

**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

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

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## I. INTRODUCTION

Plaintiffs Bruce Riggs and Brett Garrotte (“Plaintiffs” or “Class Representatives”), individually and on behalf of the Settlement Class, respectfully submit this Memorandum of Law in support of Plaintiffs’ request for approval of (1) an award of attorney’s fees and expenses to Class Counsel in the amount of \$450,000.00 and (2) approval of Service Awards of \$2,000.00 to each of the Class Representatives (\$4,000.00 total) for their service on behalf and for the benefit of the Settlement Class in this Action. The Settlement Agreement (“Agreement” or “Settlement Agreement”)<sup>1</sup> between Plaintiffs and Defendant TRISTAR Insurance Group, Inc. (“TRISTAR” or “Defendant”) (together with Plaintiffs, the “Parties”) provides \$1,000,000 for Settlement Class Members’ Approved Claims for Settlement Benefits, which include substantial monetary compensation and non-monetary benefits, including Credit Monitoring Services and injunctive relief, providing real relief and protection 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.* 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.

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<sup>1</sup> Unless otherwise noted, capitalized terms have the same meaning assigned to them in the Settlement Agreement (“S.A.”).

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 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”) was 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 the Parties ultimately reached an agreement as to attorneys’ fees, costs, expenses and Service Awards.

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.

On January 19, 2026, Plaintiffs filed their Unopposed Motion for Preliminary Approval of Class Action Settlement, which the Court granted February 26, 2026, and filed on March 17, 2026. As directed in the Preliminary Approval Order, Notice was sent to the Settlement Class with information on this case, the Settlement and the process for submitting a claim. Plaintiffs and Class Counsel submit that the Settlement presented to the Court for final approval is fair, reasonable, and adequate, and in the best interest of the Settlement Class.

### **III. LEGAL STANDARD**

Oklahoma Statute 12 O.S. § 2023(G) governs the award of attorneys' fees in a class action lawsuit such as this. In determining whether the requested fee is reasonable, the Court must consider the following factors:

- (1) time and labor required,
- (2) the novelty and difficulty of the questions presented by the litigation,
- (3) the skill required to perform the legal service properly,
- (4) the preclusion of other employment by the attorney due to

acceptance of the case, (5) the customary fee, (6) whether the fee is fixed or contingent, (7) time limitations imposed by the client or the circumstances, (8) the amount in controversy and the results obtained, (9) the experience, reputation and ability of the attorney, (10) whether or not the case is an undesirable case, (11) the nature and length of the professional relationship with the client, (12) awards in similar causes, and (13) the risk of recovery in the litigation.

12 O.S. § 2023(G).

Courts may use either the lodestar method or the percentage of the fund method to calculate attorneys' fees. *Strack v. Continental Res., Inc.*, 2021 OK 21, ¶ 16. Here, however, the lodestar method should be utilized because Class Counsel's proposed fees will not come from a "common fund recovery" and will not dilute or diminish the benefits available to the Class.<sup>2</sup> "When an action creates a common fund recovery, all the beneficiaries of the fund contribute to paying the attorneys who worked on their behalf by allowing counsel to take a percentage of the common fund." *Id.* Whereas, under the Settlement Agreement, TRISTAR has made \$1,000,000.00 available for Settlement Class Members' Approved Claims (the "Aggregate Cap") (S.A. ¶ 47) on a claims-made basis. Thus, the Aggregate Cap is not a "common fund" from which to make an award of attorney's fees.<sup>3</sup> Rather, any attorneys' fees and expenses awarded by the Court will be paid *completely separate and apart* from the \$1,000,000.00 available to the

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<sup>2</sup> Considering the \$1,000,000 Aggregate Cap, the additional value of the Business Practice Changes (estimated to have cost \$150,000), and the added value of the Credit Monitoring Services, plus the Settlement Administration Fees, the requested \$450,000 is within the range of fees awarded in complex cases taken on a contingent fee basis. *Cimarron Pipeline Const., Inc. v. Nat'l 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.")

<sup>3</sup> If the Court wanted to take a "common benefit" approach, the *most conservative* value of the Settlement could be calculated by multiplying the Alternative Cash Payment of \$100 available to the 16,592 California Subclass Members ( $\$100 \times 16,592 = \$1,659,200$ ) and Alternative Cash Payment of \$40 available to all other non-California Subclass Settlement Class Members ( $\$40 \times 21,445 = \$857,800$ ), resulting in a total minimum settlement value of \$2,517,000. The combined attorney's fees and costs requested by Class Counsel is only approximately 17.88% of that amount.

