UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE

DIANNE BEAR KING LUCAS, on behalf of herself and others similarly situated, Plaintiff, vs. SYNCHRONY BANK, Defendant.	CAUSE NO. 4:21-cv-00070-PPS-JEM Judge Philip P. Simon Magistrate Judge John E Martin

PLAINTIFF'S MOTION FOR AN AWARD OF ATTORNEYS' FEES, COSTS, LITIGATION EXPENSES, AND A SERVICE AWARD

As compensation for the substantial benefit that counsel for Plaintiff Dianne Bear King Lucas and the Settlement Class ("Class Counsel") conferred upon the Settlement Class, Ms. Lucas moves this Court for an award of attorneys' fees in the amount of $826,888.00, which is 31.8% of the gross Settlement Fund, or 36% of the net Settlement Fund less litigation costs, the requested service award, and notice and administration costs.[1] Plaintiff also moves this Court for reimbursement of Class Counsel's out-of-pocket litigation costs and expenses in the amount of $12,588.90. As well, Ms. Lucas moves this Court for a service award of $10,000. Because these requests are reasonable, justified, and in line with awards approved in analogous TCPA class actions, Ms. Lucas respectfully requests that this Court approve them.

In support of her motion, Ms. Lucas and Class Counsel are filing a memorandum contemporaneous with this motion.

[1] The $2,600,000 Settlement Fund minus $280,500 in notice and administration costs as well as $12,588.90 in litigation costs and the proposed service award of $10,000 equals $2,296,911.10, 36% of which equals $826,888.00.

Dated: February 13, 2023

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CERTIFICATE OF SERVICE

I hereby certify that, on February 13, 2023, I caused a copy of the foregoing ***Plaintiff's Motion for Attorneys' Fees, Costs, and Service award*** to be served upon all counsel of record via electronic filing using the CM/ECF system.

/s/Anthony Paronich
Anthony I. Paronich

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE

DIANNE BEAR KING LUCAS, on behalf of herself and others similarly situated,	)	CAUSE NO. 4:21-cv-00070-PPS-JEM
Plaintiff,	)	
vs.	)	Judge Philip P. Simon Magistrate Judge John E. Martin
SYNCHRONY BANK,	)	
Defendant.	)	

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

Introduction

On November 18, 2022, this Court preliminarily approved the class action settlement ("Settlement") between Dianne Bear King Lucas ("Plaintiff") and Synchrony Bank ("Defendant"). ECF No. 47. The Settlement requires Defendant to create a $2,600,000 non-reversionary, common fund ("Settlement Fund") to compensate call recipients to whose cellular telephone number Defendant placed a call, in connection with which it used an artificial or prerecorded voice, where the subject of the call was an account that did not belong to the recipient of the call, and where the recipient of the call did not provide Defendant the telephone number called. If finally approved, all members of the settlement class ("Settlement Class") who file a valid, approved claim will receive a *pro-rata* distribution estimated to be in the range of $35 to $140 after deductions for any Court-approved attorneys' fees and costs, any Court-approved service award to Plaintiff, and the costs of notice and claims administration (together "Expenses").

As compensation for the substantial benefit that counsel for Plaintiff and the Settlement Class ("Class Counsel") conferred upon the Settlement Class, Plaintiff moves this Court for an award of attorneys' fees in the amount of $826,888.00, which is 31.8% of the total Settlement Fund or 36% of the Settlement Fund less litigation costs, the requested service award, and notice and administration costs.[1] Plaintiff also moves this Court for reimbursement of Class Counsel's out-of-pocket litigation costs and expenses in the amount of $12,588.90. As well, Plaintiff moves this Court for a service award of $10,000. Because these requests are reasonable, justified, and in line with awards approved in analogous TCPA class actions, Plaintiff respectfully requests that

[1] The $2,600,000 Settlement Fund minus $280,500 in notice and administration costs as well as $12,588.90 in litigation costs and the proposed service award of $10,000 equals $2,296,911.10, 36% of which equals $826,888.00.

this Court approve them.

Summary of the Settlement

Defendant agreed to create a $2,600,000, non-reversionary Settlement Fund to compensate the Settlement Class, which includes no more than 200,000 individuals, defined as:

> All persons and entities throughout the United States (1) to whom Synchrony Bank placed, or caused to be placed (either by one of its own employees or by an agent or vendor), a call, (2) directed to a telephone number assigned to a cellular telephone service, (3) in connection with which Synchrony Bank or one of its agents or vendors used an artificial or prerecorded voice, (4) from October 16, 2020 through the date of the preliminary approval order, (5) where the subject of the call was a Synchrony Bank account that did not belong to the recipient of the call, and (6) where the recipient of the call did not provide Synchrony Bank the telephone number to which it placed, or caused to be placed, the call.

ECF No. 40-2 at 6 (Settlement Agreement, § II.A.30).

Each Settlement Class Member who files a valid, approved claim will receive a *pro rata* portion of the Settlement Fund after payment of the Expenses. *Id.*, § III.F.1. No amount of the Settlement Fund will revert to Defendant. *Id.*, § III.G.2.

Class Counsel, based on their experience in similar TCPA class actions, estimate net awards of $35 to $140 to Settlement Class Members who submit valid, approved claims. This result is consistent with and exceeds those in other similar TCPA settlements.

Argument

I. This Court should award attorneys' fees based on a percentage of the Settlement Fund.

The Seventh Circuit has followed the Supreme Court in recognizing when counsel's efforts result in the creation of a common fund that benefits plaintiffs and unnamed class members, counsel have a right to be compensated from that fund for their successful efforts in creating it. *See Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980) ("lawyer who recovers a common fund . . . is entitled to a reasonable attorney's fee from the fund as a whole"); *see, e.g.*, *Birchmeier v.*

Caribbean Cruise Line, Inc., 896 F.3d 792, 796-97 (7th Cir. 2018) (affirming attorneys' fees awarded in a TCPA class action of 36% of the first $10 million recovered for the class).

