**UNITED STATES DISTRICT COURT**
**FOR THE NORTHERN DISTRICT OF ILLINOIS**
**WESTERN DIVISION**

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| IN RE: DEERE & COMPANY REPAIR SERVICES ANTITRUST LITIGATION | MDL No. 3030<br><br>Case No.: 3:22-cv-50188<br><br>Hon. Iain D. Johnston |

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES, AND CLASS REPRESENTATIVE SERVICE AWARDS**

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## I. INTRODUCTION

Plaintiffs settled with Deere & Company ("Deere") for $99 million (plus interest) and extensive injunctive relief providing farmers with access to tools that Deere-authorized dealers ("Dealers") have. For their efforts, Plaintiffs seek approval of attorneys' fees of $37 million, reimbursement of $4,743,801.26 in litigation expenses, and service awards of $25,000 each to the six Settlement Class Representatives and Wilson Farms Land & Cattle Co. LLC ("Wilson Farms"), totaling $175,000.

Plaintiffs' request follows a risky and vigorously contested antitrust action against Deere that produced a $99 million monetary settlement fund which, including accrued interest, reached $101,666,917.02 before payment of notice and administration costs and escrow-agent fees ("Settlement Fund"). Following disbursements for notice and administration costs and the assessment of bank fees, the escrow account balance stands at $101,241,761.55 as of October 27, 2026. *See* Dkt. No. 369; Joint Declaration of Co-Lead Counsel ("Joint Decl.") ¶ 14. The Settlement also provides enforceable prospective injunctive and other relief addressing the repair restrictions at the heart of Plaintiffs' claims. Joint Decl. ¶¶ 133–134.

The separate, prospective injunctive and other relief are central to the results achieved. Based on his analysis of Deere's repair aftermarket and the settlement's 10-year injunctive relief, Plaintiffs' economic expert, Dr. Russell L. Lamb of Monument Economics Group ("MEG"), estimates a present value of $293.9 million to $648.0 million in projected economic benefits from increased repair competition, opportunities for self-repair and independent repair, and reduced equipment downtime. Expert Declaration of Dr. Russell L. Lamb Regarding the Proposed Settlement's Injunctive Relief Provisions ("Lamb Decl.") ¶¶ 16, 49, tbl. 13. The value of the injunctive relief is evidence of the magnitude of the prospective relief.

In the Seventh Circuit, courts have taken varying approaches to accounting for expenses and other deductions when evaluating the reasonableness of fee awards. Some courts have awarded fees based on the gross settlement fund, with litigation expenses and service awards approved separately; others have calculated fees after deducting certain costs, such as settlement notice and administration expenses and service awards; and still others have evaluated the requested fees in relation to the amount available to class members after accounting for litigation expenses, administration costs, and service awards.[1]

The following table illustrates Plaintiffs' requested fee percentage under each approach, using the gross monetary Settlement Fund of $101,666,917.02, inclusive of accrued interest but before deduction of notice and administration costs. Where applicable, the deductions reflect total estimated notice and administration costs, including amounts already paid, together with escrow-agent trust fees incurred to date, without double-counting those expenditures.

| | **Gross Settlement Fund (No Deductions)** | **Less Admin Costs, Bank Fees, & Service Awards** | **Less Admin Costs, Bank Fees, Service Awards, & Litigation Expenses** |
|---|---|---|---|
| Gross Monetary Settlement Fund | $101,666,917.02 | $101,666,917.02 | $101,666,917.02 |
| Estimated Notice and Administrative Costs | — | ($618,890.00) | ($618,890.00) |
| Escrow-Agent Bank Fees | — | ($7,185.79) | ($7,185.79) |
| Service Awards | — | ($175,000.00) | ($175,000.00) |
| Litigation Expenses | — | — | ($4,743,801.26) |

[1] *See In re Dealer Mgmt. Sys. Antitrust Litig.*, No. 18-cv-00864, Dkt. No. 1545 ¶ 24 (N.D. Ill. Feb. 25, 2025) (awarding attorneys' fees equal to 33% of the combined $129.5 million gross settlement funds, plus a proportional share of accrued interest, and separately approving $7.19 million in litigation expenses and $230,000 in class representative service awards); *CS Wang & Assoc. v. Wells Fargo Bank, N.A.*, No. 16-cv-11223, Dkt. No. 654, at 7–9 (N.D. Ill. Dec. 2, 2021) (awarding attorneys' fees equal to one-third of the settlement fund after deducting service awards and settlement administration costs, while separately awarding $83,191.45 in litigation expenses); *Weigand v. Grp. 1001 Ins. Holdings, LLC*, No. 1:23-cv-01452, 2024 WL 6891436, at *1 & n.1 (S.D. Ind. Oct. 3, 2024) (awarding attorneys' fees equal to one-third of the settlement fund after deducting litigation expenses, settlement notice and administration costs, and service awards).

| | | | |
|---|---|---|---|
| Adjusted Fee Calculation Base | $101,666,917.02 | $100,865,841.23 | $96,122,039.97 |
| Requested Attorneys' Fees | $37,000,000.00 | $37,000,000.00 | $37,000,000.00 |
| Fee Percentage | 36.39% | 36.68% | 38.49% |

Thus, Plaintiffs' requested attorneys' fees represent between 36.39% and 38.49% of the monetary Settlement Fund under these different approaches, without accounting for the substantial additional value of the Settlement's prospective injunctive relief. When the non-monetary recovery is factored in, the percentage of the fund sought in attorneys' fees is an extremely modest 9.4%. Lamb Decl. ¶ 49, tbl. 13. As demonstrated below, the requested fee is reasonable under each of the different approaches presented.

The Court recognized the unusual efforts underlying this litigation. At the May 15, 2026 preliminary approval hearing, the Court observed that this "certainly was not a file and settle [case]": "There was a lot of work that went into this on both sides. It was strenuously litigated, but professionally." May 15, 2026 Hr'g Tr. at 33:18-21; Joint Decl. ¶ 15. Following an 89-page decision rejecting Deere's motion for judgment on the pleadings, Plaintiffs undertook extensive party and third-party discovery, litigated discovery disputes and other motion practice, developed and refined demanding economic analyses, produced their class/merits expert report to Deere, and negotiated the settlement over several months. Joint Decl. ¶¶ 39-48, 59-132.

The risk in this case was substantial. Plaintiffs pursued contested Sections 1 and 2 claims involving a single-brand after market — i.e., Deere's repair aftermarket. At the outset of the litigation, there was a litany of unsettled questions of standing and direct purchaser principles, and difficult issues of classwide injury, among many other issues. Plaintiffs committed years of professional time and significant litigation expenses on a full contingent basis, with no assurance of recovery. Joint Decl. ¶¶ 9, 17-18, 39-48, 117-128, 139-162.

The Seventh Circuit requires a fee reflecting the compensation sophisticated clients and counsel would have negotiated *ex ante*. *In re Synthroid Mktg. Litig.*, 264 F.3d 712, 718–21 (7th Cir. 2001) ("*Synthroid I*"); *In re Broiler Chicken Antitrust Litig.*, 142 F.4th 568, 571–76 (7th Cir. 2025) ("*Broiler II*"). Plaintiffs submit that the relevant market comparisons, this litigation's unusual risks, the magnitude of its monetary and prospective results, and a modest projected lodestar multiplier of 1.13 collectively support the requested award. *See* Decl. of Professor William B. Rubenstein ("Rubenstein Decl.") ¶¶ 2–3, 39–45. The requested expenses and service awards are likewise supported by accompanying declarations and admissible evidence.

## II. SUMMARY OF PLAINTIFFS' LITIGATION EFFORTS AND RESULTS

The accompanying Joint Declaration of Co-Lead Counsel provides a detailed account of the factual and procedural history of this Action and the substantial efforts undertaken by Plaintiffs. The following summarizes that history.

### A. Investigation, Pleadings, and Extensive Discovery

Plaintiffs began investigating Deere's alleged restrictions on repair software, diagnostic tools, and technical information before the first complaint was filed in January 2022. They developed Plaintiffs' aftermarket and antitrust theories, coordinated related cases after centralization, and filed a Consolidated Class Action Complaint on October 24, 2022, asserting claims under Sections 1 and 2 of the Sherman Act. Joint Decl. ¶¶ 17-38.

Deere moved for judgment on the pleadings, challenging Article III and antitrust standing, the direct-purchaser rule, the alleged agreement with authorized dealers, and the legal sufficiency of Plaintiffs' single brand aftermarket theory under *Eastman Kodak Co. v. Image Technical Services, Inc.*, 504 U.S. 451 (1992). After extensive briefing and extended oral argument, the Court rejected Deere's challenges on November 27, 2023. Joint Decl. ¶¶ 39-48.

