

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

IN RE: CANON U.S.A. DATA BREACH  
LITIGATION

This Documents Related To:

All Actions

Case No. 1:20-cv-06239-AMD-SJB

**PLAINTIFFS' NOTICE OF MOTION  
AND MOTION FOR ATTORNEYS'  
FEES, EXPENSES, AND SERVICE  
AWARDS**

Plaintiffs Michael Finnigan, Kenneth Buchbinder, Brian McCartney, Tyrone Villacis, Luis Pichardo, Andrew Hamid, Amy Lynn Hamid, Woodrow Moss, and Diana Rouse (collectively, “Representative Plaintiffs”), individually and on behalf of all others similarly situated, by and through their undersigned counsel, hereby move seeking:

1. An Award of Attorneys’ Fees in the amount of \$600,000.00;
2. Reimbursement of Expenses in the amount of \$17,985.58; and
3. Service Awards to each of the named Representative Plaintiffs in the amount of \$1,000.00 per Representative Plaintiff.

This Motion is based upon: (1) this Motion; (2) the Memorandum in Support of Plaintiffs’ Motion for Attorneys’ Fees, Expenses, and Service Awards; (3) the Declaration of Gary M. Klinger; (4) the Declaration of Lori G. Feldman; (5) the Declaration of John A. Yanchunis; and (5) the Declaration of M. Anderson Berry; (6) the records, pleadings, and papers filed in this action; and (7) upon such other documentary and oral evidence or argument as may be presented to the Court on the Motion.

Dated: March 15, 2024

Respectfully submitted,

/s/ Gary M. Klinger

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**CERTIFICATE OF SERVICE**

I hereby certified that on March 15, 2024, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List.

*/s/ M. Anderson Berry* \_\_\_\_\_

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

IN RE: CANON U.S.A. DATA BREACH  
LITIGATION

This Documents Related To:

All Actions

Case No. 1:20-cv-06239-AMD-SJB

**MEMORANDUM OF LAW IN  
SUPPORT OF PLAINTIFFS' MOTION  
FOR ATTORNEYS' FEES, EXPENSES,  
AND SERVICE AWARDS**

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Plaintiffs submit this memorandum of law in support of their Motion for Award of Attorneys' Fees, Reimbursement of Expenses, and Service Awards.

## INTRODUCTION

This litigation arises from a ransomware attack suffered by Canon on or about August 4, 2020 that resulted in the unauthorized access of personally identifiable information (“PII”) of Plaintiffs and Class Members, who are employees of Defendant and their beneficiaries and dependents (the “Data Breach”). On August 6, 2020, Canon announced the Data Breach to its employees. (Compl. ¶ 5). On November 24, 2020, after a preliminary investigation, Canon mailed a “Notice of Data Breach” to those employees who worked for Canon from 2005-2020, as well as their beneficiaries and dependents who may have been affected. (*See* Compl. ¶ 6). Canon’s Notice of Data Breach informed the relevant individuals that their information may have been exposed to unauthorized activity and that the information at issue included certain names, Social Security numbers, driver’s license numbers or government-issued identification numbers, financial account numbers provided for direct deposit, electronic signatures, and dates of birth (the PII). (Compl. ¶ 7). The Notice of Data Breach also provided one-year of free credit monitoring. (*See* Compl. Ex. A, Notice of Data Breach).

After Canon provided notice of the Data Breach, beginning on or around November 24, 2020, three separate class action complaints were filed in the Eastern District of New York: *Finnegan, et al. v. Canon U.S.A., Inc.*, 1:20-cv-06239-AMD-SJB”); *Hamid v. Canon U.S.A., Inc. et al.*, No. 1:20-cv-06380-AMD-SJB; and *Rouse, et al. v. Canon U.S.A., Inc.*, No. 2:21-cv-004140-SJF-ARL. Those cases were all deemed related and on January 25, 2021, the cases were consolidated. (ECF 9).

On June 22, 2022, the Parties participated in a full-day mediation with Mediator Bennett J. Picker, a well-respected mediator experienced in mediating cases of this type. Although the Parties did not settle the case during this mediation session, over the next few months they continued to discuss resolution with the help of the Mediator. Subsequently the Parties were able to reach an agreement in principal and, on



January 25, 2023, memorialized the terms in the original Settlement Agreement. (ECF 54-2). The Court granted preliminary approval of the proposed Settlement on November 15, 2023, after which class notice was sent to Settlement Class members.

Pursuant to the Settlement Agreement and the Court's inherent authority, Class Counsel respectfully submit this Motion for Award of Attorneys' Fees, Expenses, and Service Awards ("Fee Application") and ask that the Court award them a modest 26.87% of the conservative estimated value of the available settlement benefits (or \$600,000.00) ("Fee Award") and \$17,985.58 for expenses ("Expense Request"). The fee request is also supported by a lodestar cross check, as Class Counsel has accumulated a combined lodestar of \$753,879.10 to date (rendering the requested Fee Award a negative multiplier of 0.80 on Class Counsel's lodestar), with additional work yet to be performed to bring the Settlement through final approval and distribution of Class benefits. The Agreement provides for the Fee Award and any approved expenses to be paid outside of any other benefits to the Class. (Settlement Agreement ("S.A.") ¶ 7.5) As detailed more fully herein, the factual and legal complexity of these claims required the time and resources that Class Counsel invested. The work performed advancing the claims of the Settlement Class members – on a fully contingent basis – carried significant risk, and Class Counsel forwent other opportunities and dedicated themselves to this case since 2020.

In addition, Class Counsel request that the Court approve a service award for the Class Representatives in the amount of \$1,000 each. This request is modest and is fully justified by the law and the work performed by Plaintiffs in connection with defeating the motion to dismiss and bringing this lawsuit on behalf of all others similarly situated. Since the litigation commenced, Class Representatives have been dedicated and active participants. They investigated the matter prior to and after retaining counsel, participated in the plaintiff vetting process implemented by Class Counsel, reviewed and approved pleadings, kept in close contact with counsel to monitor the progress of the litigation, provided documents, drafted discovery requests, and reviewed and communicated with counsel regarding the

Settlement. (Joint Declaration of John Yanchunis and Gary M. Klinger (“Joint Decl.”), ECF 54-3, at ¶ 13). Each Class Representative put their name and reputation on the line for the sake of the Class, and the recovery would not have been possible without their efforts. In view of these efforts, Class Counsel will separately petition the Court for approval of service awards in the amount of \$1,000 for each of the Class Representatives. This amount is consistent with those approved in other data breach class action settlements.

This Memorandum is supported by: (1) the Declaration of Gary Klinger in support of Plaintiffs’ Motion for Award of Attorneys’ Fees, Expenses, and Service Award (“Klinger Decl.”); (2) the Declaration of Lori Feldman in support of Plaintiffs’ Motion for Award of Attorneys’ Fees, Expenses, and Service Award (“Feldman Decl.”); (3) the Declaration of John A. Yanchunis in support of Plaintiffs’ Motion for Award of Attorneys’ Fees, Expenses, and Service Award (“Yanchunis Decl.”); and (4) the Declaration of M. Anderson Berry in support of Plaintiffs’ Motion for Award of Attorneys’ Fees, Expenses, and Service Award (“Berry Decl.”).

## **CASE SUMMARY**

### **A. THE DATA BREACH**

Defendants are a leading provider of consumer, business-to-business, and industrial digital imaging solutions to the United States and to Latin American and the Caribbean markets. Defendants’ employees entrust Defendants with an extensive amount of their PII. Defendants retain this information on computer hardware—even after the employment relationship ends. Defendants assert that they understand the importance of protecting such information.

On or before August 4, 2020, Defendants learned that a breach of Defendants’ computer network had occurred and that it involved ransomware. Defendants determined that the Data Breach involved unauthorized activity on their network between July 20, 2020 and August 6, 2020, including unauthorized

access to files on Defendants' servers. These servers contained files that in turn contained the PII of Defendants' current and former employees and their beneficiaries and dependents.

On or around August 6, 2020, Defendants sent an internal alert to their employees disclosing the Data Breach. In a "Notice of Data Breach" dated November 24, 2020, and mailed to Class Members on or about that date, Defendants advised that they were informing current and former employees of Defendants from 2005 to 2020 who may have been affected, as well as beneficiaries and dependents, of the Data Breach.

## **B. PROCEDURAL POSTURE**

After Canon provided notice of the Data Breach, beginning on or around November 24, 2020, three separate class action complaints were filed in the Eastern District of New York: *Finnegan, et al. v. Canon U.S.A., Inc.*, 1:20-cv-06239-AMD-SJB"); *Hamid v. Canon U.S.A., Inc. et al.*, No. 1:20-cv-06380-AMD-SJB; and *Rouse, et al. v. Canon U.S.A., Inc.*, No. 2:21-cv-004140-SJF-ARL. Those cases were all deemed related and on January 25, 2021, the cases were consolidated. (ECF 9).

On January 28, 2021, Representative Plaintiffs filed a motion for the appointment of interim class counsel. (ECF 12). On March 9, 2021, the Court entered an Order Appointing Interim Co-Lead Class Counsel and Executive Committee ("Interim Class Counsel"). (ECF 19).

On April 23, 2021, a Consolidated Class Action Complaint was filed. (ECF 22) (the "Complaint"). On July 12, 2022, Canon filed a Motion to Dismiss the Complaint. (ECF 27-28). On August 2, 2022, Representative Plaintiffs filed a Consolidated Amended Class Action Complaint (the "Amended Complaint"). (ECF 30). On August 25, 2022, Canon filed a Motion to Dismiss the Amended Complaint (the "Motion"). (ECF 31-32). On March 15, 2022, United States District Judge Ann M. Donnelly issued a Memorandum Decision and Order denying in part and granting in part the Motion to Dismiss. (ECF 40).

On April 12, 2022, Canon timely filed an Answer to the remaining allegations and claims in the Amended Complaint. (ECF 43). On April 19, 2022, the Parties appeared for a status conference before the Honorable Sanket J. Bulsara, U.S.M.J. Pursuant to an Order entered by Judge Bulsara, the Parties advised

the Court on May 6, 2022 that they would participate in private mediation. (ECF 46).

On March 15, 2022, the Court entered a Memorandum Decision and Order (ECF No. 40) finding Plaintiffs had Article III standing to bring their claims. (*Id.* at 5-9.) In their letter to the Court dated June 1, 2023 (ECF No. 59), Plaintiffs further elaborated on why they have standing under the Second Circuit’s framework set forth in *McMorris v. Carlos Lopez & Assocs., LLC*, 995 F.3d 295, 299 (2d Cir. 2021).<sup>1</sup>

### **C. HISTORY OF NEGOTIATIONS**

To facilitate their settlement negotiations, the Parties agreed to use experienced mediator Bennett J. Picker. (*See*, Joint Decl., ¶ 6). Mr. Picker has extensive experience in class action mediation, including privacy litigation. (*Id.*). On June 22, 2022, the Parties attended a full day mediation session with Mr. Picker. While the Parties made some progress, several key factual and legal issues remained in dispute. (*Id.*). For the next several weeks, the Parties continued to engage in the mediation process with the efforts of Mr. Picker. (*Id.*). Ultimately the Parties reached an agreement in principle (*id.*), after which the Parties began drafting and finalizing the Settlement, Notice and Claim Forms, and drafting the motion for preliminary approval for presentment to the Court. After the Court raised certain issues with the original Settlement and Unopposed Motion for Preliminary Approval of Class Action Settlement on March 23, 2023, the Parties engaged in further negotiations which led to their agreements memorialized in the operative Settlement Agreement, executed on June 29, 2023. (*See* Letter to the Court dated June 1, 2023, ECF No. 59 (“Letter”)).

### **SUMMARY OF SETTLEMENT**

#### **A. SETTLEMENT CLASS**

The settlement negotiated on behalf of the Class provides for two separate forms of relief: (1) monetary relief, including Credit Monitoring and Identity Protection; and (2) equitable relief in the form of

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<sup>1</sup> Although Plaintiffs understand that Canon does not necessarily agree with this finding, the Parties nevertheless agree that Judge Donnelly’s decision on standing is sufficient for Plaintiffs to enter into a settlement on behalf of the proposed settlement class.

enhanced security practices and procedures to better secure and protect the PII of Settlement Class members. The Settlement provides for a Class of:

All individuals residing in the United States who received a Notice of Data Breach from Canon regarding the Data Incident dated November 23, 2020.

(S.A., ¶ 1.26). The Class specifically excludes: (i) Canon (including all Defendants) and its officers and directors; (ii) all Settlement Class Members who timely and validly request exclusion from the Settlement Class; (iii) the Judge assigned to evaluate the fairness of this settlement and members of his or her immediate family; and (iv) the attorneys representing the Parties in the Litigation. Also excluded from the Class are those persons and entities who timely and validly request exclusion therefrom by 120 days after the Notice date. (*Id.*)

## **B. THE SETTLEMENT BENEFITS**

The Settlement provides for both monetary and equitable relief. Canon has agreed to pay the claims of Settlement Class members arising from the Data Breach. (S.A., § 2). Canon will also be responsible for payment of all reasonable costs of notice and administration in addition to the claims of Settlement Class members. (*Id.*). Canon will pay any amounts approved by the Court for awards of attorneys' fees, costs, and expenses, and service awards for the Class Representatives. (*Id.*, § 7). In addition, Canon has agreed to maintain business practice changes to increase the protection of Settlement Class members PII in Canon's post session. (*Id.*, § 2).

### **1. Ordinary Expense Reimbursement**

All Settlement Class Members who submit a valid claim using the Claim Form (S.A., Exh. A) are eligible to receive reimbursement for documented out-of-pocket losses that were incurred between August 4, 2020 and the date of this Settlement Agreement, if plausibly caused by the Data Incident, not to exceed \$300 per Settlement Class Member, including: (i) cost to obtain credit reports; (ii) fees relating to a credit freeze; (iii) card replacement fees; (iv) late fees; (v) overlimit fees; (vi) interest on payday loans taken as a result of the Data Incident; (vii) other bank or credit card fees; (viii) postage, mileage, and other incidental

expenses resulting from lack of access to an existing account; (ix) costs associated with credit monitoring or identity theft insurance purchased prior to the Effective Date of the Settlement, if purchased primarily as a result of the Data Incident; and (x) compensation for attested-to lost time spent monitoring accounts, reversing fraudulent charges, or otherwise dealing with the aftermath/cleanup of the Data Incident, at a rate of \$20 for up to four (4) hours. (S.A., ¶ 2.1). Compensation for items (i) through (ix) requires documentation, including proof of purchase, and an affirmative statement by the Settlement Class Member that the losses or expenses were primarily because of the Data Incident. Compensation for lost time under item (x) requires an attestation, including at least a narrative description of the activities performed during the time claimed and their connection to the Data Incident.

## **2. Extraordinary Expense Reimbursement**

Settlement Class Members are also eligible to receive extraordinary expense reimbursement, not to exceed \$7,500 per Settlement Class Member, for monetary out-of-pocket losses that were plausibly caused by the Data Incident if: (a) it is an actual, documented, and unreimbursed monetary loss; (b) was caused by the Data Incident; (c) occurred during the time period from August 4, 2020, through the date of the Settlement Agreement (*see* ¶ 2.4); (d) is not an amount already covered by one or more of the categories in ¶ 2.1; (e) the claimant made reasonable efforts to avoid, or seek reimbursement for the loss, including but not limited to exhaustion of all available credit monitoring insurance and identity theft insurance. Compensation under this paragraph requires documentation, including proof of monetary loss occurring primarily because of the Data Incident and proof of reasonable mitigation efforts. Settlement Class Members may only submit one claim for this benefit for up to \$7,500.

## **3. Credit Monitoring and Identity Protection**

In addition to being able to submit a claim for ordinary or extraordinary expenses, the Settlement Class are eligible to receive two (2) years of Identity Protection services, which includes three bureau credit monitoring and alerts. This is in addition to the credit monitoring services previously offered to individuals

who were notified of the Data Incident. Settlement Class Members need only submit a claim for Identity Protection and credit monitoring by indicating the request on the Claim Form, and codes will be sent either to their e-mail address or, if they do not have an e-mail address, mailed to the address provided on the claim form. (S.A., ¶ 2.2).

#### **4. Ongoing Data Security Efforts and Enhancements**

In addition to the monetary benefits described above, the Settlement Agreement also acknowledges Canon's commitment to maintain certain enhancements and improvements to its security environment, which Class Counsel has reviewed in connection with this Settlement. (S.A., ¶ 2.5). Canon agrees to maintain at a minimum, for a period of one (1) year following final approval of the settlement, enhanced security practices and procedures that were implemented following the Data Incident, including deployment of endpoint detection and response tools to its servers and workstations; engagement of a third-party security operations center to provide constant monitoring of its network; a local administrator password vault solution; and multi-factor authentication and application control for access to domain controllers. (S.A., ¶ 2.5). Final approval will allow for enforcement of these business practices, thus guaranteeing that they will stay in place for at least one (1) year. Absent the settlement agreement, Canon would not be obligated to maintain these business practices.

#### **C. Defendants' Payment of Notice and Administrative Costs**

##### **1. Notice**

Canon shall pay for all of the costs associated with the Claims Administrator and for providing Notice to the Settlement Class in accordance with the Preliminary Approval Order as well as the costs of such notice. (S.A., ¶ 2.7). Notice was provided in accordance with the Court Approved Notice Plan, and Class Counsel will provide details of the notice plan in connection with the motion for final approval. For purposes of this motion, the preliminary reports from the Claims Administrator is that the direct mail notice plan was successful in reaching a high percentage of the Settlement Class.

## ARGUMENT

### A. LEGAL STANDARDS

Plaintiffs’ attorneys in a successful class action lawsuit may petition the Court for compensation relating to any benefits to the Class that result from the attorneys’ efforts. *See, e.g., Boeing Co. v. Van Gemert*, 444 U.S. 472 (1980). Rule 23(h) of the Federal Rule of Civil Procedure expressly states that in a certified class action such as this one, that the Court may award “reasonable attorney’s fees and nontaxable costs that are authorized by law or the parties’ agreement.” Fed. R. Civ. P. 23(h). Pursuant to *Boeing*, Courts in the Second Circuit favor the use of the percentage of the settlement approach. *See, e.g., Wal-Mart Stores, Inc. v. Visa U.S.A. Inc.*, 396 F.3d 96, 121 (2d Cir. 2005); *McDaniel v. Cnty. Of Schenectady*, 595 F.3d 411, 419 (2d Cir. 2010) (“the percentage method has the advantage of aligning the interests of plaintiffs and their attorneys more fully by allowing the latter to share in both the upside and downside risk of litigation[.]”). The Second Circuit has held that in determining a percentage of the recovery, the Court should calculate the attorney’s fees based on the settlement’s total value: “[t]he entire Fund, and not some portion thereof, is created through the efforts of counsel at the instigation of the entire class. An allocation of fees by percentage should therefore be awarded on the basis of the total funds made available, ***whether claimed or not.***” *Masters v. Wilhelmina Model Agency, Inc.*, 473 F.3d 423, 437 (2d Cir. 2007) (emphasis added).

Courts in this Circuit have found numerous advantages to using the percentage method of awarding fees. First, the percentage method “directly aligns the interests of the class and its counsel” because it provides an incentive to attorneys to resolve a case efficiently and to create the largest total value for the class. *Wal-Mart Stores, Inc.*, 396 F.3d at 121; *In re Lloyd’s American Trust Fund Litig.*, 2002 WL 31663577 at \*25 (S.D.N.Y. Nov. 26, 2002) (collecting cases); *In re Polaroid ERISA Litig.*, 2007 WL 2116398 at \*2 (S.D.N.Y. July 19, 2007); *Velez v. Majik Cleaning Serv., Inc.*, 2007 WL 7232783, at \*7 (S.D.N.Y. June 25, 2007).



Second, this method aligns with market practices, as it “mimics the compensation system actually used by individual clients to compensate their attorneys.” *In re Sumitomo Copper Litig.*, 74 F.Supp.2d 393, 397 (S.D.N.Y. 1999); *see also Sewell v. Bovis Lend Lease, Inc.*, 2012 WL 1320124 at \*10 (S.D.N.Y. April 16, 2012) (“[the percentage] method is similar to private practice where counsel operates on a contingency fee, negotiating a reasonable percentage of any fee ultimately awarded.”); *Strougo ex rel. Brazilian Equity Fund, Inc. v. Bassini*, 258 F.Supp.2d 254, 262 (S.D.N.Y. 2003) (noting the percentage method “is consistent with and, indeed, is intended to mirror, practice in the private marketplace where contingent fee attorneys typically negotiate percentage fee arrangements with their clients.”).

Third, the percentage method promotes efficiency and early resolution, as it eliminates any incentive plaintiffs’ lawyers may have to run up billable hours—one of the most significant downsides to using the lodestar approach. *Savoie v. Merchants Bank*, 166 F.3d 456, 460-61 (2d Cir. 1999) (“It has been noted that once the fee is set as a percentage of the fund, the plaintiffs’ lawyers have no incentive to run up the number of billable hours for which they would be compensated under the lodestar method.”); *Goldberger v. Integrated Res. Inc.*, 209 F.3d 43, 48-49 (2d Cir. 2000) (citing *In re Union Carbide Corp., Consumer Prods. Bus. Sec. Litig.*, 724 F. Supp. 160, 167-168 (S.D.N.Y. 1989)); *see also In re Interpublic Sec. Litig.*, 2004 WL 2397190, at \*11 (S.D.N.Y. Oct. 26, 2004).

Finally, the percentage method preserves judicial resources because it relieves the “cumbersome, enervating, and often surrealistic process of evaluating fee petitions.” *Savoie v. Merchants Bank*, 166 F.3d at 461 n.4, quoting *Third Circuit Task Force*, 108 F.R.D. 237, 258. The “primary source of dissatisfaction [with the lodestar method] was that it resurrected the ghost of Ebenezer Scrooge, compelling district courts to engage in a gimlet-eyed review of line-item fee audits.” *Goldberger*, 209 F.3d at 48-49; *In re EVCI Career Colls. Holding Corp. Sec. Litig.*, 2007 WL 2230177, at \*16 (S.D.N.Y. July 27, 2007). As one New York district court stated:

[The percentage method is] bereft of the largely judgmental and time-wasting computations of lodestars and multipliers. These latter computations, no matter how

conscientious, often seem to take on the character of so much Mumbo Jumbo. They do not guarantee a more fair result or a more expeditious litigation.

*In re Union Carbide Corp., Consumer Prods. Bus. Sec. Litig.*, 724 F.Supp.160, 170 (S.D.N.Y. 1989).

While courts still use the lodestar method as a “cross check” when applying the percentage of the fund method, courts are not required to scrutinize the fee records as rigorously. *Goldberger*, 209 F.3d at 50; see *In re Global Crossing Sec. & ERISA Litig.*, 225 F.R.D. 436, 468 (S.D.N.Y. 2004) (using an “implied lodestar” for the lodestar cross check, and noting that when used as a cross-check, the reasonableness of the claimed lodestar can be tested by the court’s familiarity with the case); *Varljen v. H.J. Meyers & Co.*, 2000 WL 1683656, at \*5 (S.D.N.Y. Nov. 8, 2000) (using an “unexamined lodestar figure” for the lodestar cross check).

#### **B. THE REQUESTED FEES ARE FAIR AND REASONABLE**

“In calculating the overall settlement value for purposes of the ‘percentage of the recovery’ approach, Courts include the value of both the monetary and non-monetary benefits conferred on the Class.” *Fleisher v. Phoenix Life Insurance Co.*, 2015 WL 10847814, at \*15 (S.D.N.Y. Sept. 9, 2015) (awarding fees based on the value of both monetary and non-monetary benefits, such as injunctive relief); *Moukengeshcaie v. Eltman*, 2020 WL 5995978, at \*7 (E.D.N.Y. April 21, 2020) (basing award of fees on value of monetary and non-monetary benefits); *In re Hudson’s Bay Co. Data Sec. Incident Consumer Litig.*, 2022 WL 2063864, at \*21-22 (S.D.N.Y. June 8, 2022) (basing award of fees on value of cash payments, claims administration and notice costs, and attorneys’ fees); *Zink v. First Niagara Bank, N.A.*, 2016 WL 7473278, at \*8 (W.D.N.Y. Dec. 29, 2016) (granting award of fees of 25% of the full amount made available in a claims-made settlement); *Faican v. Rapid Park Holding Corp.*, 2010 WL 2679903, at \*3 (E.D.N.Y. July 1, 2010). The attorneys’ fees and expenses requested in the amount of \$600,000 (26.87% of the conservatively estimated value of the settlement benefits) are reasonable based on the settlement’s total value to the Class. In this case, the total value of certain settlement benefits is \$21,767,999 and includes:

- Up to \$12,600,000 in cash payments for reimbursement of out-of-pocket expenses and time spent;
- 2 years of three-bureau credit provided to Settlement Class members who submit a claim and with a market retail value of \$108 annually (\$216 per Settlement Class member), for a total value to the Class of \$9,072,000;<sup>2</sup> and
- \$95,999 in claims administration and notice costs.

Also, while Plaintiffs do not assign a value to the Ongoing Data Security Efforts and Enhancements outlined above, or to the Extraordinary Expense reimbursements these are additional valuable benefits to the Class obtained by Class Counsel here. A “conservative” estimate of the total settlement value would be \$2,233,199, including an anticipated 5% “take” of the cash payments (\$630,000), an anticipated 10% “take” of the credit monitoring (\$907,200), \$95,999 in notice and administration costs, and \$600,000 attorneys’ fees. This means that the fees requested equate to 26.87% of the conservative settlement value.

The requested fees of 26.87% of the “conservative” settlement value is fair and reasonable in light of value of the benefits to the Settlement Class members. *See, e.g., Cent. States Se. & Sw. Areas Health & Welfare Fund v. Merck-Medco Managed Care, L.L.C.*, 504 F.3d 229, 249 (2d Cir. 2007) (affirming fee award of 30 percent of recovery); *In re Gilat Satellite Networks, Ltd.*, 2007 WL 2743675, at \*16 n.41 (E.D.N.Y. Sept. 18, 2007) (30 percent fee); *Warren v. Xerox Corp.*, 2008 WL 4371367, at \*7 (E.D.N.Y. Sept. 19, 2008) (awarding class counsel attorneys’ fees and expenses at 33.33 percent of the total settlement value, and finding such a sum “comparable to sums allowed in other cases”); *In re Sumitomo Copper Litig.*, 74 F.Supp.2d 393, 397-400 (S.D.N.Y. 1999) (approving a fee of 27.5 percent); *In re Dime Sav. Bank*, 1994 WL 60884, at \*2 (E.D.N.Y. Feb. 23, 1994) (listing cases and noting percentage rates between 20 and 30 percent are not uncommon). Indeed, Courts have approved fees as high as 60 percent in other data breach cases with similar benefits. *In re Hudson’s Bay*, 2022 WL 2063864, at \*22 (where the

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<sup>2</sup>Courts use the retail price of credit monitoring to determine the value of the benefits to class members. *See, e.g., In re Volkswagen and Audi Warranty Extension Litig.*, 89 F. Supp. 3d 155, 169 (D. Mass. 2015).

court approved attorneys' fees in the amount of \$897,866.26 compared to an estimated total value for the settlement of \$1,479,550.67 (approving a fee of 60.7 percent).

In *Masters v. Wilhelmina Model Agency*, 473 F.3d 423, 437 (2d Cir. 2007), the Second Circuit held that an "allocation of fees by percentage should therefore be awarded on the basis of the total funds made available, whether claimed or not." *Id.* (citing *Waters v. Int'l Precious Metals Corp.*, 190 F.3d 1291, 1295 (11th Cir.1999) and *Williams v. MGM–Pathe Commc'ns Co.*, 129 F.3d 1026, 1027 (9th Cir.1997)).

While *Waters* and *Williams* involved funds with reversions, (unlike *Masters* which had unclaimed funds going to *cy pres*), *Masters* still sided with those cases rejecting an award of fees on the basis of the claims made. *See Waters*, 190 F.3d at 1292; *Williams*, 129 F.3d at 1027. *Masters*' holding applies here too because a claims-made settlement is "functional[ly] equivalent" to a reversionary fund settlement, as noted by the court in *Zink v. First Niagra Bank, N.A.*, No. 13-CV-01076-JJM, 2016 WL 7473278, at \*8 (W.D.N.Y. Dec. 29, 2016). Recognizing the value of class actions as a deterrent to unlawful behavior and as a private law enforcement regime that frees up public resources, the court in *Zink* explained that it was important for class counsel to be adequately compensated and that:

[L]imiting counsel to a percentage of the class's actual recovery in a claims-made or reversionary fund situation is likely to disgorge significantly less money overall, providing *defendants* with what might be characterized as a windfall. All things being equal, it seems more defensible that class attorneys, rather than defendants, receive the excess, as they will likely reinvest it in future class action cases.

*Zink*, 2016 WL 7473278, at \*9.

Although there are no Second Circuit cases directly on point, the weight of relevant authority supports basing attorneys' fees on the retail value of credit monitoring to the entire Settlement Class. For example, in *Chakejian v. Equifax Info. Servs., LLC*, 275 F.R.D. 201, 218 (E.D. Pa. 2011), using both the lodestar and the percentage-of-recovery methods, the court awarded \$1,075,000 in fees (or 11%) of a what it called a "fund," consisting of \$9,675,981 in credit monitoring services provided to the class. *Id.* at 218. The court arrived at the \$9,675,891 value by multiplying the retail value of \$233.10 times the 40,000 class

members. *Id.* Similarly, in *Hillis v. Equifax Consumer Services, Inc.*, No. 104-CV-3400-TCB, 107-CV-314-TCB, 2007 WL 1953464, at \*4-5 (N.D. Ga. June 12, 2007), the court awarded attorneys' fees of \$4 million based on a settlement providing a credit score product to 6.6 million class members with a retail value of \$8.95 per month.

