UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

SOL TAN TANNING & SPA LLC, CLEAN SLATE ESTHETICS, LLC, CRYSTAL LOYER dba GLOW STUDIO, DYANE THYFAULT dba LOTUS WAXING & SKINCARE STUDIO, ELITE SKIN AND BODY, LLC, GLAM ESSENCE MED SPA, LLC, GLAM+GLOW BEAUTY BAR, LLC, SPA THIRSTY, INC., LA CHÍC BOHÈME COLLECTIVE LLC dba LA CHÍC BOHÈME, LAURIE CHAMPAGNE dba CHAMPAGNE AESTHETICS, LLC, SAMANTHA SILVA dba ABSOLUTE SKINCARE SPA, LASHES, SKIN & WAXING WITH ALLYSON, LLC, SKYN ALCHEMY, INC., SUSANA WETZEL dba BEACHSIDE BEAUTY, THE GLOW AESTHETICS 808, LLC, TOUCH OF SAM LLC, et al. On Behalf of Themselves And All Others Similarly Situated,

Plaintiffs,

v.

HYDRAFACIAL LLC dba THE HYDRAFACIAL COMPANY,

Defendant.

Civil Case No.: 1:24-cv-08073

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF SPA THIRSTY, INC.'S UNOPPOSED MOTION FOR AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES, AND APPROVAL OF SERVICE AWARD

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Following the Court's grant of Preliminary Approval to the Class Settlement that Plaintiffs' counsel successfully negotiated on behalf of the Class of New York owners of Defendant HydraFacial LLC's Syndeo machines (*see* ECF No. 85), The Katriel Law Firm, P.C. and The Kalfayan Firm, A.P.C. (collectively "Class Counsel") move for an award of attorneys' fees, reimbursement of expenses, and approval of a Service Award as called for by the Class Settlement. *See* ECF No. 79-1 [Class Settlement], at ¶ 8.1.[1] The motion is unopposed by Defendant HydraFacial LLC.

The $925,000 Class Settlement Fund to be equally distributed among 508 Class Members equates to $ 1,820 per Class Member before the attorneys' fees, litigation costs, and incentive awards are deducted. *See id.*, at ¶ 1.32. Class Counsel now seek approval of $277,500 in attorneys' fees, which amounts to 30 percent of the Class Settlement fund, an award percentage previously approved by this Court and by Judge Caproni in other class action settlements. *See, e.g., In Re London Silver Fixing, Ltd. Antitrust Litig.*, No. 14-MD-02573-VEC, 2021 WL 3159810, at *1, ¶ 3 (S.D.N.Y. Jun. 15, 2021) (Caproni, J.,) ("Plaintiffs' Counsel is hereby awarded attorneys' fees in the amount of $11,400,000 (30% of the Settlement Fund), plus interest."); *Melito v. American Eagle Outfitters, Inc.,* No. 14-CV-2440 (VEC), 2017 WL 3995619, at *20 (S.D.N.Y Sept. 11, 2017) (Caproni, J.,) ("the Court concludes that an award of . . . . 30% of the settlement fund in attorneys' fees is fair and reasonable."); *City of Austin Police Retirement System v. Kinross Gold Corp.*, No. 1:12-cv-01203-VEC, 2015 WL 13639234, at *4, ¶ 19 (S.D.N.Y. Oct. 15, 2015) (Caproni, J.,) ("Lead Counsel are hereby awarded 30% of the Gross Settlement Fund in attorneys' fees, which sum the Court finds to be fair and reasonable.").

[1] Unless otherwise stated, capitalized terms in this Memorandum bear the meaning defined in the Class Settlement, ECF No. 79-1.

The fee award requested also is independently supported by Class Counsel's lodestar, which totals $783,252.50. The $277,500 fee requested amounts to a significant *negative* lodestar multiplier of 0.354, which serves as strong independent confirmation of the reasonableness of the fee requested. *See Guevoura Fund Ltd. v. Sillerman*, No. 1:15-cv-07192-CM, 2019 WL 6889901, at *18 (S.D.N.Y. Dec. 18, 2019) ("Courts have repeatedly recognized that the reasonableness of the fee request under the percentage method is reinforced where, as here, 'the percentage fee would represent a negative multiplier of the lodestar.'") (quoting *In re Blech Securities Litig.*, No. 94 Civ. 7696-RWS, 2000 WL 661680, at *5 (S.D.N.Y. May 19, 2000)). Here, Class Counsel are significantly limiting their attorney fee request to much less than the hours actually worked on the case in order to maximize the recovery provided to the Class under the Class Settlement, a further indicator of the reasonableness of Class Counsel's fee request. *See* Katriel Decl., ¶ 8; Kalfayan Decl., ¶ 5.

