

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

IN RE MOTILITY DATA BREACH  
LITIGATION

Case No. 3:25-cv-00330

Judge Walter H. Rice

**PLAINTIFFS' UNOPPOSED MOTION FOR  
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

Under Fed. R. Civ. P. 23(e), G. Scott Lockwood, Heather Reynicke, Christopher Santora, Donna Mathews, John Langan, Nancy Langan, Stephen Duesler, Patrick Hubley, and Peggy L. Koller (“Plaintiffs”), individually and on behalf of all others similarly situated, hereby move this Court for preliminary approval of a proposed class action settlement consisting of a \$4,949,500 non-reversionary common fund.

For the reasons set forth in the following Memorandum, Plaintiffs respectfully move that the Court preliminarily approve the Settlement, direct that notice be sent to all Class Members in the reasonable manner outlined below, set deadlines for exclusions, objections, and briefing on the Motions for Final Approval and for Attorneys’ Fees, Expenses, and Class Representative Service Awards, and set a Final Approval Hearing date. This Motion is supported by the Settlement Agreement<sup>1</sup> (“S.A.”), attached as **Exhibit A**, and the Declaration of Terence R. Coates in Support of Preliminary Approval of Class Action Settlement (“Coates Decl.”), attached as **Exhibit B**. A proposed order is also filed herewith.

Defendant does not oppose the relief requested in this motion.

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<sup>1</sup> Unless otherwise defined herein, all capitalized terms have the meanings defined in the Settlement Agreement.

## MEMORANDUM IN SUPPORT

### **I. INTRODUCTION**

Plaintiffs and the proposed Settlement Class have reached a proposed class action settlement with Defendant Motility Software Solutions, Inc. (“Defendant”) for a \$4,949,500 non-reversionary common fund to resolve all claims arising from the unauthorized access to Defendant’s network that occurred on or about August 11, 2025, (the “Data Incident”). Approximately 760,797 individuals were notified by Defendant that their Private Information may have been implicated in the Data Incident. *See* S.A., § 4.

The Settlement provides tangible relief and lies well within the range of reasonableness necessary for this Court to grant preliminary approval under Rule 23(e). *See* Coates Decl. ¶ 22 (with table containing comparisons to other similar recent data breach settlements).

### **II. BACKGROUND**

#### **A. Procedural History**

This is a data privacy class action brought by Plaintiffs on behalf of themselves and a class of all individuals “residing in the United States who were impacted by the Data Incident.” S.A., § 63. It concerns a cyberattack Defendant experienced in August 2025, in which an unauthorized third party accessed and potentially acquired files containing Private Information belonging to some of Defendant’s former and current customers’ customers. In response to the Data Incident, Defendant began sending notice letters in September 2025 (“Notice Letter”) to individuals who may have been impacted in the Data Incident. *Id.*

Following receipt of notice, two separate class action lawsuits, *G. Scott Lockwood v. Motility Software Solutions, Inc.*, No. 3:25-cv-00330-WHR-CHG, and *Heather Reynicke, et al. v. Motility Software Solutions, Inc.*, No. 3:25-cv-0331-MJN-PBS, were filed in this Court, each

seeking to represent the individuals impacted by the Data Incident. On October 7, 2025, Plaintiff Lockwood filed a motion to consolidate the two actions and to appoint lead counsel. The Court entered an order consolidating the actions and appointing interim lead counsel on October 15, 2025.

On November 9, 2025, Plaintiffs filed the Consolidated Complaint in this Action adding the claims of Plaintiffs Donna Mathews, John Langan, Nancy Langan, Stephen Duesler, Patrick Hubley, and Peggy L. Koller.

Following consolidation, the Parties decided to conserve resources and explore resolution of the entire action. Coates Decl. ¶ 11. The Parties set a mediation with experienced class action mediator Bennett G. Picker of Stradley Ronon Stevens & Young, LLP. *Id.*

In advance of mediation, Plaintiffs propounded and Defendant produced responses to informal discovery requests related to liability and damages, including, but not limited to, the number of individuals impacted by the Data Incident, the states in which they resided, the categories of Private Information involved, and the security enhancements taken since the Data Incident to better protect its computer systems for future data incidents. *Id.* ¶ 12. The Parties also drafted detailed mediation statements outlining their positions with respect to liability, damages, and settlement terms. *Id.*

The mediation took place on February 6, 2026. After a day of negotiations, the Parties agreed to the material terms of the Settlement to resolve all claims on a classwide basis. Coates Decl. ¶ 13. Subsequently, the Parties then engaged in many months of intense negotiations to finalize the terms of the Settlement Agreement, which will resolve all claims related to the Data Incident for the Class. *Id.*

**B. Summary of Settlement Terms**

Under the proposed settlement, Defendant will pay \$4,949,500 to establish the Settlement Fund to be distributed under the Settlement Agreement. The Settlement defines the Class as:

**all individuals residing in the United States who were impacted by the Data Incident.**

S.A., § 63. The Class specifically excludes (a) all officers and directors of Defendant; (b) governmental entities; (c) the Judge assigned to the Action, that Judge's immediate family, and Court staff; (d) any Settlement Class Member who timely and properly opts-out of the Settlement.

*Id.*

***1. Settlement Benefits***

Settlement Class Members are eligible to select from the following types of relief, valid claims for which will be paid for out of the Settlement Fund:

*a. Cash Payment A – Documented Losses*

Settlement Class Members may submit a claim for a Cash Payment under this section for up to \$5,000.00 per Settlement Class Member upon presentment of reasonable documented losses from fraud and/or identity theft related to the Data Incident. To receive a documented loss payment, a Settlement Class Member must elect Cash Payment A – Documented Losses on the Claim Form attesting under penalty of perjury to incurring documenting losses from fraud and/or identity theft. Settlement Class Members will be required to submit reasonable documentation supporting the losses, which means documentation contemporaneously generated or prepared by a third party or the Settlement Class Member supporting a claim for expenses paid. Non-exhaustive examples of reasonable documentation include telephone records, correspondence including emails, or receipts. S.A., § 77(a).

*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 *pro rata* cash payment in the estimated amount of \$75.00. S.A., § 77(b).

*c. Credit Monitoring*

In addition to Cash Payment A – Documented Losses or Cash Payment B –Alternate Cash, Settlement Class Members may also make a Claim for Credit Monitoring that will include two years with two bureaus of Credit Monitoring that will include: (i) real time monitoring of the credit file with one credit bureau; (ii) dark web scanning with immediate notification of potential unauthorized use; (iii) security freezing assistance; (iv) victim assistance; (v) \$1,000,000.00 in identity theft insurance with no deductible; and (vi) access to fraud resolution agents to help investigate and resolve instances of identity theft. S.A., § 77(c).

**2. *Scope of the Release***

In exchange for consideration above, Class Members who do not timely and validly exclude themselves from the Settlement will be deemed to have released Defendant from claims arising from or related to the Data Incident at issue in this Litigation. *Id.*, § XIII.

**3. *The Notice and Administration Plans***

Under the Settlement Agreement, proposed Class Counsel, with Defendant’s approval, have selected Epiq Class Action and Claims Solutions, LLC (“Epiq”) to be the Settlement Administrator, which will provide the Class with notice and administer the claims. *Id.*, § 61. Proposed Class Counsel’s decision, with Defendant’s consent, to select Epiq was based on the scope of settlement administration Epiq proposed balanced against the cost for such services. *See* Coates Decl. ¶¶ 16-17. Proposed Class Counsel understands that any settlement administration

costs and expenses will be deducted from the Settlement Fund and endeavored to select a settlement administrator for this case offering the broad services for a price that is favorable to the Class. *Id.*

Defendant will provide the Settlement Administrator with the Settlement Class Member list containing Settlement Class Members' names and addresses. SA, § 26. The Settlement Administrator will then provide a written notice to each Class Member for whom valid mailing addresses are known. S.A., § 83. The Short Notice will be sent in a form substantially similar to that in Exhibit 1 to the Settlement Agreement, and shall include, among other information: (a) a description of the material terms of the Settlement; (b) how to submit a Claim Form; (c) the Claim Form Deadline; (d) the Opt-out Deadline which is the last for Settlement Class Members to opt-out of the Settlement Class; (e) the Objection Deadline which is the last day for Settlement Class Members to object to the Settlement and/or Application for s' Attorneys' Fees, Costs, and Service Awards; (f) the Final Approval Hearing date; and (g) the Settlement Website address at which Settlement Class Members may access the Settlement Agreement and other related documents and information. *Id.*, § 84. The Settlement Administrator will also publish a Long Form Notice and Claim Form on the Settlement Website established and administered by the Settlement Administrator, which shall contain information about the Settlement, including copies of the notice, the Settlement Agreement, and all court documents related to the Settlement. *Id.*, § 85. The Settlement Administrator will also be responsible for accounting for all of the claims made and exclusions requested, determining eligibility, and disbursing funds from the Settlement Fund directly to Class Members. *Id.*, § 81. Proposed Class Counsel, with experience receiving settlement administration bids in data breach class action settlements such as this one, was able to work with

Epiq to receive the Settlement Administration quote for this case and establish a notice plan that will sufficiently inform the Settlement Class. Coates Decl. ¶ 16.

**4. Attorneys' Fees, Costs, Expenses, and Service Awards**

Plaintiffs will also separately seek an award of attorneys' fees not to exceed 1/3 of the Settlement Fund and for reimbursement of Class Counsel's reasonable litigation expenses, which shall be paid from the Common Fund. S.A., § 107. The Settlement Agreement further provides for a payment of up to \$2,000.00 each, subject to Court Approval, to the Class Representatives as Service Awards for their services and efforts in representing the Class. S.A., § 108.

**III. LEGAL STANDARD FOR PRELIMINARY APPROVAL**

Settlement of class actions is generally favored and encouraged. *Franks v. Kroger Co.*, 649 F.2d 1216, 1224 (6th Cir. 1981). Rule 23(e) provides three steps for approving a proposed class action settlement: (1) the Court must preliminarily approve the proposed settlement; (2) members of the class must be given notice of the proposed settlement; and (3) a fairness hearing must be held, after which the court must determine whether the proposed settlement is fair, reasonable, and adequate. *In re Broadwing, Inc. ERISA Litig.*, 252 F.R.D. 369, 372 (S.D. Ohio 2006); *see also Amos v. PPG Indus., Inc.*, No. 2:05-cv-70, 2015 WL 4881459, at \*1 (S.D. Ohio Aug. 13, 2015). Plaintiffs respectfully request that the Court preliminarily approve the proposed Settlement.

During the preliminary approval proceedings, "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." David F. Herr, *Annotated Manual for Complex Litigation (Fourth)* § 21.662 (2012). Instead, the Court should evaluate only whether the proposed settlement "appears to be the product of serious, informed, non-collusive negotiation, has no obvious deficiencies, does not improperly grant preferential treatment to class representatives or segments of the class, and falls within the

range of possible approval.” *Hyland v. Homeservs. of Am., Inc.*, No. 3:05-CV-612, 2009 WL 2525587, at \*2 (W.D. Ky. Aug. 17, 2009) (citing *In re Nasdaq Market-Makers Antitrust Litig.*, 176 F.R.D. 99, 102 (S.D.N.Y.1997)).<sup>2</sup>

The Court should preliminarily determine that the settlement is sufficiently fair, reasonable, and adequate so that it can “direct the preparation of notice of certification, proposed settlement, and date of the final fairness hearing” to all those affected by it. *In re Skechers Toning Shoe Prod. Liab. Litig.*, No. 3:11-MD-2308, 2012 WL 3312668, at \*7 (W.D. Ky. Aug. 13, 2012).

#### **IV. ARGUMENT**

##### **A. The Proposed Settlement Satisfies the Standard for Preliminary Approval**

###### ***1. The Proposed Settlement is the Product of Arm’s-Length Negotiations Between Experienced Professionals***

Arm’s-length negotiations conducted by competent counsel constitute prima facie evidence of fair settlements. *See, e.g., Roland v. Convergys Customer Mgmt. Grp. Inc.*, No. 1:15-CV-00325, 2017 WL 977589, at \*1 (S.D. Ohio Mar. 10, 2017) (noting that settlement was “reached after good faith, arms’ length negotiations, warranting a presumption in favor of approval”); *Brotherton v. Cleveland*, 141 F. Supp. 2d 894, 906 (S.D. Ohio 2001) (absence of any evidence suggesting collusion or illegality “lends toward a determination that the agreed proposed settlement was fair, adequate and reasonable”).

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<sup>2</sup> Protracted litigation is often required to get past the pleading stage in data breach actions. *See, e.g., Savidge v. Pharm-Save, Inc.*, No. 3:17-CV-00186, 2017 WL 5986972, at \*13 (W.D. Ky. Dec. 1, 2017) (granting and denying in part motion to dismiss complaint in data breach action involving employee PII); *Savidge v. Pharm-Save, Inc.*, No. 3:17-CV-186, 2020 WL 265206, at \*7 (W.D. Ky. Jan. 17, 2020) (dismissing additional claims brought in amended complaint); *Savidge v. Pharm-Save, Inc.*, No. 3:17-CV-00186, 2021 WL 3076786, at \*1 (W.D. Ky. July 1, 2021) (granting leave to file second amended complaint over objection); *Savidge v. Pharm-Save, Inc.*, No. 3:17-CV-00186, 2024 WL 1366832 (W.D. Ky. Mar. 29, 2024) (granting renewed motion to certify class including negligence claim).

In this case, the settlement was the result of intensive, arm’s-length negotiations between attorneys who have substantial class action litigation experience and who have knowledge of the legal and factual issues of this case in particular. Coates Decl. ¶ 14. Settlement negotiations in this case also involved mediation with an experienced data privacy class action mediator. *Id.* No collusion or illegality existed during the settlement process. *Id.* Proposed Class Counsel support the Settlement as fair and reasonable, and certify that it was reached at arm’s length. *Id.*

***2. The Proposed Settlement Falls Within the Range of Reasonableness and Warrants Issuance of Notice and a Final Approval Hearing***

Although Plaintiffs believe that their claims have merit and the Class would ultimately prevail at trial, continued litigation against Defendant poses significant risks that make any recovery for the Class uncertain. The fairness and adequacy of the Settlement is underscored by consideration of the obstacles that the Class would face in ultimately succeeding on the merits, as well as the expense and likely duration of the litigation. *See In re Cinfed Fed. Credit Union Data Breach Litig.*, No. 1:23-cv-776, 2025 WL 1637686, at \*9 (S.D. Ohio June 10, 2025) (given data breach class risks recovering nothing, the settlement provides an “efficient mechanism to resolve this dispute with overall cost, time, and risk avoidance for all parties”); *see also Amos*, 2015 WL 4881459, at \*1 (“In general, most class action are inherently complex, and settlement avoids the costs, delays, and multitude of other problems associated with them.”) (internal citations and quotations omitted). Furthermore, the Settlement is in line with other recent data breach settlements in terms of the amount recovered per Class Member. Coates Decl. ¶ 22. Despite the risks involved with further litigation, the Settlement Agreement provides strong benefits. Class Members may claim documented losses up to \$5,000 or receive *pro rata* cash payments under the Settlement, as well as receive free credit monitoring services. S.A., § 77; *Cinfed*, 2025 WL 1637686, at \*9 (similar two-tier distribution in data breach “suggests fairness”).

### ***3. The Proposed Settlement Has No Obvious Deficiencies***

There are no grounds to doubt the fairness of the proposed settlement or other obvious deficiencies, such as unduly preferred treatment of Plaintiffs or excessive attorney compensation. *Thacker v. Chesapeake Appalachia, LLC*, 259 F.R.D. 262, 271 (E.D. Ky. 2009). Plaintiffs, like all other Class Members, will receive their settlement benefit in accordance with a claims process that will be presented to the Court for approval.

The award of attorneys' fees and expenses, as well as any Service Awards for Plaintiffs, will be determined by the Court. Proposed Class Counsel have agreed to limit their fee request to one-third of the Settlement Fund, which is well within the range awarded within the Sixth Circuit. *See In re Cincinnati Gas & Elec. Co. Sec. Litig.*, 643 F. Supp. 148, 150 (S.D. Ohio 1986) (in the Sixth Circuit, attorneys' fees "typically . . . range from 20%-50%"); *In re Automotive Parts Antitrust Litig.*, No. 12-md-02311, 2022 WL 4385345, at \*2 (E.D. Mich. Sept. 22, 2022) (a fee request of one-third of the class action settlement fund "is within the range of fee awards made by courts in this Circuit"). Plaintiffs further seek modest Service Awards of up to \$2,000.00 each for their active involvement in this litigation. S.A., § 108; Coates Decl. ¶ 23. This is lower than the amounts awarded in data breach cases like *In re Wasserstrom Holdings, Inc. Data Breach Litigation*, No. 2:23-CV-2070, 2025 WL 1563548, at \*9 (S.D. Ohio Apr. 11, 2025) (\$5,000 service awards in case that settled at pleading stage) and *Jackson v. Nationwide Retirement Solutions, Inc.*, No. 2:22-cv-3499, 2024 WL 958726, at \* 7 (S.D. Ohio. Mar. 5, 2024) (same).

