

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

GRACE GRISSOM, individually and on behalf  
of those similarly situated,

Plaintiff,

-against-

STERLING INFOSYSTEMS, INC.,

Defendant.

Case No.: 1:20-cv-07948-VSB

**PLAINTIFF'S MOTION FOR  
ATTORNEYS' FEES COSTS,  
AND CLASS  
REPRESENTATIVE SERVICE  
PAYMENT**

Plaintiff Grace Grissom ("Plaintiff") and Class Counsel respectfully move the Court for an award of: (1) as to the Damages Class, attorneys' fees in the amount of one-third of the common fund, or \$833,333.33, and reimbursement of out-of-pocket expenses of \$20,212.21, (2) as to the Injunctive Relief Class, attorneys' fees in the amount of \$500,000, to be paid by Defendant directly, and (3) a Class Representative Service Award to Plaintiff in the amount of \$10,000. Defendant does not oppose the relief sought in this Motion.

Dated: January 28, 2025

Respectfully submitted,

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UNITED STATES DISTRICT COURT  
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Plaintiff,

v.

STERLING INFOSYSTEMS, INC.,

Defendant.

NO. 1:20-cv-07948-VSB

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION FOR  
ATTORNEYS' FEES COSTS, AND CLASS REPRESENTATIVE SERVICE PAYMENT**

**TABLE OF CONTENTS**

I. INTRODUCTION..... 1

II. BACKGROUND..... 2

A. Class Counsel’s Efforts to Secure Benefits for the Classes..... 2

B. Plaintiff’s Participating in the Case..... 3

III. CLASS COUNSEL’S ATTORNEYS’ FEES AND COSTS SHOULD BE APPROVED..... 4

A. The Court Should Approve Class Counsel’s Requested Attorneys’ Fees & Costs as to the Damages Class..... 4

1. The Percentage of the Fund Method Should be Applied to this Request..... 4

i. Class Counsel Expended Extensive Resources on Behalf of the Damages Class..... 5

ii. The Litigation was Complex..... 6

iii. Class Counsel Undertook Considerable Risk in Taking the Case on a Contingent Fee Basis..... 7

iv. Class Counsel Provided High Quality Representation..... 9

v. The Requested Fees are Reasonable in Relation to the Settlement..... 10

vi. Public Policy Supports the Requested Fees..... 13

2. The Lodestar Cross Check Further Supports an Award to Class Counsel of One-Third of the Damages Class Common Fund..... 14

3. Class Counsel’s Costs are Reasonable..... 19

B. Class Counsel’s Requested Attorneys’ Fees as to the Injunctive Relief Class..... 19

1. The Lodestar Method is Appropriate for Review of Reasonableness for Requests of Fees outside of Common Fund..... 20

i. Class Counsel’s Hourly Rates are Reasonable, as Were the Hours Expended..... 21

ii. The Resulting Multiplier is Appropriate..... 21

2. Review of Additional Considerations Provides Further Support..... 23

IV. THE REQUEST FOR A CLASS REPRESENTATIVE SERVICE AWARD IS REASONABLE AND SHOULD BE GRANTED..... 24

V. CONCLUSION..... 25

**TABLE OF AUTHORITIES**

Cases

*Adorno v. Port Auth. of New York and New Jersey*, 685 F. Supp. 2d 507 (S.D.N.Y. 2010)..... 21

*Arbor Hill Concerned Citizens Neighborhood Assoc. v. Cnty. of Albany*, 522 F.3d 182 (2d Cir. 2008)..... 21

*Banyai v. Mazur*, No. 00-9806, 2008 WL 5110912 (S.D.N.Y. Dec. 2, 2008)..... 7

*Beckman v. KeyBank, N.A.*, 293 F.R.D. 467 (S.D.N.Y. 2013)..... 18

*Berry v. LexisNexis Risk & Info. Analytic Grp., Inc.*, 2014 WL 4403524 (E.D. Va. Sept. 5, 2014)..... 16

*Berry v. Schulman*, 807 F.3d 600 (4th Cir. 2015)..... 4, 20

*Boeing Co. v. Van Gemert*, 444 U.S. 472, 100 S.Ct. 745, 62 L.Ed.2d 676 (1980)..... 5

*Bozak v. FedEx Ground Pkg. Sys., Inc.*, No. 11-738, 2014 WL 3778211 (D. Conn. July 31, 2014)..... 21

*In re Colgate-Palmolive Co. ERISA Litig.*, 36 F. Supp. 3d 344 (S.D.N.Y. 2014)..... 18, 19

*In re Credit Default Swaps Antitrust Litig.*, 2016 WL 2731524 (S.D.N.Y. Apr. 26, 2016)..... 18

*City of Detroit v. Grinnell Corp.*, 495 F.2d 448 (2d Cir. 1974)..... 7

*Devlin v. Ferrandino & Son, Inc.*, No. 15-4976, 2016 WL 7178338 (E.D. Pa. Dec. 9, 2016)..... 15

*In re Domestic Drywall Antitrust Litig.*, No. 13-md-2437, 2018 WL 3439454 (E.D. Pa. July 17, 2018)..... 15

*Domonoske v. Bank of America, N.A.*, 790 F. Supp. 2d 466 (W.D. Va. 2011)..... 8

*In re EVCI Career Colls. Holding Corp. Sec. Litig.*, No. 05-10240, 2007 WL 2230177 (S.D.N.Y. July 27, 2007)..... 18, 19

*Frank v. Eastman Kodak Co.*, 228 F.R.D. 174 (W.D.N.Y. 2005)..... 13

*In re Giant Interactive Grp., Inc. Sec. Litig.*, 279 F.R.D. 151 (S.D.N.Y. 2011)..... 25

*Godson v. Eltman, Eltman, & Cooper, P.C.*, 328 F.R.D. 35 (W.D.N.Y. 2018)..... 25

*Goldberger v. Integrated Res., Inc.*, 209 F.3d 43 (2d Cir. 2000)..... *passim*

*Hart v. RCI Hosp. Holdings, Inc.*, No. 09-3043 PAE, 2015 WL 5577713 (S.D.N.Y. Sept. 22, 2025)..... 10, 12, 25

*In re Global Crossing Sec. & ERISA Litig.*, 225 F.R.D. 436 (S.D.N.Y. 2004)..... 18

*Hensley v. Eckerhart*, 461 U.S. 424 (1983)..... 16

*Hi-Crush Partners L.P. Sec. Litig.*, No. 12-CIV-8557 CM, 2014 WL 7323417 (S.D.N.Y. Dec. 19, 2014)..... 15

*Hicks v. Morgan Stanley & Co.*, No. 01 Civ. 10071 (RJH), 2005 WL 2757792 (S.D.N.Y. Oct. 24, 2005)..... 8

*Johnson v. Brennan*, 2011 WL 4357376 (S.D.N.Y. Sept. 16, 2011)..... 12

<i>Jones v. Diamond</i> , 636 F.2d 1364 (5th Cir. 1981)	7
<i>LeBlanc-Sternberg v. Fletcher</i> , 143 F.3d 748 (2d Cir. 1998)	17
<i>Luciano v. Olsten Corp.</i> , 109 F.3d 111 (2d Cir.1997)	14
<i>Lunday v. City of Albany</i> , 42 F.3d 131 (2d Cir. 1994)	17
<i>Maley v. Del Global Tech. Corp.</i> , 186 F. Supp. 2d 358 (S.D.N.Y. 2002)	2, 9, 18, 24
<i>In re Marsh ERISA Litig.</i> , 265 F.R.D. 128 (S.D.N.Y. 2010)	11
<i>McDaniel v. Cnty. of Schenectady</i> , 595 F.3d 411 (2d Cir. 2010)	20
<i>Menkes v. Stolt-Nielsen S.A.</i> , 2011 WL 13234815 (D. Conn. Jan. 25, 2011)	23
<i>Meredith Corp. v. SESAC, LLC</i> , 2015 WL 728026 (S.D.N.Y. Feb. 19, 2015)	6, 12, 19
<i>Millea v. Metro-North R. Co.</i> , 658 F.3d 154 (2d Cir. 2011)	21
<i>Milstein v. Huck</i> , 600 F. Supp. 254 (E.D.N.Y. 1984)	8
<i>Mohney v. Shelly's Prime Steak, Stone Crab &amp; Oyster Bar</i> , No. 06-4270, 2009 WL 5851465 (S.D.N.Y. Mar. 31, 2009)	24
<i>Moses v. New York Times Co.</i> , 79 F.4th 235 (2d Cir. 2023)	5
<i>Murray v. GMAC Mortg. Corp.</i> , 434 F.3d 948 (7th Cir. 2006)	14
<i>Narog v. Certegy Check Servs. Inc.</i> , 759 F. Supp. 2d 1189 (N.D. Cal. 2011)	6
<i>In re Nortel Networks Corp. Sec. Litig.</i> , 539 F.3d 129 (2d Cir. 2008)	23, 24
<i>Owoyemi v. Credit Corp Sols. Inc.</i> , 596 F. Supp. 3d 514 (S.D.N.Y. 2022)	22
<i>Patel v. Trans Union, LLC</i> , No. 14-00522, 2018 WL 1258194 (N.D. Cal. Mar. 11, 2018)	12
<i>In re Payment Card Interchange Fee &amp; Merch. Disc. Antitrust Litig.</i> , 2019 WL 6875472 (E.D.N.Y. Dec. 16, 2019)	11
<i>Pennsylvania v. Del. Valley Citizens' Council for Clean Air</i> , 478 U.S. 546 (1986)	21
<i>Perdue v. Kenny A.</i> , 559 U.S. 542 (2010)	21
<i>Quarantino v. Tiffany &amp; Co.</i> , 166 F.3d 422 (2d Cir. 1999)	21
<i>Ranieri v. Citigroup Inc.</i> , 310 F.R.D. 211 (S.D.N.Y. 2015)	25
<i>In re RJR Nabisco, Inc. Sec. Litig.</i> , No. 88 CV 7905, 1992 WL 210138 (S.D.N.Y. Aug.24, 1992)	18
<i>Roberts v. Texaco, Inc.</i> , 979 F. Supp. 185 (S.D.N.Y.1997)	18, 24
<i>Safeco Ins. Co. of Am. v. Burr</i> , 551 U.S. 47 (2007)	7
<i>Sanchez v. DPC New York Inc.</i> , 381 F. Supp. 3d 245 (S.D.N.Y. 2019)	19, 20
<i>Smith v. LexisNexis Screening Sols., Inc.</i> , 837 F.3d 604 (6th Cir. 2016)	8
<i>Spicer v. Pier Sixty LLC</i> , No. 08-10240, 2012 WL 4364503 (S.D.N.Y. Sept. 14, 2012)	12
<i>Strougo v. Bassini</i> , 258 F. Supp. 2d 254 (S.D.N.Y. 2003)	8, 9

*Suarez v. Rosa Mexicano Brands Inc.*, 2018 WL 1801319 (S.D.N.Y. April 13, 2018)..... 12

*In re Sumitomo Copper Litig.*, 74 F. Supp. 2d 393 (S.D.N.Y. 1999)..... 13

*In re Telik, Inc. Sec. Litig.*, 576 F. Supp. 2d 570 (S.D.N.Y.2008)..... 18

*Trustees of the I.B.E.W. Local Union No. 488 Pension Fund v. Norland Elec., Inc.*, 2015 WL 3581011 (D. Conn. June 5, 2015)..... 17

*In re Veeco Instruments Inc. Secs. Litig.*, 2007 WL 4115808 (S.D.N.Y. Nov. 7, 2007).... 10, 15, 19, 24

*Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96 (2d Cir. 2005)..... 5

*Wenning v. On-Site Manager, Inc.*, No. 14 CIV. 9693 (PAE), 2016 WL 3538379 (S.D.N.Y. June 22, 2016)..... 7

*Weseley v. Spear, Leeds & Kellogg*, 711 F. Supp. 713 (E.D.N.Y. 1989)..... 17

*Williamsburg Fair Hous. Comm. v. N.Y. City Hous. Auth.*, No. 76 CIV. 2125 (RWS), 2005 WL 736146 (S.D.N.Y. Mar. 31, 2005)..... 15

*Williamsburg Fair Hous. Comm. v. N.Y. City Hous. Auth.*, 2005 WL 2175998 (S.D.N.Y. Sept. 9, 2005)..... 15

*Yohay v. City of Alexandria Employees Credit Union, Inc.*, 827 F.2d 967 (4th Cir. 1987)..... 14

*Zorrilla v. Carlson Rests., Inc.*, No. 14 Civ. 2740 (AT), 2018 WL 1737139 (S.D.N.Y. April 9, 2018)..... 12

Rules & Statutes

15 U.S.C. § 1681, *et seq.*..... *passim*

Fed. R. Civ. P. 23 ..... 8, 11, 20

Other Authority

Elizabeth Chamblee Burch, *Financiers as Monitors in Aggregate Litigation*, 87 N.Y.U. L. REV. 1273 (2012)..... 13

John C. Coffee, Jr., *Understanding the Plaintiff’s Attorney: The Implications of Economic Theory for Private Enforcement of Law Through Class and Derivative Actions*, 86 COLUM. L. REV. 669 (1986)..... 13

EEOC, *Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Discrimination* (Apr. 25, 2012)..... 14

National Consumer Law Center, *Broken Records Redux: How Errors By Criminal Background Check Companies Continue to Harm Consumers Seeking Jobs and Housing* (Dec. 2019)..... 22

## I. INTRODUCTION

Plaintiff Grace Grissom (“Plaintiff”) and Class Counsel have diligently litigated this action since 2020, entirely on a contingent fee basis, with their efforts resulting in a settlement that establishes a common fund of \$2,500,000 from which the Damages Class Members are to each receive *automatic* payments of approximately \$175-200, with a payment of double that amount to Damages Class Members who either (i) disputed information on their consumer reports and where an amended report was issued; or (ii) submit a claim attesting to additional harm. The settlement also requires Defendant Sterling Infosystems, Inc. (“Defendant”) to address the claims in this action by requiring certain practice changes. The settlement provides for the creation of an Injunctive Relief Class comprised of people who will benefit from those changes.

The excellent results achieved and the benefits to the Settlement Classes could not have been attained absent Class Counsel’s time, effort, and skill, as well as Plaintiff’s active participation in the case. The requested attorneys’ fees are hybrid – with a request related to Class Counsel’s efforts on behalf of the Damages Class of one-third of the \$2,500,000 common fund, or \$833,333.33, as well as reimbursement of Class Counsel’s out-of-pocket costs in the amount of \$20,212.21, and a requested fee as to the Injunctive Relief Class of \$500,000, to be paid separately by Defendant. The requested Class Representative Award for Plaintiff’s efforts is \$10,000.

