IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ANTHONY D. KOLTON, *et al*.,	)	
	)	
Plaintiffs,	)	No. 16-cv-3792
	)	
v.	)	The Honorable Charles Kocoras
	)	
MICHAEL W. FRERICHS, Illinois State Treasurer,	)	
	)	
	)	
Defendant.	)	

DEFENDANT'S RESPONSE TO PLAINTIFFS' MOTION
FOR ATTORNEYS' FEES AND OTHER RELIEF

The Defendant, Michael Frerichs, in his official capacity as Illinois State Treasurer (the "Treasurer"), by his counsel, Kwame Raoul, Illinois Attorney General, submits the following response to Class Counsel's motion for an award of attorneys' fees and other relief (Dkt. 126).

INTRODUCTION

After the Seventh Circuit remanded this case back to the district court, the parties worked together to settle this case in the best interest of the class members. The Treasurer has agreed to pay interest to Rule 23(b)(2) Class members and future claimants going forward, and has further agreed to pay interest to a limited class of past claimants (the Rule 23(b)(3) Settlement Class). But the parties were not able to reach an agreement on attorneys' fees, primarily because Class Counsel seek to recover $9.5 million in fees. This is a staggering amount of fees for a civil rights case of this nature, far more than Class Counsel could ever have recovered if the parties had litigated this case to judgment, and somewhere between *seven and ten times* their claimed fees under the lodestar method. Under the circumstances, the Court should exercise its discretion to deny Class Counsel's request for $9.5 million in attorneys' fees, or in the alternative, defer

approving an attorneys' fee award until Class Counsel provides sufficient documentation of their work so that this Court can adequately determine a reasonable market price for their services under the lodestar method.

ARGUMENT

I. The Court should disregard Plaintiffs' expert report on attorneys' fees.

In support of their motion for attorneys' fees, Plaintiffs rely heavily on an expert report from a law professor named Charles Silver. *See* Dkt. 126 at 2, 8-9, 13. They use Professor Silver's report to bolster their claims that this is a common fund case, that they are entitled to recover a percentage of the benefit to the class under the common fund doctrine, that the percentage requested is reasonable, and that a comparison with the lodestar amount is not required. *See* Dkt. 126 at 2, 8-9, 13. However, much of Professor Silver's report improperly opines on the law and offers legal conclusions, and should be disregarded accordingly.

Expert opinions that offer legal conclusions are generally inadmissible because they do not "assist the trier of fact," as expert opinions must. *See Richman v. Sheahan*, 415 F. Supp. 2d 929, 944-45 & nn.14-15 (N.D. Ill. 2006); *see also* Advisory Committee Note to Fed. R. Evid. 704; *West By and Through Norris v. Waymire*, 114 F.3d 646, 652 (7th Cir. 1997) (expert witness "not allowed to draw" a "legal conclusion"). Expert testimony "as to legal conclusions that will determine the outcome of the case" is categorically inadmissible. *Good Shepherd Manor Found., Inc. v. City of Momence*, 323 F.3d 557, 564 (7th Cir. 2003) (district court properly excluded law professor's proffered testimony that was "largely on purely legal matters and made up solely of legal conclusions").

Such expert testimony is not only inadmissible, but unnecessary. "Each courtroom comes equipped with a 'legal expert,' called a judge, and it is his or her province alone" to determine what the "relevant legal standards" are. *Burkhart v. Wash. Metro. Area Transit Auth.*, 112 F.3d

1207, 1213 (D.C. Cir. 1997); *Klaczak v. Consol. Med. Transp. Inc.*, No. 96 C 6502, 2005 U.S. Dist. LEXIS 13607, at *12 (N.D. Ill. May 26, 2005). The "judge's expert knowledge of the law makes any such assistance at best cumulative, and at worst prejudicial." *Nieves-Villanueva v. Soto-Rivera*, 133 F.3d 92, 100 (1st Cir. 1997) (citations omitted); *see also Aleksic v. Clarity Servs., Inc.*, No. 1:13-cv-07802, 2015 U.S. Dist. LEXIS 88853, at *16-19 (N.D. Ill. July 8, 2015).

