UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE BUMBLE, INC. SECURITIES LITIGATION	Civil Action No. 22-cv-624 (DLC) CLASS ACTION

MEMORANDUM OF LAW IN SUPPORT OF LEAD COUNSEL'S MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES

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Court-appointed Lead Counsel, Bernstein Litowitz Berger & Grossmann LLP ("BLB&G" or "Lead Counsel"), having achieved a Settlement of $18,000,000 in cash for the benefit of the Settlement Class, respectfully submits this memorandum of law in support of its motion, on behalf of Plaintiff's Counsel,[1] for (i) an award of attorneys' fees in the amount of 25% of the Settlement Fund, or $4,500,000 plus interest earned at the same rate as the Settlement Fund, and (ii) payment of $83,125.85 in expenses that were reasonably incurred by Lead Counsel in prosecuting and resolving the Action. Lead Counsel also submit this memorandum of law in support of the application of Lead Plaintiff Louisiana Sheriffs' Pension & Relief Fund ("Louisiana Sheriffs" or "Lead Plaintiff") for an award pursuant to 15 U.S.C. § 78u-4(a)(4) of the Private Securities Litigation Reform Act of 1995 ("PSLRA") in the amount of $1,944.00, in connection with its representation of the Settlement Class.

PRELIMINARY STATEMENT[2]

Lead Counsel has successfully negotiated a settlement of this securities class action (the "Action"). The proposed Settlement, if approved by the Court, will resolve the Action in its entirety in exchange for $18 million in cash. The Settlement represents a favorable recovery for the Settlement Class as it will provide meaningful and certain compensation to Settlement Class Members while avoiding the risks and delay of continued litigation, including the risk that there

[1] "Plaintiffs' Counsel" are: Lead Counsel BLB&G and the law firm of Klausner, Kaufman, Jensen & Levinson, P.A. ("Klausner Kaufman"), which serves as fiduciary counsel for Louisiana Sheriffs.

[2] Unless otherwise noted, capitalized terms have the meanings given them in the Stipulation and Agreement of Settlement dated March 27, 2023 (ECF No. 68-1) (the "Stipulation") or in the Declaration of Jeremy P. Robinson in Support of (A) Lead Plaintiff's Motion for Final Approval of Class Action Settlement and Plan of Allocation and (B) Lead Counsel's Motion for Attorneys' Fees and Litigation Expenses (the "Robinson Declaration" or "Robinson Decl."), filed herewith. Citations herein to "¶ __" and "Ex.__" refer, respectively, to paragraphs in, and exhibits to the Robinson Declaration.

may be no recovery at all. Having achieved a significant monetary recovery litigating this case on a fully contingent basis, Lead Counsel respectfully submits that its hard work, skill, and persistence fully merits the requested 25% fee award here.

As detailed in the accompanying Robinson Declaration,[3] Lead Counsel zealously represented the Settlement Class's interests in achieving the Settlement. Among other things, Lead Counsel (i) conducted an extensive investigation into the facts alleged in the Complaint, including interviewing multiple former Bumble employees and thoroughly reviewing the SPO Offering Documents, other SEC filings, investor conference calls, press releases, media reports, and other public information; (ii) retained and worked with a testifying expert in financial economics; (iii) researched and drafted the detailed Complaint; (iv) researched and fully briefed Defendants' extensive Motion to Dismiss the Complaint; (v) consulted with Lead Plaintiff's consulting damages expert; (vi) prepared detailed mediation submissions on issues of liability and damages, and reviewed and analyzed Bumble's mediation submissions; (vii) engaged in extensive, arm's length settlement negotiations with Defendants' Counsel supervised by an experienced mediator, which included a full-day, in-person mediation session followed by additional settlement discussions over the course of months prior to reaching agreement on the Settlement; and (viii) reviewed and analyzed over 42,000 pages of documents produced by Bumble in confidential discovery to confirm the fairness, reasonableness, and adequacy of the proposed Settlement.

[3] The Robinson Declaration is an integral part of this submission and, for the sake of brevity in this memorandum, the Court is respectfully referred to that declaration for a fuller description of, *inter alia:* the history of the Action (¶¶ 14-30); the nature of the claims asserted (¶¶ 24-25); the negotiations leading to the Settlement and terms of the Settlement (¶¶ 31-40); the risks and uncertainties of continued litigation (¶¶ 41-51); and a description of the services Plaintiff's Counsel provided for the benefit of the Settlement Class (¶¶ 3-5, 15-25, 27-28, 32-39, 52-53, 76-90, 93).

