IN THE CIRCUIT COURT OF DUPAGE COUNTY, ILLINOIS
COUNTY DEPARTMENT, CIVIL DIVISION

CARLA PLOWMAN, KAREN EVANS, REID COOPER, MICHAEL NAESSENS, AND DOUG SPINDLER, individually, on behalf of themselves and all others similarly situated, Plaintiffs, v. **SEAMLESS CONTACTS, INC.** Defendant.	Case No. 2025CH000163

PLAINTIFFS' UNOPPOSED MOTION FOR
ATTORNEYS' FEES, LITIGATION EXPENSES, AND SERVICE AWARDS

TABLE OF CONTENTS

I. FACTUAL BACKGROUND 4

II. SUMMARY OF SETTLEMENT TERMS 6

III. LEGAL STANDARD 7

IV. ARGUMENT 8

a. The Requested Attorneys' Fees are Reasonable and Should be Approved 8

i. The Court Should Apply the Percentage-of-Recovery Approach to Determine a Reasonable Attorney's Fee 8

ii. 35% of the Settlement Fund Is a Reasonable Fee and Cost Award 11

iii. Class Counsel's Litigation Expenses are Reasonable 16

iv. The Requested Service Awards are Reasonable and Appropriate 16

V. CONCLUSION 18

TABLE OF AUTHORITIES

Cases

Alvarado v. Nederend,
No. 1:08-cv-01099, 2011 WL 1883188 (E.D. Cal. May 17, 2011) 20

Ballard RN Ctr., Inc. v. Kohll's Pharmacy & Homecare, Inc.,
2015 IL 118644 13

Boeing Co. v. Van Gemert,
444 U.S. 472 (1980) 12

Brundidge v. Glendale Federal Bank, F.S.B.,
168 Ill. 2d 235, 659 N.E.2d 909 (1995) 12, 13

Crawford Lumber Co. v. Interline Brands, Inc.,
No. 11-CV-4462, 2015 WL 1399367 (N.D. Ill. Mar. 23, 2015) 21

Debose v. Dun & Bradstreet Holdings, Inc.,
Civil Action No. 22-0209 (ES) (JRA), 2025 U.S. Dist. LEXIS 41346 (D.N.J. Mar. 7, 2025) 16

Donahue v. Everi Holdings, Inc.,
No. 2018-CH-15419 (Cir. Ct. Cook Cnty. Dec. 3, 2020) 20

Fauley v. Metro. Life Ins. Co.,
2016 IL App (2d) 150236 ..... 20, 21

Florin v. Nationsbank of Ga., NA,
34 F.3d 560 (7th Cir. 1994) 13

GMAC Mortg. Corp. of Pa. v. Stapleton,
236 Ill. App. 3d 486 (1st Dist. 1992) 21

In re Capital One Tel. Consumer Prot. Act Litig.,
80 F. Supp. 3d 781 (N.D. Ill. 2015) 14

In re Marsh ERISA Litig.,
265 F.R.D. 128 (S.D.N.Y. 2010) 18

In re MetLife Demutalization Litig.,
689 F. Supp. 2d 297 (E.D.N.Y. 2010) 18

In re Omnivision Techs.,
559 F. Supp. 2d 1036 (C.D. Cal. 2008) 18

Karpilovksy v. All Web Leads, Inc.,
No. 2017-cv-01307 (N.D. Ill. Aug. 8, 2019) 20

Kirchoff v. Flynn,
786 F.2d 320 (7th Cir. 1986) 17

Lhota, et al. v. Michigan Ave. Immediate Care, S.C.,
Case No. 2022-CH-06616, Cir. Ct. Cook Cty. 15

Martin v. Safeway, Inc.,
20-CH-5480 (Cir. Ct. Cook Cnty. 2022) 19

McCormick v. Adtalem Global Education, Inc.,
2022 IL 201197 ..... 12, 13, 14, 19

McNicholas, et al., v. Illinois Gastroenterology Group, P.L.L.C.,
Case No. 22-LA-173, Cir. Ct. Lake Cty. 15

McNiff v. Mazda Motor of Am., Inc.,
384 Ill. App. 3d 401 (4th Dist. 2008) 15

Prelipceanu v. Jumio Corp.,
No. 2018-CH-15833 (Cir. Ct. Cook Cty. Jul. 21, 2022) 19, 21

Richardson v. Haddon,
375 Ill. App. 3d 312 (1st Dist. 2007) 15

Richardson v. Ikea North America Servs.,
No. 21-CH-5392 (Cir. Ct. Cook Cnty. 2023) 19

Ryan v. City of Chicago,
274 Ill. App. 3d 913, 654 N.E.2d 483 (1995) 13, 15, 21

Saltiel v. Olsen,
85 Ill.2d 489, 55 Ill. Dec. 830, 426 N.E.2d 1204 (1981) 11

Silverman v. Motorola Sols., Inc.,
739 F.3d 956 (7th Cir. 2013) 14, 17

Spano v. Boeing Co.,
No. 06-cv-743, 2016 WL 3791123 (S.D. Ill. Mar. 31, 2016) 21

Wendling v. S. Ill. Hosp. Servs.,
242 Ill. 2d 261 (2011) 11

Wilson v. Ancestry.com LLC,
No. 2:22-cv-861, 2024 U.S. Dist. LEXIS 153624 (S.D. Ohio Aug. 27, 2024) 16

