

IN THE CIRCUIT COURT FOR THE COUNTY OF ST. LOUIS, MISSOURI
TWENTY-FIRST JUDICIAL CIRCUIT

CAROLINE KEEVEN, on behalf of)
herself and all others similarly situated,)
)
Plaintiff,)
)
v.)
)
Webster University,)
)
Defendant.)

Cause No:21SL-CC05384

**PLAINTIFF’S MOTION FOR ATTORNEYS’ FEES, EXPENSES, AND SERVICE
AWARD AND MEMORANDUM OF LAW IN SUPPORT**

**GOLDENBERG HELLER
& ANTOGNOLI, P.C.**

Kevin P. Green, #63497
Richard S. Cornfeld, #31046
Daniel S. Levy, #66039
2227 South State Route 157
Edwardsville, IL 62025
Telephone: (618) 656-5150
kevin@ghalaw.com
rick@ghalaw.com
daniel@ghalaw.com

Attorneys for Plaintiff

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Plaintiff Caroline Keeven hereby moves for an award of attorneys' fees of one-third of the total Settlement Amount of \$250,000, along with litigation expenses in the amount of \$2,389, and a service award to Plaintiff in the amount of \$5,000. In support thereof, Plaintiff states as follows:

I. INTRODUCTION

Plaintiff Caroline Keeven brought this action against Defendant Webster University ("Webster"), alleging that she and similarly situated Webster University students did not receive the in-person services for which they bargained and paid, including services relating to particular student fees, after Webster moved to online-only instruction during the 2020 Spring Semester based on risks associated with COVID-19. She also alleges that she and similarly situated students did not receive adequate reimbursements for their meal plans, based on the amount of money they had remaining on their meal plans at the time Webster moved to online-only instruction during the 2020 Spring Semester.

After years of litigation, including substantial discovery, Plaintiff reached a settlement with Webster on behalf of the putative Class.¹ The resulting Settlement Agreement creates a common Fee Class Fund in the amount of \$168,500 and a common Meal Plan Class Fund in the amount of \$81,500 (a combined settlement amount of \$250,000). The settlement provides for a no-claim, automatic payment to approximately 1,900 Webster University students (unless they opt-out). The amounts to be awarded to Class Members depend on and are in proportion to the particular student fees that they paid (specifically out of the Student Activity Fee, Housing Activity Fee, and Parking Fee) and the meal plan dollars that they had remaining prior to Webster's campus closures during the 2020 Spring Semester.

¹ The parties' Settlement Agreement is Ex. 1 to Plaintiff's preliminary approval motion. Unless otherwise stated, all defined terms used herein have the meanings set forth therein.

Class Counsel respectfully moves the Court for an attorneys' fee award of one-third of the Settlement Amount, specifically one-third of the common Fee Class Fund and one-third of the common Meal Plan Class Fund, plus litigation expenses related to pursuing the claims against Webster in the amount of \$2,389. Further, Class Counsel moves for a service award for class representative Caroline Keeven in the amount of \$5,000 for her work performed and time expended on behalf of the Class.

Class Counsel respectfully requests that the Court find the requested fees, expenses, and service award reasonable and direct the payment of such amounts from the Settlement Escrow.

II. **BACKGROUND**

A. **Plaintiff's Claims Against Webster**

Plaintiff brought this Action against Webster alleging that she did not receive the in-person services for which she bargained and paid (including services relating to student fees) after Webster effectively closed its campus and moved to online-only instruction during the 2020 Spring Semester based on risks associated with COVID-19.² She brought claims for breach of contract, breach of the implied covenant of good faith and fair dealing, unjust enrichment, money had and received, and violation of the Missouri Merchandising Practices Act, R.S. Mo. § 407.010 *et seq.* ("MMPA").

Plaintiff alleges, *inter alia*, that the parties' course of dealing establishes that she and other full-time in-person students of Webster University during the 2020 Spring Semester had an agreement with Webster for the provision of in-person services, including relating to student fees, and that Webster breached the agreement and/or acted unfairly and unethically under Missouri law, when it failed to provide services relating to student fees for which they paid without

² Although Plaintiff's Amended Petition includes claims relating to tuition, discovery showed that the amount Webster charged for tuition did not differ for its in-person and online students.

providing appropriate reimbursements. Plaintiff further alleges that she and class members paid for meal plans through which they can purchase food on Webster's campuses, and that the meal plan reimbursement Webster previously offered during the 2020 Spring Semester in connection with its campus closures was not adequate because it was not sufficient to reimburse many students for meal plan dollars that they had remaining but could not use following Webster's campus closures.

B. The Course of This Litigation

1. Procedural history

In November 2021, Plaintiff filed her Class Action Petition in this Court. Following Webster's motion to dismiss, Plaintiff filed her Amended Class Action Petition in February 2022. After briefing on Webster's motion to dismiss, which sought dismissal on grounds including the educational malpractice doctrine and the purported lack of a contract between the parties, this Court denied Webster's motion in August 2022.

