

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

OKLAHOMA FIREFIGHTERS PENSION
AND RETIREMENT SYSTEM,

Plaintiff,

v.

BIOGEN INC., MICHEL VOUNATSOS,
AND ALISHA ALAIMO,

Defendants.

Case No. 22-cv-10200-WGY

CLASS ACTION

**LEAD PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF UNOPPOSED
MOTION FOR AN AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF
LITIGATION EXPENSES AND AWARD TO LEAD PLAINTIFF PURSUANT TO
15 U.S.C. §78u-4(a)(4)**

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Lead Plaintiff, on the application of Lead Counsel, Block & Leviton, LLP, (“Block & Leviton”), respectfully submits this memorandum of law in support of its motion for: (i) an award of attorneys’ fees of one-third (33-1/3% or \$6.3 million) of the \$18,900,000 Settlement Amount; (ii) payment of \$1,252,037.10 in litigation expenses incurred in the course of prosecuting this action; and (iii) an award of \$9,270 to Lead Plaintiff, the Oklahoma Firefighters Pension and Retirement System (“OFPRS”), pursuant to 15 U.S.C. §78u-4(a)(4) for reasonable costs and expenses directly relating to the representation of the class undertaken in the course of litigation.

PRELIMINARY STATEMENT

After more than four years of hard-fought and complicated litigation by Lead Counsel, who conducted the litigation on a purely contingent basis, the Parties reached an \$18.9 million cash settlement one month before the start of trial. Lead Counsel, having advanced more than \$1.2 million in out-of-pocket expenses, and having gone more than four years without any payment of any kind, now seeks compensation for its hard work and success in twice resuscitating the case from extinction.

This Court originally granted Defendants’ motion to dismiss the First Amended Complaint. ECF Nos. 59-60. Lead Counsel, through its tenacious efforts, resurrected the case by successfully persuading the Court to grant Lead Plaintiff’s Fed. R. Civ. P. 59(e) motion to reopen the Action. ECF No. 68.

Then, at the hearing on the motion for class certification, the Court initially indicated it was inclined to deny the motion.¹ Lead Counsel was able to successfully persuade the Court that

¹ At the July 24, 2024 hearing on the motion for class certification, in its opening remarks discussing whether Defendants successfully rebutted the presumption of reliance, the Court said “without a presumption of reliance, I don’t have a class because I cannot then presume that stockholders . . . relied upon what, at least as a matter of pleading, I’ve decided are misstatements. So my inclination is to deny class certification on that narrow ground.” ECF No. 106, Hrg. Tr. at 4:17-21.

Defendants had not satisfied their burden and the Court ultimately granted the motion for class certification, albeit for a shorter period than originally sought. ECF No. 100.

Lead Counsel expended considerable time and effort in achieving this excellent result for the Class: successfully reviving this action following an order of dismissal, conducting extensive discovery on a considerably condensed schedule, successfully achieving class certification, litigating two successive rounds of interlocutory appellate petitions, drafting multiple amendments to the Complaint, defeating a motion for summary judgment and preparing for trial. Each of these steps was vigorously opposed by sophisticated opposing counsel, one of the most renowned and respected law firms in the country. The Settlement is an excellent result for the Class. The requested fee is well within the customary range for contingent litigation and has been expressly approved by Lead Plaintiff, a sophisticated institutional investor with an extensive track record of successfully overseeing securities fraud litigation. The motion should be approved.

The Settlement Amount obtained by Lead Counsel is higher than both the median settlement amount for securities fraud class actions generally, and the median settlement in cases with 10b-5 claims, based on the data available for the most recently completed full-year. *See* Laarni T. Bulan & Eric Tam, *Securities Class Action Settlements: 2025 Review and Analysis*, CORNERSTONE, 5-6 (2025) (“Cornerstone 2025”).² And because the Settlement is the result of the efforts, skill, and advocacy of Lead Counsel, an award of attorneys’ fees amounting to one-third of the Settlement Fund is appropriate based on applicable law and consistent with applicable precedent. That authority recognizes that recoveries in challenging cases are only made possible because of the skill, effort and tenacity of counsel.

² Attached as Exhibit D to the accompanying declaration of Jeffrey C. Block in Support of Lead Plaintiff’s Unopposed Motion for an Award of Attorneys’ Fees, Reimbursement of Litigation Expenses and Award to Lead Plaintiff Pursuant to 15 U.S.C. § 78u-4(a)(4) (“B&L Decl.”).

