THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

In re OnePoint Patient Care, LLC., Data Breach Litigation	:	Case No. 3:24-cv-649-RGJ

PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

PLEASE TAKE NOTICE that Plaintiffs, Christopher Russo and Shannon Cobb, individually, and on behalf of the putative class, move pursuant to Federal Rule of Civil Procedure 23(e) for a Preliminary Approval Order[1]: (i) granting Preliminary Approval of the proposed class action Settlement; (ii) preliminarily certifying the Settlement Class for purposes of Settlement; (iii) appointing Plaintiffs as Class Representatives; (iv) appointing Tyler J. Bean of Siri & Glimstad LLP, A. Brooke Murphy of Murphy Law Firm, Andrew W. Ferich of Ahdoot & Wolfson, PC, and Jeff Ostrow of Kopelowitz Ostrow P.A as Class Counsel; (v) appointing Epiq Class Action & Claims Solutions, Inc. as the Settlement Administrator; (vi) approving the Parties' proposed Notice and Notice Program and directing that Notice be given to the Settlement Class; (vii) approving the Claim Form and Claim Process; (viii) scheduling a Final Approval Hearing at which time the Court will consider the request for Final Approval of the Settlement and Class Counsel's Application for attorneys' fees, costs, and Service Awards; and (ix) granting such other relief and further relief as the Court deems just and proper.

[1] Capitalized terms herein shall have the same meanings as those defined in the section II of the Settlement Agreement, attached to the Memorandum of Law in Support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement.

This Motion for Preliminary Approval is based upon the accompanying Memorandum of Law in Support of Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement and exhibits thereto, including the Settlement Agreement, Joint Declaration of Class Counsel, and all prior pleadings and proceedings properly before the Court.

Dated: May 23, 2025. Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 23, 2025, a true and correct copy of the foregoing was electronically filed with the Clerk of Court using CM/ECF. Copies of the foregoing document will be served upon interested counsel via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Jef Ostrow
Jef Ostrow

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF KENTUCKY
LOUSIVILLE DIVISION

CHRISTOPHER RUSSO, individually, and on behalf of all others similarly situated, Plaintiff, OP PHARMACY, LLC a/k/a ONE POINT PATIENT CARE, LLC, Defendant.	Case No. 3:24-cv-649-RGJ Judge Rebecca Grady Jennings CLASS ACTION

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

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I. INTRODUCTION

In August of 2024, Defendant[1] discovered suspicious activity on its systems, indicating a data security incident. *See* ECF No. 29, Consolidated Class Action Complaint ("Compl."), ¶ 3. After an investigation, it was determined that certain files on Defendant's systems may have been accessed without authorization between August 6, 2024, and August 8, 2024. *Id.* ¶ 5. As a result of the intrusion, files containing Private Information of hundreds of thousands of individuals were potentially accessed by cybercriminals. *Id.* ¶ 3. According to Defendant, such Private Information included names, dates of birth, addresses, Social Security numbers, medical treatment information, and prescription information. *Id.* ¶ 4. Plaintiffs received formal notice of the Data Incident on or around October 23, 2024, and commenced individual class action lawsuits that were then consolidated into the instant action, alleging Defendants failed to sufficiently protect the Private Information of Plaintiffs and Settlement Class Members. *Id.* ¶ 139; ECF No. 19.

Following early settlement negotiations, the Parties have reached an agreement that provides substantial immediate benefits to the Settlement Class. Specifically, the Settlement Agreement will establish a $2,115,000 non-reversionary all cash Settlement Fund that will be used to provide the following benefits to Settlement Class Members: (i) reimburse Out-of-Pocket Losses up to $3,500.00 for expenses incurred as a result of the Data Incident (SA ¶ 72(a)), and (ii) in the alternative to the documented loss payment, Settlement Class Members may elect to receive a *pro rata* Cash Payment from the Settlement Fund (*Id.* ¶ 72(b)). Based upon Class Counsel's experience administering settlements in prior cases, the payment is estimated to be approximately $100. *Id*. This is a highly favorable result for Plaintiffs and the Settlement Class.

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[1] All capitalized terms herein shall have the same meanings as those defined in the Settlement Agreement attached as ***Exhibit A***. Citations to the Settlement will be abbreviated as "SA ¶ ___."

As further discussed below, the Settlement falls well within the range of judicial approval and includes a comprehensive Notice Program. As such, preliminary approval of the proposed class action settlement is warranted.

II. PROCEDURAL AND FACTUAL HISTORY

Defendant is a Kentucky-based pharmacy and pharmacy benefits manager specializing in hospice care serving over 40,000 patients nationally across various service platforms. During the regular course of its operations, Defendant collects, maintains, and stores its patients' and employees' Private Information, which includes personally identifiable information and protected health information. Compl. at ¶¶ 23-24. On or about August 8, 2024, Defendant noticed suspicious activity within its computer systems and network. *Id.* at ¶ 3. In October and November of 2024, Defendant began notifying impacted individuals that their Private Information may have been impacted in the Data Incident. *Id.* at ¶¶ 32, 138. On November 8, 2024, Plaintiff Russo, one of the individuals who had received a letter, filed a complaint against Defendant asserting several causes of action related to its role in the Data Incident. (ECF No. 1). In the following weeks, two additional plaintiffs filed class action complaints against Defendant that were materially and substantively identical and which sought to represent the same putative class members, and arose out of the same Data Incident.

Plaintiffs then conferred and decided to work cooperatively in pursuit of their claims against the Defendant on behalf of the putative class. Consequently, on November 27, 2024, Plaintiffs filed a Motion to Consolidate the Related Actions and for Appointment of Interim Class Counsel. (ECF No. 9). On January 10, 2025, the Court granted the motion consolidating the *Howey* action into the *Russo* action and appointing Tyler Bean, A. Brooke Murphy, Andrew Ferich, and Jeff Ostrow as Interim Class Counsel. (ECF No. 19).

Shortly thereafter, in an effort to provide swift resolution to a putative class of hospice patients, the Parties began discussing potential settlement and scheduled a mediation with experienced class action mediator Bennett Picker, Esq. of Stradley Ronon & Young, LLP. Joint Decl. ¶ 7. In advance of the mediation, Plaintiffs propounded informal discovery requests on Defendant to which Defendant responded by providing information related to, among other things, the nature and cause of the Data Incident, the number and geographic location of victims impacted, the specific type of information breached, and the remedial measures implemented in response to the Data Incident. *Id.* ¶ 8. The Parties also exchanged detailed mediation statements in advance of the mediation. *Id. On* January 24, 2025, the Parties filed a Joint Motion to Stay of All Deadlines Pending Outcome of Mediation. (ECF No. 22). The Court granted the motion on March 3, 2025. (ECF No. 25).

The Parties participated in the formal mediation with Mr. Picker on April 9, 2025. Following a full day of negotiations, the Parties reached an agreement on the material terms of a class wide settlement. On April 18, 2025, Plaintiffs filed a Consolidated Complaint alleging negligence, negligence per se, breach of implied contract, unjust enrichment, breach of fiduciary duty, and for declaratory and injunctive relief. (ECF No. 29).

The terms of the settlement reached by the Parties, and additional reasonable terms agreed to by the Parties, are memorialized in the Settlement Agreement, which was negotiated at arm's-length, in good faith and without collusion, by capable and experienced counsel with full knowledge of the facts, the law, and the inherent risks in the Litigation, and with the active involvement of a neutral mediator. Joint Decl. at ¶ 16.

Plaintiffs now seek preliminary approval of the Settlement Agreement.

III. OVERVIEW OF THE SETTLEMENT

A. The Settlement Class

The proposed Settlement Class is defined as follows:

> All living individuals residing in the United States whose Private Information may have been accessed during the Data Incident, including those individuals who were sent a notice by OnePoint that their Private Information may have been impacted in the Data Incident.

SA ¶ 62. Excluded from the Settlement Class are: all persons who are: (a) directors and officers of Defendant; and (b) the Judge assigned to the Action, that Judge's immediate family, and Court staff. *Id.*

The Settlement Class is estimated to consist of approximately 528,452 members.

B. The Settlement Benefits

The primary component of the Settlement is the payment of either 1) Reimbursement of documented losses resultant from the Data Incident up to a cap of $3,500, or 2) a *pro rata* cash payment from the Settlement Fund. All payments are to be paid out of a $2,115,000.00 non-reversionary Settlement Fund. The Settlement benefits are discussed in more detail below.

1. Non-Reversionary Settlement Fund

Defendant will establish a non-reversionary Settlement Fund of $2,115,000. SA ¶ 69. The Settlement Fund will be used to pay for: (i) CAFA Notice, (ii) all Settlement Administration Costs, (iii) all Cash Payments to Settlement Class Members, and (iv) any Court-awarded attorneys' fees, costs, and Service Awards. *Id.*

2. Reimbursement of Documented Losses

Under the Settlement, all Settlement Class Members may elect to receive a payment for up to $3,500 upon presentment of documented losses related to the Data Incident. *Id.* ¶ 72(a). To receive a payment for documented losses, a Settlement Class Member must elect Cash Payment A on the Claim Form and attest under penalty of perjury to incurring the claimed losses. *Id.*

3. Alternate Cash Payment

As an alternative to the Documented Loss payment, all Settlement Class Members may elect to receive a *pro rata* cash payment paid from the Settlement Fund. *Id.* ¶ 72(b). The *pro rata* cash payment is estimated to be $100 per Settlement Class Member.

C. The Release

In exchange for the benefits and consideration provided under the Settlement—and subject to the Court's final approval—Plaintiffs and Settlement Class Members (excluding those who timely and validly opt out) will release any claims against OnePoint that were or could have been asserted related to the Data Incident, including but not limited to any state law or common law claims arising out of or relating to the Data Incident that the Releasing Parties may have brought. SA ¶ 107.

D. The Notice Program

The Settlement Agreement contains a comprehensive Notice Program, to be administered by Epiq Class Action & Claims Solutions, Inc. ("Epiq"), a nationally recognized class action settlement administrator. SA ¶ 59. Settlement Class Members will be sent direct notice in the form of a Postcard Notice via direct mail within 30 days after entry of the Preliminary Approval Order. SA ¶ 81. The Postcard Notice shall include, among other information: a description of the material terms of the Settlement; how to submit a Claim Form; the Claim Form Deadline; the last day of the Opt-Out Period for Settlement Class Members to opt-out of the Settlement Class; the last day of the Objection Period for Settlement Class Members to object to the Settlement and/or Application for Attorneys' Fees, Costs, and Service Awards; the Final Approval Hearing date; and the Settlement Website address at which Settlement Class Members may access this Agreement and other related documents and information. *Id.* ¶ 82. If the date or time for the Final Approval Hearing changes, the Settlement Administrator shall update the Settlement Website to reflect the new date. *Id*.

Additionally, the Settlement Administrator shall establish the Settlement Website no later than the day before Notice is first initiated. The Settlement Administrator shall ensure the Settlement Website makes available relevant documents, including the Long Forn Notice and the Settlement Agreement, as well as the Court-approved online Claim Form that can be submitted directly on the Settlement Website or in printable version that can be sent by U.S. Mail to the Settlement Administrator. *Id.* ¶ 83.

The Settlement Agreement accounts for any Settlement Class Members who wish to object to or exclude themselves from the Settlement. SA ¶¶ 84-86. A Settlement Class member may opt-out of the Settlement Class at any time during the Opt-Out Period by mailing a request to opt-out to the Settlement Administrator postmarked no later than the last day of the Opt-Out Period. *Id*. ¶ 84. The Settlement Agreement requires that any objection or opt-out request contain sufficient information to reasonably demonstrate that the submission is made by a person who has standing as a Settlement Class Member. *Id*. The Notice shall include the opt-out instructions. *Id*.

The Notice shall also include a procedure for Settlement Class Members to object to the Settlement and/or Application for Attorneys' Fees, Costs, and Service Awards, and the Postcard Notice shall direct Settlement Class Members to review the Long Form Notice to obtain the objection instructions. Objections must be filed with the Court, and sent by U.S. Mail to Class Counsel, Defendant's Counsel, and the Settlement Administrator. For an objection to be considered by the Court, the relevant Settlement Class Member must submit the objection no later than the last day of the Objection Period, as specified in the Notice, and the relevant Settlement Class

Member must not have excluded herself from the Settlement Class. If submitted by mail, an objection shall be deemed to have been submitted when posted if received with a postmark date indicated on the envelope if mailed first-class postage prepaid and addressed in accordance with the instructions. If submitted by courier (e.g., FedEx), an objection shall be deemed to have been submitted on the shipping date reflected on the shipping label. SA ¶¶ 85-86.

E. Proposed Plaintiffs Service Awards

Each Plaintiff has been a dedicated and active participant on behalf of the Settlement Class, putting their name and reputation on the line for the sake of their fellow Settlement Class Members. This recovery would not have been possible without their efforts. Joint Decl. at ¶ 45. In view of these efforts, Class Counsel will move the Court for approval of service awards in the amount of up to $2,500 for each of the Plaintiffs. SA ¶ 103.

F. Attorneys' Fees and Litigation Expenses

Pursuant to the Settlement, OnePoint agrees to pay attorneys' fees in an amount not to exceed one-third of the Settlement Fund as well as reimbursement of litigation expenses. SA ¶ 104. The attorneys' fees and cost approved by the Court shall be paid from the Settlement Fund. *Id*. Class Counsel shall move the Court separately for a fees award.

G. The Settlement Administrator

Following conferral, the Parties agree, subject to approval of the Court, that Epiq serve as Settlement Administrator to provide Notice; administer and make determinations regarding Claim Forms; process Settlement payments; make distributions; and provide other services necessary to implement the Settlement. SA ¶ 77. All costs of settlement administration and Notice will be paid for by one point through the Settlement Fund. SA ¶ 69. The Parties have agreed to use Epiq subject to Court approval, as Epiq is well qualified to handle the Notice Plan and Settlement

Administration necessary in this case. Joint Decl. at ¶ 26.

IV. ARGUMENT

A. Fed. R. Civ. P. 23(e) and Sixth Circuit Standards for Preliminary Approval

"Federal Rule of Civil Procedure 23(e) provides that the claims of 'a class proposed to be certified for purposes of settlement' can be settled 'only with [a] court's approval.'" *Thompson v. Seagle Pizza, Inc.*, No. 20-cv-0016, 2022 WL 1431084, at *3 (W.D. Ky. May 5, 2022) (quoting Fed. R. Civ. P. 23(e)). "Approval of a class action settlement involves two-stages: (1) 'The judge reviews the proposal preliminarily to determine whether it is sufficient to warrant public notice and a hearing'; and (2) 'If so, the final decision on approval is made after the hearing.'" *Green v. Platinum Restaurants Mid-Am. LLC*, No. 14-cv-0439, 2022 WL 1240432, at *2 (W.D. Ky. Apr. 27, 2022) (quoting *Ann. Manual Complex Lit.* (Fourth) § 13.14 (2019)).

"At the stage of preliminary approval, the questions are simpler, and the court is not expected to, and probably should not, engage in analysis as rigorous as is appropriate for final approval." *Lott v. Louisville Metro Gov't*, No. 19-cv-0271, 2023 WL 2562407, at *1 (W.D. Ky. Mar. 17, 2023) (internal quotations and citation omitted). "Courts apply a degree of scrutiny sufficient to avoid 'rubber-stamp[ing]' a proposed settlement agreement, while still being 'mindful of the substantial judicial processes that remain to test the assumptions and representations upon which the [proposed settlement agreement] are premised.'" *Id.* (citation omitted); *see also Moeller v. Wk. Publications, Inc.*, 649 F. Supp. 3d 530, 537 (E.D. Mich. 2023) ("The question at the preliminary-approval stage is 'simply whether the settlement is fair enough' to begin the class-notice process.") (citation omitted).

Rule 23(e)(2) sets forth factors to assist the Court in determining whether a settlement is "fair, reasonable, and adequate:

(A) the class representatives and class counsel have adequately represented the class;

(B) the proposal was negotiated at arm's length;

(C) the relief provided for the class is adequate, taking into account:

(i) the costs, risks, and delay of trial and appeal;

(ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;

(iii) the terms of any proposed award of attorney's fees, including timing of payment; and

(iv) any agreement required to be identified under Rule 23(e)(3); and

(D) the proposal treats class members equitably relative to each other."

Green, 2022 WL 1240432, at *2–*3 (quoting Fed. R. Civ. P. 23(e)(2)).

In addition to the Rule 23(e)(2) considerations, the Sixth Circuit has articulated the following "traditional factors":

> (1) the risk of fraud or collusion; (2) the complexity, expense and likely duration of the litigation; (3) the amount of discovery engaged in by the parties; (4) the likelihood of success on the merits; (5) the opinions of class counsel and class representatives; (6) the reaction of absent class members; and (7) the public interest.

Green, 2022 WL 1240432, at *4 (W.D. Ky. Apr. 27, 2022) (citation omitted).

"[I]n considering whether to approve the parties' proposed settlement, [courts] in the Sixth Circuit should look to both the factors found in Rule 23 as well as the Sixth Circuit's traditional factors." *Doe v. Ohio,* No. 91-cv-00464, 2020 WL 728276, at *3 (S.D. Ohio Feb. 12, 2020), *report and recommendation adopted,* No. 91-cv-0464 (S.D. Ohio Mar. 2, 2020) (citations omitted). Judicial policy favors voluntary conciliation and settlement of complex class actions. *In re Telectronics Pacing Sys.*, 137 F. Supp. 2d 985, 1008–09 (S.D. Ohio 2001).

B. The Settlement Is Fair, Reasonable, and Adequate Under the Rule 23 and Sixth Circuit Factors

1. The Rule 23 Factors Support Preliminary Approval

a. The Class Representatives and Class Counsel Have Adequately Represented the Class

Under Rule 23(e)(2)(A), the Court considers whether the class representatives and class counsel adequately represented the class. Fed. R. Civ. P. 23(e)(2)(A). Plaintiffs and their counsel have done so here. Plaintiffs' counsel has handled this matter on a contingency basis throughout the pendency of the litigation. Further, as detailed in the Joint Declaration of Class Counsel submitted in support of this Motion, the attorneys representing Plaintiffs in this matter are highly experienced in the field of data breach litigation. Joint Decl. ¶ 27. The Plaintiffs have cooperated with their counsel and stayed abreast of all litigation activity. This factor supports the approval.

b. The Proposed Settlement Is the Product of Arms-Length Negotiations Among Experienced Counsel

Fed. R. Civ. P. 23(e)(2)(B) next asks whether the proposal was negotiated at arm's length. As discussed above, the Settlement Agreement is the product of a mediation session occurring before Bennett G. Picker of Stradley Ronon, an experienced class action and data breach mediator. These negotiations were conducted at arm's length and in good faith by experienced counsel. Joint Decl. ¶¶ 7-11; 16. The parties did not discuss or negotiate the issue of attorneys' fees or plaintiff service awards until after there was agreement on all material terms of the settlement. *Id.* at ¶ 17. This factor supports the fairness of the settlement. *See, e.g., Bert v. AK Steel Corp.*, 2008 WL 4693747, at *2 (S.D. Ohio Oct. 23, 2008) ("participation of an independent mediator in settlement negotiations virtually insures that the negotiations were conducted at arm's length and without collusion between the parties").

c. The Relief Under the Proposed Settlement Is Adequate

In determining whether the class-wide relief is adequate under Rule 23(e)(2)(C), the Court considers "the costs, risks, and delay of trial and appeal"; "the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims"; "the terms of any proposed award of attorney's fees, including timing of payment"; and "any agreement required to be identified under Rule 23(e)(3)."[2] Fed. R. Civ. P. 23(e)(2)(C).

While this case was settled before it was fully litigated, the parties had a detailed understanding of their respective arguments and defenses during this process. OnePoint has vigorously denied liability from the outset and would have continued to take this position had litigation continued. To prevail, Plaintiffs would have had to withstand OnePoint's motion to dismiss, obtain class certification, likely defend a certification order on appeal under Rule 23(f), survive likely motions for decertification and for summary judgment, and prevail at trial and any subsequent appeal. Plaintiffs recognize the risk associated with each successive stage of this process.

As discussed more extensively below in Section 2(d), data breach cases are highly risky and Plaintiffs often have had difficulty surviving at each of the stages described above in past cases. In light of the difficulties inherent in data breach litigation, the Fund negotiated in this case represents a favorable resolution and compares favorably to settlements received in other cases. S*ee In re The Home Depot, Customer Data Sec. Breach Litig.*, No. 1:14-MD-2583 (N.D. Ga. Mar. 7, 2016) (approximately $0.51 per class member) and those regularly approved elsewhere. *See In re Target Customer Data Sec. Breach Litig.*, No. MDL 14-2522 (D. Minn. Mar. 18, 2015) ($0.17 per class member); *Hymes v. Earl Enterprises Holdings, Inc.*, No. 6:19-CV-644-CEM-GJK, 2021

[2] There are no side agreements to disclose under Rule 23(e)(3).

WL 1781461 (M.D. Fla. Feb. 10, 2021) (settlement fund of only $650,000 and coupons for approximately 2.15 million individuals). The above cases underscore the favorable resolution for the Settlement Class achieved here.

As to the other considerations under Rule 23(e), the Settlement's proposed method of distributing relief to the class is not unduly burdensome yet deters fraudulent claims. *See* Fed. R. Civ. P. 23(e)(2)(C)(ii). All Class Members will be entitled to payment under the Settlement Agreement. Finally, the amount of attorneys' fees and litigation expenses and costs that will be sought are reasonable, as will be discussed in the forthcoming motion for attorneys' fees, litigation costs and expenses, and Service Awards. *See* Fed. R. Civ. P. 23(e)(2)(C)(iii).

d. The Settlement Treats Class Members Equitably Relative to Each Other

The proposed Settlement also treats Settlement Class Members equitably relative to each other, as required by Rule 23(e)(2)(D). All Class Members are eligible for the same treatment under the Settlement. Namely, each Settlement Member will have the opportunity to receive either reimbursement for their documented losses stemming from the Data Incident or to receive a cash payment. *See* SA ¶ 72. In sum, the Settlement ensures that all Settlement Class Members will be treated equitably relative to each other.

2. The Sixth Circuit Factors Support Preliminary Approval

a. The Risk of Fraud or Collusion

"Courts presume the absence of fraud or collusion in class action settlements unless there is evidence to the contrary." *Green*, 2022 WL 1240432, at *4 (quoting *Thacker v. Chesapeake Appalachia*, L.L.C., 695 F. Supp. 2d 521 (E.D. Ky. 2010)). Furthermore, "the participation of an independent mediator in the settlement negotiations virtually assures that the negotiations were conducted at arm's length and without collusion between the parties." *Ditsworth v. P & Z Carolina Pizza*, No. 20-cv-00084, 2021 WL 2941985, at *3 (W.D. Ky. July 13, 2021). There is no fraud or collusion here. As mentioned above, Settlement was reached through negotiations conducted with the assistance of a respected mediator and discussion of attorneys' fees, litigation expenses and costs, and service awards was withheld until all material terms of the Settlement were agreed. Joint Decl. ¶¶ 7-11; 17.

b. The Complexity, Expense and Likely Duration of Litigation

The second factor the Sixth Circuit evaluates also supports preliminary approval. *See In re Delphi Corp. Sec., Derivative & "ERISA" Litig.*, 248 F.R.D. 483, 497 (E.D. Mich. 2008) ("[E]xpense and possible duration of litigation are major factors to be considered in evaluating the reasonableness of a settlement"). "For class actions in particular, courts view settlement favorably because it avoids the costs, delays and multitudes of other problems associated." *Id.*

Simply stated, this case could drag on for years. Continued pre-trial litigation would be extensive, with voluminous discovery needed from OnePoint and any third-party companies that they have used in an information technology capacity. Experts would be required to testify regarding OnePoint's data security practices, industry standard practices, and how its practices deviated therefrom. Substantial fact-finding would be required into what information was taken, how, and what impact this had and will have on the Settlement Class. Plaintiffs would need to survive several potentially dispositive motions and prevail on a motion for class certification. Further, at each stage any victories won by the Plaintiffs would likely be contested through the appellate process. Such motion practice, and potential appeals, could consume years, during which the Plaintiffs would not receive any benefits earned through the litigation and risking changes to the underlying law which would threaten their claims. Joint Decl. ¶ 31. Given the complexity of the claims and arguments here, a lengthy trial would follow. Litigation would be extraordinarily complex, and it could take several years for the Class to see any real recovery, if any at all. Here, a swift recovery was particularly important given that the majority of the Settlement Class Members are hospice patients. Thus, this factor favors approval.

c. The Amount of Discovery Engaged in by the Parties

"In considering whether there has been sufficient discovery to permit the plaintiffs to make an informed evaluation of the merits of a possible settlement, the court should take account not only of court-refereed discovery but also informal discovery in which parties engaged both before and after litigation commenced." *Ditsworth*, 2021 WL 2941985, at *3 (citation omitted). "[T]he absence of formal discovery is not unusual or problematic, so long as the parties and the court have adequate information in order to evaluate the relative positions of the parties." *Id.* As discussed above, OnePoint produced and Class Counsel reviewed informal discovery from OnePoint on numerous topics, including: the number of individuals whose PII was compromised during the Data Incident; the types of PII potentially compromised; the mechanics of the Data Incident; the remedial actions Defendant took after the Data Incident; and the scope of the Data Incident. Joint Decl., ¶¶ 8-9. In addition to the discovery exchanged to further the mediation, the Parties exchanged detailed statements in advance of the mediation session that outlined their positions on various factual and legal arguments cogent to the Action. *Id.*

Class Counsel thoroughly evaluated the discovery materials and Defendant's arguments in their analysis of damages. *Id.* Through the above process and the mediation, Class Counsel came to understand the size of the Settlement Class, the issues at hand, and obtain an excellent settlement for class members. *Id.* ¶¶ 32-3; *see also Int'l Union, United Auto., Aerospace, & Agr. Implement Workers of Am. v. Gen. Motors Corp.*, No. 07-CV-14074-DT, 2008 WL 2968408, at *26 (E.D.

Mich. July 31, 2008) (noting that informal discovery is a useful tool for an informed decision). Combined with their experience, Class Counsel had all the information needed to "adequately assess the[] case and the desirability of the proposed settlement." *See Kritzer v. Safelite Solutions, LLC,* 2012 WL 1945144, at *7 (S.D. Ohio May 30, 2012).

This point thus further supports approval of the Settlement.

d. The Settlement Provides Favorable Relief When Weighed Against the Likelihood of Success on the Merits

To "judge the fairness of a proposed compromise," a court "weigh[s] the plaintiff's likelihood of success on the merits against the amount and form of the relief offered in the settlement." *Int'l Union*, 497 F.3d at 631. While Plaintiffs are confident in their claims, there is risk here, as is true in all complex class actions—and in this area of law specifically. Historically, data breach cases face substantial hurdles in surviving even the pleading stage. *See, e.g., Hammond v. The Bank of N.Y. Mellon Corp.*, 2010 U.S. Dist. LEXIS 71996, at *2–4 (S.D.N.Y. June 25, 2010) (collecting cases). Even cases implicating extremely sensitive data, as in the instant case, have been found wanting at the district court level. *In re U.S. Office of Pers. Mgmt. Data Sec. Breach Litig.*, 266 F. Supp. 3d 1, 19 (D.D.C. 2017) (finding that the factual allegations in the complaints were insufficient to establish standing), *reversed in part*, 928 F.3d 42 (D.C. Cir. June 21, 2019) (holding that plaintiff had standing). As another court observed in finally approving a settlement with similar class relief, "[d]ata breach litigation is evolving; there is no guarantee of the ultimate result . . . [they] are particularly risky, expensive, and complex"). *Fox v. Iowa Health Sys.*, 2021 WL 826741, at *5 (W.D. Wis. Mar. 4, 2021).

To the extent the law has gradually accepted this relatively new type of litigation, the path to a class-wide monetary judgment remains unforged, particularly in the area of damages. Thus, given this risk and uncertainty, settlement is the more prudent course when a reasonable one can be reached. The damages methodologies, while theoretically sound in Plaintiffs' view, remain untested in a disputed class certification setting and unproven in front of a jury. And as in any data breach case, establishing causation on a class-wide basis is rife with uncertainty. *See, e.g., In re Hannaford Bros. Co. Cust. Data Sec. Breach Litig.*, 293 F.R.D. 21 (D. Me. 2013).

In light of the above, the $2,115,000.00 Settlement Fund achieved for the Settlement Class is a fair, reasonable, and adequate result. Joint Decl. ¶ 33. The benefits secured in this Settlement compare very favorably to those of other data breach class action settlements approved by courts. *See, e.g., Baksh et al. v. IvyRehab Network, Inc.*, No. 7:20-CV-01845 (S.D.N.Y. Jan. 27, 2021) (ECF No. 49) (approving data breach settlement with common fund of only $150,000 for a class of 121,160 members and providing claimants with up to $75 in out-of-pocket expense reimbursement, $20 for lost time, 1 year of credit monitoring); *Sackin v. TransPerfect Global, Inc.*, No. 1:17-cv-01469-LGS (S.D.N.Y. Dec. 14, 2018) (ECF Nos. 63, 74) (approving settlement providing only 3 years of identity theft protection and reimbursement of out-of-pocket expenses); *In re Zappos.com, Inc. Sec. Breach Litig.*, No. 3:12-cv-00325 (D. Nev.) (ECF No. 418 at 2) (data breach settlement provided "10% coupon" for Zappos goods); *In re Target Corp. Customer Data Sec. Breach Litig.*, 892 F.3d 968, 979 (8th Cir. 2018). Indeed, the Settlement amounts to $4 per Settlement Class Member, which exceeds the per class member recoveries to other data breach settlements reached in courts throughout the country. *See In re The Home Depot, Customer Data Sec. Breach Litig.*, No. 1:14-MD-2583 (N.D. Ga. Mar. 7, 2016) (approximately $0.51 per class member); *In re Target Customer Data Sec. Breach Litig.*, No. MDL 14-2522, (D. Minn. Mar. 18, 2015) ($0.17 per class member). The above underscore the exemplary resolution for the Class.

e. The Opinions of Class Counsel and Class Representatives

"'The endorsement of the parties' counsel is entitled to significant weight, and supports the fairness of the class settlement.'" *Green*, 2022 WL 1240432, at *5 (quoting *UAW v. Ford Motor Co.*, No. 07-cv-14845, 2008 WL 4104329, at *26 (E.D. Mich. Aug. 29, 2008)). Here, "the experienced attorneys on each side, after assessing the relative risks and benefits of litigation, believe that the settlement is fair and reasonable." *Wilson v. Anthem Health Plans of Kentucky, Inc.*, No. 3:14-CV-743, 2019 WL 6898662, at *6 (W.D. Ky. Dec. 18, 2019). All Plaintiffs and Plaintiffs' counsel support the Settlement here. Joint Decl. at ¶¶ 43-46. Indeed, based on Class Counsel's experience in similar cases, the Settlement Fund provides a favorable resolution to Plaintiffs' claims in light of the risks of continued litigation. Joint Decl. ¶ 34.

f. The Reaction of Absent Class Members

Since class notice has not yet been provided at this preliminary stage, "the reaction of absent class members does not yet weigh one way or the other in determining whether settlement is appropriate." *Green*, 2022 WL 1240432, at *5. Plaintiffs will address this point in connection with their forthcoming motion for final approval of the settlement.

g. The Public Interest

"[T]here is a strong public interest in encouraging settlement of complex litigation and class action suits because they are 'notoriously difficult and unpredictable' and settlement conserves judicial resources." *Id.* at *5 (internal quotation marks and citation omitted). Here, settlement is favored for exactly those reasons. Should this litigation proceed absent settlement, it is likely that this case would drag out for years and require significant effort and expense on behalf of both the Parties—and more importantly for this factor—both this Court and likely the Sixth Circuit Court of Appeals will be saved from expending further public funds adjudicating this matter. Given the substantial conservation of judicial resources the Settlement creates, this factor weighs in favor of preliminary approval.

