**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS**
**COUNTY DEPARTMENT, CHANCERY DIVISION**

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| JOHN KRAWIEC, individually and on behalf of all others similarly situated,<br><br>*Plaintiff*,<br><br>v.<br><br>GOLD EAGLE CO.,<br><br>*Defendant*. | Case No. 2022CH07333<br><br>Calendar 8<br><br>Hon. Michael T. Mullen<br><br>Courtroom 2510 |

**PLAINTIFF'S MOTION AND SUPPORTING MEMORANDUM FOR ATTORNEYS' FEES AND INCENTIVE AWARD**

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## 1. INTRODUCTION

The Settlement[1] here offers the Settlement Class Members substantial relief relative to the likelihood of non-recovery had litigation continued. The Parties' Agreement provides each Settlement Class Member with an automatic distribution from the $90,750 settlement fund for allegedly having their biometrics collected by Defendant Gold Eagle Co. in violation of the Biometric Information Privacy Act, 740 ILCS 14/1–99 ("BIPA"). The Court preliminarily approved the Settlement on September 19, 2023. Direct Notice of the Settlement began on October 2, 2023. To date, no Class Member has objected to the Settlement, and no Class Member has requested exclusion.

Class Counsel now requests a fee award of one-quarter of the total Settlement Fund, amounting to $22,687.50, with no separate recovery of litigation expenses. Plaintiff also seeks an incentive award of $3,000 for his contributions to the case and recovery. As explained in detail below, Class Counsel's requested fee award and Plaintiff's requested Incentive Award are justified given the relief provided under the Settlement, follow Illinois law and fee awards granted in other cases in Illinois courts, and are also reasonable given the time Class Counsel and Plaintiff have committed to resolving this litigation for the benefit of the Class Members.

Both Class Counsel and the Class Representative devoted significant time and effort to the prosecution of the Class Members' claims, and their efforts have yielded a substantial benefit to the Class. The requested Fee Award and Incentive Award are amply justified by the investment, significant risks, and excellent results obtained for the Class Members, particularly given the substantial uncertainty over the state of BIPA when this Settlement was reached. Plaintiff and

[1] Unless otherwise indicated, capitalized terms have the same meaning as those terms are used in the Settlement Agreement ("Agreement"), which is Exhibit 1 to the previously filed Declaration of J. Dominick Larry in Support of Plaintiff's Motion for Preliminary Approval.

Class Counsel respectfully request that the Court approve attorneys' fees of $22,687.50 and the agreed-upon Incentive Award of $3,000 for Plaintiff as Class Representative.

## 2. BACKGROUND

### 2.1. The Biometric Information Privacy Act

Recognizing the "very serious need" to protect Illinoisans' biometrics—including fingerprints, voiceprints, retina scans, and scans of hand or face geometry—the Illinois legislature passed BIPA unanimously in 2008. 740 ILCS 14/5. BIPA makes it unlawful for any private entity to "collect, capture, purchase, receive through trade, or otherwise obtain a person's or a customer's biometric identifier or biometric information, unless it first:

(1) informs the subject … in writing that a biometric identifier or biometric information is being collected or stored;

(2) informs the subject … in writing of the specific purpose and length of term for which a biometric identifier or biometric information is being collected, stored, and used; and

(3) receives a written release executed by the subject of the biometric identifier or biometric information ….

740 ILCS 14/15(b). BIPA also establishes standards for handling biometric data. For example, BIPA requires companies to develop and comply with a written policy establishing a retention schedule and guidelines for permanently destroying biometric data. 740 ILCS 14/15(a).

### 2.2. Litigation, Negotiation, and Settlement

On Plaintiff worked for Defendant from September 2, 2020 through May 11, 2021. *See* Defendant's Brief in Support of Motion to Dismiss, at 1. Throughout that time, Defendant required its hourly workers to clock in and out of shifts with a fingerprint scanner. Compl. ¶ 10. While Plaintiff worked for Defendant, Defendant did not obtain workers' informed, written consent prior to scanning their fingerprints, nor did it maintain a publicly available retention-and-destruction schedule for biometric data. *Id.* ¶¶ 14–17, 38. On November 1, 2021, Defendant

began requiring its employees to execute a consent form prior to using the fingerprint scanner. Larry Decl. ¶ 21.

