

**IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA**

Deloise Guyton, on behalf of herself and others: similarly situated,	:	Case No.: 2023-CA-001242
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
Abrahamsen Gindin, LLC,	:	
	:	
Defendant.	:	
	:	

**PLAINTIFF’S MOTION FOR ATTORNEYS’ FEES AND REIMBURSEMENT OF
COSTS AND LITIGATION EXPENSES**

Introduction

Deloise Guyton (“Plaintiff”) alleged that Abrahamsen Gindin, LLC (“Defendant”) violated the Fair Debt Collection Practices Act (“FDCPA”) as a result of its failure to register as a consumer collection agency with the Office of Financial Regulation of the Florida Financial Services Commission prior to attempting to collect debts from consumers in Florida.¹ While Defendant denies any liability and denies that it violated the FDCPA, it agreed to a class action settlement that this Court preliminarily approved.

As part of this settlement, Defendant will (1) issue full refunds to all Class Members² who paid it any money, totaling \$2,460; and (2) create a non-reversionary settlement fund in the

¹ Pursuant to the Florida Consumer Collection Practices Act (“FCCPA”), Fla. Stat. § 559.55 *et seq.*, prior to engaging in any business in Florida, a person who acts as a consumer collection agency must register with the State of Florida Office of Financial Regulation. Fla. Stat. § 559.553(1).

² The Class includes: “All persons (a) with a Florida address, (b) from whom Abrahamsen Gindin, LLC attempted to collect a consumer debt, (c) between June 24, 2020 and November 30, 2021.”

amount of \$16,900 to cover payments to participating Class Members. Given historical claims rates in FDCPA class actions, each participating Class Member here stands to receive between \$50 and \$150, separate from any reimbursements they are owed. The settlement fund exceeds 1% of Defendant's book value net worth, and thus is more than Plaintiff could have recovered for the Class in statutory damages had she prevailed at trial. *See* 15 U.S.C. § 1692k(a)(2)(B).

Defendant separately will pay the costs of settlement administration and an individual award to Plaintiff. Defendant also will pay—separate from the above amounts—Class Counsel's reasonable attorneys' fees and expenses as awarded by the Court. To that end, the parties have reached an agreement where Defendant will pay a total of \$50,000 to Class Counsel for counsel's efforts in this case.

In line with the Court's preliminary approval order, Class-Settlement.com—the Court-appointed settlement administrator—disseminated direct mail notice to all class members to apprise them of this settlement and their rights under the settlement agreement. As well, Class Counsel posted to their website relevant case documents, including a copy of the settlement agreement.³ To date, no class members have objected to the settlement or to Class Counsel's proposed attorneys' fee award. The deadline to do so is June 5, 2023.⁴

Given the monetary benefits achieved through this settlement and the time and effort it took to achieve them, Plaintiff seeks an award of attorneys' fees and reimbursement of costs and

³ *See* www.gdrlawfirm.com/Guyton (last visited May 11, 2023).

⁴ Plaintiff is filing this motion now pursuant to the timing set forth in this Court's preliminary approval order, and to ensure that class members have an opportunity to review the fee petition prior to the objection deadline. *See Johnson v. NPAS Sols., LLC*, 975 F.3d 1244, 1252 (11th Cir. 2020) (addressing Federal Rule 23(h) and holding that "Rule 23(h)'s plain language requires a district court to sequence filings such that class counsel file and serve their attorneys'-fee motion before any objection pertaining to fees is due"). The Florida Supreme Court does not appear to have spoken on this issue, though Plaintiff strives for visibility to the class members.

litigation expenses for Class Counsel in the total amount of \$50,000. As detailed herein and in the accompanying Declaration of Michael L. Greenwald in Support of Plaintiff’s Motion for Attorneys’ Fees and Reimbursement of Costs and Litigation Expenses (“Greenwald Decl.”), this request is reasonable and supported by the record and applicable law.

Significantly, Defendant does not oppose Plaintiff’s request.

Argument

I. The requested fee award is reasonable and appropriate and should be approved.

A. Awards of attorneys’ fees are mandatory in successful FDCPA actions.

While Defendant has agreed to pay attorneys’ fees, costs, and litigation expenses in the total amount of \$50,000, it is noteworthy that to encourage private action and enforcement, the FDCPA mandates an award of attorneys’ fees to a successful consumer-plaintiff. *See* 15 U.S.C. § 1692k(a)(3); *see also Figueroa Polanco v. Igor & Co.*, No. 18-60932, 2022 WL 198810, at *2 (S.D. Fla. Jan. 3, 2022) (“both the FDCPA and FCCPA provide for an award of reasonable attorney’s fees”).⁵ By its inclusion of a mandatory fee-shifting provision, Congress indicated that society has a significant stake in assisting consumers who may not otherwise have the means to pursue these cases, and in rewarding those attorneys who assist in pursuing them. *Accord In re Martinez*, 266 B.R. 523, 537 (Bankr. S.D. Fla. 2001), *judgment entered*, (Bankr. S.D. Fla. Aug. 22, 2001), *aff’d*, 271 B.R. 696 (S.D. Fla. 2001), *aff’d*, 311 F.3d 1272 (11th Cir. 2002) (noting that the FDCPA mandates an award of attorney’s fees to fulfill Congressional intent that the statute should be enforced by debtors acting as private attorneys general).

B. The Florida Supreme Court has adopted the *Johnson* factors to assess the reasonableness of a fee request in consumer protection cases.

In *Standard Guar. Ins. Co. v. Quanstrom*, 555 So. 2d 828, 834 (Fla. 1990), the Florida

⁵ Internal citations and quotations are omitted, and emphasis is added, unless noted.

Supreme Court held that in consumer protection cases like this one the twelve factors set forth in *Johnson v. Ga. Highway Express*, 488 F.2d 714 (5th Cir. 1974), should be considered to determine a reasonable attorney’s fee. Those factors are (1) the time and labor required; (2) the novelty and difficulty of the questions; (3) the skill required to perform the legal services properly; (4) the preclusion of other employment by the attorney due to acceptance of the case; (5) the customary fee in the community; (6) whether the fee is fixed or contingent; (7) time limitations imposed by the client or circumstances; (8) the amount involved and the results obtained; (9) the experience, reputation, and ability of the attorney; (10) the “undesirability” of the case; (11) the nature and length of any professional relationship with the client; and (12) awards in similar cases. *Johnson*, 488 F.2d at 717-720.

