IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
CASE No.: 4:22-CV-33-BO

HANK BLAND, KENDELL JACKSON, LUETTA INNISS, for themselves and all others similarly situated, Plaintiffs,	)
v.	)
CAROLINA LEASE MANAGEMENT GROUP, LLC, CTH RENTALS, LLC, and OLD HICKORY BUILDINGS, LLC, Defendants.	)

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEYS' FEES AND COSTS, AND PAYMENT OF CLASS REPRESENTATIVES' AWARDS

I. INTRODUCTION

The settlement of this matter—now preliminarily approved by the Court—resolves claims of over 7,400 North Carolina residents who assert that Defendants Carolina Lease Management Group, LLC (CLMG) and CTH Rentals, LLC (CTH) (collectively, "Settling Defendants") charged illegally high rates of interest in rent-to-own contracts for storage buildings in violation of North Carolina's Retail Installment Sales Act (RISA) and Unfair and Deceptive Trade Practices Act (UDTPA), and collected these charges from consumers in violation of North Carolina's Debt Collection Act (DCA).

On July 24, 2025, the Court preliminarily approved the Settlement Agreement and Release (Agreement)[1] reached by the Parties in this matter. ECF No. 103. Plaintiffs, on behalf of the Class, now present their motion for attorneys' fees and costs and class representative service awards. Settling Defendants do not oppose this motion. As proposed in their Motion for Preliminary Approval and reflected in the Agreement, Plaintiffs request: (i) an award of 33% of the Settlement Fund ($2,309,448.53) for Class Counsel's attorney fees and costs combined and (ii) Service Awards in the amount of $10,000 each for Class Representatives Hank Bland, Luetta Innis, and Kendall Jackson.

As this Court has noted, "[m]any courts in the Fourth Circuit have held that attorneys' fee awards in the amount of one-third of the settlement fund are reasonable." *Bulls v. USAA Fed. Sav. Bank*, No. 5:21-CV-488-BO, 2025 WL 223768,

[1] All capitalized terms are given the same meanings set forth in the Settlement Agreement, ECF No. 100-1.

at *1 (E.D.N.C. Jan. 16, 2025) (collecting and citing cases); *see also Velasquez Monterrosa v. Mi Casita Restaurants*, No. 5:14-CV-448-BO, 2017 WL 11829699, at *7 (E.D.N.C. Sept. 26, 2017) (awarding one-third of the recovery in fees); *Childress, et al. v. JPMorgan Chase Bank, N.A., et al.,* No. 5:16-CV-298-BO, ECF No. 360 (E.D.N.C. Oct. 1, 2020) (granting 30% of gross common fund as reasonable attorneys' fees and $25,000 to primary class representatives); *Childress, et al. v. Bank of America, N.A.,* No. 5:15-CV-231, ECF No. 122 (E.D.N.C. Dec. 14, 2017) (granting 30% of gross common fund as reasonable attorneys' fees). This precedent strongly supports Plaintiffs' fee and cost request here.

Plaintiffs' application for a fee and costs award is reasonable and fair given the circumstances of the litigation, the expertise and zealous advocacy demonstrated by Class Counsel throughout this matter, the novelty of the claims asserted, and the significant results ultimately achieved for the Class. The awards to the Class Representatives, who played important roles in this litigation, are likewise fair and reasonable. For the additional reasons argued below, Plaintiffs respectfully request that the Court grant their motion.

II. PRELIMINARY STATEMENT IN SUPPORT OF THE MOTION

On behalf of a statewide class of North Carolina consumers, Class Counsel labored in earnest and achieved an excellent result that avoids the uncertainty and delay of continued litigation.[2] The $6,998,328.87 gross Settlement Fund, plus the

[2] For the sake of brevity, Plaintiffs incorporate their previous Statement of the Case herein by reference. Pls.' Memo. in Supp. of Unopposed Mot. for Order Granting Prelim. Approval of Class Settlement, Certifying the Class for Purposes of Settlement & Directing Not. to the Class, ECF No. 101 at 3-6.

$669,522.33 in waived unpaid charges agreed to by the Parties,[3] will provide meaningful, direct compensation and relief to these Class members without the complication of a claims process. Under the Agreement, payments will be sent automatically to every Class Member, including direct deposits where feasible, as will reminder notices and reissuances of checks, to ensure that the Settlement has the maximum benefit for Class members and their families. *See* ECF No. 100-1 at 15-18, 21-22 (Notice and Distribution Plan). This Agreement ensures that substantial payments are made to thousands of North Carolina residents, averaging over $600 each for overpayments made many years ago, plus waiver of additional sums Settling Defendants claimed were owed.

