

Docketed 11/24/2025

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss.

CONSTANTINE KOSSIFOS, on behalf of  
himself and all others similarly situated,

Plaintiff,

v.

SHIELDS HEALTH CARE GROUP, INC.,

Defendant.

SUPERIOR COURT  
TRIAL COURT DEPARTMENT

CASE NO. 2282-cv-00561

CONSOLIDATED WITH:

ESSEX, ss.

AMANDA JOHNSON, CHRISTINE  
CAMBRIA, COURTNEY HORGAN, and  
KENNETH VANDAM, on behalf of himself  
and all others similarly situated,

Plaintiff,

v.

SHIELDS HEALTH CARE GROUP, INC.,

Defendant.

SUPERIOR COURT  
TRIAL COURT DEPARTMENT

CASE NO. 2277-cv-00839

NORFOLK, ss.

WILLIAM BISCAN, TENNIE KOMAR, and  
LISA SMITH, on behalf of himself and all  
others similarly situated,

Plaintiff,

v.

SHIELDS HEALTH CARE GROUP, INC.,

Defendant.

SUPERIOR COURT  
TRIAL COURT DEPARTMENT

CASE NO. 2382-cv-0023

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

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## SUMMARY

This case arises from the compromise of personally identifiable information (“PII”) and protected health information (“PHI”) (collectively, “Private Information”) following the March 2022 Data Incident<sup>1</sup> experienced by Defendant Shields Health Group, Inc. (“Shields” or “Defendant”). After the Data Incident, Shields launched an investigation and discovered that certain files, which included Settlement Class Members’ Private Information, were potentially viewed and/or taken from Shields’ computer systems between March 7, 2022 and March 21, 2022. Defendant subsequently provided public notice of the Data Incident to approximately 2,382,578 impacted individuals whose Private Information may have been accessed as a result of the Data Incident.

Beginning June 9, 2022, proposed class action complaints were filed by the Federal Plaintiffs in the United States District Court for the District of Massachusetts pertaining to the Data Incident. (ECF No. 1).<sup>2</sup> Beginning June 16, 2022, class action complaints were also filed by the State Plaintiffs in Norfolk and Essex counties of the Massachusetts Superior Courts pertaining to the same Data Incident. (Dkt No. 1).<sup>3</sup> *See* Joint Declaration of Lori G. Feldman, Kelly K. Iverson,

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<sup>1</sup> All capitalized terms not defined herein have the same meaning as in the Settlement Agreement (the “Settlement Agreement” or “S.A.”), attached to the Motion for Preliminary Approval as Exhibit 1. (ECF No. 158-1; Dkt No. 40).

<sup>2</sup> References to ECF Nos. used herein refer to the docket for the Federal Action filed in the United States District Court for the District of Massachusetts, 1:22-cv-10901-PBS.

<sup>3</sup> References to Dkt Nos. used herein refer to the docket for the State Action filed in the Norfolk Superior Court in the Commonwealth of Massachusetts entitled *Kossifos v. Shields Health Care Group, Inc.*, No. 2282-cv-00561 (Norfolk County), consolidated with *Johnson v. Shields Health Care Group, Inc.*, No. 2277-cv-00839 (Essex County) and *Biscan v. Shields Health Care Group, Inc.*, No. 2382-cv-0023 (Norfolk County).

Alex J. Dravillas, and John A. Yanchunis in Support of Plaintiffs' Unopposed Motion for Preliminary Approval ("Prelim. App. Joint Decl.") ¶ 18. (ECF No. 158; Dkt No. 40.2).<sup>4</sup>

On July 19, 2022, the Federal Plaintiffs moved to consolidate related actions, which was ordered by the Federal Court on August 1, 2022. (ECF Nos. 8, 9). On March 16, 2023, the State Plaintiffs' cases were also consolidated into a single action in Norfolk County by the State Court. *See* Prelim. App. Joint Decl. ¶ 19.

After substantial formal and informal discovery and contested litigation, the Parties engaged in arm's-length negotiations at two separate full-day mediations with Hon. Wayne Andersen (Ret.), a retired United States District Judge, and eventually reached a proposed global settlement of all pending matters for \$15,350,000. *See* S.A., generally. The Settlement Agreement resolves the claims of the Federal Plaintiffs, the State Plaintiffs, a class of affected persons under Fed. R. Civ. P. 23 (the Federal Action Settlement Class), and a class of affected persons under Mass. R. Civ. P. 23 (the State Action Settlement Class). S.A. ¶¶ 2.19, 2.45, 2.53.

Settlement Class Counsel now seek an award of attorneys' fees and expenses from the common fund created by the global Settlement. Pursuant to the Settlement Agreement, to be effective, the Settlement must be finally approved by both the Federal and State Court. S.A. ¶¶ 13.1–13.2. Because the Settlement contemplates one global award for attorneys' fees and expenses, and requires approval by both the State Court and Federal Court, Settlement Class Counsel address the applicable standards for such an award under both federal and state law herein.

Settlement Class Counsel and all Plaintiffs' Counsel in the two actions have dedicated significant time, effort, and expense to the litigations, and they have done so entirely on a

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<sup>4</sup> For ease of references, the Prelim. App. Joint Decl. is also attached as Exh. A to the Joint Declaration of Settlement Class Counsel in Support of Plaintiffs' Motion for Attorneys' Fees, Expenses, and Representative Plaintiffs' Service Awards, submitted contemporaneously herewith.

contingent basis. *See* Joint Declaration of Settlement Class Counsel in Support of Plaintiffs’ Motion for Attorneys’ Fees, Expenses, and Representative Plaintiffs’ Service Awards (“Fee Decl.”), ¶ 16. For those efforts, and consistent with the Settlement Agreement, Settlement Class Counsel request the Courts to award attorneys’ fees in the amount of \$5,116,666.67 (33 and 1/3% of the common fund of \$15,350,000.00), and expenses in the amount of \$76,276.04. *See* S.A. ¶ 12.2. The requested fee award is a percentage of the monetary non-reversionary fund recovered for the class, and does not consider the total value of the Settlement, which includes the injunctive value of cybersecurity enhancements agreed upon by Shields in an effort to protect Settlement Class Members’ Private Information from moving forward. Additionally, Settlement Class Counsel seek modest Service Awards of \$2,500 per Representative Plaintiff for their time and involvement in this lawsuit, which service awards total \$37,500 for the collective fifteen Representative Plaintiffs (five Federal Plaintiffs and ten State Plaintiffs).

For the reasons set forth below, the Courts should award the requested global attorneys’ fees, expenses, and Service Awards.

