IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

TONIA WILLIAMS and BEVERLY DANTZLER, on behalf of themselves and all others similarly situated, *Plaintiff*, v. PHH MORTGAGE CORPORATION d/b/a PHH MORTGAGE SERVICES, *Defendant*.	Civil Action No. 3:25-CV-144-FDW-SCR

PLAINTIFFS' MEMORANDUM IN SUPPORT OF MOTION FOR AN AWARD OF ATTORNEYS' FEES, EXPENSES AND SERVICE AWARDS

On February 4, 2026, the Court entered an Order Preliminarily Approving a Class Action Settlement, Certifying Classes for Purposes of Settlement, Directing Notice to the Class and Scheduling a Fairness Hearing for June 9, 2026. [DE 46]. Pursuant to the Court's Order and Section 9 of the Stipulation of Settlement and Release[1] ([DE 41-1, pp.44-46]), Plaintiffs Tonia Williams and Beverly Dantzler ("Plaintiffs") respectfully submit this memorandum in support of their Motion for an award of Attorneys' Fees, Expenses and Service Awards.[2]

I. INTRODUCTION

Class Counsel have zealously prosecuted Plaintiffs' claims. Class Counsel achieved the Settlement Agreement only after extensive litigation in four United States District Courts and

[1] Capitalized terms used herein shall have the same meaning as defined in the Stipulation of Settlement and Release ("Settlement Agreement"), unless otherwise noted.

[2]PHH reserved the right to oppose this Motion to the extent PHH deems the petition to be "unreasonable in nature or amount or otherwise objectionable." [DE 41-1, p.44 § 9.1].

prolonged arms' length negotiations. Even after reaching an agreement to settle the two respective actions here, Class Counsel worked for months to finalize the Settlement Agreement and associated exhibits pertaining to notice, preliminary approval, and final approval.

As compensation for the substantial benefit conferred upon the Settlement Class and for Class Counsel's extensive efforts, Class Counsel respectfully moves the Court for an award of just under 30% of the total settlement value, totaling $500,000.00, exclusive of costs and expenses.

Plaintiffs further request that this Court grant this motion, and in support of their request submit that: (1) the request is reasonable and appropriate in light of the substantial risks presented in further prosecuting the actions, the quality and extent of work conducted, and the stakes of the case; (2) the requested fees and costs were transparent in the notice to the class, and to date, no class member has objected; and (3) the costs incurred were reasonable and necessary for the litigation. Plaintiffs also respectfully move the Court for service awards of $5,000.00 to each Plaintiff for their work on behalf of the Settlement Class.[3]

II. FACTUAL AND PROCEDURAL BACKGROUND

a. Factual Background

Plaintiffs brought four separate actions in various states against PHH Mortgage Corporation d/b/a PHH Mortgage Services ("PHH") due to systematic use of allegedly unlawful debt collection practices based upon PHH's form notice of default letters containing false threats that PHH intended to immediately accelerate and foreclose upon their loans if they did not cure their default, when, according to Plaintiffs, PHH did not intend and legally could not accelerate and foreclose until their loans became at least 120 days delinquent. PHH denied the allegations.

[3] While Plaintiffs here move for attorneys' fees, expenses, and service awards, they will move for final approval of the settlement by separate motion, which will be filed prior to the final fairness hearing.

Plaintiffs brought claims under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §§ 1692 *et seq*., North Carolina Debt Collection Act ("NCDCA"), N.C.G.S. §§ 75-50 *et seq*.; the North Carolina Collection Agency Act ("NCCAA"), N.C.G.S. § 58-70-15 *et seq*.; and the Rosenthal Act, Cal. Civ. Code § 1788 *et seq.*; among others.

b. Procedural Background

On or about December 18, 2023, Plaintiff Beverly Dantzler filed her action in the United States District Court for the Central District of California. *Dantzler v. PHH*, Case No. 2:23-cv-10562-SRM, Dkt. 1 (C.D. Cal.). Following an amended complaint, on March 12, 2024, PHH moved to dismiss Plaintiff Dantzler's claims on March 26, 2024. *Dantzler*, No. 2:23-cv-10562-SRM, Dkt. 19. The district court granted that motion in part and denied in part. *Dantzler v. PHH Mortg. Corp.*, No. 2:23-cv-10562-SRM, 2024 WL 5379405 (C.D. Cal. Dec. 23, 2024).