This is a substantial achievement, especially given the significant obstacles faced by Plaintiffs in pursuing this novel litigation raising issues of first impression under RISA, UDTPA and the DCA. As discussed below, *see infra* Part III.B.4, Defendants defended this case aggressively and challenged Plaintiffs' claims on several fronts before this Court. The specific risks faced in this litigation were significant and included the ever-present possibility that Plaintiffs might fail to recover at all, losing the Settling Defendants' pending motion for judgment on the

[3] The Settlement Agreement provides that CLMG waives $669,522.33 in unpaid charges allegedly owed by members of both the *Bland* class and the *Greene v. CLMG* class at the time of settlement, but does not break down the amount between the two classes. Since the *Greene* class period ends in March 2018, it is likely that most if not all of the $669,522.33 thousand is owed by *Bland* class members. *See* Pls.' Memo. in Supp. of Unopposed Mot. for Order Granting Prelim. Approval of Class Settlement, Certifying the Class for Purposes of Settlement & Directing Not. to the Class, ECF No. 101 at 8.

pleadings, a subsequent motion for summary judgment, at a jury trial, or on appeal. In addition, the possibility of denial of class certification (either directly or on appeal) could not be ruled out. Because no other firms took the risk of pursuing this or any similar litigation, Class Counsel—a solo practitioner and a non-profit organization—bore all the risk and costs to seek a benefit for the class. Class Counsel litigated this case with skill and dedication throughout, defending the claims (including through appeal) and preparing the case for trial while simultaneously negotiating an excellent result for the Class. *See infra* Part III.B.3.

The more than $7 million dollars of total relief obtained for Class members achieved by Plaintiffs and Class Counsel in this case is an excellent result in light of the very real risks of loss in this novel case. Under the relevant legal standards, Plaintiffs' request for a fee and expense award and payments to the Class Representatives is reasonable and reflective of the efforts and success of the case.

III. ARGUMENT

A. The requested attorney fee & expense award is reasonable as a percentage of the common fund.

The award of attorneys' fees is "within the judicial discretion of the trial judge" and disturbed by the court of appeals only upon finding an abuse of discretion. *Barber v. Kimbrell's, Inc.*, 577 F.2d 216, 226 (4th Cir. 1978) (further citation omitted); *Berry v. Schulman*, 807 F.3d 600 (4th Cir. 2015).

The United States Supreme Court has "recognized consistently that a litigant or a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorney's fee from the fund as a whole." *Boeing*

Co. v. Van Gemert, 444 U.S. 472, 478 (1980); Fed. R. Civ. P. 23(h) ("In a certified class action, the court may award reasonable attorney's fees and nontaxable costs . . .").

Where there is a common fund, or calculable monetary benefit to class members, for district courts in the Fourth Circuit, the "overwhelmingly" preferred method to determine appropriate attorneys' fees is to base the award on a percentage of the monetary benefit obtained. *Krakauer v. Dish Network, L.L.C.*, No. 1:14-CV-333, 2018 WL 6305785, at *2 (M.D.N.C. Dec. 3, 2018) (citation omitted); *see also Kelly v. Johns Hopkins Univ.,* No. 1:16-CV-2835-GLR, 2020 WL 434473, at *2 (D. Md. Jan. 28, 2020) ("Within the Fourth Circuit, district courts prefer the percentage method in common-fund cases."); *Savani v. URS Professional Solutions, LLC,* 121 F. Supp. 3d 565, 568-69 (D.S.C. 2015); *Jones v. Dominion Res. Servs., Inc.*, 601 F. Supp. 2d 756, 758 (S.D. W. Va. 2009) ("The percentage method has overwhelmingly become the preferred method for calculating attorneys' fees in common fund cases."); *Kay Co. v. Equitable Prod. Co.*, 749 F. Supp. 2d 455, 463 (S.D. W.Va. 2010); *Kruger v. Novant Health, Inc.*, No. 1:14-CV-208, 2016 WL 6769066, at *2 (M.D.N.C. Sept. 29, 2016); *In re: Aqueous Film Forming Foams Products Liability Litig.*, 2:24-CV-2321, 2024 WL 4868615, *2 (D.S.C. Nov. 22, 2024); *Archbold v. Wells Fargo Bank, N.A.*, No. 13-24599, 2015 WL 4276295, at *5 (S.D. W. Va. July 14, 2015) ("[T]he Court concludes that there is a clear consensus . . . that the award of attorneys' fees in common fund cases should be based on a percentage of the recovery."); *Teague v. Bakker*, 213 F. Supp. 2d 571, 583 (W.D.N.C. 2002).

