UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SJUNDE AP-FONDEN and THE CLEVELAND BAKERS AND TEAMSTERS PENSION FUND, individually and on behalf of all others similarly situated, Plaintiffs, v. GENERAL ELECTRIC COMPANY, et al., Defendants.	Case No. 1:17-cv-8457-JMF Hon. Jesse M. Furman

NOTICE OF CLASS COUNSEL'S MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD

PLEASE TAKE NOTICE that in accordance with Federal Rules of Civil Procedure 23(e) and 23(h) and this Court's Order Preliminarily Approving Settlement and Providing for Notice of the Settlement dated January 14, 2025 (ECF No. 486), Class Counsel Kessler Topaz Meltzer & Check, LLP will and do hereby move this Court, before the Honorable Jesse M. Furman, on April 24, 2025 at 11:00 a.m., for entry of an Order awarding attorneys' fees and litigation expenses. This motion is based on: (i) the Declaration of Sharan Nirmul in Support of (I) Class Representatives' Motion for Final Approval of Settlement and Plan of Allocation; and (II) Class Counsel's Motion for Attorneys' Fees and Litigation Expenses (with exhibits); (ii) the Memorandum of Law in Support of Class Counsel's Motion for Attorneys' Fees and Litigation Expenses; and (iii) all other papers and proceedings herein. A proposed Order granting the requested relief will be submitted with Class Counsel's reply papers after the deadline for objecting to the motion has passed.

Dated: March 20, 2025

Respectfully submitted,

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UNITED STATES DISTRICT COURT
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SJUNDE AP-FONDEN and THE CLEVELAND BAKERS AND TEAMSTERS PENSION FUND, individually and on behalf of all others similarly situated, Plaintiffs, v. GENERAL ELECTRIC COMPANY, et al., Defendants.	Case No. 1:17-cv-8457-JMF Hon. Jesse M. Furman

MEMORANDUM OF LAW IN SUPPORT OF CLASS COUNSEL'S MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Other Authorities

Court-appointed Class Counsel, Kessler Topaz Meltzer & Check, LLP ("KTMC" or "Class Counsel"), respectfully submits this memorandum of law in support of its motion for: (i) an award of attorneys' fees in the amount of 19.82% of the Settlement Fund; (ii) payment of $9,599,984.13 for expenses incurred by Plaintiffs' Counsel[1] in prosecuting and resolving the Action; and (iii) reimbursement of $35,519.91 in the aggregate to Court-appointed Class Representatives Sjunde AP-Fonden ("AP7") and The Cleveland Bakers and Teamsters Pension Fund ("Cleveland Bakers" and together with AP7, "Class Representatives" or "Plaintiffs") for costs directly related to their representation of the Class in the Action, as authorized by the PSLRA.[2] By its motion, Class Counsel also seeks reimbursement of $234,728.27, on behalf of Labaton Keller Sucharow LLP ("Labaton"), for expenses incurred by Labaton during its involvement in the Action.[3]

I. PRELIMINARY STATEMENT

Subject to Court approval, Plaintiffs have agreed to settle all claims asserted in this Action against General Electric Company ("GE" or the "Company") and Jeffrey S. Bornstein ("Bornstein" and together with GE, "Defendants") for $362,500,000 in cash. As detailed in the Nirmul Declaration and summarized below, the Settlement: (i) is the culmination of seven years of highly contentious and vigorous litigation; (ii) is the product of hard-fought and protracted settlement negotiations under the guidance of an experienced mediator (and former federal judge), which culminated with the Parties' acceptance of the mediator's recommendation to resolve the Action

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[1] Plaintiffs' Counsel refers collectively to Class Counsel and Court-appointed Liaison Counsel, Grant & Eisenhofer P.A. ("G&E").

[2] Unless otherwise noted, capitalized terms have the meanings ascribed to them in the Stipulation and Agreement of Settlement dated November 22, 2024 (ECF No. 476) ("Stipulation"), or in the Declaration of Sharan Nirmul ("Nirmul Declaration" or "Nirmul Decl.") filed herewith. In this memorandum of law, citations to "¶ _" refer to paragraphs in the Nirmul Declaration and citations to "Ex. _" refer to exhibits to the Nirmul Declaration.

[3] Any attorneys' fees paid to Labaton will be paid from Class Counsel's fee award.

for the Settlement Amount *just weeks* before trial; (iii) eliminates the substantial risks and uncertainties Plaintiffs faced in taking this complex case to trial; and (iv) recovers a significant portion—between approximately 8% to 36%—of the Class's potentially recoverable damages as estimated by Plaintiffs' damages expert.[4] By any measure, the Settlement is an excellent result for the Class.

As detailed in the Nirmul Declaration,[5] Plaintiffs' Counsel vigorously pursued this Action on behalf of the Class and were fully prepared to go to trial when the Settlement was reached. Among their efforts, Plaintiffs' Counsel conducted a far-reaching investigation (including conducting over 100 witness interviews), resulting in four complaints and two rounds of motion to dismiss briefing, pursued myriad sources for written and document discovery, including propounding document subpoenas on third parties and litigating several discovery disputes, and received and reviewed over 1.1 million pages of documents. ¶¶ 6, 27-30, 43-76. Plaintiffs' Counsel also took 15 fact depositions, 13 of which were high-level GE employees during the relevant time period, including Defendant Bornstein. ¶¶ 77-86.

[4] Plaintiffs' damages expert estimated the Class's potentially recoverable damages to range from approximately $1 billion to $4.5 billion depending on the statements found to be actionable and the loss causation theories accepted by a jury. This recovery compares favorably to recoveries obtained in other class actions. *See, e.g.*, *Pearlstein v. BlackBerry Ltd.*, 2022 WL 4554858, at *6 (S.D.N.Y. Sept. 29, 2022) (approving recovery representing 13.75% of $1.2 billion in estimated damages which was "well within the range of reasonableness and, in fact, considerably above the high end of historical averages"); *Okla. Firefighters Pension & Ret. Sys. v. Lexmark Int'l, Inc.*, 2021 WL 76328, at *3 (S.D.N.Y. Jan. 7, 2021) (approving recovery representing 10% of estimated damages and noting that settlement was "within the range previously approved by judges in this District," referencing recoveries ranging from 3% to 11% of estimated damages).

[5] The Nirmul Declaration is an integral part of this submission and, for the sake of brevity herein, Plaintiffs respectfully refer the Court to the Nirmul Declaration for a detailed description of, *inter alia*: the history of the Action and Plaintiffs' Counsel's extensive litigation efforts (¶¶ 20-129); the settlement negotiations (¶¶ 130-37); and the risks of continued litigation (¶¶ 138-55).

Plaintiffs' Counsel also consulted extensively with experts and consultants in the areas of accounting, healthcare, market efficiency, damages, and loss causation, as well as on issues central to the Action, such as GE's use of factoring and deferred monetization and the impact of these practices on GE's reported cash flows from operations. Ultimately, Plaintiffs' Counsel assisted in preparing multiple opening and rebuttal expert reports, and took or defended a total of seven expert depositions. ¶¶ 87, 107-14.

