IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

PRO SLAB, INC., BREMER CONSTRUCTION MANAGEMENT, INC., and MICHELLE L. VIEIRA, Chapter 7 Trustee of FORREST CONCRETE, LLC, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

ARGOS USA LLC, ARGOS READY MIX LLC, LAFARGE NORTH AMERICA INC., COASTAL CONCRETE SOUTHEAST II, LLC, THOMAS CONCRETE, INC., THOMAS CONCRETE OF SOUTH CAROLINA, INC., EVANS CONCRETE, LLC, and ELITE CONCRETE, LLC,

Defendants.

Case No. 2:17-cv-03185-BHH

ORDER GRANTING PLAINTIFFS' MOTION FOR ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES, AND SERVICE AWARDS RELATED TO SETTLEMENTS WITH LAFARGE NORTH AMERICA, INC., EVANS CONCRETE, LLC, AND THOMAS CONCRETE, INC. AND THOMAS CONCRETE OF SOUTH CAROLINA, INC.

This matter is before the Court on Plaintiffs' second motion for attorneys' fees, reimbursement of expenses, and service awards related to the settlements with Lafarge North America, Inc. ("Lafarge"), Evans Concrete, LLC ("Evans") and Thomas Concrete, Inc. and Thomas Concrete of South Carolina, Inc. (together, "Thomas") (collectively, "Settling Defendants"). (ECF No. 533.) Having considered the written submissions and after oral argument at hearing on November 3, 2025, the Court hereby grants the motion for the reasons set forth below.[1]

[1]Capitalized words have the same meanings as those defined in the Settlement Agreements.

These Settlements resolve the claims by Plaintiffs, on their behalf and on behalf of certified Settlement Classes, against Lafarge, Evans and Thomas, alleging an antitrust conspiracy to fix the price of Ready-Mix Concrete. The Settlements were negotiated by well-informed counsel and followed extensive criminal proceedings, full discovery, including comprehensive document and data production, two dozen depositions, and thorough expert analyses of the data, market and damages. The Settlements were also the result of intensive, arm's-length negotiation, including mediation sessions with former Judge Infante of JAMS for the Lafarge Settlement, Greg Lindstrom of PADRE for the Thomas Settlement and Hunter Hughes of Hughes ADR for the Evans Settlement, as well as direct discussions among counsel for the parties. In each successful mediation, the parties did not resolve their claims until each party accepted the mediator's proposal to resolve the claims against that Defendant. The Court, by separate orders, has granted final approval of each Settlement.

The Court hereby grants to Class Counsel a fee in the amount of $6,216,666.67, plus one-third of the accrued interest on the Settlement Funds, which the Court finds to be fully supported by the facts, the record, and the applicable law. This amount shall be paid from the Settlement Funds. Class Counsel shall be entitled to one-third of the accrued interest at the time of the distribution of the fee award. For purposes of their motion, Class Counsel valued the Evans Settlement at the reduced $5,650,000 valuation. If Evans instead pays the higher amount—an additional $150,000—to extend its payment obligation, Class Counsel is awarded one-third, including any accrued interest, of that additional settlement payment.

The Court further grants Class Counsel's request for reimbursement of $3,600,000 in reasonably expended expenses, and service awards to the three class representatives of $35,000 each, which the Court finds to be fully supported by the facts, the record, and the applicable law.

The requested fee is justified under the percentage of the common fund methodology described in *Barber v. Kimbrell's, Inc*., 577 F.2d 216 (4th Cir. 1978). The fee represents 1/3 of the $18,650,000, plus 1/3 accrued interest, which aligns with the percentages frequently awarded in common fund class action settlements in this Circuit. *See, e.g.*, *Anselmo v. W. Paces Hotel Grp., LLC*, No. 9:09-CV-02466, 2012 WL 5868887, at *3 (D.S.C. Nov. 19, 2012) ("The approximate 33% for fees provided here is reasonable in light of all pertinent factors, including precedent and beneficial results obtained."); *George v. Duke Energy Ret. Cash Balance Plan*, No. 8:06-CV-00373, 2011 WL 13218031, at *10 (D.S.C. May 16, 2011) (approving request for 30% of the settlement fund as "fair and reasonable given the results achieved in light of the risks, difficulty, complexity and magnitude of the litigation, and the highly specialized expertise, time and substantial resources required to prosecute it successfully").