Subsequently, Plaintiff Williams pursued this action against PHH on January 14, 2025, in Mecklenburg County Superior Court ([DE 1-2]). PHH removed the case to this Court, the Western District of North Carolina, Charlotte Division on February 26, 2025. ([DE 1]). Plaintiff Williams contended PHH's letters contained false threats that PHH intended to immediately accelerate and foreclose upon her loan if she did not cure her default, when PHH did not intend and legally could not accelerate and foreclose until her loan became at least 120 days delinquent. Following Plaintiff Williams amended complaint ([DE 12]), PHH moved to dismiss on April 16, 2025, ([DE 15]), arguing, among others, that the "least sophisticated consumer" could not reasonably interpret PHH's notice of default letters as a threat of imminent legal action. ([DE 16 at 6]).

On October 7, 2025, the Parties participated in a settlement conference with mediator Marty Van Tassel of Upchurch Watson White & Max, during which the Parties made substantial progress in reaching an agreement in principle, subject to final approval by PHH, on several

material terms for a class action settlement. In the weeks that followed, the Parties, assisted by Mr. Van Tassel, continued to negotiate, and ultimately reached the Settlement Agreement.

Throughout the litigation, the Parties engaged in extensive discovery in addition to appearing at in-person hearings. A summary of the litigation was included in the Declaration of Scott C. Harris. [DE 42]. The Parties recognized from the outset the possibility that different courts can reach different conclusions on the merits of the claims presented. Indeed, cases involving the notice of default letters sent by other mortgage servicers have had disparate outcomes. Conversely, the magistrate judge in a related action alleging the same conduct and asserting similar claims recommended that all claims against PHH be dismissed with prejudice. *See Alexander v. PHH Mortg. Corp*., No. 1:25-cv-01006-MHC-WEJ, 2025 WL 2094084 (N.D. Ga. Jun. 5, 2025). A District Judge in another related case also dismissed the case with prejudice. *See Polcare v. PHH Mortg. Corp*., No. 1:24-cv-639-LEK-CFH, 2025 WL 3085653 (N.D.N.Y. Sept. 30, 2025). Plaintiffs appealed both matters and both have been resolved amicably.

III. THE SETTLEMENT

a. Settlement Benefits

The Settlement Agreement establishes a Settlement Fund of $1,500,000, which, for purposes of benefits to the Settlement Class, is broken down into three $500,000.00 Settlement Funds: the FDCPA Settlement Fund, the North Carolina Settlement Fund and the California Settlement Fund. In addition to the Settlement Fund, Defendant has agreed to pay the costs of notice and administration of the Settlement up to $200,000.00. Thus, the total value of the Settlement is $1,700,000.

The Settlement Fund will be used to pay benefits to the Settlement Classes; and Service Awards, Reasonable Attorneys' Fees, and Expenses subject to Court approval. The Parties allocated the Settlement Fund to the Settlement Classes and agreed upon the release of liability and

terms of the Notice Program.

On February 4, 2026, the Court preliminarily approved the Settlement Classes defined as:

> **FDCPA Class:** All borrowers on residential mortgage loans secured by mortgaged property in the United States (1) whose mortgage loans were serviced by PHH, (2) to which PHH acquired servicing rights when such loans were 30 or more days delinquent on their loan payment obligations, and (3) to whom, according to PHH's records, one or more Notices of Default were sent between December 18, 2022 and December 15, 2025. Excluded from the FDCPA Class are (a) PHH's board members and executive level officers; and (b) the federal district and magistrate judges assigned to this Action, along with persons within the third degree of relationship to them.
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> **NC Class**: All borrowers on residential mortgage loans secured by mortgaged property in the State of North Carolina whose loans were serviced by PHH, and to whom, according to PHH's records, one or more Notices of Default were sent between January 14, 2021 and December 15, 2025. Excluded from the North Carolina class are (a) PHH's board members and executive level officers; and (b) the federal district and magistrate judges assigned to this Action, along with persons within the third degree of relationship to them..
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> **CA Class**: All borrowers on residential mortgage loans secured by mortgaged property in the State of California whose loans were serviced by PHH, and to whom, according to PHH's records, one or more Notices of Default were sent between December 18, 2022 and December 15, 2025. Excluded from the California Class are (a) PHH's board members and executive level officers; and (b) the federal district and magistrate judges assigned to this Action, along with persons within the third degree of relationship to them.

[DE 46, p.7].

Pursuant to the Settlement Agreement, Defendant will pay an aggregate of $1,500,000.00 into the Settlement Fund. In addition to the Settlement Fund, Defendant has agreed to pay the costs of notice and administration of the Settlement up to $200,000.00. After payment of the any

Attorney's Fees, Expenses and Service awards, as awarded by the Court, and subject to any Costs of Administration that exceed the $200,000 PHH has agreed to pay: all California Class Loans shall receive an equal allocation of the remaining balance of the California Settlement Fund, payable jointly to all borrowers on each such loan (approximately 20,612 loans meet this definition); all FDCPA Class Loans shall receive an equal allocation of the remaining balance of the FDCPA Settlement Fund, payable jointly to all borrowers on each such loan (approximately 77,517 loans meet this definition); all North Carolina Class Loans shall receive an equal allocation of the remaining balance of the North Carolina Settlement Fund, payable jointly to all borrowers on each such loan (approximately 7,405 loans meet this definition).

