

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

DANA BASS,)	CASE NO: 1:22-cv-00550
)	
Plaintiff,)	
)	
vs.)	
)	
IMPERIAL FIRE AND CASUALTY)	
INSURANCE COMPANY,)	
)	
Defendant.)	
	/	

**JOINT RENEWED MOTION FOR
FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

Plaintiff Dana Bass (“Plaintiff”), individually and on behalf of the Settlement Class, and Defendant, Imperial Fire and Casualty Insurance Company (“Imperial”), pursuant to the direction of this Court, hereby jointly file this Joint Renewed Motion for Final Approval of Class Action Settlement and Certification of Settlement Class (the “Renewed Motion”).

INTRODUCTION

The Parties report that, after completing the additional notice to Class Members required by this Court’s December 10, 2024, Order,¹ the Claim Administrator has approved 877 of the 916 filed claims. The total amount to be paid to Class members for the approved claims is \$579,523.90. See **Exhibit 1**, Supplemental Declaration of Edmund Normand (Normand Supp. Decl.) ¶ 6. The

¹ This Motion and accompanying Memo are submitted in accordance with the Court’s December 10, 2024 Order Denying Plaintiff’s Unopposed Motion for Final Approval of Class Action Settlement and Approval of Attorneys’ Fees, Costs and Service Award (the “Order”). See ECF No. 52. Therein the Court ordered another round of notice by U.S. mail to all class members, with the extended claims period running until January 17, 2025, after which the Defendant was granted 75 days to evaluate any claims filed. *Id.* Pursuant to the Order, the Parties were thereafter permitted to renew the instant Joint Motion. *Id.*

average value per paid claim is \$997.46, with many claimants receiving over \$10,000.00 for their individual claim. *Id.* ¶ 9. This value is before consideration of the value of the future benefits (conservatively estimated at \$1,943,052.08 in future benefits over the next two years (which is the agreed expanded limitations period). *Id.* ¶¶ 10–12. Further, Defendant has agreed to separately pay attorney’s fees, litigation costs, notice and administrative costs, and service award—all additional benefits to the Class that increase the value of the common fund under Fifth Circuit law. *See* Agreement ¶ 82. Based on the foregoing, the estimated total benefits to the Class which will be directly paid by Imperial is **\$3,384,888.87**. Normand Supp. Decl. ¶¶ 11–12.

The litigation events and facts supporting final approval of the settlement are summarized in the initial Motion for Final Approval of Settlement (“Final Approval Motion”), ECF No. 46, and the Motion for Approval of Attorneys’ Fees, Costs and Service Award (“Fee Motion”), ECF No. 42. (together, the “Motions”). At the December 10, 2024, hearing on the Motions (the “Approval Hearing”), this Court indicated it was inclined to approve the settlement but wanted additional class notice sent out prior to final approval. This Court deferred ruling on the Final Approval and Fee Motion until after the additional notice and calculation of final claimed damages, including an estimate of the value of claims since the settlement date and the value of injunctive relief and additional claims after the additional notice. (ECF No. 52) At the “Approval Hearing” the Court also indicated it wanted additional briefing regarding the amount of fees sought by Plaintiff’s counsel. As to attorneys’ fees, the Court requested additional briefing concerning the agreed fee in the Settlement Agreement after calculating the value of approved claims and the estimated value of future relief. *Id.*, Accordingly, as the Court has already indicated it is inclined to substantively approve the Settlement, which the Parties jointly request it to do, this memorandum focuses on the reasons supporting final approval of the full amount of fees and costs

Imperial has agreed to pay. Imperial agrees with the facts set forth in support of Plaintiff's fee request and does not oppose the award of the entire amount requested.

With Plaintiff's costs totaling \$10,561.56, Plaintiff requests \$784,438.44 in attorney fees. Normand Supp. Decl. ¶¶ 11–12. This amount is reasonable whether analyzed as a percentage of the common fund or through the lodestar method. Because the common fund is valued at **\$3,384,888.87**, the fee award represents just 23.17% of the common fund—a percentage well within the range of reasonableness in a case like this. Moreover, because Plaintiff's Counsel has incurred \$513,506.5 in lodestar, the full requested amount of fees only requires a modest upward multiplier of only 1.53 (Defendant paid attorney's fees (\$784,438.44) divided by lodestar of \$513,506.50). As discussed below, this multiplier is fully supported by all the relevant *Johnson* factors. Accordingly, the Parties jointly respectfully request the Court enter an order granting final approval to the Settlement, and Plaintiff respectfully requests the Court enter an order awarding Plaintiff's Counsel \$10,561.56 in litigation costs and \$784,438.44 in attorney fees and a service award of \$5,000 to the Class Representative.

ARGUMENT

I. LEGAL STANDARD

Rule 23(h) authorizes a district court to “award reasonable attorney's fees and nontaxable costs that are authorized by law or by the parties' agreement.” Fed. R. Civ. P. 23(h). Courts, including in the Fifth Circuit, “have encouraged litigants to resolve fee issues by agreement, if possible.” *DeHoyos v. Allstate Corp.*, 240 F.R.D. 268, 322 (W.D. Tex. 2007) (citing cases, including *Johnson v. Ga. Highway Express, Inc.*, 488 F.2d 714, 720 (5th Cir. 1974)). In common-fund cases like this—in which class counsel is compensated from the general fund used to pay class members' damages and claims—district courts generally award attorneys' fees using one of

two methods: “(1) the percentage method, in which the court awards fees as a reasonable percentage of the common fund; or (2) the lodestar method, in which the court computes fees by multiplying the number of hours reasonably expended on the litigation by a reasonable hourly rate and, in its discretion, applying an upward or downward multiplier.” *In re Heartland Payment Sys., Inc. Customer Data Sec. Breach Litig.*, 851 F. Supp. 2d 1040, 1071 (S.D. Tex. 2012).

Based on Fifth Circuit law, however, “numerous district courts in this Circuit have applied a ‘blended’ percentage method to determine a reasonable fee award, while staying within the *Johnson* framework.” *In re Vioxx Prods. Liab. Litig.*, 760 F. Supp. 2d 640 (E.D. La. 2010) (citing cases). This “blended percentage approach is an appropriate method for calculating reasonable common benefit attorneys’ fees in this case.” *Id.* The Court must “first determine whether the benchmark should be adjusted based on the application of the *Johnson* facts to the particular circumstances of this case.” *Id.* Then, the Court should “conduct a rough lodestar analysis to cross-check the reasonableness of the percentage fee award. The lodestar analysis is not undertaken to calculate a specific fee, but only to provide a broad cross check on the reasonableness of the fee arrived at by the percentage method.” *Id.*

II. CLASS COUNSEL’S FEE AND LITIGATION COST REQUEST IS REASONABLE, SOLELY PAID FOR BY DEFENDANT, AND SHOULD BE GRANTED.

A. The Attorney’s Fee Award, Which Represents 23.17% of the Actual Cash Benefits to Class Members, Is Below the Benchmark and Reasonable.

“This Court has substantial discretion in determining the appropriate fee percentage.” *Jenkins v. Trustmark Nat. Bank*, 300 F.R.D. 291, 307 (S.D. Miss. 2014). “No general rule can be articulated on what is a reasonable percentage of a common fund.” *Bethea v. Sprint Commc’ns*, 2013 WL 228094, *3 (S.D. Miss. Jan. 18, 2013) (quoting *Smith v. Tower Loan of Miss., Inc.*, 216 F.R.D. 338, 369 (S.D. Miss. 2003)). “Nonetheless, awards commonly fall between a lower end of

20% and an upper end of 50%.” *Jenkins*, 300 F.R.D. at 307 (citing *Smith*, 216 F.R.D. at 368). Further, “it is not unusual for district courts in the Fifth Circuit to award percentages of approximately one third.” *Collins v. Sanderson Farms, Inc.*, 568 F. Supp. 2d 714 729 (E.D. La. 2008).

