

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

K.A., a minor, by and through her next :
friend and guardian, Lisa Adams, *et al.*, :

Plaintiffs, :

v. :

CASE NO.: 1:17-CV-099 (LAG)

JEFF HOBBY, Sheriff of Worth County, :
Georgia, *et al.*, :

Defendants. :

ORDER

Before the Court is Plaintiffs' Unopposed Motion in Support of an Award of the Agreed Upon Attorneys' Fees in the Settlement Agreement (Motion) (Doc. 57). For the reasons provided below, the Motion is **GRANTED**.

BACKGROUND

Plaintiffs brought this action on behalf of themselves and other students at Worth County High School who were allegedly subjected to hands-on body searches by the Defendants. (Doc. 1.) On March 23, 2018, the Court preliminarily certified the class, appointed class counsel, and approved the proposed class settlement. (Doc. 48.) Notice was subsequently sent to prospective class members. A final fairness hearing was held on July 11, 2018. (Doc. 54.) At the hearing, the Parties detailed for the Court the settlement agreement, answered questions, and reported the results of the notice period. (*Id.*) No objections were made. (*Id.*) The Court approved the Parties' settlement agreement on January 9, 2019. (Doc. 59.) Prior to the settlement approval, Plaintiffs, unopposed by the Defendants, filed this Motion on July 26, 2018, which included affidavits from Plaintiffs' Counsel. (Doc. 57.)

DISCUSSION

Pursuant to Federal Rule of Civil Procedure 23(h), "the court may award reasonable attorney's fees and nontaxable costs that are authorized by law or by the parties' agreement." The motion must be made under Rule 54(d)(2), and notice must be "directed to class

members in a reasonable manner.” Fed. R. Civ. P. 23(h)(1). Here, class members were given notice of the proposed attorneys’ fee award and an opportunity to object, and no class members objected. (*See generally* Docket.)

“[A]ttorneys’ fees awarded from a common fund shall be based upon a reasonable percentage of the fund established for the benefit of the class.” *Camden I Condo. Ass’n, Inc. v. Dunkle*, 946 F.2d 768, 774 (11th Cir. 1991). The Eleventh Circuit has regularly found fee awards are presumptively “reasonable where they fall between 20–25% of the claims.” *Faught v. Am. Home Shield Corp.*, 668 F.3d 1233, 1242 (11th Cir. 2011). This range is the “benchmark.” *Waters v. Int’l Precious Metals Corp.*, 190 F.3d 1291, 1294 (11th Cir. 1999). “Where the requested fee exceeds 25%, the court is instructed to apply the twelve Johnson factors.” *Faught*, 668 F.3d at 1242. Those factors are:

- (1) the time and labor required; (2) the novelty and difficulty of the questions involved; (3) the skill requisite to perform the legal service properly; (4) the preclusion of other employment by the attorney due to acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitations imposed by the client or the circumstances; (8) the amount involved and the results obtained; (9) the experience, reputation, and ability of the attorneys; (10) the “undesirability” of the case; (11) the nature and the length of the professional relationship with the client; (12) awards in similar cases.

Camden I Condo. Ass’n, Inc., 946 F.2d at 772 (citing *Johnson v. Ga. Highway Express, Inc.*, 488 F.2d 714, 717–19 (5th Cir. 1974), *abrogated on other grounds by Blanchard v. Bergeron*, 489 U.S. 87 (1989)). In *Camden*, the court indicated that other factors may be relevant, such as “the time required to reach a settlement, whether there are any substantial objections by class members or other parties to the settlement terms or the fees requested by counsel, any non-monetary benefits conferred upon the class by the settlement, and the economics involved in prosecuting a class action.” *Id.* at 775.

An award of \$450,000.00 is reasonable. At 15% of the three-million-dollar common fund settlement amount, the award is well below the benchmark of presumptively reasonable awards. While this case was settled early, it has nonetheless required extensive time and labor. In their affidavits, Plaintiffs’ Counsel represent that they have cumulatively spent over

561 hours pursuing this action, including travelling to Worth County to meet with class and community members, making open records requests, reviewing voluminous discovery, negotiating at arm's length with Defendants, and drafting hundreds of pages of briefs; and they further anticipate having to spend additional time processing and delivering settlement payments to the class members over the next year. (Doc. 57-1 at 2–4; Doc. 57-2 at 2–4.) This has precluded Plaintiffs' Counsel, experienced litigators who have handled several class actions in the past, from accepting other lucrative employment. Moreover, through the negotiated settlement agreement, approximately 800 class members will receive a settlement amount between \$1,000.00 and \$3,962.90, totaling \$2,121,345.00 (70.71% of the common fund); and a *cy pres* fund for the benefit of Worth County High School students will be established using the remainder of the fund less the fees award. Notably there have been no objections. Having considered all of the *Johnson* factors, Plaintiffs' Counsels' requested fee award of \$450,000.00 is fair and reasonable, and is, therefore, approved.

CONCLUSION

For the reasons stated above, the Plaintiffs' Motion (Doc. 57) is **GRANTED**. Defendants shall remit payment to Plaintiffs' Counsel within **seven (7) days** of this Order as provided by the approved Settlement Agreement (Doc. 40-2).

SO ORDERED, this 24th day of January, 2019.

/s/ Leslie A. Gardner
LESLIE A. GARDNER, JUDGE
UNITED STATES DISTRICT COURT