In very limited circumstances, such as when dealing with questions of foreign law, a judge may be aided by an expert's assistance. *Nieves-Villanueva*, 133 F.3d at 99. While the circumstances surrounding Class Counsel's attorneys' fee petition are unusual, courts are frequently called upon to award attorneys' fees, including attorneys' fees in class action settlements. *See, e.g.*, *In re Brand Name Prescription Drugs Antitrust Litig.*, No. 94 C 897, 2000 U.S. Dist. LEXIS 1734, at *5 (N.D. Ill. Feb. 9, 2000) (Kocoras, J.) (determining attorneys' fee award in class action). Thus, there is no basis for Plaintiffs to submit expert testimony regarding attorneys' fees law.

Here, Paragraphs 25-37 of Professor Silver's report offer the opinion that "class counsel are entitled to a fee award under the common fund doctrine." Dkt. 126-1 at 8. This is the ultimate legal conclusion at issue in Class Counsel's attorneys' fees petition, and is therefore inadmissible legal opinion. In support of this legal conclusion, Professor Silver expounds on the Restatement of Restitution and Unjust Enrichment, further reinforcing that these are *legal* principles at issue. In Paragraphs 38-39, Professor Silver opines on what the Seventh Circuit's rule is for awarding fees from common funds, again clearly a legal conclusion and clearly an improper topic for expert testimony. In Paragraphs 40-54, Professor Silver opines that the Court can base the dollar amount of the fee award on the present value of future payments. In doing so, he provides his

analysis of *Williams v. Rohm & Haas Pension Plan*, No. 404-CV-0078- SEB (S.D. Ind. Nov. 18, 2009), including the Seventh Circuit's rulings in that case (*see, e.g.*, ¶ 45), as well as *Bowles v. Washington Dep't of Ret. Sys.*, 121 Wash. 2d 52, 847 P.2d 440 (1993). And Paragraphs 55-59, regarding Section 1988 fees, is merely a discussion and argument regarding the Seventh Circuit's opinion in *Florin*. All of this is straightforward lawyerly *argument*—not a proper expert opinion. Professor Silver veers back into offering legal conclusions in Paragraphs 98-103, in which he opines that "no lodestar cross-check is advisable or required." *Id*. at 38. Again, an argument that comparison with the lodestar is not *legally* required is an obvious legal conclusion, one that attempts to usurp the province of the judge.

In summary, Paragraphs 25-59 and 98-103 of Silver's expert report offer legal opinions, not factual testimony. These paragraphs are therefore inadmissible and should be disregarded by the Court when evaluating the Class Counsel's fee petition.

II. This case is not a typical common fund case, and a percentage recovery is inappropriate here.

To the extent that this case can be considered a common fund case, it is certainly not a typical one. The settlement does not set forth a lump-sum payment to go to the class and the attorneys, with the only question being how to distribute the money between the class and its attorneys. *See, e.g.*, *Boeing Co. v. Van Gemert*, 444 U.S. 472, 479-81 (1980). Moreover, it is true that, in a typical consumer class action, a private defendant would only "care[] about the total cost of settling, not the division of the total between the Class and its attorneys," because the defendant would have "no financial stake" in that division. Dkt. 126-1 ¶ 58 n.8. But the Treasurer is not just "any defendant" – he is an elected official of the State who holds the monies in the Unclaimed Property Trust Fund in trust for the people of the State of Illinois, including the Class Members and Future Claimants. As such, the Treasurer has an interest in ensuring that all

claimants are treated equitably under this settlement. This is especially true for Future Claimants, who are not represented by Class Counsel and have no right to opt out or even object to Class Counsel's attorneys' fees request.

"Because class actions are rife with potential conflicts of interest between class counsel and class members, district judges presiding over such actions are expected to give careful scrutiny to the terms of proposed settlements in order to make sure that class counsel are behaving as honest fiduciaries for the class as a whole." *Mirfasihi v. Fleet Mortg. Corp*., 356 F.3d 781, 785 (7th Cir. 2004). While the Treasurer agrees that the terms of the settlement agreement are fair to the Class, the Treasurer does not believe that the $9.5 million award sought by Class Counsel is fair or appropriate. Given the circumstances of this case, a percentage of recovery method is inappropriate here, especially given that Class Counsel's requested percentage would result in an award that is more than seven times higher than Class Counsel's purported lodestar, and as much as ten times higher than a properly supported lodestar award. Under these circumstances, the Court should exercise its discretion to apply the lodestar method for assessing Class Counsel's fees.