Because Defendant agreed to separately pay litigation costs, and costs are \$10,561.56, Plaintiff seeks attorney’s fees in the amount of \$784,438.44. Normand Supp. Decl. ¶¶ 3. As explained further below, this represents only 23.17% (Normand Supp. Decl. ¶ 13) of the value of the common fund—which is below the benchmark in this Circuit. *See In re Heartland Payment Sys., Inc. Customer Data Sec. Breach Litig.*, 851 F. Supp. 2d 1040, 1081 (S.D. Tex. 2012) (explaining typical benchmark is approximately 25%).

To determine the value of the settlement, many federal courts base fee awards “on the benefits actually delivered.” *In re Heartland Payment Sys., Inc. Customer Data Sec. Breach Litig.*, 851 F. Supp. 2d 1040, 1075 (S.D. Tex. 2012) (citing Manual for Complex Litig. (Fourth) § 21.71 (2004)). In calculating this number, courts may properly consider (1) “the amount paid directly to class members who submitted valid claims”, (2) the “cost of notice” (because “[w]hen a (b)(3) action is certified for trial rather than settlement, the plaintiffs normally bear the notice costs”), (3) “the approximate cost of administering the claims process”, and (4) “the maximum amount of attorneys’ fees and costs [defendant] agreed to pay.”² *Id.* As various courts have explained, this is because when something that would otherwise be borne by the class—such as attorneys’ fees, litigation costs, notice costs—are borne instead by defendants, the fact that those

² Attorney’s fees and costs are properly considered when paid separately because “[t]he award to the class and the agreement on attorney fees [and costs] represent a package deal. Even if the fees are paid directly to the attorneys, those fees are still best viewed as an aspect of the class’ recovery.” *In re Heartland*, 851 F. Supp. 2d at 1078 (quoting *Johnston v. Comerica Mortg. Corp.*, 83 F.3d 241, 246 (8th Cir. 1996)).

costs are not subtracted from the dollar amounts paid to class members is a specific benefit to those class members. *See, e.g., Gascho v. Global Fitness Holdings, LLC*, 822 F.3d 269, 282 (6th Cir. 2016) (explaining that when conducting a percentage of the fund analysis, “attorney’s fees are the numerator and the denominator is the dollar amount of the Total Benefit to the class, which includes the benefit to class members, the attorney’s fees and may include costs of administration”) (cleaned up).

For this reason, courts often consider the future benefits to the class when, as here, they will come in the form of anticipated future cash payments. *See, e.g., Staton v. Boeing Co.*, 327 F.3d 938, 974 (9th Cir. 2003) (“[C]ourts should consider the value of the injunctive relief obtained as a relevant circumstance in determining what percentage of the common fund class counsel should receive as attorneys’ fees”) (internal quotation and citation omitted); *Jenkins v. Trustmark National Bank*, 300 F.R.D. 291, 301 (S.D. Miss. 2014) (approving settlement in which, in addition to the settlement payments the defendant would make, it also agreed to a practice change, resulting in future cash benefits to its customers, for two years); *Saccoccio v. JP Morgan Chase Bank, N.A.*, 297 F.R.D. 683, 693 (S.D. Fla. 2014) (explaining courts consider injunctive or prospective relief in determining the benefit value of a settlement); *In re Diet Drugs (Phentermine, Fenfluramine, Dexfenfluramine) Prods. Liab. Litig.*, 553 F. Supp. 2d 442, 468 (E.D. Pa. 2008), *as corrected* (Apr. 9, 2008), *judgment entered*, No. CIV.A. 99-20593, 2008 WL 2890878 (E.D. Pa. July 21, 2008), *and aff’d sub nom. In re Diet Drugs*, 582 F.3d 524 (3d Cir. 2009) (“the court must look to all benefits, tangible and intangible, as a whole when calculating the value of the Settlement Agreement and the appropriate award therewith.”); *Pinto v. Princess Cruise Lines*, 513 F. Supp. 2d 1334, 1342 (S.D. Fla. 2007) (“[W]hen determining the total value of a class action settlement for purposes of calculating the attorneys’ fee award, courts usually consider not only the

compensatory relief, but also the economic value of any prospective injunctive relief obtained for the class”); *Sheppard v. Consol. Edison Co. of New York, Inc.*, 2002 WL 2003206, at *7 (E.D.N.Y. Aug. 1, 2002) (in valuing total settlement for percentage-based attorneys' fee award, court included \$6.745 million in monetary relief and “an estimated \$5 million in non-monetary, injunctive relief”); *Steiner v. Williams*, 2001 WL 604035, at *4 (S.D.N.Y. May 31, 2001) (“Although the settlement in this action did not involve the payment of money by the defendants, counsel may nonetheless recover a fee if the settlement conferred a substantial non-monetary benefit.”).

The Court should consider the prospective benefits of the Settlement because they are not speculative and the methodology for calculating them is fixed. The Agreement provides for a change in practice that requires Defendant to pay the full taxes and fees on each total loss claim that Plaintiff alleges is owed. *See* Settlement ¶ 79. Each insured who submits a total-loss claim after the settlement date will get the full benefits of the Settlement because Plaintiff has secured such prospective relief. *Id.* This data shows that, among the five Defendant entities, there are an estimated 974 claims per year. Normand Supp. Decl. ¶¶ 10, 11. As such, the estimated future benefits to be \$1,943,052.08 (974 claims per year for 2 years multiplied by \$997.46 per claim). *Id.* ¶ 10. Two years is a reasonable limit on the calculation of prospective relief because this is the limitations period agreed to by Defendant in the Agreement. *Id.* ¶ 10.

The following chart summarizes the actual cash benefits the Settlement provides to Class Members, all of which will be actually paid by the Defendant, and which the Court may consider in valuing the common fund:

#	BENEFIT TYPE	AMOUNT
1	Benefits to be Paid to Class Members in Cash (100% of Damages Owed)	\$579,523.90
2	Estimated Future Benefits for Two-Year Limitations Period	\$1,943,052.08
3	Class Notice and Administration	\$62,312.89

4	Plaintiff’s Litigation Costs	\$10,561.56
5	Service Award	\$5,000.00
6	Maximum Attorney’s Fees	\$784,438.44
	TOTAL CASH BENEFIT TO CLASS	\$3,384,888.87

B. Application of the *Johnson* Factors to the Benchmark Further Supports the Reasonableness of the Requested Fee Award.

Plaintiff’s initial memorandum in support of the fee award showed why each *Johnson* factor supports the requested fee. Plaintiff supplements that memorandum with additional facts providing further support for award of the full fee Defendant has agreed to pay—and again, Defendant’s payment of such fees will have absolutely no impact and will not reduce *any* payments to Class members.

1. The Requested Fee Is Supported by the Novelty and Difficulty of the Issues.

“[T]here is no doubt that this case is both novel and difficult.” *Dehoyos v. Allstate Corp.*, 240 F.R.D. 269, 327 (W.D. Tex. 2007) (citing *Garza v. Sporting Goods Props., Inc.*, No. CIV. A. SA-93-108, 1996 WL 56247, at *30 (W.D. Tex. Feb. 6, 1996) (considering novelty and difficulty of questions involved in class action litigation)). This was a highly contested lawsuit relating to a novel legal theory without precedent relating to the payment of certain Sales Tax and Transfer Fees pursuant to a statute that had not been applied to similar facts. Defendant maintains and argues it possesses numerous meritorious defenses that could have resulted in no recovery for Plaintiff and the Settlement Class.

When the Parties entered the Agreement, there was a pending Motion to Dismiss (ECF No. 9), which, if granted, would have resulted in no recovery to the class members. The Motion to Dismiss raised at least two legal defenses, both of which risked no recovery and are now resolved in favor of the Settlement Class. The Motion was fully briefed for approximately 15 months

without resolution.³ Faced with a motion to dismiss fraught with risk of no recovery for a lengthy period without resolution, the procedural posture counseled in favor of a negotiated resolution.

In addition to seeking dismissal, Defendant argued that based on the Policy’s language, the applicable statute of limitations was limited to one year, which would have, among other things, eliminated the named Plaintiff’s claim, as she would have been outside the one-year prescription period. *See* ECF No. 9 at 7. Had the Court agreed, Plaintiff’s claim would have been dismissed, meaning no Class Member would have recovered their damages. Further, no Louisiana appellate court has ruled on the definition of replacement costs in a motor vehicle total loss. Such litigation risks were relevant to the nature and structure of the Agreement.