The requested attorneys’ fees, costs, and Service Award were negotiated only after relief for the Settlement Classes was agreed upon. Class Counsel have received no payment or reimbursement to date for their efforts. Further, the Class Representative Award is appropriate in light of Plaintiff’s investment of time and energy in this litigation.

The amounts requested herein were included in the Notices to the Settlement Class Members. While the objections deadline has not yet passed, as of the date of this filing, no

Settlement Class Member has objected to the requested fees, costs, or Class Representative Award.<sup>1</sup> A lack of objections “attests to the approval of the Class with respect to the Settlement and the fee and expense application.” *Maley v. Del Global Tech. Corp.*, 186 F. Supp. 2d 358, 374 (S.D.N.Y. 2002).

## II. BACKGROUND

The litigation history, history of settlement negotiations, and terms of the settlement are set forth in detail in the Memorandum in support of Plaintiff’s Motion for Preliminary Settlement Approval (ECF No. 43-1) and are incorporated by reference here. This Memorandum focuses on the efforts of Class Counsel and Plaintiff to achieve the significant results in this case.

### A. Class Counsel’s Efforts to Secure Benefits for the Classes

Class Counsel’s substantial time and resources spent on this matter include: (1) researching and drafting the Complaint, (2) propounding written discovery requests on Defendant, (3) working with Plaintiff to respond to Defendant’s written discovery requests and coordinating production of relevant documents, (4) reviewing Defendant’s document production, (5) coordinating review and analysis of data produced by Defendant, which involved the retention and management of a database expert and the obtaining of data from multiple database platforms, (6) participating in a full-day mediation and subsequent arms-length negotiations, (7) drafting the Settlement Agreement and Exhibits, (8) drafting the motion for preliminary approval, (9) obtaining and analyzing multiple settlement administration proposals, and (10) coordinating and overseeing administration of the settlement, and responding to class member inquiries. (Drake Decl. ¶¶ 4-11.)

Class Counsel’s work with regards to data analysis is particularly noteworthy, as it required

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<sup>1</sup> The deadline for objections is February 11, 2025. (ECF No. 47, ¶¶ 13, 14.) Should any objections be filed after the filing of this Motion, Plaintiff and Class Counsel will address them in the final approval motion.



the review of millions of pieces of data, from multiple platforms of Defendant's, and extensive meet-and-confers to fully understand Defendant's processes. These efforts enabled Class Counsel to understand the scope of the classes involved and precisely how Defendant's processes and procedures were conducted during the class period. (*Id.* ¶ 6.)

Moreover, Class Counsel's work is not yet complete. Anticipated future tasks include continuing to oversee the administration of the settlement, responding to class member inquiries, researching and drafting final approval papers, and preparing for and arguing at the final approval hearing. (*Id.* ¶ 12.)

As to Class Counsel's expenses, these were incurred in furtherance of litigation and settlement, primarily to pay the retained expert who supported Class Counsel's analysis of the data and to pay for the mediation, as well as filing and service fees, legal research, and document hosting during discovery. (*Id.* ¶ 18.)

**B. Plaintiff's Participation in the Case**

Plaintiff played a valuable and active role in this litigation, and devoted significant time and attention to the case. She responded to written discovery requests, produced documents, assisted with the investigation of the facts of the case, reviewed and approved the Complaint, and consulted with Class Counsel throughout litigation. Additionally, she was in contact with Class Counsel throughout mediation and subsequent negotiations, and reviewed and approved the final Settlement Agreement. The Settlement Agreement's provision for a \$10,000 service award reflects the initiative of Plaintiff in pursuing this action, and her dedication throughout. The proposed award amount was listed in the Notices, and no objections have been received to date.<sup>2</sup>

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<sup>2</sup> To the extent any objections are received after the date of this filing, Class Counsel will address them in the Motion for Final Settlement Approval.

### **III. CLASS COUNSEL’S ATTORNEYS’ FEES AND COSTS SHOULD BE APPROVED**

Class Counsel request that the Court approve their request for attorneys’ fees of \$833,333.33, which is one-third of the Damages Class Gross Settlement Amount, as well as reimbursement of litigation costs of \$20,212.21, to be paid from the Damages Class Gross Settlement Amount. Class Counsel additionally request the Court approve their request for attorneys’ fees of \$500,000 as consideration for relief obtained on behalf of the Injunctive Relief Class, which, if approved, would be paid separately by Defendant. These types of hybrid injunctive and damages settlements are common in FCRA cases<sup>3</sup>, and the request that attorneys’ fees be borne separately by each Class<sup>4</sup> is appropriate.

#### **A. The Court Should Approve Class Counsel’s Requested Attorneys’ Fees & Costs as to the Damages Class.**

##### 1. The Percentage of the Fund Method Should be Applied to this Request

It is black letter law 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

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<sup>3</sup> See *Berry v. Schulman*, 807 F.3d 600 (4th Cir. 2015) (approving FCRA settlement with Rule 23(b)(2) and Rule 23(b)(3) classes); *Stewart v. Early Warning Services, LLC*, No. 18-cv-3277 (D.N.J. June 24, 2020) (approving class settlement with both 23(b)(2) and 23(b)(3) classes where Rule 23(b)(2) class received injunctive relief but did not release individual claims for actual damages); *Stewart v. LexisNexis Risk Data Retrieval Services, LLC*, No. 3:20-cv-903 (E.D. Va. July 27, 2022) (granting final approval for FCRA settlement with both Rule 23(b)(3) and Rule 23(b)(2) classes); *Kelly v. Business Information Group, Inc.*, No. 2:15-cv-6668 (E.D. Pa. Feb. 1, 2019) (granting final approval to hybrid settlement with Rule 23(b)(3) and Rule 23(b)(2) classes).

<sup>4</sup> The two Settlement Classes, while they have some overlap in membership, are not identically defined. The Damages Class Members have some indication that their report may have adversely affected their employment, either in receiving a pre-adverse action notice (required by 15 U.S.C. § 1681b(b)(3) if an employer was going to take an adverse action (not hiring, not promoting, terminating) based on a consumer report), or in the record of their having disputed the report at issue. Injunctive Relief Class Members that are not also Damages Class Members do not have such an indication in Defendant’s records. The relief was thus tailored to each, monetary for those with the indication of adverse effects from the report, and injunctive practice changes for those with and for those without. It thus follows that the attorneys’ fees should be borne differently by each.

as a whole.” *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478, 100 S.Ct. 745, 62 L.Ed.2d 676 (1980). The Second Circuit has authorized district courts to employ a percentage-of-the-fund method when awarding fees in common fund cases. See *Goldberger v. Integrated Res., Inc.*, 209 F.3d 43, 47 (2d Cir. 2000). The percentage method “directly aligns the interests of the class and its counsel and provides a powerful incentive for the efficient prosecution and early resolution of litigation.” *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 121 (2d Cir. 2005) (internal citation and quotation omitted) (*superseded on other grounds by Moses v. New York Times Co.*, 79 F.4th 235 (2d Cir. 2023)). In considering the reasonableness of such an award, the Court must also consider the following *Goldberger* factors: “(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.” *Goldberger*, 209 F.3d at 50 (omission in original). Courts in the Second Circuit also cross-check the percentage fee against counsel’s lodestar. *Id.* Under the *Goldberger* factors, as confirmed by a lodestar crosscheck, Class Counsel’s requested fees and expenses as to the Damages Class are reasonable.

i. *Class Counsel Expended Extensive Resources on Behalf of the Damages Class*

Counsel’s efforts in this matter have included, but are not limited to, (1) researching and drafting the Complaint, (2) propounding written discovery requests on Defendant, (3) working with Plaintiff to respond to Defendant’s written discovery requests and coordinating production of relevant documents, (4) coordinating review and analysis of data produced by Defendant, which involved the retention and management of a database expert and the obtaining of data from multiple database platforms, (5) participating in a full-day mediation and subsequent arms-length negotiations, (6) drafting the Settlement Agreement and Exhibits, (7) drafting the motion for

preliminary approval, (8) obtaining and analyzing multiple settlement administration proposals, and (9) coordinating and overseeing administration of the settlement, and responding to class member inquiries. Still to be done, and not included in the count of hours listed above, are the final approval motion and hearing, continuing to respond to any class member inquiries, and supervision of the Administrator's distribution of the settlement fund. All of this represents an extraordinary commitment to a case where recovery was never certain. Because of these efforts as well as the common fund established by these efforts for the Damages Class, this factor supports the requested fee award.

ii. *The Litigation Was Complex*

The second *Goldberger* factor, which addresses “the magnitude and complexities of the litigation,” also supports approval of the requested fee. *Goldberger*, 209 F.3d at 50. “Class actions “have a well deserved reputation as being most complex.” *See Meredith Corp. v. SESAC, LLC*, No. 09 Civ. 9177, 2015 WL 728026, at \*16 (S.D.N.Y. Feb. 19, 2015). This class action litigation, involving the FCRA, was particularly complex for several reasons. *Narog v. Certegy Check Servs. Inc.*, 759 F. Supp. 2d 1189, 1194-95 (N.D. Cal. 2011) (“[The] FCRA is not merely a complex statutory scheme, but one that has been said to contain almost incomprehensibly complex provisions and esoteric strictures.”) (internal citations and quotations omitted).

This case presented complex factual and legal issues, including whether Defendant's reliance on/use of SSN Trace information was a “reasonable” procedure under the FCRA, the willfulness of Defendant's conduct, and the amount of appropriate damages for any alleged violations. To determine answers to these questions, Class Counsel undertook data review and analysis, legal research, and conducted extensive meet-and-confers. These complex issues would have required a successful outcome at class certification, summary judgment, trial, and likely

appeals, for the Damages Class Members to have received any recovery. While Class Counsel are confident in Plaintiff's claims, it was not a guaranteed outcome. Particularly when viewed alongside the risks outlined below, this level of complexity favors the requested attorneys' fees.

iii. *Class Counsel Undertook Considerable Risk in Taking the Case on a Contingent Fee Basis*

The risk of the litigation is “perhaps the foremost factor in establishing the proper fee.” *Banyai v. Mazur*, No. 00-9806, 2008 WL 5110912, at \*4 (S.D.N.Y. Dec. 2, 2008). “A lawyer whose compensation is contingent on services can be expected to receive more than she would receive if she were charging an hourly rate.” *Id.* (citing *Jones v. Diamond*, 636 F.2d 1364, 1382 (5th Cir. 1981)). Class Counsel prosecuted this matter on a purely contingent basis, agreeing to advance all necessary expenses and to receive a fee only if there was a recovery. (See Drake Decl. ¶ 14.) Class Counsel diligently pursued extensive discovery and conducted detailed data analysis, and otherwise vigorously litigated this case. (*Id.* ¶¶ 4-11.) “[D]espite the most vigorous and competent of efforts,” their success was “never guaranteed.” *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 471 (2d Cir. 1974). Four years have passed since this case was filed, and Class Counsel have, as yet, received no payment for their work on the claims in this case.

Moreover, this litigation presented numerous risks to Plaintiff's recovery, each of which presented a risk of no recovery to Class Counsel. Notably, “[t]he FCRA does not provide for strict liability for a [consumer reporting agency] that reports inaccurate information.” *Wenning v. On-Site Manager, Inc.*, No. 14 CIV. 9693 (PAE), 2016 WL 3538379, at \*16 (S.D.N.Y. June 22, 2016). Plaintiff would have had to show that Defendant's violations not only were negligent, but were “willful” in order to recover statutory damages on behalf of the class members. 15 U.S.C. § 1681n. This can be a high bar and presents a real risk to recovery. See *Safeco Ins. Co. of Am. v. Burr*, 551 U.S. 47, 69 (2007) (“a company subject to FCRA does not act in reckless disregard . . . unless the

[challenged] action is not only a violation under a reasonable reading of the statute's terms, but shows that the company ran a risk of violating the law substantially greater than the risk associated with a reading that was merely careless.”). Indeed, FCRA plaintiffs can lose on this standard even after a successful verdict at trial. *See Smith v. LexisNexis Screening Sols., Inc.*, 837 F.3d 604, 611 (6th Cir. 2016) (reversing jury verdict, holding that consumer reporting agency's conduct did not constitute a willful violation of the FCRA); *Domonoske v. Bank of America, N.A.*, 790 F. Supp. 2d 466, 476 (W.D. Va. 2011) (“[G]iven the difficulties of proving willfulness or even negligence with actual damages [under the FCRA], there was a substantial risk of nonpayment.”).

Rule 23 also calls for consideration of the costs and delay of trial and appeal. Fed. R. Civ. P. 23(e)(2)(C)(i). “The expense and possible duration of the litigation are major factors to be considered in evaluating the reasonableness of [a] settlement.” *Milstein v. Huck*, 600 F. Supp. 254, 267 (E.D.N.Y. 1984). Substantial work remained in this matter to prepare for trial if the settlement had not been achieved. Continued litigation would result in complex, costly, and lengthy proceedings before this Court and likely the Second Circuit, which would significantly delay any relief to class members or might result in no relief to class members at all. In order to prosecute their claims to a final judgment, Plaintiff would have had to engage in class certification motion practice, summary judgment motion practice, expert discovery, prepare for trial, and present evidence during a jury trial. Even if Plaintiff recovered a larger judgment after a trial, the additional delay through trial, post-trial motions, and the appellate process could deny the Damages Class any recovery for years, further reducing any recovery's value. *Hicks v. Morgan Stanley & Co.*, No. 01 Civ. 10071 (RJH), 2005 WL 2757792, at \*6 (S.D.N.Y. Oct. 24, 2005) (“Further litigation would necessarily involve further costs [and] justice may be best served with a fair settlement today as opposed to an uncertain future settlement or trial of the action.”); *Strougo*

*v. Bassini*, 258 F. Supp. 2d 254, 261 (S.D.N.Y. 2003) (“even if a shareholder or class member was willing to assume all the risks of pursuing the actions through further litigation...the passage of time would introduce yet more risks...and would, in light of the time value of money, make future recoveries less valuable than this current recovery”).