Here, Lead Counsel's efforts were extensive and included:

1. Conducting a comprehensive pre-filing investigation of the events underlying the action and drafting the initial complaint;
2. Litigating the lead-plaintiff appointment process on behalf of Lead Plaintiff;
3. Investigating and drafting the first amended complaint;
4. Litigating Defendants' motion to dismiss;
5. Investigating new evidence as it became publicly available;
6. Successfully litigating a motion to alter or amend the Court's judgment of dismissal;
7. Conducting comprehensive written discovery with respect to Defendants;
8. Serving subpoenas on and receiving documents from forty relevant third-parties;
9. Obtaining and reviewing more than 68,000 documents;
10. Successfully negotiating the right to take additional depositions;
11. Taking or defending sixteen depositions of fact witnesses;
12. Taking or defending four expert depositions;
13. Successfully obtaining certification of the Class;
14. Successfully moving to amend the operative complaint based on documents produced in the course of discovery and fully briefing a motion to modify the class period;
15. Fully briefing two separate rounds of cross-petitions for appellate review of class certification under Fed. R. Civ. P. 23(f);
16. Successfully defeating Defendants' motion for summary judgment and related motion to exclude expert testimony;

17. Conducting extensive pre-trial preparations, including moving for bifurcation, completing witness designations, designating hundreds of anticipated exhibits, and preparing for and attending a pretrial conference;
18. Conducting a full-day mediation and extensive follow-up over the course of several months and negotiating and documenting the Settlement.

Notwithstanding these efforts, at the time the Settlement was reached, a recovery was far from certain. Jury trials, especially in complex securities class actions, are fraught with risk. Lead Plaintiff would have to prove each element of its § 10(b) claims to prevail at trial. Defendants needed only disprove a single element to succeed. Trial and any subsequent appeals carry a clear risk of a recovery much lower than the Settlement Amount, or nothing at all. Indeed, the difficulty in proving Lead Plaintiff's claims has been repeatedly made apparent throughout this case: in the Court's original decision granting Defendants' motion to dismiss, ECF No. 59; the Court's decision reopening the case on a limited basis, ECF No. 68; the Court's decision certifying a class period shorter than the proposed class period, ECF No. 100, subsequently declining to extend the class period, ECF No. 185; and the Court's caution in its Order denying Defendants' motion for summary judgment that "[t]he Court expresses no opinion as to whether [Lead Plaintiff's expert] Feinstein can express an opinion concerning the actual per-share dollar impact of these various market influences, or, indeed, whether he is qualified to opine on the relative market impacts of these influences," ECF No. 208, at 11. And at trial, Defendants would proffer evidence to support their arguments that they did not mislead investors, did not act with scienter, and did not cause investor losses. Even if a successful verdict was obtained, defending any potential judgment for investors against an inevitable appeal would have likely required, at a minimum, years of additional litigation and ongoing risk.

Notably, in addition to this backdrop of substantial litigation risk, the requested award represents a 0.80 multiplier over Lead Counsel’s current estimated lodestar of \$7,850,377.50. To date, Lead Counsel has billed 10,441.7 hours in this action. Attached as Ex. A to B&L Decl. Put another way, based on the volume of the work put in, the requested fees represent a discount compared to Lead Counsel’s regular billable rates.

In addition, Lead Counsel seeks payment of \$1,252,037.10 for Litigation Expenses reasonably incurred while prosecuting this action. And pursuant to 15 U.S.C. § 78u-4(a)(4), Lead Plaintiff, OFPRS, also requests \$9,270 (in the aggregate) in compensation for its efforts undertaken in connection with its representation of the Class.

I. BRIEF HISTORY OF THE LITIGATION

The full scope of this Action is detailed in the contemporaneously filed Declaration of Jeffrey C. Block in support of Lead Plaintiff’s Unopposed Motion for Final Approval—but for the purposes of this Motion, several key turning points are described herein. Lead Counsel independently investigated the claims underlying this action before filing the initial complaint on February 7, 2022. *See* ECF No. 1. Following additional investigation, Lead Plaintiff filed the Amended Complaint for Violations of the Federal Securities Laws (the “First Amended Complaint”) against Defendants Biogen, Vounatsos, and Alaimo, and against Alfred Sandrock. ECF No. 30. Defendants moved to dismiss and the Court granted Defendants’ motion with prejudice and closed the case. ECF No. 59.

On April 26, 2023, following additional investigation, Lead Plaintiff moved to alter or amend the judgment and to amend the complaint. ECF No. 61. On March 19, 2024, the Court granted, in part, Lead Plaintiff’s motion, reopening the case and allowing Lead Plaintiff to pursue securities fraud claims based on Defendants’ statements that Medicare coverage of Aduhelm was “automatically presumed” with FDA approval (the “Medicare coverage” statements). ECF Nos.

68, 70. Lead Plaintiff filed the Second Amended Complaint for Violations of the Federal Securities Laws (“Second Amended Complaint”) against Defendants Biogen, Vounatsos, and Alaimo on April 10, 2024. ECF No. 75.

The parties thereafter engaged in extensive fact discovery over the ensuing nine months—on a ready-for-trial schedule more condensed than those typically implemented for securities fraud class actions. Defendants produced nearly 58,000 documents, Lead Plaintiff served subpoenas on 40 third parties (all of whom produced documents), and Lead Plaintiff took 13 depositions of fact witnesses as well as Defendants’ two expert witnesses. Defendants separately took the depositions of three fact witnesses and Lead Plaintiff’s two expert witnesses—all of which Lead Counsel defended or otherwise participated in.

