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

BLUE FLAME MEDICAL LLC, Plaintiff, v. CHAIN BRIDGE BANK, N.A., JOHN J. BROUGH, and DAVID M. EVINGER, Defendants.	**Civil Action No. 1:20-cv-00658**
CHAIN BRIDGE BANK, N.A, Third-Party Plaintiff, v. JPMORGAN CHASE BANK, N.A., Third-Party Defendant.	

MEMORANDUM IN SUPPORT OF THIRD-PARTY PLAINTIFF CHAIN BRIDGE BANK, N.A.'S MOTION TO ESTABLISH THE AMOUNT OF INDEMNIFIED FEES AND EXPENSES TO BE AWARDED FROM THIRD-PARTY DEFENDANT JPMORGAN CHASE BANK, N.A.

On September 23, 2021, this Court granted summary judgment to Chain Bridge Bank, N.A. (Chain Bridge) on its third-party indemnification claim against JPMorgan Chase Bank, N.A. (JPMC). Dkts. 175-177. The Court held that, under UCC Article 4A as adopted by Federal Reserve regulations, JPMC must indemnify Chain Bridge for "any loss and expenses, including reasonable attorney's fees, incurred by the bank as a result of [JPMC's] cancellation" of its wire transfer. UCC § 4A-211(f). The Court explained that "this civil action undoubtedly resulted from the reversal of the wire transfer." Dkt. 175 at 31. Accordingly, Chain Bridge is entitled to indemnification for all reasonable fees and expenses it incurred in litigating the case.

Chain Bridge now moves to establish the amount of those indemnified fees and expenses incurred to date (recognizing that it likely will incur additional indemnified fees and expenses going forward). *See* Dkt. 179 (10/7/21 Scheduling Order). As is set forth in the accompanying Burke Declaration[1] and its exhibits, Chain Bridge incurred **$5,935,978.52** in fees and expenses as a result of JPMC's cancellation, through September 30, 2021. Specifically, Chain Bridge has paid:

(a) its litigation counsel, Robbins, Russell, Englert, Orseck & Untereiner LLP, attorney's fees of $4,557,906.50 and expenses of $203,424.17;

(b) an expert-consulting firm (Analysis Group) fees of (i) $509,732.75 associated with bank compliance expert Charles Grice, (ii) $309,765.00 associated with N95 mask supply expert Mark Faulkner, and (iii) $188,044.50 associated with damages expert Laura Stamm;

(c) expert Grice's separate consulting firm (CRI Compliance) fees of $31,280.00 associated with his separate engagement concerning indemnification issues; and

(d) its insurance-coverage counsel, Weisbrod Matteis & Copley PLLC, fees of $158,650.50 relating to legal advice about the assertion of coverage for Blue Flame's claims.

Those fees and expenses were reasonably incurred by Chain Bridge in the litigation of this complex case. Plaintiff Blue Flame Medical LLC alleged damages exceeding half a billion dollars. And Chain Bridge's successful defense against each of Blue Flame's ten claims ultimately benefits JPMC because JPMC would have been obligated to indemnify any judgment against Chain Bridge. Chain Bridge's successful defense also ultimately benefits JPMC's customer, the State of

[1] Declaration of Donald Burke In Support Of Third-Party Plaintiff Chain Bridge Bank, N.A.'s Motion To Establish The Amount Of Indemnified Fees And Expenses To Be Awarded From Third-Party Defendant JPMorgan Chase Bank, N.A.

California, to the extent that California must indemnify JPMC (as JPMC has separately asserted). Chain Bridge and JPMC thus worked hand in glove to defend against Blue Flame's lawsuit by sharing discovery responsibilities, jointly sponsoring two expert witnesses, and otherwise working together in their common and mutual interest.

JPMC nevertheless has advised Chain Bridge that JPMC contends that Chain Bridge's fees and expenses are *not* indemnified to the extent that they relate to (i) Chain Bridge's defense against Blue Flame's state-law causes of action, or (ii) Chain Bridge's enforcement of JPMC's indemnification obligation. Those objections are without merit.

