

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

FUNICULAR FUNDS, LP, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

PIONEER MERGER CORP., PIONEER
MERGER SPONSOR LLC, JONATHAN
CHRISTODORO, RICK GERSON, OSCAR
SALAZAR, RYAN KHOURY, SCOTT
CARPENTER, MATTHEW COREY,
MITCHELL CAPLAN, and TODD DAVIS,

Defendants.

Civil Action No. 22-10986-JSR

**REPLY BRIEF IN FURTHER SUPPORT
OF PLAINTIFF'S MOTIONS FOR (A)
FINAL APPROVAL OF SETTLEMENT
AND PLAN OF ALLOCATION; AND
(B) ATTORNEYS' FEES, LITIGATION
EXPENSES, AND INCENTIVE AWARD**

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Lead Plaintiff and Lead Counsel respectfully submit this reply brief, in addition to their opening papers in support of the Motions for (A) Final Approval of Settlement and Plan of Allocation (ECF 85) and (B) Attorneys' Fees, Litigation Expenses, and Incentive Award (ECF 87) (the "Motions"),¹ to report that the deadline for objections has passed and no objections were received. In addition, multiple institutional Class members have submitted declarations in support of approval. Given the Class's reaction after notice was provided, Lead Plaintiff and Lead Counsel respectfully request that the Court approve the Settlement and the requested fees and expenses.

I. THE REACTION OF THE CLASS FURTHER SUPPORTS APPROVAL

A. Robust Notice Was Provided To The Class

In accordance with the Court's Order Preliminarily Approving Settlement (ECF 84) (the "Preliminary Approval Order"), 247 copies of the Notice were provided by U.S. Mail and electronically to Class members and their intermediaries, and no challenges in providing the Notice were encountered. Ex. 1, Declaration of Emily Young at ¶¶ 4-7. The Notice advised Class members of, among other things, the terms of the Settlement, the attorneys' fees and expenses expected to be requested, the incentive award expected to be requested, the deadline of May 7, 2024 to submit objections, and the fairness hearing set by the Court for May 28, 2024 at 3:00 p.m. *Id.* ¶ 5. A summary of the Notice, which included the foregoing information, was also published in *Investors Business Daily* on April 1, 2024, and a press release was issued disseminating the same on April 29, 2024. *Id.* ¶¶ 11-12. The Notice and other relevant materials were also made available on the dedicated settlement website (<https://www.pioneermergercorpsettlement.com>) and on Lead Counsel's website (www.moka.law). *Id.* ¶¶ 8-9.

¹ Defined terms herein have the meaning ascribed in the opening briefs (ECF 86 & 88).

On April 30, 2024, Lead Plaintiff and Lead Counsel filed the Motions, which were made available on the public docket (ECF 85-90) as well as the Settlement website and Lead Counsel's website.

B. No Objections Were Received And Multiple Class Members Submitted Declarations In Support

The deadline for objections was May 7, 2024. As of the date of this filing, neither Lead Counsel nor the Settlement Administrator have received any objections. *Id.* ¶ 13. The reaction of the Class has been uniformly positive. Indeed, multiple institutional investors—representing a significant portion of the outstanding Class A shares—have submitted declarations in support of the Settlement, including Lead Plaintiff and Lead Counsel's request for attorneys' fees, expenses and an incentive award. Exs. 2, 3 & 4.

This reaction further supports the Court's approval of the Settlement. Indeed, "the favorable reaction of the overwhelming majority of class members to the Settlement is perhaps the most significant factor in [the] *Grinnell* inquiry." *Wal-Mart Stores, Inc. v. Visa U.S.A. Inc.*, 396 F.3d 96, 119 (2d Cir. 2005); *In re Virtus Inv. Partners, Inc. Sec. Litig.*, 2018 WL 6333657, at *2 (S.D.N.Y. Dec. 4, 2018) ("the absence of objections by the class is extraordinarily positive and weighs in favor of settlement"); *Fleisher v. Phoenix Life Ins. Co.*, 2015 WL 10847814, at *6 (S.D.N.Y. Sept. 9, 2015) ("the absence of objections may itself be taken as evidencing the fairness of a settlement"); *In re Advanced Battery Techs., Inc. Sec. Litig.*, 298 F.R.D. 171, 176 (S.D.N.Y. 2014) (same). The reaction also supports approval of the Plan of Allocation. *See In re Veeco Instruments Inc. Sec. Litig.*, 2007 WL 4115809, at *14 (S.D.N.Y. Nov. 7, 2007) ("[N]ot one class member has objected to the Plan of Allocation which was fully explained in the Notice of Settlement sent to all Class Members. This favorable reaction of the Class supports approval of

the Plan of Allocation.”). Here, the *pro rata* distribution contemplated is simple, inherently fair, and not subject to viable criticism.

