

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IN RE HOPE COLLEGE DATA SECURITY
BREACH LITIGATION

Case No: 1:22-CV-01224-PLM

Hon. Paul L. Maloney

CLASS ACTION

**PLAINTIFFS' UNOPPOSED MOTION FOR
ATTORNEYS' FEES, COSTS, EXPENSES, AND SERVICE AWARDS**

Plaintiffs Jennie Devries, Tricia Garnett, Mark Cyphers, Timothy Drost, Joseph Rodgers, Emily Damaska, and Elise Carter (collectively, “Plaintiffs”), move this Court, unopposed, pursuant to Federal Rule of Civil Procedure 23(h)(1), for an Order granting Plaintiffs’ Unopposed Motion for Attorneys’ Fees, Costs, Expenses, and Service Awards.

In support of this Unopposed Motion, Plaintiffs rely upon the accompanying Brief in Support; the Declaration of Benjamin F. Johns of Shub & Johns LLC; the Declaration of Emily E. Hughes of The Miller Law Firm, P.C.; the Declaration of Anthony M. Christina of Lowey Dannenberg, P.C.; the Declaration of Joseph M. Lyon of The Lyon Law Firm, LLC; and the accompanying form of order.

Dated: March 25, 2024

Respectfully submitted

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CLASS ACTION

**BRIEF IN SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION
FOR ATTORNEYS' FEES, COSTS, EXPENSES, AND SERVICE AWARDS**

STATEMENT OF ISSUES PRESENTED

1. Whether the Court should award Settlement Class Counsel attorneys' fees in the amount of 33 $\frac{1}{3}$ % (thirty-three and one-third percent), or \$500,000, from the Settlement Fund of \$1,500,000, a non-reversionary common fund created for the benefit of the Settlement Class, to compensate and reimburse Settlement Class Counsel for achieving substantial benefits for a class?

Plaintiffs' Answer: Yes

The Court Should Answer: Yes

2. Whether the Court should approve and award Settlement Class Counsel reimbursement of reasonable litigation costs and expenses in the amount of \$12,523.82, from the Settlement Fund, incurred in representing the Settlement Class?

Plaintiffs' Answer: Yes

The Court Should Answer: Yes

3. Whether the Court should grant the seven (7) Class Representative Plaintiffs – Jennie Devries, Tricia Garnett, Mark Cyphers, Timothy Drost, Joseph Rodgers, Emily Damaska, and Elise Carter – service awards of \$1,500 each, or \$10,500 in the aggregate, to be paid from the Settlement Fund, in recognition of their efforts and service on behalf of the Settlement Class?

Plaintiffs' Answer: Yes

The Court Should Answer: Yes

CONTROLLING AND MOST APPROPRIATE AUTHORITIES

- Fed. R. Civ. P. 23(h)
- *Ramey v. Cincinnati Enquirer, Inc.*, 508 F.2d 1188 (6th Cir. 1974)
- *In re Delphi Corp. Sec., Derivative & “ERISA” Litig.*, 248 F.R.D. 483 (E.D. Mich. 2008)

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Plaintiffs Jennie Devries, Tricia Garnett, Mark Cyphers, Timothy Drost, Joseph Rodgers, Emily Damaska, and Elise Carter (collectively, “Plaintiffs” or “Class Representatives”) respectfully submit this brief in support of their motion seeking Court approval for the payment of attorneys’ fee award of \$500,000, costs and litigation expenses of \$12,523.82, and service awards of \$1,500 each for the seven named Plaintiffs for their service on behalf of the Class as Class Representatives (for a combined service award of \$10,500).

I. INTRODUCTION

This case arises from a data breach¹ experienced by Hope College on or about September 27, 2022, involving the potential unauthorized access of Personally Identifiable Information (“PII”) of approximately 156,783 individuals (the “Data Breach”). As described more fully in the accompanying Declaration of Benjamin F. Johns of Shub & Johns LLC (the “Johns Decl.”) (attached hereto as Exhibit A),² Settlement Class Counsel Benjamin Johns (“Class Counsel”) along with Plaintiffs’ Counsel marshalled their resources and effectively prosecuted the case, leading to a Settlement valued at \$1,500,000 that provides real, tangible cash benefits to the Settlement Class (“Class”).

Class Counsel’s recovery is significant in light of the risks involved in litigating this matter. Had the case gone forward, Hope would have fiercely contested any number of legal and factual

¹ Unless otherwise noted, all capitalized terms herein are defined in the Class Action Settlement Agreement and Release (“Settlement Agreement” or “SA”) filed with the Court on November 17, 2023. ECF No. 30-2. References to the Settlement Agreement are cited herein as “SA, § __.”

² The Declaration of Emily E. Hughes of The Miller Law Firm, P.C.; the Declaration of Anthony M. Christina of Lowey Dannenberg, P.C.; the Declaration of Joseph M. Lyon of The Lyon Law Firm, LLC; the Declaration Terrance R. Coates of Markovits, Stock & DeMarco; the Declaration of Bryan L. Bleichner of Chestnut Cambronne PA, and the Declaration of Gary M. Klinger of Milberg Coleman Bryson Phillips Grossman, PLLC (collectively referred to as “Plaintiffs’ Counsel”), describing the individual work of those firms, are attached hereto as Exhibits B-G.

issues relating to standing, causation, liability, and damages, as well as class certification. These risks are compounded by the fact that data breach litigation is a relatively novel area of law.

The most immediate risk of a potential adverse ruling involved Hope's prospective motion to dismiss. Despite these risks, Class Counsel—who proceeded on a contingent fee basis and, collectively with Plaintiffs' Counsel, brought their decades of experience to bear to litigate this action—secured substantial benefits on behalf of the Class. In addition to monetary relief for Class Members, the Settlement also provides prospective relief in the form of enhanced security measures that Hope has agreed to implement for at least a three-year period.

As detailed below, the result achieved in this case, and the efficiency with which Class Counsel obtained it, would not have been possible without the significant investments of time and other resources by Class Counsel in the prosecution of this and other data breach cases, which provided Counsel with the knowledge, experience, and well-developed body of data breach jurisprudence necessary to achieve this Settlement. Class Counsel and Plaintiffs' Counsel's use of their accumulated knowledge and experience, in a niche area of law, to efficiently obtain this Settlement weighs strongly in favor of the reasonableness of the requested fee.

For the above reasons, and as explained further below, this Court should approve the requested fees, costs, expenses, and service awards.

II. BACKGROUND

A. Procedural History

Plaintiff Jennie Devries initiated the first class action complaint against Hope on December 26, 2022. ECF No. 1. Subsequently, beginning on December 27, 2022, and through January 2023,

four related complaints were filed against Hope.³ The Plaintiffs in the Related Cases coordinated with each other and with Hope's counsel, and, on February 9, 2023, Plaintiffs jointly filed a motion to consolidate all Related Cases. ECF No. 8. On February 14, 2023, the Court granted consolidation. ECF No. 11. On March 16, 2023, Plaintiffs filed a Consolidated Amended Complaint ("CAC"). ECF No. 12. Throughout this time, the Parties discussed the possibility of exploring an early resolution via mediation. *Id.* ¶ 2. On May 15, 2023, the Parties filed a joint motion to stay pending settlement discussions. ECF No. 17. On May 16, 2023, the Court granted this request, and issued an order staying the case directing the Parties to select a mediator by June 5, 2023. ECF No. 16.

B. Mediation, Settlement Negotiations, and Preliminary Approval

The Parties collaboratively agreed upon a mediator, and, on May 30, 2023, the Parties informed that Court they had selected experienced mediator Bennett G. Picker, Esq. of Stradley Ronon. *Id.* ¶ 3; ECF No. 19. On June 6, 2023, the Court appointed Mr. Picker as the Mediator. *Id.*; ECF No. 20. Prior to attending mediation, the Parties engaged in fulsome pre-mediation discovery under Fed. R. Evid. 408, which included the following areas of inquiry: cyber-forensic reports, internal investigations, correspondence with government regulatory agencies, number of persons affected by the Data Breach, security measures taken post-Data Incident, the types of PII compromised during the Data Breach, and the amount of insurance coverage. *Id.* Prior to the mediation, Plaintiffs served Hope with written questions seeking information relevant to the Data Breach and potential resolution. *Id.* Hope produced this information with sufficient time for Class

³ See, e.g., *Garnett v. Hope College*, No. 1:22-cv-01225, filed December 27, 2022; *Cyphers v. Hope College*, No. 1:23-cv-00013, filed January 5, 2023; *Drost v. Hope College*, No. 1:23-cv-00078, filed January 20, 2023; and *Rodgers v. Hope College*, No. 1:23-cv-00109 (collectively, with *Devries*, the "Related Cases").

Counsel and Plaintiffs' Counsel to thoroughly evaluate and include it in their analysis of damages. *Id.* Through informal discovery, the Parties were able to draft and exchange mediation briefs outlining each Party's respective position. *Id.* To further assist in reaching a resolution among the Parties, Mr. Picker convened telephone calls with both sides prior to the mediation. *Id.* Negotiations leading to the Settlement were entirely non-collusive and strictly conducted at arm's length with an experienced mediator. *Id.*

On August 3, 2023, the Parties participated in a virtual mediation with Mr. Picker. *Id.* ¶ 4. The Parties were unable to reach a resolution but, at the conclusion of the mediation, Mr. Picker made a mediator's proposal that was ultimately accepted by both sides. *Id.* The Parties subsequently spent the next several weeks soliciting bids from claims administrators and drafting the Settlement Agreement and its various key provisions. *Id.* The Parties formally executed the Settlement Agreement on September 8, 2023, and filed Plaintiffs' motion for preliminary approval that same day. *Id.*

The \$1,500,000 non-reversionary Settlement Fund will be distributed to Class Members pursuant to the notice and distribution plan provided in the Settlement Agreement (*see* ECF No. 26-2). The Settlement Fund will also be used to pay for Administrative Expenses, including notice, litigation costs, and any fee and service awards.

Following additional briefing that was requested by the Court, on January 3, 2024, the Court preliminarily approved the Settlement as being within the range of what is found to be fair, reasonable, and adequate to the Class. ECF No. 32. The Court preliminarily certified the Settlement Class, appointed Benjamin F. Johns of Shub & Johns LLC as Settlement Class Counsel, Plaintiffs as the Class Representatives, and approved the notice plan and Epiq as Settlement

Administrator. *Id.* On January 18, 2024, the Court issued an order scheduling a Fairness Hearing for May 20, 2024. *Id.* ECF No. 34.

III. SUMMARY OF THE SETTLEMENT

The Settlement provides for a \$1,500,000 non-revisionary Settlement Fund to be used as the exclusive source of payment to Class Members, for Administrative Expenses, including notice, for litigation costs, and any fee and service awards.

Class Members may qualify for and submit a claim for one of the following: (a) up to \$5,000 in Documented Loss Payment; (b) one year of Credit Monitoring and Insurance Services (“CMIS”); or (c) a *pro rata* Cash Fund Payment. SA, § 3.2. Any residual funds—after payment of all class benefits, settlement administration fees, attorneys’ fees and costs, and service awards—shall be used for a *pro rata* payment to all Class Members with an approved claim who elected to receive a Cash Fund Payment. *See* SA, § 3.9 for full details. Importantly, the Settlement is non-revisionary, and no funds will revert back to Hope College and will remain for the full benefit of the Class.

The Settlement Agreement also includes prospective relief in the form of enhanced security measures that Hope is to implement for at least a three-year period. Among other enhanced security measures under the Settlement Agreement, Hope has increased its internal and third-party information technology professionals, including a newly employed System Manager for Servers with specialized training in Information Security; established a data governance committee; has enforced mandatory multi-factor authentication for all email accounts; has updated its enterprise data loss prevention rules to continue to block Personal Information from leaving the organization through email or shared documents; has reviewed and revised its enterprise firewall rules in an effort to increase its resistance to external access; hired an independent security contractor to

perform both external penetration testing and an internal vulnerability scans; hired an independent contractor to perform remote monitoring and management to facilitate system scanning, reporting, and patch management for its on site server environment; and has increased its mandatory training, with all employees required to take Cybersecurity Overview, Email and Messaging Safety, and Password Security Basics courses.

IV. ARGUMENT

A. THE FEE REQUEST IS REASONABLE AND SHOULD BE APPROVED

1. Class Counsel are Entitled to a Fee Award from the Common Fund

“In a certified class action, the court may award reasonable attorney’s fees . . . that are authorized by law or by the parties’ agreement.” Fed. R. Civ. P. 23(h). The determination of the appropriate fee is left to the Court’s discretion subject to the application of the correct legal standards and procedures to reach that determination.

It has long been recognized that “a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorneys’ fee from the fund as a whole.” *N.Y. State Teachers’ Ret. Sys. v. Gen. Motors Co.*, 315 F.R.D. 226, 243 (E.D. Mich. 2016) (quoting *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980)). Here, Class Counsel successfully negotiated and obtained a substantial settlement of \$1,500,000 for the benefit of the Class. In awarding attorneys’ fees, “a court must make sure that counsel is fairly compensated for the amount of work done as well as for the results achieved.” *Rawlings v. Prudential-Bache Props., Inc.*, 9 F.3d 513, 516 (6th Cir. 1993) (citation omitted). In the Sixth Circuit, the standard for an award of attorneys’ fees in a common fund case is that the award be “reasonable under the circumstances.” *Id.*; see also *In re Delphi Corp. Sec., Derivative & “ERISA” Litig.*, 248 F.R.D.

483, 502 (E.D. Mich. 2008). As established below, the requested fees overwhelmingly satisfy this standard.

2. The Court Should Calculate Fees as a Percentage of the Common Fund

Where a settlement produces a common fund, courts in the Sixth Circuit have discretion whether to employ either the percentage-of-the-fund method or the lodestar method in awarding attorneys' fees. *Rawlings*, 9 F.3d at 516-17. Notwithstanding that discretion, this Circuit has observed a "trend towards adoption of a percentage of the fund method in [common fund] cases." *Id.* at 515.⁴ Similarly, courts in Michigan federal district courts have noted a "preference for the percentage-of-the fund method." *In re Cardizem CD Antitrust Litig.*, 218 F.R.D. 508, 532 (E.D. Mich. 2003).

The rationale for compensating counsel in common fund cases using the percentage-of-the-fund method is sound. First, this method "more accurately reflects the results achieved" and "has the virtue of reducing the incentive for plaintiffs' attorneys to over-litigate or 'churn' cases." *In re Skelaxin (Metaxalone) Antitrust Litig.*, No. 2:12-cv-83, 2014 WL 2946459, at *1 (E.D. Tenn. June 30, 2014) (citation omitted). In other words, the percentage-of-the-fund method "'provides a powerful incentive for the efficient prosecution and early resolution of litigation.'" *In re Se. Milk*

⁴ Other circuits have similarly endorsed the percentage-of-recovery method. *See, e.g., In re Thirteen Appeals Arising out of the San Juan Dupont Plaza Hotel Fire Litig.*, 56 F.3d 295, 305 (1st Cir. 1995); *In re World Trade Ctr. Disaster Site Litig.*, 754 F.3d 114, 127 (2d Cir. 2014); *In re Gen. Motors. Corp. Pick-Up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d 768, 821-22 (3d Cir. 1995); *Harman v. Lyphomed, Inc.*, 945 F.2d 969, 975 (7th Cir. 1991); *Johnston v. Comerica Mortg. Corp.*, 83 F.3d 241, 246 (8th Cir. 1996); *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1047 (9th Cir. 2002); *Brown v. Phillips Petroleum Co.*, 838 F.2d 451, 454-56 (10th Cir. 1988). The Eleventh and District of Columbia Circuits even require the use of the percentage method in common fund cases. *See Camden I Condo. Ass'n, Inc. v. Dunkle*, 946 F.2d 768, 773-74 (11th Cir. 1991); *Swedish Hosp. Corp. v. Shalala*, 1 F.3d 1261, 1269-71 (D.C. Cir. 1993). Moreover, in *Blum v. Stenson*, 465 U.S. 886, 900 n.16 (1984), the Supreme Court recognized that under the "common fund doctrine" a reasonable fee may be based "on a percentage of the fund bestowed on the class[.]"

Antitrust Litig., No. 2:08-md-1000, 2013 WL 2155387, at *2 (E.D. Tenn. May 17, 2013) (quoting *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 121 (2d Cir. 2005)). Second, the percentage-of-the-fund method decreases the burden imposed on courts by eliminating a detailed and time-consuming lodestar analysis, and courts employing the percentage-of-the-fund method often utilize a less arduous lodestar “cross-check” to confirm the reasonableness of the requested fee. *See infra*; *see also Rawlings*, 9 F.3d at 515. Moreover, as also set forth below, a lodestar “cross-check” is not required, and is merely an additional and optional check to confirm the reasonableness of a requested fee under the percentage-of-the-common fund approach. Even when cross-checked, however, Class Counsel’s requested fee award is still reasonable.

3. The Requested Attorneys’ Fees are Reasonable Under the Percentage-of-the-Fund Method

Class Counsel’s 33 $\frac{1}{3}$ % fee request falls well within the range of fees awarded in the Sixth Circuit on a percentage basis in complex common fund cases. *See In re Rio Hair Naturalizer Prods. Liab. Litig.*, MDL No. 1055, 1996 WL 780512, at *18 (E.D. Mich. Dec. 20, 1996) (recognizing acceptable range of fees to be 20% to 50% of the common fund). In complex class actions, Michigan federal district courts commonly grant fee awards of 33 $\frac{1}{3}$ % percent of the settlement fund. *See, e.g., Cooper v. The 3M Company, et al.*, No. 1:17-cv-01062 PageID.27803 (W.D. Mich.) (awarding 33 $\frac{1}{3}$ % fee).

Moreover, ample Sixth Circuit precedent exists for granting fees that are equal to Class Counsel’s 33 $\frac{1}{3}$ % fee request here. *See In re Se. Milk*, 2013 WL 2155387, at *3 (finding 33% “is certainly within the range of fees often awarded in common fund cases, both nationwide and in the Sixth Circuit”). *See also Burges v. Bancorpsouth, Inc.*, No. 3:14-cv-01564 (M.D. Tenn. Sept. 21, 2018), (awarding fees of 33 $\frac{1}{3}$ % of \$13 million settlement fund, resulting in negative multiplier); *Dudenhoeffer v. Fifth Third Bancorp*, No. 08-cv-538, 2016 WL 8135394, at *1 (S.D.

Ohio July 11, 2016) (awarding fees of 33⅓% of \$6 million settlement fund, resulting in 0.65 multiplier); *In re Prandin Direct Purchaser Antitrust Litig.*, No. 2:10-cv-12141, 2015 WL 1396473, at *4-5 (E.D. Mich. Jan. 20, 2015) (awarding 33.3% of \$19 million settlement fund, resulting in 3.01 multiplier); *In re Regions Morgan Keegan Sec., Derivative & Erisa Litig.*, No. 2:09-2009, 2013 WL 12110279, at *7-8 (W.D. Tenn. Aug. 6, 2013) (awarding 30% of \$62 million settlement fund, resulting in 3.1 multiplier); *In re Se. Milk*, 2013 WL 2155387, at *8 (awarding 33⅓% of \$158.6 million settlement fund, resulting in 1.90 multiplier); *In re Chemed Corp. Sec. Litig.*, No. 1:12-cv-00028, 2014 WL 12650642, at *1 (S.D. Ohio July 15, 2014) (awarding 33% of \$6 million settlement fund, resulting in 0.85 multiplier).

Here, Class Counsel's request of 33⅓% is well within the range of reasonableness in this Circuit, as it represents a 0.94 multiplier.⁵ As such, this fee request is fair, reasonable, and should be approved.

B. THE FEE REQUEST IS ALSO REASONABLE UNDER THE SIXTH CIRCUIT'S *RAMEY* FACTORS

The Sixth Circuit articulates six factors that are “germane” to determining the reasonableness of a requested percentage to award as attorneys’ fees: (1) the value of the benefit to the class; (2) society’s stake in rewarding attorneys who produce the settlement’s benefits, to maintain an incentive to others; (3) whether the work was performed on a contingent fee basis; (4) the complexity of the litigation; (5) the skill and standing of counsel on both sides; and (6) the value of the legal services performed on an hourly basis. *See Ramey v. Cincinnati Enquirer, Inc.*, 508 F.2d 1188, 1196 (6th Cir. 1974); *Gascho v. Glob. Fitness Holdings, LLC*, 822 F.3d 269, 280 (6th Cir. 2016) (describing the *Ramey* factors as “germane” to the fee inquiry, and citing *Moulton*

⁵ See § IV(B)(3) & (6), *infra*, for further detail in this regard.

v. U.S. Steel Corp., 581 F.3d 344, 352 (6th Cir. 2009)); *Bowling v. Pfizer, Inc.*, 102 F.3d 777, 780 (6th Cir. 1996). Each of the *Ramey* factors confirms that the requested 33⅓% fee is fair and reasonable.

1. The Value of the Benefit Rendered to the Class Supports the Requested Fee

The first *Ramey* factor requires courts to evaluate the benefit of the recovery for the class. “District courts in this Circuit widely regard [this] factor as the most important.” *In re Cardinal Health Inc. Sec. Litig.*, 528 F. Supp. 2d 752, 764 (S.D. Ohio 2007); *see also In re DPL Inc., Sec. Litig.*, 307 F. Supp. 2d 947, 951 (S.D. Ohio 2004) (“Herein, the award of attorneys’ fees must be driven by the results obtained by Plaintiffs’ counsel.”). Here, the \$1,500,000 Settlement is an excellent result for the Class, both quantitatively and especially so when considering the risk of obtaining a smaller recovery (or no recovery) had this action proceeded to through the pleadings stage, class certification, summary judgment, and trial.

Rulings on dispositive motions and class certification (and any appeals) would have taken months if not years, delaying relief to the Class. Furthermore, a jury trial would be lengthy and complex given the factual and legal issues involved. Assuming Plaintiffs prevailed at trial, given the likelihood of post-trial motions and appeals to follow, it would likely still be several more years before Class members would receive any compensation. Alternatively, the Settlement efficiently provides prompt and substantial relief to the Class. Thus, the Settlement Amount provides an outstanding value to the Class that will provide a guaranteed recovery, while avoiding the many complexities and risks of further litigation.

2. Society’s Stake in Rewarding Attorneys Who Produce Meaningful Benefits to Class Members Supports the Fee Request

The second *Ramey* factor requires courts to consider “society’s stake in rewarding attorneys who produce such benefits in order to maintain an incentive to others.” *Ramey*, 508 F.2d

at 1196. *See In re Telectronics Pacing Sys., Inc.*, 137 F. Supp. 2d 1029, 1043 (S.D. Ohio 2001) (“Attorneys who take on class action matters serve a benefit to society and the judicial process by enabling such small claimants to pool their claims and resources.”). Adequate compensation is a necessary component of encouraging attorneys to undertake such risk. *See Eltman v. Grandma Lee’s, Inc.*, No. 82-cv-1912, 1986 WL 53400, at *9 (E.D.N.Y. May 28, 1986) (“To make certain that the public is represented by talented and experienced trial counsel, the remuneration should be both fair and rewarding.”). Complex data breach class actions such as this are resource intensive and require a significant commitment of time and expense to pursue. This is especially true where, as here, the claims at issue would require extensive expert testimony and the individual damages suffered by some Plaintiffs may be significantly less than the cost of prosecuting the action. Public policy thus strongly supports the requested fee. Without the prospect of eventual compensation for Class Counsel here, these cases might never have been brought. Approving Class Counsel’s fee request will help ensure that plaintiffs’ attorneys continue to take up important cases, like this one, in the future.

Finally, the Class’s reaction to the requested fee award demonstrates recognition of the societal value of the work performed by Class Counsel. The class notice, preliminarily approved by the Court, specifically stated Class Counsel intended to move for reimbursement of reasonable litigation costs, service awards not to exceed \$1,500 per Class Representative, and apply for a fee of up to 33 $\frac{1}{3}$ % of the Settlement Fund. *See Long Form Notice*, ECF No. 26-2. As of March 19, 2024, there have been no objections and a mere 3 opt-out requests from a class size of approximately 156,783 individuals, with the deadlines only 14 days away. *See Johns Decl.*, ¶ 12; *see also Delphi*, 248 F.R.D. at 504 (“The Class’s overwhelming favorable response lends further support to the conclusion that the requested fee award is fair and reasonable.”). As numerous courts

have observed, “the absence of a large number of objections to a proposed class action settlement raises a strong presumption that the terms of a proposed class settlement action are favorable to the class members.” *Bowman v. Art Van Furniture, Inc.*, No. 17-cv-11630, 2018 WL 6445389, at *6 (E.D. Mich. Dec. 10, 2018) (quotation omitted). Further, where the “overwhelming majority of class members have elected to remain in the Class, without objection, [that] constitutes the ‘reaction of the class,’ as a whole, and demonstrates that the Settlement is ‘fair, reasonable, and adequate.’” *In re Cardizem*, 218 F.R.D. at 527. Thus, the Class, as a microcosm of society as a whole, has recognized the societal value of this litigation by giving the Settlement a resounding stamp of approval, thus supporting this factor of the requested award.

3. The Contingent Nature of Class Counsel’s Representation Supports the Request

The second *Ramey* factor requires courts to consider whether the work was performed on a contingent fee basis. *See Delphi*, 248 F.R.D. at 503 (“Whether counsel’s services were undertaken on a contingent fee basis is another factor for the Court to consider in evaluating a fee request.”). Indeed, courts in this Circuit recognize that the attorneys’ contingent risk “counsels in favor of a generous fee.” *Cardizem*, 218 F.R.D. at 527 (internal quotations and citations omitted); *see also Stanley v. U.S. Steel Co.*, 04-cv-74654, 2009 WL 4646647, at *3 (E.D. Mich. Dec. 8, 2009) (“A contingency fee arrangement often justifies an increase in the award of attorneys’ fees.”). None of the Plaintiffs’ firms working on this matter have received any compensation during the last fourteen months this action has been ongoing. During this time, Class Counsel and Plaintiffs’ Counsel invested over 732 hours for a total combined lodestar of \$530,224.55 and incurred out-of-pocket reasonable litigation costs and expenses of \$12,523.82. Johns Decl. ¶ 11; *see also* Exhibits B-G. And additional and substantial further work in connection with the

Settlement, the present motion, the motion for final approval, and claims administration and distribution will still be required.

Moreover, any fee award to Class Counsel has always been at substantial risk, and completely contingent on the result achieved and on this Court's discretion in awarding fees and costs. This risk was substantially increased by the duration of the case to date. Unlike defense counsel—who are typically paid for their time whether they win or lose—Class Counsel sustained the entire risk by funding the expenses of this action and, unless Class Counsel succeeded, would not be entitled to any compensation or reimbursement of expenses whatsoever. *See Delphi*, 248 F.R.D. at 503-04 (granting fee request where counsel for the class “prosecuted this action entirely on a contingent basis,” and “require[d] the expenditure of thousands of attorney hours and millions of dollars in expenses and ultimately result in a loss at summary judgment or at trial.”).⁶

4. The Complexity of the Litigation Supports the Fee Request

The fourth *Ramey* factor—the complexity of the litigation—is a significant factor to be considered in determining the reasonableness of an attorneys' fee award. *See Delphi*, 248 F.R.D. at 504. “[M]ost class actions are inherently complex.” *In re Telectronics*, 137 F. Supp. 2d at 1013. This data breach case is no exception.

⁶ The commencement of a class action is no guarantee of success; these cases are not always settled, nor are counsel for plaintiffs always successful. There have been numerous hard-fought lawsuits where, because of discovery of facts unknown when the case was commenced, changes in the law during the pendency of the case, or a decision of a judge or jury following a trial on the merits, where many years of excellent professional efforts of members of the plaintiffs' bar produced no fee to a plaintiff's counsel. *See, e.g., In re Oracle Corp. Sec. Litig.*, No. 01-cv-00988, 2009 WL 1709050 (N.D. Cal. June 19, 2009) (granting summary judgment to defendants after eight years of litigation, and after plaintiffs' counsel had incurred over \$6 million in expenses and a lodestar of approximately \$48 million (based on over 100,000 hours of time) *aff'd*, 627 F.3d 376 (9th Cir. 2010)); *In re Omnicom Grp., Inc. Sec. Litig.*, 597 F.3d 501, 504 (2d Cir. 2010) (affirming summary judgment in favor of defendants on loss causation grounds); *In re BankAtlantic Bancorp, Inc.*, No. 07-cv-61542, 2011 WL 1585605, at *1 (S.D. Fla. Apr. 25, 2011) (granting defendants' judgment as a matter of law following plaintiff verdict).

This action involved numerous complex and disputed questions of law and fact that created significant risk for the ultimate outcome of the case. Indeed, Plaintiffs faced significant challenges associated with prevailing on any of the following, which, if lost, would significantly if not completely eliminate Plaintiffs' claims: (1) motion to dismiss (standing and merits); (2) motion for summary judgment; (3) *Daubert* motions/challenges to expert testimony; (4) motion for class certification; (5) evidentiary challenges; and (6) the difficulty of prevailing at trial. As detailed in the Johns Declaration, Plaintiffs faced significant risks to proving Hope's liability, class certification, and damages. Joint Decl. ¶ 6. *See, e.g., In re Sonic Corp. Customer Data Sec. Breach Litig.*, No. 17-md-02807, 2019 WL 3773737, at *7 (N.D. Ohio Aug. 12, 2019) ("data breach litigation is complex and risky. This unsettled area of law often presents novel questions for courts."); *In re Arby's Rest. Grp., Inc. Data Sec. Litig.*, No. 1:17-cv-1035, 2019 WL 2720818, at *3 (N.D. Ga. June 6, 2019) ("data breach litigation involves the application of unsettled law with disparate outcomes across states and circuits"). Throughout the action, Hope vigorously contested Plaintiffs' claims, standing, various causes of action, liability, and alleged damages. The foregoing case-specific complexities made it far from certain that any recovery, let alone one as substantial as here, would ultimately be obtained.

5. The Skill and Standing of Counsel Involved on Both Sides Supports the Fee Request

The fifth *Ramey* factor evaluates the professional skill and standing of counsel in determining the reasonableness of a fee request. *See Cardizem*, 218 F.R.D. at 533. Here, the skill and standing of counsel for all Parties was of the highest caliber.

Class Counsel and Plaintiffs' Counsel have national reputations and extensive experience in litigating data breach and other complex class actions. *See* firm resumes, Exhibits A-G. Class Counsel prosecuted the case vigorously, provided high quality legal services, and achieved an

excellent result for the Class. Moreover, the effort and skill of Class Counsel involved vetting Plaintiffs for the CAC through an extensive interview process, drafting an extensive CAC and detailed mediation statements and reviewing and analyzing Hope's pre-mediation discovery, and presenting a strong case throughout Class Counsel's settlement discussions which was essential to achieving a meaningful resolution. *See In re F & M Distrib., Inc. Sec. Litig.*, No. 95-cv-71778, 1999 U.S. Dist. LEXIS 11090, at *19 (E.D. Mich. June 29, 1999) ("The skill and competence of the attorneys for the Plaintiffs was evident, especially when viewed on the basis of the results that they obtained in this case[.]").

The quality of opposing counsel is also important in evaluating the services rendered by Class Counsel. *See Delphi*, 248 F.R.D. at 504. Hope was represented by very skilled attorneys from the nationwide data breach defense firm of Cipriani & Werner P.C., which has a reputation for vigorous advocacy in the defense of complex data breach actions such as this. *See In re Adelphia Commc'ns Corp. Sec. & Derivative Litig.*, No. 03-md-1529, 2006 WL 3378705, at *3 (S.D.N.Y. Nov. 16, 2006) ("The fact that the settlements were obtained from defendants represented by formidable opposing counsel from some of the best defense firms in the country also evidences the high quality of Class Counsels' work."). In the face of this formidable opposition, Class Counsel were able to advocate on behalf of the Class and work with Hope to settle the case on terms that were highly favorable to the Class. Given the skill and standing of counsel on both sides, the reasonableness of the requested fee award is apparent.

6. The Value of Class Counsel's Services on an Hourly Basis, and a Lodestar Cross-Check, Supports the Fee Request

The sixth and final *Ramey* factor assesses the value of the legal services performed on an hourly basis. *In re Cardizem*, 218 F.R.D. at 533. The value of the legal services performed on an

hourly basis is also known as the “lodestar.” *See Isabel v. City of Memphis*, 404 F.3d 404, 415 (6th Cir. 2005) (citing *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983)).

In this case, as discussed above, the percentage-of-the-fund method, not the lodestar method, is the appropriate method for computing a reasonable fee in this case. Thus, the only potential use for counsel’s lodestar in this case would be to “cross-check” that amount with the amount of fees requested by counsel as a percentage-of-the-fund. Even then, however, a cross-check of counsel’s lodestar is “not required,” and merely an option to emphasize reasonableness under a percentage-of-the-fund approach. *See, e.g., Loftus v. Outside Integrated Media LLC*, No. 2:21-cv-11809, ECF No. 36 (E.D. Mich. Aug. 13, 2022) (order granting motions for final approval and attorneys’ fees, approving attorneys’ fee of 35% without lodestar cross check, finding it reasonable in light of the multi-factor *Ramey* test). *Arp v. Hohla & Wyss Enterprises, LLC*, No. 18-cv-119, 2020 WL 6498956, at *7 (S.D. Ohio Nov. 5, 2020); *Love v. Gannett Co. Inc.*, No. 19-cv-296, 2021 WL 4352800, at *6 (W.D. Ky. Sept. 24, 2021) (noting that a “cross-check isn’t required,” and citing *Van Horn v. Nationwide Prop. & Cas. Ins. Co.*, 436 F. App’x 496, 501 (6th Cir. 2011)); *Est. of McConnell v. EUBA Corp.*, No. 18-cv-00355, 2021 WL 1966062, at *6 (S.D. Ohio May 17, 2021) (noting that, in considering the *Ramey* factors, “a lodestar cross-check” is “not required”).

Rather, where the percentage-of-the-fund method is used to compute counsel’s fee, a lodestar cross-check is optional and entirely discretionary. *See, e.g., Van Horn*, 436 F. App’x at 501 (finding that district courts have complete discretion when deciding to calculate attorneys’ fees based on the percentage-of-the-fund or lodestar methods, and thus a cross-check analysis is optional); *Delphi*, 248 F.R.D. at 503 (applying percentage-of-the-fund-method in awarding fees in common-fund settlement, without addressing the *Ramey* factor pertaining to “the value of the

services on an hourly basis”); *Fournier v. PFS Invs. Inc.*, 997 F. Supp. 828, 832-33 (E.D. Mich. 1998) (same); *Arp*, 2020 WL 6498956, at *7-8 (same).

In this case, like in *Loftus*, *Delphi*, *Fournier*, and *Arp*, the circumstances giving rise to the Settlement demonstrate that a “cross-check” of the requested fee (33 $\frac{1}{3}$ % of the Settlement Fund) with the lodestar value of the time Class Counsel expended on the prosecution of solely this case is not necessary. As outlined above, the non-reversionary common-fund Settlement achieved in this case is a direct result of Class Counsel’s investigation into data breach, prosecution of the Action, and review of documents provided by Hope. These extensive and time-consuming efforts are detailed at length in the Johns Decl. at ¶¶ 6-7 and above in Section II. Thus, the Court should not view this Settlement, or even this case, in a vacuum, but rather as part of a years-long effort in this field in which counsel devoted substantial time, money, and other resources for the benefit of the Class—all on a contingency basis and without any guarantee of recovering fees for their work or being reimbursed their out-of-pocket expenses.

