IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

GREGORY STEWART, on behalf of himself and on behalf of all others similarly situated, PLAINTIFF(S) v. BAPTIST MEMORIAL HEALTH CARE CORPORATION, DEFENDANT.	)	Case No.: 2:21-cv-02377-TLP-cgc

PLAINTIFF'S MOTION FOR ATTORNEY'S FEES AND COSTS, SERVICE AWARD/GENERAL RELEASE PAYMENT TO CLASS REPRESENTATIVE AND PAYMENT TO SETTLEMENT ADMINISTRATOR

Plaintiff, Gregory Stewart ("Plaintiff"), by and through the undersigned counsel, for the reasons set forth in the accompanying memorandum, moves the Court to award Plaintiff's Counsel its attorney's fees and costs; approve Plaintiff's general release compensation and service award; and approve payment for the cost of notice and settlement administration to the settlement administrator.

Respectfully Submitted this 1st day of July 2024.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 1, 2024, I electronically filed a true and correct for the foregoing with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the attorneys of record.

/s/ Marc R. Edelman
MARC R. EDELMAN, ESQ.

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MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR ATTORNEY'S FEES AND COSTS AND ADDITIONAL COMPENSATION TO PLAINTIF

Plaintiff, Gregory Stewart ("Plaintiff"), by and through the undersigned counsel, hereby files this Memorandum in Support of Plaintiff's Motion for Attorney's Fees and Costs and Additional Compensation to Plaintiff.

I. OVERVIEW OF MOTION

This Settlement resolves a Fair Credit Reporting Act ("FCRA") class action lawsuit for alleged violations of the FCRA's employment-related provisions. Class Counsel's efforts have resulted in a Maximum Settlement Fund of $420,566.00. Each Disclosure and Authorization Class ("Disclosure Class") Member shall receive a *pro rata* share of $365,066.00 and each Pre-adverse Action Subclass Member shall receive a *pro rata* share of $55,500.00. The *pro rata* shares will be calculated based on the respective Net Settlement Fund, *i.e.* the amount remaining after attorney's fees, costs and cost of notice and administration of the Settlement are deducted. The Disclosure Class consists of approximately 14,041 members, the Pre-adverse Action Subclass

consist of approximately 111 members. Unclaimed funds will revert to Defendant.

A. Brief History of the Litigation

On June 7, 2021, Plaintiff initiated this Action by the filing of the Class Action Complaint that alleged Defendant violated 15 U.S.C. § 1681(b)(b)(3) of the Fair Credit Reporting Act ("FCRA") by failing to: 1) provide applicants and employees who were subject to an adverse employment action, based in whole or in part on their consumer report, pre-adverse action notice, including a copy of their consumer report, before being subjected to an adverse employment action, and 2) provide applicants and employees a summary of their FCRA rights [Dkt.1]. On December 7, 2021, Plaintiff amended his Complaint to include additional allegations regarding alleged violations of 15 U.S.C. §§ 1681b(b)(2)(A)(i)-(ii), the FCRA's disclosure and authorization requirements, alleging Defendant obtained and used consumer reports for employment purposes regarding Plaintiff and other class members without first making a lawful disclosure and obtaining the requisite authorization [Dkt. 13-1].

A well respected and experienced FCRA mediator, Mr. Carlos Burruezo, assisted the Parties negotiate a fair, class-wide settlement for a Disclosure and Authorization Class and a Pre-Adverse Action Subclass (referred to in combination as the "Settlement Class").

B. Class Counsel's Attorneys' Fee Request is Reasonable

The Settlement agreement establishes a reversionary fund of FOUR HUNDRED TWENTY THOUSAND FIVE HUNDRED SIXTY-SIX DOLLARS ($420,566.00). Additionally, the Settlement has obtained non-monetary benefits for prospective applicants and employees, to which the Parties have not assigned a monetary value but nonetheless furthers the public's interests. "When awarding attorneys' fees, a court must make sure that counsel is fairly compensated for the amount of work done as well as the results achieved." *Rawlings v. Prudential Bache Props.*, Inc. 9 F.3d 513, 516 (6th Cir. 1993). Attorneys' fees can be calculated by using a

