

COURT OF COMMON PLEAS
LICKING COUNTY, OHIO
GENERAL DIVISION

CLERK COMMON
PLEAS COURT
LICKING CO. OHIO

2025 JUN 20 PM 2:23

OLIVIA C. PARSONSON
CLERK

GEORGIA CAROL WORKMAN,
individually and on behalf of all others
similarly situated,

Plaintiff,

Case No. 22-CV-01217

v.

Judge W. David Branstool

PARK NATIONAL BANK,

Defendant.

STATE OF OHIO,

COUNTY OF DELAWARE, SS:

AFFIDAVIT OF MARK H. TROUTMAN
IN SUPPORT OF PLAINTIFF'S UNOPPOSED MOTION
FOR ATTORNEYS' FEES, COSTS, AND SERVICE AWARD

Mark Hayden Troutman, having been first duly sworn, deposes and says:

1. I am counsel of record for Plaintiff and the proposed Class in the above captioned matter. I submit this affidavit in support of Plaintiff's Unopposed Motion for Attorneys' Fees, Costs, and Service Award. Unless otherwise noted, I have personal knowledge of the facts set forth in this declaration and could and would testify competently to them if called upon to do so.

2. The Settlement in this action provides meaningful relief to Settlement Class Members and was made possible only by Class Counsel's extensive experience in class action litigation in general and in litigation against financial institutions in particular, in addition to Named Plaintiff's integral assistance.

3. Class Counsel have emerged as leaders in nationwide litigation against financial institutions over the assessment of improper fees. Class Counsel also have extensive experience in a wide range of consumer protection litigation in Ohio and around the country.

4. Specifically, Class Counsel has an extensive background in litigating complex litigation and consumer class actions (including numerous bank fee cases such as this one) and has been appointed class counsel in prior and similar cases.

6. Named Plaintiff and Class Counsel have adequately and vigorously represented the Settlement Class throughout the litigation, which involved significant written discovery and multiple settlement negotiations with the assistance of a third-party neutral mediator.

7. Further, this case involved a lengthy, independent investigation of the claims of Named Plaintiff, as well as the potential claims of other Settlement Class Members, in order to properly weigh the pros and cons of continued litigation versus the proposed settlement of all claims.

8. The entire settlement process was negotiated in good faith and at arm's-length by highly knowledgeable counsel experienced in complex class action litigation, including consumer disputes involving banking fee claims.

9. The Court should award Class Counsel's requested attorneys' fees of 33.33% of the value of the settlement because it is well within the range of reasonable attorney fees awarded in common fund class action settlements. Not only is this percentage customary, it is also supported by additional considerations, such as the risks Class Counsel undertook in pursuing this complex action on a contingency basis, the significant result achieved for the Settlement Class, the time and effort expended by Class Counsel, and the standard one-third amount that is routinely awarded in this type of banking fee litigation across the country, including by Class Counsel.

10. This case faced potential obstacles at all junctures that could have resulted in no recovery at all for the Settlement Class, including losing the motions to dismiss; losing class certification; losing summary judgment; losing at trial; or losing on appeal at either class certification or after a successful trial. Additionally, the risk of protracted litigation would likely reduce the amount of the benefit ultimately obtained due to years of delay and increased cost of litigation. Notwithstanding these hurdles, Class Counsel took this case on a pure contingency fee basis, devoted significant time and resources, and chose to forego pursuing other cases as sources of income in the face of assuming the significant risk of nonpayment.

11. Hundreds of hours have been expended by Class Counsel thus far in the prosecution of this action, from investigating Defendant's fee practices and gathering evidence in support of the claims resolved by the Settlement; interviewing potential clients; drafting multiple complaints; litigating contentious motion practice; drafting written discovery requests; preparing for and attending multiple mediations, including researching and drafting mediation statements; engaging an expert to review Defendant's account-level transaction data and analyze potential damages; negotiating and drafting the Agreement with Defendant's counsel; moving for and obtaining preliminary approval; consulting and overseeing the Settlement Administrator's efforts to provide notice to the Settlement Class; and preparing the motion for attorneys' fees, costs, and service awards.

12. It is anticipated that Class Counsel will expend additional time and resources in moving for and securing final approval and final judgment, as well as ensuring the successful administration of the Settlement by working with the Settlement Administrator after final approval. Class Counsel endeavored to take this case on a pure contingency fee basis, devoted significant

time and resources, and chose to forgo pursuing other cases as sources of income in the face of assuming the significant risk of nonpayment.