The positive reaction of the Class should also be considered in favor of approval of Lead Plaintiff and Lead Counsel’s motion for attorneys’ fees, expenses, and an incentive award. *See In re Signet Jewelers Ltd. Sec. Litig.*, 2020 WL 4196468, at *21 (S.D.N.Y. July 21, 2020) (“The absence of any objections to the requested attorneys’ fees and Litigation Expenses supports a finding that the request is fair and reasonable.”); *Vaccaro v. New Source Energy Partners L.P.*, 2017 WL 6398636, at *8 (S.D.N.Y. Dec. 14, 2017) (“The fact that no class members have explicitly objected to these attorneys’ fees supports their award.”); *Veeco*, 2007 WL 4115808 at *10 (the absence of any objections “suggests that the fee request is fair and reasonable”). Multiple Class members submitted declarations not only in support of the terms of the Settlement generally, but specifically as to the request for fees and expenses. As to the request for an incentive award, the declarations state that the Class members “appreciate the substantial risks and expenses assumed by Funicular Funds, LP on behalf of the Class to achieve this outcome, and believe the amount requested is modest in light of the benefits created.” Exs. 2, 3 & 4 at ¶ 4. As to the request for attorneys’ fees and expenses, the declarations state that the Class members “appreciate Morris Kandinov LLP’s willingness to litigate this matter diligently and expeditiously on a contingent basis for the benefit of the Class, and likewise support its request for attorneys’ fees and expenses.” *Id.*

The Court should weigh heavily the complete lack of objections, positive sentiment of Class members, and the stated support of institutional investors when considering the Motions and final approval of the Settlement.

II. CONCLUSION

For the foregoing reasons, and those set forth in their opening papers, Lead Plaintiff and Lead Counsel respectfully request that the Court grant the Motions and approve the Settlement, the Plan of Allocation, the request for attorneys' fees and expenses, and the request for an incentive award. Copies of the (i) proposed Judgment, (ii) proposed Order Approving Plan of Allocation of Net Settlement Fund, and (iii) proposed Order Awarding Attorneys' Fees, Litigation Expenses and Incentive Award are being submitted herewith.

Dated: May 14, 2024

Respectfully submitted,

By: /s/ Aaron T. Morris

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Lead Counsel for Lead Plaintiff and the Class

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

FUNICULAR FUNDS, LP, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

PIONEER MERGER CORP., PIONEER
MERGER SPONSOR LLC, JONATHAN
CHRISTODORO, RICK GERSON, OSCAR
SALAZAR, RYAN KHOURY, SCOTT
CARPENTER, MATTHEW COREY,
MITCHELL CAPLAN, and TODD DAVIS,

Defendants.

Civil Action No. 22-10986-JSR

**DECLARATION OF EMILY YOUNG REGARDING (A) DISTRIBUTION
OF THE NOTICE, (B) MAINTENANCE OF THE SETTLEMENT
WEBSITE AND (C) PUBLICATION OF THE SUMMARY NOTICE**

I, Emily Young, declare as follows:

1. I am a Director at Epiq Corporate Restructuring (“Epiq” or the “Settlement Administrator”), the Court-approved settlement administrator of the proposed Settlement in the above-captioned action (the “Action”).

2. Pursuant to the Court’s March 13, 2024 Order Preliminarily Approving Settlement And Authorizing Dissemination Of Notice Of Settlement (ECF 84) (the “Preliminary Approval Order”), Epiq was authorized to act as the settlement administrator to complete, among other things, the tasks set forth below.

3. I am over 21 years of age and am not a party to the Action. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

TRANSMITTAL OF THE NOTICE

4. On April 1, 2024, Epiq began to disseminate electronically and by U.S. Mail the Notice Of (I) Pendency Of Class Action And Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion For Attorneys' Fees And Litigation Expenses (the "Notice"), attached hereto as Exhibit 1, to Class members in accordance with the Preliminary Approval Order.

5. The Notice advised Class members of the terms of the Settlement, the attorneys' fees and expenses expected to be requested, the incentive award expected to be requested, the deadline of May 7, 2024 to submit objections, and the fairness hearing set by the Court for May 28, 2024 at 3:00 p.m.

6. As of May 10, 2024, Epiq has sent 247 copies of the Notice to all known members of the Class.

7. Epiq has encountered no challenges in disseminating the Notice to the members of the Class.

SETTLEMENT WEBSITE

8. On April 1, 2024, Epiq created the settlement website—www.pioneermergercorpsettlement.com—to make the Notice available online and to provide Class members with easy access to other key materials.