The Settlement achieved through Lead Counsel's efforts is a particularly favorable result when considered in light of the significant risks to proving Defendants' liability, establishing damages, and refuting Defendants' affirmative defenses. These risks are set forth in detail in the Robinson Declaration at paragraphs 41 to 50 and are summarized in the Settlement Memorandum and below. By way of brief summary, Defendants insisted that they did not make a single actionable misstatement and that Plaintiff could not prove either liability or damages. Indeed, Defendants vehemently argued that Plaintiff's Complaint should not even survive a motion to dismiss.

Despite these risks, Plaintiff's Counsel collectively invested nearly 4,900 hours and incurred over $83,000 in Litigation Expenses, all on a contingent-fee basis with no assurance of ever being paid. As compensation for their considerable efforts on behalf of the Settlement Class and the risk of nonpayment they faced in prosecuting the Action on a contingent basis, Lead Counsel seeks an award of attorneys' fees in the amount of 25% of the Settlement Fund. The requested fee is well within the range of fees that courts in this Circuit have awarded in securities class actions with comparable recoveries on a percentage basis. The requested fee also represents a multiplier of approximately 1.78 on Plaintiff's Counsel's collective lodestar, which is well within the range of multipliers typically awarded in class actions with significant contingency risks such as this one. In addition, the expenses for which Lead Counsel seeks payment were reasonable and necessary for the successful prosecution of the Action.

The application for fees and expenses has the full support of the Lead Plaintiff. *See* Declaration of Osey "Skip" McGee, Jr., submitted on behalf of Louisiana Sheriffs (Ex. 1), at ¶¶ 7-8. Louisiana Sheriffs is a sophisticated institutional investor that actively supervised the Action and has endorsed the requested fee as fair and reasonable in light of the work performed by

Plaintiff's Counsel, the risks of the litigation, and the substantial recovery obtained for the Settlement Class in this Action. *Id.* at ¶ 7. In addition, while the July 12, 2023 deadline set by the Court for Settlement Class Members to object has not yet passed, to date, no objections to the request for fees and expenses have been received. ¶¶ 62, 92, 103. To the extent any objections are received later, Lead Counsel will address them in their reply papers.

In light of the recovery obtained, the time and effort devoted by Plaintiff's Counsel, the work performed, the skill and expertise required, and the risks that counsel undertook, Lead Counsel submits that the requested fee award is reasonable. In addition, the Litigation Expenses for which Lead Counsel seeks payment were reasonable and necessary for the successful prosecution of the Action.

Finally, Lead Counsel, on behalf of the Lead Plaintiff, respectfully submits Lead Plaintiff should be awarded $1,944.00 pursuant to 15 U.S.C. § 78u-4(a)(4) for its work on behalf of the Settlement Class, as documented in the declaration submitted by the representative of Lead Plaintiff. As discussed below, such awards are regularly granted by courts in this Circuit, and the requests are commensurate with those approved in other cases. The Motion should be granted in full.

ARGUMENT

I. LEAD COUNSEL ARE ENTITLED TO AN AWARD OF ATTORNEYS' FEES FROM THE COMMON FUND

The Supreme Court has long recognized that "a litigant or a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorney's fee from the fund as a whole." *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980); *see Goldberger v. Integrated Res., Inc.*, 209 F.3d 43, 47 (2d Cir. 2000). Courts recognize that awards of fair attorneys' fees from a common fund "serve to encourage skilled counsel to represent those

who seek redress for damages inflicted on entire classes of persons,"' and therefore '"to discourage future misconduct of a similar nature." *In re FLAG Telecom Holdings, Ltd. Sec. Litig.*, No. 02-CV-3400 (CM), 2010 WL 4537550, at *23 (S.D.N.Y. Nov. 8, 2010)[4]; *see In re Veeco Instruments Inc. Sec. Litig.*, No. 05 MDL 01695 (CM), 2007 WL 4115808, at *2 (S.D.N.Y. Nov. 7, 2007).

The Supreme Court has repeatedly emphasized that private securities actions are "an essential supplement to criminal prosecutions and civil enforcement actions" brought by the SEC. *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 313 (2007); *accord Bateman Eichler, Hill Richards, Inc. v. Berner*, 472 U.S. 299, 310 (1985) (private securities actions provide "'a most effective weapon in the enforcement' of the securities laws and are 'a necessary supplement to [SEC] action'") (quoting *J.I. Case Co. v. Borak*, 377 U.S. 426, 432 (1964)). Compensating Lead Plaintiff's Counsel for bringing these actions is essential, because "[s]uch actions could not be sustained if plaintiffs' counsel were not to receive remuneration from the settlement fund for its efforts on behalf of the class." *Hicks v. Morgan Stanley*, No. 01 Civ. 10071 (RJH), 2005 WL 2757792, at *9 (S.D.N.Y. Oct. 24, 2005). As set forth below, the requested fee should be approved.