13. Class Counsel have national reputations for their acquired skill in complex class action litigation, and particularly, in the context of banking fee litigation.

14. Class Counsel regularly receives a one-third or higher fee from common fund settlements involving similar banking fee claims in state and federal courts throughout the nation.

15. Review of the time and billing records of Gibbs Mura LLP as of June 16, 2025, indicate that the firm has at least 289.60 hours of billable time in this case totaling \$225,456.50 in attorneys' fees. These figures do not include the time and fees associated with drafting the motion for attorneys' fees, costs, and service award or the additional work that will necessarily be performed in obtaining and effectuating final approval and oversight of the administration of the settlement. These figures also do not include Kaliel Gold's time and fees. Kaliel Gold has expended 94.1 hours of billable time in this case totaling \$78,583.30 in attorneys' fees. As of June 16, 2025, the combined time and attorneys' fees of Class Counsel are 383.70 hours and \$304,039.80 in fees.

16. In this case, Class Counsel advanced various necessary expenses, totaling \$21,010.42. These expenses included filing fees, expert fees, and mediation fees.

17. Named Plaintiff's efforts and involvement have benefited the Settlement Class as a whole, as she regularly consulted with Class Counsel, provided documents and information, reviewed pleadings, prepared for and sat for her deposition, and participated in the settlement process.

18. The Settlement Administrator has provided an estimate of its cost to administer the settlement, which totals \$59,917.00, which is in line with Class Counsel's experience for this type of settlement.

FURTHER AFFIANT SAYETH NOT.

Mark H. Troutman

Mark H. Troutman (0076390)

GIBBS MURALLP

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Sworn to before me and subscribed in my presence this 20th day of June 2025.



Adam Miller

(Printed Name)

Adam Miller

(Signature of Notary Public)

Notary Public, State of Ohio

My Commission Expires: 8-17-25

**COURT OF COMMON PLEAS
LICKING COUNTY, OHIO
GENERAL DIVISION**

CLERK COMMON
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2025 JUN 20 PM 2: 22
OLIVIA C. PARKINSON
CLERK

GEORGIA CAROL WORKMAN,
individually and on behalf of all others
similarly situated,

Plaintiff,

Case No. 22-CV-01217

v.

Judge W. David Branstool

PARK NATIONAL BANK,

Defendant.

**PLAINTIFF'S UNOPPOSED MOTION
FOR ATTORNEYS' FEES, COSTS, AND SERVICE AWARD**

Plaintiff Georgia Carol Workman ("Named Plaintiff" and "Class Representative"),
individually and on behalf of the provisionally certified Class, by and through Class Counsel, moves
the Court for an order:

- (1) Awarding Class Counsel \$169,999.93 in fees;
- (2) Awarding Class Counsel \$21,010.42 in costs and the Settlement
Administrator \$59,917.00 for its costs in administering the Settlement; and
- (3) Awarding a service award to Named Plaintiff of \$5,000.00 in addition to the
Individual Payment from the Settlement Fund to which she is entitled.

This Motion is based on the attached Memorandum in Support, the Troutman affidavit, the
papers and pleadings on file with the Court, and on such other evidence, information, or material
as may be presented to the Court.

Defendant Park National Bank has agreed not to oppose the awards requested herein.

A copy of the proposed order granting this Motion is being concurrently filed herewith.

/s/ Shawn K. Judge

Shawn K. Judge (0069493)

Mark H. Troutman (0076390)

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*Attorneys for Named Plaintiff and the Provisionally
Certified Class*

MEMORANDUM IN SUPPORT

Plaintiff Georgia Carol Workman (“Named Plaintiff”) respectfully requests that the Court approve an award of \$169,999.93 in attorneys’ fees to Class Counsel, an award of \$21,010.42 in reimbursement of litigation costs to Class Counsel, an award of \$59,917.00 in settlement administration costs to the Settlement Administrator, and a Service Award of \$5,000.00 to Named Plaintiff. These awards are to be paid from the \$510,000.00 Settlement Fund established by Defendant Park National Bank (“Defendant,” “Park National,” or “the bank”) in connection with the class action Settlement Agreement and Release¹ entered into by the Parties that was preliminarily approved by the Court on February 24, 2025. Defendant has agreed not to oppose these awards as requested herein.

