

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

NATALIE KOVACS, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

IFC THEATERS LLC D/B/A IFC CENTER,

Defendant.

Index No. 650700/2024

Motion Seq. No. 001

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION FOR
ATTORNEY'S FEES, COSTS, EXPENSES, AND NAMED PLAINTIFF'S SERVICE_
AWARD**

Dated: February 10, 2025

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PRELIMINARY STATEMENT

The class action settlement between Plaintiff Natalie Kovacs (“Plaintiff”) and Defendant IFC Theaters LLC d/b/a IFC Center (“IFC” or “Defendant”), if finally approved, resolves Plaintiff’s and the Class’s claims against IFC under New York Arts and Cultural Affairs Law (“ACAL”) § 25.07(4). Under the Settlement – which was only reached after extensive negotiations – Defendant has agreed to establish a non-revisionary settlement fund in the amount of \$200,000.00 (the “Settlement Fund”). The Settlement Fund shall provide monetary relief for approved class member claims, notice and administration costs, the service award of the Plaintiff, and attorneys’ fees, costs, and expenses to Class Counsel. Every class member who submits a valid claim will receive a pro rata cash payment, based on the amount of service fees the member paid through Defendant’s website from August 29, 2022 to May 3, 2024.

And equally important, the Settlement also provides meaningful prospective relief as the Parties acknowledge and agree that the current purchase flow for tickets on Defendant’s website complies with the current law. Defendant agreed to comply with ACAL § 25.07(4) unless and until it is amended, repealed, or otherwise invalidated.

Obtaining this meaningful relief came with significant risks. ACAL § 25.07(4) became effective on August 29, 2022, and as such, there is no binding case law (and at the time this action was initially filed no case law) on the statute. The case law that does exist is not unanimously in Plaintiff’s favor. *See, e.g., Curanaj v. Tao Group, Inc.*, Index No. 56152/2024 at NYSCEF No. 36 (Sup. Ct. Westchester Cnty. July 25, 2024) (granting motion to dismiss similar ACAL ticket fee case); *Frias v. City Winery New York, LLC*, Index No. 651284/2024 (Sup. Ct. New York Cnty. Oct. 15, 2024) (same). Nonetheless, Class Counsel took this case on contingency despite a significant risk that Plaintiff, the Settlement Class, and thereby Class Counsel, would receive nothing. Rather than put IFC’s arguments to the test and risk everything, Plaintiff and Class Counsel achieved meaningful, immediate relief for the Settlement Class.

In light of this result, Plaintiff respectfully requests pursuant to CPLR 909 that the Court approve attorneys' fees, inclusive of costs and expenses of \$66,666.66 (or one-third of the Settlement Fund), as well as a Named Plaintiff Service Awards of \$5,000.00 for her service as the class representative. The requested one-third is consistent with the attorneys' fees that New York courts routinely award in class action settlements. *Milton v. Bells Nurses Registry & Employment Agency, Inc.*, 2015 WL 9271692, at *5 (Sup. Ct. Kings Cnty. Dec. 21, 2015) (collecting cases and noting that 33.3% is "consistent with the norms of class litigation in this circuit"); *see also Norcross v. Tishman Speyer Properties, L.P.*, Case No. 23-cv-11153 at ECF No. 36 ¶ 14 (S.D.N.Y. Aug. 16, 2024) (awarding one-third of the settlement fund in attorneys' fees, costs, and expenses in an ACAL § 25.07(4) settlement); *Charles v. Color Factory, LLC*, Case No. 24-cv-00322 at ECF No. 48 ¶ 14 (S.D.N.Y. Nov. 7, 2024) (same); *Hayes v. Harmony Gold Min. Co.*, 2011 WL 6019219, at *1 (S.D.N.Y. Dec. 2, 2011) (awarding "attorneys' fees in the amount of one third" of a \$9 million settlement fund), *aff'd* 509 F. App'x 21, 23-24 (2d Cir. 2013) (affirming same).

