UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

ALEXANDRIA LINDERS, individually and on behalf of all others similarly situated, Plaintiff, v. FESTIVAL FUN PARKS, LLC, Defendant.	Civil Action No. 3:25-cv-00659-SVN Hon. Sarala V. Nagala

PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR ATTORNEYS' FEES, COSTS, EXPENSES, AND SERVICE AWARD

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Plaintiff Alexandria Linders ("Plaintiff"), individually and on behalf of the Settlement Class, respectfully submits this memorandum of law in support of her Motion for Attorneys' Fees, Costs, Expenses, and Service Award.[1]

PRELIMINARY STATEMENT

Class Counsel's efforts have produced a $500,000.00 non-reversionary Settlement Fund for purchasers of online tickets to Lake Compounce, together with prospective relief requiring Defendant to disclose the total cost of tickets, inclusive of fees, before a ticket is selected for purchase. Settlement §§ 1.41, 2.2. Defendant represented in confirmatory discovery that it collected $807,599.40 in processing fees from 102,210 online transactions during the Class Period. Settlement § 6.2. The Settlement Fund therefore equals approximately 62% of every dollar in processing fees Defendant collected from the entire Settlement Class—an exceptional result in any consumer class action, and particularly so here, where Defendant's appeal of the order denying its motion to compel arbitration remains pending before the Second Circuit.

The Settlement was reached only after Class Counsel defeated Defendant's motion to dismiss and to compel arbitration. ECF No. 48. Defendant then answered, noticed an appeal, and obtained a stay of this Action pending that appeal. ECF Nos. 49, 50, 53. Facing the prospect of losing the class forum altogether, Class Counsel obtained informal discovery regarding Defendant's ticket sales and fee revenue and negotiated a settlement that provides a pro rata cash payment to every Settlement Class Member who submits a simple Claim Form—with no proof of purchase required. Settlement § 2.1(b); Ex. A. Because the Settlement Class List includes each

[1]Unless otherwise indicated, capitalized terms have the same meaning as in the Class Action Settlement Agreement (the "Settlement" or "Agreement"), ECF No. 59-3. References to "§ __" are to sections of the Agreement, and its exhibits are referred to as "Ex. [Letter]." "Fraietta Decl." refers to the Declaration of Philip L. Fraietta in support of preliminary approval, ECF No. 59-2, and "Fraietta Fee Decl." refers to the Declaration of Philip L. Fraietta submitted herewith.

Settlement Class Member's email address and fees paid, notice is sent directly by email, with two reminder notices. Settlement § 4.1(a)–(c).

Class Counsel now respectfully request an award of attorneys' fees, costs, and expenses totaling $166,666.67—one-third of the Settlement Fund—inclusive of $1,480.23 in unreimbursed litigation costs and expenses. Settlement § 8.1. The Parties did not discuss attorneys' fees, costs, or any Service Award until after they had agreed on all substantive terms of the Settlement. ECF No. 59-1 at 4. The request is consistent with the one-third benchmark routinely approved by courts in this District and throughout the Second Circuit, and it is supported by each of the factors set forth in *Goldberger v. Integrated Res., Inc.*, 209 F.3d 43, 50 (2d Cir. 2000). A lodestar cross-check confirms its reasonableness: Class Counsel's lodestar of $91,610.00 yields a multiplier of 1.8, well within the range approved in this Circuit.

Plaintiff also requests a Service Award of $5,000 for her efforts in bringing and prosecuting this Action on behalf of the Settlement Class. Settlement § 8.3. The Notice informed Settlement Class Members that Class Counsel would seek no more than one-third of the Settlement Fund, inclusive of costs, and that Plaintiff would seek a $5,000 Service Award. Exs. B, C. As of the date of this filing, no Settlement Class Member has objected to the Settlement or to the requested fees, costs, or Service Award. And, only one class member has requested to be excluded. For the reasons below, Plaintiff respectfully requests that the Court grant this Motion in its entirety.

BACKGROUND

A. The Litigation

On April 25, 2025, Plaintiff filed this putative class action alleging that Defendant failed to disclose a "processing fee" for online tickets to its Lake Compounce amusement park before those tickets were selected for purchase, in violation of Connecticut General Statutes § 53-289a

(the "Ticketing Statute"). ECF No. 1; Fraietta Decl. ¶ 4 (ECF No. 59-2). Before filing, Class Counsel investigated Defendant's online ticket purchase flow, the requirements of the Ticketing Statute, and the remedies available to consumers. Fraietta Fee Decl. ¶ 27. The material allegations of the Complaint center on Defendant's alleged failure to disclose a "processing fee" for tickets to Lake Compounce prior to those tickets being selected for purchase, in alleged violation of Connecticut General Statutes § 53-289a (the "Ticketing Statute"). Fraietta Decl. ¶ 4.

On July 24, 2025, Defendant responded to the Complaint with a motion to dismiss and to compel arbitration pursuant to the Federal Arbitration Act (ECF No. 20). Fraietta Decl. ¶ 5. Plaintiff opposed the motion, and Defendant filed a reply brief on September 25, 2025 (ECF No. 32). *Id.* On March 6, 2026, the Court issued a Ruling and Order denying Defendant's motion to dismiss and to compel arbitration (ECF No. 48). Fraietta Decl. ¶ 6. On March 27, 2026, Defendant filed an Answer to the Complaint denying the allegations and liability generally and asserting affirmative defenses (ECF No. 49). Fraietta Decl. ¶ 7. On April 3, 2026, Defendant filed a Notice of Appeal to the United States Court of Appeals for the Second Circuit (ECF No. 50), and on April 10, 2026, the Court stayed the Action pending resolution of the appeal (ECF No. 53). Fraietta Decl. ¶ 8.

