UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

CRAIG PARMER and MARK A. LAURANCE individually and on behalf of all others similarly situated, Plaintiffs, v. LAND O'LAKES, INC., THE BOARD OF DIRECTORS OF LAND O'LAKES, INC., LAND O'LAKES, INC. RETIREMENT PLAN COMMITTEE, and JOHN DOES 1-30. Defendants.	Case No. 0:20-cv-01253-DSD-HB

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS CRAIG PARMER AND MARK A. LAURANCE'S UNOPPOSED MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES AND CASE CONTRIBUTION AWARDS FOR THE NAMED PLAINTIFFS

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I. INTRODUCTION

Named Plaintiffs Craig Parmer and Mark A. Laurance (collectively, "Plaintiffs"), by and through their undersigned counsel, hereby submit this memorandum of law in support of Plaintiffs' Motion For An Award of Attorneys' Fees and Reimbursement of Expenses and Case Contribution Awards to the Named Plaintiffs. Plaintiffs filed this Memorandum of Law at the same time as their Memorandum of Law In Support of Plaintiffs' Motion for Final Approval of Class Action Settlement,[1] Certification of Settlement Class, and Approval of Plan of Allocation (the "Final Approval Memorandum"). Plaintiffs herein request an award of attorneys' fees in the amount of $599,940.00, which represents 33 1/3% of the Gross Settlement Amount of $1,800,000.00. In addition, Plaintiffs request reimbursement of out-of-pocket costs and expenses incurred in connection with the prosecution of this Action in the amount of $14,109.76. Class Counsel also ask the Court to approve the payment of Case Contribution Awards in the amount of $10,000.00 each to Plaintiffs Craig Parmer and Mark A. Laurance in recognition of their contributions to this Action.

II. ARGUMENT

A. Legal Standard

[1] The Settlement Agreement is attached as Ex. 1 to the Declaration of Mark K. Gyandoh in Support of Plaintiffs' Motion for Final Approval of Settlement, Certification of Settlement Class and Approval of Plan of Allocation, and in Support of Motion for an Award of Attorneys' Fees, Reimbursement of Expenses and Case Contribution Awards for the Named Plaintiffs (the "Gyandoh Declaration" or "Gyandoh Decl.") which further discusses the efforts of Class Counsel in achieving this excellent result. The provisions of the Settlement Agreement, including all definitions and defined terms, are incorporated by reference herein. Thus, all capitalized terms not otherwise defined in this memorandum shall have the same meaning ascribed to them in the Settlement Agreement.

Courts utilize two main approaches in analyzing a request for attorneys' fees by class counsel: the "percentage of the fund" method and the "lodestar" method. J*ohnston v. Comerica Mortg. Corp.*, 83 F.3d 241, 244 (8th Cir. 1996). The percentage of the fund method is typically utilized in cases where a common fund is created and attorneys' fees are calculated as some fraction of the common fund. *Id.* at 244. While the Eighth Circuit has not expressly adopted its own test for the reasonableness of a fee award, it has approved of district court decisions considering: (1) the benefit conferred on the class, (2) the risk to which Class Counsel was exposed, (3) the difficulty and novelty of the legal and factual issues of the case, (4) the skill of the lawyers, both plaintiffs' and defendants', (5) the time and labor involved, (6) the reaction of the class, and (7) the comparison between the requested attorney fee percentage and percentages awarded in similar cases." (affirming attorney fee award of one-third of $60 million settlement).

Here, the same factors also warrant Class Counsel's requested fee of one-third of the common fund.

B. The Requested Fee is Fair and Reasonable

1. The Benefit Conferred on the Class

As explained in the Final Approval Memorandum, the Class Settlement Amount of $1,800,000.00 million is at least 20% of the Settlement Class's maximum potential damages. *See also* Gyandoh Decl. at ¶ 38. This percentage signifies a significant recovery for the Class. *See, e.g., Mehling v. New York Life Ins. Co.*, 248 F.R.D. 455, 462 (E.D. Pa. 2008) (recovery representing 20% of estimated damages in ERISA class action approved); *Johnson v. Fujitsu Tech. & Business of America, Inc.*, 2018 WL 2183253, at *6-7 (N.D.