This approach is consistent with how many courts, including in the Second Circuit, have awarded fees based on non-monetary benefits. Specifically, courts have based attorneys' fees on the value of the non-monetary relief to the entire class, notwithstanding some uncertainty as to whether the class members will make a claim. For example, in *Blessing v. Sirius XM Radio Inc.*, No. 09 CV 10035 (HB), 2011 WL 3739024, at \*4 (S.D.N.Y. Aug. 24, 2011), *aff'd*, 507 Fed. Appx.1, 3 (2d Cir. 2012), the court awarded \$13 million in fees under both a lodestar and percent of the recovery approach where there were no cash payments to class members and only defendant's agreement not to raise prices for five months and forego \$180 million in revenue. Similarly, in *McCoy v. Health Net, Inc.*, 569 F. Supp. 2d 448, 478 (D. N.J. 2008), the court awarded 28% of the common fund and the lowest estimated value of the injunctive relief, which provided for coverage of claims at 90% of billed charges and an appeal process. *Id.* at 453-54. In both cases, it was uncertain how many class members would take advantage of the benefits, nevertheless the courts considered the benefits in their entirety.

**C. THE GOLDENBERG FACTORS SUPPORT CLASS COUNSEL'S REQUESTED AWARD**

Regardless of the method used by the Court, the reasonableness of fees requested from a common fund or total settlement value should be analyzed using the six factors set out by the Second Circuit in *Goldberger*: ““(1) the time and labor expended by counsel; (2) the magnitude and complexities of the litigation; (3) the risk of the litigation; (4) the quality of representation; (5) the requested fee in relation to the settlement; and (6) public policy considerations.”” *In re Signet Jewelers Ltd. Sec. Litig.*, 2020 WL 4196468, at \*18 (S.D.N.Y. July 21, 2020) (quoting *Goldberger*, 209 F.3d at 50). Each of these factors supports the reasonableness of Plaintiffs' Fee Application.

## 1. Class Counsel's Time and Labor

Plaintiffs' Counsel have devoted a total of 934.2 hours in this case, for a total lodestar of \$753,879.10. *See* Klinger Decl., ¶¶ 44, 46; Feldman Decl., ¶ 5, Yanchunis Decl., ¶ 14, Berry Decl., ¶ 5. They began investigating the Data Incident and the potential causes of action in late November 2020, shortly after notice of the Data Incident was issued, and drafted separate complaints that were filed on January 2021. (*See* Klinger Decl., ¶¶ 25-26). After the Court's appointment of Interim Co-Lead Counsel, they worked together on preparing and filing a Consolidated Class Action Complaint. Class Counsel also worked together efficiently in opposing Defendants motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(1) and (b)(6), which they defeated in part and crucially, resulted in an order finding that Plaintiffs had Article III standing.

Class Counsel fought hard for the Class at the negotiating table. The negotiations were conducted at arms' length over a period of many weeks. (*See* Joint Decl. ¶ 15). The Parties participated in a full day of mediation with mediator Bennett J. Picker. Although mediation was unsuccessful, over the next several months the Parties continued to work remotely with Mr. Picker and reached an agreement in principle. (*Id.*). The negotiations were hard fought, and counsel for all Parties participated vigorously with competing agendas. (*Id.*). Following the Parties' conference with the Court on March 23, 2023, further hard-fought negotiations occurred over several weeks to finalize the operative Settlement. (Letter).

The settlement discussions were undertaken by counsel who are well versed in complex litigation and, more specifically, consumer class actions. Experienced lawyers advocated for the interests of the Class throughout the negotiations, utilizing their combined, several decades experience of litigating class actions, including breach of privacy claims, to ensure the proposed Settlement serves the best interests of the Class. (*See* Joint Decl. ¶ 15).

Representative Plaintiffs and Class Counsel very thoroughly evaluated the merits of the claims and defenses, the likelihood the Court would certify the litigation for class treatment, and the likelihood of

success at trial and upon appeal. (Joint Decl. at ¶ 16). As a result of this analysis, Class Counsel obtained an understanding of the strengths and weaknesses of the litigation.

In performing these and other tasks, Class Counsel has expended approximately 934.2 hours of attorney time. *See* Plaintiffs' Counsel's Declarations. This amount of hours is reasonable for complex class actions of this type and was compiled from contemporaneous time records maintained by each individual attorney or paraprofessional who performed work on the case. *See id.* Moreover, the hourly rates are reasonable. For example, in *In re Hudson's Bay*, a data breach class action, the court found that senior partner rates of \$900-\$1000, associate rates of \$350-\$650 (with some senior associates billing at \$700), and paralegal rates of \$150 to \$400 were reasonable. *Id.*, 2022 WL 2063864, at \*19; *see also Vista Outdoor, Inc. v. Reeves Family Tr.*, 2018 WL 3104631, at \*6 (S.D.N.Y. May 24, 2018) (finding reasonable hourly partner rates between \$1,165 and \$1,260 and hourly associate rates between \$569.02 and \$753.42 (citing *MSC Mediterranean Shipping Co. Holdings S.A. v. Forsyth Kownacki LLC*, 2017 WL 1194372, at \*3 (S.D.N.Y. Mar. 30, 2017)); *see also U.S. Bank Nat'l Ass'n v. Dexia Real Estate Capital Mkts.*, 2016 WL 6996176, at \*8 (S.D.N.Y. Nov. 30, 2016)("[P]artner billing rates in excess of \$1000 an hour[] are by now not uncommon in the context of complex commercial litigation.") (internal quotation marks omitted). Using the lodestar of \$753,879.10 as a "cross check," the requested Fee Award of \$600,000 results in a negative multiplier of approximately 0.8, which demonstrates that the fees are reasonable.<sup>3</sup>

A fee award is also meant to compensate for work still to be performed in the future. Following submission of this motion, Plaintiffs' Counsel will still need to, among other things: (1) draft and file a motion for final approval of the Settlement; (2) prepare for and attend the Final Approval Hearing before the Court; (3) address any objections that may be raised to the Settlement; (4) communicate with

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<sup>3</sup> *See, e.g., Baffa v. Donaldson Lufkin & Jenrette Sec. Corp.*, 96 Civ. 0583, 2002 WL 1315603 at \*2 (S.D.N.Y. June 17, 2002) (in class action resulting in \$3 million settlement fund, fee award based on a negative lodestar multiplier was fair and reasonable); *In re Blech Sec. Litig.*, 94 Civ. 7696 & 95 Civ. 6422, 2000 WL 661680 at \*5 (S.D.N.Y. May 19, 2000) (awarding lead counsel 30% of the settlement, and confirming that the award was reasonable because it represented a negative multiplier of lodestar).

Settlement Class members to answer any questions they may have or address any issues with the claims process; and (5) if the Settlement is approved, continue to work with the Claims Administrator to ensure that the Settlement is fully implemented and all claims are timely and accurately paid. *See* Klinger Decl., ¶ 48; *see also* *Parker v. Jekyll & Hyde Entm't Holdings, L.L.C.*, 2010 WL 532960, at \*2 (S.D.N.Y. Feb. 9, 2010) (“[A]s class counsel is likely to expend significant effort in the future implementing the complex procedure agreed upon for collecting and distributing the settlement funds, the multiplier will diminish over time.”). Accordingly, this factor strongly supports the requested Fee Award.

## **2. The Magnitude and Complexity of the Litigation**

The magnitude and complexity of the Litigation support the Fee Award sought. “Most class actions are inherently complex and settlement avoids the costs, delays and multitude of other problems associated with them.” *In re Austrian & German Bank Holocaust Litig.*, 80 F.Supp.2d 164, 174 (S.D.N.Y. 2000). This case is no different, where successfully litigating the case to a judgment providing classwide relief would require that Plaintiffs, *inter alia*, succeed in: prevailing on a motion for class certification and any motion for decertification; defeating any future motions for summary judgment; and ultimately obtaining a class judgment following trial. This process, as with any class action litigation, would be fraught with risks at every stage, particularly when Defendants claim many class members are subject to an arbitration clause. At the end of the day, while Plaintiffs believe that they would be able to vindicate the claims at trial, Defendant takes the opposite view, and a jury might agree with either Plaintiffs or Defendant.

An additional challenge is the calculation of class-wide damages stemming from the Data Incident, which would be a complicated and costly process. *See, e.g., Ebbert v. Nassau Cty.*, 2011 WL 6826121, at \*12 (E.D.N.Y. Dec. 22, 2011) (“On liability and damages, this case likely would have ended up in a classic ‘battle of the experts.’ With that comes the inherent risk that a jury could be swayed by an expert for the Defendants who could minimize the amount of the Plaintiffs’ losses.”). While Plaintiffs are confident that they could establish the damages incurred by the Settlement Class to the Court’s satisfaction, the



Settlement eliminates this complexity and risk. Even if Plaintiffs were successful in obtaining certification of a litigation class, the certification would not be set in stone. *See Gen. Tel. Co. of the Sw. v. Falcon*, 457 U.S. 147, 160 (1982) (“Even after a certification order is entered, the judge remains free to modify it in the light of subsequent developments in the litigation.”).

This case’s complexity is not diminished by the fact that Plaintiffs’ Counsel was able to reach a prompt and efficient settlement. To do so on terms that provide important relief to Plaintiffs and the Settlement Class members, Class Counsel were required to conduct prolonged settlement negotiations over the terms and then the Settlement Agreement for approximately a year. ( *See* Klinger Decl., ¶¶ 36-41). At a minimum, absent settlement, litigation (and potential appellate review) of these issues would likely continue for years before Plaintiffs or the Settlement Class would obtain any recovery, which might then be diminished by immense costs and expenses. By reaching a favorable settlement prior to dispositive motions or trial, Plaintiffs and the Settlement Class members avoid significant expense and delay, and instead ensure a fair and meaningful recovery for the Settlement Class. *See Babcock v. C.Tech Collections, Inc.*, 2017 WL 1155767, at \*6 (E.D.N.Y. Mar. 27, 2017) (“the settlement provides certain compensation to the class members now, rather than awaiting an eventual resolution that would result in further expense without any definite benefit to class members.”); *Castagna v. Madison Square Garden, L.P.*, 2011 WL 2208614, at \*10 (S.D.N.Y. June 7, 2011) (commending parties for negotiating early settlement). Accordingly, this factor supports the requested fee award.

### **3. The Risks of the Litigation**

The risks of continuing to litigate this case through trial strongly support the requested fee award. This factor is often cited as the “first, and most important, *Goldberger* factor.” *In re Metlife Demutualization Litig.*, 689 F. Supp. 2d 297, 361 (E.D.N.Y. 2010) (internal quotation marks omitted). Class Counsel took the risk of prosecuting this Litigation on a full contingency basis, without charging Plaintiffs or any Settlement Class members for fees or expenses. ( *See* Klinger Decl., ¶ 53); *see also Goldberger*, 209 F.3d

at 53 (“(o)f course contingency risk . . . must be considered in setting a reasonable fee.”); *Fleisher*, 2015 WL 10847814, at \*21 n.16 (“Contingency risk is the principal, though not exclusive factor, courts should consider in their determination of attorneys’ fees.”) (internal quotation marks omitted).<sup>4</sup>

“Litigation inherently involves risks.” *Willix v. Healthfirst, Inc.*, No. 07 Civ. 1143(ENV)(RER), 2011 WL 754862, at \*4 (E.D.N.Y. Feb. 18, 2011) (citation omitted). Here, Canon completely denied Plaintiffs’ allegations, and if the matter proceeded, Plaintiffs expected Canon would vigorously defend itself on the merits, at each stage of litigation and likely on appeal, as it already did in its motion to dismiss Plaintiffs’ Consolidated Amended Complaint.

Most fundamentally, while Plaintiffs believe that Canon had a duty to protect the security of Representative Plaintiffs’ private data and breached that duty by failing to implement reasonable security measures, a jury might not agree. In addition, Plaintiffs anticipated a zealous “battle of the experts” with respect to Canon’s claims regarding the accessibility of the data Representative Plaintiffs allege was compromised in the Ransomware Attacks and regarding the calculations of damages. For these reasons, although Representative Plaintiffs are confident in the merits of their case, the risks of establishing liability and damages were very much present.

The litigation settled before a ruling on class certification, and the certification requested herein is for settlement purposes only. While Plaintiffs believe that the Court would certify a litigation class, Canon would zealously oppose the motion. Plaintiffs must meet the requirements, including proffering a suitable mechanism for calculating class-wide damages. While Representative Plaintiffs believe they could establish the existence of such a mechanism to the Court’s satisfaction, this proposed Settlement eliminates the unavoidable risk that they could not do so. Furthermore, even if the Court were to certify a litigation

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<sup>4</sup> In *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 470 (2d Cir. 1974), *abrogated on other grounds by Goldberger*, the Second Circuit observed that “[n]o one expects a lawyer whose compensation is contingent upon his success to charge, when successful, as little as he would charge a client who in advance had agreed to pay for his services, regardless of success.”

class, the certification can be reviewed and modified at any time. *Gen. Tel. Co. of the Southwest v. Falcon*, 457 U.S. 147, 160 (1982) (“Even after a certification order is entered, the judge remains free to modify it in the light of subsequent developments in the litigation.”); *Frank v. Eastman Kodak Co.*, 228 F.R.D. 174, 186 (W.D.N.Y. 2005) (noting that “[w]hile plaintiffs might indeed prevail [on a motion for class certification], the risk that the case might not be certified is not illusory”). Given the risks, this factor weighs in favor of preliminary approval. *See, e.g., Mills v. Capital One, N.A.*, No. 14-cv-1937-HBP, 2015 WL 5730008, at \*6 (S.D.N.Y. Sept. 30, 2015).

According to Class Counsel’s research, no data breach class action has reached trial, further demonstrating the unpredictable outcome if this Action were to be tried. Class action suits “have a well-deserved reputation as being most complex.” *Rosenfeld v. Lenich*, 2021 WL 508339, at \*5 (E.D.N.Y. Feb. 11, 2021) (internal quotation marks omitted); *In re Sonic Corp. Customer Data Sec. Breach Litig.*, 2019 WL 3773737, at \*7 (N.D. Ohio Aug. 12, 2019) (“Data breach litigation is complex and risky.”).

Settlements resolve any inherent uncertainty on the merits, and are therefore strongly favored by the courts, particularly in class actions. *See Wal-Mart*, 396 F.3d at 116. The parties disagree about the merits of Plaintiffs’ claims and there is substantial uncertainty about the ultimate outcome of this Litigation. Assuming that the Litigation was to proceed, the hurdles that Plaintiffs would face prior to class certification and trial are significant.

In pursuing the investigation and Litigation against Defendants, Class Counsel were aware that resolution of the case in Plaintiffs’ favor might take years, with the possibility that the claims would never be vindicated. (*See Klinger Decl.*, ¶ 22.) Despite this, Class Counsel vigorously investigated, negotiated and litigated this case without any assurance that they would ever be compensated. All of these risks were apparent when Plaintiffs’ Counsel began this action, further justifying the requested fee award.

#### **4. The Quality of Representation**

Courts “have consistently recognized that the result achieved is a major factor to be considered in

making a fee award and in assessing the quality of the representation.” *Fleisher*, 2015 WL 10847814, at \*21. Courts also account for the quality of opposing counsel. *See, e.g., MetLife Demutualization*, 689 F.Supp.2d at 362.

Here the high quality of Class Counsel’s representation comes into focus when considering the challenges they faced and the benefits they have attained for the Settlement Class. For example, many data breach class actions are dismissed at the pleading stage due to Article III standing. Here, Plaintiffs were able to defeat Defendants’ challenge on Article III standing where others have failed.

Further, the main goals of the Litigation were to provide monetary compensation for the Settlement Class members for losses stemming from the Data Incident. Class Counsel’s efforts achieved those important goals, even on behalf of those who may be subject to arbitration. Class Counsel were also able to negotiate the added benefit of 24 months of three-bureau credit monitoring, with a conservative retail value of \$108 annually, or \$216 per Settlement Class Member (\$108 x 2 years). (Klinger Decl., ¶¶ 55-56). While Defendants initially provided their employees with credit monitoring when they announced the Data Incident, identity thieves may take a year or more to use stolen data to commit a crime.<sup>5</sup>

Class Counsel’s substantial prior experience in prosecuting complex class action cases on behalf of consumers, including numerous data breach class actions, was an important factor in achieving those goals. *See* Klinger Decl., ¶¶ 4-23, Feldman Decl., ¶ 4, Yanchunis Decl., ¶¶ 2-10, Berry Decl., ¶ 4. And Class Counsel obtained these results while facing opposing counsel of significant skill and reputation. *See Jermyn v. Best Buy Stores, L.P.*, 2012 WL 2505644, at \*11 (S.D.N.Y. June 27, 2012) (“Class Counsel achieved a positive result in this case while facing well-resourced and experienced defense counsel.”). Accordingly, this factor weighs strongly in favor of the reasonableness of the requested fee award.

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<sup>5</sup> *See United States Government Accountability Office, Report to Congressional Requesters, “PERSONAL INFORMATION, Data Breaches are Frequent, but Evidence of Resulting Identity Theft is Limited; However, the Full Extent is Unknown,”* at p. 6, available at <https://www.gao.gov/products/gao-07-737> (last visited March 14, 2024)

## 5. The Requested Fee in Relation to the Settlement

“[T]he percentage used in calculating any given fee award must follow a sliding-scale and must bear an inverse relationship to the amount of the settlement.” *Beckman v. KeyBank, N.A.*, 293 F.R.D. 467, 481 (S.D.N.Y. 2013) (internal quotation marks omitted). Where the size of the fund is relatively small, courts typically find that requests for a greater percentage of the fund are reasonable. *See Hicks v. Stanley*, 2005 WL 2757792, at \*9 (S.D.N.Y. Oct. 24, 2005) (“settlement amount of \$10 million does not raise the windfall issue in the same way as would a \$100 million settlement”); *see also Beckman*, 293 F.R.D. at 481 (a 33% fee is not excessive “because the requested amount is ‘consistent with the norms of class litigation in this circuit’”).

Class Counsel seek \$600,000 or 26.87% of the conservative estimate value of the settlement benefits in attorneys’ fees. This amount is miniscule compared to the total maximum value of the Settlement for: (1) cash payments to Settlement Class Members for claims up to a maximum amount of \$12,600,000; (2) the economic value of the credit monitoring, valued at \$9,072,000 (based upon \$216 per Settlement Class Member on the low end, which every class member may claim without having suffered any loss associated with this cybersecurity incident (Klinger Decl., ¶¶ 55-56)); and (3) costs of notice and administration up to \$95,999 to be paid separately by Defendants. (Klinger Decl., ¶ 54). Class Counsel’s request of 26.87% of the conservative value of the Settlement benefits is eminently reasonable. This is particularly the case, as the amount of attorneys’ fees awarded under the percentage methodology in this Circuit is often one-third of the settlement value or higher. *See, e.g., Torres v. Gristede’s Operating Corp.*, 519 F. App’x 1, 5-6 (2d Cir. May 22, 2013) (noting one-third of common fund is benchmark in Second Circuit and affirming higher percentage (52.2%) of settlement value for attorneys’ fees and expenses); *Rapoport-Hecht v. Seventh Generation, Inc.*, 2017 WL 5508915, at \*3 (S.D.N.Y. Apr. 28, 2017), ECF Nos. 60 at 6 & 76 (awarding 33.3% of \$4.5 million settlement fund); *Raniere v. Citigroup Inc.*, 310 F.R.D. 211, 216, 220-22 (S.D.N.Y. 2015) (approving one-third of \$4,650,000 settlement as fees); *Mayhew, et al.*

*v. KAS Direct, LLC, et al.*, No. 7:16-cv- 06981-VB, ECF Nos. 133 at 1-2 & 149 at 6 (S.D.N.Y. Nov. 30, 2018) (33.3% of \$2,215,000 settlement fund); *In re Dental Supplies Antitrust Litig.*, No. 1:16-cv-00696-BMC-GRB, ECF Nos. 328 at 1, 350 at 28 (E.D.N.Y. June 25, 2019) (awarding one-third of \$80,000,000 settlement fund); *see also, e.g., Huyer v. Buckley*, 849 F.3d 395, 399 (8th Cir. 2017) (finding 38% of fund as reasonable). Accordingly, the relation of the fee request to the value of the Settlement supports approval of the requested fee award. *See Torres*, 519 F. App'x at 5 (award of 52.2% of settlement value “does not constitute an abuse of discretion simply because it deviates materially from the percentage usually awarded in similar cases”) (internal quotation marks omitted).

#### **6. Public Policy Considerations Favor the Requested Fee Award**

Public policy considerations weigh in favor of granting the Fee Application. In awarding attorneys' fees, the Second Circuit “take[s] into account the social and economic value of class actions, and the need to encourage experienced and able counsel to undertake such litigation.” *In re Sumitomo Copper Litig.*, 74 F.Supp.2d 393, 399 (S.D.N.Y. 1999).

Courts have recognized that fee awards in cases like this serve the dual purposes of encouraging “private attorney[s] general” to seek redress for violations and discouraging future misconduct of a similar nature. *See Deposit Guar. Nat'l Bank v. Roper*, 445 U.S. 326, 338-39 (1980); *Beckman*, 293 F.R.D. at 477. This class action on behalf of the Settlement Class has “resulted in a settlement that will improve the experiences of customers . . . .” *Jermyn*, 2012 WL 2505644, at \*12. Moreover, through this action, Plaintiffs have operated as private attorneys general to police the fallout from the alleged Data Incident. Only Plaintiffs' and Class Counsel's willingness to bring this Litigation has secured the Settlement Class with significant compensation for their injuries stemming from the Data Incident.

An award of attorneys' fees helps to ensure that “plaintiffs' claims [will] . . . be heard.” *Frank v. Eastman Kodak Co.*, 228 F.R.D. 174, 189 (W.D.N.Y. 2005). If courts denied sufficient attorneys' fees, “no attorneys . . . would likely be willing to take on . . . small-scale class actions[.]” *Id.*; *see also In re Visa*

*Check/Mastermoney Antitrust Litig.*, 297 F.Supp.2d 503, 524 (E.D.N.Y. 2003), *aff'd sub nom, Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96 (2d Cir. 2005) (class action fee awards “must . . . serve as an inducement for lawyers to make similar efforts in the future”). This and the other *Goldberger* factors support approval of the attorneys’ fees requested.

**7. The Absence of Class Member Objections to the Fee Request Further Support It Is Reasonable**

An additional factor in favor of the reasonableness of a request for attorneys’ fees is the extent to which the class has raised any objections to the request. *See, e.g., Guevoura Fund Ltd. v. Sillerman*, 2019 WL 6889901, at \*22 (S.D.N.Y. Dec. 18, 2019) (absence of objections to fee request at time of final approval hearing, despite deadline for objections having not yet occurred, “militates in favor of approval of the Fees as requested.”). The deadline for objections in the Litigation is April 15, 2024. *See* ECF 66. As of the date of filing this Motion, no objections to the Settlement have been received. Accordingly, this factor weighs in favor of approval of the attorneys’ fees requested.

**D. CLASS COUNSEL’S REQUESTED COSTS ARE REASONABLE, INCIDENTAL TO LITIGATION AND SHOULD BE APPROVED**

Courts typically permit counsel to recover reasonable out-of-pocket expenses. *Beckman*, 293 F.R.D. at 482, *citing In re Indep. Energy Holdings PLC Sec. Litig.*, 302 F.Supp.2d 180, 183 n.3 (S.D.N.Y. 2003). “Attorneys may be compensated for reasonable out-of-pocket expenses incurred and customarily charged to their clients, as long as they were ‘incidental and necessary to the representation’ of those clients.” *In re Indep. Energy Holdings PLC Sec. Litig.*, 302 F.Supp.2d at 183 n.3 (internal quotation marks omitted).

Class Counsel seek reimbursement of costs and expenses totaling \$17,985.58 spent on filing costs and mediation fees. *See* Klinger Decl., ¶ 51, Feldman Decl., ¶ 10, Yanchunis Decl., ¶ 15, Berry Decl. ¶ 10. These expenses are of the type of expenses routinely charged to hourly clients, are appropriately documented, and were necessary and reasonable to prosecute the litigation.

**E. THE REQUESTED SERVICE AWARD IS REASONABLE AND SHOULD BE APPROVED**

Service awards are commonly awarded in class action cases to compensate plaintiffs for the time and effort they expended in assisting the prosecution of the litigation, the risks incurred by becoming and continuing as a litigant, and any other burdens sustained. *Beckman*, 293 F.R.D. at 483, citing *Reyes v. Altamarea Group LLC*, 2011 WL 4599822, at \*9 (S.D.N.Y. Aug. 16, 2011). Courts consider such compensation important. *See Massiah v. MetroPlus Health Plan, Inc.*, 2012 WL 5874655, at \*8 (E.D.N.Y. Nov. 20, 2012).

For their commitment to this case and work on behalf of the Settlement Class, the Class Representatives each seek a modest \$1,000. Plaintiffs were subjected to extensive interviews and then reviewed pleadings and other documents associated with the case. They also submitted documentation to prove they were impacted by the Data Incident. They were prepared to take on the responsibilities of a class representative, including being deposed and testifying at trial. Plaintiffs put their names and professional reputations on the line, suing their employer or former employer Canon.

The amount requested is reasonable and modest relative to awards regularly granted by courts in this jurisdiction and the request should be granted. *See Beckman*, 293 F.R.D. at 483 (granting an award of \$5,000 to \$7,500 to plaintiffs); *Dornberger v. Metro. Life Ins. Co.*, 203 F.R.D. 118, 124–25 (S.D.N.Y. 2001) (noting in class actions representative plaintiff awards for \$2,500 or more are commonly accepted).

**CONCLUSION**

For the reasons set forth above, Plaintiffs respectfully request that the Court award Class Counsel 26.87% of the value of the Settlement benefits (or \$600,000), \$17,985.58 for reimbursement of expenses, and a \$1,000 Service Award to each of the Class Representatives.

Dated: March 15, 2024

Respectfully submitted,

/s/ Gary M. Klinger

Gary M. Klinger



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**CERTIFICATE OF SERVICE**

I hereby certified that on March 15, 2024, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List.

/s/ M. Anderson Berry

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

IN RE: CANON U.S.A. DATA BREACH  
LITIGATION

Case No. 1:20-cv-06239-AMD-SJB

This Documents Related To:

All Actions

**DECLARATION OF GARY M. KLINGER  
IN SUPPORT OF PLAINTIFFS' MOTION FOR  
ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARDS**

I, Gary M. Klinger, pursuant to section 1746 of title 28 of the United States Code, declare:

1. I am an attorney licensed to practice law in the State of Illinois since 2010. I am currently a Senior Partner at the law firm of Milberg Coleman Bryson Phillips Grossman PLLC ("Milberg"). I Co-Chair the Cybersecurity and Data Privacy Practice Group at Milberg.

2. I am one of the lead counsel representing Plaintiffs Finnigan, Buchbinder, McCartney, Villacris, Pichardo, Serkowski, Andre Hamid and Amy Lynn Hamid (collectively "Plaintiffs") and the putative class. I have personal knowledge of the matters stated herein and, if called upon, I could and would testify competently to those matters. I submit this Declaration in support of Plaintiffs' Motion for Approval of Attorneys' Fees, Expenses, and Service Awards.

**Counsel Qualifications**

4. I have extensive experience prosecuting complex class actions, especially in data breach litigation. I have been licensed to practice law in the State of Illinois since 2010, am a member of the bars of numerous federal district and appellate courts.

5. I have extensive experience in class action litigation generally and data breach class actions in particular. My experience, and that of my law partners, is described below.

6. Milberg Attorneys have served as Lead Counsel, Co-Counsel, or Class Counsel on hundreds of complicated and complex class actions. Milberg's background and qualifications are set forth in the Firm Resume attached hereto as **Exhibit A**.

7. These cases recently include cutting-edge litigation, including: *In re Dealer Management Systems Antitrust Litigation*, Case No. 1:18-cv-00864 (N.D. Ill. 2018) (appointed co-lead counsel; partial settlement of \$29.5 million, case on-going); *In re Seresto Flea & Tick Collar Marketing, Sales Practices, & Products Liability Litigation*, Case No. 1:21-cv-04447 (N.D. Ill. 2021) (appointed co-lead counsel; case on-going); and *Carder v. Graco Children's Products, Inc.*, Case No. 2:20-cv-00137 (N.D. Ga. 2020) (appointed interim co-lead counsel; case on-going)

8. With respect to privacy cases, Milberg is presently litigating more than fifty (50) cases across the country involving violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq., privacy violations, data breaches, and ransomware attacks. Milberg Attorneys have served as Lead Counsel, Co-Counsel, or Class Counsel on data breach and privacy litigations, including *In re Blackbaud, Inc. Consumer Data Security Breach Litigation*, MDL 2972, Case No. 3:20-mn-02972 (D.S.C. 2020) (appointed co-lead counsel; case on-going).