The Parties engaged in arm's-length negotiations regarding a potential resolution of the Action, including exchanging information with respect to the size and scope of the putative class and the amount of processing fees Defendant collected during the relevant time period. Fraietta Decl. ¶ 9. The Parties therefore had sufficient factual information to assess the strengths and weaknesses of the claims and defenses, in addition to researching and assessing their positions on the legal issues. *Id.* After extensive arm's-length negotiations, on June 29, 2026, the Parties

reached an agreement on all material terms of a class action settlement and executed a term sheet. Fraietta Decl. ¶ 10.

Defendant believes that the claims asserted in the Action against it have no merit and that it would have prevailed on its appeal of the Court's Order Denying Defendant's Motion to Compel Arbitration and that Plaintiff would not have been able to certify a class under Federal Rule of Civil Procedure 23. Settlement, Recitals ¶ H. Defendant has denied and continues to deny any wrongdoing, liability, or fault whatsoever and has denied and continues to deny that it committed, or attempted to commit, any wrongful act or violation of law or duty alleged in the Action. *Id.* ¶ H. Defendant has opposed and continues to oppose certification of a litigation class in this Action. Nonetheless, taking into account the uncertainty and risks inherent in the Action and in any litigation, Defendant has concluded it is desirable and beneficial that the Action be fully and finally settled and terminated in the manner and upon the terms and conditions set forth in the Settlement Agreement. *Id.*

Plaintiff believes that the claims asserted in the Action against Defendant have merit and that she would have prevailed at summary judgment and/or trial. Fraietta Decl. ¶ 23. Nonetheless, Plaintiff and Class Counsel recognize that Defendant has raised factual and legal defenses that present a risk that Plaintiff may not prevail. Plaintiff and Class Counsel also recognize the expense and delay associated with continued prosecution of the Action against Defendant through an appeal on the motion to compel arbitration, class certification, summary judgment, trial, and any other subsequent appeals. *Id.* ¶¶ 23-24. Plaintiff and Class Counsel also have taken into account the uncertain outcome and risks of litigation, especially in complex class actions, as well as the difficulties inherent in such litigation. *Id.* Therefore, Plaintiff believes it is desirable that the Released Claims be fully and finally compromised, settled, and resolved with

prejudice. *Id.* Based on its evaluation, Class Counsel has concluded that the terms and conditions of the Settlement Agreement are fair, reasonable, and adequate to the Settlement Class, and that it is in the best interests of the Settlement Class to settle the claims raised in the Action pursuant to the terms and provisions of the Settlement Agreement. *Id.*

B. Settlement Negotiations

The Settlement was reached as a result of extensive arm's-length negotiations between the Parties and counsel. Fraietta Decl. ¶ 9. Before and during these settlement discussions, the Parties had arm's-length exchange of sufficient information to permit Plaintiff and her counsel to evaluate the claims and potential defenses and to meaningfully conduct informed settlement discussions. *Id.* Specifically, Class Counsel requested, and Defendants produced, documents and information regarding the sales data of online tickets throughout the Class Period, including Defendant's records of its fees. *Id*. The Parties did not discuss Attorneys' Fees and Costs or any potential Incentive Award until they first agreed on the substantive terms of this settlement. *Id.* Defendant denies all of Plaintiff's allegations and all charges of wrongdoing or liability against it arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged against it, in the Litigation. Settlement, Recitals ¶ H.

The settlement negotiations were conducted at arm's-length over a period of several weeks. Fraietta Decl. ¶ 10. On June 29, 2026, the Parties reached an agreement in principle. The Parties continued to pursue settlement discussions for a number of weeks, working out the details of the settlement and culminating in the attached Settlement Agreement, which is the product of hard-fought, arm's-length negotiations. *Id*.

The Settlement Agreement resolves claims for economic harm regarding Defendant's service fees on online ticket sales to Lake Compounce from October 1, 2023 to and through June

12, 2025. Settlement § 1.39. The Settlement Agreement provides significant monetary relief to the Settlement Class Members by way of a Settlement Fund of $500,000.00. *Id.* § 1.41.

C. The Settlement Class

The Settlement Class consists of "All individuals who purchased tickets to Lake Compounce from Defendant's Website, www.lakecompounce.com, from October 1, 2023 to and through June 12, 2025." Settlement § 1.39.

D. Relief for Settlement Class Members

The Settlement provides the following relief:

A. Monetary relief.

The Settlement Agreement provides that Defendants will establish a Settlement Fund in the amount of $500,000.00, which will be exhausted to pay all Valid Claims, as well as any Attorneys' Fee, Cost and Incentive Awards, and settlement administration costs that are approved by the Court. Settlement § 1.41. Settlement Class Members who submit a Valid Claim Form will receive as a Cash Award a pro rata payment from the Settlement Fund. Settlement § 2.1(b).

The pro rata payment for each Settlement Class Member will be equal to that Settlement Class Member's Out-of-Pocket Percentage multiplied by the Available Settlement Fund. Settlement § 2.1(b). Each Settlement Class Member's payment shall be increased or decreased on a *pro rata* basis such that the total amount paid to all Settlement Class Members equals the Available Settlement Funds. *Id.* Proration of amounts due to Settlement Class Members with Approved Claims shall be determined no later than 60 days after Final Judgment. *Id.* In the event any checks issued to pay Valid Claims are uncashed or not redeemed for 180 days, such funds shall be redistributed on a *pro rata* basis (after first deducting any necessary settlement administration expenses from such unclaimed funds) to all Settlement Class Members who

claimed their payments. Settlement § 2.1(d). If a secondary distribution would be infeasible because the administrative costs associated therewith would likely meet or exceed the amount of the secondary distribution, as determined by the Settlement Administrator, any unclaimed funds shall, subject to Court approval, be paid to a nonprofit organization focused on consumer protection recommended by the Parties and approved by the Court. Settlement § 2.1(e). All of this ensures that *no settlement funds* will revert to Defendant.

