

EXHIBIT 1

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

<p>XIMENA MIRANDA, <i>on behalf of herself and those similarly situated,</i></p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>XAVIER UNIVERSITY,</p> <p style="text-align: right;">Defendant.</p>	<p>Case No. 1:20-cv-00539</p> <p>Judge Timothy S. Black</p>
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**DECLARATION OF TERENCE R. COATES IN SUPPORT OF PLAINTIFF’S
MOTION FOR ATTORNEYS’ FEES, EXPENSES, AND CLASS REPRESENTATIVE
SERVICE AWARD**

I, Terence R. Coates hereby state that the following is true and accurate and based on my personal knowledge:

1. I am the managing partner of the law firm Markovits, Stock & DeMarco, LLC (“MSD”). I am a member of Class Counsel representing Ximena Miranda and the putative Class and have monitored my firm’s participation in this matter from 2020 to the present. The contents of this Declaration are based upon my own personal knowledge, my experience in handling many class action cases, and the events of this litigation.

2. As proposed Class Counsel, my firm has been centrally involved in all aspects of this litigation from the initial investigation to the present. My co-counsel, Joseph M. Lyon, and I have been the primary points of contact for Plaintiff with counsel for Defendant Xavier University (“Xavier”).

CLASS COUNSEL’S ATTORNEYS’ FEES & EXPENSES ARE REASONABLE

3. Under the Settlement, Class Counsel may seek up to 1/3 of the Settlement Fund (\$250,000) as attorneys’ fees and up to \$13,000.00 in expenses.

4. Class Counsel have undertaken this case on a contingency fee basis and have not received any payment for their work in this case to date and have not been reimbursed for any of their litigation expenses.

5. Courts within the Sixth Circuit routinely award attorneys’ fees up to 1/3 of the common fund amount in class action settlements. *See e.g. Davis v. Omnicare, Inc.*, No. 5-18-CV-142-REW, 2021 WL 1214501, at *11 (E.D. Ky. Mar. 30, 2021) (preliminarily approving attorneys’ fees of 1/3 of the class action settlement fund); *In re Automotive Parts Antitrust Litigation*, No. 12-md-02311, 2022 WL 4385345, at *2 (E.D. Mich. Sept. 22, 2022) (noting that a fee request of 1/3 of the class action settlement fund “is within the range of fee awards made by courts in this Circuit.”); *Walker v. Nautilus, Inc.*, No. 2:20-cv-3414-EAS (S.D. Ohio) (awarding attorneys’ fees of 1/3 of the \$4.25 million common fund); *Bechtel v. Fitness Equipment Services, LLC*, No. 1:19-cv-726-KLL (S.D. Ohio) (awarding attorneys’ fees of 1/3 of the \$3.65 million common fund); *Fields v. KTH Parts Industries, Inc.*, No. 3:19-cv-8, 2022 WL 3223379, at * 7-8 (S.D. Ohio Aug. 9, 2022) (finding that attorneys’ fees that are 1/3 of the class action settlement fund are “normal”).

6. Class Counsel have spent significant time and expenses pursuing this matter on behalf of the Class. From 2020 to roughly the present, Class Counsel have spent roughly 686.2 hours for a lodestar of \$330,353.50, and incurred expenses of \$12,747.75 directly related to this litigation. The lodestar of \$330,353.50 means that Class Counsel’s fee request of \$250,000 is a negative multiplier of .75 of Class Counsel’s actual lodestar. The hourly rates that form the basis of the lodestar calculation reflect the experience of Class Counsel and co-counsel and are their

customary hourly rates. The reasonable expenses incurred all relate to this litigation and were necessary for the quality of result achieved. For example, \$12,253.04 of the \$12,747.75 of Class Counsel's expenses were mediation fees. The remaining \$494.71 in expenses included \$400 for the filing fee for the complaint, \$57.91 for a FedEx package to the mediator, and \$36.80 for copying costs. Class Counsel was cognizant that any expenses would be reimbursed from any potential common fund settlement and sought to minimize expenses wherever possible. Accordingly, Class Counsel's expenses of \$12,747.75 are entirely reasonable and warrant reimbursement.

7. Class Counsel will continue to expend substantial additional time and other minimal expenses continuing to protect the Class's interest through the Final Approval Hearing and throughout settlement administration. Class Counsel will not seek reimbursement of any additional expenses above and beyond the \$12,747.75. Class Counsel hold the informed opinion that the fee request of \$250,000.00 and expenses of \$12,747.75 are reasonable and justified in this case.

THE CLASS REPRESENTATIVE SERVICE AWARD OF \$5,000.00
IS REASONABLE AND JUSTIFIED

8. Plaintiff stayed informed about this litigation, reviewed, and approved the settlement demand and final settlement amount and Settlement Agreement, and spent substantial time and effort protecting the Class's interests. Accordingly, the \$5,000.00 Service Award to the Class Representative is reasonable given her efforts on behalf of the Class in this matter. Furthermore, Class Representative Service Awards of \$5,000 are commonly approved as reasonable within this District. *See Walker v. Nautilus, Inc.*, No. 2:20-cv-3414-EAS (S.D. Ohio; Doc. 55) (\$5,000 service award); *Bechtel v. Fitness Equipment Services, LLC*, No. 1:19-cv-726-

KLL (S.D. Ohio; Doc. 73) (same); *Wright v. Premier Courier, Inc.*, Nos. 2:16-cv-420 and 2:17-cv-654, 2018 WL 3966253, at *7-8 (S.D. Ohio Aug. 17, 2018) (same)

9. Plaintiff was informed about the status of settlement negotiations and remained engaged as the Class Representative at all times during the pendency of this matter. She has no conflicts with the Class she represents. Plaintiff fully supports the \$5,000 Service Award and Class Counsel's attorneys' fees request of \$250,000.00 and request for litigation expenses of \$12,747.75.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on August 3, 2023, at Cincinnati, Ohio.

/s/ Terence R. Coates
Terence R. Coates