Moreover, “[o]ther pertinent factors are the time required to reach a settlement, whether there are any substantial objections by class members or other parties to the settlement terms or the fees requested by counsel, any non-monetary benefits conferred upon the class by the settlement, and the economics involved in prosecuting a class action.” *In re Sunbeam Sec. Litig.*, 176 F. Supp. 2d 1323, 1333 (S.D. Fla. 2001).

As set forth more fully below, these factors all support Plaintiff’s fee and expense request.

C. The time and labor involved in this case support a finding that the agreed-upon fee request is reasonable.

The first *Johnson* factor to consider is the time and labor required of counsel—often referred to as counsel’s “lodestar.” Under the lodestar method, trial courts are required “to determine a lodestar figure by multiplying the number of hours reasonably expended on the litigation by a reasonable hourly rate for the services of the prevailing party’s attorney.” *Fla. Patient’s Compensation Fund v. Rowe*, 472 So. 2d 1145, 1151 (Fla. 1985).

1. Class Counsel devoted nearly 100 hours to prosecuting this case to date.

To date, attorneys at Greenwald Davidson Radbil PLLC (“GDR”) have committed more than 100 hours to performing the legal services reasonably necessary to bring this matter through preliminary settlement approval. *See* Greenwald Decl. at ¶¶ 29-33. For nearly two years now—first in federal court and then in state court—GDR’s attorneys have devoted significant time and resources to developing this case and obtaining a great result for class members. Their effort includes: (a) conducting an investigation into the underlying facts concerning the FDCPA claims at hand; (b) researching and preparing a federal court class action complaint and an amended class action complaint; (c) researching Defendant’s defenses and affirmative defenses; (d) conducting written discovery in federal court; (e) pursuing third-party discovery through a subpoena; (f) reviewing financial documentation produced by Defendant; (g) preparing the operative class action complaint before this Court; (h) researching and preparing Plaintiff’s class settlement demand, and engaging in follow-up negotiations with Defendant over the course of weeks; (i) preparing, negotiating, and revising the parties’ written class settlement agreement and accompanying exhibits, including the proposed class notices; (j) obtaining bids for class settlement administration services and conferring with Defendant regarding the same; (k) preparing Plaintiff’s motion for preliminary approval of the class settlement and accompanying proposed preliminary approval order for federal court; (l) preparing supplemental filings in federal court in support of the parties’ settlement; (m) preparing an addendum to the settlement agreement and revised proposed notice documents; (n) preparing Plaintiff’s motion for preliminary approval of the class settlement and accompanying proposed preliminary approval order for this Court; (o) coordinating with Defendant and the administrator to effectuate the Court-approved notice plan; (p) researching and drafting the instant motion and counsel’s

declaration in support; and (q) conferring repeatedly with Plaintiff and defense counsel throughout the entirety of the litigation. *See id.* at ¶ 29.

What's more, much work remains to be done to obtain final settlement approval. GDR's attorneys still must (1) research and prepare Plaintiff's motion for final approval of the class settlement, and the proposed order accompanying the same; (2) prepare for and attend the final fairness hearing scheduled for July 12, 2023; (3) continue to confer with class members as needed to answer questions about the settlement; and (4) continue to coordinate with ClassSettlement.com and Defendant regarding exclusion requests, settlement check mailings, and other related administration concerns. *See id.* at ¶ 34.

Class Counsel accordingly have spent a total of 95.2 hours litigating this case to date (when excluding time expended by two attorneys in an exercise of billing discretion) and, in light of the foregoing work remaining to be done to obtain final approval and distribute payments to class and subclass members, anticipate spending an additional 15 hours to see this case through its conclusion. *See id.* at ¶¶ 32-34. Thus, by the time this matter concludes, GDR expects to have spent nearly 115 hours litigating this case—a total that Class Counsel submit is reasonable in this certified class action benefiting more than 1,500 Florida consumers.

2. GDR's hourly rates are reasonable and have been approved in similar actions nationwide.

The prevailing market rate for similar services by similarly trained and experienced lawyers in the relevant legal community is the established basis for determining a reasonable hourly rate. *Duckworth v. Whisenant*, 97 F.3d 1393, 1396 (11th Cir. 1996); *see also Lizardi v. Federated Nat'l Ins. Co.*, 322 So. 3d 184, 188 (Fla. 2d DCA 2021) (“The trial court must then determine the reasonable hourly rate by looking at the prevailing market rate for attorneys of reasonably comparable skill or experience.”). Moreover, though federal courts are not the arbiter

of hourly rates in state court, “a trial court determining attorneys’ fees in an FCCPA case should give due consideration and great weight to the hourly rates federal courts have found to be reasonable in FDCPA cases.” *Dish Network Serv. L.L.C. v. Myers*, 87 So.3d 72, 78 (Fla. 2nd DCA 2012).

Here, Michael L. Greenwald, James L. Davidson, and Aaron D. Radbil—all partners at GDR—billed on this matter at a rate of \$500 per hour. Greenwald Decl. at ¶ 35. Mr. Johnson—also a GDR partner—billed at a rate of \$450 per hour. *Id.* These rates are in line with rates specifically approved for GDR in consumer protection class actions, including as recently as this year. *See, e.g., Denning v. Mankin Law Grp., P.A.*, No. 21-2822, 2023 WL 2655187, at *4 (M.D. Fla. Feb. 15, 2023) (recommending approval of GDR hourly rates of \$450 and \$500), *report and recommendation adopted*, No. 21-2822, 2023 WL 2655189 (M.D. Fla. Mar. 22, 2023); *Sinkfield v. Persolve Recoveries, LLC*, No. 21-80338, ECF No. 81 (S.D. Fla. Dec. 21, 2022) (same); *Acuna v. Medical Com. Audit, Inc.*, No. 21-81256, 2022 WL 1222693, at *2-3 (S.D. Fla. Apr. 26, 2022) (same); *Cooper v. Investinet, LLC*, No. 21-1562, 2022 WL 1125394, at *2 (S.D. Ind. Apr. 14, 2022) (approving GDR hourly rates ranging from \$400 to \$500).⁶