For these reasons, this factor also supports Class Counsel’s attorneys’ fee request.

iv. *Class Counsel Provided High Quality Representation*

“The critical element in determining the appropriate fee to be awarded class counsel out of a common fund is the result obtained for the Class through the efforts of such counsel.” *Maley v. Del Global Techs. Corp.*, 186 F. Supp. 2d 358, 373 (S.D.N.Y. 2002). As noted by the Court in its Opinion & Order on preliminary approval, ECF No. 46, at p. 8, Class Counsel have demonstrated skill and experience in resolving this case. Berger Montague PC (“BMPC”) has abundant experience litigating FCRA class action cases. (See Drake Decl. ¶¶ 22-29 & Ex. B.) Further, BMPC reviews all FCRA cases filed in federal court regularly to identify trends and avenues of litigation. The undersigned counsel from BMPC have been involved in numerous major FCRA class cases, including working with numerous other firms to oversee the litigation and settlement of 48 separate class action lawsuits filed by 17 different law firms against the “Big Three” consumer reporting agencies—Experian, Equifax, and TransUnion—based upon how they reported civil public records (“The Big 3 Public Records Class Actions”). Millions of consumers were represented. See *Thomas, et al. v. Equifax Info. Svcs., LLC*, No. 18-cv-00684 (E.D. Va.); *Anderson, et al. v. TransUnion, LLC*, No. 16-cv-00558 (E.D. Va.); *Clark v. Experian Info. Solutions, Inc.*, No. 16-cv-00032 (E.D. Va). Additionally, undersigned counsel recently achieved the second-largest class action FCRA settlement in the matter of *Fernandez v. CoreLogic Credco, LLC*, No. 20-cv-1262 (S.D. Cal.), related to the defendant’s alleged failure to follow reasonable procedures to assure maximum possible accuracy.

Class Counsel efficiently applied their skills and experience to obtain excellent relief for the Damages Class. This skill and expertise “contribute[d] to the favorable settlement for the class,” and “contributed to the overall efficiency of the case.” *In re Veeco Instruments Inc. Secs. Litig.*, 2007 WL 4115808, \*7 (S.D.N.Y. Nov. 7, 2007) (finding quality representation from Berger Montague in securities class action settlement benefited class). Each Damages Class Member will automatically receive a *pro rata* share of the common fund, after deduction of any approved attorneys’ fees and costs, and settlement administration expenses.<sup>5</sup> Damages Class Members that either (i) disputed information on their consumer reports and where an amended report was issued; or (ii) submit a claim attesting that they were harmed will receive a double *pro rata* payment. If all requested amounts are approved for deduction from the fund, Class Counsel estimate that each Damages Class Member will receive approximately \$175-200, and those with enhanced payments would receive \$350-400.

Further, Class Counsel attained success “in the face of tenacious opposition by a highly capable adversary.” *Hart v. RCI Hosp. Holdings, Inc.*, No. 09-3043 PAE, 2015 WL 5577713, \*16 (S.D.N.Y. Sept. 22, 2015) (Engelmayer, J.). Class Counsel opposed a large corporation represented by sophisticated attorneys. Defendant’s counsel, Seyfarth Shaw, is a highly reputable firm with significant experience defending class actions. The challenge of litigating against such formidable opposing counsel only serves to highlight the victory that Class Counsel have achieved by obtaining a substantial settlement for the Damages Class.

Thus, this factor also weighs in favor of granting the requested fees.

v. *The Requested Fees are Reasonable in Relation to the Settlement*

Class Counsel’s request for one-third of the common fund is “fair and reasonable in relation

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<sup>5</sup> The Settlement Administrator’s expenses are currently expected not to exceed \$49,950.



to the recovery and compares favorably to fee awards in other risky common fund cases in this Circuit and elsewhere.” *In re Marsh ERISA Litig.*, 265 F.R.D. 128, 149 (S.D.N.Y. 2010). Class Counsel’s efforts resulted in a non-reversionary common fund of \$2,500,000 for the Damages Class. Based upon the significant gross amount recovered for the Damages Class and the per-class member recovery, which is *automatic*, this settlement represents a truly exemplary result for the Class, especially in light of the phase of litigation when settlement was reached and the risks that the Class faced before any litigated recovery.

As noted above, expected payouts are between \$175-200 for Damages Class Members, and twice that amount for those Damages Class Members eligible for an enhanced payment.<sup>6</sup> These are not insignificant amounts and are reasonable recoveries given that the statutory damages range provided by the FCRA is \$100 to \$1,000 per violation. 15 U.S.C. § 1681n. These recoveries also compare favorably to other FCRA settlements, many of which settle for less than \$100 per class member, and, specifically, to FCRA settlements involving inaccurate reporting. *See, e.g., Ryals v. HireRight Solutions, Inc.*, No. 09-cv-625, ECF No. 127 (E.D. Va. Dec. 22, 2011) (final approval of settlement for inaccurate criminal record reporting, providing \$15-\$200 gross per class member); *Dougherty v. QuickSIUS, LLC*, No. 2:15-cv-06432, ECF No. 66 (E.D. Pa. May 31, 2018) (final approval of settlement for claims under § 1681e(b) providing automatic payments of \$104

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<sup>6</sup> As previously stated, all Damages Class Members will receive a payment automatically, and those who disputed and had an amended report issued or who attest to further harm will receive a double payment. This is an equitable way of distributing the fund. “Courts frequently approve plans involving *pro rata* distribution.” *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 2019 WL 6875472, at \*20 (E.D.N.Y. Dec. 16, 2019) (addressing Rule 23(e)(2)(C)(ii) for a plan that provided for *pro rata* division by claimants). Moreover, the “claims process” is a simple web submission with no documentation or proofs required, simply an attestation of harm due to Defendant’s reporting. *See also* Opinion & Order, ECF No. 46, at p. 10 (“I find there is little risk that this process will be unduly demanding or unable to filter out unjustified claims.”).

or \$419 to class members); *Patel v. Trans Union, LLC*, No. 14-00522, 2018 WL 1258194, at \*5 (N.D. Cal. Mar. 11, 2018) (final approval of class action settlement involving §1681e(b) claims where class members received \$400 and could make a claim for further damages); *Stokes v. RealPage, Inc.*, No. 2:15-cv-01520, ECF No. 63 (E.D. Pa. Feb. 6, 2018) (final approval of settlement involving §1681e(b) claims creating a common fund of \$1,079,200 for 21,607 class members).

In light of the result achieved, Class Counsel's request for one-third of the Damages Class common fund is more than justified. The requested fee is comfortably within the range that is typically awarded in this Circuit. *SESAC*, 2015 WL 728026, at \*14 (noting "in numerous common fund cases, fees have been awarded that represent one-third of the settlement fund" and collecting cases); *Hart*, 2015 WL 5577713, at \*17 (approving request for 32.9% of settlement fund); *Spicer v. Pier Sixty LLC*, No. 08-10240, 2012 WL 4364503, at \*4 (S.D.N.Y. Sept. 14, 2012) ("Class Counsel's request for one-third of the settlement fund is also consistent with the trend in this Circuit."); *Johnson v. Brennan*, 2011 WL 4357376, \*19 (S.D.N.Y. Sept. 16, 2011) (internal quotations omitted) ("A fee of 33% of the Settlement Fund is reasonable and consistent with the norms of class litigation in this circuit."); *Suarez v. Rosa Mexicano Brands Inc.*, No. 16 Civ. 5464 (GWG), 2018 WL 1801319 (S.D.N.Y. April 13, 2018) (approving one-third of \$3.6 million settlement fund); *Zorrilla v. Carlson Rests., Inc.*, No. 14 Civ. 2740 (AT), 2018 WL 1737139 (S.D.N.Y. April 9, 2018) (approving one-third of \$19.1 million settlement fund); *see also* Opinion & Order, ECF No. 46, at p. 10 ("Here, Plaintiff anticipates filing an application for a fee award of an amount of 'not to exceed' one-third of the fund set aside for the Damages Class plus reasonable out-of-pocket costs. . . . This approach is consistent with what other courts in this District have approved.") (internal record cite omitted).

Thus, this factor also weighs in favor of Class Counsel's requested fees.

vi. *Public Policy Supports the Requested Fees*

Public policy considerations also weigh in favor of granting Class Counsel's requested fees. In rendering awards of attorneys' fees, "the Second Circuit and courts in this district also have taken into account the social and economic value of class actions, and the need to encourage experienced and able counsel to undertake such litigation." *In re Sumitomo Copper Litig.*, 74 F. Supp. 2d 393, 399 (S.D.N.Y. 1999). When individuals' damages are small, "it [is] less likely that, without the benefit of class representation, they would be willing to incur the financial costs and hardships of separate litigations, which would certainly exceed their recoveries manyfold." *Frank v. Eastman Kodak Co.*, 228 F.R.D. 174, 181 (W.D.N.Y. 2005). It is therefore appropriate to compensate Class Counsel for their work in this case in order to ensure there is an appropriate incentive for attorneys to bring these kinds of cases. Attorneys' fees awards are a means of "providing lawyers with sufficient incentive to bring common fund cases that serve the public interest." *Goldberger*, 209 F.3d at 51. Class action litigation is inherently a risky venture for plaintiff's lawyers. See John C. Coffee, Jr., *Understanding the Plaintiff's Attorney: The Implications of Economic Theory for Private Enforcement of Law Through Class and Derivative Actions*, 86 COLUM. L. REV. 669, 707 (1986) (plaintiffs' firms "face unique organizational problems . . . occasioned by the prospect of 'shirking' and 'case stealing.'"); Elizabeth Chamblee Burch, *Financiers as Monitors in Aggregate Litigation*, 87 N.Y.U. L. REV. 1273, 1285-86 (2012) ("[T]ightening class certification standards means more risk and less reward for plaintiffs' lawyers.").

Ensuring an appropriate incentive for attorneys to bring class action cases is particularly important for cases enforcing rights created by the FCRA. Given that individual recoveries under

the FCRA are generally low, it is often not worth it for individual consumers to bring claims. *See Yohay v. City of Alexandria Employees Credit Union, Inc.*, 827 F.2d 967, 974 (4th Cir. 1987) (“[T]here will rarely be extensive damages in an FCRA action.”); *Murray v. GMAC Mortg. Corp.*, 434 F.3d 948 (7th Cir. 2006) (“[T]he potential recovery [in FCRA lawsuits] is too slight to support individual suits....”). Accordingly, class actions are one of the only feasible means of meaningfully enforcing the FCRA’s provisions.

The public policy behind the provisions of the FCRA at issue also warrants creating incentives to litigate these kinds of claims. Over 90% of employers subject their candidates to some form of background screening. EEOC, *Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Discrimination* at 6 (Apr. 25, 2012). Making sure that such reports do not contain inaccurate information is thus extremely important. Accordingly, this settlement will help achieve important public policy goals, as Defendant’s consumer reports, and the procedures Defendant used to prepare them, at issue here were prepared for employment purposes.

Thus, public policy and the important consumer rights at stake justify a risk enhancement to the attorneys’ fees. Absent private lawsuits to enforce these rights, companies will have no incentive to incur the expenses associated with compliance.

2. The Lodestar Cross Check Further Supports an Award to Class Counsel of One-Third of the Damages Class Common Fund

Courts in the Second Circuit also conduct a lodestar cross-check when assessing the reasonableness of a percentage fee award. *Goldberger*, 209 F.3d at 50. When the lodestar method is used as a “cross-check,” the district court need not exhaustively scrutinize counsel’s hours. *Id.* In performing a lodestar cross-check, courts multiply hours reasonably expended against hourly rates prevailing in the community. *Id.* at 47; *see also Luciano v. Olsten Corp.*, 109 F.3d 111, 115

(2d Cir.1997) (“[t]he lodestar figure should be in line with those [rates] prevailing in the community for similar services by lawyers of reasonably comparable skill, experience, and reputation”) (internal quotations omitted). The lodestar cross-check here confirms the reasonableness of the requested fee.

Here, the rates charged by Class Counsel are in line with the range of prevailing rates in this District. *See, e.g., In re Hi-Crush Partners L.P. Sec. Litig.*, No. 12-CIV-8557 CM, 2014 WL 7323417, at \*14 (S.D.N.Y. Dec. 19, 2014) (approving billing rates ranging from \$425 to \$825 per hour for attorneys); *Williamsburg Fair Hous. Comm. v. N.Y. City Hous. Auth.*, No. 76 CIV. 2125 (RWS), 2005 WL 736146, at \*12 (S.D.N.Y. Mar. 31, 2005), *opinion amended on reconsideration*, No. 76 CIV.2125 RWS, 2005 WL 2175998 (S.D.N.Y. Sept. 9, 2005) (observing that “a recent billing survey made by the National Law Journal shows that senior partners in New York City charge as much as \$750 per hour and junior partners charge as much as \$490 per hour”).<sup>7</sup>

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<sup>7</sup> Further, Class Counsel’s hourly rates have been specifically approved in this District, and in lead counsel’s home jurisdiction of Minnesota, and Berger Montague’s main office’s home jurisdiction of the Eastern District of Pennsylvania. *See, e.g., Gambles v. Sterling Infosystems, Inc.*, No. 15-cv-9746, ECF No. 205 (S.D.N.Y. Sept. 22, 2020) (granting motion for attorneys’ fees, where Berger Montague’s hourly rates were \$540-760 for attorneys at the time of the motion); *In re Veeco Instruments Inc. Sec. Litig.*, 2007 WL4115808, \*9 (S.D.N.Y. Nov. 7, 2007) (approving Berger Montague’s rates as reasonable, stating “[i]n class actions, courts in this district and around the country have consistently found to be reasonable rates comparable to those at issue here, given the nature of plaintiffs’ counsel’s work in such cases and the risks associated with financing class actions.”); *Taylor v. Inflection Risk Sols., LLC*, No. 20-cv-2266, ECF No. 94 (D. Minn. Nov. 15, 2022) (granting motion for attorneys’ fees, awarding one-third of the fund “as reasonable attorneys’ fees,” where Berger Montague’s hourly rates were \$390-\$980 for attorneys and \$240-\$370 for support staff); *Rilley v. MoneyMutual, LLC*, No. 16-cv-4001, ECF No. 342 (D. Minn. April 14, 2020) (granting motion for attorneys’ fees in full, which was based on the lodestar method, thus included a finding that Berger Montague’s hourly rates of \$198-\$760 for attorneys and \$43-\$305 for support staff were reasonable); *In re Domestic Drywall Antitrust Litig.*, No. 13-md-2437, 2018 WL 3439454, \*20 (E.D. Pa. July 17, 2018) (holding that the hourly rates claimed by Berger Montague, among other firms, were “well within the range of rates charged by counsel in this district in complex cases”); *Devlin v. Ferrandino & Son, Inc.*, No. 15-4976, 2016 WL 7178338, \*10 (E.D. Pa. Dec. 9, 2016) (“[T]he hourly rates for Class Counsel [including Berger Montague] are well within the range of what is reasonable and appropriate in this market”).