There is also a risk that a litigated class would not be certified. Respectfully, Class Counsel should not be penalized, for mitigating the above-detailed risk of no recovery by Class Members—instead, Class Counsel secured an excellent settlement that provides 100% benefits to hundreds of class members who, collectively, secured hundreds of thousands of dollars by doing nothing more than signing a pre-filled, postage-prepaid claim form.

2. The Requested Fee Is Supported by the Amount Involved and the Results Obtained.

“The United States Supreme Court and the Fifth Circuit have held that the most critical factor in determining the reasonableness of a fee award is the degree of success obtained.” *In re Enron Corp. Securities, Derivative & “ERISA” Litig.* 586 F. Supp. 2d 732, 789 (S.D. Tex. 2008) (internal quotation marks omitted) (citing *Farrar v. Hobby*, 506 U.S. 103, 114 (1992)). Multiple

³ Defendant filed its Motion to Compel Appraisal and Dismiss Pending Completion on May 23, 2022. ECF No. 9. The Parties’ Joint Motion to Stay Pending Mediation was filed on August 11, 2025. ECF No. 27. Plaintiff and Defendant negotiated a settlement on December 12, 2023. The Agreement was signed by all parties on May 4, 2024. ECF No. 44.

aspects of this Settlement demonstrate that the results achieved by Class Counsel supports the requested fee award.

i. The Settlement Provides for 100% of the Claimed Compensation with a Simple Claim Process and Robust Notice.

The Settlement is an excellent result for Class Members, establishing an easy claim process, multiple rounds of robust notice, and providing 100% of the relief requested. Moreover—and critically—Defendant agreed to pay all fees and expenses. Class members received multiple notices, resulting in an impressive 99.5% delivery rate. ECF No. 44-1 ¶ 17. To submit a claim, Class Members merely had to verify the pre-filled information by clicking a link or signing a prepaid postcard. *Id.* This is an excellent result supporting the fee award, especially because if each individual class member who submitted a claim had instead filed suit, they could never have received more than the 100% damages with all fees and costs paid by Defendant as provided in this Settlement.

Class Members receive \$579,523.90 in direct cash payments and are also benefitting from having notice and administration costs, litigation costs, and attorney’s fees paid separately by Defendant. Normand Supp. Decl. ¶¶ 8–11. The Class Members who submitted approved claims could have received nothing had they brought individual suits or if, in this case, the motion to dismiss, still pending at the time of Settlement, had been granted. Moreover, 192 Settlement Class Members are receiving a recovery of one thousand dollars or more, with some individual awards exceeding \$10,000.00. *Id.* ¶ 6.

At an average payout of nearly \$1,000.00, Settlement Class Members are receiving the benefit of a settlement which would never have been economically feasible to bring individually. This is a primary public policy function of class action settlements: recovering on an aggregated basis “for cases in which a large number of individuals have suffered relatively small damages,

[where] the cost of individual litigation would be prohibitive.” *Mullen v. Treasure Chest Casino, LLC*, 186 F.3d 620, 624 (5th Cir. 1999). Plaintiff is unaware of any individual or class action lawsuit in Louisiana contesting the payment of fees and taxes in a total-loss first-party claim prior to this action and other Louisiana claims brought by Class Counsel, which further demonstrates the superiority of class adjudication. *See Mitchell v. State Farm Fire & Cas. Co.*, 327 F.R.D. 552, 564 (N.D. Miss. 2018), *aff’d*, 954 F.3d 700 (5th Cir. 2020).

ii. By Relieving the Administrative Burden on Defendant, the Settlement Structure Afforded All Class Members a Fair and Simple Way to Obtain 100% of Their Damages Without Paying Any Fees or Costs.

The Settlement was the product of a lengthy, arms’-length mediation. *See* Decl. of Michael Ungar, ECF No. 37-3, ¶ 5. Defendant declined to settle except on a claims-made settlement structure. Calculating damages through a judgment or a common fund would have required Defendant to conduct a time-intensive, file-by-file review of thousands of claims, many of which had been paid in full. Defendant would have needed to re-adjudicate each claim, incurring substantial administrative costs and devoting hundreds of hours of time and other resources. Even a conservative estimate—such as one hour per file—would have exceeded 800 man-hours.

In contrast, the claims-made structure allowed Defendant to review only the files of class members who submitted claims. This benefited the class: Rather than expend funds on administrative work, which necessarily would have reduced the per-Class Member recovery, Defendant agreed to pay 100% of valid claims, plus fees and costs, resulting in a greater net recovery for participating class members. Moreover, absent such a settlement structure, Defendant could have opted to litigate its motion to dismiss and oppose class certification, further burdening

the Court and risking no recovery for the Class. For these reasons, the claims-made structure was the best resolution for the Class that was agreeable to Defendant.⁴

As one court explained, a claims made settlement is fair and appropriate in cases such as this. *See Braynen v. Nationstar Mortgage, LLC*, No. 14-CV-20726-GOODMAN, 2015 WL 6872519 (S.D. Fla. Nov. 9, 2015). When comparing a claims-made settlement to a “hypothetical direct-payment structured settlement[.]” the latter “is not necessarily any fairer.” *Id.* at *14. As in *Braynen*, Imperial “represented[.]” and the Court has no reason to believe otherwise, that such a settlement would have been negotiated to provide recovery at a much lower percentage of Settlement Class Members’” taxes and fees. *Id.* As Judge Goodman explained:

Negotiating for a smaller amount to go to Class Members would, in effect, unfairly reward some Class Members for their own indifference at the expense of those who would take the minimal step of returning the simple Claim Form to receive the larger amount. While a claims-made settlement structure does not guarantee an award to all class members, it does tend to maximize the opportunity available to each class member.

Id. “Moreover ... ‘determining the amounts to be paid under a direct-pay structure would potentially make settlement more costly than litigation.’” *Lee v. Ocwen Loan Servicing, LLC*, No. 14-CV-60649-GOODMAN, 2015 WL 5449813, at *18 (S.D. Fla. Sept. 14, 2024) (quoting *Hamilton v. SunTrust Mortg, Inc.*, No. 13-60749, 2014 WL 5419507, at *6 (S.D. Fla. Oct. 24, 2014)). The considerations that supported attorneys’ fee awards in *Lee* and *Hamilton* also apply here.

iii. The Settlement Provides for a Two-Year Period, Despite Defendant’s Argument that a One-Year Limitations Period Applied.

⁴ While the renewed motion for final approval is a joint one, Defendant does not join in the renewed fee motion or the discussion of the fee issue herein. But Defendant does not object to paying, and has indeed agreed to pay, the fee amount requested by Plaintiff, and has authorized Plaintiff’s counsel to make the factual statements herein as to Defendant’s potential issues with a non-claims made settlement and the reasons therefor.

As discussed, another factor militating in favor of the Settlement is it extended the Class period to 2 years, doubling the time arguably permitted by the Policy. Notably, no insured outside the two-year period releases their claim.

iv. Class Members Unanimously Support the Settlement.

Plaintiff and Class Counsel support the proposed settlement, lending further support to approval. *See Cotton v. Hinton*, 559 F.2d 1326, 1330 (5th Cir. 1977) (noting that “absent fraud, collusion, or the like,” the Court “should be hesitant to substitute its own judgment for that of counsel”); Normand Decl. ¶¶ 37, 46. After robust and comprehensive Notice, *not a single Class Member objected or opted out*. This is an excellent result, indicating overwhelming (indeed, unanimous) approval of the proposed Agreement, which strongly favors approval. *See generally, e.g., In re Oil Spill*, 295 F.R.D. 112, 150 (E.D. La. 2013) (noting that “one indication of the fairness of a settlement is the lack of or small number of objections”); *Quintanilla v. A & R Demolition Inc.*, No. H-04-CV-1965, 2008 U.S. Dist. LEXIS 37449, 2008 WL 9410399, *5 (S.D. Tex. May 7, 2008) (“If only a small number of objections are received, that fact can be viewed as indicative of the adequacy of the settlement.”).