As this Court has already held, Blue Flame's lawsuit resulted from JPMC's wire cancellation. *See* Dkt. 175 at 31. That is no less true of Blue Flame's state-law claims than of its UCC claims. And JPMC's indemnification obligation results directly from its wire cancellation. So too, then, do the steps that Chain Bridge was forced (by JPMC) to take to enforce that obligation. JPMC's contrary position is unsupported by the text and purpose of UCC § 4A-211(f). That provision expressly covers "***any*** loss and expenses" (*id.* (emphasis added)) so as to ensure that, when a receiving bank (such as Chain Bridge) agrees to the cancellation of a wire by its sender, it will "not incur a risk of loss in doing so" (UCC 4A-211 cmt. 5). This Court held that JPMC's three arguments to avoid this straightforward statutory indemnification requirement were "unpersuasive" (Dkt. 175 at 28), "incorrect[]" (*id.* at 29), and "weak" (*id.* at 31). JPMC's insistence that Chain Bridge nevertheless must bear the significant cost of vindicating its clear right under the statute should be rejected.

BACKGROUND

Blue Flame filed its lawsuit against Chain Bridge on June 12, 2020. Dkt. 1. Blue Flame alleged that Chain Bridge had impermissibly returned funds to JPMC that JPMC's customer, California, had wired to Chain Bridge's customer, Blue Flame. *See id.* ¶ 78. The complaint included ten causes of action under federal and state law against Chain Bridge based upon its return of the wire to JPMC. Specifically, Blue Flame claimed that Chain Bridge's return of the funds to JPMC violated two UCC provisions adopted by Federal Reserve Regulation J (Counts I & II), converted Blue Flame's property (Count III), tortiously interfered with Blue Flame's contract and business expectancy (Counts IV & V), revealed that Chain Bridge had fraudulently misrepresented its willingness to handle the California wire transfer (Counts VI & VII), was negligent (Count VIII), was triggered by defamatory statements about Blue Flame (Count IX), and breached Chain Bridge's account agreement with Blue Flame (Count X).

Chain Bridge moved to dismiss the complaint (Dkts. 18 & 19), which this Court granted in part and denied in part (Dkt. 31 (dismissing Counts III, VI, VII, VIII, and X)). Chain Bridge then answered Blue Flame's remaining counts, and asserted defenses and counterclaims. Dkt. 38. The Court dismissed Chain Bridge's counterclaims. Dkt. 67.

On October 13, 2020, Chain Bridge filed its third-party complaint against JPMC. Dkt. 43. Chain Bridge claimed that JPMC, having cancelled the California wire transfer, is liable under UCC § 4A-211(f), as adopted by Federal Reserve Regulation J, to indemnify Chain Bridge for "any loss and expenses, including reasonable attorney's fees" that it incurs as a result of that cancellation. Dkt. 43. JPMC answered the third-party complaint on November 16, 2020, Dkt. 64, denying that it had any indemnification obligation and denying that it had cancelled the California wire transfer in the first place, *id.* ¶ 10.

There was extensive discovery on all aspects of the case. The parties and California produced more than 230,000 pages of documents—the bulk of which comprised Blue Flame's production of more than 213,000 pages of documents in response to Chain Bridge's document requests. There were 18 fact depositions, including five Blue Flame employees or agents, six Chain Bridge witnesses, five California witnesses, and two JPMC witnesses.

Expert discovery was also substantial; 8 experts submitted 10 reports and sat for 9 days of depositions. Chain Bridge and JPMC jointly sponsored two experts, one on N95 mask supply and the other in rebuttal to Blue Flame's damages allegations. Chain Bridge and JPMC also each sponsored separate experts on banking compliance, BSA/AML obligations, and the reasonableness of each bank's actions in response to the suspicious California wire transfer. Blue Flame sponsored its own experts on banking compliance, damages, and in rebuttal to Chain Bridge and JPMC's N95 mask-supply expert. And Chain Bridge and JPMC each had an expert on wire cancellation and indemnification (although Chain Bridge's expert was the same as its banking-compliance expert, which reduced duplication of effort and expense).