On July 28, 2022, Plaintiff sued Defendant, alleging that it violated: (1) BIPA § 15(a)'s requirement that entities in possession of biometrics publish and comply with a biometric retention and destruction policy; and (2) BIPA § 15(b)'s requirement that private companies obtain informed, written consent prior to collecting biometrics. Compl. ¶¶ 30–38. Plaintiff sought to certify a class of everyone who used Defendant's biometric timeclocks in Illinois on or after within the applicable limitations period, *id.* ¶ 22, and requested statutory damages of $5,000 per class member, per violation on their behalf. *Id.*, Prayer for Relief.

Defendant appeared on October 14, 2022, and shortly thereafter moved to dismiss, arguing that Plaintiff could not represent the alleged class because he only worked for Defendant for a portion of the class period, and that Plaintiff had failed to adequately allege that Defendant possessed his biometric information. Plaintiff filed his opposition brief on April 13, 2023, and Defendant replied on April 27, 2023.

The Parties began discussing the possibility of settlement shortly after Defendant appeared. Larry Decl. ¶ 18. Those declarations did not result in resolution, and the Parties decided to defer further settlement discussions until briefing on Defendant's motion to dismiss was complete. *Id.* The Parties resumed their negotiations after Defendant filed its reply, and negotiations intensified in advance of the hearing on Defendant's motion to dismiss, originally scheduled on July 11, 2023. *Id.* ¶ 19. The Parties made substantial progress on their negotiations, and the Court reset the hearing on the motion to dismiss to July 31, 2023, with a status hearing on July 27, 2023. *Id.* ¶ 20. The Parties reached an agreement in principle on July 26, 2023, and have spent the time since then negotiating the remaining terms and drafting a settlement

agreement and proposed class notices. Larry Decl. ¶ 20. That process has resulted in the agreement now before the Court: Defendant will establish a settlement fund of $90,750; class members will automatically receive payments based on their dates of employment, with no need for a claim form; and unclaimed funds will go to a *cy pres* recipient, rather than reverting to Defendant.

The Court preliminarily approved the Settlement on September 19, 2023. Notice was timely effectuated under the Settlement Agreement, and, to date, no Class member has objected or requested exclusion from the Class.

## 3. ARGUMENT

### 3.1. The Court should award Class Counsel's requested attorneys' fees.

Under the Settlement, Class Counsel could seek an award of attorneys' fees of up to one-quarter of the Settlement Fund, or $22,687.50. Agreement, ¶¶ 8.1–8.2. That request, which is inclusive of the unreimbursed expenses incurred by Class Counsel to date, is less than the fees typically awarded in class actions generally and BIPA class actions specifically.

The requested fee award is fair and reasonable considering the work performed by Class Counsel and the recovery secured on behalf of the Class Members. Attorneys who, by their efforts, create a common fund for the benefit of a class are entitled to reasonable compensation. *See Wendling v. S. Ill. Hosp. Servs.*, 242 Ill. 2d 261, 265 (2011) (citing *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980)) ("[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.").

When, as here, a class-action settlement creates a common settlement fund, "[t]he Illinois Supreme Court has adopted the approach taken by the majority of Federal courts on the issue of attorney fees[.]" *Baksinski v. Northwestern Univ.*, 231 Ill. App. 3d 7, 13 (1st Dist. 1992) (citing

*Fiorito v. Jones*, 72 Ill.2d 73 (1978)). That is, where "an equitable fund has been created, attorneys for the successful plaintiff may directly petition the court for the reasonable value of their services which benefited the class." *Id.* at 14 (citing *Fiorito*, 72 Ill.2d 73). This rule "is based on the equitable notion that those who have benefited from litigation should share in its costs." *Sutton v. Bernard*, 504 F.3d 688, 691 (7th Cir. 2007) (*citing Skelton v. Gen. Motors Corp*., 860 F.2d 250, 252 (7th Cir. 1988)).

In deciding an appropriate fee in such cases, "a trial judge has discretionary authority to choose a percentage[-of-the-fund] or a lodestar method[.]" *Shaun Fauley, Sabon, Inc. v. Metro. Life Ins.,* 2016 IL App (2d) 150236, ¶ 58 (citing *Brundidge v. Glendale Fed. Bank, F.S.B.*, 168 Ill. 2d 235, 243–44 (1995)). Under the percentage-of-the-fund approach, the attorneys' fees awarded are "based upon a percentage of the amount recovered on behalf of the plaintiff class." *Brundidge*, 168 Ill. 2d at 238. Alternatively, when applying the lodestar approach, the fees to be awarded are calculated by determining the number of hours spent by counsel to secure the relief obtained for the class at a reasonable hourly rate, multiplied by a "weighted" "risk multiplier" that reflects various factors such as "the contingency nature of the proceeding, the complexity of the litigation, and the benefits that were conferred upon the class members." *Id.* at 240.