Furthermore, these rates are consistent with prevailing market rates Florida courts previously found to be reasonable. *See, e.g., Universal Prop. & Cas. Ins. Co. v. Celestrin*, 316 So. 3d 752, 753 (Fla. 3d DCA 2021), *reh’g denied* (Apr. 26, 2021) (\$120,570 lodestar, with

⁶ *See also Brockman v. Mankin Law Grp., P.A.*, No. 20-893, 2021 WL 913082, at *2 (M.D. Fla. Mar. 10, 2021) (approving GDR’s partners’ hourly rates ranging from \$400 to \$450); *Newman v. Edoardo Meloni, P.A.*, No. 20-60027, 2020 WL 5269442, at *2 (S.D. Fla. Sept. 4, 2020) (same); *Riddle v. Atkins & Ogle Law Offices, LC*, No. 19-249, 2020 WL 3496470, at *2 (S.D. W. Va. June 29, 2020) (same); *Aikens v. Malcolm Cisneros*, No. 17-2462, ECF No. 76 at 16 (C.D. Cal. Jan. 2, 2020) (same); *Dickens v. G.C. Servs. Ltd. P’ship*, No. 16-803, 2019 WL 1771524, at *1 (M.D. Fla. Apr. 10, 2019) (“As for the billing rates, [GDR] charged associate and partner rates ranging from \$350 to \$450 per hour. The Court agrees that for this type of litigation and the market rate in Tampa, the rates are reasonable.”).

222.8 hours, equal to \$541 per hour, modestly cutting total billed hours thereafter); *Parrot, Inc. v. Nicestuff Distrib. Int'l, Inc.*, No. 06-61231, 2010 WL 680948, at *8 (S.D. Fla. Feb. 24, 2010) (“For the year, 2007, an hourly rate of \$440.00 for a partner with 19 years of experience, and \$290.00 for a fourth-year associate, fall well within rates charged by law firms in the local market.”); *Fresco v. Auto. Dirs.*, No. 03-61063, 2009 WL 9054828, at *7-8 (S.D. Fla. Jan. 20, 2009) (rates ranging from \$400 for associates to \$600 for a senior partner were reasonable in a fee-shifting case under the Driver’s Privacy Protection Act).⁷

Applying GDR’s hourly rates to their accumulated time here results in a total expected lodestar of \$54,570, which includes the additional estimated time to usher the settlement through final approval. *See* Greenwald Decl. at ¶¶ 34-36. But here, Plaintiff’s fee request of \$50,000— inclusive of costs and litigation expenses, outlined below—amounts to a discount on counsel’s lodestar.

D. The skill required to perform the legal services properly and the experience, reputation, and ability of Class Counsel all favor approval of the fee request.

Turning next to the third and ninth *Johnson* factors, Class Counsel have significant experience litigating, and resolving, consumer protection class actions. *See id.* at ¶¶ 11-27. Indeed, multiple district courts have commented on GDR’s useful knowledge and experience in connection with class action litigation. For example, in *Roundtree v. Bush Ross, P.A.*, Judge

⁷ *See also CC-Aventura, Inc. v. Weitz Co., LLC*, No. 06-21598, 2008 WL 276057, at *2 (S.D. Fla. Jan. 31, 2008) (holding as reasonable eighth-year associate hourly rate of \$400); *Topp, Inc. v. Uniden Am. Corp.*, No. 05-21698, 2007 WL 2155604, at *2-3 (S.D. Fla. July 25, 2007) (hourly rate of \$551); *accord Van Horn v. Nationwide Prop. & Cas. Ins. Co.*, 436 F. App’x 496, 498 (6th Cir. 2011) (district court did not abuse its discretion in approving rates ranging from \$250 to \$450 per hour); *Salazar v. Midwest Servicing Grp., Inc.*, No. 17-137, 2018 WL 4802139, at *6 (C.D. Cal. Oct. 2, 2018) (hourly rates ranging from \$450 to \$495 in FDCPA case); *De Amaral v. Goldsmith & Hull*, No. 12-3580, 2014 WL 1309954, at *3 (N.D. Cal. Apr. 1, 2014) (rates of \$450 per hour for a partner and \$350 for an associate were reasonable in FDCPA case); *Rodriguez v. Pressler & Pressler, L.L.P.*, CV-06-5103, 2009 WL 689056, at *1 (E.D.N.Y. Mar. 16, 2009) (hourly rates of \$450 and \$300 in FDCPA case).

James D. Whittemore of the Middle District of Florida wrote, in certifying three separate classes and appointing GDR class counsel: “Greenwald [Davidson Radbil PLLC] has been appointed as class counsel in a number of actions and thus provides great experience in representing plaintiffs in consumer class actions.” 304 F.R.D 644, 661 (M.D. Fla. 2015).

Judge Rodney Smith of the Southern District of Florida held the same when approving an FDCPA class action settlement in *Lloyd v. James E. Albertelli, P.A.*: “Additionally, GDR is an experienced firm that has successfully litigated many complex consumer class actions. Because of its experience, GDR has been appointed class counsel in many class actions throughout the country, including several in this District.” No. 20-60300, 2020 WL 7295767, at *2 (S.D. Fla. Dec. 10, 2020).

And, more recently, Judge Mary S. Scriven of the Middle District of Florida recognized: “Because of its experience, GDR has been appointed class counsel in many class actions throughout the country, including several in this district. GDR employed that experience here in negotiating a favorable result that avoids protracted litigation, trial, and appeals.” *Brockman*, 2021 WL 913082, at *3.

Class Counsel utilized their skill and experience to pursue this case and resolve it in an efficient manner, resulting in a settlement that provides full reimbursements to Florida consumers as well as statutory damages. The results-driven performance here favors Plaintiff’s fee request. *See Acuna*, 2022 WL 1222693, at *4 (“As to the ninth factor, GDR is an experienced firm that has successfully litigated many complex consumer class actions.”).