Settlement Class Members, will ***have no impact*** on any of the Settlement Benefits available to Settlement Class Members, and will not dilute, or diminish the Settlement Class Members' recovery from the Settlement. (S.A. ¶ 97).

While “there is a strong presumption that the lodestar method alone will reflect a reasonable attorney fee” (*Strack*, 2021 OK 21, ¶ 26), courts commonly recognize the risk of class action work and regularly apply a modest positive lodestar multiplier to enhance the award. *See, e.g., Spencer v. Oklahoma Gas & Elec. Co.*, 2007 OK 76, ¶ 27 (awarding a 1.1 multiplier); *Burk v. City of Oklahoma City*, 1979 OK 115, ¶ 17 (awarding 40% incentive fee, a 1.4 multiplier); *Continental Resources, et al. v. Conoco Inc.*, No. CJ-95-739 (Okla. Dist. Ct. Garfield Cty. Aug. 22, 2005) at ¶ 13 & n.3 (awarding a multiplier of approximately 3.6); *Fitzgerald Farms, LLC v. Chesapeake Operating, L.L.C.*, 2015 WL 5794008, at \*12 (Okla. Dist. Ct. Beaver Cty. July 02, 2015) (awarding a positive multiplier of 5); *Bingaman v. Avem Health Partners, Inc.*, No. CIV-23-130-SLP, ECF No. 67 (W.D. Okla., Mar. 29, 2023) (awarding a multiplier of 1.51).

#### **IV. ARGUMENT AND AUTHORITIES**

##### **A. 12 O.S. § 2023(G) Factors Support Approval of Class Counsel’s Request for Attorney’s Fees.**

Class Counsel has devoted substantial time, labor, and resources to achieve the Settlement. Since the inception of this case, Class Counsel have incurred a total of 492.4 hours to date at a combined value of \$461,466.20 when multiplied by Class Counsel’s customary hourly rates. *See* Declaration of Abbas Kazerounian (“KLG Decl.”) ¶ 39; and Declaration of Nicholas Migliaccio (“M&R Decl.”) ¶ 42. This time does not include additional time that will be spent drafting briefing in further support of the final approval of the Settlement, preparing for the final fairness hearing, responding to Settlement Class Members’ inquiries, communicating with the Settlement Administrator and overseeing the claims process, which will require Class Counsel to spend

additional time and incur additional fees. *See* KLG Decl. ¶ 34; M&R Decl. ¶ 37. Considering the amount of work required to obtain the favorable Settlement for Plaintiffs and the Settlement Class, Class Counsel respectfully submit that the requested attorney's fees and costs is reasonable.

Although Class Counsel have consistently sought to keep costs and fees to a minimum, the Action required a significant amount of work and time. Class Counsel's efforts in this matter thus far have included: (1) developing case strategy, (2) interviewing, analyzing, and vetting potential plaintiffs, (3) extensively researching and filing the Complaint, (4) undertaking substantial investigation of the Data Incident, (5) reviewing, researching, and briefing related to Defendants' motion to dismiss Plaintiff's Complaint (6) informally exchanging information prior to mediation and preparing and exchanging extensive mediation briefs, (7) attending a full-day mediation session and an additional half-day mediation session, (8) drafting and negotiating the Settlement Agreement, Notice documents, and other exhibits to the Settlement Agreement, (9) obtaining and comparing bids from settlement administrators and credit monitoring service providers, (10) drafting the preliminary approval motion papers and securing preliminary approval of the Settlement; and (11) drafting the instant Motion for Attorneys' Fees and Expenses and Service Awards as well as the Motion for Final Approval of Class Action Settlement. *See* KLG Decl. ¶ 33; M&R Decl. ¶ 36. Moreover, during the Action, each attorney involved was careful to minimize or avoid duplication of any work while zealously advocating for the benefit of Plaintiffs and the Settlement Class.