In addition to obtaining certification of the Class and overseeing the extensive Class Notice campaign (¶¶ 87-92), Plaintiffs' Counsel obtained almost a complete defense of Plaintiffs' claims in response to Defendants' Summary Judgment Motion, which challenged nearly every substantive element of the Class's claims. Plaintiffs' Counsel likewise overcame two previously-filed motions for leave to file early summary judgment motions based on loss causation and a motion for reconsideration of the Court's ruling on the Summary Judgment Motion. ¶¶ 97-106. Plaintiffs' Counsel also defeated Defendants' attempt to circumscribe the claims to be tried based on the Supreme Court's *Macquarie* decision and successfully opposed two *Daubert* motions seeking to exclude Plaintiffs' expert witnesses, as well as motions *in limine*. ¶¶ 119-22.

Finally, Plaintiffs' Counsel undertook exhaustive preparations for trial, including preparing and submitting two joint pretrial orders complete with witness lists, exhibit lists, deposition designations, verdict forms, jury charges, and *voir dire* questionnaires. Alongside these efforts, Plaintiffs' Counsel conducted a two-day mock jury and focus group exercise in February 2024 that provided vital insights into the strengths and weaknesses of Plaintiffs' claims. ¶¶ 115-29. From there, Plaintiffs' Counsel prepared examinations for over 15 potential live trial witnesses, as well as arguments and presentations on evidentiary issues likely to be raised at trial. *Id*. In the midst of their pre-trial efforts, the Parties made a final push to resolve the Action and participated in their

third (and final) formal mediation before former United States District Court Judge Layn R. Phillips in August 2024. ¶ 133. Following this mediation and continued discussions with Judge Phillips' assistance, Judge Phillips issued a mediator's proposal to resolve the Action for $362.5 million, which both sides accepted. *Id*.

Achieving the Settlement was no small feat. Defendants were represented by highly skilled litigators, and Plaintiffs' Counsel faced numerous hurdles and risks from the outset, the high cost of experts and consultants required to litigate this complex securities case, and a substantial risk of non-payment. In assuming these risks, Plaintiffs' Counsel deployed a dedicated group of professionals to develop, support, and aggressively pursue the Action, including not only skilled litigators in the area of securities litigation, but also highly experienced investigators, paralegals, administrative staff, and others. In total, Plaintiffs' Counsel devoted over 67,000 hours over the course of seven years to this complex litigation and outlaid over $9 million of their own money, with no guarantee of it ever being recovered. Notably, a class action litigated on contingency is fundamentally different from a case where litigation expenses are funded by the client and attorneys are continuously paid, even if they lose. As such, in contingency cases, counsel is entitled to compensation "for bearing the risk that the suit would not generate any recovery." *Fresno Cnty. Emps.' Ret. Ass'n v. Isaacson/Weaver Fam. Tr.*, 925 F.3d 63, 72 (2d Cir. 2019).

In light of the foregoing, as compensation for their considerable efforts on behalf of the Class and the significant risk of prosecuting and funding this enormously complex Action with no guarantee of recovery, Class Counsel, on behalf of Plaintiffs' Counsel, seeks attorneys' fees in the amount of 19.82% of the Settlement Fund (i.e., $71,847,500 plus interest). As detailed herein, this fee request is well within the range of fees awarded in other securities class actions. Further, the requested fee represents a multiplier of approximately 1.59 on Plaintiffs' Counsel's lodestar, which

is below the range of multipliers typically awarded in class actions with significant contingency risk.[6] Class Counsel also requests payment from the Settlement Fund of $9,870,232.31 in expenses (which includes amounts for Plaintiffs' Counsel, Class Representatives, and Labaton).

Both Class Representatives—two sophisticated, institutional investors that have actively supervised this Action—evaluated Class Counsel's fee and expense request and have endorsed it as fair and reasonable.[7] Importantly, the request was made pursuant to the fee agreement that the Court-appointed Lead Plaintiff, AP7, entered into with Class Counsel at the outset of its involvement in the Action. *See* § III *infra*.

The reaction of the Class to date has also been positive. Pursuant to the Court's Preliminary Approval Order (ECF No. 486), over 3.8 million notices have been disseminated to potential Class Members and nominees.[8] These notices advise recipients that Class Counsel would be applying to the Court for attorneys' fees in an amount not to exceed 25% of the Settlement Fund, plus expenses in an amount not to exceed $10 million, plus interest. *See* Ex. 3, Exs. A-C. While the April 3, 2025 deadline to object to Class Counsel's fee and expense request has not yet passed, to date, there have been no objections to the maximum fee and expense amounts set forth in the notices. ¶ 168.[9]

For the reasons discussed herein, Class Counsel respectfully submits that its requested fee is fair and reasonable under the applicable legal standards. Class Counsel also respectfully submits

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[6] *See generally In re Signet Jewelers Ltd. Sec. Litig.*, 2020 WL 4196468, at *16-17 (S.D.N.Y. July 21, 2020) ("In complex litigation, lodestar multipliers between 2 and 5 are commonly awarded, and fee awards resulting in multipliers as high as 6 have also been approved.").

[7] *See* Declaration of Hans Bergström submitted on behalf of AP7 (Ex. 1), ¶¶ 10-11; Declaration of Carl Pecoraro submitted on behalf of Cleveland Bakers (Ex. 2), ¶¶ 14-15.

[8] *See* Declaration of Luiggy Segura submitted on behalf of the Court-authorized Claims Administrator, JND Legal Administration ("JND") (Ex. 3), ¶ 10.

[9] As set forth in the Nirmul Declaration, there has been one objection received. This objection is to class actions generally and not to the fee and expense request specifically. If any objections to the fee and expense request are received after this submission, Class Counsel will address them in its reply to be filed on April 10, 2025.

that the expenses for which it seeks payment were reasonable and necessary for the successful prosecution of the Action and that the requests pursuant to the PSLRA for reimbursement to Class Representatives for the time they dedicated to the Action on behalf of the Class are likewise reasonable and appropriate. Accordingly, Class Counsel requests that its Motion for Attorneys' Fees and Litigation Expenses be granted in full.

II. CLASS COUNSEL'S REQUEST FOR ATTORNEYS' FEES IS REASONABLE AND SHOULD BE APPROVED

A. Plaintiffs' Counsel Are Entitled to an Award of Attorneys' Fees from the Common Fund

Attorneys who achieve a benefit for class members in the form of a "common fund" are entitled to be compensated for their services from that fund. *See 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"); *see also Goldberger v. Integrated Res., Inc.*, 209 F.3d 43, 47 (2d Cir. 2000). The purpose of the common fund doctrine is to fairly and adequately compensate counsel for services rendered and to ensure that all class members contribute equally towards the costs associated with litigation on their behalf. *See Goldberger*, 209 F.3d at 47.