The Seventh Circuit "favors the percentage-of-the-fund fee in common fund cases because it provides the best hope of estimating what a willing seller and a willing buyer seeking the largest recovery in the shortest time would have agreed to *ex ante*." *In re FedEx Ground Package Sys., Inc. Employment Practices Litig.*, 251 F. Supp. 3d 1225, 1236 (N.D. Ind. 2017) (citing *In re Synthroid Mktg. Litig.* (*Synthroid II*), 325 F.3d 974, 979-80 (7th Cir. 2003)); *see also In re Capital One Tel. Consumer Prot. Act Litig.* (*In re Capital One*), 80 F. Supp. 3d 781, 795 (N.D. Ill. 2015) (holding in a TCPA class action that the percentage of the fund method is "more likely to yield an accurate approximation of the market rate" and that, "had an arm's length negotiation been feasible, the 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."); *Cooper v. IBM Pers. Pension Plan, No. CIV. 99-829-GPM* 2005 WL 1981501, at *3 (S.D. Ill. Aug. 16, 2005), rev'd and remanded on other grounds, 457 F.3d 636 (7th Cir. 2006) ("The approach favored in the Seventh Circuit is to compute attorney's fees as a percentage of the benefit conferred on the class."); *McDaniel v. Qwest Communs. Corp.*, No. 05 C 1008, 2011 U.S. Dist. LEXIS 154591, at *11 (N.D. Ill. Aug. 29, 2011) ("Many courts have found the percentage-of-recovery method provides a good emulation of the real-world market value of attorneys' services provided on a contingent basis.").

The percentage of the fund approach also promotes early resolution and eliminates the incentive for plaintiffs' attorneys to inflate their billable hours by engaging in wasteful litigation. *See Synthroid II*, 325 F.3d at 979-80. And by limiting attorneys' fees to a percentage of the common fund, "courts can expect attorneys to make cost-efficient decisions about whether certain

expenses are worth the win." *Gaskill v. Gordon*, 942 F. Supp. 382, 386 (N.D. Ill. 1996), *aff'd*, 160 F.3d 361 (7th Cir. 1998); *see also In re Amino Acid Lysine Antitrust Litig.*, No. 95 C 7679, MDL No. 1083, 1996 U.S. Dist. LEXIS 5308, at *7 (N.D. Ill. Apr. 19, 1996) (explaining the "growing recognition that in a common fund situation . . . a fee based on a percentage of recovery . . . tends to strike the best balance in favor of the clients' interests while at the same time preserving the lawyers' self- interest").

As well, the percentage of the fund approach preserves judicial resources by sparing the courts the cumbersome task of reviewing complicated and lengthy billing records. *See Florin v. Nationsbank of Ga., N.A.*, 34 F.3d 560, 566 (7th Cir. 1994) (noting "advantages" of percentage of the fund method's "relative simplicity of administration"). As one court put it:

> The percentage method is bereft of largely judgmental and time-wasting computations of lodestars and multipliers. These latter computations, no matter how conscientious, often seem to take on the character of so much Mumbo Jumbo. They do not guarantee a more fair result or a more expeditious disposition of litigation.

In re Union Carbide Corp. Consumer Prods. Bus. Sec. Litig., 724 F. Supp. 160, 170 (S.D.N.Y. 1989); *see also In re Cont'l Ill. Sec. Litig.*, 962 F.2d 566, 573 (7th Cir. 1992) (noting it is easier to establish market based on contingency fee percentages than to "hassle over every item or category of hours and expense and what multiple to fix and so forth").

II. Class Counsel's request is within the market rate.

The Court must determine whether the fee award is reasonable in light of the prevailing market rate. *See, e.g.*, *Silverman v. Motorola Sols., Inc.*, 739 F.3d 956, 957 (7th Cir. 2013). To that end, a district court should "do [its] best to recreate the market by considering factors such as actual fee contracts that were privately negotiated for similar litigation, information from other cases, and data from class-counsel auctions." *Taubenfeld v. Aon Corp.*, 415 F.3d 597, 599 (7th Cir.

2005). Other factors are relevant as well, including the risk counsel undertook in accepting the case and the quality of their performance. *In re Synthroid Mktg. Litig*. (*Synthroid I*), 264 F.3d 712, 721 (7th Cir. 2001).

Here, Class Counsel seeks a fee award of 36% of the Settlement Fund after deducting the Expenses, or 31.8% of the gross Settlement Fund. This is consistent with standard contingency fee awards in the Seventh Circuit. Indeed, 36% of a net settlement fund is an amount that courts within the Seventh Circuit routinely award in TCPA and other class actions. *See, e.g.*, *Birchmeier*, 896 F.3d at 796-97 (TCPA class action affirming attorneys' fees of 36% of first $10 million recovered); *Kolinek v. Walgreen Co.*, 311 F.R.D. 483, 503 (N.D. Ill. 2015) (36% of fund net administration costs in TCPA class action); *In re Capital One*, 80 F. Supp. 3d at 807 (36% of first $10 million recovered of TCPA class settlement); *Simms v. Exacttarget, LLC*, No. 14-cv-00737, 2018 U.S. Dist. LEXIS 245963 (S.D. Ind. Oct. 2, 2018) (awarding 35% of net settlement fund).[2]

A. The risk of non-payment supports the requested fee award.

The reasonableness of the requested fee award is bolstered by the significant risk of non-payment Class Counsel faced. *See Taubenfeld*, 415 F.3d at 600 (approving district court's reliance on this factor in evaluating attorneys' fees).

From the outset, by taking this case on a contingency fee basis, Class Counsel assumed the risk they would receive no payment for their services. *See Sutton v. Bernard*, 504 F.3d 688, 693-94 (7th Cir. 2007) ("We recognize[] that there is generally some degree of risk that attorneys will receive no fee (or at least not the fee that reflects their efforts) when representing a class because their fee is linked to the success of the suit."). Accordingly, that the attorneys' fee arrangement in

[2] *See also Kirchoff v. Flynn*, 786 F.2d 320, 323 (7th Cir. 1986) (observing that "40% is the customary fee in tort litigation"); *Gaskill,* 160 F.3d at 362-63 (affirming attorneys' fee of 38% of a common fund); *Pearson v. NBTY, Inc.*, 772 F.3d 778. 782 (7th Cir. 2014) (suggesting that fees as high as one-half might be reasonable under the circumstances).

this case was contingent "weighs in favor of the requested attorneys' fees award, because such a large investment of money and time places incredible burdens upon law practices and should be appropriately considered.'" *In re Thornburg Mortg., Inc. Sec. Litig.*, 912 F. Supp. 2d 1178, 1256 (D.N.M. 2012) (internal quotations and citation omitted); *see also Allapattah Servs., Inc. v. Exxon Corp.*, 454 F. Supp. 2d 1185, 1215 (S.D. Fla. 2006) ("This factor weighs heavily in favor of a 31 and 1/3% percentage fee for Class Counsel because the fee in this action has been completely contingent.").

