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STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

WILLIAM FLACCO,	:	
	:	
Plaintiff,	:	
	:	
v.	:	C.A. No. PC-2024-05237
	:	
COMMUNITY CARE ALLIANCE,	:	
	:	
Defendant.	:	

MEMORANDUM IN SUPPORT OF PLAINTIFF'S ASSENTED TO MOTION FOR ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARD

Plaintiff William Flacco ("Plaintiff") submits this Memorandum in Support of Plaintiff's Assented to Motion for Attorneys' Fees, Expenses, and Service Award.

I. INTRODUCTION

On June 3, 2025, this Court preliminarily approved a proposed class action settlement between Plaintiff and Defendant Community Care Alliance ("CCA," or "Defendant"). The class action and resulting settlement arose from a data security incident in which CCA fell victim to a ransomware attack orchestrated by the Rhysida Ransomware Group (the "Data Incident"). The attacker accessed and acquired files containing unencrypted Personal Information of Representative Plaintiff and Class Members. Class Counsels' efforts created significant benefits for the Settlement Class, including the establishment of a $1,090,000.00. From that fund, Settlement Class Members can claim substantial monetary benefits and two years of credit monitoring and identity theft protection services.

Throughout this litigation, Class Counsel have zealously prosecuted Plaintiff's claims, achieving the Settlement Agreement only after an extensive investigation and prolonged arm's-length negotiations and full-day mediation. As compensation for the substantial benefits conferred upon the Settlement Class, Class Counsel respectfully move the Court for an award of attorneys' fees of $363,333.33, which amounts to one-third (1/3) of the Settlement Fund, plus an additional $12,231.62 in reasonable case expenses actually incurred. Plaintiff's motion should be granted because the request is reasonable and appropriate in light of the substantial risks presented in prosecuting this action, the quality and extent of work conducted, and the stakes of the case; and because the costs incurred were reasonable and necessary for the litigation. Plaintiff also respectfully moves the Court for an award of $2,500 to the named Plaintiff, to be paid from the Settlement Fund, for his work on behalf of the Class.

II. CASE SUMMARY

The ransomware attack giving rise to this incident occurred on or about July 29, 2024. Shortly after the incident, Plaintiff and his counsel became aware of the notorious Rhysida Ransomware gang's involvement in this incident. Plaintiff's Counsel then embarked upon an exhaustive pre-suit investigation to determine the nature and scope of this breach, and Plaintiff Flacco's likely involvement in it.

On September 24, 2024, Plaintiff filed a lawsuit styled *Flacco v. Community Care Alliance, Case* No. PC -2024-05237, in the Providence Superior Court of the State of Rhode Island (the "Litigation"). The Class Action Complaint in the Litigation asserts the following claims: (i) negligence, (ii) breach of implied contract, and (iii) unjust enrichment. Plaintiff alleged that Defendant failed to safeguard the PII that it collected and maintained from and for Plaintiff and class members. Defendant denies all liability and wrongdoing.

After a period of informal discovery and mutual exchange of information, the Parties agreed to a formal mediation. On March 6, 2025, the Parties engaged in an arms-length mediation before Bennett G. Picker, Esq. of the Stradley Ronon law firm. Mr. Picker is a highly sought after and accomplished mediator with a plethora of experience mediating data breach cases. At the mediation, the Parties reached an agreement to resolve all claims arising from or related to the Incident. Subsequently, the Parties worked on preparing the Settlement Agreement and the associated exhibits. The Settling Parties finalized the Class Settlement Agreement on or about April 28, 2025. Plaintiff then moved for preliminary approval on April 29, 2025, and appeared before this Court for a preliminary approval hearing on May 15, 2025. The motion was then granted by the Court on June 3, 2025.

Since that time, Class Counsel worked closely with the Settlement Administrator to edit and finalize the notices and claim forms, and to disseminate notice to the Settlement Class. Notice issued on July 3, 2025. After that, Class Counsel has been monitoring the notice and claims process, including working with the Settlement Administrator to send out additional notices to 12.8% of the Class.