Wright v. Nationstar Mortgage LLC,
No. 14 C 10457, 2016 WL 4505169 (N.D. Ill. Aug. 29, 2016) 14

Other Authorities

Court Awarded Attorney Fees, Report of the Third Circuit Task Force, 108 F.R.D. 237 (1985) 13

Herbert Newberg & Alba Conte, *Newberg on Class Actions* (William B. Rubenstein ed., 5th ed.) 20

Theodore Eisenberg & Geoffrey P. Miller, *Incentive Awards to Class Action Plaintiffs: An Empirical Study*, 53 UCLA L. REV. 1303 (2006) 22

Plaintiffs Carla Plowman, Karen Evans, Reid Cooper, Michael Naessens, and Doug Spindler (collectively, "Plaintiffs"), through their undersigned counsel, respectfully move the Court for entry of the Final Approval Order, after the April 6, 2026, Final Approval Hearing, approving: (1) Class Counsel's requested attorneys' fees and unreimbursed litigation costs of $369,382.65, which is 35 percent (35%) of the $1,125,000.00 State-Specific Settlement Funds after Settlement Administration Expenses and Service Awards are deducted; and (2) $15,000 total in Service Awards to the five (5) Class Representatives.

INTRODUCTION[1]

A) A brief description of the occurrence giving rise to the cause of action, including the basis for jurisdiction and venue: Seamless Contacts, Inc. (the "Defendant") owns and operates a real-time search engine that helps business-to-business (B2B) companies find accurate sales leads by providing business contact information. Plaintiffs filed a lawsuit asserting that Defendant used Plaintiffs' and the putative Class members' identifying information (such as their names, contact information, job titles, places of work, and business addresses) without their consent to advertise subscriptions to Defendant's real-time search engine, in violation of right of publicity laws. Defendant denied any wrongdoing and denied liability. This Court has subject matter jurisdiction pursuant to Ill. Const. art. VI, § 9. Class Action Complaint for Violations of the Right of Publicity and Misappropriation of Name and Likeness ("Complaint"), ¶24. This Court has personal jurisdiction over Seamless because a significant portion of the events giving rise to this lawsuit occurred in this state. *Id.,* ¶25. Venue is proper in this Court under 735 ILCS § 5/2-101(2)

[1] As required by Local Rule 6.11(b) Approval of Class Actions. Because this is only the Motion for Class Representative Award, Attorney's Fees, Etc., and the Motion for Final Approval of the Class Action is forthcoming, some of these points are duplicative and/or unknown at this time, but will be updated and confirmed in the Final Approval Motion.

because some part of the transactions out of which the cause of action arose occurred in DuPage County. Specifically, Plaintiff Plowman's injuries arising out of Defendant's conduct occurred in, and were felt in, DuPage County because she resides in this County. *Id.,* ¶26.

B) The actual class size: Pursuant to the Settlement Agreement, Seamless provided the Settlement Administrator with the Settlement Class List. S.A. ¶4.1. This List contained 47,214 individuals. Declaration of Brittany Resch in Support of Plaintiffs' Motion for Attorneys' Fees, Litigation Expenses, and Service Awards ("Resch Decl."), ¶ 25.

C) Whether the settlement is a claims-made or an opt-out settlement for the Class: This is a non-reversionary common fund settlement from which Settlement Class Members can make claims for benefits. Settlement Class Members also have the opportunity to opt out.

D) The total settlement fund along with an cy pres recipient or reversion of the fund: The Settlement Agreement creates a $1,125,000.00 non-reversionary Settlement Fund. SA ¶¶ 1.5, 1.2, 1.23, 1.26, 1.29, 1.33. If there is any amount remaining in the Settlement Fund at the conclusion of the claims process, the parties shall move for distribution of those funds to a cy pres recipient, to be approved by the Court. The claims process is not yet concluded and Plaintiffs will update this information in their forthcoming Motion for Final Approval.

E) The amount of claims submitted by the class if it is a claims-made settlement along with the percentage of claims submitted compared to the entire class: the Claims Deadline (March 9, 2026) has not yet passed, but Plaintiffs will provide this information in their forthcoming Motion for Final Approval. As of this filing, there are 109 claims submitted and a reminder notice is set to be mailed on February 6, 2026.

F) The number of objections and/or exclusions: the Objection and Opt-Out Deadlines (February 7, 2026) have not yet passed, but Plaintiffs will provide this information in their forthcoming Motion for Final Approval. As of this filing, there are none.

G) The amount each class member will receive: At this time, it is difficult to reasonably estimate the *pro rata* share as it will depend on the total number of claims submitted. The Claims Deadline (March 9, 2026) has not yet passed, but Plaintiffs will provide this information in their forthcoming Motion for Final Approval.

H) Any injunctive relief and brief analysis as to value or benefit of said injunctive relief to the class or potential future class members: Seamless will be required to ensure that the opt-out procedure on its website is effective and long-lasting by: (i) displaying the opt-out procedure more prominently on the Seamless website; (ii) making the opt-out procedure more user-friendly (e.g., no requirement to create an account to opt out); and (iii) ensuring opt-out requests are honored indefinitely. *See* SA, § 2.2.