For these reasons, and as explained further below, the Court should approve the requested fee and Named Plaintiff Service Award.

FACTUAL AND PROCEDURAL BACKGROUND

A brief summary of Plaintiff's allegations, the litigation performed by Class Counsel for the Settlement Class's benefit, and the beneficial terms of the Settlement provide necessary context to the reasonableness of the requested fee and Named Plaintiff's Service Award.

A. Plaintiff's Allegations

Defendant sells movie tickets through its website to consumers throughout the United States, including in the State of New York. *See* Complaint (NYSCEF Doc. No. 1) ("Compl.") ¶ 8. Plaintiff alleges that when consumers purchase tickets through Defendant's website,

Defendant fails to timely disclose “the total price prior to the ticket being selected for purchase, which increases the cost of the ticket that a purchaser must pay just to purchase the ticket.” *Id.* ¶ 15. Plaintiff alleges that this conduct violates ACAL § 25.07(4) because “it is only after the customer selects a ticket and adds it to her cart that Defendant discloses a per-ticket \$1.95 ‘Service Fee’ which increases the total cost of the ticket during the purchase process on every ticket purchase.” *Id.* ¶ 12 (emphasis in original). Plaintiff is an individual who purchased electronic tickets through Defendant’s website to and paid service fees where the total cost was not disclosed to Plaintiff at the beginning of the purchase process. *Id.* ¶9.

IFC denies these allegations and denies any wrongdoing.

B. The Litigation And Work Performed To Benefit The Class

On February 8, 2024, Plaintiff filed a putative class action in the Supreme Court of the State of New York, County of New York. Affirmation of Rachel N. Dapeer In Support of Plaintiff’s Unopposed Motion for Attorneys’ Fees, Costs, Expenses, And Named Plaintiff’s Service Award (“Dapeer Aff.”) ¶ 4. The material allegations of the complaint centered on Defendant’s alleged failure to timely disclose the total cost and a \$1.95 per ticket service fee for tickets purchased through its website prior to those tickets being selected for purchase, in alleged violation of New York Arts & Cultural Affairs Law (“ACAL”) § 25.07(4). *Id.*

From the outset of the case, the Parties engaged in settlement discussions and, to that end, exchanged informal discovery, including on issues such as the size and scope of the putative class, specifically the amount of service fees Defendant collected during the relevant time period. *Id.* ¶ 5. Given that the information exchanged would have been, in large part, the same information produced in formal discovery related to issues of class certification and summary judgment, the Parties had sufficient information to assess the strengths and weaknesses of the claims and defenses. *Id.* After substantial negotiations, the Parties reached an agreement on all

material terms of a class action settlement and executed a term sheet. *Id.* ¶ 6. Notably, IFC changed the purchase flow for its website in February 2024, upon receiving a copy of the Complaint filed by Plaintiff. *Id.*

Thereafter, Defendant produced confirmatory discovery regarding the size and scope of the putative class, which showed that from August 29, 2022 to and through February 8, 2024, Defendant collected \$305,504.70 in service fees from purchasers through its Website. *Id.* ¶ 7. The investigation also confirmed that in February 2024, Defendant changed the purchase flow for tickets on its website to disclose the Service Fee on the ticket selection page, and continued to make enhancements through May 3, 2024. *Id.* The Parties ultimately drafted and executed the Settlement Agreement, which is annexed to the Dapeer Affirmation as Exhibit 1. *Id.* ¶ 3. The Court preliminarily approved the Settlement on December 12, 2024, which is annexed to the Dapeer Affirmation as Exhibit 2. *Id.* ¶ 10.

SUMMARY OF THE SETTLEMENT

The Settlement provides an exceptional result for the class by delivering relief over 60,000 individuals who paid a Service Fee when they purchased ticket through IFC's website starting August 29, 2022, to and through May 3, 2024. *Id.* ¶ 7. The Settlement establishes a non-revisionary fund of \$200,000.00 to pay approved class member claims, notice and administration costs, a service award of the Plaintiff, and attorneys' fees, costs, and expenses to Class Counsel. *Id.* ¶ 11; *see also id.* Ex. 1, Class Action Settlement Agreement ("Settlement") ¶¶ 1.38, 1.41.

