IN THE DISTRICT COURT OF TULSA COUNTY
STATE OF OKLAHOMA

BRUCE RIGGS and BRETT GARROTE, individually and on behalf of all others similarly situated, Plaintiffs, v. TRISTAR INSURANCE GROUP, INC. Defendant.	Case No: CJ-2025-00745 **FILED** DISTRICT COURT TULSA COUNTY, OKLAHOMA January 19, 2026 4:19 PM DON NEWBERRY, COURT CLERK Case Number CJ-2025-745

PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT AND FOR ISSUANCE OF NOTICE TO SETTLEMENT CLASS

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Other Authorities

4 W. Rubenstein, Newberg on Class Actions 13:10 (5th ed. 2015) 8

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I. INTRODUCTION

Plaintiffs respectfully move under 12 O.S. § 2023(E) for preliminary approval of a class action settlement between themselves and Defendant TRISTAR Insurance Group, Inc. ("TRISTAR" or "Defendant") (together with Plaintiffs, the "Parties"). The proposed Class Action Settlement Agreement (the "Agreement" or "Settlement Agreement"), if approved, will resolve the claims asserted by Plaintiffs and the Settlement Class and will provide substantial monetary and injunctive relief to Settlement Class Members whose personally identifiable information ("PII") may have been compromised in a data security incident occurring on or about November 4, 2022 (the "Data Incident").

II. FACTUAL BACKGROUND

On or about November 4, 2022, an unauthorized user accessed TRISTAR's email system containing individuals PII. *See* Class Action Pet. ("Pet."), ¶ 2. The types of information affected by the Data Incident included full names, Social Security numbers, and dates of birth. *Id.* Approximately 38,037[1] people were affected by the Data Incident[2]. *Id.* ¶ 3. Defendant sent notice of the Data Incident via mail to Plaintiffs and the putative Settlement Class Members on or about February 1, 2024, informing them their PII may be at risk as a result of the Data Incident. *Id.* ¶ 2.

On February 24, 2024, Plaintiffs filed their Class Action Petition, alleging violations of the California Consumer Protection Act, Cal. Civ. Code §§ 1789.100, et seq. ("CCPA"), California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, et seq. ("UCL"), California Customer Records Act, Cal. Civ. Code §§ 1798.80 et seq. ("CCRA"), negligence, negligence per se, invasion

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[1] Although Plaintiffs alleged that 35,120 people were impacted by the Data Incident, Plaintiffs have since learned approximately 38,037 were impacted.

[2] Unless otherwise noted, capitalized terms have the same meaning assigned to them in the Settlement Agreement ("S.A.").

of privacy, breach of implied contract, and breach of contract. Pet. ¶¶ 117-125. The defined Nationwide Class consists of "[a]ll persons within the United States whose personally identifiable information ("PII") weas subjected to the Data Breach in November 2022, including all persons who received Defendant's notice of the Data Breach." *Id.* ¶ 86. Additionally, the California Subclass is defined as "[a]ll persons residing within the State of California whose personally identifiable information ("PII") was subjected to the Data Breach in November 2022, including all persons who received Defendant's notice of the Data Breach." *Id.*

The Parties engaged in significant arm's-length settlement negotiations between November 2024 and January 2025, including a full-day and subsequent half-day mediation session facilitated by esteemed mediator, Robert A. Meyer, Esq., on November 18, 2024, and November 26, 2024. Prior to, during, and following the mediation, the Parties exchanged information regarding the Data Incident as well as mediation briefs outlining their respective positions with respect to liability, damages, and other settlement-related issues. This information, together with other information gathered through Plaintiffs' counsel's investigation and informal discovery, enabled Plaintiffs and Class Counsel to make an informed decision regarding the ultimate settlement. The Parties did not discuss attorneys' fees, costs, and expenses, or service awards for Plaintiffs prior to reaching an agreement as to the material terms of the relief for Settlement Class Members, but they ultimately reached an agreement as to attorneys' fees, costs, expenses and service awards. The Settlement Agreement is attached as Exhibit A to the Declaration of Nicholas A. Migliaccio in Support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement ("Migliaccio Decl.").