E. Class Counsel assumed substantial risk to pursue this litigation on a contingent fee basis.

Per the fourth and sixth *Johnson* factors, rewarding attorneys in class actions is important because, absent class actions, most individual claimants would lack the resources to litigate, as

individual recoveries are often too small to justify the burden and expense of litigation. *In re Telectronics Pacing Sys., Inc.*, 137 F. Supp. 2d 1029, 1043 (S.D. Ohio 2001) (“Attorneys who take on class action matters serve a benefit to society and the judicial process by enabling . . . claimants to pool their claims and resources” to “achieve a result they could not obtain alone.”); *see also Gross v. Wash. Mut. Bank*, No. 02-4135, 2006 WL 318814, at *6 (E.D.N.Y. Feb. 9, 2006) (“The type of litigation undertaken by class counsel here, which addresses important consumer concerns that would likely be ignored without such class action lawsuits, must be encouraged.”). In *Johnson*, the federal Fifth Circuit Court of Appeals recognized that fees should be adequate “to enable litigants to obtain competent counsel worthy of a contest with the caliber of counsel available to their opposition” 488 F.2d at 719-20.

The court observed that “[a]dequate compensation [for successful counsel in contingent cases] is necessary . . . to enable an attorney to serve his client effectively and to preserve the integrity and independence of the profession.” *Id.* The federal Second Circuit has voiced the same concern in the analogous context of antitrust class actions. *See Alpine Pharmacy, Inc. v. Chas. Pfizer & Co., Inc.*, 481 F.2d 1045, 1050 (2d Cir. 1973) (“In the absence of adequate attorneys’ fee awards, many antitrust actions would not be commenced, since the claims of individual litigants, when taken separately, often hardly justify the expense of litigation.”). And as Judge King in the Southern District of Florida wrote:

A contingency fee arrangement often justifies an increase in the award of attorney’s fees. This rule helps assure that the contingency fee arrangement endures. If this ‘bonus’ methodology did not exist, very few lawyers could take on the representation of a class client given the investment of substantial time, effort, and money, especially in light of the risks of recovering nothing.

Behrens, 118 F.R.D. at 548; *see also Ressler v. Jacobson*, 149 F.R.D. 651, 654-55 (M.D. Fla. 1992) (“Here, of course, the fee was entirely contingent, which meant that, had Petitioners

recovered nothing for the Class, they would not have been entitled to any fee at all. The substantial risks of this litigation abundantly justify the fee requested herein.”).

Here, Class Counsel undertook this litigation on a contingency, devoting nearly two years to this matter with no guarantee that they would be paid for their efforts. What’s more, GDR is a relatively small law firm, now with only four full-time attorneys. The fourth and sixth *Johnson* factors correspondingly support the instant fee request. *See In re Checking Account Overdraft Litig.*, 830 F. Supp. 2d 1330, 1365 (S.D. Fla. 2011) (“It is uncontroverted that the time spent on the Action was time that could not be spent on other matters. This factor too supports the requested fee.”).

F. The novelty and difficulty of the questions in this case, together with the results obtained, favor approval of the fee request.

The second and eighth *Johnson* factors also compel approval. Defendant is represented by sophisticated counsel and, absent a settlement, Defendant likely would have seen this case through trial, and appeal. *See, e.g., Midland Funding, LLC v. Brent*, No. 08-1434, 2011 WL 3557020, at *16 (N.D. Ohio Aug. 12, 2011) (“The Fair Debt Collection Practices Act is a set of complex laws with many components. The instant case would be very expensive to fully litigate, and might take years to finally resolve through the course of trial and appeal, creating additional attorney’s fees and reducing any potential payout to the class.”).

Indeed, the parties disagreed about the merits, as Defendant vigorously disputed any liability under the FDCPA. Notwithstanding, even assuming class members *had* prevailed at trial, the FDCPA does not assure any *minimum* statutory damages award. Rather, in determining a class award, the jury must balance such factors as the nature of the debt collector’s noncompliance, the number of persons adversely affected, and the extent to which the debt collector’s noncompliance was intentional. *See* 15 U.S.C. § 1692k(b)(2). It follows that the jury

here ultimately could have awarded the class little in the way of statutory damages, or even none at all. *See Schuchardt v. Law Office of Rory W. Clark*, 314 F.R.D. 673, 683 (N.D. Cal. 2016) (“Because damages are not mandatory [in an FDCPA class action], continued litigation presents a risk to Plaintiffs of expending time and money on this case with the possibility of no recovery at all for the Class”).⁸

At bottom, there was uncertainty about the ultimate outcome of this litigation. *See, e.g., Bennett v. Behring Corp.*, 96 F.R.D. 343, 349-50 (S.D. Fla. 1982), *aff’d*, 737 F.2d 982 (11th Cir. 1984) (plaintiffs faced a “myriad of factual and legal problems” that led to “great uncertainty as to the fact and amount of damage,” which made it “unwise [for plaintiffs] to risk the substantial benefits which the settlement confers . . . to the vagaries of a trial”). But in the face of these significant risks, Plaintiff obtained a settlement that guarantees substantial financial recoveries.

The settlement at bar represents an excellent result for Plaintiff and the Class Members. Indeed, they have achieved recoveries likely exceeding the best possible outcome at trial for statutory damages, as the settlement fund exceeds the statutory damages cap imposed by the FDCPA of one percent of Defendant’s balance sheet net worth. *See* 15 U.S.C. § 1692k(a)(2)(B); *accord Sanders v. Jackson*, 209 F.3d 998, 1004 (7th Cir. 2000) (“net worth” under the FDCPA at § 1692k means “balance sheet or book value net worth” of assets minus liabilities). This successful resolution supports the requested fee and expense award. *See, e.g., Shoemaker v. Bass & Moglowsky*, No. 19-316, 2020 WL 1671561, at *2 (W.D. Wis. Apr. 3, 2020) (“More critically,

⁸ The risk of a minimal damages award was not merely hypothetical. *See, e.g., Dickens v. GC Servs. Ltd. P’ship*, 220 F. Supp. 3d 1312, 1324 (M.D. Fla. 2016) (“Having considered these factors and the parties’ briefs, the Court finds that the statutory award in this case should be nominal, whether that award applies to Dickens alone or a class of plaintiffs.”), *vacated and remanded*, 706 F. App’x 529 (11th Cir. 2017); *Jerman v. Carlisle, McNellie, Rini, Kramer & Ulrich LPA*, No. 06-1397, 2011 WL 1434679, at *11 (N.D. Ohio 2011) (analyzing the factors set forth in 15 U.S.C. § 1692k and awarding no “additional damages” to members of the class).

the monetary award each class member will receive likely exceeds that available under the remedies provision of the FDCPA, and the settlement requires defendant to alter its business practices, rendering this an exceptional settlement and entitling class counsel to an award of fees that represents three-quarters of the total settlement.”).