In March 2023, Webster filed a motion for summary judgment, which again, *inter alia*, raised the educational malpractice doctrine. In April 2023, Plaintiff filed a Rule 74.04(f) motion and a motion to stay briefing, stating that further discovery was needed to be able to respond to Webster's motion for summary judgment. On May 9, 2023, this Court issued its Order granting in part and denying in part Plaintiff's Rule 74.04(f) motion, allowing Plaintiff specified discovery. In July 2023, Plaintiff filed its suggestions in opposition to defendant's motion for summary judgment. The Court has not issued a ruling on Webster's motion for summary judgment.

2. Discovery

In addition to the extensive motion practice set forth above, the parties have engaged in substantial discovery. Plaintiff propounded several sets of written discovery to Webster and Plaintiff's counsel and Webster's counsel engaged in meet and confer correspondence and

produced/reviewed thousands of pages of documents. Further, Plaintiff's counsel defended Plaintiff's deposition and took the deposition of Laura Wainz, Webster's Vice President of Enrollment Management Operations and University Registrar.

3. Settlement

This Settlement is the result of continued negotiations between counsel for Plaintiff and Webster. The parties' exchanged several proposals and counter-proposals at arm's length regarding the potential settlement of this matter, and agreed on the general terms of an agreement in April 2024. The parties continued to negotiate over specific terms, culminating in the Settlement Agreement.

The Settlement Agreement creates a common Fee Class Fund in the amount of \$168,500 and a common Meal Plan Class Fund in the amount of \$81,500 (a combined settlement amount of \$250,000). The Fee Class Fund amounts to a full refund to members of the Fee Class because it constitutes 44% of the total amount collected by Webster for the Student Activity Fee, Housing Activity Fee, and Parking Fee for the 2020 Spring Semester and the campus closures were only for approximately 43% of the 2020 Spring Semester. The Meal Plan Class Fund amounts to an approximately 76% refund to all students who had a meal plan balance following Webster's campus closures. Following the Court's Preliminary Approval Order, the Settlement Website went live on December 2, 2024, and individual notices were sent by email and/or mail pursuant to the Settlement Agreement on December 2, 2024.

III. THE AMOUNT OF CLASS COUNSEL'S REQUESTED FEE IS REASONABLE

A. The Legal Standard

Missouri courts ordinarily follow the "American rule" regarding attorney's fees, in which litigants generally "bear the expense of their own attorney's fees." *Lett v. City of St. Louis*, 24 S.W.3d 157, 162 (Mo. App. E.D. 2000). However, there is a well-recognized exception to the

American rule when “equity demands a balance of benefits” pursuant to the common fund doctrine or the common benefit doctrine. *Id.* The “common fund doctrine permits a trial court to require non-litigants to contribute their proportionate part of the counsel fees when a litigant successfully creates, increases, or preserves a fund in which the non-litigants were entitled to share” and the “common benefit doctrine permits recovery of attorney's fees when a successful litigant benefits a group of other individuals similarly situated.” *Id.*; *see also Gerken v. Sherman*, 351 S.W.3d 1, 13 (Mo. App. W.D. 2011) (same). Accordingly, a “court may charge a class counsel's reasonable fees to the class members where they are the beneficiaries of a ‘common benefit’ produced by the class action.” *Id.* (citation omitted).

Further, a trial court “is deemed an expert at fashioning an award of attorneys’ fees” in class actions and accordingly has wide discretion. *Berry v. Volkswagen Group of Am., Inc.*, 397 S.W.3d 425, 430 (Mo. banc 2013). Thus, appellate courts “give great deference to attorney fee awards” provided by trial courts in class actions. *Bachman v. A.G. Edwards, Inc.*, 344 S.W.3d 260, 267 (Mo. App. E.D. 2011). “To demonstrate an abuse of discretion, the complaining party must show the trial court's decision was against the logic of the circumstances and so arbitrary and unreasonable as to shock one's sense of justice.” *Bachman*, 344 S.W.3d at 267 (quoting *Russell v. Russell*, 210 S.W.3d 191, 199 (Mo. banc 2007)). In reviewing the reasonableness of class counsel’s requested attorney’s fees, Missouri courts can look to decisions by federal courts for guidance. *See, e.g. Bachman*, 344 S.W.3d at 267.

B. Class Counsel’s Fee Request is Reasonable as a Percentage of the Recovery

Courts frequently award attorney’s fees as a percentage of the total recovery in cases involving a common fund. *See Bachman*, 344 S.W.3d at 267 (awarding a percentage of the settlement value); *see also Petrovic v. Amoco Oil Co.*, 200 F.3d 1140, 1157 (8th Cir. 1999) (noting it is “well established” that courts may use the “percentage of the fund” method in evaluating

attorney's fees in a settlement involving a common fund); *Huyer v. Buckley*, 849 F.3d 395, 398 (8th Cir. 2017) (affirming district court's decision to award a percentage of the total settlement fund, including settlement administration costs, in attorney's fees under the percentage-of-the-benefit approach); *Pudlowski et al. v. The St. Louis Rams, LLC et al.*, Case No. 1622-CC00083 (Cir. Ct. of St. Louis City; Order of December 17, 2019) (recognizing the percentage of the recovery method in approving class counsel's motion for attorney's fees). Accordingly, here, Class Counsel's request for attorney's fees based on a percentage of the common funds available to the Class Members is a reasonable method of determining an award of attorney's fees.