C. The Court Will Be Able to Certify the Class for Purposes of Settlement

Before granting preliminary approval of a proposed settlement, a Court must also determine that the proposed settlement class is appropriate for certification. *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997). Class certification is proper if the proposed class satisfies the numerosity, commonality, typicality, and adequacy of representation requirements. Fed. R. Civ. P. 23(a). Because certification is sought under Rule 23(b)(3), Plaintiffs must also demonstrate that common questions of law or fact predominate over individual issues and that a class action is the superior device to adjudicate the claims. *Amchem*, 521 U.S. at 615–16. District courts have broad discretion to determine whether certification is appropriate. *See In re Whirlpool Corp. Front-Loading Washer Prod. Liab. Litig.*, 722 F.3d 838, 850 (6th Cir. 2013).

When a litigation class has not been certified prior to a settlement, the Court considers whether "it likely will be able, after the final hearing, to certify the class." Fed. R. Civ. P. 23(e)(1) advisory committee's note to 2018 amendment; *see In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 330 F.R.D. 11, 50 (E.D.N.Y. 2019). As discussed below, the Court here will likely be able to certify the proposed settlement class in connection with final approval.

1. The Class Members Are Too Numerous to Be Joined

Class certification requires the class to be so numerous that their joinder would be "impracticable." Fed. R. Civ. P. 23(a)(1). Here, there are more than 528,000 Settlement Class members. Numerosity, therefore, is readily satisfied. *See, e.g.*, *Marcus v. BMW of N. Am., LLC*, 687 F.3d 583, 595 (3d Cir. 2012) (noting that classes exceeding 40 are sufficiently numerous); *Curry v. SBC Commc'ns, Inc.*, 250 F.R.D 301, 310 (E.D. Mich. 2008) ("In most cases, a class in excess of forty members will do.").

2. There Are Common Questions of Law and Fact

Rule 23 next requires the presence of common questions of law or fact. Fed. R. Civ. P. 23(a)(2). Commonality may be shown when the claims all "depend upon a common contention," with a single common question sufficing. *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). The common questions in this case include, *inter alia*, whether one point was negligent in and whether express or implied contracts were breached due to OnePoint's handling of Class Members data in the lead up to the Data Incident, whether the OnePoint utilized appropriate data security practices leading up to the Incident, and whether OnePoint provided notice to the Class in a timely manner. These questions are common to the class, capable of class-wide resolution, and "will resolve an issue that is central to the validity of each one of the claims in one stroke." *Id.* at 427 (quoting *Wal-Mart Stores*, 564 U.S. at 350).

Here, the central question raised by the litigation is whether Defendant took reasonable steps to protect the PII of Class Members. That issue depends on the acts and omissions of Defendant, rather than facts particular to any one class member, and thus is a question common to the class. *See, e.g., In re Equifax, Inc. Customer Data Sec. Breach Litig.*, No. 1:17-md-2800-TWT, 2020 WL 256132, at *11 (N.D. Ga. July 25, 2019) (finding that multiple common issues center on the defendant's conduct, satisfying the commonality requirement); *In re Countrywide Fin. Corp. Cust. Data Sec. Breach Litig.*, No. 3:08-MD-01998, 2009 WL 5184352, at *3 (W.D. Ky. Dec. 22, 2009) ("All class members had their private information stored in Countrywide's databases at the time of the data breach"). The commonality requirement is thus met.

3. Plaintiffs' Claims Are Typical of the Class's Claims

A class representative's claims must be typical of those of other class members. Fed. R. Civ. P. 23(a)(3). Typicality assesses "whether a sufficient relationship exists between the injury to the named plaintiff and the conduct affecting the class, so that the court may properly attribute a collective nature to the challenged conduct." *Sprague v. General Motors Corp.*, 133 F.3d 388, 399 (6th Cir. 1998). Plaintiffs satisfy the typicality requirement where their claim "arises from the same event or practice or course of conduct that gives rise to the claims of other class members, and if his or her claims are based on the same legal theory." *Beattie v. CenturyTel, Inc*., 511 F.3d 554, 561 (6th Cir. 2007) (internal quotations and citation omitted). "In determining whether the requisite typicality exists, a court must inquire whether the interests of the named plaintiff are 'aligned with those of the represented group,' such that 'in pursuing his own claims, the named plaintiff will also advance the interests of the class members.'" *Garner Properties & Mgmt., LLC v. City of Inkster,* 333 F.R.D. 614, 623 (E.D. Mich. 2020) (quoting *In re Am. Med. Sys., Inc.*, 75 F.3d 1069, 1082 (6th Cir. 1996)). The claims need not be identical; rather, they need only "arise[] from the same course of conduct." *Bittinger v. Tecumseh Prods. Co.*, 123 F.3d 877, 884 (6th Cir. 1997).

Plaintiffs and Class Members have the same types of claims against the same defendant stemming from the same alleged Data Incident. Typicality is established. *See In re NFL Players Concussion Injury Litig.*, 821 F.3d 410, 428 (3d Cir. 2016)*, as amended* (May 2, 2016) (holding typicality met where plaintiffs "seek recovery under the same legal theories for the same wrongful conduct as the [classes] they represent").

4. Plaintiffs and Class Counsel Will Fairly and Adequately Protect the Interests of the Class

The Class representatives must fairly and adequately protect the interests of the class. Fed. R. Civ. P. 23(a)(4). "Class representatives are adequate when it appears that they will vigorously prosecute the interest of the class through qualified counsel . . . which usually will be the case if the representatives are part of the class and possess the same interest and suffer the same injury as the class members." *UAW v. Gen. Motors Corp.*, 497 F.3d 615, 626 (6th Cir. 2007) (internal quotation marks and citations omitted). The Class Representatives here have no conflicts with the Settlement Class and have demonstrated their adequacy by: (i) selecting well-qualified Class Counsel; (ii) producing information and documents to Class Counsel to permit investigation and development of the complaints; (iii) coordinating with Class Counsel throughout the litigation; and (iv) supervising the Litigation. Joint Decl. ¶¶ 22; 45. This criterion is satisfied with respect to both Class Counsel and the named Plaintiffs.

a. Class Counsel Are Well Qualified

Plaintiffs' Counsel are well qualified to serve as Class Counsel. Collectively, they have decades of experience successfully representing plaintiffs and classes in complex class action litigation, including in data breach cases. Class Counsels' qualifications are laid out in detail in Exhibits 1-4 to the Joint Declaration of Class Counsel ("Joint Decl."), attached hereto as ***Exhibit B***. Accordingly, the adequacy of counsel is satisfied.

b. Plaintiffs Have No Conflicts of Interest and Have Diligently Pursued the Action on Behalf of the Other Class Members

"A named plaintiff is 'adequate' if his interests do not conflict with those of the class." *Shapiro v. All. MMA, Inc.*, No. 17-cv-2583, 2018 WL 3158812, at *5 (D.N.J. June 28, 2018) (citation omitted). Plaintiffs have agreed to serve in a representative capacity, communicated diligently with their attorneys, gathered relevant documents and produced them to their attorneys, and helped prepare the allegations in the Complaint. Plaintiffs will continue to act in the best interests of the other class members; there are no conflicts between Plaintiffs and the class. *See, e.g.*, *id.* (adequacy requirement met where the plaintiff had no interests antagonistic to the class).

5. The Requirements of Rule 23(b)(3) Are Met

After satisfying Rule 23(a), a plaintiff must also satisfy one of the three requirements of Rule 23(b) for a court to certify a class. Fed. R. Civ. P. 23(b); *Merenda v. VHS of Michigan, Inc.*, 296 F.R.D. 528, 536 (E.D. Mich. 2013)*, opinion reinstated on reconsideration sub nom. Cason-Merenda v. VHS of Michigan, Inc.*, No. 06-cv-15601, 2014 WL 905828 (E.D. Mich. Mar. 7, 2014). Plaintiffs seek certification under Rule 23(b)(3), which requires that (i) common questions of law and fact predominate over individualized ones; and that (ii) a class action is superior to other available methods for the fair and efficient adjudication of the controversy. Fed. R. Civ. P. 23(b)(3). "[A] plaintiff must establish that the issues in the class action that are subject to generalized proof, and thus applicable to the class as a whole . . . predominate over those issues that are subject only to individualized proof." *Beattie*, 511 F.3d at 564 (internal quotation marks and citation omitted). This requirement considers "the difficulties likely to be encountered in the management of a class action" and issues with individual litigation. *Id.*; *see also Amchem*, 521 U.S. at 617 ("[t]he policy at the very core of the class action mechanism is to overcome the problem that small recoveries do not provide the incentive for any individual to bring a solo action[.]") (internal quotation marks and citation omitted). As set forth below, the predominance and superiority requirements are met.

a. Common Issues of Law and Fact Predominate

The predominance inquiry tests the cohesion of the class, '"ask[ing] whether the common, aggregation-enabling, issues in the case are more prevalent or important than the non-common, aggregation-defeating, individual issues.'" *Tyson Foods, Inc. v. Bouaphakeo*, 136 S. Ct. 1036, 1045 (2016) (citation omitted). Predominance is met if a single factual or legal question is "at the heart of the litigation." *See Powers v. Hamilton Cty. Pub. Def. Comm'n*, 501 F.3d 592, 619 (6th Cir. 2007). Predominance is ordinarily satisfied, for settlement purposes, when the claims arise out of the defendant's common conduct. *See, e.g.*, *Sullivan v. DB Invs., Inc.*, 667 F.3d 273, 299-300 (3d Cir. 2011) ("[T]he focus is on whether the defendant's conduct was common as to all of the class members.").

Here, Defendant's alleged course of conduct was uniform over the entire Class. Namely, Plaintiffs allege that Defendant's handling of their data was negligent and in contravention of their acknowledged statutory and common law duties. Plaintiffs further contend that this negligence led to the Data Incident which forms the issue "at the heart" of this litigation. *Powers* 501 F.3d at 619. This presents multiple questions of law and fact that are central to Defendant's liability as to all Class Members and thus predominate over any issues affecting individual class members, as numerous courts considering data breach actions have found. *See, e.g., Equifax*, 2020 WL 256132, at *13; *In re Anthem, Inc. Data Breach Litig.*, 327 F.R.D. 299, 311 (N.D. Cal. 2018); *Hapka v. CareCentrix, Inc.*, 2018 WL 1871449, at *2 (D. Kan. Feb. 15, 2018) (finding predominance satisfied in a data breach case, stating "[t]he many common questions of fact and law that arise from the E-mail Security Incident and [Defendant's] alleged conduct predominate over any individualized issues"); *In re The Home Depot, Inc., Customer Data Sec. Breach Litig.*, 2016 WL 6902351, at *2 (N.D. Ga. Aug. 23, 2016) (finding common predominating questions included whether Home Depot failed to reasonably protect class members' personal information, whether it had a legal duty to do so, and whether it failed to timely notify class members).

Common questions thus predominate for settlement purposes.

b. A Class Action Is a Superior Means of Resolving This Action

Certification of this suit as a class action is superior to other methods to fairly, adequately, and efficiently resolve the claims asserted. "The superiority requirement of Rule 23(b)(3) is met if the class action is a better way than individual litigation to adjudicate a claim." *Calloway v. Caraco Pharm. Labs., Ltd.*, 287 F.R.D. 402, 407–08 (E.D. Mich. 2012). Such is especially true in situations which "vindicat[e] the rights of groups of people who individually would be without effective strength to bring their opponents into court at all." *Amchem*, 521 U.S. at 617. Adjudicating individual actions here is impracticable: the amount in dispute for individual class members is too small, the technical issues involved too complex, and the expert testimony and document review too costly. The individual amounts here are insufficient to allow anyone to file and prosecute an individual lawsuit—at least not with the aid of competent counsel. Rather, individual prosecution of claims would be prohibitively expensive, needlessly delay resolution, and may lead to inconsistent rulings.[3] Thus, the Court should certify the Class pursuant to Rule 23(b)(3).

D. The Court Should Appoint Plaintiffs' Counsel as Class Counsel

The next step when deciding whether to preliminarily approve a settlement is to appoint Class Counsel. Under Rule 23, "a court that certifies a class must appoint class counsel . . . [who] must fairly and adequately represent the interests of the class." Fed. R. Civ. P. 23(g)(1)(B). In making this determination, courts generally consider the following factors: (1) proposed class counsel's work in identifying or investigating potential claims; (2) proposed counsel's experience in handling class actions or other complex litigation, and the types of claims asserted in the case; (3) proposed counsel's knowledge of the applicable law; and (4) proposed counsel's resources committed to representing the class. Fed. R. Civ. P. 23(g)(1)(A)(i–iv).

Proposed Settlement Class Counsel has extensive experience in prosecuting data breach class actions and other complex cases. Joint Decl. ¶ 27. Further, proposed Class Counsel ("Class Counsel") have diligently investigated and prosecuted this case by dedicating substantial resources to it and successfully negotiating this Settlement. *See Id.*, ¶¶ 2–11. Thus, the Court should appoint Tyler Bean, A. Brooke Murphy, Andrew Ferich, and Jeff Ostrow as Settlement Class Counsel.

[3] Because this Action is being settled on a class-wide basis, such theoretical inefficiencies are resolved—and the Court need not consider further issues of manageability relating to trial. See *Amchem*, 521 U.S. at 620 ("Confronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems").

E. The Class Notice and Plan for Dissemination Should Be Approved

Once the Court has granted preliminary approval to the settlement, it "'must direct notice in a reasonable manner to all class members who would be bound by the proposal.'" *Wilson*, 2019 WL 6898662, at *6 (quoting Fed. R. Civ. P. 23(e)(1)) (internal quotation marks omitted). The notices presented as Exhibits to the Settlement Agreement comply with Rule 23 and the due process mandates. Using plain language, the proposed notices provide all information required under Rule 23(c)(2)(B). The proposed notice program provides for direct mail postcard notice, with skip traces to be conducted and remailing to be attempted for any undeliverable notices returned. The settlement website will be a useful resource for class members—it will post the Claim Form, the long-form notice, and key pleadings in the case, including the attorneys' fee application once it is filed. The Settlement Administrator will also establish a toll-free number for class members to call with questions. This plan provides the best notice practicable under the circumstances. *See In re Ins. Broker Antitrust Litig.*, 297 F.R.D. 136, 152 (D.N.J. 2013) (finding notice via postcards to be sufficient).

V. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court (1) grant preliminary approval of the Settlement; (2) certify the settlement class pursuant to Fed. R. Civ. P. 23(a) and (b)(3); (3) direct notice to the settlement class; and (4) set a schedule for settlement proceedings, including the final approval hearing. A proposed order granting the Motion for Preliminary Approval is attached hereto as ***Exhibit C***.

Dated: May 23, 2025.

Respectfully submitted:

<u>/s/ Jeff Ostrow</u>
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Interim Co-Lead Class Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on May 23, 2025, a true and correct copy of the foregoing was electronically filed with the Clerk of Court using CM/ECF. Copies of the foregoing document will be served upon interested counsel via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Jeff Ostrow
Jeff Ostrow

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF KENTUCKY
LOUSIVILLE DIVISION**

CHRISTOPHER RUSSO, individually, and on behalf of all others similarly situated, Plaintiff, OP PHARMACY, LLC a/k/a ONE POINT PATIENT CARE, LLC, Defendant.	Case No. 3:24-cv-649-RGJ Judge Rebecca Grady Jennings CLASS ACTION

SETTLEMENT AGREEMENT

This Settlement Agreement[1] is entered into between Plaintiffs, on behalf of themselves and the Settlement Class, and Defendant, as of the date last signed below. The Parties hereby agree to the following terms in full settlement of the Action, subject to a Final Approval Order entered by the Court.

I. Procedural History

1. Defendant is a Kentucky-based pharmacy and pharmacy benefits manager specializing in hospice care serving over 40,000 patients nationally across various service platforms. During the regular course of its operations, Defendant collects, maintains, and stores its patients' and employees' highly sensitive Private information, which includes personally identifiable information and protected health information.

2. On or about August 8, 2024, Defendant noticed suspicious activity within its computer systems and network. In response, Defendant launched an investigation which revealed that a cybercriminal accessed the Private Information of hundreds of thousands of Defendant's

[1] All capitalized terms herein shall have the same meanings as those defined in Section II herein.

patients.

3. In October and November of 2024, Defendant began notifying impacted individuals that their Private Information may have been impacted in the Data Incident.

4. On November 8, 2024, Plaintiff Russo, one of the individuals who had received a letter, filed a complaint against Defendant asserting several causes of action related to its role in the Data Incident. [ECF No. 1].

5. On November 27, 2024, Defendant was named in a second action, *Ryan Howey v. OP Pharmacy, LLC a/ka/ OnePoint Patient Care, LLC*, No. 3:24-cv-00695-DJH (W.D. Ky.), that was materially and substantively identical, as it had overlapping claims, sought to represent the same putative class members, and arose out of the same Data Incident. [*Howey* ECF No. 1].

6. Plaintiffs Russo and Howey then conferred and decided to work cooperatively in pursuit of their claims against the Defendant. Consequently, on November 27, 2024, Plaintiff Howey filed a Motion to Consolidate the Related Actions and for Appointment of Interim Class Counsel. [ECF No. 9]. On January 10, 2025, the Court granted the motion consolidating the *Howey* into *Russo* and appointing Tyler Bean, A. Brooke Murphy, Andrew Ferich, and Jeff Ostrow as Interim Class Counsel. [ECF No. 19].

7. On December 10, 2024, Defendant was named in a third action, *Shannon Cobb v. OP Pharmacy, LLC d/b/a OnePoint Patient Care, LLC*, Case No. 3:24-cv-00717-CHB (W.D. Ky.), that was materially and substantively identical to the *Russo* and *Howey* actions, as it had overlapping claims, sought to represent the same putative class members, and arose out of the same Data Incident. [Cobb ECF No. 1]. On February 14, 2025, the *Cobb* action was reassigned to the docket of Hon. Rebecca G. Jennings, who was presiding over the *Russo* and *Howey* actions.

8. Shortly thereafter, in an effort to conserve resources, the Parties began discussing

settlement, and scheduled a mediation with experienced class action mediator Bennett Picker, Esq. of Stradley Ronon & Young, LLP. In advance of the mediation, Plaintiffs propounded informal discovery requests on Defendant to which Defendant responded by providing information related to, among other things, the nature and cause of the Data Incident, the number and geographic location of victims impacted, and the specific type of information breached. The Parties also exchanged mediation statements in advance of the mediation.

9. On January 24, 2025, the Parties filed a Joint Motion to Stay of All Deadlines Pending Outcome of Mediation. [ECF No. 22]. The Court granted the motion on March 3, 2025. [ECF No. 25].

10. The Parties mediated on April 9, 2025. Following a full day of negotiations, the Parties reached an agreement on the material terms of a classwide settlement.

11. On April 16, 2025, the Parties filed a Notice of Classwide Settlement and Motion to Continue the Stay of all Deadlines Pending Approval of the Settlement. [ECF No. 26]. The Court granted the motion on April 18, 2025. [ECF No. 28].

12. On April 18, 2025, Plaintiffs filed a Consolidated Complaint alleging negligence, negligence per se, breach of implied contract, unjust enrichment, breach of fiduciary duty, and for declaratory and injunctive relief..

13. The Parties now agree to settle the Action (including all allegations made in the Related Actions) entirely, without any admission of liability or wrongdoing, with respect to all Released Claims of the Releasing Parties. Defendant has entered into this Agreement to resolve all controversies and disputes arising out of or relating to the allegations made in the Complaint, and to avoid the litigation costs and expenses, distractions, burden, expense, and disruption to its business operations associated with further litigation. Defendant does not in any way acknowledge,

admit to, or concede any of the allegations made in any of the Complaint (and similarly does not concede any of the allegations in the other complaints in the Related Actions), and expressly disclaims and denies any fault or liability, or any charges of wrongdoing that have been or could have been asserted in the Complaint. Nothing contained in this Agreement shall be used or construed as an admission of liability, and this Agreement shall not be offered or received in evidence in any action or proceeding in any court or other forum as an admission or concession of liability or wrongdoing of any nature or for any other purpose other than to enforce the terms of this Agreement. Plaintiffs have entered into this Agreement to recover on the claims asserted in the Complaint, and to avoid the risk, delay, and uncertainty of continued litigation. Plaintiffs do not in any way concede that the claims alleged in the Complaint lack merit or are subject to any defenses. The Parties intend this Agreement to bind Plaintiffs, Defendant, and all Settlement Class Members.

NOW, THEREFORE, in light of the foregoing, for good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties agree, subject to approval by the Court, as follows.

II. <u>Definitions</u>

14. "**Action**" means the consolidated class action lawsuit entitled: *Christopher Russo v. OP Pharmacy, LLC a/k/a OnePoint Patient Care, LLC*, No. 3:24-cv-00649-RFJ (W.D. Ky.)

15. "**Application for Attorneys' Fees, Costs, and Service Awards**" means the application made with the Motion for Final Approval attorneys' fees and costs for Class Counsel, and Service Awards for the Class Representatives.

16. "**CAFA Notice**" means the Class Action Fairness Act Notice which the Settlement Administrator shall serve upon the appropriate state and federal officials, providing notice of the

proposed Settlement. The Settlement Administrator shall provide a declaration attesting to compliance with 28 U.S.C. § 1715(b), which will be filed with the Motion for Final Approval.

17. "**Cash Payment**" means compensation payable to Settlement Class Members who submit a Claim for either Cash Payment A – Documented Losses or Cash Payment B – Alternate Cash.

18. "**Cash Payment A – Documented Losses**" means the Settlement Class Member Benefit consisting of a maximum payment of $3,500.00 per Settlement Class Member, that Settlement Class Members, who incurred documented losses, may elect pursuant to Section V herein. Claimants seeking documented losses must declare if they were a Medicare beneficiary during the time period of August 8, 2024, through the date of submission of the Claim Form and are seeking benefits related to emotional distress. If so, such Claimants may have to provide additional information necessary for Medicare reporting requirements.

19. "**Cash Payment B – Alternate Cash**" means the Settlement Class Member Benefit consisting of an estimated $100.00 cash payment per Settlement Class Member, that Settlement Class Members may elect under Section V herein.

20. "**Claim**" means the submission of a Claim Form by a Claimant for a Cash Payment.

21. "**Claimant**" means a Claimant who submits a Claim Form.

22. "**Claim Form**" means the proof of claim, substantially in the form attached hereto as ***Exhibit 3***, which may be modified, subject to the Parties' approval, to meet the requirements of the Settlement Administrator.

23. "**Claim Form Deadline**" shall be 15 days following the initial scheduled Final Approval Hearing and is the last day by which a Claim Form may be submitted to the Settlement Administrator for a Settlement Class member to be eligible for a Cash Payment.

24. **"Claims Process"** means the process by which Settlement Class Members may submit Claim Forms online at the Settlement Website or by mail to the Settlement Administrator, including the procedure to approve or reject Claims.

25. "**Class Counsel**" means A. Brooke Murphy, Tyler J. Bean, Andrew W. Ferich, and Jeff Ostrow.

26. "**Class List**" means a list of Settlement Class members' names and postal addresses that Defendant shall prepare and provide to the Settlement Administrator within 10 days of Preliminary Approval.

27. "**Class Representatives**" mean Plaintiffs Christopher Russo, and Shannon Cobb.

28. "**Complaint**" or "**Consolidated Complaint**" means the Consolidated Complaint filed by Plaintiffs on April 18, 2025.

29. "**Court**" means the United States District Court for the Western District of Kentucky and the Judge(s) assigned to the Action.

30. "**Data Incident**" means the cybersecurity incident that took place on or about August 8, 2024, involving the Defendant and resulting in the unauthorized access to or acquisition of Settlement Class members' Private Information.

31. "**Defendant**" means OP Pharmacy, LLD a/k/a OnePoint Patient Care, LLC, the defendant in the Action.

32. "**Defendant's Counsel**" means Casie Collignon, Jason A. Orr and Jennifer L. Brumfield of Baker & Hostetler LLP.

33. "**Effective Date**" means the last date by which all of the following have occurred: (a) the Parties have executed this Agreement; (b) the Parties have submitted to the Court and the Court has entered the Final Approval Order without material changes to the Parties' proposed Final

Approval Order; and (c) the time for seeking rehearing, appellate or other review of the Final Approval Order has expired, or the Settlement is affirmed on appeal or review without material change, no other appeal or petition for rehearing or review is pending, and the time period during which further petition for hearing review, appeal, or certiorari could be taken has finally expired.

34. "**Escrow Account**" means the interest-bearing account to be established by the Settlement Administrator consistent with the terms and conditions described herein.

35. "**Final Approval**" means the final approval of the Settlement, which occurs when the Court enters the Final Approval Order.

36. "**Final Approval Hearing**" means the hearing held before the Court during which the Court will consider granting Final Approval of the Settlement and the Application for Attorneys' Fees, Costs, and Service Awards. The hearing may be held via video conference or by telephone, and if so, instructions will be posted on the Settlement Website.

37. "**Final Approval Order**" means the final order the Court enters granting Final Approval of the Settlement. The proposed Final Approval Order shall be in a form agreed upon by the Parties and shall be substantially in the form attached as an exhibit to the Motion for Final Approval. Final Approval Order also includes the orders, which may be entered separately, determining the amount of attorneys' fees and costs awarded to Class Counsel and Service Awards to the Class Representatives.

38. "**Long Form Notice**" means the long form notice of the Settlement, substantially in the form attached hereto as ***Exhibit 2***, that shall be posted on the Settlement Website and shall be available to Settlement Class members by mail on request made to the Settlement Administrator.

39. "**Motion for Final Approval**" means the motion that Plaintiffs and Class Counsel shall file with the Court seeking Final Approval of the Settlement, including Class Counsel's

Application for Attorneys' Fees, Costs, and Service Awards.

40. "**Motion for Preliminary Approval**" means the motion that Plaintiffs shall file with the Court seeking Preliminary Approval of the Settlement.

41. "**Net Settlement Fund**" the amounts remaining in the Settlement Fund after payments of attorneys' fees, service awards, and payments of any valid Cash Payment A.

42. "**Notice**" means the Postcard Notice and Long Form Notice that Plaintiffs will ask the Court to approve in connection with the Motion for Preliminary Approval.

43. "**Notice Program**" means the methods provided for in this Agreement for giving Notice to the Settlement Class and consists of the Postcard Notice and Long Form Notice, along with the Settlement Website and the toll-free Settlement telephone line.

44. "**Notice of Deficiency**" means the notice sent by the Settlement Administrator to a Settlement Class member who has submitted an invalid Claim.

45. "**Objection Period**" means the period that begins the day after the earliest day on which the Notice is first distributed, and that ends no later than 30 days before the initial scheduled Final Approval Hearing.

46. "**Opt-Out Period**" means the period that begins the day after the earliest day on which the Notice is first distributed, and that ends no later than 30 days before the initial scheduled Final Approval Hearing.

47. "**Party**" means each of the Plaintiffs and Defendant, and "Parties" means Plaintiffs and Defendant, collectively.

48. "**Plaintiffs**" means Christopher Russo and Shannon Cobb.

49. "**Postcard Notice**" means the postcard notice of the Settlement, substantially in the form attached hereto as ***Exhibit 1*** that the Settlement Administrator shall disseminate to Settlement

Class members by mail.

50. “**Preliminary Approval**” means the preliminary approval of the Settlement, which occurs when the Court enters the Preliminary Approval Order, substantially in the form attached to the Motion for Preliminary Approval.

51. “**Preliminary Approval Order**” means the order preliminarily approving the Settlement and proposed Notice Program, substantially in the form attached to the Motion for Preliminary Approval.

52. “**Private Information**” means information collected by Defendant, directly or indirectly, pertaining to its current and former patients, including, but not limited to, names, addresses, facility location, and medical information.

53. “**Releases**” means the releases and waiver set forth in Section XIII of this Agreement.

54. “**Released Claims**” means any and all actual, potential, filed or unfiled, known or unknown, fixed or contingent, claimed or unclaimed, suspected or unsuspected claims, demands, liabilities, rights, causes of action, damages, punitive, exemplary or multiplied damages, expenses, costs, indemnities, attorneys’ fees and/or obligations, whether in law or in equity, accrued or unaccrued, direct, individual or representative, of every nature and description whatsoever, based on any federal, state, local, statutory or common law or any other law, against the Released Parties, or any of them, arising out of or relating to actual or alleged facts, transactions, events, matters, occurrences, acts, disclosures, statements, representations, omissions or failures to act relating to the Data Incident.

55. “**Released Parties**” means Defendant, its insurers, and each entity which is controlled by, controlling or under common control with Defendant and its past, present, and

future direct and indirect heirs, assigns, associates, corporations, investors, owners, parents, subsidiaries, affiliates, divisions, officers, directors, shareholders, members, agents, servants, employees, partners, attorneys, insurers, reinsurers, benefit plans, predecessors, successors, managers, administrators, executors, and trustees. "Released Parties" specifically includes, but is not limited to, BrightSpring Health Services, Inc. and its parents, subsidiaries, and affiliates.

56. "**Releasing Parties**" means Plaintiffs and Settlement Class Members and their respective past, present, and future heirs, devisees, beneficiaries, conservators, executors, estates, administrators, assigns, trustees, receivers, agents, attorneys, accountants, financial and other advisors, and any other representatives of any of these persons and entities.

57. "**Service Awards**" means the payment the Court may award the Plaintiffs for serving as Class Representatives, which is in addition to the Cash Payment they are entitled to Claim as Settlement Class Members.

58. "**Settlement Administrator**" means Epiq Class Action & Claims Solutions, Inc. or Epiq. The Settlement Administrator shall execute a Business Associate Agreement prior to Defendant providing the Class List.

59. "**Settlement Administration Costs**" means all costs and fees of the Settlement Administrator regarding Notice and Settlement administration, along with the cost of CAFA Notice.

60. "**Settlement Agreement**" or "**Settlement**" or "**Agreement**" means this agreement entered into by the Plaintiffs and the Defendant.

61. "**Settlement Class**" means all living individuals residing in the United States whose Private Information may have been accessed during the Data Incident, including those individuals who were sent a notice by Defendant that their Private Information may have been

impacted in the Data Incident. Excluded from the Settlement Class are all persons who are: (a) parents, subsidiaries, directors and officers of Defendant, and any entity in which Defendant has a controlling interest; (b) the Judge assigned to the Action, that Judge's immediate family, and Court staff; (c) all persons who submit a timely and valid Request for Exclusion from the Settlement Class; and (d) any person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Data Incident, or who pleads *nolo contendere* to any such charge.

62. "**Settlement Class Member**" means any member of the Settlement Class who has not opted-out of the Settlement.

63. "**Settlement Class Member Benefits**" means the Cash Payment that Settlement Class members may elect to Claim pursuant to Section V herein, along with the business practice changes described therein.

64. "**Settlement Fund**" means the non-reversionary all cash $2,115,000.00 that Defendant is obligated to fund or cause to be funded under the terms of the Settlement.

65. "**Settlement Website**" means the website the Settlement Administrator will establish as a means for the Settlement Class members to submit Claim Forms and obtain notice and information about the Settlement, including hyperlinked access to this Agreement, the Preliminary Approval Order, Long Form Notice, Claim Form, Motion for Final Approval, Application for Attorneys' Fees, Costs, and Service Awards, and Final Approval Order, as well as other documents as the Parties agree to post or the Court orders posted. The Settlement Website shall remain online and operable for at least six months after Final Approval.

66. "**Valid Claim**" means a Claim Form submitted by a Settlement Class member that is: (a) submitted in accordance with the provisions of the Settlement; (b) accurately, fully, and

truthfully completed and executed, with all of the information requested in the Claim Form, by a Settlement Class Member; (c) signed physically or by e-signature by a Settlement Class Member personally, subject to the penalty of perjury; (d) returned via mail and postmarked by the Claim Form Deadline, or, if submitted online, submitted by 11:59 p.m. EST on the Claim Form Deadline; and (e) determined to be valid by the Settlement Administrator. The Settlement Administrator may require additional information from the Claimant to validate the Claim, including, but not limited to, answers related to questions regarding the validity or legitimacy of the physical or e-signature. Failure to respond to the Settlement Administrator's Notice of Deficiency may result in a determination that the Claim is not a Valid Claim.

