

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JANELL MOORE, GARY GLICK, and  
MICHELLE ZYGELMAN, on Behalf of  
Themselves and All Others Similarly Situated,

Plaintiffs,

vs.

ANGIE'S LIST, INC.,

Defendant.

CIVIL ACTION NO: 2:15-cv-01243

**PLAINTIFFS' NOTICE, MOTION AND INCORPORATED  
MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' UNOPPOSED  
MOTION FOR ATTORNEYS' FEES, COSTS, AND SERVICE AWARDS**

**PLEASE TAKE NOTICE** that on December 5, 2016 at 9:30 a.m., or on such date as may be specified by the Court, in the courtroom of the Honorable Stewart Dalzell, United States District Court for the Eastern District of Pennsylvania, James A. Byrne United States Courthouse, 601 Market Street, Philadelphia, PA, Plaintiffs Janell Moore, Gary Glick, and Michelle Zygelman (“Plaintiffs”), on behalf of themselves and the Settlement Class, will and hereby do move for an entry of an order, pursuant to Fed. R. Civ. P. 23(h) and 54(d)(2), granting the follow relief:

- 1) An award to Class Counsel of \$903,135.51 in attorneys’ fees;
  - 2) An award to Class Counsel of \$34,364.49 in costs and other litigation expenses;
- and
- 3) Service awards to the Class Representatives, ranging between \$2,500 and \$7,500 each, and totaling \$12,500.

This motion will be heard concurrent with Plaintiffs’ Unopposed Motion for Final Approval of Class Action, which is separately briefed.

This motion is based on this notice; the incorporated Memorandum of Law; the Joint Declaration in Support of Plaintiffs’ Unopposed Motion for Attorneys’ Fees and Costs (Ex. A hereto); the Settlement Agreement (ECF 39, Ex. A); the Unopposed Motion for Final Approval and accompanying documentation (filed concurrently herewith); the declarations of Plaintiffs; the declarations of the Class Notice and Settlement Administrator’s personnel on the implementation of the Class Notice plan and the Claims administration process; the records in this Action; and on such further oral and documentary evidence which may be submitted, and any further evidence as the Court may receive. Pursuant to Fed. R. Civ. P. 23(h), any reply hereto may be filed pursuant to paragraph 17 of the Court’s Preliminary Approval Order on or before November 21, 2016. Upon filing, a copy of this Motion will be posted to the settlement

website, [www.moorevalsettlement.com](http://www.moorevalsettlement.com), where it can easily be accessed by Settlement Class Members.

*/s/ DJS8892*

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**TABLE OF CONTENTS**

	<b><u>PAGE</u></b>
I. INTRODUCTION .....	1
II. BACKGROUND AND PROCEDURAL HISTORY .....	2
A. The Litigation.....	2
B. Mediation Negotiations.....	3
II. SUMMARY OF THE SETTLEMENT .....	4
III. CLASS COUNSEL’S UNOPPOSED REQUEST FOR ATTORNEYS’ FEES IS REASONABLE AND AUTHORIZED BY THE SETTLEMENT AGREEMENT .....	5
A. Application of the Lodestar Method is Proper.....	5
B. Class Counsel’s Lodestar is Properly Calculated .....	6
1. The Number of Hours Worked is Reasonable .....	7
2. Class Counsel’s Hourly Rates Are Reasonable .....	9
A. The Requested Multiplier Further Underscores the Reasonableness of the Sought Fee Award.....	10
B. Other Factors to Determine the Reasonableness of Fees Support the Requested Fee Award .....	11
1. Class Counsel Devoted a Substantial Amount of Time and Effort to This Case on a Purely Contingent Basis, and Were Precluded From Other Employment as a Result .....	12
2. This Action Involved Difficult Issues and Plaintiffs’ Claims Entailed Considerable Risk .....	14
3. The Requested Fee is Consistent with Attorneys’ Fees Awarded in Similar Cases .....	15
4. A High Level of Skill Was Necessary to Perform the Legal Services Properly.....	15
IV. CLASS COUNSEL’S COSTS ARE REASONABLE AND WERE NECESSARILY INCURRED .....	16
V. THE REQUESTED SERVICE AWARDS ARE REASONABLE AND SHOULD BE APPROVED .....	17
VI. CONCLUSION.....	19