9. In addition to the Notice, the website includes the (i) Amended Class Action Complaint; (ii) the Court's opinion on class certification dated November 1, 2023; (iii) the Court's denial of Defendants' motion to dismiss dated October 26, 2023; (iv) the Preliminary Approval Order; (v) Memorandum of Law in Support of Plaintiff's Motion for Final Approval of Settlement and Plan of Allocation (ECF 86); and (vi) Memorandum of Law in Support of Motion for Attorneys' Fees, Litigation Expenses, and Incentive Award (ECF 88).

10. The website will continue to be available to the Class until the final approval of the Settlement.

PUBLICATION OF SUMMARY NOTICE

11. On April 1, 2024, Epiq caused the Summary Notice to be published in Investors Business Daily. A copy of the publication is attached hereto as Exhibit 2.

12. On April 29, 2024, Epiq disseminated a press release with a copy of the Summary Notice through Global Newswire. A copy of the press release is attached hereto as Exhibit 3.

CLASS RESPONSE

13. As of May 10, 2024, Epiq is unaware of any Class member with objections to the Settlement.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Date: 05/14/2024



Emily Young

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

FUNICULAR FUNDS, LP, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

PIONEER MERGER CORP., PIONEER
MERGER SPONSOR LLC, JONATHAN
CHRISTODORO, RICK GERSON, OSCAR
SALAZAR, RYAN KHOURY, SCOTT
CARPENTER, MATTHEW COREY,
MITCHELL CAPLAN, and TODD DAVIS,

Defendants.

Civil Action No. 22-10986-JSR

**DECLARATION OF ATG FUND II LLC IN SUPPORT
OF LEAD PLAINTIFF'S MOTIONS FOR (A) FINAL
APPROVAL OF SETTLEMENT AND PLAN OF ALLOCATION;
AND (B) ATTORNEYS' FEES, LITIGATION EXPENSES, AND INCENTIVE AWARD**

GABRIEL GLIKSBERG declares as follows:

1. I am the portfolio manager of ATG Fund II LLC, a former Class A stockholder of Pioneer Merger Corp. ("Pioneer") and a member of the class certified in the above-captioned class action (the "Class").

2. I submit this declaration in support of the terms of the proposed class action settlement (the "Settlement") set forth in Lead Plaintiff's Motion for Final Approval of Settlement and Plan of Allocation (ECF 85) and Lead Counsel's Motion for Attorneys' Fees, Litigation Expenses, And Incentive Award (ECF 87).

3. The Settlement is a highly favorable result for the Class because it obtains a substantial majority of Pioneer's remaining assets for *pro rata* distribution solely to Class A stockholders (excluding Defendants), none of which would have been distributed to Class A stockholders in the absence of this litigation.

4. I also support Lead Plaintiff's request for an incentive award and Lead Counsel's request for attorneys' fees and expenses. Both appear reasonable and justified given the tremendous result of this litigation. In particular, we appreciate the substantial risks and expenses assumed by Funicular Funds, LP on behalf of the Class to achieve this outcome, and believe the amount requested is modest in light of the benefits created. Further, we appreciate Morris Kandinov LLP's willingness to litigate this matter diligently and expeditiously on a contingent basis for the benefit of the Class, and likewise support its request for attorneys' fees and expenses.

5. I respectfully request that the Court approve the Settlement and permit prompt distribution of the proceeds to the Class.

6. I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Date: 05/13/2024



Gabriel Glikberg

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

FUNICULAR FUNDS, LP, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

PIONEER MERGER CORP., PIONEER
MERGER SPONSOR LLC, JONATHAN
CHRISTODORO, RICK GERSON, OSCAR
SALAZAR, RYAN KHOURY, SCOTT
CARPENTER, MATTHEW COREY,
MITCHELL CAPLAN, and TODD DAVIS,

Defendants.

Civil Action No. 22-10986-JSR

**DECLARATION OF OSMAN OZSAN IN SUPPORT OF LEAD PLAINTIFF'S MOTIONS
FOR (A) FINAL APPROVAL OF SETTLEMENT AND PLAN OF ALLOCATION; AND (B)
ATTORNEYS' FEES, LITIGATION EXPENSES, AND INCENTIVE AWARD**

OSMAN OZSAN declares as follows:

1. I am the Chief Investment Officer of Deuterium Absolute Return Fund LP, a former Class A stockholder of Pioneer Merger Corp. ("Pioneer") and a member of the class certified in the above-captioned class action (the "Class").