III. Settlement Fund

67. Following Preliminary Approval, the Settlement Administrator will issue to Defendant an invoice for estimated Settlement Administration Costs and CAFA Notice. Within 21 days following Preliminary Approval, upon receipt of sufficient payment information from the Settlement Administrator including payment instructions and a properly completed and duly executed IRS Form W-9, Defendant shall pay the invoiced amount to the Escrow Account establishing the Settlement Fund. Within 21 days of the Effective Date, Defendant will fund or cause to fund the remaining amount of the Settlement Fund, not to exceed $2,115,000.00 in total including the initial payment for Settlement Administration Costs. Defendant shall not be responsible for any other payments under the Settlement. The Settlement Fund will be used to pay CAFA Notice, all Settlement Administration Costs, any Court-awarded attorneys' fees, costs, and Service Awards, and for all Cash Payments to Settlement Class Members.

68. The funds in the Escrow Account shall be deemed a "qualified settlement fund" within the meaning of United States Treasury Reg. § 1.468B-1 at all times since creation of the

Escrow Account. All interest earned on the Settlement funds shall be for the benefit of the Settlement Class. All taxes (including any estimated taxes, and any interest or penalties relating to them) arising with respect to the income earned by the Escrow Account or otherwise, including any taxes or tax detriments that may be imposed Defendant, Defendant's Counsel, Plaintiffs, and/or Class Counsel with respect to income earned by the Escrow Account, for any period during which the Escrow Account does not qualify as a "qualified settlement fund" for the purpose of federal or state income taxes or otherwise, shall be paid out of the Escrow Account. Defendant, Defendant's Counsel, Plaintiffs, and Class Counsel shall have no liability or responsibility for any of the taxes. The Escrow Account shall indemnify and hold Defendant, Defendant's Counsel, Plaintiffs, and Class Counsel harmless for all taxes (including, without limitation, taxes payable by reason of any such indemnification).

IV. <u>Certification of the Settlement Class</u>

69. In the Motion for Preliminary Approval, Plaintiffs shall propose and request to the Court that the Settlement Class be certified for Settlement purposes. Defendant agrees solely for purposes of the Settlement provided for in this Agreement, and the implementation of such Settlement, that this case shall proceed as a class action; provided however, that if a Final Approval Order is not issued, then any certification shall be null and void and, for the avoidance of doubt, Defendant shall retain all rights to object to any future requests to certify a class. Plaintiffs and Class Counsel shall not reference this Agreement in support of any subsequent motion for class certification of any class in the Action.

V. <u>Settlement Consideration</u>

70. When submitting a Claim, Settlement Class members must choose either Cash Payment A – Documented Losses or Cash Payment B – Alternate Cash. If a Settlement Class

Member does not submit a Valid Claim or opt-out of the Settlement, the Settlement Class Member will release his or her claims against Defendant without receiving a Settlement Class Member Benefit.

a. Cash Payment A – Documented Losses

Settlement Class Members may submit a Claim for a Cash Payment under this section for up to $3,500.00 per Settlement Cass Member upon presentment of documented losses related to the Data Incident. To receive a documented loss payment, a Settlement Class Member must elect Cash Payment A on the Claim Form attesting under penalty of perjury to incurring documenting losses. Settlement Class Members will be required to submit reasonable documentation supporting the losses. Settlement Class Members shall not be reimbursed for expenses if they have been reimbursed for the same expenses by another source, including compensation provided in connection with the identity protection and credit monitoring services offered as part of the notification letter provided by Defendant or otherwise. If a Settlement Class Member does not submit reasonable documentation supporting a loss, or if their Claim is rejected by the Settlement Administrator for any reason, and the Settlement Class Member fails to cure his or her Claim, the Claim will be converted to a Cash Payment B.

b. Cash Payment B – Alternate Cash

As an alternative to Cash Payment A – Documented Losses above, a Settlement Class Member may elect to receive Cash Payment B – Alternate Cash, which is a cash payment in an estimated amount of $100.00.

71. ***Pro Rata* Adjustments on Cash Payments B** –Cash Payments will be subject to a *pro rata* increase in the event the amount of Valid Claims is insufficient to exhaust the entire Settlement Fund. Similarly, in the event the amount of Valid Claims exhausts the amount of the

Settlement Fund, the amount of the Cash Payments will be reduced *pro rata* accordingly. Any *pro rata* increases or decreases to Cash Payments will be on an equal percentage basis.

72. **Information Security Enhancements** – Prior to Final Approval, upon request, Defendant will provide Class Counsel with a written attestation regarding the security measures it implemented following the Data Incident. The costs of which are the responsibility of the Defendant and will not in any way reduce the Settlement Amount.

VI. Settlement Approval

73. Within 10 days following execution of this Agreement by all Parties and Class Counsel, Class Counsel shall file a Motion for Preliminary Approval. The proposed Preliminary Approval Order shall be attached to the motion as an exhibit and shall be in a form agreed to by Class Counsel and Defendant.

74. The Motion for Preliminary Approval shall, among other things, request the Court: (1) preliminarily approve the terms of the Settlement as being within the range of fair, adequate, and reasonable; (2) provisionally certify the Settlement Class for settlement purposes only; (3) approve the Notice Program set forth herein and approve the form and content of the Notices of the Settlement; (4) approve the Claim Form and Claim Process; (5) approve the procedures for Settlement Class members to opt-out of the Settlement or for Settlement Class Members to object to the Settlement; (6) appoint the Plaintiffs named in the motion as Class Representatives, and A. Brooke Murphy, Tyler Bean, Andrew Ferich, and Jeff Ostrow as Class Counsel, for Settlement purposes; (7) stay the Action pending Final Approval of the Settlement; and (8) schedule a Final Approval Hearing for a time and date mutually convenient for the Court, the Parties, Class Counsel, and Defendant's Counsel.

VII. Settlement Administrator

75. The Parties agree that, subject to Court approval, Epiq shall be the Settlement Administrator. The Parties shall jointly oversee the Settlement Administrator. The Settlement Administrator shall fulfill the requirements set forth in the Preliminary Approval Order and the Agreement and comply with all applicable laws, including, but not limited to, the Due Process Clause of the United States Constitution.

76. The Settlement Administrator shall administer various aspects of the Settlement as described in the next paragraph and perform such other functions as are specified for the Settlement Administrator elsewhere in this Agreement, including, but not limited to, effectuating the Notice Program, handling the Claims process, administering the Settlement Fund, and distributing the Cash Payments to Settlement Class Members who submit Valid Claims.

77. The Settlement Administrator's duties include:

a. Providing CAFA Notice;

b. Completing the Court-approved Notice Program by noticing the Settlement Class by Postcard Notice and sending out Long Form Notices and paper Claim Forms on request from Settlement Class members, reviewing Claim Forms, notifying Claimants of deficient Claim Forms using the Notice of Deficiency, and sending Settlement Class Member Benefits to Settlement Class Members who submit Valid Claims;

c. Establishing and maintaining the Escrow Account approved by the Parties;

d. Establishing and maintaining a post office box to receive opt-out requests from the Settlement Class, objections from Settlement Class members, and Claim Forms;

e. Establishing and maintaining the Settlement Website to provide important information and to receive electronic Claim Forms;

f. Establishing and maintaining an automated toll-free telephone line for Settlement Class members to call with Settlement-related inquiries, and answer the frequently asked questions of Settlement Class members who call with or otherwise communicate such inquiries;

g. Responding to any mailed Settlement Class member inquiries;

h. Processing all opt-out requests from the Settlement Class;

i. Providing weekly reports to Class Counsel and Defendant's Counsel that summarize the number of Claims submitted, Claims approved and rejected, Notice of Deficiency sent, opt-out requests and objections received that week, the total number of opt-out requests and objections received to date, and other pertinent information;

j. In advance of the Final Approval Hearing, preparing a declaration for the Parties confirming that the Notice Program was completed in accordance with the terms of this Agreement and the Preliminary Approval Order, describing how the Notice Program was completed, indicating the number of Claim Forms received, providing the names of each Settlement Class member who timely and properly requested to opt-out from the Settlement Class, indicating the number of objections received, and other information as may be necessary to allow the Parties to seek and obtain Final Approval;

k. Distributing, out of the Settlement Fund, Cash Payments by electronic means or by paper check;

l. Paying Court-approved attorneys' fees, costs, and Service Awards, out of the Settlement Fund;

m. Paying Settlement Administration Costs out of the Settlement Fund following approval by Class Counsel; and

n. Any other Settlement administration function at the instruction of Class Counsel and Defendant, including, but not limited to, verifying that the Settlement Fund has been properly administered and that the Cash Payments have been properly distributed.

VIII. Notice to the Settlement Class, Opt-Out Procedures, and Objection Procedures

78. Defendant will make available to Class Counsel and the Settlement Administrator the Class List no later than 10 days after entry of the Preliminary Approval Order. To the extent necessary, Defendant will cooperate with updating the Class List to accomplish the Notice Program and otherwise administer the Settlement. The Class List was negotiated as follows: First, Defendant developed a list of all individuals whose information may have been accessed in the Data Incident. Second, Defendant excluded from that list individuals that it knew to be deceased through its own records. Third, the Parties agreed to check the remaining individuals against TransUnion databases to further exclude those individuals who were confirmed deceased through TransUnion's records. Those individuals who were not confirmed deceased through this negotiated process were agreed to constitute the Class List.

79. Within 30 days following entry of the Preliminary Approval Order, the Settlement Administrator shall commence the Notice Program provided herein, using the forms of Notice approved by the Court. Postcard Notices will be sent to all Settlement Class members.

80. The Postcard Notice shall include, among other information: a description of the material terms of the Settlement; how to submit a Claim Form; the Claim Form Deadline; the last day of the Opt-Out Period for Settlement Class members to opt-out of the Settlement Class; the last day of the Objection Period for Settlement Class Members to object to the Settlement and/or Application for Attorneys' Fees, Costs, and Service Awards; the Final Approval Hearing date; and the Settlement Website address at which Settlement Class members may access this Agreement

and other related documents and information. Class Counsel and Defendant's Counsel shall insert the correct dates and deadlines in the Notice before the Notice Program commences, based upon those dates and deadlines set by the Court in the Preliminary Approval Order. If the date or time for the Final Approval Hearing changes, the Settlement Administrator shall update the Settlement Website to reflect the new date. No additional notice to the Settlement Class is required if the date or time for the Final Approval Hearing changes.

81. The Settlement Administrator shall establish the Settlement Website no later than the day before Notice is first initiated. The Settlement Administrator shall ensure the Settlement Website makes available the Court-approved online Claim Form that can be submitted directly on the Settlement Website or in printable version that can be sent by U.S. Mail to the Settlement Administrator.

82. The Long Form Notice also shall include a procedure for Settlement Class members to opt-out of the Settlement Class and the Postcard Notice shall direct Settlement Class members to review the Long Form Notice to obtain the opt-out instructions. A Settlement Class member may opt-out of the Settlement Class at any time during the Opt-Out Period by mailing a request to opt-out to the Settlement Administrator postmarked no later than the last day of the Opt-Out Period. The opt-out request must be personally signed by the Settlement Class member and contain the requestor's name, address, telephone number, and email address (if any), and include a statement indicating a request to be excluded from the Settlement Class. Any Settlement Class Member who does not timely and validly request to opt-out shall be bound by the terms of this Agreement even if that Settlement Class Member does not submit a Valid Claim.

83. The Long Form Notice also shall include a procedure for Settlement Class Members to object to the Settlement and/or Application for Attorneys' Fees, Costs, and Service

Awards, and the Postcard Notice shall direct Settlement Class members to review the Long Form Notice to obtain the objection instructions. Objections must be filed with the Court, and sent by U.S. Mail to Class Counsel, Defendant's Counsel, and the Settlement Administrator. For an objection to be considered by the Court, the relevant Settlement Class Member must submit the objection no later than the last day of the Objection Period, as specified in the Notice, and the relevant Settlement Class Member must not have excluded herself from the Settlement Class. If submitted by mail, an objection shall be deemed to have been submitted when posted if received with a postmark date indicated on the envelope if mailed first-class postage prepaid and addressed in accordance with the instructions. If submitted by courier (e.g., Federal Express), an objection shall be deemed to have been submitted on the shipping date reflected on the shipping label.

84. For an objection to be considered by the Court, the objection must also set forth:

a. the objector's full name, mailing address, telephone number, and email address (if any);

b. all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel;

c. the number of times the objector has objected to a class action settlement within the 5 years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector's prior objections that were issued by the trial and appellate courts in each listed case;

d. the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement and/or Application for Attorneys' Fees, Costs, and Service Awards;

e. the number of times in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the five years preceding the date of the filed objection, the caption of each case in which counsel or the firm has made such objection and a copy of any orders related to or ruling upon counsel's or the counsel's law firm's prior objections that were issued by the trial and appellate courts in each listed case in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the preceding 5 years;

f. the identity of all counsel (if any) representing the objector, and whether they will appear at the Final Approval Hearing;

g. a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection (if any);

h. a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and

i. the objector's signature (an attorney's signature is not sufficient).

Class Counsel and/or Defendant's Counsel may conduct limited discovery on any objector or objector's counsel.

85. The Settlement Administrator shall perform reasonable address traces for Postcard Notices that are undeliverable. By way of example, a reasonable tracing procedure would be to run addresses of through the Lexis/Nexis database that can be utilized for such purpose. No later than 60 days before the initial scheduled Final Approval Hearing, the Settlement Administrator shall complete the re-mailing of Postcard Notice to those Settlement Class members whose new addresses were identified as of that time through address traces. The Settlement Administrator shall have no obligation to remail the Postcard Notice if the Class Member is deceased.

86. The Notice Program shall be completed no later than 45 days before the initial scheduled Final Approval Hearing.

IX. <u>Claim Form Process and Disbursement of Settlement Class Member Benefits</u>

87. The Notice and the Settlement Website will explain to Settlement Class members that they may be entitled to a Cash Payment and how to submit a Claim Form.

88. Claim Forms may be submitted online through the Settlement Website or through U.S. Mail by sending them to the Settlement Administrator at the address designated on the Claim Form.

89. The Settlement Administrator shall collect, review, and address each Claim Form received to determine whether the Claim Form meets the requirements set forth in this Settlement and is thus a Valid Claim. The Settlement Administrator shall examine the Claim Form before designating the Claim as a Valid Claim to determine that the information on the Claim Form is reasonably complete. The Settlement Administrator shall have the sole authority to determine whether a Claim by any Claimant is a Valid Claim. The Settlement Administrator shall deem invalid any Claim received on behalf of a deceased person.

90. The Settlement Administrator shall use all reasonable efforts and means to identify and reject duplicate claims. No Settlement Class member may submit more than one Claim Form. The Settlement Administrator shall identify any Claim Forms that appear to seek relief on behalf of the same Settlement Class member. If the Settlement Administrator identifies any Claim Form that appears to be a duplication, the Settlement Administrator shall contact the Settlement Class member in an effort to determine which Claim Form is the appropriate one for consideration.

91. The Settlement Administrator shall exercise, in its discretion, all usual and customary steps to prevent fraud and abuse and take any reasonable steps to prevent fraud and abuse in the Claim process. The Settlement Administrator may, in its discretion, deny in whole or in part any Claim Form to prevent actual or possible fraud or abuse. By agreement, the Parties can

instruct the Settlement Administrator to take whatever steps it deems appropriate if the Settlement Administrator identifies actual or possible fraud or abuse relating to the submission of claims, including, but not limited to, denying in whole or in part any Claim to prevent actual or possible fraud or abuse. If any fraud is detected or reasonably suspected, the Settlement Administrator and Parties may require information from Claimants or deny Claims, subject to the supervision of the Parties and ultimate oversight by the Court.

92. Claim Forms that do not meet the terms and conditions of this Settlement shall be promptly rejected by the Settlement Administrator and the Settlement Administrator shall advise the Claimant or Settlement Class member of the reason(s) why the Claim Form was rejected. However, if the Claim Form is rejected for containing incomplete or inaccurate information, and/or omitting required information, the Settlement Administrator may send a Notice of Deficiency explaining what information is missing or inaccurate and needed to validate the Claim and have it submitted for consideration. The Settlement Administrator shall notify the Claimant using the contact information provided in the Claim Form. The additional information and/or documentation can include, for example, answers to questions regarding the validity of the Claimant's physical or e-signature. A Claimant shall have until the Claim Form Deadline, or 15 days from the date the Notice of Deficiency is sent to the Claimant via mail and postmarked or via email, whichever is later, to reply to the Notice of Deficiency and provide the required information. If the Claimant timely and adequately provides the requested information and/or documentation, the Claim shall be deemed a Valid Claim and processed by the Settlement Administrator. If the Claimant does not timely and completely provide the requested information and/or documentation, the Settlement Administrator shall reduce, deny or convert to a Cash Payments B, the Claim unless Defendant and Class Counsel otherwise agree.

93. Where a good faith basis exists, the Settlement Administrator may reduce or reject a Claim for, among other reasons, the following:

a. Failure to fully complete and/or sign the Claim Form;

b. Illegible Claim Form;

c. The Claim Form is fraudulent;

d. The Claim Form is duplicative of another Claim Form;

e. The Claimant is not a Settlement Class member and/or is deceased;

f. The Claimant submitted a timely and valid request to opt out of the Settlement Class;

g. The person submitting the Claim Form requests that payment be made to a person or entity other than the Claimant for whom the Claim Form is submitted;

h. Failure to submit a Claim Form by the Claim Form Deadline; and/or

i. The Claim Form otherwise does not comply with the requirements of this Settlement.

94. The Settlement Administrator's reduction or denial of a Claim is final, subject to the following dispute resolution procedures:

a. The Settlement Administrator shall have 30 days from the Claim Form Deadline to approve or reject Claims;

b. A request for additional information by sending a Notice of Deficiency shall not be considered a denial for purposes of this Paragraph;

c. If a Claim is rejected, the Settlement Administrator shall notify the Claimant using the contact information provided in the Claim Form. Class Counsel and Defendant's Counsel shall be provided with copies of all such notifications to Claimants; and

d. The Settlement Administrator's determination as to whether to approve, deny, or reduce a Claim shall be final and binding.

95. The Settlement Administrator shall provide all information gathered in investigating Claims, including, but not limited to, copies of all correspondence and email and all notes of the Settlement Administrator, the decision reached, and all reasons supporting the decision, if requested by Class Counsel or Defendant's Counsel. Additionally, Class Counsel and Defendant's Counsel shall have the right to inspect the Claim Forms and supporting documentation received by the Settlement Administrator at any time upon reasonable notice.

96. No person or entity shall have any claim against Defendant, Defendant's Counsel, Plaintiffs, the Settlement Class, Class Counsel, and/or the Settlement Administrator based on any eligibility determinations, distributions, or awards made in accordance with this Settlement.

97. The Settlement Administrator shall distribute the Settlement Class Member Benefits no later than 30 days after the Effective Date or 30 days after the validity review of Cash Payments A is complete, whichever is later.

98. Cash Payments to Settlement Class Members will be made by electronic payment or by paper check, by sending Settlement Class Members with Valid Claims an email to select from alternative forms of electronic payment or by paper check. Settlement Class Members will have a period of 180 days to select their electronic payment. In the event of any complications arising in connection with the issuance of an electronic payment, the Settlement Administrator shall provide written notice to Class Counsel and Defendant's Counsel. Absent specific instructions from Class Counsel and Defendant's Counsel, the Settlement Administrator shall proceed to resolve the dispute using its best practices and procedures to ensure that the funds are fairly and properly distributed to the person or persons who are entitled to receive them. In the

event the Settlement Administrator is unable to distribute funds to the person or persons entitled to receive them due to incorrect or incomplete information provided to the Settlement Administrator, the funds shall become residual funds, and the Settlement Class Member shall forfeit their entitlement right to the funds.

99. Any Settlement check not cashed within 120 days of issuance (based on the date of the check) will be deemed expired. Any member of the Settlement Class who does not cash their Settlement check within the aforementioned period may petition the Settlement Administrator within 30 days of the expiration of their uncashed check to reissue their Settlement check and, good cause providing, the Settlement Administrator will issue a new check. Members of the Settlement Class are entitled to only one petition on this basis, and any Settlement check reissued for such reasonable circumstances will expire within 30 days of reissuance (based on the date of the check). Settlement Class Members who do not timely cash their Settlement checks and who fail to petition for a reissuance of the uncashed Settlement check will be considered as having waived any right to a cash payment under the Settlement Agreement. In no event will a Settlement Class Member be permitted to cash a check once the value of uncashed checks has been paid to a *cy pres* organization, as agreed to by the Parties and approved by the Court.

X. <u>Final Approval Order and Final Judgment</u>

100. Plaintiffs shall file their Motion for Final Approval of the Settlement, inclusive of the Application for Attorneys' Fees, Costs, and Service Awards, no later than 45 days before the initial scheduled Final Approval Hearing. At the Final Approval Hearing, the Court will hear argument on Plaintiffs' Motion for Final Approval of the Settlement and Application for Attorneys' Fees, Costs, and Service Awards. In the Court's discretion, the Court will also hear argument at the Final Approval Hearing from any Settlement Class Members (or their counsel) who object to the

Settlement and/or to the Application for Attorneys' Fees, Costs, and Service Awards, provided the objectors submitted timely objections that meet all of the requirements listed in this Agreement.

101. At or following the Final Approval Hearing, the Court will determine whether to enter the Final Approval Order and final judgment thereon, and whether to grant the Application for Attorneys' Fees, Costs, and Service Awards. Such proposed Final Approval Order shall, among other things:

a. Determine that the Settlement is fair, adequate and reasonable;

b. Finally certify the Settlement Class for settlement purposes only;

c. Determine that the Notice Program satisfies Due Process requirements;

d. Bar and enjoin all Releasing Parties from asserting or otherwise pursuing any of the Released Claims at any time and in any jurisdiction, including during any appeal from the Final Approval Order; and retain jurisdiction over the enforcement of the Court's injunctions;

e. Release Defendant and the other Released Parties from the Released Claims; and

f. Reserve the Court's continuing and exclusive jurisdiction over the Parties to this Agreement, including Defendant, Plaintiffs, all Settlement Class Members, and all objectors, to administer, supervise, construe, and enforce this Agreement in accordance with its terms.

XI. Service Awards, Attorneys' Fees and Costs

102. ***Service Awards*** – The Class Representatives may seek Service Awards of up to $2,500.00 each, subject to Court approval. Service Awards shall be payable out of the Settlement Fund within five days after Defendant makes the final payment into the Settlement Fund. The Service Awards, at Class Counsel's instruction, shall be payable by the Settlement Administrator

either to Class Counsel (on behalf of the Class Representatives) or to the Class Representatives directly. Class Counsel will provide the Settlement Administrator with instructions in advance of the Final Approval Hearing.

103. ***Attorneys' Fees and Costs*** - Class Counsel shall apply to the Court for an award of attorneys' fees of up to one-third of the Settlement Fund, plus reimbursement of reasonable costs. The attorneys' fees and cost approved by the Court shall be paid by the Settlement Administrator out of the Settlement Fund by wire transfer to an account designated by Class Counsel within five days after the Defendant makes the final payment into the Settlement Fund. Class Counsel will provide the Settlement Administrator with instructions in advance of the Final Approval Hearing.

104. This Settlement is not contingent on approval of the request for attorneys' fees and costs or Service Awards, and if the Court denies the request or grants amounts less than what was requested, the remaining provisions of the Agreement shall remain in force. The provision for attorneys' fees and costs was negotiated after all material terms of the Settlement.

XII. Disposition of Residual Funds

105. In the event there are funds remaining in the Settlement Fund 20 days following the 180-day period to cash checks or for Settlement Class Members to select the form of electronic payment, following payment of Settlement Class Member Payments, any residual funds shall be distributed to an appropriate mutually agreeable *cy pres* recipient approved by the Court. The Parties will propose a *cy pres* recipient in the Motion for Final Approval.

XIII. Releases

106. Upon the Effective Date, and in consideration of the settlement relief and other consideration described herein, the Releasing Parties shall be deemed to have, and by operation of the Final Approval Order shall have, fully, finally, and forever released, acquitted, relinquished,

and completely discharged the Released Parties from any and all Released Claims, including but not limited to any state law or common law claims arising out of or relating to the Data Incident that the Releasing Parties may have or had, such as under California's Consumer Privacy Act, California Civil Code section 1798.100, *et seq*. and/or California's Unfair Competition Law, California Civil Code section 17200 *et seq*. Each Party expressly waives all rights under California Civil Code section 1542, which provides:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

The Releasing Parties agree that, once this Agreement is executed, they will not, directly or indirectly, individually or in concert with another, maintain, cause to be maintained, or voluntarily assist in maintaining any further demand, action, claim, lawsuit, arbitration, or similar proceeding, in any capacity whatsoever, against any of the Released Parties based on any of the Released Claims.

107. Settlement Class members who opt-out of the Settlement prior to the Opt-Out Deadline do not release their claims and will not obtain any benefits, including any Settlement Class Member Benefit, under the Settlement.

108. Upon the Effective Date: (a) this Settlement shall be the exclusive remedy for any and all Released Claims of Plaintiffs and Settlement Class Members; and (b) Plaintiffs and Settlement Class Members stipulate to be and shall be permanently barred and enjoined by Court order from initiating, asserting, or prosecuting any Released Claim against the Released Parties, whether on behalf of Plaintiffs, any Settlement Class Member or others, in any jurisdiction, including in any federal, state, or local court or tribunal.

XIV. Termination of Settlement

109. This Agreement shall be subject to and is expressly conditioned on the occurrence of all of the following events:

a. Court approval of the Settlement consideration set forth in Section V and the Releases set forth in Section XIII of this Agreement;

b. The Court has entered the Preliminary Approval Order;

c. The Court has entered the Final Approval Order, and all objections, if any, are overruled, and all appeals taken from the Final Approval Order are resolved in favor of Final Approval; and

d. The Effective Date has occurred.

110. If any of the conditions specified in the preceding paragraph are not met, or if the Court otherwise imposes any modification to or condition to approval of the Settlement to which the Parties do not consent, then this Agreement shall be cancelled and terminated.

111. In the event this Agreement is terminated or fails to become effective, then the Parties shall return to the *status quo ante* in the Action as if the Parties had not entered into this Agreement, and the Parties shall jointly file a status report in the Court seeking to reopen the Action and all papers filed. In such event, the terms and provisions of this Agreement shall have no further force and effect with respect to the Parties and shall not be used in this Action or in any other action or proceeding for any other purpose, and any order entered by this Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*.

112. In the event that more than 150 of Settlement Class Members exercise their right to exclude themselves from the Settlement Class, Defendant shall have the option to terminate this Agreement. Defendant shall notify Class Counsel and the Court of its intention to terminate this

Agreement pursuant to this paragraph within 14 days after the last day of the Opt-Out Period, or the option to terminate shall be considered waived.

113. In the event this Agreement is terminated or fails to become effective, all funds in the Settlement Fund shall be promptly returned to Defendant. However, Defendant shall have no right to seek from Plaintiffs, Class Counsel, or the Settlement Administrator the Settlement Administration Costs paid. After payment of any Settlement Administration Costs that have been incurred and are due to be paid from the Settlement Fund, the Settlement Administrator shall return the balance of the Settlement Fund to Defendant within 20 days of termination.

XV. <u>Effect of Termination</u>

114. The grounds upon which this Agreement may be terminated are set forth in Section XIV. In the event of a termination, this Agreement shall be considered null and void; all of Plaintiffs', Class Counsel's, Defendant's, Defendant's Counsel's obligations under the Settlement shall cease to be of any force and effect; and the Parties shall return to the *status quo ante* in the Action as if the Parties had not entered into this Agreement. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement rights, claims, and defenses will be retained and preserved.

115. In the event the Settlement is terminated in accordance with the provisions of this Agreement, any discussions, offers, or negotiations associated with this Settlement shall not be discoverable or offered into evidence or used in the Action or any other action or proceeding for any purpose. In such event, all Parties to the Action shall stand in the same position as if this Agreement had not been negotiated, made, or filed with the Court.

XVI. <u>No Admission of Liability</u>

116. This Agreement reflects the Parties' compromise and settlement of disputed claims.

This Agreement shall not be construed as or deemed to be evidence of an admission or concession of any point of fact or law. Defendant has denied and continues to deny each of the claims and contentions alleged in the Complaint. Defendant specifically denies that a class could or should be certified in the Action for litigation purposes. Defendant does not admit any liability or wrongdoing of any kind, by this Agreement or otherwise. Defendant has agreed to enter into this Agreement to avoid the further expense, inconvenience, and distraction of burdensome and protracted litigation, and to be completely free of any further claims that were asserted or could possibly have been asserted in the Action.

117. Class Counsel believe the claims asserted in the Action have merit, and they have examined and considered the benefits to be obtained under the proposed Settlement set forth in this Agreement, the risks associated with the continued prosecution of this complex, costly, and time-consuming litigation, and the likelihood of success on the merits of the Action. Class Counsel have investigated the facts and law relevant to the merits of the claims, conducted informal discovery, and conducted independent investigation of the alleged claims. Class Counsel concluded that the proposed Settlement set forth in this Agreement is fair, adequate, reasonable, and in the best interests of the Settlement Class members.

118. This Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties in connection with the negotiations of this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgment or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever.

119. Neither the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (a) is or may be deemed to be, or may be used as, an admission

of, or evidence of, the validity of any claim made by the Plaintiffs or Settlement Class Members, or of any wrongdoing or liability of the Released Parties; or (b) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission of any of the Released Parties, in the Action or in any proceeding in any court, administrative agency, or other tribunal.

120. In addition to any other defenses Defendant or the Released Parties may have at law, in equity, or otherwise, to the extent permitted by law, this Agreement may be pleaded as a full and complete defense to and may be used as the basis for an injunction against, any action, suit, or other proceeding that may be instituted, prosecuted, or attempted in breach of this Agreement or the Releases contained herein.

XVII. Miscellaneous Provisions

121. ***Confidentiality***. To the extent permitted by ethics rules, the Parties and their counsel shall keep confidential all settlement communications, including communications regarding the negotiation and drafting of this Agreement. The Parties will not make any public statement about the settlement that has not been approved by the other side, except as required or authorized by law. Approval of any proposed public statement of the other side will not be unreasonably withheld. The Parties will cooperate with each other regarding public statements about the settlement and may issue a joint statement/press release if they mutually agree to do so. This paragraph shall not be construed to limit or impede the Notice requirements contained in this Agreement, nor shall this paragraph be construed to prevent Class Counsel or Defendant's Counsel from notifying or explaining that the Action has settled or limit the representations that the Parties or their counsel may make to the Court to assist in the Court's evaluation of the Settlement, Preliminary Approval, Final Approval, and any objection to the Settlement's terms. Defendant may also provide information about the Settlement to its attorneys, members, partners, insurers,

brokers, agents, and other persons or entities as required by securities laws or other applicable laws and regulations.

122. ***Gender and Plurals***. As used in this Agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

123. ***Binding Effect***. This Agreement shall be binding upon, and inure to and for the benefit of, the successors and assigns of the Releasing Parties and the Released Parties.

124. ***Cooperation of Parties***. The Parties to this Agreement agree to cooperate in good faith to prepare and execute all documents, seek Court approval, uphold Court approval, and do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

125. ***Obligation to Meet and Confer***. Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other and certify to the Court that they have met and conferred in an attempt to resolve the dispute.

126. ***Integration and No Reliance***. This Agreement constitutes a single, integrated written contract expressing the entire agreement of the Parties relative to the subject matter hereof. This Agreement is executed without reliance on any covenant, agreement, representation, or warranty by any Party or any Party's representative other than those expressly set forth in this Agreement. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party hereto, except as provided for herein.

127. ***No Conflict Intended.*** Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

128. ***Governing Law.*** Except as otherwise provided herein, the Agreement shall be

construed in accordance with, and be governed by, the laws of the state of Kentucky, without regard to the principles thereof regarding choice of law.

