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REGINA THOMPSON, on behalf of herself
and others similarly situated,

Plaintiff,

vs.

TRAVELERS INDEMNITY COMPANY, ST.
PAUL PROTECTIVE INSURANCE
COMPANY, and ABC Corporation (1-100),

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY

DOCKET NO.: MID-L-002108-23

CIVIL ACTION

**PLAINTIFF'S MOTION FOR ATTORNEY'S FEES AND COSTS AND CLASS
REPRESENTATIVE AWARDS**

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Summary of Relief Sought

Class Counsel seeks Court approval of a combined award of attorney's fees in the amount of \$265,804.06 and costs in the amount of \$9,195.94 for a total of \$275,000 and approval of incentive awards of \$2,500 each for class representatives Regina Thompson, Courtney Thorson and Michael J. Lucci, Jr. as set forth in the proposed Settlement Agreement.

Introduction to Fee Petition

Class Counsel have worked diligently for nearly three years, and have collectively spent 415.6 hours prosecuting the claims in this matter. Through their efforts, Class Counsel have now obtained a highly favorable settlement for the class, which will result in class members automatically recovering \$70 and potentially recovering 80% of their out of pocket loss in a case where liability is still hotly disputed. In obtaining this extraordinary result, Class Counsel provided a high level of service and expended significant attorneys' hours and costs prosecuting, litigating, and negotiating a class settlement.

In negotiating the proposed class settlement, Class Counsel followed the preferred practice spelled out in the Manual for Complex Litigation and refused to discuss or negotiate any attorneys' fee award until after agreement had already been reached on the substantive relief for the class. As related in the Manual for Complex Litigation, this method avoids any appearance that counsel might be trading lesser relief for the class in exchange for a higher fee and keeps the focus where it ought to be: the benefit to the class. Once agreement was reached as to the substantive relief for the class, Class Counsel then proceeded to negotiate and reach agreement with Defendants on a proposed fee award and representative incentive awards, subject to Court approval. Furthermore, since the fees negotiated are separate and apart from the amount to be paid to the class, the amount of fees and incentive awards have no effect on the amount recovered by the Class.

Information about the proposed fee request and incentive awards was contained in the class notice which was approved by the Court on December 15, 2025 and distributed to the class. The deadline for objections to the proposed settlement has now passed and no class member has objected to any aspect of the proposed settlement, including the proposed award of attorneys' fees. As reflected in the case law cited herein, the lack of any objections to the fee request is strong evidence that the fees requested are reasonable.

For the following reasons, it is submitted that the requested award of attorneys' fees and costs of \$275,000 and the representative incentive awards of \$2,500 each to Regina Thompson, Courtney Thorson and Michael J. Lucci, Jr. are reasonable and should be approved.

I. THE WORK UNDERTAKEN BY COUNSEL

The initial complaint in this matter was filed before this Court on April 13, 2023. Defendants removed the case to the District of New Jersey, alleging diversity jurisdiction under the Class Action Fairness Act ("CAFA") on May 14, 2023. On June 13, 2023, Plaintiffs filed a motion to remand the matter to State Court, contending that Defendants had failed to satisfy their burden of proof in establishing that CAFA jurisdiction existed – namely that the class size exceeded 100 individuals or that the amount in controversy exceeded \$5,000,000. On January 30, 2024, the Hon. Zahid N. Quraishi, U.S.D.J. entered an opinion remanding this matter to State Court.

Two weeks after the complaint was filed in this matter, on April 27, 2023, a substantially similar matter, captioned Courtney Thorson and Michael J. Lucci Jr. v. the Travelers Companies, Inc. and St. Paul Protective Ins. Co., was filed in the United States District Court for the District of New Jersey and assigned docket number 1:23-cv-02332. On June 23, 2023, Defendants filed a pre-motion letter alerting the Court in Thorson that the complaint was substantially similar to this