In addition to providing just compensation, "awards of fair attorneys' fees from a common fund should also serve to encourage skilled counsel to represent those who seek redress for damages inflicted on entire classes of persons, and to discourage future alleged misconduct of a similar nature." *City of Providence v. Aeropostale, Inc.*, 2014 WL 1883494, at *11 (S.D.N.Y. May 9, 2014), *aff'd*, *Arbuthnot v. Pierson*, 607 F. App'x. 73 (2d Cir. 2015). Indeed, the Supreme Court has emphasized that private securities actions, such as this Action, provide "a most effective weapon in the enforcement of the securities laws and are a necessary supplement to [SEC] action."

Bateman Eichler, Hill Richards, Inc. v. Berner, 472 U.S. 299, 310 (1985); *see also Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 313 (2007).

In the Second Circuit, courts "may award attorneys' fees in common fund cases under either the lodestar method or the percentage of the fund method." *McDaniel v. Cty. of Schenectady*, 595 F.3d 411, 417 (2d Cir. 2010); *see also Wal-Mart Stores, Inc. v. Visa U.S.A. Inc.*, 396 F.3d 96, 121 (2d Cir. 2005). Ultimately, the determination of a reasonable fee award rests in the sound discretion of the Court. *Goldberger*, 209 F.3d at 47, 52.

B. The Court Should Award a Reasonable Percentage of the Common Fund as Attorneys' Fees

Class Counsel respectfully submits that the Court should award a fee based on a percentage of the common fund. The Second Circuit has authorized district courts to employ the percentage of the fund method when awarding fees in common fund cases. *See Goldberger*, 209 F.3d at 47 (holding percentage method may be used to determine appropriate attorneys' fees, although lodestar method may also be used). In expressly approving the percentage method, the Second Circuit recognized that "the lodestar method proved vexing" and resulted in "an inevitable waste of judicial resources." *Id.* at 48, 49; *Savoie v. Merchs. Bank*, 166 F.3d 456, 460 (2d Cir. 1999) (stating that "the percentage-of-the-fund method has been deemed a solution to certain problems that may arise when the lodestar method is used in common fund cases").

Indeed, "[t]he trend in this Circuit is toward the percentage method, which directly aligns the interests of the class and its counsel and provides a powerful incentive for the efficient prosecution and early resolution of litigation." *Wal-Mart*, 396 F.3d at 121; *see also Bekker v. Neuberger Berman Grp. 401(k) Plan Inv. Comm.*, 504 F. Supp. 3d 265, 269 (S.D.N.Y. 2020) (noting "percentage method is . . . advantageous over the lodestar alternative []"); *In re Blech Sec. Litig.*, 2000 WL 661680, at *5 (S.D.N.Y. May 19, 2000) ("This court … continues to find that the

percentage of the fund method is more appropriate than the lodestar method for determining attorney's fees in common fund cases.").[10] The percentage of the fund method is also "consistent with the PSLRA, which expressly provides that class counsel are entitled to attorneys' fees that represent a reasonable percentage of the damages recovered by the class." *In re Hi-Crush Partners L.P. Sec. Litig.*, 2014 WL 7323417, at *12 (S.D.N.Y. Dec. 19, 2014) (citing 15 U.S.C. § 78u-4(a)(6)); *see also In re Telik, Inc. Sec. Litig.*, 576 F. Supp. 2d 570, 586 (S.D.N.Y. 2008) ("Congress plainly contemplated that percentage-of-recovery would be the primary measure of attorneys' fees awards in federal securities class actions.").

Use of the percentage of the fund method does not, however, render counsel's lodestar irrelevant. Courts in this Circuit often "cross-check" the proposed percentage fee award against counsel's lodestar to ensure the reasonableness of the percentage. *See In re Bristol-Myers Squibb Sec. Litig*., 361 F. Supp. 2d 229, 233 (S.D.N.Y. 2005) ("Typically, courts utilize the percentage method and then 'cross-check' the adequacy of the resulting fee by applying the lodestar method."); *Wal-Mart*, 396 F.3d at 123 (applying lodestar cross-check); *McIntosh v. Katapult Hldgs., Inc.*, 2024 WL 5118192, at *12 (S.D.N.Y. Dec. 13, 2024) (same). *See* § II.C.2 below.

C. The Requested Fee is Reasonable Under Either the Percentage of the Fund Method or the Lodestar Method

Here, whether assessed under the percentage of the fund method or the lodestar method, the 19.82% fee request—resulting in a multiplier of approximately 1.59 on Plaintiffs' Counsel's lodestar—is fair and reasonable and warrants approval by the Court.

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[10] *See, e.g., Kohari v. Metlife Grp., Inc.*, 2025 WL 100898, at *11 (S.D.N.Y. Jan. 15, 2025) (awarding 33.3% fee); *Pearlstein*, 2022 WL 4554858, at *10 (awarding 33.3% fee); *Signet Jewelers*, 2020 WL 4196468, at *24 (awarding 25%); *In re Deutsche Bank AG Sec. Litig.*, 2020 WL 3162980, at *1 (S.D.N.Y. June 11, 2020) (awarding 33.3%); *In re BRF S.A. Sec. Litig*., 2020 WL 10618214, at *1 (S.D.N.Y. Oct. 23, 2020) (awarding 25%); *In re BHP Billiton Ltd. Sec. Litig.*, 2019 WL 1577313, at *1 (S.D.N.Y. Apr. 10, 2019) (awarding 30%).

1. The Requested Fee Is Reasonable Under the Percentage of the Fund Method

The 19.82% fee requested here is lower than fee percentages commonly approved by courts in this Circuit in complex securities class actions with comparable recoveries. *See, e.g.*, *In re Teva Sec. Litig.*, 2022 WL 16702791, at *1 (D. Conn. June 2, 2022) (awarding 23.7% of $420 million settlement); *Signet Jewelers*, 2020 WL 4196468, at *16-17 (awarding 25% of $240 million settlement); *Alaska Elec. Pension Fund v. Bank of America Corp.*, 2018 WL 6250657, at *1 (S.D.N.Y. Nov. 29, 2018) (awarding 26% of $504.5 million settlement); *In re Pfizer Inc. Sec. Litig.*, 2016 WL 11801285, at *1 (S.D.N.Y. Dec. 21, 2016) (awarding 28% of $486 million settlement); *New Jersey Carpenters Health Fund v. Residential Cap. LLC*, No. 08-cv-08781, slip op. at 2 (S.D.N.Y. July 31, 2015) (awarding 20.75% of $335 million settlement) (Ex. 7); *In re Comverse Tech. Sec. Litig.*, 2010 WL 2653354, at *3 (E.D.N.Y. June 24, 2010) ("Lead Counsel's request for 25% of [$225 million] is consistent with, or lower than, the fee awards in other 'megafund' securities fraud actions in this Circuit."); *In re Initial Pub. Offering Sec. Litig.*, 671 F. Supp. 2d 467, 516 (S.D.N.Y. Oct. 5, 2009) (awarding 33% of $596 million settlement, net of expenses); *Christine Asia Co. v. Yun Ma*, 2019 WL 5257534, at *17 (S.D.N.Y. Oct. 16, 2019) (awarding 25% of $250 million settlement); *In re Adelphia Commc'ns Corp. Sec. & Deriv. Litig.*, 2006 WL 3378705, at *3 (S.D.N.Y. Nov. 16, 2006) (awarding 21.4% of $455 million settlement), *aff'd*, 272 F. App'x 9 (2d Cir. 2008); *In re Oxford Health Plans, Inc. Sec. Litig.*, 2003 U.S. Dist. LEXIS 26795, at *13 (S.D.N.Y. June 12, 2003) (awarding 28% of $300 million settlements).[11]