II. THE COURT SHOULD AWARD A REASONABLE PERCENTAGE OF THE COMMON FUND

Lead Counsel respectfully submits that the Court should award a fee based on a percentage of the common fund obtained. The Second Circuit has expressly approved the percentage method, recognizing that "the lodestar method proved vexing" and had resulted in "an inevitable waste of judicial resources." *Goldberger*, 209 F.3d at 48-50 (holding that either the percentage of fund method or lodestar method may be used to determine appropriate attorneys' fees); *Savoie v. Merchants Bank*, 166 F.3d 456, 460 (2d Cir. 1999) (stating that the "percentage-of-the-fund method has been deemed a solution to certain problems that may arise when the lodestar method

[4] Unless otherwise noted, citations and internal punctuation are omitted and emphasis is added.

is used in common fund cases"). More recently, the Second Circuit has reiterated its approval of the percentage method, stating that it "'directly aligns the interests of the class and its counsel and provides a powerful incentive for the efficient prosecution and early resolution of litigation,"' and has noted that the "trend in this Circuit is toward the percentage method." *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 121 (2d Cir. 2005), *cert. denied*, 544 U.S. 1044 (2005); *see also In re Facebook, Inc., IPO Sec. & Derivative Litig.*, 343 F. Supp. 3d 394, 416 (S.D.N.Y. 2018), *aff'd*, 822 Fed. App'x 40 (2d Cir. 2020); *In re Comverse Tech., Inc. Sec. Litig.*, No. 06-CV-1825 (NGG), 2010 WL 2653354, at *2 (E.D.N.Y. June 24, 2010).

III. THE REQUESTED FEE IS REASONABLE UNDER EITHER THE PERCENTAGE-OF-THE-FUND METHOD OR THE LODESTAR METHOD

Here, the requested fee award—25% of the Settlement Fund and a lodestar multiplier of approximately 1.78— is well supported under both the "percentage" and "lodestar" methods.

A. The Requested Fee Is Reasonable Under the Percentage-of-the-Fund Method

The 25% attorney fee requested by Lead Counsel is well within the range of percentage fees that have been awarded in the Second Circuit in comparable class actions—and, indeed, is at the lower end of the range. *See, e.g.*, *In re L.G. Philips LCD Co. Sec. Litig.*, No. 1:07-cv-00909-RJS, slip op. at 1 (S.D.N.Y. Mar. 17, 2011), ECF No. 82 (awarding 30% of $18 million settlement, representing a 3.17 multiplier) (Ex. 4); *In re Facebook, Inc. IPO Sec. & Derivative Litig.*, MDL No. 12-2389, 2015 WL 6971424, at *9-10 (S.D.N.Y. Nov. 9, 2015) (awarding 33% of $26.5 million settlement fund), *aff'd*, 674 Fed. App'x 37 (2d Cir. 2016); *Citiline Holdings, Inc. v. iStar Fin., Inc.*, No. 1:08-cv-03612-RJS, slip op. at 1 (S.D.N.Y. Apr. 5, 2013), ECF No. 127 (awarding 30% of $29 million settlement) (Ex. 5); *In re Sadia S.A. Sec. Litig.*, No. 08 Civ. 9528 (SAS), 2011 WL 6825235, at *3 (S.D.N.Y. Dec. 28, 2011) (awarding 30% of $27 million settlement); *see also Cen. States Se. & Sw. Areas Health & Welfare Fund v. Merck-Medco Managed Care, LLC*, 504

F.3d 229, 249 (2d Cir. 2007) (affirming district court's award of 30% of $42.5 million settlement fund).[5]

Further, the Supreme Court has recognized that an appropriate court-awarded fee is intended to approximate what counsel would receive if they were bargaining for the services in the marketplace. *See Missouri v. Jenkins*, 491 U.S. 274, 285-86 (1989). If this were a non-representative action, the customary fee arrangement would be contingent, on a percentage basis, and typically in the range of 30% to 33% of the recovery. *See Blum v. Stenson*, 465 U.S. 886, 903 (1984) ("In tort suits, an attorney might receive one-third of whatever amount the plaintiff recovers. In those cases, therefore, the fee is directly proportional to the recovery.") (Brennan, J., concurring).

In sum, the 25% fee requested here is well within the range of fees awarded on a percentage basis in comparable actions and is reasonable under the percentage-of-the-fund method.

B. The Requested Attorneys' Fees Are Reasonable Under the Lodestar Method

To ensure the reasonableness of a fee awarded under the percentage-of-the-fund method, courts may cross-check the proposed award against counsel's lodestar. *See Goldberger*, 209 F.3d at 50.

