

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
WHITE PLAINS DIVISION**

JUSTIN GEORGE, ARIENNE PATZELT,
MELISSA ZUBER, and TSU HAN POH-
GRACIA, as representatives of a class of similarly
situated persons, and on behalf of the GARNET
HEALTH MEDICAL CENTER 403(B)
RETIREMENT SAVINGS PLAN and GARNET
HEALTH MEDICAL CENTER - CATSKILLS
403(B) RETIREMENT SAVINGS PLAN,

Plaintiffs,

v.

GARNET HEALTH MEDICAL CENTER,

Defendant.

Case No. 7:24-cv-6422-PMH

**PLAINTIFFS' MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
THEIR UNOPPOSED MOTION FOR ATTORNEYS' FEES, COSTS &
ADMINISTRATIVE EXPENSES AND CLASS REPRESENTATIVE COMPENSATION**

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INTRODUCTION

Plaintiffs Justin George, Arienne Patzelt, Melissa Zuber, and Tsu Han Poh-Gracia submit this memorandum in support of their unopposed motion for attorneys’ fees, costs and administrative expenses, and class representative compensation in connection with their settlement with Defendant Garnet Health Medical Center (“Garnet Health”) regarding the administration of the Garnet Health Medical Center 403(b) Retirement Savings Plan and Garnet Health Medical Center – Catskills 403(b) Retirement Savings Plan (collectively, “Plan”). Under the Settlement, a Gross Settlement Amount of \$4,600,000 will be paid to resolve the claims of the Settlement Class. This is a significant recovery for the Class.

To date, Class Counsel have received no payment for any of their efforts in this litigation, nor have they been reimbursed for their out-of-pocket costs advanced on behalf of the Class. All compensation to Class Counsel is contingent upon the Court’s award of fees and expenses as provided in the Settlement.

Class Counsel’s request of one-third of the settlement fund is reasonable and standard in cases such as this. Courts in this Circuit have recognized that a one-third fee award is “market rate for litigating ERISA 401(k) class actions.” *Bekker v. Neuberger Berman Grp. 401(k) Plan Inv. Comm.*, 504 F. Supp. 3d 265, 270 (S.D.N.Y. 2020) (citing cases); *see also* cases cited *infra* at 13–14.

In addition, Class Representatives, without whom there would be no recovery, have served the Class by aiding in Class Counsel’s investigation and aiding in the mediation. Finally, the requested expenses are reasonable and typical for a case such as this. Accordingly, Plaintiff and Class Counsel respectfully request that the Court approve the requested distributions.

BACKGROUND

I. PROCEDURAL HISTORY

On August 26, 2024, Plaintiffs filed a Class Action Complaint asserting Defendant's breaches of fiduciary duties based on Defendant's failure to monitor the Plan's stable value investment option, other proprietary investments furnished by the Plan's recordkeeper, and the cost of the Plan's administrative services. Dkt. 1. Specifically, Plaintiffs alleged Defendant should have removed and replaced these high-cost, underperforming investment options, monitored the administrative fees charged to the Plan, and that Defendant's failure to do so resulted in substantial losses to the Plan. *Id.* On December 13, 2024, Plaintiffs amended their Complaint. Dkt. 32 ("FAC"). On February 10, 2025, Defendant moved to dismiss Plaintiffs' First Amended Complaint. Dkts. 40, 41. Briefing on that motion was completed March 26, 2025, and that motion remained pending at the time of settlement. Dkts. 42, 44. Defendant disputes the allegations in the Complaint and Amended Complaint.

While Defendant's motion was pending, the Parties engaged in substantial discovery. Plaintiffs deposed all members of the Garnet Health Medical Center Retirement Plan Committee, which was the fiduciary committee tasked with overseeing the Plan. Declaration of Jennifer K. Lee in Support of Preliminary Approval of Class Action Settlement ("First Lee Dec.") ¶ 11. Plaintiffs also received nearly 15,000 pages of documents and electronically stored information, written responses to interrogatories and requests for admission. *Id.*

On September 16, 2025, the Parties engaged in a private, in-person mediation facilitated by experienced JAMS mediator Robert A. Meyer, Esq. *Id.* ¶ 12. That mediation resulted in the settlement that is the subject of this motion. *Id.*

II. SETTLEMENT

Under the terms of the Settlement, a Gross Settlement Amount of \$4.6 million will be paid to resolve the claims of the Settlement Class Members. Dkt. 64-1 (“Settlement”) § 1.28. After accounting for any Attorneys’ Fees and Costs, Administrative Expenses, and Case Contribution Awards approved by the Court, the Net Settlement Amount will be distributed to Class Members in accordance with the Plan of Allocation in the Settlement. *Id.* §§ 1.31, 5.1. Class Members who are current participants in the Plan will automatically receive their Settlement distribution in their Plan accounts. *Id.* § 5.4.1. Class Members who are no longer in the Plan will have the opportunity to submit a Rollover Form allowing them to have their distribution rolled over into an individual retirement account or other eligible employer plan. *Id.* § 5.4.2. Class Members who do not timely submit a Rollover Form will be sent a check. *Id.* § 5.4.4. Under the Plan of Allocation, each Class Member will receive their *pro rata* share of the Net Settlement Amount based on their quarterly account balances during the Class Period. *Id.* § 5.1.