For the foregoing reasons, the Court should find that the proposed settlement is fair, reasonable, and adequately protects the interests of the proposed Class.

### **B. Certification of the Settlement Class Is Appropriate**

The Supreme Court has recognized that the benefits of a proposed settlement of a class

action can be realized only through the certification of a settlement class. *See Amchem Prods., Inc. v. Windsor*, 521 U.S 591, 620 (1997). For the Court to certify a class, Plaintiffs must satisfy all the requirements of Rule 23(a), and one of the requirements of Rule 23(b). *See Pelzer v. Vassalle*, 655 F. App'x 352, 363 (6th Cir. 2016). The four requirements of Rule 23(a) are numerosity, commonality, typicality, and adequacy. Plaintiffs seek certification of the Class under Rule 23(b)(3), which provides that certification is appropriate where “the questions of law or fact common to class members predominate over any questions affecting only individual members [predominance], and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy [superiority].” Fed. R. Civ. P. 23(b)(3).

### ***1. Numerosity***

The numerosity requirement under Rule 23(a)(1) is satisfied where the class is so numerous that joinder of all Class Members is impracticable. Fed. R. Civ. P. 23(a)(1). “There is no specific number below which class action relief is automatically precluded. Impracticability of joinder is not determined according to a strict numerical test but upon the circumstances surrounding the case.” *Senter v. Gen. Motors Corp.*, 532 F.2d 511, 523 n.24 (6th Cir. 1976); *see also In re Am. Med. Sys. Inc.*, 75 F.3d 1069, 1076 (6th Cir. 1996) (“the Sixth Circuit has previously held that a class of 35 was sufficient to meet the numerosity requirement”); *Basile v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 105 F.R.D. 506, 508 (S.D. Ohio 1985) (certifying a 23-person class). The approximately 760,797 Class Members in this case satisfy the numerosity element.

### ***2. Commonality***

Rule 23(a)(2) requires that there be “questions of law or fact common to the class.” Fed. R. Civ. P. 23(a)(2). The Supreme Court has stated that Rule 23(a)(2)’s commonality requirement is satisfied where the plaintiffs assert claims that “depend upon a common contention” that is “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.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). Both the majority and dissenting opinions in that case agreed that “for purposes of Rule 23(a)(2) even a single common question will do.” *Id.* (internal quotation marks and citation omitted).

Plaintiffs’ claims turn on whether Defendant’s security network was adequate to protect Class Members’ Private Information. Resolution of that inquiry revolves around evidence that does not vary from class member to class member, and so can be fairly resolved—at least for purposes of settlement—for all Class Members at once. *Cf. Cinfed*, 2025 WL 1637686, at \*6 (finding commonality in data breach case at final approval based on “central issue” as to whether Cinfed negligently secured personal data).

### **3. Typicality**

To satisfy the typicality requirement of Rule 23(a)(3), the class representative’s claims must “arise[] from the same event or practice or course of conduct” as the rest of the putative Class. *Miller v. Charter Nex Films – Delaware, OH, Inc.*, No. 2:18-cv-1341, 2020 WL 2896913, at \*4 (S.D. Ohio June 2, 2020). Typicality seeks to ensure that there are no conflicts between the claims of the class representatives and those of the Class Members they represent. In this case, the claims all involve Defendant’s conduct toward the Class Members, and Plaintiffs’ claims are based on the same legal theories and align with those of absent class members. *Cf. Cinfed*, 2025 WL 1637686 at \*6 (finding typicality in data breach case). Thus, Plaintiffs’ claims are typical of those of the Class, and they are appropriate Class Representatives.

### **4. Adequacy of Representation**

The final requirement of Rule 23(a) is that “the representative parties will fairly and

adequately protect the interests of the class.” Fed. R. Civ. P. 23(a)(4). There are two criteria: (1) the “representative must have common interests with unnamed members of the class,” and (2) “it must appear that the representatives will vigorously prosecute the interests of the class through qualified counsel.” *Am. Med. Sys.*, 75 F.3d at 1083 (quoting *Senter v. Gen. Motors Corp.*, 532 F.2d 511, 525). This rule “serves to uncover conflicts of interest between named parties and the class they seek to represent.” *Amchem*, 521 U.S. at 594. Plaintiffs have no conflicts with the Class and have participated actively in the case. Coates Decl. ¶ 23.

Moreover, proposed Class Counsel have significant experience in class and complex litigation, including hundreds of data breach class actions in state and federal courts throughout the country. *Id.*, ¶¶ 3-6, 25. Class Counsel, have invested considerable time and resources into the prosecution of this action, have experience litigating complex class action lawsuits and were able to negotiate a strong settlement for the Class Members. *Id.*, ¶¶ 3-6; *see also* Plaintiffs’ Motion to Consolidate and Appoint Interim Class counsel. Doc. 5. Based on the results achieved here, the Court should appoint Terence R. Coates of Markovits, Stock, DeMarco, LLC, Raina Borrelli of Strauss Borrelli PLLC, Gary M. Klinger of Milberg, PLLC, and Jeff Ostrow of Kopelowitz Ostrow P.A., as Class Counsel, and determine that Rule 23(a)’s adequacy requirement is satisfied.

#### ***5. Certification Under Rule 23(b)(3) is Appropriate***

Class certification under Rule 23(b)(3) has two components: predominance and superiority. “The Rule 23(b)(3) predominance requirement parallels the Rule 23(a)(2) commonality requirement in ‘that both require that common questions exist, but subdivision (b)(3) contains the more stringent requirement that common issues ‘predominate’ over individual issues.’” *In re Countrywide Fin. Corp. Customer Data Sec. Breach Litig.*, No. 3:08-MD-01998, 2009 WL 5184352, at \*6 (W.D. Ky. Dec. 22, 2009) (quoting *In re Am. Med. Sys., Inc.*, 75 F.3d at

1084). When assessing these components, the court may consider that the class will be certified for settlement purposes only, and that a showing of manageability at trial is not required. *See Amchem*, 521 U.S. at 620 (on a request for settlement-only class certification, “a district court need not inquire whether the case, if tried, would present intractable management problems, for the proposal is that there be no trial”) (internal citation omitted).

The Sixth Circuit has explained that “named plaintiffs must show, and district courts must find, that questions of law or fact common to members of the class predominate over any questions that affect only individual members.” *In re Whirlpool Corp. Front-Loading Washer Prods. Liab. Litig.*, 722 F.3d 838, 860 (6th Cir. 2013). Also, the court considers whether a class action is “superior to other methods for fairly and efficiently adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3). Rule 23(b)(3) provides a non-exhaustive list of factors to be considered when making this determination. These factors include: (i) the class members’ interests in individually controlling the prosecution of separate actions; (ii) the extent and nature of any litigation concerning the controversy already begun by class members; (iii) the desirability of concentrating the litigation in the particular forum; and (iv) the likely difficulties in managing a class action. *Willis v. Big Lots, Inc.*, No. 2:12-CV-604, 2017 WL 1063479, at \*2 (S.D. Ohio Mar. 17, 2017).

*a. Questions of Law and Fact Common to the Settlement Class Predominate Over Individual Questions*

In this case, the common factual and legal questions all cut to the issues “at the heart of the litigation.” Indeed, the answers to these questions are not tangential or theoretical such that the litigation will not be advanced by certification. Rather, they go right to the center of the controversy, and the answers will be the same for each Class Member. As such, because the class-wide determination of this issue will be the same for everyone, the predominance requirement is readily satisfied. *Cf. Cinfed*, 2025 WL 1637686 at \*7 (finding predominance in data breach case

because “common questions of fact outweigh any questions that differ among class members.”).

*b. A Settlement Class is the Superior Method of Adjudicating This Case*

The second prong of Rule 23(b)(3)—that a class action is superior to other available methods for the fair and efficient adjudication of the controversy—is also readily satisfied. The Settlement Agreement provides members of the Class with quick, simple, and certain relief, and contains well-defined administrative procedures to ensure due process. This includes the right of any Class Member who is dissatisfied with the settlement to object to it or to request exclusion from the Class. Moreover, the cost of litigating each Class Member’s case on an individual basis would be substantial for each Class Member; the most reasonable and economically feasible method of litigating and resolving these hundreds of claims is through the class device. *See Young v. Nationwide Mut. Ins. Co.*, 693 F.3d 532, 545 (6th Cir. 2012) (“Where it is not economically feasible to obtain relief within the traditional framework of a multiplicity of small individual suits for damages, aggrieved persons may be without any effective redress unless they may employ the class-action device.” (internal quotations omitted)).

Adjudicating individual actions here is impracticable. The amount in dispute for individual class members is too small, the technical issues are too complex, and the required expert testimony and document review would be far too costly. In no case is the individual amount at issue sufficient to allow anyone to file and prosecute an individual lawsuit—at least not with the aid of competent counsel. Instead, the individual prosecution of Class Members’ claims would be prohibitively expensive, and, if filed, would needlessly delay resolution and lead to inconsistent rulings. Because this litigation 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; *see also Cinfed*, 2025 WL 1637686 at \*7 (costs to litigate a data breach case would

likely exceed the common fund and a class action is efficient).

**C. The Court Should Appoint the Proposed Class Representatives, Proposed Class Counsel, and Settlement Administrator**

The named Plaintiffs also seek to be appointed as Class Representatives for the Settlement Class. As discussed above, Plaintiffs have cooperated with counsel, assisted in the preparation of the Complaints, reviewed and approved of the settlement demand, and approved the terms of the Settlement on behalf of the Settlement Class. Coates Decl. ¶ 23. Moreover, Plaintiffs are committed to continuing to prosecute this case through the Court's potential final approval, including overseeing the notice program, and defending the Settlement against any objectors. They are adequate to serve, and the Court should appoint them as Class Representatives.

Also, for the reasons previously discussed with respect to adequacy of representation, the Court should designate Terence R. Coates of Markovits, Stock, DeMarco, LLC, Raina Borrelli of Strauss Borrelli PLLC, Gary M. Klinger of Milberg, PLLC, and Jeff Ostrow of Kopelowitz Ostrow P.A, as Class Counsel. Finally, the parties request the Court appoint Epiq to act as Settlement Administrator. Epiq and its principals have a long history of successful settlement administrations in class actions, including data breach actions such as this. Coates Decl. ¶ 16.

**D. The Proposed Notice Plan Is Reasonable and Should Be Approved**

Under Rule 23(e), the Court must “direct notice in a reasonable manner to all class members who would be bound” by the proposed settlement. Fed. R. Civ. P. 23(e)(1). Notice of a proposed settlement to class members must be the “best notice practicable.” Fed. R. Civ. P. 23(c)(2)(B). “[B]est notice practicable” means “individual notice to all members who can be identified through reasonable effort.” *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 173 (1974). To satisfy these standards and “comport with the requirements of due process, notice must be ‘reasonably calculated to reach interested parties.’” *In re Countrywide*, 2009 WL 5184352, at \*12

(quoting *Fidel v. Farley*, 534 F.3d 508, 514 (6th Cir. 2008)).

The notice plan set forth in the Settlement Agreement (“Notice Plan”) provides the best notice practicable under the circumstances. S.A. § VII. The Settlement Notice will be disseminated to all persons who fall within the definition of the Settlement Class and whose names and addresses can be identified with reasonable effort from Defendant’s records, and through databases tracking nationwide addresses and address changes. *Id.* In addition, Epiq will administer the Settlement Website containing important and up-to-date information about the Settlement. *Id.*

In addition, Rule 23(h)(1) requires that “[n]otice of the motion [for attorneys’ fees] must be served on all parties and, for motions by class counsel, directed to class members in a reasonable manner.” Here, the proposed Notice Plan satisfies these requirements, as it notifies Class Members that proposed Class Counsel will apply for attorneys’ fees of no more than one-third of the common fund, plus reimbursement of reasonable costs and expenses. S.A. § 107 and Exhibits. It also complies with Rule 23(c)(2)(B) and due process because it informs Class Members of: (1) the nature of the action; (2) the essential terms of the settlement, including the Class definition, claims asserted, and benefits offered; (3) the binding effect of a judgment if a Class Member does not request exclusion; (4) the process for objection and/or exclusion, including the time and method for doing so and that one may make an appearance through counsel; (5) information regarding the Class Representatives’ request for Service Awards; (6) information regarding the payment of proposed Class Counsel fees; and (7) how to make inquiries about the Settlement.

Thus, the Notice Plan and Notice “fairly apprise the prospective members of the class of the terms of the proposed settlement and of the options that are open to them in connection with the proceedings.” *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 114 (2d Cir. 2005). The manner of notice, which includes individual notice by mail to all those who can be reasonably

identified, represents the best notice practicable under the circumstances and satisfies due process and Rule 23. *Frost v. Household Realty Corp.*, 61 F. Supp. 3d 740, 745 (S.D. Ohio 2004). Thus, the Notice Plan should be approved. Fed. R. Civ. P. 23(c)(2)(A).

**E. The Court Should Provide a Schedule Leading Up to the Final Approval Hearing**

Plaintiffs request that the Court set a schedule, leading up to a Final Approval Hearing, including deadlines for notice to Class Members, for Class Members to object to or opt out of the settlement, and to make claims under the settlement; and deadlines for filing of papers in support of motions for final approval and for attorneys' fees. A proposed schedule is included in the proposed Preliminary Approval Order.

**V. CONCLUSION**

Plaintiffs respectfully request that the Court grant their Unopposed Motion for Preliminary Approval of Class Action Settlement.

Dated: April 7, 2026

Respectfully submitted,

/s/ Terence R. Coates

Terence R. Coates (0085579)

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*Counsel for Plaintiffs Heather Reynicke  
and Christopher Santora*

**CERTIFICATE OF SERVICE**

I hereby certify that on April 7, 2026, I served the foregoing upon counsel of record for all parties by filing it with the court's electronic-filing system in accordance with Fed. R. Civ. P. 5(b)(2)(E).

/s/ Terence R. Coates  
Terence R. Coates (0085579)

# **EXHIBIT**

**A**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO**

IN RE MOTILITY DATA BREACH  
LITIGATION

CASE NO. 3:25-CV-00330

HONORABLE WALTER H. RICE

**SETTLEMENT AGREEMENT**

This Settlement Agreement<sup>1</sup> is entered into between Plaintiffs, individually, and on behalf of 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. Background**

1. Defendant is in the business of selling dealer management software for recreational vehicle, bus, and marine dealerships.

2. In the regular course of providing its services, Defendant collects, stores, and maintains Private Information pertaining to Defendant's dealer-clients' current and former customers.

3. On or about August 11, 2025, an unauthorized third party accessed and potentially acquired files containing Private Information belonging to some of those former and current customers.

4. Beginning September 29, 2025, Defendant sent notice letters to 760,797 individuals who may have had their Private Information impacted in the Data Incident.

5. Following receipt of notice, two separate class action lawsuits, *G. Scott Lockwood*

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<sup>1</sup> All capitalized terms herein shall have the same meanings as those defined in Section II below.

*v. Motility Software Solutions, Inc.*, No. 3:25-cv-00330-WHR-CHG and *Heather Reynicke, et al. v. Motility Software Solutions, Inc.*, No. 3:25-cv-0331-MJN-PBS, were filed in this Court each seeking to represent the individuals impacted by the Data Incident.

6. On October 7, 2025, Plaintiff Lockwood filed a motion to consolidate the two actions and to appoint lead counsel. The Court entered an order consolidating the actions and appointing interim lead counsel on October 15, 2025.

7. On November 9, 2025, Plaintiffs filed the Consolidated Complaint in this Action adding the claims of Plaintiffs Donna Mathews, John Langan, Nancy Langan, Stephen Duesler, Patrick Hubley, and Peggy L. Koller.

8. Following consolidation, the Parties decided to conserve resources and explore resolution of the entire action. The Parties set a mediation with experienced class action mediator Bennett G. Picker of Stradley Ronon, Stevens & Young, LLP.

9. The Parties filed a joint motion to stay proceedings on November 18, 2025, and the Court entered an order on December 5, 2025, staying the case pending the outcome of mediation.

10. In advance of mediation, Plaintiffs propounded and Defendant produced responses to informal discovery requests related to liability and damages, including, but not limited to, the number of individuals impacted by the Data Incident, the states in which they resided, the categories of Private Information involved, and the security enhancements taken since the Data Incident to better protect its computer systems for future data incidents. The Parties also drafted detailed mediation statements outlining their positions with respect to liability, damages, and settlement terms.

11. The mediation took place on February 6, 2026. After a day of negotiations, the Parties agreed to the material terms of the Settlement to resolve all claims on a classwide basis.

12. The Parties now agree to settle the Action entirely, without any admission by the Defendant of 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 related to the Data Incident, 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 the Complaint, 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 enter 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. Definitions**

13. “**Action**” means the above-captioned action, *In re Motility Data Breach Litigation*, Case No. 3:25-cv-00330 (S.D. Ohio).

14. “**Agreement**” or “**Settlement**” or “**Settlement Agreement**” means this Settlement Agreement between Plaintiffs and Defendant.

15. “**Application for Attorneys’ Fees, Costs, and Service Awards**” means the application made with the Motion for Final Approval seeking attorneys’ fees, reimbursement for costs, and Service Awards.

