

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA**

DARRELL EDEN; RANDY BACON;
ESTATE OF CHRISTOPHER BROWN;
through personal representative Paula Rhea
Brown; ESTATE OF MARTIN
CHOUINARD, through administrator *ad*
litem April Hancock; SANDRA
CULBERTSON; ESTATE OF DENISE
CULPEPPER, through personal
representative April Richard; LAURA
FULLER; ESTATE OF BRANDON GASH,
b/n/k Harry and Sheryl Gash; BENJAMIN
NEWTON HANNAH; KRIS HOLDER;
AMANDA LENNIE; SHELBY LONG;
TERA MILLER; BRYAN WAMPLER; and
SHARON WATERS, on behalf of
themselves and all others similarly situated;
and AVERY L. SHARP; CHELSEA
COULTER; KENDRA MICKEL; and
ZACHARY GUINN, on behalf of themselves
and all others similarly situated,

Plaintiffs,

vs.

BRADLEY COUNTY, TENNESSEE;
SHERIFF STEVE LAWSON, in his official
capacity; CAPTAIN JERRY JOHNSON,
JR., in his official capacity; ERIC WATSON,
in his individual capacity; and CAPTAIN
GABRIEL THOMAS, in his individual
capacity,

Defendants.

Case No.: 1:18-cv-217-CHS

CLASS ACTION

**COMPLAINT PURSUANT TO 42 U.S.C.
1983**

ORDER

This matter came before the Court on April 5, 2024, on Plaintiffs’ Unopposed Motion for Attorney Fees and Costs Pursuant to Rules 23(h) and 54(d)(2) of the Federal Rules of Civil Procedure [Doc. 114] (“Motion”) and supporting memorandum of law [Doc. 115]

(“Memorandum”), in which Plaintiffs requested that the Court Order Defendants to pay Class Counsel the amounts of \$1,140,000.00 in attorney fees and \$120,046.13 in litigation costs and expenses in the manner and on the timeline specified in the Settlement Agreement [Doc. 107-1]. (See Mot. & Mem.)

Following review of the Motion and Memorandum (and exhibits submitted in support thereof), and argument presented at the hearing on April 5, 2024, and pursuant to Rules 23(h), 52(a), and 54(d) of the Federal Rules of Civil Procedure, the Court finds as follows:

1. The resolution of this case has created a common benefit fund for the class, so it is appropriate to assess attorney fees against that common fund. *See Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980); *Van Horn v. Nationwide Prop. & Cas. Ins. Co.*, 436 F. App’x 496, 498 (6th Cir. 2011); *In re Skelaxin (Metaxalone) Antitrust Litig.*, No. 2:12-cv-83, 2014 WL 2946459, at *1 (E.D. Tenn. June 30, 2014).
2. Class Counsel’s requested fee award is fair and reasonable under the percentage-of-the-fund approach favored in the Sixth Circuit. *See, e.g., In re Se. Milk Antitrust Litig.*, No. 07-208, 2013 WL 2155387, at *2 (E.D. Tenn. May 17, 2013). Here, the requested fee amounts to 30% of the \$3,800,000.00 Settlement Fund. (See Settlement Agreement § 2(kkk), 4(a), (d).) This percentage is “certainly within the range often awarded in common fund cases, *see In re Se. Milk Antitrust Litig.*, 2013 WL 2155387, at *3, both nationwide and in the Sixth Circuit,” and it is appropriate in this case.
3. In addition, the requested fee satisfies the factors the Sixth Circuit articulated, *inter alia*, in *Moulton v. U.S. Steel Corp*, 581 F.3d 344, 352 (6th Cir. 2009). In particular:
 - a. Class Counsel rendered substantial benefit and value to the Classes;

- b. Although it is not necessary to perform a lodestar cross-check where, as here, the “fee does not appear to be excessive as a percentage of the recovery,” *Dick v. Sprint Commc’ns Co. L.P.*, 297 F.R.D. 283, 300 (W.D. Ky. 2014) (citing *Bowling v. Pfizer, Inc.*, 102 F.3d 777, 779 (6th Cir. 2014)), Class Counsel’s submitted lodestar calculations of the value of their time at under-market rates (of \$898,339.00) and the applicable multiplier relative to the requested fee (approximately 1.27) establish that the requested fee is not excessive;
 - c. Class Counsel undertook the services on a contingent basis and devoted considerable time thereto;
 - d. Society has a strong interest in rewarding attorneys who take on difficult, public-interest class action cases and produce such benefits as an incentive to others;
 - e. This case was highly complex, legally and factually; and
 - f. Both Class Counsel and Defendant’s Counsel have considerable professional skill and standing.
4. Class Counsel “is entitled to reimbursement of all reasonable out-of-pocket litigation expenses and costs in the prosecution of claims and settlement.” *Hosp. Auth. of Metro. Gov’t of Nashville v. Momenta Pharm.*, No. 3:15-cv-01100, 2020 WL 3053468, at *2 (M.D. Tenn. May 29, 2020) (internal quotation marks omitted). Class Counsel reasonably incurred a total of \$120,046.13 in litigation costs and expenses for which they seek reimbursement.

Accordingly, the Motion is **GRANTED**. Class Counsel is **AWARDED** the sums of: **(1) one million, one hundred forty-thousand dollars and zero cents (\$1,140,000.00) in attorney fees; and (2) one hundred twenty thousand and forty-six dollars and thirteen cents (\$120,046.13) in litigation costs and expenses, for a total of one million two hundred sixty**

thousand and forty-six dollars and thirteen cents (\$1,260,046.13), to be paid in accordance with the processes and deadlines articulated in the Settlement Agreement.

SO ORDERED.

/s/ Christopher H. Steger
UNITED STATES MAGISTRATE JUDGE