I) Any specific details as to value of any coupons or vouchers: Proposed Settlement Class Counsel has secured a $1,125,000.00 non-reversionary Settlement Fund which does not include any coupons or vouchers.

J) Confirmation that notice was disseminated as required in the Preliminary Approval Order: Notice is presently being disseminated as required in the Preliminary Approval Order, with a reminder notice set to be mailed on February 6, 2026. Plaintiffs will confirm this information in their forthcoming Motion for Final Approval.

K) The success rate of the notice administration: Notice is presently being disseminated as required in the Preliminary Approval Order, with a reminder notice set to be

mailed on February 6, 2026. Plaintiffs will confirm this information in their forthcoming Motion for Final Approval.

L) The actual cost for the settlement administrator: The notice and claims process and settlement administration is ongoing but the Settlement Administrator estimates their Fee to be $54,621.00. Resch Decl. ¶ 17.

M) The proposed class representative award and proposed fee request: Class Counsel request (1) attorneys' fees of $369,382.65, which is 35 percent (35%) of the State-Specific Settlement Funds, and includes reimbursement for litigation costs of $95,355; and (2) $15,000 total in Service Awards to the Class Representatives in the specific amounts of $5,000 for Doug Spindler, the California Settlement Class Representative; $2,500 for Carla Plowman, the Illinois Settlement Class Representative; $2,500 for Karen Evans, the Ohio Settlement Class Representative; $2,500 for Reid Cooper, the Indiana Settlement Class Representative; and $2,500 for Michael Naessens, the Nevada Settlement Class Representative.

MEMORANDUM IN SUPPORT

I. FACTUAL BACKGROUND

Seamless Contacts, Inc. (the "Defendant") owns and operates a real-time search engine that helps business-to-business (B2B) companies find accurate sales leads that provides business contact information for individuals. Plaintiffs filed a lawsuit asserting that Defendant used Plaintiffs' and the putative Class members' identifying information (such as their names, contact information, job titles, places of work, and business addresses) without their consent to advertise subscriptions to Defendant's platform, in violation of right of publicity laws. Defendant denied any wrongdoing and denied liability. This court has subject matter jurisdiction pursuant to Ill. Const. art. VI, § 9. Dkt. 1 ("Complaint"), ¶ 24. This Court has personal jurisdiction over Seamless

because a significant portion of the events giving rise to this lawsuit occurred in this state. *Id.* ¶ 25. Venue is proper in this Court under 735 ILCS § 5/2-101(2) because some part of the transactions out of which the cause of action arose occurred in DuPage County. Specifically, Plaintiff Plowman's injuries arising out of Defendant's conduct occurred in, and were felt in, DuPage County because she resides in this County. *Id.* ¶ 26.

The litigation history is detailed in Plaintiffs' Motion for Preliminary Approval, filed on September 30, 2025, and is incorporated herein. This case began with parallel suits against Seamless in: (1) the U.S. District Court for the Northern District of California and (2) the U.S. District Court for the Northern District of Illinois. *Id*. ¶ 10. In the Illinois action, the parties engaged in extensive discovery. Declaration of Raina Borrelli in Support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement ("Borrelli Decl."), ¶ 4. Thereafter, the plaintiff filed a motion for class certification and Seamless filed a motion for summary judgment, both of which the parties fully briefed. *Id*. The Court granted Seamless's motion for summary judgment in its entirety based on facts specific to the plaintiff's individual claims and denied as moot the motion for class certification without making a substantive ruling on the merits of class certification. *Id*. Thereafter, the plaintiff's claims were individually resolved and her complaint against Seamless was dismissed without prejudice as to the class claims, which were subsequently refiled in this action on behalf of the Illinois Settlement Class. *Id*.

Plaintiff Doug Spindler filed suit against Defendant in a parallel putative class action case in the United States District Court for the Northern District of California alleging violations of the California Right of Publicity Act, Cal. Civ. Code § 3344, California common law prohibiting misappropriation of a name or likeness, and California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 et seq. *Id*. ¶ 5. Specifically, the complaint alleged that Seamless's use of

Plaintiff Spindler's and other consumers' identities to encourage individuals to purchase subscriptions to Seamless's real-time search engine violated Section 3344. *Id*. Seamless sought to dismiss Plaintiff Spindler's case on various grounds, including Article III standing. *Id*. That Rule 12 motion was denied, and the Parties engaged in extensive discovery. *Id*.

This Settlement came about as a result of protracted arm's length negotiations, including a full-day mediation on May 15, 2024, with Jill Sperber of Judicate West. *Id*. The mediation was unsuccessful, and the parties returned to litigating the case. *Id*.

After further litigation, the parties agreed to mediate a second time, attending an all-day mediation with Jill Sperber of Judicate West on October 2, 2024. *Id*. Through their arms' length negotiations, and with the assistance of Ms. Sperber, the Parties reached an agreement that creates a $1,125,000.00 non-reversionary Settlement Fund, which will provide significant monetary relief to the Settlement Classes.