lodestar or a percentage of the settlement fund. Of the two, the percentage of the fund method provides several advantages – "it is easy to calculate; it establishes reasonable expectations on the part of plaintiffs' attorneys as to their expected recovery; and it encourages early settlement, which avoids protracted litigation." *Id.* Of the two methods, the percentage of the fund method is preferred. *See Gascho v. Global Fitness Holdings, LLC*, 822 F.3d 269, 279 (6th Cir. 2016)(The percentage method "more accurately reflects the results achieved."); *See also Fitzgerald v. P.L. Mktg., Inc.,* No. 217CV02251SHMCGC, 2020 WL 3621250, at *10 (W.D. Tenn. July 2, 2020)("The 'percentage of the fund has been the preferred method for common fund cases, where there is a single pool of money and each class member is entitled to a share (i.e., a 'common fund')."")(internal citations and quotation marks omitted); *Daoust v. Maru Rest., LLC,* No. 17-CV-13879, 2019 WL 2866490, at *5 (E.D. Mich. July 3, 2019). When conducting a percentage of the fund analysis, courts must calculate the ratio between attorney's fees and benefit to the class. Attorney's fees are the numerator, and the denominator is the dollar amount of the Total Benefit to the class (which includes the "benefit to class members," the attorney's and may include costs of administration). *Gascho*, at 282 (6th Cir. 2016). Class plaintiffs' "right to share the harvest upon proof of their identity, *whether or not they exercise it*, is a benefit created by the efforts of class representatives and their counsel." *Gascho* at 279, *citing Boeing Co. v. Van Gemert*, 444 U.S. 472, 480, 100 S.Ct. 745 (1980)(emphasis added). [1]

Regardless of the methodology employed, the attorneys' fees must be reasonable. *Ramey v. Cincinnati Enquirer, Inc*., 508 F.2d 1188, 11196 (6th Cir. 1974). In assessing the reasonableness of a fee request, courts look to six factors, which include: 1) the value of the benefit rendered to the plaintiff class; 2) the value of the services on an hourly basis; 3) whether the services were

[1] The fund is the total amount of benefits potentially available to be claimed, irrespective of the amount actually claimed by class members. *Boeing v. Van Gemert*, 442 U.S. 472, 478-481 (1980).

undertaken on a contingency fee basis; 4) society's stake in rewarding attorneys who produce such benefits as an incentive to others; 5) the complexity of the litigation; and 6) the professional skill and standing of counsel involved on both sides. *Moulton v. U.S. Steel Corp*., 581 F.3d 344, 351-52 (6th Cir. 2009)(internal quotation marks and citations omitted).

1. The Award Reasonably Compensates Class Counsel for the Value Obtained for the Class

As a result of the Settlement, up to $420,566.00 was made available to the Settlement Class. The requested percentage of the Settlement Fund, one third, is well within reason and is consistent with the "reasonable expectations on the part of plaintiffs' attorneys as to their expected recovery." *Rawlings*, 9 F.3d at 516. It is also consistent with attorneys' fees typically awarded by Sixth Circuit district courts in similar FCRA class actions. *Sharp v. Technicolor Videocassette of Michigan, Inc.*, No.: 2:18-cv- 02325-cgc (W.D.T.N., December 5, 2019)(Class Counsel awarded 33.33% in FCRA class action); *Miles v. Onin Staffing, LLC*, No. 3:21-cv-00275 (M.D.T.N. March 3, 2023(Class Counsel awarded 33.33% in FCRA class action); *Washington v. DialogDirect*, No. 2:21-cv-10445-LVP-RSW (E.D.Mich. April 15, 2022)(Class Counsel awarded 33.33% in FCRA class action); *Townsend v. Aim Integrated Logistics, Inc*., No. 4:15-cv- 00493, 2016 WL 8193582 (N.D. Ohio May 12, 2016)(awarding fees of one third of settlement fund); *Johnson v. Midwest Logistics Sys., Ltd.*, No. 2:11-CV-1061, 2013 WL 2295880, at *6 (S.D. Ohio May 24, 2013)(awarding fees of one third of settlement fund). The first factor thus weighs in favor of the requested award.