Discovery was both broad and technically complex. Plaintiffs served extensive written discovery on Deere and numerous third-party subpoenas – including over two dozen directed to Deere-authorized Dealers – and obtained over two million pages of documents from Deere. Plaintiffs also obtained and analyzed large transactional and other structured datasets. Plaintiffs addressed disputes concerning data extraction, production deficiencies, confidentiality, and discovery scope, and conducted or defended numerous individual and corporate depositions. Joint Decl. ¶¶ 10, 59-108.

After the government's case was filed, Plaintiffs also coordinated discovery with the Federal Trade Commission ("FTC") and the related Government Plaintiffs in *Federal Trade Commission, et al. v. Deere & Co.*, No. 3:25-cv-50017 (N.D. Ill.) ("Government Action"). Plaintiffs responded to FTC investigative demands beginning in October 2023, well before the government filed its action in January 2025, and thereafter worked with the FTC, Deere, and nonparties to reduce duplicative proceedings, culminating in an April 2025 discovery coordination stipulation. Joint Decl. ¶¶ 109-116.

**B. Expert Work, Class Certification, and Settlement Negotiations**

Plaintiffs worked with Dr. Russell L. Lamb and MEG to develop evidence and analysis concerning relevant markets, market power, competitive effects, classwide injury, and damages. The work required extensive analysis of documents and transactional data and repeated efforts to address deficiencies in Deere's and third parties' productions. Joint Decl. ¶¶ 66-70, 117-124.

On August 13, 2025, Plaintiffs served Dr. Lamb's combined merits and class certification report. Counsel had also marshaled the common proof necessary to seek contested certification under Federal Rule of Civil Procedure ("Rule") 23. Settlement negotiations occurred in parallel to anticipated class certification briefing. Plaintiffs entered settlement discussions with a developed

factual and economic record because Plaintiffs already served their expert report on Deere by the time substantive settlement discussions commenced. Joint Decl. ¶¶ 121-129.

The settlement followed sustained arm's length negotiations – not an early agreement. The Parties participated in an all-day mediation before the Honorable Layn R. Phillips (Ret.) and his colleagues in October of 2025, without reaching agreement. Thereafter, they continued to meet to narrow areas of disagreement, if possible. The negotiations were extremely hard fought. The parties negotiated principal terms through December 10, 2025, and spent additional months documenting the monetary, injunctive, and implementation provisions before executing the Settlement Agreement on March 6, 2026. Joint Decl. ¶¶ 129-132.

### C. The Substantial Monetary and Injunctive Relief Obtained

The Settlement provides monetary relief of $99 million, together with interest accruing from January 15, 2026. Including accrued interest, the gross monetary Settlement Fund reached $101,666,917.02 before administrative expenditures for notice and settlement administration and bank fees. As of October 27, 2026, the escrow account balance was $101,241,761.55, reflecting $417,969.58 in notice and administration disbursements and approximately $7,186 in escrow-agent bank fees. Joint Decl. ¶ 14; *see* Dkt. No. 369.

The Settlement Fund provides an immediate recovery while avoiding further expense and uncertainty from continued litigation, which would include rebuttal expert proceedings, contested class certification, summary judgment, trial, and appeals. Joint Decl. ¶ 133.

The settlement also imposes injunctive relief provisions addressing the very repair restrictions challenged in this litigation. Subject to its terms, Deere must make Repair Resources[2] available to owners, lessors, and independent repair providers on Fair and Reasonable Terms;

[2] All capitalized terms not defined herein shall have the same meaning ascribed to them in the Settlement Agreement (Dkt. No. 333-3).

provide access to Future Repair Resources and DTAC Solutions; and enable additional diagnostic, programming, and repair functions, including offline reprogramming and diagnostics. Joint Decl. ¶ 134. Dr. Lamb estimates that these injunctive provisions will yield $293.9 million to $648.0 million in discounted future economic benefits, independent of the monetary Settlement Fund. Lamb Decl. ¶ 16, 49, tbl. 13. Section IV.A.3 discusses the nature, assumptions, and relevance of that estimate.

After preliminary approval proceedings and coordination with the related Government Action, the Court entered an Amended Preliminary Approval Order on August 17, 2026, finding that Class Counsel had negotiated the settlement at arm's length and had developed an adequate basis to evaluate the claims, defenses, and risks. Dkt. No. 367 at 2-3; Joint Decl. ¶¶ 135-138.

**D. The Lamb and Rubenstein Declarations**

In connection with this Motion, Plaintiffs submit the Lamb and Rubenstein Declarations. Dr. Lamb, Plaintiffs' economic expert in this litigation, analyzed Deere's repair aftermarket and developed estimates of classwide damages and other repair-related harm. Lamb Decl. ¶¶ 7–8, 26–38. Dr. Lamb has more than 30 years of experience analyzing markets and prices, and courts have accepted his economic analyses in numerous antitrust matters. *Id*. ¶¶ 1–4. His Declaration draws upon his prior damages analyses to estimate the prospective economic value of the Settlement's ten-year injunctive relief. *Id*. ¶¶ 13–16, 39–49. Specifically, Dr. Lamb compares expected future harm absent the injunctive relief with harm anticipated under the Settlement, accounting for a five-year phase-in of competitive effects and discounting the resulting benefits to present value. *Id*. ¶¶ 39–48. Dr. Lamb estimates the prospective economic value of the injunctive relief at $293.9 million to $648.0 million. *Id*. ¶ 49, tbl. 13. For purposes of this Motion, Plaintiffs conservatively rely only on the lower-bound estimate of $293.9 million.

Additionally, Plaintiffs submit the Rubenstein Declaration addressing the reasonableness of the requested attorneys' fees. Professor Rubenstein is the Bruce Bromley Professor of Law at Harvard Law School and the author of *Newberg and Rubenstein on Class Actions*, and his scholarship and expert testimony focus extensively on complex litigation and attorneys' fees. Rubenstein Decl. ¶¶ 4–12.

Professor Rubenstein concludes that Plaintiffs' $37 million request is eminently reasonable in light of the facts and circumstances of the case. *Id*. ¶¶ 2–3, 24–29, 34–45. Professor Rubenstein explains why the nonmonetary benefits and the particular risks of this litigation support the award. *Id*. ¶¶ 23–29, 39–43. He further finds that the approximately 1.13 lodestar multiplier is well below multipliers observed in empirical studies, including those involving larger common-fund recoveries. *Id*. ¶¶ 34–38, tbls. 2–3.

## III. LEGAL STANDARD

### A. The Common-Fund Doctrine and the Percentage-of-the-Fund Method

Rule 23(h) permits a reasonable fee award in a class action where authorized by law or agreement. Fed. R. Civ. P. 23(h). Where counsel creates a common fund, the Court may compensate counsel from that fund. *Synthroid I*, 264 F.3d at 718-19. The Seventh Circuit permits either a percentage-of-the-fund or lodestar cross-check methodology; the former approximates how contingent representation is commonly priced in the private market. *Florin v. Nationsbank of Ga., N.A.*, 34 F.3d 560, 565-66 (7th Cir. 1994); *Williams v. Rohm & Haas Pension Plan*, 658 F.3d 629, 636 (7th Cir. 2011). A lodestar cross-check is permissible but not mandatory. *Williams*, 658 F.3d at 636.

### B. The Hypothetical *Ex Ante* Market-Rate Standard

The objective of the *ex ante* market rate inquiry is to approximate the fee that the class and counsel would have negotiated at the outset of the representation, when the prospect of nonpayment remained. *Synthroid I*, 264 F.3d at 718-21; *Sutton v. Bernard*, 504 F.3d 688, 691-94 (7th Cir. 2007). The Seventh Circuit directs attention to contemporaneous market evidence, risk of loss, anticipated work, quality of representation, and the stakes of the action - not an automatic benchmark derived from the ultimate settlement amount. *Id.*; *Williams*, 658 F.3d at 635-36; *see also* Rubenstein Decl. ¶¶ 15, 18–19.

Relevant market evidence may include fee awards in sufficiently comparable cases, actual contingent-fee agreements, and bids submitted in counsel auctions. *Synthroid I*, 264 F.3d at 719-21; *Williams*, 658 F.3d at 635-36. Such evidence must be evaluated for comparability; no award or agreement conclusively fixes the market price for a different representation.