Moreover, had Plaintiff declined settlement and proceeded to certify a litigation class over Defendant’s objection, then prevailed at summary judgment or at trial, she likely could not have recovered more in statutory damages than what this settlement now provides. To be sure, as explained above, doing so could have led to a considerably smaller recovery for Class Members—or potentially no recovery at all.

The results obtained here—the eighth *Johnson* factor—thus support the reasonableness of the \$50,000 fee and expense award sought.

G. Fee awards in similar cases provide additional support for Plaintiff’s request.

Courts also analyze whether the requested fee award “comports with customary fee awards in similar cases.” *Gevaerts v. T.D. Bank*, No. 14-20744, 2015 WL 6751061, at *13 (S.D. Fla. Nov. 11, 2015). Plaintiff’s request here falls well in line with fee awards approved in other similar class actions. *See, e.g., Denning*, 2023 WL 2655187, at *4 (awarding \$85,000 in fees and costs in class action under the FDCPA and FCCPA); *Newman*, 2020 WL 5269442, at *4 (approving \$50,000 in fees and expenses in FDCPA class action); *Dickens*, 2019 WL 1771524, at *1 (awarding \$270,000 in fees and expenses); *Grant v. Ocwen Loan Servicing*, No. 15-1376, 2019 WL 367648, at *9 (M.D. Fla. Jan. 30, 2019) (awarding \$150,000 in fees and expenses); *Schuchardt*, 314 F.R.D. at 689-90 (awarding \$52,500 in fees and expenses in FDCPA class action); *McWilliams*, 2017 WL 2625118, at *3 (awarding attorneys’ fees of \$116,562.50 and expenses of \$1,782.55 in FDCPA class action); *Blandina v. Midland Funding, LLC*, No. 13-11792, 2016 WL 3101270, at *8 (E.D. Pa. June 1, 2016) (awarding \$245,000 in attorneys’ fees

and expenses); *Roundtree*, 2016 WL 360721, at *2 (awarding \$170,000 in fees and expenses).⁹ Accordingly, the twelfth *Johnson* factor favors approval.

H. That no Class Member has objected to the requested fee and expense award to date further supports its approval.

While not a recognized *Johnson* factor, courts also look to the reaction of class members in considering the reasonableness of a proposed fee and expense award. Significantly, to date, no Class Member has objected to any aspect of the settlement, including the proposed fee and expense award. The absence of objections strongly indicates that the requested attorneys' fees and expenses are fair and reasonable and should be approved. *See Allapattah Servs., Inc. v. Exxon Corp.*, 454 F. Supp. 2d 1185, 1204 (S.D. Fla. 2006) ("The lack of significant objection from the Class supports the reasonableness of the fee request."); *In re Rent-Way Sec. Litig.*, 305 F. Supp. 2d 491, 514 (W.D. Pa. 2003) ("The absence of substantial objections by other class members to the fee application supports the reasonableness of Lead Counsel's request.").

I. The parties negotiated the fee and expense award only after reaching agreement on the class settlement terms.

It is worth noting that the parties agreed upon the proposed fee award *after* reaching agreement on all other class settlement terms—and after this Court preliminarily approved the settlement. *Accord Bragg v. Bill Heard Chevrolet, Inc.*, No. 11-666, 2007 WL 2781105, at *5 (M.D. Fla. Aug. 28, 2007) ("The Class Settlement was bifurcated to address and finalize the terms of the Class recovery, prior to negotiating and resolving fees and costs."). This progress of negotiations further supports the reasonableness of the fee request. *See, e.g., Galvez v. Touch-Tel*

⁹ *See also Alexander v. Coast Prof'l Inc.*, No. 12-1461, 2016 WL 861329, at *8 (E.D. Pa. Mar. 7, 2016) (awarding \$185,000 in attorneys' fees and expenses in FDCPA class action); *Good v. Nationwide Credit, Inc.*, 314 F.R.D. 141, 164 (E.D. Pa. 2016) (awarding \$125,000 in attorneys' fees and expenses in FDCPA class action); *Donnelly v. EquityExperts.org, LLC*, No. 13-10017, 2015 WL 249522, at *2 (E.D. Mich. Jan. 14, 2015) (fees of \$90,000 and expenses of \$5,947.58 in FDCPA class action).

U.S.A., No. 08-5642, 2013 WL 12238943, at *2 (C.D. Cal. Oct. 9, 2013) (“Furthermore, the parties negotiated the attorneys’ fees and costs provision with the assistance of an experienced mediator appointed by the Ninth Circuit, Mr. Liacouras, and reached their result after agreeing on the substantive terms of the class settlement.”).

And, importantly, Defendant has agreed to pay any fee and expense award separately from the funds for Class Members. Thus, the fee and expense award will not diminish Class Members’ recoveries. *See Good*, 314 F.R.D. at 162 (“Even if the Court were to approve less than the \$125,000 negotiated amount, the class would not gain a greater recovery; rather, Defendant would simply keep the money.”).

II. Class Counsel’s costs and litigation expenses are reasonable and appropriate for reimbursement.

Lastly, Class Counsel have incurred \$1,019.23 in costs and litigation expenses, including filing fees, summons fees, and costs for service of process on Defendant and a third party. *See Greenwald Decl.* at ¶¶ 39-40. The categories of expenses for which Class Counsel seek reimbursement are the type of expenses routinely charged to paying clients in the marketplace and, therefore, should be reimbursed under 15 U.S.C. § 1692k(a)(3). *Accord Behrens v. Wometco Enters., Inc.*, 118 F.R.D. 534, 549 (S.D. Fla. 1988), *aff’d*, 899 F.2d 21 (11th Cir. 1990) (awarding as reasonable and necessary, reimbursement for “travel, depositions, filing fees, postage, telephone, and copying”).¹⁰ Plaintiff seeks reimbursement of these costs and expenses as part of the \$50,000 fee and expense award he seeks for Class Counsel.