16. “**CAFA Notice**” means 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(s)**” means the cash compensation paid to Settlement Class Members who elected to submit a Claim for either Cash Payment A – Documented Losses or Cash Payment B – Alternate Cash.

18. “**Cash Payment A – Documented Losses**” means the cash compensation that Settlement Class Members with documented losses may elect under the Settlement.

19. “**Cash Payment B – Alternate Cash**” means the cash compensation that Settlement Class Members may elect under the Settlement.

20. “**Claim(s)**” means the claim Settlement Class Members submit to the Settlement Administrator in order to request Settlement Class Member Benefits.

21. “**Claim Form**” means the proof of claim, substantially in the form attached hereto as *Exhibit 3*, which may be modified as necessary, subject to the Parties’ approval.

22. “**Claim Form Deadline**” means 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 Settlement Class Member Benefit and shall be no later than 60 days after the Notice

Commencement Date.

23. “**Claim Process**” means the process by which Settlement Class Members submit Claims to the Settlement Administrator and the Settlement Administrator determines which Claims are Valid Claims.

24. “**Claimant**” means an individual who submits a Claim Form.

25. “**Class Counsel**” means Terence R. Coates of Markovits, Stock, DeMarco, LLC, Raina Borrelli of Strauss Borrelli PLLC, Gary M. Klinger of Milberg PLLC, and Jeff Ostrow of Kopelowitz Ostrow P.A.

26. “**Class List**” is the Settlement Class Member list that Defendant will provide to the Settlement Administrator containing Settlement Class Members’ names and addresses.

27. “**Class Representatives**” means the Plaintiffs the Court approves to serve as representatives of the Settlement Class.

28. “**Complaint**” means the Consolidated Complaint filed in this Action on November 9, 2025.

29. “**Court**” means the Southern District of Ohio, and the Judge(s) assigned to the Action.

30. “**Credit Monitoring**” means the credit monitoring product that Settlement Class Members may elect as a Settlement Class Member Benefit under the Settlement.

31. “**Data Incident**” means the unauthorized third-party intrusion of Defendant’s computer network that occurred in August 2025.

32. “**Defendant**” means Motility Software Solutions, Inc., the defendant in this Action.

33. “**Defendant’s Counsel**” means David P. Saunders and Alexander H. Southwell of McDermott Will & Schulte LLP.

34. “**Effective Date**” means the day after the entry of the Final Approval Order, provided no objections are made to the Settlement. If there are objections to the Settlement, then the Effective Date shall be the later of: (a) 30 days after entry of the Final Approval Order if no appeals are taken from the Final Approval Order; or (b) if appeals are taken from the Final Approval Order, then the earlier of 30 days after the last appellate court ruling affirming the Final Approval Order or 30 days after the entry of a dismissal of the appeal.

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

36. “**Final Approval**” means the final approval of the Settlement, which occurs when the Court enters the Final Approval Order.

37. “**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.

38. “**Final Approval Order**” means the final order the Court enters granting Final Approval of the Settlement. The Final Approval Order also includes the orders, which may be entered separately, determining the amount of attorneys’ fees and costs awarded.

39. “**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 upon request to the Settlement Administrator.

40. “**Motion for Final Approval**” means the motion that Plaintiffs and Class Counsel shall file with the Court seeking Final Approval of the Settlement.

41. “**Motion for Preliminary Approval**” means the motion that Plaintiffs shall file with the Court seeking Preliminary Approval of the Settlement.

42. “**Net Settlement Fund**” means the amount of the Settlement Fund following payment of Settlement Administration Costs and any attorneys’ fees, costs, and Service Awards.

43. “**Notice**” means the Postcard Notice and Long Form Notice that Plaintiffs may ask the Court to approve in connection with the Motion for Preliminary Approval.

44. “**Notice Commencement Date**” means the date by which the Settlement Administrator shall commence the Notice Program, and which shall be no later than 30 days following entry of the Preliminary Approval Order.

45. “**Notice Completion Date**” means the date by which the Settlement Administrator shall complete the Notice Program, which shall be no later than 45 days following entry of the Preliminary Approval Order.

46. “**Notice of Deficiency**” means the notice sent by the Settlement Administrator to a Settlement Class Member who has submitted an invalid Claim.

47. “**Notice Program**” means the methods provided for in this Agreement for giving Notice to the Settlement Class and consists of Postcard Notice and Long Form Notice, along with the Settlement Website and the Settlement telephone number.

48. “**Objection Deadline**” means the last day by which Settlement Class Members may object to the Settlement and shall be no later than 60 days after the Notice Completion Date. .

49. “**Opt-Out Deadline**” means the last day by which Settlement Class Members may opt-out of the Settlement and shall be no later than 60 days after the Notice Completion Date.

50. “**Party**” means each of the Plaintiffs and Defendant, and “**Parties**” means Plaintiffs and Defendant, collectively.

51. “**Plaintiffs**” means G. Scott Lockwood, Heather Reynicke, Christopher Santora, Donna Mathews, John Langan, Nancy Langan, Stephen Duesler, Patrick Hubley, and Peggy L.

Koller.

52. “**Postcard Notice**” means the postcard notice of the Settlement, substantially in the form attached hereto as *Exhibit 1*, that the Settlement Administrator may disseminate to Settlement Class Members by mail.

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

54. “**Preliminary Approval Order**” means the order preliminarily approving the Settlement and proposed Notice Program, substantially in the form attached hereto as *Exhibit 4*.

55. “**Private Information**” means some combination of the following: names, postal addresses, e-mail addresses, telephone numbers, dates of birth, Social Security numbers, and driver’s license numbers.

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

57. “**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, attorneys’ fees and/or obligations, whether in law or in equity, accrued or unaccrued, direct, individual or representative, joint or several, 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.

58. **“Released Parties”** means Defendant, its customers and each of and their past, present, and future direct and indirect heirs, assigns, associates, corporations, investors, owners, parents, subsidiaries, affiliates, divisions, officers, directors, shareholders, members, agents, employees, attorneys, insurers, reinsurers, benefit plans, predecessors, successors, managers, administrators, executors, and trustees.

59. **“Releasing Parties”** means Plaintiffs and Settlement Class Members and their respective past, present, and future heirs, beneficiaries, conservators, executors, estates, administrators, assigns, agents, accountants, financial and other advisors, and any other representatives of any of these persons and entities.

60. **“Service Awards”** means the payments the Court may award the Plaintiffs who sign this Agreement for serving as Class Representatives.

61. **“Settlement Administrator”** means Epiq Class Action & Claim Solutions LLC or “Epiq.”

62. **“Settlement Administration Costs”** means all costs and fees of the Settlement Administrator regarding Notice and Settlement administration.

63. **“Settlement Class”** means all individuals residing in the United States who were impacted by the Data Incident. Excluded from the Settlement Class are: (a) all officers and directors of Defendant; (b) governmental entities; (c) the Judge assigned to the Action, that Judge’s immediate family, and Court staff; (d) any Settlement Class Member who timely and properly opts-out of the Settlement.

64. **“Settlement Class Member(s)”** means any member of the Settlement Class.

65. **“Settlement Class Member Benefit”** means Cash Payments and Credit Monitoring.

66. “**Settlement Fund**” means the non-reversionary, all cash \$4,949,500 fund that Defendant is obligated to fund or cause to be funded pursuant to Section III herein.

67. “**Settlement Website**” means the website the Settlement Administrator will establish as a means for 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 30 days after the Effective Date.

68. “**Unknown Claims**” means any of the Released Claims that any participating Settlement Class Member, including Plaintiffs, does not know or suspect to exist in their favor at the time of the release of the Released Parties that, if known by him or her, might have affected their Settlement with, and release of, the Released Parties, or might have affected his or her decision not to object and/or participate in this Agreement. With respect to any and all Released Claims, the Parties stipulate and agree that, upon the Effective Date, the participating Settlement Class Members, including Plaintiffs, expressly shall have and/or shall be deemed to have, and by operation of the Final Approval Order shall have, waived the provisions, rights, and benefits conferred by California Civil Code § 1542, and also any and all provisions, rights, and benefits conferred by the law of any state, province, or territory of the United States, which is similar, comparable, or equivalent to California Civil Code § 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.

Participating Settlement Class Members, including Plaintiffs, 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 Released Claims, but the participating Settlement Class Members, including Plaintiffs, expressly shall have and/or shall be deemed to have and by operation of the Final Approval Order shall have, upon the Effective Date, fully, finally, and forever settled and released any and all of the Released Claims. The Parties acknowledge, and participating Settlement Class Members shall be deemed by operation of the Final Approval Order to have acknowledged, that the foregoing waiver is a material element of this Agreement of which this release is a part.

69. “**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. Eastern time 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**

70. In exchange for a release from all participating Settlement Class Members, Defendant shall fund the Settlement Fund, which shall be Defendant’s entire liability and shall be used to pay

all Settlement Class Member Benefits, including Class Counsel's attorneys' fees, costs and unreimbursed expenses, Service Awards, and all Settlement Administration Costs.

71. Within 30 days after entry of the Preliminary Approval Order, and upon receipt of sufficient instructions from the Settlement Administrator, Defendant shall cause to be deposited the Settlement Administration Costs through the anticipated date of Final Approval, as estimated by the Settlement Administrator, into the Escrow Account. Defendant shall deposit the remaining balance of the Settlement Fund into the Escrow Account 15 days after the Effective Date. The Settlement Administrator shall provide wiring instructions and a properly completed IRS Form W-9, along with other necessary forms and information, to Defendant's Counsel within seven (7) days of entry of the Preliminary Approval Order.

72. In the event there is no Final Approval, or the Effective Date does not occur, following the payment of any outstanding Settlement Administration Costs, all funds remaining in the Settlement Fund shall be returned to the Defendant.

73. The Settlement Fund shall be used to pay: (1) all Settlement Class Member Benefits to Settlement Class Members who submit Valid Claims; (2) all Settlement Administration Costs; and (3) any attorneys' fees, costs, and Service Awards approved by the Court. No amounts may be withdrawn from the Settlement Fund unless expressly authorized by the Settlement Agreement or approved by the Court. Responsibility for effectuating payments described in this paragraph rest solely with the Settlement Administrator and neither Defendant nor Defendant's Counsel shall have any responsibility with respect to effectuating such payments.

74. 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. The Settlement Fund shall earn interest and 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 on 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 Settlement Administrator 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. Certification of the Settlement Class**

75. In the Motion for Preliminary Approval, Plaintiffs shall propose and request to the Court that the Settlement Class be certified for Settlement purposes only. 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. Settlement Class Member Benefits**

76. When submitting a Valid Claim, Settlement Class Members must choose either Cash Payment A – Documented Losses or Cash Payment B – Alternate Cash. In addition, all Settlement Class Members may also elect to receive Credit Monitoring in accordance with the

terms of this paragraph. All Cash Payments will be subject to a *pro rata* (a) increase from the Net Settlement Fund if the amount of Valid Claims is insufficient to exhaust the entire Net Settlement Fund or (b) decrease from the Net Settlement Fund if the amount of Valid Claims exhausts the amount of the Net Settlement Fund. For purposes of calculating the *pro rata* increase or decrease, the Settlement Administrator must distribute the funds in the Net Settlement Fund first for payment of Credit Monitoring, then for Cash Payment A – Documented Losses, and then to all those who elect Cash Payment B – Alternate Cash. Any *pro rata* increases or decreases will be on an equal percentage basis. If a Settlement Class Member does not submit a Valid Claim, the Settlement Class Member will release his or her claims without receiving a Settlement Class Member Benefit.

77. Each Plaintiff and participating Settlement Class Member shall be solely responsible for the federal, state, and local tax consequences to him or her related to the receipt of funds from the Settlement Fund pursuant to this Agreement.

**a. Cash Payment A – Documented Losses**

Settlement Class Members may submit a claim for a Cash Payment under this section for up to \$5,000.00 per Settlement Class Member upon presentment of reasonable documented losses from fraud and/or identity theft related to the Data Incident. To receive a documented loss payment, a Settlement Class Member must elect Cash Payment A – Documented Losses on the Claim Form attesting under penalty of perjury to incurring documenting losses from fraud and/or identity theft. Settlement Class Members will be required to submit reasonable documentation supporting the losses, which means documentation contemporaneously generated or prepared by a third party or the Settlement Class Member supporting a claim for expenses paid. Non-exhaustive examples of reasonable documentation include telephone records, correspondence including emails, or receipts. Except as expressly provided herein, 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. 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 credit monitoring and identity theft protection product 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 rejected and the Settlement Class Member's Claim will be as if he or she elected Cash Payment B – Alternate Cash.

**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 *pro rata* cash payment in the estimated amount of \$75.00. All Valid Claims for Cash Payment B – Alternate Cash, shall be paid out of the Settlement Fund.

**c. Credit Monitoring**

In addition to Cash Payment A – Documented Losses or Cash Payment B –Alternate Cash, Settlement Class Members may also make a Claim for Credit Monitoring that will include two years with two bureaus of Credit Monitoring that will include: (i) real time monitoring of the credit file with one credit bureau; (ii) dark web scanning with immediate notification of potential unauthorized use; (iii) security freezing assistance; (iv) victim assistance; (v) \$1,000,000.00 in identity theft insurance with no deductible; and (vi) access to fraud resolution agents to help investigate and resolve instances of identity theft.

**VI. Settlement Approval**

78. Plaintiffs' 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 and the form and content of the Notices; (4) approve the Claim Process and the form and content of the Claim Form (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 Epiq as Settlement Administrator; (7) provisionally appoint Plaintiffs as Class Representatives and Terence R. Coates, Raina Borrelli, Gary M. Klinger, and Jeff Ostrow as Class Counsel for Settlement purposes; (8) stay the Action pending Final Approval of the Settlement; and (9) 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**

79. The Parties agree that, subject to Court approval, Epiq shall be 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.

80. 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 ensuring the distribution of all Settlement Class Members Benefits.

81. The Settlement Administrator's duties include the following:

- a. Provide CAFA Notice to the necessary state and federal authorities;
- b. Complete the Court-approved Notice Program by noticing the Settlement Class by Postcard Notice and sending out Long Form Notices and paper Claim Forms upon 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 a Valid Claim;
  - c. Establish and maintain the Settlement Fund and the Escrow Account;
  - d. Establish and maintain a post office box to receive opt-out requests from the Settlement Class, objections from Settlement Class Members, and Claim Forms;
  - e. Establish and maintain the Settlement Website to provide important information and to receive electronic Claim Forms;
  - f. Establish and maintain 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. Respond to any mailed Settlement Class Member inquiries;
  - h. Process all opt-out requests from the Settlement Class;
  - i. Provide 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, prepare a declaration confirming 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. Distribute, out of the Settlement Fund, Cash Payments by electronic means or by paper check;

l. Ensure the issuance of the Credit Monitoring activation codes to all Settlement Class Members who elect Credit Monitoring, which shall be paid for out of the Settlement Fund;

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

n. Pay Settlement Administration Costs out of the Settlement Fund following approval by Class Counsel; and

o. Any other Settlement administration function at the instruction of Class Counsel and Defendant's Counsel.

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

82. Defendant will provide the Settlement Administrator with the Class List no later than seven days after entry of the Preliminary Approval Order.

83. Within 30 days following entry of the Preliminary Approval Order, the Settlement Administrator shall commence the Notice Program provided herein, using the Postcard Notice and Long Form Notice approved by the Court.

84. The Postcard Notice shall include, among other information: (a) a description of the material terms of the Settlement; (b) how to submit a Claim Form; (c) the Claim Form

Deadline; (d) the Opt-out Deadline which is the last for Settlement Class Members to opt-out of the Settlement Class; (e) the Objection Deadline which is the last day for Settlement Class Members to object to the Settlement and/or Application for s' Attorneys' Fees, Costs, and Service Awards; (f) the Final Approval Hearing date; and (g) the Settlement Website address at which Settlement Class Members may access this Agreement and other related documents and information. Class Counsel shall insert the correct dates and deadlines in the Notices 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.

85. 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 online directly on the Settlement Website or in printable version that can be sent by U.S. Mail to the Settlement Administrator.

86. The Long Form Notice shall also 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 until the Opt-Out Deadline 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 opt-out of 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.

87. The Long Form 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 sent to the Clerk of 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 objection must be submitted no later than the Objection Deadline, as specified in the Notice, and the Settlement Class Member must not have opted-out of 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 private courier (e.g., Federal Express), an objection shall be deemed to have been submitted on the shipping date reflected on the shipping label.

88. 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 five years;

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

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

h. 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 their counsel, including taking depositions and propounded document requests.. Any Settlement Class Member who objects to the Settlement, and also submits a request to opt-out of the Settlement, will be deemed to have opted-out of the Settlement and their objection will not be considered by the Court.

89. The Settlement Administrator shall perform reasonable address traces for those Postcard Notices returned as undeliverable. By way of example, a reasonable tracing procedure would be to run addresses of returned postcards through the Lexis/Nexis database that can be

utilized for such purpose. To the extent better addresses are found, the Settlement Administrator should attempt to re-mail the Postcard Notice.

90. The Settlement Administrator shall send Notice to Settlement Class Members no later than the Notice Completion Date. The Notice Program shall be completed in its entirety no later than the Notice Completion Date.