Thus far, the reaction of the Settlement Class to this Settlement has been positive. As of August 6, 2025, there were 958 valid claims filed. Perhaps more significantly, no Settlement Class Members have sought to "opt-out" of this Settlement, and no one has objected. Importantly, no Settlement Class Member has objected to the attorneys' fees and service awards Plaintiff requests here, despite being given notice of the amounts of both in the Postcard Notice mailed to them.

III. SUMMARY OF SETTLEMENT

A. Settlement Benefits

The settlement negotiated on behalf of the Class provides for four separate forms of relief: (1) reimbursement of Documented Monetary Losses up to $5000; (2) two years of three-bureau credit monitoring and identity theft restoration services; and (3) business practice changes designed to improve data security. *See* Agr. Section 2. The Settlement provides for relief for a Settlement Class defined as:

> all individuals whose Personal Information was potentially compromised in the Data Incident.

The Settlement Class specifically excludes: (i) CCA, and its officers and directors; (ii) all Settlement Class Members who timely and validly request exclusion from the Settlement Class; (iii) the presiding judge, and his or her staff and family; and (iv) any other Person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Data Incident or who pleads *nolo contendere* to any such

charge. Agr. ¶ 1.28. The proposed Settlement Class contains 116,753 individuals. The following forms of relief shall be offered to Settlement Class Members.

1. Documented Monetary Losses.

Settlement Class Members may submit a Claim for a cash payment under this section for up to $5,000.00 per Settlement Cass Member upon presentment of documented losses related to the Data Incident. Agr. ¶ 2.4.1. To receive a payment for Documented Monetary Losses, a Settlement Class Member must attest that the losses or expenses were incurred as a result of the Data Incident. Settlement Class Members will be required to submit reasonable documentation supporting the losses. *Id*.

2. Pro Rata Cash Payment

In addition to or instead of Documented Monetary Losses, a Settlement Class Member may claim a *pro rata* cash payment estimated to be $100.00. Agr. ¶ 2.4.2. The payments shall be calculated by dividing remaining funds in the Settlement Fund, after payment of Settlement Administration Fees, Attorneys' Fees Costs and Expenses, Credit Monitoring and Identity Restoration Services, and Documented Monetary Losses, by the number of eligible claims. The Pro Rata Cash Payments will be adjusted upwards or downwards based upon the number of valid claims filed.

3. Credit Monitoring

In addition to electing any of the other benefits, Settlement Class Members may claim two years of three-bureau Credit Monitoring that will provide the following benefits: three-bureau credit monitoring, dark web monitoring, identity theft insurance coverage for up to $1,000,000, and fully managed identity recovery services. Agr. ¶ 2.4.3.

4. Business Practices Changes.

The Settling Parties agree that as part of the settlement consideration, CCA, has adopted, paid for, implemented, and will maintain certain business practice changes related to information security to safeguard personal information on its systems. CCA will detail these business practice changes to Class Counsel in a confidential declaration. The cost of business practice changes will be paid by CCA separately from the $1,090,000 non-reversionary Settlement Fund.

5. Fees, Costs, and Service Award

The Settlement Agreement calls for a reasonable service award to Plaintiff in the amount of $2,500. *Id.* ¶ 8.3. The Service Award is meant to compensate Plaintiff for his efforts on behalf of the Settlement Class, including maintaining contact with counsel, assisting in the investigation of the case, reviewing the Complaint, remaining available for consultation throughout settlement negotiations, reviewing the Settlement Agreement, and answering counsel's many questions.

Class Counsel is submitting this motion seeking attorneys' fees, costs, and Plaintiff's Service Award prior to filing the Motion for Final Approval of Class Action Settlement, and prior to Settlement Class Members' deadline to exclude themselves from or object to the Settlement Agreement. The Settlement Agreement contemplates an attorneys' fee request of not more than one-third of the Settlement Fund, or $363,333.33, plus reimbursement of reasonable out-of-pocket case expenses. Agr. ¶ 8.2.