Class Counsel is entitled to reasonable compensation for the work performed and the costs incurred in prosecuting this case. After litigating the case since November 2022, the Parties—with the assistance of a mediator—reached an agreement to settle the matter on a class-wide basis. Defendant agreed to return to Class Members their share of the \$510,000.00 Settlement Fund that they incurred in improper APPSN Fees based upon a plan of allocation that fairly and adequately accounts for the value of each Class Member’s individual claim. In addition, Defendant agreed not to pursue an estimated \$75,000.00 in Charge-Offs. This dual-pronged Settlement provides a significant financial benefit for the Settlement Class without absent Class Members having to expend any time or effort to participate.

Such a result could not have been achieved without Named Plaintiff’s efforts. In prosecuting this action, Named Plaintiff expended her time and effort and took significant financial and

¹ All capitalized terms used throughout this Motion have the same meanings as those found in the Settlement Agreement and Release (the “Agreement”).

reputational risks for the benefit of the Settlement Class; this imposed a financial burden on Named Plaintiff out of proportion to her individual stake in the matter. As such, Named Plaintiff should be awarded a service award to compensate her for her work in bringing the case and facing the attendant risks associated with serving as Class Representative.

Based on the work that Class Counsel did in order to obtain the outcome for the Settlement Class, the requested attorney fee award represents just one-third of the value of the Settlement. The amount of this award is reasonable, and its percentage is routinely approved by Ohio courts and courts across the nation in similar complex banking fee class action settlements. Accordingly, Named Plaintiff respectfully requests that the Court grant the unopposed motion for attorneys' fees, costs, and service award.

BACKGROUND

I. CLASS COUNSEL'S INVESTIGATION

Prior to the filing of this lawsuit, Class Counsel spent many hours investigating the claims of several potential plaintiffs, including interviewing Named Plaintiff to gather information about Defendant's conduct and its impact on consumers. This investigation was essential to Class Counsel's ability to understand the nature of Defendant's conduct, the language of the relevant account agreements and other documents at issue, and potential claims and remedies. Through its independent investigation, Class Counsel expended significant resources researching and developing the legal claims at issue.

Indeed, Class Counsel is particularly familiar with the instant claims through their extensive history of litigating and resolving other banking fee claims with similar factual and legal issues to the case at bar. Class Counsel has experience in understanding the damages at issue, what information is critical in determining class membership, and what data is necessary to calculate

each Class Member's respective damages. Class Counsel, along with its expert, spent a significant amount of time analyzing preliminary data regarding Park National's fee revenue related to the assessment of APPSN Fees at issue.

Defendant similarly conducted a review and analyzed its data accordingly. This data and analysis evaluating potential damages at issue was used in preparation for the Parties' mediation and to further drive the viability of resolution.

II. PROCEDURAL HISTORY

On November 2, 2022, Named Plaintiff filed a class action complaint in this Court, Licking County Common Pleas Court, Case No. 2022 CV 01217, asserting claims against Defendant for breach of contract, including breach of the covenant of good faith and fair dealing, and unjust enrichment based on Defendant's alleged practices of assessing overdraft fees ("OD Fees") in connection with debit card transactions that were authorized with a positive account balance, but purportedly settled with a negative account balance (the "APPSN Claims" or "the claims"). The Parties proceeded to litigate the claims, including Defendant's filing a motion to dismiss that the Court denied on March 7, 2023.

A period of discovery followed, including preliminary settlement talks. On July 2, 2024, the Parties participated in an arms-length mediation with the assistance of mediator Craig Woods of Woods Law & Dispute Resolution, LLC. After a day-long mediation, the Parties reached an impasse and requested that the mediator make a mediator's proposal. On July 3, 2024, the mediator proposed settlement terms that the Parties accepted, resulting in the Agreement.

After nearly three years of litigation, including motions practice, written discovery deposition, and mediation, Named Plaintiff and her Counsel have achieved exceptional results for Class Members: Defendant agreed to a settlement valued at \$585,000.00, which is comprised of

\$510,000.00 in cash and an estimated \$75,000.00 in Charge-Offs for the provisionally certified Class of all Account holders who were charged one or more APPSN Fees during the Settlement Class Period. The Parties memorialized the Settlement in the Agreement, which will resolve all claims against Defendant in this action.