**IX. Claim Process and Disbursement of Cash Payments**

91. The Notice and the Settlement Website will explain to Settlement Class Members that they may be entitled to a Settlement Class Member Benefit and how to submit a Claim Form.

92. 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.

93. 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.

94. 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. The Settlement Administrator shall use its best efforts to determine whether there is any duplication of Claims, and if there is, contact the Settlement Class Member in an effort to determine which Claim Form is the appropriate one for consideration.

95. 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.

96. 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 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 shall 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 Settlement Class Member 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 physical or e-signature. A Settlement Class Member shall have until the Claim Form Deadline, or 15 days after the date the Notice of Deficiency is sent via mail and postmarked or via email, whichever is later, to reply to the Notice of Deficiency and provide the required information. If the Settlement Class Member 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 Settlement Class Member does not timely and completely provide the requested information and/or documentation, the Settlement Administrator shall reduce or deny the Claim unless Defendant's Counsel and Class Counsel otherwise agree.

97. 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;
- 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.

98. 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 20 days from the Claim Form Deadline to approve or reject Claims based on findings of fraud or duplication;

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 for fraud or duplication, 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.

99. 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.

100. 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.

101. No later than 30 days after the Effective Date, the Settlement Administrator shall distribute the Settlement Class Member Benefits.

102. Cash Payments to Settlement Class Members will be made by electronic payment or by paper check. Settlement Class Members will choose their form of payment on their Claim Form. In the event a Settlement Class Member does not make an election or there is a problem with issuance of an electronic payment, a paper check will be sent to the Settlement Class Member's last known address. Paper checks must be negotiated within 90 days of issuance. In the event the Settlement Administrator is unable to distribute funds to the Settlement Class Members

entitled to receive them due to incorrect or incomplete information provided to the Settlement Administrator, the funds shall become residual funds, and such Settlement Class Members shall forfeit their entitlement right to the funds.

103. In the event there are funds remaining in the Settlement Fund 150 days following the date Settlement Class Members are issued checks, said funds attributable to unclaimed and undeliverable funds shall be treated as residual funds as described in Section XII.

104. Within 30 days of the Effective Date, the Settlement Administrator will send an email with instructions on how to activate the Credit Monitoring service to those Settlement Class Members who submitted Valid Claims for Credit Monitoring.

**X. Final Approval Order and Final Judgment**

105. Plaintiffs shall file their Motion for Final Approval of the Settlement, inclusive of the Application for Attorneys' Fees, Costs, and Service Awards, 15 days before the Claim Form Deadline. At the Final Approval Hearing, the Court may 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 may 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.

106. 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 the completed Notice Program satisfies the Due Process requirements of the United States Constitution;
- 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 Released Parties from the Released Claims, as specified in Section XIII below; 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. Attorneys' Fees, Costs, and Service Awards**

107. *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 costs. The attorneys' fees and cost awards 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 of the Effective Date.

108. *Service Awards* – Class Counsel shall request the Court grant Service Awards to the Class Representatives in the amount of \$2,000.00 each. The Service Awards approved by the Court shall be paid by the Settlement Administrator out of the Settlement Fund by wire transfer within five days of the Effective Date.

109. This Settlement is not contingent on approval of the request for attorneys' fees

costs, and 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 not negotiated until after all material terms of the Settlement.

**XII. Disposition of Residual Funds**

110. In the event there are funds remaining in the Settlement Fund one-hundred and 150 days following the date Settlement Class Members are sent their Cash Payments, any residual shall be distributed to the Electronic Privacy Information Center, a non-profit organization headquartered at 1519 New Hampshire Avenue, NW, Washington, D.C. 20036, to be approved by the Court.

**XIII. Releases**

111. 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.

112. The Released Claims include the release of Unknown Claims. It is further agreed that this Agreement and Final Approval Order may be pleaded as a complete defense to any proceeding subject to this paragraph. For the avoidance of doubt, the Releasing Parties expressly waive 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 also waive the provisions and rights of any law(s) that are comparable in

effect to California Civil Code section 1542 (including, without limitation, California Civil Code § 1798.80, *et seq.*, Montana Code Ann. § 28- 1-1602; North Dakota Cent. Code § 9-13-02; and South Dakota Codified Laws § 20-7-11).

113. 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, based on any of the Released Claims.

114. Settlement Class Members who opt-out of the Settlement prior to the Opt-Out Deadline do not release their claims arising out of related to the Data Incident and will not obtain any of the Settlement Class Member Benefits under the Settlement.

115. 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 all Released Claim, whether on behalf of Plaintiffs, any Settlement Class Member or others, in any jurisdiction, including in any federal, state, or local court or tribunal.

116. The power to enforce any term of this Settlement is not affected by the releases in this section.

#### **XIV. Termination of Settlement**

117. 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.

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

Within ten 10 days after the Opt-Out Deadline, the Settlement Administrator shall provide Defendant's Counsel and Class Counsel with a list of all Settlement Class Members who timely and validly requested to be excluded from the Settlement. If the Settlement Administrator has received more than 50 valid and timely opt outs, Defendant shall have the right to terminate this Agreement by notifying Class Counsel in writing of Defendant's decision.

**XV. Effect of Termination**

119. The grounds upon which this Agreement may be terminated are set forth in Section XIV. 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*.

120. In the event this Agreement is terminated or fails to become effective, all funds in

the Settlement Fund shall be promptly returned to the Defendant as set forth in Paragraph 73. However, Defendant shall have no right to seek from Plaintiffs, Class Counsel, or the Settlement Administrator the Settlement Administration Costs paid or incurred

121. 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. No Admission of Liability**

122. 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 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.

123. 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 fully investigated the facts and law relevant to the merits of the claims, conducted 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.

124. 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.

125. 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.

126. 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**

127. ***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. 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 Agreement to its attorneys, members, partners, insurers, brokers, agents, and other persons or entities as required by securities laws, other applicable laws and regulations, and as necessary to effect the Settlement. For the avoidance of doubt, nothing in this Settlement Agreement shall preclude Settlement Class Members from addressing, contacting, dealing with, or complying with requests or inquiries from any governmental authorities relating to the issues raised in this Settlement.

128. ***Non-Disparagement.*** The Parties agree not to make any statements, written or verbal, or to cause or encourage any other person to make any statements, written or verbal, that defame, disparage or in any way criticize the personal or business reputation, practices, or conduct of the Parties and their respective counsel concerning all Released Claims, as well as the Action, the settlement, this Settlement Agreement, and any discussions, interactions, or negotiations of the settlement by the Parties.

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

130. ***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.

131. ***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.

132. ***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.

133. ***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.

134. ***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.

135. ***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 Ohio, without regard to the principles thereof regarding choice of law.

136. ***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 through email of a PDF shall be deemed an original.

137. ***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.

138. *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:**

Terence R. Coates  
**MARKOVITS, STOCK & DEMARCO, LLC**  
119 East Court Street, Ste. 530  
Cincinnati, Ohio 45202  
tcoates@msdlegal.com

Raina Borrelli  
**STRAUSS BORRELLI PLLC**  
980 North Michigan Avenue, Ste. 1610  
Chicago, Illinois 60611  
raina@straussborrelli.com

Gary M. Klinger  
**MILBERG PLLC**  
227 West Monroe Street, Ste. 2100  
Chicago, Illinois 60606  
gklinge@milberg.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:**

David P. Saunders  
**MCDERMOTT WILL & SCHULTE LLP**  
444 West Lake Street, Ste 4000  
Chicago, Illinois 60606  
dsaunders@mcdermottlaw.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.

139. ***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.

140. ***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.

141. ***Authority.*** 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.

142. ***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.

143. ***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.

144. **Severability.** Should any part, term or provision of this Settlement Agreement be declared or determined by any court or tribunal to be illegal or invalid, the Parties agree that the Court may modify such provision to the extent necessary to make it valid, legal and enforceable. In any event, such provision shall be separable and shall not limit or affect the validity, legality or enforceability of any other provision hereunder.

145. **Deadlines.** If any of the dates or deadlines specified herein fall on a weekend or legal holiday, the applicable date or deadline shall fall on the next business day. All reference to "days" in this Settlement Agreement shall refer to calendar days unless otherwise specified.

146. **Integration of Exhibits.** Any exhibits to this Settlement Agreement are a material part of the settlement and are incorporated and made a part of the Settlement Agreement.

147. **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 following page**

**CLASS COUNSEL (On Behalf of the Plaintiffs)**

---

TERENCE R. COATES  
**MARKOTVITS, STOCK & DEMARCO, LLC**

---

RAINA BORRELLI  
**STRAUSS BORRELLI PLLC**

---

GARY M. KLINGER  
**MILBERG PLLC**

---

JEFF OSTROW  
**KOPELOWITZ OSTROW P.A.**

**MOTILITY SOFTWARE SOLUTIONS, INC.**



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RICHARD RAUCH  
**GENERAL COUNSEL**

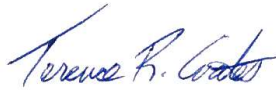
**MOTILITY SOFTWARE SOLUTIONS, INC.'S  
COUNSEL**



---

DAVD P. SAUNDERS  
**MCDERMOTT WILL & SCHULTE LLP**

**CLASS COUNSEL (On Behalf of the Plaintiffs)**



TERENCE R. COATES  
**MARKOTVITS, STOCK & DEMARCO, LLC**




[Raina Borrelli \(Apr 2, 2026 11:01:08 CDT\)](#)

RAINA BORRELLI  
**STRAUSS BORRELLI PLLC**



[Gary Klinger \(Apr 2, 2026 11:57:08 EDT\)](#)

GARY M. KLINGER  
**MILBERG PLLC**



[Jeffrey Ostrow \(Apr 2, 2026 11:58:29 EDT\)](#)

JEFF OSTROW  
**KOPELOWITZ OSTROW P.A.**

**MOTILITY SOFTWARE SOLUTIONS, INC.**

By: \_\_\_\_\_  
Its \_\_\_\_\_

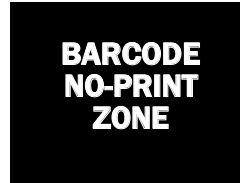
**MOTILITY SOFTWARE SOLUTIONS, INC.'S  
COUNSEL**

\_\_\_\_\_  
DAVD P. SAUNDERS  
**MCDERMOTT WILL & SCHULTE LLP**

# EXHIBIT 1

DRAFT

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



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

Court-Approved Legal Notice  
*In re Motility Data Breach Litigation*  
Case No. 3:25-cv-00330

United States District Court of the Southern  
District of Ohio

**If your Private Information may  
have been impacted in the Data  
Incident involving Motility Software  
Solutions, Inc., that occurred in  
August 2025, you may be entitled to  
Settlement Class Member Benefits  
from a Settlement.**

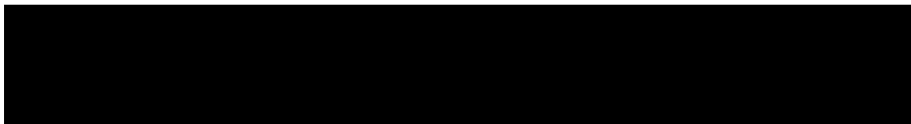
*A Court has authorized this notice.  
This is not a solicitation from a lawyer.*

www.XXXXX.com  
XXX-XXX-XXX

DRAFT

<<MAIL ID  
<<NAME 1>>  
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<<CITY, STATE ZIP>>  
<<COUNTRY>>



## DRAFT

A \$4,949,500 settlement has been reached in a class action lawsuit against Motility Software Solutions, Inc., (“Defendant”) regarding a cybersecurity incident (“Data Incident”) that occurred in August 2025, involving Defendant which may have resulted in the unauthorized access to or acquisition of Settlement Class Members’ Private Information. Private Information means information collected and/or maintained by Defendant, including, but is not limited to some combination of names, postal addresses, email addresses, telephone numbers, dates of birth, Social Security numbers, and driver’s license numbers.

**Who is included? Records show you are a Settlement Class Member**, defined as: all individuals residing in the United States who were impacted by the Data Incident.

**What does the Settlement provide?** As a Settlement Class Member, you can submit a Claim Form online 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 fraud and/or identity theft as a result of the Data Incident for up to \$5,000 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 a pro rata (a legal term meaning equal share) cash payment in the estimated amount of \$75;

**AND**

**Credit Monitoring:** In addition to Cash Payment A – Documented Losses or Cash Payment B – Alternate Payment, you may also submit a Claim Form to receive two years of free Credit Monitoring services.

Your cash payment may be subject to a *pro rata* (a legal term meaning equal share) adjustment depending upon the total value of the Valid Claims submitted.

**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 cash payment or Credit



DRAFT

**Cash Payment B – Alternate Cash:** Instead of Cash Payment A, without providing documentation, you may submit a Claim Form to receive a *pro rata* (a legal term meaning equal share) cash payment in the estimated amount of \$75.

By checking this box, I affirm I want to receive the Alternate Cash.

Your cash payment may be subject to a *pro rata* (a legal term meaning equal share) adjustment depending upon the total value of the Valid Claims submitted.

**Credit Monitoring -** In addition to Cash Payment A or Cash Payment B, you may also submit a Claim Form to receive two years of free Credit Monitoring services.

By checking this box, I affirm I want to receive two years of free Credit Monitoring

**By signing my name, I swear and affirm I am completing this Claim Form to the best of my personal knowledge.**

Signature:

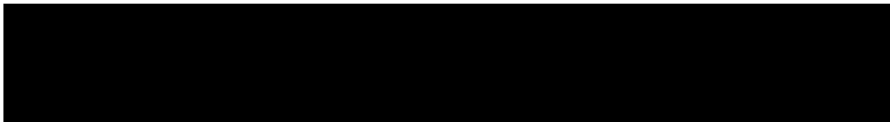
Date:

DRAFT

**BARCODE  
NO-PRINT  
ZONE**

PLACE  
STAMP  
HERE

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



# **EXHIBIT 2**

**If your Private Information was impacted in the Data Incident involving Motility Software Solutions, Inc., that occurred in August 2025, 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 \$4,949,500 settlement has been reached in a class action lawsuit against Motility Software Solutions, Inc., (“Defendant”) regarding a cybersecurity incident (“Data Incident”) that occurred in August 2025, involving Defendant and resulting in the potential unauthorized access to or acquisition of Settlement Class Members’ Private Information. Private Information means information collected and/or maintained by Defendant, including, but is not limited to some combination of names, postal addresses, email addresses, telephone numbers, dates of birth, Social Security numbers, and driver’s license numbers.
- The Settlement Class includes: all individuals residing in the United States who were impacted in the Data Incident.
- If you are a member of the Settlement Class, you may be eligible 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 fraud and/or identity theft as a result of the Data Incident for up to \$5,000 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 a *pro rata* (a legal term meaning equal share) cash payment in the estimated amount of \$75;

**AND**

**Credit Monitoring:** In addition to Cash Payment A or Cash Payment B, you may also submit a Claim Form to receive two years of free credit monitoring services.

Your cash payment may be subject to a *pro rata* (a legal term meaning equal share) adjustment depending upon the total value of the Valid Claims submitted.

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

Your Legal Rights & Options		Deadline
<b>Submit a Claim Form</b>	The only way to get a cash payment is to submit a timely and valid Claim Form.	Submitted or Postmarked by: <b>MONTH DD, 20YY</b>
<b>Opt-Out of the Settlement</b>	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: <b>MONTH DD, 20YY</b>
<b>Object to the Settlement</b>	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: <b>MONTH DD, 20YY</b>
<b>Do Nothing</b>	Get no cash payment. Receive no Credit Monitoring in connection with the Settlement. Give up your legal rights.	

- The Court must decide whether to approve the Settlement, Application for Attorneys’ Fees, Costs, and Service Awards. No settlement class member benefits will be provided unless the Court approves the

**Questions? Go to [www.XXXXXXXXXX.com](http://www.XXXXXXXXXX.com) or call 1-XXX-XXX-XXXX**

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 of the Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, what settlement class member benefits are available, and who is eligible to get them.

The Honorable Walter H. Rice, of the United States District Court of the Southern District of Ohio is overseeing this class action. The lawsuit is known as *In re Motility Data Breach Litigation*, Case No. 3:25-cv-00330 (S.D. Ohio) (“lawsuit”). The individuals who filed this lawsuit are called the “Plaintiffs” and/or “Class Representatives” and the company sued, Motility Software Solutions, Inc., 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 regarding a Data Incident that occurred in August 2025, in which may have resulted in the unauthorized access to or acquisition of Settlement Class members’ Private Information. The Private Information involved includes some combination of names, postal addresses, email addresses, telephone numbers, dates of birth, Social Security numbers, and driver’s license numbers.

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 your Private Information was impacted in the Data Incident.

Questions? Go to [www.XXXXXXXXXX.com](http://www.XXXXXXXXXX.com) or call 1-XXX-XXX-XXXX

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

Yes. Excluded from the Settlement Class are: (a) all officers and directors of Defendant; (b) governmental entities; (c) the Judge assigned to the lawsuit, that Judge's immediate family, and Court staff; (d) any Settlement Class Member who timely and properly opts-out of the Settlement.

