UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

VICTOR FUENTES, individually and on behalf of all others similarly situated, **PLAINTIFF,** ***V.*** **JIFFY LUBE INTERNATIONAL, INC.,** **DEFENDANT.**	**CIVIL ACTION NO. 2:18-CV-05174-AB**

PLAINTIFF'S BRIEF IN SUPPORT OF MOTION FOR FINAL APPROVAL OF SETTLEMENT AND AWARD OF ATTORNEY'S FEES, EXPENSES, AND SERVICE AWARD

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I. INTRODUCTION

Plaintiff Victor Fuentes ("Plaintiff"), on behalf of himself and others similarly situated, and defendant Jiffy Lube International, Inc. ("Jiffy Lube") have reached a proposed classwide settlement in this matter (the "Settlement")[1] after extensive litigation and hard-fought negotiations. The Hon. David R. Strawbridge held several settlement conferences and oversaw settlement negotiations among counsel experienced in antitrust class actions who understand the risks of proceeding through class certification, trial, and appeal. The Settlement represents an exceptional recovery for the Settlement Class and should be approved.

On September 15, 2023, this Court preliminarily approved the Settlement, finding it was likely fair, reasonable, and adequate and poised to deliver significant payments to approximately 1,222[2] Settlement Class Members. Dkt. 155. The Court preliminarily certified the following Settlement Class for settlement purposes only:

> All persons in the United States who between December 1, 2014, and December 31, 2018 (i) worked as hourly employees; (ii) of a Jiffy Lube Franchisee located in the Philadelphia-Camden-Wilmington MSA; and (iii) worked for a period of at least 90 days.[3]

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[1] All capitalized terms not defined herein have the meanings set forth in the Parties' Settlement Agreement ("Settlement" or "Agreement"). *See* Dkt. 90-3.

[2] Based on the data produced, the Parties currently estimate that there are 1,255 class members.

[3] Excluded from the Settlement Class are: (a) Jiffy Lube and its principals, affiliated entities, legal representatives, successors, and assigns; (b) any Person who files a valid, timely Request for Exclusion; (c) federal, state, and local governments (including all agencies and subdivisions thereof); and (d) any Person who settled and released claims at issue in this Action.

The Settlement Class Members are hourly-paid Jiffy Lube franchisee employees in the Philadelphia-Camden-Wilmington region.[4] The proposed Settlement would establish a two-million-dollar ($2,000,000) all cash Settlement Fund[5] with no reversion and no claims process and represents approximately 90% of the damages Plaintiff's expert preliminarily calculated for the Settlement Class. This is an excellent recovery considering the size of the Settlement Class, the nature of Plaintiff's claim, potentially recoverable damages, Defendant's potential defenses, and the risks and time required to prosecute this litigation through class certification, trial, and any potential appeals. Class Counsel believes that the Settlement is in the best interests of the Settlement Class. The Settlement easily satisfies the requirements of Rule 23(e)(2), meets each of the *Girsh* factors,[6] and balances the objective of attaining the highest possible recovery against the many risks and costs of continued litigation. In addition, the Settlement's Plan of Allocation treats Settlement Class Members equitably by allocating net settlement proceeds *pro rata* based on each Class Member's estimated earnings during the Class Period. Further, the Settlement does not require Class Members to submit a claim in order to obtain their share of the settlement.

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[4] The list of the 32 Jiffy Lube franchisees located in the Philadelphia-Camden-Wilmington Metropolitan Statistical Area (MSA) is attached as Ex. C to the Settlement Agreement. *See* Dkt. 90-3. The rights of other Jiffy Lube franchisee employees are preserved as the Settlement does not release their claims and their statutes of limitations have been tolled during the pendency of this action. *In re Linerboard Antitrust Litig.*, 504 F. Supp. 2d 38, 45 (E.D. Pa. 2007).

[5] Following preliminary approval, Jiffy Lube has deposited the $2,000,000 into the settlement escrow account overseen by the Settlement Administrator.

[6] *Girsh v. Jepson*, 521 F.2d 153, 157 (3d Cir. 1975).

Plaintiff also requests that the Court approve payment of attorney's fees of $500,000, which represents 25% of the gross settlement amount. The requested fee is proportional, reasonable, and at the lower end of the range of fees awarded in the Third Circuit. *See Utah Retirement Systems*, 2022 WL 118104 (E.D. Pa. Jan. 12) (*citing In re Gen. Motors Corp.*, 55 F.3d at 822 (3d Cir. 1995)). Class Counsel also seeks $320,465 in litigation expenses and $68,132 for the Settlement Administrator. Finally, the named plaintiff, Victor Fuentes, seeks a modest service award of $5,000 for his efforts in this litigation.

II. Overview of the Litigation

A. The Alleged Antitrust Violations

Jiffy Lube franchisees sell lubrication, oil change, and light repair services for cars and trucks to customers through independently owned and operated franchise shops. Dkt. 91, Second Amended Complaint at ¶17. Jiffy Lube licenses franchisees the right to operate a business or distribute goods and services using the Jiffy Lube name and systems. *Id.* at ¶21. To own a Jiffy Lube franchise, prospective franchisees must sign a franchise agreement, pay a franchise fee, and contribute a percentage of monthly gross sales as royalty payments to Jiffy Lube. *Id.* at ¶25.

Throughout the Class Period, Jiffy Lube incorporated a clause into its standard franchise agreement prohibiting Jiffy Lube franchisees from soliciting or hiring existing employees of Jiffy Lube shops (the "No-Poach Provision"). *Id.* at ¶26. Jiffy Lube had unilateral power to terminate their franchises if franchisees violated the No-Poach Provision. *Id.* at ¶27.

Plaintiff alleges that the No-Poach Provision had the desired effect of benefiting Jiffy Lube shop owners and Jiffy Lube at the expense of employees. *Id.* at ¶¶ 30-40. More specifically, Jiffy Lube's No-Poach Provision acted as a conspiracy among Jiffy Lube and franchisees to artificially suppress wages and decrease the pool of available, qualified shop employees. *Id.* at ¶35. By acting in concert during the Class Period, Plaintiff alleges that franchisees were able to pay employees below-market wages without worrying that they would seek employment at another Jiffy Lube franchise with more attractive working conditions. *Id.* Plaintiff alleged the No-Poach Provision had an anticompetitive effect and violated § 1 of the Sherman Act. *Id.* at ¶¶ 91-102.

