

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Katie Leigh McDaniel, on behalf of herself
and a class of all others similarly situated,
Myrna S. Seibel, Robert B. Deaver, Amber
Brown, and Catherine B. Burns,

Plaintiffs,

v.

Century Aluminum Company and Century
Aluminum of South Carolina, Inc.,

Defendants.

C/A NO. 2:23-cv-05766-RMG

**PLAINTIFFS' PETITION FOR CLASS COUNSEL ATTORNEYS' FEES, COSTS, AND
A CLASS REPRESENTATIVE SERVICE AWARD**

Plaintiffs, by and through their counsel, hereby submit this Petition for Class Counsel Attorneys' Fees, Costs, and a Class Representative Service Award pursuant to Federal Rule of Civil Procedure 23 and the terms of the Settlement Agreement this Court preliminarily approved on April 30, 2025. ECF No. 75. In view of the outstanding results achieved for the Class, the complexity of the issues presented, the quality of representation, and the risk of nonpayment, Plaintiffs' request for an award of attorneys' fees of \$236,000.00, representing 25% of the total monetary recovery achieved by the Settlement, and for reimbursement of expenses of \$150,000.00 is fair and reasonable. Moreover, a \$1,000.00 service award to Plaintiff McDaniel is fair and reasonable to compensate her for the time and effort expended in assisting the prosecution of this litigation.

This petition is based on the following grounds:

1. Plaintiffs filed this action on November 10, 2023.

2. During the course of this action, the parties conducted extensive fact discovery, engaged a multitude of experts, and participated in multiple days of mediation prior to reaching the proposed Settlement.

3. Both prior to the filing of this action and throughout the course of the litigation, Class Counsel expended considerable time and resources investigating the facts surrounding the alleged releases, identifying the conditions that resulted in the alleged releases and the geographic scope and impact of each alleged release, and identifying and coordinating the multiple experts from various disciplines necessary to establish causation and recoverable damages.

4. Following mediation sessions with Tom Wills on August 29, 2024, September 16, 2024, and January 8, 2025, the parties agreed to a proposed Settlement, which creates a \$944,000.00 common fund for Class member compensation and court-approved fees, expenses, and awards.

5. For each single-family home property within the class area, a check in the amount of approximately \$700.00 (the “Class Owner Payment”) will be provided to the owner(s) – a significant result given the limitations on recoverable property damages and the risks of continued and protracted litigation.

6. This Court preliminarily approved the Settlement Agreement on April 30, 2025. ECF No. 75.

7. Rule 23(h) provides that a court may award reasonable attorney’s fees and nontaxable costs that are authorized by law or by the parties’ agreement. Fed. R. Civ. P. 23(h). Consistent with the terms of the Settlement Agreement, Class Counsel seek an award of attorneys’ fees of \$236,000.00, representing 25% of the total monetary recovery achieved by the Settlement.

8. Local Rule 54.02(A) (D.S.C.) requires that petitions for attorney's fees comply with the requirements of *Barber v. Kimbrell's, Inc.*, 577 F.2d 216 (4th Cir. 1978). As discussed in Plaintiffs' Memorandum in Support of this Petition, application of the twelve factors set forth in *Barber* confirms that Class Counsel's fee request is a reasonable percentage of recovery to compensate Class Counsel for achieving an excellent outcome on behalf of the class.

- a. *Time and labor expended* - Class Counsel devoted significant time and labor prosecuting this case on behalf of the Class, undertaking considerable efforts to investigate the class claims prior to filing, participating in extensive discovery, and developing expert opinions in multiple scientific fields.
- b. *Novelty and difficulty of the questions raised* - This was a difficult case that involved complex issues of environmental science and factual and legal obstacles that made class certification and Plaintiffs' ability to prevail on the merits uncertain.
- c. *The skill required to perform the legal services properly* - Skilled counsel was required to prosecute this class action involving complicated and technical matters of environmental science.
- d. *The attorneys' opportunity costs in pressing the litigation* - The 778.7 hours of attorney time Class Counsel expended investigating and prosecuting this action impacted Class Counsel's ability to pursue other work.
- e. *Customary fees* - A percentage award for attorneys' fees of 25% is reasonable and customary.
- f. *The contingent nature of the matter* - Class Counsel undertook this case on a contingent basis at the risk of receiving little or no recovery.

- g. *Time limitations* – Class Counsel prosecuted this action subject to regular deadlines imposed by the Federal Rules of Civil Procedure, the local rules of court, and scheduling orders.
 - h. *Amount in controversy* - A recovery of approximately \$700.00 per residential property located in the geographic class area is a significant result given the limitations on recoverable property damages available to the Class.
 - i. *The experience, reputation, and ability of counsel* - Class Counsel have extensive experience in complex civil litigation and class actions, as well as considerable knowledge of the applicable law.
 - j. *The undesirability of the case* - The risks undertaken in this environmental litigation were considerable and likely would have deterred many other firms.
 - k. *Nature and length of the professional relationship between attorney and client* - Neither the current named plaintiffs nor the previously named plaintiffs were known to counsel prior to this case, and there is no reason to suggest that any of those individuals are dissatisfied with Class Counsel's representation.
 - l. *Attorneys' fees awarded in similar cases* – The requested fee is substantially similar to fees awarded in other environmental property damage cases as well as other common fee fund awards within this district.
9. The lodestar crosscheck confirms that the fees requested by Class Counsel are reasonable, as the proposed attorneys' fees of \$236,000.00 are less than the lodestar number.
10. Pursuant to Rule 23(h), Class Counsel request reimbursement of \$150,000.00 in reasonable and necessary costs and expenses that Class Counsel advanced during the course of this action.