All parties moved for summary judgment, with the result being that Chain Bridge filed three summary-judgment briefs as to Blue Flame's claims and three summary-judgment briefs as to Chain Bridge's claims against JPMC. The Court held a hearing on July 28, 2021 (Dkts. 167 & 169), and on September 23 it granted summary judgment in favor of Chain Bridge on all of Blue Flame's remaining claims and on Chain Bridge's third-party complaint against JPMC (Dkts. 175 & 176). The Court entered judgment that same day. Dkt. 177. The Court's summary judgment order instructed Chain Bridge and JPMC to brief "the amount of attorney's fees and expenses to be awarded to Chain Bridge" if the parties were unable to resolve that issue. Dkt. 176 at 2. On October 7, the Court entered a briefing schedule on the amount of Chain Bridge's fees and expenses. Dkt. 179.

ARGUMENT

I. CHAIN BRIDGE HAS ESTABLISHED INDEMNIFIED FEES AND EXPENSES

Chain Bridge's indemnified fees and expenses, through September 30, 2021, total **$5,935,978.52**. The accompanying Burke Declaration and its exhibits establish how and when Chain Bridge incurred and paid those fees and expenses for legal and expert services associated with the cancellation and this civil action. The exhibits provide more than sufficient and customary detail on the purpose and nature of each fee and expense.

Chain Bridge reasonably incurred those fees and expenses to litigate this hard-fought, complex, tripartite, half-a-billion-dollar case over the fallout from JPMC's cancellation of the California wire transfer. Discovery was intense and voluminous. Numerous experts were called upon to assist the parties and the Court in navigating the facts and background regulations. Summary judgment was hotly contested on all sides, with multiple rounds of briefing on all parties' competing motions. And Blue Flame's imaginative claims raised insurance-coverage issues on which Chain Bridge required counsel.

Chain Bridge's litigation counsel, Robbins Russell, both defended against Blue Flame's claims and prosecuted Chain Bridge's third-party claim against JPMC. Robbins Russell deployed a six-lawyer team of partners and associates, supported by discovery attorneys, paralegals, and other staff. All told, that team devoted nearly 6,700 hours to this case over 16 months. It billed its partners' time at between $925 and $975/hour, associates at $515 to $660/hour, and discovery attorneys, paralegals, and others at $370/hour or less. In keeping with Chain Bridge's modest size, as a one-branch national bank located in McLean, Virginia, as well as the economic realities and legal-expense sensitivities surrounding the COVID-19 pandemic, those hourly rates reflect substantial reductions on Robbins Russell's customary fees. Robbins Russell then further reduced

Chain Bridge's bills by applying discretionary courtesy discounts totaling $50,000 as well as other write-offs totaling $18,437.50. All of those discounts and reductions now benefit JPMC (or California) as the ultimate payor.

On the other side of the ledger, Blue Flame and JPMC were ably represented by skilled and zealous advocates. Blue Flame retained Schulte, Roth & Zabel LLP, which assigned at least six attorneys to this case from its New York and Washington D.C. offices. For its part, JPMC retained Wilmer Cutler Pickering Hale & Dorr LLP, which put at least seven attorneys on this case from its New York, Boston, Washington, D.C., and Denver offices. There is every reason to believe that those firms devoted many hours, and billed substantial fees, to this case at hourly rates comparable to (if not substantially higher than) Robbins Russell's.[2]

Chain Bridge's and JPMC's counsel coordinated closely throughout the case on the defense against Blue Flame's claims. And they jointly sponsored two experts. JPMC's counsel took the lead role in defending one of the jointly sponsored experts, and participated in every other deposition in the case. All along, and without conceding its indemnification obligation, JPMC made clear that it expected to be apprised of and consulted on significant defense decisions concerning Blue Flame's case. And it was. JPMC never once asserted that any of Chain Bridge's efforts in its defense of this case were unnecessary or unreasonable.