In addition, within three years after the Settlement Effective Date, if the Plan’s fiduciaries have not already done so, the Plan’s fiduciaries will conduct a request for proposal relating to the Plan’s investor advisor and recordkeeping services. *Id.* §§ 12.1, 12.2. This prospective equitable relief will provide additional relief to Plan participants.

III. WORK OF CLASS COUNSEL

As of the date of this motion, Class Counsel have expended more than 1,200 hours of work on this matter without compensation. Declaration of Jennifer K. Lee in Support of Plaintiffs’ Motion for Attorneys’ Fees, Costs & Administrative Expenses, and Class Representative Compensation (“Second Lee Dec.”) ¶ 12. Class Counsel expects to invest additional time meeting with the court-appointed Independent Fiduciary, overseeing the

Settlement administration process, responding to questions from Class Members as appropriate, preparing a motion for final approval, and attending the final approval hearing. *See id.* ¶ 11.

A. Work conducted to date

Prior to filing the Complaint, Class Counsel conducted an in-depth investigation of information relating to the Plan, the Plan's stable value product, its mutual funds affiliated with the recordkeeper, its asset allocation service, and its recordkeeping expenses. *Id.* ¶ 5. As a result of these investigatory efforts, Class Counsel drafted and filed a detailed 53-page complaint. Dkt. 1.

On October 25, 2024, Defendant filed a pre-motion letter seeking leave to file a motion to dismiss. Dkt. 22. Plaintiffs timely responded to that letter. Dkt. 23. After a conference with the Court, dkt. 24, Plaintiffs amended their Complaint adding additional allegations and a Schedule A, dkt. 32. On January 7, 2025, Defendant filed another pre-motion letter seeking leave to move to dismiss the First Amended Complaint, dkt. 35, to which Plaintiffs timely responded, dkt. 36. Defendant was granted leave to move to dismiss the First Amended Complaint, dkt. 37, which Plaintiffs opposed, dkt. 42.

While Defendant's motion to dismiss the First Amended Complaint was pending, Plaintiffs promptly pursued discovery. Second Lee Dec. ¶ 7. In response to requests for production, Class Counsel received nearly 15,000 pages of Committee minutes, materials, emails, and more. Armed with ample documents concerning Defendant's fiduciary process, Class Counsel deposed every member of the Committee. *Id.* Towards the end of fact discovery, Class Counsel propounded interrogatories and requests for admission to further clarify the factual record. *Id.* In parallel, Class Counsel reviewed and produced documents to Defendant, responded to numerous interrogatories, and prepared for and defended the depositions of the four Class Representatives. *Id.*

Mediation took place towards the end of fact discovery but before expert discovery had commenced. *Compare* Dkt. 50 at 2 *with* Dkt. 60. In advance of the mediation, Class Counsel submitted a thorough mediation statement that presented their view of the factual record that had been developed to date and calculated the Plan's losses. Second Lee Dec. ¶ 8. Class Counsel flew to participate in the all-day, in-person mediation in New York City facilitated by Robert Meyer, Esq. *Id.* That mediation resulted in the Settlement that the Court preliminarily approved. Dkt. 71.

After negotiating the settlement, Class Counsel reviewed and revised the Settlement Agreement, drafted the Settlement Notice, Former Participant Claim Form, Rollover Form, and proposed preliminary and final approval orders. Second Lee Dec. ¶ 9. In addition, Class Counsel drafted Plaintiffs' motion for preliminary approval of the settlement. *Id.*

Class Counsel solicited bids from qualified settlement administration firms to serve as the Settlement Administrator and selected Atticus Administration ("Atticus"). *Id.* ¶ 10. Class Counsel then worked with Atticus and Defense counsel to ensure the Court-approved notices were timely mailed to class members. *Id.* In addition, Class Counsel worked with Atticus to ensure the settlement website was established with all required information and a telephone line was created for Class Members who wished to obtain additional information about the settlement. *Id.* Throughout this time, Class Counsel have responded to questions from Class Members and Atticus. *Id.*