2. I submit this declaration in support of the terms of the proposed class action settlement (the "Settlement") set forth in Lead Plaintiff's Motion for Final Approval of Settlement and Plan of Allocation (ECF 85) and Lead Counsel's Motion for Attorneys' Fees, Litigation Expenses, And Incentive Award (ECF 87).

1. The Settlement is a highly favorable result for the Class because it obtains a substantial majority of Pioneer's remaining assets for *pro rata* distribution solely to Class A stockholders (excluding Defendants), none of which would have been distributed to Class A stockholders in the absence of this litigation.

2. I also support Lead Plaintiff's request for an incentive award and Lead Counsel's request for attorneys' fees and expenses. Both appear reasonable and justified given the tremendous result of this litigation. In particular, we appreciate the substantial risks and expenses assumed by Funicular Funds, LP on behalf of the Class to achieve this outcome, and believe the amount requested is modest in light of the benefits created. Further, we appreciate Morris Kandinov LLP's willingness to litigate this matter diligently and expeditiously on a contingent basis for the benefit of the Class, and likewise support its request for attorneys' fees and expenses.

3. I respectfully request that the Court approve the Settlement and permit prompt distribution of the proceeds to the Class.

4. I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 13th day of May, 2024.

A handwritten signature in black ink, appearing to read "Osman Ozsan", written in a cursive style.

Osman Ozsan
Chief Investment Officer

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

FUNICULAR FUNDS, LP, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

PIONEER MERGER CORP., PIONEER
MERGER SPONSOR LLC, JONATHAN
CHRISTODORO, RICK GERSON, OSCAR
SALAZAR, RYAN KHOURY, SCOTT
CARPENTER, MATTHEW COREY,
MITCHELL CAPLAN, and TODD DAVIS,

Defendants.

Civil Action No. 22-10986-JSR

**DECLARATION OF METEORA IN SUPPORT OF LEAD PLAINTIFF’S MOTIONS
FOR (A) FINAL APPROVAL OF SETTLEMENT AND PLAN OF ALLOCATION; AND
(B) ATTORNEYS’ FEES, LITIGATION EXPENSES, AND INCENTIVE AWARD**

Vikas Mittal declares as follows:

1. I am the Managing Member of Meteora Select Trading Opportunities Master, LP, Meteora Special Opportunity Fund I, LP, Meteora Capital Partners, LP, (together “Meteora”) a former Class A stockholder of Pioneer Merger Corp. (“Pioneer”) and a member of the class certified in the above-captioned class action (the “Class”).

2. I submit this declaration in support of the terms of the proposed class action settlement (the “Settlement”) set forth in Lead Plaintiff’s Motion for Final Approval of Settlement and Plan of Allocation (ECF 85) and Lead Counsel’s Motion for Attorneys’ Fees, Litigation Expenses, And Incentive Award (ECF 87).

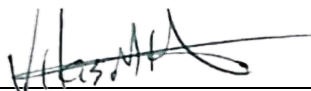
3. The Settlement is a highly favorable result for the Class because it obtains a substantial majority of Pioneer's remaining assets for *pro rata* distribution solely to Class A stockholders (excluding Defendants), none of which would have been distributed to Class A stockholders in the absence of this litigation.

4. I also support Lead Plaintiff's request for an incentive award and Lead Counsel's request for attorneys' fees and expenses. Both appear reasonable and justified given the tremendous result of this litigation. In particular, we appreciate the substantial risks and expenses assumed by Funicular Funds, LP on behalf of the Class to achieve this outcome, and believe the amount requested is modest in light of the benefits created. Further, we appreciate Morris Kandinov LLP's willingness to litigate this matter diligently and expeditiously on a contingent basis for the benefit of the Class, and likewise support its request for attorneys' fees and expenses.

5. I respectfully request that the Court approve the Settlement and permit prompt distribution of the proceeds to the Class.

6. I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 13th day of May, 2024.

/s/ 

Vikas Mittal

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

FUNICULAR FUNDS, LP, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

PIONEER MERGER CORP., PIONEER
MERGER SPONSOR LLC, JONATHAN
CHRISTODORO, RICK GERSON, OSCAR
SALAZAR, RYAN KHOURY, SCOTT
CARPENTER, MATTHEW COREY,
MITCHELL CAPLAN, and TODD DAVIS,

Defendants.