Plaintiffs and their purported expert cite to nine legal opinions in support of the percentage of recovery method for common fund cases, but none of these cases establishes that this method must be used or even would be appropriate in this case. In fact, not one case is sufficiently analogous to the nature and circumstances of the settlement agreement that this Court is reviewing.

Two cases merely stand for the proposition that attorneys' fees may be awarded from a common fund available to a class. *Trustees v. Greenough*, 105 U.S. 527, 532 (1881), just sets forth this general rule. In *Mills v. Electric Auto-Lite Company*, 396 U.S. 375, 392-93 (1970),

there was not even a common fund in existence at the time of the opinion. The court just reasoned that the attorneys in a securities case obtained a benefit for the corporation's shareholders by exposing some misleading proxy statements, and it determined that fees were appropriate as that case was analogous to a common fund case. *Id.*

Another case, *Boeing Co.*, 444 U.S. at 474, concerned individuals who held a particular type of security connected to a corporation and whether that corporation gave adequate notice to these individuals that they could cash out the security or convert it into shares. *Id. at* 475-76. The trial court eventually entered $3,289,359 as a judgment in the class's favor, and the only question on appeal was whether attorneys' fees would be apportioned among the entire class or only among the class members who had actually claimed their share of the judgment. *Id.* at 479-81. The holding was quite narrow – the Court noted that a fixed, determinate fund had been created, that class members who had not yet made their claim received a benefit by being able to make their claims in the future, and that it was reasonable for the entire class to share the costs of attorneys' fees. *Id.* This opinion says nothing about how to set the amount of the fees or what method to use.

Plaintiffs' reliance on a Washington State Supreme Court case is equally unhelpful. *See Bowles v. Wash. Dep't of Ret. Sys*., 121 Wash. 2d 52, 72-73 (1993). Washington state apparently operates under the rule that common fund cases must use the percentage of recovery method, *see id.*, but even Plaintiffs admit that this is not the rule in the Seventh Circuit. *See* Dkt. 126 at 10, *citing Florin v. Nationsbank of Georgia, N.A.*, 34 F.3d 560, 566 (7th Cir. 1994) (district courts have discretion to use percentage of recovery method or lodestar method). So, it is irrelevant that the Washington State Supreme Court signed off on a percentage of recovery fee award in *Bowles* as it did not and could not consider an alternative.

The fee petition also relies on a Section 1988 fees cases, but the relevance is limited. Plaintiffs cite *Kirchoff v. Flynn*, 786 F.2d 320, 324 (7th Cir. 1986), for the limited proposition that when setting a fee in a civil rights cases under Section 1988, the court can look to contingent fee arrangements as the market rate if that is the general fee arrangement for the type of claim at issue. Yet, a Section 1988 case has limited utility here, and *Kirchoff* does nothing further to help this Court determine the appropriate method for a common fund case.

Plaintiffs cite to three common fund cases where the percentage of recovery method was used, but even a cursory glance at these opinions reveals that these other cases involve a typical common fund and are not analogous to this present case. Plaintiffs use one such case to establish the general factor that should guide courts when determining the market rate. *See In re Synthroid Mktg. Litig.*, 264 F.3d 712, 721 (stating the factors to be the risk of nonpayment, the amount of work necessary to resolve the litigation, and the stakes of the case). *Synthoid Marketing Litigation*, however, was a straightforward consumer fraud case brought against pharmaceutical companies that resulted in one fixed settlement amount to distribute to consumer and insurance companies. *Id.* at 714-15. Similarly, *Taubenfeld v. Aon Corporation*, 415 F. 3d 597, 600 (7th Cir. 2005), was a standard securities fraud case with a lump sum settlement, and the central aspect of the court's decision to approve the percentage of recovery method was the heavy burden in securities cases to prove fraud. *Id.* The third standard common fund case, *Charvat v. Valente*, 2019 U.S. Dist. LEXIS 187225, at *36 (N.D. Ill. Oct. 28, 2019), was a typical consumer case where contingency fees based on a standard class payout are the norm. The court was also swayed by the fact that the parties engaged in extensive written discovery. *Id.*, at *36-37. None of these three cases concern the type of fund involved in this case.