B. Remaining work to be performed

Class Counsel's work on this matter remains ongoing. Prior to the Fairness Hearing, Class Counsel will draft Plaintiffs' motion for final approval of the Settlement and respond to any objections. *Id.* ¶ 11. Class Counsel also will communicate with the Independent Fiduciary that has been engaged to review the Settlement and will provide it with all necessary information

in connection with its review. *Id.* Class Counsel will then attend the Fairness Hearing, and if final approval is granted, supervise the distribution of payments to eligible Class Members, which entails two rounds of distributions to ensure maximum recovery among Class Members. *Id.* In addition, Class Counsel will continue to respond to questions from Class Members and take other actions necessary to support the Settlement until the conclusion of the Settlement Period. *Id.* Class Counsel estimates this will require an additional 50–100 hours. *Id.*

IV. WORK OF CLASS REPRESENTATIVES

As Class Representatives, Mr. George, Ms. Patzelt, Ms. Zuber, and Mr. Poh-Gracia worked hard to advance the interests of the Class. Among other things, they (1) aided Class Counsel in their investigation and provided pertinent documents, (2) reviewed the allegations in the Complaint and the First Amended Complaint, (3) preserved and produced documents responsive to Defendant’s document requests, (4) responded to interrogatories, (5) prepared for and appeared for their depositions, (6) made themselves available during the mediation and provided input, (7) reviewed the settlement agreement and discussed its terms with Class Counsel, and (8) communicated with Class Counsel during the course of the action and stayed informed about the case. *Id.* ¶ 17.

V. WORK OF THIRD PARTIES TO EFFECTUATE SETTLEMENT

On and prior to January 16, 2026, the appointed Settlement Administrator printed and mailed settlement notices and rollover forms to all 5,240 Class Members, established the settlement website and telephone support line as provided by the Settlement. *Id.* ¶ 21. Atticus has since collected completed rollover forms, monitored returned mail, and researched additional means to contact the few Class Members whose notices were returned undeliverable. *Id.* ¶ 22. If the Settlement receives final approval, Atticus will review and process rollover forms, calculate payments to Class Members pursuant to the Plan of Allocation, and facilitate distribution of

payments to Class Members. *Id.* ¶ 23. For these services Atticus will charge Class Counsel \$29,895.00. *Id.* ¶ 24.

Fiduciary Counselors, the appointed independent fiduciary, will review the Settlement and independently determine whether it is in the best interest of the Plan to release its claims against Defendant in exchange for the relief provided. Settlement § 2.1. This independent fiduciary review is required by DOL regulations. *See* PTE 2003-39, 68 Fed. Reg. 75632, as amended, 75 Fed. Reg. 33830. For their services, Fiduciary Counselors will charge \$15,000. Second Lee Dec. ¶ 26.

VI. ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARDS SOUGHT

In consideration of the work summarized above and associated expenses, Article 6 of the Settlement Agreement provides that Plaintiffs may seek (1) attorneys' fees equal to one-third of the Settlement Fund; (2) litigation costs; (3) a \$7,500 service award for the Class Representatives; and (4) payment of settlement administrative expenses. Consistent with the above, Plaintiffs seek the following amounts in connection with this motion:

- Attorneys' fees: \$1,533,333.33 (equal to one-third of the common fund)
- Advanced litigation costs: \$47,120.10
- Class Representative service award: \$7,500 to each of the four Class Representatives (\$30,000 total)
- Settlement administrator expenses: \$29,895.00.
- Independent Fiduciary expense: \$15,000

ARGUMENT

I. CLASS COUNSEL'S REQUESTED ONE-THIRD FEE IS REASONABLE

A. Legal Standard

"Reasonableness is the touchstone when determining whether to award attorneys' fees."

Sukhnandan v. Royal Health Care of Long Island LLC, No. 12CV4216 RLE, 2014 WL 3778173, at *9 (S.D.N.Y. July 31, 2014). In *Goldberger v. Integrated Resources, Inc.*, the Second Circuit set forth the following six factors to determine the reasonableness of a fee application:

(1) the time and labor expended by counsel; (2) the magnitude and complexities of the litigation; (3) the risk of the litigation...; (4) the quality of representation; (5) the requested fee in relation to the settlement; and (6) public policy considerations.

209 F.3d 43, 50 (2d Cir. 2000) (citation and quotations marks omitted). “What constitutes a reasonable fee is properly committed to the sound discretion of the district court.” *Id.* at 47.

However, “in this District the great weight of authority supports basing common-fund awards on a percentage of the gross recovery.” *In re Glob. Crossing Sec. & ERISA Litig.*, 225 F.R.D. 436, 469 (S.D.N.Y. 2004) (citing cases); *accord Bekker*, 504 F. Supp. 3d at 269 (“courts in the Second Circuit prefer using the percentage method for calculating common-fund attorney fees.” (citing *McDaniel v. Cnty. of Schenectady*, 595 F.3d 411, 422 (2d Cir. 2010))). This method also “directly aligns the interests of the class and its counsel and provides a powerful incentive for the efficient prosecution and early resolution of litigation.” *Bekker*, 504 F. Supp. 3d at 269 (quoting *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 121 (2d Cir. 2005)). As discussed below, the *Goldberger* factors all support a one-third attorneys’ fee award.