Although Plaintiffs and Class Counsel believe that the factual and legal claims asserted in the Action are meritorious, they recognize the outcome of the Action and the claims asserted

therein are uncertain, and that protracted litigation would entail substantial cost, risk, and delay of benefits and relief (if any) for Plaintiffs and Settlement Class Members. Class Counsel have investigated the facts relating to the claims and defenses alleged and the underlying events in the Action, have made a thorough study of the legal principles applicable to the claims and defenses asserted, and have conducted a thorough assessment of the strengths and weaknesses of the claims. After this thorough analysis, combined with the additional information gathered through informal discovery and the mediation sessions, Plaintiffs and Class Counsel concluded it would be in the best interest of the Settlement Class to enter into this Agreement, particularly in light of the substantial value derived from this Settlement and the avoidance of the inherent uncertainties of litigation and assuring that the benefits reflected herein are obtained for the Settlement Class.

Therefore, Plaintiffs consider the Settlement to be fair, reasonable, and adequate and in the best interest of the Settlement Class. As such, the Court should preliminarily approve this Settlement.

III. TERMS OF THE PROPOSED SETTLEMENT

A. Settlement Class Definition

For settlement purposes only, Plaintiffs propose certification of the following Nationwide Class and California Subclass (collectively the "Settlement Class"):

> **<u>Nationwide Class</u>**
> All persons within the United States whose personally identifiable information ("PII") was subjected to the Data Breach in November 2022, including all persons who received Defendant's notice of the Data Breach.
>
> **<u>California Subclass</u>**
> All persons residing within the State of California whose personally identifiable information ("PII") was subjected to the Data Breach in November 2022, including all persons who received Defendant's notice of the Data Breach.

The Settlement Class specifically excludes: (i) all Settlement Class Members who timely and validly request exclusion from the Settlement Class; (ii) the Judge assigned to evaluate the

fairness of this Settlement; and (iii) any other 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. S.A. § 36(i)-(iv).

B. Settlement Benefits[3]

The Settlement Agreement provides meaningful relief via significant monetary compensation and non-monetary benefits to Settlement Class Members who choose to take advantage of the Settlement.

1. Monetary Payments to Settlement Class Members.

Under the Settlement Agreement, TRISTAR will make $1,000,000.00 available for Settlement Class Members' Approved Claims (the "Aggregate Cap"). *Id.* § 47. Settlement Payments may be subject to a pro rata decrease, depending on the aggregate amount of valid claims made. *Id.*

a. Out-of-Pocket Expenses Payment

All Settlement Class Members may submit a claim for up to Five Hundred Dollars and Zero Cents ($500) for reimbursement of documented Out-of-Pocket Losses. *Id.* § 46(a). To receive reimbursement for Out-of-Pocket Losses, Settlement Class Members need only submit a valid Claim Form that includes third-party documentation supporting the loss (*i.e.,* receipts). *Id.*

b. Lost Time Payment

Settlement Class Members may also submit a claim for attested Time Spent for up to four (4) hours at Twenty-Five Dollars and Zero Cents ($25.00) per hour (for a maximum amount of

[3] The funds remaining from returned or uncashed Settlement Award checks shall be distributed to the Electronic Information Privacy Center (EPIC), the agreed-upon Non-Profit Residual Recipient. *See* S.A. § 53. Therefore, the funds will not revert to TRISTAR. *Id.*

$100.00) with an attestation that they spent the claimed time responding to issues raised by the Data Incident. *Id.* § 46(b).

c. Extraordinary Loss Payment

Settlement Class Members are also eligible to receive compensation for Extraordinary Losses stemming from fraud or identity theft resulting from the Data Incident of up to Five Thousand Dollars and Zero Cents ($5,000.00), upon submission of a valid Claim Form and third-party documentation supporting the loss. *Id.* § 46(c).

d. Alternative Cash Payment

Lastly, in lieu of receiving reimbursement for Out-of-Pocket Losses, Extraordinary Losses, and Lost Time, Settlement Class Members in the California Subclass may elect to submit a claim for an Alternative Cash Payment in the amount of One Hundred Dollars and Zero Cents ($100.00). *Id.* § 46(d). Non-California Subclass Settlement Class Members can elect to receive an Alternative Cash Payment of Forty Dollars and Zero Cents ($40). *Id.*

2. Credit Monitoring Services.

In addition to the monetary payments described above, all Settlement Class Members who submit timely claims are eligible to enroll in three (3) years of triple bureau Credit Monitoring Services. S.A. § 49. The Credit Monitoring Services will include monitoring of all three credit bureaus, managed fraud assistance, a $1,000,000 insurance reimbursement policy, and assistance in implementing further protections, including freezing and unfreezing credit. *Id.*