Additional work will be required as Class Counsel must still: (1) prepare for and attend the Fairness Hearing, including further briefing in support of final approval of the Settlement and responding to any objections, (2) respond to inquiries from Settlement Class Members and communications with the Settlement Administrator, (3) oversee the Settlement through final

approval and distribution of benefits, (4) oversee the claims administration process, including addressing any claim review issues, and, if needed, (5) address any appeals.<sup>4</sup> See KLG Decl. ¶ 34; M&R Decl. ¶ 37. Class Counsel estimate they will accrue approximately 30 to 40 more hours bringing the Settlement through to the final fairness hearing and continuing to work with the Settlement Administrator and addressing Settlement Class Members' questions regarding distribution of the Settlement Benefits after the Court grants final approval of the Settlement. See KLG Decl. ¶ 35; M&R Decl. ¶ 38. Thus, Class Counsel submit the effort required to obtain this Settlement strongly supports a finding that the requested fee is reasonable.

**B. Factors 5 and 12: the Requested Fee Falls Within the Range of Attorneys' Fees Granted in Similar Cases.**

Class Counsel seek a total award of \$450,000 for their combined Attorneys' Fees and Expenses, resulting in a negative lodestar multiplier of Class Counsel's lodestar total below. As previously stated, the requested award of Attorneys' Fees and Expenses will be paid separate and apart from the Settlement Benefits available to the Settlement Class Members and will not in any way impact or diminish their recovery from the Settlement. (S.A. ¶ 97). Class Counsel's combined lodestar is summarized in the table below:

<b>MIGLIACCIO &amp; RATHOD, LLP</b>				
<b>Attorney Name</b>	<b>Professional</b>	<b>Hourly</b>	<b>Total Hours</b>	<b>Lodestar</b>
Nicholas A. Migliaccio	Partner	1227	47.7	\$58,527.90
Jason Rathod	Partner	1019	12.2	\$12,431.89
Saran Q. Edwards	Counsel	1019	180.8	\$184,235.20
Zachary Chambers	Associate	508	8.6	\$4,368.80
			<b>249.3</b>	<b>\$259,563.70</b>
<b>KAZEROUNI LAW GROUP, APC</b>				
<b>Attorney Name</b>	<b>Professional</b>	<b>Hourly</b>	<b>Total Hours</b>	<b>Lodestar</b>
Abbas Kazerounian	Partner	1075	73.3	\$78,797.50
Mona Amini	Partner	725	169.8	\$123,105.00
			<b>243.1</b>	<b>\$201,902.50</b>

<sup>4</sup> Class Counsel intend to provide the Court with additional information concerning the hours expended prior to the Fairness Hearing.

<b>Combined Total:</b>			<b>492.4</b>	<b>\$461,466.20</b>

Class Counsel utilized standard billing practices and contemporary recordkeeping to track and record their reasonable hours. *See* KLG Decl. ¶ 32; M&R Decl. ¶ 35. Prior to submitting Class Counsel’s lodestar to the Court, Class Counsel reviewed all time entries billed to this matter and exercised billing judgment to exclude hours that, in Class Counsel’s professional judgment, were duplicative, or otherwise could not be billed to a fee-paying client. *Id.* The hours reflected in Class Counsel’s lodestar are attributable to the tasks outlined in IV.A. above.

The rates utilized by Class Counsel in calculating their lodestar (which are their customary and usual rates for this type of litigation) are also reasonable in the context of this litigation. *See* KLG Decl. ¶ 38; M&R Decl. ¶ 41. When assessing the reasonableness of an attorney’s rate, “the district court should base its hourly rate award on what the evidence shows the market commands for ... analogous litigation.” *Case v. Unified Sch. Dist. No. 233, Johnson Cnty., Kan.*, 157 F.3d 1243, at 1255 (10th Cir. 1998); *see also Missouri v. Jenkins*, 491 U.S. 274,286 (1989) (describing relevant comparison as the rates “prevailing in the community for similar services by lawyers of reasonably comparable skill, experience, and reputation”) (quoting *Blum v. Stenson*, 465 U.S. 886, 896 n.11 (1984)); *Malloy v. Monahan*, 73 F.3d 1012, 1018 (10th Cir. 1996) (Court is to refer to the “the prevailing market rate in the relevant community.”). “Where litigation features a national scope and requires a “highly-specialized” opposing counsel, national rates should apply to determining the lodestar.” *In re Samsung Top-Load Washing Mach. Mktg., Sales Pracs. & Prod. Liab. Litig.*, No. 17-ML-2792-D, 2020 WL 9936692, at \*6 (W.D. Okla. June 11, 2020), *aff’d*, 997 F.3d 1077 (10th Cir. 2021) ; *Lippoldt v. Cole*, 468 F.3d 1204, 1225 (10th Cir. 2006) (explaining that national rates are appropriate when the “subject of the litigation is ... unusual”). Here, Class Counsel have extensive experience litigating complex actions, including data breach class actions.

