IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Richmond Division)

VERNITA COLEMAN, JAYDA JAMES, and NYDRA ARCHIE on behalf of themselves and all others similarly situated, **Plaintiffs,** **v.** **RICHMOND REDEVELOPMENT AND HOUSING AUTHORITY,** **Defendant.**	)	**Civil Action No. 3:25-cv-00133-RCY**

MEMORANDUM IN SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

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Plaintiffs Vernita Coleman, Jayda James, and Nydra Archie ("Plaintiffs"), individually and on behalf of the putative class, submit this memorandum of law in support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement (the "Motion").

INTRODUCTION

In their Second Amended Class Action Complaint filed on August 31, 2026 (the "Complaint"), Plaintiffs allege that Defendant Richmond Redevelopment and Housing Authority ("RRHA" or "Defendant") failed to fulfill the duties imposed by federal housing law, its lease agreement, and its operating policy by failing to adequately inform eligible residents of their right to request a Hardship Exemption to Minimum Rent, pursuant to 42 U.S.C. § 1437a(a)(3)(B)(i), or provide the Hardship Exemption when residents qualify for it. Compl. at ¶¶ 3, 53, 55. Plaintiffs allege injuries including that the members of the two classes overpaid in rent. *Id*. at ¶¶ 102, 116, 129.

After over 20 months of litigation and hard-fought settlement negotiations, the Parties have reached a settlement that provides for the resolution of all claims and causes of action asserted, or that could have been asserted, against RRHA relating to the Litigation, by and on behalf of Plaintiffs and the Settlement Classes,[1] and any other such actions by and on behalf of any other individuals originating, or that may originate, in jurisdictions in the United States of America against RRHA relating to the Litigation.

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[1] Unless otherwise stated, all capitalized terms shall have the definitions set forth in the Settlement Agreement, attached hereto as **Exhibit 1**. Citations to the Settlement Agreement will be abbreviated as "SA, ¶ ____."

The proposed Settlement Agreement provides relief to two classes: the Injunctive Relief Class and the Compensation Class (together, the "Settlement Classes"), as explained in more detail below.

The Settlement Agreement also falls within the range of judicial approval and includes a comprehensive notice plan, as further discussed. RRHA does not oppose the relief requested in the Motion.

FACTUAL AND PROCEDURAL BACKGROUND

RRHA is a public housing agency in Richmond, Virginia.[2] Plaintiffs and the Settlement Classes are or were Tenants of RRHA-owned, operated, or controlled public housing units whose rent was set at the Minimum Rent at any point between February 1, 2020 and March 11, 2026. Plaintiffs Vernita Coleman and Jayda James filed this action on behalf of themselves and others similarly situated on February 20, 2025. ECF 1. On August 29, 2025, Plaintiffs Vernita Coleman and Jayda James filed an Amended Complaint. ECF 19. On September 26, 2025, RRHA filed a Motion to Dismiss the Amended Complaint pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). ECF 26-27. On November 13, 2025, the Parties requested that the Court refer them to a Magistrate Judge for a Settlement Conference, which the Court did on November 14, 2025. ECF 32, 33.

The Parties engaged in discovery and subsequently appeared on multiple occasions before Magistrate Judge Mark Colombll to mediate the Parties' dispute. After written discovery, document productions, and depositions, and continued negotiations, on April 6, 2026, the Parties signed a Memorandum of Understanding outlining the terms of their settlement in principle.

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[2] *See* Richmond Redevelopment and Housing Authority, "About RRHA," https://www.rrha.com/about/.

Based on the Parties' notice that they had reached a settlement in principle, this Court denied Defendant's Motion to Dismiss the Amended Complaint as moot on August 20, 2026. ECF 43. On August 31, 2026, Plaintiffs filed a Second Amended Complaint after obtaining leave of court, adding Plaintiff Nydra Archie as a Named Plaintiff and class representative. ECF 44, 46. In its Order granting leave to amend, the Court suspended RRHA's deadline to respond to the Second Amended Complaint. ECF 45.

Thereafter, the Parties worked diligently in an effort to negotiate the specific settlement terms, engage a proposed settlement claims administrator, negotiate and establish a proposed notice program to provide notice of the settlement to Class Members, and draft a settlement agreement and its exhibits, including the proposed notices, Claim Form, and orders. The Agreement was finalized and executed on October 30, 2026. Plaintiffs now seek preliminary approval of that Agreement.

THE SETTLEMENT AGREEMENT

A. The Settlement Classes

The Parties contemplate certification, for settlement purposes only, of two Settlement Classes. The Settlement Classes are comprised of the Injunctive Relief Class and the Compensation Class. SA, ¶ V.A.

The Injunctive Relief Class is defined as: "All Tenants of RRHA-owned, operated, or controlled public housing units as of the Effective Date whose rent was set at the Minimum Rent at any point between February 1, 2020 and March 11, 2026."

The Compensation Class is defined as: "All Tenants of RRHA-owned, operated, or controlled public housing units who resided in those units at any point since February 2020 and whose rent was set at the Minimum Rent at any point between February 1, 2020 and March 11, 2026."

The Settlement Classes specifically exclude any Compensation Class Member who opts out. SA, ¶ VII.F.

B. The Settlement Terms and Benefits to the Settlement Class

1. The Non-Reversionary Settlement Fund

The proposed Settlement creates a non-reversionary common fund of $327,500 to be set up within thirty (30) days of the Effective Date. SA, ¶ VII.B.4. and from which Class Members may claim benefits. Specifically, the Settlement Agreement provides monetary relief as follows:

(i) $10,000 to be applied towards claims administration[3];

(ii) $7,500 to be issued as service fee awards to the three named Plaintiffs, in the amount of $2,500 each;

(iii) upon application of Class Counsel and as determined by the Court, up to $35,000 for the attorneys' fees and costs of Class Counsel; and

(iv) with respect to each Current Tenant Household and Former Tenant Household associated with a member of the Compensation Class, a $35 credit for each month that household was charged Minimum Rent during the Class Period.