[5] The requested 25% fee is also well within the range of percentage fee awards that have been granted in comparable securities class actions in other Circuits. *See, e.g.*, *In re Galena Biopharma, Inc. Sec. Litig.*, No. 3:14-cv-00367, 2016 WL 3457165, at *13 (D. Or. June 24, 2016) (awarding attorneys' fees of 32% of combined settlements valued at $28 million, representing 3.0 multiplier); *Public Pension Fund Grp. v. KV Pharm. Co.*, No. 4:08-cv1859, slip op. at 2 (E.D. Mo. Apr. 23, 2014), ECF No. 199 (awarding 30% of $12.8 million settlement) (Ex. 6); *Esslinger v. HSBC Bank Nev., N.A.*, No. 10-3213, 2012 WL 5866074, at *12, *16 (E.D. Pa. Nov. 20, 2012), ECF No. 139 (awarding 30% of $23.5 million settlement); *McGuire v. Dendreon Corp.*, No. 2:07-cv-00800-MJP, slip op. at 3-4 (W.D. Wash. Dec. 20, 2010), ECF No. 235 (awarding 25% of $16.5 million settlement, representing a 2.55 multiplier) (Ex. 7).

Through March 27, 2023—when the Stipulation of Settlement was signed—Plaintiff's Counsel spent a total of 4,896.25 hours of attorney and other professional support time prosecuting the Action for the benefit of the Settlement Class. ¶ 78. Plaintiff's Counsel's collective lodestar, derived by multiplying the hours spent by each attorney and paraprofessional by their current hourly rates, is $2,530,068.75.[6] *See id.* The requested fee of $4,500,000 (before interest) therefore represents a multiplier of approximately 1.78 of the total lodestar. In complex contingent litigation such as this Action, fees representing multiples above the lodestar are regularly awarded to reflect the contingency-fee risk and other relevant factors. *See FLAG Telecom*, 2010 WL 4537550, at *26 ("a positive multiplier is typically applied to the lodestar in recognition of the risk of the litigation, the complexity of the issues, the contingent nature of the engagement, the skill of the attorneys, and other factors"); *Comverse*, 2010 WL 2653354, at *5 ("Where, as here, counsel has litigated a complex case under a contingency fee arrangement, they are entitled to a fee in excess of the lodestar").

The requested 1.78 multiplier is well within the range of multipliers commonly awarded in securities class actions and other comparable litigation. In complex litigation, lodestar multipliers between 2 and 5 are commonly awarded, and fee awards resulting in multipliers as high as 6 have also been approved. *See, e.g., Wal-Mart*, 396 F.3d at 123 (upholding multiplier of 3.5 as reasonable on appeal); *Christine Asia Co. v. Yun Ma*, No.15-md-2631 (CM), 2019 WL 5257534, at *19 (S.D.N.Y. Oct. 16, 2019) (approving $62.5 million fee based on lodestar multiplier of

[6] The Supreme Court and courts in this Circuit have approved the use of current hourly rates to calculate the base lodestar figure as a means of compensating for the delay in receiving payment, inflation, and the loss of interest. *See Jenkins*, 491 U.S. at 284; *In re Hi-Crush Partners L.P. Sec. Litig.*, No. 12-Civ-8557 (CM), 2014 WL 7323417, at *15 (S.D.N.Y. Dec. 19, 2014) ("[T]he use of current rates to calculate the lodestar figure has been endorsed repeatedly by the Supreme Court, the Second Circuit and district courts within the Second Circuit as a means of accounting for the delay in payment inherent in class actions and for inflation.").

approximately 2.15, which the Court found to be "well within the range commonly awarded in securities class actions of this complexity and magnitude"); *NECAIBEW Health & Welfare Fund v. Goldman Sachs & Co.*, No. 08-cv-10783, 2016 WL 3369534, at *2; (S.D.N.Y. May 2, 2016), Memorandum of Law in Support of Plaintiffs' Counsel's Motion for Award of Attorney's Fees and Expenses, NECA-IBEW Health & Welfare Fund v. Goldman, Sachs & Co., No. 08-cv-10783-LAP (S.D.N.Y. Feb. 18, 2016), ECF. No. 226 (3.9 multiplier); *Woburn Ret. Sys. v. Salix Pharm., Ltd.*, 2017 WL 3579892, at *6 (S.D.N.Y. Aug. 18, 2017) (3.14 multiplier); *In re Deutsche Telekom AG Sec. Litig.*, No. 00-CV-9475 (NRB), 2005 WL 7984326, at *4 (S.D.N.Y. June 14, 2005) (3.96 multiplier); *Maley v. Del Glob. Techs. Corp.*, 186 F. Supp. 2d 358, 369 (S.D.N.Y. 2002) (awarding fee equal to a 4.65 multiplier, which was "well within the range awarded by courts in this Circuit and courts throughout the country"); *In re Credit Default Swaps Antitrust Litig.*, No. 13-md-2476 (DLC), 2016 WL 2731524, at *17 (S.D.N.Y. Apr. 26, 2016) (multiplier of "just over 6"); *In re Rite Aid Corp. Sec. Litig.*, 362 F. Supp. 2d 587, 589-90 (E.D. Pa. 2005) (6.96 multiplier)

In sum, Lead Counsel's requested 25% fee award is well within the range of what courts in this Circuit regularly award in class actions such as this one, whether calculated as a percentage of the fund or in relation to Plaintiff's Counsel's lodestar. Moreover, as discussed below, each of the factors established for the review of attorneys' fee awards by the Second Circuit in *Goldberger* also strongly supports a finding that the requested fee is reasonable.