Plaintiffs' final case, *Williams v. Rohm & Haas Pension Plan*, is the only one that gets close to the circumstances of this case. *Williams* involved current and former participants in a company's pension plan who took, or will take, a cash payout that did not factor in future cost of living adjustments. 2010 U.S. Dist. LEXIS 39118, at *3-5 (S.D. Ind. Apr. 21, 2010). So, there is at least an element present here of class members aggrieved by receiving an amount of money from a defendant that does not take into account the time value of money. And, indeed, the Seventh Circuit eventually upheld the district court's award of attorneys' fees under the percentage of recovery method. *Williams v. Rohm & Haas Pension Plan*, 658 F.3d 629, 635-36 (7th Cir. 2011) (finding no abuse of discretion by district court's application of an approved procedure for calculating fees).

Yet, two points must be made about *Williams.* First, the defendant in that case acquiesced to the attorneys' request for $43.5 million in fees out of $180 million in recovered funds. *See Williams v. Rohm & Haas Pension Plan*, 04-cv-00078 (S.D. Ind.), Dkt. 234, Ex. A, at 18-19 (settlement agreement contained provision allowing the plaintiff's attorneys to seek that exact dollar amount). It is not clear why the pension plan went along with the percentage of recovery method. It is possible that, having agreed to give up control of the overall amount of money, it did not care how much wound up in the pockets of the lawyer. It is not clear that the plan had any incentive to care about this issue. By contrast, in this case the defendant is the Treasurer, and as discussed above he does indeed care that Illinois residents receive as much benefit from this settlement agreement as possible, and that the settlement proceeds are distributed equitably amongst both Class Members and Future Claimants.

Second, even though the district court eventually approved the $43.5 million fee award, it made it clear that the lodestar method was not irrelevant. It remarked that, "[i]n deciding whether

to award fees in the amount of the requested percentage of the common fund (or some other amount), the Court's analysis would benefit from knowing the hourly rates and hours expended by class counsel. Without this information, we lack an informative measure of what constitutes a reasonable prevailing market price for class counsel's admittedly impressive efforts in managing this litigation." *Williams* v. *Rohm & Haas Pension Plan*, 2010 WL 1644571, at *2-4 (S.D. Ind. Apr. 21, 2010). It then cited to *Cook v. Niedert*, 142 F.3d 1004, 1011-12 (7th Cir. 1998), which discussed how the lodestar method encourages accountability and guards against excessiveness and how courts must carefully monitor disbursements to the attorneys in common fund cases and balance the competing goals of fairly compensating attorneys for their services rendered on behalf of the class and of protecting the interests of the class members in the fund. Thus, the district court ordered the class attorneys to provide certain billing records, and when the attorneys balked at this request, it entered another order denying the motion to reconsider and ordering the attorneys once again to provide the records. *See Williams v. Rohm & Haas Pension Plan*, 2010 U.S. Dist. LEXIS 54414, at *6 (S.D. Ind. June 1, 2010).

III. The Court should exercise its discretion to apply the lodestar method here.

As this Court is well aware, in a common fund case, "no particular method for determining a reasonable fee is legally required," and the "most frequently employed methods are the lodestar approach and the percentage of recovery." *In re Brand Name Prescription Drugs Antitrust Litig.*, 2000 U.S. Dist. LEXIS 1734, at *6-7. Under the circumstances of this case, the lodestar approach is more reasonable and more fair to absent class members and Future Claimants.

Like the plaintiffs' counsel in *Williams*, Class Counsel here are being equally as coy about the work they have performed on this case. Their memorandum gives a bottom-line dollar

amount of $1.3 million that represents their collective lodestar, but they do not state their billing rates. Dkt. 126 at 13 n.9. What we do know is that in 2016, Ms. Saunders requested $700 per hour, while Mr. Susman requested $750 per hour. *Cerajeski v. Zoeller*, No. 111CV01705, 2016 WL 771977, at *5 (S.D. Ind. Feb. 29, 2016). Such rates are well outside the market rates for civil rights litigation in Chicago. *See, e.g.*, *Smith v. Altman*, No. 12 C 4546, 2015 WL 5675376, at *4 (N.D. Ill. Sept. 21, 2015) (awarding experienced civil rights litigator $425 per hour based on a prior recent award, rather than the $500 per hour rate that he was requesting); *Cavada v. City of Chicago,* No. 13 CV 1916, 2014 WL 4124273, at *3-4 (N.D. Ill. Aug. 18, 2014) (awarding the two senior attorneys $385 per hour, rather than the $500 per hour rate they had requested); *Nichols v. Ill. DOT*, No. 19-1456, 2021 U.S. App. LEXIS 20028, at *6-7 (7th Cir. July 7, 2021) (affirming district court's award of $360 per hour, rather than the $550 hourly rate the attorney had requested).