2. A Lodestar Cross-Check Confirms the Appropriateness of the Award

To determine the lodestar figure, the court multiplies the number of hours "reasonably expended" on the litigation by a reasonable hourly rate." *Bldg. Serv. Local 47 Cleaning Contractors Pension Plan v. Grandview Raceway*, 46 F.3d 1392, 1401 (6th Cir. 1995). When conducting a lodestar cross-check, courts are spared the task of conducting a rigorous analysis of

detailed time records. Instead, the Court may rely upon declarations submitted by Class Counsel. *Gokare*, 2013 WL 12094887, at *7 citing *Southeastern Milk*, 2013 WL 2155387, at *2, n.3 ("Counsel have provided to the Court summary schedules indicating the number of hours spent by the attorneys involved in this litigation and the lodestar calculation based on historical billing rates. Those schedules were prepared from contemporaneous time records not produced by counsel. Unlike the situation when the Court employs the lodestar method in full, 'the hours documented by counsel need not be exhaustively scrutinized by the district court' where a lodestar cross-check is used."); *Johnson*, 2013 WL 2295880, at *6 ("In contrast to employing the lodestar method in full, when using a lodestar cross-check, "the hours documented by counsel need not be exhaustively scrutinized by the district court") (citation omitted).

Here, Class Counsel has submitted a declaration summarizing its time and expenses incurred litigating the action. For purposes of a lodestar cross check, Class Counsel has declared 85 hours of time incurred in the prosecution of this action. Class Counsel has declared a Lodestar fee of $63,750.00, based on hourly rate of $750.00. The requested percentage of the settlement fund is equal to $140,048.00. Thus, this amounts to a multiplier of 2.19, well within the range of previously approved multipliers. *Sharp,* (W.D.T.N., December 5, 2019)(finding 2.08 to be "well within the range of acceptable multipliers."); *Hillson v. Kelly Services Inc*., 2017 WL 3446596 at *6 (E.D.Mich. August 11, 2017)(finding multiplier of 4 to be reasonable in FCRA class action). The "reasonableness" of Class Counsel's requested attorneys' fee award is confirmed by the lodestar cross-check.

3. Class Counsel Took This Case on a Contingency Fee Basis Despite Significant Risks

The requested fee award is even more reasonable considering the risks that Class Counsel assumed in undertaking the representation on a contingent fee basis, "an important factor in determining the fee award." *Stanley v. U.S. Steel Co.*, 2009 WL 4646647, at *3. Indeed, "[s]everal

courts consider the risk of non-recovery the most important factor in the fee determination." *In re Cardinal Health Inc. Sec. Litigations*, 528 F. Supp. 2d 752, 764 (S.D. Ohio 2007); *Gokare*, 2013 WL 12094887 at *8 citing *Southeastern Milk*, 2013 WL 2155387, at *5 ("If counsel are not rewarded for this risk, few attorneys will undertake 'the representation of a class given the investment of substantial time, effort and money, especially in light of the risk of recovering nothing.")(citations omitted).

In undertaking this case, Class Counsel assumed the risk of hundreds of hours of attorney time and thousands of dollars in costs. There is limited Sixth Circuit precedent interpreting Article III standing relative to 15 U.S.C. §§ 1681b(b)(2) and 1681b(b)(3) and the FCRA's willfulness requirement for obtaining statutory damages. Concomitantly, the Supreme Court's relatively recent *TransUnion* decision has added an additional layer of uncertainty to FCRA class actions. *TransUnion, LLC v. Ramirez*, 594 U.S. 413 (2021). Class Counsel recognized Defendant could have (and most likely would have) argued against Article III standing for both Plaintiff and the putative class members. Even if Plaintiff survived summary judgment and won at trial on liability, Plaintiff would have been required to prove that Defendant acted willfully to recover any damages. *See* 15 U.S.C. § 1681n(a). To prove willfulness, Plaintiff would have to not only show that his interpretation of the FCRA was correct, but that Defendant's interpretation of the statute was objectively unreasonable. *See Safeco Ins. Co. v. Burr*, 551 U.S. 47, 69 (2007). To challenge the willfulness element, Defendant likely would have relied on the lack of Sixth Circuit cases directly on point at the time of the underlying conduct giving rise to this action.