The Court has confirmed the reasonableness of the requested fee through an analysis of "the *Barber* factors." *Alexander S. By & Through Bowers v. Boyd*, 929 F. Supp. 925, 932 (D.S.C. 1995), *aff'd sub nom., Burnside v. Boyd*, 89 F.3d 827 (4th Cir. 1996). Specifically, the Court has considered: (1) the time and labor expended; (2) the novelty and difficulty of the questions raised; (3) the skill required to properly perform the legal services rendered; (4) the opportunity costs in pressing the instant litigation; (5) the customary fee for like work; (6) the attorneys' expectations at the outset of the litigation; (8) the amount in controversy and the results obtained; (9) the experience, reputation, and ability of the attorneys; (10) the undesirability of the case within the legal community in which the suit arose; and (12) fee awards in similar cases.[2]

[2] The Court did not consider factors (7) time limitations imposed by the client or circumstances, and (11) the nature and length of the professional relationship with the client as pertaining to this litigation, because they were not relevant to the Court's analysis. *See In re Abrams & Abrams, P.A.,* 605 F.3d 238, 245 (4th Cir. 2010) (recognizing that "the district court correctly recognized that some factors may not have much, if anything, to add in a given case, [and] the factors that do apply should be considered.").

The record also shows that the parties had no agreement with regard to fees, and that neither the Settlements nor the requested fees are the product of collusion or fraud.

The $18,650,000 Settlement Amounts equate to approximately 68.1% of single damages. The net settlement recovery, after deducting the 1/3 fee, reimbursement of $3.6 million in expenses, and grant of $105,000 (total) for the three Class Representatives, is approximately 31.8% of single damages. That gross recovery of 68% is substantially more than the typical antitrust case damages recovery. *In re Cathode Ray Tube (CRT) Antitrust Litig.*, No. 07-cv-5944, 2016 WL 3648478, at *7 (N.D. Cal. July 7, 2016) (citing a law review article finding that "median average settlement recovery among a survey of 71 settled cartel cases was 37% of single damages recovery, the weighted mean . . . 19% of single damages recovery").

Although Courts in the Fourth Circuit are not required to do so, they may choose to "cross-check" the results of a percentage-fee award against the attorneys' "lodestar." *See, e.g.*, *The Kay Co. v. Equitable Prod. Co.*, 749 F. Supp. 2d 455, 463–64 (S.D. W. Va. 2010) (applying "the lodestar cross-check as an element of objectivity in [the attorneys' fee] analysis"). To apply the lodestar cross-check, the Court compares the fee award to the requesting firms' combined "lodestar" (the number of hours reasonably worked multiplied by a reasonable billing rate) to determine the resulting "multiplier." *See, e.g.*, *Robinson v. Carolina First Bank N.A.*, 2019 WL 2591153, at *15 (D.S.C. June 21, 2019).

Applying the lodestar cross-check in this case to the amount of attorneys' fees awarded results in a negative multiplier of .32 (32%) of Class Counsel's reported lodestar. Such a multiplier is substantially lower than the acceptable range of multipliers in common fund cases. *See TD Bank, N.A, Debit Card Overdraft Fee Litigation*, MDL 2613, slip op. at 15 (D.S.C. Jan. 9, 2020) ("Using the lodestar method in this case results in a multiplier of between 1.89 and 2.33. ... Such a multiplier is well within the acceptable range of multipliers in common fund cases."); *Anselmo v. W. Paces*

Hotel Grp., LLC, No. 9:09-CV-02466-DCN, 2012 U.S. Dist. LEXIS 164618, at *13–14 (D.S.C. Nov. 19, 2012) ("Courts have generally held that lodestar multipliers falling between 2 and 4.5 demonstrate a reasonable attorney's fee. (quoting *Jones v. Dominion Res. Servs., Inc.*, 601 F. Supp. 2d 756, 766 (S.D. W.Va. 2009)).