[11] The requested fee is also consistent with percentage fees awarded in comparably-sized settlements nationally. *See, e.g., In re Under Armour Sec. Litig.*, 2024 WL 4715511, at *1-2 (D. Md. Nov. 7, 2024) (awarding 25.83% of $434 million settlement); *In re Kraft Heinz Sec. Litig.*, 2022 WL 11994288, at *1 (N.D. Ill. Sept. 19, 2023) (awarding 20% of $450 million settlement); *Benson v. DoubleDown Interactive, LLC*, 2023 WL 3761929, at *1-3 (W.D. Wash. June 1, 2023) (awarding 29.3% of $415 million settlement); *In re Twitter, Inc. Sec. Litig.*, 2022 WL 17248115,

Empirical research is in accord. A statistical review of all PSLRA settlements from 2015 to 2024 reveals that 25% is the median fee award in cases with recoveries ranging from $100 million to $500 million.[12]

In sum, a 19.82% fee is within the range of fees awarded on a percentage basis in comparable actions and is reasonable under the percentage of the fund method.

2. The Requested Attorneys' Fees Are Reasonable Under the Lodestar Method

A lodestar cross-check further supports the requested fee. *See Goldberger*, 209 F.3d at 50. In securities class actions such as this one, "fees representing multiples above the lodestar are regularly awarded to reflect the contingency-fee risk and other relevant factors." *Signet Jewelers*, 2020 WL 4196468, at *16; *see also In re FLAG Telecom Hldgs., Ltd. Sec. Litig.*, 2010 WL 4537550, at *26 (S.D.N.Y. Nov. 8, 2010) (a "positive multiplier is typically applied to the lodestar in recognition of the risk of the litigation, the complexity of the issues, the contingent nature of the engagement, the skill of the attorneys, and other factors"); *Comverse*, 2010 WL 2653354, at *5 ("Where, as here, counsel has litigated a complex case under a contingency fee arrangement, they are entitled to a fee in excess of the lodestar"). Moreover, "[i]n complex litigation, lodestar multipliers between 2 and 5 are commonly awarded, and fee awards resulting in multipliers as high as 6 have also been approved." *Signet Jewelers*, 2020 WL 4196468, at *16; *see, e.g.*, *Wal-Mart*, 396 F.3d at 123 (upholding multiplier of 3.5 as reasonable on appeal); *Christine Asia Co.*, 2019 WL 5257534, at *19 (approving multiplier of approximately 2.15, which Court found to be

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at *1-2 (N.D. Cal. Nov. 21, 2022) (awarding 22.5% of $809.5 million settlement); *Hefler v. Wells Fargo & Co.*, 2018 WL 6619983, at *13 (N.D. Cal. Dec. 18, 2018) (awarding 20% of $480 million settlement), *aff'd sub nom. Hefler v. Pekoc*, 802 F. App'x 285 (9th Cir. 2020).

[12] *See* Edward Flored & Svetlana Starykh, *Recent Trends in Securities Class Action Litigation*, NERA Report (Jan. 22, 2025), p. 30 (Fig. 27), https://www.nera.com/insights.publications/2025/-recent-trends-in-securities-class-action-litigation—2004-full-y.html?lang=en.

"well within the range commonly awarded in securities class actions of this complexity and magnitude"); *Woburn Ret. Sys. v. Salix Pharm., Ltd*., 2017 WL 3579892, at *6 (S.D.N.Y. Aug. 18, 2017) (3.14 multiplier); *In re Deutsche Telekom AG Sec. Litig*., 2005 WL 7984326, at *4 (S.D.N.Y. June 14, 2005) (3.96 multiplier).

Here, through January 14, 2025—the entry of the Preliminary Approval Order—Plaintiffs' Counsel spent over 67,000 hours of attorney and other professional support staff time prosecuting the Action for the benefit of the Class. ¶ 178. Plaintiffs' Counsel's collective lodestar, derived by multiplying the hours spent by each attorney, paralegal, and other professional support staff employee by their current hourly rates, is $45,234,472.50. *See id.*[13] Plaintiffs' Counsel's hourly rates are fair and reasonable for this legal market.[14] Of note, courts throughout the country, have repeatedly determined that Plaintiffs' Counsel's rates in securities cases are reasonable for purposes of a lodestar cross-check. *See* Ex. 4, ¶ 5; Ex. 5, ¶ 5.[15]

Accordingly, a lodestar cross-check firmly supports the reasonableness of a 19.82% fee.

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[13] The Supreme Court and courts in this Circuit have approved the use of current hourly rates to calculate the base lodestar figure as a means of compensating for the delay in receiving payment, inflation, and the loss of interest. *See Missouri v. Jenkins*, 491 U.S. 274, 284 (1989); *Hi-Crush*, 2014 WL 7323417, at *15 ("[T]he use of current rates to calculate the lodestar figure has been endorsed repeatedly by the Supreme Court, the Second Circuit and district courts within the Second Circuit as a means of accounting for the delay in payment inherent in class actions and for inflation.").

[14] As set forth in the Fee and Expense Declarations (*see* Exs. 4 & 5), the hourly rates used by Plaintiffs' Counsel in calculating their lodestar range from: (i) $780 to $1,500 per hour for partners; (ii) $365 to $750 per hour for other attorneys; (iii) $220 to $405 per hour for paralegals; and (iv) $300 to $660 per hour for in-house investigators.

[15] By way of comparison, Defendants' Counsel in the Action, Latham & Watkins LLP, reported hourly rates ranging from $960 to $1,250 for associates and as high as $1,995 for a partner in a 2024 fee application. *See In re: Lincoln Power L.L.C., et al*., No. 23-10382 (LSS), ECF No. 470 (D. Del. Jan. 19, 2024). These rates are in line with, or exceed, Plaintiffs' Counsel's rates and underscore the reasonableness of Plaintiffs' Counsel's rates and lodestar multiplier. *See Hi-Crush*, 2014 WL 7323417, at *14 (approving as reasonable hourly rates in securities action that were "comparable to . . . defense-side law firms litigating matters of similar magnitude").

D. The *Goldberger* Factors Confirm that the Requested Fee Is Fair and Reasonable

Courts in this Circuit also consider the following factors when determining whether a fee in a common fund case is fair and reasonable:

> (1) the time and labor expended by counsel; (2) the magnitude and complexities of the litigation; (3) the risk of the litigation; (4) the quality of representation; (5) the requested fee in relation to the settlement; and (6) public policy considerations.

Goldberger, 209 F.3d at 50. Consideration of the *Goldberger* factors further demonstrates that the fee requested by Class Counsel is reasonable.