### C. The Appropriate Fee Calculation

When evaluating a fee's relationship to the class recovery, courts must distinguish benefits received by class members from costs incurred to administer the settlement. *Redman v. RadioShack Corp.*, 768 F.3d 622, 629-30 (7th Cir. 2014); *Pearson v. NBTY, Inc.*, 772 F.3d 778, 780–82 (7th Cir. 2014). The comparison described in *Redman* is the fee divided by the sum of the fee and the benefit to class members, where administration costs are not themselves a monetary recovery to the class. 768 F.3d at 630. This framework calls for an accurate account of real class benefits, not a mechanically prescribed percentage. *See Camp Drug Store, Inc. v. Cochran Wholesale Pharm., Inc.*, 897 F.3d 825, 833-34 & n.25 (7th Cir. 2018). When benefits are nonmonetary, a reasonable assessment of their value is also required. *Redman*, 768 F.3d at 635.

District courts have used different approaches to determining the fee calculation base. Some calculated attorneys' fees as a percentage of the gross settlement fund while separately awarding reimbursement of litigation expenses, whereas others have calculated fees based on the net settlement fund after deducting administration costs, incentive awards, litigation expenses, or some combination of those amounts.[3] The relevant inquiry remains the reasonableness of the compensation in light of the appropriate benefits and market evidence.

Plaintiffs' requested fee of $37 million represents 36.39% of the gross monetary Settlement Fund, 36.68% after deducting estimated notice and administration costs, bank fees, and service awards, and 38.49% after also deducting litigation expenses. As illustrated in the table above, these calculations do not account for the substantial additional value of the Settlement's prospective injunctive relief. When that amount is considered the resulting percentage of the fund is 9.4%. Lamb Decl. ¶ 49, tbl. 13. This accounting provides the Court with alternative bases for evaluating the requested fee in relation to the Class's monetary recovery under *Redman* and *Pearson*. *See Redman*, 768 F.3d at 629–30; *Pearson*, 772 F.3d at 780–82. But as the following demonstrates,

[3] *Compare In re Dealer Mgmt. Sys. Antitrust Litig.*, No. 18-cv-00864, Dkt. No. 1545 ¶ 24 (N.D. Ill. Feb. 25, 2025) (calculating attorneys' fees as a percentage of the combined settlement funds and separately awarding litigation expenses and service awards); *In re Local TV Advert. Antitrust Litig.*, No. 18-cv-06785, 2023 WL 12256052, at *1–2 (N.D. Ill. Dec. 7, 2023) (awarding interim fees as a percentage of the settlement funds and separately approving litigation expenses and service awards); *In re Dairy Farmers of Am., Inc.*, 80 F. Supp. 3d 838, 862 (N.D. Ill. 2015) (calculating attorneys' fees as a percentage of the common fund and separately reimbursing litigation expenses), *with Leung v. XPO Logistics, Inc.*, 326 F.R.D. 185, 199–202 (N.D. Ill. 2018) (calculating attorneys' fees based on the settlement fund after deducting administration costs and an incentive award, while separately reimbursing litigation expenses); *In re TikTok, Inc., Consumer Priv. Litig.*, 617 F. Supp. 3d 904, 939–40 (N.D. Ill. 2022) (calculating attorneys' fees based on the net settlement fund after deducting administration costs, litigation expenses, and service awards); *see also Russo v. Walgreen Co.*, No. 1:17-CV-02246, 2026 WL 878331, at *20 & n.22 (N.D. Ill. Mar. 30, 2026) (awarding fees calculated as a percentage of the gross settlement fund but evaluating their reasonableness against a denominator reduced by administration costs and incentive awards, without deducting litigation expenses).

regardless of how the Court chooses to calculate the basis upon which to calculate the fee, Plaintiffs request for $37 million in attorneys' fees is fair and reasonable.

## IV. ARGUMENT

### A. The Requested Amount Is Reasonable

#### 1. Contemporaneous Market Evidence and Comparable Awards Support the Requested Fee

The hypothetical *ex ante* inquiry starts with evidence bearing on what sophisticated clients would have paid counsel to assume this representation before its risks were resolved. *See Synthroid I*, 264 F.3d at 718-21; *Sutton*, 504 F.3d at 691-94. Plaintiffs do not contend that a particular percentage follows automatically from a successful settlement or from the difficult nature of antitrust litigation.

Contingent arrangements permit plaintiffs to prosecute costly claims without funding counsel's work as it proceeds and compensate counsel for the real possibility of no recovery. *Kirchoff v. Flynn*, 786 F.2d 320, 323-25 (7th Cir. 1986); *Gaskill v. Gordon*, 160 F.3d 361, 363-64 (7th Cir. 1998). In the market contemplated by *Synthroid*, the anticipated investment of attorney time, expert work, and litigation capital must be priced before counsel knows whether that investment will succeed. *See Silverman v. Motorola Sols., Inc.*, 739 F.3d 956, 958-59 (7th Cir. 2013).

Private contingent fee agreements supply the appropriate context. *Gaskill* observed that contingent percentages commonly range from one-third to 40% and affirmed an award amounting to 38% of a $20 million fund. 160 F.3d at 362-64. *Kirchoff* likewise discussed the financing and risk-shifting functions of 40% contingent agreements. 786 F.2d at 323-25. Those observations establish that substantial contingent percentages exist in the private market; they do not, by themselves, establish a specific percentage to award as fees from a settlement fund. Professor

Rubenstein's review of empirical studies similarly demonstrates that *ex ante* contingent-fee arrangements commonly fall near one-third of the recovery, including a study of pharmaceutical antitrust cases reporting an average fee of 32.9%. Rubenstein Decl. ¶¶ 20–21.

Comparable antitrust awards also inform the inquiry. In *In re Opana ER Antitrust Litigation*, Judge Leinenweber awarded approximately $50.5 million in attorneys' fees from a $145 million pharmaceutical antitrust settlement, representing 36% of the settlement fund after deducting reimbursed litigation expenses and the class representative service awards. No. 14-cv-10150, Dkt. No. 1085, ¶¶ 14-16 (N.D. Ill. Nov. 3, 2022). That action was initiated by private plaintiffs before a related FTC action and involved substantial discovery, economic development, expert proceedings, and trial preparation. *See* Direct Purchaser Class Counsel's Mot. for Attorneys' Fees, Dkt. No. 1072, at 3-14, 17-21 (N.D. Ill. Sept. 19, 2022).

Other antitrust decisions have approved fees of approximately one-third in matters involving meaningful factual development and litigation risk. *See In re Dairy Farmers of Am.*, 80 F. Supp. 3d at 844-48, 862 (approving one-third of a $46 million antitrust settlement); *Standard Iron Works v. ArcelorMittal*, No. 08 C 5214, 2014 WL 7781572, at *1 (N.D. Ill. Oct. 22, 2014) (approving 33% of a $163.9 million antitrust settlement); *In re Potash Antitrust Litig.*, No. 1:08-cv-06910, 2013 WL 12470850, at *1-2 (N.D. Ill. June 12, 2013) (approving one-third of a $90 million antitrust settlement); *In re Ready-Mixed Concrete Antitrust Litig.*, No. 1:05-CV-00979-SEB, 2010 WL 3282591, at *3 (S.D. Ind. Aug. 17, 2010). These examples are useful comparators, not a representative statistical distribution. Differences in available market evidence, risks, and results therefore matter.[4]

[4] Other decisions, albeit not in the antitrust context, also support a finding that the requested fees are reasonable. *See, e.g.*, *Martin v. JTH Tax, Inc.*, No. 1:13-CV-6923, 2015 WL 13883998 (N.D. Ill. Sept. 23, 2015) (38% of the net settlement fund); *Levey v. Concesionaria Vuela Compania de Aviacion, S.A.P.I. de C.V.*, No. 1:20-CV-02215, 2024 WL 4906150 (N.D. Ill. Nov. 4, 2024) (awarding 36% of the settlement

The Seventh Circuit has likewise cautioned against treating settlement size or other fee awards as a rigid ceiling. In *Silverman*, it awarded a substantial percentage in light of unusual risk, while *Birchmeier v. Caribbean Cruise Line, Inc.* emphasized the difficulty of the theory and representation at issue. *Silverman*, 739 F.3d at 958-59; *Birchmeier*, 896 F.3d 792, 796-97 (7th Cir. 2018).