The requested expense reimbursement of $3,600,000 is fully supported by the Settlements, Class Counsel's joint declaration and additional facts, the record, and the applicable law. *See Mills v. Electric Auto-Lite Co.*, 396 U.S. 375, 391–92 (1970) (an established exception to the American rule is "to award expenses where a plaintiff has successfully maintained a suit, usually on behalf of a class, that benefits a group of others in the same manner as himself"); *Savani v. URS Prof'l Solutions LLC*, 121 F. Supp. 3d 564, 576 (D.S.C. 2015) (payment of reasonable costs and expenses to Class Counsel who create a common fund is necessary and routine (citing *In re Synthroid Mktg. Litig.,* 264 F.3d 712, 722 (7th Cir. 2001))). This request is reasonable given the nature of the services necessary to successfully prosecute complex civil antitrust cases, the duration of the proceedings, the complex questions of facts and law present in this case and the advanced stage of proceedings when the parties reached the Settlements.

Class Counsel advanced all the costs of litigation—more than $4,214,727 to date. Class Counsel bore a significant risk of nonpayment, as is "eviden[ced] in the fact that they undertook this action on an entirely contingent fee basis." *In re The Mills Corp. Sec. Litig*., 265 F.R.D. 246, 263 (E.D. Va. 2009). "The outcome of the case was hardly a foregone conclusion, but nonetheless counsel accepted representation of the plaintiff and the class on a contingent fee basis, fronting the costs of litigation." *Id*. (citing *Muhammad v. Nat'l City Mortg., Inc*., No. 2:07-cv-0423, 2008 WL 5377783 (S.D. W. Va. Dec. 19, 2008)).

The expenses incurred by Class Counsel are of the type and in amounts that are routinely reimbursed by paying clients, and in class action litigation. *See In re Microstrategy, Inc*., 172 F.

Supp. 2d 778, 791 (E.D. Va. 2001) (citing *Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994) (finding that costs typically billed by attorneys to paying clients in the marketplace may be reimbursed). Expenses that are normally charged to a fee-paying client, including mailing costs, online legal research, expert and mediator fees, travel expenses for mediation and court proceedings, and court filing fees, may be reimbursed. *Reynolds v. Fid. Investments Institutional Operations Co*., No. 1:18-CV-423, 2020 WL 92092, at *4 (M.D.N.C. Jan. 8, 2020).

"When the 'lion's share' of expenses reflects the typical costs of complex litigation such as 'experts and consultants, trial consultants, litigation and trial support services, document imaging and copying, deposition costs, online legal research, and travel expenses,' courts should not depart from 'the common practice in this Circuit of granting expense requests.'" *Kurtz v. Kimberly-Clark Cor*p., 2024 WL 184375, at *4 (E.D.N.Y. Jan. 17, 2024). *See also In re Synthroid Mktg. Litig*., 264 F.3d 712, 722 (7th Cir. 2001) ("Reducing litigation expenses because they are higher than the private market would permit is fine; reducing them because the district judge thinks costs too high in general is not.").

Courts routinely recognize that class counsel should be reimbursed for their outlay of necessary litigation expenses. Without them, Plaintiffs could not have secured any recovery for the class. And without reimbursement, counsel in future cases would unduly shy away from, or under-invest in, complex antitrust cases such as this one—a local price-fixing cartel that did not have hundreds of millions of dollars in damages. While the expenses here are significant, they are in line with expenses in similar litigation and were reasonable and necessary to litigate the case. *See, e.g., In re Lithium Ion Batteries Antitrust Litig*., No. 13-md-02420, 2020 WL 7264559, at *20 (N.D. Cal. Dec. 10, 2020), aff'd, 2022 WL 16959377 (9th Cir. Nov. 16, 2022) (granting reimbursement of $6,751,735.84 in expenses, including economic experts and consultants ($4,857,677.85), and online document database services ($951,168.46)); *In re: Zetia (Ezetimibe)*