Defendant will fund a $500,000.00 non-reversionary Settlement Fund. Settlement §§ 1.38, 1.41, 2.1(f). Each Settlement Class Member who submits a Valid Claim Form receives a pro rata Cash Award equal to his or her share of total processing fees paid, multiplied by the Available Settlement Fund. Settlement § 2.1(b). No proof of purchase is required; the claimant need only attest to the purchase. Ex. A. Payments may be made by Venmo, PayPal, Zelle, or check. *Id.*; Settlement § 2.1(c).

B. *Prospective relief.*

Defendant must maintain its online ticket purchase flow so that it either charges no fees beyond the ticket price and applicable sales tax, or clearly and conspicuously discloses the total cost of tickets, inclusive of fees, before a ticket is selected for purchase. Settlement § 2.2. This obligation continues unless and until the Ticketing Statute is amended, repealed, or invalidated. *Id.*

Under the Agreement, Class Counsel may petition for attorneys' fees, costs, and expenses of no more than one-third of the Settlement Fund ($166,666.67), and Plaintiff may seek a Service Award of no more than $5,000. Settlement §§ 8.1, 8.3. Any amount the Court does not award remains in the Settlement Fund for the benefit of the Settlement Class. *Id.* The Court's ruling on fees or the Service Award does not affect the validity of the Settlement. Settlement § 9.2.

ARGUMENT

I. LEGAL STANDARD

A. Federal Rule of Civil Procedure 23(h) and the *Goldberger* Factors

Rule 23(h) provides that, in a certified class action, "the 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). Here, the Agreement authorizes Class Counsel to seek reasonable attorneys' fees and costs from the Settlement Fund. Settlement § 8.1. In the Second Circuit, the reasonableness of a fee request is analyzed under the factors set forth in *Goldberger v. Integrated Res., Inc.*, 209 F.3d 43, 50 (2d Cir. 2000). *See Edwards v. N. Am. Power & Gas, LLC*, 2018 WL 3715273, at *14 (D. Conn. Aug. 3, 2018); *Kemp-Delisser v. Saint Francis Hosp. & Med. Ctr.*, 2016 WL 6542707, at *14 (D. Conn. Nov. 3, 2016).

Those factors are: "(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 (citation omitted). The factors "need not be applied in a formulaic way," and in a given case "one factor may outweigh the rest." *In re Rite Aid Corp. Sec. Litig.*, 396 F.3d 294, 301 (3d Cir. 2005).

B. The Percentage-of-the-Fund Method Is the Preferred Method in Common Fund Cases in the Second Circuit

Courts may award fees from a common fund under either the "percentage of the fund" method or the "lodestar" method. *McDaniel v. Cnty. of Schenectady*, 595 F.3d 411, 417 (2d Cir. 2010). Under the percentage method, the court awards a percentage of the settlement fund. *See Cent. States Se. & Sw. Areas Health & Welfare Fund v. Merck-Medco Managed Care, L.L.C.*, 504 F.3d 229, 249 (2d Cir. 2007). Under the lodestar method, the court multiplies the hours

reasonably expended by a reasonable hourly rate. *See Flores v. Mamma Lombardi's of Holbrook, Inc.*, 104 F. Supp. 3d 290, 309 (E.D.N.Y. 2015).

Where, as here, a common fund has been created, "[t]he trend in this Circuit is toward the percentage method," with the lodestar serving only as a "cross check." *Wal-Mart Stores, Inc. v. Visa U.S.A. Inc.*, 396 F.3d 96, 121–22 (2d Cir. 2005) (citation omitted). Fees are calculated on "the total funds made available, whether claimed or not," because "[t]he entire Fund, and not some portion thereof, is created through the efforts of counsel at the instigation of the entire class." *Masters*, 473 F.3d at 437.

The percentage method has several advantages. It "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*, 396 F.3d at 121 (citation omitted). It "mimics the compensation system actually used by individual clients to compensate their attorneys." *In re Sumitomo Copper Litig.*, 74 F. Supp. 2d 393, 397 (S.D.N.Y. 1999). It removes any incentive "to run up the number of billable hours." *Savoie v. Merchants Bank*, 166 F.3d 456, 460–61 (2d Cir. 1999). And it spares courts the "cumbersome, enervating, and often surrealistic process of evaluating fee petitions." *Id.* at 461 n.4 (citation omitted). For these reasons, "the Second Circuit encourages using the lodestar method only as a cross-check for the percentage method." *In re Marsh & McLennan Cos., Inc. Sec. Litig.*, 2009 WL 5178546, at *14 (S.D.N.Y. Dec. 23, 2009).

II. CLASS COUNSEL'S FEE REQUEST IS FAIR AND REASONABLE UNDER *GOLDBERGER* AND REPRESENTS A REASONABLE PERCENTAGE OF THE FUND

Class Counsel request $166,666.67—one-third of the Settlement Fund—inclusive of all costs and expenses. Settlement § 8.1. That request is consistent with fee awards routinely approved in this Circuit. *See, e.g.*, *Kiefer v. Moran Foods, LLC*, 2014 WL 3882504, at *8 (D.

Conn. July 31, 2014) (one-third request "reasonable and consistent with the norms of class litigation in this circuit"); *Trinidad v. Pret a Manger (USA) Ltd.*, 2014 WL 4670870, at *11 (S.D.N.Y. Sept. 19, 2014) ("[A]warding fees of 33% is common in this district."); *Hernandez v. Uzzal Pizzeria, Inc.*, 2022 WL 1032522, at *1 (S.D.N.Y. Apr. 6, 2022) (same); *Beckman v. KeyBank, N.A.*, 293 F.R.D. 467, 477 (S.D.N.Y. 2013) (33% request "reasonable and consistent with the norms of class litigation in this circuit"); *Reyes v. Altamarea Grp.*, 2011 WL 4599822, at *8 (S.D.N.Y. Aug. 16, 2011) (one-third reflects what "reasonable, paying client[s] . . . typically pay" under private retainer agreements).