## **I. FACTUAL BACKGROUND**

### **A. Nature of the Actions**

In the State and Federal Actions, Plaintiffs alleged that Defendant collected, maintained, and stored the Private Information of the Classes, which was compromised and exposed due to the Data Incident, which Private Information included, without limitation: names, physical addresses, dates of birth, health insurance provider information, billing information, health insurance numbers and information, medical record numbers, patient IDs, and other medical or treatment information. As a result, Plaintiffs alleged that they and the other Class members faced and face a substantial ongoing and continuing risk of harm. Following notification of the Data Incident,

Plaintiffs, on behalf of themselves and all others similarly situated, filed the Federal and State Actions seeking damages, statutory penalties, and injunctive relief against Defendant.

## **B. Federal and State Litigation; Global Settlement**

For over three years, the Parties have actively litigated this case in both the Federal and State Courts. Class Counsel have vigorously and, at times, contentiously litigated this case, despite numerous hurdles.

### **1. Federal Action Procedural History**

Beginning June 9, 2022, class action complaints were filed in the United States District Court for the District of Massachusetts, asserting claims arising out of the Data Incident. S.A. ¶ 1.6. Thereafter, the actions were consolidated. S.A. ¶ 1.7. By Order dated September 16, 2022, the Court appointed Interim Co-Lead Counsel: with George Feldman McDonald, PLLC, Lynch Carpenter LLP, and Keller Postman serving as Interim Co-Lead Counsel, Berman Tabacco and Block & Leviton serving as Interim Co-Liaison Counsel, and the following firms serving as the Interim Executive Committee: Barrack, Rodos & Bacine, Kantrowitz, Goldhamer & Graifman, P.C., Finkelstein, Blankinship, Frei-Pearson & Garber, LLP, Milberg LLP, Morgan & Morgan, Lynch Carpenter LLP, Scott+Scott Attorneys at Law LLP, Sweeney Merrigan Law LLC, and Wolf, Haldenstein, Adler, Freeman & Herz LLP. S.A. ¶ 1.8.

On January 9, 2023, the Federal Plaintiffs filed their Consolidated Class Action Complaint. S.A. ¶ 1.9. Shields filed its Motion to Dismiss on August 23, 2023, and the Federal Plaintiffs filed their opposition on October 2, 2023. S.A. ¶¶ 1.11, 1.12. The Parties appeared before Judge Saris on November 27, 2023, to present oral arguments relating to Shields' Motion to Dismiss. S.A. ¶ 1.14. On March 5, 2024, Judge Saris entered a Memorandum Opinion and Order granting in part

and denying in part Shields' Motion to Dismiss. S.A. ¶ 1.16. Shields subsequently filed its Answer on March 19, 2024. *Id.* ¶ 1.17.

## **2. State Action Procedural History**

Beginning June 16, 2022, class action complaints were filed in Norfolk and Essex counties of the Massachusetts Superior Courts pertaining to the same Data Incident. S.A. ¶ 1.20. On March 15, 2023, Defendant moved to consolidate the complaints filed into a single action in Norfolk County, which the State Court allowed on March 16, 2023. S.A. ¶¶ 1.21, 1.22.

On September 7, 2023, the State Plaintiffs filed their Consolidated Amended Complaint. S.A. ¶ 1.23. On February 5, 2024, Shields filed its Superior Court Rule 9A package for its Motion to Dismiss. S.A. ¶ 1.24. The Parties presented oral argument on May 29, 2024, and, on July 11, 2024, Judge Leighton issued a Memorandum and Order allowing certain counts to proceed and dismissing others. S.A. ¶¶ 1.25, 1.26. Shields filed its Answer on July 22, 2024. S.A. ¶ 1.27.

## **3. Discovery Efforts**

The Parties exchanged both formal and informal discovery throughout the course of this litigation. Plaintiffs served written discovery requests (document demands and interrogatories) on Shields. *See* Fee Decl. ¶ 17. Defendant also served written formal discovery requests on both the Federal Plaintiffs and State Plaintiffs. *Id.* ¶ 32. Although final responses were not ultimately served by Plaintiffs due to the settlement, the Representative Plaintiffs spent considerable time and effort assisting Class Counsel with preparing their responses and searching for relevant documents for production. *Id.* Furthermore, in preparation for mediation (detailed *infra*), the Parties also engaged in Fed. R. Evid. 408 / Mass. R. Evid. 408 informal discovery. *Id.* ¶ 17.

Given the nature of the information put at risk in the Data Incident and the number of individuals impacted, the Parties spent a considerable amount of time negotiating a Protective

Order and Electronically Stored Information (ESI) Protocol as part of their discovery efforts, which governed the discovery process and required negotiating search terms with Defendant. (ECF Nos. 144, 146).

#### **4. Mediation and Settlement History**

On April 5, 2024, counsel for the Parties attended an all-day remote mediation before Judge Andersen, in which they engaged in arm's-length negotiations. S.A. ¶ 1.30. The Parties did not reach an agreement after this mediation session and continued to litigate both the Federal and State Actions, including engaging in discovery. S.A. ¶¶ 1.30, 1.31. While counsel was unable to reach an agreement in principle during that first mediation session, the Parties eventually scheduled and attended a second, in-person mediation with Judge Andersen on November 15, 2024. S.A. ¶¶ 1.19, 1.29–1.32. The Parties made substantial progress at that second mediation, but did not reach a settlement. However, continued discussions through the mediator resulted in a mediator's proposal by Judge Andersen, which ultimately led to this global settlement of the State and Federal Actions. S.A. ¶ 1.33.

The Settlement Agreement is the product of intensive, arm's-length negotiations, conducted between experienced counsel on both sides, over the course of two all-day mediations and several additional rounds of communication. The Parties' negotiations were principled, with each side basing their offers and counter-offers on an analysis of information and documents exchanged through informal discovery, the facts and law applicable to the Parties' respective claims and defenses, and the potential recovery available at trial. The Parties then reached an agreement in principle to globally settle and resolve the State and Federal Actions, which was formalized by way of the Settlement Agreement.

## 5. Preliminary Approval of the Settlement and Administration

On September 9, 2025, the Federal Court granted preliminary approval of the proposed Settlement in the Federal Action. (ECF No. 165). On September 11, 2025, the State Court granted preliminary approval of the proposed Settlement in the State Action. (Dkt No. 47). The Federal and State Actions' Preliminary Approval Orders approved the proposed notice program and provided Settlement Class Members until November 25, 2025 to object to the Settlement and until December 3, 2025 to submit a claim for benefits under the Settlement. (ECF No. 165; Dkt No. 47). The Federal Court Preliminary Approval Order also provided until November 25, 2025 for Federal Action Settlement Class Members to opt-out of the Settlement.<sup>5</sup> (ECF No. 165).