Antitrust Litig., Case 2:18-md-02836-RBS-DEM, ECF No. 2168 (E.D. Va., Oct. 18, 2023) ("The court notes that the reimbursement request of $3,905,175.85 is high, but the court is satisfied that this request is reasonable given the duration of the proceedings, the complex questions of facts and law present in this case and the advanced stage of proceedings when the parties reached settlement."); *In re Lidoderm Antitrust Litig*., 2018 WL 4620695, at *4 (N.D. Cal. Sept. 20, 2018) (awarding reimbursement of $3,948,118 in expenses); *In re Loestrin 24 Fe Antitrust Litig*., 2020 WL 5201275, at *5 (D.R.I. Sept. 1, 2020) (awarding reimbursement of $3,743,996.58 in expenses). That the expenses are nearly 20% of the total recovery to date does not suggest that the expenses are not reasonable. *See, e.g., In Re Interest Rate Swaps Antitrust Litig.* Case 1:16-md-02704-JPO (S.D.N.Y., July 17, 2025) (awarding expense reimbursement that took 32.93% of the settlement funds finding that "In particular, though Co-Lead Counsel's expenses were very high relative to the total cash settlements secured, Co-Lead Counsel's expenses were justified as reasonable and necessary in relation to the total damages anticipated in the case" and "Public policy concerns favor the award of reasonable litigation expenses and expenses in class action litigation.")

Finally, the Court approves payment of $35,000 to each of the three class representatives for their service on behalf of the Class, especially when considering they were all deposed, required to respond to extensive interrogatories and identify and produce voluminous documentary materials and data, and have assisted Class Counsel through years of uncertain litigation. The Court finds that payment of these service awards is warranted and approved in this case in light of the Class Representatives' work on behalf of the Class and the risks they took pursuing this case. *See TD Bank,* MDL 2613, slip op. at 16 ("There are 21 individual Class Representatives and four married Class Representatives, totaling $240,000.00 in Service Awards. The Court finds that payment of these service awards is warranted and approved in this case in light of the Class Representatives' work on behalf of the classes and the risks they took pursuing this case."); *In re:*

Interior Molded Doors Antitrust Litig, No. 3:I8-cv-00718-JAG (E.D. Va. June 3, 2021) (awarding $75,000 service award to each named plaintiff).

No Class member has objected to the Settlements or the request for attorneys' fees, reimbursement of costs or payment of service awards, and only two opt-outs, by class members with 3/100 of 1% of the total volume of commerce, have been received.[3] This strongly favors approval. *See Brown v. Transurban USA, Inc.*, 318 F.R.D. 560, 573–74 (E.D. Va. 2016) (settlement supported where "not a single objection was received").

Co-Lead Class Counsel are authorized to allocate the attorneys' fees awarded herein among counsel who performed work on behalf of the Class in accordance with Co-Lead Class Counsel's assessment of each firm's contribution to the prosecution of this litigation.

For the reasons set forth herein, the Court hereby (a) **FINDS MOOT** Plaintiffs' first Motion for Attorneys' Fees, Reimbursement of Expenses, and Service Award Related to the Lafarge Settlement (ECF No. 518); (b) the Court **GRANTS** Plaintiffs' Motion for Attorneys' Fees, Reimbursement of Expenses, and Service Award Related to the Lafarge, Thomas, and Evans Settlements (ECF No. 533); and (c) **APPROVES** the requests for attorneys' fees of $6,216,666.67 plus one-third (1/3) of the accrued interest, expense reimbursement of $3,600,000, and Service Awards of $35,000 for each Class Representative. Class Counsel are authorized to direct the distribution of these amounts from the Settlement Funds immediately following the Effective Dates of the Settlements, by entry of this Order. The fees, expenses, and Service Awards shall be withdrawn from the Settlement Funds in the following proportions:

[3] Blattner Energy opted out of the Lafarge Settlement. Total known class period purchases are $21,855, which is 0.008% of total VOC. Willie Kittles Concrete Finishing opted out of the Thomas Settlement and Evans Settlement. Total known class period purchases are $65,682, which is 0.023% of total VOC. Combined the two opt out purchased $87,537.00, which is 0.031% of total VOC.

SETTLEMENT	LAFARGE	THOMAS	EVANS	TOTALS
Gross Fund	$5,400,000	$7,600,000	$5,650,000[4]	$18,650,000
Fees	$1,800,000	$2,533,333.33	$1,883,333.33	$6,216,666.67
Expenses	$1,044,000	$1,467,000	$1,089,000	$3,600,000
Service Awards	$45,000	$30,000	$30,000	$105,000

IT IS SO ORDERED.

/s/Bruce H. Hendricks
United States District Judge

November 12, 2025
Charleston, South Carolina

[4] If Evans choses the extended-pay option, the fees from the $5,800,000 Settlement Amount would be $1,933,333 ($50,000 more), plus one-third of the accrued interest.