earlier filed action. Plaintiffs in Thorson agreed to stay that matter pending the resolution of the Thompson motion to remand. Once the motion to remand was granted in Thompson, the Plaintiffs in both cases reached an agreement to work cooperatively instead of engaging in time consuming battles over consolidation and/or leadership of the cases, and the Thorson complaint was voluntarily dismissed. Thereafter the parties engaged in informal discovery including an exchange of preliminary data regarding the potential class and underwent a full day mediation with Retired Judge Peter M. Doyne, A.J.S.C., which was unsuccessful in resolving the case. Thereafter Plaintiffs' counsel moved to reinstate the matter to active status, and the parties exchanged formal written discovery. The parties thereafter reengaged in settlement discussions, exchanging additional information informally in an effort to resolve the matter. The time-consuming nature of those discussions required an extension of discovery, and ultimately the parties successfully resolved the matter, first by reaching an agreement on the relief to the Class, and only after that agreement was reached did the parties discuss and ultimately reach an agreement with regard to fees and costs which are separate and apart from the relief to the Class.

II. NO CLASS MEMBER HAS OBJECTED TO THE PROPOSED AWARD OF ATTORNEYS' FEES AND COSTS OR THE PROPOSED REPRESENTATIVE INCENTIVE AWARDS.

Significantly, despite the mailing of Class Notices to the Settlement Class which contained information about the proposed request for attorneys' fees and costs as well as the representative incentive awards, not a single member of the Class has objected to any part of the Settlement, including the fee request. The lack of any objections by class members to a requested award of attorneys' fees and costs is a factor that weighs heavily in favor of approving the proposed award. See Bredbenner v. Liberty Travel, Inc., 2011 U.S. Dist. LEXIS 39663, *56 (D.N.J. 2011) (“**The absence of any objection weighs in favor of the fee request.**”); Chemi v. Champion Mortg.,

2009 U.S. Dist. LEXIS 44860, *31 (D.N.J. 2009) (“**This absence of objections weighs in favor of Plaintiffs’ request.**”); In re Remeron Direct Purchaser Antitrust Litig., 2005 U.S. Dist. LEXIS 27013, *16 (D.N.J. 2005) (“**The lack of objections from the Class supports the reasonableness of the fee request.**”); Meijer, Inc. v. 3M, 2006 U.S. Dist. LEXIS 56744, *68 (E.D. Pa. Aug. 14, 2006) (“**The Court finds that this total absence of objections to the requested fees weighs in favor of approval.**”); In re Linerboard Antitrust Litig., 2004 U.S. Dist. LEXIS 10532, *18 (E.D. Pa. June 2, 2004) (“**The absence of objections supports approval of the Fee Petition.**”); In re Rent-Way Sec. Litig., 305 F. Supp. 2d 491, 514 (W.D. Pa. 2003) (“**The absence of substantial objections by other class members to the fee application supports the reasonableness of Lead Counsel’s request**”); Elkins v. Equitable Life Ins. Co., 1998 U.S. Dist. LEXIS 1557, *105 (M.D. Fla. Jan. 27, 1998) (“**The lack of objections is itself important evidence that the requested fees are fair.**”).

As indicated by the above-referenced cases, the fact that no class member has objected to the proposed fee award or the representative incentive awards strongly weighs in favor of approval of this request.

III. THE PROPOSED AWARD OF ATTORNEYS’ FEES AND COSTS WAS NEGOTIATED AT ARM’S LENGTH, ONLY AFTER SUBSTANTIVE RELIEF FOR THE CLASS HAD ALREADY BEEN AGREED UPON, AND WILL NOT REDUCE THE RECOVERY OF ANY CLASS MEMBER.

As noted previously, pursuant to their usual practice, Class Counsel did not negotiate the issue of attorneys’ fees until **after** agreement had already been reached by the parties on the substantive relief for the class. This practice guarantees that the interests of the class are placed first – as they should be – and that the issue of attorneys’ fees is a secondary consideration. See Munoz v. Ariz. State Univ., 80 F.R.D. 670, 671-72 (D. Ariz. 1978) (“**Attorneys fees are subsidiary to the issue of settlement and should be considered subsequent to reaching a**

tentative settlement by the parties.”). See also Manual for Complex Litigation Fourth § 21.7 (2004) (recommending against simultaneous negotiation of class relief and attorney fees so as to avoid any appearance of impropriety).