**TABLE OF AUTHORITIES****PAGE****CASES**

<i>Barba, et al. v. Shire US, Inc., et al.</i> , No. 1:11-cv-21158 (S.D. Fla.) .....	10
<i>Cosgrove v. Citizens Auto Fin, Inc.</i> , Civ. A. No. 09-1095, 2011 U.S. Dist. LEXIS 95656 (E.D. Pa. Aug. 25, 2011).....	9
<i>Fleisher v. Fiber Composites, LLC</i> , Civ. A. No. 12-1326, 2014 U.S. Dist. LEXIS 29151 (E.D. Pa. Mar. 5, 2014).....	17
<i>Godshall v. The Franklin Mint Co.</i> , No. 01-cv-6539, 2004 U.S. Dist. LEXIS 23976 (E.D. Pa. Dec. 1, 2004).....	18
<i>Harlan v. NRA Group, LLC</i> , No. 10-0324, 2011 U.S. Dist. LEXIS 26841 (E.D. Pa. Mar. 2, 2011).....	10
<i>Haught v. Summit Res., LLC</i> , No. 1:15-cv-0069, 2016 U.S. Dist. LEXIS 45054 (M.D. Pa. Apr. 2016).....	18
<i>Hensley v. Eckerhart</i> , 461 U.S. 424 (1983).....	11
<i>In re Am. Investors Life Ins. Co. Annuity Mktg. &amp; Sales Practices Litig.</i> , 263 F.R.D. 226 (E.D. Pa. 2009).....	18
<i>In re AT&amp;T Corp. Secs. Litig.</i> , 455 F.3d 160 (3d Cir. 2006).....	9
<i>In re Cendant Corp. Prides Litig.</i> , 243 F.3d 722 (3d Cir. 2001).....	11
<i>In re CertainTeed Fiber Cement Siding Litig.</i> , 303 F.R.D. 199 (E.D. Pa. 2014).....	17
<i>In re Diet Drugs</i> , 582 F.3d 524 (3d Cir. 2009).....	6
<i>In re Flonase Antitrust Litig.</i> , 291 F.R.D. 93 (E.D. Pa. 2013).....	10
<i>In re Gen. Motors Corp. Pick-Up Truck Fuel Tank Prods. Liab. Litig.</i> , 55 F.3d 768 (3d Cir. 1995).....	5, 6
<i>In re Linerboard Antitrust Litig.</i> , MDL No. 1261, 2004 U.S. Dist. LEXIS 10532 (E.D. Pa. June 2, 2004) .....	11
<i>In re Merck &amp; Co. Vytorin ERISA Litig.</i> , Civ. A. No. 08-cv-285, 2010 U.S. Dist. LEXIS 12344 (D.N.J. Feb. 9, 2010) .....	9
<i>In re OSB Antitrust Litig.</i> , Master File No. 06-826, 2008 U.S. Dist. LEXIS 125173 (E.D. Pa. Dec. 9, 2008) .....	16

<i>In re Prudential Ins. Co Am. Sales Practices Litig.</i> , 148 F.3d 283 (3d Cir. 1998).....	6
<i>In re Rite Aid Corp. Secs. Litig.</i> , 396 F.3d 294 (3d Cir. 2005).....	6, 10
<i>Johnson v. Ga. Highway Express, Inc.</i> , 488 F.2d 714 (5th Cir. 1974) .....	11
<i>Keenan v. City of Phila.</i> , 983 F.2d 459 (3d Cir. 1992).....	9
<i>Keller v. TD Bank, N.A.</i> , Civ. A. No. 12-5054, 2014 U.S. Dist LEXIS 155889 (E.D. Pa. Nov. 14, 2014).....	11
<i>Kim v. Euromotors W./The Auto Gallery</i> , 149 Cal. App. 4th 170 (2007) .....	17
<i>Lindy Bros. Builders, Inc. v. Am. Radiator &amp; Std. Sanitary Corp.</i> , 540 F.2d 102 (3d Cir. 1976).....	6
<i>Mills v. Elec. Auto-Lite Co.</i> , 396 U.S. 375 (1970).....	16
<i>Moore v. GMAC Mortg.</i> , Civ. A. No. 07-4296, 2014 U.S. Dist. LEXIS 181432 (E.D. Pa. Sept. 19, 2014) .....	9
<i>Neal v. Bavarian Motors, Inc.</i> , 882 A.2d 1022 (Pa. Super. Ct. 2005).....	17
<i>Planned Parenthood of Central N.J. v. Att’y Gen’l of N.J.</i> , 297 F.3d 253 (3d Cir. 2002).....	6
<i>Posa v. City of East Orange</i> , Civ. No. 03-233, 2005 U.S. Dist. LEXIS 20060 (D.N.J. Sept. 8, 2005) .....	7
<i>Public Interest Research Grp. v. Windall</i> , 51 F.3d 1179 (3d Cir. 1995).....	11
<i>Sema v. Automall 46 Inc.</i> , 894 A.2d 77 (N.J. Sup. Ct. App. Div. 2005).....	17
<i>Stop &amp; Shop Supermarket Co. v. SmithKline Beecham Corp.</i> , Civ. A. No. 03-4587, 2005 U.S. Dist. LEXIS 9705 (E.D. Pa. May 20, 2005) .....	11
<i>Sullivan v. DB Investments, Inc.</i> , 667 F.3d 273 (3d Cir. 2011).....	5
<i>Tavares v. S-L Distrib. Co.</i> , No. 1:13-cv-1313, 2016 U.S. Dist. LEIS 57689 (M.D. Pa. May 2, 2016) .....	11
<i>Washington v. Phila. Cty. Ct. of Comm. Pleas</i> , 89 F.3d 1031 (3d Cir. 1996).....	12
<i>Yong Soon Oh v. AT&amp;T Corp.</i> , 225 F.R.D. 142 (D.N.J. 2004).....	17

**RULES**

Fed. R. Civ. P. 23(h) ..... 2, 5, 16

## I. INTRODUCTION

After substantial discovery, Plaintiffs' Class Counsel negotiated the Settlement Agreement (ECF 39, Ex. A) (the "Settlement" or "Agreement") with Defendant Angie's List, Inc. ("Angie's List"). Under the Settlement, Settlement Class Members who submit a valid Claim may elect to receive a monetary benefit, or a membership benefit of up to four months of Angie's List membership. Angie's List will deposit \$1.4 million into a fund from which the monetary benefits will be paid, which will not be reduced by notice and claims administration costs, attorneys' fees and costs, or service awards. In addition, the Settlement contemplates prospective relief in the form of enhancements to Angie's List's standardized Membership Agreement and publicly available FAQs. This is an excellent result for the Settlement Class. *See* Joint Declaration of Ruben Honik, Esq., Dee Bagley, Esq., and Kirk Wolden, Esq. ("Joint Declaration" or "Joint Decl.") at ¶¶ 27 (Ex. A hereto). The Settlement is fair, adequate, and reasonable. *Id.*

Plaintiffs and Plaintiffs' Class Counsel have separately moved for Final Approval of the Settlement. Concurrently therewith, and pursuant to the Settlement Agreement, Plaintiffs and Class Counsel respectfully move for (i) attorneys' fees in the amount of \$903,135.61 to compensate Class Counsel for their work in achieving the Settlement, (ii) \$34,364.49 in costs and expenses incurred in prosecuting this Action, and (iii) Service Awards for the named plaintiffs totaling \$12,500. Angie's List does not oppose this motion.