In keeping with this approach, this Court has endorsed the percentage of

recovery method in several other cases. *See Bulls v. USAA Fed. Sav. Bank*, No. 5:21-CV-488-BO, 2025 WL 223768 (E.D.N.C. Jan. 16, 2025); *Velasquez Monterrosa v. Mi Casita Restaurants*, No. 5:14-CV-448-BO, 2017 WL 11829699, at *7 (E.D.N.C. Sept. 26, 2017); *Childress v. JP MorganChase & Co.*, No. 5:16-CV-298-BO, ECF No. 360 (E.D.N.C. Oct. 1, 2020); *Childress v. Bank of America, N.A.*, No. 5:15-CV-231, ECF No. 122 (E.D.N.C. Dec. 14, 2017).

Moreover, other "[c]ourts within the Fourth Circuit have cautioned against the lodestar approach in determining attorneys' fees in common fund cases such as this," *Kruger*, 2016 WL 6769066, at *3, recognizing that, by contrast, the percentage method encourages efficiency and is the "more equitable" approach to determining fees. *Archbold*, 2015 WL 4276295, at *4 (stating a "clear consensus among the federal and state courts . . . that the award of attorneys' fees in common fund cases should be based on a percentage of the recovery" because "the percentage of fund approach is the better-reasoned and more equitable method of determining attorneys' fees in such cases."); *see also Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 121 (2d Cir. 2005) (stating the lodestar method "create[s] an unanticipated disincentive to early settlements, tempt[s] lawyers to run up their hours, and compel[s] district courts to engage in a gimlet-eyed review of line-item fee audits") (alterations in original) (citations and internal quotations omitted). Among other things, "the percentage method better aligns the interests of class counsel and class members because it ties the attorneys' award to the overall result achieved rather than the

hours expended by the attorney." *Jones*, 601 F. Supp. 2d at 760.[4]

As this Court previously noted, "[m]any courts in the Fourth Circuit have held that attorneys' fee awards in the amount of one-third of the settlement fund are reasonable." *Bulls v. USAA Fed. Sav. Bank*, No. 5:21-CV-488-BO, 2025 WL 223768, at *1 (E.D.N.C. Jan. 16, 2025) (citing cases); *Chrismon v. Meadow Greens Pizza*, No. 5:19-CV-155-BO, 2020 WL 3790866, at *5 (E.D.N.C. July 7, 2020) (same); *see also Alliance Ophthalmology, PLLC v. ECL Grp., LLC*, No. 1:22-CV-296, 2024 WL3203226 ,at *16 (M.D.N.C. June 27, 2024). Indeed, attorneys' fees in common fund cases typically reflect "around one-third of the recovery." 5 *Newberg and Rubenstein on Class Actions* § 15:73 (6th ed.) (noting that a "33% figure provides some anchoring for the discussion of class action awards [to counsel]" and that "many courts have stated that . . . fee awards in class actions average around one-third of the recovery."); *accord* Theodore Eisenberg & Geoffrey Miller, *Attorney Fees in Class Action Settlements:*

[4] Courts have recognized, *inter alia*, three significant drawbacks to use of the lodestar method in common fund cases: (1) it bears no relation to the success of the case and benefits to the class; (2) it discourages efficiency in litigation, including efforts toward early settlement of cases; and (3) it wastes limited court resources by requiring judges to sift through voluminous timekeeping records. *See, e.g., Strang v. JHM Mortgage Securities, Ltd. P'Ship*, 890 F. Supp. 499, 503 (E.D. Va. 1995) ("[T]he percentage method is more efficient and less burdensome than the traditional lodestar method, and offers a more reasonable measure of compensation for common fund cases."); Manual for Complex Litigation (Third) § 24.121 (1995) ("the lodestar method [has] proved difficult to apply, time-consuming to administer, inconsistent in result, and capable of manipulation to reach a predetermined result. Accordingly, it has been criticized by courts, commentators, and members of the bar"); 7B *Federal Practice and Procedure* § 1803.1 (3d ed.) (The lodestar approach had been criticized as being extremely burdensome and time consuming, as well as discouraging attorney efficiency.)

An Empirical Study, 1 J. of Empirical Legal Studies, 27, 31, 33 (2004) (finding that courts consistently award 30–33% of the common fund). On average, courts have "awarded percentages exceeding 30%." *Thomas v. FTS USA, LLC*, No. 3:13-CV-825, 2017 WL 1148283, at *54 (E.D. Va. Jan. 9, 2017) (citing *In re Rite Aid Corp. Sec. Litig.*, 146 F. Supp. 2d 706, 735 (E.D. Pa. 2001) (reviewing 289 class action settlements and finding an "average attorney's fees percentage [of] 31.31%" and a median value of roughly one-third [of the common fund])); *see also In re Lorazepam & Clorazepate Antitrust Litig.*, Civ. 99-0790-TFH, 2003 WL 22037741, at *7 (D.D.C. June 16, 2003) (noting the well- established practice that "fee awards in common fund cases may range from fifteen to forty-five percent[.]").