To date, the Settlement Administrator has received two opt outs from the Federal Action Settlement Class and one objection from the State Action Settlement Class.<sup>6</sup> Fee Decl. at ¶¶ 28–29. Settlement Class Counsel and the Settlement Administrator will provide updated claims and exclusion statistics in connection with the forthcoming motion for final approval.

## II. TERMS OF THE SETTLEMENT

Defendant agreed to fund a non-reversionary Settlement Fund in the amount of \$15,350,000.00 which, subject to Court approval, will be used to provide all Settlement Class Members with benefits. S.A. ¶ 2.47. The Settlement Fund shall be used to pay for: (i)

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<sup>5</sup> State Action Settlement Class Members do not have the same Opt-Out ability as the Federal Action Settlement Class. *See Ari Weitzner, M.D., P.C. v. Cynosure, Inc.*, 5 N.E. 3d 953, 958 (Mass. App. 2014) (citing *Weld v. Glaxo Wellcome Inc.*, 746 N.E. 2d 522, 526 (Mass. 2001)).

<sup>6</sup> On October 20, 2025, an individual named Joseph Pedulla (“Objector”) filed an objection to the requested attorneys’ fees and service awards in the Federal Action. (ECF No. 166). Objector is a Massachusetts resident and, therefore, is a member of the State Action Settlement Class. Settlement Class Counsel has provided the objection to the Settlement Administrator for inclusion as an objection in the State Action. Plaintiffs respond, *infra*, to the arguments by the Objector related to attorneys’ fees and service awards. Plaintiffs will respond to arguments regarding final approval in their forthcoming motion for final approval.

Administration and Notice Costs; (ii) Approved Claims; (iii) Service Awards for the Representative Plaintiffs; and (iv) Attorneys' Fees and Expenses, as approved by the Courts. S.A.

¶ 3.3.

The Settlement Agreement's terms are designed to address the harms—and likely further harms—caused by the Data Incident and the benefits include reimbursement for ordinary and extraordinary losses and expenses, payments for lost time, credit monitoring, and the option to receive an alternative cash payment. All Settlement Class Members may submit claims for compensation for Ordinary Out-of-Pocket Losses and Attested Time, and Extraordinary Losses and Attested Time, or may instead claim an Alternative Cash Payment. S.A. ¶¶ 4.1–4.5. Settlement Class Members may receive compensation of up to \$2,500.00 for documented Ordinary Out-of-Pocket Losses and Attested Time incurred in responding to the Data Incident and/or notice of the Data Incident. S.A. ¶ 4.2. Regardless of whether they make a claim for Ordinary Out-of-Pocket Losses, all Settlement Class Members may make a claim for Ordinary Attested Time, for up to five hours at \$30 per hour (up to \$150 per Class Member). S.A. ¶ 4.2.2. Regardless of whether they make a claim for Ordinary Out-of-Pocket Losses or Attested Time, all Settlement Class Members may also submit a claim for Extraordinary Losses and Extraordinary Attested Time up to \$25,000. S.A. ¶ 4.3. All Settlement Class Members can submit a claim for Extraordinary Attested Time for up to 20 hours at \$30 per hour (up to \$600 per Class Member) for time spent remedying identity theft, fraud, or other misuse of their Personal Information. S.A. ¶ 4.3.2.

The Settlement Agreement also provides for an Alternative Cash Payment of \$50 per Class Member that can be selected in the alternative to making a claim for any combination of Ordinary Out-of-Pocket Losses, Ordinary Attested Time, Extraordinary Out-of-Pocket Losses, and/or Extraordinary Attested Time. S.A. ¶ 4.5.

Any residual funds will be distributed to the Massachusetts Local Consumer Aid Fund as a *cy pres* donation subject to the Courts approvals. S.A. ¶ 2.41. In addition to the monetary benefits, the Settlement Agreement also provides for significant remedial measures to strengthen Defendant’s data security systems, which will benefit all Settlement Class Members by helping to protect their information which remains in Defendant’s possession, and helping to prevent future data breaches involving Defendant. S.A. ¶¶ 5.1-5.3. Moreover, all Settlement Class Members are treated equally, and all are eligible to apply for the benefits applicable to their circumstances.

### **III. LEGAL STANDARDS APPLICABLE TO FEES AND EXPENSE AWARDS**

#### **A. Federal Action Legal Standard**

It is well settled that attorneys who represent a class and whose efforts achieve a benefit for class members are entitled to “attorneys’ fees and reimbursement of expenses prior to the distribution of the balance to the class.” *In re Ranbaxy Generic Drug Application Antitrust Litig.*, 630 F. Supp. 3d 241, 245 (D. Mass. 2022) (citing *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980)). Federal Rule of Civil Procedure 23(h) provides that courts may award “reasonable attorney’s fees and nontaxable costs that are authorized by law or the Parties’ agreement.” Fed. R. Civ. P. 23(h). Pursuant to the Settlement Agreement, Settlement Class Counsel here may seek an award of attorneys’ fees in an amount not to exceed 33 and 1/3% (\$5,116,666.67) of the Settlement Fund. S.A. ¶ 12.2.

In the First Circuit, district courts have broad discretion in awarding fees. *See In re Thirteen Appeals Arising Out of San Juan*, 56 F.3d 295, 307 (1st Cir. 1995) (“*In re Thirteen Appeals*”) (“[W]e hold that in a common fund case the district court, in the exercise of its informed discretion, may calculate counsel fees either on a percentage of the fund basis or by fashioning a lodestar.”). Courts commonly find that a percentage of the fund (sometimes referred to herein as “POF”)

calculation is the appropriate method for determining common fund fee awards. *Id.*; *see also In re Cabletron Sys., Inc. Sec. Litig.*, 239 F.R.D. 30, 37 (D.N.H. 2006) (“The POF method has emerged in the last decade-plus as the preferred method of awarding fees in common fund cases. As the First Circuit has noted, the POF method has distinct advantages over the lodestar approach.”); *In re Solodyn Antitrust Litig.*, No. 14-md-2503, 2018 WL 7075881, at \*2 (D. Mass. July 18, 2018) (using the percentage of the fund method); *In re Asacol Antitrust Litig.*, No. 15-cv-12730, 2017 WL 11475275, at \*4 (D. Mass. Dec. 7, 2017) (same). “The First Circuit has acknowledged the ‘distinct advantages’ of the POF method, explaining that it is less burdensome, enhances efficiency and better approximates the marketplace dynamics.” *Ranbaxy*, 630 F. Supp. 3d at 245 (quoting *In re Thirteen Appeals*, 56 F.3d at 307). “The POF method is preferred in common fund cases because it allows courts to award fees from the fund in a manner that rewards counsel for success and penalizes it for failure.” *In re Cabletron Sys.*, 239 F.R.D. at 37 (citations and quotations omitted); *see also Heien v. Archstone*, 837 F.3d 97, 100 (1st Cir. 2016) (POF method is “prevailing praxis” in common fund cases) (citation omitted).