## II. BACKGROUND AND PROCEDURAL HISTORY

### A. The Litigation

On March 11, 2015, Plaintiff Janell Moore filed a class action complaint in this District on behalf of herself and a nationwide class (and Pennsylvania subclass) of consumers against Defendant Angie's List, Inc. ("Angie's List"). Ms. Moore sought monetary damages and other relief in connection with Angie's List's allegedly misleading representations and alleged omissions about whether service providers can pay to advertise on Angie's List and whether, by doing so, the service providers allegedly can influence their letter-grade ratings, the content and visibility of consumer reviews, and their search-result rankings. Joint Decl. at ¶¶ 5-6. The original complaint in the *Moore* action asserted that Angie's List's alleged failure to adequately disclose this information constituted a breach of contract (viz., the standardized Membership Agreement between Angie's List and its members) and breach of the implied covenant of good faith and fair dealing (Count I), fraud and fraudulent inducement (Count II), unjust enrichment (Count III), and a violation of state unfair trade practices and consumer protection laws (Count IV). *See id.* at ¶ 5.

An extensive factual record was developed in the *Moore* action, aided by the Court's approval of two requests for short extensions of the discovery deadline, particularly to accommodate document and electronic discovery and the scheduling of multiple depositions. *See* ECF 25; ECF 36. At the time of settlement, the parties had nearly completed discovery, which included Plaintiffs' deposing four of Angie's List's current and former corporate personnel; Plaintiffs' third-party discovery of Angie's List's outside auditor of certain of its business practices; and Angie's List's production of more than 100,000 pages of documents from multiple document custodians. *See* Joint Decl. at ¶¶ 9-11, 16.

**B. Mediation Negotiations**

The parties' first in-person mediation occurred on October 26, 2015, before Magistrate Judge Jacob Hart, after limited discovery. Joint Decl. at ¶ 13. At that time, the parties could not reach a settlement at that particular stage of the litigation. *Id.*

As discovery progressed, the parties believed it was worthwhile to re-engage in formal mediation discussions. The parties jointly retained an experienced mediator, James T. Giles, Esq., currently Of Counsel of Pepper Hamilton LLP and a retired former Chief Judge of this District. Joint Decl. at ¶ 14. The first in-person, all-day mediation session before Judge Giles took place on April 4, 2016, after the parties provided Judge Giles with certain case materials and information. *Id.* at ¶ 15. By this time, significant fact discovery had been completed, and the parties' discovery motions had been resolved by the Court. *Id.*

The parties made substantial progress at the April 4 mediation, but could not achieve a resolution. The parties continued to engage in negotiations after April 4 and, after many days of back-and-forth, the contours of a potential agreement in principle began to take shape. *Id.* at ¶ 16. The parties held another in-person, all-day mediation session with Judge Giles on April 12, 2016, which resulted in a detailed, written memorandum of understanding. *Id.* at ¶ 17.

As can be attested to by Judge Giles, the mediation process was non-collusive and conducted at arms-length between the parties with divergent views as to the risks of litigation, and the ultimate value of any judgment – the same views which had stymied earlier efforts toward resolution before Magistrate Judge Hart, but which had been tempered and adjusted on both sides by the ensuing discovery and this Court's discovery rulings. *Id.* at ¶ 18.

On April 20, 2016, the parties informed this Court that following private mediation and months of protracted litigation, they had reached an agreement in principle on behalf of the Settlement Class defined herein. *Id.* at ¶ 19. The parties informed the *Zygelman* and *Glick*

courts as well. *Id.* The parties executed the Agreement on June 24, 2016, memorializing the agreement and expanding upon the memorandum of understanding executed on April 19, 2016, subject to Preliminary Approval and Final Approval as required by Federal Rule of Civil Procedure 23. *Id.* at ¶ 20. This Court granted preliminary approval on July 12, 2016. ECF 43. In that Order, the Court certified the Settlement Class, appointed Plaintiffs' Class Counsel, and ordered the dissemination of notice to the Settlement Class. *Id.*

For full details regarding the litigation and settlement negotiations, Plaintiffs respectfully refer to the Background section of their Unopposed Motion for Final Approval of Class Action Settlement, which is being concurrently filed herewith and is incorporated herein by reference.

## **II. SUMMARY OF THE SETTLEMENT**

For purposes of this Motion, Plaintiffs reiterate here that the Settlement requires Angie's List to deposit a non-reversionary, aggregate amount of \$1.4 million into a Class Settlement Fund, to be completely distributed among eligible Settlement Class Members who choose to receive a monetary benefit. Agreement (ECF 39, Ex. A) at ¶¶ 8, 17-21. Alternatively, eligible Settlement Class Members may elect to receive a monthly membership benefit, of up to four free month of Angie's List membership. *Id.* Angie's List has also agreed to certain prospective relief in the form of enhancements to its standardized Membership Agreement and publicly available FAQs. *Id.* at ¶ 23.

Apart from the money allocated to the Class Settlement Fund, Angie's List is obligated to pay reasonable notice and settlement administration costs associated with the Settlement. Agreement at ¶¶ 68, 85. In addition, Angie's List has agreed not to oppose Plaintiffs' Class Counsel's request for attorneys' fees and costs of up to \$937,500. *Id.* at ¶ 83. Angie's List has further agreed not to oppose service awards for each class representative in this matter, in the total amount of \$12,500. *Id.* at ¶ 85. These Service Awards will compensate the class

representatives for the time, effort, and risks they undertook in prosecuting the Action. *Id.* Further details regarding the Settlement are found in Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement, filed concurrently herewith.