A one-third fee request is also standardly awarded in unlawful ticket fee cases in this Circuit. *See Rodriguez v. Festival Fun Parks LLC*, No. 2:24-cv-01245-ARL, ECF No. 38 (E.D.N.Y. June 25, 2026); *Presson v. Alamo Intermediate II Holdings, LLC*, No. 1:24-cv-00170-ER, ECF No. 60 (S.D.N.Y. Nov. 5, 2025); *Jones v. Regal Cinemas, Inc.*, No. 1:23-cv-11145-MMG, ECF No. 42 (S.D.N.Y. Mar. 6, 2025); *Patterson v. Wildlife Conservation Soc'y*, No. 1:24-cv-00171-JMF, ECF No. 55 (S.D.N.Y. June 5, 2025); *Charles v. Color Factory, LLC*, No. 1:24-cv-00322-JSR, ECF No. 48 (S.D.N.Y. Nov. 7, 2024).

A. The Fee Request Is Reasonable Under the *Goldberger* Factors

1. Class Counsel Invested Substantial Time and Resources in This Litigation

Through October 20, 2026, Class Counsel devoted 152.70 hours of attorney and professional staff time to this case. Fraietta Decl. ¶ 30. That work included:

C. investigating Defendant's online ticket purchase flow and fee disclosures, and researching the Ticketing Statute and the remedies available under it, before filing suit;

D. drafting the Complaint;

E. researching and briefing Plaintiff's opposition to Defendant's motion to dismiss and to compel arbitration, which raised questions of contract formation, online assent, and the scope of the Ticketing Statute, and which the Court denied in full;

F. evaluating Defendant's Answer and affirmative defenses and assessing Defendant's appeal to the Second Circuit;

G. requesting and analyzing Defendant's ticket sales and fee data to assess class size and damages;

H. negotiating the Settlement over several weeks, and then drafting the Agreement, Claim Form, and Notices;

I. soliciting bids from and retaining the Settlement Administrator, and developing the Notice Plan with Epiq; and

J. preparing the motion for preliminary approval, overseeing notice, and responding to Settlement Class Member inquiries.

Fraietta Decl. ¶ 27.

Class Counsel's work will not end if the Court grants final approval. Class Counsel will continue to oversee claims administration, respond to Settlement Class Member inquiries, supervise distribution of Cash Awards and any secondary distribution, and monitor Defendant's compliance with the prospective relief. *See Kemp-Delisser*, 2016 WL 6542707, at *15 (fee award compensates counsel "for time that they will be required to spend administering the settlement going forward") (quoting *deMunecas v. Bold Food, LLC*, 2010 WL 3322580, at *10 (S.D.N.Y. Aug. 23, 2010)).

That Class Counsel achieved this result efficiently should not reduce their compensation. Courts recognize that a fee award "should not penalize counsel for settling at an early stage of the litigation when it appeared appropriate to do so." *Karpus v. Borelli (In re Interpublic Sec. Litig.)*, 2004 U.S. Dist. LEXIS 21429, at *35–37 (S.D.N.Y. Oct. 26, 2004). Indeed, one of the principal virtues of the percentage method is that it rewards efficiency rather than hours. *Savoie*, 166 F.3d at 460–61. This factor supports the requested fee.

2. The Litigation Involved Complex and Unsettled Legal Issues

"The size and difficulty of the issues in a case are significant factors to be considered in making a fee award." *Beckman*, 293 F.R.D. at 481 (citation omitted). A case that "concerns an unsettled question of law" is "complex and risky to litigate." *Kemp-Delisser*, 2016 WL 6542707, at *16.

This Action presented novel questions under a Connecticut statute that no court had construed. Defendant contended that the Ticketing Statute applies only where "a service charge is imposed for the sale of a ticket at the site of the event," Conn. Gen. Stat. § 53-289a(b), and therefore does not reach online sales at all. ECF No. 59-1 at 11. Defendant further contended that, even if the statute applied, its website disclosures complied with it. *Id.* Resolving those issues would have required the Court—and potentially the Second Circuit or the Connecticut Supreme Court—to interpret the statute's text, structure, and purpose on a blank slate.

The arbitration dispute added a further layer of complexity. Defendant's motion turned on whether online purchasers assented to the arbitration provision in Defendant's terms, an area of law that is fact-intensive and in flux. Although Plaintiff prevailed in this Court, ECF No. 48, Defendant's appeal remained pending until Plaintiff's Motion for Preliminary Approval was filed. ECF No. 50; Fraiatta Decl. ¶ 8. Had the case continued, Plaintiff would have faced that appeal, contested class certification, summary judgment, and trial, along with the possibility of further appeals. ECF No. 59-1 at 4. This factor supports the requested fee.

3. The Requested Fee is Warranted Based on the High-Risk Nature of the Litigation

The Second Circuit "has identified the risk of success as perhaps the foremost factor to be considered in determining" reasonable attorneys' fees. *In re Glob. Crossing Sec. & ERISA Litig.*, 225 F.R.D. 436, 467 (S.D.N.Y. 2004); *see also In re Telik, Inc. Sec. Litig.*, 576 F. Supp.