On May 10, 2024, Lead Plaintiff moved to certify a class. ECF No. 79. After full briefing and at oral argument, the Court indicated its “inclination [was] to deny class certification...” ECF No. 106, Hrg. Tr. at 4:20-21. Lead Counsel successfully persuaded the Court to grant the motion, but the Court shortened the sought class period by certifying a class of all investors who acquired Biogen common stock from June 8, 2021 through July 12, 2021. ECF Nos. 100, 108, 145. The Parties cross-petitioned to the First Circuit Court of Appeals for permission to appeal under Rule 23(f) on September 19, 2024. After additional briefing, a supplemental order from the Court, and amended petitions, the First Circuit denied the Parties’ Rule 23(f) petitions on September 18, 2025. ECF No. 151.

On November 13, 2024, while the 23(f) petitions were pending, Lead Counsel determined that there was a basis to move to amend based on evidence produced in discovery and, relatedly, to modify the certified Class Period. ECF Nos. 121, 123. On February 4, 2025, the Court denied these motions without prejudice to refile after the First Circuit ruled on the 23(f) petitions. ECF

No. 145. Following the First Circuit’s denial of the Parties’ 23(f) petitions, Lead Plaintiff filed renewed motions to amend and to modify the class period on September 22, 2025. ECF Nos. 152, 155. After full briefing and oral argument, on February 11, 2026, the Court denied the Motion to Modify the Class Period and granted in part the Motion to Amend. ECF No. 185. The Court’s ruling granted Lead Plaintiff leave to allege that Defendants violated federal securities laws by stating that Biogen had “consulted” and “engaged” extensively with payers in determining Aduhelm’s price (the “payer statements”).

On April 1, 2025, after completion of fact discovery, and while a second round of 23(f) petitions were pending before the First Circuit, Lead Counsel participated in an all-day, in-person mediation session with David M. Murphy of Phillips ADR, a highly respected and experienced mediator. The Parties exchanged detailed mediation statements in advance of the mediation session. No settlement was reached at that time.

In February 2026, while Defendants’ Motion for Summary Judgment remained pending, the Settling Parties reengaged Mr. Murphy. Following additional negotiations, undertaken while both sides were actively preparing for trial, on April 6, 2026, the Parties accepted the mediator’s proposal to settle the Litigation for \$18.9 million.

II. ARGUMENT

A. Lead Counsel is Entitled to an Award of Attorneys’ Fees from the Common Fund

It is well established that “a litigant or a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorney’s fee from the fund as a whole.” *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980); *see also In re Thirteen Appeals Arising Out of San Juan Dupont Plaza Hotel Fire Litig.*, 56 F.3d 295, 305 (1st Cir. 1995); *In re Tyco Int’l, Ltd. Multidistrict Litig.*, 535 F. Supp. 2d 249, 265 (D.N.H. 2007). Awards of reasonable attorneys’ fees from a “common fund” provide compensation that “encourages capable plaintiffs’

attorneys to aggressively litigate complex, risky cases like this one” and spread the costs of the litigation “proportionately among those benefitted by the suit.” *Tyco*, 535 F. Supp. 2d at 265.

Public policy also favors awards from common funds resulting from securities fraud settlements. The Supreme Court has emphasized that private securities actions are “an essential supplement to criminal prosecutions and civil enforcement actions” brought by the U.S. Department of Justice and the U.S. Securities and Exchange Commission (“SEC”). *Tellabs, Inc. v. Makor Issues & Rts., Ltd.*, 551 U.S. 308, 313 (2007); accord *Bateman Eichler, Hill Richards, Inc. v. Berner*, 472 U.S. 299, 310 (1985) (noting private securities actions “provide ‘a most effective weapon in the enforcement’ of the securities laws and are ‘a necessary supplement to [SEC] action’”). Compensating plaintiffs’ counsel for the risks they take in bringing these actions is essential: “Such actions could not be sustained if plaintiffs’ counsel were not to receive remuneration from the settlement fund for their efforts on behalf of the class.” *Hicks v. Stanley*, 2005 WL 2757792, at *9 (S.D.N.Y. Oct. 24, 2005).