It is not that a “small number” of objections were filed—there were zero objections. The importance of this cannot be overstated: Typically, if the Parties believe they secured a favorable Settlement, notice is provided to absent class members so they can review the proposed terms and identify any alleged weaknesses or deficiencies. The main purpose of the final Fairness Hearing—assuming the Parties disagree and choose not to modify the proposed terms considering the objections—is to resolve such objections. Here, there are *no objections to resolve*. There is, in other words, no opposition whatsoever, notwithstanding a robust and comprehensive Notice with a 99.5% delivery rate. ECF No. 44-1, Borges Decl. ¶ 17.

It bears repeating that no class member objected to the fees requested nor to the 100% recovery of alleged damages that Plaintiff and Class Counsel obtained. Moreover, there were no opt outs after 99.5% of the Class received notice.

3. The Requested Fee is Supported by the Customary Fee for Similar Work in the Community.

The Court inquired at the Hearing for final approval whether Class Counsel's fees should be limited to the amount claimed by Class Members. Plaintiff respectfully requests the Court award the requested attorneys' fees and costs agreed to in the Settlement, which are paid entirely by Defendant. The public policy behind fee-shifting statutes in insurance claims and in class action cases in general is to compensate Class Counsel with reasonable fees that are not limited to the amount of the claim, so that insureds can bring suits for small amounts that otherwise would be economically irrational for both litigants and attorneys. This is why courts in this community award fees similar in scope to that sought here when a fee-shifting statute is implicated.

Indeed, Louisiana state law provides that in fee-shifting cases such as the instant case, the attorney's fees should not be proportional to the recovery—otherwise, the purpose of fee-shifting statutes would be thwarted. This exact issue was addressed in *Goff v. John Hancock Mut. Life Ins. Co.*, 497 So.2d 747, 750 (La. App. 3 Cir. 1986):

It is not uncommon for the courts of this state to award attorneys' fees, which exceed the dollar demand of the claimant when an award is appropriate under La. R.S. 22:657.

Union Federal finally contends the \$1,000 attorney fee was excessive because it exceeds the \$800 claim. The fee is intended to be reasonable compensation for the services required to successfully conclude the claim. To limit the fee to the amount of the claim would effectively deny persons with claims amounting to less than reasonable compensation for minimum services the benefit intended by the statute. We find no manifest error in the trial court's refusal to apply such an arbitrary limitation.

Id. at 750 (cleaned up).

So, for example, if an insured sued individually and obtained the average \$985.00 in damages, the fee and cost award would not be limited to a percentage of \$985.00—it would far exceed it. For that matter, costs alone would likely far exceed \$985.00. The purpose of a fee-shifting structure—like the one applicable here—is to make plaintiffs whole for every underpaid claim, even small ones. That this is a class action should not alter the foregoing analysis.

Said another way, it makes little sense to punish attorneys for bringing a claim as a class action, especially where, as here, the fees are paid entirely by the Defendant. Otherwise, courts would incentivize attorneys to file thousands of individual claims with precisely the same allegations, merely to ensure their fees would not be limited to a percentage of the recovery. Frankly, there is no benefit to the Class to reduce attorneys’ fees because Defendant has agreed to separately pay such fees. So, any fee reduction would not benefit any Class Member. Instead, the requested fees represent the fair value of the legal services provided to—and at no cost to—the Class. Normand Decl. ¶ 12.

Moreover, Plaintiffs’ counsel incurred significant litigation costs of \$10,561.56. *Id.* Lodestar fees to date, not including time incurred since the additional notice, exceed \$513,506.50. Normand Suppl. Decl. ¶ 3.

Further, the fee award is inclusive of the costs Class Counsel paid on behalf of the class at risk of non-payment, which, to date, are \$10,561.56 *Id. at 3*. Had Defendant prevailed on the Motion to Dismiss, opposing class certification, at summary judgment, at trial, or on appeal, Class Counsel would have borne the costs. *Id. at 3*.

4. Awards in Similar Cases

“The reasonableness of a fee may also be considered in the light of awards made in similar litigation within and without the court's circuit.” *Kemp v. Unum Life Ins. Co. of Am.*, No. CV 14-

0944, 2015 WL 8526689, at *11 (E.D. La. Dec. 11, 2015). Here, the Court need not look further than a recent order granting final approval of a nearly identical settlement involving a related entity to Imperial, Allstate Property & Casualty Insurance Company, which was reached between the same Plaintiffs' Counsel in this action and the same defense counsel. Normand Del. ¶ 19 (citing *Cummings v. Allstate Prop. & Casualty Ins. Co.*, No. 3:222-cv-00247-JWD-EWD, ECF No. 71 (M.D. La. Feb. 10, 2025)). The *Cummings* settlement is materially similar to this settlement in almost every relevant way: the plaintiffs brought the same claims based on the same legal theories; the settlements entitle class members to 100% of their damages on claims-made basis, with attorney's fees, notice and administration costs, and litigation costs to be paid separately by defendants; and the settlements require the defendants to change their business practices. Normand Decl. ¶ 19. In *Cummings*, the district court valued the settlement at \$5,292,837.00 and awarded \$1,150,000 in attorney's fees—21.7% of the estimated value of the settlement. *Id.* ¶ (citing *Cummings v. Allstate Prop. & Casualty Ins. Co.*, No. 3:222-cv-00247-JWD-EWD ECF No. 64-1, at 2 (M.D. La. Nov. 22, 2024)). Although the *Cummings* court valued the common fund based on the amounts made available to the class, as opposed to the actual cash benefits, its conclusion that “the amounts sought by Class Counsel for their Attorneys' Fees and Expenses Award are fair and reasonable given the work that Class Counsel have devoted to the Action as well as the resulted obtained for the Settlement Class” applies equally here. *Id.* ¶ (citing *Cummings*, ECF No. 71, at 5); *see also id.* at 7 (Class Counsel's request for the Attorneys' Fees and Expenses Award is fair and reasonable, given the significant work that Class Counsel has devoted to this Action (including the Settlement)).

CONCLUSION

For all the foregoing reasons, Plaintiff and Defendant jointly request final approval of the Settlement between the Parties, Plaintiff respectfully requests that the Court grant final approval of the proposed request for Attorneys Fess, Costs and Service Award and the Parties jointly request the Court to enter an order of final approval that includes the content of the proposed order attached as **Exhibit 2** hereto.

Respectfully submitted this May 20, 2025.

/s/ Soren E. Gisleson

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**admitted pro hac vice*

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of May, 2025, I electronically filed a true and exact copy of the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all attorneys of record.

/s/ Soren E. Gisleson
Attorney for Plaintiff

EXHIBIT 1

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

DANA BASS,)	CASE NO: 1:22-cv-00550
)	
Plaintiff,)	
)	
vs.)	
)	
IMPERIAL FIRE AND CASUALTY)	
INSURANCE COMPANY,)	
)	
Defendant.)	
	/	

SUPPLEMENTAL DECLARATION OF EDMUND A. NORMAND

1. My name is Edmund A. Normand. I am over the age of majority and provide this declaration voluntarily, based on personal knowledge. I am a partner in the law firm Normand PLLC and Lead Class Counsel representing Plaintiff in the above-styled lawsuit.
2. This class action lawsuit is against Imperial Fire and Casualty and its subsidiary and related insurance companies (“Imperial”) on behalf of Louisiana insureds who submitted covered first-party auto total loss claims with dates of loss during the class period. This declaration is filed in support of the Plaintiff’s Renewed Joint Motion for Final Approval.
3. The settlement provides for 100% payment of the damages for sales tax and regulatory fees alleged to be owed in this action, as well as requiring Defendant to pay for all attorneys’ fees, costs, and class administration fees. The agreed fees and costs to be paid by the Defendant are \$795,000.00. Plaintiff’s litigation costs across all firms involved are \$10,561.56; thus, the net attorneys’ fees agreed to be paid solely by Defendant in the Settlement Agreement are \$784,438.44. The class administration costs to date are \$62,312.89. *See* Supplemental Declaration of Eamon Mason, ¶ 6, attached as **Exhibit 1**, and the Class Representative Incentive award of \$5,000.00 (Settlement Agreement ¶ 78). Our lodestar to date for work performed is **\$513,506.50**. *See* **Exhibit 2** attached.
4. Additional Notice was sent to the Class on December 18, 2024, by order of this court (ECF 52). Class Administrator Epiq confirms that they have a total of 916 claims, 877 of which are approved for payment from the settlement. *See* Supplemental Declaration of Class Administrator Eamon Mason (“Mason Decl.”) ¶ 5.
5. Some claimants are not owed anything and not approved for additional payment because, in the interest of reaching the widest possible population, notice was sent to all

policyholders who were possibly part of the Settlement Class, including some who previously made a claim but were paid in full prior to the Settlement and thus were not entitled to additional damages. Id. ¶ 7.