2d 570, 592 (S.D.N.Y. 2008) ("Courts have repeatedly recognized 'that the risk of the litigation' is a pivotal factor in assessing the appropriate attorneys' fees to award plaintiffs' counsel in class actions."). "After all, 'despite the most vigorous and competent of efforts, success is never guaranteed.'" *Kemp-Delisser*, 2016 WL 6542707, at *16 (quoting *Detroit v. Grinnell Corp.*, 495 F.2d 448, 471 (2d Cir. 1974)). Courts in this Circuit have long recognized that the risk associated with a case bears heavily upon the determination of an appropriate fee award. *See In re Am. Bank Note Holographics*, 127 F. Supp. 2d 418, 432-33 (S.D.N.Y. 2001) ("[It is] appropriate to take this [contingent fee] risk into account in determining the appropriate fee to award.").

The risk of non-payment is especially high in class actions with contingent fee arrangements, like here. *See Teachers' Ret. Sys. of La. v. A.C.L.N., Ltd.*, 2004 WL 1087261, at *3 (S.D.N.Y. May 14, 2004) ("Little about litigation is risk-free, and class actions confront even more substantial risks than other forms of litigation."). "Contingency risk is the principal, though not exclusive, factor courts should consider in their determination of attorneys' fees." *Beckman*, 293 F.R.D. at 481-83 (quoting *In re Dreyfus Aggressive Growth Mut. Fund Litig.*, 2001 WL 709262, at *6 (S.D.N.Y. June 22, 2001)); *see also Gevaerts v. TD Bank*, 2015 WL 6751061, at *13 (S.D. Fla., Nov. 5, 2015) (class counsel "assumed a significant risk of non-payment or underpayment. Numerous cases recognize such a risk as an important factor in determining a fee award."). As the Second Circuit explained in *Fresno Cnty. Emples. Ret. Ass'n v. Isaacson*, 925 F.3d 63 (2d Cir. 2019):

> The plaintiff class is therefore appropriately charged for contingency risk where such risk is appreciable because the class has benefited from class counsel's decision to devote resources to the class's cause at the expense of taking other cases. That is, because class counsel has decided to represent the plaintiff class, class counsel's ability to freely represent other clients is limited by

> the risk she has assumed that the class's cause will be unsuccessful. The class, having been enriched by counsel's acceptance of its cause at the expense of other clients' causes, may be charged for counsel's assumption of risk on its behalf.

Id. at 70.

The Second Circuit reaffirmed this interpretation of the "risk of litigation" factor in decision issued on March 15, 2023 in *Fikes Wholesale, Inc. v. HSBC Bank USA, N.A.*, 62 F.4th 704, 727 (2d Cir. 2023), where the Court noted that "[t]he true risk we identified in Fresno County was the risk that a case taken on contingency will fail." (emphasis in original). Accordingly, that this case carried with it a significant litigation risk strongly supports counsels' fee request.

"It is well-established that litigation risk must be measured as of when the case is filed." *Goldberger*, 209 F.3d at 55. At the time of filing of this Litigation, there were complex issues of fact and law, which presented significant risks that continue through today. In particular, there was a substantial risk that the Second Circuit could have reversed this Court's Order denying Defendant's motion to compel arbitration. Defendant's appeal was pending until the Preliminary Approval motion was filed. ECF No. 50; Fraietta Decl. ¶ 8. A reversal would have sent Plaintiff's claim to individual arbitration and ended this case as a class action. ECF No. 59-1 at 11–12. Defendant contended the Ticketing Statute does not apply to online sales and that its disclosures complied in any event. *Id.* at 11. No court has construed the statute. *Id.* Moreover, courts have dismissed similar ticket-fee claims on other grounds, including the voluntary payment doctrine. *See Curanaj v. Tao Grp. Operating LLC*, Index No. 56151/2024, NYSCEF Doc. No. 36 (N.Y. Sup. Ct. Westchester Cnty. July 25, 2024). Defendant would have opposed certification of a litigation class. Agreement, Recitals ¶ H. Even if a class were certified,

Defendant could seek review under Rule 23(f) or move to decertify. *See Chatelain v. Prudential-Bache Sec.*, 805 F. Supp. 209, 214 (S.D.N.Y. 1992).

Here, Class Counsel has prosecuted this action diligently from the outset despite the considerable risks. Class Counsel undertook these risks on a fully contingent basis and advanced all costs. Fraietta Fee Decl. ¶ 23. "Counsel should be rewarded for undertaking [those risks] and for achieving substantial value for the class." *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 991 F. Supp. 2d 437, 441 (E.D.N.Y. 2014); *see also Jermyn v. Best Buy Stores, L.P.*, 2012 WL 2505644, at *10 (S.D.N.Y. June 27, 2012) ("[T]he risk of non-payment in cases prosecuted on a contingency basis where claims are not successful…can justify higher fees."). This factor strongly supports the requested fee.

4. Class Counsel Provided (and Continues to Provide) High-Quality Representation

Goldberger factor number four requires an analysis of the quality of the representation provided by Class Counsel in this litigation. *Goldberger*, 209 F.3d at 50. When evaluating *Goldberger's* "quality of representation" factor, courts in the Second Circuit "review the recovery obtained and the backgrounds of the lawyers involved in the lawsuit." *In re Merrill Lynch Tyco Rsch. Sec. Litig.*, 249 F.R.D. 124, 141 (S.D.N.Y. 2008); *Taft v. Ackermans,* No. 02-cv-7951, 2007 WL 414493, *1 (S.D.N.Y. Jan. 31, 2007). Class Counsel practice extensively in complex federal civil litigation, particularly the litigation of consumer protection and false advertising class actions and have successfully litigated these types of actions in courts throughout the country for many years achieving significant results for consumers. *See generally Delcid et al. v. TCP Hot Acquisition LLC, et al.*, Case No. 1:21-cv-09569-DLC (S.D.N.Y); *Bangoura v. Beiersdorf, Inc. and Bayer Healthcare, LLC*, Case No. 1:22-cv-00291-BMC

(S.D.N.Y.); *Luib v. Henkel Consumer Goods Inc.,* Case No. 1:17-cv-03021-BMC (E.D.N.Y.); *see also* Settlement Ex. 16 (firm resume).

