

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

CRAIG PARMER and MARK A.)	
LAURANCE individually and on behalf)	Case No. 0:20-cv-01253-DSD-HB
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.)	

**PLAINTIFFS’ SUPPLEMENTAL MEMORANDUM OF LAW IN SUPPORT OF
PLAINTIFFS’ MOTIONS FOR FINAL APPROVAL OF CLASS ACTION
SETTLEMENT, CERTIFICATION OF SETTLEMENT CLASS, AND
APPROVAL OF PLAN OF ALLOCATION AND FOR AN AWARD OF
ATTORNEYS’ FEES AND REIMBURSEMENT OF EXPENSES AND
CASE CONTRIBUTION AWARDS TO THE NAMED PLAINTIFFS**

I. INTRODUCTION

Named Plaintiffs, Craig Parmer and Mark A. Laurence (collectively, “Plaintiffs”), participants in the Land O’Lakes Employee Savings & Supplemental Retirement Plan (the “Plan”), by and through their undersigned counsel, hereby respectfully submit this Memorandum of Law in further support of their motions (1) for an Order Granting Final Approval of Class Action Settlement, Certification of Settlement Class, and Final Approval of Plan of Allocation (“Motion for Final Approval”) and (2) for an Award of Attorneys’ Fees, Reimbursement of Expenses, and Case Contribution Awards to the Named Plaintiffs

(“Motion for Fees and Expenses”) (ECF Nos. 97 through 99), both filed with the Court on October 10, 2022. Plaintiffs submit this Supplemental Memorandum per the schedule set forth in the Court’s June 28, 2022 Order to (a) inform the Court that there have been no objections to any aspect of the Settlement, and (b) to submit for the Court’s consideration additional expenses of \$250 for reimbursement, the invoice for which was received a day after Plaintiffs filed their Motion for Fees and Expenses.

II. ARGUMENT

A. The Complete Absence of Objections Further Supports the Adequacy of the Settlement as well as Class Counsel’s Requested Attorneys’ Fees and Case Contribution Awards to the Named Plaintiffs

As stated in Plaintiffs’ Motion for Final Approval, on July 28, 2022, the Settlement Administrator, JND Legal Administration (“JND”), mailed the Court-approved Class Notice via USPS first-class mail to all 18,425 unique Class Members. *See* ECF No. 98, p. 11 of 28. As of October 6, 2022, 93.6% of the mailed notices had been successfully delivered.¹ JND also established a Settlement Website and a case-specific, toll-free number for Class Members. *See* ECF No. 98, p. 11 of 28. The information provided in these various formats informed the Settlement Class that this Court had set October 19, 2022 as the deadline by which any objection to the proposed Settlement was to be filed. *See* ECF No. 94 at ¶ 11. To date, zero objections have been filed in this Action.

Courts consider “both the number and quality when determining how a class has reacted to an attorney fee request” or class actions settlement. *In re Xcel Energy, Inc., Sec.*,

¹ At the November 10 Final Approval Hearing, Class Counsel will be prepared to provide the Court an up-to-date status report on the Class Notice mailing campaign.

Derivative & ERISA Litig., 364 F.Supp.2d 980, 996-998 (D. Minn. 2005) (approved 25% of the settlement fund as attorney fees finding seven objections “minuscule [...] in light of the size of the class”); *see also In re UnitedHealth Group Incorporated PSLRA Litig.*, 643 F.Supp.2d 1094, 1100 (D. Minn. 2009) (finding three objections “minuscule, strongly suggesting the class’s overwhelming approval of the settlement”).

Indeed, Courts across the nation consider no or few objections to either the settlement itself or to Class Counsel’s requested attorneys’ fees as strong evidence of the propriety and accessibility of that request. *See, e.g., Keil v. Lopez*, 862 F.3d 685, 698 (8th Cir. 2017) (small number of objections relative to a large class “speaks well of class reaction to the Settlement” and provides support for approval); *DeBoer v. Mellon Mortg. Co.*, 64 F.3d 1171, 1178 (8th Cir. 1995) (“The fact that only a handful of class members objected to the settlement similarly weighs in its favor”); *see also Rawa v. Monsanto Company*, 2018 WL 2389040, at * 7 (E.D. Mo. May 25, 2018) (finding the minimal number of objectors compared to “the large size of the Settlement Class and the extensive public notice” to “weigh in favor of approval” of the settlement).

Given the same lack of objections to the Settlement in this Action, Plaintiffs respectfully submit that the reasoning is equally warranted here and the Motions for Final Approval and for Fees and Expenses should be approved.

B. Class Counsel Incurred an Additional \$250 in Expenses Not Reflected in the Motion for Fees and Expenses

A day after submission of the Motion for Fees and Expenses on October 11, 2022, Class Counsel received an invoice from the Mediator² for a balance remaining of \$250 charged to Plaintiffs for services rendered on September 23, 2022 in relation to the mediation in this matter. *See* Gyandoh Declaration submitted in support of the instant memorandum at ¶ 3. Class Counsel promptly sent payment to the Mediator. *Id.* Payment of the \$250 increased the amount of Class Counsel’s unreimbursed expenses, as expressed in its Motion for Fees and Expenses, from \$14,109.76 to \$14,359.76. Gyandoh Decl., ¶ 4.

The payment to the Mediator constituted payment for services necessarily and reasonably incurred in prosecution of this case. Indeed, reasonable costs and expenses for litigation “include such things as expert witness costs, mediation costs, computerized research, court records, travel expenses, and copy, telephone, and facsimile expenses.” *Krueger v. Ameriprise Fin., Inc.*, 2015 WL 4246879, at *3 (D. Minn. July 13, 2015) (citing FED. R. CIV. P. 23). Further, the Class Notice sent to the Settlement Class informed them Class Counsel would apply to the Court for “reimbursement of expenses not to exceed \$50,000.” ECF 91-1 at p. 42 of 85. The total amount of expenses being sought, even with the addition of the \$250 is well below the figure Class Members were given an opportunity to object to but did not.

Accordingly, Class Counsel modify their prior request for reimbursement of expenses to include the additional \$250 incurred during the litigation, but not invoiced and

² Under the Settlement Agreement, the Mediator is defined as David Geronemus of JAMS. *See* Settlement Agreement, ¶ 1.28.

paid until recently. The total amount of reimbursement of expenses sought is thus \$14,359.76.

III. CONCLUSION

For the reasons set forth herein, and in Plaintiffs' prior submissions in connection with the Settlement, Plaintiffs respectfully request that the Court grant their unopposed Motions for Final Approval and for Fees and Expenses of \$14,359.76.

Dated: November 2, 2022

Respectfully submitted,

CAPOZZI ADLER, P.C.

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Counsel for Plaintiffs and
the Putative Class

CERTIFICATE OF COMPLIANCE

I, Mark K. Gyandoh, certify that the Plaintiffs' Supplemental Memorandum of Law In Support of Plaintiffs Motions for Final Approval of Class Action Settlement, Certification of Settlement Class, and Approval of Plan of Allocation and for an Award of Attorneys' Fees and Reimbursement of Expenses and Case Contribution Awards to the Named Plaintiffs 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 970 words.

/s/ Mark K. Gyandoh

Mark K. Gyandoh

CERTIFICATE OF SERVICE

I hereby certify that on November 2, 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: */s/ Mark K. Gyandoh*
Mark K. Gyandoh, Esq.