

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT ILLINOIS
EASTERN DIVISION**

PATRICK L. GAINES, JESSICA J.)
KELLY, and ANTHONY TSE,)
individually and on behalf of all others)
similarly situated,)
)
Plaintiffs,)
)
v.)
)
BDO USA, LLP,)
)
Defendant.)
_____)

Case No. 1:22-cv-01878

Hon. Matthew F. Kennelly

**ORDER GRANTING PLAINTIFFS’ MOTION FOR AN AWARD OF ATTORNEYS’
FEES, REIMBURSEMENT OF EXPENSES, AND CASE CONTRIBUTION AWARDS
TO PLAINTIFFS**

Plaintiffs’ Motion for an Order approving awards of attorneys’ fees, reimbursement of expenses and class representative case contribution awards to Plaintiffs Patrick L. Gaines, Jessica J. Kelly, and Anthony Tse (“Plaintiffs”), came before the Court for hearing on June 17, 2024. Due notice having been given and the Court having been fully advised in the premises,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

Except as otherwise defined herein, all capitalized terms used in this Order and Judgment shall have the same meanings as ascribed to them in the Amended Settlement Agreement executed by counsel on behalf of the Plaintiffs, all Class Members, and Defendant, respectively.

1. The Court has jurisdiction over the subject matter of the Action and over all Settling Parties, including all members of the Settlement Class.

2. **Class Counsel's Fee Request.** Plaintiffs seek an award of one-third of the Common Fund (or \$750,000), for their attorneys, Edelson Lechtzin LLP and Capozzi Adler, P.C. (collectively, "Class Counsel"). The requested percentage of the common fund fee award is reasonable. Indeed, the Seventh Circuit has noted that the "usual range for contingent fees is between 33 and 50 percent." *In re Cont'l Ill. Sec. Litig.*, 962 F.2d at 566, 572 (7th Cir. 1992); *see also Retsky Fam. Ltd. P'ship v. Price Waterhouse LLP*, No. 97 C 7694, 2001 WL 1568856, at *4 (N.D. Ill. Dec. 10, 2001) ("[A] customary contingency fee would range from 33 1/3% to 40% of the amount recovered."). The instant fee is well within this range.

3. In the Seventh Circuit, courts employ a four-factor test to determine the "market rate for legal fees, as follows: (1) the risk of nonpayment a firm agrees to bear, in part on (2) the quality of its performance, in part on (3) the amount of work necessary to resolve the litigation, and in part on (4) the stakes of the case." *In re Synthroid Mktg. Litig.*, 264 F.3d 712, 721 (7th Cir. 2001).

4. The Court has considered such factors and concludes that each of these factors favor granting Plaintiffs' request for attorneys' fees.

5. In addition, the Court has reviewed Class Counsel's lodestar fees as a cross-check for the requested common fund award. The Court has reviewed declarations of Class Counsel stating the number of hours and hourly rate for each attorney and paralegal who worked on this matter. Notably, the requested award of attorneys' fees in the amount of one-third of the common fund (or \$750,000), represents a modest lodestar multiplier of approximately 1.79 times Class Counsel's total lodestar of \$416,709.50 at the time of the filing of the instant motion on April 25, 2024. The Court further notes that Class Counsel has performed substantial work since the filing of the instant motion, which has not been included in the Court's lodestar cross check, including

preparing for and attending the Fairness Hearing on June 17, 2024, and on-going obligations with respect to the settlement administration process.

6. Based upon the foregoing, the Court grants Plaintiffs' motion with respect to attorneys' fees. Class Counsel shall be entitled to receive out of the Settlement Amount reasonable attorneys' fees in the amount of \$[750,000].


7. **Reimbursement of Litigation Expenses.** This Court may award reasonable expenses authorized by the parties' agreement. Fed. R. Civ. P. 23(h). Class Counsel has submitted a declaration setting forth in detail the expenses they incurred in prosecuting this class action. Such expenses, which include filing fees, travel expenses, copying, delivery and telecommunications charges, legal research charges, and other expenses are typically billed by attorneys to paying clients.

8. Based upon the foregoing, the Court grants Plaintiffs' motion with respect to reimbursement of litigation expenses. Class Counsel shall be entitled to receive out of the Settlement Amount their reasonable costs and other expenses not to exceed \$[25,000.00].

9. **Incentive Awards to Named Plaintiffs.** With respect to case contribution awards to Plaintiffs, the Seventh Circuit has recognized, "Incentive awards are justified when necessary to induce individuals to become named representatives." *In re Synthroid Marketing Litigation*, 264 F.3d at 722–23. The requested \$5,000 award for each of the Plaintiffs is in line with incentive awards in other class actions.

10. In recognition of their work and diligence in this matter and the value of the results achieved on behalf of the Members of the Settlement Class, pursuant to the terms of the Settlement Agreement, each Plaintiff shall be entitled to receive out of the Settlement Amount an incentive award in the amount of \$[5,000].

SO ORDERED this 18th day of June, 2024.



Hon. Matthew F. Kennelly
United States District Judge