C. Case Law Supports the Reasonableness of an Attorney's Fee Award of One-Third of a Common Fund

A review of the relevant case law shows that an attorney's fee award in the amount of one-third of the total common fund recovered for the class is generally reasonable. Initially, in *Bachman*, the court stated that "in cases involving complex litigation or in the class action context, a one-third contingent fee award is not unreasonable." *Bachman*, 344 S.W.3d at 267 (also citing *In re U.S. Bancorp Litig.*, 291 F.3d 1035, 1038 (8th Cir. 2002), in which there was "no abuse of discretion in awarding 36% of \$3.5 million recovery to class counsel"). Further, in *Huyer*, addressed above, the court affirmed an attorney's fees award of one-third of the total settlement fund. *Huyer*, 849 F.3d at 398. Numerous other courts have found an attorney's fee award of one-third of the common fund to be reasonable. See *McKeage v. Bass Pro Outdoor World, L.L.C.*, 2015 U.S. Dist. LEXIS 195232, *9 (W.D. Mo. Aug. 11, 2015) (typical fee recovery under percentage of the benefit approach "amounts to approximately thirty-three percent" and awarding such amount to class counsel); *Barfield v. Sho-Me Power Elec. Coop.*, 2015 U.S. Dist. LEXIS 70166, *12 (W.D. Mo. June 1, 2015) (awarding class counsel one-third of the settlement fund for fees and expenses); *Wiles v. Sw. Bill Tel. Co.*, 2011 U.S. Dist. LEXIS 64163, *11 (W.D. Mo. June 9, 2011)

(same); *White v. Mo. Sheriff's Ret. Sys.*, 2022 Mo. Cir. LEXIS 118, *7-8 (Cir. Ct of Jackson County; Order of February 28, 2022) (awarding one-third contingency fee of \$6,000,000 in class action which “comports with the customary fee charged by plaintiffs’ lawyers in similar situations”). Class Counsel’s requested fee award in the amount of one-third of the Fee Class Fund and one-third of the Meal Plan Class Fund is therefore within the range that Courts find reasonable in class actions involving common funds.

D. Factors Considered by Missouri Courts Support the Reasonableness of Class Counsel’s Requested Fee Award

In exercising their discretion to award attorney’s fees in class actions, courts consider various factors, including:

- the results obtained/benefit conferred on the Class
- the complexity of the issues
- the experience, skill, and reputation of the attorney’s involved and vigor of the opposition
- the duration of the litigation and time spent by the attorneys on the matter
- the risk of pursuing the matter on a contingent basis
- fees awarded in similar cases

See *Berry*, 397 S.W.3d at 430; *Bachman*, 344 S.W.3d at 267. As set forth below, a review of these factors shows the reasonableness of Class Counsel’s requested fee award.

1. The results obtained/benefit conferred on the Class

As set forth in Plaintiff’s Motion for Preliminary Approval, the Settlement provides Class Members with substantial benefits. The amount each Fee Class Member will receive will depend on which student fees they paid, but, even after deducting for expected fees, costs, and a service award, it is expected that the average payment to Fee Class Members will be approximately \$51.

Moreover, the campus closures were only for approximately 43% of the 2020 Spring Semester; yet the Fee Class Fund of \$168,500 amounts to approximately 44% of the total amount collected by Webster for the Student Activity Fee, Housing Activity Fee, and Parking Fee for the 2020 Spring Semester. Further, the Meal Plan Class Fund amounts to an approximately 76% refund to students who had a balance on their meal plans following the campus closures, and the majority of Meal Plan Class members will receive hundreds of dollars, with average expected payments of approximately \$243.

Additionally, this substantial relief was obtained in the face of “financial struggles” for Webster. *See* Moody, Josh, Judge Allows Webster to Lift Endowment Restrictions, Inside Higher Ed, Mar. 4, 2024, <https://www.insidehighered.com/news/quick-takes/2024/03/04/judge-allows-webster-lift-endowment-restrictions>.

Finally, unlike in many class action settlements, this one provides an automatic payment to the Settlement Class members rather than requiring a claims process. Here, the approximately 1,900 class members qualify for relief without the need to file a claim.

Accordingly, Class Counsel has helped the Classes receive an outstanding result and the benefits conferred on the Class by this Settlement support the requested fee award.

2. The complexity of the issues

This litigation involved many complex factual and legal issues, including extensive briefing relating thereto. Webster raised arguments regarding the applicability of the educational malpractice doctrine—which it asserted barred Plaintiff’s claims; whether there were contracts between Webster and Class Members; the propriety of maintaining this action as a class action; and the effect of certain in-person services still being provided or available to students following

the move to online-only instruction. Accordingly, there were numerous complicated issues that had to be, and were addressed by the parties, during their many years of litigating this action.