IV. THE *GOLDBERGER* FACTORS CONFIRM THAT THE REQUESTED FEE IS FAIR AND REASONABLE

The Second Circuit has set forth the following criteria that courts should consider when reviewing a request for attorneys' fees in a common fund case:

> (1) the time and labor expended by counsel; (2) the magnitude and complexities of the litigation; (3) the risk of the litigation; (4) the quality of representation; (5) the requested fee in relation to the settlement; and (6) public policy considerations.

Goldberger, 209 F.3d at 50. Consideration of these factors, together with the above analyses, further demonstrates that the fee requested by Lead Counsel is reasonable.

A. The Time and Labor Expended by Lead Counsel Support the Requested Fee

The substantial time and effort expended by Lead Counsel in prosecuting the Action and achieving the Settlement strongly support the requested fee. The accompanying Robinson Declaration details the efforts of Lead Counsel in prosecuting Lead Plaintiff's claims over the course of this litigation. As set forth in greater detail in the Robinson Declaration, Lead Counsel, among other things:

- conducted an extensive investigation, including interviewing multiple former Bumble employees and thoroughly reviewing the Offering Documents, other SEC filings, investor conference calls, press releases, media reports, and other public information (¶¶ 4, 20);
- worked with a testifying expert in financial economics (¶¶ 4, 18);
- researched and drafted a detailed Consolidated Amended Class Action Complaint (the "Complaint") based on its detailed investigation (¶¶ 4, 23-24);
- researched and briefed an opposition to Defendants' Motion to Dismiss the Complaint (¶¶ 4, 27-28);
- prepared detailed mediation submissions on issues of liability and damages—and reviewed Bumble's submissions (¶¶ 4, 33);
- engaged in extensive settlement negotiations with Defendants' Counsel supervised by an experienced mediator, including participating in a full-day, in-person mediation session followed by additional settlement discussions over the course of months prior to reaching agreement on the Settlement (¶¶ 3-4, 34-36);
- reviewed and analyzed over 42,000 pages of documents produced by Bumble in confidential discovery to confirm the fairness, reasonableness, and adequacy of the proposed Settlement (¶¶ 5, 38); and
- consulted with a consulting damages expert regarding damages and causation issues and in connection with the development of the proposed Plan of Allocation (¶¶ 4, 22, 65).

As noted above, Plaintiff's Counsel expended 4,896.25 hours prosecuting this Action with a collective total lodestar value of over $2,530,000. ¶ 78. Throughout the litigation, Lead Counsel staffed the matter efficiently to avoid unnecessary duplication of effort. The time and effort devoted to this case by Plaintiff's Counsel was critical in obtaining the favorable result achieved by the Settlement, and the significant amount of time spent confirms that the 25% fee request here is reasonable in relation to the time spent and work performed.

B. The Risks of the Litigation Support the Requested Fee

The Second Circuit has recognized that the risks associated with a case undertaken on a contingent fee basis is another important factor in determining an appropriate fee award:

> No one expects a lawyer whose compensation is contingent upon his success to charge, when successful, as little as he would charge a client who in advance had agreed to pay for his services, regardless of success. Nor, particularly in complicated cases producing large recoveries, is it just to make a fee depend solely on the reasonable amount of time expended.

City of Detroit v. Grinnell Corp., 495 F.2d 448, 470 (2d Cir. 1974), *abrogated on other grounds by Goldberger v. Integrated Res., Inc.*, 209 F.3d 43 (2d Cir. 2000). '"Little about litigation is risk-free, and class actions confront even more substantial risks than other forms of litigation."' *Comverse*, 2010 WL 2653354, at *5; *see also In re Am. Bank Note Holographics, Inc. Sec. Litig.*, 127 F. Supp. 2d 418, 433 (S.D.N.Y. 2001) (it is "appropriate to take this [contingent-fee] risk into account in determining the appropriate fee to award").