**III. CLASS COUNSEL'S UNOPPOSED REQUEST FOR ATTORNEYS' FEES IS REASONABLE AND AUTHORIZED BY THE SETTLEMENT AGREEMENT**

At the conclusion of a successful class action, class counsel may apply to a court for an award of attorneys' fees. *See* Fed. R. Civ. P. 23(h). The amount of an attorneys' fee award "is within the district court's discretion so long as it employs correct standards and procedures and makes finding of fact not clearly erroneous[.]" *Sullivan v. DB Investments, Inc.*, 667 F.3d 273, 329 (3d Cir. 2011) (en banc) (internal quotations and citation omitted). As indicated in the Court-approved Notice disseminated to the Settlement Class, and consistent with standard class action practice and procedure, Plaintiffs' Class Counsel requests attorneys' fees in the amount of \$903,135.51, to be paid exclusively by Angie's List and apart from the \$1.4 million Class Settlement Fund. *See* Agreement at ¶¶ 17-21, 83, 85. Not only does the Settlement provide for reasonable attorneys' fees to be paid by Angie's List, but Plaintiffs' Class Counsel's requested attorneys' fees fall within the acceptable range of fees routinely approved in this Circuit.

**A. Application of the Lodestar Method is Proper**

"Attorneys' fees requests are generally assessed under one of two methods: the percentage-of-recovery ('POR') approach or the lodestar scheme." *Sullivan*, 667 F.3d at 330. The POR approach is appropriate in cases involving a common settlement fund, i.e., when a settlement contemplates one fund from which class member payments and attorneys' fees will be paid. *See In re Gen. Motors Corp. Pick-Up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d 768, 821 (3d Cir. 1995). This is not a common fund case; therefore, the POR approach is inapplicable.

The lodestar method is appropriate in cases, such as this one, that do not involve a common settlement fund. “The lodestar method is ‘designed to reward counsel for undertaking socially beneficial litigation in cases where the expected relief has a small enough monetary value that a percentage-of-recovery method would provide inadequate compensation.’” *In re Diet Drugs*, 582 F.3d 524, 540 (3d Cir. 2009) (quoting *In re Prudential Ins. Co Am. Sales Practices Litig.*, 148 F.3d 283, 333 (3d Cir. 1998)). The lodestar method is also preferable where, as here, a settlement involves prospective relief or “nature of the settlement evades the precise evaluation needed for the percentage of recover method.” *In re Gen. Motors*, 55 F.3d at 821. “A reasonable hourly rate multiplied by a reasonable number of hours expended – the ‘lodestar’ – is the presumptively reasonable fee.” *Planned Parenthood of Central N.J. v. Att’y Gen’l of N.J.*, 297 F.3d 253, 265 n.5 (3d Cir. 2002). Once calculated, the lodestar is appropriately subjected to a multiplier. *See infra* IV.A. Class Counsel’s fee request of \$903,135.51 is reasonable under the lodestar method.

**B. Class Counsel’s Lodestar is Properly Calculated**

“The lodestar award is calculated by multiplying the number of hours reasonably worked on a client’s case by a reasonable hourly billing rate for such services based on the given geographical area, the nature of the services provided, and the experience of the attorneys.” *In re Rite Aid Corp. Secs. Litig.*, 396 F.3d 294, 305 (3d Cir. 2005). The lodestar is then subject to a multiplier (sometimes called the “lodestar multiplier”). *See, e.g., id.; Lindy Bros. Builders, Inc. v. Am. Radiator & Std. Sanitary Corp.*, 540 F.2d 102, 117 (3d Cir. 1976). Class Counsel’s hours and rates, and the lodestar multiplier, in this action are reasonable.

### 1. The Number of Hours Worked is Reasonable

Class Counsel seeks compensation for over 1579 hours spent in this action. Joint Decl. at ¶ 28. The number of hours is reasonable given the breadth of this litigation. Since this Action's inception, Class Counsel has spent significant time and effort in prosecuting the class claims against Angie's List, including:

- Extensive pre-filing investigation of the claims against Angie's List, including numerous interviews with current and prospective clients concerning their experiences with Angie's List;<sup>1</sup>
- Conducting legal research regarding various procedural and substantive issues;
- Researching, drafting, and amending the various class action complaints preceding the consolidated Conditional Amended Complaint;
- Interviewing numerous consultants and potential liability and damages experts;
- Consolidating the cases and coordinating matters with local Plaintiffs' counsel;
- Opposing Angie's List's motion to dismiss;
- Preparing for and participating in an initial mediation session with Magistrate Judge Hart;
- Propounding formal written discovery on Angie's List;
- Negotiating the scope of discovery, through numerous Rule 37 meet-and-confer conferences, including extensive negotiation about the parameters and protocols for electronic document and data discovery;
- Preparing and fully briefing a motion to compel discovery filed against Angie's List;
- Opposing Angie's List's motion for a protective order as to the noticed deposition of Ms. Angie Hicks;

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<sup>1</sup> “[T]he Third Circuit has construed compensable activities to include pre-litigation services in preparation of filing the lawsuit, background research and reading complex cases, and productive attorney discussions.” *Posa v. City of East Orange*, Civ. No. 03-233, 2005 U.S. Dist. LEXIS 20060, at \*15 (D.N.J. Sept. 8, 2005) (collecting Third Circuit cases).