B. Procedural History

For more than five years, Plaintiff has been diligently litigating this case. On November 29, 2018, Plaintiff filed his class action lawsuit against Jiffy Lube alleging that its No-Poach Provision violates Section 1 of the Sherman Act, 15 U.S.C. §1.[7] Dkt. 1. On April 15, 2019, Jiffy Lube filed a Motion to Dismiss for Failure to State a Claim. Dkt. 11. On November 25, 2019, the Court denied Defendant's Motion to Dismiss insofar as it related to the allegations under §1 of the Sherman Act. Dkt. 41. On May 4, 2020, Plaintiff filed a First Amended Class Action Complaint. Dkt. 53. Finally, concurrent with Plaintiff's Motion for Preliminary Approval, Plaintiff filed a Second Amended Class Action Complaint to reflect the narrower Settlement Class Plaintiff sought to certify. Dkt. 91.

[7] Plaintiff voluntarily dismissed other Defendants on April 10, 2019, and May 18, 2020. *See* Dkts. 8, 55, 59.

The Parties engaged in rigorous discovery. Plaintiff served extensive discovery requests on Defendant and certain Jiffy Lube franchisees and reviewed hundreds of thousands of pages of documents. Declaration of Joshua J. Bloomfield at ¶ 5. (hereafter "Bloomfield Decl"). Plaintiff took six (6) depositions of Defendant and third parties. The document discovery and deposition testimony gave Plaintiff adequate information concerning the strengths and weaknesses of its antitrust claims against Defendant. During discovery, the Parties engaged in informal settlement discussions, none of which were successful. *Id.* at ¶ 7. Beginning October 29, 2021, the Parties participated in several settlement conferences with the Hon. David R. Strawbridge, which took over two months to conclude. *Id.* Ultimately, those settlement discussions resulted in the Settlement now presented to this Court for approval.

Plaintiff filed a motion for preliminary approval on July 22, 2022. *See* Dkt. 90-1. The Court granted preliminary approval of the Settlement on September 15, 2023. Per the Court's Order, Plaintiff submitted a revised Notice with deadlines and specific contact information on October 13, 2023 (Dkt. 155), which this Court approved on December 13, 2023. *See* Dkt. 172.

On December 13, 2023, the Court issued a Revised Scheduling Order providing that Notice will be mailed on or before February 21, 2024. Dkt. 172. The deadline for Settlement Class Members to opt out or object to the Settlement is April 9, 2024. *Id.* Therefore, Plaintiff will wait for its reply brief (to be filed on April 24, 2024) to address notice compliance and the Settlement Class Members' reaction to the Settlement.

Since the Court entered the Preliminary Approval Order and Revised Scheduling Order, the Settlement Administrator and the parties have been working to establish the Settlement website, populate each Settlement Class Member's Notice with his or her estimated earnings amount, as well as an individualized Claim ID and PIN, and prepare to disseminate class notice on or before February 21, 2024. *See* Bloomfield Decl. at ¶ 14. The Court scheduled a Final Approval Hearing for May 8, 2024 at 10:30 a.m. Dkt. 174.

On October 2, 2022, a proposed intervenor filed a motion seeking to intervene and represent plaintiffs whose claims were not resolved by the proposed settlement. Dkt. 94. In that motion, proposed intervenor represented he "does not oppose the existing settlement resolving claims on behalf of the [settlement] class." Dkt. 94 at 2. Defendant filed a motion to compel arbitration, Dkt. 131, that was granted on September 14, 2023. Dkt. 154. Thereafter, a second motion to intervene was filed on behalf of Nathan Hernandez on September 21, 2023. Dkt. 157. The Court denied that motion on December 13, 2023. Dkt. 171.

III. THE PROPOSED SETTLEMENT

Plaintiff seeks certification of the same Settlement Class that the Court preliminarily certified for settlement purposes only:

> All persons in the United States who between December 1, 2014 and December 31, 2018 (i) worked as hourly employees; (ii) of a Jiffy Lube Franchisee located in the Philadelphia-Camden-Wilmington MSA; and (iii) worked for a period of at least 90 days.

Dkt. 90-3 at ¶1.33. The proposed Settlement establishes a non-reversionary $2,000,000 Settlement Fund, which will exclusively be used to pay: (1) cash awards to Settlement

Class Members; (2) Settlement administration expenses; (3) court-approved attorney's fees and out-of-pocket expenses; (4) any court-approved service award to compensate the Class Representative; and (5) required Taxes owed by the Settlement Fund as well as payroll taxes and tax withholding from the portion of the Settlement deemed unpaid wages.

Each Settlement Class Member shall be entitled to receive a *pro rata* amount of the Net Settlement Fund (after attorney's fees and expenses, administration expenses, any service award amount, and required taxes are deducted) based on their estimated earnings during the Class Period. *See* Dkt. 90-2 (Allocation Plan).

IV. Notice Plan

In its Revised Scheduling Order, the Court approved the Notice to Settlement Class Members. *See* Dkt. 172. Notice will be mailed to Class Members or before February 21, 2024. *See Id.*

Settlement Class Members have been identified from Defendant's and franchisees' records. Class Counsel provided the Settlement Administrator the list of Class Members with their last known mailing addresses. Bloomfield Decl. at ¶ 8. Class Counsel also obtained social security numbers for a majority of Class Members from franchisees. The Settlement Administrator will use this information and the National Change of Address database to obtain Class Member addresses. *Id*. On or before February 21, 2024, the Settlement Administrator will send Notice to each Settlement Class Member via first class U.S. Mail. Dkt. 172.

The Notice will provide Settlement Class Members their estimated earnings at a Jiffy Lube Franchise during the Class Period based on the best available information Plaintiff

received during discovery and the settlement process. Dkt. 161. The estimated earnings amounts will be used to calculate each Class Member's *pro rata* share of the net settlement amount. The Settlement Administrator will maintain a settlement website and Settlement Class Members will have an opportunity to access this website (using a unique ID and code) to correct, if necessary, the estimated earnings information used as a basis for the pro rata settlement payment. Settlement Class Members will be able to provide their social security number through the website so that a W-9 form may be issued. *Id*. at 4. The Settlement Website will also display relevant court documents and contact information. The Settlement Administrator will also operate a toll-free phone number to provide more information for the Settlement Class Members. *Id*. at 6. Settlement Class Members will have the opportunity to object to or exclude themselves from the Settlement. Dkt. 90-3 at ¶10.4. The procedures and deadlines for filing requests for exclusion and objections will be conspicuously listed on the Notice and will inform Settlement Class Members that they will be bound by the release contained in the Settlement unless they timely exercise their opt-out right. *Id.* at ¶11, Ex. 4. This Notice satisfies the requirement under *In re Prudential Ins. Co. Am. Sales Practice Litig. Agent Actions*, 148 F.3d 283, 527 (3d Cir. 1998) (notice must "afford [interested parties] an opportunity to present their objections."). Plaintiff will address implementation of the Notice Plan in connection with their reply brief to be filed on or before April 24, 2024.

