

DeNITTIS OSEFCHEN PRINCE, P.C.
5 Greentree Centre
525 Route 73 North, Suite 410
Marlton, New Jersey 08053
(856) 797-9951
Attorneys for Plaintiff

JAIME MILSTEAD, on behalf of herself and
all others similarly situated,

Plaintiff,

v.

ROBERT FIANCE BEAUTY SCHOOLS,
INC.; GBR, INC.; REIGNBOW ACADEMY,
INC.; and PAUL FERRARA, each conducting
business as "Robert Fiance Beauty Schools,"

Defendants.

SUPERIOR COURT OF NEW JERSEY
CAMDEN COUNTY
LAW DIVISION

DOCKET NO. CAM-L-328-16

**PLAINTIFF'S MEMORANDUM IN SUPPORT OF REQUEST FOR APPROVAL OF
INCENTIVE AWARD TO NAMED PLAINTIFF JAIME MILSTEAD**

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The importance of incentive awards to class representatives has been increasingly recognized by various courts in recent years, including the New Jersey Appellate Division. See Machulsky v. Lilliston Ford, Inc., 2008 WL 2788073 at *2 (App. Div. 2008), affirming an incentive award to a class member who intervened and became a de facto class representative, stating: **“Incentive awards to class representatives in class actions are a recognized element of agreements to resolve class actions.”** See also Fry v. Hayt, Hayt & Landau, 198 F.R.D. 461, 473 (E.D. Pa. 2000) (awarding the named plaintiff an incentive award); Hanrahan v. Britt, 174 F.R.D. 356, 369 (E.D. Pa. 1997); Lake v. First Nationwide Bank, 900 F. Supp. 726, 736 (E.D. Pa. 1995) (awarding an **“allowance for the time that the Lakes spent prosecuting this matter”**); In re Chambers Dev. Secs. Litig., 912 F. Supp. 852, 863 (W.D. Pa. 1995) (awarding \$2,500 incentive award because **“it has been this Court’s practice to approve such incentive awards if they are reasonable”**); In re SmithKline Beckman Corp. Secs. Litig., 751 F. Supp. 525, 535 (E.D. Pa. 1990) (approving \$5,000 incentive awards to representatives who **“have rendered a public service by contributing to the vitality of the federal Securities Acts”**); Enter. Energy Corp. v. Columbia Gas Transmission Corp., 137 F.R.D. 240, 250 (S.D. Ohio 1991) (awarding incentive to representatives whose **“actions resulted in a substantial benefit to Class Members”**).

The purpose of such awards is to recognize that the named plaintiff has undertaken an extra burden beyond those of ordinary class members, in order to help recover a benefit for the entire class. See Huguley v. General Motors Corp., 128 F.R.D. 81, 85 (E.D. Mich. 1989), aff’d 925 F.2d 1464 (6th Cir.1989):

“[N]amed plaintiffs and witnesses are entitled to more consideration than class members generally because of the onerous burden of litigation they have borne.”

As explained by the Appellate Division in Machulsky, 2008 WL 2788073 at *3, the purpose of such an award to the named plaintiff is to recognize that:

“[T]he public policy favoring private civil litigation as a means to promote certain important social values often fails to provide adequate compensation or incentive for plaintiffs to take on this burden simply on principle. The representative assumes substantial risk, not just of losing the time and costs of litigation, but also of retaliation or collateral notoriety.” (citation omitted)

In the case at bar, Defendants have agreed to pay an incentive award of \$2,500 to the named plaintiff, subject to court approval. Again, this amount will not come from the class recovery and will not reduce the recovery of any class member. Rather, if approved, the incentive awards will be paid separately by Defendants.

Class counsel asks that this incentive award be approved. The named plaintiff shouldered burdens beyond those borne by other class members and was instrumental in obtaining the relief obtained in the class settlement. The practices challenged in this lawsuit had been in place in New Jersey for years. Yet plaintiff was the only person willing to step forward and risk possible adverse publicity by filing a class action lawsuit to end these practices and to shoulder the burdens associated with serving as a class representative. These burdens included spending a significant amount of time and effort helping to investigate this matter, being interviewed by counsel on numerous occasions, and helping to gather information and documents used to prepare the class complaint and discovery requests. The requested award would help compensate the named plaintiff for such time and effort, as well as to recognize that plaintiff helped to obtain a tangible benefit for her fellow class members that would not exist without plaintiff's efforts.

Respectfully submitted,

DeNITTIS OSEFCHEN PRINCE, P.C.

BY: 
Joseph A. Osefchen

Dated: 6/6/19