Indeed, even in ordinary cases "uncertain is the outcome," and the corresponding risk taken by counsel in connection with contingent fee arrangements—no assurance of payment—warrants a higher percentage of the fund. *Columbus Drywall & Insulation, Inc. v. Masco Corp.*, No. 04-3066, 2008 WL 11234103, at *3 (N.D. Ga., Feb. 27, 2006); s*ee also Silverman*, 739 F.3d at 958 ("The greater the risk of walking away empty-handed, the higher the award must be to attract competent and energetic counsel.") And in the context of class actions, the inherent risk is multiplied:

> In undertaking to prosecute this complex case entirely on a contingent fee basis, Class Counsel assumed a significant risk of nonpayment or underpayment. That risk warrants an appropriate fee. The risks are inherent in financing and prosecuting complex litigation of this type, but Class Counsel undertook representation with the knowledge that they would have to spend substantial time and money and face significant risks without any assurance of being compensated for their efforts. Only the most experienced plaintiffs' litigation firms would risk the time and expense involved in bringing this Action in light of the possibility of a recovery at an uncertain date, or of no recovery at all.

Simpson v. Citizens Bank, No. 212CV10267DPHRSW, 2014 WL 12738263, at *7 (E.D. Mich. Jan. 31, 2014).

Moreover, and as Plaintiff outlines through her motion for preliminary approval, Defendant raised several defenses that, if successful, would have precluded any recovery in this case. Despite

Plaintiff's confidence that this Court would certify the proposed class, she recognizes that class certification is far from automatic. *Compare Head v. Citibank, Inc.*, 340 F.R.D. 145 (D. Ariz. 2022) (certifying a "wrong number" TCPA class over objection) *and Wesley v. Snap Fin. LLC*, 339 F.R.D. 277 (D. Utah 2021) (same) *with Revitch v. Citibank, N.A.*, No. C 17-06907 WHA, 2019 WL 1903247, at *2 (C.D. Cal. Apr. 28, 2019) (denying class certification and noting that "an evasive customer may reply with 'wrong number' when he answers a call regarding his delinquent account"); *Davis v. AT&T Corp.*, No. 15-cv-2342-DMS, 2017 WL 1155350, at *5 (S.D. Cal. Mar. 28, 2017) ("[d]efendant has come forward with evidence that a call with a 'wrong number' notation proves nothing because many customers tell callers they have reached the wrong number, though the customer's number was dialed, as a 'procrastination tool' to avoid speaking on the phone"); *Tomeo v. CitiGroup, Inc.*, No. 13 C 4046, 2018 WL 4627386, at *10 (N.D. Ill. Sept. 27, 2018) (following *Davis*); *Sliwa v. Bright House Networks, LLC*, 333 F.R.D. 255, 271–72 (M.D. Fla. 2019) ("[I]n the debt collection industry 'wrong number' oftentimes does not mean non-consent because many customers tell agents they have reached the wrong number, though the correct number was called, as a way to avoid further debt collection.").

Furthermore, even if this matter was certified for litigation purposes, interpretations of the TCPA are ever-evolving and notoriously unpredictable, further injecting uncertainty into the outcome. There is ongoing scrutiny regarding the constitutionality of the TCPA in light of the Supreme Court's decision in *Barr v. Am. Ass'n of Pol. Consultants*, 140 S. Ct. 2335 (2020). *See e.g.*, *Creasy v. Charter Communs., Inc.*, 489 F. Supp. 3d 499 (E.D. La. 2020) (finding that TCPA claims based on calls preceding the Supreme Court's ruling in *Barr* are not actionable because the TCPA was unconstitutional until a 2015 amendment was severed in *Barr*). And even had Plaintiff succeeded on the merits and prevailed on appeal, a reduction in statutory damages was possible.

See Wakefield v. ViSalus, Inc., 51 F.4th 1109, 1125 (9th Cir. 2022) (vacating "the district court's denial of the defendant's post-trial motion challenging the constitutionality of the statutory damages award to permit reassessment of that question guided by the applicable factors.").

While Class Counsel remain confident Plaintiff would have prevailed, success—especially at the outset of the case—was by no means assured. To the contrary, the risk of loss was particularly acute given the hurdles posed by the need to, at a minimum, obtain crucial class discovery and win a contested motion for class certification. *See Silverman*, 739 F.3d at 958 ("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."). Apart from jeopardizing any recovery for the class, litigating those issues would have required Class Counsel to expend significantly more time, money, and resources for which they would receive no compensation upon losing at summary judgment, class certification, or trial. *In re AT&T Mobility Wireless Data Servs. Sales Tax Litig.*, 792 F. Supp. 2d 1028, 1035-37 (N.D. Ill. 2011) (finding significant risk of nonpayment because counsel would have to overcome dispositive defenses and certify a class). As such, the considerable risk Class Counsel faced in prosecuting this contingency action illustrates the reasonableness of the requested award.

B. The benefits conferred support the requested fee award.

The benefits to the Settlement Class support the requested fee award. As noted above, each Settlement Class Member who files a valid claim will receive an estimated award between $35 to $140 after deducting the Expenses. This estimated net recovery afforded by the Settlement compares favorably to other TCPA settlements that have received final approval. *See, e.g.*, *Gehrich v. Chase Bank USA, N.A.*, 316 F.R.D. 215, 228 (N.D. Ill. 2016) ($52.50 per claimant); *Hashw v. Dep't Stores Nat'l Bank*, 182 F. Supp. 3d 935, 947 (D. Minn. 2016) ($33.20 per claimant); *Wright*

v. Nationstar Mortg. LLC, No. 14-10457, 2016 WL 4505169, at *8 (N.D. Ill. Aug. 29, 2016) (approximately $45 per claimant); *In re Capital One Tel. Consumer Prot. Act Litig.*, 80 F. Supp. 3d 781, 789 (N.D. Ill. 2015) (finding that $34.60 per person falls "within the range of recoveries" in a TCPA class action); *Rose v. Bank of Am. Corp.*, Nos. 11-2390, 12-4009, 2014 WL 4273358, at *10 (N.D. Cal. Aug. 29, 2014) (claimants received between $20 and $40 each); *Steinfeld v. Discover Fin. Servs.*, No. 12-1118, 2014 WL 1309352, at *7 (N.D. Cal. Mar. 31, 2014) (approving a settlement that ultimately distributed less than $50 per claimant, *see* ECF No. 101).

Additionally significant, the court in *Markos v. Wells Fargo Bank, N.A.* characterized a $24 per-claimant recovery in a TCPA class action—less than the expected recovery here—as "an excellent result when compared to the issues Plaintiffs would face if they had to litigate the matter." No. 15-1156, 2017 WL 416425, at *4 (N.D. Ga. Jan. 30, 2017).