1. The Substantial Time and Labor Expended by Plaintiffs' Counsel Supports the Requested Fee

Plaintiffs' Counsel's substantial work prosecuting this Action and achieving the Settlement supports the requested fee. *Goldberger*, 209 F.3d at 50. As detailed in the Nirmul Declaration, Class Counsel, with the assistance of Liaison Counsel, dedicated significant time and effort over the past seven years to litigate the Class's claims to a successful resolution—all without receiving any form of compensation or reimbursement for expenses. Among other things, Plaintiffs' Counsel (as summarized below):

- conducted an extensive investigation into the claims asserted in the Action, which included an exhaustive review of public sources—such as SEC filings, press releases, news articles, analyst reports, transcripts of GE's earnings and other investor conference calls, and interviews with over 100 witnesses (with some developed for inclusion in complaints) (¶¶ 27-30);
- researched and drafted four detailed complaints based on their investigation (¶¶ 31, 34, 37, 93);
- researched and briefed oppositions to two motions to dismiss (¶¶ 33-36, 39);
- consulted extensively with subject matter experts and consultants in the areas of accounting, healthcare, market efficiency, damages, and loss causation, as well as on specific issues relevant to Plaintiffs' claims such as GE's use of factoring and deferred monetization and the impact of these practices on GE's reported cash flows from operations (¶¶ 107-14);

- moved for class certification, which included a detailed market efficiency and damages methodology analysis and report from Plaintiffs' damages expert (¶¶ 87-89);
- conducted extensive fact discovery, which included preparing and serving document requests, interrogatories and requests for admissions on Defendants, serving subpoenas on third parties, and litigating several discovery disputes with Defendants (¶¶ 43-76);
- oversaw and assisted with an extensive Class Notice campaign (¶¶ 90-92);
- obtained and analyzed over 1.1 million pages of documents produced by Defendants and third parties (¶¶ 44, 71-76);
- took or defended 15 fact witnesses depositions, seven expert depositions, and depositions of both Plaintiffs (¶¶ 77-86);
- assisted in preparing multiple opening and rebuttal expert reports (¶¶ 107-14);
- briefed Defendants' Summary Judgment Motion, as well as two previously-filed motions for leave to file early summary judgment motions based on loss causation, and a motion for reconsideration of the Court's ruling on Defendants' Summary Judgment Motion (¶¶ 97-106);
- briefed Defendants' attempt to circumscribe the claims to be tried based on the Supreme Court's *Macquarie* decision (¶ 127);
- opposed Defendants' *Daubert* motions, motions *in limine*, and motion to bifurcate trial, as well as briefed their own similar motions along with a related motion to strike (¶¶ 100-04, 119-22);
- negotiated and prepared two pretrial orders that included witness lists, exhibit lists, deposition designations, jury charges, verdict forms, stipulations of fact, and *voir dire* questionnaires (¶ 118);
- conducted a two-day mock jury and focus group exercise in preparation for trial (¶¶ 123, 144);
- prepared demonstrative exhibits, trial video deposition excerpts, witness directs and cross examinations, and prepared experts for examination for trial (¶¶ 115-29);
- prepared mediation briefs and presentations and participated in three formal mediation sessions before Judge Phillips (¶¶ 130-33);
- negotiated the final terms of the Settlement with Defendants (¶¶ 134-35);
- prepared Plaintiffs' motion for preliminary approval, and drafted, finalized, and filed the Stipulation and related documents with the Court (¶ 135); and
- prepared a response to the objection filed in connection with Plaintiffs' preliminary approval motion (¶¶ 136-37).

As noted above, Plaintiffs' Counsel expended over 67,000 hours prosecuting this Action with a lodestar value of $45,234,472.50.[16] The time and effort invested by Plaintiffs' Counsel in this case played a pivotal role in securing the Settlement, thereby underscoring the reasonableness of the fee request. *See Signet Jewelers*, 2020 WL 4196468, at *19 ("The time and effort devoted to this case by Plaintiff's Counsel was critical in obtaining the result achieved by the Settlement, and confirms that the fee request here is reasonable."). Further, following final approval of the Settlement, Plaintiffs' Counsel will dedicate additional time to overseeing the claims administration process and facilitating distribution of the Net Settlement Fund, which will be uncompensated.

2. The Magnitude and Complexity of the Action Support the Requested Fee

The magnitude and complexity of the Action also support the requested fee. *Goldberger*, 209 F.3d at 50. Class action suits "have a well-deserved reputation as being most complex." *Meredith Corp. v. SESAC, LLC*, 87 F. Supp. 3d 650, 669 (S.D.N.Y 2015). This is especially true for securities class actions, which are "notably difficult and notoriously uncertain to litigate." *In re Facebook, Inc., IPO Sec. and Deriv. Litig.*, 343 F. Supp. 3d 394, 409 (S.D.N.Y. 2018); *Fogarazzo v. Lehman Bros., Inc.*, 2011 WL 671745, at *3 (S.D.N.Y. Feb. 23, 2011) ("in general, securities actions are highly complex").

This case was no exception. Plaintiffs' claims gave rise to a multitude of hotly disputed issues concerning GE's disclosure requirements under Item 303, GE's use of factoring and deferred monetization and the impact of those practices on GE's reported cash flows from operations, and the elements of materiality, scienter and loss causation. These complex legal and

[16] For purposes of this fee request, Plaintiffs' Counsel have only included time through January 14, 2025. Plaintiffs' Counsel have spent additional time on the Action since that date.

factual disputes demanded that Plaintiffs' Counsel utilize their expertise and specialized knowledge in effectively prosecuting these types of cases, *see* Exs. 3-D, 4-C, as demonstrated by their successful litigation efforts detailed above. *See City of Providence*, 2014 WL 1883494, at *16 (finding second *Goldberger* factor favored settlement where case involved "difficult, complex, hotly disputed and expert-intensive issues"). It was only through Plaintiffs' Counsel's effective prosecution of this Action that the Settlement was achieved.

3. The Significant Risks of Litigation Support the Requested Fee

The significant risks that Plaintiffs' Counsel shouldered for the benefit of the Class in prosecuting this Action on a fully contingent basis over the past seven years further support the requested fee reward. *Goldberger*, 209 F.3d at 50; *see also Shapiro v. JPMorgan Chase & Co.*, 2014 WL 1224666, at *21 (S.D.N.Y. Mar. 24, 2014) ("The Second Circuit…recognize[s] that courts should consider the risks associated with...undertaking a case on a contingent fee basis."); *In re Am. Bank Note Holographics, Inc. Sec. Litig.*, 127 F. Supp. 2d 418, 433 (S.D.N.Y. 2001) (it is "appropriate to take [contingent-fee] risk into account in determining the appropriate fee.").[17] Plaintiffs' Counsel undertook this representation on a fully-contingent basis, recognizing from the outset that it would necessitate an outlay of significant resources and the payment of millions of dollars in expenses—all without any assurance that they would receive any compensation or recoup any expenses.