Should the Court choose to “cross-check” the requested fee, a lodestar cross-check fully supports Class Counsel’s 33 $\frac{1}{3}$ % fee request. As detailed herein and in the Johns Declaration, for fourteen months both Class Counsel and Plaintiffs’ Counsel exerted substantial efforts in advancing this litigation in the face of aggressive and highly-skilled defense attorneys. In total, Class Counsel and Plaintiffs’ Counsel spent over 732 hours of attorney and other professional support time prosecuting the Action for the benefit of the Class from inception through March 20, 2024. Johns Decl. ¶ 11. Based on these hours, Class Counsel’s and Plaintiffs’ Counsel’s lodestar is \$530,224.55. *Id.* Accordingly, the 33 $\frac{1}{3}$ % fee request (not including reasonable litigation costs and expenses of \$12,523.82 and \$10,500 cumulative requested in service awards), equates to \$500,000 and is a .94 multiplier. Further, Class Counsel and Plaintiffs’ Counsel anticipate

spending additional time and expense throughout the pendency of this litigation, including but not limited to, time spent researching and drafting the final approval brief, responding to any potential objectors, traveling to and from the final approval hearing, and working closely with the Settlement Administrator to track the filing of claims and oversee distribution should this Settlement receive final approval.

A “negative” or fractional multiplier is well below the range of multipliers commonly awarded in comparable litigation. Fee awards in class actions with substantial contingency risks generally represent positive multipliers of counsel’s lodestar, often ranging from one to four times the lodestar or even higher. *See, e.g., Cardinal Health*, 528 F. Supp. 2d at 767 (approving multiplier of approximately 5.9, and observing that “[m]ost courts agree that the typical lodestar multiplier” on a large class action “ranges from 1.3 to 4.5”); *Bailey v. AK Steel Corp.*, No. 06-cv-468, 2008 WL 553764, at *2-3 (S.D. Ohio Feb. 28, 2008) (awarding multiplier of 3.04, noting that “[c]ourts typically . . . increas[e] the lodestar amount by a multiple of several times itself” and identifying a “normal range of between two and five”); *In re Cardizem CD Antitrust Litig.*, No. 2:99-md-1278, (Nov. 25, 2002) (awarding fees amounting to 3.7 multiplier); *Kogan v. AIMCO Fox Chase, L.P.*, 193 F.R.D. 496, 503-04 (E.D. Mich. 2000) (awarding fees amounting to 2.49 multiplier. *F & M Distribs. Inc. Sec. Litig.*, 95-cv-71778, 1999 U.S. Dist. LEXIS 11090, at *5, 19-20 (E.D. Mich. June 29, 1999) (awarding fees amounting to 1.35 multiplier).

Here, despite the numerous substantial litigation risks in the case from the outset, Class Counsel are seeking a fee that is *less than* the lodestar value of their current time, and anticipate spending additional time and expense throughout the final approval process. Courts have repeatedly recognized that a percentage fee request that is less than counsel’s lodestar provides strong confirmation for the reasonableness of the award. *See, e.g., The Rikos v. Proctor & Gamble*

Co., 11-cv-226, 2018 WL 2009681, at *10 (S.D. Ohio Apr. 30, 2018) (“Dividing the amount Plaintiffs’ Counsel request (\$4,139,987.48) by the lodestar results in a negative multiplier, which demonstrates that the fee sought is reasonable.”); *In re Amgen Inc. Sec. Litig.*, No. 07-cv-2536, 2016 WL 10571773, at *9 (C.D. Cal. Oct. 25, 2016) (“courts have recognized that a percentage fee that falls below counsel’s lodestar strongly supports the reasonableness of the award”). Accordingly, the final *Ramey* factor also confirms the reasonableness of the requested fee award of 33⅓% of the Settlement Fund.

C. THE LITIGATION EXPENSES ARE REASONABLE

Class Counsel also request reimbursement for the cost and expenses they incurred in prosecuting and resolving this action in the amount of \$12,253.82. Johns Decl. ¶ 11. “Under the common fund doctrine, class counsel is entitled to reimbursement of all reasonable out-of-pocket litigation expenses and costs in the prosecution of claims and settlement, including expenses incurred in connection with document production, consulting with experts and consultants, travel and other litigation-related expenses.” *New England Health Care Emps. Pension Fund v. Fruit of the Loom, Inc.*, 234 F.R.D. 627, 634-35 (W.D. Ky. 2006), *aff’d sub nom. Fidel v. Farley*, 534 F.3d 508 (6th Cir. 2008); *see also In re Se. Milk*, 2013 WL 2155387, at *7 (noting “[e]xpense awards are customary” in common fund cases). The Settlement Agreement provides that Class Counsel may file a motion seeking reasonably incurred litigation expenses and costs. SA, §§ 1.18, 9.1.

“When deciding whether the requested expenses should be compensable, courts consider whether the particular costs are the type routinely billed by attorneys to paying clients in similar cases.” *Gen. Motors*, 315 F.R.D. at 244 (internal citations and quotations omitted). The amount of expenses for which Class Counsel seek reimbursement are detailed in the accompanying Declarations. The types of expenses for which Class Counsel seek reimbursement were necessarily

incurred in this action and are of the type routinely charged to classes in contingent litigation and clients billed by the hour and approved by courts. These include expenses associated with, among other things, filing fees, service fees, admission fees, postage, computer research, photocopies, and mediation. *See, e.g., Gen. Motors*, 315 F.R.D. at 244-45 (approving expenses finding them “the type routinely billed by attorneys to paying clients in similar cases”); *Cunningham v. Wawa, Inc.*, No. 18-cv-03355, 2021 WL 1626482, at *8 (E.D. Pa. Apr. 21, 2021) (approving class counsel’s request for reimbursement of, *e.g.*, “filing fees, . . . mediation fees, and other similar, ordinary litigation expenses”); *In re Safety Components, Inc. Sec. Litig.*, 166 F. Supp. 2d 72, 108 (D.N.J. 2001) (approving class counsel’s request for reimbursement of, *e.g.*, “(1) photocopying and reproduction, (2) postage, messenger services and express mail services, (3) telephone and facsimile charges, (4) filing and witness fees, (5) computer-assisted research, such as Lexis and Westlaw”). Accordingly, reimbursement of the requested expenses is reasonable and appropriate.

D. THE REQUESTED SERVICE AWARDS SHOULD BE APPROVED

Service awards, also known as incentive awards, are frequently awarded in common-fund cases within this Circuit. *See Hadix v. Johnson*, 322 F.3d 895, 898 (6th Cir. 2003); *see also Daoust v. Maru Rest., LLC*, No. 17-cv-13879, 2019 WL 2866490, at *6 (E.D. Mich. July 3, 2019) (“[S]ervice awards are common in class action cases and are important to compensate plaintiffs for the time and effort expended in assisting the prosecution of the litigation, the risks incurred by becoming and continuing as a litigant, and any other burdens sustained by plaintiffs.”).

The approval of a service award is examined through the following factors: (1) the actions taken to protect the class’s interests and whether that resulted in a substantial benefit to the class; (2) the financial risk the class representative assumed; and (3) the time and effort the class representative dedicated. *Lasalle Town Houses Coop Assoc. v. City of Detroit*, No. 12-cv-13747,

2016 WL 1223354, at *7 (E.D. Mich. Mar. 29, 2016). The Settlement Agreement provides that Class Representatives may seek service awards to the Class Representatives of up to \$1,500 per Class Representative. SA, § 8.1. Based on the above factors, a service award of \$1,500 for each Class Representative totaling \$10,500 is reasonable.

Here Plaintiffs have been vital in litigating this matter, have been personally involved in the case, and support the Settlement. Johns Decl. ¶ 5. Plaintiffs actively assisted Class Counsel and Plaintiffs' Counsel with their investigation. *Id.* Plaintiffs kept in close contact with Class Counsel and Plaintiffs' Counsel during the litigation through numerous emails and personal telephone calls. *Id.* Plaintiffs retained Class Counsel and Plaintiffs' Counsel, who are lawyers experienced in Data Breaches. *Id.* Plaintiffs protected the interests of Class Members by reviewing and approving the mediator's recommendation, the Settlement and its terms, and communicating with Class Counsel and Plaintiffs' Counsel who explained the Settlement's structure—all of which resulted in the \$1,500,000 Settlement Fund, which was a substantial benefit to the Class. *Id.* Plaintiffs were aware of the various risks, including financial, involved in this case yet commenced this Action anyway. *Id.* The proposed service awards are also similar to awards in other data breach cases.⁷ As such, the proposed service awards are overwhelmingly fair, reasonable, and should be approved.

⁷ See, e.g., *Perdue v. Hy-Vee, Inc.*, 550 F. Supp. 3d 572, 578 (C.D. Ill. 2021) (\$2,000 service awards for each class representative; case settled prior to depositions); *Bray v. GameStop Corp.*, No. 17-cv-01365 (D. Del. Dec. 19, 2018) (\$3,750 per class representative); *Gordon v. Chipotle Mexican Grill, Inc.*, No. 17-CV-01415 (D. Colo. Dec. 16, 2019) (\$2,500 per class representative); *Weiss v. Arby's Restaurant Grp. Inc.*, No. 17-cv-01035, ECF No. 190 (N.D. Ga. June 6, 2019) (\$4,500 per class representative); *Torres v. Wendy's Int'l LLC*, No. 6:16-cv-00210, ECF No. 157 (M.D. Fla. Feb. 26, 2019) (\$5,000 per class representative); *Hozza v. PrimoHoagies Franchising, Inc.*, No. 1:20-cv-04966, ECF No. 71 (D.N.J.) (\$1,000 per class representative).

V. **CONCLUSION**

For the foregoing reasons, Plaintiffs request that the Court award attorneys' fees in the amount of \$500,000, award payment for Class Counsel's litigation costs and expenses in the amount of \$12,523.82, and award service awards in the amount of \$1,500 for each named Plaintiff for their service to the Class as Class Representatives.⁸

Dated: March 25, 2024

Respectfully submitted

/s/ Benjamin F. Johns

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⁸ A Proposed Order is attached as Exhibit H.

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Attorneys for Plaintiffs and the Proposed Class

CERTIFICATE OF WORD COUNT

Pursuant to Local Rule 7.3(b)(ii), Class Counsel certifies that Plaintiffs' Brief in Support of Plaintiffs' Unopposed Motion for Attorneys' Fees, Costs, Expenses, and Service Awards contains 6,918 words, as indicated by Microsoft Word 2021, inclusive of any headings, footnotes, citations, and quotations, and exclusive of the caption, cover sheets, table of contents, signature block, any certificate, and any accompanying documents. Concurrent with the filing of this brief, Plaintiffs are filing an Unopposed Motion for Leave to File an Oversized Brief.

Respectfully submitted,

Dated: March 25, 2024

/s/ Benjamin F. Johns
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CERTIFICATE OF SERVICE

I hereby certify that on March 25, 2024, I electronically filed the foregoing documents using the Court's electronic filing system, which will notify all counsel of record authorized to receive such filings.

/s/ Benjamin F. Johns
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INDEX OF EXHIBITS

Exhibit A	Declaration of Benjamin F. Johns
Exhibit B	Declaration of Emily E. Hughes
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Exhibit E	Declaration of Terrance R. Coates
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Exhibit G	Declaration of Gary M. Klinger
Exhibit H	Proposed Order

Exhibit A

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IN RE HOPE COLLEGE DATA SECURITY
BREACH LITIGATION

Case No: 1:22-CV-01224-PLM

**DECLARATION OF BENJAMIN F. JOHNS OF SHUB & JOHNS LLC IN
SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION FOR ATTORNEYS'
FEES, COSTS, EXPENSES, AND SERVICE AWARDS**

I, Benjamin F. Johns, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am a Partner and co-founder of Shub & Johns LLC (“Shub & Johns”), and I serve as Settlement Class Counsel in this case on behalf of Plaintiffs and the Settlement Class. I have personal knowledge of the facts stated in this Declaration and, if called as a witness, I could and would testify competently to them. I make this Declaration on behalf of Plaintiffs in support of Plaintiffs’ Unopposed Motion for Attorneys’ Fees, Costs, Expenses, and Service Awards (the “Fee and Expense Application”) in connection with the services rendered in the above-captioned consolidated Action and the proposed class action settlement with Defendant Hope College. The statements herein are true to the best of my personal knowledge, information and belief based on Shub & Johns’ books and records and information received from its attorneys and staff. A copy of my firm resume is attached hereto as Exhibit A.

2. Along with my co-counsel, I filed an action on behalf of our client Jennie Devries on December 26, 2022. Additional cases arising out of the Data Breach were filed thereafter. Shortly after the Court consolidated the cases, the Parties began discussing the possibility of early resolution via mediation.

3. The Parties collaboratively agreed upon a mediator, and, on May 30, 2023, the Parties informed that Court they had selected experienced mediator Bennett G. Picker, Esq. of Stradley Ronon. On June 6, 2023, the Court appointed Mr. Picker as the Mediator. Prior to attending mediation, the Parties engaged in fulsome pre-mediation discovery under Fed. R. Evid. 408, which included the following areas of inquiry: cyber-forensic reports, internal investigations, correspondence with government regulatory agencies, number of persons affected by the Data Breach, security measures taken post-Data Incident, the types of PII compromised during the Data Breach, and the amount of insurance coverage. Prior to the mediation, Plaintiffs served Hope with

written questions seeking information relevant to the Data Breach and potential resolution. Hope produced this information with sufficient time for Class Counsel and Plaintiffs' Counsel to thoroughly evaluate and include it in their analysis of damages. Through informal discovery, the Parties were able to draft and exchange mediation briefs outlining each Party's respective position. To further assist in reaching a resolution among the Parties, Mr. Picker convened telephone calls with both sides prior to the mediation. Negotiations leading to the Settlement were entirely non-collusive and strictly conducted at arm's length with an experienced mediator.

4. On August 3, 2023, the Parties participated in a virtual mediation with Mr. Picker. The parties were unable to reach a resolution but, at the conclusion of the mediation, Mr. Picker made a mediator's proposal that was ultimately accepted by both sides. The Parties subsequently spent the next several weeks soliciting bids from claims administrators and drafting the Settlement Agreement and its various key provisions. The Parties formally executed the Settlement Agreement on September 8, 2023, and filed Plaintiffs' motion for preliminary approval that same day.

5. Plaintiffs have been vital in litigating this matter, have been personally involved in the case, and support the Settlement. Plaintiffs actively assisted Class Counsel and Plaintiffs' Counsel with their investigation. Plaintiffs kept in close contact with Class Counsel and Plaintiffs' Counsel during the litigation through numerous emails and personal telephone calls. Plaintiffs' also retained Class Counsel and Plaintiffs' Counsel, who are lawyers experienced in Data Breaches. Plaintiffs protected the interests of Class Members by reviewing and approving the mediator's recommendation, the Settlement, and its terms, and communicating with Class Counsel and Plaintiffs' Counsel who explained the Settlement's structure—all of which resulted in the

\$1,500,000 Settlement Fund, which was a substantial benefit to the Class. Plaintiffs were aware of the various risks, including financial, involved in this case yet commenced this Action anyway.

6. During the pendency of this litigation, Plaintiffs' counsel carefully coordinated their activities to avoid engaging in duplicative work. Among Plaintiffs' counsel, each firm worked to advance the litigation on behalf of Plaintiffs and the putative class members. Plaintiffs' counsel reviewed documents, prepared pleadings, worked with Plaintiffs, and collaboratively developed strategy. During the process, Plaintiffs were able to recognize the strengths and weaknesses of their claims, and the inherent risks involved in pursuing class certification, proving Defendant's liability, and calculating damages. With respect to this effort, Plaintiffs' Counsel was careful to work together to perform discrete and non-overlapping tasks to each firm in order to avoid duplicative work, including to my firm. Following my appointment as Settlement Class Counsel (ECF No. 32, PageID.963), this process was further streamlined, as I assumed responsibility for assigning non-duplicative work to advance the settlement process, including assigning final review of the Notice, the Settlement Website, the drafting of this Fee and Expense Application, and the upcoming motion for final approval of class action settlement.

7. During the course of litigation, Shub & Johns spent time advancing the litigation here by performing the following tasks, including:

- Conducting a pre-suit investigation of the facts of the data breach and its aftermath and thoroughly examining the available facts and law;
- Vetting the named Plaintiffs, their factual circumstances, and their potential claims, and then corresponding with the named Plaintiffs to keep them updated on key developments in the case;
- Drafting and filing or submitting: initial, pre-consolidation Complaints; a motion to consolidate and for appointment; an amended complaint; a motion to stay pending settlement discussions; a mediation statement; a motion for preliminary approval of class action settlement, including the Settlement Agreement and its exhibits; a renewed motion for preliminary approval of class action settlement; this Fee and Expense

Application here; and an upcoming motion for final approval; of class action settlement;

- Drafting and reviewing pre-mediation discovery documents;
- Participating in an all-day mediation overseen by private mediator Ben Picker;
- Engaging in meet and confer phone calls and emails with Defense Counsel to negotiate parameters of the settlement, to exchange pre-mediation discovery requests regarding mediation, and to mediate and negotiate and finalize the settlement;
- Negotiating with settlement administration companies to secure the best administration and Notice Plan practicable, and then working with Defense Counsel and the Settlement Administrator to ensure the Notice Plan was adequately implemented;
- Working closely with the Settlement Administrator to prepare the Settlement Website, respond to Class Member inquiries, analyze claim submissions, reply to claimants to cure claims deficiencies, and oversee the overall claims process;

8. As summarized below, Shub & Johns devoted 154.11 hours to the prosecution and resolution of this matter, resulting in a lodestar of \$116,781.85. Lodestar has been calculated based on current hourly rates that range from \$915.00 for partners; \$650.00 for associates, and \$275.00 for support staff. Shub & Johns anticipates spending additional time and expense throughout the pendency of this litigation, including, but not limited to, time spent researching and drafting the final approval brief, responding to any potential objectors, traveling to and from the final approval hearing, and working closely with the Settlement Administrator to track the filing of claims and oversee distribution should this Settlement receive final approval.

LODESTAR REPORT				
FIRM NAME: SHUB & JOHNS LLC				
REPORTING PERIOD: DECEMBER 22, 2022 TO MARCH 20, 2024				
NAME	STATUS*	HOURLY RATE	HOURS	LODESTAR
Benjamin F. Johns	P	\$915.00	79.99	\$73,190.85
Samantha E. Holbrook	P	\$800.00	43.92	\$35,136.00
Lacey Russo	PL	\$300.00	5.60	\$1,680.00
Nailah Bjotvedt	FLC	\$295.00	.50	\$147.50
Daniel Tomascik	FLC	\$275.00	5.84	\$1,606.00
Damian Gomez	AE	\$275.00	6.20	\$1,705.00
Dawn Tormey	AE	\$275.00	12.06	\$3,316.50
TOTALS:			154.11	\$116,781.85

P = Partner

A = Associate

LC = Law Clerk

FLC = Former Law Clerk

PL = Paralegal

AE = Administrative

9. Shub & Johns regularly prepared and maintained files contemporaneously documenting time spent, including tasks performed, and expenses incurred, relating to this matter. Supporting time records are available at the request of the Court for review in camera.

10. Shub & Johns advanced expenses in prosecuting this litigation. They are the type of expenses typically billed by attorneys to paying clients in the marketplace, and include such costs as fees paid or incurred for research, filing fees, expert fees, or mediation. All these expenses were reasonable and necessary for the prosecution of this litigation as summarized below.

EXPENSES	
FIRM NAME: SHUB & JOHNS LLC	
REPORTING PERIOD: DECEMBER 22, 2022 TO MARCH 20, 2024	
Category Name	Total Expenses per Category
Court Filings	\$720.00
Mediation	\$2,916.17
Meals	\$225.84
Computer Research (e.g. PACER, Westlaw)	\$37.05
Travel	\$1,874.74
TOTALS:	\$5,773.80

11. Collectively, along with the other firms representing Plaintiffs in this litigation, Class Counsel and Plaintiffs' Counsel have invested over 732 hours for a total combined lodestar of \$530,224.55 and incurred out-of-pocket litigation expenses in the amount of \$12,523.82 as of March 20, 2024.

12. I have also reviewed the weekly client activity reports that the Settlement Administrator, Epiq, has sent to Class Counsel. As of March 19, 2024, there have been no objections and only three opt-out requests from a Class size of approximately 156,783. Class Counsel will submit a declaration from Epiq as to the then-current figures of claims filed, objections, and opt-outs contemporaneously with their motion for final approval of the Settlement.

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

Executed on March 25, 2025
in Drexel Hill, Pennsylvania

/s/ Benjamin F. Johns
Benjamin F. Johns

**EXHIBIT A TO DECLARATION
OF BENJAMIN F. JOHNS**



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Jonathan Shub is a co-founder of Shub & Johns LLC. Mr. Shub graduated from American University (Washington, D.C.), B.A., in 1983 and Delaware Law School of Widener University (now Widener University Delaware School of Law), cum laude, in 1988. While enrolled in Delaware Law School of Widener University, he served as the Law Review Articles Editor. Jon was a Wolcott Fellow Law Clerk to the Hon. Joseph T. Walsh, Delaware Supreme Court in 1988. He is a member of the American Association of Justice (past chairman of class action litigation section), the American Bar Association and the Consumer Attorneys of California. Jon was named a Pennsylvania SuperLawyer from 2005-2009 and 2011-2019. Jon is also an active member of his local synagogue and an avid political fundraiser.

Jon is recognized as one of the nation's leading class action consumer rights lawyers, based on his extensive experience and successes representing classes of individuals and businesses in a vast array of matters involving unlawful conduct. Jon has gained notable attention in the area of defective consumer electronics and computer hardware as a result of many leadership positions in federal and state cases against companies such as Hewlett-Packard, Maytag, IBM and Palm. In fact, Maximum PC Magazine, a leading industry publication, said years back that "Shub is becoming renowned for orchestrating suits that have simultaneously benefited consumers and exposed buggy hardware." He also has vast experience in mass tort class actions such as Vioxx, light tobacco litigation, and in consumer class actions such as energy deregulation. He is currently heavily involved in litigation on behalf of businesses that were denied insurance coverage involving COVID-19.

Jon launched his career in the Washington office of Fried, Frank, Harris, Shriver & Jacobson, where he worked on complex commercial matters including corporate investigations and securities litigation. He then moved into a practice of consumer protection and advocacy. Prior to joining Kohn, Swift & Graf, P.C., Jon was the resident partner in the Philadelphia office of Seeger Weiss LLP. He is a frequent lecturer on cutting edge class action issues, and is a past chairman of the Class Action Litigation Group of the American Association for Justice. Jon regularly appears in state and federal courts nationwide, and in many high profile consumer protection cases. Jon's leadership roles require him to develop the theories of liability for the entire class as well as the overall trial strategy for the cases. Most recently, Jon was co-lead and co-trial counsel in a case against municipality for violation of a state privacy law. The case was tried before U.S. District Judge Wendy Beetlestone, and resulted in a jury award of approximately \$68,000,000 to the Class.

Jon's experience in class action litigation includes the following leadership positions:

- Serves as lead counsel in New York against KIWI Energy LLC for deceptive advertising of residential energy practices.
- Served as co-lead counsel in Illinois against Direct Energy for deceptive advertising of residential energy practices.
- Served as co-lead counsel in Pennsylvania against PG&E for deceptive advertising of residential energy practices.
- Served as co-lead counsel in settled national litigation against CPG International for deceptive advertising in connections with deceptive advertising of AZEK-branded

decking products.

- Served as executive committee counsel in settled national litigation against Western Union for deceptive practices in connection with money transfers.
- Served as co-lead counsel in litigation against Facebook for deceptive advertising practices.
- Served as co-lead counsel in a national class action against Palm involving defective smart phones.
- Served as co-lead counsel in a national class action against Nissan for defective tires on its 350Z model.
- Served as co-lead counsel in a national class action against Hewlett Packard claiming defects in certain printer models.
- Served as co-lead counsel in litigation against Vonage for consumer fraud.
- Served as co-lead counsel in litigation against Maytag, where he was instrumental in negotiating a \$42.5 million nationwide settlement for a class of more than 200,000 Maytag customers.
- Served as co-lead counsel in a nationwide class settlement against IBM that affected more than 3 million hard drive purchasers.

Publications and Presentations:

- Moderator, Class Actions, Annual Meeting of American Association of Justice, 2015, 2016
- Speaker, Class Actions, Annual Meeting of American Association of Justice, 2015, 2016
- Speaker, “Finding the Right Class Action”, New Jersey Association of Justice, June, 2016
- Speaker, “Nuts and Bolts of MDL Practice”, Class Action Symposium, Chicago, Illinois, June, 2016
- Speaker, “Computer Technology and Consumer Products Class Actions”, Consumer Attorneys of California 46th Annual Convention, November 2007
- Frequent speaker, American Association for Justice (formerly ATLA)
- Author, “Distinguishing Individual from Derivative Claims in the Context of Battles for Corporate Control”, 13 Del. J. Corp. L. 579 (1998)
- Author, “Shareholder Rights Plans? Do They Render Shareholders Defenseless Against Their Own Management”, 12 Del J. Corp. L. 991 (1997)
- Co-author, “Once Again, the Court Fails to Rein in RICO”, Legal Times (April 27, 1992)
- Co-author, “Failed One-Share, One Vote Rule Let SEC Intrude in Boardroom”, National Law Journal (October 8, 1990).



Benjamin F. Johns, a co-founding partner at Shub & Johns LLC, is a consumer protection advocate with nearly two decades of litigation experience. He is admitted to practice in all of the state and federal courts in Pennsylvania and New Jersey, and has personally argued in the Third Circuit, the D.C. Circuit, PA Supreme Court, and PA Commonwealth Court. Over the course of his career, Mr. Johns has taken and defended hundreds of depositions, argued and won dispositive motions (including contested motions for class certification), and been appointed to leadership positions by various courts across the country. He was recently described by the legal publication Law360 as being a “data breach specialist.” He was the lead litigator at his prior firm in a case against Apple which resulted in a \$50 million settlement and was the No. 1 ranked Consumer Fraud settlement in California for 2022 by TopVerdict.com.

Mr. Johns is currently serving as court appointed interim co-lead counsel in several consumer data breach class actions, including:

- *Nelson v. Connexin Software Inc. d/b/a Office Practicum*, No. 2:22-cv-04676-JDW (E.D. Pa.);
- *In re NCB Management Services, Inc. Data Breach Litig.*, No. 2:23-cv-1236-KNS (E.D. Pa.);
- *In re Onix Group, LLC Data Breach Litig.* No. 23-2288-KSM (E.D. Pa.);
- *In re CorrectCare Data Breach Litig.*, No. 5:22-319-DCR (E.D. Ky.);
- *In re Community Health Systems, Inc. Data Sec. Litig.*, No. 3:23-cv-00285 (M.D. Tenn.);
- *In re R&B Corporation of Virginia d/b/a Credit Control Corporation, Data Security Breach Litig.*, No. 4:23-CV-66 (E.D. Va.);
- *Salinas et al. v. Southwest Louisiana Hospital Association, d/b/a Lake Charles Memorial Health System*, No. 20213-0090 D (La. J. D. Ct.);
- *In re Hope Coll. Data Sec. Breach Litig.*, No. 1:22-CV-01224-PLM (W.D. Mich.); and
- *Guarnaschelli et al. v. East River Medical Imaging, P.C., Index No. 656099/2023 (N.Y. Sup. Ct.)*

Mr. Johns was elected by fellow members of the Philadelphia Bar Association to serve a three-year term on the Executive Committee of the organization’s Young Lawyers Division. He also served on the Editorial Board of the Philadelphia Bar Reporter and the Board of Directors for the Dickinson School of Law Alumni Society. Mr. Johns has been published in the Philadelphia Lawyer magazine and the Philadelphia Bar Reporter. While in college, Mr. Johns was on the varsity basketball team and spent a semester studying abroad in Osaka, Japan. He graduated from Harrington High School in 1998 as the then all-time leading scorer in the history of the boys’ basketball program. Ben has been named a “Lawyer on the Fast Track” by The Legal Intelligencer, a “Top 40 Under 40” attorney by The National Trial Lawyers, and a Pennsylvania “Rising Star”/“Super Lawyer.”

Over the course of his career, Mr. Johns has provided substantial assistance in the prosecution of the following cases:

- *In re Macbook Keyboard Litig.*, No. 5:18-cv-02813-EJD (N.D. Cal.) (Mr. Johns took and defended numerous depositions and successfully argued two motions to dismiss and co-argued plaintiffs’ motion for class certification in this widely-covered case against Apple which ultimately settled for a \$50 million common fund. In granting final approval to the settlement, the district court wrote that plaintiffs’ counsel “achieved excellent results for the class.”)
- *Kostka v. Dickey’s Barbecue Restaurants Inc.*, No. 3:20-CV-03424-K (N.D. Tex.) (Mr. Johns served as co-lead counsel in this consumer data breach case which resulted in a \$2.35 million common fund settlement).
- *Udeen v. Subaru of Am., Inc.*, No. 18-17334 (RBK/JS) (D.N.J.) (Mr. Johns was co-lead counsel in this consumer class action involving allegedly defective infotainment systems in certain Subaru automobiles, which resulted a settlement valued at \$6.25 million. At the hearing granting final approval of the settlement, the district court commented that the plaintiffs’ team “are very skilled and very efficient lawyers... They’ve done a nice job.”)
- *Breneman v. Keystone Health*, Case No. 2023-618 (Pa. Ct. Com. Pl.) (Mr. Johns was co-lead counsel in this medical data breach class action which resulted in a \$900,000 common fund settlement).
- *Hughes v. UGI Storage Co.*, 263 A.3d 1144 (Pa. 2021) (Mr. Johns argued this precedent-setting *de facto* takings matter before the Pennsylvania Supreme Court in October of 2021, in which he secured a 6-0 reversal of the underlying Commonwealth Court decision that had affirmed the trial court’s dismissal of the case)
- *In re Nexus 6P Product Liability Litig.*, No. 5:17-cv-02185-BLF (N.D. Cal.) (Mr. Johns served as co-lead counsel – and argued two of the motions to dismiss – in this defective smartphone class action. The case resulted in a settlement valued at \$9.75 million, which Judge Beth Labson Freeman described as “substantial” and an “excellent resolution of the case.”)
- *In re MyFord Touch Consumer Litig.*, No. 13-cv-03072-EMC (N.D. Cal.) (Mr. Johns served as court-appointed co-lead counsel in this consumer class action concerning allegedly defective MyFord Touch infotainment systems, which settled for \$17 million shortly before trial.)
- *Weeks v. Google LLC*, 5:18-cv-00801-NC, 2019 U.S. Dist. LEXIS 215943, at *8-9 (N.D. Cal. Dec. 13, 2019) (Mr. Johns was co-lead counsel – and successfully argued against a motion to dismiss – in this defective smartphone class action. A \$7.25 million settlement was reached, which Magistrate Judge Nathanael M. Cousins described as being an “excellent result.”)
- *Gordon v. Chipotle Mexican Grill, Inc.*, No. 17-cv-01415-CMA-SKC (D. Colo.) (Mr. Johns served as co-lead counsel of behalf of a class of millions of cardholders who were

impacted by a data breach at Chipotle restaurants. After largely defeating a motion to dismiss filed by Chipotle, the case resulted in a favorable settlement for affected consumers. At the final approval of the settlement, the district court noted that class counsel has “extensive experience in class action litigation, and are very familiar with claims, remedies, and defenses at issue in this case.”)

- *Bray et al. v. GameStop Corp.*, 1:17-cv-01365-JEJ (D. Del.) (Mr. Johns served as co-lead counsel for consumers affected by a data breach at GameStop. After largely defeating a motion to dismiss, the case was resolved on favorable terms that provided significant relief to GameStop customers. At the final approval hearing, the District Judge found the settlement to be “so comprehensive that really there’s nothing else that I need developed further,” that “the settlement is fair,” “reasonable,” and “that under the circumstances it is good for the members of the class under the circumstances of the claim.”)
- *In re: Elk Cross Timbers Decking Marketing, Sales Practices and Products Liability Litig.*, No. 15-cv-18-JLL-JAD (D.N.J.) (Mr. Johns served on the Plaintiffs’ Steering Committee in this MDL proceeding, which involved allegedly defective wood-composite decking, and which ultimately resulted in a \$20 million settlement.)
- *In re Checking Account Overdraft Litig.*, No. 1:09-MD-02036-JLK (S.D. Fla.) (Mr. Johns was actively involved in these Multidistrict Litigation proceedings, which involve allegations that dozens of banks reorder and manipulate the posting order of debit transactions. Settlements collectively in excess of \$1 billion were reached with several banks. Mr. Johns was actively involved in prosecuting the actions against U.S. Bank (\$55 million settlement) and Comerica Bank (\$14.5 million settlement).)
- *Physicians of Winter Haven LLC, d/b/a Day Surgery Center v. STERIS Corporation*, No. 1:10-cv-00264-CAB (N.D. Ohio) (Mr. Johns was the primary associate working on this case which resulted in a \$20 million settlement on behalf of hospitals and surgery centers that purchased a sterilization device that allegedly did not receive the required pre-sale authorization from the FDA.)
- *West v. ExamSoft Worldwide, Inc.*, No. 14-cv-22950-UU (S.D. Fla.) (Mr. Johns was co-lead counsel in this case which resulted in a \$2.1 million settlement on behalf of July 2014 bar exam applicants in several states who paid to use software for the written portion of the exam which allegedly failed to function properly)
- *Henderson v. Volvo Cars of North America, LLC*, No. 2:09-cv-04146-CCC-JAD (D. N.J.) (provided substantial assistance in this consumer automobile case that settled after the plaintiffs prevailed, in large part, on a motion to dismiss)
- *In re Marine Hose Antitrust Litig.*, No. 08-MDL-1888 (S.D. Fla.) (settlements totaling nearly \$32 million on behalf of purchasers of marine hose.)
- *In re Philips/Magnavox Television Litig.*, No. 2:09-cv-03072-CCC-JAD (D. N.J.) (settlement in excess of \$4 million on behalf of consumers whose flat screen

televisions failed due to an alleged design defect. Mr. Johns argued against one of the motions to dismiss.)

- *Allison, et al. v. The GEO Group*, No. 2:08-cv-467-JD (E.D. Pa.), and *Kurian v. County of Lancaster*, No. 2:07-cv-03482-PD (E.D. Pa.) (settlements totaling \$5.4 million in two civil rights class action lawsuits involving allegedly unconstitutional strip searches at prisons)



Samantha E. Holbrook, a partner at Shub & Johns LLC, has extensive experience in consumer protection class action litigation. Prior to joining the firm, Ms. Holbrook practiced at two different national class action law firms where she represented consumers and investors in nationwide class actions. Ms. Holbrook has experience handling and litigating all aspects of the prosecution of national class action litigation asserting claims under state and federal law challenging predatory lending practices, product defects, breach of fiduciary duty, antitrust claims, consumer fraud and unfair and deceptive acts and practices in federal courts throughout the country.

Ms. Holbrook has also obtained favorable recoveries on behalf of multiple nationwide classes of borrowers whose insurance was force-placed by their mortgage services.

Ms. Holbrook received her law degree from Temple University Beasley School of Law. While in law school, she served as the President of the Moot Court Honor Society and President of the Student Animal Legal Defense Fund. She was also a member of Temple's nationally recognized Trial Team. Upon graduating, she served as an adjunct professor for Temple coaching its Trial Team from 2013-2018. Ms. Holbrook received her undergraduate degrees from the Pennsylvania State University in Political Science and Spanish. While in college, Ms. Holbrook spent a semester studying abroad in Sevilla, Spain. She is proficient in Spanish. Ms. Holbrook also currently serves as the Board President for Citizens for a No-Kill Philadelphia, a Philadelphia-based animal welfare advocacy organization, and serves on the Board of Directors of City of Elderly Love, a senior-focused animal rescue organization.

Ms. Holbrook has been recognized by Pennsylvania Super Lawyers as a Rising Star for each year from 2020-2023. She has also been recognized as a Top Young Rising Attorney in Pennsylvania in 2020, and a Pennsylvania & Delaware Top Attorneys Rising Stars in 2021. She is admitted to practice in all federal and state courts in Pennsylvania and New Jersey.