IV. LEGAL STANDARD

A. An Award of One-Third of the Settlement Fund is Reasonable

It is well settled that attorneys whose efforts achieve a benefit for class members are entitled to "attorneys' fees and reimbursement of expenses prior to the distribution of the balance to the class." *In re Ranbaxy Generic Drug Application Antitrust Litig.*, 630 F. Supp. 3d 241, 245

(D. Mass. 2022) (citing *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980)).[1] The U. S. Supreme Court has sanctioned reasonable fees awarded out of a common fund. *See Van Gemert*, 444 U.S. at 478. Rule 23 also permits courts to award "reasonable attorney's fees and nontaxable costs . . . that are authorized by law or by the parties' agreement." Fed. R. Civ. P. 23(h). As numerous courts recognize, the goal of an award of attorneys' fees is "to compensate plaintiffs' counsel fairly for the labor provided, taking into account the risks they faced during the representation." *Ranbaxy*, 630 F. Supp. 3d at 245. Rhode Island courts have "considerable discretion" to award fees. *Del Sesto v. Prospect Chartercare, LLC*, No. CV 18-328 WES, 2019 WL 13030331, at *5 (D.R.I. Oct. 14, 2019); *see also In re Thirteen Appeals Arising Out of San Juan*, 56 F.3d 295, 307 (1st Cir. 1995).

Generally, courts have found that for cases involving a common fund, as is the case here, the percentage of the fund method is the appropriate method for determining the reasonableness of an attorneys' fees request. *In re Cabletron Sys., Inc. Sec. Litig.*, 239 F.R.D. 30, 37 (D.N.H. 2006) ("The POF method has emerged in the last decade-plus as the preferred method of awarding fees in common fund cases. As the First Circuit has noted, the POF method has distinct advantages over the lodestar approach."). The First Circuit recognized in *In re Thirteen Appeals*, 56 F.3d at 307, that the percentage-of-fund method "in common fund cases is the prevailing praxis" and acknowledged the "distinct advantages that the POF method can bring to bear in such cases." *Id*.

[1] There is substantial similarity between Rhode Island Rule 23 and Federal Rule of Civil Procedure Rule 23. As the Rhode Island Supreme Court has noted, ("[W]here the Federal rule and our state rule are substantially similar, we will look to the Federal courts for guidance or interpretation of our own rule." *Chhun v. Mortg. Elec. Registration Sys., In*c., 84 A.3d 419, 422 (R.I. 2014), quoting *Heal v. Heal*, 762 A.2d 463, 466–67 (R.I.2000)). Because of the dearth of Rhode Island case law on attorneys' fees in class actions, Class Counsel relies upon comparable federal case law from Rhode Island and the federal First Circuit.

"The First Circuit has acknowledged the 'distinct advantages' of the POF method, explaining that it is less burdensome, enhances efficiency and better approximates the marketplace dynamics." *Ranbaxy*, 630 F. Supp. 3d at 245 (quoting *In re Thirteen Appeals*, 56 F.3d at 307). "The POF method is preferred in common fund cases because 'it allows courts to award fees from the fund 'in a manner that rewards counsel for success and penalizes it for failure.'" *In re Cabletron Sys.*, 239 F.R.D. at 37 (citation omitted). Further, the POF approach stems from the Court's inherent equitable powers by awarding fees and costs payable (or measured) from the fund created for the benefit of the class the court can spread the cost of litigation proportionately among those who will benefit from the fund. *See Sprague v. Ticonic National Bank*, 307 U.S. 161, 167 (1939); *Van Gemert*, 444 U.S. at 478.