Nothing about this litigation was certain or guaranteed: the Court could have dismissed the case in full without leave to replead at the motion to dismiss stage or at summary judgment; the

[17] "No one expects a lawyer whose compensation is contingent upon his success to charge, when successful, as little as he would charge a client who in advance had agreed to pay for his services, regardless of success. Nor, particularly in complicated cases producing large recoveries, is it just to make a fee depend solely on the reasonable amount of time expended." *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 470 (2d Cir. 1974).

1.1 million pages of documents produced by Defendants could have contained exculpatory evidence that eviscerated Plaintiffs' claims; the Court could have denied certification of the Class; the fact and expert witnesses deposed could have testified adversely to Plaintiffs' claims; and Plaintiffs could have been unable to develop the powerful evidentiary record necessary to compel Defendants to settle the Action for $362.5 million. Plaintiffs' Counsel bore these risks—and many others—without any promise of compensation. *See Comverse*, 2010 WL 2653354, at *5 ("Little about litigation is risk-free, and class actions confront even more substantial risks than other forms of litigation.").

Aside from the significant contingency risk, Plaintiffs' Counsel also faced substantial risks in taking the Action to trial. While Plaintiffs' Counsel remained confident in their ability to prove their claims, they also appreciated the risks inherent in taking any case to trial, as well as the case-specific risks they faced in this Action. Certain of these risks, which are also discussed in the Settlement Memorandum (§ III.C.2) and Nirmul Declaration (¶¶ 138-55), are summarized below.

a. Risks of Establishing Liability

Plaintiffs faced significant risks with respect to establishing Defendants' liability. At trial, Defendants would have argued, as they did at the motion to dismiss and summary judgment stages, that the statements at issue in the Action were not false or misleading when made and that Defendants legitimately believed the truth of such statements. ¶¶ 144-49.

A jury would have to evaluate Defendants' alleged misstatements based on internal evidence that long-term factoring was concealing negative information about GE's present and future cash flows. ¶ 146. Given that factoring is a legitimate business practice used by many companies, there was a real risk that jurors would focus on the common use of factoring instead of Defendants' allegedly inaccurate and misleading disclosures about GE's use of the practice. *Id*. Defendants would undoubtedly point out, among other things, that GE did make disclosures to

investors about factoring during the Class Period and that any negative impacts from GE's use of long-term factoring were small or immaterial relative to GE's overall cash flows. ¶ 146. Further, with arguably more clear-cut evidence of falsity accruing later in the Class Period, Class Representatives faced a risk of a partial victory, in which they win a verdict as to the alleged false and misleading statements and omissions made during the final few months of the roughly one-year Class Period but lose as to the earlier months. *Id*.

In addition to establishing that Defendants' alleged misstatements were materially false or misleading, Plaintiffs would also need to show that Defendants acted with scienter—i.e., fraudulent intent. Defendants had credible arguments that they did not act with scienter when making the challenged statements and would rebut Plaintiffs' evidence on this issue with potentially persuasive live witness testimony from credible current and former GE executives and employees with critical roles in the Company's factoring operations. ¶¶ 147-49. Moreover, Defendants would point to, among other things, the internal controls and processes in place at GE during the Class Period as well as GE's multiple levels of review to support the accuracy of their public disclosures and demonstrate a lack of scienter. Defendants would also point to the lack of opportunistic insider sales and the fact that Bornstein substantially increased his GE holdings during the Class Period. ¶¶ 8, 149.

b. Risk of Establishing Causation and Damages

Plaintiffs also faced serious risks in satisfying their burden to prove loss causation and damages. Proving loss causation was especially risky and was the focus of Defendants' multiple attempts to end this Action at summary judgment. ¶¶ 150-53.

At trial, Defendants would argue that the price declines in GE common stock following each of the alleged corrective disclosures was caused by factors unrelated to the alleged fraud, and that none of the alleged corrective disclosures revealed new information that previously concealed

the alleged fraud. ¶ 151. Defendants would also argue that Plaintiffs would be unable to disaggregate any of the confounding information that could have impacted the price of GE's stock on the relevant dates. *Id*. For instance, Defendants would assert that on the days at issue, GE released multiple pieces of other negative information that was arguably unrelated to the alleged fraud—e.g., LTC reinsurance reserve issues, lower-than-expected earnings, and cash flows that were lower than expected for reasons unrelated to factoring (including because of global downturn in the power market), and this other information was the cause of most if not all of the price declines at issue. *Id*. If Plaintiffs were only able to prove that a portion of the declines in GE's stock prices were attributable to the alleged fraud, the recovery for the Class would have been substantially less. To this end, Class Representatives and Defendants would have presented robust, competing expert testimony on loss causation and damages, creating its own risks: "[w]hen the success of a party's case turns on winning a so-called 'battle of experts,' victory is by no means assured." *In re Bear Stearns Cos., Inc. Sec., Deriv. & ERISA Litig*., 909 F. Supp. 2d 259, 267 (S.D.N.Y. 2012).

4. The Quality of Plaintiffs' Counsel's Representation and the Recovery Obtained for the Class Supports the Requested Fee

The caliber of Plaintiffs' Counsel and the strength of their work in this matter underscore the reasonableness of the fee request. In assessing the quality of representation, courts also examine both the result achieved and the quality of the opposing counsel. *See Signet Jewelers*, 2020 WL 4196468, at *20 ("The quality of [counsel's] representation is evidenced by the quality of the result achieved."); *Adelphia*, 2006 WL 3378705, at *3 ("The fact that the settlements were obtained from defendants represented by 'formidable opposing counsel from some of the best defense firms in the country' also evidences the high quality of lead counsel's work.").

Plaintiffs' Counsel have extensive experience prosecuting securities class actions and other complex litigation throughout the country.[18] Their experience and skill was critical to the prosecution of this Action for seven years to a successful resolution. Among other successes, Plaintiffs' Counsel survived, in large part, two motions to dismiss, a motion for summary judgment and a motion for reconsideration, obtained certification of the Class, and secured a favorable recovery for the Class. Notably, the $362.5 million Settlement represents approximately 8% to 36% of the Class's potentially recoverable damages (as estimated by Plaintiffs' damages expert) had the Action proceeded to trial. This result is significant when considered in view of the risks to obtaining a larger recovery, or, any recovery, were the Action to continue to trial.

The quality of opposing counsel is also important in evaluating the quality of services rendered by Plaintiffs' Counsel. *See In re Marsh ERISA Litig.*, 265 F.R.D. 128, 148 (S.D.N.Y. 2010) ("The high quality of defense counsel opposing Plaintiffs' efforts further proves the caliber of representation that was necessary to achieve the Settlement"); *In re Veeco Instruments Inc. Sec. Litig.*, 2007 WL 4115808, at *7 (S.D.N.Y. Nov. 7, 2007) (defendants' representation by "one of the country's largest law firms" supported a 30% award of attorneys' fees). Here, Defendants were represented by Latham & Watkins LLP, a nationally prominent and well-respected defense firm that spared no effort or cost in vigorously defending their clients. ¶ 181. Notwithstanding this formidable opposition, Plaintiffs' Counsel's ability to present a strong case and to demonstrate their willingness and ability to prosecute the Action through trial and inevitable appeals helped secure the Settlement.