Moreover, when Defendant requested that Class Counsel provide their billing rates and time records, as required under Local Rule 54.3(d)(5), Class Counsel flatly refused to provide anything but the total that they have provided to the Court. The affidavits of Plaintiffs' counsel contain only a description of broad categories of work that any attorney would do on a case (*e.g.*, investigation, research, court appearances, settlement, etc.) without delving into how much work was actually performed. The docket in this case reveals that the answer is highly likely to be: nowhere near enough to justify an award of nearly $10 million. It is not disputed that, despite the passage of more than five years, this case has mainly consisted of:

- A complaint;
- The briefing and arguing of a motion to dismiss at the trial and appellate levels;
- An amended complaint;

- A failed class certification motion, leading to Plaintiffs' motion for final judgment (as to Plaintiff Goldberg's claim) which was granted without opposition or argument at the trial level and which Plaintiffs then appealed;

- A second class certification motion that was granted largely without opposition; and

- The present settlement process, including Plaintiffs' motion for preliminary approval and proposed Second Amended Complaint (again, both without opposition).

The parties engaged in no formal discovery at all, and no depositions. Rather, as part of the settlement process, the Treasurer cooperated in providing financial information that would enable the parties to resolve the case in a cooperative fashion. On the record before the Court, then, it does not seem likely that Class Counsel have done enough work on this case to justify the claimed lodestar amount of $1.3 million, much less to justify a fee award of more than seven times that amount. And of course, if the proper lodestar amount turns out to be $1 million or less, than Class Counsel's claimed fee award may be *ten times* their lodestar. It is no wonder, then, that Plaintiffs argue so vigorously against even a "lodestar cross check" of their claimed fees (Dkt. 126 at 12-13), when the claimed fee award is so far out of step with what Class Counsel would be entitled to under a lodestar analysis.

Here, Class Counsel seek a windfall based on the size of the class, as well as the fact that a few class members with large properties will be entitled to large interest payments, thus inflating the total estimated amount to be paid to the class. They are not entitled to this windfall. *In re Brand Name Prescription Drugs Antitrust Litig.*, 2000 U.S. Dist. LEXIS 1734, at *6-7. Class Counsel further inflate their proposed fee award by seeking to attorneys' fees *now* for estimated payments to the Rule 23(b)(2) Class up to *twenty or more years* in the future. *See* Dkt. 126-2 ¶ 10. Even if Class Counsel may properly rely on estimated future payments when calculating a proposed fee award, Class Counsel present no case law showing that they are

entitled to recover fees on payments to be made so far in the future. *Cf. Kleen Prods. LLC v. Int'l Paper Co.*, No. 1:10-cv-05711, 2017 U.S. Dist. LEXIS 183015, at *18 (N.D. Ill. Oct. 17, 2017) (provision of attorneys' fee award providing that a portion of class counsel's awarded fees, corresponding to future payments to class members, would remain in escrow until those payments were made to class members was "another indicum of fairness").

These are just a few of the factors showing that Class Counsel's claimed fees of $9.5 million represent a substantial windfall at the expense of the class. While this Court has previously approved an attorneys' fee award of slightly over two times the lodestar amount (*In re Brand Name Prescription Drugs Antitrust Litig.*, 2000 U.S. Dist. LEXIS 1734, at *6-7), an award that is seven to ten times higher than the lodestar clearly represents a windfall to Class Counsel at the expense of the class. This is a case that cries out for the application of the lodestar method. At the very least, this Court should defer approving an attorneys' fee award until Class Counsel provide sufficient documentation of their work so that this Court can adequately determine a reasonable market price for their services.

IV. Whatever method the Court applies to determine the appropriate amount of attorneys' fees, fairness requires that a proportionate share of those fees should be deducted from each class member's recovery.