Any Class Loan that meets more than one Class Loan definition (i.e., a loan that meets both the FDCPA Class Loan and California Class Loan definitions or a loan that meets both the FDCPA Class Loan and North Carolina Class Loan definitions) shall receive an Individual Allocation from each applicable Settlement Fund. Thus, the net payments to each Settlement Class Member vary depending upon whether the Settlement Class Member is a member of the NC Class, CA Class or the FDCPA Class. Approximately 9,500 of the FDCPA Class loans are in either the CA Class or NC Class.

The FDCPA Class is nationwide and larger, but relies solely on federal relief, and is therefore inherently limited by the FDCPA's cap on statutory damages of $500,000.00 or 1% of the defendant's net worth, whichever is lower. *See* 15 U.S.C. 1692k *et seq*. Additionally, the FDCPA requires individual class members be "in default" at the time PHH began servicing their loan, creating potential additional defenses for PHH.

North Carolina's state consumer protection statute, the North Carolina Debt Collection Act, N.C.G.S. §§ 75-50 *et seq.* (the "NCDCA") and North Carolina Collection Agency Act, N.C.G.S.

§ 58-70-15 *et seq*, (NCCAA) provides victims of unfair debt collection with additional remedies under state law. Plaintiffs in North Carolina can recover between $500 - $4000 per violation. The substantially higher recovery of a certified class and at trial for the NC Class, means that the NC Class and lead case will receive substantial benefits under the Settlement Agreement.

The Settlement Fund is substantial in light of the risks and the real threat of actual, and potential, adverse rulings or a dramatic reduction in potential recovery. In sum, the Settlement reached here was hard-earned. Plaintiffs' request for an Attorneys' Fee & Expense Award and Service Award payments to Class Representatives is reasonable and reflective of the efforts and success of the case.

Following preliminary approval, the Court directed Notice to be sent to the Settlement Class Members, and the establishment of the internet website to inform Settlement Class Members of the Settlement Agreement, their rights, dates, deadlines, and related information. [DE 46, pp. 12-13]. As a part of the Court's Order, Class Counsel is required to move for an award of Attorneys' Fees, Expenses and Service Awards on April 6, 2026. [DE 46, p.19].

b. Response by Settlement Class Members

In accordance with the Preliminary Approval Order, the Settlement Administrator, disseminated Notice to the Class pursuant to the Notice Plan and setup a Settlement Website containing notice and the relevant case documents. The Court set a deadline for Settlement Class who wished to be excluded must send their request to the Settlement Administrator no later than May 5, 2026. There have been no objections. Notwithstanding, Class Counsel have fielded countless inquiries regarding the settlement. To date, no objections have been filed.

IV. LEGAL STANDARD

Rule 23(h) authorizes courts to award reasonable attorneys' fees and expenses. Fed. R. Civ.

P. 23(h). Federal courts have consistently held that when attorneys secure a settlement or judgment that creates a common fund benefiting both the named plaintiffs and the rest of the class, the attorneys are entitled to be paid from that fund for the work they did to achieve it. *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980); *See United States v. Tobias*, 935 F.2d 666, 667 (4th Cir. 1991) (explaining common fund is an "equitable exception to the "American rule" that parties bear their own costs of litigation"). The common fund doctrine vests the district court holding jurisdiction over the fund to spread the costs of litigation proportionately across all persons benefited by the suit. *Id*. The Supreme Court has "applied it in a wide range of circumstances as part of [its] inherent authority." *US Airways, Inc. v. McCutchen*, 569 U.S. 88, 104 (2013) (collecting cases).

Pursuant to that rule and the settlement agreement, Class Counsel now applies for a total fee award of just under 30% of the total settlement value, reimbursement of expenses, and Plaintiffs also request Court approval of a service award for the Settlement Class Representatives. These requests are reasonable considering the risk undertaken, the work performed and the results achieved and are consistent with similar awards approved in this Circuit. The Settlement Agreement is the product of strenuous and efficient efforts by Class Counsel through considerable litigation in a case involving complex issues of fact and law. For the reasons that follow, these requests should be approved.

a. Percentage of the Fund is Appropriate

The award of attorneys' fees is within the sound discretion of the trial judge. *Barber v. Kimbrell's, Inc.*, 577 F.2d 216, 226 (4th Cir. 1978) (further citation omitted). In a class action settlement, awards are made either under the "lodestar method, the percentage of the fund method, or a combination of both." *Hall v. Higher One Machines, Inc.*, No. 5:15-CV-670-F, 2016 U.S.

