

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION**

ALEXSIS WEBB and MARSCLETTE
CHARLEY, on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

INJURED WORKERS PHARMACY,
LLC,

Defendant.

Case No. 1:22-cv-10797-RGS

Judge Richard G. Stearns

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

TABLE OF CONTENTS

I. INTRODUCTION 1

II. FACTUAL AND PROCEDURAL BACKGROUND..... 2

III. SUMMARY OF THE SETTLEMENT 3

A. DEFINITION OF THE CLASS 3

B. THE SETTLEMENT TERMS AND BENEFITS TO THE SETTLEMENT CLASS 3

1. *Settlement Fund* 3

2. *Compensation for Unreimbursed Economic Losses* 4

3. *Pro Rata Cash Payment*..... 4

4. *Credit Monitoring*..... 5

5. *Additional Security Measures* 5

6. *Notice, Claims Process, and Settlement Administration* 5

7. *Attorneys’ Fees, Expenses, and Service Awards* 6

IV. THE PROPOSED SETTLEMENT WARRANTS PRELIMINARY APPROVAL 6

A. STANDARDS FOR PRELIMINARY APPROVAL..... 6

B. THE RULE 23(E) FACTORS ARE SATISFIED 8

1. *Rule 23(e)(2)(A) – Class Representatives and Class Counsel Adequately Represented the Class* 8

2. *Rule 23(e)(2)(A) – The Settlement was Negotiated at Arm’s-Length* 10

3. *Rule 23(e)(2)(C) – The Relief Provided is Adequate* 11

a. *Rule 23(e)(2)(C)(i) – Costs, Risks, and Delay of Trial and Appeal*..... 11

b. *Rule 23(e)(2)(C)(ii) – Effectiveness of the Proposed Method of Distributing Relief*..... 13

c. *Rule 23(e)(2)(c)(iii) – Attorney’s Fees* 14

d.	Rule 23(e)(2)(c)(iv) – Agreements Required to be Identified under Rule 23(e)(3).....	14
4.	<i>Rule 23(e)(2)(D) - Class Members Are Treated Equitably</i>	15
V.	THE SETTLEMENT CLASS SHOULD BE CERTIFIED.....	16
A.	THE RULE 23(A) FACTORS ARE MET.....	16
1.	<i>The Class Is Sufficiently Numerous</i>	16
2.	<i>Questions of Law or Fact are Common to the Class</i>	16
3.	<i>Plaintiffs’ Claims Are Typical</i>	16
4.	<i>Plaintiffs Will Fairly and Adequately Protect the Class</i>	17
B.	THE SETTLEMENT CLASS SATISFIES RULE 23(B)(3).....	17
1.	<i>Common Questions Predominate</i>	17
2.	<i>The Class Is the Superior Method of Adjudication</i>	18
VI.	THE PROPOSED NOTICE PROGRAM SHOULD BE APPROVED	19
VII.	CONCLUSION.....	20

TABLE OF AUTHORITIES

	PAGE(S)
CASES	
<i>Amgen, Inc. v. Conn. Retirement Plans and Trust Funds</i> , 568 U.S. 455 (2013).....	17
<i>Andrews v. Bechtel Power Corp.</i> , 780 F.2d 124 (1st Cir. 1985).....	17
<i>Ark. Teacher Ret. Sys. v. State St. Bank & Tr. Co.</i> , 404 F. Supp. 3d 486 (D. Mass. 2018).....	9
<i>Bingaman, et al. v. Avem Health Partners Inc.</i> , Case No. CIV23-130-SLP (W.D. Okla.)	12
<i>Bray. v. GameStop Corp.</i> , No. 17-CV-01365 (D. Del. Dec. 19, 2018).....	15
<i>Castillo v. Seagate Tech., LLC</i> , No. 16-01958, 2017 WL 4798611 (N.D. Cal. Oct. 19, 2017)	18
<i>Chieftain Royalty Co. v. Enervest Energy Institutional Fund XIII-A, L.P.</i> , 888 F.3d 455 (10th Cir. 2017)	15
<i>City of Detroit v. Grinnell Corp.</i> , 495 F.2d 448 (2d Cir. 1974).....	8
<i>Eisen v. Carlisle & Jacquelin</i> , 417 U.S. 156 (1974).....	19
<i>Fernandez v. 90 Degree Benefits</i> , No. 2:22-cv-00799 (W.D. Wis.)	12
<i>Glass Dimensions, Inc. v. State St. Bank & Tr. Co.</i> , 285 F.R.D. 169 (D. Mass. 2012).....	17
<i>Gordon v. Chipotle Mexican Grill, Inc.</i> , No. 17-CV-01415 (D. Colo. Dec. 16, 2019).....	11, 15
<i>Greenspun v. Bogan</i> , 492 F.2d 375 (1st Cir. 1974).....	20

<i>Hill v. State Street Corp.</i> , 2015 WL 127728 (D. Mass. Jan. 8, 2015).....	20
<i>Hotel Holiday Inn de Isla Verde v. N.L.R.B.</i> , 723 F.2d 169 (1st Cir. 1983).....	6
<i>In re Anthem, Inc. Data Breach Litig.</i> , 327 F.R.D. 299 (N.D. Cal. Aug. 15, 2018).....	18
<i>In re Brinker Data Incident Litig.</i> , No. 3:18-cv-686-TJC-MCR, 2021 WL 1405508 (M.D. Fla. Apr. 14, 2021)	16
<i>In re C.R. England, Inc. Data Breach Litigation</i> , No. 2:22-cv-374-DAK (D. Utah).....	12
<i>In re Compact Disc Minimum Advertised Price Antitrust Litig.</i> , 216 F.R.D. 197 (D. Me. 2003).....	7
<i>In re Countrywide Fin. Corp. Customer Data Sec. Breach Litig.</i> , No. 3:08-MD-01998, 2010 WL 3341200 (W.D. Ky. Aug. 23, 2010)	11
<i>In re Credit Suisse-AOL Sec. Litig.</i> , 253 F.R.D. 17 (D. Mass. 2008).....	16
<i>In re Gen. Motors Corp. Pick-Up Truck Fuel Tank Prod. Liability Litig.</i> , 55 F.3d 768 (3d Cir. 1995).....	7
<i>In re Heartland Payment Sys., Inc. Cust. Data Sec. Breach Litig.</i> , 851 F. Supp. 2d 1040 (S.D. Tex. 2012)	18
<i>In re Lupron Mktg. and Sales Practices Litig.</i> , 228 F.R.D. 75 (D. Mass. 2005).....	7, 11
<i>In re Neurontin Mktg. & Sales Practices Litig.</i> , No. 04-cv-10981-PBS, 2014 WL 5810625 (D. Mass. Nov. 10, 2014).....	14
<i>In re Pharm. Indus. Average Wholesale Price Litig.</i> , 588 F.3d 24 (1st Cir. 2009)	8
<i>In re Premera Blue Cross Customer Data Sec. Breach Litig.</i> , No. 3:15-MD- 2633-SI, 2019 WL 3410382 (D. Or. July 29, 2019).....	11
<i>In re Ranbaxy Generic Drug Application Antitrust Litig.</i> , No. 19-MD-02878-NMG, 2022 WL 4329646 (D. Mass. Sept. 19, 2022).....	8

<i>In re Relafen Antitrust Litig.</i> , 231 F.R.D. 52 (D. Mass. 2005).....	7, 8, 15
<i>In re The Home Depot, Inc., Customer Data Sec. Breach Litig.</i> , 2016 WL 6902351 (N.D. Ga. Aug. 23, 2016)	18
<i>In re The Home Depot, Inc., Customer Data Sec. Breach Litig.</i> , No. 1:14-MD-02583-TWT, 2016 WL 6902351 (N.D. Ga. Aug. 23, 2016)	11
<i>Jean-Pierre v. J&L Cable TV Servs., Inc.</i> , 538 F. Supp. 3d 208 (D. Mass. 2021)	7, 9
<i>Julien v. Cash Express, LLC</i> , No. 2022-CV-221 (Putnam Cty., Tenn.).....	13
<i>Kesner, et al. v. UMass Memorial Health Care, Inc.</i> , No. 2185-cv-01210 (Mass. Supp. Ct.).....	12
<i>Koenig v. Lime Crime, Inc.</i> , No. CV 16-503 PSG (JEMx), 2018 WL 11358228 (C.D. Cal. Apr. 2, 2018).....	11
<i>Kondo et al. v. Creative Services, Inc.</i> , Case No. 1:22-cv-10438-DJC (D. Mass.).....	13
<i>Mazola v. May Dep't Stores Co.</i> , No. 97 Civ. 10872, 1999 WL 1261312 (D. Mass. Jan. 27, 1999)	14
<i>Morris v. Affinity Health Plan, Inc.</i> , 859 F. Supp. 2d 611 (S.D.N.Y. 2012).....	11
<i>Mullane v. Central Hanover Bank and Trust Co.</i> , 339 U.S. 306 (1950).....	19
<i>Nat'l Ass'n of Deaf v. Massachusetts Inst. of Tech.</i> , No. 3:15-CV-30024-KAR, 2020 WL 1495903 (D. Mass. Mar. 27, 2020).....	10
<i>Reynolds v. Marymount Manhattan College</i> , No. 1:22-cv-06846 (S.D.N.Y.).....	13
<i>Roberts v. TJX Companies, Inc.</i> , No. 13-CV-13142-ADB, 2016 WL 8677312 (D. Mass. Sept. 30, 2016)	8
<i>Rolland v. Cellucci</i> , 191 F.R.D. 3 (D. Mass. 2000).....	11

S. States Police Benevolent Ass’n, Inc. v. First Choice Armor & Equip., Inc.,
241 F.R.D. 85 (D. Mass. 2007)..... 16

Smilow v. Southwestern Bell Mobile Sys., Inc.,
323 F.3d 32 (1st Cir. 2003)..... 18

Torres v. Wendy’s Int’l LLC,
No. 6:16-cv-00210 (M.D. Fla. Feb. 26, 2019)..... 15

U.S. v. Comunidades Unidas Contra La Contaminacion,
204 F.3d 275 (1st Cir. 2000)..... 6

Weiss v. Arby’s Restaurant Grp. Inc.,
No. 17-cv-01035 (N.D. Ga. June 6, 2019)..... 15

RULES

Fed. R. Civ. P. 23 15, 17

Fed. R. Civ. P. 23(a) 16, 17

Fed. R. Civ. P. 23(a)(1)..... 16

Fed. R. Civ. P. 23(a)(2)..... 16

Fed. R. Civ. P. 23(a)(3)..... 16

Fed. R. Civ. P. 23(a)(4)..... 17

Fed. R. Civ. P. 23(b)(3)..... 17

Fed. R. Civ. P. 23(c)(2)..... 19

Fed. R. Civ. P. 23(e) 5, 7, 8, 15

Fed. R. Civ. P. 23(e)(2)(A) 8, 10

Fed. R. Civ. P. 23(e)(2)(A-B) 8

Fed. R. Civ. P. 23(e)(2)(C) 11

Fed. R. Civ. P. 23(e)(2)(C)(i)..... 11

Fed. R. Civ. P. 23(e)(2)(C)(ii)..... 13

Fed. R. Civ. P. 23(e)(2)(C)(iii) 14

Fed. R. Civ. P. 23(e)(2)(C)(iv).....	14
Fed. R. Civ. P. 23(e)(2)(C-D)	11
Fed. R. Civ. P. 23(e)(2)(D)	15
Fed. R. Civ. P. 23(e)(3).....	7, 14
Fed. R. Civ. P. 23(e)(2).....	6
Fed. R. Civ. P. 23(e)(2)(D)	15
OTHER AUTHORITIES	
<i>Manual for Complex Litigation</i> , Third, § 30.41 (1995).....	7

Plaintiffs Alexis Webb and Marsclette Charley, individually and on behalf of the putative class, submit this Memorandum of Law in Support of Plaintiffs' Unopposed Motion for Preliminary Approval of Settlement (the "Motion").¹

I. INTRODUCTION

This action arises from a January 2021 Data Incident where it is alleged that certain personally identifiable information ("PII") and personal health information ("PHI") of Injured Workers Pharmacy, LLC's ("IWP") current and former customers was exposed. Specifically, the following types of PII were allegedly exposed: name, address, date of birth, email address, Social Security number, driver's license, payment card information, financial account information, patient identification number, medical record number, treating or referring physician, treatment information, prescription information, health insurance information, and Medicare or Medicaid number. In February 2022, IWP began notifying Plaintiffs and the Settlement Class about the Data Incident.

After over two years of litigation, including a successful appeal to the First Circuit, and months of hard-fought negotiations, the Parties have agreed to a Settlement that provides substantial monetary benefits to the Settlement Class. Specifically, the Settlement provides for a \$1,075,000 non-reversionary common fund from which Settlement Class Members may claim reimbursement for economic losses and cash payments. The Settlement provides additional relief in the form of verification of meaningful enhancements to Defendant's cybersecurity as it relates to the Settlement Class Members' PII.

As detailed below, the Settlement falls within the range of possible final judicial approval

¹ Unless otherwise stated, all capitalized terms shall have the definitions set forth in the Class Action Settlement Agreement and Release ("Settlement Agreement"), attached as Exhibit 1 to this memorandum. Citations to the Settlement Agreement are abbreviated as "SA ¶ ____."

and includes a comprehensive notice plan. IWP does not oppose the relief requested in the motion.

II. FACTUAL AND PROCEDURAL BACKGROUND

On May 24, 2022, Plaintiffs, individually and on behalf of a putative class, filed the Litigation, alleging the following claims: negligence, negligence per se, breach of implied contract, unjust enrichment, invasion of privacy, and breach of fiduciary duty.

Following full briefing, the Court granted IWP's motion to dismiss Plaintiffs' claims. Plaintiffs appealed that ruling to the First Circuit Court of Appeals, which reversed in part and remanded. After additional motion to dismiss briefing, the Court ruled that Plaintiffs' negligence and breach of fiduciary duty claims could proceed.

Plaintiffs commenced formal discovery, serving interrogatories and document requests on Defendant. On March 5, 2024, after a period of informal discovery and mutual exchange of information, the Parties engaged in a private mediation with Judge Wayne Andersen (Ret.) from JAMS, an experienced mediator. Throughout their mediation session, the Parties engaged in an extensive evaluation and discussion of the relevant facts and law, and the Parties carefully considered the risk and uncertainties of continued litigation and all other factors bearing on the merits of settlement. Although the mediation did not result in a settlement, the Parties continued their negotiations and, in the following weeks, succeeded in reaching agreement on the principal terms of a settlement—subject to final mutual agreement on all the necessary documentation.

While the negotiations were professional throughout, they were marked by significant factual and legal disputes impacting the value of the case. With Judge Andersen's assistance and guidance, and his mediator's proposal, the Parties were able to reach a resolution. At all times the negotiations were at arm's-length, and free of collusion of any kind. Attorneys' fees were not discussed in any manner during the mediation, with the Parties only negotiating the total amount of the non-reversionary Settlement Fund from which any award of attorneys' fees will be made.

The Parties then negotiated the granular terms of the Settlement, and finalized the Settlement Agreement on July 30, 2024. Plaintiffs now bring this Settlement before the Court for preliminary approval. Plaintiffs and their Counsel believe, in consideration of all circumstances and after serious arm's-length settlement negotiations with IWP, that the proposed Settlement is fair, reasonable, and adequate and is in the best interests of the Settlement Class Members. *See* Joint Declaration of Plaintiffs' Counsel ("Joint Decl."), attached hereto as Exhibit 2, ¶ 16.

III. SUMMARY OF THE SETTLEMENT

A. Definition of the Class

The Parties contemplate certification, for settlement purposes only, of a nationwide class. The Settlement Class is comprised of approximately 131,000 individuals. The proposed Settlement Class is defined as follows:

All individuals residing in the United States for whom Defendant has contact information and/or identifying information, such as date of birth or Social Security number, whose Personal Information was potentially compromised in the Data Incident disclosed by Injured Workers Pharmacy in February 2022.

SA ¶ 47.

The Settlement Class specifically excludes: (1) the judges presiding over this Action, and members of their direct families; (2) the Defendant, their subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or their parents have a controlling interest, and their current or former officers and directors; and (3) Settlement Class Members who submit a valid Request for Exclusion prior to the Opt-Out Deadline. SA ¶ 47.

B. The Settlement Terms and Benefits to the Settlement Class

1. Settlement Fund

IWP will make available to the Settlement Class a generous non-reversionary Settlement Fund of \$1,075,000.00. SA ¶ 56. The Settlement Fund will be used to pay for the following: (i)

Notice and Administrative Expenses; (ii) Taxes and Tax-Related Expenses; (iii) Service Award Payments approved by the Court; (iv) Fee Award and Costs approved by the Court; (v) reimbursements for Unreimbursed Economic Losses; (vi) credit monitoring to the Settlement Class; and (vii) Pro Rata Cash Payments. SA ¶ 64. IWP will also pay costs associated with additional security-related measures (measures that were disclosed prior to the mediation) separate and apart from the Settlement Fund. SA ¶ 75.

The specific benefits available to Settlement Class Members are discussed below.

2. Compensation for Unreimbursed Economic Losses

Settlement Class Members may claim up to \$5,000.00 per person for unreimbursed ordinary and/or extraordinary economic losses incurred as a result of the Data Incident, including, without limitation, unreimbursed losses relating to fraud or identity theft; professional fees including attorneys' fees, accountants' fees, and fees for credit repair services; costs associated with freezing or unfreezing credit with any credit reporting agency; credit monitoring costs that were incurred on or after the Data Incident through the date of claim submission; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges. Participating Settlement Class Members with ordinary and/or extraordinary economic losses must submit documentation supporting their claims. SA ¶ 61(ii). Class Members may receive compensation for both Unreimbursed Economic Losses and Pro Rata Cash Payments, subject to a combined monetary benefits cap of \$5,000 per Class Member. *Id.*

3. Pro Rata Cash Payment

Participating Settlement Class Members can elect to make a claim for a pro rata share of the Net Settlement Fund, less all valid claims for Unreimbursed Economic Losses. SA ¶ 60(iii). To receive this benefit, Participating Settlement Class Members must submit a valid claim form, but no documentation is required to make a claim. The amount of the Cash Payments will be

increased or decreased on a pro rata basis, depending upon the number of valid claims filed and the amount of funds available for these payments. Class Counsel predicts the value of pro rata payments will exceed \$50 per valid claimant.

4. Credit Monitoring

Participating Settlement Class Members may elect to make a claim for two (2) years of credit monitoring services, regardless of whether they have submitted a claim for other benefits. SA ¶ 60(i).

5. Additional Security Measures

The Settlement also provides that IWP has confirmed that it has made certain changes to its information security and will attest to these changes in a confidential declaration in support of the Settlement. SA ¶ 75. Within thirty (30) days after the entry of the Preliminary Approval Order, Defendant shall provide Class Counsel with a confidential declaration or affidavit, suitable for filing under seal upon the Court's request, attesting that agreed upon security-related measures have been implemented on or before and up to the date of the Preliminary Approval Order and identifying the approximate cost of those security-related measures. Costs associated with these security-related measures will be paid by Defendant separate and apart from other settlement benefits, and not from the Settlement Fund. SA ¶ 75. These additional security measures will substantially enhance the protection of the Settlement Class Members' PII stored by IWP and inure to the direct benefit of the Settlement Class, whose PII might remain in IWP's computer systems.

6. Notice, Claims Process, and Settlement Administration

The Notice program was structured to apprise Settlement Class Members of the Settlement and their respective rights, in compliance with the requirements of Rule 23(e) and due process. The details of the Notice program are discussed in Section VI, *infra*.

7. Attorneys' Fees, Expenses, and Service Awards

The Settlement Agreement contemplates that Class Counsel may file a Fee Petition for an award of attorneys' fees and Litigation Costs and expenses to be paid from the Settlement Fund in the following amounts: (i) attorney's fees in an amount not to exceed one-third (1/3) of the Settlement Fund (SA ¶ 96); (ii) reimbursement of litigation costs and expenses not to exceed twenty-five thousand dollars (\$25,000.00) (SA ¶ 96); and Service Awards to Class Representatives in the amount of five thousand dollars (\$5,000.00) each (SA ¶ 94), all subject to Court approval. Notably, the approval of any attorneys' fees, reimbursement of costs and expenses, and Service Awards shall have no effect on the remaining terms of the Settlement. SA ¶¶ 95, 97.

IV. THE PROPOSED SETTLEMENT WARRANTS PRELIMINARY APPROVAL

The Settlement is the result of vigorous litigation, the exchange of documents and other informal discovery, and extensive arm's length negotiations among the Parties with the assistance of experienced JAMS mediator, Hon. Wayne Andersen (Ret.). SA ¶ 5; Joint Decl., ¶ 9. The Settlement provides valuable benefits and monetary compensation to Class Members as well as favorable changes to Defendant's data security. The Settlement compares favorably to previous data breach settlements when weighed against the risks associated with continued litigation. Having weighed the likelihood of success and inherent risks and expense of litigation, Plaintiffs and Plaintiffs' Counsel strongly believe that the proposed settlement is "fair, reasonable, and adequate[.]" Fed. R. Civ. P. 23(e)(2); Joint Decl., ¶ 16.

A. Standards for Preliminary Approval

As a matter of public policy, settlement is a highly favored means of resolving disputes. *U.S. v. Comunidades Unidas Contra La Contaminacion*, 204 F.3d 275, 280 (1st Cir. 2000); *Hotel Holiday Inn de Isla Verde v. N.L.R.B.*, 723 F.2d 169, 173 (1st Cir. 1983) (settlement agreements "will be upheld wherever possible because they are a means of amicably resolving doubts and

preventing lawsuits.”). This policy is especially applicable to complex class action litigation. *See, e.g., In re Lupron Mktg. and Sales Practices Litig.*, 228 F.R.D. 75, 88 (D. Mass. 2005) (“the law favors class action settlements.”); *In re Gen. Motors Corp. Pick-Up Truck Fuel Tank Prod. Liability Litig.*, 55 F.3d 768, 784 (3d Cir. 1995) (“The law favors settlement, particularly in class actions and other complex cases where substantial judicial resources can be conserved by avoiding formal litigation.”).

Class action settlements must be approved by the Court. Fed. R. Civ. P. 23(e). At the preliminary approval stage the Court need only make an initial fairness evaluation that the Settlement is “within the range of possible approval.” *Manual for Complex Litigation*, Third, § 30.41 (1995). “If so, the final decision on approval is made after the [final] hearing.” *In re Relafen Antitrust Litig.*, 231 F.R.D. 52, 57 (D. Mass. 2005).

Federal Rule of Civil Procedure 23(e)(2), sets forth the following factors the court must consider in determining if the class action settlement is “fair, reasonable, and adequate”:

(A) the class representatives and class counsel have adequately represented the class; (B) the proposal was negotiated at arm’s length; (C) the relief provided for the class is adequate, taking into account: (i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims; (iii) the terms of any proposed award of attorney’s fees, including timing of payment; and (iv) any agreement required to be identified under Rule 23(e)(3); and (D) the proposal treats class members equitably relative to each other.

See Jean-Pierre v. J&L Cable TV Servs., Inc., 538 F. Supp. 3d 208, 212–13 (D. Mass. 2021).²

² Note, prior to the 2018 amendment to the Federal Rules of Civil Procedure district courts in the First Circuit considered a variety of factors to determine if a class action settlement was fair, adequate, and reasonable. *See In re Compact Disc Minimum Advertised Price Antitrust Litig.*, 216 F.R.D. 197, 206 (D. Me. 2003), judgment entered, No. MDL 1361, 2003 WL 21685581 (D. Me. July 18, 2003) (“[T]he appellate courts consider some or all of the following factors: (1) comparison of the proposed settlement with the likely result of litigation; (2) reaction of the class to the settlement; (3) stage of the litigation and the amount of discovery completed; (4) quality of

As explained below, the proposed settlement is well within the range of reasonableness and meets the criteria identified by Rule 23(e).

B. The Rule 23(e) Factors Are Satisfied

1. Rule 23(e)(2)(A) – Class Representatives and Class Counsel Adequately Represented the Class

The first factor the Court considers when reviewing a class action settlement is the adequacy of Class Counsel and the class representatives. Proposed Class Counsel satisfy their duty to provide adequate representation by prosecuting the case “competently and vigorously...without conflicts of interest with the class.” *In re Pharm. Indus. Average Wholesale Price Litig.*, 588 F.3d 24, 36 n.12 (1st Cir. 2009). On the other hand, class representatives must, at a minimum, have: (1) “the ability and incentive to represents the interests of the class vigorously,” (2) “obtained adequate counsel,” and (3) no “conflict between [his or her] claims and those asserted on behalf of the

counsel; (5) conduct of the negotiations; and (6) prospects of the case, including risk, complexity, expense and duration.”); *Roberts v. TJX Companies, Inc.*, No. 13-CV-13142-ADB, 2016 WL 8677312, at *6 (D. Mass. Sept. 30, 2016) (applying the factors set forth in *City of Detroit v. Grinnell Corp.*, 495 F.2d 448 (2d Cir. 1974) (The *Grinnell* factors are “(1) the complexity, expense and likely duration of the litigation; (2) the reaction of the class to the settlement; (3) the stage of the proceedings and the amount of discovery completed; (4) the risks of establishing liability; (5) the risks of establishing damages; (6) the risks of maintaining the class action through the trial; (7) the ability of the defendants to withstand a greater judgment; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; and (9) the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation.”); *In re Relafen Antitrust Litig.*, 231 F.R.D. at 72 (recognizing there is “no single test in the First Circuit for determining the fairness, reasonableness, and adequacy of a proposed class action settlement” and noting courts have used both the *Compact Disc* factors and *Grinnell* factors.); *but see In re Ranbaxy Generic Drug Application Antitrust Litig.*, No. 19-MD-02878-NMG, 2022 WL 4329646, at *2 (D. Mass. Sept. 19, 2022) (noting both the Rule 23(e) factors and the *Grinnell* factors after the 2018 amendment to the Federal Rules of Civil Procedure). Plaintiffs only address those factors enumerated in Rule 23(e) in the interest of brevity.

class.” *Jean-Pierre*, 538 F. Supp. 3d at 212 (citing *Ark. Teacher Ret. Sys. v. State St. Bank & Tr. Co.*, 404 F. Supp. 3d 486, 508 (D. Mass. 2018)).

Proposed Class Counsel are highly experienced class action litigators who have, and will continue to, vigorously prosecute the interests of the Class Members. *See* Joint Decl., ¶¶ 23-46 and Exhibits A and B (attached thereto). Indeed, proposed Class Counsel have vigorously litigated the Action to date, including: (i) conducting a thorough pre-suit investigation that resulted in the preparation of a detailed complaint; (ii) gathering Plaintiffs’ documents and relevant information; (iii) filing the complaint; (iv) briefing the motion to dismiss; (v) filing, briefing, and arguing the appeal to the First Circuit; (vi) briefing the renewed motion to dismiss; (vii) commencing formal discovery; (viii) requesting and reviewing relevant informal discovery; (viii) preparing for formal mediation, including a the preparation of a fulsome mediation statement; (ix) participating in a day-long formal mediation overseen by Judge Andersen; (x) engaging in extensive post-mediation settlement discussions; and (xi) achieving a very favorable Settlement on behalf of the Settlement Class. Joint Decl., ¶ 12. Additionally, Class Counsel have no conflicts of interest with the Class. Thus, there is no reason to doubt proposed Class Counsel’s adequacy.

Not only have Proposed Class Counsel adequately represented the Class, but so have Plaintiffs as class representatives. Here, the proposed Class Representatives do not have antagonistic or competing interests with unnamed members of the Class. The named Plaintiffs and the Class Members share the identical objectives of establishing liability and obtaining damages. There are no conflicts between the Class representatives and the Settlement Class, meaning the representatives provide adequate representation of the Class as a whole.

Based on the foregoing, this factor supports preliminary approval of the settlement.

2. Rule 23(e)(2)(A) – The Settlement was Negotiated at Arm’s-Length

The next factor examines the negotiation process. “A settlement is presumed to be reasonable when it is achieved by arm’s length negotiations conducted by experienced counsel.” *Nat’l Ass’n of Deaf v. Massachusetts Inst. of Tech.*, No. 3:15-CV-30024-KAR, 2020 WL 1495903, at *4 (D. Mass. Mar. 27, 2020) (citation omitted).

The Settlement here is the product of extensive arm’s-length negotiations conducted by experienced counsel and a well-respected mediator, all of whom are knowledgeable in complex consumer class actions, especially data breach class actions. Joint Decl., ¶¶ 23-46. The Settlement reflects the progress of months of negotiations, the preparation and review of detailed mediation statements and other pre-mediation materials, and the review of relevant informal discovery. Joint Decl., ¶ 9. The Parties were only able to reach the Settlement after a full-day mediation session and continuing post-mediation negotiations with Judge Andersen, who has considerable experience mediating data breach class settlements. Joint Decl., ¶¶ 9-11. During the mediation and in the subsequent discussions, the Parties engaged in adversarial, arms-length negotiations to reach agreement on the final terms of the Settlement. Joint Decl., ¶ 12.

Because of Class Counsel’s considerable experience in handling consumer class actions, including data breach class actions, they were capable of assessing the strengths and weaknesses of this case. *See* Joint Decl., ¶ 17. The experience of the attorneys involved demonstrates the Settlement Class Members were well-represented at the bargaining table. Indeed, it is Class Counsel’s opinion that the relief provided to the Settlement Class is a favorable result. Joint Decl., ¶ 20. Accordingly, as this Court has held, “[w]hen the parties’ attorneys are experienced and knowledgeable about the facts and claims, their representations to the court that the settlement provides class relief which is fair, reasonable and adequate should be given significant weight.”

Rolland v. Cellucci, 191 F.R.D. 3, 10 (D. Mass. 2000). Thus, this factor tips in favor of preliminary approval of the settlement.

3. Rule 23(e)(2)(C) – The Relief Provided is Adequate

a. Rule 23(e)(2)(C)(i) – Costs, Risks, and Delay of Trial and Appeal

In the absence of a settlement, Plaintiffs would have faced “a significant element of risk.” *In re Lupron*, 228 F.R.D. at 97. “Data breach” actions “are particularly risky, expensive, and complex.” *Gordon v. Chipotle Mexican Grill, Inc.*, No. 17-cv-01415-CMA-SKC, 2019 WL 6972701, at *1 (D. Colo. Dec. 16, 2019). “Beyond the novel state of the law in regards to identity theft, there are inherent issues of causation” that would have resulted in protracted and uncertain litigation. *In re Countrywide Fin. Corp. Customer Data Sec. Breach Litig.*, No. 3:08-MD-01998, 2010 WL 3341200, at *4 (W.D. Ky. Aug. 23, 2010); *Koenig v. Lime Crime, Inc.*, No. CV 16-503 PSG (JEMx), 2018 WL 11358228, at *3 (C.D. Cal. Apr. 2, 2018) (approving data breach settlement and finding in part that “[b]ecause of the difficulty of proving damages and causation, Plaintiffs faced a substantial risk of losing at summary judgment or at trial.”); *In re The Home Depot, Inc., Customer Data Sec. Breach Litig.*, No. 1:14-MD-02583-TWT, 2016 WL 6902351, at *5 (N.D. Ga. Aug. 23, 2016) (“[E]stablishing causation . . . has been a barrier to consumer plaintiffs’ success” in data breach litigation); *In re Premera Blue Cross Customer Data Sec. Breach Litig.*, No. 3:15-MD- 2633-SI, 2019 WL 3410382, at *21 (D. Or. July 29, 2019) (granting preliminary approval, recognizing “Plaintiffs have a weaker case with respect to damages . . . and the number of Class Members who appear to have suffered actual identity theft or out-of-pocket damages that can reasonably be attributed to the Data Breach appears to be relatively low.”).

The \$1,075,000.00 Settlement Fund and the categories of benefits achieved in this case represent a very favorable result for the Settlement Class Members. Those who submit a valid

Claim Form have the opportunity to receive *both* of the following benefits, as applicable: reimbursement of documented Unreimbursed Economic Losses up to \$5,000.00; Credit Monitoring Services; and pro rata cash payments estimated to be not less than \$50. SA ¶¶ 60(i), 60(ii), 60 (iii). These Settlement benefits compare very favorably to those of other data breach class action settlements that have been court approved. *See, e.g., Kondo et al. v. Creative Services, Inc.*, Case No. 1:22-cv-10438-DJC (D. Mass.)(ECF Nos. 27-1 and 39 (granting final approval of data breach settlement with benefits of up to \$3000 of out-of-pocket losses, 2-years of identity theft protections, but no cash payments). Additionally, all Settlement Class Members will benefit from the cybersecurity improvements Defendant has enacted in light of the data breach and this litigation. SA ¶ 75.

Here, the Settlement provides for a \$1,075,000.00 non-reversionary common fund for the 131,000 Settlement Class Members, or approximately \$8.20 per Settlement Class Member. This exceeds the cash value in other exemplary data breach settlements. Comparison of a simple amount recovered per class member in other data breach settlements demonstrates that this Settlement provides an excellent recovery and is well within the range of approval:

Case Title	Settlement Amount	No. of Class Members	\$ Per Class Member
<i>Bingaman, et al. v. Avem Health Partners Inc.</i> , Case No. CIV23-130-SLP (W.D. Okla.)	\$1.45M	271,303	\$5.34
<i>Fernandez v. 90 Degree Benefits</i> , No. 2:22-cv-00799 (W.D. Wis.)	\$990,000	185,461	\$5.33
<i>Kesner, et al. v. UMass Memorial Health Care, Inc.</i> , No. 2185-cv-01210 (Mass. Supp. Ct.)	\$1.25M	209,047	\$5.74
<i>In re C.R. England, Inc. Data Breach Litigation</i> , No. 2:22-cv-374-DAK (D. Utah)	\$1.4M	224,572	\$6.23

<i>Reynolds v. Marymount Manhattan College, No. 1:22-cv-06846 (S.D.N.Y.)</i>	\$1.3M	191,752	\$6.78
<i>Kondo et al. v. Creative Services, Inc., Case No. 1:22-cv-10438-DJC (D. Mass.)</i>	\$1.2M	164,000	\$7.27
<i>Julien v. Cash Express, LLC No. 2022-CV-221 (Putnam Cty., Tenn.)</i>	\$850,000	106,000	\$8.02

Moreover, the outstanding benefits made available under the Settlement would not be guaranteed if facing trial. Indeed, absent the instant Settlement, Plaintiffs would have had to survive numerous motions by Defendant (beyond those already filed by Defendant and decided by this Court), prevail at trial, and secure an affirmance of their victory on appeal in order to recover damages. Moreover, they would also need to certify and maintain the Class, over IWP's likely opposition. All while facing the rising costs of litigation. Instead, the Parties were able to craft a settlement providing substantial monetary benefits to the Settlement Class, while avoiding the expense and delay of continued litigation. Joint Decl., ¶ 19. The Court's acceptance and approval of the Settlement Agreement is preferable in comparison to the continuation of lengthy and expensive litigation with uncertain results. For the reasons discussed, this factor also weighs in favor of preliminary approval of the settlement.

b. Rule 23(e)(2)(C)(ii) – Effectiveness of the Proposed Method of Distributing Relief

Pursuant to Rule 23(e)(2)(C)(ii), the Court should consider the effectiveness of the parties' "proposed method of distributing relief to the class, including the method of processing class member claims."