SA, ¶¶ V.B, VIII.B, IX, X. Any unclaimed funds that are not otherwise used to cover the costs of claims administration[4] shall be given to a third-party non-profit or other entity that serves RRHA tenants, subject to the terms in the Settlement Agreement.[5] SA, ¶ VIII.D. If RRHA's obligation to

[3] If claims administration costs are in excess of $10,000, Defendant may use unclaimed funds to pay for the remainder of the claims administration costs.

[4] Any remaining funds in the Settlement Fund may be used by RRHA to reimburse Notice Administrator costs beyond the $10,000 allotted.

[5] Other than the Settlement Agreement and Release, there are no other agreements required to be identified pursuant to Rule 23(e)(3) of the Federal Rules of Civil Procedure.

members of the Compensation Class exceeds its contribution to the Compensation Fund, RRHA has agreed to pay those obligations out of funds above and beyond those contributed to the Compensation Fund.

2. Injunctive Relief

RRHA will implement the policy changes relating to the Hardship Exemption, as specified in Exhibit B of the Settlement Agreement, including corresponding changes to RRHA's Admissions and Continued Occupancy Plan, no later than 30 days after the Effective Date. SA, ¶ VIII.A.

3. Notice

The proposed notice plan provides all information required by Federal Rule of Civil Procedure 23(c)(2)(B). The notice plan lays out a program for notifying the Settlement Classes of the Settlement and their rights. SA, ¶ VII. The details of the notice process are outlined in Section VII of the Settlement Agreement.

4. Compensatory Relief

RRHA will compensate each Current Tenant Household and Former Tenant Household associated with a member of the Compensation Class $35 for each month that the Current Tenant Head of Household or Former Tenant Head of Household was charged Minimum Rent during the Class Period. SA, ¶ VIII.B.2. The procedure for applying the Credit Amount is outlined in Section VIII.B.2 of the Settlement Agreement.

5. Attorneys' Fees, Expenses, and Service Awards

Class Counsel will file an application to the Court for an award from the Compensation Fund of attorneys' fees, costs, and other expenses in an amount not to exceed $35,000. SA, ¶ X. RRHA's counsel agrees not to oppose or object to Class Counsel's application. SA, ¶ X. The Settlement Agreement also provides Incentive Awards to the three Class Representatives in the

amount of $2,500.00 each for their time and dedication towards receiving this favorable outcome to the Class. SA, ¶ IX.

ARGUMENT

The Settlement resolves this Litigation on favorable terms for the Settlement Classes. The Settlement was achieved only after extensive arm's-length negotiations among the Parties, including multiple settlement conferences before the Honorable Magistrate Judge Mark Colombell. The Settlement provides valuable monetary compensation to members of the Settlement Classes, and it confirms that Defendant will make meaningful changes to its policies regarding the Hardship Exemption. Having weighed the likelihood of success and inherent risks and expense of this Litigation, Plaintiffs and Class Counsel strongly believe that the proposed settlement is "fair, reasonable, and adequate[.]" Fed. R. Civ. P. 23(e)(2). Thus, it should be preliminarily approved under Federal Rule of Civil Procedure 23(e).

I. Preliminary Approval Should Be Granted Because the Settlement Agreement Is Within the Range of Possible Approval

Approval of a proposed class action settlement typically proceeds in two steps. *See In re Jiffy Lube Secs. Litig.*, 927 F.2d 155, 158–59 (4th Cir. 1991). First, the Court grants preliminary approval if it determines that the settlement "is within the range of possible approval." *Comm'rs of Pub. Works of City of Charleston v. Costco Wholesale Corp.*, 340 F.R.D. 242, 249 (D.S.C. 2021) ("*Comm'rs of Pub. Works*") (cleaned up); *see also, e.g.*, *In re Outer Banks Power Outage Litig.*, No. 4:17-CV-141, 2018 WL 2050141, at *3 (E.D.N.C. May 2, 2018); *Manual for Complex Litigation* (Fourth) § 21.632 (Fed. Judicial Center 2024) ("*Manual*").

Second, after notice of the settlement is provided to the Settlement Class and the Court conducts a fairness hearing, the Court determines whether the settlement is "fair, reasonable and adequate," as required under Fed. R. Civ. P. 23(e)(2), such that final approval should be granted.

See Comm'rs of Pub. Works of City of Charleston v. Costco Wholesale Corp., No. 2:21-CV-42, 2022 WL 214531, at *2-4 (D.S.C. Jan. 24, 2022); *In re Outer Banks Power Outage Litig.*, 2018 WL 2050141, at *2; *Manual* §§ 21.634-.635. Fairness and adequacy are both assessed using multi-factor tests, *see, e.g.*, *Jiffy Lube*, 927 F.2d at 158-59; *Comm'rs of Pub. Works*, 340 F.R.D. at 24950; *In re The Mills Corp. Secs. Litig.*, 265 F.R.D. 246, 254 (E.D. Va. 2009) ("*Mills*"), and there is no specific test used to assess reasonableness, *see, e.g.*, *Comm'rs of Pub. Works*, 340 F.R.D. at 249-50; *Mills*, 265 F.R.D. at 258. The fairness factors are:

> (1) the posture of the case at the time the proposed settlement was reached, (2) the extent of discovery that had been conducted, (3) the circumstances surrounding the settlement negotiations, and (4) counsel's experience in the type of case at issue.