V. The Settlement Should Be Finally Approved as Fair, Reasonable, and Adequate

A. Standard for Final Approval

The Third Circuit has announced a "strong presumption in favor of voluntary settlement agreements…." *See Ehrheart v. Verizon Wireless*, 609 F.3d 590, 594 (3d Cir. 2010); *Pennwalt Corp. v. Plough,* 676 F.2d 77, 79-80 (3d Cir. 1982). Settlement is particularly favored in class actions and other complex cases "where judicial resources can be conserved by avoiding formal litigation." *In re General Motors Corp. Pick-Up Truck Fuel Tank Prod. Liab. Litig.,* 55 F.3d 768, 784 (3d Cir. 1995); *see also Stevens v. SEI Invs. Co.,* No. CV 18-4205, 2020 WL 996418, at *2 (E.D. Pa. Feb. 28, 2020). Courts are generally afforded broad discretion in determining whether to approve a proposed class action settlement. *Eichenholtz v. Brennan,* 52 F.3d 478, 482 (3d Cir. 1995).

Rule 23(e)(2) requires the Court to consider the following factors to determine whether the proposed settlement is "fair, reasonable, and adequate:"

> (A) the class representatives and class counsel have adequately represented the class;
> (B) the proposal was negotiated at arm's length;
> (C) the relief provided for the class is adequate, taking into account:
> (i) the cost, risks, and delay of trial and appeal;
> (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
> (iii) the terms of any proposed award of attorneys' fees, including timing of payment; and
> (iv) any agreement required to be identified under Rule 23(e)(3); and
> (D) the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2).

These factors are considered alongside, and largely overlap with the "*Girsh* factors," which include:

> (1) the complexity, expense and likely duration of the litigation; (2) the reaction of the class to the settlement; (3) the stage of the proceedings and the amount of the discovery completed; (4) the risks of establishing liability; (5) the risks of establishing damages; (6) the risks of maintaining the class action through trial; (7) the ability of the defendants to withstand a greater judgment; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; and (9) the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation.

Girsh, 521 F.2d at 156 (3d Cir. 1975).

Finally, a presumption of fairness applies when "(1) the settlement negotiations occurred at arm's length; (2) there was sufficient discovery; (3) the proponents of the settlement are experienced in similar litigation; and (4) only a small fraction of the class objected." *In re Warfarin Sodium Antitrust Litig.,* 391 F.3d 516, 535 (3d Cir. 2004) (quoting *In re Cendant Corp. Litig*., 264 F.3d 201, 232 n.18 (3d Cir. 2001)). As discussed below, each factor under Rule 23(e)(2) and *Girsh* weighs in favor of final approval of the Settlement.

B. The Settlement Satisfies Rule 23(e)(2)

The settlement proposed in this case satisfies all the foregoing Rule 23(e)(2) standards.

1. *The Settlement Was Negotiated at Arm's Length*

First, the Settlement was reached in arm's length negotiations by counsel experienced in settling class actions. *See In re Auto Refinishing Paint Antitrust Litig.,* MDL No. 1426, 2004 WL 6248154, at *8 (E.D. Pa. May 11, 2004) (granting final approval of class action settlement and finding resolution negotiated at arms-length "entitled to great weight."); *see*

also Rule 23(e)(2)(B). Before the settlement conference, the parties engaged in extensive discovery, hired experts, took many depositions, issued subpoenas, and were preparing to brief critical legal issues, including class certification. Bloomfield Decl. at ¶¶ 5-6. Through this discovery and legal research, Plaintiff and Class Counsel were able to assess the strengths of the case, and the propriety of settlement at this juncture. All parties' counsel are experienced in class actions and antitrust matters. *Id*. at ¶ 5.

Therefore, by the time the Settlement was reached, Plaintiff and Class Counsel had a clear understanding of the merits and weaknesses of their case. *See In re Nat'l Football League Players Concussion Inj. Litig.,* 821 F.3d at 436-37 (3d. Cir. 2016) (finding that, even though discovery was incomplete, class counsel were in a position to assess the value of class claims and negotiate a fair settlement). In sum, Plaintiff and his counsel are in a strong position to make an informed decision on the merits of recommending the settlement. *See In re Viropharma Inc., Sec. Litig.,* No. 12-2714, 2016 WL 312108, at *11 (E.D. Pa. Jan 25) (Court "affords considerable weight to the views of experienced counsel regarding the merits of the settlement."). This strongly supports approval of the Settlement.

Moreover, the negotiations that led to the Settlement were conducted before Magistrate Judge Strawbridge who has extensive experience in resolving complex litigation and who ensured the negotiations were conducted at arm's length. "The participation of an independent mediator in settlement negotiations virtually insures [sic] that the negotiations were conducted at arm's length and without collusion between the parties." *Viropharma*, 2016 WL 312108, at *11.

2. *The Relief Provided is Adequate, Taking Into Account the Rule 23(e)(2)(C) Factors.*

Defendant will pay $2 million to 1,255 Class Members. Plaintiff's economist expert's initial analysis shows that the Settlement amount is approximately 90% of the Settlement Class's damages. Bloomfield Decl. at ¶ 11. The Settlement amount is also reasonable in light of the costs of continuing litigation. For example, the class certification and merits expert reports would be expensive in this antitrust case. *Id.* at ¶ 13.

In addition to the financial component of this Settlement, Jiffy Lube has ceased its use of the No-Poach Provision and has no plans to reinstate the policy. Dkt. 90-3 at 3. Plaintiff also proposes an effective method of distributing relief, *see* infra at Section IV.B.3 and a reasonable award of attorney's fees. *See* infra at Section VI. Plaintiff has not entered into any agreements that are required to be disclosed by Rule 23(e)(3). *See* Rule 23(e)(2)(C)(iv).

3. *The Settlement's Allocation Plan Treats Class Members Equitably*

Finally, the Settlement treats Settlement Class Members equitably relative to each other. Under the Settlement's Plan of Allocation, the Net Settlement Fund[8] will be awarded on a pro rata basis, based on each Class Member's estimated earnings at a Jiffy Lube franchisee during the Class Period. *See* Dkt. 90-4.