Class Counsel seek an award of one-third or 33.33% of the Settlement Fund. This request is within the range of fee requests that have been approved in many courts in Rhode Island, Massachusetts, and through the First Circuit. *See Kondash v. Citizens Bank, Nat'l Ass'n,* 2020 WL 7641785, at *6 (D.R.I. Dec. 23, 2020), report and recommendation adopted, 2021 WL 63409 (D.R.I. Jan. 7, 2021) (awarding 1/3 of a $1.8 million settlement fund in attorneys' fees); *In re Neurontin Mktg. & Sales Practices Litig*., No. 04-cv-10981-PBS, 2014 WL 5810625, at *3 (D. Mass. Nov. 10, 2014) ("[N]early two-thirds of class action fee awards based on the percentage method were between 25% and 35% of the common fund."); *see also Mazola v. May Dep't Stores Co.,* No. 97 Civ. 10872, 1999 WL 1261312, at *4 (D. Mass. Jan. 27, 1999) ("[I]n this circuit, percentage fee awards range from 20% to 35% of the fund. This approach mirrors that taken by the federal courts in other jurisdictions."); *Ranbaxy*, 630 F. Supp. 3d at 245 (collecting cases); *Gordan v. Massachusetts Mut. Life Ins. Co.*, 2016 WL 11272044, at *3 (D. Mass. Nov. 3, 2016) (awarding 1/3 of a $30.9 million settlement fund in attorneys' fees).

Notably, attorneys' fee awards of one-third of the common fund have been made in a string of data breach cases in New England. *See, e.g. In re Emmanual College Data Security Incident,* Case No. 1:24-CV-10314-AK (D. Mass.), ECF 46 (July 29, 2025) (granting final approval and awarding one-third of the $925,000 common fund as reasonable attorneys' fees); *Webb v. Injured Workers Pharmacy,* Case No. 1:22-cv-10797-RGS (D. Mass.), ECF 61 (January 16, 2025) (granting final approval of a non-reversionary common fund data breach settlement and attorneys' fees of one-third of the $1,075,000 Settlement Fund); *Kondo et al. v. Creative Services, Inc.,* Case No. 1:22-cv-10438-DJC (D. Mass.), ECF 39 (September 7, 2023) (granting final approval of non-reversionary common fund data breach settlement and attorneys' fees of 33% of $1.2 million Settlement Fund). Class Counsel's request for an award of one-third of the settlement fund is thus entirely consistent with other awards in common fund cases, and should be approved here.

B. Class Counsel's Expertise and Effort, the Risks of the Case, and the Achieved Result Justify the Fee Request

"In weighing a common fund request for fees, courts will also consider the so-called *Goldberger* factors: (1) the size of the fund and the number of persons benefitted; the skill, experience, and efficiency of the attorneys involved; (3) the complexity and duration of the litigation; (4) the risks of the litigation; (5) the amount of time devoted to the case by counsel; (6) awards in similar cases; and (7) public policy considerations." *Del Sesto*, 2019 WL 13030331, at *6, citing *In re Neurontin Marketing & Sales Practices Litigation*, 58 F. Supp. 3d. 167, 170 (D. Mass. 2014), citing *Goldberger v. Integrated Resources, Inc*., 209 F.3d 43, 50 (2nd Cir. 2000). Applying each of these factors, Class Counsel's fee request is reasonable and justified.

i. The size of the created Settlement Fund and the benefits provided

The most important inquiry pertains to the results obtained for the class. *Hensley v. Eckerhart,* 461 U.S. 422, 436 ("the most critical factor is the degree of success obtained"). As

described *supra*, the Settlement provides substantial relief to the Settlement Class consisting of nearly 117,000 individuals. Defendant has agreed to establish a Settlement Fund in the amount of $1,090,000 which will be used to provide a variety of benefits to the Settlement Class: (1) reimbursement for Documented Losses of up to $5,000; (2) a *pro-rata* cash payment estimated to be not less than $100 per valid Claimant; and (3) two-years of three-bureau credit monitoring services and identity theft insurance. These benefits are comparable to, and in some cases superior to, those provided by other data breach settlements. *See, e.g., Barletti v. Connexin Software, Inc.*, 2024 WL 1096531, at *6 (E.D. Pa. Mar. 13, 2024) (granting preliminary approval to data breach settlement that provided class members the ability to file a claim for credit monitoring services, out-of-pocket losses; or an alternative cash payment); *In re Cap. One Consumer Data Sec. Breach Litig.*, 2022 WL 18107626, at *12 (E.D. Va. Sept. 13, 2022) (approving proposed allocation plan that allowed class members to submit claims for out-of-pocket losses, lost time, and credit monitoring services); *In re Wawa, Inc. Data Sec. Litig.*, No. 19-cv-06019-GEKP, ECF 181 (E.D. Pa. Feb. 19, 2021) ($5 gift card or $15 gift cards with proof of actual or attempted fraud). This outcome can only be described as a success, and entirely consistent with the outcomes in other data breach settlements. Thus, the fact that Class Counsel was able to achieve such an outcome weighs heavily in favor of approving the requested award.