3. Business Practices Changes.

Moreover, TRISTAR represents that it has already taken, and will continue to implement, numerous measures (hereinafter "Business Practices Changes") to further enhance its data security, including but not limited to: (i) enhancements in data management, (ii) identity protection, and

(iii) cloud security and threat detection capabilities. *Id.* § 50. According to TRISTAR, the Business Practices Changes are estimated to have cost $150,000. *Id.* The costs paid by TRISTAR for such Business Practices Changes are separate and apart from any funds provided by TRISTAR for Settlement Awards made available to Settlement Class Members. *Id.*

C. Service Awards, Attorneys' Fees, and Litigation Expenses

In recognition of the Class Representatives' service to the Class, Plaintiffs' Counsel will apply to the Court for issuance of Service Awards. Subject to the Court's approval, the Settlement Fund will be used to pay Service Awards of Two Thousand Dollars and Zero Cents ($2,000.00) to each Class Representative. *Id.* § 95.

Plaintiffs will also move the Court for an order awarding Class Counsel's application of attorneys' fees, costs, and expenses in an amount not to exceed Four Hundred and Fifty Thousand Dollars and Zero Cents ($450,000.00). *Id.* § 97. Any attorneys' fees, costs and expenses awarded will be paid separate and apart from the Aggregate Cap of $1,000,000.00 and will have no impact on any of the Settlement Benefits available to Settlement Class Members. *Id.*

D. The Proposed Notice and Claims Program

After a competitive bidding process, the Parties mutually agreed to retain Eisner Amper to perform settlement administration and notice services as described in S.A. § 57. If approved by the Court, Settlement Administration costs shall be paid by TRISTAR, and shall be separate and apart from any Settlement Benefits. *Id.* §58.

1. Direct Notice to the Settlement Class.

The Parties propose individually notifying each Settlement Class Member of the Settlement through direct notice via U.S. Mail. *Id.* § 72. Specifically, the Settlement Administrator will send Summary Notice to all Settlement Class Members for whom TRISTAR can ascertain a mailing

address from its records (with reasonable effort) within ten (10) days of the entry of the Preliminary Approval Order. S.A. §§ 71-72. If this initial notice is returned as undeliverable with a forwarding address, the Settlement Administrator will re-mail the notice to the updated address and email the Summary Notice if TRISTAR has a valid email address for that Settlement Class Member. *Id.* § 72. Moreover, the notices will include the following pertinent information: a description of the material terms of the Settlement, the date by which Settlement Class Members may submit a claim, the date by which Settlement Class Members may object to or opt-out of the Settlement, the date upon which the Final Approval Hearing will occur and, and the address of the Settlement Website. (*See* Exs. B-C (LFN an SN)). Notice will also be posted on the Settlement Website. *Id.* § 73.

2. *The Settlement Website.*

As discussed briefly *supra,* the Settlement Administrator will establish a Settlement Website following Preliminary Approval and prior to commencement of the Notice Program, which will contain pertinent Settlement information and links to relevant case documents, including copies of the Notice, Claim Form, Settlement Agreement, and Preliminary Approval Order. *Id.* §§ 40, 73.

3. *Objections and Opt-Outs.*

All the Notice documents explain: (i) the procedure by which a Settlement Class Member may exclude themselves from the Settlement prior to the Opt-Out Deadline; and (ii) the procedure for a Settlement Class Member to object to the Settlement or Plaintiffs' Counsel's application for an award of attorneys' fees or Service Awards to Representative Plaintiffs prior to the Objection Deadline. *Id.* at Exs. B-C. The proposed Objection and Opt-Out Deadlines are sixty (60) days after the Notice Deadline. S.A. § § 19-20.

IV. ARGUMENT AND AUTHORITIES

A. The Court Should Preliminarily Approve the Settlement and Authorize Notice to the Proposed Settlement Class.

According to Oklahoma law, Court approval is required for any class action settlement that releases the claims of absent class members. 12 O.S.§ 2023(E). "Because [12 O.S.] 2023 bears great similarity to the provisions of Federal Rule of Civil Procedure 23, [the Court] may resort to federal authority to shed light on its rationale." *Bayhylle v. Jiffy Lube Int'. Inc.,* 2006 OK CIV APP 130, 19, 146 P.3d 856, 859 (citing *Mattoon v. City of Norman,* 1981 OK 92, 18, 633 P.2d 735, 737). Consequently, the Court should consider federal case law and the Federal Rules of Civil Procedure ("the Rules") instructive.