Professor Rubenstein further explains that the Seventh Circuit does not mandate a declining marginal percentage and demonstrates that, even under a hypothetical declining-scale fee arrangement, the requested $37 million award would be justified by assigning the prospective injunctive relief a value substantially below Dr. Lamb's lower-bound estimate. Rubenstein Decl. ¶ 27 & nn. 31–33, Ex. C. Although the Seventh Circuit has recognized that declining percentages may be appropriate in certain circumstances, the relevant inquiry remains the hypothetical *ex ante* bargain in light of the particular risks, anticipated investment, and incentives associated with the litigation. *Synthroid I*, 264 F.3d at 718–21; *In re Synthroid Mktg. Litig.*, 325 F.3d 974, 975-80 (7th Cir. 2003) ("*Synthroid II*"); *In re Broiler Chicken Antitrust Litig.*, 80 F.4th 797, 801–04 (7th Cir. 2023) ("*Broiler I*"). Courts have accordingly approved flat percentage awards. *See In re Dairy Farmers,* 80 F. Supp. 3d at 845–48; *Young v. Cnty of Cook*, No. 06 C 552, 2017 WL 4164238, at *4–6 (N.D. Ill. Sept. 20, 2017). Here, Class Counsel undertook substantial risk and invested years of contested litigation before securing monetary and significant injunctive relief. Those circumstances warrant a case-specific evaluation of the requested fee rather than the mechanical application of a declining percentage based solely on the size of the fund.

Plaintiffs' requested $37 million fee represents between 36.39% and 38.49% of the pure monetary Settlement Fund, depending on the deductions applied, as illustrated in the table in the

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fund less notice and administration costs); *In re Guidant Corp. ERISA Litig.*, No. 05-cv-1009, Dkt. No. 194 ¶ 6 (S.D. Ind. Sept. 10, 2010) (awarding 38% of settlement fund).

Introduction. When considered alongside the value of the prospective economic benefits from the injunctive relief — using only Dr. Lamb's lower-bound estimate of $293.9 million — the requested fee represents approximately 9.4% of the Settlement's combined estimated value. This calculation is conservative because it relies exclusively on the lower end of Dr. Lamb's valuation and does not account for the potentially greater economic benefits reflected in his analysis. As discussed in Section IV.A.3, the substantial prospective injunctive relief provides additional support for the reasonableness of Plaintiffs' requested fee.

Plaintiffs rely on *Opana* and the other cited decisions as individual comparisons, while grounding the requested fee chiefly in the available contemporaneous arrangements and this case's distinct features. Unlike a typical monetary-only settlement, the Deere resolution pairs a $101 million fund with 10 years of affirmative repair access commitments and extensive expert evidence regarding the settlement's value.

Evaluated together: the market evidence, the meaningful risk of total nonpayment, the work necessary to prosecute Plaintiffs' theories, and the dual monetary and injunctive results support the requested fee. Sections IV.A.2 and IV.A.3 supply case-specific explanations for why the requested percentage is reasonable here; the historical lodestar cross check in Section IV.A.4 furnishes a further, independent robustness check.

**2. The Substantial Risks of Nonpayment Support the Requested Fee**

This Action exposed Plaintiffs to risks well beyond the ordinary possibility of losing contingent litigation. At filing, Class Counsel had to establish an antitrust aftermarket defined by Deere repair services, defeat potentially dispositive standing and liability defenses, and develop a common methodology for injury and damages across varied equipment. They also had to finance those efforts without a prior government action. The *ex ante* fee inquiry accounts for such risks. *See Synthroid I*, 264 F.3d at 718, 721; *Silverman*, 739 F.3d at 958-59; *Florin v. Nationsbank of*

*Ga., N.A.*, 60 F.3d 1245, 1247–48 (7th Cir. 1995) ("*Florin II*"). Professor Rubenstein likewise identifies nine case-specific factors demonstrating the substantial risks Class Counsel undertook, including the absence of a preceding government enforcement action, the novelty and complexity of Plaintiffs' antitrust theories, the substantial financial investment required, and the resources available to Deere and its counsel. Rubenstein Decl. ¶¶ 39–41.

The Seventh Circuit has repeatedly recognized that contingent compensation must account for the possibility that counsel will devote substantial time and resources to litigation without obtaining any recovery. *Synthroid I*, 264 F.3d at 718, 721; *Sutton*, 504 F.3d at 693-94. As the court explained in *Silverman*, the greater the risk that counsel will recover nothing, the greater the compensation necessary to attract experienced attorneys to undertake the representation. 739 F.3d at 958. In *Florin II*, the Seventh Circuit likewise emphasized that unsettled and complex legal questions, plausible defenses, and uncertainty concerning the existence or extent of injury are significant considerations in evaluating litigation risk. 60 F.3d 1245, 1247-48 (7th Cir. 1995). Courts in this District have applied these principles in assessing the risks borne by counsel in complex antitrust litigation. *See, e.g., In re Dairy Farmers*, 80 F. Supp. 3d at 847-48; *In re Cont'l Ill. Sec. Litig.*, 962 F.2d 566, 569-70 (7th Cir. 1992); *In re Cap. One Tel. Consumer Prot. Act Litig.*, 80 F. Supp. 3d 781, 805 (N.D. Ill. 2015).

First, this Action presented difficult and uncertain questions concerning the viability of Plaintiffs' single-brand aftermarket claims. *See* Rubenstein Decl. ¶ 40 (discussing the novelty of Plaintiffs' aftermarket claims). Unlike a conventional horizontal price fixing action, Plaintiffs challenged Deere's alleged restrictions on competition in the aftermarket for repair and maintenance services for Deere agricultural equipment. Joint Decl. ¶¶ 17-20, 33-37. Plaintiffs' theory required establishing that a Deere-specific aftermarket constituted a legally cognizable

relevant market. That theory raised substantial questions concerning interchangeability, purchaser lock-in, information limitations, and the relationship between competition in the primary equipment market and Deere's alleged market power in the aftermarket. *Id*. ¶¶ 40-42. Indeed, Deere vigorously contested the viability of Plaintiffs' aftermarket theory, arguing that Plaintiffs were required to establish deception, concealment, or a post purchase change in Deere's repair policies before pursuing their claims under *Kodak*. *Id*. ¶¶ 40-44. The significance and uncertainty of these legal questions are reflected in the United States Department of Justice's decision to submit a Statement of Interest addressing the proper application of *Kodak* and Deere's proposed limitations on single brand aftermarket claims. *Id*. ¶¶ 43-44. Although the Court ultimately rejected Deere's arguments at the pleading stage, that favorable ruling was far from assured when Class Counsel undertook the representation.

Second, Plaintiffs faced substantial risks concerning antitrust standing, the direct-purchaser rule, and the elements of their substantive Sherman Act claims. Deere challenged Plaintiffs' Article III and antitrust standing, argued that their claims were barred under *Illinois Brick Co. v. Illinois*, 431 U.S. 720 (1977), disputed the existence of an adequately pleaded conspiracy with its authorized dealerships, and contended that the dealerships were necessary parties that must be formally joined. Joint Decl. ¶¶ 39-42. These challenges implicated threshold issues that, if resolved against Plaintiffs, could have substantially limited or entirely defeated their claims before they reached the merits. *Id*. Plaintiffs also faced the daunting burden of establishing unlawful conduct under Sections 1 and 2 of the Sherman Act, including the alleged concerted action between Deere and its authorized dealerships, Deere's market power, and the anticompetitive effects of the challenged restrictions. *Id*. ¶¶ 36, 40-47. Unlike a case involving an established *per se* unlawful horizontal agreement, the theories presented here required extensive factual and economic proof

of the challenged practices' effects on competition. Deere also had potential arguments concerning the legitimate technical and commercial purposes of its repair restrictions. *See id*. ¶ 37. The substantial legal uncertainty and the availability of plausible defenses are precisely the considerations the Seventh Circuit recognized as relevant to litigation risk in *Florin II*. 60 F.3d at 1247-48.

Third, even assuming Plaintiffs could establish liability, proving classwide antitrust injury and damages presented independent and substantial risks given the recent jurisprudence on Rule 23. Plaintiffs' claims concerned a nationwide aftermarket involving different equipment models, repair technologies, authorized Dealers, and independent repair providers. Establishing the existence and extent of classwide injury required Plaintiffs to obtain and develop common evidence demonstrating how Deere's alleged restrictions affected repair competition and prices across that varied economic landscape. Joint Decl. ¶¶ 117-128. To undertake that analysis, Plaintiffs and their experts pursued and analyzed extensive transactional and structured data concerning equipment sales, repair services, dealer labor rates, warranty claims, parts transactions, diagnostic and programming functions, and other subjects relevant to classwide impact and damages. *Id*. ¶¶ 66-70, 85-88, 117-123. The resulting economic analysis was technically demanding and required substantial efforts to identify deficiencies in Deere's and third parties' data, obtain supplemental information, and develop methodologies capable of addressing the requirements of Rule 23. *Id*. ¶¶ 117-128.