6. There were 877 approved claims. Of the approved claims, the claimants being paid are getting an average payment of \$997.46, for a total dollar value of \$579,523.90. Id. ¶ 5. Several claimants received over \$10,000 each for their claims. This is before consideration of the recovery of future benefits, fees, litigation, and administrative costs, all of which are to be paid by Defendants. (ECF 37-1). The Defendants have agreed to pay separately in addition to the indemnity payments for any claims made, all fees, litigation costs, costs of administration and service awards.
7. Administration costs total \$62,312.89 to date. *See* Supplemental Declaration of Eamon Mason, ¶ 6.
8. At the Hearing, the Court inquired about the estimated value of future benefits included in the class recovery because of the injunctive relief provided for in the settlement. The settlement includes a change in future claims handling procedures to pay applicable taxes and fees on all first party total loss claims once the settlement is approved.
9. The value of future benefits can be conservatively estimated from the data produced by Defendants. We can estimate the number of future claims from data related to past claims. There was an average of 905 total loss claims per year between 2020 and 2023 for just Imperial. The other settling insurers average 69 claims per year. Thus, there are an estimated 974 claims per year among all 5 Defendant entities. $(905 + 69) = 974$ claims per year).
10. We can estimate the value of future claims based on the average value of each claim. As stated above the average paid claim value is \$997.46 per claim. The estimated future benefits for only two years are thus \$1,943,052.08 $(974 \text{ claims/year (para 9 above)} \times 2 \text{ years} \times \$997.46 \text{ per claim})$. This is a conservative estimate because the Settlement Agreement provides for this procedure to continue indefinitely unless and until there is a change in Louisiana law or a policy change (that must be approved by the Louisiana insurance regulators). ECF 37.1, ¶ 79.B. Therefore, the benefits to Defendants insureds are likely to run much longer than the two-year period used to estimate future benefits.
11. Total benefits to the Class include the sum of all indemnity paid in the claims process, the value of future benefits and the value of attorneys' fees, costs, administration expense and service award all to be paid 100% by Defendant. Thus, the total benefits including 2 years of future claims and the approved claims made in the settlement means that the estimated total benefits obtained are **\$3,384,888.87** $(\$1,943,052.08 \text{ in estimated future claims paid} + \text{approved claimed benefits } (\$579,523.90) + \text{Defendant paid attorneys' fees } (\$784,438.44))$

+ Defendant paid litigation costs, (\$10,561.56) + administrative costs to date (\$62,312.89)
+ Defendant paid class representative incentive award of (\$5,000.00).

12. Per above, total benefits to the class are estimated to be **\$3,384,888.87** which makes the net fee percentage paid by the Defendant 23.17% of the total settlement value (\$784,438.44 attorneys' fees paid by Defendant divided by estimated total settlement value). The fee percentage sought is consistent with the percentage consistently approved as reasonable in class action settlements. *See, e.g., In re Chinese-Manufactured Drywall*, 424 F. Supp. 3d at 498 (finding fee between 32% and 37% reasonable in similar sized case); *Poole*, 2013 U.S. Dist. LEXIS 133462, *10-*11 (finding fee between 25% and 35% reasonable in common benefit class actions). Notably, in the cases cited the Class members paid the attorneys' fees and they were deducted from the recovery, here the Defendant is paying the attorneys' fees and all expenses. Respectfully, any reduction in the agreed fees is a windfall to Defendant and does not benefit any class member as they are already getting 100% of the benefits sought in the action. Further all class benefits were negotiated prior to any negotiation of the amount of fees, costs or service award. (Declaration of Michael N. Ungar, ECF 37-3, ¶ 6). So, there was not any collusion limiting class benefits as a trade off for fees earned under the fee shifting statute at play here.

13. Here, Class Counsel's efforts to date include, without limitation:

- Pre-filing investigation;
- Drafting and filing multiple class action complaints and a consolidated amended complaint;
- Drafting responses to Defendant's motions to dismiss, and to stay the case;
- Preparing initial disclosures, interrogatories, requests for admission, and requests for the production of documents;
- Other discovery tasks, which involved, inter alia, reviewing voluminous data spreadsheets, expert damages analysis in calculating damages, analysis of Defendants claim-handling practices and procedures, data storage and retention, damages, and the merits of the claims;
- Working with a lease/leasing industry expert and a regulatory fee expert;
- Preparing various routine filings;
- Meeting and conferring with Defendant's counsel, participating in mediation including pre and post mediation negotiations;
- Meeting and conferring with Client.
- Negotiating and drafting the Settlement Agreement along with corresponding documents, including claim forms, summary notice, and long-form notice;
- Filing the motion for preliminary approval and supporting documents, including a proposed preliminary approval order and a proposed final judgment;
- Communicating with putative class members;

- Supervising the work of the Claims Administrator;
- Attending the Motion for Final Approval;
- Resending an additional round of notice, evaluating the results of the new notice, preparing and filing renewed motions for settlement approval, renewed motions for fee award and additional declarations, reviewing and calculating the value of the damages claimed; and
- Reviewing Supplemental Declaration of Claims Administrator, Drafting new renewed motions for final approval and related declarations and communications with co-counsel, opposing counsel and the Class Administrator.

14. I, along with the rest of Class Counsel, believe that securing 100% of the total possible Sales Tax damages and 100% of the total possible Regulatory Fees damages plus the payment by Defendants of all attorneys' fees and litigation and administration expenses and the Class Representative award is an excellent result for the Settlement Class. This is particularly true given the robust Notice and simple claims process. When one considers that there was a risk of no recovery at all at the time of settlement with a motion to dismiss on multiple grounds pending for over 15 months, and without binding precedent.

15. My opinion and that of Class Counsel is that the claims-made structure of the Settlement is supported by the following:

- a. Imperial asserted that they would not settle absent a claims-made structure, and Plaintiff secured significantly advantageous relief, robust notice, and an extremely simple claims process, and a narrow release;
- b. Settling on a non-claims made structure would be difficult, timely, and require significant costs which likely would have meant a lesser recovery for each individual Class Member since Defendant was unlikely to pay full damages, if anything if a full common fund was required;
- c. The Notice—direct, individualized notice to every class member at least twice (three times for class members for whom Defendants have email addresses)—is extremely robust, while the claims' submission process (which includes pre-filled information, prepaid postage return forms, an electronic submission option, and requires mere attestation) is extremely simple;
- d. Even if there was a common fund settlement with checks sent to each insured with no claims process, there would be a substantial percentage of class members who would not accept the payment or cash the check. Thus, if Plaintiffs declined to settle and successfully secured a litigated judgment that was affirmed on appeal, there unquestionably would be undistributed funds. In that case Defendants would have a due process right to require individuals to submit individual proof of damages, and there inevitably would be uncashed checks. And because this case is a breach of contract where specific individuals have individual property rights to distinct sums of money—not the aggregation of claims under a statutorily-created cause of action for

the very purpose of deterring certain behavior—there is a significant possibility that this Court would order unclaimed funds following a litigated judgment to remain with Defendant, even in a common fund settlement. This would also result in a significant demand of judicial resources to address each specific defense as to each claim.