**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](http://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 may be eligible 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 fraud and/or identity theft as a result of the Data Incident for up to \$5,000 per Settlement Class Member.

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 credit 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 processed as if you elected Cash Payment B – Alternate Cash.

**Cash Payment B – Alternate Cash**

Instead of Cash Payment A, without providing documentation, you may submit a Claim Form to receive a *pro rata* (a legal term meaning equal share) cash payment in the estimated amount of \$75.

**Credit Monitoring**

In addition to Cash Payment A – Documented Losses or Cash Payment B – Alternate Cash, you may also submit a Claim Form to receive two years of free Credit Monitoring services.

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.

For purposes of calculating the *pro rata* increase or decrease, the Settlement Administrator must distribute the funds in the Net Settlement Fund first for payment of Credit Monitoring and then for Cash Payment A – Documented Losses and then to those electing Cash Payment B. Any *pro rata* increases or decreases to cash payments will be on an equal percentage basis.

**Questions? Go to [www.XXXXXXXXXXX.com](http://www.XXXXXXXXXXX.com) or call 1-XXX-XXX-XXXX**

## 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.XXXXXXXXXX.com](http://www.XXXXXXXXXX.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 a cash payment as described above. Your Claim Form must be submitted online at [www.XXXXXXXXXX.com](http://www.XXXXXXXXXX.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.XXXXXXXXXX.com](http://www.XXXXXXXXXX.com) or by calling **1-XXX-XXX-XXXX** or by writing to:

*Motility 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:

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

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

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.XXXXXXXXXX.com](http://www.XXXXXXXXXX.com) for updates.

**Questions? Go to [www.XXXXXXXXXX.com](http://www.XXXXXXXXXX.com) or call 1-**XXX-XXX-XXXX****

## 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, 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 the *In Re: Motility Data Breach Litigation*.”

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

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

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

Please note per the United States Postal Service, mail may *not* be postmarked the day it is deposited in a mailbox or at a local post office. Postmarks occur when mail reaches a processing facility. To meet a postmark deadline, **mail at least a week prior to a postmark deadline**, get a manual postmark in-person at any post office, or send via Certified Mail.

“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 where the opt-out has not been signed by each and every individual Settlement Class member 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.

### 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.

**Questions? Go to [www.XXXXXXXXXX.com](http://www.XXXXXXXXXX.com) or call 1-XXX-XXX-XXXX**

## 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 *In Re: Motility Data Breach Litigation*, Case No. 3:25-cv-00330.

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) All grounds for the objection, accompanied by any legal support for the objection known to you as the objector or your own lawyer;
- 3) 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;
- 4) 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;
- 5) 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;
- 6) A list of all persons who will be called to testify at the Final Approval Hearing in support of your objection (if any);
- 7) A statement confirming whether you or your lawyer intend to personally appear and/or testify at the Final Approval Hearing; and
- 8) 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. Any objector or objector's lawyer must strictly and fully comply with the requirements listed above or the Court will not consider the objection.

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 USDC S.D. Ohio Walter H. Rice Federal Building and U.S. Courthouse 200 W. Second St. Room 712 Dayton, OH 45402	Jeff Ostrow Kopelowitz Ostrow P.A. 1 West Las Olas Blvd. Suite 500 Fort Lauderdale, FL 33301  Raina Borrelli Strauss Borrelli PLLC 980 North Michigan Ave. Suite 1610 Chicago, IL 60611  Gary M. Klinger Milberg PLLC 227 West Monroe St. Suite 2100 Chicago, IL 60606  Terrence R. Coates Markovits, Stock & DeMarco, LLC 119 East Court St. Suite 530 Cincinnati, OH 45202	David P. Saunders McDermott Will & Schulte LLP 444 West Lake St. Suite 4000 Chicago, IL 60606	Motility Data Incident Settlement Administrator PO Box xxxx Portland, OR 972xx-xxxx

Please note per the United States Postal Service, mail may *not* be postmarked the day it is deposited in a mailbox or at a local post office. Postmarks occur when mail reaches a processing facility. To meet a postmark deadline, **mail at least a week prior to a postmark deadline**, get a manual postmark in-person at any post office, or send via Certified Mail.

### 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., Raina Borrelli of Strauss Borrelli PLLC, Gary M. Klinger of Milberg PLLC and Terrence R. Coates of Markovits, Stock DeMarco, LLC 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.

Questions? Go to [www.XXXXXXXX.com](http://www.XXXXXXXX.com) or call 1-XXX-XXX-XXXX

## 20. How will Class Counsel be paid?

Class Counsel will file a motion asking the Court to award the attorneys' fees of up to one third (1/3) of the Settlement Fund, plus reimbursement of costs. Class Counsel will also ask the Court to approve the Service Awards for the Class Representatives in the amount of \$2,000 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 Walter H. Rice at the Walter H. Rice Federal Building and U.S. Courthouse, 200 W. Second Street, Room 712, Dayton, OH 45402. 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, at its discretion, 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.XXXXXXXXXX.com](http://www.XXXXXXXXXX.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, at its discretion, 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.XXXXXXXXXX.com](http://www.XXXXXXXXXX.com). You may get additional information at [www.XXXXXXXXXX.com](http://www.XXXXXXXXXX.com), by calling toll-free 1-XXX-XXX-XXXX, or by writing to:

*Motility 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.**

**Questions? Go to [www.XXXXXXXXXX.com](http://www.XXXXXXXXXX.com) or call 1-XXX-XXX-XXXX**

# **EXHIBIT 3**

PLACEHOLDER0000\*

**Must be postmarked or submitted online NO LATER THAN MONTH DD, 20YY**

IN RE MOTILITY DATA BREACH LITIGATION  
SETTLEMENT ADMINISTRATOR  
P.O. BOX XXXX  
PORTLAND, OR 972XX-XXXX  
www.xxxxxxxxxx.com

*In Re Motility Data Breach Litigation* Claim Form  
Case No. 3:25-CV-00330

**GENERAL INFORMATION**

A \$4,949,500 settlement has been reached in a class action lawsuit against Motility Software Solutions, Inc., (“Defendant”) regarding a cybersecurity incident (“Data Incident”) that occurred on August 11, 2025, involving Defendant which may have resulted in the unauthorized access to or acquisition of Settlement Class Members’ Private Information. Private Information means information collected and/or maintained by Defendant, including, but is not limited to some combination of names, postal addresses, email addresses, telephone numbers, dates of birth, Social Security numbers, and driver’s license numbers.

You may submit a Claim Form for settlement class member benefits, outlined below, by visiting the Settlement Website at [www.xxxxxxxxx.com](http://www.xxxxxxxxx.com). Claims must be submitted online or postmarked by **MONTH DD, 20YY**. If you would prefer to submit by mail, please use the return address at the top of this form.

**SETTLEMENT BENEFITS – WHAT YOU MAY GET**

You may submit a Claim Form for the following settlement class member benefits:

1. **Cash Payment A – Documented Losses:** You may submit a Claim Form and provide reasonable documentation for losses related to fraud and/or identity theft as a result of the Data Incident for up to \$5,000 per Settlement Class Member;  
**OR**
2. **Cash Payment B – Alternate Cash:** Instead of Cash Payment A, without providing documentation, you may submit a Claim Form to receive a pro rata (a legal term meaning equal share) cash payment in the estimated amount of \$75;  
**AND**
3. **Credit Monitoring:** In addition to Cash Payment A or Cash Payment B, you may also submit a Claim Form to receive two years of free Credit Monitoring services.

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

\* \* \*

*Please Note: The Settlement Administrator may contact you to request additional documents to process your Claim Form.*

For more information and complete instructions, visit [www.xxxxxxxxx.com](http://www.xxxxxxxxx.com).

**Please note that settlement class member benefits will be distributed after the Settlement is approved by the Court and becomes final. Thank you for your patience.**

Questions? Go to [www.xxxxxxxxx.com](http://www.xxxxxxxxx.com) or call 1-XXX-XXX-XXXX.

PLACEHOLDER0000\*

### 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:**

### Credit Monitoring

*You may be eligible to receive free Credit Monitoring services.*

In addition to Cash Payment A or Cash Payment B, you may also submit a Claim Form to receive two years of free credit monitoring services.

*Please select the checkbox if you want to enroll in Credit Monitoring services for which you are eligible.*

**Credit Monitoring:** By checking this box, I affirm I want to receive two years of free credit monitoring.

*If you select this option, you will be sent instructions and an activation code to your provided email address listed above after the Settlement is final. Enrollment in this service will not subject you to marketing for additional services or any required payments.*

Questions? Go to [www.xxxxxxxx.com](http://www.xxxxxxxx.com) or call 1-XXX-XXX-XXXX.

PLACEHOLDER0000\*

### Cash Payment A – Documented Losses

You may submit a Claim Form and provide reasonable documentation for losses related to fraud and/or identity theft as a result of the Data Incident for up to \$5,000 per Settlement Class Member. Eligible losses include those incurred on or after August 11, 2025, up to the date of submitting your Claim.

It is important for you to send reasonable documentation that shows what happened and how much you lost or spent so that you can be reimbursed.

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 credit 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 processed as if you elected to receive Cash Payment B - Alternate Cash.

To look up more details about how the cash payments work, visit [www.xxxxxxxx.com](http://www.xxxxxxxx.com) or call toll-free 1-XXX-XXX-XXX. Please also review the Long Form Notice on the Settlement Website for more information.

*By filling out the boxes below, you are certifying that the money you spent does not relate to other data incidents or breaches. You will not be reimbursed for expenses if they have been reimbursed for the same expenses by another source.*

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 identity theft.  <i>Examples: Receipts, notices, or account statements reflecting payment for a credit freeze</i>	\$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> . <input type="text"/> <input type="text"/> Date: <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> MM                  DD                  YYYY	<hr/> <hr/> <hr/>
Other losses or costs resulting from identity theft or fraud (provide detailed description) related to the Data Incident.  <i>Examples: Account statement with unauthorized charges circled; bank fees, and fees for credit reports, credit monitoring, or other identity theft insurance products purchased</i>	\$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> . <input type="text"/> <input type="text"/> Date: <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> MM                  DD                  YYYY	<hr/> <hr/> <hr/>

Questions? Go to [www.xxxxxxxx.com](http://www.xxxxxxxx.com) or call 1-XXX-XXX-XXXX.

PLACEHOLDER0000\*

**Cash Payment B – Alternate Cash**

Without providing documentation, you may submit a Claim Form to receive a *pro rata* (a legal term meaning equal share) cash payment in the *estimated* amount of \$75.

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

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 to (e.g., police station, IRS office), reason why you traveled there (e.g., police report or letter from IRS re: falsified tax return) and number of miles you traveled*

\$       .

Date:

-   -      
MM DD YYYY

**Payment Election**

If your claim is eligible, you will receive payment by check unless you select one of the electronic payment options below and provide the email address or phone number associated with your account:

**Venmo**

Venmo Email or Phone:

**PayPal**

PayPal Email or Phone:

**Zelle**

Zelle Email or Phone:

**ACH/Direct Deposit**

ABA Routing Number

Account Number

**Signature**

By signing my name, I affirm under the penalty of perjury and 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.

Signature

Date:

MM — DD — YYYY

Questions? Go to [www.xxxxxxxx.com](http://www.xxxxxxxx.com) or call 1-XXX-XXX-XXXX.

PLACEHOLDER0000\*

Print Name

# **EXHIBIT 4**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION (DAYTON)

IN RE MOTILITY DATA BREACH  
LITIGATION

CASE NO. 3:25-CV-00330

HONORABLE WALTER H. RICE

**[PROPOSED] ORDER GRANTING PLAINTIFFS' UNOPPOSED MOTION FOR  
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

Before this Court is Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement ("Motion"). The Court has reviewed the Motion and Settlement Agreement between Plaintiffs and Defendant. After reviewing Plaintiffs' unopposed Motion, this Court grants the Motion and preliminarily concludes that the proposed Settlement is fair, reasonable, and adequate.

IT IS HEREBY ORDERED THAT:

1. The Settlement Agreement,<sup>1</sup> including the proposed Notice Program to the Class, the appointment of Plaintiffs G. Scott Lockwood, Heather Reynicke, Christopher Santora, Donna Mathews, John Langan, Nancy Langan, Stephen Duesler, Patrick Hubley, and Peggy L. Koller as the Class Representatives for purposes of the settlement only, the appointment of Class Counsel for Plaintiffs and the Class for settlement purposes only, the approval of Epiq Class Action & Claim Solutions LLC ("Epiq") as the Settlement Administrator, the various forms of class relief provided under the terms of the Settlement, and the proposed method of distribution of Settlement Class Member Benefits are fair, reasonable, and adequate, subject to further consideration at the Final Approval Hearing described below.

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<sup>1</sup> All capitalized terms used in this Order shall have the same meanings as set for in the Settlement Agreement, attached to the Motion for Preliminary Approval as *Exhibit 1*.

2. The Court does hereby preliminarily and conditionally approve and certify, for settlement purposes, the following Class:

All individuals residing in the United States who impacted in the Data Incident.

Excluded from the Settlement Class are: (a) all officers and directors of Defendant; (b) governmental entities; (c) the Judge assigned to the Action, that Judge's immediate family, and Court staff; (d) any Settlement Class Member who timely and properly opts-out of the Settlement.

3. For purposes of settlement, based on the information provided: the Settlement Class is ascertainable; it consists of 760,797 Settlement Class Members, satisfying numerosity; there are common questions of law and fact including whether Defendant failed to implement and maintain reasonable security procedures and practices appropriate to the nature and scope of the information compromised in the Data Incident, satisfying commonality; the proposed Class Representatives' claims are typical, in that they are members of the Settlement Class and allege that they have been damaged by the same conduct as the other members of the Settlement Class; the proposed Class Representatives and Class Counsel fully, fairly, and adequately protect the interests of the Class; questions of law and fact common to members of the Settlement Class predominate over questions affecting only individual members for settlement purposes; and a class action for settlement purposes is superior to other available methods for the fair and efficient adjudication of this Action.

4. For purposes of the settlement only, the Court appoints Plaintiffs G. Scott Lockwood, Heather Reynicke, Christopher Santora, Donna Mathews, John Langan, Nancy Langan, Stephen Duesler, Patrick Hubley, and Peggy L. Koller as the Class Representatives.

5. For purposes of the settlement only, the Court appoints Terence R. Coates of Markovits, Stock, DeMarco, LLC, Raina Borrelli of Strauss Borrelli PLLC, Gary M. Klinger of Milberg PLLC, and Jeff Ostrow of Kopelowitz Ostrow P.A. as Class Counsel for the Settlement

Class.

6. The Court appoints Epiq Class Action & Claim Solutions LLC as the Settlement Administrator.

7. A Final Approval Hearing shall be held before the Court on \_\_\_[date]\_\_\_\_\_, 2026 at \_\_\_[time]\_\_\_\_\_, in Room Walter H. Rice Federal Building and U.S. Courthouse, Room 909, 200 West Second Street, Dayton, OH 45402, for the following purposes:

- a. To determine whether the proposed Settlement is fair, reasonable, and adequate to the Class and should be approved by the Court;
- b. To determine whether to grant Final Approval, as defined in the Settlement Agreement;
- c. To determine whether the Notice Program as conducted was appropriate;
- d. To determine whether the Claims Process under the Settlement is fair, reasonable, and adequate and should be approved by the Court;
- e. To determine whether the requested Class Counsel's combined attorneys' fees, of up to one-third of the Settlement Fund and litigation expenses should be approved by the Court;
- f. To determine whether the request Service Awards of up to \$2,000.00 to each Class Representative is fair, reasonable, and adequate.
- g. To determine whether the Settlement Class Members Benefits are fair, reasonable, and adequate; and
- h. To rule upon such other matters as the Court may deem appropriate.

8. The Court approves, as to the form and content, the Notices. Furthermore, the Court approves the implementation of the Settlement Website and the proposed methods of mailing or

distributing the Notices substantially in the form as presented in the exhibits to the Motion for Preliminary Approval of Class Action Settlement, and finds that such notice plan meets the requirements of Federal Rules of Civil Procedure 23 and due process, and is the best notice practicable under the circumstances, and shall constitute due and efficient notice to all persons or entities entitled to notice.

9. In order to be a timely claim under the Settlement, a Claim Form must be either postmarked or received by the Settlement Administrator no later than 60 days after the Notice Completion Date. Class Counsel and the Settlement Administrator will ensure that all specific dates and deadlines are added to the Notice and posted on the Settlement Website after this Court enters this Order in accordance with the timeline being keyed on the grant of this Order.

10. Additionally, all requests to opt-out or object to the proposed Settlement must be received by the Settlement Administrator no later than 60 days after the Notice Completion Date.. Any request to opt-out of the Settlement should, to the extent possible, contain words or phrases such as “opt-out,” “opt out,” “exclusion,” or words or phrases to that effect indicating an intent not to participate in the settlement or be bound by this Agreement. Class Members who seek to opt-out shall receive no benefit or compensation under the Settlement Agreement.