The plan of allocation here is straightforward and the result of extensive negotiation between highly competent counsel, with the input of an experienced and well-respected mediator. As set forth above, the Settlement makes available to *all* Settlement Class Members two forms of

monetary relief: (i) reimbursement for document Economic Losses; (ii) Credit Monitoring Services; and (iii) cash payments. SA ¶¶ 60(i), 60(ii), 60(iii). Finally, the Settlement provides for verification of meaningful data security enhancements to better protect the PII of the Settlement Class. SA ¶ 75. All claims will be processed by the Settlement Administrator, who will determine the validity of all claims.

c. Rule 23(e)(2)(c)(iii) – Attorney’s Fees

The proposed amount of attorney’s fees is reasonable and fair. Plaintiffs will seek Court approval of attorneys’ fees not to exceed one-third (1/3) of the Settlement Fund (\$358,333.33) and Litigation expenses not to exceed twenty-five thousand dollars (\$25,000.00) SA ¶ 96. This request is within the range of approvable. *See In re Neurontin Mktg. & Sales Practices Litig.*, No. 04-cv-10981-PBS, 2014 WL 5810625, at *3 (D. Mass. Nov. 10, 2014) (“[N]early two-thirds of class action fee awards based on the percentage method were between 25% and 35% of the common fund.”); *see also Mazola v. May Dep’t Stores Co.*, No. 97 Civ. 10872, 1999 WL 1261312, at *4 (D. Mass. Jan. 27, 1999) (“[I]n this circuit, percentage fee awards range from 20% to 35% of the fund. This approach mirrors that taken by the federal courts in other jurisdictions.”). While Plaintiffs will fully brief their fee request by separate motion, the attorneys’ fees, expenses, and service awards sought do not present a barrier to preliminary approval.

d. Rule 23(e)(2)(C)(iv) – Agreements Required to be Identified under Rule 23(e)(3)

Next, the Court should consider whether there are any other agreements “required to be identified under Rule 23(e)(3)[.]” Fed. R. Civ. P. 23(e)(2)(C)(iv). There are no additional agreements. As such, this factor supports preliminary approval.

4. Rule 23(e)(2)(D) - Class Members Are Treated Equitably

The final Rule 23(e)(2) inquiry is whether the Settlement Agreement “treats class members equitably relative to each other.” Fed. R. Civ. P. 23(e)(2)(D).

The proposed Settlement is a common fund settlement, without any preferential treatment of the named Plaintiffs or any segments of the Class. With this proposed Settlement, Settlement Class Members are able to recover damages for injuries caused by the Data Incident and cash payment. *See* SA ¶¶ 60(i), 60(ii), 60 (iii). In satisfaction of Rule 23(e)(2)(D), the reimbursement for document Economic Loss and cash payments allows Settlement Class Members to obtain relief based upon the specific types of damages they incurred and treats every claimant in those categories equally relative to each other.

Class Counsel also intend to apply for Service Awards for Plaintiffs. SA ¶ 94. Courts have held that it is appropriate to make modest payment in recognition of the services that such plaintiffs perform in successful class action litigation. *See, e.g., Bray v. GameStop Corp.*, No. 17-CV-01365, ECF No. 54 (D. Del. Dec. 19, 2018) (\$3,750 per class representative); *Gordon v. Chipotle Mexican Grill, Inc.*, No. 17-CV-01415, ECF Nos. 128-29 (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). A service award to the Representative Plaintiffs is appropriate here given the efforts and participation of Plaintiffs in the litigation (including serving as the named appellants in a high-profile First Circuit appeal) and does not constitute preferential treatment. *See In re Relafen Antitrust Litig.*, 231 F.R.D. at 82 (“Because a named plaintiff is an essential ingredient of any class action, an incentive award can be appropriate to encourage or induce an individual to participate in the suit.”). Thus, all of the Rule 23(e) factors supports preliminary approval.

V. THE SETTLEMENT CLASS SHOULD BE CERTIFIED

A. The Rule 23(a) Factors Are Met

1. The Class Is Sufficiently Numerous

Numerosity is met if “the class is so numerous that joinder of all members is impracticable[.]” Fed. R. Civ. P. 23(a)(1). Numerosity is satisfied here because Defendant’s records indicate that there are approximately 131,000 Settlement Class Members.

2. Questions of Law or Fact are Common to the Class

Class certification requires there to be “questions of law or fact common to the class[.]” Fed. R. Civ. P. 23(a)(2). Commonality is a low hurdle, and class members need not present factual or legal situations that are “precisely identical.” *S. States Police Benevolent Ass’n, Inc. v. First Choice Armor & Equip., Inc.*, 241 F.R.D. 85, 87 (D. Mass. 2007).

Here, there are numerous issues of fact and law common to the Settlement Class, including, *inter alia*, whether: (a) Defendant had a duty to safeguard the Settlement Class Members’ PII; (b) Defendant was negligent in maintaining adequate data security protocols; and (c) the Settlement Class Members were injured by having their PII potentially accessed by unauthorized parties while on Defendant’s systems. *See In re Brinker Data Incident Litig.*, No. 3:18-cv-686-TJC-MCR, 2021 WL 1405508, at *8 (M.D. Fla. Apr. 14, 2021) (finding these issues common to the class).

3. Plaintiffs’ Claims Are Typical

Rule 23(a)(3) is satisfied when the plaintiffs’ “injuries arise from the same events or course of conduct as do the injuries of the class and when plaintiff[s]’ claims and those of the class are based on the same legal theory.” *In re Credit Suisse-AOL Sec. Litig.*, 253 F.R.D. 17, 23 (D. Mass. 2008). Here, each Plaintiff’s and Settlement Class Member’s claims and legal arguments arise out of the same series of events – the Data Incident, which exposed their PII. Typicality is satisfied.

4. Plaintiffs Will Fairly and Adequately Protect the Class

Rule 23(a) also requires that the representative plaintiffs “fairly and adequately protect the interests of the class.” Fed. R. Civ. P. 23(a)(4). This inquiry has two components: “First, there must be an absence of potential conflict between the named plaintiff and the potential class members, and second, the counsel chosen by the class representative must be qualified, experienced, and able to vigorously conduct the proposed litigation.” *Glass Dimensions, Inc. v. State St. Bank & Tr. Co.*, 285 F.R.D. 169, 179 (D. Mass. 2012).

The adequacy requirement is met here. Plaintiffs’ interests are consistent with, and not antagonistic to, the interests of other Settlement Class Members. *Andrews v. Bechtel Power Corp.*, 780 F.2d 124, 130 (1st Cir. 1985) (finding the adequacy requirement satisfied when “the interests of the representative party will not conflict with the interests of any of the class members”). Indeed, Plaintiffs and Class Members all share the same objectives, factual and legal positions, and interest in establishing Defendants’ liability. Additionally, Plaintiffs have retained qualified and competent counsel, whose adequacy is discussed in greater detail above. *See* Section IV(B)(1), *infra*; Joint Decl., ¶¶ 23-46 and Exhibits A and B attached thereto.

B. The Settlement Class Satisfies Rule 23(b)(3)

A class meets the certification requirements of Rule 23(b)(3) when it meets two criteria. First, common questions of law or fact must “predominate” over any purely individual questions. Fed. R. Civ. P. 23(b)(3). Second, class treatment should be superior to other available methods for the fair and efficient adjudication of the controversy. *See id.*

1. Common Questions Predominate

Predominance requires that “questions common to the class predominate, not that those questions will be answered, on the merits, in favor of the class.” *Amgen, Inc. v. Conn. Retirement Plans and Trust Funds*, 568 U.S. 455, 459 (2013).

Here, as noted above, the common factual and legal questions presented include whether: (i) Defendant had a duty to safeguard the Settlement Class Members' PII; (ii) Defendant was negligent in maintaining adequate data security protocols; and (iii) the Settlement Class Members were injured by having their PII potentially accessed by unauthorized parties while on Defendant's systems. These common issues predominate over individual ones.³

2. The Class Is the Superior Method of Adjudication

Finally, certification of this Settlement as a class action is superior to other methods available to fairly, adequately, and efficiently resolve the claims of the Settlement Class.

Here, the proposed Settlement Class is comprised of approximately 131,000 individuals and, if each were to pursue their claims against IWP individually, they would each need to provide nearly the same, if not identical, legal and factual arguments and evidence. Allowing this case to move forward as a class action would: (i) avoid congesting a court with the need to repetitively adjudicate such actions; (ii) prevent the possibility of inconsistent results; and (iii) allow class members an opportunity for redress they might otherwise be denied. Accordingly, this class settlement is the superior method for adjudicating the claims of the Class. *See Smilow v. Southwestern Bell Mobile Sys., Inc.*, 323 F.3d 32, 41-42 (1st Cir. 2003) ("The policy at the very core of the class action mechanism is to overcome the problem that small recoveries do not provide

³ *See, e.g., In re Heartland Payment Sys., Inc. Cust. Data Sec. Breach Litig.*, 851 F. Supp. 2d 1040, 1059 (S.D. Tex. 2012) (finding predominance satisfied in data breach case); *In re Anthem, Inc. Data Breach Litig.*, 327 F.R.D. 299, 312-15 (N.D. Cal. Aug. 15, 2018) (finding predominance was satisfied because "Plaintiffs' case for liability depend[ed], first and foremost, on whether [the defendant] used reasonable data security to protect Plaintiffs' personal information," such that "the claims rise or fall on whether [the defendant] properly secured the stolen personal information," and that these issues predominated over potential individual issues); *In re The Home Depot, Inc., Customer Data Sec. Breach Litig.*, 2016 WL 6902351, at *2 (N.D. Ga. Aug. 23, 2016) (finding common predominating questions included whether Home Depot failed to reasonably protect class members' personal and financial information, whether it had a legal duty to do so, and whether it failed to timely notify class members of the data breach).

the incentive for any individual to bring a solo action prosecuting his or her rights. A class action solves this problem by aggregating” relatively small potential recoveries).

VI. THE PROPOSED NOTICE PROGRAM SHOULD BE APPROVED

In addition to approving the proposed Settlement, the Court should also approve the proposed means of notifying Settlement Class Members. Fed. R. Civ. P. 23(c)(2). Due process and Rule 23(e) do not require that each Class Member receive notice, but rather, that class notice be “reasonably calculated ... to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Mullane v. Central Hanover Bank and Trust Co.*, 339 U.S. 306, 314 (1950). “Individual notice must be provided to those class members who are identifiable through reasonable effort.” *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 175 (1974).

Here, the Notice program is designed to reach as many Settlement Class Members as possible through direct notice. First, no later than seven (7) days after entry of the Preliminary Approval Order, IWP will provide the Settlement Administrator with the name and last known physical address of each Settlement Class Member. SA ¶ 76. Next, within thirty (30) days after the entry of the Preliminary Approval Order the Settlement Administrator will provide the Short Notice to all Settlement Class Members via US mail, to the extent mailing addresses are known. *Id.* To the extent that Class Counsel believes that reminder notices should be sent to Settlement Class Members, Class Counsel may direct the Settlement Administrator to send reminder notices to Settlement Class Members, which shall be sent sixty (60) days after the Notice Date and the cost of which shall be Notice and Administrative Expenses that are paid from the Settlement Fund. *Id.*

The Settlement Administrator will also establish a Settlement Website that will allow Settlement Class Members to submit Claim Forms online and will allow them to view and download the Long Notice, the Preliminary Approval Order, the Settlement Agreement, and the operative

Complaint. SA ¶ 52. This is in addition to a toll-free help line that will also be made available to Settlement Class Members to provide them with additional information about the settlement.

Settlement Class Members who do not wish to participate in the settlement may opt-out of the settlement by mailing written notice to the Settlement Administrator no later than sixty (60) days after the Notice Date. SA ¶ 78. Additionally, Settlement Class Members may object to the Settlement by submitting a valid written objection no later than sixty (60) days from the Notice Date. SA ¶ 79.

The proposed Notices are plain and easily understood. The Notices describe the claims, the relief provided under the Settlement, and Settlement Class Members' rights and options, including the deadlines and means of submitting a Claim Form (Exhibit C to the Settlement Agreement), objecting, and/or appearing at the Final Approval Hearing. *See* SA, at Exhibits A and B. Plaintiffs submit that the Notice Program is reasonable and provides the best notice practicable under the circumstances. *Hill v. State Street Corp.*, 2015 WL 127728, at *15 (D. Mass. Jan. 8, 2015) (quoting *Greenspun v. Bogan*, 492 F.2d 375, 382 (1st Cir. 1974) (“The Notice is clearly reasonable as it ‘fairly apprise[s] the prospective members of the class of the terms of the proposed settlement and of the options that are open to them.’”)) (internal citations omitted).

VII. CONCLUSION

For the reasons stated herein, Plaintiffs respectfully request that the Court grant their Motion for Preliminary Approval and enter an order substantially similar to the proposed Preliminary Approval Order, attached as Exhibit D to the Settlement Agreement.

Dated: August 2, 2024

Respectfully submitted,

s/ David K. Lietz

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CERTIFICATE OF SERVICE

I hereby certify that on August 2, 2024, a true and correct copy of the foregoing was electronically filed with the Clerk of Court using CM/ECF. Copies of the foregoing document will be served upon interested counsel via transmission of Notices of Electronic Filing generated by CM/ECF.

s/ David K. Lietz _____

EXHIBIT 1

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION**

ALEXSIS WEBB and MARSCLETTE
CHARLEY, on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

INJURED WORKERS PHARMACY, LLC,

Defendant.

Case No. 1:22-cv-10797-RGS

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Settlement Agreement”) is entered into by and between (i) Alexis Webb and Marsclette Charley (“Plaintiffs” or “Settlement Class Representatives”), individually and on behalf of the Settlement Class (defined below); and (ii) Injured Workers Pharmacy, LLC (“Defendant” or “IWP”) in the case titled *Webb et al. v. Injured Workers Pharmacy, LLC*, Case No. 1:22-cv-10797-RGS, United States District Court for the District of Massachusetts, Eastern Division. IWP and Plaintiffs are collectively referred to herein as the “Parties.” The lawsuit being resolved is referred to herein as the “Litigation.”

I. FACTUAL BACKGROUND AND RECITALS

1. Plaintiffs allege that in May 2021, IWP discovered unauthorized access to certain email accounts (the “Data Incident”), beginning in January 2021. Plaintiffs alleged that the Data Incident resulted in the potential exposure of certain personally identifiable information (“PII”) and personal health information (“PHI”) of IWP’s current and former customers. Specifically, the following types of PII were allegedly exposed: name, address, date of birth, email address, Social Security number, driver’s license, payment card information, financial account information, patient identification number, medical record number, treating or referring physician, treatment information, prescription information, health insurance information, and Medicare or Medicaid number. In February 2022, IWP began notifying Plaintiffs and the Settlement Class about the Data Incident.

2. On May 24, 2022, Plaintiffs, individually and on behalf of a putative class, filed the Litigation, alleging the following claims: negligence, negligence *per se*, breach of implied contract, unjust enrichment, invasion of privacy, and breach of fiduciary duty.

3. Following full briefing, the Court granted IWP's motion to dismiss Plaintiffs' claims. Plaintiffs appealed that ruling to the First Circuit Court of Appeals, which reversed in part and remanded.

4. After additional motion to dismiss briefing, the Court ruled that Plaintiffs' negligence and breach of fiduciary duty claims could proceed.

5. On March 5, 2024, after a period of informal discovery and mutual exchange of information, the Parties engaged in a private mediation with Judge Wayne Andersen (Ret.) from JAMS, an experienced mediator. Throughout their mediation session, the Parties engaged in an extensive evaluation and discussion of the relevant facts and law, and the Parties carefully considered the risk and uncertainties of continued litigation and all other factors bearing on the merits of settlement. Although the mediation did not result in a settlement, the parties continued their negotiations and, in the following weeks, succeeded in reaching agreement on the principal terms of a settlement—subject to final mutual agreement on all the necessary documentation.

6. The Parties have agreed to settle the Litigation on the terms and conditions set forth herein in recognition that the outcome of the Litigation is uncertain and that achieving a final result through litigation would require substantial additional risk, uncertainty, discovery, time, and expense for the Parties.

7. IWP denies all claims of wrongdoing or liability that Plaintiffs, Settlement Class Members, or anyone else have asserted in this Litigation or may assert in the future based on the conduct alleged in the complaint. Despite IWP's position that it is not liable for, and has good defenses to, the claims alleged in the Litigation, IWP desires to settle the Litigation, and thus avoid the expense, risk, exposure, inconvenience, uncertainty, and distraction of continued litigation of any action relating to the matters being fully settled and finally resolved and released in this Settlement Agreement. Neither this Settlement Agreement, nor any negotiation or act performed or document created in relation to the Settlement Agreement or negotiation or discussion thereof is, or may be deemed to be, or may be used as, an admission of, or evidence of, any wrongdoing or liability.

8. The Parties now enter into this Settlement Agreement. Plaintiffs and Class Counsel have conducted an investigation into the facts and the law regarding the Litigation and have concluded that a settlement according to the terms set forth below is fair, reasonable, and adequate, and beneficial to and in the best interests of Plaintiffs and the Settlement Class, recognizing: (1) the existence of complex and contested issues of law and fact; (2) the risks inherent in litigation; (3) the likelihood that future proceedings will be unduly protracted and expensive if the proceeding is not settled by voluntary agreement; (4) the magnitude of the benefits derived from the contemplated settlement in light of both the maximum potential and likely range of recovery to be obtained through further litigation and the expense thereof, as well as the potential of no recovery whatsoever; and (5) Plaintiffs' determination that the settlement is fair, reasonable, adequate, and will substantially benefit the Settlement Class Members.

9. Considering the risks and uncertainties of continued litigation and all factors bearing on the merits of settlement, the Parties are satisfied that the terms and conditions of this Settlement Agreement are fair, reasonable, adequate, and in their respective best interests.

10. In consideration of the covenants, agreements, and releases set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed by and among the undersigned that the Litigation be settled and compromised, and that the Releasors release the Released Parties of the Released Claims, without costs as to Released Parties, Plaintiffs, Class Counsel, or the Settlement Class, except as explicitly provided for in this Settlement Agreement, subject to the approval of the Court, on the following terms and conditions.

II. DEFINITIONS

As used in this Settlement Agreement, the following terms have the meanings specified below:

11. “**Approved Claims**” shall mean complete and timely Claim Forms submitted by Settlement Class Members that have been approved by the Settlement Administrator and which shall be paid from the Settlement Fund.

12. “**Claim Form**” shall mean the form that Settlement Class Members may submit to obtain compensation under this Settlement Agreement, which is attached as **Exhibit C**.

13. “**Claims Deadline**” shall mean the date by which all Claim Forms must be postmarked (if mailed) or submitted (if filed electronically) to be considered timely and shall be set as a date ninety (90) days after the Notice Date is entered. The Claims Deadline shall be clearly set forth in the Preliminary Approval Order, as well as in the Notice and the Claim Form.

14. “**Class Counsel**” shall mean David Lietz of Milberg Coleman Bryson Phillips Grossman, PLLC and Raina C. Borrelli of Strauss Borrelli PLLC.

15. “**Counsel**” or “**Counsel for the Parties**” means both Class Counsel and Defendant’s Counsel, collectively.

16. “**Court**” shall mean the Honorable Judge Richard G. Stearns, or any other District Court or Magistrate Judge of the United States District Court for the District of Massachusetts presiding over this Litigation.

17. “**Credit Monitoring Services**” means two (2) years of credit monitoring to Participating Settlement Class Members under the Settlement. These services include one-bureau credit monitoring; dark web monitoring; real-time inquiry alerts; and \$1 million in identity theft insurance, among other features, and shall be provided by IDX

18. “**Data Incident**” means the unauthorized access to certain email accounts on IWP’s computer systems that began in January 2021 and was discovered in May 2021, and which is the subject of this Litigation.

19. “**Defendant**” shall mean Injured Workers Pharmacy, LLC.

20. “**Defendant’s Counsel**” shall mean Jordan S. O’Donnell and Claudia D. McCarron of Mullen Coughlin LLC.

21. “**Effective Date**” shall mean the date when the Settlement Agreement becomes Final.

22. “**Fee and Expense Application**” shall mean the motion to be filed by Class Counsel, in which they seek approval of an award of attorneys’ fees, as well as Service Awards for the Class Representatives.

23. “**Fee Award and Expenses**” means the amount of attorneys’ fees and reimbursement of litigation expenses awarded by the Court to Class Counsel, to be paid from the Settlement Fund.

24. “**Final**” means the Final Approval Order has been entered on the docket, and (1) the time to appeal from such order has expired and no appeal has been timely filed; (2) if such an appeal has been filed, it has been finally resolved and has resulted in an affirmation of the Final Approval Order; or (3) the Court following the resolution of the appeal enters a further order or orders approving settlement on the terms set forth herein, and either the time to further appeal from such order has expired and no further appeal is taken from such order(s) or any such appeal has been finally resolved and results in affirmation of such order(s).

25. “**Final Approval Hearing**” means the hearing before the Court where the Plaintiffs will request a judgment to be entered by the Court approving the Settlement Agreement, approving the Fee Award and Expenses, and approving a Service Award to the Class Representatives.

26. “**Final Approval Order**” shall mean an order entered by the Court, in substantially the same form as the one attached hereto as **Exhibit E**, that:

- i. Certifies the Settlement Class pursuant to Federal Rule of Civil Procedure 23;
- ii. Finds that the Settlement Agreement is fair, reasonable, and adequate, was entered into in good faith and without collusion, and approves and directs consummation of this Settlement Agreement;
- iii. Dismisses Plaintiffs’ claims pending before it with prejudice and without costs, except as explicitly provided for in this Settlement Agreement;
- iv. Approves the Release provided in Section IX and orders that, as of the Effective Date, the Released Claims will be released as to Released Parties;
- v. Includes as an exhibit a list of individuals who timely and validly opted out of the Settlement;
- vi. Reserves jurisdiction over the Settlement and this Settlement Agreement; and
- vii. Finds that there is no just reason for delay of entry of Final Approval Order with respect to the foregoing.

27. “**Frequently Asked Questions**” or “**FAQs**” are questions and answers to those questions that are frequently posed by Class Members about class action settlements and specifically about this Settlement.

28. “**Litigation**” shall mean the action captioned *Webb et al. v. Injured Workers Pharmacy, LLC*, Case No. 1:22-cv-10797-RGS, United States District Court for the District of Massachusetts, Eastern Division.

29. “**Long Form Notice**” is the content of the notice substantially in the form as **Exhibit B**, which will be posted on the Settlement Website and will include robust details about the Settlement.

30. “**Net Settlement Fund**” means the amount of funds that remain in the Settlement Fund after funds are paid from or allocated for payment from the Settlement Fund for the following: (1) Settlement Notice and Administrative Expenses; (2) Fee Award and Expenses; and (3) Service Awards.

31. “**Notice**” means the direct notice of this proposed Settlement, which is to be provided substantially in the manner set forth in this Settlement Agreement and **Exhibits A and B**. The Notice Deadline in this case will be 30 days after the Preliminary Approval Order is entered.

32. “**Notice Deadline**” means the last day by which Notice must be issued to the Settlement Class Members, and will occur 30 days after the Preliminary Approval Order is entered.

33. “**Notice and Administrative Expenses**” means all of the expenses incurred in the administration of this Settlement, including, without limitation, all expenses or costs associated with preparing and sending the required notices to appropriate state and federal officials under the Class Action Fairness Act of 2005, providing Notice to the Settlement Class, locating Settlement Class Members, processing claims, determining the eligibility of any person to be a Settlement Class Member, and administering, calculating and distributing the Settlement Fund to Participating Settlement Class Members. Administrative Expenses also include all reasonable third-party fees and expenses incurred by the Settlement Administrator in administering the terms of this Agreement.

34. “**Objection Deadline**” means the date by which a written objection to this Settlement Agreement or a request for exclusion submitted by a person within the Settlement Class must be postmarked and/or filed with the Court and sent to the Settlement Administrator, which shall be designated as sixty (60) days after the Notice Deadline, or such other date as ordered by the Court.

35. “**Opt-Out Deadline**” is the last day on which a Settlement Class Member may file a request to be excluded from the Settlement Class, which will be sixty (60) days after the Notice Deadline.

36. “**Participating Settlement Class Member**” means a Settlement Class Member who does not submit a valid Request for Exclusion prior to the Opt-Out Deadline.

37. “**Parties**” shall mean Plaintiffs and Defendant, collectively.

38. “**Plaintiffs**” or “**Class Representatives**” shall mean the named class representatives, Alexis Webb and Marsclette Charley.

39. “**Preliminary Approval Order**” shall mean the Court’s Order preliminarily approving the Settlement Agreement, certifying the Settlement Class for settlement purposes, and directing notice of the Settlement to the Settlement Class substantially in the form of the Notice set forth in this Settlement Agreement. Attached as **Exhibit D**.

40. “**Pro Rata Cash Payment**” means a pro rata cash payment of the Net Settlement Fund after payment of valid claims for Unreimbursed Losses.

41. “**Released Claims**” shall have the meaning ascribed to it as set forth in Section IX of this Settlement Agreement.

42. “**Released Parties**” shall have the meaning ascribed to it as set forth in Section IX of this Settlement Agreement.

43. “**Releasors**” shall refer, jointly and severally, and individually and collectively, to Plaintiffs, the Participating Settlement Class Members, and to each of their predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing, and anyone claiming by, through, or on behalf of them.

44. “**Remainder Funds**” means any funds that remain in the Settlement Fund after all deductions from the Settlement Fund authorized by this Settlement Agreement have been paid and Approved Claims to Participating Settlement Class Members have been made. The funds remaining in the Settlement Fund after completion of these disbursements and after the time for cashing and/or depositing checks has expired will be Remainder Funds. The Remainder Funds will be sent to a charitable organization, which must be jointly proposed by the parties and approved by the Court, as a *cy pres* distribution.

45. “**Service Award**” shall have the meaning ascribed to it as set forth in Section X of this Settlement Agreement. The Service Awards requested in this matter will be \$5,000 to each Plaintiff, subject to court approval, and are to be paid from the Settlement Fund.

46. “**Settlement Administrator**” means, subject to Court approval, Eisner Amper, an entity jointly selected and supervised by Class Counsel and Defendant to administer the settlement.

47. “**Settlement Class**” or “**Class**” means “All individuals residing in the United States for whom Defendant has contact information and/or identifying information, such as date of birth or Social Security number, whose Personal Information was potentially compromised in the Data Incident disclosed by Injured Workers Pharmacy in February 2022.” Excluded from the Settlement Class are: (1) the judges presiding over this Action, and members of their direct families; (2) the Defendant, their subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or their parents have a controlling interest, and their current or former officers and directors; and (3) Settlement Class Members who submit a valid Request for Exclusion prior to the Opt-Out Deadline.

48. “**Settlement Class List**” means a list of each Settlement Class Member’s full name, current or last known residential mailing address, and all known email addresses, which Defendant or Defendant’s agent shall provide to the Settlement Administrator within seven (7) days of the entry of the Preliminary Approval Order.

49. “**Settlement Class Member**” means an individual who falls within the definition of the Settlement Class.

50. “**Settlement Fund**” means the non-reversionary common fund amount of One Million Seventy-Five Thousand Dollars and 00/100 (\$1,075,000) to be paid by, or on behalf of, Defendant, including any interest accrued thereon after payment, this being the full and complete limit and extent of Defendant’s obligations with respect to the Settlement.

51. “**Settlement Payment**” means the payment to be made via mailed check and/or electronic payment to a Participating Settlement Class Member from the Settlement Administrator from the Settlement Fund.

52. “**Settlement Website**” means a website established and administered by the Settlement Administrator, which shall contain information about the Settlement, including electronic copies of **Exhibits A-E** (or any forms of these notices that are approved by the Court), this Settlement Agreement, and all Court documents related to the Settlement. The Settlement Website, will be publicly viewable and contain broad information about the Settlement, including but not limited to, copies of the Complaint filed in this matter, a copy of the Long Form Notice, Short Form Notice, FAQs, Claim Form that may be submitted online through the Settlement Website or mailed to the Settlement Administrator, and the deadlines for filing a claim, objection, or exclusion requests, and the date of the Fairness Hearing. The Settlement Website is viewed as an important piece of the notice plan to Class Members. The Settlement Website will remain active until 90 days after the Effective Date.

53. “**Short Form Notice**” is the postcard notice that will be mailed to each available Settlement Class Member, substantially in the form as **Exhibit A**.

54. “**Taxes and Tax-Related Expenses**” means any and all applicable taxes, duties, and similar charges imposed by a government authority (including any estimated taxes, interest or penalties) arising in any jurisdiction, if any, with respect to the income or gains earned by or in respect of the Settlement Fund, including, without limitation, any taxes that may be imposed upon Defendant with respect to any income or gains earned by or in respect of the Settlement Fund for any period while it is held in the Settlement Fund.

55. “**Unreimbursed Economic Losses**” means out-of-pocket costs or expenditures that a Settlement Class Member actually incurred that are supported by reasonable third-party documentation. “Unreimbursed Economic Losses” include things such as losses related to fraud and identity theft, the purchase of identity protection services, credit monitoring services, or ID theft insurance, and such expenses must be fairly traceable to the Data Incident and not already reimbursed by a third party.

III. SETTLEMENT FUND

56. **Establishment of Settlement Fund.** Within thirty (30) days of the entry of the Effective Date, Defendant shall cause to be deposited the sum of \$1,075,000.00, into an account established and administered by the Settlement Administrator at a financial institution agreed upon by the Settlement Administrator, Defendant, and Class Counsel, minus the amounts advanced for notice and claims administration cost as described in the next sentence. Within thirty (30) days of entry of the Preliminary Approval Order, Defendant will pay an amount reasonably necessary to defray the actual expenses of notice and claims administration from the total agreed settlement amount to the Settlement Administrator, not to exceed \$200,000.00. To the extent this Settlement Agreement does not receive final approval, Defendant will be entitled to the return of any amounts not already incurred by the Claims Administrator in connection with Settlement Administration. The Settlement Administrator shall provide wiring instructions, including an alternative means of confirming the instructions, and a properly completed and duly executed IRS Form W-9 to Defendant within five (5) days of the entry of the Preliminary Approval Order. Following Defendant's payment of all Settlement Fund monies as described in this Paragraph, Defendant shall have no responsibility, financial obligation, or liability whatsoever with respect to the selection of the Settlement Fund account, investment of Settlement Fund account funds, payment of federal, state, and local income, employment, unemployment, excise, and any other Taxes or Tax-Related Expenses imposed on the Settlement Fund account or its distributions, or payment of the administrative, legal, accounting, or other costs occasioned by the use or administration of the Settlement Fund.

57. **Qualified Settlement Fund.** The Parties agree that the Settlement Fund is intended to be maintained as a qualified settlement fund within the meaning of Treasury Regulation § 1.468 B-1, and that the Settlement Administrator, within the meaning of Treasury Regulation § 1.468 B-2(k)(3), shall be responsible for filing tax returns and any other tax reporting for or in respect of the Settlement Fund and paying from the Settlement Fund any Taxes and Tax-Related Expenses owed with respect to the Settlement Fund. The Parties agree that the Settlement Fund shall be treated as a qualified settlement fund from the earliest date possible and agree to any relation-back election required to treat the Settlement Fund as a qualified settlement fund from the earliest date possible. Any and all funds held in the Settlement Fund shall be held in an interest-bearing account insured by the Federal Deposit Insurance Corporation. Funds may be placed in a non-interest bearing account as may be reasonably necessary during the check clearing process. The Settlement Administrator shall provide an accounting of any and all funds in the Settlement Fund, including any interest accrued thereon and payments made pursuant to this Agreement, upon request of any of the Parties.

58. **Custody of Settlement Fund.** The amount paid by Defendant to advance notice and claims administration costs, as well as the Settlement Fund, upon final approval, shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the entirety of the Settlement Fund is distributed pursuant to this Settlement Agreement or the balance returned to those who paid the Settlement Fund in the event this Settlement Agreement is terminated in accordance with Paragraphs 88-90.

59. **Use of the Settlement Fund.** As further described in this Agreement and in Exhibit B, the Settlement Fund, upon final approval, shall be used by the Settlement Administrator to pay for the following (although not in this order): (1) reimbursement for Unreimbursed Economic Losses; (2) Credit Monitoring Services; (3) Pro Rata Cash Payments; (4) Notice and

Administrative Expenses; (5) Service Award payments approved by the Court; and (6) the Attorney Fee Award and Expenses awarded by the Court.

60. **Taxes and Representations.** Taxes and Tax-Related Expenses relating to the Settlement Fund, if any, shall be considered Notice and Administrative Expenses and shall be timely paid by the Settlement Administrator out of the Settlement Fund without prior order of the Court. Further, the Settlement Fund shall indemnify and hold harmless the Parties and their counsel for Taxes and Tax-Related Expenses (including, without limitation, taxes payable by reason of any such indemnification payments). The Parties and their respective counsel have made no representation or warranty, and have no responsibility, with respect to the tax treatment by any Settlement Class Representative or any Settlement Class Member of any payment or transfer made pursuant to this Agreement or derived from or made pursuant to the Settlement Fund. Each Class Representative and Participating Settlement Class Member shall be solely responsible for the federal, state, and local tax consequences to him, her, or it of the receipt of funds from the Settlement Fund pursuant to this Agreement.