While Lead Counsel believes that Lead Plaintiff's claims are meritorious, Lead Counsel recognized that there were many substantial risks in the litigation from the outset and that Lead Plaintiff's ability to succeed at trial and obtain a substantial judgment—assuming it was able to defeat Defendants' pending Motion to Dismiss—was far from certain. This case did not involve a restatement by Bumble or a parallel SEC action to support Lead Plaintiff's claims or to provide a roadmap for discovery. ¶¶ 6, 41. As discussed in greater detail in the Robinson Declaration and in

the Settlement Memorandum, there were substantial risks here with respect to liability, loss causation, and damages.

For example, Lead Plaintiff faced risk in establishing that there were materially false and misleading statements in the SPO Offering Documents. Defendants argued in their Motion to Dismiss that the Company's affirmative statements about its "growth" were not misleading, including because they concerned the overall Bumble user community and not paying users specifically. ¶¶ 7, 26, 42. Defendants also argued that certain representations were opinion statements that were not actionable because no facts showed they were not actually held or otherwise misleading. ¶¶ 7, 26, 43. Defendants further claimed that the challenged risk statements were either not misleading because the risks warned of had not materialized or because those risks that *had* materialized had been previously disclosed such that the market knew the truth and could not have been misled. ¶¶ 7, 26, 44.

Defendants also argued that the SPO Offering Documents' presentation of Bumble's historical data about paying users on the Bumble and Badoo Apps was not misleading because accurate historical data cannot support a securities claim as a matter of law. ¶¶ 8, 26, 44. Defendants insisted that the allegedly omitted information—an intra-quarter decline in total paying users and related metrics—was not material and need not be disclosed under Item 303. ¶¶ 8, 26, 45. They also argued that Bumble's actual quarter-end financial results for the quarter in which the SPO occurred were overall positive. *Id*.

Moreover, even if Lead Plaintiff succeeded in proving that the statements in the SPO Offering Documents were misleading, all Defendants (other than Bumble) would have argued that they were not liable because they exercised reasonable care in conducting their due diligence of the Offering Documents' accuracy and completeness. ¶¶ 9, 47. As noted, Defendants also would

have pursued a "negative causation" defense, arguing that the alleged stock price declines were not caused by any allegedly false statement. *Id*.

In the face of the many uncertainties regarding the outcome of the case, Lead Counsel undertook this case on a wholly contingent basis, knowing that the litigation could last for years and would require the devotion of a substantial amount of time and a significant expenditure of litigation expenses with no guarantee of compensation.

Lead Counsel's assumption of this risk on a contingent fee basis strongly supports the reasonableness of the requested fee. *See FLAG Telecom*, 2010 WL 4537550, at *27 ("Courts in the Second Circuit have recognized that the risk associated with a case undertaken on a contingent fee basis is an important factor in determining an appropriate fee award."); *In re Marsh ERISA Litig.*, 265 F.R.D. 128, 148 (S.D.N.Y. 2010) ("There was significant risk of non-payment in this case, and Plaintiff's Counsel should be rewarded for having borne and successfully overcome that risk.").

C. The Magnitude and Complexity of the Action Support the Requested Fee

The magnitude and complexity of the Action also support the requested fee. Courts have recognized that securities class action litigation is "notably difficult and notoriously uncertain." *FLAG Telecom*, 2010 WL 4537550, at *27; *see also City of Providence v. Aeropostale, Inc.*, No. 11 Civ. 7132 (CM), 2014 WL 1883494, at *16 (S.D.N.Y. May 9, 2014) ("the complex and multifaceted subject matter involved in a securities class action such as this supports the fee request"), *aff'd*, 607 Fed. App'x 73 (2d Cir. 2015); *Fogarazzo v. Lehman Bros.*, No. 03 Civ. 5194 (SAS), 2011 WL 671745, at *3 (S.D.N.Y. Feb. 23, 2011) ("in general, securities actions are highly complex"). This case was no exception. Thus, this factor also supports the fee requested.

D. The Quality of Lead Counsel's Representation Supports the Requested Fee

Lead Counsel submits that the quality of its representation is further evidenced by the quality of the result achieved. *See, e.g.*, *Veeco*, 2007 WL 4115808, at *7; *In re Global Crossing Sec. & ERISA Litig.*, 225 F.R.D. 436, 467 (S.D.N.Y. 2004). Here, the Settlement provides a favorable result for the Settlement Class in light of the serious risks of continued litigation and represents a substantial portion of likely recoverable damages. *See* ¶¶ 41-51. Lead Counsel respectfully submits that the quality of its efforts in the litigation, together with its substantial experience in securities class actions and its commitment to this litigation, provided them with the leverage necessary to negotiate the Settlement.