Only after agreement was reached on the substantive relief for the class did the parties conduct separate, arms-length bargaining regarding the payment of attorneys’ fees and costs. The Settlement Agreement provides that Class Counsel shall petition the Court for an award of attorneys’ fees and costs not to exceed \$275,000, an amount which Defendants have agreed to pay separately so as to not reduce the relief for the class. (Settlement Agreement ¶84). These facts underscore the reasonableness of Counsel’s request for fees and costs.

IV. THE REQUESTED FEE IS REASONABLE UNDER THE LODESTAR METHOD

The case at bar raises fee-shifting claims. In such a case, the preferred method employed in New Jersey state court for calculating an award of counsel fees is the lodestar method as set forth in Rendine v. Pantzer, 141 N.J. 292 (1995) and its progeny. In Rendine, the New Jersey Supreme Court set forth a modified version of the federal lodestar method by which attorneys’ fees are to be calculated and awarded in a New Jersey state court case.

The first step in the Rendine process is to calculate the raw, unadjusted attorney lodestar.

See Rendine, 141 N.J. at 334-35:

Under the LAD and other fee-shifting statutes, the first step in the fee-shifting process is to determine the ‘lodestar’: the number of hours reasonably expended multiplied by a reasonable hourly rate.

See also Incollingo v. Canuso, 297 N.J. Super. 57, 63 (App. Div. 1997):

To determine appellants’ counsel fees, the judge should have applied the procedure articulated by the Supreme Court in Rendine v. Pantzer, 141 N.J. 292, 661 A.2d 1202 (1995). In a case with a fee-shifting statute, a trial court’s first step is to determine the lodestar. (emphasis added)

In calculating the raw lodestar under *Rendine*, the court uses the same basic formula used in federal court. The court begins by determining the number of hours reasonably spent by counsel on the litigation. *Rendine*, 141 N.J. at 334-335. Next, the court multiplies the number of hours by counsel's normal hourly billing rate. *Id.* at 337.

The final step in the *Rendine* method departs from the method applied in federal court in that a New Jersey state court calculating the lodestar must then calculate a "risk" or "contingency" enhancement which, as a matter of New Jersey law, must be added to any lodestar award under a New Jersey fee-shifting statute where the fee was in any way contingent. In the words of the New Jersey Supreme Court in *Rendine*, 141 N.J. at 338: "**Both as a matter of economic reality and simple fairness, we have concluded that a counsel fee awarded under a fee-shifting statute cannot be 'reasonable' unless the lodestar, calculated as if the attorneys' compensation were guaranteed irrespective of result, is adjusted to reflect the actual risk that the attorney will not receive payment if the suit does not succeed.** (emphasis added). Thus, under the New Jersey Supreme Court's ruling in *Rendine*, the court must make an upward adjustment of the raw lodestar "**to reflect the actual risk that the attorney will not receive payment if the suit does not succeed.**" *Rendine*, 141 N.J. at 338. In a case like this one, where class counsel's payment was entirely contingent on success, *Rendine* **requires** that the raw lodestar be increased to reflect the risk of non-payment or the fee is unreasonable as a matter of New Jersey law. The "typical" enhancement added under *Rendine* is between 20 and 35 percent of the raw lodestar. *Id.* at 343.

As of today, class counsel has expended 375.2 attorney hours and 40.4 paralegal/analyst hours in this matter. See Accompanying Certification of James Barry at ¶¶14 & 15. See also Chart A, below. If those hours were billed at class counsel's usual hourly rates – rates which have been approved as fair and reasonable by dozens of New Jersey state and federal courts – class counsel's

raw, unadjusted lodestar would be \$289,312.50 – an amount that is higher than the \$265,804.06 in fees sought here. This negative multiplier renders counsel’s requested fee eminently reasonable as counsel is not even seeking application of Rendine’s mandatory positive enhancement of the raw lodestar in claims when prosecuting the action on a wholly contingent basis with the risk of no recovery and no fees such as the one before the Court here.

For the convenience of the Court, the information about class counsel’s raw, unadjusted lodestar is summarized in Chart A below.