9. Milberg Attorneys have also participated in other data breach and privacy litigation, recently, which includes: *Veiga v. Respondus, Inc.*, Case No., 1:21-cv-02620 (N.D. Ill. 2021); *Dickerson v. CDPQ Colonial Partners, L.P., et al*, Case No. 1:21-cv-02098 (N.D. Ga. 2021); *In re Wawa, Inc. Data Security Litig.*, Case No. 2:19-cv-06019 (E.D. Pa. 2019); *Whalen v. Facebook, Inc.*, Case No. 4:20-cv-06361 (N.D. Cal. 2020); and *K.F.C. v. Snap, Inc.*, No. 21-2247 (7th Cir. 2021).

10. It is noteworthy that, just in the time since 2020 through the present, I (either individually, or as a member of the law firms in which I have been a partner during that timeframe) have been appointed class counsel in a number of data breach and/or data privacy cases, including, but not limited to, the following:

- a. *Kenney et al. v. Centerstone of America, Inc.*, Case No. 3:20-cv-01007 (M.D. Tenn.) (appointed co-class counsel in data breach class action settlement involving over 63,000 class members; final approval granted Aug. 2021);
- b. *Baksh v. Ivy Rehab Network, Inc.*, Case No. 7:20-cv-01845-CS (S.D.N.Y.) (class counsel in a data breach class action settlement; final approval granted Feb. 2021);
- c. *Mowery et al. v. Saint Francis Healthcare System*, Case No. 1:20-cv-00013-SRC (E.D. Mo.) (appointed class counsel; final approval granted Dec. 2020);
- d. *Chatelain et al. v. C, L and W PLLC d/b/a Affordacare Urgent Care Clinics*, Case No. 50742-A (42nd District Court for Taylor County, Texas) (appointed class counsel; settlement valued at over \$7 million; final approval granted Feb. 2021);
- e. *Jackson-Battle v. Navicent Health, Inc.*, Civil Action No. 2020-CV-072287 (Superior Court of Bibb County, Georgia) (appointed class counsel in data breach case involving 360,000 patients; final approval granted Aug. 2021);
- f. *Bailey v. Grays Harbor County Public Hospital District et al.*, Case No. 20-2- 00217-14 (Grays Harbor County Superior Court, State of Washington) (appointed class counsel in hospital data breach class action involving approximately 88,000 people; final approval granted Sept. 2020);
- g. *Richardson v. Overlake Hospital Medical Center et al.*, Case No. 20-2-07460-8 SEA (King County Superior Court, State of Washington) (appointed class counsel in data breach case, final approval granted September 2021);
- h. *Klemm et al. v. Maryland Health Enterprises Inc.*, Case No. C-03-CV-20-022899 (Circuit Court for Baltimore County, Maryland) (appointed class counsel; final approval granted November 2021);
- i. *In re: GE/CBPS Data Breach Litigation*, 1:2020-cv-02903, Doc. 35 (S.D.N.Y.) (appointed co-lead counsel in nationwide class action);
- j. *Nelson, et al. v. Idaho Central Credit Union*, No. CV03-20-00831 (Bannock County, Idaho) (appointed co-lead counsel in data breach class action involving 17,000 class members; granted final approval of settlement valued at \$3.3 million);
- k. *In Re: Canon U.S.A. Data Breach Litigation*, Master File No. 1:20-cv-06239- AMD-SJB (E.D.N.Y.) (appointed co-lead counsel);

- l. *Suren et al. v. DSV Solutions, LLC*, Case No. 2021CH000037 (Circuit Court for the Eighteenth Judicial Circuit of DuPage County, Illinois) (appointed Settlement Class Counsel, final approval granted Sept. 267, 2021);
- m. *Chacon v. Nebraska Medicine*, Case No. 8:21-cv-00070-RFR-CRZ (D. Neb.) (appointed class counsel in data breach settlement, final approval granted Sept. 2021);
- n. *Aguallo et al v. Kemper Corporation et al.*, Case No. 1:21-cv-01883 (N.D. Ill.) (appointed Co-lead Counsel, final approval granted of \$17.1 million class settlement);
- o. *In re: Herff Jones Data Breach Litigation*, Master File No. 1:21-cv-1329-TWP- DLP (S.D. Ind.) (appointed co-lead counsel in data breach involving over 1 million persons; preliminary approval of \$4.35 million settlement granted Jan. 2022);
- p. *In Re: CaptureRx Data Breach Litigation*, No. 5:21-cv-00523-OLG (W.D. Tex.) (appointed co- lead counsel in data breach case involving over 2.4 million class members; preliminary approval of \$4.75 million settlement granted Feb. 2022);
- q. *In re Arthur J. Gallagher Data Breach Litigation*, No. 1:21-cv-04056 (N.D. Ill.) (appointed co- lead counsel in data breach case involving over 3 million class members);
- r. *Heath v. Insurance Technologies Corp.*, No. 21-cv-01444 (N.D. Tex.) (\$11 million settlement for a major data breach involving more than 4 million consumers);
- s. *Hough v. Navistar, Inc.*, Case No.: 2021L001161 (Ill. 18th Jud. Cir. Crt., DuPage Cnty.); (appointed co-lead class counsel; final approval granted May 2022);
- t. *Clark v. Mercy Hospital, et al*, Case No. CVCV082275 (Iowa Dist. Crt, Johnson Cnty.) (appointed class counsel; final approval granted July 2022);
- u. *Myschka, et al v. Wolfe Clinic, P.C. d/b/a Wolfe Eye Clinic*, (Iowa Dist. Crt., Marshall Cnty.) (appointed class counsel; final approval granted June 2022);
- v. *Devine, et al v. Health Aid of Ohio, Inc.*, (Ohio Court of Common Pleas, Cuyahoga Cnty.) (appointed class counsel; final approval granted September 2022);
- w. *Davidson v. Healthgrades Operating Company, Inc.*, Case No. 1:21-cv-01250- RBJ (D. Colo.), (appointed class counsel; final approval granted August 2022);
- x. *Bodie v. Capitol Wholesale Meats, Inc.*, Case No. 2022CH000020 (Ill. 18th Jud. Cir. Crt., DuPage Cnty.) (appointed class counsel; final approval granted March 2022);
- y. *Culp v. Bella Elevator LLC*, Case No. 2021-CH-00014 (Ill. 10th Jud. Cir. Crt., Peoria Cnty.) (appointed class counsel; final approval granted May 2022);

- z. *Cain, et al. v. OSF Healthcare*, Case No. 21-L-00231 (Circuit Court for the Tenth Judicial Circuit of Peoria County, Illinois) (appointed settlement class counsel; final approval granted January 2023);
- aa. *Nelson, et al. v. Bansley & Kiener*, Case No. 2021-CH-06274 (Ill. Cir. Ct., Cook Cnt’y) (appointed class counsel; final approval granted November 2022);
- bb. *Steen v. The New London Hospital Association, Inc.*, Civil Action No. 217-2021- CV-00281 (Merrimack Superior Court, New Hampshire) (appointed class counsel; final approval granted January 2023);
- cc. *Summers II v. Sea Mar Community Health Ctrs.*, Case No. 22-2-00773-7 SEA (Wash. Sup. Ct., King Co.) (appointed class counsel; final approval granted December 2022);
- dd. *In re Forefront Data Breach Litigation*, Master File No. 1:21-cv-00887-LA (E.D. Wisc.) (appointed settlement class counsel; final approval granted March 2023);
- ee. *Engle v. Talbert House*, Case No.: A2103650 (Court of Common Pleas, Hamilton County, Ohio) (appointed class counsel; final approval granted February 2023);
- ff. *Henderson et al. v. San Juan Regional Medical Center*, Case No. D-1116-CV- 2021-01043 (11<sup>th</sup> Jud. Dist. Ct., County of San Juan, NM) (appointed class counsel; final approval granted March 2023);
- gg. *Cathy Shedd v. Sturdy Memorial Hospital, Inc.*, Civ. Action No: 2173 CV 00498 (Mass. Sup. Ct. Dept.) (appointed class counsel; final approval granted February 2023);
- hh. *Hawkins et al. v. Startek, Inc.*, Case No. 1:22-cv-00258-RMR-NRN (USDC CO)(appointed class counsel; final approval granted April, 2023);
- ii. *McHenry v. Advent Health Partners, Inc.*, Case No. 3:22-cv-00287 (USDC MD TN) (appointed settlement class counsel; final approval granted April 2023);
- jj. *Beasley et al. v. TTEC Services Corporation*, Civil Action No. 22-cv-00097-PAB-STV (USDC CO) (appointed class counsel; preliminary approval granted May 2023);
- kk. *Boyd v. Public Employees Credit Union*, Case No. 1:22-cv-00825-LY (USDC WD TX)(appointed class counsel; final approval granted June 9, 2023);
- ll. *Charlie et al. v. Rehoboth McKinley Christian Healthcare Services*, Civil No 21-652 SCY/KK (USDC NM)(appointed class counsel; final approval granted July 2023);
- mm. *Sharma et al. v. Accutech Systems Corporation*, Case No. 18C02-2210-CT-000135 (Delaware Circuit Court 2, Delaware County, Indiana) (appointed Class Counsel; preliminary approval granted January 2023);

- nn. *Simmons et al. v. Assistcare Home Health Services, LLC*, Index No. 511490/2021 (Supreme Court of the State of New York, County of Kings)(appointed settlement class counsel; final approval granted August 2023);
- oo. *Bailey et al. v. Alacrity Solutions Group, LLC*, Cause No. 29D03-2204-PL-002383 (Hamilton County (Indiana) Superior Court)(appointed class counsel; final approval granted June 2023);
- pp. *Retsky et al. v. Super Care, Inc d/b/a/ Supercare Health*, Case No. 22STCV16267 (Los Angeles County California Superior Court)(appointed class counsel; final approval granted August 2023);
- qq. *In re Medical Review Institute of America, LLC, Data Breach Litigation*, Civil No. 2:22cv0082-DAK-DAO (USDC UT)(appointed co-lead class counsel; final approval granted August 2023);
- rr. *Colon v. Creative Ventures Inc.*, Case Number 2023LA000177 (In the Circuit Court of the Eighteenth Judicial Circuit, Dupage County, Illinois)(appointed settlement class counsel; final approval granted September 2023);
- ss. *Jones v. Horizon House, Inc.*, Case No. 01767, Control No. 23030116 (Court of Common Pleas of Philadelphia County, First Judicial District of Pennsylvania)(appointed class counsel; final approval granted Nov. 20, 2023);
- tt. *Keefe, et al v. Froedtert Health, Inc.*, Case No. 2023CV001935 (Circuit Court of Wisc., Milwaukee Cty.) (appointed settlement class counsel; final approval granted September 29, 2023);
- uu. *Reynolds, et al v. Marymount Manhattan College*, Case No. 1:22-cv-06846 (USDC S.D.N.Y) (appointed settlement class counsel; final approval granted October 20, 2023);
- vv. *Borre v. O'Hare Towing Systems, Inc.*, Case No. 2020-CH-02865 (Ill. Circ. Ct., Cook County) (appointed settlement class counsel; final approval granted 10/25/2023);
- ww. *In re: Novant Health, Inc.*, Case No. 1:22-cv-00697 (M.D.N.C.) (Appointed class counsel; preliminary approval granted Nov. 6, 2023);
- xx. *Lukis, et al v. OnePlus USA Corp.*, Case No. 2023LA000573 (Ill. Circ. Ct., DuPage Cty.) (Appointed class counsel; preliminary approval granted Aug. 10, 2023);
- yy. *Charitat v. Pape-Dawson Engineers, Inc.*, Case No. 2022C121570 (438<sup>th</sup> Judicial District Court of Tex., Bexar Cnty.) (Appointed class counsel; final approval granted Nov. 13, 2023);



- zz. *Cline, et al v. Inline Network Integration LLC*, Case No. 2023LA000402 (Ill. Circ. Ct., DuPage Cty.) (Appointed class counsel; final approval granted Dec. 13, 2023);
- aaa. *Czarnionka v. The Epoch Times Association, Inc.*, Case No. 1:22-cv-06348-AKH (U.S.D.C. N.Y.) (Appointed class counsel; preliminary approval granted Jan. 22, 2024);
- bbb. *Sherwood, et al v. Horizon Actuarial Services, LLC*, Case No. 1:22-cv-01495-ELR (USDC N.D. Ga.) (Appointed class counsel; preliminary approval granted Sept. 21, 2023);
- ccc. *Prevost, et al v. Roper St. Francis Healthcare*, C.A. No. 2021-CP-10-01754 (9<sup>th</sup> Jud. Cir. Ct. of S.C., Court of Common Pleas) (Appointed co-class counsel; preliminary approval granted Jan. 18, 2024);
- ddd. *Perry v. Bay & Bay Transportation Services*, Case No. 22-973-JRT/ECW (USDC D. Minn.) (Appointed class counsel; final approval granted Jan. 23, 2024);
- eee. *In re C.R. England, Inc. Data Breach Litigation*, Case No. 2:22-cv-374-DAK-JCB (USDC D. Utah) (Appointed class counsel; preliminary approval granted Sept. 19, 2023);
- fff. *Hoover v. Camping World Group, LLC, et al*, Case No. 2023LA000372 (18<sup>th</sup> Jud. Circ. Ct. of Ill., DuPage Cty.) (Appointed class counsel; preliminary approval granted Dec. 12, 2023);
- ggg. *Guy v. Convergent Outsourcing, Inc.*, Case No. C22-1558-MJP (USDC W.D. Wash.) (Appointed class counsel; preliminary approval granted Feb. 20, 2024);
- hhh. *Farley, et al v. Eye Care Leaders Holdings, LLC*, Case No. 1:22-cv-468 (USDC M.D.N.C.) (Appointed class counsel; preliminary approval granted Aug. 23, 2023);
- iii. *Parris, et al v. Meta Platforms, Inc.*, Case No. 2023LA000672 (18<sup>th</sup> Jud. Cir. Ct of Ill., DuPage Cty.) (Appointed class counsel; preliminary approval granted July 3, 2023);
- jjj. *Kaether, Scott v. Metropolitan Area EMS Auth. d/b/a MedStar Mobile Healthcare*, 342<sup>nd</sup> Jud. Ct., Tarrant Cty. of Tex., Cause No. 342-339562-23 (Appointed class counsel; preliminary approval granted Oct. 26, 2023);
- kkk. *Medina, et al v. PracticeMax Inc.*, Case No. CV-22-01261-PHX-DLR (USDC D. Ariz.) (Appointed class counsel; preliminary approval granted Oct. 27, 2023);
- lll. *Julien, et al v. Cash Express, LLC*, Case No. 2022-CV-221 (Cir. Ct. for Putnam Cty. of Tenn.) (Appointed class counsel; final approval granted Nov. 9, 2023);

- mmm. *Forslund, et al v. R. R. Donnelley & Sons Co.*, Case no. 1:22-cv-04260-JJT (USDC N.D. Ill.) (Appointed class counsel; preliminary approval granted Oct. 31, 2023);
- nnn. *Stauber v. Sudler Property management*, Case No. 2023LA000411 (18<sup>th</sup> Jud. Circ. Ct., DuPage Cty. Ill.) (Appointed class counsel; preliminary approval granted Sept. 19, 2023);
- ooo. *Aragon v. Weil Foot and Ankle Institute, LLC*, Case No. 2021-CH-01437 (19<sup>th</sup> Jud. Circ. Ct., Cook Cty. of Ill.) (Appointed class counsel; preliminary approval granted Nov. 20, 2023);
- ppp. *In Re Wright & Filippis, LLC Data Security Breach Litigation*, Case No. 2:22-cv-12908-SFC (USDC E.D. Mich.) (Appointed class counsel; preliminary approval granted Jan. 4, 2024);
- qqq. *Doe, et al v. Knox College*, Case No. 2023LA9, (9<sup>th</sup> Jud. Ct. of Knox Cty., Ill.) (Appointed class counsel; final approval granted Jan. 19, 2024);
- rrr. *In Re Afni, Inc. Data Breach Litigation*, Case No. 1:22-cv-01287-JES-JEH (USDC C.D. Ill.) (Appointed class counsel; final approval granted Sept. 26, 2023);
- sss. *In Re Central Indiana Orthopedics Data Incident Litig.*, Cause No. 18C03-2203-PL-000026 (Delaware Cty. Circ. Ct., State of Ind.) (Appointed class counsel; final approval granted Aug. 18, 2023);
- ttt. *Viruet v. Comm. Surgical Supply, Inc.*, Case No. OCN L-001215-23 (N.J. Sup. Ct. of Ocean Cty.) (Appointed co-class counsel; final approval granted Nov. 17, 2023);
- uuu. *K.B, et al v. East Tenn. Children's Hosp. Assoc., Inc.*, Case No. C2LA0081 (Appointed co-class counsel; preliminary approval granted July 7, 2023);
- vvv. *Johnson v. Filtration Group LLC*, Case No. 2020-CH-00138 (Ill. Circ. Ct of Cook Cty.) (Appointed class counsel; final approval granted Dec. 22, 2023);
- www. *Richardson, et al v. Gershman Investment Corp.*, Case No. 22SL-CC03085 (Mo. Circ. Ct. of St. Louis Cty.) (Appointed class counsel; final approval granted Nov. 6, 2023);
- xxx. *McNicholas v. Ill. Gastroenterology Group, PLLC*, Case No. 22LA00000173 (19<sup>th</sup> Jud. Cir. Ct. of Lake Cty.) (Appointed class counsel; final approval granted June 23, 2023);
- yyy. *Vandermark v. Mason Tenders' Distr. Council Welfare Fund, et al*, Index No. 15336/2023 (N.Y. Supreme Ct., Cty of N.Y.) (Appointed class counsel; final approval granted Oct. 11, 2023)

- zzz. *Lhota, et al v. Mich. Ave. Immediate Care, S.C.*, Case No. 2022-CH-06616 (Ill. Cir. Ct. of Cook Cty.) (Appointed class counsel; final approval granted Aug. 15, 2023);
- aaaa. *Young, et al v. Military Advantage, Inc., et al*, Case No. 2023LA00535 (Ill. Cir. Ct. of DuPage Cty.) (Appointed class counsel; final approval granted Nov. 2023);
- bbbb. *Edri v. Brooklyn Premier Orthopedics and Pain Management PLLC d/b/a Brooklyn Premier Orthopedics*, Case No. 1:23-cv-07943-HG (USDC E.D. New York) (Appointed class counsel);
- cccc. *Oche v. National Math & Science Initiative*, Index No. 510959/2023 (N.Y. Supr. Ct, Kings Cnty.) (Appointed class counsel; preliminary approval granted Jan. 31, 2024);
- dddd. *Baker, et al v. SLT Lending SPV, Inc., d/b/a SUR La Table*, Case No. 2:23-cv-190-PPS-JEM (N.D. Ind.) (Appointed interim lead counsel);
- eeee. *Green v. EmergeOrtho, P.A.*, Case No. 22CVS3533 (N.C. Super. Ct., Durham Cty.) (Appointed Class Counsel; preliminary approval granted Feb. 23, 2024);
- ffff. *Hamilton v. Forward Bank, et al*, Case No. 23-cv-844 (W.D. Wisc.) (Appointed Interim Co-Lead Counsel);
- gggg. *In re Retina Group of Washington Data Security Incident Litig.*, (D. Md.) (Appointed Interim Co-Lead Counsel);

11. I recently obtained final approval of a class-wide settlement for a major data breach class action involving more than six million consumers. *See Carrera Aguallo v. Kemper Corp.*, No. 1:21-cv-01883 (N.D. Ill. Oct. 27, 2021) (appointed co-lead counsel, obtained preliminary approval of a \$17.6 million dollar settlement to resolve similar data breach class action claims against Kemper Corporation in a case involving more than six million class members).

12. I presently serve as one of two Court-appointed Lead Counsel in the data breach case, *In re Canon U.S.A. Data Breach Litigation*, No. 1:20-cv-06239-AMD-SJB (S.D.N.Y. filed Dec. 23, 2020).

13. I was also appointed Co-Lead Counsel in the data breach case, *In re Herff Jones Data Breach Litigation*, Master File No. 1:21-cv-1329-TWP-DLP (S.D. Ind.), which involved more than one million class members and was finally approved on a class-wide basis for a \$4.35 million settlement.

14. I also served as co-lead counsel in the consolidated data breach litigation styled, *In Re: CaptureRx Data Breach Litigation*, No. 5:21-cv-00523-OLG (W.D. Tex.), which involved more than 2.4 million class members and was finally approved on a class-wide basis for a \$4.75 million settlement.

15. I was also recently appointed co-lead counsel to represent more than three million class members in another major data breach class action in the Seventh Circuit. *See In re Arthur J. Gallagher Data Breach Litig.*, No. 1:21-cv-04056 (N.D. Ill.).

16. I have successfully litigated privacy class actions through class certification. *In Karpilovsky v. All Web Leads, Inc.*, No. 17 C 1307, 2018 WL 3108884, at \*1 (N.D. Ill. June 25, 2018), where I certified, over objection, a nationwide privacy class action involving more than one million class members.

17. In addition to concentrating my practice on class action litigation involving consumer, privacy, and product liability matters, I also make substantial efforts to stay apprised of the current law on these issues. In recent years, I have attended various legal training seminars and conferences, such as the dri™ conference for Class Actions, The Consumer Rights Litigation Conference and Class Action Symposium, as well as attended various seminars offered by Strafford on class action issues.

18. I am also a member of the International Association of Privacy Professionals and a Certified Information Privacy Professional (CIPP/US).

19. I graduated from the University of Illinois at Urbana-Champaign in 2007 (B.A. Economics), and from the University of Illinois College of Law in 2010 (J.D., cum laude). While at the U of I College of Law, I was a member of, and ultimately appointed as the Executive Editor

for the Illinois Business Law Journal. My published work includes: *The U.S. Financial Crisis: Is Legislative Action the Right Approach?*, Ill. Bus. L. J. (Mar. 2, 2009).

20. I am presently pursuing my Master of Laws (LLM) in Data Privacy and Cybersecurity from the University of Southern California Gould School of Law.

21. I became licensed to practice law in the State of Illinois in 2010 and am a member of the Trial Bar for the Northern District of Illinois, as well as the U.S. Bankruptcy Court for the Northern District of Illinois. Additionally, I am admitted to practice in federal courts across the country, including, but not limited to, the U.S. District Courts for the District of Colorado, the Central District of Illinois, the Northern District of Illinois, Northern District of Indiana, Southern District of Indiana, Eastern District of Michigan, and the Eastern District of Texas.

22. My years of experience representing individuals in complex class actions—including data breach actions—contributed to an awareness of Plaintiffs’ settlement leverage, as well as the needs of Plaintiffs and the proposed Settlement Class. I believe that our clients would ultimately prevail in the litigation on a class-wide basis. However, I am also aware that a successful outcome is uncertain and would be achieved, if at all, only after prolonged, arduous litigation with the attendant risk of drawn-out appeals.

23. In the sections that follow, I will detail the extensive work performed and hard-fought negotiations that resulted in the Settlement Agreement now before the Court.

### **Case Summary**

24. The work performed and resources committed by Milberg and the other attorneys on behalf of the Class to advance this litigation demonstrate that their fee request is fair and reasonable and should be granted.

25. Immediately after the public announcement of the data breach announced by Defendant in August of 2020 (the “Data Breach”), Milberg began investigating potential legal claims and remedies for the victims of the breach. Those investigations included, among other things, investigating the facts surrounding the Data Breach, investigating Defendant’s background and corporate structure, analyzing reports and articles discussing the Data Breach, and monitoring Defendant’s websites and the internet for new information concerning the Data Breach.

26. Milberg also interviewed consumers/employees injured by the Data Breach, performing legal research to identify causes of action and available legal remedies, assessing damages, and retaining experienced and *Daubert*-tested experts in data security and damages.

27. Beginning on or around November 24, 2020, three separate class action complaints were filed in the Eastern District of New York: *Finnegan, et al. v. Canon U.S.A., Inc.*, 1:20-cv-06239-AMD-SJB”); *Hamid v. Canon U.S.A., Inc. et al.*, No. 1:20-cv-06380-AMD-SJB; and *Rouse, et al. v. Canon U.S.A., Inc.*, No. 2:21-cv-004140-SJF-ARL. Milberg filed the first of these actions (Finnegan). Milberg led the way in coordinating the consolidation of these three actions. (ECF 9).

28. On January 28, 2021, Milberg, along with its co-counsel, on behalf of Representative Plaintiffs filed a motion for the appointment of interim class counsel. (ECF 12). On March 9, 2021, the Court entered an Order Appointing Interim Co-Lead Class Counsel and Executive Committee (“Interim Class Counsel”). (ECF 19).

29. On April 23, 2021, Milberg prepared and filed a Consolidated Class Action Complaint was filed. (ECF 22) (the “Complaint”).

30. On July 12, 2022, Canon filed a Motion to Dismiss the Complaint. (ECF 27-28).

31. On August 2, 2022, Milberg, along with its co-counsel, prepared and filed a Consolidated Amended Class Action Complaint (the “Amended Complaint”). (ECF 30).

32. On August 25, 2022, Canon filed a Motion to Dismiss the Amended Complaint (the “Motion”). (ECF 31-32).

33. Milberg led the way in briefing the opposition to the Motion to Dismiss.

34. On March 15, 2022, United States District Judge Ann M. Donnelly issued a Memorandum Decision and Order denying in part and granting in part the Motion to Dismiss. (ECF 40).

35. On April 12, 2022, Canon timely filed an Answer to the remaining allegations and claims in the Amended Complaint. (ECF 43).

36. On April 19, 2022, I appeared for an in-person status conference before the Honorable Sanket J. Bulsara, U.S.M.J. Pursuant to an Order entered by Judge Bulsara, the Parties advised the Court on May 6, 2022 that they would participate in private mediation. (ECF 46).

37. On March 15, 2022, the Court entered a Memorandum Decision and Order (ECF No. 40) finding Plaintiffs had Article III standing to bring their claims. *Id.* at 5-9. In their letter to the Court dated June 1, 2023 (ECF No. 59), Class Counsel further elaborated on why they have standing under the Second Circuit’s framework set forth in *McMorris v. Carlos Lopez & Assocs., LLC*, 995 F.3d 295, 299 (2d Cir. 2021).

38. To facilitate their settlement negotiations, the Parties agreed to use experienced mediator Bennett J. Picker. In advance of the mediation, we served, and Defendant responded to, informal discovery requests on Defendant tailored towards understanding the size and make up of the putative class, the nature of the data breach, Defendant’s cybersecurity procedures and policies, and other information necessary to negotiate a classwide settlement. In addition, Class Counsel

drafted a lengthy mediation brief addressing the strengths and weaknesses of the merits and defenses of the case as well as class certification.

39. On June 22, 2022, I, along with my Partner David Lietz, attended a full day mediation session with Mr. Picker.

40. While the Parties made some progress, several key factual and legal issues remained in dispute. For the next several weeks, the Parties continued to engage in the mediation process with the efforts of Mr. Picker. Ultimately the Parties reached an agreement in principle, after which the Parties began drafting and finalizing the Settlement, Notice and Claim Forms, and drafting the motion for preliminary approval for presentment to the Court.

41. After the Court raised certain issues with the original Settlement and Unopposed Motion for Preliminary Approval of Class Action Settlement on March 23, 2023, the Parties engaged in further negotiations which led to their agreements memorialized in the operative Settlement Agreement, executed on June 29, 2023. (See Letter to the Court dated June 1, 2023, ECF No. 59 (“Letter”).

42. Accordingly, the substantial work and investigation to date weigh in favor of Class Counsel’s fee petition.

43. My current total accumulated lodestar in this case is \$264,399.40, and includes time accrued at my current and former law firm, as detailed below.

44. Prior to joining Milberg, I worked on this case at my previous law firm Mason Lietz & Klinger LLP (“MLK”). The hourly rates for the MLK attorneys and staff that worked on this action, as well as their hours spent working on the action as of March 11, 2022, when I departed MLK and joined Milberg, and the corresponding lodestar, are as follows:



<b>Timekeeper</b>	<b>Current Title</b>	<b>Current Hourly Rate</b>	<b>Hours Worked</b>	<b>Lodestar</b>
David K. Lietz	Partner	\$919.00	16.3	\$14,979.70
Gary M. Klinger	Partner	\$850.00	59.5	\$50,575.00
Gary Mason	Partner	\$1050.00	3.4	\$3,570.00
Danielle Perry	Partner	\$750.00	.2	\$150.00
David Beiss	Legal Fellow	\$350.00	41.1	\$14,385.00
Gio Colon	Paralegal	\$170.00	.3	\$51.00
Taylor Heath	Paralegal	\$225.00	6.6	\$1,485.00
Sandra Martin	Paralegal	\$170.00	3.6	\$612.00
Morgan Beauchamp	Paralegal	\$170.00	1.5	\$255.00
Carol Corneilse	Client Specialist	\$150.00	7.8	\$1,170.00
<b>TOTALS:</b>			140.30	\$87,232.70

45. These records were prepared from contemporaneous, daily time records regularly prepared and maintained by MLK in the usual course and manner of that firm. MLK maintained detailed records regarding the amount of time spent by the firm, and the lodestar calculation is based on the billing rates in effect at the time. These records are available for review, *in camera*, at the request of the Court.