Courts recognize that the quality of the opposing counsel is also a factor in assessing the quality of plaintiffs' counsel's performance. *See, e.g.*, *Veeco*, 2007 WL 4115808, at *7 (among factors supporting 30% award of attorneys' fees was that defendants were represented by "one of the country's largest law firms"); *In re Adelphia Commc'ns Corp. Sec. & Derivative Litig.*, No. 03 MDL 1529 LMM, 2006 WL 3378705, at *3 (S.D.N.Y. Nov. 16, 2006) ("The fact that the settlements were obtained from defendants represented by 'formidable opposing counsel from some of the best defense firms in the country' also evidences the high quality of lead counsels' work"), *aff'd*, 272 F. App'x 9 (2d Cir. 2008). Here, top defense law firms Simpson Thacher & Bartlett LLP (retained by Bumble, the Executive Defendants, the Director Defendants, the Blackstone Defendants, and Blackstone Securities Partners L.P.) and Shearman & Sterling LLP (retained by the Underwriter Defendants, except for Blackstone Securities Partners L.P.), were hired to defend this lawsuit. ¶ 85. Despite this formidable opposition, Plaintiff's Counsel's efforts positioned Lead Plaintiff to achieve a favorable recovery for the Settlement Class. Thus, this factor also strongly supports the requested fee.

E. The Requested Fee in Relation to the Settlement

Courts have interpreted this factor as requiring the review of the fee requested in terms of the percentage it represents of the total recovery. "When determining whether a fee request is reasonable in relation to a settlement amount, 'the court compares the fee application to fees awarded in similar securities class-action settlements of comparable value.'" *Comverse*, 2010 WL 2653354, at *3. As discussed in detail in Part III, *supra*, the requested 25% fee is well within the range of percentage fees that courts in the Second Circuit have awarded in comparable cases. Indeed, it is at the lower end of the range, which further supports its reasonableness.

F. Public Policy Considerations Support the Requested Fee

A strong public policy concern exists for rewarding firms for bringing successful securities litigation. For example, the Supreme Court has repeatedly stated that such actions are "an essential supplement to criminal prosecutions and civil enforcement actions" brought by the SEC. *Tellabs,* 551 U.S. at 313; *see also Bateman Eichler*, 472 U.S. at 310 (such actions provide "'a most effective weapon in the enforcement' of the securities laws and are 'a necessary supplement to [SEC] action'"). Compensating Plaintiff's Counsel for the risks taken in bringing such actions is important because "[s]uch actions could not be sustained if plaintiffs' counsel were not to receive remuneration from the settlement fund for their efforts on behalf of the class." *Hicks,* 2005 WL 2757792, at *9.

Accordingly, public policy also favors granting the requested fee here. *See FLAG Telecom*, 2010 WL 4537550, at *29 (if the "important public policy [of enforcing the securities laws] is to be carried out, the courts should award fees which will adequately compensate Lead Counsel for the value of their efforts, taking into account the enormous risks they undertook"); *Maley*, 186 F.

Supp. 2d at 373 ("In considering an award of attorney's fees, the public policy of vigorously enforcing the federal securities laws must be considered.").

G. The Reaction of the Settlement Class to Date Supports the Requested Fee

The reaction of the Settlement Class to date also supports the requested fee. Through June 28, 2023, JND has disseminated 85,389 copies of the Notice to potential Settlement Class Members and nominees informing them, among other things, that Lead Counsel intend to apply to the Court for an award of attorneys' fees in an amount not to exceed 25% of the Settlement Fund and up to $200,000 in expenses. *See* Ex. 2, Ex. A (Notice), at ¶¶ 6, 42. While the time to object to the Fee and Expense Application does not expire until July 12, 2023, to date, no objections have been received. Should any objections be received subsequently, Lead Counsel will address them in its reply papers.

V. THE FEE REQUEST IS SUPPORTED BY LEAD PLAINTIFF

Lead Plaintiff has also specifically endorsed the requested 25% fee. *See, e.g.*, Ex. 1 at ¶ 7. Lead Plaintiff is the classic example of the sophisticated and financially interested investor that Congress envisioned in enacting the PSLRA. Accordingly, Lead Plaintiff's endorsement of the fee supports its approval. *See Veeco*, 2007 WL 4115808, at *8 ("Public policy considerations support the award in this case because the Lead Plaintiff . . . – a large public pension fund – conscientiously supervised the work of lead counsel and has approved the fee request[.]").

VI. LEAD COUNSEL'S EXPENSES ARE REASONABLE AND WERE NECESSARILY INCURRED TO ACHIEVE THE BENEFIT OBTAINED

Lead Counsel's fee application includes a request for payment of the Litigation Expenses that Lead Counsel incurred, which were reasonable in amount and necessary to the prosecution of the Action. *See* ¶¶ 94-101. These expenses are properly recovered by counsel. *See Facebook IPO*, 343 F. Supp. 3d at 418 (in a class action, attorneys should 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"); *In re China Sunergy Sec. Litig.*, No. 07 Civ. 7895(DAB), 2011 WL 1899715, at *6 (S.D.N.Y. May 13, 2011) (same); *FLAG Telecom*, 2010 WL 4537550, at *30 ("It is well accepted that counsel who create a common fund are entitled to the reimbursement of expenses that they advanced to a class."). As set forth in detail in the Robinson Declaration, Lead Counsel incurred $83,125.85 in Litigation Expenses in the prosecution of the Action. ¶ 96.