ii. The risks of litigation support the requested fee award

Courts recognize the risk assumed by an attorney as a key factor in determining an appropriate fee. *See In re Lupron*, 2005 WL 2006833, at *4 (“Many cases recognize that the risk assumed by an attorney is perhaps the foremost’ factor in determining an appropriate fee award.”).

Here, Class Counsel took on significant risk. While Plaintiff believed he could prevail on their claims against Defendant, he was also aware that he would likely face several strong legal

defenses and difficulties in demonstrating causation and injury. Such defenses, if successful, could drastically decrease or eliminate any recovery for Plaintiff and putative class members. Further, given the complexity of the issues and the amount in controversy, the defeated party would likely appeal any decision on either certification or merits. The general risks of litigation are further heightened in the data breach arena. Due at least in part to the cutting-edge nature of data protection technology and rapidly evolving law, data breach cases like this one are particularly complex and face substantial hurdles—even just to make it past the pleading stage. *See In re Sonic Corp. Customer Data Sec. Breach Litig.*, 2019 WL 3773737, at *6 (N.D. Ohio Aug. 12, 2019) ("The realm of data breach litigation is complex and largely undeveloped. It would present the parties and the Court with novel questions of law."); *Hammond v. The Bank of N.Y. Mellon Corp*., 2010 WL 2643307, at *1 (S.D.N.Y. June 25, 2010) (collecting data breach cases dismissed at the Rule 12(b)(6) or Rule 56 stage). Class certification is another hurdle that would have to be met—and one that has been denied in other data breach cases. *See, e.g., In re Hannaford Bros. Co. Customer Data Sec. Breach Litig.*, 293 F.R.D. 21 (D. Me. 2013).

Further, Class Counsel took this case on a purely contingent basis. *See* Declaration Counsel in Support of Plaintiff's Motion for Award of Attorneys' Fees, Costs, and Service Award (Fee Decl."), attached hereto, ¶ 22 As such, they assumed significant risk of nonpayment or underpayment. *Id.* ¶ 25. Fees were not guaranteed. The purely contingent basis upon which Class Counsel took the case meant that Class Counsel assumed significant risk. *Id.* Class Counsel spent time on this matter that could have otherwise been spent on other, fee-generating matters, and shouldered the risk of expending substantial costs and time without any monetary gain in the case of adverse judgment. *Id.* Nonetheless, Class Counsel took on these risks knowing full well their

efforts may not bear fruit and their willingness to take on this litigation in the face of such risk deserves to be rewarded. *Id.*

iii. The complexity and skills required to litigate this matter and Class Counsel's substantial experience

As discussed above, the skill required to litigate data breach cases is great, in part due to the quickly evolving nature of data breach and privacy law. *See Fox v. Iowa Health Sys.*, 2021 WL 826741, at *5 (W.D. Wis. Mar. 4, 2021) ("Data breach litigation is evolving; there is no guarantee of the ultimate result."). The Parties would have faced significant risk and expenses to litigate the case. For example, the necessary expert analyses (and inevitable fight over *Daubert* challenges) to determine whether CCA's data security practices were unreasonable would have cost hundreds of thousands of dollars and months of litigation on their own. *See e.g., In re Yahoo! Inc. Customer Data Sec. Breach Litig*., 2020 WL 4212811, at *9 (N.D. Cal. July 22, 2020) (listing "more discovery" as one of the significant expenses for continuing a data breach litigation); *In re Compact Disc Minimum Advertised Price Antitrust Litig.*, 216 F.R.D. 197, 212 (D. Me. 2003) (noting that, absent settlement, plaintiffs' challenges would include "significant and expensive additional discovery" and "hiring more experts and opposing the defendants' experts").