B. All *Goldberger* Factors Support the Reasonableness of Class Counsel’s Fee Request

1. Degree of success obtained

Of the factors outlined in *Goldberger*, “the factor given the greatest emphasis is the size of the fund created, because ‘a common fund is itself the measure of success ... [and] represents the benchmark from which a reasonable fee will be awarded.’” *Id.* (quoting Manual for Complex Litigation (Fourth), § 14.121 (2004)). The \$4.6 million recovery represents a recovery of more than half of the Plan’s losses on Plaintiffs’ strongest claim (the retention of the stable value fund)

and a more than 20% recovery of Plaintiffs’ “all-in” damages. *See* Dkt. 63 at 15–16. This factor favors the requested fee.

2. The time and labor expended by counsel

To date, Class Counsel have expended 1,218 hours of work on this matter without compensation. Second Lee Dec. ¶ 12. Applying reasonable hourly rates yields a lodestar of \$923,041.50. *Id.* This includes time investigating potential claims before filing suit but does not include time spent preparing the instant motion. *Id.* As discussed further *infra*, this factor favors approval of the requested fee. *See infra* at 15–16.

3. The magnitude and complexities of the litigation

ERISA class actions are “notoriously complex cases” “often lead[ing] to lengthy litigation.” *Foster v. Adams & Assocs., Inc.*, No. 18-cv-02723-JSC, 2021 WL 4924849, at *6 (N.D. Cal. Oct. 21, 2021) (first quotation, citation and quotation marks omitted); *Krueger v. Ameriprise Fin., Inc.*, 2015 WL 4246879, at *1 (D. Minn. July 13, 2015) (second quotation). These cases can extend for a decade before final resolution, sometimes going through multiple appeals. *See, e.g., Chesemore v. Fenkell*, 829 F.3d 803 (7th Cir. 2016) (recounting lengthy history of case where trial was held in 2011); *Tussey v. ABB, Inc.*, 850 F.3d 951, 955 (8th Cir. 2017) (recounting 11-year procedural history); *Tibble v. Edison Int’l*, No. 09 Civ. 6548(RLE), 2017 WL 3523737, at *15 (C.D. Cal. Aug. 16, 2017) (outlining remaining issues ten years after suit filed and remand from the Supreme Court).

4. The risk of the litigation

This action carried substantial risk. Unlike securities class actions, which “have been litigated since at least the early 1940s ... ERISA is a relatively new statute (1974), and the laws creating 401(k) plans are even newer (1981).” *In re Marsh ERISA Litig.*, 265 F.R.D. 128, 147 (S.D.N.Y. 2010). Thus “ERISA case law remains thin in comparison to securities and antitrust

jurisprudence,” *id.*, and remains highly evolving in light of several recent Supreme Court decisions, *see Cunningham v. Cornell Univ.*, 604 U.S. 693 (2025); *Hughes v. Northwestern Univ.*, 595 U.S. 170 (2022); *Intel Corp. Investment Policy Committee v. Sulyma*, 587 U.S. 1050 (2020).

When Plaintiffs filed this case, Class Counsel was unaware of any decision establishing the standard for a prudent process for the selection and monitoring of products in the stable value family. Second Lee Dec. ¶ 4. At the time of settlement, this Court had not yet ruled on Defendant’s motion to dismiss. Thus, the risk that Plaintiffs could recover nothing was ever-present. *See, e.g., Smith v. FirstEnergy Corp.*, No. 2:20-CV-3755, 2022 WL 22691867, at *11 (S.D. Ohio Dec. 5, 2022) (awarding risk multiplier where motion to dismiss was pending at the time of settlement, which could have yielded “a dismissal of the case with no recovery.”); *cf. Andrew-Berry v. Weiss*, No. 3:23-CV-978 (OAW), 2025 WL 2687993, at *6 (D. Conn. Sept. 19, 2025) (recognizing that class counsel could have waited until the motion to dismiss was denied before proceeding with litigation, which could have yielded greater hours and a delayed resolution). Despite these risks, Plaintiffs promptly proceeded with discovery while Defendant’s motion to dismiss was pending, deposing every committee member, reviewing substantial document productions from Defendant, and producing documents to Defendant. Second Lee Dec. ¶ 7.