Class Counsel also seek reimbursement of their expenses incurred in litigating this action, which total $ 81,995.47. As detailed in the Katriel and Kalfayan Declarations, these expenses primarily entail mediation costs, Class Notice and Settlement Administration costs, court appearance travel-related expenses, and other clerical costs. *See* Katriel Decl., ¶ 9; Kalfayan Decl., at ¶ 10. Because these are the type of expenses that would be billed to a paying client and were reasonably incurred in litigating this action, reimbursement of them should be approved.

Last, Class Counsel seek approval of a Service Award to named Plaintiff Class Representative Spa Thirsty, Inc. in the amount of $10,000. *See* ECF No. 79-1, at ¶ 8.3. Spa Thirsty, Inc.'s singular efforts in lending its name to the pleadings, providing documentation to advance the claims, and repeated and protracted meetings with counsel during the settlement negotiations were instrumental in securing the Class Settlement for the benefit of the entire

Class. Moreover, given Spa Thirsty, Inc.'s dependance on its business relationship with Defendant HydraFacial, the decision to publicly lend its name to this suit and actively litigate against its supplier of aesthetic serum and consumables made Spa Thirsty, Inc. bear an especially acute business risk that no other Class Member had to take on. Given Spa Thirsty, Inc.'s efforts, investment of time and effort, and undertaking of risk, the Service Award should be approved.

For the foregoing reasons, as more fully detailed below, the unopposed motion for an award attorneys' fees, reimbursement of expenses, and approval of a service award should be granted.

I. FACTUAL AND PROCEDURAL BACKGROUND

This action is grounded on allegations that the Syndeo, a machine launched by Defendant in 2022 and used in aesthetic and spa treatments applying facial serums addressing a variety of skin issues, was defective and did not conform to the representations made by HydraFacial. Plaintiff Spa Thirsty, Inc., along with fifteen other non-New York plaintiffs named in the operative Second Amended Complaint filed suit seeking to represent a nationwide class of Syndeo purchasers and a narrower subclass of New York purchasers of the Syndeo (with named Plaintiff Spa Thirsty, Inc. designated as the putative class representative of that New York subclass). The Class Settlement, once given Final Approval, will resolve the claims of the New York Class Members, and the remaining non-New York named plaintiffs already have executed individual settlement agreements resolving their claims.

A. The Initial Class Action Complaint And Its Motion Practice

On October 24, 2024, then-named plaintiffs Jason Davalos, Sonia Davalos, and Sol Tan Tanning & Spa, LLC filed the initial Class Action Complaint in this action against Defendants HydraFacial LLC and The Beauty Health Company, alleging claims for violations of New York's

General Business Law, §349 (Count I), §350 (Count II), breach of contract (Count III), breach of implied warranty of merchantability (Count IV), and breach of implied warranty of fitness for a particular purpose (Count V) on behalf of a putative class of all purchasers of Syndeo machines within the United States. *See* ECF No. 1, at ¶¶ 31, 38-65. Those named defendants filed a motion to dismiss the Class Action Complaint in its entirety under Federal Rule of Civil Procedure 12(b)(1) and 12(b)(6). *See* ECF No. 22.

The following week, HydraFacial LLC and The Beauty Health Company jointly moved to stay all discovery until resolution of their pending motion to dismiss. *See* ECF No. 26. Plaintiffs opposed the motion. *See* ECF No. 31. Separately, Plaintiffs Jason and Sonia Davalos voluntarily dismissed their claims under Federal Rule of Civil Procedure 41(a)(1)(A)(i) in recognition that Sol Tan Tanning & Spa, LLC, of which the Davalos were its sole members, was the real party-in-interest to litigate the claims. *See* ECF Nos. 30, 32.

B. The In-Person Mediation Before Philips ADR.

While briefing on the motion to dismiss the initial Class Action Complaint was pending, the parties agreed to mediate. They therefore jointly requested that the then-pending motions to dismiss and to stay discovery be held in abeyance until after their mediation. *See* ECF No. 34. The Court granted that joint request and set additional deadlines for the resumption of briefing on the pending motions if the case were not to be resolved as part of the agreed-upon mediation. *See* ECF No. 35.