The typical Service Fee during the Class Period was \$1.95 per ticket and under the Settlement, every Settlement Class Member who files a valid claim will receive a *pro rata* payment equal to the Settlement Class Member's Out of Pocket Percentage multiplied by the Available Settlement Fund. Dapeer Aff. ¶ 12; Settlement ¶ 2.1(b).

Additionally, as part of the Settlement, Defendant acknowledges that as a result of this lawsuit it has changed the purchase flow for tickets on its website and agrees to continue to comply with ACAL § 25.07(4) unless and until it is amended, repealed, or otherwise invalidated. Settlement ¶ 2.2.

ARGUMENT

I. THE REQUESTED ATTORNEYS' FEES, COSTS, AND EXPENSES ARE REASONABLE AND SHOULD BE APPROVED

This case is complex with the added class action procedural issues overlaying the underlying litigation. It has unquestionably been litigated efficiently and with no duplication. The work performed was legal work related to the litigation and to the settlement. All tasks were pursued with one goal in mind: what was in the best interests of the Class.

“In testing the reasonableness of the negotiated fee, [courts] first look[] to the percentage of the recovery approach.” *Michels v. Phoenix Home Life Mut. Ins.*, 1997 WL 1161145, at *31 (Sup. Ct. N.Y. Cnty. Jan. 7, 1997). “Federal courts around the country, including federal district courts in New York, are turning away from the lodestar/multiplier approach and are returning to the percentage of the recovery approach.” *Id.* (citing cases).¹

New York courts “have routinely granted requests for one-third or more of the fund in cases with settlement funds similar to or substantially larger than this one.” *Massiah v. MetroPlus Health Plan, Inc.*, 2012 WL 5874655, at *7 (E.D.N.Y. Nov. 20, 2012) (citing cases); *Milton*, 2015 WL 9271692, at *5 (collecting cases and noting that 33.3% is “consistent with the norms of class litigation in this circuit”); *Cucuzza v. National Debt Relief, LLC*, No. 601631/2021, NYSCEF No. 21 (Sup. Ct. Nassau Cty. Apr. 20, 2022); *Cortes v. Mexican Hospitality Operator LLC*, No. 601406/2021, NYSCEF No. 18 (Sup. Ct. Nassau Cty. Feb. 28,

¹ “New York’s courts have recognized that its class action statute is similar to the federal statute and have looked to federal case law for guidance.” *Fiala*, 899 N.Y.S.2d at 537 (citing cases); *Colt Indus. Shareholder Litig. v. Colt Indus. Inc.*, 77 N.Y.2d 185, 194 (1991) (“New York’s class action statute has much in common with Federal Rule 23.”).