Here, the Court should apply the percentage-of-the-recovery approach—the approach used in the vast majority of common fund class actions, including BIPA class actions. It is settled law in Illinois that the Court need not employ the lodestar method in assessing a fee petition. *Sabon, Inc.*, 2016 IL App (2d) 150236, ¶ 59. This is because the lodestar method is disfavored, as it not only adds needless work for the Court and its staff,[2] and it misaligns the interests of Class Counsel

[2] *See Langendorf v. Irving Tr. Co.*, 244 Ill. App. 3d 70, 80 (1st Dist. 1992), abrogated on other grounds by 168 Ill. 2d 235; *Ryan v. City of Chicago,* 274 Ill. App. 3d 913, 923 (1st Dist. 1995).

and the Class Members. William B. Rubenstein, 5 Newberg and Rubenstein on Class Actions § 15:65 (6th ed.) ("Under the percentage method, counsel have an interest in generating as large a recovery for the class as possible, as their fee increases with the class's take. By contrast, when class counsel's fee is set by an hourly rate, the lawyers have an incentive to run up as many hours as possible in the litigation so as to ensure a hefty fee, even if the additional hours are not serving the clients' interests in any way").

The percentage-of-the-fund approach in common-fund class settlements flows from, and is supported by, the fact that it promotes early resolution of the matter, as it discourages protracted litigation driven solely by counsel's efforts to increase their lodestar. *Brundidge*, 168 Ill.2d at 242. For this reason, a percentage-of-the-fund method best aligns the interests of the class and its counsel, as class counsel are encouraged to seek the greatest amount of relief possible for the class rather than simply seeking the greatest possible amount of attorney time regardless of the ultimate recovery obtained for the class. Applying a percentage-of-the-fund approach is also generally more appropriate in cases like this one because it best reflects the fair market price for the legal services provided by the class counsel. *See Ryan v. City of Chicago*, 274 Ill. App. 3d 913, 923 (1st Dist. 1995) (noting that "a percentage fee was the best determinant of the reasonable value of services rendered by counsel in common fund cases") (citing *Court Awarded Attorney Fees, Report of the Third Circuit Task Force*, 108 F.R.D. 237, 255–56 (3d. Cir. 1985)); *Sutton*, 504 F.3d at 693 (directing district court on remand to consult the market for legal services to arrive at a reasonable percentage of the common fund recovered).

To Class Counsel's knowledge, the percentage-of-the-recovery method has been used to determine a reasonable fee award in every BIPA class-action settlement in the Circuit Court of Cook County (where most BIPA class actions are pending) where the settlement—as here—