¹⁰ Of note, Class Counsel do not seek separate reimbursement for telephone services or online legal research fees. Rather, those additional costs are subsumed within the total fee and expense request of \$50,000.

Conclusion

Plaintiff respectfully requests that this Court enter an order awarding \$50,000 in total in attorneys' fees, costs, and litigation expenses. As noted, Defendant does not oppose this award, nor do any Class Members to date.

Dated: May 12, 2023

Respectfully submitted,

/s/ James L. Davidson

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Class Counsel

CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2023, I filed the foregoing using the Court's CM/ECF system, which will provide notice to:

Lauren M. Burnette
Messer Strickler, Ltd.
12276 San Jose Blvd., Suite 718
Jacksonville, Florida 32223
lburnette@messerstrickler.com

/s/ James L. Davidson
James L. Davidson

Exhibit A

**IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA**

Deloise Guyton, on behalf of herself and others: similarly situated,	:	Case No.: 2023-CA-001242
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
Abrahamsen Gindin, LLC,	:	
	:	
Defendant.	:	
	:	

**DECLARATION OF MICHAEL L. GREENWALD IN SUPPORT OF PLAINTIFF’S
MOTION FOR ATTORNEYS’ FEES AND REIMBURSEMENT OF COSTS
AND LITIGATION EXPENSES**

Pursuant to Fla. Stat. § 92.525 and 28 U.S.C. § 1746, I declare as follows:

1. My name is Michael L. Greenwald.
2. I am over twenty-one years of age.
3. I am fully competent to make the statements included in this declaration, and I have personal knowledge of these statements.
4. I am admitted to practice before this Court.
5. I am a partner at Greenwald Davidson Radbil PLLC (“GDR”), counsel for Deloise Guyton (“Plaintiff”) and court-appointed Class Counsel in this matter.
6. GDR focuses on consumer protection class action litigation, with attorneys based in Boca Raton, Florida and Austin, Texas.
7. I graduated from the University of Virginia in 2001 and Duke University School of Law in 2004.

8. I submit this declaration in support of Plaintiff's Motion for Attorneys' Fees and Reimbursement of Costs and Litigation Expenses.

9. GDR undertook this case on a contingency basis and advanced all costs and litigation expenses.

10. Correspondingly, GDR has not received any payment to date for its work on behalf of Plaintiff and the settlement class.

GDR's Experience

11. GDR's attorneys have extensive experience litigating consumer protection class actions, including class actions under the Fair Debt Collection Practices Act ("FDCPA") and other consumer protection statutes.

12. As class counsel, GDR has helped to recover more than \$120 million for class members over the past eight years, including in the following cases:

- *Jackson v. Discover Financial Services Inc.*, No. 1:21-cv-04529 (N.D. Ill.);
- *Lucas v. Synchrony Bank*, No. 4:21-cv-00070-PPS (N.D. Ind.);
- *Wesley v. Snap Fin. LLC*, No. 2:20-cv-00148-RJS-JCB (D. Utah);
- *Miles v. Mediacredit, Inc.*, No. 4:20-cv-1186-JAR (E.D. Mo.);
- *Davis v. Mindshare Ventures LLC et al.*, No. 4:19-cv-1961 (S.D. Tex.);
- *Bonoan v. Adobe, Inc.*, No. 3:19-cv-01068-RS (N.D. Cal.);
- *Neal v. Wal-Mart Stores, Inc. and Synchrony Bank*, No. 3:17-cv-00022 (W.D.N.C.);
- *Jewell v. HSN, Inc.*, No. 3:19-cv-00247-jdp (W.D. Wis.);
- *Knapper v. Cox Commc'ns, Inc.*, No. 2:17-cv-00913-SPL (D. Ariz.);
- *Sheean v. Convergent Outsourcing, Inc.*, No. 2:18-cv-11532-GCS-RSW (E.D. Mich.);
- *Williams v. Bluestem Brands, Inc.*, No. 8:17-cv-01971-T-27AAS (M.D. Fla.);
- *Martinez, et al., v. Mediacredit, Inc.*, No. 4:16-cv-01138 ERW (E.D. Mo.);

- *Johnson v. NPAS Solutions, LLC*, No. 9:17-cv-80393 (S.D. Fla.);
- *Luster v. Wells Fargo Dealer Servs., Inc.*, No. 1:15-cv-01058-TWT (N.D. Ga.);
- *Prather v. Wells Fargo Bank, N.A.*, No. 1:15-cv-04231-SCJ (N.D. Ga.);
- *Johnson v. Navient Solutions, Inc., f/k/a Sallie Mae, Inc.*, No. 1:15-cv-0716-LJM (S.D. Ind.);
- *Toure and Heard v. Navient Solutions, Inc., f/k/a Sallie Mae, Inc.*, No. 1:17-cv-00071-LJM-TAB (S.D. Ind.);
- *James v. JPMorgan Chase Bank, N.A.*, No. 8:15-cv-2424-T-23JSS (M.D. Fla.);
- *Schwyhart v. AmSher Collection Servs., Inc.*, No. 2:15-cv-1175-JEO (N.D. Ala.);
- *Cross v. Wells Fargo Bank, N.A.*, No. 2:15-cv-01270-RWS (N.D. Ga.);
- *Markos v. Wells Fargo Bank, N.A.*, No. 15-1156 (N.D. Ga.);
- *Prater v. Medicredit, Inc.*, No. 14-00159 (E.D. Mo.);
- *Jones v. I.Q. Data Int'l, Inc.*, No. 1:14-cv-00130-PJK-GBW (D.N.M.); and
- *Ritchie v. Van Ru Credit Corp.*, No. 2:12-CV-01714-PHX-SM (D. Ariz.).