Over the course of her career, Ms. Holbrook has provided substantial assistance in the prosecution of the following cases:

- *Krenk v. Murfreesboro Medical Clinic, P.A. D/B/A Murfreesboro Medical Clinic & Surgicenter*, Case No. 75CC1-2023-CV-81005 (Rutherford Cir. Ct.) (appointed to the Plaintiffs' Steering Committee in a consumer class action medical data breach litigation pending in Tennessee);

- *Doe v. Highmark, Inc.*, No. 2:23-cv-00250 (W.D. Pa.) (provisionally appointed as a member of the Plaintiffs' Executive Committee in this medical data breach litigation pending in Pennsylvania);
- *Suarez v. Nissan North America*, No. 3:21-cv-00393 (M.D. Tenn.) (appointed lead class counsel in a consumer class action alleging defective headlamps in Nissan Altima vehicles which reached a settlement valued at over \$50 million that provides reimbursements, free repairs, and an extended warranty);
- *Kostka v. Dickey's Barbecue Restaurants, Inc.*, No. 3:20-cv-03424-K (N.D. Tex.) (appointed as additional interim class counsel on behalf of consumers whose sensitive payment card information was exposed in a data breach at Dickey's restaurant chains);
- *In re Wawa, Inc. Data Security Litig.*, No. 2:19-cv-06019-GEKP (E.D. Pa.) (achieved \$12 million settlement on behalf of consumers whose sensitive payment card information was exposed to criminals as part of a highly-publicized data breach);
- *Lacher et al v. Aramark Corp.*, 2:19-cv-00687 (E.D. Pa. 2019) (represented a class of Aramark's current and former managers alleging that Aramark breached its employment contracts by failing to pay bonuses and restricted stock unit compensation to managers nationwide);
- *Turner v. Sony Interactive Entertainment LLC*, No. 4:21-cv-02454-DMR (N.D. Cal.) (class action lawsuit alleging that Sony's PlayStation 5 DualSense Controller suffers from a "drift defect" that results in character or gameplay moving on the screen without user command or manual operation of the controller thereby compromising its core functionality);
- *Board of Trustees of the AFTRA Retirement Fund, et al. v. JPMorgan Chase Bank, N.A.*, 09-CV-686 (SAS), 2012 WL 2064907 (S.D.N.Y. June 7, 2012) (approving \$150 million settlement); and
- *In re 2008 Fannie Mae ERISA Litigation*, Case No. 09-cv-1350 (S.D.N.Y.) (\$9 million settlement on behalf of participants in the Federal National Mortgage Association Employee Stock Ownership Plan).



Andrea Bonner is an Associate at Shub & Johns. She received her law degree from the Villanova University Charles Widger School of Law where she wrote for the Environmental Law Journal. Following graduation, she clerked for the Honorable Judge Pereksta of the New Jersey Superior Court. She then practiced Labor and Employment law at a regional mid-sized firm that is headquartered in Philadelphia. During this time, Andrea became interested in plaintiff work and the ability to advocate for clients no matter their background or circumstances. Andrea is an enthusiastic member of the Shub & Johns' team and looks forward to working alongside her colleagues on Class Action claims.



Damian Gomez joined Shub & Johns LLC as an intake paralegal in March 2022. Damian graduated from the University of Texas at Austin in 2021 with a Bachelor's degree in History with a focus on Classical Studies, as well as a Certificate in Creative Writing. Damian's prior professional experiences include building relationship and communication skills with clientele while working as an Intake Specialist at Filevine, a legal software company. Various courses in copywriting and email marketing have alike prepared him for his initial role as intake paralegal at Shub & Johns.

Damian's current title at Shub & Johns is Client Intake Specialist. His responsibilities include conducting widespread investigations and initial research into potential class action and consumer protection cases, interviewing and vetting potential clients and class representatives, and assisting in legal projects as necessary. Aside from legal assistance, Damian manages Shub & Johns's Marketing and Outreach ventures, writes for and oversees the Shub & Johns's website content, and runs Shub & Johns social media accounts.



Lacey Russo began her career in the legal field in 2001, working in the Intellectual Property group at an international AmLaw 100 firm. She continued working on complex litigation matters, including consumer protection, ERISA, antitrust and fiduciary duty protection for over 15 years at a large plaintiffs' class action law firm before joining Shub & Johns in 2023. Lacey has worked on cases before state, federal and appellate courts across the country. She brings experience in assisting attorneys through every aspect of the litigation process.

Lacey studied at Villanova University and Algonquin College, graduating in 1999 with a bachelor's degree in paralegal studies.

Exhibit B

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IN RE HOPE COLLEGE DATA SECURITY
BREACH LITIGATION

Case No: 1:22-CV-01224-PLM

**DECLARATION OF EMILY E. HUGHES OF THE MILLER LAW FIRM, P.C. IN
SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION FOR ATTORNEYS'
FEES, COSTS, EXPENSES, AND SERVICE AWARDS**

I, Emily E. Hughes, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am a Partner at The Miller Law Firm, P.C. (“Miller Law”), and my firm is one of the Plaintiffs’ Counsel prosecuting this case on behalf of Plaintiffs and the Settlement Class. I have personal knowledge of the facts stated in this Declaration and, if called as a witness, I could and would testify competently to them. I make this Declaration on behalf of Plaintiffs in support of Plaintiffs’ Unopposed Motion for Attorneys’ Fees, Costs, Expenses, and Service Awards (the “Fee and Expense Application”) in connection with the services rendered in the above-captioned consolidated Action and the proposed class action settlement with Defendant Hope College. The statements herein are true to the best of my personal knowledge, information and belief based on Miller Law’s books and records and information received from Miller Law’s attorneys and staff.

2. During the pendency of this litigation, Plaintiffs’ Counsel carefully coordinated their activities with Settlement Class Counsel to avoid engaging in duplicative work.

3. Among Plaintiffs’ Counsel, each firm worked to advance the litigation on behalf of Plaintiffs and the putative class members. Plaintiffs’ Counsel reviewed documents, prepared pleadings, worked with Plaintiffs, and collaboratively developed strategy. With respect to this effort, Plaintiffs’ Counsel was careful to work together with Settlement Class Counsel to perform discrete and non-overlapping tasks in order to avoid duplicative work. Following the appointment of Settlement Class Counsel (Preliminary Approval Order, ECF No. 32 at ¶ 7, PageID.963), this process was further streamlined, as Settlement Class Counsel assumed responsibility for assigning non-duplicative work to advance the settlement process, including assigning final review of the Notice, the Settlement Website, the Fee and Expense Application, and the upcoming motion for final approval of class action settlement.

4. During the litigation, Miller Law spent time advancing the litigation by performing the following tasks, including, but not limited to:

- Conducting a pre-suit investigation of the facts of the data breach and its aftermath and thoroughly examining the available facts and law;
- Vetting the named Plaintiffs, their factual circumstances, and their potential claims, and then corresponding with the named Plaintiffs to keep them updated on key developments in the case;
- Drafting, filing, and/or reviewing: the initial, pre-consolidation Complaint; a motion to consolidate and for appointment; an amended complaint; a motion to stay pending settlement discussions; a mediation statement; a motion for preliminary approval of class action settlement, including the Settlement Agreement and its exhibits, a renewed motion for preliminary approval of class action settlement; and this Fee and Expense Application here; and an upcoming motion for final approval of the class action settlement;
- Drafting pre-mediation discovery requests and reviewing pre-mediation discovery documents;
- Participating in an all-day mediation overseen by private mediator Ben Picker;
- Engaging in meet and confer phone calls and emails with Defense Counsel to negotiate parameters of the settlement, to exchange pre-mediation discovery requests regarding mediation, and to mediate and negotiate and finalize the settlement;
- Negotiating with settlement administration companies to secure the best administration and Notice Plan practicable, and then working with Defense Counsel and the Settlement Administrator to ensure the Notice Plan was adequately implemented; and
- Working closely with the Settlement Administrator to prepare the Settlement Website, respond to Class Member inquiries, analyze claim submissions, reply to claimants to cure claims deficiencies, and oversee the overall claims process.

5. As summarized below, Miller Law devoted 364.50 hours to the prosecution and resolution of this matter, resulting in a lodestar of \$267,965.00. Lodestar has been calculated based on current hourly rates that range from \$985.00 for partners; \$735 for senior associates; \$475 for associates; \$385.00 for counsel attorneys; and \$275 for paralegals. Miller law anticipates spending additional time and expense throughout the pendency of this litigation, including, but not limited

to, time spent researching and drafting the final approval brief, responding to any potential objectors, traveling to and from the final approval hearing, and working closely with the Settlement Administrator to track the filing of claims and oversee distribution should this Settlement receive final approval.

Attorneys	Role	Rates	Hours from inception to March 20, 2024	Lodestar from inception to March 20, 2024
Amy A. Davis	Paralegal	\$275.00	5.40	\$1,485.00
Dena A. Asmar	Counsel Attorney	\$385.00	2.90	\$1,116.50
Dennis A. Lienhardt	Partner	\$700.00	0.90	\$630.00
Dana E. Fraser	Associate	\$475.00	1.60	\$760.00
Emily E. Hughes	Partner	\$850.00	108.30	\$92,055.00
E. Powell Miller	Partner	\$985.00	6.70	\$6,599.50
Gregory A. Mitchell	Senior Associate	\$735.00	204.10	\$150,013.50
Katie M. Pittel	Counsel Attorney	\$385.00	13.30	\$5,120.50
Mitchell J. Kendrick	Associate	\$450.00	20.10	\$9,045.00
Sharon S. Almonrode	Partner	\$950.00	1.20	\$1,140.00
TOTAL			364.50	\$267,965.00

6. Miller Law regularly prepared and maintained files contemporaneously documenting time spent, including tasks performed, and expenses incurred, relating to this matter. Supporting time records are available at the request of the Court for review *in camera*.

7. Miller Law advanced expenses in prosecuting this litigation. They are the type of expenses typically billed by attorneys to paying clients in the marketplace and include such costs as fees paid or incurred for research, filing fees, photocopying and mediation. All these expenses were reasonable and necessary for the prosecution of this litigation as summarized below.

Expense Categories	Cumulative Expenses
Court Filing Fees	\$804.00
Westlaw-database research	\$108.43
Photocopies – In-House	\$257.65
Postage and mailing	\$12.27
Mediation Fees	\$2,941.67
TOTAL	\$4,124.02

8. Attached as Exhibit 1 is a true and correct copy of the firm resume of Miller Law.

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

Executed on March 25, 2024
in Rochester, Michigan

/s/ Emily E. Hughes
Emily E. Hughes

**EXHIBIT 1 TO DECLARATION
OF EMILY E. HUGHES**

THE MILLER LAW FIRM

A Professional Corporation

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THE MILLER LAW FIRM, P.C. | FIRM RESUME

The Miller Law Firm, P.C. (the “Firm”) is one of the premier litigation law firms in the United States and Michigan’s leading class action firm. A recognized leader in the area of complex commercial litigation, the Firm is ranked Tier 1 in Detroit by *U.S. News-Best Lawyers* “Best Law Firms” for commercial litigation. Since the Firm’s founding in 1993, the Firm has developed a national reputation for successfully prosecuting securities fraud and consumer class actions on behalf of its clients. As Lead Counsel or Co-Lead Counsel appointed by judges throughout the United States in some of the country’s largest and most complex cases, the Firm has achieved over \$3 billion in settlements, recoveries and/or verdicts on behalf of injured class members.

Highlights of Results Obtained

- 2024 *Pratt v. KSE Sportsman Media, Inc.*
(United States District Court, Eastern District of Michigan)
(Case No. 1:21-cv-11404) (Class Counsel)
- Result: \$9.5 million settlement
- 2023 *Cooper (nee Zimmerman) v. The 3M Company and Wolverine*
(United States District Court, Western District of Michigan)
(Case No. 1:17-cv-01062) (Co-Lead Counsel)
- Result: \$54 million settlement
- Reynolds v. FCA*
(United States District Court, Eastern District of Michigan)
(Case No. 2:19-cv-11745) (Co-Lead Counsel)
- Result: Over \$30 million settlement value
- Kain v. The Economist Newspaper NA, Inc.*
(United States District Court, Eastern District of Michigan)
(Case No. 4:21-cv-11807) (Co-Lead Counsel)
- Result: \$9.5 million settlement
- Ketover v. Kiplinger Washington Editors, Inc.*
(United States District Court, Eastern District of Michigan)
(Case No. 1:21-cv-12987) (E. Powell Miller, Phil Fraietta, Joe Marchese, Frank Hedin)
- Result: \$6.8 million settlement

Moeller v. The Week Publications, Inc.

(United States District Court, Eastern District of Michigan)
(Case No. 1:22-cv-10666) (E. Powell Miller, Phil Fraietta, Joe Marchese, Frank Hedin)

Result: \$5.1 million settlement

Thomsen v. Morley

(United States District Court, Eastern District of Michigan)
(Case No. 1:22-cv-10271) (Plaintiffs' Executive Committee)

Result: \$4.3 million settlement

2022

In re; National Prescription Opiate Litigation (CVS, Walgreens and Walmart retail pharmacy and two manufacturers Allergan and Teva)

(United States District Court, Northern District Ohio, MDL Court)
(Case No. 1:17-md-2804) (Represented several Michigan counties who were parties to and benefited from the global settlement)

Result: \$18.5 billion global settlement plus Narcan or additional cash from Teva

In re EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litig.,

(United States District Court, District of Kansas)
(Case No. 2:17-md-02785) (Plaintiffs' Steering Committee)

Result: \$609 million in settlements

Wood, et al. v. FCA US LLC

(United States District Court, Eastern District of Michigan)
(Case No. 5:20-cv-11054) (Co-Lead Counsel)

Result: Over \$108 million settlement value

Persad, et al. v. Ford Motor Company

(United States District Court, Eastern District of Michigan)
(Case No. 2:17-cv-12599) (Co-Lead Counsel)

Result: Over \$42 million settlement value

Loftus v. Outside Integrated Media, LLC

(United States District Court, Eastern District of Michigan)
(Case No. 2:21-cv-11809) (Co-Lead Counsel)

Result: Approximately \$1 million settlement

Graham, et al. v. University of Michigan, et al.,
(United States District Court, Eastern District of Michigan)
(Case No. 2:21-cv-11168) (Co-Lead Counsel)

Result: Injunctive relief settlement mandating University reforms to address and prevent sexual misconduct

John Doe MC-1 v. University of Michigan, et. al.
(United States District Court, Eastern District of Michigan)
(Case No. 2:20-cv-10568) (Represented several victims of sexual abuse in private, confidential settlement)

Result: Confidential settlement

2021

In re; National Prescription Opiate Litigation (Distributor and Manufacturer Janssen Pharmaceuticals Settlement)
(United States District Court, Northern District of Ohio, MDL Court)
(Case No. 1:17-md-2804) (Represented several Michigan counties who were parties to and benefited from the global settlement.)

Result: \$26 billion global settlement

Simmons, et al. v. Apple, Inc.
(Superior Court of the State of California, County of Santa Clara)
(Case No. 17CV312251) (Co-Lead Counsel)

Result: \$9.75 million settlement

Dougherty v Esperion Therapeutics, Inc., et. Al.
(United States District Court, Eastern District of Michigan)
(Case No. 2:16-cv-10089) (Local Counsel)

Result: \$18.25 million settlement

In re Broiler Chicken Antitrust Litigation
(United States District Court, Northern District of Illinois, Eastern Division) (Case No. 1:16-cv-08637)

Result: \$93.5 million in settlements in 2021

2020

In re Resistors Antitrust Litigation
(United States District Court, Northern District of California)
(Case No. 3:15-cv-03820) (Informal member of Steering Committee)

Result: \$33.4 million in settlements in 2020

In re Capacitors Antitrust Litigation

(United States District Court, Northern District of California)
(Case No. 03:17-md-02801) (Informal member of Steering
Committee)

Result: \$30.95 million in settlements in 2020

2019 *Carl Palazzolo, et al. Fiat Chrysler Automobiles N.V., et al.*
(United States District Court, Eastern District of Michigan)
(Case No. 16-cv-12803) (Co-Lead Counsel)

Result: \$14.75 million settlement

Zimmerman v. Diplomat Pharmacy, Inc., et al.
(United States District Court, Eastern District of Michigan)
(Case No. 2:16-cv-14005) (Liaison Counsel)

Result: \$14.1 million settlement

2018 *In re Freight Forwarders Antitrust Litigation*
(United States District Court, Eastern District of New York)
(Case No. 08-cv-00042) (Counsel for Class Representative)

Result: \$1 billion settlement

2017 *Foster v. L3 Communications, EO Tech*
(United States District Court, Western District of Missouri)
(Case No. 15-cv-03519) (Co-Lead Counsel)

Result: \$51 million settlement (100% recovery)

2016 *In re Automotive Parts Antitrust Litigation*
(United States District Court, Eastern District of Michigan)
(Case No. 12-md-02311) (Liaison Counsel)

Result: Over \$1 billion in settlements

*GM Securities Class Action/New York Teachers Retirement System v.
General Motors Company*
(United States District Court, Eastern District of Michigan)
(Case No. 4:14-cv-11191) (Local Counsel)

Result: \$300 million settlement

ERISA Class Action/Davidson v. Henkel Corporation
(United States District Court, Eastern District of Michigan)
(Case No. 12-cv-14103) (Lead Counsel)

Result: \$3.35 million settlement (100% Recovery for 41 member class)

*Pat Cason-Merenda and Jeffrey A. Suhre v. VHS of Michigan, Inc.,
dba Detroit Medical Center (Antitrust)*
(United States District Court, Eastern District of Michigan)
(Case No. 2:06-cv-15601) (Special Trial Counsel)

Result: \$42 million settlement

2015 *In re AIG 2008 Securities Litigation*
(United States District Court, Southern District of New York)
(Case No. 08-cv-04772) (Co-Lead Counsel)

Result: \$970.5 million settlement

2014 *City of Farmington Hills Employees Retirement System v. Wells
Fargo Bank, N.A.*
(United States District Court, District of Minnesota)
(Case No. 10-cv-04372) (Co-Lead Counsel and Primary Trial Counsel)

Result: \$62.5 million settlement

The Shane Group, Inc., et al. v. Blue Cross Blue Shield of Michigan
(United States District Court, Eastern District of Michigan)
(Case No. 2:10-cv-14360) (Co-Lead Counsel)

Result: \$30 million settlement

In re Refrigerant Compressors Antitrust Litigation
(United States District Court, Eastern District of Michigan)
(Case No. 09-md-02042) (Co-Lead Counsel)

Result: \$30 million settlement

2013 *The Board of Trustees of the City of Birmingham Employees et. al. v.
Comerica Bank et. al.*
(United States District Court, Eastern District of Michigan)
(Case No. 2:09-13201) (Co-Lead Counsel)

Result: \$11 million settlement

In Re Caraco Pharmaceutical Laboratories, Ltd. Securities Litigation
(United States District Court, Eastern District of Michigan)
(Case No. 2:09-cv-12830) (Co-Lead Counsel)

Result: \$2.975 million settlement

In Re TechTeam Global Inc. Shareholder Litigation
(Oakland County Circuit Court, State of Michigan)
(Case No. 10-114863-CB) (Liaison Counsel)

Result: \$1.775 million settlement

General Retirement System of the City of Detroit and Police and Fire Retirement System of the City of Detroit vs. UBS Securities, LLC (Structured Investment Vehicle)
(United States District Court, Eastern District of Michigan)
(Case No. 2:10-cv-13920) (Lead Counsel)

Result: Confidential settlement

2010 *Epstein, et al. v. Heartland Industrial Partners, L.P., et al.*
(United States District Court, Eastern District of Michigan)
(Case No. 2:06-CV-13555) (Substantial role)

Result: \$12.2 million settlement

In Re Skilled Healthcare Group, Inc. Securities Litigation
(United States District Court, Central District of California)
(Case No. 09-5416) (Substantial role)

Result: \$3 million settlement

2009 *In Re Proquest Company Securities Litigation*
(United States District Court, Eastern District of Michigan)
(Case No. 4:06-CV-11579) (Substantial role; argued Motion to Dismiss)

Result: \$20 million settlement

In Re Collins & Aikman Corporation Securities Litigation
(United States District Court, Eastern District Michigan)
(Case No. 03-CV-71173) (Substantial role)

Result: \$10.8 million settlement

In re IT Group Securities Litigation
(United States District Court, Western District of Pennsylvania)
(Civil Action No. 03-288) (Co-Lead Counsel)

Result: \$3.4 million settlement

2008 *In re Mercury Interactive Securities Litigation*
(United States District Court, Northern District of California)
(Civil Action No. 03:05-CV-3395-JF) (Substantial role)

Result: \$117 million settlement

In Re General Motors Corporation Securities and Derivative Litigation
(United States District Court, Eastern District of Michigan)
(Master Case No. 06-MD-1749) (Co-Lead Counsel)

Status: Obtained major corporate governance reforms to address accounting deficiencies

2007

Wong v. T-Mobile USA, Inc.
(United States District Court, Eastern District of Michigan)
(Case No. 05-CV-73922) (Co-Lead)

Result: Settlement for 100% of damages

In re CMS Energy Corporation Securities Litigation
(United States District Court, Eastern District Michigan)
(Master File No. 2:02 CV 72004) (Substantial role)

Result: \$200 million settlement

2005

In re Comerica Securities Fraud Litigation
(United States District Court, Eastern District of Michigan)
(Case No. 2:02-CV-60233) (Substantial role)

Result: \$21 million in total settlements

Street v. Siemens
(Philadelphia State Court)
(Case No. 03-885) (Co-Lead Counsel)

Result: \$14.4 million (100% recovery)

Redmer v. Tournament Players Club of Michigan
(Wayne County Circuit Court) (Case No. 02-224481-CK) (Co-Lead)

Result: \$3.1 million settlement

2004

Passucci v. Airtouch Communications, Inc.
(Wayne County Circuit Court) (Case No. 01-131048-CP) (Co-Lead)

Result: Estimated settlement value between \$30.9 and \$40.3 million

Johnson v. National Western Life Insurance
(Oakland County Circuit Court)
(Case No. 01-032012-CP) (Substantial role)

Result: \$10.7 million settlement

2003

Felts v. Starlight

(United States District Court, Eastern District Michigan)
(Case No. 01-71539) (Co-Lead)

Result: Starlight agrees to stop selling ephedrine as an ingredient in its weight loss dietary supplement product

In re Lason Securities Litigation

(United States District Court, Eastern District Michigan)
(Case No. 99-CV-76079) (Co-Lead)

Result: \$12.68 million settlement

2001

Mario Gasperoni, et al. v. Metabolife International, Inc.

(United States District Court, Eastern District Michigan)
(Case No. 00-71255) (Co-Lead)

Result: Nationwide settlement approved mandating changes in advertising and labeling on millions of bottles of dietary supplement, plus approximately \$8.5 million in benefits

1999

Pop v. Art Van Furniture and Alexander Hamilton Insurance Company

(Wayne County Circuit Court) (Case No. 97-722003-CP) (Co-Lead)

Result: Changes in sales practices and \$9 million in merchandise.

Schroff v. Bombardier

(United States District Court, Eastern District Michigan)
(Case No. 99-70327) (Co-Lead)

Result: Recall of more than 20,000 defective Seadoos throughout North America; repair of defect to reduce water ingestion problem; extended warranties; and approximately \$4 million in merchandise.

In re National Techteam Securities Litigation

(United States District Court, Eastern District Michigan)
(Master File No. 97-74587) (Substantial role)

Result: \$11 million settlement

In Re F&M Distributors, Inc., Securities Litigation

(United States District Court, Eastern District Michigan)
(Case No. 95-CV-71778-DT) (Minor role)

Result: \$20 million settlement

1998 *In Re Michigan National Corporation Securities Litigation*
(United States District Court, Eastern District Michigan)
(Case No 95 CV 70647 DT) (Substantial role)

Result: \$13.3 million settlement

1995 *In re Intel Pentium Processor Litigation*
(Superior Court, Santa Clara County, California) (Master File No. 745729)
(Substantial role)

Result: Intel agreed to replace millions of defective Pentium chips on demand without any cost to consumers

SELECTED RESUMES



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E. POWELL MILLER, PARTNER



✉ EPM@millerlawpc.com

Powell Miller has been recognized as Michigan’s number one ranked attorney by Super Lawyers Magazine for 2020. He has also been named one of the Top 10 lawyers in Michigan for fifteen consecutive years, from 2009-2023, by Super Lawyers Magazine, and in 2010, 2015, 2019, and 2020 he was the recipient of the Best Lawyers – Lawyer of the Year in the category of Bet-The-Company Litigation. In 2017, Mr. Miller was the recipient of the Judge Friedman and Cook Civility Award, which is awarded to only one lawyer each year. He has been named as one of the Best Lawyers in America every year since 2005. Mr. Miller has earned

Martindale-Hubbell’s highest rating, AV[®] Preeminent[™] 5/5.0 for legal ethics and ability and a 10/10 from AVVO a public rating system. Mr. Miller is also ranked as only one of nine in Michigan to receive the highest Band 1 rating by Chambers USA, describing Mr. Miller as a “Superb trial lawyer” who “routinely acts for high-profile clients based across the [United] states.”

Mr. Miller focuses his practice on all aspects of litigation. He has been retained by many Fortune 500 and other clients to represent them in litigation throughout the United States, including in Michigan, New York, New Jersey, Pennsylvania, Arkansas, Florida, Texas, Kentucky, Ohio, California, Colorado, Indiana, and Illinois.

Mr. Miller recently won an arbitration against Jimmy Johns in the amount of \$4.8 million including a \$1 million attorney fee award. He has never lost a trial, including verdicts in excess of \$5 million, \$10 million and \$23 million. Mr. Miller has also obtained in excess of \$3 billion in settlements. These settlements are regularly among the top ten in Michigan each year, including a high-profile verdict in May, 2016 for 100% liability.

In October, 2019 Mr. Miller defended a consumer goods manufacturer against Plaintiffs asserting complex price discrimination and antitrust claims, and alleging millions of dollars in damages. Following a 3-week trial and seven hours of deliberations, a California jury returned a unanimous verdict in favor of his client, rejecting all of Plaintiffs’ claims.

Mr. Miller has previously served as Co-President of the Detroit Chapter of the Federal Bar Association Antitrust and Securities Committees. He also serves on the Executive Committee for the Wayne State University Law School Board of Visitors and has served a Co-Chair of the American Bar Association Procedures Subcommittee on class actions and multi-district litigation. He lectures regularly on securities litigation at the University of Michigan School of Law. He has also served as an Adjunct Professor at the University of Detroit Law School teaching trial practice. In addition, Mr. Miller regularly speaks at continuing legal education seminars on securities fraud class actions. Mr. Miller also serves as a Master member of The Oakland County Bar Association Inns of Court.

Mr. Miller graduated third in his class from Wayne State University Law School, magna cum laude, in 1986. He was named to the honor society, Order of the Coif, and he was an Editor of the Wayne Law Review. In 1986, Mr. Miller joined the Detroit law firm of Honigman Miller Schwartz and Cohn, where he was elected partner in 1990. In 1994, he formed his own firm.

Mr. Miller has been recognized as a top debater in the United States. He won first place at the Harvard University National Debate Tournament as a freshman at Georgetown University. He also represented Georgetown in a special international debating exhibition against the Oxford Debating Union of Great Britain.

Mr. Miller is a proud supporter of the Detroit Urban Debate League, a nonprofit that supports the creation of debate programs in under-served high schools; the University of Detroit Jesuit High School and Academy; The Joe Niekro Foundation, which is committed to aiding in the research and treatment of aneurysm patients and families; and Charlotte's Wings, a nonprofit that is dedicated to supporting ailing children in Southeast Michigan through donations of new books to the children and their families in hospital and hospice care.

EDUCATION:

UNIVERSITY OF DETROIT JESUIT HIGH SCHOOL, 1979

GEORGETOWN UNIVERSITY, B.A., 1983

WAYNE STATE UNIVERSITY LAW SCHOOL, J.D., 1986



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EMILY E. HUGHES, PARTNER

✉ EEH@millerlawpc.com



Emily E. Hughes is a Partner at The Miller Law Firm, P.C. – one of the premier litigation law firms in the United States and Michigan’s leading class action firm. Miller Law has achieved over \$3 billion in settlements, recoveries and/or verdicts on behalf of injured class members.

Ms. Hughes heads Miller Law’s data-privacy practice and presently serves on Plaintiffs’ Steering Committees on nationwide data-privacy class actions such as *Miller v. NextGen Healthcare, Inc.*, No. 23-cv-02043 (N.D. Ga) (member of Plaintiffs’ Steering Committee and Third-Party Discovery Committee); and *In re: HealthEC LLC Data Breach Litig.*, No. 24-cv-00026 (D.N.J.) (member of Plaintiffs’ Steering Committee and Offensive Discovery Committee).

Ms. Hughes also plays a central role in litigating the following data-privacy cases on behalf of Miller Law:

- *In re: Wright & Filippis, LLC Data Security Breach Litig.*, No. 22-cv-12908 (E.D. Mich.) (Firm appointment as Chair of Settlement Class Counsel, securing preliminary approval of a non-reversionary class settlement fund of \$2,900,000 on January 4, 2024);
- *In re: Hope College Security Breach Litig.*, No. 22-cv-01224 (W.D. Mich.) (secured preliminary approval of non-reversionary class settlement fund of \$1,500,000 on January 3, 2024);
- *In re: Flagstar December 2021 Data Security Incident Litig.*, No. 22-cv-11385 (E.D. Mich.) (Firm appointment to Plaintiffs’ Executive Committee);
- *In re: Henry Ford Health System Data Security Litig.*, No. 23-11736 (E.D. Mich.) (Firm appointment as Interim Lead Counsel);
- *Drugich v. McLaren Health Care Corp.*, No. 23-cv-11736 (E.D. Mich.); and
- *In re: Lansing Community College Data Breach Litig.*, No. 23-00738 (W.D. Mich.).

In addition to Ms. Hughes’ substantial data-privacy practice, she routinely litigates complex consumer and auto-defect class actions. Recently, Ms. Hughes played a key role in Miller Law’s efforts as Co-Lead Class Counsel in *Cooper v. The 3M Company*, No. 17-cv-01062 (W.D. Mich.), resulting in a \$54 million cash settlement approved in 2023. She also significantly contributed to Miller Law’s role on the Plaintiffs’ Steering Committee in *In re EpiPen*, No. 17-md-02785 (D. Kan.) (\$609 million in settlements). In 2016, Ms. Hughes and her partner successfully obtained a unanimous jury verdict in favor of their clients in a partnership dispute following a six-day trial in the U.S. District Court for the Eastern District of Michigan. See *Blumberg v. DocNetwork LLC, et al.*, No. 13-cv-15042. Further, Ms. Hughes played a substantial role in obtaining 100% recovery on behalf of a certified class of retirees under the civil enforcement provisions of ERISA. See *Davidson v. Henkel Corp.*, No. 12-cv-14103 (E.D. Mich.).

Ms. Hughes was selected to Michigan Super Lawyers in 2022 and 2023 and has been recognized as a “Rising Star” in Michigan Super Lawyers for 2010-2015. Ms. Hughes is admitted to practice in Michigan, the U.S. District Court of the Eastern and Western Districts of Michigan, and the Sixth Circuit Court of Appeals.

University of Michigan, B.A., 2001

University of Illinois College of Law, J.D., 2005, *cum laude*



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GREGORY A MITCHELL, SENIOR ASSOCIATE



✉ GAM@millerlawpc.com

Gregory A. Mitchell is a Senior Associate at The Miller Law Firm. Mr. Mitchell concentrates his practice in complex commercial litigation, data breach litigation, and consumer class actions.

Mr. Mitchell has significant experience in data privacy class action litigation, including leading data breach cases and cases brought under the Michigan Preservation of Personal Privacy Act. In addition to personal privacy claims, Mr. Mitchell has significant experience litigating various state and federal constitutional issues, complex issues of standing, and mass tort actions, working to protect consumers and those impacted by constitutional violations.

Outside of the office, Mr. Mitchell has spent time as a volunteer representative of the Special Education PAC of Rochester schools, including leading educational opportunities throughout the district and serving as Chairperson for a district-wide awards ceremony. He also has served as an executive board member of his local school's PTA. Mr. Mitchell also enjoys spending time coaching youth soccer.

Mr. Mitchell graduated from the University of Michigan, where he received his Bachelor of Arts degree in Economics. He earned his Juris Doctor from the University of Illinois where he focused his studies on law and economics.

Mr. Mitchell has an extensive background in the field of education and, as a Senior Associate, continues in that role at the Firm.

Prior to joining The Miller Law Firm, Mr. Mitchell worked at a nationally recognized test preparation company where he received several national awards for his performance as an instructor. While at this company, Mr. Mitchell is also credited with co-authoring multiple textbooks.

Mr. Mitchell is licensed to practice in the State of Michigan; the Federal Court for the Eastern District of Michigan and its Bankruptcy Court; and the Federal Court for the Western District of Michigan.

University of Michigan, B.A., 2001

University of Illinois College of Law, J.D., 2005



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DENNIS A. LIENHARDT, PARTNER

✉ DAL@millerlawpc.com

Dennis A. Lienhardt is a Partner at The Miller Law Firm. He concentrates his practice on complex commercial and class action litigation.

Dennis Lienhardt has extensive experience litigating complex class action and commercial litigation cases, including those concerning consumer protection, data breach, product liability, environmental, antitrust, and securities fraud claims. He has prosecuted dozens of class actions on behalf of consumers in federal courts in Michigan, New York, California, Illinois, Ohio, Minnesota, Kansas, and Arkansas. He was also named a Michigan Super Lawyer Rising Star in both 2022 and 2023.

Mr. Lienhardt has played a significant role in recovering hundreds of millions of dollars in cash and benefits for class members nationwide. These include multiple automotive defect settlements, including one valued at more than \$100 million and another valued at more than \$30 million, and multiple antitrust and consumer protection cases.

Mr. Lienhardt currently serves as a key member of many court-appointed leadership teams, including in *In re Chevy Bolt EV Battery Litig.*, *In re Chrysler Pacifica Fire Recall Prods. Liab. Litig.*, and *In re FCA US LLC Monostable Elec. Gearshift Litig.* He is also currently prosecuting many other nationwide class actions involving product defects, securities fraud, data breaches, and violations of consumer protection statutes.

Prior to joining Miller Law, Mr. Lienhardt received his law degree from Wayne State University Law School where he served as Editor-in-Chief of the Wayne Law Review. He received his Bachelor of Arts from the University of Michigan – Dearborn where he was elected President of the Student Government and named a university “Distinguished Student Leader.”

University of Michigan-Dearborn, B.A., 2013

Wayne State University Law School, J.D., 2016



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MITCHELL J. KENDRICK, ASSOCIATE

✉ MJK@MillerLawPC.com

Mitchell J. Kendrick is an Associate Attorney at The Miller Law Firm. His practice currently focuses on class action litigation.

Mitchell graduated from The University of Windsor in 2016, where he earned a Bachelor of Commerce majoring in Finance. He graduated on the Dean's List, finishing in the top 10% of his class. He went on to attend Penn State Law, where he earned his Juris Doctor in 2019, again finishing in the top of his class. While in law school, Mitchell served as both Associate Editor and Senior Editor of the Penn State Law Review, the school's flagship journal, and in the Spring of 2019, his article, *A Shot in the Dark*,

was published. Mitchell was also the recipient of six CALI Awards for achieving the highest grade in six different classes.

Prior to joining The Miller Law Firm, Mitchell worked as an Associate Attorney for a leading insurance defense firm, where he gained hands-on experience in virtually all aspects of litigation.

Mitchell is admitted to practice law in the State of Michigan, as well as the United States District Court for the Eastern and Western Districts of Michigan.

The University of Windsor, BCom, Finance 2016

Penn State Law, J.D., 2019



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DANA E. FRASER, ASSOCIATE

✉ DEF@millerlawpc.com



Dana Fraser is an associate at The Miller Law Firm. Her practice currently focuses on class action litigation.