3. The experience, skill, and reputation of the attorney's involved and vigor of the opposition

Class Counsel have extensive experience representing plaintiffs in class actions and in complex litigation.³ They relied on that experience in vigorously prosecuting this action and ensuring they were effectively and efficiently representing the interests of the Class.

Moreover, throughout the litigation, Webster was skillfully represented by respected and experienced class action defense attorneys from large national law firms. Webster's counsel vigorously contested Plaintiff's claims and, as set forth above, filed several dispositive motions, including motions to dismiss and for summary judgment.

4. The duration of the litigation and time spent by the attorneys on the matter

Class Counsel has spent a substantial amount of time litigating this action since it was initially filed in July 2020. Over the course of several years, Class Counsel has engaged in extensive work on this matter, including:

- Initial research and analysis regarding the claims asserted in the Petition;
- Successfully contesting Webster's Motion to Dismiss;
- Drafting and propounding several sets of written discovery requests;
- Preparing objections and responses to Webster's written discovery requests;
- Reviewing and analyzing thousands of pages of documents produced by Webster;
- Engaging in meet-and-confer conferences with Webster's counsel to obtain supplemental discovery answers and production;

³ A resume of Plaintiff's law firm is attached as Exhibit 1.

- Preparing for and taking and defending depositions
- Participating in settlement negotiations with Webster, negotiating the terms of the Settlement Agreement, and drafting and revising the documents related thereto;
and
- Monitoring the settlement administration process, including working with the settlement administrator and opposing counsel to address inquiries and issues that arise.

Further, courts can consider a “lodestar cross-check” (referring to multiplying the number of hours reasonably expended by a reasonable hourly rate)⁴ to ensure the reasonableness of the attorney’s fee award. *See, e.g., Bachman*, 344 S.W.3d at 267. Here, Class Counsel has approximately 700 hours in this case and their lodestar far exceeds the attorney’s fee award requested by Class Counsel, thus a lodestar cross-check provides no basis to question the reasonableness of the requested fee award.⁵ Accordingly, the length of the litigation and time spent by Class Counsel litigating this action supports the reasonableness of the requested attorney’s fee.

5. The risk of pursuing the matter on a contingent basis

Class Counsel handled this matter purely on a contingent basis, with no assurance of recovering any fees or costs. *See* Exhibit 2, Declaration of Daniel Levy (“Levy Decl.”), ¶ 7. Given the complexity of the issues, novelty of the case, and the length of the litigation, Class Counsel took on substantial risk in doing so and faced losing significant amounts of time and money should they have continued to litigate the case to judgment and not prevailed. Further, the

⁴ *Berry*, 397 S.W.3d at 429 n.3.

⁵ If the Court wishes to examine Class Counsel’s billable hours to conduct a lodestar analysis, Class Counsel will provide such records to the Court upon request.

significant amount of time Class Counsel spent litigating this matter meant that Class Counsel had to forego taking on other matters. This factor therefore supports the requested fee award.

6. Fees awarded in similar cases

As set forth above, the reasonableness of an attorney's fee award in the amount of one-third of the total common fund is well established. *Supra*, § III.C. Thus, an analysis of attorney's fees awarded in similar cases shows that the requested fee award, in the amount of one-third of the common fund, is reasonable. *Id.*

IV. THE AMOUNT OF CLASS COUNSEL'S REQUESTED COSTS AND EXPENSES IS REASONABLE

It is well established that Class Counsel are entitled to reimbursement from a common fund for costs and expenses incurred, which includes court reporting services, computerized research, and copy, phone and facsimile expenses. *Tussey v. ABB, Inc.*, 2019 U.S. Dist. LEXIS 138880, *15-16 (W.D. Mo. Aug. 16, 2019); *see also Bachman*, 344 S.W.3d at 267 (awarding class counsel \$600,000 in expenses). Further, the Settlement Agreement permits Class Counsel to request reimbursement of litigation costs and expenses. *See* Agreement, § 1.10; § 3.4. Here, Class Counsel has incurred \$2,389 in litigation costs and expenses, as shown in Exhibit 2-A attached hereto. Such figure represents less than one percent of the \$250,000 recovered in this action. *See* Theodore Eisenberg and Geoffrey Miller, *Attorneys' Fees and Expenses in Class Action Settlements: 1993-2008*, 7 J. Empirical Legal Stud. 248, 269 (2010) (finding that the average costs and expenses recovered in the cases studied from 1993 to 2008 was approximately 2.8 percent of the recovery). Accordingly, the requested expenses in the amount of \$2,389, which are significantly below this average, are reasonable and should be approved.