See generally KLG Decl. and M&R Decl. Class Counsel's rates are reasonable measured against the local and national market for complex class actions and against other complex data privacy class actions. See, e.g., *Johnson v. Paycom Payroll, LLC*, No. CJ-2023-4763 (Dist. Ct. OK Cty. Dec. 13, 2024) and *McPherson v. American Bank Systems*, No. 5:20-cv-01307, ECF No. 73 (W.D. Okla.) (approving OK Class Counsel's hourly rate of \$1,150 in similar data breach class action litigation); see also, *In re Wright & Filippis, LLC Data Security Breach Litigation*, Case No. 2:22-cv-12908-SFC-EAS (E.D. Mich.) (Dkt. 50) (June 20, 2024) (approving attorneys' fee that represented 1/3 of common benefit and implicitly accepting M&R's rates as reasonable); *Fath v. Am. Honda Motor Co.*, No. 18-CV-1549 (NEB/LIB), 2020 U.S. Dist. LEXIS 252264, at \*11 (D. Minn. Sep. 11, 2020) (approving M&R's standard rates as reasonable in consumer class action settlement); *McHenry v. Advent Partners, Inc.*, 3:22-cv-00287 (M.D. Tenn.) (approving similar attorneys' fee request of \$250,000 in data breach class action settlement); *Salinas, et al. v. Block, Inc. and Cash App Investing, LLC*, Case No. 22-cv-04823 (N.D. Cal.) (Mar. 27, 2025) (Dkt. 157) (approving attorneys' fees in data privacy case and accepting M&R's rates as reasonable);<sup>5</sup> *In re loanDepot Data Breach Litigation*, No. 8:24-cv-00136-DOC-JDE (C.D. Cal. Aug. 25, 2025) (data breach class action settlement approving rates of \$1,025 for Abbas Kazerounian and \$725 per hour for Mona Amini); *Hillbom v. RI RCM, et al.*, No. 2:24-cv-00664-JAD-EJY (D. Nev. Nov. 14,

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<sup>5</sup> See also *Brown. et al. v. Hyundai Motor America, et al.*, No. 2:18-cv-11249-SDW-JSA (D.N.J.) (Dkt. 69) (consumer class action settlement in which lodestar-based attorneys' fee approved in full with M&R using its standard rates); *Carlotti v. Asus Comput. Int'l*, No. 18-cv-03369-DMR, 2020 U.S. Dist. LEXIS 108917, at \*17 (N.D. Cal. June 22, 2020) (same); *Corbin v. CFRA, LLC*, Case No. 1:15-cv-00405 (M.D.N.C.) (Dkt. 93) (approving attorneys' fee that represented 1/3 of common fund and implicitly accepting M&R's rates as reasonable). Notably, in *Chacon et. al. v. Neb. Med.*, No. 8:21CV70, 2021 U.S. Dist. LEXIS 175645 (D. Neb. Sep. 15, 2021), a data breach class action settlement in which plaintiffs' counsel (not M&R) secured approval of its attorneys' fees. The law firm is a Washington D.C. based firm (presently known as Mason LLP) that, like M&R, uses the LSI Laffey Matrix.

2025) (data breach class action settlement, approving rates of \$1,025 for Abbas Kazerounian and \$725 for Mona Amini); *Kuhn v. Nations Direct Mortgage LLC*, No. 24000115CAAXMX (Walton County, Fla. Jan. 15, 2026) (data breach class action settlement, approving hourly rate of \$725 for Ms. Amini); *Parker v. The Dufresne Spencer Group*, No. 4:24-cv-02202 (S.D. Tex. April 2, 2026) (data breach class action settlement, approving rates of \$1,075 for Mr. Kazerounian and \$725 for Ms. Amini).