46. In March of 2022, I joined Milberg. The current hourly rates for the Milberg's attorneys and staff that have worked on this action, as well as their hours spent working on the action as of March 15, 2024, and their corresponding lodestar, are as follows:

<b>Timekeeper</b>	<b>Current Title</b>	<b>Current Hourly Rate</b>	<b>Hours Worked</b>	<b>Lodestar</b>
David K. Lietz	Partner	\$919.00	69.9	\$69,672.30
Gary M. Klinger	Partner	\$850.00	116.8	\$99,518.00

John J. Nelson	Partner	\$468.00	8.2	\$3,877.60
Carolyn Cuneo	Associate	\$829.00	0.5	\$414.50
Sandra Passanisi	Paralegal	\$208.00	11.1	\$2,442.20
Heather Sheflin	Paralegal	\$225.00	2.1	\$472.50
Ashley Tyrrell	Paralegal	\$208.00	3.6	\$748.80
Amanda Mkamanga	Paralegal	\$208.00	0.1	\$20.80
<b>TOTALS:</b>			212.30	\$177,166.70

47. These records were prepared from contemporaneous, daily time records regularly prepared and maintained by Milberg in the usual course and manner of my firm. Milberg maintains detailed records regarding the amount of time spent by my firm, and the lodestar calculation is based on my firm's current billing rates. These records are available for review, *in camera*, at the request of the Court.

48. Going forward, my firm will have to spend considerable additional time, and incur additional expenses by, among other things: (1) preparing for and attending the Final Approval Hearing; (2) addressing any objections that may be raised to the Settlement; (c) communicating with Settlement Class Members to answer any questions they may have or address any issues with the claims process; and (d) if the Settlement is approved, continuing to work with the Settlement Administrator to ensure that the Settlement is fully implemented.

49. In my judgment and based on my experience in complex class action litigation and other litigation, the number of hours expended, and the services performed by my firm, were reasonable and necessary for my firm's representation of Plaintiffs.

50. I have general familiarity with the range of hourly rates typically charged by plaintiffs' class action counsel in the geographical area where my firm practices and throughout the United States, both on a current basis and historically. From that basis, I am able to conclude

that the rates charged by my firm and my predecessor firm are commensurate with those prevailing in the market for such legal services furnished in complex class action litigation such as this. The hourly rates of my firms have been approved by a number of federal courts, including in *In re: GE/CBPS Data Breach Litigation*, Case No. 1:20-cv-02903 (KPF) (S.D.N.Y. 3/28/2023) (Judge Failla); *Powers, Sanger et al v. Filters Fast LLC*, Case 3:20-cv-00982-jdp (WD WI, July 22, 2022), ECF 84) where the fee application was submitted on a lodestar basis; *James v. Cohnreznick LLP*, Case Number: 1:21-cv-06544-LJL (SD NY September 20, 2022) (fee application submitted on both percentage of benefit and lodestar calculation); *In re Deva Concepts Product Liability Litigation*, Case 1:20-cv-01234-GHW, Order Granting Motion for Attorneys’ Fees, Document 129 (January 3, 2022); *see also* Document 121-1 (Declaration of Gary E. Mason detailing billing rates for Mr. Lietz and Mr. Klinger, filed 10/01/21).

51. My firm has incurred out-of-pocket costs of \$3,997.70 in litigating this action, consisting of the following categories of costs:

<b>Description</b>	<b>Cost</b>
Filing Fee	\$150.00
Postage	\$37.84
Out-of-Town Travel	\$2,931.81
Travel Meals	\$601.93
Out-of-Town Transportation	\$275.58
<b>Total</b>	<b>\$3,997.70</b>

52. Throughout the litigation, I made every effort to operate as efficiently as possible and to avoid unnecessary duplication both within my firm and with cocounsel.

53. I have represented Plaintiffs and the class purely on a contingency fee basis in this matter and have not received any payment for my time, effort, or expenses to date.

54. On March 15, 2024, I spoke with the Settlement Administrator, Epiq, regarding its anticipated costs to administer the Settlement to completion. Epiq advised that its anticipated costs to administer the Settlement through completion are capped at \$95,999.

55. Under the Settlement, all Settlement Class Members are eligible to received two (2) years of credit monitoring services, which includes three bureau credit monitoring and alleges. ECF No. 61-1, ¶ 2.3. The proposed credit monitoring benefits retail for at least \$9 per month.<sup>1</sup>

56. If a Class Member were to purchase the credit monitoring benefits being made available under the Settlement on the ‘open market,’ they would pay approximately \$216.

57. There are an estimated 42,000 class members. Accordingly, the entire benefit of to the Class of the credit monitoring is worth \$9,072,000. Even if only 10% of the Class claim the credit monitoring benefits, those benefits would be valued at \$907,200 on the open market.

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

Executed this 15th day of March 2024, in Chicago, Illinois.

By: /s/ Gary M. Klinger  
GARY M. KLINGER

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<sup>1</sup> See, e.g., [https://buy.aura.com/credit-monitoring-50off?irclid=xPDWuiXTMxyPW5ZyPjWjHwiqUkHyO2RgKTPbUU0&iradname=Gtwy-CREDIT%3A%20Credit%20Monitoring%20%2050%25&iradid=1334638&irgwc=1&c1=34020&camp=12398&utm\\_source=top10&utm\\_medium=ir\\_affiliate&mktpr=ir\\_affiliate&sharedid=OeJiTLEIs](https://buy.aura.com/credit-monitoring-50off?irclid=xPDWuiXTMxyPW5ZyPjWjHwiqUkHyO2RgKTPbUU0&iradname=Gtwy-CREDIT%3A%20Credit%20Monitoring%20%2050%25&iradid=1334638&irgwc=1&c1=34020&camp=12398&utm_source=top10&utm_medium=ir_affiliate&mktpr=ir_affiliate&sharedid=OeJiTLEIs).

# **EXHIBIT A**



## **FIRM RESUME**



Milberg Coleman Bryson Phillips Grossman PLLC (“Milberg”) is an AV-rated international law firm with more than 100 attorneys and offices across the United States, the European Union, and South America. Combining decades of experience, Milberg was established through the merger of Milberg Phillips Grossman LLP, Sanders Phillips Grossman LLC, Greg Coleman Law PC, and Whitfield Bryson LLP.

Milberg prides itself on providing thoughtful and knowledgeable legal services to clients worldwide across multiple practice areas. The firm represents plaintiffs in the areas of antitrust, securities, financial fraud, consumer protection, automobile emissions claims, defective drugs and devices, environmental litigation, financial and insurance litigation, and cyber law and security.

For over 50 years, Milberg and its affiliates have been protecting victims’ rights. We have recovered over \$50 billion for our clients. Our attorneys possess a renowned depth of legal expertise, employ the highest ethical and legal standards, and pride ourselves on providing stellar service to our clients. We have repeatedly been recognized as leaders in the plaintiffs’ bar and appointed to numerous leadership roles in prominent national mass torts and class actions.

*Milberg challenges corporate wrongdoing through class action, mass tort, consumer and shareholder right services, both domestically and globally.*

In the United States, Milberg currently holds more than 100 court-appointed full- and co-leadership positions in state and federal courts across the country. Our firm has offices in California, Chicago, Florida, Georgia, Illinois, Kentucky, Louisiana, Mississippi, New Jersey, New York, North Carolina, South Carolina, Tennessee, Washington, Washington D.C., and Puerto Rico. Milberg’s commitment to its clients reaches beyond the United States, litigating antitrust, securities, and consumer fraud actions in Europe and South America, with offices located in the United Kingdom, and the Netherlands. Milberg prides itself on providing excellent service worldwide.

The firm’s lawyers have been regularly recognized as leaders in the plaintiffs’ bar by the National Law Journal, Legal 500, Chambers USA, Time Magazine, and Super Lawyers, among others.

*“A powerhouse that compelled miscreant and recalcitrant businesses to pay billions of dollars to aggrieved shareholders and customers.”*  
- THE NEW YORK TIMES

## PRACTICE AREAS

Milberg maintains a robust practice, representing plaintiffs across numerous areas of law. Milberg attorneys have amassed a wealth of experience in the areas of antitrust and competition law, securities litigation, defective consumer product and automobile litigation, consumer services litigation, dangerous drugs and devices litigation, data breach and biometric data litigation, environmental and toxic tort litigation, finance and insurance litigation, state and local government litigation, and whistleblower and qui tam lawsuits. Milberg attorneys focus their practice among these groups to provide their clients with the best representation possible. Over decades, Milberg attorneys have developed expertise in handling class action lawsuits, leading and overseeing multidistrict litigation, and representing municipalities and other public and governmental clients. Based on their reputation and experience, Milberg attorneys have been assigned to leadership roles in class actions, mass torts litigation, and multidistrict litigation nationwide, across all of these practice areas.

### SECURITIES FRAUD

Milberg pioneered the use of class action lawsuits to litigate claims involving investment products, securities, and the banking industry. Fifty years ago, the firm set the standard for case theories, organization, discovery, methods of settlement, and amounts recovered for clients. Milberg remains among the most influential securities litigators in the United States and internationally.

Milberg and its attorneys were appointed Lead Counsel and Co-Lead Counsel in hundreds of federal, state, and multidistrict litigation cases throughout its history.

#### EXEMPLAR CASES

##### [In re: Nortel Networks Corp. Securities Litigation](#)

U.S. District Court for the Southern District of New York

Milberg attorneys served as Lead Counsel for the class and the court-appointed lead plaintiff, the Trustees of the Ontario Public Service Employees' Union Pension Plan Trust Fund, in this federal securities class action. The court approved a settlement valued at more than \$1.14 billion.

##### [In re: Initial Public Offering Securities Litigation](#)

U.S. District Court for the Southern District of New York

Milberg represented investors in 310 securities class actions alleging a market manipulation scheme involving hundreds of initial public offerings and approximately 55 defendant investment banks. Plaintiffs alleged this scheme significantly contributed to the high-tech "bubble" of the late 1990s and early 2000s. In approving a \$586 million settlement, the court described the law firms on the Plaintiffs' Executive Committee as the "cream of the crop."



**In re: Zynga Inc. Sec. Litigation**

**U.S. District Court for the Northern District of California**

A class action in which Zynga misled investors by portraying the online gaming company as financially strong and withholding non-public information, which in turn allowed a select few within the company to reap the benefits from the company's IPO, before the stock's value eventually collapsed.

**In re: Merck & Co., Inc. Sec. Litigation**

**U.S. District Court for the District of New Jersey**

Milberg served as Co-Lead Counsel in this federal securities fraud class action, and after more than 12 years of hard-fought litigation, ultimately obtained a combined settlement totaling \$1.062 billion, the largest securities class action settlement ever against a pharmaceutical company. The court described the settlement as "a settlement which is fair and just and which, in fact, is the best settlement which possibly could have been achieved in this case."

**In re: Deutsche Telekom AG Sec. Litigation**

**U.S. District Court for the Southern District of New York**

Milberg attorneys served as Co-Lead Counsel in this class action on behalf of purchasers of American Depository Receipts. The plaintiffs alleged that Deutsche Telekom improperly failed to disclose plans to make a major corporate acquisition and overstated the value of real estate assets. Milberg attorneys played a pivotal role in achieving a \$120 million settlement.

**In re: Tyco Int'l Ltd., Sec. Litigation**

**U.S. District Court for the District of New Hampshire**

Milberg attorneys served as Co-Lead Counsel in this litigation, which involved federal securities claims against Tyco and its former CEO, CFO, general counsel, and certain former directors for insider trading and the overstatement of billions of dollars in income. Milberg attorneys played a crucial role in achieving a \$3.2 billion settlement.

**In re: Vivendi Universal, S.A. Securities Litigation**

**U.S. District Court for the Southern District of New York**

Milberg was one of two Lead Trial Counsel in this securities fraud case tried to a jury over four months. The jury found Vivendi liable for dozens of false or misleading statements and awarded damages valued at well over a billion dollars. Six months later, in an unrelated case, the Supreme Court ruled that purchasers on foreign securities exchanges could not recover under U.S. law. Milberg's case against Vivendi continued with post-verdict proceedings under the new standard, and damages have been distributed to U.S. class members totaling over \$100 million.

**In re: Washington Public Power Supply System Securities Litigation**

**U.S. District Court for the District of Arizona**

In this massive securities fraud litigation, Milberg served as Co-Lead Counsel for a class that obtained, after several months of trial, settlements totaling \$775 million, the largest securities fraud settlement at that time.

**In re: Lucent Technologies, Inc. Securities Litigation**

**U.S. District Court for the District of New Jersey**

Milberg served as Co-Lead Counsel in this securities action, which alleged that Lucent and its senior officers misrepresented the demand for Lucent products and improperly recognized hundreds of millions of dollars in revenues. The case settled for \$600 million.

**In re: Biovail Corp. Securities Litigation**

**U.S. District Court for the Southern District of New York**

Milberg, representing Local 282 Welfare Trust Fund and serving as Co-Lead Counsel, litigated this securities action alleging that defendants made misleading statements concerning Biovail's financial results and its drug, Cardizem LA. Following substantial discovery, including depositions across the U.S. and Canada, Milberg obtained a \$138 million settlement for the class, and Biovail agreed to institute significant corporate governance changes.

**In re: CVS Corp. Securities Litigation**

**U.S. District Court for the District of Massachusetts**

Milberg served as Co-Lead Counsel in this securities action on behalf of a class of purchasers of American Depository Receipts. The plaintiffs alleged that Deutsche Telekom improperly failed to disclose plans to make a major corporate acquisition and overstated the value of real estate assets. In 2005, following extensive discovery, including depositions in Germany, the court approved a \$120 million cash settlement.

**In re: CVS Corp. Securities Litigation**

**U.S. District Court for the District of Massachusetts**

Milberg served as Co-Lead Counsel in this securities class action alleging that defendants issued false and misleading statements, which artificially inflated the price of CVS stock. The court approved a \$110 million settlement.

**In re: American Express Financial Advisors Securities Litigation**

**U.S. District Court for the Southern District of New York**

This case involved allegations that American Express Financial Advisors violated securities laws by representing to class members that the company would provide tailored financial advice when the company actually provided "canned" financial plans and advice designed to steer clients into American Express and certain non-proprietary mutual funds. The case settled for \$100 million and required the company to adopt various remedial measures.

**Irvine v. ImClone Systems, Inc.**

**U.S. District Court for the Southern District of New York**

Milberg served as Co-Lead Counsel in this case, in which the court approved a \$75 million cash settlement. The plaintiffs alleged that ImClone misrepresented the likelihood that its drug, Erbitux, would be approved, thereby artificially inflating the price of ImClone stock.

## ANTITRUST

For over fifty years, Milberg's Antitrust Practice Group has prosecuted complex antitrust class actions against defendants in the healthcare, technology, agriculture, and manufacturing industries engaged in price-fixing, monopolization and other violations of antitrust law and trade restraints.

### EXEMPLAR CASES

#### [In re: Dealer Management Systems Antitrust Litigation](#)

U.S. District Court for the Northern District of Illinois

Milberg is appointed Lead Counsel in this nationwide class action representing car dealerships. Plaintiffs allege that leading software providers entered into an unlawful agreement, monopolizing access to auto sales and service data in dealer management software used by dealers, thereby reducing competition and increasing prices. Milberg attorneys achieved a \$29.5 million settlement against one defendant and the case is proceeding against the remaining defendant.

#### [In re: ACTOS Antitrust Litigation](#)

U.S. District Court for the Southern District of New York

Milberg attorneys played a significant role in this litigation, including appointment to the MDL Discovery Committee, which accused Takeda Pharmaceuticals of failing to warn patients of the risks of bladder cancer, heart failure and other side effects associated with the Type 2 diabetes drug. In 2015, roughly 9,000 claims were settled for \$2.4 billion and significant injunctive relief.

#### [In re: Cathode Ray Tube \(CRT\) Antitrust Litigation](#)

U.S. District Court for the Northern District of California

Milberg represented indirect purchaser plaintiffs in this class action alleging an international conspiracy among defendants to keep prices for cathode ray tube (CRT) displays artificially high. Milberg had a significant discovery role in the prosecution of this class action with settlements exceeding \$580 million.

#### [Blessing v. Sirius XM Radio Inc.](#)

U.S. District Court for the Southern District of New York

Milberg served as Co-Lead Counsel in this case alleging that the merger of two U.S. satellite radio providers led to the monopolization of the satellite radio market and the elimination of competition.

#### [In re: Disposable Contact Lens Antitrust Litigation](#)

U.S. District Court for the Middle District of Florida

Milberg represented indirect purchasers in a class action alleging that defendants conspired to maintain artificially high prices for disposable contact lenses through policies that prevented resale of the subject contact lenses below a minimum price. Settlements exceeded \$118 million.

#### [In re: Liquid Aluminum Sulfate Antitrust Litigation](#)

U.S. District Court for the District of New Jersey

Milberg was appointed to the Plaintiffs Steering Committee in this class action alleging that manufacturers of a chemical essential to municipal water treatment engaged in price-fixing, bid-rigging and market allocation in violation of federal antitrust laws. Settlements were valued at \$92.5 million.

### [Sandhaus v. Bayer AG](#)

#### **Kansas State Court**

Milberg served as Co-Lead Counsel in this case alleging that Bayer and several generic drug manufacturers entered into pay-for-delay agreements concerning an antibiotic marketed by Bayer, which caused the plaintiffs to continue paying supracompetitive prices for the drug throughout the class period. The case settled for \$9 million.

### [In re: Fresh Process Potatoes Antitrust Litigation](#)

#### **United States District Court, District of Idaho**

Milberg served as Co-Lead Counsel for indirect purchaser plaintiffs in this class action alleging that potato growers, their cooperatives, processors, and packers violated federal antitrust laws by conspiring to manipulate the price and supply of potatoes. Milberg achieved a settlement for \$5.5 million and meaningful injunctive relief.

### [In re: Google Play Consumer Antitrust Litigation](#)

#### **U.S. District Court for the Northern District of California**

Milberg is appointed part of a three-member Steering Committee in this consolidated class action alleging Google engaged in anticompetitive behavior through the Google Play Store, seeking injunctive relief and monetary damages on behalf of consumers forced to pay inflated prices for Play Store purchases.

### [Series 17-03-615, a series of MSP Recovery Claims, Series LLC. v. Express Scripts, Inc.](#)

#### **U.S. District Court for the Northern District of Illinois**

Milberg represents third-party payers in this class action alleging that defendants participated in a vertical price-fixing scheme and their monopolistic, anticompetitive behavior caused plaintiffs and the class to pay inflated prices for the drug, H.P. Acthar Gel.

### [In re: Hard Disk Drive Assemblies Antitrust Litigation](#)

#### **U.S. District Court for the Northern District of California**

Milberg represents a class of indirect purchaser end user plaintiffs in a class action alleging that the two largest manufacturers of hard disk drive (HDD) suspension assemblies illegally conspired to fix prices of these component parts, thereby raising prices of products purchased by plaintiffs and the class.

### [In re: Deere & Co. Repair Services Antitrust Litigation](#)

#### **U.S. District Court for the Northern District of Illinois**

Milberg is appointed to the Plaintiffs Steering Committee in this class action alleging that John Deere illegally monopolized the repair and diagnostic services market for Deere brand agricultural equipment with onboard central computers known as engine control units, thereby inflating the prices of these services.

### [Harley-Davidson Aftermarket Parts Marketing, Sales Practices and Antitrust Litigation](#)

#### **U.S. District Court for the Eastern District of Wisconsin**

Milberg represents a class of Harley-Davidson motorcycle owners in a case alleging that Harley-Davidson uses its monopoly power to force motorcycle owners to use its compatible branded parts for repairs or risk losing warranty coverage.

### [In re: California Gasoline Spot Market Antitrust Litigation](#)

U.S. District Court for the Northern District of California

Milberg represents California consumers who were forced to pay supracompetitive prices for gasoline due to the manipulation of the California gasoline spot market.

## FINANCIAL LITIGATION

For over five decades, Milberg has spearheaded litigation challenging unethical practices by some of the biggest financial and insurance institutions in the world and has been at the cutting edge of cases that directly impacted large banks, lenders, and insurers.

### EXEMPLAR CASES

#### [In re: Prudential Insurance Co. Sales Practice Litigation](#)

U.S. District Court for the Northern District of California

Milberg attorneys were appointed Lead Counsel and recovered more than \$4 billion for certain policyholders in this landmark case challenging Prudential's insurance sales practices.

#### [In re: Raytheon Co. Securities Litigation](#)

U.S. District Court for the District of Massachusetts

Milberg served as Lead Counsel in this case, which alleged that a major defense contractor failed to properly write down assets on construction contracts. Raytheon and its auditor, PricewaterhouseCoopers LLP, settled for a total of \$460 million.

#### [In re: Chase Bank USA, N.A. "Check Loan" Contract Litigation](#)

U.S. District for the Northern District of California

Milberg served on the Executive Committee representing the class in this action against JP Morgan Chase & Co. The complaint alleged that Chase improperly increased the minimum monthly payment by 150% required for customers who entered into balance transfer loans with "fixed" interest rates that were guaranteed to remain so for the "life of the loan." Milberg and its Co-Counsel achieved a \$100 million settlement for the class.

#### [In re: General Electric Co. ERISA Litigation](#)

U.S. District Court for the Northern District of New York

Milberg, serving as Co-Lead Counsel, achieved a \$40 million settlement on behalf of current and former G.E. employees who claimed that G.E.'s 401(k) Plan fiduciaries imprudently invested more than two-thirds of the Plan's assets in company stock. The settlement included important structural changes to G.E.'s 401(k) plan valued at more than \$100 million.

#### [In re: Royal Dutch/Shell Transport ERISA Litigation](#)

U.S. District Court for the District of New Jersey

Milberg attorneys led this ERISA breach of fiduciary duty class action against the Royal Dutch/Shell Oil Group of Companies on behalf of certain of the companies' U.S. employee investment plan participants. The \$90 million settlement included important provisions regarding the monitoring and training of individuals appointed to be ERISA fiduciaries.

### [Mason v. Medline](#)

**U.S. District Court for the Northern District of Illinois**

Milberg successfully represented a healthcare worker in a False Claims Act case against his former employer, Medline Industries, Inc., one of the nation's largest suppliers of medical and surgical products, along with its charitable arm, The Medline Foundation. The suit alleged that Medline engaged in a widespread illegal kickback scheme targeting hospitals and other healthcare providers that purchase medical products paid for by federal healthcare programs. Milberg pursued the case on a non-intervened basis and recovered \$85 million on behalf of the federal government — one of the largest settlements of a False Claims Act case in which the government declined to intervene.

### [In re: Converse Technology, Inc. Derivative Litigation](#)

**U.S. Supreme Court for the State of New York, New York County**

As Co-Lead Counsel, Milberg negotiated a \$62 settlement which was approved by the court. The settlement also resulted in significant corporate governance reforms, including the replacement of various directors and officers; the amendment of the company's bylaws to permit certain shareholders to propose in the company's proxy materials nominees for election as directors; and the requirement that all equity grants be approved by both the compensation committee and a majority of the non-employee directors.

## CONSUMER PROTECTION

Milberg's Consumer Protection Practice Group focuses on improving product safety and protecting those who have fallen victim to deceptive marketing and advertising of goods and services and/or purchased defective products. Milberg attorneys have served as Lead Counsel and Co-Lead Counsel in hundreds of federal, state, and multidistrict litigation cases alleging the sale of defective products, improper marketing of products, and violations of consumer protection statutes.

### **EXEMPLAR CASES**

#### [Cleveland v. Whirlpool Corp.](#)

**U.S. District Court for the District of Minnesota**

Milberg attorneys led this class action involving leaking and defective washing machines. Milberg attorneys were pivotal in achieving a settlement valued at approximately \$21 million, which included meaningful service plan benefits and reimbursement for out-of-pocket repair expenses.

#### [Berman et al. v. General Motors LLC](#)

**U.S. District Court for the Southern District of Florida**

Milberg attorneys held leadership roles in this class action involving excessive oil consumption in Chevrolet and GMC vehicles. Milberg attorneys played a pivotal role in achieving a nationwide settlement valued at over \$40 million, securing vehicle repairs and reimbursement for out-of-pocket repair costs.

#### [Chess v. Volkswagen Group of America, Inc.](#)

**U.S. District Court for the Central District of California**

Milberg attorneys were named Co-Lead Counsel in this class action involving Volkswagen vehicles with defective transmissions. Milberg attorneys secured a settlement that included up to full reimbursement for out-of-pocket repair expenses and significant injunctive relief.

#### [Hamm v. Sharp Electronics Corporation](#)

U.S. District Court for the Southern District of Florida

Milberg attorneys served as Co-Class Counsel in this class action involving defectively designed microwave drawers. Milberg attorneys were instrumental in achieving a settlement valued at more than \$100 million, which included meaningful extended service plan benefits and reimbursement for out-of-pocket repair expenses.

#### [In re: Allura Fiber Cement Siding Products Liability Litigation](#)

U.S. District Court for the District of South Carolina

Milberg attorneys were appointed Co-Lead Counsel and Steering Committee members by the court in this class action alleging defective fiber cement board siding. Milberg attorneys helped to secure a nationwide settlement for repair and replacement of homeowners' siding.

#### [In re: MI Windows and Doors, Inc., Products Liability Litigation](#)

U.S. District Court for the District of South Carolina

Milberg attorneys served as Co-Lead Counsel in this multidistrict class action litigation and helped to secure a nationwide class settlement for homeowners who purchased defectively designed windows.

#### [In re: Zurn Pex Plumbing Products Liability Litigation](#)

U.S. District Court for the District of Minnesota

Milberg attorneys served on the Executive Committee in this multidistrict class action involving leaking and defective plumbing systems. Milberg attorneys secured monetary benefits valued at \$100,000 per class settlement member, and plumbing repairs in value up to \$7,000 per class settlement member.

#### [Hobbie, et al. v. RCR Holdings II, LLC, et al.](#)

U.S. District Court for the District of Louisiana

Milberg attorneys served as Co-Lead Counsel in a multidistrict class action alleging improper usage of toxic and defective Chinese drywall. Milberg attorneys played an important role in securing a \$30 million settlement for remediation of 364-unit residential high-rise buildings constructed with the toxic drywall.

#### [In re: Chinese Manufactured Drywall Products Liability Litigation](#)

U.S. District Court for the Eastern District of Louisiana

Milberg attorneys served on the Executive Committee in a multidistrict class action involving defective and toxic drywall.

#### [In re: Synthetic Stucco Litigation](#)

U.S. District Court for the Eastern District of North Carolina

Milberg attorneys were appointed to the Steering Committee and played a pivotal role in securing settlements with four exterior insulation finishing system manufacturers for homeowners valued at over \$50 million.

#### [Bridget Smith v. Floor and Decor Outlets of America, Inc.](#)

U.S. District Court for the Northern District of Georgia

Milberg attorneys were appointed Co-Lead Counsel in this class action alleging undisclosed formaldehyde exposure from wood and laminate flooring. Milberg attorneys achieved a national class action settlement for homeowners who purchased unsafe laminate wood flooring.

**[In re: Lumber Liquidators Chinese-Manufactured Flooring Products Marketing, Sales Practices and Products Liability Litigation](#)**

**U.S. District Court for the Eastern District of Virginia**

Milberg attorneys were appointed Co-Lead Counsel in this class action alleging formaldehyde exposure and secured a \$36 million national class action settlement for members who purchased a certain type of laminate flooring.

**[In re: Windsor Wood Clad Window Products Liability Litigation](#)**

**U.S. District Court for the Eastern District of Wisconsin**

Milberg attorneys were appointed Lead Counsel in this class action alleging window defects. Milberg attorneys helped to secure a nationwide settlement for customers providing repairs, replacements, and compensation for out-of-pocket expenses.

**[In re: Allura Fiber Cement Siding Products Liability Litigation](#)**

**U.S. District Court for the District of South Carolina**

Milberg attorneys were appointed Co-Lead Counsel in this class action alleging defective cement board siding. Milberg attorneys helped to secure a nationwide settlement for customers providing repairs, replacements, and compensation for out-of-pocket expenses.

**[Norman et al. v. Nissan North America](#)**

**U.S. District Court for the Middle District of Tennessee**

Milberg attorneys were appointed Co-Lead Counsel in this class action alleging CVT transmission defects in Nissan vehicles. Milberg attorneys played a pivotal role in securing a nationwide settlement valued at approximately \$17 million for repairs, replacements, extended warranty, and cash benefits.

**[In re: Horizon Organic Milk Plus DHA Omega-3 Marketing and Sales Practice Litigation](#)**

**U.S. District Court for the Southern District of Florida**

Milberg attorneys were appointed Co-Lead Counsel in this class action alleging falsely advertised brain health benefits. Milberg attorneys were essential in securing a settlement valued at \$1.3 million for consumers.

**[In re: Deva Concepts Products Liability Litigation](#)**

**U.S. District Court for the Southern District of New York**

Milberg attorneys were appointed Co-Lead Counsel in this multidistrict class action alleging hair loss and scalp irritation caused by Deva's products. Milberg attorneys secured a nationwide settlement valued at \$5.2 million, including up to \$19,000 per class member.

**[In re: All-Clad Metalcrafters, LLC, Cookware Marketing and Sales Practices Litigation](#)**

**U.S. District Court for the Western District of Pennsylvania**

Milberg attorneys were appointed to leadership positions in this multidistrict class action involving All-Clad's false advertising that its stainless-steel cookware was dishwasher safe. Milberg attorneys secured a nationwide settlement valued at \$4 million, including replacement products, monetary benefits, partial reimbursements for purchases of the defective products, and discounts on future product purchases.



[Julian, et al., v. TTE Technology, Inc.](#)

**U.S. District Court for the Northern District of California**

Milberg attorneys were appointed Co-Lead Counsel in this litigation involving the false advertising of TCL televisions' refresh rates. Milberg attorneys played an important role in securing a class settlement valued at \$2.5 million in cash benefits to class members.