V. **THE REQUESTED SERVICE AWARD IS REASONABLE**

Service awards⁶ to compensate named plaintiffs for their time and effort in pursuing the litigation on behalf of the class are appropriately awarded to the named plaintiff from a common fund. *See, e.g., Tussey*, 2019 U.S. Dist. LEXIS 138880, at *18 (awarding each named plaintiff \$25,000 from the common fund and recognizing that without the named plaintiff’s involvement and willingness to pursue the litigation, the Class would have received no remuneration for the alleged violations at issue); *Levine Hat Co. v. Innate Intel., LLC*, 2022 U.S. Dist. LEXIS 254347, *3 (E.D. Mo. May 11, 2022) (awarding class representative \$5,000 when considering the representative’s actions taken to protect the class’s interests, the degree to which the class benefited therefrom, and the time and effort expended by the plaintiff in pursuing the litigation); *Bachman*, 344 S.W.3d at 260 (awarding class representatives \$10,000 each); *Caligiuri v. Symantec Corp.*, 855 F.3d 860, 867 (8th Cir. 2017) (affirming service awards in the amount of \$10,000, an amount that courts within the Eighth Circuit “regularly grant”).

Here, Plaintiff Caroline Keeven assisted and participated in pre-suit investigation, responding to written interrogatories and documents requests, numerous telephone conferences with Class Counsel to discuss this litigation, and her deposition and preparation relating thereto. Accordingly, she expended significant time and effort pursuing this litigation and her actions protected and benefited the Class’s interests. Moreover, Ms. Keeven assumed a reputational risk in pursuing litigation against her former school. These facts support Class Counsel’s request for a service award for Ms. Keeven, and Class Counsel’s request of \$5,000 for Ms. Keeven, an amount well within the range of service awards regularly granted, is reasonable.

⁶ Courts sometimes refer to service awards as “incentive awards.”

VI. CONCLUSION

Based on the foregoing, Class Counsel respectfully requests that the Court enter an Order directing the Settlement Administrator to pay the following sums from the Settlement Escrow: (1) Class Counsel’s reasonable attorneys’ fees in the amount of one-third of the \$168,500 Fee Class Fund and one-third of the \$81,5000 Meal Plan Class Fund; (2) Class Counsel’s litigation expenses in the amount of \$2,389; and (3) Plaintiff Keeven’s service award in the amount of \$5,000.

Dated: December 13, 2024

Respectfully submitted,

**GOLDENBERG HELLER &
ANTOIGNOLI, P.C.**

By: /s/ Daniel S. Levy
Kevin P. Green, #63497
Richard S. Cornfeld, #31046
Daniel S. Levy, #66039
2227 South State Route 157
Edwardsville, IL 62025
kevin@ghalaw.com
rick@ghalaw.com
daniel@ghalaw.com

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on December 13, 2024, the foregoing document was filed electronically with the Clerk of Court and served upon all counsel of record via the Court’s electronic notification system.

By: /s/ Daniel S. Levy

EXHIBIT 1



For more than 30 years, Goldenberg Heller & Antognoli, P.C. (“Goldenberg Heller”) has served as lead or co-lead counsel in class action and complex litigation in state and federal court in Illinois, Missouri, and across the country, recovering over \$2 billion for consumers.

Kevin P. Green

Kevin P. Green is a Principal of Goldenberg Heller and has been a member of the Illinois Bar since 2009. He represents both plaintiffs and defendants in complex commercial litigation and complex class action litigation, through trial and appeal.

Throughout his career, Mr. Green has worked on numerous class actions. For example, in *Padberg v. Dish Network, LLC*, 2:11-cv-04035-NKL (W.D. Mo.), Mr. Green and Goldenberg Heller represented a certified class of approximately nine million consumers through class certification, appeal, a jury trial, and eventual court-approved settlement. Mr. Green was also appointed as class counsel in *McAllister v. The St. Louis Rams, LLC*, 4:16-cv-00172-SNLJ (E.D. Mo.), which after years of litigation, resulted in a court-approved \$24 million settlement on behalf of season ticket holders following the Rams’ move from St. Louis to Los Angeles. Mr. Green has also been appointed class counsel by this Court in *Rench v. TD Bank, N.A.*, 3:13-cv-00922-SMY-RJD (S.D. Ill.), and *Mitchell v. Murray Energy Corp.*, 3:17-cv-00444-NJR-RJD (S.D. Ill.).

Mr. Green currently represents plaintiffs in other pending putative class actions, including, *inter alia*: *Stauffer v. Innovative Heights Fairview Heights, LLC*, 3:20-cv-00046-MAB (S.D. Ill.); *Mayhall v. Amazon Web Services, Inc.*, 2:21-cv-01473-JCC (W.D. Wash.); *Wilcosky v. Amazon Com., Inc.*, 1:19-cv-05061 (N.D. Ill.); *Delgado v. Meta Platforms, Inc.*, 3:23-cv-04181-SI (N.D. Cal.); *Metroplex Commc’ns, Inc. v. Meta Platforms, Inc.*, 3:22-cv-01455-SMY (S.D. Ill.); *Kesselman v. Toyota Motor Sales, U.S.A., Inc.*, 2:21-cv-06010-TJH-JC (C.D. Cal.); *Womick v. The Kroger Co.*, 3:21-cv-574-NJR (S.D. Ill.); *Walker v. The Kroger Co.*, CGC-21-596857 (San Francisco Co., Cal.); *Boutte v. The Curators of the Univ. of Missouri*, 20BA- CV0729 (Boone Co., Mo.).