[18] *See* Exs. 4-D and 5-C for KTMC and G&E firm resumes.

5. The Requested Fee in Relation to the Settlement Supports the Requested Fee

Courts have interpreted this factor as requiring the review of the fee requested in terms of the percentage it represents of the total recovery. "When determining whether a fee request is reasonable in relation to a settlement amount, 'the court compares the fee application to fees awarded in similar securities class-action settlements of comparable value.'" *Comverse*, 2010 WL 2653354, at *3. As discussed in detail in Section II.C.1, *supra*, the requested 19.82% fee is well within the range of percentage fees that courts in the Second Circuit have awarded in comparable cases. Indeed, it is at the lower end of the range, which further supports its reasonableness.

6. Public Policy Considerations Support the Requested Fee

Public policy considerations also support the requested fee. *Goldberger*, 209 F.3d at 50. A "strong public policy concern exists for rewarding firms for bringing successful securities litigation." *Signet Jewelers*, 2020 WL 4196468, at *21. Courts in this Circuit recognize "the importance of private enforcement actions and the corresponding need to incentivize attorneys to pursue such actions on a contingency fee basis." *Hi-Crush Partners*, 2014 WL 7323417, at *17.

Accordingly, public policy favors granting the requested fee. *See FLAG Telecom*, 2010 WL 4537550, at *29 (if the "important public policy [of enforcing the securities laws] is to be carried out, the courts should award fees which will adequately compensate Lead Counsel for the value of their efforts, taking into account the enormous risks they undertook"); *Maley v. Del Glob. Techs. Corp.*, 186 F. Supp. 2d 358, 373 (S.D.N.Y. 2002) ("In considering an award of attorney's fees, the public policy of vigorously enforcing the federal securities laws must be considered.").

7. The Class's Reaction to Date Supports the Fee Request

The reaction of the Class to date supports the requested fee. As of March 19, 2025, over 3.8 million notices have been mailed to potential Class Members and nominees. The notices inform

recipients of Class Counsel's intent to apply for attorneys' fees in an amount not to exceed 25% of the Settlement Fund and payment of expenses in an amount not to exceed $10 million, plus interest. *See* Ex. 3, Exs. A-C. While the time to object to these requests does not expire until April 3, 2025, to date, no objections to the attorneys' fees and expenses have been received. ¶ 168.[19] Should any objections to these requests be received after this submission, Class Counsel will address them in its reply.

III. THE FEE REQUEST IS SUPPORTED BY CLASS REPRESENTATIVES

The PSLRA was intended to encourage institutional investors like AP7 and Cleveland Bakers to assume control of securities class actions in order to "increase the likelihood that parties with significant holdings in issuers, whose interests are more strongly aligned with the class of shareholders, will participate in the litigation and exercise control over the selection and actions of plaintiff's counsel." H.R. Conf. Rep. No. 104-369, at *32 (1995), reprinted in 1995 U.S.C.C.A.N. 730, 731. Congress believed these institutions would be in the best position to monitor the ongoing prosecution of the litigation and assess the reasonableness of fee requests.

As noted above, AP7 and Cleveland Bakers—classic examples of the sophisticated and financially interested investor that Congress envisioned in enacting the PSLRA—have endorsed the requested 19.82% fee. *See* Ex. 1, ¶ 10, Ex. 2, ¶ 14. Plaintiffs were actively involved throughout the prosecution of this Action and believe, given the work performed by Plaintiffs' Counsel, the outstanding result obtained for the Class, and the considerable risks of proceeding with trial, that Class Counsel's fee request is fair and reasonable and warrants approval by the Court. Plaintiffs' endorsement of the fee supports its approval. *See Veeco*, 2007 WL 4115808, at *8 ("Public policy

[19] As noted above, there has been one objection to the Settlement.

considerations support the award in this case because the Lead Plaintiff . . . – a large public pension fund – conscientiously supervised the work of lead counsel and has approved the fee request[.]").

Additionally, the requested fee is based on the fee agreement that Class Counsel entered into with Court-appointed Lead Plaintiff AP7 at the outset of its involvement in the litigation. *See* Ex. 1, ¶ 10. This fact provides additional support for Class Counsel's fee request. *See Woburn*, 2017 WL 3579892, at *7 ("Courts have found that *ex ante* fee agreements between lead counsel and lead plaintiffs enjoy a presumption of reasonableness under the PSLRA."); *Comverse*, 2010 WL 2653354, at *4 ("an *ex ante* fee agreement is the best indication of the actual market value of counsel's services"); *In re WorldCom, Inc. Sec. Litig.*, 388 F. Supp. 2d 319, 356 (S.D.N.Y. 2005) ("When class counsel in a securities lawsuit have negotiated an arm's-length agreement with a sophisticated lead plaintiff possessing a large stake in the litigation, and when that lead plaintiff endorses the application following close supervision of the litigation, the court should give the terms of that agreement great weight.").

IV. PLAINTIFFS' COUNSEL'S LITIGATION EXPENSES ARE REASONABLE AND SHOULD BE APPROVED

Class Counsel also requests reimbursement of $9,599,984.13 from the Settlement Fund for expenses Plaintiffs' Counsel reasonably incurred in prosecuting and resolving the Action. These expenses are properly recovered by counsel. *See FLAG Telecom*, 2010 WL 4537550, at *30 ("It is well accepted that counsel who create a common fund are entitled to the reimbursement of expenses that they advanced to a class"); *see also In re Facebook, Inc. IPO Sec. and Deriv. Litig.*, 2015 WL 6971424, at *12 (S.D.N.Y. Nov. 9, 2015) (approving expenses related to experts, printing, postage, court fees, legal research, mediation, press releases, process service, copies, telephone, transcripts, travel, and meals); *Alaska Elec. Pension Fund*, 2018 WL 6250657, at *3

(approving $18,429,687.63 in expenses and finding that "although sizeable, [the amount] was reasonable and necessary given the nature and complexity of this case").[20]

The largest component of Plaintiffs' Counsel's expenses is the costs of experts and consultants in the total amount of $5,935,881.97, or approximately 62% of total expenses. ¶ 192. As detailed in the Nirmul Declaration, Plaintiffs' Counsel worked extensively with experts at different stages of the Action. These experts were critical to the prosecution and resolution of the Action, as their expertise allowed Plaintiffs' Counsel to fully frame the issues, gather relevant evidence, make a realistic assessment of provable damages, structure resolution of the claims, and develop a fair and reasonable plan for allocating the settlement proceeds to the Class. ¶¶ 107-14. Also included in this expense category is the costs of Plaintiffs' highly-skilled and reputable jury/trial consultant retained to provide jury pool analysis, conduct a mock trial, analyze the results of mock juror deliberations, and assist in trial preparation, including demonstratives and jury selection.

The second largest component of Plaintiffs' Counsel's expenses (i.e., $2,192,216.99, or approximately 23% of total expenses) was for the Class Notice campaign following the Court's certification of the Class. ¶ 194. Another substantial expense, $330,230.67, reflects the costs for an outside vendor to host the document database that enabled Class Counsel to effectively and efficiently search and review the more than 1.1 million pages of documents produced in this Action. ¶ 193. The ability to identify, code, search, and analyze documents to be utilized as exhibits at depositions or at trial was of the utmost importance to the development of the record of evidence in this Action.