Dana received her law degree from Wayne State Law School in 2018, where she graduated cum laude. While in law school, Dana was a senior member of the Moot Court team and a Senior Note Editor on The Journal of Law in Society. During law school, Dana focused her attention on helping communities in need. Dana assisted low-income and senior clients with family law and estate planning matters as a student attorney at the Free Legal Aid Clinic, as well as managed the Clinic as a member of the executive student board. Dana also participated in Wayne State University's Legal Advocacy for People with Cancer Clinic, assisting individuals with cancer with their various legal needs, such as insurance appeals and preventing water shut-offs. Dana received her Bachelor of Arts degree in English and French Studies from the University of Michigan-Dearborn in 2013. While at the University of Michigan-Dearborn, Dana attended the French Immersion Program at the University of Versailles Saint-Quentin-En-Yvelines in Versailles, France. Prior to joining The Miller Law Firm, Dana worked as a research/prehearing attorney at the Michigan Court of Appeals.

Dana is admitted to practice law in the State of Michigan and the U.S. District Court for the Eastern District of Michigan.

University of Michigan-Dearborn, B.A., 2013

Wayne State Law School, J.D., 2018, *cum laude*



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SHARON S. ALMONRODE, PARTNER

✉ SSA@millerlawpc.com

Sharon S. Almonrode is a partner at The Miller Law Firm, where she is also the Chair of the Firm's Class Action and Multi-District Litigation Department. She has a complex litigation practice with an emphasis on prosecuting large, high-risk, significant damage exposure cases on behalf of clients. Her practice includes ERISA and pension fund litigation, breach of fiduciary duty, consumer products and commercial litigation. She has represented commercial clients in products liability and patent and trademark related litigation. She has successfully represented clients in multi-million dollar cases, including the successful resolution of an actuarial claim for \$110 million dollars.

Ms. Almonrode was appointed to the Plaintiffs' Steering Committee in ongoing litigation against Mylan Pharmaceuticals and other drug companies regarding their anti-competitive conduct in the sale of EpiPen epinephrine auto-injectors, resulting in a monopoly that has made them billions of dollars at the expense of consumers and third party payors. *See In Re: EpiPen (Epinephrine Injection, UPS) Marketing, Sales Practices and Antitrust Litigation*, No. 17-md-02785 (D. Kan.). Ms. Almonrode also served as lead counsel in *In Re: Foster v. L3 Communications, EO Tech*, No. 15-cv-03519 (E.D. Mich.) which settled in excess of \$51 million, as well as co-lead counsel in the ERISA class action *Davidson v. Henkel Corporation*, No. 12-cv-14103 (E.D. Mich.) which settled for \$3.35 million, resulting in a 100% recovery for the class.

In 2010, she received the special distinction of Michigan Leader in the Law, awarded by *Michigan Lawyers' Weekly*. For the past 13 years, Ms. Almonrode has been named a Super Lawyer. For the past 11 years, she has been named one of the top 50 Women Super Lawyers in the State of Michigan (out of approximately 11,000 women practicing in the state). For the past 10 years, she has been named one of the top 100 Lawyers in Michigan (out of 34,204 lawyers in the state). She was named one of the top five Consumer Lawyers in the State of Michigan for 2016. Ms. Almonrode was named among the most notable women lawyers in Michigan by *Crain's Detroit Business* for 2017. In 2019, she was admitted to the inaugural class of the Michigan Lawyers' Weekly Hall of Fame. She has earned Martindale-Hubbell's highest rating, AV[®] Preeminent[™] 5/5.0 for legal ethics and ability.

Ms. Almonrode was admitted to practice in the State of Michigan in 1982. She is also admitted to practice in the U.S. District Court Eastern District of Michigan, U.S. District Court Western District of Michigan, U.S. Bankruptcy Court Eastern District of Michigan, U.S. Bankruptcy Court Western District of Michigan, U.S. District Court – Northern District of Illinois, U.S. Court of Appeals 6th Circuit, the State of New York, the U.S. District Court for Southern District of New York, the U.S. District Court for the Eastern District of New York, the U.S. Court of Appeals 2nd Circuit, and the U.S. Supreme Court.

Before joining The Miller Law Firm, P.C. in 2012, Ms. Almonrode was a Partner at Sullivan, Ward, Asher & Patton, P.C., and Supervisor-Salaried Personnel at General Motors Corp.

Ms. Almonrode's pro bono activities have included working with the Detroit Institute of Arts and the Detroit Film Theatre Board.

Oakland University, B.S., 1978

University of Detroit Mercy School of Law, J.D. 1981

Exhibit C

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IN RE HOPE COLLEGE DATA SECURITY
BREACH LITIGATION

Case No: 1:22-CV-01224-PLM

**DECLARATION OF ANTHONY M. CHRISTINA OF LOWEY DANNENBERG, P.C.
IN SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION FOR ATTORNEYS'
FEEs, COSTS, EXPENSES, AND SERVICE AWARDS**

I, Anthony M. Christina, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am a Senior Associate at Lowey Dannenberg, P.C. (“Lowey”), and my firm is one of the Plaintiffs’ Counsel prosecuting this case on behalf of Plaintiffs and the Settlement Class. I have personal knowledge of the facts stated in this Declaration and, if called as a witness, I could and would testify competently to them. I make this Declaration on behalf of Plaintiffs in support of Plaintiffs’ Motion for Attorneys’ Fees, Costs, Expenses, and Service Awards (the “Fee and Expense Application”) in connection with the services rendered in the above-captioned consolidated Action and the proposed class action settlement with Defendant Hope College. The statements herein are true to the best of my personal knowledge, information and belief based on my law firm’s books and records and information received from its attorneys and staff.

2. During the pendency of this litigation, Plaintiffs’ Counsel carefully coordinated their activities with Settlement Class Counsel to avoid engaging in duplicative work.

3. Among Plaintiffs’ Counsel, each firm worked to advance the litigation on behalf of Plaintiffs and the putative class members. Plaintiffs’ Counsel reviewed documents, prepared pleadings, worked with Plaintiffs, and collaboratively developed strategy. With respect to this effort, Plaintiffs’ Counsel was careful to work together with Settlement Class Counsel to perform discrete and non-overlapping tasks in order to avoid duplicative work. Following the appointment of Settlement Class Counsel (Preliminary Approval Order, ECF No. 32 at ¶ 7), this process was further streamlined, as Settlement Class Counsel assumed responsibility for assigning non-duplicative work to advance the settlement process, including assigning final review of the Notice, the Settlement Website, the Fee and Expense Application, and the upcoming motion for final approval of class action settlement.

4. During the litigation, Lowey spent time advancing the litigation here by performing the following tasks, including, but not limited to:

- Conducting a pre-suit investigation of the facts of the data breach and its aftermath and thoroughly examining the available facts and law;
- Vetting the named Plaintiffs, their factual circumstances, and their potential claims, and then corresponding with the named Plaintiffs to keep them updated on key developments in the case;
- Drafting, filing, and/or reviewing: the initial, pre-consolidation complaint; a motion to consolidate and for appointment; an amended complaint; a mediation statement; a motion for preliminary approval of class action settlement, including the Settlement Agreement and its exhibits; and this Fee and Expense Application;
- Reviewing pre-mediation discovery documents; and
- Participating in an all-day mediation overseen by private mediator Ben Picker.

5. As summarized below, Lowey devoted 77 hours to the prosecution and resolution of this matter, resulting in a lodestar of \$61,106.00. Lodestar has been calculated based on current hourly rates that range from \$1,500 for shareholders; \$1,175 for partners; \$755 for associates.

Attorneys	Role	Rates	Hours from inception to March 14, 2024	Lodestar from inception to March 14, 2024
Anthony M. Christina	Associate	\$755	70.7	\$53,378.50
Christian Levis	Partner	\$1,175	0.3	\$352.50
Geoffrey M. Horn	Shareholder	\$1,500	1.0	\$1,500.00
Sitso W. Bediako	Partner	\$1,175	5.0	\$5,875.00
TOTAL			77.00	\$61,106.00

6. Lowey regularly prepared and maintained files contemporaneously documenting time spent, including tasks performed, and expenses incurred, relating to this matter. Supporting time records are available at the request of the Court for review in camera.

7. Lowey advanced expenses in prosecuting this litigation. They are the type of expenses typically billed by attorneys to paying clients in the marketplace and include such costs

as fees paid or incurred for admission and photocopying. All these expenses were reasonable and necessary for the prosecution of this litigation as summarized below.

Expense Categories	Cumulative Expenses
W.D. Michigan Admission Fees	\$480.00
Photocopies – In-House	\$8.00
TOTAL	\$488.00

8. Attached as Exhibit 1 is a true and correct copy of the firm resume of Lowey Dannenberg, P.C.

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

Executed on March 25, 2024
in West Conshohocken, Pennsylvania

/s/ Anthony M. Christina
Anthony M. Christina

Exhibit 1



LOWEY DANNENBERG

Data Privacy

Firm Resume



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2 Barr v. Drizly, LLC, Case No. 20-CV-11492 (D. Mass.)	6 In re GSE Bonds Antitrust Litigation
2 In re Wawa, Inc. Data Security Litigation, No. 19-cv-06019 (E.D. Pa.)	6 In re Mexican Government Bonds Antitrust Litigation
2 Hozza v. PrimoHoagies Franchising, Inc., No. 20-cv-04966 (D.N.J.)	6 In re European Government Bonds Antitrust Litigation
2 In re Rutter's Inc. Data Security Breach Litigation, No. 20-cv-00382 (M.D. Pa.)	7 Sullivan, et al. v. Barclays plc, et al. (Euribor)
3 In re USAA Data Security Litigation, No. 21-cv-05813 (S.D.N.Y.)	7 Laydon v. Mizuho Bank, Ltd., et al.; Sonterra Capital Master Fund Ltd., et al. v. UBS AG, et al. (Yen-LIBOR and Euroyen TIBOR)
3 In re: NCB Management Services, Inc. Data Breach Litigation, No. 23-cv-1236 (E.D. Pa.)	7 In re London Silver Fixing Ltd., Antitrust Litig.
3 In re: Data Security Cases Against Nelnet Servicing, LLC, No. 22-cv-3191 (D. Neb.)	8 Dennis, et al. v. JPMorgan Chase & Co., et al.
4 Privacy Class Actions	8 Sonterra Capital Master Fund Ltd. v. Credit Suisse Group AG et al.
4 In re Google Assistant Privacy Litigation, No. 19-cv-04286 (N.D. Cal.)	8 Fund Liquidation Holdings LLC v. Citibank, N.A.
4 Lopez v. Apple, Inc., No. 19-cv-04577 (N.D. Cal.)	8 Sonterra Capital Master Fund Ltd. v. Barclays Bank PLC et al.
4 In re Apple Processor Litigation, No. 18-cv-00147 (N.D. Cal.)	9 Commodities Litigation
4 Frasco v. Flo Health, Inc., No. 21-cv-00757 (N.D. Cal.)	9 Sumitomo
4 Wesch v. Yodlee, Inc., No. 20-cv-05991 (N.D. Cal.)	9 In re Natural Gas
4 Doe v. Hey Favor, Inc., 3:23-00059 (N.D. Cal.)	10 Amaranth
5 Laskowski v. Florida Health Sciences Center, Inc., No. 8:23-cv-00456 (M.D. Fl.)	10 Pacific Inv. Mgmt. Co. ("PIMCO")
5 Doe v. The Regents of the University of California, No. 3:23-cv-00598 (N.D. Cal.)	10 Optiver
5 Doe v. GoodRx Holdings, Inc. et al, No. 3:23-00501 (N.D. Cal.)	10 White v. Moore Capital Management, L.P.
	10 In re Crude Oil Commodity Futures Litigation
	11 Kraft Wheat Manipulation
	11 Lansing Wheat Manipulation
	11 The Andersons Wheat Manipulation
	12 In re JPMorgan Precious Metals Spoofing Litigation
	12 Boutchard, et al. v. Gandhi, et al. – E-mini Index Futures Spoofing
	12 JPMorgan Treasuries Spoofing
	12 Deutsche Treasury and Eurodollar Spoofing
	13 Consumer Protection
	13 In re FedLoan Student Loan Servicing Litigation
	13 Broder v. MBNA Corp.
	13 Snyder v. Nationwide Insurance Company
	13 Wysocki et al v. ZoomInfo Technologies Inc.
	13 In Re Archstone Westbury Tenant Litigation
	13 Lyons v. Litton Loan Servicing LP
	13 In re Warfarin Sodium Antitrust Litigation



Firm Overview

Since the firm's founding by Stephen Lowey in the 1960s, Lowey Dannenberg, P.C. ("Lowey Dannenberg") has represented sophisticated clients in complex financial litigation pursuant to the federal securities, antitrust, and commodities laws. Lowey Dannenberg also regularly represents some of the world's largest health insurers in healthcare cost recovery actions.

Lowey Dannenberg has recovered billions of dollars for its clients and the classes they represent. Those clients include some of the nation's largest pension funds, e.g., the California State Teachers' Retirement System ("CalSTRS"), the Treasurer of the Commonwealth of Pennsylvania and the Pennsylvania Treasury Department, the New York State Common Retirement Fund, and the New York City Pension Funds; sophisticated institutional investors, including Federated Investors, which manages more than \$600 billion in assets; and Fortune 100 companies like Aetna, Anthem, CIGNA, Humana, and Verizon.

Aetna and Humana have publicly lauded Lowey in Corporate Counsel Magazine as their "Go To" outside counsel because of the firm's years of service to Fortune 100 health insurers in opt-out litigation involving state and federal fraud claims.



The Court itself had occasion to notice the high quality of [Lowey Dannenberg's] work, both in briefs and oral argument. Moreover, counsels' achievement in obtaining valuable recompense and forward-looking protections for its clients is particularly noteworthy given the caliber and vigor of its adversaries.

Judge Jed Rakoff, In re GSE Bonds Antitrust Litigation, No. 19-CV-1704 (S.D.N.Y.)

Data Breach Class Actions

Lowey Dannenberg represents both consumers and financial institutions in some of the largest data breach class actions this year, including those affecting tens of millions of customers across the hospitality, healthcare, and retail industries.

Barr v. Drizly, LLC, Case No. 20-CV-11492 (D. Mass.)

Lowey Dannenberg served as court-appointed class counsel on behalf of millions of consumers impacted by a data breach at one of the largest alcohol delivery companies, Drizly LLC (“Drizly”). On March 30, 2021, U.S. District Judge Leo T. Sorokin granted preliminary approval of a settlement in which Drizly agreed to pay a total of no less than \$1,050,000 and no more than \$3,150,000, and issue service credits up to \$447,750. Drizly also agreed to implement and maintain sufficient data security measures to prevent future data breaches. On November 22, 2021, the Court granted final approval of the settlement. As a result of Lowey Dannenberg’s robust notice program, Drizly paid the maximum amount under the terms of the settlement.

In re Wawa, Inc. Data Security Litigation, No. 19-cv-06019 (E.D. Pa.)

Lowey Dannenberg serves as co-lead counsel in a class action against Wawa, Inc. (“Wawa”) on behalf of a class of financial institutions affected by Wawa’s failure to properly secure their card processing system. As a result of Wawa’s conduct, unauthorized third parties were able to gain access to customers’ payment card information for over nine months. The data breach is estimated to have impacted more than 30 million individuals at 850 locations. Judge Gene E.K. Pratter of the U.S. District Court for the Eastern District of Pennsylvania sustained several of Plaintiffs’ claims, including negligence and injunctive relief. On October 12, 2023, Lowey received preliminary approval for a \$28.5 million settlement for a class of financial institutions.

Under the Settlement, Wawa has committed a total of up to \$28.5 million to compensate class members that submit valid claims, including: (1) up to \$18.5 million to cover costs associated with cancelling and replacing payment cards in response to the data breach; (2) up to \$8 million for losses resulting from payment card fraud; and (3) up to \$2 million to be distributed to class members that attest to incurring other costs, in the alternative to filing another form of claim.

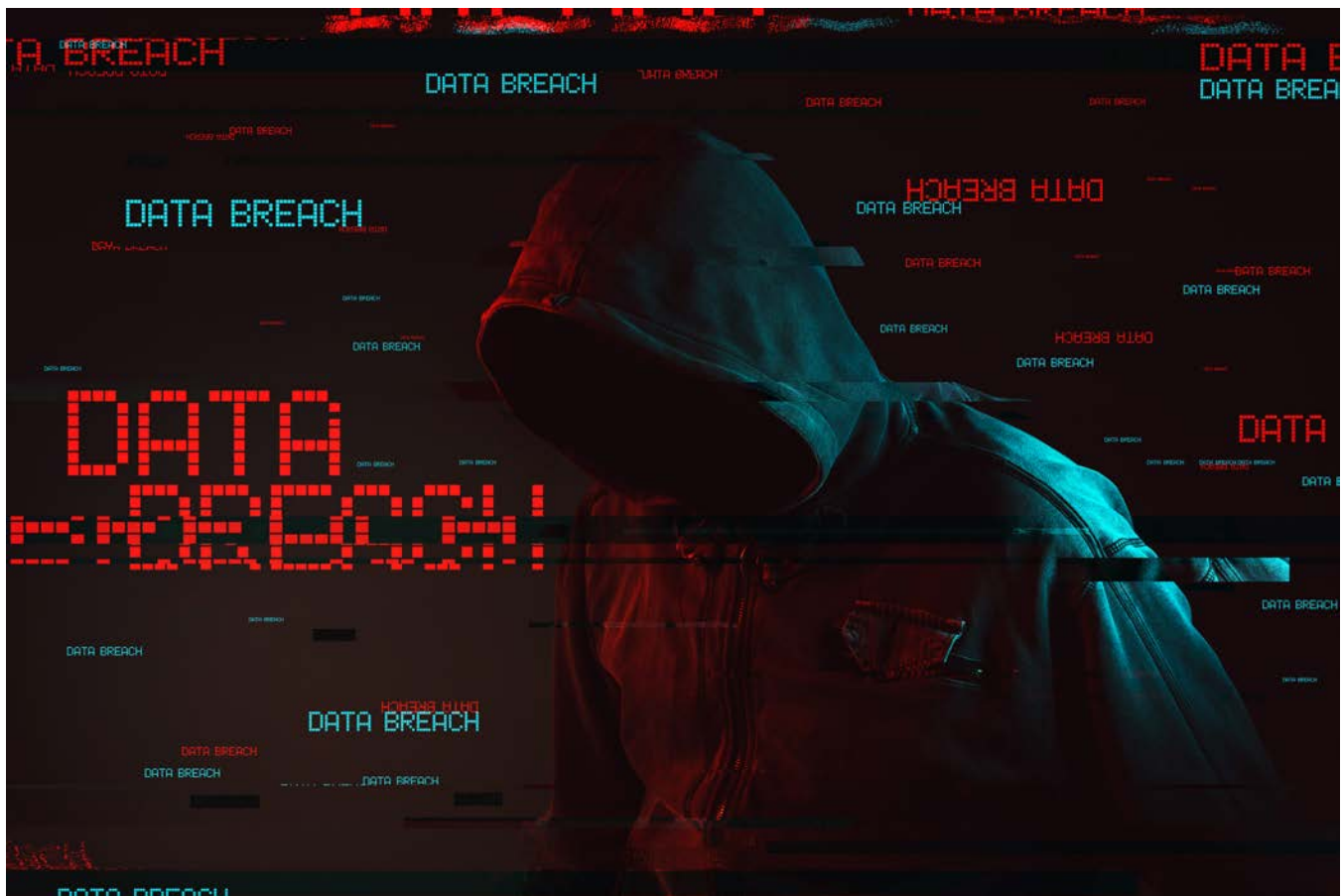
Hozza v. PrimoHoagies Franchising, Inc., No. 20-cv-04966 (D.N.J.)

Lowey Dannenberg recently settled a class action against PrimoHoagies Franchising, Inc. (“PrimoHoagies”) arising out of the company’s deficient data security that exposed consumers’ personal data, including credit card information. The data breach is estimated to have lasted seven months, impacting dozens of locations across seven states. On March 22, 2023, Lowey received final approval for a settlement for a class of consumers that allows for up to \$120 for out-of-pocket expenses and an additional \$7.50 for lost time related to the data breach. In addition to payments, class members received one year of credit-monitoring services valued as \$119.40.

In re Rutter’s Inc. Data Security Breach Litigation, No. 20-cv-00382 (M.D. Pa.)

Lowey Dannenberg is serving as co-lead class counsel in a class action on behalf of consumers against Rutter’s Holdings, Inc. (“Rutter’s”). The action arises out of Rutter’s failure to secure its point-of-sale system, which allowed hackers to compromise customers’ payment card information. The breach is estimated to have lasted approximately eight months.

Chief Judge John E. Jones, III of the U.S. District Court for the Middle District of Pennsylvania sustained several of Plaintiffs’ key claims, including negligence, breach of implied contract, and unjust enrichment. During discovery, Lowey Dannenberg successfully argued that Rutter’s must turn over investigative reports prepared by third party consultants, which Rutter’s argued were protected by the attorney-client privilege and work product doctrine.



In re USAA Data Security Litigation, No. 21-cv-05813 (S.D.N.Y.)

On November 17, 2021, Judge Vincent L. Briccetti appointed Lowey Dannenberg as co-lead counsel representing a proposed class of consumer plaintiffs. The case alleges that United Services Automobile Association (“USAA”) allowed unauthorized third parties to intentionally target and improperly obtain Plaintiffs’ and class members’ personally identifiable information, including Driver’s License numbers, through the use of USAA’s online insurance quote and/or policy process. Plaintiffs defeated Defendant’s Motion to Dismiss, including sustaining claims pursuant to the Drivers Privacy Protection Act.

In re: NCB Management Services, Inc. Data Breach Litigation, No. 23-cv-1236 (E.D. Pa.)

On June 5, 2023, Judge Kai N. Scott appointed Christian Levis of Lowey Dannenberg as co-lead counsel representing a proposed class of plaintiffs. The consolidated class action alleges that NCB failed to properly secure, safeguard, and protect the personally identifiable information (including driver’s license numbers, Social Security numbers, and account numbers) of its clients’ customers, whose accounts NCB serviced.

In re: Data Security Cases Against Nelnet Servicing, LLC, No. 22-cv-3191 (D. Neb.)

On January 30, 2023, Judge Cheryl R. Zwart appointed Lowey Dannenberg as co-lead counsel representing a proposed class of plaintiffs. The consolidated class action alleges that Nelnet failed to properly secure, safeguard, and protect the personally identifiable information (including Social Security numbers) of student loan borrowers.

Privacy Class Actions

Lowey Dannenberg is at the forefront of some of the most high-profile and largest privacy cases in the country, including those involving new and emerging technology.

In re Google Assistant Privacy Litigation, No. 19-cv-04286 (N.D. Cal.)

Lowey Dannenberg serves as co-lead class counsel in one of the largest privacy cases in the country, representing a class of consumers against tech giant Google. Plaintiffs' claims arise out of Google's unlawful and intentional recording of Plaintiffs' and class members' confidential communications without their consent through its Google Assistant software. Lowey Dannenberg has successfully defeated several rounds of motion to dismiss briefing over two years of litigation, and recently certified a class.

Lopez v. Apple, Inc., No. 19-cv-04577 (N.D. Cal.)

Similar to the case above, Lowey Dannenberg serves as co-lead class counsel in a class action on behalf of consumers alleging that Apple unlawfully and intentionally recorded Plaintiffs' and class members' confidential communications without their consent through its Siri-enabled devices. On September 2, 2021, Judge Jeffrey S. White of the Northern District of California credited Plaintiffs' well-pled allegations in sustaining several of Plaintiffs' claims, including those under the Federal Wiretap Act, the California Invasion of Privacy Act, and the California Constitution.

In re Apple Processor Litigation, No. 18-cv-00147 (N.D. Cal.)

Lowey Dannenberg currently serves as co-lead class counsel in a proposed class action against Apple alleging that Plaintiffs and the class were harmed by Apple's failure to disclose defects in its central processing units (CPUs) that Apple designed and placed in millions of its devices, which exposed users' sensitive personal information to unauthorized third parties. After dismissal for lack of standing, Lowey Dannenberg led the appellate efforts before the U.S. Court of Appeals for the Ninth Circuit who ultimately vacated the District Court's decision and remanded for further proceedings.

Frasco v. Flo Health, Inc., No. 21-cv-00757 (N.D. Cal.)

Lowey Dannenberg serves as court appointed co-lead counsel in a class action against Flo Health, Inc. ("Flo"), Google, LLC, Facebook, Inc., AppsFlyer, Inc. and Flurry, Inc. Plaintiffs represent a class of consumers alleging that Flo collected and disclosed their intimate health data to some of the largest data analytics and advertising companies in the world. Plaintiffs allege claims for invasion of privacy, breach of contract, and violation of the Federal Wiretap Act, among others. Lowey Dannenberg successfully defeated two separate motions to dismiss, including sustaining first-of-its-kind aiding and abetting violations of the California Confidentiality of Medical Information Act claims against Google, Meta, and Flurry.

Wesch v. Yodlee, Inc., No. 20-cv-05991 (N.D. Cal.)

Lowey Dannenberg is leading the prosecution against Yodlee, Inc., one of the largest data and analytics companies in the world. Lowey Dannenberg represents a class of consumers whose financial data Yodlee, Inc. surreptitiously collected and sold without consent through software incorporated in third party applications. Lowey Dannenberg has successfully defeated two rounds of motion to dismiss briefing and a motion for summary judgment, leaving intact claims for invasion of privacy, fraud, unjust enrichment, and violation of California's Anti-Phishing Act.

Doe v. Hey Favor, Inc., 3:23-00059 (N.D. Cal.)

Lowey Dannenberg represents a class of Hey Favor, Inc. website and app users alleging their personal data, including prescription information, were unlawfully disclosed to and intercepted by Meta Platforms, Inc., TikTok, Inc., and FullStory, Inc. using sophisticated tracking technology (e.g., the Meta Pixel, the TikTok Pixel, and Session Replay Software).

Laskowski v. Florida Health Sciences Center, Inc., No. 8:23-cv-00456 (M.D. Fl.)

Lowey Dannenberg represents a class of Tampa General Hospital patients who allege that their highly sensitive data, including information relating to their patient status, medical conditions, prescriptions, appointments, specific treatment, messages to healthcare providers and PII was disclosed to Meta Platforms, Inc. through Tampa General Health's intentional incorporation of Meta's tracking software (e.g., the Meta Pixel) on its website and patient portal.

Doe v. The Regents of the University of California, No. 3:23-cv-00598 (N.D. Cal.)

Lowey Dannenberg represents a class of University of California San Francisco Medical Center ("UCSF") patients who allege that their highly sensitive data, including information relating to their medical conditions, appointments, specific treatment, messages to health care providers, and PII was disclosed to Meta Platforms, Inc. through UCSF's incorporation of Meta's tracking software (e.g., the Meta Pixel) on its website and patient portal.

Doe v. GoodRx Holdings, Inc. et al, No. 3:23-00501 (N.D. Cal.)

Lowey Dannenberg serves as court appointed co-lead counsel in a class action against GoodRx Holdings, Inc. ("GoodRx"), Meta Platforms, Inc. ("Meta"), Google LLC ("Google"), and Criteo Corp. ("Criteo"). Plaintiffs represent a class of GoodRx website and app users alleging their personal data, including prescription information, was unlawfully disclosed to and intercepted by Meta, Google, and Criteo using sophisticated tracking technology (e.g., pixels, software development kits, and session replay software).



Protecting Investors in Financial Markets

Antitrust Cases in the Financial Markets

Lowey Dannenberg regularly serves as court appointed lead or co-lead counsel on some of the most important and complex antitrust class actions against some of the world's largest corporations, financial institutions, and producers. The firm has more than 40 attorneys who specialize in prosecuting these cases, including the following representative matters.

In re GSE Bonds Antitrust Litigation

Lowey Dannenberg served as Court-appointed Co-Lead Counsel in an antitrust class action alleging that several of the world's largest banks and brokers conspired to fix the prices of debt securities issued by government sponsored entities (e.g., Fannie Mae, Freddie Mac, Federal Farm Credit Banks, and Federal Home Loan Banks) between 2009 and 2016. *In re GSE Bonds Antitrust Litigation*, No. 19-cv-1704 (S.D.N.Y.) (Rakoff, J.).

On June 16, 2020, Judge Jed S. Rakoff finally approved settlements with all defendants totaling more than \$386 million. Judge Rakoff praised "the high quality of [Lowey's] work, both in briefs and oral argument," and Lowey's achievement in "obtaining valuable recompense and forward-looking protections for its clients" in the face of vigorous opposition from adversaries of the highest caliber. See *In re GSE Bonds Antitrust Litig.*, No. 19-CV-1704 (JSR), 2020 WL 3250593 (S.D.N.Y. June 16, 2020). Notably, in addition to the substantial financial recovery in the case, Lowey worked closely with its client, the Treasurer of the Commonwealth of Pennsylvania, to curb future misconduct and successfully negotiated settlement provisions that required each defendant to maintain or create a compliance program designed prevent and detect future anticompetitive conduct in the GSE Bond Market.

In re Mexican Government Bonds Antitrust Litigation

Lowey Dannenberg serves as Court-appointed sole Lead Counsel in a class action against 10 global financial institutions that allegedly violated the Sherman Act by colluding to fix the prices of debt securities issued by the Mexican Government between 2006 and 2016. Plaintiffs are eight institutional investors that transacted in Mexican government debt, including directly with Defendants. The case is pending before Judge J. Paul Oetken in the Southern District of New York. On October 28, 2021, Judge Oetken granted final approval of a settlement with Defendants JPMorgan Chase and Barclays PLC for \$20.7 million. *In re Mexican Government Bonds Antitrust Litigation*, 1:18-cv-02830 (S.D.N.Y.). On February 9, 2024, the United States Court of Appeals for the Second Circuit vacated an order granting the remaining Defendants' motion to dismiss for lack of personal jurisdiction and remanded the case back to the district court for further proceedings.

In re European Government Bonds Antitrust Litigation

Lowey Dannenberg serves as court-appointed co-lead counsel in *In re European Government Bonds Antitrust Litigation*, Case No. 19-cv-2601 (VM) (S.D.N.Y.). The case is currently pending before Judge Victor Marrero in the Southern District of New York, and involves alleged price-fixing by dealers responsible for bringing bonds issued by Eurozone member countries to the secondary market. On July 23, 2020, Judge Marrero sustained antitrust claims against three dealers and allowed Plaintiffs to seek leave to replead their claims against the remaining defendants. Judge Marrero has also preliminarily approved two Settlements with State Street and JPMorgan, resulting in a settlement fund of \$13 million. *In re European Gov't Bonds Antitrust Litig.*, No. 19-cv-2601 (VM), 2020 WL 4273811 (S.D.N.Y. July 23, 2020).

Sullivan, et al. v. Barclays plc, et al. (Euribor)

Lowey Dannenberg is co-lead counsel prosecuting claims against international financial institutions responsible for setting the Euro Interbank Offered Rate (“Euribor”), a global reference rate used to benchmark, price and settle over \$200 trillion of financial products. Co-Lead Plaintiffs include the California State Teachers’ Retirement System (“CalSTRS”). So far, Lowey Dannenberg has recovered a total of \$546.5 million for Euribor-based derivatives investors, which includes (1) a \$94 million settlement with Barclays plc and related Barclays entities; (2) a \$45 million settlement with Defendants HSBC Holdings plc and HSBC Bank plc; (3) a \$170 million settlement with Defendants Deutsche Bank AG and DB Group Services (UK) Ltd.; and (4) a \$182.5 million settlement with Defendants Citigroup Inc., Citibank, N.A., JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A. On November 15, 2022, Judge Castel issued an Order granting final approval of an additional \$55 million settlement with Defendants Crédit Agricole S.A. and Crédit Agricole CIB.

On October 31, 2023, the Court finally approved a settlement with Defendant Société Générale for \$105,000,000. The claims against the remaining defendants in the case are presently on appeal before the United States Court of Appeals, Second Circuit.

Laydon v. Mizuho Bank, Ltd., et al.; Sonterra Capital Master Fund Ltd., et al. v. UBS AG, et al. (Yen-LIBOR and Euroyen TIBOR)

Lowey Dannenberg is sole lead counsel prosecuting claims against international financial institutions responsible for the intentional and systematic manipulation of the London Interbank Offered Rate (“LIBOR”) for the Japanese Yen and Euroyen TIBOR (the Tokyo Interbank Offered Rate). The firm represents clients in two actions relating to manipulation of products price-based on these benchmarks (“Euroyen-based derivatives”): *Laydon v. Mizuho Bank, Ltd. et al.*, 12-cv-03419 (S.D.N.Y.) (Daniels, J.) (involving exchange based Euroyen-based derivatives) and *Sonterra Capital Master Fund, Ltd. et al. v. UBS AG et al.*, 15-cv-5844 (Daniels, J.) (involving over-the-counter Euroyen-based derivatives). Co-Lead Plaintiffs in the *Sonterra* matter include CalSTRS. In the *Sonterra* action, Lowey Dannenberg recently prevailed on its appeal before the United States Court of Appeals, Second Circuit, which reversed the lower court’s dismissal of the case. *Sonterra Capital Master Fund Ltd. v. UBS AG*, 954 F.3d 529 (2d Cir. 2020).

Lowey Dannenberg has thus far recovered \$329.5 million for the Settlement Class and received substantial cooperation from settling defendants that it is using in the actions against the remaining defendants. In 2016, Judge Daniels granted final approval of a \$35 million settlement with HSBC Holdings plc and HSBC Bank plc, a \$23 million settlement with Citigroup, Inc. and several Citi entities, and a cooperation settlement with R.P. Martin. In 2017, Judge Daniels granted final approval of a \$77 million settlement with Deutsche Bank AG and DB Group Services (UK) Ltd. and a \$71 million settlement with JPMorgan Chase & Co. and related entities. On July 12, 2018, Judge Daniels granted final approval of a \$30 million settlement with the The Bank of Tokyo-Mitsubishi UFJ, Ltd. and Mitsubishi UFJ Trust and Banking Corporation. In December 2019, the court finally approved two sets of settlements, one with Bank of Yokohama, Ltd., Shinkin Central Bank, The Shoko Chukin Bank, Ltd., Sumitomo Mitsui Trust Bank, Ltd. and Resona Bank, Ltd. for \$31.75 million, and the second with Mizuho Bank, Ltd., Mizuho Corporate Bank, Ltd., and Mizuho Trust & Banking Co., Ltd., The Norinchukin Bank, and Sumitomo Mitsui Banking Corporation for \$39.25 million. On March 14, 2023, Judge Daniels granted final approval of three settlements with Barclays Bank PLC, Barclays Capital Inc., and Barclays PLC for \$17,750,000; Nex International Limited (f/k/a ICAP plc) and ICAP Europe Limited for \$2,375,000; and TP ICAP plc (f/k/a Tullett Prebon plc and n/k/a TP ICAP Finance plc) for \$2,375,000.

In re London Silver Fixing Ltd., Antitrust Litig.

Lowey Dannenberg is serving as co-lead counsel on behalf of a class of silver investors, including Commodity Exchange Inc. (“COMEX”) silver futures contracts traders, against banks that allegedly colluded to fix the London Silver Fix, a global benchmark that impacts the value of more than \$30 billion in silver and silver-based financial instruments. Judge Valerie E. Caproni sustained Sherman Antitrust Act and CEA claims alleged in Lowey Dannenberg’s complaint, which relied predominately on sophisticated econometric analysis that Lowey Dannenberg developed in conjunction with a team of leading financial markets experts. See *In re London Silver Fixing Ltd., Antitrust Litig.*, No. 14-md-2573, 2016 WL 5794777 (S.D.N.Y. Oct. 3, 2016). In appointing Lowey Dannenberg, the Court praised Lowey Dannenberg’s experience, approach to developing the complaint, attention to detail, and the expert resources that the firm brought to bear on behalf of the class. See *In re London Silver Fixing Ltd., Antitrust Litig.*, Case No. 14-md-2573 (VEC), ECF No. 17 (Nov. 25, 2014 S.D.N.Y.) (Caproni, J.). On June 15, 2021, Judge Caproni granted final approval of a \$38 million settlement with Deutsche Bank AG and several of its subsidiaries. See Final Approval Order

of Settlement with Deutsche Bank AG, Deutsche Bank Americas Holding Corporation, DB U.S. Financial Markets Holding Corporation, Deutsche Bank Securities, Inc., Deutsche Bank Trust Corporation, Deutsche Bank Trust Company Americas, and Deutsche Bank AG New York Branch, *In re London Silver Fixing, Ltd., Antitrust Litig.*, No. 14-md-2573 (S.D.N.Y. Jun. 15, 2021), ECF No. 536. The case is ongoing against the remaining defendants.