Cal. May 11, 2018) (approving $14 million ERISA 401(k) settlement that represented "just under 10% of the Plaintiffs' most aggressive 'all in' measure of damages"); *In re Rite Aid Corp. Sec. Litig.*, 146 F.Supp.2d 706, 715 (E.D. Pa. 2001) (noting that since 1995, class action settlements have typically "recovered between 5.5% and 6.2% of the class members' estimated losses"); *see also Keil v. Lopez*, 862 F.3d 685, 696 (8th Cir. 2017) (finding that a 27% recovery of maximum possible full verdict at trial to be reasonable). In light of the uncertain and high-stakes backdrop, the proposed Settlement is an exceptional result for the Settlement Class.

2. The Risk to Which Class Counsel was Exposed

ERISA class actions alleging excessive fees or biased investment selection must survive myriad uncertainties, and the accompanying risks, in order to provide any relief to the class. While Class Counsel strongly believed in the merits of the Action, as discussed herein the Action was not without risk given the complex factual predicate. The economical and logistical unattractiveness of this case required a legal team with significant expertise in ERISA class action litigation who could manage this case in a cost-effective and comprehensive way.

Here, Plaintiffs face significant obstacles to ultimately prevailing on their claims. Breach of fiduciary duty claims under ERISA depend on the process by which decisions were made rather than the results of those decisions. *Braden v. Wal-Mart Stores, Inc.*, 588 F.3d 585, 595 (8th Cir. 2009). The Plan's investment decisions were made by the Land O'Lakes, Inc. Retirement Plan Committee ("Committee"). Defendants maintain that the process used by the Committee in selecting and managing the Plan's investment options

meets the requirements of ERISA. Further, Defendants maintain that the Plan's recordkeeping fees were reasonable during the Class Period. These disputed issues support the Settlement's approval. *See, e.g., Cooper v. Integrity Home Care, Inc.*, 2018 WL 3468372, at *2 (W.D. Mo. July 18, 2018) ("A settlement is bona fide if it reflects a reasonable compromise over issues actually in dispute.").

Moreover, assuming Plaintiffs established at trial that Defendants breached their fiduciary duty, proving damages would not be a given. The $9,006,703.78 million damages amount was a "best case" scenario, a number that Defendants would try to minimize if not eliminate at the summary judgment stage or at trial. Moreover, courts have recognized that accepting cases on a contingency basis lends support to attorneys' fees awards. *See, e.g., Johnson v. Georgia Highway Exp., Inc.*, 488 F.2d 714, 716 (5th Cir. 1974); *Porter*, 2010 WL 3395660, at *7 ("When a case is taken on a contingency basis, there is always a possibility that the attorneys will receive no compensation at all. For that reason, this court has held that contingency arrangements favor awarding plaintiff's attorneys the requested value of their services because, under such arrangements, the attorney accepts the case with the possibility that they would not receive compensation. (citation omitted). This factor, therefore, supports the awarding of the fees requested by Plaintiff"). Accordingly, this factor also supports approval of attorneys' fees.

3. The Difficulty and Novelty of the Legal and Factual Issues of the Case

ERISA 401(k) fiduciary breach class actions fall within a complex area of the law, which requires a willingness to risk significant resources in time and money, given the uncertainty of recovery and the protracted and sharply-contested nature of ERISA

litigation. The ERISA excessive fee case field "is a complex field that involves difficult and novel legal theories and often leads to lengthy litigation," *Krueger v. Ameriprise Fin., Inc.*, 2015 WL 4246879, at *1 (D. Minn. July 13, 2015), adding to the already great risk of such litigation. While some ERISA fiduciary breach cases concerning the selection and monitoring of plan investment options have settled, others have been dismissed entirely, lost at trial, or resulted in protracted legal battles even after findings of liability.