[Roberts et al. v. Electrolux Home Products Inc.](#)

**U.S. District Court for the Central District of California**

Milberg attorneys were named Co-Lead Counsel in this class action involving defective dryers manufactured by Electrolux. Milberg attorneys helped to obtain a settlement on behalf of more than one million class members, valued at over \$35 million.

[Tabak v. Apple Inc.](#)

**U.S. District Court for the Northern District of California**

Milberg attorneys brought this class action against Apple for a defect in the iPhone 7 and iPhone 7 Plus, which negatively impacted the audio quality of the phones. Milberg attorneys played a pivotal role in bringing the case, briefing, and discovery. The parties have agreed to a class settlement in principle, valued at \$35 million.

[Koenig v. VIZIO, Inc.](#)

**Superior Court of Los Angeles County, California**

Milberg attorneys litigated this class action involving the false advertising of Vizio televisions' refresh rates. Milberg attorneys played a pivotal role, including briefing, discovery, and handling all trial responsibilities. The parties have agreed to a class settlement in principle, valued at over \$40 million.

[In re: Outer Banks Power Outage Litigation](#)

**U.S. District Court for the Eastern District of North Carolina**

Milberg attorneys served as Co-Lead Counsel and secured a \$10.35 million settlement in a class action in which residents, businesses, and vacationers on Hatteras and Ocracoke Islands in North Carolina were impacted by a 9-day power outage.

[Elliott et al v. KB Home North Carolina Inc.](#)

**North Carolina Superior Court**

In this class action involving homeowners who purchased homes that were improperly built without weather-resistant barriers, Milberg attorneys played an essential role in securing a settlement valued at approximately \$6,500 to \$17,000 for each class member.

[In re: Allergan Biocell Textured Breast Implant Product Liability Litigation](#)

**U.S. District Court for the District of New Jersey**

Milberg attorneys were appointed to the Plaintiffs Steering Committee in this multidistrict class action against Allergan for breast implants that caused cancer. Milberg attorneys continue to play a pivotal role in this ongoing case.

[In re: Evenflo Co., Inc. Marketing, Sales Practices and Products Liability Litigation](#)

**U.S. District Court for the District of Massachusetts**

Milberg attorneys were appointed Co-Lead Counsel in this multidistrict litigation against Evenflo for deceptively marketing its child booster seats.

[Carder v. Graco Children's Safety products, Inc.](#)

U.S. District Court for the Northern District of Georgia

Milberg attorneys were appointed to multiple leadership positions in this class action involving the deceptive marketing of child car seats.

[Coleman, et al, v. Britax Child Safety, Inc.](#)

U.S. District Court for the District of South Carolina

Milberg attorneys were appointed Co-Lead Counsel in this class action involving the deceptive marketing of child car seats.

[Yamasaki v. Zicam LLC](#)

U.S. District Court for the Northern District of California

Milberg attorneys brought claims against Zicam for false advertising of its cold medicine, which failed to warn consumers that the medicine could cause permanent loss of smell.

[In re: Seresto Flea and Tick Collar Marketing, Sales Practices And Products Liability Litigation](#)

U.S. District Court for the Northern District of Illinois

Milberg attorneys were appointed Co-Lead Counsel in this multidistrict class action against the manufacturers of Seresto flea and tick collars, which were linked to numerous pet deaths. The litigation is ongoing.

## DANGEROUS DRUGS & DEVICES

Milberg is a nationally renowned firm in mass torts, fighting some of the largest, wealthiest, and most influential pharmaceutical and device companies and corporate entities in the world. Our experienced team of attorneys has led or co-led numerous multidistrict litigations of defective drugs and medical devices.

### EXEMPLAR CASES

[In re: Avandia Marketing, Sales Practices, and Products Liability Litigation](#)

U.S. District Court for the Eastern District of Pennsylvania

Milberg attorneys were appointed to the Plaintiffs Steering Committee and served on the Discovery and Media Sub-Committees on behalf of thousands of patients who took the Type 2 diabetes drug Avandia, alleging the manufacturer failed to disclose the known and increased risk of heart attack and cardiac death. GlaxoSmithKline set aside \$3.4 billion in 2011 to settle lawsuits.

[In re: Benicar \(Olmesartan\) Products Liability Litigation](#)

U.S. District Court for the District of New Jersey

Milberg attorneys were appointed to the Plaintiffs Steering Committee and Common Benefit Fee Committee in this multidistrict litigation which alleged that Benicar manufacturer Daiichi Sankyo and co-promoter Forest Laboratories were responsible for serious gastrointestinal injuries. In 2017, the defendants agreed to a \$300 million settlement.

[In re: Chantix \(Varenicline\) Products Liability Litigation](#)

U.S. District Court for the Northern District of Alabama, Southern Division

Milberg attorneys served as Co-Lead Counsel in the Chantix Coordination in New York State Court and court-appointed member of the Plaintiffs Steering Committee in the MDL in Alabama.

#### [In re: Fluoroquinolone Products Liability Litigation](#)

**U.S. District Court for the District of Minnesota**

Milberg attorneys were appointed to the Plaintiffs Steering Committee in the MDL in Minnesota litigating the broad-spectrum antibiotic that resulted in severe tendon damage, particularly debilitating Achilles tendon ruptures.

#### [Fosamax Litigation \(I & II\)](#)

**U.S. District Court for the District of New Jersey**

Fosamax I: Milberg was appointed Lead Counsel in this New York MDL for ONJ cases and served on the Discovery Team in the Superior Court of New Jersey. Fosamax II: Milberg was appointed to Fosamax Femur MDL Plaintiffs Steering Committee for MDL in the District of New Jersey.

#### [In re: Fresenius Granuflo/NaturaLyte Dialysate Products Liability Litigation](#)

**U.S. District Court for the District of Massachusetts**

Milberg attorneys served on the Plaintiffs Steering Committee in the MDL. Granuflo and NaturaLyte were manufactured and marketed by Fresenius Medical for use in dialysis treatment to address kidney failure both chronic and acute, but also caused increased heart complications.

#### [In re: Incretin Mimetics Products Liability Litigation](#)

**U.S. District Court for the Southern District of California (San Diego)**

Milberg attorneys were appointed to the MDL Plaintiffs Steering Committee in California. Incretins are a class of Type 2 Diabetes drugs which result in a significant increase in gastric side effects.

#### [In re: Infusion Pump Cases \(JCCP 4615\)](#)

**U.S. Ninth Circuit Court, Eastern District of California**

Milberg attorneys were appointed Plaintiffs Liaison Counsel. Studies showed that pain pumps were associated with high failure rates when used appropriately and often mis-used leading to increased failure rates and resultant complications.

#### [Risperdal and Invega Product Liability Litigation \(JCCP 4775\)](#)

**California Second District Court of Appeal, Division Three**

Milberg attorneys were appointed Co-Lead Counsel in Risperdal/Invega Product Liability Litigation against Johnson & Johnson/Janssen regarding these anti-psychotic dopamine receptor blockers that cause hormonal changes in male users that can result in breast tissue growth.

#### [In re: Mirena IUD Levonorgestrel-Related Products Liability Litigation](#)

**U.S. District Court for the Southern District of New York**

Milberg attorneys were appointed to the Plaintiffs Steering Committee. Mirena, a hormone releasing IUD for contraception was intended for longer term placement, are prone to failure and breakage and resultant injuries.

#### [Propecia Finasteride Product Liability Litigation](#)

**U.S. District Court for the Eastern District of New York**

Milberg attorneys were appointed to the Plaintiffs Steering Committee. Another Milberg attorney was appointed Lead Counsel in the New Jersey Multi County Litigation in Middlesex County, New Jersey. These litigations centered on sexual dysfunction resulting from use of Merck's male pattern hair loss product, Propecia.

**In re: Reglan Litigation**

**U.S. Superior Court of New Jersey, Law Division Atlantic County**

Milberg attorneys were appointed Co-Lead Counsel in the Multi County Litigation in New Jersey State Court, Atlantic County. Reglan is often used for longer terms to address symptoms of GERD resulting in neurological injuries including Tardive Dyskinesia.

**Johnson & Johnson Talcum Powder Products Marketing, Sales Practices and Products Liability Litigation (MDL 2738)**

**U.S. District Court for the District of New Jersey**

Milberg attorneys were appointed to the Plaintiffs Steering Committee in the Johnson & Johnson Talcum Powder Litigation and served on the Science Committee and Bellwether Committee in the MDL in District Court New Jersey, as well as on the Science and Experts Committee of the PSC.

**In re: American Medical Systems, Inc., Pelvic Repair System Products Liability Litigation**

**U.S. District Court for the Southern District of West Virginia**

Milberg attorneys were appointed to the Plaintiffs Steering Committee in the AMS, Bard, Boston Scientific and Ethicon MDLs.

**In re: Vioxx Products Liability Litigation**

**U.S. District Court for the Eastern District of Louisiana**

Milberg attorneys served as Liaison to the media for Vioxx Plaintiffs Steering Committee and Public Relations Committee in Louisiana and on the New Jersey Multi County Litigation Vioxx discovery team.

**In re: Zicam Cold Remedy Marketing, Sales Practices and Products Liability Litigation**

**U.S. District Court for the District of Arizona**

Milberg attorneys were appointed to the MDL Plaintiffs Steering Committee in Arizona in this case involving a homeopathic, over the counter common cold and allergy symptom product that left many with impaired ability to smell.

**In re: Zimmer Nexgen Knee, Implant Products Liability Litigation**

**U.S. District Court for the Northern District of Illinois, Eastern Division**

Milberg attorneys were appointed to the MDL Plaintiff's Steering Committee in Illinois as well as the Electronic Storage Information Committee. Zimmer manufactures multiple devices including knee devices which resulted in premature failure necessitating additional, painful, and costly surgeries.

**In re: Crestor Products Liability Cases (JCCP 4713)**

**California Superior Court**

Milberg attorneys served as Co-Lead Counsel in the JCCP in State Court California on this highly potent AstraZeneca "me too" cholesterol managing statin litigation where serious side effects included newly onset diabetes and liver damage as well as reactions with Coumadin.

## EMPLOYMENT & CIVIL RIGHTS

Milberg's Employment & Civil Rights attorneys focus on class actions and individual cases nationwide arising from discriminatory banking and housing practices, unpaid wages and sales commissions, improperly managed retirement benefits, workplace discrimination, and wrongful termination.

### EXEMPLAR CASES

#### [In re: Black Farmers Discrimination Litigation](#)

U.S. District Court for the District of Columbia

Milberg attorneys were appointed Lead Counsel and secured a \$1.25 billion settlement fund for black farmers who alleged the U.S. Department of Agriculture discriminated against them by denying farm loans.

#### [Kingston v. IBM](#)

U.S. District Court for the Western District of Washington

Milberg attorneys spearheaded a series of landmark cases against IBM alleging wrongful termination of software sales managers through a pattern of fraudulent conduct.

#### [Parry et al. v. Farmers Insurance Exchange, et al.](#)

Superior Court of Los Angeles County, California

Milberg attorneys were named Class Counsel and secured a \$75 million class-action settlement with Farmers Insurance on behalf of its agents alleging that Farmers Insurance misclassified its agents as independent contractors.

#### [Meek v. SkyWest, Inc.](#)

U.S. District Court for the Northern District of California

Milberg attorneys were Lead Counsel and secured a \$4.2 million class action settlement against SkyWest Airlines for allegedly failing to provide proper rest and meal breaks to its employees.

#### [Craig v. Rite Aid Corporation](#)

U.S. District Court for the Middle District of Pennsylvania

This FLSA collective action and class action settled for \$20.9 million.

#### [Stillman v. Staples, Inc.](#)

U.S. District Court for the District of New Jersey

This FLSA collective action had a Plaintiffs' trial verdict for \$2.5 million and a national settlement approved for \$42 million.

#### [Lew v. Pizza Hut of Maryland, Inc.](#)

U.S. District Court for the District of New Jersey

This FLSA collective action had a statewide settlement for managers-in-training and assistant managers, providing recompense of 100% of lost wages.

## ENVIRONMENTAL LITIGATION & TOXIC TORTS

Milberg's Environmental Litigation & Toxic Torts Practice Group focuses on representing clients in mass torts, class actions, multi-district litigation, regulatory enforcement, citizen suits, and other complex environmental and toxic tort matters. Milberg and its attorneys have held leadership roles in all facets of litigation in coordinated proceedings, with a particular focus on developing the building blocks to establish general causation, which is often the most difficult obstacle in an environmental or toxic tort case.

### EXEMPLAR CASES

#### [Nnadili, et al. v. Chevron U.S.A., Inc.](#)

U.S. District Court for the District of Columbia

Milberg attorneys were Lead Counsel in a \$6.2 million settlement for owners and residents of 200 properties located above underground plume of petroleum from former Chevron gas station.

#### [In re: Swanson Creek Oil Spill Litigation](#)

U.S. District Court for the District of Maryland

Milberg attorneys served as Lead Counsel and achieved a \$2.25 million settlement arising from the largest oil spill in history of State of Maryland.

#### [In re: Exxon Valdez](#)

U.S. District Court for the District of Alaska

Milberg was a member of the Plaintiffs' Coordinating Committee and co-chair of the Plaintiffs' Law Committee in this massive litigation resulting from the Exxon Valdez oil spill in Alaska. The plaintiffs obtained a jury verdict of \$5 billion, which, after years of appeals by Exxon, was reduced to approximately \$500 million by the United States Supreme Court. The United States Court of Appeals for the Ninth Circuit has since held that plaintiffs are entitled to post-judgment interest on the award in the amount of approximately \$470 million.

#### [Municipality of Bayamon, et al., v. Exxon Mobil Corp., et al.](#)

United States District Court for the District of Puerto Rico

More than a dozen municipalities of Puerto Rico have filed a class action lawsuit against fossil fuel companies for their alleged role in the deadly 2017 hurricane season that devastated the Commonwealth, causing billions in damages and leaving thousands of people dead. The first-of-its-kind lawsuit seeks financial compensation from oil and coal companies for marketing and selling carbon-based products that they intentionally misrepresented to the public and worked together to publicly conceal the climate risk changes of their products while internally acting on climate science to safeguard their own assets.

#### [Sharon Weatherly v. Eastman Chemical Co.](#)

Circuit Court of Sullivan County, Tennessee Second Judicial District

Milberg attorneys led the effort to bring justice for hundreds of injured workers and their families resulting from a steam explosion at the Eastman Chemical Company which released asbestos and other toxic materials. Milberg filed a class-action lawsuit, pursuing claims for public and private nuisance, trespass, negligence, and strict liability for ultra-hazardous activity.

## STATE & LOCAL GOVERNMENTS

Milberg attorneys are dedicated to defending the Constitutional and statutory rights of individuals and businesses that are subjected to unlawful government exactions and fees by state and local governments or bodies.

### EXEMPLAR CASES

#### [Daedalus, LLC, et al. v. City of Charlotte](#)

##### North Carolina Superior Court, Mecklenburg County

Milberg attorneys recovered a \$106 million class action settlement for property owners for unlawful water and sewer capacity fees and system development fees charged by the City of Charlotte, North Carolina as a condition of providing water and sewer service to property owners.

#### [Upright Builders, Inc., et al. v. Town of Apex](#)

##### North Carolina Superior Court, Wake County

Milberg attorneys recovered a \$15.3 million class action settlement for property owners for unlawful water and sewer capacity replacement fees and transportation impact fees charged by the Town of Apex, North Carolina as a condition of providing water and sewer service to property owners.

#### [Plantation Builders of Wilmington, Inc., et al. v. County of Brunswick](#)

##### North Carolina Superior Court, Brunswick County

Milberg attorneys recovered a \$15.25 million class action settlement for property owners for unlawful water and sewer capacity fees charged by Brunswick County, North Carolina as a condition of providing water and sewer service to property owners.

#### [Gerald Currin Builders, Inc. v. Town of Holly Springs](#)

##### North Carolina Superior Court, Wake County

Milberg attorneys recovered a \$7.9 million class action settlement for property owners for unlawful water and sewer capacity replacement fees charged by the Town of Holly Springs, North Carolina as a condition of providing water and sewer service to property owners.

#### [Meritage Homes of the Carolinas, Inc. v. Town of Holly Springs](#)

##### North Carolina Superior Court, Wake County

Milberg attorneys recovered a \$7.5 million class action settlement for property owners for unlawful parks and recreation fees in-lieu of land dedication charged by the Town of Holly Springs, North Carolina as a condition of granting development approval to residential subdivision developers.

#### [Plantation Building of Wilmington, Inc. v. Town of Leland](#)

##### North Carolina Superior Court, Brunswick County

Milberg attorneys recovered a \$6.2 million class action settlement for property owners for unlawful water and sewer impact fees charged by the Town of Leland, North Carolina as a condition of providing water and sewer service to property owners.

**Shenandoah Homes, LLC v. Town of Clayton**

**North Carolina Superior Court, Johnston County**

Milberg attorneys recovered a \$2.7 million class action settlement for property owners for unlawful water and sewer impact fees charged by the Town of Clayton, North Carolina as a condition of providing water and sewer service to property owners.

**Granite Land and Timber, LLC v. Town of Clayton**

**North Carolina Superior Court, Johnston County**

Milberg attorneys recovered a \$2.45 million class action settlement for property owners for unlawful parks and recreation fees in-lieu of land dedication charged by the Town of Clayton, North Carolina as a condition of granting development approval to residential subdivision developers.

**Mayfair Partners, LLC et al. v. City of Asheville**

**North Carolina Superior Court, Buncombe County**

Milberg attorneys recovered a \$1.85 million class action settlement for property owners for unlawful water and sewer impact fees charged by the City of Asheville, North Carolina as a condition of providing water and sewer service to property owners.

**Eastwood Construction, LLC, et. al v. City of Monroe**

**North Carolina Superior Court, Union County**

Milberg attorneys recovered a \$1.75 million class action settlement for property owners for unlawful water and sewer impact fees charged by the City of Monroe, North Carolina as a condition of providing water and sewer service to property owners.

**Larry Shaheen v. City of Belmont**

**North Carolina Superior Court, Gaston County**

Milberg attorneys recovered a \$1.65 million class action settlement for property owners for unlawful water and sewer impact fees charged by the City of Belmont, North Carolina as a condition of providing water and sewer service to property owners.

**Brookline Homes, LLC v. City of Mount Holly**

**North Carolina Superior Court, Gaston County**

Milberg attorneys recovered a \$483,468 class action settlement for property owners for unlawful water and sewer impact fees charged by the City of Mount Holly, North Carolina as a condition of providing water and sewer service to property owners.



## INFORMATION TECHNOLOGY

Milberg is a leader in the fields of cyber security, data breach litigation, and biometric data collection, litigating on behalf of clients – both large and small – to change data security practices so that large corporations respect and safeguard consumers’ personal data.

### EXEMPLAR CASES

#### [In re: Google Buzz Privacy Litigation](#)

U.S. District Court for the Northern District of California

Milberg attorneys were appointed Lead Class Counsel and secured a \$8.5 million cy pres settlement.

#### [In re: Dept. of Veterans Affairs \(VA\) Data Theft Litigation](#)

U.S. District Court for the District of Columbia

Milberg attorneys were appointed Co-Lead Counsel representing veterans whose privacy rights were compromised by the theft of an external hard drive containing personal information of approximately 26.6 million veterans and their spouses; creation of a \$20 million fund for affected veterans and a cy pres award for two non-profit organizations.

#### [In re: Target Corporation Customer Data Security Breach Litigation](#)

U.S. District Court for the District of Minnesota

Milberg represented as many as 110 million Target customers whose personal information was compromised in this landmark data breach case. Milberg, together with Co-Counsel, achieved compensation of \$10 million, entitling individual consumers to recover losses of up to \$10,000. An appeal of the settlement has been remanded to the District Court of Minnesota and remains pending.

## APPELLATE

Consisting of former appellate judges, experienced appellate advocates, and former law clerks who understand how best to present compelling arguments to judges on appeal and secure justice for our clients beyond the trial courts, Milberg's Appellate Practice Group boasts an impressive record of success on appeal in both state and federal courts.

### EXEMPLAR CASES

#### [Home Depot, U.S.A., Inc. v. Jackson](#)

##### United States Supreme Court

Milberg attorneys represented a consumer who was originally sued in a state court debt collection action. In response, Milberg attorneys filed third-party class action claims against Home Depot for deceptive trade practices regarding its store credit cards marketed to customers. Home Depot sought to remove the class action counterclaims, which were filed in the existing state court action, to federal court. Lengthy appeals followed, in which Milberg attorneys worked cooperatively with attorneys at Public Justice to represent the original consumer and class of consumers. Ultimately, the Supreme Court agreed with the consumers' position and held that a third-party counterclaim defendant may not remove state court claims either under the removal statute or under the Class Action Fairness Act. This decision represents a significant victory for consumer plaintiffs.

#### [Webb v. Injured Workers Pharmacy, LLC](#)

##### First Circuit Court of Appeals

Milberg attorneys scored a significant victory for plaintiffs in data breach and other federal tort cases. The decision animated the Supreme Court's decision in *TransUnion v. Ramirez*, by applying its standing analysis in a common sense and logically consistent manner to the real-world fact patterns posed by data breach cases. The decision demonstrates that federal court is still a viable forum for data breach cases based upon the material risk of future misuse, as well as actual misuse of data.

#### [Kingston v. Int'l Bus. Machines Corp.](#)

##### Ninth Circuit Court of Appeals

Milberg attorneys represented an IBM software sales manager who was fired for reporting racial discrimination and the unlawful capping of sales commissions. A jury awarded the plaintiff almost \$15 million. The Ninth Circuit affirmed the jury's finding of liability and most of the damages award, over a dissent.

#### [Fessler v. Int'l Bus. Machines Corp.](#)

##### Fourth Circuit Court of Appeals

Milberg attorneys represented an IBM software salesman whose sales commissions IBM had wrongly capped. The district court dismissed the salesman's claims. The Fourth Circuit reversed the dismissal, distinguishing a long line of older cases in which IBM had prevailed on the grounds that the new case was factually distinct and presented novel legal theories. The case was later resolved.

### [Lytle v. Nutramax Labs., Inc.](#)

#### **Ninth Circuit Court of Appeals**

Milberg attorneys represented a class of consumers who purchased pet joint health supplements, which they claimed were deceptively marketed and labeled. The trial court granted class certification, and the defendant sought to appeal to the Ninth Circuit, which agreed to hear the appeal. Milberg attorneys argued that class certification was proper, and that the plaintiffs' proposed damages model—a conjoint analysis that surveyed consumers to determine the value of the product's deceptive statements—was valid for calculating classwide damages. The Ninth Circuit heard the parties' arguments in 2023, but has not yet ruled.

### [Adkisson v. Jacobs Engineering Grp., Inc.](#)

#### **Sixth Circuit Court of Appeals**

Milberg attorneys represented a group of hundreds of workers and their families who were injured when cleaning up a large coal ash spill in Kingston, Tennessee. The workers alleged, among other things, that the defendant had denied them essential personal protection equipment. Following years of litigation and a trial on certain issues, the defendant raised a new defense based on a recent Supreme Court case, *Thacker v. Tennessee Valley Authority*. The defendant argued that it should be immune because it was acting as an agent of the federal government. The Sixth Circuit rejected this defense, finding that based upon the facts, the Tennessee Valley Authority—and, by extension, the defendant—were not immune, paving the way for future litigants to bring claims against the TVA and its agents. Following this ruling, the parties reached a settlement.

### [Chisum v. Campagna](#)

#### **North Carolina Supreme Court**

Milberg attorneys represented a contractor who was wrongfully kicked out of several valuable real estate companies by his partners. The jury awarded the plaintiff millions of dollars, but the trial court granted judgment to the defendants on some of the claims. The North Carolina Supreme Court affirmed the jury's verdict while reversing the trial court's grant of judgment to the defendants. Following the reversal, the parties reached settlement, which was more lucrative for plaintiff than the original jury verdict.

### [Plantation Bldg. of Wilmington, Inc. v. Town of Leland](#)

#### **North Carolina Supreme Court**

Milberg attorneys represented a class of contractors who sued a local government for charging illegal fees. The trial court certified the class, but the government appealed, raising a dangerous new legal theory that would have prevented class certification. The North Carolina Supreme Court rejected that new theory, after which the case settled for even more than the class had demanded before the appeal.

### [Adkisson v. Jacobs Engineering Grp., Inc.](#)

#### **Tennessee Supreme Court**

Milberg attorneys represented a group of hundreds of workers and their families who were injured when cleaning up a large coal ash spill in Kingston, Tennessee. The workers alleged, among other things, that the defendant had denied them essential personal protection equipment. Following years of litigation and a trial on certain issues, the defendant argued that the plaintiffs' claims must be dismissed under the Tennessee Silica Claims Protection Act, and the trial court certified the question to the Tennessee Supreme Court. Milberg attorneys briefed the issues and argued on the workers' behalf that the TSCPA did not cover or require dismissal of their claims. Before the Tennessee Supreme Court could rule, the parties settled their claims.

# LOCATIONS

## PUERTO RICO

1311 Avenida Juan Ponce de León  
San Juan, Puerto Rico 00907

## CALIFORNIA

280 South Beverly Drive, Penthouse  
Beverly Hills, California 90212

402 West Broadway, Suite 1760  
San Diego, California 92101

## FLORIDA

2701 South Le Jeune Road  
Coral Gables, Florida 33134

## ILLINOIS

227 W. Monroe Street, Suite 2100  
Chicago, Illinois 60606

## KENTUCKY

19 North Main Street  
Madisonville, Kentucky 42431

## LOUISIANA

5301 Canal Boulevard  
New Orleans, Louisiana 70124

## MICHIGAN

6905 Telegraph Road, Suite 115  
Bloomfield Hills, Michigan 48301

## NEW JERSEY

1 Bridge Plaza North, Suite 675  
Fort Lee, New Jersey 07024

## NEW YORK

100 Garden City Plaza, Suite 500  
Garden City, New York 11530

405 E 50th Street  
New York, New York 10022

## NORTH CAROLINA

900 West Morgan Street  
Raleigh, North Carolina 27603

## SOUTH CAROLINA

825 Lowcountry Blvd, Suite 101  
Mount Pleasant, South Carolina 29464

## TENNESSEE

800 S. Gay Street, Suite 1100  
Knoxville, Tennessee 37929

518 Monroe Street  
Nashville, Tennessee 37208

## WASHINGTON

1420 Fifth Ave, Suite 2200  
Seattle, Washington 98101

17410 133rd Avenue, Suite 301  
Woodinville, Washington 98072

## WASHINGTON, D.C.

5335 Wisconsin Avenue NW, Suite 440  
Washington, D.C. 20015-2052

## NETHERLANDS

## UNITED KINGDOM



**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

IN RE: CANON U.S.A. DATA BREACH  
LITIGATION

Case No. 1:20-cv-06239-AMD-SJB

This Documents Related To:

All Actions

**DECLARATION OF LORI G. FELDMAN  
IN SUPPORT OF PLAINTIFFS' MOTION FOR  
ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARDS**

I, Lori G. Feldman, pursuant to Section 1746 of Title 28 of the United States Code, declare:

1. I am an attorney licensed to practice law in the States of New York (since 1991) and Washington (since 1999). I am a Member of the law firm of George Feldman McDonald, PLLC ("GFM" or the "Firm"), where I am the Managing Partner of GFM's New York offices and Chair of the Firm's Class Action Practice.

2. I represent Plaintiff Diana Rouse, one of the named Plaintiffs in this Consolidated Action. Judge Donnelly appointed me and my firm, GFM, to serve on the Executive Committee of Plaintiffs' Counsel for all Plaintiffs and the putative class in the Consolidated Action. I have personal knowledge of the matters stated herein and, if called upon, I could and would testify competently to those matters. I submit this Declaration in support of Plaintiffs' Motion for Approval of Attorneys' Fees, Expenses, and Service Awards.

3. Attorneys at GFM, including myself, have worked on almost every aspect of the Consolidated Action. Prior to consolidation, GFM attorneys investigated and then initiated the action entitled *Diana Rouse v. Canon USA, Inc.*, Case No. 1:21-cv-00414 (E.D.N.Y) on behalf of named

plaintiff Rouse. The *Rouse* Action was then consolidated with other pending proposed data breach class actions against Canon U.S.A resulting in the Consolidated Action. Thereafter, at the direction of Co-Lead Counsel for Plaintiffs and as an Executive Committee Member, me and my colleagues at GFM worked on the following projects: (1) preparing allegations in the Consolidated Amended Class Action Complaint; (2) researching and drafting sections of the brief in opposition to Defendant's Motion to Dismiss the Consolidated Action; (3) drafting of Plaintiffs' Rule 26(f) Report for submission to the Court prior to the Scheduling Conference before Magistrate Judge Bulsara; (4) drafting of Freedom of Information Act Requests to regulatory and governmental agencies and responding to same; (5) drafting Plaintiffs' First Request for the Production of Documents; (6) drafting Plaintiffs' First Set of Interrogatories to Defendant Canon U.S.A., Inc.; (7) preparing for and attending mediation, reviewing and editing draft Term Settlement Sheet post-mediation; (8) reviewing and editing draft settlement agreement post-mediation; reviewing motion for preliminary settlement approval; (9) conducting legal research in further support of preliminary approval and drafting letter to Court to address questions raised at initial hearing; reviewing and editing follow-up motion for preliminary settlement approval; (10) drafting motion for final approval of settlement including master attorney declaration in support and memorandum of law in support of final settlement approval; (11) drafting motion for attorneys' fees, expenses, and service awards, including memorandum of law in support of same; and (12) continued correspondence with GFM client, named plaintiff Diana Rouse, who Judge Donnelly ruled had Article III standing and adequately pleaded claims for negligence and breach of implied contract.