2022); *Gabriel v. Homyn Enterprises Corp.*, No. 504595/2021, NYSCEF No. 15 (Sup. Ct. Kings. Cty. Nov. 23, 2021); *Coba v. Wagamama USA, LLC*, No. 614988/2020, NYSCEF No. 17 (Sup. Ct. Nassau Cty. November 3, 2021); *Flowers v. FSNY Restaurant Associates, LLC*, No. 600976/2021, NYSCEF No. 19 (Sup. Ct. Nassau Cty. Oct. 21, 2021); *Hyken v. Greenwich BBQ, LLC*, No. 608689/2020, NYSCEF No. 19 (Sup. Ct. Nassau Cty. Jun. 3, 2021); *Figuroa v. United American Security, LLC*, No. 613892/2020, NYSCEF No. 21 (Sup. Ct. Nassau Cty. May 24, 2021); *Luna v. Zuma NYC, LLC*, No. 509547/2020, NYSCEF No. 40 (Sup. Ct. Kings Cty. May 10, 2021); *Lemma v. 103W77 Partners LLC*, No. 513125/2019, NYSCEF No. 24 (Sup. Ct. Kings Cty. Mar. 31, 2021); *Guzman v. Del Frisco's of New York, LLC*, No. 617666/2019, NYSCEF No. 61 (Sup. Ct. Nassau Cty. Mar. 18, 2021); *Robinson v. Big City Yonkers, Inc.*, No. 600159/2016, NYSCEF No. 291 (Sup. Ct. Nassau Cty. Feb. 16, 2018). Indeed, as courts have noted, fee requests for one-third of settlement funds “reasonably approximate[] the market for the services rendered,” because they represent what “reasonably paying clients typically pay ... pursuant to contingency retainer agreements.” *In re Nigeria Charter Flights Litig.*, 2011 WL 7945548, at *4 (citing *Arbor Hill Concerned Citizens Neighborhood Ass’n v. County of Albany*, 522 F.3d 182 (2d Cir. 2008)).

A. Plaintiff’s Request For Approval Of Reimbursement Of Litigation Expenses And Attorneys’ Fees Is Fair And Reasonable And Should Be Granted

Plaintiff respectfully submits that Class Counsels’ request for \$66,666.66, or one-third of the non-reversionary Settlement Fund, in attorneys’ fees, inclusive of reimbursement of expenses for the successful prosecution and resolution of this class action should also be approved by the Court. Like the Settlement, the amount of this inclusive fee and expense request was negotiated at arms-length. Maximizing the benefit to the Class was Class Counsels’ paramount consideration. Class Counsels’ efforts to date during litigation have been without compensation of any kind, and receipt of any attorneys’ fee or reimbursement of expenses has been wholly

contingent upon the result achieved. For these and the other reasons set forth below, Plaintiff respectfully submits that the expenses and attorneys' fees sought meet the applicable legal standards and, considering the contingency risk undertaken and the result achieved, should be approved.

CPLR 909 permits courts to award attorneys' fees in class action litigation. In order to assess a reasonable fee, a court should consider:

[T]he risks of the litigation, whether counsel had the benefit of a prior judgment, standing at bar of counsel for the plaintiffs and defendants, the magnitude and complexity of the litigation, responsibility undertaken, the amount recovered, the knowledge the court has of the case's history and the work done by counsel prior to trial, and what it would be reasonable for counsel to charge a victorious plaintiff.

Milton v. Bells Nurses Registry & Employment Agency, Inc., 2015 WL 9271692, at *7 (Sup. Ct. Kings Cnty. Dec. 21, 2015), (citing *Fiala v. Metro. Life Ins. Co.*, 899 N.Y.S.2d 531, 610 (Sup. Ct. N.Y. Cnty. 2010)). Each of these factors supports approval of Class Counsel's fee and expense request here.

1. The Risk Of Litigation

This factor recognizes the risk of non-payment in cases prosecuted on a contingency basis where claims are not successful, which can justify higher fees. *See, e.g., In re Marsh ERISA Litig.*, 265 F.R.D. 128, 148 (S.D.N.Y. 2010) ("There was significant risk of non-payment in this case, and Plaintiffs' Counsel should be rewarded for having borne and successfully overcome that risk."); *In re Telik, Inc. Sec. Litig.*, 576 F. Supp. 2d 570, 592 (S.D.N.Y. 2008) (noting risk of non-payment in cases brought on contingency basis). "It is well settled that class actions are notoriously complex and difficult to litigate." *Shapiro v. JPMorgan Chase & Co.*, 2014 WL 1224666, at *21 (S.D.N.Y. Mar. 24, 2014).