11. Class Members may submit an objection to the proposed Settlement under Federal Rule of Civil Procedure 23(e)(5). For an Objection to be valid, it must be filed with the Court no later than 60 days after the Notice Completion Date and include each and all of the following:

- (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 five years; (f) a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection (if any); (g) a statement confirming whether the objector and/or their counsel intends to personally appear and/or testify at the Final Approval Hearing; and (h) the objector's signature (an attorney's signature is not sufficient). Any Objection failing to include the requirements expressed above will be deemed to be invalid. Furthermore, any Class Member objecting to the Settlement agrees to submit to any discovery related to the Objection.

12. All Class Members shall be bound by all determinations and judgments in this Action concerning the Settlement, including, but not limited to, the release provided for in the Settlement Agreement, whether favorable or unfavorable, except those who timely and validly request exclusion from the Class. The persons and entities who timely and validly request

exclusion from the Class will be excluded from the Class and shall not have rights under the Settlement Agreement, shall not be entitled to submit Claim Forms, and shall not be bound by the Settlement Agreement or any Final Approval order as to individuals in this Litigation.

13. Pending final determination of whether the Settlement Agreement should be approved, Plaintiffs and the Class are barred and enjoined from commencing or prosecuting any claims asserting any of the Released Claims against the Released Parties.

14. The Court stays all proceedings in this Action until further order of the Court, except that the Parties may conduct such limited proceedings as may be necessary to implement the Settlement or to effectuate the term of the Agreement.

15. This 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 as of the date of the execution of the Settlement Agreement, if the Settlement is not finally approved by the Court or is terminated in accordance with the terms of the Settlement Agreement. In such event, the Settlement and Settlement Agreement shall become null and void and be of no further force and effect, and neither the Settlement Agreement nor the Court's orders, including this Order, relating to the Settlement shall be used or referred to for any purpose whatsoever.

16. This Order shall be of no force or effect if a Final Approval Order and judgment 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 Defendant of any fault, wrongdoing, breach, liability, or the certifiability of any class. Nor shall this 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 claim lacks merit or that the relief requested is inappropriate, improper,

unavailable, or as a waiver by any Party of any defense or claim he, she, or it may have in this litigation or in any other lawsuit.

17. The Court reserves the right to adjourn the date of the Final Approval Hearing without further notice to the potential Settlement Class Members and retains jurisdiction to consider all further requests or matters arising out of or connected with the proposed Settlement. The Court may approve the Settlement, with such modification as may be agreed to by the Parties or as ordered by the Court, without further notice to the Class.

18. The Court confirms the following schedule (which the court, upon showing of good cause by the Parties, may extend any of the deadlines):

Deadline for Defendant to Provide Class List to Settlement Administrator	Within 7 days of entry of the Preliminary Approval Order
Deadline to Commence Notice Program	Within 30 days after entry of the Preliminary Approval Order
Deadline to Complete Notice Program	No later than 45 days after entry of the Preliminary Approval Order
Deadline to file Motion for Final Approval, including Class Counsel’s Application for Attorneys’ Fees, Costs, and Service Awards	15 days after the Claims Form Deadline
Opt-Out Deadline	60 days after Notice Completion Date
Objection Deadline	60 days after the Notice Completion Date
Claim Form Deadline	60 days after the Notice Completion Date
Final Approval Hearing	_____ at __:__ a.m./p.m. (no less than 110 days following Preliminary Approval)

**IT IS SO ORDERED** this \_\_\_\_ day of \_\_\_\_\_, 2026.

\_\_\_\_\_  
**WALTER H. RICE**  
**UNITED STATES DISTRICT JUDGE**

# **EXHIBIT 5**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION (DAYTON)

IN RE MOTILITY DATA BREACH  
LITIGATION

CASE NO. 3:25-CV-00330

HONORABLE WALTER H. RICE

**[PROPOSED] ORDER GRANTING PLAINTIFFS' UNOPPOSED MOTION  
FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

This matter comes before the Court on Plaintiffs'<sup>1</sup> Unopposed Motion for Final Approval of Class Action Settlement (together with its exhibits, the "Final Approval Motion," ECF \_\_) and Motion for Attorneys' Fees, Expenses, and Class Representative Service Awards (ECF No. \_\_) (together with the Final Approval Motion, the "Motions"). The Court has reviewed the Motions and the Settlement Agreement entered into by Plaintiffs and Defendant, and finds the Motions are now ripe for adjudication and for the reasons stated below, the Court grants the Motions.

**I. Analysis**

**A. Final Class Certification is Appropriate**

i. The Proposed Class is Ascertainable

The Settlement Class is defined by objective criteria, and Class Members were identifiable for the purposes of providing notice. This meets the implied ascertainability requirement of Rule 23. *Hicks v. State Farm Fire & Cas. Co.*, 965 F.3d 452, 464 (6th Cir. 2020) (citations omitted).

ii. The Elements of Rule 23(a) are Satisfied

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<sup>1</sup> All capitalized terms used herein have the same meanings as those defined in Section II of the Settlement Agreement, attached to the Motion for Final Approval as *Exhibit 1*.

For a lawsuit to be maintained as a class action under Rule 23, the plaintiff must establish each of the four threshold requirements of Subsection (a) of the Rule, which provides:

One or more members of a class may sue or be sued as representative parties on behalf of all members only if (1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class.

Fed. R. Civ. P. 23(a). Here, all four elements are satisfied.

*a. Numerosity*

Rule 23(a)(1) requires that Plaintiffs demonstrate that “the class is so numerous that joinder of all members is impracticable.” While no specific number of class members is required to maintain a class action, “[w]hen class size reaches substantial proportions. . . the impracticability requirement is usually satisfied by the numbers alone.” *In re Am. Med. Sys., Inc.*, 75 F.3d 1069, 1079 (6th Cir. 1996) (citation omitted). Here, there are an estimated 760,797 Class Members, satisfying the numerosity requirement.

*b. Commonality*

Rule 23(a)(2) requires a showing of the existence of questions of law or fact common to the class. See *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 345 (2011). “Their claims must depend upon 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.” *Id.* at 350. Both the majority and dissenting opinions in that case agreed that “for purposes of Rule 23(a)(2) even a single common question will do.” *Id.* at 359.

In this case, there are numerous common questions of law and fact, including whether Defendant owed a duty to Plaintiffs and Settlement Class Members; and whether Defendant breached its duties. Commonality is, therefore, satisfied.

*c. Typicality*

“A plaintiff’s claim is typical if it 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) (quoting *In re Am. Med. Sys., Inc.*, 75 F.3d at 1082).

The claims of the Class Representatives are typical because they arise from the same Data Incident and alleged course of conduct giving rise to Settlement Class Members’ claims. Typicality is satisfied.

*d. Adequacy of Representation*

Rule 23(a)(4) requires that “the representative parties will fairly and adequately protect the interests of the class.” “There are two criteria for determining this element: 1) the representatives must have common interests with the unnamed class members, and 2) it must appear that the representatives will vigorously prosecute the class action through qualified counsel.” *Senter v. Gen. Motors Corp.*, 532 F.2d 511, 524-25 (6th Cir. 1976).

The Class Representatives, G. Scott Lockwood, Heather Reynicke, Christopher Santora, Donna Mathews, John Langan, Nancy Langan, Stephen Duesler, Patrick Hubley, and Peggy L. Koller, have common interests, and no conflicts, with unnamed Settlement Class Members. Class Counsel, the law firm Markovits, Stock & DeMarco, LLC, are qualified and are known within this District for handling complex cases including class action cases such as this one. *Bechtel v. Fitness Equipment Services, LLC*, 339 F.R.D. 462, 480 (S.D. Ohio 2021) (noting that Class Counsel “have

appeared in this Court many times and have substantial experience litigation class actions and other complex matters.”). Strauss Borrelli PLLC, Milberg PLLC, and Kopelowitz Ostrow P.A. also have extensive experience handling class action cases for plaintiffs.

iii. The Requirements of Rule 23(b) are Met.

The settlement satisfies the two requirements of Rule 23(b)(3): predominance and superiority. Predominance requires that “the questions of law or fact common to class members predominate over any questions affecting only individual members. ” Fed. R. Civ. P. 23(b)(3)). This requirement “tests whether proposed classes are sufficiently cohesive to warrant adjudication by representation.” *Tyson Foods, Inc. v. Bouaphakeo*, 577 U.S. 442, 453 (2016). Predominance is readily satisfied in data breach class actions like this because many common questions of fact and law arise from the Data Incident and Defendant’s alleged conduct predominates over any individualized issues. Predominance is satisfied here. Plaintiffs and Settlement Class Members all have common questions of law and fact arising out of the same common event: the Data Incident. Specifically, Plaintiffs alleged numerous questions of law and fact that are common to the class including: whether and to what extent Defendant had a duty to protect the PII of Plaintiffs and Class Members; whether Defendants had a duty not to disclose the PII of Plaintiffs and Settlement Class Members to unauthorized third parties; whether Defendant failed to adequately safeguard the PII of Plaintiffs and Settlement Class Members; and whether Defendant failed to implement and maintain reasonable security procedures and practices appropriate to the nature and scope of the information compromised in the Data Incident. Such common questions are susceptible to common evidence. And any individualized questions are minor compared to the voluminous number of common questions.

Superiority requires that “a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3). Superiority is easily met in data breach class actions like this. Superiority is satisfied here because individual litigation for all Class Members—who have the same claims arising from the same Data Incident—would be highly inefficient and unnecessarily burden judicial resources. Moreover, the Settlement gives the Parties the benefit of finality, as opposed to protracted and individualized litigation. Thus, superiority is satisfied.

**B. The Notice Program Was the Best Notice Practicable**

The Settlement outlines an efficient and effective method of distributing relief to Settlement Class Members. Notice of a proposed settlement to class members must be the “best notice practicable.” Fed. R. Civ. P.23(c)(2)(B). “[B]est notice practicable” means “individual notice to all members who can be identified through reasonable effort.” *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 173 (1974).

Notice that is mailed to each member of a settlement class “who can be identified through reasonable effort” constitutes reasonable and sufficient notice. *Id.* at 176. The Notice disseminated by Epiq plainly and clearly articulated the available relief to Settlement Class Members. Specifically, the Notice outlined the benefits afforded to Settlement Class Members, and their avenues for securing different forms of relief. Epiq provided efficient and effective notice to the Settlement Class. As part of the Notice program, Epiq disseminated individual notice through the Postcard Notice, which was sent by U.S. Mail. This direct mail notice reached approximately \_\_\_\_\_ Settlement Class Members. Additionally, Epiq established and continues to maintain the Settlement Website, a toll-free telephone number, and a P.O. Box for the purposes of communicating with Settlement Class Members. In sum, Settlement Class Members received effective and efficient notice of the relief offered.

Because Settlement Class Members were able to make claims through a simple online form or by mail, the method of distributing the relief was both efficient and effective, and the proposed Settlement is adequate under this factor. The notice program more than met the requirements of Rule 23 and due process.

**C. The Settlement Agreement Merits Final Approval**

Pursuant to Rule 23(e), the Court may approve this Settlement if it determines that it is “fair, reasonable and adequate.” The determination of whether to grant final approval for the Settlement is left to the sound discretion of the Court. *Lonardo v. Travelers Indem. Co.*, 706 F. Supp. 2d 766, 778 (N.D. Ohio 2010) (citing *Bailey v. Great Lakes Canning, Inc.*, 908 F.2d 38, 42 (6th Cir. 1990)). The Sixth Circuit has identified the following factors when considering whether to finally approve a class action settlement: “(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.” *Vassalle v. Midland Funding LLC*, 708 F.3d 747, 754 (6th Cir. 2013).

The 2018 amendments to Rule 23(e) also contain specific factors for federal courts to consider in determining whether a class action settlement is fair, reasonable, and adequate. See Fed. R. Civ. P. 23(e)(2). These factors include:

- A. Whether the class representatives and class counsel have adequately represented the class;
- B. Whether the proposal was negotiated at arm’s length;
- C. Whether the relief provided for the class is adequate, taking into account:
  - (i) the costs, risk, 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 members 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. Whether the proposal treats class members equitably.

*Id.* These amendments are not intended to displace the factors set forth in case law “but rather focus the court and the lawyers on the core concerns of procedure and substance that should guide the decision whether to approve the proposal.” *Id.* at *Advisory Committee’s Note to 2018 Amendment*. Courts in this Circuit consider both sets of factors when assessing the reasonableness of a settlement and enjoy “wide discretion in assessing the weight and applicability of these factors.” *Doe v. Ohio*, No. 2:91-cv-464, 2020 WL 728276, at \* 3 (S.D. Ohio Feb. 12, 2020). All of the case law and 23(e) factors weigh in favor of granting final approval.

i. The Absence of Fraud or Collusion Supports Approval

Settlements resulting from arm’s length negotiations conducted by competent counsel are *prima facie* fair. *See, e.g., Roland v. Convergys Customer Mgmt. Grp. Inc.*, No. 1:15- CV-00325, 2017 WL 977589, at \*1 (S.D. Ohio Mar. 10, 2017) (noting that settlement was “reached after good faith, arms’ length negotiations, warranting a presumption in favor of approval”); *see* 1 Herbert B. Newberg & Alba Conte, *Newberg on Class Actions* § 11.41 at 90 (4th Ed. 2002). This Settlement was the result of extensive, contentious, arm’s length negotiations. There is no evidence of fraud or collusion.

ii. The Complexity, Expense, and Likely Duration of Continued Litigation Support Approval

“Most class actions are inherently complex and settlement avoids the costs, delays and multitude of other problems associated with them.” *Brent v. Midland Funding, LLC*, No. 3:11- CV- 01332, 2011 WL 3862363, at \*16 (quoting *In re Austrian & German Bank Holocaust Litig.*, 80 F. Supp. 2d 164, 174 (S.D.N.Y. 2000)). “Thus, “[i]n most situations, unless the settlement is

clearly inadequate, its acceptance and approval are preferable to lengthy and expensive litigation with uncertain results.” *Id.* (quoting 4 Herbert B. Newberg & Alba Conte, *Newberg on Class Actions* § 11.50 (4th ed. 2002)).

Through the Settlement, Plaintiffs and Settlement Class Members gain significant benefits without having to face the further risk of not receiving any relief at all. The Settlement offers immediate, significant, and substantial relief to all Settlement Class Members who submit a claim. The relief afforded by this Settlement is fair and reasonable, especially when weighed against the anticipated cost, prolonged nature, and uncertain outcome of continued litigation. Thus, this factor too weighs in favor of granting final approval.

iii. The Amount of Discovery Supports Approval

The Court is aware that the Parties have engaged in sufficient discovery, that allows them to understand their respective positions. This factor also lends support for granting final approval of the Settlement

iv. The Likelihood of Success Balanced Against the Amount and Form of Relief Offered by the Settlement Weigh in Favor of Approving the Settlement

The Sixth Circuit has identified the likelihood of success on the merits as the most important of all the factors a district court must evaluate in assessing the fairness of a class action settlement. *Poplar Creek Dev. Co. v. Chesapeake Appalachia, LLC*, 636 F.3d 235, 245 (6th Cir. 2011). A district court must weigh the likelihood that the class ultimately will prevail “against the amount and form of the relief offered in the settlement.” *Carson v Am. Brands, Inc.*, 450 U.S. 79, 88 n.14 (1981); *see also In re Gen. Tire & Rubber*, 726 F.2d 1075, 1086 (6th Cir. 1984); *UAW v. Gen. Motors, Corp.*, 497 F.3d 615, 631 (6th Cir. 2007).

Defendant has vigorously defended itself from the outset of this litigation and has consistently maintained that the allegations are without merit. There are substantial risks involved in establishing liability and damages. “Most class actions are inherently complex and settlement avoids the costs, delays and multitude of other problems associated with them.” *Brent*, 2011 WL 3862363, at \*16 (quoting *In re Austrian & German Bank Holocaust Litig.*, 80 F. Supp. 2d at 174). “Thus, ‘[i]n most situations, unless the settlement is clearly inadequate, its acceptance and approval are preferable to lengthy and expensive litigation with uncertain results.’” *Id.* (quoting 4 Herbert B. Newberg & Alba Conte, *Newberg on Class Actions* § 11.50 (4th ed. 2002)). This case is no different in that it is a data privacy class action and a settlement at this stage of the case will avoid the risk of “costs, delays, and multitude of other problems associated” with class action cases. Due at least in part to their cutting-edge nature and the rapidly evolving law, data breach cases like this one generally face substantial hurdles—even just to make it past the pleading stage. *See, e.g., Hammond v. The Bank of N.Y. Mellon Corp.*, No. 08 Civ. 6060, 2010 WL 2643307, at \*1 (S.D.N.Y. June 25, 2010) (collecting data breach cases dismissed at the Rule 12(b)(6) or Rule 56 stage). The Settlement here offers immediate, significant, and substantial relief to all Class Members.

Under any analysis, the relief afforded by this Settlement is fair and reasonable, especially when weighed against the anticipated cost, prolonged nature, and uncertain outcome of continued litigation. Thus, this factor too weighs in favor of granting final approval.

iv. The Opinions of Class Counsel and Class Representatives Favor Approval

The Sixth Circuit has observed that when experienced counsel immersed in the legal and factual issues comprising a class action recommend approval of their class settlement, their recommendations are entitled to deference. *See Williams v. Vukovich*, 720 F.2d 909, 922 (6th Cir.