- Responding to formal written discovery propounded by Angie's List;
- Preparing for and defending the deposition of Plaintiff Janell Moore;
- Reviewing more than 100,000 pages of documents produced by Angie's List;
- Engaging in third-party discovery and negotiating the return on the document and deposition subpoena issued to BPA Worldwide, Inc., which resulted in BPA Worldwide's production of over 15,000 pages of documents;
- Preparing for and deposing four of Angie's List's current or former corporate personnel;
- Preparing for and participating in two extensive, all-day mediation sessions before Judge James T. Giles (ret.), former Chief Judge of this District;
- Drafting and negotiating settlement documents, including the lengthy settlement agreement, class notice, and notice and settlement administration plan, which included a cutting-edge electronic claims module that made it easier for Settlement Class Members to submit claims; and
- Preparing the preliminary and final approval pleadings.

Joint Decl. at ¶ 54.

In addition, discovery in this case ramped up quickly and took place on a relatively compressed timeframe over the course of just a few months, which meant that the significant time and effort expended by Plaintiffs' Class Counsel on this matter was at the expense of other matters (and expended around the end-of-year holidays). *See id.* at ¶¶ 8-11.

Plaintiffs' Class Counsel also took steps to ensure that work was distributed efficiently among attorneys and non-attorney staff, designated tasks to attorneys and staff with lower biller rates when appropriate, and sought to avoid duplication of effort among timekeepers. *Id.* at ¶ 57. The total number of hours of 1579.15 is reasonable given the duration, progression, nature, and complexity of this litigation, and reflects the efficient management of this litigation. *Id.* at 58.

## 2. Class Counsel's Hourly Rates Are Reasonable

At the hourly rates currently charged by Plaintiffs' Class Counsel, Plaintiffs' Class Counsel's pre-multiplier lodestar would be \$805,768.75. Joint Decl. at ¶¶ 40, 45, 51. Calculating the lodestar using Plaintiffs' current billing rates is appropriate given that the same rates were in effect throughout this litigation, and the deferred nature of counsel's compensation. *Id.*<sup>2</sup>

In making the lodestar calculation, Plaintiffs' Class Counsel employed reasonable hourly rates. Billing rates "should be reasonable in light of the given geographical area, the nature of the services provided, and the experience of the attorneys." *In re AT&T Corp. Secs. Litig.*, 455 F.3d 160, 164 (3d Cir. 2006) (internal quotations and citations omitted). "In assessing whether rates are reasonable, courts assess the experience and skill of the attorneys and look at the market rates in the relevant community." *Cosgrove v. Citizens Auto Fin, Inc.*, Civ. A. No. 09-1095, 2011 U.S. Dist. LEXIS 95656, at \*25 (E.D. Pa. Aug. 25, 2011). Here, the hourly rates billed by Plaintiffs' Class Counsel range between \$450 and \$850 per hour for partners, and between \$350 and \$450 per hour for associates. Joint Decl. at ¶¶ 40, 45, 51. These rates are consistent with rates charged by attorneys in comparable law practices in this Circuit, and in this District in particular. *See, e.g., Moore v. GMAC Mortg.*, Civ. A. No. 07-4296, 2014 U.S. Dist. LEXIS 181432, at \*8 (E.D. Pa. Sept. 19, 2014) (finding hourly rates used in the lodestar calculation "reasonably ranged between" \$325 and \$860 per hour); *In re Merck & Co. Vytarin ERISA Litig.*, Civ. A. No. 08-cv-285, 2010 U.S. Dist. LEXIS 12344, at \*44-45 (D.N.J. Feb. 9, 2010)

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<sup>2</sup> Even if Plaintiffs' Class Counsel's rates had varied, the Third Circuit has held that "the lodestar ought to be adjusted to account for the incurred costs of the delay plaintiffs' counsel has undergone in receiving payment." *Keenan v. City of Phila.*, 983 F.2d 459, 476 (3d Cir. 1992). To adjust for delay in payment of attorneys' fees, a court may "bas[e] the fee award on the current rates or adjust[] the fee based on historical rates to reflect its present value." *Id.* at 476 & n.18.

(approving rates up to \$835 per hour); *see also In re Flonase Antitrust Litig.*, 291 F.R.D. 93, 106 (E.D. Pa. 2013).

Also, just a few days ago, another district court approved these same rates in another class action settlement in which one firm here, Golomb & Honik, P.C., also serves as class counsel. *See Barba, et al. v. Shire US, Inc., et al.*, No. 1:11-cv-21158 (S.D. Fla.) at ECF 430 (Unopposed Motion for Attorneys' Fees, filed Sept. 23, 2016, using same hourly rates requested here); *id.* at ECF 436 (minute entry for final approval hearing held on Nov. 10, 2016; granting request for attorneys fees; court "found attorneys fees reasonable"). Finally, a 2014 Survey of Hourly Billing Rates conducted by the National Law Journal shows that – two years ago – senior partner billing rates among larger Philadelphia law firms were in the range of \$760-\$1000 per hour – all of which are above the highest hourly rate here.<sup>3</sup> The NLJ survey has been cited with approval in this district. *See, e.g., Harlan v. NRA Group, LLC*, No. 10-0324, 2011 U.S. Dist. LEXIS 26841, at \*1 n.1 (E.D. Pa. Mar. 2, 2011). The hourly rates claimed by the attorneys in this litigation are reasonable.