IV. SETTLEMENT BENEFITS AND ADMINISTRATION

61. The Settlement Administrator will agree to make the following compensation from the Settlement Fund, upon final approval and minus any amount paid by Defendant to advance notice and settlement administration costs after preliminary approval, available to Settlement Class Members who submit valid and timely claim forms. Claims will be subject to review for completeness and plausibility by a Settlement Administrator, and Claimants will have the opportunity to seek review by the Parties' counsel, if they dispute the Settlement Administrator's initial determination.

- i. **Credit Monitoring:** All Participating Settlement Class Members are eligible to enroll in two (2) years of Credit Monitoring Services, regardless of whether the Participating Settlement Class Member submits a claim for reimbursement of Unreimbursed Economic Losses or Pro Rata Cash Payment. The Settlement Administrator shall send an activation code to each valid Credit Monitoring Services claimant within fourteen (14) days of the Effective Date that can be used to activate Credit Monitoring Services. Such enrollment codes shall be sent via e-mail, unless the claimant did not provide an e-mail address, in which case such codes shall be sent via U.S. mail. Codes will be active for 180 days after the date of mailing, and may be used to activate the full term if used at any time during that 180-day period. The provider shall provide Credit Monitoring Services to all valid claimants who timely activate those services for a period of two (2) years from the date of activation. Credit Monitoring Expenses, the administration of which will be overseen by Class Counsel, will be paid for from the Settlement Fund.
- ii. **Compensation for Unreimbursed Economic Losses:** The Settlement Administrator, from the Settlement Fund, will provide compensation, up to a total of \$5,000.00 per person who is a Participating Settlement Class Member, upon submission of a claim and supporting documentation, for unreimbursed ordinary and/or extraordinary economic losses incurred as a result of the Data

Incident, including, without limitation, unreimbursed losses relating to fraud or identity theft; professional fees including attorneys' fees, accountants' fees, and fees for credit repair services; costs associated with freezing or unfreezing credit with any credit reporting agency; credit monitoring costs that were incurred on or after the Data Incident through the date of claim submission; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges.

Participating Settlement Class Members with ordinary and/or extraordinary economic losses must submit documentation supporting their claims. This can include receipts or other documentation not "self-prepared" by the claimant that document the costs incurred. "Self-prepared" documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity or support other submitted documentation.

Class Members may receive compensation for both Unreimbursed Economic Losses and Pro Rata Cash Payments, subject to a combined monetary benefits cap of \$5,000 per Class Member.

- iii. **Pro Rata Cash Payment:** Participating Settlement Class Members can elect to make a claim for a pro rata share of the Net Settlement Fund, less all valid claims for Unreimbursed Losses. To receive this benefit, Participating Settlement Class Members must submit a valid claim form, but no documentation is required to make a claim. The amount of the Cash Payments will be increased or decreased on a *pro rata* basis, depending upon the number of valid claims filed and the amount of funds available for these payments. Class Counsel predicts the value of pro rata payments will exceed \$50 per valid claimant.

62. **Assessing Claims for Unreimbursed Economic Losses.** The Settlement Administrator shall verify that each person who submits a Claim Form is a Settlement Class Member. The Settlement Administrator shall have the sole discretion and authority to determine whether and to what extent documentation for unreimbursed ordinary and/or extraordinary economic losses reflect valid unreimbursed economic losses actually incurred that are fairly traceable to the Data Incident, but may consult with both Class Counsel and Defendant's Counsel in making individual determinations. The Settlement Administrator is authorized to contact any Settlement Class Member (by e-mail, telephone, or U.S. mail) to seek clarification regarding a submitted claim prior to making a determination as to its validity.

63. **Assessing Claims for Pro Rata Cash Payments.** The Settlement Administrator shall verify that each person who submits a Claim Form is a Settlement Class Member. A Settlement Class Member shall not be required to submit any documentation or additional information in support of their claim for a Pro Rata Cash Payment. The Settlement Administrator is authorized to contact any Settlement Class Member (by e-mail, telephone, or U.S. mail) to seek clarification regarding a submitted claim prior to making a determination as to its validity. In the event of any ambiguities in the Claim Form, the Settlement Administrator must contact the Settlement Class Member prior to making a determination as to its validity and, specifically, to

determine whether the Settlement Class Member wishes to file a claim for a Pro Rata Cash Payment or any other benefits made available under this Settlement Agreement.

64. **Order of Distribution of Funds.** The Settlement Administrator must use the funds available in the Net Settlement Fund (after payment of Notice and Administrative Expenses, Taxes and Tax-Related Expenses, the Fee Award and Expenses, and Service Awards) to make payments for Approved Claims in this order: Unreimbursed Economic Losses, followed by Credit Monitoring, followed by payments for Approved Claims for Pro Rata Cash Payments.

65. **Disputes.** To the extent the Settlement Administrator determines a claim for Unreimbursed Economic Losses is deficient in whole or part, within a reasonable time of making such a determination, the Settlement Administrator shall notify the Settlement Class Member of the deficiencies and give the Settlement Class Member twenty-one (21) days to cure the deficiencies. Such notifications shall be sent via e-mail, unless the claimant did not provide an e-mail address, in which case such notifications shall be sent via U.S. mail. If the Settlement Class Member attempts to cure the deficiencies but, at the sole discretion and authority of the Settlement Administrator, fails to do so, the Settlement Administrator shall notify the Settlement Class Member of that determination within ten (10) days, which shall be final. The Settlement Administrator may consult with Class Counsel and Defendant's Counsel in making such determinations.

66. **Unclaimed Property.** No portion of the Settlement Fund shall revert or be repaid to IWP after the Effective Date. To the extent any monies remain in the Remainder Fund more than 150 days after the distribution of Settlement payments to the Participating Settlement Class Members, or 30 days after all reissued Settlement Checks are no longer negotiable, whichever occurs later or as otherwise agreed to by the Parties, the Remainder Funds will be sent to a charitable organization that is jointly proposed by the parties and approved by the Court as a *cypres* distribution.

67. **Returned Checks.** For any Settlement Check returned to the Settlement Administrator as undeliverable (including, but not limited to, when the intended recipient is no longer located at the address), the Settlement Administrator shall make reasonable efforts to locate a valid address and resend the Settlement Payment within thirty (30) days after the check is returned to the Settlement Administrator as undeliverable. In attempting to locate a valid address, the Settlement Administrator is authorized to send an e-mail and/or place a telephone call to that Participating Settlement Class Member to obtain updated address information. Any replacement Settlement Checks issued to Participating Settlement Class Members shall remain valid and negotiable for sixty (60) days from the date of their issuance and may thereafter automatically be canceled if not cashed by the Participating Settlement Class Members within that time.

68. **Uncashed Checks.** To the extent that a Settlement Check is not cashed within ninety (90) days after the date of issue, the Settlement Administrator shall undertake the following actions: (1) attempt to contact the Participating Settlement Class Member by e-mail and/or telephone to discuss how to obtain a reissued check; (2) if those efforts are unsuccessful, make reasonable efforts to locate an updated address for the Participating Settlement Class Member using advanced address searches or other reasonable methods; and (3) reissuing a check or mailing the Participating Settlement Class Member a postcard (either to an updated address if located or

the original address if not) providing information regarding how to obtain a reissued check. Any reissued Settlement Checks issued to Participating Settlement Class Members shall remain valid and negotiable for sixty (60) days from the date of their issuance and may thereafter automatically be canceled if not cashed by the Participating Settlement Class Members within that time.

69. **Settlement Administration Fees.** The Settlement Fund amount provided by Defendant, or on behalf of Defendant, will pay the entirety of the Notice and Administrative Expenses, including the cost of Notice. The Parties have solicited competitive bids for the settlement administration fees, and agree to rely upon postcard reminder notice (to the extent that a reminder notice is necessary), and to utilize email notice where practicable in order to minimize the administration costs while still providing effective notice to the Class. Settlement Administration Fees shall be paid through the Settlement Fund and are limited to the common fund amount.

70. Provided that Final Approval of this Settlement Agreement is granted by the Court without material change, material amendment, or material modification, the Settlement Fund will be used to satisfy Approved Claims for Settlement Class Members in exchange for a full, fair, and complete release of all Released Parties from Released Claims, and dismissal of the Litigation with prejudice.

71. The Settlement Fund represents the total extent of Defendant's monetary obligations under the Settlement Agreement. Defendant's contribution to the Settlement Fund shall be fixed under this Section and shall be final. Defendant shall have no obligation to make further payments into the Settlement Fund and shall have no financial responsibility or obligation relating to the Settlement beyond payment of monies into the Settlement Fund in the amount set forth in Paragraph 54 above.

72. Once a Settlement Administrator is mutually agreed to by the Parties and after the settlement is preliminarily approved by the Court, the Settlement Administrator will provide notice in a manner mutually agreed upon by the Parties, and which shall consist of direct mail notice.

73. After the Court enters an order approving the final Settlement Agreement, the Settlement Administrator shall make payments to all Participating Settlement Class Members that made a valid claim, subject to the procedure set forth herein.

74. The Parties, Class Counsel, and Defendant's Counsel shall not have any liability whatsoever with respect to (i) any act, omission or determination of the Settlement Administrator, or any of its respective designees or agents, in connection with the administration of the Settlement or otherwise; (ii) the management, investment or distribution of the Settlement Fund; (iii) the formulation, design or terms of the disbursement of the Settlement Fund; (iv) the determination, administration, calculation or payment of any claims asserted against the Settlement Fund; (v) any losses suffered by or fluctuations in the value of the Settlement Fund; or (vi) the payment or withholding of any Taxes and Tax-Related Expenses.

V. ADDITIONAL SECURITY MEASURES

75. **Additional Security Measures.** IWP has confirmed that it has made certain changes to its information security and will attest to these changes in a confidential declaration in

support of the Settlement. Within thirty (30) days after the entry of the Preliminary Approval Order, Defendant shall provide Class Counsel with a confidential declaration or affidavit, suitable for filing under seal upon the Court's request, attesting that agreed upon security-related measures have been implemented on or before and up to the date of the Preliminary Approval Order and identifying the approximate cost of those security-related measures. Costs associated with these security-related measures should be paid by Defendant separate and apart from other settlement benefits and separate and apart from the Settlement Fund.

VI. SETTLEMENT CLASS NOTICE, OPT-OUTS, AND OBJECTIONS

76. **Notice.** Within seven (7) days after the entry of the Preliminary Approval Order, Defendant shall provide the Settlement Class List to the Settlement Administrator. Within thirty (30) days after the Preliminary Approval Order is entered, the Settlement Administrator shall disseminate Notice to the Settlement Class Members. Notice shall be disseminated via U.S. mail to all Settlement Class Members, to the extent mailing addresses are known. To the extent that Class Counsel believes that reminder notices should be sent to Settlement Class Members, Class Counsel may direct the Settlement Administrator to send reminder notices to Settlement Class Members, which shall be sent sixty (60) days after the Notice Date and the cost of which shall be Notice and Administrative Expenses that are paid from the Settlement Fund. The process to issue Notice as described in this Paragraph and the creation and maintenance of the Settlement Website shall constitute the "Notice Plan."

77. **Final Approval Hearing.** The Notice must set forth the time and place of the Final Approval Hearing (subject to change) and state that any Settlement Class Member who does not file a timely and adequate objection in accordance with this Paragraph waives the right to object or to be heard at the Final Approval Hearing and shall be forever barred from making any objection to the Settlement.

78. **Opt-Outs.** The Notice shall explain the procedure for Settlement Class Members to exclude themselves or "opt-out" of the Settlement by mailing a request for exclusion to the Settlement Administrator postmarked no later than the Opt-Out Deadline. The request for exclusion must include the name of the proceeding, the individual's full name, current address, personal signature, and the words "Request for Exclusion," a comparable statement that the individual does not wish to participate in the Settlement, or some other clear manifestation of the intent to opt-out of the Settlement in the written communication. Each request for exclusion must request exclusion only for that one individual whose personal signature appears on the request. The Notice must state that any Settlement Class Member who does not file a timely request for exclusion in accordance with this Paragraph will lose the opportunity to exclude himself or herself from the Settlement and will be bound by the Settlement.

79. **Objections.** The Notice shall explain the procedure for Settlement Class Members to object to the Settlement or Fee and Expense Application by submitting written objections to the Court no later than the Objection Deadline. A written objection must include (i) the name of the proceedings; (ii) the Settlement Class Member's full name, current mailing address, and telephone number; (iii) a statement of the specific grounds for the objection, as well as any documents supporting the objection and a description of whether the objection applies only to the Settlement Class Member, a subset of the Settlement Class, or the entire Settlement Class; (iv) the identity of

any attorneys representing the objector (if any); (v) a statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear at the Final Approval Hearing; (vi) a description and/or copies of evidence that may be introduced at fairness hearing; (vii) a list of proceedings in which the Settlement Class Member has submitted an objection during the past five years; and (viii) the signature of the Settlement Class Member or the Settlement Class Member's attorney.

VII. PRELIMINARY APPROVAL, FINAL APPROVAL, AND JURISDICTION

80. **Certification of the Settlement Class.** For purposes of this Settlement only, the Parties stipulate to the certification of the Settlement Class, which is contingent upon both the Court entering the Final Approval Order of this Settlement and the occurrence of the Effective Date.

81. **Preliminary Approval.** Following execution of this Agreement, Class Counsel shall file a motion for preliminary approval of the Settlement, in a form agreeable to the Parties, within thirty (30) days thereof or a date thereafter that is agreeable to the Parties and the Court or that is otherwise ordered by the Court.

82. **Final Approval.** Class Counsel shall move the Court for a Final Approval Order of this Settlement, to be issued following the Final Approval Hearing; within a reasonable time after the Notice Deadline, Objection Deadline, and Opt-Out Deadline; and at least 90 days after the Settlement Administrator notifies the appropriate government officials of this Settlement Agreement pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715.

83. **Jurisdiction.** The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation and enforcement of the Agreement and shall retain jurisdiction for the purpose of enforcing all terms of the Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice Plan and the Settlement Administrator. As part of its agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose.

VIII. MODIFICATION AND TERMINATION

84. **Modification.** The terms and provisions of this Agreement may be amended, modified, or expanded by written agreement of the Parties and approval of the Court; provided, however, that, after entry of the Preliminary Approval Order, the Parties may, by written agreement, effect such amendments, modifications, or expansions of this Agreement and its implementing documents (including all exhibits hereto) without further notice to the Settlement Class or approval by the Court if such changes are consistent with the Court's Preliminary Approval Order and do not materially alter, reduce, or limit the rights of Settlement Class Members under this Agreement.

85. **Defendant's Option.** Defendant shall have the right to, in its sole discretion, terminate the Agreement pursuant to the procedures in Paragraph 86 if more than 500 Settlement Class Members submit valid requests to opt out of the Settlement Class. In no event will Class Counsel, the Settlement Class Representative, Defendant's corporate officers, or Defendant's counsel encourage Class Members to opt-out of the Settlement Class.

86. **Settlement Not Approved.** If: (1) the Court does not issue the Preliminary Approval Order or Final Approval Order; (2) the Effective Date does not occur; or (3) the Final Approval Order is modified or reversed in any material respect by any appellate or other court, the Parties shall have 60 days from the date of such occurrence or during which the Parties shall work together in good faith in considering, drafting, and submitting reasonable modifications to this Agreement to address any issues identified by the Court or that otherwise caused the Preliminary Approval Order or Final Approval Order not to issue or the Effective Date not to occur. If such efforts are unsuccessful, either Party may at their sole discretion terminate this Agreement on seven (7) days written notice to the other Party. For avoidance of any doubt, neither Party may terminate the Agreement while an appeal from an order granting approval of the Settlement is pending.

87. **Effect of Termination.** In the event of a termination as provided in Paragraphs 83, this Agreement and the Settlement shall be considered null and void; all of the Parties' obligations under the Agreement shall cease to be of any force and effect and the Parties shall return to the status quo ante in the Action as if the Parties had not entered into this Agreement or the Settlement. Further, in the event of such a termination, the certification of the Settlement Class shall be void. Defendant reserves the right to contest class certification for all purposes other than this Settlement. Any orders preliminarily or finally approving the certification of any class contemplated by the Settlement shall be null, void, and vacated, and shall not be used or cited thereafter by any person or entity in support of claims or defenses or in support or in opposition to a class certification motion. In addition: (a) the fact that Defendant did not oppose certification of a class under the Settlement shall not be used or cited thereafter by any person or entity, including in a contested proceeding relating to class certification and (b) in the event of such a termination, all of the Parties' respective pre-Settlement claims and defenses will be preserved.

IX. RELEASES

88. Upon Final Approval of this Settlement Agreement, Releasors release, acquit, and forever discharge Defendant and each of its present and former parents, subsidiaries, divisions, affiliates, predecessors, successors, and assigns, Board of Trustees, and the present and former directors, officers, employees, agents, insurers, reinsurers, shareholders, attorneys, advisors, consultants, representatives, partners, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, and the predecessors, successors, and assigns of each of them as well as covered entities associated with the Data Incident ("Released Parties") from all liabilities, rights, claims, actions, causes of action, demands, damages, penalties, costs, attorneys' fees, losses, and remedies, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, that result from, arise out of, are based upon, or relate to the Data Incident, and conduct that was alleged or could have been alleged in the Litigation, including, without limitation, any claims, actions, causes of action, demands, damages, penalties, losses, or remedies relating to, based upon, resulting from, or arising out of the Data

Incident (the “Released Claims”), provided that nothing in this Release is intended to, does or shall be deemed to release any claims not arising out of, based upon, resulting from, or related to the Data Incident.

89. With respect to any and all Released Claims, the Parties stipulate and agree that upon Final Approval of this Settlement Agreement, Releasers shall have waived any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, the District of Columbia, or principle of common law or otherwise, which includes or is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

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

Settlement Class Representatives and Class Counsel acknowledge, and each Participating Settlement Class Member by operation of law shall be deemed to have acknowledged, that the inclusion of unknown claims in the Release was separately bargained for and was a material element of the Settlement Agreement.

90. Each Releaser waives any and all defenses, rights, and benefits that may be derived from the provisions of applicable law in any jurisdiction that, absent such waiver, may limit the extent or effect of the release contained in this Settlement Agreement.

91. **Mutual Understanding.** The Parties understand that if the facts upon which this Agreement is based are found hereafter to be different from the facts now believed to be true, each Party expressly assumes the risk of such possible difference in facts, and agrees that this Agreement, including the releases contained herein, shall remain effective notwithstanding such difference in facts. The Parties agree that in entering this Agreement, it is understood and agreed that each Party relies wholly upon its own judgment, belief, and knowledge and that each Party does not rely on inducements, promises, or representations made by anyone other than those embodied herein.

92. **Release of Class Representatives and Class Counsel.** Upon the Effective Date, Defendant and its representatives, officers, agents, directors, principals, affiliates, employees, insurers, and attorneys shall be deemed to have released, acquitted, and forever discharged the Settlement Class Representatives and Class Counsel from any and all claims or causes of action of every kind and description, including any causes of action in law, claims in equity, complaints, suits or petitions, and any allegations of wrongdoing, demands for legal, equitable or administrative relief (including, but not limited to, any claims for injunction, rescission, reformation, restitution, disgorgement, constructive trust, declaratory relief, compensatory damages, consequential damages, penalties, exemplary damages, punitive damages, attorneys’ fees, costs, interest or expenses), whether known or unknown, that arise out of, are based upon, or relate to prosecution of the Action, the Settlement Agreement, or the Settlement claims process

(provided, however, that this release and discharge shall not include claims relating to the enforcement of the terms of the Settlement or this Agreement).

93. **Bar to Future Suits.** Upon entry of the Final Approval Order, Releasors shall be enjoined from prosecuting any claim they have released in the preceding paragraphs in any proceeding against Defendant or based on any actions taken by any of the Released Parties that are authorized or required by this Agreement or by the Final Approval Order. Likewise, Defendant and its representatives, officers, agents, directors, principals, affiliates, employees, insurers, and attorneys shall be enjoined from prosecuting any claim they have released in the preceding paragraphs in any proceeding against Settlement Class Representatives and Class Counsel, or based on any actions taken by Settlement Class Representatives and Class Counsel that are authorized or required by this Agreement or by the Final Approval Order. It is further agreed that the Settlement may be pleaded as a complete defense to any proceeding subject to this section.

X. SERVICE AWARD PAYMENTS

94. **Service Award Payments.** At least fourteen (14) days before the Opt-Out and Objection Deadlines, Class Counsel will file a Fee Application that will include a request for Service Award payments for the Settlement Class Representatives in recognition for their contributions to this Action not to exceed \$5,000 per Plaintiff (\$10,000 total). The Settlement Administrator shall make the Service Award payments to the Settlement Class Representatives from the Settlement Fund. Such Service Award payments shall be paid by the Settlement Administrator, in the amount approved by the Court, no later than twenty (20) days after the Effective Date.

95. **No Effect on Agreement.** In the event the Court declines to approve, in whole or in part, the payment of Service Awards in the amount requested, the remaining provisions of this Agreement shall remain in full force and effect. No decision by the Court, or modification or reversal or appeal of any decision by the Court, concerning the amount of the Service Awards shall constitute grounds for termination of this Agreement.

XI. ATTORNEYS' FEES, COSTS, EXPENSES

96. **Attorneys' Fees and Costs and Expenses.** At least fourteen (14) days before the Opt-Out and Objection Deadlines, Class Counsel will file a Fee and Expense Application for an award of attorneys' fees to be paid from the Settlement Fund not to exceed one-third (1/3) of the value of the Settlement, or \$358,333.33, and litigation expenses up to \$25,000. The Fee Award and Expenses shall be paid by the Settlement Administrator, in the amount approved by the Court, no later than twenty (20) days after the Effective Date.

97. **No Effect on Agreement.** In the event the Court declines to approve, in whole or in part, the payment of the Fee Award and Expenses in the amount requested, the remaining provisions of this Agreement shall remain in full force and effect. No decision by the Court, or modification or reversal or appeal of any decision by the Court, concerning the amount of the Fee Award and Expenses shall constitute grounds for termination of this Agreement.

XII. NO ADMISSION OF LIABILITY

98. **No Admission of Liability.** The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgment or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever.

99. **No Use of Agreement.** Neither the Settlement Agreement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (i) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by Plaintiffs; or (ii) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission by Defendant in the Action or in any proceeding in any court, administrative agency or other tribunal.

XIII. MISCELLANEOUS

100. **Publicity.** The Parties agree that they shall not publicize this Settlement, Settlement Fund or Settlement Payment, the amount or sum of individual Settlement Class Representatives' or Settlement Class Members' shares or the events and negotiations surrounding this Agreement in any way except by joint pleadings or unopposed motions filed with the Court, if required. If any Party believes a statement is made in violation of this provision, the Parties shall meet-and-confer informally in an effort to resolve the dispute. If the dispute cannot be resolved informally, it shall be submitted to the Court for resolution.

101. **Integration of Exhibits.** The exhibits to this Agreement and any exhibits thereto are a material part of the Settlement and are incorporated and made a part of the Agreement.

102. **Entire Agreement.** This Agreement, including all exhibits hereto, shall constitute the entire Agreement among the Parties with regard to the subject matter hereof and shall supersede any previous agreements, representations, communications and understandings among the Parties. This Agreement may not be changed, modified, or amended except in writing signed by all Parties, subject to Court approval. The Parties contemplate that, subject to Court approval or without such approval where legally permissible and where such changes are non-material, the exhibits to this Agreement may be modified by subsequent agreement of counsel for the Parties prior to dissemination of the Settlement Class Notice to the Settlement Class.

103. **Deadlines.** If any of the dates or deadlines specified herein falls on a weekend or legal holiday, including without limitation the Notice Deadline, the applicable date or deadline shall fall on the next business day. All reference to "days" in this agreement shall refer to calendar days unless otherwise specified.

104. **Construction.** For the purpose of construing or interpreting this Agreement, the Parties agree that this Agreement is to be deemed to have been drafted equally by all Parties hereto and shall not be construed strictly for or against any Party.

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

106. **Obligation to Meet and Confer.** Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other in good faith prior to seeking Court intervention.

107. **Governing Law.** The Agreement shall be construed in accordance with, and be governed by, the laws of the State of Massachusetts, without regard to the principles thereof regarding choice of law.

108. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all signatories do not sign the same counterparts. Original signatures are not required. Any signature submitted electronically through e-mail of an Adobe PDF shall be deemed an original.

109. **Notices.** All notices to Class Counsel provided for herein, shall be sent by overnight mail and email to:

Raina Borrelli
Strauss Borrelli PLLC
One Magnificent Mile
980 N. Michigan Avenue, Suite 1610
Chicago, IL 60611
Telephone: (872) 263-1100
raina@straussborrelli.com

All notices to Defendant provided for herein, shall be sent by overnight mail and email to:

Jordan S. O'Donnell
Claudia D. McCarron
MULLEN COUGHLIN LLC
426 W. Lancaster Ave., Suite 200
Devon, PA 19333
Telephone: (267) 930-4787
jsodonnell@mullen.law
cmccarron@mullen.law

The notice recipients and addresses designated above may be changed by written notice.

110. **Authority.** Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party or Parties on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.


111. **Confidentiality of Discovery Material.** The Parties, Counsel for the Parties, and any retained or consulting experts, agree that each of them remain subject to the Confidentiality Agreement.

112. **No Government Third-Party Rights or Beneficiaries.** No government agency or official can claim any rights under this Agreement or Settlement.

113. **No Collateral Attack.** The Settlement Agreement shall not be subject to collateral attack, including by any Settlement Class Member or any recipient of notices of the Settlement after issuance of the Final Approval Order.

114. **Survival.** The Parties agree that the terms set forth in this Settlement Agreement shall survive the signing of the Settlement Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused the Settlement Agreement to be executed,

/s/ 
Plaintiff Alexis Webb

/s/
Plaintiff Marsclette Charley

/s/
Defendant Injured Workers Pharmacy LLC

Dated: July 30, 2024

Dated: July 30, 2024

/s/ _____

/s/ 

Jordan S. O'Donnell, #BBO 684001
Claudia D. McCarron (pro hac vice)
MULLEN COUGHLIN LLC
426 W. Lancaster Ave., Suite 200
Devon, PA 19333
Telephone: (267) 930-4787
jsodonnell@mullen.law
cmccarron@mullen.law

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STRAUSS BORRELLI PLLC
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Telephone: (872) 263-1100
Facsimile: (872) 263-1109
raina@straussborrelli.com

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114. **Survival.** The Parties agree that the terms set forth in this Settlement Agreement shall survive the signing of the Settlement Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused the Settlement Agreement to be executed,

/s/
Plaintiff Alexis Webb

/s/ Marsclette Charley
Plaintiff Marsclette Charley

/s/
Defendant Injured Workers Pharmacy LLC

Dated: July 30, 2024

Dated: July 30, 2024

/s/

Jordan S. O'Donnell, #BBO 684001
Claudia D. McCarron (pro hac vice)
MULLEN COUGHLIN LLC
426 W. Lancaster Ave., Suite 200
Devon, PA 19333
Telephone: (267) 930-4787
jsodonnell@mullen.law
cmccarron@mullen.law

/s/

Raina C. Borrelli
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114. **Survival.** The Parties agree that the terms set forth in this Settlement Agreement shall survive the signing of the Settlement Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused the Settlement Agreement to be executed,

/s/
Plaintiff Alexis Webb

/s/
Plaintiff Marsclette Charley


/s/Michael Gavin (Jul 30, 2024 15:20 EDT)
Defendant Injured Workers Pharmacy LLC

Dated: July 30, 2024

Dated: July 30, 2024


/s/

/s/

Jordan S. O'Donnell, #BBO 684001
Claudia D. McCarron (pro hac vice)
MULLEN COUGHLIN LLC
426 W. Lancaster Ave., Suite 200
Devon, PA 19333
Telephone: (267) 930-4787
jsodonnell@mullen.law
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Raina C. Borrelli
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One Magnificent Mile
980 N. Michigan Avenue, Suite 1610
Chicago, IL 60611
Telephone: (872) 263-1100
Facsimile: (872) 263-1109
raina@straussborrelli.com

*Counsel for Defendant Injured Workers
Pharmacy LLC*

/s/ David K. Lietz
David K. Lietz (pro hac vice)
MILBERG COLEMAN BRYSON
PHILLIPS CROSSMAN, PLLC
5335 Wisconsin Avenue NW, Suite 440
Washington, D.C. 20015
Telephone: (866) 252-0878
Email: dlietz@milberg.com

*Counsel for Plaintiffs and Proposed
Settlement Class Counsel*

SETTLEMENT TIMELINE

<u>Grant of Preliminary Approval</u>	
Settlement Administrator provides W-9 to IWP	5 days after Preliminary Approval Order
IWP provides list of Settlement Class Members to the Settlement Administrator	7 days after Preliminary Approval
IWP to Provide CAFA Notice Required by 28 U.S.C. § 1715(b)	Within 10 days of filing of the Preliminary Approval Motion
Long Form and Short Form Notices Posted on the Settlement Website	No later than 28 days after Preliminary Approval, or prior to the Settlement Website going live
Notice Date	30 days after Preliminary Approval.
Reminder Notice	60 days after Notice Date (if needed)
Class Counsel's Motion for Attorneys' Fees, Reimbursement of Litigation Expenses, and Class Representative Service Award	14 days before Objection and Opt-Out Deadlines
Objection Deadline	60 days after Notice Date
Opt-Out Deadline	60 days after Notice Date
Claims Deadline	90 days after Notice Date
Settlement Administrator Provide List of Objections/Opt-Outs to Counsel for the Parties	70 days after Notice Date
Initially Approved Claims List	35 days after Claims Deadline
Initially Rejected Claims List	35 days after Claims Deadline
Parties' Challenge to Any Claims	35 days from Initially Approved Claims List
<u>Final Approval Hearing</u>	150 days after Preliminary Approval Order (at minimum)
Motion for Final Approval	14 days before Final Approval Hearing Date

Settlement Administrator Provides Court Notice of Opt-Outs and/or Objections	14 days before Final Approval Hearing Date
<u>Final Approval</u>	
Payment of Attorneys' Fees and Expenses Class Representative Service Award	7 days after Effective Date
Settlement Website Deactivation	90 days after Effective Date

EXHIBIT A

Legal Notice

Webb et al. v. Injured Workers Pharmacy, LLC, Case No. 1:22-cv-10797-RGS

If your data was potentially compromised in the February 2022 Data Incident involving Injured Workers Pharmacy, LLC, you may be eligible for a CASH PAYMENT or other benefits under a class action settlement.

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

A settlement has been reached in a class action lawsuit concerning a Data Incident at Injured Workers Pharmacy, LLC (“Defendant” or “IWP”) that began in January 2021 (the “Data Incident”). The Settlement would resolve a lawsuit in which Plaintiffs allege that the Data Incident potentially exposed individuals’ personal identifying information (“PII”) and personal health information (“PHI”), including names, addresses, dates of birth, email addresses, Social Security number, driver’s license, payment card information, financial account information, patient identification number, medical record number, treating or referring physicians, treatment information, prescription information, health insurance information, and Medicare or Medicaid numbers. Defendant denies all claims of wrongdoing or liability that Plaintiffs, Settlement Class Members, or anyone else have asserted in this Litigation or may assert in the future based on the conduct alleged in the complaint.

For more information on the proposed settlement, including how to submit a claim, exclude yourself, or submit an objection, please visit www.SettlementWebsite.com or call **1-XXX-XXX-XXXX**.

IWP Data Settlement Administrator

PO Box XXXXX

Baton Rouge, LA 70821

ELECTRONIC SERVICE REQUESTED

SETTLEMENT CLAIM [ID]

[FIRST NAME] [LAST NAME]

[ADDRESS]

[ADDRESS]

[CITY] [STATE] [ZIP]

Who is included in the Settlement? The Settlement Class is defined by the Court as “All individuals residing in the United States for whom Defendant has contact information and/or identifying information, such as date of birth or Social Security number, whose Personal Information was potentially compromised in the Data Incident disclosed by Injured Workers Pharmacy in February 2022.”

What are the settlement benefits? Settlement Class Members who submit valid claims and any required documentation may receive one or more of the following, to be paid from the \$1,075,000 Settlement Fund: (i) Credit Monitoring: two (2) years of Credit Monitoring Services, (ii) Compensation for Unreimbursed Economic Losses: reimbursement of up to \$5000, and (iii) a Pro Rata Cash Payment: a pro rata share of the Net Settlement Fund, less all valid claims for Unreimbursed Losses and Credit Monitoring, estimated at \$50. Visit the settlement website or call the toll-free number below for complete benefit details.

How do I receive a payment or other benefit? To receive any payments or benefits under the Settlement, you **MUST** submit a claim. To submit a claim, you may either: (i) fill out, detach, and mail the attached Postcard Claim Form to the Settlement Administrator; or (ii) submit a Claim Form online at [www._____.com](#). You may also call [\[InsertPhoneNumber\]](#) to request that a Claim Form be mailed to you. **Claims must be submitted online or postmarked by [_____] , 202_.**

What are my other options?

If you **Do Nothing**, you will be legally bound by the terms of the Settlement, and you will release your claims against IWP and other Released Parties as defined in the Settlement Agreement. If you do not want to be legally bound by the Settlement, you must **Exclude Yourself** by [\[_____\] , 202_](#), or you will not be able to sue the Defendant for released claims relating to the Data Incident. If you exclude yourself, you cannot get money or benefits from this Settlement. If you want to **Object** to the Settlement, you may file an objection by [\[_____\] , 202_](#). The detailed Notice explains how to submit a Claim Form, exclude yourself, or object.

Do I have a Lawyer in this Case?

Yes, the Court appointed the law firms of Strauss Borrelli PLLC and Milberg Coleman Bryson Phillips Crossman, PLLC to represent members of the Settlement Class. If you want to be represented by your own lawyer, you may hire one at your own expense.