On April 29, 2025, the parties attended a day-long mediation session before Greg Danilow, Esq., an experienced mediator with Philips ADR. *See* Katriel Decl., at ¶ 3. Before the mediation, the parties exchanged mediation briefs, produced document discovery for mediation purposes only, and undertook repeated conferences with the mediator. *See id.* The mediation did

not result in a settlement, and the parties jointly informed the Court of that result. *See* ECF No. 36.

C. The First Amended Complaint, Addition Of Fifteen Named Plaintiffs, And That Pleading's Related Motions.

Following the unsuccessful mediation, Plaintiff Sol Tan Tanning & Spa, LLC filed a First Amended Class Action Complaint ("FAC"), which added fifteen additional named plaintiff class representatives. *See* ECF No. 42.

The FAC asserted claims for: breach of implied warranty of merchantability (Count I) (ECF No. 42, at ¶¶ 94-98); breach of contract (Count II) (ECF No. 42, at ¶¶ 99-108); breach of express warranty (Count III) (ECF No. 42, at ¶¶ 109-113); violations of New York General Business Law (G.B.L.) Section 349 (Count IV) (ECF No. 42, at ¶¶ 114-119); and, violations of New York G.B.L. Section 350 (Count V, ECF No. 42, at ¶¶ 120-129). That pleading again named the two same defendants, HydraFacial LLC and its parent company, The Beauty Health Company. *See id.*, at ¶¶ 47-48. In response, both named defendants moved to dismiss all claims of the FAC, except for the breach of express warranty claim (Count III) to the extent that it was premised on a manufacturing (as opposed to a design) defect of the plaintiffs' Syndeo machines. *See* ECF No. 44, at 1-2. Plaintiffs opposed the motion. *See* ECF No. 47.

The Court granted in part Defendants' motion. *See* ECF No. 64. It dismissed with prejudice all claims against The Beauty Health Company. *Id.*, at 15-16. It also dismissed with prejudice all claims against HydraFacial LLC other than the breach of warranty claim premised on a manufacturing defect (*id.*, at 4-13), and its dismissal of the G.B.L. Section 349 and 350

claims was without prejudice to Plaintiffs being allowed to seek leave to amend them. *See id.*, at 14.[2]

D. The Operative Second Amended Complaint, Motion For Reconsideration, And The Court's Further Orders.

Plaintiffs next filed a letter motion seeking leave to file their proposed Second Amended Class Action Complaint ("SAC") in accordance with the Court's previous Order on the motion to dismiss the FAC. *See* ECF Nos. 66 and 66-1. The proposed SAC asserted claims on behalf of a nationwide class of purchasers of Defendant's Syndeo machines as well as claims under Sections 349 and 350 of New York's General Business Law on behalf of a subclass of New York purchasers of Defendant's Syndeo machines. *See* ECF No. 71 [SAC], at ¶ 86 (defining the alleged class and New York subclass).

As part of the same letter motion, Plaintiffs also sought leave to file a motion for reconsideration of the Court's dismissal of the FAC's breach of contract claim. *See* ECF No. 66, at 1-2. They argued that the Court's previous order dismissing that claim had overlooked pleading allegations and argument that the written warranty for the Syndeo forming part of its purchase agreement failed of its essential purpose. Defendant HydraFacial LLC opposed. It argued that the proposed SAC was futile and its filing should not be permitted. *See* ECF No. 67, at 1. It also opposed the request for leave to file a reconsideration motion on timeliness grounds. *See id.*, at 2.

Over HydraFacial LLC's opposition, the Court granted Plaintiffs leave to file the SAC, finding that "Defendants' arguments against granting leave are unpersuasive." ECF No. 68

[2] The Order also permitted Plaintiff Spa Thirsty, Inc., the actual contracting party to the Equipment Purchase Agreement for the Syndeo purchased by that entity, to be substituted as the real party-in-interest instead of the incorrectly named Jennifer Skuratov, who was Spa Thirsty, Inc.'s sole shareholder. *See* ECF No. 64, at 16-17.

(citation omitted). The Court denied Plaintiffs' request for leave to file a reconsideration motion as to the dismissal of the breach of contract claim. *Id*. Plaintiffs then filed their SAC. *See* ECF No. 71.