Class Counsel took a substantial risk in prosecuting this action. There were no assurances that the putative class would ever be certified, or that Plaintiff could have or would have overcome standing and willfulness defenses. Class Counsel has incurred opportunity costs in prosecuting this action and has received no compensation thus far. There was a very real possibility that Class

Counsel would not recover anything for the Class and lose the time and costs already incurred. There is no disputing the fact Class Counsel took a substantial risk of no recovery when it took this case on a contingency fee basis. For this reason, the third factor supports the requested fee award.

4. The Public Interest Favors Incentivizing Class Counsel's Advocacy

Without the possibility of recovering an attorneys' fee, most class actions would never be filed. *Deposit Guar. Nat'l Bank v. Roper*, 445 U.S. 326, 339, (1980) (observing that "[w]here it is not economically feasible to obtain relief within the traditional framework of a multiplicity of small individual suits for damages, aggrieved person may be without any effective redress unless they may employ the class action device"). Attorneys, like Class Counsel here, who undertake the risk to vindicate legal rights that may otherwise go un-redressed function as "private attorneys general." *Id*. at 338. Here, Class Counsel's furthered FCRA, through which Congress "sought to protect the privacy interests of… potential employees by narrowly defining the proper usage of these reports and placing strict disclosure requirements on employers." *Kelchner* v. *Sycamore Manor Health Ctr.,* 305 F. Supp. 2d 429, 435 (M.D. Pa. 2004), *aff'd,* 135 F. App'x 499 (3rd Cir. 2005). Relevant here, the Sixth Circuit Court of Appeals has observed, "[c]onsumer class actions, furthermore, have value to society more broadly, both as deterrents to unlawful behavior – particularly when the injuries are too small to justify the time and expense of litigation – and as private law enforcement regimes that free public sector resources. If we are to encourage these positive societal effects, class counsel must be adequately compensated – even when significant compensation to class members is out of reach . . ." *Gauscho,* (6th Cir. 2016) at 287.

Here, the public will benefit from this Settlement. The FCRA's disclosure, authorization and pre-adverse action requirements set forth in 15 U.S.C. §§1681b(b)(2)(A)(i)-(ii) and 1681b(b)(3)(A) were enacted to ensure consumers are alerted when pre-employment background

checks are being performed on them, aware of the information consumer reporting agencies are reporting about them and to allow consumers to address potential inaccuracies. And, even when such reports are accurate, to provide a mechanism for consumers to put their past in context or otherwise plead their case for employment. Now, there is a public record of a class action settlement against an employer for alleged violations of the FCRA's employment-specific provisions. The Settlement should serve as a deterrent against similar violations by other employers. Therefore, the fourth factor supports the requested fee award.

5. The Complexity of the Case Supports the Requested Fee

Although the facts in this case were straightforward, several factors rendered this case complex. First, class actions are inherently complex. *In re Delphi Corp. Sec., Derivative & "ERISA" Litig.*, 248 F.R.D. 483, 504 (E.D. Mich. 2008). Compared to individual cases, class actions involve unique procedural hurdles, more discovery, and higher stakes. Second, as previously detailed, Art., III standing issues also increased the complexity of this case. *TransUnion, LLC v. Ramirez*, No. 20-297, slip op. (U.S. June 25, 2021). Third, the FCRA's state-of- mind requirement is a formidable barrier to overcome. For the Settlement Class to recover statutory damages, Plaintiff would have had to prove that any violation of the statute was willful. This is no easy task. "[P]roving willfulness may well be difficult in the context of large corporate employers where the locus of particular decision-making is often elusive." *Ellis v. Glover & Gardner Const. Co.*, 562 F. Supp. 1054, 1061 (M.D. Tenn. 1983)(quoting *Stewart v. Travelers Corp.*, 503 F.3d 108, 113 (9th Cir. 1974)). Importantly, each of these risks Class Counsel would have faced, would have been "make or break" for the case. Unless Plaintiff prevailed on Article III standing, class certification, and willfulness, there would be no recovery for the Settlement Class. Therefore, the potential complexities of the case support the reasonableness of the requested fee.