And what's more, the Settlement provides Settlement Class members with real monetary relief, despite the purely statutory damages at issue—damages that courts have deemed too small to incentivize individual actions. *See, e.g.*, *Palm Beach Golf Center-Boca, Inc. v. Sarris*, 311 F.R.D. 688, 699 (S.D. Fla. 2015) (noting that the small potential recovery in individual TCPA actions reduced the likelihood that class members will bring suit); *St. Louis Heart Cntr., Inc. v. Vein Cntrs. for Excellence, Inc.*, No. 12-174, 2013 WL 6498245, at *11 (E.D. Mo. Dec. 11, 2013) (explaining that because the statutory damages available to each individual class member are small, it is unlikely that the class members have interest in individually controlling the prosecution of separate actions). Therefore, because of the Settlement, Settlement Class members will receive money they otherwise would have likely never pursued on their own.

For these reasons, the requested fee award is reasonable and should be granted.

C. Data from similar cases shows that Class Counsel's request for attorneys' fees reflects the market rate.

"As the Seventh Circuit has held, attorney's fee awards in analogous class action settlements shed light on the market rate for legal services in similar cases." *Kolinek*, 311 F.R.D. at 501 (citing *Taubenfeld v. AON Corp.*, 415 F.3d 597, 600 (7th Cir. 2005)). In the Seventh Circuit, "the typical contingent fee is between 33 and 40 percent." *Gaskill v. Gordon*, 160 F.3d 361, 362 (7th Cir. 1998). As this Court held in *Shah v. Zimmer Biomet Holdings, Inc.*, 3:16-cv-815-PPS-MGG, 2020 WL 5627171, at *9 (N.D. Ind. Sept. 18, 2020) (Simon, J.), "[t]he factors or 'benchmarks' to consider when setting the market rate ex post include: '(1) actual fee agreements…'") Here, the parties' fee agreement permitted Class Counsel to seek up to 35% of the total common fund, and as described above, the Class Counsel seeks 31.8% of the total Settlement Fund. Indeed, this Court explained in *Shah* that "if there were fee agreements in similar cases with a flat 33.3% fee, counsel would have included them." Here, and as Plaintiff explains through her attached declaration, her written fee agreement with Class Counsel limits counsel to a request for attorneys' fees of 35% of the total Settlement Fund—less than Class Counsel requests here.

Furthermore, numerous district courts in the Seventh Circuit have awarded attorneys' fees in the amount of 36% of the net settlement funds. *See, e.g.*, *Kolinek*, 311 F.R.D. at 503 (awarding attorneys' fees of 36% of the fund after deducting expenses and listing cases). As this Court also held in *Shah*, such data supports Class Counsel's requested fee. *See Shah*, 2020 WL 5627171,at *10 ("a 33.3% fee may be common in personal injury cases or class actions where the recovery is 'only' seven figures[.]") This settlement of $2,600,000—while a great result for the Settlement Class—is such a settlement of "only seven figures." Moreover, as explained above, Class Counsel seeks 31.8% of the total Settlement Fund.

Finally, when considering an award of 31.8% of the Settlement Fund (36% after deducting Expenses), this Court should also consider the multiple factors present here, and discussed in *Shah*, that justify an increased fee award. First, there was "substantial independent investigation on counsel's part" as "there were no regulatory actions to piggyback off of" *Shah* at *12. So too here, as the discovery conducted in this case was all originated from Plaintiff's counsel investigation into the circumstances regarding these robocalls, as no regulatory matters regarding this conduct are pending against Synchrony. Second, "an incentive for being the first/only mover in the field where no other counsel sought to represent the class (a monopoly award something akin to a patent)"[3] as there was no other pending class actions against Synchrony for this same conduct.

III. Class Counsel's litigation expenses should be approved.

"It is well established that counsel who create a common fund like this one are entitled to the reimbursement of litigation costs and expenses, which includes such things as expert witness costs; computerized research; court reports; travel expense; copy, phone and facsimile expenses and mediation." *Shah*, 2020 WL 5627171, at *13 (quoting *Beesley v. Int'l Paper Co.*, No. 3:06-CV-703-DRH-CJP, 2014 WL 375432, at *3 (S.D. Ill. Jan. 31, 2014)). Here, Class Counsel incurred $12,588.90 in costs and litigation expenses in connection with this matter, including travel expenses, mediation costs, expert costs, deposition costs, filing and admission fees, and other necessary expenses. *See* Declaration of Anthony Paronich Decl. at ¶¶ 29-32 (detailing litigation costs and expenses incurred); Declaration of Aaron D. Radbil at ¶¶ 10-12; Declaration of Max Morgan at ¶¶ 10-11. Importantly, the categories of expenses for which Class Counsel seek reimbursement are the type of expenses routinely charged to paying clients in the marketplace and,

[3] *Id.*

therefore, are properly reimbursed under Rule 23. *See Beesley,* 2014 WL 375432, at *3 (awarding $1,563,046.39 in costs and expenses including such things as expert witness costs; computerized research; court reports, travel expense, copy, phone and facsimile expenses and mediation); *Chambers v. Together Credit Union*, No. 19-CV-00842-SPM, 2021 WL 1948452, at *3 (S.D. Ill. May 14, 2021) (approving litigation costs and expenses while holding, "In addition to fees, it is well established that counsel who create a common fund like this one are entitled to the reimbursement of litigation costs and expenses. These expenses include such things as expert witness costs; computerized research; court reports; travel expense; copy, phone and facsimile expenses and mediation."); *see also* Fed. R. Civ. P. 23(h) ("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.") (emphasis added). Thus, this Court should approve reimbursement of Class Counsel's litigation costs and expenses incurred in this matter.

IV. The requested service award for Plaintiff should be approved.

Plaintiff also respectfully requests that this Court grant a service award of $10,000 for her efforts on behalf of the Settlement Class. Service awards compensating named plaintiffs for work done on behalf of a class are routinely awarded. Such awards encourage individual plaintiffs to undertake the responsibility of representative lawsuits, and compensate them for the risks they undertake as a result. *See Cook v. Niedert*, 142 F.3d 1004, 1016 (7th Cir. 1998) (recognizing that "because a named plaintiff is an essential ingredient of any class action, a service award is appropriate if it is necessary to induce an individual to participate in the suit"); *Synthroid I*, 264 F.3d at 722 ("Service awards are justified when necessary to induce individuals to become named representatives.").

Plaintiff's role in this litigation was crucial. *See* Declaration of Dianne Bear King Lucas.