1983) (a district court “should defer to the judgment of experienced counsel who has competently evaluated the strength of his proofs” and that deference “should correspond to the amount of discovery completed and the character of the evidence uncovered”). Likewise, courts in the Sixth Circuit defer to the recommendations made by class representatives who support the settlement. *Gascho v. Global Fitness Holdings, LLC*, No. 2:11-cv-436, 2014 WL 1350509, at \*18 (S.D. Ohio Apr. 4, 2014) (“Not insignificantly, the Class Representatives have also approved the Settlement Agreement”).

Class Counsel, have closely monitored the negotiations leading to the Settlement, and the Class Representatives all support this Settlement. Defendant’s Counsel is also supportive of the Settlement. All interested parties are in a position to fully analyze the strengths and weaknesses of their respective cases and determine that the Settlement at this stage of the litigation is appropriate. Accordingly, the informed recommendations of the parties and their experienced counsel weigh in favor of granting final approval.

v. The Reaction of Class Members Supports the Settlement

The deadline for Settlement Class Members to object to the Settlement was \_\_\_\_\_. \_\_\_ objections have been filed and the overall reaction of the Settlement Class Members has been positive, supporting final approval.

vi. The Settlement Serves the Public Interest

Resolution of this dispute, with benefits that will be realized promptly for the Settlement Class Members, is in the public interest, supporting final approval. This Settlement serves the public’s interest by avoiding protracted litigation and freeing up judicial resources. *See In re Telectronics Inc.*, 137 F. Supp. 2d 985, 1025 (S.D. Ohio 2001); *see also Enter. Energy Corp. v. Columbia Gas Transmission Corp.*, 137 F.R.D. 240, 248 (S.D. Ohio 1991) (noting the settlement

of a class action lawsuit served the public interest because it “avoid[ed] a time-consuming and expensive trial” and “eliminate[d] the possibility of any time-consuming and expensive appeals”).

Particularly considering the cash benefits the Settlement provides to the Class Members, and the fact that this Settlement will avoid further discovery and expensive motion practice, this “overriding public interest” would be well served by approval of this Settlement.

vii. The Other Rule 23(e) Factors Support the Settlement

To the extent not addressed above, the remaining Rule 23(e) factors support the Settlement. The Class Representatives and Class Counsel have adequately represented the class, as shown by the work performed and the relief obtained under the Settlement. The method of distributing relief was chosen to make the claims process as easy as possible. Rule 23(e)(2)(C)(ii). There is no undisclosed agreement made in connection with the Settlement. Rule 23(e)(2)(C)(iv). All Class Settlement Members are treated equitably relative to each other—they all have the opportunity for Documented Out-of-Pocket Losses, an alternative cash payment, and to received Credit Monitoring as part of the Settlement. Rule 23(e)(2)(D). In total, all of the factors to be considered when determining whether to grant final approval weigh in favor of finding that the Settlement is fair, reasonable, and adequate.

**D. The Attorneys’ Fees and Expense Agreement is Fair and Reasonable**

Typically, in class actions such as this, Class Counsel are awarded a percentage of the settlement fund. *See In re Delphi Corp. Sec., Derivative & "ERISA" Litig.*, 248 F.R.D. 483, 502 (E.D. Mich. 2008) (noting Sixth Circuit preference for percentage approach in common fund cases); *Bailey v. Verso Corp.*, 337 F.R.D. 500, 506 (S.D. Ohio 2021), *judgment entered*, No. 3:17-CV-332, 2021 WL 5815727 (S.D. Ohio Dec. 6, 2021) (noting that Sixth Circuit courts evaluate fee awards in ERISA cases under the common fund doctrine). Here, the requested award for

attorneys' fees is for one-third of the settlement fund, and for the reimbursement of costs. The fee and expense agreement is fair and reasonable, and should be approved.

### **III. Conclusion**

Based on the foregoing, the Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement and Motion for Attorneys' Fees, Expenses, and Class Representative Service Awards are **GRANTED**. Accordingly, the court finds as follows:

1. The Court finds that the Settlement Agreement is fair, reasonable, and adequate, as expressed further herein. The Court also finds the Settlement Agreement was entered into in good faith, at arm's length and without collusion. The Court approves and directs consummation of the Settlement Agreement.

2. The Court approves the Release provided in the Settlement Agreement and orders that, as of the Effective Date, the Released Claims will be released as to Released Parties.

3. The Court has and reserves jurisdiction over the Settlement and this Settlement Agreement, and for purposes of the Settlement and Settlement Agreement, the Court has and reserves jurisdiction over the Parties to the Settlement.

4. The Court finds that there is no just reason for delay of entry of final judgment with respect to the foregoing.

5. The Court dismisses with prejudice all claims in this Action against Defendant, without costs and fees except as explicitly provided for in the Settlement Agreement.

6. The Court awards Class Counsel \$\_\_\_\_\_ in attorneys' fees and expenses of \$\_\_\_\_\_ to be paid according to the terms of the Settlement Agreement. This amount of fees and reimbursement is fair and reasonable. The Court awards the Class Representatives, G. Scott Lockwood, Heather Reynicke, Christopher Santora, Donna Mathews, John Langan, Nancy

Langan, Stephen Duesler, Patrick Hubley, and Peggy L. Koller, \$2,000 each to be paid according to the terms of the Settlement Agreement. The award is justified based on their service to the Class.

7. The Court finds that the distribution of the Notices has been achieved pursuant to the Preliminary Approval Order and the Settlement Agreement, and that the Notice to Settlement Class Members complied with Fed. R. Civ. P. 23 and due process.

8. The Court finds Defendant has complied with the requirements of 28 U.S.C. § 1715 regarding the CAFA Notice.

9. The Court grants final approval to its appointment of G. Scott Lockwood, Heather Reynicke, Christopher Santora, Donna Mathews, John Langan, Nancy Langan, Stephen Duesler, Patrick Hubley, and Peggy L. Koller as Class Representatives. The Court finds that the Class Representatives are similarly situated to absent Class Members, are typical of the Class, and are adequate Class Representatives, and that Class Counsel and the Class Representatives have fairly and adequately represented the Class.

10. The Court grants final approval to its appointment of Class Counsel as provided in the Preliminary Approval Order (ECF No.   ), appointing Terence R. Coates of Markovits, Stock, DeMarco, LLC, Raina Borrelli of Strauss Borrelli PLLC, Gary M. Klinger of Milberg PLLC, and Jeff Ostrow of Kopelowitz Ostrow P.A.

11. The Court certifies the following Class for settlement purposes only under Fed. R. Civ. P. 23(a) and 23(b)(3), subject to the Class exclusions set forth in the Settlement Agreement:

All individuals residing in the United States who were impacted by the Data Incident.

12. The Court finds that the Class defined above satisfies the requirements of Fed. R. Civ. P. 23(a) and (b)(3) for settlement purposes in that: (a) the Class of approximately 760,797 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 Class; (c) the claims of the Class Representative are typical of and arise from the same operative facts and seek similar relief as the claims of the Settlement Class Members; (d) the Class Representatives and Class Counsel have fairly and adequately protected the interests of the Class, as the Class Representatives have no interests antagonistic to or in conflict with the Class and have retained experienced and competent counsel to prosecute this matter on behalf of the 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 are superior to other methods available for a fair and efficient resolution of this controversy.

13. Having considered the negotiation of, the terms of, and all of the materials submitted concerning the Settlement Agreement; having considered Plaintiffs' and the Settlement Class Members' likelihood of success both of maintaining this action as a class action and of prevailing on the claims at trial, including the possibility that Defendant could prevail on one or more of its defenses; having considered the range of the Plaintiffs' possible recovery (and that of the Class) and the complexity, expense, and duration of the Action; and having considered the substance and amount of opposition to the proposed Settlement, it is hereby determined that:

- a. Plaintiffs and Class Counsel have adequately represented the proposed Class;
- b. The terms of the Settlement Agreement were negotiated at arm's length, vigorously advocated by experienced counsel for Plaintiffs and Defendant;
- c. The outcome of the Action was in doubt when the Settlement was reached making the compromise under this Settlement reasonable under the circumstances;
- d. It is possible the proposed Class could receive more if the Action were to go to trial, but it is also possible that the proposed Class could receive less (including the

possibility of receiving nothing) and/or that Defendant could defeat class certification;

- e. The value of immediate recovery outweighs the possibility of future relief that would likely occur, if at all, only after further protracted litigation and appeals
- f. The Parties have in good faith determined the Settlement Agreement is in their respective best interests, including both Plaintiffs and Class Counsel determining that it is in the best interest of the Class Members
- g. The consideration for the Class is commensurate with the claims asserted and being released as part of the Settlement, and,
- h. The terms of the Settlement Agreement treat the Class Members equitably relative to each other and fall within the range of settlement terms that would be considered a fair, reasonable, and adequate resolution of the Action.

Therefore, pursuant to Rule 23(e), the terms of the Settlement Agreement are finally approved as fair, reasonable, and adequate as to, and in the best interest of, the Class and each of the Settlement Class Members. Settlement Class Members who did not opt-out of the Settlement are bound by this Final Approval Order. The Settlement Agreement and its terms shall have res judicata and preclusive effect in, all pending and future lawsuits or other proceedings as to Released Claims and waivers applicable thereto.

14. The Court approves the distribution and allocation of the Settlement Fund under the Settlement Agreement. To the extent that any funds remain after the allocation of the Settlement Fund pursuant to the terms of the Settlement Agreement, Cash Payments will be increased or decreased pro rata, with attorneys' fees and expenses, Settlement Administration fees

and expenses, Credit Monitoring expenses, and Class Representative Service Awards deducted first.

15. This Final Approval Order, the Settlement Agreement, and all statements, documents, or proceedings relating to the Settlement Agreement are not, and shall not be construed as, used as, or deemed to be evidence of, an admission by or against Defendant of any claim, any fact alleged in the Action, any fault, any wrongdoing, any violation of law, or any liability of any kind on the part of Defendant or of the validity or certifiability for this Action or other litigation of any claims or class that have been, or could have been, asserted in the Action.

16. This Final Approval Order, and all statements, documents or proceedings relating to the Settlement Agreement shall not be offered or received or be admissible in evidence in any action or proceeding, or be used in any way as an admission or concession or evidence of any liability or wrongdoing by Defendant, or that Plaintiffs, any Settlement Class Member, or any other person has suffered any damage due to the Data Incident. Notwithstanding the above, the Settlement Agreement and this Final Approval Order may be filed in any action by Defendant, Class Counsel, or Class Members seeking to enforce the Settlement Agreement or the Final Approval Order.

17. The Settlement Agreement and Final Approval Order shall not be construed or admissible as an admission by Defendant that Plaintiffs' claims or any similar claims are suitable for class treatment.

**IT IS SO ORDERED** this \_\_\_\_\_ day of \_\_\_\_\_, 2026.

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**WALTER H. RICE**  
**UNITED STATES DISTRICT JUDGE**

# **EXHIBIT**

# **B**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION – DAYTON**

IN RE MOTILITY DATA BREACH  
LITIGATION

Case No. 3:25-CV-00330

Judge Walter H. Rice

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**DECLARATION OF TERENCE R. COATES IN SUPPORT OF  
PLAINTIFFS’ UNOPPOSED MOTION FOR  
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

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I, Terence R. Coates, hereby state as follows:

1. I am the managing partner of the law firm Markovits, Stock & DeMarco, LLC (“MSD”). I am Interim Class Counsel for Plaintiffs in this matter and have monitored my firm’s and my co-counsel’s participation in this matter from the initiation of litigation to the present. The contents of this Declaration are based upon my own personal knowledge, my experience in handling many class action cases, and the events of this litigation.

2. My firm has been centrally involved in all aspects of this litigation from the initial investigation to the present. Class Counsel undertook this matter on a contingency fee basis with the risk of achieving no recovery at all. Additionally, Class Counsel have incurred reasonable litigation expenses that remain unreimbursed.

3. I am currently the President-Elect of the Cincinnati Bar Association’s Board of Trustees and the Executive Director of the Potter Stewart Inn of Court. I am a frequent speaker for the plaintiffs’ perspective on recent trends in data privacy class action cases having participated as a panel speaker at events such as: The Sedona Conference Working Group 11 Midyear Meeting 2022 in Cleveland, Ohio (*Emerging issues in privacy and cybersecurity class action litigation*) (November 3, 2022); Trial Lawyers of Mass Tort’s conference in Big Sky, Montana (March 2023);

the NetDiligence cybersecurity summit in Ft. Lauderdale, Florida (February 2023); the Beazley Insurance national conference in Ft. Lauderdale, Florida (March 2023); the JAMS roundtable on selecting mediators (September 2023); Trial Lawyers of Mass Tort's Conference in Cabo, Mexico (December 2023); Class Action Money & Ethics Conference in New York, New York (May 2024); HarrisMartin Conference in Nashville, Tennessee (*Data Privacy Cases are Much More Than Data Breach*) (September 2024); The Geneva Association 2024 Cyber Conference in New York, New York (*Evolving Third-Party Liabilities in Cyber*) (November 12, 2024); Trial Lawyers of Mass Tort's conference in Cabo, Mexico (panel moderator on *Recent Issues in Data Breach Litigation* (November 21, 2024)); and Class Action Money & Ethics Conference in New York, New York (May 2025).

4. I have served as a member of court-appointed class counsel in numerous data privacy class actions throughout the country. Representative cases include: *In re Advocate Aurora Health Pixel Litig.*, No. 22-CV-1253 (E.D. Wis.) (\$12.225 million settlement); *Tracy v. Elekta, Inc.*, No. 1:21-cv-02851 (N.D. Ga.) (\$8.9 million settlement); *Sherwood v. Horizon Actuarial Servs., LLC*, No. 1:22-cv-1495 (N.D. Ga.) (\$8,733,446.36 settlement); *Durgan v. U-Haul Int'l Inc.*, No. 2:22-cv-01565 (D. Ariz.) (sole class counsel, \$5,085,000 data settlement); *Owens v. U.S. Radiology Specialist, Inc.*, No. 22 CVS 17797 (Mecklenburg Super. Ct., N.C.) (\$5,050,000 settlement); *Phillips v. Bay Bridge Administrators, LLC*, No. 23-cv-00022 (W.D. Tex.) (sole class counsel, \$2,516,890 settlement); *Migliaccio v. Parker Hannifin Corp.*, No. 1:22-cv-835 (N.D. Ohio) (\$1,750,000 settlement); *Tucker v. Marietta Area Health Care Inc.*, No. 1:11-cv-184 (S.D. Ohio) (\$1,750,000 settlement).

5. Federal courts have recognized me and my firm as experienced in handling complex cases, including class actions. Representative examples include: *Shy v. Navistar Int'l*

*Corp.*, No. 3:92-CV-00333, 2022 WL 2125574, at \*4 (S.D. Ohio June 13, 2022) (“Class Counsel, the law firm Markovits, Stock & DeMarco, LLC, are qualified and are known within this District for handling complex cases including class action cases such as this one.”); *Bechtel v. Fitness Equip. Servs., LLC*, 339 F.R.D. 462, 480 (S.D. Ohio 2021) (“plaintiffs’ attorneys have appeared in this Court many times and have substantial experience litigating class actions and other complex matters.”); *Compound Prop. Mgmt. LLC v. Build Realty, Inc.*, 343 F.R.D. 378, 402 (S.D. Ohio 2023) (recognizing me and my firm as “qualified counsel” with “class-action experience before this Court and elsewhere.”); *Schellhorn v. Timios, Inc.*, No. 2:221-cv-08661, 2022 WL 4596582, at \*4 (C.D. Cal. May 10, 2022) (noting that Class Counsel, including “Terence R. Coates of Markovits, Stock & DeMarco, LLC, have extensive experience litigating consumer protection class actions . . . .”); *Bedont v. Horizon Actuarial Servs., LLC*, No. 1:22-CV-01565, 2022 WL 3702117, at \*2 (N.D. Ga. May 12, 2022) (noting that class counsel, including Mr. Coates, “are well qualified to serve as Interim Co-Lead Class Counsel and that they will fairly, adequately, responsibly, and efficiently represent all Plaintiffs in the Cases in that role.”).

6. Ms. Borrelli, Mr. Klinger, Mr. Ostrow and their firms are similarly experienced in representing plaintiffs in class action cases, including data breach class actions such as this one, and are qualified to continue to serve as Class Counsel in this case.

#### **LITIGATION AND PROTRACTED SETTLEMENT NEGOTIATIONS**

7. This is a data privacy class action brought by Plaintiffs on behalf of themselves and a class of all individuals “residing in the United States who were impacted by the Data Incident” It concerns a cyberattack Defendant experienced in August 2025, in which an unauthorized third party accessed and potentially acquired files containing Private Information belonging to some of Defendant’s former and current customers.

8. In response to the Data Incident, beginning in September 2025, Defendant sent notice letters (“Notice Letter”) to individuals who may have been impacted in the Data Incident.