11. A class representative service award in the amount of \$1,000.00 to Katie Leigh McDaniel is both reasonable and appropriate. Plaintiff McDaniel was committed to pursuing this action, and she performed a valuable service to the Class by virtue of her participation as the Class representative at the crucial stage of seeking approval of the proposed Settlement.

CONCLUSION

For the reasons set forth herein, Plaintiffs respectfully request that the Court enter an Order awarding Class Counsel attorneys' fees of \$236,000.00 and reimbursement of \$150,000.00 in reasonable and necessary expenses, and awarding a \$1,000.00 class representative service award to Plaintiff McDaniel.

Respectfully submitted,

Date: June 6, 2025

s/ James L. Ward, Jr.

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**PLAINTIFFS' MEMORANDUM IN SUPPORT OF PETITION FOR CLASS COUNSEL
ATTORNEYS' FEES, COSTS, AND A CLASS REPRESENTATIVE SERVICE AWARD**

Plaintiffs, by and through their counsel, submit this Memorandum in Support of their Petition for Class Counsel Attorneys' Fees, Costs, and a Class Representative Service Award pursuant to the terms of the Settlement Agreement this Court preliminarily approved on April 30, 2025. ECF No. 75. As detailed in the previously filed papers in support of preliminary approval, Plaintiffs respectfully submit that the proposed Settlement is a fair, adequate, and reasonable resolution of this class action. For each single-family home property within the class area, a check in the amount of approximately \$700.00 (the "Class Owner Payment") will be provided to the owner(s) – a significant result given the limitations on recoverable property damages and the risks of continued and protracted litigation as more fully explained below. As compensation for their work in achieving this result for the Class, Plaintiffs seek attorneys' fees of \$236,000.00, representing 25% of the total monetary recovery achieved by the Settlement. The requested fee is reasonable compensation to Class Counsel for accepting and vigorously pursuing this difficult case

involving complex issues of environmental science and myriad procedural obstacles, and for ultimately achieving this exceptional result for the benefit of the Class. In addition, Plaintiffs move for reimbursement of nontaxable prepaid costs and expenses of \$150,000.00.¹ Finally, Plaintiffs request a class representative service award of \$1,000.00 for Katie Leigh McDaniel's efforts in this litigation.

BACKGROUND AND PROCEDURAL HISTORY

Plaintiffs filed this putative class action on behalf of a class of property owners against Century Aluminum Company and Century Aluminum of South Carolina, Inc. (collectively "Defendants" or "Century Aluminum") seeking property damages for repeated emissions of aluminum oxide particulates, also known as alumina, from Defendants' Mount Holly aluminum smelter (the "Smelter") in September 2023 into the air in the area in Goose Creek around the Smelter, where the particulates allegedly deposited onto properties and residents allegedly came into physical contact with the particulates through touch and inhalation. Plaintiffs' complaint also includes individual claims for personal injuries related to alleged exposure to these emissions that are being disposed of separate and apart from the proposed class action settlement. Defendants have vigorously disputed Plaintiffs' claims throughout this litigation.

During the course of this action, the parties conducted extensive fact discovery, engaged a multitude of experts, and participated in multiple days of mediation prior to reaching the proposed Settlement. In vigorously pursuing Plaintiffs' claims, Class Counsel expended considerable time and resources investigating the facts surrounding the alleged releases, identifying the conditions that resulted in the alleged releases as well as the geographic scope and impact of each alleged release, and identifying and coordinating the multiple experts from various disciplines necessary

¹ Class Counsel incurred expenses of \$153,701.30, but agreed not to seek reimbursement of more than \$150,000.00.

to establish causation and recoverable damages. During the initial phase of discovery, Plaintiffs' experts conducted significant analyses regarding the effect of the alleged releases on properties in the class area, which enabled Class Counsel to further refine Plaintiffs' claims and necessitated three amendments to the complaint. The parties also participated in mediation sessions with Tom Wills on August 29, 2024 and September 16, 2024. As the initial phase of discovery wound down, and with the prospect of substantial future costs that would be incurred in obtaining the technical expert testimony necessary for this matter, as well as significant litigation obstacles, including a motion for class certification and possible dispositive motions, looming ahead, counsel participated in a final mediation session with Mr. Wills on January 8, 2025. Though not easily achieved, the mediation resulted in the proposed Settlement, which establishes a \$944,000.00 common fund for Class member compensation and court-approved fees, expenses, and awards.

Consistent with the terms of the Settlement Agreement and Federal Rule of Civil Procedure 23, Plaintiffs now file this Petition for Attorneys' Fees, Expenses, and a Class Representative Service Award.

ARGUMENT

I. CLASS COUNSEL SHOULD BE AWARDED REASONABLE ATTORNEYS' FEES

In a certified class action, the court may award reasonable attorney's fees and nontaxable costs that are authorized by law or by the parties' agreement. Fed. R. Civ. P. 23(h). Class Counsel seek an award of attorneys' fees of \$236,000.00, representing 25% of the total monetary recovery achieved by the Settlement. The parties settled the case after significant pre-suit technical investigation of the alleged emissions of alumina particulate matter in September 2023, detailed review of technical documents, engagement of multiple expert witnesses, depositions, and extensive negotiations with Century Aluminum. Had the parties not reached an agreement, Class

Counsel were ready, willing, and able to pursue the litigation through trial, as they have done in previous class actions.