created a common fund. *See, e.g.*, *Sekura v. L.A. Tan Enterps., Inc.*, No. 2015-CH-16694 (Cir. Ct. Cook Cnty., Ill., Dec. 1, 2016); *Zepeda v. Kimpton Hotel & Rest.*, No. 2018-CH-02140 (Cir. Ct. Cook Cnty., Ill., Dec. 5, 2018); *Taylor v. Sunrise Senior Living Mgmt., Inc.*, No. 2017-CH-15152 (Cir. Ct. Cook Cnty., Ill., Feb. 14, 2018); *Svagdis v. Alro Steel Corp.*, No. 2017-CH-12566 (Cir. Ct. Cook Cnty., Ill., Jan. 14, 2019); *Williams v. Swissport USA, Inc.*, No. 2019-CH-00973 (Cir. Ct. Cook Cnty., Ill., Nov. 12, 2020); *Collier, et al. v. Pete's Fresh Market 2526 Corp., et al.*, No. 2019-CH-05125 (Cir. Ct. Cook Cnty., Ill., Dec. 8, 2020); *Glynn v. eDriving, LLC*, No. 2019-CH-08517 (Cir. Ct. Cook Cnty., Ill., Dec. 14, 2020); *Kusinski v. ADP, LLC*, No. 2017-CH-12364 (Cir. Ct. Cook Cnty., Ill., Feb. 10, 2021); *Draland v. Timeclock Plus, LLC*, No. 2019-CH-12769 (Cir. Ct. Cook Cnty., Ill., Apr. 8, 2021); *Rogers v. CSX Intermodal Terminal, Inc.*, No. 2019-CH-04168 (Cir. Ct. Cook Cnty., Ill., May 13, 2021); *Freeman-McKee v. Alliance Ground Int'l, LLC*, No. 2017-CH-13636 (Cir. Ct. Cook Cnty., Ill., June 15, 2021); *Salkauskaite v. Sephora USA, Inc.*, No. 2018-CH-14379 (Cir. Ct. Cook Cnty., Ill., June 23, 2021); *Gonzalez v. Silva Int'l, Inc.*, No. 2020-CH-03514 (Cir. Ct. Cook Cnty., Ill., June 24, 2021); *Williams v. Inpax Shipping Solutions, Inc.*, No. 2018-CH-02307 (Cir. Ct. Cook Cnty., Ill., Sept. 1, 2021); *Roberts v. Paramount Staffing, Inc.*, No. 2017-CH-15522 (Cir. Ct. Cook Cnty., Ill., Sept. 3, 2021); *Roberts v. Paychex, Inc.*, No. 2019-CH-00205 (Cir. Ct. Cook Cnty., Ill., Sept 10, 2021).

Accordingly, the Court should adopt and apply the percentage-of-the-recovery approach here. Under this approach, as explained below, Class Counsel's requested attorneys' fees are eminently reasonable.

### 3.2. Class Counsel's requested fees are reasonable under the percentage-of-the-fund method.

When assessing a fee request under the percentage-of-the-recovery method, courts often consider the size of the recovery achieved for the Class Members and the risk of nonpayment in

bringing the litigation. *See Ryan*, 274 Ill. App. 3d at 924 (affirming district court's attorney fee award due to the contingency risk of pursuing the litigation, and the "hard cash benefit" obtained). As shown below, this Settlement provides substantial relief for the Class Members and in the context of such a result, and weighed against the risk of continuing, protracted litigation, Class Counsel's fee request is fair.

#### 3.2.1. The requested one-quarter of the Settlement Fund is reasonable considering the awards in similar cases.

The requested Fee Award of $22,687.50 represents one-quarter of the Settlement Fund. This percentage is below the percentage that courts, including many within the Circuit Court of Cook County, have found reasonable in other class-action settlements. In fact, many BIPA settlements have awarded fees of up to 40 percent of the fund, *plus* expenses, which Class Counsel does not seek reimbursement of here. *See, e.g.*, *Zepeda*, No. 2018-CH-02140 (Cir. Ct. Cook Cnty., Ill., Dec. 5 2018) (attorneys' fee award of 40 percent of settlement fund in BIPA class settlement); *Svagdis*, No. 2017-CH-12566 (Cir. Ct. Cook Cnty., Ill., Jan. 14, 2019) (same); *Zhirovetskiy v. Zayo Grp., LLC,* No. 2017-CH-09323 (Cir. Ct. Cook Cnty., Ill., Apr. 8 2019) (same); *McGee v. LSC Commc'ns*, No. 2017-CH-12818 (Cir. Ct. Cook Cnty., Ill., Aug. 7 2019) (same); *Smith v. Pineapple Hosp. Grp.*, No. 2018-CH-06589 (Cir. Ct. Cook Cnty., Ill., Jan. 22 2020) (same); *Prelipceanu v. Jumio Corp.*, No. 2018-CH-15883 (Cir. Ct. Cook Cnty. Ill., Jul. 21 2020) (same); *Freeman-McKee*, No. 2017-CH-13636 (Cir. Ct. Cook Cnty., Ill., June 25, 2021) (same); *Knobloch v. ABC Fin. Servs., LLC et al.*, No. 2017-CH-12266 (Cir. Ct. Cook Cnty., Ill. June 25, 2021); *see also, e.g.*, *Willis v. iHeartMedia Inc.*, No. 2016-CH-02455 (Cir. Ct. Cook Cnty., Ill., Aug. 11, 2016) (Final Judgment and Order of Dismissal, at 5) (awarding attorneys' fees and costs of 40% of an $8,500,000 common fund in a TCPA class settlement); *Retsky Fam. Ltd. P'ship v. Price Waterhouse LLP,* No. 97-cv-7694, 2001 WL 1568856, at *4 (N.D. Ill. Dec. 10, 2001) (noting that