Dennis, et al. v. JPMorgan Chase & Co., et al.

Lowey Dannenberg is co-lead counsel in an antitrust class action against numerous global financial institutions responsible for setting the Australian Bank Bill Swap Reference Rate (“BBSW”), pending before Judge Lewis A. Kaplan in the Southern District of New York. *Dennis, et al. v. JPMorgan Chase & Co., et al.*, No. 16-cv-6496 (LAK) (S.D.N.Y.). The case alleges that the defendants engaged in uneconomic transactions in Prime Bank Bills, a type of short-term debt instrument, to manipulate BBSW. In addition to prevailing against most of the defendants on their motions to dismiss, (see *Dennis v. JPMorgan Chase & Co.*, 343 F. Supp. 3d 122 (S.D.N.Y. 2018), *adhered to on denial of reconsideration*, No. 16-CV-6496 (LAK), 2018 WL 6985207 (S.D.N.Y. Dec. 20, 2018); *Dennis v. JPMorgan Chase & Co.*, 439 F. Supp. 3d 256 (S.D.N.Y. 2020)), Lowey Dannenberg has negotiated class settlements totaling \$185,875,000 with those defendants. Judge Kaplan granted final approval of the settlements on November 1, 2022.

Sonterra Capital Master Fund Ltd. v. Credit Suisse Group AG et al.

Lowey Dannenberg is the court-appointed sole lead counsel in a class action pending before Judge Sidney H. Stein against numerous global financial institutions responsible for setting the London Interbank Offered Rate for the Swiss Franc (“Swiss Franc LIBOR”). *Fund Liquidation Holdings LLC et al. v. Credit Suisse Group AG, et al.*, Case No. 15-cv-0871 (S.D.N.Y.). The case alleges that defendants manipulated Swiss Franc LIBOR and the prices of Swiss Franc LIBOR-Based Derivatives to benefit their derivatives positions. Lowey Dannenberg has negotiated six class settlements with defendants totaling \$73,950,000. On September 28, 2023, the Court finally approved settlements with (1) JPMorgan Chase & Co. for \$22,000,000; (2) Credit Suisse Group AG and Credit Suisse AG for \$13,750,000; (3) Deutsche Bank AG and DB Group Services (UK) Ltd. for \$13,000,000; (4) TP ICAP plc (f/k/a Tullett Prebon plc and n/k/a TP ICAP Finance plc), Tullett Prebon Americas Corp., Tullett Prebon (USA) Inc., Tullett Prebon Financial Services LLC, Tullett Prebon (Europe) Limited, and Cosmorex AG;

Gottex Brokers SA; and Velcor SA for \$2,100,000; and (5) NEX Group plc, NEX International Limited (f/k/a ICAP plc), ICAP Capital Markets LLC (n/k/a Intercapital Capital Markets LLC), ICAP Securities USA LLC, and ICAP Europe Limited for \$2,100,000. On October 24, 2023, the Court finally approved a \$21,000,000 settlement with NatWest Markets Plc (f/k/a The Royal Bank of Scotland plc). The case is ongoing against one remaining defendant.”

Fund Liquidation Holdings LLC v. Citibank, N.A.

Lowey Dannenberg filed a proposed class action in July 2015 alleging that the 20 global financial institutions responsible for setting the Singapore Interbank Offered Rate (“SIBOR”) and the Singapore Swap Offer Rate (“SOR”) manipulated these benchmark rates to benefit their own derivatives positions at the expense of U.S. investors. The Monetary Authority of Singapore investigated these banks and found that traders manipulated SIBOR and SOR, imposing sanctions. On March 17, 2021, the Second Circuit Court of Appeals vacated dismissal of the action and remanded the case to Judge Hellerstein for further proceedings. On November 29, 2022, Judge Hellerstein granted final approval of seven settlements totaling \$155,458,000 with all Defendants in the case. *Fund Liquidation Holdings LLC v. Citibank, N.A., et al.*, 16-cv-5263 (S.D.N.Y.).

Sonterra Capital Master Fund Ltd. v. Barclays Bank PLC et al.

Lowey Dannenberg is co-lead counsel in an antitrust class action against numerous global financial institutions responsible for setting the Sterling London Interbank Offered Rate (“Sterling LIBOR”). *Sonterra Capital Master Fund Ltd. v. Barclays Bank PLC et al.*, Case No. 15-cv-3538 (S.D.N.Y.). The case alleges that defendants manipulated Sterling LIBOR and the prices of Sterling LIBOR-Based Derivatives to benefit their derivatives positions. Lowey Dannenberg and co-lead counsel negotiated a \$5,000,000 settlement with defendant Deutsche Bank AG (“Deutsche Bank”). On November 21, 2023, the Court finally approved the \$5,000,000 settlement with Deutsche Bank. The claims against the remaining defendants in the case are presently on appeal before the United States Court of Appeals for the Second Circuit.

Commodities Litigation

Lowey Dannenberg has successfully prosecuted the most important and complex commodity manipulation actions since the enactment of the Commodity Exchange Act (“CEA”).

As court-appointed lead counsel, Lowey Dannenberg has a history of successfully certifying classes of investors harmed by market manipulation schemes.

Sumitomo

In *In re Sumitomo Copper Litigation* (“Sumitomo”), Master File No. 96 CV 4854 (S.D.N.Y.) (Pollack, J.), Lowey Dannenberg was appointed as one of three executive committee members. Stipulation and Pretrial Order No. 1, dated October 28, 1996, at ¶ 13. Plaintiffs’ counsel’s efforts in *Sumitomo* resulted in a settlement on behalf of the certified class of more than \$149 million, which represented **the largest** class action recovery in the history of the CEA at the time. *In re Sumitomo Copper Litig.*, 182 F.R.D. 85, 95 (S.D.N.Y. 1998). One of the most able and experienced United States District Court judges in the history of the federal judiciary, the Honorable Milton Pollack, took note of counsel’s skill and sophistication:

The unprecedented effort of Counsel exhibited in this case led to their successful settlement efforts and its vast results. Settlement posed a saga in and of itself and required enormous time, skill and persistence. Much of that phase of the case came within the direct knowledge and appreciation of the Court itself. Suffice it to say, the Plaintiffs’ counsel did not have an easy path and their services in this regard are best measured in the enormous recoveries that were achieved under trying circumstances in the face of natural, virtually overwhelming, resistance.

In re Sumitomo Copper Litig., 74 F. Supp. 2d 393, 396 (S.D.N.Y. 1999).

In re Natural Gas

Lowey Dannenberg served as co-lead counsel in *In re Natural Gas Commodity Litigation*, Case No. 03 CV 6186 (VM) (S.D.N.Y.) (“*In re Natural Gas*”), which involved manipulation of the price of natural gas futures contracts traded on the NYMEX by more than 20 large energy companies.

Plaintiffs alleged that Defendants, including El Paso, Duke, Reliant, and AEP Energy Services, Inc., manipulated the prices of NYMEX natural gas futures contracts by making false reports of the price and volume of their trades to publishers of natural gas price indices across the United States, including Platts. Lowey Dannenberg won significant victories throughout the litigation, including:

- > defeating Defendants’ motions to dismiss (*In re Natural Gas*, 337 F. Supp. 2d 498 (S.D.N.Y. 2004));
- > prevailing on a motion to enforce subpoenas issued to two publishers of natural gas price indices for the production of trade report data (*In re Natural Gas*, 235 F.R.D. 199 (S.D.N.Y. 2005)); and
- > successfully certifying a class of NYMEX natural gas futures traders who were harmed by defendants’ manipulation of the price of natural gas futures contracts traded on the NYMEX from January 1, 2000 to December 31, 2002. *In re Natural Gas*, 231 F.R.D. 171, 179 (S.D.N.Y. 2005), *petition for review denied, Cornerstone Propane Partners, LP, et al. v. Reliant Energy Services, Inc., et al.*, Docket No. 05-5732 (2d Cir. August 1, 2006).

The total settlement obtained in this complex litigation—\$101 million—was at the time, the **third largest** recovery in the history of the CEA.

Amaranth

Lowey Dannenberg served as co-lead counsel in *In re Amaranth Natural Gas Commodities Litigation*, Master File No. 07 Civ. 6377 (S.D.N.Y.) (SAS) (“Amaranth”), a certified CEA class action alleging manipulation of NYMEX natural gas futures contract prices in 2006 by Amaranth LLC, one of the country’s largest hedge funds prior to its widely-publicized multi-billion dollar collapse in September 2006. Significant victories Lowey Dannenberg achieved in the *Amaranth* litigation include:

- > On April 27, 2009, Plaintiffs’ claims for primary violations and aiding-and-abetting violations of the CEA against Amaranth LLC and other Amaranth defendants were sustained. *Amaranth*, 612 F. Supp. 2d 376 (S.D.N.Y. 2009).
- > On April 30, 2010, the Court granted Plaintiffs’ motion for pre-judgment attachment pursuant to Rule 64 of the Federal Rules of Civil Procedure and Section 6201 of the New York Civil Practice Law and Rules against Amaranth LLC, a Cayman Islands company and the “Master Fund” in the Amaranth master-feeder-fund hedge fund family. *Amaranth*, 711 F. Supp. 2d 301 (S.D.N.Y. 2010).
- > On September 27, 2010, the Court granted Plaintiffs’ motion for class certification. *Amaranth*, 269 F.R.D. 366 (S.D.N.Y. 2010). In appointing Lowey Dannenberg as co-lead counsel for plaintiffs and the Class, the Court specifically noted “the impressive resume” of Lowey Dannenberg and that “Plaintiffs’ counsel has vigorously represented the interests of the class throughout this litigation.” On December 30, 2010, the Second Circuit Court of Appeals denied Amaranth’s petition for appellate review of the class certification decision.
- > On April 11, 2012, the Court entered a final order and judgment approving the \$77.1 million settlement reached in the action. The \$77.1 million settlement is **more than ten times greater** than the \$7.5 million joint settlement achieved by the Federal Energy Regulatory Commission (“FERC”) and the Commodity Futures Trading Commission (“CFTC”) against Amaranth Advisors LLC and at that time, represented the **fourth largest** class action recovery in the 85-plus year history of the CEA.

Pacific Inv. Mgmt. Co. (“PIMCO”)

Lowey Dannenberg served as counsel to certified class representative Richard Hershey in a class action alleging manipulation by PIMCO of the multi-billion-dollar market of U.S. 10-Year Treasury Note futures contracts traded on the Chicago Board of Trade (“CBOT”). *Hershey v. Pacific Inv. Management Co. LLC*, 571 F.3d 672 (7th Cir. 2009). The case settled in 2011 for \$118.75 million, the **second largest** recovery in the history of the CEA at that time.

Optiver

Lowey Dannenberg acted as co-lead counsel in a proposed class action alleging that Optiver US, LLC and other Optiver defendants manipulated NYMEX light sweet crude oil, heating oil, and gasoline futures contracts prices in violation of the Sherman Antitrust Act and CEA. *In re Optiver Commodities Litigation*, Case No. 08 CV 6842 (S.D.N.Y.) (LAP), Pretrial Order No. 1, dated February 11, 2009. The Honorable Loretta A. Preska of the Southern District of New York granted final approval of a \$16.75 million settlement in June 2015.

White v. Moore Capital Management, L.P.

Lowey Dannenberg acted as counsel to a class representative in an action alleging manipulation of NYMEX palladium and platinum futures prices in 2007 and 2008 in violations of the Sherman Antitrust Act, CEA, and RICO. *White v. Moore Capital Management, L.P.*, Case No. 10 CV 3634 (S.D.N.Y.) (Pauley, J.). Judge William H. Pauley III granted final approval of a settlement in the amount of \$70 million in 2015.

In re Crude Oil Commodity Futures Litigation

Lowey Dannenberg served as counsel to a class representative and large crude oil trader in a Sherman Antitrust Act class action involving the alleged manipulation of NYMEX crude oil futures and options contracts. *In re Crude Oil Commodity Futures Litigation*, Case No. 11-cv-03600 (S.D.N.Y.) (Forrest, J.). The Court granted final approval to a \$16.5 million settlement in January 2016.

Kraft Wheat Manipulation

Lowey Dannenberg serves as court-appointed co-lead counsel for a class of wheat futures and options traders pursuing claims against Kraft Foods Group, Inc. and Mondelez Global LLC (collectively, “Kraft”), alleging Kraft manipulated the prices of Chicago Board of Trade wheat futures and options contracts. On June 27, 2016, Judge Edmond E. Chang denied Kraft’s motion to dismiss Plaintiffs’ CEA, Sherman Act and common law unjust enrichment claims relating to Kraft’s alleged “long wheat futures scheme.” See *Ploss v. Kraft Foods Grp., Inc.*, 197 F. Supp. 3d 1037 (N.D. Ill. 2016). On January 3, 2020, Judge Chang certified a class of wheat futures and options traders to bring the claims in the case. See *Ploss v. Kraft Foods Grp., Inc.*, 431 F. Supp. 3d 1003 (N.D. Ill. 2020). Kraft filed a petition to the United States Court of Appeals for the Seventh Circuit, seeking permission to immediately appeal Judge Chang’s certification of the class, which was denied on February 21, 2020. The case is currently pending before Judge John F. Kness in the Northern District of Illinois.

Lansing Wheat Manipulation

Lowey Dannenberg is serving as co-lead counsel for a class of wheat futures and options traders pursuing claims against Lansing Trade Group, LLC and Cascade Commodity Consulting, LLC, alleging they manipulated the prices of Chicago Board of Trade wheat futures and options contracts in 2015. See *Budicak, et al. v. Lansing Trade Group, LLC, et al.*, No. 19 CV 2499 (JAR) (D. Kan.). On March 25, 2020, Chief District Judge Julie A. Robinson denied Defendants motions to dismiss and sustained claims under the Sherman Act, the CEA, and for unjust enrichment. *Budicak, Inc. v. Lansing Trade Grp., LLC*, No. 2:19-CV-2449-JAR-ADM, 2020 WL 2892860 (D. Kan. Mar. 25, 2020). On December 19, 2022, Judge Toby Crouse granted preliminary approval of proposed settlements with Lansing Trade Group and Cascade Commodity Consulting totaling \$18 million.

The Andersons Wheat Manipulation

Lowey Dannenberg is leading the prosecution of claims on behalf of a class of wheat futures and options traders against The Andersons, Inc. for alleged manipulation of the wheat futures and options market in the fourth quarter of 2017. On July 9, 2021 and May 3, 2022, respectively, the Court denied Defendants’ motions to dismiss in their entirety. *Dennis v. The Andersons Inc.*, Case No. 20-cv-04090 (N.D. Ill.).



SPOOFING LITIGATION

Lowey Dannenberg continues to innovate and is at the forefront of litigation under the CEA arising from claims of market participants spoofing various futures markets.

In re JPMorgan Precious Metals Spoofing Litigation

Lowey Dannenberg serves as Court-appointed sole Lead Counsel in a commodities manipulation class action against JPMorgan and several of its traders, alleging spoofing in the market for precious metals futures and options between 2009 and 2015. Plaintiffs filed a motion for preliminary approval of a \$60 million settlement with Defendant JPMorgan on November 20, 2021. On July 7, 2022, the Court granted final approval of the settlement with JPMorgan. *In re JPMorgan Precious Metals Spoofing Litigation*, No. 18-CV-10356 (S.D.N.Y.).

Boutchard, et al. v. Gandhi, et al. — E-mini Index Futures Spoofing

Lowey Dannenberg is leading the prosecution of claims on behalf of a class of investors that transacted E-mini Index Futures (e.g., Dow, S&P, Nasdaq) and options against Tower Research Capital LLC and several of its traders for alleged spoofing violations between 2012 and 2014. On July 30, 2021, Judge John J. Tharp, Jr. granted final approval of a \$15 million settlement with Tower. *Boutchard v. Gandhi et al.*, No. 18-CV-07041 (N.D. Ill.).

JPMorgan Treasuries Spoofing

On October 9, 2020, the Court appointed Lowey Dannenberg to serve as Interim Co-Lead Counsel in a commodities manipulation class action against JPMorgan, alleging manipulation in the market for U.S. Treasuries futures and options between 2009 and the present. On September 22, 2021, Plaintiffs filed a motion for preliminary approval of a \$15.7 million settlement. On June 3, 2022, the Court granted final approval of the settlement with JPMorgan. *In re JPMorgan Treasuries Spoofing Litigation*, No. 20-CV-3515 (S.D.N.Y.).

Deutsche Treasury and Eurodollar Spoofing

On September 1, 2020, Lowey Dannenberg was appointed Interim Co-Lead Counsel in a commodities manipulation class action against Deutsche Bank, alleging manipulation in the market for U.S. Treasury and Eurodollar futures and options throughout 2013. The case is pending before Judge Joan B. Gottschall in the Northern District of Illinois, *Rock Capital Markets, LLC v. Deutsche Bank Securities Inc.*, No. 20-CV-3638.



Consumer Protection

Lowey Dannenberg has served as lead or co-lead counsel in many challenging consumer protection cases. The firm has recovered millions of dollars on behalf of consumers injured as a result of unfair business practices. The firm's Consumer Protection Group has experience litigating class actions under state and federal consumer protection law and before state and federal courts.

In re FedLoan Student Loan Servicing Litigation

Attorneys from Lowey Dannenberg were appointed by Judge C. Darnell Jones, II as Co-Lead Counsel and Executive Committee members in *In re FedLoan Student Loan Servicing Litigation*, No. 18-MD-2833 (E.D. Pa.) ("*FedLoan*"). Lowey Dannenberg filed the first action in the *FedLoan* litigation alleging that one of the nation's largest student loan servicers, the Pennsylvania Higher Education Assistance Agency, failed to properly service student loans in order to maximize the fees it received from the Department of Education under its loan servicing contract. Lowey Dannenberg also brought claims against the U.S. Department of Education for failing to comply with the Higher Education Act and its own regulations and rules. The alleged scheme harmed student loan borrowers by causing them to accrue additional interest on their loans, improperly extending their repayment terms, and erroneously placing their loans into forbearance. The litigation is ongoing.

Broder v. MBNA Corp.

Lowey Dannenberg served as Lead Counsel in *Broder v. MBNA Corp.*, No. 605153/98 (Sup. Ct., N.Y. County), and recovered \$22.8 million dollars on behalf of a class of holders of credit cards issued by MBNA Bank, who took cash advances in response to a deceptive MBNA promotion. The Court noted that Lowey Dannenberg is an "able law firm having long-standing experience in commercial class action litigation."

Snyder v. Nationwide Insurance Company

In *Snyder v. Nationwide Insurance Company*, Index No. 97/0633 (Sup. Ct. Onondaga Co. December 17, 1998), Lowey Dannenberg, as co-lead counsel, secured a \$100 million dollar settlement for consumers purchasing "vanishing premium" life insurance policies. In approving the settlement, the Court found that the attorneys of Lowey Dannenberg are "great attorneys" who did a "very, very good job" for the class.

Wysocki et al v. ZoomInfo Technologies Inc.

Lowey Dannenberg has recently filed a consumer class action lawsuit against ZoomInfo Technologies and certain of its subsidiaries in United States Federal District Court in the Western District of Washington. The lawsuit alleges that ZoomInfo violated constitutional, statutory and common law privacy rights under the federal and state laws of Plaintiffs and Class Members. *Wysocki et al v. ZoomInfo Technologies Inc. et al*, No. 3:22-CV-05453 (W.D. Wash.).

In Re Archstone Westbury Tenant Litigation

As lead counsel, Lowey Dannenberg successfully represented a class of renters of mold-infested apartments in a \$6.3 million settlement of a complex landlord-tenant class action in *In Re Archstone Westbury Tenant Litigation*, Index No. 21135/07 (N.Y. Sup. Ct. Nassau County).

Lyons v. Litton Loan Servicing LP

In *Lyons v. Litton Loan Servicing LP, et al.*, No. 13-cv-00513 (S.D.N.Y.), Lowey Dannenberg served as Class Counsel and recovered \$4.1 million on behalf of a class of homeowners alleging that mortgage servicers colluded to force them to buy unnecessary lender-placed insurance.

In re Warfarin Sodium Antitrust Litigation

In *In re Warfarin Sodium Antitrust Litigation*, 391 F.3d 516 (3rd Cir. 2004), the Third Circuit Court of Appeals affirmed the United States District Court for the District of Delaware's approval of a \$44.5 million class action settlement paid by DuPont Pharmaceuticals to consumers and third-party payers nationwide to settle claims of unfair marketing practices in connection with the prescription blood thinner, Coumadin. Lowey Dannenberg, appointed by the District Court to the Plaintiffs' executive committee as the representative of third-party payers, successfully argued the appeal.

Lowey Dannenberg's Recognized Expertise

Courts have repeatedly recognized the attorneys of Lowey Dannenberg as expert practitioners in the field of complex litigation.

For example, on March 15, 2013, the Honorable Colleen McMahon of the United States District Court for the Southern District of New York granted final approval of the \$219 million settlement of Madoff feeder-fund litigation encompassing the *In re Beacon* and *In re Jeanneret* class actions. In a subsequent written decision, with glowing praise, Judge McMahon stated:

- > “The quality of representation is not questioned here, especially for those attorneys (principally from Lowey Dannenberg) who worked so hard to achieve this creative and, in my experience, unprecedented global settlement.”
- > “I thank everyone for the amazing work that you did in resolving these matters. **Your clients—all of them—have been well served.**”
- > “Not a single voice has been raised in opposition to this remarkable settlement, or to the Plan of Allocation that was negotiated by and between the Private Plaintiffs, the NYAG and the DOL.”
- > “All formal negotiations were conducted with the assistance of two independent mediators - one to mediate disputes between defendants and the investors and another to mediate claims involving the Bankruptcy Estate. Class Representatives and other plaintiffs were present, in person or by telephone, during the negotiations. The US Department of Labor and the New York State Attorney General participated in the settlement negotiations. **Rarely has there been a more transparent settlement negotiation. It could serve as a prototype for the resolution of securities-related class actions, especially those that are adjunctive to bankruptcies.**”
- > “The proof of the pudding is that an astonishing 98.72% of the Rule 23(b)(3) Class Members who were eligible to file a proof of claim did so (464 out of 470), and only one Class Member opted out [that Class Member was not entitled to recover anything under the Plan of Allocation]. I have never seen this level of response to a class action Notice of Settlement, and I do not expect to see anything like it again.”
- > “I am not aware of any other Madoff-related case in which counsel have found a way to resolve all private and regulatory claims simultaneously and with the concurrence of the SIPC/Bankruptcy Trustee. Indeed, I am advised by Private Plaintiffs’ Counsel that the Madoff Trustee is challenging settlements reached by the NYAG in other feeder fund cases [Merkin, Fairfield Greenwich] which makes the achievement here **all the more impressive.**”

In *Juniper Networks, Inc. Securities Litigation*, the court, in approving the settlement, acknowledged that “[t]he successful prosecution of the complex claims in this case required the participation of highly skilled and specialized attorneys.” *In re Juniper Networks, Inc.*, C06-04327, Order dated August 31, 2010 (N.D. Cal.). In *the WorldCom Securities Litigation*, the court repeatedly praised the contributions and efforts of the firm. On November 10, 2004, the court found that “the Lowey Firm . . . has worked tirelessly to promote harmony and efficiency in this sprawling litigation .

[Lowey Dannenberg] has done a superb job in its role as Liaison Counsel, conducting itself with professionalism and efficiency . . .” *In re WorldCom, Inc. Securities Litigation*, No. 02 Civ. 3288, 2004 WL 2549682, at *3 (S.D.N.Y. Nov. 10, 2004).

CONSUMER PROTECTION

In the *In re Bayer AG Securities Litigation*, 03 Civ. 1546, 2008 WL 5336691, at *5 (S.D.N.Y. Dec. 15, 2008) order approving a settlement of \$18.5 million for the class of plaintiffs, Judge William H. Pauley III noted that the attorneys from Lowey Dannenberg are “nationally recognized complex class action litigators, particularly in the fields of securities and shareholder representation,” that “provided high-quality representation.”

In the *In re Luminent Mortgage Capital, Inc., Securities Litigation*, No. C07-4073 (N.D. Cal.) hearing for final approval of settlement and award of attorneys’ fees, Judge Phyllis J. Hamilton noted that “[t]he \$8 million settlement . . . is excellent, in light of the circumstance.” Judge Hamilton went on to say that “most importantly, the reaction of the class has been exceptional with only two opt- outs and no objections at all received.” See Tr. of Hearing on Plaintiff’s Motion for Final Approval of Settlement/Plan of Allocation and for an Award of Attorneys’ Fees and Reimbursement of Expenses, *In re Luminent Mortgage Capital, Inc., Securities Litigation*, No. C07-4073-PJH (N.D. Cal. Apr. 29, 2009), ECF No. 183.





LOWEY DANNENBERG



Exhibit D

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IN RE HOPE COLLEGE DATA SECURITY
BREACH LITIGATION

Case No: 1:22-CV-01224-PLM

**DECLARATION OF JOSEPH M. LYON OF THE LYON FIRM IN
SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION FOR
ATTORNEYS' FEES, COSTS, EXPENSES, AND SERVICE AWARDS**

I, Joseph M. Lyon, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am the founder of The Lyon Firm, and my firm is one of Plaintiffs' Counsel in this case on behalf of Plaintiffs and the Settlement Class. I have personal knowledge of the facts stated in this Declaration and, if called as a witness, I could and would testify competently to them. I make this Declaration on behalf of Plaintiffs in support of Plaintiffs' Unopposed Motion for Attorneys' Fees, Costs, Expenses, and Service Awards (the "Fee and Expense Application") in connection with the services rendered in the above-captioned consolidated Action and the proposed class action settlement with Defendant Hope College. The statements herein are true to the best of my personal knowledge, information and belief based on my law firm's books and records and information received from its attorneys and staff.

2. Attached as Exhibit A is a current copy of The Lyon Firm Profile.

3. During the pendency of this litigation, Plaintiffs' counsel carefully coordinated their activities to avoid engaging in duplicative work.

4. Among Plaintiffs' counsel, each firm worked to advance the litigation on behalf of Plaintiffs and the putative class members. Plaintiffs' counsel reviewed documents, prepared pleadings, worked with Plaintiffs, and collaboratively developed strategy. With respect to this effort, Plaintiffs' Counsel was careful to work together to perform discrete and non-overlapping tasks to each firm in order to avoid duplicative work, including to my firm. Following the appointment of Settlement Class Counsel (ECF No. 32, PageID 963), this process was further streamlined, as Settlement Class Counsel assumed responsibility for assigning non-duplicative work to advance the settlement process, including assigning final review of the Notice, the Settlement Website, the drafting of this Fee and Expense Application, and the upcoming motion for final approval of class action settlement.

5. During the course of litigation, The Lyon Firm spent time advancing the litigation here by performing the following tasks, including, but not limited to:

- Conducting a pre-suit investigation of the facts of the data breach and its aftermath and thoroughly examining the available facts and law;
- Drafting and filing or submitting: initial, pre-consolidation Complaints; a motion to consolidate and for appointment; an amended complaint; a motion to stay pending settlement discussions; a mediation statement; a motion for preliminary approval of class action settlement, including the Settlement Agreement and its exhibits; a renewed motion for preliminary approval of class action settlement; this Fee and Expense Application here; and an upcoming motion for final approval; of class action settlement;
- Drafting and reviewing pre-mediation discovery documents;
- Participating in an all-day mediation overseen by private mediator Ben Picker;
- Engaging in meet and confer phone calls and emails with Defense Counsel to negotiate parameters of the settlement, to exchange pre-mediation discovery requests regarding mediation, and to mediate and negotiate and finalize the settlement.

6. As summarized below, The Lyon Firm devoted 28 hours to the prosecution and resolution of this matter, resulting in a lodestar of \$23,953. Lodestar has been calculated based on current hourly rates that range from \$875.00 for partners; \$750.00 for associates, and \$195.00 for support staff.

Attorneys	Role	Rates	Hours from inception to [Date]	Lodestar from inception to [Date]
Joseph M. Lyon	Partner	\$875.00	25.4	\$22,225.00
Clint Watson	Associate	\$750.00	2.2	\$1,650.00
Paralegals and Legal Assistants				
Kieanna Coulter	Paralegal	\$195.00	0.4	\$78.00
TOTAL			28	\$23,953

7. The Lyon Firm regularly prepared and maintained files contemporaneously documenting time spent, including tasks performed, and expenses incurred, relating to this matter.

Supporting time records are available at the request of the Court for review in camera.

8. My firm is not making a claim for incidental expenses in this matter.

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

Executed on March 25, 2025
in Hamilton County, Ohio

/s/ Joseph M. Lyon
Joseph M. Lyon

**EXHIBIT A TO DECLARATION
OF JOSEPH M. LYON**



THE LYON FIRM
Attorneys and Counselors at Law

FIRM PROFILE

The Lyon Firm is a Cincinnati, Ohio based law firm, representing individuals nationwide in class action and product liability litigation. The Firm also has offices in St. Louis, Missouri and Irvine, California. Joseph M. Lyon is the founder and sole member of the Firm that includes four attorneys and three staff members. The attorneys are licensed in Ohio, California, Kentucky, Illinois, Missouri, and Arizona, as well as numerous federal courts.

Over the past 20 years, The Firm has represented thousands of individual clients in both federal and state court consolidated actions. Mr. Lyon has also participated as Class Counsel, on Executive and Steering Committees, and as plaintiffs' counsel on over a hundred class actions. These complex cases have involved a diverse range of legal, scientific, regulatory, and public policy issues involving medical devices, pharmaceutical products, antitrust, toxic consumer products, and data privacy matters.

The Firm has a long history of successful complex litigation work having represented plaintiffs in over thirty-eight (39) Multi-District Litigations ("MDL"). Firm members have worked alongside many of the leading Plaintiff Firms on leadership committees to develop common benefit evidence related to general liability and general causation, as well as case specific causation evidence.

In addition, Firm members have dedicated much of their careers to representing individual plaintiffs in catastrophic single event litigation. This rewarding work has provided families with answers to difficult questions of liability and has resulted in numerous life-changing settlements that have assisted with long-term medical needs and compensation for significant financial and personal loss. The single event litigation has required the Firm to consistently learn new subject matters, develop impactful case themes, and design unique discovery plans. The single events cases have involved a variety of legal, medical, and engineering issues arising from automotive product defects, firearm defects, medical malpractice, workplace injuries, consumer product toxic exposure, environmental contamination, benzene exposure, and asbestos exposure.

More recently, the Firm has focused on privacy class action matters involving both data security issues ("Data Breach") and unauthorized tracking and data sharing ("Pixel") litigation. Many of these matters involve industry-wide failures in the health care and financial services industries that have created an unprecedented loss of personal privacy and consumer value. The Firm has been intimately involved in the law and briefing and developing new case law in this innovative field of law throughout the country.

Through all of the practices, the Firm work has contributed to positive corporate change and accountability, resulting in safer products, more secure data privacy, and hundreds of millions of dollars of returned value to Plaintiffs and Consumers nationwide.



FIRM PROFILE

JOSEPH M. LYON

Professional Experience

- The Lyon Firm, A Law Corporation; Founder & Sole Member (9/2006-Present)
- Lopez, Hodes, Restaino, Milman & Skikos, A Law Corp.; Associate

Admissions to Practice Law

- California
- Ohio
- Kentucky
- United States Court of Appeals, 6th Circuit
- United States Court of Appeal 8th Circuit
- United States District Court, Southern District of Ohio
- United States District Court, Northern District of Ohio
- United States District Court, Northern District of California
- United States District Court, Central District of California
- United States District Court, Colorado
- United States District Court, Northern District of Illinois
- United States District Court, Eastern District of Kentucky
- United States District Court, Western District of Kentucky
- United States District Court, Eastern District of Michigan
- United States District Court, Eastern District of Wisconsin
- United States District Court, Western District of Wisconsin
- United States District Court, Nebraska
- United States District Court, North Dakota

Education

- Chicago Kent College of Law, Illinois Institute of Technology, Chicago, IL, J.D. (2002)
 - :
 - Federal Judicial Externship: United States District Court for the Northern District of Illinois, Judge William Hibbler; (January 2001-September 2001)
 - Law Review: Member of Chicago-Kent Journal of International and Comparative Law.
- Loyola University, Baltimore MD, B.A. in Political Science (1999)
 - International Study:
 - Katholieke Universiteit, Leuven, Belgium (9/1997-6/1998)
 - St. Louis University, Madrid, Spain (9/1998-12/1998)



THE LYON FIRM
Attorneys and Counselors at Law

FIRM PROFILE

Representative Lead Class Counsel Experience:

- ***Migliaccio v. Parker Hannifin Corp.***, Case No. 1:22-cv-00835 (N.D. Ohio): Appointed co-lead class counsel by Judge Polster in data breach class action against multi-national manufacturer impacting 115,843 current and former employees; Final Approval granted for a \$1.75 million non-reversionary common fund.
- ***Tucker v. Marietta Area Health Care, Inc.***, No. 2:22-cv-00184 (S.D. Ohio): Appointed co-lead in consolidated data breach class action involving ransomware attack on Ohio hospital that compromised the PII and PHI of 216,478 patients; Final Approval granted for a \$1.75 million non-reversionary common fund.
- ***Hawkins v. Navy Federal Credit Union***, Case No: 1:19-cv-01186 (E.D. Va.): Appointed co-lead class counsel in TCPA class action; Final Approval granted for nationwide class and non-reversionary common fund settlement of \$9.25 million providing monetary compensation for class of over 66,000.
- ***In Re Southern Ohio Health System Data Breach***, Case No: A-2101886 (Hamilton County, Ohio): Appointed co-lead counsel in consolidated data breach class action impacting two Ohio hospital systems and 420,433 patients' healthcare information; Final Approval granted for nationwide non-reversionary common fund settlement of \$1.95 million.
- ***Devine v. Health Aide of Ohio***, Case No: cv-21-948117 (Cuyahoga County, Ohio): Appointed co-lead class counsel in consolidated data breach class action involving 141,149 medical patients; Final Approval granted for a claims made nationwide settlement providing monetary benefits and additional identity theft protection valued at over \$12.5 million.
- ***Engle v. Talbert House***, No. A 2103650 (Hamilton County, Ohio): Appointed co-lead class counsel in a data breach class action impacting over 300,000 medical patients; Final Approval granted for nationwide claims made settlement providing monetary benefits and additional identity theft protection with claimed value at \$1.7 million and offered class value of \$49.8 million.
- ***Miranda v. Xavier University***, No. 1:20-cv-00539 (S.D. Ohio): Appointed as interim co-lead class counsel for nursing students in a class action arising from the breach of contract to provide clinical education and experience through the coursework; Final Approval granted for a \$700 thousand non-reversionary common fund for tuition reimbursement.
- ***Wade v. U.S. Bank National Association***, Case No: A-1501522 (Hamilton County, Ohio): Appointed co-lead class counsel in state mortgage satisfaction class action; Final approval for non-reversionary common fund of \$1.75 million providing monetary compensation to a class of over 45,000.00 mortgage holders.
- ***McKittrick v. Allwell Behavioral***, Case No CH2022-0174 (Muskingum County, Ohio): Appointed interim co-lead class counsel in data breach class action impacting 29, 972 patients; Final approval granted for \$650,000 non-reversionary common fund.