On February 3, 2025, Named Plaintiff filed an unopposed motion seeking preliminary approval of the class action Settlement. In its February 24, 2025 Order, the Court granted such preliminary approval, finding that the terms of the proposed Settlement are fair, adequate, and reasonable under the law and that they provided substantial relief for the Class. That same order appointed Named Plaintiff as Class Representative, appointed Class Counsel for the provisionally certified Class, approved Epiq as the Settlement Administrator, and approved the proposed Notice plan. The Order also established the Bar Date to Opt Out of/Bar Date to Object to the Settlement and set forth the remainder of the case schedule, including the June 20, 2025 deadline for filing the instant motion and the September 5, 2025 Final Approval Hearing Date.

In sum, the pre-filing investigation and the procedural history of the litigation illustrates that Class Counsel spent significant time conferring with Named Plaintiff, investigating facts, researching the law, preparing multiple well-pleaded complaints, engaging in discovery and ongoing meet and confer efforts, working with expert witnesses, and reviewing important documents and data. Class Counsel's extensive efforts resulted in the provisionally approved Settlement.

III. SUMMARY OF KEY SETTLEMENT TERMS

The Agreement, which completely resolves all claims in the action, sets forth the following Class, which the Court has previously provisionally certified:

All Account holders who were charged one or more APPSN Fees during the Settlement Class Period

Agreement, ¶ 65. Note that “APPSN Fees” means any overdraft fee assessed to an Account for a debit card transaction that was authorized with a positive account balance and settled with a negative account balance. *Id.* ¶ 13. “Settlement Class Period” means November 1, 2016, through the Preliminary Approval Date. *Id.* ¶ 12. Excluded from the Settlement Class is Defendant, its parents, subsidiaries, affiliates, officers and directors, all Settlement Class Members who make a timely election to be excluded, and all judges and judicial staff assigned to this litigation and their immediate family members. *Id.* ¶ 54.

Defendant has agreed to pay \$510,000.00 in cash and not to pursue an estimated \$75,000.00 in Charge-Offs for the benefit of Class Members. Agreement ¶¶ 53, 68, 78. This cash amount will be used to pay: (a) Class Members their respective Individual Payments; (b) any Court-awarded reasonable attorneys’ fees and costs for Class Counsel; (c) any Court-awarded Service Award for Named Plaintiff for her role as Class Representative; (d) costs associated with Class Notice; (e) settlement administration costs, including any fees paid to the Settlement Administrator; and (f) taxes. Agreement ¶ 78. If any residual funds remain after the distribution of Class Members’ Individual Payments, then to be distributed to the *cy pres* recipient. *Id.* ¶ 85(n).

Importantly, Class Members need not affirmatively do anything to receive relief under the Settlement. Rather, Individual Payments shall automatically issue within 60 days after the Effective Date. *Id.* ¶ 85(i).

ARGUMENT

Pursuant to the Agreement, Class Counsel is entitled to request, and Defendant will not oppose, attorneys’ fees of up to one-third (33 1/3%) of the value of the Settlement, plus reimbursement of reasonable litigation costs incurred in connection with the action. Agreement ¶ 86(b). Attorneys’ fees and costs will be paid out of the Settlement Fund. The Parties reached an

agreement regarding Defendant's non-opposition to Class Counsel's request for attorneys' fees and costs only after the Parties agreed to the material terms of the Settlement. Such an award is subject to the Court's final approval and will serve to compensate the time, risk, and expense Class Counsel incurred in pursuing claims for the benefit of the Class.

In addition to attorneys' fees and costs, the Agreement provides that Class Counsel will seek a Service Award of up to \$5,000.00 for the Named Plaintiff for her role in the case serving as Class Representative. Agreement, ¶ 86(b). The Service Award will be paid from the Settlement Fund and will be in addition to the Individual Payment that Named Plaintiff will be entitled to receive under the Settlement. *Id.* Notably, Defendant also does not object to Class Counsel's request for the Service Award. *Id.*

I. CLASS COUNSEL'S REQUESTED ATTORNEYS' FEES IN THE AMOUNT OF ONE-THIRD OF THE VALUE OF THE SETTLEMENT ARE REASONABLE AND SHOULD BE APPROVED