The same novelty that made this case complex also presented a substantial risk of non-payment for Class Counsel. The few opinions on ACAL § 25.07(4) leave many legal issues

unresolved and numerous legal issues would need to be decided in Plaintiff's favor. For example, Defendant would argue that its website was always in compliance with ACAL § 25.07(4), that Plaintiff's claims are precluded by the voluntary payment doctrine, that Plaintiff is precluded from seeking a statutory penalty in this class action, that Plaintiff cannot meet the statutorily-required showing of harm required to bring a claim pursuant to ACAL § 25.33, and that the pertinent statute provides for an excessive penalty that is constitutionally infirm. *Dapeer Aff.* ¶ 16; *see also Curanaj v. Tao Group, Inc.*, Index No. 56152/2024 at NYSCEF No. 36 (Sup. Ct. Westchester Cnty. July 25, 2024) (granting motion to dismiss similar ACAL ticket fee case); *Frias v. City Winery New York, LLC*, Index No. 651284/2024 (Sup. Ct. New York Cnty. Oct. 15, 2024) (same).

The risks were exacerbated by the fact that Defendant retained highly qualified defense counsel. Nonetheless, Class Counsel embarked on a fact-intensive investigation of Defendant's practices, engaged in informal discovery, and spent months negotiating with defense counsel to try and resolve this case. *Dapeer Aff.* ¶¶ 5-8. Class Counsel fronted this investment of time and resources, despite the significant risk of nonpayment inherent in this case. *Id.* ¶ 20.

The fact that Class Counsel undertook this representation, despite the significant risk of nonpayment, supports the requested fee award.

2. Whether Counsel Had the Benefit of a Prior Judgment

At the time Class Counsel originally filed this action, there were no cases interpreting ACAL § 25.07(4). Even today, there are only a few other cases interpreting ACAL § 25.07(4), none of which are binding or procedurally advanced beyond a motion to dismiss. Instead of relying on a prior judgment, Class Counsel took on the associated risk of filing this class action on a full contingency basis. This action and the instant Settlement provided a substantial benefit to thousands of IFC's customers.

3. Standing at Bar of Counsel for the Plaintiff and Defendant

Class action litigation presents unique challenges and – by achieving a meaningful settlement over alleged violations of an untested statute – Class Counsel proved that they have the ability and resources to litigate this case zealously and effectively.

Class Counsel is a well-respected attorney with significant experience litigating consumer class actions of similar size, scope, and complexity. *Dapeer Aff.* ¶¶ 22-23.

Furthermore, “[t]he quality of the opposition should be taken into consideration in assessing the quality of the plaintiffs’ counsel’s performance.” *In re MetLife Demutualization Litig.*, 689 F. Supp. 2d 297, 362 (E.D.N.Y. 2010). Class Counsel achieved a significant result in this case while facing well-resourced and experienced defense counsel.

Class Counsel litigated this case efficiently, effectively, and civilly. The excellent result is a function of the high quality of that work, which supports the requested fee award.

4. The Magnitude And Complexity Of The Litigation

“[C]lass actions have a well deserved reputation as being most complex.” *In re Nasdaq Market-Makers Antitrust Litig.*, 187 F.R.D. 465, 477 (S.D.N.Y. 1998). This case was no exception. IFC’s Service Fees impacted thousands of customers and presented many novel and complex issues. While Plaintiff believes that her claims are strong, they are not without risk. For example, any allegation that IFC engaged in deceptive conduct with its customers is vigorously disputed. The Settlement eliminates these risks and will provide substantial recovery for the Class without the risk and delay of continued litigation.

This factor therefore also supports Court approval of the requested attorneys’ fee and expense award.

5. The Case History and the Responsibility Undertaken by Class Counsel

As discussed in Point I, above, Class Counsel’s activities included, but were not limited to: conducting an extensive pre-filing investigation of Plaintiff and Class Members’ claims and

damages and vigorously prosecuting those claims. Dapeer Aff. ¶ 4. Class Counsel engaged in informal discovery and prepared for and participated in extensive negotiations. *Id.* ¶¶ 5-8.