As noted by the First Circuit, the POF approach offers distinct advantages including: (1) it is less burdensome to administer; (2) it reduces the possibility of collateral disputes; (3) it enhances the efficiency throughout the litigation; (4) it is less taxing on judicial resources; and (5) it better approximates the workings of the marketplace. *In re Thirteen Appeals*, 56 F.3d at 307. Courts in this district have accordingly noted that an award based on a percentage of the recovery is preferable to one based on lodestar. *See, e.g., In re Relafen Antitrust Litig.*, 231 F.R.D. 52, 77-78 (D. Mass. 2005) (noting that percentage method constitutes the “prevailing praxis” and that “[c]ontrary to popular belief it is the lodestar method, not the [percentage] method, that breaks

from precedent”). The preference is particularly strong here because Class Counsel represents clients *entirely* on a contingency basis and do not charge an hourly fee. *See* Fee Decl. ¶ 16.

To determine the reasonableness of attorneys’ fees, courts in the First Circuit customarily consider a series of factors. These factors include: (1) the size of the fund and the number of persons benefitted; (2) the skill, experience, and efficiency of the attorneys involved; (3) the complexity and duration of the litigation; (4) the risks of the litigation; (5) the amount of time devoted to the case by counsel; (6) awards in similar cases; and (7) public policy considerations. *See In re Neurontin Mktg. & Sales Practices Litig.*, 58 F. Supp. 3d 167, 170 (D. Mass. 2014) (citation omitted).

“The First Circuit does *not* require a court to cross check the percentage of fund against the lodestar in its determination of the reasonableness of the requested fee.” *Relafen*, 231 F.R.D. at 81 (emphasis added).

### **B. State Action Legal Standard**

Massachusetts state courts routinely award attorneys’ fees in class action cases. *See, e.g., Commonwealth Care All. v. Astrazeneca Pharm., Inc.*, No. CIV.A. 05-0269 BLS 2, 2013 WL 6268236 (Mass. Super. Aug. 5, 2013); *Salvas v. Wal-Mart Stores, Inc.*, 958 N.E.2d 535 (Mass. App. Ct. 2011) (unpub.) (affirming on appeal award of 38% of settlement fund to plaintiffs’ attorneys); *In re AMICAS, Inc. S’holder Litig.*, 27 Mass. L. Rptr. 568 (Mass. Super. Dec. 6, 2010); *Schiefer v. Bain Cap., LLC*, No. SUCV20153599BLS2, 2018 WL 6184638 (Mass. Super. Oct. 3, 2018); *Wright v. Balise Motor Sales Co.*, No. 1684CV3477, 2020 WL 5268329 (Mass. Super. July 31, 2020).

The Supreme Judicial Court of Massachusetts recently recognized the percentage-of-the-fund method as the proper method for calculating attorneys’ fees in a common fund case, such as

this. *Sutton v. Jordan's Furniture, Inc.*, 229 N.E.3d 1091, 1105 (Mass. 2024). The *Sutton* Court found a distinction between lodestar use in the statutory fee-shifting context, and common fund cases that utilize the percentage method.<sup>7</sup> *Id.* In common fund cases, the “court shapes the counsel fee based on what it determines is a reasonable percentage of the fund recovered for those benefitted by the litigation.” *Id.* (citing *In re Thirteen Appeals*, 56 F.3d at 305). After determining the reasonable fee based on a percentage of the common fund, courts may use lodestar as a cross-check to confirm that the fee is reasonable. *Id.* (citing *In re Cendant Corp. PRIDES Litig.*, 243 F.3d 722, 742 (3d. Cir. 2001)).

The lodestar method involves multiplying the number of hours reasonably spent on a case by a reasonable hourly rate. *Sutton*, 229 N.E.3d at 1104. But, in the common fund context, the “[l]odestar cross-check calculation need not entail mathematical precision or bean-counting, and is not a full-blown lodestar inquiry.” *Id.* at 1105. The ultimate fee award should consider qualitative factors, such as the benefits conferred on the class, the skill and performance of counsel, and the risk counsel undertook in assuming the case on a contingent basis. *Schiefer*, 2018 WL 6184638 at \*2.<sup>8</sup>

Plaintiffs submit that the requested fees are reasonable under the percentage-of-the-fund methodology. Moreover, as explained below, a lodestar cross-check confirms the requested fee is reasonable.

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<sup>7</sup> Compare *Schiefer*, 2018 WL 6184638, at \*2 (indicating—prior to *Sutton*—that the standard in state court is the lodestar approach, but citing to a supreme judicial court fee-shifting case—*Fontaine v. Ebtac Corp.*, 613 N.E.2d 881, 890 (Mass. 1993)).

<sup>8</sup> In *Schiefer* (pre-*Sutton*), the court utilized the lodestar method in a common fund case, but then applied a multiplier of 1.6 to the lodestar “to reflect the benefits conferred on the plaintiffs, the performance of counsel, and the risk that they were willing to assume in undertaking [the] case on a contingent basis.” *Schiefer*, 2018 WL 6184638, at \*2; see also *Commonwealth Care All*, 2013 WL 6268236 at \*2 (applying a 2 times upward adjustment to counsels’ lodestar based on the results achieved and the risks counsel undertook on a contingency basis).

#### IV. APPLICATION OF FEDERAL AND STATE LEGAL STANDARDS

As discussed below, all of the above-mentioned factors support the requested fee award.

##### A. The Requested Fees are Reasonable Under the Percentage-of-the-Fund Method

##### 1. 33 and 1/3 percent of the Common Fund is Reasonable and Consistent with Awards in Similar Cases

Both Massachusetts state courts and federal courts within the First Circuit have approved contingency fees of 33.33%, including in common fund cases. *See, e.g., In re Sovos Compliance Data Sec. Incident Litig.*, No. 1:23-cv-12100-AK (D. Mass July 23, 2024), ECF No. 51, ¶ 22 (approving 33.33% in attorneys' fees and separately awarding \$13,825.99 in expenses);<sup>9</sup> *Roberts v. TJX Companies, Inc.*, No. 13-CV-13142-ADB, 2016 WL 8677312, at \*11 (D. Mass. Sept. 30, 2016) (approving 1/3 of the common fund based on the positive result obtained for the class and the time and efforts expended by counsel); *Gordan v. Massachusetts Mut. Life Ins. Co.*, No. 13-CV-30184-MAP, 2016 WL 11272044, at \*2 (D. Mass. Nov. 3, 2016) ("the one-third fee requested here is fair and reasonable");<sup>10</sup> *Smith v. Consalvo*, 638 N.E.2d 501, 504 (Mass. App. Ct. 1994) (citing *Gagnon v. Shoblom*, 565 N.E.2d 775 (Mass. 1991)) (explaining that a 1/3 contingent fee is standard and reasonable); *Commonwealth Care All.*, 2013 WL 6268236 at \*2 (awarding 30% of a \$20 million common fund; or a two multiplier on the lodestar).<sup>11</sup>

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<sup>9</sup> A copy of the *Sovos* order is attached as **Exhibit 1**.