Consistent with this practice, the attorneys fee request here of 33% of the amount obtained (not considering the likely over $600 thousand in waived amounts) is in keeping with what this Court has awarded in other cases.[5] *See Velasquez Monterrosa v. Mi Casita Restaurants*, No. 5:14-CV-448-BO, 2017 WL 11829699, at *7 (E.D.N.C. Sept. 26, 2017) (awarding 33.33%); *Childress v. JP MorganChase & Co.*, No. 5:16-CV-298-BO, ECF No. 360 (E.D.N.C. Oct. 1, 2020) (awarding 30%); *Childress v. Bank of America, N.A.,* No. 5:15-CV-231-BO, ECF No. 122 (E.D.N.C. Dec. 14, 2017) (awarding 30% of $41,920,374.06). And it is "consistent with that awarded in other cases" by courts in this circuit. *Thomas v. FTS USA, LLC*, 2017 WL 1148283, at *5; *see e.g., Chrismon v. Meadow Greens Pizza*, No. 5:19-cv-155-BO, 2020 WL 3790866,

[5] Taking into account the $669,522.33 in debt cancellation that is mostly attributable to this action, the attorneys' fees as percentage of the total value to the Class falls to 30.12%.

at *5 (E.D.N.C. July 7, 2020) (collecting cases); *Kelly v. Johns Hopkins Univ.,* No. 1:16-CV-2835-GLR, 2020 WL434473, at *3 ("Contingent fees of up to one-third are common in this circuit.") (collecting cases); *Anselmo v. W. Paces Hotel Grp., LLC*, No. 9:09-CV-02466-DCN, 2012 WL 5868887, at *3. (D.S.C. Nov. 19, 2012) (finding that "[t]he approximate 33% for fees provided here is reasonable in light of all pertinent factors, including precedent and beneficial results obtained.").

Here, the fee and cost request is also consistent with the 33% contingency fee that the named Plaintiffs agreed to in their retainer agreements with Class Counsel. The out-of-pocket costs of depositions and the like that Class Counsel incurred in litigating this matter for three years will also come out of the 33% requested for the fee and cost award, despite the provisions of Plaintiffs' retainer agreements that reimbursement of costs would be separate and additional to the contingency fee. Finally, the additional tangible relief to the class members provided by Defendants' waiver of outstanding debt—additional relief likely exceeding $600,000 to this Class as explained in footnote 3, *supra* —is not included in the gross settlement fund figure subject to the fee request. Taking these factors into account, the requested fee award is less than 30% of the total value of the settlement to the class. As such, Plaintiffs request for a fee and cost award of 33% of the Settlement Fund is not only consistent with fee awards by this Court and in this Circuit, but reasonable and fair to the Class as a whole.

B. Application of commonly used factors to determine the reasonableness of Plaintiffs' fee application weigh in favor of the requested fee and cost award.

Many courts in this circuit look to common factors in determining the

reasonableness of an attorney fee application in a common fund case. *See, e.g., In re Mills Corp. Sec. Litig.*, 265 F.R.D. 246, 261 (E.D. Va. 2009); *Muhammed v. Nat'l City Mortg., Inc.*, No. 2:07-0423, 2008 WL 5377783, at *8 (S.D. W. Va. Dec. 19, 2008). These factors are:

> (1) the results obtained for the Class; (2) objections by members of the Class to the settlement terms and/or fees requested by counsel; (3) the quality, skill, and efficiency of the attorneys involved; (4) the complexity and duration of the litigation; (5) the risk of nonpayment; (6) public policy; and (7) awards in similar cases.

Rodriguez v. Riverstone Communities, LLC, No. 5:21-CV-486-CD, 2024 WL 407483, at *1 (E.D.N.C. Feb. 2, 2024) (citing *Hall v. Higher One Machines, Inc.*, No. 5-15-CV-670-F, 2016 WL 5416582, at *7 (E.D.N.C. Sept. 26, 2016); *In re Mills Corp. Sec. Litig.*, 265 F.R.D. at 261. Consideration of each of these factors supports the fee and cost application made by Plaintiffs here.