Plaintiff sacrificed her time to prosecute this case on behalf of Settlement Class members. Plaintiff assisted with pre-suit investigation into the case, analyzed and verified the facts set forth in each of the complaints prior to filing, engaged in extensive investigation and consultation with Class Counsel in connection with answering Defendant's discovery requests, analyzed and verified draft answers and supplemental answers to Defendant's discovery requests, undertook extensive efforts to locate (and, where necessary, obtain) records and other documents responsive to Defendant's discovery requests, stayed abreast of the proceedings throughout the litigation and settlement, took time off of work to be available for the entire mediation, and reviewed and approved the Settlement. *See* Paronich Decl. at ¶¶ 28-30.

Moreover, the $10,000 service award sought here is comparable to or less than others approved by courts in similar TCPA disputes as well as those approved by federal courts throughout the country in analogous class actions. *See, e.g.*, *Miles v. Medicredit, Inc.*, No. 4:20-cv-1186-JAR, 2023 WL 1794559, at *4 (E.D. Mo. Feb. 7, 2023) (approving incentive award of $10,000 to named plaintiff in TCPA settlement); *Wesley v. Snap Fin. LLC*, No. 2:20-cv-00148-RJS-JCB, 2023 WL 1812670 (D. Utah Feb. 7, 2023) (same); *Allen v. JPMorgan Chase Bank, NA*, No. 13-cv-8285 (N.D. Ill. Oct. 21, 2015), ECF No. 93 ¶ 18 (approving $25,000 service award in TCPA class settlement); *Desai v. ADT Sec. Servs., Inc.*, No. 11-cv-1925 (N.D. Ill. Feb. 27, 2013), ECF No. 243 ¶ 20 (awarding $30,000 service awards in TCPA class settlement); *Ossola v. Am. Express Co.*, No. 1:13-cv-04836 (N.D. Ill. Dec. 2, 2016), ECF No. 379 ¶ 11 (awarding $10,000 to TCPA class representative); *Martin v. Jth Tax*, No. 1:13-cv-6923, 2015 U.S. Dist. LEXIS 199180, at *8 (N.D. Ill. Sep. 23, 2015) (same).[4] The requested service award of $10,000 for Plaintiff is

[4] *See also Landsman & Funk, P.C. v. Skinder-Strauss Assocs.*, No. 08cv3610 (CLW), 2015 U.S. Dist. LEXIS 64987, at *22-23 (D.N.J. May 18, 2015) (awarding $10,000 in TCPA case), *aff'd*, 639 F. App'x 880 (3d Cir. 2016); *Hageman v. AT&T Mobility LLC*, No. CV 13-50-BLG-

reasonable and should be approved.

Conclusion

WHEREFORE, Plaintiff respectfully request the Court grant this Motion and award Class Counsel $826,888 in attorneys' fees, which represents 36% of the net Settlement Fund, plus $12,588.90 for counsel's out-of-pocket costs and expenses. Plaintiff further requests that the Court approve a service award in the amount of $10,000.

Dated: February 13, 2023

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RWA, 2015 U.S. Dist. LEXIS 25595, at *12 (D. Mont. Feb. 11, 2015) (approving $20,000 service award in TCPA class settlement); *Cook*, 142 F.3d at 1016 (affirming $25,000 service award); *Heekin v. Anthem, Inc.*, No. 1:05-cv-01908-TWP-TAB, 2012 U.S. Dist. LEXIS 165464, at *4-5 (S.D. Ind. Nov. 20, 2012) (approving $25,000 service award over objection); *Will v. Gen. Dynamics Corp.*, No. 06-698-GPM, 2010 U.S. Dist. LEXIS 123349, at *12-13 (S.D. Ill. Nov. 22, 2010) (awarding $25,000 each to three named plaintiffs); *Benzion v. Vivint, Inc.*, No. 12-61826-CIV-ZLOCH, 2015 U.S. Dist. LEXIS 179532, at *8-9 (S.D. Fla. Feb. 23, 2015) (awarding $20,000 service award in TCPA settlement).

Counsel for Plaintiff and the Settlement Class

CERTIFICATE OF SERVICE

I hereby certify that, on February 13, 2023, I caused a copy of the foregoing ***Plaintiff's Motion for Attorneys' Fees, Costs, and Service award*** to be served upon all counsel of record via electronic filing using the CM/ECF system.

/s/Anthony Paronich
Anthony I. Paronich

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE

DIANNE BEAR KING LUCAS, on behalf of herself and others similarly situated, Plaintiff, vs. SYNCHRONY BANK, Defendant.	)	CASE NO. 4:21-cv-00070-PPS-JEM Judge Philip P. Simon Magistrate Judge John E Martin

DECLARATION OF AARON D. RADBIL IN SUPPORT OF PLAINTIFF'S MOTION FOR AN AWARD OF ATTORNEYS' FEES, COSTS, LITIGATION EXPENSES, AND A SERVICE AWARD

Pursuant to 28 U.S.C. § 1746, I declare as follows:

1. My name is Aaron D. Radbil.

2. I am over twenty-one years of age.

3. I am fully competent to make the statements included in this declaration.

4. I have personal knowledge of the statements included in this declaration.

5. I am a partner at Greenwald Davidson Radbil PLLC ("GDR").

6. I am counsel for Dianne Bear King Lucas.

7. I am admitted to practice before this Court *pro hac vice*.

8. I submit this declaration in support of Ms. Lucas's motion for attorneys' fees, costs, litigation expenses, and a service award.

9. I previously submitted a declaration to this Court outlining GDR's significant experience in consumer protection class actions like this one, which I incorporate by reference. *See* ECF No. 40-3 at 7-17.

10. To date, GDR has incurred $4,115.96 in litigation costs and expenses in connection

with this matter.

11. These litigation costs and expenses are reflected in GDR's books and records.

12. More specifically, GDR incurred the following necessary litigation costs and expenses:

- fee for my motion for admission to practice *pro hac vice* ($96.00);
- fee (half of total) for mediation ($3,987.50).
- expenses for meals during mediation ($32.46).