The reasonableness of Chain Bridge's expert-related fees and expenses is also not plausibly in dispute. Once again, two of Chain Bridge's experts—Mark Faulkner (the N95 mask-supply expert) and Laura Stamm (the damages expert)—were jointly sponsored by JPMC, which paid its share of the bills without objection. Chain Bridge's fees associated with banking-compliance

[2] Chain Bridge asked JPMC to produce its counsel's and experts' invoices for their work in connection with this action, to be used as evidence of the reasonableness of the hours, fees, and rates expended by Chain Bridge's counsel and experts. JPMC has thus far declined to make such a production.

expert Charles Grice are also reasonable given the very substantial document review that was necessary for him to be able to opine, in his 59-page report, on the reasonableness of the steps that Chain Bridge took in response to the California wire transfer and JPMC's cancellation. And Chain Bridge conserved resources by asking Grice also to opine, separately, on indemnification-related issues at only a modest additional expense. (JPMC, by contrast, retained and paid separate experts to opine on compliance and indemnification.)

Finally, Chain Bridge retained insurance-coverage counsel, Weisbrod Matteis & Copley PLLC, to advise it on the questions associated with whether Blue Flame's claims were covered by Chain Bridge's insurance policies. Just as this civil action was caused by JPMC's wire cancellation—as this Court has already concluded (*see* Dkt. 175 at 31)—so too did the cancellation result in Chain Bridge's need for legal advice about the insurance-coverage issues this civil action raised. And for that advice Chain Bridge paid appropriately modest fees that were but a tiny fraction of the potential insurance claims at issue.

II. JPMC'S OBJECTIONS ARE MERITLESS

JPMC has told Chain Bridge that it principally objects to two categories of fees and expenses being included in the indemnified amount. *First*, it contends that fees and expenses associated with Chain Bridge's defense against Blue Flame's state-law claims (as opposed to Blue Flame's UCC claims) are not covered by Section 211(f). *Second*, it argues that the fees and expenses that Chain Bridge incurred in enforcing JPMC's indemnification obligation are not included within "any loss and expenses . . . incurred by [Chain Bridge] as a result of the cancellation" under Section 211(f). Neither objection has merit.

A. The fees and expenses that Chain Bridge incurred defending against Blue Flame's state-law claims are no less indemnified, under Section 211(f), than the fees and expenses that Chain

Bridge incurred defending against Blue Flame's UCC claims. Blue Flame made all of those claims against Chain Bridge as a result of the wire cancellation. This Court already held that JPMC's contrary causation argument is "weak" because "*this civil action* undoubtedly resulted from [JPMC's] reversal of the wire transfer." Dkt. 175 at 31 (emphasis added). Indeed, it is simply implausible that Blue Flame would have sued Chain Bridge on *any* of its causes of action had it not been for Chain Bridge's return of the wire to JPMC in response to JPMC's cancellation. That should be the end of the matter.

Nor is the substance of Blue Flame's state-law claims somehow unrelated to the cancellation. This Court dismissed five of those state-law claims on preemption grounds because those claims were based on the very same alleged conduct as Blue Flame's UCC claims. *See* Dkt. 31, Dkt. 32. As for the three state-law claims that survived dismissal, Blue Flame's two-count theory of tortious interference was that Chain Bridge used "improper methods" such as "violating Regulation J" by returning the wired funds to JPMC instead of paying them to Blue Flame. Dkt. 159 at 16; *see also* Dkt. 149 at 27 (alleging that Chain Bridge tortiously interfered by "violat[ing] applicable banking regulations"). In other words, Blue Flame's tortious interference claims were *explicitly premised* on Chain Bridge's decision to honor JPMC's cancellation request. Likewise, the gravamen of Blue Flame's defamation claim was that Chain Bridge caused JPMC's cancellation, and so was responsible for it, through its discussions with California officials. *See* Dkt. 149 at 30 (alleging that Chain Bridge defamed Blue Flame to trigger the wire cancellation "to protect its own financial interests"). Had there been no cancellation, there would have been no need for Blue Flame to try to blame Chain Bridge for it.[3]

[3] Solely for purposes relating to Chain Bridge's discussions with its insurers, Robbins Russell separately billed its fees and expenses related solely to defending against Blue Flame's defamation claim. Those fees