In addition, Mr. Green has represented defendants in class actions, including in *Human v. Window Nation, LLC*, 4:23-cv-00489-SEP (E.D. Mo.); *Levine Hat Co. v. Innate Intelligence, LLC*, 4:16-cv-01132-CEJ (E.D. Mo.); *Clark v. Trickey’s Serv., Inc.*, 16-L-638 (Mad. Co. Ill.); *Estep v. Branson’s Nantucket, LLC*, 1:16-cv-01158-JBM-JEH (C.D. Ill.); *Bueker v. Madison Cnty., Ill.*, 13-L-276 (Mad. Co. Ill.); *Freeman v. Berkeley Contract Packaging, LLC*, No. 3:12-cv-01255-DRH (S.D. Ill.); *Stilz v. Ready Cash, Inc.*, 1:11-cv-

01146-MMM-JAG (C.D. Ill.); and *Prime Dev., Inc., v. First Cloverleaf Bank, N.A.*, No. 3:10-cv-00445-DRH (S.D. Ill.).

Mr. Green also has an active appellate practice. In 2019, Mr. Green successfully petitioned the Illinois Supreme Court for leave to appeal and thereafter obtained a unanimous reversal of the appellate court decision in *Nichols v. Fahrenkamp*, 2019 IL 123990. He has been actively involved in appeals in the Seventh and Eighth Circuit Court of Appeals, the Illinois and Missouri Court of Appeals, including in, *inter alia*, *Leeper v. Hamilton Cnty. Coal, LLC*, No. 19-935 (U.S. Sup. Ct.); *Stauffer v. Pathfinder Software, LLC*, No. 21-8020 (7th Cir.); *Padberg v. Dish Network, LLC*, No. 13-8020 (8th Cir.); *Stokes v. Dish Network, LLC*, No. 15-2901 (8th Cir.); *Levy v. Hartford Cas. Ins. Co.*, No. 21-1446 (8th Cir.); *Archford Capital Strategies, LLC v. Davis*, No. 5-21-0377 (Ill. App. Ct.); *Thieret Family LLC v. Delta Plains Services, LLC*, No. ED109440 (Mo. App. Ct.).

In 2020, the Illinois State Bar Association awarded Mr. Green its Young Lawyer of the Year Award, an award it presents each year to two lawyers in Illinois under the age of 36 who have excelled within the legal community and profession, one who practices inside Cook County and one who practices outside Cook County. According to the ISBA, the recipients are selected based on excellence in advocacy, counseling or litigation; contributions to the advancement of the Bar of Illinois and the legal profession generally; and service to the community. In 2021, Mr. Green was also appointed to the Rules Committee for the United States District Court for the Southern District of Illinois.

Richard S. Cornfeld

Richard S. Cornfeld is Of Counsel at Goldenberg Heller and has been a member of the Illinois Bar since 1975.

Mr. Cornfeld has worked on numerous class actions on behalf of plaintiffs as lead or co-lead counsel. He was appointed as class counsel in *McAllister v. The St. Louis Rams, LLC*, 4:16-cv-00172-SNLJ (E.D. Mo.), and helped achieve a court-approved \$24 million settlement on behalf of season ticket holders following the Rams' move from St. Louis to Los Angeles. He served as lead counsel in *Pirozzi v. Massage Envy*, 4:19-cv-00807-CDP, where he obtained a court-approved settlement fund of up to \$1.6 million after years of litigation on behalf of a Missouri class. In *In re: Daily Fantasy Sports Litigation*, MDL No. 1:16-md-02677-GAO, Mr. Cornfeld served as a Member of the Plaintiffs' Executive Committee in the Multi-District proceeding in which more than 100 lawsuits were consolidated in the District of Massachusetts. Other class actions in which Mr. Cornfeld served as lead or co-lead counsel include *Williamson v. Genentech*, 19-CIV-02022 (San Mateo County, Cal., Superior Court); *Cooks v. The Hertz Corp.*, 3:15-cv-00652-NJR-PMF (S.D. Ill.); *Goldsmith v. Lee Enters., Inc.*, 4:19-cv-1772 MTS (E.D. Mo.); *Byler v. Deluxe Corp.*, 16-cv-493-AJB-(JLB) (S.D. Cal.); *Green v. Am. Cleaners*, 12SL CC03095 (St. Louis Co., Mo); *Horak v. Schnuck Markets, Inc.*, 3:21-cv-199-GCS (S.D. Ill.); and *Shelton v. SuperValu, Inc.*, 3:21-cv-408-GCS (S.D. Ill.).