B. Attorneys’ Fees Should be Awarded Using the Percentage-of-the-Fund Method

“[U]nder the ‘common fund doctrine’ ... a reasonable fee is based on a percentage of the fund bestowed on the class.” *Blum v. Stenson*, 465 U.S. 886, 900 n.16 (1984). The First Circuit has endorsed this method in common fund cases, noting that it is the prevailing method and that it “offers significant structural advantages in common fund cases, including ease of administration, efficiency, and a close approximation of the marketplace.” *Thirteen Appeals*, 56 F.3d at 308. “Indeed, there is a ‘clear consensus among federal and state courts’ that the percentage of fund approach is the more efficient, better reasoned, and effective method.” *Gordan v. Mass. Mut. Life Ins. Co.*, 2016 WL 11272044, at *2 (D. Mass. Nov. 3, 2016). The percentage method “appropriately aligns the interests of the class with the interests of the class counsel[,] ... is ‘less burdensome to administer than the lodestar method,’ ... ‘enhances efficiency’ and does not create

a “disincentive for the early settlement of cases.” *Duhaime v. John Hancock Mut. Life Ins. Co.*, 989 F. Supp. 375, 377 (D. Mass. 1997) (quoting *Thirteen Appeals*, 56 F.3d at 307); *see also Wal-Mart Stores, Inc. v. Visa U.S.A. Inc.*, 396 F.3d 96, 121 (2d Cir. 2005) (noting method ““directly aligns the interests of the class and its counsel””), *superseded by rule as stated in Moses v. N.Y. Times Co.*, 79 F.4th 235 (2d Cir. 2023). Accordingly, courts assessing fee awards in securities fraud class actions generally apply the percentage method, in many instances without emphasizing the importance of considering attorney lodestar as a “cross-check.” *See, e.g., Hill v. State St. Corp.*, 2015 WL 127728, at *17 (D. Mass. Jan. 8, 2015) (describing lodestar crosscheck as not “particularly helpful or appropriate” to assess the reasonableness of fees in securities fraud action). Put another way, the percentage-of-the-fund method directly incorporates the value of the recovery obtained into the fee calculation—which is to say it evaluates the value of counsel’s services from the perspective of class members likely to be more interested in the results of the litigation as opposed to how many motions, depositions, and hours it took to obtain them. *See Duhaime*, 989 F. Supp. at 377 (noting advantage of percentage method is that “it focuses ‘on result, rather than process, which better approximates the workings of the marketplace’” and “the greater the value secured for the class, the greater the fee earned by class counsel”).

The requested percentage is both reasonable under the circumstances and consistent with the typical fees awarded in the First Circuit. *See, e.g., Luna v. Carbonite, Inc.*, 2024 WL 6470281, at *1 (D. Mass. May 15, 2024) (awarding 33-1/3% of \$27.5 million settlement, plus expenses, with accrued interest earned on both amounts); *Dahhan v. OvaScience, Inc.*, No. 1:17-cv-10511-IT, ECF 210, ¶4 (D. Mass. Dec. 20, 2022) (awarding 33-1/3% of \$15 million settlement, plus expenses, with accrued interest earned on both amounts); *In re Pegasystems Inc. Sec. Litig.*, 2024

WL 4849656, at *1 (D. Mass. Sept. 25, 2024) (awarding 30% of \$35 million settlement, plus expenses, with accrued interest earned on both amounts).

C. Factors Considered by Courts in the First Circuit Confirm that the Requested Fee is Fair and Reasonable

“The First Circuit has not endorsed a specified set of factors to be used in determining whether a fee request is reasonable.” *In re Relafen Antitrust Litig.*, 231 F.R.D. 52, 79 (D. Mass. 2005) (Young, J.). But courts in this Circuit typically consider several factors when considering an award of attorneys’ fees, including:

(1) the size of the fund and the number of persons benefitted; (2) the skill, experience, and efficiency of the attorneys involved; (3) the complexity and duration of the litigation; (4) the risks of the litigation; (5) the amount of time devoted to the case by counsel; (6) awards in similar cases; and (7) public policy considerations, if any.

Hill, 2015 WL 127728, at *17 (quoting *In re Puerto Rican Cabotage Antitrust Litig.*, 815 F. Supp. 2d 448, 458 (D.P.R. 2011)); *Medoff v. CVS Caremark Corp.*, 2016 WL 632238, at *8 (D.R.I. Feb. 17, 2016) (same); *see also Goldberger v. Integrated Res., Inc.*, 209 F.3d 43, 50 (2d Cir. 2000) (outlining factors).

The Court, in exercising its equitable authority to award attorneys’ fees from a common fund, acts as a quasi-fiduciary for the class. *See In re Fidelity/Micron Secs. Litig.*, 167 F.3d 735, 736 (1st Cir. 1999). Accordingly, it may adjust awards if “special circumstances indicate a higher or lower percentage would be appropriate.” *Arkansas Teacher Retirement System v. State Street Bank and Trust Co.*, 512 F. Supp. 3d 196, 221 (D. Mass. 2020) (quoting *In re Pac. Enters. Secs. Litig.*, 47 F.3d 373, 379 (9th Cir. 1995)). That analysis may include an evaluation of attorney lodestar. *See State Street*, 512 F. Supp. 3d at 221. Courts have also considered whether the lead plaintiff supports the requested fee and the class’s reaction. *See Hill*, 2015 WL 127728, at *19-*20; *In re TJX Cos. Retail Sec. Breach Litig.*, 584 F. Supp. 2d 395, 401 (D. Mass. 2008)

(considering “the reaction of the class members to the settlement and proposed attorneys’ fees” as one of the relevant factors). As set forth below, all of these factors weigh strongly in favor of finding that the requested fee award is reasonable.