To date, Class Counsel have devoted over 340 hours in this matter, resulting in \$281,903.50 in lodestar. (Drake Decl. ¶ 15.) To take into account the future work Class Counsel have ahead of them between now and final approval, Class Counsel estimates an additional \$30,000 in lodestar, resulting in \$311,903.50 estimated lodestar. (*Id.* ¶ 16.) Class Counsel have additionally incurred \$20,212.21 in out-of-pocket costs. In conjunction with common practices in settlements of this structure, for purposes of this motion, Counsel is allocating 50% of that lodestar to the Damages Class, and 50% to the Injunctive Relief Class. *See, e.g., Berry v. LexisNexis Risk & Info. Analytic Grp., Inc.*, 2014 WL 4403524, \*\*1, 15 (E.D. Va. Sept. 5, 2014) (approving separate fee requests for Rule 23(b)(2) (lodestar-based request, representing 80% of requesting counsel’s time as the (b)(2) class was over 200 million members and thus relief for that group took bulk of time) and Rule 23(b)(3) (percentage of the fund based request, for 25% of common fund) settlements).<sup>8</sup>

The number of hours expended is also reasonable. “Where a plaintiff has obtained excellent results, his attorney should recover a fully compensatory fee. Normally this will encompass all hours reasonably expended on the litigation.” *Hensley v. Eckerhart*, 461 U.S. 424, 435-36 (1983). To determine what is reasonable, the Court considers whether the hours expended

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<sup>8</sup> *See also Witt v. CoreLogic Saferent, LLC*, No. 3:15-cv-00386, ECF Nos. 374, 375 (E.D. Va. Mar. 22, 2018) (separate orders approving separate fees for Rule 23(b)(2) and Rule 23(b)(3) settlements, based on a 50/50 division of class counsel’s total lodestar between the two settlement classes at issue and under the lodestar method in relation to the (b)(2) settlement (ECF No. 359), and under the percentage method as to the (b)(3) (ECF No. 361); *Hill-Green v. Experian Info. Sols., Inc.*, No. 3:19-cv-00708, ECF No. 112 (E.D. Va. Apr. 27, 2022) (order approving lodestar-based attorneys’ fee request related to (b)(2) settlement) and ECF No. 142 (E.D. Va. March 2, 2023) (order approving percentage of the fund-based attorneys’ fee request as to (b)(3) settlement, with differentiated lodestar amount submitted by class counsel in support); *Stewart v. LexisNexis Risk Data Retrieval Services, LLC*, No. 3:20-cv-00903, ECF Nos. 91, 92 (E.D. Va. July 27, 2022) (separate orders approving separate fees for Rule 23(b)(2) and Rule 23(b)(3) settlements, based on a 50/50 division of class counsel’s total lodestar between the two settlement classes at issue and under the lodestar method in relation to the (b)(2) settlement and under the percentage method as to the (b)(3)).

by Counsel were “usefully” expended. *Lunday v. City of Albany*, 42 F.3d 131, 134 (2d Cir. 1994). These hours should reflect the hours “supported by time records” and “that are not excessive or duplicative.” *LeBlanc-Sternberg v. Fletcher*, 143 F.3d 748, 764 (2d Cir. 1998).

As shown by the records, Class Counsel kept the number of timekeepers down, and focused each timekeeper’s efforts on initiating litigation, pursuing and defending discovery, and furthering settlement negotiations and finalization of same. (Drake Decl., Ex. A.) The hours are not duplicative nor are they excessive. They thus illustrate the reasonableness of the requested fee. *See, e.g., Trustees of the I.B.E.W. Local Union No. 488 Pension Fund v. Norland Elec., Inc.*, 2015 WL 3581011, \*5 (D. Conn. June 5, 2015) (“All documented tasks by counsel were directed toward preparation of the case and making the necessary motions to expedite resolution. In sum, the hours expended, both as to substance of task and length of time, are reasonable.”); *see also Weseley v. Spear, Leeds & Kellogg*, 711 F. Supp. 713, 718 (E.D.N.Y. 1989) (rewarding lean staffing on securities case by increasing multiplier as it was “admirably efficient”).

Much of Counsel’s time expended was related to understanding the procedures that caused Plaintiff’s inaccurate report, and the scope of the classes. Defendant’s procedures as to the SSN Trace information at issue were not immediately obvious and unraveling the issues with Defendant’s processes took significant time, effort, and intimate knowledge of the consumer reporting industry, including how background check data is gathered and reported. Significantly, during discovery, Class Counsel obtained data from Defendant consisting of voluminous data from across multiple platforms. Class Counsel retained and worked alongside a database expert to understand the scope of the data and what it showed about Defendant’s procedures. Class Counsel’s robust analysis played a vital role in mediation and settlement of the matter.

“Under the lodestar method of fee computation, a multiplier is typically applied to the

lodestar.” *In re Global Crossing Sec. & ERISA Litig.*, 225 F.R.D. 436, 468 (S.D.N.Y. 2004). “The multiplier represents the risk of the litigation, the complexity of the issues, the contingent nature of the engagement, the skill of the attorneys, and other factors.” *Id.* (citing *Goldberger*, 209 F.3d at 47). Class Counsel’s request for one-third of the Damages Class common fund, which is approximately 5.3 times the lodestar being allocated to the Damages Class (*see supra*), is reasonable in light of the risks they faced and the excellent result achieved for the Damages Class.

The multiplier Class Counsel seek is in the range of those approved in this District and Circuit. *See In re Telik, Inc. Sec. Litig.*, 576 F. Supp. 2d 570, 590 (S.D.N.Y.2008) (“In contingent litigation, lodestar multiples of over 4 are routinely awarded by courts[.]”); *In re EVCI Career Colls. Holding Corp. Sec. Litig.*, No. 05-10240, 2007 WL 2230177 (S.D.N.Y. July 27, 2007) (“Lodestar multipliers of [ ] 5 have been deemed “common” by courts in this District.”); *see also In re Colgate-Palmolive Co. ERISA Litig.*, 36 F. Supp. 3d 344, 353 (S.D.N.Y. 2014) (approving fee with multiplier of 5.); *Roberts v. Texaco, Inc.*, 979 F. Supp. 185, 197 (S.D.N.Y.1997) (multiplier of 5.5); *In re RJR Nabisco, Inc. Sec. Litig.*, No. 88 CV 7905, 1992 WL 210138, at \*5 (S.D.N.Y. Aug.24, 1992) (multiplier of 6); *In re Credit Default Swaps Antitrust Litig.*, 2016 WL 2731524, \*17 (S.D.N.Y. Apr. 26, 2016) (lodestar multiplier “of just over 6”); *Beckman v. KeyBank, N.A.*, 293 F.R.D. 467, 481 (S.D.N.Y. 2013) (“Courts regularly award lodestar multipliers of up to eight times the lodestar, and in some cases, even higher multipliers”); *Maley v. Del Global Techs. Corp.*, 186 F. Supp. 2d 358, 371 (S.D.N.Y. 2002) (finding multiplier of 4.65 to be “modest”).

For all of these reasons, Plaintiff requests that the Court award Class Counsel one-third of the Damages Class Gross Settlement Amount, or \$833,333.33, as attorneys’ fees related to the Damages Class.



3. Class Counsel's Costs are Reasonable

“It is well established that counsel who obtain a common settlement fund for a class are entitled to the reimbursement of expenses that they advance to a class.” *SESAC*, 2015 WL 728026, at \*17; *In re EVCI Career Colleges Holding Corp. Sec. Litig.*, No. 05 Civ. 10240, 2007 WL 2230177, at \*18 (S.D.N.Y. July 27, 2007) (“Courts in the Second Circuit normally grant expense requests in common fund cases as a matter of course.”) (internal citation omitted).

To date, Class Counsel has incurred \$20,212.21 in out-of-pocket costs directly related to this matter. (Drake Decl. ¶ 18.) These costs include, among other things, filing fees, legal research, document hosting, expert fees, and mediator expenses. (*Id.*) These costs were all reasonably incurred to benefit the class members, and should be reimbursed to Class Counsel. *See SESAC*, 2015 WL 728026, at \*17 (awarding costs); *In re Veeco Instruments Inc. Sec. Litig.*, No. 05 MDL 01695CM, 2007 WL 4115808, at \*10 (S.D.N.Y. Nov. 7, 2007); *In re Colgate-Palmolive Co. ERISA Litig.*, 36 F. Supp. 3d 344, 353-4 (S.D.N.Y. 2014) (awarding costs where “[t]he lion’s share” was for experts and mediation, stating those types of costs were “critically important” and “routinely award[ed]”).

**B. Class Counsel's Requested Attorneys' Fees as to the Injunctive Relief Class**

As noted above, the Settlement Agreement provides for Class Counsel to separately request attorneys' fees related to the Injunctive Relief Class, in the amount of \$500,000, to be paid directly by Defendant. As this fee request is based on an agreement for a fee to be paid separately by Defendant means, if approved, the fees will not impact the relief being provided for the Class, and also means that if denied, the money would not instead go to the Class, but stay with Defendant. Thus such a request does not require the level of scrutiny that a percentage of a common fund does, as discussed above in relation to the Damages Class. *See, e.g. Sanchez v. DPC New York Inc.*, 381 F. Supp. 3d 245, 250-251 (S.D.N.Y. 2019) (“when the parties to a [] action agree to a separate

attorneys' fee determination that is independent of a Plaintiff's settlement amount. . . . the determination of fees should not result in a second major litigation. Trial courts need not, and indeed should not, become green-eyeshade accountants. The essential goal in shifting fees (to either party) is to do rough justice, not to achieve auditing perfection.") (internal quotations omitted). As described further below, this request for attorneys' fees is appropriate and should be awarded.

1. The Lodestar Method is Appropriate for Review of Reasonableness for Requests of Fees outside of Common Fund

In a certified class action, a court "may award reasonable attorney's fees and nontaxable costs that are authorized by law or by the parties' agreement." Fed. R. Civ. P. 23(h). While the overall reasonability of the settlement is the ultimate touchstone for approval, in assessing the reasonability of a request for attorneys' fees and costs to be paid outside a common fund, courts generally apply the "lodestar method," rather than a "percentage method" to assess the reasonability of the fee. *Sanchez v. DPC New York Inc.*, 381 F. Supp. 3d 245, 250 (S.D.N.Y. 2019) (gathering cases in support). This method is appropriate here in light of the fact that the Injunctive Relief Class attorneys' fees were negotiated separate and apart from the Damages Class common fund that will be used to pay class members and fees associated with that Class. *See* Opinion & Order, ECF No. 46, at p. 11 ("Plaintiff also contemplates filing a request 'for up to' \$500,000 as attorneys' fees for the Injunctive Relief Class. . . This is also consistent with the case law. *See* *McDaniel v. Cnty. of Schenectady*, 595 F.3d 411, 417–19 (2d Cir. 2010) (explaining that fee awards need not only be calculated by percentage-of-fund method); *cf.* *Berry v. Schulman*, 807 F.3d 600, 617 (4th Cir. 2015) (awarding \$5.3 million in fees for obtaining an injunctive-relief-only class).").

To determine the appropriate award under the lodestar method, "the court must: (1)

determine the reasonable hourly rate; (2) determine the number of hours reasonably expended; (3) multiply the two to calculate the presumptively reasonable fee; and (4) make any appropriate adjustments to arrive at the final fee award.” *Adorno v. Port Auth. of New York and New Jersey*, 685 F. Supp. 2d 507, 511 (S.D.N.Y. 2010). “Both [the Second Circuit] and the Supreme Court have held that the lodestar ... creates a ‘presumptively reasonable fee.’” *Millea v. Metro-North R. Co.*, 658 F.3d 154, 166 (2d Cir. 2011) (quoting *Arbor Hill Concerned Citizens Neighborhood Assoc. v. Cnty. of Albany*, 522 F.3d 182, 183 (2d Cir. 2008); citing *Perdue v. Kenny A.*, 559 U.S. 542 (2010)); *Quaratino v. Tiffany & Co.*, 166 F.3d 422, 425 (2d Cir. 1999). The court may then adjust the lodestar up or down based on certain factors, “such as the risk of the litigation and the performance of the attorneys,” *Goldberger*, 209 F.3d at 47, though the lodestar calculation itself “includes most, if not all, of the relevant factors constituting a ‘reasonable’ attorney’s fee....” *Perdue*, 559 U.S. at 553 (quoting *Pennsylvania v. Del. Valley Citizens' Council for Clean Air*, 478 U.S. 546, 565-66 (1986)).

As discussed above, the appropriate lodestar amount to consider in relation to this fee request is 50% of Class Counsel’s total lodestar. The requested \$500,000, which thus represents a 3.2 multiplier, should be awarded.

i. *Class Counsel’s Hourly Rates are Reasonable, as Were the Hours Expended*

As discussed above, Class Counsel’s hourly rates are reasonable, as were the hours expended. (*Supra* at III.A.2, and fn.7.)

ii. *The Resulting Multiplier is Appropriate*

In the Second Circuit, courts regularly award lodestar multipliers from 2 to 6 times lodestar. *See, e.g., supra* at III.B.2; *Bozak v. FedEx Ground Pkg. Sys., Inc.*, No. 11-738, 2014 WL 3778211, \*7 (D. Conn. July 31, 2014). Here, while considering only half of Class Counsel’s lodestar as

allocated to the Injunctive Relief Class, there is a 3.2 multiplier. When viewed in light of the significant injunctive relief achieved, as well as the efforts Counsel undertook to achieve the relief (Drake Decl. ¶¶ 4-11), this multiplier is eminently reasonable, and in line with those regularly approved in this Circuit.

This is especially true given that Class Counsel's efforts obtained an exceptional result for the Injunctive Relief Class. For the Injunctive Relief Class, the changes achieved through the settlement are significant and will prevent the similar alleged misattribution of criminal records through a SSN Trace from occurring again. It is estimated that over 90% of employers and approximately 90% of landlords use background checks to evaluate job and housing applicants.<sup>9</sup> Given Defendant's prominent position in the background check industry, it is common for job seekers to have reports issued by Defendant. Thus, the injunctive relief here provides a benefit to the Injunctive Relief Class by ensuring the challenged practices have been changed. The injunctive relief here is particularly significant, especially given that the weight of authority suggests that injunctive relief is not available to private plaintiffs under the FCRA. *See Owoyemi v. Credit Corp Sols. Inc.*, 596 F. Supp. 3d 514, 519 (S.D.N.Y. 2022) (stating the "[t]he FCRA, however, does not provide for injunctive relief to consumers" and collecting authority); *see also* Opinion & Order, ECF No. 46 at p. 9. Moreover, the Injunctive Relief Class Members are not releasing any substantive claims, only their ability to bring a class action or other aggregated proceeding. This relief was only achieved after Class Counsel diligently pursued discovery, especially as to the extensive data collection and analysis, including with expert assistance, conducted by Counsel.