a "customary contingency fee" ranges "from 33 1/3% to 40% of the amount recovered") (citing *Kirchoff v. Flynn*, 786 F.2d 320, 324 (7th Cir. 1986)); *Meyenburg v. Exxon Mobil Corp.,* No. 05-cv-15, 2006 WL 2191422, at *2 (S.D. Ill. July 31, 2006) ("33 1/3% to 40% (plus the cost of litigation) is the standard contingent fee percentages in this legal marketplace for comparable commercial litigation"); William B. Rubenstein, Newberg and Rubenstein on Class Actions § 15.83 (6th ed.) (noting that fifty percent of the fund appears to be an approximate upper limit on fees and expenses). Thus, Plaintiff's request of one-quarter of the Settlement Fund is reasonable considering the fees recently approved by courts in this Circuit, including courts considering BIPA settlements.

#### 3.2.2. The fee request is appropriate given the risks and the recovery achieved despite them.

The requested Fee Award is also justified by the risk of nonpayment faced by class counsel in accepting and prosecuting this litigation. *Silverman v. Motorola Solutions, Inc.*, 739 F.3d 956, 958 (7th Cir. 2013) ("The greater the risk of walking away empty-handed, the higher the award must be to attract competent and energetic counsel."). Although Plaintiff and Class Counsel believe they would prevail on their claims against Defendant, they are also aware that Defendant denies their allegations, had a pending motion to dismiss at the time the Parties reached the settlement, and would have asserted additional defenses even if Plaintiff had survived the motion to dismiss. Beyond its argument that its vendors, rather than Defendant itself, captured or possessed the Class members' biometrics, Defendant would likely raise a number of defenses, including that BIPA is unconstitutional special legislation; that Plaintiff and the Settlement Class consented to Defendant's conduct; and that BIPA's statutory damages regime violates due process. If Defendant were to succeed on any of its defenses, Settlement Class Members could recover nothing. Moreover, Plaintiff would have to prevail on a class certification motion, which would be

contested. Further, even if Plaintiff was successful on the merits, under the Supreme Court's recent *Cothron* decision, Defendant would argue that Plaintiff and the Class members were entitled to a *de minimis* award of statutory damages. *See Cothron v. White Castle System, Inc.*, 2023 IL 128004.

Even aside from the litigation risks, Class Counsel filed this case facing the risk of nonrecovery posed by potential amendments to BIPA itself. Multiple bills have been introduced in recent years that, if passed, could have endangered BIPA plaintiffs. The BIPA defense bar and the business community will continue their efforts to amend or repeal BIPA, and if they succeed, Plaintiff and the Settlement Class Members could see their claims evaporate. Finally, even without those risks, this Settlement obviates the need for the time, expense, and motion practice required to resolve Plaintiff's individual claims as well as the significant resources that would be expended through targeted class discovery and adversarial class certification briefing.

In the face of these obstacles and unknowns, Class Counsel managed to negotiate and secure a settlement on behalf of Settlement Class defined according to a five-year statute of limitations, which creates a $90,750 Settlement Fund. Thus, the Settlement's estimated provision of an average of $644.44 per Class Member now rather than years from now or perhaps never, represents an excellent result.

For the reasons set forth above, Class Counsel's request of one-quarter of the Settlement Fund would "award counsel the market price for legal services, in light of the risk of nonpayment and the normal rate of compensation in the market at the time." *In re Synthroid Mktg. Litig.*, 264 F.3d 712, 718 (7th Cir. 2001).

**3.3. The requested incentive award warrants approval.**

The requested $3,000 Incentive Award is reasonable compared to other incentive awards granted to class representatives in similar class actions. Because a named plaintiff is essential to

any class action, "[i]ncentive awards are justified when necessary to induce individuals to become named representatives." *Spano v. The Boeing Co.*, No. 06-cv-743, 2016 WL 3791123, *4 (S.D. Ill. Mar. 31, 2016) (approving incentive awards of $25,000 and $10,000 for class representatives) (internal citation omitted); *GMAC Mortg. Corp. of Pa. v. Stapleton*, 236 Ill. App. 3d 486, 497 (1st Dist. 1992) (noting that incentive awards "are not atypical in class action cases . . . and serve to encourage the filing of class actions suits.").