13. In addition to the cases outlined above, GDR has been appointed class counsel in dozens of class actions brought under the FDCPA and other consumer protection statutes in the past six years, including:

- *Taylor v. TimePayment Corp.*, No. 3:18-cv-00378-MHL-DJN (E.D. Va.);
- *Danger v. Nextep Funding, LLC*, No. 0:18-cv-00567-SRN-LIB (D. Minn.);
- *Spencer v. #1 A LifeSafer of Ariz. LLC*, No. 18-02225-PHX-BSB (D. Ariz.);
- *Dickens v. GC Servs. Ltd. P'Ship*, No. 8:16-cv-00803-JSM-TGW (M.D. Fla.);
- *Kagno v. Bush Ross, P.A.*, No. 8:17-cv-1468-T-26AEP (M.D. Fla.);
- *Johnston v. Kass Shuler, P.A.*, No. 8:16-cv-03390-SDM-AEP (M.D. Fla.);
- *Jallo v. Resurgent Capital Servs., L.P.*, No. 4:14-cv-00449 (E.D. Tex.);
- *Macy v. GC Servs. Ltd. P'ship*, No. 3:15-cv-00819-DJH-CHL (W.D. Ky.);

- *Rhodes v. Nat'l Collection Sys., Inc.*, No. 15-cv-02049-REB-KMT (D. Colo.);
- *McCurdy v. Prof'l Credit Servs.*, No. 6:15-cv-01498-AA (D. Or.);
- *Schuchardt v. Law Office of Rory W. Clark*, No. 3:15-cv-01329-JSC (N.D. Cal.);
- *Globus v. Pioneer Credit Recovery, Inc.*, No. 15-CV-152V (W.D.N.Y.);
- *Roundtree v. Bush Ross, P.A.*, No. 8:14-cv-00357-JDW-AEP (M.D. Fla.); and
- *Gonzalez v. Germaine Law Office PLC*, No. 2:15-cv-01427 (D. Ariz.).

14. Multiple district courts have commented on GDR's useful knowledge and experience in connection with class action litigation.

15. For instance, in preliminarily approving the FDCPA class action settlement in *Chapman v. Bowman, Heintz, Boscia & Vician, P.C.*, Judge Jon E. DeGuilio of the Northern District of Indiana wrote:

No doubt Michael L. Greenwald of Greenwald Davidson Radbil PPLC has put extensive work into reviewing and investigating the potential claims in this case, and he and his firm have experience in handling class action litigation. Additionally, Mr. Greenwald has demonstrated his knowledge of the FDCPA and he has so far committed the resources necessary to representing the class and administrating the proposed settlement. The Court believes that Mr. Greenwald will fairly and adequately represent the interests of the class; and therefore, in compliance with Rule 23(g)(1), it is **ORDERED** that Michael Greenwald of Greenwald Davidson Radbil PPLC is appointed Class Counsel.

No. 2:15-cv-120 JD, 2015 WL 9478548, at *6 (N.D. Ind. Dec. 29, 2016).

16. As well, in *Ritchie*, Judge Stephen P. McNamee of the District of Arizona stated upon granting final approval to the settlement:

I want to thank all of you. It's been a pleasure. I hope that you will come back and see us at some time in the future. And if you don't, I have a lot of cases I would like to assign you, because you've been immensely helpful both to your clients and to the Court. And that's important. So I want to thank you all very much.

No. CIV-12-1714 (D. Ariz. July 21, 2014).

17. In *Schwyhart*, Judge John E. Ott, Chief Magistrate Judge of the Northern District of Alabama, stated upon granting final approval to a settlement for which he appointed GDR as class counsel:

I cannot reiterate enough how impressed I am with both your handling of the case, both in the Court's presence as well as on the phone conferences, as well as in the written materials submitted. . . . I am very satisfied and I am very pleased with what I have seen in this case. As a judge, I don't get to say that every time, so that is quite a compliment to you all, and thank you for that.

No. 2:15-cv-1175-JEO (N.D. Ala. Mar. 15, 2017).

18. Judge Carlton W. Reeves of the Southern District of Mississippi described GDR as follows:

More important, frankly, is the skill with which plaintiff's counsel litigated this matter. On that point there is no disagreement. Defense counsel concedes that her opponent—a specialist in the field who has been class counsel in dozens of these matters across the country—“is to be commended for his work” for the class, “was professional at all times” ..., and used his “excellent negotiation skills” to achieve a settlement fund greater than that required by the law.

The undersigned concurs ... Counsel's level of experience in handling cases brought under the FDCPA, other consumer protection statutes, and class actions generally cannot be overstated.

McWilliams v. Advanced Recovery Sys., Inc., No. 3:15-CV-70-CWR-LRA, 2017 WL 2625118, at *3 (S.D. Miss. June 16, 2017).

19. Similarly, Judge Robert C. Chambers of the Southern District of West Virginia described GDR as follows:

As to the ninth factor, GDR is an experienced firm that has successfully litigated many complex consumer class actions. Because of its experience, GDR has been appointed class counsel in many class actions throughout the country, including several in the Fourth Circuit. GDR employed that experience here in negotiating a favorable result that avoids protracted litigation, trial, and appeals.

Riddle v. Atkins & Ogle Law Offices, LC, No. 3:19-cv-0249, 2020 WL 3496470, at *3 (S.D. W. Va. June 29, 2020) (internal citation omitted).

20. More recently, in certifying a nationwide class action under the Telephone Consumer Protection Act, Judge Roslyn O. Silver of the District of Arizona wrote:

Moreover, the quality of Plaintiff’s filings to this point, as well as the declarations submitted by the proposed class counsel, Michael Greenwald (Doc. 120-6) . . . persuade the Court that Head, Greenwald, and Wilson will continue to vigorously prosecute this action on behalf of the class.

* * *

Significantly, class counsel have provided a list of well over a dozen class actions Greenwald, Wilson, and their respective firms have each litigated, including several under the TCPA. (Doc. 120-6 at 5-6; Doc. 120-7 at 2-7). These showings demonstrate counsel’s experience in handling class actions, complex litigation, and the types of claims asserted in this action. *See* Fed. R. Civ. P. 23(g)(1)(A)(ii).

Head v. Citibank, N.A., 340 F.R.D. 145, 152 (D. Ariz. 2022).

21. Prior to forming GDR, I spent six years as a litigator at Robbins Geller Rudman & Dowd LLP—one of the nation’s largest plaintiff’s class action firms.

22. My practice at Robbins Geller focused on complex class actions, including securities and consumer protection litigation.