A. The Court Should Apply the Percentage-of-The-Common Fund Method

Class Counsel are requesting a fee award based upon a percentage of the value of the Settlement and payable from the common fund the Agreement establishes. The United States Supreme Court has long recognized that under the "common fund doctrine," a lawyer who achieves a settlement for the benefit of a class is entitled to be compensated for his or her efforts from the common fund created by the settlement. *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980). Ohio has similarly adopted the "common fund doctrine" as a source of awarding attorneys' fees in class action cases, with one court explaining that "in common fund cases, the class attorneys are entitled to payment *by the class members* from the fund based on the entire amount of the fund, not just the claimed amount." *Wilken v. Wachovia Bank of Delaware, N.A.*, 2013-Ohio-2132, ¶ 24 (6th Dist.), citing *Boeing*, 444 U.S. 472. Notably, Ohio courts do not use the actual amount claimed or

distributed to a class, but focus on the total potential benefit conferred on the class; thus, “it is common in class action lawsuits to determine the attorneys’ fees based on the entire amount of the fund, not merely the claimed amount.” *Wilken*, 2013-Ohio-2132, ¶ 10.

Here, the Settlement presents a common fund that constitutes a defined recovery from Park National, which has agreed to fund \$510,000.00 from which Class Members are entitled to individual payments and from which Class Counsel’s fees can be paid. These characteristics meet Ohio’s most basic requirements for application of a fee award paid from a common fund and based on the value of a settlement. *See Wilken*, 2013-Ohio-2132, ¶ 26.

B. Class Counsel’s Requested One-Third Percentage is Reasonable

Ohio courts consider Prof.Cond.R. 1.5 and the following analogous factors set forth in case law in determining whether requested attorneys’ fees in a class action settlement are reasonable:

(1) the value of the benefit rendered to the plaintiff class; (2) the value of the services on an hourly basis; (3) whether the services were undertaken on a contingent fee basis; (4) society’s stake in rewarding attorneys who produce such benefits in order to maintain an incentive to others; (5) the complexity of the litigation; and (6) the professional skill and standing of counsel involved on both sides.

Wilken, 2013-Ohio-2132, ¶ 28, quoting *Moulton v. United States Steel Corp.*, 581 F.3d 344, 352 (6th Cir. 2009). *See also State ex rel. Montrie Nursing Home, Inc. v. Creasy*, 5 Ohio St.3d 124, 128 (1983) (identifying factors). Each of these factors supports the requested fee award of 33.33%.

1. Value of the Settlement

The value of the Settlement to the Class is \$585,000.00, in addition to the uncalculated benefit derived from the agreed-upon Prospective Relief. Under the Agreement, “Defendant shall no longer assess APPSN Fees (the ‘Prospective Relief’).” Agreement, ¶ 90. The combined benefit of the Settlement and Prospective Relief to the Class is substantial. Defendant has agreed to make a significant Settlement payment by establishing a Settlement Fund of \$510,000.00, in addition to

not pursuing \$75,000.00 in Charge-Offs. From the cash fund, Settlement Class Members will receive a direct Settlement benefit in the form of either a credit to current Park National account holders' accounts or a check to former accountholders. This benefit is automatic, as Settlement Class Members neither need to submit a claim nor provide proof of damages or any supporting documentation. The benefit conferred represents a substantial percentage of the Settlement Class's estimated potential damages. Thus, the results achieved weigh in favor of granting the requested fee award.

2. Value of Services

The value of the services on an hourly basis also supports the requested award. For example, Gibbs Mura LLP has over \$225,456.50 in billable time invested in this litigation. *See* Affidavit of Mark H. Troutman in Support of Plaintiff's Unopposed Motion for Award of Attorneys' Fees, Costs, and Service Award ("Troutman Aff."), ¶ 15 (attached as Exhibit 1). This alone exceeds the requested fee award of \$169,999.93, and when coupled with Kaliel Gold's time (94.1 billable hours) and fees (\$78,583.30) means that Class Counsel's fee request is both reasonable and well below their standard rates. *Id.*

This matters because Ohio courts have often applied a lodestar approach (reasonable hours times reasonable rate) in determining an award of attorneys' fees. *See Phoenix Lighting Group, L.L.C. v. Genlyte Thomas Group, L.L.C.*, 2020-Ohio-1056, ¶ 1. Given the numbers involved, assessment of the fee requested on a lodestar basis or by a lodestar cross-check here invariably would support the \$169,999.93 award. This is because a lodestar analysis would result in a *higher* fee amount (\$304,039.80) than *the lesser amount actually requested* under the percentage approach. Given the strong presumption that a lodestar is the proper amount for an attorneys' fee award,

Phoenix Lighting Group, ¶ 19, the sub-lodestar request of \$169,999.93 is well within the bounds of a reasonable award.