Further, in bringing this action, Class Counsel also took on the risks associated with the unique character of stable value products. Stable value products are insurance products governed by state laws and are fundamentally different from mutual funds. *Id.* ¶ 4. The market for stable value products is inherently opaque, making it difficult for plan participants and the general public to determine the crediting rates of comparable stable value products without discovery

and even third-party discovery. *Id.* Thus, unlike a typical 401(k) ERISA class action where other class counsel can rely on widely available prospectuses to compare the expense ratio and performance of mutual funds, here, Class Counsel had to rely on limited publicly available information. *Id.* This opacity also makes the standard for evaluating a fiduciary's monitoring highly specialized and context-specific. *See, e.g., Carter v. Sentara Healthcare Fiduciary Comm.*, No. 2:25-CV-16, 2026 WL 252616, at *5 (E.D. Va. Jan. 30, 2026) (discussing “the distinct nature of stable value options” and explaining that monitoring of such products can require fiduciaries to “evaluate the terms and conditions of the stable value contract, research the relevant market, and test the market by, among other things, issuing requests for information and proposals from competing stable value providers.”). Class Counsel could not confidently rely on existing caselaw outlining ERISA standards for monitoring and selecting mutual funds. In a similar case, a class of participants who invested in a 401(k) plan's stable value product prevailed on the defendant's motion to dismiss and motion for summary judgment, and ultimately lost following a bench trial. *See Iannone v. AutoZone, Inc.*, No. 2:19-CV-02779-MSN-TMP, 2025 WL 2797074, at *16–17 (W.D. Tenn. Sept. 30, 2025) (finding “a stable value option balances yield and capital preservation; fiduciaries are not required to chase the highest yield if doing so increases risk” and holding that the defendants' failure to negotiate a higher crediting rate was not imprudent).

These factors presented litigation and contingency risks for Class Counsel and support the requested fee. *See In re BioScrip, Inc. Sec. Litig.*, 273 F. Supp. 3d 474, 499 (S.D.N.Y. 2017), *aff'd sub nom. Fresno Cnty. Employees' Ret. Ass'n v. Isaacson/Weaver Fam. Tr.*, 925 F.3d 63 (2d Cir. 2019) (finding “that this case presented significant risks across all three categories: litigation, recovery, and contingency” where class counsel “describes numerous factual and legal

issues that presented challenges to any ultimate finding of liability”); *In re Glob. Crossing Sec. & ERISA Litig.*, 225 F.R.D. 436, 467 (S.D.N.Y. 2004).

5. The quality of representation

Class Counsel’s skills, reputation, and experience were critical to this early resolution. Courts have recognized the skills and ability of Class Counsel, Engstrom Lee. *See Colon v. Johnson*, No. 8:22-cv-888-TPB-TGW, 2024 WL 3315628, at *4 (M.D. Fla. May 31, 2024) (finding Engstrom Lee “clearly possess the qualifications and experience to handle this litigation” and undersigned counsel “is a highly skilled and experienced litigator in class actions and ERISA cases.”). Class Counsel have recovered more than \$300 million in retirement plan assets for participants across the country. *See* Dkt. 64-2 at 1.

Class Counsel also faced formidable defense counsel. Jackson Lewis is a prominent law firm focused on employment and labor with more than 1,000 attorneys nationwide. *Jackson Lewis, About Us*, available at <https://www.jacksonlewis.com/firm/about-us>. Lindsey Chopin, lead counsel for Defendant, has been recognized by Best Lawyers in America in its “Employee Benefits (ERISA) Law” section for several years. *Lindsey Chopin, Jackson Lewis*, available at <https://www.jacksonlewis.com/people/lindsey-h-chopin>. Accordingly, this factor supports the requested fee. *See In re BioScrip*, 273 F. Supp. 3d at 502 (“opposing counsel in this case was itself highly skilled, a factor courts have considered in approving fees.”); *In re Veeco Instruments Inc. Sec. Litig.*, No. 05 MDL 01695(CM), 2007 WL 4115808, at *7 (S.D.N.Y. Nov. 7, 2007) (“That Plaintiffs’ Counsel was able to obtain a substantial settlement from this Defendant confirms the quality of Plaintiffs’ Counsel’s representation in this matter, and is a factor in determining the reasonableness of the fee request.”).

6. The requested fee in relation to the settlement

Numerous courts within this district and its sister courts have held that a one-third

attorney fee award is reasonable and consistent with the market. *See, e.g., Kristal v. Mesoblast Ltd.*, No. 7:20-CV-08430-PMH, 2022 WL 3442535, at *1 (S.D.N.Y. Aug. 15, 2022) (Halpern, J.) (awarding one-third fee request); *Lea v. Tal Educ. Grp.*, No. 18-CV-5480 (KHP), 2021 WL 5578665, at *12 (S.D.N.Y. Nov. 30, 2021) (observing that one-third fee request “has been approved as reasonable in this Circuit.” (collecting cases)); *Beckman v. KeyBank, N.A.*, 293 F.R.D. 467, 477–78 (S.D.N.Y. 2013) (same); *In re N. Dynasty Mins. Ltd. Sec. Litig.*, No. 20-CV-5917 (TAM), 2024 WL 308242, at *15 (E.D.N.Y. Jan. 26, 2024) (noting a one-third fee award is “routinely approved as reasonable,” citing cases); *Rosenfeld v. Lenich*, No. 18-CV-6720 (NGG) (PK), 2021 WL 508339, at *6 (E.D.N.Y. Feb. 11, 2021) (“[I]t is very common to see 33% contingency fees in cases with funds of less than \$10 million.” (citation omitted)); *accord Chabak v. Somnia Inc.*, No. 7:22-CV-9341, 2025 WL 1275214, at *1 (S.D.N.Y. Apr. 28, 2025) (Halpern, J.) (awarding 31.5% fee request, collecting cases approving one-third fee award).