Approval of a class action settlement is a two-step process. "In the first stage, the Court preliminarily certifies a settlement class, preliminarily approves the settlement agreement, and authorizes that notice be given to the class so that interested class members may object to the fairness of the settlement or opt out of the settlement." *Harris v. Chevron U.S.A., Inc.,* No. CIV-15-0094-PRW, 2019 U.S. Dist. LEXIS 195263, at *4 (W.D. Okla. July 29, 2019). "[T]he court's primary objective at th[is] point is to establish whether to direct notice of the proposed settlement to the class, invite the class's reaction, and schedule a final fairness hearing." 4 W. Rubenstein, Newberg on Class Actions 13:10 (5th ed. 2015). After preliminary approval and notice to the class, the court assesses the settlement's strengths and weaknesses at the final approval hearing and determines whether the settlement is fair, reasonable, and adequate. *Id.* During this time, the court also addresses any objections to the treatment of the litigation as a class action or objections to the terms of the settlement. *Harris,* 2019 U.S. Dist. LEXIS 195263, at *4.

Before a court can direct notice to the class, the plaintiffs must establish that the proposed settlement is fair, reasonable, and adequate. *See* 12 O.S. § 2023(E)(2). In making this determination the court should consider: "(1) whether the proposed settlement was fairly and honestly negotiated;

(2) whether serious questions of law and fact exist, placing the ultimate outcome of litigation in doubt; (3) whether the value of an immediate recovery outweighs the mere possibility of future relief after protracted and expensive litigation; and (4) the judgment of the parties that the settlement is fair and reasonable." *Louisiana Mun. Police Employees' Ret. Sys. v. McClendon,* 2013 OK CIV APP 64, 1 14, 307 P.3d 393, 399 (citing V*elma-Alma Indep. Sch. Dist. No. 15 v. Texaco, Inc.,* 2007 OK ClV APP 42, 162 P.3d 238, 243, fn 10).

Thus, preliminary approval of a proposed settlement is appropriate "where it appears to be the product of serious, informed, non-collusive negotiations, has no obvious deficiencies, and does not improperly grant preferential treatment to class representatives." *Harris,* 2019 U.S. Dist. LEXIS 195263, at *5 (citing *In re Motor Fuel Temperature Sales Practices Litig.,* 286 F.R.D. 488,492 (D. Kan. 2012)). Pursuant to the forthcoming discussion, the instant Settlement Agreement is fair, reasonable, and adequate, and therefore worthy of preliminary approval.

1. The Settlement is the Result of Arm's Length, Non-Collusive Negotiations.

Settlements negotiated by experienced counsel that result from arm's length negotiations are presumed to be fair, adequate, and reasonable. *See Lucas v. Kmart Corp.,* 234 F.R.D. 688,693 (D. Colo. 2006). Such is the case here.

As an initial mater, the Settlement was reached without collusion and should be preliminarily approved. See, *e.g.*, Migliaccio Decl. Particularly, the Settlement was reached after months of arms-length negotiations and two mediation sessions with a well-regarded mediator. *Id.* ¶¶ 5, 7. After Plaintiffs filed their Petition, the Parties engaged in informal discovery and explored and discussed at length the factual and legal issues in the Action. *Id.* Particularly, between November 2024 and through July 2025, arm's-length settlement negotiations took place between the Parties, ultimately resulting in the Settlement. *Id.* ¶ 7. As a result, this factor supports the

granting of preliminary approval. *See Leonardo's Pizza by the Slice, Inc. v. Wal-Mart Stores, Inc.*, 544 U.S. 1044 (2005) (a "presumption of fairness, adequacy, and reasonableness may attach to a class settlement reached in arm's-length negotiations between experienced, capable counsel after meaningful discovery." (quoting Manual for Complex Litigation, Third 30.42 (1995)).

2. *Serious Questions of Law and Fact Exist, Thereby Placing the Ultimate Outcome of the Litigation in Doubt.*

The Court should look favorably upon the Settlement's value because the benefits to the Class are guaranteed, whereas the chances of prevailing on the merits are uncertain, especially as serious questions of law and fact exist. Simply put, data breach litigation is evolving, and inherently risky. *Gordon v. Chipotle Mexican Grill, Inc.,* Civil Action No. 17-cv-01415-CMA-SKC, 2019 U.S. Dist. LEXIS 215430, at *3 (D. Colo. Dec. 16, 2019) (D. Colo. Dec. 16, 2019) ("Data breach cases... are particularly risky, expensive, and complex.").