1. **Class Counsel achieved excellent results for the Class.**

As the Supreme Court has held and the Fourth Circuit has discussed, the most critical factor in determining the reasonableness of an attorney fee award is "the degree of success obtained." *McDonnell v. Miller Oil Co.*, 134 F.3d 638, 641 (4th Cir. 1998) (quoting *Hensley v. Eckerhart*, 461 U.S. 424, 436 (1983)). The $6,998,328.87 Settlement Fund for this case, plus the likely more than $600,000.00 in waived debt benefiting this Class reflects an enormous success given the circumstances of this highly contested case. Here, Plaintiffs pursued untested legal theories to achieve substantial relief for class members, who will receive on average more than $600 from the settlement. This will effectuate a substantial return of allegedly illegally collected

interest on the rent-to-own contracts.[6] Class members with outstanding debts will be allowed to retain their storage buildings with no more payments and those subject to collections will no longer face these actions.

Moreover, the Distribution Plan of the net proceeds to the statewide Class reflects a process designed to maximize Class Member recovery and provide significant economic benefits to the Class. *See* ECF No. 100, Ex. 1. Class Members need not make a claim and will receive a settlement check in the mail without taking any action. For their convenience, Class Members may also elect direct deposit of their checks or alternative payment transfers through various platforms through the class website. This will ensure that Class Members receive their settlement payments quickly and efficiently. Any remaining money after the initial distribution of payments will be redistributed to Class Members and there is no reversion of any funds to Settling Defendants. Finally, any funds remaining after the payments to the Class Members, administration costs, and attorney's fees will be directed to a *cy pres* recipient approved by the Court.

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[6] Class member awards will be calculated as a percentage of the amount that each Class member paid to Defendant CLMG. The calculation will be as follows: the attorney fee and cost award, settlement administration costs (estimated at $26,073.00), and service awards will be deducted from the Settlement Fund. Verified Class members (those for whom mail is not returned undeliverable and who do not opt out) will then automatically receive their pro rata share of the remainder of the Settlement Fund. Assuming that the Court awards the 33% fees and costs award of $2,309,448.53 plus the service awards requested, and subtracting the settlement administration costs, $4,632,807.34 will be distributed to the 7,417 Class members. If all Class members become Verified Class Members, the average award will be $624.62 per Class member (i.e., $4,632,807.34 divided by 7,417). Of course, the actual amounts paid to each Class member will vary by the actual amount each Class Member paid.

This settlement is excellent in light of the circumstances. The Defendants are relatively small closely held limited liability corporations with unclear financial status to pay a judgment. The result here is all the more extraordinary in light of the very real litigation risks faced by Plaintiffs in the matter. As described below and elsewhere, Plaintiffs' claims were novel. At the time of settlement, Plaintiffs faced a pending motion for judgment on the pleadings raising a fundamental challenge to all of Plaintiffs' claims in asserting that the rent-to-own agreements did not meet the definition of consumer credit agreements subject to the RISA statute. With no precedent to cite in response to this argument, Plaintiffs were nevertheless able to forcefully and convincingly argue in negotiations that the canons of statutory interpretation and legislative intent support their position. Remaining risks, such as challenges to class certification, later dispositive motions, loss at trial along with subsequent likely appeals, support the conclusion that a settlement of nearly $7 million is an excellent result.

2. **No objections have yet been received.**

Pursuant to this Court's Order, the objection period ends on October 7, 2025. Class Notice went out on August 13, 2025. The Settlement Administrator has informed Class Counsel that as of September 19, 2025, no objections have yet been received.

3. **The Class is represented by highly experienced Class Counsel who resolved this matter with skill and persistence.**

As previously argued in Plaintiffs' Motion for Preliminary Approval of Class Action Settlement, Class Counsel have significant experience in leading consumer class actions and other complex civil litigation. ECF Nos. 100-2, 101.

The attorneys in this case employed by the National Consumer Law Center,[7] Charles Delbaum and Jennifer Wagner, both have extensive experience and expertise in successfully prosecuting complex consumer class actions. *See* ECF No. 100-2. Working closely with the class representatives in similar cases, NCLC has achieved notable settlements and judgments on behalf of consumers across the nation for over twenty-five years. Recent examples of success in similar cases include *Royal v. Judgment Acquisitions Unlimited*, 1783-CV-795 (Sup. Ct. Mass.) (2025 class judgment against debt collector); *Henderson v. Vision Properties Mgmt.*, 20-CV-12649 (E.D. Mich.) (2025 final approval of class settlement against rent-to-own housing scheme); *Rodriguez v. Riverstone Communities, LLC,* 5:21-CV-486 (E.D.N.C.) (2024 final approval of class settlement against rent-to-own mobile home scheme); *Bodor v. Maximus Fed. Servs., Inc.*, 19-CV-5787 (E.D. Pa.) (2024 final approval of class settlement against debt collector). Charles Delbaum has been class counsel in more than thirty-five consumer class action cases, including settlements of $42 million, $23 million, and several in excess of $1 million dollars. *See* ECF No. 100-2. Jennifer Wagner has similarly been class counsel in several cases resulting in millions of dollars of relief. *See id.*

[7] The National Consumer Law Center is a national non-profit legal advocacy organization with a mission of advancing economic justice for low-income and other disadvantaged people throughout the United States.