THE LYON FIRM
Attorneys and Counselors at Law

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- ***Hasell v. Spear Wilderman P.C.***, NO. 230401942. (C.P., Philadelphia, P.A.): Appointed interim co-lead class counsel in data breach action against law firm alleging negligent data security practices impacting 86,287 individuals; Final approval for \$800,000 non-reversionary fund.
- ***Pederson v. AAA Collections, Inc.***, Case No. 4;22-cv-04166 (Dist. of N.D): Appointed interim Co-Lead Counsel; Preliminary Approval granted for non-reversionary common fund of \$865 thousand for nationwide class of 66,732 individuals.
- ***Bae v. Pacific City Bank***, No. 21STCV45922 (Los Angeles County Superior Court, Cal.): Appointed as interim co-lead class counsel in a data breach class action involving 15,037 customers; Preliminary Approval granted establishing a non-reversionary common fund of \$700,000.
- ***Owens v. US Radiology Specialist, Inc.***, Case No. 22 CVS 17797 (Mecklenberg County, N.C): Proposed Settlement Class Counsel; Preliminary Approval pending for \$5.05 million non-reversionary common fund for 1.3 million consumers.
- ***Forslund v RR Donnelly***, Case No: 1:22-cv-04260 (N.D. Ill.): Appointed interim co lead class counsel in healthcare data breach impacting over 80,000 consumers; Motion for Preliminary Approval of non-reversionary common fund of is pending that would provide \$970,000 non-reversionary common fund.
- ***Suhr v. DC Health Link***, Case No. 1:23-cv-00694 (D.D.C.): Appointed co-lead class counsel in highly publicized consolidated action involving a data breach impacting the health insurance marketplace for the District of Columbia. Motion practice is ongoing.
- ***In re: NCB Management Services, Inc. Data Breach Litigation***, Case No. 2:23-cv-01236 (E.D. Pa): Appointed interim co-lead class counsel in consolidated action involving a data breach impacting over 1 million consumers. Motion practice is ongoing.
- ***Rodriguez v Christus Health.***, Case No. 3:22-cv-02899 (N.D. Tx.): Appointed interim co lead class counsel in healthcare data breach impacting over 700,000 patients; Motion practice is ongoing.
- ***Henderson v. Reventics, LLC***, Case No. 1:23-cv-00586 (D. Colo.): Appointed co-lead class counsel in consolidated data breach action impacting over 4.2 million healthcare consumers. Motion practice is ongoing.
- ***Pulliam v. West Technology Group, LLC***, Case No: 8:23-cv-00159 (Dist. or Neb.): Appointed interim Co-Lead Counsel in consolidated ransomware action impacting 138,000 employees and consumers; Appellate practice ongoing).
- ***Rodriguez v. Professional Finance Company, Inc.***, Case No: 22-cv-01679 (D. Colo.): Appointed interim co-lead class counsel in consolidated action involving a data breach impacting over 2 million consumers; Preparing Motion for Preliminary Approval.



THE LYON FIRM
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FIRM PROFILE

Representative Steering Committee & Class Counsel Experience:

- ***Desue, et al. v. 20/20 Eye Care***, Case No: 21-CV-61275 (S.D. Fla.): Appointed to Plaintiffs' Executive Committee in data breach class action impacting 3.2 million patients' personal and healthcare information. Motion to Dismiss denied in part and granted in part; Final Approval granted for a \$3,000,000 non-reversionary common fund.
- ***K.B.(Minor) v. East Tennessee Children's Hospital Association, Inc.***, Case No. C2LA0081 (Anderson County, Tenn.): Appointed Settlement Co-Class Counsel; Final Approval for \$1.55 million non-reversionary settlement fund for patients whose personal and medical information was compromised in a data breach; minor class members will receive 10 year of identity theft defense
- ***Miller v NextGen Healthcare, Inc.***, Case No: 1:23-cv-02043 (N.D. Ga.): Appointed to Plaintiff's Steering Committee in consolidated action involving a data breach impacting over a million consumers. Preliminary pleadings and case management issues are ongoing.
- ***Anderson v. Fortra, LLC***, Case No: 23-cv-533 (D. Minn.): Appointed to Plaintiffs Executive Committee in consolidated action in a data breach impacting over 160 companies and millions of consumers. Motion practice is ongoing.
- ***Baker, et al. v. Parkmobile, LLC***, Case No: 1:21-CV-2182 (N.D. Ga): Appointed to Plaintiffs' Steering Committee in data breach class action impacting the personal information of over 21 million customers. Discovery is ongoing.
- ***MDL 1748 In Re: Testosterone Replacement Therapy Products Liability Litigation.***
Assisted in centralization and consolidation of over 4,000 cases before Judge Kennelly in the Northern District of Illinois. Performed document review and coding on regulatory and custodial files related to deceptive and off label marketing claims and adverse events; Developed consulting relationship with leading experts and created medical literature summaries; Organized deposition summaries for bellwether trials.
- ***MDL 2327 In Re: Ethicon, Inc. Pelvic Repair Systems Product Liability Litigation.***
Performed document review and coding on custodial files on product design, labelling, opinion leaders, adverse events, and regulatory approval; Assisted in preparation for corporate 30(b)(6) depositions, opinion leader depositions, and bellwether trials.
- ***In Re: Actos (Pioglitazone) Products Liability Litigation. Wisniewski v. Takeda Pharmaceuticals et al.***, Case No. 120702272: Co-Counsel for bellwether trial in Philadelphia County. Jury awarded \$2,340,000.00 in compensatory damages.
- ***MDL 1598 In Re: Ephedra Products Liability Litigation:*** Coordinated GNC document review, assisted in deposition preparation for 30(b)(6) depositions, and participated in bellwether trial support.



THE LYON FIRM
Attorneys and Counselors at Law

FIRM PROFILE

Representative Current Multi District Litigation (Case Specific Work):

- MDL 3044 In Re: Exactech Products Liability Litigation
- MDL 2738 In Re: Johnson & Johnson Talcum Powder
- MDL 2885 In Re: 3M Product Liability Litigation
- MDL 3004 In Re: Paraquat Product Liability Litigation
- MDL 2974 In Re: Paraguard IUD Product Liability Litigation
- In Re Pam Cooking Spray Consolidated Actions (Cook County, IL)

Representative Past Multi District Litigation (Case Specific Work):

- MDL 2741 In Re: Roundup Products Liability Litigation
- MDL 2441 In Re: Stryker Rejuvenate and ABG II Hip Implant Litigation
- MDL 2768 In Re: Stryker LFIT V-40 Femoral Head Product Liability Litigation
- MDL 2391 In Re: Biomet M2A Magnum Hip Implant Products Liability Litigation
- MDL 2734 In Re: Abilify (Aripiprazole) Products Liability Litigation
- MDL 2244 In Re: Depuy Orthopaedics, Inc. Pinnacle Hip Implant Litigation
- MDL 1748 In Re: Testosterone Replacement Therapy Products Liability Litigation.
- JCCP 4887 In Re Essure Product Cases
- MDL 2591 In Re: Syngenta AG MIR 162 Corn Litigation
- MDL 2000 In Re: Yaz/ Yasmin/ Ocella Litigation (Philadelphia Consolidated Actions)
- MDL 2197 In Re: Depuy Orthopaedics, Inc., ASR Hip Implant Products Liability Litigation
- MDL 1871 In Re: Avandia Marketing, Sales Practices and Products Liability Litigation
- MDL 1598 In Re: Ephedra Products Liability Litigation
- MDL 1905 In Re: Medtronic, Inc. Sprint Fidelis Leads Products Liability Litigation
- MDL 1769 In Re: Seroquel Products Liability Litigation
- MDL 1928 In Re: Trasylol Products Liability Litigation
- MDL 1785 In Re: Bausch & Lomb Inc. Contact Lens Solution Products Liability Litigation
- MDL 1657 In Re: Vioxx Marketing, Sales Practices and Products Liability Litigation
- MDL 2327 In Re: Ethicon, Inc. Pelvic Repair Systems Products Liability Litigation
- MDL 2325 In Re: AMS, Inc., Pelvic Repair System Products Liability Litigation
- MDL 2187 In Re: C.R. Bard, Inc., Pelvic Repair System Products Liability Litigation
- MDL 2387 In Re: Coloplast Corp. Pelvic Support Systems Products Liability Litigation
- MDL 2326 In Re: Boston Scientific Corp. Pelvic Repair Systems Products Liability Litigation
- MDL 2299 In Re: Actos (Pioglitazone) products Liability Litigation
- MDL 1842 In Re: Kugel Mesh Hernia Patch Products Liability Litigation
- MDL 1708 In Re: Guidant Implantable Defibrillators Product Liability Litigation
- MDL 1905 In Re: Medtronic Sprint Fidelis Leads Product Liability Litigation
- MDL 2767 In Re: Mirena IUS- Products Liability Litigation
- MDL 2418 In Re: Plavix Products Liability Litigation
- MDL 2775 In Re: Smith and Nephew BHR Implant Products Liability Litigation
- MDL 1763 In Re: Human Tissue Products Liability Litigation
- In Re Depo Provera: New Jersey Consolidated State Litigation



THE LYON FIRM
Attorneys and Counselors at Law

FIRM PROFILE

Representative Single Event Settlements

- ***Estate of Gabrielle Walker v. The Toledo Hospital*** (2021) Lucas County, Ohio, Case No: G-4801. Lead counsel in medical malpractice/ wrongful death case involving allegations of negligent discharge of a suspected child abuse patient. The discharge resulted in returning the child to the suspected home environment where she sustained terminal injuries that evening. The four years of litigation entailed lead counsel taking over twenty depositions, preparing and disclosing four liability experts, filing several motions to compel discovery (ESI and 30B5 Witnesses) that the Court granted, and obtaining the Court's denial of two motions for summary judgment. The parties entered a confidential settlement two months before trial after mediation and months of negotiation.
- ***Landge v. Kindercare, et al*** (2019) Hamilton County, Ohio, Case No: Lead counsel in daycare negligence case involving allegations of mismanagement in the preparation and storage of hot soup. The child was severely burned due to interaction with unattended and unprotected soup canister. A confidential settlement was reached following initial discovery.
- ***Murphy v. University Hospital*** (2019) Hamilton County, Ohio Case No: A-18-03027. Lead Counsel in medical malpractice case involving the alleged misdiagnosis of cancer and unnecessary operation to remove 17 lymph nodes. The patient was cancer free and the unnecessary surgery left her with permanent lymphedema. Confidential Settlement following disclosure of expert reports on liability, causation and life care plan.
- ***Gray v. Graham KTM Sport Motorbikes*** (2018) N. Dist. of Mississippi Case No: 3:17-cv-092. Lead counsel in automotive product liability matter involving a recalled accelerator of a motor-cross bike. The recall was noticed due to the accelerator sticking and resulting in unintended acceleration. Plaintiff experienced this event losing control, whereby the bike fell onto him as he attempted to jump from the out-of-control bike. His arm was trapped in the rear wheel resulting in catastrophic amputation. Confidential settlement following limited discovery and disclosure of life care plan.
- ***Harrell et al. v. WWS Associates*** (2018) Hamilton County, Ohio, Case No: A1600701. Lead counsel in lead exposure case involving the secondary exposure of two minor children to industrial lead dust. It was alleged the children were poisoned when their father returned home from a recycling job that did not provide adequate protective clothing or require showers before returning home. The children suffered neurological injuries related to elevated lead levels. Confidential settlement following factual discovery and disclosure of expert reports on causation and damages.
- ***Lemon v. FMK Firearms, Inc. et al.*** (2016) E. Dist. of KY Case No: 2:15-cv-00128. Lead Counsel in complex product liability case involving a defective handgun that was subject to a recall due to drop-fire risks. Plaintiff suffered severe injuries including compartment syndrome when gun was accidentally dropped and fired. Confidential settlement following initial factual discovery.



THE LYON FIRM
Attorneys and Counselors at Law

FIRM PROFILE

- ***Waters v. F&P America MFG, Inc.*** (2016) Miami County, Ohio Case No: 15-103. Lead Counsel. Workplace intentional tort claim involving a corporate policy to circumvent a perimeter cage designed to protect workers from hydraulic equipment malfunction. Plaintiff suffered catastrophic amputation of multiple fingers when a machine misfired. Confidential settlement following corporate depositions and while motion for summary judgment on employer intentional tort and workers compensation immunity issues was pending.
- ***Estate of Ralph Jamison v. Continental Appliances, Inc.*** (2013) Adams County, Ohio Case No. CVB 20120499. Lead Counsel in complex Product Liability case involving a defective propane wall heater that resulted in severe burn injuries and wrongful death. Confidential Settlement following motion to compel documents was granted and 30(b)(5) deposition.
- ***Estate of Joseph Ponsi v. RCD Sales, Inc.*** (2012) Ashland County, Ohio Case No. 12-CVI-017). Lead Counsel in dealership negligence involving the sale of a recreational towing vehicle that exceeded towing capacity of tow vehicle resulting in rollover and wrongful death. Confidential settlement following multiple depositions on liability and disclosure of expert reports.
- ***Armesia Thomas v. General Motors et al.*** (2011) E. Dist. of KY Case No. 08-228-ART. Lead Counsel in complex Product Liability action involving claims of defective seat belt design resulting in catastrophic spinal cord injury to a 19-year-old female. Confidential settlement with General Motors and Takata Defendants following full factual discovery and disclosure of expert reports and life care plan.
- ***Michael Urchak v. Donnell Ford Lincoln Mercury of Salem, Inc.*** (2010) Mahoning County, Ohio Case No 08-CV-3700). Lead Counsel in dealership negligence causing mechanical failure and loss of control of vehicle resulting in spinal cord injury. Confidential Settlement following full factual discovery and disclosure of expert reports and life care plan.
- ***Charles & Jennifer Briner, Individually and on Behalf of Christopher Briner, A Minor v Daimler Chrysler Corporation.*** (2007) Richland County, Ohio Case No. 05-CV-371. Co-lead counsel in complex product liability action involving claims of defective seat belt buckle resulting in inadvertent buckle release and catastrophic brain injury to a minor. Confidential settlement two weeks before trial following full factual discovery and expert disclosures on liability and life care plan.
- ***Marlene Lewis et al v. Alex Saba, M.D.*** (2006) Hamilton County, Ohio, Case No. A0501599. Co-lead counsel in medical malpractice claims arising from the failure to diagnose breast cancer resulting in cancer progression, loss of survival, and additional invasive medical care. Confidential Settlement a few months before trial following full discovery and expert disclosures on liability and damages.



THE LYON FIRM
Attorneys and Counselors at Law

FIRM PROFILE

Memberships & Board Positions

Attorneys Information Exchange Group (2006- Present)
National Trial Lawyers (2009-Present)
American Association for Justice (2003-Present)
American Association for Justice, Trial Magazine, Peer Review Panel (2018)
American Association for Justice, TRT Litigation Group Co-Chair (2014-2019)
American Association for Justice Litigation Group Leaders Council (2014- 2019)
American Association for Justice, Member (2003- Present)
American Association for Justice, “New Lawyers Board of Governors” (2004-2013)
Ohio Association for Justice (2003-2007; 2013-Present)
Ohio Association for Justice, Product Liability Section Chair (2014-2015)

Publications & Presentations

- *Inn of Court – Practitioners & Bench Panel*, University of Cincinnati Law School (2024)
- *Mass Torts in State Court*. OAJ Summer Convention, Columbus, OH (2017)
- *Managing Client Expectations*. OAJ Summer Convention. Columbus, OH (2015)
- *The Wheels of Justice: Mass Torts in State Courts*. OAJ Quarterly. Product Liability Section. (2015)
- *“Low T”- The Creation of a Disease*. OAJ Quarterly. Product Liability Section. (2014)
- *Ethical Aspects of Mass Tort Marketing*. AAJ Summer Convention. Baltimore, MD (2014)
- *Testosterone Replacement Therapy MDL Update and Case Criteria*. AAJ Summer Convention. Baltimore, MD (2014)
- *Testosterone Replacement Therapy --Specific Causation*. AAJ Mass Tort Update Seminar. San Diego, CA (2014)
- *Testosterone Replacement Therapy –MDL Case Management Orders*. AAJ Mass Tort Update Seminar. Santa Barbara, CA (2014)
- *Testosterone Replacement Therapy --Causes of Action*. AAJ Emerging Mass Tort Seminar. Louisville, KY (2014)
- *Parallel Claims & Reporting Requirements: New Motivation for Drug Manufacturers to Give Adequate Warning*. OAJ Quarterly. Product Liability Section (2013)
- *Where to Begin Your Search for the Smoking Gun: Organizing Your Strategy and Informal Discovery*. National Business Institute Seminar. Cincinnati, OH (2010)



THE LYON FIRM
Attorneys and Counselors at Law

FIRM PROFILE

- *Written Discovery Strategies*. National Business Institute Seminar. Cincinnati, OH (2010)
- *A Separate Piece in Seeking Justice: Civil Themes and Skills in Public Defense*. AAJ, Criminal Law Section, Vol. 16, No.2 Winter (2009)
- *The Weight of Expert Testimony*. National Business Institute Seminar. Cincinnati, OH (2009)
- *Punitive Damages: Current Trends and Strategies*. National Business Institute Seminar. Cincinnati, Ohio (2009)
- *Jury Selection: Your First Trial*. Northern Kentucky College of Law (2009)
- *Utilizing ATLA Resources for Law Students*. University of Cincinnati College of Law (2003)

Honors & Awards

- Super Lawyers (Class Action and Mass Torts) (2018, 2019, 2020, 2021, 2022, 2023, 2024)
- Super Lawyers, Rising Stars (Class Action and Mass Torts) (2012, 2013, 2014, 2015, 2016)
- National Trial Lawyers: Top 100 Trial Lawyers for Ohio (2009-Present)
- National Trial Lawyers: Top 20 Mass Tort Lawyers (2018- Present)

Exhibit E

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IN RE HOPE COLLEGE DATA SECURITY
BREACH LITIGATION

Case No: 1:22-CV-01224-PLM

**DECLARATION OF TERENCE R. COATES OF MARKOVITS, STOCK & EMARCO,
LLC IN SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION FOR ATTORNEYS'
FEEES, COSTS, EXPENSES, AND SERVICE AWARDS**

I, Terence R. Coates, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am the managing partner of Markovits, Stock & DeMarco, LLC, and my firm is one of Plaintiffs' Counsel in this case on behalf of Plaintiffs and the Settlement Class. I have personal knowledge of the facts stated in this Declaration and, if called as a witness, I could and would testify competently to them. I make this Declaration on behalf of Plaintiffs in support of Plaintiffs' Motion for Attorneys' Fees, Costs, Expenses, and Service Awards (the "Fee and Expense Application") in connection with the services rendered in the above-captioned consolidated Action and the proposed class action settlement with Defendant Hope College. The statements herein are true to the best of my personal knowledge, information and belief based on my law firm's books and records and information received from its attorneys and staff.

2. I have extensive experience handling complex class action cases including securities, commercial, antitrust and data breach litigation. I am currently the Secretary of the Cincinnati Bar Association's Board of Trustees and the Executive Director of the Potter Stewart Inn of Court. Moreover, I am a frequent speaker for the plaintiffs' perspective on recent trends in data privacy class action cases including having participated as a panel speaker at The Sedona Conference Working Group 11 Midyear Meeting 2022 "Emerging issues in privacy and cybersecurity class action litigation" in Cleveland, Ohio on November 3, 2022; Trial Lawyers of Mass Tort's conference in Big Sky, Montana in March 2023; the NetDiligence cybersecurity summit in Ft. Lauderdale, Florida in February 2023; the Beazley Insurance national conference in Ft. Lauderdale, Florida in March 2023; the JAMS roundtable for selecting mediators in September 2023; and the Trial Lawyers of Mass Tort's conference in Cabo, Mexico in December 2023. I am currently participating as a member of class counsel in several data privacy cases pending around the country, including the following representative examples: *In re Advocate Aurora Health Pixel*

Litigation, No. 22-CV-1253-JPS (E.D. Wis.) (class counsel for a \$12.225 million data privacy class action settlement); *Sherwood v. Horizon Actuarial Services, LLC*, No. 1:22-cv-1495 (N.D. Ga) (class counsel for an \$8,733,446.36 data breach class action settlement); *Phillips v. Bay Bridge Administrators, LLC*, No. 23-cv-00022 (W.D. Tex.) (sole class counsel for a \$2,516,890 data breach class action settlement); *Tucker v. Marietta Area Health Care, Inc.*, No. 2:22-cv-00185 (S.D. Ohio) (class counsel for a \$1.75 million data breach class action settlement); *Migliaccio v. Parker Hannifin Corp.*, No. 1:22-CV-00835 (N.D. Ohio) (class counsel for a \$1.75 million data breach class action settlement); *Vansickle v. C.R. England, Inc.*, No. 2:22-cv-00374 (D. Utah) (class counsel for a \$1.4 million data breach class action settlement); *Jones v. P2ES Holdings, LLC*, No 23-cv-00408 (D. Colo.) (class counsel for a \$1.25 million data breach class action settlement); *Pederson v. AAA Collections, Inc.*, No. 2:2022-cv-4166 (D.S.D.) (class counsel for \$865,000 data breach class action settlement); and, *Lutz v. Electromed, Inc.*, No. 0:21-cv-02198 (D. Minn.) (class counsel in a \$825,000 data breach class settlement).¹

3. Courts recognize me and my firm as being experienced with handling complex cases including class actions. *Bedont v. Horizon Actuarial Services, LLC*, No. 1:22-CV-01565, 2022 WL 3702117, at *2 (N.D. Ga. May 11, 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.”); *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

¹ Markovits, Stock & DeMarco, LLC’s updated firm bio is attached as **Exhibit A**.

in this Court many times and have substantial experience litigating class actions and other complex matters.”); *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”).

4. Furthermore, I recently served as special counsel for the State of Ohio in *State of Ohio ex rel. Dave Yost Ohio Attorney General v. Monsanto*, No. A1801237 (Hamilton County Court of Common Pleas, Ohio) (\$80 million settlement in 2022) and *State of Ohio ex rel. Dave Yost Ohio Attorney General v. E.I. Du Pont de Nemours & Co.*, No. 18OT32 (Washington County Court of Common Pleas, Ohio) (\$110 million settlement in 2023; pending on appeal). I also participated as class counsel in several recent non-data privacy class action settlements including, *Shy v. Navistar International Corp.*, No. 92-cv-0333-WHR (S.D. Ohio) (class counsel for settlement valued at over \$742 million); *Walker v. Nautilus, Inc.*, No. 2:20-cv-3414-EAS (S.D. Ohio) (\$4.25 million settlement); *Bechtel v. Fitness Equipment Services, LLC*, No. 1:19-cv-726-KLL (S.D. Ohio) (\$3.65 million settlement); *Ryder v. Wells Fargo Bank, NA*, No. 1:2019-cv-00638 (S.D. Ohio) (member of class counsel in a \$12 million settlement on behalf of roughly 1,830 class members).

5. During the pendency of this litigation, Plaintiffs’ counsel carefully coordinated their activities to avoid engaging in duplicative work.

6. Among Plaintiffs’ counsel, each firm worked to advance the litigation on behalf of Plaintiffs and the putative class members. Plaintiffs’ counsel reviewed documents, prepared pleadings, worked with Plaintiffs, and collaboratively developed strategy. With respect to this effort, Plaintiffs’ Counsel was careful to work together to perform discrete and non-overlapping tasks to each firm in order to avoid duplicative work, including to my firm. Following the

appointment of Settlement Class Counsel (ECF No. 32, PageID 963), this process was further streamlined, as Settlement Class Counsel assumed responsibility for assigning non-duplicative work to advance the settlement process, including assigning final review of the Notice, the Settlement Website, the drafting of this Fee and Expense Application, and the upcoming motion for final approval of class action settlement.

7. During the course of litigation, Markovits, Stock & DeMarco, LLC spent time advancing the litigation here by performing the following tasks, including, but not limited to:

- Conducting a pre-suit investigation of the facts of the data breach and its aftermath and thoroughly examining the available facts and law;
- Vetting the named Plaintiffs, their factual circumstances, and their potential claims, and then corresponding with the named Plaintiffs to keep them updated on key developments in the case;
- Drafting and filing or submitting: initial, pre-consolidation Complaints; a motion to consolidate and for appointment; an amended complaint; a motion to stay pending settlement discussions; a mediation statement; a motion for preliminary approval of class action settlement, including the Settlement Agreement and its exhibits; a renewed motion for preliminary approval of class action settlement; this Fee and Expense Application here; and an upcoming motion for final approval; of class action settlement;
- Drafting and reviewing pre-mediation discovery documents; and,
- Communicating with Plaintiffs' counsel regarding the case.

8. As summarized below, Markovits, Stock & DeMarco, LLC devoted 46.7 hours to the prosecution and resolution of this matter, resulting in a lodestar of \$30,393.00. Lodestar has been calculated based on current hourly rates that range from \$850 for partners; \$975 for Of counsel; and, \$430-\$590 for attorneys.

Attorneys	Role	Rates	Hours from inception to March 19, 2024	Lodestar from inception to March 19, 2024
Terence. R. Coates	Managing Partner	\$850	10.4	\$8,840.00
Justin C. Walker	Attorney	\$795	11.2	\$8,904.00

Jonathan T. Deters	Attorney	\$590	.2	\$118.00
Dylan J. Gould	Attorney	\$590	11.4	\$6,726.00
Spencer D. Campbell	Attorney	\$430	13.5	\$5,805.00
TOTAL			46.7	\$30,393.00

9. Markovits, Stock & DeMarco, LLC regularly prepared and maintained files contemporaneously documenting time spent, including tasks performed, and expenses incurred, relating to this matter. Supporting time records are available at the request of the Court for review in camera.

10. Markovits, Stock & DeMarco, LLC advanced expenses in prosecuting this litigation. They are the type of expenses typically billed by attorneys to paying clients in the marketplace, and include such costs as fees paid or incurred for research, filing fees, expert fees, or mediation. All these expenses were reasonable and necessary for the prosecution of this litigation as summarized below.

Expense Categories	Cumulative Expenses
Complaint Filing Fee	\$402.00
Admission Fees	\$480.00
TOTAL	\$882.00

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

Executed on March 20, 2024
in Cincinnati, OH

/s/ Terence R. Coates
Terence R. Coates

EXHIBIT A



MARKOVITS
STOCK
DeMARCO

MARKOVITS, STOCK & DeMARCO, LLC

Markovits, Stock & DeMarco, LLC is a boutique law firm whose attorneys have successfully represented clients in some of the largest and most complex legal matters in U.S. history. Our deep and varied experience extends from representing businesses, public pension funds, and individuals in federal and state courts across the nation, to successfully arguing appeals at the highest levels of the legal system – including prevailing before the United States Supreme Court. This broad-based litigation and trial expertise, coupled with no overstaffing and overbilling that can typify complex litigation, sets us apart as a law firm. But expertise is only part of the equation. Courts around the country have recognized Markovits, Stock & DeMarco LLC’s experience in serving as class counsel for plaintiffs. *Bedont v. Horizon Actuarial Servs., LLC*, No. 1:22-CV-01565-ELR, 2022 WL 3702117, *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.”); *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.”); *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”).

BILL MARKOVITS

Bill Markovits practices in the area of complex civil litigation, with an emphasis on securities, antitrust, RICO, and False Claims Act cases. Bill began his career as a trial lawyer at the U.S. Department of Justice Antitrust Division in Washington, D.C. He continued to focus on antitrust after moving to Cincinnati, where he became an adjunct professor of antitrust law at the University of Cincinnati Law School. Bill has been involved in the past in a number of notable cases, including: the Choice Care securities, antitrust and RICO class action in which the jury awarded over \$100 million to a class of physicians; a fraud/RICO case on behalf of The Procter & Gamble Company, which resulted in a settlement of \$165 million; an eleven year antitrust and RICO class action against Humana, including appeals that reached the United States Supreme Court, which culminated in a multi-million dollar settlement; and a national class action against Microsoft, in which he was chosen from among dozens of plaintiffs' attorneys to depose Bill Gates. More recently, Bill was a lead counsel for plaintiffs in the Fannie Mae Securities Litigation that settled for \$153 million; a lead counsel for plaintiffs in a class action against Duke Energy that settled for \$80.75 million; and lead counsel for plaintiff in *Collins v. Eastman Kodak*, where he successfully obtained a preliminary injunction against Kodak on an antitrust tying claim. Based upon the result in *Collins*, Bill was a 2015 finalist in the American Antitrust Institute's Antitrust Enforcement Awards under the category "Outstanding Antitrust Litigation Achievement in Private Law Practice." Bill has received a number of awards and designations, including current and past designations as a "Best Lawyer in America" in the fields of antitrust and commercial litigation.

Education:

Harvard Law School, J.D. (1981), cum laude

Washington University, A.B. (1978), Phi Beta Kappa

Significant and Representative Cases:

- *Collins v. Eastman Kodak*, United States District Court, Southern District of Ohio. Lead counsel representing Collins in antitrust tying claim, resulting in preliminary injunction against Kodak.
- *In Re Federal National Mortgage Association Securities, Derivative, and "ERISA" Litigation*, United States District Court, District of Columbia. Co-lead counsel representing Ohio pension funds in securities class action that settled for \$153 million.
- *Ohio Employees Retirement System v. Federal Home Loan Mortgage, aka Freddie Mac, et al.*, United States District Court, Northern District of Ohio, Eastern Division. Special counsel representing Ohio pension fund in securities class action.
- *Williams v. Duke Energy et al.*, United States District Court, Southern District of Ohio. Representing class of energy consumers against energy provider in complex antitrust and RICO class action that settled for \$80.75 million.
- *In Re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation*, United States District Court, Central District of California. Former member of economic loss lead counsel committee, representing class of consumers in litigation relating to sudden acceleration.
- *In Re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, United States District Court, Eastern District of Louisiana. RICO workgroup coordinator in class action resulting from oil spill.
- *In Re Microsoft Corp. Litigation*, United States District Court, District of Maryland. Member of co-lead counsel firm in antitrust class action.

- *Procter & Gamble v. Amway Litigation*, United States District Court, Southern District of Texas, at Houston; United States District Court, District of Utah, at Salt Lake City. Member of trial team representing Procter & Gamble in obtaining jury verdict against Amway distributors relating to spreading of false business rumors.
- *United States ex rel. Brooks v. Pineville Hospital*, United States District Court, Eastern District of Kentucky. One of the lead counsel in successful False Claims Act litigation.
- *Procter & Gamble v. Bankers' Trust Litigation*, United States District Court, Southern District of Ohio. Co-counsel in successful \$165 million settlement; developed the RICO case.
- *United States ex rel. Watt v. Fluor Daniel*, United States District Court, Southern District of Ohio. Co-lead counsel of successful False Claims Act case.
- *Forsyth v. Humana*, United States District Court, District of Nevada. Represented class of consumers in antitrust and RICO class action; successfully argued antitrust appeal; co-chaired successful Supreme Court appeal on RICO.
- *In Re Choice Care Litigation*, United States District Court, Southern District of Ohio, Western Division. Trial attorney on largest antitrust/RICO/securities verdict.

Presentations & Publications:

- "Implications of Sixth Circuit *Collins Inkjet Corp. v. Eastman Kodak Co. Decision*," American Bar Association panel discussion, December 10, 2015
- "Defining the Relevant Market in Antitrust Litigation," Great Lakes Antitrust Seminar, October 29, 2010
- "Beyond Compensatory Damages – Tread, RICO and The Criminal Law Implications," HarrisMartin's Toyota Recall Litigation Conference, Part II, May 12, 2010
- "The Racketeer Influenced and Corrupt Organizations Act (RICO)," HarrisMartin's Toyota Recall Litigation Conference, March 24, 2010
- "The False Claims Act: Are Healthcare Providers at Risk?," presentation to Robert Morris College Second Annual Health Services Conferences, Integrating Health Services: Building a Bridge to the 21st Century, Moon Township, PA, October 9, 1997
- "The Federal False Claims Act: Are Health Care Providers at Risk?," (Co-Speaker), Ohio Hospital Association, April, 1996
- "A Focus on Reality in Antitrust," Federal Bar News & Journal, Nov/Dec 1992
- "Using Civil Rico and Avoiding its Abuse," Ohio Trial, William H. Blessing, co-author, Summer 1992
- "Antitrust in the Health Care Field," a chapter published in Legal Aspects of Anesthesia, 2nd ed., William H. L. Dornette, J.D., M.D., editor
- *Antitrust Law Update, National Health Lawyers Health Law Update and Annual Meeting (Featured Speaker)*, San Francisco, California, 1989

Affiliations:

- American Association for Justice
- American Bar Association
- American Trial Lawyers Association
- Cincinnati Bar Association
- District of Columbia Bar Association (non-active)
- Hamilton County Trial Lawyers Association
- National Health Lawyers Association
- Ohio State Bar Association
- Ohio Trial Lawyers Association

Courts Admitted:

- District of Columbia (1981)
- State of Ohio (1983)
- United States District Court, Southern District of Ohio (1983)
- U.S. Court of Appeals, 6th Circuit (1991)
- U.S. Court of Appeals, 9th Circuit (1995)
- U.S. Supreme Court, United States of America (1998)
- United States District Court, Northern District of Ohio (2008)

PAUL M. DEMARCO

Paul M. De Marco is a founding member of Markovits, Stock & DeMarco, LLC. He is an Appellate Law Specialist certified by the Ohio State Bar Association and has handled more than 100 appellate matters, including cases before the Supreme Court of the United States, six federal circuits, and five state supreme courts.

Paul's practice also focuses on class actions and other complex litigation. During his 30 years in Cincinnati, Paul has been actively involved in successful litigation related to the U.S. Department of Energy's Fernald nuclear weapons plant, the Lucasville (Ohio) prison riot, Lloyd's of London, defective Bjork-Shiley heart valves, Holocaust-related claims against Swiss and Austrian banks, the Bankers Trust derivative scheme, Cincinnati's Aronoff Center, the San Juan DuPont Plaza Hotel fire, the Procter & Gamble Satanism rumor, the Hamilton County (Ohio) Morgue photograph scandal, defective childhood vaccines, claims arising from tire delamination and vehicle roll-over, racial hostility claims against one of the nation's largest bottlers, fiduciary breach claims against the nation's largest pharmacy benefits manager, and claims arising from the heatstroke death of NFL lineman Korey Stringer.

Education:

College of Wooster (B.A., 1981)

University of the Pacific, McGeorge School of Law (J.D. with distinction, 1983)

University of Cambridge (1985)

Significant and Representative Appeals:

- *Arthur Anderson LLP v. Carlisle*, 556 U.S. 624, 129 S.Ct. 1896 (2009): In a case involving allegations of a fraudulent tax shelter and accounting and legal malpractice, the Supreme Court of the United States resolved the issue of the rights of non-parties to arbitration clauses to enforce them against parties, which had divided the circuits.
- *Williams v. Duke Energy International, Inc.*, 681 F.3d 788 (6th Cir. 2012): In a case brought as a class action by a utility's ratepayers for selective payment of illegal rebates to certain ratepayers, the United States Court of Appeals for the Sixth Circuit reversed a district court's dismissal of the excluded ratepayers' claims that the utility violated the RICO statute, the Robinson-Patman Act, and the state corrupt practices act.
- *State of Ohio ex rel. Bd. of State Teachers Retirement Sys. of Ohio v. Davis*, 113 Ohio St.3d 410, 865 N.E.2d 1289 (2007): The Supreme Court of Ohio upheld the appellate court's issuance of the extremely rare writ of procedendo commanding the trial judge to proceed with a trial on claims he mistakenly believed the previous jury had resolved.
- *Chesher v. Neyer*, 477 F.3d 784 (6th Cir. 2007): The Sixth Circuit affirmed the district court's rejection of qualified immunity defenses raised by the Hamilton County (Ohio) coroner, his chief deputy, the coroner's administrative aide, a staff pathologist, and a pathology fellow in connection with the Hamilton County Morgue photo scandal.
- *State of Ohio ex rel. CNG Fin'l Corp. v. Nadel*, 111 Ohio St.3d 149, 855 N.E.2d 473 (2006): The Supreme Court of Ohio affirmed the appellate court's refusal to issue a writ of procedendo commanding the trial judge to halt injunctive proceedings and decide an arbitration issue.
- *Smith v. North American Stainless, L.P.*, 158 F. App'x. 699 (6th Cir. 2006): Rejecting a steel manufacturer's "up-the-ladder" immunity defense, the United States Court of Appeals for the Sixth Circuit reversed the district court's dismissal of a wrongful claim brought by the widow and estate of a steel worker killed on the job.
- *Procter & Gamble Co. v. Haugen*, 427 F.3d 727 (10th Cir. 2005): The United States Court of Appeals for the Tenth Circuit reversed the district court's dismissal of Procter & Gamble's Lanham Act claims, paving the way for a \$19.25 million jury verdict in its favor.