3. Contingency Fee Basis

The services here were undertaken on a contingency fee basis, with Class Counsel risking no recovery and bearing no revenue from this case for years. Class Counsel nonetheless undertook this case on a pure contingency fee basis, devoting significant time and resources and choosing to forgo pursuing other cases as sources of income in the face of assuming the significant risk of nonpayment. *See Troutman Aff.*, ¶ 10. Class Counsel's commitment to prosecute the action notwithstanding the real financial risk presented warrants reasonable compensation.

4. Societal Interest

Awarding the requested fee would support and honor society's stake in rewarding attorneys who produce benefits such as those realized in this case. One Ohio court has aptly described the societal interest in awarding contingency fees:

Contingency fee agreements serve an important function in American life. Such agreements permit persons of ordinary means access to a legal system which can sometimes demand extraordinary expense. *Central Trust Co. v. Warburg* (1995), 104 Ohio App.3d 186, 190. The mechanism by which this is accomplished is a contract between client and attorney whereby some or all of the risk involved in litigation is shifted to the attorney. The *quid pro quo* for relieving the client of this risk is that the agreement normally calls for the attorney to receive a percentage of any possible recovery. This would result, generally, in a somewhat greater compensation than the attorney might ordinarily receive. To be sure, the contingency percentage is an arbitrary figure but, like liquidated damages in other contracts, is proper because it is a bargained for result.

(Footnote omitted.) *Landis v. Grange Mut. Ins. Co.*, 1997 WL 77546, at *5 (6th Dist. Feb. 21, 1997), *aff'd*, 1998-Ohio-387, 82 Ohio St.3d 339. Even the reduced fee requested would maintain an incentive to Class Counsel and others to continue prosecuting such cases and providing the societal benefit realized.

5. Complexity of the Litigation

The complexity of the litigation supports the requested award. This case involves complexities of bank processing law that are novel, difficult, and ever evolving. To illustrate, to Class Counsel's knowledge, no similar APPSN Fee claims have proceeded to trial. This means that there is no model for Named Plaintiff's case and therefore, unforeseen pitfalls could easily derail the Settlement Class's claims should they proceed through the rigors of litigation. To even be able to identify the alleged inappropriate fees requires specialized knowledge by both experts and experienced complex litigation attorneys, as do the theories surrounding the alleged fees, not to mention the specialized knowledge of the class action procedure required to achieve certification, let alone settlement. These considerations support granting the requested fee.

In addition, the risk of continued litigation was high. This case faced potential obstacles at all junctures that could have resulted in no recovery at all for the Settlement Class, including losing the motions to dismiss; losing class certification; losing summary judgment; losing at trial; or losing on appeal at either class certification or after a successful trial. Additionally, the risk of protracted litigation would likely reduce the amount of the benefit ultimately obtained due to years of delay and increased cost of litigation.

6. Professional Skill and Standing of Counsel

The professional skill and standing of counsel involved on both sides supports the requested fee award. As noted in the preliminary approval briefing and the firm resume exhibits accompanying that material—which are incorporated herein by reference—Class Counsel are exceptionally qualified to represent the Settlement Class. They have extensive experience in prosecuting bank fee cases, having certified settlement classes in numerous cases across the country in both state and federal courts.

Similarly, opposing counsel are experienced counsel who belong to an international law firm with over 1,500 practicing lawyers that promotes itself as “one of the strongest and most diverse law firms in the world.” www.squirepattonboggs.com/en (website last accessed June 16, 2025, at 5:48 p.m.). Attorney Traci Martinez is the managing partner of Squire’s Columbus, Ohio office, and “is a nationally recognized trial lawyer.” www.squirepattonboggs.com/en/professionals/m/martinez-traci-l (website last accessed June 16, 2025, at 5:53 p.m.). Attorney Joseph D’Andrea is a partner at Squire who “represents employers in a full range of employment matters, * * * defends clients in class action matters, [and] * * * represents clients across the country in business disputes and consumer class actions.” www.squirepattonboggs.com/en/professionals/d/dandrea-joe (website last accessed June 16, 2025, at 5:57 p.m.). These individuals and the other members of Defendant’s litigation team defended the case vigorously and strategically, which resulted in substantive motions practice and contentious but professional arm’s length negotiations that produced the consequent Settlement.

