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

TINA VELASCO, individually and on behalf of all others similarly situated, *Plaintiff*, v. BELMONT GROCERIES, LLC, d/b/a RICH'S FRESH MARKET *Defendant*.	Case No. 2023-CH-01077 Calendar 14 Courtroom 2301 Hon. Clare J. Quish

PLAINTIFF'S MOTION FOR ATTORNEYS' FEES,
COSTS, AND INCENTIVE AWARD

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Settlement Class Counsel

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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 $430,000 settlement fund for allegedly having their biometrics collected by Defendant Belmont Groceries, LLC in violation of the Biometric Information Privacy Act, 740 ILCS 14/1–99 ("BIPA"). The Court preliminarily approved the Settlement on December 18, 2024. Direct Notice of the Settlement began on January 17, 2025. 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-third of the total Settlement Fund, amounting to $143,333.33, plus litigation expenses of $1,804.17. Plaintiff also seeks an incentive award of $5,000 for her contributions to the case and recovery. As explained in detail below, Class Counsel's requested fee-and-expense award and Plaintiff's requested Incentive Award are justified given the relief provided under the Settlement, follow Illinois law and awards granted in other Illinois cases, 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 Plaintiff 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 awards are amply justified by the investment, significant risks, and excellent results obtained for the Class Members, particularly given Defendant's limited financial resources. Plaintiff and Class Counsel respectfully request that the Court approve attorneys' fees of

[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.

$143,333.33, costs of $1,804.17, and the agreed-upon Incentive Award of $5,000 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), and bars nonconsensual disclosure of biometrics. 740 ILCS 14/15(d).

2.2. Litigation, Negotiation, and Settlement

Unless otherwise stated, the following facts come from Plaintiff's complaints. Plaintiff alleges that she worked at Defendant's grocery store from 2019 to 2020. Throughout that time, Defendant required its hourly workers to clock in and out of shifts with a hand-scanning timeclock. Second Amended Complaint ("SAC"), ¶ 8, 9. While Plaintiff worked for Defendant, Defendant did not obtain workers' informed, written consent prior to scanning their hand geometry, nor did it

maintain a publicly available retention-and-destruction schedule for biometric data. *Id.* ¶ 3. On August 1, 2022, Defendant began requiring its employees to execute a consent form prior to using the hand-scanning timeclock. Declaration of J. Dominick Larry ("Larry Decl.") ¶ 21.

On February 2, 2023, Plaintiff sued Defendant, alleging that it violated BIPA by failing to publish and comply with a biometric retention and destruction policy, and obtain informed, written consent prior to collecting biometrics. Complaint, ¶¶ 31–44; 740 ILCS 14/15(a), (b). Plaintiff sought to certify a class of everyone who used Defendant's biometric timeclocks in Illinois during the applicable limitations period, *id.* ¶ 22, and requested statutory damages of $5,000 per violation on their behalf. *Id.*, Prayer for Relief.

On September 14, 2023, Plaintiff amended her complaint, adding a claim for violation of BIPA's prohibition on the disclosure of biometric identifiers or information without consent. *See* 740 ILCS 14/15(d). On November 15, 2023, two days after Defendant answered, Plaintiff served her first set of requests for production, requests for admission, and interrogatories. Larry Decl. ¶ 16. Defendant responded to Plaintiff's discovery requests on January 10, 2024, before making its document production on March 15, 2024. *Id.* ¶ 17. Defendant served Plaintiff with interrogatories and requests for production on January 11, 2024, which Plaintiff answered on February 22, 2024. *Id.* ¶ 18. Plaintiff served another round of requests for production and interrogatories on February 26, 2024, *Id.* ¶ 19, and subpoenaed Defendant's timekeeping vendors on April 1, 2024. *Id.* Defendant answered Plaintiff's second set of discovery on April 5, 2024. *Id.*

While Plaintiff and Defendant were engaged in the initial pleadings and discovery, multiple coverage disputes arose between Defendant and its insurers, leading to the filing of three coverage actions. *See Erie Ins. Co. v. Belmont Groceries, LLC, et al.*, No. 2023-CH-05794 (Cir. Ct. Cook Cnty., Ill., Chancery Div., Cal. 14, June 20, 2023); *AmGUARD Ins. Co. v. Belmont Groceries, LLC,*

et al., No. 2024-CH-00823 (Cir. Ct. Cook Cnty., Ill., Chancery Div., Cal. 14, Feb. 8, 2024); *Liberty Mut. Fire Ins. Co. et al. v. Belmont Groceries, LLC, et al.*, No. 2024-CH-04230 (Cir. Ct. Cook Cnty., Ill., Chancery Div., Cal. 7, May 7, 2024).