**A. The Requested Multiplier Further Underscores the Reasonableness of the Sought Fee Award**

"The multiplier is a device that attempts to account for the contingent nature or risk involved in a particular case and the quality of the attorneys' work." *In re Rite Aid*, 396 F.3d at 305-306; *see Lindy*, 540 F.2d at 117 (contingency multiplier reflects "the contingent nature of [the lawsuit's] success" and the "delay in the receipt of payment for services rendered."). Plaintiffs' Class Counsel's fee request results in a fractional multiplier of only 1.12 (i.e.,  $\$805,768.75 * 1.12 = \sim\$903,135.51$ ), which is barely above 1.00. This further demonstrates the reasonable (if not overly conservative) nature of the requested fee award. *See, e.g., In re*

<sup>3</sup> *See* <http://www.nationallawjournal.com/id=1202636785489/Billing-Rates-Across-the-Country> (last accessed Nov. 10, 2016).

*Cendant Corp. Prides Litig.*, 243 F.3d 722, 742 (3d Cir. 2001) (“[m]ultipliers ranging from one to four are frequently awarded”) (internal quotations and citation omitted). Courts in this Circuit routinely approve much greater multipliers than 1.12. *See, e.g., Tavares v. S-L Distrib. Co.*, No. 1:13-cv-1313, 2016 U.S. Dist. LEIS 57689, at \*55 (M.D. Pa. May 2, 2016) (approving multiplier of 2.29); *Keller v. TD Bank, N.A.*, Civ. A. No. 12-5054, 2014 U.S. Dist LEXIS 155889, at \*43 (E.D. Pa. Nov. 14, 2014) (approving “multiplier of slightly above 3”); *In re Linerboard Antitrust Litig.*, MDL No. 1261, 2004 U.S. Dist. LEXIS 10532, at \*16 n.9 (E.D. Pa. June 2, 2004) (3.67 multiplier); *Stop & Shop Supermarket Co. v. SmithKline Beecham Corp.*, Civ. A. No. 03-4587, 2005 U.S. Dist. LEXIS 9705, at \*55 (E.D. Pa. May 20, 2005) (“The 2003 Class Action Reporter survey found that the average lodestar multiplier was 4.5 . . .”).

**B. Other Factors to Determine the Reasonableness of Fees Support the Requested Fee Award**

Although a fee award properly calculated under the lodestar method is presumptively reasonable, courts in this Circuit sometimes consider other factors that bear on the reasonableness of a fee award. *See, e.g., Public Interest Research Grp. v. Windall*, 51 F.3d 1179, 1185 (3d Cir. 1995). These factors are:

- (1) time spent and labor required;
- (2) novelty and difficulty of the questions;
- (3) skill requisite to perform the legal services properly;
- (4) preclusion of other employment by the attorney due to acceptance of the case;
- (5) customary fee in the community;
- (6) whether the fee is fixed or contingent;
- (7) time limitations imposed by the client or the circumstances;
- (8) amount of time involved and the results obtained;
- (9) experience, reputation, and ability of the attorney;
- (10) undesirability of the case;
- (11) nature and length of the professional relationship with the client; and
- (12) awards in similar cases.

*Id.* at 1185 n.8 (discussing the “*Johnson* factors” set forth in *Johnson v. Ga. Highway Express, Inc.*, 488 F.2d 714, 717-18 (5th Cir. 1974), and cited in *Hensley v. Eckerhart*, 461 U.S. 424, 434 n.9 (1983)). The Third Circuit has cautioned against reducing a properly calculated lodestar

amount based on these factors. *See Washington v. Phila. Cty. Ct. of Comm. Pleas*, 89 F.3d 1031, 1042 (3d Cir. 1996) (reversing district court’s reduction of properly calculated lodestar “to maintain some ratio between the fees and the damages awarded”). The appellate court has also observed that “[a] number of these factors, however, are subsumed in the lodestar calculation.” *Id.* at 1041-42. Nonetheless, were this Court to consider these factors here, they also support the reasonableness of Class Counsel’s fee request.

**1. Class Counsel Devoted a Substantial Amount of Time and Effort to This Case on a Purely Contingent Basis, and Were Precluded From Other Employment as a Result**

The first, sixth, seventh, and eighth *Johnson* factors – the time and labor involved, the preclusion of other employment, whether the fee was contingent and the time limitations imposed, and the amount of time involved and results obtained – are interrelated inquires, each supporting the reasonableness of Plaintiffs’ Class Counsel’s fee request.

In total, Plaintiffs’ Class Counsel has billed over 1579 hours, totaling \$805,768.75 in pre-multiplier lodestar. Joint Decl. at ¶¶ 40, 45, 51. As noted above, the hourly rates of Plaintiffs’ Class Counsel in this action are comparable to those awarded in other cases in this District. *See supra* Part IV.B.2. Moreover, the hours billed by Class Counsel in this action are reasonable. Prosecuting this action entailed motions practice, near-completion of fact discovery, and three separate mediation sessions. Joint Decl. at ¶¶ 8-11, 13-18.

This Action demanded Plaintiffs’ Class Counsel to research, understand, and brief various topics. Discovery and litigation strategy required a significant amount of Plaintiffs’ Class Counsel’s time and labor to develop the legal theories and arguments presented in the pleadings and crafted through discovery. Plaintiffs’ Class Counsel took four fact depositions of Angie’s List personnel, reviewed over 100,000 pages produced by Angie’s List, and engaged in third-party discovery. Joint Decl. at ¶ 57. Along the way, Plaintiffs’ Class Counsel took

appropriate steps to avoid duplication of effort and to efficiently manage and staff the cases. *Id.* All tasks were coordinated and assigned among the three law firms and amongst lower and higher-level attorneys by Golomb & Honik. *Id.* The mediation and settlement process itself also required substantial time and labor, as Plaintiffs' Class Counsel prepared for and participated in two separate all-day mediations (besides informal lead-up or post-mediation discussions), and worked for many weeks with defense counsel to finalize the Settlement, given its multiple facets (i.e., electable monetary and non-monetary relief, and prospective relief). Joint Decl. at ¶¶ 14-18.