Settlement Class Members' Notices will include the earnings estimate used to calculate their pro rata settlement payments. Jiffy Lube and certain franchisees produced data from

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[8] The amount remaining in the Settlement Fund after paying attorney's fees and costs, the service award, and administration expenses.

which earnings can be estimated. Using this data, the Settlement Administrator will populate each Settlement Class Member's Notice with their estimated earnings.

Settlement Class Members will have an opportunity to contest the estimated earnings stated in their Notices. The Settlement Administrator will rule on these contests and its determination of the estimated earnings will be final. Once final determinations are made, the Settlement Administrator will use the estimated earnings to calculate each Settlement Class Member's pro rata share of the Net Settlement Fund. *Id.*

Undistributed Class Member funds (e.g., for Settlement Class Members who cannot be located after reasonable and customary efforts or do not cash their checks by the stale date) will be reallocated pro rata and sent in a second distribution to Settlement Class Members who deposited their settlement checks so long as such a distribution is economically sensible.[9] Dkt. 90-4 at 2-3. No Settlement funds will revert to Defendants. Dkt. 90-3, ¶ 8.7. In sum, the Allocation Plan treats Class Members fairly and equitably, and supports granting final approval.

4. *Class Representative and Counsel are Adequate*

Here, Class Representative Victor Fuentes has diligently represented the Settlement Class. He has actively participated in discovery and has worked with counsel to attempt to

[9] If the sum available for a second distribution is not sufficient to render such a distribution economically sensible, or if there remain amounts undistributed after the secondary distribution, the undistributed amount will be donated, cy pres, to an appropriate non-profit organization, not affiliated with any of the parties or their counsel, to be approved by the Court.

locate relevant documents. Throughout, he has stayed in contact with Class Counsel and acted with the interests of the Class in mind. Bloomfield Decl. at ¶ 17.

Class Counsel Gibbs Law Group, working closely with two other firms, Paul LLP and Gustafson Gluek PLLC, have also adequately represented the Class. They vigorously prosecuted this case, including briefing two motions to dismiss. They also conducted robust discovery and were preparing for expert reports. Class Counsel has developed strong liability evidence. As part of these efforts, Class Counsel worked over 3,250 hours on the case and has advanced $320,465 in litigation expenses on behalf of the Settlement Class, with no assurance that those expenses would be reimbursed. *Id* at ¶¶ 15-16.

Considering all these guideposts, the Court should conclude the proposed Settlement is fair, reasonable, and adequate, and warrants final approval.

C. The Settlement Satisfies the *Girsh* Factors for Fairness, Reasonableness, and Adequacy

1. *The Complexity, Expense and Likely Duration of the Litigation*

The first *Girsh* factor is intended to capture "the probable costs, in both time and money, of continued litigation." *In re General Motors Corp. Pick-Up Truck Fuel Tank Prod. Liab. Litig.,* 55 F.3d at 812 (internal citations omitted). This action is a complex and expensive antitrust case. This case was filed more than five years ago and while pleading, motions to dismiss, and much of the fact discovery have been completed, absent settlement, conducting expert discovery, class certification and summary judgment motions, trial, and appeal would take several more years and force the Parties to spend millions of dollars. *See Viropharma*, 2016 WL 312108, at *10 (finding that continuing litigation would involve

substantially more motion practice, including motions to dismiss and for class certification, each of which would likely require oral argument, extensive briefing, potential *Daubert* challenges and "battles between competing reports"). Thus, this factor weighs in favor of approval.

2. *The Reaction of the Class to the Settlement*

Plaintiff Fuentes supports the Settlement. The reaction of other Settlement Class Members to the Settlement will be addressed in the reply brief after Settlement Class Members have received Notice and have had an opportunity to support or object to the Settlement.

3. *The Stage of the Proceedings and the Amount of the Discovery Completed*

This case is at a stage of proceedings where Class Counsel understand its strengths and weaknesses. This factor "captures the degree of case development that class counsel have accomplished prior to settlement," and allows the court to "determine whether counsel had an adequate appreciation of the merits of the case before negotiating." *In re General Motors Corp.,* 55 F.3d at 813. As noted above, the Parties have engaged in substantial discovery to date, including formal and informal exchange of documents, third-party subpoenas and depositions. The Parties fully briefed Defendant's first and second Motions to Dismiss. Thus, Class Counsel had more than adequate appreciation for the strengths and weaknesses of their case. *See Viropharma,* 2016 WL 312108, at *10-11 (finding that the third *Girsh* factor was satisfied when the parties had fully briefed defendants' motion to dismiss, completed expedited discovery, and had met and conferred multiple times). Therefore, this factor weighs strongly in favor of approval of the Settlement.

4. *The Risks of Establishing Liability and Damages and Certifying a Nationwide Class through Trial*

The fourth, fifth, and sixth *Girsh* factors – the risks of establishing liability and damages and obtaining class certification require a court to "balance the likelihood of success and the potential damage award if the case were taken to trial against the benefits of an immediate settlement." *In re Linerboard Antitrust Litig.,* 292 F.Supp.2d at 640-41. Here, these factors weigh in favor of approval. To begin, Section 30.42 of the *Manual for Complex Litigation (Third*) states that a court evaluating a class action settlement "should keep in mind the unique ability of class and defense counsel to assess the potential risks and rewards of litigation." Manual Complex Lit. § 30.42 (4th ed.). As previously stated, both Parties' counsel are experienced in class actions and antitrust litigation.

Plaintiff believes the No-Poach Provision is anticompetitive, but Jiffy Lube vigorously denies that the No-Poach provision was enforced or that it caused any harm. And outside of the settlement context, Jiffy Lube would oppose certification of a nationwide class or even the narrower class presented here. District court rulings in the substantially similar no-poach cases against Jimmy Johns and McDonald's enhanced the risk of obtaining class certification and proving liability. In both cases, the district court denied class certification and relied on the Supreme Court's *Alston* decision to hold that rule of reason analysis applies in no-poach actions brought by franchisee employees. *Conrad v. Jimmy John's Franchise*, LLC, No. 18-CV-00133-NJR, 2021 WL 3268339, at *10; *Deslandes v. McDonald's USA, LLC*, No. 17 C 4857, 2021 WL 3187668, at *7. In *Deslandes*, the district court also granted judgment on the pleadings in favor of McDonalds. *Deslandes v.*

McDonald's USA, LLC, No. 17 C 4857, 2022 WL 2316187, at *4-5 (N.D. Ill. June 28, 2022).