4. GFM's background and qualifications are set forth in the Firm Resume attached hereto as **Exhibit "A"**.

5. The current hourly rates for GFM's attorneys and staff that have worked on this action, as well as their hours spent working on the action as of January of 2021, and their corresponding lodestars, are as follows:

<b>Timekeeper</b>	<b>Current Title</b>	<b>Current Hourly Rate</b>	<b>Hours Worked</b>	<b>Lodestar</b>
Lori G. Feldman	Member	\$900.00	111.60	\$100,440.00
David J. George	Member	\$900.00	20.10	\$18,090.00
Brittany Brown Sackrin	Associate	\$600.00	74.80	\$43,087.50
Megan Lucey	Paralegal	\$270.00	.60	\$540.00
Hailey George	Paralegal	\$210.00	10.30	\$2,110.00
<b>TOTALS:</b>			217.40	<b>\$164,267.50</b>

6. These records were prepared from time records regularly prepared and maintained by GFM in its usual course and manner. GFM maintains detailed records regarding the amount of time spent by my firm, and the lodestar calculation is based on my firm's current billing rates. These records are available for review, *in camera*, at the request of the Court.

7. Going forward, my firm will have to spend considerable additional time, and incur additional expenses by, among other things: (1) preparing for and attending the Final Approval Hearing; (2) addressing any objections that may be raised to the Settlement; (c) communicating with Settlement Class Members to answer any questions they may have or address any issues with the claims process; and (d) if the Settlement is approved, continuing to work with the Settlement Administrator to ensure that the Settlement is fully implemented.

8. In my judgment and based on my in excess of twenty-five years of experience in complex class action litigation and other litigation, the number of hours expended, and the services performed by my firm, were reasonable and necessary for my firm's representation of Plaintiffs.

9. I have general familiarity with the range of hourly rates typically charged by plaintiffs' class action counsel in the geographical area where my firm practices and throughout the United States, both on a current basis and historically. From that basis, I am able to conclude that the rates charged by my firm are commensurate with those prevailing in the market for such legal services furnished in



10. My firm has incurred costs of \$927.67 in litigating this action, consisting of the following categories of costs:

Expense Category	Cost
Court Fees	\$716.50
Duplicating/Coping	\$33.80
Online Services (PACER, Online Legal Research)	\$44.47
Service of Process	\$101.65
Court Transcripts	\$31.25
	<b>\$927.67</b>

11. Throughout the litigation, I made every effort to operate as efficiently as possible and to avoid unnecessary duplication both within my firm and with co-counsel.

12. I have represented Plaintiffs and the class purely on a contingency fee basis in this matter and have not received any payment for my time, effort, or expenses to date.

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

Executed this 14<sup>th</sup> day of March 2024, at New York, New York.

By: *Lori G. Feldman*  
 LORI G. FELDMAN

# **EXHIBIT A**



## Florida

9897 Lake Worth Rd  
Suite 302  
Lake Worth, FL 33467

## Virginia

5516 Falmouth St  
Suite 108  
Richmond, Virginia 23230

## New York

745 Fifth Ave  
Suite 500  
New York, New York 10151

[www.4-Justice.com](http://www.4-Justice.com)

## George Feldman McDonald, PLLC

### The Firm

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The mission of George Feldman McDonald, PLLC (“GFM” or “the Firm”) is to provide the highest quality legal service to our clients, taking a heartfelt and genuine interest in their circumstances, while offering creative fee agreements in order to provide access to justice for everyone.

We are dedicated to these values: We will work aggressively, relentlessly and with integrity to represent those who need us. In addition to the variety of legal services we provide (consumer fraud class actions, data breach and privacy violation class actions, securities, EB-5 fraud litigation, business litigation, personal injury, consumer rights and victims’ rights), our passion is helping victims of injustice.

We aim to serve those taken advantage of, wronged, or exploited with an exceptional level of service, excellence, encouragement, respect and strength, backed by nearly two centuries of collective legal experience, success and results.

We embrace and encourage diversity among our lawyers and staff and respect the differences among us and our communities. We always have and always will conduct ourselves and our firm with an uncompromising dedication to the highest ethical standards, while maintaining a profitable business enterprise with an impeccable reputation. Our firm endeavors to give back to our community in many ways, and we will pursue our belief that individuals with a sense of family and community, and with interests outside of the practice of law, are better for it.

### Attorneys

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#### **David J. George, Managing Member**

David J. George earned his Bachelor of Arts degree in Political Science from the University of Rhode Island, *summa cum laude*. David then graduated at the top of his class at the University of Richmond School of Law. At the University of Richmond, David was a member of the Law Review, was the President of the McNeill Law Society, and earned numerous academic awards, including

## George Feldman McDonald, PLLC

Outstanding Academic Performance in each of his three years there and Outstanding Graduate.

Before founding and becoming the Managing Member of the Firm, David, who is AV rated by Martindale-Hubbell (the highest rating available), was a partner in one of the largest class action firms in the world. A zealous advocate of shareholder, consumer and EB-5 investor rights, David has been lead and/or co-lead counsel with respect to various securities class action matters throughout the United States, including: *In re Cryo Cell Int'l, Inc. Sec. Litig.* (M.D. Fla.) (\$7 million settlement); *In re TECO Energy, Inc. Sec. Litig.* (M.D. Fla.) (\$17.35 million settlement); *Baxter Int'l* (N.D. Ill.) (\$42.5 million settlement); *In re Newpark Res., Inc. Sec. Litig.* (E.D. La.) (\$9.24 million settlement); *In re Mannatech, Inc. Sec. Litig.* (N.D. Tex.) (\$11.5 million settlement); *In re Gilead Sec. Litig.* (N.D. Cal.) (\$8.25 million settlement); and *In re R.H. Donnelly* (D. Del.) (\$25 million settlement). David has also acted as lead counsel in numerous consumer class actions nationwide, including *Lewis v. Labor Ready, Inc.* (\$11 million settlement); *In re Webloyalty, Inc. Mktg. & Sales Practices Litig.* (D. Mass.) (\$10 million settlement); and *In re Navisite Migration Litig.* (D. Md.) (\$1.7 million settlement). Moreover, David was a member of the litigation team that secured a \$925 million settlement in *In re UnitedHealth Grp. Inc. PSLRA Litig.* (D. Minn.). The UnitedHealth Group settlement was the largest stock options backdating case in history.

He is the Chair of the Firm's EB-5 Practice Group and a member of the Firm's Class Action and Commercial Litigation Practice Groups. David recently served as lead counsel in two of the Firm's EB-5 cases involving the Palm House Hotel at 160 Royal Palm Way in Palm Beach, Florida. The litigation is entitled *Lan Li, et al. v. Joseph Walsh, et al.*, 16-cv-81871-KAM (S.D. Fla.) and *Lan Li, et al. v. PNC Bank, N.A. and Ruben Ramirez*, 9:19-cv-80332-KAM (S.D. Fla.), and GFM served as Lead Counsel for the Palm House EB-5 Investors. The EB-5 program allows foreign nationals who invest at least \$800,000 in a U.S. business and create 10 jobs for qualified U.S. workers to obtain green cards. Through the EB-5 program, Defendants collected \$44 million from at least 88 foreign investors who sought to obtain green cards, promising to use the funds for the acquisition, development, and operation of the Palm Beach Hotel in Palm Beach, Florida. The Palm House EB-5 Investors alleged that foreign investors lost approximately \$50 million in the Palm House Hotel EB-5 hotel scam after the defendants and their related entities used the funds meant for

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the Palm House Hotel Project to pay for lavish personal expenses. David consults with EB-5 investors from all over the world, including China, South America, India, and Vietnam, and lectures on EB-5 related topics during his travels. David's EB-5 practice includes projects in various cities across the U.S.

David also spent more than a decade as a commercial litigator with two of the largest corporate law firms in the United States. During that time, David aggressively prosecuted and defended a wide array of complex commercial litigation matters, including securities class action matters, non-compete litigation, fraud claims, and real estate-based litigation matters. He is a member of the National Association of Shareholder and Consumer Attorneys.

David was honored as a 2021 Plaintiffs' Lawyers Trailblazer by the National Law Journal. He was also named as one of Florida's Most Effective Corporate/Securities Lawyers and was the only plaintiffs' securities class action counsel recognized. He has a nationwide practice and successfully prosecutes commercial litigation and fraud cases throughout the U.S.

### **Lori G. Feldman**

Lori G. Feldman is a Member of George Feldman McDonald. She is the Chair of the Firm's Class Action Practice Group, Managing Partner of the Firm's New York office, and a member of the Firm's EB-5 and Commercial Litigation Practice Groups. She earned her Bachelor of Arts degree in Criminal Justice from the State University of New York at Albany, *magna cum laude*, where she was awarded the Signum Laudis graduate school honors scholarship. Lori earned her Juris Doctor degree upon graduating from Albany Law School of Union University, where she served as a member of the Albany Law Review and was a winner of the school's first year law review student writing competition.

Prior to joining the Firm, Lori was a Partner in one of the largest class action firms in the country, a Partner in another prestigious securities and consumer class action firm, and Of Counsel to one of the most tenacious criminal and civil litigation boutiques in the United States.

Lori was honored as a 2021 Plaintiffs' Lawyers Trailblazer by the National Law Journal. From 2011 to 2023, Lori was named a New York Metro Super Lawyer. As

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a young lawyer, she was named a Rising Star in New York and Washington State. She served as a member of the Federal Bar Council for the Western District of Washington when she managed an office for her prior law firm in Seattle, Washington.

Lori is a daughter of retired public employees and is a tireless advocate of public and private investors, shareholders and consumers. Lori's grandparents immigrated through Ellis Island in New York City, where she was born and raised.

She takes great pride in representing EB-5 and other investors, consumers, and plaintiffs in cases involving corporate fraud and deceptive practices. Lori has obtained class and individual recoveries in excess of \$250 million.

She has successfully litigated class actions against some of the largest and most well-funded corporate defendants in the nation, including but not limited to:

- Century Link, Inc. (D. Minn.) (consumer fraud class action)
- Swisher International, Inc. (Multnomah Cty. Cir. Ct., Oregon) (consumer fraud class action)
- Bernard L. Madoff LLC (S.D.N.Y.) (securities fraud)
- Equifax (D. Or.) (consumer fraud class action)
- Porsche Cars North America (N.D. Cal.) (consumer fraud class action)
- Washington Mutual (W.D. Wash.) (securities fraud class action)
- General Electric Co. (N.D.N.Y.) (pension fraud class action)
- State Street (D. Mass.) (securities fraud class action)
- Macy's (S.D. Ohio) (pension fraud class action)
- Morgan Stanley (S.D.N.Y.) (data breach class action)
- Gilead Sciences (N.D. Cal.) (securities fraud class action)
- Amazon.com (W.D. Wash.) (consumer fraud class action)
- Citibank (S.D.N.Y.) (consumer fraud)
- Oppenheimer Funds (D. Colo.) (securities fraud class action)

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- ConAgra Foods (D. Neb.) (securities fraud class action)
- Boston Scientific, Inc. (D. Mass.) (pension fraud class action)
- Rhythms Net Connections (D. Mass.) (securities fraud class action)
- Textron, Inc. (D. Mass.) (securities fraud class action)
- AIG (S.D.N.Y.) (securities fraud class action)

Lori was appointed to serve as Co-Lead Counsel for Plaintiffs after heavily contested leadership motion practice in *In re Nurture Baby Food Litigation*, Case No. 1:21-cv-0127-MKV (S.D.N.Y.). She was recently appointed to serve as Co-Chair of the Plaintiffs' Steering Committee in *In re Meta Tax Filing Cases*, No. 2-07557-(SI) (N.D. Cal.), and holds many other leadership positions in class actions, pending in federal and state court class actions across the country, including *In re Shields Health Care Group, Inc.*, Case No.: 1:22-cv-10901-PBS (D. Mass.) (Co-Lead Counsel in data breach case); *Chandra Tate v. EyeMed Vision Care, LLC*, Case No. 1:21-cv-00036 (S.D. Ohio) (same); *Skurauskis v. NationsBenefits Holdings, LLC*, 23-cv-60830-RAR (S.D. Fla.) (Executive Committee Member in *Fortra Data Breach MDL*); *In re Morgan Stanley Data Security Litig.*, Case No. 1:20-cv-05014-MKV (S.D.N.Y.) (Executive Committee Member); and *In re: Canon Data Breach Litig.*, Case No. 1:20-cv-06239-AMD-SJB (E.D.N.Y.) (Executive Committee Member).

She is a member of the National Association of Shareholder and Consumer Attorneys, the New York State and Washington State Bar Associations, and is bi-coastally licensed in New York and Washington State. Lori is admitted to the Supreme Court of the United States.

## Christopher McDonald

Christopher McDonald, a thirty-year trial lawyer, combines skills in business and accounting with insightful legal acumen to achieve outstanding results for his clients. He works closely with clients in structuring their business operations, acquisitions and handling the day-to-day matters that business owners customarily face.



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Chris maintains an active litigation practice representing clients in civil matters including business and contract disputes, real estate litigation, and a full range of domestic relations issues including divorce, support, custody and visitation. Further, he represents clients in non-litigation matters such as incorporating or organizing new businesses, business acquisitions, commercial real estate transactions and estate planning including the preparation of wills, trusts and other related documents. Chris is the Managing Partner of GFM's Virginia Office, the Co-Chair of the Commercial Litigation Practice Group, and a member of GFM's EB-5, Class Action, and Transactional Practice Groups.

## Elizabeth L. Parker

Elizabeth L. Parker is the Chair of the Firm's Victims' Rights Practice Group. Elizabeth began her career as an Assistant State Attorney in the Palm Beach County State Attorney's Office in 1998. While working as a prosecutor, Elizabeth handled Misdemeanor, Domestic Violence, Felony and Traffic Homicide cases including DUI Manslaughter, Vehicular Homicide, and Manslaughter by Culpable Negligence. She served as the Deputy Chief of County Court from June 2003 until December 2006, and then as the Chief of the County Court Division and the Domestic Violence Division from January 2007 until December 2008. From January 2009 until August 2011, she held the position of Chief Assistant State Attorney.

As a Chief Assistant State Attorney her responsibilities specifically included: hiring of new attorneys, daily supervision of the Misdemeanor Division and Domestic Violence Unit, the Satellite offices, and the Appellate Unit, working closely with law enforcement on investigations, reviewing and assisting on search warrants and arrest warrants, constant case review for filing decisions, trial strategies, legal theories, ethical considerations, daily, weekly and monthly attorney training, caseload management, calendar coverage, liaison for statewide issues, complaint resolution relating to staff or charging decisions, and working closely with Judges to ensure efficiency in the courtrooms.

In addition to the administrative duties as Chief Assistant, Elizabeth personally litigated cases of great public importance involving new or novel issues of law, technical matters with expert witnesses, and high-profile cases requiring substantial trial and media relations experience.

## George Feldman McDonald, PLLC

Elizabeth created the Advocacy Institute at the State Attorney's Office and oversaw the training of each new lawyer and special prosecutor (private lawyers volunteering as prosecutors).

During her time as Chief Assistant, she trained hundreds of prosecutors in how to successfully try DUI cases both in Palm Beach County and around the state. Elizabeth was a member of the Florida Prosecuting Attorney's Association (FPAA) Education Committee. While she was an Assistant State Attorney, Elizabeth lectured for the FPAA and the Florida Traffic Safety Resource Prosecutor Program for prosecutors in the areas of opening statements, closing arguments, pre-trial motions, cross-examination of experts, and trial techniques. She was a member of the Technical Advisory Committee for the Institute of Police Technology and Management (IPTM) from 2007-2011.

Prior to joining GFM, Elizabeth was in private practice in Palm Beach County Florida. Elizabeth advocates on behalf of all crime victims or their next of kin including child victims of sexual abuse, victims of domestic violence, sexual assault, cybercrimes, financial crimes, DUI Serious Bodily Injury, DUI Manslaughter and Homicide. In her role as a crime victim advocate, she works closely with law enforcement and prosecutors to be a voice for the victim and assist them throughout the overwhelming criminal justice process, keeping them apprised every step of the way. Elizabeth's knowledge of the criminal investigation and criminal justice process from her experience as a prosecutor ensures law enforcement and prosecutors have all of the evidence and information to build the strongest case possible. If there is a civil cause of action for the criminal act, Elizabeth will aggressively pursue all legal avenues to ensure the criminal perpetrators are held accountable in every way possible.

From 2011 until 2018 Elizabeth, on behalf of the Florida Coalition Against Domestic Violence, taught law enforcement officers throughout the State of Florida how to investigate incidents of Domestic Violence and properly collect and preserve evidence to enable prosecutions even when the victim refuses to cooperate.

Elizabeth has appeared on the Nancy Grace show and In Session (Court TV) as a legal analyst on high profile cases such as Jerry Sandusky, George Zimmerman, John Goodman, Adam Kauffman, and Tammy Smith. She was a legal analyst for USA TODAY during the George Zimmerman trial. She has also appeared on Dateline,

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20/20, SNAPPED, Sins and Secrets, Nothing Personal, and American Greed for her role as lead prosecutor in the Dalia Dippolito Murder for Hire trial.

Elizabeth has served as a board member for the Boys and Girls Club and the KIDSAFE Foundation. She currently serves on the Board of Pet Haven Rescue.

## **Janine L. Pollack**

Janine L. Pollack is a Member of the Firm and the Class Action Practice Group. She has been a class action litigator for over 32 years and has successfully prosecuted cases that have resulted in the award of hundreds of millions of dollars to defrauded consumers and investors.

Janine earned her Bachelor of Arts Degree in English and French from Rutgers University, Phi Beta Kappa, and her Juris Doctor Degree from the University of Pennsylvania Carey Law School, where she was elected to the Journal of International Business Law.

After graduating from University of Pennsylvania Carey Law School, Janine worked in a general litigation firm for approximately eighteen months before joining a large plaintiffs' class action firm. Realizing she had an unyielding passion for representing defrauded investors and consumers, she has been a class action attorney ever since and has devoted her practice to this field.

Janine is routinely appointed by courts to lead class actions and has had much success in securing refunds and other remedies for class members. She has prosecuted jury and bench trials as first chair and won a jury verdict against R.J. Reynolds for wrongful death in a tobacco litigation.

Janine is the Firm's Chief Wellness Officer. Her and the Firm's philosophy is that well-being is ground zero for all endeavors we undertake in life, including being an effective attorney. Since adolescence, her interests have revolved around her love for fitness, nutrition and the goal of uniting mind, body and soul, and her enthusiasm for such interests has continued to grow over time. She strives to share that philosophy with her colleagues at the Firm and in the Bar to support them in finding strength, motivation and empowerment for fulfillment in their personal and professional lives. Janine and the Firm believe that well-being is an integral part of

## George Feldman McDonald, PLLC

the lifelong process of continual self-improvement, self-awareness and growth and that all organizations can and should foster their employees' quest on that path. She is a frequent public speaker on wellness, including wellness in the legal field.

Janine is the Co-President of the National Association of Shareholder and Consumer Attorneys, a member of the Women in the Legal Profession Committee of the Bar Association of the City of New York, and participates on the Communications Committee for the Institute for Well-Being in Law (IWIL). She has been named as a Super Lawyer every year since 2012 and to Lawdragon's list of 500 Leading Plaintiff Financial Lawyers every year since 2019. She is a member of the New York and New Jersey bars.

## Michael Liskow

Michael Liskow is a Member of the Firm. He has extensive experience litigating complex class actions on behalf of plaintiffs in data breach, consumer fraud, antitrust, securities, housing, and wage and hour matters, among others. Michael has devoted his career to seeking justice for classes of individuals and businesses that have been taken advantage of by unscrupulous corporations.

Michael earned his Bachelor of Arts Degree in Psychology from the University of Kansas, and his Juris Doctor Degree from the University of Pennsylvania Carey Law School, where he was an Executive Board Member the Journal of Constitutional Law and received a Fulbright Award to the Slovak Republic.

Prior to joining the Firm, Michael was a clerk for the Honorable Steven H. Levinson of the Supreme Court of Hawai'i, an associate at Quinn Emanuel Urquhart & Sullivan, LLP, a Fulbright Teaching Assistant to the Slovak Republic, and a partner at three other law firms practicing plaintiff-side class action litigation.

Michael has been recognized as a "New York Super Lawyer" each year since 2019, and was named a "Rising Star" by New York Super Lawyers from 2013-2018.

Michael has acted as lead counsel in data breach class actions resulting in meaningful settlements, *Bokelman v. FCH Enters.*, No. 18-00209-RJB-RLP (D. Haw.) and *Mizrahi v. NBEO*, No. 16-cv-03146-JKB (D. Md.). He has initiated and litigated numerous class actions to completion as the lead attorney through investigation,

## George Feldman McDonald, PLLC

complaint, discovery, motion practice, appeal, and resolution, including, among others, *Thompson v. Bethpage Fed. Credit Union*, No. 2:17-cv-00921 (E.D.N.Y.), alleging violations of the Real Estate Settlement Procedures Act resulting in a settlement where every class member received a full recovery, and *Egleston v. Verizon*, No. 194784/2011 (N.Y. Sup. Ct.), on behalf of overbilled Verizon customers resulting in a \$5 million settlement providing full refunds plus interest and fees to the class. He also had a significant role in representing a class of overcharged tenants of Stuyvesant Town and Peter Cooper Village in New York City, resulting in a \$173 million recovery, the largest recovery for tenants in United States history.

Michael is a member of the National Association of Shareholder and Consumer Attorneys, and is licensed to practice in New York and California.

## **Brittany L. (Brown) Sackrin**

Brittany L. Brown is an associate in George Feldman McDonald's Class Action Practice Group. Brittany earned her Bachelor of Science degree in Business Administration (Finance) at the University of Florida. Brittany then graduated near the top of her class with honors from the University of Miami School of Law, where she was an inaugural member of the school's Investor Rights Clinic through which she passionately represented investors in securities arbitration claims before FINRA.

While in law school, Brittany also interned with the U.S. Securities and Exchange Commission's trial unit in its downtown Miami office. A decorated member of the University of Miami Trial Team, Brittany won the Intra-School Trial Competition in 2011 and was awarded a scholarship for her performance in the Litigation Skills Program. She also received a scholarship for her demonstrated academic achievement in the interrelationship between law and economics, as well as several Book awards for achieving the highest grade in law school courses.

Before joining the firm, Brittany was an associate in one of the largest securities defense litigation law firms in the country, where she focused her practice on complex commercial litigation matters, including securities and regulatory matters.

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Brittany is a zealous advocate for those seeking justice and brings her attention to detail and expert legal research and writing skills to all of her cases at GFM, where she represents class action plaintiffs.

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

IN RE: CANON U.S.A. DATA BREACH  
LITIGATION

Case No. 1:20-cv-06239-AMD-SJB

This Documents Related To:

All Actions

**DECLARATION OF JOHN A. YANCHUNIS IN SUPPORT OF PLAINTIFF'S MOTION  
FOR ATTORNEYS' FEES, COSTS, AND EXPENSES, AND SERVICE AWARD**

I, John A. Yanchunis, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am one of the attorneys representing Plaintiffs in this matter and was preliminarily appointed as Class Counsel. I submit this declaration in support of Plaintiff's Motion for Attorney's Fees, Expenses and Service Award. The facts herein stated are true, of my own personal knowledge, and if called to testify to such facts, I could and would do so competently.

2. I have been licensed to practice law in the state of Florida since 1981.

3. I was one of the principal lawyers in charge of all aspects of the litigation and I worked to ensure that Plaintiff and the class which he sought to represent was zealously represented, while also ensuring efficiency and reducing duplicative effort.

4. I served as co-lead counsel in the successful prosecution and settlement of perhaps the two the largest class action cases in the United States: *Fresco v. Automotive Directions, Inc.*, No. 03-61063-JEM (S.D. Fla.), and *Fresco v. R.L. Polk*, No. 07-cv-60695-JEM (S.D. Fla.). These cases involved the advocacy for and protection of the important privacy rights under the Drivers Protection Privacy Act, and consisted of a class comprising over 200 million individuals throughout the United States and its territories who, over a 10 year span, had a driver's license or

motor vehicle registered in their names. My role as co-lead counsel in these cases is particularly noteworthy because they targeted the world's largest data and information brokers, including Experian, R.L. Polk, Acxiom, and Reed Elsevier (which owns Lexis/Nexis), which were defended by the largest law firms in the country. These cases successfully protected the rights of consumers.

5. I presently serve, or have served in the past, as lead, co-lead, or class counsel in numerous multi-district litigations across the country in a wide variety of areas affecting consumers. For example, and to name only a few cases in which I have served in leadership, I presently serve as co-lead counsel in the case of *In re: Capitol One Consumer Data Sec. Breach Litig.*, No. 1:19-md-02915 (E.D. Va.). I have also served as co-lead of the Home Depot Data Breach, a member of the five-member overall Executive Committee in the Target Data Breach, No. 0:14-md-02522-PAM (Dist. Minn.), a member of the five-member Plaintiffs' Steering Committee in *In re: U.S. Office Personnel Mgmt Data Security Breach Litig.*, 1:15-cv-01321-ABJ (D.D.C.), and a member of the Plaintiffs' Steering Committee in *In re Equifax, Inc. Customer Data Security Breach Litigation*, 1:17-md-2800-TWT (N.D. Ga.). I also served as lead counsel in *In re Yahoo! Inc. Customer Data Sec. Breach Litig.*, 16-MD-02752-LHK (N.D. Cal.), a case involving a data breach of over 2.9 billion users of Yahoo's email service. The court in that case entered final judgment and approved the settlement of the claims of a class of consumers in the United States and Israel.

6. As a result of my experience in insurance and complex litigation, beginning in 2005, I was selected by Tom Gallagher, the Chief Financial Officer for the state of Florida and a member of the Florida Cabinet, to serve as lead counsel for the Florida Department of Financial Services and the Florida Department of Insurance Regulation (the insurance regulators of Florida) in their investigations of the insurance industry on issues concerning possible antitrust activity and



other possible unlawful activities regarding the payment of undisclosed compensation to insurance brokers. I served as lead regulator counsel and worked with a core group of state Attorneys General from the National Association of Attorneys General, which were selected to conduct the investigations. The insurance regulator for Florida was the only insurance regulator in the group. The litigation that was filed and the related investigations netted millions of dollars in restitution for Florida consumers and resulted in significant changes in the way commercial insurance is sold in Florida and across the country.

7. During my career, I have tried numerous cases in state and federal courts, including one of the largest and longest insurance coverage cases in U.S. history, which was filed in 1991 by the Celotex Corporation and its subsidiary, Carey Canada, Inc. During the seventeen years the case pended, I served as lead counsel for several insurance companies, regarding coverage for asbestos and environmental claims. The case was tried in three phases over several years beginning in 1992. I was also lead counsel for these parties in the subsequent appeals that followed a judgment in favor of my clients.

8. Through my experience in numerous leadership positions in class cases, I have exhibited the ability to work cooperatively with others, including both co-counsel and opposing counsel. Accordingly, I am well regarded in the state of Florida as a lawyer, as reflected by my election to and service on the Florida Board of Governors, a member of the Florida Bar Foundation, and by my appointment by the Supreme Court of Florida to serve as a member of the Board of Directors of the Florida Board of Bar Examiners. Although I completed my five-year appointment on the Board of Bar Examiners, I continue to serve as an Emeritus Member on character and fitness panels and as an arbiter in final hearings. I have also served on many committees of The Florida Bar, including leadership and chair positions. Most recently, I completed a term as the Chair of

the Consumer Protection Committee of the Florida Bar. I have also represented The Florida Bar in a number of matters. As a result of my experience in the area of class litigation and ethics, I have served as an expert for The Florida Bar on ethical issues arising in class action litigation.

9. I am currently a member in good standing of The Florida Bar, and of all the bars to which I have been admitted, including the United States Supreme Court, the United States Court of Appeals for the Fifth, Sixth, Seventh, Ninth, and Eleventh Circuits, and the United States District Courts of the Southern District of Texas, Northern District of Texas, Eastern District of Wisconsin, Western District of Wisconsin, Western District of Tennessee, Middle District of Florida, Southern District of Florida, Eastern District of Michigan, and Northern District of Illinois.

10. My law firm and I are fully and unequivocally committed to this action and the time-consuming task of prosecuting this litigation to conclusion, and even to trial. My law firm has the necessary financial resources and legal experience to equalize the playing field in pursuit of justice for the members of the class, and to prosecute this action to a successful conclusion. My law firm and I intend to dedicate substantial resources to this action, and we have the knowledge, skill, and experience necessary to effectively and efficiently represent the class and to also litigate this matter. The formidable resources of Morgan & Morgan, combined with my personal pledge of time and energy, my proven track record for working professionally and collaboratively with my peers, and my experience in class litigation, will allow me to ably serve, personally and actively, as class counsel, which this declaration supports. Morgan & Morgan's background and qualifications are set forth in the Firm Resume attached hereto as **Exhibit A**.