Civil Action No. 22-10986-JSR

**[PROPOSED] JUDGMENT AND ORDER
APPROVING CLASS ACTION SETTLEMENT**

WHEREAS, the above-captioned class action (the “Action”) is pending in this Court;

WHEREAS, lead plaintiff Funicular Funds, LP (“Lead Plaintiff”), on behalf of itself and the Class (defined below); and Pioneer Merger Corp., Pioneer Merger Sponsor LLC, Jonathan Christodoro, Rick Gerson, Oscar Salazar, Ryan Khoury, Scott Carpenter, Matthew Corey, Mitchell Caplan, and Todd Davis (collectively, the “Defendants”) have entered into a Stipulation and Agreement of Settlement, dated February 8, 2024 (the “Stipulation”), that provides for a complete dismissal with prejudice of the claims asserted against Defendants in the Action on the terms and conditions set forth in the Stipulation, subject to the approval of this Court (the “Settlement”);

WHEREAS, unless otherwise defined in this Judgment and Order Approving Class Action Settlement (the “Judgment”), the capitalized terms herein shall have the same meaning as they have in the Stipulation;

WHEREAS, by Order dated November 1, 2023 this Court granted Lead Plaintiff’s motion to certify the Class as “All persons who held Class A Public Shares of Pioneer as of the redemption date of January 13, 2023 whose shares were redeemed, including their legal representatives, heirs, successors-in-interest, transferees, and assignees of all such holders,” with enumerated exceptions for Defendants and affiliated parties (the “Class”).

WHEREAS, by Order dated March 13, 2024 (the “Preliminary Approval Order”), this Court: (a) found, pursuant to Rule 23(e)(1)(B) of the Federal Rules of Civil Procedure, that it would likely be able to approve the Settlement as fair, reasonable, and adequate under Rule 23(e); (b) ordered that notice of the proposed Settlement be provided to the Class; (c) provided Class Members with the opportunity to object to the proposed Settlement; and (d) scheduled a hearing regarding final approval of the Settlement;

WHEREAS, due and adequate notice has been given to the Class;

WHEREAS, the Court conducted a hearing on May 28, 2024 (the “Settlement Fairness Hearing”) to consider, among other things, (a) whether the terms and conditions of the Settlement are fair, reasonable, and adequate to the Class, and should therefore be approved; and (b) whether a judgment should be entered dismissing the Action with prejudice as against the Defendants; and

WHEREAS, the Court having reviewed and considered the Stipulation, all papers filed and proceedings held herein in connection with the Settlement, all oral and written comments received regarding the Settlement, and the record in this Action, and good cause appearing therefore;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. Jurisdiction. The Court has jurisdiction over the subject matter of the Action and all matters relating to the Settlement, as well as personal jurisdiction over all of the Parties and each of the Class Members for purposes of the Settlement.

2. Incorporation of Settlement Documents. This Judgment incorporates and makes a part hereof the Stipulation, the Notice, and the Summary Notice filed with the Court on February 9, 2024 (ECF 81).

3. Notice. The Court finds that the dissemination of the Notice and Summary Notice (a) were implemented in accordance with the Preliminary Approval Order, with the exception below, which the Court hereby ratifies; (b) constituted the best notice practicable under the circumstances; (c) constituted notice that was reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Action, the effect of the proposed Settlement (including the Releases to be provided thereunder), Lead Plaintiff and Lead Counsel's motion for attorneys' fees, expenses and incentive award; their right to object to any aspect of the Settlement, the Plan of Allocation, and/or the motion for fees and expenses; and their right to appear at the Settlement Fairness Hearing; (d) constituted due, adequate, and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and (e) satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 77z-1, as amended, and all other applicable law and rules. The Court was advised that as to the publication of the Summary Notice by press release, the settlement administrator failed to do so within ten business days after the April 2, 2024 Notice Date, but did so on April 29, 2024, sufficiently in advance of the Settlement Fairness Hearing.

4. Final Settlement Approval and Dismissal of Claims. Pursuant to, and in accordance with, Rule 23(e)(2) of the Federal Rules of Civil Procedure, this Court hereby fully and finally approves the Settlement set forth in the Stipulation in all respects (including, without limitation: the amount of the Settlement; the Releases provided for therein; and the dismissal with prejudice of the claims asserted against Defendants in the Action), and finds that the Settlement is, in all respects, fair, reasonable, and adequate to the Class. Specifically, the Court finds that: (a) Lead Plaintiff and Lead Counsel have adequately represented the Class; (b) the Settlement was negotiated by the Parties at arm's length; (c) the relief provided for the Class under the Settlement is fair, reasonable, and adequate taking into account the costs, risks, and delay of further litigation, the proposed means of distributing the Settlement Fund to the Class, and the proposed fee and expense award; and (d) the Settlement treats members of the Class equitably relative to each other. The Parties are directed to implement, perform, and consummate the Settlement in accordance with the terms and provisions contained in the Stipulation.