The Parties began discussing settlement shortly after Defendant appeared on June 5, 2023. Larry Decl. ¶ 22. Those discussions were complicated by Defendant's insurance situation, but the parties exchanged information relevant to settlement while litigating. *Id.* ¶¶ 22–26. Eventually, on July 2, 2024, the parties engaged in a settlement conference with Judge Conlon, which resulted in progress but no settlement. *Id.* ¶ 27. Following that settlement conference, Plaintiff filed a second amended complaint with the Court's leave, adding a common-law claim for intrusion upon seclusion. *Id.* ¶ 20. The parties held a second settlement conference with Judge Conlon on August 30, 2024. *Id.* ¶ 28. Once again, the parties made substantial progress, but failed to reach an agreement. *Id.* Over the following weeks, the parties—including Defendant's insurers—continued to negotiate, before reaching an agreement in principle on September 27, 2024. *Id.*

If the Settlement is finally approved, Defendant will establish a settlement fund of $430,000; Class members will automatically receive checks, without having to submit claim forms; funds from uncashed checks will—if sufficient to cover distribution costs—be redistributed to those class members who timely cashed their checks; and any remaining funds after that will be donated to a *cy pres* recipient.[2]

The Court preliminarily approved the Settlement and notice plan on December 18, 2024. In accordance with the Preliminary Approval Order, the Settlement Administrator disseminated

[2] The parties have agreed, subject to Court approval, for the *cy pres* recipient to be Legal Aid Chicago, earmarked to support the Workers' Rights Practice Group.

notice on January 17, 2025. Larry Decl. ¶ 29. To date, no Class member has objected to the Settlement, and no Class member has opted out of the Settlement Class. *Id*.

3. ARGUMENT

3.1. The Court should award Class Counsel attorneys' fees using the percentage-of-the-fund approach.

As contemplated by the Settlement, Class Counsel seeks an award of attorneys' fees of up to one-third of the Settlement Fund, or $143,333.33, plus litigation expenses of $1,804.17. Agreement, ¶¶ 8.1. That request for payment is in accord with how fees are typically awarded in Illinois class actions, and BIPA class actions specifically.

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,[3] and it misaligns the interests of Class Counsel 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

[3] *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).

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 and costs 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-third of the Settlement Fund is reasonable considering the awards in similar cases.

The requested Fee Award of $143,333.33 represents one-third of the Settlement Fund. This percentage is in line with 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. *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-third 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, and has asserted a number of defenses, including common-law defenses, constitutional challenges to BIPA's substantive and remedial provisions, and an argument that Defendant's timekeeping vendor—rather than Defendant itself—obtained and possessed the biometrics at issue, and that the vendor's own class-wide BIPA settlement should bar or reduce the Class's recovery here. *See* Def's Ans. and Aff. Defs. to 2d Am. Compl.; Larry Decl. ¶ 21. 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, this case posed a collection risk, which further increased the risk facing Class Counsel. As a single-location grocery store, Defendant's ability to fund any class-wide judgment was limited, *see* Larry Decl. ¶¶ 25–28, and it was involved in coverage disputes with its three insurers. *See Erie Ins. Co. v. Belmont Groceries, LLC et al.*, Case No. 2023-CH-05794 (Cir. Ct. Cook Cnty., Ill., Cal. 14); *AmGUARD Ins. Co. v. Belmont Groceries LLC et al.*, Case No. 2024-CH-00823 (Cir. Ct. Cook Cnty., Ill., Cal. 14); *Liberty Mut. Fire Ins. Co. et al. v. Belmont Groceries LLC et al.*, Case No. 2024-CH-04230 (Cir. Ct. Cook Cnty., Ill., Cal. 7).