This Circuit is home to particularly noteworthy examples of these risks being realized by ERISA 401(k) plaintiffs' counsel. *Tussey v. ABB, Inc*., 746 F.3d 327 (8th Cir. 2014), an ERISA fiduciary breach case concerning the inclusion of allegedly imprudent investment options, spanned a decade of litigation, including four weeks of trial and two appeals that each wound their way through both the Eighth Circuit and United States Supreme Court, before resulting in an approved settlement and payment to the class and plaintiffs' counsel. *See* https://www.plansponsor.com/12-years-litigation-deliver-final-settlement-tussey-vs-abb/. Moreover, in *Wildman, et al., v. Am. Century Servs*., 362 F. Supp. 3d 685 (W.D. Mo. 2019), an ERISA fiduciary breach case survived a motion to dismiss, only to lose at trial.

4. The Skill of the Lawyers

Given the difficulties and risks noted above, counsel pursuing class actions such as this one must be knowledgeable about this complex and developing area of law, be aware of numerous merits and procedural pitfalls (including the risk of dismissal at any stage), be willing to risk dismissal at any stage, and be prepared to pursue many years of litigation.

Indeed, ERISA has been described as a "comprehensive and reticulated statute." *Nachman Corp. v. Pension Ben. Guar. Corp*., 446 U.S. 359, 361 (1980).

The skill and efficiency of the attorneys involved also weighs in favor of the requested fees and expenses. Proposed Class Counsel Capozzi Adler, P.C. has done substantial work, has experience litigating ERISA class actions and complex matters, and has committed ample resources to prosecute this matter. *See* Gyandoh Decl., ¶¶ 3-34. Accordingly, they are well-qualified to weigh the risks and benefits of continued litigation as compared to the relief provided by the Settlement. Throughout the litigation, Class Counsel has used its experience and access to resources to investigate and litigate Plaintiffs' underlying allegations, which ultimately led to the Settlement in this Action. Class Counsel have decades of experience in complex class actions and recommend this Settlement as the best solution for Settlement Class members.

5. Time and Labor Expended By Counsel

Analysis of these factors together involves considerations of "the time and labor expended" by the attorneys and the "novelty and difficulty of the questions raised in the litigation." *Barber*, 577 F.2d at 226. "In a settlement context, courts may look to whether negotiations were 'hard fought,' 'complex,' or 'arduous.'" *Id.* at 762. Here, the complexity and duration of the case, and the difficulty of the legal issues raised, all support the requested attorneys' fee award. As discussed herein and in the Final Approval Memorandum, Class Counsel effectively and efficiently litigated this action from its inception. Their extensive efforts included, *inter alia*, the investigation of Plaintiffs' claims, the underlying events, the operation and administration of the Plan, and transactions

alleged in the Complaint; drafting of the complaint; targeted discovery obtained from Defendants, requiring thorough study of over 7,200 pages of Plan documents, investment policy statements, administrative committee minutes, consultant analyses, etc; thorough comparison of the Plan and the performance of those investment options within the Plan with other available investment options, and complicated calculations of the differentials and the range of damages associated with same; thorough comparison of the recordkeeping costs of the Plan with other similarly sized plans; arranging for and conducting a formal mediation session, including preparing complex mediation memoranda submitted to the neutral, and the spirited settlement negotiations during the mediation; and the ultimate negotiation and memorialization of the Settlement terms, presentation of the Settlement to this Court, and administration and effectuation of the Class Settlement.

With respect to the novelty and difficulty of this Action, one district court reasoned in its order granting the plaintiffs' motion for attorneys' fees in an analogous action, "ERISA law is a highly complex and quickly-evolving area of the law. The novelty and difficulty of the questions raised tends to support the reasonableness of the requested fee award." *Smith v. Krispy Kreme Doughnut Corp.*, No. 05-cv-187, 2007 WL 119157, at *2 (M.D.N.C. Jan. 10, 2007).

Given the inherent risks of litigation in ERISA cases, the benefit is highly significant to the Settlement Class members as the Settlement provides tangible benefits without the risks, delays, and costs of ongoing litigation. Additionally, as further explained in the Final Approval Memorandum, the Settlement amount achieved is at least

20%, and likely higher, of the recovery Plaintiffs could hope to achieve at trial. *See also* Gyandoh Decl., ¶ 38.

