel—both my firm Lynch Carpenter and the Keller Postman firm—  
11 researched and monitored decisions issued by state and federal courts addressing the issues in this  
12 Lawsuit.

13           7.       Lynch Carpenter and Keller Postman retained a prominent economic damages expert  
14 to perform multiple regression analyses using the data collected concerning Udemy’s pricing  
15 practices and the various features of the courses identified. A preliminary analysis of the data  
16 provided suggested to Class Counsel that consumers paid a price premium because of the alleged  
17 misconduct. Previous analysis on similar cases with these facts yielded damages in the range of 8%  
18 to 25% of the average purchase price. The average price of a course sold by Udemy is \$11.00 per  
19 course and thus the range of average damages under similar models would be \$0.88 to \$2.75.  
20 However, in terms of relief, Class Members will be receiving \$4.00 per Eligible Course Purchase  
21 which is relief up to and in some cases exceeding 400% of their actual damages for each course  
22 claimed.

23           8.       After filing of the Federal Court Action, Class Counsel engaged in informal  
24 discovery with counsel for Defendant with respect to the facts and law at issue. After several  
25 meaningful discussions and exchanges of data, the Parties opted to explore resolution through  
26 mediation. Thereafter, Defendant provided Class Counsel with additional information with which  
27 they were able to evaluate and analyze the prospects for Settlement. Specifically, Class Counsel  
28 were provided with information spanning the Class Period regarding the volume of Defendant’s

1 sales transactions, average purchase prices, average number of courses purchase per customer, and  
2 Class size, and the availability of Class contact information.

3 9. Prior to each of the three mediation sessions conducted in this case, Class Counsel  
4 prepared an extensive confidential mediation brief, representing the culmination of Class Counsel's  
5 pre- and post-litigation investigative work, including information related to Plaintiff's purchases,  
6 Class data from Defendant, Defendant's widespread pricing practices, and expert analysis thereof.  
7 During this time, Class Counsel worked closely with its damages expert to develop the damages  
8 model alleged against Defendant. Following settlement in principle, Class Counsel and Defense  
9 counsel drafted the substantive terms of the Settlement and Notice plan and engaged in further  
10 negotiation over the structure of the Settlement Agreement with Defendant.

11 10. On January 28, 2022, and March 18, 2022, the Parties attended two all-day  
12 mediations with JAMS Mediator, Robert A. Meyer. Despite best efforts during these two  
13 mediations, the Parties were unable to reach a final resolution on all material terms. Over the next  
14 several months, the Parties continued to negotiate in good faith and eventually agreed to a third  
15 mediation. This final mediation took place before JAMS Mediator, Shirish Gupta on December 12,  
16 2022. Prior to each of the mediation efforts, Class Counsel provided both Mediators with a  
17 confidential, detailed mediation statement that included an analysis of the evidence and relevant  
18 case law, and the respective positions of the Parties. Class Counsel also provided various damages  
19 analyses, which were developed in consultation with an economic expert and which, according to  
20 Plaintiff, supported the alleged damages sought in this case.

21 11. At the close of the third full-day session, after exchanging numerous proposals and  
22 counterproposals, the Parties had made substantial progress and, as a result of that progress and in  
23 subsequent discussions, the Parties reached a Class-wide Settlement, culminating in the Settlement  
24 Agreement currently before this Court. Each aspect of the Settlement Agreement was heavily  
25 negotiated, including, but not limited to, the value and specifications of the Class relief, the  
26 distribution of any in-kind value, and the intricacies of any proof of Eligible Course Purchase  
27 requirement for any claims made. The Parties ultimately agreed to all material terms of the  
28

1 Settlement then spent significant time negotiating, drafting, and executing the Settlement  
2 Agreement.

3 12. The Parties negotiated at arm's-length each term that eventually formed the basis of  
4 the Settlement. Each Party believed that its position was meritorious and would ultimately prevail,  
5 while each Party also recognized the uncertainty of litigation. Class Counsel recognized that, even  
6 if a judgment was obtained against Defendant at trial, the recovery to the Class might be of no  
7 greater value, and could be less valuable, than the award provided through the Settlement. Although  
8 Defendant disputed Plaintiff's allegations and denied any wrongdoing or liability, it also recognized  
9 the significant exposure it faced if it lost at trial.

10 13. With this in mind, the Parties actively engaged in arm's-length negotiations after  
11 sufficient discovery was obtained to assess the benefits and risks to each Party. These protracted  
12 negotiations over several months resulted in the preliminary-approved Settlement. Further, the  
13 material terms of the Settlement were agreed upon by the Parties with the assistance of two highly  
14 experienced, neutral mediators, Robert A. Meyer and Shirish Gupta. Accordingly, the Settlement  
15 was the result of non-collusive, arm's-length negotiation.

16 14. The Parties investigated and evaluated the factual strengths and weaknesses of this  
17 case and engaged in extensive pre-litigation investigation and informal discovery to support the  
18 Settlement. Throughout this litigation, Class Counsel engaged in sufficient discovery and  
19 investigation to evaluate the merits and risks associated with the prosecution of this matter, including  
20 engaging informal discovery, expert analysis of the pricing practices at issue, and examining  
21 documents and data produced by Defendant. Through discovery and independent research, review,  
22 and evaluation, Class Counsel was sufficiently informed of the nature of the claims and defenses  
23 and was in an ideal position to evaluate the Settlement for fairness, adequacy, and reasonableness  
24 at the time of the mediation. Class Counsel believes the Settlement is in the best interest of the Class.  
25 Class Counsel balanced the terms of the Settlement, including the proposed Settlement amount,  
26 against the risks and range of recovery at trial, as well as the risks associated with Class certification,  
27 trial, and presenting a viable damages model in connection therewith.

28

1           15.     Experienced attorneys, operating at arm’s-length, have weighed the strengths of the  
2 case and examined the issues and risks of litigation and endorse the Settlement. Class Counsel are  
3 very experienced in civil litigation and consumer class actions. Defendant’s Counsel is also very  
4 experienced in civil litigation and consumer class actions. Class Counsel are well qualified to  
5 evaluate the Class claims and to evaluate Settlement versus trial on a fully-informed basis. Counsel  
6 on both sides share the view that this Settlement is a fair and reasonable result in light of the  
7 complexities of the case, the state of the law with respect to the uncertainties of Class certification  
8 and litigation, and is a good result for the Class.

9           I declare under penalty of perjury under the laws of the State of California that the foregoing  
10 is true and correct, and that this declaration was executed on July 18, 2023, in San Diego, California.

11 Date: July 18, 2023

**LYNCH CARPENTER LLP**

12 By: */s/ Todd D. Carpenter*  
13 Todd D. Carpenter (CA 234464)  
14 1234 Camino del Mar  
15 Del Mar, California 92014  
16 Telephone: (619) 762-1900  
17 Facsimile: (619) 756-6991  
18 todd@lcllp.com.com

*Attorneys for Plaintiff and the Settlement Class*

17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28