The risks associated with class certification were particularly significant. To certify a damages class, Plaintiffs would have to establish, among other things, that common questions predominated over individualized issues concerning injury and damages and that their proposed methodologies were sufficiently reliable to establish those matters on a classwide basis. Joint Decl.

¶¶ 121-128. Although Plaintiffs served Dr. Lamb's extensive combined class certification and merits expert report in August 2025, Deere had not completed its rebuttal expert work, and the Court had not ruled on class certification or any anticipated *Daubert* challenges when settlement negotiations overtook the litigation schedule. *Id*. ¶¶ 121-128. These risks existed independently of the challenges Plaintiffs faced in establishing Deere's liability and could have materially reduced or eliminated any eventual recovery.

Fourth, Plaintiffs undertook these substantial risks without the benefit of a preceding government enforcement action establishing or developing Plaintiffs' claims. *See* Rubenstein Decl. ¶ 40 (discussing the non-piggyback nature of the litigation). Plaintiffs commenced this litigation in January 2022 following an independent investigation into Deere's repair practices. Joint Decl. ¶¶ 17-19. The related Government Action was not filed until January 2025 – three years after the initial private action. *Id*. ¶¶ 109-110. Although Plaintiffs later coordinated extensively with the FTC and Government Plaintiffs, that subsequent cooperation did not eliminate the risks counsel faced when deciding to undertake the litigation. *Id*. ¶¶ 109-116. This distinction is particularly important because the Seventh Circuit has recognized this as factor when assessing the litigation's risk. *Broiler II*, 142 F.4th at 573-74. Here, Plaintiffs independently developed the allegations and commenced the litigation before the government's related enforcement proceedings, assuming considerable burdens and uncertainties associated with developing the facts and claims in the first instance. And regardless, the FTC's case only sought injunctive relief and no monetary relief.

Finally, these legal and factual risks were accompanied by substantial financial risks. Plaintiffs prosecuted this litigation on a contingent basis, committing extensive attorney and professional time and advancing significant out-of-pocket litigation expenses without any

guarantee of reimbursement or compensation. Joint Decl. ¶¶ 9, 139–162. The substantial discovery and expert work required significant expenditures for economic experts, litigation vendors, depositions, document review, and other necessary litigation services. *Id*. ¶¶ 117–124, 143–144, 154–162. To finance these expenditures, Co-Lead Counsel established and administered a common fund ("Litigation Fund") financed through assessments paid by Class Counsel. Joint Decl. ¶¶ 143, 158–162. Had Plaintiffs been unsuccessful, Plaintiffs faced the prospect of receiving ***no compensation*** for years of professional work while also forfeiting these substantial financial commitments. As the Seventh Circuit has recognized, a contingent-fee arrangement must compensate for precisely this possibility. *See Silverman*, 739 F.3d at 958; *Florin II*, 60 F.3d at 1247-48; *see also In re Potash*, 2013 WL 12470850, at *1 (considering the absence of related government proceedings in evaluating counsel's litigation risk).

The financial commitment is also relevant to a hypothetical bargain made when the outcome remained uncertain. Plaintiffs' theory required considerable investigative, discovery, and expert resources for purposes of demonstrating that economic proof would satisfy Rule 23 or establish injury at trial. Class Counsel's contributions to the Litigation Fund and commitment of extensive contingent professional time therefore carried meaningful opportunity costs, not simply the prospect of ordinary litigation expenses. Joint Decl. ¶¶ 9, 139-162. *See Heekin v. Anthem, Inc.*, No. 1:05-CV-01908-TWP, 2012 WL 5878032, at *5 (S.D. Ind. Nov. 20, 2012) (considering unreimbursed expenses and opportunity costs); *Schulte v. Fifth Third Bank*, 805 F. Supp. 2d 560, 598 (N.D. Ill. 2011) (considering stakes, complexity, and costs).

The Court's November 27, 2023 denial of Deere's motion for judgment on the pleadings represented a significant achievement, but it did not eliminate the substantial risks of continued litigation. Indeed, the Court described that ruling as only the "first major step" in what could

become a "long and expensive process." Joint Decl. ¶ 46 (quoting Dkt. No. 159 at 3). Plaintiffs still faced extensive discovery, contested expert proceedings, class certification, summary judgment, trial, and potential appeals. The favorable developments that followed should not obscure the substantial uncertainty facing Plaintiffs when they initially undertook this representation. *See Synthroid I*, 264 F.3d at 718-19; *Sutton*, 504 F.3d at 692-94.

Taken together, these considerations demonstrate that this litigation presented considerable risks of nonpayment from its inception. Plaintiffs undertook novel and contested antitrust claims, faced potentially dispositive legal defenses, confronted difficult questions of classwide injury and damages, and committed substantial resources without the assurance of a recovery. Under the Seventh Circuit's hypothetical *ex ante* market-based approach, these substantial risks support compensating Plaintiffs in accord with their request.

**3. The Exceptional Monetary and Injunctive Relief Support the Requested Fee**

Plaintiffs' work and the benefits obtained supply additional evidence that the proposed compensation is commensurate with the value of the representation. The Seventh Circuit directs courts to consider the anticipated work, quality of performance, and stakes of the litigation in reconstructing the hypothetical *ex ante* bargain. *Synthroid I*, 264 F.3d at 721; *Sutton*, 504 F.3d at 693-94. Here, the decisive point is not merely that Plaintiffs worked hard: their work produced both a substantial monetary recovery and affirmative 10-year obligations directed to the anticompetitive constraints on independent repair provider and owner repair. The projected effects of those obligations are supported by a detailed economic declaration, not merely a general assertion that equitable relief is valuable. *See* Lamb Decl., ¶¶ 11–12, 16, 39–49.

Moreover, the extent of work performed and the stage reached before settlement also matter because a substantial fee may be unwarranted if the litigation resolves before counsel

undertakes the burdens for which contingent compensation is sought. *Broiler II*, 142 F.4th at 575-76; *Camp Drug Store*, 897 F.3d at 832-33.

As Section II details, this Action did not resolve on the pleadings or before a meaningful evidentiary record had been developed. Plaintiffs defeated a sweeping challenge to their threshold theories through an 89-page ruling, pursued extensive discovery from Deere and third parties, resolved technical data-production issues, worked with Dr. Lamb to prepare a combined merits and class-certification report exceeding 160 pages, and engaged in lengthy, hard-fought, and protracted settlement negotiations. Joint Decl. ¶¶ 39-48, 59-132. Those steps did not guarantee success, but they enabled Plaintiffs to evaluate liability, classwide injury, and damages on the basis of developed evidence rather than speculation. They also gave Class Counsel an informed basis for negotiating the settlement against vigorous opposition.

This record differs materially from the limited proceedings in *Camp Drug Store*, where the claims settled without meaningful discovery, depositions, or substantive motions. 897 F.3d at 833. At the same time, Plaintiffs do not claim that the case reached every potential litigation milestone. *See* Joint Decl. ¶¶ 121-132. The relevant point is that Plaintiffs have already incurred the considerable time and expense necessary to investigate the challenged practices and develop both factual and economic proof. *See Broiler II*, 142 F.4th at 575-76 (considering extensive litigation work even though settlement preceded a certification ruling).

Most importantly, Plaintiffs' efforts produced substantial benefits for the Class. *See* Rubenstein Decl. ¶¶ 42–43. The Settlement requires Deere to provide monetary relief of $99 million with interest accruing from January 15, 2026. Joint Decl. ¶ 133. This recovery provides meaningful monetary relief while eliminating the uncertainty, expense, and delay associated with completing expert discovery, litigating class certification and dispositive motions, proceeding to

trial, and pursuing any appeals. *Id*. The monetary Settlement was not the product of an early resolution. Rather, it followed extensive litigation and prolonged arm's length negotiations, including multiple mediation sessions and approximately two months of additional negotiations before the Parties reached agreement on the principal settlement terms. *Id*. ¶¶ 129-132.

Plaintiffs' work on the Plan of Allocation, settlement class certification issues, and data assisted notice also helped translate the monetary recovery into practical class benefits. Joint Decl. ¶¶ 135-136. Plaintiffs worked to integrate customer information and transactional data so that, where possible, farmers could receive prepopulated claims information rather than having to reconstruct historical records themselves. *Id.* ¶ 136.