In the face of these obstacles and unknowns, Class Counsel managed to negotiate and secure a settlement on behalf of the Settlement Class, which creates a $430,000.00 Settlement Fund. Thus, the Settlement's estimated provision of an average of $318.50 per Class Member now rather than years from now or perhaps never, represents an excellent result.

Thus, for the reasons set forth above, Class Counsel's request of one-third 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. Reimbursement of Class Counsel's litigation expenses is appropriate.

The common-fund doctrine allows not only for the recovery of attorneys' fees from the amount recovered on the Class's behalf, but also for the payment of "litigation expenses incurred" in the course of securing that recovery. *Morris B. Chapman & Assocs., Ltd. v. Kitzman*, 193 Ill. 2d 560, 573 (2000) (collecting cases).

Here, Class Counsel seeks reimbursement of $1,804.17 in expenses incurred in securing the relief for the Class. Settlement ¶ 8.1. That amount includes $1,395.33 in filing fees in this case and the three insurance-coverage cases;[4] $310.26 in costs for service of process of the complaint, summons, and discovery subpoenas; and $98.58 in parking and transportation costs for Plaintiff and Class Counsel for the two in-person settlement conferences with Judge Conlon. Larry Decl. ¶¶ 33–36. Class Counsel has incurred and will continue to incur additional fees beyond those sought to be reimbursed under the Settlement, including printing and delivery costs for the preliminary approval motion, the fee petition, and the final approval motion, as well as additional processing fees omitted from Class Counsel's reimbursement request. *Id*.

[4] Plaintiff was named as a nominal defendant in each coverage case between Defendant and its insurers, and was represented by Class Counsel in each.

These costs identified above were necessary to secure the relief for the Class, and the amounts charged were reasonable and customary based on Class Counsel's experience in similar actions. Larry Decl. ¶¶ 38, 39. Accordingly, the Court should award Class Counsel $1,804.17 in litigation expenses from the common fund. *See Morris B. Chapman & Assocs., Ltd.*, 193 Ill. 2d at 573.

3.4. The requested incentive award warrants approval.

The requested $5,000 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 $5,000 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 her time and effort in pursuing her 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. ¶¶ 30, 31.

Plaintiff participated in the initial investigation of her claim and provided information to Class Counsel to help prepare the initial pleadings, reviewed the pleadings before filing, consulted her attorneys many times, assisted with the preparation of her responses to Defendant's discovery requests, and provided feedback on other filings including, most importantly, the Settlement

Agreement. *Id.* ¶ 30. Plaintiff also attended both settlement conferences with Judge Conlon, in person, assisted with and signed off on all strategic decisions during those conferences, and reviewed and approved of every counter-offer and acceptance made after the settlement conferences. *Id.*

Further, agreeing to serve as the Class Representative meant that Plaintiff publicly placed her 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, her efforts, and contributions to the litigation by assisting her counsel with their investigation and prosecution of this suit, and her 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. ¶ 32.

The $5,000 Incentive Award requested for Plaintiff in line with 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 she undertook to benefit the Class Members and the time she spent working on their behalf is reasonable under the circumstances of this case, especially considering the 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 $5,000 Incentive Award here. Moreover, no objection to the Incentive Award has been raised to date. Accordingly, an Incentive Award of $5,000 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) awarding Class Counsel attorneys' fees of $143,333.33; (2) awarding Class Counsel its reasonable litigation expenses incurred, in the amount of $1,804.17; and (3) approving Plaintiff's Incentive Award in the amount of $5,000.00.

Dated: February 28, 2025

TINA VELASCO, individually and on behalf of all others similarly situated,

s/ J. Dominick Larry
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Settlement Class Counsel

CERTIFICATE OF SERVICE

I, the undersigned attorney, hereby certify that on February 28, 2025, I served the foregoing by filing through an approved e-filing vendor, which provides copies by electronic mail upon those listed below:

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Dated: February 28, 2025

s/ J. Dominick Larry
Settlement Class Counsel