A one-third fee award is especially common in the context of ERISA class actions given their complexity. *See Bekker*, 504 F. Supp. 3d at 270 (one-third fee award is “market rate for litigating ERISA 401(k) class actions”); *Andrew-Berry*, 2025 WL 2687993, at *5 (awarding one-third fee in ERISA class action, overruling objection); *Beach v. JPMorgan Chase Bank*, No. 1:17-cv-00563, Dkt. 232 at ¶¶ 2, 3 (S.D.N.Y. Oct. 7, 2020) (approving one-third fee in ERISA class action); *Andrus v. New York Life Ins. Co.*, No. 16-5698, Dkt. 83 at 1 (S.D.N.Y. June 15, 2017) (same); *see also Bilewicz v. FMR Co.*, No. 13-10636, 2014 WL 8332137, at *6 (D. Mass. Oct. 16, 2014) (same); *Kruger v. Novant Health, Inc.*, No. 14-208, 2016 WL 6769066, at *6 (M.D.N.C. Sept. 29, 2016) (same); *Spano v. The Boeing Co.*, No. 06-743, 2016 WL 3791123, at *4 (S.D. Ill. Mar. 31, 2016) (same); *Abbott v. Lockheed Martin Corp.*, No. 06-701, 2015 WL 4398475, at *4 (S.D. Ill. July 17, 2015) (same); *Krueger v. Ameriprise Financial*, No. 11-2781,

2015 WL 4246879, at *4 (D. Minn. July 13, 2015) (same); *Beesley v. Int'l Paper Co.*, No. 06-703, 2014 WL 375432, at *4 (S.D. Ill. Jan. 31, 2014) (same).¹ This factor strongly favors approval of the requested fee.

7. Public policy considerations

Public policy considerations weigh in favor of granting the requested fees. “Counsel’s fees should reflect the important public policy goal of providing lawyers with sufficient incentive to bring common fund cases, like this one, that serve the public interest. A fee that is too low would create poor incentives to bring a class action case such as this and would discourage lawyers from seeking plan improvements like the ones included in this settlement.” *Bekker*, 504 F. Supp. 3d at 270–71. In assessing public policy considerations, Courts “scrutinize the unique circumstances of each case with ‘a jealous regard to the rights of those who are interested in the fund,’ but also provide incentives to bring these cases in the future.” *Id.* (quoting *Goldberger*, 209 F.3d at 53).

These considerations are especially prevalent in ERISA class actions. As the court recognized in *In re Marsh*, “Congress passed ERISA to promote the important goals of protecting and preserving the retirement savings of American workers” and “[t]he ERISA statute specifically encourages private enforcement.” 265 F.R.D. at 149–50; *see also Fastener Dimensions, Inc. v. Mass Mutual Life Ins. Co.*, Nos. 12-cv-8919 (DLC), 13-cv-4782 (DLC), 2014 WL 5455473, at *9 (S.D.N.Y. Oct. 28, 2014) (“[T]he protection of retirement funds is a great public interest” and “private attorneys general have a major role to play in ERISA

¹ In addition, in Plaintiffs’ retainer agreements with Class Counsel, Plaintiffs agreed that Class Counsel could apply to the Court for 33% of a class-wide recovery and that they would pay Class Counsel 33% of any individual recovery. Second Lee Dec. ¶ 15. This also provides support for Class Counsel’s request. *Beckman*, 293 F.R.D. at 478. Further, no Class Member has objected to Class Counsel’s request for 33% of the fund, Second Lee Dec. ¶ 25, which also provides support for Class Counsel’s fee request, *Beckman*, 293 F.R.D. at 478.

litigation.”).

Public policy considerations especially favor the requested fee in this case. Because stable value products guarantee a fixed rate of return, they are generally selected by the most risk-averse investors, who are often closest to retirement and therefore lack time to make up lost investment returns. Second Lee Dec. ¶ 16. At the same time, because of their inherently low returns, aggregate losses from imprudent selection and monitoring of stable value products can be much less than losses caused by imprudent selection of mutual funds, making them less appealing to experienced contingent fee counsel. *Id.* The unique factual characteristics associated with stable value products add another layer of complexity. *See supra* at 10–11. The relatively smaller recovery and greater risk favors the requested fee. *Andrew-Berry*, 2025 WL 2687993, at *6 (“The court appreciates the firm’s willingness to take on a case with relatively modest stakes (and thus relatively modest potential fees), and finds it in the interest of justice and the public interest to consider when awarding attorneys’ fees the importance of encouraging larger firms with specific expertise to take on cases that might not present a substantial money-making opportunity, but that stand to correct an injustice inflicted upon rank-and-file workers.”). This factor favors the requested fee.