Class Counsel has decades of experience in class actions generally, but it is noteworthy that Class Counsel has previously been appointed class counsel in a number of data breach and privacy class actions. *See* Declaration of David Lietz in Support of Plaintiff's Unopposed Motion for Preliminary Approval of Settlement, (summarizing Class Counsel's experience and the list of appointments in court-approved data privacy settlement). Class Counsel has an established track record and experience in litigating Plaintiff's and Class Members' claims. The significant experience and qualifications of counsel easily justify the requested fee.

iv. The Request is comparable to awards in similar cases

As demonstrated *supra* in § III.A, the request fee of one-third of the Settlement Fund is well within the range of reasonable fees previously awarded by courts in common fund data breach cases. An award of one-third of the Settlement Fund is also consistent with fee awards in other data breach or data privacy cases. *See Barletti v. Connexin Software, Inc.*, 2024 WL 3564556 (E.D. Pa. July 24, 2024) (awarding 1/3 of settlement fund as attorneys' fees and $50,000 in expenses in data breach settlement); *In re Novant Health, Inc.*, 2024 WL 3028443, at *12 (M.D.N.C. June 17, 2024) (awarding 1/3 of the settlement fund); *In re Forefront Data Breach Litig.*, 2023 WL 6215366, at *7 (E.D. Wis. Mar. 22, 2023) (awarding 1/3 of settlement fund); *In re Arby's Rest. Grp., Inc. Data Sec. Litig.*, 2019 WL 2720818, at *4 (N.D. Ga. June 6, 2019) (same); *In re TikTok, Inc., Consumer Priv. Litig*., 617 F. Supp. 3d 904, 940–941 (N.D. Ill. 2022).

v. Public Policy Considerations Support the Requested Fee

The requested fee supports public policy goals. Simply put, class actions such as this litigation play a vital role in motivating entities that handle sensitive information, such as Defendant, to improve their security practices and *prevent* data breaches, which has become an epidemic in recent years. For example, the Identity Theft Resource Center reported 3,158 total data breaches in 2024, including five "mega-breaches" involving at least 100 million individuals, with an astonishing 1,350,835,988 total data breach notices sent out.[2] This is just 47 breaches short of 2023's record-breaking 3,205 events involving 353,027,892 victims.[3] Furthermore, both 2024 and 2025 doubled the number of compromises in 2022, which had 1,802 total compromises

[2] *2024 Data Breach Report*, Identity Theft Resource Center (January 2025), available at https://www.idtheftcenter.org/wp-content/uploads/2025/02/ITRC_2024DataBreachReport.pdf
[3] *2023 Data Breach Report*, Identity Theft Resource Center (January 2023), available at https://www.idtheftcenter.org/publication/2023-data-breach-report/.

involving 422,143,312 victims.[4] The actual ramifications from these data breaches have been just as severe, with one in four data breach victims eventually becoming victims of identity theft. As if to demonstrate this fact, in 2023, the Federal Trade Commission received over 1 million complaints of identity theft and 2.6 million complaints of related fraud, which resulted in total financial losses that exceed $10 billion.[5]

These data breaches show no sign of slowing and one-in-four of the 1,350,835,988 instances in 2024 in which information was compromised will eventually metastasize as a costly identity theft incident for an unfortunate citizen. Class actions such as this play a vital role in holding handlers of data breaches accountable, and the reimbursements they are required to pay to victims provide the necessary incentive for them to harden, strengthen, and otherwise improve their systems against the ever-rising tide. Furthermore, class actions are the only realistic way for individual citizens to vindicate their right to safeguard and protect their PII. Given the relatively small and difficult-to-quantify amounts of individual damages, pursuing claims on an individual basis would have been economically and judicially inefficient. And without the class action device, they would simply see no recovery. *See Mazola v. May Dep't Stores Co.*, 1999 WL 1261312, at *4 (D. Mass. Jan. 27, 1999) (class actions "give[] voice to relatively small claimants who may not be aware of statutory violations or have an avenue to relief . . . the only way in which to make such actions economically feasible is to award [attorneys' fees.]").