16. The additional notice ordered by the Court improved the Notice Plan. Absent the extremely simple claims process—a pre-filled, postage-prepaid claim form and dropping it in the mail or clicking a button on a website—Class Counsel’s opinion may be different. But here, 99.5% of the Class members received multiple notices. *See* Declaration of Ricky Borges, ECF 46-1, ¶ 17.
17. I have extensive experience successfully litigating class actions, including cases almost identical to the present case. Together with Class Counsel across the country we have litigated dozens of similar cases related to underpayment of total loss damages just like this case. Most of them have settled under a similar structure and no court in the Country has rejected a settlement under this structure. Further, nor has any Court denied or reduced our fee where the Defendants have agreed to pay all the fees with the Class paying nothing in fees or costs.
18. For example, I and other Class Counsel have recently settled the exact same case, with the exact same claims made structure in the Middle District of Louisiana, *Cummings v. Allstate Property & Casualty Insurance Company*, Case No.: 22-00247-JWD-EDW. There, Judge John W. deGravelles approved the settlement and the attorneys’ fees in the amount of \$1,150,000.00. (*Cummings v. Allstate Plaintiff’s Motion for Attorneys’ Fees and Costs and Plaintiff’s Service Award* filed 11/22/24). In that case, as here, Defendant paid all attorneys’ fees and expenses on top of the claim payments. In the instant case, in *Chambers* and in the dozens of similar cases Class Counsel have settled, every single class member with whom we interacted has expressed that they believe choosing to settle under this structure, for 100% of damages with robust notice and a simple claims process is preferred over risking continuing litigation or settling under a direct-pay model for significantly less damages per class member (if that option were even available, which, here, it was not).
19. To support the incentive award to the Class Representative I confirm that Plaintiff Bass has been an active participant throughout this litigation, including by: (a) gathering and providing documents to counsel to be produced to Imperial, (b) engaging in the pre-suit investigation process by submitting documents and policies to counsel to review, speaking in person and/or over phone or email to discuss various questions counsel had, (c) conferring with class counsel throughout the litigation, and (d) seeking to understand what “class actions” are and what it means to be a fiduciary and a class representative. None of the Class Members would have received any past or future benefits but for the actions of the Class Representative.

20. I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Further the declarant sayeth naught.

Dated: May 20, 2025

/s/ Ed Normand

Edmund A. Normand, Esq.

Attorney for Plaintiff and Settlement Class

EXHIBIT 1

4. I submit this supplemental declaration in order to provide the Parties and the Court with updated settlement administration statistics regarding the Court-approved Class Notice program and claims received.

5. To comply with the Court's order of December 10, 2024 in this matter, on December 18, 2024, Epiq mailed a reminder postcard notice to all Settlement Class Members who had not yet submitted a Claim Form. 340 new Claim Forms were received as a result of this mailing. The total count of Claim Forms filed is 916, out of which 877 have been verified and approved for payment. The total dollar value of the 877 approved claims before consideration of fees, litigation and administrative costs to be paid for by Defendant is \$579,523.90 and the average value per claim is \$997.46.

6. Epiq's expenses for administration of the Settlement total \$62,312.89 to date.

7. It should also be noted that, in the original Notice outreach in connection with the Settlement, Notice of the Settlement was sent by email to all Settlement Class Member records with valid email addresses, as well as by postcard notice including a detachable Claim Form, pre-populated with the claimant's information, with prepaid postage. I am informed that, because this was a claims made settlement structure, Defendants did not pre-review claim files to determine whether any potential class member had previously been paid sales tax and/or title fees and if so in what amount. Because of that, and in the interest of reaching the widest possible population, notice was sent to policyholders who were part of the Settlement Class but who may have been paid sales tax and/or title fees in full or in part prior to the Settlement and thus were either not entitled to a claim payment or were entitled only to a reduced claim payment under the Settlement formula.

I declare under penalty of perjury under the laws of the United States and the State of Louisiana that the foregoing is true and correct and that this declaration was executed on May 20, 2025 in Seattle, Washington.



Eamon Mason
Senior Project Manager
Epiq

EXHIBIT 2

EXHIBIT 2

ORIGINAL LODESTAR		\$343,614.00
	ADDITIONAL HOURS	
Edmund A. Normand, Esq. Normand PLLC	90.8	\$81,720.00
Chris Hudon, Esq. Normand PLLC	50.1	\$29,685.00
Alex Couch, Esq. Normand PLLC	17.00	\$10,200.00
Janna Sherwood, Paralegal Normand PLLC	80.4	\$18,090.00
Devi Ramprasad, Paralegal Normand PLLC	15.7	\$2,747.50
Adam Schwartzbaum, Edelsberg Law	30.5	\$27,450.00
TOTAL LODESTAR		\$513,506.50

EXHIBIT 2

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA**

DANA BASS,)	CASE NO: 1:22-cv-00550
)	
Plaintiff,)	
)	
vs.)	
)	
IMPERIAL FIRE AND CASUALTY INSURANCE COMPANY,)	
)	
Defendant.)	

**ORDER APPROVING SETTLEMENT AND
JUDGMENT OF DISMISSAL WITH PREJUDICE**

The Parties have reached a settlement in this case. Through an Unopposed Motion for Final Approval of Class Settlement, they seek, among other things, that the Court (1) certify the proposed Class for Settlement purposes; (2) approve the Class Action Settlement Agreement; (3) find that notice to the Settlement Class was fair, adequate, and comported with due process; and (4) enter an order finally approving the Settlement and an order of Final Judgment of Dismissal with Prejudice. For the reasons stated below, the Motion is granted.

Plaintiff, Dana Bass, individually and on behalf of the proposed Settlement Class, and Defendant, Imperial Fire and Casualty Insurance Company (“Imperial,” defined in the Settlement Agreement), have agreed, subject to approval by the Court, to settle this Action upon the terms and conditions in the Agreement; and

The Parties have made an application for approval of the Settlement of this Action, as set forth in the Agreement; and

On December 10, 2024, the matter of the Court’s final approval of the Agreement submitted on April 17, 2024, by the Motion for Order Preliminarily Approving Settlement, Approving Notice to Class Members, and Setting Date for Settlement Fairness Hearing, came before the Court for consideration. Appearing on behalf of the Named Plaintiff and the Settlement Class was Edmund Normand, Normand PLLC, 3165 McCrory Place, Suite 175, Orlando, Florida 32803, and Soren Gisleson, Herman & Katz, 820 O’Keefe Avenue, New Orleans, Louisiana 70113 (“Class Counsel”). Appearing on behalf of Defendant were Mithun Kamath, Barrasso, Usdin, LLC, 909 Poydras Street Suite 2350, New Orleans, Louisiana 70112 and Steven M. Levy, Dentons US LLP, 233 South Wacker Drive, Suite 5900, Chicago, Illinois 60606.

WHEREAS, the Named Plaintiff, Dana Bass, on behalf of herself and the proposed Settlement Class, and Defendant, Imperial Fire and Casualty Insurance Company, individually and on behalf of all affiliated entities (collectively, “Imperial,” as defined in the Agreement), have executed and filed the Agreement with the Court on April 17, 2024; and

WHEREAS, all capitalized terms used herein shall have the same meaning as set forth in the Agreement and are hereby incorporated by reference, and this Order incorporates by reference the definitions in the Agreement; and

WHEREAS, the Court, on April 18, 2024, entered the Order Re: Preliminary Approval of Settlement and Approval of Notice of Pendency of Settlement of Class Action to Class Members (“Preliminary Approval Order”), preliminarily approving the Proposed Settlement and conditionally certifying this Action, for settlement purposes only, as a class action; and

WHEREAS, Dana Bass was approved in the Preliminary Approval Order as the Class Representative; and

WHEREAS, the Court, as part of its Preliminary Approval Order, directed that a plan for disseminating notice of the settlement (“Notice Plan”) be implemented, and scheduled a hearing to be held on December 10, 2024, to determine whether the Proposed Settlement should be approved as fair, reasonable, and adequate; and

WHEREAS, Imperial and Class Counsel have satisfactorily demonstrated to the Court that the Notice Plan was followed; and

WHEREAS, a Final Approval Hearing was held on December 10, 2024, at which all interested persons were given an opportunity to be heard; and

The Court, having read and considered the Agreement and the Exhibits thereto, and having read and considered all other papers filed and proceedings had herein, and being otherwise fully informed, and with good cause appearing,

IT IS HEREBY ORDERED:

1. This Order incorporates by reference and utilizes the definitions in the Agreement.
2. The Court has jurisdiction over the subject matter of this Action and over all Parties to this Action.
3. The Complaint filed in this Action alleges generally that Imperial improperly failed to pay Sales Tax and Transfer Fees when adjusting total loss claims in Louisiana.
4. The Court approves the Agreement and finds the Settlement to be fair, reasonable, and adequate to the Settlement Class, but such finding is not to be deemed an admission of liability or fault by Imperial or by any other Person, or a finding of the validity of any claims asserted in the Action or of any wrongdoing or of any violation of law by Imperial. The settlement of this matter by Imperial, including, but not limited to, the terms and provisions of the Agreement, and any steps taken in accordance therewith, shall not be used

in any way as precedent in any pending or future actions, including any actions against Imperial or any of the Released Persons.