<sup>10</sup> *See also In re Stocker Yale, Inc. Sec. Litig.*, No. 1:05CV00177-SM, 2007 WL 4589772, at \*6 (D.N.H. Dec. 18, 2007) (awarding fees in the amount of 33% of settlement fund); *McCormick v. Festiva Dev. Grp., LLC*, No. 2:09-CV-00365-GZS, 2011 WL 2457883, at \* 1 (D. Me. June 20, 2011) (awarding fees in the amount of one third of settlement fund); *Applegate v. Formed Fiber Techs., LLC*, No. CIV.A. 2:10-00473, 2013 WL 6162596, at \*1 (D. Me. Nov. 21, 2013) (same); *Bennett v. Roark Capital Grp., Inc.*, No. 2:09-CV-00421-GZS, 2011 WL 1703447, at \*2 (D. Me. May 4, 2011) (same).

<sup>11</sup> The requested 33 and 1/3% of the Settlement Fund also falls squarely within the range of awards that courts have granted in other data breach cases. *See In re Asacol*, 2017 WL 11475275, at \*4 (awarding 1/3 of settlement fund in attorneys' fees and separately awarding expenses); *Kondash*

The same percentage is reasonable and should be awarded here, as supported by other similar awards.

## 2. The Size of the Fund and the Number of Persons Benefitted

Under the terms of the Settlement Agreement, Defendant will establish a \$15,350,000 Settlement Fund, which is fair, reasonable, and adequate relief for the 2,382,578 individuals affected by the Data Incident. The Settlement Fund will be used to pay for valid claims submitted for compensation for out-of-pocket losses, lost time, extraordinary losses, and extraordinary lost time. S.A. ¶¶ 4.1–4.5. Settlement Class Members who do not claim out-of-pocket losses or lost time may make a claim for an alternative \$50 cash payment. S.A. ¶ 4.5. The Settlement Agreement also provides for a residual distribution to the Massachusetts Local Consumer Aid Fund as a *cy pres* donation, if economically feasible, subject to Court approvals. S.A. ¶ 2.41.<sup>12</sup>

The Settlement relief afforded here will put money directly into the hands of all Settlement Class Members who make a claim. Even after the deduction of the proposed attorneys' fees and expenses of Settlement Class Counsel and the Service Awards to be requested for the Representative Plaintiffs, Plaintiffs estimate that each Class Member will have significant recovery, with the option to claim a minimum estimated flat \$50 cash payment in lieu of making

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*v. Citizens Bank, Nat'l Ass'n*, No. 18-CV-00288-WES-LDA, 2020 WL 7641785, at \*6 (D.R.I. Dec. 23, 2020) (same); *Barletti v. Connexin Software, Inc.*, No. 2:22-CV-04676-JDW, 2024 WL 3564556 (E.D. Pa. July 24, 2024) (same); *In re Novant Health, Inc.*, No. 1:22-CV-697, 2024 WL 3028443, at \*12 (M.D.N.C. June 17, 2024) (awarding 1/3 of the settlement fund in attorneys' fees and separately awarding expenses in a data privacy settlement); *In re Forefront Data Breach Litig.*, No. 21-CV-887, 2023 WL 6215366, at \*7 (E.D. Wis. Mar. 22, 2023) (same; in a data breach settlement); *In re Fortra File Transfer Software Data Security Breach Litig.*, No. 24-MD-03090-RAR, 2025 WL 2675178 (S.D. Fla. Sept. 17, 2025) (awarding 1/3 of \$20,000,000 settlement fund as attorneys' fees, plus reimbursement of costs in data breach settlement).

<sup>12</sup> Approved Claims may be increased or reduced *pro rata* depending on the total amount of Approved Claims in relation to the Settlement Fund after accounting for Administration and Notice Costs, Service Awards, and Attorneys' Fees and Expenses as approved by the Court. See S.A. ¶ 4.7.

a claim for reimbursements or time spent. The settlement benefits compare favorably to other approved settlements of this nature. *See, e.g., In re Fortra File Transfer Software Data Security Breach Litig.*, No. 24-MD-03090-RAR, 2024 WL 5362098 (S.D. Fla. Sep. 24, 2024) (resulting in a settlement of \$7 million, for a class of over a million individuals); *Bickham vs. ReproSource Fertility Diagnostics, Inc.*, No. 21-cv-11879, ECF No. 64-1 (D. Mass) (resulting in a settlement of \$1.25 million, for a class of 228,214 individuals); *In re Harvard Pilgrim Data Sec. Incident Litig.*, Case No. 1:23-cv-11211-NMG, ECF No. 97-2 (D. Mass.) (\$16 million settlement for a class of 2,967,396 individuals).

The Settlement's benefits are therefore comparable to, and in some cases more valuable than, those provided by other data breach settlements. *See, e.g., Barletti v. Connexin Software, Inc.*, No. 2:22-CV-04676-JDW, 2024 WL 1096531, at \*6 (E.D. Pa. Mar. 13, 2024) (granting preliminary approval to data breach settlement that provided class members the ability to file a claim for credit monitoring services, out-of-pocket losses, or an alternative cash payment); *In re Cap. One Consumer Data Sec. Breach Litig.*, No. 119MD2915AJTJFA, 2022 WL 18107626, at \*12 (E.D. Va. Sept. 13, 2022) (approving proposed allocation plan that allowed class members to submit claims for out-of-pocket losses, lost time, and credit monitoring services); *In re Wawa, Inc. Data Sec. Litig.*, No. 19-cv-06019-GEKP, 2024 WL 1557366, at \*6 (E.D. Pa. Apr. 9, 2024), *aff'd*, 141 F.4th 456 (3d Cir. 2025) (\$5 gift card or \$15 gift cards with proof of actual or attempted fraud).