The proposed Settlement's injunctive relief provisions address the conduct challenged by the pleadings. Subject to the Settlement Agreement's limitations, Deere agreed for 10 years to furnish specified Repair Resources on Fair and Reasonable Terms to owners, lessors, and independent repair providers, including access to Future Repair Resources and DTAC Solutions and additional diagnostic and programming functions. Joint Decl. ¶ 134; Lamb Decl. ¶¶ 11-12, 21-24. The commitments are designed to permit repairs and diagnostics that previously depended on dealer-controlled tools, and to improve competition among Dealers, independent repair providers, and equipment owners. Lamb Decl. ¶¶ 11-12, 23-24, 26-27, 43. Their significance is not a benefit that exists only if Settlement Class members file a claim; they are continuing prospective obligations capable of changing repair options and associated costs.

As outlined above, Dr. Lamb has quantified the projected economic effects and value of the injunctive relief. Drawing on his prior work with Deere and Dealer data and the terms of the injunction, he models the present value of avoided future harm over 10 years. Lamb Decl. ¶¶ 7-8, 39-49. The estimated values are (1) $184.8 million to $377.0 million in avoided future Deere dealer

overcharges; (2) $64.5 million to $125.9 million in savings from self-repair and use of independent repair providers; and (3) $44.6 million to $145.1 million in reduced equipment downtime. *Id*. ¶ 16, 49, tbl. 13. Together, those components yield a projected present value of $293.9 million to $648.0 million – separate from, and in addition to, the $99 million monetary relief. *Id*.

The methodology is relevant to the weight the Court may assign that valuation. Dr. Lamb compares expected future harm without the injunctive provisions against harm expected with them, using his earlier estimates of annual repair overcharges and other losses. Rather than assuming instant competitive effects, Dr. Lamb models a five-year phase-in as owners and independent providers adopt the tools and dealers respond, and he discounts the future differences at 5% to present value. Lamb Decl. ¶¶ 39-49, tbls. 4-13. Dr. Lamb's Declaration thus offers a concrete, explained economic basis for assessing the magnitude of the value of the injunctive relief.

In *Schulte*, the Court evaluated a proposed settlement providing both monetary and injunctive relief, including prospective changes to the defendant's overdraft practices whose economic value was estimated by an expert. 805 F. Supp. 2d at 569-72, 583, 597-99. The court explained that "[w]here a settlement includes substantial affirmative relief, such relief must be considered in evaluating the overall benefit to the class." *Id*. at 599. Likewise, the Seventh Circuit has instructed that meaningful nonmonetary relief ought to be assigned value in evaluating plaintiffs' fee request, while recognizing that a reasonable approximation may be necessary. *Redman*, 768 F.3d at 635; *see also* Rubenstein Decl. ¶¶ 26, 28–29.

Other courts within this Circuit have likewise recognized the importance of assessing the nonmonetary class relief when determining reasonable attorneys' fees. In *In re Lawnmower Engine Horsepower Marketing & Sales Practices Litigation*, the court considered a settlement providing $65 million in cash, extended warranties, and injunctive relief. 733 F. Supp. 2d 997, 1003–04 (E.D.

Wis. 2010). Rather than accepting the asserted retail value of the warranties, the court credited a $45.7 million estimate based on anticipated warranty claims and historical repair-cost data and considered that value alongside the monetary recovery in awarding $27.675 million in attorneys' fees, representing 25% of the combined recovery of monetary and non-monetary. *Id.* at 1007–08, 1013–15. Although the court separately excluded the unquantified injunctive relief, *id.* at 1008 n.6, its consideration of anticipated warranty benefits illustrates that reasonably estimated future economic benefits may inform the determination of an appropriate fee.[5]

The Seventh Circuit's warnings about nominal or speculative benefits flowing from injunctions reinforce the importance of the present record. *Pearson* rejected reliance on a speculative economic assessment of limited advertising labeling changes that the court viewed as substantively empty and that included projected benefits to future purchasers outside the class. 772 F.3d at 785-86. The court in *In re Subway Footlong Sandwich Marketing & Sales Practices Litigation* found an injunction worthless where revised procedures did not meaningfully alter the injury alleged. 869 F.3d 551, 556-57 (7th Cir. 2017).

Further, District courts within this Circuit have similarly scrutinized the evidentiary basis for asserted nonmonetary benefits. In *Powers v. Filters Fast, LLC*, the court questioned reliance on prospective business-practice changes to justify attorneys' fees where counsel offered no explanation or documentation supporting the asserted valuation and class members lacked any

[5] *See also Bell v. Pension Comm. of ATH Holding Co.*, LLC, No. 115CV02062TWPMPB , 2019 WL 4193376, at *2 (S.D. Ind. Sept. 4, 2019) (considering substantial prospective improvements to the defendant's practices, supported by expert testimony, as additional support for the reasonableness of a fee award); *Lucas v. Vee Pak, Inc.*, No. 12-cv-09672, 2017 WL 6733688, at *11 (N.D. Ill. Dec. 20, 2017) (recognizing that injunctive relief increased the value of a class settlement by correcting the defendant's challenged practices, particularly where class members could continue utilizing its services); *In re Mexico Money Transfer Litig. (W. Union & Valuta)*, 164 F. Supp. 2d 1002, 1017-18, 1033 (N.D. Ill. 2000) (recognizing the value of injunctive relief addressing the challenged practices and approving attorneys' fees notwithstanding substantial nonmonetary relief), *aff'd sub nom. In re Mexico Money Transfer Litig.*, 267 F.3d 743 (7th Cir. 2001).

mechanism to enforce them. 2022 WL 461996, at *3–4 (W.D. Wis. Feb. 15, 2022). Likewise, in *Tesky v. Bone & Joint Clinic, S.C.*, the court expressed skepticism about attributing substantial value to cybersecurity enhancements supported by little more than a conclusory declaration from the defendant's IT director, particularly where the settlement provided no mechanism for class members to confirm, challenge, or enforce the promised improvements. 2025 WL 1836610, at *4–5 (W.D. Wis. July 3, 2025).

Here, Dr. Lamb's valuation of the injunctive relief builds directly upon the damages analyses he developed during the litigation, including his estimates of Dealer labor-rate overcharges, additional costs associated with the inability to use self-repair or independent repair providers, and increased equipment downtime. Lamb Decl. ¶¶ 7–8, 26–39. The record identifies specific repair resources, formerly restricted functions, and corresponding categories of avoidable economic harm; Dr. Lamb explains how those changes will translate into lower dealer overcharges, less-costly repair alternatives, and shorter downtime. Lamb Decl. ¶¶ 11-12, 23-24, 35-39, 46-49. Unlike the unsupported valuations criticized in *Powers* and *Tesky*, Dr. Lamb's analysis provides an articulated economic methodology for estimating the prospective benefits of the relief obtained.

Indeed, even when a defendant has begun improvements independently, ensuring implementation may itself provide real value. *See Perdue v. Hy-Vee, Inc.*, 550 F. Supp. 3d 572, 574-75 (C.D. Ill. 2021). The value of the injunctive relief also informs why this case differs from the ordinary fee comparator. Sophisticated clients assessing potential litigation that could obtain both damages and fundamental changes in repair access would consider the breadth and durability of potential success among the stakes of the representation. *See Synthroid I*, 264 F.3d at 721. The Settlement's 10-year enforceable obligations and Dr. Lamb's quantified categories of avoided economic harm supply a concrete basis for that evaluation.

Taken together, the monetary recovery and repair access commitments establish a result materially broader than monetary compensation for past overcharges alone. The injunctive relief supplies affirmative, case-specific evidence of the quality of the representation. Along with the *ex ante* risk and market evidence, that evidence supports the fee requested here. *See Synthroid I*, 264 F.3d at 721; *Schulte*, 805 F. Supp. 2d at 599.

**4. The Lodestar Cross Check Further Supports the Requested Fee**

A lodestar cross check further confirms the reasonableness of Plaintiffs' requested fee. Although the Seventh Circuit does not require courts to cross check a percentage-based fee award against counsel's lodestar, district courts often consider lodestar information as an additional measure of reasonableness. *Williams*, 658 F.3d at 636 (explaining that consideration of a lodestar cross check is not required); *Cook v. Niedert*, 142 F.3d 1004, 1013 (7th Cir. 1998); *see also In re TikTok, Inc.*, 617 F. Supp. 3d at 943. The lodestar is calculated by multiplying the reasonable hours devoted to the litigation by the applicable hourly rates and comparing the resulting figure with the requested fee. *See TikTok*, 617 F. Supp. 3d at 943. This analysis provides an additional means of assessing whether the requested fee is reasonable in relation to the work performed.