6. The Reaction of the Class

As of the filing of the instant memorandum, there have been no objections to either the Settlement or Class Counsel's requests for fees.

7. The Comparisons Between the Requested Attorney Fee Percentage and Percentage Awarded in Similar Cases

Courts have permitted counsel fees ranging anywhere from nineteen (19) to forty-five (45) percent of the settlement fund. Courts routinely support counsel fees of 33 1/3% in analogous class actions advanced under ERISA.[2] Thus, an award of counsel fees in the amount of 33 1/3% of the common fund is appropriate here.

8. Public Policy Consideration

[2] *Krueger v. Ameriprise Financial, Inc.*, No. 11-cv-2781, 2015 WL 4246879 (D. Minn. July 13, 2015) (awarding 33.33% fee in case involving allegedly excessive 401(k) fees and resulting losses); *Dennard v. Transamerica Corp.*, No. 15-cv-30, 2016 WL 6471254 (N.D. Iowa Oct. 28, 2016) (same); *Larson v. Allina Health System*, No. 0:17-cv-03835-SRN-TNL (ECF No. 132) (D. Minn. May 22, 2020) (same); *Schultz v. Edward D. Jones & Co., L.P.*, No. 4:16-cv-01346-JAR (ECF No. 113) (E.D. Mo. March 19, 2019); *Abbott v. Lockheed Martin Corp*., No. 06-cv-701, 2015 WL 4398475 (S.D. Ill. July 17, 2015) (same); *Spano v. Boeing Co.*, No. 06-cv-743, 2016 WL 3791123 (S.D. Ill. Mar. 31, 2016) (same); *Kruger v. Novant Health, Inc.*, No. 1:14-cv-208, 2016 WL 6769066 (M.D.N.C. Sept. 29, 2016) (same); *Gordan v. Massachusetts Mut. Life Ins. Co.*, No. 13-cv-30184, 2016 WL 11272044 (same); *Beesley v. Int'l Paper Co*., No. 3:06-cv-703, 2014 WL 375432 (S.D. Ill. Jan. 31, 2014) (same); *Waldbuesser v. Northrop Grumman Corp.*, No. 06-cv-6213, 2017 WL 9614818 (C.D. Cal. Oct. 24, 2017) (same); *Will v. Gen. Dynamics Corp.*, No. 06-cv-698, 2010 WL 4818174 (S.D. Ill. Nov. 22, 2010) (same); *Martin v. Caterpillar Inc.*, No. 07-cv-1009, 2010 W 11614985 (C.D. Ill. Sept. 10, 2010) (same); *Diaz v. BTG Int'l, Inc.*, No. 19-cv-1664-JMY, 2021 WL 2414580 (E.D. Pa. June 14, 2021) (same); *Pinnell v. Teva Pharmaceuticals USA, Inc.*, No. 2:19-cv-05738-MAK (ECF No. 93) (June 11, 2021) (same); *Diaz v. BTG International, Inc.*, No. 2:19-cv-01664 (ECF No. 53), 2021 WL 2414580 (E.D. Pa. June 14, 2021) (same) (*see* Gyandoh Decl., ¶ 93).

Protecting workers' retirement funds is in the public interest. Public policy relies on private sector enforcement of the pension laws as a necessary adjunct to Department of Labor intervention. *Braden v. Walmart Stores, Inc.*, 588 F.3d 585, 598 (8th Cir. 2009) ("Congress intended that private individuals would play an important role in enforcing ERISA's fiduciary duties") (internal quotation marks omitted). Counsel's fees should reflect the important public policy goal of "providing lawyers with sufficient incentive to bring common fund cases that serve the public interest." *Goldberger v. Integrated Resources, Inc.*, 209 F.3d 43, 51 (2d Cir. 2000). While court awarded fees must be reasonable, setting fees too low or randomly will create insufficient incentive to bringing large class action cases. *See In re Veeco Instruments Inc. Sec. Litig.*, No. 05 MDL 01695, 2007 WL 4115808, at *3 (S.D.N.Y. Nov. 7, 2007) (citing *Goldberger*, 209 F.3d at 51). Courts must 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. *Goldberger*, 209 F.3d at 53.