Dist. LEXIS 131009, at *20 (E.D.N.C. Sept. 26, 2016); *Phillips v. Triad Guaranty Inc.*, No. 1:09CV71, 2016 U.S. Dist. LEXIS 60950, at *5 (M.D.N.C. May 9, 2016) ("Courts either use the lodestar method, the percentage of the fund method, or a combination of both."). "As its name implies, the percentage of fund method provides that the court award attorneys' fees as a percentage of the common fund" while "lodestar method requires the court to "determine the hours reasonably expended by counsel that created, protected, or preserved the fund[] then to multiply that figure by a reasonable hourly rate." *Phillips*, 2016 WL 2636289, at * 2 (citations and quotations omitted). "The percentage method has overwhelmingly become the preferred method for calculating attorneys' fees in common fund cases." *Jones v. Dominion Res. Servs., Inc.*, 601 F. Supp. 2d 756, 758 (S.D.W. Va. 2009) (collecting cases); *Phillips*, 2016 WL 2636289, at * 2. ("[C]ourts prefer the percentage method.")

The percentage-of-the-fund method provides a strong incentive to plaintiff's counsel to obtain the maximum possible recovery in the shortest time possible under the circumstances by removing the incentive, which occurs under the lodestar method, for class counsel to "overlitigate" or "draw out" cases in an effort to increase the number of hours used to calculate their fees. *See Jones*, 601 F. Supp. 2d at 759; *see also In re Wachovia Corp. ERISA Litig.*, No. 3:09CV262, 2011 WL 7787962, at *2 (W.D.N.C. Oct. 24, 2011) (the percentage of the fund method "better aligns the interests of class counsel and class members because it ties the attorneys' award to the overall result achieved rather than the hours expended by the attorneys."); *Teague v. Bakker*, 213 F. Supp. 2d 571, 584 (W.D.N.C. 2002) ("[A]n award of attorneys' fees from a common fund depends on whether the attorneys' specific services benefited the fund—whether they tended to create, increase, protect or preserve the fund.").

Under the percentage method, the attorney fee award is calculated using the gross amount

of benefits provided to class members, including administrative costs, attorneys' fees and expenses. *See Ferris* at *2. And in federal courts in North Carolina, it is common to award the percentage-of-recovery method. *See In re Wachovia*, at *15 ("The majority of courts have endorsed the percentage method for calculating attorneys' fee awards in common fund cases"). In the Fourth Circuit, fees constituting one-third of the settlement are reasonable. *Chrismon v. Pizza*, No. 5:19-CV-155-BO, 2020 WL 3790866, at *5 (E.D.N.C. July 7, 2020) (collecting cases). To be sure, attorneys' fees in common fund cases typically reflect "around one third of the recovery."[4] Accordingly, Class Counsel's requested attorneys' fee (one-third of the settlement fund) here is typical in common fund cases.

Under either method, Class Counsel's request for an award of $500,000.00 is reasonable and should be granted because the requested fee far exceeds a lodestar calculation for the quantum of work performed. Class Counsel undertook an enormous risk in this litigation pursuing cases in four different circuits, achieved an exceptional result through their efforts and quality of work, and is in line with the stakes of this case and comparable cases in this district.

The Fourth Circuit has not required specific factors for consideration in a common fund case. There are two sets currently deployed in this Circuit, *Johnson v. Georgia Highway Express, Inc.,* 488 F.2d 714, 717–19 (5th Cir.1974) (adopted in *Barber v. Kimbrell's, Inc.*, 577 F.2d 216, 226 (4th Cir. 1978))[5] and *In re Mills Corp. Sec. Litig.*, 265 F.R.D. 246, 261 (E.D. Va. 2009). Both focus on the reasonableness of the fees and many of the factors overlap. This district has used the

[4] *See* 5 NEWBERG ON CLASS ACTIONS § 15:73 (5th ed. 2016) (noting that a "33% figure provides some anchoring for the discussion of class action awards [to counsel]" and that "many courts have stated that … fee award in class actions average around one-third of the recovery."); *accord* Theodore Eisenberg & Geoffrey Miller, *Attorney Fees in Class Action Settlements: An Empirical Study*, 1 J. OF EMPIRICAL LEGAL STUDIES, 27, 31, 33 (2004) (finding that courts consistently award 30–33% of the common fund)

[5] The *Johnson* factors are:

In re Mills factors in the past (*Lamie v. LendingTree, LLC*, No. 322CV00307FDWDCK, 2024 WL 811519, at *2 (W.D.N.C. Feb. 27, 2024)), which support the fee request here: "(1) the results obtained for the [c]lass; (2) objections by members of the [c]lass to the settlement terms and/or fees requested by counsel; (3) the quality, skill, and efficiency of the attorneys involved; (4) the complexity and duration of the litigation; (5) the risk of nonpayment; (6) public policy; and (7) awards in similar cases." *In re Mills Corp. Sec. Litig.*, 265 F.R.D. at 261.