C. The Lodestar Crosscheck Further Supports the Reasonableness of the Requested Fee

The lodestar crosscheck further confirms the reasonableness of Class Counsel’s requested fee. The lodestar method has “fallen out of favor particularly because it encourages bill-padding and discourages early settlements,” and thus it “works best as a sanity check to ensure that an otherwise reasonable percentage fee would not lead to a windfall,” for example, if the multiplier is too large and “grossly disproportionate to the percentage fee award” *In re Colgate-Palmolive Co. ERISA Litig.*, 36 F. Supp. 3d 344, 353 (S.D.N.Y. 2014) (approving lodestar

multiplier of 5); *Bekker*, 504 F. Supp. 3d at 271 (approving multiplier of 5.85). There is no windfall here.

Here, multiplying the hours worked by reasonable hourly rates yield a lodestar of \$923,041.50 and a multiplier of 1.7. Second Lee Dec. ¶ 12.² A 1.7 multiplier is at the low end of the range of multipliers found reasonable by federal courts. Second Lee Dec. ¶ 12; *Beckman*, 293 F.R.D. at 481–82 (“Courts regularly award lodestar multipliers of up to eight times the lodestar, and in some cases, even higher multipliers.”); *Sewell v. Bovis Lend Lease Inc.*, No. 09 Civ. 6548(RLE), 2012 WL 1320124, at *13 (S.D.N.Y. April 16, 2012) (“Courts routinely award lodestar multipliers between two to six.”); *Ramirez v. Lovin' Oven Catering Suffolk, Inc.*, No. 11 Civ. 520, 2012 WL 651640, at *4 (S.D.N.Y. Feb. 24, 2012) (granting attorneys’ fees equal to 6.8 times lodestar); *Davis v. J.P. Morgan Chase & Co.*, 827 F. Supp. 2d 172, 184–86 (W.D.N.Y. 2011) (awarding multiplier of 5.3 in wage and hour class action).

This lodestar multiplier understates Class Counsel’s work and does not include time spent preparing this motion or future time Class Counsel will spend administering the settlement if it is approved and implemented. Following this motion, Class Counsel will continue to oversee the administration of the settlement, respond to class member inquiries, confer with the Independent Fiduciary that has been retained to review the Settlement, draft and file a motion for final approval, attend the fairness hearing, and take any other measures necessary to effectuate the Settlement. *See supra* at 5–6. This additional work should be considered by the Court in

² The reasonableness of the hourly rates charged by Class Counsel (\$800–900 for partners, \$473–581 for associates, and \$250 for paralegals, Second Lee Dec. ¶ 12) is supported by rates charged by other ERISA class action practitioners, which have been approved by courts. *See, e.g., Henry v. Wilmington Trust, N.A.*, No. 1:19-cv-01925-JLH, Dkt. 143 ¶ 18 (D. Del. Oct. 17, 2025) (listing hourly rates of \$900–1275 for Of Counsel and Partners, \$350 for paralegals), approved by Court in Dkt. 155 ¶ 10; *Cockerill v. Corteva, Inc.*, No. 2:21-cv-03966-MMB, Dkt. 386-1 at 8 (listing hourly rates of \$900-1275 for partners, \$350 for legal assistants) (E.D. Pa. May 8, 2025), approved by Court, 2025 WL 1523002 (E.D. Pa. May 27, 2025); *see also id.* Dkt. 385-5 (listing hourly rates of \$795–1510 for partners, \$495-800 for associates, \$355–460 for paralegals in national ERISA class action practice).

connection with the present motion. *See Yuzary v. HSBC Bank USA, N.A.*, No. 12 Civ. 3693(PGG), 2013 WL 5492998, at *11 (S.D.N.Y. Oct. 2, 2013) (“[W]here class counsel will be required to spend significant additional time on this litigation in connection with implementing and monitoring the settlement, the multiplier will actually be significantly lower because the award includes not only time spent prior to the award, but after in enforcing the settlement.” (citation and quotation marks omitted)). The lodestar crosscheck supports the requested fee.