129. ***Counterparts.*** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all Parties do not sign the same counterparts. Original signatures are not required. Any signature submitted by facsimile or through email of a PDF shall be deemed an original.

130. ***Jurisdiction.*** The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice Program and the Settlement Administrator. As part of the agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose. The Court shall retain jurisdiction over the enforcement of the Court's injunction barring and enjoining all Releasing Parties from asserting any of the Released Claims and from pursuing any Released Claims against the Released Parties at any time and in any jurisdiction, including during any appeal from the Final Approval Order.

131. ***Notices***. All notices provided for herein, shall be sent by email with a hard copy sent by overnight mail to:

If to Plaintiffs or Class Counsel:

A. Brooke Murphy
Murphy Law Firm
4116 Will Rogers Pkwy, Ste. 700
Oklahoma City, Oklahoma 73108

abm@murphylawfirm.com

Tyler Bean
Siri & Glimstad LLP
745 5th Ave., Ste. 500
New York, New York 10151
tbean@sirillp.com

Andrew Ferich
Ahdoot & Wolfson PC
201 King of Prussia Rd., Ste. 650
Radnor, Pennsylvania 19087
aferich@ahdootwolfson.com

Jeff Ostrow
Kopelowitz Ostrow P.A.
1 West Las Olas Blvd., Ste. 500
Fort Lauderdale, Florida 33301
ostrow@kolawyers.com

If to Defendant or Defendant's Counsel:

Casie Collignon
Baker & Hosteler LLP
1801 California Street, Ste. 4400
Denver, Colorado 80202
ccollignon@bakerlaw.com

Jennifer Brumfield
Baker & Hostetler LLP
312 Walnut Street, Ste. 3200
Cincinnati, OH 45202
jbrumfield@bakerlaw.com

The notice recipients and addresses designated above may be changed by written notice. Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filings received as a result of the Notice Program.

132. ***Modification and Amendment***. This Agreement may not be amended or modified, except by a written instrument signed by Class Counsel and Defendant's Counsel and, if the Settlement has been approved preliminarily by the Court, approved by the Court.

133. ***No Waiver***. The waiver by any Party of any breach of this Agreement by another Party shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Agreement.

134. ***Authority***. Class Counsel (for the Plaintiffs and the Settlement Class Members), and Defendant's Counsel, represent and warrant that the persons signing this Agreement on their behalf have full power and authority to bind every person, partnership, corporation, or entity included within the definitions of Plaintiffs and Defendant respectively to all terms of this Agreement. Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.

135. ***Agreement Mutually Prepared.*** Neither Plaintiffs nor Defendant shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

136. ***Independent Investigation and Decision to Settle***. The Parties understand and acknowledge they: (a) have performed an independent investigation of the allegations of fact and law made in connection with this Action; and (b) that even if they may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Action as reflected in this Agreement, that will not affect or in any respect limit the binding nature of this Agreement. All Parties recognize and acknowledge they reviewed and analyzed data that they and their experts used to make certain determinations, arguments, and settlement positions. The Parties agree this Settlement is fair, reasonable, and adequate, and will not attempt to renegotiate or otherwise void or invalidate or terminate the Settlement irrespective

of what any unexamined data later shows. It is the Parties' intention to resolve their disputes in connection with this Action pursuant to the terms of this Agreement now and thus, in furtherance of their intentions, the Agreement shall remain in full force and effect notwithstanding the discovery of any additional facts or law, or changes in law, and this Agreement shall not be subject to rescission or modification by reason of any changes or differences in facts or law, subsequently occurring or otherwise.

137. ***Receipt of Advice of Counsel.*** Each Party acknowledges, agrees, and specifically warrants that he, she, or it has fully read this Agreement and the Releases contained herein, received independent legal advice with respect to the advisability of entering into this Agreement and the Releases, and the legal effects of this Agreement and the Releases, and fully understands the effect of this Agreement and the Releases.

Signatures on the following Page

CLASS COUNSEL (for Plaintiffs and the Settlement Class)

A. Brooke Murphy
MURPHY LAW FIRM

Tyler J. Bean
SIRI GLIMSTAD LLP

Andrew W. Ferich
Andrew W. Ferich (May 20, 2025 10:38 EDT)

Andrew W. Ferich
AHDOOT & WOLFSON. PC

Jeffrey Ostrow
Jeffrey Ostrow (May 20, 2025 10:29 EDT)

Jeff Ostrow
KOPELOWITZ OSTROW P.A.

COUNSEL FOR DEFENDANT

Casie Collignon (May 20, 2025 14:41 PDT)

Casie D. Collignon
BAKER & HOSTETLER LLP

DEFENDANT OP PHARMACY, LLC
a/k/a ONE POINT PATIENT CARE, LLC,

Allison L. Brown
Allison L. Brown (May 20, 2025 13:24 EDT)

B;y Allison L. Brown
Its:________________________

EXHIBIT 1
(POSTCARD NOTICE)

OnePoint Data Incident
Settlement Administrator
PO Box XXXX
Portland, OR 972XX-XXXX

BARCODE NO-PRINT ZONE

FIRST-CLASS MAIL
U.S. POSTAGE
PAID
Portland, OR
PERMIT NO.xxxx

Court-Approved Legal Notice

If your Private Information was potentially accessed in the Data Incident involving OP Pharmacy, LLC a/k/a OnePoint Patient Care, LLC, that took place on or about August 8, 2024, and you were sent notice, you may be entitled to Settlement Class Member Benefits from a Settlement.

A Court has authorized this notice.
*This is **not** a solicitation from a lawyer.*

This notice is a summary. Learn more about the Settlement at www.XXXXX.com, or by calling toll free 1-XXX-XXX-XXX.

<<UNIQUEID>>

<<MAIL ID>>
<<NAME 1>>
<<NAME 2>>
<<ADDRESS LINE 1>>
<<ADDRESS LINE 2>>
<<ADDRESS LINE 3>>
<<ADDRESS LINE 4>>
<<ADDRESS LINE 5>>
<<CITY, STATE ZIP>>
<<COUNTRY>>

A $2,115,000.00 settlement has been reached in a class action lawsuit against OP Pharmacy, LLC a/k/a OnePoint Patient Care, LLC ("Defendant") involving a Data Incident that took place on or about August 8, 2024, involving the Defendant and resulting in the unauthorized access to or acquisition of Settlement Class members' Private Information. The Private Information involved includes information collected by Defendant, directly or indirectly, pertaining to its current and former patients, including, but not limited to, names, addresses, facility location, and medical information.

Who is Included? Records show you are a member of the Settlement Class, defined as: all living individuals residing in the United States who were sent a notice by Defendant that their Private Information may have been impacted in the Data Incident.

What does the Settlement Provide? As a Settlement Class Member, you can submit a Claim Form online, www.XXX.com or by mail postmarked by **Month XX, 20YY,** for the following Settlement Class Member Benefits:

Cash Payment A – Documented Losses: You may submit a Claim Form and provide reasonable documentation for losses related to the Data Incident for up to $3,500.00 per Settlement Class Member; **OR**

Cash Payment B – Alternate Cash: Instead of Cash Payment A, without providing documentation, you may submit a Claim Form to receive an alternate cash payment in the estimated amount of $100.00;

Your Cash Payment may be subject to a *pro rata* (a legal term meaning equal share) increase or decrease depending upon the total value of all Valid Claims.

Data Security Enhancements: Defendant is implementing additional security measures following the Data Incident.

Other Options. If you do not want to be legally bound by the Settlement, you must submit an opt-out **postmarked** by **Month XX, 20YY**. If you do not opt-out, you will give up the right to sue and will release the Defendant and Released Parties about the legal claims in this lawsuit. If you do not opt out, you may object to the Settlement and/or Application for Attorneys' Fees, Costs, and Service Awards by **Month XX, 20YY**. The Long Form Notice on the Settlement Website explains how to opt-out or object. If you do nothing, you will get no Settlement Class Member Benefits, and you will be bound by the Settlement and any judgments and orders. The Court will hold a Final Approval Hearing on **Month XX, 20YY**, to consider whether to approve the Settlement, Class Counsel's attorneys' fees of up to 1/3 of the Settlement Fund and costs, and any objections. The Court may also decide to hold the hearing via video conference or by telephone. You should check the Settlement Website to confirm the date and time of the hearing have not changed. You or your lawyer may attend and ask to appear at the hearing if you object, but you are not required to do so.

<<UNIQUEID>>

CLAIM FORM

Claims must be postmarked or submitted online no later than Month Day, 20YY.

*First Name: *MI: *Last Name:

*Address:

*City: *State: *ZIP Code:

*Email Address

Cash Payment A – Documented Losses: Claims for reimbursement of documented losses requiring documentation must be submitted online at www.XXXX.com or mailed to OnePoint Data Incident, Settlement Administrator, P.O. Box XXXX, Portland, OR 97XXX-XXXX.

Cash Payment B – Alternate Cash Payment: Instead of Cash Payment A (Documented Losses), without providing documentation, you may elect to receive an alternate cash payment in the estimated amount of $100. Your Cash Payment may be subject to a pro rata (a legal term meaning equal share) adjustment.

☐ By checking this box, I affirm I want to receive an alternate cash payment.

Payment Selection (select only one): ☐ Check ☐ Digital Payment (Sent to the email address provided above)

I declare under penalty of perjury that the information supplied in this Claim Form is true and correct to the best of my recollection. I authorize the Settlement Administrator to contact me, using the contact information set forth above, to obtain any necessary supplemental information.

Signature: **Date:**

BARCODE
NO-PRINT
ZONE

PLACE
STAMP
HERE

OnePoint Data Incident
Settlement Administrator
PO Box XXXX
Portland, OR 97xxx-xxxx

EXHIBIT 2
(LONG FORM NOTICE)

If your Private Information was accessed in the Data Incident involving OP Pharmacy, LLC a/k/a OnePoint Patient Care, LLC, that took place on or about August 8, 2024, and you were sent notice, you may be entitled to Settlement Class Member Benefits from a Settlement.

A Court authorized this Notice. This is not a solicitation from a lawyer.

- A $2,115,000.00 settlement has been reached in a class action lawsuit against OP Pharmacy, LLC a/k/a OnePoint Patient Care, LLC ("Defendant") involving a Data Incident that took place on or about August 8, 2024, involving the Defendant and resulting in the unauthorized access to or acquisition of Settlement Class members' Private Information. The Private Information involved includes information collected by Defendant, directly or indirectly, pertaining to its current and former patients, including, but not limited to, names, addresses, facility location, and medical information.
- The Settlement Class includes: all living individuals residing in the United States who were sent a notice by Defendant that their Private Information may have been impacted in the Data Incident.
- If you are a member of the Settlement Class, you can submit a Claim Form for the following Settlement Class Member Benefits:

  Cash Payment A – Documented Losses: You may submit a Claim Form and provide reasonable documentation for losses related to the Data Incident for up to $3,500.00 per Settlement Class Member;
  OR
  Cash Payment B – Alternate Cash: Instead of Cash Payment A, without providing documentation, you may submit a Claim Form to receive an alternate cash payment in the estimated amount of $100.00;

  Your Cash Payment may be subject to a *pro rata* (a legal term meaning equal share) increase or decrease depending upon the total value of all Valid Claims.

  If you submit a claim for Cash Payment A and the Settlement Administrator determines your claim to be invalid, your claim will automatically be converted to a Cash Payment B.

  Information Security Enhancements: Defendant is implementing additional security measures following the Data Incident.

This Notice may affect your rights. Please read it carefully.

Your Legal Rights & Options		Deadline
Submit a Claim Form	The only way to get Settlement Class Member Benefits is to submit a timely and valid Claim Form.	Submitted or Postmarked by: **MONTH DD, 20YY**
Exclude Yourself	Get no Settlement Class Member Benefits. Keep your right to file your own lawsuit against the Released Parties about the Released Claims that are released by the Settlement in this lawsuit.	Postmarked by: **MONTH DD, 20YY**
Object to the Settlement	Stay in the Settlement, but tell the Court why you do not agree with the Settlement. You will still be bound by the Settlement if the Court approves it.	Filed by: **MONTH DD, 20YY**
Do Nothing	Get no Settlement Class Member Benefits. Give up your legal rights.	

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court must decide whether to approve the Settlement, attorneys' fees, costs, and Service Awards. No Settlement Class Member Benefits will be provided unless the Court approves the Settlement.

BASIC INFORMATION

1. Why is this Notice being provided?

A court authorized this Notice because you have the right to know about the Settlement of this class action lawsuit and about all of your rights and options before the Court decides whether to grant final approval to the Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, what Settlement Class Member Benefits are available, who is eligible for the Settlement Class Member Benefits, and how to get them.

The Honorable Rebecca Grady Jennings of the United States District Court for the Western District of Kentucky is overseeing this class action. The lawsuit is known as *Christopher Russo v. OP Pharmacy, LLC a/k/a OnePoint Patient Care, LLC*, Case No. 3:24-cv-00649-RGJ ("lawsuit"). The individuals who filed this lawsuit are called the "Plaintiffs" and/or "Class Representatives" and the company sued, OP Pharmacy, LLC a/k/a OnePoint Patient Care, LLC, is called the "Defendant."

2. What is this lawsuit about?

The Plaintiffs filed this lawsuit against the Defendant on behalf of themselves and all others similarly situated involving a Data Incident that took place on or about August 8, 2024, involving the Defendant and resulting in the unauthorized access to or acquisition of Settlement Class members' Private Information. The Private Information involved includes information collected by Defendant, directly or indirectly, pertaining to its current and former patients, including, but not limited to, names, addresses, facility location, and medical information.

Defendant denies the legal claims and denies any wrongdoing or liability. The Court has not made any determination of any wrongdoing by Defendant, or that any law has been violated. Instead, the Plaintiffs and Defendant have agreed to a settlement to avoid the risk, cost, and time of continuing the lawsuit.

3. Why is there a Settlement?

The Plaintiffs and Defendant do not agree about the legal claims made in this lawsuit. The lawsuit has not gone to trial, and the Court has not decided in favor of the Plaintiffs or Defendant. Instead, the Plaintiffs and Defendant have agreed to settle the lawsuit. The Class Representatives, Defendant, and their lawyers believe the Settlement is best for the Settlement Class because of the Settlement Class Member Benefits available and the risks and uncertainty associated with continuing the lawsuit.

4. Why is this lawsuit a class action?

In a class action, one or more people (called class representatives) sue on behalf of all people who have similar legal claims. Together, all these people are called a class or class members. One court resolves the issues for all class members, except for those class members who timely exclude themselves (opt-out) from the class.

WHO IS INCLUDED IN THE SETTLEMENT?

5. How do I know if I am included in the Settlement?

You are included in the Settlement Class if you are a living individual residing in the United States who was sent notice by Defendant that your Private Information may have been impacted in the Data Incident.

6. Are there exceptions to being included in the Settlement?

Yes. Excluded from the Settlement Class are all persons who are: (a) parents, subsidiaries, directors and officers of Defendant, and any entity in which Defendant has a controlling interest; (b) the Judge assigned to the lawsuit, that Judge's immediate family, and Court staff; (c) all persons who submit a timely and valid Request for Exclusion from the Settlement Class; and (d) any person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Data Incident, or who pleads *nolo contendere* to any such charge.

7. What if I am still not sure whether I am part of the Settlement?

If you are still not sure whether you are a Settlement Class member, you may go to www.XXXXXXXXXXX.com or call toll-free 1-XXX-XXX-XXXX.

THE SETTLEMENT BENEFITS

8. What does this Settlement provide?

If you are a Settlement Class Member, you can submit a Claim Form for the following Settlement Class Member Benefits:

Cash Payment A – Documented Losses

You may submit a Claim Form with reasonable documentation for losses related to the Data Incident for up to $3,500.00 per Settlement Class Member.

Examples of expenses incurred as a result of the Data Incident, include (without limitation) bank fees, long distance phone charges, cell phone charges (only charged by the minute), data charges (only if charged based on the amount of data used), postage, gasoline for local travel and fees for credit reports, credit monitoring, or other identity theft insurance products purchased.

Examples of reasonable documentation include (but are not limited to): telephone records, correspondence including emails, or receipts. Personal certifications, declarations, or affidavits from the Settlement Class Member do not constitute reasonable documentation but may be included to provide clarification, context, or support for other submitted reasonable documentation. You will not be reimbursed for expenses if you have been reimbursed for the same expenses by another source, including compensation provided in connection with the medical monitoring and identity theft protection product offered as part of the notification letter provided by the Defendant or otherwise.

If you do not submit reasonable documentation supporting a loss, or if your Claim Form is invalid as determined by the Settlement Administrator, and you do not cure your Claim Form, your Claim Form will be converted to a Cash Payment B.

Cash Payment B – Alternate Cash

Instead of selecting Cash Payment A, without providing documentation, you may submit a Claim Form to receive an alternate cash payment in the estimated amount of $100.00.

Your Cash Payment may be subject to a *pro rata* (a legal term meaning equal share) increase if the amount of Valid Claims does not use the entire Net Settlement Fund. Alternatively, if the amount of Valid Claims exceeds the amount of the Net Settlement Fund, your Cash Payment may be subject to a *pro rata* reduction.

Any *pro rata* increases or decreases to Cash Payments will be on an equal percentage basis.

Information Security Enhancements

Defendant is implementing additional security measures following the Data Incident.

9. What am I giving up to receive Settlement Class Member Benefits or stay in the Settlement Class?

Unless you exclude yourself (opt-out), you will remain in the Settlement Class. If the Settlement is approved and becomes final, all Court orders and any judgments will apply to you and legally bind you. You will not be able to sue, continue to sue, or be part of any other lawsuit against the Released Parties about the Released Claims in this lawsuit. The specific rights you are giving up are called "Released Claims."

10. What are the Released Claims?

Section XIII of the Settlement Agreement describes the Releases, Released Claims, and Released Parties, in necessary legal terminology, so please read this section carefully. The Settlement Agreement is available at www.XXXXXXXXXXX.com. For questions regarding the Releases, Released Claims, or Released Parties and what the language in the Settlement Agreement means, you can also contact Class Counsel listed below for free, or you can talk to your own lawyer at your own expense.

HOW TO GET BENEFITS FROM THE SETTLEMENT

11. How do I submit a Claim Form?

You must submit a timely and valid Claim Form to receive any Settlement Class Member Benefits as described above. Your Claim Form must be submitted online at www.XXXXXXXX.com by **MONTH DD, 20YY**, or mailed to the Settlement Administrator at the address on the Claim Form, **postmarked** by **Month DD, 20YY**. Claim Forms are also available at www.XXXXXXXX.com or by calling 1-XXX-XXX-XXXX or by writing to:

OnePoint Data Incident
Settlement Administrator
PO Box XXXX
Portland, OR 972XX-XXXX

12. What happens if my contact information changes after I submit a Claim Form?

If you change your mailing address or email address after you submit a Claim Form, it is your responsibility to inform the Settlement Administrator of your updated information. You may notify the Settlement Administrator of any changes by writing to:

OnePoint Data Incident
Settlement Administrator
PO Box XXXX
Portland, OR 972XX-XXXX

13. When will I receive my Settlement Class Member Benefits?

If you file a timely and valid Claim Form, the Settlement Class Member Benefits will be provided after the Settlement is approved by the Court and becomes final.

It may take time for the Settlement to be approved and become final. Please be patient and check www.XXXXXXXXXXX.com for updates.

EXCLUDE YOURSELF OR OPT-OUT OF THE SETTLEMENT

If you are a member of the Settlement Class and want to keep any right you may have to sue or continue to sue the Released Parties on your own about the legal claims in this lawsuit or the Released Claims, then you must take steps to get out of the Settlement. This is called excluding yourself from—or "opting-out" of—the Settlement.

14. How do I opt-out of the Settlement?

To exclude yourself from the Settlement, you must mail a written request for exclusion, which includes the following:

1) Your name, mailing address, telephone number, and email address (if any);
2) Your personal physical signature; and
3) A statement that you want to be excluded from the Settlement Class, such as "I hereby request to be excluded from the Settlement Class in *Christopher Russo v. OP Pharmacy, LLC a/k/a OnePoint Patient Care, LLC*."

The exclusion request must be **mailed** to the Settlement Administrator at the following address, and be **postmarked** by **MONTH DD, 20YY**:

OnePoint Data Incident
Settlement Administrator
PO Box XXXX
Portland, OR 972XX-XXXX

You cannot opt-out (exclude yourself) by telephone or by email.

"Mass" or "class" requests for exclusion filed by third parties on behalf of a "mass" or "class" of Settlement Class members or multiple Settlement Class members will not be allowed.

15. If I opt-out can I still get anything from the Settlement?

No. If you opt-out, you will not be able to receive Settlement Class Member Benefits, and you will not be bound by the Settlement or any judgments in this lawsuit. You can only get Settlement Class Member Benefits if you stay in the Settlement and submit a timely and valid Claim Form.

16. If I do not opt-out, can I sue the Defendant for the same thing later?

No. Unless you opt-out, you give up any right to sue any of the Released Parties for the legal claims this Settlement resolves and Releases, and you will be bound by all the terms of the Settlement, proceedings, orders, and judgments in the lawsuit. You must opt-out of this lawsuit to start or continue your own lawsuit or be part of any other lawsuit against the Released Parties about the Released Claims in this Settlement. If you have a pending lawsuit, speak to your lawyer in that lawsuit immediately.

OBJECTING TO THE SETTLEMENT

17. How do I tell the Court I do not like the Settlement?

If you are a Settlement Class member, you can tell the Court you do not agree with all or any part of the Settlement and/or Application for Attorneys' Fees, Costs, and Service Awards.

To object, you must file your timely written objection with the Court as provided below by **MONTH DD, 20YY**, and send by U.S. mail to Class Counsel, Defendant's Counsel, and the Settlement Administrator postmarked by or shipped by private courier (such as Federal Express) by **MONTH DD, 20YY**, stating you object to the Settlement in *Christopher Russo v. OP Pharmacy, LLC a/k/a OnePoint Patient Care, LLC*, Case No. 3:24-cv-00649-RGJ.

To file an objection, you cannot exclude yourself from the Settlement Class. Your objection must include all of the following information:

1) Your full name, mailing address, telephone number, and email address (if any);
2) The case name and case number, *Christopher Russo v. OP Pharmacy, LLC a/k/a OnePoint Patient Care, LLC*, Case No. 3:24-cv-00649-RGJ;
3) (3) Documentation sufficient to establish membership in the Settlement Class, such as a copy of the Postcard Notice you received;
4) All grounds for the objection, accompanied by any legal support for the objection known to you as the objector or your own lawyer;
5) The number of times you have objected to a class action settlement within the five (5) years preceding the date that you file the objection, the caption of each case in which you have made such objection, and a copy of any orders related to or ruling upon your prior objections that were issued by the trial and appellate courts in each listed case;
6) The identity of all lawyers representing you in connection with the objection (if any), including any former or current lawyers who may be entitled to compensation for any reason related to the objection to the Settlement and/or Application for Attorneys' Fees, Costs, and Service Awards;
7) The number of times your lawyer or your lawyer's law firm have objected to a class action settlement within the five (5) years preceding the date of the filed objection, the caption of each case in which your lawyer or the firm has made such objection and a copy of any orders related to or ruling upon your lawyer's or the lawyer's law firm's prior objections that were issued by the trial and appellate courts in each listed case;
8) The identity of all lawyers (if any) representing you as an objector, and whether they will appear at the Final Approval Hearing;
9) A list of all persons who will be called to testify at the Final Approval Hearing in support of your objection (if any);
10) A statement confirming whether you intend to personally appear and/or testify at the Final Approval Hearing; and
11) Your signature as the objector (a lawyer's signature is not sufficient).

Class Counsel and/or Defendant's Counsel may conduct limited discovery on any objector or objector's lawyer.

To object, you must file your timely written objection with the Court by **MONTH DD, 20YY**, and send it by U.S. mail to Class Counsel, Defendant's Counsel, and the Settlement Administrator postmarked by or shipped by private courier (such as Federal Express) by **MONTH DD, 20YY**, at the following addresses:

COURT	CLASS COUNSEL	DEFENDANT'S COUNSEL	SETTLEMENT ADMINISTRATOR
Clerk U.S. District Court Western District of Kentucky 601 W. Broadway Louisville, KY 40202	Jeff Ostrow KOPELOWITZ OSTROW P.A. 1 West Las Olas Blvd., Suite 500 Fort Lauderdale, FL 33301 ostrow@kolawyers.com A. Brooke Murphy MURPHY LAW FIRM 4116 Will Rogers Pkwy., Suite. 700 Oklahoma City, OK 73108 abm@murphylawfirm.com Tyler J. Bean SIRI GLIMSTAD LLP 745 5th Avenue, Suite 500 New York, NY 10151 tbean@sirillp.com Andrew W. Ferich AHDOOT & WOLFSON PC 201 King of Prussia Road, Suite 650 Radnor, PA 19087 aferich@ahdootwolfson.com	Casie D. Collignon BAKER & HOSTELER LLP 1801 California Street, Suite 4400 Denver, CO 80202 Jennifer Brumfield BAKER & HOSTELER LLP 312 Walnut Street, Suite 3200 Cincinnati, OH 45202	OnePoint Data Incident Settlement Administrator PO Box xxxx Portland, OR 972xx-xxxx

18. What is the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the Settlement Class. Opting-out is telling the Court that you do not want to be part of the Settlement Class. If you opt-out, you cannot object because you are no longer part of the Settlement.

THE LAWYERS REPRESENTING YOU

19. Do I have a lawyer in the lawsuit?

Yes. The Court has appointed Jeff Ostrow of Kopelowitz Ostrow P.A., A. Brooke Murphy of Murphy Law Firm, Tyler J. Bean of Siri & Glimstad LLP, and Andrew W. Ferich of Ahdoot & Wolfson PC as Class Counsel to represent you and the Settlement Class for the purposes of this Settlement. You may hire your own lawyer at your own cost if you want someone other than Class Counsel to represent you in this lawsuit.

20. How will Class Counsel be paid?

Class Counsel will file a motion asking the Court to award the attorneys' fees of up to 1/3 of the Settlement Fund, plus reimbursement of reasonable costs. Class Counsel will also ask the Court to approve the Service Awards for the Class Representatives of up to $2,500.00 each for their efforts. If awarded by the Court, the attorneys' fees and costs, and the Service Awards will be paid from the Settlement Fund. The Court may award less than these amounts.

THE FINAL APPROVAL HEARING

The Court will hold a "Final Approval Hearing" to decide whether to approve the Settlement and Application for Attorneys' Fees, Costs, and Service Awards. You may attend and you may ask to speak if you file an objection by the deadline, but you do not have to.

21. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing on **MONTH DD, 20YY, at XX:XX a.m./p.m.** before the Honorable Rebecca Grady Jennings at the Gene Snyder United States Courthouse, 601 West Broadway, Louisville KY 40202. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate and decide whether to approve the Settlement, Class Counsel's Application for Attorneys' Fees, Costs, and Service Awards.

If there are objections that were filed by the deadline, the Court will consider them. If you file a timely objection, and you (or your lawyer) ask to speak at the hearing, the Court may hear objections at the hearing.

Note: The date and time of the Final Approval Hearing are subject to change without further notice to the Settlement Class. The Court may also decide to hold the hearing via video conference or by telephone. You should check the Settlement Website www.XXXXXXXXX.com to confirm the date and time of the Final Approval Hearing have not changed.

22. Do I have to attend the Final Approval Hearing?

No. Class Counsel will answer any questions the Court may have. However, you are welcome to attend at your own expense. If you file an objection, you do not have to attend the Final Approval Hearing to speak about it. As long as you file your written objection by the deadline, the Court will consider it.

23. May I speak at the Final Approval Hearing?

If there are objections that were filed by the deadline, the Court will consider them. If you file a timely objection, and you (or your lawyer) ask to speak at the hearing, the Court, may hear objections at the hearing.

GET MORE INFORMATION

24. How do I get more information about the Settlement?

This Notice summarizes the Settlement. Complete details about the Settlement are provided in the Settlement Agreement. The Settlement Agreement and other related documents are available at www.XXXXXXXXXXXX.com. You may get additional information at www.XXXXXXXXXXXX.com, by calling toll-free 1-XXX-XXX-XXXX, or by writing to:

OnePoint Data Incident
Settlement Administrator
PO Box XXXX
Portland, OR 972XX-XXXX

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT'S CLERK OFFICE REGARDING THIS NOTICE.

EXHIBIT 3
(CLAIM FORM)

Must be postmarked or submitted online NO LATER THAN [DATE]

OnePoint Data Incident
SETTLEMENT AMINISTRATOR
P.O. BOX _____
PORTLAND, OR _________
www.XXXXXXXXX.com

Russo v OP Pharmacy, LLC a/k/a OnePoint Patient Care, LLC
Case No. 3:24-cv-00649-RFJ

GENERAL INFORMATION

If you received Notice of this Settlement, the Settlement Administrator identified you as a potential living member of the Settlement Class because you were identified by OP Pharmacy, LLC a/k/a OnePoint Patient Care, LLC ("Defendant") that your Private Information may have been impacted in the cybersecurity incident that took place August 8, 2024, involving the Defendant and resulting in the unauthorized access to or acquisition of Settlement Class members' Private Information. The Private Information involved includes information collected by Defendant, directly or indirectly, pertaining to its current and former patients, including, but not limited to, names, addresses, facility location, and medical information.

You may submit a Claim Form for Settlement Class Member Benefits, outlined below, by visiting the Settlement Website at www.XXXXXXXXX.com. **Claims must be submitted online or mailed by [DATE]. If you would prefer to submit by mail, please use the address at the top of this form.**

SETTLEMENT BENEFITS – WHAT YOU MAY GET

<u>You may submit a Claim for one of the Cash Payment options</u>:

1. **<u>Cash Payment A – Documented Losses</u>:** You may submit a Claim Form and provide reasonable documentation for losses related to the Data Incident for up to $3,500.00 per Settlement Class Member. Supporting documentation is required. If you submit a claim for Cash Payment A and the Settlement Administrator determines your claim to be invalid, your claim will automatically be converted to a Cash Payment B.

   OR

2. **<u>Cash Payment B – Alternate Cash</u>:** Instead of Cash Payment A, without providing documentation, you may submit a Claim Form to receive an alternate cash payment in the estimated amount of $100.00.

   The actual amount of your Cash Payment B will be determined based on the amount remaining in the Net Settlement Fund. Your Alternate Cash payment may be subject to a *pro rata* (a legal term meaning equal share) adjustment based upon the total value of all Valid Claims.

* * *

Please note: the Settlement Administrator may contact you to request additional documents to process your Claim.

For more information and complete instructions visit **www.XXXXXXXXX.com**

Please note that Settlement Class Member Benefits will be distributed after the Settlement is approved by the Court and becomes final.

MAIL ID
0000PLACEHOLDER0000

Contact Information

1. NAME (REQUIRED):

First Name | MI | Last Name

2. MAILING ADDRESS (REQUIRED):

Street Address

Apt. No.

City | State | ZIP Code

3. PHONE NUMBER:

– –

4. EMAIL ADDRESS:

5. UNIQUE ID:

MAIL ID
0000PLACEHOLDER0000

Cash Payment A – Documented Losses

If you lost or spent money relating to the Data Incident and have not been reimbursed for that loss/expenses, you can receive reimbursement for up to $3,500 total. Eligible losses include those incurred on or after August 8, 2024, up to the date of filing your Claim.

It is important for you to send documents that show what happened and how much you lost or spent so that you can be reimbursed. "Self-prepared" documents like handwritten receipts, personal certifications, or affidavits prepared by you are insufficient for reimbursement but can be used to add clarity or support other submitted documentation.