After this Court granted preliminary approval, the Seventh Circuit reviewed the *McDonalds* decision, reversed the dismissal, and remanded the case to the district court, *Deslandes v. McDonald's USA, LLC*, 81 F.4th 699, 703 (7th Cir. 2023), finding the no-poach restriction was alleged to be horizontal and thus the per se rule could apply. While Plaintiff believes the *Deslandes* appellate court decision is correct, the Third Circuit has not affirmatively applied the per se rule in this context and thus there remains a real risk that liability is uncertain because unlike per se or quick look analysis, rule of reason is a more complex analysis and is far less favorable to an antitrust plaintiff. And even if the Court granted class certification, proceeding to trial would inevitably carry the risk of decertification.

Also, proving damages at trial is unpredictable because "damages would likely be established at trial through a 'battle of experts' with each side presenting its figures to the jury and with no guarantee whom the jury would believe." *Warfarin,* 212 F.R.D. at 256. In *In re Cedant*, the court reasoned that there was no compelling reason to think that a jury confronted with competing expert opinions would favor one over the other. 264 F.3d at 239. Thus, this factor weighs in favor of preliminary approval.

5. *The Ability of Jiffy Lube to Withstand a Greater Judgment*

The seventh *Girsh* factor, whether a defendant is able to withstand a greater judgment, is neutral because Jiffy Lube is likely to be able to withstand a greater judgment. However, as further outlined below, the proposed Settlement provides Settlement Class Members

with approximately 90% of their potential damages and is reasonable considering the risks of continued litigation.

6. *The Range of Reasonableness of the Settlement Fund in Light of the Best Possible Recovery and the Attendant Risks of Litigation*

The eighth and ninth *Girsh* factors require a court to consider whether the settlement is reasonable in light of the best possible recovery and the risks the parties would face if the case went to trial. *In re Linerboard Antitrust Litig.,* 292 F.Supp.2d at 642-43. This assessment should consider "the present value of damages plaintiffs would likely recover if successful, appropriately discounted for the risk of not prevailing, compared with the amount of the proposed settlement. *Id.* (quoting *In re Prudential*, 148 F.3d at 322). The total Settlement is approximately 90% of the estimated Settlement Class damages, far exceeding recovery percentages found reasonable by this Court in other cases. *See, e.g.*, *In re Corel Corp. Inc. Sec. Litig.*, 293 F. Supp. 2d 484, 489–90 (E.D. Pa. 2003) (approving a settlement providing 15% of estimated damages).

This Settlement represents a great value for all Settlement Class Members. It provides significant financial relief now in the face of the substantial risks and costs associated with ongoing litigation, and thus merits final approval. *See In re Aetna Sec. Litig.,* No. MDL 1219, 2001 WL 20928, at *11 (E.D. Pa. Jan. 4, 2001) ("settlement represents a compromise in which the highest hopes for recovery are yielded in exchange for certainty and resolution").

VI. The Proposed Settlement Class Satisfies the Requirements for Class Certification at the Settlement Stage

In addition to finding the settlement fair, reasonable and adequate, this Court must also find that the Settlement Class can be certified under Rules 23(a) and (b). *See Amchem Products, Inc. v. Windsor*, 521 U.S. 591, 619-21 (1997); *Ortiz v. Fiberboard Corp.*, 527 U.S. 815, 858 (1999). The proposed Settlement Class definition is the same as the Settlement Class the Court preliminarily certified. Dkt. 155. Because there is no reason to depart from the Court's preliminary certification, Plaintiff addresses this issue only briefly.

A. Rule 23(a)'s Requirements Are Satisfied

Rule 23(a) requires: (1) that the members of the proposed class are so numerous that joinder of the individual claims would be impracticable; (2) that there are questions of law or fact common to the class; (3) that the claims of the proposed class representatives are typical of the claims of the Class Members; and (4) that the proposed class representatives will adequately represent the interests of the class. Fed. R. Civ. P. 23(a).

Here, the proposed settlement class encompasses 1,255 individuals, satisfying numerosity. Bloomfield Decl. at ¶ 9. There are common questions that can be resolved using common proof and uniform legal analysis. They include (1) whether Jiffy Lube engaged in unlawful contracts, combinations, and/or conspiracies in restraint of trade and commerce and in violation of the Sherman Antitrust Act, 15 U.S.C. §1, *et seq.*; (2) whether such agreements had an antitrust impact in suppressing wages below competitive levels; (3) whether Plaintiff and Settlement Class Members are entitled to damages; and (4) the

amount of any damages. These common questions will yield common answers and readily satisfy the commonality requirement.

Plaintiff's and all Settlement Class Members' legal claims arise out of the same alleged conduct. Namely, that Plaintiff and Settlement Class Members all worked at Jiffy Lube franchise stores during the time the No-Poach Provision was in effect. In short, Plaintiff's and Settlement Class Members' claims arise out of the same course of conduct, the same injury, and they seek the same relief. Thus, typicality is satisfied.

The Class Representative and Class Counsel will continue to represent the Settlement Class's best interests, as they have done so to date, satisfying adequacy.

B. Rule 23(b)(3) is Satisfied

Each Rule 23(b)(3) requirement is also satisfied. For one, common questions predominate over any individual ones because Plaintiff's claim that the No-Poach Provision in franchise agreements artificially and anticompetitively suppressed wages for the benefit of franchise and store owners is grounded in facts common to every Class Member: the same No-Poach provision in the same franchise agreement applied to all Jiffy Lube employees.

Similarly, a class action is the superior method of resolving this case. In *Whiteley v. Zynerba Pharms., Inc.,* 2021 WL 4206696, at *9 (E.D. Pa Sept. 16) the court found superiority where "[a]ll of the Settlement Class Members' claims are based upon the same basic operative facts and legal standards," and held that "[i]t would be a far better use of judicial resources to adjudicate all these identical issues once, on a common basis." Such reasoning applies here. Requiring each Settlement Class Member to come forward with

individual – and identical – claims would deplete the judiciary's resources, create inconsistent results, establish incompatible standards of conduct for the Defendant, and lead to repetitious, complex trials. Thus, a single litigation is superior to a series of other litigations or to individuals potentially foregoing their claims and satisfies Rule 23(b)(3).