6. Class Counsel Are Skilled and Experienced in Litigating Similar Cases

Class Counsel's qualifications to opine on the Settlement are set forth in his Declaration. (Edelman Decl., ¶¶ 1-7). This is a complex area of the law, with ubiquitous Article III standing pitfalls and success contingent upon a finding of "willfulness." However, even with these inherent challenges and a highly skilled adversary representing Defendant, Class Counsel was able to efficiently obtain an excellent outcome for the Settlement Class. Class Counsel's experience and in-depth knowledge of the FCRA directly attributed to the outcome in this case. Obtaining this settlement was no easy task. Defendant was represented by Mr. Paul Prather, Mr. Chad Kaldor and Ms. Katie Hansen of the Littler Mendelson P.C. law firm, all experienced class action litigators. Obtaining this outcome for the Settlement Class against a defendant represented by the triumvirate of Little Mendelson's high caliber attorneys supports the requested award.

III. THE REQUESTED COSTS ARE REASONABLE AND SHOULD BE GRANTED

Class Counsel also seeks reimbursement of its documented, out-of-pocket litigation expenses and approval of the costs of settlement administration. "Under the common fund doctrine, 'class counsel is entitled to reimbursement of all reasonable out-of-pocket litigation expenses and costs in the prosecution of claims and settlement, including expenses incurred in connection with document production, consulting with experts and consultants, travel and other litigation- related expenses.'" *N.Y. State Teachers' Ret. Sys. v. Gen. Motors Co.*, 315 F.R.D. 226, 244 (E.D. Mich. 2016) (quoting *New England Health Care Emp. Pension Fund v. Fruit of the Loom*, 234 F.R.D. 627, 634-35 (W.D. Ken. 2006)). In determining whether expenses are compensable out of a common fund, courts consider "whether the particular costs are the type routinely billed by attorneys to paying clients in similar cases." *In re Cardizem CD Antitrust Litig.*, 218 F.R.D. 508, 535 (E.D. Mich. 2003).

Class Counsel incurred $2,621.12 in out-of-pocket costs. The costs were reasonable and

necessary to the successful conclusion of this litigation. Costs were primarily expenses for filing fees, service of process, and mediation. (Edelman Decl., ¶ 11).

Class Counsel respectfully request that the Court approve distribution of $2,621.00 in litigation costs to Class Counsel and approval to pay American Legal Claims Services, LLC, Notice and Settlement Administration costs out of the Settlement Fund, estimated to be $36,446.00.[2] The requested settlement notice and administration costs cover, among other things, expenses incurred or estimated to be incurred for locating class members, mailing notices, creating and hosting a settlement website, processing claims and opt-outs, issuing checks, and postage.

IV. THE COURT SHOULD APPROVE THE REQUESTED CLASS REPRESENTATIVE GENERAL RELASE COMPENSATION AND SERVICE AWARD

Plaintiff, Gregory Stewart sacrificed his own pecuniary interests to pursue class wide relief on behalf of the Settlement Class. Namely, Mr. Stewart could have pursued individual claims against Defendant but instead sought statutory damages on behalf of the Settlement Class. To further the Settlement, Mr. Stewart agreed to release Defendant from all claims, for which Defendant has agreed to pay Mr. Stewart $5,000.00 in exchange for Mr. Stewart executing a general release and agreeing not to seek future employment. Class Counsel requests the Court approve this payment Plaintiff.

Moreover, Courts traditionally award service payments to class representatives in recognition of the fact that, "absent their willingness to be class representatives in th[e] case, the Class Members likely never would have recovered damages from Defendants as their claims, individually, would not have been worth bringing." *Michel v. WM Healthcare Sols., Inc.*, No. 1:10-

[2] The exact cost of administration will be detailed in the Motion for Final Approval, which will be filed in advance of the Final Fairness Hearing

CV-638, 2014 WL 497031, at *12 (S.D. Ohio Feb. 7, 2014); *see also Hadix v. Johnson*, 322 F.3d 895, 897 (6th Cir. 2003). Courts may look to a three-factor test for such service payments:

> a. the action taken by the Class Representatives to protect the interests of Class Members and others and whether these actions resulted in a substantial benefit to Class Members; (2) whether the Class Representatives assumed substantial direct and indirect financial risk; and (3) the amount of time and effort spent by the Class Representatives in pursuing the litigation.