To look up more details about how the Cash Payments work, visit **www.XXXXXXXXX.com** or call toll-free **1-XXX-XXX-XXXX**. Please also review the Long Form Notice on the Settlement Website, which provides examples of what documents you need to attach and the types of expenses that can be claimed. *By filling out the boxes below, you are certifying that the money you spent doesn't relate to other data incidents or breaches.*

If you do not submit reasonable documentation supporting a loss, or if your Claim Form is invalid as determined by the Settlement Administrator, and you do not cure your Claim Form, your Claim Form will be converted to a Cash Payment B

☐ **By checking this box, I affirm I want to receive a Cash Payment A.**

☐ **(Check this box only if you declare) By checking this box, I declare that I was a Medicare beneficiary during the time period of August 8, 2024 through the date of submission of this Claim Form and I am seeking benefits in this Settlement related to emotional distress. If you were a Medicare beneficiary at any time during the period of August 8, 2024 to present and are seeking any reimbursement for emotional distress, please contact the Settlement Administrator at 1-888-888-8888 to provide additional information necessary for Medicare reporting requirements. Leave this box unchecked if either (i) you were not a Medicare beneficiary during the time period of August 8, 2024 to the present; or (ii) you were a Medicare beneficiary at any time during the period from August 8, 2024 through the date of submission of this Claim Form and are not seeking any reimbursement for emotional distress from this settlement.**

Expense Type and Examples of Documents	**Amount and Date**	**Description of Expense or Money Spent and Supporting Documents** (Identify what you are attaching, and why it's related to the Data Incident)
Professional fees incurred to address identity theft or fraud, such as falsified tax returns, account fraud, and/or medical-identity theft. *Examples: Receipts, notices, or account statements reflecting payment for a credit freeze*	$ ☐☐☐☐☐ . ☐☐ Date: ☐☐ – ☐☐ – MM DD YYYY	______ ______ ______
Other losses or costs resulting from identity theft or fraud (provide detailed description) fairly traceable to the Data Incident. *Examples: Account statement with unauthorized charges circled; bank fees, and fees for credit reports, credit monitoring, or other identity theft insurance products purchased*	$ ☐☐☐☐☐ . ☐☐ Date: ☐☐ – ☐☐ – ☐☐☐☐ MM DD YYYY	______ ______ ______

MAIL ID
0000PLACEHOLDER0000

Other expenses such as notary, fax, postage, copying, mileage, long-distance telephone charges, or professional fees related to the Data Incident. *Examples: Phone bills, receipts, detailed list of addresses you traveled (i.e. police station, IRS office), reason why you traveled there (i.e. police report or letter from IRS re: falsified tax return) and number of miles you traveled*	$ ☐☐☐☐☐ . ☐☐ Date: ☐☐ – ☐☐ – ☐☐☐☐ MM DD YYYY	

Cash Payment B – Alternate Cash

Instead of Cash Payment A, without providing documentation, you may elect to receive an Alternate Cash payment, estimated to be $100.00. Your Alternate Cash payment may be subject to a *pro rata* (a legal term meaning equal share) increase or decrease depending upon the total value of all Valid Claims.

☐ **By checking this box, I affirm I want to receive an Alternate Cash payment under Cash Payment B.**

Signature

I affirm under the laws of the United States that the information I have supplied in this Claim Form and any copies of documents that I am sending to support my Claim are true and correct to the best of my knowledge.

I understand that I may be asked to provide more information by the Settlement Administrator before my Claim is complete.

Signature

Date: ☐☐ – ☐☐ – ☐☐☐☐
MM DD YYYY

Print Name

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF KENTUCKY
LOUSIVILLE DIVISION

CHRISTOPHER RUSSO, individually, and on behalf of all others similarly situated, Plaintiff, OP PHARMACY, LLC a/k/a ONE POINT PATIENT CARE, LLC, Defendant.	Case No. 3:24-cv-649-RGJ Judge Rebecca Grady Jennings CLASS ACTION

JOINT DECLARATION OF CLASS COUNSEL IN SUPPORT OF UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

We, Tyler Bean, A. Brooke Murphy, Andrew Ferich and Jeff Ostrow, being competent to testify, make the following declaration:

1. We are Interim Class Counsel[1] and proposed Class Counsel for the Settlement Class in the above-captioned matter. We submit this declaration in support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement. Unless otherwise noted, we have personal knowledge of the facts set forth in this declaration and could and would testify competently to them if called upon to do so.

2. This Action concerns a Data Incident that occurred on Defendant's computer network. On August 8, 2024, Defendant noticed suspicious activity within its computer systems and network. A subsequent investigation confirmed that between August 6, 2024, and August 8, 2024, a cybercriminal gained access to the Private Information of approximately 528,000 individuals. The Private Information potentially impacted in the Data Incident included the names,

[1] All capitalized terms herein shall have the same meanings as those defined in the Settlement Agreement, attached as *Exhibit A* to Plaintiffs' Memorandum in Support of Unopposed Motion for Preliminary Approval of Class Action Settlement.

dates of birth, addresses, Social Security numbers, medical treatment information, and prescription information.

3. Defendant began sending breach notification letters to victims of the Data Incident in October and November of 2024.

4. Shortly thereafter, on December 12, 2024, Plaintiff Christopher Russo filed a complaint against Defendant asserting several causes of action related to its role in the Data Incident. [ECF No. 1].

5. In the following weeks, two additional plaintiffs filed class action complaints against Defendant that were materially and substantively identical and which sought to represent the same putative class members and arose out of the same Data Incident.

6. Following the filing of the initial complaints, Counsel for Plaintiffs conferred and decided to work cooperatively in pursuit of their claims against the Defendant on behalf of the putative class. On November 27, 2024, Plaintiffs filed a Motion to Consolidate the Related Actions and for Appointment of Interim Class Counsel. [ECF No. 9]. On January 10, 2025, the Court granted the motion consolidating the cases under the above caption and appointing Tyler Bean, A. Brooke Murphy, Andrew Ferich, and Jeff Ostrow as Interim Class Counsel. [ECF No. 19].

7. Shortly thereafter, in an effort to provide swift resolution to a putative class of hospice patients, the Parties began discussing settlement and scheduled a mediation with experienced class action mediator Bennett Picker, Esq. of Stradley Ronon & Young, LLP.

8. In advance of the mediation, Plaintiffs propounded informal discovery requests on OnePoint, to which OnePoint responded by providing detailed information related to, among other things, the nature and cause of the Data Incident, the number and geographic location of victims impacted by the Data Incident, the specific type of information impacted, and the remedial

measures taken. The Parties also exchanged detailed mediation statements in advance of the mediation outlining their positions on various issues relevant to the litigation and providing the authority they relied upon in forming those positions.

9. The information the Parties exchanged before mediation allowed Plaintiffs and Class Counsel to enter settlement negotiations with substantial information about the facts and merits of the legal claims. Plaintiffs and Class Counsel reviewed key documents and information, which, in consultation with their data security experts, allowed them to confidently evaluate the strengths and weaknesses of Plaintiffs' claims and prospects for success at class certification, summary judgment, and trial.

10. During the mediation, the Parties thoroughly discussed and vetted the facts and law as Mr. Picker engaged in a critical analysis of the Parties' arguments.

11. After a full day of contentious mediation, and through the assistance of Mr. Picker, the Parties reached a settlement in principle, the terms of which are memorialized in the Settlement Agreement.

12. The Releases contained in the Settlement Agreement are tailored to claims arising out of or relating to actual or alleged facts, transactions, events, matters, occurrences, acts, disclosures, statements, representations, omissions or failures to act relating to the Dats Incident.

13. Following the mediation, Plaintiffs filed the operative Consolidated Complaint on April 18, 2025. [ECF No. 29]. In the Consolidated Complaint, Plaintiffs brought claims sounding in negligence, negligence *per se*, breach of implied contract, unjust enrichment, breach of fiduciary duty, and for declaratory and injunctive relief.

14. On April 16, 2025, the Parties filed a Notice of Classwide Settlement and Motion to Continue the Stay of all Deadlines Pending Approval of the Settlement. [ECF No. 26]. The Court granted the motion. [ECF No. 27].

15. The timing of the Claim process outlined in the Settlement Agreement is structured to ensure that all Settlement Class members have adequate time to review the terms of the Settlement, compile documents supporting their Claims, and determine whether they would like to submit a Claim, opt-out, or object.

16. The Settlement was reached in the absence of collusion and is the result of good faith, informed, and extensive arm's-length negotiations between competent and experienced attorneys who are familiar with class action litigation and with the legal and factual issues at the center of this Action.

17. Further, Class Counsel represent that attorney's fees and service awards for Class Representatives were not discussed until the substantive portions of the Settlement had been agreed upon by the Parties.

18. Class Counsel are highly qualified and have a great deal of experience litigating complex consumer class actions, including in the data privacy context. This experience proved beneficial to Plaintiffs and the Settlement Class during Settlement negotiations.

19. Class Counsel have devoted substantial time and resources to vigorously prosecute this Action and will continue to do so. Specifically, we have litigated this Action, including evaluating the claims, preparing comprehensive pleadings, serving pre-mediation discovery, complying with Court orders and requirements, participating in a mediation that ultimately resulted in this Settlement, and worked to negotiate and prepare the Settlement Agreement and its exhibits.

20. The benefits available to Settlement Class Members, as set forth in the Agreement, are extremely favorable in light of the risks of continued litigation.

21. Plaintiffs' respective interests are coextensive and do not conflict with the interests of the Settlement Class. Plaintiffs have the same interest in the Settlement relief, and the absent Settlement Class members have no diverging interests.

22. Plaintiffs have cooperated with Class Counsel and assisted in providing essential information in the preparation of the complaints filed in this Action. Plaintiffs have also diligently and adequately prosecuted this Action by, among other things, reviewing filings, promptly providing documents and information to Class Counsel, acting in the best interest of the Settlement Class, reviewing the Agreement, and accepting the class-wide Settlement. Plaintiffs are committed to continue prosecuting this Action through Final Approval and protecting the interests of the Settlement Class.

23. Class Counsel has adequately represented the interests of the Settlement Class. Class Counsel has devoted substantial time and resources to this Action, are qualified to represent the Settlement Class, and will, along with the Class Representatives, vigorously protect the interests of the Settlement Class.

24. Class Counsel have no conflicts of interest with the Settlement Class, and the Parties did not discuss Service Awards or attorneys' fees and costs until after an agreement had been reached on all material settlement terms regarding Settlement Class Member Benefits.

25. Class Counsel has not been paid for their extensive efforts or reimbursed for litigation costs and expenses. Class Counsel shall apply to the Court for an award of attorneys' fees of up to one-third of the Settlement Fund, plus reimbursement of reasonable litigation costs, which shall be paid from the Settlement Fund. Class Counsel will formally request their attorneys' fees

and costs through an Application for Attorneys' Fees, Costs, and Service Awards that will be filed no less than 45 days before the Final Approval Hearing.

26. With the Court's approval, the Parties agree to use Epiq Class Action & Claims Solutions, Inc. for purposes of disseminating Notice and administering the Settlement. Epiq is a well-respected and reputable third-party administrator that was mutually selected by the Parties. Epiq is highly qualified to manage the entire settlement administration process. The Parties will jointly oversee Epiq.

27. Class Counsel is familiar with the claims they have litigated. As can be seen from their respective firm resumes, attached as **Exhibits 1-4**, Class Counsel have significant experience in the litigation, certification, trial, and settlement of national class actions, including substantial time and resources dedicated to past and present data breach litigation across the country, and have recovered hundreds of millions of dollars for the classes we have represented.

28. Class Counsel is confident that the Settlement warrants the Court's Preliminary Approval. Its terms are not only fair, reasonable, adequate, and in the best interests of the Settlement Class, but also are an extremely favorable result with substantial benefits. The Agreement provides significant and concrete benefits to over 500,000 individuals.

29. Defendant's Counsel are also highly experienced in this type of litigation. Class Counsel and Counsel for the Defendant have fully evaluated the strengths, weaknesses, and equities of the Parties' respective positions and believe the proposed settlement fairly resolves their respective differences.

30. The risks, expense, complexity, and likely duration of further litigation support preliminary approval of the Settlement. Any settlement requires the parties to balance the merits of the claims and defenses asserted against the attendant risks of continued litigation and delay.

Class Counsel believe the claims asserted are meritorious and that Plaintiffs would prevail if this matter proceeded to trial.

31. However, Class Counsel are also pragmatic and understand the legal uncertainties associated with continued litigation, which would be lengthy and expensive. Data breach litigation is often difficult and complex. Recovery, if any, by any means other than settlement would require additional years of litigation and possibly an appeal. Without the Settlement, the Parties faced the possibility of litigating this Action through the completion of fact discovery, class certification, expert discovery, summary judgment, trial, and appeals, which would be complex, time-consuming, and expensive. Continued litigation could have impeded the successful prosecution of these claims at trial and in an eventual appeal – resulting in zero benefit to the Settlement Class. Further, since the Court had not yet certified a class at the time the Agreement was executed, it is unclear whether certification would have been granted. Briefing class certification would have required the Parties to expend significant resources and would involved several months if not years. Given that the vast majority of the Class Members are patients in hospice care, Class Counsel placed a high priority on securing a prompt resolution for the benefit of the Settlement Class.

32. Although the Parties entered into a settlement relatively early in litigation, the Settlement negotiations were hard-fought, and the Parties expended significant time and energy on this Action. Further, the discovery provided pre-mediation allowed Plaintiffs' Counsel to objectively analyze the strengths of the case and potential damages involved.

33. Under the circumstances, the Settlement represents a highly favorable compromise that balances the merits of Plaintiffs' claims and the likelihood of succeeding at trial and on appeal with the attendant risks. The inherent uncertainty in litigation presents a risk to Plaintiffs of expending time and money on this case with the possibility of no recovery at all for the Class.

COUNSEL'S RECOMMENDATION

34. Our collective years of experience representing individuals in complex class actions—including data breach actions—informed Plaintiffs' settlement position, and the needs of Plaintiffs and the proposed Settlement Class. While we believe in the merits of the claims brought in this case, we are 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 and the potential for no recovery at all. Based upon our collective substantial experience, it is our opinion that the proposed settlement of this matter provides significant relief to the members of the Settlement Class and warrants the Court's preliminary approval. The settlement is well within the range of other data breach settlements in the relief that it provides.

35. The Settlement requires OnePoint to establish a non-reversionary common fund of $2.115 million dollars. The Settlement's terms are designed to address the alleged potential harms caused by the Data Incident by providing cash compensation to the persons whose information was impacted by the Data Incident and reimbursing any documented economic losses stemming from the Data Incident. Specifically, under the Settlement, all Settlement Class Members shall have the opportunity to submit a claim for alternative cash payments, including: (a) reimbursement of documented losses traceable to the Data Incident up to $3,500, or (b) a *pro rata* distribution from the Settlement Fund.

36. This Settlement, with an overall value of $4 per person, compares favorably on a per-person basis to other approved data breach settlements. The chart below setting forth a number of recently approved data breach settlements from around the country shows this:

Case Title	Settlement Amount	No. of Class Members	$ Per Class Member
In re Target Corp. Customer Data Breach Security Litigation, MDL No. 2522 (D. Minn.)	$10M	97.5M	$0.10
Adlouni v. UCLA Health Systems Auxiliary, et al., No. BC 589243 (Los Angeles Super. Ct.)	$2M	4.5M	$0.44
In re Yahoo! Inc. Customer Data Breach Litig., No. 5:16-MD-02752-LHK (N.D. Cal.)	$117.5M	194M	$0.61
Fehlen v. Accellion, Inc., Case No. 21-cv-01353 (N.D. Cal.)	$8.1M	9.2M	$0.90
Atkinson, et al. v. Minted, Inc., No. 3:20-cv-03869-VC (C.D. Cal.)	$5M	4.1M	$1.22
Cochran et al. v. The Kroger Co., No. 5:21-cv-01887 (N.D. Cal.)	$5M	3.82M	$1.31
In re Capital One Consumer Data Security Breach Litig., No. 1:19-md-02915-AJT-JFA (E.D. Va.)	$190M	98M	$1.93
In re: Lincare Holdings Inc. Data Breach Litigation, No. 8:22-cv-01472-TPB-AAS (M.D. Fl.)	$7.25M	2.9M	$2.50
In re: Wright & Filippis, LLC., No. 2:22-cv-12908-SFC-EAS	$2.9M	877,584	$3.30
In re Premera Blue Cross Customer Data Security Breach Litig., No. 3:15-md-2633-SI (D. Or.)	$32M	8.86M	$3.61

37. The Settlement is particularly favorable given the risks of continued litigation. Plaintiffs faced serious risks prevailing on the merits, including proving injury and causation, as well as risk at class certification and at trial, and surviving appeal. A settlement today not only avoids the risks of continued litigation, but it also provides benefits to the Settlement Class Members now as opposed to after years of risky litigation. As discussed herein, Class Counsel appreciate the importance of providing a swift recovery to the Settlement Class consisting mostly of hospice care patients.

38. The Settlement's benefits unquestionably provide a favorable result to the Settlement Class Members, placing the Settlement well within the range of possible final approval and satisfying the requirements for preliminary approval under applicable law. Therefore, Class Counsel believe that the Settlement should receive preliminary approval.

39. Additionally, the Notice plan contemplated by the Settlement is designed to be the best practicable and to meet all the criteria set forth by the Manual for Complex Litigation and is consistent with other class action notice programs that have been approved by various courts for similarly situated matters.

40. Specifically, it provides for direct and individual notice to be provided to all Settlement Class Members via mail based using the contact information to be provided by OnePoint. In addition to the individual direct notice provided, the Claims Administrator will establish and maintain a dedicated settlement website that will be updated throughout the claims period with the forms of Short Form Notice, Long Form Notice, and Claim Form approved by the Court, as well as this Settlement Agreement and other relevant court documents. The Settlement Administrator will also maintain a toll-free telephone line for Settlement Class Members to obtain additional information.

41. The Notices being provided to Settlement Class Members are also clear and straightforward, defining the class and setting forth the options available to Settlement Class Members under the Settlement Agreement, as well as the deadlines for taking action. The Notices also describe the essential terms of the settlement, disclose the requested service award for the Class Representatives as well as the amount that proposed Settlement Class Counsel intends to seek in fees and costs, explain procedures for making claims, objections, or requesting exclusion, and describe the date, time, and place of the Final Fairness Hearing.

42. Plaintiffs' Counsel has not only negotiated fair, reasonable, and adequate compensation, but has also implemented the means to get the Settlement Benefits into the hands of Class Members.

43. In sum, it is our opinion that the Settlement is fair, reasonable, and adequate considering the significant benefits made available to the Settlement Class, as well as the risks and delays attendant to further protracted litigation that can be avoided through this Settlement. This view is informed by proposed Class Counsel's decades of work and experience successfully litigating complex actions, including dozens of data breach class actions.

44. We represent on behalf of the Plaintiffs that there are no agreements related to the Settlement other than those reflected in the Settlement Agreement itself and an agreement with Epiq to perform notice and settlement administration services in the event the Settlement is preliminarily approved by the Court.

45. Plaintiffs, as proposed Settlement Class Representatives, have also demonstrated their adequacy to serve in such a capacity by (i) selecting well-qualified Class Counsel; (ii) producing information and documents to Settlement Class Counsel to permit the investigation and development of their respective complaints; (iii) being available as needed throughout the litigation and negotiation of this settlement; and (iv) monitoring the litigation. Plaintiffs do not have any interests antagonistic to other class members.

46. It is our opinion that the proposed Settlement represents an outstanding result for the Settlement Class Members.

Pursuant to 28 U.S.C. § 1746, we each declare under penalty of perjury of the United States of America that the foregoing is true and correct.

Executed on May 23, 2025.

/s/ Tyler J. Bean
Tyler J. Bean*
SIRI GLIMSTAD LLP
101 North Seventh Street, #827
Louisville, KY 40202
Tel: 772-783-8463
Fax: 646-417-5967
tbean@sirillp.com

/s/ A. Brooke Murphy
A. Brooke Murphy*
MURPHY LAW FIRM
4116 Wills Rogers Pkwy, Suite 700
Oklahoma City, OK 73108
Tel: 405-389-4989
abm@murphylegalfirm.com

/s/ Andrew W. Ferich
Andrew W. Ferich*
AHDOOT & WOLFSON, PC
201 King of Prussia Road, Suite 650
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/s/ Jeff Ostrow
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Interim Co-Lead Class Counsel

*admitted *pro hac vice*

CERTIFICATE OF SERVICE

I hereby certify that on May 23, 2025, a true and correct copy of the foregoing was electronically filed with the Clerk of Court using CM/ECF. Copies of the foregoing document will be served upon interested counsel via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Leslie Pescia
Leslie Pescia

EXHIBIT 1

Siri | Glimstad

FIRM RESUME

SG

Class Action Practice Group

With attorneys across the country, Siri & Glimstad LLP represents clients from coast to coast in class actions and mass torts in state and federal courts. Utilizing decades of experience at major global law firms, we tackle each dispute with a sophisticated, strategic approach, and we fight hard for every one of our clients.

Offices Nationwide

NEW YORK
745 Fifth Ave • Suite 500
New York, NY 10151

MIAMI
20200 West Dixie Highway • Ste 902
Aventura, FL 33180

PHOENIX
11201 N. Tatum Boulevard • Ste 300
Phoenix, AZ 85028

DETROIT
220 West Congress Street • 2nd Floor
Detroit, MI 48226

WASHINGTON D.C.
2101 L Street N.W. • Ste 300 Washington, D.C. 20037

LOS ANGELES
700 S Flower Street • Ste 1000
Los Angeles, CA 90017

AUSTIN
1005 Congress Avenue • Ste 925-C36
Austin, TX 78701

CHARLOTTE
525 North Tryon Street • Ste 1600
Charlotte, NC 28202

1-888-SIRI-LAW (747-4529)

Admitted States

Alabama • Arizona • California • Colorado • Connecticut • District of Columbia • Florida
Idaho • Illinois • Kentucky • Maryland • Massachusetts • Michigan • Mississippi • New Jersey
New York • North Carolina • Oklahoma • Oregon • Pennsylvania • South Carolina • Tennessee
Texas • Virginia

Attorney Profiles

Aaron Siri

Managing Partner

Aaron Siri is the Managing Partner of Siri & Glimstad LLP and has extensive experience in a wide range of complex civil litigation matters, with a focus on civil rights, class actions, and commercial litigation.

Mr. Siri has successfully litigated numerous civil rights cases, prosecuted class actions against large corporations resulting in payments to hundreds of thousands of Americans, and has acted as counsel to clients in multiple commercial disputes exceeding one billion dollars, including regarding Oracle Team's challenge for the America's Cup and the collapse of the World Trade Center.

Prior to founding Siri & Glimstad, Mr. Siri was a litigation attorney at Latham & Watkins for over five years. Before Latham, Mr. Siri clerked for the Chief Justice of the Supreme Court of Israel from 2004-2005 where he advised the Chief Justice of relevant American, English (including Commonwealth Countries), and International Law precedents for cases of first impression.

Mr. Siri has also been involved in various pro-bono matters, including representation of asylum applicants, housing discrimination victims, and non-profit organizations in tenant-landlord disputes, as well as being chosen as a Frank C. Newman delegate to present a paper he authored before the United Nations Human Rights Sub-Commission.

Mr. Siri earned his law degree at the University of California, Berkeley School of Law where he received four Prosser Prizes and ten High Honors. He was also the Editor-in-Chief and founder of the Berkeley Business Law Journal, which he developed into a nationally recognized publication, and was ranked as the leading commercial law journal in the country.

Prior to law school, Mr. Siri was an auditor at Arthur Andersen LLP, where he examined internal controls and audited corporate documents for private and public micro-cap technology companies. Mr. Siri is a Certified Public Accountant and an attorney admitted in federal and state courts across the country.

Mr. Siri is regularly interviewed on national television for his expertise regarding certain legal issues. He has also been published in the Washington Post, Stat News, and Bloomberg.

Mason A. Barney

Senior Partner

Mason A. Barney is an experienced trial attorney who for nineteen years has represented both individuals and corporations in complex litigations. Mr. Barney received his J.D., *summa cum laude* from Brooklyn Law School, in 2005, where he graduated second in his class of nearly 500 students, and received numerous academic honors, in addition to being an editor on the Brooklyn Law Review. He then served as a law clerk to the Honorable Judge David G. Trager in the U.S. District Court for the Eastern District of New York. After clerking, he joined the litigation department at Latham & Watkins LLP, and later joined Olshan Frome Wolosky LLP a large established New York City law firm. Before law school, Mr. Barney earned his B.A. from Bowdoin College, where he double majored in Computer Science and Studio Art, and after college he served as a lead database developer for three years at a successful Internet start-up in Washington D.C.

Mr. Barney focuses his practice on class actions and representing individuals in complex litigations. In this practice he has won tens of millions of dollars for his clients. Among other matters, Mr. Barney has fought to stop companies from illegally spamming consumers with unwanted phone calls, has worked to stop companies from illegally obtaining their customers' biometric information (e.g., facial scans and fingerprints), and obtained recovery for numerous victims of data breaches. Mr. Barney has also served as counsel of record for numerous lawsuits involving alleged violations of the Illinois Genetic Information Privacy Act, successfully opposing dispositive motions and defeating improperly raised affirmative defenses.

Mr. Barney is recognized by the New York Legal Aid Society for his outstanding pro bono work representing indigent individuals in matters concerning prisoners' rights, immigration, and special education.

Mr. Barney has published a number of articles concerning a variety of legal issues. These include authoring or co-authoring: *The FBI vs. Apple: What Does the Law Actually Say?,* Inc. Magazine (February 2016); *Can Lawyers Be Compelled to Produce Data They Compile? An Emerging Front in the Trenches of e-Discovery Battles*, Bloomberg BNA (May 2015); *Legal Landscape for Cybersecurity Risk is Changing as Federal Government and SEC Take Action*, Inside Counsel Magazine (May 2015); *Tellabs v. Makor, One Year Later*, Securities Law 360 (July 2008); *Not as Bad as We Thought: The Legacy of Geier v. American Honda Motor Co.in Product Liability Actions,* 70 Brooklyn L. Rev. 949 (Spring 2005). Mr. Barney serves as an adjunct professor at Brooklyn College in New York, teaching Education Law in its graduate studies program, and separately has presented continuing legal education instruction regarding the Foreign Corrupt Practices Act.

Elizabeth Brehm

Senior Partner

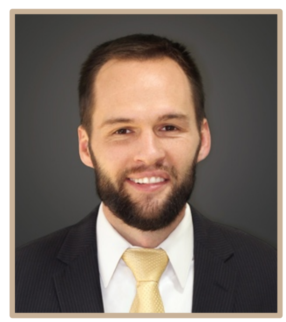
Elizabeth Brehm graduated from Boston University with a Bachelor of Science and earned her master's degree from Long Island University at C.W. Post. She attended Hofstra Law School and obtained a Juris Doctorate, graduating *magna cum laude*, in 2008.

After law school, Ms. Brehm spent a year at Winston & Strawn LLP where she focused on products liability litigation. For nine years prior to joining Siri & Glimstad, Ms. Brehm worked for a New York law firm where she focused on antitrust class action lawsuits, health care fraud, and qui tam and whistleblower litigations.

Ms. Brehm has been an attorney at Siri & Glimstad for over two years and has handled numerous complex litigation matters, including class action matters.

Walker Moller

Partner



Before law school, Walker Moller worked and volunteered for three years in 15 countries throughout Southeast Asia, Oceania, and Africa. While at Mississippi College School of Law, Walker clerked at the Mississippi Supreme Court and was on the Law Review. He graduated *summa cum laude* in 2014 and earned the highest grade in eight courses. After graduation, Walker clerked for a federal judge at the United States District Court, Western District of Louisiana, where he gained exposure to a large volume of employment discrimination matters, products liability cases, and constitutional litigation.

Walker then worked for the U.S. Army Corps of Engineers from 2015 to 2021, where his practice focused on federal contracts and civil litigation in various administrative courts. Immediately before joining Siri & Glimstad, Walker achieved full dismissal of a lawsuit against the Corps of Engineers that implicated $68M worth of federal contracts.

SG

Lisa Considine

Partner

Lisa R. Considine is counsel at Siri & Glimstad LLP and has broad litigation experience, having successfully litigated various class action cases involving violations of State and Federal consumer protection laws, including representing consumers against many of the world's largest companies.

Ms. Considine graduated from Rutgers College with a Bachelor of Arts and attended Seton Hall University School of Law and obtained her J.D., with Honors, in 2004.

Prior to joining Siri & Glimstad, Ms. Considine was a founding member of her own practice that focused exclusively on consumer class actions and individual matters against major auto rental companies, banks, mortgage lenders, auto finance companies, payday lenders and other consumer finance companies in litigation involving the Consumer Fraud Act, Electronic Fund Transfer Act, Truth in Lending Act, Real Estate Settlement Procedures Act, Fair Credit Reporting Act, Fair and Accurate Credit Transaction Act, Truth-in-Consumer Contract, Warranty and Notice Act, predatory lending, loan origination and servicing, banking operations and consumer fraud claims.

Ms. Considine serves on the Board of Directors of the Consumer League of New Jersey and is also Co-Chair of the New Jersey State Bar Association's Class Actions Special Committee. Ms. Considine also serves at the pleasure of the New Jersey Supreme Court on the District IIB Ethics Committee and is President of the Worrall F. Mountain Inn of Court. Ms. Considine is a member of the National Association of Consumer Advocates, the Complex Litigation e-Discovery Form (CLEF), and the New Jersey State Bar Association's Consumer Protection Committee.

David DiSabato

Partner

David J. DiSabato is counsel at Siri & Glimstad LLP and focuses his practice on complex class actions and consumer protection law. With over two decades of class action experience, Mr. DiSabato has led successful class actions against many of the country's largest financial institutions, retailers, service providers and employers. In addition, Mr. DiSabato has extensive experience handling patients' rights class actions and civil rights claims. Mr. DiSabato has also represented dozens of individuals in Illinois for class actions alleging violations of the Illinois Genetic Information Privacy Act. As counsel of record, he has secured multiple victories in state and federal court by successfully opposing motions to dismiss and defeating improperly raised affirmative defenses.

Mr. DiSabato graduated from Tufts University and received his J.D. from Boston University School of Law. Named to the New Jersey Super Lawyers List in 2022 and 2023, Mr. DiSabato is the New Jersey Chair of the National Association of Consumer Advocates and sits on NACA's Judicial Nominations Committee. He also is a member of both the American Association for Justice and the New Jersey Association for Justice (Civil Rights Committee), and sits on the Board of Directors of the Consumer League of New Jersey, where he serves as the Director of Litigation. Mr. DiSabato is also a member of the Class Actions Special Committee and the Consumer Protection Law Committee of the New Jersey State Bar Association, as well as the Complex Litigation e-Discovery Forum (CLEF). He also serves as the Vice Chair of the Land Use Board of the Borough of Peapack and Gladstone.

In addition, Mr. DiSabato regularly lobbies in both Washington D.C. and Trenton, New Jersey on consumer issues such as predatory lending, manufactured housing and forced arbitration, and is a frequent speaker on Constitutional issues, class action practice and consumer rights.

Prior to joining Siri & Glimstad, Mr. DiSabato was a founding member of his own practice where he represented consumers, workers, tenants, patients and other individuals in complex class actions.

Tyler J. Bean

Partner

Tyler J. Bean graduated from the University of Oklahoma’s Michael F. Price College of Business in 2015 and obtained a Juris Doctorate from the University of Oklahoma in 2019, where he served as editor for the Oil and Gas, Natural Resources, and Energy Law Review Journal. Mr. Bean also received numerous academic honors as a law student, including being named to the Faculty Honor Roll and Dean’s List.

After graduating law school and serving as in-house counsel for a large, multi-billion-dollar retail organization, Mr. Bean turned his focus to complex civil litigation and consumer class actions, with a particular emphasis on data breach and privacy matters. He has years of experience as a data breach and privacy lawyer, having played a significant role as class counsel in successfully litigating numerous data breach and privacy class actions from inception through discovery and court approved settlements, recovering millions of dollars for hundreds of thousands of consumers, patients, students, and employees across the country who have been victims of negligent data security and privacy practices.

Oren Faircloth

Attorney

Oren Faircloth graduated from McGill University in 2009 with a Bachelor of Arts degree in Political Science. Before attending law school, he served in the armed forces from 2010 to 2011. Mr. Faircloth graduated from Quinnipiac University School of Law, *magna cum laude*, in 2016.