Accordingly, the hourly rates submitted by Class Counsel are reasonable and in line with the prevailing customary rates charged by Class Counsel and comparable firms for similar services in a nationwide data breach class action litigation. As a result, the lodestar approach provides robust support for the reasonableness of the requested fee award.

**C. Factors 8: The Amount in Controversy and the Results Obtained Support Approval of Class Counsel’s Requested Fee Award.**

In “contingent fee representations, the most important factor is the result obtained.” *Fitzgerald Farms, L.L.C.*, 2015 WL 5794008, at \*2. Here, the Settlement provides the Settlement Class with comprehensive Settlement Benefits. As discussed above, under the Settlement, TRISTAR will make \$1,000,000.00 available to Settlement Class Members who submit Approved Claims for: (1) Out-of-Pocket Expenses Payment up to \$500.00 for reimbursement of documented Out-of-Pocket Losses; (2) Lost Time Payment of up to four hours at \$25.00 per hour (for a maximum amount of \$100.00) for the claimed time responding to issues raised by the Data Incident; (3) Extraordinary Loss Payment of up to \$5,000.00 for compensation of documented Extraordinary Losses stemming from fraud or identity theft resulting from the Data Incident; (4) Alternative Cash Payments of \$100.00 for California Subclass Settlement Class Members and \$40 for non- California Subclass Settlement Class Members in lieu of receiving reimbursement for Out-of-Pocket Losses, Extraordinary Losses, and Lost Time; and (5) three years of triple bureau Credit Monitoring

Services, which 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. (S.A. ¶¶ 46-49). This is in addition to the meaningful Business Practice Changes TRISTAR is undertaking 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, which is estimated to cost \$150,000. (S.A. ¶ 50).

These are real, significant benefits that without the efforts of Plaintiffs and Class Counsel, and their willingness to take on the attendant risks of litigation, would not have been made available to Settlement Class Members. As such, this factor weighs in favor of approval of the requested fee award.

**D. Factors 3 and 9: The Skill Required to Perform the Legal Services Properly and the Experience, Reputation, and Ability of Class Counsel Support the Requested Fee Award.**

This Action called for considerable skill and experience, requiring investigation and mastery of complex factual circumstances, the ability to develop creative legal theories, and the skill to respond to a host of legal defenses. Data breach litigation is a cutting-edge area of the law that presents numerous developing issues, evolving precedents, and unpredictable outcomes. *See, e.g., In re Sonic Corp. Customer Data Sec. Breach Litig.*, No. 1:17-md-2807, 2019 WL 3773737, at \*7 (N.D. Ohio Aug. 12, 2019) (“Data breach litigation is complex and risky. This unsettled area of law often presents novel questions for courts. And of course, juries are always unpredictable.”); *Corra v. ACTS Ret. Servs., Inc.*, No. CV 22-2917, 2024 WL 22075, at\* 12 (E.D. Pa. Jan. 2, 2024) (“[T]he Court recognizes that data breach cases such as this one are complex and risky, and recovery at trial is decidedly uncertain-\$350,000 in cash is significantly better than nothing.”); *In re Countrywide Fin. Corp. Customer Data Sec. Breach Litig.*, No. 3:08-1998, 2010 WL 3341200, at \*6 (W.D. Ky. Aug. 23, 2010) (approving data breach settlement, in part, because

“proceeding through the litigation process in this case is unlikely to produce the plaintiffs’ desired results). Despite these risks, however, Class Counsel undertook this litigation on an entirely contingency fee basis with no promise of any reward.

Class Counsel are highly experienced in this area of practice and have a well-respected reputation in the area of data privacy litigation. Class Counsel worked hard and at great risk on behalf of the Settlement Class to obtain information from TRISTAR regarding the Data Incident and utilized their experience and the knowledge gained from other data breach class action litigation to negotiate a favorable Settlement for the Settlement Class. The Settlement addresses the type of injury and repercussions sustained by Settlement Class Members in the wake of the Data Incident and offers significant compensation to remedy the harms Settlement Class Members may have suffered, or may in the future suffer, as a result of the Data Incident. “[T]hrough the Settlement, Plaintiffs and Class Members gain benefits without having to face further risk.” *Desue v. 20/20 Eye Care Network, Inc.*, No. 21-CIV-61275-RAR, 2023 WL 4420348, at \*8 (S.D. Fla. July 8, 2023) (approving settlement in data breach class action). Thus, this factor weighs in favor of Class Counsel’s fee request.