In any event, courts have rejected indemnitors' attempts to rely on the breadth of plaintiffs' claims against indemnitees to limit the indemnitors' obligations. "'The right to indemnification for litigation expenses should not depend on the pleading choices of a third party, who through an excess of caution or optimism may allege far more than he can prove at trial.'" *Pike Creek Chiropractic Center, P.A. v. Robinson*, 637 A.2d 418, 421 (Del. 1994) (quoting *Piedmont Equip. Co. v. Eberhard Mfg. Co.*, 665 P.2d 256, 259-60 (Nev. 1983)). An indemnitee should not be deprived of an express "right to be held harmless and indemnified . . . simply by virtue of the meritless pleading allegations of a third party." *Id.* at 422. As the Court has already recognized, there is no triable issue of material fact that Chain Bridge defamed Blue Flame or tortiously interfered with its contracts or business. The presence of those meritless claims in this lawsuit do not undercut JPMC's indemnification obligation under Section 211(f).

B. The fees and expenses that Chain Bridge incurred to enforce JPMC's indemnification obligation are also indemnified under Section 211(f), as is made clear by that provision's plain text and purpose. JPMC's indemnification obligation arises, under Section 211(f), directly from its cancellation of the California wire transfer after Chain Bridge had accepted it. As the cancelling sender, JPMC "is liable to the [receiving] bank for ***any loss and expenses***, including reasonable attorney's fees, incurred by the bank ***as a result of the cancellation***." UCC § 4A-211(f) (emphasis added). The fees and expenses that Chain Bridge has incurred (and continues to incur) to enforce JPMC's indemnification obligation are a direct and proximate result of JPMC's cancellation. Chain Bridge would not have had to incur those fees and expenses were it not for JPMC's cancellation of its wire transfer, and they flow directly from litigation over that cancellation.

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and expenses, which generally consisted of researching and writing sections of briefs focused only on the defamation claim, and preparing for oral argument specific to that claim, totaled $23,396.50.

Section 211(f)'s broad coverage of "any loss and expenses" is consistent with its intended purpose. Its drafters explained that "a sender has no right to cancel a payment order after it is accepted by the receiving bank," and that when a receiving bank nevertheless "agrees to cancellation" it does so "as an accommodation to the sender *and it should not incur a risk of loss in doing so*." UCC § 4A-211 cmt. 5 (emphasis added). The cancelling sender thus assumes "absolute liability" for *all* of the receiving bank's resulting losses and expenses. *Banca Commerciale Italiana, N.Y. Branch v. Northern Tr. Int'l Banking Corp.*, 160 F.3d 90, 94 (2d Cir. 1998). The intent is to provide receiving banks full confidence that they will be held harmless if they agree to wire cancellations. It would frustrate that purpose if receiving banks were instead left holding the bag for significant fees and expenses if the sender repudiates its indemnification obligation and litigates over it—as JPMC did here. That is especially true in this case, given that the Court held JPMC's efforts to avoid its indemnification obligations to be insubstantial. Dkt. 175 at 27-31. The whole point of Section 211(f) is to encourage receiving banks (like Chain Bridge) not to reject the cancellation of suspicious, potentially fraudulent wire transfers merely to avoid a risk of incurring resulting expenses. The statute does so by expressly putting *all* that risk on the sending bank (or its customer) that makes the cancellation.[4]

In similar contexts, courts have routinely held that broadly worded indemnification provisions, like Section 211(f)'s, cover an indemnitee's expenses to establish its right to indemnification. Delaware's Supreme Court, for instance, addressed a contract that required an employee to hold harmless and indemnify his employer "against any liabilities and expenses,

[4] At JPMC's request, Chain Bridge calculated the fees and expenses that it incurred to litigate its third-party claims. They consist of $343,929.50 to Robbins Russell and $31,280 to CRI Compliance ($375,209.50 total). Those fees and expenses largely correspond to activities such as researching and drafting the complaint, drafting summary judgment briefs in the third-party action, and work involving expert opinions on the indemnification claims. Those are tasks that would not have been required but for JPMC's refusal to acknowledge its indemnification obligation.

including attorney's fees which result from any acts and [omissions] of the [e]mployee." *Pike Creek*, 637 A.2d at 419-20. The court held that the "very broad" scope of that obligation's text—which is practically indistinguishable from Section 211(f)'s—covered the employer's "attorneys' fees incurred in enforcing the Indemnification Clause." *Id.* at 422. The indemnitee, the court explained, would not be "'held harmless if it must incur costs and attorney's fees in bringing suit to recover on the indemnity clause,'" and that the indemnitor could have avoided imposing "'such costs and attorney's fees by paying the amount due without the necessity of suit.'" *Id.* at 422-23 (quoting *Manson-Osberg v. State*, 552 P.2d 654, 660 (Alaska 1976)).