E. The Motion To Stay Discovery, Case Management Conference, And Extensive Discovery Produced And Reviewed.

While Plaintiffs were filing the FAC and briefing their opposition to Defendants' motion to dismiss that pleading, Defendants' previously filed motion to stay discovery, which Plaintiffs also separately opposed, was still on file. Plaintiffs' counsel negotiated a limited carve-out of Defendants' position regarding a stay on discovery under which Defendants agreed to produce documents only for mediation preparation. *See* Katriel Decl., ¶ 3. Thus, Defendants produced these documents sufficiently before the April 29, 2025 mediation and Plaintiffs hired an expert economist, Eric Mattolo, Ph.D. of Cirque Analytics, to review and analyze the documents to formulate settlement positions before the mediation. *See id.*, at ¶ 4.

Once the mediation ended without a settlement, Defendants' motion to stay discovery remained pending. The Court held an Initial Pretrial Conference ("IPC") on August 15, 2025. *See* ECF No. 48. Before the IPC, Plaintiffs asked for the Court to deny outright Defendants' motion to stay discovery because, by that time, Defendants had moved to dismiss the FAC and that motion made clear that it only sought partial dismissal of the pleading, meaning that, no matter the outcome of the motion, the case would go forward. *See* ECF No. 49, at 1-2. Defendants responded to the letter request on July 23, 2025 but did not agree to withdraw their motion to stay discovery. *See* ECF No. 51, at 1. Three weeks later, at the August 15th IPC, Defendants formally informed the Court that they no longer sought to stay discovery. The Court cleared the parties to conduct discovery and set a fact discovery deadline of July 27, 2026. *See* ECF No. 54. Given the nature of the case, large number of parties, and the expected motions

(including a motion for class certification and possible summary judgment motions), the Court also directed the parties to provide joint monthly updates on the status of discovery. *See* ECF No. 53.

The parties engaged in protracted discovery. Defendants produced, and Plaintiffs' counsel and their expert reviewed, volumes of documents responsive to Plaintiffs' multiple sets of document requests. *See* Katriel Decl., ¶ 5. And, Plaintiffs likewise produced robust written discovery separately culled from each of the sixteen named plaintiffs. *See id*.

F. The Settlement Discussions Leading To The Class Settlement And The Court's Preliminary Approval Of The Class Settlement.

After Plaintiffs' filing of their SAC and review of the discovery that had been produced by that date, counsel for the parties resumed direct settlement communications despite the initial mediation not having resulted in a settlement. These communications, now informed by the Court's ruling on the motion to dismiss the FAC, eventually led to an agreement in principle to settle the case on two separate tracks: a class settlement to resolve the claims of the New York subclass members who would be represented by named New York Plaintiff Spa Thirsty, Inc. and fifteen separate individual settlement agreements to resolve the claims of the non-New York named plaintiffs. *See* Katriel Decl., ¶ 6.

The Class Settlement provides for all-cash consideration in the form of a Settlement Fund totaling $925,000 to be funded by Defendant to equally pay all 508 or so New York Syndeo owners (except those who exclude themselves from the Settlement Class) to resolve their claims arising from the marketing, sales, representations, and defects alleged to have been undertaken by Defendant HydraFacial LLC in connection with its Syndeo machines. After accounting for the administrative expenses, attorneys' fees, costs of suit and incentive award expected to be sought which, if approved by the Court, would be paid from the Settlement Fund, each of the

Settlement Class members is expected to receive an equal payment of about $1,100. This eminently reasonable compensation to resolve claims that Defendant omitted or misrepresented attributes of the Syndeo is reasonable based on the *Goldberger* settlement approval factors detailed in Plaintiff Spa Thirsty Inc.'s motion for preliminary approval, which the Court granted. *See* ECF Nos. 78, at 14-19; 80. The Class Settlement also calls on Defendant HydraFacial LLC to pay for the costs of notice and settlement administration by way of direct emailed or postal service notice dissemination. *See* ECF No. 79-1, at ¶¶ 4.1(a)-(e); 4.6.