5. All Released Claims of Lead Plaintiff and the Class Members, including all claims asserted against Defendants in the Action, are hereby dismissed with prejudice. The Parties shall bear their own costs and expenses, except as otherwise expressly provided in the Stipulation.

6. Binding Effect. The terms of the Stipulation and of this Judgment shall be forever binding on Defendants, Lead Plaintiff, and all Class Members, as well as their respective successors and assigns.

7. Releases. The Releases set forth in Section 6 of the Stipulation, together with the definitions contained in Section 1 of the Stipulation relating thereto, are expressly incorporated herein in all respects. The Releases are effective as of the Effective Date. Accordingly, this Court orders that:

a. Without further action by anyone, and subject to paragraph 8 below, upon the Effective Date of the Settlement, Lead Plaintiff and all Class Members, on behalf of themselves and their respective predecessors, successors, assigns, heirs, representatives, administrators, executors, devisees, legatees, and estates in their capacities as such only, shall be deemed to have, and by operation of law and of this Judgment shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, discharged, and dismissed with prejudice any and all of the Released Claims against the Defendants and shall forever be barred and enjoined from directly or indirectly commencing, instituting, participating in, prosecuting, or continuing to prosecute any action or other proceeding in any court of law or equity, arbitration, tribunal, administrative forum, or any other forum, asserting any or all of the Released Claims.

b. Without further action by anyone, and subject to paragraph 8 below, upon the Effective Date of the Settlement, Defendants, on behalf of themselves and their respective predecessors, successors, assigns, heirs, representatives, administrators, executors, devisees, legatees, and estates in their capacities as such only, shall be deemed to have, and by operation of law and of this Judgment shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged any or all of the Released Claims against Lead Plaintiff and the members of the Class, and shall forever be barred and enjoined from directly or indirectly commencing, instituting, participating in, prosecuting, or continuing to prosecute any action or other proceeding in any court of law or equity, arbitration, tribunal, administrative forum, or any other forum, asserting any or all of the Released Claims.

8. Nothing in this Judgment shall bar any action by any of the Parties to enforce or effectuate the terms of the Stipulation or this Judgment.

9. Rule 11 Findings. The Court finds and concludes that the Parties and their respective counsel have complied in all respects with the requirements of Rule 11 of the Federal Rules of Civil Procedure in connection with the institution, prosecution, defense, and settlement of the Action.

10. No Admissions. Neither this Judgment, the Term Sheet, the Stipulation, or the negotiation of the foregoing:

a. shall be offered against any of the Defendants as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Defendants with respect to the truth of any fact alleged by Lead Plaintiff or the validity of any claim that was or could have been asserted or the deficiency of any defense that has been or could have been asserted in this Action or in any other litigation, or of any liability, negligence, fault, or other wrongdoing of any kind of any of the Defendants, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; or

b. shall be offered against Lead Plaintiff as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by Lead Plaintiff that any of its claims are without merit, that any of the Defendants had meritorious defenses, or that damages recoverable under the Amended Complaint would not have exceeded the Settlement Amount, or with respect to any liability, negligence, fault, or wrongdoing of any kind, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation.

11. Retention of Jurisdiction. Without affecting the finality of this Judgment in any way, this Court retains continuing and exclusive jurisdiction over: (a) the Parties for purposes of the administration, interpretation, implementation, and enforcement of the Settlement; (b) the disposition of the Settlement Fund; (c) any motion for an award of attorneys' fees and/or Litigation

Expenses by Lead Counsel in the Action that will be paid from the Settlement Fund; (d) any motion to approve the Plan of Allocation; (e) any motion to approve the Class Distribution Order; (f) the Class Members for all matters relating to the Settlement of this Action; and (g) any matter relating to Continental Casualty Company Policy No. 652304448 at issue in the Settlement, including any dispute regarding such policy or distribution of proceeds thereunder.

12. Separate orders shall be entered regarding approval of the Plan of Allocation and Lead Plaintiff and Lead Counsel's Motion for Attorneys' Fees, Litigation Expenses, and Incentive Award. Such orders shall in no way affect or delay the finality of this Judgment and shall not affect or delay the Effective Date of the Settlement.

13. Modification of the Agreement of Settlement. Without further approval from the Court, Lead Plaintiff and Defendants are hereby authorized to agree to and adopt such amendments or modifications of the Stipulation or any exhibits attached thereto to effectuate the Settlement that: (a) are not materially inconsistent with this Judgment; and (b) do not materially limit the rights of Class Members in connection with the Settlement. Without further order of the Court, Lead Plaintiff and Defendants may agree to reasonable extensions of time to carry out any provisions of the Settlement.