Class Counsel's fee request is reasonable as a percentage of recovery in this matter. There are two main methods for calculating the reasonableness of attorneys' fees—the lodestar method and the percentage-of-recovery method. *McAdams v. Robinson*, 26 F.4th 149, 162 (4th Cir. 2022). A district court may choose the method it deems appropriate based on its judgment and the facts of the case. *Id.* The percentage-of-recovery method considers the portion of the total settlement fund that will go to attorneys' fees. *Id.* “Within this Circuit, the percentage-of-recovery approach is not only permitted, but is the preferred approach to determine attorney’s fees.” *Savani v. URS Pro. Sols. LLC*, 121 F. Supp. 3d 564, 568–69 (D.S.C. 2015). The percentage-of-recovery method is appropriate where the recovered funds confer a benefit on members of a class. *Id.* (citing *Boeing Co. v. Van Gemert*, 444 U.S. 472, 479, 100 S.Ct. 745, 62 L.Ed.2d 676 (1980)). Further, the Supreme Court has opined that consensual resolution of attorney’s fees is ideal.² *McCurley v. Flowers Foods, Inc.*, No. 5:16-CV-00194-JMC, 2018 WL 6650138, at *2 (D.S.C. Sept. 10, 2018). (citing *Hensley v. Eckerhart*, 461 U.S. 424, 437, 103 S.Ct. 1933, 76 L.Ed.2d 40 (1983)). The reasonableness of an award can be deduced by evidence of an arm’s-length negotiation. *Id.*

A. Application of the *Barber* factors confirms Class Counsel’s request is appropriate.

Local Rule 54.02(A) (D.S.C.) requires that petitions for attorney’s fees comply with the requirements of *Barber v. Kimbrell’s, Inc.*, 577 F.2d 216 (4th Cir. 1978). Thus, in determining reasonableness, this Court is to analyze the twelve factors set forth in *Barber*: “(1) the time and labor expended; (2) the novelty and difficulty of the questions raised; (3) the skill required to properly perform the legal services rendered; (4) the attorney’s opportunity costs in pressing the

² The Settlement Agreement provides that Defendants take no position on a fee request up to 25% of the Settlement amount.

instant litigation; (5) the customary fee for like work; (6) the attorney's expectations at the outset of the litigation; (7) the time limitations imposed by the client or circumstances; (8) the amount in controversy and the results obtained; (9) the experience, reputation and ability of the attorney; (10) the undesirability of the case within the legal community in which the suit arose; (11) the nature and length of the professional relationship between attorney and client; and (12) attorneys' fees awards in similar cases." *Barber*, 577 F.2d at 226 n. 28.

Reviewing Class Counsel's efforts against the *Barber* factors confirms that Class Counsel's fee request is reasonable as a percentage of recovery to compensate Class Counsel for achieving an excellent outcome on behalf of the Class in this complex environmental action that presented significant litigation obstacles and required substantial time and labor, all at the risk of non-payment.

1. Time and labor expended.

Class Counsel devoted significant time and labor prosecuting this case on behalf of the Class. Class Counsel undertook considerable efforts to investigate the class claims before filing this case, including discussions with experts in the fields of air pollution and environmental medicine and outreach in the community. Counsel recruited experts in air modeling and air dispersion to identify the alleged area of impact and the scope of the Class members' alleged damages. Once filed, Class Counsel fully litigated this case through extensive discovery, the development of expert opinions, and multiple days of mediation before agreeing to the proposed Settlement. The favorable result Class Counsel achieved on behalf of the Class resulted from Class Counsel's dedicated time and effort in pursuing this litigation, and it is fair and reasonable for Class Counsel to be compensated for that effort.

2. Novelty and difficulty of the questions raised.

This was a difficult case that involved complex issues of environmental science and factual and legal obstacles that made class certification and Plaintiffs' ability to prevail on the merits uncertain. Achievement of the Settlement hinged on establishing causation and recoverable damages from each alleged release event and successfully navigating the complexities of class action litigation. These novel and complex legal and factual issues required extensive time and effort by Class Counsel, thus supporting the reasonableness of the requested fee award.

3. The skill required to perform the legal services properly.

A class action involving complicated and technical matters of environmental science requires skilled counsel to represent the Class. Class Counsel's achievement in obtaining a substantial recovery in this action, vigorously defended by counsel with an exceptional level of skill, is a testament to the quality of the representation Class Counsel provided in this matter.

4. The attorneys' opportunity costs in pressing the litigation.

Class Counsel expended 778.7 hours of attorney time and substantial resources over a period of more than two years investigating and prosecuting this action. The amount of time and resources required for this case impacted Class Counsel's work on their other existing cases as well as their ability to pursue new cases.

5. Customary fees.

While fees in complex class actions vary widely, when plaintiffs' counsel accepts a case on a contingency basis, it is customary to charge one-third (33.3%) or more of any amount recovered for the client. *Savani*, 121 F. Supp. 3d at 572. Indeed, contingency fee arrangements are customary in class action cases, and such arrangements are usually one-third or higher. *Berry v. Wells Fargo*

& Co., No. 3:17-CV-00304-JFA, 2020 WL 9311859, at *13 (D.S.C. July 29, 2020). As such, a percentage award for attorneys' fees of 25% is reasonable and customary. Indeed, "[r]ecent empirical data on fee awards demonstrates that class action percentage awards for attorneys' fees generally fall between twenty and thirty percent." *Manuel v. Wells Fargo Bank, National Association*, No. 3:14-CV-238-DJN, 2016 WL 1070819, at 5 (E.D. Va. March 15, 2016) (citing Newberg on Class Actions § 15:83 (5th ed.)). Thus, Class Counsel's requested fee, representing 25% of the total amount recovered on behalf of the Class, falls well within the range of customary fees in class actions.