C. Class Counsel's Fee Request is Reasonable

1. A Lodestar Crosscheck Confirms the Reasonableness of the Fee Request

While the Eighth Circuit has recognized the primacy of the percentage of recovery approach, it has also endorsed use of the lodestar method as a "cross check." *Petrovic v. Amoco Oil Co.*, 200 F.3d 1140, 1157 (8th Cir. 1999). To arrive at the lodestar, the hours expended are typically multiplied by each attorneys' respective hourly rate. The hourly rate to be applied in calculating the lodestar is that which is normally charged in the

community where the attorney practices. *Blum*, 465 U.S. at 895. "Community" in this sense is more expansive than geography. Indeed, "[t]he legal communities of today are increasingly interconnected. To define markets simply by geography is too simplistic. Sometimes, legal markets may be defined by practice area." *Arbor Hill v. County of Albany et al.*, 522 F.3d 182, 192 (2d Cir. 2008). The rates charged by counsel who specialize in large-scale, complex ERISA cases are relevant "because ERISA cases involve a national standard, and . . . ERISA cases are often considered to be complex, ERISA plaintiff cases are often undesirable, and Plaintiff's attorneys possess extensive experience in ERISA law." *Mogck v. Unum Life Ins Co. of Am.*, 289 F. Supp. 2d 1181, 1191 (S.D. Cal. 2003). Current rates are used since such rates compensate for inflation and the loss of use of funds. *Id*. The Court should also take into account "the attorneys' legal reputation, experience and status." *In re Charter Commc'n, Inc., Sec. Litig.*, 2005 WL 4045741 (E.D. Mo. June 30, 2005).

In addition, a multiplier is used "to account for, among other things, the results achieved, the quality of representation, the complexity and magnitude of the litigation, the consequent risk of nonpayment viewed as of the time of filing the suit, and the contingent nature of the expected compensation for services rendered." *Id.* (approving a fee request with a lodestar multiplier of 5.61). Multipliers between 5x and 6x are frequently approved. *In re RJR Nabisco Sec. Litig*., 1992 WL 210138 (S.D.N.Y. Aug. 24, 1992) (multiplier of 6x); *Davis v. J.P. Morgan Chase & Co.*, 827 F. Supp. 2d 172 (W.D.N.Y. 2011) (5.3x multiplier); *In re Rite Aid Corp. Secs. Litig.*, 146 F. Supp. 2d 706, 736 n.44 (E.D. Pa. 2001) (concluding that, under the cross-check approach, a lodestar multiplier in the range of 4.5

to 8.5 was "unquestionably reasonable"); *In re Beverly Hills Fire Litig.*, 639 F. Supp. 915 (E.D. Ky. 1986) (5x multiplier); *In re Boston & Maine Corp. v. Sheehan, Phinney, Bass & Green, P.A.*, 778 F.2d 890 (1st Cir. 1985) (6x multiplier)); *New Eng. Carpenters Health Benefits Fund v. First Databank*, 2009 WL 2408560 (D. Mass. Aug. 3, 2009) (awarding a fee representing a multiplier of approximately 8.3 times the lodestar).[3]

Here, Class Counsel and Liaison counsel have collectively worked hours, resulting in a base lodestar of $328,863.23 to date. *See* Gyandoh Decl. at ¶ 79. The basis for this calculation and the reasonableness of counsel's rates are attested to by the filed declarations and represent the customary hourly rates of the attorneys and their staff. *See generally* Gyandoh Decl. and Lockridge Decl. Similar rates were effectively approved by the district court in *McDonald et al. v. Edward Jones* (E.D. Mo.) and affirmed by the Eighth Circuit. *See McDonald*, 791 F.App'x 638, 640 (8th Cir. 2020) (affirming judgment).