Hundreds of hours have been expended by Class Counsel thus far in the prosecution of this action, from investigating Defendant’s fee practices and gathering evidence in support of the claims resolved by the Settlement; interviewing potential clients; drafting multiple complaints; litigating contentious motion practice; drafting written discovery requests; preparing for and attending multiple mediations, including researching and drafting mediation statements; engaging an expert to review Defendant’s account-level transaction data and analyze potential damages; negotiating and drafting the Agreement with Defendant’s counsel; moving for and obtaining preliminary approval; consulting and overseeing the Settlement Administrator’s efforts to provide notice to the Settlement Class; and preparing the instant motion and its related papers. *See Troutman Aff.*, ¶ 11. It is anticipated that Class Counsel will expend considerable additional time and resources in

preparing the papers for final approval and in securing final approval, final judgment, and ensuring the successful administration of the Settlement by working with the Settlement Administrator after final approval. *See id.*, ¶ 12.

Further, as illustrated by the preliminary approval briefing and the Troutman Affidavit, Class Counsel have national reputations for their acquired skill in complex class action litigation, and particularly, in the context of banking fee litigation. *See Troutman Aff.*, ¶ 13. Thus, the time and effort expended in the litigation along with the professional skill of Class Counsel similarly supports granting the requested fee.

C. The Requested One-Third Fee is Routinely Awarded in Similar Bank Fee Litigation Across the Country

The requested one-third fee is routinely awarded in similar bank fee litigation and class action litigation across the country. *See e.g., Chambers v. Together Credit Union*, 2021 WL 1948452 (S.D. Ill. May 14, 2021) (one-third fee award); *Edwards v. Mid-Hudson Valley Fed. Credit Union*, 2023 WL 5806409 (N.D.N.Y. Sept. 7, 2023) (same); *Lowe v. NBT Bank, N.A.*, 2022 WL 4621433 (N.D.N.Y. Sept. 30, 2022) (same); *Richard v. Glen Falls Nat. Bank*, 2022 WL 3286551 (N.D.N.Y. July 22, 2022) (same); *Thompson v. Community Bank, N.A.*, 2021 WL 4084148 (N.D.N.Y. Sept. 8, 2021) (same); *Holt v. Community America Credit Union*, 2020 WL 12604384 (W.D. Mo. Dec. 8, 2020) (same); *Simpson v. Citizens Bank*, 2014 WL 12738263 (E.D. Mich. Jan. 31, 2014) (same); *Jenkins v. Trustmark Nat. Bank*, 300 F.R.D. 291 (S.D. Miss. 2014) (same). Class Counsel regularly receives a one-third or higher fee from common fund settlements involving similar banking fee claims in state and federal courts throughout the nation. *See Troutman Aff.*, ¶ 14.

In sum, this Court should grant Class Counsel's requested one-third of the value of the Settlement in the total amount of \$169,999.93.

II. THE COURT SHOULD ALSO AWARD THE REQUESTED LITIGATION AND SETTLEMENT ADMINISTRATION COSTS

Ohio has long recognized that a court can award costs to counsel from a common fund if authorized by a settlement agreement. *Smith v. Kroeger*, 138 Ohio St. 508 (1941), paragraph 3 of the syllabus. *See also Santos v. Ohio Bur. of Workers' Comp.*, 2004-Ohio-28, ¶ 17; 73 Ohio Jur.3d Attorney's Fees and Nontaxable Costs in Class Actions, § 77 (June 2025 Update). The expenses and costs awarded must be reasonable expenses normally charged to a fee-paying client. *See* 5 Newberg and Rubenstein on Class Actions, *Nontaxable Costs- Definition of Nontaxable Costs*, § 16:5 (6th ed. June 2025 Update) ("Class action courts have applied the "reasonable expenses normally charged to a fee paying client" type formulation in awarding expenses from a common fund. In a common fund case, expenses are not shifted to the defendant; rather, the class itself pays such expenses as they are deducted directly from their common fund recovery."). *See also* 5 Newberg and Rubenstein on Class Actions, *Nontaxable Costs- Standards Governing the Recovery of Nontaxable Costs*, § 16:10 (6th ed. June 2025 Update).