Prior to joining Siri & Glimstad, Mr. Faircloth worked for a boutique law firm where he spearheaded ERISA class action lawsuits against Fortune 500 companies, including: Huntington Ingalls, Rockwell Automation, Raytheon, UPS, U.S. Bancorp, Delta Air Lines, and Sprint. Mr. Faircloth was involved in the prosecution of numerous successful class actions in which over $100 million dollars have been recovered for tens of thousands of employees around the country. In 2022, Mr. Faircloth was recognized by Super Lawyers magazine as a Rising Star in the field of class action.

Mr. Faircloth focuses his practice on class actions and representing individuals in complex litigations. He presently represents individuals who have been denied reimbursement for work-related expenses from their employers, denied sufficient lactation accommodations in the workplace, and denied actuarially equivalent pension benefits. Mr. Faircloth has also represented several individuals on a pro bono basis, negotiating favorable settlements for violations of their constitutional rights.

Wendy Cox

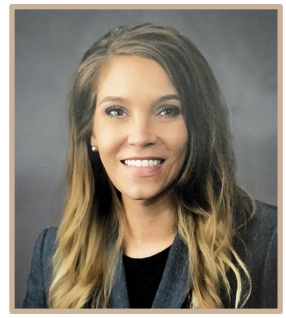
Attorney

Prior to joining Siri & Glimstad, Ms. Cox served for 21 years in the United States Army as an Army Nurse Corps officer and as an Army Judge Advocate. As a nurse corps officer, Ms. Cox worked in several clinical settings to include a pediatric unit, a specialty surgical unit, and an orthopedic surgical unit. During her last year as an Army Nurse Corps officer, she taught Army medics in basic life-saving skills before being selected by the Army to attend law school. After graduating law school in 2005, Ms. Cox prosecuted soldiers, advised on operational law issues, taught Constitutional Law at West Point, and advised senior leaders on a variety of legal issues. Following her retirement from the United States Army in 2018, she went on to continue serving soldiers as an attorney for the Office of Soldiers' Counsel.

Wendy Cox graduated *cum laude* from the State University at Buffalo Law School in New York and *summa cum laude* from Norwich University with a Bachelor of Science in Nursing. She went on to get her Master of Laws (L.L.M.) degree in Military Law in 2008.

Catherine Cline

Attorney



Catherine Cline has extensive experience in a wide range of civil law, including constitutional, administrative, employment, and election law. Prior to joining Siri & Glimstad, Ms. Cline served as a judicial law clerk for judges in the U.S. District Court for the Middle District of Pennsylvania, the Commonwealth Court of Pennsylvania, and the Supreme Court of Pennsylvania.

Ms. Cline attended law school on a full tuition scholarship, during which time she served as the Editor-in-Chief of the law review and as intern for a U.S. District Court Judge in the Middle District of Florida. Before attending law school, Ms. Cline received her Bachelor of Arts in Economics with a Minor in Business and the Liberal Arts from Penn State University and worked in the Tax Credit Division of the Pennsylvania Department of Community and Economic Development.

Dana Smith

Attorney

Dana Smith is a seasoned litigator. Prior to joining Siri & Glimstad, Ms. Smith focused most of her legal career on personal injury litigation, including representing individuals harmed due to corporate negligence. Ms. Smith is also experienced in various domestic areas of practice, including divorce, high-conflict custody disputes, and child welfare law.

Ms. Smith graduated *cum laude* from the North Carolina Central University School of Law. Additionally, she received her Bachelor of Arts in Romance Languages from the University of North Carolina at Chapel Hill.

Sonal Jain

Attorney

Sonal Jain has experience in complex commercial litigations as well as class actions. Ms. Jain graduated from the New York University School of Law with an LLM in International Business Regulation, Litigation and Arbitration in 2020 where she gained experience with international dispute resolution. She received her first degree in law (B.A. LL.B.) from ILS Law College, Pune, a prime legal education institution in India. Prior to joining Siri & Glimstad, Ms. Jain held various internships with top-tier law firms in India where she specialized in complex dispute resolution ranging from consumer and corporate litigation to domestic arbitrations.

Jack Spitz

Attorney

Jack R. Spitz is a graduate of Rutgers School of Law where he was a member of the Rutgers Law Record Journal and interned with the Essex County Public Defender's Office. Following law school, he served as Law Clerk for two judges at the Middlesex County Superior Court in New Brunswick, New Jersey. Subsequently, Mr. Spitz defended a wide variety of personal injury and property damage matters, as well as represented Plaintiffs in employment litigation matters. Prior to law school, Mr. Spitz graduated from Clemson University in South Carolina.

Gabrielle Williams

Attorney

Ms. Williams obtained her J.D. from the University of Maryland Francis King Carey School of Law. During her time in law school, she represented clients in state court through the Justice for Victims of Crime Clinical Law Program. She also served as an Associate Editor on the Journal of Healthcare Law and Policy, Executive Board Member of the Black Law Students Association, and Class Representative for the Student Bar Association. Prior to joining Siri and Glimstad, Ms. Williams served as a Judicial Law Clerk on the Appellate Court of Maryland.

Neil Williams

Attorney

With a robust background in data breach litigation, Mr. Williams is a seasoned legal professional dedicated to protecting the interests of clients in the digital age. Leveraging his extensive experience in cybersecurity law and privacy regulations, he has successfully represented numerous individuals in complex data breach cases. Mr. Williams meticulously navigates the intricate legal landscape surrounding data breaches, providing strategic counsel and vigorous advocacy to achieve favorable outcomes for his clients.

Mr. Williams received his J.D. from Charleston School of Law, where he was awarded CALI Awards on two occasions for the top grade in his class. He also worked alongside several South Carolina Pro Bono Services to ensure that competent legal representation was reaching the most at need populations in the area. Mr. Williams received his undergraduate degree from the University of South Carolina.

Sonjay Singh

Attorney

Sonjay Singh is a seasoned litigator with broad experience in data privacy matters.

Prior to joining Siri & Glimstad, Mr. Singh worked with prominent plaintiffs' firms in the District of Columbia and Pennsylvania, where he brought claims for individuals affected by data privacy violations, predatory lending, defective products, false advertising, institutional abuse, and other corporate misconduct. Mr. Singh has also practiced as a trial lawyer, pursuing personal injury, medical malpractice, defective premises, and other tort cases on behalf of his clients.

Mr. Singh graduated from Temple University's Beasley School of Law with both his J.D. and a certificate in Trial Advocacy and Litigation. During his time in law school, he was active on campus, and served as Vice President of the Student Bar Association. Mr. Singh also competed on Temple's highly-ranked Trial Team, winning the Inter-American Invitational at the University of Puerto Rico among other honors. For his dedication to plaintiffs' representation, Mr. Singh was named the Eisenberg Scholar, a scholarship given yearly to the outstanding student in civil litigation, and received the Trial Program Award for excellence in trial advocacy. Upon graduating, Mr. Singh was inducted into the Rubin Public Interest Society for his commitment to public service.

Mr. Singh is active in the legal community, and served as the 2022-23 Communications Chair for the MSBA Young Lawyers Division. Before starting his legal career, Mr. Singh co-founded a DEI hiring and recruiting startup, and was elected to serve as Democratic Committeeperson for the Townships of Marple and Newtown, PA.

Notable Class Actions Handled By Siri & Glimstad LLP

Buchanan v. Sirius XM Radio, Inc.
Case No. 3:17-cv-00728 (N.D. Tex.)
Appointed co-lead class counsel in a case alleging violations of the TCPA, which resulted in a settlement of $25,000,000, plus free satellite radio service, to a class of 14.4 million members.

SG

Thomas v. Dun & Bradstreet Credibility Corp.
Case No. 15-cv-3194 (S.D. Cal.)
Appointed co-lead class counsel in a case alleging violations of the TCPA which resulted in a settlement of $10,500,000.

Gatto v. Sentry Services, Inc., et al.
Case No. 13 CIV 05721 (S.D. N.Y.)
Appointed co-lead class counsel in a case involving ERISA claims relating to an ESOP which resulted in a settlement of $11,138,938.

Kindle v. Dejana
Case No. 14-cv-06784 (E.D. N.Y.)
Appointed co-lead trial counsel for plaintiffs in an ERISA matter filed as a class action involving breaches of fiduciary duty related to the management and termination of an ESOP, which settled after the beginning of trial for $1,080,000 for the class.

MacNaughton v. Young Living Essential Oils, LC,
67 F.4th 89 (2d Cir. 2023)
Successfully reversed motion to dismiss, creating a significant precedent regarding the definition of "puffery" in N.Y. false advertising cases.

MacNaughton v. Young Living Essential Oils, LC,
Case No. 24LA0329 (Cir. Ct. Ill.)
Received final approval of settlement in false advertising class action valued at $10,000,000.

Carter, et al. v. Vivendi Ticketing US LLC d/b/a See Tickets
Case No. 8:22-cv-01981 (C.D. Cal.)
Final approval granted, appointing firm as sole class counsel, in a data breach class action settlement involving 437,310 class members and a $3,000,000 non-reversionary settlement fund.

Medina v. Albertsons Companies, Inc.
Case No. 1:23-cv-00480 (D. Del.)
Obtained final approval of a class settlement involving 33,000 class members and a $750,000 non-reversionary settlement fund.

In re Sovos Compliance Data Security Incident Litigation
Case No. 1:23-cv-12100-AK (D. Mass.)
Obtained final approval of a class settlement that includes a non-reversionary settlement fund of $3,534,128.50 involving 490,000 individuals, and separate from the settlement fund, requires the defendant to pay for data security improvements.

Owens v. US Radiology Specialists, Inc.,
Case No. 22 CVS 17797 (N.C. Super. Ct.)
Received final approval for settlement in data breach involving 1,309,429 customer's private health information, creating non-reversionary settlement fund of $5,050,000 to compensate class members.

In re: Planet Home Lending, LLC Data Breach
Case No. 3:24-cv-127 (D. Conn.)
Final approval granted for data breach settlement affecting 285,000 individuals, which will create a non-reversionary settlement fund valued at $ 2,425,000.

In re: Vivendi Ticketing US LLC, d/b/a See Tickets Data Security Incident
Case No. 2:23-cv-07498 (C.D. Cal.)
Final approval of settlement in second data breach affecting 323,498 individuals, where the settlement agreement calls for the creation of a non-reversionary settlement fund in the amount of $3,250,000.

Fortra File Transfer Software Data Security Breach Litigation
Case No. 24-MD-03090-RAR (S.D. Fl.).
Appointed to leadership team in nationwide multi-district litigation concerning data breach affecting more than 4,000,000 individuals' personal and health information.

In re UNITE HERE Data Security Incident Litigation
Case No. 1:24-cv-01565-JSR (S.D.N.Y.)
Obtained final approval of data breach settlement affecting roughly 790,000 individuals, creating a non-reversionary settlement fund of $6,000,000 to compensate class members.

EXHIBIT 2

Murphy Law Firm

Murphy Law Firm specializes in data breach class actions, consumer protection actions, federal securities class actions, and other complex litigation.

<u>Attorney Profile</u>

The firm's founding member, A. Brooke Murphy, has successfully litigated numerous complex cases in courts across the country.

<u>Education</u>:

- Oklahoma City University (B.A., 2005, *summa cum laude*)
- University of Oklahoma College of Law (J.D., 2010, *magna cum laude*)
    - Assistant Articles Editor of OKLAHOMA LAW REVIEW

<u>Admitted to practice</u>:

- Oklahoma
- U.S. District Court for the Western District of Oklahoma
- U.S. District Court for the Northern District of Texas
- U.S. District Court for Nebraska
- U.S. District Court for Eastern District Michigan
- Tenth Circuit Court of Appeals
- First Circuit Court of Appeals
- Ninth Circuit Court of Appeals
- Second Circuit Court of Appeals

<u>Publication</u>:

- *Credit Rating Immunity? How the Hands-Off Approach Toward Credit Rating Agencies Led to the Subprime Credit Crisis and the Need for Greater Accountability*, 62 Okla. L. Rev. 735 (2010)

<u>Published Decisions</u>:

- *Green-Cooper v. Brinker Int'l, Inc.* 73 F.4th 888 (11th Cir. 2023)
- *Mulderrig v. Amyris, Inc.*, 340 F.R.D. 575 (N.D. Cal. 2021)
- *McFarlane v. Altice USA, Inc.*, 524 F. Supp. 3d 264 (S.D.N.Y. 2021)
- *In re Solara Med. Data Sec. Breach Litig.*, 613 F. Supp. 3d 1284, 1292 (S.D. Cal. 2020)
- *Mulderrig v. Amyris, Inc.*, 492 F. Supp. 3d 999 (N.D. Cal. 2020)
- *Angeley v. UTi Worldwide Inc.*, 311 F. Supp. 3d 1117 (C.D. Cal. 2018)
- *Nakkhumpun v. Daniel J. Taylor, et al.*, 782 F.3d 1142 (10th Cir. 2015)
- *Spitzberg v. Houston American Energy Corp., et al.*, 758 F.3d 676 (5th Cir. 2014)

<u>Recognition</u>: Oklahoma Super Lawyers, 2020, 2021, 2022, 2023

Notable Class Actions:

- *Lockridge v. Quality Temporary Services, Inc.,* Case No. 4:22-CV-12086 (E.D. Mich.), data breach class action against a staffing company for allegedly failing to protect the sensitive information of its applicants and clients. As class counsel, Ms. Murphy briefed and argued the successful opposition to defendant's motion to dismiss. After the court ruled that plaintiff had both standing and sufficiently alleged claims, Ms. Murphy secured a $2 million non-reversionary common fund on behalf of the 71,495 class members. The settlement provided a variety of favorable benefits, including reimbursement of time up to $175 per class member, reimbursement of expenses up to $7,500, additional *pro rata* cash payments up to $850 per class member, and three (3) years of credit monitoring and identity theft protection.

- *Sanders, et al., v. Ibex Global Solutions, Inc., et al.*, Case No. 1:22-cv-00591-TNM (D.C.C.), data breach class action involving the exposure of current and former employees' personal information. Following extensive negotiations and exchanges of information, the case settled for impressive benefits to class members. The settlement secured the creation of a $2.4 million common fund and provided reimbursement of time up to $125 per class member, reimbursement of expenses up to $5,000 per class member, additional cash payments of $100 for class members who experienced data misuse or fraud, five (5) years of 3-bureau credit monitoring and identity theft protection, and residual cash payments up to $95 per claimant.

- *In re: Solara Medical Supplies Data Breach Litig.,* Case No. 3:19-cv-00284-H-KSC (S.D. Cal.), data breach case involving the compromise of customers' protected health information. The case involved complex statutory claims and technical issues. As class counsel, Ms. Murphy was instrumental in litigating the case, which included nine subpoenas *duces tecum*, 13 depositions, the review of nearly a half million documents, and the preparation of numerous expert reports. The settlement secured sizeable cash payments to class members from a $5.06 million settlement fund and meaningful injunctive relief worth in excess of $4.7 million.

- *Mulderrig v. Amyris, Inc., et al.,* Case No. 4:19-cv-01765-YGR (N.D. Cal.), securities class action against a biopharmaceutical company and certain of its officers for alleged misrepresentations concerning the company's recognized and projected revenues. After extensive briefing and a hearing for which Ms. Murphy presented argument on behalf of plaintiffs, the class action complaint survived defendants' motion to dismiss in its entirety, despite the heightened fraud and PSRLA pleading standards. Ms. Murphy spearheaded the aggressive prosecution of the case, including the issuance of several discovery requests and subpoenas *duces tecum* as well as the review of hundreds of thousands of documents. Ms. Murphy also successfully briefed and presented oral argument in support of plaintiffs' motion for class certification. Shortly following the court's order certifying a nationwide class, the parties settled the action for a common fund of $13.5 million.

- *McFarlane v. Altice USA, Inc.,* Case No. 20-CV-1297-JMF (S.D.N.Y.), data breach class action involving the exposure of current and former employees' personal information. The consolidated action survived multiple hurdles, including motions to dismiss, motions to compel arbitration, and challenges to standing. The case was ultimately settled and provided a fair recovery to class members, including compensation for lost time, reimbursement of expenses, 5 years of identity theft protection, and injunctive relief.

- *In re: Samsung Top-Load Washing Machine Marketing, Sales Practices and Products Liability Litig.*, MDL Case No. 17-ml-2792-D (W.D. Okla.), consumer sales practices and products liability class action against Samsung, Electronics Co., Ltd., and numerous home appliance stores for the manufacture and sale of alleged defective washing machines. The multi-district complex litigation resulted from the consolidation of 26 individual actions and brought claims on behalf of approximately 2.8 million individuals who purchased washing machines that were recalled by the U.S. Consumer Product Safety Commission. After years of litigation, a favorable settlement was secured, which brought millions of dollars' worth of benefits to consumers.

- *Angeley v. UTi Worldwide Inc., et al.*, Case No. 2:14-cv-02066-CBM-E (C.D. Cal.), securities class action against international shipping company UTi Worldwide, Inc. and its corporate officers for alleged misrepresentations about the progress of the company's implementation of its new consolidated operating system while failing to disclose the system's critical problems. The case involved extensive motion practice, a successful appeal to the Ninth Circuit Court of Appeals, more than 2 million pages of document production, multiple depositions, and ultimately a settlement that recovered 40.6% of investors' losses.

- *Lortiz v. Exide Technologies, et al.*, Case No. 2:13-cv-02607-SVW-E (C.D. Cal.), securities class action against corporate officers for alleged misrepresentations that concealed the company's environmental abuses and worsening financial condition. The case was highly technical, involving several scientific and financial experts, more than 3 million pages of document production, 26 depositions, and numerous dispositive motions. The case settled just weeks before trial for a recovery that secured 35.6% of investors' losses, despite the company being in bankruptcy.

- *Nakkhumpun v. Taylor, et al.*, Case No. 1:12-cv-01038-CMA-CBS (D. Colo.), securities class action against former officers and directors of Delta Petroleum Corporation for allegedly misrepresenting the company's financial condition and the value of its assets. The case involved significant motion practice and a successful appeal to the Tenth Circuit Court of Appeals. The case ultimately settled for a distribution to investors of 73% of their losses.

- *In re Ener1 Securities Litig.*, Case No. 11-cv-05794-PAC (S.D.N.Y.), securities class action against corporate officers of Ener1, Inc., one of the then-leading electrical vehicle manufacturers, for alleged misrepresentations relating to the company's accounting for unsold inventory and revenue recognition. Following substantial briefing, the case was settled for a recovery that provided investors with more than 40% of their losses, despite the company having filed for bankruptcy protection.

- *Wandel v. Weatherford International, Inc.*, et al., Case No. 12-cv-01305-LAK (S.D.N.Y.), shareholder derivative action against officers and directors of Weatherford International, Inc. for alleged breaches of fiduciary duty related to the improper accounting of more than $900 million of net income over the course of several years. Despite challenging legal barriers, including complex corporate accounting issues and matters of international law (as the company was then-incorporated in Switzerland), shareholders were able to settle the case on behalf of the company and achieved significant corporate governance improvements.

EXHIBIT 3

Ahdoot & Wolfson, PC ("AW") is a nationally recognized law firm founded in 1998 that specializes in complex and class action litigation, with a focus on privacy rights, unfair and anti-competitive business practices, consumer fraud, employee rights, defective products, civil rights, and taxpayer rights and unfair practices by municipalities. The attorneys at AW are experienced litigators who often have been and are appointed by state and federal courts as lead class counsel, including in multidistrict litigation. In over two decades of its successful existence, AW has successfully vindicated the rights of millions of class members in protracted, complex litigation, conferring billions of dollars to the victims, and affecting real change in corporate behavior.

Profile of Partner Andrew W. Ferich

Mr. Ferich is a leading national data privacy practitioner known for his collaborative and cooperative approach with co-counsel, and his zealous advocacy for the clients and classes he represents. He has extensive experience serving in leadership and leadership support roles in complex class actions, including some of the highest profile data privacy and consumer class action cases.

Examples of Mr. Ferich's leadership abound. He is routinely appointed as interim co-lead class counsel in major data breach class action litigations. *See, e.g., Reichbart v. Financial Business and Consumer Solutions, Inc.*, No. 2:24-cv-01876, ECF No. 23 (E.D. Pa. July 17, 2024) (over 4 million class members); *Bianucci v. Rite Aid Corp.*, No. 2:24-cv-03356, ECF No. 11 (E.D. Pa. Aug. 16, 2024) (Bartle III, J.) (over 2 million class members); *Anaya, et al. v. Cencora, Inc., et al.*, No. 24-2961, ECF No. 75 (E.D. Pa. Sept. 30, 2024) (hub-and-spoke-like data breach involving Cencora f/k/a AmerisourceBergen and numerous of its pharma customer companies).

Mr. Ferich also recently was appointed to the Plaintiffs' Steering Committee in the Snowflake MDL, a massive hub-and-spoke data breach litigation. *See In re: Snowflake, Inc. Data Security Breach Litigation*, 2:24-md-03126-BMM (D. Montana), ECF Nos. 253, 255 (appointing Mr. Ferich to the Plaintiffs' Steering Committee and to serve on the law and briefing team and co-manage the Snowflake component of the litigation).

Mr. Ferich has been at the forefront of the highly publicized Accellion FTA hub-and-spoke data breach litigation. In two of the Accellion cases, final settlement approval was granted and Mr. Ferich was appointed as co-lead class counsel. *See Harbour, et al. v. California Health & Wellness Plan, et al.*, No. 5:21-cv-03322 (N.D. Cal.) (Hon. Edward J. Davila) (approved $10 million nationwide class action settlement, that also provided robust injunctive relief); *Cochran, et al. v. The Kroger Co., et al.*, No. 5:21-cv-01887-EJD (N.D. Cal.), ECF No. 115 (approved $5 million nationwide class action settlement, that also provided robust injunctive relief).

Mr. Ferich routinely is appointed in other major, non-privacy class action litigations. A comprehensive list of Mr. Ferich's case appointments and leadership, results, and other active litigation can be found at the end of this biography.

For example, in *Udeen v. Subaru of Am., Inc.*, No. 18-17334 (RBK) (JS)(D.N.J.), Mr. Ferich was co-lead counsel in an automotive defect class action that resulted in a settlement valued at $6.25 million. The Court observed that Mr. Ferich and his co-counsel "are very skilled and very efficient lawyers . . . . They've done a nice job." In *Steinhardt et al. v. Volkswagen Group of America, Inc. et al.*, No. 3:23-cv-02291-RK-RLS (D.N.J.), Mr. Ferich is currently appointed co-lead settlement class counsel in lawsuit that alleged a defective belt start generator in certain Audi automobiles and involved hundreds of thousands of class members. That settlement, valued at over $30 million, recently received final settlement approval. *Id.*, ECF No. 76; *see also Cilluffo, et al. v. Subaru of America, Inc., et al.*, No. 1:23-cv-01897-RBK-MJS (D.N.J.) (Mr. Ferich is appointed interim co-lead counsel in a second case against Subaru alleging defective infotainment systems in Subaru vehicles); *Smith, et al. v. VCA Inc., et al.*, No. 2:21-cv-09140-GW-AGR (C.D. Cal.) (Mr. Ferich is class counsel in approved ERISA class action settlement relating to case alleging excessive 401(k) plan recordkeeping and administrative fees, and other fiduciary breaches).

Mr. Ferich is admitted to the bars of Pennsylvania, New Jersey, and the District of Columbia. He graduated from Georgetown University in 2009 and received his law degree from the Villanova University Charles Widger School of Law in 2012. Mr. Ferich has significant experience in consumer protection, ERISA/retirement plan, and whistleblower/*qui tam* litigation. Before joining the plaintiffs' bar, Mr. Ferich was an attorney at an AmLaw 200 national litigation firm in Philadelphia where he focused his practice on commercial litigation and financial services litigation. Mr. Ferich possesses major jury trial experience and has assisted in litigating cases through all stages that have collectively resulted in hundreds of millions in settlement value in damages and injunctive relief for various classes and groups of people.

AW's Results and Current Noteworthy Leadership Roles in Privacy Cases

AW has achieved excellent results as lead counsel in numerous complex class actions throughout its more than two decade existence.

As co-lead counsel in the *Zoom Video Communications, Inc. Privacy Litigation*, No. 5:20-cv-02155 (N.D. Cal.) (Hon. Laurel Beeler), a nationwide class action alleging privacy violations from the collection of personal information through third-party software development kits and failure to provide end to end encryption, AW achieved an $85 million nationwide class settlement that also included robust injunctive relief overhauling Zoom's data collection and security practices.

As co-lead counsel in the *Experian Data Breach Litigation*, No. 8:15-cv-01592-AG-DFM (C.D. Cal.) (Hon. Andrew J. Guilford), which affected nearly 15 million class members, AW achieved a settlement conservatively valued at over $150 million. Each class member was entitled to two years of additional premium credit monitoring and ID theft insurance (to begin whenever their current credit monitoring product, if any, expires) plus monetary relief (in the form of either documented losses or a default payment for non-documented claims). Experian also provided robust injunctive relief. Judge Guilford praised counsel's efforts and efficiency in achieving the settlement, commenting "You folks have truly done a great job, both sides. I commend you."

In *Rivera v. Google LLC*, No. 2019-CH-00990 (Ill Cir. Ct.) (Hon. Anna M. Loftus), a class action arising from Google's alleged illegal collection, storage, and use of the biometrics of individuals who appear in photographs uploaded to Google Photos in violation of the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.*, AW achieved a settlement that establishes a $100 million non-reversionary cash settlement fund and provides meaningful prospective relief for the benefit of class members.

As an invaluable member of a five-firm PSC in the *Premera Blue Cross Customer Data Sec. Breach Litigation*, No. 3:15-cv-02633-SI (D. Or.) (Hon. Michael H. Simon), arising from a data breach disclosing the sensitive personal and medical information of 11 million Premera Blue Cross members, AW was instrumental in litigating the case through class certification and achieving a nationwide class settlement valued at $74 million.

Similarly, in the *U.S. Office of Personnel Management Data Security Breach Litigation*, No. 1:15-mc-1394-ABJ (D.D.C.) (Hon. Amy Berman Jackson), AW, as a member of the PSC, briefed and argued, in part, the granted motions to dismiss based on standing, briefed in part the successful appeal to the D.C. Circuit, and had an important role in a preliminarily approved settlement providing for a $63 million settlement fund.

In *The Home Depot, Inc., Customer Data Sec. Breach Litigation*, No. 1:14-md-02583-TWT (N.D. Ga.) (Hon. Thomas W. Thrash Jr.), AW served on the consumer PSC and was instrumental in achieving a $29 million settlement fund and robust injunctive relief for the consumer class.

AW also currently serves on the PSC in *Am. Med. Collection Agency, Inc., Customer Data Sec. Breach Litigation*, No. 2:19-md-2904-MCA-MAH (D.N.J.) (Hon. Madeline Cox Arleo), a class action arising out of a medical data breach that disclosed the personal and financial information of over 20 million patients, as well as many other data breach class actions.

* * *

AW has all the resources at its disposal necessary to effectively and efficiently litigate large scale class action litigation. The firm has never used litigation funding for any of its cases. AW employs 11 attorneys and numerous paralegals and support staff, and is willing and able to deploy its resources as needed in each of the cases it is leading. More information about AW and its lawyers is available at the firm's website, https://www.ahdootwolfson.com.

ANDREW W. FERICH – AHDOOT & WOLFSON, P.C.

Case Results, Appointments and Leadership, and Active Litigation

AUTOMOTIVE DEFECTS LITIGATION

Results

Steinhardt et al. v. Volkswagen Group of America, Inc. et al., No. 3:23-cv-02291-RK-RLS (D.N.J.) (Kirsch, J.): approved settlement valued at over **$30 million**, in a class action lawsuit alleging a defective belt start generator in certain Audi automobiles that involved hundreds of thousands of class members. Mr. Ferich was appointed settlement co-lead class counsel. In granting final settlement approval, the Court stated that plaintiffs' counsel "are highly experienced and dedicated attorneys who secured what I view to be an excellent outcome for the class."

In re MyFord Touch Consumer Litig., No. 13-cv-03072-EMC (N.D. Cal.) (Chen, J.): **$17** million approved settlement in this consumer class action concerning allegedly defective MyFord Touch infotainment systems, which settled shortly before trial. Mr. Ferich was an instrumental part of the litigation team, including substantial contributions to trial preparation prior to the case settling on the doorsteps of trial.

Udeen v. Subaru of Am., Inc., No. 18-17334 (RBK) (JS) (D.N.J.) (Kugler, J.): Mr. Ferich was co-lead counsel in this class action involving a defect in the Starlink infotainment system in certain Subaru automobiles that resulted in an approved settlement valued at **$6.25 million**. The Court observed that Mr. Ferich and his co-counsel "are very skilled and very efficient lawyers . . . . They've done a nice job."

Duffy, et al. v. Mazda Motor of America, Inc., No. 3:24-cv-388-BB (W.D. Ky.) (Beaton, J.): preliminarily approved settlement in a class action lawsuit involving 1.7 million class members. The lawsuit alleges an infotainment system defect in certain Mazda automobiles. Mr. Ferich is one of two court-appointed co-lead counsel.

Cilluffo, et al. v. Subaru of America, Inc., et al., No. 1:23-cv-01897-KMW-AMD (D.N.J.) (Williams, J.): Mr. Ferich was appointed interim co-lead counsel in a second case against Subaru alleging defective Starlink infotainment systems in certain Subaru vehicles.

Active Litigation and Leadership

McNeely, et al. v. FCA US, LLC, No. 5:24-cv-11596-JEL-DRG (E.D. Mich.) (Levy, J.): Mr. Ferich identified and developed this case, and is leading this litigation on behalf of his firm. In this case, Plaintiffs allege that certain Fiat Chrysler vehicles across various model years suffer from a host of issues that cause the vehicles' Uconnect infotainment system to work intermittently or fail.

Le Beau, et al. v. Kia America, Inc., No. 8:22-cv-01545-FWS-JDE (C.D. Cal.) (Slaughter, J.): Mr. Ferich identified and developed this case, and is leading this litigation on behalf of his firm. In this case, Plaintiffs allege that certain Kia Optima and Sportage model year vehicles suffer from defective power window regulators that cause the power windows to fail over time.

PRODUCTS LIABILITY AND DEFECTIVE PRODUCTS LITIGATION

Results

In re: MacBook Keyboard Litig., No: 5:18-cv-02813-EJD (N.D. Cal.) (Davila, J.): **$50 million** approved settlement that alleged certain Apple MacBook laptop models contained a known defect plaguing the functionality of Apple's notorious butterfly keyboard. Mr. Ferich identified and developed this proprietary, high profile, and highly covered case. He also developed the relevant legal theories, and was instrumental in litigating this action. In granting final settlement approval, the Court noted that plaintiffs' counsel "achieved excellent results for the class.").

In re Nexus 6P Prods. Liab. Litig., No. 5:17-cv-02185-BLF (N.D. Cal.) (Freeman, J.): **$9.75 million** approved settlement in an action alleging that Google smartphones contained a defect that caused "bootlooping" and sudden battery drain. Mr. Ferich principally was involved in litigating this case to settlement.

Weeks, et al. v. Google LLC, No. 5:18-cv-00801-NC (N.D. Cal.) (Cousins, J.): **$7.25 million** approved settlement in a consumer class action alleging that Google sold first-generation Pixel smartphones with a known microphone defect. Mr. Ferich principally was involved in litigating this case to settlement.

Active Litigation and Leadership

In re Apple Data Privacy Litig., No. 5:22-cv-07069-EJD (N.D. Cal.) (Davila, J.): Mr. Ferich developed and principally litigated this case for his law firm. The litigation alleges that certain Apple mobile devices continue to record and track user activity even after consumers change their device settings to prevent data sharing.

McFadden v. Microsoft Corp., No. C20-0640-RSM-MAT (W.D. Wash.) (Martinez, J.): Mr. Ferich was appointed as interim co-lead class counsel in a consumer products class action alleging that certain Microsoft Xbox controllers are plagued with a defect causing controller "drift."