6. *The contingent nature of the matter/expectations at the outset of the litigation.*

As discussed, Class Counsel undertook this case on a contingent basis. "In complex and multi-year class action cases, the risks of the litigation are immense and the risk of receiving little or no recovery is a major factor in awarding attorney's fees." *Savani*, 121 F. Supp. 3d at 572. Knowing this risk, Class Counsel's devotion of substantial time and expense zealously pursuing this complex case on behalf of the Class supports the requested award. *Id.*

7. *The time limitations imposed by the client or circumstances.*

Priority work that takes time away from Class Counsel's other legal work is entitled to some premium. *McCurley*, 2018 WL 6650138, at *5. This case involved numerous depositions, court appearances, motions, memoranda, and other filings, all subject to regular deadlines imposed by the Federal Rules of Civil Procedure, the local rules of court, and scheduling orders.

8. *The amount in controversy and the results obtained.*

"Success warranting attorney's fees occurs when the moving party prevails 'on any significant issue in litigation which achieves some of the benefit the parties sought in bringing the suit.'" *McCurley*, 2018 WL 6650138, at *5 (quoting *Arvinger v. Mayor and City Council of Balt.*,

31 F.3d 196, 200 (4th Cir. 1994)). The results achieved here are exceptional given the limitations on recoverable property damages available to the Class. South Carolina law provides that the appropriate measure and limit of damages for temporary injury to real property is lost rental value, thus limiting the damages recoverable in this case to the reduction in market value of residential properties within the geographic class area during the relevant time period. *Babb v. Lee County Landfill SC, LLC*, 405 S.C. 129, 141-42, 747 S.E.2d 468, 473-74 (S.C. 2013) (“In other words, lost rental value includes the annoyance and discomfort experienced as the result of a temporary trespass or nuisance.”). Plaintiffs’ claimed damages stemmed from three alleged emissions events in September 2023. Given the above, a recovery of approximately \$700.00 per residential property located in the geographic class area is a significant result.

9. The experience, reputation, and ability of counsel.

As this Court recognized in its preliminary approval order, Class Counsel have extensive experience in complex civil litigation and class actions, as well as considerable knowledge of the applicable law. Class Counsel submits that their experience in litigating complex cases and successfully handling class actions assisted the Class in achieving the results obtained in this matter.

10. The undesirability of the case.

The risks undertaken in this environmental litigation were considerable. South Carolina law severely limits the availability and amount of monetary damages available in a case such as this. Identifying a certifiable class area and establishing causation and recoverable damages from the alleged releases required a great deal of time and expense. Further, because South Carolina courts have not yet addressed whether the blanketing of particulate matter can constitute a trespass under South Carolina law, the risk of non-recovery was significant. Given these risks, Class

Counsel undertook enormous obligations and responsibilities to pursue this matter on behalf of the Class, which likely would have deterred many other firms.

11. Nature and length of the professional relationship between attorney and client.

With regard to the nature and length of the professional relationship between attorney and client, Class Counsel submits that neither the current named plaintiffs nor the previously named plaintiffs were known to counsel prior to this case. All current and previous named plaintiffs assisted Class Counsel in pursuing this litigation, and there is no reason to suggest that either the current class representative or the previously proposed class representatives are dissatisfied with the representation provided by Class Counsel.

12. Attorneys' fees awarded in similar cases.

Class Counsel is requesting a fee based on 25% of the total value of recovery. This requested fee is substantially similar to the fees recently awarded by the District of Maryland in a class action presenting similar claims alleging property damage following alleged releases of particulate matter from an industrial facility. *Shongo v. CSX Transportation, Inc.*, No. 1:22-CV-02684-MJM, at *7 (D. Md. Sept. 11, 2024) (awarding attorneys' fees of \$550,000 representing 31.4% of a \$1,750,000.00 common fund) (attached). The requested fee is also similar to other common fund fee awards within this district. *See Berry*, 2020 WL 9311859, at *11 (25% fee); *Savani*, 121 F. Supp. 3d at 574 (39.57% of the recovery for the subclass); *Weckesser v. Knight Enters. S.E., LLC*, 402 F. Supp. 3d 302, 307 (D.S.C. 2019) (39% fee); *Montague v. Dixie Nat'l Life Ins. Co.*, No. 3:09-CV-00687-JFA, 2011 WL 3626541, at *2 (D.S.C. Aug. 17, 2011) (33% fee); *Temp. Servs., Inc. v. Am. Int'l Group, Inc.*, No. 3:08-CV-00271-JFA, 2012 WL 4061537, at *8 (D.S.C. Sept. 14, 2012) (33¹/₃% fee); *DeWitt v. Darlington Cty., S.C.*, No. 4:11-CV-00740-RBH, 2013 WL 6408371, at *9 (D.S.C. Dec. 6, 2013) (33¹/₃% fee).