While Plaintiffs strongly believe in the merits of their case, they also understand that should litigation continue, TRISTAR would likely assert several potentially case-dispositive defenses. Migliaccio Decl., ¶ 10. Due at least in part to their cutting-edge nature and the rapidly evolving law, data breach cases like the instant matter generally face substantial hurdles to make it past the pleading stage. *See Hammond v. Bank of N.Y. Mellon Corp.*, 2010 U.S. Dist. LEXIS 71996, at *2-4 (S.D.N.Y. June 25, 2010) (collecting data breach cases dismissed at the Rule 12(b)(6) or Rule 56 stage). Obtaining Class certification is another significant obstacle, and one that has been denied in data breach cases. *See, e.g., In re Hannaford Bros. Co. Customer Data Sec. Breach Litig.,* 293 F.R.D. 21 (D. Me. 2013). Although Plaintiffs would earnestly dispute the defenses TRISTAR would assert, their success at trial is uncertain. Via the Settlement, however, Plaintiffs and Class Members gain significant benefits without having to face the not unsubstantial risk of receiving no relief at all. Consequently, this factor also weighs in favor of preliminary approval.

3. The Value of an Immediate Recovery Outweighs the Mere Possibility of Future Relief After Protracted and Expensive Litigation.

The Settlement guarantees Class Members real relief and value for their harms, as well as protections from future consequences from the Data Incident. *See e.g.*, S.A. Notably, the proposed Settlement provides Settlement Awards of up to $1,000,000.00 to Settlement Class Members. *Id.* § 47. Specifically, each Settlement Class Member may submit claims for Out-of-Pocket Expenses Payments up to $500.00, Lost Time Payments up to $100.00, Extraordinary Expenses Payments up to $5,000, Alternative Cash Payments of $100 for each California Subclass Settlement Class Member or $40 for each non-California Subclass Settlement Class Member, and three (3) years of Credit Monitoring Services. *See generally, id.* § 46. Collectively, the Settlement Benefits compare quite favorably to settlements approved by courts in similar data breach cases. *See, e.g., Trimble et al. v. Paycom Payroll LLC,* No. 5:24-cv-00154 (W.D. Okla.) (data breach class action involving 21,451 class members settled for $900,000); *Dickey's Barbeque Restaurants, Inc.,* No. 20-cv-3424, ECF No. 62 (N.D. Tex.) (data breach class action involving more than 3 million people that settled for only $2.3 million – approximately $0.76 per class member); *In re Herff Jones Data Breach Litigation,* No. 21-cv-1329 (S.D. Ind.) (data breach class action involving more than 1 million people that settled for $4.35 million -approximately $4.35 per class member); *Winstead v. ComplyRight, Inc.,* No. 1: l 8-cv-04990 (N.D. Ill.) (data breach class action involving 665,689 that settled for $3.025 million – approximately $4.54 per class member).

4. The Parties and Their Counsel Aver that the Settlement is Fair and Reasonable.

The judgment of the Parties and their counsel also supports the finding that the Settlement is fair and reasonable. In negotiating the Settlement, Plaintiffs' Counsel relied upon their experience in data breach litigation and reported settlements in other data breach class action matters. Migliaccio Decl., ¶ 14. Further, benefits available to Settlement Class Members not only

compare favorably to what they could recover if successful at trial, they also provide meaningful relief to the Class without the inherent uncertainties of continued protracted litigation. *Id.* ¶ 10. In the experience of Plaintiffs' Counsel, who have successfully litigated numerous data breach cases and are privy to settlements in other similar matters, the benefits provided by this Settlement is an outstanding result for the Class. *Id.* ¶ 17.

In addition, the proposed Settlement does not provide preferential treatment to the Named Plaintiffs or any individual Settlement Class Member. *See generally,* S.A. Indeed, Settlement Class Members are eligible to recover damages for any injuries caused by the Data Incident, and the reimbursements for Out-of-Pocket Losses, Time Spent, and Extraordinary Losses allow Settlement Class Members to obtain relief based upon the specific types of damages they incurred, thereby treating every claimant in those categories equally relative to each other. *Id.* § 46.