On May 29, 2026, Plaintiff Spa Thirsty, Inc. moved for preliminary approval of the Class Settlement. *See* ECF Nos. 77, 78. Thereafter, Plaintiffs filed a supplemental submission responding to the Court's specific inquiries. *See* ECF No. 84. The Court granted Preliminary Approval to the Class Settlement, certified a Settlement Class for settlement purposes, represented by Plaintiff Spa Thirsty, Inc. and Class Counsel. *See* ECF No. 85. Atticus Management, Inc., the Court-approved Settlement Administrator, has since completed the Court-directed notice program and no objections or requests for exclusion requests have been submitted in response by any Settlement Class Member. *See* Katriel Decl., ¶ 7. Plaintiffs will file their Motion for Final Approval on November 20, 2026 and, in accordance with the Court's Order Granting Preliminary Approval, now file this motion seeking an award of attorneys' fees, reimbursement of litigation expenses, and approval of a Service Award for Plaintiff Class Representative Spa Thirsty, Inc., as provided in the Class Settlement. *See* ECF No. 85, at ¶ 10.

II. CLASS COUNSEL'S FEE REQUEST IS REASONABLE UNDER EITHER THE PERCENT-OF-THE-FUND OR LODESTAR METHODS.

Class counsel seek an attorney fee award of $277,500, which represents 30% of the Gross Settlement Fund and a *negative* 0.354 multiplier of their lodestar.

> Courts may award attorneys' fees in common fund cases under either the "lodestar" method or the "percentage of the fund" method. The lodestar method multiplies hours reasonably expended against a reasonable hourly rate. Courts in their discretion may increase the lodestar by applying a multiplier based on factors such as the riskiness of the litigation and the quality of the attorneys.

Wal-Mart Stores, Inc. v. VISA USA, Inc., 306 F.3d 96, 121 (2d Cir. 2005) (internal citations omitted).

Under either method, the award sought is reasonable, supported by the *Goldberger* factors relied on in the Second Circuit, and should be approved.

A. Class Counsel's Fee Request Is Reasonable Under The Percentage-Of-The-Fund Method.

Where a common fund has been created to be shared by a class, the attorneys who created that fund have the right to an award of fees and expenses from that fund. *See Boeing Co. v. Van Gemert,* 444 U.S. 472, 478 (1980). "The rule allows for the cost of litigation to be spread proportionately among each of the beneficiaries, prevents unjust enrichment by class counsel at the expense of the class, and provides an incentive to the bar to pursue cases where the prospect of compensation is uncertain and remote in time." *In re Crazy Eddie Securities Litig.*, 824 F. Supp. 320, 325 (E.D.N.Y. 1993).

The $277,500 attorneys' fee request, amounting to 30% of the Gross Settlement Fund, is reasonable and in line with the fee awards approved by this Court and courts within the Second Circuit. "In this Circuit, courts routinely award attorneys' fees that run to 30% and even a little more of the amount of the common fund." *In re Beacon Associates Litig.*, No. 09-CV-777-CM, 2013 WL 2450960, at *5 (S.D.N.Y. May 9, 2013) (collecting and citing cases) (quoted in *In re High-Crush Partners L.P. Securities Litig.*, No. 12–Civ–8557 (CM), 2014 WL 732417, at *12 (S.D.N.Y. Dec. 19, 2014)); *see also Retiree Benefit Trust of City of Baltimore v. Malibu Boats, Inc.*, No. 24 Civ. 3254 (LGS), 2026 WL 508559, at *1, ¶ 4 (S.D.N.Y. Feb. 24, 2026) ("The

Fee Award of 30% of the Settlement Fund is an amount that is fair and reasonable based on the factors set forth in *Goldberger v. Integrated Res., Inc.*"); *James v. China Grill Mgmt., Inc.*, No. 18 Civ. 455 (LGS), 2019 WL 1915298, at *2 (S.D.N.Y. Apr. 30, 2019) ("Class Counsel is awarded attorneys' fees of $ 366,000, which is equivalent to 30% of the Settlement Fund."). That holds true specifically in class settlements of this size. *See id*. (documenting that in settlements of this fund size, "the median fee was 30%"). Class Counsel seek no more and no less the 30 percent-of-the-fund fee award that historically has been granted in class settlements, including those of this size, within this Court.

Here, the reasonableness of the 30 percent-of-the-fund being sought as the fee award is independently supported by a lodestar analysis crosscheck (which results in a significant *negative* multiplier) and consideration of the pertinent so-called *Goldberger* factors.