Enter. Energy Corp. v. Columbia Gas Transmission Corp., 137 F.R.D. 240, 250 (S.D. Ohio 1991).

Here every factor supports the requested $5,000.00 payment to Plaintiff. First, this Settlement would not have happened if Mr. Stewart had not pursued this action. Equally important, Plaintiff opted to pursue this case as a class action, knowing he may have been able to obtain a higher recovery if he filed an individual action. However, Mr. Stewart was determined to ensure what happened to him did not happen to others. Mr. Stewart put the interests of others above his own and agreed to serve as a class representative for a class action lawsuit. The Settlement, if approved, will result in significant monetary awards to the Settlement Class Members and prospective benefits to applicants and employees. With the low damages available in FCRA class actions, if Mr. Stewart had not agreed to serve as a class representative, it is likely no Settlement Class Members would have ever been compensated for Defendant's alleged FCRA violations. Mr. Stewart took substantial financial risk attaching his name to the action. Besides the opportunity to potentially recover a higher award if he had filed individually, prospective employers may not hire him because he has filed a class action lawsuit against a previous employer. Without his active engagement from the onset of the litigation, Class Counsel could not have obtained such a favorable outcome.

Finally, Mr. Stewart did more than typical class representatives – he agreed to execute a general release of all claims against Defendant. The requested general release

compensation/service award is higher than the award Settlement Class Members will receive because Mr. Stewart is releasing all claims against Defendant and agreeing to not to seek future employment, compared to the Settlement Class, which is only releasing FCRA claims. Additionally, the FCRA's statutory damages are relatively low, making it even more important to incentivize class representatives to take the risk and dedicate their time and energy to a class action lawsuit. *Cf. Amchem Prod., Inc. v. Windsor*, 521 U.S. 591, 617 (1997) ("The policy at the very core of the class action mechanism is to overcome the problem that small recoveries do not provide the incentive for any individual to bring a solo action prosecuting his or her rights.")

V. CONCLUSION

Class Counsel has obtained an excellent outcome for the Settlement Class. The requested fee is reasonable in all respects. For the foregoing reasons, Class Counsel respectfully requests that the Court enter an Order awarding Class Counsel's attorneys' fees equal to one third of the Settlement Fund and reimbursement of costs in the amount of $2,621.12; payment to American Legal Claims Services for the costs of Notice to the Class and Settlement Administration, estimated to be $36,446.00; and approving payment in the amount of $5,000.00 to Plaintiff as compensation for executing a general release and her service to the Settlement Class, all to be paid from the Settlement Fund.

Respectfully submitted this 1st day of July 2024

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CERTIFICATE OF SERVICE

I hereby certify that on July 1, 2024, I electronically filed this Memorandum in Support of Plaintiff's Unopposed Motion for Attorney's Fees and Costs, Service Award/General Release Payment to Class Representative and Payment to Settlement Administrator with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the attorneys of record:

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GREGORY STEWART, on behalf of himself and on behalf of all others similarly situated, PLAINTIFF(S) v. BAPTIST MEMORIAL HEALTH CARE CORPORATION, DEFENDANT.	)	Case No.: 2:21-cv-02377-TLP-cgc

DECLARATION OF MARC R. EDELMAN

I, MARC R. EDELMAN, declare under penalty of perjury as follows:

1. My name is Marc R. Edelman. Unless otherwise indicated, the facts set forth below are based on my personal knowledge and the opinions set forth herein are my own. I understand that this declaration under oath may be filed in the above captioned action.

2. I worked on behalf of Plaintiff and the Class in the above-styled litigation.

3. I am employed as an attorney with the law firm of Morgan & Morgan, P.A. in the above-styled case. Morgan & Morgan is a nationwide trial advocacy law firm, currently employing over 750 attorneys. My office is located at 201 N. Franklin Street, Suite 700, Tampa, Florida 33602.

4. I am a licensed attorney in Florida. I have been a member of the Florida Bar since October 1996. I have practiced law for over 25 years, more than half of which have been dedicated to labor and employment law. I have a J.D. from Florida State University College of Law and a bachelor's degree from the University of Florida. For the 10 years before I joined Morgan &

Morgan, I was general counsel for a national furniture retailer, overseeing all aspects of compliance, including compliance with the Fair Credit Reporting Act.