14. Termination of Settlement. If the Settlement is terminated as provided in the Stipulation or if the Effective Date of the Settlement otherwise fails to occur, this Judgment shall be vacated and rendered null and void, and shall be of no further force and effect, except as otherwise provided by the Stipulation, and this Judgment shall be without prejudice to the rights of Lead Plaintiff, the Class, and Defendants, and Lead Plaintiff and Defendants shall revert to their respective positions in the Action as of immediately prior to the execution of the Term Sheet on December 20, 2023, as provided in the Stipulation.

15. Entry of Final Judgment. There is no just reason to delay the entry of this Judgment as a final judgment in this Action. Accordingly, the Clerk of the Court is expressly directed to immediately enter this final judgment in this Action.

SO ORDERED this _____ day of _____, 2024.

The Honorable Jed S. Rakoff
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

FUNICULAR FUNDS, LP, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

PIONEER MERGER CORP., PIONEER
MERGER SPONSOR LLC, JONATHAN
CHRISTODORO, RICK GERSON, OSCAR
SALAZAR, RYAN KHOURY, SCOTT
CARPENTER, MATTHEW COREY,
MITCHELL CAPLAN, and TODD DAVIS,

Defendants.

Civil Action No. 22-10986-JSR

**[PROPOSED] ORDER APPROVING
PLAN OF ALLOCATION OF NET SETTLEMENT FUND**

This matter came on for hearing on May, 28, 2024 (the “Settlement Fairness Hearing”) on Lead Plaintiff’s Motion for Final Approval of Settlement and Plan of Allocation (the “Approval Motion”) to determine whether to approve the proposed plan of allocation of the Net Settlement Fund (“Plan of Allocation”) created by the Settlement in the above-captioned class action (the “Action”). The Court has considered all matters submitted to it at the Settlement Fairness Hearing and it appears that the Notice of the Settlement and Settlement Fairness Hearing, substantially in the form approved by the Court, was transmitted to all Class Members, and that a summary notice of the Settlement Fairness Hearing substantially in the form approved by the Court was published in the *Investor’s Business Daily* and transmitted over the *Global Newswire*. The Court, having

considered and determined the fairness and reasonableness of the Plan of Allocation, holds as follows.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. This Order incorporates by reference the definitions in the Stipulation and Agreement of Settlement, dated February 8, 2024 (the “Stipulation”), and all capitalized terms not otherwise defined in this Order shall have the same meaning as they have in the Stipulation.

2. The Court has jurisdiction to enter this Order and over the subject matter of the Action and all Parties to the Action, including all Class Members.

3. Notice of the Approval Motion, including the Plan of Allocation, was provided to all Class Members. The form and method of notifying the Class of the Plan of Allocation satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), and all other applicable law and rules; and constituted due and sufficient notice to all persons and entities entitled thereto.

4. 247 copies of the Notice, which included the proposed Plan of Allocation, were transmitted to Class Members and there were no objections to the Plan of Allocation.

5. The Court hereby finds and concludes that a *pro rata* distribution of the Net Settlement Fund, as set forth in the Notice transmitted to Class Members, provides a fair and reasonable basis upon which to allocate the proceeds of the Net Settlement Fund among the Class.

6. The Court hereby finds and concludes that the Plan of Allocation is, in all respects, fair and reasonable to the Class. Accordingly, the Court hereby approves the Plan of Allocation proposed by Lead Plaintiff.

7. Exclusive jurisdiction is hereby retained over the Parties, the Class Members, and all relevant persons for (i) the administration, interpretation, effectuation, or enforcement of the

Stipulation and this Order; and (ii) all matters and disputes relating to Continental Casualty Company Policy No. 652304448, as described in the Stipulation, including with respect to any further distribution of proceeds obtained thereunder.

8. There is no just reason for delay in the entry of this Order, and immediate entry by the Clerk of the Court is expressly directed.

SO ORDERED this _____ day of _____, 2024.

The Honorable Jed S. Rakoff
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

FUNICULAR FUNDS, LP, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

PIONEER MERGER CORP., PIONEER
MERGER SPONSOR LLC, JONATHAN
CHRISTODORO, RICK GERSON, OSCAR
SALAZAR, RYAN KHOURY, SCOTT
CARPENTER, MATTHEW COREY,
MITCHELL CAPLAN, and TODD DAVIS,

Defendants.