B. The Fee Request's Reasonableness Is Also Independently Confirmed By A Lodestar Cross-Check.

As either an alternative or a cross-check to the percentage-of-the-fund-method for evaluating a fee award, the "lodestar" approach "scrutinizes the fee petition to ascertain the number of hours reasonably billed to the class and then multiplies that figure by an appropriate hourly rate" to determine the lodestar. *See In re Bank of New York Mellon Corp. Forex Transactions Litig.*, 148 F. Supp.3d 303, 306 (S.D.N.Y. Dec. 4, 2015) (quoting *Goldberger v. Integrated Resources, Inc.*, 209 F.3d 43, 47 (2d Cir. 2000)). "The lodestar cross-check works best as a sanity check to ensure that an otherwise reasonable percentage fee would not lead to a windfall." *In re Colgate-Palmolive Co. ERISA Litig.*, 36 F. Supp. 3d 344, 353 (S.D.N.Y. 2014). "[W]here used as a mere cross-check, the hours documented by counsel need not be exhaustively scrutinized by the district court." *Goldberger*, 209 F.3d at 50. There is no windfall here; far

from it, the lodestar cross-check reveals that Class Counsel are significantly limiting their fee request to less than the hours they expended so recovery to the Class Members may be enhanced.

Class counsel's total lodestar is $ 783,252.50, comprised of $ 346,937.50 for The Katriel Law Firm, P.C. and $ 436,315 for The Kalfayan Firm, A.P.C. See Katriel Decl., ¶ 8; Kalfayan Decl., ¶ 5. Class Counsel's attorneys collectively billed 1,238.75 hours at hourly rates ranging from $450 to $ 750. *Id*. The amount of hours billed during the two full years of litigation is indisputably reasonable, considering the pleading and motion-intensive nature of the case to date, along with the voluminous discovery produced and reviewed before reaching the Class Settlement. *See* Section I.A.-F *supra*. Moreover, the hourly attorney rates are also reasonable and below hourly rates approved by this Court for attorneys of the same experience as Class Counsel. Courts in this district have found that hourly rates up to $1,260 are 'not excessive in the New York City 'big firm' market.'" *Vista Outdoor Inc. v. Reeves Family Jr.*, 16 Civ. 5766, 2018 WL 3104631, at *6-7 (S.D.N.Y. May 24, 2018) (awarding rates up to $1,260 for partners, $693.75 for associates, and $200 for paralegal); *See In re Signet Jewelers Ltd. Sec. Litig.*, 2020 WL 4196468, at *16 (S.D.N.Y. July 21, 2020) (Dkt. 258-4) (approving fee award based on submitted hourly rates ranging from $1,300 to $825 for partners and $600 to $425 for associates in Plaintiff's class action firm); *Guevoura Fund Ltd. v. Sillerman*, No. 15-CV-7192 (CM) (S.D.N.Y. Oct. 21, 2019), Dkt,195, at ¶ 155 (approving fee award with hourly rate of $900-$995 for partners and $675 for associates).

Perhaps most persuasive in confirming the fee request's reasonableness is that the lodestar cross-check yields a negative multiplier of 0.354. "A negative multiplier strongly suggests that the requested fee amount is reasonable." *Lozada v. TaskUs, Inc.*, 22 Civ. 1479 (JPC) (GS), 2025 WL 3125848, at *11 (S.D.N.Y. Nov. 6, 2025); see *Gruber v. Gilbertson*, 647 F. Supp.

3d 100, 128 (S.D.N.Y. 2022) (negative multiplier "demonstrates that a fee award in the amount plaintiffs' counsel requests would not constitute anything approaching a windfall"); *Guevoura*, 2019 WL 6889901, at *18 (negative multiplier "militates very in favor of the reasonableness of the fee request"); *In re Blech*, 2000 WL 661680, at *5 (finding fee award of 30% of settlement amount reasonable, and deeming that conclusion "reinforced" by fact that fee "would represent a *negative* multiplier of the lodestar" (emphasis in original)).

C. The *Goldberger* Factors Also Confirm The Fee Request's Reasonableness.

The reasonableness of Class Counsel's fee request is also independently supported by the pertinent *Goldberger* factors that courts in the Second Circuit look to in scrutinizing attorneys' fees.

1. The Time And Labor Expended By Class Counsel Supports The Reasonableness Of The Requested Fee.

As of September 7, 2026, Class Counsel and their professional staff spent 2,665.50 hours litigating this case at hourly attorney billing rates ranging from $450 to $750. *See* Kalfayan Decl., ¶ 5; Katriel Decl., ¶ 8. As discussed in Section II.B *supra*, the hours and rates yield a negative lodestar multiple of 0.354. The time and labor factor fully supports the requested fee award.