Comm'rs of Pub. Works, 340 F.R.D. at 249 (citing *Jiffy Lube*, 927 F.2d at 158-59). The adequacy factors are:

> (1) the relative strength of the case on the merits, (2) any difficulties of proof or strong defenses the plaintiff and class would likely encounter if the case were to go to trial, (3) the expected duration and expense of additional litigation, (4) the solvency of the defendants and the probability of recovery on a litigated judgment, [and] (5) the degree of opposition to the proposed settlement[.]

Id. at 250 (citing *Jiffy Lube*, 927 F.2d at 159). Consideration of these factors demonstrates that the proposed settlement is fair, reasonable, adequate, and well within the range of possible approval.

A. The Fairness Factors

1. Posture of the Case

This factor addresses principally "how far the case has come from its inception." *Mills*, 265 F.R.D. at 254. Settlement at a very early stage may suggest "collusion among the settling parties" and that the proposed settlement is not legitimate. *Jiffy Lube*, 927 F.2d at 159; *see also Mills*, 265 F.R.D. at 254.

Here, Plaintiffs filed their original Complaint on February 20, 2025, and an Amended Complaint on August 29, 2025. Defendant filed a Motion to Dismiss the Amended Complaint,

which Plaintiffs opposed. The Parties engaged in written discovery, with RRHA producing tens of thousands of documents, and Plaintiffs deposed multiple witnesses from RRHA. The vigorous litigation of the motion to dismiss demonstrates a lack of collusion, and the exchange of written discovery evinces the Parties' intent to litigate this case fully and aggressively absent a reasonable settlement. At the same time, this settlement is coming early enough that Class Members may "choose to be included or excluded based on the terms of the proposed settlement." *Horton v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 855 F. Supp. 825, 829 (E.D.N.C. 1994); *see also id.* ("If such agreement had been reached after notification, potential class members would have had to decide whether to opt-in or opt-out of the class without knowledge of the proposed settlement."). As such, the posture of this case favors approval of the settlement.

2. Extent of Discovery

This factor weighs in favor of approval where the parties have conducted "[s]ufficient discovery to permit counsel and the parties to fairly evaluate the liability and financial aspects of a case." *In re A.H. Robins Co., Inc.*, 88 B.R. 755, 760 (E.D. Va. 1988); *see also Lomascolo v. Parsons Brinckerhoff, Inc.*, No. 1:08CV1310, 2009 WL 3094955, at *11 (E.D. Va. Sept. 28, 2009).

Here, both Parties produced initial disclosures. Plaintiffs issued interrogatories and requests for production of documents, RRHA responded to the discovery requests in writing and with significant document productions, and RRHA produced multiple witnesses for depositions, allowing the Parties to enter the settlement conference with an understanding of the scope of the putative classes. The Parties were thus able to reasonably evaluate and negotiate a damages amount during their negotiations. *See Carroll v. Northampton Rests., Inc.*, No. 2:21-CV-115, 2024 WL 1223442, at *4 (E.D. Va. Mar. 21, 2024) (extent of discovery factor weighed in favor of approval where information exchanged in discovery "proved useful because it provided a basis for calculating damages and reaching a reasonable settlement"). Furthermore, during settlement

negotiations, the Parties informally exchanged additional information to further evaluate the scope of the class and potential damages. *See Jiffy Lube*, 927 F.2d at 159 (exchange of informal discovery counsels in favor of settlement approval). The formal and informal discovery between the Parties focused primarily on the adequacy of RRHA's process for offering and granting the Hardship Exemption, and the scope of the class effected by this process. This discovery allowed the Parties to narrow their legal and factual disagreements and generated more informed settlement negotiations. The discovery process in this case thus supports approval.

3. Circumstances Surrounding Negotiations

This factor serves to ensure that the settlement is the result of arm's-length negotiations based on counsel's informed understanding of the case. *See Mills*, 265 F.R.D. at 255. "Absent evidence to the contrary, the Court should presume that settlement negotiations were conducted in good faith and that the resulting agreement was reached without collusion." *Archbold v. Wells Fargo Bank, N.A.*, No. 3:13-CV-24599, 2015 WL 4276295, at *2 (S.D. W. Va. July 14, 2015); *Kirven v. Cent. States Health & Life Co. of Omaha*, No. CA 3:11-2149, 2015 WL 1314086, at *5 (D.S.C. Mar. 23, 2015) (same). The circumstances here include a vigorously contested motion to dismiss, formal discovery, and multiple settlement conferences overseen by Magistrate Judge Colombell, which culminated in an agreement in principle. The success in reaching an agreement was based on a well-developed understanding of the factual and legal issues and the involvement of Judge Colombell as a mediator. *See In re Outer Banks Power Outage Litig.*, 2018 WL 2050141, at *3 ("mediation with a highly experienced mediator" supported finding that settlement was the result of "arms-length negotiations"). These circumstances further support approval.

4. Experience of Counsel

Plaintiffs' counsel, the Legal Aid Justice Center ("LAJC"), regularly litigates affirmative impact lawsuits in federal court, including class action housing cases, on behalf of low-income

Virginians. *See* Exhibit 5. Plaintiffs' co-counsel, Hunton Andrews Kurth LLP ("Hunton"), is a multi-disciplinary law firm that routinely handles class action cases and has extensive experience litigating federal claims, expertise which is highly relevant to this case. Hunton attorneys also regularly litigate housing issues on behalf of tenants in and around Richmond, Virginia. *See* Exhibit 6. Counsel's collective experience litigating federal claims and class actions gives substantial credence to their representation to the Court herein that the settlement is fair. *See, e.g.*, *Comm'rs of Pub. Works*, 340 F.R.D. at 248.