B. Lodestar analysis supports Class Counsel's fee request.

A so-called “lodestar cross-check” is the comparison of (1) a calculation of attorney’s fees using the percentage-of-recovery method to (2) a rough or imprecise lodestar calculation. *In re: Lumber Liquidators Chinese-Manufactured Flooring Prods. Mktg., Sales Prac. & Prods. Liab. Litig.*, 952 F.3d 471, 482 n.7 (4th Cir. 2020). The purpose of a lodestar cross-check is to determine whether a proposed fee award is excessive relative to the hours reportedly worked by counsel, or whether the fee is within some reasonable multiplier of the lodestar. *Singleton v. Domino’s Pizza, LLC*, 976 F. Supp. 2d 665, 688 (D. Md. 2013). “[W]here the lodestar fee is used ‘as a mere cross-check’ to the percentage method of determining reasonable attorneys’ fees, ‘the hours documented by counsel need not be exhaustively scrutinized by the district court.’” *In re Royal Ahold N.V. Sec.*, 461 F.Supp.2d 383, 385 (D. Md. 2006) (quoting *Goldberger v. Integrated Res., Inc.*, 209 F.3d 43, 50 (2d Cir. 2000)). To calculate the lodestar number the court multiplies a reasonable hourly rate by the number of hours reasonably expended. *Irvine v. Destination Wild Dunes Mgmt., Inc.*, 204 F. Supp. 3d 846, 850 (D.S.C. 2016). A court may presume that a percentage of recovery fee request is reasonable when it is less than the lodestar number. *McAdams*, 26 F.4th at 162; *Weckesser*, 402 F. Supp. 3d at 307 (fee request was reasonable where it was lower than the lodestar cross-check).

As discussed above, Class Counsel accepted this case on a contingency basis. Because Class Counsel typically work under contingency fee contracts with their clients, they have no standard or established hourly rates. In this instance, it would be appropriate for the Court to utilize a blended hourly rate consistent with prevailing market rates in the Charleston area. *See In re Aqueous Film-Forming Foams Prods. Liab. Litig.*, No. 2:23-CV-3147-RMG, 2024 WL 1739709, at *8 (D.S.C. Apr. 23, 2024) (applying blended hourly rates of \$725-\$825). Class Counsel devoted 778.7 hours of attorney time in this case. Exhibit A, Declaration of James L. Ward, Jr., and Exhibit

B, Declaration of Michael J. Jordan. The requested fee represents a blended hourly rate of \$303.07, which is “well below the market rates typically charged by experienced attorneys handling complex litigation in South Carolina.” Exhibit C, Declaration of J. Rutledge Young, III.

Notably, the lodestar amount does not include the time Class Counsel spent preparing this fee petition and the motion for final approval, nor does it include the time Class Counsel will spend preparing for and attending the final approval hearing or the time they will spend during the administration of the Settlement. Generally, during the settlement administration phase, class counsel will be called upon to assist class members with claims, answer questions and respond to inquiries from the claims administrator and/or the court, address any disputes with the defendants over interpretations, and monitor the settlement funds and administrative expenses. As such, even this lodestar figure does not fully capture all of the time Class Counsel will have expended in successfully resolving this action. Thus, because the proposed attorneys’ fees of \$236,000.00 are less than the lodestar number, the lodestar crosscheck confirms that the fees requested by Class Counsel are reasonable.

II. THIS COURT SHOULD APPROVE REIMBURSEMENT OF COSTS AND EXPENSES

Rule 23(h) provides that the Court may award “non-taxable costs” in addition to attorneys’ fees earned. “There is no doubt that costs, if reasonable in nature and amount, may appropriately be reimbursed from the common fund.” *In re Microstrategy, Inc.*, 172 F. Supp. 2d 778, 791 (E.D. Va. 2001) (citing *Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994)). Reimbursement of reasonable costs and expenses to counsel who create a common fund is both necessary and routine. *Savani*, 121 F. Supp. 3d at 576.

As set forth more fully in Exhibits A and B, Class Counsel have incurred \$153,701.30 in expenses related to this case, but agreed not to seek reimbursement of more than \$150,000.00.

These expenses have all been paid in full by Class Counsel as of the filing of this motion. Because Class Counsel advanced these costs with no guarantee of recovery, they had a strong incentive to incur only those costs that were both reasonable and necessary to the litigation. Given the complex issues of environmental science that this case involved, it was necessary for Class Counsel to engage expert witnesses in a variety of fields, numerous depositions were required, and three mediation sessions were necessary to achieve the Settlement. Class Counsel respectfully request expense reimbursement of \$150,000.00 pursuant to Rule 23(h).

III. THIS COURT SHOULD APPROVE THE REQUESTED SERVICE AWARD

Finally, Plaintiffs request a class representative service award in the amount of \$1,000.00 to Katie Leigh McDaniel, which is well within the range of reasonable service awards generally approved. “Incentive awards are intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their willingness to act as a private attorney general.” *Berry v. Schulman*, 807 F.3d 600, 613 (4th Cir. 2015). Plaintiff McDaniel was committed to pursuing this action, and she performed a valuable service to the Class by virtue of her participation as the Class representative at the crucial stage of seeking approval of the proposed settlement. As such, the requested service award is both reasonable and appropriate.

CONCLUSION

In view of the outstanding results achieved for the Class, the complexity of the issues presented, the quality of representation, and the risk of nonpayment, Plaintiffs’ request for an award of attorneys’ fees of \$236,000.00, representing 25% of the total monetary recovery achieved by the Settlement, and for reimbursement of expenses of \$150,000.00 is fair and reasonable. Moreover, a \$1,000.00 service award to Plaintiff McDaniel is fair and reasonable to compensate

her for the time and effort expended in assisting the prosecution of this litigation. The Court should grant the requests for attorneys' fees, expenses, and a service award.

Respectfully submitted,

Date: June 6, 2025

s/ James L. Ward, Jr.