The Parties spent the following months finalizing the written settlement agreement detailing terms of the multi-state Settlement now before this court. Resch Decl. ¶ 17. Plaintiffs' counsel prepared and filed a motion for preliminary approval of the Parties' Settlement on September 30, 2025. *Id.* The Court granted the preliminary approval motion on November 18, 2025. *Id.* Since preliminary approval was granted, Plaintiffs' counsel has worked to execute the Court-approval Class notice program and administer the Settlement and claims process. *Id.* This work will continue through and beyond final approval of the Settlement. *Id.*

II. SUMMARY OF SETTLEMENT TERMS

The terms of the Settlement were detailed in the preliminary approval motion and attached Settlement Agreement. In summary, the Settlement provides for state-specific Settlement Classes for California, Illinois, Indiana, Nevada, and Ohio. *See* Settlement Agreement ("SA"), § 2.1. The

Settlement provides that Defendants will establish non-reversionary State-Specific Settlement Funds for each of the Settlement Classe as follows: California, $770,709.00; Illinois, $218,512.00; Indiana, $91,672.00; Nevada, $2,457.00; and Ohio, $41,650.00. *Id.*, §§ 1.5, 1.20, 1.26, 1.32. Settlement Class Members will be entitled to submit claims to their respective State-Specific Settlement Funds. *Id.*, §2.1. All Settlement Class Members who submit an Approved Claim will be entitled to a *pro rata* portion of their respective State-Specific Settlement Fund after payment of Settlement Administration Expenses, attorneys' fees and costs, and any service awards approved by the Court. *Id*. Additionally, Defendants have agreed not to oppose an application by Settlement Class Counsel for an award of attorneys' fees and costs in an amount up to 35% of the State-Specific Settlement Funds, or $369,382.65. SA, § 8.1. The Settlement Agreement also provides for service awards to the named Plaintiffs from their respective State-Specific Settlement Funds as follows: five thousand dollars ($5,000) to the California Settlement Class Representative; two-thousand five hundred dollars ($2,500) to the Illinois Settlement Class Representative; two-thousand five hundred dollars ($2,500) to the Indiana Settlement Class Representative; two-thousand five hundred dollars ($2,500) to the Ohio Settlement Class Representative; and two-thousand five hundred dollars ($2,500) to the Nevada Settlement Class Representative. *Id.*, § 8.3.

III. LEGAL STANDARD

Illinois has adopted the "common fund doctrine" for the payment of attorneys' fees in class action cases. *Wendling v. S. Ill. Hosp. Servs.*, 242 Ill. 2d 261, 265 (2011); *see also Saltiel v. Olsen*, 85 Ill.2d 489-91, 55 Ill. Dec. 830, 426 N.E.2d 1204 (1981). The common fund doctrine provides that "a litigant or a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorney's fee from the fund as a whole." *Id.* (quotations omitted). The common fund doctrine flows from the court's inherent equitable powers

and prevents successful litigants from being "unjustly enriched if their attorneys were not compensated from the common fund created for the litigants' benefit." *Brundidge v. Glendale Federal Bank, F.S.B.*, 168 Ill. 2d 235, 238, 659 N.E.2d 909, 911 (1995). Therefore, this approach "spreads the costs of litigation proportionately among those who will benefit from the fund." *Id.* (citing *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980)).

In applying the common fund doctrine, a trial court has discretion to use either the percentage-of-recovery or lodestar method when determining a fee award in class action litigation. *McCormick v. Adtalem Global Education, Inc.*, 2022 IL 201197, ¶ 24. The percentage-of-recovery approach bases a reasonable attorneys' fee "upon a percentage of the amount recovered on behalf of the plaintiff class." *Brundidge*, 168 Ill.2d at 238. On the other hand, the lodestar approach determines a fee award by taking the reasonable value of the services rendered (based on the hours devoted to the matter by class counsel) and applying "a weighted multiplier representing the significance of other pertinent considerations," such as the contingent nature of the litigation, its complexity, and the ultimate benefit conferred upon class members. *Id.* at 239-40.

IV. ARGUMENT

a. The Requested Attorneys' Fees are Reasonable and Should be Approved

Class Counsel's substantial efforts in guiding the Settlement Class to a non-reversionary $1,125,000.00 Settlement Fund support the requested attorneys' fees and costs of $369,382.65 (35% of the State-Specific Settlement Funds). As discussed below, Class Counsel's attorneys' fees request is consistent with the market rate for attorney services in contingency fee class action cases and reflects the substantial recovery here.

i. The Court Should Apply the Percentage-of-Recovery Approach to Determine a Reasonable Attorney's Fee

This Court should apply the percentage-of-recovery approach to determine a reasonable attorneys' fee in this case. The percentage-of-recovery approach has been deemed a "fair and expeditious method that reflects the economics of legal practice and equitably compensates counsel for the time, effort, and risks associated with representing the plaintiff class." *Brundidge*, 168 Ill.2d at 244. Conversely, the lodestar method has been widely criticized as:

> [I]ncreas[ing] the workload of an already overtaxed judicial system,…creat[ing] a sense of mathematical precision that is unwarranted in terms of the realities of the practice of law…has led to abuses such as lawyers billing excessive hours…creates a disincentive for the early settlement of cases…does not provide the trial court with enough flexibility to reward or deter lawyers so that desirable objectives will be fostered…[and] is confusing and unpredictable in its administration.