1. The Amount of the Recovery and the Number of Class Members Who Will Benefit from the Settlement Supports the Requested Fee

Courts have consistently recognized that the result achieved is the most important factor to be considered in making a fee award. *See Hensley v. Eckerhart*, 461 U.S. 424, 436 (1983) (“[T]he most critical factor is the degree of success obtained.”); *see also Puerto Rican Cabotage*, 815 F. Supp. 2d at 458 (“[T]he net dollars and cents results achieved by counsel for their clients is often the most influential factor in assessing the reasonableness of any attorneys’ fee award.”). The Settlement Fund of \$18,900,000 has been obtained through the diligent efforts of Lead Counsel and eliminates the risk of trial and any subsequent appeal.

Here, the Settlement Amount represents a recovery of more than 8% of the maximum potentially recoverable damages that could have been awarded at trial if the jury had found Lead Plaintiff proved every element of the case and awarded every cent of alleged damages—an excellent result by any measure. This result is more than double the median percentage recovery of 2.7% for securities cases settled between 2016 and 2025 with comparable investor losses of between \$200 million and \$399 million. *See Edward Flores, et al., Recent Trends in Securities Class Action Litigation: 2025 Full-Year Review*, at 27, fig. 23 (NERA Jan. 21, 2026) (“NERA Report”) (attached as Ex. C to B&L Decl.). As noted above, based on the data available for the most recently completed full-year, the Settlement Amount is higher than both the median settlement amount for securities fraud class actions generally and the median settlement in cases with 10b-5 claims. *See Cornerstone 2025* at 5-6. Moreover, the Settlement here is all cash, not dependent upon the number of claims made, and there is no reversion to Defendants. Thousands

of Class Members receive significant compensation that would be unavailable but for the efforts of Lead Counsel. This factor weighs in favor of awarding the requested fee.

2. The Skill and Experience of Counsel Weigh in Favor of the Requested Fee

The prosecution and management of a complex national securities class action requires unique legal skills and abilities. “To be successful, a securities class-action plaintiff must thread the eye of a needle made smaller and smaller over the years by judicial decree and congressional action.” *Teamsters Local 617 Pension & Welfare Funds v. Apollo Grp., Inc.*, 2011 WL 1253250, at *37 (D. Ariz. Mar. 31, 2011) (quoting *Alaska Elec. Pension Fund v. Flowserve Corp.*, 572 F.3d 221, 235 (5th Cir. 2009) (O’Connor, J. sitting by designation)).

Block & Leviton’s experience and track record in complex securities class actions is substantial, and Lead Plaintiff retained the firm specifically for that expertise. As outlined above, Lead Counsel repeatedly succeeded in obtaining critical objectives necessary to secure the Settlement, despite vigorous opposition from highly experienced and skilled opposing counsel. The result obtained confirms Lead Counsel “pursued the Litigation and achieved the Settlement with skill, perseverance, and diligent advocacy.” *Carbonite, Inc.*, 2024 WL 6470281, at *1.

Plus, the quality and skill of opposing counsel is “important in evaluating” the caliber of Lead Counsel’s work. *Barbosa v. Cargill Meat Solutions Corp.*, 297 F.R.D. 431, 449 (E.D. Cal. 2013). Here, opposing counsel is second to none—and they successfully obtained the dismissal of the case before it was revived. Notwithstanding this formidable opposition, Lead Counsel developed a case that was sufficiently strong to persuade Defendants to settle the Litigation on terms highly favorable to the Class shortly before trial. This factor further supports awarding the requested attorneys’ fees.

3. The Complexity and Duration of the Litigation Support the Requested Fee

Securities class actions are notoriously complex and difficult to prove, and this Litigation was no exception. *See, e.g., Redwen v. Sino Clean Energy, Inc.*, 2013 WL 12303367, at *6 (C.D. Cal. July 9, 2013) (“Courts experienced with securities fraud litigation routinely recognize that securities class actions present hurdles to proving liability that are difficult for plaintiffs to clear.”) (cleaned up); *In re Flag Telecom Holdings, Ltd. Sec. Litig.*, 2010 WL 4537550, at *15 (S.D.N.Y. Nov. 8, 2010) (recognizing securities class litigation is “notably difficult and notoriously uncertain”) (cleaned up); *City of Providence v. Aeropostale, Inc.*, 2014 WL 1883494, at *16 (S.D.N.Y. May 9, 2014) (“[T]he complex and multifaceted subject matter involved in a securities class action such as this supports the fee request.”), *aff’d sub nom. Arbuthnot v. Pierson*, 607 F. App’x 73 (2d Cir. 2015)

As noted above and described elsewhere, over the more than four years during which this action was pending, Lead Counsel confronted a range of complex factual and legal issues. Those issues included evaluating the significance of the results of suspended clinical trials for a novel pharmaceutical, evaluating both the FDA’s typical and accelerated regulatory approval processes, both the typical and specific internal processes of a biopharmaceutical corporation’s price setting practices, and the complex regulatory process for determining Medicare coverage for novel treatments. The legal issues confronted included the pleading standard for securities fraud matters under the PSLRA, the District Court’s authority to temporally limit the scope of a certified class before the merits stage, the distinction between price impact and loss causation at class certification, and the interrelationship between an expert’s disaggregation of fraud and non-fraud related losses in an efficient securities market and the adequacy of their opinion testimony, among others.