Here, Plaintiff's efforts and participation in prosecuting this case justify the $3,000 Incentive Award sought. Even though no award of any sort was promised to Plaintiff before the start of the litigation or any time after, Plaintiff still contributed his time and effort in pursuing his own BIPA claim, as well as in serving as a representative on behalf of the Class Members—exhibiting a willingness to participate and undertake the responsibilities and risks attendant with bringing a representative action. Larry Decl. ¶ 19.

Plaintiff participated in the initial investigation of his claim and provided information to Class Counsel to help prepare the initial pleadings, reviewed the pleadings before filing, consulted his attorneys many times, and provided feedback on other filings including, most importantly, the Settlement Agreement. *Id.* ¶ 4.

Further, agreeing to serve as the Class Representative meant that Plaintiff publicly placed his name on this suit and opened herself to "scrutiny and attention" which, in and of itself, "is certainly worthy of some type of remuneration," particularly in the context of a lawsuit against an employer. *See Schulte v. Fifth Third Bank*, 805 F. Supp. 2d 560, 600–01 (N.D. Ill. 2011). Were it not for Plaintiff's willingness to pursue this action on a class-wide basis, his efforts, and contributions to the litigation by assisting his counsel with their investigation and prosecution of this suit, and his continued participation and monitoring of the case up through settlement, the

substantial benefit to the Class Members afforded under the Settlement Agreement would simply not exist. Larry Decl. ¶ 19.

The $3,000 Incentive Award requested for Plaintiff is below the average incentive award granted in class actions. Indeed, many courts that have granted final approval in BIPA class-action settlements have awarded even larger incentive awards. *See, e.g.*, *Rogers*, 2019-CH-04168, Final Order and Judgment, ¶ 21 (Cir. Ct. Cook Cnty., Ill., May 13, 2021) (awarding $15,000 incentive award in BIPA class action settlement); *Seal v. RCN Telecom Services, LLC*, No. 2016-CH-07073, Final Order and Judgment, ¶ 20 (Cir. Ct. Cook Cnty., Ill., Feb. 24, 2017) (awarding $20,000 in incentive award payments); *Gonzalez v. Silva Int'l, Inc.*, No. 2020-CH-03514, Final Order and Judgment, ¶ 19 (Cir. Ct. Cook Cnty., Ill., June 24, 2021) (awarding $10,000 incentive award in BIPA class action); *Craftwood Lumber Co. v. Interline Brands, Inc.*, No. 11-cv-4462, 2015 WL 1399367, *6 (N.D. Ill. Mar. 23, 2015) (awarding $25,000 incentive award); *see also* Theodore Eisenberg & Geoffrey P. Miller, *Incentive Awards to Class Action Plaintiffs: An Empirical Study*, 53 UCLA L. Rev. 1303, 1348 (2006) (finding that "[t]he average award per class representative was $15,992").

Compensating Plaintiff for the risks and efforts he undertook to benefit the Class Members is reasonable under the circumstances of this case, especially considering the exceptional results obtained. As shown above, courts have regularly approved incentive awards in similar class action litigation similar to or in excess of the agreed-upon $3,000 Incentive Award here. Moreover, no objection to the Incentive Award has been raised to date. Accordingly, an Incentive Award of $3,000 to Plaintiff is reasonable, justified by Plaintiff's time and effort, and should be approved.

## 4. CONCLUSION

Accordingly, Plaintiff respectfully requests that this Court enter an Order: (1) approving an award of attorneys' fees and expenses of $22,687.50; and (2) approving an Incentive Award of $3,000 to Plaintiff in recognition of his significant efforts on behalf of the Class Members.

Dated: November 13, 2023

Respectfully submitted,

**JOHN KRAWIEC,** individually and on behalf of all others similarly situated,

s/ J. Dominick Larry
One of Plaintiff's Attorneys

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*Settlement Class Counsel*

**CERTIFICATE OF SERVICE**

I, the undersigned attorney, hereby certify that on November 13, 2023, I e-filed the foregoing through an approved e-filing vendor, with courtesy copies sent by email to the following counsel for Defendant:

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Dated: November 13, 2023

s/ J. Dominick Larry
One of Plaintiff's Attorneys