James L. Ward, Jr. (Fed. ID 6956)

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EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
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Katie Leigh McDaniel, on behalf of herself
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**DECLARATION OF JAMES L. WARD, JR. IN SUPPORT OF PETITION FOR CLASS
COUNSEL ATTORNEYS' FEES, COSTS, AND A CLASS REPRESENTATIVE
SERVICE AWARD**

I, James L. Ward, Jr., declare as follows:

1. I am an attorney licensed to practice before the courts of South Carolina and North Carolina.
2. I am an attorney for Plaintiffs in the above-captioned action, and I practice in the law firm of McGowan, Hood, Felder & Phillips, LLC, where I head the firm's Class Action, Mass Tort, and Government Representation practice group out of its Mount Pleasant, South Carolina office.
3. I have personal knowledge of the facts stated in this Declaration and, if called as a witness, I would testify competently to them. I make this Declaration in support of MHFP's request for attorneys' fees and reimbursement of litigation expenses as set forth in Plaintiffs' Petition for Class Counsel Attorneys' Fees, Costs, and a Class Representative Service Award (the "Fee Petition").

4. A brief description of my firm, which includes a short summary of my experience and credentials, is attached as Exhibit 1 and incorporated herein by reference.

5. Throughout the course of this litigation, my firm kept files contemporaneously documenting all time spent, including tasks performed, and expenses incurred. All the time and expenses reported by my firm advanced the tremendous class-wide result achieved in this case.

6. The firm's work included conducting factual and legal research; drafting pleadings; written and deposition discovery; preparation of motions and briefs; development of expert opinions; negotiation of the settlement; drafting the settlement agreement, notice plan, and notices; and coordinating settlement notice and administration.

7. I spent 160.2 hours and MHFP attorney Marcie E. Greene spent 118.6 hours on this litigation, for a total of 278.8 hours spent by my firm. This does not include any time devoted to preparing this Declaration or otherwise pertaining to the Fee Petition. This also does not include any time devoted to the personal injury claims also pursued in this action. These calculations are from contemporaneous time records regularly prepared and maintained by my firm. Those records will be submitted for inspection by the Court upon request.

8. The expenses my firm incurred in litigating this action are reflected in the books and records of my firm. These books and records are prepared from expense vouchers, invoices, receipts, check records, and other source materials and accurately reflect the expenses incurred. My firm's expense records will be submitted for inspection by the Court upon request.

9. My firm incurred a total of \$4,125.25 in unreimbursed expenses, all of which were reasonable and necessary for the prosecution of this litigation. A summary of those expenses by category is attached as Exhibit 2.

10. I declare under penalty and perjury that the foregoing is true and correct. Executed this 6th day of June 2025, in Mount Pleasant, South Carolina.

s/ James L. Ward, Jr.
James L. Ward, Jr.

MCGOWAN, HOOD, FELDER & PHILLIPS, LLC

McGowan, Hood, Felder & Phillips, LLC's Class Action, Mass Tort & Government Representation practice group provides comprehensive services to clients in large-scale civil actions in South Carolina and nationwide. This group is led by James L. Ward, Jr., a veteran litigator with more than 25 years of complex litigation experience, and includes Marcie E. Greene. Throughout his career, Mr. Ward has played significant lead and liaison counsel roles in complex class action and multidistrict litigation involving pharmaceutical drugs and medical devices, healthcare fraud, consumer protection, defective products, and environmental harm. Mr. Ward has also focused a large portion of his practice on the representation of states and local governments as special counsel in complex litigation. In addition, Mr. Ward has extensive experience handling a variety of catastrophic personal injury and wrongful death cases.

Mr. Ward been appointed as class counsel in numerous class actions, including *Smith v. FirstEnergy Corp.*, Case No. 2:20-cv-03755 (S.D. Ohio); *Durso v. T-N-T Heating & Air Conditioning, Inc.*, Case No. 2018-CP-26-04927 (S.C. Cir. Ct.); *Lightsey v. South Carolina Electric & Gas*, Case No. 2017-CP-25-335 (S.C. Cir. Ct.); *Cook v. South Carolina Public Service Authority*, Case No. 2019-CP-23-06675 (S.C. Cir. Ct.); *Snee Farm Lakes Homeowner's Association, Inc. v. The Commissioner of Public Works of the Town of Mount Pleasant, South Carolina*, Case No. 2018-CP-10-2764 (S.C. Cir. Ct.); *Green v. Carolina Truck Driving School, LLC*, Case No. 2019-CP-20-302 (S.C. Cir. Ct.); *In re Airline Baggage Fee Antitrust Litigation*, C.A. No. 1:09-md-2089-TCB (N.D. Ga.); *In re McKesson Governmental Entities Average Wholesale Price Litigation*, C.A. No. 1:08-CV-11349-PBS (D. Mass.); *Lewis v. Flue-Cured Tobacco Cooperative Stabilization*, Case Nos. 05-CVS-188 and 05-CVS-1938 (N.C. Super. Ct.); *Ferrell v. Horry Electric Cooperative*, Case No. 2011-CP-26-1266 (S.C. Cir. Ct.); *In re Community Bank of Northern Virginia Mortgage Lending Practices Litigation*, MDL No. 1674 (W.D. Pa.); *The Church of Christ at Azalea Drive v. Forest River, Inc.*, Case No. 2:11-cv-03371-PMD (D.S.C.); *Schreiner v. Patriarch Partners, LLC*, Case No. 02:14-CV-220-RMG (D.S.C.); *Worley Investments, LLC v. Berkeley County, South Carolina*, Case No. 2015-CP-08-1153 (S.C. Cir. Ct.); and *Waxler Transp. Co. v. Trinity Marine Prods., Inc.*, Case No. 49-741 (La. Dist. Ct.).