#### **E. Factor 7: The Time Limitations Imposed by the Circumstances**

Plaintiffs alleged that their PII was compromised and they were at a certainly impending risk of identity theft and fraud due to the Data Incident. Time was of the essence when securing relief and benefits for the Settlement Class. Class Counsel’s efficient work has allowed Settlement Class Members to expeditiously take advantage of Settlement Benefits, including monetary payments and reimbursements for Out-of-Pocket Losses, Extraordinary Losses, and Credit Monitoring Services to protect against future harms. Without this Settlement, such benefits may not have been made available to Settlement Class Members for years (assuming litigation is

successful), if at all. Simply put, the Settlement Benefits will help mitigate future harms and provide immediate relief. This factor clearly supports the fee request.

**F. Factor 11: The Nature and Length of the Professional Relationship With the Clients Supports Approval.**

This factor also weighs in favor of the requested fee award. Class Counsel have been in communication with their clients since before this Action was commenced and remain in close contact with them regarding details of this Settlement and its progression through final approval. *See* KLG Decl. ¶ 43; M&R Decl. ¶ 48. Plaintiffs have been actively involved in this litigation and have approved of and support the Settlement. Accordingly, this factor weighs in favor of the agreed upon fee.

**G. Factors 2, 4, 6, 10, and 13: The Novelty and Difficulty of the Questions Presented by the Case, the Undesirability of the Case, the Contingent Nature of the Case, the Risks of Recovery in the Litigation, and the Preclusion of Other Employment by Settlement Class Counsel All Weigh in Favor of the Requested Fee.**

As noted above, this case involved complex issues of the novel and evolving area of data breach litigation. *See Gordon v. Chipotle Mexican Grill, Inc.*, No. 17-cv-01415-CMA-SKC, 2019 WL 6972701, at \* 1 (D. Colo. Dec. 16, 2019) (“Data breach cases ... are particularly risky, expensive, and complex.”); *Fulton-Green v. Accolade, Inc.*, No. 18-274, 2019 WL 4677954, at \*8 (E.D. Pa. Sept. 24, 2019) (noting data breaches are a “risky field of litigation” because they “are uncertain and class certification is rare.”); *Fox v. Iowa Health Sys.*, No. 3:18-CV-00327-JDP, 2021 WL 826741, at \*5 (W.D. Wis. Mar. 4, 2021) (“Data breach litigation is evolving; there is no guarantee of the ultimate result.”). Due at least in part to the cutting-edge nature of data protection technology and rapidly evolving law, data breach cases like this one face substantial hurdles—even just to make it past the pleading stage. *See, e.g., Hammond v. The Bank of NY Mellon Corp.*, No. 08 Civ. 6060 RMB RLE, 2010 WL 2643307, at \*1-2 (S.D.N.Y. June 25, 2010) (collecting data

breach cases dismissed at the motion to dismiss and summary judgment stage).

Plaintiffs faced the risk of not surviving dispositive motions, including a motion to dismiss a motion for summary judgment, and obtaining class certification. *See, e.g., In re Hannaford Bros. Co. Customer Data Sec. Breach Litig.*, 293 F.R.D. 21 (D. Me. 2013) (denying class certification in data breach class action); *Gaston v. FabFitFun, Inc.*, 2021 WL 6496734, at \*3 (C.D. Cal. Dec. 9, 2021) (“Historically, data breach cases have experienced minimal success in moving for class certification.”). Though Plaintiffs strongly believe in the merits of their claims, Plaintiffs and Class Counsel acknowledge that proving causation and damages in the emerging area of data breach cases can be difficult and is by no means guaranteed. *See, e.g., Hashemi v. Bosley, Inc.*, No. CV 21-946 PSG (RAOX), 2022 WL 18278431, at \*4 (C.D. Cal. Nov. 21, 2022) (explaining that data breach class actions are a relatively new type of litigation and that damages methodologies in data breach cases are largely untested and have yet to be presented to a jury). Further, continued litigation further would have required formal discovery, depositions, expert reports, obtaining and maintaining class certification throughout trial, as well as surviving possible appeals (interlocutory and/or after the merits), which would require additional rounds of briefing and the possibility of no recovery at all. The Settlement here guarantees relief to the Settlement Class whereas further protracted litigation would not.