Attorney Adrian M. Lapas is a highly respected bankruptcy and consumer law practitioner primarily representing consumer debtors seeking to manage overwhelming debt. Mr. Lapas has been practicing bankruptcy law in this District since 1993 and has been a board-certified specialist in consumer bankruptcy law since 2009. He has presented often in continuing legal education seminars across the state and testified before a United States House of Representatives subcommittee on proposed bankruptcy legislation. *See Hearing on Private Student Loan Bankruptcy Fairness Act of 2010, H.B. 5043,* April 22, 2010[8]*,* ECF No. 100-2*.*

In addition to assisting consumer debtors with their bankruptcy cases, Attorney Lapas often asserts claims on behalf of his clients inside their bankruptcy cases as well as pursuing claims outside of bankruptcy. ECF No. 100-2 (partial listing of cases). Attorney Lapas was also part of a team of consumer attorneys who asserted two class actions against one of the largest purchasers of charged-off consumer debt achieving approximately $9.75 million in redress and over $40 million in cancelled debt and judgments. *See* ECF No. 100-2*.* Attorney Lapas' bankruptcy experience led to ascertaining the prevalence of the class claims asserted in this case as well as litigating similar claims arising under North Carolina's Retail Installment Sales Act in the bankruptcy courts. *See, In re: Mattox*, 635 B.R. 444 (Bankr. E.D.N.C. 2021); ECF No. 100-2.

Plaintiffs raised issues of law and fact that have largely been unaddressed by the North Carolina courts prior to now. The novelty of the issues raised the very real

[8]https://www.govinfo.gov/content/pkg/CHRG-111hhrg56069/html/CHRG-111hhrg56069.htm

risk that a court might decide an important issue against Plaintiffs (with the subsequent appeal) weighs in favor of allowing a 33% fee of the Settlement Fund. Class Counsel used their substantial experience in consumer class litigation and Mr. Lapas's experience in handling prior cases arising under RISA and similar statutes to the class's advantage to achieve the excellent settlement here including narrowing Plaintiffs' discovery battles, exerting appropriate legal pressure on all Defendants in this case and demonstrating Plaintiffs' willingness to take this case to trial.

Plaintiffs participated in good faith mediation and when that was unsuccessful, did not flag in their persistent litigation of this matter. *See infra* Part III.B.4. Settlement was achieved after significant negotiations, at mediation and subsequently in person at the conclusion of depositions and thereafter through multiple phone calls between counsel. As discussed above, *see supra* Part III.B.1, at Class Counsel leveraged their arguments regarding Settling Defendants' motion for judgment on the pleadings in negotiations, as well as their soon to be filed motion for class certification. Class Counsel also used their expertise to strategically utilize potential pressure points, including information that was revealed during the depositions of corporate representatives and individual witnesses. As Class Counsel advised Defendants, they were preparing to subpoena potentially sensitive witnesses who had previously advised Defendants on their business conduct in order to establish the element of willfulness.

Even after the Parties reached an agreement in principle, Class Counsel's work was far from complete. Class Counsel carefully drafted the Settlement Agreement to

ensure that its terms protected Class Members and provided the greatest relief possible. The Class Notice was also drafted to ensure that Class Members could easily understand the Settlement. and Counsel conducted a bid process for Settlement Administration to ensure that the best service is provided to the Class at the least cost. Further, once the Settlement Agreement was executed, Class Counsel spent weeks conferring with Settlement Defendants to ensure that the Defendant CLMG produced a complete and accurate class list so that all Class Members received the Notice and Payment to which they are entitled. Finally, if the Court grants final approval of this Settlement, Class Counsel will remain actively engaged throughout the Settlement distribution period to ensure that the Settlement is fully disbursed according to the Final Approval Order to maximize the payments to Class Members.

All told, Class Counsel demonstrated skill and dedication in zealously litigating this matter while also repeatedly engaging in good faith settlement negotiations. The result is a settlement that confers a substantial benefit on Class Members.

4. The litigation has been complex, contested, and ongoing for years.

This litigation meets the fourth set of factors as well. The litigation has been complex. Even before filing, substantial work went into investigating and preparing the case, including travel to multiple county courthouses to research Defendants' collection conduct and obtain versions of the contracts at issue.