None of these issues were straightforward, and Lead Counsel navigated all of them successfully while performing the wide range of demanding work required to prosecute a significant case. That work included a significant number of depositions, reviewing tens of thousands of documents, orchestrating third-party discovery from forty separate entities, composing appellate briefing, repeatedly conducting motion practice on a range of subjects and negotiating settlement while simultaneously preparing for trial. This factor weighs in favor of awarding the requested fees.

4. The Risk of Non-Payment was Extremely High in this Case

In a case undertaken on a contingent fee basis, the risk of litigation is a key factor in determining an appropriate fee award. *See Roberts v. TJX Cos.*, 2016 WL 8677312, at *13 (D. Mass. Sept. 30, 2016) (“[M]ost importantly, Class Counsel took the case on a contingency fee basis, assuming significant risk in litigating the case.”); *Hill*, 2015 WL 127728, at *18 (“consider[ing] ... contingency risk in awarding attorneys’ fees” when counsel “litigated the Action on a fully contingent basis and were exposed to the risk that they might obtain no compensation for their efforts on behalf of the class”). Where, as here, plaintiffs’ counsel “undertook this action on a contingency basis and faced a significant risk of non-payment, this factor weighs more heavily in favor of rewarding litigation counsel.” *CVS*, 2016 WL 632238, at *9; *see also Carbonite, Inc.*, 2024 WL 6470281, at *2 (awarding one third of common fund where counsel “pursued the Litigation on a contingent basis”).

While Lead Counsel believed in the merits of the case, a jury trial posed considerable risks. For instance, Defendants contend that their alleged misstatements and omissions were neither materially misleading nor made with scienter. *See* ECF 210, at 16-22 (denying the allegations that Defendants made materially misleading statements and omissions with scienter), 38-40 (Defendants asserting 15 affirmative and other defenses). How a jury would understand and

evaluate the challenged statements that characterized complex regulatory processes was an open question. Further, Defendants have disputed that the alleged fraud caused any recoverable losses to the Class and were expected to challenge loss causation and damages at trial. Indeed, Defendants contended at summary judgment (and would be expected to again contend at trial) that the decline in Biogen’s stock price was caused by the market’s reaction to news about a competitor’s drug entering the market more quickly, not any revelations that Defendants had misled the market. *See* ECF Nos. 177, 178. Moreover, Defendants contended at summary judgment (and would be expected to again contend at trial) that Lead Plaintiff’s causation and damages expert cannot reliably opine on the per-share decline in Biogen stock caused by the alleged fraud. *See* ECF Nos. 175, 176, 177, 178. Any one of those issues could have resulted in a loss. Finally, even if a jury found in favor of the Class, Defendants likely would attempt to undo that verdict (along with the Court’s decisions to certify the Class) through appeals. Neither obtaining nor collecting on a large trial judgment was assured—this factor weighs in favor of awarding the requested fees.

5. The Amount of Time Devoted to the Litigation by Lead Counsel Supports the Requested Fee

The extensive time and effort expended by Lead Counsel in prosecuting the Litigation and achieving the Settlement since February 2022 also establish that the requested fee is justified and reasonable. *See Hill*, 2015 WL 127728, at *19. While a lodestar crosscheck is not required, *see id.* at *17, “a lodestar analysis may be performed as a cross-check to ensure that the percentage award is fair and reasonable.” *Gordan*, 2016 WL 11272044, at *2. Courts considering lodestar frequently note that lodestar multiples of 1.0 to 4.0 are generally considered appropriate. *See, e.g., Relafen*, 231 F.R.D. at 82 (approving settlement with 2.02 lodestar multiple). When the lodestar is used as a cross-check, “the focus is not on the ‘necessity and reasonableness of every hour’ of the lodestar, but on the broader question of whether the fee award appropriately reflects the degree of time and

effort expended by the attorneys.” *Tyco*, 535 F. Supp. 2d at 270 (quoting *Thirteen Appeals*, 56 F.3d at 307). In this case, the lodestar method, whether used directly or as a crosscheck on the percentage method, strongly demonstrates the reasonableness of the requested fee.