1. Class Counsel Achieved Excellent Results

The most critical factor in determining the reasonableness of an attorney fee award is "the degree of success obtained." *McDonnell v. Miller Oil Co.*, 134 F.3d 638, 641 (4th Cir. 1998) (quoting *Hensley v. Eckerhart*, 461 U.S. 424, 436 (1983)). The results achieved and benefits conferred in this case are an incredible result, since Plaintiffs achieved the maximum benefit allowable for claims under the FDCPA. *See* 15 U.S.C. 1692k (limiting damages to $500,000.00 or 1% of the defendant's net worth, whichever is lower). Notwithstanding, the statutory remedies under the Rosenthal Act are analogous to those available under the FDCPA.

The Settlement provides real, tangible benefits and without the efforts of Plaintiffs and Class Counsel and their willingness to take on the attendant risks of litigation which would not have been available to Settlement Class Members. These benefits reflect an enormous success given the circumstances. The size of the fund and the number of persons benefitting from the

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(1) the time and labor required in the case, (2) the novelty and difficulty of the questions presented, (3) the skill required to perform the necessary legal services, (4) the preclusion of other employment by the lawyer due to acceptance of the case, (5) the customary fee for similar work, (6) the contingency of a fee, (7) the time pressures imposed in the case, (8) the award involved and the results obtained, (9) the experience, reputation, and ability of the lawyer, (10) the "undesirability" of the case, (11) the nature and length of the professional relationship between the lawyer and the client, and (12) the fee awards made in similar cases.

Settlement also weigh in favor of the reasonableness of the fees requested. The result here is all the more extraordinary in light of the very real litigation risks faced by Plaintiffs in this matter, given that class actions in general are inherently risky. The Court need look no further than the motion to dismiss filed by Defendant in this action ([DE 15-16]) here to see that the litigation risks in this case were substantial, and present at every stage of the litigation.

Plaintiff Dantzler overcame Defendant's motion to dismiss and proceeded to discovery. *Dantzler v. PHH Mortg. Corp.*, No. 2:23-cv-10562-SRM, 2024 WL 5379405 (C.D. Cal. Dec. 23, 2024). There were other cases where the Courts dismissed the claims. *See Alexander v. PHH Mortg. Corp*., No. 1:25-cv-01006-MHC-WEJ, 2025 WL 2094084 (N.D. Ga. Jun. 5, 2025); *Polcare v. PHH Mortg. Corp*., No. 1:24-cv-639-LEK-CFH, 2025 WL 3085653 (N.D.N.Y. Sept. 30, 2025). Thus, the Settlement benefits are available to Class Members immediately, rather than years from now which would be the case absent settlement. The amount at issue and the results justify the requested award.

2. Quality, Skill and Experience of the Attorneys

Proper case management and effective representation in any complex class action, particularly one with novel and unique legal issues, require the highest level of experience and skill. *Edmonds v. United States*, 658 F. Supp. 1126, 1137 (D.S.C. 1987) ("prosecution and management of a complex [] class action requires unique legal skills and abilities."). Certainly, this case was no different.

As previously stated in the Class Counsel's Declaration ([DE 42]), Class Counsel are experienced in class action prosecuting large, complex class actions, and have effectively represented numerous plaintiffs in other consumer-protection actions, class actions, and complex business cases, typically as lead or co-lead counsel. Class Counsel analyzed and developed the

various legal theories, conducted discovery, and engaged in extensive motions practice and briefs. Through this extensive work, Class Counsel were able to evaluate the strengths and weaknesses of various claims and arrive at a hard-fought but fair resolution of these matters. In sum, Class Counsel demonstrated skill and dedication in zealously litigating this matter. As a result, this factor justifies the fee request.