When will the Court decide whether to approve the Settlement? The Court will hold a hearing in this case on [\[_____\] , 202_](#) at the United States District Court for the District of Massachusetts, Eastern Division, <<address>> to consider whether to approve the Settlement. The Court will also consider Class Counsel’s request for attorneys’ fees of up to one-third of the Settlement Fund (or \$358,333.33) and reimbursement of litigation expenses of no more than \$25,000 for litigating the case and negotiating the Settlement on behalf of the Class, and service awards of \$5,000 for each of the two Plaintiffs. You may attend the hearing, but you do not have to.

For more information, call toll-free [\[InsertPhoneNumber\]](#) or visit [\[InsertWebsiteLink\]](#) and read the detailed Notice.

Webb et al. v. Injured Workers Pharmacy, LLC, Case No. 1:22-cv-10797-RGS

POSTCARD CLAIM FORM -- MEMBER ID: [claim Id]

To submit a claim for Credit Monitoring and or a Pro Rata Cash Payment, please complete the **below form**, sign, and mail this portion of the postcard to the Settlement Administrator **by no later than** [redacted] **202** . Please complete the claim form for each category of benefits that you would like to claim. **You may claim one or both options.**

Note: Claims for Unreimbursed Economic Losses require supporting documentation and therefore must be submitted online at www.SettlementWebsite.com or mailed to the Settlement Administrator with a separate Claim Form.

Contact Information (Please fill in completely.)

Name: _____ Telephone Number: _____

Address : _____

City, State, Zip Code: _____

Email Address: _____

Credit Monitoring

To receive the credit monitoring and identity theft protection plan offered as part of the settlement, please check the box below:

I would like to claim two (2) years of credit monitoring and identity theft protection provided by (Provider) at no cost to me.

Pro Rata Cash Payment

Would you like to receive an additional pro rata cash payment (estimated to be at least \$50)? Yes No

SIGN AND DATE YOUR CLAIM FORM

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

Signature: _____ Date (mm/dd/yyyy): _____ Print Name: _____

The deadline to submit this form is [redacted], 202 Questions? Visit www.SettlementWebsite.com or call () [redacted]

EXHIBIT B

NOTICE OF CLASS ACTION SETTLEMENT

United States District Court for the District of Massachusetts, Eastern Division
Webb et al. v. Injured Workers Pharmacy, LLC
Case No. 1:22-cv-10797-RGS

If Injured Workers Pharmacy, LLC notified you of a Data Incident in or around February 2022, you may be eligible for a CASH PAYMENT or other benefits under a class action settlement.





A proposed Settlement has been reached in the class action lawsuit titled, *Webb et al. v. Injured Workers Pharmacy, LLC*, Case No. 1:22-cv-10797-RGS (the “Litigation”). The Litigation asserts claims against Injured Workers Pharmacy, LLC (“Defendant” or “IWP”) related to the unauthorized access to certain email accounts on IWP’s computer systems that began in January 2021 and was discovered in May 2021, about which Defendant notified potentially impacted individuals in February 2022 (the “Data Incident”). Plaintiffs alleged that the Data Incident resulted in the potential exposure of certain personally identifiable information (“PII”) and personal health information (“PHI”) of IWP’s current and former customers. IWP denies all claims of wrongdoing or liability that Plaintiffs, Settlement Class Members, or anyone else have asserted in this Litigation or may assert in the future based on the conduct alleged in the complaint.

The Settlement offers payments and credit monitoring services to members of the Settlement Class. Settlement Class Members can claim the following Settlement Benefits:

- (1) Credit Monitoring: All Participating Settlement Class Members are eligible to enroll in two (2) years of Credit Monitoring Services;
- (2) Compensation for Unreimbursed Economic Losses: The Settlement Administrator, from the Settlement Fund, will provide compensation, up to a total of \$5,000.00 per person who is a Participating Settlement Class Member; or
- (3) Pro Rata Cash Payment: Participating Settlement Class Members can elect to make a claim for a pro rata share of the Net Settlement Fund, less all valid claims for Unreimbursed Losses. Class Counsel predicts the value of pro rata payments will exceed \$50 per valid claimant.

Class Members may receive compensation for both Unreimbursed Economic Losses and Pro Rata Cash Payments, subject to a combined monetary benefits cap of \$5,000 per Class Member.

If you are a Settlement Class Member, your options are:

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM DEADLINE: 	The only way to receive cash and other benefits from this Settlement is by submitting a valid and timely Claim Form. You can submit your Claim Form online at www.website.com or download the Claim Form from the Settlement Website and mail it to the Settlement Administrator. You may also call or email the Settlement Administrator to receive a paper copy of the Claim Form.
DO NOTHING	You will receive no payment and will no longer be able to sue Defendant over the claims resolved in the Settlement.
EXCLUDE YOURSELF DEADLINE: 	You may exclude yourself from this Settlement and keep your right to sue separately. If you exclude yourself, you will receive no Settlement Benefits. Exclusion instructions are provided in this Notice.
OBJECT DEADLINE: 	If you do not exclude yourself, you may write to the Court to comment on or detail why you do not like the Settlement by following the instructions in this Notice. The Court may reject your objection. You must still file a claim if you desire any monetary relief under the Settlement.
ATTEND A HEARING: 	Ask to speak in Court about the Settlement. You may ask the Court for permission to speak about your objection at the Final Approval Hearing.

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court must give final approval to the Settlement before it takes effect, but has not yet done so. No payments will be made until after the Court gives final approval and any appeals are resolved.

Please review this Notice carefully. You can learn more about the Settlement by visiting www.Settlementwebsite.com or by calling 1-[XXX-XXX-XXXX](tel:XXX-XXX-XXXX).

Further Information about this Notice and the Litigation

1. Why was this Notice issued?

Settlement Class Members are eligible to receive payment and credit monitoring services from a proposed Settlement in the Litigation. The Court overseeing the Litigation authorized this Notice to advise Settlement Class Members about the proposed Settlement that will affect their legal rights. This Notice explains certain legal rights and options Settlement Class Members have in connection with the Settlement.

2. What is the Litigation about?

The Litigation is a proposed class action lawsuit brought on behalf of the Settlement Class. The Settlement Class includes all individuals within the United States for whom Defendant has contact information and/or identifying information, such as date of birth or Social Security number, whose Personal Information was potentially compromised in the Data Incident disclosed by Injured Workers Pharmacy in February 2022.

The Litigation claims Defendant is legally responsible for the Data Incident and asserts various legal claims including negligence, negligence *per se*, breach of implied contract, unjust enrichment, invasion of privacy, and breach of fiduciary duty. IWP denies all claims of wrongdoing or liability that Plaintiffs, Settlement Class Members, or anyone else have asserted in this Litigation or may assert in the future based on the conduct alleged in the complaint.

3. Why is the Litigation a class action?

In a class action, one or more plaintiffs bring a lawsuit on behalf of others who have similar claims. Together, all these people are the “Class”, and each individual is a “Settlement Class Member.” There are two Plaintiffs in this case: Alexis Webb and Marsclette Charley. The Class in this case is referred to in this Notice as the “Settlement Class.”

4. Why is there a Settlement?

Plaintiffs and Class Counsel have conducted an investigation into the facts and the law regarding the Litigation. The Plaintiffs and Class Counsel believe that the Settlement is fair, reasonable, and adequate, and beneficial to and in the best interests of Plaintiffs and the Settlement Class. The Court has not decided whether Plaintiffs’ claims or Defendant’s defenses have any merit, and it will not do so if the proposed Settlement is approved. Considering the risks and uncertainties of continued litigation and all factors bearing on the merits of settlement, the Parties are satisfied that the terms and conditions of this Settlement Agreement are fair, reasonable, adequate, and in their respective best interests. The Settlement does not mean that Defendant did anything wrong, or that the Plaintiffs and the Settlement Class would or would not win the case if it were to go to trial.

Terms of the Proposed Settlement

5. Who is in the Settlement Class?

The Settlement Class is defined is defined by the Court as “All individuals residing in the United States for whom Defendant has contact information and/or identifying information, such as date of birth or Social Security number, whose Personal Information was potentially compromised in the Data Incident disclosed by Injured Workers Pharmacy in February 2022.”

Excluded from the Settlement Class are: (1) the judges presiding over this Action, and members of their direct families; (2) the Defendant, their subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or their parents have a controlling interest, and their current or former officers and directors; and (3) Settlement Class Members who submit a valid Request for Exclusion prior to the Opt-Out Deadline.

6. What are the terms of the Settlement?

The proposed Settlement would create a non-reversionary common fund amount of \$1,075,000 that would be used to pay all costs of the Settlement, including: (i) payments to Settlement Class Members who submit valid claims, (ii) costs of administration and notice, (iii) any attorneys’ fees and costs awarded by the Court to Class Counsel (not to exceed one third of the total Settlement Fund, or \$358,333.33 in attorneys’ fees, and litigation expenses up to \$25,000), and (iv) any Service Awards to the Plaintiffs awarded by the Court (not exceed an amount of \$5,000 to each Class Representative). The Settlement also releases all claims or potential claims of Settlement Class Members against Defendant arising from or related to the Data Breach, as detailed in the Class Settlement Agreement and Release.

7. What claims are Settlement Class Members giving up under the Settlement?

Any Settlement Class Member who does not file a timely request for exclusion in accordance with this Paragraph will lose the opportunity to exclude himself or herself from the Settlement and will be bound by the Settlement. Settlement The claims that Settlement Class Members are releasing are described in the Class Settlement Agreement and Release.

Settlement Benefits Available to Settlement Class Members

8. What benefits can Settlement Class Members receive?

Settlement Class Members who submit valid claims and any required documentation may receive one or more of the following: (i) Credit Monitoring: two (2) years of Credit Monitoring Services, (ii) Compensation for Unreimbursed Economic Losses: reimbursement of up to \$5000, and (iii) a Pro Rata Cash Payment: a pro rata share of the Net Settlement Fund, less all valid claims for Unreimbursed Losses.

Depending on how many valid claims are submitted, the amounts of the Pro Rata Cash Payment will be adjusted upward or downward proportionally among Settlement Class Members submitting valid claims for those awards, as explained further below in Question 11.

9. What are Unreimbursed Economic Losses?

The Settlement Administrator, from the Settlement Fund, will provide compensation, up to a total of \$5,000 per person who is a Participating Settlement Class Member, upon submission of a claim and supporting documentation, for unreimbursed ordinary and/or extraordinary economic losses incurred as a result of the Data Incident, including, without limitation, unreimbursed losses relating to fraud or identity theft; professional fees including attorneys' fees, accountants' fees, and fees for credit repair services; costs associated with freezing or unfreezing credit with any credit reporting agency; credit monitoring costs that were incurred on or after the Data Incident through the date of claim submission; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges.

Participating Settlement Class Members with ordinary and/or extraordinary economic losses must submit documentation supporting their claims. This can include receipts or other documentation not "self-prepared" by the claimant that document the costs incurred. "Self-prepared" documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity or support other submitted documentation.

10. What is the Pro Rata Cash Payment?

Every Settlement Class Member is eligible to receive a Pro Rata Cash Payment share of the Net Settlement Fund, less all valid claims for Unreimbursed Losses and Credit Monitoring. To receive this benefit, Participating Settlement Class Members must submit a valid claim form, but no documentation is required to make a claim. The amount of the Cash Payments will be increased or decreased on a *pro rata* basis, depending upon the number of valid claims filed and the amount of funds available for these payments. Class Counsel predicts the value of pro rata payments will exceed \$50 per valid claimant. The Pro Rata Cash Payment is subject to upward or downward adjustment as described below in Question 11.

Eligibility for any award and the validity of your claim, including the Pro Rata Cash Payment, will be determined by the Settlement Administrator as outlined in Question 15.

11. When and how will the amount of Settlement payments be adjusted?

The amounts paid for all Pro Rata Cash Payments will be adjusted upward or downward from the amounts listed in Question 10 depending on how many Settlement Class Members submit valid claims.

If the total dollar value of all valid claims is less than the amount of money available in the Settlement Fund for payment of those claims, the amounts for Pro Rata Cash Payments will be adjusted upward proportionally among all valid claims for those awards, until the amounts remaining in the Settlement Fund are exhausted (or as nearly as possible).

If the total dollar value of all valid claims is more than the amount of money available in the Settlement Fund for payment of those claims, the amount of the payments for Pro Rata Cash Payments will be adjusted downward proportionally among all Settlement Class Members who submitted valid claims for Pro Rata Cash Payments.

Class Members may receive compensation for both Unreimbursed Economic Losses and Pro Rata Cash Payments, subject to a combined monetary benefits cap of \$5,000 per Class Member.

12. What happens after all claims are processed and there are funds remaining?

The funds remaining in the Settlement Fund after completion of these disbursements and after the time for cashing and/or depositing checks has expired will be Remainder Funds. The Remainder Funds will be sent to a charitable organization, which must be jointly proposed by the parties and approved by the Court, as a *cy pres* distribution.

Your Options as a Settlement Class Member

13. If I am a Settlement Class Member, what options do I have?

If you are a Settlement Class Member, you do not have to do anything to remain in the Settlement. In order to receive payment from the Settlement, you must submit a valid Claim Form.

If you do not want to give up your right to sue Defendant about the Data Incident or the issues raised in this case, you must exclude yourself (or “opt out”) from the Settlement Class. See Question 16 below for instructions on how to exclude yourself.

If you wish to object to the Settlement, you must remain a Settlement Class Member (*i.e.*, you may not also exclude yourself from the Settlement Class by opting out) and submit a written objection. See Question 19 below for instructions on how to submit an objection.

14. What happens if I do nothing?

If you do nothing, you will get no award from this Settlement. Unless you exclude yourself, after the Settlement is granted final approval and the judgment becomes Final, you will be bound by the judgment and you will never be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendant related to the claims released by the Settlement.

15. Who decides my Settlement claim and how do they do it?

The Settlement Administrator will decide whether a Claim Form is complete and valid and includes all required documentation. The Settlement Administrator may require additional information from any claimant. Failure to timely provide all required information will invalidate a claim and it will not be paid.

16. How do I exclude myself from the Settlement?

To opt out of the Settlement, you must submit a request for exclusion that must include the name of the proceeding, the individual's full name, current address, personal signature, and the words "Request for Exclusion," a comparable statement that the individual does not wish to participate in the Settlement, or some other clear manifestation of the intent to opt-out of the Settlement in the written communication. Each request for exclusion must request exclusion only for that one individual whose personal signature appears on the request. You must mail your request to this address:

IWP Data Settlement Administrator
PO Box XXX
Baton Rouge, LA 70821

Your request must be submitted online or postmarked by [OPT-OUT DEADLINE].

17. If I exclude myself, can I receive any payment from this Settlement?

No. If you exclude yourself, you will not be entitled to any award under the Settlement. However, you will also not be bound by any judgment in this Litigation.

18. If I do not exclude myself, can I sue Defendant for the Data Incident later?

No. Unless you exclude yourself, you give up any right to sue Defendant for the claims that this Settlement resolves. You must exclude yourself from the Settlement Class to start your own lawsuit or to be part of any different lawsuit relating to the claims in this case. If you exclude yourself, do not submit a claim form requesting a payment.

19. How do I object to the Settlement?

All Settlement Class Members who do not opt-out from the Settlement Class have the right to object to the Settlement or any part of it. You can ask the Court to deny approval by filing an objection. You can't ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no Settlement Payments will be sent out and the Litigation will continue. If that is what you want to happen, you must object.

Any objection to the proposed Settlement must be in writing and it and any supporting papers must be mailed to this address:

Clerk of Court
John Joseph Moakley U.S. Courthouse
1 Courthouse Way, Suite 2300
Boston, Massachusetts 02210

Your objection must be filed or postmarked no later than the objection deadline, [**OBJECTION DEADLINE**].

To be considered by the Court, your written objection must include (i) the name of the proceedings; (ii) the Settlement Class Member's full name, current mailing address, and telephone number; (iii) a statement of the specific grounds for the objection, as well as any documents supporting the objection and a description of whether the objection applies only to the Settlement Class Member, a subset of the Settlement Class, or the entire Settlement Class; (iv) the identity of any attorneys representing the objector (if any); (v) a statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear at the Final Approval Hearing; (vi) a description and/or copies of evidence that may be introduced at fairness hearing; (vii) a list of proceedings in which the Settlement Class Member has submitted an objection during the past five years; and (viii) the signature of the Settlement Class Member or the Settlement Class Member's attorney.

If you submit a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney.

Court Approval of the Settlement

20. How, when, and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing to decide whether to approve the Settlement. That hearing is scheduled for _____, 202__ at _____ a.m./p.m. at the United States District Court for the District of Massachusetts, Eastern Division, <<address>>. At the Final Approval Hearing, the Court will consider whether the Settlement Agreement is fair, reasonable, and adequate, was entered into in good faith and without collusion, and approves and directs consummation of this Settlement Agreement. If there are timely objections, the Court will consider them and will listen to people who have properly requested to speak at the hearing. The Court may also consider Class Counsel's request for attorneys' fees and costs and expenses, and the request for a service award for the Plaintiffs. After the hearing, the Court will decide whether to approve the Settlement.

It is possible the Court could reschedule the hearing to a different date or time without notice, so it is a good idea before the hearing to check www.SettlementWebsite.com to confirm the schedule if you wish to attend.

21. Do I have to attend the hearing?

No. You do not need to attend the hearing unless you object to the settlement and wish to appear in person. It is not necessary to appear in person in order to make an objection; the Court will consider any written objections properly submitted according to the instructions in Question 19. You or your own lawyer are welcome to attend the hearing at your expense, but are not required to do so.

22. What happens if the Court approves the settlement?

If the Court approves the Settlement and no appeal is taken, the Settlement Fund will be fully funded. The Settlement Administrator will pay any Fee Award and Expenses and any Plaintiffs' Service Awards from the Settlement Fund. Then, the Settlement Administrator will send Settlement Payments and Credit Monitoring Services to Settlement Class Members who submitted timely and valid Claim Forms.

If any appeal is taken, it is possible the settlement could be disapproved on appeal.

23. What happens if the Court does not approve the settlement?

If the Court does not approve the Settlement, there will be no Settlement Payments to Settlement Class Members, Class Counsel or the Plaintiffs, and the case will proceed as if no Settlement had been attempted.

Lawyers for the Settlement Class and Defendant

24. Who represents the Settlement Class?

The Court has appointed the following Class Counsel to represent the Settlement Class in this Litigation:

Class Counsel	
Raina C. Borrelli, Esq. STRAUSS BORRELLI, PLLC One Magnificent Mile 980 N. Michigan Avenue, Suite 1610 Chicago, IL 60611	David K, Lietz, Esq. MILBERG COLEMAN BRYSON PHILLIPS CROSSMAN, PLLC 5335 Wisconsin Avenue NW, Suite 440 Washington, DC 20015

Settlement Class Members will not be charged for the services of Class Counsel. Class Counsel will be paid out of the Settlement Fund, subject to Court approval. However, you may hire your own attorney at your own cost to advise you in this matter or represent you in making an objection or appearing at the Final Approval Hearing.

25. How will the lawyers for the Settlement Class be paid?

Class Counsel will file a Fee and Expense Application for an award of attorneys' fees to be paid from the Settlement Fund not to exceed one-third (1/3) of the value of the Settlement, or \$358,333.33, and litigation expenses up to \$25,000. Class Counsel will file a Fee Application that will include a request for Service Award payments for the Settlement Class Representatives in recognition for their contributions to this Action not to exceed \$5,000 per Plaintiff (\$10,000 total).

26. Who represents Defendant in the Litigation?

Defendant is represented by the following counsel:

Defendant's Counsel
<p>Jordan S. O'Donnell, Esq. Claudia D. McCarron, Esq. MULLEN COUGHLIN LLC 426 W. Lancaster Ave., Suite 200 Devon, PA 19333</p>

For Further Information

27. What if I want further information or have questions?

Go to www.SettlementWebsite.com, call 1-XXX-XXX-XXXX, or write to the IWP Data Settlement Administrator, PO Box XXXX, Baton Rouge, LA 70821.

Please do not contact the Court or Defendant's Counsel.

EXHIBIT C

IWP Data Settlement Administrator
[ADD ADDRESS and WEBSITE]

**Your Claim Form Must Be Submitted
Electronically or Postmarked by [ADD
DATE]**

Webb et al. v. Injured Workers Pharmacy, LLC

Case No. 1:22-cv-10797-RGS , United States District Court for the District of Massachusetts,
Eastern Division

CLAIM FORM

**IN ORDER TO BE VALID, THIS CLAIM FORM MUST BE RECEIVED ONLINE AT [INSERT
WEBSITE] OR POSTMARKED NO LATER THAN [INSERT DATE].**

ATTENTION: This Claim Form is to be used to apply for relief related to the Data Incident that was discovered in February 2022, and potentially impacted individuals. All Settlement Class Members are eligible to receive: (i) Credit Monitoring: two (2) years of Credit Monitoring Services, (ii) Compensation for Unreimbursed Economic Losses: reimbursement of up to \$5000, and (iii) a Pro Rata Cash Payment: a pro rata share of the Net Settlement Fund, less all valid claims for Unreimbursed Losses and Credit Monitoring, estimated at \$50. You may apply to receive compensation for both Unreimbursed Economic Losses and Pro Rata Cash Payments, subject to a combined monetary benefits cap of \$5,000 per Class Member.

To submit a Claim, you must have been affected by the Data Incident beginning in January 2021 as a potential Settlement Class Member from Defendant's records and received Notice of this Settlement with a **unique Claim Number**.

PLEASE BE ADVISED that any documentation you provide in support of your Unreimbursed Economic Losses claim must be submitted **WITH** this Claim Form. No documentation is required for claiming Pro Rata Cash Payment or the Credit Monitoring Services.

CLAIM VERIFICATION: All Claims are subject to verification. You will be notified if additional information is needed to verify your Claim.

ASSISTANCE: If you have questions about this Claim Form, please visit the Settlement website at [INSERT] for additional information or call [INSERT PHONE NUMBER].

PLEASE KEEP A COPY OF YOUR CLAIM FORM AND PROOF OF MAILING FOR YOUR RECORDS.

Failure to submit required documentation, or to complete all parts of the Claim Form, may result in denial of the claim, delay its processing, or otherwise adversely affect the claim.

Section C. Part 1 - Compensation for Unreimbursed Economic Losses

If you suffered costs or expenditures in response to the Data Incident, you may be eligible to receive a payment to compensate you for losses.

If it is verified that you meet all the criteria described in the Settlement Agreement and you submit the dollar amount of those losses, you will be eligible to receive a payment compensating you for your losses of up to five thousand dollars (**\$5,000**).

Examples of what can be used to prove your losses include: receipts, account statements, etc. You may also prove losses by submitting information on the claim form that describes the expenses and how they were incurred.

Providing adequate proof of your losses does not guarantee that you will be entitled to receive the full amount claimed. All claims will also be subject to an aggregate maximum payment amount, as explained in the Settlement Agreement. If the amount of losses claimed exceeds the maximum amount of money available under the Settlement Agreement, then the payment for your claim will be reduced on a pro rata basis. If you would like to learn more, please review the Settlement Agreement for further details.

Did you suffer any financial expenses or other financial losses that you believe was as a result of the Data? For example, did you sign up and pay for a credit monitoring service, hire and pay for a professional service to remedy identity theft, etc. as a direct result of or attributed to the Data Incident?

Yes No

If yes, you may be eligible to fill out the rest of this form and provide corroborating documentation.

For each loss that you believe can be traced to the Data Incident, please provide a description of the loss, the date of the loss, the dollar amount of the loss, and the type of documentation you will be submitting to support the loss. **You must provide this information for this claim to be processed.** Supporting documentation must be submitted alongside this Claim Form. **If you fail to provide sufficient supporting documents, the Settlement Administrator will deny your claim.** Please provide only copies of your supporting documents and keep all originals for your personal files. The Settlement Administrator will have no obligation to return any supporting documentation to you. A copy of the Settlement Administrator's privacy policy is available at [\[Insert Website\]](#). Please do not directly communicate with Defendant regarding this matter. All inquiries are to be sent to the Settlement Administrator.

Examples of Unreimbursed Economic Losses may include, without limitation, unreimbursed losses relating to fraud or identity theft; professional fees including attorneys' fees, accountants' fees, and fees for credit repair services; costs associated with freezing or unfreezing credit with any credit reporting agency; credit monitoring costs that were incurred on or after the Data Incident through the date of claim submission; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges.

Examples of documentation include receipts for identity theft protection services, etc.

Description of the Loss	Date of Loss	Amount	Type of Supporting Documentation
Example: Unauthorized credit card charge	07 - 17 - 20 MM DD YY	\$50.00	Letter from Bank
Example: Fees paid to a professional to remedy a falsified tax return	02 - 30 - 21 MM DD YY	\$25.00	Copy of the professional services bill
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	
	MM - DD - YY	\$.	

By checking the below box, I hereby declare under penalty of perjury that the information provided in this Claim Form to support relief for Unreimbursed Economic Losses is true and correct.

Yes, I understand that I am submitting this Claim Form and the affirmations it makes as to my seeking relief for Unreimbursed Economic Losses under penalty of perjury. I further understand that my failure to check this box may render my claim for Unreimbursed Economic Losses null and void.

Section C. Part 2 – Pro Rata Cash Payment

Cash Payment: Would you like to receive a cash payment under the Settlement?

Yes **No**

** The payments under this option are predicted to be \$50, however, the value of cash payment under this

option will be increased or decreased pro rata based on the balance of the Settlement Fund after the payment of other benefits, attorneys’ and Settlement Administrator fees and expenses. Class Members may receive compensation for both Unreimbursed Economic Losses and Pro Rata Cash Payments, subject to a combined monetary benefits cap of \$5,000 per Class Member.

Section D. Payment

Please select the manner in which payment will be issued for your valid Claims.

- PayPal*: _____ (PayPal Email Address)
- Venmo*: _____ (Venmo Email Address)
- Zelle*: _____ (Zelle Email Address)
- Paper Check via Mail: _____ (Mailing Address)

*If you select payment via PayPal, Venmo or Zelle, the email address entered on this form will be used to process the payment to your account linked to that email address.

Section E. Settlement Class Member Affirmation

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

By submitting this Claim Form, I certify that any documentation that I have submitted in support of my Claim consists of unaltered documents in my possession.

Yes, I understand that my failure to check this box may render my Claim null and void.

Please include your name in both the Signature and Printed Name fields below.

Signature: _____

Print Name: _____

Date: _____

IN ORDER TO BE VALID, THIS CLAIM FORM MUST BE MAILED BY OR RECEIVED ONLINE AT [INSERT WEBSITE] NO LATER THAN [CLAIMS DEADLINE].

EXHIBIT D

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION**

ALEXSIS WEBB and MARSCLETTE
CHARLEY, on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

INJURED WORKERS PHARMACY, LLC,

Defendant.

Case No. 1:22-cv-10797-RGS

**[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT AND CONDITIONALLY
CERTIFYING SETTLEMENT CLASS**

WHEREAS, the above-styled Action was filed on May 24, 2022 against Defendant Injured Workers Pharmacy, LLC (“Defendant” or “IWP”). Alexis Webb and Marsclette Charley (“Plaintiffs”), individually and on behalf of the Settlement Class (defined below) reached an agreement with IWP settling their related claims, as set forth in more detail in the Settlement Agreement and Release (“Settlement Agreement”);

WHEREAS, Plaintiffs individually and on behalf of themselves and on behalf of all others similarly situated and the proposed Settlement Class (defined below), and Defendant (collectively, the “Settling Parties”), have entered into a Settlement Agreement and resolving the Action, subject to Court approval;

WHEREAS, the Action was settled as a result of arm’s-length negotiations overseen by a neutral third-party mediator, investigation, informal discovery, and formal discovery sufficient to permit counsel and the Court to act knowingly, and counsel are well experienced in similar class action litigation; and

WHEREAS, Named Plaintiffs, the proposed Class Representatives, have moved the Court for entry of an Order Granting Preliminary Approval of Class Action Settlement and Conditionally Certifying Settlement Class (“Preliminary Order”) approving the Settlement, conditionally certifying the Settlement Class for settlement purposes only, and approving the form and method of notice upon the terms and conditions set forth in the Settlement Agreement, together with all exhibits thereto.

WHEREAS, all proceedings in the Litigation, other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement Agreement and this Order, are hereby stayed.

WHEREAS, the Court having considered the Settlement Agreement, together with all exhibits thereto and records in this case, and the arguments of counsel and for good cause appearing, **HEREBY ORDERS** as follows:

I. CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS

1. Named Plaintiffs’ Motion for Preliminary Approval of the Class Action Settlement is GRANTED. The terms defined in the Settlement Agreement shall have the same meanings in this Order.

2. Having made the findings set forth below, the Court conditionally certifies the following Class (comprised of the “Nationwide Class,” hereinafter “Settlement Class”) for settlement purposes only:

All individuals residing in the United States for whom Defendant has contact information and/or identifying information, such as date of birth or Social Security number, whose Personal Information was potentially compromised in the Data Incident disclosed by Injured Workers Pharmacy in February 2022.

3. Excluded from the Settlement Class are: (1) the judges presiding over this Action,

and members of their direct families; (2) the Defendant, their subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or their parents have a controlling interest, and their current or former officers and directors; and (3) Settlement Class Members who submit a valid Request for Exclusion prior to the Opt-Out Deadline.

4. For settlement purposes only, with respect to the Settlement Class, the Court preliminary finds the prerequisites for a class action pursuant to Federal Rule of Civil Procedure 23 have been met, in that: (a) the Settlement Class is so numerous that joinder of all individual Settlement Class members in a single proceeding is impracticable; (b) questions of law and fact common to all Settlement Class Members predominate over any potential individual questions; (c) the claims of the Plaintiffs are typical of the claims of the Settlement Class; (d) Named Plaintiffs and proposed Class Counsel will fairly and adequately represent the interests of the Settlement Class; and (e) a class action is the superior method to fairly and efficiently adjudicate this controversy.

5. The Court hereby appoints Plaintiffs Alexis Webb and Marsclette Charley as Class Representatives for the Settlement Class.

6. The Court hereby appoints David K. Lietz of Milberg Coleman Bryson Phillips Grossman PLLC and Raina C. Borrelli of Strauss Borrelli PLLC as Class Counsel.

II. PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT

7. The terms of the Settlement, including its proposed release, are preliminarily approved as within the range of fair, reasonable, and adequate, and are sufficient to warrant providing notice of the Settlement to the Settlement Class in accordance with the Notice Program, and are subject to further and final consideration at the Final Approval Hearing provided for below. In making this determination, the Court considered the fact that the Settlement is the product of

arm's-length negotiations facilitated by a neutral mediator and conducted by experienced and knowledgeable counsel, the current posture of the Action, the benefits of the Settlement to the Settlement Class, and the risk and benefits of continuing litigation to the Settling Parties and the Settlement Class.

8. As provided for in the Settlement Agreement, if the Court does not grant final approval of the Settlement or if the Settlement is terminated or cancelled in accordance with its terms, then the Settlement, and the conditional certification of the Settlement Class for settlement purposes only provided for herein, will be vacated and the Litigation shall proceed as though the Settlement Class had never been conditionally certified for settlement purposes only, with no admission of liability or merit as to any issue, and no prejudice or impact as to any party's position on the issue of class certification or any other issue in the case.

III. NOTICE OF THE SETTLEMENT TO THE SETTLEMENT CLASS

9. The Court appoints Eisner Amper as the Settlement Administrator. The responsibilities of the Settlement Administrator are set forth in the Settlement Agreement.

10. The Court has considered the Notice provisions of the Settlement, the Notice Program set forth in the Settlement Agreement and the Postcard (Short Form) Notice and Long Form Notice, attached as Exhibits A and B to the Settlement Agreement, respectively, and as further defined in the Settlement Agreement. The Court finds that the direct mailing of the Postcard Notice in the manner set forth in the Notice Program is the best notice practicable under the circumstances, constitutes due and sufficient notice of the Settlement and this Order to all persons entitled thereto, and is in full compliance with applicable law and due process. The Court approves as to form and content the Short Form Notice and Long Form Notice in the forms attached as Exhibits A and B, respectively, to the Settlement Agreement. The Court orders the Settlement

Administrator to commence the Notice Program following entry of this Order in accordance with the terms of the Settlement Agreement.

11. The Court approves as to form and content the Claim Form attached as Exhibit C to the Settlement Agreement.

12. Settlement Class Members who qualify for and wish to submit a Claim Form under the Settlement shall do so in accordance with the requirements and procedures of the Settlement Agreement and the Claim Form under which they are entitled to seek relief. The Claims deadline is 90 days after the Notice Date. All Settlement Class Members who fail to submit a claim in accordance with the requirements and procedures of the Settlement Agreement and respective Claim Form shall be forever barred from receiving any such benefit but will in all other respects be subject to and bound by the provisions of the Settlement and the releases contained therein.

IV. REQUESTS FOR EXCLUSION FROM THE SETTLEMENT CLASS

13. Each person wishing to opt out of the Settlement Class must individually sign and timely submit written notice of such intent to the designated Post Office Box established by the Settlement Administrator. The written notice must clearly manifest the Settlement Class Member's intent to be excluded from the Settlement Class. To be effective, written notice must be postmarked no later than 60 days after the Notice Date.

14. Persons who submit valid and timely notices of their intent to be excluded from the Settlement Class shall neither receive any benefits of nor be bound by the terms of the Settlement.

15. Persons falling within the definition of the Settlement Class who do not timely and validly request to be excluded from the Settlement Class shall be bound by the terms of the Settlement, including its releases, and all orders entered by the Court in connection therewith.

V. OBJECTIONS

16. Each Settlement Class Member desiring to object to the Settlement Agreement shall submit a timely written notice of his or her objection by the Objection Date. Such notice shall state: (i) the name of the proceedings; (ii) the Settlement Class Member's full name, current mailing address, and telephone number; (iii) a statement of the specific grounds for the objection, as well as any documents supporting the objection and a description of whether the objection applies only to the Settlement Class Member, a subset of the Settlement Class, or the entire Settlement Class; (iv) the identity of any attorneys representing the objector (if any); (v) a statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear at the Final Approval Hearing; (vi) a description and/or copies of evidence that may be introduced at fairness hearing; (vii) a list of proceedings in which the Settlement Class Member has submitted an objection during the past five years; and (viii) the signature of the Settlement Class Member or the Settlement Class Member's attorney.