- *Roetenberger v. Christ Hospital*, 163 Ohio App.3d 555, 839 N.E.2d 441 (2005): In this medical malpractice action for wrongful death, the Ohio court of appeals reversed the jury verdict in the physician’s favor due to improper arguments by his attorney and instructional error by the trial court.
- *City of Cincinnati v. Beretta U.S.A. Corp.*, 95 Ohio St.3d 416, 768 N.E.2d 1136 (2002): In this landmark decision on public nuisance law, the Supreme Court of Ohio held that a public nuisance action could be maintained for injuries caused by a product — in this case, guns — if the design, manufacture, marketing, or sale of the product unreasonably interferes with a right common to the general public.
- *Norgard v. Brush Wellman, Inc.*, 95 Ohio St.3d 165, 766 N.E.2d 977 (2002): In an employee’s intentional tort action alleging that his employer subjected him to long-term beryllium exposure, the Supreme Court of Ohio ruled that a cause of action for an employer intentional tort accrues when the employee discovers, or by the exercise of reasonable diligence should have discovered, the workplace injury and — here’s the ground-breaking part of the holding — the wrongful conduct of the employer.
- *Wallace v. Ohio Dep’t of Commerce*, 96 Ohio St.3d 266, 773 N.E.2d 1018 (2002): In overturning the dismissal of a suit against the state fire marshal for negligently inspecting a fireworks store that caught fire killing nine people, the Supreme Court of Ohio held for the first time that the common-law public-duty rule cannot be applied in cases against the state in the Ohio Court of Claims.

Courts Admitted:

- Ohio
- California
- Supreme Court of the United States
- U.S. Court of Appeals, 1st Circuit
- U.S. Court of Appeals, 4th Circuit
- U.S. Court of Appeals, 5th Circuit
- U.S. Court of Appeals, 6th Circuit
- U.S. Court of Appeals, 7th Circuit
- U.S. Court of Appeals, 9th Circuit
- U.S. Court of Appeals, 10th Circuit
- U.S. District Court, Southern District of Ohio
- U.S. District Court, Northern District of Ohio
- U.S. District Court, Eastern District of California
- U.S. District Court, Central District of California
- U.S. District Court, Southern District of California
- U.S. Court of Federal Claims

Since 1994, Paul has worked to promote professional responsibility among lawyers, serving first as a member and eventually the chair of the Cincinnati Bar Association Certified Grievance Committee, and since 2008 as a member of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio.

He also is a member of many legal organizations, including the Federal Bar Association, Ohio State Bar Association, Cincinnati Bar Association, American Bar Association, ABA Council of Appellate Lawyers, and the Cincinnati Bar Association’s Court of Appeals Committee.

Paul was one of the founders of the Collaborative Law Center in Cincinnati, a member of Cincinnati’s Citizens Police Review Panel (1999-2002), and a member of Cincinnati CAN and its Police and Community Subcommittee following the 2001 riots.

He currently serves on the boards of the Ohio Justice and Policy Center and the Mercantile Library and on the advisory committees of the Fernald Community Cohort and the Fernald Workers’ Medical Monitoring Program.

TERENCE R. COATES

Terry Coates is Markovits, Stock & DeMarco's managing partner. His legal practice focuses on personal injury law, sports & entertainment law, business litigation and class action litigation. Mr. Coates is currently participating as a member of plaintiffs' counsel several data breach cases pending around the country, including serving as co-lead counsel for plaintiff in *Sherwood v. Horizon Actuarial Services, LLC*, No. 1:22-cv-1495 (N.D. Ga.) (Class Counsel for \$8,733,446.36 million common fund settlement); *In re Advocate Aurora Health Pixel Litigation*, No. 22-CV-1253-JPS (E.D. Wis.) (Class Counsel in \$12,225,000 data privacy class action settlement); *In re Novant Health, Inc.*, No. 1:22-cv-00697 (M.D.N.C.) (class counsel for a \$6.66 million data privacy class action settlement); *Phillips v. Bay Bridge Administrators, LLC*, No. 23-cv-00022 (W.D. Tex.) (Class Counsel for a \$2,516,890 data breach class action settlement); *Migliaccio v. Parker Hannifin Corp.*, No. 1:22-CV-00835 (N.D. Ohio) (Class Counsel for a \$1.75 million data breach class action settlement); *Tucker v. Marietta Area Health Care, Inc.*, No. 2:22-cv-00185 (S.D. Ohio) (Class Counsel for \$1.75 million common fund settlement); *In re C.R. England, Inc. Data Breach Litigation*, No. 6:22-cv-374 (D. Utah) (Class Counsel for a \$1.75 million common fund settlement); *Jones v. P2ES Holdings, LLC*, No. 23-cv-00408 (D. Colo.) (Class Counsel for a \$1.25 million common fund settlement); *Reynolds v. Marymount Manhattan College*, No. 1:22-cv-06846 (S.D.N.Y.) (Class Counsel for a \$1.3 million common fund settlement); *Pederson v. AAA Collections, Inc.*, No. 4:22-cv-04166 (D.S.D.) (Class Counsel for an \$865,000 data breach class action settlement); *Lutz v. Electromed, Inc.*, No. 0:21-cv-02198 (D. Minn.) (Class Counsel for an \$825,000 data breach class action settlement).

Education:

Thomas M. Cooley Law School, J.D. (2009)

Wittenberg University, B.A. (2005)

Representative Cases:

- *Bechtel v. Fitness Equipment Services, LLC*, No. 1:19-cv-726-KLL (S.D. Ohio) (\$3.65 million common fund settlement finally approved on September 20, 2022);
- *Bowling v. Pfizer, Inc.*, No. C-1-95-256 (S.D. Ohio) (Class Counsel for recipients of defective mechanical heart valves including continued international distribution of settlement funds to remaining class members);
- *Collins Inkjet Corp. v. Eastman Kodak Company*, No. 1:13-cv-0664 (S.D. Ohio) (trial counsel for Collins in an antitrust tying claim resulting in a preliminary injunction against Kodak – a decision that was affirmed by the Sixth Circuit Court of Appeals: *Collins Inkjet Corp. v. Eastman Kodak Co.*, 781 F.3d 264 (6th Cir. 2015));
- *Day v. NLO, Inc.*, Case No. C-1-90-67 (S.D. Ohio) (Class Counsel for certain former workers at the Fernald Nuclear weapons facility; the medical monitoring program continues);
- *In re Fannie Mae Securities Litigation*, Case No. 1:04-cv-1639 (D.D.C.) (represented Ohio public pension funds as Lead Plaintiffs in Section 10b securities class action litigation resulting in a \$153 million court-approved settlement);
- *In re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, & Products Liability Litigation*, MDL No. 2151 (C.D. Cal.) (represented plaintiffs and prepared class representatives for deposition testimony resulting in a court-approved settlement valued in excess of \$1.5 billion);
- *In re NCAA Student-Athlete Name & Likeness Licensing Litigation*, Case No. 09-1967 (N.D. Cal.) (represented NCAA, Olympic, and NBA legend, Oscar Robertson, in antitrust claims against the National Collegiate Athletic Association (NCAA), Collegiate Licensing Company (CLC), and Electronic Arts (EA) leading to a \$40 million settlement with EA and CLC and the Court issuing a permanent injunction against the NCAA for unreasonably restraining trade in violation of antitrust law);
- *Linneman v. Vita-Mix Corp.*, No. 14-cv-748, (S.D. Ohio) (Class Counsel for a nationwide class of Vita-Mix blender consumers resulting in a nationwide settlement);

- *Ryder v. Wells Fargo Bank, N.A.*, No. 1:2019-cv-00638 (S.D. Ohio) (member of class counsel in a \$12 million settlement on behalf of roughly 1,830 class members);
- *Shy v. Navistar International Corp.*, No. 92-cv-0333-WHR (S.D. Ohio) (class counsel for a class action settlement valued at over \$742 million);
- *State of Ohio v. E.I. du Pont de Nemours & Co.*, No. 180T32 (Washington County Court of Common Pleas, Ohio) (Special counsel for the State of Ohio in reaching a \$110 million settlement);
- *State of Ohio v. Monsanto*, No. A 1801237 (Hamilton County Court of Common Pleas, Ohio) (Special counsel for the State of Ohio in reaching a \$80 million settlement);
- *Walker v. Nautilus, Inc.*, No. 2:20-cv-3414-EAS (S.D. Ohio) (\$4.25 million common fund settlement; and,
- *Williams v. Duke Energy*, No. 1:08-cv-00046 (S.D. Ohio) (representing class of energy consumers against energy provider in complex antitrust and RICO class action resulting in the court granting final approval of an \$80.875 million settlement).

Community Involvement:

- Cincinnati Academy of Leadership for Lawyers (CALL), Class XXI, *Participant* (2017)
- Cincinnati Chamber of Commerce C-Change Class 9, *Participant* (2014)
- Cincinnati Chamber of Commerce, *Ambassador* (2014)
- Cincinnati Athletic Club, *President* (2015-2017)
- Cincinnati Athletic Club, *Vice President* (2014-2015)
- Cincinnati Bar Association, Board of Trustees, *Trustee* (2019-present)
- Cincinnati Bar Association, Board of Trustees, *Executive Committee* (2021-present)
- Cincinnati Bar Association, Board of Trustees, *Secretary* (2023-present)
- Cincinnati Bar Association, *Membership Services & Development Committee* (2014-present)
- Cincinnati Bar Association, *Run for Kids Committee* (2009-2014)
- Cincinnati Bar Association, *Social Committee* (2011-2014)
- Clermont County Humane Society, *Board Member* (2014-2017)
- Clermont County Humane Society, *Legal Adviser* (2017-present)
- Potter Stewart Inn of Court, *Executive Director* (2021-present)
- Summit Country Day High School, *Mock Trial Adviser* (2013-2016)
- St. Peter in Chains, Cathedral, Parish Council (2014-2017)

Recognitions:

- Super Lawyers, Rising Star (2014 – 2022)
- Super Lawyers, Super Lawyer (2022-present)
- Best Lawyers in America, Commercial Litigation (2020-present)
- Wittenberg University Outstanding Young Alumnus Award (2014)
- Cincinnati Bar Association, Young Lawyers Section Professionalism Award (2015)
- JDRF Bourbon & Bow Tie Bash, *Young Professional (Volunteer) of the Year* for the Flying Pig Marathon (2016)
- Cincinnati Business Courier, Forty Under 40 (2019)
- Cincinnati Cystic Fibrosis Foundation, Cincinnati's Finest Honoree (2020)

Courts Admitted:

- State of Ohio (2009)
- United States District Court, Southern District of Ohio (2010)
- United States District Court, Northern District of Ohio (2010)
- United States District Court, Eastern District of Michigan (2021)
- United States District Court, District of Colorado (2022)
- United States District Court, Eastern District of Wisconsin (2022)
- United States District Court, Western District of Michigan (2023)
- United States District Court, District of Nebraska (2023)
- United States Court of Appeals, Sixth Circuit (2018)

JUSTIN C. WALKER

Justin C. Walker is Of Counsel at Markovits, Stock & DeMarco. Justin's practice areas are focused on complex civil litigation, with an emphasis on cases involving data privacy and consumer fraud. Before joining Markovits, Stock & DeMarco in April 2019, Justin practiced at the Finney Law Firm, a boutique law firm specializing in complex litigation and constitutional law. At the beginning of his legal career, Justin served as a judicial extern for Senior United States District Judge Sandra S. Beckwith before taking a full-time position as a law clerk and magistrate in the Hamilton County Ohio Court of Common Pleas for the Honorable Norbert A. Nadel. After completing his clerkship, Justin took a position as a prosecutor, serving as first chair for multiple jury trials. Justin then entered private practice, shifting his practice to focus on litigation matters.

Education:

- Miami University, B.S. (2001)
- University of Cincinnati, J.D. (2005)

Courts Admitted:

- State of Ohio (2005)
- U.S. Court of Appeals, 6th Circuit (2017)
- U.S. District Court, Southern District of Ohio (2008)
- U. S. District Court, Northern District of Ohio (2023)
- U.S. District Court, Western District of Michigan (2023)
- U.S. District Court for the District of Colorado (2023)
- U.S. Bankruptcy Court, Southern District of Ohio (2009)

Representative Cases:

- *Shin v. Plantronics, Inc.*, 18-cv-05626, 2019 WL 2515827 (N.D. Cal. June 17, 2019) (class counsel);
- *Abrams v. Savannah Coll. of Art & Design, Inc.*, No. 1:22-CV-04297 (N.D. Ga.) (member of class counsel in data breach action for a \$375,000 settlement);
- *Reynolds, et al. v. Marymount Manhattan College*, No. 1:22-CV-06846-LGS (S.D. New York) (class counsel in a \$1.3 million data breach settlement)
- *Bechtel v. Fitness Equipment Services, LLC*, No. 1:19-cv-726-KLL (S.D. Ohio) (class counsel in \$3.65 million common fund settlement finally approved on September 20, 2022);
- *Jones v. P2ES Holdings, LLC*, No. 1:23-cv-00408-GPG-MEH (U.S.D.C. Col.) (court-appointed class counsel in preliminarily approved \$1,250,000 class action settlement);
- *Julien v. Cash Express*, No. 2022-cv-221 (Nov. 9, 2023, Tenn. Cir. Ct., Putnam Cty.) (court-appointed class counsel in finally approved \$850,000 data breach settlement);
- *Viruet v. Community Surgical Supply, Inc.*, No. OCN-L-001215-23 (Aug. 4, 2023, New Jersey Com.Pl., Ocean Cty.) (class counsel in data breach settlement);
- *Jackson v. Nationwide Retirement Solutions*, No. 2:22-cv-3499 (S.D. Ohio) (class counsel in data breach settlement);
- *Hughes v. Union Savings Bank*, No. A1904891 (Aug. 5, 2021, Ohio Com.Pl.) (class counsel in \$549,000 settlement);
- *Morano v. Fifth Third Bancorp*, No. A2003954 (Jul. 13, 2022, Ohio Com. Pl) (class counsel in class action settlement);
- *Voss v. Quicken Loans*, No. A 2002899, 2023 WL 1883124 (Feb. 8, 2023 Ohio Com.Pl.) (class counsel where Court granted class certification of contested claim under Ohio law);
- *Linneman v. Vita-Mix Corp.*, Case No. 15-cv-748, United States District Court, Southern District of Ohio (Co-Class Counsel for a nationwide class of Vita-Mix blender consumers resulting in a nationwide settlement).

- *Baker v. City of Portsmouth*, Case No. 1:14-cv-512, 2015 WL 5822659 (S.D. Ohio Oct. 1, 2015) (Co-Counsel for a class of property owners, the Court ruled that City violated the Fourth Amendment when it required property owners to consent to a warrantless inspection of their property or face a criminal penalty where not valid exception to the warrant requirement exists).
- *E.F. Investments, LLC v. City of Covington, Kentucky*, Case No. 17-cv-00117-DLB-JGW, United States District Court, Eastern District of Kentucky (Lead Counsel on case brought on behalf of local property owners, contending that City’s rental registration requirements violated the Fourth Amendment resulting in a settlement).
- *State of Ohio ex rel. Patricia Meade v. Village of Bratenahl*, 2018-04409, Supreme Court State of Ohio (Co-Counsel on behalf of local taxpayer contending that Defendant’s violated Ohio Open Meetings Law).
- *Dawson v. Village of Winchester*, United States District Court, Southern District of Ohio (Lead Counsel represented Plaintiff claiming Federal Civil Rights violations due to unconstitutional arrest and detainment).

Affiliations and Presentations:

- Cincinnati Bar Association
- Clermont County Bar Association
- American Association for Justice
- “Municipal Bankruptcy: Chapter 9 – Should Cincinnati Consider Filing for Bankruptcy”
- “Ohio CLE Introduction to Bankruptcy for Lawyers CLE”

CHRISTOPHER D. STOCK

Chris's legal practice focuses on securities class action and multi-district products liability litigation, as well as appellate advocacy. Serving as a judicial law clerk for Ohio Supreme Court Justice Terrence O'Donnell gave Chris invaluable insight into how courts synthesize and deconstruct legal arguments. Since then, Chris has briefed and argued numerous cases before the United States Court of Appeals for the Sixth Circuit, the Ohio Supreme Court, and Ohio appellate courts, including obtaining a rare summary reversal from the United States Supreme Court.

Chris also served as both Deputy First Assistant Attorney General and Deputy State Solicitor for Ohio Attorney General Jim Petro. In these positions, Chris was principal counsel to the Attorney General on a wide variety of legal and policy-oriented issues, including numerous constitutional and regulatory matters arising from state agencies, boards, and commissions. Prior to his service in state government, Chris was an attorney at a 500-lawyer nationally-recognized law firm.

He received multiple designations as an Ohio Super Lawyers "Rising Star."

Education:

The Ohio State University, Moritz College of Law, J.D. (2002)

The Ohio State University, BA (1997)

Significant Cases:

- *In re Fannie Mae Securities Litigation*, Case No. 1:04-cv-1639 (D.D.C.). Represented Ohio public pension funds as Lead Plaintiffs in Section 10b-5 securities class action litigation.
- *Ohio Public Employees Retirement System v. Freddie Mac, et al.*, Case No. 4:08-cv-160 (N.D. Ohio). Representing Ohio public pension funds as Lead Plaintiffs in Section 10b-5 securities class action litigation.
- *Williams v. Duke Energy*, Case No.: 1:08-CV-00046 (S.D. Ohio). Represented class of energy consumers against energy provider in complex antitrust and RICO class action.
- *Slaby v. Wilson*, Hamilton County Court of Common Pleas. Represented two private individuals who were falsely accused by a County Commissioner of murdering their child and covering up the child's death (as well as sexual abuse of child).
- *Kelci Stringer, et al. v. National Football League, et al.*, United States District Court, Southern District of Ohio, Western Division. Represented professional football player against NFL and helmet manufacturer in wrongful death/products liability litigation related to professional football player's death.
- *Susan B. Anthony List v. Driehaus*, United States District Court, Southern District of Ohio, Western Division. Represented former Congressman in defamation action against organization who published false statements about former Congressman's voting record and alleged influence over organization's commercial activities.
- *Mitchell v. Esparza*, Case No. 02-1369 (United States Supreme Court). Obtained summary reversal of Sixth Circuit decision on Eighth Amendment capital sentencing issue.
- *Cleveland Bar Association v. CompManagement, Inc.*, Case No. 04-0817 (Ohio Supreme Court). Represented the State of Ohio as amicus in landmark workers' compensation lawsuit.

Presentations:

- Class Action Boot Camp: The Basics and Beyond (2012).
- Harris Martin Toyota Sudden Unintended Acceleration Litigation Conference: TREAD Act Liability and Toyota (2010).
- Harris Martin BP Oil Spill Litigation Conference: The RICO Act's Application to the BP Oil Spill (2010).

Affiliations:

Markovits Stock DeMarco LLC
119 E. Court Street, Suite 530
Cincinnati, Ohio 45202

Business 513.651.3700

MSDLegal.com

- Ohio State Bar Association
- Cincinnati Bar Association

Courts Admitted:

- State of Ohio (2002)
- United States District Court, Southern District of Ohio (2003)
- Sixth Circuit Court of Appeals, Ohio (2003)
- United States District Court, Northern District of Ohio (2007)

DYLAN J. GOULD

Dylan is an associate attorney at Markovits, Stock & DeMarco. Dylan’s practice primarily focuses on class action and complex civil litigation with an emphasis on cases involving consumer fraud and data privacy. He also has experience with matters related to sports & entertainment, personal injury, commercial law, civil conspiracy, and civil litigation under the RICO Act. At the University of Cincinnati College of Law, where he spent multiple semesters on the Dean's Honors List, Dylan was selected to the Trial Practice and Moot Court teams, participating in mock trial and appellate court competitions with law students across the country. Upon graduation, Dylan joined Markovits, Stock & DeMarco, where he quickly gained valuable experience in nearly every facet of the litigation process while skillfully guiding several cases to final judgment, including as a court appointed member of class counsel in multiple actions gaining final approval of class action settlement. In recognition of his achievements, Dylan was named an Ohio Super Lawyers Rising Star in 2021 and 2023. Aside from his litigation practice, Dylan is also a Certified Contract Advisor with the National Football League Players Association.

Education:

University of Cincinnati, J.D. (2018)

University of Colorado at Boulder, B.A. (2015)

Courts Admitted:

- State of Ohio (2018)
- United States District Court, Southern District of Ohio (2019)
- United States District Court, Northern District of Ohio (2022)
- United States District Court, Eastern District of Wisconsin (2022)
- United States Court of Appeals, Sixth Circuit (2023)

Representative Cases:

- *In re Advocate Aurora Health Pixel Litigation*, No. 22-CV-1253-JPS (E.D. Wis.) (class counsel for preliminarily approved \$12,225,000 common fund settlement in data privacy action);
- *Anderson v. Fortra LLC*, No. 0:23-cv-00533 (SRN/DTS) (D. Minn.) (member of Executive Committee Counsel in pending data breach action involving millions of victims);
- *Lutz v. Electromed, Inc.*, No. 21-cv-2198 (D. Minn.) (class counsel in data breach action for an \$825,000 common fund settlement);
- *Compound Property Management LLC v. Build Realty, Inc.*, No. 1:19-CV-133, 2023 WL 2140981 (S.D. Ohio Feb. 21, 2023) (granting contested class certification of claims related to complex real estate lending scheme in civil RICO action and appointing Mr. Gould as a member of class counsel);
- *Voss v. Quicken Loans*, No. A 2002899, 2023 WL 1883124 (Feb. 8, 2023 Ohio Com.Pl.) (granting contested class certification of action under Ohio Revised Code § 5301.36 and appointing Mr. Gould as member of class counsel);

Affiliations:

Cincinnati Bar Association

Ohio State Bar Association

JONATHAN T. DETERS

Jon is a Cincinnati native whose legal practice is focused on complex civil litigation, class action litigation, personal injury law, and sports & entertainment law. Jon has been a litigator since the start of his career, and his clients have included individuals, businesses, local governments, and government officials. Jon's experience serving as both plaintiff and defense counsel make him uniquely qualified and well-suited to represent individual and corporate clients in litigation. Jon has been designated as an Ohio Super Lawyers "Rising Star" from 2019-present, which is a distinction awarded to less than 2.5% of Ohio attorneys under the age of 40.

Before joining Markovits, Stock & DeMarco in January 2022, Jon practiced at an Ohio law firm specializing in civil litigation, personal injury, and constitutional law. While in law school, Jon served as a constable in the Hamilton County Ohio Court of Common Pleas for the Honorable Steven E. Martin and worked as law clerk at the Law Office of Steven R. Adams.

Education:

Salmon P. Chase School of Law at Northern Kentucky University, J.D. (2015)

Xavier University, Cincinnati, Ohio, Honors Bachelor of Arts (2012)

Representative Cases:

- *Baker v. Carnine*, No. 1:19-CV-60 (2022), United States District Court, Southern District of Ohio;
- *Jones v. Vill. of Golf Manor*, No. 1:18-CV-403 (2020), United States District Court, Southern District of Ohio;
- *Vaduva v. City of Xenia*, 780 F. App'x 331 (6th Cir. 2019);
- *Gillispie v. Miami Twp.*, No. 3:13-CV-416 (2017), United States District Court, Southern District of Ohio;
- *City of Mt. Healthy v. Fraternal Ord. of Police, Ohio Lab. Council, Inc.*, 101 N.E.3d 1163 (2017), Ohio First District Court of Appeals.

Community Involvement:

- Cincinnati Bar Association, *Member*
- Ohio Bar Association, *Member*
- Boy Hope Girls Hope of Cincinnati, *Young Professionals Board Member*
- Board of Trustees of the New St. Joseph Cemetery, Cincinnati, Ohio, *Member*

Courts Admitted:

- State of Ohio
- United States District Court, Southern District of Ohio
- United States Court of Appeals, Sixth Circuit

SPENCER D. CAMPBELL

Spencer is an associate attorney at Markovits, Stock & DeMarco. Since joining the firm as a law clerk in 2021, Spencer has developed a practice dedicated primarily to complex civil litigation and civil class actions, with a particular focus on data privacy. Spencer’s background is in advocacy. While studying for his undergraduate degree at Miami University, Spencer and his teammates won the American Mock Trial Association’s National Championship in 2018. In his first semester of law school, he was named Best Attorney at the Ohio Attorney General’s Trial Team Competition. Throughout law school, he received numerous other awards at the national level in both trial and appellate settings. Upon graduation, Spencer was appointed to the Order of the Barristers, and awarded the Neil Weil Service Award for National Excellence in Moot Court and the John W. Peck Award for Excellence in Trial Practice. Since stepping into his current role as an associate at Markovits, Stock & DeMarco, Spencer has devoted his time and energy to mastering the art of litigation in all its forms.

Education:

University of Cincinnati College of Law, Cincinnati, Ohio, J.D. (2022)

Miami University, Oxford, Ohio, Bachelor of Arts (2019)

Courts Admitted:

- State of Ohio
- United States District Court, Southern District of Ohio

Professional Affiliations:

- Ohio State Bar Association, *Member*
- Cincinnati Bar Association, *Member*
- The Potter Stewart Inn of Court, *Associate Member*
- Phi Mu Alpha Sinfonia, *Alumni*
- University of Cincinnati College of Law, *Advocacy Coach*
- University of Dayton, *Mock Trial Coach*

Awards & Distinctions:

- John W. Peck Award for Excellence in Trial Practice (2022)
- Neil Weill Service Award for National Excellence in Moot Court (2022)
- Order of the Barristers (2022)
- All-American, American Mock Trial Association (2019)
- All-American, American Mock Trial Association (2018)
- National Champion, American Mock Trial Association (2018)
- President’s Medallion, Miami University (2018)

Exhibit F

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IN RE HOPE COLLEGE DATA SECURITY
BREACH LITIGATION

Case No: 1:22-CV-01224-PLM

**DECLARATION OF BRYAN L. BLEICHNER OF CHESTNUT CAMBRONNE PA IN
SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION FOR ATTORNEYS'
FEES, COSTS, EXPENSES, AND SERVICE AWARDS**

I, Bryan L. Bleichner, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am a Partner at Chestnut Cambronne PA, and my firm is one of Plaintiffs' Counsel in this case on behalf of Plaintiffs and the Settlement Class. I have personal knowledge of the facts stated in this Declaration and, if called as a witness, I could and would testify competently to them. I make this Declaration on behalf of Plaintiffs in support of Plaintiffs' Unopposed Motion for Attorneys' Fees, Costs, Expenses, and Service Awards (the "Fee and Expense Application") in connection with the services rendered in the above-captioned consolidated Action and the proposed class action settlement with Defendant Hope College. The statements herein are true to the best of my personal knowledge, information and belief based on my law firm's books and records and information received from its attorneys and staff. A true and accurate copy of my firm resume is attached to this Declaration.

2. During the pendency of this litigation, Plaintiffs' counsel carefully coordinated their activities to avoid engaging in duplicative work.

3. Among Plaintiffs' counsel, each firm worked to advance the litigation on behalf of Plaintiffs and the putative class members. Plaintiffs' counsel reviewed documents, prepared pleadings, worked with Plaintiffs, and collaboratively developed strategy. With respect to this effort, Plaintiffs' Counsel was careful to work together to perform discrete and non-overlapping tasks to each firm in order to avoid duplicative work, including to my firm. Following the appointment of Settlement Class Counsel (ECF No. 32, PageID.963), this process was further streamlined, as Settlement Class Counsel assumed responsibility for assigning non-duplicative work to advance the settlement process, including assigning final review of the Notice, the Settlement Website, the drafting of this Fee and Expense Application, and the upcoming motion for final approval of class action settlement.

4. During the course of litigation, Chestnut Cambronne PA spent time advancing the litigation here by performing the following tasks, including, but not limited to:

- Conducting a pre-suit investigation of the facts of the data breach and its aftermath and thoroughly examining the available facts and law;
- Vetting the named Plaintiffs, their factual circumstances, and their potential claims, and then corresponding with the named Plaintiffs to keep them updated on key developments in the case;
- Drafting and filing or submitting: initial, pre-consolidation Complaints; a motion to consolidate and for appointment; an amended complaint; a motion to stay pending settlement discussions; a mediation statement; a motion for preliminary approval of class action settlement, including the Settlement Agreement and its exhibits; a renewed motion for preliminary approval of class action settlement; this Fee and Expense Application here; and an upcoming motion for final approval; of class action settlement; and
- Drafting and reviewing pre-mediation discovery documents;

5. As summarized below, Chestnut Cambronne PA devoted 32.1 hours to the prosecution and resolution of this matter, resulting in a lodestar of \$19,838.00. Lodestar has been calculated based on current hourly rates that range from \$1,050 for partners; \$595-625 for associates, and \$295 for support staff.

Attorneys	Role	Rates	Hours from inception to [Date]	Lodestar from inception to [Date]
Bryan L. Bleichner	Shareholder	\$1,050	3.4	\$3,570.00
Philip J. Krzeski	Attorney	\$595 to \$625	27.2	\$14,518.00
Paralegals and Legal Assistants				
Chris Jensen	Paralegal	\$295.00	1.5	\$442.50
TOTAL			37.1	\$19,838.00

6. Chestnut Cambronne PA regularly prepared and maintained files contemporaneously documenting time spent, including tasks performed, and expenses incurred,

relating to this matter. Supporting time records are available at the request of the Court for review in camera.

7. Chestnut Cambronne PA advanced expenses in prosecuting this litigation. They are the type of expenses typically billed by attorneys to paying clients in the marketplace, and include such costs as fees paid or incurred for research, filing fees, expert fees, or mediation. All these expenses were reasonable and necessary for the prosecution of this litigation as summarized below.

Expense Categories	Cumulative Expenses
Filing Fees	\$402
TOTAL	\$402

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

Executed on March 25, 2025
in Minneapolis, MN

/s/ Bryan L. Bleichner
Bryan L. Bleichner

**EXHIBIT A TO DECLARATION
OF BRYAN L. BLEICHNER**



CHESTNUT CAMBRONNE FIRM RESUME

For over 50 years, Chestnut Cambronne PA has been representing clients in class action litigation both in the Twin Cities area and at a national level. Since its inception, Chestnut Cambronne has been engaged in complex litigation throughout the country and has successfully both prosecuted and defended class litigation addressing substantive legal questions in the fields of data security breaches, securities, ERISA, banking, antitrust, and consumer protection law. Representative class action cases in which the firm and its members have been involved with over the past several years include:

Jones v. ESO Solutions, Inc. Data Breach Litig., No. 1:23-cv-015557 (W.D. Tex.). A pending class action against ESO Solutions, Inc., a Texas-based data and software company on behalf of current and former client, alleging negligence and other claims in a data security breach. Bryan L. Bleichner was appointed as Interim Co-Lead Counsel.

In re Tift Regional Health Sys., Inc. Data Breach Litig., No. 2023cv0311 (Tift County, Georgia Sup. Court). A pending class action against Tift Regional Hospital, a Georgia-based hospital network on behalf of current and former patients, alleging negligence and other claims in a data security breach. Bryan L. Bleichner was appointed as Interim Co-Lead Counsel.

Kobor, et al., v. Skidmore College, No. 1:23-cv-1392 (N.D. NY). A pending class action against Skidmore College on behalf of current and former employees and students, alleging negligence and other claims in a data security breach. Philip J. Krzeski was appointed as Interim Co-Lead Counsel.

Edwards v. Memorial Heart Institute, LLC d/b/a The Chattanooga Heart Institute, Case No. 1:2023-cv-00172 (E.D. Tenn.). A pending class action against Memorial Heart Institute, a Tennessee-based hospital network on behalf of current and former patients, alleging negligence and other claims in a data security breach. Bryan L. Bleichner was appointed as Interim Co-Lead Counsel.

Owens-Brooks v. Dish Network Corp., Case No. 1:2023-cv-01168 (D. Colo.). A pending class action against Dish Network Corp., a cable service provider, on behalf of current and former employees, alleging negligence and other claims in a data security breach. Bryan L. Bleichner was appointed as Interim Co- Lead Counsel.

In re R&B Corp. of Virginia d/b/a Credit Control Corp., Case No. 4:2023-cv-00066 (E.D. Va.). A pending class action against R&B Corporation of Virginia, a Virginia-based debt collector, on behalf of consumers, alleging negligence and other claims in a data security breach. Bryan L. Bleichner was appointed as Interim Co- Lead Counsel.

In re Orthoalaska Data Breach Litigation, Case No. 3:23-cv-00242-SLG (D. Ala.). A pending class action against Orthoalaska, LLC, an Alaska-based orthopedics based medical practice on behalf of current and former patients, alleging negligence and other claims in a data security breach. Bryan L. Bleichner was appointed as Interim Co-Lead Counsel.

In re Wasserstrom Holdings, Inc., Data Breach Litigation, Case No. 3:23-cv-2424-MHW-EPD (S.D. Ohio). A pending class action against Wasserstrom Holdings, Inc., an Ohio-based restaurant supplier, alleging negligence and other claims in a data security breach. Philip J. Krzeski was appointed as Interim Co-Lead Counsel.

In re: Group Health Plan Litigation, Case No. 23-cv-00267-JWB-DJF (D. Minn.). A pending class action against Group Health Plain, a Minnesota-based healthcare network, alleging wiretapping claims stemming from a Facebook pixel. Bryan L. Bleichner was appointed as Interim Co-Lead Counsel.

Rasmussen, et al., v. Uintah Health Care Basin, 2:23-cv-0322-HCN-DBP (Dt. Ut.). A pending class action against healthcare network Uintah Health Care Basin, a Utah-based healthcare network, alleging negligence and other claims in a data security breach. Bryan L. Bleichner was appointed as Interim Co-Lead Counsel.

Anderson v. Fortra LLC, No. 23-cv-00533-SRN (D. Minn.). A pending class action on behalf of a putative class of consumers against Fortra LLC, a cybersecurity vendor, alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed as Interim Co-Lead Counsel.

Rodriguez v. Mena Regional Hospital Commission d/b/a Mena Regional Health System, No. 2:23-cv-2002-PKH (W.D. Ark.). A pending class action on behalf of a medical

patients against Mena Regional hospital Commission, an Arkansas Healthcare Network alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed as Interim Co-Lead Counsel.

Hale v. ARcare, No. 3:22-cv-00117-BSM (E.D. Ark.). A pending class action on behalf of a putative class of consumers against ARcare, an Arkansas healthcare network, alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed as Interim Co-Lead Counsel.

Hightower v. Receivables Performance Management, LLC, No. 2:22-cv-01683-RSM (W.D. Wash.). A pending class action on behalf of a putative class of consumers against Receivables Performance Management, LLC, a Washington-based debt collection company, alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed as Interim Co-Lead Counsel.

Johnson v. Yuma Regional Medical Center, No. 2:22-cv-01061-SMB (D. Ariz.). A pending class action on behalf of a putative class of consumers against Yuma Regional Medical Center, an Arizona healthcare network, and related entities alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed as Interim Co-Lead Counsel.

In Re: Pawn America Consumer Data Breach Litigation, No. 21-cv-2544-PJS-HB (D. Minn.). A pending class action on behalf of a putative class of consumers against Pawn America and related entities alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed as Interim Co-Lead Counsel.