2. The Risk Of This Litigation Supports The Fee Request.

The "foremost factor" in the required "searching assessment" of a case's characteristics is the contingency risk measured as of when the case was filed, *Goldberger*, 209 F.3d at 52-55, with "greater risks undertaken by counsel ... support[ing] a higher [fee]." *City of Birmingham Ret. & Relief Sys. v. Credit Suisse Grp. AG*, No. 17 Civ. 10014, 2020 WL 7413926, at *3 (S.D.N.Y. Dec. 17, 2020). That factor also fully supports the requested fee's reasonableness. Unlike many other class cases that result in a settlement where a 30% or greater attorney fee is

approved, there was no governmental or regulatory proceeding here that had already established liability or that had been filed and whose allegations Class Counsel could rely on to plead their case. *See Retiree Benefit Trust of City of Baltimore*, 2026 WL 508559, at *2. Instead, all work-product here was borne of Class Counsel's original factual and legal research, investigation, and development. This factor, therefore, also supports Class Counsel's requested fee.

3. The Magnitude And Complexities Of The Litigation Also Support The Fee Requested.

The Class Settlement was reached only after three rounds of pleading, intensive motions practice, an unsuccessful mediation, extensive discovery, and expert engagement. At the time of the Class Settlement, 16 parties were named as Plaintiff Class Representatives. The subject-matter of the litigation, alleged defects plaguing a unique and complex piece of machinery like HydraFacial LLC's Syndeo, also called for knowledge entailing a steep learning curve into the workings and mechanics of this novel and specialized piece of equipment. And, successful resolution of this case on a global basis required for unique settlement approaches, not amenable to a "cookie cutter" class settlement strategy templates, instead involving an unusual hybrid mix of classwide relief for the New York subclass alongside individual settlement agreements for each of the 15 non-New York named plaintiffs. This factor also supports the fee requested.

4. The Quality Of Representation Supports The Fee Award Requested.

Quality of representation is "best measured by results." *Goldberger*, 209 F.3d at 55. Class Counsel Counsel obtained a Global Settlement Fund, representing approximately 25% of the estimated maximum recoverable damages, as calculated by Plaintiff's expert. *See* ECF No.78, at 18. In addition, the Class Settlement provides this consideration to each Class Members without the need to submit any claim form or other proof. *See* ECF No. 79-1, at §2.1(b); *Fleisher v. Phoenix Life Ins. Co.*, No. 11-cv-8405 (CM), 2015 WL 10847814, at *1 (S.D.N.Y. Sept. 9, 2015)

(approving class settlement as fair and reasonable where: "Checks will be mailed directly to all Class members with no need to submit claim forms."). And, the settlement payment is not conditioned on any Class Member's return of their Syndeo, as would be required to obtain recovery in a rescission case under New York law. *See Stauss v. Title Guarantee & Trust Co.*, 284 N.Y. 41, 47 (1940) ("A return of the property . . . obtained under the contract is part of the act of rescission.") (ellipsis in original).

The results obtained here fully support the attorneys' fees requested by Class Counsel. *See Retiree Benefit Trust of City of Baltimore,* 2026 WL 2026 WL 508559, at *2 (approving 30% percent of the fund fee award in settlement providing recovery amounting to between 11% to 32% of damages recoverable at trial); *see also Vaccaro v. New Source Energy Partners L.P.*, No. 15 Civ. 8954, 2017 WL 6398636, at *6 (S.D.N.Y. Dec. 14, 2017) ("The $2,850,000 settlement represents 6.5% of the maximum recoverable damages. This settlement amount is reasonable and in line with other settlements in securities class actions.").