13. As well, GDR incurred additional costs and expenses, such as for photocopies, long distance telephone calls, and computerized legal research on Westlaw, for which GDR does not seek reimbursement.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 9, 2023

/s/ Aaron D. Radbil
Aaron D. Radbil

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE

DIANNE BEAR KING LUCAS, on behalf of herself and others similarly situated, Plaintiff, vs. SYNCHRONY BANK, Defendant.	)	CASE NO. 4:21-cv-00070-PPS-JEM Judge Philip P. Simon Magistrate Judge John E Martin

DECLARATION OF MAX S. MORGAN IN SUPPORT OF PLAINTIFF'S MOTION FOR AN AWARD OF ATTORNEYS' FEES, COSTS, LITIGATION EXPENSES, AND A SERVICE AWARD

Pursuant to 28 U.S.C. § 1746, I declare as follows:

1. My name is Max S. Morgan.

2. I am over twenty-one years of age.

3. I am fully competent to make the statements included in this declaration.

4. I have personal knowledge of the statements included in this declaration.

5. I am an attorney at The Weitz Firm, LLC ("TWF").

6. I am counsel for Dianne Bear King Lucas.

7. I am admitted to practice before this Court.

8. I submit this declaration in support of Ms. Lucas's motion for attorneys' fees, costs, litigation expenses, and a service award.

9. I previously submitted a declaration to this Court, which I incorporate by reference. *See* ECF No. 40-3 at 2-5.

10. TWF has incurred reasonable costs and litigation expenses of $1,853.44, which include $191.00 for my admission to practice in the United States District Court for the Northern

District of Indiana, and $1,662.44 in anticipated final expense related fees, including travel and hotel expense associated with the final fairness hearing.

11. As well, TWF incurred additional costs and expenses, such as for photocopies, and computerized legal research on LexisNexis, for which TWF does not seek reimbursement.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 11, 2023

/s/ Max S. Morgan
Max S. Morgan, Esq.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE

DIANNE BEAR KING LUCAS, on behalf of herself and others similarly situated,	)	CAUSE NO. 4:21-cv-00070-PPS-JEM
Plaintiff,	)	
vs.	)	Judge Philip P. Simon Magistrate Judge John E. Martin
SYNCHRONY BANK,	)	
Defendant.	)	

DECLARATION OF ANTHONY PARONICH IN SUPPORT OF PLAINTIFF'S MOTION FOR AN AWARD OF ATTORNEYS' FEES, COSTS, LITIGATION EXPENSES, AND A SERVICE AWARD

I, Anthony Paronich, pursuant to 28 U.S.C. § 1746, declare as follows:

1. My name is Anthony Paronich.

2. I am over twenty-one years of age.

3. I am fully competent to make the statements contained in this declaration.

4. I am an attorney duly admitted to practice in the Commonwealth of Massachusetts, and I am competent to testify and make this declaration on personal knowledge. I have extensive experience in the prosecution of class actions on behalf of consumers, particularly claims under the TCPA.

5. I am a 2010 graduate of Suffolk Law School. In 2010, I was admitted to the Bar in Massachusetts. Since then, I have been admitted to practice before this Court, the Federal District Court for the District of Massachusetts, the Northern District of Illinois, the Eastern District of Michigan, the Western District of Wisconsin, the Southern District of Indiana, the First Circuit Court of Appeals, the Seventh Circuit Court of Appeals, and the Ninth Circuit Court of Appeals.

From time to time, I have appeared in other State and Federal District Courts *pro hac vice*. I am in good standing in every court to which I am admitted to practice.

6. I was an associate at Broderick Law, P.C. in Boston, Massachusetts from 2010 through 2016.

7. I was a partner at Broderick & Paronich, P.C. in Boston, Massachusetts from 2016 through 2019.

8. In 2019, I started Paronich Law, P.C., focused on protecting consumers in class action lawsuits.

9. Below is a list of cases where I have been appointed as lead or co-lead counsel on behalf of a class or putative class:

a. Mann & Company, P.C. v. C-Tech Industries, Inc., D. Mass., C.A. 1:08CV11312-RGS, class action on behalf of recipients of faxes in violation of TCPA, settlement for $1,000,000, final approval granted in January of 2010.

b. Evan Fray Witzer v. Olde Stone Land Survey Company, Inc., Massachusetts Superior Court, Civil Action No. 08-04165 (February 3, 2011) (final approval granted for TCPA class settlement). This matter settled for $1,300,000.

c. Milford & Ford Associates, Inc. and D. Michael Collins vs. Cell-Tek, LLC, Mass. Case No. C. A. 1:09-cv- 11261-DPW, class action on behalf of recipients of faxes in violation of TCPA, settlement for $1,800,000, final approval granted August 17, 2011.

d. Collins v. Locks & Keys of Woburn Inc.., Massachusetts Superior Court, Civil Action No. 07-4207-BLS2 (December 14, 2011) (final approval granted for TCPA class settlement). This matter settled for $2,000,000.

e. Brey Corp t/a Hobby Works v. Life Time Pavers, Inc., Circuit Court for Montgomery County, Maryland, Civil Action No. 349410-V (preliminary approval granted for TCPA class settlement). This matter settled for $1,575,000.

f. Collins, et al v. ACS, Inc. et al, D. Mass, Civil Action No. 10-CV-11912, a TCPA case for illegal fax advertising, which settled for $1,875,000.

g. Desai and Charvat v. ADT Security Services, Inc., N.D. Illinois, Civil Action No. 11-CV-1925, settlement of $15,000,000, approved, awarding fees of one-third of common fund.

h. Benzion v. Vivint, No. 0:12cv61826, S.D. Fla., settlement of $6,000,000 granted final approval in February of 2015.

i. Kensington Physical Therapy v. Jackson Physical Therapy Partners, D. Md., Case No. 8:11cv02467, settlement of $4,500,000 granted final approval in February of 2015.

j. Jay Clogg Realty v. Burger King Corp., D. Md., Case No. 8:13cv00662, settlement of $8.5 million granted final approval in May of 2015.

k. Charvat v. AEP Energy, Case No. 1:14cv03121, N.D. Ill., class settlement of $6 million granted final approval on September 28, 2015.

l. Thomas Krakauer v. Dish Network, L.L.C., M.D.N.C., Civil Action No. 1:14-CV-333 on September 9, 2015. I was co-trial counsel in the case which resulted in a jury verdict in favor of plaintiff and the class of $20,446,400 on January 19, 2017. (Dkt. 292). On May 22, 2017, this amount was trebled by the Court after finding that Dish Network's violations were "willful or knowing", for a revised damages award of $61,339,200. (Dkt. No. 338).

m. Dr. Charles Shulruff, D.D.S. v. Inter-med, Inc., Case No. 1:16-cv-00999, N.D. Ill., class settlement of $400,000 granted final approval on November 22, 2016.

n. Toney v. Quality Resources, Inc., Cheryl Mercuris and Sempris LLC, Case No. 13-cv-00042, N.D. Ill.. A TCPA class settlement was granted final approval on December 1, 2016 in the amount of $2,150,000 with one of three defendants. A second settlement with the two remaining defendants for $3,300,000 granted final approval on September 25, 2018.