In Re: Netgain Technology, LLC, Consumer Data Breach Litigation, No. 21-cv-1210-SRN-LIB (D. Minn.). A pending class action on behalf of a putative class of consumers against Netgain Technology alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed as Interim Co-Lead Counsel.

Phillips v. Bay Bridge Administrators, LLC, No. 1:23-cv-022 (W.D. Tex.). A pending class actin on behalf of a putative class of consumers against an insurance administrator alleging negligence and other claims in a data security breach. Philip J. Krzeski was court appointed as Executive Committee Counsel.

Lutz v. Electromed, Inc., No. 21-cv-2198-SRN-DTS (D. Minn.). A pending class action on behalf of a putative class of consumers against Electromed alleging

negligence and other claims in a data security breach. Chestnut Cambronne is prosecuting the case with two additional plaintiffs' law firms.

Baker v. Parkmobile, LLC, No. 21-cv-2181-SCJ (N.D. Ga.). A pending class action on behalf of a putative class of consumers against Parkmobile, LLC alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed to the Interim Plaintiffs' Steering Committee.

DeSue v. 20/20 Eye Care Network, Inc., No. 21-cv-61275-RAR (S.D. Fla.). A pending class action on behalf of a putative class of consumers against 20/20 Eye Care Network alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed as Interim Co-Lead Counsel.

Garrett v. Herff Jones, LLC, No. 21-cv-01329-TWP-DLP (S.D. Ind.). A pending class action on behalf of a putative class of consumers against Herff Jones alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed as Interim Co-Lead Counsel.

In re EyeMed Vision Care, LLC Data Security Breach Litigation, No. 21-cv-00036-DRC (S.D. Ohio). A pending class action on behalf of a putative class of consumers against EyeMed alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed as Interim Co-Lead Counsel.

In re Luxottica of America, Inc. Data Security Breach Litigation, No. 20-cv-00908-MRB (S.D. Ohio). A pending class action on behalf of a putative class of consumers against Luxottica alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed as Interim Co-Lead Counsel.

Greenstate Credit Union v. Hy-Vee, Inc., No. 20-cv-00621-DSD-DTS (D. Minn.). A pending class action on behalf of a putative class of financial institutions against Hy-Vee alleging negligence and violations of the Minnesota Plastic Card Security Act in a data security breach. Bryan L. Bleichner currently serves as co-counsel.

Village Bank v. Caribou Coffee Company, Inc., No. 19-cv-01640-JNE-HB (D. Minn.). A recently settled class action on behalf of a putative class of financial institutions against Hy-Vee alleging negligence and violations of the Minnesota Plastic Card Security Act in a data security breach. Bryan L. Bleichner serves as court appointed settlement class counsel.

Walker v. Nautilus, Inc., No. 20-cv-3414-EAS-EPD (S.D. Ohio). A pending consumer protection class action against Nautilus, Inc. alleging Defendant materially misrepresented the horsepower produced by the electric motors in its treadmills. Chestnut Cambronne currently serves as Plaintiffs' counsel.

In re DPP Beef Litig., No. 20-cv-1319-JRT/HB (D. Minn.). A pending class action on behalf of a putative class of direct purchasers against beef product producers alleging claims of price fixing. Chestnut Cambronne serves as Plaintiffs' Counsel.

Alicia Schaeffer v. Life Time Fitness, Inc. et al., No. 27-cv-20-10513 (Minn. 2020). A pending class action on behalf of a putative class of group fitness instructors against Life Time Fitness, Inc. alleging Defendants refused to compensate Plaintiff and class members for work performed for their employer's benefit. Chestnut Cambronne currently serves as Plaintiffs' counsel.

In re WaWa, Inc. Data Security Litig., No. 19-cv-6019-GEKP (E.D. Pa.). A pending class action on behalf of a putative class of financial institutions against WaWa, Inc. alleging negligence and other claims in a data security breach. Bryan L. Bleichner serves on the Financial Institution Track Defendant Discovery and ESI Committee

Teeda Barclay v. Icon Health & Fitness, Inc., et al., No. 19-cv-02970-ECT-DTS (D. Minn.). A pending consumer protection class action against Icon Health & Fitness and NordicTrack alleging Defendants materially misrepresented the horsepower produced by the electric motors in its treadmills. Bryan L. Bleichner currently serves as Plaintiffs' counsel.

In re Resideo Technologies, Inc. Securities Litig., No. 19-cv-02863-WMW-KMM (D. Minn.). A pending shareholder class action against Resideo and its directors and officers for failing to disclose material information about its spin-off from Honeywell. Chestnut Cambronne serves as liaison counsel on this matter.

Delamarter v. Supercuts, Inc., No. 19-3158-DSD-TNL (D. Minn.). A pending class action on behalf of a putative class of consumers against Supercuts alleging violations of the Fair and Accurate Credit Transactions Act. Bryan L. Bleichner serves as Plaintiff's Counsel.

Kenneth Peterson v. JBS USA Food Company Holdings, et al., No. 19-cv-1129-JRT-HB (D. Minn.). A pending class action on behalf of a putative class of indirect

purchasers against beef product producers alleging claims of price fixing. Chestnut Cambronne served as Plaintiffs' Counsel.

In re: FedLoan Student Loan Servicing Litigation, No. 2:18-md-02833-CDJ (E.D. Pa.). A pending class action on behalf of a putative class of student loan borrowers against FedLoan Servicing / Pennsylvania Higher Education Assistance Agency alleging consumer fraud violations and other claims. Bryan L. Bleichner was court appointed to the Executive Committee.

ASEA/AFSCME Local 52 Health Benefits Trust v. St. Jude Medical, LLC, et al., No. 18-cv-02124-DSD-HB (D. Minn.). A class action on behalf of a putative class of third party health benefits payors against St. Jude Medical and Abbott Laboratories alleging product liability and other claims. Chestnut Cambronne served as Plaintiffs' Counsel.

In Re Pork Antitrust Litigation, No. 18-cv-1776-JRT-HB (D. Minn.,). A pending class action on behalf of a putative class of direct purchasers against pork product producers alleging claims of price fixing. Chestnut Cambronne currently serves as Plaintiffs' Counsel.

James Bruner, et al. v. Polaris Industries Inc. et al., No. 18-cv-00939-WMW-DTS (D. Minn.). A pending class action on behalf of a putative class of consumers against Polaris Industries alleging product liability claims. Chestnut Cambronne was court appointed as Plaintiffs' Liaison Counsel.

In re: Equifax, Inc., Customer Data Security Breach Litigation, No. 17-md-2800-TWT (N.D. Ga.). A settled class action on behalf of a putative class of financial institutions against Equifax alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed to the Financial Institution Plaintiffs' Steering Committee.

Marie Travis v. Navient Corp. et al., No. 17-cv-04885-JFB-GRB (E.D.N.Y.). A pending class action on behalf of a putative class of student loan borrowers against Navient Corp. alleging consumer fraud act violations and other claims. Bryan L. Bleichner serves as Plaintiffs' Counsel.

Midwest Am. Fed. Credit Union v. Arby's Rest. Grp. Inc., No. 17-cv-00514-AT (N.D. Ga.). A pending class action on behalf of a putative class of financial institutions against Arby's alleging negligence and other claims in a data security breach. Bryan L. Bleichner was appointed to the Interim Plaintiffs' Executive Committee.

Veridian Credit Union v. Eddie Bauer LLC, No. 2:17-cv-00356 (W.D. Wash.). A settled class action on behalf of a putative class of financial institutions against Eddie Bauer alleging negligence and other claims in a data security breach. Bryan L. Bleichner served as Plaintiff's counsel.

Bellwether Community Credit Union v. Chipotle Mexican Grill, Inc., No. 17-cv-1102 (D. Colo.). A settled class action on behalf of a putative class of financial institutions against Chipotle alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed to Chair of the Executive Committee.

First Choice Fed. Credit Union et al. v. The Wendy's Company et al., No. 2:16-cv-00506 (W.D. Pa.). An ongoing class action on behalf of a putative class of financial institutions against Wendy's alleging negligence and other claims in a data security breach. Bryan L. Bleichner was court appointed to the Executive Committee.

Gordon v. Amadeus IT Group, S.A., No. 1:15-cv-05457 (S.D.N.Y. July 14, 2015). A resolved putative class action alleging collusion and anticompetitive behavior among the companies that provide the systems used by travel agents to link to airline flight and fare information known as global distribution systems (GDS). Chestnut Cambronne served as Plaintiffs' Counsel in this litigation.

In re: Anthem, Inc. Data Breach Litigation, No. 5:15-md-02617 (LHK) (N.D. Cal. March 13, 2015). A settled class action against Anthem alleging negligence and other claims in a data security breach affecting in excess of 80 million consumers. Chestnut Cambronne served as Plaintiffs' Counsel in the litigation.

Gassoway v. Benchmark Energy Transport Services, Inc., (S.D. Tex. February 23, 2015). A certified and settled class action case alleging Benchmark Energy Transport Services deducted and withheld an undisclosed surcharge from trucking owner-operators in violation of Federal Regulations. Chestnut Cambronne served as co-lead counsel for the certified class.

In re: The Home Depot, Inc., Customer Data Security Breach Litigation, No. 1:14-md-02583 (TWT) (N.D. Ga.). This is an ongoing putative class action against The Home Depot alleging negligence and other claims in a data security breach affecting 56 million consumers and tens of thousands of financial institutions. Bryan L. Bleichner was court appointed to the Financial Institution Plaintiffs' Steering Committee.

In re: Target Corporation Customer Data Security Breach Litigation, No. 0:14-md-02522 (PAM/JJK) (D. Minn. December 26, 2013). This is a settled class action against Target Corporation alleging negligence and violations of the Minnesota Plastic Card Security Act in a data security breach affecting 70 million consumers and tens of thousands of financial institutions. Chestnut Cambronne served as Co-Lead Counsel for the Financial Institution Class and Coordinating Lead Counsel for Plaintiffs.

Christian v. National Hockey League, No. 0:14-md-02551 (SRN/JSM) (D. Minn. April 15, 2014) This is a settled putative class action against the National Hockey League (NHL) alleging that the NHL ignored the known risks of concussive injuries and failed to safeguard its players. Chestnut Cambronne was court appointed to the Plaintiffs' Executive Committee.

Puerta v. Tile Shop Holdings, Inc., No. 0:14-cv-00786 (ADM/TNL) (D. Minn. March 21, 2014). A settled shareholder class action against Tile Shop Holdings and its directors and officers for failing to disclose material information about a supplier relationship. Chestnut Cambronne served as liaison counsel on this matter.

In re: Domestic Drywall Antitrust Litig., No. 2:13-md-2437; 939 F. Supp. 2d 1371 (E.D. Pa. 2013). This is an ongoing antitrust putative class action against domestic manufacturers of drywall alleging price-fixing. Chestnut Cambronne is acting as plaintiffs' counsel in this matter.

Lucas v. SCANA Energy Marketing, Inc., No. 1:12-cv-02356 (SCJ) (N.D. Ga. Feb. 8, 2013). A settled consumer protection class action in which Chestnut Cambronne served as co-lead counsel.

In re: Imprelis Herbicide Mktg., Sales Practices and Products Liability Litig., No. 2:11-md-02284 (GP) (E.D. Pa. Oct. 20, 2011). This is a settled products liability class action against the manufacturer of Imprelis Herbicide, DuPont. The class has recovered over \$378 million to date.

Minneapolis Firefighters' Relief Ass'n v. Medtronic, Inc, No. 08-6324 (PAM/AJB) (D. Minn. 2009); 618 F. Supp. 1016 (D. Minn. 2009); 278 F.R.D. 454 (D. Minn. 2011). This is a settled securities fraud class action in which Chestnut Cambronne was lead and liaison counsel. The class recovered \$80 million.

In re: American Express Anti-Steering Rules Antitrust Litig. (No. II), MDL No. 2221, 764 F. Supp. 2d 1343 (E.D.N.Y. 2010). This is a settled class action alleging that Defendant American Express' policies prohibiting merchants from offering customers incentives to use a particular card or type of payment violated antitrust laws. The case is currently under appellate review before the United States Court of Appeals for the Second Circuit.

Mooney v. Allianz Life Ins. Co. of North America, No. 06-545 (ADM/FLN); 2010 WL 419962 (D. Minn. Jan. 29, 2010). This was a certified class action in which Chestnut Cambronne was co-lead counsel seeking damages of \$2 billion. After a three-week trial, the jury concluded Allianz made false and misleading statements intentionally in violation of the statute, but did not award damages.

In re United Healthcare, Inc. Shareholder Derivative Litig., 631 F.3d 913 (8th Cir. 2011), *affirming* 631 F. Supp. 2d 1151 (D. Minn. 2009). This is a settled shareholder derivative case involving the backdating of stock options. Chestnut Cambronne served as lead counsel and recovered on behalf of the company a settlement valued at \$922 million. Today, it remains the largest recovery in a shareholder derivative case in United States history.

San Francisco Health Plan v. McKesson Corp., No. 1:08-cv-10843 (D. Mass. May 20, 2008). A settled RICO and Clayton Act class action challenging the pricing of pharmaceutical drugs. The class recovered \$82 million. Chestnut Cambronne represented Plaintiff Anoka County.

In re MoneyGram Int'l, Inc. Securities Litig., No. 08-cv-883 (DSD/JJG) (D. Minn. July 22, 2008); 626 F. Supp. 2d 947 (D. Minn. 2009). This is a settled securities fraud class action in which Chestnut Cambronne was co-lead counsel and recovered \$80 million for the class.

Avritt v. Reliastar Life Ins. Co., No. 0:07-cv-01817 (JNE/JJG) (D. Minn. April 9, 2007). This is a settled class action that alleged Defendant defrauded consumers in the sale of its Fixed Annuities. Chestnut Cambronne served as local counsel and recovered \$31 million for the class.

In re: Air Cargo Shipping Services Antitrust Litig., No. 1:06-md-01775 (JG/VVP) (E.D.N.Y. June 27, 2006). This is a partially settled class action alleging a price-fixing conspiracy by dozens of international air cargo carriers. To date over \$500 million has been recovered for the class.

In re: Payment Card Interchange Fee and Merchant Discount Antitrust Litig., MDL No. 1720, 398 F. Supp. 2d 1356 (E.D.N.Y. 2005). A settled class action alleging that the rules Defendants Visa and MasterCard impose upon merchants violate antitrust laws. The case is currently on appeal before the United States Court of Appeals for the Second Circuit. The current settlement value is in excess of \$7.25 billion.

In re Xcel Energy, Inc. Sec, Derivative & "ERISA" Litig, 364 F. Supp. 980, 995-996 (D. Minn. 2005); *In re Xcel Energy Securities, Derivative & "ERISA" Litigation*, 286 F. Supp. 2d 1047 (D. Minn. 2003). This was a securities fraud class action in which Chestnut Cambronne was co-lead counsel. The class recovered \$80 million.

Cooper v. Miller, Johnson, Steichen & Kinnard, No. 0:02-cv-01236 (RHK/AJB) (D. Minn. June 5, 2002) This is a settled securities fraud class action in which Chestnut Cambronne served as lead counsel. The class recovered \$5.6 million.

In Re E.W. Blanch Holdings, Inc. Securities Litig., No. 0:01-cv-00258 (JNE/JGL) (D. Minn. Feb. 12, 2001) This is a settled securities fraud class action in which Chestnut Cambronne served as lead counsel. The class recovered \$20 million.

In re Blue Cross Subscriber Litig., No. 19-C3-98-7780 (Minn. Dist. Ct. 1st Dist.) This was a consumer protection class action on behalf of Blue Cross subscribers. Over \$41 million was recovered for Blue Cross policy holders. Chestnut Cambronne served as lead counsel.

Alford v. Mego Mortgage Home Loan Owner Trust 1997-1; Mazur v. Empire Funding Home Loan Owner Trust 1997-1; and Banks, et al. v. FirstPlus Home Loan Trust 1996-2 (Minn. Dist. Ct. 4th Dist.). These are settled consumer-lending cases in which Chestnut Cambronne acted as co-lead counsel.

Chestnut Cambronne also has experience successfully defending class litigation.

See, e.g., In re K-Tel, 300 F.3d 881 (8th Cir. 2002); *Wylde v. Champps of New Brighton*, No. 10-cv-4953 (ADM/JJK) (D. Minn. 2011); *Johnson v. BP America, Inc.* No. 12-cv-00417 (RHK/JSM) (D. Minn. 2012).

Not only do the results obtained in the above cases attest to the skill and competence of Chestnut Cambronne lawyers in shareholder litigation, various courts have publicly commended Chestnut Cambronne for its efforts:

Plaintiffs' co-lead counsel have significant experience in representing shareholders and shareholder classes in federal securities actions around the country and in this district in particular. Counsel-both the lawyers representing lead plaintiffs and defendants-conducted themselves in an exemplary manner. ... Thus, the effort of counsel in efficiently bringing this case to fair, reasonable and adequate resolution is the best indicator of the experience and ability of the attorneys involved, and this factor supports the court's award of 25%.

In re Xcel Energy, Inc. Sec, Derivative & "ERISA" Litig, 364 F. Supp. 980, 995 (D. Minn. 2005).

Exhibit G

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IN RE HOPE COLLEGE DATA SECURITY
BREACH LITIGATION

Case No: 1:22-CV-01224-PLM

**DECLARATION OF GARY M. KLINGER OF MILBERG COLEMAN BRYSON
PHILLIPS GROSSMAN, PLLC IN
SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEYS' FEES,
COSTS, EXPENSES, AND SERVICE AWARDS**

I, **Gary M. Klinger**, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am a Partner at Milberg Coleman Bryson Phillips Grossman, PLLC (“Milberg”), and my firm is one of Plaintiffs’ Counsel in this case on behalf of Plaintiffs and the Settlement Class. I have personal knowledge of the facts stated in this Declaration and, if called as a witness, I could and would testify competently to them. I make this Declaration on behalf of Plaintiffs in support of Plaintiffs’ Motion for Attorneys’ Fees and Expenses, and for Service Awards (the “Fee and Expense Application”) in connection with the services rendered in the above-captioned consolidated Action and the proposed class action settlement with Defendant Hope College. The statements herein are true to the best of my personal knowledge, information and belief based on my law firm’s books and records and information received from its attorneys and staff.

2. I have significant experience prosecuting complex class actions, and especially consumer data privacy cases, as further detailed in my firm resume, attached hereto as **Exhibit 1**.

3. During the pendency of this litigation, Plaintiffs’ counsel carefully coordinated their activities to avoid engaging in duplicative work.

4. Among Plaintiffs’ counsel, each firm worked to advance the litigation on behalf of Plaintiffs and the putative class members. Plaintiffs’ counsel reviewed documents, prepared pleadings, worked with Plaintiffs, and collaboratively developed strategy. With respect to this effort, Plaintiffs’ Counsel was careful to work together to perform discrete and non-overlapping tasks to each firm in order to avoid duplicative work, including to my firm. Following the appointment of Settlement Class Counsel (ECF No. 32, PageID.963), this process was further streamlined, as Settlement Class Counsel assumed responsibility for assigning non-duplicative work to advance the settlement process, including assigning final review of the Notice, the

Settlement Website, the drafting of this Fee and Expense Application, and the upcoming motion for final approval of class action settlement.

5. During the course of litigation, Milberg spent time advancing the litigation here by performing the following tasks, including, but not limited to:

- Conducting a pre-suit investigation of the facts of the data breach and its aftermath and thoroughly examining the available facts and law;
- Vetting the named Plaintiffs, their factual circumstances, and their potential claims, and then corresponding with the named Plaintiffs to keep them updated on key developments in the case;
- Drafting and filing or submitting: initial, pre-consolidation Complaints; a motion to consolidate and for appointment; an amended complaint; a motion to stay pending settlement discussions; a mediation statement; a motion for preliminary approval of class action settlement, including the Settlement Agreement and its exhibits; a renewed motion for preliminary approval of class action settlement; this Fee and Expense Application here; and an upcoming motion for final approval; of class action settlement;

6. As summarized below, Milberg devoted XXX hours to the prosecution and resolution of this matter, resulting in a lodestar of \$11,197.70. This represents a rate of \$850 for partners, \$413 for associates, \$208 for legal assistants, and rates of \$208 - \$239.00 for paralegals, which varied slightly during the pendency of this litigation as the rate is adjusted for years of experience.

Attorneys	Role	Rates	Hours from inception to [Date]	Lodestar from inception to [Date]
Gary Klinger	Partner	\$ 850.00	7.5	\$ 6,375.00
Dean Meyer	Associate	\$ 413.00	5.2	\$ 2,174.60
Paralegals and Legal Assistants				
Ashley Tyrell	Legal Assistant	\$ 208.00	5.1	\$ 1,079.40
Sandra Passanisi	Paralegal	Varying rates from \$208 - \$239	4.6	\$ 1,038.50

Tiffany Kuiper	Paralegal	Varying rates from \$208 - \$225	2.1	\$ 457.20
Heather Sheflin	Paralegal	\$225.00	0.4	\$ 90.00
TOTAL			24.9	\$ 11,187.70

7. Milberg regularly prepared and maintained files contemporaneously documenting time spent, including tasks performed, and expenses incurred, relating to this matter. Supporting time records are available at the request of the Court for review in camera.

8. Milberg advanced expenses in prosecuting this litigation. They are the type of expenses typically billed by attorneys to paying clients in the marketplace, and include such costs as fees paid or incurred for research, filing fees, expert fees, or mediation. All these expenses were reasonable and necessary for the prosecution of this litigation as summarized below.

Expense Categories	Cumulative Expenses
[Filing Fees]	\$402.00
[Service Fees]	\$212.00
[Admission Fees]	\$240.00
TOTAL	\$854.00

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

Executed on March 25, 2025
in Chicago, Illinois

/s/ Gary M. Klinger
Gary M. Klinger

EXHIBIT 1

Milberg.
COLEMAN BRYSON PHILLIPS GROSSMAN

Gary M. Klinger is a Partner at Milberg Coleman Bryson Phillips Grossman PLLC (“Milberg”).¹ At only 37-years old, Mr. Klinger has gained extensive experience serving as leadership in numerous high-profile consumer and privacy class actions. Notably, Mr. Klinger has settled on a class-wide basis more than forty class actions, the majority of which were privacy cases, as lead or co-lead counsel recovering more than a hundred million dollars for consumers in the process. Some of Mr. Klinger’s representative cases include the following:

- *Carrera Aguallo v. Kemper Corp.*, Case No. 1:21-cv-01883 (N.D. Ill. Oct. 27, 2021) (where Mr. Klinger obtained final approval of a class-wide settlement valued at \$17.6 million for a major class action involving more than six million consumers);
- *Heath v. Insurance Technologies Corp.*, No. 21-cv-01444 (N.D. Tex.) (where Mr. Klinger obtained approval of a class-wide settlement for \$11 million);
- *In Re: Procter & Gamble Aerosol Products Marketing and Sales Practices Litigation*, 2:22-md-03025-MHW-CMV (N.D. Ohio) (where Mr. Klinger serves as one of the lead attorneys in multi-district litigation against Procter & Gamble and successfully reached a settlement valued over \$10 million);
- *Smid v. Nutranext, LLC*, Case No. 20L0190 (Cir. Ct. St. Clair, County) (class counsel in consumer class action involving heavy metals in prenatal vitamins; final approval granted to \$7M settlement)
- *In re: Herff Jones Data Breach Litigation*, Master File No. 1:21-cv-1329-TWP-DLP (S.D. Ind.) (where Mr. Klinger obtained approval of a class-wide settlement for \$4.35 million);
- *In re: CaptureRx Data Breach Litigation*, No. 5:21-cv-00523-OLG (W.D. Tex.) (where Mr. Klinger obtained approval of a class-wide settlement for \$4.75 million);
- *In re Arthur J. Gallagher Data Breach Litigation*, No. 1:21-cv-04056 (N.D. Ill.) (where Mr. Klinger serves as appointed co-lead counsel to represent more than 3 million class members in a major class action).

Mr. Klinger has also successfully litigated class actions through contested class certification. In *Karpilovsky v. All Web Leads, Inc.*, No. 17 C 1307, 2018 WL 3108884, at *1 (N.D. Ill. June 25, 2018), Mr. Klinger certified, over objection, a nationwide privacy class action involving more than one million class members. *Id.* At the time, it was the largest litigation class ever to be certified for violations of the Telephone Consumer Protection Act. In a nationwide class settlement hearing in the U.S. District Court for the Northern District of California, Judge Richard Seeborg personally commended Mr. Klinger for “quite a substantial recovery for class members.” Judge Seeborg further stated he could not recall any class action case where “the amounts going to each class member were as substantial” as that obtained by Mr. Klinger (and his co-counsel).

Mr. Klinger is admitted to practice in the State of Illinois and the following federal courts: The U.S. District Court of Colorado, The U.S. District Court of Central District of Illinois, The U.S.

¹ A copy of Milberg’s Firm Resume is attached hereto as Exhibit A.

District Court of Northern District of Illinois, The U.S. District Court of Southern District of Illinois, The U.S. District Court of Southern District of Indiana, The U.S. District Court of Eastern District of Michigan, The U.S. District Court of District of Nebraska, The U.S. District Court of Eastern District of Texas, and The U.S. District Court of Eastern District of Wisconsin.

Mr. Klinger received his undergraduate degree and juris doctorate (*cum laude*) from the University of Illinois.

Mr. Klinger is presently pursuing his Masters of Laws (LLM) in Data Privacy and Cybersecurity from the University of Southern California Gould School of Law.

Mr. Klinger is also a member of the International Association of Privacy Professionals.

EXHIBIT A



FIRM RESUME



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

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

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

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

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

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

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

PRACTICE AREAS

SECURITIES FRAUD

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

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

ANTITRUST & COMPETITION LAW

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

FINANCIAL LITIGATION

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

CONSUMER PROTECTION

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

DANGEROUS DRUGS & DEVICES

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

EMPLOYMENT & CIVIL RIGHTS

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

ENVIRONMENTAL LITIGATION & TOXIC TORTS

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

STATE & LOCAL GOVERNMENTS

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

INFORMATION TECHNOLOGY

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

APPELLATE

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

LEADERSHIP ROLES

In re: Google Play Consumer Antitrust Litigation
In re: Elmiron (Pentosan Polysulfate Sodium) Products Liability Litigation
In re: Johnson & Johnson Talcum Powder Products Marketing, Sales Practices & Products Liability Litigation
In re: Blackbaud Inc., Customer Data Breach Litigation
In re: Paragard IUD Products Liability Litigation
In re: Seresto Flea & Tick Collar, Marketing Sales Practices & Product Liability Litigation
In re: All-Clad Metalcrafters, LLC, Cookware Marketing and Sales Practices Litigation
In re: Allergan Biocell Textured Breast Implant Products Liability Litigation
In re: Zicam Cold Remedy Marketing, Sales Practices and Products Liability Litigation
In re: Guidant Corp. Implantable Defibrillators Product Liability Litigation
In re: Ortho Evra Products Liability Litigation
In re: Yasmin and YAZ (Drospirenone) Marketing, Sales Practices and Products Liability Litigation
In re: Kugel Mesh Hernia Patch Products Liability Litigation
In re: Medtronic, Inc. Sprint Fidelis Leads Products Liability Litigation
In re: Stand 'N Seal Products Liability Litigation
In re: Chantix (Varenicline) Products Liability Litigation
In re: Fosamax (alendronate Sodium) Products Liability Litigation
In re: Benicar (Olmesartan) Products Liability Litigation
In re: Onglyza (Saxagliptin) & Kombiglyze Xr (Saxagliptin & Metformin) Products Liability Litigation
In re: Risperdal and Invega Product Liability Cases
In re: Mirena IUS Levonorgestrel-Related Products Liability Litigation
In re: Incretin-based Therapies Product Liability Litigation
In re: Reglan/Metoclopramide
In re: Levaquin Products Liability Litigation
In re: Zimmer Nexgen Knee Implant Products Liability Litigation
In re: Fresenius Granuflo/Naturalyte Dialysate Products Liability Litigation
In re: Propecia (Finasteride) Products Liability Litigation
In re: Transvaginal Mesh (In Re C. R. Bard, Inc., Pelvic Repair System Products Liability Litigation; In Re Ethicon, Inc., Pelvic Repair System Products Liability Litigation; In Re Boston Scientific, Inc., Pelvic Repair System Products Liability; In Re American Medical Systems, Pelvic Repair System Products Liability, and others)
In re: Fluoroquinolone Product Liability Litigation
In re: Depuy Orthopaedics, Inc., Pinnacle Hip Implant Products Liability Litigation
In re: Recalled Abbott Infant Formula Products Liability Litigation
Home Depot, U.S.A., Inc. v. Jackson
Webb v. Injured Workers Pharmacy, LLC

NOTABLE RECOVERIES

\$4 Billion Settlement

In re: Prudential Insurance Co. Sales Practice Litigation

\$3.2 Billion Settlement

In re: Tyco International Ltd., Securities Litigation

\$1.14 Billion Settlement

In Re: Nortel Networks Corp. Securities Litigation

\$1 Billion-plus Trial Verdict

Vivendi Universal, S.A. Securities Litigation

\$1 Billion Settlement

NASDAQ Market-Makers Antitrust Litigation

\$1 Billion Settlement

W.R. Grace & Co.

\$1 Billion-plus Settlement

Merck & Co., Inc. Securities Litigation

\$775 Million Settlement

Washington Public Power Supply System Securities Litigation

\$586 Million Settlement

In re: Initial Public Offering Securities Litigation

LOCATIONS

PUERTO RICO

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

CALIFORNIA

280 South Beverly Drive, Penthouse
Beverly Hills, California 90212

402 West Broadway, Suite 1760
San Diego, California 92101

FLORIDA

2701 South Le Jeune Road
Coral Gables, Florida 33134

ILLINOIS

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

KENTUCKY

19 North Main Street
Madisonville, Kentucky 42431

LOUISIANA

5301 Canal Boulevard
New Orleans, Louisiana 70124

MICHIGAN

6905 Telegraph Road, Suite 115
Bloomfield Hills, Michigan 48301

NEW JERSEY

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

NEW YORK

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

405 E 50th Street
New York, New York 10022

NORTH CAROLINA

900 West Morgan Street
Raleigh, North Carolina 27603

SOUTH CAROLINA

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

TENNESSEE

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

518 Monroe Street
Nashville, Tennessee 37208

WASHINGTON

1420 Fifth Ave, Suite 2200
Seattle, Washington 98101

17410 133rd Avenue, Suite 301
Woodinville, Washington 98072

WASHINGTON, D.C.

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

NETHERLANDS

UNITED KINGDOM



Exhibit H

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IN RE HOPE COLLEGE DATA SECURITY
BREACH LITIGATION

Case No: 1:22-CV-01224-PLM

Hon. Paul L. Maloney

CLASS ACTION

**ORDER AWARDING ATTORNEYS' FEES, COSTS,
EXPENSES, AND SERVICE AWARDS**

This matter came before the Court for a duly noticed hearing on May 20, 2024 (the “Fairness Hearing”), upon *Plaintiffs’ Unopposed Motion for Attorneys’ Fees, Costs, Expenses, and Service Awards* (the “Unopposed Motion”) in the above-captioned consolidated action (“Action”). The Court has considered the Unopposed Motion and all supporting and other related materials, including the matters presented at the Fairness Hearing. Due and adequate notice of the Class Action Settlement Agreement and Release entered into on September 8, 2023 (the “Settlement Agreement”)¹ having been given to the Settlement Class Members, the Fairness Hearing having been held, and the Court having considered all papers filed and proceedings held herein and otherwise being fully informed in the premises and good cause appearing therefore:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. This Court has personal jurisdiction over Plaintiffs, Defendant Hope College, and all Settlement Class Members, and subject matter jurisdiction over the Action to approve the Settlement Agreement and all exhibits attached thereto.

¹ Unless otherwise defined herein, all capitalized terms used have the meanings set forth and defined in the Settlement Agreement.

2. Notice of the Unopposed Motion was provided to potential Settlement Class Members in a reasonable manner, and such notice complies with Rule 23(h)(1) of the Federal Rules of Civil Procedure and due process requirements.

3. Class Counsel is hereby awarded attorneys' fees in the amount of \$500,000.00 (five hundred thousand dollars and zero cents), which shall be paid out of the Settlement Fund. Such payment shall be made pursuant to the terms of the Settlement Agreement.

4. Class Counsel is hereby awarded expenses in the amount of \$12,523.82 (twelve thousand, five hundred twenty three dollars and eighty two cents), which shall be paid out of the Settlement Fund. Such payment shall be made pursuant to the terms of the Settlement Agreement.

5. Plaintiffs Jennie Devries, Tricia Garnett, Mark Cyphers, Timothy Drost, Joseph Rodgers, Emily Damaska, and Elise Carter are each individually awarded \$1,500 as a Service Award in recognition of their efforts on behalf of the Settlement Class, which shall be paid out of the Settlement Fund. Such payment shall be made pursuant to the terms of the Settlement Agreement.

6. Class Counsel is hereby authorized to allocate the Fee Award and Costs among Plaintiffs' Counsel in a manner in which, in Class Counsel's judgment, reflects the contributions of such counsel to the prosecution and settlement of the Action.

7. In making these awards, the Court has considered and found that:

a. Class Counsel and Plaintiffs' Counsel have prosecuted the Action and achieved the Settlement with skill, perseverance, and diligent advocacy;

b. The Action involves numerous complex factual and legal issues and was actively litigated and, in the absence of a settlement, would have involved lengthy proceedings with uncertain resolution of the numerous complex factual and legal issues;

c. Had Class Counsel and Plaintiffs' Counsel not achieved the Settlement, a risk would remain that Plaintiffs and the Settlement Class may have recovered less or nothing from Hope College;

d. Public policy considerations support the requested fee, as only a small number of firms have the requisite expertise and resources to successfully prosecute cases such as the Action;

e. Notice was disseminated stating that Class Counsel would be moving for attorneys' fees of up to (33 1/3%) (thirty-three and one-third percent) of the Settlement Fund, and, separately, reasonably incurred litigation expenses and costs (i.e., Fee Award and Costs), and that named Plaintiffs would be seeking a Service Award in an amount up to \$1,500 (One Thousand Five Hundred Dollars) per Class Representative;

f. The attorneys' fee award is fair, reasonable, appropriate and consistent with the awards in similar cases, and represents a reasonable multiplier on Class Counsel's and Plaintiffs' Counsel's lodestar, in view of the applicable legal principles and the particular facts and circumstances of the Action;

g. The expenses incurred were reasonable and necessary to the prosecution of the Action; and

h. Plaintiffs contributed their time and efforts to the prosecution of this Action for the benefit of the Settlement Class.

8. In the event that the Settlement is terminated or the Effective Date does not occur in accordance with the terms of the Settlement, this Order shall be null and void, of no further force or effect, and without prejudice to any of the Parties, and may not be introduced as evidence or used in any actions or proceedings by any Person against the Parties.

9. Pursuant to Section 9.3 of the Settlement Agreement, the Settlement is not conditioned upon the Court's approval of an award of any fee or costs award or service award.

10. The Settlement Administrator shall pay any attorneys' fees, costs, and expenses awarded by the Court to Class Counsel from the Settlement Fund within five (5) Business Days after the Effective Date, subject to the terms, conditions, and obligations of the Settlement Agreement which terms, conditions, and obligations are incorporated herein. Pursuant to ¶ 6, Class Counsel shall allocate (if any of) the Fee Award and Costs to Plaintiffs' Counsel within thirty (30) days of receiving the Fee Award and Costs from the Settlement Administrator.

11. The Settlement Administrator shall pay the Service Awards approved by the Court to the above named Class Representatives from the Settlement Fund within five (5) Business Days after the Effective Date, subject to the terms, conditions, and obligations of the Settlement Agreement which terms, conditions, and obligations are incorporated herein.

IT IS SO ORDERED.

Date: _____, 2024.

HONORABLE PAUL L. MALONEY
UNITED STATES DISTRICT JUDGE