C. The Proposed Method for Distributing Notice is Effective

Federal Rule of Civil Procedure 23(e)(1) provides that, in the event of a class settlement, "[t]he court must direct notice in a reasonable manner to all class members who would be bound by the proposal." Fed. R. Civ. P. 23(e)(1). To satisfy due process, notice must be "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *In re Nat'l Football League Players Concussion Inj. Litig.,* 821 F.3d at 435.

Here, the Notice approved by this Court provides detailed information about the Settlement, including: (i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims and issues; (iv) that a Class Member may enter an appearance through counsel if desired; (v) that the court will exclude from the class any member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3). Fed. R. Civ. P. 23(c)(2); *see also* Dkt 161. The Notice also includes: (1) a comprehensive summary of its terms; (2) Class Counsel's intent to request attorney's fees, reimbursement of costs and expenses, and an incentive award for the Plaintiff; and (3) detailed information about the Released Claims. *Id.* In short, the Notice contains sufficient information to enable Settlement Class Members

to make informed decisions on whether they should take steps to protect their rights, including objecting to the Settlement or, when relevant, opting out of the Settlement Class.

The Court must also direct to Class Members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. Fed. R. Civ. P. 23(c)(2)(B). Here, individual notice will be sent by mail to each Settlement Class Member, all of whom can be identified from Jiffy Lube's and franchisees' internal documentation. The Settlement Administrator will perform a National Change of Address search and conduct advanced address updating using a variety of tools such as Lexis Nexis or other services to obtain a current address. For Settlement Class Members whose notices are returned undeliverable, the Settlement Administrator will update addresses and promptly resend notices. Notice (including a Spanish translation) will also be available via a case-dedicated website and will allow interested Settlement Class Members to submit information online. Accordingly, the proposed notice plan is reasonable and adequate, in accord with due process and Rule 23.

VII. The Request for an Award of Attorneys' Fees and Expenses and Service Award Should Be Approved

Rule 23 permits a Court to award "reasonable attorney's fees … that are authorized by law or by the parties' agreement. Fed. R. Civ. P. 23(h).

When evaluating proposed fee awards, courts in the Third Circuit consider several factors, including:

> (1) The size of the fund created and the number of persons benefitted; (2) the presence or absence of substantial objections by members of the class to the Settlement terms and/or fees requested by counsel; (3) the skill and efficiency of the attorneys involved; (4) the complexity and duration of the litigation;

> (5) the risk of nonpayment; (6) the amount of time devoted to the case by plaintiffs' counsel; and (7) the awards in similar cases.

Gunter v. Ridgewood Energy Corp., 223 F.3d 190, 195 n.1 (3d Cir. 2000). These factors, "need not be applied in a formulaic way … and in certain cases, one factor may outweigh the rest." *Id.*

Courts also look at three additional factors identified in *In re Prudential Ins. Co. America Sales Practice Lit. Agent Actions*, 148 F.3d 283 (3d Cir. 1998). Those factors include:

> (1) The value of benefits accruing to class members attributable to the efforts of class counsel as opposed to the efforts of other groups, such as government agencies conducting investigations;
>
> (2) The percentage fee that would have been negotiated had the case been subject to a private contingent fee arrangement at the time counsel was retained; and
>
> (3) Any "innovative" terms of settlement.

In re AT&T Corp., 455 F.3d 160, 165 (3d Cir. 2006) (citing *Prudential*, at 338-40).

The ultimate determination of the proper amount of attorney's fees rests within the sound discretion of the court based on the facts of the case. *In re Ins. Brokerage Antitrust Litig.*, 479 F.3d 241, 280 (3d Cir. 2009). Ultimately, "[w]hat is important is that the district court evaluate what class counsel actually did and how it benefited the class." *AT&T Corp.*, 455 F.3d at 165-66 (citation omitted).

The Third Circuit has recognized that the percentage of fund method is "generally favored in cases involving a common fund …" *Gelis v. BMW of N. Am., LLC*, 49 F.4th 371, 379 (3d Cir. 2022). The lodestar method is typically limited to fee-shifting cases and

cases where the type of recovery does not allow for a determination of the settlement's value. *Id.* at 379. *See also In re Cendant Corp. Litig.*, 264 F.3d at 256 (3d Cir. 2001) (criticizing lodestar method). Here, the Settlement Agreement establishes a common fund of $2,000,000 and is not a fee shifting case. Dkt. 90-3, ¶ 3.1 For this reason, Plaintiff requests an award of 25% of the common fund.

In addition, Plaintiff requests litigation expenses of $320,465 and plaintiff Victor Fuentes requests a service award of $5,000 in connection with his representation of the Settlement Class. These requests are fair and reasonable, and consistent with the fees, expenses, and service awards typically granted in similar matters.

A. The *Gunter* Factors Support Approval

1. *The Size of the Common Fund Created and the Number of Persons Benefited by the Settlement*

In awarding fees, the "most critical factor is the degree of success obtained." *Hensley v. Eckerhart*, 461 U.S. 424, 436 (1983). To assess this, courts "consider[] the fee request in comparison to the size of the fund created and the number of class members to be benefitted." *Harshbarger v. Penn Mut. Life Ins. Co.*, 2017 WL 6525783, at *3 (E.D. Pa. Dec. 20) (citation omitted).

Here, the two-million-dollar ($2,000,000) all cash Settlement Fund with no reversion and no claims process is an excellent result for the Settlement Class. This represents approximately 90% of the damages Plaintiff's expert preliminarily calculated for the Settlement Class and is an excellent recovery considering the size of the Settlement Class, the nature of Plaintiff's claim, and the potentially recoverable damages. Additionally, the

"number of persons to be benefited," while not nationwide, does impact a discrete market and provides significant relief to Jiffy Lube franchisee employees within that market. *See, e.g., In re Flonase Antitrust Litig.*, 951 F. Supp. 2d at 747 (fund to be divided *pro rata* among 33 direct purchasers and that provided "immediate and certain payments" counseled in favor of approval). For these reasons, the first *Gunter* factor weighs in favor of approving the requested attorney's fees.

2. *The Presence or Absence of Substantial Objections by Members of the Class to the Settlement Terms and/or Fees Requested by Counsel*

Given that Notice of the fee request will be mailed on February 21, 2024, Class Counsel will defer addressing this factor until their reply brief, to be filed by April 24, 2024.