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<sup>9</sup> National Consumer Law Center, *Broken Records Redux: How Errors By Criminal Background Check Companies Continue to Harm Consumers Seeking Jobs and Housing* at 3 (Dec. 2019), <https://www.nclc.org/wp-content/uploads/2022/09/report-broken-records-redux.pdf>.

2. Review of Additional Considerations<sup>10</sup> Provides Further Support

Class Counsel took this case on a contingency basis and understood from the outset that there would be no guarantee of payment, and to date have received no payment for their services. And in fact, as to the Injunctive Relief Class, no recovery could have likely been achieved at all without Counsel’s efforts to obtain the injunctive relief provided in the settlement. Even in light of these risks, Class Counsel litigated the case since 2020, including pursuing discovery from Defendant, engaging an expert to review the data received in discovery, working to understand Defendant’s processes and platforms, among other efforts, and have fronted all of the costs of litigation. This is all while opposing experienced counsel on the other side. This provides further support for the requested fee. *Menkes v. Stolt-Nielsen S.A.*, 2011 WL 13234815, \*5 (D. Conn. Jan. 25, 2011) (approving fee where “the case raised complex issues of proof and presented substantial risk in establishing both liability and damages. Faced with able opposing counsel, Class Counsel demonstrated its competence and experience in the field of securities fraud litigation by causing the claims of the class to progress beyond several dispositive motions through to preliminary settlement and certification.”) (citing *In re Nortel Networks Corp. Sec. Litig.*, 539 F.3d 129, 132 (2d Cir. 2008) in support). The type of representation Class Counsel provided here – taking a risky, complex class action with no guarantee of payment – is favored by public policy and

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<sup>10</sup> The *Goldberger* factors reviewed in the percentage method as to Counsel’s requested fees for the Damages Class are applicable here as well, in considering “reasonableness” of fee requested: (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 at 50. Time and labor and Class Counsel’s experience are addressed in Section III.B.2 above in connection with reasonable time and rates. Moreover, the review above of these factors in Section III.B as to the requested fees from the Damages Class common fund all hold true here as well, as Class Counsel’s efforts that are discussed therein were equally attributable to the relief achieved for both Classes (less the discussion of monetary relief for the Damages Class in Section III.B.1.v.).

approval of the requested fee furthers the encouragement of attorneys taking on these types of matters. *In re Veeco Instruments Inc. Sec. Litig.*, 2007 WL 4115808, \*\*7-8 (S.D.N.Y. Nov. 7, 2007); *Maley v. Del Global Tech. Corp.*, 186 F. Supp. 2d 358, 374 (S.D.N.Y. 2002); *In re Nortel Networks Corp. Sec. Litig.*, 539 F.3d 129, 132 (2d Cir. 2008).

Further supporting the fee amount is consideration of the fifth *Goldberger* factor which considers “the requested fee in relation to the settlement.” *Goldberger*, 209 F.3d at 50. Here the fee award in this case will be paid by Defendant directly to Counsel and does not require payment from the Injunctive Relief Class, directly or indirectly.

#### **IV. THE REQUEST FOR A CLASS REPRESENTATIVE SERVICE AWARD IS REASONABLE AND SHOULD BE GRANTED**

Class Counsel request a \$10,000 Class Representative Service Award to compensate Plaintiff for her efforts and personal time spent assisting in the litigation and settlement of the case. Service awards are “common in class action cases and are important to compensate plaintiffs for the time and effort expended in assisting the prosecution of the litigation, the risks incurred by becoming and continuing as a litigant, and any other burdens sustained by the plaintiff.” *Mohney v. Shelly’s Prime Steak, Stone Crab & Oyster Bar*, No. 06-4270, 2009 WL 5851465 (S.D.N.Y. Mar. 31, 2009) (citing *Roberts v. Texaco, Inc.*, 979 F. Supp. 185, 200-1 (S.D.N.Y.) 1997)).

Plaintiff’s services were instrumental to the prosecution of this action. She provided documents to Class Counsel to aid in the investigation and drafting of the Complaint, reviewed the Complaint prior to filing, participated in written discovery, and stayed abreast of settlement negotiations. She has been in consistent contact with Class Counsel over the four years that this case has been ongoing. (Drake Decl. ¶¶ 20-21.) She reviewed, approved of, and signed the Settlement Agreement. (*Id.*) Plaintiff remained committed to advancing the class members’ interests, through litigation and settlement.

Service payments in the amount of \$10,000 are well within the range awarded by courts in this Circuit. *See, e.g., Hart v. RCI Hosp. Holdings, Inc.*, No. 09 CIV. 3043 PAE, 2015 WL 5577713, at \*19 (S.D.N.Y. Sept. 22, 2015) (approving \$15,000 service payments to class representatives); *In re Giant Interactive Grp., Inc. Sec. Litig.*, 279 F.R.D. 151, 166 (S.D.N.Y. 2011) (approving awards of between \$10,000 and \$5,400 to named plaintiffs who “devoted substantial effort and time to this case, including reviewing filings, producing documents”); *Godson v. Eltman, Eltman, & Cooper, P.C.*, 328 F.R.D. 35, 60 (W.D.N.Y. 2018) (\$10,000 to named plaintiff in a consumer class action); *Raniere v. Citigroup Inc.*, 310 F.R.D. 211, 220 (S.D.N.Y. 2015) (approving \$20,000, \$15,000, and \$7,500 awards to named plaintiffs); *see also* Opinion & Order, ECF No. 46, p. 12, and fn. 5 (“The parties have proposed a \$10,000 service award to Plaintiff Grissom as the class representative. This award is within the range of service awards approved by courts in this District given counsel’s representation regarding the contributions of the named Plaintiff to this case. Thus, the incentive award is reasonable in light of the particular circumstances of this case.”) (gathering cases in support) (internal record citations omitted).

Under these circumstances, the request to award Plaintiff \$10,000 for her service, to be paid consistent with the Settlement Agreement. (SA ¶ 8.4.)

## V. CONCLUSION

Based on the foregoing, Plaintiff and Class Counsel respectfully request the Court approve: (1) as to the Damages Class, attorneys’ fees in the amount of one-third of the common fund, or \$833,333.33, and reimbursement of out-of-pocket expenses of \$20,212.21, (2) as to the Injunctive Relief Class, attorneys’ fees in the amount of \$500,000, to be paid by Defendant directly, and (3) a Class Representative Service Award to Plaintiff in the amount of \$10,000.

Date: January 28, 2025

/s/E. Michelle Drake  
\_\_\_\_\_  
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Classes*

**LOCAL CIVIL RULE 7.1(c) COMPLIANCE CERTIFICATION**

The undersigned certifies that the foregoing Memorandum contains 8,498 words (excluding those sections allowed to be excluded in Local Civil Rule 7.1(c), and including footnotes) per Microsoft Word 365's Word Count.

Date: January 28, 2025

/s/E. Michelle Drake  
\_\_\_\_\_  
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UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

GRACE GRISSOM, individually and on  
behalf of those similarly situated,

Plaintiff,

v.

STERLING INFOSYSTEMS, INC.,

Defendant.

NO. 1:20-cv-07948-VSB

**DECLARATION OF E. MICHELLE DRAKE IN SUPPORT OF MOTION FOR  
ATTORNEYS' FEES, COSTS, AND CLASS REPRESENTATIVE SERVICE AWARD**

I, E. Michelle Drake, declare as follows:

1. I am one of Class Counsel in this action.

2. The matters set forth herein are within my personal knowledge and if sworn as a witness I could competently testify regarding them.

3. I submit this Declaration in support of Plaintiff's Unopposed Motion for Attorneys' Fees, Costs, and Class Representative Service Award.

**Class Counsel's Efforts in Litigation & Settlement**

4. Beginning in 2020, Plaintiff and Class Counsel worked to investigate Plaintiff's claims, and Class Counsel continued to research and draft the Complaint, filing the Complaint on September 25, 2020. (ECF No. 1.)

5. Following Defendant's Answer in December 2020 (ECF No. 12), Class Counsel began work on diligently pursuing discovery. This included propounding written requests for information, documents, and data, and coordinating review and analysis of such responsive productions from Defendant. Additionally, Class Counsel assisted Plaintiff in preparing written

responses to Defendant's requests, and coordinating production of relevant documents as well.

6. Defendant's data productions were complex and entailed several meet and confers to determine the appropriate scope of such productions, and to develop an understanding of the different databases and platforms utilized by Defendant for the data at issue in the case. Class Counsel retained a database expert to assist in the analysis of the same. These data related efforts were key to obtaining the Injunctive Relief Class's non-monetary benefits here, as they enabled Class Counsel to understand Defendant's processes and procedures in effect during the class period and how they effected the Class Members.

7. On October 25, 2022, the parties attended a full-day mediation with Hon. Diane Welsh (Ret.), prior to which Class Counsel had prepared a detailed mediation statement and reviewed Defendant's statement in exchange. Following the mediation, Class Counsel handled subsequent arms-length negotiations, eventually reaching a settlement in principle.

8. Class Counsel then worked to draft the formal Settlement Agreement and Exhibits, which was executed February 27, 2023.

9. Class Counsel also prepared the Notice Plan, which involved soliciting and vetting multiple proposals from settlement administrators.

10. Class Counsel worked closely with the Administrator to ensure the Notice Plan will reach as many class members as possible. I have substantial experience in working with notice administrators to formulate effective notice plans, including in the Big Three Public Records Litigation. *Clark v. Trans Union, LLC*, No. 3:15-cv-00391 (E.D. Va.); *Clark v. Experian Info. Sols., Inc.*, No. 3:16-cv-00032 (E.D. Va.); *Thomas v. Equifax Info. Services, LLC*, No. 3:18-cv-00684 (E.D. Va.), all of which had hybrid settlements such as that presented here.

11. Throughout the Notice Plan's implementation, Class Counsel have assisted class

members who reached out with questions about the settlement, and supervised the Settlement Administrator in its work.

12. Class Counsel's work is not yet complete. Class Counsel will continued to oversee the administration of the settlement and respond to class member inquiries. Additionally, Counsel will prepare the final approval papers and appear at the final approval hearing.

13. The Settlement Agreement authorizes Class Counsel to seek one-third of the monetary relief provided by the settlement, as well as reimbursement of out-of-pocket costs, for Counsel's efforts on behalf of the Damages Class, and the \$500,000 in fees as to the Injunctive Relief Class. Class Counsel's intention to seek such here was included in the Notices provided to the Class Members. No objections have been received to date.

14. Class Counsel took this case on a contingency basis, agreeing to advance all expenses and to only receive a fee if there was a recovery achieved. Counsel have received no reimbursement to date.

15. To date, Berger Montague has expended over 340 hours on the litigation and settlement of this matter. At Berger Montague's current and reasonable hourly rates, this results in \$281,903.50 in lodestar. A summary table of timekeepers, their positions, and the number of hours each expended on this matter follows. Further, attached as **Exhibit A** is a true and correct copy of Class Counsel's fee entries kept in this matter, redacted for privilege.

<b>Timekeeper</b>	<b>Title</b>	<b>Atty. Yrs. Of Exp.</b>	<b>Hours</b>	<b>Lodestar</b>	<b>Hourly Rate</b>
Albanese, John	Shareholder	13	125.1	\$111,964.50	\$895
Hibray, Jean	Paralegal		76.6	\$38,300	\$500
Drake, E. Michelle	Exec. Shareholder	24	67.8	\$80,004	\$1,180
Hartman, Matthew	Senior Counsel	25	51	\$41,055	\$805
Fena, Jocelyn	Legal Project Analyst		6	\$1,680	\$280
Wehr, Christopher	Counsel	4	5.7	\$2,707.50	\$475
Xiong, Mai	Paralegal		2.8	\$868	\$310

Hashmall, Joseph	Senior Counsel	15	2.8	\$2,226	\$795
Gionnette, Julie	Legal Assistant		2.7	\$823.50	\$305
McClain, Michael	Counsel	15	2.5	\$875	\$350
Lodge, Hans W	Shareholder	10	2	\$1,400	\$700
Total			345	\$281,903.50	

16. Additionally, Class Counsel anticipate expending approximately \$30,000 more in lodestar, between this motion and final approval hearing, as Counsel continues to work to respond to class member needs, prepare the motion for final approval, travel to and from the final hearing and argue at same. This increases Counsel's lodestar to \$311,903.50.

17. Berger Montague's time records are maintained in accordance with industry standards to ensure reliability and transparency. The firm's formal policy requires all timekeepers—including attorneys and support staff—to keep records of time worked contemporaneously and to provide sufficient detail to convey the nature and merit of the work performed. To ensure each time entry contains sufficient detail, the firm requires time entries to include both matter numbers (corresponding to the specific case) and task codes (corresponding to the type of work performed). Timekeepers are also required to provide narrative descriptions setting forth the case-specific tasks associated with each time entry. This manner of timekeeping, with contemporaneous records and detailed descriptions broken down by task, provides a level of accountability that courts nationwide routinely recommend when scrutinizing applications for attorneys' fees. *Deary v. City of Gloucester*, 9 F.3d. 191, 197-98 (1st Cir. 1993) ("In order to recover fees, attorneys must submit a full and precise accounting of their time, including specific information about number of hours, dates, and the nature of the work performed."); *Bode v. United States*, 919 F.2d 1044, 1047 (5th Cir. 1990) (collecting cases) ("[C]ourts customarily require the applicant to produce contemporaneous billing records or other sufficient documentation so that the district court can fulfill its duty to examine the application....").

18. To date, Berger Montague has incurred a total of \$20,212.21 in costs. These costs were incurred in furtherance of the litigation and settlement, primarily for the database expert that assisted Class Counsel in analyzing Defendant's data, as well as the mediation session with Judge Welsh (Ret.). A summary table of the categories of costs follows. Class Counsel can provide more details on the below, upon request from the Court.