After filing, the case was hotly contested. Defendants filed multiple dispositive motions, raising colorable legal defenses. Defendants initially prevailed on their

motion to dismiss on statute of limitations grounds, requiring an appeal to the Fourth Circuit Court of Appeals and subsequent remand, and a motion for Judgment on the Pleadings was pending at the time of settlement. Plaintiffs' claims and Defendants' defenses as asserted in their motions were novel and had no on-point precedent. For example, Defendants' motion for judgment on the pleadings argued that they had not violated RISA because the standard form contracts entered into by Plaintiffs and Class Members contained a provision giving the consumer an option to purchase the sheds instead of completing the rent-to-own agreement. No court has ever addressed this issue of statutory interpretation. Another issue with scant precedent raised by Defendants in the Court of Appeals was whether Defendants' bills and calls to class members are covered by the North Carolina Debt Collection Act even though they were not made in connection with pending litigation.

Meanwhile, the parties engaged in significant discovery and discovery disputes requiring multiple hearings before the Magistrate Judge and resulted in production of thousands of pages of documents. Depositions of all Plaintiffs were completed, as well as depositions of multiple corporate representatives and individual witnesses for the Defendants. Plaintiffs engaged an expert who was required to develop a new mathematical calculation method to support both liability and class damages. The expert report totaled forty pages, not including the attached contracts she reviewed, and addressed a variety of novel issues, including how to calculate the effective interest rates of the contracts, how to calculate damages for individuals whose storage sheds were repossessed, how to calculate damages for individuals who made

payments, and how to calculate prejudgment interest on the subject contracts. The report further analyzed sample contracts to provide concrete examples of this methodology. The report required substantial work, in light of the fact that the expert was dealing in uncharted territory with no precedent showing how damages in these circumstances should be calculated.

Plaintiffs had also fully briefed a motion for class certification and were preparing for the expert witness' deposition (scheduled to take place in California), and Plaintiffs were preparing subpoenas for additional depositions and document production from third parties when the case settled. The Settlement involves fair-handed treatment of two separate but related court actions—this one, commenced over three years ago, and the companion *Greene* class counterclaim pending in state court since April, 2021 and covering an earlier class period.

All told, this litigation was hard fought for over three years. Plaintiffs' and Class Counsel's continuous engagement over this time and clear willingness to bring the case to trial led to excellent results for the class.

5. Plaintiffs' Counsel bore substantial risk of nonpayment.

As one court has explained:

> The risk of nonpayment incurred by Lead Counsel is evident in the fact that they undertook this action on an entirely contingent fee basis. Indeed, "counsel bore a substantial risk of nonpayment . . . [t]he outcome of the case was hardly a foregone conclusion, but nonetheless counsel accepted representation of the plaintiff and the class on a contingent fee basis, fronting the costs of litigation."

In re The Mills Corp. Securities Litigation, 265 F.R.D. at 263 (quoting *Muhammad v. Nat'l City Mortg., Inc.*, No. 2:07-0423, 2008 WL 5377783, at *8 (S.D.W. Va. Dec. 19,

2008)). The same stands true here. As discussed above, recovery was, at best, uncertain, with novel claims, a contested dispositive motion pending, a forthcoming class certification dispute, summary judgment motions, and trial, as well as questions about the ability of Defendants to pay any judgment. Nonetheless, Class Counsel took this case on a contingent basis, devoted substantial time, effort, and resources to the litigation over the course of years, and fronted substantial costs. As a result, this factor favors the requested fee and expense award.

6. Public policy considerations weigh strongly in favor of the fee and expense award requested here.

As one court has explained in a similar consumer case, "[p]ublic policy supports the granting of attorneys' fees in consumer protections cases so that attorneys will be incentivized to enforce consumer protection laws on behalf of consumers who may not be able to afford an individual attorney, or whose cases are not worth enough to merit individual representation." *Rodriguez v. Riverstone Communities, LLC*, No. 5:21-CV-486-CD, 2024 WL 407483, at *2 (E.D.N.C. Feb. 2, 2024). Plaintiffs in this matter vindicated the rights of approximately 7417 North Carolina residents by challenging Settling Defendants' allegedly illegal contract and collection practices. This Action benefitted not just the Class Members who entered into agreements with Settling Defendants, but should also benefit other North Carolina consumers by ensuring that the North Carolina rent-to-own industry complies with North Carolina law. Because of this litigation, CLMG will cease collection on contracts that fail to comply with North Carolina law and its business partners, and others in the industry will be ever mindful that consumers can and will bring legal action to vindicate their rights. As a

result, this suit will act as a deterrent to future unlawful conduct. This factor favors a significant fee award.

7. The fee and expense award requested here reflects the fee percentage common in other cases.

As discussed above, the attorneys' fees and costs request in this case falls well within the range of common fund attorney fee requests in this circuit and nationwide and when debt waiver and payment of costs is considered, is in fact below the one-third of the recovery commonly awarded in class cases that achieve comparably valuable results for Class Members. See Section IIIA, *supra*.