As mentioned above, Class Counsel took this case on a purely contingent basis and have received no compensation thus far since the inception of this litigation, with the understanding that they would only be compensated if there was a recovery for Plaintiffs. As such, neither compensation for their time nor reimbursement of their costs were guaranteed to Class Counsel. Hence, Class Counsel assumed significant risk of nonpayment or underpayment of attorneys’ fees. A case of this size and complexity required a significant commitment of time and resources from

Class Counsel. This time could have been devoted to other matters. Courts “have consistently found that this type of fee arrangement, under which counsel runs a significant risk of nonpayment, weighs in favor of the reasonableness of a requested fee award.” *Blanco v. Xtreme Drilling & Coil Servs., Inc.*, No. 16-CV-00249-PAB-SKC, 2020 WL 4041456, at \*6 (D. Colo. July 17, 2020). Therefore, this final factor also weighs in favor of approval.

#### **V. CLASS COUNSEL’S EXPENSES ARE REASONABLE**

As explained in Class Counsel’s supporting declarations detailing Class Counsel’s total costs expenses incurred in this Action (*see* KLG Decl. ¶¶ 40-41; M&R Decl. ¶¶ 43-44), the requested reimbursement is for unavoidable expenses such as filing fees, mediation fees, *pro hac vice* applications and related costs, etc., all of which inured to the benefit of the Class. These expenses are typical of litigation, reasonable in amount, and necessary for advancement of the Action to the benefit of the Settlement Class. (*Id.*). For these reasons, Class Counsel’s expenses summarized below should be approved.

#### **VI. THE REQUESTED SERVICE AWARDS ARE REASONABLE**

Service awards are commonly awarded in class actions and data breach class actions particularly, and should also be awarded here. *See, e.g., Granado*, No. 5:22-cv-00516, ECF No. 48 (approving service award of \$2,500.00); *Doughty*, No. CIV-20-500, ECF No. 137 (approving service award of \$2,500.00); *Dennis*, No. 4:20-cv-00295, ECF No. 263 (approving service award of \$2,500.00); *Johnson v. Paycom Payroll, LLC*, No. CJ-2023-4763 (Dist. Ct. OK Cty. Dec. 13, 2024) (approving service award of \$2,000.00); *Casey v. Tyler Technologies, Inc.*, No. CJ-2024-5929 (Okla. Dist. Ct. Okla. Cty.) (approving service award of \$2,500.00).

Here, Class Counsel believes a modest Service Award of \$2,000.00 to each of the Class Representatives fairly compensates them for their personal effort in coming forward to initiate this

case and the risk and commitment entailed in pursuing this litigation as the named Plaintiffs on behalf of the Settlement Class. The excellent result achieved in this Action could not have been accomplished without the substantial efforts of the Class Representatives. Among other things, the Class Representatives provided essential information to Class Counsel; collected documents and other evidence that supported the claims alleged in the petitions; agreed to face invasive and time consuming discovery, including depositions and trial if necessary; reviewed pleadings and communicated with Class Counsel related to pleadings and the settlement negotiation; and considered and approved the Settlement terms on behalf of the Settlement Class. Plaintiffs devoted significant time and effort to the Action, and because of their personal efforts, a substantial benefit was conferred to the Settlement Class. *See* KLG Decl. ¶¶ 43-44; M&R Decl. ¶ 48. Accordingly, and in recognition of the substantial benefit they conferred to the Settlement Class and their efforts generally, modest Service Awards of \$2,000.00 to each Class Representative (\$4,000 total) are reasonable and should be approved.

## **VII. CONCLUSION**

For the reasons set forth above, Plaintiffs respectfully request that the Court grant Plaintiffs' Motion (in conjunction with final approval of the Settlement) and enter an Order approving the award of attorney's fees and costs in the amount of \$450,000.00 total for Class Counsel and approving Service Awards of \$2,000.00 to each of the Class Representatives.

Dated: May 18, 2026

Respectfully submitted,



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*Counsel for Plaintiff and the Settlement Class*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 18th day of May 2026, a true and correct copy of the foregoing has been furnished by email to the following counsel for Defendant:

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Jeremy Beaver