Plaintiffs also intend to apply for Service Awards in recognition of their contributions to this matter, and the Tenth Circuit has held that courts "regularly give incentive awards to compensate plaintiffs for the work they perform-their time and effort invested in the case." Chieftain *Royalty Co. v. Enervest Energy Institutional Fund XIII-A, L.P.,* 888 F.3d 455,468 (10th Cir. 2017). In other words, service awards are an "efficient and productive way to encourage members of a class to become class representatives, and to reward the efforts they make on behalf of the class." *Lucken Family Ltd. P'ship, LLLP v. Ultra Res., Inc.,* Civil Action No. 09-cv-01543-REB-KMT, 2010 U.S. Dist. LEXIS 144366, at *16 (D. Colo. Dec. 22, 2010). Therefore, a service award to each Named Plaintiff is appropriate given their efforts and participation in the Action, and does not constitute preferential treatment. Migliaccio Decl., ¶ 37.

5. The Method of Distributing Relief Will Be Equitable and Effective.

Settlement Class Members are eligible to make a claim for Out-of-Pocket Expenses, Lost

Time, Extraordinary Losses, Credit Monitoring Services, and/or an Alternative Cash Payment. S.A. § 46. The Administrator, Eisner Amper, a neutral party that has significant experience processing these claims in similar cases, will be tasked with validating the claims regarding the previously mentioned benefits. *Id.* § 32.

The only difference in treatment among Class Members is that those who submit claims for Out-of-Pocket Expenses, Lost Time, and Extraordinary Losses will appropriately and equitably receive payments in proportion to the amount of their respective losses, which must be supported with documentation or an attestation (for lost time). S.A. § 46 (a)-(d). Further, all Class Members who submit valid Alternative Cash Payment claims will receive the same payment (based on their subclass membership and subject to a pro-rata decrease). For these reasons, the plan of distribution is both equitable and effective.

6. The Proposed Attorney's Fees Are Reasonable.

Additionally, Plaintiffs will move the Court for an order awarding Class Counsel's application of attorneys' fees, costs, and expenses in an amount not to exceed Four Hundred and Fifty Thousand Dollars and Zero Cents ($450,000.00). S.A. § 97. If granted, Class Counsel's attorneys' fees, costs, and expenses will be paid separate and apart from the Aggregate Cap. *Id.* Because this request is squarely within the typical range approved in the Tenth Circuit and elsewhere, it poses no impediment to preliminary approval. *In re Samsung Top-Load Washing Mach. Mktg., Sales Pracs. & Prod. Liab. litig.,* 997 F.3d 1077, 1095 (10th Cir. 2021) (finding that attorney's fees equal to one-fourth to one-third of a settlement are "well within the range of reasonable and permissible fees and costs awards in class action litigation."); *Cimarron Pipeline Const., Inc. v. Nat'! Council On Comp. Ins.,* 1993 U.S. Dist. LEXIS 19969 at *2 (W.D. Okla. June 8, 1993) ("Fees in the range of 30-40% of any amount recovered are common in complex and

other cases taken on a contingent fee basis."); *Lewis v. Wal-Mart Stores, Inc.,* No. 02-CV-0944-CVE-FHM, 2006 U.S. Dist. LEXIS 87681, at *4 (N.D. Okla. Dec. 4, 2006) (A "contingency fee of one-third is relatively standard in lawsuits that settle before trial…..").

For these reasons and based on Plaintiffs' Counsel's experience in similar data breach class action cases, Plaintiffs' Counsel are of the opinion that the Settlement is fair, adequate, and reasonable, and is therefore deserving of the Court's approval.

V. THE COURT SHOULD CERTIFY THE SETTLEMENT CLASS.

A. The 12 O.S. § 2023(A) Requirements are Satisfied.

Numerosity: 12 O.S. § 2023(A)(I) requires that a proposed settlement class be "so numerous that joinder of all class members is impracticable." "The numerosity test is satisfied by numbers alone when the size of the class is in the hundreds." *Black Hawk Oil Co. v. Exxon Corp.,* 1998 OK 70,117,969 P.2d 337,343 (Dec. 17, 1998) (citation omitted). Here, the proposed Class consists of approximately 38,037 individuals. *See* S.A. § 36. Because joinder of so many individual plaintiffs is objectively impracticable, the numerosity requirement is therefore satisfied.