III. CLASS COUNSEL'S LITIGATION-RELATED EXPENSES SHOULD BE REIMBURSED.

Class Counsel collectively seek reimbursement of $ 81,995.47 in litigation expenses. *See* Katriel Decl., ¶ 9 (seeking reimbursement of $40,389.01); Kalfayan Decl., at ¶ 10 (seeking reimbursement of $41,606.46). This includes $9,900 in costs for Atticus Management, the Court-approved Settlement Administrator to disseminate and publish the Class Notice and administer the settlement payments, as well as out-of-pocket expenses already incurred by Class Counsel for mediation fees, expert witness costs, discovery hosting, legal research, and travel for Court appearances and client meetings. *See id*. Because these are the type of expenses that would be billed to and paid by a private paying client, the Court should approve the reimbursement of these costs that Class Counsel fronted and has carried throughout this

litigation. *See In re EVCI Career Colleges Holding Corp.*, No. 05 Civ. 10240(CM), 2007 WL 2230177, at *18 (S.D.N.Y. Jul. 27, 2007) ("Attorneys may be compensated for reasonable out-of-pocket expenses incurred and customarily charged to their clients, as long as they 'were incidental and necessary to the representation' of those clients") (quoting *In re McDonnell Douglas Equip. Leasing Securities Litig.*, 842 F. Supp. 733, 746 (S.D.N.Y. 1994); *In re Arakis Energy Corp., Sec. Litig,* No. 95 CV 3431, 2001 WL 1590512. at *17 n.12 (E.D.N.Y. Oct. 31, 2001) ("Courts in the Second Circuit normally grant expense requests in common fund cases as a matter of course").

IV. THE SERVICE AWARD TO NAMED PLAINTIFF SPA THIRSTY, INC., WHO TOOK THE RISK OF SUING ITS OWN SUPPLIER AND WHOSE EFFORTS BENEFITTED THE ENTIRE CLASS, SHOULD BE APPROVED.

The Class Settlement also calls for a $10,000 Service Award to named Plaintiff Class Representative, Spa Thirsty, Inc., in recognition of the efforts, investment, and risk it undertook that will benefit the entire Class. *See* ECF No. 79-1, at § 8.3. "Service awards are common in class action cases and serve to compensate plaintiffs for the time and effort expended in assisting the prosecution of the litigation, the risks incurred by becoming and continuing as a litigant, and any other burdens sustained by the plaintiffs." *Reyes v. Altamarea Grp., LLC,* No. 10 Civ. 6451, 2011 WL 4599822, at *9 (S.D.N.Y. Aug. 16, 2011). "It is important to compensate plaintiffs for the time they spend and the risks they take." *Massiah v. MetroPlus Health Plan, Inc.,* No. 11 Civ. 5669, 2012 WL 5874655, at *8 (E.D.N.Y. Nov. 20, 2012).

Here, significant investments of time and effort undertaken by Spa Thirsty, Inc. and its principal undertook in producing discovery, meeting with Class Counsel, reviewing settlement proposals and other case materials were instrumental in reaching the settlement result that, once approved, will benefit the entire Class. *See* Katriel Decl., ¶ 10 . But there is more. When it lent

its name to this class litigation, Spa Thirsty, Inc. depended on HydraFacial LLC as its supplier of aesthetic serums and other consumables necessary for Spa Thirsty, Inc. to carry on its business. *See id*. Thus, by publicly suing HydraFacial LLC, Spa Thirsty, Inc. took on the real business risk that its key supplier would respond by ceasing all future business dealings with it, leaving Spa Thirsty, Inc. without a source of the supplies needed to carry on its operations. *Id*. A number of other spas and salons had approached Class Counsel about possibly joining the litigation but chose to sit out for fear of taking on that very risk. *Id*.

The time, effort, and real risk uniquely undertaken by Spa Thirsty, Inc. that benefitted the entire Class supports a Service Award, and the amount sought is one that this Court has awarded under similar circumstances. *See, e.g., Restrepo v. Monte's Trattoria, Ltd.*, No. 24-CV-4482 (JAV), 2025 WL 753953, at *3 (S.D.N.Y. Mar. 7, 2025); *Hezi v. Celsius Holdings, Inc.*, 2023 WL 2786820, at *6 (S.D.N.Y. Apr. 5, 2023) (approving $10,000 service award); *Santos v. Nuve Miguel Corp.*, No. 21-cv-1335, 2023 WL 2263207, at *3 (S.D.N.Y. Feb. 28, 2023) (approving $10,000 service award). The unopposed request for approval of the $10,000 Service Award to named Plaintiff Class Representative Spa Thirsty, Inc. should br approved.

CONCLUSION

For all the foregoing reasons, Plaintiff Spa Thirsty, Inc.'s unopposed motion for an award of attorneys' fees, reimbursement of expenses, and approval of a service award should be granted.

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Respectfully submitted,

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