[4] *2022 End of Year Data Breach Report*, Identity Theft Resource Center (January 25, 2023), available at: https://www.idtheftcenter.org/publication/2022-data-breach-report/?utm_source=press+release&utm_medium=web&utm_campaign=2022+Data+Breach+Report.
[5] Jim Akin, *U.S. Fraud and Identity Theft Losses Topped $10 Billion in 2023*, Experian (July 25, 2024), https://www.experian.com/blogs/ask-experian/identity-theft-statistics.

C. The Lodestar Crosscheck Confirms that the Requested Fees are Reasonable

Although not required, courts within the First Circuit have utilized the "lodestar calculation as a pragmatic cross-check" for percentage-based fee awards. *New England Carpenters Health Benefits Fund v. First DataBank, Inc.*, 2009 WL 3418628, at *1 (D. Mass. Oct. 20, 2009) (internal citation omitted); *In re Thirteen Appeals.*, 56 F.3d at 307. When used this way as a cross-check, "the lodestar analysis is not undertaken to calculate a specific fee, but only to provide a broad cross check on the reasonableness of the fee arrived at by the percentage method." *In re Vioxx Prods. Liab. Litig.*, 760 F. Supp. 2d 640, 652 (E.D. La. 2010). "The lodestar cross-check is used to assess the reasonableness of the percentage method, and district courts need not review actual billing records and are free to rely on time summaries submitted by attorneys." *In re Cook Med., Inc., Pelvic Repair Sys. Prods. Liab. Litig.*, 365 F. Supp. 3d 685, 701 (S.D.W. Va. 2019).

To conduct the lodestar cross check, the court multiplies the number of hours reasonably spent by a reasonable hourly rate. *In re Relafen Antitrust Litig.*, 231 F.R.D. 52, 77 (D. Mass. 2005). "Reasonable fees are to be calculated according to the prevailing market rates in the relevant community." *Arkansas Tchr. Ret. Sys. v. State St. Bank & Tr. Co.*, 512 F. Supp. 3d 196, 209 (D. Mass. 2020).

Here, Class Counsel's Fee Request results in an acceptable multiplier, which supports the reasonableness of the requested fee. Since July 2024, Class Counsel has already spent 116.7 hours litigating this case, and reasonably anticipates spending an additional 40-50 hours through case completion Fee Decl., ¶¶ 32-37. The rates charged by Class Counsel are well within the acceptable range for class action litigators in general and are in line with or less than hourly rates that were approved in other complex data breach class action litigation. *Id.* at ¶ 33.

Class Counsel's billing rates are within (or less than) the range of rates approved by courts in the federal First Circuit. *See Ford v. Takeda Pharms. U.S.A., Inc.*, 2023 WL 3679031, at *2 (D. Mass. Mar. 31, 2023) (finding that hourly rates for attorneys nationally have increased since 2020 and approving $1,370 for attorneys with at least 25 years of experience; $1,165 for attorneys with 15–24 years of experience; $840 for attorneys with 5–14 years of experience; $635 for attorneys with 0–4 years of experience; and $425 for paralegals and law clerks). *See also Alexander v. Massachusetts Dep't of Correction*, 734 F. Supp. 3d 133 (D. Mass. 2024) (approving hourly rates of $560 to $600 for partners and $345 to $385 for associates*); McNelley v. 7-Eleven, Inc.*, 2024 WL 4872394 (D. Mass. Nov. 21, 2024) (finding hourly rates of $325 to $400 reasonable); *Riley v. Mass. Dep't of State Polic*e, 2019 WL 4973956, at *2 (D. Mass. Oct. 8, 2019) (finding $600 per hour for a senior partner and $350 per hour for an associate were reasonable rates); *Cox v. Mass. Dep't of Corr.*, 2019 WL 2075588.