B. The Adequacy Factors

1. Relative Strength of Plaintiffs' Case on the Merits and Difficulties of Proof or Strong Defenses Likely at Trial

The first two adequacy factors are often addressed in tandem. *See, e.g.*, *Haney v. Genworth Life Ins. Co.*, No. 3:22-CV-55, 2023 WL 174956, at *6 (E.D. Va. Jan. 11, 2023); Fed. R. Civ. P. 23(e)(2) Advisory Committee's Note to 2018 Amendment (grouping these two factors together). These factors consider "how much the class sacrifices in settling a potentially strong case in light of how much the class gains in avoiding the uncertainty of a potentially difficult case." *Haney*, 2023 WL 174956, at *6 (quoting *Brown v. Transurban USA, Inc.*, 318 F.R.D. 560, 573 (E.D. Va. 2016)). While undersigned counsel are confident in the strength of their case, Defendant's Motion to Dismiss the Amended Complaint identified legal hurdles and significant factual disputes that would need to be resolved for Plaintiffs to prevail on the merits. Chief among those disputes are Defendant's arguments that RRHA complied with applicable federal law and that Plaintiffs did not request Hardship Exemptions. ECF 26. Based in part on the genuine factual and legal disputes, which would likely require significant discovery and additional briefing, Plaintiffs determined that settlement was the better path forward.

2. Duration and Expense of Additional Litigation

There is no doubt that litigation of this case through discovery, summary judgment, trial, and perhaps multiple appeals would require substantial additional time and expense. Additional discovery would include depositions of at least RRHA's corporate representative and all three Plaintiffs. Trial could be lengthy because there are a large number of potential witnesses. The initial disclosures exchanged by the Parties list dozens of people with knowledge of the facts at issue. Throughout all of this, there would be hard-fought motions practice, as indicated by the history of the litigation to date. Full litigation, in short, would require several years and potentially millions of dollars in fees and expenses, in addition to the risk of an unfavorable outcome.

3. Solvency of Defendant and Likelihood of Recovery on a Litigated Judgment

Plaintiffs do not anticipate difficulty collecting a potential judgment from Defendant.

4. Degree of Opposition

The Named Plaintiffs support the proposed settlement, and there is no known opposition to the agreement. If the instant Motion is granted, Class Members will receive notice and have an opportunity to object. At the final approval hearing, Plaintiffs will address any opposition articulated after notice is provided to members of the class.

C. Reasonableness

Several factors illustrate the proposed settlement's reasonableness.

1. The Size of the Recovery is Reasonable

The settlement achieves a favorable result for the class, especially given legal and factual obstacles that Plaintiffs would otherwise need to overcome and any trial and appeal costs. The injunctive relief improving the Hardship Exemption policies at RRHA create meaningful improvements to the process for granting Hardship Exemptions, and are meant to ensure that in

the future, Class Members who are eligible for a Hardship Exemption will not have to pay rent that they are unable to afford. The settlement will additionally provide Compensation Class members $35 for each month that they were charged Minimum Rent during the Class Period, representing 70 percent of the Minimum Rent ($50) they were charged during each month. This amount is particularly reasonable given the significant costs of litigation, including obtaining and paying counsel, filing cases, and responding to discovery requests, all of which are barriers to pursuing such claims for relief on their own. A speedy resolution to litigation is especially valuable to Class Members as they are tenants who have no income, or extremely low incomes. For these tenants, a $35 credit or the ability to be exempted for $50 rent can help them save money in a way that improves their ability to secure basic life necessities. Obtaining these benefits sooner rather than after lengthy litigation is a significant benefit.

2. The Incentive Awards to the Named Plaintiffs are Reasonable

Fed. R. Civ. P. 23(e)(2)(D) authorizes named plaintiff incentive awards to ensure that the settlement "treats class members equitably relative to each other." *See* William B. Rubenstein, 5 Newberg and Rubenstein on Class Actions § 17:13 (6th ed.) ("To the extent that the class representatives . . . took risks, or protected the class's interests through their work, it is surely equitable to provide them a modest extra payment from the class's recovery."). "[C]ourts within the Fourth Circuit 'recognize the purpose and appropriateness of service awards to Class Representatives.'" *Haney v. Genworth Life Ins. Co.*, No. 3:22-CV-55, 2023 WL 175406, at *5 (E.D. Va. Jan. 12, 2023) (collecting cases). "The Fourth Circuit has yet to provide clear guidance on the factors to use when assessing the reasonableness of the size of an incentive award," but "several district courts have adopted the test used by the Seventh Circuit that instructs courts to examine 'the actions the plaintiff has taken to protect the interests of the class, the degree to which the class has benefited from those actions, and the amount of time and effort the plaintiff expended

in pursuing the litigation.'" *Burke v. Shapiro, Brown & Alt, LLP*, No. 3:14-CV-201, 2016 WL 2894914, at *6 (E.D. Va. May 17, 2016) (quoting *Cook v. Niedert*, 142 F.3d 1004, 1016 (7th Cir. 1998)); *Manuel v. Wells Fargo Bank, Nat'l Ass'n*, No. 3:14-CV-238(DJN), 2016 WL 1070819, at *6 (E.D. Va. Mar. 15, 2016) ("A 'fairly typical' practice, incentive awards 'are intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their willingness to act as a private attorney general.'"). Courts have noted that service payments are appropriate where "the relief to the rest of the class is not 'perfunctory.'" *Binotti v. Duke Univ.*, No. 1:20-CV-470, 2021 WL 5366877, at *6 (M.D.N.C. Aug. 30, 2021), (quoting *Berry v. Schulman*, 807 F.3d 600, 613-14 (4th Cir. 2015)).