Further, as of this filing, only two Federal Action Settlement Class members have excluded themselves from the Settlement, and there has been only one objection from a State Action Class member. *See* Fee Decl. ¶¶ 28–29.<sup>13</sup> This indicates that the Class overwhelmingly supports the

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<sup>13</sup> The Objection is addressed *infra*. The deadline for objections is November 25, 2025. Further objections, if any, will be addressed in later briefing.

Settlement. *See In re The Mills Corp., Sec. Litig.*, 265 F.R.D. 246, 262 (E.D. Va. 2009) (“[T]he dearth of legitimate objections to the requested fee...enforces the reasonableness of that request in the Court’s eyes.”); *Jones v. Dominion Res. Servs., Inc.*, 601 F. Supp. 2d 756, 763 (S.D. W. Va. 2009) (approving award of attorneys’ fees where one class member objected to settlement, and finding “the Class Members have demonstrated approval of the instant fee request and agreement to pay such an amount.”). In short, Settlement Class Member reaction to the fee request has been unambiguously positive, further confirming the reasonableness of the requested fee.

### **3. The Skill, Experience, and Efficiency of the Attorneys Involved**

Settlement Class Counsel are attorneys with extensive experience in leading major data breach class actions across the country and believe that this is an excellent result given the size of the Settlement Fund and the number of Settlement Class Members whom it will benefit. *See* Prelim. App. Joint Decl. ¶¶ 43–47. The Court may rely upon such experienced counsel’s judgment. *See, e.g., Nelson v. Mead Johnson & Johnson Co.*, 484 F. App’x 429, 434 (11th Cir. 2012) (“Absent fraud, collusion, or the like, the district court should be hesitant to substitute its own judgment for that of counsel.”); *see also In re Telik, Inc. Sec. Litig.*, 576 F. Supp. 2d 570, 580 (S.D.N.Y. 2008) (“When formulated by competent and experienced counsel,” a plan for allocation of net settlement proceeds “need have only a reasonable, rational basis.” (internal citations omitted)).

Settlement Class Counsel have competently and vigorously represented the Class during this lawsuit. Settlement Class Counsel are experienced class action litigators with significant experience litigating data breach cases such as this and were brought into this lawsuit because of their experience. *See* Prelim. App. Joint Decl. ¶¶ 43–47. Settlement Class Counsel worked cooperatively and efficiently and committed substantial time and resources to this case. This work

has included: (1) investigating the Data Incident; (2) researching viable legal claims; (3) identifying and interviewing potential class representatives about their experiences; (4) preparing and filing multiple class action complaints and amended complaints; (5) consolidating cases; (6) attending hearings in both the Federal and State cases; (7) submitting discovery plans to the court; (8) negotiating a Confidentiality Order and ESI Stipulation; (9) opposing Defendant's motions to dismiss in both the Federal and State Actions; (10) mediating the case with Defendant; (11) submitting informal discovery requests and exchanging sufficient informal discovery; (12) serving formal discovery requests on Defendant and drafting responses to formal discovery requests served on all Plaintiffs; (14) reviewing documents provided by Defendant; and (15) conducting the investigations needed to obtain sufficient knowledge to understand the strengths and weaknesses of Plaintiffs' claims and to fully evaluate the risks and uncertainties of future litigation. *See* Fee Decl. ¶ 17.

#### **4. The Complexity and Duration of the Litigation**

The complexity and duration factor also supports the requested fee award. “[C]lass actions ‘have a well-deserved reputation as being most complex.’” *In re NASDAQ Mkt.-Makers Antitrust Litig.*, 187 F.R.D. 465, 477 (S.D.N.Y. 1998); *Fox v. Iowa Health Sys.*, No. 3:18-cv-00327, 2021 WL 826741, at \*5 (W.D. Wis. Mar. 4, 2021) (“Data breach litigation is evolving; there is no guarantee of the ultimate result.”). In cases that require more expertise, a larger percentage of the fund should be awarded to the lawyers who can competently prosecute the case. *See In re Citigroup Inc. Bond Litig.*, 988 F. Supp. 2d 371, 379 (S.D.N.Y. 2013) (“The upshot is that the magnitude and complexity of the litigation also weigh in favor of a significant award.”). This lawsuit is certainly no exception.

Settlement Class Counsel knew from their initial investigations that this lawsuit would involve extensive research on challenging and complex legal and factual claims in this data breach class action. Data breach cases across the country are presenting novel issues to the courts for consideration.

The duration of this lawsuit also supports the requested fee award. The lawsuit has been in litigation for over three years. The Parties have exchanged extensive information over the course of that time such that Settlement Class Counsel feel confident that the Settlement is fair, reasonable and adequate. Settlement Class Members, who have been waiting for relief from the Data Incident, can finally obtain that relief as a result of this Settlement.

The settlement itself is complex and unique, in that it globally resolved the State Action and Federal Action, requiring consideration of the differing laws and coordinating among the jurists.

### **5. The Risks of the Litigation**

The costs, risks, and delay of trial and appeal are significant in such class action data breach cases involving the present and continuing harm to the personal information of millions of impacted individuals. Although Plaintiffs are confident in the merits of their claims, the risks involved in prosecuting class actions through trial cannot be disregarded. Plaintiffs' claims would need to survive additional motion practice (*e.g.*, a motion for summary judgment) and succeed at the class certification stage—in two separate courts. Further, all Plaintiffs' Counsel undertook this action on an entirely contingent fee basis, shouldering the risk that this litigation would yield no recovery and leave them wholly uncompensated for their time, as well as for their out-of-pocket expenses. To date, Plaintiffs' Counsel have not been paid anything for their efforts. *See Fee Decl.* ¶ 18. Through the Settlement, Plaintiffs and Settlement Class Members gain significant benefits

without having to face further risk. A settlement today not only avoids the risks of continued litigation, but it also provides benefits to members of the Settlement Class now as opposed to after years of risky litigation.

#### **6. The Amount of Time Devoted to the Case by Counsel**

As discussed more fully in Section I.B, part 3, *supra*, Class Counsel have spent significant time and resources litigating this case. Settlement Class Counsel along with other Class Counsel involved in litigating this case reasonably expended more than 3,500 hours litigating this lawsuit. Cognizant of the need to work efficiently, Settlement Class Counsel coordinated their work, including as between the Federal and State Actions, to avoid duplication of effort and worked prudently to keep costs low. Settlement Class Counsel, along with other Class Counsel that worked on this case, have incurred over \$3,000,000 in lodestar. Class Counsel has also carried unreimbursed expenses in the amount of \$76,276.04 to prosecute these Actions. Additional time incurred after the lodestar stated herein, expended to prepare final approval motions, prepare for and attend the hearing on final approval, to defend against any attacks on the settlement on appeal, and to oversee the administration of the settlement and the payment of the claims of the class as well as any *cy pres* will still be incurred.