Here, Plaintiffs' collective lodestar is $32,882,347.40, calculated using the historical hourly rates in effect when the work was performed. Joint Decl. ¶ 150. Compared with the requested fee of $37 million, this results in an extremely modest lodestar multiplier of approximately 1.13. *Id*. ¶ 153. Thus, the requested fee represents only a modest increase over the value of the professional time Plaintiffs devoted to prosecuting this litigation, even before accounting for the substantial risk that counsel would receive no compensation for that work.

The reliability of this calculation is supported by the timekeeping and auditing procedures Plaintiffs implemented throughout the litigation. From the outset of the consolidated proceedings, Plaintiffs established written protocols requiring firms to maintain contemporaneous time records,

record time by specific task in tenths of an hour and apply the historical billing rates in effect when the work was performed. Joint Decl. ¶¶ 140-142. Those protocols prohibited block billing and excluded duplicative, unauthorized, clerical, and other noncompensable work. *Id*. ¶¶ 141-142. Co-Lead Counsel also conducted periodic reviews and audits of firms' time submissions, required corrections or additional supporting information where necessary, and excluded time that did not comply with the established requirements. *Id*. ¶¶ 145-149. The accompanying declarations and time exhibits identify the work included, hours, applicable rates, and resulting lodestar. *Id*. ¶¶ 150-152. These procedures provide substantial assurance that the lodestar reflects compensable work reasonably performed for the benefit of the Class.

Courts in this Circuit have approved percentage-based fee awards supported by lodestar comparisons reflecting substantially greater multipliers. In *TikTok*, the court approved a fee award representing a multiplier of approximately 2.04, concluding that the multiplier was reasonable in light of the litigation risks and benefits obtained for the class. 617 F. Supp. 3d at 943. Similarly, in *Hale v. State Farm Mutual Automobile Insurance Co.*, the court approved a multiplier of approximately 2.83 after considering counsel's hours, historical rates, and the substantial risks undertaken in prosecuting the litigation. No. 12-0660-DRH, 2018 WL 6606079, at *13-14 (S.D. Ill. Dec. 16, 2018). Courts have likewise approved substantial lodestar multipliers in complex antitrust litigation.[6]

[6] *See, e.g., In re Loestrin 24 Fe Antitrust Litig.*, No. 1:13-MD-2472-WES-PAS, 2020 WL 4035125, at *6 (D.R.I. July 17, 2020) (approving a multiplier of approximately 1.31); *In re Prograf Antitrust Litig.*, No. 1:11-MD-02242-RWZ, 2015 WL 13908415, at *5 (D. Mass. May 20, 2015) (approving a multiplier of approximately 2.35); *In re Flonase Antitrust Litig.*, 951 F. Supp. 2d 739, 750-51 (E.D. Pa. 2013) (approving a multiplier of approximately 2.99); *In re Urethane Antitrust Litig.*, No. 04-1616-JWL, 2016 WL 4060156, at *7 (D. Kan. July 29, 2016) (approving a multiplier of approximately 3.2); *see also Ohio-Sealy Mattress Mfg. Co. v. Sealy Inc.*, 776 F.2d 646, 660 (7th Cir. 1985) (recognizing that a contingency multiplier compensates for litigation risk and the time value of money); *Harman v. Lyphomed, Inc.*, 945 F.2d 969, 976 (7th Cir. 1991) (recognizing that multipliers between one and four have been approved).

Professor Rubenstein's empirical analysis further supports this comparison. His review of five studies identified average lodestar multipliers ranging from 1.42 to 3.89, while his analysis of larger common-fund cases yielded an average multiplier of 3.20. The approximately 1.13 multiplier requested here falls well below these benchmarks. Rubenstein Decl. ¶¶ 34–38, tbls. 2–3.

The modest multiplier here is particularly significant given the contingent nature of Plaintiffs' representation and the considerable risks and resources involved. As discussed above, Plaintiffs devoted years of professional effort to prosecuting novel and vigorously contested antitrust claims, including extensive fact discovery, substantial expert work, and complex settlement negotiations, without any assurance of compensation. Joint Decl. ¶¶ 9-12, 39-138. Moreover, the lodestar calculation does not account for additional work that Plaintiffs will necessarily perform in connection with final approval, the laborious claims-administration process, settlement distribution, and related proceedings. *Id*. ¶ 153. The requested award therefore closely approximates the historical value of the work already performed, notwithstanding the substantial risk of nonpayment and the additional responsibilities that remain.

Accordingly, although the Seventh Circuit's market-based approach does not require a lodestar cross check, the comparison here provides further confirmation that the requested fee is reasonable. The relatively modest multiplier, the substantial professional time devoted to the litigation, and Plaintiffs' documented timekeeping and auditing procedures all weigh in favor of approval of the requested award. *See* Rubenstein Decl. ¶¶ 38, 43–45.

**B. Reimbursement of Litigation Expenses Is Warranted**

In addition to attorneys' fees, Plaintiffs request reimbursement of $4,743,801.26 in reasonable and necessary expenses incurred in prosecuting this litigation. The common-fund

doctrine permits reimbursement of expenses reasonably advanced for the benefit of the Class, subject to the Court's review. *See Trustees v. Greenough*, 105 U.S. 527, 532–33 (1882); *In re TikTok*, 617 F. Supp. 3d at 946-47. Courts have allowed appropriately documented expenditures for expert services, electronically stored information processing and hosting, depositions, mediation, and other necessary litigation support. *See Hale*, 2018 WL 6606079, at *14-15; *In re TikTok*, 617 F. Supp. 3d at 946-47.

The expenses incurred here were substantial, but they were necessary to investigate, develop, and prosecute Plaintiffs' complex antitrust claims against Deere. These substantial expenditures demonstrate the riskiness of this litigation. As detailed in the Joint Declaration, Plaintiffs undertook more than three years of vigorously contested litigation involving extensive written and electronic discovery, the review of more than two million pages of documents, dozens of third-party subpoenas, numerous depositions, substantial transactional and structured data, and extensive economic expert work. Joint Decl. ¶¶ 9-11, 59-128. The technical nature of the litigation required significant expenditures for economic experts, consulting experts, e-discovery vendors, deposition services, and other resources necessary to develop evidence concerning market definition, market power, competitive effects, classwide injury, and damages. *Id*. ¶¶ 117-124, 154-162. These expenditures were integral to developing the evidentiary record that ultimately enabled Plaintiffs to secure the substantial monetary and injunctive relief provided by the Settlement.

To manage these expenses efficiently, Co-Lead Counsel established a common Litigation Fund near the outset of the consolidated proceedings. The Litigation Fund was financed through initial assessments paid by participating Class Counsel firms, with additional assessments made as the demands of discovery, expert analysis, and other litigation activities increased. Joint Decl. ¶¶ 143, 158–159. The Litigation Fund was used to pay significant case-wide expenses that could be

more efficiently incurred and administered centrally, including expert fees, deposition related expenses, e-discovery costs, and other case-wide common expenditures necessary to prosecute the litigation. *Id*. ¶ 160. Expenses paid through the Litigation Fund total $4,447,207.16. *Id*. ¶ 160. An accounting of these common expenses is attached to the Joint Declaration.

In addition to costs paid through the Litigation Fund, Plaintiffs incurred unreimbursed firm specific expenses in prosecuting the Action. Joint Decl. ¶¶ 154-157. Those expenses were subject to the same reporting, review, and auditing requirements imposed throughout the litigation. *Id*. ¶¶ 140-148, 154-157. Co-Lead Counsel have submitted expense summaries based on their books and records, while other participating firms are submitting separate declarations and supporting expense reports identifying their unreimbursed litigation expenses. *Id*. ¶¶ 155-156. The total amount of firm-specific expenses is $296,594.10. Together with the Litigation Fund accounting, these submissions provide the basis for the aggregate reimbursement request. *Id*. ¶ 162.

Plaintiffs also implemented procedures designed to ensure that only reasonable, necessary, and properly documented expenses would be submitted for reimbursement. From the outset, participating firms were required to maintain detailed expense records and submit them for continuing review. Joint Decl. ¶¶ 140-147. Co-Lead Counsel monitored expenses throughout the litigation. *Id*. ¶¶ 143-147. Importantly, the expense request excludes duplicative reimbursement of amounts paid through the common Litigation Fund. Contributions by participating firms to finance the Litigation Fund are not separately claimed as firm specific expenses when the underlying expenditures are included in the Litigation Fund accounting. *Id*. ¶ 161. These procedures and supporting records are consistent with the Seventh Circuit's instruction that "[i]f counsel submit bills with the level of detail that paying clients find satisfactory, a federal court should not require more." *Synthroid I*, 264 F.3d at 722. The contemporaneous records, Litigation Fund accounting,

and firm-specific expense reports provide the Court with a sufficient basis to evaluate the nature and reasonableness of the requested reimbursement.