23. While at Robbins Geller, I served on the litigation teams responsible for the successful prosecution of numerous class actions, including: *In re Evergreen Ultra Short Opportunities Fund Sec. Litig.* (D. Mass.); *In re Red Hat, Inc. Sec. Litig.* (E.D.N.C.); *City of Ann Arbor Emps.’ Ret. Sys. v. Sonoco Prods. Co., et al.* (D.S.C.); *Norfolk Cnty. Ret. Sys., et. al. v. Ustian* (N.D. Ill.); *Romero v. U.S. Unwired, Inc.* (E.D. La.); *Lefkoe v. Jos. A. Bank Clothiers, Inc.* (D. Md.); and *In re Odimo, Inc. Sec. Litig.* (Fla.).

24. I started my career as an attorney in the Fort Lauderdale office of Holland & Knight LLP.

25. Other GDR attorneys also contributed to the successful prosecution of this case, including partners James L. Davidson, Aaron D. Radbil, and Jesse S. Johnson, as well as associate Alexander D. Kruzyk.

26. All GDR attorneys are admitted to practice before this Court.

27. More information about GDR and the firm's attorneys is available on the firm's website, www.gdrllawfirm.com.

GDR's Reasonable Attorneys' Fees

28. The attorneys' fees requested here are fair and reasonable in light of this certified class action benefiting more than 1,500 Florida consumers.

29. For nearly two years now—first in federal court and then in state court—GDR's attorneys have devoted significant time and resources to developing this case and obtaining a great result for class members. GDR's effort includes: (a) conducting an investigation into the underlying facts concerning the FDCPA claims at hand; (b) researching and preparing a federal court class action complaint and an amended class action complaint; (c) researching Abrahamsen Gindin, LLC's ("Defendant") defenses and affirmative defenses; (d) conducting written discovery in federal court; (e) pursuing third-party discovery through a subpoena; (f) reviewing financial documentation produced by Defendant; (g) preparing the operative class action complaint before this Court; (h) researching and preparing Plaintiff's class settlement demand, and engaging in follow-up negotiations with Defendant over the course of weeks; (i) preparing, negotiating, and revising the parties' written class settlement agreement and accompanying exhibits, including the proposed class notices; (j) obtaining bids for class settlement

administration services and conferring with Defendant regarding the same; (k) preparing Plaintiff's motion for preliminary approval of the class settlement and accompanying proposed preliminary approval order for federal court; (l) preparing supplemental filings in federal court in support of the parties' settlement; (m) preparing an addendum to the settlement agreement and revised proposed notice documents; (n) preparing Plaintiff's motion for preliminary approval of the class settlement and accompanying proposed preliminary approval order for this Court; (o) coordinating with Defendant and the administrator to effectuate the Court-approved notice plan; (p) researching and drafting Plaintiff's fee motion and the instant declaration in support; and (q) conferring repeatedly with Plaintiff and defense counsel throughout the entirety of the litigation.

30. GDR's diligent efforts in (1) developing the class claims, (2) pivoting to state court in the face of jurisdictional challenges in federal court, (3) conducting discovery to identify class members as well as their potential damages, and (4) successfully negotiating the class settlement presented—all while navigating the risks of contingent class action litigation and ultimately bringing this matter to an excellent resolution for all class members—is deserving of the reasonable fee and expense award requested.

31. To be sure, GDR litigated this case efficiently and effectively in the best interests of all class members, having secured substantial benefits above and beyond the applicable statutory damages limits under the FDCPA.

32. In doing so, as of the date of this declaration, GDR's attorneys have spent a total of 103.1 hours litigating this case. More specifically, I have spent 66.9 hours on this case, Mr. Davidson has spent 18.6 hours, and Mr. Johnson has spent 9.6 hours. In an exercise of billing discretion, GDR will exclude time expended by Mr. Radbil and Mr. Kruzyk on this matter.

Excluding their combined 7.9 hours of attorney time results in a total of 95.2 hours of compensable attorney time.

33. The time included herein is evidenced by my firm's electronically stored time records, which are entered contemporaneously with the respective task to which they relate.

34. Additionally, I conservatively estimate that this case will require 15 more hours of attorney time to complete, which will be spent researching and preparing Plaintiff's motion for final approval of the settlement; preparing for and attending the final fairness hearing set for July 12, 2023; overseeing the settlement distributions; addressing any class member objections or concerns; and continuing to confer with class members, Defendant, and Class-Settlement.com regarding the settlement.

35. While prosecuting Plaintiff's and the class's claims, and in line with GDR's contingent fee agreement with Plaintiff, I billed at a rate of \$500 per hour, as did Mr. Davidson and Mr. Radbil. Mr. Johnson billed at a rate of \$450 per hour.

36. Multiplying the hours incurred by each GDR attorney's applicable hourly rate produces a current lodestar of \$47,070 (excluding all time incurred by Mr. Radbil and Mr. Kruzyk); including my additional estimated time necessary to conclude this matter yields a total estimated lodestar of \$54,570.

37. I respectfully submit that the requested fee and expense award of \$50,000, which is inclusive of costs and expenses (explained below) and represents a discount as compared to GDR's anticipated lodestar, is eminently reasonable for this certified class action, particularly in light of the excellent recoveries obtained for Plaintiff and the class members.

Reimbursable Costs and Litigation Expenses

38. Subsumed within Plaintiff's \$50,000 fee and expense request is reimbursement for costs and litigation expenses reasonably incurred in connection with the prosecution of Plaintiff's and the class's claims.

39. Such costs and expenses are reflected in the books and records maintained by class counsel, which are an accurate recording of those incurred; to date, GDR has incurred reimbursable costs and expenses in the total amount of \$1,019.23.

40. These costs and expenses include the filing fees for the two complaints and summons (\$831.38), the costs of service of the federal court complaint on Defendant (\$125), the costs of service of a third-party subpoena (\$51), and Federal Express charges (\$11.85).

41. Further, GDR has incurred additional reimbursable expenses, such as for telephone services and computerized legal research, which are not separately itemized herein and for which class counsel does not seek separate reimbursement.

42. That GDR does not seek reimbursement for these various other expenses lends further support to the reasonableness of Plaintiff's fee and expense request.

43. As set out above and in Plaintiff's accompanying motion, I respectfully request that this Court grant Plaintiff's motion for approval of an award of attorneys' fees, costs, and litigation expenses in the total amount of \$50,000.

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

Dated: May 12, 2023

/s/ Michael L. Greenwald
Michael L. Greenwald