Mr. Cornfeld actively represents plaintiffs in many class actions, including in *Kesselman v. Toyota Motor Sales, U.S.A., Inc.*, 2:21-cv-06010-TJH-JCx (C.D. Cal.); *Stauffer v. Innovative Heights Fairview Heights, LLC*, 3:20-cv-00046-MAB (S.D. Ill.); *Boutte v. The Curators of the Univ. of Mo.*, 20BA-CV01729 (Boone Co., Mo.); *Womick v. The Kroger Co.*, 3:21-cv-574-NJR (S.D. Ill.); *Walker v. The Kroger Co.*, CGC-21-596857 (San Francisco Co., Cal.); and *Moore v. Compass Grp. USA, Inc.*, 4:18-cv-1962-SEP (E.D. Mo.). Additionally, Mr. Cornfeld represents numerous individual plaintiffs in *Foulger et al. v. Avertest, LLC d/b/a Averhealth*, 4:22- CV-00878-SHL (E.D. Mo).

Since 2012, Mr. Cornfeld has been selected in The Best Lawyers in America (Mass Tort Litigation/Class Actions - Plaintiffs) every year. He has also been selected by Missouri Super Lawyers as a Top Rated Class Action & Mass Torts attorney and by the National Trial Lawyers to its list of Top 100 Civil Plaintiff Trial Lawyers in Missouri and Class Action Top 40 as one of Missouri's leading Class Action Plaintiffs lawyers. He has served as president of the Class Action Top 40.

In addition to representing plaintiffs, Mr. Cornfeld has represented defendants in many complex and high value lawsuits, including in *Kemner et al. v. Monsanto Co.* (a jury trial lasting three years eight months), and *United States v. Philip Morris USA, Inc., et al.* (the largest lawsuit in dollar terms ever tried). Mr. Cornfeld spent 31 years with Thompson Coburn LLP and its predecessor Coburn Croft, many as a partner of the firm.

His work at Thompson Coburn, LLP earned Mr. Cornfeld selection in The Best Lawyers in America (Mass Tort Litigation/Class Actions - Defendants), Missouri Super Lawyers, and Who's Who in America, as well as a Martindale-Hubbell AV Preeminent® rating, signifying the highest level of professional excellence, according to his peers. He also served as Adjunct Professor at St. Louis University School of Law, teaching Toxic Tort Litigation in the Practical Skill Curriculum.

Daniel S. Levy

Daniel Levy is an associate of Goldenberg Heller and has been a member of the Illinois Bar since 2014. He represents both plaintiffs and defendants in litigation in state and federal courts, including in the areas of class actions and employment law.

Mr. Levy has worked on many class actions on behalf of plaintiffs during his career, including *Pirozzi v. Massage Envy*, 4:19-cv-00807-CDP; *Cooks v. The Hertz Corp.*, 3:15-cv-00652-NJR-PMF (S.D. Ill.); *Horak v. Schnuck Markets, Inc.*, 3:21-cv-199-GCS (S.D. Ill.); *Shelton v. SuperValu, Inc.*, 3:21-cv-408-GCS (S.D. Ill.); and *Goldsmith v. Lee Enters., Inc.*, Case No. 4:19CV1772 HEA (E.D. Mo.). He is actively representing plaintiffs in numerous class actions in state and federal court, including in *Delgado v. Meta Platforms, Inc.*, 3:23-cv-04181-SI (N.D. Cal.); *Kesselman v. Toyota Motor Sales, U.S.A., Inc.*, 2:21-cv-06010-TJH-JCx (C.D. Cal.); *Womick v. The Kroger Co.*, 3:21-cv-574-NJR (S.D. Ill.); *Walker v. The Kroger Co.*, CGC-21-596857 (San Francisco Co., Cal.);

Stauffer v. Innovative Heights Fairview Heights, LLC, 3:20-cv-00046-MAB (S.D. Ill.); *Boutte v. The Curators of the Univ. of Mo.*, 20BA-CV01729 (Boone Co., Mo.); and *Moore v. Compass Grp. USA, Inc.*, 4:18-CV-1962-SEP (E.D. Mo.).

Previously, Mr. Levy spent several years as an Assistant Attorney General in the Missouri Attorney General's Office, working in both the Governmental Affairs and Litigation divisions. He served as lead counsel in dozens of cases, many involving claims of employment discrimination. In that role, Mr. Levy handled several jury trials, including as first-chair in an employment discrimination lawsuit resulting in a complete defense verdict for his client in a case where the plaintiff alleged sexual harassment and retaliation and sought large punitive damages. Additionally, Mr. Levy first-chaired a jury trial and obtained defense verdicts for his client on a plaintiff's claims under the Missouri Human Rights Act.

He was selected as a "Rising Star" by Missouri Super Lawyers for 2022 and 2023. He has been selected to The National Trial Lawyers – Top 40 Under 40 (Missouri) since 2021.

IN THE CIRCUIT COURT FOR THE COUNTY OF ST. LOUIS, MISSOURI
TWENTY-FIRST JUDICIAL CIRCUIT

CAROLINE KEEVEN, on behalf of)	
herself and all others similarly situated,)	
)	
Plaintiff,)	
)	Cause No:21SL-CC05384
v.)	
)	
Webster University,)	
)	
Defendant.)	