Mr. Ward is a former President of the South Carolina Association for Justice and the James L. Petigru Inn of Court. He is a former member of the South Carolina Bar House of Delegates and former Chairman of the Bar's Tort and Insurance Practices Section. He has been included in The Best Lawyers in America for Plaintiffs' Mass Tort Litigation/Class Actions (Charleston, SC "Lawyer of the Year" for 2018 and 2021), Plaintiffs' Product Liability Litigation, and Plaintiffs' Personal Injury Litigation every year since 2016, and he has been included in South Carolina Super Lawyers for Class Action/ Mass Torts since 2020.

Mr. Ward graduated with honors from The Citadel in 1994 and the University of South Carolina School of Law in 1997, where he was a member of the *Law Review*. Before joining McGowan Hood in 2017, he practiced with Richardson, Patrick, Westbrook & Brickman in Mount Pleasant, South Carolina, Sinkler & Boyd in Columbia, South Carolina, and Smith, Helms, Mulliss & Moore in Charlotte, North Carolina.

Ms. Greene joined McGowan Hood following more than a decade of public service and complex legal research practice in both South Carolina and Tennessee. Her experience includes serving as

Advice Counsel at the South Carolina Department of Labor, Licensing and Regulation, where she provided legal advice to state licensing boards, drafted administrative orders and regulations, and advised on policy and disciplinary matters. Previously, she worked for seven years as a research attorney at Willoughby, Humphrey & D'Antoni, P.A., where she advised senior attorneys on litigation involving environmental law, administrative governance, and public entity matters under statutes such as the Clean Water Act, National Environmental Policy Act, and the South Carolina Pollution Control Act.

Ms. Greene also served as an Assistant Attorney General in the Civil Litigation Division of the South Carolina Attorney General's Office, where she represented state agencies in contested matters at both the trial and appellate levels. Earlier in her career, she held a similar role in the Office of the Tennessee Attorney General and clerked for two trial court judges in Nashville.

She earned her J.D. from Vanderbilt University Law School, where she was named to the Dean's List and participated in Moot Court, Mock Trial, and the Trial Advocacy Society. She graduated magna cum laude from Clemson University's Calhoun Honors College with a degree in psychology and was the recipient of the Psi Chi Research Award for best research paper. She is admitted to practice in South Carolina and Tennessee.

MCGOWAN, HOOD, FELDER & PHILLIPS, LLC
EXPENSE SUMMARY

<u>Category</u>	<u>Amount</u>
Computer Assisted Legal Research	\$3,588.81
Consultants/Vendors	\$475.00
Deposition/Transcript Costs	\$29.70
Travel	<u>\$31.74</u>
Total	\$4,125.25

EXHIBIT B

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Katie Leigh McDaniel, on behalf of herself
and a class of all others similarly situated,
Myrna S. Seibel, Robert B. Deaver, Amber
Brown, and Catherine B. Burns,

Plaintiffs,

v.

Century Aluminum Company and Century
Aluminum of South Carolina, Inc.,

Defendants.

C/A NO. 2:23-cv-05766-RMG

**DECLARATION OF MICHAEL JORDAN IN SUPPORT OF PETITION FOR CLASS
COUNSEL ATTORNEYS' FEES, COSTS, AND A CLASS REPRESENTATIVE
SERVICE AWARD**

I, Michael J. Jordan, declare as follows:

1. I am an attorney licensed to practice before the courts of South Carolina.
2. I am an attorney for Plaintiffs in the above-captioned action, and I practice in the Steinberg Law Firm, LLC ("SLF").
3. I have personal knowledge of the facts stated in this Declaration and, if called as a witness, I would testify competently to them. I make this Declaration in support of SLF's request for attorneys' fees and reimbursement of litigation expenses as set forth in Plaintiffs' Petition for Class Counsel Attorneys' Fees, Costs, and a Class Representative Service Award (the "Fee Petition").
4. A brief description of my firm, which includes a short summary of my experience and credentials, is attached as Exhibit 1 and incorporated herein by reference.

5. Throughout the course of this litigation, my firm kept files contemporaneously documenting all time spent, including tasks performed, and expenses incurred. All the time and expenses reported by my firm advanced the tremendous class-wide result achieved in this case.

6. The firm's work included conducting factual and legal research; drafting pleadings; written and deposition discovery; preparation of motions and briefs; development of expert opinions; negotiation of the settlement; drafting the settlement agreement, notice plan, and notices; and coordinating settlement notice and administration.

7. I spent 129.4 hours and SLF attorneys Wilson Jackson and Elliotte Quinn spent 259.8 and 110.7 hours, respectively, on this litigation, for a total of 499.9 hours spent by my firm. This does not include any time devoted to preparing this Declaration or otherwise pertaining to the Fee Petition. This also does not include any time devoted to the personal injury claims also pursued in this action. These calculations are from contemporaneous time records regularly prepared and maintained by my firm. Those records will be submitted for inspection by the Court upon request.

8. The expenses my firm incurred in litigating this action are reflected in the books and records of my firm. These books and records are prepared from expense vouchers, invoices, receipts, check records, and other source materials and accurately reflect the expenses incurred. My firm's expense records will be submitted for inspection by the Court upon request.

9. My firm incurred a total of \$149,576.05 in unreimbursed expenses, all of which were reasonable and necessary for the prosecution of this litigation. A summary of those expenses by category is attached as Exhibit 2.