Class Counsel is also highly experienced in this particular field of law. Bursor & Fisher, P.A. has been appointed class counsel in numerous unlawful ticket fee class actions. *See Rodriguez v. Festival Fun Parks LLC*, No. 2:24-cv-01245-ARL, ECF No. 38 (E.D.N.Y. June 25, 2026); *Presson v. Alamo Intermediate II Holdings, LLC*, No. 1:24-cv-00170-ER, ECF No. 60 (S.D.N.Y. Nov. 5, 2025); *Jones v. Regal Cinemas, Inc.*, No. 1:23-cv-11145-MMG, ECF No. 42 (S.D.N.Y. Mar. 6, 2025); *Patterson v. Wildlife Conservation Soc'y*, No. 1:24-cv-00171-JMF, ECF No. 55 (S.D.N.Y. June 5, 2025); *Charles v. Color Factory, LLC*, No. 1:24-cv-00322-JSR, ECF No. 48 (S.D.N.Y. Nov. 7, 2024); *see also* Fraietta Fee Decl. Ex. 16 (firm resume). This Court found Class Counsel adequate in appointing them. ECF No. 62 (Preliminary Approval Order).

"[T]he quality of representation … may be measured in large part by the results that counsel achieved for the classes." *Payment Card*, 991 F. Supp. 2d at 441. Beyond general qualifications, this factor is satisfied by Class Counsel's obtaining a $500,000 settlement on behalf of the Class. Class Counsel's ability to obtain such a substantial recovery from an aggressive defendant who is represented by Robinson & Cole LLP, a highly regarded defense firm, is a testament to the skill with which Class Counsel has prosecuted this case. *See Fleisher*, 2015 WL 10847814, at *22 ("The quality of opposing counsel is also important in evaluating the quality of Lead Counsel's work.") (internal quotations omitted); *NASDAQ*, 187 F.R.D. at 489 (approving fee award where defense counsel included "the nation's biggest and best defense firms operating on a seemingly unlimited budget over a period of four years"); *WorldCom*, 388 F. Supp. 2d at 357-58 (finding that counsel "obtained remarkable settlements for the Class while

facing formidable opposing counsel from some of the best defense firms in the country"); *In re Warner Comm'ns. Secs. Litig.*, 618 F. Supp. 735, 749 (S.D.N.Y. 1985), *aff'd*, 798 F.2d 35 (2d Cir. 1986) ("The quality of opposing counsel is also important in evaluating the quality of plaintiffs' counsels' work.").

Moreover, the monetary relief is very strong. The $500,000 Settlement Fund equals approximately 62% of the $807,599.40 in processing fees Defendant collected from the entire Settlement Class. Settlement § 6.2. Even after deducting the requested fee and Service Award, the remaining fund—before administration costs—equals approximately 41% of all fees collected. And because Cash Awards are distributed pro rata only among claimants, a claiming Settlement Class Member may recover more than the fees he or she actually paid. The Notice's illustrative example projects average payments of roughly $14—exceeding the average processing fees paid. Settlement Ex. C at Question 7. The Settlement also secures prospective relief that benefits every future purchaser of Lake Compounce tickets. Settlement § 2.2.

This *Goldberger* factor is clearly satisfied.

5. The Fee Request Is Reasonable in Relation to the Settlement

This factor compares the requested fee to the benefits of the settlement. *Goldberger*, 209 F.3d at 50. The requested fee is one-third of the fund, inclusive of costs—meaning the net attorneys' fee is less than one-third. That percentage falls squarely within the range approved in this Circuit, and courts commonly award one-third in settlements of comparable or larger size. *See, e.g.*, *Mayhew v. KAS Direct, LLC*, No. 7:16-cv-06981-VB, ECF No. 149 (S.D.N.Y.) (33.3% of $2,215,000 fund); *Rapoport-Hecht v. Seventh Generation, Inc.*, 2017 U.S. Dist. LEXIS 219060, at *8–9 (S.D.N.Y. Apr. 28, 2017) (33.3% of $4.5 million fund).

In smaller settlements like this one, a one-third award is especially appropriate: the fixed costs of litigating a class action do not scale down with the size of the fund. Moreover, the fee

calculation does not account for the prospective relief, which provides additional value to the Settlement Class and the public. *See* Settlement § 2.2. This factor supports the requested fee.

6. Public Policy Supports the Requested Fee

The final *Goldberger* factor requires an analysis of all public policy considerations when determining the fees to be awarded to Class Counsel. *Goldberger*, 209 F.3d at 50. Here, public policy supports providing attorneys' fees in class action cases, as class actions are an invaluable safeguard of public rights. *See Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 809 (1985). Where, as here, any individual reward is relatively small, an award of attorneys' fees ensures that "plaintiffs' claims [will] likely … be heard." *Frank v. Eastman Kodak Co*., 228 F.R.D. 174, 189 (W.D.N.Y. 2005). If courts denied sufficient attorneys' fees "no attorneys . . . would likely be willing to take on … small-scale class actions." *Id*.; *see also Maley v. Del Glob. Techs. Corp.*, 186 F. Supp. 2d 358, 374 (S.D.N.Y. 2002) (private attorneys "should be encouraged" to take the risks required to represent those who would not otherwise be protected from socially undesirable activities, including fraud.). Public policy is in favor of rewarding counsel who persevere through risky litigation and achieve favorable results for the class they represent. Here, without private counsel taking on the risk of this lawsuit and having the skill and resources to pursue the claims vigorously, the Settlement Class would have recovered nothing, and important public interests would not have been vindicated. Awarding a reasonable percentage of the common fund properly motivates zealous enforcement of consumer protection laws and incentivizes skilled counsel to bring meritorious cases. *See WorldCom*, 388 F. Supp. 2d at 359 ("In order to attract well-qualified plaintiffs' counsel who are able to take a case to trial, and who defendants understand are able and willing to do so, it is necessary to provide appropriate financial incentives.").