5. I have represented employers and employees in all stages of litigation in federal and state courts throughout Florida. I am admitted in the United States District Courts for the Northern, Middle and Southern Districts of Florida including the Eleventh Circuit Court of Appeals, Western District of Tennessee, and the Eastern District of Michigan. I have been admitted *pro hac vice* to the United States District Courts for Southern District of New York, Central District of California, Northern District of Georgia, Eastern District of Pennsylvania, Southern District of Indiana, Northern District of Illinois, Western Division of Texas, Eastern District of Texas, Western District of Texas, Central District of Ohio, Central District of Tennessee, and Eastern District of Virginia.

6. Since joining Morgan & Morgan, I have focused my efforts on employment law and employment related class action lawsuits prosecuting violations of the Fair Credit Reporting Act, 15 U.S.C. § 1681b and COBRA. *Graham v. Pyramid Healthcare Solutions*, Case No.: 8:16-cv-1324-T-30AAS (Dkt.58), (M.D. Fla. June 18, 2017)(Moody, J.); *Coles v. Stateserv Medical of Florida, LLC et al*. No. 8:17-cv-829-T-17-AEP, (M.D. Fla., April 10, 2017) (Dkt. 45); *Fosbrink v. Area Wide Protective, Inc*., 8:17-cv-01154-JSM-CPT, (M.D. Fla., May 8, 2018) (Moody, J.) (Dkt. 58); *Musa v. SOS Security LLC*, No. 2:17-cv-05681-MCA-SCM (D.N.J., Newark Division, April 16, 2018) (Dkt. 42); *Grice v. Pepsi Beverages Company, et al*, Case No:1:17-cv-08853-JPO (S.D.N.Y. May 23, 2018); *Gibbs v. Centerplate, Inc., et al.*, No.8:17-cv-2187-T-17EAK-JSS (M.D.Fla. July 12, 2018); *Hargrett v. Amazon.comDEDC LLC*, Case No.8:15-cv-2456-T-26EAJ (July 24, 2018); *Gross v. Advanced Disposal Services, Inc*., No. 8:17- cv-1920-T-36TGW (M.D.Fla. Dec. 10, 2018); *Williams v. Naples Hotel Group*, No: 6:18-

cv- 422-Orl-37DCI (M.D.Fla. June 11, 2019); *Lindsey v. Ring Power Corporation*, No.: 18-CA-007124 (Fla. 13th Cir.); *Bulgajewski v. R.T.G. Furniture Corporation, d/b/a Rooms To Go*, No.: 18-CA-007000 (Fla. 13th Cir.). *Bryant v. Realogy Group, LLC*, No.: 8:18-cv-2572-T-60CPT (M.D.Fla. April 9, 2020); *Bermudez v. CFI Resorts Management, Inc.*, No.: 6:19-cv-1847-Orl-37DCI (M.D.Fla. August 3, 2020); *Silberstein v. Petsmart, Inc.*, No.: 8:19-cv-02800-SCB-AAS (M.D.Fla. August 27, 2020); *Sharp v. Technicolor Videocassette of Michigan, Inc.*, No.: 2:18-cv- 02325-cgc (W.D.T.N., December 5, 2019); *Smith, et al. v. Kforce, Inc.*, No.: 8:19-cv-02068-CEH-CPT (M.D.Fla. June 28, 2021); *Betty Morris, et al. v. US Foods, Inc.*, No.: 8:20-cv-105-SDM-CPT (M.D.Fla. July 14, 2021); *Broughton v. Payroll Made Easy, Inc.*, No.: 2:20-cv-41-NPM (M.D.Fla. July 27, 2021); *Tweedie v. Waste Pro USA, Inc.*, No.: 8:19-cv-01827-TPB-AEP (M.D.Fla August 5, 2021); *Mendiola v. Home Depot U.S.A., Inc., et al.*, No.: 1:20-cv-04027 (N.D.G.A. October 07, 2021); *McNamara v. Brenntag Mid-South, Inc.*, No.: 8:21-cv-618-MSS-JSS, (M.D.Fla. November 2, 2021); *Washington v. DialogDirect*, No: 2:21-cv-10445-LVP-RSW (E.D.Mich. April 18, 2022); *Lyttle v. Trulieve, Inc*., Case No.: 8:19-cv-02313-CEH-TGW (M.D.Fla. Aug. 18, 2022); *Fagins v S2 Verify,* Case No.: 1:22-cv-240 (N.D. Fla. Mar. 18, 2023); *Moore v Computer Generated Solutions, Inc.* Case No.: 2022-ca-856 (Thirteenth Circuit Fla. Sept. 21, 2023); *Rodriguez v TZ Insurance Solutions d/b/a Tranzact and Willis Towers Watson, U.S. LLC,* Case No.: 23-ca-401 (Thirteenth Circuit Fla. Aug. 17, 2023); *Forestal v. SH Group Operations LLC, et. al.*, Case No. 23-CA-013634 (Thirteenth Circuit Fla. May 22, 2024)(FCRA class action).