The types of expenses for which Lead Counsel seek payment include, among others, fees for testifying and consulting experts; mediation fees; on-line legal and factual research charges; and photocopying costs. ¶¶ 96-100. Moreover, from the outset, Lead Counsel knew that it might not recover any of these expenses or, at the very least, would not recover anything until the litigation was successfully resolved. Thus, Lead Counsel was motivated to, and did, take significant steps to minimize these expenses wherever practicable without jeopardizing the vigorous and efficient prosecution of the Action. ¶ 95.

The Notice informed potential Settlement Class Members that Lead Counsel would apply for Litigation Expenses in an amount not to exceed $200,000. The total amount of expenses requested, including Lead Plaintiff's requested PSLRA award, is $85,069.85. This amount is substantially below the amount listed in the Notice and, to date, there has been no objection to the request for expenses. ¶ 103. The expense request should be approved in full.

VII. LEAD PLAINTIFF SHOULD BE AWARDED ITS REASONABLE COSTS AND EXPENSES UNDER 15 U.S.C. § 78u-4(a)(4)

Lead Plaintiff also seeks $1,944.00 as a PSLRA award to reimburse costs and expenses incurred directly relating to its representation of the Settlement Class. *See* Ex. 1, ¶¶ 9-10 thereto. The PSLRA specifically provides that an "award of reasonable costs and expenses (including lost

wages) directly relating to the representation of the class" may be made to "any representative party serving on behalf of a class." 15 U.S.C. § 78u-4(a)(4).

As set forth in its declaration, Lead Plaintiff actively and effectively fulfilled its duties as class representative. Among other things, representatives of Lead Plaintiff: (i) participated in numerous discussions with Lead Counsel and Klausner Kaufman (its fiduciary counsel) about the prosecution of the case and the strengths of the claims; (ii) reviewed significant pleadings and briefs filed in the Action; (iii) participated in the settlement negotiations and mediation process; and (iv) evaluated and approved the proposed Settlement. *See* Ex. 1, ¶¶ 5, 10. Such efforts are the very types of activities that courts routinely find to support PSLRA § 78u-4(a)(4) awards to class representatives. *See, e.g.*, *In re Marsh & McLennan Cos. Sec. Litig.*, No. 04 Civ. 8144(CM), 2009 WL 5178546, at *21 (S.D.N.Y. Dec. 23, 2009) (awarding over $200,000 to lead plaintiffs to compensate them for time spent supervising the litigation, as their efforts reflected "precisely the types of activities" that merited § 78u-4(a)(4) awards); *Guevoura Fund Ltd. v. Robert F.X. Sillerman, et al.*, No. 1:15-cv-07192-CM, 2019 WL 6889901, at *23 (S.D.N.Y. Dec. 18, 2019) (granting PSLRA award to lead plaintiff and noting that "time spent by the lead plaintiff/class representative in managing the case is properly reimbursable from the settlement amount recovered"); *see also In re Bank of Am. Corp. Sec., Derivative, & Employee Ret. Income Sec. Act (ERISA) Litig.*, 772 F.3d 125, 132-33 (2d Cir. 2014) (affirming award of over $450,000 to representative plaintiffs for time spent by their employees on the action); *In re Signet Jewelers Ltd. Sec. Litig.*, Civil Action No. 1:16-cv-06728-CM-SDA, 2020 WL 4196468, at *22-24 (S.D.N.Y. Jul. 21, 2020) (approving award of $25,410.00 to lead plaintiff for time spent on the litigation); *FLAG Telecom*, 2010 WL 4537550, at *31 (approving award of $100,000 to lead plaintiff for time spent on the litigation); *Veeco*, 2007 WL 4115808, at *12 (awarding institutional

lead plaintiff $15,900 for time spent supervising litigation, and characterizing such awards as "routine" in this Circuit).

The award sought by Lead Plaintiff is reasonable and justified under the PSLRA.

CONCLUSION

For the foregoing reasons, Lead Counsel respectfully request that the Court award (i) total attorneys' fees to Plaintiff's Counsel of 25% of the Settlement Fund, equal to $4,500,000 plus interest accrued at the same rate as earned by the Settlement Fund; (ii) $83,125.85 for Lead Counsel's Litigation Expenses; and (iii) an award of $1,944.00, pursuant to § 78u-4(a)(4), to Lead Plaintiff Louisiana Sheriffs.

Dated: June 28, 2023

Respectfully submitted,

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