Class Counsels' efforts in this Litigation are the only way Plaintiff and the Class will receive any compensation. Plaintiff's counsel in such cases are typically retained on a contingent basis due to the huge commitment of time and expense required relative to the losses suffered by an individual representative plaintiff. Class Counsel took on this case despite the uncertainty and volatility of law to consumer class actions, especially ones seeking damages for economic loss as a result of alleged unlawful fee, and persevered in obtaining a settlement allowing the Settlement Class Members to receive cash compensation. Such a result should be rewarded. An important public policy interest is served by awarding attorneys' fees adequately compensating counsel.

B. The Requested Fee Represents a Reasonable Percentage of the Fund

In addition to being reasonable under *Goldberger*, the fee and costs requested by this motion, $166,666.67 or one-third of the Settlement Fund, are reasonable under the percentage-of-the fund method and is consistent with many other fee awards granted in other class actions in this Circuit and in similar litigations. *See*, *e.g.*, *Torres v. Gristedes Operating Corp.*, 519 F. App'x 1, 5-6 (2d Cir. 2013) (acknowledging one-third of common fund is benchmark in Second Circuit and affirming higher percentage – 52.2% - of settlement value for attorney fees and costs.); *See Kiefer v. Moran Foods, LLC*, 2014 WL 3882504, at *8 (D. Conn. July 31, 2014) ("Class Counsel's request for one-third of the Fund is reasonable and consistent with the norms of class litigation in this circuit.").

Indeed, in recent litigation involving unlawful ticket fees, courts have granted similar fee requests. *See Rodriguez v. Festival Fun Parks LLC*, No. 2:24-cv-01245-ARL, ECF No. 38 (E.D.N.Y. June 25, 2026); *Presson v. Alamo Intermediate II Holdings, LLC*, No. 1:24-cv-00170-ER, ECF No. 60 (S.D.N.Y. Nov. 5, 2025); *Jones v. Regal Cinemas, Inc.*, No. 1:23-cv-11145-MMG, ECF No. 42 (S.D.N.Y. Mar. 6, 2025); *Patterson v. Wildlife Conservation Soc'y*, No.

1:24-cv-00171-JMF, ECF No. 55 (S.D.N.Y. June 5, 2025); *Charles v. Color Factory, LLC*, No. 1:24-cv-00322-JSR, ECF No. 48 (S.D.N.Y. Nov. 7, 2024).

Class Counsels' fee request is also reasonable given the complexities and risks discussed herein and within the parameters of fee awards in similar class actions in this Circuit. As discussed above, Class Counsels' fee request is also supported by the *Goldberger* factors. Therefore, Class Counsels' requested fee is reasonable under a percentage-of-recovery analysis.

C. A Lodestar Multiplier "Cross-Check" Confirms the Reasonableness of Class Counsel's Requested Fee

The lodestar fee calculation method has "fallen out of favor particularly because it encourages bill-padding and discourages early settlements." *In re Colgate-Palmolive Co. ERISA Litig.*, 36 F. Supp. 3d 344, 353 (S.D.N.Y. 2014). Accordingly, the lodestar method is used in this Circuit only "as a sanity check to ensure that an otherwise reasonable percentage fee would not lead to a windfall." *Id.* "[W]here used as a mere cross-check, the hours documented by counsel need not be exhaustively scrutinized by the district court." *Goldberger*, 209 F.3d at 50; *In re Sturm, Ruger, & Co., Inc. Sec. Litig.*, 2012 WL 3589610, at *13 (D. Conn. Aug. 20, 2012) ("Where [the lodestar method is] used as a mere cross-check, the hours documented by counsel need not be exhaustively scrutinized by the district court.") (internal quotation omitted).

Through October 20, 2026, Class Counsel devoted 152.70 hours to this Action, for a total lodestar of $92,667.50 at their customary hourly rates. Fraietta Fee Decl. ¶ 30 & Ex. 2. Class Counsel also incurred $1,480.23 in unreimbursed costs and expenses. *Id.* ¶ [#]. The requested fee is $166,666.67, which represents a multiplier of 1.8 on Class Counsel's lodestar.

This request for a modest multiplier of 1.8 falls squarely within the range awarded by courts in this District, as well as across the country. *See, e.g.*, *J&J*, ECF No. 95 (awarding 1/3 of settlement fund and 1.3 multiplier); *CDS*, 2016 WL 2731524, at *17 (approving attorneys' fees

constituting a multiple of 6.36 times the lodestar); *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."); *Asare v. Change Grp. of N.Y., Inc.*, 2013 WL 6144764, at *19 (S.D.N.Y. Nov. 18, 2013) ("Typically, courts use multipliers of 2 to 6 times the lodestar."); *City of Providence v. Aéropostale, Inc.*, 2014 WL 1883494, at *13 (S.D.N.Y. May 9, 2014) (noting "lodestar multiples of over 4 are awarded by this Court"); *Maley v. Dale Global Techs. Corp.*, 186 F. Supp. 2d 358, 371 (S.D.N.Y. 2002) (describing a 4.65 lodestar multiple as "modest" and "fair and reasonable"); *In re RJR Nabisco, Inc. Sec. Litig.*, 1992 WL 210138, at *6-8 (S.D.N.Y. Aug. 24, 1992) (awarding a lodestar multiplier of 6); *Hicks v. Morgan Stanley & Co.*, 2005 U.S. Dist. LEXIS 24890, at *28 (S.D.N.Y. Oct. 19, 2005) ("Taking the circumstances of the case into consideration, a multiplier of 1.85 is reasonable and, as a "cross-check," supports counsels' fee application. In this Circuit, contingency fees of 1.85 times the lodestar and greater have been deemed reasonable by the courts."); *Hesse v. Godiva Chocolatier, Inc.*, 2022 U.S. Dist. LEXIS 72641, at *40 (S.D.N.Y. Apr. 20, 2022) (approving lodestar multiplier of 1.9 as reasonable in consumer class action).