7. I am well-qualified to represent the interests of the Class, as is Plaintiff.

Work Completed in This Litigation

8. My firm has served as counsel to Plaintiff and the Class since the action was

originally filed in June 2021.

9. Our firm has invested significant time and resources into prosecuting this action, including significant case preparation drafting and filing the Complaint and Amended Complaint; seeking and reviewing documents obtained from Defendant; reviewing and analyzing class-related information submitted by Defendant; preparing for and attending mediation; drafting a settlement agreement; drafting a motion for preliminary approval; drafting class notices; facilitating notices and class administration; and responding to inquiries from class members; and drafting this motion. My work in this case is not complete, as I will be attending a final approval hearing, and coordinating the disbursement of the settlement payments with the Settlement Administrator.

Class Counsel's Time and Expenses

10. Our firm conservatively estimates it has dedicated 80 hours to prosecuting this action. I have performed all related legal work, and we are not seeking any fees for the time our paralegals have expended. At my hourly rate of $750.00, our firm's lodestar fee is $63,750.00. We are seeking a fee equal to 1/3 of the Settlement Fund, $140,048.00, which provides for a multiplier of 2.19.

11. Our firm has incurred out-of-pocket expenses in this action. As shown below, the majority of costs are mediation, filing fees and service of process.

DESCRIPTION	COST
Filing Fees	$402.00
Service of Process	$250.00
Printing	$9.75
Postage & Shipping	$9.37
Mediation	$1950.00
TOTAL:	$2,621.12

12. The Settlement represents an excellent result for the Settlement Class.

13. Defendant agreed to a settlement of $420,566.00. In my opinion, this is a very favorable outcome when considering the delays and risks associated with continued litigation. Class Counsel's fees and compensation for the Class Representative's release, no-rehire and non-disparagement agreements were not negotiated until after the Parties had reached an agreement in principle on class relief. As set forth in the motion, Class Counsel has requested the Court approve the agreed-upon $ 5,000.00 payment to Plaintiff.

14. Without the Settlement, all parties face the prospect of continued litigation and the associated risks. Even if Plaintiff had the opportunity to try the case in front of a jury, Plaintiff still would have had to prove "willfulness" to recover damages. Even if Plaintiff was to prove willfulness, there is no certainty a jury would award damages exceeding the monetary relief Settlement Class Members will receive through the negotiated Settlement.

15. I firmly believe the decision to settle the case was the right decision. Even after the parties had agreed to a settlement, the outcome could not be predicted with any degree of certainty. An adverse ruling on any one of a host of legal issues could potentially eliminate the possibility of *any* class relief or settlement under equally advantageous terms.

16. This Settlement would not have been possible without Plaintiff, Gregory Stewart. He represented the interests of the Class for the duration of the litigation, responding to Counsel,

reviewing documents, and providing his input. Additionally, Mr. Stewart sacrificed his own interest for benefit of the Class by agreeing to settle his individual claims to ensure settlement on a class basis.

I declare under penalty of perjury, under the laws of the United Sates and the State of Florida, that the foregoing is true and correct.

Dated this 1st day of July 2024, in Tampa, Florida.

MARC R. EDELMAN, ESQ.