3. Genuine Risk of Non-Recovery

Plaintiffs and Class Counsel faced the genuine and ever-present risk of zero recovery in the case, like all cases on a contingency fee basis. *See Decohen v. Abbasi*, LLC, 299 F.R.D. 469, 482 (D. Md. 2014) ("public policy favors the requested award" where risk of non-payment exists "because the relevant public policy considerations involve the balancing of the policy goals of encouraging counsel to pursue meritorious … litigation.") (citation and internal quotations omitted); *In re Abrams & Abrams, P.A.*, 605 F.3d 238, 246 (4th Cir. 2010) ("contingency fee agreements transfer a significant portion of the risk of loss to the attorneys taking a case.").

This case is no exception to that rule. Whether PHH's relevant default letters present a false threat of acceleration and foreclosure is certainly a risk were it determined the "least sophisticated consumer" could not reasonably interpret PHH's notice of default letters as a threat. *See also Alexander v. PHH Mortg. Corp*., No. 1:25-cv-01006-MHC-WEJ, 2025 WL 2094084 (N.D. Ga. Jun. 5, 2025); *Polcare v. PHH Mortg. Corp*., No. 1:24-cv-639-LEK-CFH, 2025 WL 3085653 (N.D.N.Y. Sept. 30, 2025).

Class Counsel, who took this matter on contingency, faced numerous challenges. Courts have recognized that such risk deserves extra compensation and is a critical factor in determining the reasonableness of a fee. *See, e.g. Stocks v. Bowen*, 717 F. Supp. 397, 402 (E.D.N.C. 1989); *Gilbert LLP v. Tire Eng'g & Distribution, Ltd. Liab. Co.*, 689 F. App'x 197, 201 (4th Cir. 2017);

In re Dun & Bradstreet Credit Svcs. Cons. Lit., 130 F.R.D. 366, 373 (S.D. Ohio 1990); *Behrens v. Wometco Enters., Inc.*, 118 F.R.D. 534, 548 (S.D. Fla. 1988), *aff'd,* 889 F.2d 21 (11th Cir. 1990); *In re Cont. Ill, Sec. Lit.,* 962 F.2d 566, 569 (7th Cir. 1992).

PHH's Counsel similarly is well-respected and experienced. *See, e.g., In re Royal Ahold N.V. Securities & ERISA Litig.*, 461 F. Supp.2d at 387 (class counsel's competence in conjunction with highly qualified defense counsel weighs in favor of awarding requested attorneys' fees). Thus, the existence of these issues justifies the requested fee.

4. Fees in Similar Cases

As evidenced above, the attorneys' fee requested in this case falls well within the range of common fund attorney fee requests in this circuit and nationwide. *See Scott v. Fam. Dollar Stores, Inc.*, No. 308CV00540MOCDSC, 2018 WL 1321048, at *5 (W.D.N.C. Mar. 14, 2018) (awarding one-third of the settlement fund plus reimbursement of costs); *Kruger v. Novant Health, Inc.*, No. 1:14CV208, 2016 WL 6769066, at *2 (M.D.N.C. Sept. 29, 2016) (noting that a "one-third fee is consistent with the market rate" in ERISA class action); *Brown v. Lowe's Companies, Inc.*, No. 513CV00079RLVDSC, 2016 WL 6496447, at *3 (W.D.N.C. Nov. 1, 2016) (finding a one-third attorneys' fee reasonable in light of the results obtained, is consistent with Fourth Circuit precedent); *City Nat. Bank v. Am. Commonwealth Fin. Corp.*, 657 F. Supp. 817, 822 (W.D.N.C. 1987) (approving attorney's fee award of one-third of approximately $1.3 million class recovery); *Temp. Servs., Inc. v. Am. Int'l Grp., Inc.*, No. 3:08-CV-00271-JFA, 2012 WL 13008138, at *7 (D.S.C. July 31, 2012) ("A total fee of one-third of the class settlement for all work performed and to be performed in this case is well within the range of what is customarily awarded in settlement class actions. An award of fees in this range for work performed in the creation of a settlement fund has been held to be reasonable by many federal courts.") (citations omitted). Here, Class

Counsel's fee request amounting to one-third of the settlement fund is squarely in line with the typical amount awarded in similar cases.

5. No Objections to the Settlement or the Requested Attorneys' Fees and Service Awards.

The number of objections to a settlement provides insight into how class members view a settlement, and thereby assist the Court in deciding the reasonableness of the requested attorneys' fee award. As of the date of this filing, neither Plaintiffs' Counsel, nor the Settlement Administrator has received an objection to the settlement or the request for attorneys' fees. Accordingly, Class Counsel's fee request enjoys unanimous support from the Settlement Class Members.

6. The Fee Request Satisfies a Lodestar Crosscheck

As discussed earlier, the repeated approach for courts in the Fourth Circuit is to award attorneys' fees in class action settlements based on a percentage from the common fund. Some courts take a further step to ensure that the percentage method results in a reasonable attorneys' fee by performing a lodestar crosscheck. *Ferris* at *3; *In re Wachovia Corp*. at *3.