5. The Court appoints Dana Bass as Class Representative, and Normand PLLC, Edelsberg Law, P.A., Shamis & Gentile, P.A., and Herman Herman & Katz, LLC as Class Counsel.
6. The Court finds the Class Notice constituted the best notice practicable under the circumstances, by providing individual notice and email notice on two occasions to all Class Members who were identified through reasonable effort, and constituted valid and sufficient notice to all Persons entitled thereto, complying fully with the requirements of Fed. R. Civ. P. 23 and due process.
7. The Court reaffirms and reappoints Epiq Systems as the Settlement Administrator.
8. Consistent with the Agreement, the Court certifies for purposes of Settlement the following Settlement Class:

All Insureds, under any Louisiana automobile insurance policy issued by IMPERIAL FIRE AND CASUALTY INSURANCE COMPANY (“Defendants”), and its subsidiaries or related insurance companies with the same operative policy language covering a vehicle with auto physical damage coverage for comprehensive or collision loss where such vehicle was declared a total loss, who made a first-party claim for total loss, and whose claim was adjusted as a total loss, within the relevant time period and who are mailed class Notice and do not timely opt out from the settlement class (the “Settlement Class”). Excluded from the Settlement Class are: (1) Imperial, its agents, employees, subsidiaries, parents, and related entities, all present or former officers and/or directors of Imperial, the Settlement Administrator, the Mediator, Class Counsel, and any Judge of this Court and the Judge’s staff and employees; (2) Individuals with claims for which Imperial received a valid and executed release; (3) Individuals who are not on the Notice list and who did not submit a valid Claim Form or Electronic Claim Form for payment under this Settlement Agreement; (4) Individuals who request exclusion from the Class; and (5) Individuals with claims for first-party property damage as to which the individual process of appraisal or arbitration or a lawsuit has been completed or initiated at the time this Settlement Agreement is filed.

9. For purposes of Settlement, the threshold requirements and Rule 23 requirements for class certification are met. Plaintiff possesses Article III standing and the proposed Settlement Class is adequately defined and clearly ascertainable. The Settlement Class is adequately defined

because the class definition is clear and precise, is based on objective criteria, and, because it only includes insureds who also suffered redressable harm, and it is not overbroad.

10. For purposes of Settlement, the Class is sufficiently numerous, there are questions of law and fact common to the Settlement Class, Plaintiff's claim is typical of the Settlement Class, and both Plaintiff and Class Counsel are adequate representatives of the Settlement Class. See generally: *Cleven v. Mid-Am. Apartment Communities, Inc.*, 20 F.4th 171, 175 (5th Cir. 2021) *Beattie v. CenturyTel, Inc.*, 511 F.3d 554, 560 (6th Cir. 2007) (to certify a class, Rule 23(a) requirements of numerosity, commonality, typicality, and adequacy must be satisfied).

11. For purposes of settlement, questions common to the class predominate over any individual questions, and class treatment is superior to alternative forms of adjudication. See generally *id.* (predominance and superiority requirements must be met to certify a class under Rule 23(b)(3)).

12. The Named Plaintiff and Imperial have entered into the Agreement which has been filed with the Court. The Agreement provides for the Settlement of this Action with Imperial on behalf of the Named Plaintiff and the Settlement Class Members, subject to approval by the Court of its terms. The Court scheduled a hearing to consider the approval of the Settlement and directed that the Class Notice be disseminated in accordance with the terms of the Preliminary Approval Order.

13. In accordance with the terms of the Settlement and the Preliminary Approval Order, the Parties implemented the Notice Plan approved by the Court. Imperial's counsel and Class Counsel have confirmed to the Court that the Parties complied with the Notice Plan.

14. The Court hereby finds that the Notice Plan and the Class Notice constituted the best notice practicable under the circumstances and constituted valid, due, and sufficient notice to

members of the Settlement Class. The Named Plaintiff and Imperial have applied to the Court for final approval of the terms of the Proposed Settlement and for the entry of this Final Judgment. Pursuant to the Class Notice, a hearing was held before this Court, on December 10, 2024, to determine whether the Proposed Settlement of the Action should be finally approved as fair, reasonable, and adequate, and whether the Final Judgment approving the Settlement and dismissing all claims in the Action on the merits, with prejudice and without leave to amend, should be entered.

15. There is a strong federal policy favoring settlement of disputes, including class actions. See, e.g., *Smith v. Crystian*, 91 Fed. App'x 952, 955 (5th Cir. 2004). The Court finds that both procedural and threshold requirements set forth in Fed. R. Civ P. 23(e)(2) are satisfied. First, given the extensive discovery and dispositive motion litigation that occurred prior to settlement discussions, Plaintiff and Class Counsel possessed sufficient information and knowledge of the claims, issues, and defenses prior to negotiating and settling the claims.

16. Second, the negotiations were clearly conducted at arm's length. See generally *In re Chinese-Manufactured Drywall Prod. Liab. Litig.*, 424 F. Supp. 3d 456, 486 (E.D. La. 2020) (noting presumption in favor of settlement was warranted where, among other things, it was "the product of arms-length negotiations between sophisticated parties").

17. Fed. R. Civ. P. 23(e)(2)(C)-(D) establishes four substantive factors relevant to the class settlement analysis: the costs and risk of trial and appeal, the method of claim distribution, the terms of attorneys' fees, and whether class members are treated equitably vis a vis each other. These factors also weigh in favor of approval.

18. The claim-processing method is straightforward, requiring merely attesting to a pre-filled, postage-prepaid Claim Form. As such, Rule 23(e)(2)(C)(ii)—the method for “distributing relief” and “processing class-members claims”—weighs in favor of approval.

19. Additionally, the Parties did not discuss attorneys’ fees until after agreement was reached concerning the substantive terms of the Agreement and Imperial agreed to separately pay attorneys’ fees and costs—meaning Class Members’ recoveries will not be impacted or reduced in any way—which counsels in favor of approval.

20. In addition, there were zero objections and zero opt outs, which is strong evidence in support of the fairness and reasonableness of the Settlement terms.

21. As such, the Court **GRANTS FINAL APPROVAL OF** the Settlement, and the Parties are hereby directed to consummate the Settlement in accordance with its terms.

22. The Class Claims in this Action are dismissed in their entirety, on the merits, with prejudice and without leave to amend, and the Named Plaintiff and all members of the Settlement Class, the Releasing Parties, and any of their respective heirs, executors, administrators, partners, agents, and the successors and assigns of each of them, shall be forever barred and permanently enjoined from asserting, either directly or indirectly, individually, or in a representative capacity or on behalf of or as part of a class, and whether under State or Federal statutory or common law, any Released Claim against any Released Person.

23. As of the Effective Date, by operation of the entry of the Final Judgment, each Settlement Class Member shall be deemed to have fully released, waived, relinquished and discharged, to the fullest extent permitted by law, all Released Claims that the Released Parties may have against all the Released Persons.