Whatever method the Court uses to determine an attorneys' fees award, the attorneys' fees in a common fund case "come out of, rather than in addition to, the plaintiffs' recovery." *In re Brand Name Prescription Drugs Antitrust Litig.*, 94 C 897, 1996 U.S. Dist. LEXIS 14529, at *25-26 (N.D. Ill. Oct. 1, 1996) (Kocoras, J.). This rule is based on well-known judicial principles:

> [A] litigant or a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorney's fee from the fund as a whole. . . . The doctrine rests on the perception that persons who obtain the benefit of a lawsuit without contributing to its cost are unjustly enriched at the

> successful litigant's expense. . . . Jurisdiction over the fund involved in the litigation allows a court to prevent this inequity by assessing attorney's fees *against the entire fund*, thus *spreading fees proportionately among those benefited by the suit*.

Boeing, 444 U.S. at 479 (citations omitted). In *Boeing*, as discussed above, the only question on appeal was whether attorneys' fees would be apportioned among the entire class or only among the class members who had actually claimed their share of the judgment. *Id.* at 479-81. The Court concluded that it was reasonable for the entire class (both present claimants and absent class members) to share the costs of attorneys' fees, because "[e]ach class member" had an "equitable obligation to share the expenses of litigation." *Id.* at 481-82.

Here, Class Counsel seek exactly the opposite as the defendant in *Boeing*. They seek a 100% recovery for the present class members (*i.e.*, the members of the Rule 23(b)(3) Settlement Class, who will receive funds more or less automatically after approval of the settlement, and the members of the Rule 23(b)(2) Class who file claims in the short-term), while shifting all of Class Counsel's attorneys' fees to absent Rule 23(b)(2) Class members and Future Claimants. Class Counsel's brief attempts to glide over this point, merely stating that under the terms of the Settlement Agreement attorneys' fees are to be paid from the Unclaimed Property Trust Fund (Dkt. 126 at 13-14), without mentioning any deductions from class members' recoveries. Plaintiffs' expert, Professor Silver, is more forthcoming, noting that Paragraph 3.2.5 of the settlement agreement "says nothing about deducting fees from Class Members' payments," but that "if the Court grants the fee request for 20.3 percent but does order that fees be deducted, Class Members will net 79.7 percent of the interest payments." Dkt. 126-1 at 10 n.2. Class Counsel's "have your cake and eat it too" approach provides an unjust benefit to the Rule 23(b)(3) Settlement Class members and Rule 23(b)(2) Class members who will receive a 100% recovery in the near future, at the expense of absent Rule 23(b)(2) Class members and Future

Claimants, who are not represented in this settlement. The only way to allocate attorneys' fees fairly amongst the class is to deduct a proportionate share from each class member's recovery, so that each class member shares in the expenses of the litigation.

The cases cited by Class Counsel support this result. As discussed above, the *Boeing* court held that attorneys' fees should be assessed to both present and absent class members. 444 U.S. at 480-81. Similarly, in *Bowles*, the court "required the [defendant] to immediately pay the attorney fees" and to recoup the cost from class members by applying pro rata deductions to their benefit increases. 847 P.2d at 444. And in *Williams*, attorneys' fees were to be deducted from each class members' recovery, so that a reduction in attorneys' fees would increase each class member's recovery. Thus, if the court awarded less than the $43,500,000 the plaintiffs' counsel sought, then "the Fee Award Reduction [would] be reallocated among the Class Members." *Williams v. Rohm & Haas Pension Plan*, 04-cv-00078 (S.D. Ind.), Dkt. 234, Ex. A, at 18-19; see also Dkt. 234-2 at 6 ("If the Court awards a lower amount of attorneys' fees and costs, the settlement benefits of both Subclass One and Subclass Two members will increase to reflect the deduction.").

Thus, whatever method the Court uses to calculate an attorneys' fees award in this case, fundamental fairness as well as Plaintiffs' own cases mandate that these fees should be deducted from each class member's recovery.

V. Defendant does not object to the Plaintiffs' request for Plaintiffs' Compensation.

Plaintiffs also request that the four class representatives, Anthony D. Kolton, S. David Goldberg, Jeffery S. Sculley, and Henry C. Krasnow, receive $2,500 each as an award for their service in this case. Dkt. 125, Dkt. 126 at 14-15. Defendant does not object to these awards.

CONCLUSION

For these reasons, Defendant respectfully requests that the Court deny Class Counsel's request for $9.5 million in attorneys' fees, or in the alternative, defer approving an attorneys' fee award until Class Counsel provide sufficient documentation of their work so that this Court can adequately determine a reasonable market price for their services under the lodestar method.

Respectfully submitted,

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