17. To be timely, written notice of an objection in appropriate form must be mailed and postmarked to the Clerk of Court at the address set forth in the Class Notice, no later than the Objection Date, 60 days after the Notice Date.

18. Unless otherwise ordered by the Court, any Settlement Class Member who does not timely object in the manner prescribed above shall be deemed to have waived all such objections and shall forever be foreclosed from making any objection to the fairness, adequacy, or reasonableness of the Settlement, including its releases, the Order and Judgment approving the Settlement, and Class Counsels' motion for a Fee Award and Costs and Plaintiffs' Service Award.

VI. THE FINAL APPROVAL HEARING

19. The Court will hold a Final Approval Hearing on [Date], at [Time] __.m., at the United States District Court for the District of Massachusetts, 1 Courthouse Way, Suite 2300

Boston, Massachusetts 02210, to consider: (a) whether certification of the Settlement Class for settlement purposes only should be confirmed; (b) whether the Settlement should be approved as fair, reasonable, adequate and in the best interests of the Settlement Class; (c) the application by Class Counsel for an award of attorneys' fees, costs and expenses as provided for under the Settlement; (d) the application for Named Plaintiffs' service awards as provided for under the Settlement; (e) whether the release of Released Claims as set forth in the Settlement should be provided; (f) whether the Court should enter the [Proposed] Final Order and [Proposed] Judgment; and (g) ruling upon such other matters as the Court may deem just and appropriate. The Final Approval Hearing may, from time to time and without further notice to Settlement Class Members be continued or adjourned by order of the Court.

20. No later than 14 days prior to the Final Approval Hearing, the Plaintiffs shall file their Motion for Final Approval of Class Action Settlement and their Motion for Award of Attorneys' Fees and Expenses and Plaintiffs' Service Awards.

21. The related time periods for events preceding the Final Approval Hearing are as follows:

SETTLEMENT TIMELINE

<u>Grant of Preliminary Approval</u>	
IWP provides list of Settlement Class Members to the Settlement Administrator	7 days after Preliminary Approval
IWP to Provide CAFA Notice Required by 28 U.S.C. § 1715(b)	Within 10 days of filing of the Preliminary Approval Motion
Long Form and Short Form Notices Posted on the Settlement Website	No later than 28 days after Preliminary Approval, or prior to the Settlement Website going live
Notice Date	30 days after Preliminary Approval.

Reminder Notice	60 days after Notice Date (if needed)
Class Counsel's Motion for Attorneys' Fees, Reimbursement of Litigation Expenses, and Class Representative Service Award	14 days before Objection and Opt-Out Deadlines
Objection Deadline	60 days after Notice Date
Opt-Out Deadline	60 days after Notice Date
Claims Deadline	90 days after Notice Date
Settlement Administrator Provide List of Objections/Opt-Outs to Counsel for the Parties	70 days after Notice Date
Motion for Final Approval	14 days before Final Approval Hearing Date
Settlement Administrator Provides Court Notice of Opt-Outs and/or Objections (via declaration supporting Plaintiffs' Motion for Final Approval)	14 days before Final Approval Hearing Date
<u>Final Approval Hearing</u>	150 days after Preliminary Approval Order (at minimum)

22. Any action brought by a Settlement Class Member concerning a Released Claim shall be stayed pending final approval of the Settlement.

IT IS SO ORDERED.

Dated:

The Honorable Richard G. Stearns
United States District Court Judge

EXHIBIT E

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION**

ALEXSIS WEBB and MARSCLETTE
CHARLEY, on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

INJURED WORKERS PHARMACY, LLC,

Defendant.

Case No. 1:22-cv-10797-RGS

WHEREAS, the Court, having considered the Settlement Agreement filed July 31, 2024 (the “Settlement”) between and among Alexis Webb and Marsclette Charley (“Plaintiffs” or “Settlement Class Representatives”), individually and on behalf of the Settlement Class (defined below); and (ii) Injured Workers Pharmacy, LLC (“Defendant” or “IWP”), having considered the Court’s _____, 2024 Order Granting Preliminary Approval of Class Action Settlement Agreement and Conditionally Certifying Settlement Class for Settlement Purposes Only (“Preliminary Approval Order”), having held a Final Approval Hearing on _____, 2024, having considered all of the submissions and arguments with respect to the Settlement, and otherwise being fully informed, and good cause appearing therefore;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. Plaintiffs’ Motion for Final Approval of Class Action Settlement Agreement and Award of Attorneys’ Fees, Costs, and Expenses, and Class Representative Service Awards is GRANTED.
2. This Order and Judgment incorporates herein and makes a part hereof, the Settlement (including its exhibits) and the Preliminary Approval Order. Unless otherwise provided herein, the terms

defined in the Settlement and Preliminary Approval Order shall have the same meanings for purposes of this Order and Judgment.

3. The Court has personal jurisdiction over Plaintiffs, the Settlement Class Members, and Defendant for purposes of this settlement, and has subject matter jurisdiction over this matter including, without limitation, jurisdiction to approve the Settlement, confirm certification of the Settlement Class for settlement purposes only, to settle and release all claims released in the Settlement, and to dismiss the Action with prejudice.

I. CERTIFICATION OF THE SETTLEMENT CLASS

4. Based on its review of the record, including the Settlement, all submissions in support of the Settlement, and all prior proceedings in the Action, the Court finally certifies the following Nationwide Class (the “Settlement Class”) for settlement purposes only:

All individuals residing in the United States for whom Defendant has contact information and/or identifying information, such as date of birth or Social Security number, whose Personal Information was potentially compromised in the Data Incident disclosed by Injured Workers Pharmacy in February 2022.

5. Excluded from the Settlement Class are: (1) the judges presiding over this Action, and members of their direct families, and; (2) the Defendant, their subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or their parents have a controlling interest, and their current or former officers and directors.

6. Also excluded from the Settlement Class are those persons identified in Exhibit A hereto, each of whom submitted a timely and valid Request for Exclusion from the Settlement Class prior to the Opt-Out Deadline. Such persons shall not receive the benefits of the Settlement and shall not be bound by this Order and Judgment.

7. For settlement purposes only, with respect to the Settlement Class, the Court confirms that the prerequisites for a class action pursuant to Federal Rule of Civil Procedure 23 have

been met, in that: (a) the Settlement Class is so numerous that joinder of all individual Settlement Class members in a single proceeding is impracticable; (b) questions of law and fact common to all members of the Settlement Class predominate over any potential individual questions; (c) the claims of Plaintiffs are typical of the claims of the Settlement Class; (d) Plaintiffs and proposed Class Counsel will fairly and adequately represent the interests of the Settlement Class; and (e) a class action is the superior method to fairly and efficiently adjudicate this controversy. Any objections to the Settlement have been considered and are hereby overruled.

II. NOTICE TO THE SETTLEMENT CLASS

8. The Court finds that Notice has been given to the Settlement Class in the manner directed by the Court in the Preliminary Approval Order. The Court finds that such Notice: (i) was reasonable and constituted the best practicable notice under the circumstances; (ii) was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action, the terms of the Settlement including its Releases, their right to exclude themselves from the Settlement Class or object to all or any part of the Settlement, their right to appear at the Final Approval Hearing (either on their own or through counsel hired at their own expense), and the binding effect of final approval of the Settlement on all persons who do not exclude themselves from the Settlement Class; (iii) constituted due, adequate, and sufficient notice to all persons or entities entitled to receive notice; and (iv) fully satisfied the requirements of the United States Constitution (including the Due Process Clause), and any other applicable law.

9. Furthermore, the Court finds that notice under the Class Action Fairness Act was effectuated within the time required by 28 U.S.C. § 1715, and that ninety (90) days has passed without comment or objection from any governmental entity.

III. FINAL APPROVAL OF THE SETTLEMENT

10. The Court finds that the Settlement resulted from arm's-length negotiations between Class Counsel and Defendant.

11. The Court hereby finally approves in all respects the Settlement as fair, reasonable, and adequate, and in the best interest of the Settlement Class.

12. The Court finds that Plaintiff and Class Counsel fairly and adequately represented the interests of Settlement Class Members in connection with the Settlement.

13. The Settling Parties shall consummate the Settlement in accordance with the terms thereof. The Settlement, and each and every term and provision thereof, including its Releases, shall be deemed incorporated herein as if explicitly set forth herein and shall have the full force and effect of an order of this Court.

IV. DISMISSAL OF CLAIMS AND RELEASE

14. The Action is hereby dismissed with prejudice as to all Parties including the Settlement Class and without cost to any party, except as otherwise provided herein or in the Settlement.

15. Upon the Effective Date, and in consideration of the benefits set forth in the Settlement, each of the Plaintiffs, the Participating Settlement Class Members, and to each of their predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing, and anyone claiming by, through, or on behalf of them ("Releasers"), shall be deemed to have fully, finally, and forever released, release, acquit, and forever discharge Defendant and each of its present and former parents, subsidiaries, divisions, affiliates, predecessors, successors, and assigns, Board of Trustees, and the present and former directors, officers, employees, agents, insurers, reinsurers, shareholders, attorneys, advisors, consultants, representatives, partners, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, and the predecessors, successors, and assigns of each of them as well as covered entities associated with the Data Incident ("Released Parties") from all liabilities, rights, claims,

actions, causes of action, demands, damages, penalties, costs, attorneys' fees, losses, and remedies, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, that result from, arise out of, are based upon, or relate to the Data Incident, and conduct that was alleged or could have been alleged in the Litigation, including, without limitation, any claims, actions, causes of action, demands, damages, penalties, losses, or remedies relating to, based upon, resulting from, or arising out of the Data Incident (the "Released Claims"), provided that nothing in this Release is intended to, does or shall be deemed to release any claims not arising out of, based upon, resulting from, or related to the Data Incident.

V. ATTORNEYS' FEES, COSTS, AND EXPENSES AND REPRESENTATIVE PLAINTIFFS' SERVICE AWARD

16. The Court awards attorneys' fees of \$_____ and reimbursement of costs and expenses in the amount of \$_____, and payment of a service award in the amount of \$5,000 each to Plaintiffs. The Court directs the Claims Administrator to pay such amounts in accordance with the terms of the Settlement. Class Counsel, in their sole discretion to be exercised reasonably, shall allocate and distribute the attorneys' fees, costs, and expenses awarded by the Court among Plaintiffs' counsel of record in the Action.

VI. OTHER PROVISIONS

17. Without affecting the finality of this Final Approval Order and Judgment in any way, the Court retains continuing and exclusive jurisdiction over the Settling Parties and the Settlement Class for the purpose of consummating, implementing, administering, and enforcing all terms of the Settlement.

18. Nothing in this Final Approval Order and Judgment, the Settlement, or any documents or statements relating thereto, is or shall be deemed or construed to be an admission or evidence of any violation of any statute or law or of any liability or wrongdoing by Defendant.

19. In the event the Effective Date does not occur, this Final Approval Order and Judgment shall be rendered null and void and shall be vacated and, in such event, as provided in the Settlement,

this Order and Judgment and all orders entered in connection herewith shall be vacated and null and void, the Settling Parties shall be restored to their respective positions in the Action, all of the Parties' respective pre-Settlement claims and defenses will be preserved, and the terms and provisions of the Settlement shall have no further force and effect with respect to the Settling Parties and shall not be used in the Action or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Settlement shall be treated as vacated, *nunc pro tunc*.

IT IS SO ORDERED.

Dated:

By: _____
The Honorable Richard G. Stearns
United States District Court Judge

EXHIBIT 2

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION**

ALEXSIS WEBB and MARSCLETTE
CHARLEY, on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

INJURED WORKERS PHARMACY,
LLC,

Defendant.

Case No. 1:22-cv-10797-RGS

Judge Richard G. Stearns

**OINT DECLARATION OF PLAINTIFFS’ COUNSEL SUPPORTING UNOPPOSED
MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

1. We are counsel for Plaintiffs in the above-captioned case. This declaration supports Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement with Defendant Injured Workers Pharmacy, LLC, (“IWP”), and the attachments thereto, including the Claim Form, the Short Notice, the Long Form Notice, the Proposed Preliminary Approval Order, and the Proposed Final Approval Order, attached to the Settlement Agreement and Declaration of Plaintiffs’ counsel, filed herewith in support of this motion. This declaration explains the bases for the settlement, including the significant relief it affords the Settlement Class. We have personal knowledge of the facts in this declaration and could testify to them if called on to do so.

LITIGATION BACKGROUND

I. Procedural History

2. This action arises from a January 2021 Data Incident where it is alleged that certain personally identifiable information (“PII”) and personal health information (“PHI”) of IWP’s current and former customers was exposed. Specifically, the following types of PII were allegedly

exposed: name, address, date of birth, email address, Social Security number, driver's license, payment card information, financial account information, patient identification number, medical record number, treating or referring physician, treatment information, prescription information, health insurance information, and Medicare or Medicaid number.

3. In February 2022, IWP began notifying Plaintiffs and the Settlement Class about the Data Incident.

4. On May 24, 2022, Plaintiffs, individually and on behalf of a putative class, filed the Litigation, alleging the following claims: negligence, negligence per se, breach of implied contract, unjust enrichment, invasion of privacy, and breach of fiduciary duty.

5. Defendant filed a motion to dismiss pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure. ECF Doc. 13. Following full briefing, the Court granted IWP's motion to dismiss Plaintiffs' claims.

6. Plaintiffs appealed that ruling to the First Circuit Court of Appeals, which reversed in part and remanded.

7. Defendant renewed its Rule 12(b)(6) motion to dismiss. ECF Doc. 36. After additional motion to dismiss briefing, the Court ruled that Plaintiffs' negligence and breach of fiduciary duty claims could proceed.

8. Plaintiffs commenced formal discovery, serving interrogatories and document requests on Defendant.

II. Settlement Negotiations

9. On March 5, 2024, after a period of informal discovery and mutual exchange of information, the preparation of detailed mediation statements and other pre-mediation materials, the Parties engaged in a private mediation with Judge Wayne Andersen (Ret.) from JAMS, an experienced mediator. Throughout their mediation session, the Parties engaged in an extensive

evaluation and discussion of the relevant facts and law, and the Parties carefully considered the risk and uncertainties of continued litigation and all other factors bearing on the merits of settlement.

10. Although the mediation did not result in a settlement, the Parties continued their negotiations and, in the following weeks, succeeded in reaching agreement on the principal terms of a settlement—subject to final mutual agreement on all the necessary documentation.

11. While the negotiations were professional throughout, they were marked by significant factual and legal disputes impacting the value of the case. With Judge Andersen’s assistance and guidance, and his mediator’s proposal, the Parties were able to reach a resolution.

12. At all times the negotiations were at arm’s-length, and free of collusion of any kind. Attorneys’ fees were not discussed in any manner during the mediation, with the Parties only negotiating the total amount of the non-reversionary Settlement Fund from which any award of attorneys’ fees will be made.

13. Throughout their mediation session, and in the negotiations that followed, the Parties engaged in an extensive evaluation and discussion of the relevant facts and law, and the Parties carefully considered the risk and uncertainties of continued litigation.

14. Over the next several weeks following mediation, the Parties diligently negotiated, drafted, and finalized the settlement agreement, notice forms, and came to an agreement on a claims process and administrator. The Settlement Agreement was finalized and signed by the Parties in July 2024.

15. The Parties agreed Eisner Amper (formerly Postlethwaite Netterville APC) would serve as Settlement Administrator. Eisner Amper has a trusted and proven track record of supporting hundreds of class action administrations, with vast legal administration experience.

Undersigned counsel selected Eisner Amper after soliciting competitive bids from three (3) separate settlement administration firms.

COUNSEL’S RECOMMENDATION

16. We strongly believe, in consideration of all circumstances and after serious arm’s-length settlement negotiations with IWP, that the proposed Settlement is fair, reasonable, and adequate and is in the best interests of the Settlement Class Members.

17. Our collective years of experience representing individuals in complex class actions—including data breach actions—informed Plaintiffs’ settlement position, and the needs of Plaintiffs and the proposed Settlement Class. While we believe in the merits of the claims brought in this case, we are also aware that a successful outcome is uncertain and would be achieved, if at all, only after prolonged, arduous litigation with the attendant risk of drawn-out appeals and the potential for no recovery at all. Based upon our collective substantial experience, it is our opinion that the proposed settlement of this matter provides significant relief to the members of the Settlement Class and warrants the Court’s preliminary approval. The settlement is well within the range of other data breach settlements in the relief that it provides.

18. The Settlement’s terms are designed to address the potential harms caused by the data breach, providing cash benefits, credit monitoring, reimbursing economic and non-economic losses, and verifying that Defendant has improved its data security.

19. This result is particularly favorable given the risks of continued litigation. Plaintiffs faced serious risks prevailing on the merits, including proving causation, as well as risk at class certification and at trial, and surviving another appeal. A settlement today not only avoids the risks of continued litigation, but it also provides benefits to the Settlement Class Members now as opposed to after years of risky litigation.

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

21. Additionally, the Notice program contemplated by the Settlement provides the best practicable method to reach Settlement Class Members and is consistent with other class action notice programs that have been approved by various courts for similarly situated matters. Direct notice to the Settlement Class by U.S. Mail is still deemed the "gold standard" for notice.

22. Thus, Settlement Class Counsel asks the Court to grant preliminary approval of the Settlement Agreement and enter the proposed preliminary approval order filed with this motion.

COUNSEL'S QUALIFICATIONS

A. David Liet of Milberg Coleman Bryson Phillips Grossman, PLLC

23. David Lietz is currently a senior partner of the law firm Milberg Coleman Bryson Phillips Grossman, PLLC ("Milberg"). Mr. Lietz is one the lead attorneys for Plaintiffs and seeks appointment as Class Counsel for the proposed Settlement Class, along with Raina C. Borrelli.

24. Mr. Lietz is a 1991 graduate of Georgetown University Law Center. Mr. Lietz has been licensed to practice law in the District of Columbia since 1991, is a member of the bars of numerous federal district and appellate courts, and has over three decades of litigation and class action experience.

25. Mr. Lietz has represented and is currently representing plaintiffs in more than 100 class action lawsuits in state and federal courts throughout the United States. Both Mr. Lietz and his firm carry on a national and international class action law practice. With respect to data privacy cases, Mr. Lietz is currently litigating more than one-hundred cases across the country involving violations of privacy violations, data breaches, and ransomware attacks.

26. Over the past four years, Mr. Lietz has been appointed class counsel in a number of data breach or data privacy cases that have been either preliminarily or finally approved by federal and state courts across the country, including:

Kenney et al. v. Centerstone of America, Inc., Case No. 3:20-cv-01007 (M.D. Tenn.) (appointed co-class counsel in data breach class action settlement involving over 63,000 class members; final approval granted Aug. 2021);

Mowery et al. v. Saint Francis Healthcare System, Case No. 1:20-cv-00013-SRC (E.D. Mo.) (appointed class counsel; final approval granted Dec. 2020);

Chatelain et al. v. C, L and W PLLC d/b/a Affordacare Urgent Care Clinics, Case No. 50742-A (42nd Dist. Ct., Taylor Cnty., Tex.) (appointed class counsel; settlement valued at over \$7 million; final approval granted Feb. 2021);

Jackson-Battle v. Navicent Health, Inc., Case No. 2020-CV-072287 (Super. Ct. of Bibb Cnty., Georgia) (appointed class counsel in data breach case involving 360,000 patients; final approval granted Aug. 2021);

Bailey v. Grays Harbor County Public Hospital District et al., Case No. 20-2-00217-14 (Super. Ct, Grays Harbor Cnty., Wash.) (appointed class counsel in hospital data breach class action involving approximately 88,000 people; final approval granted Sept. 2020);

Chacon v. Nebraska Medicine, Case No. 8:21-cv-00070-RFR-CR (D. Neb.) (appointed class counsel in data breach settlement, final approval granted Sept. 2021);

Richardson v. Overlake Hospital Medical Center et al., Case No. 20-2-07460-8 SEA (Super. Ct., King Cnty, Wash.) (appointed class counsel in data breach case, final approval granted Sept. 2021);

Martinez et al. v. NCH Healthcare System, Inc., Case No. 2020-CA-000996 (12th Jud. Cir. Ct, Collier Cnty, Fla.) (appointed settlement class counsel; final approval granted Oct. 2021);

Carr et al. v. Beaumont Health et al., Case No. 2020-181002-N (Cir. Ct., Oakland Cnty, Mich.) (appointed co-class counsel in data breach case involving 112,000 people; final approval granted Oct. 2021);

Klemm et al. v. Maryland Health Enterprises Inc., Case No. C-03-CV-20-022899 (Cir. Ct., Baltimore Cnty., Md) (appointed class counsel; final approval granted Nov. 2021);

Cece et al. v. St. Mary's Health Care System, Inc. et al., Case No. SU20CV0500 (Super. Ct, Athens-Clarke Cnty, Georgia) (appointed Settlement Class Counsel in data breach case involving 55,652 people; final approval granted Apr. 2022);

Powers, Sanger et al v. Filters Fast LLC, Case 3:20-cv-00982-jdp (appointed co-lead settlement class counsel; final approval granted July 2022);

Garcia v. Home Medical Equipment Specialists, LLC, Case No. D-202-cv-2021-06846 (appointed class counsel; final approval granted June 2022);

Baldwin et al. v. National Western life Insurance Company, Case No. 2:21-cv-04066 (W.D. Mo.) (appointed co-class counsel; final approval granted June 2022);

Hashemi, et. al. v. Bosley, Inc., Case No. 21-cv-00946-PSG (C.D. Cal.) (appointed co-class counsel; final approval granted Nov. 2022);

Paras et al. v. Dental Care Alliance, Civil Action No. 22EV000181 (State Court of Fulton County, Georgia) (appointed co-class counsel; final approval granted Sept. 2022);

James v. CohnReznick LLP, Case No. 1:21-cv-06544 (S.D.N.Y.), (appointed as co-class counsel; final approval granted Sept. 2022);

Purvis, et al v. Aveanna Healthcare, LLC, Case No. 1:20-cv-02277-LMM (N.D. Ga.) (appointed class counsel; final approval granted Oct. 2022);

Kolar v. CSI Financial Services LLC dba ClearBalance, Case No. 37-2021-00030426-CU-NP-CTL (CA Super. Ct., San Diego Cnty) (appointed co-lead class counsel, final approval granted Jan. 2023);

In re: California Pizza Kitchen Data Breach Litigation, Case No.: 8:21-cv-01928-DOC-KES (C.D. Cal.) (appointed settlement class counsel; final approval granted Feb. 2023);

Snyder v. Urology Center of Colorado, P.C., Case No. 2021CV33707 (2nd Dist. Ct., Denver Cnty, Colorado) (appointed settlement class counsel; final approval granted Oct. 2022);

Steen v. The New London Hospital Association, Inc., Case No. 217-2021-CV-00281 (Merrimack Super. Ct., New Hampshire) (appointed class counsel; final approval granted Jan. 2023);

Gonshorowski v. Spencer Gifts LLC, Docket Number ATL-L-000311-22 (Super. Ct. of New Jersey, Law Division, Atlantic Cnty) (appointed class counsel; final approval granted Sept. 12, 2022);

Nelson et. al v. Bansley & Kiener, LLP, Civil Action No. 2021CH06274 (Ill. 1st Jud. Cir. Ct., Cook Cnty) (appointed class counsel; final approval granted Nov. 2022);

Henderson et al. v. San Juan Regional Medical Center, Case No. D-1116-CV-2021-01043 (11th Jud. Dist. Court, San Juan Cnty., NM) (appointed class counsel; final approval granted Mar. 2023);

Cathy Shedd v. Sturdy Memorial Hospital, Inc., Civ. Action No: 2173 CV 00498 (Mass. Sup. Ct. Dept.) (appointed class counsel; final approval granted Feb. 2023);

Pagan et al. v. Faneuil, Inc., Case No. 3:22-cv-00297 (E.D. Va.) (appointed class counsel; final approval granted Feb. 2023);

Hawkins et al. v. Startek, Inc., Case No. 1:22-cv-00258-RMR-NRN (D. Colo.) (appointed class counsel; final approval granted Apr. 2023);

McManus v. Gerald O. Dry, P.A., Case No. 22 CVS 001776 (N.C. Super. Ct., Cabarrus Cnty.) (appointed settlement class counsel; final approval granted Mar. 2023);

McHenry v. Advent Health Partners, Inc., Case No. 3:22-cv-00287 (M.D.T.N.) (appointed class counsel; final approval granted Apr. 2023),

Lopez v. San Andreas Regional Center, Case No. 21CV386748 (CA Sup. Ct., Santa Clara Cnty.) (appointed settlement class counsel; final approval granted Sept. 2023);

Charlie, et al. v. Rehoboth McKinley Christian Health Care Services, Case No. 21-00652-SCY-KK (D.N.M.) (appointed class counsel, final approval granted May 2023);

Arbuthnot v. Acuity – CHS, LLC, Case No. 6:22-cv-658-PGB-DCI (M.D. Fla.) (appointed settlement class counsel; final approval granted Aug. 2023);

Bergeson v. Virginia Mason Medical Center, Case No. 22-2-09089-8 SEA (Wash. Super. Ct., King Cnty.) (appointed settlement class counsel; final approval granted Aug. 2023);

Reynolds et al. v. Marymount Manhattan College, Case No. 1:22-CV-06846-LGS (S.D.N.Y.) (appointed settlement class counsel; final approval granted Oct. 2023);

Griffey et al. v. Magellan Health, Inc., Case No. CV-20-01282-PHX-MTL (D. Ariz.) (appointed settlement class counsel; final approval granted Feb. 9, 2024);

Connor Rowe v. Sterling Valley Systems, Inc. d/b/a/ Inntopia, Case No.: 22-CV-04081 (Vt. Super. Ct., Civil Division, Lamoille Unit) (appointed settlement class counsel; final approval granted Jan. 9, 2024);

Jones, et al v. P2ES Holdings, LLC, Case No. 23-cv-00408-GPG-MEH (D. Colo.) (Appointed co-class counsel; final approval granted April 16, 2024);

Guarino v. Radius Financial Group, Inc., Civ. Action No: 2283 CV 00196 (Mass. Sup. Ct. Dept., Plymouth Cnty.) (appointed class counsel; final approval granted Feb. 28, 2024);

Foster et al. v. Lower, LLC, Civil Action No. 1:22-CV-1581 (GLR) (D. Md.) (appointed class counsel; final approval granted Dec. 1, 2023);

Lamie et. al v. LendingTree, LLC, Case No. 3:22-cv-0037 (W.D.N.C.) (appointed class counsel; final approval granted Feb. 27, 2024);

Kooner, et al v. Oral Surgeons of Virginia, PLLC, Case No. 1:23-cv-01199 (E.D. Va.) (appointed Co-Lead Counsel Dec. 1, 2023);

Tarrant v. Southland Holdings LLC, Cause No. 067-333679-22 (67th Judicial Dist. Ct. of Tex., Tarrant Cnty.) (appointed class counsel; final approval granted April 19, 2024);

May, et al v. Five Guys Enterprises, LLC, Case No. 1:23-cv-00029 (E.D. Va.) (appointed class counsel; final approval granted July 12, 2024);

Martinez, et al v. Presbyterian Healthcare Services, Case No. D-202-CV-2020-01578 (2d Jud. Ct. of N.M., Cnty of Bernalillo) (appointed class counsel; final approval granted June 18, 2024);

Medina v. Albertsons Companies, Inc., Case No. 1:23-cv-00480-MN (D. Del.) (appointed class counsel; final approval granted April 26, 2024);

Prevost, et al v. Roper St. Francis Healthcare, C.A. No. 2021-CP-10-01754 (9th Jud. Cir. Ct. of S.C., Ct. of Common Pleas) (Appointed co-class counsel; final approval granted May 2, 2024);

Williams v. Monarch, Case No. 23CVS-105, (N.C. Sup. Ct., Stanly Cnty.) (Appointed class counsel; preliminary approval granted Jan. 17, 2024);

Viruet v. Comm. Surgical Supply, Inc., Case No. OCN L-001215-23 (N.J. Sup. Ct., Ocean Cnty.) (Appointed co-class counsel; final approval granted Nov. 17, 2023)

Kondo, et al v. Creative Services, Inc., Case No. 1:22-cv-10438-DJC (D. Mass.) (Appointed class counsel; final approval granted Sept. 7, 2023);

Stark, et al v. Acuity Brands, Inc., Case No. 23EV006179H (Fulton Cnty. State Court of Ga.) (appointed class counsel; final approval granted May 21, 2024);

Keown, et al v. Int'l Assoc. of Sheet Metal Air Rail Transportation Workers, Case No. 1:23-cv-03570-CRC (D.D.C.) (Appointed class counsel);

Mendoza, et al v. Crystal Bay Casino, LLC, Case No. 3:23-cv-00092-MMD-CLB (D. Nev.) (Appointed class counsel) (preliminary approval granted Feb. 5, 2024);

Oche v. National Math & Science Initiative, Index No. 510959/2023 (N.Y. Supr. Ct, Kings Cnty.) (Appointed class counsel; final approval granted June 12, 2024);

Marshall v. Lamoille Health Partners, Inc., Case No. 2:22-cv-00166, (D. Vt.) (Appointed class counsel; preliminary approval granted Feb. 20, 2024);

Amaral v. Stanley Street Treatment and Resources, Inc., Case No. 2373CV00075 (Bristol Sup. Ct. of Mass.) (Appointed class counsel; preliminary approval granted Mar. 14, 2024);

Mooney, et al v. Ashford, Inc., Case No. 3:24-cv-00279-K (N.D. Tex.) (Appointed class counsel);

Cariello, et al v. NSC Holdings, LLC, Case No. 1:23-cv-05499-JPB (N.D. Ga.) (Appointed class counsel);

Granado, et al v. Sandridge Energy, Inc., Case No. 5:22-cv-00516-AMG (W.D. Okla.) (Appointed class counsel; preliminary approval granted Apr. 9, 2024);

Sanguinetti et al. v. Nevada Restaurant Services, Inc., Case No. 2:21-cv-01768-RFB-DIA (appointed Class Counsel, preliminary approval May 28, 2024);

Phillips, et al v. Precision Tune Auto Care, Inc., Case No. 1:24-cv-00502-MSN-LRV (E.D. Va.) (Appointed Co-Lead Interim class counsel);

Brent et al. v. Advanced Medical Management, LLC et al., Civil Action No. 1:23-cv-3254-JKB (D. Md.) (appointed Class Counsel, preliminary approval June 25, 2024); and

In Re Christie's Data Breach Litigation, Case No. 1:24-cv-04221-JMF (S.D.N.Y.) (appointed Interim Class Counsel).

27. Mr. Lietz is also lead or co-lead counsel on the following cases on the following cases that are on the cutting edge of Article III federal court jurisdiction in data breach litigation. Most recently, he briefed and argued *Webb v. Injured Workers Pharmacy, LLC*, 72 F.4th 365 (1st Cir. 2023), where the U.S. Court of Appeals for the First Circuit articulated important principles

of Article III standing in data breach cases after the U.S. Supreme Court's decision in *Ramirez v. TransUnion*. Other noteworthy data breach decisions include *Purvis v. Aveanna Healthcare, LLC*, 563 F. Supp. 3d 1360 (N.D. Ga. 2021); *Charlie v. Rehoboth McKinley Christian Healthcare Services*, Civ. No. 21-652 SCY/KK, 2022 WL 1078553 (D.N.M. April 11, 2022); *Baldwin v. Nat'l W. Life Ins. Co.*, No. 2:21-CV-04066-WJE, 2021 WL 4206736, at *1 (W.D. Mo. Sept. 15, 2021) and *McCreary v. Filters Fast LLC*, No. 3:20-CV-595-FDW-DCK, 2021 WL 3044228 (W.D.N.C. July 19, 2021).

28. For his substantial efforts in advancing the state of the law in data breach and cybersecurity litigation, in April 2022 Mr. Lietz was named to Law360's 2022 Cybersecurity Privacy Editorial Board. This 12-person editorial board includes some of the most accomplished attorneys in the country in the cybersecurity and data breach legal field, and it is a high honor to be included on.

29. Mr. Lietz has been appointed as class counsel in other consumer class action cases and has tried consumer class action cases to verdict before a jury, most recently in *Baez v. LTD Financial Services*, Case No: 6:15-cv-1043-Orl-40TBS (M.D. Fla.).

30. Mr. Lietz frequently gives public presentations about data privacy and data breach litigation, including most recently at the 8th Annual Class Action Money Ethics Conference (May 6, 2024 in New York City), the Harris-Martin Publishing Conference in San Francisco in July 2023, a Strafford Publishing CLE panel discussion on *Webb v. Injured Workers Pharmacy* case in October 2023, and a presentation at the North Carolina Bar Association 2023 Privacy Data Security Section Annual Program in October 2023.

31. Mr. Lietz was appointed as class counsel in other consumer class action cases and have tried consumer class action cases to verdict before a jury, most recently in *Baez v. LTD Financial Services*, Case No: 6:15-cv-1043-Orl-40TBS (M.D. Fla.).

32. Mr. Lietz's experience with class actions also includes a leadership role in a Massachusetts Walmart wage abuse class action, national HMO litigation, the Buspirone MDL, and Louisiana Norplant litigation.

33. In addition to his class action experience, Mr. Lietz has substantial appellate experience, successfully briefing and arguing multiple cases before a number of federal appellate courts, including *Home Depot v. Jackson* at the U.S. Court of Appeals for the Fourth Circuit, and served as part of the successful brief-writing and oral advocacy team for *Home Depot v. Jackson*, 139 S. Ct. 1743, 1744, 204 L. Ed. 2d 34 (2019) at the United States Supreme Court.

34. Prior to concentrating his practice on consumer class action litigation, Mr. Lietz litigated critical injury and wrongful death actions arising from commercial incidents, such as tractor trailer incidents, industrial explosions, a subway collision, and commercial airplane crashes.

A representative list of his critical injury and wrongful death cases include:

Represented the family of the deceased conductor of the Washington Metropolitan Area Transit Authority subway train that collided with another Metro train in 2009. Represented the family of a fatality victim of the 2006 Greyhound bus crash near Elizabethtown, New York.