II. THE REQUESTED CLASS REPRESENTATIVE COMPENSATION IS REASONABLE

The requested class representative compensation is also reasonable and should be approved. “Case law in this and other circuits fully supports compensating class representatives for their work on behalf of the class, which has benefited from their representation.” *In re Marsh*, 265 F.R.D. at 150. “Plaintiffs willingly put themselves forward in litigation against their former employer regarding their personal finances.” *Bekker*, 504 F. Supp. 3d at 271 (citation and alterations omitted). Courts reason that service awards are compensatory in nature, reimbursing class representatives who “take on a variety of risks and tasks when they commence representative actions.” *Strougo v. Bassini*, 258 F. Supp. 2d 254, 264 (S.D.N.Y. 2003).

The requested compensation is fully consistent with these recognized rationales. The Class Representatives invested significant time prosecuting this action and advocating for the Class throughout this litigation and settlement process, taking time off from work to prepare for and appear for their deposition and to be available throughout the mediation and providing documents and detailed information regarding their personal finances. They further assumed significant reputational risks by suing their former employer. *see also Beesley*, 2014 WL 375432, at *4 (recognizing that risks of acting as named plaintiff in ERISA action include “alienation from employers or peers”). Finally, as explained above, public policy strongly favors the

enforcement of ERISA and the protection of retirement fund assets and the Class Representatives' personal efforts to further this important public policy should be recognized.

The requested \$7,500 amount (\$30,000 total for the four Class Representatives) is also reasonable and is in line with, or even below, service awards granted in other ERISA class actions. *See, e.g., Bekker*, 504 F. Supp. 3d at 271 (awarding \$20,000 to single ERISA class representative); *In re Marsh*, 265 F.R.D. at 150 (awarding \$15,000 to each of three ERISA class representatives); *Moreno v. Deutsche Bank Am. Holding Corp.*, No. 1:15-cv-09936, Dkt. 348 (S.D.N.Y. Mar. 7, 2019) (awarding \$10,000 to each of five ERISA class representatives); *Kruger*, 2016 WL 6769066, at *6 (awarding \$25,000 service awards to each of seven ERISA class representatives).

III. THE REQUESTED COSTS AND EXPENSES ARE REASONABLE AND SHOULD ALSO BE AWARDED

A. Litigation Costs

Class Counsel's advanced litigation costs should also be awarded. "Counsel in common fund cases may recover those expenses that would normally be charged to a fee-paying client. Counsel brought this case without guarantee of reimbursement or recovery, so they had a strong incentive to keep costs to a reasonable level, and they did so." *Bekker*, 504 F. Supp. 3d at 271; *see also In re Marsh*, 265 F.R.D. at 150 ("The expenses that may be reimbursed from the common fund encompass 'all reasonable' litigation-related expenses."). As outlined in the accompanying declaration of Jennifer Lee, Class Counsel's advanced costs include "the types of costs and expenses that are routinely reimbursed by paying clients" including mediation costs, travel, court reporting services, and legal research services. Second Lee Dec. ¶ 20; *see, e.g., In re Vitamin C Antitrust Litig.*, No. 06-MD-1738 (BMC)(JO), 2012 WL 5289514, at *11 (E.D.N.Y. Oct. 23, 2012) ("The principal expenses for which Class Counsel seeks reimbursement are ...

deposition reporters and transcripts, ... copying, travel, research, and court-filings—all of which are appropriate for reimbursement.”).

B. Settlement Administration Expenses

Finally, the requested settlement administration expenses are also reasonable. The Settlement Notice, claims review, and payment distribution services provided by Atticus are essential to carry out the Settlement. The cost of providing those services (\$29,895.00) is reasonable in light of the services provided and comes to \$6.00 per class member. Second Lee Dec. ¶ 24.

Further, review of the Settlement by the Independent Fiduciary is called for by Department of Labor regulations and is deemed to be a “critically important” benefit to plan participants. *See In re Marsh*, 265 F.R.D. at 139. The requested \$15,000 for the Independent Fiduciary is in line with amounts approved in other ERISA settlements. *See, e.g., Harvey v. Bed Bath & Beyond, Inc. 401(k) Savings Plan Committee*, No. 2:23-cv-20376-CCC-SDA, Dkt. 77 (D.N.J. Oct. 9, 2025) (approving \$15,000 payment to independent fiduciary); *Tufano v. Pride Mobility Prods. Corp.*, No. 3:24-cv-00765-KM, Dkt. 52 (M.D. Pa. June 17, 2025) (approving payment up to \$20,000 to independent fiduciary).

Accordingly, the requested settlement administration expenses in the amount of \$44,895.00 should be approved. *Andrew-Berry*, 2025 WL 2687993, at *7 (approving total settlement administration expenses in the amount of \$43,497.57); *Moreno*, No. 1:15-cv-09936, Dkt. 348 at 6 (approving “Class Counsel’s request for \$106,536 in settlement administration expenses”).

CONCLUSION

For the reasons set forth above, Plaintiffs and Class Counsel respectfully request that the Court approve the requested distributions from the Settlement Fund.

Respectfully Submitted,

Dated: February 27, 2026

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