Class Members have benefited from the Named Plaintiffs' work on their behalf, and the Named Plaintiffs should be compensated accordingly. The Named Plaintiffs shared their experiences as RRHA tenants, which shaped the allegations and legal claims in the Complaints, regularly met with counsel, attended settlement conferences and participated in negotiations, reviewed documents, risked public scrutiny, and devoted hours to this case as active class representatives. *See* Exhibit 2, Coleman Declaration, ¶¶ 2-25; Exhibit 3, James Declaration, ¶¶ 2-9, 11-16; Exhibit 4, Archie Declaration, ¶¶ 2-15. The $2,500 Incentive Awards for the three Named Plaintiffs are therefore reasonable. Courts in this Circuit have regularly approved service payments higher than $2,500. *See, e.g.*, *Binotti*, 2021 WL 5366877, at *5-6 (approving $65,000 payment and collecting cases with payments from $85,000 to $300,000 per plaintiff); *Deem v. Ames True Temper, Inc.*, No. 6:10–CV–01339, 2013 WL 2285972, at *6–7 (S.D.W. Va. May 23, 2013) (approving award of $7,500 per lead plaintiff); *Manuel*, 2016 WL 1070819, at *6 (approving a $10,000 service award); *Berry v. LexisNexis Risk & Info. Analytics Grp.*, No. 3:11–CV–754, 2014

WL 4403524, at *16 (E.D. Va. Sept. 5, 2014*), aff'd sub nom. Berry v. Schulman*, 807 F.3d 600 (4th Cir. 2015) (approving a $5,000 service award); *Burke*, 2016 WL 2894914, at *6 (approving a $3,000 service award).

3. The Attorneys' Fees and Costs are Reasonable

Plaintiffs anticipate seeking an award of up to $35,000 for attorneys' fees and expenses, out of the $327,500 Compensation Fund. There are two basic approaches to calculating reasonable attorneys' fees in a class action case: the "percentage of recovery" or "percentage of the fund" method and the lodestar method. *Brown v. Transurban USA, Inc.*, 318 F.R.D. 560, 575 (E.D. Va. 2016). Under the percentage of the fund method, fees are awarded based on a percentage of the benefit secured for the settlement class. *Id*. Under the lodestar method, fees are awarded based on the value of the attorneys' time spent litigating the claims. *Id*. While "[t]he Fourth Circuit has not explicitly mandated which method district courts should use," "the favored method for calculating attorneys' fees in common fund cases is the percentage of the fund method. . . . And in a fee shifting case, the award is typically calculated using the lodestar method." *Skochin v. Genworth Fin., Inc.*, No. 3:19-CV-49, 2020 WL 6536140, at *3–4 (E.D. Va. Nov. 5, 2020). Courts will typically apply "one method as the primary calculation and use the other method as a cross check on the reasonableness of the first." *Id.* at *4. Using the lodestar method, "a court must first determine the lodestar figure by multiplying the number of reasonable hours expended by a reasonable rate." *Id.* "Once a figure has been calculated using the percentage of the fund or lodestar method, a court must determine if that result is reasonable." *Id.*

Given that the Fourth Circuit has been unclear about whether to apply the 12-factor *Johnson* test from the Fifth Circuit or the seven-factor *Gunter* test from the Third Circuit, this Court has applied "both tests to assess the reasonableness of attorneys' fees calculated using the percentage of the fund method." *Id.* at *6.

The *Johnson* test includes the following twelve factors:

> (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 attorney's opportunity costs in pressing the instant litigation; (5) the customary fee for legal work; (6) the attorney's expectations at the outset of litigation; (7) the time limitations imposed by the client or circumstances; (8) the amount in controversy and the results obtained; (9) the experience, reputation[,] and ability of the attorney; (10) the undesirability of the case within the legal community in which the suit arose; (11) the nature and length of the professional relationship between attorney and client; and (12) attorneys' fees awards in similar cases.

Id. at *5 (quoting *Brown*, 318 F.R.D. at 577).

There is significant overlap in the *Gunter* factors, which are:

> (1) the results obtained for the class; (2) the quality, skill, and efficiency of the attorneys involved; (3) the complexity and duration of the case; (4) the risk of nonpayment; (5) awards in similar cases; (6) objections; and (7) the amount of time devoted to the case by plaintiffs' counsel.

Id. (citing *Gunter v. Ridgewood Energy Corp.*, 223 F.3d 190, 195 n.1 (3d Cir. 2000)).

These factors favor an award of $35,000, or about 10% of the Compensation Fund. "[T]he most critical factor in determining the reasonableness of a fee award is the degree of success obtained." *Doe v. Chao*, 435 F.3d 492, 506 (4th Cir. 2006) (quoting *Farrar v. Hobby,* 506 U.S. 103, 114 (1992)). Plaintiffs' counsel have achieved a favorable result here, especially given the difficulty of litigating federal damages claims and the vigorous defense mounted by RRHA.

Fee awards in cases in this Circuit support an award that represents 10% of the total settlement. Courts in the Fourth Circuit routinely award a larger portion of the settlement in attorneys' fees. *See, e.g.*, *Galloway v. Williams*, No. 3:19-CV-470, 2020 WL 7482191, at *11 (E.D. Va. Dec. 18, 2020) (final approval of 33% of common fund); *Sims v. BB&T Corp.*, No. 1:15-CV-732, 2019 WL 1993519, at *3 (M.D.N.C. May 6, 2019) (same); *Deem*, 2013 WL 2285972, at *6 (same); *DeWitt v. Darlington Cnty.*, No. 4:11-CV-00740, 2013 WL 6408371, at *7 (D.S.C. Dec. 6, 2013) (preliminary approval of 33.33% of common fund).

The remaining factors likewise support the fee award. Plaintiffs' counsel have devoted significant time to investigating the underlying claims, drafting the complaint, defending against a hard-fought motion to dismiss, propounding and responding to discovery requests, and negotiating a favorable settlement for the Settlement Classes.

A lodestar check confirms the percentage award's reasonableness. Plaintiffs' counsel in this case have devoted more than 1,300 hours over the past 20 months to prepare the Complaint, defend against RRHA's motion to dismiss, and otherwise litigate this case. A $35,000 attorney fee award—the maximum possible award under this settlement—represents an average hourly fee of less than $2.69. Under any measure, that fee is far less than the lodestar. It also does not include the additional work that Plaintiffs' counsel will devote to defending this motion, administering notice to Class Members, and seeking final settlement approval.