Represented six victims (four deceased, two injured) of a massive fog related pileup on the Pennsylvania Turnpike in 2003.

Represented three victims (two deceased, one injured) of the 2002 Interstate 40 Bridge Collapse, where a tugboat and barge hit an interstate highway bridge near Webbers Falls, Oklahoma and caused several vehicles to plunge into the Arkansas River.

Represented the family of one victim of the 2000 Alaska Airlines Flight 261 crash, where an MD-83 with a cracked jackscrew nosedived into the water off Point Mugu, California.

Represented the victims (one deceased, one critically injured) of a 2000 incident where a tractor trailer rear ended a line of stopped traffic near Hopkinsville, Kentucky.

Represented a critically burned victim of the 1998 explosion at the State Line Energy plant in Hammond, Indiana, where a massive coal dust explosion ripped through the power plant, causing power shortages all over the city of Chicago, Illinois.

Represented the families of four victims of the 1996 ValuJet Flight 592 crash, where a DC-9 developed a cargo hold fire and crashed into the Everglades near Miami, Florida.

Represented the family of a victim of a 1994 crane collapse in Laughlin, Nevada, when a mobile truck crane toppled across the parking lot of a casino.

35. Mr. Lietz negotiated several million dollar settlements, served as lead counsel in multiple civil actions, tried a number of cases to verdict in both jury and bench trials, and argued cases before federal district and appeals courts, and numerous state courts. Mr. Lietz has lifetime verdicts and settlements in excess of \$100 million, and consistently achieved settlements in the highest quartile of tort and mass tort cases. Mr. Lietz litigated against some of the largest transportation-related companies in the US, including Greyhound, Goodyear, Cessna, Textron, and the Washington Metropolitan Area Transit Authority (WMATA).

36. Mr. Lietz was first awarded the prestigious “AV” rating from Martindale-Hubbell in 1998, and has maintained that rating (and the concomitant listing in the Bar Register of Preeminent Lawyers) ever since.

37. In addition to his personal qualifications, Mr. Lietz brings the support and resources of Milberg to this case on behalf of the putative class. Milberg pioneered federal class action litigation and is widely recognized as a leader in defending the rights of victims of corporate and other large-scale wrongdoing, repeatedly taking the lead in landmark cases that have set groundbreaking legal precedents, prompting changes in corporate governance, and recovering over \$50 billion in verdicts and settlements. A brief firm biography is attached to this declaration as **Exhibit A**.

38. Milberg is and has been one of the nation’s most prominent class action law firms since its founding in 1965. Milberg continues to break new ground in cybersecurity and data privacy cases, including taking a co-lead counsel role in the high-profile *In re: Blackbaud, Inc. Customer Data Security Breach Litigation* (MDL 2972) that has established pleading standards

and Art. III standing guidelines for data breach cases. Milberg has and is litigating multiple class actions against other companies within the same industry as Creative Services.

39. Mr. Lietz's experience and Milberg's data breach experience compare favorably with that of any law firm in the country. The firm has ample resources (both financial and personnel, with over 100 attorneys at the firm) to fully and adequately represent the interests of the proposed class here.

B. Raina Borrelli, Strauss Borelli PLLC

40. Raina Borrelli is a partner at Strauss Borrelli PLLC where she leads the firm's class action practice group. Ms. Borrelli received her J.D. magna cum laude from the University of Minnesota Law School in 2011.

41. Prior to joining Strauss Borrelli, Ms. Borrelli was a partner at Gustafson Gluek PLLC, a boutique class action firm in Minneapolis, Minnesota, where she successfully prosecuted complex class actions in federal and state courts, including *Hudock v. LG Electronics USA, Inc.*, 16-cv-1220 (JRT/KMM) (D. Minn.); *Baldwin v. Miracle-Ear, Inc.*, 20-cv-01502 (JRT/HB) (D. Minn.); *In re FCA Monostable Gearshifts Litig.*, 16-md-02744 (E.D. Mich.); *Zeiger v. WellPet LLC*, 17-cv-04056 (N.D. Cal.); *Wyoming v. Procter & Gamble*, 15-cv-2101 (D. Minn.); *In re Big Heart Pet Brands Litig.*, 18-cv-00861 (N.D. Cal.); *Sullivan v. Fluidmaster*, 14-cv-05696 (N.D. Ill.); *Rice v. Electrolux Home Prod., Inc.*, 15-cv-00371 (M.D. Pa.); *Gorczynski v. Electrolux Home Products, Inc.*, 18-cv-10661 (D.N.J.); *Reitman v. Champion Petfoods*, 18-cv-1736 (C.D. Cal.); *Reynolds, et al., v. FCA US, LLC*, 19-cv-11745 (E.D. Mich.).

42. Ms. Borrelli has repeatedly been named to the annual Minnesota "Rising Star" Super Lawyers list (2014-2021) by SuperLawyers Magazine. She has also been repeatedly certified as a North Star Lawyer by the Minnesota State Bar Association (2012-2015; 2018-2020) for providing a minimum of 50 hours of pro bono legal services.

43. Ms. Borrelli has significant experience in data privacy litigation and is currently litigating more than one hundred data breach cases in courts around the country as lead counsel or co-counsel on behalf of millions of data breach victims, including *In re Netgain Tech. Consumer Data Breach Litig.*, 21-cv-1210 (D. Minn.) (appointed by the court to the Plaintiffs' Interim Executive Committee); *In re C.R. England, Inc. Data Breach Litig.*, 2:22-cv-374-DAK-JCB (appointed by the court as Co-Lead Counsel); *Medina et al. v. PracticeMax Inc.*, 22-cv-01261-DLR (D. Ariz.) (appointed to Executive Leadership Committee); *Forslund et al. v. R.R. Donnelley & Sons Co.*, 1:22-cv-04260 (N.D. Ill.) (appointed as co-lead class counsel); *In re Lincare Holdings, Inc. Data Breach Litig.*, 8:22-cv-01472 (M.D. Fla.) (appointed to Executive Leadership Committee, achieving a \$7.25 million settlement for the class); *McLaughlin v. Flagstar*, 22-cv-11470 (E.D. Mich.); *Corra et al. v. Acts Retirement Services, Inc.*, 2:22-cv-02917 (E.D. Pa.); *Grogan v. McGrath RentCorp., Inc.*, 22-cv-490 (N.D. Cal.); *Darrin et al. v. Huntington Ingalls Indus.*, 4:23-cv-00053 (E.D.V.A.) (appointed interim co-lead class counsel); *Baldwin v. Nat'l Western Life Ins. Co.*, 21-cv-04066-WJE (W.D. Mo.) (settlement on behalf of 800,000 data breach victims).

44. In addition to her robust data breach practice, Ms. Borrelli is also currently litigating a variety of consumer protection cases, including under the TCPA, various state right of publicity laws, and under the Illinois Biometric Information Privacy Act, including: *Patterson v. Respondus University, et al.* 20-cv-7692 (N.D. Ill.); *Murray, et al. v. Grocery Delivery E-Services USA Inc. d/b/a Hello Fresh*, 19-cv-12608 (D. Mass.) (\$14 million TCPA class settlement); *Baldwin, et al. v. Miracle-Ear, Inc., et al.*, 20-cv-1502 (D. Minn.) (\$8 million TCPA class settlement); *Callahan v. PeopleConnect, Inc.*, 20-cv-9203 (N.D. Cal.); *Kellman v. Spokeo, Inc.*, 21-cv-8976 (N.D. Cal.); *Kellman et al. v. Spokeo*, 21-cv-08976 (N.D. Cal.); *DeBose v. Dun & Bradstreet Holdings, Inc.*, 22-cv-00209 (D.N.J.).

45. Additionally, Ms. Borrelli has substantial experience leading discovery teams in complex class action matters and working with class damages experts and class damages models in consumer protection cases.

46. The Strauss Borelli PLLC Firm Resume is attached hereto as **Exhibit B**.

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

Executed on August 2, 2024

s/ David K. Lietz
David K. Lietz (admitted *pro hac vice*)
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Attorneys for Plaintiffs and the Proposed Class

EXHIBIT A



FIRM RESUME



Milberg Coleman Bryson Phillips Grossman (“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, Lawdragon, 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

Milberg maintains a robust practice, representing plaintiffs across numerous areas of law. Milberg attorneys have amassed a wealth of experience in the areas of antitrust and competition law, securities litigation, defective consumer product and automobile litigation, consumer services litigation, dangerous drugs and devices litigation, data breach and biometric data litigation, environmental and toxic tort litigation, finance and insurance litigation, state and local government litigation, and whistleblower and qui tam lawsuits. Milberg attorneys focus their practice among these groups to provide their clients with the best representation possible. Over decades, Milberg attorneys have developed expertise in handling class action lawsuits, leading and overseeing multidistrict litigation, and representing municipalities and other public and governmental clients. Based on their reputation and experience, Milberg attorneys have been assigned to leadership roles in class actions, mass torts litigation, and multidistrict litigation nationwide, across all of these 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.

EXEMPLAR CASES

[In re: Nortel Networks Corp. Securities Litigation](#)

U.S. District Court for the Southern District of New York

Milberg attorneys served as Lead Counsel for the class and the court-appointed lead plaintiff, the Trustees of the Ontario Public Service Employees' Union Pension Plan Trust Fund, in this federal securities class action. The court approved a settlement valued at more than \$1.14 billion.

[In re: Initial Public Offering Securities Litigation](#)

U.S. District Court for the Southern District of New York

Milberg represented investors in 310 securities class actions alleging a market manipulation scheme involving hundreds of initial public offerings and approximately 55 defendant investment banks. Plaintiffs alleged this scheme significantly contributed to the high-tech "bubble" of the late 1990s and early 2000s. In approving a \$586 million settlement, the court described the law firms on the Plaintiffs' Executive Committee as the "cream of the crop."

[In re: Zynga Inc. Sec. Litigation](#)

U.S. District Court for the Northern District of California

A class action in which Zynga misled investors by portraying the online gaming company as financially strong and withholding non-public information, which in turn allowed a select few within the company to reap the benefits from the company's IPO, before the stock's value eventually collapsed.

[In re: Merck & Co., Inc. Sec. Litigation](#)

U.S. District Court for the District of New Jersey

Milberg served as Co-Lead Counsel in this federal securities fraud class action, and after more than 12 years of hard-fought litigation, ultimately obtained a combined settlement totaling \$1.062 billion, the largest securities class action settlement ever against a pharmaceutical company. The court described the settlement as "a settlement which is fair and just and which, in fact, is the best settlement which possibly could have been achieved in this case."

[In re: Deutsche Telekom AG Sec. Litigation](#)

U.S. District Court for the Southern District of New York

Milberg attorneys served as Co-Lead Counsel in this class action on behalf of purchasers of American Depository Receipts. The plaintiffs alleged that Deutsche Telekom improperly failed to disclose plans to make a major corporate acquisition and overstated the value of real estate assets. Milberg attorneys played a pivotal role in achieving a \$120 million settlement.

[In re: Tyco Int'l Ltd., Sec. Litigation](#)

U.S. District Court for the District of New Hampshire

Milberg attorneys served as Co-Lead Counsel in this litigation, which involved federal securities claims against Tyco and its former CEO, CFO, general counsel, and certain former directors for insider trading and the overstatement of billions of dollars in income. Milberg attorneys played a crucial role in achieving a \$3.2 billion settlement.

[In re: Vivendi Universal, S.A. Securities Litigation](#)

U.S. District Court for the Southern District of New York

Milberg was one of two Lead Trial Counsel in this securities fraud case tried to a jury over four months. The jury found Vivendi liable for dozens of false or misleading statements and awarded damages valued at well over a billion dollars. Six months later, in an unrelated case, the Supreme Court ruled that purchasers on foreign securities exchanges could not recover under U.S. law. Milberg's case against Vivendi continued with post-verdict proceedings under the new standard, and damages have been distributed to U.S. class members totaling over \$100 million.

[In re: Washington Public Power Supply System Securities Litigation](#)

U.S. District Court for the District of Arizona

In this massive securities fraud litigation, Milberg served as Co-Lead Counsel for a class that obtained, after several months of trial, settlements totaling \$775 million, the largest securities fraud settlement at that time.

[In re: Lucent Technologies, Inc. Securities Litigation](#)

U.S. District Court for the District of New Jersey

Milberg served as Co-Lead Counsel in this securities action, which alleged that Lucent and its senior officers misrepresented the demand for Lucent products and improperly recognized hundreds of millions of dollars in revenues. The case settled for \$600 million.

In re: Biovail Corp. Securities Litigation

U.S. District Court for the Southern District of New York

Milberg, representing Local 282 Welfare Trust Fund and serving as Co-Lead Counsel, litigated this securities action alleging that defendants made misleading statements concerning Biovail's financial results and its drug, Cardizem LA. Following substantial discovery, including depositions across the U.S. and Canada, Milberg obtained a \$138 million settlement for the class, and Biovail agreed to institute significant corporate governance changes.

In re: CVS Corp. Securities Litigation

U.S. District Court for the District of Massachusetts

Milberg served as Co-Lead Counsel in this securities action on behalf of a class of purchasers of American Depository Receipts. The plaintiffs alleged that Deutsche Telekom improperly failed to disclose plans to make a major corporate acquisition and overstated the value of real estate assets. In 2005, following extensive discovery, including depositions in Germany, the court approved a \$120 million cash settlement.

In re: CVS Corp. Securities Litigation

U.S. District Court for the District of Massachusetts

Milberg served as Co-Lead Counsel in this securities class action alleging that defendants issued false and misleading statements, which artificially inflated the price of CVS stock. The court approved a \$110 million settlement.

In re: American Express Financial Advisors Securities Litigation

U.S. District Court for the Southern District of New York

This case involved allegations that American Express Financial Advisors violated securities laws by representing to class members that the company would provide tailored financial advice when the company actually provided "canned" financial plans and advice designed to steer clients into American Express and certain non-proprietary mutual funds. The case settled for \$100 million and required the company to adopt various remedial measures.

Irvine v. ImClone Systems, Inc.

U.S. District Court for the Southern District of New York

Milberg served as Co-Lead Counsel in this case, in which the court approved a \$75 million cash settlement. The plaintiffs alleged that ImClone misrepresented the likelihood that its drug, Erbitux, would be approved, thereby artificially inflating the price of ImClone stock.

ANTITRUST

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.

EXEMPLAR CASES

[In re: Dealer Management Systems Antitrust Litigation](#)

U.S. District Court for the Northern District of Illinois

Milberg is appointed Lead Counsel in this nationwide class action representing car dealerships. Plaintiffs allege that leading software providers entered into an unlawful agreement, monopolizing access to auto sales and service data in dealer management software used by dealers, thereby reducing competition and increasing prices. Milberg attorneys achieved a \$29.5 million settlement against one defendant and the case is proceeding against the remaining defendant.

[In re: ACTOS Antitrust Litigation](#)

U.S. District Court for the Southern District of New York

Milberg attorneys played a significant role in this litigation, including appointment to the MDL Discovery Committee, which accused Takeda Pharmaceuticals of failing to warn patients of the risks of bladder cancer, heart failure and other side effects associated with the Type 2 diabetes drug. In 2015, roughly 9,000 claims were settled for \$2.4 billion and significant injunctive relief.

[In re: Cathode Ray Tube \(CRT\) Antitrust Litigation](#)

U.S. District Court for the Northern District of California

Milberg represented indirect purchaser plaintiffs in this class action alleging an international conspiracy among defendants to keep prices for cathode ray tube (CRT) displays artificially high. Milberg had a significant discovery role in the prosecution of this class action with settlements exceeding \$580 million.

[Blessing v. Sirius XM Radio Inc.](#)

U.S. District Court for the Southern District of New York

Milberg served as Co-Lead Counsel in this case alleging that the merger of two U.S. satellite radio providers led to the monopolization of the satellite radio market and the elimination of competition.

[In re: Disposable Contact Lens Antitrust Litigation](#)

U.S. District Court for the Middle District of Florida

Milberg represented indirect purchasers in a class action alleging that defendants conspired to maintain artificially high prices for disposable contact lenses through policies that prevented resale of the subject contact lenses below a minimum price. Settlements exceeded \$118 million.

[In re: Liquid Aluminum Sulfate Antitrust Litigation](#)

U.S. District Court for the District of New Jersey

Milberg was appointed to the Plaintiffs Steering Committee in this class action alleging that manufacturers of a chemical essential to municipal water treatment engaged in price-fixing, bid-rigging and market allocation in violation of federal antitrust laws. Settlements were valued at \$92.5 million.

[Sandhaus v. Bayer AG](#)

Kansas State Court

Milberg served as Co-Lead Counsel in this case alleging that Bayer and several generic drug manufacturers entered into pay-for-delay agreements concerning an antibiotic marketed by Bayer, which caused the plaintiffs to continue paying supracompetitive prices for the drug throughout the class period. The case settled for \$9 million.

[In re: Fresh Process Potatoes Antitrust Litigation](#)

United States District Court, District of Idaho

Milberg served as Co-Lead Counsel for indirect purchaser plaintiffs in this class action alleging that potato growers, their cooperatives, processors, and packers violated federal antitrust laws by conspiring to manipulate the price and supply of potatoes. Milberg achieved a settlement for \$5.5 million and meaningful injunctive relief.

[In re: Google Play Consumer Antitrust Litigation](#)

U.S. District Court for the Northern District of California

Milberg is appointed part of a three-member Steering Committee in this consolidated class action alleging Google engaged in anticompetitive behavior through the Google Play Store, seeking injunctive relief and monetary damages on behalf of consumers forced to pay inflated prices for Play Store purchases.

[Series 17-03-615, a series of MSP Recovery Claims, Series LLC. v. Express Scripts, Inc.](#)

U.S. District Court for the Northern District of Illinois

Milberg represents third-party payers in this class action alleging that defendants participated in a vertical price-fixing scheme and their monopolistic, anticompetitive behavior caused plaintiffs and the class to pay inflated prices for the drug, H.P. Acthar Gel.

[In re: Hard Disk Drive Assemblies Antitrust Litigation](#)

U.S. District Court for the Northern District of California

Milberg represents a class of indirect purchaser end user plaintiffs in a class action alleging that the two largest manufacturers of hard disk drive (HDD) suspension assemblies illegally conspired to fix prices of these component parts, thereby raising prices of products purchased by plaintiffs and the class.

[In re: Deere & Co. Repair Services Antitrust Litigation](#)

U.S. District Court for the Northern District of Illinois

Milberg is appointed to the Plaintiffs Steering Committee in this class action alleging that John Deere illegally monopolized the repair and diagnostic services market for Deere brand agricultural equipment with onboard central computers known as engine control units, thereby inflating the prices of these services.

[Harley-Davidson Aftermarket Parts Marketing, Sales Practices and Antitrust Litigation](#)

U.S. District Court for the Eastern District of Wisconsin

Milberg represents a class of Harley-Davidson motorcycle owners in a case alleging that Harley-Davidson uses its monopoly power to force motorcycle owners to use its compatible branded parts for repairs or risk losing warranty coverage.

In re: California Gasoline Spot Market Antitrust Litigation

U.S. District Court for the Northern District of California

Milberg represents California consumers who were forced to pay supracompetitive prices for gasoline due to the manipulation of the California gasoline spot market.

FINANCIAL LITIGATION

For over five decades, Milberg has spearheaded litigation challenging unethical practices by some of the biggest financial and insurance institutions in the world and has been at the cutting edge of cases that directly impacted large banks, lenders, and insurers.

EXEMPLAR CASES

In re: Prudential Insurance Co. Sales Practice Litigation

U.S. District Court for the Northern District of California

Milberg attorneys were appointed Lead Counsel and recovered more than \$4 billion for certain policyholders in this landmark case challenging Prudential's insurance sales practices.

In re: Raytheon Co. Securities Litigation

U.S. District Court for the District of Massachusetts

Milberg served as Lead Counsel in this case, which alleged that a major defense contractor failed to properly write down assets on construction contracts. Raytheon and its auditor, PricewaterhouseCoopers LLP, settled for a total of \$460 million.

In re: Chase Bank USA, N.A. "Check Loan" Contract Litigation

U.S. District for the Northern District of California

Milberg served on the Executive Committee representing the class in this action against JP Morgan Chase & Co. The complaint alleged that Chase improperly increased the minimum monthly payment by 150% required for customers who entered into balance transfer loans with "fixed" interest rates that were guaranteed to remain so for the "life of the loan." Milberg and its Co-Counsel achieved a \$100 million settlement for the class.

In re: General Electric Co. ERISA Litigation

U.S. District Court for the Northern District of New York

Milberg, serving as Co-Lead Counsel, achieved a \$40 million settlement on behalf of current and former G.E. employees who claimed that G.E.'s 401(k) Plan fiduciaries imprudently invested more than two-thirds of the Plan's assets in company stock. The settlement included important structural changes to G.E.'s 401(k) plan valued at more than \$100 million.

In re: Royal Dutch/Shell Transport ERISA Litigation

U.S. District Court for the District of New Jersey

Milberg attorneys led this ERISA breach of fiduciary duty class action against the Royal Dutch/Shell Oil Group of Companies on behalf of certain of the companies' U.S. employee investment plan participants. The \$90 million settlement included important provisions regarding the monitoring and training of individuals appointed to be ERISA fiduciaries.

[Mason v. Medline](#)

U.S. District Court for the Northern District of Illinois

Milberg successfully represented a healthcare worker in a False Claims Act case against his former employer, Medline Industries, Inc., one of the nation's largest suppliers of medical and surgical products, along with its charitable arm, The Medline Foundation. The suit alleged that Medline engaged in a widespread illegal kickback scheme targeting hospitals and other healthcare providers that purchase medical products paid for by federal healthcare programs. Milberg pursued the case on a non-intervened basis and recovered \$85 million on behalf of the federal government — one of the largest settlements of a False Claims Act case in which the government declined to intervene.

[In re: Converse Technology, Inc. Derivative Litigation](#)

U.S. Supreme Court for the State of New York, New York County

As Co-Lead Counsel, Milberg negotiated a \$62 settlement which was approved by the court. The settlement also resulted in significant corporate governance reforms, including the replacement of various directors and officers; the amendment of the company's bylaws to permit certain shareholders to propose in the company's proxy materials nominees for election as directors; and the requirement that all equity grants be approved by both the compensation committee and a majority of the non-employee directors.

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.

EXEMPLAR CASES

[Cleveland v. Whirlpool Corp.](#)

U.S. District Court for the District of Minnesota

Milberg attorneys led this class action involving leaking and defective washing machines. Milberg attorneys were pivotal in achieving a settlement valued at approximately \$21 million, which included meaningful service plan benefits and reimbursement for out-of-pocket repair expenses.

[Berman et al. v. General Motors LLC](#)

U.S. District Court for the Southern District of Florida

Milberg attorneys held leadership roles in this class action involving excessive oil consumption in Chevrolet and GMC vehicles. Milberg attorneys played a pivotal role in achieving a nationwide settlement valued at over \$40 million, securing vehicle repairs and reimbursement for out-of-pocket repair costs.

[Chess v. Volkswagen Group of America, Inc.](#)

U.S. District Court for the Central District of California

Milberg attorneys were named Co-Lead Counsel in this class action involving Volkswagen vehicles with defective transmissions. Milberg attorneys secured a settlement that included up to full reimbursement for out-of-pocket repair expenses and significant injunctive relief.

Hamm v. Sharp Electronics Corporation

U.S. District Court for the Southern District of Florida

Milberg attorneys served as Co-Class Counsel in this class action involving defectively designed microwave drawers. Milberg attorneys were instrumental in achieving a settlement valued at more than \$100 million, which included meaningful extended service plan benefits and reimbursement for out-of-pocket repair expenses.

In re: Allura Fiber Cement Siding Products Liability Litigation

U.S. District Court for the District of South Carolina

Milberg attorneys were appointed Co-Lead Counsel and Steering Committee members by the court in this class action alleging defective fiber cement board siding. Milberg attorneys helped to secure a nationwide settlement for repair and replacement of homeowners' siding.

In re: MI Windows and Doors, Inc., Products Liability Litigation

U.S. District Court for the District of South Carolina

Milberg attorneys served as Co-Lead Counsel in this multidistrict class action litigation and helped to secure a nationwide class settlement for homeowners who purchased defectively designed windows.

In re: Zurn Pex Plumbing Products Liability Litigation

U.S. District Court for the District of Minnesota

Milberg attorneys served on the Executive Committee in this multidistrict class action involving leaking and defective plumbing systems. Milberg attorneys secured monetary benefits valued at \$100,000 per class settlement member, and plumbing repairs in value up to \$7,000 per class settlement member.

Hobbie, et al. v. RCR Holdings II, LLC, et al.

U.S. District Court for the District of Louisiana

Milberg attorneys served as Co-Lead Counsel in a multidistrict class action alleging improper usage of toxic and defective Chinese drywall. Milberg attorneys played an important role in securing a \$30 million settlement for remediation of 364-unit residential high-rise buildings constructed with the toxic drywall.

In re: Chinese Manufactured Drywall Products Liability Litigation

U.S. District Court for the Eastern District of Louisiana

Milberg attorneys served on the Executive Committee in a multidistrict class action involving defective and toxic drywall.

In re: Synthetic Stucco Litigation

U.S. District Court for the Eastern District of North Carolina

Milberg attorneys were appointed to the Steering Committee and played a pivotal role in securing settlements with four exterior insulation finishing system manufacturers for homeowners valued at over \$50 million.

Bridget Smith v. Floor and Decor Outlets of America, Inc.

U.S. District Court for the Northern District of Georgia

Milberg attorneys were appointed Co-Lead Counsel in this class action alleging undisclosed formaldehyde exposure from wood and laminate flooring. Milberg attorneys achieved a national class action settlement for homeowners who purchased unsafe laminate wood flooring.

In re: Lumber Liquidators Chinese-Manufactured Flooring Products Marketing, Sales Practices and Products Liability Litigation

U.S. District Court for the Eastern District of Virginia

Milberg attorneys were appointed Co-Lead Counsel in this class action alleging formaldehyde exposure and secured a \$36 million national class action settlement for members who purchased a certain type of laminate flooring.

In re: Windsor Wood Clad Window Products Liability Litigation

U.S. District Court for the Eastern District of Wisconsin

Milberg attorneys were appointed Lead Counsel in this class action alleging window defects. Milberg attorneys helped to secure a nationwide settlement for customers providing repairs, replacements, and compensation for out-of-pocket expenses.

Norman et al. v. Nissan North America

U.S. District Court for the Middle District of Tennessee

Milberg attorneys were appointed Co-Lead Counsel in this class action alleging CVT transmission defects in Nissan vehicles. Milberg attorneys played a pivotal role in securing a nationwide settlement valued at approximately \$17 million for repairs, replacements, extended warranty, and cash benefits.

In re: Horizon Organic Milk Plus DHA Omega-3 Marketing and Sales Practice Litigation

U.S. District Court for the Southern District of Florida

Milberg attorneys were appointed Co-Lead Counsel in this class action alleging falsely advertised brain health benefits. Milberg attorneys were essential in securing a settlement valued at \$1.3 million for consumers.

In re: All-Clad Metalcrafters, LLC, Cookware Marketing and Sales Practices Litigation

U.S. District Court for the Western District of Pennsylvania

Milberg attorneys were appointed to leadership positions in this multidistrict class action involving All-Clad's false advertising that its stainless-steel cookware was dishwasher safe. Milberg attorneys secured a nationwide settlement valued at \$4 million, including replacement products, monetary benefits, partial reimbursements for purchases of the defective products, and discounts on future product purchases.

Julian, et al., v. TTE Technology, Inc.

U.S. District Court for the Northern District of California

Milberg attorneys were appointed Co-Lead Counsel in this litigation involving the false advertising of TCL televisions' refresh rates. Milberg attorneys played an important role in securing a class settlement valued at \$2.5 million in cash benefits to class members.

Roberts et al. v. Electrolux Home Products Inc.

U.S. District Court for the Central District of California

Milberg attorneys were named Co-Lead Counsel in this class action involving defective dryers manufactured by Electrolux. Milberg attorneys helped to obtain a settlement on behalf of more than one million class members, valued at over \$35 million.

Tabak v. Apple Inc.

U.S. District Court for the Northern District of California

Milberg attorneys brought this class action against Apple for a defect in the iPhone 7 and iPhone 7 Plus, which negatively impacted the audio quality of the phones. Milberg attorneys played a pivotal role in bringing the case, briefing, and discovery. The parties have agreed to a class settlement in principle, valued at \$35 million.

Koenig v. VIZIO, Inc.

Superior Court of Los Angeles County, California

Milberg attorneys litigated this class action involving the false advertising of Vizio televisions' refresh rates. Milberg attorneys played a pivotal role, including briefing, discovery, and handling all trial responsibilities. The parties have agreed to a class settlement in principle, valued at over \$40 million.

In re: Outer Banks Power Outage Litigation

U.S. District Court for the Eastern District of North Carolina

Milberg attorneys served as Co-Lead Counsel and secured a \$10.35 million settlement in a class action in which residents, businesses, and vacationers on Hatteras and Ocracoke Islands in North Carolina were impacted by a 9-day power outage.

Elliott et al v. KB Home North Carolina Inc.

North Carolina Superior Court

In this class action involving homeowners who purchased homes that were improperly built without weather-resistant barriers, Milberg attorneys played an essential role in securing a settlement valued at approximately \$6,500 to \$17,000 for each class member.

In re: Allergan Biocell Textured Breast Implant Product Liability Litigation

U.S. District Court for the District of New Jersey

Milberg attorneys were appointed to the Plaintiffs Steering Committee in this multidistrict class action against Allergan for breast implants that caused cancer. Milberg attorneys continue to play a pivotal role in this ongoing case.

In re: Evenflo Co., Inc. Marketing, Sales Practices and Products Liability Litigation

U.S. District Court for the District of Massachusetts

Milberg attorneys were appointed Co-Lead Counsel in this multidistrict litigation against Evenflo for deceptively marketing its child booster seats.

Carder v. Graco Children's Safety products, Inc.

U.S. District Court for the Northern District of Georgia

Milberg attorneys were appointed to multiple leadership positions in this class action involving the deceptive marketing of child car seats.

Coleman, et al, v. Britax Child Safety, Inc.

U.S. District Court for the District of South Carolina

Milberg attorneys were appointed Co-Lead Counsel in this class action involving the deceptive marketing of child car seats.

In re: Seresto Flea and Tick Collar Marketing, Sales Practices And Products Liability Litigation
U.S. District Court for the Northern District of Illinois

Milberg attorneys were appointed Co-Lead Counsel in this multidistrict class action against the manufacturers of Seresto flea and tick collars, which were linked to numerous pet deaths. The litigation is ongoing.

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.

EXEMPLAR CASES

In re: Avandia Marketing, Sales Practices, and Products Liability Litigation

U.S. District Court for the Eastern District of Pennsylvania

Milberg attorneys were appointed to the Plaintiffs Steering Committee and served on the Discovery and Media Sub-Committees on behalf of thousands of patients who took the Type 2 diabetes drug Avandia, alleging the manufacturer failed to disclose the known and increased risk of heart attack and cardiac death. GlaxoSmithKline set aside \$3.4 billion in 2011 to settle lawsuits.

In re: Benicar (Olmesartan) Products Liability Litigation

U.S. District Court for the District of New Jersey

Milberg attorneys were appointed to the Plaintiffs Steering Committee and Common Benefit Fee Committee in this multidistrict litigation which alleged that Benicar manufacturer Daiichi Sankyo and co-promoter Forest Laboratories were responsible for serious gastrointestinal injuries. In 2017, the defendants agreed to a \$300 million settlement.

In re: Chantix (Varenicline) Products Liability Litigation

U.S. District Court for the Northern District of Alabama, Southern Division

Milberg attorneys served as Co-Lead Counsel in the Chantix Coordination in New York State Court and court-appointed member of the Plaintiffs Steering Committee in the MDL in Alabama.

In re: Fluoroquinolone Products Liability Litigation

U.S. District Court for the District of Minnesota

Milberg attorneys were appointed to the Plaintiffs Steering Committee in the MDL in Minnesota litigating the broad-spectrum antibiotic that resulted in severe tendon damage, particularly debilitating Achilles tendon ruptures.

Fosamax Litigation (I & II)

U.S. District Court for the District of New Jersey

Fosamax I: Milberg was appointed Lead Counsel in this New York MDL for ONJ cases and served on the Discovery Team in the Superior Court of New Jersey. Fosamax II: Milberg was appointed to Fosamax Femur MDL Plaintiffs Steering Committee for MDL in the District of New Jersey.

In re: Fresenius Granuflo/NaturaLyte Dialysate Products Liability Litigation

U.S. District Court for the District of Massachusetts

Milberg attorneys served on the Plaintiffs Steering Committee in the MDL. Granuflo and NaturaLyte were manufactured and marketed by Fresenius Medical for use in dialysis treatment to address kidney failure both chronic and acute, but also caused increased heart complications.

In re: Incretin Mimetics Products Liability Litigation

U.S. District Court for the Southern District of California (San Diego)

Milberg attorneys were appointed to the MDL Plaintiffs Steering Committee in California. Incretins are a class of Type 2 Diabetes drugs which result in a significant increase in gastric side effects.

In re: Infusion Pump Cases (JCCP 4615)

U.S. Ninth Circuit Court, Eastern District of California

Milberg attorneys were appointed Plaintiffs Liaison Counsel. Studies showed that pain pumps were associated with high failure rates when used appropriately and often mis-used leading to increased failure rates and resultant complications.

Risperdal and Invega Product Liability Litigation (JCCP 4775)

California Second District Court of Appeal, Division Three

Milberg attorneys were appointed Co-Lead Counsel in Risperdal/Invega Product Liability Litigation against Johnson & Johnson/Janssen regarding these anti-psychotic dopamine receptor blockers that cause hormonal changes in male users that can result in breast tissue growth.

In re: Mirena IUD Levonorgestrel-Related Products Liability Litigation

U.S. District Court for the Southern District of New York

Milberg attorneys were appointed to the Plaintiffs Steering Committee. Mirena, a hormone releasing IUD for contraception was intended for longer term placement, are prone to failure and breakage and resultant injuries.