A lodestar crosscheck requires two steps. First, the court multiplies the total hours by the attorneys' hourly fee to arrive at a base fee amount. However, "[w]hen the lodestar method is used only as a cross-check, the 'exhaustive scrutiny' normally required by that method is not necessary." *Decohen*, 299 F.R.D. at 483. Courts "may accept as reasonable class counsel's estimate of the hours they have spent working on the case." *Id*. at 482-83; *see also Jones v. Dominion Res. Servs.*, 601 F. Supp. 2d 756 (S.D.W. Va. 2009) (same).

Class Counsel has spent a total of 983 hours litigating these cases. BHSD alone spent over 700 hours. In *Kruger v. Novant Health, Inc.,* No. 1:14CV208, 2016 U.S. Dist. LEXIS 193107, at *12 (M.D.N.C. Sep. 29, 2016), the Court noted that a "reasonable hourly rate" means the fee is "based on the current market or by using the historical fee rate with reasonable interest added." *Id.*

(citation omitted). In *Kruger,* the court found that reasonable national rates applied, which in 2016 ranged from $998/hour for attorneys with 25 years of experience or more down to $190/hour for legal assistants. *Id.* (citation omitted). Current national rates, measured by the Laffey Matrix, reflect higher rates from $508 to $1,227 for attorneys depending on years of experience.[6]

The lodestar based on rates in the relevant community and approved by North Carolina Courts. *See e.g.* in *Stewart v. Greensboro College, Inc.*, 24CVS004980-400, ECF No. 65 NCBC (May 7, 2025) (approving Partner and Senior Counsel rates from $600-750, Senior Associate $450, Associate $376, and Paralegal at $239) *Phillips v. Triad Guaranty Inc.*, 2016 WL 2636289, at * 2 (M.D.N.C. May 9, 2016) (approving partner rates of $640 to $880 per hour and associate hours from $375 to $550 per hour); *Rush v. The NRP Group LLC,* et al., No. 1:18CV886, 2020 WL 4559002, at *3 (M.D.N.C. Feb. 27, 2020); *Rowland v. Mid-Am. Apartments, LP*, No. 1:18CV43 (M.D.N.C. Aug. 11, 2020); *Linnins v. HAECO Ams., Inc.*, 2018 U.S. Dist. LEXIS 183839, *6-8 (M.D.N.C. Oct. 26, 2018) (approving attorney's fee award representing partner rates of $650 and $700 per hour); *McCoy v. North State Aviation, LLC*, No. 1:17-CV-346, Order (M.D.N.C. June 15, 2018) (using as a cross-check class counsel's hourly rates of $600 to $700 per hour for partners and calculating the lodestar multiplier as approximately 1.2); *Rehberg v. Flowers Baking Co. of Jamestown, LLC*, No. 3:12-CV-596-MOC-DSC, Final Order (W.D.N.C. June 30, 2017) (approving fees for attorneys using hourly rates ranging from $590 to $975 based on experience).

As of the date of this filing, BHSD's lodestar based on the usual and customary hourly rates charged for our services nationwide in contingent billable matters is $366,679.20. This is based on Partner rates at $700, associate rates at $500, and paralegal rate at $277. As of the date

[6] The Laffey Matrix was designed as an equitable way to determine hourly rates in the Baltimore-Washington, DC area but have been adopted by various courts. *See* http://www.laffeymatrix.com/index.htm.

of this filing, Maginnis Howard's lodestar based on the usual and customary hourly rates charged for services nationwide in contingent billable matters is $184,391.67. This is based on Managing Partner rates at $700, Partner rates at $625, associate rates at $500, and paralegal rates at $225.

Collectively, Class Counsel report a lodestar of $551,070.87, Settlement Fund ($500,000.00) fee request.

Considering "[c]ourts have generally held that lodestar multipliers falling between 2 and 4.5 demonstrate a reasonable attorney's fee[,]" a lodestar that exceeds the fee requested, with zero or a negative multiplier, is objectively reasonable. *Decohen*, 299 F.R.D. at 483. Due care was exercised by Class Counsel to avoid excessive, duplicative, and unnecessary work by effectively communicating and splitting up tasks. However, this was a complex action due to the multiple district court proceedings. Accordingly, both the number of hours worked and the rates charged are reasonable.