24. “Released Claims” means and includes any and all known and Unknown Claims, rights, demands, allegations, actions, suits or causes of action of whatever kind or nature, whether *ex contractu* or *ex delicto*, debts, liens, liabilities, agreements, interests, costs, expenses, attorneys’ fees, losses or damages (whether actual, consequential or treble) statutory, common law or equitable, including but not limited to breach of contract, bad faith or extra-contractual claims, and claims for punitive or exemplary damages, or prejudgment or postjudgment interest, arising from or relating in any way to Imperial’s alleged failure to pay any Sales Tax (or sufficient Sales Tax on leased vehicles and retained salvage total loss vehicles) and insufficient payment of Transfer Fees to Plaintiff and all Settlement Class Members with respect to any Settlement Class Member Claims for a total loss vehicle during the Class Period under an automobile insurance policy issued by Imperial based on any legal theory whatsoever relating to payment of Sales Tax and Transfer Fees to the fullest extent of the law and res judicata and/or claim preclusion protections. Released Claims do not include any claim for enforcement of the contemplated Settlement Agreement and/or Final Order and Judgment. Released Claims also do not include any claims, actions, or causes of action alleging that Imperial failed to properly calculate the value of total loss vehicles except to the extent that such claims, actions, or causes of action relate to failure to pay any or sufficient Sales Tax and Transfer Fees.

25. “Released Persons” means Imperial, as defined above, and any of its members, parents, subsidiaries, affiliates, managers, past, present or future officers, stockholders, attorneys, insurers, reinsurers, excess insurers, directors, agents, employees and/or independent contractors, and/or any other successors, assigns, divisions, or legal representatives thereof, and any other Person or entity who or which might be liable on the basis of any conduct by any of the foregoing.

26. “Releasing Parties” means the Named Plaintiff and the Settlement Class Members who do not otherwise timely opt-out of the Settlement Class, and their heirs, predecessors, successors, assigns, family members, personal representatives, attorneys, officers, stockholders, shareholders, principals, owners, agents, fiduciaries, spouses, children, dependents, parents, creditors, judgment creditors, representatives, employees, employers, executors, administrators, conservators, receivers, subrogees, trusts, trustees, members, servants, independent contractors, lessors, lessees, executors, administrators, insurers, reinsurers, underwriters, directors and/or past, present and/or future parent, subsidiaries and/or affiliated corporations, partnerships and/or other entities, and on behalf of any other Person or entity who or which could or might assert any claim under or through any of the foregoing.

27. “Unknown Claims” means any unknown Released Claims arising out of facts found hereafter to be other than or different from the facts now believed to be true and relating to Sales Tax and Transfer Fees to the full extent permitted by law and to the full extent of *res judicata* and/or claim preclusion protection.

28. Within 30 days after all of Imperial’s obligations under this Settlement are effectuated, Class Counsel and/or other attorneys for the Named Plaintiff in this Action, or any Settlement Class Member or their counsel, shall destroy all Proprietary Information provided by Imperial to Class Counsel or anyone they employed or retained in this Action, either in discovery or in connection with this Agreement. Class Counsel shall deliver a letter to Imperial’s counsel certifying their compliance with this Paragraph. Further, the Parties agree that neither Class Counsel, nor anyone employed with, retained by, or otherwise associated with Class Counsel, nor any other attorney or Person who shall have access to this information, shall use any of this

Proprietary Information in any other litigation or proceeding, current or future, or for any other purpose whatsoever.

29. The Agreement, the Settlement, and this Final Judgment are not to be deemed admissions of liability or fault by Imperial, or a finding of the validity of any claims in the Action or of any wrongdoing or violation of law by Imperial. The Agreement and Settlement are not a concession by the Parties and, to the extent permitted by law, neither this Final Judgment nor the Settlement, nor any of its terms or provisions nor any of the negotiations or proceedings connected with it, shall be utilized or offered as evidence or received in evidence in any pending or future civil, criminal, or administrative action or proceeding, for any purpose including to establish any liability or admission by any of the Released Persons, except in any proceedings brought to enforce the Agreement or the Final Judgment otherwise with the written consent of Imperial at its sole discretion. Nor may this Agreement be construed in any fashion as precedent for any matter, or used as evidence of any kind, by any person or entity, in any action or proceeding against the Released Parties, as this Agreement has been entered into based on the particular facts of this matter alone. However, Imperial may use the Agreement or the exhibits thereto, and the Settlement, and/or any related document, may be used in any action that may be brought against it to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion relating to the Released Claims set out in the Agreement.

30. Only to the extent that it is otherwise not violative of any applicable rules governing the practice of law, Class Counsel agree that any representation, encouragement, solicitation, or other assistance, including, but not limited to, referral to other counsel, of any opt-out or any other person seeking to litigate with any of the Released Persons over any of the Released Claims or to

represent any form of opt-out class, could place Class Counsel in an untenable conflict of interest with the Class. Accordingly, Class Counsel and their respective firms agree (only to the extent that it is otherwise not violative of any applicable rules governing the practice of law) not to represent, encourage, solicit, or otherwise assist, in any way whatsoever (including, but not limited to referrals to other counsel), any opt-out or any form of opt-out class, except that referring such person to the Notice or suggesting to any such person the option of obtaining separate counsel, without specifically identifying options for such counsel, shall be permitted under the terms of this provision.

31. The Court has also considered the application for attorneys' fees and costs and for a service award to the Named Plaintiff.

32. Courts consider the following factors in analyzing the reasonableness of a requested fee amount: 1) the time and labor required; (2) the novelty and difficulty of the issues; (3) the skill required to perform the legal services properly; (4) the preclusion of other employment by the attorney; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) the time limitations imposed by the client or circumstances; (8) the amount involved and results obtained; (9) the experience, reputation, and ability of the attorneys; (10) the undesirability of the case; (11) the nature and length of the professional relationship with the client; and (12) the award in similar cases. *Venable v. Am. Consulting & Testing Inc.*, No. 6:20-CV-01232, 2022 WL 595738, at *4 n. 36. (*W.D. La. Feb. 25, 2022*) (citation omitted). The Court finds that the requests for attorneys' fees and costs, and the service award, are consistent with the application of these factors.

33. The totality of these factors supports the requested fee award of \$795,000.00 in attorneys' fees and costs, and a service award of \$5,000.00 to the Class Representative.

Accordingly, the Court hereby **GRANTS** Plaintiff's Motion for Attorneys' Fees and Costs and a Service Award.

As such, it is hereby **ORDERED** and **ADJUDGED**:

34. The benefits of the Settlement are fair, reasonable, and adequate. Further, for purposes of settlement, the Settlement Class meets the requirements of Fed. R. Civ. P. 23(a) and (b)(3), and the Court therefore certifies the Settlement Class as defined in the Settlement Agreement. Finally, the requested attorneys' fees, costs, and service award are reasonable.

35. All Releasing Parties are hereby barred and enjoined from asserting any Released Claims against Imperial at any time. Imperial and the Released Parties are hereby released from all the Released Claims. This Court reserves continuing and exclusive jurisdiction over the Parties to this Agreement, including Imperial and Settlement Class Members, to administer, supervise, construe, and enforce this Agreement in accordance with its terms.

36. In accordance with Fed. R. Civ. P. 54, this Final Order and Judgment is a final and appealable order. Specifically, this Final Judgment is a final order in the Action within the meaning and for the purposes of the Federal Rules of Civil Procedure as to all claims among Imperial on the one hand, and the Named Plaintiff and all Settlement Class Members, on the other, and there is no just reason to delay enforcement or appeal.

37. The Clerk of this Court is directed to enter a Final Judgment of Dismissal and close this case.

38. Without in any way affecting the finality of this Final Judgment, this Court shall retain continuing jurisdiction over this Action for purposes of:

(A) Enforcing this Final Judgment, the Agreement, and the Settlement;

(B) Hearing and determining any application by any Party to the Settlement for a settlement bar order; and

(C) Any other matters related or ancillary to any of the foregoing.

IT IS SO ORDERED this ____ day of _____, 2025.

UNITED STATES DISTRICT JUDGE