Accordingly, the requested fee of 33 and 1/3% is well within the bounds of reasonableness and should be awarded.

#### **7. Public Policy Considerations Support Approval of the Fee Request**

Public policy also strongly supports the requested fee award. Class actions like this one are necessary and vital to deter companies from adopting laissez-faire security measures that continue to put consumers at risk. As of January 2025, a total of 721 data breaches were reported to the Department of Health and Human Services' Office for Civil Rights in 2024 alone. Those breaches

collectively exposed more than 247 million records, which includes 190 million healthcare records specifically.<sup>14</sup> Healthcare records are particularly valuable as they can be used to “commit a multitude of crimes.”<sup>15</sup> In 2023, the Federal Trade Commission received more than 1 million complaints of identity theft and 2.6 million complaints of related fraud, resulting in total financial losses that exceed \$10 billion.<sup>16</sup>

Without Settlement Class Counsel taking on the risk of this lawsuit and having the skill and resources to pursue the claims vigorously, the individuals making up the Settlement Class would have lacked the support and leadership required to litigate such a complex class action, and important public interests would not have been vindicated. “Class action lawyers level the playing field and overcome the enforcement gap that would otherwise exist in our country by aggregating non-viable and underinvested claims into effective litigation vehicles.” Brian T. Fitzpatrick, *Do Class Action Lawyers Make Too Little*, 158 U. Pa. L. Rev. 2043, 2059 (2010). Awarding a reasonable percentage of the common fund properly motivates zealous enforcement of consumer protection laws and incentivizes skilled counsel to bring meritorious cases even where, at the outset, the prospect of any recovery is uncertain and the costs are daunting. *See In re WorldCom, Inc. Sec. Litig.*, 388 F. Supp. 2d 319, 359 (S.D.N.Y. 2005) (“In order to attract well- qualified plaintiffs’ counsel who are able to take a case to trial, and who defendants understand are able and willing to do so, it is necessary to provide appropriate financial incentives.”). Settlement Class

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<sup>14</sup> Steve Alder, *More Than 1.7 Billion Individuals Had Personal Data Compromised in 2024*, HIPAA Journal (January 29, 2025), <https://www.hipaajournal.com/1-7-billion-individuals-data-compromised-2024/>

<sup>15</sup> Steve Alder, *Why Do Criminals Target Medical Records*, HIPAA Journal (November 2, 2023), <https://www.hipaajournal.com/why-do-criminals-target-medical-records/>

<sup>16</sup> Ben Luthi, *U.S. Fraud and Identity Theft Losses Topped \$10 Billion in 2023*, Experian (May 30, 2025), <https://www.experian.com/blogs/ask-experian/identity-theft-statistics/#:~:text=The%20U.S.%20Federal%20Trade%20Commission,%25%2C%20to%201%2C036%2C961%20from%201%2C107%2C053.>

Counsel's efforts in these Actions are the only way forward for Plaintiffs to receive any compensation. Plaintiffs' counsel in such cases are typically retained on a contingent basis due to the massive commitment of time and expense required relative to the losses suffered by an individual representative plaintiff. Furthermore, the significant expense, combined with the high degree of uncertainty of ultimate success, means that contingent fees are virtually the only means of recovery in such cases. Class Counsel assumed substantial risk by undertaking these Actions and achieved a significant benefit to the Class. An important public policy interest is served by awarding attorneys' fees that adequately compensate counsel. Accordingly, public policy supports Settlement Class Counsel's requested fee.

**B. A Lodestar Cross-Check Supports the Requested Fee as Reasonable**

Here, Settlement Class Counsel spent a total of 3593.1 hours related to the State and Federal Actions and had a collective lodestar of \$3,018,672.54. *See* Fee Decl. ¶ 20. Fee awards in successful actions like this one promote the prosecution of meritorious class cases and reinforce private enforcement of statutes protecting consumers' privacy. Adequately compensating plaintiffs' counsel in cases of this nature is therefore essential to ensuring continued oversight and adherence to these consumer-protection laws. Here, the requested fee equates to only a 1.7 lodestar multiplier. Massachusetts courts routinely apply at least a 2.0 multiplier in complex class actions such as this. *See Commonwealth Care All*, 2013 WL 6268236, at \*2 (applying a 2.0 multiplier to class counsel's lodestar); *Schiefer*, 2018 WL 6184638, at \*2 ("Multipliers between 1.5 and 2.0 are not uncommon").

When considering the qualitative factors—including the results obtained for the class, the skill and efforts expended by counsel, and the risk undertaken by counsel on a contingency basis—

as discussed in Sections IV.A.2–5, *supra*, the lodestar cross-check supports the reasonableness of the requested fees in this case and the multiplier of 1.7 on the lodestar.

**C. Counsel’s Expenses Were Reasonably Incurred and Should Be Reimbursed**

Settlement Class Counsel seek \$76,276.04 in reasonably incurred expenses litigating this case through September 30, 2025. *See* Fee Decl. ¶¶ 20, 23.

Courts regularly award litigation expenses in addition to attorneys’ fees in class action cases. *See, e.g., Kabore v. Anchor Staffing, Inc.*, No. L-10-3204, 2012 WL 5077636, at \*10 (D. Md. Oct. 17, 2012) (“It is well-established that plaintiffs who are entitled to recover attorneys’ fees are also entitled to recover reasonable litigation-related expenses as part of their overall award.”); *Coggins v. New England Patriots Football Club, Inc.*, 550 N.E.2d 141, 143 (Mass 1990) (internal quotations omitted) (“Where a party has, at his or her own expense, been successful in creating, preserving or enlarging a fund in which other parties have a rightful share, a court may order the payment of attorneys’ fees and expenses out of the fund as part of a damages award.”).

Such costs and expenses may include costs associated with mediation, travel expenses, filing fees, the retention of expert witnesses, and postage. *See Carlson v. Target Enterprise, Inc.*, 447 F. Supp. 3d 1, 5 (D. Mass. 2020). Settlement Class Counsel’s expenses here all broadly fall into these categories. *See* Fee Decl. ¶ 24. The notice provided to the Settlement Class explained that Settlement Class Counsel would seek an award of expenses not to exceed \$150,000. *See* Fee Decl. ¶ 14. The expenses incurred to date are about half of that amount. The requested expenses were reasonably incurred in prosecuting this litigation and should be reimbursed from the Settlement Fund.