DECLARATION OF DANIEL S. LEVY

I, Daniel S. Levy, hereby declare as follows:

1. I am an attorney at the law firm of Goldenberg Heller & Antognoli, P.C. (“Goldenberg Heller”), which has been retained to represent Plaintiff Caroline Keeven in this matter. I have been appointed Class Counsel—along with Kevin P. Green and Richard S. Cornfeld of Goldenberg Heller—on behalf of the settlement class.¹ I am fully competent to make this declaration.²

2. I make this declaration in support of Plaintiff’s Motion for Attorneys’ Fees, Expenses, and Service Award (the “Fee Petition”), regarding Plaintiff’s settlement with Defendant Webster University (“Webster”). This declaration is based upon personal knowledge unless otherwise indicated. If called to testify as to the matters stated herein, I could and would competently do so.

3. I am a member in good standing of the Missouri and Illinois Bars.

¹ Attorneys Levy and Cornfeld, previously of The Law Office of Richard S. Cornfeld, LLC, joined Goldenberg Heller in 2023.

² Unless otherwise stated, all defined terms used herein have the meanings set forth in the Settlement Agreement.

4. Class Counsel has substantial experience representing plaintiffs as lead counsel in class actions.

5. Class Counsel has represented Plaintiff in this action since its commencement, and, from the outset, has vigorously represented the best interests of Plaintiff and the Class.

6. Class Counsel conducted all of the legal and factual research; drafted and filed the original and amended complaints; conferred with Plaintiff on numerous occasions; engaged in extensive motion practice, including briefing multiple motions to dismiss and a motion for summary judgment; appeared at hearings and status conferences; took and defended depositions, and conducted extensive written discovery, meet-and confer conferences, and document review. Class Counsel also conducted settlement negotiations with Webster on behalf of Plaintiff and the Class, and negotiated and prepared the settlement documents in this action.

7. Class Counsel's compensation for services rendered to the Class is wholly contingent. The class representative in this case entered into a contingency fee agreement that provided for Class Counsel to receive a percentage of any recovery plus costs and expenses.

8. Class Counsel faced significant risk of nonpayment in this matter. The case involved complex legal and factual questions, including regarding the applicability of the educational malpractice doctrine—which Webster argued barred Plaintiff's claims; whether there were contracts between Webster and Class Members; and the impact on the parties' claims and defenses of any in-person services that Webster still provided or that were available to students following the move to online-only instruction. Class Counsel thus faced substantial resistance from Webster and its first-rate defense counsel since the outset of this matter. Additional risks included those associated with certifying a class, as well as a prospect of extensive delay from appeals,

including interlocutory appeals relating to class certification, and potential financial difficulties by Webster.

9. The Fee Petition accurately sets forth the work performed by Class Counsel in this litigation and reflects the risks inherent in pursuing this action against Webster through trial and appeal. Despite these risks, Class Counsel has vigorously prosecuted this case for many years, requiring a significant investment of time and out-of-pocket expenses by Class Counsel.

10. Class Counsel requests a fee award in the amount of one-third of the Fee Class Fund and one-third of the Meal Plan Class Fund. As set forth in the Fee Petition, the request for attorneys' fees in this amount is reasonable, particularly in light of the significant risk of nonpayment borne by Class Counsel, the quality of Class Counsel's performance and the results obtained for the Class, and the great amount of work necessary to resolve the litigation.

11. Class Counsel continues to work with the Settlement Administrator and opposing counsel related to administration of the settlement to ensure that potential Class Members secure the relief that they are entitled to.

12. In addition, Goldenberg Heller has incurred \$2,388.56 in out-of-pocket expenses for charges incurred in pursuing the claims against Webster. The expenses incurred in this action are reflected on Goldenberg Heller's books and records. A true and accurate summary of these expenses incurred in connection with Plaintiff's claims against Webster are shown in Exhibit A attached hereto.

13. Class Counsel also requests a Service Award for Plaintiff Caroline Keeven in the amount of \$5,000. Ms. Keeven has been an active, hands-on participant in the litigation, expending significant amounts of her own time to benefit the class. This includes time spent assisting with Class Counsel's pre-suit investigation; reviewing the Complaint before filing; conferring with

Class Counsel; gathering and producing documents during discovery; monitoring the litigation; preparing for and sitting for her deposition; and reviewing, approving, and signing the Settlement Agreement.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: December 13, 2024

/s/ Daniel S. Levy
Daniel S. Levy

EXHIBIT A

Expenses Incurred by Class Counsel

Date	Description	Amount
7/10/2020	Federal court filing fee	\$400.00
11/11/2021	State court filing fee	\$107.98
6/29/2023	Transcript for deposition of L. Wainz	\$1,062.00
11/16/2023	Certified Mailing Fee to mail payment to Lexitas for deposition of Plaintiff	\$4.98
11/16/2023	Transcript for deposition of Plaintiff	\$813.60
TOTAL		\$2,388.56