In accordance with Fed. R. Civ. P. 23(h) and Fed. R. Civ. P. 54(d)(2), Plaintiffs will move for an award of fees in an amount no greater than $35,000 as part of their motion for final approval of the settlement.

II. The Settlement Classes Should Be Provisionally Certified Under Rule 23

The Settlement Agreement provides that the settlement will be effectuated through class action treatment, and the Parties will support certification for this purpose. For a class to be certified, it must meet the requirements of Fed. R. Civ. P. 23. *Jonathan R. v. Just.*, 344 F.R.D. 294, 302 (S.D. W. Va. 2023). This requires that Plaintiffs satisfy each of the four criteria provided in Rule 23(a)(1)-(4), and one of three subcategories of Rule 23(b). *Id.* In addition, in order to certify a class under Rule 23, a court must be able to "readily identify the class members in reference to objective criteria." *Soutter v. Equifax Info. Servs., LLC*, 307 F.R.D. 183, 196 (E.D. Va. 2015). Courts "'give Rule 23 a liberal rather than a restrictive construction, adopting a standard of flexibility in application which will in the particular case best serve the ends of justice for the

affected parties and . . . promote judicial efficiency.'" *Scott v. Clarke*, 61 F. Supp. 3d 569, 583 (W.D. Va. 2014) (quoting *Gunnells v. Healthplan Servs., Inc.*, 348 F.3d 417, 424 (4th Cir. 2003)).

A. Rule 23(a) is Satisfied

1. Rule 23(a)(1) – Numerosity

Rule 23(a)(1) provides that one of the requirements for a class action is that the class be "so numerous that joinder of all members is impracticable." Fed. R. Civ. P. 23(a)(1). The Parties' exchange of information during discovery and settlement negotiations confirmed that the proposed class is composed of several hundred individuals. In 2024, there were at least 600 RRHA public housing residents on Minimum Rent. Second Amended Comp. ¶¶ 137. In 2023, there were 500 RRHA residents on Minimum Rent,, and for each of the prior years of the class period (2020, 2021, and 2022), there were at least 295 residents on Minimum Rent. *Id.* This easily satisfies Rule 23(a)(1)'s numerosity requirement. *In re Zetia (Ezetimibe) Antitrust Litig.*, 7 F.4th 227, 233–34 (4th Cir. 2021) (finding that a class of 40 or more members raises a presumption of impracticability of joinder based on numbers alone).

2. Rule 23(a)(2) – Commonality

Rule 23(a)(2) requires that there be questions of law or fact common to the class. Fed. R. Civ. P. 23(a)(2). To satisfy commonality, "a single common question will do." *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 359 (2011). Commonality is present when the claims of class members "depend upon a common contention . . . . [that is] capable of classwide resolution—which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke." *Id.* at 350. "This does *not* mean, of course, that the entire *case* must be decided by a single issue." *Soutter*, 307 F.R.D. at 200. Moreover, the Fourth Circuit has recognized that "a class action will not be defeated solely because of some factual variances in individual grievances" when there are common questions of law. *Williams v. Big Picture Loans,*

LLC, 339 F.R.D. 46, 58 (E.D. Va. 2021), *aff'd sub nom. Williams v. Martorello*, 59 F.4th 68 (4th Cir. 2023) (internal quotation marks and citation omitted).

Here, several common factual and legal questions are central to resolving this dispute and capable of class-wide resolution, satisfying Rule 23(a)(2). These include whether RRHA: (i) violated 42 U.S.C. § 1437a(a)(3)(B) of the United States Housing Act by failing to inform residents of their right to request a Hardship Exemption and failing to grant Hardship Exemptions to qualifying residents; (ii) is required to inform residents about the right to request Hardship Exemptions; (iii) violated its residents' Due Process Clause rights under the Fourteenth Amendment to the United States Constitution by failing to timely notify them of their right to request a Hardship Exemption; (iv) breached its public housing leases by failing to offer and grant the Hardship Exemption; and (v) has been unjustly enriched by failing to offer and grant the Hardship Exemption.

3. Rule 23(a)(3)-(4) – Typicality and Adequacy

While the numerosity and commonality prerequisites focus on the characteristics of the class members in comparison to each other, "the typicality prerequisite focuses on the general similarity of the named representative's legal and remedial theories to those of the proposed class." *Soutter*, 307 F.R.D. at 208 (citing *Jenkins v. Raymark Indus., Inc.,* 782 F.2d 468, 472 (5th Cir.1986)). "The essence of the typicality requirement is captured by the notion that 'as goes the claim of the named plaintiff, so go the claims of the class.'" *Big Picture Loans, LLC*, 339 F.R.D. at 58 (quoting *Deiter v. Microsoft Corp.*, 436 F.3d 461, 466 (4th Cir. 2006)). Typicality does not mandate that the class representative's claims are identical to those of the class; instead, the representative "must generally be part of the class and have 'the same interest and suffer the same injury as the class members.'" *Id. See also Brown*, 318 F.R.D. at 567.

The Named Plaintiffs' claims are typical of the Class. As current and former RRHA residents, Ms. Coleman, Ms. James, and Ms. Archie are typical of the Compensation Class. As a current RRHA resident, Ms. Archie is typical of the Injunctive Relief Class. All three Plaintiffs were charged the Minimum Rent during the class period, and have alleged financial circumstances that would have qualified them for a Hardship Exemption. All of the Named Plaintiffs' claims arise from the same RRHA policies and practices. *See* Exhibits 2-4, Declarations from the Named Plaintiffs. The Named Plaintiffs do not present claims that are unique to themselves. Instead, they bring claims typical of the class members.