ERISA / RETIREMENT PLAN LITIGATION

Results

Davis, et al. v. Washington University in St. Louis, et al., No. 4:17-cv-01641-RLW (E.D. Mo.) (White, J.): **$7.5 million** approved common fund settlement in an ERISA class action lawsuit alleging excessive fees and other fiduciary breaches relating to one of the largest university 403(b) retirement plans, with nearly $6 billion in assets. Mr. Ferich identified, developed, and principally litigated this case, including drafting the briefing that revived the litigation on appeal to the United States Court of Appeals for the Eighth Circuit.

Smith, et al. v. VCA Inc., et al., No. 2:21-cv-09140-GW-AGR (C.D. Cal.) (Wu, J.): **$1.5 million** approved common fund class action settlement in a lawsuit alleging violations of ERISA relating to excessive 401(k) plan recordkeeping and administrative fees, and other fiduciary breaches. Mr. Ferich was appointed co-lead class counsel.

Tsui, et al. v. Universal Services of America, LP, et al., No. 8:22-cv-01158-JWH-JDE (C.D. Cal.) (Holcombe, J.): **$1.4 million** common fund class action settlement pending preliminary approval in a lawsuit alleging violations of ERISA relating to excessive 401(k) plan recordkeeping and administrative fees, and other fiduciary breaches. Mr. Ferich is appointed co-lead class counsel.

<u>PRIVACY AND DATA BREACH LITIGATION</u>

Results

In re loanDepot Data Breach Litigation, Case No.: 8:24-cv-00136-DOC-JDEx (C.D. Cal.) (Carter, J.): **$25 million** preliminarily approved common fund class action settlement on behalf of over 16.9 million class members in a data breach lawsuit against a large retail mortgage lender that involves highly sensitive personally identifying information. Mr. Ferich identified, developed, and principally litigated this case from inception through settlement.

Heath, et al. v. Keenan & Associates, et al., Case No. 24STCV03018 (Cal. Super. Ct. Los Angeles Cty.): **$14 million** common fund class action settlement on behalf of over 1.78 million victims in an insurance broker data breach case, pending preliminary approval. Mr. Ferich is seeking to be appointed co-lead class counsel.

Harbour, et al. v. California Health & Wellness Plan, et al., No. 5:21-cv-03322 (N.D. Cal.) (Davila, J.): **$10 million** approved common fund class action settlement on behalf of 1.5 million victims in a medical information data breach case that is part of the Accellion hub-and-spoke data breach litigation. Mr. Ferich was appointed as co-lead counsel.

In re Wawa, Inc. Data Breach Litigation, No. 2:19-cv-06019 (E.D. Pa.) (Pratter, J.): settlement including **$9 million** in cash and gift cards and data security enhancements valued at no less than $35 million on behalf of consumers whose sensitive payment card information was exposed to criminals as part of a highly publicized data breach. Mr. Ferich identified and was instrumental in developing and litigating this lawsuit prior to settlement.

Bianucci v. Rite Aid Corp., No. 2:24-cv-03356 (E.D. Pa.) (Bartle III, J.): preliminarily approved **$6.8 million** common fund class action settlement on behalf of 2.2 million consumers who had, among other data, their driver's license information compromised. Mr. Ferich is appointed co-lead class counsel.

Cochran, et al. v. The Kroger Co., et al., No. 5:21-cv-01887-EJD (N.D. Cal.) (Davila, J.): **$5 million** approved common fund class action settlement on behalf of 3.82 million victims in a medical information data breach case that is part of the Accellion hub-and-spoke data breach litigation. Mr. Ferich was appointed as co-lead counsel.

Smeltz, et al. v. Logan Health, et al., No. A-DV-22-0124 (Mont. 8th Jud. Dist. Ct., Cascade Cty.): **$4.3 million** approved common fund class action settlement on behalf of hundreds of thousands of Montanans whose sensitive medical information was reportedly exposed to cybercriminals. Mr. Ferich was appointed as co-lead class counsel. On appeal to the Montana Supreme Court, Mr. Ferich wrote the appellate briefing and overcame an objection that resulted in published opinion affirming the final approval order and shaped class action jurisprudence in the State of Montana.

Nelson, et al. v. Connexin Software Inc. d/b/a Office Practicum, No. 2:22-cv-04676-JDW (E.D. Pa.) (Wolson, J.): **$4 million** approved common fund class action settlement on behalf of millions of victims in a pediatric medical information data breach case. Mr. Ferich was appointed to the Plaintiffs' Steering Committee.

Leitermann, et al. v. Forefront Dermatology SC, et al., No. 1:21-cv-00887-LA (E.D. Wis.) (Adelman, J.): **$3.75 million** approved common fund class action settlement on behalf of millions of victims in a medical data breach case. Mr. Ferich was appointed as co-lead class counsel.

Gravley, Sr., et al. v. Fresenius Vascular Care, Inc. d/b/a Azura Vascular Care, No. 2:24-cv-01148 (E.D. Pa.) (Baylson, J.): **$3.15 million** preliminarily approved common fund class action settlement on behalf of approximately 334,000 class members in a medical data breach case. Mr. Ferich is appointed as co-lead class counsel.

In re: Eskenazi Health Data Incident Litig., No. 49D01-2111-PL-038870 (Ind. Comm. Ct. Jan. 24. 2022): **$2.5 million** approved common fund class action settlement on behalf of approximately 160,000 victims in a medical data breach case. Mr. Ferich was appointed to the plaintiffs' steering committee.

Lukens v. Utah Imaging Assocs., No. 210906618 (Dist. Ct. Salt Lake Cty., Utah): **$2.1 million** approved common fund class action settlement on behalf of nearly 584,000 victims in a medical data breach case. Mr. Ferich was appointed as one of two co-lead class counsel.

Briscoe v. First Financial Credit Union, No. D-202-CV-2022-02974 (New Mexico 2d Judicial Dist. Ct. Bernalillo Cty.): **$1.6 million** approved common fund class action settlement on behalf of approximately 230,000 victims in a credit union data breach case. Mr. Ferich was appointed as co-lead counsel.

Pessia, et al. v. Warren General Hospital, Case No. 501 (Pa. Com. Pl. Warren Cty.): **$1.3 million** preliminarily approved common fund class action settlement on behalf of hundreds of thousands of victims in a medical data breach case. Mr. Ferich is appointed as one of two co-lead class counsel.

Kesner, et al. v. UMass Mem'l Health Care, Inc., No. 2185 CV 01210 (Mass. Super. Ct.): **$1.2 million** approved common fund class action settlement on behalf of hundreds of thousands of class members in a medical data breach case. Mr. Ferich was appointed co-lead class counsel.

Finn, et al. v. Empress Ambulance Service, LLC., Index No. 61058/2023 (N.Y. Supreme Court Westchester Cty.): **$1.05 million** approved common fund class action settlement on behalf of approximately 308,000 million victims in a medical data breach case. Mr. Ferich was appointed co-lead class counsel and overcame an objection to the settlement.

Breneman, et al. v. Keystone Rural Health Center d/b/a Keystone Health, No. 2023-618 (Pa. Com. Pl. Franklin Cnty.): **$900,000** approved common fund class action settlement on behalf of hundreds of thousands of victims who sensitive medical and other person information was disclosed in a data breach. Mr. Ferich was appointed as class counsel. He previously had been appointed as interim co-lead counsel in the federal court companion case, *In re Keystone Data Breach Litig.*, No. 1:22-cv-01643-CCC (M.D. Pa.).

Perdue v. Hy-Vee, Inc., No. 1:19-cv-01330 (C.D. Ill.): Mr. Ferich was appointed co-lead class counsel in payment card data breach litigation, where the settlement received final approval and included corporate commitments with a value of at least $20 million in data security improvements.

Easter, et al. v. Sound Generations, No. 21-2-16953-4 SEA (Wash. Super. Ct. King Cty.): Mr. Ferich was appointed class counsel in a medical information data breach class action impacting 600,000 people, where final settlement approval was granted.

McCullough v. True Health New Mexico, Inc., No. D-202-CV-2021-06816 (New Mexico 2d Judicial Dist. Ct. Bernalillo Cty.): Mr. Ferich was appointed class counsel in a medical information data breach class action impacting 63,000 people, where final settlement approval was granted.

Rivera, et al. v. Essen Medical Associates, P.C. d/b/a Essen Health Care, Index No. 801239/2024E N.Y. Supreme Court Bronx Cty.): Mr. Ferich is leading this class action litigation with co-counsel on behalf of nearly 908,000 victims in a medical data breach case.

Bray, et al. v. GameStop Corp., No. 1:17-cv-01365 (D. Del.) (Jones III, J.): Mr. Ferich was principally responsible for this payment card data breach litigation that involved 1.3 million credit and debit card holder class members. Mr. Ferich's efforts led to a nationwide class action action settlement. In approving the settlement in this matter, the District Judge commented that the settlement was "so comprehensive that there's really nothing else that I need developed further . . . ."

Gordon, et al. v. Chipotle, Case No. 17-cv-01415-CMA-SKC (D. Colo.) (Arguello, J.): Mr. Ferich identified, developed, and principally litigated this payment card data breach lawsuit alleging millions of debit and credit cardholders who shopped at Chipotle stores were impacted by a payment card breach. In approving the settlement, the Court observed that plaintiffs' counsel have "extensive experience in class action litigation . . . ."

Active Litigation and Leadership

In re: Snowflake, Inc. Data Security Breach Litigation, 2:24-md-03126-BMM, ECF Nos. 253, 255 (D. Mont.) (Morris, J.): Mr. Ferich is appointed to the Plaintiffs' Steering Committee and to serve on the law and briefing team and co-manage the Snowflake component of this sprawling hub-and-spoke data breach multi-district litigation.

Reichbart v. Financial Business and Consumer Solutions, Inc., No. 2:24-cv-01876 (E.D. Pa.) (Quiñones Alejandro, J.): Mr. Ferich is one of four court-appointed interim co-lead class counsel in a data breach class action lawsuit involving a debt collection company and its customers, in which over four million class members are impacted.

Anaya, et al. v. Cencora, Inc., et al., No. 24-2961 (E.D. Pa.) (Rufe, J.): Mr. Ferich is one of four court-appointed interim co-lead class counsel and a medical information hub-and-spoke-like data breach involving Cencora f/k/a AmerisourceBergen and numerous of its pharmaceutical company customers.

Volio v. Sugarhouse HSP Gaming, L.P. d/b/a Rivers Casino Philadelphia, et al., No. 2:25-cv-00039-JDW (E.D. Pa.) (Wolson, J.): Mr. Ferich is one of four court-appointed interim co-lead class counsel in a casino data breach involving Social Security numbers and direct deposit information.

Johnsen v. American Water Works Company, Inc., No. 1:24-cv-09752-RMB-EAP (D.N.J.) (Bumb, J.): Mr. Ferich is appointed Chair of the PSC in this data breach litigation involving one of the nation's largest water utilities.

In re: Geisinger Health Data Security Incident Litig., No. 4:24-cv-01071-MWB (M.D. Pa.) (Brann, J.): Mr. Ferich is appointed to the PSC in this health information data breach litigation.

In re HealthEquity, Inc. Data Security Incident Litig., No. 2:24-cv-00528-JNP-CMR (D. Utah) (Parrish, J.): Mr. Ferich is appointed as one of lead counsel on the Plaintiffs' Executive Committee in this health information data breach litigation.

In re GEICO Customer Data Breach Litig., No. 1:21-cv-02210-NCM-SJB (E.D.N.Y.) (Merle, J.): Mr. Ferich identified, developed, and principally litigates this case alleging that GEICO disclosed sensitive information, including information from motor vehicle records, as part of a data security incident, in violation of the law, including the federal Drivers Privacy Protection Act (DPPA), 28 U.S.C. §§ 2721, *et seq.*

EXHIBIT 4

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OUR **FIRM**

For over two decades, Kopelowitz Ostrow Ferguson Weiselberg Gilbert (KO) has provided comprehensive, results-oriented legal representation to individual, business, and government clients throughout Florida and the rest of the country. KO has the experience and capacity to represent its clients effectively and has the legal resources to address almost any legal need. The firm's 25 attorneys have practiced at several of the nation's largest and most prestigious firms and are skilled in almost all phases of law, including consumer class actions, multidistrict litigation involving mass tort actions, complex commercial litigation, and corporate transactions. In the class action arena, the firm has experience not only representing individual aggrieved consumers, but also defending large institutional clients, including multiple Fortune 100 companies.

WHO **WE ARE**

The firm has a roster of accomplished attorneys. Clients have an opportunity to work with some of the finest lawyers in Florida and the United States, each one committed to upholding KO's principles of professionalism, integrity, and personal service. Among our roster, you'll find attorneys whose accomplishments include Board Certified in their specialty; serving as in-house counsel for major corporations, as city and county attorneys handling government affairs, and as public defenders and prosecutors; achieving multi-millions of dollars through verdicts and settlements in trials, arbitrations, and alternative dispute resolution procedures; successfully winning appeals at every level in Florida state and federal courts; and serving government in various elected and appointed positions.

KO has the experience and resources necessary to represent large putative classes. The firm's attorneys are not simply litigators, but rather, experienced trial attorneys with the support staff and resources needed to coordinate complex cases.

CLASS
ACTION
PLAINTIFF

Since its founding, KO has initiated and served as lead class counsel in dozens of high-profile class actions. Although the actions are diverse by subject area, KO has established itself as one of the leading firms that sue national and regional banks and credit unions related to the unlawful assessment of fees. Their efforts spanning a decade plus have resulted in recoveries in excess of $500 million and monumental practices changes that have changed the industry and saving clients billions of dollars.

Additionally, other past and current cases have been prosecuted for breaches of insurance policies; data breaches; data privacy; wiretapping; biometric privacy; gambling; false advertising; defective consumer products and vehicles; antitrust violations; and suits on behalf of students against colleges and universities arising out of the COVID-19 pandemic.

The firm has in the past litigated certified and proposed class actions against Blue Cross Blue Shield and United Healthcare related to their improper reimbursements of health insurance benefits. Other insurance cases include auto insurers failing to pay benefits owed to insureds with total loss vehicle claims. Other class action cases include cases against Microsoft Corporation related to its Xbox 360 gaming platform, ten of the largest oil companies in the world in connection with the destructive propensities of ethanol and its impact on boats, Nationwide Insurance for improper mortgage fee assessments, and several of the nation's largest retailers for deceptive advertising and marketing at their retail outlets and factory stores.

CLASS ACTION DEFENSE

The firm also brings experience in successfully defended many class actions on behalf of banking institutions, mortgage providers and servicers, advertising conglomerates, aircraft manufacturer and U.S. Dept. of Defense contractor, a manufacturer of breast implants, and a national fitness chain.

MASS TORT LITIGATION

The firm also has extensive experience in mass tort litigation, including serving as Lead Counsel in the Zantac Litigation, one of the largest mass torts in history. The firm also has handled cases against 3M related to defective earplugs, several vaginal mash manufacturers, Bayer in connection with its pesticide Roundup, Bausch & Lomb for its Renu with MoistureLoc product, Wyeth Pharmaceuticals related to Prempro, Bayer Corporation related to its birth control pill YAZ, and Howmedica Osteonics Corporation related to the Stryker Rejuvenate and AGB II hip implants. In connection with the foregoing, some of which has been litigated within the multidistrict arena, the firm has obtained tens of millions in recoveries for its clients.

OTHER AREAS OF PRACTICE

In addition to class action and mass tort litigation, the firm has extensive experience in the following practice areas: commercial and general civil litigation, corporate transactions, health law, insurance law, labor and employment law, marital and family law, real estate litigation and transaction, government affairs, receivership, construction law, appellate practice, estate planning, wealth preservation, healthcare provider reimbursement and contractual disputes, white collar and criminal defense, employment contracts, environmental, and alternative dispute resolution.

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To learn more about KO, or any of the firm's other attorneys, please visit www.kolawyers.com.

CLASS ACTION AND MASS TORTS

FINANCIAL INSTITUTIONS

Aseltine v. Bank of America, N.A., 3:23-cv-00235 (W.D.N.C. 2024) – $21 million

McNeil v. Capital One, N.A., 1:19-cv-00473 (E.D.N.Y.) – Preliminary Approval - $16 million

Devore, et al. v. Dollar Bank, GD-21-008946 (Ct. Common Pleas Allegheny 2024) - $7 million

Nimsey v. Tinker Federal Credit Union, C1-2019-6084 (Dist. Ct. Oklahoma 2024) - $5.475 million

Precision Roofing of N. Fla. Inc., et al. v. CenterState Bank, 3:20-cv-352 (S.D. Fla. 2023) - $2.65 million

Checchia v. Bank of America, N.A., 2:21-cv-03585 (E.D. Pa. 2023) - $8 million

Quirk v. Liberty Bank, X03-HHD-CV20-6132741-S (Jud. Dist. Ct. Hartford 2023) - $1.4 million

Meier v. Prosperity Bank, 109569-CV (Dist. Ct. Brazoria 2023) - $1.6 million

Abercrombie v. TD Bank, N.A., 0:21-cv-61376 (S.D. Fla. 2022) - $4.35 million

Perks, et al. v. TD Bank, N.A., 1:18-cv-11176 (E.D.N.Y. 2022) - $41.5 million

Fallis v. Gate City Bank, 09-2019-CV-04007 (Dist. Ct., Cty. of Cass, N.D. 2022) - $1.8 million

Glass, et al. v. Delta Comm. Cred. Union, 2019CV317322 (Sup. Ct. Fulton Ga. 2022) - $2.8 million

Roy v. ESL Fed. Credit Union, 19-cv-06122 (W.D.N.Y. 2022) - $1.9 million

Wallace v. Wells Fargo, 17CV317775 (Sup. Ct. Santa Clara 2021) - $10 million

Doxey v. Community Bank, N.A., 8:19-CV-919 (N.D.N.Y. 2021) - $3 million

Coleman v. Alaska USA Federal Credit Union, 3:19-cv-0229-HRH (Dist. of Alaska 2021) - $1 million

Smith v. Fifth Third Bank, 1:18-cv-00464-DRC-SKB (W.D. Ohio 2021) - $5.2 million

Lambert v. Navy Federal Credit Union, 1:19-cv-00103-LO-MSN (S.D. Va. 2021) - $16 million

Roberts v. Capital One, N.A., 16 Civ. 4841 (LGS) (S.D.N.Y 2021) - $17 million

Lloyd v. Navy Federal Credit Union, 17-cv-01280-BAS-RBB (S.D. Ca. 2019) - $24.5million

Farrell v. Bank of America, N.A., 3:16-cv-00492-L-WVG (S.D. Ca. 2018) - $66.6 million

Bodnar v. Bank of America, N.A., 5:14-cv-03224-EGS (E.D. Pa. 2015) - $27.5 million

Morton v. Green Bank, 11-135-IV (20th Judicial District Tenn. 2018) - $1.5 million

Hawkins v. First Tenn. Bank, CT-004085-11 (13th Jud. Dist. Tenn. 2017) - $16.75 million

Payne v. Old National Bank, 82C01-1012 (Cir. Ct. Vanderburgh 2016) - $4.75 million

Swift. v. Bancorpsouth, 1:10-CV-00090 (N.D. Fla. 2016) - $24.0 million

Mello v. Susquehanna Bank, 1:09-MD-02046 (S.D. Fla. 2014) – $3.68 million

Johnson v. Community Bank, 3:11-CV-01405 (M.D. Pa. 2013) - $1.5 million

McKinley v. Great Western Bank, 1:09-MD-02036 (S.D. Fla. 2013) - $2.2 million

Blahut v. Harris Bank, 1:09-MD-02036 (S.D. Fla. 2013) - $9.4 million

Wolfgeher v. Commerce Bank, 1:09-MD-02036 (S.D. Fla. 2013) - $18.3 million

Case v. Bank of Oklahoma, 09-MD-02036 (S.D. Fla. 2012) - $19.0 million

Hawthorne v. Umpqua Bank, 3:11-CV-06700 (N.D. Cal. 2012) - $2.9 million

Simpson v. Citizens Bank, 2:12-CV-10267 (E.D. Mich. 2012) - $2.0 million

Harris v. Associated Bank, 1:09-MD-02036 (S.D. Fla. 2012) - $13.0 million

LaCour v. Whitney Bank, 8:11-CV-1896 (M.D. Fla. 2012) - $6.8 million

Orallo v. Bank of the West, 1:09-MD-202036 (S.D. Fla. 2012) - $18.0 million

Taulava v. Bank of Hawaii, 11-1-0337-02 (1st Cir. Hawaii 2011) - $9.0 million

DATA BREACH AND PRIVACY

In re: Fortra, MDL No. 3090 (S.D. Fla.) – $27 million

Crowe, et al. v. Managed Care of North America, Inc., 0:23-cv-61065-AHS (S.D. Fla.) – Co-Lead Counsel

Malinowski, et al. v. IBM Corp. and Johnson & Johnson, 7:23-cv-08421 (S.D.N.Y.) – Co-Lead Counsel

Gordon, et al. v. Zeroed-In Technologies, LLC, et al., 1:23-CV-03284 (D. Md.) – Co-Lead Counsel

Harrell, et al. v. Webtpa Employer Services LLC, 3:24-CV-01158 (N.D. Tex.) - Co-Lead Counsel

Gambino, et al. v. Berry Dunn Mcneil & Parker LLC, 2:24-CV-00146 (D. Me.) - $7.25 million

Isaac v. Greylock McKinnon Associates, Inc., 1:24-CV-10797 (D. Mass.) - $600,000

Rodriguez, et al. v. Caesars Entertainment, Inc., 2:23-CV-01447 (D. Nev.) - Steering Committee Chair

Owens v. MGM Resorts International, 2:23-cv-01480-RFB-MDC (D. Nev.) - $45 million

Doyle v. Luxottica of America, Inc., 1:20-cv-00908-MRB (S.D. Ohio) - Executive Committee

Doe, et al. v. Highmark, Inc., 2:23-cv-00250-NR (W.D. Penn.) - Executive Committee

Silvers, et al. v. HCA Healthcare, Inc., 1:23-cv-01003-LPH (S.D. In.) - Executive Committee

In re: 21st Century Oncology, MDL No. 2737 (M.D. Fla. 2021) - $21.8 million

In re: CaptureRx Data Breach, 5:21-cv-00523 (W.D. Tex. 2022) - $4.75 million

Lopez, et al. v. Volusion, LLC, 1:20-cv-00761 (W.D. Tex. 2022) - $4.3 million

Mathis v. Planet Home Lending, LLC, 3:24-CV-00127 (D. Conn.) - $2.425 million

Stadnik v. Sovos Compliance, LLC, 1:23-CV-12100 (D. Mass.) - $3.5 million

Turner v. Johns Hopkins, et al., 24-C-23-002983 (Md. Cir. Ct.) - $2.9 million

Peterson v. Vivendi Ticketing US LLC, 2:23-CV-07498 (C.D. Cal.) - $3.25 million

Katz et al. v. Einstein Healthcare Network, No. 02045 (Phila C.P.) - $1.6 million

Opris et al v. Sincera Reproductive Medicine et al, No. 2:21-cv-03072 (E.D. PA) - $1.2 million

Garza et al v. Healthalliance, Inc. et al, No. 7245012023 (N.Y. Sup. Ct.) - $1.29 million

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CONSUMER PROTECTION

Ostendorf v. Grange Indemnity Ins. Co., 2:19-cv-01147-ALM-KAJ (E.D. Ohio 2020) - $12.6 million

Paris, et al. v. Progressive Select Ins. Co., et al., 19-21760-CIV (S.D. Fla. 2023) - $38 million

Spielman v. USAA, et al., 2:19-cv-01359-TJH-MAA (C.D. Ca. 2023) - $3 million

Walters v. Target Corp., 3:16-cv-1678-L-MDD (S.D. Cal. 2020) - $8.2 million

Papa v. Grieco Ford Fort Lauderdale, LLC, 18-cv-21897-JEM (S.D. Fla. 2019) - $4.9 million

In re Disposable Contact Lens Antitrust Litig., MDL 2626 (M.D. Fla.) - $88 million

Vandiver v. MD Billing Ltd., 2023LA000728 (18th Jud. Dist. Ill. 2023) - $24 million

Skrandel v. Costco Wholesale Corp., 9:21-cv-80826-BER (S.D. Fla. 2024) - $1.3 million

Evans v. Church & Dwight Co., Inc., 1:22-CV-06301 (N.D. Ill. 2023) - $2.5 million

In Re: Farm-Raised Salmon & Salmon Prod. Antitrust Litig., No. 1:19-cv-21551 (S.D. Fla. 2023) - $75 million

Perry v. Progressive Michigan, et al., 22-000971-CK (Cir. Ct. Washtenaw) - Class Counsel

In re Apple Simulated Casino-Style Games Litig., MDL No. 2958 (N.D. Cal.) - Executive Committee

In re Google Simulated Casino-Style Games Litig., MDL No. 3001 (N.D. Cal.) - Executive Committee

In re Facebook Simulated Casino-Style Games Litig., No. 5:21-cv-02777 (N.D. Cal.) - Exec. Committee

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MASS TORT

In re Zantac Prods. Liab. Litig., MDL No. 2924 (S.D. Fla.) - Co-Lead Counsel

In re: National Prescription Opiate Litigation, No. MDL No. 2804 (N.D. Ohio) - $100 million

In re: Juul Labs, No. MDL No. 2913 (N.D. Cal.) - $26 million

In re: Davenport Hotel Building Collapse, LACE137119 (Dist. Ct. Scott Cty., Iowa) - Class Counsel

In re: 3M Combat Arms Earplug Prod. Liab. Litig., MDL No. 2885 (N.D. Fla.) - Numerous Plaintiffs

In re: Stryker Prod. Liab. Lit., 13-MD-2411 (Fla. Cir Ct.) - Numerous Plaintiffs

JEFF OSTROW

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Bar Admissions
Florida Bar
District of Columbia Bar

Court Admissions
Supreme Court of the United States
U.S. Court of Appeals for the Eleventh Circuit
U.S. Court of Appeals for the Ninth Circuit
U.S. District Court, Southern District of Florida
U.S. District Court, Middle District of Florida
U.S. District Court, Northern District of Florida
U.S. District Court, Northern District of Illinois
U.S. District Court, Eastern District of Michigan
U.S. District Court, Western District of Tennessee
U.S. District Court, Western District of Wisconsin
U.S. District Court, Western District of Kentucky
U.S. District Court, Northern District of New York
U.S. District Court, District of Colorado
U.S. District Court, Southern District of Indiana
U.S. District Court, Eastern District of Texas
U.S. District Court, District of Nebraska

Education
Nova Southeastern University, J.D. - 1997
University of Florida, B.S. – 1994

Jeff Ostrow is the Managing Partner of Kopelowitz Ostrow P.A. He established his own law practice in 1997 immediately upon graduation from law school and has since grown the firm to 30 attorneys in 3 offices throughout south Florida. In addition to overseeing the firm's day-to-day operations and strategic direction, Mr. Ostrow practices full time in the area of consumer class actions. He is a Martindale-Hubbell AV® Preeminent™ rated attorney in both legal ability and ethics, which is the highest possible rating by the most widely recognized attorney rating organization in the world.

Mr. Ostrow is an accomplished trial attorney who has experience representing both Plaintiffs and Defendants. He has successfully tried many cases to verdict involving multi-million-dollar damage claims in state and federal courts. He is currently court-appointed lead counsel and sits on plaintiffs' executive committees in multiple high profile nationwide multi-district litigation actions involving cybersecurity breaches and related privacy issues.

Additionally, he has spent the past 15 years serving as lead counsel in dozens of nationwide and statewide class action lawsuits against many of the world's largest financial institutions in connection with the unlawful assessment of fees. To date, his efforts have successfully resulted in the recovery of over $1 billion for tens of millions of bank and credit union customers, as well as monumental changes in the way they assess fees. Those changes have forever revolutionized an industry, resulting in billions of dollars of savings. In addition, Mr. Ostrow has served as lead class counsel in many consumer class actions against some of the world's largest airlines, pharmaceutical companies, clothing retailers, health and auto insurance carriers, technology companies, and oil conglomerates, along with serving as class action defense counsel for some of the largest advertising and marketing agencies in the world, banking institutions, real estate developers, and mortgage companies. A selection of settled class actions in which Mr. Ostrow has participated are listed herein above.

Mr. Ostrow often serves as outside General Counsel to companies, advising them in connection with their legal and regulatory needs. He has represented many Fortune 500® Companies in connection with their Florida litigation. He has handled cases covered by media outlets throughout the country and has been quoted many times on various legal topics in almost every major news publication, including the Wall Street Journal, New York Times, Washington Post, Miami Herald, and Sun-Sentinel. He has also appeared on CNN, ABC, NBC, CBS, Fox, ESPN, and almost every other major national and international television network in connection with his cases, which often involve industry changing litigation or athletes in Olympic swimming, professional boxing, the NFL, NBA and MLB.

Mr. Ostrow received a Bachelor of Science in Business Administration from the University of Florida in 1994 and Juris Doctorate from Nova Southeastern University in 1997. He is a licensed member of The Florida Bar and the District of Columbia Bar, is fully admitted to practice before the U.S. Supreme Court, U.S. Court of Appeals for the Ninth Circuit and Eleventh Circuit, the U.S. District Courts for the Southern, Middle, and Northern Districts of Florida, District of Colorado, Southern District of Indiana, Western District of Kentucky, Eastern District of Michigan, Northern District of Illinois, District of Nebraska, Northern District of New York, Western District of Tennessee, Eastern District of Texas, and Western District of Wisconsin. Mr. Ostrow is also member of several bar associations.

In addition to the law practice, he is the founder and president of ProPlayer Sports LLC, a full-service sports agency and marketing firm. He represents both Olympic Gold Medalist Swimmers, World Champion Boxers, and select NFL athletes, and is licensed by both the NFL Players Association as a certified Contract Advisor. At the agency, Mr. Ostrow handles all player-team negotiations of contracts, represents his clients in legal proceedings, negotiates all marketing and NIL engagements, and oversees public relations and crisis management. He has extensive experience in negotiating, mediating, and arbitrating a wide range of issues on behalf of clients with the NFL Players Association, the International Olympic Committee, the United States Olympic Committee, USA Swimming and the World Anti-Doping Agency. He has been an invited sports law guest speaker at New York University and Nova Southeastern University and has also served as a panelist at many industry-related conferences.

He is a lifetime member of the Million Dollar Advocates Forum. The Million Dollar Advocates Forum is the most prestigious group of trial lawyers in the United States. Membership is limited to attorneys who have had multi-million dollar jury verdicts. Additionally, he is consistently named as one of the top lawyers in Florida by Super Lawyers®, a publication that recognizes the best lawyers in each state. Mr. Ostrow is an inaugural recipient of the University of Florida's Warrington College of Business Administration Gator 100 award for the fastest growing University of Florida alumni- owned law firm in the world.

When not practicing law, Mr. Ostrow serves on the Board of Governors of Nova Southeastern University's Wayne Huizenga School of Business and is the Managing Member of One West LOA LLC, a commercial real estate development company with holdings in downtown Fort Lauderdale. He has previously sat on the boards of a national banking institution and a national healthcare marketing company. Mr. Ostrow is a founding board member for the Jorge Nation Foundation, a 501(c)(3) non-profit organization that partners with the Joe DiMaggio Children's Hospital to send children diagnosed with cancer on all-inclusive Dream Trips to destinations of their choice. Mr. Ostrow resides in Fort Lauderdale, Florida, and has 3 sons.

DAVID FERGUSON

Partner

Bar Admissions
The Florida Bar

Court Admissions
U.S. District Court, Southern District of Florida
U.S. District Court, Middle District of Florida
U.S. District Court, Northern District of Florida

Education
Nova Southeastern University, J.D. - 1993
Nova Southeastern University, B.S. – 1990

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David L. Ferguson is an accomplished trial attorney and chairs the firm's litigation department. He routinely leads high stakes litigation across a wide array of practice areas, including, but not limited to, employment law, complex business litigation, class actions, product liability, catastrophic personal injury, civil rights, and regulatory enforcement actions.