9. Following receipt of notice, two separate class action lawsuits, *G. Scott Lockwood v. Motility Software Solutions, Inc.*, No. 3:25-cv-00330-WHR-CHG and *Heather Reynicke, et al. v. Motility Software Solutions, Inc.*, No. 3:25-cv-0331-MJN-PBS, were filed in this Court each seeking to represent the individuals impacted by the Data Incident.

10. On October 7, 2025, Plaintiff Lockwood filed a motion to consolidate the two actions and to appoint lead counsel. The Court entered an order consolidating the actions and appointing interim lead counsel on October 15, 2025. On November 9, 2025, Plaintiffs filed the Consolidated Complaint in this Action adding the claims of Plaintiffs Donna Mathews, John Langan, Nancy Langan, Stephen Duesler, Patrick Hubley, and Peggy L. Koller.

11. Following consolidation, the Parties decided to conserve resources and explore resolution of the entire action. The Parties set a mediation with experienced class action mediator Bennett G. Picker of Stradley Ronon, Stevens & Young, LLP.

12. In advance of mediation, Plaintiffs propounded and Defendant produced responses to informal discovery requests related to liability and damages, including, but not limited to, the number of individuals impacted by the Data Incident, the states in which they resided, the categories of Private Information involved, and the security enhancements taken since the Data Incident to better protect its computer systems for future data incidents. The Parties also drafted detailed mediation statements outlining their positions with respect to liability, damages, and settlement terms.

13. The mediation took place on February 6, 2026. After a day of negotiations, the Parties agreed to the material terms of the Settlement to resolve all claims on a classwide basis.

Subsequently, the Parties then engaged in many months of intense, arm's length, negotiations to finalize the terms of the Settlement Agreement, which will resolve all claims related to the Data Incident for the Class.

**THE SETTLEMENT AND ITS BENEFITS**

14. The Settlement in this matter will provide tangible cash benefits to Class Members who submit valid claims under the \$4,949,500 non-reversionary Settlement Fund. This Settlement was the result of intensive, arm's-length negotiations between attorneys who have substantial class action litigation experience and who have knowledge of the legal and factual issues of this case in particular. No collusion or illegality existed during the settlement process.

15. In my experience handling many data breach class actions around the country including many other common fund cases, the payment of \$4,949,500 for a common fund settlement for roughly 760,797 class members (equivalent to approximately \$6.51 per Class Member) is a reasonable recovery and one that compares favorably to other data breach class action settlements.

**EPIQ IS WELL QUALIFIED TO ACT AS THE SETTLEMENT ADMINISTRATOR**

16. Understanding that settlement administration costs and expenses will be deducted from the Settlement Fund, Class Counsel sought to engage the service of a settlement administrator with experience handling data privacy class actions and providing cost-effective services. I have received and reviewed hundreds of settlement administration bids during my career and am very familiar with what a reasonable settlement administration bid is per class member while factoring in the size of the class and the primary notice method. After receiving Epiq's settlement administration quote including the scope of service, I can confirm that the quote is reasonable and

in the Class's best interests, and the notice plan outlined will sufficiently inform the Settlement Class of the Settlement.

17. Epiq is a qualified class action settlement administration company. Details of its services and expertise are available on its website at <https://www.epiqglobal.com/en-us/services/class-action-mass-tort/class-action-administration> (last visited Apr. 7, 2026)).

**THE NOTICE PROGRAM IS ADEQUATE**

18. The Notice plan in this case consists of sending each Class Member the Short Form Notice via Regular U.S. Mail, and the Long Form Notice and Claim Form will be posted on the Settlement Website and the Settlement Administrator will mail those documents to Class Members upon request. Additional case information including important documents from this case will also be posted on the Settlement Website.

**CLASS COUNSEL'S ATTORNEYS' FEES & EXPENSES ARE REASONABLE  
FOR PURPOSES OF PRELIMINARY APPROVAL**

19. Under the Settlement, Class Counsel may seek up to one-third of the Settlement Fund as attorneys' fees, in addition to reimbursement for out-of-pocket expenses, which shall also be paid from the Settlement Fund.

20. Class Counsel have undertaken this case on a contingency fee basis and have not received any payment for their work in this case to date and have not been reimbursed for any of their litigation expenses.

21. Class Counsel and Plaintiffs' counsel have invested considerable time and resources into the prosecution of this action. Class Counsel and Plaintiffs' Counsel will submit detailed declarations in support of any upcoming motion for attorneys' fees, expenses, and class representative service awards identifying the tasks they have performed on behalf of the Class in prosecution of this case and in procuring this Settlement.

**SIMILAR DATA BREACH SETTLEMENTS**

22. Class Counsel opine that this \$4,949,500 Settlement is fair and reasonable for the roughly 760,797 Class Members. Class Counsel's opinion is informed by other data breach class action settlements based on the per class member recovery amount. For example, the following chart identifies the per class member value based on the common fund settlement amount for certain recent cases that also involved sensitive, private information such as Social Security numbers:

<b>Case Name</b>	<b>Case Number</b>	<b>Settlement Amount</b>	<b>Class Size</b>	<b>Per Person</b>
<i>Cochran v. The Kroger Co.</i>	No. 5:21-cv-1887 (N.D. Cal.)	\$5,000,000	3,820,000	\$1.31
<i>Standerfer v. Gateway Diagnostic Imaging, LLC</i>	No. 22 CVS 17797 (Mecklenburg Super. Ct., N.C.)	\$5,050,000	1,300,000	\$3.88
<i>In re C.R. England, Inc. Data Breach Litigation</i>	No. 2:22-cv-374 (D. Utah)	\$1,400,000	224,572	\$6.23
<b><i>In re Motility Data Breach Litigation</i></b>	<b>No. 3:25-cv-00330 (S.D. Ohio)</b>	<b>\$4,949,500</b>	<b>760,797</b>	<b>\$6.51</b>
<i>Reynolds v. Marymount Manhattan College</i>	No. 1:22-cv-6846 (S.D.N.Y.)	\$1,300,000	191,752	\$6.78
<i>Thomsen v. Morley Companies, Inc.</i>	No. 1:22-cv-10272 (E.D. Mich.)	\$4,300,000	617,065	\$6.96
<i>Tate v. EyeMed Vision Care, LLC</i>	No. 1:21-cv-00036 (S.D. Ohio)	\$5,000,000	692,154	\$7.22

Class Counsel and Plaintiffs believe that the Settlement in this case is fair and reasonable in that it is similar to other recent data breach class action settlements, indicating that this Settlement is in the range of reasonableness.

**THE CLASS REPRESENTATIVE SERVICE AWARDS OF \$2,000.00  
ARE REASONABLE AND JUSTIFIED**

23. The proposed Class Representatives, G. Scott Lockwood, Heather Reynicke, Christopher Santora, Donna Mathews, John Langan, Nancy Langan, Stephen Duesler, Patrick

Hubley, and Peggy L. Koller have been active participants in this case, generally stayed informed about this litigation, reviewed, and approved terms of the settlement in principle and the Settlement Agreement, and spent substantial time and effort protecting the Class's interests. In addition to being active participants in the litigation process, the Class Representatives were engaged in the mediation and settlement process. They asked articulate questions about the terms of the Settlement and, as evidenced by the signatures on the Settlement Agreement, support the Settlement. The Class Representatives have no conflicts of interest with other Settlement Class Members, are subject to no unique defenses, and they have and continue to vigorously prosecute this case on behalf of the Settlement Class. Accordingly, the \$2,000.00 Service Award to each Class Representative is reasonable given the efforts of each Class Representative on behalf of the Class in this matter.

**THE SETTLEMENT IS FAIR AND REASONABLE**

24. Class Counsel believe the Settlement is fair, reasonable, and adequate.

25. Furthermore, in my and my co-counsel's experience in handling hundreds of data breach class action cases for plaintiffs, we hold the informed opinion that this settlement is a fair, reasonable, and adequate result for Settlement Class Members. The settlement afforded here, as compared to the uncertainty of damages even following a successful finding of liability, is reasonable and weighs in favor of preliminary approval.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 7, 2026, at Bradenton Beach, Florida.

/s/ Terence R. Coates  
Terence R. Coates

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION (DAYTON)

IN RE MOTILITY DATA BREACH  
LITIGATION

Case No. 3:25-CV-00330

Judge Walter H. Rice

**[PROPOSED] ORDER GRANTING PLAINTIFFS' UNOPPOSED MOTION FOR  
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

Before this Court is Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement ("Motion"). The Court has reviewed the Motion and Settlement Agreement between Plaintiffs and Defendant. After reviewing Plaintiffs' unopposed Motion, this Court grants the Motion and preliminarily concludes that the proposed Settlement is fair, reasonable, and adequate.

IT IS HEREBY ORDERED THAT:

1. The Settlement Agreement,<sup>1</sup> including the proposed Notice Program to the Class, the appointment of Plaintiffs G. Scott Lockwood, Heather Reynicke, Christopher Santora, Donna Mathews, John Langan, Nancy Langan, Stephen Duesler, Patrick Hubley, and Peggy L. Koller as the Class Representatives for purposes of the settlement only, the appointment of Class Counsel for Plaintiffs and the Class for settlement purposes only, the approval of Epiq Class Action & Claim Solutions LLC ("Epiq") as the Settlement Administrator, the various forms of class relief provided under the terms of the Settlement, and the proposed method of distribution of Settlement Class Member Benefits are fair, reasonable, and adequate, subject to further consideration at the Final Approval Hearing described below.

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<sup>1</sup> All capitalized terms used in this Order shall have the same meanings as set for in the Settlement Agreement, attached to the Motion for Preliminary Approval as *Exhibit A*.

2. The Court does hereby preliminarily and conditionally approve and certify, for settlement purposes, the following Class:

All individuals residing in the United States who were impacted by the Data Incident.

Excluded from the Settlement Class are: (a) all officers and directors of Defendant; (b) governmental entities; (c) the Judge assigned to the Action, that Judge's immediate family, and Court staff; (d) any Settlement Class Member who timely and properly opts-out of the Settlement.

3. For purposes of settlement, based on the information provided: the Settlement Class is ascertainable; it consists of 760,797 Settlement Class Members, satisfying numerosity; there are common questions of law and fact including whether Defendant failed to implement and maintain reasonable security procedures and practices appropriate to the nature and scope of the information compromised in the Data Incident, satisfying commonality; the proposed Class Representatives' claims are typical, in that they are members of the Settlement Class and allege that they have been damaged by the same conduct as the other members of the Settlement Class; the proposed Class Representatives and Class Counsel fully, fairly, and adequately protect the interests of the Class; questions of law and fact common to members of the Settlement Class predominate over questions affecting only individual members for settlement purposes; and a class action for settlement purposes is superior to other available methods for the fair and efficient adjudication of this Action.

4. For purposes of the settlement only, the Court appoints Plaintiffs G. Scott Lockwood, Heather Reynicke, Christopher Santora, Donna Mathews, John Langan, Nancy Langan, Stephen Duesler, Patrick Hubley, and Peggy L. Koller as the Class Representatives.

5. For purposes of the settlement only, the Court appoints Terence R. Coates of Markovits, Stock, DeMarco, LLC, Raina Borrelli of Strauss Borrelli PLLC, Gary M. Klinger of Milberg PLLC, and Jeff Ostrow of Kopelowitz Ostrow P.A. as Class Counsel for the Settlement

Class.

6. The Court appoints Epiq Class Action & Claim Solutions LLC as the Settlement Administrator.

7. A Final Approval Hearing shall be held before the Court on \_\_\_[date]\_\_\_\_\_, 2026 at \_\_\_[time]\_\_\_\_\_, in Room Walter H. Rice Federal Building and U.S. Courthouse, Room 909, 200 West Second Street, Dayton, OH 45402, for the following purposes:

- a. To determine whether the proposed Settlement is fair, reasonable, and adequate to the Class and should be approved by the Court;
- b. To determine whether to grant Final Approval, as defined in the Settlement Agreement;
- c. To determine whether the Notice Program as conducted was appropriate;
- d. To determine whether the Claims Process under the Settlement is fair, reasonable, and adequate and should be approved by the Court;
- e. To determine whether the requested Class Counsel's combined attorneys' fees, of up to one-third of the Settlement Fund and litigation expenses should be approved by the Court;
- f. To determine whether the request Service Awards of up to \$2,000.00 to each Class Representative is fair, reasonable, and adequate.
- g. To determine whether the Settlement Class Members Benefits are fair, reasonable, and adequate; and
- h. To rule upon such other matters as the Court may deem appropriate.

8. The Court approves, as to the form and content, the Notices. Furthermore, the Court approves the implementation of the Settlement Website and the proposed methods of mailing or

distributing the Notices substantially in the form as presented in the exhibits to the Motion for Preliminary Approval of Class Action Settlement, and finds that such notice plan meets the requirements of Federal Rules of Civil Procedure 23 and due process, and is the best notice practicable under the circumstances, and shall constitute due and efficient notice to all persons or entities entitled to notice.

9. In order to be a timely claim under the Settlement, a Claim Form must be either postmarked or received by the Settlement Administrator no later than 60 days after the Notice Completion Date. Class Counsel and the Settlement Administrator will ensure that all specific dates and deadlines are added to the Notice and posted on the Settlement Website after this Court enters this Order in accordance with the timeline being keyed on the grant of this Order.

10. Additionally, all requests to opt-out or object to the proposed Settlement must be received by the Settlement Administrator no later than 60 days after the Notice Completion Date.. Any request to opt-out of the Settlement should, to the extent possible, contain words or phrases such as “opt-out,” “opt out,” “exclusion,” or words or phrases to that effect indicating an intent not to participate in the settlement or be bound by this Agreement. Class Members who seek to opt-out shall receive no benefit or compensation under the Settlement Agreement.

11. Class Members may submit an objection to the proposed Settlement under Federal Rule of Civil Procedure 23(e)(5). For an Objection to be valid, it must be filed with the Court no later than 60 days after the Notice Completion Date and include each and all of the following:

- (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 five years; (f) a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection (if any); (g) a statement confirming whether the objector and/or their counsel intends to personally appear and/or testify at the Final Approval Hearing; and (h) the objector's signature (an attorney's signature is not sufficient). Any Objection failing to include the requirements expressed above will be deemed to be invalid. Furthermore, any Class Member objecting to the Settlement agrees to submit to any discovery related to the Objection.

12. All Class Members shall be bound by all determinations and judgments in this Action concerning the Settlement, including, but not limited to, the release provided for in the Settlement Agreement, whether favorable or unfavorable, except those who timely and validly request exclusion from the Class. The persons and entities who timely and validly request

exclusion from the Class will be excluded from the Class and shall not have rights under the Settlement Agreement, shall not be entitled to submit Claim Forms, and shall not be bound by the Settlement Agreement or any Final Approval order as to individuals in this Litigation.

13. Pending final determination of whether the Settlement Agreement should be approved, Plaintiffs and the Class are barred and enjoined from commencing or prosecuting any claims asserting any of the Released Claims against the Released Parties.

14. The Court stays all proceedings in this Action until further order of the Court, except that the Parties may conduct such limited proceedings as may be necessary to implement the Settlement or to effectuate the term of the Agreement.

15. This 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 as of the date of the execution of the Settlement Agreement, if the Settlement is not finally approved by the Court or is terminated in accordance with the terms of the Settlement Agreement. In such event, the Settlement and Settlement Agreement shall become null and void and be of no further force and effect, and neither the Settlement Agreement nor the Court's orders, including this Order, relating to the Settlement shall be used or referred to for any purpose whatsoever.

16. This Order shall be of no force or effect if a Final Approval Order and judgment 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 Defendant of any fault, wrongdoing, breach, liability, or the certifiability of any class. Nor shall this 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 claim lacks merit or that the relief requested is inappropriate, improper,

unavailable, or as a waiver by any Party of any defense or claim he, she, or it may have in this litigation or in any other lawsuit.

17. The Court reserves the right to adjourn the date of the Final Approval Hearing without further notice to the potential Settlement Class Members and retains jurisdiction to consider all further requests or matters arising out of or connected with the proposed Settlement. The Court may approve the Settlement, with such modification as may be agreed to by the Parties or as ordered by the Court, without further notice to the Class.

18. The Court confirms the following schedule (which the court, upon showing of good cause by the Parties, may extend any of the deadlines):

Deadline for Defendant to Provide Class List to Settlement Administrator	Within 7 days of entry of the Preliminary Approval Order
Deadline to Commence Notice Program	Within 30 days after entry of the Preliminary Approval Order
Deadline to Complete Notice Program	No later than 45 days after entry of the Preliminary Approval Order
Deadline to file Motion for Final Approval, including Class Counsel's Application for Attorneys' Fees, Costs, and Service Awards	15 days before the Claims Form Deadline and Opt-Out and Objection Deadlines
Opt-Out Deadline	60 days after Notice Completion Date
Objection Deadline	60 days after the Notice Completion Date
Claim Form Deadline	60 days after the Notice Completion Date
Final Approval Hearing	_____ at __:__ a.m./p.m. (no less than 110 days following Preliminary Approval)

**IT IS SO ORDERED** this \_\_\_\_ day of \_\_\_\_\_, 2026.

\_\_\_\_\_  
**WALTER H. RICE**  
**UNITED STATES DISTRICT JUDGE**