In this case, Class Counsel advanced various expenses, totaling \$21,010.42. *See Troutman Aff.*, ¶ 16. Each of these costs were reasonable and necessary in prosecuting the action and should therefore be approved. In addition, the Court should approve the payment of the costs of notice and administration to the Settlement Administrator for the reasonable costs of mailing notice and administering the Settlement Fund. These costs were also necessary because of the notice requirements needed to notify Class Members of the Settlement and ultimately distribute the class recovery by account credit or check. The Settlement Administrator has provided an estimate of its cost to administer the settlement, which totals \$59,917.00, which is in line with Class Counsel's experience for this type of settlement. *See Troutman Aff.*, ¶ 18.

III. THE COURT SHOULD AWARD NAMED PLAINTIFF THE REQUESTED SERVICE AWARD

A service award, or incentive award, is warranted for Named Plaintiff in recognition of her significant contributions in this case. As one leading treatise has explained, “[c]ourts regularly approve incentive awards that are withdrawn from the common fund at the conclusion of the common fund case.” 5 Newberg and Rubenstein on Class Actions, *Source of Incentive Awards*, § 17:5 (6th ed. June 2025 Update). Whether to make such an award is within the Court’s discretion, and courts often “employ a multifactor test in reviewing proposed incentive awards” with attention paid to “the class representatives’ work on the case and the risks they encountered undertaking that work.” 5 Newberg and Rubenstein on Class Actions, *Size of Incentive Awards*, § 17:8 (6th ed. June 2025 Update).

The size of any award varies from case to case, with one treatise survey indicating an average award of over \$10,000.00 adjusted to 2021 dollars. *Id.* (“The bottom line on the size of incentive awards is that the most recent study, culminating in 2011, showed an average award of \$11,697, when all the data in the study was set to 2011 dollars. When that number is adjusted forward, it amounts to \$14,371 as of the end of 2021.”). Consequently, Ohio courts have approved \$5,000.00 or more as class representative service awards in recognition that the class representatives brought a lawsuit that provided a significant benefit to absent class members. *See e.g., Martinez v. Zaring Natl. Corp.*, Hamilton C.P. No. A0001553, 2004 WL 612851, at *2-3 (Feb. 20, 2004) (approving incentive awards totaling 5% of \$3 million common fund).

The Court should grant Named Plaintiff the requested Service Award of \$5,000.00 in recognition of the time and effort she spent serving as Class Representative of the Settlement Class and the significant result she obtained on behalf of the absent Class Members who will receive compensation without even having to submit a claim. Named Plaintiff provided assistance that

enabled Class Counsel to successfully prosecute the action and reach the Settlement, including: (1) submitting to interviews with Class Counsel; (2) locating and forwarding documents and information to Class Counsel; (3) preparing for and sitting for her deposition; (4) participating in conferences with Class Counsel; and (5) reviewing Settlement documentation. *See Troutman Aff.*, ¶ 16. In doing so, Named Plaintiff was integral to the case. *See Troutman Aff.*, ¶ 2.

Without the Named Plaintiff's efforts and willingness to attach her name to this litigation for the benefit of absent Class Members, the \$585,000.00 in value for the Settlement Class would have never been achieved. These factors support granting the requested Service Award, which will compensate Named Plaintiff for her time and effort and for the risks she assumed in prosecuting the action and serving as Class Representative.

CONCLUSION

For the foregoing reasons, this Court should award attorneys' fees in the amount of one-third of the value of the Settlement (\$169,999.93), reimbursement of the reasonable litigation costs (\$21,010.42), the settlement administration costs (\$59,917.00), and the requested Service Award to Named Plaintiff (\$5,000.00). A proposed order granting such relief has been submitted for the Court's consideration.

Dated: June 20, 2025

Respectfully submitted,

/s/ Shawn K. Judge

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on June 20, 2025, a copy of the foregoing document was served by electronic mail pursuant to Civ.R. 5(B)(2)(f) upon the following:

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