Here, Lead Counsel spent over 10,440 hours of attorney and support staff time prosecuting the Litigation. Lead Counsel’s requested attorneys’ fees therefore represent a negative lodestar multiplier, *i.e.*, a discounted rate because the lodestar multiplier falls below 1.0, well below multipliers approved by this court. *See Ford v. Takeda Pharmaceuticals U.S.A., Inc.*, 2023 WL 3679031, at *2 (D. Mass. March 31, 2023) (2.41 multiplier “well within the range of multipliers approved by district courts in the First Circuit”); *Gordan*, 2016 WL 11272044, at *3 (in awarding one-third fee, court concluded the 3.66 “multiplier is eminently reasonable and is within a range approved by[] numerous other courts”). The substantial time and effort devoted to this Litigation was critical in obtaining the favorable result achieved by the Settlement and confirms that the fee request here is reasonable.

6. Awards in Similar Cases Support the Requested Fee

As discussed above, Lead Counsel’s requested fee of one-third of the Settlement Fund is well within the range of fee awards in class action cases in this Circuit. *See, e.g., Carbonite, Inc.*, 2024 WL 6470281, at *1 (awarding 33-1/3% of \$27.5 million cash settlement, plus expenses); *OvaScience, Inc.*, No. 1:17-cv-10511-IT, ECF 210 at 2 (awarding 33-1/3% of \$15 million recovery, plus expenses); *Machado*, 2019 WL 4409217, at *1 (awarding 33-1/3% of \$18.65 million cash settlement, plus expenses); *CVS*, 2016 WL 632238, at *1 (awarding “30% of the common pool and expenses”). Thus, this factor strongly supports the reasonableness of the requested fee.

7. Public Policy Considerations Support the Requested Fee

Public policy supports rewarding counsel for prosecuting securities class actions,

especially where, as here, “counsel’s dogged efforts – undertaken on a wholly contingent basis – result in satisfactory resolution for the class.” *CVS*, 2016 WL 632238, at *9 (citing *Tyco*, 535 F. Supp. 2d at 270). As the Supreme Court has emphasized, private securities actions such as this provide “a most effective weapon in the enforcement” of the securities laws and are “a necessary supplement to [SEC] action.” *Bateman*, 472 U.S. at 310. That “Lead Counsel pursued the Litigation on a contingent basis,” and took substantial risks to uphold the important functions of the securities laws weighs in favor of rewarding those efforts appropriately. *Carbonite, Inc.*, 2024 WL 6470281, at *2.

8. The Endorsement of Lead Plaintiff and the Reaction of the Class Support the Requested Fee

Lead Plaintiff is a sophisticated and carefully managed institutional investor with expertise overseeing complex securities fraud litigation. As set forth in the contemporaneously filed declaration of Chase Rankin, Executive Director of OFPRS, Lead Plaintiff carefully oversaw the prosecution and resolution of this Litigation, and had a sound basis for assessing the reasonableness of the fee request. Lead Plaintiff fully supports and approves the request. *See* Declaration of Chase Rankin (“Rankin Decl.”) ¶¶2, 14-15.

Furthermore, the reasonableness of the requested fee is supported by the reaction of the Class. *See, e.g., Hill*, 2015 WL 127728, at *19 (“The endorsement of the Lead Plaintiffs and the favorable reaction of the class both support approval of the requested fees.”). As of August 25, 2026, the Claims Administrator has disseminated a total of 146,111 Notices. *See* Declaration of Sarah Evans (“Evans Decl.”) at ¶9. To date, no Class Member has objected to any portion of the Settlement or to the proposed fee of which the Class was advised. Evans Decl. ¶15; *see, e.g., Bezdek v. Vibram USA Inc.*, 79 F. Supp. 3d 324, 351 (D. Mass. Jan. 16, 2015) (finding “overwhelmingly positive” reaction of class to settlement and “quite low number of opt-outs”

weighed in favor of requested fee). The support of Lead Plaintiff and the reaction of the class support the conclusion that the requested fee is reasonable and should be awarded.

D. The Expenses Incurred are Reasonable and Were Necessary to Achieve the Benefit Obtained

Lead Counsel's fee application includes a request for litigation expenses and charges that were reasonable and necessary to the prosecution of the Litigation. Where, as here, attorneys create a common fund for the benefit of a class, they are entitled to reasonable litigation expenses from the fund. *See, e.g., Fidelity/Micron*, 167 F.3d at 737 (“[L]aw firms are not eleemosynary institutions, and lawyers whose efforts succeed in creating a common fund for the benefit of a class are entitled not only to reasonable fees, but also to recover from the fund, as a general matter, expenses, reasonable in amount, that were necessary to bring the action to a climax.”); *Ford*, 2023 WL 3679031, at *3. In the Notice, the Class was informed that Lead Counsel would ask the Court for an award of litigation expenses not to exceed \$1.5 million, plus interest, which is more than the \$1,252,037.10 now requested.