Chart A¹

FIRM/TIMEKEEPER	TITLE	RATE²	HOURS	LODESTAR
DENITTIS OSEFCHEN PRINCE				
STEPHEN DENITTIS	Partner	\$725	14.3	\$10,367.50
JOSEPH OSEFCHEN	Partner	\$650	22.6	\$14,690.00
JAMES BARRY	Partner	\$625	187.4	\$117,125.00
MILLER SHAH LLP				
James Shah	Attorney	\$1250	49.8	\$62,250.00
John Roberts	Attorney	\$650	26.6	\$17,290.00
Mark Xiao	Attorney	\$600	12	\$7,200.00
Rory Confino-Pinzon	Project Analyst	\$250	18.7	\$4,675.00
Sue Moss	Paralegal	\$350	10.2	\$3,570.00
Betsy Ferling	Paralegal	\$275	1.6	\$440.00
JAVERBAUM WURGAFT HICKS KAHN WIKSTROM & SININS				
MICHAEL GALPERN	Partner	\$850	54.2	\$46,070.00
ALEX FAJARDO	Associate	\$500	8.3	\$4,150.00
MICHELLE CLARK	Paralegal	\$150	9.9	\$1,485.00
TOTALS:			415.6	\$289,312.50

¹ Counsel submits these charts as the total amounts billed for each firm, as reflected in the attached certifications. Should the Court require more detailed time records, counsel will submit same.

² “To take into account delay in payment, the hourly rate at which compensation is to be awarded should be based on current hourly rates rather than those in effect when the services were performed.” Rendine v. Pantzer, 141 N.J. 292, 337 (1995).

As reflected in the certifications attached to this motion, the rates in Chart A reflect counsel's regular billing rates, charged in similar litigation handled by counsel.

Furthermore, when examining fee applications, federal courts in our district often look to the blended rates of counsel and staff billing on a matter, calculated by dividing the total lodestar by the total number of hours billed. Here, the blended rate of \$696.13 (\$289,312.50 requested fee/415.6 billed hours) is well under the rates recently approved in class actions in New Jersey. See e.g. Flynn-Murphy v. Jaguar Land Rover N. Am., LLC, 2025 U.S. Dist. LEXIS 268157 (D.N.J. December 31, 2025)(approving fees based on an \$811 blended rate in a contested fee motion prior to the application of a multiplier); Cohen v. Subaru of Am., Inc. No. 1:20-cv-8442; 244, 260 (D.N.J. Dec. 10, 2024)(approving hourly rates of up to \$1,395 prior to the application of a multiplier); In re Mercedes-Benz Tele Aid Contract Litig., 2011 U.S. Dist. LEXIS 101995 *18-19 (D.N.J. Sept. 9, 2011)(Approving hourly rates up to \$855 prior to the application of a multiplier in 2011); In re Merck & Co. Vytorin ERISA Litig., 2010 U.S. Dist. LEXIS 12344, *42-47 (D.N.J. Feb. 9, 2010)(approving hourly rates up to \$835 prior to the application of a multiplier in 2010).

Furthermore, counsel has expended the costs outlined in Chart B below:

Chart B

DESCRIPTION	AMOUNT
Thompson v. Travelers –filing fees	\$435.00
Thompson v. Travelers – service	\$226.93
Thorson v. Travelers –filing fees	\$402.00
Thorson v. Travelers – Service	\$419.00
Mediation Fees	\$9175.40
Thompson v. Travelers – Child Support Search	\$10.00
Computer research/access	\$10.54
TOTAL	\$9,195.94

These costs are reasonable, and were necessary for the successful prosecution of this matter, an should consequently be approved by this Court as reasonable.

As the foregoing demonstrates, there is no danger that Class Counsel will reap an undeserved windfall in this case. Indeed, Class Counsel has actually agreed to reduce their request for fees and costs to a level which is below their raw, unadjusted lodestar, even without the mandatory upward adjustment required by Rendine. As such, it is submitted the requested award of fees and costs is more than reasonable.

V. THE REPRESENTATIVE INCENTIVE AWARDS SHOULD BE APPROVED

The proposed incentive awards of \$2,500 each to Regina Thompson, Courtney Thorson and Michael J. Lucci, Jr. who brought the initial claims in this matter as class representatives are reasonable and should be approved by the Court. Information about the proposed incentive awards was included in the notice provided to Class Members and no objection has been raised to the proposed awards.