Mr. Ferguson is a Martindale-Hubbell AV® Preeminent™ rated attorney in both legal ability and ethics, a testament to the fact that his peers (lawyers and judges in the community) have ranked him at the highest level of professional excellence. Mr. Ferguson is well regarded as a formidable advocate in court and for providing creative and insightful strategic advice, particularly in emergency and extremely complex situations.

While in law school, Mr. Ferguson served as a Staff Member of the Nova Law Review. He was also a member of the Moot Court Society and the winner of the Moot Court Intramural Competition.

Representation of the Broward Sheriff's Office

Since 2013, Mr. Ferguson has had the privilege of representing the Broward Sheriff's Office ("BSO") in over 150 matters involving many different types of disputes and issues, including: defense of civil rights lawsuits in state and federal court; negotiating collective bargaining agreements with unions; and arbitrations brought by unions or employees subjected to termination or other significant discipline. Mr. Ferguson has had many arbitration final hearings and state and federal jury trials for BSO representing the agency as well as the Sheriff and numerous Deputies individually.

Class/Mass Actions

Mr. Ferguson has experience in class actions against large banks and some of the world's largest companies, including technology companies and oil conglomerates.

Additionally, during his career Mr. Ferguson has defended many large companies in MDL's, and mass and class actions, including medical equipment manufacturers, pharmaceutical companies, an aircraft parts and engine manufacturer and defense contractor, nationwide retailers, and a massive sugar manufacturer.

Large Fraud and Ponzi Cases

Mr. Ferguson has a great deal of experience litigating cases involving massive fraud claims, most often for victims, but also for select defendants. Mr. Ferguson's clients have included individual victims who have lost multiple millions of dollars in fraud schemes to large businesses with tremendous damages, including one international lending institution with damages in excess of $150 million. Additionally, Mr. Ferguson successfully represented several individuals and entities subjected to significant claims by a receiver and the United States Marshals Service in a massive billion-dollar Ponzi scheme involving a notorious Ft. Lauderdale lawyer and his law firm.

Regulatory Agency Enforcement Actions

Mr. Ferguson has extensive experience defending individuals and entities in significant enforcement actions brought by regulatory agencies, including the CFTC, FTC, and SEC.

Employment, Human Resources, and Related Matters

Mr. Ferguson has represented numerous business and individuals in employment and human resource related matters. Mr. Ferguson has represented several Fortune 50 companies, including Pratt & Whitney/UTC, Home Depot, and Office Depot in all phases of employment related matters. Mr. Ferguson has litigated virtually every type of discrimination and employment related claim, including claims based upon race, pregnancy, disability, national origin, religion, age, sexual preference, sexual harassment, worker's compensation, unemployment, FMLA leave, FLSA overtime, unpaid wages, whistleblower, and retaliation.

Mr. Ferguson primarily represents companies, but also represents select individuals who have claims against their present or former employers. In addition to the wide variety of employment claims discussed above, as plaintiff's counsel Mr. Ferguson has also handled federal False Claims Act (Qui Tam) and the Foreign Corrupt Practices Act claims brought by individuals.

Business Disputes

Throughout his legal career, as counsel for plaintiffs and defendants, Mr. Ferguson has handled a myriad of commercial cases involving all types of business disputes, including claims for breach of partnership agreements, breach of shareholder or limited liability company operating agreements; dissolution of corporations and limited liability companies; appointment of receivers; breaches of fiduciary duty; conversion; constructive trust; theft; negligent or intentional misrepresentation or omissions; fraudulent inducement; tortious interference; professional negligence or malpractice; derivate actions, breach of contract, real estate disputes, and construction disputes.

Noncompetition and Trade Secret Litigation

Mr. Ferguson routinely represents companies and individuals in commercial disputes involving unfair and deceptive trade practices, unfair competition and/or tortious interference with contracts or valuable business relationships. Often these cases involve the enforcement of noncompetition agreements and protection of valuable trade secrets. Mr. Ferguson has extensive experience representing businesses seeking to enforce their noncompetition agreements and/or protect trade secrets through suits for injunctive relief and damages and representing subsequent employers and individuals defending against such claims. He has obtained numerous injunctions for his clients and has also successfully defended against them numerous times, including getting injunctions dissolved that were entered against his clients without notice or prior to his representation. Mr. Ferguson has also obtained contempt sanctions and entitlement to punitive damages against individuals and entities who have stolen trade secrets from his clients.

ROBERT C. GILBERT

Partner

Bar Admissions
The Florida Bar
District of Columbia Bar

Court Admissions
Supreme Court of the United States
U.S. Court of Appeals for the 11th Circuit
U.S. District Court, Southern District of Florida
U.S. District Court, Middle District of Florida

Education
University of Miami School of Law, J.D. - 1985
Florida International University, B.S. - 1982

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Robert C. "Bobby" Gilbert has over three decades of experience handling class actions, multidistrict litigation and complex business litigation throughout the United States. He has been appointed lead counsel, co-lead counsel, coordinating counsel or liaison counsel in many federal and state court class actions. Bobby has served as trial counsel in class actions and complex business litigation tried before judges, juries and arbitrators. He has also briefed and argued numerous appeals, including two precedent-setting cases before the Florida Supreme Court.

Bobby was appointed as Plaintiffs' Coordinating Counsel in *In re Checking Account Overdraft Litig.*, MDL 2036, class action litigation brought against many of the nation's largest banks that challenged the banks' internal practice of reordering debit card transactions in a manner designed to maximize the frequency of customer overdrafts. In that role, Bobby managed the large team of lawyers who prosecuted the class actions and served as the plaintiffs' liaison with the Court regarding management and administration of the multidistrict litigation. He also led or participated in settlement negotiations with the banks that resulted in settlements exceeding $1.1 billion, including Bank of America ($410 million), Citizens Financial ($137.5 million), JPMorgan Chase Bank ($110 million), PNC Bank ($90 million), TD Bank ($62 million), U.S. Bank ($55 million), Union Bank ($35 million) and Capital One ($31.7 million).

Bobby has been appointed to leadership positions is numerous other class actions and multidistrict litigation proceedings. He is currently serving as co-lead counsel in *In re Zantac (Ranitidine) Prods. Liab. Litig.*, 9:20-md-02924-RLR (S.D. Fla.), as well as liaison counsel in *In re Disposable Contact Lens Antitrust Litig.*, MDL 2626 (M.D. Fla.); liaison counsel in *In re 21st Century Oncology Customer Data Security Breach Litig.*, MDL 2737 (M.D. Fla.); and *In re Farm-Raised Salmon and Salmon Products Antitrust Litig.*, No. 19-21551 (S.D. Fla.). He previously served as liaison counsel for indirect purchasers in *In re Terazosin Hydrochloride Antitrust Litig.*, MDL 1317 (S.D. Fla.), an antitrust class action that settled for over $74 million.

For the past 18 years, Bobby has represented thousands of Florida homeowners in class actions to recover full compensation under the Florida Constitution based on the Florida Department of Agriculture's taking and destruction of the homeowners' private property. As lead counsel, Bobby argued before the Florida Supreme Court to establish the homeowners' right to pursue their claims; served as trial counsel in non-jury liability trials followed by jury trials that established the amount of full compensation owed to the homeowners for their private property; and handled all appellate proceedings. Bobby's tireless efforts on behalf of the homeowners resulted in judgments exceeding $93 million.

Bobby previously served as an Adjunct Professor at Vanderbilt University Law School, where he co-taught a course on complex litigation in federal courts that focused on multidistrict litigation and class actions. He continues to frequently lecture and make presentations on a variety of topics.

Bobby has served for many years as a trustee of the Greater Miami Jewish Federation and previously served as chairman of the board of the Alexander Muss High School in Israel, and as a trustee of The Miami Foundation.

JONATHAN M. STREISFELD

Partner

Bar Admissions
The Florida Bar

Court Admissions
Supreme Court of the United States
U.S. Court of Appeals for the First, Second, Fourth, Fifth Ninth, and Eleventh Circuits
U.S. District Court, Southern District of Florida
U.S. District Court, Middle District of Florida
U.S. District Court, Northern District of Florida
U.S. District Court, Northern District of Illinois
U.S. District Court, Western District of Michigan
U.S. District Court, Western District of New York
U.S. District Court, Western District of Tennessee

Education
Nova Southeastern University, J.D. - 1997
Syracuse University, B.S. - 1994

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Jonathan M. Streisfeld joined KO as a partner in 2008. Mr. Streisfeld concentrates his practice in the areas of consumer class actions, business litigation, and appeals nationwide. He is a Martindale Hubbell AV® Preeminent™ rated attorney in both legal ability and ethics.

Mr. Streisfeld has vast and successful experience in class action litigation, serving as class counsel in nationwide and statewide consumer class action lawsuits against the nation's largest financial institutions in connection with the unlawful assessment of fees. To date, his efforts have successfully resulted in the recovery of over $500,000,000 for tens of millions of bank and credit union customers, as well as profound changes in the way banks assess fees. Additionally, he has and continues to serve as lead and class counsel for consumers in many class actions involving false advertising and pricing, defective products, data breach and privacy, automobile defects, airlines, mortgages, and payday lending. Mr. Streisfeld has also litigated class actions against some of the largest health and automobile insurance carriers and oil conglomerates, and defended class and collective actions in other contexts.

Mr. Streisfeld has represented a variety of businesses and individuals in a broad range of business litigation matters, including contract, fraud, breach of fiduciary duty, intellectual property, real estate, shareholder disputes, wage and hour, and deceptive trade practices claims. He also assists business owners and individuals with documenting contractual relationships and resolving disputes. Mr. Streisfeld has also provided legal representation in bid protest proceedings.

Mr. Streisfeld oversees the firm's appellate and litigation support practice, representing clients in the appeal of final and non-final orders, as well as writs of certiorari, mandamus, and prohibition. His appellate practice includes civil and marital and family law matters.

Previously, Mr. Streisfeld served as outside assistant city attorney for the City of Plantation and Village of Wellington in a broad range of litigation matters. As a member of The Florida Bar, Mr. Streisfeld served for many years on the Executive Council of the Appellate Practice Section and is a past Chair of the Section's Communications Committee.

KEN GRUNFELD

Partner

Bar Admissions

The Pennsylvania Bar
The New Jersey Bar

Court Admissions

U.S. Court of Appeals for the Third, Fourth, Fifth, Ninth, Tenth and Eleventh Circuits
U.S. District Ct, Eastern District of Pennsylvania
U.S. District Ct, Middle District of Pennsylvania
U.S. District Ct, Western District of Pennsylvania
U.S. District Ct, District of New Jersey
U.S. District Ct, Eastern District of Michigan
U.S. District Ct, Western District of Wisconsin

Education

Villanova University School of Law, J.D., 1999
University of Michigan, 1996

Email: grunfeld@kolawyers.com

Ken Grunfeld is one of the newest KO partners, having just started working at the firm in 2023. Having worked at one of Philadelphia's largest and most prestigious defense firms for nearly a decade defending pharmaceutical manufacturers, national railroads, asbestos companies and corporate clients in consumer protection, products liability, insurance coverage and other complex commercial disputes while working, Mr. Grunfeld "switched sides" about 15 years ago.

Since then, he has become one of the city's most prolific and well-known Philadelphia class action lawyers. His cases have resulted in the recovery of hundreds of millions of dollars for injured individuals.

Mr. Grunfeld brings with him a wealth of pre-trial, trial, and appellate work experience in both state and federal courts. He has successfully taken many cases to verdict. Currently, he serves as lead counsel in a number of nationwide class actions. Whether by settlement or judgment, Mr. Grunfeld makes sure the offending companies' wrongful practices have been addressed. He believes the most important part of bringing a wrongdoer to justice is to ensure that it never happens again; class actions can be a true instrument for change if done well.

Mr. Grunfeld has been named a Super Lawyer numerous times throughout his career. He has been a member of the Philadelphia, Pennsylvania, and American Bar Associations, as well as a member of the American Association for Justice (AAJ). He was a Finalist for AAJ's prestigious Trial Lawyer of the Year Award in 2012 and currently serves as AAJ's Vice Chair of the Class Action Law Group. To his strong view that attorneys should act ethically, he volunteers his time as a Hearing Committee Member for the Disciplinary Board of the Supreme Court of Pennsylvania.

Mr. Grunfeld received his undergraduate degree from the University of Michigan. He is an active member of the Michigan Alumni Association, Philadelphia chapter and serves as a Michigan Alumni Student recruiter for local high schools. He received his Juris Doctor from the Villanova University School of Law. He was a member of the Villanova Law Review and graduated Order of the Coif.

Ken is a life-long Philadelphian. He makes his home in Bala Cynwyd, Pennsylvania, where he resides with his wife, Jennifer, and his year-old twins.

KRISTEN LAKE CARDOSO

Partner

Bar Admissions

The Florida Bar
The State Bar of California

Court Admissions

U.S. District Court, Southern District of Florida
U.S. District Court, Middle District of Florida
U.S. District Court, Central District of California
U.S. District Court, Eastern District of California
U.S. District Court, Northern District of Illinois
U.S. District Court, Eastern District of Michigan

Education

Nova Southeastern University, J.D., 2007
University of Florida, B.A., 2004

Email: **cardoso@kolawyers.com**

Kristen Lake Cardoso is a litigation attorney focusing on consumer class actions and complex commercial litigation. She has gained valuable experience representing individuals and businesses in state and federal courts at both the trial and appellate levels in a variety of litigation matters, including contractual claims, violations of consumer protection statutes, fraud, breach of fiduciary duty, negligence, professional liability, real estate claims, enforcement of non-compete agreements, trade secret infringement, shareholder disputes, deceptive trade practices, and other business torts.

Currently, Ms. Cardoso serves as counsel in nationwide and statewide class action lawsuits concerning violations of state consumer protection statutes, false advertising, defective products, data breaches, and breaches of contract. Ms. Cardoso is actively litigating cases against major U.S. airlines for their failure to refund fares following flight cancellations and schedule changes, as well cases against manufacturers for their sale and misleading marketing of products, including defective cosmetics and nutritional supplements. Ms. Cardoso as also represented students seeking reimbursements of tuition, room and board, and other fees paid to their colleges and universities for in-person education, housing, meals, and other services not provided when campuses closed during the COVID-19 pandemic. Additionally, Ms. Cardoso has represented consumers seeking recovery of gambling losses from tech companies that profit from illegal gambling games offered, sold, and distributed on their platforms.

Ms. Cardoso is admitted to practice law throughout the states of Florida and California, as well as in the United States District Courts for the Southern District of Florida, Middle District of Florida, Central District of California, Eastern District of California Northern District of Illinois, and Eastern District of Michigan.

Ms. Cardoso attended the University of Florida, where she received her Bachelor's degree in Political Science, cum laude, and was inducted as a member of Phi Beta Kappa honor society. She received her law degree from Nova Southeastern University, magna cum laude. While in law school, Ms. Cardoso served as an Articles Editor for the Nova Law Review, was on the Dean's List, and was the recipient of a scholarship granted by the Broward County Hispanic Bar Association for her academic achievements. When not practicing law, Ms. Cardoso serves as a volunteer at Saint David Catholic School, including as a member of the school Advisory Board and an executive member of the Faculty Student Association. She has also served on various committees with the Junior League of Greater Fort Lauderdale geared towards improving the local community through leadership and volunteering.

STEVEN SUKERT

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Steven Sukert has experience in all aspects of complex litigation in federal and state court, including drafting successful dispositive motions and appeals, handling discovery, and arguing court hearings. Steven focuses his practice at KO on complex class actions and multi-district litigations in courts around the country, including in data privacy, bank overdraft fee, and other consumer protection cases.

Before joining KO, Steven gained experience at Gunster, Yoakley & Stewart, P.A. in Miami in high-stakes commercial cases often involving trade secret and intellectual property claims, consumer contract claims, and legal malpractice claims, as well as in international arbitrations. Steven co-authored an amicus brief in the Florida Supreme Court case Airbnb, Inc. v. Doe (Case No. SC20-1167), and helped organize the American Bar Association's inaugural International Arbitration Masterclass, in 2021.

Steven was born and raised in Miami. He returned to his home city after law school to clerk for the Honorable James Lawrence King in the U.S. District Court for the Southern District of Florida.

In 2018, Steven earned his J.D. from Georgetown University Law Center. While living in the nation's capital, he worked at the U.S. Department of Labor, Office of the Solicitor, where he won the Gary S. Tell ERISA Litigation Award; the Civil Fraud Section of the U.S Department of Justice, where he worked on large Medicare fraud cases and pioneered the use of the False Claims Act in the context of pharmaceutical manufacturers who engaged in price fixing; and the Lawyers' Committee for Civil Rights Under Law, where his proposal for writing an amicus brief in the Janus v. AFSCME U.S. Supreme Court case was adopted by the organization's board of directors.

Steven has a degree in Molecular Biology from Northwestern University. Prior to his legal career, he worked as a biomedical laboratory researcher at the Diabetes Research Institute in Miami.

CAROLINE HERTER

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Caroline Herter is a litigation attorney at the firm's Fort Lauderdale office. Caroline focuses her practice on consumer class actions, mass torts, and white-collar commercial litigation in state and federal courts nationwide. She has gained valuable experience representing individuals and businesses to hold wrongdoers accountable through claims involving personal injury, wrongful death, consumer fraud, products liability, breach of fiduciary duty, civil theft/conversion, corporate veil-piercing, fraudulent transfer, tortious interference, False Claims Act violations, and the like.

Before joining KO, Caroline worked at a boutique law firm in Miami where she represented plaintiffs in matters involving creditor's rights, insolvency, and asset recovery. She now applies this experience throughout her practice at KO, often combining equitable remedies with legal claims to ensure the best chance of recovery for her clients.

Notable cases that Caroline has been involved in include *In Re: Champlain Towers South Collapse Litigation*, where she was a member of the team serving as lead counsel for the families of the 98 individuals who lost their lives in the tragic condominium collapse. The case resulted in over $1 billion recovered for class members, the second-largest settlement in Florida history. She also co-authored a successful petition for certiorari to the United States Supreme Court in *Olhausen v. Arriva Medical, LLC et al.*, a False Claims Act case involving the standard for determining a defendant's scienter, which led the high Court to reverse the Eleventh Circuit Court of Appeal's earlier ruling against her client.

Caroline earned her law degree from the University of Miami School of Law, summa cum laude, where she received awards for the highest grade in multiple courses. During law school Caroline was an editor of the University of Miami Law Review and a member of the Moot Court Board.

Outside of her law practice, Caroline serves on the Board of Directors of the non-profit organization Americans for Immigrant Justice.

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

In re OnePoint Patient Care, LLC Data Breach Litigation	CASE NO. 3:24-CV-0649-RGJ

[PROPOSED] PRELIMINARY APPROVAL ORDER

Before the Court is Plaintiffs' Motion for Preliminary Approval[1], the terms of which are set forth in a Settlement Agreement between Plaintiffs and Defendant. Having fully considered the Motion for Preliminary Approval and Memorandum, the Court hereby **GRANTS** the Motion for Preliminary Approval and **ORDERS** as follows:

1. **Class Certification for Settlement Purposes Only**. The Agreement provides for a Settlement Class defined as follows:

> All living individuals residing in the United States whose Private Information may have been accessed during the Data Incident, including those individuals who were sent a notice by OnePoint that their Private Information may have been impacted in the Data Incident.

Excluded from the Settlement Class are (a) officers, directors, and agents of OnePoint; and (b) the Judge assigned to the Action, that Judge's immediate family, and Court staff. It is estimated that there are 528,452 persons potentially in the Settlement Class.

Pursuant to Federal Rules of Civil Procedure 23(e)(1), the Court finds that giving notice is justified. The Court finds that it will likely be able to approve the proposed Settlement as fair, reasonable, and adequate. The Court also finds that it will likely be able to certify the Settlement

[1] All capitalized terms herein have the same meaning those defined in Section II of the Settlement Agreement attached to the Memorandum in Support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement ("Memorandum").

Class for purposes of judgment on the Settlement because it meets all of the requirements of Rule 23(a) and the requirements of Rule 23(b)(3). Specifically, the Court finds for settlement purposes that: (a) the Settlement Class is so numerous that joinder of all Settlement Class Members would be impracticable; (b) there are issues of law and fact that are common to the Settlement Class; (c) the claims of the Class Representatives are typical of and arise from the same operative facts and the Class Representatives seek similar relief as the claims of the Settlement Class Members; (d) the Class Representatives will fairly and adequately protect the interests of the Settlement Class as the Class Representatives have no interests antagonistic to or in conflict with the Settlement Class and have retained experienced and competent counsel to prosecute this Litigation on behalf of the Settlement Class; (e) questions of law or fact common to Settlement Class Members predominate over any questions affecting only individual members; and (f) a class action and class settlement is superior to other methods available for a fair and efficient resolution of this Litigation.

2. **Settlement Class Representatives and Settlement Class Counsel**.

The Court finds that Plaintiffs will likely satisfy the requirements of Rule 23(e)(2)(A) and should be appointed as the Class Representatives. Additionally, the Court finds that Tyler J. Bean of Siri & Glimstad LLP, A. Brooke Murphy of Murphy Law Firm, Andrew W. Ferich of Ahdoot & Wolfson, PC, and Jeff Ostrow of Kopelowitz Ostrow P.A. will likely satisfy the requirements of Rule 23(e)(2)(A) and should be appointed as Class Counsel pursuant to Rule 23(g)(1).

3. **Preliminary Settlement Approval.** Upon preliminary review, the Court finds the Settlement is fair, reasonable, and adequate to warrant providing notice of the Settlement to the Settlement Class and accordingly is preliminarily approved. In making this determination, the Court has considered the monetary and non-monetary benefits provided to the Settlement Class through the Settlement, the specific risks faced by the Settlement Class in prevailing on their

claims, the good faith, arms' length negotiations between the Parties and absence of any collusion in the Settlement, the effectiveness of the proposed method for distributing relief to the Settlement Class, the proposed manner of allocating benefits to Settlement Class Members, the Settlement treats the Settlement Class Members equitably, and all of the other factors required by Rule 23 and relevant case law.

4. **Jurisdiction.** The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d)(2) and personal jurisdiction over the parties before it. Additionally, venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

5. **Final Approval Hearing**. A Final Approval Hearing shall be held on ______________________ ______, 2025, at ____AM/PM, at the United States District Court, 601 W. Broadway, Louisville, KY 40202, or virtually at the Court's discretion, where the Court will determine, among other things, whether: (a) this Action should be finally certified as a class action for settlement purposes pursuant to Fed. R. Civ. P. 23(a) and (b)(3); (b) the Settlement should be approved as fair, reasonable, and adequate, and finally approved pursuant to Fed. R. Civ. P. 23(e); (c) the Court should reaffirm the appointment of Class Counsel, the Class Representatives, and the Settlement Administrator; (d) this Action should be dismissed with prejudice pursuant to the terms of the Agreement; (e) Settlement Class Members (who have not timely and validly excluded themselves from the Settlement) should be bound by the releases set forth in the Agreement; and (f) to sustain or overrule timely objections, if any; and (g) to approve Class Counsel's Application for Attorneys' Fees and Costs, and Service Awards.

6. **Settlement Administrator**. The Court appoints Epiq Class Action & Claims Solutions, Inc. as the Settlement Administrator, with responsibility for the provision of the Notice

and Settlement administration. The Settlement Administrator is directed to perform all tasks the Agreement requires. The Settlement Administrator's fees will be paid out of the Settlement Fund.

7. **Notice**. The proposed Notice Program with corresponding Notices and Claim Process and Claim Form are hereby approved. Non-material modifications to the Notice and Claim Form may be made by the Parties, but without further order of the Court.

8. **Findings Concerning Notice**. The Court finds that the proposed form, content, and method of giving Notice to the Settlement Class as described in the Notice Program and the Settlement and its exhibits: (a) will constitute the best practicable notice to the Settlement Class; (b) is reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of the Action, the terms of the proposed Settlement, and their rights under the proposed Settlement, including, but not limited to, their rights to object to or opt-out of the proposed Settlement and other rights under the terms of the Settlement; (c) is reasonable and constitutes due, adequate, and sufficient notice to all Settlement Class Members and other persons entitled to receive notice; (d) meets all applicable requirements of law, including Federal Rule of Civil Procedure 23(c); and (e) and meets the requirements of the Due Process Clause(s) of the United States and Kentucky Constitutions. The Court further finds that the Notice provided for in the Settlement is written in plain language, uses simple terminology, and is designed to be readily understandable by Settlement Class Members. The Settlement Administrator is directed to carry out the Notice Program in conformance with the terms of the Settlement.

9. **Class Action Fairness Act Notice**. Within 10 days after the filing of this Settlement with the Court, the Settlement Administrator acting on behalf of Defendants shall have served or caused to be served a notice of the proposed Settlement on appropriate officials in accordance with the requirements under the Class Action Fairness Act, 28 U.S.C. § 1715(b).

10. **Exclusion from Class**. Any Settlement Class Member who wishes to be excluded from the Settlement Class must individually sign and timely submit written notice of such intent to the designated Post Office box established by the Settlement Administrator in the manner provided in the Notice. The written notice must include the Settlement Class Member's name, address, telephone number, and e-mail address (if the Settlement Class Member has one), stating that the Settlement Class Member requests exclusion from the Settlement Class, include a statement indicating a request to be excluded from the Settlement Class, and must be signed by the Settlement Class Member. To be effective, such requests for exclusion must be postmarked no later than the Opt-Out Date, which is to be 30 days prior to the initial scheduled Final Approval Hearing, and as stated in the Notice.

A complete list of all Settlement Class Members who submitted timely, valid exclusion requests (opt-outs) will be filed with the Court as part as an exhibit to the Final Approval Order.

If a Final Approval Order and final judgment are entered, all individuals falling within the definition of the Settlement Class who do not request to opt-out of the Settlement Class shall be bound by the terms of this Settlement and the Final Approval Order and final judgment. All Settlement Class members who submit valid and timely notices of their intent to opt-out of the Settlement Class will not receive any of the Settlement Class Member Benefits or be bound by the terms of the Settlement.

11. **Objections and Appearances**. A Settlement Class Member (who does not submit a timely written request to opt-out) desiring to object to the Settlement may submit a timely written notice of his or her objection by the Objection deadline and as stated in the Notice. The Long Form Notice and the Settlement Website shall instruct Settlement Class Members who wish to object to the Settlement t to send their written objections to the Settlement Administrator at the address

indicated in the Long Form Notice, and to the attorneys for the Parties at their addresses specified in the Notice. The Notice shall advise Settlement Class Members of the deadline for submission of any objections which shall be 30 days prior to the initial scheduled Final Approval hearing. Any such notices of an intent to object to the Settlement must be written and must include: (a) the objector's full name, mailing address, telephone number, and email address (if any); (b) all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel; (c) the number of times the objector has objected to a class action settlement within the five years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector's prior objections that were issued by the trial and appellate courts in each listed case; (d) the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement and/or Application for Attorneys' Fees, Costs, and Service Awards; (e) the number of times in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the five years preceding the date of the filed objection, the caption of each case in which counsel or the firm has made such objection and a copy of any orders related to or ruling upon counsel's or the counsel's law firm's prior objections that were issued by the trial and appellate courts in each listed case in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the preceding five years; (f) the identity of all counsel (if any) representing the objector, and whether they will appear at the Final Approval Hearing; (g) a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection (if any); (h) a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and (i) the objector's signature (an attorney's signature is not sufficient). Further, Class Counsel and/or Defendant's Counsel may conduct limited discovery on any objector or objector's counsel. An objecting Settlement Class Member has the right, but is not required to, attend the Final Approval Hearing. Any objector or their counsel who intends to make an appearance at the Final Approval Hearing file with the Court, and shall serve on Class Counsel and Defendant's Counsel a notice of intention to appear at the Final Approval Hearing by no later than the Objection deadline.

Any Settlement Class Member who fails to comply with the requirements for objecting shall waive and forfeit any and all rights he or she may have to appear separately and/or to object to the Settlement Agreement and shall be bound by all the terms of the Settlement and by all proceedings, orders, and judgments in the Action. The provisions stated in Section VIII of the Settlement are the exclusive means for any challenge to the Settlement. Any challenge to the Settlement, the Final Approval Order or final judgment to be entered upon Final Approval shall be pursuant to appeal under the Federal Rules of Appellate Procedure and not through a collateral attack.

12. **Claims Process**. The Parties have created a process for Settlement Class Members to claim benefits under the Settlement. The Court preliminarily approves this process and directs the Settlement Administrator to make the Claim Form or its substantial equivalent available to Settlement Class Members in the manner specified in the Notice.

The Administrator will be responsible for effectuating the Claims Process. Settlement Class Members who qualify for and wish to submit a Claim Form shall do so in accordance with the requirement and procedures specified in the Notice and the Claim Form. All Settlement Class Members who qualify for any benefit under the Settlement but fail to submit a Claim in accordance with the requirements and procedures specified in the Notice and the Claim Form shall be forever barred from receiving any such benefit, but will in all other respects be subject to and bound by the provisions in the Settlement, including the releases contained therein.

13. **Termination of Settlement**. This Preliminary Approval Order shall become null and void and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions existing before the Court entered this Preliminary Approval Order and before they entered the Settlement, if: (a) the Court does not enter this Preliminary Approval Order; (b) Settlement is not finally approved by the Court or is terminated in accordance with the Settlement; (c) there is no Effective Date; or (d) otherwise consistent with the terms of the Settlement. In such event, (i) the Parties shall be restored to their respective positions in the Action and shall jointly request that all scheduled litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Party or Party's counsel; (ii) the terms and provisions of the Settlement shall have no further force and effect with respect to the Parties and shall not be used in the Action or in any other proceeding for any purpose, and (iii) any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc.*

If Defendants void the Settlement according to its terms, Defendants will be obligated to pay all Settlement expenses already incurred, excluding any attorneys' fees and costs expenses of Class Counsel and shall not, at any time, seek recovery of same from any other party to the Action or from counsel to any other party to the Action.

14. **Use of Order**. This Preliminary Approval Order shall be of no force or effect if the Final Approval Order is not entered or there is no Effective Date and shall not be construed or used as an admission, concession, or declaration by or against Defendants of any fault, wrongdoing, breach, or liability. Nor shall this Preliminary Approval Order be construed or used as an

admission, concession, or declaration by or against the Class Representatives or any other Settlement Class Member that his or her claims lack merit or that the relief requested is inappropriate, improper, unavailable, or as a waiver by any Party of any defense or claims they may have in this Litigation or in any other lawsuit.

15. **Continuance of Hearing**. The Court reserves the right to adjourn or continue the Final Approval Hearing and related deadlines without further written notice to the Settlement Class. If the Court alters any of those dates or times, the revised dates and times shall be posted on the Settlement Website maintained by the Settlement Administrator. The Court may approve the Settlement, with such modifications as may be agreed upon by the Parties, if appropriate, without further notice to the Settlement Class.

16. **Stay of Litigation.** All proceedings in the Action, other than those related to approval of the Settlement, are hereby stayed. Further, any actions brought by Settlement Class Members concerning the Released Claims are hereby enjoined and stayed pending Final Approval of the Settlement.

17. **Schedule and Deadlines**. The Court orders the following schedule of dates for the specified actions/further proceedings:

Grant of Preliminary Approval	
Defendant provides Class List to Settlement Administrator	10 days following Preliminary Approval
Notice begins	30 days after Preliminary Approval
Notice ends	45 days before the initial scheduled Final Approval Hearing
Class Counsel's Motion for Final Approval inclusive of the Application for Attorneys' Fees, Costs, and Service Awards	45 days before the initial scheduled Final Approval Hearing

Objection Deadline	30 Days before the initial scheduled Final Approval Hearing
Opt-Out Deadline	30 Days before the initial scheduled Final Approval Hearing
Claims Deadline	15 days following the initial scheduled Final Approval Hearing
Final Approval Hearing	________________, 2025, at ___AM/PM

SO ORDERED THIS ______ DAY OF ___________________________, 2025.

____
Hon. Rebecca Grady Jennings
United States District Court Judge