o. Bull v. US Coachways, Inc., Case No. 1:14-cv-05789, N.D. Ill., in which a TCPA class settlement was finally approved on November 11, 2016 with an agreement for judgment in the amount of $49,932,375 with an assignment of rights against defendant's insurance carrier. $3,250,000 recovered against insurance carrier through settlement of subsequent declaratory judgment action.

p. Smith v. State Farm Mut. Auto. Ins. Co. , et. al., N.D. Ill., Case No. 1:13-cv-02018, TCPA class settlement of $7,000,000.00 granted final approval on December 8, 2016.

q. Mey v. Frontier Communications Corporation, D. Ct., Case No. 3:13-cv-1191-MPS, a TCPA class settlement of $11,000,000 granted final

approval on June 2, 2017.

r. Biringer v. First Family Insurance, Inc., N.D. Fla., a TCPA class settlement of $2,900,000 granted final approval on April 24, 2017.

s. Abramson v. Alpha Gas and Electric, LLC, S.D.N.Y., Case No. 7:15-cv-05299-KMK, a TCPA class settlement of $1,100,000 granted final approval on May 3, 2017.

t. Heidarpour v. Central Payment Co., M.D. Ga., Case No. 4:15-cv-139 (CDL), a TCPA class settlement of $6,500,000 granted final approval on May 4, 2017.

u. Abante Rooter and Plumbing, Inc. v. New York Life Insurance Company, S.D.N.Y., Case No. 1:16-cv-03588-BCM, a TCPA class settlement of $3,250,000 granted final approval on February 27, 2018.

v. Abramson v. CWS Apartment Home, LLC, W.D. Tex., Case No. 16-cv-01215, a TCPA class settlement of $368,000.00 granted final approval on May 19, 2017.

w. Charvat v. Elizabeth Valente, et al, N.D. Ill., Case No. 1:12-cv-05746, $12,500,000 TCPA settlement granted final approval on November 4, 2019.

x. Mey v. Got Warranty, Inc., et. al., N.D. W.V., Case No. 5:15-cv-00101-JPB-JES, a TCPA class settlement of $650,000 granted final approval on July 26, 2017.

y. Mey v. Patriot Payment Group, LLC, N.D.W.V., Case No. 5:15-cv-00027-JPB-JES, a TCPA class settlement of $3,700,000 granted final approval on July 26, 2017.

z. Charvat and Wheeler v. Plymouth Rock Energy, LLC, et al, E.D.N.Y., Case No. 2:15-cv-04106-JMA-SIL, a TCPA class settlement of $1,675.000 granted final approval on July 31, 2018

aa. Fulton Dental, LLC v. Bisco, Inc., N.D. Ill., Case No. 1:15-cv-11038. TCPA class settlement for $262,500 granted final approval on March 7, 2018.

bb. Abante Rooter and Plumbing, Inc. v. Birch Communications, Inc., N.D. Ga., Case No. 1:15-cv-03262-AT. TCPA class settlement of $12,000,000 granted final approval on December 14, 2017.

cc. Abante Rooter and Plumbing, Inc. v. Alarm.com, Inc., N.D. Cal., Case No. 4:15-cv-06314-YGR. TCPA class settlement of $28,000,000 granted final approval on August 15, 2019.

dd. Charvat v. Carnival Corporation & PLC, et. al., N.D. Ill., Case No. 1:13-cv-

00042, a TCPA class settlement of $12,500,000 granted final approval in April of 2020.

ee. Loftus v. Sunrun, Inc., N.D. Cal., Case No. 3:19-cv-1608, a TCPA class settlement of $5,500,000 granted final approval on May 11, 2021.

The Litigation

10. On October 18, 2021, Plaintiff filed this class action stemming from prerecorded debt collection calls made by Synchrony without prior express consent, as she had no relationship with Synchrony.

11. On December 16, 2021, Synchrony filed its Answer and Affirmative Defenses to the complaint. ECF No. 15, 16.

12. On January 20, 2022, the Court conducted a Rule 26(f) conference where discovery was bifurcated for the parties to focus on the requisites of Fed.R.Civ.P. 23 and the Plaintiff's individual claim. ECF No. 19.

13. On April 20, 2022, Plaintiff filed a motion to amend her Complaint. *See* ECF No. 25.

14. This motion was granted and an Amended Complaint was filed on April 28, 2022. ECF No. 27.

15. Synchrony filed its Answer and Affirmative Defenses to the Amended Complaint on May 12, 2022. ECF No. 28.

16. As the parties had been actively engaged in discovery, a motion to extend the completion of discovery and to file a class certification motion was filed on June 29, 2022. ECF No. 29. On August 19, 2022, Plaintiff filed a motion to compel the production of documents and for Defendant to fully answer certain interrogatories. ECF No. 32.

17. The case involved a substantial amount of discovery regarding Synchrony, its calling practices, and its third-party relationships with vendors who placed calls on Synchrony's behalf to try to reach alleged debtors.

18. Documents were exchanged and multiple subpoenas issued. Multiple sets of discovery requests and responses were exchanged.

19. Plaintiff served a Rule 30(b)(6) deposition notice on Synchrony.

20. Plaintiff retained an expert witness and served a report consistent with Rule 26.

21. Plaintiff began preparing her anticipated motion for class certification and appointment of class counsel.

22. The Parties subsequently agreed to mediate. *See* ECF No 36.

23. The mediation occurred on August 30, 2022 before Bruce Friedman of Judicial Arbitration and Mediation Services, Inc. ("JAMS").

24. In the weeks leading up to the mediation, the Parties submitted detailed briefs setting forth their respective views on the strengths of their cases.

25. At the day-long mediation, the parties discussed their relative views of the law and the facts and potential relief for the proposed Class.

26. With the assistance of Mr. Friedman, and the day of arm's-length negotiations, the Parties reached an agreement-in-principle on the material terms of a class-wide settlement.

27. Following the mediation, the Parties continued extensive negotiations for more than a month on their remaining points of dispute, which culminated in the fully-executed Agreement that this Court preliminary approved.

Service Award

28. Ms. Lucas has been a model class representative.

29. Plaintiff assisted with pre-suit investigation into the case, analyzed and verified the facts set forth in each of the complaints prior to filing, engaged in extensive investigation and consultation with Class Counsel in connection with answering Defendant's discovery requests, analyzed and verified draft answers and supplemental answers to Defendant's discovery requests, undertook extensive efforts to locate (and, where necessary, obtain) records and other documents responsive to Defendant's discovery, stayed abreast of the proceedings throughout the litigation and settlement, took time off of work to be available for the entire the mediation, and reviewed and approved the Settlement.