[20] These expenses are set forth in the individual firm declarations submitted herewith, *see* Exs. 4 & 5, and are of the type approved by courts for payment.

In addition to the forgoing expenses, Plaintiffs' Counsel also incurred: (i) $138,010.00 for the Parties' mediation sessions and ongoing settlement negotiations conducted by Judge Phillips; (ii) 80,367.85 for copying/printing; (iii) $89,588.36 for computerized research; and (iv) $53,286.53 for court reporters, videographers, and transcripts in connection with depositions/hearings. ¶¶ 194-95. The other expenses for which Class Counsel seeks payment are the types of expenses necessarily incurred in litigation and routinely charged to clients billed by the hour, including, among others, court fees, process servers, delivery expenses, travel-related expenses, and temp staffing charges. ¶ 196. The foregoing expense items are not duplicated in the firms' hourly rates.

The notices inform recipients that Class Counsel would seek Litigation Expenses (which may include reimbursement of the reasonable costs incurred by Class Representatives as discussed below) in an amount not to exceed $10 million, plus interest. The total amount of expenses requested (including the amounts to Class Representatives and Labaton discussed below) is below the maximum amount set forth in the notices and, to date, there have been no objections. ¶ 188. As such, Plaintiffs' Counsel's expenses should be approved.

V. CLASS REPRESENTATIVES SHOULD BE AWARDED THEIR REASONABLE COSTS UNDER 15 U.S.C. § 78U-4(A)(4)

The PSLRA provides that an "award of reasonable costs and expenses (including lost wages) directly relating to the representation of the class" may be made to "any representative party serving on behalf of a class." 15 U.S.C. § 78u-4(a)(4). Consistent with that statute, Class Representatives seek awards based on the time dedicated by their employees and representatives in furthering and supervising the Action. Specifically, Class Representatives AP7 and Cleveland Bakers seek awards of $22,877.50 and $12,642.41, respectively. *See* Bergström Decl., ¶¶ 15-17; Pecoraro Decl., ¶ 19.

Class Representatives have actively and diligently pursued the Class's claims for the past seven years. Both AP7 and Cleveland Bakers: (i) communicated regularly with Plaintiffs' Counsel regarding significant developments in the Action and strategy; (ii) reviewed, and when needed, commented on pleadings and briefs filed in the Action, as well as multiple rounds of pre-trial submissions; (iii) responded to written discovery; (iv) searched and collected documents responsive to Defendants' document requests and consulted with Plaintiffs' Counsel regarding the same; and (v) prepared for and testified at depositions in connection with class certification. *See* Bergström Decl., ¶ 7; Pecoraro Decl., ¶ 12. In addition, both AP7 and Cleveland Bakers consulted with Plaintiffs' Counsel during the course of the Parties' settlement negotiations, including the Parties' formal mediations with Judge Phillips. *See id.* These efforts required employees of Class Representatives to dedicate considerable time and resources to the Action that they would have otherwise devoted to their regular duties at AP7 and Cleveland Bakers.

Numerous cases have approved larger payments to compensate lead plaintiffs for their time and effort on behalf of a class than what is being requested here. *See In re Petrobras Sec. Litig.*, 317 F. Supp. 3d 858, 873 (S.D.N.Y. 2018) (awarding $300,000 to lead plaintiff and $100,000 to named plaintiffs where their work "was beneficial to the class and included reviewing drafts of the complaints, responding to defendants' interrogatories and document requests, producing responsive documents, providing oversight of the mediation and settlement process, authorizing the settlements, and reviewing drafts of the settlements before they were filed with the Court"), *aff'd*, 784 F. App'x 10 (2d Cir. 2019); *see also, e.g.*, *In re Bank of Am. Corp. Sec. Litig.*, 772 F.3d 125, 132-33 (2d Cir. 2014) (affirming award of over $450,000 to representative plaintiffs for time spent by their employees on action); *Altimeo Asset Mgm't v. Qihoo 360 Tech. Co. Ltd., et al.*, No. 19 Civ. 10067 (PAE), slip op. at 11 (S.D.N.Y. Aug. 1, 2024) (awarding total of $120,000 to two

lead plaintiffs) (Ex. 8); *ODS Capital LLC v. JA Solar Holdings Co., Ltd.*, 2023 WL 4527592, at *2 (S.D.N.Y. July 13, 2023) (awarding total of $120,000 to two lead plaintiffs); *In re Satyam Comput. Servs. Ltd. Sec. Litig.*, No. 09-MD-2027-BSJ, slip op. at 3-4 (S.D.N.Y. Sept. 13, 2011) (awarding total of $193,111 to lead plaintiffs) (Ex. 9). Accordingly, Class Counsel respectfully requests that the Court reimburse Class Representatives for their reasonable costs incurred in fulfilling their duties and achieving the substantial Settlement for the Class.

VI. REIMBURSEMENT OF LABATON'S EXPENSES

Prior to the Court's reopening of the lead plaintiff appointment process in April 2018 and KTMC's appointment as Lead Counsel in May 2018, Labaton served as lead counsel for the putative class in the Action. ¶ 200. As detailed in the Declaration of Christine M. Fox submitted herewith (Ex. 6), Labaton incurred a total of $234,728.27 in expenses during the time it served as lead counsel as well as when it was transitioning the case to KTMC. The expenses Labaton seeks principally relate to its investigation and experts and consultants relating to the First and Second Amended Complaints in this Action—work product which was provided to Class Counsel. Specifically, Labaton incurred expenses for, among other things, court filing fees, online research, copy costs, experts/consultants, and work-related transportation and meals. *See* Ex. 6, ¶¶ 3-4.

Accordingly, in connection with its expense request, and based its determination that these efforts conferred a benefit on the Class, Class Counsel seeks on Labaton's behalf reimbursement of $234,728.27 from the Settlement Fund. The fact that Class Counsel would be seeking expenses on Labaton's behalf was disclosed in the Notice and the amount of Labaton's expenses was included in the maximum expense number set forth in the notices. *See* Ex. 3, Ex. B.

VII. CONCLUSION

For the reasons stated herein and in the Nirmul Declaration, Class Counsel respectfully requests that the Court: (i) award attorneys' fees in the amount of 19.82% of the Settlement Fund;

(ii) approve Plaintiffs' Counsel's expenses in the total amount of $9,599,984.13; and (iii) approve awards to Class Representatives in the aggregate amount of $35,519.91 (i.e., $22,877.50 to AP7 and $12,642.41 to Cleveland Bakers). Class Counsel further requests that Labaton be reimbursed $234,728.27 from the Settlement Fund for expenses incurred during its involvement in the Action.

Dated: March 20, 2025

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

The undersigned attorney hereby certifies that this brief complies with the type-volume limitation of the Southern District of New York Local Rule 7.1(c). This brief contains 8,737 words and uses a Times New Roman 12 point font.

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