Delaware later applied the same reasoning to an indemnification provision in its corporate law, 8 Del. C. § 145(a), providing for corporations to indemnify directors' and officers' "expenses (including attorneys' fees)" that those individuals incur as the result of proceedings brought against them by reason of their positions with the corporation. *See Stifel Fin. Corp. v. Cochran*, 809 A.2d 555 (Del. 2002). "[I]t is appropriate to award attorneys' fees for time spent on a fee application" against the corporation, the court concluded, because leaving the burden of those costs on the indemnified party would be "inimical to the interests" of that party and contrary to the purpose of the indemnification statute. *Id.* at 560-61.[5]

[5] *See also, e.g.*, *Chesapeake & Potomac Tel. Co. of Va. v. Sisson & Ryan*, 362 S.E.2d 723, 729 (Va. 1987) (holding that an "[indemnitee] is entitled to recover its attorneys' fees from [the indemnitor]" pursuant to a contractual indemnification provision); *Dalton v. Childress Service Corp.*, 432 S.E.2d 98, 102 (W. Va. 1993) (applying a contractual indemnity to the indemnitee's expenses "incurred in making [indemnitor] perform under the [indemnity] agreement," and rejecting that it was limited to "defending third-party claims"); *Fleischer v. FDIC*, 70 F. Supp. 2d 1238, 1242 (D. Kan. 1999) (holding, under Kansas law, that "attorney fees incurred in this suit seeking to enforce the indemnity agreement . . . have been incurred 'in connection with' the underlying directors and officers lawsuit"). *But cf. Baker v. Health Management Services*, 772 N.E.2d 1099 (N.Y. 2002) (holding that a statutory indemnification of corporate directors and officers for actual and necessary expenses resulting from an action brought against them in their capacity as such did not cover fees to establish the indemnity).

Federal law, moreover, governs the meaning of Federal Reserve Regulation J and its incorporated UCC provisions, and strongly favors reading Section 211(f)'s "as a result of the cancellation" text to cover "fees on fees." For example, text strikingly similar to Section 211(f)'s is found in 28 U.S.C. § 1447(c), which provides that a defendant who improperly removes a case to federal court may be ordered to pay, on a successful remand motion, the plaintiff's "just costs and any actual expenses, including attorney fees, *incurred as a result of the removal*" (emphasis added). Courts routinely recognize that those fees and expenses include any that the plaintiff reasonably incurred to establish and litigate its right to fees, because those expenses, too, are "incurred because of removal." *See, e.g.*, *Walgreens Mail Serv., Inc. v. Bluecross Blueshield of Tenn.*, No. 2:05-cv-2827, 2007 WL 9710376, at *1 (W.D. Tenn. Oct. 2, 2007).[6]

Federal courts grant so-called "fees on fees" under various other statutory or contractual indemnification provisions to which federal law applies. For instance, the Tenth Circuit held that a shipper's indemnification of a railroad for "any and all liability, suits, claims, damages, costs (including attorneys' fees), losses, outlays and expenses" resulting from the shipper's obstruction of the railroad tracks covered the railroad's "attorneys' fees for the prosecution of this [indemnification] action." *Missouri Pac. R. Co. v. Kansas Gas & Elec. Co.*, 862 F.2d 796, 797, 801 (10th Cir. 1988). And the Fifth Circuit construed the "general, broad words" of an indemnification provision covering "any and all loss, cost, damage and expense" arising out of a railroad's maintenance of a crossing include the "attorney's fees and costs of the [indemnification] action" against it. *Brown v. Seaboard Coast Line R. Co.*, 554 F.2d 1299, 1304 (5th Cir. 1977).