30. Given this, and considering the time and effort Ms. Lucas devoted to this case as well as the results achieved for the class, I firmly believe a service award in the amount of $10,000 is fair and reasonable.

Reimbursement of Litigation Costs and Expenses

31. Plaintiff's counsel separately requests the reimbursement of costs and litigation expenses reasonably incurred in connection with the prosecution of this action.

32. Such expenses are reflected in the books and records maintained by undersigned counsel and his co-counsel, which are an accurate recording of the expenses incurred.

33. To date, Plaintiff's counsel has incurred reimbursable costs and litigation expenses in the total amount of $12,588.90.

34. My firm has incurred reasonable costs and litigation expenses of $6,619.50, which include $3,987.50 for mediation, $1,406.25 for expert work, $402 for the filing fee, $230 in service fees and $593.75 in anticipated final expense related fees.

35. As well, my firm incurred additional costs and expenses, such as for photocopies, and computerized legal research on LexisNexis, for which my firm does not seek reimbursement.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on February 13, 2023

By: *s/ Anthony Paronich*
Anthony Paronich

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE

DIANNE BEAR KING LUCAS, on behalf of herself and others similarly situated, Plaintiff, vs. SYNCHRONY BANK, Defendant.	)	CASE NO. 4:21-cv-00070-PPS-JEM Judge Philip P. Simon Magistrate Judge John E Martin

DECLARATION OF PLAINTIFF DIANNE BEAR KING LUCAS IN SUPPORT OF PLAINTIFF'S MOTION FOR AN AWARD OF ATTORNEYS' FEES, COSTS, LITIGATION EXPENSES, AND A SERVICE AWARD

Pursuant to 28 U.S.C. § 1746, I declare as follows:

1. My name is Dianne Bear King Lucas.

2. I am the Plaintiff in this case.

3. I am over twenty-one years of age.

4. I am fully competent to make the statements included in this declaration.

5. I have personal knowledge of the statements included in this declaration.

6. Starting in June 2021, I began receiving telephone calls on my cell phone that would play a prerecorded message asking me to return a call to an 855 number.

7. It is my understanding that these calls were intended for an individual other than me.

8. I don't have, and have never had, an account with Synchrony Bank.

9. Over the next several months, I made numerous attempts on my own to stop the calls.

10. I called the telephone number back and requested that the calls stop.

11. I called my telephone company and reported the unwanted calls to them and sought their assistance in having the calls stop.

12. My attempts were unsuccessful.

13. In September 2021, I sought out legal representation.

14. I consulted with Max S. Morgan of the The Weitz Firm, LLC, Anthony Paronich of Paronich Law, P.C. and Michael Greenwald and Aaron Radbil of Greenwald Davidson Radbil PLLC (my "Attorneys") about my situation.

15. My Attorneys explained the Telephone Consumer Protection Act (TCPA) to me and what my rights were under the TCPA.

16. I ultimately hired my Attorneys to represent me in this case.

17. It was important to me to bring this case not just for myself, but for everyone else who received unwanted calls from Synchrony. Robocalls are highly annoying and intrusive and I want companies to stop making them when they don't have permission to do so.

18. I have a written fee agreement with my Attorneys.

19. My fee agreement with my Attorneys provides that if my case is resolved on a class-wide basis, my Attorneys may apply to the Court for an award of attorneys' fees, not to exceed 35% of the total settlement fund.

20. My Attorneys are asking for approval of fees of less than 32% of the total settlement fund, which I understand to be about 36% of what is left after deducting costs and expenses.

21. After I hired my Attorneys, I spent considerable time gathering information for this case.

22. I went through my telephone to identify the dates and times that I received the calls at issue in my case.

23. I created a summary table of the calls I received (including date and time) and a notation of whether I received a voicemail message during these calls.

24. I kept updating the table I created until the calls stopped.

25. I took screenshots of the calls as they appeared on my telephone and provided them to my Attorneys.

26. I preserved voicemails that I received and provided them to my Attorneys.

27. I spoke with my Attorneys numerous times before we filed the initial complaint to answer their questions and provide information to them to help them draft the complaint.

28. I reviewed and verified the complaint and the amended complaint before my Attorneys filed these documents with the Court.

29. My Attorneys spent time with me explaining the discovery process.

30. My Attorneys explained the type of information and records we were going to seek from Synchrony through the discovery process and I made multiple suggestions to them about what information to ask for.

31. For example, I explained to my Attorneys that I made complaints to my own telephone company and suggested that they seek account notes about my complaints.

32. I understand that the subpoena response from my phone company evidenced my complaints and requests for assistance.

33. I reviewed and responded to Synchrony's discovery requests directed to me.

34. Synchrony served me with Requests for Admissions, Requests for Production of Documents, and Interrogatories.

35. I met with my Attorneys to prepare and review my responses to the discovery requests that were directed to me.

36. I gathered information and documents in response to the discovery requests and provided that information to my Attorneys.

37. I attended the mediation conducted by Mr. Bruce Friedman.

38. I took the day off from work to attend and be available for the entire mediation.

39. I participated in the mediation and reviewed all offers and demands with my Attorneys.

40. I discussed the pros and cons of a settlement with my Attorneys and ultimately agreed to and approved the Settlement reached with Mr. Friedman's help.

41. I reviewed and analyzed the written settlement agreement.

42. I understand that the Settlement in this case has the potential to impact up to 200,000 people who had the same or similar experience as me.

43. It will stop the unwanted calls they are inadvertently receiving.

44. It will also provide them with compensation for those unwanted calls.

45. Through this case, I was able to have an impact on and help thousands of people, which is a great feeling.

46. Since settling the case, I have remained informed about the approval and notice process.

47. In total, I estimate that I have devoted approximately 30 hours of my time to this case.

48. I understand that courts try to incentivize quality lead plaintiffs to participate in class actions with payments on top of whatever lead plaintiffs receive as members of the class.

49. Based on the time and effort I have put into this matter and the favorable result achieved, I think that a service incentive award of $10,000 is fair and reasonable.

50. Also, because this case is a matter of public record, when people search my name on the internet, my association with this case comes up. While I'm really proud of this case, getting extra attention isn't always good and future plaintiffs may be deterred from bringing class actions because of the scrutiny they will get. This is another reason why I think a service award is fair.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 13, 2023

DocuSigned by:
C53EE98258BF42B...

Dianne Bear King Lucas