Lead Counsel respectfully submits that these expenses were reasonably and necessarily incurred in prosecuting this Litigation and should be awarded from the Settlement Fund. *See, e.g., In re Glob. Crossing Sec. & ERISA Litig.*, 225 F.R.D. 436, 468 (S.D.N.Y. 2004) (“The expenses incurred – which include investigative and expert witnesses, filing fees, service of process, travel, legal research and document production and review – are the type for which ‘the paying, arms’ length market’ reimburses attorneys. For this reason, they are properly chargeable to the Settlement fund.”); *see also Courtney v. Avid Tech. Inc.*, 2015 WL 2359270, at *1 (D. Mass. May 12, 2015) (awarding expenses of \$505,992.62, plus interest). Exhibit B to the supporting declaration submitted herewith provides an itemized schedule of the expenses and charges incurred by the firm. The expenses listed on that schedule are ones that were necessarily incurred in litigation and

would have been routinely charged to clients billed by the hour by the firm. To date, no Class Member has objected to these requested expenses. Thus, Lead Counsel respectfully requests payment for these reasonable and necessary expenses.

E. The Award to Lead Plaintiff Pursuant to 15 U.S.C. § 78u-4(a)(4) of the PSLRA is Reasonable

The Class was also advised that Lead Plaintiff would request the Court to approve an award not to exceed \$15,000 (in the aggregate) in connection with its representation of the Class. The PSLRA specifically provides that an “award of reasonable costs and expenses (including lost wages) directly relating to the representation of the class” may be made “to any representative party serving on behalf of a class.” 15 U.S.C. § 78u-4(a)(4); *see also Pegasystems*, 2024 WL 4849656, at *2 (this Court awarding total of \$13,947.30 to lead plaintiffs); *Avid Tech.*, 2015 WL 2359270, at *1 (this Court awarding \$10,000 to one lead plaintiff); *OvaScience*, No. 1:17-cv-10511-IT, ECF No. 210, ¶9 (awarding \$10,000 to lead plaintiff); *Zametkin v. Fidelity Mgmt. & Rsch. Co.*, No. 1:08-cv-10960-MLW, ECF 115, ¶16 (D. Mass. May 11, 2012) (awarding \$14,910 to lead plaintiff); *Ahearn v. Credit Suisse First Bos. LLC*, No. 03-cv-10956 (JLT), ECF 82, ¶19 (D. Mass. June 7, 2006) (awarding total of \$35,000 to two lead plaintiffs). The congressional record makes clear the intended purpose of plaintiff awards: “These provisions are intended to increase the likelihood that parties with significant holdings in issuers, whose interests are more strongly aligned with the class of shareholders, will participate in the litigation and exercise control over the selection and actions of plaintiff’s counsel.” H.R. Conf. Rep. No. 104-369, at 32 (1995), *reprinted in* 1995 U.S.C.C.A.N. 730, at 731 (1995).

As set forth in the Rankin Declaration, Lead Plaintiff has fulfilled its obligations as a representative of the Class, complying with the demands placed upon it, and providing valuable assistance to Lead Counsel. For example, Lead Plaintiff: (i) evaluated Lead Counsel’s initial

investigation and elected to bring the case; (ii) reviewed four amended pleadings and related motions and briefing; (iii) reviewed Defendants' discovery requests and located and produced 884 pages of documents; (iv) received regular reports on developments in the case; (v) reviewed court orders; (vi) discussed case strategy with counsel in connection with reviewing the Court's orders and opinions; (vii) extensively prepared for deposition and traveled to Boston to provide deposition testimony; (viii) participated in a full-day mediation session and oversaw related negotiations; and (ix) consulted extensively with Lead Counsel during the resolution of the mediation process while trial prep was ongoing. *See Rankin Decl.* ¶¶2, 4, 8-15. These actions are precisely the type that support reimbursement to representative parties under the PSLRA.

Thus, in recognition of Lead Plaintiff's time and effort expended for the benefit of the Class, Lead Counsel respectfully requests an award of \$9,270 to Lead Plaintiff. This amount is reasonable and justified under the PSLRA based on Lead Plaintiff's extensive involvement in and oversight of the Litigation.

CONCLUSION

Lead Plaintiff respectfully requests that the Court (i) grant Lead Counsel's request for an award of attorneys' fees of one-third (\$6.3 million) of the Settlement Amount, plus accrued interest; (ii) grant Lead Counsel's request for an award of \$1,252,037.10 for unreimbursed out-of-pocket expenses, plus accrued interest; and (iii) award Lead Plaintiff \$9,270 as compensation for time expended on the litigation pursuant to 15 U.S.C. § 78u-4(a)(4).

Dated: August 25, 2026

CERTIFICATE OF SERVICE

I hereby certify that on August 25, 2026, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a Notice of Electronic Filing to all counsel of record.

/s/ Jeffrey C. Block
Jeffrey C. Block

Respectfully submitted,

/s/ Jeffrey C. Block

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*Attorneys for Lead Plaintiff Oklahoma
Firefighters Pension and Retirement System
and the Certified Class*