Civil Action No. 22-10986-JSR

**[PROPOSED] ORDER AWARDING ATTORNEYS’
FEES, LITIGATION EXPENSES AND INCENTIVE AWARD**

This matter came on for hearing on May 28, 2024 (the “Settlement Fairness Hearing”) on Lead Plaintiff’s Motion for Attorneys’ Fees, Litigation Expenses, and Incentive Award (the “Fee Motion”) (ECF 87) in the above-captioned class action (the “Action”). The Court has considered all matters submitted to it at the Settlement Fairness Hearing and it appears that the Notice of the Settlement and Settlement Fairness Hearing, substantially in the form approved by the Court, was transmitted to all Class Members, and that a summary notice of the Settlement Fairness Hearing substantially in the form approved by the Court was published in the *Investor’s Business Daily* and transmitted over the *Global Newswire*. The Court, having considered and determined the fairness and reasonableness of the fees and expenses requested in the Fee Motion, holds as follows.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. This Order incorporates by reference the definitions in the Stipulation and Agreement of Settlement, dated February 8, 2024 (the “Stipulation”). All capitalized terms not otherwise defined in this Order shall have the same meaning as they have in the Stipulation.

2. The Court has jurisdiction to enter this Order and over the subject matter of the Action and all Parties to the Action, including all Class Members.

3. Notice of the Fee Motion was given to all Class Members. The form and method of notifying the Class satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), and all other applicable law and rules; and constituted due and sufficient notice to all persons and entities entitled thereto.

4. In making this award of attorneys’ fees and expenses to be paid from the Settlement Fund, the Court has considered and found that:

(a) The Settlement has created a fund of at least \$13,000,000 in cash pursuant to the terms of the Stipulation, and that all Class Members will benefit from the Settlement that occurred because of the efforts of Lead Plaintiff and Lead Counsel.

(b) Copies of the Notice were disseminated to Class Members electronically and by U.S. Mail, which stated, among other things, that Lead Plaintiff and Lead Counsel would apply for an award of attorneys’ fees in an amount not to exceed 30% of the Settlement Fund, payment of litigation expenses in an amount not to exceed \$600,000, and an incentive award not to exceed \$195,000, and there were no objections;

(c) Lead Counsel diligently and expeditiously prosecuted this novel litigation on a contingent basis resulting in the Settlement, and committed over 2,000 hours of attorney time with a lodestar value of approximately \$2.31 million;

(d) Lead Counsel and Lead Plaintiff incurred \$507,253.50 in out-of-pocket expenses in the pursuit of this Action, which are reasonable in amount and of the type customarily reimbursed in actions such as this;

(e) The Action raised complex and nascent issues about the entitlement of stockholders to the assets of a SPAC, regarding which the parties vigorously disagreed, and thus the Action involved substantial risks to Lead Counsel and Lead Plaintiff;

(f) Lead Plaintiff, in particular, assumed significant risk in this Action through disruption of its business resulting from the litigation and substantial out-of-pocket expenses incurred on behalf of the Class in furtherance of this Action;

(g) If Lead Plaintiff and Lead Counsel had not prosecuted this litigation and achieved the Settlement, Class Members would not have received a distribution from the SPAC's remaining assets; and

(h) The amount of fees and expenses requested from the Settlement Fund are fair and reasonable under the circumstances and consistent with awards in similar cases.

5. Lead Counsel is hereby awarded attorneys' fees in the amount of 30% of the Settlement Fund (including interest earned at the same rate as the Settlement Fund), which sum the Court finds to be fair and reasonable. Lead Counsel is also hereby awarded \$507,253.50 in reimbursement of reasonably and necessarily incurred litigation expenses to be paid from the Settlement Fund, which sum the Court finds to be fair and reasonable.

6. Lead Plaintiff is hereby awarded \$195,000.00 from the Settlement Fund as an incentive award in recognition of its vigorous representation of the Class and the risks, burden and expenses it assumed in obtaining the Settlement for the benefit of all Class A stockholders.

7. Any appeal or any challenge affecting this Order shall in no way disturb or affect the finality of the Judgment.

8. Exclusive jurisdiction is hereby retained over the Parties, the Class Members, and all relevant persons for (i) the administration, interpretation, effectuation, or enforcement of the Stipulation and this Order; and (ii) all matters and disputes relating to Continental Casualty Company Policy No. 652304448, as described in the Stipulation, including with respect to any further distribution of proceeds obtained thereunder.

9. There is no just reason for delay in the entry of this Order, and immediate entry by the Clerk of the Court is expressly directed.

SO ORDERED this _____ day of _____, 2024.

The Honorable Jed S. Rakoff
United States District Judge