10. I declare under penalty and perjury that the foregoing is true and correct. Executed this 6th day of June 2025 in Goose Creek, South Carolina.

s/ Michael J. Jordan
Michael J. Jordan

STEINBERG LAW FIRM, LLC

Founded in 1927, Steinberg Law Firm, LLC has a long-standing commitment to advocating for injured individuals across South Carolina. With over 200 years of collective legal experience, the firm handles a broad spectrum of cases, including personal injury, workers' compensation, construction defects, and class actions. The firm's attorneys are recognized for their dedication to client service and their ability to navigate complex legal challenges.

Michael J. Jordan is a partner at Steinberg Law Firm, having joined the firm in 2006. He focuses his practice on personal injury and workers' compensation cases, representing clients who have suffered serious injuries. Mr. Jordan has been recognized in Best Lawyers in America since 2017 and was selected as one of the Top 100 Trial Lawyers. He earned his B.A. from the University of South Carolina and his J.D. from Florida Coastal School of Law.

Elliott Quinn joined Steinberg Law Firm in 2018, bringing extensive experience in construction defect litigation. He represents homeowners and property owners' associations in claims against builders for defective construction. Mr. Quinn graduated with honors from the College of Charleston and earned his law degree with high honors from Emory University School of Law, where he served as Executive Articles Editor of the Emory Law Journal.

Wilson Jackson focuses his practice on truck accidents, car wrecks, and personal injury cases. Licensed in both South Carolina and North Carolina, Mr. Jackson brings unique qualifications to his practice, including completion of a 160-hour Truck Driver Training Program and obtaining a Commercial Driver's License (CDL). He was named to the Best Lawyers: Ones to Watch in America list for 2025 in the Personal Injury Litigation–Plaintiffs category. Mr. Jackson earned his undergraduate degree from The Citadel and his J.D. from the University of South Carolina School of Law.

The Steinberg Law Firm continues to uphold its legacy of providing compassionate and effective legal representation, striving to achieve justice and fair compensation for its clients.

STEINBERG LAW FIRM
EXPENSE SUMMARY

<u>Category</u>	<u>Amount</u>
Expert Costs	\$145,515.00
Deposition/Transcript Costs	\$1,788.55
Mediation Costs	<u>\$2,272.50</u>
Total	\$149,576.05

EXHIBIT C

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Katie Leigh McDaniel, on behalf of herself
and a class of all others similarly situated,
Myrna S. Seibel, Robert B. Deaver, Amber
Brown, and Catherine B. Burns,

Plaintiffs,

v.

Century Aluminum Company and Century
Aluminum of South Carolina, Inc.,

Defendants.

C/A NO. 2:23-cv-05766-RMG

**DECLARATION OF J. RUTLEDGE YOUNG, III IN SUPPORT OF PETITION FOR
CLASS COUNSEL ATTORNEYS' FEES, COSTS, AND A CLASS REPRESENTATIVE
SERVICE AWARD**

I, Rutledge Young, declare as follows:

1. I am a licensed attorney in the State of South Carolina and a founding partner of the law firm Duffy & Young, LLC, located in Charleston, South Carolina.
2. I graduated from the University of South Carolina School of Law and have been practicing law in South Carolina for over 25 years. My regular litigation practice includes complex civil litigation, including class actions, commercial disputes, and professional liability matters.
3. I have been asked to provide my professional opinion as to the reasonableness of the attorneys' fee request submitted by Class Counsel in the above-captioned matter.
4. I have reviewed the motion for attorneys' fees and supporting memorandum submitted by Class Counsel. I understand that Class Counsel has requested attorneys' fees in the amount of \$236,000, which represents 25% of the total settlement fund of \$944,000. I further understand that Class Counsel collectively worked 778.7 hours in prosecuting the case, resulting in an effective hourly rate of approximately \$303 per hour if the Court approves its fee petition.
5. I am familiar with customary rates charged by experienced civil litigators in South Carolina, including rates in the Charleston area. Based on my experience and knowledge, hourly rates for attorneys of comparable skill and experience typically range from \$500 to \$800 per hour, with associate rates generally ranging from \$200 to \$400 per hour.

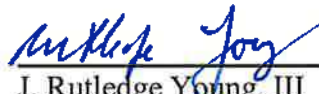
6. The average effective rate of \$303 per hour is well below the market rates typically charged by experienced attorneys handling complex litigation in South Carolina.

7. I am familiar with the attorneys who worked on this case. James L. Ward, Jr. and Marcie Greene of McGowan, Hood, Felder & Phillips, LLC, and Elliotte Quinn, Michael Jordan, and Wilson Jackson of the Steinberg Law Firm, LLC. All are experienced litigators with strong reputations for integrity and competence. Their willingness to accept this case on a contingent fee basis and to dedicate substantial time and resources to the prosecution of the claims, with no guarantee of recovery, underscores the reasonableness of the fee request.

8. Based on the total hours expended, the complexity of the case, the contingent nature of the representation, the excellent result achieved for the class, and prevailing market rates, it is my professional opinion that the requested fee of \$236,000 is reasonable and appropriate.

9. I provide this opinion based on my personal knowledge, experience, and understanding of legal practice and attorney billing practices in South Carolina.

I declare under penalty and perjury that the foregoing is true and correct. Executed this 27 day of MAY 2025, in Charleston, South Carolina.

 5/27/25
J. Rutledge Young, III
Duffy & Young, LLC
96 Broad Street
Charleston SC 29401
Phone: 843-720-2044
Email: ryoung@duffyandyoung.com