Commonality: 12 O.S. § 2023(A)(2) mandates that "questions of law or fact common to the class" exist. Specifically, the proponents of certification must identify a common contention "of such a nature that it is capable of class wide resolution-which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke." *Naylor Farms, Inc. v. Chaparral Energy, LLC,* 923 F.3d 779, 789 (10th Cir. 2019) (quoting *Wal-Mart Stores, Inc. v. Dukes,* 564 U.S. 338,350 (2011)). Here, all Members of the proposed Class assert that their PII was compromised due to the Data Incident. *See, e.g..,* Pet. As a result, their claims will involve numerous common questions of law and fact that will be resolved in the same way for all Class Members, such as whether TRISTAR owed Plaintiffs and Class Members a duty

to handle their PII with reasonable care, and whether TRISTAR's data security practices were so inadequate that they breached that duty. *See id.* 923 F.3d at 789, n. 10 (explaining that whether a defendant breached a duty allegedly owed to all class members is a common question). Therefore, the commonality requirement is met.

Typicality: 12 O.S. § 2023(A)(3) requires that "[t]he claims or defenses of the representative parties are typical of the claims or defenses of the class." However, the interests and claims of named plaintiffs and class members "need not be identical," provided they are "based on the same legal or remedial theory." *DG ex rel. Stricklin v. Devaughn,* 594 F.3d 1188, 1198-99 (10th Cir. 2010). But the typicality requirement is satisfied where the interests of named plaintiffs and class members are not antagonistic to one another, and where the harm or risk of harm encountered by the named plaintiffs and class members stem from the same alleged conduct of the defendant. *See id.* at 1199. Presently, the claims of Plaintiffs and Class Members are sufficiently similar. In particular, Plaintiffs and all Class Members assert their Pll was exposed in the same Data Incident due to TRISTAR 's alleged deficient data security practices. Hence, typicality is satisfied.

Adequacy of Representation: According to 12 O.S. § 2023(A)(4), the class representatives must "fairly and adequately protect the interests of the class." In assessing the adequacy requirement, courts look to answer two questions, to wit: "(1) do the named plaintiffs and their counsel have any conflicts of interests with other class members [;] and (2) will the named plaintiffs and their counsel prosecute the action vigorously on behalf of the class?" *Rutter & Wilbanks Corp. v. Shell Oil Co.,* 314 F.3d 1180, 1187-88 (10th Cir. 2002). Plaintiffs do not have any interests antagonistic to other Class Members and have retained qualified and experienced Counsel. Migliaccio Decl., ¶¶ 16, 14. Further, and as stated above, Plaintiffs and their Counsel have vigorously represented Class Members; their diligence resulting in a settlement that will

guarantee the delivery of meaningful relief to Class Members. *See generally,* S.A. § 46. The adequacy requirement is therefore met.

B. The Requirements of 12 O.S. § 2023(B)(3) are Satisfied.

12 O.S. § 2023(B)(3) requires that "questions of law or fact common to class members predominate over any questions affecting only individual members," and that class treatment is "superior to other available methods for the fair and efficient adjudication of the controversy." Pursuant to the forthcoming discussion, the predominance and superiority requirements are also satisfied.

Predominance: "[T]he predominance inquiry 'asks whether the common, aggregation enabling issues in the case are more prevalent or important than the non-common, aggregation defeating, individual issues."' *Naylor Farms,* 923 F.3d at 789 (quoting *CGC Holding Co., LLC v. Broad and Cassel,* 773 F.3d 1076, 1087 (10th Cir. 2014) (quoting Newberg on Class Actions 4:49)). "Critically, so long as at least one common issue predominates, a plaintiff can satisfy [predominance]-even if there remain individual issues, such as damages, that must be tried separately." *Naylor Farms,* 923 F.3d at 789 (citing *Tyson Foods, Inc. v. Bouaphakeo,* 136 S. Ct. 1036, 1045 (2016)). Since the overwhelming majority of the issues of law and fact are common amongst all Class Members in the present case, predominance is met. *See In re Equifax Inc. Customer Data Sec. Breach Litig.,* 2020 U.S. Dist. LEXIS 7841, at *186 (N.D. Ga. Jan. 13, 2020 (citation omitted) ("The focus on a defendant's security measures in a data breach class action 'is the precise type of predominant question that makes class-wide adjudication worthwhile.'"). Plainly stated, the only potentially individualized issue before the Court is damages, which does not defeat predominance. *Brown v. Electrolux Home Products, Inc.,* 817 F.3d 1225, 1239 (11th Cir. 2016) ("The 'black letter rule' recognized in every circuit is that 'individual damage calculations

generally do not defeat a finding that common issues predominate.'").