<b>Category</b>	<b>Amount</b>
Mediation Fees	\$10,772
Expert Fees	\$5,575
Legal Research	\$2,132.82
Filing & Misc. Fees	\$932.30
E-Discovery Hosting & Support	\$567
E-Discovery Hosting	\$117.04
Process Server	\$100
Reproduction costs scans	\$11.15
DocuSign	\$2.48
Telephone	\$2.42
<b>Total</b>	<b>\$20,212.21</b>

19. Legal research charges were all for Westlaw. Berger Montague has negotiated a fixed monthly payment to Westlaw for usage of Westlaw's legal research database and tools. The firm's fixed-monthly fee with Westlaw results in the firm paying rates that are well below what the firm would incur if it paid Westlaw's market rates on a per transaction basis. The firm does not mark-up Westlaw research charges to clients/matters. In order to allocate the monthly charge among its clients, Berger Montague requires users to enter client/matter billing numbers each time the user begins a Westlaw session on behalf of a client. The firm then obtains the per-transaction amount that, but for Berger Montague's monthly contract, Westlaw would have charged for the resources used during that session (the "gross charge"). At the end of each month, the costs for all transactions are added up so that each client/matter billing number has an associated case-specific gross charge. The monthly fee for the firm's subscription to Westlaw is then split equally

amongst all entered client/matter billing numbers for a given month, in proportion to the client/matter's share of the gross charges. So, for example, if, for the month of May, Client A has a gross charge of \$100,000, Client B has a gross charge of \$300,000, and Client C has a gross charge of \$600,000, the Firm's monthly fee to Westlaw (which would be less than \$1,000,000) would be apportioned as follows: 10% to Client A, 30% to Client B, and 60% to Client C.

#### **Named Plaintiff's Efforts on this Matter**

20. Named Plaintiff Grissom has remained committed to class members' best interests throughout litigation and the settlement negotiation process. Since first identifying her potential claims against Defendant back in 2020, Plaintiff has assisted in the investigation of her claims, reviewed the Complaint, remained abreast of developments in the case by regularly communicating with Class Counsel, responded to written discovery, and produced documents. Plaintiff remained involved in and abreast of settlement negotiations, and ultimately reviewed and approved the Settlement Agreement. She was prepared to sit for her deposition and attend trial, should the case have progressed.

21. Without Plaintiff's initiative and commitment, class members likely would have received nothing for the conduct at issue in this case.

#### **Counsel's Qualifications & Experience**

22. I am an Executive Shareholder at Berger Montague PC. I have been practicing law since 2001 and am a graduate of Harvard College, Oxford University, and Harvard Law School. In 2016, I joined Berger Montague as a Shareholder, prior to that I was a partner at Nichols Kaster, PLLP, and ran that firm's consumer protection group.

23. Berger Montague specializes in class action litigation and is one of the preeminent class action law firms in the United States. The firm currently consists of over 90 attorneys who

primarily represent plaintiffs in complex civil litigation, and class action litigation, in federal and state courts. Berger Montague has played lead roles in major class action cases for over 50 years, and has obtained settlement and recoveries totaling well over \$30 billion for its clients and the classes they have represented.

24. I serve as co-chair of the firm's Consumer Protection & Mass Tort Department, and as chair of the Background Checks and Credit Reporting Department. My practice focuses on protecting consumers' rights when they are injured by improper credit reporting, and other illegal business practices. I currently serve as lead or co-lead counsel in dozens of class action consumer protection cases in federal and state courts across the country, including numerous cases brought pursuant to the Fair Credit Reporting Act ("FCRA"). Berger Montague's Background Checks and Credit Reporting Department litigates on behalf of consumers nationwide to protect them against violations of their rights under the FCRA and other laws that govern credit reports and background checks. In particular, Berger Montague has developed an expertise in recent years representing consumers who have been inaccurately reported as matches to the OFAC List.

25. I serve on the Board of the Southern Center for Human Rights, the Board of Public Justice, am a member of the Partner's Council of the National Consumer Law Center, am a former Co-Chair of the Consumer Litigation Section for the Minnesota State Bar Association, and a former Board Member of the National Association of Consumer Advocates. I have previously served as a member of the Ethics Committee for the National Association of Consumer Advocates, and as Treasurer and At-Large Council Member for the Consumer Litigation Section of the Minnesota State Bar Association. I was also an appointee to the Federal Practice Committee in 2010 by the U.S. District Court for the District of Minnesota.

26. I was named to the LawDragon 500 Leading Plaintiff Financial Lawyers List for

2019, and a 2020 Elite Woman of the Plaintiffs Bar by the National Law Journal. I am consistently named to the annual lists of The Best Lawyers of America, Top 50 Women Minnesota Super Lawyers, and Super Lawyers. I have been quoted in the New York Times, and the National Law Journal, and have had prior cases named as “Lawsuits of the Year” by Minnesota Law & Politics.

27. I present frequently at national and local conferences on class actions, consumer protection, and Fair Credit Reporting Act-related topics, and I co-authored a book chapter on background checks and related issues, “Financial and Criminal Background Checks,” Job Applicant Screening: A Practice Guide, Minnesota Continuing Legal Education Publication, May 2014, and the forthcoming 2d. ed. I was a contributing author to “Consumer Law,” The Complete Lawyer’s Quick Answer Book, Minnesota Continuing Legal Education Publication, 2d. ed., 2019, and “Chapter 1: Case and Claims Selection, Other First Considerations,” Consumer Class Actions, National Consumer Law Center, 10th ed., 2019.

28. Attached as **Exhibit B** is my personal resume.

29. Class Counsel on this matter additionally includes:

John G. Albanese. Mr. Albanese is a Shareholder with Berger Montague, in the firm’s Consumer Protection Department, with a concentration on Fair Credit Reporting Act class actions. Mr. Albanese is regularly invited to speak on consumer law and litigation issues, and frequently represents consumer advocacy groups as *amici curiae* at the appellate level. He has been named a Super Lawyers Rising Star since 2017, and by Best Lawyers as One to Watch, in 2021. He is a graduate of Columbia Law School, where he was a managing editor of the Columbia Law Review. Mr. Albanese clerked for Magistrate Judge Geraldine Brown in the Northern District of Illinois. He also has a B.A. from Georgetown University.



He has served as class counsel in over 20 class actions.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 28th day of January, 2025 at Minneapolis, Minnesota.

/s/E. Michelle Drake  
E. Michelle Drake

**Exhibit A**

Employee	Date	Hours	Amount	Rate	Narrative
Fena, Jocelyn Cornell	10/31/2019	1.50	420.00	280.00	GRACE GRISSOM (FCRA) Call and Records
Fena, Jocelyn Cornell	11/18/2019	1.00	280.00	280.00	Grace Grissom [REDACTED] Call
Fena, Jocelyn Cornell	11/26/2019	1.50	420.00	280.00	Grace Grissom Notes for Hans and general FCRA emails
Fena, Jocelyn Cornell	12/2/2019	0.50	140.00	280.00	Email Grissom [REDACTED]
Lodge, Hans W	12/4/2019	0.60	420.00	700.00	Grissom v. Sterling: TC to Lead discussing [REDACTED]
Lodge, Hans W	12/4/2019	0.50	350.00	700.00	Grissom v. Sterling: review all documents provided by lead and received from Sterling.
Lodge, Hans W	1/9/2020	0.50	350.00	700.00	Review Sterling response to a request
Lodge, Hans W	1/29/2020	0.20	140.00	700.00	TC to CL discussing [REDACTED]
Albanese, John	2/10/2020	0.40	358.00	895.00	Phone call with client regarding [REDACTED]
Lodge, Hans W	2/10/2020	0.20	140.00	700.00	Grace Grissom v. Sterling [REDACTED] TC to CL with Albanese discussing [REDACTED]
Fena, Jocelyn Cornell	2/11/2020	0.50	140.00	280.00	Admin on the Grace Grissom Case
Albanese, John	4/6/2020	0.10	89.50	895.00	Discuss case status with litigation team
Drake, E. Michelle	4/6/2020	0.10	118.00	1,180.00	team meeting re next steps in litigation
Xiong, Mai	4/6/2020	0.10	31.00	310.00	Meet with team re case status and next steps.
Albanese, John	5/15/2020	4.90	4,385.50	895.00	Draft complaint.
Albanese, John	6/1/2020	2.60	2,327.00	895.00	Draft complaint.
Albanese, John	6/3/2020	0.10	89.50	895.00	Discuss [REDACTED] with litigation team.
Drake, E. Michelle	6/3/2020	0.10	118.00	1,180.00	meet with team re next steps in litigation
Xiong, Mai	6/3/2020	0.10	31.00	310.00	Meet with team to discuss staus of case and next steps.
Albanese, John	6/4/2020	1.10	984.50	895.00	Eidt complaint and call with client regarding [REDACTED]
Xiong, Mai	6/4/2020	0.10	31.00	310.00	Emails with JGA re [REDACTED]
Albanese, John	6/5/2020	0.20	179.00	895.00	Email client regarding [REDACTED]
Xiong, Mai	6/5/2020	0.10	31.00	310.00	Emails with JGA re Grace Grissom [REDACTED]
Xiong, Mai	6/5/2020	0.10	31.00	310.00	Review emails between Jocelyn and JGA re [REDACTED]
Albanese, John	6/19/2020	0.70	626.50	895.00	Draft and prepare [REDACTED]
Albanese, John	6/19/2020	1.20	1,074.00	895.00	Edit complaint.
Xiong, Mai	6/25/2020	0.10	31.00	310.00	Review email from JGA to EMD re complaint.
Xiong, Mai	6/26/2020	0.10	31.00	310.00	Review email from Jocelyn re [REDACTED]
Albanese, John	7/6/2020	0.50	447.50	895.00	Review EMD's edits to Grissom complaint.
Drake, E. Michelle	7/6/2020	0.60	708.00	1,180.00	research on [REDACTED]
Drake, E. Michelle	7/6/2020	2.30	2,714.00	1,180.00	review redline and revise draft complaint. Review client's file disclosure [REDACTED] and draft short memo to J. Albanese re [REDACTED]
Fena, Jocelyn Cornell	7/7/2020	1.00	280.00	280.00	Manage Admin and Additional G Requests for Grissom [REDACTED]
Albanese, John	7/8/2020	0.80	716.00	895.00	Call with Michelle Drake regarding complaint.
Drake, E. Michelle	7/8/2020	0.80	944.00	1,180.00	call with J. Albanese re edits to the complaint [REDACTED]
Albanese, John	7/29/2020	0.10	89.50	895.00	Meet with case team regarding [REDACTED]
Xiong, Mai	7/29/2020	0.10	31.00	310.00	Discuss status of case [REDACTED] with team.
Albanese, John	8/10/2020	1.30	1,163.50	895.00	Edit complaint and discuss [REDACTED] with client.
Albanese, John	8/31/2020	0.10	89.50	895.00	Discuss [REDACTED] with case team.
Xiong, Mai	8/31/2020	0.10	31.00	310.00	Discuss status of case and next steps with team.
Drake, E. Michelle	9/3/2020	0.80	944.00	1,180.00	review complaint, email J. Albanese [REDACTED]
Drake, E. Michelle	9/8/2020	0.50	590.00	1,180.00	call w J Albanese re complaint
Albanese, John	9/8/2020	0.50	447.5	895.00	Call with M Drake re complaint
Albanese, John	9/15/2020	0.10	89.50	895.00	Meet with litigation team regarding [REDACTED]
Drake, E. Michelle	9/15/2020	0.10	118.00	1,180.00	team meeting re next steps in litigation
Xiong, Mai	9/15/2020	0.10	31.00	310.00	Meet with team re status of case, next steps, etc.
Albanese, John	9/21/2020	1.10	984.50	895.00	Draft, edit, and finalize complaint
Hibray, Jean	9/24/2020	0.80	400.00	500.00	Proof complaint. Emails re [REDACTED]
Hibray, Jean	9/25/2020	1.00	500.00	500.00	Draft Summons, CCS. Finalize docs, initiate case on ECF. Request certs for upcoming pro hacs
Xiong, Mai	9/29/2020	0.10	31.00	310.00	Emails with Jean re status of case.
Hibray, Jean	10/1/2020	0.40	200.00	500.00	Prepare preservation letter/service packet, send out
Hibray, Jean	10/1/2020	0.90	450.00	500.00	Scanning of certs rcvd at home, draft pro hac motion papers for M Drake and J Albanese
Xiong, Mai	10/1/2020	0.10	31.00	310.00	Emails with Jean re handling of pro hacs, service packet etc.
Hibray, Jean	10/2/2020	0.90	450.00	500.00	Finalize & file pro hac motions for J Albanese and M Drake
Albanese, John	10/5/2020	0.10	89.50	895.00	Discuss [REDACTED] with litigation team.
Drake, E. Michelle	10/5/2020	0.10	118.00	1,180.00	team meeting re next steps in litigation
Albanese, John	10/12/2020	0.20	179.00	895.00	Phone call with John Drury regarding extension on time to answer.
Hibray, Jean	10/12/2020	0.20	100.00	500.00	Prepare & file summons returned executed
Hibray, Jean	10/19/2020	0.20	100.00	500.00	Review order extending deadline, update calendar accordingly
Albanese, John	11/4/2020	0.10	89.50	895.00	Meet with case team regarding [REDACTED]
Drake, E. Michelle	11/4/2020	0.10	118.00	1,180.00	internal meeting with litigation team re schedule and next steps in litigation
Xiong, Mai	11/4/2020	0.10	31.00	310.00	Discuss status of case, next steps with team.
Albanese, John	11/16/2020	0.30	268.50	895.00	Phone call with John Drury.
Albanese, John	11/23/2020	0.10	89.50	895.00	Case meeting with litigation team.
Drake, E. Michelle	11/23/2020	0.10	118.00	1,180.00	meet with litigation team re case status, deadlines, and next steps
Hibray, Jean	11/23/2020	0.10	50.00	500.00	Review additional extension for answer, update calendar
Xiong, Mai	11/23/2020	0.10	31.00	310.00	Meet with team re status of case, next steps, etc.
Hibray, Jean	12/14/2020	0.10	50.00	500.00	Review defendant's answer
Hibray, Jean	12/16/2020	0.10	50.00	500.00	Draft [REDACTED], email attorney
Albanese, John	12/17/2020	0.10	89.50	895.00	Meet with case team regarding [REDACTED]
Xiong, Mai	12/17/2020	0.10	31.00	310.00	Meet with team to discuss status of case, next steps.
Hibray, Jean	12/21/2020	1.00	500.00	500.00	Draft RFPs & interrogatories, first sets
Hibray, Jean	12/24/2020	0.20	100.00	500.00	Prepare & send [REDACTED] to client
Hibray, Jean	12/29/2020	0.10	50.00	500.00	Email client to [REDACTED]