[6] *See also Sheppard v. Conway*, No. 3:14-cv-25039, 2015 WL 1528788, at *4 (S.D. W.Va. Apr. 3, 2015) (awarding fees under Section 1447(c) for "researching, preparing, and filing the motion for attorney's fees"); *Lopez v. Allstate Indem. Co.*, No. 6:06-cv-377, 2007 WL 9734830, at *2 (D.N.M. Jan. 12, 2007) (similar); *L.G. Barcus & Sons, Inc. v. Faherty*, No. 2:05-cv-2123, 2005 WL 1490466, at *2 (D. Kan. June 23, 2005) (similar).

Indeed, "[f]ederal courts have repeatedly recognized that the unavailability of 'fees for fees' could render fee-shifting provisions impotent, thereby reducing the effectiveness of the underlying statutes." *Am. Fed'n of Gov't Emps., AFL-CIO, Local 3882 v. Fed. Labor Relations Auth.*, 994 F.32 20, 22 (D.C. Cir. 1993) (Back Pay Act, 5 U.S.C. § 5596(b)(1)(A)(ii)). As the D.C. Circuit has held, "'[f]ees for fees' requests are clearly 'related' to the underlying action, for such fees are often necessary to fulfill the purposes of the statutory scheme on which the action is based" and "essential" to carrying out the purpose of the fee-shifting provision. *Id.*; *see also Easley v. Collection Serv. of Nev.*, 910 F.3d 1286, 1291-92 (9th Cir. 2018) (federal "fee-shifting statutes allow for recovery of attorneys' fees incurred in establishing a party's claim for fees," which "ensures that the fee award is not diluted by the time and effort spent on the claim itself"). If these statutes and regulations (including Section 211(f)) did not cover the fees that a party necessarily spends to establish its entitlement to fees, then that party's statutory entitlement to fees and expenses would be "diminished" and erode each statute's "guarantee [of] a full recovery of fees." *Hernandez v. Kalinoswki*, 146 F.3d 196, 199 (3d Cir. 1998).[7]

CONCLUSION

The Court should find that Chain Bridge has established that it incurred reasonable fees and expenses resulting from JPMC's wire cancellation, through September 30, 2021, for which it is indemnified by JPMC under UCC § 4A-211(f), in the amount of **$5,935,978.52**. Such finding

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[7] Courts in this district have repeatedly applied this principle to award fees on fees. *See, e.g.*, *Anderson v. Sch. Bd. of Gloucester Cty., Virginia*, No. 3:18-cv-745, 2021 WL 1134788, at *15 (E.D. Va. Mar. 24, 2021) (Fed. R. Civ. P. 37(a)); *Am. Bird Conservancy v. U.S. Fish & Wildlife Serv.*, 110 F. Supp. 3d 655, 672 (E.D. Va. 2015) (Freedom of Information Act (FOIA), 5 U.S.C. § 552(a)(4)(E)(i)); *Am. Canoe Ass'n, Inc. v. EPA*, 138 F. Supp. 2d 722, 746 (E.D. Va. 2001) (Endangered Species Act, 16 U.S.C. § 1540(g)). So, too, have other federal courts. *See, e.g.*, *Comm'r, I.N.S. v. Jean*, 496 U.S. 154, 162 (1990) (Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d)(1)(A)); *Kaseman v. D.C.*, 444 F.3d 637, 640 (D.C. Cir. 2006) (Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1415(i)(3)(B)(i)); *Shaw v. AAA Eng'g & Drafting, Inc.*, 213 F.3d 538, 545 (10th Cir. 2000) (False Claims Act, 31 U.S.C. § 3730(h)(2)); *Hernandez*, 146 F.3d at 198-99 (Prison Litigation Reform Act (PLRA), 42 U.S.C. § 1997e(d)).

should be without prejudice to Chain Bridge later establishing, on subsequent motion, additional indemnified amounts that it incurred or incurs on or after October 1, 2021 (including because of Blue Flame's and JPMC's appeals from the Court's summary judgment order).

Dated: October 28, 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 28, 2021, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing to the following:

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