Class Counsel's total anticipated lodestar to case completion is $162,254.40. Fee Decl. ¶ 37. This lodestar results in a multiplier of 2.23. In the federal First Circuit, lodestar multipliers allowed by the court are generally between one and 2.7. *In re Ranbaxy Generic Drug Application Antitrust Liti*g., MDL No. 19-md-02878-NMG, 630 F. Supp. 3d 241, 246 (D. Mass. Sept. 19, 2022) ("[t]he typical range of the lodestar multiplier allowed by this Court is between one and 2.7.") Therefore, the lodestar cross-check confirms the reasonableness of Class Counsel's fee request.

D. Class Counsel's Request for Reimbursement of Expenses Is Reasonable

In addition to the requested attorneys' fees, Class Counsel also request reimbursement of expenses incurred in bringing this litigation to this successful conclusion. "In addition to attorneys' fees, lawyers who recover a common fund for a class are entitled to reimbursement of out-of-pocket expenses incurred during litigation." *Latorraca v. Centennial Techs. Inc.*, 834 F. Supp. 2d 25, 28 (D. Mass. 2011) (citing *In re Fid./Micron Sec. Litig.*, 167 F.3d 735, 737 (1st Cir. 1999). *See*

also Hill v. State St. Corp., 2015 WL 127728, at *20 (D. Mass. Jan. 8, 2015) (citation omitted) ("Lawyers who recover a common fund for a class are entitled to reimbursement of litigation expenses that were reasonably and necessarily incurred in connection with the litigation."). Due to the early stage of litigation at which Plaintiff was able to reach settlement, litigation costs incurred by Plaintiff are relatively low. Fee Decl. at ¶ 40. Class Counsel's current costs are $12,231.62, and include filing fees, mediation fees, and costs of admission to practice before this Court. *Id.* These costs are reasonable and were necessary for the litigation. *Id. See Carlson v. Target Enter., Inc.*, 447 F. Supp. 3d 1, 5 (D. Mass. 2020) (approving expenses related to mediation, travel, filing fees, and postage); *In re Wilmington Tr. Sec. Litig.*, 2018 WL 6046452, at *10 (D. Del. Nov. 19, 2018) (approving expenses related to document management, expert fees, computerized research, photocopying, transcripts, postage, travel, and discovery). All of Class Counsel's expenses are of the type that are commonly reimbursable and entirely reasonable.

E. The Requested Service Award for Plaintiff is Reasonable

Class Counsel further requests that this Court approve a service award in the amount of $2,500.00 for the Settlement Class Representative. The service award compensates Plaintiff for his efforts on behalf of the Settlement Class, which includes maintaining regular contact with Class Counsel, assisting in the investigation of the case through producing relevant documents and participating in interviews with counsel, reviewing the Complaint, remaining available for consultation throughout negotiations, for answering Class Counsel's many questions, and for reviewing the Settlement Agreement. Fee Decl. ¶ 41. "Incentive awards serve to promote class action settlements by encouraging named plaintiffs to participate actively in the litigation in exchange for reimbursement for their pursuits on behalf of the class overall." *Bezdek v. Vibram USA Inc.*, 79 F. Supp. 3d 324, 352 (D. Mass.), *aff'd*, 809 F.3d 78 (1st Cir. 2015) (approving award

of $2,500 service awards for each representative plaintiff).[6] *See also Sasoon v. Postmates, Inc.*, 2020 WL 8092224, at *4 (D. Mass. May 15, 2020) (approving award of $2,500 service awards for each representative plaintiff); *Bazerman v. Am. Airlines, Inc.*, 2019 WL 13217437, at *3 (D. Mass. Apr. 8, 2019) (same); *In re Lupron Mktg. & Sales Pracs. Litig.*, 228 F.R.D. 75 (D. Mass. 2005) (approving $2,500 service award for each representative plaintiff who was not deposed). The award sought here is consistent with

V. CONCLUSION

For the foregoing reasons, Class Counsel requests that the Court grant this motion and approve a combined award of $363,333.33 for attorneys' fees, $12,231.62 for reimbursement of expenses, and a Service Award in the amount of $2,500 for the Settlement Class Representative.

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Respectfully submitted,

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[6] *See also* Manual for Complex Litigation, § 21.62, at n.971 (4th ed. 2004).