Class Counsel also negotiated a comprehensive settlement agreement and prepared a motion for preliminary approval of the Settlement. *Id.* ¶¶ 8-10. Once notice is disseminated, Class Counsel will be on call to respond to inquiries from Class Members and coordinate the settlement process with the Settlement Administrator. *Id.* ¶¶ 18-19. Class Counsel anticipates expending additional time administering the Settlement to and after final approval. *Id.*

Thus, the work performed by Class Counsel to date has been comprehensive, complex, and wide ranging. This factor supports the requested fee award.

6. The Amount Recovered

Class Counsel's work has led to the creation of a substantial recovery on behalf of the Class. The Settlement provides a non-revisionary Settlement Fund in the amount of \$200,000.00 in relief for over 60,000 individuals. Dapeer Aff. ¶¶ 11. This settlement benefits all individuals who paid a Service Fee to purchase electronic tickets through IFC's website from August 29, 2022, to and through May 3, 2024 and, as discussed herein, provides them a substantial percentage of the maximum recovery they could hope to recover after trial and a successful appeal. *Id.* ¶ 7, 15-17. Indeed, IFC's records confirm that the typical Service Fee per ticket was \$1.95 during the class period, and the Settlement provides that every Settlement Class Member who files a valid claim will receive a *pro rata* payment equal to the Settlement Class Member's Out of Pocket Percentage multiplied by the Available Settlement Fund. *Id.* ¶ 12.

And equally important, the Settlement also provides meaningful prospective relief as Defendant acknowledges that as a result of this lawsuit it has changed the purchase flow for tickets on its website and agrees to comply with ACAL § 25.07(4) unless and until it is amended, repealed, or otherwise invalidated. *Id.* ¶ 13.

The Settlement is clearly an excellent result.

**7. What It Would Be Reasonable for Counsel To Charge
A Victorious Plaintiff**

Under CPLR 909, “[i]f a judgment in an action maintained as a class action is rendered in favor of the class, the court in its discretion may award attorneys’ fees ... based on the reasonable value of legal services rendered and if justice requires, allow recovery of the amount awarded from the opponent of the class.”² Here, the Settlement provides that Class Counsel may petition the Court for an award up to one-third of the Settlement Fund (or \$66,666.66).

Settlement ¶ 8.1. The “Fee Award” also includes all costs and expenses incurred by Class Counsel. As mentioned above, New York courts routinely approve fee requests for one-third of the settlement in class actions. *See* cases cited in Argument § I, *supra*. Thus, Class Counsel’s fee request of only one-third is reasonable.

Public policy also favors Class Counsels’ requested fee. “Consumer class actions . . . have value to society . . . both as deterrents to unlawful behavior . . . and as private law enforcement regimes that free public sector resources. If we are to encourage these positive societal effects, class counsel must be adequately compensated.” *Gascho v. Glob. Fitness Holdings, LLC*, 822 F3d 269, 287 (6th Cir. 2016); *see also* Myriam Gilles & Gary B. Friedman, *Exploding the Class Action Agency Costs Myth: The Social Utility of Entrepreneurial Lawyers*, 155 U. PA. L. REV. 103, 106 (2006) (“[T]he deterrence of corporate wrongdoing is what we can and should expect from class actions.”); William B. Rubenstein, *On What A “Private Attorney*

² The requested fee award also encompasses unreimbursed litigation costs and expenses. Settlement ¶ 8.1. Reasonable litigation-related costs and expenses are customarily awarded in class action cases and include costs such as document preparation and travel. *See, e.g., Yuzary v. HSBC Bank USA, N.A.*, 2013 WL 5492998, at *11 (S.D.N.Y. Oct. 2, 2013) (“Class Counsel’s unreimbursed expenses, including court and process server fees, postage and courier fees, transportation, working meals, photocopies, electronic research, expert fees, and Plaintiffs’ share of the mediator’s fees, are reasonable and were incidental and necessary to the representation of the class.”). Thus, included in the requested fee award, Class Counsel respectfully seeks reimbursement of \$476.47 for out-of-pocket costs and expenses in these standard categories. *See* Dapeer Aff. ¶ 21.