3. *The Skill and Efficiency of the Attorneys Involved*

The third *Gunter* factor notes that the "goal of the percentage fee-award device is to ensure 'that competent counsel continue to undertake risky, complex, and novel litigation.'" *In re Flonase*, 951 F. Supp. 2d at 747. The skill and efficiency of the attorneys is measured by the "quality of the results achieved, the difficulties faced, the speed and efficiency of the recovery, the standing, experience and expertise of counsel, the skill and professionalism with which counsel prosecuted the case and the performance and quality of opposing counsel." *In re Viropharma*, 2016 WL 312108 at *16 (E.D. Pa. Jan. 25).

As shown above, the results obtained are outstanding, representing 90% of the potential damages for Settlement Class Members. Class Counsel are experienced class action lawyers whose combined experience in class action antitrust cases, and diligence in this litigation, have enabled this result. Bloomfield Decl. at ¶ 5. Class Counsel diligently

prosecuted this case, including briefing two motions to dismiss. They also conducted robust discovery, including serving extensive discovery requests on Defendant and Jiffy Lube franchisees. *Id*. Through first-party and third-party discovery, Plaintiff has collected tens of thousands of documents. *Id.* Moreover, Class Counsel took six (6) depositions of Defendant and third parties. Class Counsel was also preparing expert reports and developed strong liability evidence.

Opposing counsel, Norton Rose Fulbright, is also highly regarded antitrust counsel. In sum, recovering a significant portion of the Settlement Class's estimated damages demonstrates the value of Class Counsel's efforts, and supports approval of Class Counsel's requested 25% fee.

4. *The Complexity and Duration of the Litigation*

The issues in this antitrust case were particularly complex. *See In re Fasteners Antitrust Litig.*, 2014 WL 296954 at *5 (E.D. Pa. Jan. 27) (finding "like many antitrust cases, this case has involved complex issues and has been lengthy" and thus the complexity and duration of the litigation weighed in favor of approving the requested fee). This case also presented unique and evolving antitrust issues in the context of wage suppression in the franchisee arena. This matter has also been on file since 2018, more than five years. Thus, this factor weighs in favor of approving Class Counsel's requested fee.

5. *The Risk of Nonpayment*

Class Counsel worked on an entirely contingent basis throughout this litigation. Bloomfield Decl. at ¶ 15; *see also In re Viropharma*, at *17 (E.D. Pa. Jan. 25) ("Courts routinely recognize that the risk created by undertaking an action on a contingency fee

basis militates in favor of approval") (citation omitted). This created an incentive to litigate the case aggressively and seek the best possible recovery. Moreover, although Class Counsel believes liability was strong, there is a risk liability may not be established in light of opinions in similar cases in other district courts, further increasing the risk of nonpayment. *See in re Fasteners*, 2014 WL 296954, at *6 (E.D. Pa. Jan. 27) ("the Third Circuit has found that this risk of establishing liability is relevant to the analysis of whether there is a risk of nonpayment").

6. *The Amount of Time Devoted to the Case by Plaintiffs' Counsel*

Class Counsel invested significant time in this case, including devoting more than **3,250** hours over the course of approximately four years, and incurring more than **$320,000** of expenses prosecuting this case for the Class. All this work was performed without any guarantee Class Counsel would be paid for their time or reimbursed for their expenses. Class Counsel thus expended and committed significant resources to this litigation.

7. *Awards in Similar Cases*

Here, Class Counsel seeks 25% of the gross settlement fund. This is on the lower end of the Third Circuit's observed range of 19% to 45%. *See Utah Retirement Systems*, 2022 WL 118104 (E.D. Pa. Jan. 12) (*citing In re Gen. Motors Corp.*, 55 F.3d at 822 (3d Cir. 1995)). In other antitrust cases, courts have approved one third of the settlement fund. *See, e.g., In re Fasteners Antitrust Litig.*, 2014 WL 296954 at *7; *see also In re Flonase Antitrust Litig.*, 951 F. Supp. 2d at 748 (noting in eight direct purchaser actions courts have approved one-third fees). Class Counsel's requested 25% fee is reasonable in relation to

the fees typically awarded in similar cases and thus this factor favors approval of the requested fee award.

B. The *Prudential* Factors Also Support Awarding a 25% Fee

In addition to the *Gunter* factors, the three *Prudential* factors also merit awarding a 25% fee.

1. *Value of Benefits Attributable to the Efforts of Class Counsel as Opposed to the Efforts of Other Groups*

This factor is concerned with distinguishing between benefits created by Class Counsel and benefits created by government investigators. *See Prudential*, 148 F.3d at 338. There, the Court noted concerns about allowing counsel to "piggyback" on governmental investigations and "minimize the costs of failure … by free riding on the monitoring efforts of others." *Id.* In *Prudential*, shortly after litigation was filed related to certain insurance policies, a multi-state (approximately 30 states) task force was created to examine Prudential's sales practices and ultimately developed a remediation plan that consisted of outreach to consumers, a process for consumers to submit their policies for review, and a large fine. *See generally id.*

Here, by contrast, Class Counsel drove the investigation into and litigation against Jiffy Lube. While Jiffy Lube entered into a consent decree with the Washington Attorney General before this action was filed and agreed not to include the No-Poach agreement in future franchise agreements and to notify franchisees it would not enforce the existing agreement, that action did not include significant discovery or investigation; nor did it

result in [10] monetary relief to impacted workers, which the proposed settlement provides here.

Thus, this factor favors awarding the 25% fee.

2. *The Percentage Fee that Would Have Been Negotiated Had The Case Been Subject to a Private Contingent Fee Arrangement at the Time Counsel was Retained*

Class Counsel's private fee arrangement with Mr. Fuentes did not include a percentage fee, but Class Counsel's customary percentage fee in individual cases would be in the range of 33%. Here, Class Counsel seeks 25% of the $2 million common fund here. This fact supports approving Class Counsel's requested fee.

3. *Any "Innovative" Terms of Settlement*

The proposed settlement agreement contains relatively standard settlement terms and thus this factor is neutral.

C. A Lodestar Cross-Check Supports the Requested Fee

Courts in the Third Circuit may also use a "lodestar cross-check" to confirm the reasonableness of a percentage fee. *Moore v. GMAC Mortg.*, 2014 WL 12538188, at *2 (E.D. Pa. Sept. 19). If used, the lodestar cross-check "should not displace a district court's primary reliance on the percentage-of-recovery method." *In re AT&T Corp.*, 455 F.3d 160, 164 (3d Cir. 2006). The cross-check "need entail neither mathematical precision nor bean-counting" and the court "may rely on summaries submitted by the attorneys and need not

[10] *See AG Report: Ferguson's initiative ends no-poach practices nationally at 237 corporate franchise chains*, available at https://www.atg.wa.gov/news/news-releases/ag-report-ferguson-s-initiative-ends- -practices-nationally-237-corporate (last visited October 18, 2023).

review actual billing records." *In re Rite Aid Corp. Securities Litig.*, 396 F.3d 294, 306-07 (3d Cir. 2005).