Ryan v. City of Chicago, 274 Ill. App. 3d 913, 923, 654 N.E.2d 483, 490 (1995) (citing *Court Awarded Attorney Fees, Report of the Third Circuit Task Force*, 108 F.R.D. 237, 246-49 (1985)).

The vast majority of courts presiding over class-action settlements in Illinois have adopted the percentage-of-the-fund method to determine the appropriate amount of attorneys' fees to award class counsel. *See*, *e.g*., *McCormick,* 2022 IL 201197 (applying percentage-of-recovery method in a consumer class action); *Willis v. iHeartMedia Inc.*, No. 2016-CH-02455, Aug. 11, 2016 Final Judgment and Order of Dismissal (Cir. Ct. Cook Cnty., Ill.) (granting final approval and awarding class counsel 40% of settlement fund in a class action under the Telephone Consumer Protection Act ("TCPA")). Further, "[i]t is settled that [Illinois courts] may consider federal case law for guidance on class action issues because the Illinois class action statute is patterned on Rule 23 of the Federal Rules of Civil Procedure." *Ballard RN Ctr., Inc. v. Kohll's Pharmacy & Homecare, Inc.*, 2015 IL 118644, ¶ 40. The percentage-of-recovery approach is the preferred method for determining attorneys' fees in consumer class actions in federal courts generally, and the Seventh Circuit in particular. *See, e.g.*, *Florin v. Nationsbank of Ga., NA*, 34 F.3d 560, 566 (7th Cir. 1994)

("[T]here are advantages to utilizing the percentage method in common fund cases because of its relative simplicity of administration.").

Additionally, the percentage-of-recovery method is consistent with the agreement that Class Members and Class Counsel would have struck *ex ante*, making it the preferred calculation method in class actions. *See Silverman v. Motorola Sols., Inc.*, 739 F.3d 956, 957 (7th Cir. 2013) (observing that a fee award should "approximate the market rate that prevails between willing buyers and willing sellers of legal services."). A federal court in the Northern District of Illinois reasoned that:

> [W]hen considering the market rate for counsel's services in an ex ante position, 'the normal practice in consumer class actions' is to 'negotiate[] a fee arrangement based on a percentage of the recovery.' 'This is so because fee arrangements based on the lodestar method require plaintiffs to monitor counsel and ensure that counsel are working efficiently on an hourly basis, something a class of…plaintiffs likely would not be interested in doing.' Similarly, because of the coordination problems with so many plaintiffs, it is unlikely that class members would want to pay attorneys' fees in advance.

Wright v. Nationstar Mortgage LLC, No. 14 C 10457, 2016 WL 4505169, at * 14 (N.D. Ill. Aug. 29, 2016); *see also In re Capital One Tel. Consumer Prot. Act Litig.*, 80 F. Supp. 3d 781, 795 (N.D. Ill. 2015) ("[T]he court believes that the class would have negotiated a fee arrangement based on a percentage of the recovery, consistent with the normal practice in consumer class actions."). The percentage-of-recovery method will most fairly compensate Class Counsel for the significant investment of time and resources expended in obtaining relief for the Settlement Classes, while accounting for the magnitude of the recovery achieved and the substantial risk of non-payment. The percentage-of-recovery approach also accurately reflects the contingent nature of the fees negotiated between Class Counsel and Plaintiffs. *See id.*

Because the percentage-of-recovery method is the favored method for calculating attorneys' fees in Illinois class actions, because this method is the most efficient and expeditious

way to calculate fees, and because it aligns with the fee agreements that regularly govern the provision of similar legal services, this Court should apply the percentage-of-recovery method.[2]

ii. 35% of the Settlement Fund Is a Reasonable Fee and Cost Award

Illinois law provides that "an attorney is entitled to an award from [a common fund] for the reasonable value of his or her services." *Ryan*, 274 Ill. App. 3d at 922 (internal citation omitted). "When assessing the reasonableness of fees, a trial court may consider a variety of factors, including the nature of the case, the case's novelty and difficulty level, the skill and standing of the attorney, the degree of responsibility required, the usual and customary charges for similar work, and the connection between the litigation and the fees charged." *McNiff v. Mazda Motor of Am., Inc.*, 384 Ill. App. 3d 401, 407 (4th Dist. 2008) (quoting *Richardson v. Haddon*, 375 Ill. App. 3d 312, 314-15 (1st Dist. 2007)) (quotations omitted). Here, each of these factors demonstrates that the requested fee is reasonable. *See, e.g.*, *McNicholas, et al., v. Illinois Gastroenterology Group, P.L.L.C.*, Case No. 22-LA-173, Cir. Ct. Lake Cty. (approving 36.4% of the settlement in attorneys' fees); *Lhota, et al. v. Michigan Ave. Immediate Care, S.C.*, Case No. 2022-CH-06616, Cir. Ct. Cook Cty. (approving 35% of the settlement fund in attorneys' fees).