C. The Service Award amounts requested for the Class Representatives are typical and justified.

As the Fourth Circuit has observed, "[i]ncentive awards are 'intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their willingness to act as a private attorney general.'" *Berry*, 807 F.3d at 612 (quoting *Rodriquez v. W. Publ'g Corp.*, 563 F.3d 948, 958-59 (9th Cir. 2009)). Such awards "are routinely approved in class actions to encourage socially beneficial litigation by compensating named plaintiffs for their expenses on travel and other incidental costs, as well as their personal time spent advancing the litigation on behalf of the class and for any personal risk they undertook." *Domonoske v. Bank of Am., N.A.*, 790 F. Supp. 2d 466, 467–77 (W.D. Va. 2011) (citations omitted).

Plaintiffs request Service Awards for the Class Representatives in this case as compensation for their active participation in this litigation from its inception nearly

three years ago to the point of settlement. Specifically, Plaintiffs request an award of $10,000 each for Class Representative Hank Bland, Kendell Jackson, and Luetta Inniss. This award amount reflects the level of involvement of the Class Representatives throughout the pendency of this Action. They have actively participated in the preparation of this case, assisted Class Counsel by providing detailed records, answered written interrogatories and requests for admission, reviewed documentation, sat for depositions, participated in a video mediation settlement conference, and generally been available throughout this litigation for Counsel. *See* Decl. of A. Lapas, attached as Ex. 1. During the settlement negotiations, each Representative was attentive to Counsel and thoroughly considered the ramifications of the settlement and if the settlement fell through. *Id.* The amount of time and effort that each Representative put forth in this case makes each Class Representative's Service Award hard-earned.

Courts—including this one—commonly approve incentive awards similar to those requested in this case and the requested service payments are typical of awards provided to Class Representatives. *See, e.g., Bulls*, No. 5:21-CV-488-BO, 2025 WL 223768, at *2 (awarding $20,000 to each of the five class representatives in a consumer class action); *Chrismon v. Green Meadows Pizza*, No. 5:19-CV-155-BO, 2020 WL 3790866, at *6 (E.D.N.C. July 7, 2020) (awarding $10,000 to class representative); *Childress v. Bank of America, N.A.*, No. 5:15-CV-231-BO, ECF No. 122 (E.D.N.C. Dec. 14, 2017) (approving incentive awards of $15,000 for the original named plaintiffs and $10,000 for the plaintiffs added later, none of whom were

deposed); *Childress v. JPMorganChase & Co.*, No. 5:16-CV-298-BO, ECF No. 360 (E.D.N.C. Oct. 1, 2020) (approving $25,000 service award to class representatives who had been involved throughout litigation). *See also McCurley v. Flowers Foods, Inc.*, No. 5:16-cv-00194-JMC, 2018 WL6550138, at *8 (D.S.C. Sep. 10, 2018) (awarding "$25,000.00, which is well within the range of reasonable incentive awards approved by the courts."); *McBean v. City of New York*, 233 F.R.D. 377, 391-92 (S.D.N.Y. 2006) (stating incentive awards of $25,000-$30,000 are "solidly in the middle of the range"); *Kay Co.*, 749 F. Supp. 2d at 473 (noting the "burdensome task" of serving as a class representative and awarding $15,000 incentive awards to six class representatives notwithstanding the lack of depositions or other testimony from them).

Mr. Bland, Ms. Innis, and Mr. Jackson should be recognized for their meaningful, and ultimately successful, efforts to secure compensation for their fellow consumers, and the sums requested here adequately recognize them for that service. As the court noted in *Kay*, "without class representatives, the entire class would receive nothing." *Kay Co.*, 749 F. Supp. 2d at 433.

IV. CONCLUSION

For all of the foregoing reasons, Plaintiffs, without objection from Settling Defendants Carolina Lease Management Group, LLC, and CTH Rentals, LLC, respectfully request that the Court grant their motion for a fee and costs award of 33% of the Settlement Fund ($2,309,448.53) and Service Awards of $10,000 to each of the Class Representatives.

Respectfully submitted, this the 23rd day of September, 2025.

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CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.2

The undersigned counsel hereby certifies that this brief complies with the word limit established by Local Rule 7.2(f)(3) of the Eastern District of North Carolina Local Civil Rules of Practice because, excluding the parts of the brief exempted by the local rule, this brief contains 6,138 words.

This the 23rd day of September, 2025.

LAPAS LAW OFFICES, PLLC

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CERTIFICATE OF SERVICE

The undersigned does hereby certify that the foregoing PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEY FEES AND COSTS AND SERVICE AWARD was served via the CM/ECF system on the attorneys listed below:

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This the 23rd day of September, 2025.

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