The importance of incentive awards to class representatives has been increasingly recognized by various courts in recent years, including the New Jersey Appellate Division. See Machulsky v. Lilliston Ford, Inc., 2008 N.J. Super. Unpub. LEXIS 2603, *6-12 (App. Div. July 21, 2008)(approving award of \$2,500 incentive award for a class representative in a class settlement and noting **“Incentive awards to class representatives in class actions are a recognized element of agreements to resolve class actions.”**(at *6)); See also Fry v. Hayt, Hayt & Landau, 198 F.R.D. 461, 473 (E.D.Pa. 2000)(awarding the named plaintiff an incentive award); Hanrahan v. Britt, 174 F.R.D. 356, 369 (E.D.Pa. 1997); Lake v. First Nationwide Bank, 900 F. Supp. 726 736 (E.D. Pa. 1995)(awarding an **“allowance for the time that Lakes spent prosecuting this matter.”**); In re Chambers Dev. Secs. Litig., 912 F. Supp. 852, 863 (W.D. Pa.

1995)(awarding \$2,500 incentive award because **“it has been this Court’s practice to approve such incentive awards if they are reasonable.”**); In re SmithKline Beckman Corp. Secs. Litig., 751 F. Supp. 525, 535 (E.D.Pa. 1990)(approving \$5,000 incentive awards who **“have rendered a public service by contributing to the vitality of the federal Securities Acts.”**); Enter. Energy Corp. v. Columbia Gas Transmission Corp., 137 F.R.D. 240, 250 (S.D. Ohio 1991)(awarding incentive to representatives whose **“actions resulted in a substantial benefit to Class Members.”**).

The purpose of such awards is to recognize that the named plaintiff has undertaken an extra burden beyond those of ordinary class members, in an order to help recover a benefit for the entire class. See Huguley v. General Motors Corp., 128 F.R.D. 81, 85 (E.D. Mich. 1989), aff’d 925 F.2d 1464 (6th Cir. 1989):

[N]amed plaintiffs and witnesses are entitled to more consideration than class members generally because of the onerous burden of litigation they have borne.

In the present case, Defendants have agreed, subject to court approval to pay an incentive award of \$2,500 each to the three named Plaintiffs who originally brought suit: Regina Thompson, Courtney Thorson and Michael J. Lucci, Jr. The requested incentive awards are identical to the incentive award approved by the Appellate Division in Machulsky, and are well below incentive awards recently approved by New Jersey courts in similar class actions involving class counsel herein,³ and class counsel respectfully requests that the proposed incentive awards be approved here. The representatives shouldered burdens far beyond those borne by other class members and

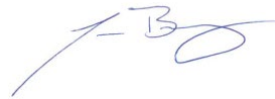
³ See e.g., Grillo v. RCN Telecom Servs., LLC, et al., Docket No. MER-L-1319-22 (Walcott-Henderson, P.J.Ch.)(approving \$15,000.00 incentive award to each named plaintiff); Reid v. RCN Telecom Servs., LLC, et al., Docket No. MER-L-315-22 (Approving \$15,000 incentive award to named plaintiff); Esposito v. Cellco Partnership d/b/a Verizon Wireless, Docket No. MID-L-6360-23 (Approving \$3,500 incentive award to each of 129 named Plaintiffs).

were instrumental in obtaining the relief obtained in the class settlement. The representatives were willing to step forward and risk possible adverse publicity and other potential negative repercussions by filing a class action lawsuit to stop Defendant's practices and obtain relief on behalf of the class. The burdens borne by the representatives included bringing the case to class counsel, spending a significant amount of time and effort to investigate this matter, being interviewed by counsel and helping to gather information and documents used to prepare the class complaint, discovery requests, and settlement papers. The requested incentive awards would help compensate the representatives for such time and effort, as well as to recognize that the representatives helped to obtain a tangible benefit for their fellow class members that simply would not exist without the representatives' efforts.

Conclusion

For the foregoing reasons, this unopposed petition for a total award of attorneys' fees and costs of \$275,000 to Class Counsel and representative incentive awards of \$2,500 each to Regina Thompson, Courtney Thorson and Michael J. Lucci, Jr. should be approved as fair and reasonable.

DENITTIS OSEFCHEN PRINCE, P.C.



Dated: April 2, 2026

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