1. Plaintiffs' Claims Carried Substantial Litigation Risk

The Settlement constitutes a significant result in light of the substantial risks concomitant with continued litigation. While Plaintiffs believe in the strength of their claims, ultimate success was not guaranteed. Plaintiffs' chances of prevailing on the merits were uncertain—especially

[2] The Court need not "cross-check" the reasonableness of the fee award as determined by the percentage-of-recovery method against the fee award calculated using the lodestar method. *McCormick*, 2022 IL 201197, ¶ 26 (noting that an argument for a lodestar cross-check of a fee award calculated by the percentage-of-recovery method was "an argument for inefficiency."). Class Counsel spent 1,547.3 hours on this litigation, totaling $1,069,042 in lodestar. Because the fee sought is $369,382.65, this correlates to a negative multiplier. Should the Court request, Class Counsel is willing to provide their lodestar and the relevant case law on the reasonableness of the figures and analysis of the reasonableness of the multiplier.

where significant unsettled questions of law and fact exist with respect to the merits of claims under state right of publicity statutes in the context of websites like Defendant's. For example, in March of 2025, the District of New Jersey dismissed a similar right of publicity case against the people-search website Dun & Bradstreet, finding that plaintiff had not shown his name or likeness had commercial value such that a claim under the Ohio right of publicity statute could proceed. *Debose v. Dun & Bradstreet Holdings, Inc.*, Civil Action No. 22-0209 (ES) (JRA), 2025 U.S. Dist. LEXIS 41346, at *25 (D.N.J. Mar. 7, 2025). And in *Wilson v. Ancestry.com LLC*, No. 2:22-cv-861, 2024 U.S. Dist. LEXIS 153624 (S.D. Ohio Aug. 27, 2024), the court granted summary judgment and denied class certification in a case about a yearbook search website, finding that the plaintiff had not shown commercial use of his name or likeness. Thus, although nearly all class actions involve a high degree of risk, expense, and complexity, this Action presents a particularly complex and risky area of law that is still developing. *See also Fischer v. Instant Checkmate, LLC*, No. 19-cv-04892, 2022 WL 971479 (N.D. Ill. Mar. 31, 2022) (partially declining class certification in an analogous right of publicity case); *Dancel v. Groupon, Inc*., No. 18-cv-2027, 2019 WL 1013562, at *1 (N.D. Ill. Mar. 4, 2019), *aff'd*, 949 F.3d 999 (7th Cir. 2019) (denying motion to certify class because whether any given username was sufficient to identify an individual presented individual inquiries that defeated predominance).

Despite Plaintiffs' belief in the strength of their claims, Defendant firmly denies the material allegations of the Complaint and intends to pursue several legal and factual defenses. In the absence of the Settlement, Plaintiffs would need to establish commercial use of their names and likenesses both on an individual and class wide basis, which would require significant and complex discovery.

Class certification poses a significant obstacle, which would be hotly contested and for which success is far from guaranteed. While some right-of-publicity cases have successfully achieved class certification, courts have denied certification in other class actions. *See*, *e.g., Fischer v.*, 2022 WL 971479; *Wilson*, 2024 U.S. Dist. LEXIS 153624. Thus, Plaintiffs' claims remain, in many ways, untested and Plaintiffs would face numerous challenges at class certification, summary judgment, and trial.

Continuing to litigate this class action would have proved lengthy, complex, and expensive, thereby delaying (and potentially dissipating) any benefits that might have been obtainable. Instead of staying the course on this uncertain path, Plaintiffs and Class Counsel negotiated a Settlement that provides immediate, certain, and meaningful relief to all Settlement Class Members. This weighs in favor of the requested fees and service awards.

These risks were compounded by the fact that Class Counsel litigated this case on a contingency fee basis. "Contingent fees compensate lawyers for the risk of nonpayment. The greater the risk of walking away empty-handed, the higher the award must be to attract competent and energetic counsel." *Silverman v. Motorola Sols., Inc.*, 739 F.3d 956, 958 (7th Cir. 2013) (citing *Kirchoff v. Flynn*, 786 F.2d 320 (7th Cir. 1986)). The risk of nonpayment is important in determining the reasonableness of an attorneys' fees request due to the "risk that attorneys will receive no fee (or at least not the fee that reflects their efforts) when representing a class [on a contingency basis] because their fee is linked to the success of the suit." *Sutton v. Bernard*, 504 F.3d 688, 694 (7th Cir. 2007).

Class Counsel litigated this case on a purely contingent basis. Resch Decl., ¶ 8. Class Counsel devoted substantial resources to the prosecution of this matter, foregoing other opportunities, with no guarantee that they would be compensated for their time or reimbursed for

their expenses. *Id*. In addition to attorney time spent on the case, Class Counsel also advanced $95,355 in out-of-pocket expenses with no guarantee of repayment. *Id*. ¶¶ 9, 22. Nevertheless, Class Counsel zealously advocated for Plaintiffs and the Settlement Class. To date, Class Counsel have received no compensation for their work on this case. *Id.* ¶¶ 8, 13, 21. Class Counsel's "substantial outlay," and the risk of no recovery, further supports the award of their requested fees. *In re Omnivision Techs*., 559 F. Supp. 2d 1036, 1047 (C.D. Cal. 2008).