Drake, E. Michelle	6/26/2023	0.10	118.00	1,180.00	team meeting to touch base on case status
Albanese, John	6/27/2023	0.20	179.00	895.00	Review letter to court.
Drake, E. Michelle	6/27/2023	0.50	590.00	1,180.00	draft correspondence to the court, confer with oc re same
Gionnette, Julie	6/27/2023	0.10	30.50	305.00	download and review docket entry
Hibray, Jean	6/27/2023	0.40	200.00	500.00	Prepare letter to court, finalize and file same; emails re same
Hibray, Jean	7/11/2023	0.10	50.00	500.00	Draft [REDACTED] insert
Hibray, Jean	7/12/2023	0.10	50.00	500.00	Finalize and send [REDACTED]
Drake, E. Michelle	8/7/2023	0.10	118.00	1,180.00	team meeting re case status and moving forward
Drake, E. Michelle	10/5/2023	0.10	118.00	1,180.00	team meeting to discuss case status
Albanese, John	10/5/2023	0.10	89.50	895.00	Team meeting
Drake, E. Michelle	11/9/2023	0.10	118.00	1,180.00	call with team to discuss deadlines and next steps
Albanese, John	11/9/2023	0.10	89.50	895.00	Team meeting
Hibray, Jean	11/21/2023	0.10	50.00	500.00	Draft [REDACTED] insert
Hibray, Jean	11/22/2023	0.10	50.00	500.00	Prepare and send [REDACTED]
Albanese, John	12/14/2023	0.10	89.50	895.00	Discuss case status and [REDACTED] with internal team.
Albanese, John	1/30/2024	0.10	89.50	895.00	Meet with case team regarding [REDACTED]
Drake, E. Michelle	1/30/2024	0.10	118.00	1,180.00	team call to touch base on next steps in litigation
Drake, E. Michelle	4/2/2024	0.10	118.00	1,180.00	team call to touch base on next steps in litigation
Albanese, John	4/3/2024	0.10	89.50	895.00	Discuss [REDACTED] with internal team
Hibray, Jean	4/18/2024	0.20	100.00	500.00	Review status, draft [REDACTED] insert accordingly; prepare on letterhead and email same
Albanese, John	5/29/2024	0.10	89.50	895.00	Discuss [REDACTED] with litigation team.
Drake, E. Michelle	5/29/2024	0.10	118.00	1,180.00	meet with case team re schedule and next steps in litigation
Albanese, John	6/25/2024	0.10	89.50	895.00	Discuss [REDACTED] with internal team.
Drake, E. Michelle	6/25/2024	0.10	118.00	1,180.00	meet with case team re schedule and next steps in litigation
Hibray, Jean	6/27/2024	0.10	50.00	500.00	Draft letter to court
Hibray, Jean	7/1/2024	0.20	100.00	500.00	Finalize and file letter
Gionnette, Julie	7/8/2024	0.10	30.50	305.00	review docket entry (ECF 45)
Albanese, John	9/11/2024	0.10	89.50	895.00	Discuss [REDACTED] with case team.
Drake, E. Michelle	9/11/2024	0.10	118.00	1,180.00	meet with team re next steps
Albanese, John	10/30/2024	0.40	358.00	895.00	Review order on settlement and email settlement administrator regarding same.
Hibray, Jean	10/30/2024	0.10	50.00	500.00	Email client re [REDACTED]
Hibray, Jean	10/30/2024	0.60	300.00	500.00	Review draft timeline, update against final agreement, docket all deadlines triggered by PAO.
Hibray, Jean	10/30/2024	0.20	100.00	500.00	Review orders on settlement approval
Hibray, Jean	11/1/2024	0.20	100.00	500.00	Review admin draft timeline against mine, email comments to J Albanese
Hibray, Jean	11/4/2024	0.10	50.00	500.00	Discuss next steps with J Albanese
Hibray, Jean	11/5/2024	0.10	50.00	500.00	Draft [REDACTED] insert for review
Hibray, Jean	11/7/2024	0.10	50.00	500.00	Prepare and send [REDACTED]
Hibray, Jean	11/8/2024	0.10	50.00	500.00	Email re client [REDACTED]
Albanese, John	11/20/2024	0.70	626.50	895.00	Review settlement documents and respond to administrator.
Hibray, Jean	11/25/2024	0.70	350.00	500.00	Review admin's notices for formatting, dates, errors; circulate my edits
Hibray, Jean	12/17/2024	0.60	300.00	500.00	Review and respond to class member inquiries
Hibray, Jean	12/18/2024	0.70	350.00	500.00	Review and respond to class member inquiries
Hibray, Jean	12/19/2024	0.40	200.00	500.00	Review and respond to class member inquiries
Hibray, Jean	12/20/2024	0.40	200.00	500.00	Review and respond to class member inquiries
Hibray, Jean	12/23/2024	0.50	250.00	500.00	Review and respond to class member inquiries
Hibray, Jean	12/27/2024	0.30	150.00	500.00	Review and respond to class member inquiries
Hibray, Jean	12/30/2024	5.00	2,500.00	500.00	Draft memo in support of fees, costs, service award
Hibray, Jean	12/30/2024	0.10	50.00	500.00	Email re file request proposal
Hibray, Jean	12/31/2024	0.40	200.00	500.00	Review and respond to class member inquiries
Hibray, Jean	1/2/2025	0.60	300.00	500.00	Review and respond to class member inquiries
Hibray, Jean	1/3/2025	0.40	200.00	500.00	Review and respond to class member inquiries
Hibray, Jean	1/3/2025	0.10	50.00	500.00	Email opposing re file requests
Hibray, Jean	1/6/2025	0.30	150.00	500	[REDACTED] edits to [REDACTED]
Hibray, Jean	1/6/2025	0.40	200.00	500	Review and respond to class member inquiries
Hibray, Jean	1/7/2025	0.10	50.00	500	Review and respond to inquiry
Hibray, Jean	1/9/2025	0.50	250.00	500	Update [REDACTED] spreadsheets, update [REDACTED] brief
Hibray, Jean	1/10/2025	0.40	200.00	500	Review and respond to class member inquiries
Hibray, Jean	1/12/2025	1.50	750.00	500	Edit fee petition, draft accompanying declaration
Hashmall, Joseph	1/13/2025	2.80	2,226.00	795	Review of draft fee petition, internal emails regarding edits to same
Hibray, Jean	1/13/2025	0.40	200.00	500	Review and respond to class member inquiries
Hibray, Jean	1/13/2025	1.50	750.00	500	[REDACTED], prepare packet for attorney review, emails re same
Hibray, Jean	1/14/2025	0.40	200.00	500	Review reminder notice drafts, respond on same
Hibray, Jean	1/17/2025	1.50	750.00	500	Caselaw research to [REDACTED], make additional edits and emails re same
Hibray, Jean	1/21/2025	0.50	250.00	500	Review and respond to class member inquiries
Hibray, Jean	1/22/2025	0.60	300.00	500	Review and respond to class member inquiries
Hibray, Jean	1/22/2025	0.10	50.00	500	Review calendar, email follow up to M Drake [REDACTED]
Hibray, Jean	1/24/2025	0.10	50.00	500	Emails re file requests plan
Drake, E. Michelle	1/25/2025	2.40	2,832.00	1,180.00	review, redline, and revise memorandum in support of motion for attorneys' fees, administration expenses, and class representative incentive award. Correspondence with Joe C. Hashmall re: same

**Exhibit B**



Philadelphia – Minneapolis – San Francisco – San Diego –  
Toronto – Chicago – Washington DC

[bergermontague.com](http://bergermontague.com)

### **E. Michelle Drake – Executive Shareholder, Berger Montague PC<sup>1</sup>**

E. Michelle Drake is an Executive Shareholder at Berger Montague, one of the nation’s oldest and largest class action litigation firms, employing over 100 attorneys in seven offices in the United States and Canada.

Ms. Drake founded and leads the firm’s second-largest office, located in Minneapolis, Minnesota. Since she joined the firm in 2016, she has grown the Minneapolis office to employ twenty employees, including nine full-time attorneys. Ms. Drake co-chairs the firm’s Consumer Protection and Data Privacy practice groups, is a member of Berger Montague’s Executive Committee and, in addition to managing the Minneapolis office, also supervises several attorneys in Philadelphia and San Diego.

Ms. Drake focuses her practice primarily on financial services, consumer privacy, and improper credit reporting class actions. She has practiced law since 2001 and holds degrees from Harvard College, Harvard Law School, and Oxford University. Possessing a rare combination of an elite academic pedigree and real-world trial skills, she has successfully gone toe-to-toe with some of the world’s most powerful corporations.

Ms. Drake has extensive experience representing consumers in MDL proceedings and class actions. In total, Ms. Drake has served as lead or co-lead class counsel in over fifty class actions and has achieved relief for consumers valued in the billions of dollars.

Ms. Drake has earned the respect of her peers. She was named to the LawDragon 500 Leading Plaintiff Financial Lawyers List for 2019, and a 2020 Elite Woman of the Plaintiffs Bar by the National Law Journal. She is consistently named to the annual lists of The Best Lawyers of America, Top 50 Women Minnesota Super Lawyers, and Super Lawyers. Ms. Drake is routinely invited to present at continuing legal education seminars, and has presented at dozens of national conferences. She has been quoted in the New York Times, the Wall Street Journal and the National Law Journal, and her cases were named as “Lawsuits of the Year” by Minnesota Law & Politics.

Ms. Drake is also dedicated to public service. She serves on the Board of Directors of Public Justice and is President-elect of the Board of Directors of the Southern Center for Human Rights. She began the practice of law by defending high stakes criminal cases as a public defender in Atlanta, Georgia, and has also represented people facing the death penalty. She has never lost her desire to litigate on the side of the “little guy.”

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<sup>1</sup> Additional biographical information about Ms. Drake is available at <https://bergermontague.com/attorneys/e-michelle-drake/>.

### Ms. Drake's Leadership Experience in Consumer Protection MDLs and Class Actions

- *In re Target Corp. Customer Data Security Breach Litigation*, No. 14-2522 (D. Minn.) (Ms. Drake was appointed liaison counsel and helped achieve a settlement on behalf of a class of approximately 100 million consumers upheld by the Eighth Circuit)
- *In Re: Change Healthcare, Inc. Customer Data Security Breach Litigation*, No. 24-md-03108 (D. Minn) (Ms. Drake was appointed co-lead counsel representing healthcare providers in a class action alleging that the defendants' post-security breach service shutdown caused healthcare providers to suffer billions of dollars in damages)
- *In re MOVEit Customer Data Security Breach Litigation*, 1:23-md-03083 (D. Mass.) (Ms. Drake was appointed co-lead counsel in one of the largest data breach MDLs in history, a case involving 200 defendants and over 60 million individuals)
- *In re TransUnion Rental Screening Solutions, Inc. FCRA Litigation*, No. 1:20-md-02933 (N.D. Ga.) (Ms. Drake served as lead counsel in this consolidated MDL, achieving over \$11 million in monetary relief, as well as injunctive relief, on behalf of hundreds of thousands of individual consumers)
- *In re: Juul Labs, Inc., Marketing, Sales Practices, and Products Liability Litigation*, No. 3:19-md-02913-WHO (N.D. Cal.) (Ms. Drake was appointed to the Plaintiffs' Steering Committee and chaired the consumer class action committee, achieving an overall MDL settlement of approximately \$1.2 billion, and a consumer class settlement of \$255 million)
- *Citibank Force-Placed Insurance Litigation*, Nos. 5:12-cv-00820, 1:13-cv-353 (N.D.N.Y.). (Ms. Drake, while at prior firm, was co-lead class counsel, and helped obtain class action settlement valued at \$110 million in consolidated class action on behalf of nationwide classes of borrowers)
- *Arnett v. Bank of America, N.A.*, No. 3:11-cv-1372 (D. Or.). (Ms. Drake, while at prior firm, was co-lead class counsel, and helped obtain class action settlement of \$31 million on behalf of nationwide class of borrowers whose mortgage loans were serviced by Bank of America and who were force-placed with flood insurance by Bank of America)
- *Rilley v. MoneyMutual, LLC*, No. 16-cv-4001 (D. Minn.) (Consumer class action, court certified a litigation class of over 20,000 Minnesota consumers alleging that MoneyMutual violated Minnesota payday lending regulations, resulting in \$2,000,000 settlement with notable injunctive relief, led by Ms. Drake and team from Berger Montague)
- *Fernandez v. CoreLogic Credco, LLC*, No. 20-cv-1262 (S.D. Cal.) (FCRA class action, alleging violations by consumer reporting agency related to reporting possible matches to the OFAC List, resulting in historic \$58.5 million gross settlement, the second-largest class action FCRA settlement, achieved and led by Ms. Drake, with Berger Montague as the only plaintiff's counsel)
- *Rodriguez v. National Credit Center, LLC*, No. A-23-869000-B (Clark Cnty.) (FCRA class action, alleging violations by consumer reporting agency related to reporting of inaccurate

matches to the OFAC List, resulting in class action settlement of \$30 million gross settlement for consumers, achieved and led by Ms. Drake, with Berger Montague acting as lead counsel)

- *In re: MGM Resorts International Data Breach Litigation*, No.: 2:20-cv-00376 (D. Nev.) (Ms. Drake was appointed co-lead counsel in this data breach class action affecting tens of millions of consumers)
- *Shackelford et al. v. Regents of the University of Minnesota*, No. 27-cv-23-14071 (Minn. 4th Jud. Dist.) (Ms. Drake served as leadership counsel in a class action for a data breach involving over 7 million individuals)
- *In re Consulting Radiologists Data Incident Litigation*, No. 27-CV-24-9850 (Henn. Cnty.) (Ms. Drake appointed co-lead counsel on September 17, 2024 in data breach consolidated class action involving Minnesota consumers)
- *In re: MNGI Digestive Health, PA*, No. 27-CV-10788 (Henn. Cnty.) (Ms. Drake appointed class counsel on November 1, 2024, in data breach consolidated class action involving Minnesota consumers)
- *Lurry v. Pharmerica Corp.*, No. 3:23-cv-00297 (W.D. Ky.) (Ms. Drake was appointed co-lead counsel in class action for data breach involving over 5.8 million individuals)
- *Clark v. Trans Union, LLC*, No. 3:15-cv-00391 (E.D. Va.) (Ms. Drake was appointed co-lead counsel in this consumer privacy and protection matter, achieving monetary and injunctive relief valued in the billions of dollars on behalf of a class of approximately 81 million consumers)
- *Clark v. Experian Info. Sols., Inc.*, No. 3:16-cv- 00032 (E.D. Va.) (Ms. Drake served as co-lead counsel in this consumer privacy and protection matter, achieving monetary and injunctive relief valued in the billions of dollars on behalf of a class of approximately 50 million consumers)
- *Thomas v. Equifax Info. Services, LLC*, No. 3:18-cv-00684 (E.D. Va.) (Ms. Drake served as co-lead counsel in this consumer privacy and protection matter, achieving monetary and injunctive relief valued in the billions of dollars on behalf of a class of approximately 69 million consumers)
- *In re: American Medical Collection Agency, Inc. Customer Data Security Breach Litig.*, No. 19-md-02904 (D.N.J.) (Ms. Drake was appointed to the Plaintiff's Steering Committee in the Quest Diagnostics track, which is the largest track in the coordinated MDL proceedings in this class action for a data breach impacting over 20 million patients of various medical labs)
- *In re GEICO Customer Data Breach Litigation*, No. 21-cv-2210 (E.D.N.Y.) (Ms. Drake was appointed co-lead counsel in privacy class action alleging GEICO voluntarily disclosed millions of consumers' drivers' license numbers on its website in violation of the federal Drivers' Privacy Protection Act)
- *In re MAPFRE Data Disclosure Litigation*, No. 1:23-cv-12059 (D. Mass.) (Ms. Drake was appointed co-lead counsel in privacy class action alleging MAPFRE voluntarily disclosed

millions of consumers' drivers' license numbers on its website in violation of the federal Drivers' Privacy Protection Act)