"The adequacy inquiry . . . serves to uncover conflicts of interest between named parties and the class they seek to represent." *Sharp Farms v. Speaks*, 917 F.3d 276, 295 (4th Cir. 2019) (quoting *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 625 (1997)). "For a conflict of interest to defeat the adequacy requirement, 'that conflict must be fundamental.'" *Id.* (quoting *Ward v. Dixie Nat. Life Ins. Co.*, 595 F.3d 164, 179 (4th Cir. 2010)); *see also Nelson v. Warner*, 336 F.R.D. 118, 124 (S.D. W. Va. 2020) (noting that "[o]nly conflicts that . . . go to the heart of the litigation prevent a plaintiff from meeting . . . the adequacy requirement").

No conflict, let alone a fundamental substantial one, exists between the Named Plaintiffs and other members of the Settlement Classes. All Class Members have an interest in obtaining a Hardship Exemption when needed, and all Class Members' rent was set at the Minimum Rent without being provided a Hardship Exemption. Class counsel's competence and experience are also factors in determining adequacy of representation. *Thomas v. FTS USA, LLC*, 312 F.R.D. 407, 419-20 (E.D. Va. 2016). As described above, undersigned counsel have experience in federal class actions and in pursuing relief based on low-income individuals' housing rights. By their litigation

of this case, counsel have demonstrated that they are able and firmly committed to zealously pursuing the class members' interests.

B. Rule 23(b) is Satisfied

In order to justify certification of a class, Plaintiffs must also satisfy one of the Rule 23(b) tests. "If a lawsuit meets these requirements, certification as a class action serves important public purposes. In addition to promoting judicial economy and efficiency, class actions also 'afford aggrieved persons a remedy if it is not economically feasible to obtain relief through the traditional framework of multiple individual damage actions.'" *Soutter*, 307 F.R.D. at 213 (citing *Gunnells*, 348 F.3d at 424 and 5 James Wm. Moore et al., Moore's Federal Practice § 23.02 (3d ed.1999)). The Compensation Class, which will receive monetary relief for current and former RRHA tenants, satisfies Rule 23(b)(3)'s requirements. The Injunctive Relief Class, which has secured policy changes on behalf of current RRHA tenants, satisfies Rule 23(b)(2).

1. The Compensation Class Satisfies Rule 23(b)(3)

Classes seeking monetary relief are subject to the certification requirements of Rule 23(b)(3). *Dukes*, 564 U.S. at 362. The class here satisfies Rule 23(b)(3)'s two relevant criteria: (1) "questions of law or fact common to class members predominate over any questions affecting only individual members," and (2) "a class action is superior to other available methods for fairly and efficiently adjudicating the controversy." Fed. R. Civ. P. 23(b)(3).

Predominance – The common questions detailed above are the predominant issues pertaining to liability, and the resolution of those questions would serve as the basis for liability determinations as to each of the causes of action at issue. Those common questions predominate over the only potentially individualized issue: damages. "Courts in every circuit have uniformly held that the 23(b)(3) predominance requirement is satisfied despite the need to make individualized damage determinations." *Reed v. Alecto Healthcare Servs., LLC*, 2022 WL

4115858, at *7 (N.D. W. Va. July 27, 2022). This is particularly so here, where the Parties have agreed that individual damages for the Compensation Class will be determined using a fixed formula, here a monthly amount per household.

Superiority – Rule 23(b)(3) identifies four (non-exhaustive) factors that are pertinent to this inquiry:

> (A) the class members' interests in individually controlling the prosecution or defense of separate actions;
> (B) the extent and nature of a litigation concerning the controversy already begun by or against class members;
> (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and
> (D) the likely difficulties in managing a class action.

Id. Subsection (D) is not relevant to a settlement-only class. *Brown*, 318 F.R.D. at 569 ("With settlement classes, . . . courts need not consider the last factor, 'whether the case, if tried, would present intractable management problems, for the proposal is that there will be no trial.'") (quoting *Amchem Prods.*, 521 U.S. at 620).

The relevant factors all support certification here. The "dominant[]" purpose of factor (A) is to provide for the "vindication of the rights of groups of people who individually would be without effective strength to bring their opponents into court at all." *Bicking v. Mitchell Rubenstein & Assocs., P.C.*, No. 3:11-CV-78, 2011 WL 5325674, at *4 (E.D. Va. Nov. 3, 2011) (quoting *Amchem Prods.*, 521 U.S. at 617); *see also In re TD Bank, N.A. Debit Card Overdraft Fee Litig.*, 325 F.R.D. 136, 162 (D.S.C. 2018) (finding that "the vast majority of class members have a de minimis interest in individually controlling the prosecution of their . . . claims because the monetary value of their damages would be dramatically outweighed by the cost of litigation an individual case"). The lack of economic resources and incentives for individual class members to bring their own suits are key considerations, *see Pitt v. City of Portsmouth*, 221 F.R.D. 438, 445-

46 (E.D. Va. 2004), both of which are present in this case. The class members are current or former tenants of public housing. Many of the same challenging factual and legal issues identified above would be present in individual, non-class litigation. And though a $50 monthly fee is a significant cost for a class member, the amount of individual, actual damages are far surpassed by the costliness of individual litigation. This factor supports class certification.

As to the factor in subsection (B), the Named Plaintiffs are unaware of any other litigation concerning the controversy detailed in the Complaint. The factor in subsection (C) has been addressed and satisfied because Defendant is located in this District and the events giving rise to the claims occurred within this District.

2. The Injunctive Relief Class Satisfies Rule 23(b)(2)

A class may be certified pursuant to Rule 23(b)(2) when "the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole." Fed. R. Civ. P. 23(b)(2). In interpreting the requirements of Rule 23(b)(2), the Fourth Circuit has held that certification is appropriate where final injunctive relief is sought and will settle "the legality of the behavior with respect to the class as a whole." *Thorn v. Jefferson-Pilot Life Ins. Co.*, 445 F.3d 311, 329 (4th Cir. 2006) (quoting Fed. R. Civ. P. 23(b)(2) advisory committee's note to 1966 amendments).