Plaintiffs' Class Counsel's labors were not for naught. The Settlement represents a significant benefit to the Settlement Class. *See supra* Part III. Moreover, Plaintiffs' Class Counsel's work is not yet done. Plaintiffs' Class Counsel will be required to, among other things: (1) continue to monitor the claims administration process and communicate with the Settlement Administrator, including overseeing the Claim review process, (2) respond to class member inquiries now and for years to come; (3) prepare for and attend the Final Approval Hearing; (5) continue to oversee the Claims administration process, including addressing any Claim review issues; (6) monitor distribution of benefits to the Settlement Class; (7) and potentially handle post-judgment appeals. Joint Decl. at ¶ 59. Notably, Plaintiffs' Class Counsel's fee request does not seek any additional funds for future work on behalf of the Settlement Class. *Id.* at ¶ 56.

Furthermore, the time spent on the Action was time that could not be spent on litigating other matters. Joint Decl. at ¶ 60. Each of the three firms involved are relatively small firms with very busy practices. Plaintiffs' Class Counsel were required to forego other opportunities to properly prosecute this Action. *Id.* Discovery in this case ramped up quickly and took place on

a relatively compressed timeframe over the course of just a few months, which meant that the significant time and effort expended by Plaintiffs' Class Counsel on this matter was at the expense of other matters. *Id.*

Finally, Plaintiffs' Class Counsel litigated this case wholly on a contingency fee basis, and did so at great risk of never receiving any compensation. *Id.* In effect, Plaintiffs' Class Counsel has advanced their legal services to the Settlement Class since that time. *See, e.g., Lindy*, 540 F.2d at 116-17.

These three factors strongly militate in favor of the requested fee.

**2. This Action Involved Difficult Issues and Plaintiffs' Claims Entailed Considerable Risk**

The second and tenth *Johnson* factors – the novelty or difficulty of the issues raised in the litigation and the “undesirability” of the case, respectively – are also interrelated and support the requested fee award.

Although Plaintiffs' Class Counsel were able to achieve fair, adequate and reasonable relief for the Settlement Class in this case, the relief obtained cannot be viewed in a vacuum. Plaintiffs' Class Counsel's litigation of the class claims has been fraught with risk since inception of this matter, as evidenced by Angie's List's motion to dismiss. While Plaintiffs' Class Counsel are confident in the strength of the Plaintiffs' claims, they are also pragmatic that there is no guarantee of success and that substantial obstacles exist at the class certification, summary judgment, and trial phases. Joint Decl. at ¶¶ 61-63. Finally, even if Plaintiffs obtained a favorable jury verdict, an appeal would be likely, which would create new risks and years of delay. *Id.* at ¶ 65.

**3. The Requested Fee is Consistent with Attorneys' Fees Awarded in Similar Cases**

The fifth and twelfth *Johnson* factors – the customary fee and awards in similar cases, respectively – also support a finding that the agreed-upon fee request is reasonable.

As noted *supra* Part IV.A-C, the requested fee, based on a presumptively reasonable lodestar calculation, falls squarely within the range of awards made in numerous cases brought in this Circuit and District.

**4. A High Level of Skill Was Necessary to Perform the Legal Services Properly**

The remaining *Johnson* factors – the skill required to perform the legal services properly (factor three) and the experience, reputation, and ability of the attorneys (factor nine) – confirm that the requested fee is reasonable.

Plaintiffs' Class Counsel are seasoned attorneys with considerable experience litigating and settling class actions of similar size, scope and complexity. Joint Decl. at ¶¶ 32-39, 43-44, 47-50. Plaintiffs' Class Counsel regularly engage in major complex litigation involving consumer class actions, and have been appointed class counsel by courts throughout the country. *Id.* Plaintiffs' Class Counsel's skill came into play in developing and litigating the application of traditional legal theories in the context of consumers' online experiences, in opposing Angie's List's Rule 12(b)(6) motion to dismiss, obtaining favorable discovery rulings, and negotiating electronic document and data protocols. *Id.* at ¶ 57.

Moreover, Plaintiffs' Class Counsel thoroughly investigated Plaintiffs' claims and made skillful use of documents and information to assess Angie's List's potential exposure as to the claims at issue. Joint Decl. at ¶¶ 11, 56. With this information, Plaintiffs' Class Counsel developed theories of liability and damages after a detailed study of key information buried in the 100,000 pages of documents produced in discovery (not counting third-party discovery),

including technical information about the functionality of the online membership services Angie's List makes available to members. *Id.* at ¶ 56. Plaintiffs' Class Counsel synthesized all of this discovery and information to ultimately posture this action favorably for litigation, and ultimately settlement, purposes. *Id.*

Also, the skill and competence of Angie's List's lawyers should be considered and cannot be doubted. *See, e.g., In re OSB Antitrust Litig.*, Master File No. 06-826, 2008 U.S. Dist. LEXIS 125173, at \*13-14 (E.D. Pa. Dec. 9, 2008) (in assessing quality of representation, courts also look to "the performance and quality of opposing counsel") (internal quotations and citation omitted). Angie's List is represented by Morgan, Lewis & Bockius LLP, a global, full-service law firm with more than 2,000 legal professionals operating out of 29 offices throughout the world. *See* <https://www.morganlewis.com/>. There is little doubt that Angie's List's law firm possesses the resources, reputation, and experience to vigorously and effectively advocate Angie's List's interests were this matter to be litigated further. Joint Decl. at ¶ 67.