2. The Skill and Standing of the Attorneys Supports the Requested Fees

The attorneys handling this case are in good standing in their respective jurisdictions. Resch Decl. ¶ 19. Class Counsel are well-respected attorneys with significant experience litigating similar class action cases in courts across the country. *Id*. Furthermore, "[t]he quality of the opposition should be taken into consideration in assessing the quality of the plaintiffs' counsel's performance." *In re MetLife Demutalization Litig.*, 689 F. Supp. 2d 297, 362 (E.D.N.Y. 2010). Here, Defendant was represented by the prominent and well-respected law firms of Cozen O'Connor and Ice Miller. Resch Decl. ¶¶ 15, 19-20. Class Counsel achieved an exceptional result in this case while facing well-resourced and experienced defense counsel. *See In re Marsh ERISA Litig.*, 265 F.R.D. 128, 148 (S.D.N.Y. 2010) ("The high quality of defense counsel opposing Plaintiffs' efforts further proves the caliber of representation that was necessary to achieve the Settlement.").

3. The Settlement Was the Result of Arm's-Length Negotiations Between the Parties after a Significant Exchange of Information

This action required considerable skill and experience to bring it to such a successful conclusion. Resch Decl., ¶ 18, 19, 21. The case required investigation of factual circumstances, the ability to develop creative legal theories, and the skill to respond to a host of legal defenses. *Id.* Class Counsel undertook the large responsibility of funding this case, without any assurance

that they would recover those costs. *Id.* ¶ 5, 8. Class Counsel not only took on the obligation to act on behalf of the Plaintiffs, but also the class as a whole. *Id*.

Class Counsel worked with Defendant's Counsel to gather critical information in advance of the mediations, including the size and scope of the putative classes. *Id.* ¶ 15. The Parties also exchanged detailed mediation statements airing their respective legal arguments. *Id*. The Parties participated in two full-day mediation sessions with Jill Sperber on May 15, 2024, and October 2, 2024, and ultimately resulted in an agreement. *Id*. ¶ 16. After years of hard-fought litigation and arm's-length negotiations, Class Counsel obtained a settlement that provides real and significant monetary benefit to the Class. *Id*. Since that time, Class Counsel have successfully moved for preliminary approval, are submitting an application for attorneys' fees and costs, and diligently monitoring the notice program and claims administration process. *Id.* ¶ 17.

Defendant is represented by highly experienced attorneys who have made clear that, absent a settlement, they were prepared to continue their vigorous defense of this case and oppose class certification. *Id.* ¶ 20. Class Counsel undertook this representation understanding this risk and achieving the Settlement in spite of that risk.

4. Attorneys' Fees and Costs of 35% of the Settlement Fund is Consistent with the Usual and Customary Charges for Similar Work

Class Counsel's request for $369,382.65 in attorneys' fees and costs is reasonable and consistent with market rates. The Seventh Circuit has held:

> When a class suit produces a fund for the class, it is commonplace to award the lawyers for the class a percentage of the fund, in recognition of the fact that most suits for damages in this country are handled on the plaintiff's side on a contingent fee basis. The typical contingent fee is **between 33 and 40 percent**.

Gaskill v. Gordon, 160 F.3d 361, 362 (7th Cir. 1998) (emphasis added).

Courts in Illinois routinely award attorneys' fees of 35% (or more) of the common fund in class action cases. *See*, *e.g., McCormick*, 2022 IL 201197, ¶ 1 (approving award of 35% of

common fund); *Prelipceanu v. Jumio Corp.*, No. 2018-CH-15833 (Cir. Ct. Cook Cty. Jul. 21, 2022) (awarding 40% of settlement fund); *Richardson v. Ikea North America Servs.*, No. 21-CH-5392 (Cir. Ct. Cook Cnty. 2023) (awarding 40% of common fund in privacy class action); *Martin v. Safeway, Inc.*, 20-CH-5480 (Cir. Ct. Cook Cnty. 2022) (same); *Donahue v. Everi Holdings, Inc.*, No. 2018-CH-15419 (Cir. Ct. Cook Cnty. Dec. 3, 2020) (same); *Karpilovksy v. All Web Leads, Inc.*, No. 2017-cv-01307 (N.D. Ill. Aug. 8, 2019), ECF No. 173 (approving fees amounting to 35% of the entire settlement fund); *see also* Herbert Newberg & Alba Conte, *Newberg on Class Actions* § 15.83 (William B. Rubenstein ed., 5th ed.) (noting that, generally, "50% of the fund is the upper limit on a reasonable fee award from any common fund"). The request here is consistent with this overwhelming precedent and should be granted.

iii. Class Counsel's Litigation Expenses are Reasonable

Under the terms of the Settlement Agreement, Class Counsel may seek reimbursement for costs and expenses reasonably incurred during this litigation, which they are seeking as part of their request for an award of 35% of the Settlement Fund. S.A. ¶ 8.1. To date, Class Counsel have incurred $95,355 in expenses consisting substantially of mediation fees paid to Jill Sperber, expert fees, and filing fees. Resch Decl. ¶¶ 9, 22. These fees are reasonable because each expense was incurred in the prosecution of this litigation. *Id.* The requested expenses are commonly incurred in class action litigation. *See*, *e.g., Alvarado v. Nederend*, No. 1:08-cv-01099, 2011 WL 1883188, at *10 (E.D. Cal. May 17, 2011) ("[F]iling fees, mediator fees [], ground transportation . . . are routinely reimbursed in these types of cases."); *Fauley v. Metro. Life Ins. Co.*, 2016 IL App (2d) 150236, ¶ 15 (affirming settlement award which included $592,094 as a reimbursement for costs and expenses). These expenses were incurred for the benefit of the Settlement Class.