The lodestar multiplier of Plaintiffs' requested fee is 1.82. Class Counsel should not be punished for their efficiency and effectiveness in reaching an early settlement that provides significant relief for the class. *See Sala v. National Railroad Passenger Corp.*, 128 F.R.D. 210, 215 (E.D. Pa. 1989) ("[It would be the height of folly to penalize an efficient attorney for settling a case on the ground that less total hours were expended in the litigation.") (internal quotation omitted). "Had the case not been settled, considerably

[3] Moreover, the requested fee award is also within the range of fee awards routinely found to be reasonable within this Circuit using the lodestar analysis. *See, e.g., Ewald v. Royall Norwegian Embassy*, 2015 WL 1746375, at *18 (D. Minn. Apr. 13, 2015) (awarding $1,773,719.05); *Morales v. Farmland Foods, Inc.*, 2013 WL 1704722, at *11 (D. Neb. Apr. 18, 2013) (awarding $2,008,142).

more time would have been necessary to complete formal discovery and to prepare this case for trial with no assurance that the outcome would have been any more successful." *In re Charter Commc'n, Inc. Sec. Litig*. at *18.

Further, it is anticipated that Class Counsel will invest additional time preparing for the Fairness Hearing and overseeing the administration of the Settlement (among other functions). Gyandoh Decl., ¶ 80. Thus, under a lodestar analysis, the requested fee award is indisputably reasonable.

D. Class Counsel Should Be Reimbursed For Their Incurred Expenses

Class Counsel and Liaison counsel should also be reimbursed a combined $14,109.76 in litigation expenses they advanced in prosecuting this case under FED. R. CIV. P. 23(h), the vast majority of which are the costs of the mediation itself. *See also In re Safety Components, Inc. Sec. Litig.*, 166 F. Supp.2d 72, 108 (D.N.J. 2001) ("Counsel for a class action is entitled to reimbursement of expenses that were adequately documented and reasonably and appropriately incurred in the prosecution of the class action.") (citing *Abrams v. Lightolier, Inc.*, 50 F.3d 1204, 1225 (3d Cir. 1995)). As a leading treatise states:

> An attorney who creates or preserves a common fund by judgment or settlement for the benefit of a class is entitled to receive reimbursement of reasonable fees and expenses involved. The equitable principle that all reasonable expenses incurred in the creation of a fund for the benefit of a class are reimbursable proportionately by those who accept benefits from the fund authorizes reimbursement of full reasonable litigation expenses as costs of the suit in contrast to the more narrowly defined rules of taxable costs of suit under Fed. R Civ. P. 54 (d). . . . The prevailing view is that expenses are awarded in addition to the fee percentage.

Alba Conte, 1 *Attorney Fee Awards* § 2:19 (3d ed.); *see also Sprague v. Ticonic*, 307 U.S. 161, 166-67 (1939) (recognizing a federal court's equity power to award costs from a common fund); *Camden I Condo. Ass'n v. Dunkle*, 946 F.2d 768, 771 (11th Cir. 1991) ("In accordance with the well-established common fund exception to the American Rule, . . . class counsel. . . are entitled to an award of their . . . expenses out of the fund that has been created for the class by their efforts").

Counsel in common fund cases may recover those expenses that would normally be charged to a fee-paying client. *Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994) ("Harris may recover as part of the award of attorney's fees those out-of-pocket expenses that 'would normally be charged to a fee paying client.'"). These costs and expenses "include such things as expert witness costs, mediation costs, computerized research, court records, travel expenses, and copy, telephone, and facsimile expenses." *Krueger*, 2015 WL 4246879 at *3 (citing FED. R. CIV. P. 23); *Boeing*, 444 U.S. at 478; *Abrams*, 50 F.3d at 1225; *Cullen v. Whitman Medical Corp.*, 197 F.R.D. 136, 151 (E.D. Pa. 2000).