11. The hourly rates of the professionals in my firm, including my own, reflect experience and accomplishments in the area of class litigation. The rate of \$1,450 per hour which

I charge for my time is commensurate with hourly rates charged by my contemporaries around the country, including those rates charged by lawyers with my level of experience who practice in the area of class litigation across the nation. Prior to submitting the motion for attorneys' fees, costs and expenses, I compared and confirmed the hourly rate of the professionals in my firm with lawyers at other law firms whose practice is focused on class litigation. Moreover, as I have been retained as an expert on attorneys' fees in other class cases, and as part of my legal education, I routinely survey hourly rates charged by lawyers around the country in published surveys, and review continuously as part of my continuing education, opinions rendered by courts on attorneys' fee requests.

12. The billable rates charged by the attorneys and other professionals in my law firm, for non-document review work, as set forth herein have been approved by other federal and state courts as follows:

- a. *In re: Yahoo! Inc. Customer Data Sec. Breach Litig.*, 16-MD-02752-LHK, 2020 WL 4212811, at \*26 (N.D. Cal. July 22, 2020) (approving as reasonable rates of class counsel, which included \$900 for John Yanchunis, and \$550 for Messrs. Barthle and Cohen, and finding as reasonable: "billing rates for partners range from about \$450 to \$900, depending on seniority level," "billing rates for non-partner attorneys, including of counsel, associates, and staff/project attorneys, range from about \$160 to \$850, with most under \$500," and "billing rates for paralegals range from \$50 to \$380")
- b. *In re: Equifax Inc. Customer Data Security Breach Litigation*, Case No 1:17-md-02800-TWT, ECF 956 at 105 (N.D. Ga. Jan. 13, 2020), (approving as reasonable rates of class counsel, which included \$950 for John Yanchunis, and approving rates ranging from \$750 - \$1050 for lead counsel).
- c. *Walters v. Kimpton Hotel & Restaurant*, No. 3:16-cv-05387, ECF 117 (N.D. Cal. July 11, 2019), *id.*, ECF 113-1 (May 8, 2019) (identifying Morgan and Morgan rates of \$864-950 for partners, \$450-636 for associates, \$196 for paralegals, and \$300 for investigators);
- d. *Finerman v. Marriott Ownership Resorts, Inc.*, No. 3:14-cv-01154, ECF 222 (M.D. Fla. Aug. 15, 2018); *id.*, ECF 222 (May 7, 2018) (identifying Morgan and Morgan rates of \$950 for John Yanchunis, \$450-864 for associates, \$196 for paralegals, and \$300 for investigators);

- e. *Sanborn v. Nissan N. Am., Inc.*, No. 0:14-cv-62567, ECF 200 at 3 (S.D. Fla. Jan. 6, 2017); *id.*, ECF 195-3 at 4 (Oct. 14, 2016) (identifying Morgan and Morgan rates of \$950 for John Yanchunis, \$450 for associate); and,
- f. *Dyer v. Wells Fargo Bank, N.A.*, No. 3:13-cv-02858, ECF 51 at 10 (N.D. Cal. Oct. 22, 2014); *id.*, ECF 43-1 (July 11, 2014) (identifying Morgan and Morgan rates of \$900 for John Yanchunis, \$550 for associate).

13. The lawyers and other professional staff of my firm maintain and record their respective time and the specific services they perform contemporaneously in a computerized system. Based upon the records in this system, my firm's lodestar is in excess of 240 hours as of March 15, 2024, amounts to \$236,730.00 in lodestar. Additional time will be spent to prepare the motion for final approval and respond to any objections, to prepare for and attend the fairness hearing and obtain final approval, to defend any appeals taken from the final judgment approving settlement and ensure that the distribution of settlement proceeds to class members is done in a timely manner in accordance with the terms of the settlement. I assert that the attorneys' fees sought in the motion for attorneys' fee is reasonable and seeks fair and reasonable compensation for undertaking this case on a contingency basis, and for obtaining the relief for Plaintiff and the class. Throughout this action, we have been challenged by highly experienced and skilled counsel who deployed very substantial resources on Defendant's behalf.

14. The chart below reflects the amount of time spent by me and members of my firm in the prosecution of this case:

<b>MORGAN &amp; MORGAN COMPLEX LITIGATION GROUP</b>			
<b>Name</b>	<b>Hourly Rate</b>	<b>Hours Billed</b>	<b>Total</b>
John Yanchunis, Lead Partner	\$1,450	64.7	\$93,815.00
Jean Sutton Martin	\$1150	0.1	\$115.00
Patrick Barthle	\$800	1.6	\$1,280.00
Kenya Reddy	\$1000	49.6	\$49,600.00
Ryan D. Maxey	\$800	111.3	\$89,040.00
Jennifer Cabezas, Paralegal	\$225	12.8	\$2,880.00
<b>Total</b>		<b>240.1</b>	<b>\$236,730.00</b>

15. A breakdown of my firm's costs and expenses, again which I assert are reasonable, are pulled from a computerized database maintained by individuals in the accounting office of my firm and which were checked for accuracy, are reflected below.

<b>Description</b>	<b>Subtotals</b>	<b>Totals Per Category</b>
<b>Professional Services</b>		<b>\$8,424.81</b>
PACER	\$282.21	
Tampa Process, LLC	\$1,892.60	
Stradley Ronon Stevens & Young, LLP	\$6,250.00	
<b>Copies &amp; Printing</b>		<b>\$148.75</b>
Black and White Printing / Copies	\$148.75	
<b>Shipping, Long Distance &amp; Printing</b>		<b>\$43.27</b>
FedEx	\$43.27	
<b>Travel Expenses to attend hearings, depositions and the mediation of this case</b>		<b>\$2,771.81</b>
John A. Yanchunis	\$357.25	
Ryan D. Maxey	\$2,414.56	
<b>Total</b>		<b>\$11,388.64</b>

16. Although the present case was resolved before trial, we invested significant time and resources investigating and litigating this action. Specifically, among other work, we (1) consulted with Class Representatives throughout the course of this case; (2) investigated claims; (3) researched claims that could be and eventually were pursued in the Complaint; (4) drafted the Complaint, and subsequently an Amended Complaint; (5) prepared and served discovery on Defendant; (6) reviewed documents and data produced by Defendant; (7) reviewed, responded to and briefed a motion to dismiss (8) conferred with an expert to model damages; (8) traveled for mediation, where we negotiated a comprehensive class action settlement; (9) drafted and filed a

motion for preliminary approval of the settlement and supporting memorandum and exhibits; and  
(10) drafted and filed this motion for attorneys' fees, costs and expenses.

Executed this 15<sup>th</sup> day of March, 2024 at Tampa, Florida.

By: /s John A. Yanchunis

# EXHIBIT A



Morgan & Morgan is a leading civil trial law firm representing consumers and commercial clients nationwide. With over 800 lawyers, and more than 3,000 non-lawyer employees, Morgan & Morgan is the largest plaintiffs' firm in the nation. Morgan & Morgan maintains over offices throughout the United States. Among its lawyers are former state attorney generals and present and former members of various state legislatures.

Morgan & Morgan has a dedicated Complex Litigation Group staffed with lawyers, paralegals, and retired FBI agents serving as investigators committed to representing consumers in complex litigation, MDL proceedings and class action cases throughout the country. It has achieved many remarkable results in class litigation, including the settlement of *In re Black Farmers Discrimination Litigation*, no. 08-0511 (D.C. Oct. 27, 2017), where one of its partners served as co-lead. The case resulted in a settlement with the United States Government in the amount of \$1.2 billion for African American farmers who had been systematically discriminated against on the basis of race, in violation of the Fifth Amendment to the United States Constitution, the Equal Credit Opportunity Act, Title VI of the Civil Rights Act, and the Administrative Procedure Act. Morgan & Morgan has assembled a talented team of lawyers:

**John A. Yanchunis** leads the class action section of the law firm. His practice—which began after completing a two-year clerkship with United States District Judge Carl O. Bue, Jr., S. D. Tex.—has concentrated on complex litigation and spans over 40 years, including consumer class actions for more than two-thirds of that time. As a result of his extensive experience in class litigation, including privacy and data-breach litigation, he regularly lectures nationally and internationally at seminars and symposiums regarding class litigation and privacy litigation.

He has served as lead, co-lead, and class counsel in numerous national class actions, including multi-district litigation, involving a wide range of subjects affecting consumers, including antitrust, defective products, life insurance, annuities, and deceptive and unfair acts and practices. In 2014, he was recognized by the National Law Journal as a trailblazer in the area of privacy litigation, and in 2020, he was recognized by LAW 360 for the second year in a row as one of 4 MVPs in the United States in the area of privacy and cyber security litigation. For his work in the area of privacy litigation, he was awarded lawyer of the year in the state of Florida



by The Daily Business Review.

As a result of his experience in insurance and complex litigation, beginning in 2005, he was selected by Tom Gallagher, the Chief Financial Officer for the state of Florida and a member of the Florida Cabinet, to serve as lead counsel for the Florida Department of Financial Services and the Florida Department of Insurance Regulation (the insurance regulators of Florida) in their investigations of the insurance industry on issues concerning possible antitrust activity and other possible unlawful activities regarding the payment of undisclosed compensation to insurance brokers. He served as lead regulator counsel and worked with a core group of state Attorneys General from the National Association of Attorneys General, which were selected to conduct the investigations. The insurance regulator for Florida was the only insurance regulator in the group. The litigation that was filed and the related investigations netted millions of dollars in restitution for Florida consumers and resulted in significant changes in the way commercial insurance is sold in Florida and across the country.

During his career, he has tried numerous cases in state and federal courts, including one of the largest and longest insurance coverage cases in U.S. history, which was filed in 1991 by the Celotex Corporation and its subsidiary, Carey Canada, Inc. During the seventeen years the case pended, he served as lead counsel for several insurance companies, regarding coverage for asbestos and environmental claims. The case was tried in three phases over several years beginning in 1992. He was also lead counsel for these parties in the subsequent appeals that followed a judgment in favor of his clients.

Mr. Yanchunis began his work in privacy litigation in 1999 with the filing of *In re Doubleclick Inc. Privacy Litigation*, 154 F. Supp. 2d 497 (S.D.N.Y. 2001), alleging privacy violations based on the placement of cookies on hard drives of internet users. Beginning in 2003, he served as co-Lead Counsel in the successful prosecution and settlement of privacy class action cases involving the protection of privacy rights of more than 200 million consumers under the Driver's Protection Privacy Act (DPPA) against the world's largest data and information brokers, including Experian, R.L. Polk, Acxiom, and Reed Elsevier (which owns Lexis/Nexis). See *Fresco v. Automotive Directions, Inc.*, No. 03-61063-JEM (S.D. Fla.), and *Fresco v. R.L. Polk*, No. 07-cv-60695-JEM (S.D. Fla.). Subsequently, I also served as co-Lead Counsel in the DPPA class cases, *Davis v. Bank of America*, No. 05-cv-80806 (S.D. Fla.) (\$10 million class settlement), and *Kehoe v. Fidelity Fed. Bank and Trust*, No. 03-cv-80593 (S.D. Fla.) (\$50 million class settlement).

He has been appointed and served in leadership positions a number of multidistrict litigation in the area of privacy and data breaches: *In re: Capital One Consumer Data Security Breach Litigation*, No. 1:19-MD-2915-AJT (E.D. Va.) (settlement for \$190,000,000 preliminarily

approved ) *In re Yahoo! Inc. Customer Data Security Breach Litigation*, No. 5:16-MD-02752-LHK (N.D. Cal.) (“Yahoo”) (Lead Counsel) (Court approved \$117,500,000.00 common fund settlement for approximately 194 million US residents and 270,000 Israeli citizens ); *In re The Home Depot, Inc. Consumer Data Sec. Data Breach Litig.*, No. 1:14-md-02583-TWT (N.D. Ga.) (co-Lead Counsel) (final judgment entered approving a settlement on behalf of a class of 40 million consumers with total value of \$29,025,000); *In Re: Equifax, Inc. Customer Data Security Breach Litigation*, 1:17-md-2800-TWT (N.D. Ga.) (member of the Plaintiffs’ Steering Committee) (final judgment entered approving \$380.5 million fund for 145 million consumers ); *In re: U.S. Office of Personnel Management Data Security Breach Litigation*, 1:15-mc-01394-ABJ (D.D.C.) (“OPM”) (member of the Executive Committee) (motion for preliminary approval of a \$60,000,000 common fund ); *In re Target Corp. Customer Data Sec. Breach Litig.*, MDL No. 2522 (D. Minn.) (Executive Committee member) (final judgment approving a settlement on behalf of a class of approximately 100 million consumers ).

His court-appointed leadership experience in non-MDL, data breach class actions is likewise significant, and to just name a few : *Schmidt, et al., v. Facebook, Inc.*, No. 3:18-cv-05982 (N.D. Cal.) (Co-Lead Counsel) (“Facebook”) (class certified for 8 million residents , subsequently settlement of the class was approved by the court); *Walters v. Kimpton Hotel & Restaurant*, No. 3:16-cv-05387 (N.D. Cal.) (“Kimpton”) (Lead Counsel) (class action settlement final approval order entered July 11, 2019); and *In re: Arby’s Restaurant Group, Inc. Data Security Litigation*, Nos. 1:17-cv-514 and 1:17-cv-1035 (N.D. Ga.) (co-Liaison Counsel) (final approval of a class settlement entered June 6, 2019); and *Jackson, et al., v. Wendy’s International, LLC*, No. 6:16-cv-210-PGB (M.D. Fla.) (final approval of a class settlement entered February 26, 2019); *Henderson v. Kalispell Regional Healthcare*, No. CDV-19-0761 (Montana Eighth Judicial Court – Cascade County) (final approval of class settlement entered January 5, 2021); *In re: Citrix Data Breach Litigation*, No. 19-cv-61350 (S.D. Fla.) (preliminary approval of class action settlement entered on January 26, 2021); *Kuss v. American HomePatient, Inc.*, et al., 18-cv-2348 (M.D. Fla.) (final approval of class action settlement entered on August 13, 2020); *Fulton-Green v. Accolade, Inc.*, 18-cv-274 (E.D. Pa.) (final approval of class action settlement entered September 23, 2019); *Nelson v. Roadrunner Transportation Systems, Inc.*, 18-cv-7400 (N.D. Ill.) (final approval of class action settlement entered September 15, 2020).

His experience in these major data breach matters extends far beyond simply briefing threshold issues and negotiating settlements. Rather, he has personally deposed dozens of corporate representatives, software engineers, cyber professionals and CISOs in major data breach cases such as Capital One, Yahoo, Kimpton, and Facebook. In addition, he has defended experts used in these cases and also deposed defense liability and damage experts.

Presently he leads his firm’s efforts in two major class cases pending against Google for

data misuse.

As result of his experience in the area of class litigation and ethics, he has served as an expert for The Florida Bar on ethical issues arising in class action litigation. He is a frequent lecturer on privacy and class litigation nationally and internationally, including at international conferences, having presented at the University of Haifa's 2019 Class Action Conference, in Haifa, Israel, attended by lawyers, judges and law professors from around the world. In 2020 he lectured on data privacy in Mexico, and in November 2020 and 2021 he presented on class action issues to an international group of lawyers, judges and professors at a symposium in London sponsored by the London Law Society. He is schedule to speak on class action issues in 2022 at two different symposiums in Amsterdam, and two seminars on privacy and cyber security issues in the United States .

While at the University of Florida Mr. Yanchunis was a member of Florida Blue Key and Omicron Delta Kappa. He received his Juris Doctor degree from the South Texas College of Law in 1980, where he graduated magna cum laude. During law school, Mr. Yanchunis was a member of the Order of the Lytae, Associate Editor-in-Chief and Technical Editor of the South Texas Law Journal.

**Michael F. Ram.** Mr. Ram is a consumer class action lawyer with 40 years of experience. He graduated cum laude from Harvard Law School in 1982. He has co-tried several class action trials and frequently lectures on class trials. In 1992 he was a co-recipient of the Trial Lawyer of the Year Award given by Trial Lawyers for Public Justice for *National Association of Radiation Survivors v. Walters* No. 83-c-1861 (N.D. Cal.) (tried to class-wide judgment on remand from Supreme Court).

From 1993 through 1997, Mr. Ram was a partner with Lieff, Cabraser, Heimann and Bernstein where he represented plaintiffs in several major class actions, including: *Cox v. Shell*, Civ. No 18,844 (Obion County Chancery Court, Tenn.) national class of six million owners of property with defective polybutylene plumbing systems; *In re Louisiana-Pacific Inner-Seal Litigation*, No. 95-cv-879 (D. Oregon) (co-lead counsel) national class of homeowners with defective siding; *ABS Pipe Litigation*, Cal. Judicial Council Coordination Proceeding No. 3126 (Contra Costa County) national class of homeowners.

In 1997, Mr. Ram founded Levy, Ram & Olson which became Ram & Olson and then Ram, Olson, Cereghino & Kopczynski. He was co-lead counsel in many consumer class actions including a national class of half a million owners of dangerous glass pane gas fireplaces in *Keilholtz et al. v. Superior Fireplace Company*, No. 08-cv-00836 (N.D. Cal. 2008). He was co-lead counsel for plaintiffs in *Chamberlan v. Ford Motor Company*, No. 03-cv-2628 (N.D. Cal.), a

class action involving defective intake manifolds that generated four published opinions, including one by the Ninth Circuit, 402 F.3d at 950, and settled one court day before the class trial. He was also co-counsel for plaintiffs in a number of other consumer class actions, including: *In re General Motors Corp. Product Liability Lit.* MDL No. 1896 (W.D. Wash.) (defective speedometers); *Richison v. American Cemwood Corp.*, San Joaquin Superior Court Case No. 005532 (defective Cemwood Shakes); *Williams v. Weyerhaeuser*, San Francisco Superior Court Case No. 995787 (defective hardboard siding); *Naef v. Masonite*, Mobile County, Alabama Circuit Court Case No. CV-94-4033 (defective hardboard siding on their homes); *Hanlon v. Chrysler Corp.*, 150 F.3d 1011 (9th Cir. 1998) (approving class action settlement); *McAdams v. Monier, Inc.* (2010) 182 Cal. App. 4th 174 (reversing denial of class certification in consumer class action involving roof tiles); *Gardner v. Stimson Lumber Co.* (King County Wash. No. 2-17633-3-SEA) (defective siding); *Rosenberg v. U-Haul* (Santa Cruz Superior Ct. No. CV-144045 (certified consumer class action for false and deceptive conduct; tried successfully to judgment); *In re Google Buzz User Privacy Litigation*, No. 10-cv-00672-JW (N.D. Cal. 2011) (international class action settlement for false and deceptive conduct); *Whitaker v. Health Net of California, Inc., and International Business Machines Corp.*, No. 2:11-cv-0910 KJM DAD (E.D. Cal.) (electronic privacy class action under the California Confidentiality of Medical Information Act); and *In re Kitec Plumbing System Products Liab. Litigation MDL No 2098*, N.D. Texas, No. 09-MD-2098 (MDL class action involving claims concerning defective plumbing systems).

From 2017 to 2020, Mr. Ram was a partner at Robins Kaplan LLP. In August, 2020, Mr. Ram joined Morgan & Morgan to open a San Francisco office for them. He is currently co-lead counsel in numerous consumer class actions, including *Gold v. Lumber Liquidators*, N.D. Cal. No. 14-cv-05373-RS, a certified multistate class action involving bamboo floors, and *Fowler v. Wells Fargo*, N.D. Cal. No. 3:17-cv-02092-HSG, a class action involving interest charges that settled for \$30 million. He is currently serving on the Plaintiffs' Steering Committee *In re Philips Recalled CPAP, Bi-Level Pap, And Mechanical Ventilator Products Litigation*, MDL No. 3014, where he is co-chair of the Law and Briefing Committee. In addition, Mr. Ram is also currently serving on the Plaintiffs' Expert Discovery Committee *In re Kia Hyundai Vehicle Theft Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 3052.

**Jean Sutton Martin.** Ms. Martin presently serves by appointment as interim co-lead counsel in *In re Morgan Stanley Data Security Litigation*, 1:20-cv-05914 (S.D.N.Y.) (\$68 million settlement for 15 million class members), *Combs, et al. v. Warner Music Group*, Case No. 1:20-cv-07473-PGG (S.D.N.Y.), *In Re: Ambry Genetics Data Breach Litigation*, No. 20-cv-00791 (C.D. Cal.), and *Johnson, et al. v. Yuma Regional Medical Center*, 2:22-cv-01061-SMB (D. Ariz.). She also serves as a member of the Plaintiffs' Steering Committee for the cases proceeding against LabCorp, Inc. in *In re: American Medical Collection Agency Data Breach Litigation*, 19-md-2904 (D. N.J.). She is a member of the Plaintiffs' Steering Committee in *In re: Smith & Nephew Birmingham Hip Resurfacing (BHR) Hip Implant Products Liability Litigation*, No. 17-

md-2775 (D. Md.) and *In re: Allergan Biocell Textured Breast Implant Products Liability Litigation*, No. 19-md-2921 (D. N.J).

In a case in which she serves as interim co-lead counsel, Ms. Martin argued a motion for class certification which resulted in the first order in the country granting Rule 23(b)(3) certification in a consumer payment card data breach. *In re Brinker Data Incident Litig.*, No. 3:18-CV-686-TJC-MCR, 2021 WL 1405508 (M.D. Fla. Apr. 14, 2021).

She has served in leadership positions in many consumer class actions and consolidated proceedings in federal courts around the country, including *inter alia*: *Aguallo, et al. v. Kemper Corp., et al.*, Case No.: 1:21-cv-01883 (N.D. Ill.) (data breach settlement valued at over \$17.5 million) (co-lead counsel); *Gordon, et al. v. Chipotle Mexican Grill, Inc.*, No. 17-cv-01415 (D. Colo.) (data breach) (co-lead counsel); *Linnins v. HAECO Americas, Inc., et al.*, No. 16-cv-486 (M.D.N.C.) (employee data disclosure) (co-lead counsel); *Torres v. Wendy's International, LLC*, No. 6:16-cv-210 (M.D. Fla.) (data breach) (class counsel); *Fuentes, et al. v. UniRush, LLC, et al.*, No. 1:15-cv-08372 (S.D.N.Y.) (disruption in servicing of financial accounts) (co-lead counsel); *Lewis, et al., v. Green Dot Corp., et al.*, No. 2:16-cv-03557 (C.D. Cal.) (disruption in servicing of financial accounts) (class counsel); *Brady, et al. v. Due North Holdings, LLC, et al.*, No. 1:17-cv-01313 (S.D. Ind.) (employee data disclosure) (class counsel); *Foreman v. Solera Holdings, Inc.*, No. 6:17-cv-02002 (M.D. Fla.) (employee data disclosure) (class counsel); *In Re: Outer Banks Power Outage Litigation*, No. 4:17-cv-141 (E.D.N.C.) (extended island power outage due to defective construction practices) (class counsel); and, *McCoy v. North State Aviation, LLC, et al.*, No. 17-cv-346 (M.D.N.C.) (WARN Act violations) (class counsel).

In addition to consumer class actions, Ms. Martin has practiced in the areas of mass tort and catastrophic personal injury litigation. Prior to joining Morgan and Morgan, Ms. Martin ran her own law firm concentrating in consumer class actions and mass tort litigation. She also has served as an adjunct professor at Wake Forest University School of Law.

Ms. Martin received her Juris Doctor degree from Wake Forest University School of Law in 1998, where she served as Editor-in-Chief of the *Wake Forest Law Review*. She obtained eDiscovery certification from the eDiscovery Training Academy at Georgetown Law Center in 2017. Ms. Martin graduated from Wake Forest University with a Bachelor of Science in Mathematical Economics in 1989. She earned a Master of International Business from the University of South Carolina in 1991.

Ms. Martin has been honored with the prestigious “AV” rating by Martindale-Hubbell. In 2016, Ms. Martin was selected by her peers as the foremost Litigation attorney in the State of North Carolina for *Business North Carolina Magazine's Legal Elite*, gaining

membership in the *Legal Elite* Hall of Fame. In 2015, she was inducted as a Fellow of the Litigation Counsel of America, a prestigious trial lawyer honorary society comprised of less than one-half of one percent of American lawyers. Fellows are selected based upon excellence and accomplishment in litigation, both at the trial and appellate levels, and superior ethical reputation. For upholding the highest principles of the legal profession and for outstanding dedication to the welfare of others, Ms. Martin has also been selected as a Fellow of the American Bar Foundation, an honorary legal organization whose membership is limited to one third of one percent of lawyers in each state. Since 2012, she has been selected to the Super Lawyers list for North Carolina in the areas of mass torts and class actions, with repeated selection to the Top 50 Women North Carolina.

Before entering law school, Ms. Martin worked with the sales finance team of Digital Equipment Company in Munich, Germany developing sales forecasts and pricing models for the company's expansion into the Eastern European market after the fall of the Berlin wall. She also worked as a practice management consultant for a physician consulting group and as a marketing manager for an international candy manufacturer where her responsibilities included product development, brand licensing, market research, and sales analysis.

Ms. Martin has been a presenter on a variety of topics related to class actions including: *Fantasy Gaming Webinar: FanDuel and DraftKings Litigation*, AAJ (December 2015); *Thinking Outside the Black Box: Drug Cases in the Class Context*, Mass Torts Made Perfect (October 2019); *Mass Torts and MDLs*, Western Alliance Class Action Forum (March 2020); *Consumer Class Actions*, Western Alliance Class Action Forum (March 2022); *How to Maximize Efficiency in Document Production and Review*, Mass Torts Made Perfect (April 2022).

Ms. Martin is a member of the North Carolina bar, having been admitted in 1998. She is also admitted to practice before the United States Supreme Court, the United States Court of Federal Claims, the United States Court of Appeals for the Fourth Circuit, the Western, Middle, and Eastern Districts of North Carolina, and the United States District Court of Colorado.

**Marcio Valladares.** Mr. Valladares was born in Managua, Nicaragua and immigrated to the United States during Nicaragua's civil war. In 1990, Marcio obtained a Bachelor of Science degree in psychology from the University of Florida. In 1993, he obtained his Juris Doctor degree, *magna cum laude*, from Florida State University. He is pursuing a Masters in Law (LL.M.) degree from Columbia University, focusing on federal and comparative law.

Before joining Morgan & Morgan, Marcio worked in both the public and private sectors. He served as a judicial law clerk to the Honorable Steven D. Merryday, United States District Judge, Middle District of Florida, and then served as a judicial law clerk to the Honorable Susan

H. Black, United States Circuit Court Judge, Court of Appeals for the Eleventh Circuit. Marcio served as an Assistant United States Attorney for the Middle District of Florida. In the private sector, Marcio practiced commercial litigation and insurance defense at Holland & Knight LLP. Marcio also worked as in-house counsel for the Mayo Clinic. Marcio is fluent in English and Spanish.

**Marie Noel Appel.** Ms. Appel has dedicated her career to representing consumers, primarily in class action cases, involving claims under consumer protection laws and other statutory and common law claims.

For the first fifteen years of her career, Ms. Appel litigated class claims on behalf of consumers, including actively participating in the following cases: *Lussier v. The Lucas Dealership Group*, No. CGC-95-391224 (San Mateo Super. Ct.) (unfair business practices suit for automobile repair overcharges resulting in confidential settlement after three weeks of trial in 1998); *Pang v. Jani King of Calif., Inc.*, No. CGC-98-396258 (San Mateo Super. Ct.) (class action unfair business practice suit alleging improper franchise practices settled in 1999 on appeal); *Capers v. Pac. Bell Internet Serv.*, No. CGC-01-318733 (San Francisco Sup. Ct.) (unfair business practice suit for improper DSL billing practices resulting in refunds of more than \$1.6 million to 20,000 class members and distribution of more than \$40,000 to charitable organizations in 2004); *Clark v. Santa Barbara Bank & Trust*, No. CGC-04-427959 (San Francisco Super. Ct.) (unfair business practices for improper debt collection practices resulting in refunds of more than \$2 million and distribution of more than \$200,000 in cy pres relief in 2007); *Dubray v. City of Dublin*, No. 2002057128 (Alameda County Super. Ct.) (class action against the City of Dublin for illegal governmental cost collection practices); *Donovan v. RRL Corp.*, 26 Cal. 4th 261 (2001) (one of amicus counsel for National Association of Consumer Advocates regarding whether automobile price advertisement was a contract offer); *Buick v. World Sav. Bank*, No 2:07-CV-01447 (E.D. Cal.) (individual Truth in Lending action regarding home equity loan which settled in 2011); and *Briggs v United States*, No. CV-07-5760 WHA (N.D. Cal.) (statutory violations resulting in \$7.4 million settlement in 2009 on behalf of a nationwide class of veterans whose tax refunds and benefits the government withheld to recover time-barred debts to the Army & Air Force Exchange Service).

From 2012 to 2019, Ms. Appel left private practice to become the Supervising Attorney of the Consumer Project and the Medical-Legal Project at the Justice & Diversity Center of the Bar Association of San Francisco which provides free legal services to low-income persons. In that position, Ms. Appel trained and supervised volunteer attorneys assisting clients facing debt collection lawsuits, and provided a range of direct legal services to clients, primarily patients at low-income medical clinics, as well as collaborating with, and training, medical interns, residents, nurses, and staff regarding legal issues impacting patient health outcomes. Ms. Appel also presented on topics relating to providing pro bono services to consumers, including, *Disaster-Related Consumer Issues Including Consumer Protection Laws and Debtors' Rights and Responsibilities, Providing Legal Assistance in Aftermath of Disaster*, Practising Law Institute (September 2015); *Successful Pro Bono Based Projects to Assist Self-Represented Litigants: Partnering with Bar Associations, Small & Solo Practitioners, New Attorneys, Law Schools, and Courts*, Self-Represented Litigation Network Conference (February 2017);

*Successful Pro-Bono Based Projects to Assist Self-Represented Litigants*, Self-Represented Litigation Network Conference (February 2018), and *Helping Clients Facing Collection Actions For Covid-19 Rental Debt*, Tenants Together, Tenant Lawyer Network (January 2022).