Propecia Finasteride Product Liability Litigation

U.S. District Court for the Eastern District of New York

Milberg attorneys were appointed to the Plaintiffs Steering Committee. Another Milberg attorney was appointed Lead Counsel in the New Jersey Multi County Litigation in Middlesex County, New Jersey. These litigations centered on sexual dysfunction resulting from use of Merck's male pattern hair loss product, Propecia.

In re: Reglan Litigation

U.S. Superior Court of New Jersey, Law Division Atlantic County

Milberg attorneys were appointed Co-Lead Counsel in the Multi County Litigation in New Jersey State Court, Atlantic County. Reglan is often used for longer terms to address symptoms of GERD resulting in neurological injuries including Tardive Dyskinesia.

Johnson & Johnson Talcum Powder Products Marketing, Sales Practices and Products Liability Litigation (MDL 2738)

U.S. District Court for the District of New Jersey

Milberg attorneys were appointed to the Plaintiffs Steering Committee in the Johnson & Johnson Talcum Powder Litigation and served on the Science Committee and Bellwether Committee in the MDL in District Court New Jersey, as well as on the Science and Experts Committee of the PSC.

In re: American Medical Systems, Inc., Pelvic Repair System Products Liability Litigation

U.S. District Court for the Southern District of West Virginia

Milberg attorneys were appointed to the Plaintiffs Steering Committee in the AMS, Bard, Boston Scientific and Ethicon MDLs.

In re: Vioxx Products Liability Litigation

U.S. District Court for the Eastern District of Louisiana

Milberg attorneys served as Liaison to the media for Vioxx Plaintiffs Steering Committee and Public Relations Committee in Louisiana and on the New Jersey Multi County Litigation Vioxx discovery team.

In re: Zicam Cold Remedy Marketing, Sales Practices and Products Liability Litigation

U.S. District Court for the District of Arizona

Milberg attorneys were appointed to the MDL Plaintiffs Steering Committee in Arizona in this case involving a homeopathic, over the counter common cold and allergy symptom product that left many with impaired ability to smell.

In re: Zimmer Nexgen Knee, Implant Products Liability Litigation

U.S. District Court for the Northern District of Illinois, Eastern Division

Milberg attorneys were appointed to the MDL Plaintiff's Steering Committee in Illinois as well as the Electronic Storage Information Committee. Zimmer manufactures multiple devices including knee devices which resulted in premature failure necessitating additional, painful, and costly surgeries.

In re: Crestor Products Liability Cases (JCCP 4713)

California Superior Court

Milberg attorneys served as Co-Lead Counsel in the JCCP in State Court California on this highly potent AstraZeneca "me too" cholesterol managing statin litigation where serious side effects included newly onset diabetes and liver damage as well as reactions with Coumadin.

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.

EXEMPLAR CASES

[In re: Black Farmers Discrimination Litigation](#)

U.S. District Court for the District of Columbia

Milberg attorneys were appointed Lead Counsel and secured a \$1.25 billion settlement fund for black farmers who alleged the U.S. Department of Agriculture discriminated against them by denying farm loans.

[Kingston v. IBM](#)

U.S. District Court for the Western District of Washington

Milberg attorneys spearheaded a series of landmark cases against IBM alleging wrongful termination of software sales managers through a pattern of fraudulent conduct.

[Parry et al. v. Farmers Insurance Exchange, et al.](#)

Superior Court of Los Angeles County, California

Milberg attorneys were named Class Counsel and secured a \$75 million class-action settlement with Farmers Insurance on behalf of its agents alleging that Farmers Insurance misclassified its agents as independent contractors.

[Meek v. SkyWest, Inc.](#)

U.S. District Court for the Northern District of California

Milberg attorneys were Lead Counsel and secured a \$4.2 million class action settlement against SkyWest Airlines for allegedly failing to provide proper rest and meal breaks to its employees.

[Craig v. Rite Aid Corporation](#)

U.S. District Court for the Middle District of Pennsylvania

This FLSA collective action and class action settled for \$20.9 million.

[Stillman v. Staples, Inc.](#)

U.S. District Court for the District of New Jersey

This FLSA collective action had a Plaintiffs' trial verdict for \$2.5 million and a national settlement approved for \$42 million.

[Lew v. Pizza Hut of Maryland, Inc.](#)

U.S. District Court for the District of New Jersey

This FLSA collective action had a statewide settlement for managers-in-training and assistant managers, providing recompense of 100% of lost wages.

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.

EXEMPLAR CASES

[Nnadili, et al. v. Chevron U.S.A., Inc.](#)

U.S. District Court for the District of Columbia

Milberg attorneys were Lead Counsel in a \$6.2 million settlement for owners and residents of 200 properties located above underground plume of petroleum from former Chevron gas station.

[In re: Swanson Creek Oil Spill Litigation](#)

U.S. District Court for the District of Maryland

Milberg attorneys served as Lead Counsel and achieved a \$2.25 million settlement arising from the largest oil spill in history of State of Maryland.

[In re: Exxon Valdez](#)

U.S. District Court for the District of Alaska

Milberg was a member of the Plaintiffs' Coordinating Committee and co-chair of the Plaintiffs' Law Committee in this massive litigation resulting from the Exxon Valdez oil spill in Alaska. The plaintiffs obtained a jury verdict of \$5 billion, which, after years of appeals by Exxon, was reduced to approximately \$500 million by the United States Supreme Court. The United States Court of Appeals for the Ninth Circuit has since held that plaintiffs are entitled to post-judgment interest on the award in the amount of approximately \$470 million.

[Municipality of Bayamon, et al., v. Exxon Mobil Corp., et al.](#)

United States District Court for the District of Puerto Rico

More than a dozen municipalities of Puerto Rico have filed a class action lawsuit against fossil fuel companies for their alleged role in the deadly 2017 hurricane season that devastated the Commonwealth, causing billions in damages and leaving thousands of people dead. The first-of-its-kind lawsuit seeks financial compensation from oil and coal companies for marketing and selling carbon-based products that they intentionally misrepresented to the public and worked together to publicly conceal the climate risk changes of their products while internally acting on climate science to safeguard their own assets.

[Sharon Weatherly v. Eastman Chemical Co.](#)

Circuit Court of Sullivan County, Tennessee Second Judicial District

Milberg attorneys led the effort to bring justice for hundreds of injured workers and their families resulting from a steam explosion at the Eastman Chemical Company which released asbestos and other toxic materials. Milberg filed a class-action lawsuit, pursuing claims for public and private nuisance, trespass, negligence, and strict liability for ultra-hazardous activity.

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.

EXEMPLAR CASES

[Daedalus, LLC, et al. v. City of Charlotte](#)

North Carolina Superior Court, Mecklenburg County

Milberg attorneys recovered a \$106 million class action settlement for property owners for unlawful water and sewer capacity fees and system development fees charged by the City of Charlotte, North Carolina as a condition of providing water and sewer service to property owners.

[Upright Builders, Inc., et al. v. Town of Apex](#)

North Carolina Superior Court, Wake County

Milberg attorneys recovered a \$15.3 million class action settlement for property owners for unlawful water and sewer capacity replacement fees and transportation impact fees charged by the Town of Apex, North Carolina as a condition of providing water and sewer service to property owners.

[Plantation Builders of Wilmington, Inc., et al. v. County of Brunswick](#)

North Carolina Superior Court, Brunswick County

Milberg attorneys recovered a \$15.25 million class action settlement for property owners for unlawful water and sewer capacity fees charged by Brunswick County, North Carolina as a condition of providing water and sewer service to property owners.

[Gerald Currin Builders, Inc. v. Town of Holly Springs](#)

North Carolina Superior Court, Wake County

Milberg attorneys recovered a \$7.9 million class action settlement for property owners for unlawful water and sewer capacity replacement fees charged by the Town of Holly Springs, North Carolina as a condition of providing water and sewer service to property owners.

[Meritage Homes of the Carolinas, Inc. v. Town of Holly Springs](#)

North Carolina Superior Court, Wake County

Milberg attorneys recovered a \$7.5 million class action settlement for property owners for unlawful parks and recreation fees in-lieu of land dedication charged by the Town of Holly Springs, North Carolina as a condition of granting development approval to residential subdivision developers.

[Plantation Building of Wilmington, Inc. v. Town of Leland](#)

North Carolina Superior Court, Brunswick County

Milberg attorneys recovered a \$6.2 million class action settlement for property owners for unlawful water and sewer impact fees charged by the Town of Leland, North Carolina as a condition of providing water and sewer service to property owners.

Shenandoah Homes, LLC v. Town of Clayton

North Carolina Superior Court, Johnston County

Milberg attorneys recovered a \$2.7 million class action settlement for property owners for unlawful water and sewer impact fees charged by the Town of Clayton, North Carolina as a condition of providing water and sewer service to property owners.

Granite Land and Timber, LLC v. Town of Clayton

North Carolina Superior Court, Johnston County

Milberg attorneys recovered a \$2.45 million class action settlement for property owners for unlawful parks and recreation fees in-lieu of land dedication charged by the Town of Clayton, North Carolina as a condition of granting development approval to residential subdivision developers.

Mayfair Partners, LLC et al. v. City of Asheville

North Carolina Superior Court, Buncombe County

Milberg attorneys recovered a \$1.85 million class action settlement for property owners for unlawful water and sewer impact fees charged by the City of Asheville, North Carolina as a condition of providing water and sewer service to property owners.

Eastwood Construction, LLC, et. al v. City of Monroe

North Carolina Superior Court, Union County

Milberg attorneys recovered a \$1.75 million class action settlement for property owners for unlawful water and sewer impact fees charged by the City of Monroe, North Carolina as a condition of providing water and sewer service to property owners.

Larry Shaheen v. City of Belmont

North Carolina Superior Court, Gaston County

Milberg attorneys recovered a \$1.65 million class action settlement for property owners for unlawful water and sewer impact fees charged by the City of Belmont, North Carolina as a condition of providing water and sewer service to property owners.

Brookline Homes, LLC v. City of Mount Holly

North Carolina Superior Court, Gaston County

Milberg attorneys recovered a \$483,468 class action settlement for property owners for unlawful water and sewer impact fees charged by the City of Mount Holly, North Carolina as a condition of providing water and sewer service to property owners.

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.

EXEMPLAR CASES

[In re: Google Buzz Privacy Litigation](#)

U.S. District Court for the Northern District of California

Milberg attorneys were appointed Lead Class Counsel and secured a \$8.5 million cy pres settlement.

[In re: Dept. of Veterans Affairs \(VA\) Data Theft Litigation](#)

U.S. District Court for the District of Columbia

Milberg attorneys were appointed Co-Lead Counsel representing veterans whose privacy rights were compromised by the theft of an external hard drive containing personal information of approximately 26.6 million veterans and their spouses; creation of a \$20 million fund for affected veterans and a cy pres award for two non-profit organizations.

[In re: Target Corporation Customer Data Security Breach Litigation](#)

U.S. District Court for the District of Minnesota

Milberg represented as many as 110 million Target customers whose personal information was compromised in this landmark data breach case. Milberg, together with Co-Counsel, achieved compensation of \$10 million, entitling individual consumers to recover losses of up to \$10,000. An appeal of the settlement has been remanded to the District Court of Minnesota and remains pending.

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.

EXEMPLAR CASES

[Home Depot, U.S.A., Inc. v. Jackson](#)

United States Supreme Court

Milberg attorneys represented a consumer who was originally sued in a state court debt collection action. In response, Milberg attorneys filed third-party class action claims against Home Depot for deceptive trade practices regarding its store credit cards marketed to customers. Home Depot sought to remove the class action counterclaims, which were filed in the existing state court action, to federal court. Lengthy appeals followed, in which Milberg attorneys worked cooperatively with attorneys at Public Justice to represent the original consumer and class of consumers. Ultimately, the Supreme Court agreed with the consumers' position and held that a third-party counterclaim defendant may not remove state court claims either under the removal statute or under the Class Action Fairness Act. This decision represents a significant victory for consumer plaintiffs.

[Webb v. Injured Workers Pharmacy, LLC](#)

First Circuit Court of Appeals

Milberg attorneys scored a significant victory for plaintiffs in data breach and other federal tort cases. The decision animated the Supreme Court's decision in *TransUnion v. Ramirez*, by applying its standing analysis in a common sense and logically consistent manner to the real-world fact patterns posed by data breach cases. The decision demonstrates that federal court is still a viable forum for data breach cases based upon the material risk of future misuse, as well as actual misuse of data.

[Kingston v. Int'l Bus. Machines Corp.](#)

Ninth Circuit Court of Appeals

Milberg attorneys represented an IBM software sales manager who was fired for reporting racial discrimination and the unlawful capping of sales commissions. A jury awarded the plaintiff almost \$15 million. The Ninth Circuit affirmed the jury's finding of liability and most of the damages award, over a dissent.

[Fessler v. Int'l Bus. Machines Corp.](#)

Fourth Circuit Court of Appeals

Milberg attorneys represented an IBM software salesman whose sales commissions IBM had wrongly capped. The district court dismissed the salesman's claims. The Fourth Circuit reversed the dismissal, distinguishing a long line of older cases in which IBM had prevailed on the grounds that the new case was factually distinct and presented novel legal theories. The case was later resolved.

[Lytle v. Nutramax Labs., Inc.](#)

Ninth Circuit Court of Appeals

Milberg attorneys represented a class of consumers who purchased pet joint health supplements, which they claimed were deceptively marketed and labeled. The trial court granted class certification, and the defendant sought to appeal to the Ninth Circuit, which agreed to hear the appeal. Milberg attorneys argued that class certification was proper, and that the plaintiffs' proposed damages model—a conjoint analysis that surveyed consumers to determine the value of the product's deceptive statements—was valid for calculating classwide damages. The Ninth Circuit heard the parties' arguments in 2023, but has not yet ruled.

[Adkisson v. Jacobs Engineering Grp., Inc.](#)

Sixth Circuit Court of Appeals

Milberg attorneys represented a group of hundreds of workers and their families who were injured when cleaning up a large coal ash spill in Kingston, Tennessee. The workers alleged, among other things, that the defendant had denied them essential personal protection equipment. Following years of litigation and a trial on certain issues, the defendant raised a new defense based on a recent Supreme Court case, *Thacker v. Tennessee Valley Authority*. The defendant argued that it should be immune because it was acting as an agent of the federal government. The Sixth Circuit rejected this defense, finding that based upon the facts, the Tennessee Valley Authority—and, by extension, the defendant—were not immune, paving the way for future litigants to bring claims against the TVA and its agents. Following this ruling, the parties reached a settlement.

[Chisum v. Campagna](#)

North Carolina Supreme Court

Milberg attorneys represented a contractor who was wrongfully kicked out of several valuable real estate companies by his partners. The jury awarded the plaintiff millions of dollars, but the trial court granted judgment to the defendants on some of the claims. The North Carolina Supreme Court affirmed the jury's verdict while reversing the trial court's grant of judgment to the defendants. Following the reversal, the parties reached settlement, which was more lucrative for plaintiff than the original jury verdict.

[Plantation Bldg. of Wilmington, Inc. v. Town of Leland](#)

North Carolina Supreme Court

Milberg attorneys represented a class of contractors who sued a local government for charging illegal fees. The trial court certified the class, but the government appealed, raising a dangerous new legal theory that would have prevented class certification. The North Carolina Supreme Court rejected that new theory, after which the case settled for even more than the class had demanded before the appeal.

[Adkisson v. Jacobs Engineering Grp., Inc.](#)

Tennessee Supreme Court

Milberg attorneys represented a group of hundreds of workers and their families who were injured when cleaning up a large coal ash spill in Kingston, Tennessee. The workers alleged, among other things, that the defendant had denied them essential personal protection equipment. Following years of litigation and a trial on certain issues, the defendant argued that the plaintiffs' claims must be dismissed under the Tennessee Silica Claims Protection Act, and the trial court certified the question to the Tennessee Supreme Court. Milberg attorneys briefed the issues and argued on the workers' behalf that the TSCPA did not cover or require dismissal of their claims. Before the Tennessee Supreme Court could rule, the parties settled their claims.

LOCATIONS

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Our Firm

Strauss Borrelli PLLC is a premier civil litigation team focused on representing groups of individuals who have been harmed by corporate misconduct. We regularly represent clients in cases involving data misuse, illegal telemarketing, privacy intrusion, unfair employment practices, and defective products. Our efforts have earned us a reputation for achieving success in high-stakes and complex cases across the country.

At every step, we put the interests of our clients first.

We make the courtroom accessible to all.

At Strauss Borrelli, we understand that our legal system is out of reach for most individuals who have suffered at the hands of corporate wrongdoing. Time, money, and expertise act as barriers to judicial action. We confront these obstacles by empowering those affected to take collective action to seek relief.

We innovate and adapt.

As new technologies become available, our team learns and grows to make our processes faster, more effective, and less expensive. We challenge each other to continually evolve to meet the needs of our clients in an ever-changing world.

We know that people are our greatest resource.

Whether it be within our own team or with experts, co-counsel, or clients, we foster collaborative spaces. We know that good ideas can come from anyone, and the best ideas are forged when we work together. Our experiences have shown us that fresh perspectives coupled with legal expertise create smart strategies.

We understand the strength in numbers.

Too often, corporate transgressions go unchallenged. Together, we create a check against large companies' misconduct. By combining individual claims, we hold those who put profit over people accountable and achieve relief for all those injured by wrongdoings ranging from the annoyance of daily telemarketing calls to the devastation of a sudden mass layoff.

We commit to personal connections.

At every stage, we help clients understand the complex issues at hand and empower them to take an active role in their cases. We will always take the time to build relationships with our clients in order to understand what success means to them. In defining and reaching our goals, we advise with compassion and understanding.

Our Cases

CONSUMER PROTECTION

Fowler, et al. v. Wells Fargo Bank, N.A. (N.D. Cal.)

Filed on behalf of consumers who were overcharged fees on FHA mortgages. The case settled on a class-wide basis for \$30,000,000 in 2018, and final approval was granted in January 2019.

Jones, et al. v. Monsanto Company (W.D. Mo.)

Filed on behalf of individuals who purchased mislabeled RoundUp® products. The case settled on a class-wide basis in 2020 for \$39,550,000. Final approval was granted in May 2021 and the case is currently on appeal to the United States Court of Appeals for the Eight Circuit.

Crawford, et al. v. FCA US LLC (E.D. Mich.)

Filed on behalf of consumers who purchased or leased Dodge Ram 1500 and 1500 Classic vehicles equipped with 3.0L EcoDiesel engines between 2013 and 2019. Plaintiffs allege unfair, deceptive, and fraudulent practices in the Defendants' marketing and sale of vehicles with allegedly defective EGR coolers. This case is currently pending in the United States District Court for the Eastern District of Michigan.

In re: Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practices and Products Liability Litigation (N.D. Cal.)

Filed on behalf of consumers against Fiat Chrysler and Bosch alleging unfair, deceptive, and fraudulent practices in the Defendants' marketing and sale of certain EcoDiesel vehicles. The class contained over 100,000 vehicles, including 2014-2016 model-year Jeep Grand Cherokees and Dodge Ram 1500 trucks that were allegedly outfitted with devices that masked actual emission levels. The case settled on a class-wide basis for \$307,500,000, and final approval was granted in May 2019.

Rolland, et al. v. Spark Energy, LLC (D.N.J.)

Filed on behalf of consumers who were forced to pay considerably more for their electricity than they should otherwise have paid due to Spark Energy's deceptive pricing practices. Plaintiff alleges that Spark Energy engages in a bait-and-switch deceptive marketing scheme luring consumers to switch utility companies by offering lower than local utility rates. These lower rates are fixed for only a limited number of months and then switch to a variable market rate that is significantly

higher than the rates local utilities charge. The case settled on a class-wide basis for \$11,000,000 in 2022, and final approval was granted in December 2022.

Haines v. Washington Trust Bank (Wash. Sup. Ct., King Cty.)

Strauss Borrelli attorneys represented consumers who were charged \$35 overdraft fees by Washington Trust Bank on accounts that were never actually overdrawn. Plaintiff filed suit against Washington Trust Bank for the unfair and unlawful assessment of these overdraft fees. This case settled on a class-wide basis in 2021, and final approval was granted in November 2021.

Pryor v. Eastern Bank (Mass. Sup. Ct., Suffolk Cty.)

Strauss Borrelli attorneys represented consumers who were charged \$35 overdraft fees by Eastern Bank on accounts that were never actually overdrawn. Plaintiff filed suit against Eastern Bank for the unfair and unlawful assessment of these overdraft fees. This case settled on a class-wide basis in 2021, and final approval was granted in March 2021.

Benanav, et al. v. Healthy Paws Pet Insurance LLC (W.D. Wash.)

Strauss Borrelli represents consumers who were deceived by Healthy Paws Pet Insurance, an insurance provider that markets and administers pet insurance policies, regarding the true cost of its pet insurance policies. Plaintiffs allege that purchasers of Healthy Paws Pet Insurance's policies found that their policy premiums increased drastically from year to year, at a rate far outpacing the general costs of veterinary medicine, despite Healthy Paws Pet Insurance's representations to the contrary. This case is currently pending in the United States District Court for the Western District of Washington.

DATA BREACH

Walters v. Kimpton Hotel & Restaurant Group, LLP (N.D. Cal.)

Filed on behalf of consumers whose private information and personal identifiable information, including credit and debit card numbers, names, mailing addresses, and other personal information, was compromised and stolen from Kimpton Hotel & Restaurant Group by hackers. The case settled on a class-wide basis in 2018, and final approval was granted in July 2019.

Reetz v. Advocate Aurora Health, Inc. (Wis. Cir. Ct., Milwaukee Cty.)

Filed on behalf of employees of Aurora Advocate Health, the 10th largest not-for-profit integrated health care system in the United States, whose personally identifiable information was breached and stolen through an email phishing campaign beginning in January 2020. Many of these individuals have lost time

and money responding to the data breach and they face an ongoing risk of identity theft, identity fraud, or other harm. This case settled in 2023.

Goetz v. Benefit Recovery Specialists, Inc. (Wis. Cir. Ct., Walworth Cty.)

Strauss Borrelli attorneys represented a class of consumers whose personal health information was compromised and stolen from Benefit Recovery Specialists, Inc., a Houston-based billing and collections services firm that provides billing and collection services to healthcare providers across the country. Many of these consumers have lost time and money responding to the data breach and they face an ongoing risk of identity theft, identity fraud, or other harm. This case settled on a class-wide basis in 2022 and final approval was granted in July 2022.

In re BJC Healthcare Data Breach Litigation (Mo. Cir. Ct., St. Louis Cty.)

Strauss Borrelli attorneys represented a class of consumers whose personal health information was compromised and stolen from BJC Healthcare, a major regional health system. Many of these consumers lost time and money responding to the data breach and they face an ongoing risk of identity theft, identity fraud, or other harm. This case settled on a class-wide basis in 2021 and final approval was granted in September 2022.

Daum, et al. v. K & B Surgical Center, LLC (Cal. Sup. Ct., Los Angeles Cty.)

Strauss Borrelli attorneys represented a class of consumers whose personal health information and protected health information was compromised and stolen from K & B Surgical Center. Many of these consumers have lost time and money responding to the data breach and they face an ongoing risk of identity theft, identity fraud, or other harm. The case settled in 2023.

In re: Netgain Technology, LLC, Consumer Data Breach Litigation (D. Minn.)

Filed on behalf of consumers whose personal identifiable information and protected health information was breached and stolen from Netgain Technology, LLC beginning in September 2020. Strauss Borrelli partner, Raina Borrelli, serves as a member of the Plaintiffs' Interim Executive Committee in this multidistrict litigation. Many of the individuals impacted by the breach have lost time and money responding to the data breach and they face an ongoing risk of identity theft, identity fraud, or other harm. This case is currently pending in The United States District Court for the District of Minnesota.

Dusterhoff, et al. v. OneTouchPoint Corp. (E.D. Wisc.)

Filed on behalf of 2.6 million consumers whose personal identifiable information and protected health information was breached and stolen from OneTouchPoint Corp., a mailing and printing services vendor, beginning in April 2022. Strauss

Borrelli partner, Raina Borrelli, serves as a member of the Plaintiffs' Steering Committee in this litigation. Many of the individuals impacted by the breach have lost time and money responding to the data breach and they face an ongoing risk of identity theft, identity fraud, or other harm. This case is currently pending in The United States District Court for the Eastern District of Wisconsin.

In re Lincare Holdings Inc. Data Breach Litigation (M.D. Fla.)

Filed on behalf of consumers whose personal identifiable information and protected health information was breached and stolen from Lincare Holdings Inc., a medical products and services provider, beginning in September 2021. Strauss Borrelli partner, Raina Borrelli, serves as a member of the Interim Executive Leadership Committee for plaintiffs and the class in this multidistrict litigation. Many of the individuals impacted by the breach have lost time and money responding to the data breach and they face an ongoing risk of identity theft, identity fraud, or other harm. This case is currently pending in The United States District Court for the Middle District of Florida.

Forslund, et al. v. R.R. Donnelley & Sons Company (N.D. Ill.)

Filed on behalf of consumers whose personal identifiable information was breached and stolen from R.R. Donnelley & Sons Company, a Fortune 500 marketing, packaging, and printing company, beginning in November 2021. Strauss Borrelli partner, Raina Borrelli, serves as interim co-lead counsel for plaintiffs and the class in this litigation. Many of the individuals impacted by the breach have lost time and money responding to the data breach and they face an ongoing risk of identity theft, identity fraud, or other harm. This case is currently pending in The United States District Court for the Northern District of Illinois.

DATA PRIVACY

Patterson v. Respondus, Inc., et al. (N.D. Ill.)

Filed on behalf of all persons who took an exam using Respondus' online exam proctoring software, Respondus Monitor, in the state of Illinois. Plaintiffs allege that Respondus collects, uses, and discloses students' biometric identifiers and biometric information in violation of Illinois' Biometric Information Privacy Act. This case is currently pending in the United States District Court for the Northern District of Illinois.

Powell v. DePaul University (N.D. Ill.)

Strauss Borrelli attorneys represented a class of DePaul University students located in the state of Illinois who were required to take exams using Respondus Monitor, which collects, uses, and discloses students' biometric identifiers and biometric

information in violation of Illinois' Biometric Information Privacy Act. Plaintiff alleged that DePaul University collects students' biometric identifiers and biometric information without written consent and without legally compliant written public policies. This case settled in 2023.

Fee v. Illinois Institute of Technology (N.D. Ill.)

Strauss Borrelli attorneys represented a class of Illinois Institute of Technology students located in the state of Illinois who were required to take exams using Respondus Monitor, which collects, uses, and discloses students' biometric identifiers and biometric information in violation of Illinois' Biometric Information Privacy Act. Plaintiff alleged that Illinois Institute of Technology collects students' biometric identifiers and biometric information without written consent and without legally compliant written public policies. This case settled in 2023.

Harvey v. Resurrection University (N.D. Ill.)

Strauss Borrelli attorneys represented a class of Resurrection University students located in the state of Illinois who were required to take exams using Respondus Monitor, which collects, uses, and discloses students' biometric identifiers and biometric information in violation of Illinois' Biometric Information Privacy Act. Plaintiff alleged that Resurrection University collects students' biometric identifiers and biometric information without written consent and without legally compliant written public policies. This case settled in 2023.

RIGHT OF PUBLICITY

Abraham, et al. v. PeopleConnect, Inc., et al. (N.D. California)

Filed on behalf of California residents against PeopleConnect alleging violations of California law that recognizes the intellectual property and privacy rights of individuals to control the commercial use of their names and likenesses. Plaintiffs allege that PeopleConnect violates these legal rights by using California residents' names and childhood photographs in advertisements promoting paid subscriptions to its website, classmates.com. The case is pending in the United States District Court for the Northern District of California.

Boshears, et al. v. PeopleConnect, Inc., et al. (W.D. Wash.)

Filed on behalf of Indiana residents against PeopleConnect alleging violations of Indiana's Right of Publicity Statute and Indiana's common law prohibiting misappropriation of a name or likeness. Plaintiffs allege that PeopleConnect violates these legal rights by using Indiana residents' personalities, including their names and childhood photographs, in advertisements promoting paid

subscriptions to its website, classmates.com. The case is currently on appeal before the United States Court of Appeals for the Ninth Circuit.

Loendorf v. PeopleConnect, Inc., et al. (N.D. Ill.)

Mackey v. PeopleConnect, Inc., et al. (N.D. Ill.)

Both actions were filed on behalf of Illinois residents against PeopleConnect alleging violations of Illinois' Right of Publicity Act and Illinois common law prohibiting unjust enrichment. Plaintiffs allege that PeopleConnect violates these legal rights by using Illinois residents' names, personas, and personal information in advertisements promoting paid subscriptions to its website, classmates.com, and unlawfully profiting from it. The cases are pending in the United States District Court for the Northern District of Illinois.

Sessa, et al. v. Ancestry.com Operations Inc., et al. (D. Nev.)

Filed on behalf of Nevada residents against Ancestry.com alleging violations of Nevada's right to publicity statute, Nevada law prohibiting deceptive trade practice, Nevada common law protection against Intrusion upon Seclusion, and Nevada Unjust Enrichment law. Plaintiffs allege that Ancestry.com violates these legal rights by knowingly misappropriating the photographs, likenesses, names, and identities of Nevada residents for the commercial purpose of selling access to and advertising them in Ancestry.com products and services without their prior consent. The case is pending in the United States District Court for the District of Nevada.

Braundmeier v. Ancestry.com Operations, Inc., et al. (N.D. Ill.)

Filed on behalf of Illinois residents against Ancestry.com alleging violations of Illinois' Right of Publicity Act and Illinois common law prohibiting unjust enrichment. Plaintiffs allege that Ancestry.com violates these legal rights by knowingly misappropriating the photographs, likenesses, names, and identities of Illinois residents for the commercial purpose of selling access to and advertising them in Ancestry.com products and services without their prior consent. The case is pending in the United States District Court for the Northern District of Illinois.

Spindler v. Seamless Contacts Inc. (N.D. Cal.)

Filed on behalf of California residents against Seamless Contacts Inc. alleging violations of California law that recognizes the intellectual property and privacy rights of individuals to control the commercial use of their names and likenesses. Plaintiffs allege that Seamless Contacts violates these legal rights by using California residents' names, likenesses, photographs, and personas in advertisements promoting paid subscriptions to its website, seamless.ai. The case is pending in the United States District Court for the Northern District of California.

Martinez v. ZoomInfo Technologies Inc. (W.D. Wash.)

Filed on behalf of California residents against ZoomInfo Technologies Inc. alleging violations of California law that recognizes the intellectual property and privacy rights of individuals to control the commercial use of their names and likenesses. Plaintiffs allege that ZoomInfo Technologies violates these legal rights by using California residents' names and person information in advertisements promoting paid subscriptions to its website, zoominfo.com, as well as selling access to their names and personal information as part of its products. The case is currently on appeal before the United States Court of Appeals for the Ninth Circuit.

Gbeintor v. DemandBase, Inc., et al. (N.D. Cal.)

Filed on behalf of California residents against DemandBase, Inc. and InsideView Technologies, Inc. alleging violations of California law that recognizes the intellectual property and privacy rights of individuals to control the commercial use of their names and likenesses. Plaintiffs allege that DemandBase and InsideView Technologies violate these legal rights by using California residents' names, likenesses, photographs, and personas in advertisements promoting paid subscriptions to its website, insideview.com, without their consent. The case is currently on appeal before the United States Court of Appeals for the Ninth Circuit.

Kellman, et al. v. Spokeo, Inc. (N.D. Cal.)

Filed on behalf of California residents against Spokeo, Inc. alleging violations of California law that recognizes the intellectual property and privacy rights of individuals to control the commercial use of their names and likenesses. Plaintiffs allege that Spokeo violates these legal rights by using California residents' names, likenesses, photographs, and personas in advertisements promoting paid subscriptions to its website without their consent. The case is pending in the United States District Court for the Northern District of California.

TELEPHONE CONSUMER PROTECTION ACT

Evans v. American Power & Gas, LLC, et al. (S.D. Ohio)

Filed on behalf of consumers who received automated solicitation telephone calls on their cellular telephones without their prior express consent within the meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* The case settled on a class-wide basis for \$6,000,000, and final approval was granted in May 2019.

Murray, et al. v. Grocery Delivery E-Services USA Inc. d/b/a Hello Fresh (D. Mass.)

Filed on behalf of consumers who received automated solicitation telephone calls on their cellular and residential telephones without their prior express consent within the meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* The case settled on a class-wide basis for \$14,000,000 in 2020. Final approval was granted in October 2021 and the case is currently on appeal to the United States Court of Appeals for the First Circuit.

Baldwin, et al. v. Miracle-Ear, Inc., et al. (D. Minn.)

Filed on behalf of consumers who received automated or prerecorded telemarketing telephone calls on their cellular and residential telephones without their prior express consent within the meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* The case settled on a class-wide basis for \$8,000,000 in 2021 and final approval was granted in October 2022.

Goodell, et al. v. Van Tuyl Group, LLC (D. Az.)

Filed on behalf of consumers who received automated solicitation telephone calls on their cellular and residential telephones without their prior express consent within the meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* This case settled in 2023.

Doup v. Van Tuyl Group, LLC (N.D. Tex.)

Filed on behalf of consumers who received solicitation telephone calls on their cellular and residential telephones that were listed on the National Do-Not-Call Registry, without their prior express consent within the meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* This case settled in 2023.

Dickson v. Direct Energy, LP, et al. (N.D. Ohio)

Filed on behalf of consumers who received automated or prerecorded telemarketing telephone calls on their cellular telephones without their prior express consent within the meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* This case is currently pending in the United States District Court for the Northern District of Ohio.

Learned, et al. v. McClatchy Company, LLC (E.D. Cal.)

Filed on behalf of consumers who received solicitation telephone calls on their cellular and residential telephones that were listed on the National Do-Not-Call Registry and/or who requested Defendant stop calling them, without their prior express consent within the meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* This case settled in 2023.

Rogers, et al. v. Assurance IQ, LLC, et al. (W.D. Wash.)

