

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI**

LISA HOLT, on behalf of)	
herself and all others similarly)	
situated,)	
)	
Plaintiff,)	
)	Case No. 4:19-cv-00629-FJG
v.)	
)	
COMMUNITYAMERICA CREDIT)	
UNION,)	
)	
Defendant.)	

**[PROPOSED] ORDER GRANTING PLAINTIFF’S UNOPPOSED MOTION FOR
AWARD OF ATTORNEYS’ FEES, COSTS, AND EXPENSES, THE SETTLEMENT
ADMINISTRATOR’S COSTS, CLASS REPRESENTATIVE’S AND SERVICE AWARD**

This matter is before the Court on Plaintiff’s Unopposed Motion For Award of Attorneys’ Fees, Costs, Expenses, Settlement Administrator’s Costs, and Class Representative’s Service Award, and the Court, having considered all papers filed regarding the motion and having conducted a hearing, now finds that the motion should be, and hereby is, **GRANTED**.

The Court hereby **FINDS**:

1. The proposed class action settlement of this case, creates a total settlement value of approximately \$3,078,436 for the Class Members, comprised of a \$2,325,000 payment by Defendant CommunityAmerica Credit Union (“Defendant”) into the Settlement Fund plus forgiveness of \$753,436 in fees the Defendant had charged to Class Members but had not yet collected from them.

2. As the Court has found in its separate order approving the Settlement, the Settlement is a fair, reasonable, and adequate compromise of the claims of the Class Members.

3. The Settlement, and the benefits it provides to the Class Members, is the product of the work and skill of Class Counsel and the Class Representative in prosecuting this action to a fair resolution.

4. Class Counsel is experienced in complex litigation and has prosecuted this case diligently and competently. They have done so on a contingent basis, meaning that they bore the risk of never being compensated for their efforts had the litigation been resolved in Defendant's favor. In addition, in prosecuting this action, Class Counsel advanced \$12,286.08 for the usual costs and expenses involved in litigation, including filing fees, postage, mediation fees, expert fees, and travel and meal expenses, which again they risked never being reimbursed for had the litigation been resolved in favor of Defendant. Class Counsel also engaged KCC Class Action Services, LLC (the "Settlement Administrator"), who has agreed to cap its costs for administering notice to the Class Members, at \$62,500. This case was of a complex nature, involving novel issues relating to banking practices and processes along with specialized procedural issues such as class certification. Both Class Counsel and counsel for Defendant are skilled lawyers in their respective specialties, and the multi-million-dollar settlement is the result of arm's-length negotiations between skilled adversaries.

5. The Class Representative was also a key component of the benefits achieved for the absent Class Members, for without the Class Representative there would be no case and therefore no settlement at all. The Class Representative participated in the litigation and expended time to acquire the benefits of the settlement for thousands of other people who were not required to exert any efforts.

6. Before the Court now are the requests that from the Settlement Fund, and in recognition of the benefits provided by the Settlement, Class Counsel be awarded attorneys' fees,

costs and expenses, the Settlement Administrator be awarded the costs incurred in administering the Settlement, and the Class Representative be granted a service award.

7. The Court finds that, under the common fund doctrine, a fee award of \$1,026,145.33, which represents one-third of the value of the Settlement (\$3,078,436.00) is appropriate, fair, proper, and reasonable under the factors considered by courts in this Circuit. Specifically, as set forth above, the following factors all favor awarding the requested fee: (1) the benefit conferred on the class by the settlement; (2) the risk to which plaintiff's counsel was exposed (i.e., whether their fee was fixed or contingent); (3) the difficulty and novelty of the legal and factual issues of the case; (4) the skill of the lawyers, both plaintiffs' and defendants'; and (5) the comparison between the requested attorney fee percentage and percentages awarded in similar cases. *See Caligiuri v. Symantec Corp.*, 855 F.3d 860, 866 (8th Cir. 2017) (listing factors). The one-third fee amount is consistent with fees regularly awarded and affirmed in the Eighth Circuit and is appropriate in this case. *See id.* (affirming use of the "percentage-of-the-benefit" measure for attorneys' fees and affirming a one-third fee); *In re U.S. Bancorp. Litig.*, 291 F.3d 1035, 1038 (8th Cir. 2002) (same and affirming 36% fee); *Huyer v. Buckley*, 849 F.3d 395, 399 (8th Cir. 2017) (same and affirming one-third fee).

8. Likewise, the Court finds that reimbursement to Class Counsel of costs and expenses in the amount of \$12,286.08 and an award of costs of settlement administration of up to \$62,500.00 to the Settlement Administrator is appropriate and that those expenses are reasonable and common litigation expenses. *See, e.g., Tussey v. ABB, Inc.*, No. 06-CV-04305-NKL, 2019 WL 3859763, at *2 (W.D. Mo. Aug. 16, 2019) ("An attorney who creates or preserves a common fund by judgment or settlement for the benefit of a class is entitled to receive reimbursement of reasonable fees and expenses involved.").

9. Finally, the Court finds that payment of a \$10,000 service award to the Class Representative is fair and reasonable and “promote[s] the public policy of encouraging individuals to undertake the responsibility of representative lawsuits.” *Caligiuri*, 855 F.3d at 867. The Class Representative participated in the litigation and achieved an excellent result for the Class, and “courts in this circuit regularly grant service awards of \$10,000 or greater.” *Id.*

Therefore, **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that:

10. The Court hereby awards to Class Counsel attorneys’ fees to be paid from the Settlement Fund in the amount of \$1,026,145.33.

11. The Court hereby awards to Class Counsel reimbursement of expenses to be paid from the Settlement Fund in the amount of \$12,286.08.

12. The Court hereby awards to the Settlement Administrator costs of settlement administration to be paid from the Settlement Fund in an amount up to \$62,500.

13. The Court hereby awards to the Class Representative a service award to be paid from the Settlement Fund in the amount of \$10,000.

14. All other payments from the Settlement Fund shall be made as set forth in the Settlement Agreement and Release approved by the Court.

THERE BEING NO JUST REASON FOR DELAY LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated:

Hon. Fernando J. Gaitan, Jr.
United States District Judge
Western District of Missouri