In April 2019, Ms. Appel returned to private practice as Counsel at Robins Kaplan, LLP, then joined Morgan & Morgan in August 2020 where she again focuses on class action consumer litigation including the following litigations: *Gold v. Lumber Liquidators*, No. 14-cv-05373-RS (N.D. Cal.) (settlement approval and distribution of a certified multistate class action involving bamboo floors); *In Re: Philips Recalled CPAP, Bi-Level PAP, and Mechanical Ventilator Prod. Litig.*, MDL No. 3014 (Medical Monitoring Working Group); and *Weston v. Subaru of America, Inc.*, No. 1:20-cv-05876-CPO-SAK (D.N.J.) (informal Plaintiffs' Steering Committee).

In addition to her legal practice, Ms. Appel also has served as an Adjunct Professor at Golden Gate University School of Law in San Francisco where she has taught legal research and writing, and taught and supervised students at the Consumer Rights Clinic, in which students performed legal work at the Justice & Diversity Center's Consumer Debt Defense and Education Clinics.

Ms. Appel has a long history of pro bono involvement and currently is a regular volunteer at the Community Legal Assistance Saturday Program, a monthly free legal clinic sponsored by the Alameda County Bar Association. From 1997 to 2012, Ms. Appel provided pro bono representation for numerous low-income consumers facing debt collection lawsuits, and volunteered regularly at free legal clinics through the Justice & Diversity Center in San Francisco which, on multiple years, designated her as one of the Outstanding Volunteers in Public Service.

Ms. Appel earned a B.A. in French from San Francisco State University in 1992, and a Juris Doctor from University of San Francisco School of Law in 1996 where she was an Associate Literary Editor of the *USF Maritime Law Journal*.

Ms. Appel is admitted to the State Bar of California and to United States District Courts in the Central District of California, the Eastern District of California, the Northern District of California, the Southern District of California, the Northern District of Illinois, the Western District of Michigan, and the Ninth Circuit Court of Appeals.

**Kenya Reddy.** Ms. Reddy represents consumers in class action litigation. She graduated from Duke University in 1997 with a degree in political science. In 2000, she received her law degree from the University of Virginia School of Law. Prior to joining Morgan & Morgan, Ms. Reddy was a shareholder at Carlton Fields, P.A., where her primary areas of practice were antitrust, complex civil litigation, class action defense, and business litigation. She also has experience in including labor and employment, products litigation, ERISA and employee benefits law, insurance, healthcare, and securities litigation.

Ms. Reddy has served as a law clerk for the Honorable Charles R. Wilson, United States



Circuit Court Judge, Court of Appeals for the Eleventh Circuit, the Honorable Anne C. Conway, former Chief Judge of the United States District Court for the Middle District of Florida, the Honorable Mary S. Scriven, United States District Judge, Middle District of Florida, and the Honorable Karla R. Spaulding, United States Magistrate Judge, Middle District of Florida.

Ms. Reddy was a guest speaker in January 2019 at HarrisMartin's Marriott Data Breach Litigation Conference on the topic of standing in data breach cases. In October 2019, she presented on the topic of third-party litigation funding at the Mass Torts Made Perfect Conference.

Ms. Reddy is admitted to practice in the Northern, Middle, and Southern Districts of Florida.

**Ryan J. McGee.** Mr. McGee was born and raised in Tampa, Florida. He studied business economics and history at the University of Florida, where he was a teaching assistant for technology classes in the business school, and received his law degree from Stetson University College of Law, where he was an editor on the *Stetson Law Review*, a research assistant for antitrust and consumer protection laws, and a teaching assistant for Stetson's trial advocacy program.

Ryan began his legal career as a state-appointed prosecutor, where he tried over 50 jury trials to verdict, mostly felonies, as well as a special prosecutor appointed to investigate police officers' deadly use-of-force and corruption within various law enforcement agencies. Ryan also served as a law clerk for two years for the Honorable Elizabeth A. Kovachevich, the former Chief United States District Judge, Middle District of Florida. Before joining Morgan & Morgan, Ryan's practice involved complex business disputes, antitrust, trade secret, data security, and class action investigations and defense-side litigation in state and federal courts across the country.

Since shifting his focus entirely to consumer class action representation, Ryan has been selected as a Florida Super Lawyer Rising Star in 2018 and 2019 in the field of Class Actions, and has extensive privacy and consumer fraud class action experience, having actively participated in the following litigations: *Brown v. Google LLC*, No. 4:20-cv-03664-YGR (N.D. Cal.); *Rodriguez v. Google LLC*, No. 3:20-cv-4688-RS (N.D. Cal.); *In re Morgan Stanley Data Security Litigation*, 1:20-cv-05914 (S.D.N.Y.); *In re: Capital One Consumer Data Security Breach Litigation*, No. 1:19-MD-2915-AJT (E.D. Va.); *Schmidt, et al., v. Facebook, Inc.*, No. 3:18-cv-05982 (N.D. Cal.); *In re Google Plus Profile Litigation*, No. 5:18-cv-06164 EJD (N.D. Cal.); *Kuss v. American HomePatient, Inc., et al.*, No. 8:18-cv-02348 (M.D. Fla.); *In re Equifax, Inc. Customer Data Sec. Breach Litigation*, No. 1:17-md-02800 (N.D. Ga.); *Morrow v. Quest Diagnostics, Inc.*, No. 2:17-cv-0948(CCC)(JBC) (D.N.J.); *In re Yahoo! Inc. Customer Data Sec. Breach Litig.*, No. 16-md-02752-LHK (N.D. Cal.); *In re: U.S. Office of Personnel Management Data Security Breach Litigation*, 1:15-mc-01394-ABJ (D.C.);

Ryan was admitted to the Florida Bar in 2009 and is also admitted to practice in the Northern, Middle, and Southern Districts of Florida.

**Patrick Barthle.** Mr. Barthle was born and raised in Dade City, Florida. He attended the University of Florida where he was admitted to the Honors Program and graduated, *cum laude*, with a double major in History and Criminology in 2009. While at UF, Patrick was inducted into the Phi Beta Kappa Honor Society and served as President of the Catholic Student Center. Patrick attended Washington and Lee University School of Law, graduating *summa cum laude* in 2012; where he was a Lead Articles Editor for the Wash. & Lee Law Review, a member of the Order of the Coif and the Phi Delta Phi Legal Honor Society, and President of the W&L Law Families organization.

Before joining Morgan & Morgan in 2015, Patrick worked at one of the country's largest law firms, Greenberg Traurig, LLP, and then served as a judicial law clerk for two years to the Honorable Mary S. Scriven, United States District Judge, Middle District of Florida. Patrick has extensive privacy and consumer fraud class action experience, having actively participated in the following litigations: *In re: Capital One Consumer Data Security Breach Litigation*, No. 1:19-MD-2915-AJT (E.D. Va.); *In re: U.S. Office of Personnel Management Data Security Breach Litigation*, 1:15-mc-01394-ABJ (D.C.); *Torres v. Wendy's International, LLC*, No. 6:16-cv-210 (M.D. Fla.); *Morrow v. Quest Diagnostics, Inc.*, No. 2:17-cv-0948 (Dist. NJ); *In Re: Equifax, Inc. Customer Data Security Breach Litigation*, 1:17-md-2800-TWT (N.D. Ga.); *In re The Home Depot, Inc. Customer Data Security Data Breach Litigation*, No. 1:14-md-02583-TWT (N.D. Ga.); *In re Yahoo! Inc. Customer Data Sec. Breach Litig.*, 16-md-02752-LHK (N.D. Cal.); and *Finerman v. Marriott Ownership Resorts, Inc.*, Case No.: 3:14-cv-1154-J-32MCR (M.D. Fla.).

Patrick was selected as a Florida Super Lawyer Rising Star in 2019 in the field of Class Actions. He is also active in speaking on privacy and class action topics, having spoken in June 2018, at the NetDiligence Cyber Risk Summit on the topic of Unauthorized Use of Personal Data; in November 2018 at the American Association for Justice's Advanced 30(b)(6) Seminar, on the topic of 30(b)(6) Depositions in Data Breach Cases; and in January 2019 at HarrisMartin's Marriott Data Breach Litigation Conference on that topics of damage models and settlements in data breach cases; and Rule 23(c)(4) classes at the Mass Torts Made Perfect conference.

Mr. Barthle was admitted to the Florida Bar in 2012 and is also admitted to practice in the Middle District of Florida, the Southern District of Florida, and the District of Colorado.

**Francesca Kester.** Ms. Kester was born and raised in Scranton, Pennsylvania. She attended Marywood University, where she graduated with a major in English Literature, and The

Pennsylvania State University's Dickinson School of Law, where she received her Juris Doctor degree in 2017. While at Dickinson, Ms. Kester competed in the American Bar Association's National Appellate Advocacy Competition, where she was awarded the highest honor for her legal brief writing, and the Texas Young Lawyer's National Trial Competition, where she finished as a regional finalist. Ms. Kester also served as Executive Chair of the Dickinson Law Moot Court Board, Founder of the Dickinson Law partnership with Big Brothers Big Sisters, and Student Director of the Bethesda Mission Men's Shelter legal clinic. At graduation, she was honored with the D. Arthur Magaziner Human Services Award for outstanding academic achievement and service to others, the Joseph T. McDonald Memorial Scholarship for excellence in trial advocacy, and the peer-selected Lee Popp Award for her devotion to the legal field.

Ms. Kester interned as a judicial clerk to United States Magistrate Judge Martin C. Carlson while in law school. After graduation, she served for two years as a law clerk to the Honorable James M. Munley in the United States District Court for the Middle District of Pennsylvania. Ms. Kester is a member of the Lackawanna County Bar Association, the Pennsylvania Bar Association, the American Association for Justice, and Order of the Barristers. In 2018 and 2019, she served as the attorney advisor for her alma mater's high school mock trial team, coaching them to a first place finish in the state and ninth in the nation.

Ms. Kester is admitted to practice law in both Pennsylvania and Florida.

***Ra O. Amen.*** Mr. Amen was raised in both the California Bay Area and Massachusetts. In 2005, Ra graduated from Stanford University with a B.A. in Economics. After graduating, Ra worked as a Peace Corps volunteer in Morocco teaching English as a second language and business skills to local artisans. Before entering law school, Ra worked for several years in education and in business development for a mobile technology startup. In 2017, he obtained his Juris Doctor degree with Honors from Emory University School of Law. While at Emory Law, he was a Managing Editor of the Bankruptcy Developments Journal, interned at a consumer fraud law practice, and worked in-house with one of the globe's leading metals companies assisting in a diverse array of legal issues ranging from corporate restructuring to international tax and contract disputes. Before joining Morgan & Morgan in 2020, Mr. Amen worked at one of the nation's largest defense law firms in the nation where he specialized in representing clients in complex commercial, administrative, and ecclesiastical disputes.

Ra speaks both English and Spanish, and is an avid guitar player.

Ra was admitted to the Georgia Bar in 2017.

***David Reign.*** Mr. Reign is the former Assistant Special Agent in Charge of the Tampa FBI

Field office, with nearly 25 years of investigative experience. He has investigated and managed some of the FBI's most complex white-collar crime cases, with an emphasis on health care fraud, public corruption, and financial crimes. As Deputy Chief of the Enron Task Force, he led a team of investigators and analysts in the successful investigation and prosecution of several executives of the Enron Corporation. He received the Attorney General's Award for Exceptional Service for his work on the Enron matter.

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

IN RE: CANON U.S.A. DATA BREACH  
LITIGATION

Case No. 1:20-cv-06239-AMD-SJB

This Documents Related To:

All Actions

**DECLARATION OF M. ANDERSON BERRY  
IN SUPPORT OF PLAINTIFFS' MOTION FOR  
ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARDS**

I, M. Anderson Berry pursuant to section 1746 of title 28 of the United States Code, declare:

1. I am an attorney licensed to practice law in the State of California since 2009. I practice law at Clayeo C. Arnold, A Professional Corporation dba Arnold Law Firm (the "Arnold Law Firm"). I head the complex civil litigation group, specifically practicing in complex privacy and data breach class action matters and *qui tam* proceedings.

2. I am one of the counsel representing Plaintiffs Finnigan, Buchbinder, McCartney, Villacris, Pichardo, Andre Hamid, Amy Lynn Hamid, Woodrow Moss, and Diana Rouse (collectively "Plaintiffs") and the putative class. I have personal knowledge of the matters stated herein and, if called upon, I could and would testify competently to those matters. I submit this Declaration in support of Plaintiffs' Motion for Approval of Attorneys' Fees, Expenses, and Service Awards.

3. Following the initial filing of the underlying lawsuit Hamid v. Canon, U.S.A., Inc. (No. 1:20-cv-06380) and its subsequent consolidation with the instant matter I and my associates at the Arnold Law Firm have been extensively involved in this litigation at the direction of Co-Lead Class Counsel including: continuing to investigate the facts of the Data Incident, including gathering all of the information that was available regarding Defendants and the Data Incident, such as all publicly-available

documents concerning announcements of the Data Incident and notice of the Data Incident by Defendants to Class Members and various states' Attorneys' General; assisting in opposing Defendants Motion to Dismiss; assisting in settlement negotiations; assisting in preparing Plaintiffs' pre-mediation informal discovery requests and analyzing Defendants' production in response thereto; assisting in the preparation of Plaintiffs' mediation statement; participating in mediation and subsequent negotiations with Defendants' counsel; assisting in the preparation of the Settlement Agreement and its associated exhibits; assisting in the preparation of Plaintiffs' Motion for Preliminary Approval; discussing the notice and administration plans with co-counsel and the Settlement Administrator to ensure compliance with due process; communicating with the Settlement Administrator; reviewing and editing notices; monitoring the Notice Program and claims administration; communicating with class members regarding claims; and assisting in the drafting of the instant motion. I provided assistance while being mindful to avoid duplicative efforts both within my firm and with cocounsel. Based on this work and my experience I fully endorse this settlement.

4. The Arnold Law Firm's background and qualifications are set forth in the Firm Resume attached hereto as **Exhibit A**.

5. The current hourly rates for the Arnold Law Firm's attorneys and staff that have worked on this action, as well as their hours spent working on the action as of March 14, 2024, and their corresponding lodestar, are as follows:

<b>Timekeeper</b>	<b>Current Title</b>	<b>Current Hourly Rate</b>	<b>Hours Worked</b>	<b>Lodestar</b>
M. Anderson Berry	Partner	\$850	65.2	\$55,420.00
Gregory Haroutunian	Senior Associate	\$725	33.6	\$24,360.00
Leslie Guillon	Associate	\$625	2.0	\$1,250.00
Alex Sauerwein	Associate	\$400	3.0	\$1,200.00
Lori Martin	Paralegal	\$308	3.9	\$1,201.20

Bianca E. Marentes	Paralegal	\$308	5.4	\$1,663.20
Olya Velichko	Paralegal	\$308	11.0	\$3,388.00
<b>TOTALS:</b>			<b>124.1</b>	<b>\$88,482.20</b>

6. These records were prepared from contemporaneous, daily time records regularly prepared and maintained by the Arnold Law Firm in the usual course and manner of my firm. The Arnold Law Firm maintains detailed records regarding the amount of time spent by my firm, and the lodestar calculation is based on my firm’s current billing rates. These records are available for review, *in camera*, at the request of the Court.

7. Going forward, my firm will have to spend considerable additional time, and incur additional expenses by, among other things: (1) preparing for and attending the Final Approval Hearing; (2) addressing any objections that may be raised to the Settlement; (c) communicating with Settlement Class Members to answer any questions they may have or address any issues with the claims process; and (d) if the Settlement is approved, continuing to work with the Settlement Administrator to ensure that the Settlement is fully implemented.

8. In my judgment and based on my experience in complex class action litigation and other litigation, the number of hours expended, and the services performed by my firm, were reasonable and necessary for my firm’s representation of Plaintiffs.

9. I have general familiarity with the range of hourly rates typically charged by plaintiffs’ class action counsel in the geographical area where my firm practices and throughout the United States, both on a current basis and historically. From that basis, I am able to conclude that the rates charged by my firm are commensurate with those prevailing in the market for such legal services furnished in complex class action litigation such as this. My firm’s rates have been approved in numerous other data breach class action cases in federal courts, including but not limited to: *Bitmouni v. Paysafe Payment Processing Solutions LLC*, No. 21-cv-00641-JCS (N.D. Cal. Feb. 2, 2024) (ECF No. 103); *Beasley et al. v. TTEC Services Corp.*, No. 22-cv-00097-PAB-STV (D. Col. Feb. 21, 2024) (ECF No. 64); *Bowdle v. King’s Seafood Co., LLC*, No. 8:21-cv-01784-CJC-JDE (C.D. Cal. Feb. 13, 2023) (ECF No 50); *Carrera Aguallo v. Kemper Corp.*, No. 1:21-cv-01882 (N.D. Ill. Mar. 18, 2022) (ECF No. 53); *Gaston*

*v. FabFitFun, Inc.*, No. 2:20-cv-09534-RGK-E, 2021 US Dist. LEXIS 250695 (C.D. Cal. Dec. 9, 2021) (ECF No. 52); *Riggs v. Kroto, Inc.*, No. 1:20-cv-5822 (N.D. Ill. Oct. 29, 2021) (ECF No. 61).

10. My firm has incurred costs of \$1,671.57 in litigating this action, consisting of the following categories of costs:

Category	Description	Cost
Court Costs	Filing fees PHV and COGS	\$150.50
Research	Westlaw/Pacer	\$1,521.07
<b>Total:</b>		<b>\$1,671.57</b>

11. Throughout the litigation, I made every effort to operate as efficiently as possible and to avoid unnecessary duplication both within my firm and with cocounsel.

12. I have represented Plaintiffs and the class purely on a contingency fee basis in this matter and have not received any payment for my time, effort, or expenses to date.

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

Executed this 15th day of March 2024, at Fair Oaks, California.

By:   
 M. ANDERSON BERRY (SBN 262879)



# **EXHIBIT A**



## **Arnold Law Firm Biography**

### **Sacramento Office**

865 Howe Avenue  
Sacramento, CA 95825  
916-777-7777  
916.239.4778 (d)  
415.595.3302 (c)

### **Los Angeles Office**

12100 Wilshire Blvd., Ste 800  
Los Angeles, CA 90025  
Phone: 747.777.7748

[justice4you.com](http://justice4you.com)  
[databreachattorneys.com](http://databreachattorneys.com)



Founded in 1975 by Clayeo C. Arnold, the Arnold Law Firm is a litigation-oriented practice with locations in Sacramento and Los Angeles, California. In keeping with its founding principles, our firm consciously works for the interests of individual people and small businesses — not for large corporations or insurance companies.

The Arnold Law Firm prosecutes class action, mass tort, *qui tam*, product defect, employment, and personal injury cases. We pride ourselves on being a practice of trial lawyers, typically trying a minimum of ten cases per year to verdict. In addition to our practice throughout the state of California in both state and federal courts, we also pursue class action, *qui tam* and multi-district litigation claims on a nationwide basis.

Our team of twelve attorneys collectively encompass a broad and diverse professional background, including plaintiff contingency work, public entity representation, criminal defense, and civil defense. We have current and past board members of Capital City Trial Lawyers Association, as well as members of numerous prestigious professional organizations, including the American Board of Trial Advocates, American Association for Justice, Association of Trial Lawyers of America, Sacramento County Bar Association, and Consumer Attorneys of California.

Our firm's operating structure is comprised of multiple teams directed towards specific practice areas. These teams regularly and intentionally collaborate and exchange information between their practice areas to improve the quality of representation for all of our clients.



## **Arnold Law Firm Biography**

(continued)

For over four decades the Arnold Law Firm has developed a respected and extensive network of co-counsel and experienced contract counsel to rapidly expand our capabilities as necessary on an *ad hoc* basis (e.g., document review). We employ a robust staff of highly qualified and experienced legal staff including assistants and paralegals to ensure that attorney time is spent in the most efficient manner possible.

The Arnold Law Firm employs technology to increase productivity thereby resulting in more efficient and effective legal representation and driving excellent results on behalf of its clients. Specifically, the firm increases its efficiency by using numerous forms of legal and practice management software including template software, client management software, and secure internet-based client management for mass tort or multi-plaintiff litigation. We also invest in appropriate billing and tracking software for contemporaneous hourly record keeping.

The Arnold Law Firm places substantial value on representing clients in a manner that is both effective and courteous. Integrity with clients, the courts, and adverse counsel are all considered to be as indispensable as successful results.

Our highly accomplished counsel has a long history of successfully handling class actions across a range of industries, including data breach cases.



## M. Anderson Berry Biography



The Arnold Law Firm has a proven track record of success and the ability to work efficiently and cooperatively with others. In addition, our firm has the availability and resources necessary to litigate complex class actions.

### M. Anderson Berry

M. Anderson Berry heads the data breach complex litigation and *qui tam* practices for the Arnold Law Firm. He brings substantial experience in complex litigation matters with a history of litigating in an efficient and practical manner, including as Lead Class Counsel, Co-Lead Class Counsel, and as a member of numerous Plaintiffs' Executive Committees.

Mr. Berry has an extensive background in privacy and consumer/government fraud litigation, actively participating in a currently sealed False Claims Act case involving widespread cybersecurity fraud upon the United States, and the class action litigations filed in federal and state courts across the nation, set out below.

Before joining the Arnold Law Firm in 2017, Mr. Berry worked as an Assistant United States Attorney for the Eastern District of California. As part of the Affirmative Civil Enforcement unit, Mr. Berry handled a wide variety of complex cases and recovered millions of dollars for the United States.

Before working for the Department of Justice, Mr. Berry practiced at one of the world's largest law firms, Jones Day, where he represented clients in international arbitration and complex commercial litigation, including defending class action allegations.

Mr. Berry was first selected as the Northern California Super Lawyers Rising Star in 2015 in the field of complex civil litigation.



## M. Anderson Berry Biography

(continued)

Mr. Berry attended the University of California, Berkeley, where he majored in English and graduated with highest honors. Mr. Berry was inducted into the Phi Beta Kappa Honor Society and served as President of the English Undergraduate Associate.

After working as a private investigator for both criminal and civil investigations in the San Francisco Bay Area, Anderson graduated from U.C. Berkeley School of Law, where he was a Senior Editor for both the *Berkeley Journal of Criminal Law* and *Berkeley Journal of International Law*.

He was admitted to the California Bar in 2009 and is admitted to practice in the Northern, Eastern, Southern and Central Districts of California. Mr. Berry is also admitted to practice in the Northern District of Illinois, the Eastern District of Michigan, the Northern and Southern Districts of Indiana, the Districts of Colorado and Nebraska, and the Fourth and Ninth Circuit Courts of Appeals.

Mr. Berry was raised in Moraga, California and now lives in Fair Oaks, California, with his wife and three young sons.

### Select Data Breach Cases

*John Doe, et al. v. Fred Hutchinson Cancer Center, et al.*,  
2:23-cv-01893-JHC (W.D. Wa.) (**Co-Lead Counsel**);  
*In Re: Entertainment Partners Data Breach Litigation*, 2:23-  
cv-06546-CAS (C.D. Ca.) (**Co-Lead Counsel**)  
*In Re: Snap Finance Data Breach*, 2:22-cv-00761-TS-JCB  
(D.UT.) (**Co-Lead Counsel**) (settled)  
*Ware v. San Gorgonio Memorial Hosp.*, CVRI2301216 (Sup.  
Crt of CA, Riverside) (**Co-Lead Counsel**)  
*In Re: Overby-Seawell Co. Customer Data Security Breach  
Lit.*, 1:23-md-03056-SDG (N.D. Ga.) (**Co-Lead Counsel**);  
*Holmes v. Elephant Insurance Company, et al.*, 3:22-cv-  
00487-JAG (E.D. VA.) (**Co-Lead Counsel**);  
*In Re: Arthur J. Gallagher Data Breach Litigation*, 1:21-cv-  
-04056 (N.D.Ill.) (**Co-Lead Counsel**);



## M. Anderson Berry Biography

(continued)

*Petimat Dudurkaewa et al. v. Midfirst Back et al.*, 5:23-cv-00817-R (W.D. Ok.) (**Executive Comm.**);

*In Re: CaptureRx Data Breach Litigation*, 5:21-cv-00523 (W.D.TX.)(**Co-Lead Counsel**) (settled);

*Rossi v. Claire's Stores*, 1:20-cv-05090 (N.D. Ill.) (**Co-Lead Counsel**) (settled);

*Desue v. 20/20 Eye Care Network, Inc. et al.*, 0:21-cv-61275 (S.D. Fla.) (**Executive Comm.**);

*In re: Mednax Services, Inc. Customer Data Security Breach Litigation*, 21-MD-02994 (S.D. Fl.) (**Executive Comm.**);

*Bowdle v. King's Seafood Co. LLC*, 8:21-cv-01784-CJC-JDE, (CD. Cal.) (Class Counsel) (settled);

*Hashemi et al. v. Bosley, Inc.* 2:21-cv-00946 (CD. Cal.) (Class Counsel) (settled);

*Heath et al. v. Insurance Technologies Corp et al.*, 3:21-cv-01444 (N.D. Tex.) (Class Counsel) (settled);

*Carrera Aguallo et al. v. Kemper Corporation et al.*, 1:21-cv-01883 (N.D. Ill.) (Class Counsel) (settled);

*Ahn et al. v. Herff Jones, LLC*, 1:21-cv-01381 (S.D. Ind.) (settled);

*Bitmouni v. Paysafe Limited*, 3:21-cv-00641-JCS (N.D. Cal.) (Class Counsel) (settled);

*Gaston v. FabFitFun, Inc.*, 2:20-cv-09534 (C.D. Cal.) (Class Counsel) (settled);

*In Re: Ambry Genetics Data Breach Litigation*, 8:20-cv-00791 (C.D. Cal.) (settled);

*In Re: Morgan Stanley Data Security Litigation*, 1:20-cv-05914 (S.D.N.Y.) (settled);

*Pfeiffer et al. v. RadNet, Inc.*, 2:20-cv-09553-RGK-SK (C.D. Cal.)(Class Counsel) (settled);

*Thomsen v. Morley Companies, Inc.*, 1:22-cv-10271-TLL (E.D. Mi.) (settled);

*In re Lakeview Loan Servicing Data Breach Litigation*, 1:22-cv-20955-DPG (S.D. Fl.);



## Gregory Haroutunian Biography



### Gregory Haroutunian

Gregory Haroutunian is the Senior Associate and of the data breach complex litigation and *qui tam* practices for the Arnold Law Firm. He brings substantial experience in complex litigation matters with a history of litigating in an efficient and practical manner.

Mr. Haroutunian has an extensive background in complex litigation, privacy and consumer/government fraud litigation, actively participating in a currently sealed False Claims Act case involving widespread cybersecurity fraud upon the United States, and the class action litigations filed in federal courts across the nation, set out below.

Before joining the Arnold Law Firm in 2021, Mr. Haroutunian worked in diverse practices across the nation including litigating dozens of products liability medical device cases in state and federal courts throughout the country and employment and construction related complex class-action and surety bond litigations involving multi-million dollar settlements throughout New York and New Jersey.

Mr. Haroutunian attended Columbia College, Columbia University, where he majored in Political Science and served with the New York State Senate Minority Leader's Office.

After working as a paralegal for a small general litigation and elder law firm in New York City, Gregory attended the Georgetown University Law Center where he graduated *cum laude*. While at Georgetown Gregory held a year-long judicial internship under Chief Administrative Law Judge Ronnie A. Yoder of the United States Department of Transportation and served as a legal intern at the National Whistleblowers' Center and the firm Kohn, Kohn, & Colapinto where he had his first experiences in *qui tam* and fraud cases.

Work that Mr. Haroutunian did at Georgetown comparing and analyzing aviation regulations was subsequently published in the Law Journal of the Pacific.



**Gregory Haroutunian  
Biography (cont.)**

He was admitted to the New Jersey and New York Bars in 2013 and the California Bar in 2020 and is admitted to practice in the Northern, Eastern, Southern, and Central Districts of California, the Southern and Northern Districts of New York, and the District of New Jersey. Mr. Haroutunian is also admitted to practice in the Southern and Northern Districts of Indiana and the District of Colorado.

Mr. Haroutunian has been separately appointed Class Counsel in the following matters:

*Bitmouni v. Paysafe Payment Processing Solutions, LLC*, No. 3:21-cv-00641-JCS (N.D. Cal.) (Class Counsel);

*In re: Ethos Technologies Inc. Data Breach Litig.*, No. 3:22-cv-09203-SK (N.D. Cal.) (Class Counsel);

*In re: Blackhawk Network Data Breach Litig.*, No. 3:22-cv-07084-CRB (N.D. Cal.) (Class Counsel);

*Franchi v. Barlow Respiratory Hospital*, No. 22STCV09016 (Cal. Super.) (Class Counsel);

*Parker v. Metromile, LLC*, No. 27-2022-000-49770-CU-BT-CTL (Cal. Super. San Diego) (Class Counsel).

*Gilbert et al. v. BioPlus Specialty Pharmacy Services, LLC*, Case No. 6:21-cv-02158-RBD-DCI (M.D. Fla.) (Class Counsel)

Mr. Haroutunian was raised in Montvale, New Jersey.