Superiority: Pursuant to 12 O.S. 2023(B)(3), this inquiry requires courts to consider class members' interest in individually controlling the litigation, the extent and nature of any litigation already begun by class members, the desirability or undesirability of concentrating the litigation in the particular forum, and the difficulties likely to be encountered in the management of a class action. Here, all the above-referenced factors weigh in favor of finding the superiority requirement is met. For example, for most of the 38,037 Settlement Class Members, individual damages are likely to be too small to justify individual litigation, particularly as data breach litigation involves complex technical issues and expert testimony that makes pursuing individual relief costly. Moreover, litigating the claims of thousands of individuals-which would require presentation of the same evidence and expert opinion-would be manifestly inapposite to judicial efficiency. In addition, this forum is appropriate, as Plaintiff Riggs is an Oklahoma citizen. Summarily, class treatment is better than individual litigation in the Action. As a result, superiority is satisfied.

Considering the reasons enumerated above, the Court should preliminarily certify the Settlement Class.

VI. THE COURT SHOULD APPROVE THE PROPOSED NOTICE PLAN AND SETTLEMENT ADMINISTRATOR.

Pursuant to 12 O.S. § 2023(C)(4), for any proposed class action settlement, notice must be "the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort." In the event individual notice cannot be given to every settlement class member, notice must be given "in such manner as the court shall direct, which may include publishing notice in newspapers, magazines, trade journals or other publications, posting it in appropriate places, and taking other steps that are reasonably calculated to bring the notice to the attention of such members, provided that the cost of giving such notice

shall be reasonable in view of the amounts that may be recovered by the class members who are being notified." *Id.*

The Parties propose notifying Class Members individually and directly via U.S. Mail. Specifically, TRISTAR will provide the Administrator with the Settlement Class List (inclusive of names and physical addresses) no later than ten (10) business days after the entry of the Preliminary Approval Order. S.A. § 62. Any Notices returned undeliverable to the Settlement Administrator with a forwarding address will be remailed and emailed to Settlement Class Members. [4] *Id § 72.*

In addition, the Notice materials are plain and easy to understand. Particularly, the Notices include the description of the litigation, the essential terms of the Settlement, the deadline to submit a claim, and information regarding the Settlement Class Members' rights to opt-out or object. (*Id.* at Exs. B-C). As a result, the Notice Program satisfies the 12 O.S.§ 2023 requirements.

The Court should also approve Eisner Amper as the settlement administrator, as it is a well-known firm with a history of successfully administering many class action settlements, including those pertaining to data breach cases. The Parties selected Eisner Amper after considering bids from multiple administration firms and believe that it will satisfy the obligations imposed upon the settlement administrator pursuant to the Agreement for a reasonable cost. Migliaccio Decl., ¶ 12.

VII. CONCLUSION

For the reasons set forth above, Plaintiffs respectfully request that the Court grant their Motion for Preliminary Approval and enter the proposed order submitted herewith.

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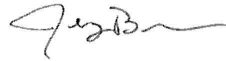
[4] Assuming TRISTAR has a valid email address for the respective Class Member.

Dated: January 15, 2026

Sincerely,



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Jeremy Beaver, OBA 18645
GOTCHER & BEAVER LAW FIRM
P.O. Box 160
323 E. Carl Albert Parkway
McAlester, Oklahoma 74501
Telephone: (918) 423-0412
Facsimile: (918) 423-7363
Email: jeremy@gotcher-beaver.com

Nicholas A. Migliaccio (admitted pro hac vice)
Jason S. Rathod (admitted pro hac vice)
Saran Q. Edwards (pro hac vice anticipated)
MIGLIACCIO & RATHOD, LLP
412 H Street, NE, Suite 302
Washington, DC 20002
Telephone: 202-470-520
Facsimile: 202-800-2730
Email: nmigliaccio@classlawdc.com
jrathod@classlawdc.com
sedwards@classlawdc.com

Abbas Kazerounian
Mona Amini
KAZEROUNI LAW GROUP, APC
245 Fischer Avenue, Suite D1
Costa Mesa, California 92626
Telephone: (800) 400-6808
Facsimile: (800) 520-5523
Email: ak@kazlg.com
mona@kazlg.com

Proposed Class Counsel for Plaintiff and the Proposed Settlement Class

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of January 2026, a true and correct copy of the foregoing has been furnished by email to the following counsel for Defendant:

James Monagle
MULLEN COUGHLIN LLC
500 Capitol Mall, Suite 2350
Sacramento, CA 95814
jmonagle@mullenlaw.com

Kayleigh Watson
MULLEN COUGHLIN LLC
1452 Hughes Rd Suite 200
Grapevine, TX 76051
kwatson@mullenlaw.com

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Jeremy Beaver