b. Class Counsel's Expenses are Reasonable

Federal Rule of Civil Procedure 23(h) allows a court approving a class settlement to "award Reasonable ... nontaxable costs that are authorized by law or by the parties' agreement." Accordingly, courts in the Fourth Circuit allow plaintiffs to recover "reasonable litigation-related expenses as part of their overall award." *Decohen*, 299 F.R.D. at 483 (citation omitted). Recoverable costs may include "those reasonable out-of-pocket expenses incurred by the attorney which are normally charged to a fee-paying client, in the course of providing legal services." *Spell v. McDaniel,* 852 F.2d 762, 771 (4th Cir. 1988). "Litigation expenses such as supplemental secretarial costs, copying, telephone costs and necessary travel are integrally related to the work of the attorney and the services for which outlays are made may play a significant role in the ultimate success of litigation…." *Daly v. Hill*, 790 F.2d 1071, 1083 (4th Cir. 1986).

Class Counsel requests that the Court reimburse $8,003.82 in reasonable expenses and costs incurred in the prosecution of this litigation. These expenses and costs were incurred in the prosecution of Plaintiffs' case and in protecting the interests of the putative class, and include filing fees, mediation fees and other costs. Class Counsel's request for costs and expenses should be approved as fair and reasonable given that counsel has a strong incentive to keep costs and expenses at a reasonable level due to the high risk of no recovery when the fee is contingent.

c. The Requested Service Awards are Reasonable

Service awards are "routinely approved" in class actions to "encourage socially beneficial litigation by compensating named plaintiff for their expenses on travel and other incidental costs, as well as their personal time spent advancing the litigation on behalf of the class and for any personal risk they undertook." *Kay Co. v. Equitable Prod. Co.*, 749 F. Supp. 2d 455, 472 (S.D.W. Va. 2010); *Berry v. Schulman*, 807 F.3d 600, 613 (4th Cir. 2015) (Service awards compensate the class representative for work done on behalf of the class and make up for financial risk undertaken in bringing the action). Serving as a class representative "is a burdensome task and it is true that without class representatives, the entire class would receive nothing." *Id*. at 473; *See also Cook v. Niedert*, 142 F.3d 1004, 1016 (7th Cir. 1998).

Defendant agreed not to object to a service award for Plaintiffs in the amount of $5,000 each ($10,000 total) in recognition of the time and effort personally invested in the case. The requested service award is reasonable, commensurate with their efforts in the litigation, and is within the scope of awards granted in this circuit. *See In re: Lumber Liquidators Chinese-Manufactured Flooring Prods. Mktg. In re: Lumber Liquidators Chinese-Manufactured Flooring Durability Mktg.*, No. 115MD2627AJTTRJ, 2020 WL 5757504, at *3 (E.D. Va. Sept. 4, 2020) (granting service award of $5,000), *aff'd sub nom. In re Lumber Liquidators Chinese-*

Manufactured Flooring Prods. Mktg., Sales Pracs. & Prods. Liab. Litig., 27 F.4th 291 (4th Cir. 2022); *In re Wachovia Corp.* at *7 (same); *Jones*, 601 F. Supp. 2d at 768 (S.D.W. Va. 2009) (awarding $15,000)*; Manuel v. Wells Fargo Bank, Nat'l Ass'n*, No. 3:14cv238 (DJN), 2016 U.S. Dist. LEXIS 33708, at *17 n.3 (E.D. Va. Mar. 15, 2016) ("Various studies have found that the average incentive award per plaintiff ranged from $9,355 to $15,992." citing Newberg on Class Actions § 17.8 (5th ed.)). The requested service awards are reasonable and should be granted.

V. CONCLUSION

For the reasons above, Plaintiffs request that, as part of final approval of the Settlement, the Court grant Plaintiffs' Motion for Attorneys' Fees, Expenses, and Service Award.

Dated: April 6, 2026

BRYSON HARRIS
SUCIU & DEMAY, PLLC

/s/ Scott C. Harris
Scott C. Harris, N.C. Bar No.: 35328
900 W. Morgan Street
Raleigh, North Carolina 27603
Telephone: (919) 600-5000
Facsimile: (919) 600-5035
sharris@brysonpllc.com

MAGINNIS HOWARD

Edward H. Maginnis, N.C. Bar No. 39317
Karl S. Gwaltney, N.C. Bar No. 45118
7706 Six Forks Road, Suite 101
Raleigh, North Carolina 27615
Telephone: 919-526-0450
Fax: 919-882-8763
emaginnis@carolinalaw.com
kgwaltney@carolinalaw.com

Attorneys for Plaintiffs and the Classes

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing document was filed electronically with the clerk of court via CM/ECF which provided notice to all parties through their counsel of record.

This the 6th day of April, 2026.

/s/ Scott C. Harris
Scott C. Harris