Filed on behalf of consumers who received automated solicitation telephone calls on their cellular and residential telephones, some that were listed on the National Do-Not-Call Registry, without their prior express consent within the meaning of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* This case is currently pending in the United States District Court for the Western District of Washington.

Our Professionals

SAMUEL J. STRAUSS

Samuel J. Strauss is a founding member of Strauss Borrelli PLLC. Mr. Strauss concentrates his practice in class action litigation with an emphasis on consumer protection and privacy issues. Mr. Strauss has a national practice and appears in federal courts across the country. Over the course of his career, Mr. Strauss has represented plaintiffs in cases which have resulted in the recovery of hundreds of millions of dollars for consumers.

Mr. Strauss received his J.D. with honors from the University of Washington School of Law in 2013. Prior to forming Strauss Borrelli in 2024, Mr. Strauss was a founding member of Turke & Strauss in 2016, in Madison, Wisconsin, where he successfully prosecuted complex class actions in federal and state courts.

Mr. Strauss is a member of bars of the states of Washington, Wisconsin, and Illinois and has been admitted to practice in the United States District Court for the Western District of Washington, United States District Court for the Eastern District of Washington, United States District Court for the Western District of Wisconsin, the United States District Court for the Eastern District of Wisconsin, the United States District Court for the Northern District of Illinois, the United States District Court for the Eastern District of Michigan, and the United States Court of Appeals for the Ninth Circuit.

In recent years, Mr. Strauss has been actively involved in a number of complex class action matters in state and federal courts including:

Daum, et al. v. K & B Surgical Center, LLC, No. 21STCV41347 (Cal. Sup. Ct., Los Angeles Cty.)

Reetz v. Advocate Aurora Health, Inc., No. 20CV2361 (Wis. Cir. Ct., Branch 22, Milwaukee Cty.)

Goetz v. Benefit Recovery Specialists, Inc., No. 2020CV000550 (Wis. Cir. Ct., Walworth Cty.)

Joyner v. Behavioral Health Network, Inc., No. 2079CV00629 (Mass. Sup. Ct., Hampden Cty.)

In re BJC Healthcare Data Breach Litigation, No. 2022-CC09492 (Mo. Cir. Ct., St. Louis City)

Baldwin, et al. v. National Western Life Insurance Company, No. 2:21-cv-04066 (W.D. Mo.)

Pryor v. Eastern Bank, No. 1984CV03467-BLS1 (Mass. Sup. Ct., Suffolk Cty.)
Murray v. Grocery Delivery E-Services USA Inc. d/b/a Hello Fresh, No. 19-cv-12608 (D. Mass.)
Baldwin v. Miracle-Ear, Inc., No. 20-cv-01502 (D. Minn.)
Goodell v. Van Tuyl Group, LLC, No. 20-cv-01657 (D. Az.)
Weister v. Vantage Point AI, LLC, No. 21-cv-01250 (M.D. Fla.)
Lang v. Colonial Penn Life Insurance Company, No. 21-cv-00165 (N.D. Fla.)
Mackey v. PeopleConnect, Inc., No. 1:22-cv-00342 (N.D. Ill.)
Sessa v. Ancestry.com Operations Inc., et al., No. 2:20-cv-02292 (D. Nev.)
Boshears v. PeopleConnect, Inc., No. 21-cv-01222 (W.D. Wash.)
Braundmeier v. Ancestry.com Operations, Inc., No. 1:20-cv-07390 (N.D. Ill.)
Martinez v. ZoomInfo Technologies Inc., No. 21-cv-05725 (W.D. Wash.)
Uhhariet v. MyLife.com, Inc., No. 21-cv-08229 (N.D. Cal.)
Kellman v. Spokeo, Inc., No. 21-cv-08976 (N.D. Cal.)
Patterson v. Respondus, Inc., No. 20-cv-07692 (N.D. Ill.)
Bridges v. Respondus, Inc., No. 21-cv-01785 (N.D. Ill.)
Hudock v. LG Electronics USA, Inc., No. 16-cv-1220 (D. Minn.)
Crawford v. FCA US LLC, No. 20-cv-12341 (E.D. Mich.)
Klaehn, et al. v. Cali Bamboo, LLC, No. 19-cv-01498 (S.D. Cal.)
Jones v. Monsanto Company, No. 19-cv-00102 (W.D. Mo.)
Dickson v. Direct Energy, LP, et al., No. 18-cv-00182 (N.D. Ohio)
Rolland v. Spark Energy, LLC, Case. No. 17-cv-02680 (D.N.J.)
Evans v. American Power & Gas, LLC, No. 17-cv-00515 (S.D. Ohio)
Fowler v. Wells Fargo Bank, N.A., No. 17-cv-02092 (N.D. Cal.)
Wilkins v. HSBC Bank Nevada, N.A., et al., No. 14-cv-00190 (N.D. Ill.)
Ott v. Mortgage Investors Corporation, No. 14-cv-00645 (D. Or)
Booth v. AppStack, et al., No. 13-cv-01533 (W.D. Wash.)
Melito v. American Eagle Outfitters, Inc., No. 14-cv-02440-VEC (S.D.N.Y.)
Spencer v. FedEx Ground Package System, Inc., No. 14-2-30110-3 SEA (Wa. Sup. Ct., King Cty.)

RAINA C. BORRELLI

Raina C. Borrelli is a founding member of Strauss Borrelli PLLC. Ms. Borrelli's practice focuses on complex class action litigation, including data privacy, Telephone Consumer Protection Act ("TCPA"), false advertising, and consumer protection cases in both state and federal courts around the country. Ms. Borrelli has served as lead, co-lead, and class counsel in numerous national class actions, including multi-district litigation. Additionally, Ms. Borrelli has substantial experience leading discovery teams in these complex class action matters, as well as in working with class damages experts and class damages models in consumer protection cases.

Ms. Borrelli received her J.D. *magna cum laude* from the University of Minnesota Law School in 2011. Prior to founding Strauss Borrelli, Ms. Borrelli was a partner at Gustafson Gluek, where she successfully prosecuted complex class actions in federal and state courts. Ms. Borrelli is an active member of the Minnesota Women's Lawyers and the Federal Bar Association, where she has assisted in the representation of *pro se* litigants through the *Pro Se* Project. Ms. Borrelli has repeatedly been named to the annual Minnesota "Rising Star" Super Lawyers list (2014-2021) by SuperLawyers Magazine. She has also been repeatedly certified as a North Star Lawyer by the Minnesota State Bar Association (2012-2015; 2018-2020) for providing a minimum of 50 hours of *pro bono* legal services.

Ms. Borrelli is a member of the Minnesota State Bar Association and has been admitted to practice in the United States District Court for the District of Minnesota, the United States District Court for the Eastern District of Wisconsin, the United States District Court for the Eastern District of Michigan, the United States District Court for the Northern District of Illinois, and the United States Court of Appeals for the Tenth Circuit.

In recent years, Ms. Borrelli has been appointed to leadership positions in a number of data privacy cases, including *In re Netgain Technology, LLC Consumer Data Breach Litigation*, No. 21-cv-01210 (D. Minn.) (Interim Executive Committee); *Dusterhoff, et al. v. OneTouchPoint Corp.*, No. 2:22-cv-00882 (E.D. Wisc.) (Plaintiffs' Steering Committee); *In re Lincare Holdings Inc. Data Breach Litigation*, No. 8:22-cv-01472 (M.D. Fl.) (Interim Executive Leadership Committee); *Forslund v. R.R. Donnelley & Sons Company*, No. 1:22-cv-04260 (N.D. Ill.) (interim co-lead counsel); *Medina v. PracticeMax Incorporated*, No. 2:22-cv-0126 (D. Az.) (Executive Leadership Committee); *In re C.R. England, Inc. Data Breach Litig.*, No. 2:22-cv-00374 (interim co-lead counsel); *Doe, et al. v. Knox College, Inc.*, No. 4:23-cv-04012 (C.D. Ill.) (co-lead counsel); and *In re OakBend Medical Center Data*

Breach Litigation, No. 4:22-cv-03740 (S.D. Tex.) (interim co-lead counsel). Ms. Borrelli has been substantially involved in a number of complex class action matters in state and federal courts including:

Daum, et al. v. K & B Surgical Center, LLC, No. 21STCV41347 (Cal. Sup. Ct., Los Angeles Cty.)
Grogan v. McGrath RentCorp, No. 3:22-cv-00490 (N.D. Cal.)
Benedetto, et al. v. Southeastern Pennsylvania Transportation Authority, No. 210201425 (C.C.P. Phila.)
Reetz v. Advocate Aurora Health, Inc., No. 20CV2361 (Wis. Cir. Ct., Branch 22, Milwaukee Cty.)
Goetz v. Benefit Recovery Specialists, Inc., No. 2020CV000550 (Wis. Cir. Ct., Walworth Cty.)
Reese v. Teen Challenge Training Center, Inc., No. 00093 (C.C.P. Phila.)
Lhota v. Michigan Avenue Immediate Care, S.C., No. 2022CH06616 (Ill. Cir. Ct., Cook Cty.)
Johnson, et al. v. Yuma Regional Medical Center, No. 2:22-cv-01061 (D. Az.)
Baldwin v. Miracle-Ear, Inc., No. 20-cv-01502 (D. Minn.)
Murray, et al. v. Grocery Delivery E-Services USA Inc. d/b/a Hello Fresh, No. 1:19-cv-12608 (D. Mass.)
Goodell v. Van Tuyl Group, LLC, No. 20-cv-01657 (D. Az.)
Learned, et al. v. McClatchy Company LLC, No. 2:21-cv-01960 (E.D. Cal.)
Lang v. Colonial Penn Life Insurance Company, No. 21-cv-00165 (N.D. Fla.)
Martinez v. ZoomInfo Technologies Inc., No. 21-cv-05725 (W.D. Wash.)
Abraham, et al. v. PeopleConnect, Inc., No. 3:20-cv-09203 (N.D. Cal.)
Boshears v. PeopleConnect, Inc., No. 21-cv-01222 (W.D. Wash.)
Mackey v. PeopleConnect, Inc., No. 1:22-cv-00342 (N.D. Ill.)
Sessa v. Ancestry.com Operations Inc., et al., No. 2:20-cv-02292 (D. Nev.)
Braundmeier v. Ancestry.com Operations, Inc., No. 1:20-cv-07390 (N.D. Ill.)
DeBose v. Dun & Bradstreet Holdings, Inc., No. 2:22-cv-00209 (D.N.J.)
Gbeintor, et al. v. DemandBase, Inc., et al., No. 3:21-cv-09470 (N.D. Cal.)
Spindler v. Seamless Contacts Inc., No. 4:22-cv-00787 (N.D. Cal.)
Kellman, et al. v. Spokeo, Inc., No. 3:21-cv-08976 (N.D. Cal.)
Brown v. Coty, Inc., No. 1:22-cv-02696 (S.D.N.Y.)
Benanav v. Healthy Paws Pet Insurance LLC, No. 2:20-cv-00421 (W.D. Wash.)
Spindler, et al. v. General Motors LLC, No. 3:21-cv-09311 (N.D. Cal.)
Hudock v. LG Electronics USA, Inc., No. 16-cv-1220 (JRT/KMM) (D. Minn.)
Patterson v. Respondus, Inc., No. 1:20-cv-07692 (N.D. Ill.)
Powell v. DePaul University, No. 1:21-cv-03001 (N.D. Ill.)
Fee v. Illinois Institute of Technology, No. 1:21-cv-02512 (N.D. Ill.)

Harvey v. Resurrection University, No. 1:21-cv-03203 (N.D. Ill.)
In re FCA Monostable Gearshifts Litig., No. 16-md-02744 (E.D. Mich.)
Zeiger v. WellPet LLC, No. 17-cv-04056 (N.D. Cal.)
Wyoming v. Procter & Gamble, No. 15-cv-2101 (D. Minn.)
In re Big Heart Pet Brands Litig., No. 18-cv-00861 (N.D. Cal.)
Sullivan v. Fluidmaster, No. 14-cv-05696 (N.D. Ill.)
Rice v. Electrolux Home Prod., Inc., No. 15-cv-00371 (M.D. Pa.)
Gorzynski v. Electrolux Home Products, Inc., No. 18-cv-10661 (D.N.J.)
Reitman v. Champion Petfoods, No. 18-cv-1736 (C.D. Cal.)
Reynolds, et al., v. FCA US, LLC, No. 19-cv-11745 (E.D. Mich.).

CASSANDRA MILLER

Cassandra Miller is a partner at Strauss Borrelli PLLC whose practice focuses on complex class action litigation, including consumer protection, privacy, data breaches, and product liability. Ms. Miller is adept at navigating the intricate legal landscapes of both state and federal courts across the nation. Additionally, Ms. Borrelli has substantial experience leading teams in these complex class action matters.

Ms. Miller received her J.D. *magna cum laude* from the University of Illinois Chicago School of Law in 2006. Prior to joining Strauss Borrelli, Ms. Miller was a managing partner at Edelman Combs Lattuner & Goodwin, LLC. There, Ms. Miller handled a wide range of consumer protection claims under key statutes such as the Fair Credit Reporting Act (FCRA), Fair Debt Collection Practices Act (FDCPA), Uniform Commercial Code (UCC), Telephone Consumer Protection Act (TCPA), and Truth in Lending Act (TILA), as well as the Illinois Consumer Fraud and Deceptive Practices Act (ICFA), alongside related state and federal consumer statutes.

Ms. Miller is a member of the Illinois State Bar Association and has been admitted to practice in the United States District Court for the Northern District of Illinois, the United States District Court for the Central District of Illinois, the United States District Court for the Southern District of Indiana, the United States District Court for the Northern District of Indiana, and the United States Court of Appeals for the Seventh Circuit.

Ms. Miller has been substantially involved in a number of complex class action matters in state and federal courts including:

Pietras v. Sentry, 513 F. Supp. 2d 983 (N.D. Ill. 2007)

Hernandez v. Midland Credit Mgmt., 2007 U.S. Dist. LEXIS 16054 (N.D. Ill. 2007)

Balogun v. Midland Credit Mgmt., 2007 U.S. Dist. LEXIS 74845 (S.D. Ind. 2007)

Miller v. Midland Credit Mgmt., 2009 U.S. Dist. LEXIS 18518 (N.D. Ill. 2009)

American Family Mutual Ins. Co. V. CMA Mortgage, Inc., 2008 U.S. Dist. LEXIS 30233 (S.D. Ind. 2008)

Herkert v. MRC Receivables Corp., 254 F.R.D. 344 (N.D. Ill. 2008)

Walker v. Calusa Investments, LLC, 244 F.R.D. 502 (S.D. Ind. 2007)

Frydman v. Portfolio Recovery Associates, LLC, 2011 U.S. Dist. LEXIS 69502 (N.D. Ill. 2011)

Webb v. Midland Credit Mgmt., 2012 U.S. Dist. LEXIS 80006 (N.D. Ill. May 31,

2012)

Tabiti v. LVNV Funding, LLC, 2017 U.S. Dist. LEXIS 5932 (N.D. Ill. Jan. 17, 2017), reconsideration denied, 2017 U.S. Dist. LEXIS 238583 (N.D. Ill., May 16, 2017)

Wheeler v. Midland Funding LLC, 2020 U.S. Dist. LEXIS 52409 (N.D. Ill. July 31, 2017),

Magee v. Portfolio Recovery Assocs., 2016 U.S. Dist. LEXIS 61389 (N.D. Ill. May 9, 2016), reconsideration denied, 2016 U.S. Dist. LEXIS 123573 (N.D. Ill. Sept. 13, 2016)

BRITTANY RESCH

Brittany Resch is a partner at Strauss Borrelli PLLC. Ms. Resch's practice focuses on complex class action litigation, including data breach, privacy, Telephone Consumer Protection Act ("TCPA"), false advertising, and consumer protection cases in both state and federal courts around the country. Since 2022, Ms. Resch has served as an adjunct professor at the University of Minnesota Law School teaching a seminar on e-Discovery.

Ms. Resch received her J.D. from the University of Minnesota Law School in 2015, after which she clerked for the Honorable Richard H. Kyle, Senior United States District Judge for the District of Minnesota. Prior to joining Strauss Borrelli PLLC, Ms. Resch was an associate at Gustafson Gluek, where she prosecuted complex antitrust, consumer protection, and civil rights class actions in federal and state courts. Ms. Resch was named one of the Attorneys of the Year in 2019 by Minnesota Lawyer for her work representing a pro se litigant in federal court through the Pro Se Project. Ms. Resch was also named a Rising Star in 2020 and 2021 and a 2021 Up & Coming Attorney by Minnesota Lawyer.

Ms. Resch has been an active member in the Federal Bar Association for a decade, holding various leadership and committee positions. Ms. Resch also assists in the representation of pro se litigants through the District of Minnesota Federal Bar Association's Pro Se Project. Ms. Resch is also an active member of Minnesota Women Lawyers. Ms. Resch has also been certified as a North Star Lawyer by the Minnesota State Bar Association for providing a minimum of 50 hours of pro bono legal services (2023, 2021, 2020, 2019).

Ms. Resch is a member of the Minnesota State Bar Association and has been admitted to practice in the United States District Court for the District of Minnesota and the United States District Court for the Northern District of Illinois.

Ms. Resch recently has significant experience in data privacy litigation and is currently litigating more than fifty data breach cases in courts around the country as counsel on behalf of millions of data breach victims, including *McKittrick v. Allwell Behavioral Health Services*, Case No. CH-2022-0174 (Muskingum County, Ohio) (appointed class counsel for settlement purposes); *Hall v. Centerspace, LP*, Case No. 22-cv-2028 (D. Minn.); *Morrison v. Entrust Corp., et al.*, Case No. 23-cv-415 (D. Minn.); *Batchelor v. MacMillan, et al.*, Case No. 157072/2023 (New York County, NY); *Tribbia, et al., v. Hanchett Paper Company*, Case No. 2022 CH 3677 (Cook County, IL); *Benedetto v. Southeastern Pennsylvania Transportation*

Authority, No. 210201425 (C.C.P. Phila.); *Corra, et al. v. ACTS Retirement Services, Inc.*, No. 2:22-cv-02917 (E.D. Pa.); *Lamie, et al. v. LendingTree, LLC*, No. 3:22-cv-00307 (W.D.N.C); and *In re Lincare Holdings Inc. Data Breach Litigation*, No. 8:22-cv-01472 (M.D. Fl.). Additionally, in recent years, Ms. Resch has been substantially involved in a number of complex class action matters in state and federal courts including:

Emmrich v. General Motors LLC, No. 21-cv-05990 (N.D. Ill.)
Spindler v. General Motors LLC, No. 21-cv-09311 (N.D. Cal.)
DeBose v. Dun & Bradstreet Holdings, Inc., No. 2:22-cv-00209 (D.N.J.)
Gbeintor, et al. v. DemandBase, Inc., et al., No. 3:21-cv-09470 (N.D. Cal.)
Kellman, et al. v. Spokeo, Inc., No. 3:21-cv-08976 (N.D. Cal.)
Kis v. Cognism Inc., No. 4:22-cv-05322 (N.D. Cal.)
Benanav, et al. v. Healthy Paws Pet Insurance, LLC, No. 2:20-cv-00421-RSM (W.D. Wash.)
Martinez v. ZoomInfo Technologies Inc., No. 21-cv-05725 (W.D. Wash.)
Abraham, et al. v. PeopleConnect, Inc., No. 3:20-cv-09203 (N.D. Cal.)
Boshears v. PeopleConnect, Inc., No. 21-cv-01222 (W.D. Wash.)
Mackey v. PeopleConnect, Inc., No. 1:22-cv-00342 (N.D. Ill.)
Sessa v. Ancestry.com Operations Inc., et al., No. 2:20-cv-02292 (D. Nev.)
Braundmeier v. Ancestry.com Operations, Inc., No. 1:20-cv-07390 (N.D. Ill.)
Spindler v. Seamless Contacts Inc., No. 4:22-cv-00787 (N.D. Cal.)
Uhhariet v. MyLife.com, Inc., No. 21-cv-08229 (N.D. Cal.)
Patterson v. Respondus University, et al., No. 1:20-cv-07692 (N.D. Ill.)
Bridges v. Respondus University, et al., No. 1:21-cv-01785 (N.D. Ill.)
In re Broiler Chicken Antitrust Litigation, No. 16-cv-08637 (N.D. Ill.)
In re Pork Antitrust Litigation, No. 21-md-02998 (D. Minn.)
Hudock v. LG Electronics USA, Inc., No. 16-cv-1220 (JRT/KMM) (D. Minn.)
In re Asacol Antitrust Litigation, No. 15-cv-12730 (D. Mass.)

ALEX S. PHILLIPS

Alex Phillips is a partner at Strauss Borrelli PLLC. Mr. Phillips concentrates his practice in complex class action litigation and commercial litigation. He has represented both plaintiffs and defendants in high stakes litigation. Mr. Phillips has successfully obtained trial verdicts on behalf of his clients as well as negotiated numerous high-value settlements.

Mr. Phillips received his J.D. from the University of Wisconsin School of Law in 2017 and has been an active member of the Wisconsin State Bar as well as the Dane, Jefferson, and Dodge County Bar Associations.

In recent years, Mr. Phillips has been involved in a number of complex class action matters in state and federal courts including:

Benedetto v. Southeastern Pennsylvania Transportation Authority, No. 210201425 (C.C.P. Phila.)
Grogan v. McGrath RentCorp, No. 3:22-cv-00490 (N.D. Cal.)
Koeller, et al. v. Numrich Gun Parts Corporation, No. 1:22-cv-00675 (S.D.N.Y.)
Mayhood v. Wilkins Recreational Vehicles, Inc., No. E2022-0701 (N.Y. Sup. Ct., Steuben Cty.)
Perkins v. WelldyneRx, LLC, No. 8:22-cv-02051 (M.D. Fla.)
Batis v. Dun & Bradstreet Holdings, Inc., No. 3:22-cv-09124 (N.D. Cal.)
Sessa v. Ancestry.com Operations Inc., et al., No. 2:20-cv-02292 (D. Nev.)
Ambraon v. First American Home Warranty Corporation, No. 2:22-cv-01003 (W.D. Pa.)
DeVivo v. Sovereign Lending Group Incorporated, No. 3:22-cv-05254 (W.D. Wash.)
Murray, et al. v. Grocery Delivery E-Services USA Inc. d/b/a Hello Fresh, No. 1:19-cv-12608 (D. Mass.)
Spindler v. General Motors LLC, No. 21-cv-09311 (N.D. Cal.)
Kellman v. Spokeo, Inc., No. 21-cv-08976 (N.D. Cal.)
Reetz v. Advocate Aurora Health, Inc., No. 20CV2361 (Wis. Cir. Ct., Branch 22, Milwaukee Cty.)
Goetz v. Benefit Recovery Specialists, Inc., No. 2020CV000550 (Wis. Cir. Ct., Walworth Cty.)
Hudock v. LG Electronics USA, Inc., No. 16-cv-1220 (D. Minn.)
Dickson v. Direct Energy, LP, et al., No. 18-cv-00182 (N.D. Ohio)
Benanav v. Healthy Paws Pet Insurance, LLC, No. 20-cv-00421 (W.D. Wash.)
Klaehn, et al. v. Cali Bamboo, LLC, et al., No. 19-cv-01498 (S.D. Cal.)

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION**

ALEXSIS WEBB and MARSCLETTE
CHARLEY, on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

INJURED WORKERS PHARMACY, LLC,

Defendant.

Case No. 1:22-cv-10797-RGS

**PROPOSED ORDER GRANTING PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT AND CONDITIONALLY
CERTIFYING SETTLEMENT CLASS**

WHEREAS, the above-styled Action was filed on May 24, 2022 against Defendant Injured Workers Pharmacy, LLC (“Defendant” or “IWP”). Alexis Webb and Marsclette Charley (“Plaintiffs”), individually and on behalf of the Settlement Class (defined below) reached an agreement with IWP settling their related claims, as set forth in more detail in the Settlement Agreement and Release (“Settlement Agreement”);

WHEREAS, Plaintiffs individually and on behalf of themselves and on behalf of all others similarly situated and the proposed Settlement Class (defined below), and Defendant (collectively, the “Settling Parties”), have entered into a Settlement Agreement and resolving the Action, subject to Court approval;

WHEREAS, the Action was settled as a result of arm’s-length negotiations overseen by a neutral third-party mediator, investigation, informal discovery, and formal discovery sufficient to permit counsel and the Court to act knowingly, and counsel are well experienced in similar class action litigation; and

WHEREAS, Named Plaintiffs, the proposed Class Representatives, have moved the Court for entry of an Order Granting Preliminary Approval of Class Action Settlement and Conditionally Certifying Settlement Class (“Preliminary Order”) approving the Settlement, conditionally certifying the Settlement Class for settlement purposes only, and approving the form and method of notice upon the terms and conditions set forth in the Settlement Agreement, together with all exhibits thereto.

WHEREAS, all proceedings in the Litigation, other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement Agreement and this Order, are hereby stayed.

WHEREAS, the Court having considered the Settlement Agreement, together with all exhibits thereto and records in this case, and the arguments of counsel and for good cause appearing, **HEREBY ORDERS** as follows:

I. CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS

1. Named Plaintiffs’ Motion for Preliminary Approval of the Class Action Settlement is GRANTED. The terms defined in the Settlement Agreement shall have the same meanings in this Order.

2. Having made the findings set forth below, the Court conditionally certifies the following Class (comprised of the “Nationwide Class,” hereinafter “Settlement Class”) for settlement purposes only:

All individuals residing in the United States for whom Defendant has contact information and/or identifying information, such as date of birth or Social Security number, whose Personal Information was potentially compromised in the Data Incident disclosed by Injured Workers Pharmacy in February 2022.

3. Excluded from the Settlement Class are: (1) the judges presiding over this Action, and members of their direct families; (2) the Defendant, their subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or their parents have a controlling interest, and their current or former officers and directors; and (3) Settlement Class Members who submit a valid Request for Exclusion prior to the Opt-Out Deadline.

4. For settlement purposes only, with respect to the Settlement Class, the Court preliminary finds the prerequisites for a class action pursuant to Federal Rule of Civil Procedure 23 have been met, in that: (a) the Settlement Class is so numerous that joinder of all individual Settlement Class members in a single proceeding is impracticable; (b) questions of law and fact common to all Settlement Class Members predominate over any potential individual questions; (c) the claims of the Plaintiffs are typical of the claims of the Settlement Class; (d) Named Plaintiffs and proposed Class Counsel will fairly and adequately represent the interests of the Settlement Class; and (e) a class action is the superior method to fairly and efficiently adjudicate this controversy.

5. The Court hereby appoints Plaintiffs Alexis Webb and Marsclette Charley as Class Representatives for the Settlement Class.

6. The Court hereby appoints David K. Lietz of Milberg Coleman Bryson Phillips Grossman PLLC and Raina C. Borrelli of Strauss Borrelli PLLC as Class Counsel.

II. PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT

7. The terms of the Settlement, including its proposed release, are preliminarily approved as within the range of fair, reasonable, and adequate, and are sufficient to warrant providing notice of the Settlement to the Settlement Class in accordance with the Notice Program, and are subject to further and final consideration at the Final Approval Hearing provided for below.

In making this determination, the Court considered the fact that the Settlement is the product of arm's-length negotiations facilitated by a neutral mediator and conducted by experienced and knowledgeable counsel, the current posture of the Action, the benefits of the Settlement to the Settlement Class, and the risk and benefits of continuing litigation to the Settling Parties and the Settlement Class.

8. As provided for in the Settlement Agreement, if the Court does not grant final approval of the Settlement or if the Settlement is terminated or cancelled in accordance with its terms, then the Settlement, and the conditional certification of the Settlement Class for settlement purposes only provided for herein, will be vacated and the Litigation shall proceed as though the Settlement Class had never been conditionally certified for settlement purposes only, with no admission of liability or merit as to any issue, and no prejudice or impact as to any party's position on the issue of class certification or any other issue in the case.

III. NOTICE OF THE SETTLEMENT TO THE SETTLEMENT CLASS

9. The Court appoints Eisner Amper as the Settlement Administrator. The responsibilities of the Settlement Administrator are set forth in the Settlement Agreement.

10. The Court has considered the Notice provisions of the Settlement, the Notice Program set forth in the Settlement Agreement and the Postcard (Short Form) Notice and Long Form Notice, attached as Exhibits A and B to the Settlement Agreement, respectively, and as further defined in the Settlement Agreement. The Court finds that the direct mailing of the Postcard Notice in the manner set forth in the Notice Program is the best notice practicable under the circumstances, constitutes due and sufficient notice of the Settlement and this Order to all persons entitled thereto, and is in full compliance with applicable law and due process. The Court approves as to form and content the Short Form Notice and Long Form Notice in the forms attached as

Exhibits A and B, respectively, to the Settlement Agreement. The Court orders the Settlement Administrator to commence the Notice Program following entry of this Order in accordance with the terms of the Settlement Agreement.

11. The Court approves as to form and content the Claim Form attached as Exhibit C to the Settlement Agreement.

12. Settlement Class Members who qualify for and wish to submit a Claim Form under the Settlement shall do so in accordance with the requirements and procedures of the Settlement Agreement and the Claim Form under which they are entitled to seek relief. The Claims deadline is 90 days after the Notice Date. All Settlement Class Members who fail to submit a claim in accordance with the requirements and procedures of the Settlement Agreement and respective Claim Form shall be forever barred from receiving any such benefit but will in all other respects be subject to and bound by the provisions of the Settlement and the releases contained therein.

IV. REQUESTS FOR EXCLUSION FROM THE SETTLEMENT CLASS

13. Each person wishing to opt out of the Settlement Class must individually sign and timely submit written notice of such intent to the designated Post Office Box established by the Settlement Administrator. The written notice must clearly manifest the Settlement Class Member's intent to be excluded from the Settlement Class. To be effective, written notice must be postmarked no later than 60 days after the Notice Date.

14. Persons who submit valid and timely notices of their intent to be excluded from the Settlement Class shall neither receive any benefits of nor be bound by the terms of the Settlement.

15. Persons falling within the definition of the Settlement Class who do not timely and validly request to be excluded from the Settlement Class shall be bound by the terms of the Settlement, including its releases, and all orders entered by the Court in connection therewith.

V. OBJECTIONS

16. Each Settlement Class Member desiring to object to the Settlement Agreement shall submit a timely written notice of his or her objection by the Objection Date. Such notice shall state: (i) the name of the proceedings; (ii) the Settlement Class Member's full name, current mailing address, and telephone number; (iii) a statement of the specific grounds for the objection, as well as any documents supporting the objection and a description of whether the objection applies only to the Settlement Class Member, a subset of the Settlement Class, or the entire Settlement Class; (iv) the identity of any attorneys representing the objector (if any); (v) a statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear at the Final Approval Hearing; (vi) a description and/or copies of evidence that may be introduced at fairness hearing; (vii) a list of proceedings in which the Settlement Class Member has submitted an objection during the past five years; and (viii) the signature of the Settlement Class Member or the Settlement Class Member's attorney.

17. To be timely, written notice of an objection in appropriate form must be mailed and postmarked to the Clerk of Court at the address set forth in the Class Notice, no later than the Objection Date, 60 days after the Notice Date.

18. Unless otherwise ordered by the Court, any Settlement Class Member who does not timely object in the manner prescribed above shall be deemed to have waived all such objections and shall forever be foreclosed from making any objection to the fairness, adequacy, or reasonableness of the Settlement, including its releases, the Order and Judgment approving the Settlement, and Class Counsels' motion for a Fee Award and Costs and Plaintiffs' Service Award.

VI. THE FINAL APPROVAL HEARING

19. The Court will hold a Final Approval Hearing on [Date], at [Time] __.m., at the United States District Court for the District of Massachusetts, 1 Courthouse Way, Suite 2300 Boston, Massachusetts 02210, to consider: (a) whether certification of the Settlement Class for settlement purposes only should be confirmed; (b) whether the Settlement should be approved as fair, reasonable, adequate and in the best interests of the Settlement Class; (c) the application by Class Counsel for an award of attorneys’ fees, costs and expenses as provided for under the Settlement; (d) the application for Named Plaintiffs’ service awards as provided for under the Settlement; (e) whether the release of Released Claims as set forth in the Settlement should be provided; (f) whether the Court should enter the [Proposed] Final Order and [Proposed] Judgment; and (g) ruling upon such other matters as the Court may deem just and appropriate. The Final Approval Hearing may, from time to time and without further notice to Settlement Class Members be continued or adjourned by order of the Court.

20. No later than 14 days prior to the Final Approval Hearing, the Plaintiffs shall file their Motion for Final Approval of Class Action Settlement and their Motion for Award of Attorneys’ Fees and Expenses and Plaintiffs’ Service Awards.

21. The related time periods for events preceding the Final Approval Hearing are as follows:

SETTLEMENT TIMELINE

<u>Grant of Preliminary Approval</u>	
IWP provides list of Settlement Class Members to the Settlement Administrator	7 days after Preliminary Approval
IWP to Provide CAFA Notice Required by 28 U.S.C. § 1715(b)	Within 10 days of filing of the Preliminary Approval Motion

Long Form and Short Form Notices Posted on the Settlement Website	No later than 28 days after Preliminary Approval, or prior to the Settlement Website going live
Notice Date	30 days after Preliminary Approval.
Reminder Notice	60 days after Notice Date (if needed)
Class Counsel's Motion for Attorneys' Fees, Reimbursement of Litigation Expenses, and Class Representative Service Award	14 days before Objection and Opt-Out Deadlines
Objection Deadline	60 days after Notice Date
Opt-Out Deadline	60 days after Notice Date
Claims Deadline	90 days after Notice Date
Settlement Administrator Provide List of Objections/Opt-Outs to Counsel for the Parties	70 days after Notice Date
Motion for Final Approval	14 days before Final Approval Hearing Date
Settlement Administrator Provides Court Notice of Opt-Outs and/or Objections (via declaration supporting Plaintiffs' Motion for Final Approval)	14 days before Final Approval Hearing Date
<u>Final Approval Hearing</u>	150 days after Preliminary Approval Order (at minimum)

22. Any action brought by a Settlement Class Member concerning a Released Claim shall be stayed pending final approval of the Settlement.

IT IS SO ORDERED.

Dated:

The Honorable Richard G. Stearns
United States District Court Judge