General” Is—and Why It Matters, 57 VAND. L. REV. 2129, 2168 (2004) (“[Class counsel’s] clients are not just the class members, but the public and the class members; their goal is not just compensation, but deterrence and compensation.”); William B. Rubenstein, *Why Enable Litigation?: A Positive Externalities Theory of the Small Claims Class Action*, 74 UMKC L. REV. 709, 724-25 (2006) (“By enabling litigation, the class action has the structural consequence of dividing law enforcement among public agencies and private attorneys general and of shifting a significant amount of that enforcement to the private sector.”). Indeed, “many courts have recognized that generous fee awards ... serve the dual purpose of encouraging plaintiffs’ attorneys to act as private attorneys general and discouraging wrongdoing.” . *Michels v. Phoenix Home Life Mut. Ins.*, 1997 WL 1161145, at *31 (Sup. Ct. N.Y. Cnty. Jan. 7, 1997).

Here, ACAL § 25.07(4) sat on the books for more than a year—*completely unenforced*—before Class Counsel first began filing this action and others. During that time, IFC collected over \$305,405.70 in allegedly unlawful Service Fees. But for Class Counsel’s efforts, IFC’s conduct likely would have continued unabated. This factor therefore supports the requested fee award.

II. PLAINTIFF’S REQUESTED SERVICE AWARD IS FAIR AND REASONABLE AND SHOULD BE GRANTED

Under the Settlement, Class Counsel may petition the court for a Named Plaintiff Service Award for Plaintiff in the amount of \$5,000.00, as compensation for her efforts in bringing the Actions and achieving the benefits of the Settlement on behalf of the Settlement Class.

Settlement ¶ 8.3.

It is common for courts to grant service awards in class action suits. Such awards “reward[] the named plaintiffs for the effort and inconvenience of consulting with counsel over the many years [a] case was active and for participating in discovery, including depositions.” *Milton*, 2015 WL 9271692, *2-3 (citing *Cox v. Microsoft Corp.*, 26 Misc. 3d 1220(A), at *4

(Sup. Ct. N.Y. Cnty. 2007)).

Here, Plaintiff made significant contributions to this litigation by bringing this lawsuit, providing counsel with relevant documents, actively participating in the litigation, and providing important information used to prosecute this action and to achieve the Settlement. Dapeer Aff. ¶¶ 24-26. Additionally, Plaintiff was prepared to sit through depositions and trial, if necessary. *See id.*; *Milton*, 2015 WL 9271692, *3 (recognizing the important role that plaintiffs play as the “primary source of information concerning the claim[,]” including by responding to counsel’s questions and reviewing documents).

The requested Service Award is also well within the range previously approved by the New York courts. *See, e.g., Norcross*, Case No. 23-cv-11153 at ECF No. 36 ¶ 15 (awarding \$5,000 service award for plaintiff in ACAL § 25.07(4) settlement); *Charles*, Case No. 24-cv-00322 at ECF No. 48 ¶ 15 (same); *Milton*, 2015 WL 9271692, *3 (awarding \$8,000 Service Award and citing several decisions in which a Service Award of \$10,000 was awarded). Given that the Named Plaintiff’s contributions of time and assistance to this litigation, the requested Service Award is reasonable, appropriate, and should be approved by the Court.

CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court (1) approve attorneys’ fees, costs, and expenses in the amount of \$66,666.66, (2) grant Plaintiff’s Service Award of \$5,000.00 in recognition of her efforts on behalf of the class, and (3) award such other and further relief as the Court deems reasonable and just.

Dated: February 10, 2025

Respectfully submitted,

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1. Pursuant to 22 N.Y.C.R.R. §202.8-b, the undersigned counsel certifies that the foregoing brief was prepared on a computer using Microsoft Word. A proportionally spaced typeface was used as follows:

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Dated: February 10, 2025

Respectfully submitted,

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