## V. The Requested Service Awards are Reasonable and Should Be Granted

Service awards serve to promote class action settlements by encouraging representative plaintiffs to participate actively in the litigation in exchange for reimbursement for their pursuits on behalf of the class overall. “Incentive awards serve the important purpose of compensating plaintiffs for the time and effort expended in assisting the prosecution of the litigation, the risks incurred by becoming and continuing as a litigant, the public nature of a collective action filing, and any other burdens they sustain.” *Lauture v. A.C. Moore Arts & Crafts, Inc.*, No. 17-CV-10219-JGD, 2017 WL 6460244, at \*2 (D. Mass. June 8, 2017); *Eldridge v. Provident Companies, Inc.*, No. 971294, 2005 WL 503701, at \*3 (Mass. Super. Jan. 20, 2005) (awarding \$12,500 to each plaintiff as a service award and explaining “it is an award which is more symbolic than compensatory of the efforts that these two plaintiffs have put into this case—an amount which is not enough to raise any serious conflict between class representatives and the unnamed class members but is nevertheless an acknowledgment that they have done far more than any other plaintiff to advance this litigation and to assist in obtaining the outcome that now brings this lawsuit to an end.”)

Here, Plaintiffs’ request is a modest award for each of the fifteen Settlement Class Representative Plaintiffs. The Service Awards were negotiated only after the substantive terms of relief to the Class had been agreed to. The Service Award of \$2,500 to each Settlement Class Representative Plaintiff is reasonable given the time and effort expended by the Representative Plaintiffs throughout the Action. Indeed, much larger service awards have been approved by courts in this Circuit, including where named plaintiffs did not participate in formal discovery. *See Lauture*, 2017 WL 6460244, at \*2 (approving \$15,000 service awards for each named plaintiff); *Jackson v. New England BioLabs, Inc.*, No. CV 23-12208-RGS, 2025 WL 2256261, \*3 (D. Mass.

Aug. 7, 2025) (awarding \$15,000 service award to each named plaintiff despite not participating in any formal discovery or sitting for any depositions); *Gordan*, 2016 WL 11272044, at \*3 (approving \$20,000 service awards for plaintiffs who had searched for, provided, requested and obtained critical documents); *Commonwealth Care All.*, 2013 WL 6268236, at \*1 (awarding \$15,000 to each of the two class representative plaintiffs).

In this lawsuit, the Settlement Class Representative Plaintiffs put themselves forward and lent their names to litigating this case some three years ago. Since that time, the Settlement Class Representative Plaintiffs have kept abreast of the case's status, reviewed documents provided to them by counsel, including complaints and amended complaints, and discussed with counsel various aspects of the case with each stage of litigation, including settlement. Settlement Class Representative Plaintiffs also assisted Settlement Class Counsel with extensive discovery efforts by searching for and producing information and documents to respond to Defendant's discovery requests and assisting in drafting answers to Interrogatories posed by Defendants. *See* Fee Decl. ¶ 32. At all times, the Representative Plaintiffs were actively involved in all phases of this lawsuit and advocated on behalf of the Class.<sup>17</sup> *See* Prelim. App. Joint Decl. ¶¶ 52–53.

The Representative Plaintiffs ably fulfilled their duties, making the Service Awards requested appropriate.

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<sup>17</sup> Objector mentions the Service Awards, but to the extent Objector finds these awards unreasonable, Plaintiffs submit that as per the cases cited, the Service Awards are fully in line with others routinely awarded by courts for the amount of participation by the Plaintiffs here. As such, the objection should be overruled.

## VI. THE OBJECTION RECEIVED TO DATE SHOULD BE OVERRULED

This fee and expense request's lone current Objector argues in conclusory fashion that the fee, expense, and Service Award requests are unfair. *See* Fee Decl., Exh. 2.<sup>18</sup> Plaintiffs submit that Objector's objection should be overruled. First, as demonstrated *supra*, courts have consistently approved attorneys' fees of 33 and 1/3%, and, as such, the fees sought here are within the range of what has been awarded in other cases both here and around the country. Second, the fee request is subject to the Court's review of the factors delineated in well-established case law, and the Court will apply appropriate scrutiny to ensure the factors are satisfied, which—as demonstrated by the significant effort put forth by counsel and the extraordinary result for the class—they are. Third, the lodestar cross check for the State Action results in a lower multiplier than granted in many other cases, which multiplier will only further reduce as Settlement Class Counsel expend additional time on final approval and administration of the Settlement.

The requested fee is reflective of the extensive work performed by Class Counsel without which there would have been no Settlement at all, including successfully fighting off two motions to dismiss in both the Federal and State Actions and negotiating a complex global settlement across two different class actions in two separate courts.

The Objector complains that the fee is too high, but courts routinely reject such conclusory objections, particularly where, as here, there were substantial litigation activities in an action involving complex legal issues resulting in over three years of active litigation. *See, e.g., Hill v. State St. Corp.*, No. CIV.A. 09-12146-GAO, 2015 WL 127728 (D. Mass. Jan 8, 2015) (district court adopted Magistrate Judges' recommendation that fees were "reasonable" where the "action

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<sup>18</sup> Objector did not have the benefit of this Fee Motion when lodging his objection. Settlement Class Counsel will send Objector a copy of this Fee Motion after it is filed.

involved complex legal and factual issues and required years of active litigation” and that the fee was “well within the typical range of fees in such actions”); *Commonwealth Care All.*, 2013 WL 6268236, at \*1 (overruling objection to request for fees and awarding fees in the amount of 30% of \$20 million common fund—which was two times counsel’s lodestar—plus expenses based, in part, on the successful outcome reached for the class).<sup>19</sup>

Additionally, as set forth above, courts routinely award the reasonable expenses of counsel in addition to the fees, and the requested Service Awards are well within the range of those awarded by both state and federal courts in these jurisdictions.

A review of the objection in whole, shows Objector’s concern is not specific to this Settlement, but to class actions generally; specifically, the Objector asks the Court to “bring some sanity and credibility ... to the entire class action suit practice.” Plaintiffs respectfully submit that successfully securing a recovery for over two-million individuals impacted by the Data Incident is precisely *why* class action practice exists.

## VII. CONCLUSION

Based upon the foregoing, Plaintiffs respectfully request that the Courts find that Settlement Class Counsel’s request for \$5,116,666.67 in attorneys’ fees, \$76,276.04 in expenses, and \$2,500 for each Representative Plaintiff as a Service Award, are reasonable and should be approved.

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<sup>19</sup> The Objector also claims that Class Members will receive only \$4.29, which is not correct. However, because this portion of the objection relates to the Settlement and not this Fee Motion, it will be addressed in the Final Approval briefing.

Dated: November 10, 2025

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 10, 2025, a copy of the foregoing was served via electronic filing in the ECF system.

*/s/ Brendan Jarboe*  
Brendan Jarboe