Here, the Injunctive Relief Class has secured specific policy changes from RRHA that benefit the class of current RRHA tenants as a whole. These changes, as identified in Exhibit B to the Settlement Agreement, modify how RRHA informs tenants of their right to a Hardship Exemption and evaluates whether tenants qualify for a Hardship Exemption, and provides necessary corresponding changes to RRHA's Admissions and Continued Occupancy Plan. These policies affect and apply equally to all members of the Injunctive Relief Class.

C. Rule 23(c) is Satisfied

In addition to the requirements of Rules 23(a) and (b), Rule 23(c) states that "[a]n order that certifies a class action must define the class and the class claims, issues, or defenses." Fed. R. Civ. P. 23(c)(1)(B). The Fourth Circuit, for example, has "repeatedly recognized that Rule 23 contains an implicit threshold requirement that the members of a proposed class be 'readily identifiable.'" *Soutter*, 307 F.R.D. at 196 (citing *EQT Prod. Co. v. Adair*, 764 F.3d 347, 358 (4th Cir. 2014)).

In order to certify a class under Rule 23, a court must be able to "readily identify the class members in reference to objective criteria." *Id.* Although the plaintiff "need not be able to identify every class member at the time of certification," the plaintiff must demonstrate that class members will be identifiable "without extensive and individualized fact-finding or 'mini-trials[.]' *Id.* "Under that requirement — which is commonly referred to as 'ascertainability' — '[a] class cannot be certified unless a court can readily identify the class members in reference to objective criteria.'" *Career Counseling, Inc. v. AmeriFactors Fin. Grp., LLC*, 91 F. 4th 202, 206 (4th Cir. 2024), *cert. denied*, 145 S. Ct. 2845, 222 L. Ed. 2d 1129 (2025).

This requirement is met here. RRHA records identify tenants who were charged Minimum Rent during the Class Period, thus identifying the members of the Settlement Classes. The Parties have compiled a list of all potential Class Members from RRHA's public housing tenant records, which obviates any need for extensive and individualized fact-finding or mini-trials to determine eligibility for class membership.

D. Plaintiffs' Counsel Satisfy Rule 23(g) Requirements

Rule 23(g) requires the Court to appoint class counsel when it certifies a class. Plaintiffs' counsel have carefully investigated the potential class claims in this action; have experience in class action litigation and litigation related to public housing; are knowledgeable about the law

relevant to this action; and have committed significant resources to representing the class. Attached as Exhibit 5 and 6 are declarations from Plaintiffs' counsel attesting to their relevant experience and the work they have contributed to aggressively prosecuting this case on behalf of the Named Plaintiffs and the Classes. As demonstrated through these declarations, Class Counsel fairly and adequately represents the interests of the class. *See* Fed. R. Civ. P. 23(g)(1), (4).

III. The Notice And Notice Program Will Provide Class Members The Best Notice Practicable Under The Circumstances And Should Be Approved By This Court

The proposed notices and notice plan meet all applicable requirements. The Federal Rules require the Court to "direct notice in a reasonable manner to all class members who would be bound by the proposal." Fed. R. Civ. P. 23(e)(1). Members of a class certified under Rule 23(b)(3) are entitled to the best notice that is practicable under the circumstances, including individual notice to members who can be identified through reasonable effort. Fed. R. Civ. P. 23(c)(2)(B). The Court's assessment of what is "the best notice . . . practicable" may be informed by the cost of providing different forms of notice and the availability and accuracy of records identifying class members. *See In re Domestic Airline Travel Antitrust Litig.*, 378 F. Supp. 3d 10, 15 (D.D.C. 2019).

Here, both the form and content of the Notice to the Class are sufficient and should be approved by the Court. As outlined in the Proposed Order Preliminarily Approving Settlement and Providing Notice, the Parties have jointly selected the well-regarded and highly experienced settlement administration firm, American Legal Claim Services, LLC ("American Legal"), as the Settlement Administrator. Plaintiffs, through American Legal, will notify Settlement Class Members of the Settlement within thirty (30) days after the Court grants preliminary approval of the Settlement Agreement.

RRHA will provide the Notice Administrator with a list of names, addresses, and email addresses, if available, of all members of the Settlement Classes in its records. SA, ¶ VII.A. This

is likely 100% of the Settlement Classes. The Notice Administrator will then email and mail the Notice attached as Exhibit C to the Settlement Agreement to the members of the Settlement Classes. *Id*. The Notice sent to Class Members will also inform Class Members of their "opt-out" and objection rights. SA, ¶ VII.F. The Parties have agreed that the Notice Administrator will provide Settlement Notices of the proposed settlement to members of the Settlement Classes within 30 days of an entry of an order granting preliminary approval of the settlement.

In addition to mailing and emailing the notice to the Class Members, the Notice Administrator will establish a website where Class Members can submit Completed Claim Forms.

The proposed notices are plain and easily understood. The notices describe the claims, the relief provided under the Settlement, and Settlement Class Members' rights and options, including the deadlines and means of submitting a Claim Form, objecting, and/or appearing at the Final Approval Hearing. Plaintiffs submit that the notice program is reasonable and provides the best notice practicable under the circumstances.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court enter the proposed order granting preliminary approval and authorizing the settlement notice and claim process.

Dated: October 30, 2026

Respectfully submitted,

VERNITA COLEMAN, JAYDA JAMES, and NYDRA ARCHIE on behalf of themselves and all others similarly situated

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of October, 2026 I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to all counsel of record.

/s/ George P. Sibley, III

George P. Sibley, III, Esq.