The requested reimbursement is consistent with awards approved in comparable complex litigation. In *Hale*, for example, the court approved reimbursement of approximately $7 million in litigation expenses incurred in prosecuting a complex class action, recognizing the substantial costs associated with expert work, discovery, and trial preparation. 2018 WL 6606079, at *14-15. And in *TikTok*, the court approved reimbursement of expenses incurred by individual firms and those paid through a common litigation fund after considering the duration and scope of the litigation and counsel's compliance with established expense reporting procedures. 617 F. Supp. 3d at 946-47 & nn.33–34.

Accordingly, Plaintiffs respectfully submit that their request for reimbursement of $4,743,801.26 in litigation expenses is reasonable and appropriate. These expenses were incurred in the course of vigorously contested, technically demanding antitrust litigation; were subject to continuing oversight and review; and were necessary to secure the substantial relief obtained for the Class. Plaintiffs therefore request the Court approve reimbursement of the litigation expenses documented in the accompanying declarations and supporting exhibits.

### C. The Class Representatives Are Entitled to Service Awards

Plaintiffs respectfully request approval of service awards of $25,000 each to the six Settlement Class Representatives, as well as a separate $25,000 award to Wilson Farms in recognition of its contributions to the prosecution of this Action, for a total of $175,000. The Seventh Circuit has expressly reaffirmed that service awards are permissible under Rule 23 and appropriately compensate class representatives for undertaking responsibilities and burdens beyond those borne by absent class members. *Scott v. Dart*, 99 F.4th 1076, 1082-84 (7th Cir. 2024).

Such responsibilities include participating in discovery, preparing for and attending depositions, monitoring counsel, and reviewing proposed settlements. *Id*. at 1082-83. In determining the appropriateness and amount of an award, courts consider the actions the representative took to protect the interests of the class, the benefits conferred through those efforts, and the time and effort devoted to the litigation. *Cook*, 142 F.3d at 1016; *see also Camp Drug Store*, 897 F.3d at 834–35; *Espenscheid v. DirectSat USA, LLC*, 688 F.3d 872, 876-77 (7th Cir. 2012).

Here, each of these considerations supports the requested awards. The six Settlement Class Representatives – Blake Johnson; Colvin Farms, LLC; Eagle Lake Farms Partnership; England Farms & Harvesting, LLC; Hapka Farms, Inc.; and Plum Ridge Farms, Ltd. – undertook significant responsibilities throughout this litigation. Plaintiffs also request a service award for Wilson Farms in recognition of the work it performed in the litigation, including responding to discovery and participating in a deposition. As detailed in their individual declarations and the Joint Declaration, each Settlement Class Representative preserved relevant information, reviewed pleadings and other litigation materials, responded to extensive written discovery, produced documents and business records, prepared for and participated in depositions, and remained actively involved in the litigation and settlement process. Joint Decl. ¶¶ 163-168; *see generally* Decls. of Blake Johnson, Colvin Farms, Eagle Lake Farms, England Farms, Hapka Farms, and Plum Ridge Farms (collectively, "Class Representative Declarations"). Collectively, the representatives and supporting personnel devoted approximately 536 hours to the prosecution of this Action and produced more than 26,000 pages of documents (excluding Wilson Farms). *Id*. These substantial contributions went well beyond the nominal participation of a named plaintiff and directly advanced the interests of the Class.

The demands of discovery were particularly substantial. Deere served each Class Representative with interrogatories, requests for production, and requests for admission, requiring them to identify and preserve responsive information, consult with employees and other custodians, review business records, and assist counsel in preparing and verifying discovery responses. Joint Decl. ¶¶ 164-166. The Class Representatives additionally devoted substantial time to preparing for and participating in individual or corporate depositions. *Id*. ¶¶ 164-166.

These contributions were meaningful. Blaire and Daniel Colvin collectively devoted approximately 150 hours on behalf of Colvin Farms, including extensive document collection and review, preparation for a Rule 30(b)(6) deposition, and participation in additional deposition testimony. Colvin Farms Decl. ¶¶ 9-11, 15. Robert Haas dedicated approximately 150 hours of work on behalf of Plum Ridge Farms, including the collection and review of thousands of pages of records and preparation for a corporate deposition. Plum Ridge Farms Decl. ¶¶ 9-10, 14. Michael England reports approximately 64 hours on behalf of England Farms, which produced 9,571 pages of documents, while Van Hapka reports approximately 80 hours on behalf of Hapka Farms. England Farms Decl. ¶¶ 9-10, 14; Hapka Farms Decl. ¶¶ 9-10, 14. Blake Johnson and Kent Falwell, Jr., together with an employee acting on behalf of Eagle Lake Farms, similarly devoted substantial time to discovery, depositions, and other representative responsibilities. Johnson Decl. ¶¶ 8-14; Eagle Lake Farms Decl. ¶¶ 10-14, 18.

These obligations imposed meaningful demands on the Class Representatives, particularly because they were required to fulfill their litigation responsibilities while continuing to operate their farms and agricultural businesses. Joint Decl. ¶¶ 164-167. Their efforts assisted Plaintiffs in developing the factual record concerning Deere's challenged repair restrictions, responding to Deere's extensive discovery requests, and advancing the claims asserted on behalf of the Class.

Their participation was therefore substantially more than nominal; it involved significant commitments of time, resources, and attention throughout the prosecution of this Action.

The Class Representatives' willingness to pursue these claims also warrants consideration in light of their commercial interests in the agricultural equipment and repair markets implicated by this Action. Unlike representatives in litigation involving defendants with whom they have no continuing commercial interests, agricultural businesses challenging a major equipment manufacturer may face additional practical concerns associated with maintaining their operations while pursuing litigation. Courts have recognized the risks assumed by business representatives in bringing claims against powerful commercial counterparties as relevant to the appropriateness of service awards. *See Dial Corp. v. News Corp.*, 317 F.R.D. 426, 439 (S.D.N.Y. 2016). These considerations provide additional context for the responsibilities assumed by Plaintiffs in prosecuting this Action on behalf of the Class.

Courts within this Circuit have approved service awards recognizing comparable contributions. In *Cook*, the Seventh Circuit affirmed a $25,000 award to a class representative based upon his substantial efforts in prosecuting the litigation. 142 F.3d at 1016. In *Hale*, the court approved $25,000 awards for each of three representatives who reviewed pleadings, responded to discovery, produced documents, participated in depositions, and remained actively involved in the litigation. 2018 WL 6606079, at *15. Other courts within this Circuit have approved similar awards for class representatives.[7]

[7] *See, e.g., Spano v. Boeing Co.*, No. 06-CV-743-NJR-DGW, 2016 WL 3791123, at *4 (S.D. Ill. Mar. 31, 2016) (approving $25,000 awards to three representatives and $10,000 to two others); *Beesley v. Int'l Paper Co.*, No. 3:06-CV-703-DRH-CJP, 2014 WL 375432, at *4 (S.D. Ill. Jan. 31, 2014) (approving representative awards of $15,000 and $25,000); *In re FedEx Ground Package Sys., Inc., Emp't Pracs. Litig.*, 251 F. Supp. 3d 1225, 1244-45 (N.D. Ind. 2017) (approving $15,000 awards to each of seven class representatives following extensive litigation, document collection, and depositions); *Am. Int'l Grp., Inc. v. ACE INA Holdings, Inc.*, No. 07 CV 2898, 2012 WL 651727, at *17 (N.D. Ill. Feb. 28, 2012).

The Class Representatives' documented contributions justify the awards requested here. *See Synthroid I*, 264 F.3d at 722-23. The farming entities here, acting through their owners, employees, and other representatives, devoted substantial time and resources to contested discovery and other litigation obligations. Their efforts benefited not merely their own claims but the prosecution and resolution of this litigation on behalf of the Class. *See Russo*, 2026 WL 878331, at *22; *Hale*, 2018 WL 6606079, at *15.

Accordingly, in light of the significant responsibilities undertaken, the substantial time and effort devoted to the action, the benefits their participation helped secure for the Class, and the potential exposure they faced bringing suit against their equipment supplier, Plaintiffs respectfully request that the Court approve service awards of $25,000 to each of the six Settlement Class Representatives and Wilson Farms, for a total of $175,000.

## V. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court award $37,000,000 in attorneys' fees, reimburse $4,743,801.26 in litigation expenses, and approve service awards of $25,000 each to the six Settlement Class Representatives and Wilson Farms, totaling $175,000.

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Respectfully submitted,

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