iv. The Requested Service Awards are Reasonable and Appropriate

Like the proposed attorneys' fee and expense award, the Settlement Agreement anticipates that Plaintiffs will petition the Court for a service award for the Settlement Class Representatives. S.A. ¶ 8.3. The Parties agree that, subject to the Court's approval, Plaintiffs shall each be entitled to a service award as follows: five thousand dollars ($5,000) to the California Settlement Class Representative; two-thousand five hundred dollars ($2,500) to the Illinois Settlement Class Representative; two-thousand five hundred dollars ($2,500) to the Indiana Settlement Class Representative; two-thousand five hundred dollars ($2,500) to the Ohio Settlement Class Representative; and two-thousand five hundred dollars ($2,500) to the Nevada Settlement Class Representative. *Id*. Such awards are common to incentivize plaintiffs to bring their claims on a class basis, as they reflect the benefit conferred on the class and encourage the future filing of beneficial litigation. *GMAC Mortg. Corp. of Pa. v. Stapleton*, 236 Ill. App. 3d 486, 497 (1st Dist. 1992).

Settlement Class Representatives' willingness to commit time to this litigation and undertake the responsibilities involved in representative matters resulted in a substantial benefit to the Settlement Class that fully justifies the requested service awards. Resch Decl. ¶ 23. Class Counsel relied on Settlement Class Representatives throughout the proceedings. *Id.* Settlement Class Representatives remained integrally involved in the proceedings, as they reviewed various versions of complaints and reviewed the Settlement. *Id.*

Courts in Illinois frequently approve service awards far greater than the $2,500-$5,000 requested by Settlement Class Representatives. *See*, *e.g., Prelipceanu*, No. 2018-CH-15833 (Cir. Ct. Cook Cty., Ill. Jul. 21, 2020) (awarding $10,000 to class representative); *Fauley*, 2016 IL App (2d) 150236, ¶ 15 (affirming trial court's approval of settlement which included service awards of $15,000 to the class representatives); *Crawford Lumber Co. v. Interline Brands, Inc.*, No. 11-CV-

4462, 2015 WL 1399367, at *6 (N.D. Ill. Mar. 23, 2015) (approving an award of $25,000); *Spano v. Boeing Co.*, No. 06-cv-743, 2016 WL 3791123, at *4 (S.D. Ill. Mar. 31, 2016) (approving service awards of $25,000 and $10,000 for two plaintiffs); *Ryan*, 274 Ill. App. 3d at 917 (noting that trial court had awarded $10,000 to each of the named plaintiffs); Theodore Eisenberg & Geoffrey P. Miller, *Incentive Awards to Class Action Plaintiffs: An Empirical Study*, 53 UCLA L. REV. 1303, 1308 (2006) (summarizing the results of a study which found that "[t]he average award per class representative was $15,992"). The requested awards for each of the five Settlement Class Representatives is reasonable and commensurate with service awards approved by Illinois courts.

V. CONCLUSION

Plaintiffs and Class Counsel respectfully ask the Court to approve Plaintiffs' request for $369,382.65 in attorneys' fees and litigation costs and expenses, and service awards in the amount of $5,000 or $2,500 for each of the five Settlement Class Representatives. The requested awards would adequately reward and reasonably compensate Settlement Class Representatives and Class Counsel for assuming the significant risks that this case presented at the outset and nonetheless choosing to expend a substantial amount of time and resources investigating, litigating, and negotiating a resolution to this case for the benefit of the Settlement Class.

Dated: January 23, 2026

By: */s/ Samuel J. Strauss*

Samuel J. Strauss
Raina C. Borrelli (*pro hac vice*)
Brittany Resch (*pro hac vice*)
STRAUSS BORRELLI PLLC
Firm ID 382570
One Magnificent Mile
980 N Michigan Avenue, Suite 1610
Chicago IL, 60611
Telephone: (872) 263-1100
Facsimile: (872) 263-1109
sam@straussborrelli.com
raina@straussborrelli.com
bresch@straussborrelli.com

Michael F. Ram (*pro hac vice* anticipated)
MORGAN & MORGAN COMPLEX
LITIGATION GROUP
711 Van Ness Avenue, Suite 500
San Francisco, CA 94102
Telephone: (415) 358-6913
Facsimile: (415) 358-6923
mram@forthepeople.com

Attorneys for Plaintiffs and the Proposed Classes

CERTIFICATE OF SERVICE

I, Samuel J. Strauss, hereby certify that on January 23, 2026, I electronically filed the foregoing with the Clerk of the Court using the Odyssey eFileIL system, which will send notification of such filing to counsel of record.

DATED this 23rd day of January, 2026.

STRAUSS BORRELLI PLLC

By: */s/ Samuel J. Strauss*

Sameul J. Strauss
STRAUSS BORRELLI PLLC
One Magnificent Mile
980 N Michigan Avenue, Suite 1610
Chicago IL, 60611
Telephone: (872) 263-1100
Facsimile: (872) 263-1109
sam@straussborrelli.com