#### **IV. CLASS COUNSEL'S COSTS ARE REASONABLE AND WERE NECESSARILY INCURRED**

Plaintiffs' Class Counsel also request reimbursement for a total of \$34,364.49 in certain litigation costs and expenses. Joint Decl. at ¶ 42, 46, 53; *see Mills v. Elec. Auto-Lite Co.*, 396 U.S. 375, 391-92 (1970). This sum corresponds to certain actual out-of-pocket costs and expenses that Class Counsel necessarily incurred and paid in connection with the prosecution of this litigation and the Settlement. Joint Decl. at ¶¶ 42, 46, 53. Such costs are compensable in a class action. *See* Fed. R. Civ. P. 23(h) (permitting award of "nontaxable costs that are authorized by law or by the parties' agreement"). In addition to being compensable under Rule 23, these costs are also compensable under the consumer protection statutes alleged in the Conditional Amended Complaint. *See Kim v. Euromotors W./The Auto Gallery*, 149 Cal. App. 4th 170, 178-

79, 181 (2007) (California); *Sema v. Automall 46 Inc.*, 894 A.2d 77, 81 (N.J. Sup. Ct. App. Div. 2005) (New Jersey); *Neal v. Bavarian Motors, Inc.*, 882 A.2d 1022, 1029-30 (Pa. Super. Ct. 2005) (Pennsylvania).

The categories of expenses for which Plaintiffs' Class Counsel seek reimbursement here are the type of expenses routinely charged to paying clients in the marketplace and, therefore, the full requested amount should be reimbursed. *See* Joint Decl. at ¶¶ 42, 46, 53. These expenses include but are not limited to: filing and service fees; court reporter charges; photocopies; postage and overnight delivery fees; mediation fees; travel expenses (transportation and lodging), research fees, and witness fees. *Id.* These expenses are reasonable and justified. *See, e.g., In re CertainTeed Fiber Cement Siding Litig.*, 303 F.R.D. 199, 226 (E.D. Pa. 2014) (approving \$304,996.65 in costs that included same categories as those requested here); *Yong Soon Oh v. AT&T Corp.*, 225 F.R.D. 142, 154 (D.N.J. 2004) (approving \$98,553.95 in costs that included same categories as those requested here).

**V. THE REQUESTED SERVICE AWARDS ARE REASONABLE AND SHOULD BE APPROVED**

Service awards “compensate named plaintiffs for the services they provided and the risks they incurred during the course of the class action litigation.” *Sullivan*, 667 F.3d at 333 n.65 (internal quotations and citation omitted). “Courts routinely approve incentive awards to compensate named plaintiffs for the services they provided and the risks they incurred during the course of the class action litigation.” *Fleisher v. Fiber Composites, LLC*, Civ. A. No. 12-1326, 2014 U.S. Dist. LEXIS 29151, at \*43 (E.D. Pa. Mar. 5, 2014) (internal quotations and citation omitted). “It is particularly appropriate to compensate named representative plaintiffs with incentive awards where they have actively assisted plaintiffs’ counsel in their prosecution of the litigation for the benefit of a class.” *Id.*

The service awards requested for Class Representatives in this case are reasonable and appropriate. Each plaintiff committed time and effort to this Action, and bore the risks involved in prosecuting this Action. *See* Joint Decl. at ¶ 68; Decl. of Janell Moore (Ex. B); Decl. of Gary Glick (Ex. C); Decl. of Michelle Zygelman (Ex. D).

The service awards total an agreed-upon amount of \$12,500. *See* Agreement, ¶¶ 1.4.3, 1.6.5. The Notice informed Class Members about this. *See* Joint Decl. at ¶ 68. The service awards requested are in the amount of \$2,500 for Plaintiffs Glick and Zygelman. *Id.* The award requested for Plaintiff Moore, \$7,500, is higher in recognition of her additional effort, namely, that she was the first named plaintiff to initiate this litigation, and was the only named plaintiff to be deposed. *Id.*

The service awards, both individually and collectively, fall well within the range approved in other cases. Although the service awards are to be paid separately from the monetary relief available to the Settlement Class, the service awards collectively represent less than .008% of the monetary relief available to the Settlement Class. No one has objected to the service awards. The service awards requested here are reasonable. *See, e.g., Haught v. Summit Res., LLC*, No. 1:15-cv-0069, 2016 U.S. Dist. LEXIS 45054, at \*19-20 (M.D. Pa. Apr. 2016) (approving \$15,000 in service awards for class representatives, noting that service awards typically range “from \$1,000 to \$50,000” each); *In re Am. Investors Life Ins. Co. Annuity Mktg. & Sales Practices Litig.*, 263 F.R.D. 226, 245 (E.D. Pa. 2009) (approving awards between \$5,000 and \$10,000 to each class representative); *Godshall v. The Franklin Mint Co.*, No. 01-cv-6539, 2004 U.S. Dist. LEXIS 23976, at \*20-21 (E.D. Pa. Dec. 1, 2004) (approving award of \$20,000 each to each class representative).

**VI. CONCLUSION**

For the reasons set forth herein, Plaintiffs respectfully request that the Court grant their Unopposed Motion for Attorneys' Fees, Costs, and Service Awards.

**Dated: November 14, 2016**

**BY:** /s/ DJS8892

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*Attorneys for Plaintiffs and the Settlement Class*

**CERTIFICATE OF SERVICE**

I, David J. Stanoch, Esquire, hereby certify that on this **14th** day of **November 2016**, a copy of the foregoing **Plaintiff's Unopposed Motion for Attorneys' Fees, Costs, and Service Awards** was filed and served upon all counsel via operation of the Court's CM/ECF system.

*/s/ DJS8892*

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**David J. Stanoch, Esquire**