The Third Circuit has approved multipliers of 2.99 in a "relatively simple case." *Milliron v. T-Mobile USA, Inc.*, 423 Fed. Appx. 131, (3d Cir. 2011) (citation omitted) "Furthermore, the resulting multiplier need not fall within any pre-defined range, provided that the District Court's analysis justifies the award." *In re Rite Aid Corp. Securities Litig.*, 396 F.3d 294, 307 (3d Cir. 2005).

Here, Class Counsel has spent a total of at least 3,250 hours of attorney and paraprofessional time on this matter, for a total lodestar of $2,083,711. *See* Bloomfield Decl. at ¶ 15. The resulting overall lodestar multiplier is less than .25, meaning the requested fee is only a fraction of the lodestar. Thus, the lodestar cross-check confirms the reasonableness of Class Counsel's requested fees and favors approval of the request.

D. The Requested Expenses Are Reasonable

Class Counsel also requests payment of expenses and charges incurred in connection with the prosecution of this litigation in the aggregate amount of $320,465. This Court has noted, "there is no reason to reject the request for reimbursement of [expenses] that counsel have spent out of their own pockets in litigating [an antitrust] case." *See In re Fasteners Antitrust Litig.*, 2014 WL 296954 at *5 (E.D. Pa. Jan. 27) (citing *In re Auto Refinishing Paint Antitrust Litig.*, MDl No. 1426, 2004 U.S. Dist. LEXIS 29162, at *35-36 (E.D. Pa. Oct. 13)). Counsel in class actions is entitled to reimbursement of expenses that were "adequately documented and reasonable and appropriately incurred in the prosecution of the class action." *Viropharma*, 2016 WL 312108, at *18 (citation omitted).

Here, Class Counsel's expenses are demonstrated by the accompanying Bloomfield Declaration. These expenses consist of the typical categories, such as experts, document hosting, online legal research, mediation fees, filing fees, and copying. *See id.* These types of expenses were reasonably necessary and appropriate to prosecute this antitrust case. *See, e.g., In re Flonase Antitrust Litig.*, 951 F. Supp.2d at 751 (approving reimbursement of economic expert fees and document management as reasonable); *In re Viropharma*, 2016 WL 312108, at *18 (approving reimbursement of expenses, including online legal research, filing fees, and copying costs, among other expenses). Moreover, Class Counsel had every incentive to conserve expenses because they had no guarantee they would be reimbursed.

E. The Requested Service Award is Reasonable

Service awards "are common in class actions that result in a common fund for distribution to the class." *Altnor v. Preferred Freezer Services, Inc.*, 197 F.Supp.3d 746 (E.D. Pa. 2016). These payments are meant to "'compensate named plaintiffs for the services they provided and the risks they incurred during the course of class action litigation,' and to 'reward the public service of contributing to the enforcement of mandatory laws.'" *Sullivan v. DB Investments, Inc.*, 667 F.3d 273, 333 n.65 (3d Cir. 2011) (quoting *Bredbenner v. Liberty Travel, Inc.*, No. 09-905, 2011 WL 1344745, at *22 (D.N.J. Apr. 8, 2011)).

"The Court has broad discretion to award payment to class representatives for their efforts to benefit the class." *Hall v. Best Buy Co., Inc.*, 274 F.R.D. 154, 173 (E.D. Pa. 2011). In determining whether a requested award is proper, courts typically look at factors such as

> (1) the risk to the plaintiff in commencing litigation, both financially and otherwise; (2) the notoriety and/or personal difficulties encountered by the representative plaintiff; (3) the extent of the plaintiff's personal involvement in the lawsuit in terms of discovery responsibilities and/or testimony at depositions or trial; (4) the duration of the litigation; and (5) the plaintiff's personal benefit (or lack thereof) purely in her capacity as a member of the class.

Altnor, 197 F.Supp.3d at 769 (citation omitted). The amount of a service award has ranged from as little as $1,000 to as much $75,000. See *Bradburn Parent Teacher Store, Inc. v. 3M (Minnesota Mining & Mfg. Co.)*, 513 F.Supp.2d 322, 342 (E.D. Pa. 2007) ($75,000); *In re Comcast Corp. Set-Top Cable Television Box Antitrust Litig.*, 333 F.R.D. 364, 390 (E.D. Pa. 2019) ($1,000). Courts in the Third Circuit have approved service awards similar to the one requested here. *See Myers v. Jani-King of Philadelphia*, No. 09-1738, 2019 WL 4034736, at *10 (E.D. Pa. Aug. 26, 2019) ($10,000); *Caddick v. Tasty Baking Co.*, No. 2:19-CV-02106-JDW, 2021 WL 4989587, at *10 (E.D. Pa. Oct. 27, 2021) ($5,000); *Copley v. Evolution Well Services Operating, LLC*, No. 2:20-CV-01442-CCW, 2023 WL 1878581, at *4 (W.D. Pa. Feb. 10, 2023) ($10,000); *Baez-Medina v. Judge Group, Inc.*, No. 21-3534, 2023 WL 4633503, at *9 (E.D. Pa. July 20, 2023) ($5,000). "A $5,000.00 service award is fair and reasonable if there is a substantial basis to establish that the recipient provided services during litigation." *Baez-Medina*, 2023 WL 4633503, at *9.

Here, Mr. Fuentes represented the class for more than five years. He participated in discovery by searching for and producing all his relevant documents. He also communicated with Class Counsel about the case and made himself available to participate, if needed, in several sessions of the settlement conference with Judge Strawbridge.

Bloomfield Decl. at ¶ 17. Thus, Class Counsel respectfully requests that the Court approve a $5,000 service award, which is fair and reasonable in light of Mr. Fuentes' contributions.

VIII. Conclusion

For these reasons, Plaintiff respectfully asks the Court to enter an Order (1) granting final approval of the Settlement; (2) approving the requested attorney's fees of $500,000, expense reimbursement of $320,465, and settlement administration expenses of $68,132; and (3) approving the $5,000 service award to Victor Fuentes.

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Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 29, 2024, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will automatically send notification to all attorneys of record.

/s/ Joshua J. Bloomfield