The lodestar also does not include the time Class Counsel will spend on final approval, claims administration, and distribution. Therefore, Class Counsel respectfully submits that the lodestar cross-check supports the reasonableness of the requested fee award.

D. The Reaction of the Settlement Class Supports the Requested Fee

Finally, "courts in the Second Circuit consider the reaction of the class to the fee request in deciding how large a fee to award." *In re Hi-Crush Partners L.P. Sec. Litig.*, 2014 WL 7323417, at *18 (S.D.N.Y. Dec. 19, 2014). The emailed Notice and the long-form Notice both disclosed that Class Counsel would seek no more than one-third of the Settlement Fund, inclusive of costs, and that Plaintiff would seek a $5,000 Service Award. Exs. B, C. This Motion

is consistent with that disclosure, and it will be posted on the Settlement Website at least 14 days before the Objection/Exclusion Deadline. §§ 1.24, 4.1(d).

As of October 20, 2026, notice has been sent to 88,693 Settlement Class Members, 5,521 Claim Forms have been submitted, and zero Settlement Class Members have objected to the Settlement or to the requested fee. Fraietta Decl. ¶¶ 19-20. And, only one class member has requested to be excluded. *Id.* ¶ 19. Plaintiff will update the Court on the Settlement Class's reaction in her motion for final approval, after the Objection/Exclusion Deadline has passed.

III. CLASS COUNSEL'S REQUEST FOR REIMBURSEMENT OF COSTS AND EXPENSES IS REASONABLE

It is axiomatic that counsel should be reimbursed for all expenses that are reasonable and necessarily incurred. Fed. R. Civ. P. 23(h); *Kemp-Delisser v. Saint Francis Hosp. & Med. Ctr*, 2016 WL 6542707, at *18 (D. Conn. Nov. 3, 2016) *Mills v. Elec. Auto-Lite Co.*, 396 U.S. 375, 392 (1970) (recognizing the right to reimbursement of expenses where a common fund has been produced or preserved for the benefit of a class); *In re Vitamin C Antitrust Litig*., No. 06-MD-1738 (BMC) (JO), 2012 WL 5289514, at *11 (E.D.N.Y. Oct. 23, 2012) ("Courts in the Second Circuit normally grant expense requests in common fund cases as a matter of course."); *Fleisher*, 2015 WL 10847814, at *23 (noting as typical expenses in complex cases "fees paid to experts, mediation fees, notice costs, computerized research, document production and storage, court fees, reporting services, and travel in connection with th[e] litigation").

Class Counsel incurred $1,480.23 in unreimbursed costs and expenses in prosecuting this Action, consisting of filing fees, pro hac vice fees, service of process, legal research, and travel. Fraietta Fee Decl. ¶ 33 & Ex. 3. Class Counsel advanced these expenses with no assurance of repayment. *Id.* These costs are included within—not in addition to—the requested one-third of the Settlement Fund, so reimbursing them does not increase the total amount sought. § 8.1. These

expenses have also been reviewed by Class Counsel and were found to be reasonable. In sum, there is "no reason to depart from the common practice in this circuit of granting expense requests." *In re Visa Check/Mastermoney Antitrust Litig.*, 297 F. Supp. 2d 503, 525 (E.D.N.Y. 2003), *aff'd sub nom.*, *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 121 (2d Cir. 2005).

IV. PLAINTIFF'S REQUEST FOR A $5,000 SERVICE AWARD IS REASONABLE

Class Counsel seeks a $5,000 Service Award for Plaintiff Linders for her active participation in this Litigation. In the Second Circuit, plaintiff 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 plaintiffs." *DeLeon v. Wells Fargo Bank, N.A.*, 2015 WL 2255394, at *7 (S.D.N.Y. May 11, 2015) (citation omitted); *Dornberger v. Metro. Life Ins. Co.*, 203 F.R.D. 118, 124–25 (S.D.N.Y. 2001) (collecting cases approving awards from $2,500 to $85,000). The $5,000 amount sought in this case is typical of the service awards in other class actions. *See Edwards*, 2018 WL 3715273, at *13 (D. Conn. Aug 3, 2018) (approving service awards of $5,000 to each representative plaintiff).

Here, Plaintiff stepped forward to represent tens of thousands of consumers whose individual claims were too small to pursue alone. She assisted Class Counsel's pre-suit investigation, provided information about her ticket purchase, reviewed the Complaint, stayed informed throughout the litigation, and reviewed and approved the Agreement, and was prepared to testify, if necessary. Fraietta Decl. ¶¶ 43-44. She also risked being compelled to individual arbitration and assumed the burdens of serving as a named plaintiff in public litigation. The requested award is modest, represents just 3% of the Settlement Fund, and is reasonable.

CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court award: (i) attorneys' fees, costs, and expenses of $166,666.67, or one-third of the Settlement Fund; and (ii) a Service Award of $5,000 to Plaintiff Alexandria Linders.

Dated: October 20, 2026

Respectfully submitted,

By: /s/ James J. Reardon, Jr.
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CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of October, 2026, a copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by email to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filings. Parties may access this filing through the Court's CM/ECF System.

James J. Reardon, Jr.