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. *Krueger*, 2015 WL 4246879 at *3 (citing *In re Marsh ERISA Litig.*, 265 F.R.D. 128, 150 (S.D.N.Y. 2010)) (recognizing counsel with contingent fee agreement has a "strong incentive to keep expenses at a reasonable level"). The expenses are reasonable and should be rewarded. *See, e.g., In re Cendant Corps. PRIDES Litig.*, 243 F.3d 722, 732 n. 12 (3d Cir. 2001) (quoting the 1985 Task Force Report) ("common-fund doctrine [...] allows a person who maintains a lawsuit that results in the creation, preservation, or increase of a fund in which

others have a common interest, to be reimbursed from that fund for litigation expense incurred"); *see also AT&T*, 455 F.3d 160, 172 n. 8 (3d Cir. 2006) ("[e]xpenses are generally considered and reimbursed separately from attorneys' fees").

E. The Class Representatives' Efforts on Behalf of the Class Merit the Requested Case Contribution Awards

Plaintiffs request Class Representatives Craig Parmer and Mark A. Laurance be granted a Case Contribution Award in compensation for the time and effort they expended in successfully prosecuting this case to a successful resolution and the risks they undertook in so doing. Such awards acknowledge representative plaintiffs' hard work and sacrifices in support of the class, including employability with Cerner, as well as their promotion of the public interest. "Courts often grant services awards to named plaintiffs in class action suits to promote the public policy of encouraging individuals to undertake the responsibility of representative lawsuits." *Caligiuri v. Symantec Corp.*, 855 F.3d 860, 867 (8th Cir. 2017).

Here, Plaintiffs seek an award of $10,000.00 each to Plaintiffs Craig Parmer and Mark A. Laurance. Each of the Class Representatives have been closely involved in this litigation since its inception. They provided documents, reviewed the Complaint, and monitored Class Counsel and the progress of the litigation, including discussions about the terms of the Settlement. Gyandoh Decl., ¶ 95. Each of the Named Plaintiffs have submitted declarations in support of their requests for case contribution awards. The declarations are attached to the Gyandoh Declaration as Ex. 11 (Parmer Declaration) and Ex. 12 (Laurence Declaration).

Substantially larger awards have been approved. *See, e.g.*, *Tussey v. ABB, Inc.*, 2012 WL 1113291, at *21 (W.D. Mo. Nov. 2, 2012) (awarding $25,000 to each class representative in ERISA 401(k) fee class action); *Mayer v. Driver Solutions, Inc.*, 2012 WL 3578856, at *5 (E.D. Pa. Aug. 17, 2012) (approved $15,000 award for class representative); *Bernhard v. TD Bank, N.A.*, 2009 WL 3233541, at *2 (D.N.J. 2009) ("[C]ourts routinely approve incentive awards to compensate named plaintiffs for services they provided and the risks they incurred during the course of the class action litigation.") (quoting *Cullen*, 197 F.R.D. at 145); *Cook v. Niedert*, 142 F.3d 1004, 1016 (7th Cir. 1998) (upheld $25,000 award to class representative); *Beesley v. International Paper*, 2014 WL 375432, at *4 ($25,000 awarded to each of the three named plaintiffs).

III. CONCLUSION

Plaintiffs respectfully request that the Court award attorneys' fees in the amount of $599,940.00, approve the reimbursement of litigation expenses in the amount of $14,109.76, and approve Case Contribution Awards in the amount of $10,000.00 to each of the two Named Plaintiffs.

Dated: October 10, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 10, 2022, a true and correct copy of the foregoing document was filed with the Court utilizing its ECF system, which will send notice of such filing to all counsel of record.

By: *Mark K. Gyandoh*
Mark K. Gyandoh, Esq.

CERTIFICATE OF COMPLIANCE

I, Mark K. Gyandoh, certify that the Memorandum of Law In Support of Plaintiffs Craig Parmer and Mark A. Laurance's Unopposed Motion for Preliminary Approval of Class Action Settlement, Preliminary Certification of Settlement Class, Approval of Class Notice, Approval of Plan of Allocation, and Scheduling of A Fairness Hearing complies with the limits in Local Rule 7.1(f) and type-size limit of Local Rule 7.1(h). I further certify that Microsoft Word version 2013, 13-point font, Times New Roman typeface, and that this word processing program has been applied to include all text, including headings, footnotes, and quotations in the word count, which contains 4,248 words.

/s/ Mark K. Gyandoh
Mark K. Gyandoh