- *Vakilzadeh v. The Trustees of the California State University*, No. 20STCV23134 (Los Angeles Super. Ct.) (Berger Montague appointed to Plaintiffs' Consensus Committee in class action for lost tuition due to COVID closures at California State University)
- *In re: Capital One Customer Data Security Breach Litigation*, No. 1:19-MD-02915 (E.D. Va.) (Berger Montague assisted lead counsel in class action for data breach impacting 98 million individuals)
- *Beckett v. Aetna, Inc.*, No. 17-cv-03864 (E.D. Pa.) (Berger Montage was appointed co-lead counsel in case involving public disclosure of patient HIV information, which settled in a non-reversionary \$17 million fund. Each class member received an automatic payment of \$500 without being required to fill out a claim form, and class members were also allowed to submit claims for up to \$20,000 for financial or non-financial harm)
- *Knights v. Publix Super Markets, Inc.*, No. 14-cv-720 (M.D. Tenn.) (FCRA class action, alleging violations by employer, resulting in a \$6.75 million settlement)
- *Hillson v. Kelly Services, Inc.*, No. 15-cv-10803 (E.D. Mich.) (FCRA class action, alleging violations by employer, resulting in a \$6.749 million settlement)
- *Ernst v. DISH Network, LLC & Sterling Infosystems, Inc.*, No. 12-cv-8794 (S.D.N.Y.) (FCRA class action, alleging violations by employer and consumer reporting agency, resulting in a \$4.75 million settlement with consumer reporting agency, and a \$1.75 million settlement with employer)
- *Rubio-Delgado & Moore v. Aerotek, Inc.*, Nos. 2:15-cv-2701, 2:16-cv-1066 (S.D. Ohio). (Ms. Drake was one of lead class counsel and helped achieve \$15 million settlement on behalf of a nationwide class of employees and applicants for violations of § 1681b(b)(2) of the Fair Credit Reporting Act, which at the time was the largest settlement of its kind)
- *Gambles v. Sterling Infosystems, Inc.*, No. 15-cv-9746 (S.D.N.Y.) (FCRA class action, alleging violations by consumer reporting agency, resulting in a gross settlement of \$15 million, one of the largest FCRA settlements to date at the time)

In addition to the foregoing cases in which Ms. Drake was directly involved, Berger Montague has served as lead or co-lead counsel in some of the largest class action settlements in U.S. history, including but not limited to the following:

- *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, No. 05-MD-1720 (E.D.N.Y.) (Berger Montague served as co-lead counsel in antitrust class action in which it obtained a \$5.6 billion antitrust settlement for a national class of direct purchasers)
- *In re MF Global Holdings Ltd. Investment Litigation*, No. 11-cv-07866 (S.D.N.Y.) (Berger Montague served as co-lead counsel and helped return approximately \$1.6 billion to

thousands of commodities account holders who were victims to massive theft and misappropriation of client funds at the former global commodities brokerage firm)

- *Connecticut v. Phillip Morris, Inc. et al.*, No. 18133 (Sup. Ct. Conn.) (Berger Montague was co-lead counsel for the State of Connecticut and helped it recover approximately \$3.6 billion from manufacturers of tobacco products)
- *In re Namenda Direct Purchaser Antitrust Litigation*, No. 15-cv-7488 (S.D.N.Y.) (Berger Montague served as co-lead counsel and obtained a \$750 million settlement on behalf of a class of direct purchasers of branded and/or generic drugs)

### **Ms. Drake's Speaking Engagements**

“The Facts Make the Case: How to Find and Use Data To Win Your Case,” Consumer Rights Litigation Conference, National Consumer Law Center and National Association of Consumer Advocates, October 2024.

“Data-Driven Class Actions,” Class Action Symposium at the Consumer Rights Litigation Conference, National Consumer Law Center and National Association of Consumer Advocates, October 2024.

“Wrongly Accused of Terrorism and Drug Trafficking: A Case Study of One U.S. Navy Official’s Battle,” Harvard Plaintiffs’ Law Association, October 2024.

“National FCRA Landscape,” National Association of Consumer Advocates Spring Training, May 2022.

“Sealing, Expungement and FCRA: Criminal Records Reporting in a New Era,” Equal Justice Conference, May 2022.

“Evidentiary Challenges in Certifying Class Actions,” Class Action Symposium, Consumer Rights Litigation Conference, National Consumer Law Center, December 2021.

“COVID and Post-COVID Issues in FCRA Litigation,” National Association of Consumer Advocates Spring Training, Virtual, April 2021.

“Consumer Law: Overview of the Fair Credit Reporting Act,” Minnesota Continuing Legal Education, Virtual, December 2020.

“The Role of the Lawyer in Class Actions,” Panel Chair, Global Class Actions Symposium 2020, Virtual, November 2020.

“Hunting the Snark: Finding & Effectively Using Data to Certify Classes,” Class Action Symposium, National Consumer Law Center Consumer Rights Litigation Conference, Virtual, November 2020.

“Specialty CRAs Part 1: Conviction Histories, Expungement, and FCRA: Keeping up with Developments in a Changing Legal Landscape,” National Consumer Law Center Consumer Rights Litigation Conference, Virtual, November 2020.

“Conducting Financial & Criminal Background Checks – Applicant Rights & Employer Best Practices,” Minnesota Continuing Legal Education, Minneapolis, MN, October 2020.

**Judicial Praise for Ms. Drake**

**From Judge Paul A. Magnuson, United States District Court, D. Minn.:**

[T]he class representatives and their counsel more than adequately protected the class's interests. ... [T]he comprehensive nature of the settlement in turn, reflects the adequacy, indeed the superiority, of the representation the class received from its named Plaintiffs and from class counsel.

May 17, 2017, Mem. & Order on Mtn. to Certify Class, *In re Target Corp. Customer Data Sec. Breach Litig.*, MDL No. 14-2522.

**From Judge Richard H. Kyle, United States District Court, D. Minn.:**

Well, I think you did a great job on this. I mean, I really do. ... it seems to me you folks have gotten it done the right way.

Jan. 6, 2014, Prelim. Approval Hearing, *Bible v. General Revenue Corp.*, No. 12-cv-1236.

**From Judge Susan M. Robiner, Minnesota District Court, Henn. Cnty.:**

Plaintiffs' counsel are adequate legal representatives for the class. They have done work identifying and investigating potential claims, have handled class actions in the past, know the applicable law, and have the resources necessary to represent the class. The class will be fairly and adequately represented.

Oct. 16, 2012, Order Granting Mtn. for Class Cert., *Spar v. Cedar Towing & Auction, Inc.*, No. 27-CV-411-24993.

**From Judge Paul A. Engelmayer, United States District Court, Southern District of New York:**

I know the diligence of counsel and dedication of counsel to the class...Thank you, Ms. Drake. As always I appreciate the—your extraordinary dedication to your – to the class and the very obvious backwards and forwards familiarity you have with the case and level of preparation and articulateness today. It's a pleasure always to have you before me...Class counsel [] generated this case on their own initiative and at their own risk. Counsel's enterprise and ingenuity merits significant compensation...Counsel here are justifiably proud of the important result that they achieved.

Sept. 22, 2020, Final Approval Hearing, *Gambles v. Sterling Info., Inc.*, No. 15-cv-9746.

**From Judge Harold E. Kahn, Dep't 302, Superior Court of Cal., San Fran. Cnty.:**

You're very articulate on this issue. ... Obviously, you're very thoughtful and you have given it a great deal of thought. ... And I appreciate your ability to respond to my questions off the cuff. ... It shows that you have given these issues a lot of thought ... I have to say that your thoughtfulness



this morning has somewhat diminished my concerns [regarding high multiplier on attorney fees]... You're demonstrating credibility by a mile as you go... You are extraordinarily impressive. And I thank you for being here, and for your candid, noninvasive [sic] response to every question I have. I was extremely skeptical at the outset this morning. You have allayed all of my concerns and have persuaded me that this is an important issue, and that you have done a great service to the class. And for that reason, I am going to approve your settlement in all respects... And I congratulate you on your excellent work.

Nov. 7, 2017, Final Approval Hearing, *Nesbitt v. Postmates, Inc.*, No. CGC-15-547146.

**From Judge Laurie J. Michelson, United States District Court, E.D. Mich.:**

Counsel's quality of work in this case was high. The Court has been impressed with counsel's in-court arguments. And counsel has provided the Court with quality briefing as well.

Aug. 11, 2017, Opinion & Order on Mtn. for Atty. Fees, and Mtn. for Final Approval, *Hillson v. Kelly Services, Inc.*, No. 15-cv-10803.

**From Magistrate Judge Terence P. Kemp, United States District Court, S.D. Ohio:**

The parties in this case are represented by counsel with substantial experience in class action litigation, and FCRA cases in particular. ... Class Counsel are experienced and knowledgeable in FCRA litigation, are skilled, and are in good standing.

June 30, 2017, Report & Recomm'n. on Final Approval, *Rubio-Delgado v. Aerotek, Inc.*, No. 16-cv-1066.

**From Judge Paul A. Engelmayer, United States District Court, S.D.N.Y.:**

The high quality of [plaintiffs' counsel]'s representation strongly supports approval of the requested fees. The Court has previously commended counsel for their excellent lawyering. ... The point is worth reiterating here. [Plaintiffs' counsel] was energetic, effective, and creative throughout this long litigation. The Court found [Plaintiffs' counsel]'s briefs and arguments first-rate. And the documents and deposition transcripts which the Court reviewed in the course of resolving motions revealed the firm's far-sighted and strategic approach to discovery. ... Further, unlike in many class actions, plaintiffs' counsel did not build their case by piggybacking on regulatory investigation or settlement. ... The lawyers [] can genuinely claim to have been the authors of their clients' success.

Sept. 22, 2015, Final Approval Order, *Hart v. RCI Hospitality Holdings, Inc.*, No. 09-cv-3043.

**From Magistrate Judge Laurel Beeler, United States District Court, N.D. Cal.:**

Counsel have worked vigorously to identify and investigate the claims in this case, and, as this litigation has revealed, understand the applicable law and have represented their clients vigorously and effectively.

June 13, 2014, Order Granting Mtn. for Class Cert., *Ellsworth v. U.S. Bank, N.A.*, No. 12-cv-2506.

**From Judge Deborah Chasanow, United States District Court, D. Md.:**

[Plaintiffs' counsel] are qualified, experienced, and competent, as evidenced by their background in litigating class-action cases involving FCRA violations. ... As noted above, Plaintiffs' attorneys are experienced and skilled consumer class action litigators who achieved a favorable result for the Settlement Classes.

Oct. 2, 2013, Final Approval Order, *Singleton v. Domino's Pizza, LLC*, No. 11-cv1823.

**From Judge Lorna G. Schofield, United States District Court, S.D.N.Y.:**

[Plaintiffs' Counsel] has demonstrated it is able fairly and adequately to represent the interests of the putative class.

July 23, 2013, Order Appointing Interim Lead Counsel, *Ernst v. DISH Network, LLC*, No. 12-cv-8794.

**Ms. Drake's Bar Admissions**

- United States Supreme Court, 2017
- State Bar of Georgia, 2001
- Georgia Supreme Court, 2006
- Minnesota Supreme Court, 2007
- U.S. Court of Appeals for the Eighth Circuit, 2010
- U.S. Court of Appeals for the First Circuit, 2011
- U.S. Court of Appeals for the Seventh Circuit, 2014
- U.S. Court of Appeals for the Ninth Circuit, 2015
- U.S. Court of Appeals for the Tenth Circuit, 2018
- U.S. Court of Appeals for the Third Circuit, 2019
- U.S. Court of Appeals for the Fourth Circuit, 2022
- U.S. Court of Appeals for the Sixth Circuit, 2023
- U.S. District Court for the Northern District of Georgia, 2007
- U.S. District Court for the District of Minnesota, 2007

- U.S. District Court for the Eastern District of Wisconsin, 2011
- U.S. District Court for the Western District of Texas, 2011
- U.S. District Court for the Western District of Wisconsin, 2015
- U.S. District Court for the Eastern District of Michigan, 2015
- U.S. District Court for the Central District of Illinois, 2016
- U.S. District Court for the Southern District of Texas, 2017
- U.S. District Court for the Western District of New York, 2017
- U.S. District Court for the Western District of Michigan, 2018
- U.S. District Court for the Northern District of Illinois, 2020
- U.S. District Court for the Middle District of Georgia, 2023

#### **Ms. Drake's Public Service**

- Board of Directors, Southern Center for Human Rights (President-elect)
- Partner's Council Member, National Consumer Law Center
- Board of Directors, Public Justice
- Consumer Litigation Section for the Minnesota State Bar Association (former co-chair)
- Board Member Emeritus, National Association of Consumer Advocates
- Member, Federal Practice Committee for the U.S. District Court for the District of Minnesota (2010)

#### **Ms. Drake's Professional Awards**

- Named as a Super Lawyer (2013-2023)
- Named as a Rising Star (2011-2012)
- LawDragon 500 Leading Plaintiff Financial Lawyers List (2019-2024)
- Elite Woman of the Plaintiffs' Bar, National Law Journal (2020)

- Quoted in the New York Times and the National Law Journal
- Prior cases named as “Lawsuits of the Year” by Minnesota Law & Politics (2008, 2009)